

OVERSTRAND MUNICIPALITY

AMENDMENT BY-LAW ON MUNICIPAL LAND USE PLANNING, 2020

PURPOSE:

To regulate and control municipal land use planning.

INDEX

**CHAPTER I
INTERPRETATION**

1. Definitions

**CHAPTER II
APPLICATION OF BY-LAW**

2. Application of By-law

**CHAPTER III
SPATIAL PLANNING**

3. Intention to draft or amend the Municipal Spatial Development Framework
4. Appointment of intergovernmental steering committee
5. Process of drafting a Municipal Spatial Development Framework if an intergovernmental steering committee is not established
6. Roles and responsibilities
7. Status of a spatial development framework and a Local Spatial Development Framework
8. Local Spatial Development Frameworks/ Policy Plans
9. Compilation, amendment or review of spatial development frameworks and Local Spatial Development Frameworks
10. Deviation of spatial development framework or Local Spatial Development Framework
11. Effect of Local Spatial Development Frameworks
12. Policies to guide decision making

**CHAPTER IV
DEVELOPMENT MANAGEMENT**

13. Determination of zoning
14. Status of zoning map and exemption of Municipality from liability for any error
15. Non-conforming uses
16. Application for land development and other approvals
17. Continuation of application
18. Rezoning of land
19. Lapsing of rezoning and extension of validity periods
20. Departures
21. Consent uses
22. Subdivision
23. Confirmation of subdivision
24. Lapsing of subdivision and extension of validity periods
25. Amendment or cancellation of subdivision plan
26. Exemption of subdivisions and consolidations
27. Ownership of public places and land required for municipal services, infrastructure and amenities
28. Closure of public places
29. Services arising from subdivision
30. Certification by Municipality
31. Owners' associations
32. Owners' association ceases to function
33. Consolidation of land units
34. Lapsing of consolidation and extension of validity periods
35. Requirements for amendment, suspension or removal of restrictive conditions
36. Endorsements in connection with amendment, suspension or removal of restrictive conditions

CHAPTER V
APPLICATION PROCEDURES

- 37. Procedures for making application
- 38. Pre-application consultation
- 39. Information required
- 40. Application fees
- 41. Grounds for refusing to accept application
- 42. Receipt of application and request for further documents
- 43. Additional information
- 44. Confirmation of complete application
- 45. Withdrawal of application
- 46. Notice of applications in terms of integrated procedures
- 47. Notification of application in media
- 48. Serving of notices
- 49. Content of notice
- 50. Additional methods of public notice
- 51. Requirements for petitions
- 52. Requirements for objections, comments or representations
- 53. Request to be granted intervener status
- 54. Further public notice
- 55. Cost of notice
- 56. Applicant's right to reply
- 57. Written assessment of application
- 58. Timeframe pertaining to an Application
- 59. Failure to act within time period
- 60. Powers to conduct routine inspections
- 61. Decision pertaining to an Application
- 62. Notification of decision
- 63. Duties of applicant
- 64. Errors and omissions
- 65. Exemptions to facilitate expedited procedures

CHAPTER VI
CRITERIA FOR DECISION MAKING

- 66. General criteria for consideration of applications
- 67. Conditions of approval

CHAPTER VII
EXTENSION OF THE VALIDITY PERIOD OF APPROVALS

- 68. Applications for extension of validity periods

CHAPTER VIII
MUNICIPAL PLANNING DECISION-MAKING STRUCTURES

- 69. Municipal planning decision-making structures with respect to applications and appeals
- 70. Consideration of applications
- 71. Establishment of Municipal Planning Tribunal
- 72. Composition of Municipal Planning Tribunal for municipal area
- 73. Term of office and conditions of service of members of Municipal Planning Tribunal for municipal area
- 74. Meetings of Municipal Planning Tribunal for municipal area
- 75. Code of conduct for members of the Municipal Planning Tribunal for municipal area
- 76. Administrator for Municipal Planning Tribunal for municipal area
- 77. Functioning of Municipal Planning Tribunal for municipal area
- 78. Appeals
- 79. Procedure for appeal

CHAPTER IX
PROVISION OF ENGINEERING SERVICES

- 80. Responsibility for provision of engineering services
- 81. Development charges
- 82. Land for parks, open space and other uses

CHAPTER X
ENFORCEMENT

- 83. Enforcement
- 84. Offences and penalties
- 85. Service of compliance notice
- 86. Content of compliance notices
- 87. Complaints and objections
- 88. Failure to comply with compliance notice
- 89. Urgent matters
- 90. Application for rectification of a contravention of this By-law (by way of administrative penalty)
- 91. Power of entry for enforcement purposes
- 92. Power and functions of authorised employee
- 93. Warrant of entry for enforcement purposes
- 94. Regard to decency and order
- 95. Enforcement litigation

CHAPTER XI
MISCELLANEOUS

- 96. Naming and numbering of streets
- 97. Repeal
- 98. Short title and commencement
- 99. Policies, procedures, standards, requirements and guidelines
- 100. Delegations
- 101. Exemption
- 102. Liability of the Municipality
- 103. Savings and transitional provisions

Schedule 1 – Code of conduct for Members of the Municipal Planning Tribunal (MPT)

Schedule 2 – Overstrand Municipality Land Use Scheme, 2020

CHAPTER I
INTERPRETATION

1. Definitions

In this By-law, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), has the meaning assigned to it in that Act and—

“**adopt**” in relation to a spatial development framework, land use scheme, policy or strategy means the approval by a competent authority of the relevant policy, spatial development framework, policy or strategy;

“**administrative penalty**” is implemented when a person transgresses the land use scheme and provisions including failure to comply with a duty or requirement in terms of the provisions of Section 84 of the By-Law;

“**Appeal Authority**” means the Appeal Authority contemplated in Section 78(1);

“**applicant**” means a person referred to in Section 16 (2) who makes an application to the Municipality as contemplated in that section;

“**application**” means an application to the Municipality referred to in Section 16(2) and other applicable legislation;

“**approval**” means permission granted in terms of this By-Law and includes the conditions of approval;

“**authorised employee**” means a municipal employee who is authorised by the Council to exercise a power or perform a duty in terms of this By-law or to inspect land and buildings in order to enforce compliance with this By-law or the land use scheme;

"Authorised Official" means a municipal official who may consider and determine applications as contemplated in section 35(2) of the Act and Section 69 of the Overstrand Municipality By –Law to Land Use Planning 2016, or as amended;

"category" means the differentiation of land use applications as contemplated in terms of section 70 of the Overstrand Municipality By –Law to Land Use Planning 2016, or as amended;

"commencement" means the start of any activity, including acting on any condition as set out in the approval conditions of a land use application, or the preparation of the site or any other activity on the site in accordance with approved building plans and which has gone beyond site clearing, excavation or digging trenches;

"comments" in relation to comments submitted by the public, municipal departments and other organs of state and service providers on an application or appeal, includes objections, representations and petitions;

"consent use" means a land use permitted in terms of a particular zoning with the approval of a Municipality;

"consolidation" means the process of preparing a diagram for approval by the Surveyor General from two or more diagrams (which represent at least two contiguous representing several pieces of land), which has been prepared for the purpose of obtaining a certificate of consolidated title thereto from the Registrar of Deeds, and "consolidate" has the same meaning;

"Council" means the municipal council of the Municipality;

"date of notification" means the date on which a notice is served as contemplated in Section 48(7) or published in the media or *Provincial Gazette*;

"Department" means the provincial department responsible for land use planning;

"departure" means an altered development parameter granted on a permanent basis or a right to utilise land for a purpose granted on a temporary basis;

"development charge" means a development charge levied by the Municipality as contemplated in Section 81;

"deviation" in relation to a spatial development framework, means:

- a) an approval which departs from the provisions of the Municipal Spatial Development Framework contemplated in Section 22(2) of SPLUMA;
- b) a deviation from the provisions of the Municipal Spatial Development Framework authorised in terms of Chapter 3 of this By-Law; or
- c) a deviation from the provisions of a Municipal Spatial Development Framework or Local Spatial Development Framework authorised by Section 10 of this By-Law; and 'deviate' has a corresponding meaning;

"emergency" includes a situation which arises as a consequence of floods; strong winds; severe rainstorms; fires; earthquakes and industrial accidents/incidents which may require the relocation of people and/or human settlements as a whole to reasonably safe identified sites;

"executive authority", in relation to a Municipality, means the executive committee or executive mayor of the Municipality or, if the Municipality does not have an executive committee or executive mayor, a committee of councillors appointed by the Municipal Council;

"external engineering service" means an engineering service situated outside the boundaries of a land area and which is necessary to serve the use and development of the land area;

"internal engineering service" means an engineering service owned and operated by a municipality or a service provider within the boundaries of a land area referred to in a land use application and that is necessary for the utilisation and development of the land;

"land use" means the name of the use rights listed in the Overstrand Municipality Land Use Scheme and may be a collective description for one or a number of land use activities and ancillary uses;

"land use scheme" means the Zoning Scheme as contained in Schedule 2: Overstrand Municipality Land Use Scheme;

"Land Use Planning Act" means the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), (as amended);;

"Local Spatial Development Framework" means a Local Spatial Development Framework contemplated in Section 8;

"Municipality" means a municipality established in terms of section 155 of the Constitution read with the provisions of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and includes the Municipality of the Overstrand established by Establishment Notice No. P.N. 494/2000 of 22 September 2000 read with issued in terms said Act, and any employee of the Municipality acting in terms of delegated or sub-delegated authority thereof or being authorised to perform functions in terms of planning law, including;

- (a) the Council;
- (b) another political structure or a political office bearer of the Municipality, authorised or delegated to perform a function or exercise a power in terms of this By-law;
- (c) the Municipal Planning Tribunal, Authorised Official or authorised to perform a function or exercise a power in terms of this By-law;
- (d) the Municipal Manager; and
- (e) an authorised employee.

"Municipal Manager" means a person appointed in terms of section 82(1) of the Local Government: Municipal Structures Act No 27 of 1998 and is also the Accounting Officer in terms of section 60 of the Local Government: Municipal Finance Management Act No 56 of 2003;

"Municipal Spatial Development Framework" means a Municipal Spatial Development Framework adopted by the Municipality in terms of Chapter 5 of the Municipal Systems Act;

"Municipal Planning Tribunal" means the Tribunal established in terms of the provisions of sections 71 and 72 of the Overstrand Municipality By –Law to Land Use Planning 2016, or as amended.

"non-conforming use" means an existing land use that was being utilised lawfully in terms of a previous zoning scheme for a purpose that does not comply with an existing land use scheme;

"notice period" means the period as made provision for in this by-law and/or other applicable legislation

"overlay zone" or "overlay zoning" means a category of zoning applicable to a particular land unit or area, which:

- (a). Stipulates development parameters for a land unit or area, in addition to the underlying zoning or base zone requirements;
- (b). May include further development parameters in a particular area or zone which may be more or less restrictive than for land units which are not covered by the overlay zoning;

"ordinance" means the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985);

"owners' association" means an owners' association established in terms of Section 31;

"petitioner" means a person or group per persons as contemplated under Section 51 of the Overstrand Municipality By –Law to Land Use Planning 2016, or as amended.

"public facilities" means amenities that are—

- (a) intended for the use of the general public;
- (b) used to offer a service or for recreation; and
- (c) ordinarily owned by the state or a Municipality;

"public place" means any open or enclosed place, park, street, road or thoroughfare or other similar area of land shown on a general plan or diagram that is for use by the general public and is owned by, or vests in the ownership of, a Municipality, and includes a public open space and a servitude for any similar purpose in favour of the general public;

"registered planner" means a professional or technical planner registered in terms of the Planning Profession Act, 2002 (Act 36 of 2002) unless the South African Council for Planners has reserved the work to be performed by a registered planner in terms of this Act for a particular category of registered persons in terms of Section 16(2) of the Planning Profession Act, 2002, in which case a registered planner means that category of registered persons for whom the work has been reserved;

"restrictive condition" means any condition registered against the Title Deed of land restricting the use, development or subdivision of land concerned;

"requester" is a person as contemplated under Section 53 of the Overstrand Municipality By –Law to Land Use Planning 2016, or as amended.

"rezoning" means an amendment in order to effect a change of zoning in relation to a particular portion of land to another zoning provided for in the land use scheme;

"service" means a service provided by the Municipality, any other organ of state or a service provider and includes services in respect of the provision of water, sewerage, electricity, refuse removal, roads, storm water and any related infrastructure and systems and processes related to the services;

"site development plan" means a scaled and dimensioned plan that shows details of the proposed land use including the site layout, positioning of buildings, structures, access, building designs and landscaping, as stipulated in the applicable land use scheme Regulations;

"social infrastructure" means community facilities, services and networks that meet social needs and enhance community wellbeing;

"Spatial Planning and Land Use Management Act" means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013);

"Spatial Planning and Land Use Management Regulations" means the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015, promulgated in terms of the Spatial Planning and Land Use Management Act and published in Notice R239/2015 in Government Gazette 38594 of 23 March 2015;

"subdivision", in relation to land, means the division of a land unit into more land units, and includes any physical activity on the land to prepare the land for subdivision, but does not include the preparation of a subdivision plan;

"subdivisional area" means an applicable zoning approved by the Municipality that permits subdivision where a change of zoning is involved, or a similar zone in the land use scheme;

"Tribunal" means the Municipal Planning Tribunal established in terms of Section 35 of SPLUMA, 2013 (Act No. 16 of 2013).

CHAPTER II
APPLICATION OF BY-LAW

2. Application of By-law

- (a) This By-Law applies to all land within the geographical area of the Municipality, including land owned by the state.
- (b) This By-Law binds every owner and their successor-in-title and every user/occupier of land, including the state.
- (c) When considering an apparent conflict between this By-Law and national and provincial legislation the applicable national and provincial legislation will prevail.
- (d) If there is a conflict between this By-law and another By-law of Overstrand Municipality this By-law will prevail.

CHAPTER III
SPATIAL PLANNING

3. Intention to draft or amend the Municipal Spatial Development Framework

When the Council drafts or amends its Municipal Spatial Development Framework in accordance with the Municipal Systems Act, the Council must, as contemplated in Section 11 of the Land Use Planning Act read together with Sections 20 and 21 of the Spatial Planning and Land Use Management Act—

- (a) appoint an intergovernmental steering committee to compile a draft Municipal Spatial Development Framework; or
- (b) refer its draft Municipal Spatial Development Framework or draft amendment to its Municipal Spatial Development Framework to the Provincial Minister for comment;
- (c) publish a notice in three of the official languages of the Province most spoken in the area of the intention to draft, review or amend the Municipal Spatial Development Framework and the process to be followed in accordance with Section 28(3) of the Municipal Systems Act;
- (d) in writing inform the Provincial Minister of—
 - (i) the intention to draft or amend the Municipal Spatial Development Framework;
 - (ii) its decision in terms of paragraph (a) or (b); and
 - (iii) the process that will be followed in Sub-section 3 (c);
- (e) register relevant stake holders who must be invited to comment on the draft Municipal Spatial Development Framework or draft amendment of the Municipal Spatial Development Framework as part of the process to be followed.

4. Appointment of intergovernmental steering committee

- (1) If the Council resolves to appoint an intergovernmental steering committee, the Municipality must in writing invite nominations for representatives to serve on the intergovernmental steering committee from—
 - (a) the head of the provincial government department responsible for land use planning;
 - (b) the head of the provincial government department responsible for environmental affairs; and
 - (c) relevant organs of state.
- (2) The Municipality must establish a project committee for the purposes of drafting the Municipal Spatial Development Framework or amendment of the Municipal Spatial Development Framework.
- (3) If a Municipality establishes an intergovernmental steering committee, referred to in Section 12(b)(i) of Land Use Planning Act, the committee must consist of at least—
 - a) the Municipal Manager, or a municipal employee designated by the Municipal Manager; and
 - b) representatives of—
 - (i) the Municipality, nominated by the Municipal Manager;
 - (ii) the Department(s), nominated by the Head of Department; and
 - (iii) the provincial department responsible for environmental affairs, nominated by the head of that department.

- (4) The project committee must compile a draft status quo document setting out an assessment of existing levels of development and development challenges in the municipal area and must submit it to the intergovernmental steering committee for comment.
- (5) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the status quo document and submit it to the Council for adoption.
- (6) The project committee must prepare a first draft of the Municipal Spatial Development Framework or first draft amendment of the Municipal Spatial Development Framework and must submit it to the intergovernmental steering committee for comment.
- (7) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the first draft of the Municipal Spatial Development Framework or first draft amendment of the Municipal Spatial Development Framework and submit it to the Council to approve the publication thereof for public comment.
- (8) After consideration of the comments and representations, as a result of the publication contemplated in Subsection (7), the project committee must compile a final Municipal Spatial Development Framework or final amendment of the Municipal Spatial Development Framework for adoption by the Council.
- (9) If the final Municipal Spatial Development Framework or final amendment of the Municipal Spatial Development Framework, as contemplated in Subsection (8), is materially different to what was published in terms of Subsection (7), the Municipality must follow a further consultation and public participation process before it is adopted by the Council.
- (10) The Council must adopt the final Municipal Spatial Development Framework or final amendment of the Municipal Spatial Development Framework, with or without amendments, and must within 30 days of its decision give notice of its decision in the media and the *Provincial Gazette*.

5. Process of drafting a Municipal Spatial Development Framework if an intergovernmental steering committee is not established

- (1) If the Council does not establish an intergovernmental steering committee to draft or amend its Municipal Spatial Development Framework, the Municipality must—
 - (a) compile a draft status quo document setting out an assessment of existing levels of development and development challenges in the municipal area and submit it to the Council for approval;
 - (b) after approval of the status quo document, prepare a draft Municipal Spatial Development Framework or draft amendment of the Municipal Spatial Development Framework and submit it to the Council to approve the publication thereof for public comment;
 - (c) after approval of the draft Municipal Spatial Development Framework or draft amendment of the Municipal Spatial Development Framework for publication as contemplated in paragraph (b) submit it to the Provincial Minister for comment in terms of Section 13 of the Land Use Planning Act;
 - (d) after consideration of the comments received from the public and the Provincial Minister, a final Municipal Spatial Development Framework or final amendment of the Municipal Spatial Development Framework with any further amendments, must be submitted to the Council for adoption.
- (2) The Council must adopt the final Municipal Spatial Development Framework or final amendment of the Municipal Spatial Development Framework, with or without amendments, and must within 30 days of its decision give notice of its decision in the media and the *Provincial Gazette*.

6. Roles and responsibilities

- (1) The role and responsibility of members of the project committee is to, in accordance with the directions of *(the executive committee/ executive mayor/committee of councillors)*—

- (a) draft a Municipal Spatial Development Framework or amendment of the Municipal Spatial Development Framework for adoption by the Council;
 - (b) provide technical knowledge and expertise;
 - (c) monitor progress and ensure that the drafting Municipal Spatial Development Framework or amendment of the Municipal Spatial Development Framework is progressing according to the approved process plan;
 - (d) guide the public participation process, including ensuring that the registered key public sector stakeholders remain informed;
 - (e) oversee the drafting of a report setting out the response of the Municipality to the provincial comments issued in terms of Sections 12 or 13 of Land Use Planning Act.
 - (f) ensure alignment of the Municipal Spatial Development Framework with the development plans and strategies of other affected municipalities and organs of state as contemplated in Section 24(1) of the Municipal Systems Act, 2000;
 - (g) facilitate the integration of other sector plans into the Municipal Spatial Development Framework;
 - (h) ensure the incorporation of amendments to the draft Municipal Spatial Development Framework or draft amendment of the Municipal Spatial Development Framework to address comments obtained during the process of drafting thereof;
 - (i) if the Municipality decides to establish an intergovernmental steering committee—
 - (i) assist the Municipality in ensuring that the intergovernmental steering committee is established and that timeframes are adhered to; and
 - (ii) ensure the flow of information between the project committee and the intergovernmental steering committee.
- (2) The role and responsibility of the members of the intergovernmental steering committee is to—
- (a) provide technical knowledge and expertise;
 - (b) provide input on outstanding information that is required to draft the Municipal Spatial Development Framework or an amendment thereof;
 - (c) communicate any current or planned projects that have an impact on the municipal area;
 - (d) provide information on the locality of projects and budgetary allocations; and
 - (e) provide written comment to the intergovernmental steering committee and project committee at each of various phases of the process.

7. Status of a spatial development framework and a Local Spatial Development Framework

- (1) If an application is inconsistent with an applicable spatial development framework or a Local Spatial Development Framework, the applicant must describe the inconsistency in —
 - (a) the application; and
 - (b) the publication and or serving of notices contained in sections 47 and 48 of this By-Law.
- (2) A person who takes a decision in terms of this By-Law must be guided by an applicable spatial development framework and/or Local Spatial Development Framework.
- (3) A spatial development framework and a Local Spatial Development Framework do not confer or take away rights.

8. Local Spatial Development Frameworks/ Policy Plans

- (1) The Municipality may adopt a Local Spatial Development Framework for an area or functional area of a municipal area.
- (2) The purpose of a Local Spatial Development Framework is to—
 - (a) provide detailed spatial planning guidelines for an area or functional area;
 - (b) provide more detail in respect of a proposal provided for in the Municipal Spatial Development Framework;
 - (c) address specific land use planning needs of an area or functional area;
 - (d) provide detailed policy and the recommended development parameters for land use planning;

10/380

- (e) provide detailed priorities in relation to land use planning and, in so far as they are linked to land use planning, bio diversity and environmental issues; or
- (f) guide decision making on land use applications.

9. Compilation, amendment or review of spatial development frameworks and Local Spatial Development Frameworks

- (1) If the Municipality compiles, amends or reviews a Local Spatial Development Framework, it must draft and approve a process plan, including public participation processes to be followed for the compilation, amendment, review or adoption of a Local Spatial Development Framework.
- (2) The Municipality must, within 30 days of adopting a Local Spatial Development Framework or an amendment of Local Spatial Development Framework, publish a notice of the decision in the media and the *Provincial Gazette*

10. Deviation of spatial development framework and/or Local Spatial Development Framework

- (1) An authority who takes a decision in terms of this By-Law which deviates from the provisions of the Municipal Spatial Development Framework and/or an applicable spatial development framework and/or Local Spatial Development Framework or policy must at the time of making the decision —
 - (a) record in writing the reasons for the deviation; and
 - (b) keep a record of the decision and the written reasons for the deviation

11. Effect of Local Spatial Development Frameworks

- (1) A Local Spatial Development Framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in Section 9(2).
- (2) A Local Spatial Development Framework guides and informs decisions made by the Municipality relating to land use, but it does not confer or take away rights.

12. Policies to guide decision making

- (1) The Municipality may adopt a policy to guide decision making in respect of applications made in terms of the By-Law.

CHAPTER IV
DEVELOPMENT MANAGEMENT

13. Determination of zoning

- (1) The owner or a person authorised by the owner may apply to the Municipality for the determination of a zoning for land referred to in Section 16(2)(m) of this By-law.
- (2) When the Municipality considers an application in terms of Subsection (1) it must have regard to the following:
 - (a) the lawful utilisation of the land, or the purpose for which it could be lawfully utilised immediately before the commencement of this By-law if it can be determined;
 - (b) the zoning, if any, that is most compatible with that utilisation or purpose and any applicable title deed condition;
 - (c) any departure or consent use that may be required in conjunction with that zoning;
 - (d) in the case of land that was vacant immediately before the commencement of this By-law, the utilisation that is permitted in terms of the title deed conditions or, where more than one land use is so permitted, one of such land uses determined by the Municipality; and
 - (e) where the lawful utilisation of the land and the purpose for which it could be lawfully utilised immediately before the commencement of this By-law, cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any departure or consent use that may be required.
- (3) If the lawful zoning of land contemplated in Subsection (1) cannot be determined the Municipality must determine a zoning and give notice of its intention in terms of Section 48.
- (4) A land use that commenced unlawfully, whether before or after the commencement of this By-law, may not be considered to be the lawful land use.
- (5) An owner who believes that the zoning map contains an error in respect of their property may apply to the Municipality for the zoning map to be corrected.
- (6) An owner making an application contemplated in Subsection (1) —
 - (a) must describe the nature of the error;
 - (b) bears the onus of proving the error and must provide written proof of the lawful land use rights; and
 - (c) must indicate the correct zoning.
- (7) The Municipality must advertise the application —
 - (a) to another owner if the application materially affects the other owner; and
 - (b) for public comment if the application materially affects the public.
- (8) The Municipality may approve or refuse the application.
- (9) If the application is approved, the Municipal Manager must amend the zoning map.
- (10) If the Municipality finds an error on the zoning map, the Municipality may on its own initiative amend the zoning map after —
 - (a) providing notice of the error and of the Municipality's intention to correct the error to, and inviting representations within a specified time period from —
 - (i) the owner of the property concerned;
 - (ii) another owner if the proposed correction materially affects the other owner; and
 - (iii) the public if the proposed correction materially affects the public;
 - (b) considering any representations received; and
 - (c) taking a decision to amend the zoning map.

14. Status of zoning map and exemption of Municipality from liability for any error

- (1) The zoning map is the Municipality's record of the zoning of each land unit (other than a sectional title unit).
- (2) A zoning recorded in the zoning map is presumed to be the correct zoning unless proved otherwise.
- (3) A use right ceases to exist on the day when it lapses in terms of this By-Law or a previous land use scheme even if the zoning map still records the use right as existing.
- (4) The Municipality is exempt from liability for any damage which may be caused by —
 - (a) an error in the zoning map; or
 - (b) an erroneous representation by the Municipality about a use right or the zoning of a land unit.

15. Non-conforming uses

- (1) A non-conforming use does not constitute an offence in terms of this By-law.
- (2) A non-conforming use may continue as long as it remains otherwise lawful, subject to the following:
 - (a) if the non-conforming use ceases for any reason for a period of more than twelve consecutive months, any subsequent use of the property must conform to the requirements of this By-law, with or without departures;
 - (b) a land use application must be made for the alteration or extension of buildings or structures in respect of the non-conforming use;
 - (c) the owner bears the onus of proving that the non-conforming use right exists; and
 - (d) the use right is limited to the area of the building or land on which the proven use right is in existence.
- (3) If an existing building, which constitutes a non-conforming use, is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building, the Council may grant permission for the reconstruction of such building, subject to conditions.

16. Application for land use required

- (1) No person may commence with, carry on or cause the commencement with or carrying on of land use, except for land use referred to in Section 26, without the approval of the Municipality in terms of Subsection (2).
- (2) The owner or a person authorised by the owner may apply in terms of Chapters IV and V to the Municipality for the following in relation to development of the land concerned:
 - (a) a rezoning of land;
 - (b) a permanent departure from the provisions of the land use scheme;
 - (c) a departure to use land on a temporary basis for which no provision is made in the land use scheme;
 - (d) a subdivision of land including the registration of a new servitude or lease agreement if it is not exempted in terms of section 26
 - (e) a consolidation of land if it is not exempted in terms of Section 26;
 - (f) an amendment, suspension or deletion of restrictive conditions in respect of a land unit;
 - (g) a permission required in terms of the land use scheme;
 - (h) an amendment, deletion or additional conditions in respect of an existing approval;
 - (i) an extension of the period of validity of an approval;
 - (j) an approval of an overlay zone as provided in the land use scheme;
 - (k) a phasing, amendment or cancellation of a plan of subdivision or a part thereof, including a General Plan or diagram;
 - (l) a permission required in terms of the conditions of approval;
 - (m) a determination of a zoning;
 - (n) a closure of a public place or part thereof;
 - (o) a consent use provided for in the land use scheme;
 - (p) a permission required for the reconstruction of an existing building that constitutes a non-conforming use that is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building;
 - (q) determination of an administrative penalty.

- (3) If Section 53 of Land Use Planning Act is applicable to the land use, the owner must also make application in terms of Land Use Planning Act.
- (4) If an application meets the requirements of Section 52 of the Spatial Planning and Land Use Management Act the owner must also make application in terms of the Spatial Planning and Land Use Management Act.
- (5) When an applicant or owner exercises a use right granted in terms of an approval he or she must comply with the conditions of the approval and the applicable provisions of the land use scheme.
- (6) When the Municipality on own initiative develops land as contemplated in Subsection (2) it must comply with Chapters IV and V.

17. Continuation of application

- (1) If land that is the subject of an application is transferred to a new owner, the new owner may continue with the application as the successor in title to the previous owner and the new owner is regarded as the applicant for the purposes of this By-law, provided that the following is submitted to the Municipality:
 - (a) proof of change of ownership; and
 - (b) an amended power of attorney, if a person authorised by the owner has been appointed to handle the application.
- (2) The new owner must advise the Municipality in writing of the continuation of the application.

18. Rezoning of land

- (1) The Municipality may, on its own initiative, rezone land of which it is not the owner for—
 - (a) public purposes that serves the members of the public in the provision of a service or a recreational space;
 - (b) the purpose of creating a new zoning for one or more land units; or
 - (c) substituting a land use scheme or part thereof for one in terms of which land is not necessarily zoned in accordance with the utilisation thereof or existing use rights.
- (2) An applicant, who wishes to rezone land, must submit an application to the Municipality as contemplated in Section 16(2).
- (3) The Municipality may, on its own initiative or on application, create an overlay zone for land.
- (4) Zoning may be made applicable to a land unit or part thereof and zoning need not follow cadastral boundaries.
- (5) The application must, where applicable, include at least the following:
 - (a) density requirements;
 - (b) major land uses and the extent thereof; and
 - (c) a detailed phasing plan or a framework including—
 - (i) major transport routes;
 - (ii) major land uses;
 - (iii) bulk infrastructure;
 - (iv) requirements of organs of state;
 - (v) public open space requirements; and
 - (vi) physical development constraints.

19. Lapsing of rezoning and extension of validity periods

- (1) A rezoning approval lapses after a period of 10 years, or a shorter period as the Municipality may determine, from the date of approval or the date that the approval comes into operation if, within that 10 year period or shorter period—
 - (a) the zoning is not utilised in accordance with the approval thereof; or
 - (b) the following requirements are not met:

14/380

- (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right; and
 - (ii) commencement with the construction of the building contemplated in subparagraph (i).
- (2) A rezoning to sub divisional area zone approval—
 - (a) lapses after 10 years, or a shorter period as the Municipality may determine from the date that the approval comes into operation—
 - (i) if the applicant does not submit an application for approval of subdivision in accordance with the approved sub-divisional area zoning; or
 - (ii) if such a subdivision application was submitted and the zoning of subdivision area lapses before the subdivision is approved, the validity of the rezoning to sub-divisional area lapses when the subdivision is approved.
- (3) The Municipality may grant extensions to the periods contemplated in Subsections (1) and (2), which period together with any extensions that the Municipality grants, may not exceed 10 years.
- (4) If a rezoning approval lapses, the zoning applicable to the land prior to the approval of the rezoning applies, or where no zoning existed prior to the approval of the rezoning, the Municipality must determine a zoning as contemplated in Section 13(2).

20. Departures

- (1) An applicant may apply as contemplated in Section 16(2) —
 - (a) for a departure from the development parameters of a zoning or an overlay zone; or
 - (b) to utilise land on a temporary basis for a purpose for which no provision is made in the land use scheme in respect of a particular zone for a period determined by the Municipality, not exceeding 10 years.
- (2) A departure contemplated in Subsection (1)(a) lapses after a period of 10 years or the shorter period as the Municipality may determine from the date that the approval comes into operation if, within that 10 year period or shorter period—
 - (a) the departure is not utilised in accordance with the approval thereof; or
 - (b) the following requirements are not met:
 - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right; and
 - (ii) commencement with the construction of the building contemplated in subparagraph (i).
- (3) The Municipality may grant extensions to the period contemplated in Subsection (2), which period together with any extensions that the Municipality grants, may not exceed 10 years.
- (4) The Municipality may approve a departure contemplated in Subsection (1)(b) for a period shorter than 10 years, provided that, the period may not, together with any extension approved in accordance with Section 68, exceed 10 years;
- (5) A temporary departure contemplated in Subsection (1)(b) may not be granted more than once in respect of a particular use on a specific land unit.
- (6) A temporary departure contemplated in Subsection (1)(b) may not include the improvement of land that is not temporary in nature and which has the effect that the land cannot, without further construction or demolition, revert back to its previous lawful use upon the expiry of the period contemplated in Subsection (1)(b).

21. Consent uses

- (1) An applicant may, as contemplated in Section 16(2), apply to the Municipality for a consent use provided for in the land use scheme.
- (2) Where the development parameters for the consent use that is being applied for are not defined in an applicable land use scheme, the Municipality must determine the development parameters that apply to the consent use as conditions of approval contemplated in Section 67.

- (3) A consent use may be granted permanently or for a specified period of time in terms of conditions of approval contemplated in Section 67.
- (4) A consent use granted for a specified period of time contemplated in Subsection (3) must not have the effect of preventing the property from being utilised in the future for the primary uses permitted in terms of the zoning of the land.
- (5) A consent use contemplated in Subsection (1) lapses after a period of 10 years or the shorter period as the Municipality may determine from the date that the approval comes into operation if, within that 10 year period or shorter period —
 - (a) the consent use is not utilised in accordance with the approval thereof; or
 - (b) the following requirements are not met:
 - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right; and
 - (ii) commencement with the construction of the building contemplated in subparagraph (i).
- (6) The Municipality may grant extensions to the period contemplated in Subsection (5), which period together with any extensions that the Municipality grants, may not exceed 10 years.

22. Subdivision

- (1) No person may subdivide land without the approval of the Municipality in terms of Section 16(2), unless the subdivision is exempted under Section 26.
- (2) No application for subdivision involving a change of zoning may be considered by the Municipality, unless the land concerned is zoned for a subdivisinal area.
- (3) The Municipality must impose appropriate conditions relating to engineering services for an approval of a subdivision in terms of Section 67(2)(a) of this by-law.
- (4) If a Municipality approves a subdivision, the applicant must submit a general plan or diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
 - (a) the Municipality's decision to approve the subdivision;
 - (b) the conditions of approval contemplated in Subsection (3) and Section 67; and
 - (c) the approved subdivision plan.
- (5) If the Municipality approves a subdivision, the applicant must within a period of 10 years or the shorter period as the Municipality may determine, from the date of approval of the subdivision or the date that the approval comes into operation, comply with the following requirements:
 - (a) the approval by the Surveyor-General of the general plan or diagram contemplated in Subsection (4);
 - (b) completion of the installation of engineering services in accordance with the conditions contemplated in Subsection (3) or other applicable legislation;
 - (c) proof to the satisfaction of the Municipality that all relevant conditions contemplated in section 67 for the approved subdivision in respect of the area shown on the general plan or diagram and that must be complied with before compliance with paragraph (d) have been met; and
 - (d) effect the registration of transfer of a land unit or land units as indicated on the registration diagram / diagrams, or, General Plan; by obtaining of a Certificate of Registered or Consolidated Title.
- (6) A confirmation from the Municipality in terms of Subsection (5)(c) that all conditions of approval have been met, which is issued in error, does not absolve the applicant from complying with the obligations imposed in terms of the conditions or otherwise complying with the conditions after confirmation of the subdivision.

23. Confirmation of subdivision

- (1) Upon compliance with Section 22(5), the subdivision or part thereof is confirmed and cannot lapse.

- (2) Upon confirmation of a subdivision or part thereof under Section 22(5), the zonings indicated on the approved subdivision plan as confirmed cannot lapse.
- (3) The Municipality must in writing confirm to the applicant or to any other person at his or her written request that a subdivision or a part of a subdivision is confirmed, if the applicant has to the satisfaction of the Municipality submitted proof of compliance with the requirements of Section 22(5) for the subdivision or part thereof.
- (4) No building or structure may be constructed on a land unit forming part of an approved subdivision unless the subdivision is confirmed as contemplated in Section 22(5) or the Municipality approved the construction prior to the subdivision being confirmed.

24. Lapsing of subdivision and extension of validity periods

- (1) An approved subdivision or a portion thereof lapses if the applicant does not comply with Section 22(5).
- (2) An applicant may apply for an extension of the period to comply with Section 22(5) or must comply with Subsection (5).
- (3) An extension contemplated in Subsection (2) may be granted for a period not exceeding 10 years and if after the expiry of the extended period the requirements of Section 22(5) has not been complied with, the subdivision lapses and Subsection (6) applies.
- (4) The Municipality may grant extensions to the period contemplated in Subsection (2), which period together with any extensions that the Municipality grants, may not exceed 10 years.
- (5) If only a portion of the general plan, contemplated in Section 22(5)(a) complies with Section 22(5)(b) and (c), the general plan must be withdrawn and a new general plan must be submitted to the Surveyor-General.
- (6) If an approval of a subdivision or part thereof lapses under Subsection (1) —
 - (a) the Municipality must—
 - (i) amend the zoning map and, where applicable, the register accordingly; and
 - (ii) notify the Surveyor-General accordingly; and
 - (b) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision has lapsed.

25. Amendment or cancellation of subdivision plan

- (1) The Municipality may approve the amendment or cancellation of a subdivision plan, including conditions of approval and/or the general plan or diagram, in relation to a land unit or units indicated on the general plan or diagram which as per the provisions of the Deeds Registries Act.
- (2) When the Municipality approves an application in terms of Subsection (1), any public place that is no longer required by virtue of the approval must be closed.
- (3) The Municipality must notify the Surveyor-General of an approval in terms of Subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the amendment or cancellation of the subdivision and where applicable, the closure of the public place as contemplated in Subsection (2) and read with Section 28.
- (4) An amended subdivision approval contemplated in subsection 1 does not extend the validity period of the initial approval of the subdivision as contemplated in Section 22(5).

26. Exemption of subdivisions and consolidations

- (1) The subdivision or consolidation of land in the following circumstances does not require the approval of the Municipality:
 - (a) if the subdivision or consolidation arises from the implementation of a court ruling;
 - (b) if the subdivision or consolidation arises from an expropriation;
 - (c) a minor amendment of the common boundary between two or more land units if the resulting change in area of any of the land units is not more than 10%;
 - (d) the construction or alteration of a public or proclaimed street;

- (e) the subdivision of land in order to bring about the registration of a servitude area or lease area in the name of local authority;
 - (f) the conveyancing of land in order to effect transfer to the beneficiaries of an approved subsidized housing project;
 - (g) the subdivision of land in order to effect its transfer between spheres of government;
 - (h) the registration of a servitude or lease agreement for the provision or installation of—
 - (i) water pipelines, electricity transmission lines, sewer pipelines, gas pipelines or oil and petroleum product pipelines, and boreholes by or on behalf of an organ of state or service provider;
 - (ii) telecommunication lines by or on behalf of a licensed telecommunications operator;
 - (iii) the imposition of height restrictions;
 - (iv) storm water channels, ditches and channels, and
 - (v) the granting of right of way.
- (2) The Municipality must, in each case, certify in writing that the subdivision and consolidation has been exempted from the provisions of this chapter.
- (3) The Municipality must indicate on the plan of subdivision and/or consolidation that the subdivision and/or consolidation is/are exempted from the provisions of Sections 22 to 26.
- 27. Ownership of public places and land required for municipal services, infrastructure and amenities**
- (1) The ownership of land that is earmarked for a public place as shown on an approved subdivision plan vest in the Municipality upon confirmation of the subdivision or a part thereof.
 - (2) The Municipality may in terms of conditions imposed in terms of Section 67 determine that land designated for the provision of engineering services, public facilities or social infrastructure on an approved subdivision plan, be transferred to the Municipality upon confirmation of the subdivision or a part thereof.
- 28. Closure of public places**
- (1) When a Municipality closes a public place permanently, the Municipality must at least—
 - (a) make provision for the payment of compensation to a person who has suffered loss or damage as a result of the permanent closure of the public place; and
 - (b) regulate the ownership of the land following the permanent closure of the public place.
 - (2) If any person lodges a claim against the Municipality for loss or damage that he or she has allegedly suffered as a result of the wrong doing on the part of the Municipality as a result of the closure of a public place, the authorised employee must—
 - (a) require proof of negligence on the part of the Municipality which resulted in the loss or damage; and
 - (b) before any claim is paid or settled, obtain a full technical investigation report in respect of the circumstances that led to the closure of the public place to determine whether or not there has been negligence on the part of the Municipality.
 - (3) The Municipality may pay a claim if—
 - (a) in the case of loss of or damage to property, the claimant has proved his or her loss or damage;
 - (b) in the case of personal injury, the claimant has furnished proof of the quantum of his/her damages, but subject to the right of the Municipality to obtain legal advice as to the correctness of said quantum;
 - (c) no claim has been made and paid by personal insurance covering the same loss; and
 - (d) any other relevant additional information as requested by the authorised employee has been received.

- (4) The ownership of the land comprised in any public place or portion thereof that is closed in terms of this section continues to vest in the Municipality unless the Municipality determines otherwise.
- (5) The Municipal Manager may, without complying with the provisions of Section (1) temporarily close a public place—
 - (a) for the purpose of or pending the construction, reconstruction, maintenance or repair of the public place;
 - (b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under the public place;
 - (c) if the street or place is, in the opinion of the Municipal Manager, in a state dangerous to the public;
 - (d) by reason of any emergency or public event which, in the opinion of the Municipal Manager, requires special measures for the control of traffic or special provision for the accommodation of crowds, or
 - (e) for any other reason which, in the opinion of the Municipal Manager, renders the temporary closing of the public place necessary or desirable.
- (6) The Municipality must notify the Surveyor-General of an approval in terms of Subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the closure of the public place.

29. Services arising from subdivision

Subsequent to the granting of an application for subdivision in terms of this By-law the owner of any land unit originating from the subdivision must—

- (a) allow that the following be conveyed across his or her land unit, as may be reasonably required in respect of other land units:
 - (i) gas mains;
 - (ii) electricity cables;
 - (iii) telephone cables;
 - (iv) television cables;
 - (v) other electronic infrastructure;
 - (vi) main and other water pipes;
 - (vii) foul sewers;
 - (viii) storm water pipes; and
 - (ix) ditches and channels;
- (b) allow the following on his or her land unit if considered necessary and in the manner and position as may be reasonably required by the Municipality:
 - (i) surface installations such as mini-substations;
 - (ii) meter kiosks; and
 - (iii) service pillars;
- (c) allow access to the land unit at any reasonable time for the purpose of constructing, altering, removing or inspecting any works referred to in paragraphs(a) and (b); and
- (d) receive material or permit excavation on the land unit as may be required to allow use of the full width of an abutting street and provide a safe and proper slope to its bank necessitated by differences between the level of the street as finally constructed and the level of the land unit, unless he or she elects to build retaining walls to the satisfaction of and within a period to be determined by the Municipality.

30. Certification by Municipality

- (1) A person may not apply to the Registrar of Deeds to register the transfer of a land unit, a certificate of title or a certificate of consolidated title, as the case may be, unless the Municipality has issued a certificate in terms of this Section.
- (2) The Registrar of Deeds may register the transfer of a land unit, a certificate of title or a certificate of consolidated title, as the case may be, only if the Municipality has issued a certificate in terms of this Section certifying that all requirements and conditions for the approval have been complied with.
- (3) Proof must be furnished to the Municipality that all common property including private roads and private places originating from the subdivision, have been developed and transferred to the owners association prior to the registration of transfer of the first erf.

- (4) The Surveyor – General may not approve or amend a general plan or diagram in respect of the subdivision or consolidation of land units contemplated in this section without written confirmation from municipality that the subdivision or consolidation is exempted by the municipality in accordance with this section.

31. Owners' associations

- (1) The Municipality may, when approving an application for a subdivision of land impose conditions relating to the compulsory establishment of an owners' association by the applicant upon the transfer of the first sub-divided property to the new owner.
- (2) An owners' association that comes into being by virtue of Subsection (1) is a juristic person and must have a constitution.
- (3) The constitution of an owners' association must be approved by the Municipality before the transfer of the first land unit and must provide for—
- (a) the owners' association to formally represent the collective mutual interests of the area, suburb or neighbourhood set out in the constitution in accordance with the conditions of approval;
 - (b) control over and maintenance of buildings, services or amenities arising from the subdivision;
 - (c) the regulation of at least one yearly meeting with its members;
 - (d) control over the design guidelines of the buildings and erven arising from the subdivision;
 - (e) the ownership by the owners' association of private open spaces, private roads and other services arising out of the subdivision;
 - (f) enforcement of conditions of approval or management plans;
 - (g) procedures to obtain the consent of the members of the owners' association to transfer an erf in the event that the owners' association ceases to function;
 - (h) the implementation and enforcement by the owners' association of the provisions of the constitution.
- (4) The constitution of an owners' association may contain other objectives as set by the association but may not contain provisions that are in conflict with any law.
- (5) The constitution of an owners' association may be amended when necessary provided that an amendment that may affect any rights of the Municipality or a provision referred to in Subsection (3) must be approved by the Municipality.
- (6) The constitution of an owners' association takes effect upon the registration of transfer of ownership of the first land unit to a person other than the developer.
- (7) An owners' association which comes into being by virtue of Subsection (1)—
- (a) has as its members all the owners of land units originating from the subdivision and their successors in title, who are jointly liable for expenditure incurred in connection with the association; and
 - (b) upon registration of the first land unit, automatically constituted.
- (8) The design guidelines contemplated in Subsection (3)(d) may introduce more restrictive development rules than the rules provided for in the land use scheme.
- (9) If an owners' association fails to meet any of its obligations contemplated in Subsection (3), the Municipality may take appropriate action to rectify the failure and recover from the members referred to in subsection (3)(a), the amount of any expenditure incurred by it in respect of those actions.
- (10) The amount of any expenditure so recovered is, for the purposes of Subsection (9), considered to be expenditure incurred by the owners' association.

32. Owners' association ceases to function

- (1) If an owners' association ceases to function or carry out its obligations, the Municipality may -
- a) take steps to instruct the association to reconstitute itself in accordance with the provisions of Community Schemes Ombud Services Act 2011.

20/390

- b) In terms of section 16(2)(p) for appropriate action by the municipality to rectify a failure of the owners association to meet any of its obligations in respect of the control over or maintenance of services contemplated in subsection 29(b) or
 - c) To the High Court to appoint an administrator who must exercise the powers of the owners association to the exclusion of the owner's association.
- (2) The Municipality or the affected person may recover from the members of the owners association the amount of any expenditure incurred by the Municipality or that affected person, as the case may be, in respect of any action taken in terms of subsection (1).
 - (3) The amount of any expenditure so recovered is, for the purpose of 31(9), considered to be expenditure incurred in connection with the owners association.

33. Consolidation of land units

- (1) No person may consolidate land without the approval of the Municipality in terms of Section 16(2), unless the consolidation is exempted under section 26.
- (2) If a Municipality approves a consolidation, the applicant must submit a diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
 - (a) the decision to approve the consolidation and or subdivision;
 - (b) the conditions of approval contemplated in Section 67; and
 - (c) the approved consolidation and or subdivision plan.
- (3) If a Municipality approves a consolidation, the Municipality must amend the zoning map and, where applicable, the register accordingly.

34. Lapsing of consolidation and extension of validity periods

- (1) If a consolidation of land units is approved but no consequent registration by the Registrar of Deeds takes place within 10 years of the approval, the consolidation approval lapses.
- (2) An applicant may apply for an extension of the period to comply with Subsection (1).
- (3) An extension contemplated in Subsection (2) may be granted for a period not exceeding 10 years and if after the expiry of the extended period the requirements of Subsection (1) has not been complied with, the consolidation lapses and Subsection (5) applies.
- (4) The Municipality may grant extensions to the period contemplated in Subsection (2), which period together with any extensions that the Municipality grants, may not exceed 10 years.
- (5) If an approval of a consolidation lapses under subsection (1) the Municipality must—
 - (a) amend the zoning map and, where applicable, the register accordingly; and
 - (b) notify the Surveyor-General accordingly; and
 - (c) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision has lapsed.

35. Requirements for amendment, suspension or removal of restrictive conditions

- (1) The Municipality may on application in terms of Section 16(2) by notice in the *Provincial Gazette* amend, suspend or remove, either permanently or for a period specified in the notice and either unconditionally or subject to any condition so specified, any restrictive condition.
- (2) In addition to the procedures set out in Chapter V, the owner must -
 - (a) submit the a certified copy of the title deed to the Municipality; and
 - (b) submit the bondholder's consent to the application, where applicable.
- (3) The Municipality must cause a notice of its intention to consider an application under Subsection (1) to be served on—
 - (a) all organs of state that may have an interest in the title deed restriction;
 - (b) every holder of a bond encumbering the land;

- (c) a person whose rights or legitimate expectations will be materially and adversely affected by the approval of the application; and
 - (d) all persons mentioned in the title deed for whose benefit the restrictive condition applies.
- (4) When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following:
- (a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;
 - (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
 - (c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed;
 - (d) the social benefit of the restrictive condition remaining in place in its existing form;
 - (e) the social benefit of the removal or amendment of the restrictive condition; and
 - (f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.
- (5) An approval to remove, suspend, or amend a restrictive condition comes into operation:
- (a) if no appeal has been lodged, after the expiry of the period contemplated in Section 78(2) within which an appeal must be lodged; or
 - (b) if an appeal has been lodged, when the Appeal Authority has decided on the appeal.
- (6) The Municipality must cause a notice of the decision to remove, suspend or amend a restrictive condition to be published in the Provincial Gazette after the decision comes into operation as contemplated in Subsection (5) and notify the Registrar of Deeds of the decision.

36. Endorsements in connection with amendment, suspension or removal of restrictive conditions

- (1) The applicant must, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette*, submit the following to the Registrar of Deeds:
- (a) the original title deed;
 - (b) the original letter of approval; and
 - (c) a copy of the notification as published in the Provincial Gazette
- (2) The Registrar of Deeds and the Surveyor-General must, after the amendment, suspension or removal of a restrictive condition of the notice in the *Provincial Gazette* as contemplated in section 35(6), make the appropriate entries in and endorsements on any relevant register, title deed, diagram or plan in their respective offices or submitted to them, as may be necessary to reflect the effect of the amendment, suspension or removal of the restrictive condition.

CHAPTER V
APPLICATION PROCEDURES

37. Procedures for making application

An applicant must comply with the procedures in this Chapter and, where applicable, the specific procedures provided for in Chapter IV of this By-law.

38. Pre-application consultation

- (1) The Municipality may require an applicant to meet with the authorised employee, prior to submitting an application to the Municipality, in order to determine the information that must be submitted together with the application.
- (2) The Municipality may make guidelines to determine whether an application requires a pre-application consultation, the nature of the information that is required, the employees from the Municipality or other organs of state that must attend the meeting and the procedures to be followed.
- (3) The Municipality may keep minutes of the proceedings of a pre-application consultation or on request from an applicant.

39. Information required

- (1) An application must be accompanied by the following documents, where applicable:
 - (a) an application form, as may be provided by the Municipality, completed and signed by the applicant;
 - (b) if the applicant is not the owner of the land, a power of attorney authorising the applicant to make the application on behalf of the owner;
 - (c) if the owner of the land is a company, closed corporation, trust, body corporate or home owners' association, proof that the person is authorised to act on behalf of the company, closed corporation, trust, body corporate or a home owners' association;
 - (d) the relevant bondholder's consent, if required by the Municipality;
 - (e) a written motivation for the application based on the criteria/principles for consideration of the application;
 - (f) a copy of the Surveyor-General's diagram of the subject property or if it does not exist, an extract from relevant general plan;
 - (g) a locality plan and site development plan, when required, or a plan showing the proposal in its cadastral context;
 - (h) in the case of an application for the subdivision of land, the Municipality may request copies of the subdivision plan showing some or all of the following:
 - (i) the location of the proposed land units;
 - (ii) the proposed zonings in respect of the proposed land units;
 - (iii) all existing structures on the property and abutting properties;
 - (iv) the public places and the land needed for public purposes;
 - (v) the existing access points;
 - (vi) all servitudes;
 - (vii) contours with at least a one meter interval or such other interval as may be approved by the Municipality;
 - (viii) the street furniture;
 - (ix) the light, electrical and telephone poles;
 - (x) the electrical transformers and mini substations;
 - (xi) the storm water channels and catch pits;
 - (xii) the sewerage lines and connection points;
 - (xiii) any significant natural features; and
 - (xiv) the scale and all distances and areas.
 - (i) any other plans, diagrams, documents or information that the Municipality may require;
 - (j) the proof of payment of application fees;
 - (k) a full copy of the title deeds indicating all existing title conditions in current and historic title deeds;
 - (l) if required by the Municipality, a conveyancer's certificate indicating that no restrictive condition in respect of the application is contained in such title deeds.

- (2) The Municipality may add or remove any information requirements for a particular application as recorded in the pre-consultation contemplated in Section 38.
- (3) The Municipality may make guidelines relating to the submission of additional information and procedural requirements.

40. Application fees

- (1) An applicant must pay the application fees determined by the Municipality prior to submitting an application in terms of this By-law.
- (2) Application fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.
- (3) If an applicant wishes to retract the application and the said application has never been advertised, the advertising fees may be refunded to the applicant on request.

41. Grounds for refusing to accept application

The Municipality may refuse to accept an application if—

- (a) the Municipality has already decided on the application;
- (b) there is no proof of payment of fees;
- (c) the application is not in the form required by the Municipality or does not contain the documents required for the submission of an application as set out in Section 39.

42. Receipt of application and request for further documents

The Municipality must—

- (a) record the receipt of an application in writing or by affixing a stamp on the application on the day of receipt;
- (b) notify the applicant in writing of any outstanding or additional plans, documents, other information or additional fees that it may require within 30 days of receipt of the application or the further period as may be agreed upon, failing which it is regarded that there is no outstanding information or documents; and
- (c) if the application is complete, notify the applicant in writing that the application is complete within 14 days of receipt of the application.

43. Additional information

- (1) The applicant must provide the Municipality with the information or documentation required for the completion of the application within 30 days of the request there for or within the further period agreed to between the applicant and the Municipality.
- (2) The Municipality may refuse to consider the application if the applicant fails to provide the information within the timeframes contemplated in Subsection (1).
- (3) The Municipality must notify the applicant in writing of the refusal to consider the application and must close the application.
- (4) An applicant has no right of appeal to the Appeal Authority in respect of a decision contemplated in Subsection (3) to refuse to consider the application.
- (5) If an applicant wishes to continue with an application that the Municipality refused to consider under Subsection (3), the applicant must make a fresh application and pay the applicable application fees.

44. Confirmation of complete application

- (1) The Municipality must notify the applicant in writing that the application is complete within 21 days of receipt of the additional plans, documents or information required by it or if further information is required as a result of the furnishing of the additional information.

- (2) If further information is required, Section 43 applies to the further submission of information that may be required.

45. Withdrawal of application

- (1) An applicant may, at any time prior to a decision being taken, withdraw an application on written notice to the Municipality.
- (2) The owner must in writing inform the Municipality as to whether he or she has withdrawn his or her power of attorney that authorised another person to make an application on his or her behalf.
- (3) When an application has been withdrawn the application will be considered finalised and closed and a new application, if any, may be submitted.
- (4) An applicant may amend his or her application at any time after notice of the application has been given in terms of this by-law and prior to the submission of the planning report to the Authorised Official or Municipal Planning Tribunal—
- (a) at the applicant's own initiative;
- (b) as a result of objections and comments made during the public notification process; or
- (c) at the request of the Municipality.
- (5) Should an amendment to an application be considered material, the Municipality may require that further notice of the application be given in terms of this By-law and may require that the notice and the application be resubmitted to municipal departments, other organs of state and service providers.
- (6) In the event that an amended application is submitted in accordance Subsection (5) the Municipality may require payment of additional application fees.

46. Notice of applications in terms of integrated procedures

- (1) The Municipality may, on prior written request and motivation by an applicant, determine that—
- (a) a public notice procedure carried out in terms of another law in respect of the application constitutes public notice for the purpose of an application made in terms of this By-law; or
- (b) notice of an application made in terms of this By-law may be published in accordance with the requirements for public notice applicable to a related application in terms other legislation;
- (2) If a Municipality determines that an application may be published as contemplated in Subsection (1)(b) an agreement must be entered into by the Municipality and the relevant organs of state to facilitate the simultaneous publication of notices.
- (3) The Municipality must, within 30 days of having notified the applicant that the application is complete, simultaneously—
- (a) cause public notice of the application to be given in terms of Section 47(1); and
- (b) forward a copy of the notice together with the relevant application to every municipal department, service provider and organ of state that has an interest in the application,
- unless it has been determined by the Municipality that a procedure in terms of another law, as determined in Subsection (1), is considered to be public notice in terms of this By-law.
- (4) The Municipality may require the applicant to give the required notice of an application in the media.
- (5) Where an applicant has published a notice in the media at the request of a Municipality, the applicant must provide proof that the notice has been published as required.

47. Notification of application in media

- (1) The Municipality must cause notice to be given in the media, in accordance with this By-law, of the following applications:
 - (a) an application for a rezoning or a rezoning on the initiative of the Municipality;
 - (b) the subdivision of land larger than five hectares inside the outer limit of urban expansion as reflected in its Municipal Spatial Development Framework;
 - (c) the subdivision of land larger than one hectare outside the outer limit of urban expansion as reflected in its Municipal Spatial Development Framework;
 - (d) if the Municipality has no approved Municipal Spatial Development Framework, the subdivision of land larger than five hectares inside the physical edge, including existing urban land use approvals, of the existing urban area;
 - (e) if the Municipality has no approved Municipal Spatial Development Framework, the subdivision of land larger than one hectare outside the physical edge, including existing urban land use approvals, of the existing urban area;
 - (f) the closure of a public place;
 - (g) an application in respect of a restrictive condition;
 - (h) other applications that will materially affect the public interest or the interests of the community if approved.
- (2) Notice of the application in the media must be given by—
 - (a) publishing a notice of the application, in newspapers with a general circulation in the area concerned in the three official languages of the Province of the Western Cape; or
 - (b) if there is no newspaper with a general circulation in the area, posting a copy of the notice of application, for at least the duration of the notice period, on the land concerned and on any other notice board as may be determined by the Municipality.

48. Serving of notices

- (1) Notice of an application contemplated in Section 47(1) and Subsection (2) must be served—
 - (a) in accordance with Section 115 of the Municipal Systems Act;
 - (b) in the three official languages of the Province of the Western Cape
 - (c) on each person whose rights or legitimate expectations will be affected by the application.
- (2) When the Municipality intends to consider any of the following, it must at least cause a notice to be served as contemplated in Section 46 of its intention:
 - (a) a determination of a zoning;
 - (b) a land use application for subdivision or the amendment or cancellation of a subdivision contemplated in Sections 16(2)(d) and (k), respectively;
 - (c) a land use application for consolidation contemplated in Section 16(2)(e); or
 - (d) the imposition, amendment or waiver of a condition contemplated in Section 16(2)(h).
- (3) The Municipality may require the serving of a notice as contemplated in this section for any other application made in terms of this By-law.
- (4) The Municipality may require notice of its intention to consider all other applications not listed in Subsection (2) to be given in terms of Section 50.
- (5) The Municipality may require the applicant to attend to the serving of a notice of an application contemplated in Subsection (1).
- (6) Where an applicant has served a notice at the request of a Municipality, the applicant must provide proof that the notice has been served as required.
- (7) The date of notification in respect of a notice served in terms of this section—
 - (a) when it has been served by certified or registered post is the date of registration of the notice; and
 - (b) when it has been delivered to that person or his representative is the date of delivery to that person;

- (c) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years is the date on which it has been left with that person; or
- (d) when it has been posted in a conspicuous place on the property or premises to which it relates is the date that it is posted in that place.

49. Content of notice

When notice of an application must be given in terms of Section 47 or served in terms of Section 48, the notice must contain the following information:

- (a) the details of the applicant;
- (b) identify the land or land unit to which the application relates by giving the property description and the physical address;
- (c) state the intent and purpose of the application;
- (d) state that a copy of the application and supporting documentation will be available for viewing during the hours and at the place mentioned in the notice;
- (e) state the contact details of the relevant municipal employee;
- (f) invite members of the public to submit written comments, objections or representations together with the reasons there for in respect of the application;
- (g) state in which manner comments, objections or representations may be submitted;
- (h) state the date by when the comments, objections or representations must be submitted which may not be less than 30 days from the date on which the notice was given;
- (i) state that any person who cannot write may during office hours attend at an address stated in the notice where a named staff member of the Municipality will assist that person to transcribe that person's objections, comments or representations.

50. Additional methods of public notice

- (1) If the Municipality considers notice in accordance with Sections 47 or 48 to be ineffective or the Municipality decides to give notice of any application in terms of this By-law, the Municipality may on its own initiative or on request require an applicant to follow one or more of the following methods to give additional public notice of an application:
 - (a) to display a notice contemplated in Section 49 of a size of at least 60 cm by 42 cm on the frontage of the erf concerned or at any other conspicuous and easily accessible place on the erf, provided that—
 - (i) the notice must be displayed for a minimum of 30 days during the period that the public may comment on the application;
 - (ii) the applicant must, within 30 days from the last day of display of the notice, submit to the Municipality—
 - (aa) a sworn affidavit confirming the maintenance of the notice for the prescribed period; and
 - (bb) at least 2 photos of the notice, 1 from nearby and 1 from across the street.
 - (b) to convene a meeting for the purpose of informing the affected members of the public of the application;
 - (c) to broadcast information regarding the application on a local radio station in a specified language;
 - (d) to hold an open day or public meeting to notify and inform the affected members of the public of the application;
 - (e) to publish the application on the Municipality's website for the duration of the period that the public may comment on the application;
 - (f) to obtain letters of consent or objection to the application, or
 - (g) by means of data messages contemplated in the Electronic Communications and Transactions Act, 2002 (Act 25 of 2002), by sending a copy of the notice to the person, if the person has an email address or other electronic address;
- (2) Where an applicant has given additional public notice of an application on behalf of a Municipality, the applicant must provide proof that the additional public notice has been given as required.

51. Requirements for petitions

- (1) Comments in respect of an application submitted by the public in the form of a petition must clearly state—

- (a)
 - (i) the full name, surname, national identity number and physical address of each signatory;
 - (ii) the full name, surname, postal address, telephone number, email and facsimile of no more than two specified persons to whom further communication relating to the application may be directed; provided that where such information is not made available, the Municipality shall direct further communication only to the first person who signed such petition and whose address is known; and only the first objector will be recorded as the legal objector; and
 - (iii) each page of a petition containing the signature of a petitioner shall contain at least a summary of the objection.
 - (iv) the interest of the body or person in the application;
 - (v) an affidavit stating that he or she is not colluding with any applicant, objector or appellant and is willing to act in regard to the application or appeal as the Municipality may direct.
- (b) The reasons for the petition must be set out in sufficient detail —
 - (i) the facts and circumstances which explain the comments contained within the petition;
 - (ii) the undesirable effect which the application will have on the area and/or demonstrate that she or he will be adversely affected by the decision;
 - (iii) any aspect of the application which is not considered consistent with applicable policy.
- (2) Any written notification by the Municipality to petitioners shall be regarded as sufficient if such notification is sent to the persons contemplated in 50 (1)(f) and 51 (1)(a)(ii).
- (3) A petition that does not comply with the above requirements, will not be considered and processed as a valid petition and will not be regarded as an objection.

52. Requirements for submission of comments

- (1) A person may in response to a notice received in terms of Sections 47, 48 or 50 object, comment or make representations in accordance with this Section.
- (2) Any objection, comment or representation received as a result of a public notice process must be in writing and addressed to the person mentioned in the notice within the time period stated in the notice and in the manner set out in this Section.
- (3) The objection must state the following:
 - (a) the name of the person or body concerned;
 - (b) the address or contact details at which the person or body concerned will accept notice or service of documents;
 - (c) the interest of the body or person in the application;
 - (d) the reason for the objection, comment or representation.
- (4) The reasons for any objection, comment or representation must be set out in sufficient detail in order to—
 - (a) indicate the facts and circumstances which explains the objection, comment or representation;
 - (b) demonstrate the undesirable effect which the application will have on the area;
 - (c) demonstrate any aspect of the application which is not considered consistent with applicable policy.
- (5) The Municipality may refuse to accept an objection, comment or representation received after the closing date.

53. Request to be granted intervener status

- (1) A person contemplated in Subsection (3) may, within the period contemplated in Subsection (4), submit a request on the prescribed form and with proof of payment, to the Municipal Manager, to be granted intervener status.

08/380

- (2) Upon receipt of a request as contemplated in Subsection (1), the Municipal Manager must direct the request to the Authorised Official, Municipal Planning Tribunal or Appeal Authority, as the case may be.
- (3) A person may submit a request only if he or she has not been given notice of the application in terms of Sections 48, 50(f) or 50(g) and –
 - (a) if the application has not yet been determined by the Authorised Official or Municipal Planning Tribunal, as the case may be – the requester has an interest in the application; or
 - (b) if the application has been determined by the Authorised Official or Municipal Planning Tribunal, as the case may be – the requester has a pecuniary or proprietary interest which is or has been or may be adversely affected or is able to demonstrate that she or he will be adversely affected by the decision or an appeal with regard to the decision.
- (4) A request will be invalid if submitted –
 - (a) more than seven days after the requester became aware of the application or resolution with regard to an application or may reasonably have been expected to have become aware of the application or resolution with regard to an application; or,
 - (b) after 21 days from the date of the decision of the Authorised Official or Municipal Planning Tribunal, or,
 - (c) if an appeal has been submitted, from the date of the decision of the Appeal Authority.
- (5) A requester must submit the required information as contemplated for in Section 52 (3) and (4).
- (6) The Authorised Official, Municipal Planning Tribunal or Appeal Authority, as the case may be, may direct a copy of the request and the information contemplated in Subsection (5) to the existing parties to the proceedings for comment.
- (7) The Authorised Official, Municipal Planning Tribunal or Appeal Authority may –
 - (a) refuse a request if submitted late or as contemplated in terms of Subsection (3) and (4);
 - (b) in the event that a question arises as to whether the request should be granted–
 - (i) the Municipal Planning Tribunal or the Authorised Official who must decide the validity of the request if the application has not yet been decided; or
 - (ii) the Appeal Authority if the application has been decided.
- (8) In deciding whether to grant a requester intervener status, the Municipal Planning Tribunal, Authorised Official or Appeal Authority, as the case may be, must consider at least whether –
 - (a) the requester qualifies in terms of Subsection (3) and (4);
 - (b) no existing party to the proceedings adequately represents the interest of the requester;
 - (c) the requester represents other persons who have a similar interest in the proceedings and whom are not otherwise represented;
 - (d) refusal of the request would impede the ability of the requester to protect his or her interests;
 - (e) the requester's objection, comment or representations are relevant to the proceedings; are different from those of the existing parties, and may assist the decision-maker; and
 - (f) granting the request would not cause undue delay or otherwise prejudice the interests of any party to the proceedings.
- (9) The decision-maker must notify the requester and the existing parties to the proceedings of the outcome of the request.
- (10) There is no appeal against a decision to either grant or refuse a request to be granted intervener status.
- (11) A person who is granted intervener status is regarded as an appellant and/or objector.

54. Further public notice

The Municipality may, at any stage during the processing of the application—

- (a) require notice of an application to be republished or to be served again; and
- (b) an application to be resent to municipal departments for comment, if new information comes to its attention which is material to the consideration of the application.

55. Cost of notice

The applicant is liable for the costs of giving notice(s) of an application.

56. Applicant's right to reply

- (1) Copies of all objections, comments or representations lodged with a Municipality must be provided to the applicant within 14 days after the closing date for public comment together with a notice informing the applicant of its rights in terms of this section.
- (2) The applicant must, within a period of 30 days from the date of the provision of the objections, comments or representations, submit written reply there to with the Municipality.
- (3) The applicant must before the expiry of the 30 day period referred to in Subsection (2), apply to the Municipality for an extension of the period to lodge a written reply.
- (4) If the applicant does not submit comments within the period of 30 days or within an additional timeframe, the applicant is considered to have no comment.
- (5) If as a result of the objections, comments or representations lodged with the Municipality, additional information regarding the application are required by the Municipality, the information must be supplied within the further period as may be agreed upon between the applicant and the Municipality.
- (6) If the applicant does not provide the information within the timeframes contemplated in Subsection (5), Section 43(2) to (5) with the necessary changes, applies.

57. Written assessment of application

- (1) An employee authorised by the Municipality must in writing assess an application in accordance with Section 66 and recommend to the decision-maker whether the application must be approved or refused.
- (2) An assessment of an application must include a motivation for the recommendation and, where applicable, the proposed conditions of approval.

58. Timeframes pertaining to applications

- (1) The administrative phase commences only after a complete land use application has been submitted to a municipality and the components of the said administrative phase contemplated in Subsection (2), for which the municipality is responsible, may not exceed 12 months.
- (2) The administrative phase is the phase during which all public participation notices have to be published and responded to; parties have to be informed; public participation processes finalised; intergovernmental participation processes finalised and the application referred to the Municipal Planning Tribunal or Authorised Official for consideration and decision-making
- (3) When an Authorised Official is authorised to take a decision and no provision of any other law has to be complied with, the Authorised Official must decide on the application within 60 days after completion of the administrative phase contemplated in Subsection (2).
- (4) When the Authorised Official is not authorised to make a decision and no provision of any other law has to be complied with, the Municipal Planning Tribunal must decide on

the application within 90 days after completion of the administrative phase contemplated in Subsection (2).

- (5) The Authorised Official or Municipal Planning Tribunal, as the case may be, may extend the period contemplated in Subsections (3) or (4) in exceptional circumstances which may include the following:
 - (a) if an interested person has submitted a request for intervener status;
 - (b) if additional information is required in order to consider the application.

59. Failure to act within time period

- (1) An applicant may lodge an appeal to the Executive Authority if the Municipal Planning Tribunal or Authorised Official fails to decide on an application within the period referred to in Section 58.
- (2) Subject to Section 43(2), an applicant may not appeal to the Executive Authority if the Municipal Planning Tribunal or Authorised Official fails to decide on an application due to the fact that all required information to decide on the matter is not available.
- (3) An appeal must be referred for comment to all interested and affected parties as contemplated in Section 78 and 79.

60. Powers to conduct routine inspections

- (1) An employee authorised by the Municipality may, in accordance with the requirements of this section, enter land or a building for the purpose of assessing an application in terms of this By-law and to prepare a report contemplated in Section 57.
- (2) When conducting an inspection, the authorised employee may—
 - (a) request that any record, document or item be produced to assist in the inspection;
 - (b) make copies of, or take extracts from any document produced by virtue of paragraph (a) that is related to the inspection;
 - (c) on providing a receipt, remove a record, document or other item that is related to the inspection; or
 - (d) inspect any building or structure and make enquiries regarding that building or structure.
- (3) No person may interfere with an authorised employee who is conducting an inspection as contemplated in Subsection (1).
- (4) The authorised employee must, upon request, produce identification showing that he or she is authorised by the Municipality to conduct the inspection.
- (5) An inspection under Subsection (1) must take place at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building.

61. Decision pertaining to an application

The Authorised Official or the Municipal Planning Tribunal may in respect of any application contemplated in Section 16(2)—

- (a) approve, in whole or in part, or refuse any application referred to it in accordance with this By-law;
- (b) on the approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any development charges;
- (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-law and provincial legislation;
- (d) conduct any necessary investigation;
- (e) give directions relevant to its functions to any person in the service of a Municipality or municipal entity;
- (f) decide any question concerning its own jurisdiction;
- (g) appoint a technical adviser to advise or assist in the performance of the Municipal Planning Tribunal's functions in terms of this By-law.

62. Notification of decision

The Municipality must, within 21 days of its decision, in writing notify the applicant and any person who lodged an objection against the application of the decision and draw the attention of the applicant and that person to the fact that he or she may request reasons for the decision and to any right of review or appeal.

63. Duties of applicant

- (1) The applicant must ensure that all information furnished to the Municipality is accurate.
- (2) The applicant must ensure that no misrepresentations are made.
- (3) The provision of inaccurate, false or misleading information is an offence as contemplated in section 84 (1)(e).

64. Errors and omissions

- (1) The Municipality may at any time correct an error in the wording of its decision provided that the correction does not change its decision or result in an alteration, suspension or deletion of a condition of its approval.
- (2) The Municipality may, of its own accord or on application by the applicant or an interested party, upon good cause shown, condone an error in a procedure, if the condonation does not have a material and adverse effect on, or unreasonably prejudices, another party.

65. Exemptions to facilitate expedited procedures

- (1) The Municipality may in writing and subject to Section 60, 61 of the Land Use Planning Act—
 - (a) exempt a development from compliance with the provisions of this By-law to reduce the financial or administrative burden of—
 - (i) integrated application processes as contemplated in Section 46;
 - (ii) the provision of housing with the assistance of a state subsidy; or
 - (iii) incremental upgrading of existing settlements;
 - (b) in an emergency situation authorise that a development may depart from any of the provisions of this By-law.
- (2) If the Provincial Minister grants an exemption or authorisation to the Municipality in terms of Section 60 of the Land Use Planning Act, the Municipality is exempted from or authorised to deviate from any corresponding provision in this By-law.

CHAPTER VI

CRITERIA FOR DECISION MAKING

66. General criteria for consideration of applications

- (1) When the Authorised Official or Municipal Planning Tribunal considers an application it must have regard to the following:
 - (a) the application submitted in terms of this By-law;
 - (b) the procedure followed in processing the application;
 - (c) the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding proposed land uses;
 - (d) the comments in response to the notice of the application and the comments received from organs of state and internal departments;
 - (e) the response by the applicant to the comments referred to in paragraph (d);
 - (f) investigations carried out in terms of other laws which are relevant to the consideration of the application;
 - (g) a registered planner, or a planner eligible for registration, written assessment, which includes:
 - (i) an amendment of a Spatial Development Framework or land use scheme
 - (ii) an approval of an overlay zone contemplated in the land use scheme
 - (iii) a phasing, amendment or cancellation of a subdivision plan or part thereof
 - (iv) a determination of a zoning
 - (v) a rezoning
 - (h) the integrated development plan and Municipal Spatial Development Framework;
 - (i) the applicable Local Spatial Development Frameworks adopted by the Municipality;
 - (j) the applicable policies of the Municipality that guide decision-making;
 - (k) the Provincial Spatial Development Framework;
 - (l) where applicable, the regional spatial development framework;
 - (m) the policies, principles, planning and development norms and criteria set by national and provincial government;
 - (n) the matters referred to in Section 42 of the Spatial Planning and Land Use Management Act;
 - (o) the principles referred to in Chapter VI of the Land Use Planning Act; and
 - (p) the relevant provisions of the land use scheme.
- (2) A Authorised Official or Municipal Planning Tribunal must approve a site development plan submitted to the Municipality for approval in terms of applicable development parameters or conditions of approval if the site development plan—
 - (a) is consistent with the development parameters of the zoning;
 - (b) is consistent with the development parameters of the overlay zone;
 - (c) complies with the conditions of approval; and
 - (d) complies with this By-law.
- (3) When a site development plan is required in terms of development parameters or conditions of approval—
 - (a) the Municipality may not approve a building plan if the site development plan has not been approved; and
 - (b) the Municipality may not approve a building plan that is inconsistent with the approved site development plan.

67. Conditions of approval

- (1) When the Authorised Official or Municipal Planning Tribunal approves an application subject to conditions, the conditions must be reasonable conditions and must arise from the approval of the proposed utilisation of land.
- (2) Conditions imposed in accordance with Subsection (1) may include conditions relating to—
 - (a) the provision of engineering services and infrastructure;
 - (b) the cession of land or the payment of money;
 - (c) the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;

- (d) the extent of land to be ceded to the Municipality for the purpose of a public open space or road as determined in accordance with a policy adopted by the Municipality;
 - (e) settlement restructuring;
 - (f) agricultural or heritage resource conservation;
 - (g) biodiversity conservation and management;
 - (h) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
 - (i) energy efficiency;
 - (j) requirements aimed at addressing climate change;
 - (k) the establishment of an owners' association in respect of the approval of a subdivision;
 - (l) the provision of land needed by other organs of state;
 - (m) the endorsement in terms of Section 31 of the Deeds Registries Act in respect of public places where the ownership thereof vests in the Municipality or the registration of public places in the name of the Municipality, and the transfer of ownership to the Municipality of land needed for other public purposes;
 - (n) the implementation of a subdivision in phases;
 - (o) requirements of other organs of state.
 - (p) the submission of a construction management plan to manage the impact of a new building on the surrounding properties or on the environment;
 - (q) agreements to be entered into in respect of certain conditions;
 - (r) the phasing of a development, including lapsing clauses relating to such phasing;
 - (s) the delimitation of development parameters or land uses that are set for a particular zoning;
 - (t) the setting of validity periods, if the Municipality determined a shorter validity period as contemplated in this By-law;
 - (u) the setting of dates by which particular conditions must be met;
 - (v) requirements relating to engineering services as contemplated in Section 80;
 - (w) the payment of an administrative penalty as contemplated in Section 90 in respect of the unlawful use of land;
- (3) If a Municipality imposes a condition contemplated in Subsection (2)(a), an engineering services agreement must be concluded between the Municipality and the owner of the land concerned before the construction engineering infrastructure on the land.
 - (4) A condition contemplated in Subsection (2)(b) may require only a proportional contribution to municipal public expenditure according to the normal need there for arising from the approval, as determined by the Municipality in accordance with norms and standards, as may be prescribed.
 - (5) Municipal public expenditure contemplated in Subsection (3) includes but is not limited to municipal public expenditure for municipal service infrastructure and amenities relating to—
 - (a) community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;
 - (b) conservation purposes;
 - (c) energy conservation;
 - (d) climate change; or
 - (e) engineering services.
 - (6) Except for land needed for public places or internal engineering services, any additional land required by the Municipality or other organs of state arising from an approved subdivision must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.
 - (7) An owners' association or home owners' association that came into being by virtue of a condition imposed under the Ordinance and that is in existence immediately before the commencement of this By-law is regarded as an owners' association that came into being by virtue of a condition imposed by a Municipality in accordance with this By-law.
 - (8) A Municipality may not approve a land use application subject to a condition that approval in terms of other legislation is required.
 - (9) Conditions which require a standard to be met must specifically refer to an approved or published standard.

- (10) No conditions may be imposed which affect a third party or which are reliant on a third party for fulfilment.
- (11) If the Municipality approves a land use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land.

CHAPTER VII

EXTENSION OF THE VALIDITY PERIOD OF APPROVALS

68. Applications for extension of validity periods in respect of applications and appeals

- (1) The Municipality may approve an application for the extension of a validity period imposed in terms of this By-law, on a date before or after the expiry of the validity period of an approval, if the application for the extension of the period was submitted prior to the expiry of the validity period.
- (2) When the Municipality considers an application in terms of Subsection (1) it must have regard to the following:
 - a) if the circumstances prevailing at the time of the original approval have materially changed; and
 - b) if the legislative or policy requirements applicable to the approval which prevailed at the time of the original approval, have materially changed;
 - c) whether there is a pending review application in court which may have an effect on the date of implementation of the approval.
- (3) if there are material changes in circumstances or in legislative or policy requirements that will necessitate new conditions of approval if an extension of a validity period is approved, an application contemplated in section 16(2)(h) must be submitted for consideration before or simultaneously with the application for the extension of a validity period,
- (4) The extended validity period takes effect on and is calculated from the expiry date of the validity period applicable to the original approval and or appeal decision.

CHAPTER VIII

MUNICIPAL PLANNING DECISION-MAKING STRUCTURES

69. Municipal planning decision-making structures

Applications are decided by—

- (a) an Authorised Official who has been authorised by the Municipality to consider and determine the applications contemplated in Section 70 (1).
- (b) the Municipal Planning Tribunal, where the powers and duties to consider and determine an application have not been designated to an Authorised Official contemplated in Section 70 (2).
- (c) the Appeal Authority where an appeal has been lodged against a decision of the Authorised Official or the Municipal Planning Tribunal.
- (d) the Council, where required in terms of other applicable legislation.

70. Consideration of applications

- (1) The Municipality may categorise applications for consideration and determination by the Authorised Official.
- (2) When the Authorised Official is not appointed to make a decision and no provision of any other law has to be complied with, the Municipal Planning Tribunal must consider and determine said applications other than those referred in terms of Subsection (1).

71. Establishment of Municipal Planning Tribunal

- (1) The Municipality must—
 - (a) establish a Municipal Planning Tribunal for its municipal area;
 - (b) by agreement with one or more municipalities establish a joint Municipal Planning Tribunal; or
 - (c) agree to the establishment of a district Municipal Planning Tribunal by the District Municipality.
- (2) An agreement referred to in Subsection (1)(b) or (c) must be published in the Provincial Gazette and must provide for—
 - (a) the composition of the Municipal Planning Tribunal;
 - (b) the terms and conditions of appointment of members of the Municipal Planning Tribunal; and
 - (c) the determination of rules and proceedings of the Municipal Planning Tribunal.

72. Composition of Municipal Planning Tribunal for municipal area

- (1) A Municipal Planning Tribunal established under Section 71(1)(a) must consist of the following members:
 - (a) a minimum of 4 employees in the full-time service of the Municipality appointed by the Municipality; and
 - (b) and a minimum of 1 person who is not a municipal employee or councillor and who have knowledge and experience of spatial planning, land use management or the Law related thereto, appointed by the Municipality.
- (2) The members of the Municipal Planning Tribunal referred to in Subsection (1)(b) may be appointed only after the Council, by notice in the *Provincial Gazette* and in other media that the Council may consider appropriate, has invited interested parties to submit within the period mentioned in the notice, names of persons who are fit and proper persons to be so appointed, except where it as an employee as referred to in Sub regulation 2(a) of the SPLUMA Regulations.
- (3) The Council must designate from the members contemplated in Subsection (1)(a) and (b)—
 - (a) a chairperson; and
 - (b) another member as deputy chairperson, to act as chairperson of the Municipal Planning Tribunal when the chairperson is absent or is unable to perform his or her duties.
- (4) The Municipal Manager must within 30 days of the first appointment of members to a Municipal Planning Tribunal—
 - (a) obtain written confirmation from the Council that it is satisfied that the Municipal Planning Tribunal is in a position to commence its operations; and
 - (b) after receipt of the confirmation referred to in paragraph (a) publish a notice in the *Provincial Gazette* of the date that the Municipal Planning Tribunal will commence with its operation.
- (5) The Municipal Planning Tribunal may only commence its operations after publication of the notice contemplated in Subsection (4).

73. Term of office and conditions of service of members of Municipal Planning Tribunal for municipal area

- (1) A member of the Municipal Planning Tribunal contemplated in Section 37 of Spatial Planning and Land Use Management Act is appointed for a term of 5 years, which is renewable once.
- (2) The office of a member becomes vacant if—
 - (a) the member is absent from 2 consecutive meetings of the Municipal Planning Tribunal without the leave of the chairperson of the Municipal Planning Tribunal;
 - (b) the member tenders his or her resignation in writing to the chairperson of the Municipal Planning Tribunal or, if the member who resigns is the chairperson of the Municipal Planning Tribunal, to the Council;
 - (c) the member is removed from the Municipal Planning Tribunal under Subsection (3); or

- (d) the member dies.
- (3) The Council may remove a member of the Municipal Planning Tribunal if—
 - (a) sufficient reasons exist for his or her removal;
 - (b) a member contravenes the code of conduct referred to in Section 75;
 - (c) a member becomes subject to a disqualification as contemplated in Section 38 of the Spatial Planning and Land Use Management Act, and
 - (d) after giving the member an opportunity to be heard.
- (4) A vacancy of the Municipal Planning Tribunal must be filled by the Council in terms of section 72(2), in terms of members contemplated in section 72(1)(a) and section 72(1)(b).
- (5) A member who is appointed by virtue of Subsection (4) holds office for the unexpired portion of the period for which the member he or she replaces was appointed.
- (6) Members of the Municipal Planning Tribunal referred to in section 72(1)(b) must be appointed on the terms and conditions, and must be paid the remuneration and allowances and be reimbursed for expenses, as determined by the Council.
- (7) An official of the Municipality appointed in terms of section 72(1)(a) as a member of the Municipal Planning Tribunal—
 - (a) may only serve as a member of the Municipal Planning Tribunal for as long as he or she is in the full – employee of the Municipality;
 - (b) is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of her membership on the Municipal Planning Tribunal.

74. Meetings of Municipal Planning Tribunal for municipal area

- (1) The Municipal Planning Tribunal contemplated in Section 71(1)(a) must determine its own internal arrangements, proceedings and procedures and those of its committees by drafting rules for—
 - (c) the convening of meetings;
 - (d) the procedure at meetings, and
 - (e) the frequency of meetings.
- (2) A quorum for a meeting of the Municipal Planning Tribunal or its committees is a majority of its appointed members.
- (3) Decisions of the Municipal Planning Tribunal are taken by resolution of a majority of all the members present at a meeting of Municipal Planning Tribunal, and in the event of an equality of votes on any matter, the person presiding at the meeting in question will have a deciding vote in addition to his or her deliberative vote as a member of the Municipal Planning Tribunal.
- (4) Meetings of the Municipal Planning Tribunal must be held at the times and places determined by the chairperson of the Municipal Planning Tribunal in accordance with the rules of the Municipal Planning Tribunal.

75. Code of conduct for members of the Municipal Planning Tribunal for municipal area

The code of conduct in Schedule 1 applies to every member of a Municipal Planning Tribunal contemplated in Section 71(1)(a).

76. Administrator for Municipal Planning Tribunal for municipal area

- (1) The Municipal Manager must appoint an employee as the Administrator and other staff for a Municipal Planning Tribunal contemplated in Section 71(1)(a).
- (2) The Administrator must—
 - (a) liaise with the relevant Municipal Planning Tribunal members and the parties in relation to any application or other proceedings filed with the Municipal Planning Tribunal;

- (b) maintain a diary of hearings of the Municipal Planning Tribunal;
- (c) allocate meeting dates and application numbers to applications;
- (d) arrange the attendance of meetings by members of the Municipal Planning Tribunal;
- (e) arrange venues for Municipal Planning Tribunal meetings;
- (f) administer the proceedings of the Municipal Planning Tribunal;
- (g) perform the administrative functions in connection with the proceedings of the Municipal Planning Tribunal;
- (h) ensure the efficient administration of the proceedings of the Municipal Planning Tribunal, in accordance with the directions of the chairperson of the Municipal Planning Tribunal;
- (i) arrange the affairs of the Municipal Planning Tribunal so as to ensure that time is available to liaise with other authorities regarding the alignment of integrated applications and authorisations;
- (j) notify parties of orders and directives given by the Municipal Planning Tribunal;
- (k) keep a record of all applications submitted to the Municipal Planning Tribunal and the outcome of each, including—
 - (i) decisions of the Municipal Planning Tribunal;
 - (ii) on-site inspections and any matter recorded as a result thereof;
 - (iii) reasons for decisions; and
 - (iv) proceedings of the Municipal Planning Tribunal; and
- (l) keep records by any means as the Municipal Planning Tribunal may deem expedient.

77. Functioning of Municipal Planning Tribunal for municipal area

- (1) The meetings of a Municipal Planning Tribunal contemplated in Section 74(1)(a) must be held at the times and places as the chairperson may determine, which meetings must at least be held once per month, if there are applications to consider.
- (2) If the chairperson and the deputy chairperson fail to attend a meeting of the Municipal Planning Tribunal, the members who are present at the meeting must elect 1 of their members to preside at that meeting.

78. Appeals

- (1) The Executive Mayor is the Appeal Authority in respect of decisions contemplated in Sections 59(1) and 61.
- (2) A person whose rights are affected by a decision of the Municipal Planning Tribunal or an Authorised Official or by the failure of the Municipal Planning Tribunal or an Authorised Official to take a decision within the period contemplated in Sections 59 and 61 may appeal in writing to the Appeal Authority within 21 days of the decision.

79. Procedure for appeal

- (1) An appeal that is not lodged within the time period contemplated in Section 78 (2) or that does not comply with this section, is invalid.
- (2) An appeal must set out the grounds on which the appellant believes the decision-maker erred in coming to the conclusion it did.
- (3) The municipality must serve notice of the appeal on any person who commented, made representations on or objected to the application.
- (4) The notice must allow persons 21 days from date of notification of the appeal to comment on the appeal.
- (5) Any person who lodge an appeal or apply for intervener status to the Municipal Manager must submit proof of payment of appeal fees as may be determined by the Municipality
- (6) The notice must be served in accordance with Section 115 of the Municipal Systems Act and in accordance with the additional requirements as may be determined by the Municipality.

- (7) The Municipality may refuse to accept any comments after the closing date for comment on the appeal.
- (8) The Municipality, after receipt of an appeal—
 - (a) may request the Provincial Minister to comment in writing on the appeal; and
 - (b) must notify and request the Provincial Minister to comment on the appeal in respect of the following land use applications:
 - (i) a development outside the Municipality's planned outer limit of urban expansion as reflected in its Municipal Spatial Development Framework;
 - (ii) if the Municipality has no approved Municipal Spatial Development Framework, a development outside the physical edge, including existing urban land use approvals, of the existing urban area;
 - (iii) a rezoning of land zoned for agricultural or conservation purposes;
 - (iv) any development or category of land use applications as may be prescribed by the Provincial Minister.
- (9) The Authorised Official must complete the pre-hearing process (all the necessary documentation must be obtained, the applicant and objectors must be informed and the appeal referred to the Appeal Authority) within 150 days of receipt of the notice of appeal.
- (10) The Appeal Authority must decide on the appeal within 60 days from the expiry of the period contemplated in Subsection (9).
- (11) The Appeal Authority may extend the period contemplated in Subsection (10) in exceptional circumstances.
- (12) The parties to the appeal must be notified in writing of the decision of the Appeal Authority within 21 days from the date of the decision as contemplated in Subsection (10) and (11).
- (13) The Municipality must—
 - (a) on receipt of an appeal in terms of this section notify the applicant in writing whether or not the operation of the approval of the application is suspended; and
 - (b) if a decision on the appeal upholds an approval, notify the applicant in writing that he or she may act on the approval.

CHAPTER IX

PROVISION OF ENGINEERING SERVICES

80. Responsibility for provision of engineering services

- (1) An applicant is responsible for the provision and installation of internal engineering services required for a development at his or her cost when an application is approved.
- (2) The Municipality is responsible for the provision and installation of external engineering services.
- (3) When the Municipality is not the provider of an engineering service, the applicant must satisfy the Municipality that adequate arrangements have been made with the relevant service provider for the provision of that service.
- (4) The Municipality may enter into a written agreement with an applicant to provide that—
 - (a) the applicant will install the external engineering service instead of payment of the applicable development charges; or
 - (b) the fair and reasonable cost of the external services may be set off against the development charges payable.

81. Development charges

- (1) The applicant must pay development charges to the Municipality in respect of the provision of external engineering services.

39/380

- (2) The external engineering services for which development charges are payable must be set out in an approved policy by the Municipality.
- (3) The amount of the development charges payable must be calculated in accordance with the policy approved by the Municipality.
- (4) The date and means of development charges payable must be specified in the conditions of approval.
- (5) The development charge imposed is subject to escalation at the rate calculated in accordance with the policy on development charges.
- (6) The Municipality must annually submit a report to the Council on the amounts of development charges paid to the Municipality together with a statement of the expenditure of the amounts and the purpose of the expenditure.
- (7) When determining the contribution contemplated in Sections 67(4) and (5), the Municipality must have regard to at least—
 - (a) the municipal service infrastructure and amenities for the land concerned that are needed for the approved land use;
 - (b) the public expenditure on that infrastructure and those amenities incurred in the past and that facilitates the approved land use;
 - (c) the public expenditure on that infrastructure and those amenities that may arise from the approved land use;
 - (d) money in respect of contributions contemplated in Section 67(4) paid in the past by the owner of the land concerned; and
 - (e) money in respect of contributions contemplated in Section 67(4) of to be paid in the future by the owner of the land concerned.

82. Land for parks, open space and other uses

- (1) When the Municipality approves a development application which provides for the use of land for residential purposes, the applicant may be required to provide land for parks or public open space.
- (2) The extent of land required for parks or public open space is determined in accordance with a policy approved by the Municipality.
- (3) The land required for parks or public open spaces must be provided within the land area of the development application or may, with the consent of the Municipality, be provided elsewhere within the municipal area.
- (4) When a development application is approved without the required provision of land for parks or open space, the applicant may be required to pay money to the Municipality in lieu of the provision of land.

CHAPTER X
ENFORCEMENT

83. Enforcement

- (1) The Municipality must comply and enforce compliance with—
 - (a) the provisions of this By-law;
 - (b) the provisions of a land use scheme;
 - (c) conditions imposed in terms of this By-law or any law repealed by the Land Use Planning Act; and
 - (d) statutory title deed conditions.
- (2) The Municipality may not do anything that is in conflict with Subsection (1).

84. Offences and penalties

- (1) Any person who—
 - (a) contravenes or fails to comply with Section 16(1), 16(5) and 84(2);
 - (b) fails to comply with a compliance notice issued in terms of Section 85;
 - (c) utilises land in a manner other than prescribed by a land use scheme;
 - (d) upon registration of transfer of the first land unit arising from a subdivision to a person other than a developer fails to transfer all common property, including private roads and private places originating from the subdivision to the owners' association;
 - (e) supplies particulars, information or answers in an application or in an appeal to a decision on a land development application, knowing it to be false, incorrect or misleading or not believing them to be correct;
 - (f) falsely professes to be an authorised employee or the interpreter or assistant of an authorised employee; or
 - (g) hinders or interferes an authorised employee in the exercise of any power or the performance of any duty of that employee,is guilty of an offence and is liable upon conviction to a fine or imprisonment not exceeding a period of 20 years or to both a fine and such imprisonment.
- (2) An owner who permits land to be used in a manner set out in Subsection (1)(c) and who does not cause the use to be ceased or take reasonable steps to ensure that the use ceases, or who breach the provisions of a land use scheme, is guilty of an offence and liable upon conviction to a fine or imprisonment for a period not exceeding 20 years or to both a fine and such imprisonment.
- (3) A person convicted of an offence under this By-law who, after conviction, continues with the action in respect of which he or she was so convicted, is guilty of a continuing offence and liable upon conviction to imprisonment for a period not exceeding 3 months or to an equivalent fine or to both such fine and imprisonment, in respect of each day on which he or she so continues or has continued with that act or omission.
- (4) The Municipality may adopt an administrative penalty duly approved by the district courts within the Municipalities jurisdiction, to be imposed in the enforcement of this by-law.

85. Service of compliance notice

- (1) The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence contemplated in terms of Section 84.
- (2) A compliance notice must direct the occupier and owner to cease the unlawful land use or construction activity or both, forthwith or within the time period determined by the Municipality and may include an instruction to—
 - (a) demolish unauthorised building work and rehabilitate the land or restore the building as the case may be to its original form within 30 days or such other time period determined by the Municipal Manager; or
 - (b) submit an application in terms of this By-law within 30 days of the service of the compliance notice and pay the administrative penalty; or

- (c) rectify the contravention of or non-compliance with a condition of approval within a specified period; or
 - (d) apply in terms of Section 90 for the determination of an administrative penalty.
- (3) A person who has received a compliance notice with an instruction contemplated in Subsection (2)(a) may not submit an application in terms of Subsection (2)(b).
 - (4) An instruction to submit an application in terms of Subsection (2)(b) must not be construed as an indication that the application will be approved.
 - (5) In the event that the application submitted in terms of Subsection (2)(b) is refused, the owner must demolish the unauthorised work.
 - (6) If relevant, the notice may advise the owner or other person of their right to apply for rectification of the contravention as contemplated in Section 90, and may state that the Municipality intends to institute the measures contemplated in Section 84 in the event that the owner or other person fails to apply for rectification of the contravention within a specified time.
 - (7) The notice may invite the owner within a specified time to inform the Municipality what steps have been taken to comply with the notice.

86. Content of compliance notices

- (1) A compliance notice must—
 - (a) identify the person to whom it is addressed;
 - (b) describe the activity and the land on which it is being carried out;
 - (c) state that the activity is illegal and inform the person of the particular offence contemplated in Section 84 which that person allegedly has committed or is committing through the carrying on of that activity;
 - (d) the steps that the person must take and the period within which those steps must be taken;
 - (e) anything which the person may not do and the period during which the person may not do it;
 - (f) issue a warning to the effect that—
 - (i) the person could be prosecuted for and convicted of an offence contemplated in Section 84;
 - (ii) on conviction of an offence, the person will be liable for the penalties as provided for;
 - (iii) the person could be required by an order of court to demolish, remove or alter any building, structure or work illegally erected or constructed or to rehabilitate the land concerned or to cease the activity;
 - (iv) in the case of a contravention relating to a consent use or temporary departure, the approval could be withdrawn;
 - (v) in the case of an application for authorisation of the activity or development parameter, that a administrative penalty including any costs incurred by the Municipality, will be imposed;
- (2) Any person who receives a compliance notice must comply with that notice within the time period stated in the notice.

87. Complaints

- (1) A person, who is, or may be, affected by an alleged contravention of this By-Law, must in writing and using the prescribed form or in a manner determined by a policy, request the Municipality to investigate the alleged contravention and to act in accordance with the provisions of this Section.
- (2) A complaint lodged in terms of this section must be contained in an affidavit specifying:
 - (a) the name, surname, address and contact details of the complainant;
 - (b) the origin (i.e. address / location / source) of the alleged contravention;
 - (c) the nature of the alleged contravention;

- (d) when the alleged contravention was first noticed and/or;
 - (e) the duration and frequency of the alleged contravention;
 - (f) the name and address of the alleged perpetrator.
- (3) Upon receipt of a complaint, the municipality must investigate the complaint.
 - (4) The municipality must inform the complainant of the outcome of the investigation within 30 days of the investigation having been completed and the steps to be taken to remedy the contravention in the event that the municipality is of the opinion that a provision of this By-Law has been or is being contravened.

88. Failure to comply with compliance notice

If a person fails to comply with a compliance notice the Municipality may—

- (a) lay a criminal charge against the person;
- (b) apply to a Court of competent jurisdiction for an order restraining that person from continuing the illegal activity, and/or to demolish, remove or alter any building, structure or work illegally erected or constructed and/or to rehabilitate the land concerned without the payment of compensation or to rehabilitate the land concerned; or
- (c) in the case of a temporary departure or consent use, the Municipality may withdraw the approval granted and take any of the other steps contemplated in Section 85.

89. Urgent matters

- (1) In cases where an activity must be stopped urgently, the Municipality may dispense with the procedures set out above and issue a compliance notice calling upon the person or owner to cease immediately.
- (2) If the person or owner fails to cease the activity immediately, the Municipality may apply to the Court for an urgent interdict or any other relief necessary.

90. Application for administrative penalty

- (1) A person who is in contravention of this By-Law, and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned.
- (2) A person making an application contemplated in Subsection (1) must –
 - (a) submit an application;
 - (b) pay the prescribed fee;
 - (c) provide the information contemplated in Subsections (3); and
 - (d) comply with the duties of an applicant in Section 84.
- (3) The applicant must, to the satisfaction of the Municipality, provide the following information such as-
 - (a) the nature, duration, gravity and extent of the contravention;
 - (b) the conduct of the person (allegedly) involved in the contravention;
 - (c) a report by a quantity surveyor in matters of unauthorised building/construction;
 - (d) whether the unlawful conduct was stopped; and
 - (e) whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.
- (4) The report regarding the/an administrative penalty must be considered by the Authorised Official, the Municipal Planning Tribunal or Appeal Authority, as the case may be.
- (5) If the Authorised Official, the Municipal Planning Tribunal or Appeal Authority decides to impose an administrative penalty on a person who has contravened this By-Law, it must determine an amount which –
 - (a) for building work in contravention of this By-Law – may not be more than 100% of the value of the building, construction and engineering work unlawfully carried out, as determined by the Municipality;

- (b) for land use in contravention of this By-Law – may not be more than 100% of the municipal valuation of the area that is used unlawfully, as determined by the Municipality; and
 - (c) for building work and land use in contravention of this By-Law – must comprise the penalties in both paragraphs (a) and (b).
- (6) When determining an appropriate administrative penalty, the Authorised Official, the Municipal Planning Tribunal or Appeal Authority, as the case may be, must take into consideration for the information provided by the applicant in Subsection (3), and should the information be insufficient the Authorised Official, the Municipal Planning Tribunal or Appeal Authority, as the case may be, may request additional information.
- (7) The Authorised Official, the Municipal Planning Tribunal or Appeal Authority, as the case may be, must notify the person who is in contravention of this By-Law of its decision and if it decides to impose an administrative penalty, the notice must –
- (a) set out the administrative penalty; (b) include the provision of Section 62, applicable to decisions made by the Authorised Official and the Municipal Planning Tribunal;
 - (c) state that the person must pay the administrative penalty to the Municipality within 30 days of the effective date of decision contemplated in Section 62 and Appeal Authority in terms of Section 78(1) or within such further period that the Authorised Official, the Municipal Planning Tribunal or Appeal Authority, as the case may be, may decide;
 - (d) state that the payment of an administrative penalty in terms of this Section does not limit the Municipality's power to investigate the offence and/or institute a criminal prosecution; and
 - (e) state that, without further notice, the Municipality may apply to a competent court for an order confirming the administrative penalty and other appropriate relief including the costs of the application.
- (8) The Municipality may apply to a Court of competent jurisdiction for an order confirming the order of the Municipality.

91. Power of entry for enforcement purposes

- (1) An authorised employee may, with the permission of the occupier or owner, at any reasonable time, and without a warrant, and without previous notice, enter upon land or enter a building or premises for the purpose of ensuring compliance with this By-law.
- (2) An authorised employee must be in possession of proof that he or she has been designated as an authorised employee for the purposes of this By-law.
- (3) An authorised employee may be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection.

92. Power and functions of authorised employee

- (1) In ascertaining compliance with this By-law as contemplated in Section 83, an authorised employee may—
 - (a) question any person on land entered upon or a building or premises entered in terms of Section 91 who, in the opinion of the authorised employee, may be able to furnish information on a matter that relates to the enforcement of this By-law.
 - (b) question any person on that land or in that building or premises about any act or omission in respect of which there is a reasonable suspicion that it might constitute—
 - (i) an offence in terms of this By-law;
 - (ii) a breach of this By-law; or
 - (iii) a breach of an approval or a term or condition of that approval.
 - (c) take photographs for the purpose of his or her investigation;
 - (d) question that person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of this subsection;
 - (e) copy or make extracts from any document, book or record or any written or electronic information referred to in paragraph (d) remove that document, book, record or written or electronic information in order to make copies or extracts;

- (f) require that person to produce or deliver to a place specified by the authorised employee, any document, book or record or any written or electronic information referred to in paragraph (c) for inspection;
 - (g) examine that book, record or other document or make a copy thereof or an extract there from;
 - (h) require from that person an explanation of any entry in that book, record or other document;
 - (i) inspect any article, substance, plant or machinery which is or was on the land, or any work performed on the land or any condition prevalent on the land or remove for examination or analysis any article, substance, plant or machinery or a part or sample thereof;
 - (j) take photographs or make audio visual recordings of anything or any person that is relevant for the purposes of an investigation or for a routine inspection; or
 - (k) seize that book, record or other document or that article, substance, plant or machinery or a part or sample thereof which in his opinion may serve as evidence at the trial of any person charged with an offence under this By-law or the common law; provided that the user of such article, substance, plant or machinery in the building or on the land concerned may make copies of such book, record or document before the seizure.
- (2) When an authorised employee removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated in this Section, he or she must issue a receipt to the owner or person in control thereof.
- (3) An authorised employee may not have a direct or indirect personal or private interest in the matter to be investigated.

93. Warrant of entry for enforcement purposes

- (1) A magistrate for the district in which the land is situated may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if the—
- (a) prior permission of the occupier or owner cannot be obtained after reasonable attempts; or
 - (b) purpose of the inspection would be frustrated by the prior knowledge thereof.
- (2) A warrant referred to in Subsection (1) may be issued by a judge of a High Court or by a magistrate who has jurisdiction in the area where the land in question is situated, and may only be issued if it appears to the judge or magistrate from information on oath that there are reasonable grounds for believing that—
- (a) an authorised employee has been refused entry to land or a building that he or she is entitled to inspect;
 - (b) an authorised employee reasonably anticipates that entry to land or a building that he or she is entitled to inspect will be refused;
 - (c) there are reasonable grounds for suspecting that a contravention contemplated in Section 84 has occurred and an inspection of the premises is likely to yield information pertaining to that contravention; or
 - (d) the inspection is reasonably necessary for the purposes of this By-law.
- (3) A warrant must specify which of the acts mentioned in Section 92 may be performed under the warrant by the person to whom it is issued and authorises the Municipality to enter upon the land or to enter the building or premises and to perform any of the acts referred to in Section 92 as specified in the warrant on one occasion only, and that entry must occur—
- (a) within 1 month of the date on which the warrant was issued; and
 - (b) at a reasonable hour, except where the warrant was issued on grounds of urgency.

94. Regard to decency and order

The entry of land, a building or structure under this Chapter must be conducted with strict regard to decency and order, which must include regard to—

- (a) a person's right to respect for and protection of his or her dignity;
- (b) the right to freedom and security of the person; and
- (c) the right to a person's personal privacy.

95. Enforcement litigation

Whether or not a Municipality has instituted proceedings against a person for an offence contemplated in Section 84, the Municipality may apply to the High Court for an order compelling that person to—

- (a) demolish, remove or alter any building, structure or work illegally erected or constructed;
- (b) rehabilitate the land concerned;
- (c) compelling that person to cease with the unlawful activity; or
- (d) any other appropriate order.

CHAPTER XI**MISCELLANEOUS****96. Naming and numbering of streets**

- (1) If as a result of the approval of a development application, streets or roads are created, whether public or private, the Municipality must approve the naming of the street and must allocate a street number for each of the erven or land units located in such street or road.
- (2) The proposed names of the streets and numbers must be submitted as part of an application for subdivision.
- (3) In considering the naming of streets, the Municipality must take into account the relevant policies relating to street naming and numbering.
- (4) The Municipality must in writing inform the Surveyor-General of the of the approval of new street names as a result of the approval or amendment of subdivision plans, as contemplated in Subsection (1) a street name which is indicated on an approved general plan within 30 days of the approval thereof.

97. Repeal

The by-laws listed in Schedule 1 are repealed.

98. Short title and commencement

- (1) This By-law is called the Overstrand Municipality By-law on Municipal Land Use Planning.
- (2) This By-law comes into operation on the date which they are published in the Provincial Gazette.

99. Policies, procedures, standards, requirements and guidelines

- (1) The Municipality may adopt a policy, procedure, standard, requirement or guideline for the effective administration of this By-Law.
- (2) The Municipal Manager may prescribe anything which this By-Law empowers the Municipal Manager to prescribe.
- (3) The Municipality must make available on the Municipality's website any prescription contemplated in Subsection (2) and may make available on the Municipality's website any policy, procedure, standard, requirement or guideline contemplated in Subsection (1).
- (4) If the Municipality intends to adopt or amend a policy, procedure, standard, requirement, guideline or prescription, and the adoption or amendment materially and adversely affects the rights of the public, the Municipality must follow a participation process and procedure which meets the requirements of the Municipal Systems Act.
- (5) An applicable policy, procedure, standard, requirement or guideline applies to an application in terms of this By-Law.

100. Delegations

The Municipal Manager may —

- (a) delegate any function, power or duty conferred on the Municipal Manager in this By-Law to an official; or
- (b) instruct an official to perform any the Municipal Manager's duties in terms of this By-Law.

101. Exemption

The Municipality may in writing and subject to Section 60 of the Land Use Planning Act exempt an application from compliance with the provisions of this By-Law to reduce the financial or administrative burden of —

- (a) the provision of housing with the assistance of a state subsidy;
- (b) incremental upgrading of existing settlements.

102. Liability of the Municipality

The Municipal is not liable for any loss sustained by or damage caused to any person as a result of any act or omission in good faith relating to the performance of any duty under this By-Law, unless gross negligence is proved.

103. Savings and transitional provisions

- (1) Any approval, designation, consent, right, authorisation, confirmation or instruction issued, granted or in force in terms of a law repealed by the Land Use Planning Act, and in existence immediately before the commencement of the Land Use Planning Act, remains in force and is regarded to have been issued, granted or occurred in accordance with this By-Law subject to the conditions under which it was issued and is valid for the period for which it was granted under the repealed law.
- (2) Despite the repeal of the Ordinance, any action taken or application made before the commencement of this By-Law in terms of a law repealed by the Land Use Planning Act, including a previous zoning scheme, and that has not been finalised immediately before the commencement of this By-Law must be finalised as if the Land Use Planning Act and the By-Law are not in force and as if the previous zoning scheme was not repealed.
- (3) Conduct in contravention of a law repealed by the Land Use Planning Act is regarded as a contravention of this By-Law, and the penalties in this By-Law apply where the conduct would constitute an offence under this By-Law.
- (4) When an approval is acted on, a land unit is regarded as having been allocated a corresponding zoning in the land use scheme as determined by the Municipality if —
 - (a) a rezoning application or substitution scheme was approved, but not yet acted on, before the commencement of this By-Law; or
 - (b) a rezoning application or substitution scheme is approved after the commencement of this By-Law in accordance with the provisions of a previous zoning, as contemplated in Subsection (2).
- (5) A building plan application which was formally submitted and accepted —
 - (a) before January 2014 and which is still being processed; or
 - (b) the express purpose to act on a valid approval granted for an application in terms of a former zoning scheme, must be assessed and finalised in accordance with the approval granted and the land use restrictions or provisions of the applicable zone in the former zoning scheme and will not be considered to be a contravention of the land use scheme

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SCHEDULE 1

Code of conduct for members of the Municipal Planning Tribunal

General conduct

1. A member of the Municipal Planning Tribunal must at all times—
 - (a) act in accordance with the principles of accountability and transparency;
 - (b) disclose his or her personal interests in any decision to be made in the planning process in which he or she serves, or has been requested to serve;
 - (c) abstain completely from direct or indirect participation as an advisor or decision-maker in any matter in which he or she has a personal interest, and leave any chamber in which such matter is under deliberation, unless the personal interest has been made a matter of public record and the Council has given written approval and has expressly authorised his or her participation.

Gifts

2. A member of the Municipal Planning Tribunal may not receive or seek gifts, favours or any other offer under circumstances in which it might reasonably be inferred that the gifts, favours or offers were intended or expected to influence a participant's objectivity as an advisor or decision-maker in the planning process.

Undue influence

3. A member of the Municipal Planning Tribunal may not—
 - (a) use the power of any office to seek or obtain special advantage that is not in the public interest;
 - (b) use confidential information acquired in the course of his or her duties to further a personal interest;
 - (c) disclose confidential information acquired in the course of his or her duties unless required by law to do so or by circumstances to prevent substantial injury to third persons; and
 - (d) commit a deliberately wrongful act which reflects adversely on the Municipal Planning Tribunal, the Municipality, government at large, or the planning profession by seeking business by stating or implying that he or she is prepared, willing or able to influence decisions by improper means.

SCHEDULE 2 :

Overstrand Municipality Land Use Scheme (OMLUS), 2020

48/380

SCHEDULE 2

OVERSTRAND MUNICIPALITY LAND USE SCHEME, 2020

TABLE OF CONTENTS

DEFINITIONS	5
CHAPTER 1: INTRODUCTION	47
1.1 APPLICATION OF THE LAND USE SCHEME.....	47
1.2 GENERAL PURPOSE OF THE LAND USE SCHEME.....	47
CHAPTER 2: REQUIREMENTS RELATING TO APPLICATIONS	49
2.1 SUBMISSION OF APPLICATIONS	49
2.2 ADDITIONAL REQUIREMENTS RELATING TO PUBLIC PARTICIPATION	49
2.3 VALIDITY OF INFORMATION.....	49
CHAPTER 3: ZONING AND THE USE OF PROPERTY	51
3.1 USE ZONES.....	51
3.2 CATEGORIES OF USES	52
CHAPTER 4: INTERPRETATION	54
4.1 INTERPRETATION	54
CHAPTER 5: AGRICULTURAL AND RURAL ZONES	57
5.1 AGRICULTURE ZONE 1: AGRICULTURE (AGR1)	57
5.2 RURAL ZONE 1: AGRICULTURAL SMALL HOLDINGS (R1).....	60
5.3 RURAL ZONE 2 : CONSERVATION USAGE (R2).....	63
5.4 RURAL ZONE 3: AGRI-VILLAGE (R3).....	66
CHAPTER 6: RESIDENTIAL ZONES	69
6.1 RESIDENTIAL ZONE 1: SINGLE RESIDENTIAL (SR1)	69
6.2 GENERAL RESIDENTIAL ZONE 1: TOWN HOUSING (GR1).....	72
6.3 GENERAL RESIDENTIAL ZONE 2: TOWN HOUSING (GR2).....	75
6.4 GENERAL RESIDENTIAL ZONE 3: FLATS (GR3 and GR4).....	78
6.5 LESS FORMAL DEVELOPMENT ZONE: (LFD)	81
CHAPTER 7: BUSINESS ZONES	84
7.1 BUSINESS ZONE 1 & 2: GENERAL BUSINESS (B1 and B2)	84
7.2 BUSINESS ZONE 3: LOCAL BUSINESS (B3).....	88
7.3 BUSINESS ZONE 4: SERVICE STATION (B4).....	91
CHAPTER 8: INDUSTRIAL ZONES	94
8.1 INDUSTRIAL ZONE 1: GENERAL INDUSTRY (IND 1).....	94

8.2	INDUSTRIAL ZONE 2: NOXIOUS & RISK INDUSTRY (IND 2).....	97
	CHAPTER 9: COMMUNITY ZONES	100
9.1	COMMUNITY ZONE 1: COMMUNITY FACILITIES (CO1).....	100
	CHAPTER 10: AUTHORITY AND UTILITY ZONES	103
10.1	AUTHORITY ZONE: AUTHORITY USAGE (AU)	103
10.2	UTILITY ZONE: UTILITY SERVICES (UT).....	105
	CHAPTER 11: CHAPTER 11: TRANSPORT ZONES	106
11.1	TRANSPORT ZONE 1: TRANSPORT USAGE (TR1).....	106
11.2	TRANSPORT ZONE 2: ROAD AND PARKING (TR2 A & B)	109
11.3	TRANSPORT ZONE 3: HARBOUR ZONE (TR3).....	111
	CHAPTER 12: OPEN SPACE AND NATURE ZONES	115
12.1	OPEN SPACE ZONE 1: NATURE RESERVE (OS1)	115
12.2	OPEN SPACE ZONE 2: PUBLIC OPEN SPACE (OS2).....	117
12.3	OPEN SPACE ZONE 3: PRIVATE OPEN SPACE (OS3)	118
	CHAPTER 13: RESORT ZONE.....	119
13.1	RESORT ZONE: HOLIDAY RESORTS (RZ).....	119
	CHAPTER 14: OTHER ZONES.....	122
14.1	SUBDIVISIONAL AREA ZONE (SA)	122
14.2	SPECIAL ZONE (SZ).....	123
14.3	UNDETERMINED ZONE (U).....	125
	CHAPTER 15: GENERAL RULES FOR OVERLAY ZONES.....	127
15.1	PROCEDURES FOR OVERLAY ZONES.....	127
15.2	STATUS OF OVERLAY ZONES	128
	CHAPTER 16: GENERAL PROVISIONS APPLICABLE TO ALL ZONES.....	131
16.1	ENCROACHMENT OF BUILDING LINES.....	131
16.2	SETBACKS	136
16.3	SITE DEVELOPMENT PLANS.....	136
16.4	ENVIRONMENTAL MANAGEMENT PLANS	137
16.5	OWNERS' ASSOCIATION OR BODY CORPORATE	138
16.6	BOUNDARY WALLS	139
16.7	SCREENING	139

16.8 AESTHETICS AND MAINTENANCE OF PROPERTY AND PLACEMENT OF VEHICLES..... 139

16.9 OTHER MUNICIPAL BY-LAWS, POLICIES AND DEVELOPMENT CONTROLS. 142

16.10 GENERAL DEVELOPMENT PARAMETERS..... 142

CHAPTER 17: PARKING, LOADING AND INFRASTRUCTURE..... 156

17.1 PARKING REQUIREMENTS..... 156

17.2 LOADING BAYS..... 164

17.3 INFRASTRUCTURE AND AVAILABILITY OF SERVICES..... 164

17.4 REFUSE ROOMS..... 164

CHAPTER 18: SUBDIVISION OF LAND 166

18.1 SUBDIVISION OF LAND 166

CHAPTER 19: GENERAL PROVISIONS APPLICABLE TO ANNEXURES 167

19.1 ANNEXURES 167

ANNEXURE A: NOTATION ON ZONING MAP..... 168

ANNEXURE B: LIST OF SPECIAL ZONES 169

ANNEXURE C: LIST OF OVERLAY ZONES 170

DEFINITIONS

In this land use scheme:

A

“abattoir” means a place where livestock or poultry is slaughtered and processed for the distribution thereof to butcher shops and food markets and is subject to any applicable health requirements;

“additional dwelling units” means dwelling(s) in the Agriculture Zone 1 which are not required for the accommodation of bona fide persons involved in the agricultural practice on the property concerned;

“additional use rights” means the use of the property for purposes that are of an associated social and civic nature of the primary or consent use in Community Zone 1 and Authority Zone 1, where such uses are not the primary function of the social or civic institution concerned, but are to the benefit of the institution concerned or the community they serve;

“adult entertainment business” means an establishment where for any form of consideration, erotic apparatus, films, photographs, books, magazines and live performances are hired, sold or occur which are characterised by an emphasis on the display or description of pornographic and/or sexual activities. “Adult entertainment business” includes a massage parlour or escort agency where massages or manipulations of the human body are administered for the purpose of obtaining erotic response;

“advertise” in relation to making known a matter referred to in this land use scheme means one or more of the methods of making known, as determined by the Municipal Manager or his delegate, as the most suitable method to reach as many people as possible who may have an interest in or are directly affected by the matter, including:

- (i) serving a notice; or

- (ii) displaying a notice board on a land unit; or
- (iii) publishing a notice in the press; or
- (iv) holding public meetings; or
- (v) hosting radio broadcasts; or
- (vi) constituting and implementing consultative forums; or
- (vii) entering into social compact whether before or after the submission of an application, and "advertising" has a corresponding meaning;

"advertisement", when used in the context of outdoor advertising, means any visible representation of a word, symbol, name, letter, figure or object; an abbreviation of a word or name; or any sign, symbol or light which is not intended solely for illumination or warning against danger or identification of the name and street address of the property;

"Advertising on Roads and Ribbon Development Act" means the Advertising on Roads and Ribbon Development Act, 1940 (Act 21 of 1940);

"agricultural industry" means an enterprise for the processing of agricultural related products on or close to the land unit where these agricultural products, whether land- or marine-based (such as aquaculture), are grown, harvested and raised where processing in such proximity is necessary due to the nature, perishability and fragility of such agricultural products or promotion of tourism related activities, and includes, inter alia, dairies, wineries, distilleries, olive processing facilities, breweries and other facilities required for the processing of agricultural products where produce packed is not produced on the land unit but does not include service trades;

"agriculture" means the cultivation of land for crops and plants, including plantations, the keeping and breeding of animals, beekeeping, bird farming or the operation of a game farm, may comprise natural veld and includes only such activities and buildings as are reasonably connected to the main farming activities such as residential accommodation for the farmer, farm manager and farm labourers

and the packing of agricultural produce grown on the property but excludes intensive horticulture, intensive animal farming, agricultural industry, and a farm shop;

“agri-village” means a private settlement of limited extent, established and managed as a legal entity in a rural or agricultural area, specifically developed for the bona fide accommodation of the local rural community of the farms, forestry and conservation enterprises situated in the area;

“animals” include livestock such as any cattle, sheep, goats, horses, mules, donkeys, rabbits and wild animals;

“animal care centre” means a place for the care of pets and other animals, operated on either a commercial or welfare basis, and includes a boarding kennel(s), a commercial kennel(s), pet training, a pound and a crematorium for animals;

“animal park” means a land unit or land units or a portion of a land unit where animals (domestic or otherwise) are kept in a controlled environment primarily for display to the general public for educational and tourism purposes but does not include a game farm;

“applicant” means a person referred to in Section 16 (2) of the Overstrand Municipality By-Law on Land Use Planning, who makes an application to the Municipality as contemplated in that section;

“aquaculture” means the cultivation and breeding of water flora and fauna and the harvesting thereof for commercial purposes under the following controlled circumstances:

- (i) in artificially built dams or holding tanks; or
- (ii) suspended from floating supports;

“atrium”, which consists of a floor and a roof or ceiling, means a covered courtyard comprising a void within a building that extends for one or more floors in height but does not contain floors that penetrate into the void;

"attic room" means an area/room in the roof of a building;

"authority use" means a use which is practised by or on behalf of a public authority and characteristics of which are such that it cannot be classified or defined under other uses in this land use scheme and includes, but is not limited to, a use practised by:

- (i) the National Government (as defined in the Constitution), including but not limited to, a military training centre and installation, a police station and a prison;
- (ii) the Provincial Government (as defined in the Constitution), including but not limited to a road station and road camp; and
- (iii) Local Government (as defined in the Constitution), including but not limited to fire services and a municipal depots, with related uses or any use necessary to provide mandated services (including limited accommodation for staff who are required for standby emergencies, municipal offices, clinics, libraries and any other associated use(s) approved by the Municipality);

"average ground level" means the average of the highest and lowest existing ground level immediately abutting the outer perimeter of a building, and the Municipality may:

- (i) determine the average ground level from measurements supplied on a building plan;
- (ii) deem a level to be the average ground level from the contour plan, local height benchmark or other information held by the Municipality; and
- (iii) require the owner or applicant to commission a registered land surveyor to measure levels of the ground or interpolate levels in order to provide the Municipality with sufficient information so that it can determine the average ground level for the purposes of this land use scheme;

B

“backpackers” means an accommodation facility that provides communal facilities and may offer a range of alternative sleeping arrangements, including dormitories;

“balcony” means a floor projecting outside a building at a level higher than that of the ground floor, enclosed only by low walls or railings or by the main containing walls of rooms abutting such projecting floor, and may include a roof over such floor and pillars supporting such roof, in which event it will be included in the calculation of the coverage applicable to the land unit;

“bar” primarily means an enterprise for the sale and consumption of alcoholic beverages to customers on the premises where age restriction applies and may include the provision of meals and a place of entertainment but does not include the sale of alcoholic beverages for off-site consumption (In this context “pub” and “tavern” have the same meaning);

“base level” of a building means an imaginary plane drawn horizontally at the average ground level of the building or vertical division (for the purpose of an uncovered stoep and/or deck, a separate base level will be applicable);

“base zone” means that zone which determines the basic and most primary land use and development parameters for that land unit in terms of this land use scheme, before the application of any overlay zone;

“basement” means that space in a building between the floor and ceiling which is partly or completely below the average ground level, provided that a basement shall be deemed to be a storey for the purpose of the measurement of height where any portion extends more than 1,0 m above the lowest level of the ground immediately contiguous to the building;

“boat yard” means a property or portion of a property which is used for the display, storage, construction or repair of motorised and non-motorised watercraft;

“bottle store” means an establishment where the main purpose is the retail sale of alcoholic beverages for off-site consumption;

“boundary” in relation to a land unit means one of the cadastral lines shared by such land unit with any other land unit or with a public street/road/open space, etc.;

“brewery” means a place where beer or wine is made and may include a selling point to the general public; tasting and the provision of light meals, (which is subservient to the main use) but does not include a distillery, restaurant and/or pub;

“builder’s yard” means a land unit which is used for the storage of material and equipment which:

- (i) is required or normally used for construction work;
- (ii) was obtained from the demolition of structures or excavations of land;
- (iii) is necessary for, or are normally used; for land development such as storage of material used for building roads or installing essential services or for any other construction work (e.g. sand or bricks), whether for public or private purposes; and
- (iv) includes the administrative component of such undertaking but excludes any accommodation other than a caretaker’s accommodation;

“building”, in addition to its ordinary meaning, includes:

- (i) any structure with or without a roof;
- (ii) any gallery, canopy, balcony, stoep, verandah, porch or similar feature of a building;
- (iii) any walls or railings enclosing any feature referred to in (ii); and
- (iv) any other portion of a building;

“building line” means an imaginary line on a land unit which defines a distance from a specified cadastral line within which the erection of buildings and structures are prohibited, except with Municipal approval;

“building platform” means a defined and demarcated area or areas on a land unit, beyond the boundaries of which no building may be erected;

“bulk” has the same meaning as floor space;

“business premises” means a property from which business or services are conducted and includes a shop, a supermarket, a restaurant, the sale of alcoholic beverages, a plant nursery, offices, service trade, a financial institution and building for similar uses and the sale of any small and big items but excludes a place of assembly, a place of entertainment, an institution, a service station, a motor repair garage, an industry, an industrial hive, a noxious trade, a risk activity, an adult entertainment business or a bottle store;

C

“cadastral line” means a line representing the official boundary of a land unit as registered in the Deeds Office or which is shown as a record on a diagram or general plan approved by the Surveyor General;

“camping site” means a property or part thereof on which tents or caravans are used for the short-term accommodation of visitors and holiday makers and includes ablution, cooking and other associated facilities for the use by such visitors, infrastructure related to the operation of the camping site and may include accommodation facilities for the owner, manager and staff, with the consent of the Municipality;

“canopy” means a cantilevered or suspended roof, slab or covering (not being the floor or balcony) projecting from the wall of a building;

“caravan” means a mobile vehicle which has been equipped or converted for living and sleeping purposes;

“caretaker’s accommodation” means accommodation relating to security and maintenance purposes;

“carport” means a building or structure (covered or uncovered) with two open sides, primarily used for the housing of motor vehicles and/or trailers and boats;

“car wash” means any structure or structures where vehicles are washed and/or valeted;

“cemetery” means a place where deceased are buried and may include buildings that are necessary for the administrative and clerical uses associated therewith but does not include a crematorium;

“clinic” means an institution where members of the public are given medical treatment or medically related advice and may include a medical centre, an outpatients' centre and a wellness centre with associated uses, provided that a clinic shall not contain live-in facilities for more than thirty persons, including patients and staff;

“combined building line” means a side building line provision that permits a structure close to or on the property boundary but requires that the sum of the two side building lines on either side of a common boundary adds up to a minimum distance;

“commencement date” means the date on which this land use scheme came into operation;

“commercial kennel” means commercial kennel services for dogs, cats and other pets and includes commercial breeding or boarding kennels, veterinary practices and dog training centres;

“community facilities” means a property or place that provides for a range of social uses and functions directed at serving educational, religious, welfare, health, and generally the needs of a community;

“conference facility” means a place of commercial nature where information is presented and ideas exchanged among groups of people or delegates whose normal place of work is elsewhere and may include overnight accommodation and the supply of meals and beverages to delegates;

“consent” means special permission granted by the Municipality after due consideration of all relevant facts and after following the prescribed legal process in

terms of which a specific type of land use or activity is permitted, in addition to the primary uses applicable to the property concerned;

“consent use” means a land use permitted in terms of a particular zoning with the approval of a Municipality;

“conservation use” means the use or maintenance of land in its natural state or rehabilitation to its natural state, with the objective of preserving the biophysical and heritage characteristics of that land, including flora and fauna on the land, and includes associated infrastructure required for such use, such as roads, pathways, water reservoirs and underground infrastructure;

“consolidation” means the process of preparing a diagram for approval by the Surveyor General from two or more diagrams (which represent at least two contiguous representing several pieces of land), which has been prepared for the purpose of obtaining a certificate of consolidated title thereto from the Registrar of Deeds, and "consolidate" has the same meaning;

“coverage” means the total area or percentage of area of a land unit which may be covered by buildings and/or covered by a roof, provided that the following portions of buildings shall be disregarded in the calculation of coverage:

- (i) entrance steps and landings less than 1 m²;
- (ii) retractable awnings;
- (iii) chimneys, pergolas, flower boxes, water pipes, drain pipes not projecting more than 500 mm from the wall of the building;
- (iv) eaves not projecting more than 1,0 m; and
- (v) minor decorative features not projecting more than 250 mm;

“crèche” means the use of a portion of a dwelling house or outbuildings by the occupant to provide day care, pre-school, play group or after school care services for a limited number of children, provided that the primary use of the property shall prevail, subject to the applicable legislation;

“crematorium” means a building where the deceased are reduced to ash and includes facilities for associated religious and administrative functions;

D

“dairy” means a building for the storage, processing and distribution of milk and related products and includes an agricultural building where cows or other animals are milked;

“day care centre” means a facility for the day care of young children in the absence of their parents and may provide care for more children than are permitted in a crèche, subject to any applicable legislation, provided that the primary use of the property shall prevail;

“departure” has the meaning assigned to it by Planning Law;

“develop land” means to prepare and develop land for occupation or utilisation, inter alia by filling up, excavating, draining or levelling areas; the removal of vegetation; the installation of engineering services; the subdivision of land; or the erection, alteration or extension of buildings and structures on land, and “development of land” and “developing land” have a corresponding meaning;

“development framework” means a plan and supporting documentation which reflect the overall policy, broad goals and principles for a proposed development within a specified planning area and includes the broad development and environmental considerations, including the natural and heritage components of the site. It identifies the range of uses, general spatial distribution of uses, major linkages and any limits to the development of the land units concerned, including but not limited to defining the density and maximum floor space;

“development parameter” means a rule, restriction, provision or requirement in terms of this land use scheme which sets out the permissible extent of use or development of a property to which it relates;

“distillery” means a place where hard liquor is distilled and may include a selling point to the general public, tasting facilities and the provision of light meals, which is subservient to the main use, but does not include a restaurant and/or pub;

“dominant use” means the primary or consent and other lawful uses permitted on the property;

“dwelling house” means a self-contained, inter-leading group of rooms used for the accommodation and housing of a single family (together with adequate sanitary facilities and a kitchen and such outbuildings as are ordinarily used therewith), provided further that a dwelling house may not have more than two kitchens;

“dwelling unit” means a unit containing one or more inter-leading rooms with adequate sanitary facilities and a kitchen, used for the accommodation and housing of a single family, and may be included in or separate from the main building on the property;

E

“eaves” means a portion of the roof projecting beyond the face of the building, including any gutters;

“encroachment agreement” means an agreement between an owner and the Overstrand Municipality relating to the projection of portions of a building, structure or activity from the owner’s property onto or over the Municipality’s property;

“energy renewable structures” means any wind turbine or solar voltaic apparatus or grouping thereof which captures and converts wind or solar radiation into energy, irrespective of whether it feeds onto the national electricity grid or not, and includes any appurtenant structure or any test facility or structure which may lead to the generation of energy on a private or commercial basis;

“engineering service” means infrastructure for the provision of water, electricity, sewerage, stormwater management, streets, roads and pedestrian walkways, including all related services and equipment;

“environment” means the aggregate of surrounding objects, conditions and influences that affect the life and habits of humans or any other organism or collection of organisms;

“environmental conservation use” means the use or maintenance of land in a sustainable natural state with the objective of preserving the biophysical and heritage characteristics of that land (as well as the flora and fauna living on the land) and includes associated infrastructure for such use;

“environmental facilities” means facilities for the management, study, interpretation, education and public appreciation of a predominantly natural area or heritage site and include accommodation of staff, support services and associated infrastructure;

“environmental impact assessment” means a report as stipulated in terms of applicable environmental legislation concerning the impact on the environment of specified proposed activities or any other studies required by the Municipality;

“environmental management plan” means a report concerning the impact of specified or, proposed activities and monitoring measures on the environment in order to guide the implementation of a proposal, ongoing maintenance after implementation and sustainable utilisation of the resources on the land unit and shall include:

- (i) a description of any construction works to be implemented;
- (ii) an explanation of the responsibilities and obligations of role players;
- (iii) mitigation measures of potential impacts;
- (iv) rehabilitation of the property after any construction work;
- (v) provisions for financing rehabilitation works;
- (vi) provisions for monitoring, auditing and amending the environmental management plan; and
- (vii) provisions for dispute resolution and penalties;

64/380

“erection” (“erect” has a corresponding meaning) in relation to a building or structure includes:

- (i) the building of a new building or structure;
- (ii) the alteration, conservation, renovation or addition to a building or structure;
and
- (iii) the re-construction of a building or structure which has completely or partially been demolished;

“erf” has the same meaning as land unit;

“existing ground level” means the level of the land surface on a land unit:

- (i) in its unmodified/natural state; or
- (ii) as established from a plan containing contours lodged with an official agency such as the Municipality or government department, which, in the Municipality’s opinion, depicts the existing level of the ground at or before the commencement date; or
- (iii) in a state which has been graded with the Municipality’s approval for the purpose of development; or
- (iv) as determined by the Municipality, if in its opinion it is not possible to ascertain the existing level of the ground due to irregularities or disturbances of the land, and the Municipality may require the owner or applicant to commission a registered land surveyor to measure levels of the ground or interpolate levels in order to provide the Municipality with sufficient information so that it can determine the most appropriate existing ground level for the purpose of administering this land use scheme;

“existing use” means the use or uses which, in the opinion of the Municipality, is or are practised lawfully on the land unit, structure, building or part thereof;

F

“farm shop/stall” means a building, located on a farm, where a farmer sells produce and other goods to the general public;

“fertiliser plant” means the production, packaging and storing of fertiliser (organic, synthetic or bio fertiliser) not produced on the farm and includes dry licks and mineral blocks;

“flats” means a building containing two or more dwelling units, together with such outbuildings as are ordinarily associated therewith;

“floor” means the inner, lower surface of a room, garage or basement and includes a terrace or atrium to which occupants of a building have access;

“floor area” means the area, measured in square meters, taken up by a building or part thereof and covered by a roof, slab or projection and shall be measured from the external faces of the external walls or similar support. The total floor area of a building which consists of 1 (one) or more storeys shall include all storeys, basements and balconies but shall exclude garages and carports;

“floor factor” means a factor (expressed as a numerical factor) which is prescribed for the calculation of the maximum floor space of a building or buildings permissible on a land unit, and if the floor factor is known, the maximum permissible floor space can be calculated by multiplying the floor factor by the area of the land unit;

“floor space” in relation to any building means the area of the floor which is covered by a slab, roof or projections, provided that:

- (i) any area, including a basement, which is reserved solely for the parking or loading of vehicles shall be excluded;
- (ii) external entrance steps and landings, any stoep and any area required for external fire escapes shall be excluded;

- (iii) a projection of eaves and a projection which acts as a sunscreen or an architectural feature which does not exceed 1,0 m beyond the exterior wall or similar support shall be excluded;
- (iv) any common pedestrian thoroughfare which is covered by a roof and which provides access through a building from a parking, public street or an open space to some other parking, public street or open space and which is accessible to the general public during normal business hours shall be excluded;
- (v) any covered area outside and immediately adjoining a building at or below the ground floor level, where such paved area is part of a forecourt, yard, external courtyard, pedestrian walkway, parking area or vehicular access and which is permanently open to the elements on at least the front or the side(s) shall be excluded;
- (vi) subject to clause (vii), any stairs, stairwells and atriums that are covered by a roof shall be included;
- (vii) in the case of multi-level buildings, any stairwells, lift wells, light wells or other wells and any atrium shall only be counted once; and
- (viii) floor space shall be measured from the outer face of the exterior walls or similar supports of such building, and where the building consists of more than one level, the total floor space shall be the sum of the floor space of all levels, including that of basements;

“funeral parlour” means property or premises where the deceased are prepared for burial or cremation and includes facilities for associated administrative and religious functions;

G

“garage” means a building for the storage of one or more vehicles, which does not include a motor repair garage or service station but may include a workspace for the owner’s hobby;

“gazebo” means a lightweight, freestanding, open-sided structure or pavilion for use in the garden, usually as a sunshade, and includes any built structure covered by a roof or thatched or retractable awing;

“greenhouse” means a structure predominantly made of transparent material, such as glass, Perspex, shaded cloth or plastic for the purpose of cultivating plants under controlled environmental conditions;

“gross density” means a measure of the number of dwelling units in a specified area, and is calculated, for the purposes of this land use scheme, as follows:

Gross density of dwelling units per hectare	$\frac{\text{Total number of dwelling units in a specified area}}{\text{Extent of the specified area in hectares}}$
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“gross leasable area” means the area of a building designed for or capable of occupancy and control by owners or tenants, measured from the centre line of the joint partitions to the inside finished surface of the outside walls, and shall exclude the following:

- (i) all exclusions from the definition of floor space;
- (ii) toilets;
- (iii) lift shafts, service ducts and vertical penetrations of floors; and
- (iv) lift motor rooms and rooms for other mechanical equipment required for the proper functioning of the building;

“ground floor” means the lowest floor of a building that is not a basement

“guest house” means a dwelling house or second dwelling unit which is used for the purpose of lodging transient guests for compensation; may provide meals for guests; is occupied by the owner or occupant or manager of the property, may include associated facilities which are only for the use of the bona fide guests and

are not accessible to the general public but does not include a hotel, guest rooms, residential building or boarding house;

“guest rooms” means a limited number of rooms forming part of a dwelling house that are let to transient guests or lodgers, provided that the dominant use of the dwelling house/unit concerned shall remain the accommodation of a single family;

H

“harbour usage” means a building, structure(s) or areas for the docking, launching and mooring of boats and yachts, and includes supplementary and associated uses such as shops, boat yards, boat houses, boat repair facilities, slip ways, dry docks, harbour offices, fuelling facilities, warehouses, piers, naval infrastructure and utilities, and cranes;

“harvesting of natural resources” means the gathering of flora and/or fauna for sale to or use by a person or agency other than a recognised environmental agency, provided that such harvesting:

- (i) is sustainable;
- (ii) does not cause the resources to be utilised below acceptable levels; and
- (iii) is not detrimental to the eco-system;

“heavy vehicle service station” means a facility for vehicles above 3500 kg and associated uses that includes the retail supply of fuel, oil, tyres or spares, general repairs, exhaust fitment, washing of vehicles and a shop of which the floor area does not exceed 50% of the total floor space of all buildings on the land unit but does not include spray painting, panel beating, blacksmithing or body work;

“height” of a building or structure means no point on any building or structure shall exceed the maximum height prescribed in the development parameters, measured from the base level to the top of the structure directly above that point in meters, excluding general encroachments as stipulated in Chapter 16;

“hobby” means an activity done regularly in one’s leisure time for pleasure, excluding activities creating noise, health and nuisance and not related to a commercial venture;

“holiday accommodation” means a harmoniously designed and built development used for holiday and recreational purposes, whether in private or public ownership, which:

- (i) consists of a single enterprise in which accommodation is supplied on a temporary basis and or by means of time-sharing only;
- (ii) may include the provision of a camping site, mobile home park and dwelling units;
- (iii) may also accommodate a restaurant and/or shop; indoor and outdoor recreation facilities for the use of paying lodgers and occupants of the establishment but excludes a hotel or conference centre;

“holiday housing” means dwelling units, mobile homes or camping sites that are harmoniously designed and built for holiday or recreational purposes and which may be separately alienated by means of sectional title division, fractional title, the selling of share blocks or the subdivision of property;

“home occupation” means the practising of a non-residential use conducted from a dwelling provided that the dominant use of the dwelling concerned shall remain the accommodation of a single family, provided that the use and property complies with the requirements contained in this land use scheme for home occupation;

“hospital” means a place, in public or private ownership, for the diagnosis and treatment of human illness, with integrated facilities such as operating theatres, laboratories, pharmacies, cafeteria, kiosks and live-in accommodation for patients and includes clinic and medical consulting rooms and such accommodation which is required for the temporary housing of staff;

“hotel” means a property used for transient guests, where lodging and meals are provided, and may include:

- (i) a restaurant or restaurants;
- (ii) associated conference and entertainment facilities that are subservient and ancillary to the dominant use of the property as a hotel; and
- (iii) premises which are licensed to sell alcoholic beverages for consumption on the property but does not include an off-sales facility;

“house shop” means the conducting of a retail trade from a dwelling house or outbuilding by the operator of the enterprise who shall reside on the premises, provided that the dominant use of the property concerned shall remain the accommodation of a single family;

“household pet” means a pet kept primarily for a person's company and/or relaxation and/or protection, restricted to dogs; cats; racing pigeons; hamsters; mice; rats; canaries; budgies; parakeets; parrots and other talking birds; snakes; spiders; fish; and scorpions but excludes wild animals in its widest sense; farm animals; livestock in its widest sense; laboratory animals; and animals bred or kept or captured for commercial purposes. The list may not be exhaustive. “Pet” will have the same meaning. The keeping of household pets will be subject to compliance with the applicable noise and health legislation and may not have a detrimental impact on the amenity of the area;

“industrial café” means an enterprise that provides food and non-alcoholic beverages for sale to the public in an industrial zone;

“industry” means a property which, in the Municipality's opinion, is used as a factory or workshop and in which an article or part of such article is made, manufactured, produced, built, assembled, compiled, printed, ornamented, processed, treated, adapted, repaired, renovated, rebuilt, altered, painted (including spray painting), polished, finished, cleaned, dyed, washed, broken up, disassembled, sorted, packed, chilled, frozen or stored in cold storage; and includes self-storage, offices, caretaker's quarters, warehouses and breweries, distilleries

and mechanical workshops or other uses which are subservient and ancillary to the use of the property as a factory but does not include noxious trade or risk activities;

“informal trading” means the selling of products in areas demarcated or leased by the Municipality for such purposes;

“institution” means a property used as a social, health or welfare facility or for the administration thereof and includes a hospital; special needs school; clinic; homes for the aged, indigent or handicapped; and a reformatory or place of detention, whether of commercial or charitable nature, but does not include a jail;

“intensive animal farming” means breeding, feeding and keeping of animals and birds on an intensive basis and includes feedlots and poultry batteries;

“intensive horticulture” means the cultivation of plants and indigenous flora on an intensive scale, where plants are cultivated under a roof or on open land or in greenhouse(s) and includes the sale of self-produced plants from the land;

“inter-leading” means the inter-accessibility of two or more habitable rooms or habitable spaces (excluding via bathrooms, garages, store rooms and bedrooms);

J

“jail” means the same as prison and gaol;

K

“kennel” means a facility that is used for the temporary accommodation, housing and care of animals;

“kiosk” means a small, permanent or temporary structure from which items such as newspapers, food and drinks are sold to the public;

“kitchen” means a room or a part of a room equipped for the preparation and cooking of meals;

L

“land” means a tract of ground capable of being owned as a property and includes land covered by water;

“land unit” means a portion of land registered in the Deeds Registry or shown on a valid plan of subdivision approved by the Municipality or other competent authority as an erf, stand, lot or plot and includes servitudes and leased areas.

“land use” means the purpose for which land is or may be utilised lawfully in terms of a zoning scheme or in terms of any other approval, permit or consent issued by a competent authority, and includes any conditions related to the land use;

“land use scheme” has the same meaning as zoning scheme;

“Land Use Planning Act” means the Land Use Planning Act No. 3 of 2014, (as amended);

“landscaping” means the placement of plants, water features, paving, street furniture and other soft and hard elements for the purposes of enhancing aesthetic appeal, environmental management, amenity and the value of the property;

“lapa” means a partially fenced or thatched enclosure used for outdoor meals and informal social gatherings;

“non-conforming use” means an existing land use that was being utilised lawfully in terms of a previous zoning scheme for a purpose that does not comply with an existing land use scheme;

“loading bay” means an area which is clearly demarcated for the loading of goods onto commercial vehicles and off-loading of goods from commercial vehicles and which has vehicular access to a public street to the satisfaction of the Municipality;

“lodge” has the same meaning as “hotel” and is located in a natural area such as nature reserves and farms;

“lodging” means bedroom accommodation which is available for payment and the services ordinarily related to such accommodation, and “lodger” has a corresponding meaning;

M

“main road” means a public street that is defined as a main road in terms of Section 4 of the Roads Ordinance, 1976 (Ordinance No. 19 of 1976), or as amended;

“market” means an outdoor venue for the sale of fresh produce, food and beverages, crafts, art and manufactured goods to the public;

“maximum floor space” means the greatest total floor space which is allowed for a building or buildings on a land unit and is calculated by multiplying the floor factor by the area of the land unit or that portion of the land unit which is situated within a particular zone, provided that:

- (i) where a land unit has more than one primary use or departure or consent use and the uses are combined, then the highest permissible floor factor is the average of the floor factors of the different primary uses and the consent or departure uses; and
- (ii) where a land unit is situated within two or more zones to which different floor factors apply, the maximum floor space for the whole land unit shall be the total of the maximum floor space for each portion of the land unit;

“medical centre” includes a laboratory, a pharmacy, medical consulting rooms and offices;

“medical consulting rooms” means an office or offices and associated rooms utilised by a registered medical professional for human medical related consultation, where such office is not attached to a hospital or clinic;

“mine” has the same meaning as stipulated in the Mineral and Petroleum Resources Development Act No. 28 of 2002, or as amended;

“mining” means an enterprise which practices the extraction of raw materials, whether by means of surface or underground methods, and includes but is not limited to prospecting and the removal of stone, sand, clay, kaolin, ores, minerals, gas and precious stones;

“mobile home” means a transportable, prefabricated structure with the necessary service connections which is designed so that it can be used as a permanent dwelling;

“motor repair garage” means a commercial enterprise where motor vehicles are provided with fuel and/or motor services such as engine overhauling, spray painting, panel beating, exhaust fitment, shock absorber fitment or body work and includes a service station;

“motor vehicle” means a vehicle designed or used for propulsion by other than human or animal power and includes a motor cycle, a trailer or a caravan but does not include a vehicle moving exclusively on rails;

“multiple parking garage” means a place used for the parking of motor vehicles by the public, with or without payment of a fee, and may include parking within a building but excludes parking on a road or a street and on-site parking associated with a primary or consent use;

“multi-purpose centre” means a building utilised and designed for the purpose of accommodating a range of compatible institutional and community services permitted in the CO1 zone, provided that the Municipality's consent is required to include any of the consent uses as part of the multi-purpose centre;

“Municipal Manager” means the person, and includes the department head, charged with the responsibility to administer this land use scheme;

N

“National Building Act” means the National Building Regulations and Building Standards Act No. 103 of 1977, or as amended;

“nature reserve” means a national park or environmental conservation area, whether in public or private ownership, that has been declared or registered as a nature reserve in terms of legislation for the purpose of conserving and managing wild life, flora and fauna in a predominantly natural habitat; it includes conservation use but does not include tourist facilities or tourist accommodation;

“non-conforming use” means an existing land use that was being utilised lawfully in terms of a previous zoning scheme for a purpose that does not comply with an existing land use scheme;

“noxious trade” means poisonous or potentially harmful trade, use or activity which, because of fumes, emissions, odours, vibrations, noise, waste products, nature of materials used, processes employed or other causes, is considered by the Municipality to be a potential source of danger or health risk to the general public or persons in the surrounding area. “noxious industry” has the same meaning;

O

“occasional use” means the use of a property for short-term activities, which includes but is not limited to craft markets, public meetings, festivals, religious gatherings, fund raising projects, garage sales, bazaars, shows and film shoots;

“occupant” means any person who inhabits a building, structure or land, or any person who is in charge of it or manages it, and includes the agent of any person absent from the area or whose whereabouts are unknown;

“office” means property used for conducting an enterprise primarily concerned with administrative, clerical, financial or professional duties and includes medical consulting rooms;

“organ of state” means an “organ of state” as defined in Section 239 of the Constitution of the Republic of South Africa, 1996;

“outbuilding” means a structure, whether attached or separate from the main building, which is ancillary and subservient to the main building on a land unit and includes a building designed to be used for the garaging of motor vehicles, for

storage purposes and any normal activities in so far as these are usually and reasonably required in the connection with the main dwelling as well as the accommodation of recreational activities such as a pool room, braai room, lapa and gazebo and the practising of hobbies (which may not cause a nuisance and/or disturbance and/or noise and/or damage to a neighbouring property or properties or premises); outbuildings are primary uses under each zoning except in open space zones where the Municipality may permit outbuildings should it be deemed necessary;

“overlay zone” or **“overlay zoning”** means a category of zoning applicable to a particular land unit or area, which:

- (i) stipulates development parameters for a land unit or area, in addition to the underlying zoning or base zone requirements;
- (ii) may include further development parameters in a particular area or zone which may be more or less restrictive than for land units which are not covered by the overlay zoning;

“owner” in relation to property means a person or entity in whose name the property is registered in the deeds registry;

“owners’ association” means an association as contemplated in Planning Law for the administration of common property and common interests of property owners, membership of which is compulsory for all owners of property for which it is established;

P

“parapet” means a low projection or moulding which finishes the uppermost edge of a building with a flat or low pitched roof;

“parking area” means a practical parking layout approved by the Municipality;

“parking bay” means an area measuring no less than 5,0 m × 2,5 m for a perpendicular or angled parking and 6,0 m × 2,5 m for parallel parking which is

clearly outlined and demarcated for parking of one motor vehicle and which is accessible to the satisfaction of the Municipality;

“pergola” means any unroofed horizontal or approximately horizontal grille or framework and associated vertical support structure;

“pet” has the same meaning as household pet;

“place of assembly” means a public hall, a hall for social functions, a music hall, an exhibition hall, a club house, a town hall or a civic centre which is not directly related to a commercial undertaking and excludes a place of entertainment;

“place of entertainment” means a place used for commercial entertainment which may attract large numbers of people, operates outside normal business hours or generates noise from music or revelry on a regular basis and includes a cinema, a theatre, an amusement park, a dance hall or a night club and gambling and live music;

“place of instruction” means a place for education at pre-school, school or post-school levels (including a day care centre, a crèche, a farm school, a nursery school, a primary school, a secondary school, a college, a lecture hall, a university, a research institute, an environmental research or other educational centre) and associated uses such as boarding hostels or a civic facility for the promotion of knowledge to the community such as a convent, a monastery, a public library, a public art gallery or museum or a place of instruction in sport or other physical discipline where the main objective is instruction (as opposed to participation by the public sector as competitors or spectators) but excludes a reformatory, industrial school, commercial conference facility, institution, health centre or in-house business training centre;

“place of worship” means a place of public religious devotion and includes any building incidental thereto and a pastorage or dwelling unit ancillary thereto but does not include a funeral parlour;

“Planning Law” means the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015; Land Use Planning Act No. 3 of 2014 and the Spatial Land Use Management Act No. 16 of 2013 or succeeding legislation which governs the preparation and administration of Municipal planning including all related planning in Local, Provincial and National Government;

“plant nursery” means a property or part thereof which is utilised primarily for the propagation and sale of plants and sale of gardening products;

“poultry” means fowls, ducks, Muscovy ducks, geese, turkeys, pigeons, peacocks and domestic guinea-fowl;

“precinct plan” means a plan that applies to a defined local area within a development framework area that has common features or functional relationships, describes particular objectives and intentions for a particular precinct and includes principles for urban design, land use, movement and strategic implementation;

“primary use” in relation to land or buildings means any use specified in this land use scheme as a primary use, meaning that it is a use that is permitted without the need to first obtain the Municipality’s consent;

“private open space” means land which is in private ownership, used primarily for outdoor sports, play, rest or recreation or as a park area or nature area, and includes associated buildings, infrastructure and uses and may include an indoor or outdoor swimming pool and facilities, with the consent of the Municipality;

“private road” means privately owned land which provides vehicular access to a separate land unit or land units and which is designated as private road or private street on an approved general plan, diagram or approved plan of subdivision; it may include ancillary access control infrastructure such as a gatehouse, guardhouse, refuse room and utility room, but does not include a driveway on a property or a servitude;

“public road” means any highway, road, thoroughfare, lane, footpath, sidewalk, alley, passage, bridge or any other place of a similar nature or any portion thereof

serving as a public right of way which is registered in the name of the State or local authority and includes a public street;

“public open space” means land which is in public ownership, used primarily for outdoor sports, play, rest or recreation or as a park area or nature area, and includes associated buildings, infrastructure and uses;

Q

R

“recreational facilities” means the use of land to practice a particular sport or combination of sports and general recreation and includes a clubhouse and associated infrastructure and buildings, indoor and outdoor swimming pools and associated infrastructure, and a shooting and driving range but does not include any building or structure that is used for business or any other use not aligned to or dependant on the sport concerned;

“register” means the record held by the Municipality in connection to all departures, lawful non-conforming uses, certification uses, consent uses, site development plans, conditions relating to use rights or special zone development parameters;

“registered surveyor” means a professional land surveyor or surveyor, registered as such in terms of the Professional and Technical Surveyor's Act 40 of 1984 or as amended;

“residential building” means a building where lodging is provided for human habitation, together with such outbuildings ordinarily used therewith, where facilities are shared, restricted to boarding houses and old age homes;

“restaurant” means a licensed business in which mainly meals and beverages are primarily sold to seated patrons and includes the on-site consumption of liquor but does not include premises used exclusively as a bar, a pub or tavern;

“retaining structure” means a wall or structure constructed to hold back earth or loose rock;

“retirement village” means a development for the purposes of accommodating retired persons and associated facilities and conforms to the following conditions:

- (i) other than staff accommodation, each dwelling unit shall be occupied by at least one person and must comply with the applicable legislation;
- (ii) a range of care and other facilities shall be provided to the satisfaction of the Municipality; and
- (iii) additional development management provisions may be determined by the Municipality in respect of a retirement village;

“rezoning” means the change in zoning in relation to a particular land unit or units or portion of a land unit in terms of Planning Law;

“riding stables” means a commercial undertaking for the stabling of horses and includes riding instruction and the care and hiring of such horses;

“risk industry” means an undertaking where material handled or the process carried out is liable to cause combustion with extreme rapidity and give rise to poisonous fumes or cause an explosion and includes major hazardous installations and activities involving dangerous and hazardous substances that are controlled in terms of national legislation;

“road” includes a public and private road;

“road reserve” means a designated area of land that includes a public or private road (including the road and associated verge), where the land may or may not be defined by cadastral boundaries;

“roof” means a waterproof covering, excluding shade ports;

“room” means a part or division of a building enclosed by walls, floor, roof and ceiling;

S

“sale of alcoholic beverages” means the sale or offering for sale of drinks capable of producing intoxication in a consumer and may include bars, pubs and taverns;

“scheme area” means the jurisdictional area of the Overstrand Municipality Land Use Scheme;

“scrap yard” means a property which is utilised for one or more of the following purposes (subject to the provisions of Chapter 16.10):

- (i) storage, depositing or collecting of junk or scrap material or articles for purposes of recycling;
- (ii) the dismantling of vehicles, machines or other articles to recover components or materials;

“second dwelling unit” means a dwelling unit which may, in terms of this land use scheme, be erected on a land unit where a dwelling house is permitted, and such second dwelling unit may be a separate structure or may be contained in the same structure as the dwelling house, provided that:

- (i) the second dwelling unit must be situated on the same land unit;
- (ii) the second dwelling unit shall comply with the requirements specified in this land use scheme;
- (iii) the Municipality may require the payment of a bulk services levy or such other levy as it may determine when permitting the erection of a second dwelling unit;
- (iv) where a wendy house or outbuilding is used for accommodation purposes, such wendy house or outbuilding shall be considered a second dwelling unit for the purpose of this scheme;

“Sectional Titles Act” means the Sectional Titles Act, 1986 (Act 95 of 1986), or as amended;

“sectoral framework” means a broad policy plan and supporting documentation for a specified planning area and the surrounding area. It may include principles and broad heads of agreement summarising the general obligations of the Municipality, the owner of property and/or developer of land in relation to the specified planning area. A contextual framework is prepared by the Municipality, land owner or development agency under the supervision of the Municipality;

“self-catering accommodation” means sole occupancy unit(s) for transient guests, consisting of one or more rooms and self-contained public areas, e.g. kitchen, dining area and lounge;

“service agreement” means a written agreement which is concluded between a property developer and/or owner and the Municipality in terms of which the respective responsibilities of the two parties for the planning, design, provision, installation, financing and maintenance of internal and external infrastructure or engineering services and the standard of such infrastructure or services are determined, which agreement is also applicable to any successor(s) in title of the developer;

“service station” means a property for the retail supply of fuel and includes trading in motor vehicles, oil, tyres or motor spares, general motor repairs to motor vehicles, exhaust fitment, washing of vehicles, and a shop of which the floor area does not exceed 50% of the total floor space of all buildings on the land unit but does not include spray painting, panel beating, blacksmithery or body work;

“service trade” means an enterprise which:

- (i) is primarily involved in the rendering of a service to the local community such as the repair of household and electrical appliances or the supply of household services;
- (ii) is not likely to be a source of disturbance to surrounding properties;
- (iii) is not likely, in the event of fire, to cause excessive combustion, resulting in noxious fumes or explosions;

- (iv) includes a builder's yard and allied trades, fitment centre for tyres, shock absorbers or exhausts systems and similar types of uses;
- (v) excludes an abattoir, brick yard, sewage works and service station;

“servitude” means a registered personal or registered/unregistered praedial right that grants or restricts use over a property or part thereof for specific purposes;

“setback” means a line on property delimiting the area measured from the centre line of a road within which no building or other structure, including a boundary fence, may be constructed;

“shelter” means an informal structure or wendy house intended for human accommodation, irrespective of whether the material used does not comply with the standards of durability as intended by the National Building Regulations;

“shop” means a property or part of a property used for the retail sale of goods, items and services to the public, including a retail concern where goods which are sold are manufactured and repaired, provided that the floor space relating to such manufacture or repair shall not exceed 50% of the floor space of the shop; it excludes an industry, service trade, motor repair garage, service station, adult entertainment business or sale of alcoholic beverages, and if such uses are included on the property, they shall be regarded as separate uses subject to such separate development parameters as may be determined by the Municipality;

“single family” (a) one person maintaining an independent household; or

(b) two or more persons related by blood, marriage or civil union maintaining a common household; or

(c) not more than five unrelated persons without dependants maintaining a common household; but does not exclude up to six foster children, or dependants under legal guardianship as part of a household;

“sign” means any sign, sign writing, mural, graphic design, signboard, screen, blind, boarding, symbol or other device by means of which an advertisement or

notice is physically displayed and includes any advertisement or object, structure or device which is in itself an advertisement or which is used to display an advertisement;

“single storey” means that no vertical division of the building or part thereof will exceed 5,5 m from the base level to the top of the structure;

“site development plan” means a scaled and dimensioned plan which indicates details of proposed development and may include the following:

- (i) existing biophysical characteristics of the property;
- (ii) existing and proposed cadastral boundaries;
- (iii) the layout of the property indicating the use of different portions of the property;
- (iv) the position, use and extent of buildings;
- (v) architectural and landscape design guidelines;
- (vi) sketch plans and elevations of proposed structures, including information about their external appearance;
- (vii) cross sections of the site and buildings on site;
- (viii) the alignment and general specifications of vehicle access, roads, parking areas, loading areas and pedestrian footpaths;
- (ix) the position and extent of private, public and communal open spaces;
- (x) typical details of fencing or walls around the perimeter of the land unit and within the property;
- (xi) electricity supply and external lighting proposals;
- (xii) provisions for the management of stormwater and disposal of sewage and refuse;
- (xiii) water supply;
- (xiv) external signage details;

- (xv) general landscaping proposals, including vegetation to be preserved, vegetation to be removed, vegetation to be planted, external paving and measures for stabilising outdoor areas where applicable;
- (xvi) the phasing of the development;
- (xvii) the proposed development in relation to existing and finished ground levels, including excavation, cut and fill;
- (xviii) statistical information about the extent of the proposed development, floor area allocations and parking supply;
- (xix) any other details as may reasonably be required by the Municipality such as co-ordinates;

“slope” means the degree of variation of a surface from the horizontal, usually expressed as a ratio and calculated for the purpose of this land use scheme as follows:

$$\text{Slope} = 1 \frac{\text{Horizontal}}{\text{Vertical distance}}$$

“special usage” means a use which is such or in respect of which land use parameters are such that it is not otherwise provided for or permitted in this land use scheme but which is deemed desirable in a specific location and in respect of which specific land use parameters are set out in detail through the provisions of a Special Zone;

“staff quarters” means a building, whether attached or detached from the main unit, for the sole purpose of the housing of staff and where the Municipality may request proof of necessity of staff quarters;

“stoep” means an uncovered paved area or projecting floor outside and immediately adjoining a building, at or below the level of the ground floor thereof, and includes any low walls or railings enclosing such paved areas or floors;

“storey” means that portion of a building included between the surface of any floor and the surface of the next floor above, or if there is no floor above, the ceiling, provided that:

- (i) a basement does not constitute a storey;
- (ii) a roof or dome which forms part of a roof shall not constitute a separate storey, unless the space within the roof or dome is designed for or used for human habitation, in which case it will be deemed to be a storey;
- (iii) any storey which is greater than 3,0 m but equal to or less than 6,0 m in height shall, for the purposes of the height measurement, be deemed to be two storeys and every additional 3,0 m in height, or a portion thereof, shall be deemed to be a storey;
- (iv) where the floor or ceiling of a storey is not level or has different levels, the average level shall be taken;
- (v) in counting the number of storeys of a building, the ground floor is one storey and the next floor above is the second storey;

“stormwater” means water resulting from natural processes, precipitation and/or the accumulation thereof and includes groundwater and springwater ordinarily conveyed by the stormwater system, as well as sea water within estuaries, but excludes water in a drinking-water or waste water reticulation system;

“stormwater system” means constructed and natural facilities, including pipes, culverts and water courses used or required for the management, collection, conveyance, temporary storage, control, monitoring, treatment, use and disposal of stormwater;

“street” in the context of the development parameters pertaining to street building lines, setbacks, street boundaries, street corners or off-street parking, site access or loading requirements includes a private road and a public road;

“street boundary” means the boundary which separates a land unit and a public road or private road, provided that the boundary of a pedestrian way or service lane that, in the opinion of the Municipality, is not and never will be used by motor vehicles, shall be deemed to be a common boundary for the purpose of determining building lines, street centreline setback and site access requirements;

“structure” means the same as **“building”** (i.e. anything built by man);

“subdivision” means the act of dividing land, whether improved or unimproved, into two or more portions;

“subdivisional area” means a land unit or land units zoned in a manner permitting subdivision as contemplated in Planning Law and which has been made subject to:

- (i) a use determination;
- (ii) a density determination;
- (iii) relevant conditions and stipulations contained in this land use scheme;
- (iv) the planning stipulations of any applicable legislation and/or planning documents;
- (v) any other conditions laid down at the time of the approval for the rezoning;

“subdivision(al) plan” means a plan which depicts the relative location of proposed land units on a land unit that is to be subdivided;

“substitution scheme” means a zoning map or development parameters which replace, in terms of the Planning Law, any other zoning map or portion thereof, or which replace the Subdivisional Area Zoning allocated in terms of the Planning Law;

“supermarket” means a shop in which a range of goods and items (including foodstuff and household goods) are offered for sale on a predominantly self-service basis;

"sustainable development" means development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs

T

"terrace" means an area to which occupants of a building have access, created on a flat roof over a portion of a building, resulting from the setting back of part of the building above such portion;

"this land use scheme" means the land use scheme of the Overstrand Municipality;

"total floor space" means the sum of the floor space of all levels of a particular building, including basements;

"tourist accommodation" means the letting of rooms or individual unit(s) (including a dwelling house/unit) on a temporary basis to transient guests where a daily or weekly tariff is applicable and includes a guest house, backpackers establishment, camp sites, and associated amenities, provided that the use complies with the requirements of any other relevant legislation;

"tourist facilities" means amenities for tourists or visitors such as lecture rooms, restaurants, picnic areas, gift shops, cafés, restrooms, recreational facilities, animal parks (domestic or otherwise) but does not include a hotel or overnight facilities;

"townhouse" means a dwelling unit which forms part of a town housing scheme;

"town house site" means one or more land units on which a town housing scheme has been or is to be erected;

"town housing" and **"town housing scheme"** mean a row or group of linked, attached or detached dwelling units which are designed and built as a harmonious architectural entity of which every dwelling unit has a ground floor; such dwelling units may be cadastrally subdivided or be sold individually in some other manner;

“transmission apparatus” means any land- and roof-based support structure and associated infrastructure that is used for the transmission and/or reception of electromagnetic waves and includes telecommunication, cellular telecommunication, radio, television and satellite transmission that is used for commercial purposes;

“transport impact assessment” means a study of the transport impact generated by a proposed development on the existing and planned road system and recommendations of mitigating measures required as a result of the impact;

“transport use” means a transport undertaking based on the provision of a transport service and includes a public or private undertaking such as (but not limited to) an airport, a railway station, a bus depot or bus terminus, a taxi rank, a public transport interchange and a harbour and associated uses, including communications, transport, accommodation and facilities, sheds, container depots, workshops, offices and directly related shops;

U

“urban agriculture” means the cultivation of crops and/or keeping of animals and poultry (which may be sold in neighbouring markets) on relatively small demarcated areas within urban areas, provided that cultivation of a garden by an occupant shall not be regarded as urban agriculture for the purposes of control in terms of this land use scheme;

“used” in addition to its ordinary meaning includes designed or intended to be used;

“use right” in relation to a land unit means the right to utilise the land in accordance with its zoning, including any lawful approval for a departure, consent use, condition of approval or any other approval granted in respect of the rights to utilise the land;

“use zone” means that part of the scheme which has been shown on the zoning map by means of a specific notation, bordering or symbol or any other distinguishing manner in order to identify the permitted land use;

“utilisation” in relation to land means the lawful use of land for the purpose or for the improvement of land as prescribed and “utilise” has a corresponding meaning;

“utility service” means a use or infrastructure that is required to provide engineering and associated services for the proper functioning of urban development and includes a water reservoir and purification works, electricity substations and transmission lines, waste water pump stations and treatment works, energy renewable infrastructure such as wind turbines and solar panels, whether above or below ground or water, and may include such sustainable service delivery technology as the Municipality may approve but does not include road or transport use;

V

“verandah” means a covered area (not being an area which is part of a yard or parking area) or a projecting roof outside and immediately adjoining a building at or below the level of the ground floor thereof and includes both such area or floor and the roof or other feature covering it, as well as any low walls or railings enclosing such paved area;

“vertical division” of a building means a portion of the building with multiple floor levels that is clearly distinguishable as a logical vertical component from the other portions of the building, and where a building is divided in vertical divisions, then every such division shall have a separate base level, with a minimum difference in floor level of one meter, for the purpose of administrating this land use scheme;

“veterinary practice” means an enterprise where sick animals are treated and hospitalised and the science of animal illness studied;

W

“warehouse” means a building primarily used for the storage of goods and includes a property used for a business of predominantly wholesale nature or where a service trade is conducted but does not include a business of a predominantly retail nature;

“waste disposal site” means a place where household, commercial and industrial waste is stored, salvaged, treated or disposed of in a lawful manner and includes a sanitary infill site;

“wellness centre” means a place where health-related treatments and services such as meditation, massage, beauty treatments and exercise regimes, including yoga, are provided for the general health and wellbeing of clients; it includes a health spa, retreat and the provision of meals to clients but does not include accommodation facilities or provide for medical treatment of patients;

“wendy house” means a wooden structure used primarily for the storage of goods and may be regarded as an outbuilding, provided that:

- (i) when it exceeds 10 m² in extent, building plans must be submitted to the Municipality for consideration;
- (ii) where it is used for accommodation purposes, as permitted in this land use scheme, it is considered to be a second dwelling unit on the land unit concerned;

“winery” means a place where wine is made and may include a selling point to the general public, tasting facilities and the provision of light meals but does not include a distillery and restaurant;

“workshop” means a building or a part of a building where articles are produced, repaired, restored and assembled but does not include a noxious trade, abattoir, brickyard, sewerage works, service station, motor repair garage, industry or agricultural industry but may include a service trade;

X

Y

Z

“zone”, when used as a noun, means land that has been designated for a particular zoning, irrespective of whether it consists of one or more properties or a portion of a property;

92/380

“zone”, when used as a verb in relation to land, means to designate the land for a particular zoning;

“zoning”, when used as a noun, means the category of directives regulating the development of land and setting out the purpose for which the land may be used, as determined by this land use scheme;

“zoning map” means an approved map or maps indicating the land units within the Municipality’s area of jurisdiction and applicable zoning and overlay zones as contemplated in section 1.2.2;

“zoning scheme” means the law for the zoning of land which has been approved in terms of Planning Law, consisting of Overstrand Municipality Land Use Scheme regulations and a register, with or without a map as contemplated in Chapter 1;

“zoo” has the same meaning as “animal park”.

93/380

PART 1: ADMINISTRATION

CHAPTER 1: INTRODUCTION

1.1 APPLICATION OF THE LAND USE SCHEME

Commencement and validity

- 1.1.1 This document applies to the area of jurisdiction of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020, or as amended, with effect from the date of publication in the Provincial Gazette.
- 1.1.2 If any provision in this land use scheme is struck down as invalid by a court of law, such provision shall be severed from the land use scheme but shall not affect the validity of the remaining provisions.

1.2 GENERAL PURPOSE OF THE LAND USE SCHEME

Purpose of the scheme

- 1.2.1 The general purposes of the land use scheme are:
- a) to promote and implement the applicable planning and development principles as adopted by the relevant national, provincial and municipal spheres of government from time to time; and
 - b) to determine land use rights, provide control over use rights, manage urban growth and development, and manage conservation of the natural and cultural environment in order to:
 - (i) achieve co-ordinated and harmonious development in a way that will most effectively promote public health, safety, good order, amenities, convenience and general welfare of the community of the municipal area;
 - (ii) promote integrated and sustainable development;

- (iii) promote sound environmental management and, where appropriate, conservation of natural and cultural resources;
- (iv) enhance the quality of the built environment;
- (v) promote a mutually supportive mix of land uses managed in an orderly manner;
- (vi) promote employment and the opportunity for affordable and accessible housing in appropriate places;
- (vii) guide urban growth and contain urban sprawl; and
- (viii) manage and control the functioning and appearance of the natural and built environment.

1.2.2 A land use scheme must contain and make provision for at least:

- a) the zoning of land
- b) development parameters of zoning categories
- c) register reflecting all applications approved in terms of the Overstand Municipality Planning By-Law
- d) zoning maps reflecting land units and applicable approvals or lapsing of approvals

CHAPTER 2: REQUIREMENTS RELATING TO APPLICATIONS

2.1 SUBMISSION OF APPLICATIONS

Submission of applications

2.1.1 In addition to the requirements stipulated in any other law, the following requirements relate to applications submitted in terms of this land use scheme.

- a) Applicants shall ensure that applications submitted to the Municipality are:
- (i) clearly and legibly written or typed and explained in plain language;
 - (ii) fully completed, properly motivated, in the required format and accompanied by the fees and other documents as required by the Municipality from time to time; and
 - (iii) accompanied by a conveyance's certificate, if required by the Municipal Manager, relating to the existence of restrictive title deed conditions or servitudes.

2.2 ADDITIONAL REQUIREMENTS RELATING TO PUBLIC PARTICIPATION

Advertisements and / or notifications

2.2.1 Advertising of all applications shall take place in accordance with the requirements of applicable Planning Law, applicable legislation and the Municipality's advertising policy, as approved by the Municipality from time to time.

2.3 VALIDITY OF INFORMATION

Validity of information

2.3.1 Any information in connection with this land use scheme that is given by an official to a person making enquiries shall only be valid if it is in writing, signed by the

97/380

official with the delegated power of the Municipality, and if such information is not in conflict with the provisions of this land use scheme, the zoning map, an approval granted by the Municipality or any applicable legislation.

- 2.3.2 At all relevant times when considering the furnishing of the information referred to in clause 2.3.1, the provisions of the Promotion of Access to Information Act will apply, as amended.

CHAPTER 3: ZONING AND THE USE OF PROPERTY

3.1 USE ZONES

Use zones

- 3.1.1 All properties within the municipal area shall be allocated a zone, as listed in this land use scheme, for the purpose of managing land use, the use of buildings and the extent of development.
- 3.1.2 A land unit may be zoned:
- a) with a single base zone that applies to the entire land unit; or
 - b) with a split-zoning where one base zone applies to a portion of the land unit and one or more other base zones apply to other defined portions of the land unit, provided that where a split-zoning is envisaged, the applicant must submit a plan prepared by a suitably qualified land surveyor, clearly identifying the area of each base zone concerned, to the satisfaction of the Municipality; and
 - c) in addition to the above, with one or more overlay zones which may be more restrictive or permissive in terms of its specifications than the base zones.
- 3.1.3 The Municipal Manager shall ensure that the zoning of all properties within the municipal area is determined and depicted on the zoning map and/or recorded in the register.
- 3.1.4 Property with a particular zoning is subject to the provisions specified for that zone in this document.
- 3.1.5 In addition to the provisions specified in a particular zone, the general provisions stipulated in this document shall apply to all zones, and the provisions of any applicable overlay zone shall also apply to the land units concerned.
- 3.1.6 All property owners within the urban edge (as indicated in the applicable SDF) are limited to the keeping of household pets as defined. The keeping of household pets

is subject to any applicable legislation, by-law and/or policy relating to household pets. Excluding agricultural zoned properties.

Bulk zones

- 3.1.7 Certain use zones make provision for different bulk zones that distinguish between different building forms or intensity of land use through different development parameters. In order to change or relax the development parameters applicable to a property regulated by a bulk zone, the following must be submitted and approved and the Municipality may determine which method shall be used:
- a) an application for a departure from the development parameters or bulk zone; or
 - b) an application for a rezoning to another use zone.

3.2 CATEGORIES OF USES

Primary uses

- 3.2.1 The use of a property for any purposes specified as a primary use in this land use scheme for that property is permitted without the consent of the Municipality, provided that such use conforms to the provisions specified in the particular zone, overlay zone (where applicable) and definitions in this land use scheme.

Additional use rights

- 3.2.2 An activity or use described as an "Additional use right" in a particular zone is a primary use in that zone, provided that any conditions specified for such activity or use are adhered to. In this scheme, additional use rights are only applicable to Authority Zone 1 and Community Zone 1.

Uses not permitted

- 3.2.3 Subject to any provisions to the contrary in the Land Use Scheme and/or any statutory condition of title, property may not be used for any purpose without the approval of the Municipality.

Special uses

- 3.2.4 A special use may be permitted in the Special Zone with the consent of the Municipality.

Occasional uses

- 3.2.5 The occasional use conforms to the Municipality's by-law and relevant policy document, provided that the approval does not absolve the applicant from compliance with any other relevant legislation.
- 3.2.6 Approval granted under 3.2.5 shall be subject to such conditions as the Municipality may impose, which may include, but are not limited to, the following:
- a) that the applicant provides parking and toilet facilities to the Municipality's satisfaction;
 - b) that such occasional use does not extend beyond the hours of operation or duration in terms of days, as determined by the Municipality;
 - c) that such approval may be withdrawn by written notice to the applicant, if, in the opinion of the Municipality, any condition of approval is not complied with or if a public nuisance is created; and
 - d) the Municipality may determine a public participation process, with special regard to the affected community.

Uses shown on building plans

- 3.2.7 A building plan may not be considered and approved in terms of the National Building Regulations and Building Standards Act No. 103 of 1977, or as amended, where the uses indicated on the property or within the proposed building or structures are in contradiction with this land use scheme or any other legislation.

CHAPTER 4: INTERPRETATION

4.1 INTERPRETATION

Rules for interpretation

4.1.1 The following rules of interpretation shall apply:

- a) In this land use scheme, in the register, in any note on the zoning map and in any condition imposed in terms of the By-Law, the words and expressions shall have the meanings assigned to them in accordance with the definitions contained to this schedule, except where a contrary interpretation is clear from the context. Interpretation of words not defined in the schedule will have the meanings assigned to them in the "New Shorter Oxford English Dictionary" published by Oxford University Press, except where a contrary interpretation is clear from the context.
- b) Headings contained in this land use scheme shall be used for reference purposes but shall not be construed to govern, limit or modify the meaning or intent of any provision of the land use scheme.
- c) The masculine gender includes the feminine and neuter, and vice versa, and the singular includes the plural unless the context indicates otherwise.
- d) Whenever reference is made to a law, ordinance or by-law, the reference applies to all substitutions, amendments and additions of that law, ordinance or by-law.
- e) Whenever reference is made to the use of a building, land unit or property, the reference applies also to the erection of a building, to the use of part of a building and to the use of a land unit, whether a building is erected on the land unit or not.
- f) It is understood that the terms "must" and "shall" are mandatory, and the term "may" is not mandatory unless the context clearly indicates otherwise.
- g) The Municipality's interpretation of the text shall prevail unless the contrary is proven.

Methods of measuring distances, levels and heights

- 4.1.2 The following provisions apply with regard to measuring distances, levels or heights:
- a) If required by the Municipality, the owner or applicant shall appoint a registered surveyor to supply or verify information necessary for the Municipality to make a decision about compliance with distances or heights required in terms of this land use scheme.
 - b) Where reference is made or implied to the distance between boundaries or between a building and a boundary, this distance shall be measured in the following manner:
 - (i) The boundary or boundaries and all points of the building shall be projected onto a horizontal plane, and all measurements shall be made in such a plane.
 - (ii) The distance between a point on a building and a boundary shall be measured at the shortest distance between the point and the boundary.
 - c) Where reference is made to a portion of a boundary "opposite" a building, such portion shall be defined by drawing lines in a manner described in clause (b), from points on such building, at right angles to such boundary.
 - d) Where reference is made to a distance, ground level or height of a point on a building or other measurement, then such distance, level or height shall be calculated in accordance with the land use scheme. In any case where the distance, level or height involved is so irregular that calculation in accordance with these principles is impractical or leads to a result which is clearly not in accordance with the intent of the land use scheme, the Municipality shall determine the distance, level or height concerned for the purpose of administering this scheme.

Interpretation of boundaries

- 4.1.3 Where uncertainty exists as to the boundaries of use zones, the following rules apply in the order listed:
- a) Boundaries shown as following or approximately following any public street or road shall be construed as following the street or road cadastral boundary.
 - b) Boundaries shown as following or approximately following any land unit boundary shall be construed as following such cadastral boundary.
 - c) Boundaries shown as following or approximately following natural features shall be construed as following such features.
 - d) In the event of further uncertainty as to the boundaries of a use zone, the Municipality shall make a determination or may appoint a registered land surveyor of his choice to determine the boundaries at the cost of the land owner.

Interpretation of category of use and zoning

- 4.1.4 The Municipality shall determine the category of use or zoning, and its decision shall be final unless the contrary is proven, where:
- a) there is uncertainty or dispute about zoning categories;
 - b) there is conflict between the provisions of a zoning map, this land use scheme and the register; and
 - c) there is uncertainty or dispute about the zoning of property.

Architectural guidelines

- 4.1.5 Architectural Guidelines approved prior to the promulgation of the Overstrand Municipality Zoning Scheme 2013, or as amended, shall prevail unless otherwise determined.

PART 2: USE ZONES

CHAPTER 5: AGRICULTURAL AND RURAL ZONES

5.1 AGRICULTURE ZONE 1: AGRICULTURE (AGR1)

Use of the property

5.1.1 The following use restrictions apply to property in this zone:

- a) Primary uses are agriculture, crèche, dwelling house, guest rooms and home occupation.
- b) Consent uses are additional dwelling units, agricultural industry, animal care centre, aquaculture, day care centre, farm shop/stall, fertiliser plant, guest house, hotel, institution, intensive animal farming, intensive horticulture, lodge, mining, place of assembly, place of entertainment, place of instruction, plant nursery, riding stables, service trade, tourist accommodation, tourist facilities, transmission apparatus, utility services, wellness centre and 4x4 trail.

Development parameters

5.1.2 The following parameters apply:

- a) Floor space

The total floor space of all buildings on the land unit may not exceed 5 000 m², provided that the Municipality may relax this requirement if it is satisfied that such buildings are required for bona fide farming activities on the land unit.

- b) Building lines

- (i) The street and common boundary building lines are determined in accordance with the area of the land unit as specified in the table below.
- (ii) The general building line exemptions in 16.1 apply.

105/380

Area of land unit	Street boundary building line	Common boundary building lines
Greater than 10 ha	30,0 m	30,0 m
≤10 ha and ≥1 ha	10,0 m	10,0 m
< 1 ha	4,0 m	4,0 m

c) Height

The maximum height of a building, measured from the base level to the top of the structure, is 8,0 m, provided that agricultural buildings other than dwelling units shall not exceed a height of 12,0 m, measured from the base level to the top of the structure, and where the Municipality is satisfied that a greater height is necessary for the agricultural function of the building, it may permit such greater height.

d) Parking

Parking and access shall be provided on the land unit in accordance with Chapter 17.1.

Additional dwelling units

5.1.3 The provisions of Chapter 16.10 apply.

Farm shop/stall

5.1.4 The provisions of Chapter 16.10 apply.

Agricultural industry

5.1.5 The provisions of Chapter 16.10 apply.

Guest rooms

5.1.6 The provisions of Chapter 16.10 apply.

Guest house

5.1.7 The provisions of Chapter 16.10 apply.

Day care centre

5.1.8 The provisions of Chapter 16.10 apply.

Home occupation

5.1.9 The provisions of Chapter 16.10 apply.

Transmission apparatus

5.1.10 The provisions of Chapter 16.10 apply.

Site development plan

5.1.11 The Municipality may require that a site development plan be submitted for approval in accordance with Chapter 16.3.

5.2 RURAL ZONE 1: AGRICULTURAL SMALL HOLDINGS (R1)

Use of the property

5.2.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: agriculture, crèche, dwelling house, guest rooms and home occupation.
- b) **Consent uses** are: agricultural industry, animal care centre, aquaculture, conservation use, day care centre, farm shop/stall, intensive animal farming, intensive horticulture, place of assembly, place of entertainment, place of instruction, plant nursery, recreational facilities, riding stables, second dwelling unit, tourist accommodation, tourist facilities, transmission apparatus and utility services.

Development parameters

5.2.2 The following parameters apply:

- a) Floor space

The total floor space of all buildings on the land unit may not exceed 2 000 m², provided that the Municipality may relax this requirement if it is satisfied that such buildings are required for bona fide farming activities on the land unit.

- b) Coverage

The maximum coverage for all buildings on the land unit is 25%.

- c) Building lines

- (i) The building lines shall be 10,0 m;
- (ii) Where the configuration of the land unit is of such a nature that alternative building lines need to be considered, the Municipality may approve such alternative building lines to permit the use of the property as defined in this zone, provided that where Rural Zone 1 abuts an

urban area, the building lines of the adjacent property shall apply along the shared boundary; and

(iii) The general building line exemptions in 16.1 shall apply.

d) Height

(i) The maximum height of a building, measured from the base level to the top of the structure, is 8,0 m;

(ii) Agricultural buildings other than dwelling units shall not exceed a height of 10,0 m, measured from the base level to the top of the structure, provided that where the Municipality is satisfied that a greater height is necessary for the agricultural function of the building, it may permit such greater height.

e) Parking

Parking and access shall be provided on the land unit in accordance with Chapter 17.1.

Minimum subdivision size

5.2.3 The provisions of Chapter 16.10 apply.

Second dwelling unit

5.2.4 The provisions of Chapter 16.10 apply.

Farm shop/stall

5.2.5 The provisions of Chapter 16.10 apply.

Agricultural industry

5.2.6 The provisions of Chapter 16.10 apply.

Guest rooms

5.2.7 The provisions of Chapter 16.10 apply.

Day care centre

5.2.8 The provisions of Chapter 16.10 apply.

Home occupation

5.2.9 The provisions of Chapter 16.10 apply.

Transmission apparatus

5.2.10 The provisions of Chapter 16.10 apply.

Site development plan

5.2.11 The Municipality may require that a site development plan be submitted for approval in accordance with Chapter 16.3.

5.3 RURAL ZONE 2: CONSERVATION USAGE (R2)

Use of the property

5.3.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: conservation use, dwelling house, guest rooms and home occupation.
- b) **Consent uses** are: agriculture, aquaculture, day care centre, harvesting of natural resources, intensive animal farming, intensive horticulture, place of assembly, place of entertainment, place of instruction, plant nursery, recreational facilities, second dwelling unit, tourist accommodation, tourist facilities, transmission apparatus, and utility services.

Development parameters

5.3.2 The following development parameters apply:

- a) Floor space

The total floor space of all buildings on the land unit may not exceed 800 m², provided that the Municipality may relax this requirement if it is satisfied that such accommodation is required for bona fide conservation and/or farming activities on the land unit.

- b) Coverage

The maximum coverage for all buildings on the land unit is 25%.

- c) Building lines

- (i) The building lines shall be 10,0 m.
- (ii) Where the configuration of the land unit is of such a nature that alternative building lines need to be considered, the Municipality may approve such alternative building lines to permit the use of the property as defined in this zone, provided that where Rural Zone 2 abuts an

urban area, the building lines of the adjacent property shall apply along the shared boundary.

(iii) The general building line exemptions in 16.1 shall apply.

d) Height

(i) The maximum height of a building, measured from the base level to the top of the structure, is 8,0 m.

(ii) Where the Municipality is satisfied that a greater height is necessary for the agricultural function of the building, it may permit such greater height.

e) Parking

Parking and access shall be provided on the land unit in accordance with Chapter 17.1.

Minimum subdivision size

5.3.3 The provisions of Chapter 16.10 apply.

Second dwelling unit

5.3.4 The provisions of Chapter 16.10 apply.

Guest rooms

5.3.5 The provisions of Chapter 16.10 apply.

Day care centre

5.3.6 The provisions of Chapter 16.10 apply.

Home occupation

5.3.7 The provisions of Chapter 16.10 apply.

Transmission apparatus

112/380

5.3.8 The provisions of Chapter 16.10 apply

Site development plan

5.3.9 The Municipality may require that a site development plan be submitted for approval in accordance with 16.3.

5.4 RURAL ZONE 3: AGRI-VILLAGE (R3)

Use of the property

5.4.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are agriculture, crèche, dwelling house, town housing, home occupation, private open space, private road and second dwelling unit.
- b) **Consent uses** are agricultural industry, clinic, community facility, day care centre, farm shop/stall, guest house, house shop, intensive animal farming, intensive horticulture, market, place of assembly, place of instruction, plant nursery, restaurant, retirement village, shelter, shop, tourist accommodation, tourist facility, transmission apparatus, utility service and any other ancillary use determined by the Municipality.

Development parameters

5.4.2 The following parameters apply:

- a) Density

The maximum gross density in this zone is 50 units per hectare.

- b) Coverage

The maximum coverage for all buildings on the land unit is 50%.

- c) Height

- (i) The maximum height of a building, measured from the base level to the top of the structures, is 8,0 m.

- (ii) Where the Municipality is satisfied that a greater height is necessary for the agricultural function of a building, it may permit such greater height.

- d) Building lines

The following building lines apply:

- (i) The street building line is 2,0 m.

- (ii) The side building line is 1,0 m unless dwellings are linked, in which case no more than 4 dwellings shall be linked without a break of 3,0 m between buildings.
- (iii) The rear building line is 2,0 m, provided that the Municipality may require a 3,0 m combined building line between structures for reasons of health and safety.

e) Open space

Within an agri-village site, private outdoor space of at least 50 m² per dwelling unit must be provided.

f) Parking and access

Parking and access shall be provided on the land unit in accordance with Chapter 17.1.

g) Additional requirements

The following additional requirements apply in this zone:

- (i) The property must be developed, owned and managed by a legally constituted institution, which may include a trust, Section 21 company or owners' association, and may represent a partnership between farmer(s), farm workers and a government authority.
- (ii) Occupation of housing shall be restricted to rural workers and their dependants, or retired rural workers and their dependants.
- (iii) Security of tenure shall be offered by way of a trust, a Section 21 company, owners' association or sectional title.
- (iv) Engineering services must be provided to the satisfaction of the Municipality.

Second dwelling unit

5.4.3 The provisions of Chapter 16.10 apply.

Farm shop/stall

5.4.4 The provisions of Chapter 16.10 apply.

Agricultural industry

5.4.5 The provisions of Chapter 16.10 apply.

Guest rooms

5.4.6 The provisions of Chapter 16.10 apply.

Day care centre

5.4.7 The provisions of Chapter 16.10 apply.

Home occupation

5.4.8 The provisions of Chapter 16.10 apply.

House shop

5.4.9 The provisions of Chapter 16.10 apply.

Transmission Apparatus

5.4.10 The provisions of Chapter 16.10 apply

Site development plan

5.4.11 The Municipality may require that a site development plan be submitted for approval in accordance Chapter with 16.3.

CHAPTER 6: RESIDENTIAL ZONES

6.1 RESIDENTIAL ZONE 1: SINGLE RESIDENTIAL (SR1)

Use of the property

6.1.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: crèche, dwelling house, guest rooms, home occupation, second dwelling unit and self-catering.
- b) **Consent uses** are: day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and intensive horticulture.

Development parameters

6.1.2 The following parameters apply:

- a) Coverage

The maximum coverage for all buildings on the land unit is determined in accordance with the net erf area, as listed in the table below:

Net erf area	Maximum coverage
Less than 150 m ²	80%
Less than 400 m ²	65%
400 m ² and greater	50%

- b) Building lines

- (i) Street building line

The street building line is determined in accordance with the net erf area, as listed in the table below:

117 | 380

Net erf area	Street building line
Less than 150 m ²	1,0 m
Less than 400 m ²	2,0 m
400 m ² and greater	4,0 m

Where a garage obtains direct access off the street, a 4,0 m building line applies.

The street building line of even of 400 m² and greater is 4,0 m, provided that:

- an erf with an average depth of 20,0 m or less has a 3,0 m street building line;

(ii) Side and rear building line

The side and rear building lines are determined in accordance with the net erf area, as listed in the table below:

Net erf area	Side and rear building lines
Less than 150 m ²	At least 1,0 m one side and 0 m on the other side. Rear = 1,0 m.
Up to 400 m ²	1,0 m
Greater than 400 m ²	2,0 m

(iii) The general building line exemptions of 16.1 apply.

c) Height

(i) The maximum height of a building measured from the base level to the top of the structure is 8,0 m.

d) Garages and carports

Garages and carports may be constructed within building lines in accordance with Chapter 16.1.2.

e) Parking

Parking and access shall be provided on the land unit in accordance with Chapter 17.1.

Subdivision and density standards

6.1.3 The provisions of Chapter 16.10 apply.

Second dwelling unit

6.1.4 The provisions of Chapter 16.10 apply.

Self-catering

6.1.5 The provisions of Chapter 16.10 apply.

Guest rooms

6.1.6 The provisions of Chapter 16.10 apply.

Day care centre

6.1.7 The provisions of Chapter 16.10 apply.

Home occupation

6.1.8 The provisions of Chapter 16.10 apply.

House shop

6.1.9 The provisions of Chapter 16.10 apply.

Sectional title

6.1.10 No portion of a property zoned for single residential use may be alienated in terms of the Sectional Title Act, or as amended.

6.2 GENERAL RESIDENTIAL ZONE 1: TOWN HOUSING (GR1)

Use of the property

6.2.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: town housing, private road and private open space.
- b) **Consent uses** are: crèche, day care centre, dwelling house in accordance with 6.1.2, flats, green house, home occupation, residential building, retirement village and tourist accommodation.

Development parameters

6.2.2 The following parameters apply:

a) Density

- (i) The maximum gross density in this zone is 35 units per hectare.
- (ii) A minimum erf size of 3000 m² is applicable for densification.

b) Coverage

The maximum coverage for all buildings on the land unit is 65%.

c) Height

The maximum height of a building, measured from the base level to the top of the structure, is 8,0 m.

d) Building lines on the perimeter of a town housing development

- (i) The building line on the perimeter of the property is 3,0 m.
- (ii) The general building line exemptions of 16.1 apply.

e) Building lines within the town housing development

The following building lines apply within a town housing site:

120/380

- (i) The street building lines on internal roads are 1,0 m, provided that garages must be set back at least 5,0 m from the road kerb.
- (ii) The lateral and rear building line is 1,0 m.
- (iii) A garage may be constructed at 0 m on one internal side boundary and 0 m on the internal rear boundary, provided that the building does not occupy more than 50% of such internal side or rear boundary.
- (iv) The general building line exemptions of 16.1 apply.

f) Parking

- (i) Parking and access shall be provided on the land unit in accordance with 17.1.
- (ii) Parking may be provided at the town house concerned, form part of a communal parking, or be a combination of the two.

g) Internal roads

The minimum internal road reserve width is 8,0 m, provided that the Municipality may require a greater road reserve width where it is of the opinion that the vehicular use or length of the road requires a greater road reserve width.

Flats within a town housing development

6.2.3 The following development parameters apply:

- a) Flats must form an integrated component of the town housing development, and the development parameters for town housing apply, provided that:
 - (i) the total floor area of flats shall not exceed 40% of the total floor space of all buildings on the town housing site; and
 - (ii) the open space requirements for dwelling units in a town housing site apply.

121/380

Day care centre

6.2.4 The provisions of Chapter 16.10 apply.

Home occupation

6.2.5 The provisions of Chapter 16.10 apply.

Site development plans

6.2.6 The Municipality may require that a site development plan be submitted for approval in accordance with 16.3.

Open space provision

6.2.7 The following requirements to the satisfaction of the Municipality is applicable:

Communal open space of at least 10% of the whole property must be provided as outdoor recreational/garden area as one functional space.

6.3 GENERAL RESIDENTIAL ZONE 2: TOWN HOUSING (GR2)

Use of the property

6.3.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: town housing, private open space and private road.
- b) **Consent uses** are crèche, day care centre, dwelling house in accordance with 6.1.2, flats, green house, home occupation, residential building, retirement village and tourist accommodation.

Development parameters

6.3.2 The following development parameters apply:

a) Density

- (i) The maximum gross density in this zone is 50 units a hectare.
- (ii) A minimum erf size of 3000 m² is applicable for densification.

b) Coverage

The maximum coverage for all buildings on the land unit is 65%.

c) Height

The maximum height of a building (other than flats), measured from the base level to the top of the structure, is 8,0 m, provided that the maximum height for flats, measured from the base level to the top of the structure, is 9,0 m.

d) Building lines on the perimeter of a town housing development

- (i) The building line on the perimeter of the property is 3,0 m, and
- (ii) The general building line exemptions of 16.1 apply.

e) Building lines within the town housing site

The following building lines apply within a town housing site:

- (i) The street building lines on internal roads are 1,0 m, provided that garages must be set back at least 5,0 m from the road kerb;
 - (ii) The lateral and rear building line is 1,0 m;
 - (iii) A garage may be constructed at 0 m on one internal side boundary and 0 m on the internal rear boundary, provided that the building does not occupy more than 50% of such internal side or rear boundary; and
 - (iv) The general building line exemptions of 16.1 apply.
- f) (f) Parking
- (i) Parking and access shall be provided on the land unit in accordance with 17.1; and
 - (ii) Parking may be provided at the group house concerned, or form part of a communal parking or a combination of the two.
- g) Internal roads

The minimum internal road reserve width is 8,0 m, provided that the Municipality may require a greater road reserve width where it is of the opinion that the vehicular use or length of the road requires a greater road reserve width.

Flats within a town housing development

6.3.3 The following development parameters apply:

- a) Flats, if provided, must form an integrated component of the town housing development, and the development parameters for town housing apply, provided that;
 - 1. the total floor area of flats shall not exceed 60% of the total floor space of all buildings on the town housing site; and
 - 2. the open space requirements for town housing units in a town housing site apply.

Day care centre

6.3.4 The provisions of Chapter 16.10 apply.

Home occupation

6.3.5 The provisions of Chapter 16.10 apply.

Site development plans

6.3.6 The Municipality may require that a site development plan be submitted for approval in accordance with 16.3.

Open space provision

6.3.7 The following requirement to the satisfaction of the Municipality is applicable:
Communal open space of at least 10% of the whole property must be provided as outdoor recreational/garden areas as one functional space.

6.4 GENERAL RESIDENTIAL ZONE 3: FLATS (GR3 and GR4)

Use of the property

6.4.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: flats and town house in accordance with 6.3.2 and residential buildings.
- b) **Consent uses** are: crèche, day care centre, home occupation, hotel, institution, place of assembly, place of instruction, place of worship, retirement village, tourist accommodation and transmission apparatus.

Development parameters

6.4.2 The following development parameters apply:

- a) Density

A minimum erf size of 3000 m² is applicable for densification.

- b) Floor factor and coverage

The maximum floor factor and coverage is determined in accordance with bulk zone, as specified in the table below:

Bulk Zone	Floor factor	Coverage
Bulk Zone 1 (GR3)	3	100%
Bulk Zone 2 (GR4)	1.5	80%

- c) Height

The maximum height of a building, measured from the base level to the top of the structure, is determined in accordance with the bulk zone as specified in the table below:

126/380

Bulk Zone	Height	Storeys
Bulk Zone 1 (GR3)	12,5 m	4
Bulk Zone 2 (GR4)	9,0 m	3

d) Setback

- (i) The Municipality may require an 8,0 m setback from the centreline of the abutting street, provided that the Municipality may permit stoeps to be located within the setback line.
- (ii) The general provisions of 16.2 apply.

e) Building lines

- (i) The street building line is 4,0 m.
- (ii) The side building line is 4,5 m, provided that where a fourth storey is provided, the Municipality may require the fourth storey to be set back 6,0 m from the property boundary.
- (iii) The rear building line is 3,0 m, provided that where a fourth storey is provided, the Municipality may require the fourth storey to be set back 6,0 m from the property boundary.
- (iv) The general building line exemptions of 16.1 apply.

f) Open space

- (i) Every block of flats, residential building or hotel in this zone must have access to an outdoor living area and will provide communal open space but excludes parking, service yards and roads.
- (ii) Communal open space of at least 10% of the whole property must be provided as outdoor recreational/garden areas as one functional space.

127/380

g) Parking

Parking and access shall be provided on the land unit in accordance with 17.1.

h) Screening

Screening must be provided in accordance with 16.7.

Home occupation

6.4.3 The provisions of Chapter 16.10 apply.

Transmission apparatus

6.4.4 The provisions of Chapter 16.10 apply

Site development plan

6.4.5 The Municipality may require that a site development plan be submitted for approval in accordance with 16.3.

6.5 LESS FORMAL DEVELOPMENT ZONE: (LFD)

Use of the property

6.5.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: crèche, dwelling house, guest rooms, home occupation, private road, private open space, second dwelling unit and shelter.
- b) **Consent uses** are: authority use, clinic, day care centre, flats, house shop, institution, place of assembly, place of instruction, place of worship, residential building, service trade, urban agriculture, utility service and a bottle store.

Development parameters

6.5.2 The following development parameters apply:

a) Coverage

The maximum coverage of all structures on the land unit is 80%.

b) Building lines

The following building lines apply where the less formal settlement has occurred or is intended to occur in terms of an approved layout or cadastral plan:

- (i) the street building line is 1,0 m;
- (ii) it is at least 1,0 m one side and 0 m on the other side; and
- (iii) the rear building line is 1,0 m, provided that:
- (iv) the Municipality may require a 2,0 m building line where a mid-block sewer system is installed or planned to be installed.

c) Spaces between buildings and roads

The following spaces must be provided between buildings and roads, where the settlement has not occurred or is not intended to occur in terms of an approved layout or cadastral plan:

- (i) Every building shall be set back at least 1,0 m from the edge of a road or thoroughfare;
- (ii) No building shall be erected closer than 1,0 m to an adjacent building;
- (iii) Where 4 dwelling units or shelters are attached to one another, the Municipality may require a space of 2,0 m between such dwellings or shelters and any other building or shelter on the property concerned or any adjacent property, and
- (iv) The site boundary line is 3,0 m from the property boundary along the perimeter of the site, as determined by the Municipality.

d) Height

- (i) The maximum height measured from the base level to the top of the structure is 8,0 m.

e) Parking and loading

The provisions of 17.1 do not apply and parking must be provided in accordance with the following table:

Use of the property	Parking standard
Dwelling unit	As required by the Municipality
Second dwelling unit, home occupation	As required by the Municipality
Other primary or consent uses	As required by the Municipality

Second dwelling unit

6.5.3 The provisions of Chapter 16.10 apply.

Guest rooms

6.5.4 The provisions of Chapter 16.10 apply.

130/380

Day care centre

6.5.5 The provisions of Chapter 16.10 apply.

Home occupation

6.5.6 The provisions of Chapter 16.10 apply.

House shop

6.5.7 The provisions of Chapter 16.10 apply.

Constructed road or road reserve or land identified for roads

6.5.8 No building shall be erected on land which has been constructed as a road, set aside as a road reserve or has been identified by the Municipality as a future road.

Land reserved or identified for bulk services

6.5.9 No building shall be erected on land that is reserved, is identified for bulk services in a registered servitude or otherwise, or accommodates bulk services.

Land used or identified for firebreaks

6.5.10 No building or structure may be erected on land which has been set aside or identified by the Municipality as a firebreak.

Approval of building plans

6.5.11 Notwithstanding the fact that individual land units may not have been created or transferred to individual beneficiaries, the Municipality may approve building plans in terms of the National Building Act, subject to the requirements of the Act, for a building relating to a primary or consent use, with the exception of a shelter, provided that the Municipality is satisfied that:

- a) the proposed building is acceptable as a permanent structure in terms of location and use, taking into account any plans to upgrade the area; and
- b) the applicant has permission from the owner.

CHAPTER 7: BUSINESS ZONES

7.1 BUSINESS ZONE 1 & 2: GENERAL BUSINESS (B1 and B2)

Use of the property

7.1.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: business premises, caretaker's accommodation, conference facility, flats (above ground floor), guest house, hotel, place of assembly, place of instruction and self-catering.
- b) **Consent uses** are: adult entertainment business, bottle store, crematorium, dwelling unit, flats (on ground floor), funeral parlour, institution, motor repair garage, place of entertainment, recreational facilities, residential building, second dwelling unit, service station, transmission apparatus (subject to the provisions of Chapter 16.10), transport use, utility services, warehouse and service trade.

Development parameters

7.1.2 The following development parameters apply:

- a) Floor factor and coverage

The maximum floor factor and coverage is indicated in the table below:

Sub-zone	Floor Factor	Coverage
Bulk Zone 1 (B1)	3	100%
Bulk Zone 2 (B2)	1.5	80%

- b) Setback

- (i) The Municipality may require that all buildings and structures on the property are set back at least 6,5 m from the centre line of the street.
- (ii) Where special circumstances exist, the Municipality may require a wider setback.

(iii) The general provisions of 16.2 apply.

c) Building lines

(i) The street building line is 0 m, subject to:

- the setback restriction if required by the Municipality in terms of 7.1.2(b); and
- the enclosed part of a building from the fourth storey must be set back 4,5 m.

(ii) The side building line is 0 m, subject to:

- without the consent of the Municipality, the building or portion erected on the property boundary may have no windows, doors, ventilation or other openings in any wall on such boundary; and
- where a property zoned Business Zone 1 and 2 abuts a residential or community zone, the building line is 3,0 m.

(iii) The rear building line is 0 m, subject to:

- the building or portion erected on the property boundary may have no windows, doors, ventilation or other openings in any wall on such boundary; and
- where a property zoned Business Zone 1 and 2 abuts a residential or community zone, the building line is 3,0 m.

(iv) The Municipality may impose more restrictive building lines in the interests of public health and safety.

(v) The general building line exemptions in 16.1 apply.

d) Height

(i) The maximum height of a building, measured from the base level to the top of the structure, is determined in accordance with the bulk zone as specified in the table below:

133/380

Bulk Zone	Height	Storeys
Bulk Zone 1 (B1)	14,0 m	4
Bulk Zone 2 (B2)	10,5 m	3

e) Window and door placement

- (i) Where a 0 m building line applies and where a wall of a building is erected 1,0 m or less from the side or rear building line, no door or window shall be permitted in the wall concerned.
- (ii) Any portion of the building which contains a door or window onto a side or rear boundary shall be placed at least 1,5 m away from such boundary. The portion of the building that is required to be set back shall include the door or window, together with such additional length of wall, as is required to make up a total of 3,0 m.

f) Canopies and projections

- (iii) The Municipality may require or permit a canopy or projection over the street boundary, provided that:
 - the canopy or projection shall not project nearer than 500 mm to a vertical plane through the kerb line or proposed kerb line;
 - no portion of the canopy or projection shall be less than 2,8 m above the pavement; and
 - the owner shall enter into an encroachment agreement with the Municipality in the case of a canopy projection.

g) Parking and access

Parking and access shall be provided on the land unit in accordance with 17.1.

h) Loading bays

134/380

Loading bays must be provided on the land unit in accordance with 17.2.

i) Screening

Screening must be provided in accordance with 16.7.

Service station

7.1.3 The development parameters of 7.3 apply to a service station in this zone.

Site development plan

7.1.4 The Municipality may require that a site development plan be submitted for approval in accordance with 16.3.

7.2 BUSINESS ZONE 3: LOCAL BUSINESS (B3)

Use of the property

7.2.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: shops, dwelling unit (above ground floor) in accordance with 6.3.2, flats (above ground floor), offices, restaurant, caretaker's accommodation and self-catering.
- b) **Consent uses** are: bottle store, business premises, clinic, conference facility, dwelling unit (on ground floor) in accordance with 6.3.2, flats (on ground floor), town housing in accordance with 6.3.2, tourist accommodation, hotel, institution, place of assembly, place of entertainment, place of instruction, place of worship, recreational facilities, residential building, sale of alcoholic beverages, service station, service trade and transmission apparatus (subject to the provisions of Chapter 16.10).

Development parameters

7.2.2 The following development parameters apply:

- a) Coverage

The maximum coverage for all buildings on the land unit is 75%.

- b) Floor factor

The maximum floor factor is 1.5.

- c) Height

- (i) The maximum height of a building, measured from the base level to the top of the structure, is 8,5 m.
- (ii) The maximum number of storeys is 2.

d) Setback

- (i) The Municipality may require that all buildings and structures on the property are set back at least 6,5 m from the centre line of the street.
- (ii) Where special circumstances exist, the Municipality may require a greater setback.
- (iii) The general provisions of 16.2 apply.

e) Building lines

- (i) the street building line is 0 m, provided that a 5,0 m building line applies where fuel pumps are erected;
- (ii) the side building line is 0 m, provided that where any Business Zone 3 abuts another zone, the side building line is 3,0 m;
- (iii) the rear building line is 3,0 m, provided that where any Business Zone 3 abuts another zone, the rear building line is 3,0 m; and
- (iv) provided that the Municipality may require more restrictive building lines in the interests of public health or safety or the environment or in order to enforce any applicable law or right; and
- (v) the building line exemptions in 16.1 apply.

f) Window and door placement

- (i) Where a 0 m building line applies and where a wall of a building is erected 1,0 m or less from the side or rear building line, no door or window shall be permitted in the wall concerned.
- (ii) Any portion of the building which contains a door or window onto a side or rear boundary shall be at least 1,5 m away from such boundary.

g) Parking and access

Parking and access shall be provided on the land unit in accordance with 17.1.

137/380

h) Loading bays

Loading bays must be provided on the land unit in accordance with 17.2.

i) Screening

- (i) The Municipality may require screening in accordance with 16.7.
- (ii) Where a Business Zone 3 abuts a residential zone, the Municipality may require a suitable wall of no less than 1,8 m in height to be erected on the common boundary.

Service station

7.2.3 The development parameters of 7.3 apply.

Site development plan

7.2.4 The Municipality may require that a site development plan be submitted for approval in accordance with 16.3.

7.3 BUSINESS ZONE 4: SERVICE STATION (B4)

Use of the property

7.3.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: service station and caretaker's accommodation.
- b) **Consent uses** are: heavy vehicle service station, motor repair garage, multiple parking garage, restaurant, transmission apparatus (subject to the provisions of Chapter 16.10), transport use and utility service.

Development parameters

7.3.2 The following development parameters apply:

- a) Floor factor

The maximum floor factor is 1.

- b) Coverage

The maximum coverage for all buildings on the land unit is 75%.

- c) Setback

- (i) The Municipality may require that all buildings and structures are set back 8,0 m from the centre line of the abutting public street or streets.
- (ii) The provisions of 16.2 apply.

- d) Height

- (i) The maximum height of a building, measured from the base level to the top of the structure, is 8,5 m.

- e) Building lines

- (i) The street building line is 5,0 m.

139/380

- (ii) The side building line is 0 m, provided that when a property zoned Business Zone 4 abuts a residential or community zone, the side building line is 3,0 m.
- (iii) The rear building line is 0 m, provided that when a property zoned Business Zone 4 abuts a residential or community zone, the rear building line is 3,0 m.
- (iv) The Municipality may impose more restrictive building lines in the interests of public health and safety.
- (v) The provisions of 16.1 apply.

f) Parking

Parking and access shall be provided on the land unit in accordance with 17.1.

g) Loading bays

Loading bays must be provided on the land unit in accordance with 17.2.

h) Site access requirements

- (i) The width of the vehicular access and exit ways to and from the site shall not be more than 10,0 m where it crosses the street boundary.
- (ii) A wall, at least 100 mm thick and 200 mm high, must be erected on the street boundary or where applicable on the setback line between different vehicle access and exit ways on the site. The wall must continue along such boundary unless the property is otherwise enclosed.
- (iii) The vehicular access or exit way crossings are restricted to two per site unless the total length of a street boundary exceeds 30,0 m, in which case one additional vehicular access or exit will be permitted.
- (iv) At the point where it crosses the street boundary, a vehicular access or exit way shall not be closer than:

140 | 380

- 30,0 m to the intersection of an arterial road with any other road of a similar status;
- 30,0 m to the nearest point of an intersection where traffic is controlled or is proposed to be controlled by a traffic signal or traffic island;
- 10,0 m from the corner of an intersection if such intersection is not splayed, or 5,0 m from the point where the splay meets the road boundary if such intersection is splayed; and
- 1,5 m from a side boundary.

i) Storage

Any part of the premises of a service station which is used for the storage purposes of empty containers such as oil drums or packing cases or other scrap shall be enclosed with a suitable brick wall of at least 2,0 m high or contained in a building, to the satisfaction of the Municipality.

j) Screening

Screening must be provided in accordance with 16.7.

Site development plan

- 7.3.3 The Municipality may require that a site development plan be submitted for approval in accordance with 16.3.

CHAPTER 8: INDUSTRIAL ZONES

8.1 INDUSTRIAL ZONE 1: GENERAL INDUSTRY (IND 1)

Use of the property

8.1.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: industry, agricultural industry, builder's yard, caretaker's accommodation, factory shop, funeral parlour, heavy vehicle service station, industrial café (subject to the provisions of Chapter 16.10), motor repair garage, service trade, service station, transmission apparatus (subject to the provisions of Chapter 16.10), transport use, utility services, warehouse and workshop.
- b) **Consent uses** are: abattoir, adult entertainment business, aquaculture, business premises, crematorium, dwelling unit, mining, noxious trade, place of assembly, place of entertainment, place of instruction, recreational facilities, restaurant, sale of alcoholic beverages and scrap yard.

Development parameters

8.1.2 The following development parameters apply in this zone.

- a) Floor factor

The maximum floor factor on the land unit shall not exceed 2.

- b) Coverage

The maximum coverage for all buildings on the land unit shall not exceed 75%.

- c) Height

The maximum height of any building measured from the base level to the top of the structure is 12,0 m, provided that where a structure of greater height is required for the industrial function of the property, the Municipality may grant approval for such greater height.

d) Building lines

- (i) The street building line shall be 5,0 m.
- (ii) The side and rear building line shall be 0 m.
- (iii) Where a land unit abuts a zone that is not an industry zone, the building lines of the particular zone, whichever is the greater, shall apply.
- (iv) Notwithstanding the above, the Municipality may stipulate greater building lines for considerations of public health and safety, fire control and in order to enforce any law or right.
- (v) The general building line exemptions in 16.1 apply.

e) Setback

- (i) A setback of 8,0 m from the centreline of the road applies.
- (ii) Notwithstanding the above, the Municipality may stipulate a setback for considerations of public health and safety, fire control and in order to enforce any law or right.
- (iii) The provisions of 16.2 apply.

f) Boundary walls

A wall of 2,1 m high must be erected where a land unit has a common boundary with another land unit that is not zoned General Industry (IND1) or Risk Industry (IND2) or when hazardous substances are stored on site.

g) Parking and access

Parking and access shall be provided on the land unit in accordance with 17.1.

h) Loading bays

Loading bays must be provided in accordance with 17.2.

i) Screening

Screening must be provided in accordance with 16.7.

Factory shop

- 8.1.3 The provisions of Chapter 16.10 apply.

Service station

- 8.1.4 The provisions of Chapter 16.10 apply.

Environmental considerations

- 8.1.5 An environmental study and/or environmental management plan may be required by the Municipality for its consideration and approval in accordance with 16.4.
- 8.1.6 No activity that includes the storage of on-site hazardous substances shall be permitted unless a risk management and prevention plan has been approved by the Municipality.
- 8.1.7 The Municipality may impose conditions of approval to mitigate the environmental impact of industrial activities on adjacent properties for considerations of public health and safety, fire control and in order to enforce any law or right.

Site development plans

- 8.1.8 The Municipality may require that a site development plan be submitted for approval in accordance with 16.3.

Scrapyard development parameters

- 8.1.9 The provisions of Chapter 16.10 apply.

Caretaker's dwelling

- 8.1.10 The provisions of Chapter 16.10 apply.

Office space

- 8.1.11 The provisions of Chapter 16.10 apply.

8.2 INDUSTRIAL ZONE 2: NOXIOUS & RISK INDUSTRY (IND 2)

Use of the property

8.2.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: caretaker's accommodation, factory shop, noxious trade, risk industry and transmission apparatus (subject to the provisions of Chapter 16.10).
- b) **Consent uses** are: aquaculture, industry, mining, scrap yard, service trade, shop, transport use, utility service and waste disposal site.

Development parameters

8.2.2 The following development parameters apply:

- a) Floor factor

The maximum floor factor shall not exceed 2.

- b) Coverage

The maximum coverage for all buildings on the land unit shall not exceed 75%.

- c) Height

- (i) No height restriction applies to noxious industry, risk activity and industry, provided that any other building on the land unit shall not exceed 12,0 m, measured from the base level to the top of the structure.
- (ii) Notwithstanding the above, where a structure of greater height is required for the industrial function of the property, the Municipality may grant approval for such greater height.
- (iii) The general provisions of 16.7 apply.

- d) Building lines

- (i) The street building line shall be 7,5 m.

145/380

- (ii) The side and rear building line shall be 5,0 m.
- (iii) Notwithstanding the above, the Municipality may stipulate greater building lines for considerations of public health and safety, fire control and in order to enforce any law or right.
- (iv) The general building line exemptions in 16.1 apply.

e) Setback

- (i) A setback of 8,0 m from the centreline of the road applies.
- (ii) Notwithstanding the above, the Municipality may stipulate a greater setback for considerations of public health and safety, fire control and in order to enforce any law or right.
- (iii) The provisions in 16.2 apply.

Boundary walls

A wall of up to 2,1 m high must be erected where a land unit has a common boundary with another land unit that is not zoned General Industry (IND 1) or Risk Industry (IND 2) or when hazardous substances are stored on site.

f) Parking and access

Parking and access shall be provided on the land unit in accordance with 17.1.

g) Loading bays

Loading bays shall be provided on the land unit in accordance with 17.2.

h) Screening

Screening must be provided in accordance with 16.7.

Service station

8.2.3 The development parameters in 7.3.2 apply.

Factory shop

146/380

8.2.4 The provisions of Chapter 16.10 apply.

Environmental impact

8.2.5 An environmental study and/or environmental management plan may be required by the Municipality for its consideration.

8.2.6 No activity that includes the on-site storage of hazardous substances shall be permitted unless a risk management and prevention plan has been approved by the Municipality.

8.2.7 The Municipality may impose additional conditions of approval to mitigate the environmental impact of industrial activities on adjacent properties.

Site development plans

8.2.8 The Municipality may require that a site development plan be submitted for approval in accordance with 16.3.

Office space

8.2.9 The provisions of Chapter 16.10 apply.

CHAPTER 9: COMMUNITY ZONES

9.1 COMMUNITY ZONE 1: COMMUNITY FACILITIES (CO1)

Use of the property

9.1.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: clinic, crèche, day care centre, multi-purpose centre, place of assembly, place of instruction and place of worship.
- b) **Consent uses** are: dwelling units, cemetery, conference facility, dwelling house, hospital, institution, recreational facilities, residential building, transmission apparatus (subject to the provisions of Chapter 16.10) and urban agriculture.
- c) **Additional uses:** A property in this zone may occasionally be used for fundraising or social functions, provided that:
 - (i) such functions are incidental and subsidiary to the uses permitted in this zone;
 - (ii) such functions do not, in the Municipality's opinion, generate excessive or prolonged disturbance, including noise, traffic or other public nuisance; and
 - (iii) all relevant policies and by-laws must be adhered to.

Development parameters

9.1.2 The following development parameters apply in this zone, provided that the development parameters for a dwelling house are determined by the development parameters that apply to the Single Residential Zone (SR1):

- a) Floor factor
 - (i) The floor factor on the land unit shall not exceed 1.2, provided that
 - (ii) The floor factor for a hospital is 2.

b) Coverage

The maximum coverage for all buildings on the land unit shall not exceed 60%.

c) Height

The maximum height of any building is 10,5 m, measured from the base level to the top of the structure, provided that there is a 14,0 m height limit for a bell tower, steeple, minaret or similar architectural feature to accentuate the significance of a building.

d) Building lines

- (i) All building lines shall be 5,0 m.
- (ii) The general building line exemptions of 16.1 apply.

e) Setback

- (i) A setback of 8,0 m, measured from the centreline of the street, applies and must be provided.
- (ii) The provisions in 16.2 apply.

f) Parking

Parking and access shall be provided on the land unit in accordance with 17.1.

g) Loading bays

Loading bays shall be provided on the land unit in accordance with 17.2.

h) Screening

Screening must be provided in accordance with 16.7.

Dwelling units

9.1.3 The following development parameters apply to dwelling units:

- a) The height of a dwelling unit which does not form part of a residential building, measured from the base level to the top of the structure, is 8,0 m.
- b) Dwelling units shall be for the bona fide accommodation of employees of the community facility concerned.
- c) The dwelling units shall remain on the same cadastral unit as the community facility concerned.
- d) The additional dwelling units shall be developed as a harmoniously designed entity.

Site development plans

- 9.1.4 The Municipality may require that a site development plan be submitted for approval in accordance with 16.3.

Landscape master plans

- 9.1.5 The Municipality may require a landscape master plan to be submitted for approval in accordance with 16.4.

CHAPTER 10: AUTHORITY AND UTILITY ZONES

10.1 AUTHORITY ZONE: AUTHORITY USAGE (AU)

Use of the property

10.1.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: authority use and additional use rights in accordance with 3.2.5.
- b) **Consent uses** are: cemetery, informal trading (subject to the provisions of Chapter 16.10), transmission apparatus (subject to the provisions of Chapter 16.10), utility service and any other uses determined by the Municipality.
- c) **Additional use:** A property in this zone may occasionally be used for fundraising or social functions, provided that:
 - (i) such functions are incidental and subsidiary to the uses permitted in this zone;
 - (ii) such functions do not, in the Municipality's opinion, generate excessive or prolonged disturbance, including noise, traffic or other public nuisance; and
 - (iii) all relevant policies and by-laws are adhered to.

Development parameters

10.1.2 The following development parameters apply:

- a) No structure shall be erected nor property used in this zone unless it is considered by the Municipality to be compatible or associated with the primary or consent use.
- b) The Municipality may require and approve a site development plan submitted in terms of 16.3 and/or an environmental management plan submitted in terms of 16.4.

151|380

- c) Prior to the approval of any building plan or engineering services plan, the Municipality shall determine the development parameters that apply to this zone when:
- (i) approving the zoning of a property to this zone; or
 - (ii) considering any site development plan or environmental management plan.

10.2 UTILITY ZONE: UTILITY SERVICES (UT)

Use of the property

10.2.1 The following use restrictions apply to property in this zone:

- a) **Primary use** is: utility service.
- b) **Consent uses** are: authority use, cemetery, crematorium, informal trading (subject to the provisions of Chapter 16.10), transmission apparatus (subject to the provisions of Chapter 16.10) and any other associated uses determined by the Municipality.

Development parameters

10.2.2 The following development parameters apply:

- a) No structure shall be erected nor property used in this zone unless it is considered by the Municipality to be compatible or associated with the permitted or consent use.
- b) The Municipality may require and approve a site development plan submitted in terms of 16.3 and/or an environmental management plan submitted in terms of 16.4.
- c) The Municipality shall determine the development parameters that apply to this zone:
 - (i) when approving the zoning of any property to this zone;
 - (ii) when considering any site development plan or environmental management plan; or
 - (iii) prior to the approval of any building plan or engineering services plan.

CHAPTER 11: CHAPTER 11: TRANSPORT ZONES

11.1 TRANSPORT ZONE 1: TRANSPORT USAGE (TR1)

Use of the property

11.1.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: multiple parking garage, transport use and utility service.
- b) **Consent uses** are: informal trading (subject to the provisions of Chapter 16.10), motor repair garage, service station, shops, transmission apparatus (subject to the provisions of Chapter 16.10) or any other use approved by the Municipality, provided that:
 - (i) such other use does not detract from the transport use as the predominant use; and
 - (ii) the property shall be rezoned if the other use constitutes a significant and permanent change from the primary use and if this land use scheme provides a more suitable alternative.

Development parameters

11.1.2 The following development parameters apply:

- a) Coverage

The maximum coverage for all buildings on the land unit is 80%.
- b) Floor factor

The maximum floor factor is 2.5.
- c) Height
 - (i) The maximum height of any building, measured from the base level to the top of the structure, is 10,0 m.
- d) Setback

- (i) The Municipality may require that all buildings and structures on the property are set back at least 6,5 m from the centre line of the street.
- (ii) Where special circumstances exist, the Municipality may require a wider setback.
- (iii) The provisions of 16.2 apply.

e) Building lines

- (i) The street building line is 0 m, provided that a 3,5 m building line applies where fuel pumps are erected.
- (ii) The side building line is 0 m, provided that where any Transport Zone 1 abuts a residential zone, the side building line is 3,0 m.
- (iii) The rear building line is 0 m, provided that where any Transport Zone 1 abuts a residential zone, the rear building line is 3,0 m.
- (iv) The Municipality may require building lines in the interests of public health or safety or the environment or in order to enforce any applicable law or right.
- (v) The building line exemptions in 16.1 apply.

f) Parking and access

Parking and access shall be provided on the land unit in accordance with Chapter 17.1.

g) Loading bays

Loading bays must be provided on the land unit in accordance with Chapter 17.2.

h) Screening

- (i) The Municipality may require screening in accordance with 16.7.
- (ii) Where a Transport Zone 1 abuts a residential zone, a suitable wall of no less than 1,8 m must be erected.

155/380

Informal business

11.1.3 The provisions of Chapter 16.10 apply.

Service station

11.1.4 The development parameters of 7.3 apply.

Site development plan

11.1.5 The Municipality may require that a site development plan be submitted for approval in accordance with 16.3.

11.2 TRANSPORT ZONE 2: ROAD AND PARKING (TR2 A & B)

Use of the property

11.2.1 The following use restrictions apply to property in this zone:

- a) **TR2 A primary uses** are: private parking and private road.
- b) **TR2 B primary uses** are: public road and public parking.
- c) **Consent uses** are informal trading (subject to the provisions of Chapter 16.10), transmission apparatus (subject to the provisions of Chapter 16.10) or any other uses determined by the Municipality, provided that:
 - (i) such other use does not detract from the transport use as the predominant use; and
 - (ii) the property shall be rezoned if the other use constitutes a significant and permanent change from the primary use and if this land use scheme provides a more suitable alternative.

Development parameters

11.2.2 The following development parameters apply:

- a) Deemed zoning

Any public road and/or street or any portion of land indicated as a public road on an approved subdivision plan that has not lapsed shall be deemed to be zoned as Transport Zone 2 B: Public Road.

- b) Construction and deposit of materials

Except when written permission was acquired from the Municipality and requirements of the Municipality adhered to, no person may:

- (i) construct a private crossing, bridge or culvert onto or across a public street;
- (ii) construct or lay a sidewalk on a public street;

- (iii) construct a verandah, stoep, wall, steps or other projection in or over a public street; or
- (iv) deposit or leave any goods, articles, building materials or waste in a public street, other than for a reasonable period of time during the course of loading, off-loading or removal of these goods, articles, building materials or waste.

Informal business

11.2.3 The provisions of Chapter 16.10 apply.

Site development plan

11.2.4 The Municipality may require that a site development plan be submitted for approval in accordance with 16.3.

11.3 TRANSPORT ZONE 3: HARBOUR ZONE (TR3)

Use of the property

11.3.1 The following use restrictions apply to property in this zone:

- a) **Primary use** is: harbour use.
- b) **Consent uses** are: aquaculture, business premises, conference facilities, flats, holiday accommodation, hotel, industry, informal trading (subject to the provisions of Chapter 16.10), institution, markets, multiple parking garage, offices, place of assembly, place of entertainment, place of worship, recreational facility, restaurant, sale of alcoholic beverages, service station, tourist accommodation, tourist facility, transport use, town housing, utility service and transmission apparatus (subject to the provisions of Chapter 16.10), provided that the Municipality may approve any other use associated with waterfront development where:
 - (i) such other use does not detract from the harbour use as a dominant use of the development; and
 - (ii) the property shall be rezoned if the other use constitutes a significant and permanent change from the primary use and if this land use scheme provides a more suitable alternative.

Development parameters

Harbour usage

11.3.2 The Municipality may require and approve a site development plan in terms of 16.3 or an environmental management plan in terms of 16.4.

11.3.3 The Municipality must determine the development parameters applicable to a land unit when, prior to the approval of any building plans or engineering services:

- a) the zoning of a land unit to this zone is approved;
- b) any environmental impact report is considered;

- c) any environmental management plan is considered; and
- d) any site development plan is approved.

11.3.4 Structures/buildings may be erected with the written consent of the Municipality, should the Municipality deem it necessary, provided that the Municipality may impose conditions relating to design, architecture and developments parameters.

Consent uses

11.3.5 Other than for town housing and informal trading, the following development parameters apply to all consent uses in this zone:

a) Coverage

The maximum coverage for all buildings on the land unit is 75%.

b) Floor factor

The maximum floor factor is 1.5.

c) Height

- (i) The maximum height of a building, measured from the base level to the top of the structure, is 11,0 m.

d) Setback

- (i) The Municipality may require that all buildings and structures on the property are set back at least 6,5 m from the centre line of the street.
- (ii) Where special circumstances exist, the Municipality may require a wider setback.
- (iii) The general provisions of Chapter 16.2 apply.

e) Building lines

- (i) The street building line is 0 m, provided that a 3,5 m building line applies where fuel pumps are erected.

- (ii) The side building line is 0 m, provided that where any Transport Zone 3 abuts another zone, the side building line is 3,0 m.
 - (iii) The rear building line is 3,0 m, provided that where any Transport Zone 3 abuts another zone, the rear building line is 4,5 m.
 - (iv) The Municipality may require more restrictive building lines in the interests of public health or safety or the environment or in order to enforce any applicable law or right.
 - (v) The building line exemptions in Chapter 16.1 apply.
- f) Parking and access
- Parking and access shall be provided on the land unit in accordance with Chapter 17.1.
- g) Loading bays
- Loading bays must be provided on the land unit in accordance with Chapter 17.2.
- h) Screening
- (i) The Municipality may require screening in accordance with Chapter 16.7.
 - (ii) Where a Harbour Zone abuts a residential zone, a suitable wall of no less than 1,8 m must be erected.

Town housing

11.3.6 The development parameters in 6.3.2 apply.

Informal trading

11.3.7 The provisions of Chapter 16.10 apply.

Site development plan

161/380

11.3.8 The Municipality may require that a site development plan be submitted for approval in accordance with 16.3.

CHAPTER 12: OPEN SPACE AND NATURE ZONES

12.1 OPEN SPACE ZONE 1: NATURE RESERVE (OS1)

Use of the property

12.1.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: nature reserve and conservation use.
- b) **Consent uses** are: dwelling units, environmental facilities, transmission apparatus (subject to the provisions of Chapter 16.10), tourist accommodation, tourist facilities, utility service and any other related uses permitted by the Municipality.

Development parameters

12.1.2 The following development parameters apply:

- a) A site development plan must be submitted in terms of 16.3 to the satisfaction of the Municipality.
- b) The Municipality may require an environmental study and/or environmental management plan in terms of 16.4.
- c) Prior to the approval of any building plans or engineering services, the Municipality must determine the development parameters applicable to a land unit when:
 - (i) the zoning of a land unit to this zone is approved;
 - (ii) any environmental impact report is considered;
 - (iii) any environmental management plan is considered; and
 - (iv) any site development plan is approved.

163/380

- d) Structures/buildings may be erected with the written consent of the Municipality, should the Municipality deem it necessary, provided that the Municipality may impose conditions relating to design, architecture and development parameters.

12.2 OPEN SPACE ZONE 2: PUBLIC OPEN SPACE (OS2)

Use of the property

12.2.1 The following use restrictions apply to property in this zone:

- a) **Primary use** is: public open space.
- b) **Consent uses** are: cemetery, environmental facilities, informal trading (subject to the provisions of Chapter 16.10), recreational facilities, tourist facilities, transmission apparatus (subject to the provisions of Chapter 16.10), urban agriculture, utility service, any other related uses permitted by the Municipality.

Development parameters

12.2.2 The following development parameters apply:

- a) A site development plan must be submitted in terms of 16.3 to the satisfaction of the Municipality.
- b) The Municipality may require an environmental study and/or environmental management plan in terms of 16.4.
- c) Prior to the approval of any building plans or engineering services, the Municipality must determine the development parameters that apply when:
 - (i) the zoning of a land unit to this zone is approved;
 - (ii) any environmental impact report is considered;
 - (iii) any environmental management plan is considered; and
 - (iv) any site development plan is approved.
- d) No structure shall be erected or use practised except such as is compatible with "public open space" as defined.
- e) Structures/buildings may be erected with the written consent of the Municipality, should the Municipality deem it necessary, provided that the Municipality may impose conditions relating to design, architecture and developments parameters.

12.3 OPEN SPACE ZONE 3: PRIVATE OPEN SPACE (OS3)

Use of the property

12.3.1 The following use restrictions apply to property in this zone:

- a) **Primary use** is: private open space.
- b) **Consent uses** are: cemetery, environmental facilities, recreational facilities, tourist accommodation, tourist facilities, transmission apparatus (subject to the provisions of Chapter 16.10), urban agriculture, utility services and any other related uses permitted by the Municipality.

Development parameters

12.3.2 The following development parameters apply:

- a) A site development plan must be submitted in terms of 16.3 to the satisfaction of the Municipality.
- b) The Municipality may require an environmental study and/or environmental management plan in terms of 16.4.
- c) Prior to the approval of any building plans or engineering services, the Municipality must determine the development parameters that apply when:
 - (i) the zoning of a land unit to this zone is approved;
 - (ii) any environmental impact report is considered;
 - (iii) any environmental management plan is considered; and
 - (iv) any site development plan is approved.
- d) No structure shall be erected or use practised except such as is compatible with the "private open space" as defined.
- e) Structures/buildings may be erected with the written consent of the Municipality, should the Municipality deem it necessary, provided that the Municipality may impose conditions relating to design, architecture and development parameters.

CHAPTER 13: RESORT ZONE

13.1 RESORT ZONE: HOLIDAY RESORTS (RZ)

Use of the property

13.1.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are: conservation use, holiday accommodation, private open space, private road and tourist accommodation.
- b) **Consent uses** are: additional dwelling units, conference facilities, holiday housing, hotel, place of assembly, place of entertainment, recreational facilities, restaurant, transmission apparatus (subject to the provisions of Chapter 16.10), tourist facilities or any other uses determined by the Municipality.

Development parameters

13.1.2 The following development parameters apply:

- a) Prior to the approval of any building or engineering services plan, the Municipality shall stipulate development parameters with regard to density, height, coverage, layout, building design, landscaping, parking, access, signage and the use of the property when:
 - (i) the zoning of a land unit to this zone is approved;
 - (ii) any environmental impact report is considered;
 - (iii) any environmental management plan is considered; and
 - (iv) any site development plan and landscape master plan is approved.
- b) A site development plan must be submitted to the Municipality for approval in accordance with 16.3.
- c) A landscape master plan and environmental management plan shall be submitted to the Municipality and approved in terms of the provisions stipulated in 16.4.

- d) The Municipality shall stipulate the required services and other infrastructure required to service the resort.

Identification of zoned area

- 13.1.3 The Municipality may approve a resort zoning on a portion of a land unit if it is satisfied that the proposed use or activity is desirable, provided that:
- a) the area affected by the activity is clearly identified on a survey diagram or other plan prepared by a suitably qualified person to the Municipality's satisfaction and endorsed by the Municipality; and
 - b) the area thus identified is clearly marked on the zoning map.

Holiday housing

- 13.1.4 The following additional development parameters apply to holiday housing:
- a) Holiday housing shall not comprise more than 50% or a lesser percentage (as determined by the Municipality) of the units provided on the property concerned.
 - b) Height applicable to be applied in this zone shall be determined by the Municipality but is restricted to a maximum of two storeys.
 - c) A home owner's association shall be established and the home owners association's constitution submitted to the Municipality for approval, where holiday housing is provided.

Additional dwelling units

- 13.1.5 The Municipality may approve additional dwelling units, provided that:
- a) the Municipality is satisfied that additional dwelling units are for the normal accommodation of employees of the resort who are active in the normal resort practice conducted on the property;
 - b) these units are designed as an integral part of the resort; and
 - c) these units are subject to the development parameters as determined by the Municipality.

168/380

Site development plan

- 13.1.6 The Municipality may require that a site development plan is submitted for approval in accordance with 16.3.

Environmental management plan

- 13.1.7 The Municipality may require that an environmental management plan is submitted in accordance with 16.4.

CHAPTER 14: OTHER ZONES

14.1 SUBDIVISIONAL AREA ZONE (SA)

Development parameters

14.1.1 The following development parameters apply:

- a) The zoning of a land unit as Subdivisional Area shall not exempt an owner from compliance with the provisions of relevant planning laws which govern the subdivision of land.
- b) The density requirement and other conditions which are laid down at the time of approval of the rezoning to Subdivisional Area shall apply and such conditions may include, but are not limited to, requirements for a development framework, environmental study and/or environmental management plan, transport impact assessment, landscape master plan, precinct plan and/or site development plan.
- c) Any plan of subdivision submitted for a land unit that is zoned Subdivisional Area shall stipulate the intended zoning of each proposed subdivision or land portion, include a legend with a colour scheme and zoning in accordance with the land use scheme, be properly numbered and may include retention of the Subdivisional Area Zone for specified land portions to be further subdivided and developed at later stages, provided that the Municipality may request such additional information as it deems necessary to be included in the plan of subdivision.
- d) At the confirmation of a subdivision for property which has been zoned as Subdivisional Area, the zoning provisions approved by the Municipality as conditions of the subdivision approval shall be deemed to be a substitution scheme.

14.2 SPECIAL ZONE (SZ)

Use of the property

14.2.1 The following use restrictions apply to property in this zone:

- a) **Primary use:** none.
- b) **Consent uses** are: special usage, which means any other use determined by the Municipality when approving a Special Zone and which is not catered for under a primary or consent use contained in the scheme.

Development parameters

14.2.2 The Municipality shall determine the development parameters when the use of land is approved, provided that:

- a) special factors justify the creation of special development parameters for a property, without justifying the creation of a new zone in this scheme;
- b) when granting an application for a Special Zone, the Municipality must determine development parameters with regard to maximum floor space, coverage, height, building lines, parking, density, layout and the use of the property;
- c) the Municipality may determine the development parameters in accordance with a Special Zone Annexure or Special Zone Site Development Plan; and
- d) Special Zone Annexures and Special Zone Site Development Plans must be adopted and may be amended by the Municipality in terms of the Municipality's resolution and do not require the formal amendment of this land use scheme.

Special Zone Annexure

14.2.3 When the Municipality employs the Special Zone Annexure method of development management, the Municipality must:

- a) identify the area concerned on the zoning map by way of a separate number and stipulate the development parameters that apply for the area as a separate Special Zone in an annexure to this land use scheme;
- b) give each Special Zone, where the development parameters are unique, a separate number, and each number with the accompanying development parameters must be recorded as a separate Special Zone in the annexure to the land use scheme; and
- c) compile a list of Special Zone Annexures established in terms of this land use scheme and record these in Annexure B.

Special Zone site development plans

14.2.4 When the Municipality employs the Special Zone Site Development Plan method of development management, the Municipality must:

- a) identify the area concerned on the zoning map by way of a separate number and require a site development plan to be submitted in accordance with 16.3;
- b) register the reference number of the site development plan approved by the Municipality; and
- c) compile a list of special zone site development plans established in terms of this land use scheme and record these in Annexure B.

Landscape master plan

14.2.5 The Municipality may require a landscape master plan to be submitted in accordance with 16.3.

Environmental management plan

14.2.6 The Municipality may require an environmental management plan to be submitted in accordance with 16.4.

14.3 UNDETERMINED ZONE (U)

Use of the property

14.3.1 The following use restrictions apply to property in this zone:

- a) **Primary uses** are limited to only lawful uses existing at the operative date of this land use scheme.
- b) **Consent uses:** none.

Development parameters

14.3.2 No change of an existing use or expansion of an existing building or structure is permitted.

No rezoning to this zone permitted

14.3.3 No rezoning of any property to this zone is permitted after the operative date of this land use scheme.

14.3.4 If additional uses or development rights are required, a rezoning application to another, more appropriate zone in terms of this land use scheme must be processed.

Reconstruction of destroyed property

14.3.5 Property that has been partially or completely destroyed by accidental causes may be reconstructed in accordance with the development rights that existed at the operative date of this land use scheme, provided that building plans for such reconstruction are approved within 12 months from the date of the accidental destruction.

173/380

PART 3: OVERLAY ZONES

CHAPTER 15: GENERAL RULES FOR OVERLAY ZONES

15.1 PROCEDURES FOR OVERLAY ZONES

Adoption or amendment of overlay zones

15.1.1 The Municipality may prepare, approve, amend or repeal overlay zones for specific areas in order to:

- a) give expression to the local needs and values of the communities concerned in a planning context;
- b) promote sustainable development and respond to current urban or conservation realities in a particular area; and
- c) respond to particular types of development, urban form, landscape character or environmental features, provided that the Municipality is satisfied that the above-mentioned objectives are appropriate for the area concerned and that the fulfilment of these objectives does not detract from the Municipality's ability to serve the needs of the municipal area as a whole.

15.1.2 If the Council intends to adopt, amend or repeal an overlay zone, the Municipal Manager shall:

- a) cause the proposed adoption, amendment or repeal to be advertised in accordance with the public consultation policy of the Municipality, affording interested parties the opportunity to submit written comments or objections to the Municipal Manager within a period of not less than thirty days from the date of such advertisement;
- b) obtain the relevant comment of any organ of state which, in his or her opinion, has an interest in the overlay zone concerned;
- c) submit the proposed overlay zone, amendment or repeal and all relevant documentation to the Municipality for consideration and a decision;

- d) notify all persons who submitted comments relating to the adoption, amendment or repeal of the overlay zone within the prescribed period of the Municipality's decision; and
- e) make known the adoption, amendment or repeal by publication of a notice in the press, confirming at which municipal office the relevant documentation may be inspected by interested parties.

Identification and numbering

- 15.1.3 The Municipality shall approve a distinctive name and number for each overlay zone and any sub-zone when adopting such overlay zone or sub-zone.
- 15.1.4 The Municipality shall indicate the area of an overlay zone on the zoning map and:
 - a) shall record the existence of a overlay zone in Annexure C to this land use scheme, with reference to where any detailed provisions of the overlay zone may be found; and
 - b) shall record the detailed provisions of the overlay zone in a separate Appendix document with a cross reference in that document to the annexure concerned.

15.2 STATUS OF OVERLAY ZONES

Status of overlay zones

- 15.2.1 An overlay zone applies in addition to the base zone (or underlying zoning) of the properties to which it relates and may vary the development parameters relating to these properties.
- 15.2.2 The provisions of an overlay zone may be more restrictive or more permissive than the provisions applicable to the base zone of the property concerned.
- 15.2.3 If the provisions of an overlay zone are different to or in conflict with the provisions of a base zone, the more restrictive provisions shall apply unless stated otherwise in the overlay zone concerned.

15.2.4 The provisions of an overlay zone do not in any way detract from any obligations in terms of national and provincial legislation.

177/380

PART 4: GENERAL PROVISIONS

CHAPTER 16: GENERAL PROVISIONS APPLICABLE TO ALL ZONES

16.1 GENERAL ENCROACHMENTS

Encroachment of building lines permitted

16.1.1 The following additional development parameters apply with regard to encroachment of building lines:

General encroachments permitted

- a) Notwithstanding the building line requirements set out in Part 2, the following structures or portions of structures may be erected over the prescribed building lines, provided that they do not extend beyond the boundaries of the land unit:
- (i) boundary walls, retaining walls, screen walls, fences and gates not exceeding 2,1 m in height above the existing ground level abutting such wall;
 - (ii) open and uncovered stoeps, pools and filling lower than 1,0 m above the existing ground level;
 - (iii) entrance steps, landings and entrance porches lower than 1,0 m above the existing ground level;
 - (iv) a covered and uncovered pedestrian entrance or gatehouse constructed on the street boundary and has a footprint and/or roof area not exceeding 5,0 m² and a height not exceeding 3,0 m from natural ground level to the highest point of the structure;
 - (v) eaves, awnings and canopies projecting no more than 1,0 m from the wall of the building;
 - (vi) chimney breasts, flower boxes, water pipes and drain pipes not projecting more than 500 mm from the wall of the building;
 - (vii) minor decorative features not projecting more than 250 mm from the wall of the building;

- (viii) swimming pools, if closer than 1,0 m from the erf boundary, an engineering certificate is required;
- (ix) pool pumps/pump houses not exceeding 1,0 m above existing ground level;
- (x) a refuse room that has a footprint not exceeding 5 m² and, if covered, a roof height not exceeding 3,0 m or as required by the Municipality in terms of 17.4;
- (xi) built braais up to a maximum of 1,0 m in height above the existing ground level, with the consent of affected neighbours;
- (xii) water tanks and gas bottle storage enclosures not exceeding 2,1 m in height and screened behind a boundary wall/screen to the same height; and
- (xiii) any encroachment or structure which causes additional impact will be subject to compliance with the applicable policy or legislation.

Encroachment of height restriction permitted

- b) The following structures or portions of structures may encroach upon the height restriction, provided that:
- (i) chimney(s), excluding cowl(s), TV antennas and satellite dishes are no more than 1,0 m above the height restrictions;
 - (ii) a chimney that encroach upon the height restriction may not be more than 1,0 m in width; and
 - (iii) the erection of energy renewable structures (solar panels, wind turbines, etc.) above the height restriction may not exceed 1,0 m in height and 1,0 m in width.

Encroachment of side and rear building lines permitted

c) The Municipality may approve the construction of a structure used for the housing of vehicles that encroaches onto the side and rear building lines, provided that:

- (i) written consent from the immediate neighbours is obtained;
- (ii) no building that encroaches the building line may be higher than 3,5 m above the existing ground level on the common boundary, provided that the height may increase at a 40 degree angle away from such boundary;
- (iii) the length and width of the structure does not exceed one third of the lateral and rear boundary concerned or 9,0 m, whichever is the most restrictive (except in cases as prescribed in point (iv) below);
- (iv) where the lateral/rear boundary of the property is less than 19,5 m in width, the structure will have a maximum width of 6,5 m on the rear boundary;
- (v) no doors and windows shall be permitted in any wall closer than 1,0 m to the rear or side boundary;
- (vi) a 1,0 m wide access may be required to the satisfaction of the Fire Department;
- (vii) no runoff of rainwater from a roof shall be discharged directly onto adjoining properties;
- (viii) the garage/carport shall be included in the calculation of coverage on the land unit; and
- (ix) the Municipality is satisfied that the structure does not pose a fire hazard and is constructed of appropriate material to its satisfaction.

Should any of the above-mentioned not be complied with, an application will be applicable.

Encroachment of the street building line

- d) Upon an application, the Municipality will also take the following principles into account:
- (i) if, in its opinion, the architectural effect of the building line relaxation will enhance the appearance of a street;
 - (ii) if, in its opinion, there are special circumstances, motivated to its satisfaction by the property owner, such as the topography of the site;
 - (iii) all other buildings and outbuildings are to comply with the street building line applicable within the zone concerned; and
 - (iv) in the case of a garage or carport, 16.1.2 will apply.

Garages and carports within street building lines

16.1.2

- a) Upon an application, the Municipality will also take the following principles into account:
- (i) The Municipality may permit the construction of a garage over a street building line if, in the Municipality's opinion, the garage cannot reasonably be sited at the prescribed distance due to the slope of the land unit or for other reasons provided.
 - (ii) The height of such garage from the natural ground level to the top of the structure does not exceed 4,5 m.
 - (iii) The front elevation of the garage may not be closer than 5,0 m to the road kerb or surface.
- b) The Municipality may permit the construction of a carport over the street building line, provided that:
- (i) the width of such carport shall not exceed 6,5 m;
 - (ii) the roof of the carport shall be supported by a metal or timber post or brick, concrete or masonry pillars;

182/380

(iii) the carport shall not be enclosed on any side, except by:

- a boundary fence or wall;
- a wall which forms the external wall of a building; or
- a security or automated gate.

the height of such carport, measured from the natural ground level to the highest point of the structure over the building line, may not exceed 3,0 m on the street boundary, but the height may increase at a 40 degree angle away from such boundary (roof).

16.2 SETBACKS

16.2.1 The portions of any land unit falling within a setback area shall be excluded for the purpose of determining coverage and maximum floor space unless the owner transfers the portion concerned to the Municipality free of any charge. In that case, the portion shall be included for the purpose of determining the coverage or maximum floor space on the land unit.

16.3 SITE DEVELOPMENT PLANS

16.3.1 The Municipality may require a site development plan to be submitted to its satisfaction for any land unit, provided that:

- a) the site development plan shall not be unreasonably refused if it is consistent with the development parameters approved in terms of a base zone, overlay zone or rezoning approval; but
- b) the Municipality may require amendments of detail to the site development plan to address reasonable concerns relating to access, parking, architectural form, urban design, landscaping, environmental management, engineering services or similar concerns; and
- c) the Municipality may cause the site development plan to be advertised where it is of the opinion that advertisement of the proposed development is in the public interest.

16.3.2 The following provisions shall apply with regard to site development plans:

- a) A site development plan shall show the details referred to in the definition of "site development plan" unless the Municipality agrees to waive certain requirements.
- b) If the Municipality considers it necessary, a transport impact assessment may be required in conjunction with a site development plan, the extent of which shall be determined by the Municipality, depending on the magnitude of the development.

- c) If the Municipality considers it necessary, a stormwater management assessment and management plan may be required in conjunction with a site development plan, the extent of which shall be determined by the Municipality, depending on the magnitude of the development.
- d) The Municipality may approve a site development plan which is submitted for its approval, or may require amendments before it is approved, or may refuse it.
- e) In circumstances where a site development plan is required in terms of this land use scheme, no application for building plan approval in terms of the National Building Act shall be granted by the Municipality unless a site development plan has first been approved.
- f) The property shall be developed generally in accordance with the site development plan as approved by the Municipality and to the satisfaction of the Municipality.
- g) Application may be submitted to the Municipality for amendment of an approved site development plan.
- h) The Municipality shall process an application to approve or amend a site development plan in accordance with its policy for transparency, public consultation and administration of such applications.
- i) When approving a site development plan or amendment to a site development plan, the Municipality may impose conditions of approval.

16.4 ENVIRONMENTAL MANAGEMENT PLANS

16.4.1 The following provisions shall apply with regard to environmental management plans:

- a) An environmental management plan shall contain the information specified in the definition of "environmental management plan" unless the Municipality agrees to waive certain requirements.

- b) An environmental management plan must be compiled by a suitably qualified or registered environmental specialist.
- c) The Municipality may approve an environmental management plan which is submitted for its approval, or may require amendments before it is approved, or may refuse it.
- d) If an environmental management plan is required in terms of this land use scheme, no site works are permitted and no application for subdivision of land, transfer of land units or building plan approval in terms of the National Building Act shall be granted by the Municipality until it has first approved an environmental management plan.
- e) The property shall be developed and managed generally in accordance with the environmental management plan as approved by the Municipality and to the satisfaction of the Municipality.
- f) Application may be submitted to the Municipality for amendment of an approved environmental management plan.
- g) The Municipality shall process an application to approve or amend an approved environmental management plan in accordance with its policy for transparency, public consultation and administration of such applications.
- h) When approving an environmental management plan or amendment to an environmental management plan, the Municipality may impose conditions of approval.

16.5 OWNERS' ASSOCIATION OR BODY CORPORATE

- 16.5.1 If the Municipality requires an owners' association to be established for any development, either an owners' association in terms of the Planning Law or a body corporate in terms of the Sectional Titles Act may satisfy this requirement.

16.6 BOUNDARY WALLS

16.6.1 Without the prior written permission of the Municipality, no boundary wall or fence shall exceed 2,1 m in height above the existing ground level abutting such wall or fence (unless other heights are required by Fire Regulations), provided that where the ground levels on opposite sides of the wall or fence are unequal, the height of the wall or fence shall be measured from the higher of the two levels.

16.6.2 Only electric fencing will be allowed above the 2,1 m height restriction, subject to a maximum height of 0,5 m.

16.7 SCREENING

16.7.1 The Municipality may require screening in accordance with the following:

- a) any part of the land unit which is used for the storage or loading of goods shall be enclosed with a suitable wall and/or landscape screening; and
- b) any external utility service or equipment which is required for a building shall be appropriately screened from view from a public street, and such screening shall be integrated with the building in terms of materials, colour, shape and size and shall be to the Municipality's satisfaction.

16.8 AESTHETICS AND MAINTENANCE OF PROPERTY AND PLACEMENT OF VEHICLES

Maintenance of property

16.8.1 Property shall be properly maintained by the owner or occupant, and aesthetics of the property must generally be in keeping with the surrounding area. The property shall not be left in a neglected or offensive state and shall not:

- a) contain an unsightly accumulation of papers, cartons, garden refuse rubble and/or other waste material;

- b) contain an accumulation of motor wrecks or used motor parts unless these are part of a primary or consent use in terms of this land use scheme; or
- c) contain outdoor storage of building material, appliances or similar items unless these are:
 - (i) part of a primary or consent use in terms of this land use scheme;
 - (ii) being temporarily stored for the purpose of construction in accordance with a valid building plan approval; or
 - (iii) in conjunction with a yard or garage sale with a duration of not more than two consecutive days.

Placement of vehicles in residential zones

16.8.2 The following development parameters apply to the placement of vehicles in the Single Residential Zones and General Residential Zones:

- a) A motor vehicle owned by an occupant of a dwelling unit and used for commercial activities conducted away from the dwelling unit may be parked on the property where the occupant resides, provided that:
 - (i) there is adequate space on the property concerned;
 - (ii) no more than one commercial vehicle per dwelling unit shall be parked on the property; and
 - (iii) the gross weight of any such commercial vehicle shall not exceed 3 500 kg.
- b) Placement of private motor vehicles shall not exceed more than five, inside a garage or on the property, including motor vehicles used for recreational purposes.

Mobile homes

16.8.3 The following development parameters shall apply with regard to mobile homes placed on a land unit zoned for resort purposes:

(88/380

- a) The mobile home shall be sited on a foundation slab and anchored to the Municipality's satisfaction.
- b) Solid perimeter skirting of material and colour complementary to the mobile home shall be provided from the bottom of the mobile home to the ground surface.
- c) The roof and exterior siding of the mobile home shall be of a non-reflective material.
- d) Any structural additions shall be of materials which, in the opinion of the Municipality, are compatible with the mobile home.

16.9 OTHER MUNICIPAL BY-LAWS, POLICIES AND DEVELOPMENT CONTROLS

Compliance with by-laws

16.9.1 The provisions of this land use scheme do not detract from compliance with any other Municipal by-laws.

Title deed restrictions

16.9.2 Both the title deed restrictions and land use scheme parameters are applicable. The most restrictive applies.

Conditions of approval

16.9.3 If the Municipality imposes a condition of approval that is more restrictive than the land use scheme, the development controls contained in the approval take precedence over the land use scheme, and these must be included in the register.

16.10 GENERAL DEVELOPMENT PARAMETERS

Additional dwelling units

16.10.1 The Municipality may approve additional dwelling units in Agricultural Zone I, provided that:

- a) the additional dwelling units shall remain on the same cadastral boundary as the primary dwelling unit;
- b) the number of additional dwelling units shall not exceed the 1 unit per 10,0 ha, up to a maximum of 5 additional dwelling units per land unit;
- c) One additional dwelling unit will also be considered for land units less than 10,0 ha;

190/380

- d) no additional dwelling units may be erected within 100 m of the high water mark on the coast, other than where additional dwelling units are provided as an integral part of an existing farmstead with special consent of the Municipality;
- e) the total floor area of the dwelling is limited to 250 m²; and
- f) no sectional title or alienation of units.

Agricultural industry

16.10.2 The Municipality may approve an agricultural industry if it is satisfied that the proposed use or activity is desirable, provided that:

- a) the area affected by the agricultural industry must be clearly identified on a land survey diagram or other plan prepared by a suitably qualified person to the Municipality's satisfaction and endorsed by the Municipality; and
- b) the following development parameters apply:
 - (i) a site development plan must be submitted to the Municipality's satisfaction in terms of 16.3 for all new development or extensions within an area determined in terms of (a) above; and
 - (ii) parking and access shall be provided on the identified portion in terms of Chapter 17, provided that the Municipality may require additional parking and loading requirements in response to the operational requirements of a particular agricultural industry.

Caretaker's accommodation

16.10.3 The following provisions shall apply where a portion of an industrial or business structure is used for the purposes of housing a caretaker:

- a) A caretaker's accommodation may not exceed 80 m², and
- b) A caretaker's accommodation may only be utilised in connection with the industrial or business property.

Crèche

16.10.4 The following provisions shall apply where a portion of the property is used by the occupant of the property for the purposes of a crèche:

- a) No more than 5 children are permitted at any one time;
- b) A register of children must be kept and completed, and the register must be produced for inspection on the request of the Municipality;
- c) The services shall be primary crèche or educational and not medical;
- d) The hours of operation shall be restricted to 06h00 to 18h00 from Mondays to Fridays and from 06h00 to 13h00 on Saturdays;
- e) The proprietor of the crèche shall reside on the property;
- f) Land use will not be transferrable;
- g) No more than two assistants may be employed at the crèche, and

The minimum indoor and outdoor play space shall be provided according to applicable legislation.

Day care centre (applicable to Residential Zone 1)

16.10.5 The following provisions shall apply where a day-care centre is operated on a Residential Zone 1 property:

- a) A maximum of 30 children/babies are permitted subject to compliance with the minimum indoor and outdoor play space according to applicable legislation;
- b) The day care centre must be compliant with all the applicable relevant legislation;
- c) A minimum of 1 parking bay per teacher and a pick-up-and-go facility must be provided to the satisfaction of the engineering services;
- d) Applicable tariffs in accordance with the Municipal budget;

- e) A register of children must be kept and completed, and the register must be produced for inspection on the request of the Municipality;
- f) The hours of operation shall be restricted to 06h00 to 18h00 from Mondays to Fridays and from 06h00 to 13h00 on Saturdays, and

The proprietor of the day care centre shall reside on the property.

Factory shop

16.10.6 The occupant of an industrial property or portion thereof may operate a shop for the sale of goods which have been completely or partially manufactured on the property, and such other goods as the Municipality may permit, provided that:

- (i) the total floor space of the property or portion thereof devoted to the sale of goods shall not exceed 10% of the total floor space of all buildings on the land unit; and
- (ii) such other goods that are offered for sale but have not been manufactured on the property are related to the goods that are manufactured on the property.

Farm shop/stall

16.10.7 The Municipality may approve a farm shop, provided that:

- a) the maximum floor area of the farm shop/stall shall not exceed 300 m²;
- b) the maximum height does not exceed a single storey, measured from the base level to the top of the structure;
- c) sufficient parking is provided to the satisfaction of the Municipality; and
- d) the access requirements of the relevant road authority must be complied with.

Guest house (only applicable in Residential Zone 1)

16.10.8 The following provisions shall apply where a dwelling house or a second dwelling is used for a guest house:

193/380

- a) The manager and/or owner shall reside in the main or second dwelling (excluding outbuildings) on the property;
- b) A maximum of 5 bedrooms (10 persons) per property may be used for paying transient guests;
- c) Guest rooms may not be converted to or used as separate dwelling units.
- d) Meals may also be provided to bona fide guests on the property;
- e) The residential character must be retained;
- f) Subject to obtaining a liquor licence, alcoholic beverages may only be sold to resident guests for consumption with meals on site;
- g) Home occupation will not be permitted on the same property as a guest house.
- h) A place of entertainment shall not be permitted;
- i) No more than 3 staff members shall be employed in support of the establishment at any given time;
- j) No advertising sign shall be displayed without the written approval of the Municipality other than a single, un-illuminated sign or notice affixed to the building or boundary wall or fence, and such sign must be in line with the Overstrand Signage By-Law at any given time.
- k) No activities constituting a source of public nuisance shall be carried out;
- l) No disturbance from loud music and other sources are allowed after 22:00;
- m) The minimum parking provisions as listed in section 17.1.3 shall apply;
- n) Occupation shall be subject to the submission of a site plan (for record purposes) demonstrating compliance with the requirements pertaining to guest rooms, and
- o) No cooking facilities or prep bowl may be provided in the guest room.

Guest rooms

16.10.9 The following provisions shall apply where a portion of a property is used for the purposes of guest rooms or where rooms are let by an occupant of that property to paying guests or lodgers:

- a) Guest rooms shall be subject to the submission of a site plan (for record purposes) demonstrating compliance with the applicable provisions;
- b) Guest rooms will be limited to the main dwelling;
- c) A maximum of 2 bedrooms (5 persons) per property may be used for paying transient guests or lodgers;
- d) Guest rooms may not be converted to or used as separate dwelling units;
- e) Meals shall only be supplied by the landowner or manager to transient guests or lodgers who are staying on the property;
- f) No advertising sign shall be displayed without the written approval of the Municipality other than a single, un-illuminated sign or notice affixed to the building or boundary wall or fence, and such sign must be in line with the Overstrand Signage By-Law;
- g) One on-site parking bay shall be provided per guest room, subject to the submission of a parking layout, and
- h) No cooking facilities or prep bowl may be provided in the guest room.

Home occupation

16.10.10 (1) Home occupation will be restricted to the following non-residential categories:

- a) office type work (administration);
- b) professional/clerical;

195/380

- c) custom sewing, fabric crafts and baking;
- d) creation of visual arts, excluding cabinet maker, recycling and welding;
- e) personal services such as a barber, hairdresser, beautician and masseuse; and
- f) sales and services over the internet/phone.

(2) General development parameters for home occupation:

- a) The proprietor of the home occupation must permanently reside in the dwelling;
- b) The total area used for a home occupation, including storage area required for the use, shall not exceed 25% or 50 m² (whichever is most restrictive) of the total floor area of the building from which it is to be conducted;
- c) No more than 3 persons in total shall be engaged in home occupation activities on the property, including the occupants or the occupant and any assistants;
- d) Home occupation shall be conducted completely indoors;
- e) The storage of products, goods, or supplies connected to the home occupation shall be inside a building;
- f) No more than one vehicle, not exceeding 3 500 kg in gross weight, shall be utilised for the home occupation;
- g) The hours of operation are restricted to 07h30 to 17h30 on Mondays to Fridays and 07h30 to 13h00 on Saturdays;
- h) On-site parking must be provided to the satisfaction of the Municipality, provided that at least two on-site parking bays are provided in addition to the normal parking required;

- i) The exercise of home occupation shall be subject to the submission of a site plan (for record purposes) demonstrating compliance with the requirements pertaining to home occupation and land use parameters;
- j) A conveyancing certificate shall be submitted, demonstrating there is no title deed restrictions that restrict the home occupation;
- k) The use shall also comply with all environmental and nuisance control regulations;
- l) The exterior of the building and the lot shall not be changed in such a way as to decrease its residential appearance, except for permitted parking spaces;
- m) The use shall not involve the storage or use of hazardous, flammable or explosive substances, other than types and amounts commonly found in a dwelling. The use shall not involve the use or storage of toxic substances;
- n) The Municipality may impose additional conditions in order to minimise any potential public nuisance;
- o) Occupation shall be subject to the submission of a site plan for record purposes, demonstrating compliance with the requirements, and
- p) Only one un-illuminated sign shall be permitted, which shall be fixed to the building or boundary wall or fence, and such sign shall be in line with the Overstrand by-law relating to outdoor advertising and signage.

(3) Home occupation in Residential Zone 2 and 3: Additional parameters

- a) no more than two persons, including the proprietor, may be employed within a dwelling unit;
- b) only the occupant may be involved in the activities of the home occupation;
- c) parking provisions will apply;

- d) where a home occupation is conducted from a flat, no more than one person shall be engaged in the home occupation activities within the dwelling unit; and
- e) the necessary approval of the HOA/Body Corporate must be obtained.

House shop

16.10.11 The following provisions shall apply where a portion of a dwelling house or outbuilding is used for the purposes of a house shop by one or more occupants of a property:

- a) The maximum floor area that is used for the purposes of a house shop shall not exceed 30,0 m² or 25% of the floor area of the all the buildings on the property, the most restrictive will be applicable;
- b) No more than three persons, including the occupant or occupants of the dwelling unit, are permitted to be engaged in retail activities on the property, other than with the consent of the Municipality;
- c) No portion of the house shop shall be used for the purposes of noxious trade, risk activity, sale of alcoholic beverages, place of entertainment or gambling purposes;
- d) The operator of the enterprise shall permanently reside on the premises;
- e) No products, goods or supplies connected to the house shop may be stored on the property outside a building;
- f) Any structure or alteration to the existing structure must conform to the residential character of the area concerned and all the relevant legislation;
- g) Only one un-illuminated sign shall be permitted, which shall be fixed to the building or boundary wall or fence, and such sign shall be in line with the Overstrand by-law relating to outdoor advertising and signage;

- h) The hours of operation and trading shall be restricted to 06h00 to 21h00 from Mondays to Fridays and from 06h00 to 21h00 on Saturdays and does not include public holidays or Sundays, or such trading hours as permitted by the Municipality;
- i) On-site parking shall be provided to the satisfaction of the Municipality;
- j) Permission to operate a house shop is granted to a particular operator and is not transferable;
- k) No more than one vehicle, not exceeding 3 500 kg gross weight, shall be utilised for the house shop;
- l) Permission may only be granted for a period determined by the Municipality, and
- m) No subletting is permitted.

Industrial café

16.10.12 An industrial café may not exceed 100 m².

Informal trading

16.10.13 Informal trading is permitted on land as demarcated or leased by the Municipality for such purposes, provided that:

- (a) there is no interference with pedestrian or vehicular movement, the amenity of the neighbourhood, or with any Municipal utility service;
- (b) a site plan demonstrating compliance with the requirements pertaining to land use parameters;
- (c) there is, in the Municipality's opinion, no threat to public health or safety, and
- (d) the overnight storage of products on the land is only allowed in an approved structure, if prior approval is obtained from the Municipality.

Minimum subdivision size

16.10.14 The following development parameters apply:

- a) No new subdivision or any remainder to be zoned Rural Zone 1 and 2 shall be less than 5,0 ha if no minimum subdivision size is specified on the zoning map, and
- b) Where the Municipality has specified a minimum subdivision size, as indicated on the zoning map in terms of an overlay zone for the area concerned and read together with the SDF and related documents, that minimum subdivision size applies.

Office space

16.10.15 The following provisions shall apply where a portion of an industrial structure is used for the purposes of an office by the occupant(s) of a property:

- a) The total floor area of the office space shall not exceed 25% of the floor area of the structures on the site, and
- b) An office may only be utilised in connection with the use of the industrial property.

Scrapyard and recycling

16.10.16 A scrapyard must have boundary walls of a minimum of 2,1 m in height, and the Municipality may require a wall height in excess of 2,1 m where it is deemed necessary for the public interest.

16.10.17 A Operational Management Plan must be submitted for approval which addresses noise, odour, visual impact and hours of operation, but not limited to.

16.10.18 No scrap and/or recyclable material may be stored or recycled outside the boundary of the erf.

16.10.19 The erf must be neat at all times.

Second dwelling unit

16.10.20 The following additional development parameters apply to a second dwelling unit:

- a) The total floor area (footprint) of the second dwelling unit shall not exceed 120 m²;
- b) A second dwelling unit may be contained within the same building as a primary dwelling unit and may be either on the ground or first floor;
- c) A second dwelling unit may not be separately alienated in terms of the Sectional Title Act;
- d) Parking must be provided on the property as per Chapter 17, Section 17.1.3, to the satisfaction of the Municipality, and
- e) A second dwelling must be located within the applicable building lines.

Self-catering accommodation

16.10.21 The following provisions shall apply where a portion of the property is used for the purposes of self-catering accommodation:

- a) It shall be utilised for single family occupation;
- b) Self-catering shall be restricted to either the main dwelling or the second dwelling unit, if a second dwelling unit exists on the property (but not both);
- c) Self-catering will not be permitted if there is a home occupation or guest rooms;
- d) No activities constituting a source of nuisance shall be carried out, and
- e) The Municipality may impose additional conditions in order to minimise any potential public nuisance.

Subdivision and density standards

16.10.22 The following subdivision and density provisions apply:

(a) Minimum subdivision area

Council may specify the minimum size of a subdivisional area in terms of an overlay zone and/or policy and may prescribe the minimum size of subdivided portions to be achieved in such zone.

(b) Maximum density

Council may specify a maximum density for a land unit in terms of an overlay zone

Transmission Apparatus:

16.10.23 Applications for the installation of Transmission Apparatus (TA) shall, to the satisfaction of the Municipality, incorporate the following:

- (a) Site Development Plan which clearly illustrates the proposal in the context of the existing landscape and receiving environment, with reference to application guidelines as may be incorporated in the application form;
- (b) Transmission Apparatus Infrastructure Plan (indicating but not limited to the following, namely dimensioned plans showing detail of TA, graphic illustration of the proposed facility, elevation details, proposed materials and colours, screening or fencing);
- (c) Site Development Plan and Transmission Apparatus Infrastructure Plan to be accompanied by a report detailing the motivation for the selected site, how the siting and design of the facility responds to the SDP;
- (d) Motivation report to be accompanied by relevant proof pertaining to need and desirability (demand & technical requirements);

- (e) Application to satisfactorily demonstrate to the AO / MPT that all alternatives to the site itself have been explored within a 1km radius of the subject property;
- (f) Minimum of two alternative sites and design options to be considered;
- (g) Zoning and land use map to accompany application, that shall also indicate all areas of heritage or environmental significance, if applicable;
- (h) Visual Impact Assessment prepared by a suitably qualified professional, if required by the municipality, that shall incorporate mitigation measures limiting visual impact;
- (i) Landscaping plan to accompany application, if required by the municipality, and
- (j) Statement demonstrating that the installation complies with the applicable health and safety standards.

CHAPTER 17: PARKING, LOADING AND INFRASTRUCTURE

17.1 PARKING REQUIREMENTS

Off-street parking requirements

17.1.1 The following off-street parking requirements apply, unless otherwise stated in this land use scheme:

- a) In cases where parking requirements are not stipulated for a particular use, or in terms of a specific condition imposed by the Municipality, parking shall be provided at a minimum ratio in accordance with the table titled "Minimum off-street parking requirements" (see below).
- b) The Municipality shall determine off-street parking requirements for land uses not stipulated in the table "Minimum off-street parking requirements".
- c) Off-street parking shall be provided:
 - (i) on the property for which the parking is required;
 - (ii) subject to the Municipality's approval, in public parking facilities available in the vicinity; or
 - (iii) in accordance with 17.1.2. and applicable policies.

Alternative parking provision

17.1.2 As an alternative to compliance with the off-street parking requirements in terms of this land use scheme, an owner may, with the approval of the Municipality:

- a) acquire an area of land sufficient for the permanent parking requirements elsewhere in a position approved by the Municipality;
- b) acquire permanent rights to a parking facility or portion of a parking facility elsewhere in a position approved by the Municipality and shall register a notarial deed of servitude against such land or parking facility to link the properties concerned for the purpose of parking, and the owner shall cause the parking

concerned to be constructed and maintained at his cost to the satisfaction of the Municipality, and the cost of registration of the servitude shall be borne by the owner;

- c) pay the Municipality the amount to the value of the parking to be provided in accordance with the zoning concerned, together with the construction cost, in cases where the provision of parking is precluded in terms of other legislation or site specific constraints or a contribution is made to an approved Municipal parking fund or project for the provision of parking.

17.1.3 For the purpose of determining the value of a parking bay, a minimum area of 25 m² will be utilised.

Combined parking requirements

17.1.4 Where two or more land uses share a common parking area, the Municipality may reduce the amount of parking required for the independent uses, provided that:

- a) the Municipality is satisfied that the utilisation of the same parking area by different activities is not concurrent; and
- b) bays intended for combined use may not subsequently be reallocated to selected uses without the approval of the Municipality.

205/380

MINIMUM OFF-STREET PARKING REQUIREMENTS

Land use	Standard areas
Dwelling house	2 on-site parking bays per dwelling unit, provided that on erven less than 400 m ² , only 1 on-site parking bay needs to be provided
Second dwelling	1 bay
Group dwelling/town housing	1 bay per dwelling unit plus 1 bay per dwelling for visitors
Flats	1.5 bays per 1 bedroom dwelling unit 2 bays per 2 and more bedroom dwelling units
Guest house	2 bays per establishment (owner/manager) 1 bay per bedroom; 2 persons accommodated Additional parking may be required for any additional facilities to the satisfaction of the Municipality
Hotel	1 bay per bedroom plus an additional 6 parking bays per 100 m ² of public access areas Additional parking may be required for any additional facilities to the satisfaction of the Municipality
Retirement home	1.25 per bedroom plus 0.25 bays per frail-care bed

206/380

Crèche, day care centre	1 bay per 10 children plus stop-and-drop facility where a day care centre makes provision for more than 30 children or determined by the Municipality	
School	1 bay per classroom or office plus a stop-and-drop facility	
Place of instruction (tertiary education facility)	0.5 bays per student plus 1 bay per classroom or office	
Residential building	2 bays per establishment (owner/manager) 1 bay per guest room Additional parking may be required for any additional facilities to the satisfaction of the Municipality	
Place of assembly/entertainment/funeral parlour	1 bay per 4 seats	
Recreation/sport	1 bay per 4 seats or persons	
Hospital/clinic (general and private)	1 bay per bed plus 4 bays per consulting room	
Medical consulting rooms	4 bays per 100 m ² GLA*	
Conference centre	1 bay per 4 seats	
Place of worship	1 bay per 6 seats	
Supermarket/shopping centre	Local business (excluding bulk zone areas as depicted in Annexure A)	4 bays per 100m ² GLA
	General business	6 bays per 100m ²

207/380

		GLA
Shops/restaurants	Local business (excluding bulk zone areas as depicted in Annexure A)	4 bays per 100m ² GLA
	General business	6 bays per 100m ² GLA
Offices	Local business (excluding bulk zone areas as depicted in Annexure A)	4 bays per 100m ² GLA
	General business	6 bays per 100m ² GLA

*GLA means gross leasable area

MINIMUM OFF-STREET PARKING REQUIREMENTS (CONT.)

Land use	Standard areas
Motor showroom	2 bays per 100 m ² GLA* and 1 bay per 100 m ² outdoor display area
Motor repair garage/service station/service centre	1 bay per service bay plus 2 bays per 100 m ² GLA up to 500 m ² , thereafter 1 per 100 m ² GLA
Motor fitment centre	1 bay per service bay plus 2 bays per 100 m ² GLA up to 500 m ² , thereafter 1 per 100 m ² GLA
Car wash	4 bays per wash bay plus 2 bays per 100 m ² GLA (for office component)
Industry	2 bays per 100 m ² GLA up to 500 m ² , thereafter 1 per 100 m ² GLA
Warehouse/storage	2 bays per 100 m ² GLA up to 500 m ² , thereafter 1 per 100 m ² GLA
Self-storage units	1 bay per 100 m ² GLA

*GLA means gross leasable area

17.1.5 The following minimum requirements shall apply to parking bays:

To the requirements of the Parking Policy, as amended, and the requirements of the Engineering Department:

- a) a parking bay shall measure a minimum of 2,5 m in width and a minimum of 5,0 m in length for perpendicular or angled parking and 6,0 m x 2,5 m for parallel parking;
- b) covered parking areas shall have minimum headroom of 2,3 m;
- c) on-site parking shall remain accessible for customers during business hours.

Parking for the disabled

- 17.1.6 Other than in the single residential zones, parking that is capable of being used by physically disabled persons must be provided on any land unit to ensure easy and convenient access for physically disabled persons to services and facilities generally open and accessible to the public and to residential uses.
- 17.1.7 In any parking facility serving the public, parking for physically disabled persons shall be provided in accordance with the following table:

PHYSICALLY DISABLED ACCESSIBLE PARKING (AS PER PART OF SANS 10400-S)

Total no. of parking bays	Required number of bays accessible to the physically disabled
General requirement	At least one parking bay per 25 parking bays, or part thereof
At rehabilitation and medical facilities	20% of the parking bays shall be provided for the parking of vehicles used by persons with disabilities

- 17.1.8 Parking for the physically disabled shall comply with the following requirements:
- Parking bays shall be in accordance with SANS 10400-S, as amended.
 - Parking and access aisles shall be level.
 - Parking bays shall be located as near as possible to accessible buildings or site entrances and shall be located to provide convenient access to curb ramps.
 - Each parking bay reserved for physically disabled persons shall be marked on the parking surface with the International Symbol of Accessibility.

- e) Additional signage indicating the parking bay as reserved for the exclusive use by physically disabled persons may be required by the Municipality.
- f) Where five or less parking bays are provided, at least one bay shall be 3,5 m wide and marked to provide a parking bay of 2,5 m with an access aisle of 1,0 m, but the bay does not need to be reserved exclusively for physically disabled persons.

17.1.9 Physically disabled accessible parking provided in terms of this section shall count towards fulfilling off-street parking requirements.

Motorcycle and bicycle spaces

17.1.10 The Municipality may require that parking is provided for motorcycles and bicycles.

17.1.11 For every four motorcycle and six bicycle parking spaces provided, a credit of one parking bay may be given towards the parking requirements, provided that:

- a) the total credit shall not exceed 2.5% of the parking bays required;
- b) the minimum dimension for a motorcycle space shall be 2,2 m in length and 1,0 m in width; and
- c) the minimum dimension for a bicycle space shall be 2,0 m in length and 0,6 m in width.

17.1.12 Signage, bollards and racks or other devices for storing bicycles and motorcycles shall be installed to the satisfaction of the Municipality.

Parking layout plan

17.1.13 The Municipality may require the submission of a parking layout plan indicating the intended way in which motor vehicles shall park, the means of entrance and exit, and landscaping proposals.

17.1.14 The Municipality may approve or disapprove the parking layout plan and impose conditions of approval.

17.2 LOADING BAYS

Loading bays

17.2.1 The minimum off-street loading must be provided to the satisfaction of the Engineering Department.

17.3. INFRASTRUCTURE AND AVAILABILITY OF SERVICES

17.3.1 Engineering services installed by an owner or developer shall comply with the minimum standards for the provision of engineering services as laid down by the Municipality from time to time.

17.4 REFUSE ROOMS

17.4.1 The Municipality may, for the purposes of collecting refuse, require the owner to install a refuse receptacle on the land unit which shall:

- a) be of sufficient size to accommodate the refuse generated from the land unit for one week;
- b) be located adjacent to a public street or, at the Municipality's discretion, in a position which will provide acceptable access to a refuse collection vehicle;
- c) be designed in a manner that is architecturally compatible with the surrounding structures and screen refuse bins from public view; and
- d) comply with any other reasonable condition the Municipality may impose relating to access, health, pollution control, safety or aesthetics.

17.4.2 The Municipality may require an owner of property to provide an embayment for refuse removal vehicles to its satisfaction.

17.4.3 The construction of a refuse area may require the following:

- a) a boundary wall height of a minimum 2,1 m;

212/380

- b) a door with a width of 1,2 m;
- c) the door must be solid;
- d) the area must have a tap and floor level gully;
- e) the gully must drain to the sewer and not the stormwater system or road;
- f) stormwater generated outside of the refuse area may not drain into the gully; and
- g) no hazardous waste may enter the main sewer system.

If the refuse area is roofed or if the storage area is in a room or basement within the building, adequate ventilation must be provided.

17.4.4 The following ratios may be used when determining the size of a refuse area:

Offices	0,5 m ² per 100 m ²
Industrial	1,0 m ² per 100 m ²
Shops/restaurants	2,0 m ² per 100 m ²
Group housing/general residential	0,5 m ² per 100 m ²

17.4.5 Any deviation from the requirements may only be allowed with approval of the Engineering Department.

CHAPTER 18: SUBDIVISION OF LAND

18.1 SUBDIVISION OF LAND

Subdivision of a property with consent use rights or a temporary land use departure

- 18.1.1 If a property that has been granted a consent use right or temporary land use departure is subsequently subdivided, the consent use right or temporary land use departure shall apply to only one of the resulting subdivisions, unless the Municipality states otherwise by means of a condition of the subdivision.

Subdivision of residential properties

- 18.1.2 Subdivision in an area will generally be allowed if it is consistent with the planning policies and the average size and density of surrounding residential properties are being considered.

214/380

CHAPTER 19: GENERAL PROVISIONS APPLICABLE TO ANNEXURES

19.1 ANNEXURES

The Annexures shall be maintained and updated by the Municipality.

215/380

ANNEXURE A: NOTATION ON ZONING MAP

The determination of bulk zones for the Hermanus, Gansbaai and Kleinmond areas as indicated on the zoning maps.

DISCLAIMER:

The Overstrand Municipality does not guarantee the accuracy of the information supplied through the Zoning Maps. Persons who rely on the information provided do so entirely at their own risk. The Overstrand Municipality will not be liable for any claims whatsoever, whether for damage or otherwise, which may arise as a result of inaccuracies in the information supplied. The user is responsible to verify the information supplied, before making any decisions or taking any actions based on the information. Zoning can be verified by means of an official Zoning Certificate which can be obtained from the Overstrand Municipality: Town Planning Department.

The Zoning Maps provided on hard copy or in electronic format (PDF) are not continuously updated. The Overstrand Municipality' GIS system contains the master copy of the Zoning Maps which is maintained and updated continuously.

217/380



Legend
Bulk Zone 2

Kleimond Bulk Zone Area





Legend
 Bulk Zone 1

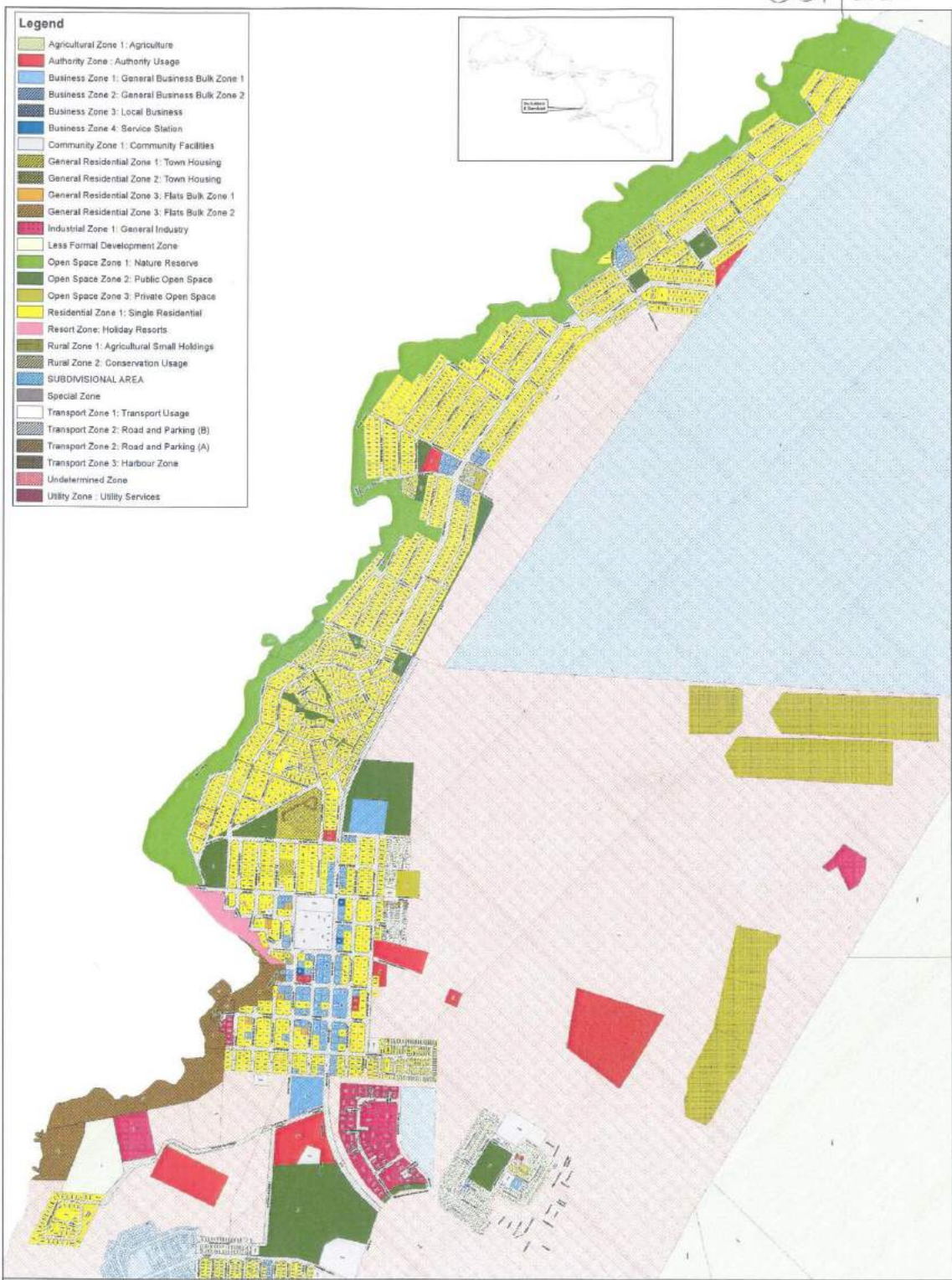
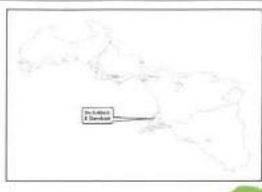


Gansbaai Bulk Zone Area



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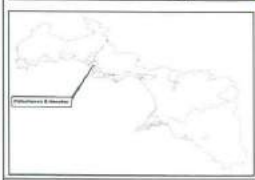
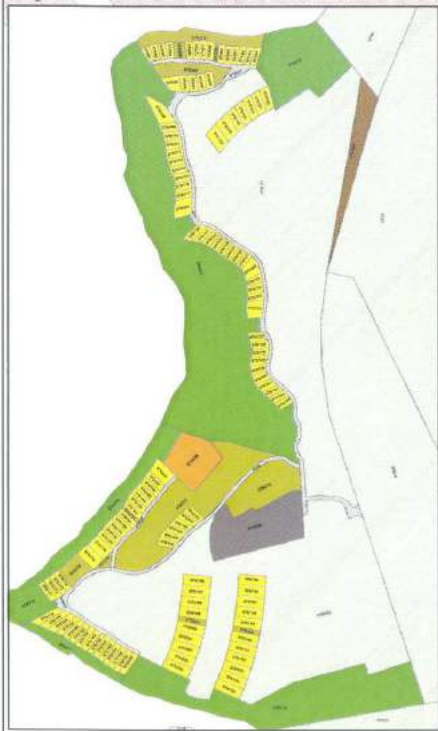
- Legend**
- Agricultural Zone 1: Agriculture
 - Authority Zone: Authority Usage
 - Business Zone 1: General Business Bulk Zone 1
 - Business Zone 2: General Business Bulk Zone 2
 - Business Zone 3: Local Business
 - Business Zone 4: Service Station
 - Community Zone 1: Community Facilities
 - General Residential Zone 1: Town Housing
 - General Residential Zone 2: Town Housing
 - General Residential Zone 3: Flats Bulk Zone 1
 - General Residential Zone 3: Flats Bulk Zone 2
 - Industrial Zone 1: General Industry
 - Less Formal Development Zone
 - Open Space Zone 1: Nature Reserves
 - Open Space Zone 2: Public Open Space
 - Open Space Zone 3: Private Open Space
 - Residential Zone 1: Single Residential
 - Resort Zone: Holiday Resorts
 - Rural Zone 1: Agricultural Small Holdings
 - Rural Zone 2: Conservation Usage
 - SUBDIVISIONAL AREA
 - Special Zone
 - Transport Zone 1: Transport Usage
 - Transport Zone 2: Road and Parking (B)
 - Transport Zone 2: Road and Parking (A)
 - Transport Zone 3: Harbour Zone
 - Undetermined Zone
 - Utility Zone: Utility Services



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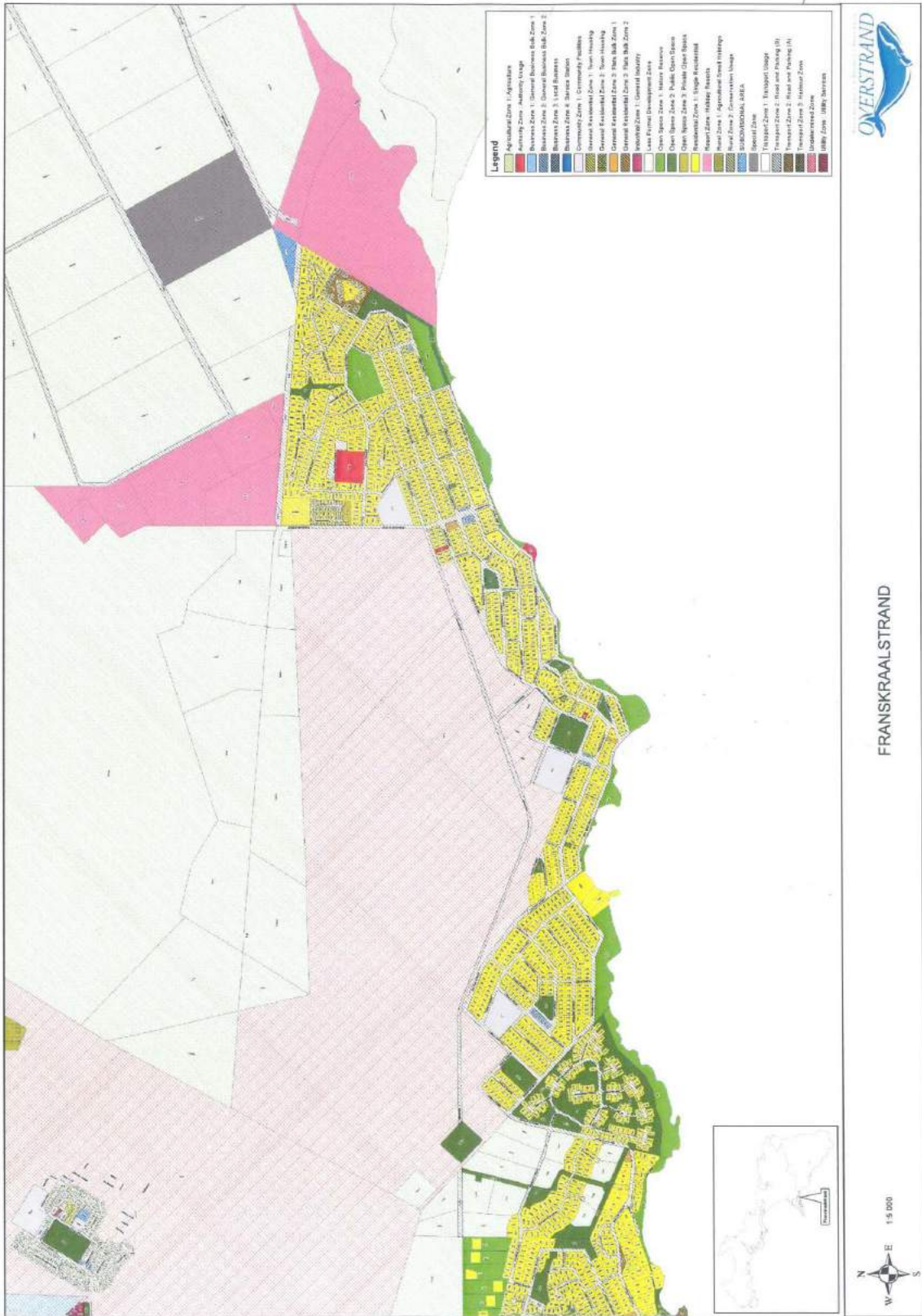


- Legend**
- Agricultural Zone 1: Agriculture
 - Activity Zone: Activity Usage
 - Business Zone 1: General Business/Duk Zone 1
 - Business Zone 2: General Business/Duk Zone 2
 - Business Zone 3: Local Business
 - Business Zone 4: Service Station
 - Community Zone 1: Community Facilities
 - General Residential Zone 1: Town Housing
 - General Residential Zone 2: Park/Belt Zone 1
 - General Residential Zone 3: Park/Belt Zone 2
 - Industrial Zone 1: General Industry
 - Low Density Residential Zone
 - Open Space Zone 1: Nature Reserve
 - Open Space Zone 2: Parks/Open Space
 - Open Space Zone 3: Private Open Space
 - Residential Zone 1: Single Residential
 - Resort Zone: Holiday Resorts
 - Rural Zone 1: Agricultural Small Holdings
 - Rural Zone 2: Conservation Usage
 - SUSCEPTIBLE AREA
 - Special Zone
 - Transport Zone 1: Transport Usage
 - Transport Zone 2: Road and Parking (B)
 - Transport Zone 3: Road and Parking (S)
 - Transport Zone 4: Harbour Zone
 - Unreserved Zone
 - Utility Zone: Utility Services

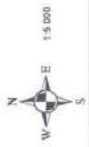


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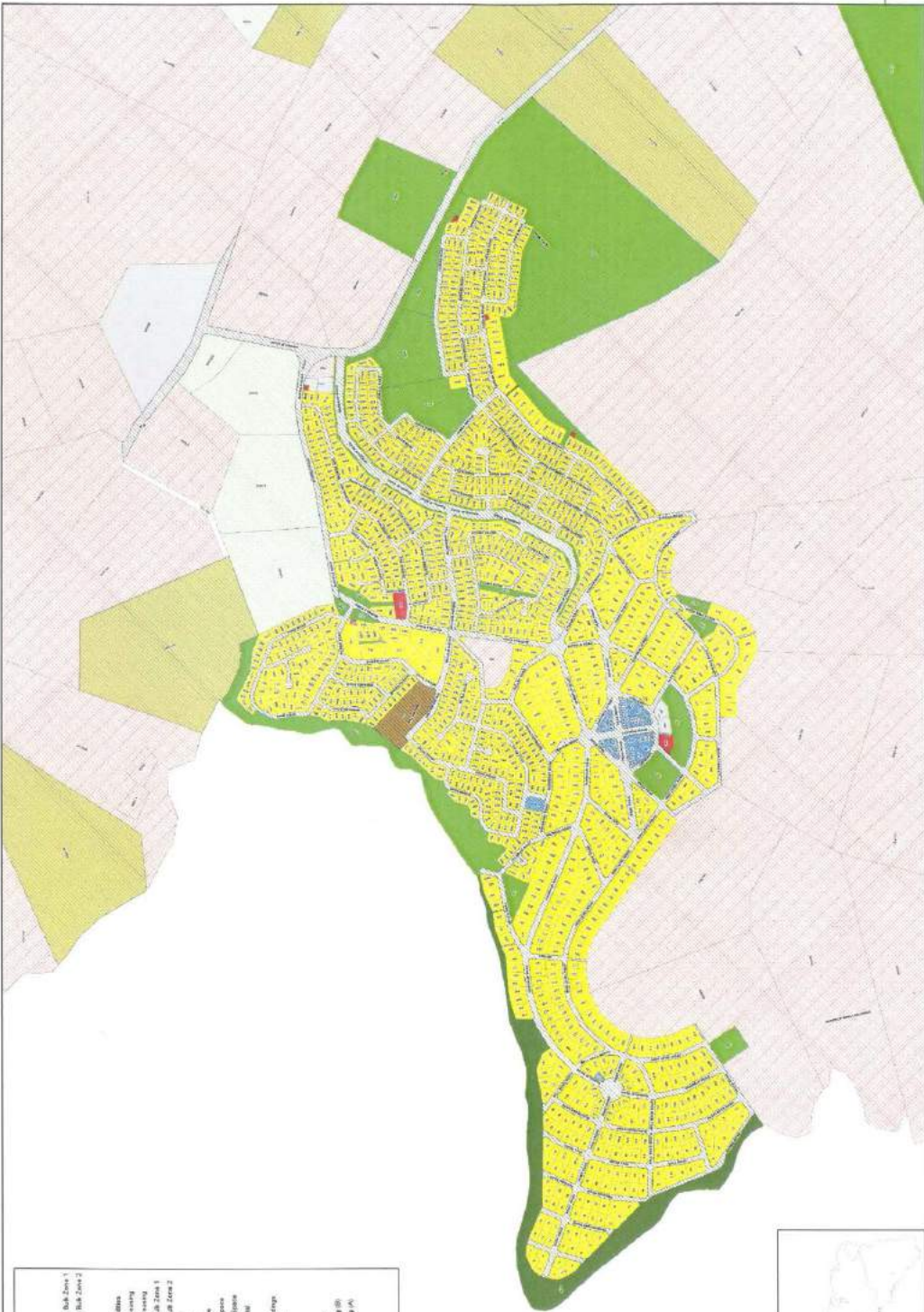
Legend

- Agricultural Zone 1 - Agriculture
- Authority Zone - Authority Usage
- Business Zone 1 - General Business Bulk Zone 1
- Business Zone 2 - General Business Bulk Zone 2
- Business Zone 3 - Local Business
- Business Zone 4 - Service Station
- Community Zone 1 - Community Facilities
- General Residential Zone 1 - Town Housing
- General Residential Zone 2 - Town Housing
- General Residential Zone 3 - Flats Bul. Zone 1
- General Residential Zone 3 - Flats Bul. Zone 2
- Industrial Zone 1 - General Industry
- Low Formal Development Zone
- Open Space Zone 1 - Nature Reserve
- Open Space Zone 2 - Public Open Space
- Open Space Zone 3 - Private Open Space
- Residential Zone 1 - Single Residential
- Residential Zone 2 - Holiday Resorts
- Rural Zone 1 - Agricultural Small Holdings
- Rural Zone 2 - Conservation Usage
- SUBDIVISIONS, AREA
- Special Zone
- Transport Zone 1 - Transport Usage
- Transport Zone 2 - Road and Parking (B)
- Transport Zone 2 - Road and Parking (A)
- Transport Zone 3 - Harbour Zone
- Unsettlement Zone
- Utility Zone - Utility Services



HERMANUS WEST



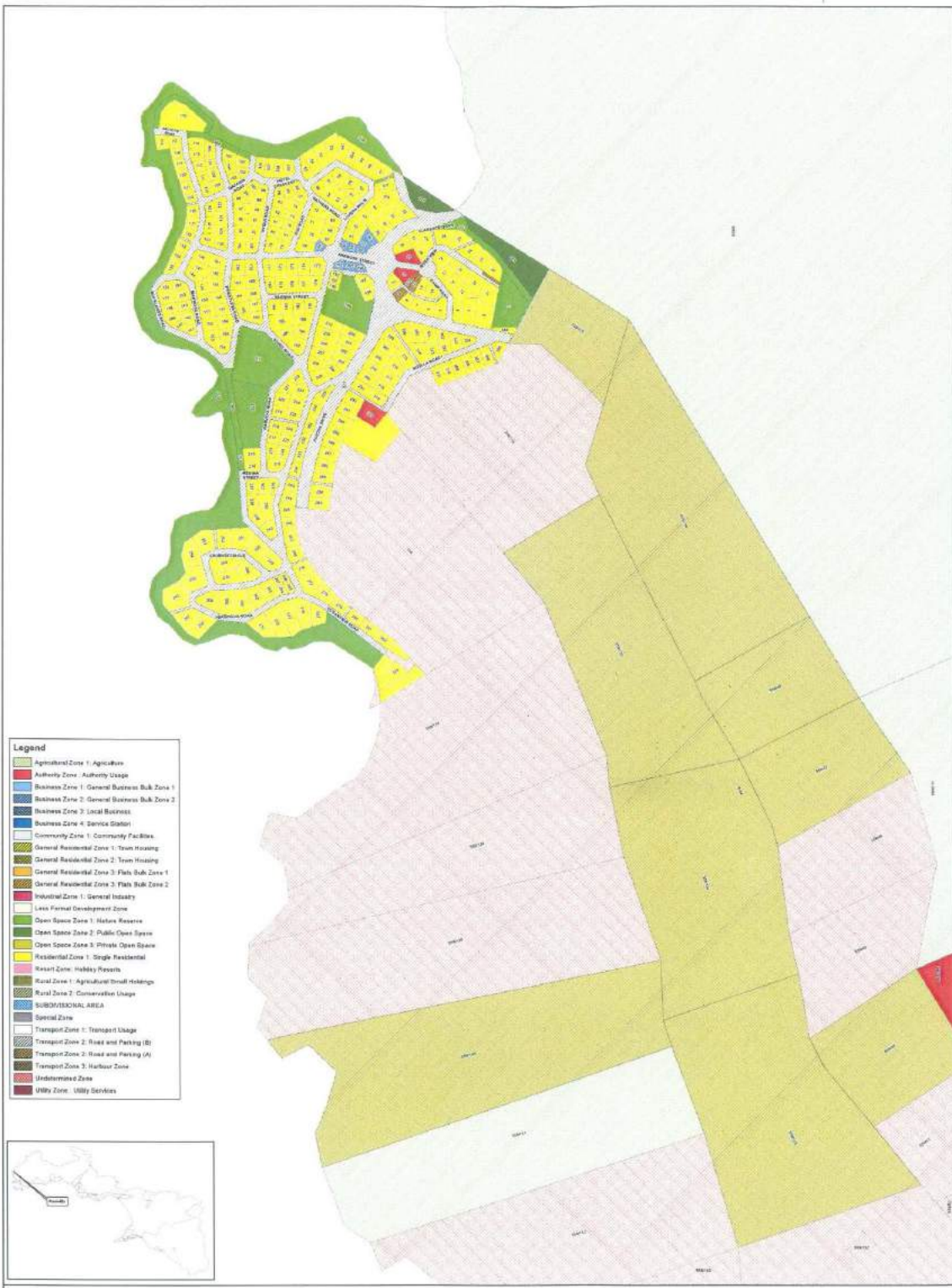


PRINGLE BAY

Legend

[Light Green Box]	Agricultural Zone 1: Agriculture
[Light Blue Box]	Administrative Zone - Utility Storage
[Light Yellow Box]	Administrative Zone 1: Office/Industrial (Sub-Zone 1)
[Light Green Box]	Administrative Zone 2: Office/Industrial (Sub-Zone 2)
[Light Blue Box]	Business Zone 1: Small Business
[Light Green Box]	Business Zone 2: Office/Industrial
[Light Yellow Box]	Community Zone 1: Community / Facilities
[Light Green Box]	General Residential Zone 1: Town Housing
[Light Yellow Box]	General Residential Zone 2: Town Housing
[Light Green Box]	General Residential Zone 3: Farm (Sub-Zone 1)
[Light Yellow Box]	General Residential Zone 3: Farm (Sub-Zone 2)
[Light Green Box]	Industrial Zone 1: General Industry
[Light Yellow Box]	Local Formal Development Zone
[Light Green Box]	Local Informal Development Zone
[Light Yellow Box]	Open Space Zone 1: Park, Open Space
[Light Green Box]	Open Space Zone 2: Park, Open Space
[Light Yellow Box]	Residential Zone 1: Single Residential
[Light Green Box]	Residential Zone 2: Holiday Homes
[Light Yellow Box]	Rural Zone 1: Agricultural General Holdings
[Light Green Box]	Rural Zone 2: Conservation Storage
[Light Yellow Box]	SUBSIDIARY AREA
[Light Green Box]	Special Zone
[Light Yellow Box]	Transport Zone 1: Transport Storage
[Light Green Box]	Transport Zone 2: Road and Parking (A)
[Light Yellow Box]	Transport Zone 3: Road and Parking (B)
[Light Green Box]	Transport Zone 4: National Zone
[Light Yellow Box]	Undeveloped Zone
[Light Green Box]	Utility Zone - Utility Services





- Legend**
- Agricultural Zone 1: Agriculture
 - Authority Zone: Authority Usage
 - Business Zone 1: General Business B&B Zone 1
 - Business Zone 2: General Business B&B Zone 2
 - Business Zone 3: Local Business
 - Business Zone 4: Service Station
 - Community Zone 1: Community Facilities
 - General Residential Zone 1: Town Housing
 - General Residential Zone 2: Town Housing
 - General Residential Zone 3: Flats/B&B Zone 1
 - General Residential Zone 3: Flats/B&B Zone 2
 - Industrial Zone 1: General Industry
 - Less Formal Development Zone
 - Open Space Zone 1: Nature Reserve
 - Open Space Zone 2: Public Open Space
 - Open Space Zone 3: Private Open Space
 - Residential Zone 1: Single Residential
 - Resort Zone: Holiday Resorts
 - Rural Zone 1: Agricultural Small Holdings
 - Rural Zone 2: Conservation Usage
 - SUBDIVISIONAL AREA
 - Special Zone
 - Transport Zone 1: Transport Usage
 - Transport Zone 2: Road and Parking (B)
 - Transport Zone 2: Road and Parking (A)
 - Transport Zone 3: Harbour Zone
 - Undetermined Zone
 - Utility Zone: Utility Services



ROOI-ELS



- Legend**
- Agricultural Zone 1: Agriculture
 - Authority Zone: Authority Usage
 - Business Zone 1: General Business Sub-Zone 4
 - Business Zone 2: General Business Sub-Zone 2
 - Business Zone 3: Local Business
 - Business Zone 4: Service Station
 - Community Zone 1: Community Facilities
 - Community Zone 2: Community Facilities
 - General Residential Zone 1: Town Housing
 - General Residential Zone 2: Plaza Sub-Zone 1
 - General Residential Zone 3: Plaza Sub-Zone 2
 - Industrial Zone 1: General Industry
 - Low-Density Residential Zone
 - Open Space Zone 1: Heavy Reserve
 - Open Space Zone 2: Public Open Space
 - Open Space Zone 3: Private Open Space
 - Residential Zone 1: Single Residential
 - Residential Zone 2: Medium Residential
 - Road Zone 1: Major Arterial Road/Highway
 - Road Zone 2: Collector Road
 - SUBDIVISIONAL AREA
 - Special Zone
 - Transport Zone 1: Transport Usage
 - Transport Zone 2: Road and Parking (R)
 - Transport Zone 3: Road and Parking (H)
 - Unplanned Zone
 - Utility Zone: Utility Services



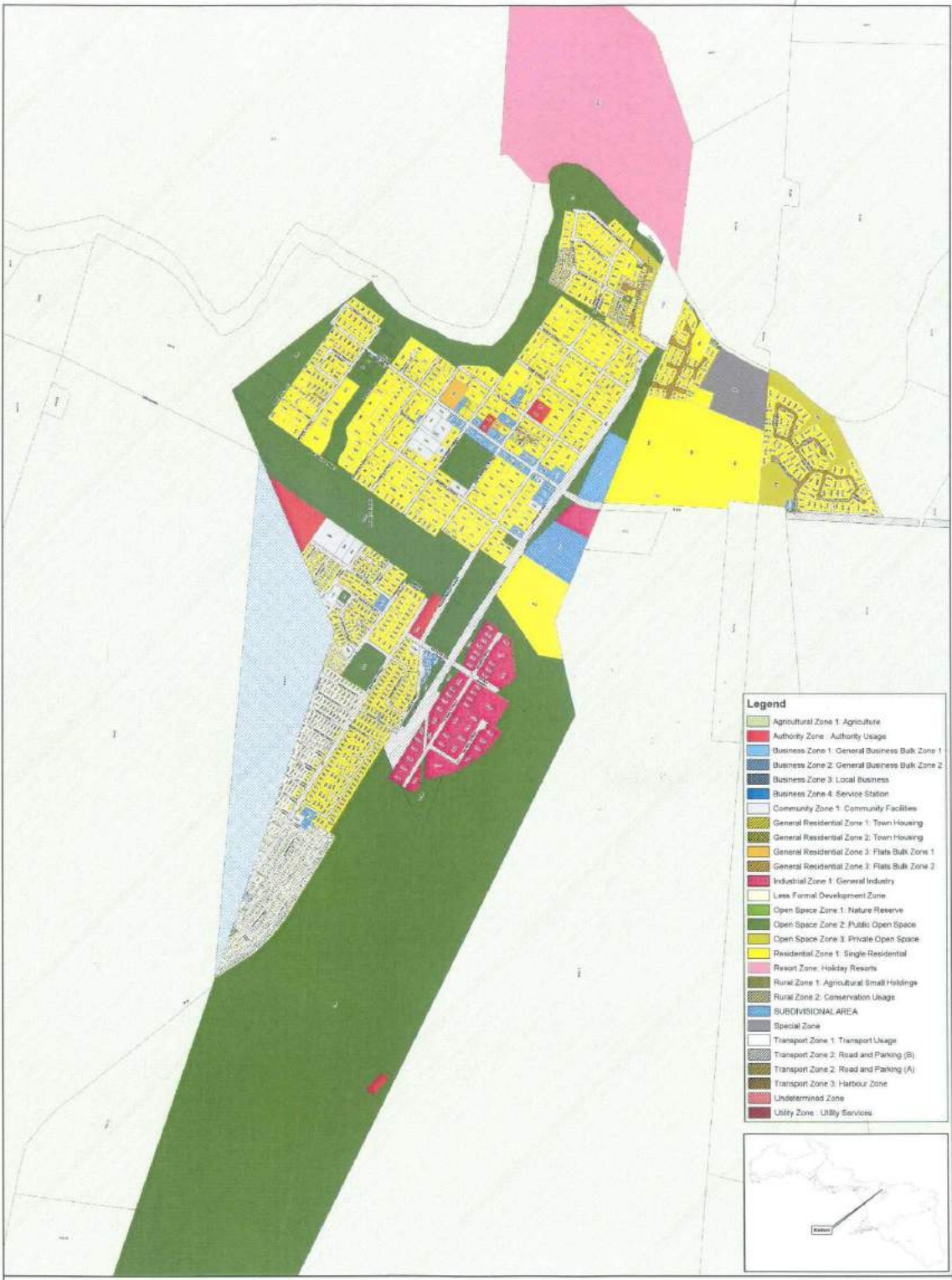
RURAL MAP 1





RURAL MAP 3





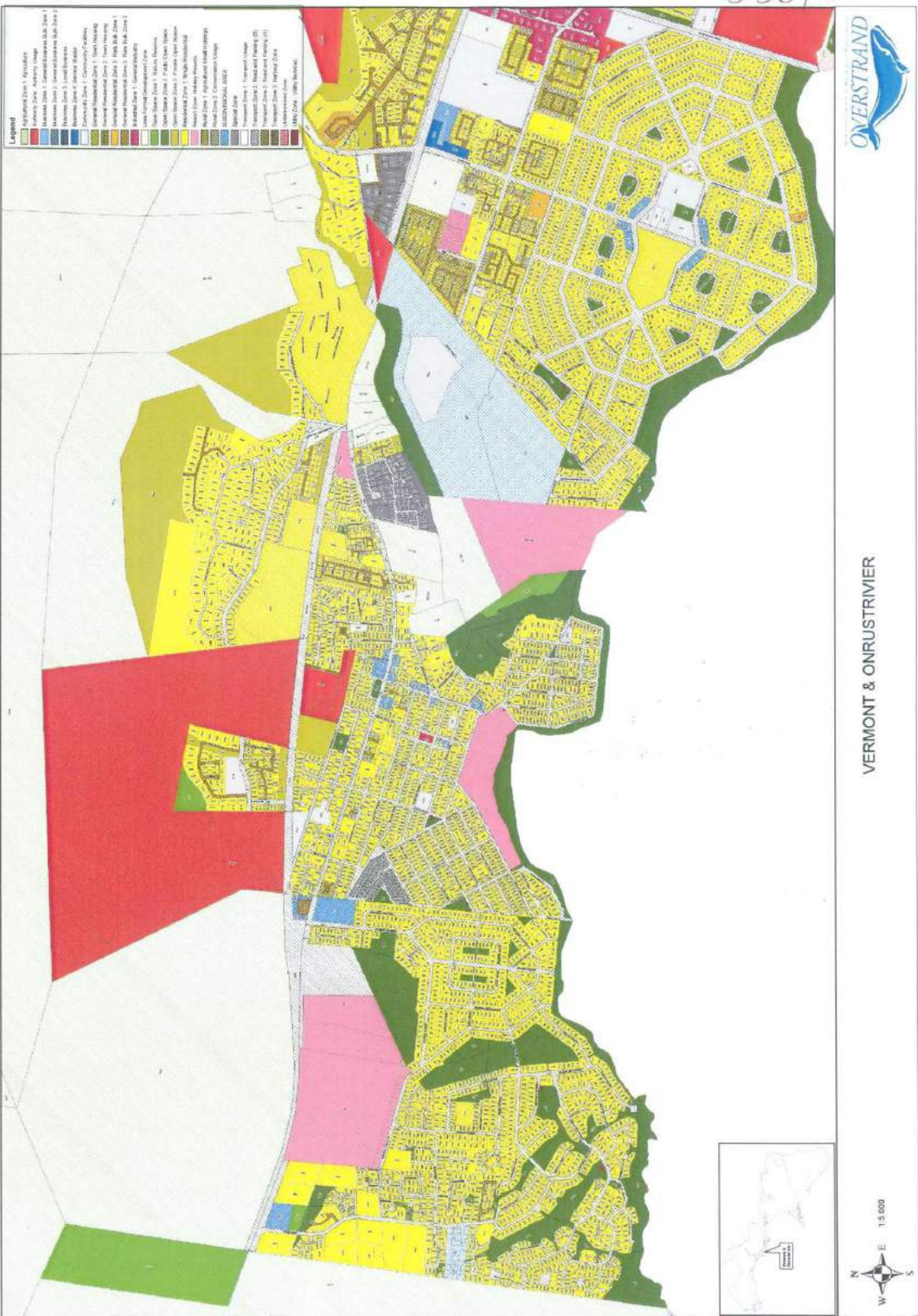
- Legend**
- Agricultural Zone 1: Agriculture
 - Authority Zone: Authority Usage
 - Business Zone 1: General Business Bulk Zone 1
 - Business Zone 2: General Business Bulk Zone 2
 - Business Zone 3: Local Business
 - Business Zone 4: Service Station
 - Community Zone 1: Community Facilities
 - General Residential Zone 1: Town Housing
 - General Residential Zone 2: Town Housing
 - General Residential Zone 3: Flats Bulk Zone 1
 - General Residential Zone 3: Flats Bulk Zone 2
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 - Open Space Zone 1: Nature Reserve
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 - Open Space Zone 3: Private Open Space
 - Residential Zone 1: Single Residential
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 - Rural Zone 1: Agricultural Small Holdings
 - Rural Zone 2: Conservation Usage
 - SUBDIVISIONAL AREA
 - Special Zone
 - Transport Zone 1: Transport Usage
 - Transport Zone 2: Road and Parking (B)
 - Transport Zone 2: Road and Parking (A)
 - Transport Zone 3: Harbour Zone
 - Undetermined Zone
 - Utility Zone: Utility Services



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236/380



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ANNEXURE B: LIST OF SPECIAL ZONES

NAME OF SPECIAL ZONE	DEFINITION OF SPECIAL USE	REFERENCE NUMBER (IF APPLICABLE)
Benguela Cove	-	
Bosplasiae	-	
Driehoek Onrus	-	
Farms 215/0,	-	
Farm 641/8,	-	
Farms 688/1,	-	
Farm 692/7,	-	
Farm 698/1,	-	
Farm 703/14	-	
Farm 720/0	-	
Farm 919	-	
Gansbaai(Grootbos)	-	
Hemel-en-Aarde Village	-	
Kleinmond Harbour	-	
Redevelopment Area	-	
Mtimkhulu Village		
Volmoed	-	

ANNEXURE C: LIST OF OVERLAY ZONES

NAME OF OVERLAY ZONE	NUMBER OF OVERLAY ZONE	REFERENCE NUMBER (IF APPLICABLE)
Environmental Overlay Zone	ANNEXURE C: EMOZ	
Heritage Overlay Zone Including - Stanford Heritage Overlay Zone	ANNEXURE C: HPOZ	

OVERSTRAND MUNICIPALITY
ENVIRONMENTAL MANAGEMENT OVERLAY ZONE
REGULATIONS
(ANNEXURE C: EMOZ)

PREAMBLE

WHEREAS section 156(1) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), confers on municipalities the executive authority and right to administer local government matters listed in Schedules 4B and 5B to the Constitution; and

WHEREAS Part B of Schedule 4 to the Constitution of the Republic of South Africa lists municipal planning as a local government matter; and

WHEREAS section 152(1) of the Constitution sets out the objects of local government which include to promote a safe and healthy environment; and

WHEREAS section 156(2) of the Constitution empowers the Overstrand Municipality to make and administer laws for the effective administration of matters that it has the right to administer; and

WHEREAS Chapter 15 of the Overstrand Municipality's Land Use Scheme empowers the Overstrand Municipality to prepare, approve, amend or delete overlay zones for specific areas;

NOW THEREFORE the Overstrand Municipality gives notice of its intention to adopt these Heritage Protection Overlay Zone Regulations in terms of Section 156(2) of the Constitution.

Contents

CHAPTER 1: INTERPRETATION, OBJECTS AND APPLICATION OF THE REGULATIONS:

1

1. Definitions	1
2. Object of Regulations:	4
3. Application of Regulations:	4

CHAPTER 2: SPECIFIC ENVIRONMENTAL MANAGEMENT OVERLAY ZONE

REGULATIONS:

4. COASTAL PROTECTION ENVIRONMENTAL MANAGEMENT OVERLAY ZONE ("COASTAL PROTECTION EMOZ"):	5
5. MOUNTAIN CATCHMENT ENVIRONMENTAL MANAGEMENT OVERLAY ZONE ("MOUNTAIN CATCHMENT EMOZ"):	19
6. PROTECTED AREA BUFFER ENVIRONMENTAL MANAGEMENT OVERLAY ZONE ("PROTECTED AREA BUFFER EMOZ"):	20
7. RIVERINE ENVIRONMENTAL MANAGEMENT OVERLAY ZONE ("RIVERINE EMOZ"):	21

8. URBAN CONSERVATION ENVIRONMENTAL MANAGEMENT OVERLAY ZONE ("URBAN CONSERVATION EMOZ"):	23
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CHAPTER 3: APPLICATION AND APPROVAL PROCEDURES:

CHAPTER 4: ENFORCEMENT:

CHAPTER 5: MISCELLANEOUS

SCHEDULE A

SCHEDULE B

SCHEDULE C

CHAPTER 1: INTERPRETATION, OBJECTS AND APPLICATION OF THE REGULATIONS:**1. Definitions**

- 1.1 In these Regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in any of the under mentioned laws has the meaning assigned to it in that law:
- 1.1.1 the Overstrand Municipality By-Law on Municipal Planning, 2015 or succeeding legislation
 - 1.1.2 the National Environmental Management Act, 1998 (Act 107 of 1998) or succeeding legislation
 - 1.1.3 the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008) or succeeding legislation
 - 1.1.4 the National Environmental Management Air Quality Act, 2005 (Act 39 of 2004) or succeeding legislation
 - 1.1.5 the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004) or succeeding legislation
 - 1.1.6 the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003) or succeeding legislation
 - 1.1.7 the National Environmental Management: Waste Act, 2008 (Act 59 of 2008) or succeeding legislation
 - 1.1.8 the National Water Act, 1998 (Act 36 of 1998) or succeeding legislation
- 1.2 "access point" means an officially signposted terminal point whereby a member of the public enters or exits an EMOZ, by means of a vehicle, conveyance or on foot;
- 1.3 "access route" means streets, public lanes, footpaths, hiking trails or cycle trails;
- 1.4 "access infrastructure" means buildings such as ablutions, structures such as pathways, signs, refuse bins, benches, viewing platforms, bridges and so forth that the Overstrand Municipality has constructed / erected to facilitate access to Municipal properties and the coastal public property;
- 1.5 "coastal access land" means strips of municipal Open Space properties between the residential cadastral boundary and the high water mark of the sea, including the natural environment, access infrastructure and development nodes and where applicable to areas beyond such strips of municipal Open Space, refers to categories of land defined in the National Environmental Management: Integrated Coastal Management Act, 2008;

- 1.6 "development node" means public parking areas, commercial / retail / trading / tourism nodes, public resorts, blue flag beaches, swimming beaches, dog friendly beaches, public ablutions and other amenities, public boat launching sites, parks and recreation facilities, cultural / heritage buildings, utility areas supporting access or services or proclaimed harbours;
- 1.7 "EMOZ" means an Environmental Management Overlay Zone as contemplated in the Schedule 2 of the Overstrand Municipality By-Law on Municipal Planning, 2020;
- 1.8 "EMP" means an Environmental Management Plan or Environmental Management Programme as listed in the National Environmental Management Act, 1998 (Act 107 of 1998) Environmental Impact Assessment (EIA) Regulations;
- 1.9 "disaster" means a progressive or sudden, widespread or localised, natural or human caused occurrence which (a) caused or threatens to cause: (i) death, injury or disease; (ii) damage to property, infrastructure or the environment; or (iii) disruption of the life of a community; and (b) is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using only their own resources;
- 1.10 "ICMA" means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);
- 1.11 "infrastructure" means any temporary or permanent structure made by humans;
- 1.12 "integrated development plan" means the integrated development plan (including the spatial development framework) prepared by the Municipality in accordance with the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
- 1.13 "land use scheme" means the Overstrand Municipality Land Use Scheme, or as amended;
- 1.14 "NEMA" means the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- 1.15 "NEM:AQA" means the National Environmental Management Air Quality Act, 2004 (Act 39 of 2004);
- 1.16 "NEMBA" means the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004);
- 1.17 "NEMPAA" means the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003);

- 1.18 "NEMWA" means the National Environmental Management: Waste Act, 2008 (Act 59 of 2008);
- 1.19 "NWA" means the National Water Act, 1998 (Act 36 of 1998);
- 1.20 "permissible activity" means an activity listed in Schedule B to these regulations that is permissible within a particular EMOZ only with the Council's written consent;
- 1.21 "prohibited activity" means an activity listed in Schedule A to these regulations that is prohibited within a particular EMOZ;
- 1.22 "spatial development framework" means a spatial development framework referred to in section 26 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
- 1.23 "littering" means the act of discarding waste in public areas, other than in a public litter container;
- 1.24 "maintenance" means actions performed to keep a structure or system functioning or in service on the same location, capacity and footprint;
- 1.25 "maintenance management plan" means a management plan for maintenance purposes defined or adopted by the competent authority;
- 1.26 "pathway" means an area that has been planned and signposted by the Municipality to facilitate pedestrian or bicycle traffic, where vegetation has been cleared to facilitate public access and where a sandy, gravel covered or concrete surface exists;
- 1.27 "staying overnight" means sleeping or otherwise taking shelter in any building, informal structure, infrastructure or vegetation on Municipal open space properties between the hours of 20:00 and 06:00;
- 1.28 "utility services" means the provision by the Municipality of basic services in the discharge of its constitutional responsibilities including water, electricity, waste removal, storm water management, municipal public transport and municipal public works.

2. Object of Regulations:

2.1 The object of these regulations is –

2.1.1 To provide a mechanism for land use management, additional to existing statutory land use controls, whereby Council may give effect to specific guidelines in a spatial development framework or policy plan or address a specific management issue.

3. Application of Regulations:

3.1 These regulations apply, in addition to any other laws that may apply, to the Environmental Management Overlay Zones within the area of jurisdiction of the Overstrand Municipality and bind all persons and organs of state within this area of jurisdiction.

3.2 These regulations do not invalidate any land use rights or authorisations that existed when these regulations came into effect but may place additional constraints on existing rights.

CHAPTER 2: SPECIFIC ENVIRONMENTAL MANAGEMENT OVERLAY ZONE REGULATIONS:**4. COASTAL PROTECTION ENVIRONMENTAL MANAGEMENT OVERLAY ZONE ("COASTAL PROTECTION EMOZ"):****4.1. Spatial delineation: Refer to Plan 1.**

- 4.2. Activities that are prohibited within the Coastal Protection EMOZ are listed in Schedule "A" to these Regulations.
- 4.3. Activities that may be permitted only with Council's written consent within the Coastal Protection EMOZ are listed in Schedule "B" to these Regulations.
- 4.4. General regulations applicable to the Environmental Management Overlay Zones (EMOZs) of the Overstrand Municipality are listed in Schedule "C" to these regulations.

4.5. Purpose 1: Managing the integrity of coastal ecosystems, ecosystem services, coastal dynamic processes and biodiversity within Coastal Reserves:**4.5.1. Limitation of Access and Regulation of Behaviour in Coastal Reserves:**

- 4.5.1.1. Council or the delegated management authority may close any access point or route that has or will have an adverse impact on the environment or that is deemed to be an unlawful or unauthorised access point or route;
- 4.5.1.2. Council or the delegated authority management authority may order the removal of structures in unauthorised access points or routes and the rehabilitation of such sites at the expense of the responsible party;
- 4.5.1.3. Council may from time to time promulgate bylaws prohibiting specific actions and behaviour within coastal reserves and impose penalties for transgression of such bylaws;

4.5.2. Co-Management Agreements:

- 4.5.2.1. The Municipality may enter into co-management agreements with third parties for the management of Coastal Reserves.

4.5.3. Management of Indigenous Coastal Vegetation:

- 4.5.3.1. The Municipality may trim or order the trimming of vegetation within the Coastal Reserve which overhangs the boundaries of residential properties.

4.5.3.2. The Municipality may implement measures to manage vegetation within a Coastal Reserve by burning (with the consent of the Chief Fire Protection Officer), thinning, pruning, brush-cutting, chipping and removing vegetation where appropriate.

4.5.4. Management of Coastal Forests:

4.5.4.1. The Municipality may categorise, designate and manage specific coastal forest areas as Coastal Forest Reserve / Recreational Area / Special Management Area, depending on the existing state of transformation of such ecosystems and in accordance with the provisions of management plans for such areas as approved.

4.5.5. Reinstatement of Coastal Corridors:

4.5.5.1. Council may terminate or reduce the validity period or decline the renewal/ extension of encroachment agreements, coastal leases or any other management agreement with any third party where it would be to the benefit of the ecology within the Coastal Protection EMOZ and/or in the public interest.

4.5.6. Management of Locally Problematic Alien Invasive Species & Emerging Weeds:

4.5.6.1. Council may consider and approve a list of locally problematic alien invasive species and emerging weeds which pose a risk to the environment within the Coastal Reserve or that present budgetary and costs implications for the Municipality in order to manage.

4.5.6.2. The Management Authority may issue removal notices for locally listed alien invasive species and emerging weeds which are found on properties within or adjacent to coastal reserves including on state owned land.

4.6. Purpose 2: Managing public access for the enhancement of social, economic and recreational opportunities within the coastal environment:

4.6.1.1. Development Nodes & Arterial Routes in Existing Urban Areas:

4.6.1.1.1. Public access to the coastal environment:

4.6.1.1.1.1. Public access to the coastal environment is provided by means of development nodes and arterial routes which may be located within Coastal Reserves or exist as separate cadastral units within the Coastal Protection Zone.

4.6.1.1.2. Reasonable and equitable access to the coast

4.6.1.1.2.1. The Municipality may limit access within the Coastal Reserves to the use of designated development nodes and arterial routes (above the high water mark of the sea) only;

4.6.1.1.2.2. The Municipality may designate existing development nodes and arterial routes on spatial plans per suburb in the Municipal area, signpost such areas and provide for their operational management in maintenance management plans.

4.6.1.1.3. Primary Uses of Arterial Routes:

4.6.1.1.3.1. The following primary uses of arterial routes will be permitted:

- Municipal streets,
- public lanes,
- footpaths,
- hiking trails,
- cycle trails, and associated structures or services such as water pipelines, sewage lines, park benches, refuse bins, viewing platforms and bridges.

4.6.1.1.4. Primary Uses of Development Nodes:

4.6.1.1.4.1. The following primary uses will be permitted in development nodes:

- Public Parking Areas
- Commercial / Retail / Trading / Tourism Nodes
- Public Resorts
- Blue Flag Beaches
- Swimming Beaches
- Dog Zoning Beaches
- Public Ablutions & Other Amenities
- Public Boat Launching Sites
- Parks & Recreation Facilities
- Cultural / Heritage Buildings
- Utility service areas supporting access or services
- Proclaimed Harbours.

4.6.1.1.5. Environmental Management Plans & Audits

4.6.1.1.5.1. Council may at its' own discretion require the submission of Environmental Management Plans and other environmental studies for activities, buildings, and infrastructure within development nodes, which require the Council's written consent.

4.6.1.1.5.2. Council may at its own discretion require the submission of independent environmental audit reports in respect of activities that are managed in terms of environmental management plans.

4.6.1.1.6. **Public Protection:**

4.6.1.1.6.1. Access to coastal public property via municipal approved development nodes and arterial routes is subject to the following conditions:

4.6.1.1.6.2. Council may prescribe appropriate and inappropriate behaviour on coastal access land and publish bylaws for the regulation of public behaviour on coastal access land.

4.6.1.1.6.3. Council may install monitoring and surveillance equipment in order to safeguard public access to coastal property and to curb criminal activity.

4.6.1.1.6.4. Council may specify appropriate hours of access to coastal access land and regulate such access where required.

4.6.1.1.6.5. Council may designate certain areas as smoking free zones.

4.7. Purpose 3: Managing the character, sense of place and aesthetic value of coastal property:

4.7.1.1. **Management of Encroachment**

4.7.1.1.1. Council may institute measures to safeguard coastal reserves against encroachment from private properties and to prosecute persons that cause such encroachments.

4.7.1.1.2. Council may approve procedures for the removal of infrastructure that is placed in coastal reserves without the written consent of the council or the delegated authority.

4.7.1.1.3. Council may authorize procedures for the recovery of costs from persons that are responsible for encroachments, dumping or the modification of coastal vegetation.

4.7.1.2. **Development Nodes:**

4.7.1.2.1. Design and development of new buildings, infrastructure and utility services within

development nodes must complement the natural character of the coastal reserves or improve the sense of place when existing development is replaced.

4.7.1.2.2. Applications for new development nodes within coastal reserves must be accompanied by environmental impact assessments and environmental management plans.

4.7.1.2.3. Transmission infrastructure should be limited to rooftop base stations unless authorized by an environmental authorization and consent use application.

4.7.1.3. **Arterial Routes:**

4.7.1.3.1. Infrastructure located on arterial routes must as far as possible be constructed of natural materials and blend into the landscape.

4.7.1.3.2. Infrastructure must take cognizance of natural /cultural / historical features and be constructed in accordance with any specific management plan for such sites.

4.7.1.4. **Coastal Buffer Areas:**

4.7.1.4.1. Where natural coastal corridors have been destroyed by residential development, Council may issue notices for the reinstatement / rehabilitation of vegetated coastal corridors.

4.7.1.4.2. Residential properties, gardens and infrastructure may not encroach on coastal public open space and the Municipality may issue notices for the restoration/rehabilitation of any such encroachment in coastal public open space;

4.7.1.4.3. Council may prohibit the relaxation of building lines or the placement of buildings, structures and infrastructure within building lines on properties located adjacent to coastal reserves or coastal development nodes.

4.7.1.5. **Urban Infill Development Areas/ Subdivisions / Private Development Areas within the [CPEMOZ]:**

4.7.1.5.1. All new development proposals within these areas must comply with the following requirements to the satisfaction of the municipality:

4.7.1.5.1.1. contain design standards for optimum number of access points per property cluster in order to provide access to coastal public property;

- 4.7.1.5.1.2. reserve coastal public access servitudes in favour of the general public;
- 4.7.1.5.1.3. include a coastal public access management plan that will address but not be limited to the provision of public amenities, access infrastructure, demarcation, signage, control of activities and waste management;
- 4.7.1.5.1.4. include a maintenance management plan for coastal public access infrastructure and make provision for different types of access points including, but not limited to:
 - 4.7.1.5.1.4.1. surfaced vehicular roads within the road reserve and for parking areas;
 - 4.7.1.5.1.4.2. pedestrian paths, walkways, boardwalks, bridges and / or hiking trails;
 - 4.7.1.5.1.4.3. disability friendly access buildings & infrastructure.
- 4.7.1.6. **New Rural Coastal Developments / 'Development Islands':**
 - 4.7.1.6.1. New development is to be located, designed and operated in a manner that retains or enhances existing public access to the coastline or where loss of public access cannot practicably be avoided development must provide the same or a greater amount of new access opportunities in, or in close proximity to, the site.
 - 4.7.1.6.2. Public access to the coastline must be protected through appropriate zoning of land (for example to Public Open Space Zone I) and the designation of such land as Public Places under the municipal land use scheme.
 - 4.7.1.6.3. The maintenance and/or enhancement and regulation of access as well as public recreational use is to be regulated by means of:
 - 4.7.1.6.3.1. signposting coastal access entry points to coastal public property;
 - 4.7.1.6.3.2. maintaining that land so as to ensure that the public has access to the coastal public property, including parking areas, toilets, boardwalks and other amenities, taking into account the needs of physically disabled persons.
- 4.7.1.7. **Management of New Informal Settlements:**
 - 4.7.1.7.1. Council may approve procedures and assign authority for the issuing of first respondent removal notices in the case of informal settlements which arise in any portion of the Coastal Protection Zone.

4.7.1.7.2. The Municipality shall, within 24 hours of issuing a notice, inform an organ of state with jurisdiction over the land on which the structure has been erected and hand the matter over to the organ of state for further action.

4.8. Purpose 4: Instituting appropriate controls for the protection of people, property, and economic activities within the coastal environment:

4.8.1.1. Management Plans for Coastal Reserves affected by Natural Hazards, Climate Change and Sea Level Rise:

4.8.1.1.1. Council may prepare management plans for coastal reserves affected by natural hazards, climate change and sea level rise and may enter into Memoranda of Agreement with third parties for the co-management of such hazards;

4.8.1.1.2. The following development restrictions are to be imposed in the areas that are identified and mapped in high, medium, low, general risk and estuarine zones depicted by Provincial Coastal Management Lines. **Note that where buildings lie partly in two coastal risk overlay zones, the higher risk zone will apply:**

Urban High Risk Zone	
Zone intention	<ul style="list-style-type: none"> • Limit public and private liability • Increase public awareness of the potential risks to property and human life • Prevent intensification of development in high risk zone, but allow exercising of existing rights albeit with the knowledge of the associated risks • Maintain coastal quality • Prevent encroachment that will impact on the integrity of the shoreline ecology and exacerbate negative impacts • Enable safe evacuation in an emergency
Primary use	As per base land use controls
Not supported	Schools, Libraries, Health facilities
With special consent	Public Resorts, WWTW.
Urban Medium Risk Zone	
Zone intention	<ul style="list-style-type: none"> • Reduce public and private liability • Minimise risk to human life.
Primary use	As per base land use controls
Not supported	Schools, Libraries, Health facilities
With special consent	Infill-subdivisions, Public Resorts, WWTW.
Urban Low Risk Zone	
Zone intention	<ul style="list-style-type: none"> • Reduce public and private liability • Avoid reasonable risk to human life. • Prevent intensification of development in low risk zone, but allow exercising existing rights in terms of the scheme.
Primary use	As per base land use controls
Not supported	Schools, Libraries, Health facilities
With special consent	Infill-subdivisions, Public Resorts, WWTW.

General Risk Zone (Rural Areas)	
Zone intention	<ul style="list-style-type: none"> • Maintain coastal quality • Allow exercising of existing rights in respect of single residential dwelling on agricultural land, in terms of the land use scheme and
Primary use	As per base land use controls
Not supported	General residential (urbanisation), Commercial, Industry, School
With special consent	Intensification of development within development islands, Agricultural support functions, Public resorts
General Estuarine Risk Zone	
Zone intention	<ul style="list-style-type: none"> • Maintain coastal quality • Reduce public liability • Reduce risk to human life • Prevent intensification of development in general risk zone, but allow exercising of existing rights • Prevent encroachment that will impact on the integrity of the shoreline ecology • Enable safe evacuation in an emergency
Primary use	As per base land use controls
Not supported	WWTW, Industry
With special consent	Infill-subdivisions, Public Resorts

4.8.1.2. Development Management Parameters applicable to Risk Zones:

4.8.1.2.1. The following development management parameters apply to High Risk Urban Areas:

4.8.1.2.1.1. Structures must preferably be elevated on pilings, posts, piers-and- joists, column or similar foundations.

4.8.1.2.1.2. All structures on properties larger than 400m² in the high risk zone require approval from a professionally registered engineer. Structures on smaller properties may obtain similar design approval based on predetermined standard conditions.

- 4.8.1.2.1.3. Structures must preferably be elevated on pilings, posts, piers-and- joists, column or similar foundations – with the lowest floor of habitable structures/buildings constructed above a pre-determined risk level.
- 4.8.1.2.1.4. Lower uninhabitable floors (i.e. garages, basements) of structures/buildings must be permeable – i.e. have openings to allow for the entry and exist of flood waters – to allow effective interior and exterior hydrostatic pressure equalisation during and post inundation.
- 4.8.1.2.1.5. Habitable basements or rooms will only be permitted if an engineer has made the necessary design arrangements to ensure that coastal risk is addressed and reduced by implementing responsible mitigation measures to the satisfaction of the Municipality.
- 4.8.1.2.1.6. Consideration during conceptual building design must be given to issues of privacy, overshadowing and visual impact and the apportionment and positioning of higher risk site areas for parking, open space and recreational areas.
- 4.8.1.2.1.7. Any new development must be designed and positioned within reason to limit potential flood damage and risk to human life, including but not limited to positioning buildings in suitably acceptable elevated portions of properties.
- 4.8.1.2.1.8. Building design must demonstrate reasonable risk reduction measures and should include innovative solutions (adaptable buildings, re- locatable buildings, flood-proofed buildings, flood resistant and resilient construction etc.) without increasing and transferring risks to adjacent properties.
- 4.8.1.2.1.9. After construction, any exposed ground area must be stabilised by the use of ground covering plants or mulches to minimise the risk of erosion.
- 4.8.1.2.1.10. On request from the municipality, a storm water management plan might be required to be submitted along with building plans.
- 4.8.1.2.1.11. Hardened surfaces to be minimised and suitable permeable alternative utilised to maximise natural infiltration and reduce overland flow and associated velocities with concomitant risk of erosion and damage.
- 4.8.1.2.1.12. Only fully enclosed / self-contained effluent storage and treatment systems will be permitted if links to sewer mains are not possible. These must be located either on

the landward side of structures or either side of structures, and recommended by Registered Engineer to ensure suitable sealing and safety.

- 4.8.1.2.1.13. Where possible, development should be sited to minimise the removal of trees and endemic vegetation.
- 4.8.1.2.1.14. Existing coastal processes, including dune migration and littoral drift should not be impeded and indigenous vegetation must be maintained.
- 4.8.1.2.1.15. Dunes must be protected and rehabilitated where necessary to reinforce and strengthen natural barriers.
- 4.8.1.2.1.16. Fencing or other barriers must preferably be permeable to accommodate storm events and limit structural damage and associated negative impacts on the environment.
- 4.8.1.2.2. **The following development management parameters apply to Medium Risk Urban Areas:**
- 4.8.1.2.2.1. Structures must preferably be elevated on pilings, posts, piers-and- joists, column or similar foundations.
- 4.8.1.2.2.2. Lower floors of structures/buildings must be permeable – i.e. have openings to allow for the entry and exist of flood waters – to allow effective interior and exterior hydrostatic pressure equalisation during and post inundation.
- 4.8.1.2.2.3. Consideration during conceptual building design must be given to issues of privacy, overshadowing and visual impact and the apportionment and positioning of higher risk site areas for parking, open space and recreational areas.
- 4.8.1.2.2.4. Any new development must be designed and positioned within reason to limit potential flood damage and risk to human life, including but not limited to positioning buildings in suitably acceptable elevated portions of properties.
- 4.8.1.2.2.5. Development must be designed and constructed, within the framework of applicable building controls, in such a way that buildings and structures are positioned furthest from the foreshore whether limited by rear space, side space or the building line (up to the maximum allowed in the applicable scheme).

- 4.8.1.2.2.6. Building design must demonstrate reasonable risk reduction measures and should include innovative solutions (adaptable buildings, re-locatable buildings, flood-proofed buildings, flood resistant and resilient construction etc.) without increasing and transferring risks to adjacent properties.
- 4.8.1.2.2.7. After construction, any exposed ground area must be stabilised by the use of ground covering plants or mulches to minimise the risk of erosion.
- 4.8.1.2.2.8. On request from the municipality, a storm water management plan might be required to be submitted along with building plans.
- 4.8.1.2.2.9. Hardened surfaces to be minimised and suitable permeable alternative utilised to maximise natural infiltration and reduce overland flow and associated velocities with concomitant risk of erosion and damage.
- 4.8.1.2.2.10. Only fully enclosed / self-contained effluent storage and treatment systems will be permitted if links to sewer mains are not possible. These must be located either on the landward side of structures or either side of structures, and recommended by Registered Engineer to ensure suitable sealing and safety.
- 4.8.1.2.2.11. Where possible development should be sited to minimise the removal of trees and endemic vegetation.
- 4.8.1.2.2.12. Existing coastal processes, including dune migration and littoral drift should not be impeded and indigenous vegetation must be maintained.
- 4.8.1.2.2.13. Fencing or other barriers must preferably be permeable to accommodate storm events and limit structural damage and associated negative impacts on the environment.
- 4.8.1.2.3. **The following development management parameters apply to Low Risk Urban Areas:**
- 4.8.1.2.3.1. Structures must preferably be elevated on pilings, posts, piers-and- joists, column or similar foundations.
- 4.8.1.2.3.2. Lower floors of structures/buildings must be permeable – i.e. have openings to allow for the entry and exist of flood waters – to allow effective interior and exterior hydrostatic pressure equalisation during and post inundation.

- 4.8.1.2.3.3. Consideration during conceptual building design must be given to issues of privacy, overshadowing and visual impact and the apportionment and positioning of higher risk site areas for parking, open space and recreational areas.
- 4.8.1.2.3.4. Building design must demonstrate reasonable risk reduction measures and should include innovative solutions (adaptable buildings, re-locatable buildings, flood-proofed buildings, flood resistant and resilient construction etc.) without increasing and transferring risks to adjacent properties. After construction, any exposed ground area must be stabilised by the use of ground covering plants or mulches to minimise the risk of erosion.
- 4.8.1.2.3.5. On request from the municipality, a storm water management plan may be required to be submitted along with building plans.
- 4.8.1.2.3.6. Hardened surfaces to be minimised and suitable permeable alternative utilised to maximise natural infiltration and reduce overland flow and associated velocities with concomitant risk of erosion and damage.
- 4.8.1.2.3.7. Only fully enclosed / self-contained effluent storage and treatment systems will be permitted if links to sewer mains are not possible. These must be located either on the landward side of structures or either side of structures, and recommended by Registered Engineer to ensure suitable sealing and safety
- 4.8.1.2.4. **The following development management parameters apply to General Rural Risk and Estuarine Risk Areas:**
- 4.8.1.2.4.1. Structures must preferably be elevated on pilings, posts, piers-and- joists, column or similar foundations in a manner that does not impede the lateral flow of water and that does not increase the opportunity for the accumulation of flood related debris – with the lowest floor of the structure to be above a pre-determined risk level.
- 4.8.1.2.4.2. Lower floors of structures/buildings must be permeable – i.e. have openings to allow for the entry and exist of flood waters – to allow effective interior and exterior hydrostatic pressure equalisation during and post inundation.
- 4.8.1.2.4.3. Building design must demonstrate reasonable risk reduction measures and should include innovative solutions (adaptable buildings, re-locatable buildings, flood-proofed buildings, flood resistant and resilient construction etc.) without increasing and transferring risks to adjacent properties.

- 4.8.1.2.4.4. Any new development must be designed and positioned within reason to limit potential flood damage and risk to human life, including but not limited to positioning buildings in suitably acceptable elevated portions of properties.
- 4.8.1.2.4.5. Any new development must be set as far back from the estuarine functional zone as possible. Either rear space or building line, whichever is furthest away from the estuary, will be relaxed (up to the maximum allowed in the applicable scheme).
- 4.8.1.2.4.6. After construction, any exposed ground area must be stabilised by the use of ground covering plants or mulches to minimise the risk of erosion.
- 4.8.1.2.4.7. On request from the municipality, a storm water management plan might be required to be submitted along with building plans.
- 4.8.1.2.4.8. Hardened surfaces to be minimised and suitable permeable alternative utilised to maximise natural infiltration and reduce overland flow and associated velocities with concomitant risk of erosion and damage.
- 4.8.1.2.4.9. Only fully enclosed / self-contained effluent storage and treatment systems will be permitted if links to sewer mains are not possible. These must be located either on the landward side of structures or either side of structures, and recommended by Registered Engineer to ensure suitable sealing and safety.
- 4.8.1.2.4.10. Where possible development should be sited to minimise the removal of trees and endemic vegetation.
- 4.8.1.2.4.11. Fencing or other barriers must preferably be permeable to accommodate storm events and limit structural damage and associated negative impacts on the environment.
- 4.8.1.2.4.12. Existing coastal processes and indigenous vegetation within the estuarine functional zone must be maintained.

5. MOUNTAIN CATCHMENT ENVIRONMENTAL MANAGEMENT OVERLAY
ZONE ("MOUNTAIN CATCHMENT EMOZ"):

5.1. **Spatial delineation: Refer to Plan 2.**

- 5.2. Activities that are prohibited within the Mountain Catchment EMOZ are listed in Schedule "A" to these Regulations.
- 5.3. Activities that may be permitted only with Council's written consent within the Mountain Catchment EMOZ are listed in Schedule "B" to these Regulations.
- 5.4. General regulations applicable to the Environmental Management Overlay Zones (EMOZs) of the Overstrand Municipality are listed in Schedule "C" to these regulations.

5.5. Purpose: To protect and conserve the ecology and water provision functions of priority unprotected mountain catchments, to ensure optimal water security for the Overstrand communities and to preserve the significant eco-cultural tourism value of the Overstrand's natural mountain landscape character.

- 5.5.1. In the light of the serious threat that Invasive Alien Species presents to the environment and the risks it poses to the municipality, its ratepayers and to present and future generations, the municipality will promulgate overarching Regulations in this regard for the entire Overstrand area.
- 5.5.2. The municipality may prioritise and facilitate areas of a Mountain Catchment EMOZ for focussed, priority Invasive Alien vegetation control programmes where necessary.
- 5.5.3. The municipality may prioritise and facilitate areas for proactive and/or urgent Fire Control Management in collaboration with the landowners - where the fire risk to the mountain catchment natural environment as well as life and property are attaining extreme levels.

**6. PROTECTED AREA BUFFER ENVIRONMENTAL MANAGEMENT
OVERLAY ZONE ("PROTECTED AREA BUFFER EMOZ"):**

6.1. Spatial delineation: Refer to Plan 3.

- 6.2. Activities that are prohibited within the Protected Area Buffer EMOZ are listed in Schedule "A" to these Regulations.
- 6.3. Activities that may be permitted only with Council's written consent within the Protected Area Buffer EMOZ are listed in Schedule "B" to these Regulations.
- 6.4. General regulations applicable to the Environmental Management Overlay Zones (EMOZs) of the Overstrand Municipality are listed in Schedule "C" to these regulations.

6.5. Purpose: to protect the integrity of National, Provincial and Municipal Nature Reserves from negative external pressures/impacts while reducing pressure on core areas and to assist in preserving their value to the eco-cultural tourism economy of the Overstrand through alignment of appropriate land use and regulation.

6.5.1. Minimising negative impacts on the integrity of National, Provincial and Municipal Nature Reserves in the Overstrand:

- 6.5.1.1. In the light of the serious threat that Invasive Alien Species presents to the environment and the risks it poses to the municipality, its ratepayers and to present and future generations, the municipality will promulgate overarching Regulations in this regard for the entire Overstrand area.
- 6.5.1.2. The municipality may prioritise and facilitate areas of a Protected Area Buffer EMOZ for focussed, priority Invasive Alien vegetation control programmes where necessary.
- 6.5.1.3. The municipality may prioritise and facilitate areas for proactive and/or urgent Fire Control Management in collaboration with the landowners - where the fire risk to the natural environment as well as life and property are attaining extreme levels.

6.5.2. Limiting and/or prohibiting inappropriate land uses in the buffer zone of National, Provincial and /or Municipal Nature Reserves in the Overstrand:

- 6.5.2.1. A list of activities that are prohibited or that require written Council consent are set out in Schedules A and B.
- 6.5.2.2. In deserving cases, where there is no NEMA requirement for an Environmental Impact

Assessment ("EIA") process and Environmental Management Plan ("EMP"), the Municipality may request additional information and/or an EMP for approval by the Municipality prior to granting its written consent and/or approving building plans or any development.

- 6.5.2.3. The implementation of the EMP during the construction and decommissioning phases of the identified activities/uses is to be monitored and enforced by an Environmental Control Officer ("ECO") and to be audited annually during the operational phase.
- 6.5.2.4. Land use scheme and inappropriate land use of undeveloped properties in the buffer zone of National, Provincial and /or Municipal Nature Reserves to be investigated and where required additional constraints to be imposed on uses and inappropriate land use.
- 6.5.2.5. The land use scheme of all developed properties within the buffer zones of National, Provincial and /or Municipal Nature Reserve to be investigated and reviewed and where required additional constraints to be imposed on uses and inappropriate land use.

7. RIVERINE ENVIRONMENTAL MANAGEMENT OVERLAY ZONE ("RIVERINE EMOZ");

7.1. Spatial delineation: Refer to Plan 4.

- 7.2. Activities that are prohibited within the Riverine EMOZ are listed in Schedule "A" to these Regulations.
- 7.3. Activities that may be permitted only with Council's written consent within the Riverine EMOZ are listed in Schedule "B" to these Regulations.
- 7.4. General regulations applicable to the Environmental Management Overlay Zones (EMOZs) of the Overstrand Municipality are listed in Schedule "C" to these regulations.

7.5. Purpose: to protect and conserve the ecological functioning of the Overstrand's main river courses and associated wetlands by:

- 7.5.1. **Protecting and maintaining healthy river and wetland environments that are capable of natural flood detention, that support ecological processes and promote functioning natural river corridors and wetland systems; and**

7.5.2. Protecting the natural character, sense of place and aesthetic value of riverine environments;

- 7.5.2.1. In the light of the serious threat that Invasive Alien Species presents to the environment and the risks it poses to the municipality, its ratepayers and to present and future generations, the municipality will promulgate overarching Regulations in this regard for the entire Overstrand area.
- 7.5.2.2. The municipality may prioritise and facilitate areas within a Riverine EMOZ for focussed, priority Invasive Alien vegetation control programmes where necessary.
- 7.5.2.3. A list of activities that are prohibited or permissible only with the consent of the Council are set out in Schedules A and B.
- 7.5.2.4. In deserving cases, where there is no NEMA requirement for an Environmental Impact Assessment ("EIA") process and Environmental Management Plan ("EMP"), the Municipality may request additional information and/or an EMP for approval by the Municipality prior to granting its written consent and/or approving building plans or any development.
- 7.5.2.5. The implementation of the EMP during the construction and decommissioning phases of the identified activities/uses is to be monitored and enforced by an Environmental Control Officer ("ECO") and to be audited annually during the operational phase.
- 7.5.2.6. Land use scheme and inappropriate land use of undeveloped properties in the Riverine EMOZ to be investigated and where required additional constraints to be imposed on uses and inappropriate land use.
- 7.5.2.7. The land use scheme of all developed properties within the Riverine EMOZ to be investigated and reviewed and where required additional constraints to be imposed on uses and inappropriate land use.
- 7.5.2.8. New Sewage Conservancy Sewage Tanks and Biological Processing Sewage.
- 7.5.2.8.1. Where a municipal sewage reticulation system is not available, new conservancy sewage tanks or approved biological sewage processing plants must be located beyond the 100-year flood line and/or a minimum of 50 m from the wetland edge unless there is no proven practical alternative whereupon it should be at the furthest distance possible from the wetland edge.

8. URBAN CONSERVATION ENVIRONMENTAL MANAGEMENT OVERLAY ZONE
("URBAN CONSERVATION EMOZ"):

8.1. Spatial delineation: Refer to Plan 5 and Plans 5.1 – 5.16.

- 8.2. Activities that are prohibited within the urban Conservation EMOZ are listed in Schedule "A" to these Regulations.
- 8.3. Activities that may be permitted only with Council's written consent within the Urban Conservation EMOZ are listed in Schedule "B" to these Regulations.
- 8.4. General regulations applicable to the Environmental Management Overlay Zones (EMOZs) of the Overstrand Municipality are listed in Schedule "C" to these regulations.

8.5. Purpose: to protect and manage undeveloped conservation-worthy public owned land within the Overstrand's urban edge, and adjacent buffer areas, while promoting the retention of viable priority ecological corridors in areas that are to be developed, to ensure an integrated 'conservation and development' approach that will enhance living conditions for the communities of the Overstrand.

8.5.1. Designation of categories for undeveloped conservation worthy land and adjacent buffer areas:

8.5.1.1. Overstrand Municipality may develop an operational management plan for priority Urban Conservation EMOZ properties per residential area, according to the following categories:

8.5.1.1.1. Category A: Pristine Ecosystems

- Pristine ecosystems to be protected and managed as wilderness, nature reserve or special management areas with very low impact development and environmental education and appreciation activities only.
- The operational management plan for Category A properties within the Urban Conservation EMOZ will address, inter alia, the following:
 - a) IAV Management
 - b) Fire Management
 - c) Vegetation Management
 - d) Hiking trails/Biking trails

- e) Bird watching/Bird hides
- f) Public amenities
- g) Environmental Facilities

8.5.1.1.2. Category B: Semi-Modified Ecosystems

- Semi-modified ecosystems with intact biodiversity corridor function to be managed as conservation areas with low to medium impact recreational uses.
- The operational management plan for Category B properties within the Urban Conservation EMOZ will address, inter alia, the following:
 - a) IAV Management
 - b) Fire Management
 - c) Vegetation Management
 - d) Hiking trails/Biking trails
 - e) Bird watching/Bird hides
 - f) Public amenities
 - g) Environmental Facilities
 - h) Day Camps
 - i) Braai facilities/Picnic facilities

8.5.1.1.3. Category C: Modified Ecosystems

- Modified ecosystems with a limited biodiversity function to be managed as recreational areas with medium to high impact.
- The operational management plan for Category C properties within the Urban Conservation EMOZ will address, inter alia, the following:
 - a) IAV Management
 - b) Fire Management
 - c) Vegetation Management
 - d) Hiking trails/Biking trails
 - e) Bird watching/Bird hides
 - f) Public amenities
 - g) Environmental Facilities
 - h) Day Camps
 - i) Braai facilities/Picnic facilities
 - j) Play parks

8.5.1.1.4. Category D: Private Property

- Private property within priority conservation-worthy ecological corridors from mountain to coast and/or across priority conservation-worthy areas identified in accordance with the Overstrand Environmental Management Framework.
- In the face of development pressure, the Municipality may, if it deems it necessary, upon receipt of a development proposal or application that does not involve any activities identified under the NEMA listing notices, require that specialist biodiversity and/or other relevant studies be undertaken by the developer/owner in order to inform development planning and retain priority ecological corridors and habitats.

8.5.2. Management of undeveloped conservation worthy land and adjacent buffer areas:**8.5.2.1. Vegetation Management:**

8.5.2.1.1. In the light of the serious threat that Invasive Alien Species presents to the environment and the risks it poses to the municipality, its ratepayers and to present and future generations, the municipality will promulgate overarching Regulations in this regard for the entire Overstrand area.

8.5.2.1.2. The municipality may prioritise and facilitate areas within Urban Conservation EMOZ for focussed, priority Invasive Alien vegetation control programmes where necessary.

8.5.2.1.3. The municipality may inspect properties adjacent to the Urban Conservation EMOZ in cases where alien invasive vegetation (or, once promulgated, locally problematic alien invasive species and emerging weeds which pose a risk to the municipality) are visibly spreading into the Urban Conservation EMOZ from adjacent properties and may direct the owner of such properties to take appropriate action, alternatively the municipality may take the necessary action and recover the costs of doing so from the owner.

8.5.2.1.4. Management of Indigenous Vegetation

- The Municipality may trim indigenous vegetation which overhangs the boundaries of residential properties or order the trimming of vegetation that encroaches on the Urban Conservation EMOZ from adjacent properties. The Municipality may implement measures to reduce the amount of vegetation by thinning, pruning, brush-cutting, chipping and removing material where appropriate, according to the management plan for each urban area.

8.5.2.2. Fire Management within Urban edge:

- 8.5.2.2.1. The municipality may prioritise and facilitate areas for proactive and/or urgent Fire Control Management in collaboration with the landowners - where the fire risk to the natural environment as well as life and property are attaining extreme levels.
- 8.5.2.2.2. The municipality may development an Ecological Fire Management Plan in coordination with the Fire and Rescue department of the Municipality for the ecological management of undeveloped conservation worthy land within the urban edge. Properties subject to the fire management plan shall be exempt from the general Overstrand Fire Management Policy and will be burned according to correct fire management cycles.
- 8.5.2.2.3. The municipality may prepare fuel breaks and fire breaks on and along the boundaries of residential properties to provide access for fire-fighting teams and to reduce the risk of the spread of fires across boundaries.
- 8.5.2.2.4. The municipality may restrict the placement of high fire risk structures and buildings within building lines on the boundary of the Urban Conservation EMOZ and order the removal of structures where such structures constitute a fire hazard and/or threaten life / other property.
- 8.5.2.2.5. The municipality may order the installation of sprinkler systems / fire protection systems on buildings with thatched roofs, which are located adjacent to UC EMOZ properties.

8.5.2.3. Access:

- 8.5.2.3.1. Right of access: Undeveloped conservation worthy land shall be regarded as a Public Place whereby the right of access for the general public is guaranteed, unless such access will result in pollution or environmental degradation or where such access will constitute a public nuisance.
- 8.5.2.3.2. No access: (entrances, pathways, structures) will be allowed from private properties to open spaces without the necessary written consent of the municipality

8.5.2.4. Activities/Uses:

- 8.5.2.4.1.1. The following primary uses will be permitted within the Urban Conservation EMOZ:

- Recreation;
- ecosystem management; and
- heritage conservation.

8.5.2.4.1.2. The following uses will be permitted within the Urban Conservation EMOZ with the municipality's consent:

- Environmental Facilities;
- Catering Enterprises.

8.5.2.5. Infrastructure:

8.5.2.5.1. The design and development of new buildings, infrastructure and utility services within the Urban Conservation EMOZ must complement the natural character and sense of place of the ecological corridor and existing development in such areas.

8.5.2.5.2. The erection of religious symbols, memorabilia and the defacement of municipal infrastructure or natural features will be prohibited and managed by means of removal / repair / rehabilitation measures.

8.5.2.6. Encroachment:

8.5.2.6.1. Prohibition, limitation and restoration / rehabilitation of encroachment from residential properties, gardens and infrastructure in the Urban conservation EMOZ will be enforced by means of removal and repair notices and may include rehabilitation measures at cost of the transgressor.

8.5.2.7. Management Agreements:

8.5.2.7.1.1. The Municipality may enter into Co-Management Agreements with third parties for the funding / operational management of the Urban Conservation EMOZ.

8.5.2.8. Protecting, managing and enhancing priority conservation-worthy ecological corridors from mountain to coast and / or across priority conservation-worthy areas, in accordance with the Overstrand Environmental Management Framework in the face of development pressure:

8.5.2.8.1. In the face of development pressure, the municipality may, if it deems it necessary, upon receipt of a development proposal or application that does not involve any activities identified under the NEMA listing notices, require that specialist biodiversity and/or other relevant studies be undertaken by the developer/owner in order to inform development planning and retain priority ecological corridors, and habitats and

268/380

ecosystem services provision.

8.5.2.8.2. Based on the NEMA 'Precautionary' and 'Duty of Care' principles, the municipality may also direct the developer/owner/applicant to prepare and submit Construction and Operational Environmental management Plans to prevent, mitigate and manage any adverse impacts in the Urban Conservation EMOZ, for consideration and approval by the municipality.

269/380

CHAPTER 3: APPLICATION AND APPROVAL PROCEDURES:

9. **The Overstrand Municipality By-Law on Municipal Planning, 2015 will apply in respect of all applications, processes and decisions contemplated in these Regulations.**

CHAPTER 4: ENFORCEMENT:

10. **The provisions contained in the Overstrand Municipality By-Law on Municipal Planning, 2015, as they relate to enforcement, offences, penalties and notices will apply to these Regulations.**

CHAPTER 5: MISCELLANEOUS

11. Delegation by Council/Municipal manager:

- 11.1. The Council and/or Municipal Manager may delegate any of the powers granted to it/him/her under these regulations to any other municipal official.

12. Short title: These regulations are called the Overstrand Environmental Management Overlay Zone Regulations

13. Commencement: These regulations commence on the date on which they are published in the Provincial Gazette.

270/380

SCHEDULE A
PROHIBITED ACTIVITIES IN OVERSTRAND ENVIRONMENTAL
MANAGEMENT OVERLAY ZONES

PROHIBITED ACTIVITY	Applicable Environmental Management Overlay Zone (EMOZ)				
	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
Agricultural practices within this EMOZ which may cause water logging and siltation.	X	X	X	X	X
Planting or harbouring of declared alieninvasive plant species on properties located within and adjacent to this EMOZ.	X	X	X	X	X
Planting or harbouring of declared emerging weeds on properties within and adjacent to this EMOZ.	X	X	X	X	X
Planting or harbouring of locally important emerging weed species within and adjacent to this EMOZ.	X	X	X	X	X
Development or agriculture on slopes steeper than 1:4.	X	X	X	X	X
Development above the 120m geographical contour line.		X	X	X	X
Development on the crest of a mountain, ridge or hill.		X	X	X	X
Establishment of Informal settlements or Temporary Relocation Areas.	X	X	X	X	X
No land user within this EMOZ may utilise the vegetation in a vlei, marsh or within the flood area of	X	X	X	X	X

watercourse in a manner that may cause the deterioration or damage to the natural agricultural resources.					
Placement of religious symbols or memorabilia.	X		X		X
Harvesting /collection of kelp / seaweed in municipal designated "no-take" zones.	X		X		X
Harvesting, collection, moving, loading drying of kelp /seaweed, with a valid Seaweed Harvesting Permit or an exemption in terms of Section 81 or the MLRRA issued by the DAFF.	X		X		X
Stockpiling, drying, processing or loading of marine resources beyond areas designated, demarcated and signposted by the Municipal Council for such purposes.	X		X		X
Modification of the littoral active zone / functional dune systems in absence of approved management plans.	X		X		X
Feeding, disturbing / pursuit of fauna.	X	X	X	X	X
Disturbance, modification or destruction of the environment or species within special management areas designated, demarcated and signposted by the Municipal Council from	X	X	X	X	X

time to time.					
Defacing/damaging / removing of any notice, sign, barrier building or other infrastructure.	X	X	X	X	X
Playing or tampering with any rope, float, buoy, vessel, shelter or similar life - saving device.	X			X	
Staying overnight.	X	X	X	X	X
The discharging of domestic effluent / grey water into all natural systems.	X	X	X	X	X
Tampering with security / surveillance infrastructure.	X	X	X	X	X
Defacing of rocky outcrops and placement of memorial plaques, religious symbols or structures on natural features.	X	X	X	X	X
Graffiti, vandalism or damaging of municipal infrastructure.	X	X	X	X	X
Littering	X	X	X	X	X
Disposal of cigarette butts, ash or other hazardous materials in any place or manner other than a receptacle designated for such items	X	X	X	X	X
Dog walking / exercising of dogs in non- designated zones.	X	X	X	X	X

273/380

SCHEDULE B

ACTIVITIES ONLY PERMITTED WITH COUNCIL CONSENT IN OVERSTRAND ENVIRONMENTAL OVERLAY ZONES

A) ACTIVITIES ONLY PERMITTED WITH COUNCIL CONSENT	Applicable Environmental Management Overlay Zone (EMOZ)				
	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
Permission for the utilization of access routes to permitted kelp / seaweed harvesting sites.	X				X
Removal or destruction of vegetation which is protected and/or of conservation concern.	X	X	X	X	X
Dune maintenance on private land as per approved dune maintenance management plans.	X				X
Excavation and destruction or removal of substrate (soil, substrate, rock, shellgrit, dune sediment, mineral deposits).	X	X	X	X	X
Discharging of pool backwashing or untreated grey water or the channelling of storm water into open spaces without the necessary approval from the Municipality.	X	X	X	X	X
B) PERMIT UPON APPROVAL BY DELEGATED AUTHORITY AND / RECEIPT OF TARIFF	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
Installation of conservancy tanks or biological treatment plants within 50 metres from the edge of a watercourse / wetland.	X	X	X	X	
Access from private properties to open spaces, including the	X	X	X		X

274/380

removal of vegetation and the establishment of paths, structures and infrastructure.					
Commercial filming.	X	X	X	X	X
Construction or placement of any temporary object, building, shelter, path or structure.	X	X	X	X	X
Use of engine or motor driven vehicles, remotely piloted aircraft or any other means of transport or other conveyances beyond designated, demarcated and signposted areas	X	X	X		X
Launching of vessels at registered launch sites.	X			X	
ACTIVITIES ONLY PERMITTED WITH COUNCIL CONSENT	Applicable Environmental Management Overlay Zone (EMOZ)				
C) COUNCIL AUTHORISATION PENDING Consent Use Application / Lease Agreement / Applicable Tariffs as applicable	Coastal	Mountain	Protected Area Buffer	Riverine	Urban Conservation
Buildings / Structures associated with: Taking of water, storing of water, impeding or diverting flow, stream flow reduction, altering the bed, banks, course characteristics, outflow structures or discharge pipes.	X	X	X	X	X
Application for the designation of industrial sites and activities associated with the seaweed harvesting, collection, drying, transport and processing fishery.	X		X		X
Encroachment of private	X		X	X	X

275/380

buildings, structures, infrastructure, access routes.					
Commercial Harvesting/collection and removal of any natural resource.	X	X	X	X	X
Construction or placement of any permanent object, building, shelter, pathway or structure.	X	X	X	X	X

276/380

SCHEDULE C

GENERAL REGULATIONS APPLICABLE TO THE ENVIRONMENTAL OVERLAY ZONES OF THE OVERSTRAND MUNICIPALITY

GENERAL REGULATIONS APPLICABLE TO OVERLAY ZONES IN THE OVERSTRAND MUNICIPAL REGION	Applicable Environmental Management Overlay Zone (EMOZ)				
	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
<p>Access</p> <ul style="list-style-type: none"> • Municipal EMOZ open spaces shall be regarded as Public Places whereby the right of access for the general public is guaranteed, excluding where such access constitutes a negative environmental impact or where such access will constitute a public nuisance. • Members of the public shall at all times respect the • right of other users of Municipal property in terms of access to natural areas within EMOZ Open Space Properties as well as the personal integrity, health, safety and wellbeing of other persons present. • Members of the public shall at all times respect the environment and natural resources within Municipal EMOZ properties and refrain from inflicting damage to natural resources, the ecology or landscape 	X	X	X	X	X

<p>integrity in such areas.</p> <ul style="list-style-type: none">• Members of the public shall at all times respect Municipal infrastructure and refrain from damaging any building, structure, work, amenity, regulation sign or interpretive material present in these public places.• The Municipality may designate existing development nodes and access routes on spatial plans per suburb in the Municipal area, signpost such areas and provide for their operational management in maintenance management plans.• Members of the public shall not stray beyond designated nodes, access routes and associated infrastructure.• Council may from time to time promulgate bylaws prohibiting specific actions and behaviour within all [urban and coastal] EMOZ properties and impose penalties for transgression of such bylaws.				
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GENERAL REGULATIONS APPLICABLE TO OVERLAY ZONES IN THE OVERSTRAND MUNICIPAL REGION	Applicable Environmental Management Overlay Zone (EMOZ)				
	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
<p>Restriction of Access</p> <ul style="list-style-type: none"> The right of access shall be restricted to formally designated, demarcated and signposted development nodes, pathways and trails, in identified EMOZ. Council or the delegated management authority may close any access point, trail or encroachment that has or will have an adverse impact on the environment or that is deemed to be an unlawful or unauthorised access point or route. Objectors towards any closure or removal of any path, trail, route or encroachment will have to provide proof of Municipal authorisation or permission for the establishment of such means of access from private properties. Council or the delegated management authority may order the removal of structures in unauthorised access points or routes and the rehabilitation of such sites at the expense of the responsible party. Overstrand Municipality may publish Bylaws which 	X	X	X	X	X

manage the right of public access to - and recreational use of watercourses, wetlands and dams.					
GENERAL REGULATIONS APPLICABLE TO OVERLAY ZONES IN THE OVERSTRAND MUNICIPAL REGION	GENERAL REGULATIONS APPLICABLE TO OVERLAY ZONES IN THE OVERSTRAND MUNICIPAL REGION				
	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
Remedy of Breach of the Right of Access and Occupation of Municipal EMOZ Properties <ul style="list-style-type: none"> • Council may remove buildings, structures, pathways, vegetation, memorabilia or religious symbols which have been placed, erected, constructed, cleared or planted on Municipal EMOZ properties. • Council may issue repair / removal / rehabilitation notices where structures, vegetation, memorabilia or religious symbols encroach on Municipal property and where the ownership or custodianship of such items can be established. • Costs incurred in the removal of infrastructure as well as for the repair / rehabilitation of damaged ecosystems, shall be for the account of the responsible party. 	X	X	X	X	X
Development Nodes <ul style="list-style-type: none"> • The design and 	X	X	X	X	X

<p>development of new buildings, infrastructure and utility services within development nodes in EMOZ properties must complement the natural character and sense of place of the ecological corridor and existing development in such areas.</p> <ul style="list-style-type: none"> • Council may require the submission of EMPs and other environmental studies for activities, buildings and infrastructure within development nodes, for each application. • Council may require the submission of independent environmental audit reports for specified activities contained in environmental management plans for consent use activities. • Based on the NEMA 'Precautionary' and 'Duty of Care' principles, the Municipality may also direct the developer/owner/applicant to prepare and submit Construction and Operational EMPs to prevent mitigate and manage any adverse impacts in sensitive EMOZ zones, for consideration and approval by the Municipality. 					
<p>GENERAL REGULATIONS APPLICABLE TO OVERLAY</p>	<p>Applicable Environmental Management Overlay Zone (EMOZ)</p>				

28/380

ZONES IN THE OVERSTRAND MUNICIPAL REGION	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
<p>Management Agreements</p> <ul style="list-style-type: none"> The Municipality may enter into Co-Management Agreements with community organisations with locus standi for the funding / operational management of Municipal Open Spaces EMOZ zones. The Municipality may enter into Co-Management Agreements with public / community organisations for the management and funding of operational management activities in EMOZ. 	X	X	X	X	X
<p>Management of Locally Problematic Invasive Alien Species & Emerging Weeds</p> <ul style="list-style-type: none"> Council may, within any EMOZ, consider and approve a list of locally problematic alien invasive species and emerging weeds which pose a risk to the environment and which could have cost implications for the Municipality if such species had to be removed from Municipal land. Council may, through a system of delegations, issue removal notices for locally listed alien invasive species and emerging weeds which 	X	X	X	X	X

282/380

are found on properties within or adjacent to EMOZ properties, including those on State Owned land.					
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GENERAL REGULATIONS APPLICABLE TO OVERLAY	Applicable Environmental Management Overlay Zone				
	(EMOZ)				
	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
Management Plans for NEM:BA Invasive Alien Species <ul style="list-style-type: none"> It is a requirement in terms of the NEM:BA that Invasive Alien Species (IAS) management plans must be compiled for State land. The managing Government Department must compile these plans. Overstrand Municipality may request access to these IAS management plans, where such State land falls within an EMOZ. Overstrand Municipality may request access to Invasive Alien Species Management Plans from that are required for all State Land, from Government Departments responsible for land, where such State Land falls within an EMOZ. Overstrand Municipality may correspond with DEA: Biosecurity Directorate and request the serving of Directives for the clearing of Invasive Alien Species on Government Departments that have 	X	X	X	X	X

<p>jurisdiction over State Land, if there are no IAV plans in place for such properties.</p> <ul style="list-style-type: none"> • Council may request access to Alien Invasive Species Clearing plans for private land, if such private land is found to contain listed NEM:BA or locally important Invasive Species and Emerging Weeds. 					
<p>Management of Forests on Municipal Land</p> <ul style="list-style-type: none"> • The Municipality may categorise, designate and manage specific forest areas as Coastal Forest Reserve / Recreational Area / Special Management Area, depending on the existing state of transformation of such ecosystems and in accordance with the provisions of management plans for such areas, as approved by Council. 	X	X	X	X	X

GENERAL REGULATIONS APPLICABLE TO OVERLAY ZONES IN THE OVERSTRAND MUNICIPAL REGION	Applicable Environmental Management Overlay Zone				
	(EMOZ)				
	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
<p>Prioritisation of Areas for Fire Control Management</p> <ul style="list-style-type: none"> The municipality may prioritise and facilitate areas for proactive and / or urgent Fire Control Management in collaboration with landowners - where the fire risk to natural environment as well as life and property is reaching extreme levels of concern. The Municipality may call for the submission or development of co-operative fire protection and fire management plans for private properties within the Environmental Overlay Zones or within the buffer zones that abut Overstrand property. The Municipality may request the provision of fire protection and fire management plans from Government Departments that have jurisdiction over State Land that abuts or is part of an Environmental Overlay Zone and report the said Departments to 	X	X	X	X	X

286/380

the MEC for Environment, Forestry and Fisheries if such plans are not forthcoming from the relevant department.					
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287/380

GENERAL REGULATIONS APPLICABLE TO OVERLAY ZONES IN THE OVERSTRAND MUNICIPAL REGION	Applicable Environmental Management Overlay Zone				
	(EMOZ)				
	Coast al	Mountain Catchme nt	Protected Area Buffer	Riverine	Urban Conservation
Fire Management <ul style="list-style-type: none"> Overstrand Municipality may develop an Ecological Fire Management Plan in coordination with the Fire and Rescue department of the Municipality for the ecological management of open spaces within the urban edge. Properties subject to the fire management plan shall be exempt from the general Overstrand Fire Management Policy and will be burned according to correct fire management cycles. The Municipality may prepare fuel breaks and fire breaks on and along the boundaries of all residential properties to provide access for firefighting teams and to reduce the risk of the spread of fires across boundaries. The Municipality may restrict the placement of high fire risk structures and buildings within building lines on the boundary of the EMOZ Open Spaces and order the removal of 	X	X	X	X	X

<p>structures where such structures constitute a fire hazard and / threaten life / other property.</p> <ul style="list-style-type: none"> • The Municipality may restrict the presence of high fire risk vegetation (indigenous or invasive) adjacent to or directly against structures or infrastructure (privately or government owned) and order the removal of the vegetation where such vegetation constitute a fire hazard and / threaten life / other property. • The Municipality may order the installation of sprinkler systems / fire protection systems on buildings with thatched roofs, which are located adjacent to EMOZ Open Spaces properties. 					
<p>Management of Encroachment</p> <ul style="list-style-type: none"> • Council may institute measures to safeguard coastal land against encroachment of private properties (gardens, garden refuse, structures, mown areas etc.) into EMOZ open spaces or to prosecute persons that cause such encroachments. • Council may approve procedures for the removal 	X	X	X	X	X

<p>of infrastructure that is placed in open spaces without authorization from the Municipal Manager or the delegated Authority.</p> <ul style="list-style-type: none">• Council may authorize procedures for the recovery of costs from persons that are responsible for encroachments, dumping or the modification of vegetation in the EMOZ.• Council may prohibit the installation of memorabilia, religious symbols, objects of art and culture or other structures in open spaces.					
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290/380

OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES

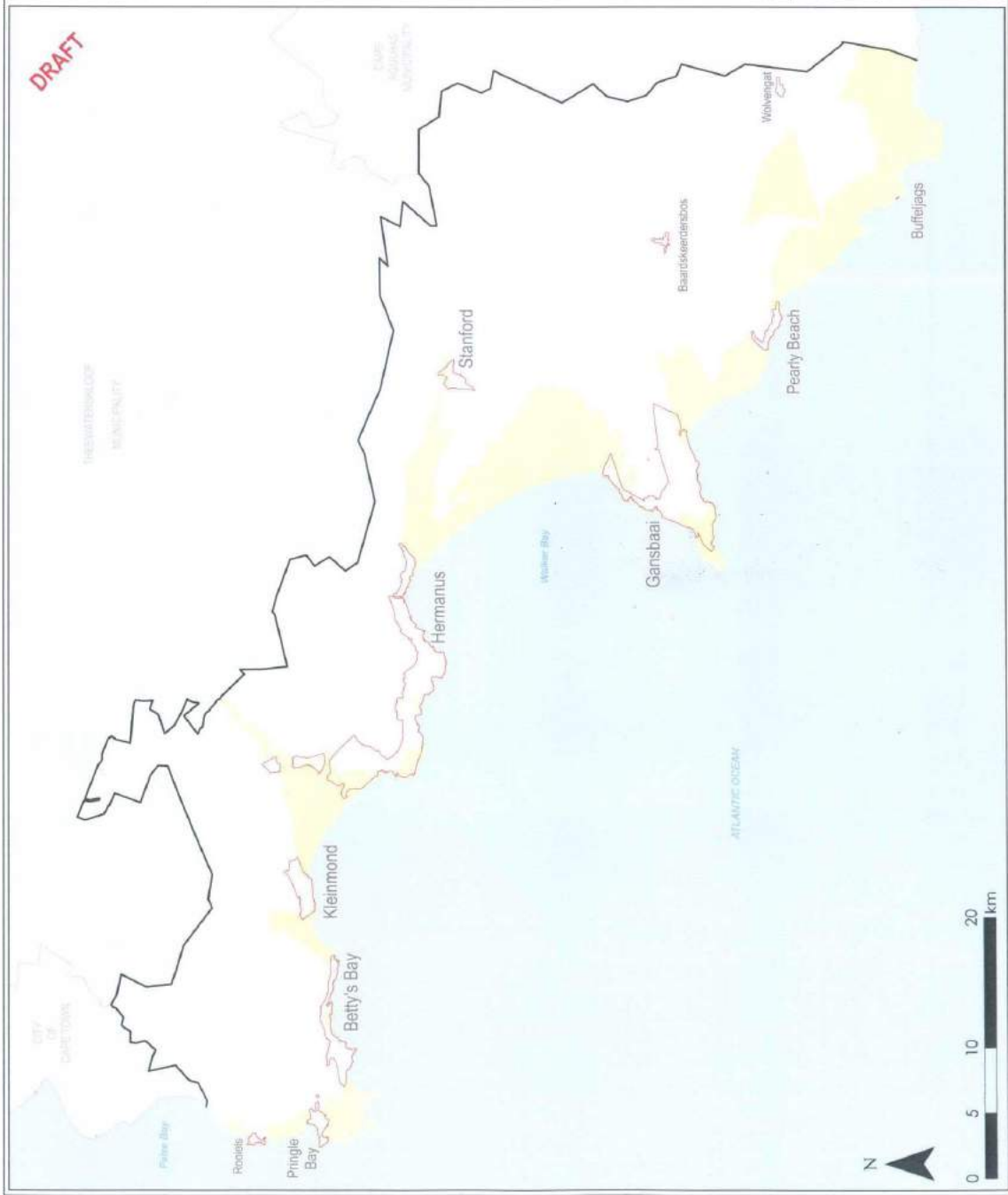
OVERSTRAND WIDE;
PLAN 1
COASTAL PROTECTION ZONE - EMOZ

Coastal Protection Zone - EMOZ
Urban Edge

PLEASE NOTE:
The positions, dimensions and contents herein shall
be verified by a Professional Land Surveyor.
REF: Overstrand - Coastal Protection Zone
COMPILED BY: A. ELLI
MUNICIPALITY

DATE: SEPTEMBER 2016
SCALE: SEE LINESCALE
PLAN NO.

CLIENT:
OVERSTRAND
MUNICIPALITY
SPESBOS PLANNING & DESIGN (Pty) Ltd
14 PEARLY BAY DRIVE
PEARLY BAY, OVERSTRAND
7201
TEL: 027 448 1000
WWW.SPESBOSPLANNING.CO.za



<p>OVERSTRAND MUNICIPALITY OVERLAY ZONES FOR ZONING SCHEMES</p>	<p>OVERSTRAND WIDE: PLAN 3 PROTECTED AREA BUFFER - EMOZ</p>	<p>Protected Area Buffer - EMOZ Urban Edge </p>
<p><small>PLANNING NOTE: The overlay zones, EMOZs and property lines were prepared by a Professional Land Surveyor.</small></p> <p><small>REF: 1. Overstrand Wide Overlay Zones (2017)</small></p> <p><small>COMPILED BY: AELIS ROEMENY</small></p>		
<p>DATE: SEPTEMBER 2016</p> <p>SCALE: SEE LINESCALE</p> <p>PLAN NO.</p>		<p>CLIENT: OVERSTRAND MUNICIPALITY</p>



OVERSTRAND MUNICIPALITY

OVERSTRAND WIDE: PLAN 3

PROTECTED AREA BUFFER - EMOZ

DATE: SEPTEMBER 2016

SCALE: SEE LINESCALE

PLAN NO.

CLIENT: OVERSTRAND MUNICIPALITY

OVERSTRAND MUNICIPALITY

OVERSTRAND WIDE: PLAN 3

PROTECTED AREA BUFFER - EMOZ

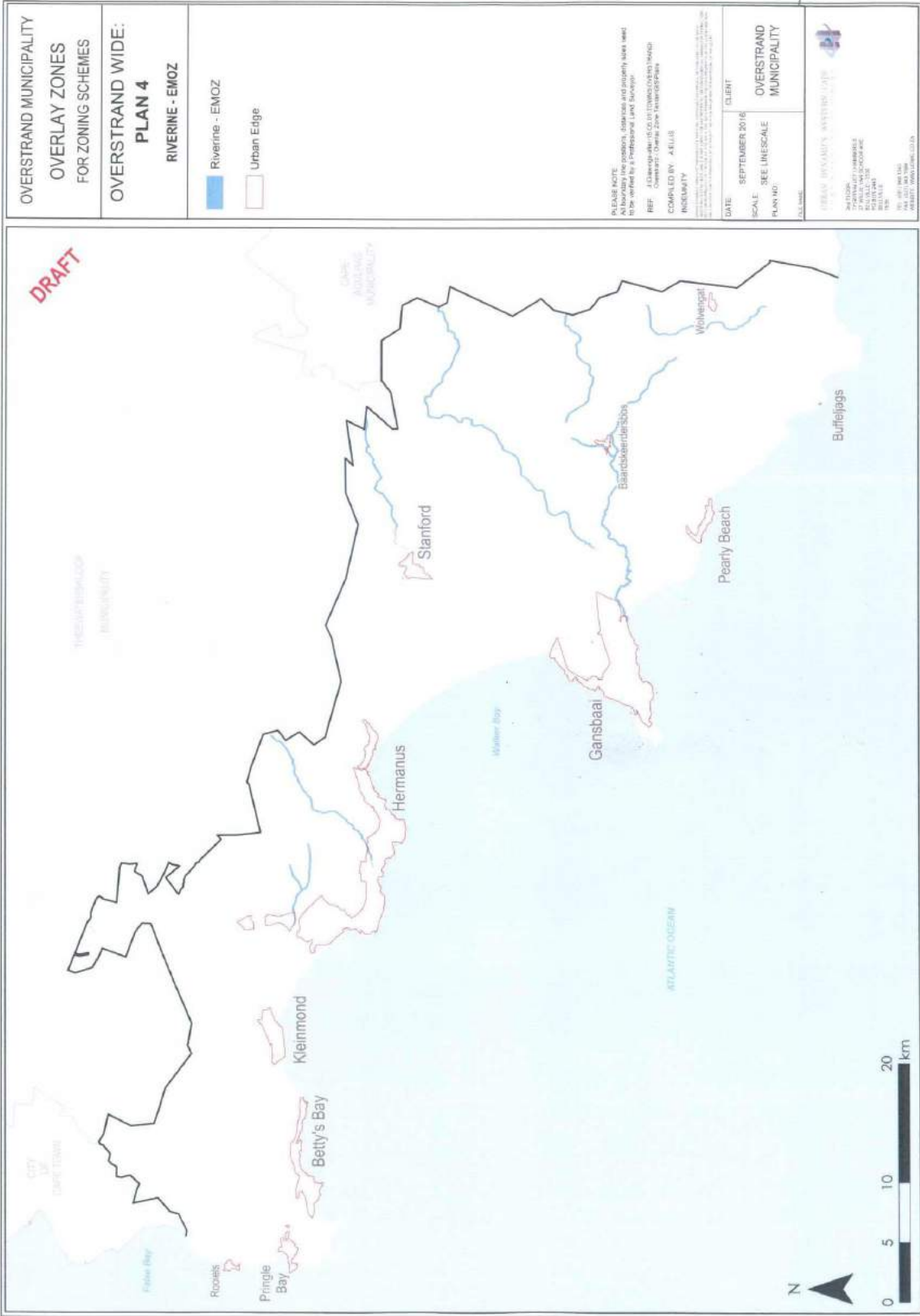
DATE: SEPTEMBER 2016

SCALE: SEE LINESCALE

PLAN NO.

CLIENT: OVERSTRAND MUNICIPALITY

292/380



OVERSTRAND MUNICIPALITY
 OVERLAY ZONES
 FOR ZONING SCHEMES

OVERSTRAND WIDE:
PLAN 4
 RIVERINE - EMOZ

Riverine - EMOZ

Urban Edge

PLEASE NOTE:
 All drawings, sections, statements and reports have been
 prepared by a Professional Land Surveyor.
 REF: 4326/2016 (as amended) (2016/01/01) (2016/01/01) (2016/01/01)
 OVERSTRAND: Overstrand: Overstrand: Overstrand: Overstrand:
 COMPILED BY: AEL/LS
 INDEXED BY: AEL/LS

DATE: SEPTEMBER 2016
 CLIENT: OVERSTRAND MUNICIPALITY
 SCALE: SEE LINESCALE
 PLAN NO: 292/380

OVERSTRAND MUNICIPALITY

OVERSTRAND MUNICIPALITY

OVERSTRAND MUNICIPALITY

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294/380

<p>OVERSTRAND MUNICIPALITY OVERLAY ZONES FOR ZONING SCHEMES</p>	<p>OVERSTRAND WIDE: PLAN 5</p> <p>URBAN CONSERVATION - EMOZ</p> <p>Urban Conservation - EMOZ</p> <p>Urban Edge</p>	<p><small>PLEASE NOTE: This document is for public use. It is not to be used for any other purpose without the written consent of the author. The author is not responsible for any errors or omissions in this document. The author is not responsible for any damage or loss of any kind resulting from the use of this document.</small></p> <p><small>REF: J.S. van der Merwe & Associates (Pty) Ltd Overstrand - Overlay Zone - Urban Conservation - EMOZ</small></p> <p><small>COMPILED BY: A. LILLIE</small></p> <p><small>DATE: 15 SEPTEMBER 2016</small></p> <p><small>SCALE: SEE LINESCALE</small></p> <p><small>PLAN NO: 294/380</small></p> <p><small>CLIENT: OVERSTRAND MUNICIPALITY</small></p>
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URBAN CONSERVATION - EMOZ

URBAN CONSERVATION - EMOZ
OVERSTRAND MUNICIPALITY
10001 OVERSTRAND
WEST COAST PROVINCE
SOUTH AFRICA
7130
TEL: 027 799 1234
WWW.EMOZ.CO.ZA

**OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES**

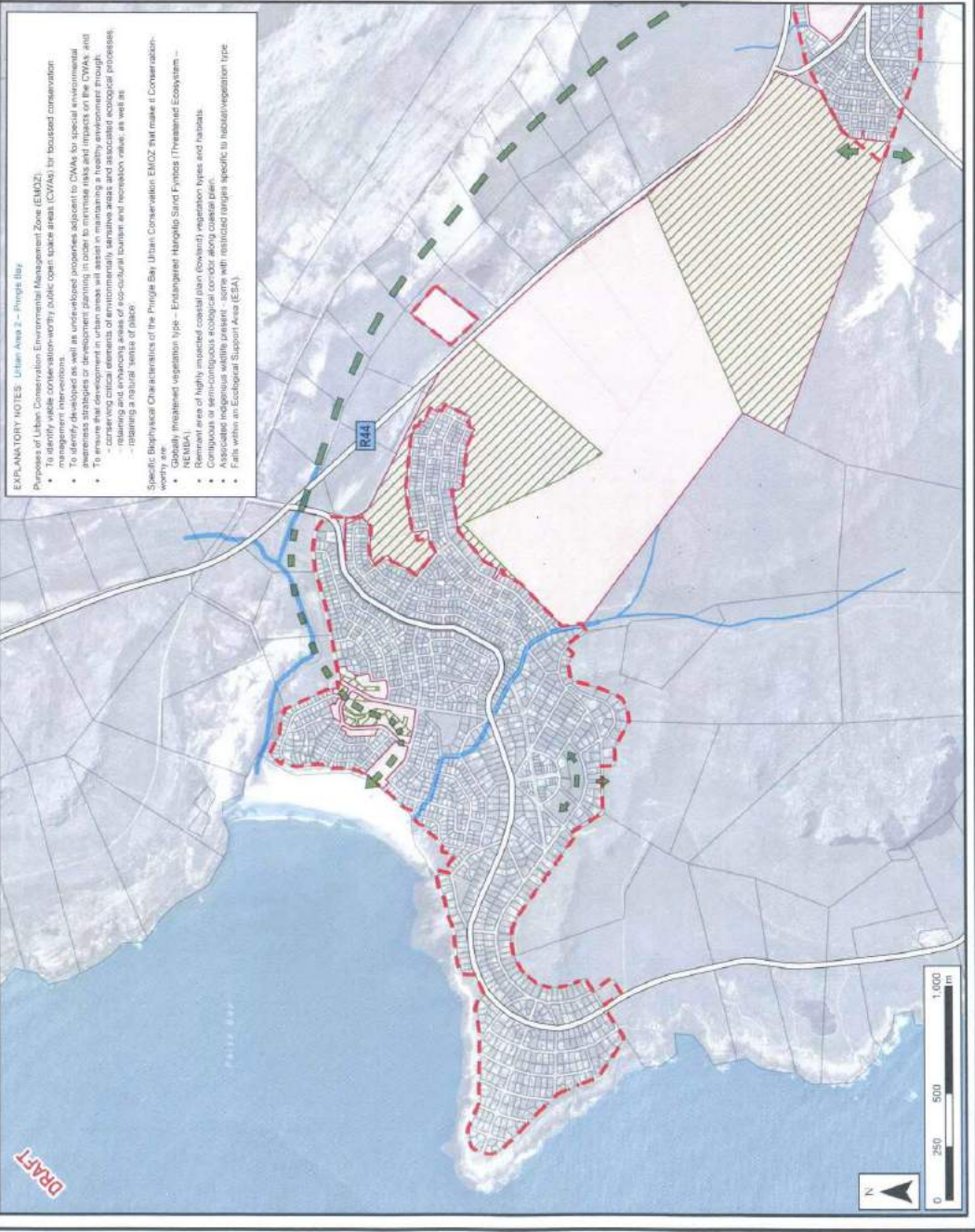
**URBAN CONSERVATION EMOZ:
PLAN 5.1 A - PRINGLE BAY**

PLEASE NOTE:
All boundary line positions, distances and bearings have been
checked for accuracy by a Professional Land Surveyor.

REF: (Overlays refer to LOCAL GOVERNMENT ZONING
SCHEMES and not to the Land Use Management
INSTRUMENT)







DATE: SEPTEMBER 2010
SCALE: SEE LINESCALE
PLANNING NO.:

CLIENT:
OVERSTRAND
MUNICIPALITY



OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES

URBAN CONSERVATION EMOZ:
PLAN 5.2 A - BETTYS BAY WEST

-  Urban Conservation - EMOZ
-  Conservation-worthy Area on Municipal Land
-  Ecological Process Corridor
-  Drainage/River Line
-  Urban Edge
-  Road

PREPARE NOTE:
All boundary line problems, addresses and property lines must be referred to a Professional Land Surveyor.

REF: ZONING SCHEMES (1) DE JURE (2) OVERSTRAND

CONSULET: A. ELIE

PROBANT:

DATE: SEPTEMBER 2018
SCALE: SEE LINESCALE
DRAWN:

CLIENT: OVERSTRAND MUNICIPALITY



URBAN CONSERVATION EMOZ
PLAN 5.2 A - BETTYS BAY WEST

DATE: 15/09/2018
DRAWN: J. VAN DER MERWE
CHECKED: J. VAN DER MERWE
SCALE: 1:5000
PROJECT NO: 2018/01/01

DRAFT

EXPLANATORY NOTES: (Urban Plan 5 - Bettys Bay West)

BACKGROUND: The Commission for Environmental Management (CEM) has issued a notice of intention to develop a conservation-worthy area (CWA) in the Bettys Bay West area.

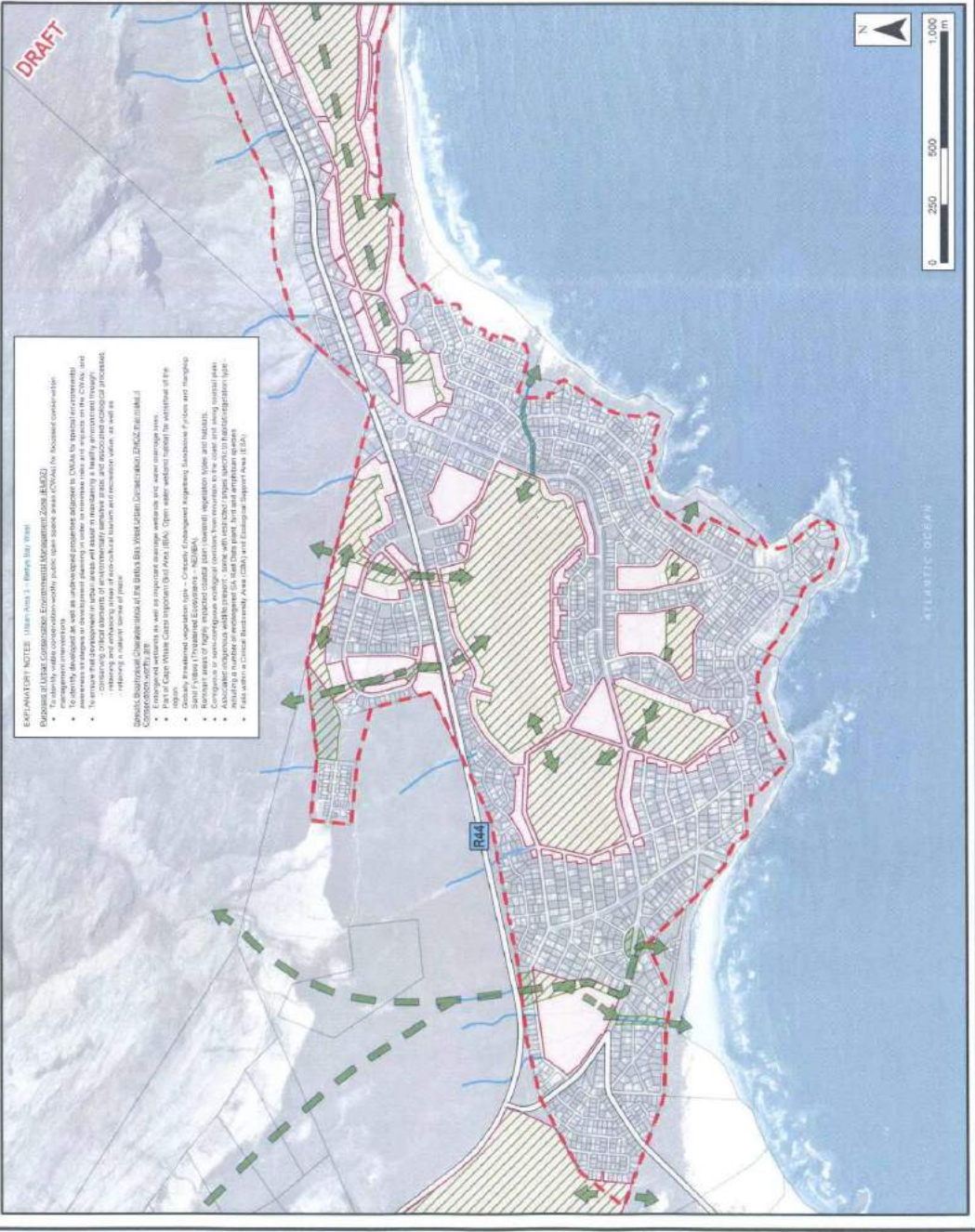
- To identify, designate as well as undeveloped properties adjacent to CWAs for special environmental management.
- To ensure that development in urban areas will occur in a manner that is consistent with the conservation of the natural and cultural heritage of the area.
- To ensure that development in urban areas will occur in a manner that is consistent with the conservation of the natural and cultural heritage of the area.
- To ensure that development in urban areas will occur in a manner that is consistent with the conservation of the natural and cultural heritage of the area.

OBJECTIVE: The objective of this plan is to identify and designate properties adjacent to CWAs for special environmental management.

SCOPE: The scope of this plan is to identify and designate properties adjacent to CWAs for special environmental management.

DEFINITIONS:

- **Urban Conservation - EMOZ:** A conservation-worthy area on municipal land.
- **Ecological Process Corridor:** A linear area of high ecological value that connects different ecological systems.
- **Drainage/River Line:** A line that indicates the boundary of a drainage basin or river.
- **Urban Edge:** The boundary between an urban area and a rural area.
- **Road:** A public road or private road.



**OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES**

**URBAN CONSERVATION EMOZ:
PLAN 5.2 B - BETTYS BAY WEST**

- Urban Conservation - EMOZ
- Category A
 - Category C
 - Category D
 - State
 - Urban Edge
 - Road

PLEASE NOTE:
All boundary lines, distances and property areas need to be verified by a Professional Land Surveyor.
REF: J:\Overlays\5.2 B\11\Overlays\5.2 B\Plan 5.2 B - Bettys Bay West - Urban Conservation EMOZ.mxd
COMPILED BY: A. ELLE
REVISIONS:

DATE: SEPTEMBER 2014
SCALE: SEE LINESCALE
CLIENT: OVERSTRAND MUNICIPALITY



DRAFT

Category A:
Prime ecosystems to be protected and managed to enhance natural values, and support biodiversity and ecological processes for management and nature appreciation activities only (EMIS Management function).

Category B:
Semi-modified ecosystems with high biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category C:
Modified ecosystems with a high biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category D:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category E:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category F:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category G:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category H:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category I:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category J:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category K:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category L:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category M:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category N:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category O:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category P:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category Q:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category R:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category S:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category T:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category U:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

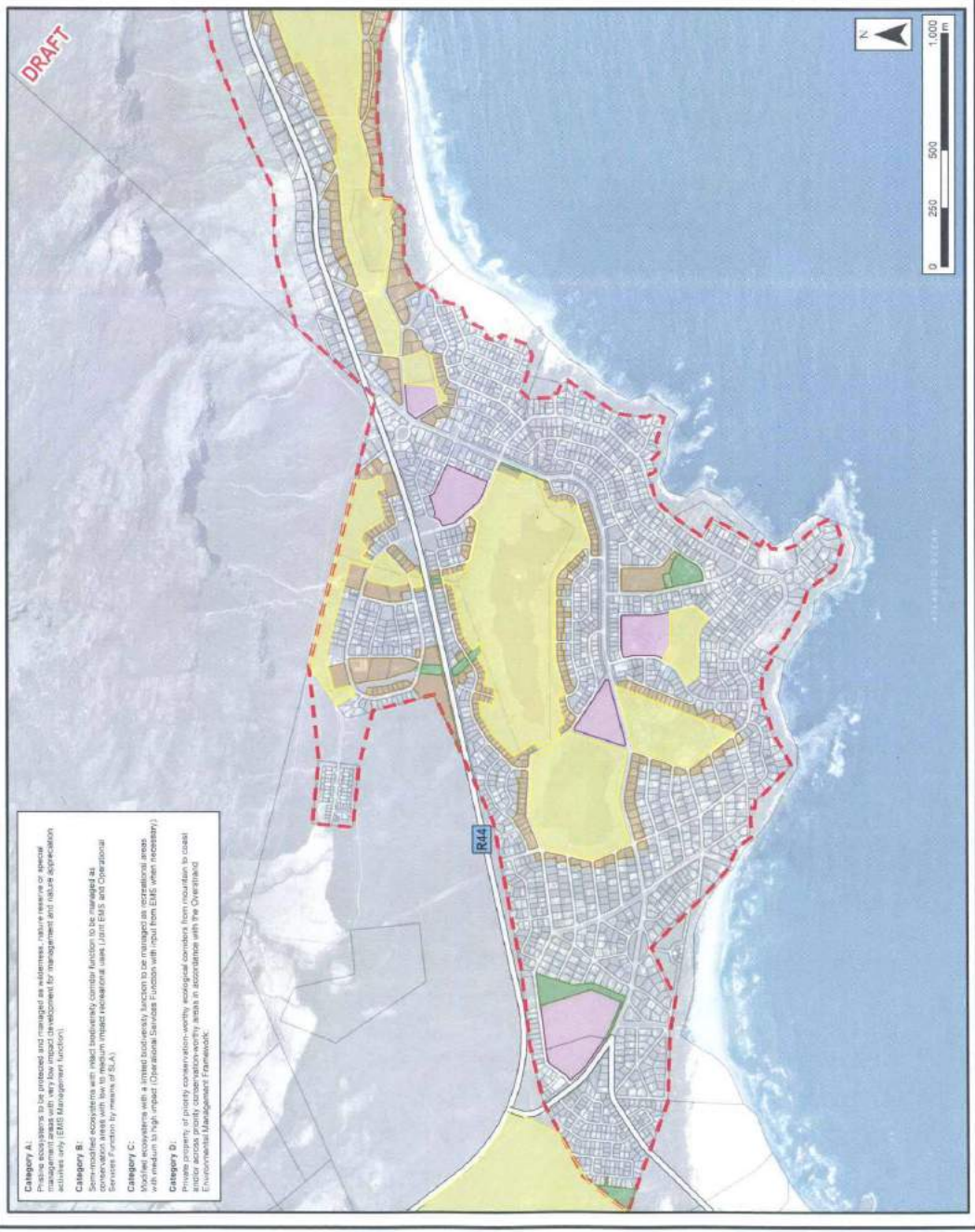
Category V:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category W:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category X:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).







Category Y:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).

Category Z:
Highly modified ecosystems with low biodiversity value to be managed as conservation areas with low to medium impact recreational uses (Joint EMIS and Operational Services function by means of SA).



**OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES**

**URBAN CONSERVATION EMOZ:
PLAN 5.3 A - BETTYS BAY EAST**

-  Urban Conservation - EMOZ
-  Conservation-worthy Area on Municipal Land
-  Ecological Process Corridor
-  Drainage/River Line
-  Urban Edge
-  Road

PLEASE NOTE:
An extract of the position documents and reports were used to be verified by a Professional Land Surveyor.
R207 - Conservation 1:1,000 (10/20/2016/2018/2020)
Drawn by: Shivan Zain Ismail/06/08/2018
COMPILED BY: A. TELLER
REVISIONS:
DATE: 10/20/2018
SCALE: 1:1000
DRAWN BY: SHIVAN ZAIN ISMAIL/06/08/2018

DATE: SEPTEMBER 2018
SCALE: SEE LINESCALE
PLAN NO: OVERSTRAND MUNICIPALITY

URBAN CONSERVATION EMOZ PLAN 5.3 A - BETTYS BAY EAST

PREPARED BY: A. TELLER
DRAWN BY: SHIVAN ZAIN ISMAIL
DATE: 10/20/2018
SCALE: 1:1000
DRAWN BY: SHIVAN ZAIN ISMAIL/06/08/2018

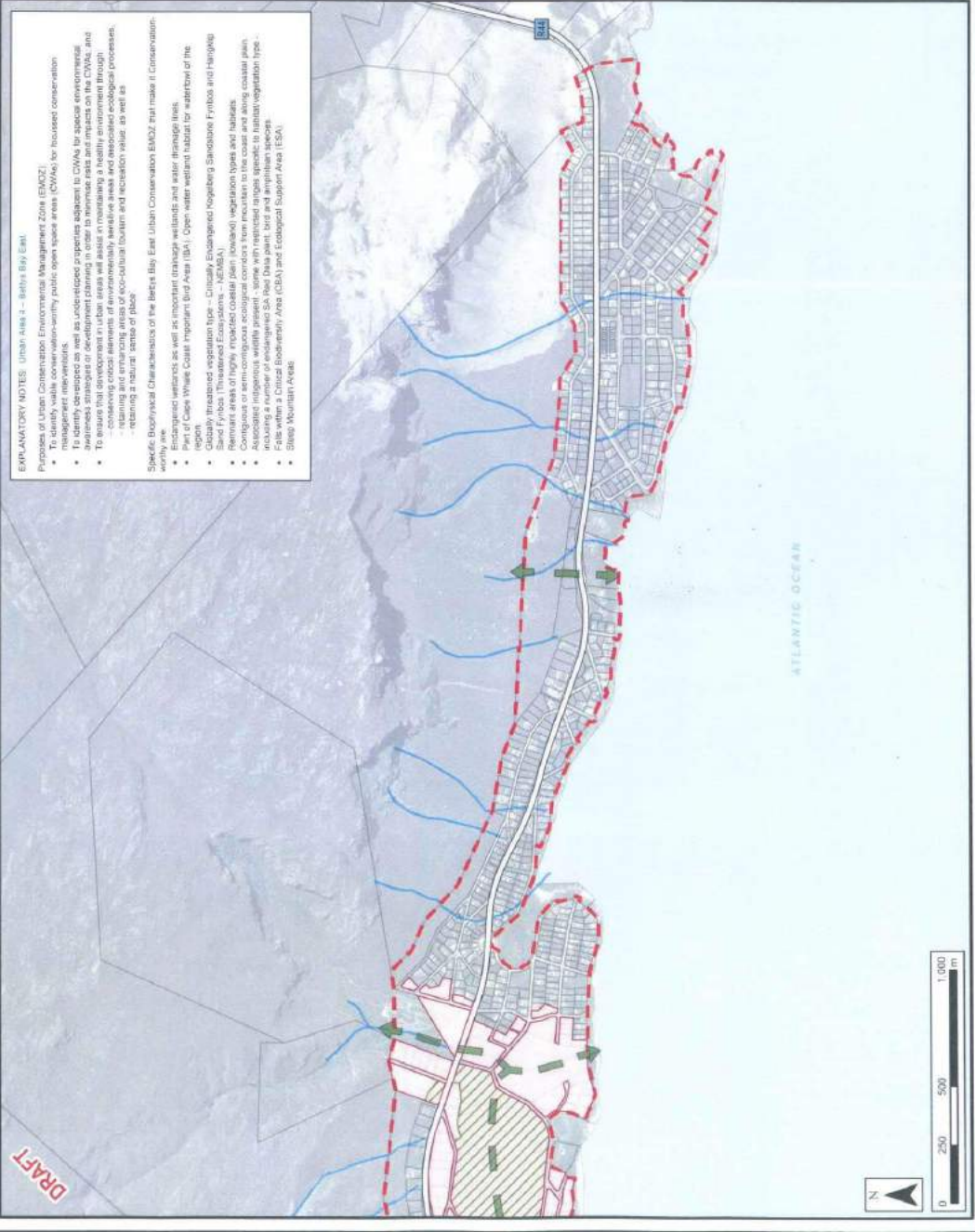
EXPLANATORY NOTES: Urban Area 3 - Bettys Bay East

Purpose of Urban Conservation Environmental Management Zone (EMOZ):

- To conserve and protect the conservation-worthy public open space area (COWPA) for 'biodiversity conservation' management interventions.
- To identify, conserve as well as under-occupied properties adjacent to COWPA for special environmental awareness strategies or development planning in order to minimise risks and impacts on the COWPA, and
- To ensure that developments in urban areas will assist in maintaining a healthy environment through:
 - retaining and enhancing areas of eco-cultural tourism and recreation value, as well as
 - retaining a natural 'sense of place'

Specific Biophysical Characteristics of the Bettys Bay East Urban Conservation EMOZ that make it Conservation-worthy are:

- Escarpment wetlands as well as important drainage wetlands and water drainage lines.
- High Cape White Cedar (Pterocarya) Big Tree (BT), Open water wetland habitat for waders and the Bog.
- Locally threatened vegetation type - Critically Endangered Kogelberg Sandstone Fynbos and Hanging Sand Fynbos (Thicketed Ecosystems - NEMBA).
- Remnant areas of highly eroded coastal plain (lowland) vegetation types and habitats.
- High biodiversity and rich floral and faunal diversity in the coastal plain.
- Surrounding indigenous wetland forest - some with restricted ranges specific to urban vegetation type - including a number of endangered SA Red Data plant, bird and amphibian species.
- Falls within a Critical Biodiversity Area (CBA) and Ecological Support Area (ESA).
- Steep Mountain Area.



300 / 380

OVERSTRAND MUNICIPALITY OVERLAY ZONES FOR ZONING SCHEMES

URBAN CONSERVATION EMOZ: PLAN 5.3 B - BETTYS BAY EAST

Urban Conservation - EMOZ

- Category A
- Category C
- Category D
- State

- Urban Edge
- Road

PLEASE NOTE:
All boundary line markers, dimensions and property lines shown
to be verified by a Professional Land Surveyor.

REF: Zoning Scheme: 15.05.1 (URBANSUBURBAN)
Zoning Scheme: 15.05.2 (URBANSUBURBAN)
Zoning Scheme: 15.05.3 (URBANSUBURBAN)

COMPILED BY: A. ELIUS

DATE: 15/08/2016

DATE	SEPTEMBER 2016	CLIENT	OVERSTRAND MUNICIPALITY
SCALE	SEE LINESCALE	PLANNED	

OVERSTRAND'S SYSTEMS ENGINEERS

10000 RIVERVIEW DRIVE
BETTYS BAY EAST
7130
NORTH COAST
NSW 1588

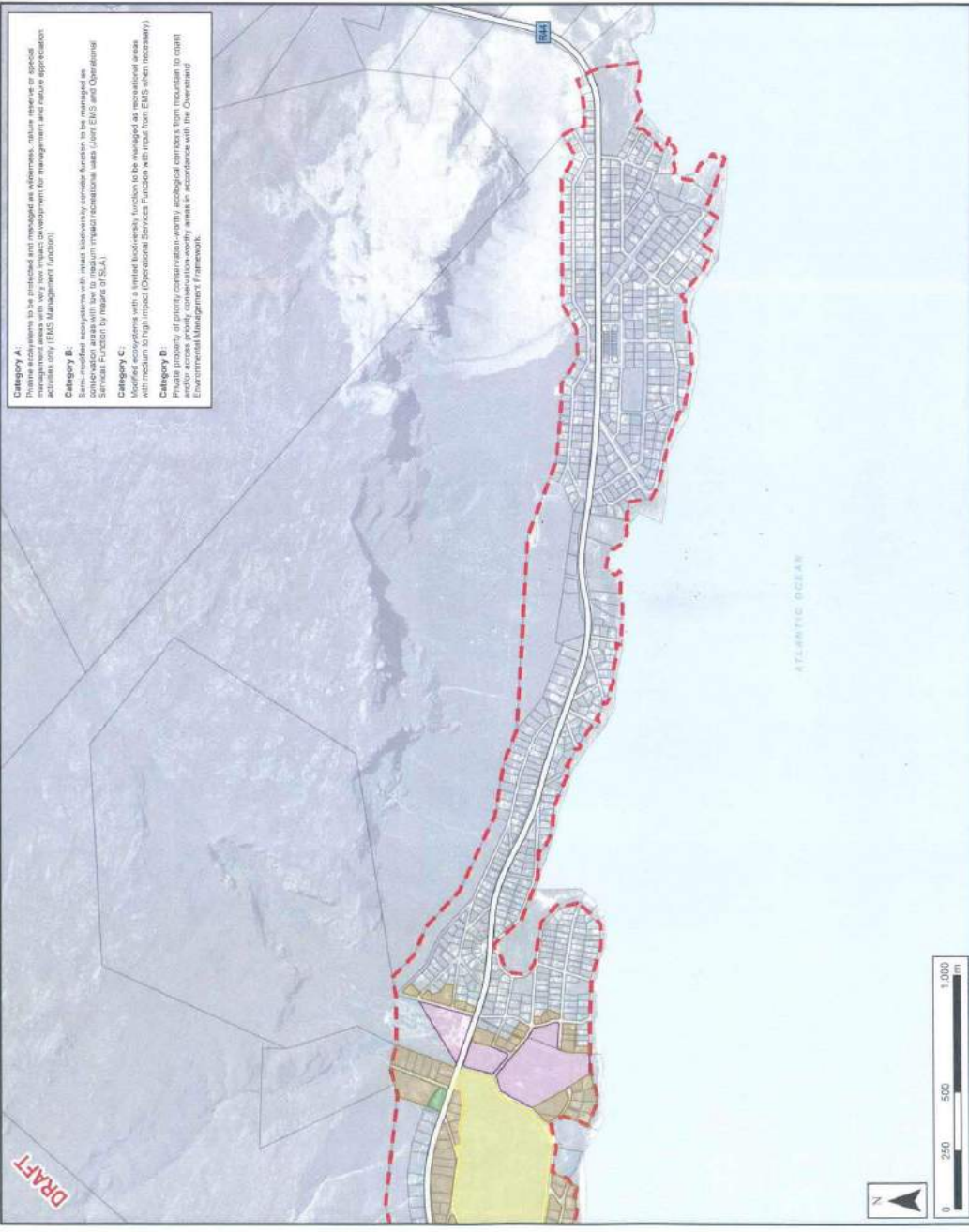
Ph: 08 945 544 041
Fax: 08 945 544 042
Email: info@overstrand.co.za

Category A:
Private ecosystems to be protected and managed as wilderness, nature reserve or special area. Areas with very high biodiversity and/or scientific value for management and nature appreciation activities only (EIS Management Function).

Category B:
Semi-private ecosystems with high biodiversity/ecosystem function to be retained in conservation areas with low to medium impact recreational uses (Joint EIS and Operational Services Function by means of SA).

Category C:
Modified ecosystems with a limited biodiversity function to be managed as recreational areas with medium to high impact Operational Services Function with input from EIS (when necessary).

Category D:
Private property of priority conservation-worthy ecological diversity signification to exist in conservation areas with input from EIS and in accordance with the Overstrand Environmental Management Framework.



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**OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES**

**URBAN CONSERVATION EMOZ:
PLAN 5.4 A - KLEINMOND**

- Urban Conservation - EMOZ
- Conservation-worthy Area on Municipal Land
- Ecological Process Corridor
- Drainage/River Line
- Urban Edge
- Road

PLANNING NOTES
 An Urban Conservation Environmental Management Zone (EMOZ) is to be established by a Protected Land District.
 REF: /Overseas-Info-2013-07-02/Overseas-Info-2013-07-02-07-02-02
 COMPILED BY: A. CLIBB
 INDUSTRY: /Urban-Planning-2013-07-02/Urban-Planning-2013-07-02-07-02-02

DATE: SEPTEMBER 2016
 SCALE: SEE LINESCALE
 PLAN NO:
 CLIENT: OVERSTRAND MUNICIPALITY



EXPLANATORY NOTES - Urban Area 5 - Kleinmond

Purposes of Urban Conservation Environmental Management Zone (EMOZ)

- To identify, value, conserve and manage public open space areas (COWs) for focused conservation
- To identify, value, conserve and manage public open space areas (COWs) for focused conservation
- To identify, value, conserve and manage public open space areas (COWs) for focused conservation
- To identify, value, conserve and manage public open space areas (COWs) for focused conservation

Specific Biological Characteristics of the Kleinmond Urban Conservation EMOZ that make it Conservation-worthy:

- Endangered wetlands as well as important drainage wetlands and water drainage lines
- Part of Cape White Coast Important Bird Area (IBA)
- Globally threatened vegetation type - *Cruciate* (unmanaged Kogelberg Sandstone Fynbos and hanging vegetation type - *Cruciate*)
- Remnant areas of highly indigenous coastal plain (lowland) vegetation types and habitats
- Contiguous or semi-contiguous ecological corridors from mountain to the coast and along coastal plain
- Associated indigenous wildlife present - some with restricted ranges specific to habitat/vegetation type - including a number of endangered S.G. (Dendroica and bird species)
- Part of Critical Biodiversity Area (CBA) and Ecological Support Area (ESA)
- Sheep Mountain Awaik



OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES

URBAN CONSERVATION EMOZ:
PLAN 5.5 B - FISHERHAVEN

Urban Conservation - EMOZ

- Category A
- Category B
- Category C
- Category D



PLANNING USE
An Overlay Zone (EMOZ) is a planning tool used to manage and protect areas of high value to be retained by a Planning Land Overlay (PLO).

REF: [Development of an Urban Conservation EMOZ](#)
Discussion: Overlay Zone Technical Paper

COMPLETED BY: A. ELLIOTT

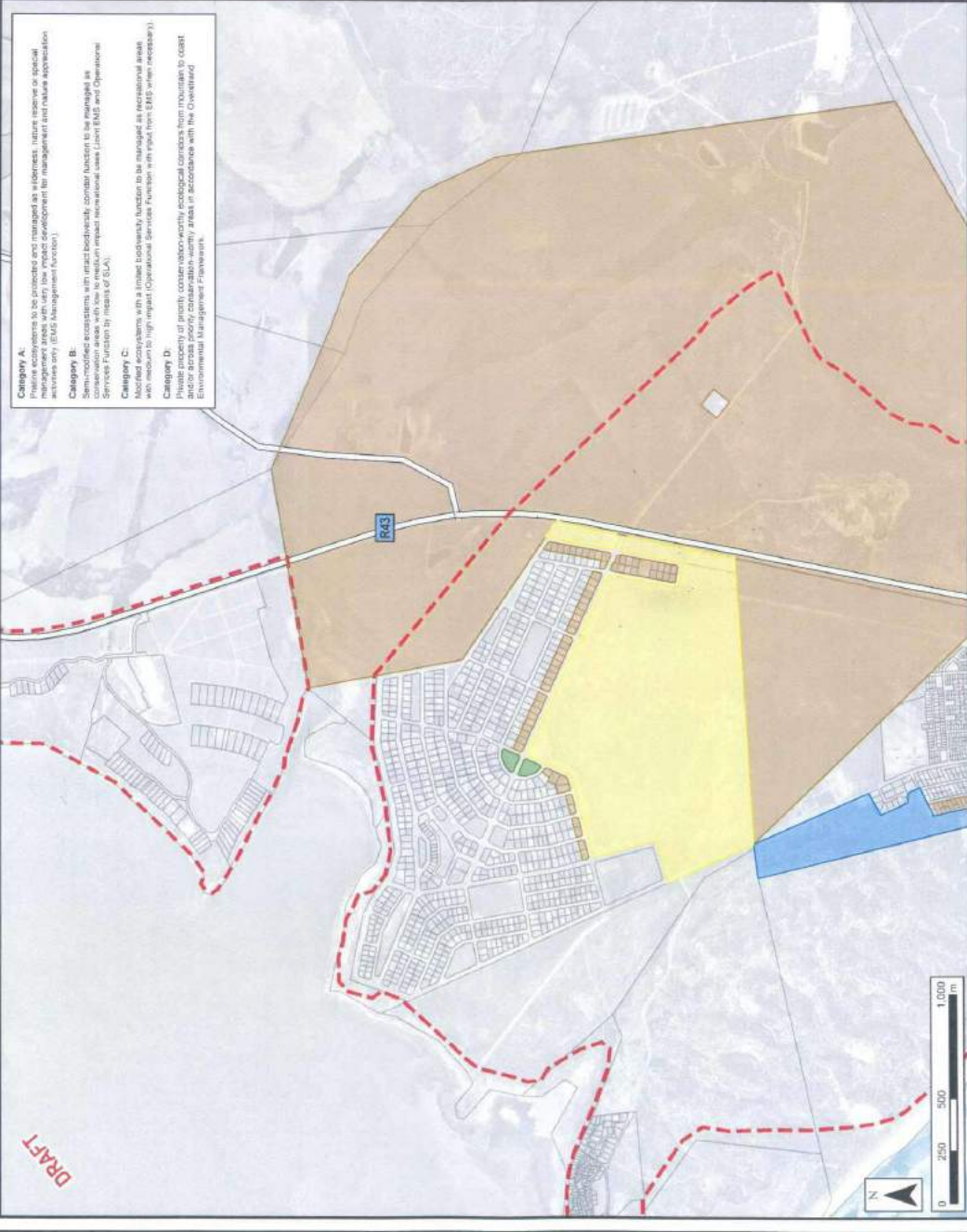
RESUBMITTED: 15/09/2016

DATE: 15/09/2016

CLIENT: OVERSTRAND MUNICIPALITY

DATE	SEPTEMBER 2016
SCALE	SEE LINESCALE
PLAN NO	

LIBRARIAN: JENNIFER S. WATSON, CLIP
PLANNING: JENNIFER S. WATSON, CLIP
DESIGN: JENNIFER S. WATSON, CLIP
DRAWING: JENNIFER S. WATSON, CLIP
SCALE: 1:1000
DATE: 15/09/2016
DRAWN BY: JENNIFER S. WATSON, CLIP



Category A:
Private ecosystems to be protected and managed as wilderness, nature reserve or special management areas with very low impact development for management and nature appreciation activities only (EMZ Management Function).

Category B:
Semi-ruderal ecosystems with intact biodiversity, similar function to be managed as wilderness, nature reserve or special management areas with low impact development for management and nature appreciation activities only (EMZ Management Function).

Category C:
Modified ecosystems with a limited biodiversity function to be managed as recreational areas with medium to high impact (Operational Services Function with input from EMS when necessary).

Category D:
Private property of priority conservation-worthy ecological corridors from mountains to coast and/or across priority conservation-worthy areas in accordance with the Overstrand Environmental Management Framework.

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305/380

OVERSTRAND MUNICIPALITY OVERLAY ZONES FOR ZONING SCHEMES	
URBAN CONSERVATION EMOZ: PLAN 5.6 A - HAWNSTON	
Urban Conservation - EMOZ	Conservation-worthy Area on Municipal Land
Ecological Process Corridor	Drainage/River Line
Urban Edge	Road

PLEASE NOTE:
All locations (on portions, distances and aspects) have been verified by a Professional Land Surveyor.

REF: 1. Development 5.6.6.1 (Urban Conservation EMOZ)
Conservation Overlay Zone Regulations

COMPLETED BY: N. S. L. S.

DATE: SEPTEMBER 2018

SCALE: SEE LINESCALE

CLIENT: OVERSTRAND MUNICIPALITY

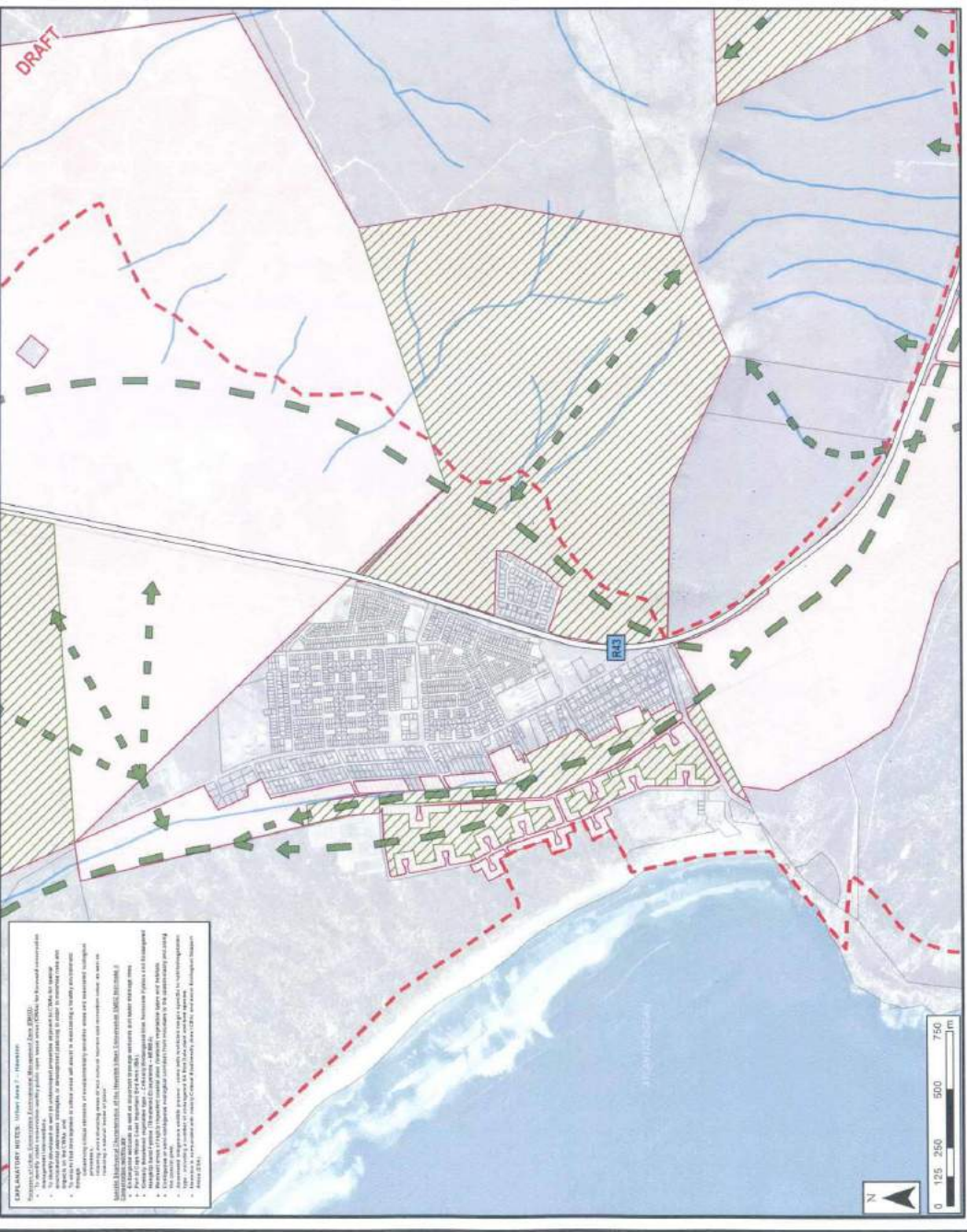
ISSUED BY: OVERSTRAND MUNICIPALITY

PROJECT: OVERSTRAND MUNICIPALITY
URBAN CONSERVATION EMOZ
PLAN 5.6 A - HAWNSTON

DATE: 2018/09/20

BY: N. S. L. S.

FOR: OVERSTRAND MUNICIPALITY



EXPLANATORY NOTES - Urban Area 7 - Hawnston

1. The Urban Conservation EMOZ (Urban Conservation EMOZ) is a zoning scheme that is designed to protect and enhance the natural and cultural heritage of the area.

2. The Urban Conservation EMOZ (Urban Conservation EMOZ) is a zoning scheme that is designed to protect and enhance the natural and cultural heritage of the area.

3. The Urban Conservation EMOZ (Urban Conservation EMOZ) is a zoning scheme that is designed to protect and enhance the natural and cultural heritage of the area.

4. The Urban Conservation EMOZ (Urban Conservation EMOZ) is a zoning scheme that is designed to protect and enhance the natural and cultural heritage of the area.

5. The Urban Conservation EMOZ (Urban Conservation EMOZ) is a zoning scheme that is designed to protect and enhance the natural and cultural heritage of the area.

6. The Urban Conservation EMOZ (Urban Conservation EMOZ) is a zoning scheme that is designed to protect and enhance the natural and cultural heritage of the area.

7. The Urban Conservation EMOZ (Urban Conservation EMOZ) is a zoning scheme that is designed to protect and enhance the natural and cultural heritage of the area.

8. The Urban Conservation EMOZ (Urban Conservation EMOZ) is a zoning scheme that is designed to protect and enhance the natural and cultural heritage of the area.

9. The Urban Conservation EMOZ (Urban Conservation EMOZ) is a zoning scheme that is designed to protect and enhance the natural and cultural heritage of the area.

10. The Urban Conservation EMOZ (Urban Conservation EMOZ) is a zoning scheme that is designed to protect and enhance the natural and cultural heritage of the area.

**OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES**

**URBAN CONSERVATION EMOZ:
PLAN 5.6 B - HAWSTON**

Urban Conservation - EMOZ

- Category A
- Category B
- Category C
- Category D

Urban Edge

Road

PLEASE NOTE
This Overlay Zone (EMOZ) is a planning tool to manage the development and use of land in the Hawston area. It is not intended to be used in isolation from other planning instruments.

REF: /08emg-04-1-02 (1) TOWNSCAPE (EMOZ)
/08emg-04-1-02 (2) TOWNSCAPE (EMOZ)
/08emg-04-1-02 (3) TOWNSCAPE (EMOZ)

COMPILED BY: A. ELLI

CLIENT: OVERSTRAND MUNICIPALITY

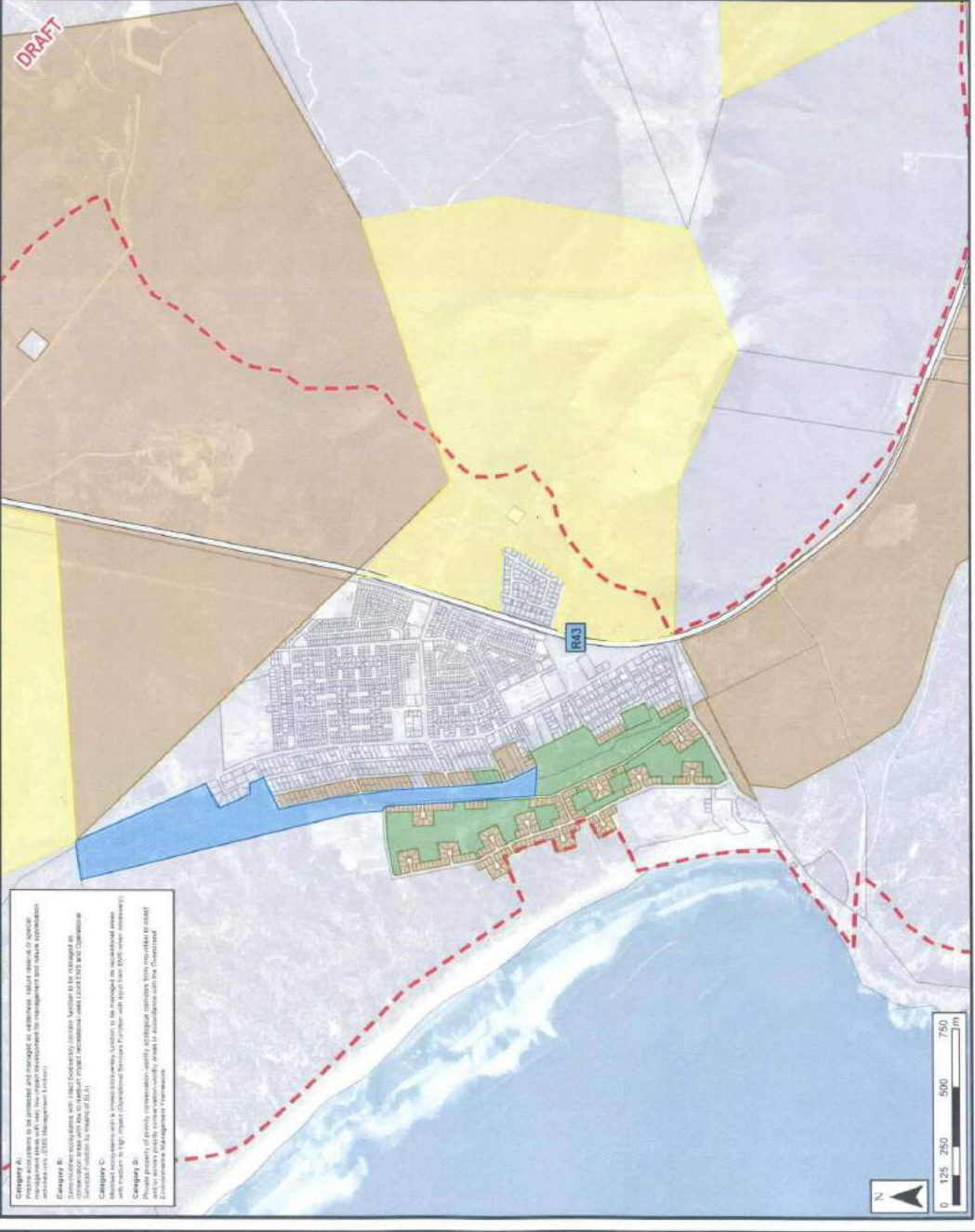
DATE: SEPTEMBER 2016

SCALE: SEE UHESCALE

PLAN NO:

LIBRARY OVERSTRAND MUNICIPALITY

111 THE AVENUE, WINDERMERE
WINDERMERE, 1601
011 853 1111



Category A:
Protects areas of high natural and cultural value, including wetlands, riparian areas, and other areas of high natural and cultural value.

Category B:
Protects areas of high natural and cultural value, including wetlands, riparian areas, and other areas of high natural and cultural value.

Category C:
Protects areas of high natural and cultural value, including wetlands, riparian areas, and other areas of high natural and cultural value.

Category D:
Protects areas of high natural and cultural value, including wetlands, riparian areas, and other areas of high natural and cultural value.

**OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES**

URBAN CONSERVATION EMOZ:
PLAN 5.8 A - HERMANIUS CENTRAL

- Urban Conservation - EMOZ
- Conservation-worthy Area on Municipal Land
- Ecological Process Corridor
- Drainage/River Line
- Urban Edge
- Road

PROJECT INFO
 CLIENT: Overstrand Municipality
 DATE: SEPTEMBER 2016
 SCALE: SEE LINESCALE
 PLAN NO: 309/380

ADVISOR
 NAME: SPENCER WYLLIE & CO
 ADDRESS: 1100 PLOEDERSBOORDWEG
 CAPE TOWN 8001
 TEL: 021 447 4477
 FAX: 021 447 4478
 WWW: WWW.SPENCERWYLLIE.CO.ZA

COMPILED BY: A. BILLS



**OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES**

**URBAN CONSERVATION EMOZ:
PLAN 5.8 B - HERMIANUS CENTRAL**

Urban Conservation - EMOZ

- Category B
- Category D
- Urban Edge
- Road

PLANNING

DATE: SEPTEMBER 2018
SCALE: SEE LINESCALE
DRAWN: [Name]

CLIENT
OVERSTRAND MUNICIPALITY

LIBERUS CONSULTANTS (Pty) Ltd
101-103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000



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OVERSTRAND MUNICIPALITY OVERLAY ZONES FOR ZONING SCHEMES

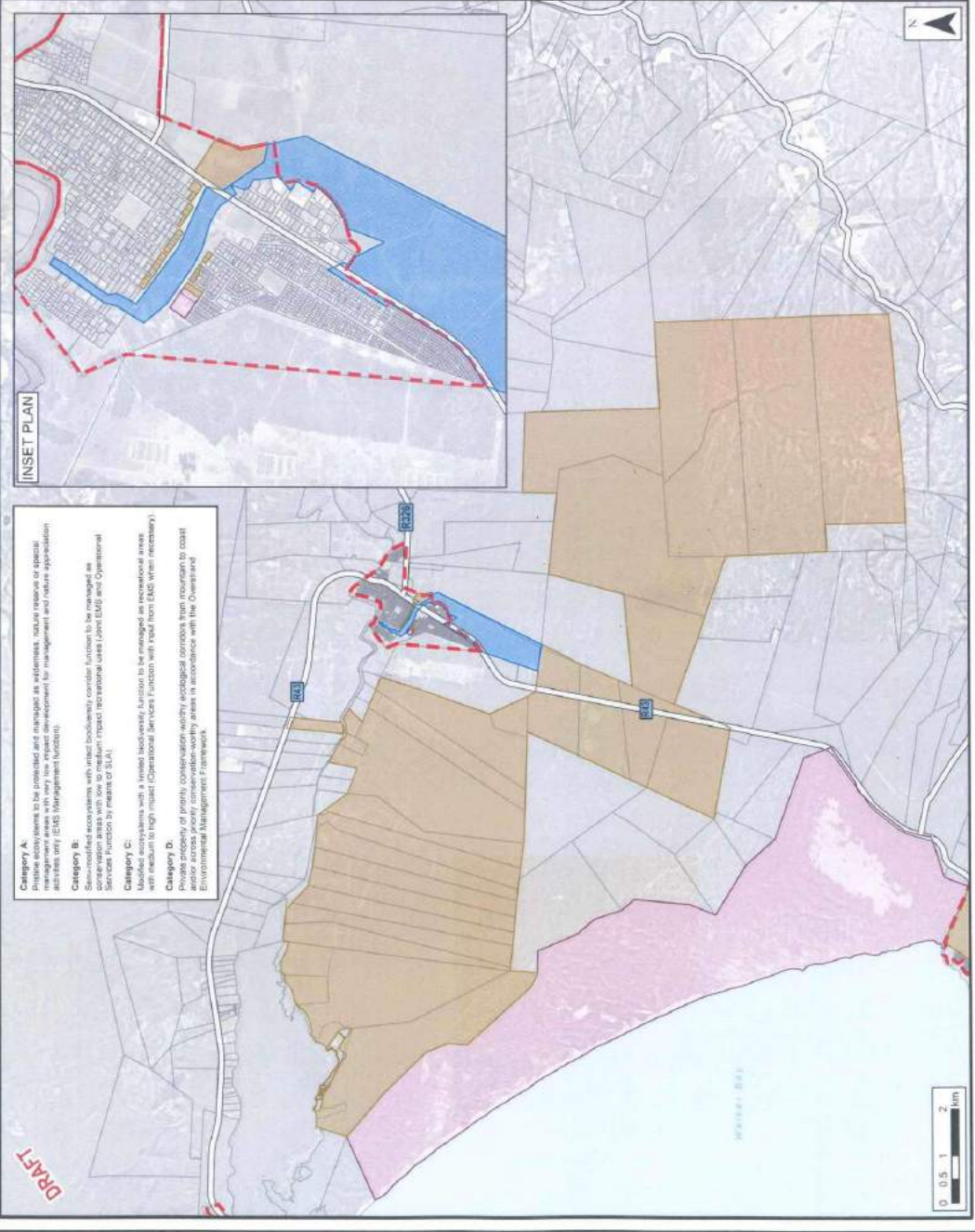
URBAN CONSERVATION EMOZ: PLAN 5.9 B - STANFORD

- Urban Conservation - EMOZ
- Category B
 - Category D
 - State
 - Urban Edge
 - Road

PLEASE NOTE
All boundary line positions, dimensions and property areas used
in this plan are based on the most recent aerial photography available
and are not necessarily true to the ground. The plan is intended to be
used as a guide only and does not constitute a professional survey.
For more information, please contact the Planning and Development
Department, Overstrand Municipality, PO Box 100, Overstrand
6305.

DATE: SEPTEMBER 2018
SCALE: SEE LINESCALE
PLAN NO.:
CLIENT: OVERSTRAND MUNICIPALITY

OVERSTRAND MUNICIPALITY
PO BOX 100
OVERSTRAND
6305
TEL: 027 711 188
WWW.OVERSTRAND.MUNICIPALITY.GOV.ZA



Category A:
Urban Conservation EMOZ areas to be protected and managed as wilderness, nature reserves or special management areas with very low impact development for management and nature appreciation activities only (EIS Management function).

Category B:
Urban Conservation EMOZ areas with low impact recreational uses (Joint LUG and Operational Services function by means of SJA).

Category C:
Urban Conservation EMOZ areas with a mixed low-impact function to be managed as recreational areas with medium to high impact (Operational Services Function with road from EMS when necessary).

Category D:
Private property of priority conservation-worthy ecological corridors from tourism to coast and/or across priority conservation-worthy areas in accordance with the Overstrand Environmental Management Framework.

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OVERSTRAND MUNICIPALITY OVERLAY ZONES FOR ZONING SCHEMES	
URBAN CONSERVATION EMOZ: PLAN 5.11 A - GANSBAAI	
	Urban Conservation - EMOZ
	Conservation-worthy Area on Municipal Land
	Ecological Process Corridor
	Drainage/River Line
	Urban Edge
	Road



EXPLANATORY NOTES - Urban Area 11 - Gansbaai

Purposes of Urban Conservation Environmental Management Zone (EMOZ)

- To identify viable conservation-worthy public open spaces areas (CWA's) for focused conservation management interventions
- To identify viable conservation-worthy public open spaces areas (CWA's) for focused conservation management interventions
- To identify viable conservation-worthy public open spaces areas (CWA's) for focused conservation management interventions
- To ensure that development in urban areas will assist in maintaining a healthy environment through conserving critical elements of environmentally sensitive areas and associated ecological processes, including cultural heritage and recreation value, as well as
- ensuring a natural sense of place.

Specific Biophysical Characteristics of the Gansbaai Urban Conservation EMOZ that make it Conservation-worthy are:

- Remnant areas of highly impacted coastal plain (lowland) vegetation types and habitats.
- Continuous or semi-continuous ecological corridors from mountains to the coast and along the coastal plain.
- Presence of a number of endangered SA Red Data plant and bird species.
- Undeveloped parts of the Gansbaai urban area falls within Critical Biodiversity Areas (CBAs) and some Ecological Support Areas (ESA).

DESIGNER:
 Anil Kumar (anil.kumar@overstrand.gov.za)
 To Be Verified by a Professional Land Surveyor

REP: J. De Vries (j.de.vries@overstrand.gov.za)
 Chairman: Overstrand Municipality

COMPILED BY: A. Ellis

DATE: SEPTEMBER 2016

SCALE: SEE LINESCALE

CLIENT: OVERSTRAND MUNICIPALITY

URBAN CONSERVATION ENVIRONMENTAL MANAGEMENT ZONE (EMOZ) PLAN 5.11 A - GANSBAAI

URBAN CONSERVATION ENVIRONMENTAL MANAGEMENT ZONE (EMOZ) PLAN 5.11 A - GANSBAAI

URBAN CONSERVATION ENVIRONMENTAL MANAGEMENT ZONE (EMOZ) PLAN 5.11 A - GANSBAAI

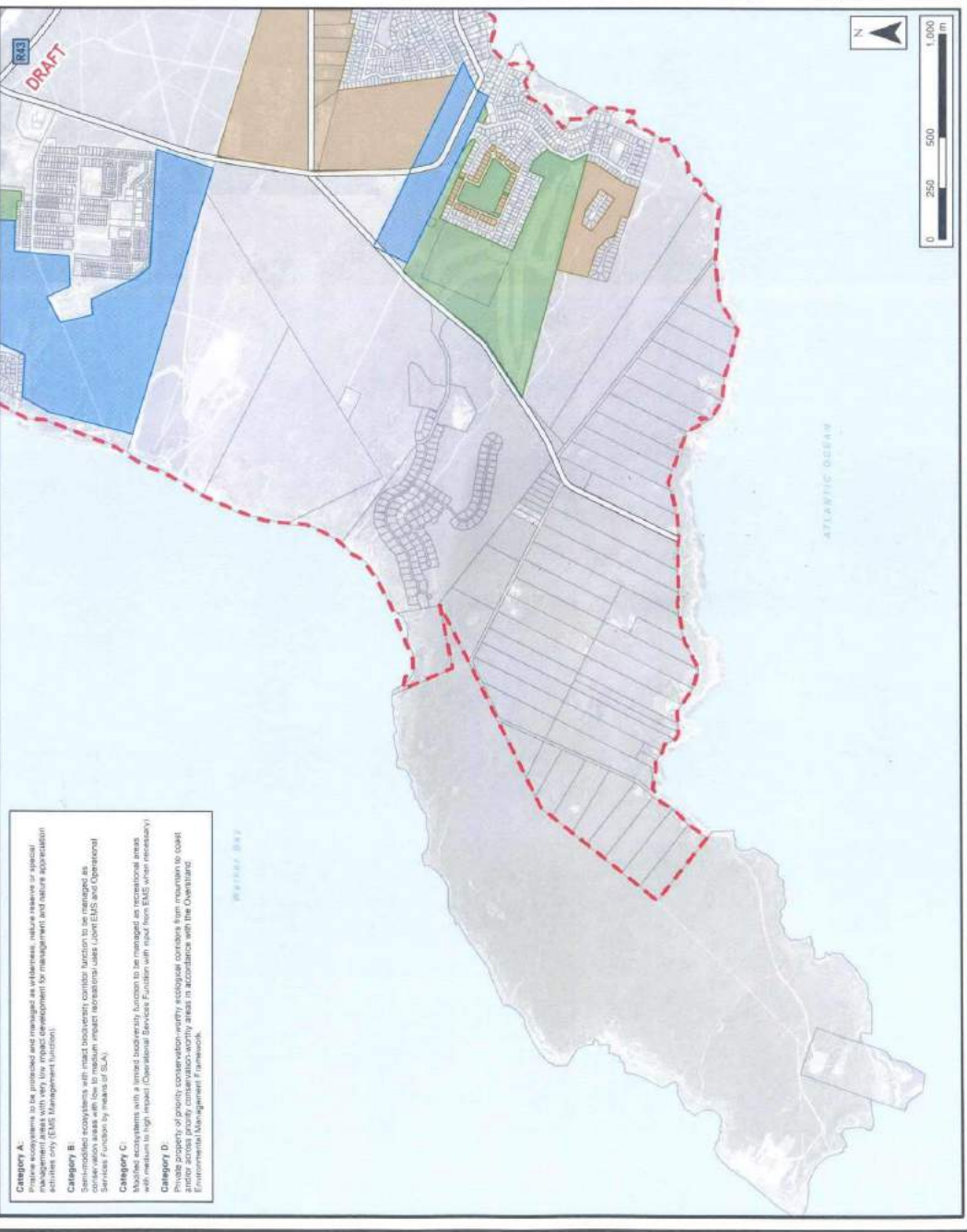
URBAN CONSERVATION ENVIRONMENTAL MANAGEMENT ZONE (EMOZ) PLAN 5.11 A - GANSBAAI

OVERSTRAND MUNICIPALITY OVERLAY ZONES FOR ZONING SCHEMES	
URBAN CONSERVATION EMOZ: PLAN 5.11 B - GANSBAAI	
Urban Conservation - EMOZ Category A Category B Category C Category D Urban Edge Road	
PREPARED BY: A. ELLIS APPROVED BY: A. ELLIS DATE: SEPTEMBER 2016 SCALE: SEE LINESCALE PLAN NO:	
CLIENT: OVERSTRAND MUNICIPALITY	
OVERSTRAND MUNICIPALITY 11796 JARVIS ROAD, GANSBAAI, WEST COAST DISTRICT, WESTERN CAPE TEL: 021 885 1100 WWW.OVERSTRANDMUNICIPALITY.CO.ZA	



The EMOZ are prepared in accordance with the provisions of the Environmental Management Act (Act 107 of 1998) and the Environmental Management Framework (EMF) of the Overstrand Municipality. The EMOZ are subject to change without notice. The EMOZ are not to be used for any purpose other than that for which they were prepared. The EMOZ are not to be used as a basis for any legal proceedings. The EMOZ are not to be used as a basis for any other purpose. The EMOZ are not to be used as a basis for any other purpose.

OVERSTRAND MUNICIPALITY OVERLAY ZONES FOR ZONING SCHEMES	
URBAN CONSERVATION EMOZ: PLAN 5.12 B - BIRKENHEAD	
Urban Conservation - EMOZ Category B Category C Category D Urban Edge Road	
REVISION NOTE All the data on this plan has been updated to reflect the latest survey data and approved by a Professional Land Surveyor. REF: J. Devenish - 10/01/2018 (Professional Land Surveyor) CONSULT: Overstrand Municipality	
COMPLETED BY: A. ELLIS RESPONSIBILITY: A. ELLIS DATE: SEPTEMBER 2018 SCALE: SEE LINE SCALE PLAN NO: OVERSTRAND MUNICIPALITY	
CLIENT: OVERSTRAND MUNICIPALITY DESIGNER: OVERSTRAND MUNICIPALITY DRAWN BY: A. ELLIS CHECKED BY: A. ELLIS DATE: 2018	



Category A:
 Pristine ecosystems to be protected and managed as wilderness, nature reserve or special management areas with very low impact development for management and nature appreciation activities only (EIS Management Function).

Category B:
 Semi-modified ecosystems with intact biodiversity corridors function to be managed as wilderness or special management areas with low impact development (EIS and Operational Services Function by means of SLA).

Category C:
 Modified ecosystems with a limited biodiversity function to be managed as recreational areas with medium to high impact (Operational Services Function with input from EMS where necessary).

Category D:
 Private property of priority conservation-worthy ecological corridors from mountain to coast and/or across priority conservation-worthy areas in accordance with the Overstrand Environmental Management Framework.

**OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES**

**URBAN CONSERVATION EMOZ:
PLAN 5.14 A - PEARLY BEACH**

Urban Conservation - EMOZ

Ecological Process Corridor

Urban Edge

Road

PLEASE NOTE
All property owners, adjacent and remote, are invited to the workshop & Presentation Survey.

REF: A/Overstrand/11/05-01/00000000/00000000
Overstrand Council, 2011

COMPILED BY: * BILLI

NEIGHBOUR: * BILLI

DATE: SEPTEMBER 2018

CLIENT: OVERSTRAND MUNICIPALITY

SCALE: SEE UNESCALE

PLAN NO:

ISSUES:

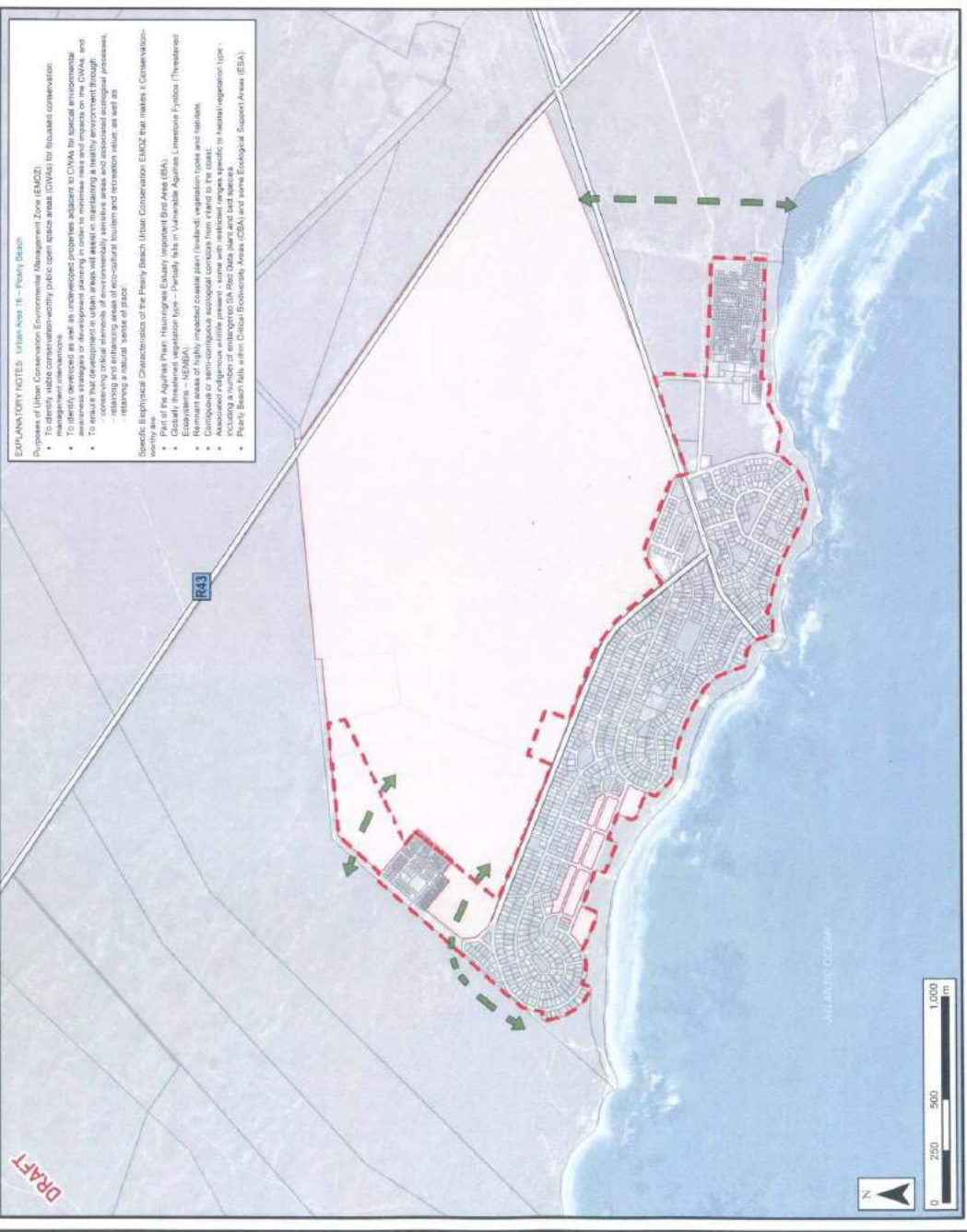
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DATE: 11/09/2018

BY: [Signature]

FOR: [Signature]

OVERSTRAND MUNICIPALITY



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**OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES**

**URBAN CONSERVATION EMOZ:
PLAN 5.15 B -
BAARDSKEEDERSBOS**

Urban Conservation - EMOZ

Category D

Urban Edge

Road

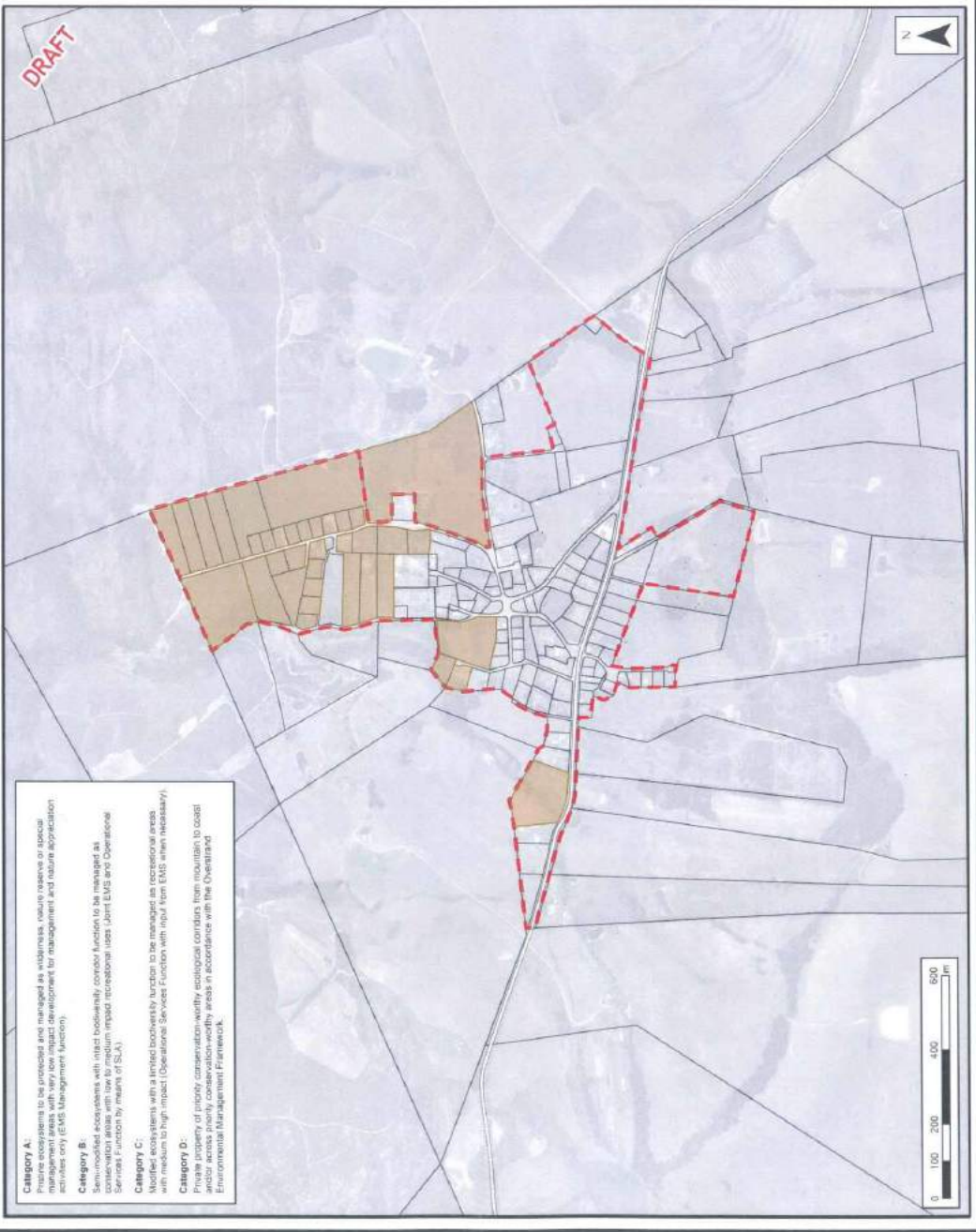
PLEASE NOTE
All boundary lines are shown, distances and property lines must
be verified by a Professional Land Surveyor

REF
City of Overstrand
Community Plan to 2016
MUNICIPALITY

DATE SEPTEMBER 2016
CLIENT OVERSTRAND MUNICIPALITY

SCALE SEE LINESCALE
PLAN NO
DATE

URBAN CONSERVATION EMOZ
URBAN CONSERVATION EMOZ
URBAN CONSERVATION EMOZ
URBAN CONSERVATION EMOZ

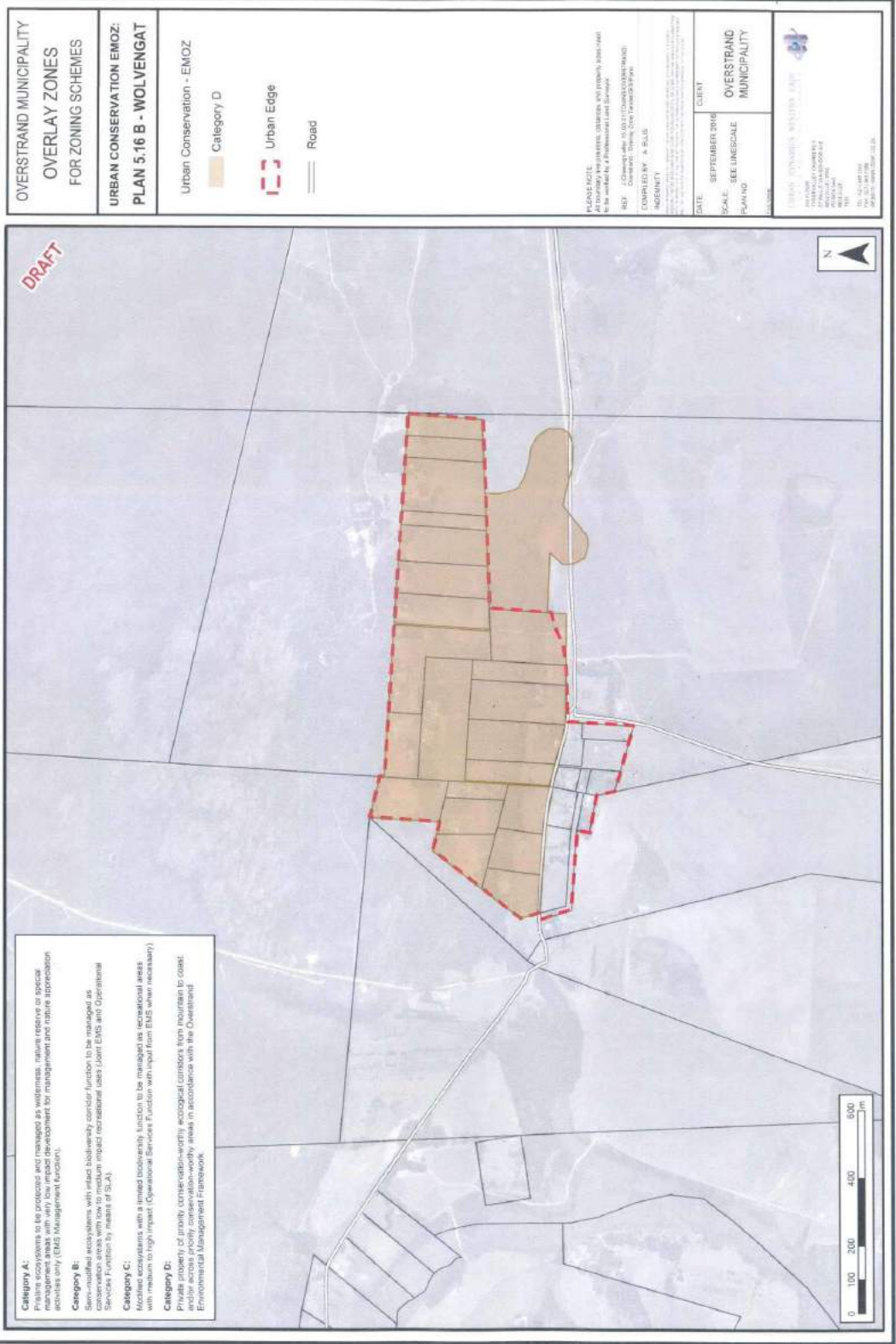


Category A:
Private ecosystems to be protected and managed as wilderness, nature reserves or special
activities only (EMS Management Function)

Category B:
Semi-protected ecosystems with intact biodiversity, complex function to be managed as
conservation areas with low to medium impact (recreational uses) Joint EMS and Operational
Services Function by means of SLA

Category C:
Modified ecosystems with a limited biodiversity function to be managed as recreational areas
with medium to high impact (Operational Services Function with input from EMS when necessary)

Category D:
Private property of priority conservation-worthy ecological corridors from mountain to coast
and/or across priority conservation-worthy areas in accordance with the Overstrand
Environmental Management Framework



**OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES**

**URBAN CONSERVATION EMOZ:
PLAN 5.16 B - WOLVENGAT**

Urban Conservation - EMOZ

Category D

Urban Edge

Road

Category A:
Private ecosystems to be protected and managed as wilderness, nature reserve or special natural area. Management for wilderness, nature reserve or special natural area purposes only. (EMS Management function).

Category B:
Private ecosystems with arid biodiversity, corridor function to be managed as conservation areas with low to medium impact recreational uses (Joint EMS and Operational Services Function by means of SLA).

Category C:
Arid ecosystems with a limited biodiversity function to be managed as recreational areas with medium to high impact. (Operational Services Function with input from EMS when necessary).

Category D:
Private property of priority conservation-worthy ecological corridors from mountain to coast and/or across priority conservation-worthy areas in accordance with the Overstrand Environmental Management Framework.

PLEASE NOTE:
All boundary lines are indicative. Dimensions and property lines shall be verified by a Professional Land Surveyor.

REF: Z-Consent (see 5.16.11 (CONSERVATION EMOZ))

COMPILED BY: A. S. S. S.

MUNICIPALITY: OVERSTRAND MUNICIPALITY

DATE: SEPTEMBER 2016
SCALE: SEE LINESCALE
PLAN NO:

CLIENT:
OVERSTRAND MUNICIPALITY



ISSUED BY: OVERSTRAND MUNICIPALITY
APPROVED BY: OVERSTRAND MUNICIPALITY
DATE: 2016-09-20
BY: A. S. S. S.
FOR: OVERSTRAND MUNICIPALITY

DRAFT

OVERSTRAND MUNICIPALITY
HERITAGE PROTECTION OVERLAY ZONE REGULATIONS
(ANNEXURE C: HPOZ)

PREAMBLE

WHEREAS section 156(1) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), confers on municipalities the executive authority and right to administer local government matters listed in Schedules 4B and 5B to the Constitution; and

WHEREAS Part B of Schedule 4 to the Constitution of the Republic of South Africa lists municipal planning as a local government matter; and

WHEREAS section 152(1) of the Constitution sets out the objects of local government which include to promote a safe and healthy environment; and

WHEREAS section 156(2) of the Constitution empowers municipalities to make and administer laws for the effective administration of matters that it has the right to administer; and

WHEREAS Chapter 15 of the Overstrand Municipality's Land Use Scheme empowers the Overstrand Municipality to prepare, approve, amend or delete overlay zones for specific areas;

NOW THEREFORE the Overstrand Municipality gives notice of its intention to adopt these Heritage Protection Overlay Zone Regulations in terms of Section 156(2) of the Constitution.

Contents

CHAPTER 1: INTERPRETATION, OBJECTS AND APPLICATION OF THE REGULATIONS	5
1 DEFINITIONS	5
2 OBJECT OF REGULATIONS.....	6
3 APPLICATION OF REGULATIONS	6
CHAPTER 2: GENERAL PROVISIONS FOR OVERSTRAND'S HERITAGE PROTECTION OVERLAY ZONES	7
CHAPTER 3: SPECIFIC HERITAGE PROTECTION OVERLAY ZONE REGULATIONS	7
8 SCENIC CORRIDOR HERITAGE PROTECTION OVERLAY ZONE ("SCENIC CORRIDOR HPOZ")	7
8.1 Spatial delineation: Refer to Plans A, B & C.	7
8.2 Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:.....	7
9 COASTAL STRIP HERITAGE PROTECTION OVERLAY ZONE ("COASTAL STRIP HPOZ")	11
9.1 Spatial delineation: Refer to Plans A, B & C.	11
9.2 Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:.....	11
10 BETTY'S BAY VLEI AREA HERITAGE PROTECTION OVERLAY ZONE (RONDEVLEI, GROOT WIT VLEI, MALKOPSVLEI AND THE DRAINAGE SYSTEM ASSOCIATED WITH DAVIDSKRAAL BETWEEN THE HAROLD PORTER GARDENS AND THE COASTLINE) ("BETTY'S BAY VLEI AREA HPOZ")	14
10.1 Spatial delineation: Refer to Plans 1 & 2.	14
10.2 Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:.....	14
11 HANGKLIP SMALLHOLDING AREA HERITAGE PROTECTION OVERLAY ZONE ("HANGKLIP SMALLHOLDING HPOZ")	16
11.1 Spatial delineation: Refer to Plans 3 and 4.	16
11.2 Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:.....	16
12 ROOI ELS HERITAGE PROTECTION OVERLAY ZONE ("ROOI ELS HPOZ")	19
12.1 Spatial delineation: Refer to Plan 4.	19

12.2	Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance, including special places and landmarks:.....	19
13	GANSBAAI HERITAGE CORE HERITAGE PROTECTION ZONE ("GANSBAAI CORE HPOZ")	21
13.1	Spatial delineation: Refer to Plan 5.	21
13.2	Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:.....	21
14	HAWSTON HERITAGE CORE HERITAGE PROTECTION OVERLAY ZONE ("HAWSTON HERITAGE CORE HPOZ").....	23
14.1	Spatial delineation: Refer to Plan 6.	23
14.2	Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:.....	23
15	BAARDSKEERDEBOS HERITAGE PROTECTION OVERLAY ZONE ("BAARDSKEERDEBOS HPOZ")	24
15.1	Spatial delineation: Refer to Plan 7.	24
15.2	Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:.....	24
16	HISTORIC CORE OF HERMANUS HERITAGE PROTECTION OVERLAY ZONE ("HERMANUS HISTORIC CORE HPOZ").....	27
16.1	Spatial delineation: Refer to Plan 8.	27
16.2	Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:.....	27
17	ONRUST PENINSULA, LAGOON AND CAMPSITE AREA HERITAGE PROTECTION OVERLAY ZONE ("ONRUST HPOZ").....	28
17.1	Spatial delineation: Refer to Plan 9.	28
17.2	Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:.....	28
18	STANFORD HERITAGE PROTECTION OVERLAY ZONE ("STANFORD HPOZ").....	31
18.1	Spatial delineation: Refer to Plan 10.	31
18.2	Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:.....	31
19	LANDSCAPES OF VERY HIGH NATURAL, SCENIC AND HERITAGE SIGNIFICANCE HERITAGE PROTECTION OVERLAY ZONE ("LANDSCAPES HPOZ")	38
19.1	Spatial delineation: Refer to Plans A, B & C.	38

19.2 Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:.....38

CHAPTER 4: APPLICATION AND APPROVAL PROCEDURES 39

CHAPTER 5: ENFORCEMENT..... 41

CHAPTER 6: MISCELLANEOUS 41

CHAPTER 1: INTERPRETATION, OBJECTS AND APPLICATION OF THE REGULATIONS**1 Definitions**

- 1.1 In these regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in any of the undermentioned laws has the meaning assigned to it in that law:
- 1.1.1 the Overstrand Municipality By-Law on Municipal Planning, 2020 and Overstrand Municipality Land Use Scheme, 2020;
 - 1.1.2 the National Heritage Resources Act, 1999 (Act 25 of 1999);
 - 1.1.3 the National Environmental Management Act, 1998 (Act 107 of 1998);
 - 1.1.4 the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008);
 - 1.1.5 the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004);
 - 1.1.6 the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003);
 - 1.1.7 the National Environmental Management: Waste Act, 2008 (Act 59 of 2008); and
 - 1.1.8 the National Water Act, 1998 (Act 36 of 1998).
- 1.2 "land use scheme" means the Overstrand Municipality Land Use Scheme 2020, or as amended;
- 1.3 "HPOZ" means an Heritage Protection Overlay Zone as contemplated in Schedule 2 of the Overstrand Municipality By-Law on Municipal Planning, 2020;
- 1.4 "HWC" means Heritage Western Cape;
- 1.5 "NHRA" means the National Heritage Resources Act, 1999;

- 1.6 "permissible activity" means an activity or use that is permissible within a particular HPOZ only with the Municipality's written consent;
- 1.7 "prohibited activity" means an activity or use that is prohibited within a particular HPOZ;
- 1.8 "scenic corridors" means the properties immediately abutting scenic drives which are routes traversing natural and cultural historical landscapes of considerable significance and which are located outside approved urban edges;
- 1.9 "scenic drives" means those routes linking scenic corridors which are primarily located within approved urban edges and which thus contribute to the continuity of a scenic route network;
- 1.10 "SAHRA" means the South African Heritage Resources Agency;

2 Object of regulations

- 2.1 The object of these regulations is:
- 2.1.1 To provide a mechanism for land use management, additional to existing statutory land use controls, whereby Council may give effect to specific guidelines in a spatial development framework or policy plan or address a specific management issue.

3 Application of regulations

- 3.1 These regulations apply, in addition to any other laws that may apply, to the Heritage Protection Overlay Zones within the area of jurisdiction of the Overstrand Municipality and bind all persons and organs of state within this area of jurisdiction.
- 3.2 These regulations do not invalidate any land use rights or authorisations that existed when these regulations came into effect but may place additional constraints on existing rights.

CHAPTER 2: GENERAL PROVISIONS FOR OVERSTRAND'S HERITAGE PROTECTION OVERLAY ZONES

- 4 The Council may apply the general provisions stipulated in this section in respect of all Heritage Protection Overlay Zones and the specific provisions to the HPOZ's identified in Chapter 3.
- 5 It should be noted that while the Municipality will make its own decisions in respect of proposed development inside the identified HPOZ's under the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020, it will be further constrained by these regulations.
- 6 HWC will still be required to assess all applications falling under the NHRA. The approval of any alterations or additions to structures identified as having Grade 3A, 3B or 3C heritage status will thus still have to be managed by HWC until the Municipality is deemed to be competent under the NHRA to conduct heritage related regulatory functions in accordance with Sections 30, 31, 34 and/or 38 of the NHRA.
- 7 Land use and building plan application or related application pertaining to a property or activity located within a Heritage Overlay Zone must be referred to the Overstrand Heritage and Aesthetics Committee and/or Stanford Heritage Committee or a registered conservation body for comment prior to a decision being taken for the approval or refusal of such an application by the Municipality.

CHAPTER 3: SPECIFIC HERITAGE PROTECTION OVERLAY ZONE REGULATIONS

- 8 **SCENIC CORRIDOR HERITAGE PROTECTION OVERLAY ZONE ("Scenic Corridor HPOZ")**
 - 8.1 **Spatial delineation:** Refer to Plans A, B & C.
 - 8.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:
 - 8.2.1 The first purpose is to maintain and enhance the scenic drive network in the Overstrand, which is a heritage resource of considerable environmental, historic and aesthetic significance and which contributes substantially to the economic base of the region.

- 8.2.2 The second purpose is to promote the tourism, environmental and amenity potential of the Overstrand scenic route network by enhancing the user's experience and understanding.
- 8.2.3 The third purpose is to ensure that the actual route is embedded within the landscape rather than imposed upon it.
- 8.2.4 The regulations refer only to scenic corridors which fall outside demarcated urban areas unless otherwise demarcated on the relevant plans for the scenic corridors HPOZs.
- 8.2.5 Maps A, B and C also identify regional and local routes of scenic significance. These routes are identified as they play an important linkage role in the overall scenic route network. Only the regulations relating to edge treatments below and the strict adherence to the Municipality's signage bye-law apply.
- 8.2.6 **Protection of scenic corridors**
- 8.2.6.1 New buildings must not block views from scenic routes, particularly views towards the mountains and the coastline and towards places/sites identified as having visual or heritage significance, where possible.
- 8.2.6.2 Comment must be obtained from the Overstrand Heritage and Aesthetics Committee, Stanford Heritage Committee and/or a registered conservation body on potential visual impacts before the Municipality approves any applications within this HPOZ.
- 8.2.6.3 Development on ridge lines and on steep slopes greater than 1:4 must be avoided in this zone.
- 8.2.6.4 New interventions must be modest and restrained in scale, limited in height, recessive in character and appropriate to the natural and cultural landscape.
- 8.2.6.5 New developments must be associated and linked with existing settlements, rather than being built on isolated sites on undeveloped land.
- 8.2.6.6 Buildings must be aligned parallel to the contours. Hard and soft landscaping must be used to tie the buildings into the landscape.

- 8.2.6.7 Building platforms on sloping sites must be kept to a minimum. Buildings on high stilts in excess of 2,4 m, as measured from the base level and as defined in the land use scheme, must be avoided. New levels must be designed to fit into the surrounding land form. Mitigation measures must be identified to limit visual impacts.
- 8.2.6.8 Outdoor spaces must be designed so that the landscape appears to flow throughout the site. *Extensions on coverage will be discouraged.*
- 8.2.6.9 The layout and design of new buildings must respect local traditions and settlement patterns in terms of the placement and alignment of buildings on sites.
- 8.2.6.10 Access roads and pathways must be designed to avoid excessive cutting and filling and to ensure harmonious adaptation to the existing topography.
- 8.2.7 **Setback lines in wilderness, rural and agricultural contexts**
- 8.2.7.1 No departure from the 30 m building line applicable to Agricultural Zones will be considered without comment from the Overstrand Heritage and Aesthetics Committee, Stanford Heritage Committee and/or a registered conservation body. Mitigation measures must be identified for any departure from this provision.
- 8.2.8 **The control of edge treatments along scenic routes**
- 8.2.8.1 Visually intrusive structures such as billboards are prohibited adjacent to scenic routes.
- 8.2.8.2 Precast concrete, "vibracrete" walls, unpainted cement block walls and razor wire treatment are prohibited along scenic routes.
- 8.2.8.3 Appropriate road edge and storm water channel treatments must be designed to fit in with the rural context.
- 8.2.8.4 Gateways must be recessive in character and limited in scale.

- 8.2..8.5 Entrance gateways must step back from the boundary line and must not exceed 10 m in width.
- 8.2..8.6 Visually impermeable walls or fencing, substations, electrical infrastructure, kiosks, trees and hedges which block significant mountain and coastal views and sites of heritage significance will not be permitted.
- 8.2..9 **The control of signage along scenic routes**
- 8.2..9.1 Signage must be in accordance with the Overstrand Signage By-Law.
- 8.2..9.2 Signage should be located against a backdrop to avoid silhouette effects on the skyline. Low signs are less visually obtrusive. Signs should be fixed to buildings where possible to avoid the proliferation of poles.
- 8.2..10 **The control of invasive vegetation adjacent to scenic routes**
- 8.2..10.1 Exotic trees may be permitted only if they contribute to place character. No alien invasive vegetation will be permitted.

9 COASTAL STRIP HERITAGE PROTECTION OVERLAY ZONE ("COASTAL STRIP HPOZ")

9.1 **Spatial delineation:** Refer to Plans A, B & C.

9.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:

9.2.1 To protect and enhance the nature of the transition zone between the built fabric along the coastal strip, including the first line of erven facing the coast, the coastal walkway and the coastline;

9.2.2 To protect the natural, environmental and scenic qualities along the coastal strip;

9.2.3 To protect lateral views between the mountain and coastline by ensuring the continuation of existing view lines and by controlling the massing and form of buildings adjacent to the coastal strip;

9.2.4 To ensure the retention of the relatively fine-grain form of development characteristic of the Overstrand holiday home vernacular evident along the coastal strip; and

9.2.5 To ensure the retention of the existing structures identified as having intrinsic and contextual significance.

9.2.6 **Land use and building plan applications**

9.2.6.1 Land use or building plan applications, if applicable, should be submitted to the Overstrand Heritage and Aesthetics Committee and Stanford Heritage Committee or a registered conservation body for comment.

9.2.7 **Grain and texture**

9.2.7.1 The grain and texture of the existing built form, characterised by relatively low building-to-plot ratios; limited building footprints; the predominance of single-storey structures; and fragmented rather than monolithic building forms must be adhered to.

9.2.8 Additions

9.2.8.1 Where new additions are to be built onto structures identified as being conservation worthy, such additions must occur behind the front façade of the main dwelling and must not in any way overwhelm the original structure in terms of massing and height.

9.2.8.2 Such additions must be sensitive and appropriate to the context.

9.2.9 Building heights

9.2.9.1 Building heights are restricted to 8,0m, as measured from base level to the top of the structure.

9.2.10 Interface between public and private realms

9.2.10.1 A positive interface between the private site and public realm must be established.

9.2.10.2 Visually impermeable boundary walls higher than the permitted 2,1 m will not be allowed.

9.2.10.3 No prefabricated materials, including vibracrete walls and false stone walls, will be permitted to face onto the coastline in this zone.

9.2.11 Roof treatment

9.2.11.1 Dormers must not constitute more than one-third of the roof space facing onto the coastline in the new and infill developments.

9.2.12 Building massing and solid to void relationship

9.2.12.1 Large monolithic structures with a horizontal emphasis should be discouraged.

9.2.12.2 Buildings should be fragmented and disaggregated in form, and apertures must have a vertical emphasis.

9.2.12.3 Large glazed surfaces must be located at least 0,5 m behind the front façade of the building.

9.2.13 **Architectural styles**

9.2.13.1 Architectural styles at variance with the local indigenous Overstrand vernacular will not be permitted.

9.2.13.2 Buildings must be predominantly orthogonal in form and placed parallel to the street edge.

9.2.14 **Vegetation**

9.2.14.1 The felling of mature trees which contribute to area character (the Norfolk pines and flowering gums (*Corymbia ficifolia*) in Northcliff and Eastcliff will not be permitted without the written consent of the Municipality.

9.2.14.2 Local indigenous plant material must be used along the interface between private dwellings and the public realm.

9.2.15 **Road edge treatment**

9.2.15.1 Alternatives to conventional channel treatment must be used, such as grass swales to bind the roadway into the adjacent landscape.

9.2.16 **Building massing and solid to void relationship**

9.2.16.1 Large monolithic structures with a horizontal emphasis will not be permitted.

10 **BETTY'S BAY VLEI AREA HERITAGE PROTECTION OVERLAY ZONE (Rondevlei, Groot Wit Vlei, Malkopsvlei and the drainage system associated with Davidskraal between the Harold Porter Gardens and the coastline) ("BETTY'S BAY VLEI AREA HPOZ")**

10.1 **Spatial delineation:** Refer to Plans 1 & 2.

10.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:

10.2.1 To protect and enhance the role of the vlei system as an integral component of the ecological seepage system between mountain and sea, and to maintain and enhance the distinctive visual spatial quality of the system, particularly the edge conditions; and

10.2.2 To ensure appropriate building forms and ecologically sensitive building practices along this sensitive interface zone.

10.2.3 **Control of land uses**

10.2.3.1 Land use and building plan applications in the HPOZ will be considered with comment from the Overstrand Heritage and Aesthetics Committee or a registered conservation body, only if applicable.

10.2.3.2 No land use application in terms of the land use scheme which threaten the ecological integrity of the vlei and associated seepage system will be considered without comment from the Overstrand Environmental Services.

10.2.3.3 The creation of access ways to the water's edge, across public land and through the reed systems will not be permitted without comment from the Overstrand Environmental Services.

10.2.3.4 Strip foundations which interfere with the natural water drainage adjacent to the wetland areas will not be permitted without the prior approval from the Overstrand Environmental Services.

- 10.2.4 **Inappropriate massing, scale, form, architectural character, materials and colours**
- 10.2.4.1 New structures must be limited in scale and disaggregated in form.
- 10.2.4.2 Building heights must not exceed 8,0 m, as measured from the base level.
- 10.2.4.3 Materials and colours, especially on roofs, must be earth-toned or blend into the natural landscape rather than contrast with it.
- 10.2.4.4 A wall-dominated recessive architectural treatment must be adopted. Any continuous glazed surface larger than 25% of the façades facing onto the public zone must be recessed at least 0,5 m from the façade of the building.
- 10.2.5 **Boundary treatments**
- 10.2.5.1 Boundary treatments comprising precast concrete, vibracrete walls, unpainted cement block walls, security fencing (higher than 2,1 m) and razor wire treatment will not be permitted at the interface between private erven and the vlei areas.
- 10.2.5.2 Visually impermeable boundary treatments higher than 2,1 m will not be permitted.
- 10.2.6 **The extent of vegetation clearance**
- 10.2.6.1 The extent of vegetation clearance around residential units must be kept to a minimum and must be determined primarily with regard to fire safety and fire prevention parameters.
- 10.2.6.2 A demarcated area, approximately 10 m beyond the building footprint, must be marked off and staked to ensure fire prevention and that the surrounding fynbos and reed bed area remains undisturbed.
- 10.2.6.3 During the construction period, storage areas for building materials, rubble and a work platform must be designated in areas that will remain disturbed after completion, such as future garages and driveways.

- 10.2..6.4 No interventions in the reed bed areas surrounding the vleis will be permitted.

11 HANGKLIP SMALLHOLDING AREA HERITAGE PROTECTION OVERLAY ZONE ("HANGKLIP SMALLHOLDING HPOZ")

- 11.1 **Spatial delineation:** Refer to Plans 3 and 4.
- 11.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:
- 11.2..1 To protect and enhance the high visual and natural environmental quality of the smallholdings area at the strategic interface with the Kogelberg Biosphere Reserve.
- 11.2..2 To protect and enhance the green linkages between mountain and coastline.
- 11.2..3 To ensure that the natural green context remains the dominant element and that the built environment remains subsidiary.
- 11.2..4 To protect the sense of openness and the sense of fit between the built form and environmental context.
- 11.3 **Control of land uses**
- 11.3..1 Land use and building applications, if applicable, should be referred to the Overstrand Heritage and Aesthetics Committee or a registered conservation body for comment.
- 11.3..2 Land uses which are not of an agricultural or rural nature (apart from the land uses permitted in terms of the land use scheme) will be discouraged in the smallholding area.
- 11.4 **The location of new developments**
- 11.4..1 New structures must not be sited in visually sensitive areas, steep (greater than 1:4) or elevated slopes, ridgelines and hill crests.

11.5 The scale and massing of new developments

- 11.5.1 New structures must be integrated into the landscape and must be recessive in form and character.
- 11.5.2 Building on slopes must be stepped down the slope and buildings must not be built on stilts higher than 2,4 m above the base level. Mitigation measures must be applied to minimise visual impact.
- 11.5.3 Residential buildings must not exceed 8,0 m above the base level to the top of the structure.
- 11.5.3.1 A wall-dominated recessive architectural treatment must be adopted. Any continuous glazed surface larger than 25% of the façades facing onto the public zone must be recessed at least 0,5 m from the façade of the building.
- 11.5.4 Materials and colours, especially on roofs, must be earth-toned or blend into the landscape rather than contrast with it.

11.6 Inappropriate boundary treatments

- 11.6.1 Boundary treatments comprising precast concrete, vibracrete walls, unpainted cement block walls, security fencing (higher than 0,5 m above the 2,1 m wall height) and razor wire treatment are prohibited in the smallholding area. Visually impermeable boundary treatments higher than 2,1 m will not be permitted.
- 11.6.2 Appropriate road edge and storm water channel treatment must be designed to fit in with the rural context.
- 11.6.3 Gateways and entrances must be recessive in character and limited in scale.
- 11.6.4 Solid masonry entrance gateways must step back from the boundary line and must not exceed 5 m on either side of the gate opening.
- 11.6.5 Where security fencing is unavoidable, such fencing must be visually permeable.

11.7 The treatment of access ways

11.7.1 The alignment and the use of materials for access ways must minimise visual impact, particularly from public routes and the beach area.

11.7.2 Where access ways have to cross wetland areas, every attempt must be made to enable access ways to be shared.

11.8 Signage

11.8.1 All signage must comply with the Overstrand Signage By-Law.

11.9 The extent of vegetation clearance

11.9.1 The extent of vegetation clearance around residential units must be kept to a minimum and must be determined primarily around fire prevention parameters.

11.9.2 A demarcated area, approximately 10 m beyond a building footprint, must be marked off and staked to ensure that the surrounding fynbos remains undisturbed.

11.9.3 Storage areas for building materials, rubble and a work platform for ground work must be designated in areas that will remain disturbed after completion, such as future garages and driveways.

11.10 The management of development in the smallholding area

11.10.1 Any new subdivision, permitted in terms of the land use scheme, must be subject to a Site Development Plan (SDP) which specifies siting, massing, scale, materials, colours and the treatment of access ways in terms of the regulations stipulated above.

12 ROOI ELS HERITAGE PROTECTION OVERLAY ZONE ("ROOI ELS HPOZ")

12.1 **Spatial delineation:** Refer to Plan 4.

12.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance, including special places and landmarks:

12.2.1 To protect and enhance the visual spatial threshold at the point of entry to the Overstrand Municipality and adjacent to the Kogelberg Biosphere Reserve.

12.2.2 To protect and enhance local natural landmark features such as the koppies and the green edge facing onto the vlei area and the coastline.

12.2.3 To protect and enhance the green linkages between the mountain and coastline.

12.2.4 To ensure that the natural green context remains the dominant element and that the built environment remains subsidiary to the landscape, rather than dominating it.

12.3 Land use and building plan applications

12.3.1 Land use and building applications, if applicable, should be submitted to the Overstrand Heritage and Aesthetics Committee or a registered conservation body for comment.

12.4 Grain and texture

12.4.1 New building interventions must respect the grain and texture of the existing built form in terms of relatively low building footprints and buildings which are integrated into the surrounding landscape and which are stepped-down slopes rather than being perched on stilts above the slopes.

12.4.2 Buildings must be fragmented and disaggregated and not be monolithic in form.

12.4.3 The footprint of residential buildings may not exceed 50% of the site area.

344/380

12.5 **Building on stilts**

12.5.1 Stilts for building platforms must not exceed 2,4 m in height above the base level. Mitigation must be applied to limit visual impacts.

12.6 **Height of structures**

12.6.1 The 8,0 m height restriction, as measured from the base level to the top of the structure, applies.

12.6.2 The definition of basements as contained in the new integrated land use scheme must be strictly applied to ensure that no three-storey structures present themselves to the scenic drive.

12.7 **Use of materials and colours**

12.7.1 Materials and colours, especially on roofs, must blend into the landscape rather than contrast with it.

12.8 **Boundary treatment**

12.8.1 No solid, visually impermeable boundary treatments above 2,1 m will be permitted.

13 GANSBAAI HERITAGE CORE HERITAGE PROTECTION ZONE ("GANSBAAI CORE HPOZ")

13.1 **Spatial delineation:** Refer to Plan 5.

13.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:

13.2.1 To protect and enhance the relationship between the historical core area and the harbour.

13.2.2 To protect the number of graded heritage sites and significant streetscapes in the area.

13.2.3 To promote a positive public space environment and the retention of views towards the harbour and across the town.

13.3 Land use and building plan applications

13.3.1 Land use and building plan applications, if applicable, should be submitted to the Overstrand Heritage and Aesthetics Committee or a registered conservation body for comment.

13.4 Additions

13.4.1 Where new additions are to be built onto structures identified as being conservation worthy, such additions must occur behind the front façade of the main building and must not in any way overwhelm the original structure in terms of massing and height.

13.5 Interface between public and private realms

13.5.1 A positive interface between the private erf and public realm must be established in the residential areas.

13.5.2 No prefabricated materials, including vibracrete walls and false stone walls, will be permitted in this zone.

13.6 **Building massing and solid to void relationship**

13.6.1 Large monolithic structures with a horizontal emphasis should be discouraged in the residential zones. Within business and general residential zones, any development above the third floor must be set back at least 1,5 m from the front façade of the building and roofs must have a 45 degree roof pitch.

13.6.2 Buildings should be fragmented in form, and apertures must have a vertical emphasis.

13.6.2.1 A wall-dominated recessive architectural treatment must be adopted. Any continuous glazed surface larger than 25% of the façades facing onto the public zone must be recessed at least 0,5 m from the façade of the building.

13.7 **Architectural styles**

13.7.1 Architectural styles at variance with the local indigenous Overstrand vernacular will not be permitted and contemporary interpretations will be encouraged.

13.7.2 Buildings must be predominantly orthogonal in form and placed parallel to the street edge.

13.8 **Vegetation**

Local indigenous plant material must be used along the interface between the private dwelling and the public realm.

13.9 **Road edge treatment**

13.9.1 Alternatives to conventional kerb and channel treatment must be used to minimise severance impact and to bind the roadway into the adjacent landscape.

14 HAWSTON HERITAGE CORE HERITAGE PROTECTION OVERLAY ZONE ("HAWSTON HERITAGE CORE HPOZ")

14.1 **Spatial delineation:** Refer to Plan 6.

14.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:

14.2.1 To protect the banks of the central watercourse and Paddavlei area and the associated milkwood forest and the adjacent cemetery. The area has high social, historical and visual significance.

14.2.2 To protect the few remaining vernacular cottages in the older part of the village between Vlei Street and Harbour Road and the associated streetscapes.

14.3 **Control of land uses and activities**

14.3.1 Land use and building plan applications, if applicable, should be submitted to the Overstrand Heritage and Aesthetics Committee or a registered conservation body for comment.

14.3.2 Official public access must be in terms of the EMOZ.

14.3.3 Land uses and activities (e.g. tree felling) which would in any way impact negatively on public access to the area, its amenity value and the appreciation of its historical, social and visual significance will not be permitted.

14.4 **Boundary treatments**

14.4.1 No boundary treatment/fencing which would impact the unhindered public access (as established by the Municipality) to the central watercourse and Paddavlei and associated milkwood forest and cemetery will be permitted.

15 BAARDSKEERDESBOS HERITAGE PROTECTION OVERLAY ZONE
("BAARDSKEERDESBOS HPOZ")

- 15.1 **Spatial delineation:** Refer to Plan 7.
- 15.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:
- 15.2.1 To protect the number of vernacular dwellings in the village which are relatively intact, although under threat, both from natural deterioration and inappropriate development.
- 15.2.2 To retain the low density rural quality of the village in its agricultural setting.
- 15.2.3 To maintain existing house-street relationships, particularly the contribution of private gardens to the public realm.
- 15.2.4 To ensure that infrastructural developments, particularly road and storm water treatments, are appropriate to the rural quality of the area.
- 15.2.5 To ensure appropriate new alterations and additions, particularly in terms of height and massing and the use of materials.
- 15.2.6 To ensure the retention of the "leiwater" system, which contributes to the rural character of the area.
- 15.3 **Land use and building plan applications**
- 15.3.1 Land use and building plan applications, if applicable, should be submitted to the Overstrand Heritage and Aesthetics Committee or a registered conservation body for comment.
- 15.4 **Grain and texture**
- 15.4.1 The grain and texture of the existing built form, characterised by relatively low building-to-plot ratios; limited building footprints; the predominance of single-storey structures; and fragmented, disaggregated rather than monolithic building forms must be adhered to.

15.5 Building heights

- 15.5.1 Building heights are restricted to 8,0 m from the base level to the top of the structure.

15.6 Additions

- 15.6.1 Where new additions are to be built onto structures identified as being conservation worthy, such additions must occur behind the front façade of the main building and must not in any way overwhelm the original structure in terms of massing and height.

15.7 Interface between public and private realms

- 15.7.1 A positive interface between the private erf and public realm must be established.
- 15.7.2 No prefabricated materials, including vibracrete walls and false stone walls, will be permitted in this zone.

15.8 Roof treatment

- 15.8.1 Dormer windows must not constitute more than one-third of the roof space.
- 15.8.2 Roof colours must be earth-toned. Strong contrasting colours must be avoided.

15.9 Building massing and solid to void relationship

- 15.9.1 Large monolithic structures with a horizontal emphasis will be discouraged.
- 15.9.2 Buildings must be fragmented and disaggregated in form, and openings must have a vertical emphasis.
- 15.9.3 Large glazed surfaces in excess of 1,5 m² must be located at least 0,5 m behind the front façade of the building.

15.10 Architectural styles/colours

- 15.10..1 Architectural styles at variance with the local indigenous Overstrand vernacular will not be permitted, and contemporary interpretations of the local vernacular will be encouraged. Pastiche architecture or copies of the original architecture are discouraged.
- 15.10..2 Buildings must be predominantly orthogonal in form and placed parallel to the street edge.
- 15.10..3 Wall colours must be pastel coloured or earth-toned, depending on the precinct character.

15.11 Vegetation

- 15.11..1 Local indigenous plant material must be used along the interface between the private dwelling and the public realm.

15.12 Road edge treatment

- 15.12..1 Alternatives to conventional kerb and channel treatment, including grass swales, must be used to minimise severance impacts and to bind the roadway into the adjacent landscape.

16 HISTORIC CORE OF HERMANUS HERITAGE PROTECTION OVERLAY ZONE ("HERMANUS HISTORIC CORE HPOZ")

16.1 **Spatial delineation:** Refer to Plan 8.

16.2 **Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:**

16.2.1 To protect and enhance the context of the high concentration of heritage sites; the role of the old harbour; Bientangs cave; the high scenic quality of the coastline; the recreational facilities related to the coastal walkway and associated whale watching points; the relatively fine-grained, low-rise nature of the building fabric; and the integration of these place-making elements.

16.2.2 These heritage features all contribute to an area of particular character, reflecting many of the heritage themes identified in the Overstrand area and worthy of the status of a HPOZ in terms of the land use scheme.

16.3 **Land use and building plan applications**

16.3.1 Land use and building plan applications, if applicable, should be submitted to the Overstrand Heritage and Aesthetics Committee or a registered conservation body for comment.

16.4 **Height, massing and orientation**

16.4.1 No building within the heritage area is to exceed 14 m. The upper storey must be set back a minimum of 1,5 m from the main façade, have a roof pitch of 45 degrees and use light-weight materials to reduce visual impact.

16.4.2 The relatively fine-grain nature of the building fabric must be respected in any new development.

17 ONRUST PENINSULA, LAGOON AND CAMPSITE AREA HERITAGE PROTECTION OVERLAY ZONE (“ONRUST HPOZ”)

- 17.1 **Spatial delineation:** Refer to Plan 9.
- 17.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:
- 17.2.1 To protect the views from the main access road to the beach area and sea.
- 17.2.2 To protect the green natural environmental frame of the lagoon area.
- 17.2.3 To protect the public space environment of the Point area, particularly the natural flow between the public and private realms; the lack of boundary walls and formalised kerb and channel treatment; the preponderance of milkwood trees; and the relatively fine-grain nature of the residential fabric.
- 17.2.4 To protect the framed sea views on the Point area to the south of Beach Road.
- 17.2.5 To protect the natural interface between the camping ground and the coastline and the context of the coastal walkway.
- 17.3 **Land use and building plan applications**
- 17.3.1 Land use and building plan applications, if applicable, should be submitted to the Overstrand Heritage and Aesthetics Committee or a registered conservation body for comment.
- 17.4 **Grain and texture**
- 17.4.1 The grain and texture of the existing built form, characterised by relatively low building-to-plot ratios; limited building footprints; the predominance of single- and double-storey structures; and fragmented rather than monolithic building forms must be adhered to.
- 17.5 **Building heights**
- 17.5.1 Building heights are restricted to 8,0 m from the base level to the top of the structure.

17.6 Additions

- 17.6.1 Where new additions are to be built onto structures identified as being conservation worthy, such additions must occur behind the front façade of the main building and must not in any way overwhelm the original structure in terms of massing and height.

17.7 Interface between public and private realms

- 17.7.1 A positive interface between the private erf and public realm must be established.
- 17.7.2 High, visually impermeable boundary walls must not be permitted.
- 17.7.3 Boundary walls facing the coastline must be a maximum of 2.1 m.
- 17.7.4 No prefabricated materials, including vibracrete walls and false stone walls, will be permitted in this zone.
- 17.7.5 Garages and carports must be located behind the front façade of the building.

17.8 Roof treatment

- 17.8.1 Dormer windows must not constitute more than one-third of the roof space facing onto the coastline.

17.9 Building massing and solid to void relationship

- 17.9.1 Large monolithic structures with a horizontal emphasis will be discouraged.
- 17.9.2 Buildings must be fragmented and disaggregated in form, and apertures must have a vertical emphasis.
- 17.9.3 Large glazed surfaces in excess of 1,5 m² must be located at least 0,5 m behind the front façade of the building.

17.10 Architectural styles

- 17.10.1 Architectural styles at variance with the local indigenous Overstrand vernacular will not be permitted and contemporary interpretations will be encouraged.
- 17.10.2 Buildings must be predominantly orthogonal in form and placed parallel to the street edge.

17.11 Vegetation

- 17.11.1 Local indigenous plant material must be used along the interface between the private dwelling and the public realm.
- 17.11.2 The removal or excessive pruning of mature trees in excess of 1,8 m in height which contribute to the public realm will not be permitted. Comment from the Overstrand Heritage and Aesthetics Committee or a registered conservation body is required.

17.12 Road edge treatment

- 17.12.1 Alternatives to conventional kerb and channel treatment, including grass swales, must be used to minimise severance impacts and to bind the roadway to the adjacent landscape.

18 STANFORD HERITAGE PROTECTION OVERLAY ZONE ("STANFORD HPOZ")

18.1 **Spatial delineation:** Refer to Plan 10.

18.2 **Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:**

18.2.1 To protect and enhance the wide range of heritage sites and streetscapes of considerable heritage significance which contribute to the unique townscape character.

18.2.2 To protect and enhance the role of Market Square and Queen Victoria Street as major structuring elements within the historic core of Stanford which reflect a number of architectural and historical features and establish the character and sense of place in Stanford.

18.2.3 To enable adjustments in the standard provisions of the land use scheme, especially related to the provision of parking and the implementation of setback lines, to ensure the enhancement of identified streetscapes of heritage and architectural value.

18.2.4 To protect and enhance the relationship of the village to the Klein River and the natural spring, "Die Oog", to the south-east, which underpins the role of water in the origins and evolution of the place.

18.2.5 To protect and enhance the character of the historical built environment (established by street, subdivision and building patterns, including building setbacks, orientation, scale, massing and form, street interface and access) and avoid negative impacts on townscape and streetscape character in general and on architecturally and historically significant buildings in particular. This applies to new development, alterations to existing structures, road engineering interventions and boundary treatments and include security fencing, signage and landscaping.

18.2.6 To protect and enhance historical building typologies. Inappropriate typologies must be avoided in the historical core of Stanford with its significant spatial character. The historical present, streetscape and street block character and the role of buildings as landmarks, street liners or corner buildings in contributing to this character must be respected. Appropriate modern interpretations will be

considered by the Municipality with comment from Stanford Heritage Committee.

- 18.2.7 To protect and enhance the leiwater system which contributes substantially to the area's character.

18.3 **Land use and building plan applications**

- 18.3.1 Land use and building plan applications, if applicable, within the defined Stanford HPOZ area must be submitted to the Stanford Heritage Committee for comment.

18.4 **Height, massing and orientation**

- 18.4.1 No new building in the Stanford HPOZ should exceed 6,8 m in height, except on erven zoned for commercial use in the commercial core in Queen Victoria Street between Daneel Street and Church Street where a maximum height of 8,0 m is permitted above the base level.

- 18.4.2 No portion of any building shall exceed the prescribed maximum height from base level, save for the general encroachments as prescribed in the applicable land use scheme.

- 18.4.3 The maximum height in the SR zone shall be as follows:

- 18.4.3.1 From the finished floor level to the top of the wall plate: 4.5 m.

- 18.4.3.2 From base level to the top of the structure: 6.8 m.

- 18.4.4 Dormer windows visible from the street must be carefully scaled and must not exceed one-third of the roof space. Skylight type windows flush with the roof surface are permitted.

- 18.4.5 Building forms must be orthogonal in nature and must be positioned parallel to the street boundary.

18.5 Parking provision

- 18.5.1 Parking provision standards/ratios may be relaxed when, in the opinion of the Municipality, the imposition of obligatory parking ratios will have a negative impact on building–street relationships and the continuity of the streetscape where such streetscapes are considered to have heritage significance. A minimum parking ratio of 4 bays per 100 m² GLA will apply in the commercial zone.
- 18.5.2 Shared parking between properties or owners should be encouraged in commercial zones to avoid excessive parking areas, which fragment the streetscape.
- 18.5.3 Relaxation of parking provisions will be subject to the alternative parking arrangements provided for in the land use scheme.
- 18.5.4 Parking should be located to the rear of the buildings where possible to avoid gaps in building frontages, particularly in commercial areas.

18.6 Building setback lines

- 18.6.1 In the case of an existing building which is being altered/extended, the existing building line shall be maintained, except where the existing condition deviates from the pattern and rhythm of the street, subject to such exceptions that the Municipality may specially approve.
- 18.6.2 In the case of new building construction work to be undertaken on a vacant site or portion of a vacant site or alterations to an existing building, a building line must be prescribed by the Municipality to protect the building line generally observed in the immediate context and with neighbour's approval. In such cases the prescribed building line shall not be considered a departure.
- 18.6.3 Garages must be set back 4,0 m from the street boundary.

18.7 Disaggregation of buildings and the need to prevent monolithic structures

- 18.7.1 Scaling devices such as lower walls should be used to disaggregate building massing and large monolithic building forms.

- 18.7.2 Large buildings should be disaggregated to form smaller-scaled structures.
- 18.8 **Roof pitches and materials**
- 18.8.1 Roof pitches must be within the range of minimum 30° and maximum 45°. Parapet and lean-to roofs must have a maximum 15° pitch.
- 18.8.2 Any mono-pitched roofs, excluding verandas, must be hidden behind front and side parapet walls.
- 18.8.3 Roof cover materials must be either Victorian-profile corrugated metal sheeting or thatch with cement capping. Lip-lock and IBR type or similar (fiber cement products) roofing is permitted if not visible from the street and only on roofs with a pitch less than 5°. Roof colours must be: Cape Victorian Green, dark green, brick red, black or grey.
- 18.9 **Solid/opening relationships**
- 18.9.1 Doors, windows and openings must not exceed 30% of any façade facing the street and must be vertically proportioned. Recessed façades may exceed the 30% opening subject to approval by the Municipality with comment from the Stanford Heritage Committee.
- 18.10 **External walls**
- 18.10.1 The following materials are permitted:
- 18.10.1.1 Dressed or semi-dressed local stone.
- 18.10.1.2 Painted, plastered masonry (smooth or traditional sponged or stippled plaster).
- 18.10.1.3 Aluminium doors, windows or frames must be powder coated or may be colour-anodised aluminium. Steel and plastic doors, windows and frames are not permitted on buildings which have a heritage grading.
- 18.10.1.4 Paint colours must be white or pastel shades. Differentiated colours to emphasise architectural features and on recessed walls set back from the

street boundary may be permitted provided that comment is obtained from Stanford Heritage Committee. Striped veranda roofs are permitted.

- 18.10.2 The following materials are not permitted:
- 18.10.2.1 unplastered brick or concrete;
 - 18.10.2.2 external bagged finishes;
 - 18.10.2.3 external face brick;
 - 18.10.2.4 fibre cement roof sheeting;
 - 18.10.2.5 precast concrete; and
 - 18.10.2.6 artificial stone or slate-wall finishes of all kinds except on plinths.
- 18.11 **Boundary walls**
- 18.11.1 The maximum height of boundary walls and fences on street boundaries must be 1.2 m, measured from ground level. For security reasons, visually permeable fencing not more than 50% solid with openings of at least 20 mm will be permitted up to a height of 1,8 m on the street boundary. The solid vertical components must not exceed 50 mm in width.
 - 18.11.2 The maximum height of walls and fences (other than on street boundaries) must be 1,8 m, reducing to 1,2 m at the street building line with the proviso established above.
 - 18.11.3 Building plans of walls or fences must be submitted to the Municipality for written permission, with comment from the Stanford Heritage Committee, prior to any construction work.
 - 18.11.4 No artificial stone cladding will be permitted. Walls and fences on boundaries shall only be constructed with the following materials:
 - 18.11.4.1 plastered and painted brick or block work;
 - 18.11.4.2 uncoated or plastic coated wire mesh;

- 18.11.4.3 wrought iron;
- 18.11.4.4 cast iron;
- 18.11.4.5 wood; or
- 18.11.4.6 hedging.

18.12 Verandas

- 18.12.1 Verandas parallel to and facing the street must not be enclosed by more than one-third on the street side.

18.13 Ancillary elements

- 18.13.1 Solar panels must be secured flat against the roof if visible from the street.
- 18.13.2 Air conditioners must consist of split units with the motor-unit placed not higher than 1,0 m from the ground.
- 18.13.3 Water tanks and exterior elements must not be visible from the street nor protrude above the eaves or ridge line and must be in compliance with the land use scheme.
- 18.13.4 No freestanding transmission tower or energy renewable structure will be allowed within the HPOZ.

18.14 Trees and hedge rows

- 18.14.1 No street trees or vegetation in public spaces may be cut without written permission from the Municipality and comment from the Stanford Heritage Committee.

18.15 The leiwater system

- 18.15.1 No alteration of the leiwater system will be permitted without the permission of the Municipality and comment from the Stanford Heritage Committee.

18.16 **Signage**

18.16.1 All signage must comply with the Overstrand Signage By-Law and be submitted to the Stanford Heritage Committee for comment.

18.16.2 Signage must respond positively to the architecture of the building to which it is attached. It must not cover any architectural or historical features.

18.17 **Public works**

18.17.1 All road works (including verges, sidewalks, kerbs, storm water channels, culverts and street lighting) as well as pump stations, substations and electrical kiosks must be in sympathy with the heritage townscape and must be submitted, where deemed necessary by the Municipality, to the Stanford Heritage Committee (or equivalent body) for comment before finalisation of the design.

19 LANDSCAPES OF VERY HIGH NATURAL, SCENIC AND HERITAGE SIGNIFICANCE
HERITAGE PROTECTION OVERLAY ZONE ("LANDSCAPES HPOZ")

19.1 **Spatial delineation:** Refer to Plans A, B & C.

19.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:

19.2.1 To protect and enhance landscapes identified as having high natural, scenic and heritage significance and which contribute to the character and sense of place in the Overstrand and its economic base.

19.2.2 To promote the cultural, tourism, environmental and amenity potential of significant Overstrand landscapes.

19.3 **Land use and building plan applications**

19.3.1 Land use and building plan applications, if applicable, must be submitted to the Overstrand Heritage and Aesthetics Committee, Stanford Heritage Committee and Heritage Western Cape, and/or a registered conservation body, for comment.

19.3.2 If any intervention in landscapes identified as having high significance could have an impact on the visual and cultural landscape, the Municipality may require a Visual Impact Assessment or an equivalent assessment to determine the nature and scale of such impacts and to identify mitigation measures.

CHAPTER 4: APPLICATION AND APPROVAL PROCEDURES

- 20 The Overstrand Municipality By-Law on Municipal Planning, 2020, will apply in respect of all applications, processes and decisions contemplated in these regulations.
- 21 In considering an application for written consent in order to undertake an activity in terms of the Heritage Protection Overlay Zone, the Municipality may require from an applicant whatever information it deems necessary in order for an informed decision to be made regarding the application.
- 22 This could include, *inter alia*:
- 22.1 statements of significance;
 - 22.2 heritage research;
 - 22.3 photographs, including contextual photographs;
 - 22.4 results of public consultation;
 - 22.5 impact assessments; and
 - 22.6 comment from affected and interested bodies.
- 23 In approving an application, the Municipality may put in place any additional conditions it believes appropriate for the protection and enhancement of the heritage place.
- 24 This may include, *inter alia*:
- 24.1 requirements for landscaping;
 - 24.2 use of materials and finishes;
 - 24.3 management plans;
 - 24.4 requirements for financial guarantees or deposits;
 - 24.5 recycling or reuse of materials through a materials bank;
 - 24.6 implementation of development timeframes;

- 24.7 mitigation measures;
- 24.8 method statements; and
- 24.9 the need for the work to be supervised by an appropriately qualified SACAP registered professional.
- 25 Written approval may take the form of a municipal stamped plan and/or a permit from HWC (where NHRA legislation applies) in combination with a municipal stamped plan.
- 26 Approval in terms of the Heritage Protection Overlay Zone does not exempt an applicant from obtaining any other approvals required in law.
- 27 Additional requirements may include further constraints or conditions in respect of, *inter alia*:
 - 27.1 the maintenance of buildings;
 - 27.2 changes/restrictions on:
 - 28.2.1 coverage;
 - 28.2.2 height;
 - 28.2.3 floor area ratios;
 - 28.2.4 building lines;
 - 28.2.5 parking ratios;
 - 28.2.6 the display of advertisements and the erection of advertising boards and signage;
 - 28.2.7 irrigation furrows;
 - 28.2.8 historic garden walls and fences; and
 - 28.2.9 any other aspect which the Municipality may deem necessary in a particular case.
- 28 The Municipality shall not give its approval to any development activity or land use if such activity or use, which may include, *inter alia*, construction, demolition, alteration, expansion or defacing, is deemed to be detrimental to the protection and/or maintenance of the significance of the heritage place or heritage area in which such activity is proposed.

CHAPTER 5: ENFORCEMENT

- 29 The provisions contained in the Overstrand Municipality By-Law on Municipal Planning, 2015 as they relate to enforcement, offences, penalties and notices will apply to these Regulations.

CHAPTER 6: MISCELLANEOUS

- 30 Delegation by Council/Municipal manager

- 30.1 The Council and/or Municipal Manager may delegate any of the powers granted to it/him/her under these regulations to any other municipal official.

- 31 Short title

These regulations are called the Overstrand Heritage Protection Overlay Zone Regulations, 2018.

- 32 Commencement

These regulations commence on the date on which they are published in the Provincial Gazette.

**OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES**

**PLAN 1:
BETTY'S BAY WEST**

HPOZ: SCENIC DRIVES

- Important Scenic Corridor
- Route of Regional Scenic Significance
- Route of Local Scenic Significance

HPOZ

- Local Area
- Coastal Strip

INDIVIDUAL SITES OUTSIDE HPOZs

- 3A - Local Heritage Sites
- 3B - Local Heritage Sites
- 3C - Local Heritage Sites

NODES

- ☆ Special Places

PLEASE NOTE: All boundary lines, points, markers and property lines must be as certified by Professional Land Surveyors.

REF: Overstrand Municipality (2016) Zoning Schemes (2016)

COMPILED BY: A. SALLS

HOUGHTON

DATE: SEPTEMBER 2016	CLIENT: OVERSTRAND MUNICIPALITY
SCALE: SEE LINESCALE	
PLAN NO: 368/380	
SCALE: 1:1000	

OVERSTRAND MUNICIPALITY
10000 BETHLEHEM AVENUE
SANDHURST 6013
TEL: 011 261 981 981
WWW.OVERSTRANDMUNICIPALITY.CO.ZA



08269/380

OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES

PLAN 2:
BETTY'S BAY EAST

- HPOZ: SCENIC DRIVES**
- Important Scenic Corridor
 - Route of Regional Scenic Significance

- HPOZ**
- Local Area
 - Coastal Strip

INDIVIDUAL SITES OUTSIDE HPOZs

- 3B - Local Heritage Sites
- 3C - Local Heritage Sites

- NODES**
- Special Places

PLEASE NOTE:
All drawings are prepared, designed and plotted using AutoCAD software. All dimensions are in meters unless otherwise stated.

REF: All drawings shall be subject to the provisions of the relevant legislation and regulations.

COMPILED BY: S. SELL

WORKSHEET:

DATE: SEPTEMBER 2016
SCALE: SEE LINESCALE
PLANNED BY:

CLIENT:
OVERSTRAND MUNICIPALITY



DRAFT

373/380



OVERSTRAND MUNICIPALITY
 OVERLAY ZONES
 FOR ZONING SCHEMES

**PLAN 6:
 HAWSTON**

- HPOZ: SCENIC DRIVES**
- Important Scenic Corridor
 - Route of Regional Scenic Significance
- HPOZ**
- Local Area
 - Coastal Strip

- INDIVIDUAL SITES OUTSIDE HPOZs**
- 3A - Local Heritage Sites
 - 3B - Local Heritage Sites
 - 3C - Local Heritage Sites

- NODES**
- ☆ Special Places

(A GUIDE NOTE)
 All boundary line patterns, colours and priority lines must
 be used in accordance with the Municipal Land Use Scheme.
 REF: Overstrand Municipality (2014) (Municipal Land Use Scheme)
 COMPILED BY: A. OLS
 REVISIONS

DATE: SEPTEMBER 2016
 SCALE: SEE LINESCALE
 PLAN NO: 373/380

CLIENT
 OVERSTRAND
 MUNICIPALITY

LOCAL GOVERNMENT
 1111 MAIN ROAD
 HAWSTON
 7130
 TEL: 021 909 0000
 WWW.OVERSTRAND.CO.NZ

OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES

PLAN 7:
BAARDSKEERDERSBOS

- HPOZ: SCENIC DRIVES**
Route of Local
Scenic Significance
- HPOZ**
Local Area
- INDIVIDUAL SITES OUTSIDE HPOZs**
3A : Local Heritage Sites
3B : Local Heritage Sites
3C : Local Heritage Sites

PLEASE NOTE
All boundary line positions, distances and property areas must
be verified by a Professional Land Surveyor.

REF : Overstrand Municipality Zoning Scheme (2016)

COMPILED BY : A. VAN
RUBEN

DATE : SEPTEMBER 2016

CLIENT
OVERSTRAND
MUNICIPALITY

SCALE : SEE LINESCALE

PLANNING
OFFICER

DATE : SEPTEMBER 2016

CLIENT
OVERSTRAND
MUNICIPALITY

SCALE : SEE LINESCALE

PLANNING
OFFICER

DATE : SEPTEMBER 2016

CLIENT
OVERSTRAND
MUNICIPALITY

SCALE : SEE LINESCALE

PLANNING
OFFICER



DRAFT

OVERSTRAND MUNICIPALITY
 OVERLAY ZONES
 FOR ZONING SCHEMES

PLAN 9
 HERMANUS WEST

HPOZ: SCENIC DRIVES
 Route of Regional
 Scenic Significance

HPOZ
 Local Area
 Coastal Strip

INDIVIDUAL SITES OUTSIDE HPOZs
 3A: Local Heritage Sites
 3B: Local Heritage Sites
 3C: Local Heritage Sites

NODES
 ☆ Special Places

PLEASE NOTE:
 All boundary line positions, contours and points are based
 on the latest available aerial photography and GIS data.
 REF: ① Overstrand Municipality (2014/15) (UNCLASSIFIED)
 ② Overstrand Municipality (2014/15) (UNCLASSIFIED)
 COMPLETION: 4 JULY 2016
 REVISION: 1 JULY 2016

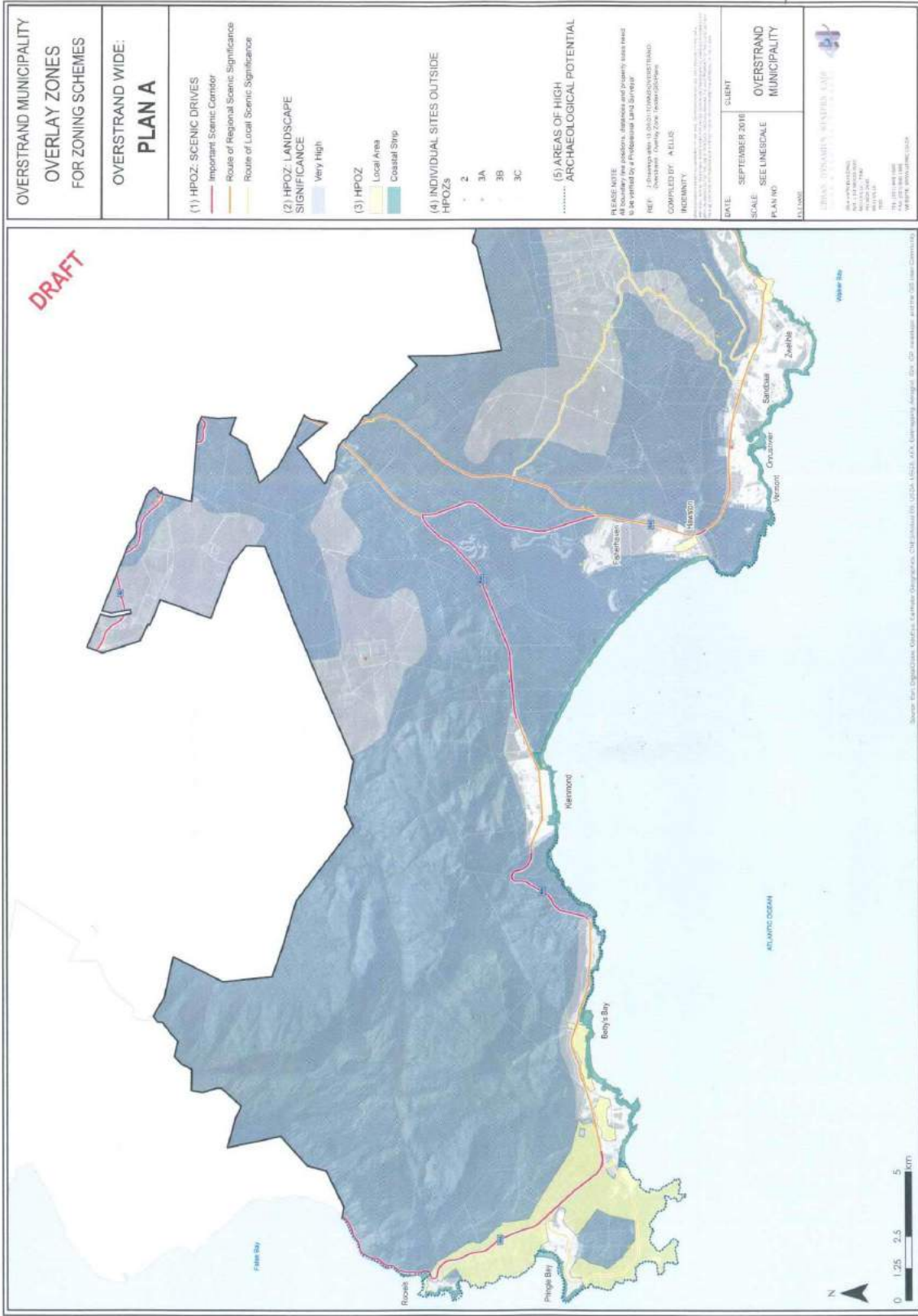
DATE: SEPTEMBER 2016
 CLIENT: OVERSTRAND MUNICIPALITY
 SCALE: SEE LINESCALE
 PLAN NO: 376/380

OVERSTRAND MUNICIPALITY



OVERSTRAND MUNICIPALITY
 10000 R433, HERMANUS WEST
 6020
 021 533 4411
 021 533 4412





**OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES**

**OVERSTRAND WIDE:
PLAN A**

- (1) HPOZ: SCENIC DRIVES
 - Important Scenic Corridor
 - Route of Regional Scenic Significance
 - Route of Local Scenic Significance
- (2) HPOZ: LANDSCAPE SIGNIFICANCE
 - Very High
- (3) HPOZ
 - Local Area
 - Coastal Strip
- (4) INDIVIDUAL SITES OUTSIDE HPOZs
 - 2
 - 3A
 - 3B
 - 3C
- (5) AREAS OF HIGH ARCHAEOLOGICAL POTENTIAL

PLEASE NOTE
All boundary line positions, features and details must read to be printed by a Professional Land Surveyor

REF: 2-Phase plan to 2021 (HYDROLOGICAL PLAN)
District: Overstrand
Municipality: Overstrand

COMPILED BY: AELLS

COMMUNITY:

DATE	SEPTEMBER 2018	CLIENT	OVERSTRAND MUNICIPALITY
SCALE	SEE LINESCALE	PLAN NO.	

LEGISLATION

SPATIAL INFORMATION ACT 2001 (S.I.A.)

LAND USE MANAGEMENT ACT 2008 (L.U.M.A.)

ENVIRONMENTAL MANAGEMENT ACT 2002 (E.M.A.)

WATER ACT 1956 (W.A.)

WATER SERVICES ACT 2007 (W.S.A.)

WATER SERVICES REGULATIONS 2008 (W.S.R.)

WATER SERVICES ACT 2007 (W.S.A.)

DRAFT



Notes: This digital plan is a draft and should not be used for any legal purposes. It is for information only. The client is responsible for the accuracy of the data provided. The client is also responsible for the accuracy of the data provided. The client is also responsible for the accuracy of the data provided.

379 | 380

**OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES**

**OVERSTRAND WIDE:
PLAN B**

(1) HPOZ- SCENIC DRIVES
 Important Scenic Corridor
 Route of Regional Scenic Significance
 Route of Local Scenic Significance

(2) HPOZ- LANDSCAPE SIGNIFICANCE
 Very High

(3) HPOZ
 Local Area
 Coastal Strip

(4) INDIVIDUAL SITES OUTSIDE HPOZs
 2
 3A
 3B
 3C

(5) AREAS OF HIGH ARCHAEOLOGICAL POTENTIAL

PLEASE NOTE:
 All boundary line positions, boundaries and property lines must be as verified by a Professional Land Surveyor.

REF: J:\Coverages\16-04-01\HPOZ\OVERSTRAND
 Overstrand Overlay Zone Technical Reports

COMPILED BY: AELLE
PROJECT:

DATE: SEPTEMBER 2016
SCALE: SEE LINESCALE
PLAN NO:

CLIENT: OVERSTRAND MUNICIPALITY

OVERSTRAND MUNICIPALITY

OVERSTRAND MUNICIPALITY
 1000 DE KELDERS ROAD
 DE KELDERS, 7190
 TEL: 053 833 1000
 FAX: 053 833 1001
 WWW.OVERSTRAND.MUNICIPALITY.GOV.ZA



**OVERSTRAND MUNICIPALITY
OVERLAY ZONES
FOR ZONING SCHEMES**

**OVERSTRAND WIDE:
PLAN C**

(1) HPOZ- SCENIC DRIVES
 Important Scenic Corridor
 Route of Regional Scenic Significance
 Route of Local Scenic Significance

(2) HPOZ- LANDSCAPE SIGNIFICANCE
 Very High

(3) HPOZ
 Local Area
 Coastal Strip

(4) INDIVIDUAL SITES OUTSIDE HPOZs
 2
 3A
 3B
 3C

(5) AREAS OF HIGH ARCHAEOLOGICAL POTENTIAL

PLEASE NOTE:
 All boundary line positions, locations and property lines need to be verified by a Professional Land Surveyor!

REF: Zoning Scheme 16.02.01 (LANDSCAPE SIGNIFICANCE)
 Overstrand Planning Zoning Scheme 16.02.01

COMPILED BY: KELLIS

DATE: SEPTEMBER 2018
 SCALE: SEE LINESCALE
 CLIENT: OVERSTRAND MUNICIPALITY

OVERSTRAND MUNICIPALITY

OVERSTRAND MUNICIPALITY

0 1.25 2.5 5 10m



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380 380