

OVERSTRAND MUNISIPALITEIT
RESTANT ERF 210, GANSBAAI
AFDELING CALEDON, OVERSTRAND
MUNISIPALE AREA: AANSOEK OM
ONDERVERDELING, HERSONERING,
VERGUNNINGSGEBRUIK EN
BEPALING VAN 'N ADMINISTRATIEWE
BOETE: MNRE WRAP PROJECT
OFFICE NAMENS OVERSTRAND
MUNISIPALITEIT

Kennis word hiermee gee kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) vir die volgende aansoeke van toepassing op bogenoemde erf, naamlik;

1. onderverdeling in terme van Artikel 16(2)(d) van die Verordening van die restant van Erf 210, Gansbaai in twee gedeeltes, naamlik: Gedeelte A (± 7.3801 ha) en Restant (± 714.3413 ha) Gansbaai;
2. herosnering in terme van Artikel 16(2)(a) van die Verordening van Gedeelte A vanaf Onbepaalde Sone (U) na Landbousone 1 (AGRI 1);
3. vergunningsgebruik in terme van Artikel 16(2)(o) van die Verordening van toepassing op gedeelte A vir mynbou; en
4. bepaling van 'n administratiewe boete in terme van Artikel 16(2)(p).

Volle besonderhede rakende die voorstel hierbo is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentare moet skriftelik wees, u naam, adres, en kontakbesonderhede bevat, sowel as u belang in die aansoek en die redes vir kommentaar, welke kommentaar die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) moet bereik voor of op 8 Oktober 2021. Telefoniese navrae kan gerig word aan die Senior Stadsbeplanner, Mnr SW van der Merwe by 028 313 8900.

Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persone wat nie kan lees of skryf nie kan bogenoemde toepaslike Munisipale Departement besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer.

Munisipale Bestuurder, Overstrand Munisipaliteit, Posbus 20, HERMANUS, 7200

Munisipale Kennisgewing Nr. 124/2021

OVERSTRAND MUNICIPALITY
REMAINDER ERF 210, GANSBAAI,
CALEDON DIVISION, OVERSTRAND
MUNICIPAL AREA: APPLICATION
FOR SUBDIVISION, REZONING,
CONSENT USE AND
DETERMINATION OF AN
ADMINISTRATIVE PENALTY:
MESSRS WRAP PROJECT OFFICE
ON BEHALF OF OVERSTRAND
MUNICIPALITY

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) of the following applications applicable to the above-mentioned erf, namely:

1. subdivision in terms of Section 16(2)(d) of the By-Law of the remainder of Erf 210, Gansbaai into two portions, namely: Portion A (± 7.3801 ha) and Remainder (± 714.3413 ha) Gansbaai;
2. rezoning in terms of Section 16(2)(a) of the By-Law of Portion A from Undetermined Zone (U) to Agricultural Zone 1 (AGRI 1);
3. consent use in terms of Section 16(2)(o) of the By-Law applicable to Portion A for mining; and
4. determination of an administrative penalty in terms of Section 16(2)(p).

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, 16 Paterson Street, Hermanus and Gansbaai Library, Main Road, Gansbaai. Any comment must be in writing, quoting your name, address and contact details, as well as your interest in the application and the reasons for comment, which comment must reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) on or before 8 October 2021. Telephonic enquiries can be made to the Senior Town Planner, Mr SW van der Merwe at 0283138900.

The Municipality may refuse to accept comments received after the closing date. Any persons who cannot read or write may visit the above appropriate Municipal Department where a Municipal official will assist them in formulating their comment.

Municipal Manager, Overstrand Municipality, P.O. Box 20, HERMANUS, 7200

Municipal Notice No. 124/2021

UMASIPALA WASE-OVERSTRAND
INTSALELA ISIZA 210 EGANSBAAI
CALEDON: UMASIPALA WASE-
OVERSTRAND :
ISICELO SOKWAHLULA, UKUCANDWA
NGOKUTSHA, ISICELO
SOKUSETYENZISWA KUNYE
NOKUGQITYWA KWESOHLWAYO
NGABASEMAGUNYENI: I-WRAP
PROJECT OFFICE EGAMENI LIKA
MASIPALA WASE-OVERSTRAND

Isaziso sikhutshwa ngokwemiqathango yeSoloty 47 kwaye 48 loMthethwana oTshintshweyo kaMasipala waseOverstrand woYilo lokuSetyenziswa koMhlaba wowama-2020 (uMthethwana) ngokwezicelo esifunyanweyo esichaphazela ezi ziza zikhankanywe apha ngasentla, ezizezi:

1. ukwahlula isiza 210 eGansbaai ngokweCandelo lama 16(2)(d) loMthethwo kaMasipala kwizahlulo ezimbini ezizezi; iNxalenye A (± 7.3801 ha) kwaye neNtsalela ($\pm 714,3413$ ha) eGansbaai;
2. ukucandwa ngokutsha ngokweSoloty 16(2)(a) loMthethwo kaMasipala leNxalenye A sisuswa kuMda ongamiselwanga ukuba ube (U) ukuya Indawo yoLimo 1 (AGRI 1);
3. Isicelo sokuSetyenziswa ngokweSoloty 16(2)(o) Isebenza kwiSahlulo A sokombiwa kwemigodi; kwaye
4. ukugqitywa kwesoHlwayo ngabasemagunyeni ngokweSoloty 16(2)(q) lalo Mthethwo kaMasipala.

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ukuze zihlolwe ngeentsuku zomsebenzi phakathi kweyure-08:00 ne-16:30 kwiSebe: loCwangciso lweDolophu, 16 Paterson Street, Hermanus kwaye nakwiThala Leencwadi laseGansbaai, eMain Road, eGansbaai. Nawuphi na umbono kufuneka ubhalwe, uchapule igama lakho, idilesi kunye neenkukacha zoxibelelwano, umdla kwisicelo, kunye nesizathu sokuphawula. Ezezimvo kufuneka zifike kumasipala e (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) ngomhla okanye phambi komhla ka 8 uOctoba 2021. Imibuzo ngefowuni ingathunyelwa kuMwangcisi weDolophu, uMnu SW van der Merwe kule nombolo yomnxeba 028-313 8900.

UMasipala angala ukuthatha izimvo ezifunyeneyo emva komhla wokuhlala. Nabani na ongakwazi ukufunda nokubhala angahambela kwiSebe lokuCwangcisa lweDolophu apho igosa likamasipala liza kuncedisa ukuze ukwazi ukuqulunqa uluvo lwakho.

UMlawuli kaMasipala, uMasipala wase-Overstrand, P.O. Box 20, HERMANUS, 7200

Isaziso sikaMasipala esinguNombolo. 124/2021



LOCALITY MAP: REM OF ERF 210, GANSBAAI (SAND MINE)



7. MOTIVATION

7.1 Subdivision of the remainder of Erf 210, Gansbaai to create Portion A – a portion of the remainder of Erf 210 (± 7.3801 ha) and the Remainder of Erf 210 (± 714.3413 ha) Gansbaai in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

7.1.1 The proposed subdivision promotes economic development in an area where no other uses may take place. The proposed application is in line with the character of the surrounding area and would not have any adverse effect on the area.

7.1.2 Due to the mining activities already in operation, the access points have already been established and do not require any additional consent. The application will, however, also be circulated to the Western Cape Department of Transport for comment.

7.1.3 The proposed size of the subdivision is only ± 7.3801 ha, which in relation to the Remainder of Erf 210 Gansbaai, ± 714.3413 ha, is a very small portion thereof. Both the Remainder and Portion A will remain in the current owner's possession. Refer to **Plan 3 - Subdivision Plan**, that also provides the coordinates of the proposed area to be subdivided.

7.1.4 There is an historic subdivision approval in the area, Erf 335 Gansbaai, which has been subdivided from Erf 210 Gansbaai. According to the mining permit, Erf 335 Gansbaai is also being utilised by Sizisa Ukhanyo Trading 410 CC.

7.1.5 As mentioned, **Plan 3 - Subdivision Plan** illustrates the subdivision.

7.2 Rezoning of Portion A – a portion of the remainder of Erf 210 from Undetermined to Agricultural Zone 1 in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

7.2.1 The rationale for the rezoning application is that the current zoning (Undetermined) does not allow for the current mining operation to operate legally.

7.2.2 The proposed rezoning will rectify this, allowing the mining operation to continue with all the rights in place.

7.2.3 The rezoning will not have any adverse effects on the surrounding properties or surrounding areas.

7.2.4 The rezoning proposes the rezoning of ± 7.3801 ha (Portion A) a portion of the remainder Erf 210 Gansbaai from Undetermined to Agricultural Zone 1.



7.2.5 The reason for proposing Agricultural Zone 1 is that *mining* is a consent use under the zoning (also included in this application).

7.2.6 Current Zoning:

Undetermined	
Primary Use	Primary uses are limited to only lawful uses existing at the operative date of this land use scheme.
Consent Use	None
Development Parameters	
No change of an existing use or expansion of an existing building or structure is permitted.	
No rezoning of any property to this zone is permitted after the operative date of this land use scheme.	
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.	

Proposed Zoning:

Agriculture Zone 1: Agriculture			
Development Parameters		Proposal	Deviate or comply
Primary use	Agriculture, Crèche, Dwelling House, Guest Rooms and Home Occupation.	N/A	N/A
Consent use	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.	Mining	Applied for and motivated
Floor space	The total floor space of all buildings on the land unit may not exceed 5,000m ² , provided that the Municipality may relax this requirement if it is satisfied that such	No buildings are being proposed	Comply



MOTIVATION

	buildings are required for bona fide farming activities on the land unit.		
Building lines	Area of Land Unit (Greater than 10ha) Street Boundary Building Line – 30m Common boundary building lines – 30m	No buildings are being proposed	Comply
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.	No buildings are being proposed	Comply
Parking	No Parking requirement set out for Mining within the OMLUS.		Comply

7.3 Consent use on Portion A – a portion of the remainder of Erf 210 to allow the land use of mining, in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

- 7.3.1** The rationale for the proposed land use (mining) is that a sand mine is currently operated on the subject property. As previously mentioned Sizisa Ukhanyo Trading 410 CC has a mining right to mine sand on the Portion of the remainder of Erf 210 Gansbaai;
- 7.3.2** As mentioned above, with the proposed zoning being Agricultural Zone 1 it allows for a consent use for **mining**.
- 7.3.3** The subdivision of the remainder of Erf 210 Gansbaai to isolate the mining area is an attempt to rectify the current illegal land use on the property.
- 7.3.4** The current zoning (Undetermined) does not allow for this type of land use to occur. This rezoning and consent use application will allow the proposed land use to be legal and ensure Sizisa Ukhanyo Trading 410 CC are not operating the sand mine illegally.



7.4 Determination of an administrative penalty, in terms of Section 16(2)(q) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

- 7.4.1** A mine is already operated on the subject property and to ensure compliance with the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended, it is important to include the determination of an administrative penalty in this application.
- 7.4.2** In addition, throughout the past 40 to 50 years the municipality has been aware of the operation of the mine on the subject property and a compensation agreement was entered into between Sizisa Ukhanyo Trading 410 CC and the Overstrand Municipality.
- 7.4.3** Up to the decision in *Maccsand (Pty) Ltd v. City of Cape Town* 2011 (Judgement on 12 April 2012), it was generally accepted that there is no need for a person to whom a mining right or mining permit has been issued to possess or obtain any land use authorisation in terms of the previous Land Use Planning Ordinance (LUPO), 15 of 1985 or any applicable land use schemes thereafter.

This was also the view of the Department of Mineral Resources and Energy Affairs that legislation concerned with a competence vested in the national sphere of government, prevails over LUPO to the extent that the two conflict.

It was also contended that LUPO is not a 'relevant law' in terms of s 23(6) of the Mineral and Petroleum Resources Development Act, 28 of 2002 (MPRDA) and therefore that the holder of a mining right is not required to comply with LUPO. It was also argued in the *Maccsand* case that the MPRDA incorporates aspects of NEMA in order to give effect to Section 24 of the Constitution in the context of mining and that the aspects that it does not incorporate do not apply to mining. It is common knowledge that this perception changed in 2012 when the Constitutional Court ruled in favour of the City of Cape Town that the concern of the MPRDA is mining, not municipal planning and that LUPO continues to operate alongside the MPRDA.

It was ruled that once a mining right or mining permit has been issued, a holder of such mining right will not be able to mine unless LUPO allows for that use of the land in question.

The *Maccsand* judgement had far-reaching implications for holders of mining rights as well as for Municipalities. In the case of the remainder of Erf 210 Gansbaai, historic aerial photography shows the first signs of mining on the property in 1973. With the coming into operation of LUPO on 1 July 1986, as discussed, the land should have been zoned in terms of its land use, which was mining, but the general perception with



permit/right holders as well as municipalities were that land use approval is not required.

The same applied with the coming into operation of the Gansbaai Zoning Scheme Regulations in 2003, promulgated in terms of Section 7 of LUPO, before the Maccsand judgement in 2012.

With the drafting and coming into operation of the Overstrand Municipality Zoning Scheme on 29 November 2013, the implications of the Maccsand case was still uncertain and where mining permits/rights were issued on land, such use was treated as con-conforming uses as the general perception was that the existing land use was being utilised lawfully in terms of a previous dispensation.

In the case of the remainder of Erf 210 Gansbaai, the mining right is applicable to a specific area, limiting the non-conforming use to the area approved in terms of the mining right.

As no rezoning application was approved, the diagram for the mining area on which the mining right is based, is also the Site Development Plan legalising the non-conforming use.

To control and limit the non-conforming use to the area as per the approved mining right, the land use of the mining area needs to be rectified. As the mining area was extended after the Maccsand judgement, the relevant land use needs to be put in place.

- 7.4.4** Based on the above motivation, we request that the Overstrand Municipality waive the administrative penalty.

8. ENVIRONMENTAL MANAGEMENT OVERLAY ZONE AND HERITAGE PROTECTION OVERLAY ZONE

8.1 HERITAGE PROTECTION OVERLAY ZONE

The subject property is located outside the urban edge and falls in the Heritage Protection Overlay Zone as a 'Significant landscape' as illustrated by the figure below:



Figure 1: HPOZ in terms of the subject property

The subject property is located within a significant landscape area and it is of importance to note that the gravel mine has been operational for several years dating back to 1973. It is predicted the subject site will not have a further impact on the HPOZ.

To ensure the application may be considered, compliance with the HPOZ it is of importance and certain aspects need to be provided and addressed in terms of Overstrand Municipality Heritage Protection Overlay Zone Regulations, 2020:

Section 20 – 22 states the following -

'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.'

8.1.1 Statements of significance

The subject area included in this application has been mined over the past 40 to 50 years. Sizisa Ukhanyo Trading 410 CC always has the environment and the impact that the mining operation may have in mind.

Ensuring no other area are affected by the mining activities are of great importance to Sizisa Ukhanyo Trading 410 CC.

8.1.2 Heritage Research

No heritage research was done for purposes of this application.

8.1.3 Photographs, including contextual photographs.

Refer to Annexure E.

8.1.4 Results of Public Consultation

With the applications for mining rights on the subject properties, extensive public participation was done.

8.1.5 Impact Assessments

No impact assessment has been done for purposes of this application. It must be reiterated that mining activities has been taking place on the subject property since 1973.

8.1.6 Comment from Affected and Interested Bodies

The application will be circulated to affected and interested bodies for comment.



8.2 ENVIRONMENTAL MANAGEMENT OVERLAY ZONE

The proposed subdivided Portion A, does fall within the Urban Conservation Environmental Management Overlay Zone as a category C site which means the following:

*"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)."*

Please refer to **Annexure D** for an Environmental Management Plan containing the guidelines, operating procedures and rehabilitation/pollution control requirements.

the application was evaluated in terms of the provisions of Schedule A & B of the Environmental Management Overlay Zone 2020:

SCHEDULE A PROHIBITED ACTIVITIES IN OVERSTRAND ENVIRONMENTAL MANAGEMENT OVERLAY ZONES		
Prohibited Activity	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Urban Conservation	
Agricultural practices within this EMOZ which may cause water logging and siltation.	X	N/A
Planting or harbouring of declared emerging weeds on properties within and adjacent to this EMOZ.	X	N/A
Development or agriculture on slopes steeper than 1:4.	X	N/A
Development above the 120m geographical contour line.	X	N/A
Development on the crest of a mountain, ridge or hill.	X	N/A
Establishment of Informal settlements or Temporary Relocation Areas.	X	N/A
No land user within this EMOZ may utilise the vegetation in a vlei, marsh or within the flood area of watercourse in a manner that may cause the deterioration or damage to the natural agricultural resources.	X	N/A
Placement of religious symbols or memorabilia.	X	N/A
Harvesting /collection of kelp / seaweed in municipal designated "no-take" zones.	X	N/A



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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	N/A
Stockpiling, drying, processing or loading of marine resources beyond areas designated, demarcated and signposted by the Municipal Council for such purposes.	X	N/A
Modification of the littoral active zone / functional dune systems in absence of approved management plans.	X	N/A
Feeding, disturbing / pursuit of fauna.	X	N/A
Disturbance, modification or destruction of the environment or species within special management areas designated, demarcated and signposted by the Municipal Council from time to time.	X	N/A
Defacing/damaging / removing of any notice, sign, barrier building or other infrastructure.	X	N/A
Playing or tampering with any rope, float, buoy, vessel, shelter or similar life - saving device.		N/A
Staying overnight.	X	The application area is operated as a mine and is a worksite. No overnighting will occur.
The discharging of domestic effluent / grey water into all natural systems.	X	N/A
Tampering with security / surveillance infrastructure.	X	N/A
Defacing of rocky outcrops and placement of memorial plaques, religious symbols or structures on natural features.	X	N/A
Graffiti, vandalism or damaging of municipal infrastructure.	X	N/A
Littering	X	N/A
Disposal of cigarette butts, ash or other hazardous materials in any place or manner other than a receptacle designated for such items	X	N/A
Dog walking / exercising of dogs in non- designated zones.	X	N/A



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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)	Applicable to the application or not
	Urban Conservation	
Permission for the utilization of access routes to permitted kelp / seaweed harvesting sites.	X	N/A
Removal or destruction of vegetation which is protected and/or of conservation concern.	X	The application site has been operating as a mine for approximately 40 – 50 years.
Dune maintenance on private land as per approved dune maintenance management plans.	X	N/A
Excavation and destruction or removal of substrate (soil, substrate, rock, shellgrit, dune sediment, mineral deposits).	X	The site is used as a mine with the required mining rights.
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	N/A
B) Permit Upon Approval By Delegated Authority and / Receipt of Tariff	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Urban Conservation	
Installation of conservancy tanks or biological treatment plants within 50 metres from the edge of a watercourse / wetland.	X	N/A
Access from private properties to open spaces, including the removal of vegetation and the establishment of paths, structures and infrastructure.	X	N/A
Commercial filming.	X	N/A
Construction or placement of any temporary object, building, shelter, path or structure.	X	N/A
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	N/A
Launching of vessels at registered launch sites.		N/A



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C) Council Authorisation Pending Consent Use Application / Lease Agreement / Applicable Tariffs as applicable	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	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	N/A
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	N/A
Application for the designation of industrial sites and activities associated with the seaweed harvesting, collection, drying, transport and processing fishery.	X	N/A
Encroachment of private buildings, structures, infrastructure, access routes.	X	N/A
Commercial	X	N/A
Harvesting/collection and removal of any natural resource.	X	The site is operated as amine with the required mining rights
Construction or placement of any permanent object, building, shelter, pathway or structure.	X	There are no structures on the proposed subdivided portion A.

9. SERVICES

No services are required on the subdivided Portion A, as this entire area is earmarked for mining operations and the employees of the sand mine make use of restrooms and other facilities on Erf 335 Gansbaai.

10. SPLUMA MOTIVATION REQUIREMENTS

The following are relevant considerations in terms of Section 42 (c) of SPLUMA and are motivated as follows:

10.1 Public interest

The approval and implementation of this proposal would allow for economic activities to prosper in an area, versus if this is not allowed, several industries may be affected, including the current work force of the sand mine and the building industry of the surrounding area to whom the building sand is sold. No adverse effect of the public's interest is proposed or motivated.



10.2 Respective rights and obligations of all those affected.

This proposal entails retaining the agricultural land uses on the remainder of the subject property and not unlock additional to the existing mining land uses that could be a nuisance to the surrounding area.

11. POLICY FRAMEWORK

11.1 The compliance of this proposal with the applicable spatial development policies was assessed. These policies are instrumental in guiding development and providing prescripts of what constitutes sound town planning development patterns. The compliance of this proposal in conjunction with provincial and local policies which are key development informants will be illustrated.

11.2 PSDF

The aim of the PSDF is to give spatial expression to the national and provincial development agendas and serves as a basis for coordinating, integrating, and aligning ground delivery of national and provincial departmental programmes. The framework also aims to communicate the government's spatial development intentions to the private sector and civil society. This section will outline how the proposed development is aligned with the aims of the PSDF.

The PSDF outlines that mineral resources are non-renewable assets that are important underpinnings of the Western Cape economy. The continued extraction of construction materials near infrastructure and property investment is cited as being inevitable and necessary to facilitate economic growth and reduces transport costs and carbon.

The PSDF also outlines that the spatial implications of farming and mining and this table will unpack on the consistency of this application with these spatial implications.

Spatial implications	Alignment of the proposal with the spatial implications
The PSDF promotes sustainable farming and mining activities that generate positive socio-economic returns and do not pose significant risk to the environment.	A revised Environmental Management Plan was compiled which contains the guidelines, operating procedures and rehabilitation/pollution control requirements which is binding on the holder of the mining right (refer to Annexure D). This is to ensure that mining activities that are currently under way on the subject property do not in any way pose a significant risk to the environment.
A prerequisite for sustainable farming and mining is coherent land use planning and environmental management systems that are aligned with	The mining activities of the subject sand mine are occurring within the well-defined parameters as set out in the mining right application (refer to Annexure C) and in



the Provincial Strategic Objectives.	alignment with the approved environmental management plan.
Record the location of mineral deposits and known reserves of construction materials in municipal SDFs and introduce and apply land use policies that reserve these assets for possible use.	There is no record of known mining reserves in the municipal SDF. Sizisa Ukhanyo Trading 410 CC (trading as Gansbaai Sand en Klip) has however, identified the sand reserves (construction material) that exist on the subject property. As there is a compensation agreement in place with the Overstrand Municipality, record is kept of the volume of sand mined from the property.

11.3 SDF

11.3.1 Policy preface

The SDF intends to ensure compliance with national, provincial and district legislation policies and principles. The SDF aims to provide sufficient guidance regarding what constitutes appropriate spatial development, land uses and direction. The SDF was drafted after considering input from other state departments and the public and provides a shared spatial vision which development proposals should ideally attempt to synchronise with.

11.3.2 Broad policy objectives

The broad policy objectives of the SDF include enhancing the image of the Overstrand as a liveable urban and rural area that accommodates a variety of life. Development proposals should also ensure the protection of environmentally sensitive areas, while promoting a healthy balance between conservation and economic opportunities.

11.3.3 Consistency of the proposal with the policy

11.3.3.1 The SDF cites in Section 3.7 that the Overstrand should stimulate economic growth and improve stability by diversifying its economy by means of introducing new sectors and expanding existing sectors with growth potential. The proposal to allow mining activities is in line with the above mentioned as it motivates that economic growth should be stimulated and with the approval of the proposal the mining operation may continue to bring economic power into an area where else there may not be any.

11.3.3.2 Section 3.7 continues that urban and regional planning and urban design may contribute to creating economic prosperity and diversity in a number of ways: One of which states that "*By ensuring that land uses sensitive to influences from its surroundings are buffered*" the current land use is already operating in a location that does not affect any of its surroundings;

11.3.3.3 Across the policy the importance of ensuring that environmental sensitive areas are protected, is stressed. The Environmental Management Plan mentioned above containing the guidelines, operating procedures and rehabilitation/pollution control requirements, will ensure that the area is properly managed and



protected. it is also of utmost importance for Sizisa Ukhanyo Trading 410 CC to manage the area in line with the EMP.

12. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains planning principles by which each development application must be guided. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

12.1 Spatial Justice

Spatial justice in the context of land use planning refers to addressing spatial development imbalances caused by apartheid planning. The proposed subdivision, rezoning & consent use application will in no way add to development imbalances caused by apartheid planning.

12.2 Spatial Sustainability

The mining operation is deemed to be spatially sustainable as it does not adversely impact on sensitive agricultural land and an EMP has been drafted and approved to ensure mining activities are not to the detriment of the environment. The mining operation is located 1.8 km from Gansbaai town, 2.5 km from De Kelders, 1.4 km from Masakhane and 2.7 km from Blompark and due to these distances, the mine will not result in sand granules being blown into the surrounding residential areas.

12.3 Efficiency

The mine is also ideally situated 1.8 km from Gansbaai and it is easy for the trucks that transport the sand from the mining area to access tarred roads nearby and this makes the entire transportation convenient and markets may be easily accessed.

12.4 Spatial Resilience

The spatial plans and policies compiled by the PSDF and the SDF all promote spatial resilience in land use management. The proposal is therefore aligned with these spatial plans and policies as the spatial initiatives section of this report has proven and this will result in the proposal being able to accommodate economic and environmental shocks in a timely and efficient manner.

12.5 Good administration

The proposed development will promote consultative planning as the Municipality will advertise the proposal to the public to allow the comments of the public to be taken into consideration. WRAP Project Office will also respond to the comments of the public and take the comments into consideration in the planning of the project. All the above measures will ensure that a joint planning approach is pursued to the benefit of the property owner and the community.



13. NEED AND DESIRABILITY

The need and desirability for the approval and implementation of this proposal will be illustrated in accordance with Section 66 (1) (c) of the OM By-Law and DEADP Provincial Support Document on Relevant Considerations.

13.1 Need and desirability

Desirability, amongst others, refers to two components where need refers to "time" and desirability refers to "place". In other words, is it the right time and is it the right place for locating the proposed type of land use/activity? The subdivision will allow the portion to obtain the zoning it requires for the mining operation to operate legally.

13.2 Economic impact

The approval of this proposal will enable the property owner to continue with the compensation agreement with Sizisa Ukhanyo Trading 410 CC that allows them to employ and compensate employees of the sand mine. Also, the compensation agreement states that the owner (Overstrand Municipality) also receive economic compensation for the use of their land.

13.3 Impact on safety and wellbeing

There will be no impact on public safety as the portion of the remainder of Erf 210 Gansbaai is not located close to the urban area. In addition, the employees working at the sand mine will follow prescribed safety measures.

13.4 Environmental considerations

The mining operation is deemed to be environmentally sustainable as it does not adversely impact on sensitive agricultural land, an EMP has been drafted and approved to ensure mining activities are not to the detriment of the environment.



14. EVALUATION

- 14.1** This motivation report has illustrated that the rationale for this proposal is to ensure the current land use is legalised and to ensure that sand can be mined legally from the property;
- 14.2** It has also been illustrated that this proposal was carefully crafted and aligned with relevant planning policies, statutory legal requirements contained in SPLUMA and general principles of what constitutes desirability. The approval and implementation of the proposal may therefore be regarded as contextually appropriate.

15. RECOMMENDATION

It is recommended that the following applications are approved:

- 15.1 Subdivision** of the remainder of Erf 210, Gansbaai to create Portion A – a portion of the remainder of Erf 210 (± 7.3801 ha) and the Remainder of Erf 210 (± 714.3413 ha) Gansbaai in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 15.2 Rezoning** of Portion A – a portion of the remainder of Erf 210 from Undetermined to Agricultural Zone 1 in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;
- 15.3 Consent use** on Portion A – a portion of the remainder of Erf 210 to allow the land use of *mining*, in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and
- 15.4 The waiving of an administrative penalty**, in terms of Section 16(2)(q) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

Figure Map of
Erf 210 Gansbaai

Plan prepared by: Thian Jansen

All distances are approximate
and subject to a survey

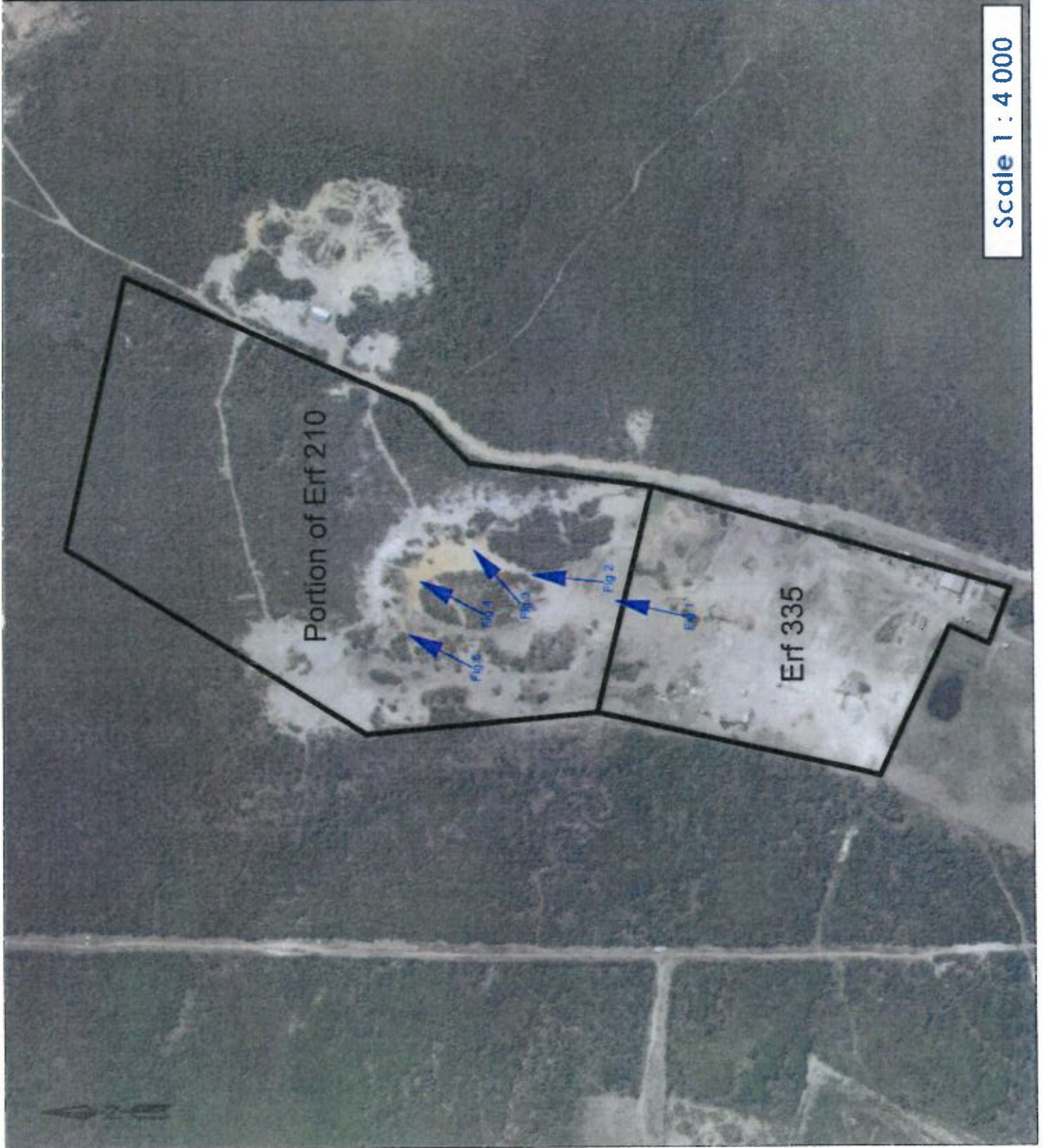
Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Unit B, Standard House,
Corner of Royal and Dirkie Uys
Street Hermanus, 7200



Project Office
Town Planning & Project Management



Scale 1 : 4 000

Figure Map of surrounding properties



Plan prepared by: Thian Jansen

All distances are approximate and subject to a survey

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Unit B, Standard House,
Corner of Royal and Dirkie Uys
Street Hermanus, 7200



Scale 1 : 8 000



Fig 1: some animals on a Rural Zone 1



Fig 2: Crushing plant



Fig 3: Crushed product



Fig 4: Neighboring mountain



Fig 5: Gansbaal Offroad Eco Club



Fig 6: Gansbaal Waste Disposal Site

Photos taken by: Rea Janke

All distances are approximate and subject to a survey

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Email: admin@wrapgroup.co.za

Unit 6, Standard House, Corner of Royville and Dikie Uys Street Hermanus, 7201



Photo Map of the subject property



Fig 1: Access road



Fig 2: Access road



Fig 3: Sand mining area



Fig 4: Sand mining area



Fig 5: Sand mining area

Photos taken by: Reo Jankie

All distances are approximate and subject to a survey

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