

**AGENDA of the  
Portfolio Committee: Investment & Infrastructure  
2 November 2022  
(Also the agenda for the Mayoral Committee Meeting: 16 November 2022)**

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**6.  
TRANSFER OF UNREGISTERED ERF 6291 (A PORTION OF ERF 2467)  
GANSBAAI, ADJACENT TO ERF 2474 GANSBAAI, SITUATED BETWEEN 25 AND  
27 BERGGANS STREET, GANSBAAI, TO EL ALDRICH**

7/2/3/2

A Le Roux                      Manager: Property Administration

8 September 2022

(028) 316 – 5623

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**1. Executive Summary**

To obtain final approval for the transfer of Unregistered Erf 6291 (a portion of Erf 2467) Gansbaai adjacent to Erf 2474 Gansbaai, situated between 25 and 27 Berggans Street, Gansbaai, 135m<sup>2</sup> in extent, to the owner of Erf 2474 Gansbaai, being EL Aldrich. See the locality plans attached hereto marked "Annexure A1" and "Annexure A2".

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Infrastructure and Planning  
Property Administration

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Creation and maintenance of a safe and healthy environment  
Promotion of tourism, economic and social development

**4. Delegated Authority**

None

**5. Legal Requirements**

- Local Government: Municipal Finance Management Act (Act 56 of 2003)("MFMA")
- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality as amended

**6. Background/Discussion/Evaluation/Conclusion**

**Background/Discussion**

Council on 25 November 2020 approved as follows:

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- “1. that the direct alienation of a portion of Erf 2467 (adjacent to Erf 2474) Gansbaai situated in Berggans Street, ±125m<sup>2</sup> in extent, to the owner of the adjoining Erf 2474 Gansbaai, EL Aldrich, at an amount of R172.80/m<sup>2</sup> (ONE HUNDRED AND SEVENTY TWO RAND AND EIGHTY CENTS PER SQUARE METRE) (VAT excluded) be approved in principle;
2. that it be noted that the direct alienation is possible as the subject portion of Erf 2467 Gansbaai can be classified as a non-viable property;
3. that, subject to the approval in 1 above, a public participation process be followed at the cost of the Applicant;
4. that it be noted that a condition for the alienation will be that the subject portion of Erf 2467 Gansbaai must be consolidated with the adjoining property of EL Aldrich, being Erf 2474 Gansbaai;
5. that no structures of any kind (excluding a boundary wall or fence) may be erected on the portion of Erf 2467, which condition must be registered against the title deed of the consolidated property;
6. that the alienation of the portion of Erf 2467 Gansbaai be subject to a suspensive condition that the Applicant obtains approval for the closure of a public place, subdivision, rezoning, consolidation, amendment of and all related town planning approvals applicable;
7. that all the costs pertaining to the transaction, e.g. application cost, valuation cost, amendment of conditions of approval, closure of a public place, subdivision, rezoning, consolidation, transfer and related costs, advertisements, etc. be paid by the Applicant, EL Aldrich; and
8. that it be noted that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council’s Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).”

The public participation was followed as discussed in more detail below.

The required Town Planning processes have been completed and all necessary approvals have been granted. With the subdivision of Erf 2467 Gansbaai, the portion being alienated, was allocated its own Erf number, namely, Unregistered Erf 6291 (A portion of Erf 2467) Gansbaai, 135m<sup>2</sup> in extent (hereinafter referred to as “the Property”). See the approved SG Diagram attached hereto as “Annexure B”.

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## **Evaluation**

A: Administration of Immovable Property Policy of the Overstrand Municipality:

The following conditions of the said Policy will apply:

***Paragraph 7: “The transfer of ownership of immovable property must be fair, equitable, transparent, competitive (unless it is not applicable or unpractical e.g. non-viable immovable property) and consistent with the supply chain management policy of the Municipality in accordance with Section 14(5) of the MFMA.”***

Non-viable immovable property is defined in the relevant Policy as “a property that, owing to urban planning, physical constraints or extent, cannot be developed on its own or function as a separate entity and can therefore only become functional if alienated or leased to an adjoining owner for usage in conjunction with the said owner’s property.” The Property can be classified as a non-viable immovable property due to the lay-out, size and proposed use thereof. Due to the restrictions imposed on the Property no construction will be allowed besides a boundary fence or wall and can only be used for gardening purposes.

***Paragraph 9(1)(a): “The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the Municipal Council has, in terms of section 14(2)(a) and (b) of the MFMA decided on reasonable grounds that the immovable property is not needed to provide the minimum level of basic municipal services.”***

Council, when the in-principle approval was obtained, confirmed that the Property is not needed to provide the minimum level of basic municipal services.

***Paragraph 9(1)(b): “The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the municipal council, in terms of sections 14(2)(a) and (b) of the MFMA considered the fair market value of the immovable property and the economic and community value to be received in exchange for the immovable property in accordance with Section 14(2) of the MFMA.”***

Boland Valuers determined the fair market value on 28 August 2020 at an amount of R172.80/m<sup>2</sup> (ONE HUNDRED AND SEVENTY-TWO RAND AND EIGHTY CENTS PER SQUARE METRE) (VAT excluded).

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The valuation was done taking into consideration the size, locality, zoning and proposed use of the Property (restriction imposed).

***Paragraph 9.2: “The Municipality may transfer ownership or otherwise dispose of a non-viable immovable property, as non-exempted immovable property which can be of no practical use to any other person, directly to adjoining property owner(s), only after the Municipal Council has, in terms of sections 14(2)(a) and (b) of the MFMA:***

- (a) decided on reasonable grounds that the non-viable immovable property is not needed to provide the minimum level of basic municipal services;***
  - (b) considered the fair market value of the immovable property and the economic and community value to be received in exchange for the immovable property in accordance with Section 14(2) of the MFMA, and***
  - (c) has as a consequence to 9.2(a) and (b) above approved in principle that the immovable property may be transferred or disposed, provided that, when giving the in principle approval, it is recorded in the minutes the full reasons for the Municipality preferring such direct transfer.”***
- (a) The comments received from the relevant departments confirm that the Property is not needed for the provision of municipal services.
  - (b) Boland Valuers determined the fair market value on 28 August 2020 at an amount of R172.80/m<sup>2</sup> (ONE HUNDRED AND SEVENTY-TWO RAND AND EIGHTY CENTS PER SQUARE METRE) (VAT excluded). The valuation was done taking into consideration the size, shape, locality, zoning and proposed use of the Property (restriction imposed). As the exact size of the Property is now determined at 135m<sup>2</sup> the purchase amount will be R23,328.00 (TWENTY-THREE THOUSAND THREE HUNDRED AND TWENTY-EIGHT RAND) (VAT excluded).
  - (d) The reasons for preferred direct sale are discussed above and was recorded in the minutes of the in-principle approval granted by the Council on 25 November 2020, which is attached hereto marked as Annexure “B”.

***Paragraph 28: “All costs pertaining to a transaction shall be borne by the successful bidder/purchaser, e.g. survey, advertisements, valuation, rezoning, relocation or provision of services where***

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***necessary, etc. The Municipality may, however, waive its right to claim the costs should it be to its advantage to bear the costs.***

The Applicant is liable for the costs of the transaction which included, but not limited to, the application fee, valuation, closure of public place, subdivision, rezoning and consolidation, Section 14 advertisement, all cost related to the Town Planning processes and the transfer costs.

***Paragraph 29: "Should existing services need to be relocated or secured by means of the registration of a servitude in favour of the Municipality as a result of the alienation of the immovable property, all related costs shall be for the account of the successful bidder/purchaser."***

The Applicant will be liable for all cost in this regard should it be necessary.

***Paragraph 30: "Small areas of land such as closed roads or portions of public place sold to an adjacent owner must be consolidated with the existing property of the adjacent owner, unless circumstances exists which, in the opinion of the Municipality, make such consolidation undesirable."***

A condition to this effect was included in the deed of sale.

***Paragraph 32: "Save with prior approval, the immovable property alienated may only be used for the purpose for which it was originally sold and purposes permitted by town planning scheme regulations pertaining to such purposes."***

A condition to this effect was included in the deed of sale.

***Paragraph 33: "The agreement might contain a suspensive condition in respect of immovable property which is sold subject to approval in terms of land use planning legislation."***

A condition to this effect was included in the deed of sale. This condition has been fulfilled.

***Paragraph 34: "A 10% deposit of the agreed/tendered purchase price will be due and payable by the purchaser/successful bidder within 10 days of date of request in writing thereof by the Municipality."***

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A condition to this effect was included in the deed of sale. Payment of the deposit will be requested once the matter is allocated to the transferring attorney.

***Paragraph 35: "Interest on the purchase price, as from date of signature of the deed of sale, must be charged by the Municipality should payment or transfer be delayed due to an action or failure on the part of the successful bidder/ purchaser."***

A condition to this effect was included in the deed of sale.

**B: Advertisement/Notification**

An advertisement for the transfer of the Property, was published in the Gansberg News on 2 September 2022 for a 30 (THIRTY) day objection/comment period. No objections/comments were received.

**Conclusion**

It is recommended that the transfer of Unregistered Erf 6291 (a portion of Erf 2467) Gansbaai, 135m<sup>2</sup> in extent, to EL Aldrich for the amount of R23,328.00 (TWENTY-THREE THOUSAND THREE HUNDRED AND TWENTY-EIGHT RAND) (VAT excluded) for the purpose of gardening and the retention of a boundary wall or fence be approved.

**7. Financial Implications**

The Municipality stands to gain an income of R23,328.00 (TWENTY-THREE THOUSAND THREE HUNDRED AND TWENTY-EIGHT RAND) (VAT excluded) for the sale of the Property.

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

**Senior Manager: Expenditure and Assets, Mr J Vorster - (028) 313 8046**

*"The portion of Erf 2467 (±125m<sup>2</sup> in extent) Gansbaai, adjacent to Erf 2474 Gansbaai and situated at Berggans Street, Gansbaai is reflected in the fixed asset register for PPE: Land as part of the overall Erf 2467 which is vesting in Overstrand Municipality at a value of R332'000 as at 30 June 2022. As soon as the proposed alienation has been concluded the portion of the erf will have to be written out of the fixed asset register at the applicable selling price in order to account for the actual gain / (loss) on the disposal of the portion of an*

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asset.

*There is no objection against the proposed alienation as the application complies with the Administration of Immovable Property Policy."*

**10. Annexures**

Annexure A1 & A2:       Locality map  
Annexure B:               SG Diagram

**RECOMMENDATION TO THE COUNCIL:**

1. that the transfer of Unregistered Erf 6291 (a portion of Erf 2467) Gansbaai (adjacent to Erf 2474 Gansbaai) situated in Berggans Street, Gansbaai, 135m<sup>2</sup> in extent, to the owner of the adjoining Erf 2474 Gansbaai, EL Aldrich, at an amount of R23,328.00 (TWENTY-THREE THOUSAND THREE HUNDRED AND TWENTY-EIGHT RAND) (VAT excluded) for the purpose of gardening and retention of a boundary fence or wall **be approved**;
2. that Council take cognisance of the fact that the direct alienation and subsequent transfer is only approved as the subject Erf 6291 (a portion of Erf 2467) Gansbaai is classified as a non-viable property;
3. that it be noted that a condition for the transfer is that the said Erf 6291 (a portion of Erf 2467) Gansbaai must be consolidated with the adjoining property of EL Aldrich, being Erf 2474 Gansbaai;
4. that a condition be registered against the title deed of the to be consolidated property that the portion of property envisaged to be transferred may only be used for gardening and no structures, excluding a boundary fence or wall, may be erected thereon;
5. that all the costs pertaining to the transaction, e.g. application cost, valuation cost, closure of public place, subdivision, rezoning, consolidation, transfer and related costs, advertisements, etc. be paid by the applicant/purchaser; and
6. that it be noted that the municipal property envisaged to be transferred is not required for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

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<b>RESPONSIBLE OFFICIAL:</b>	<b>W MURTZ</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>15 DECEMBER 2022</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>19 DECEMBER 2022</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>

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BERGGANS STREET, GANSBAAI, TO EL ALDRICH**

**7/2/3/2**

**A Le Roux**

**Manager: Property Administration**

**8 September 2022**

**(028) 316 – 5623**

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**THIS MATTER SERVED BEFORE THE INVESTMENT & INFRASTRUCTURE  
PORTFOLIO COMMITTEE ON 2 NOVEMBER 2022, WHICH COMMITTEE  
RECOMMENDED AS FOLLOWS:**

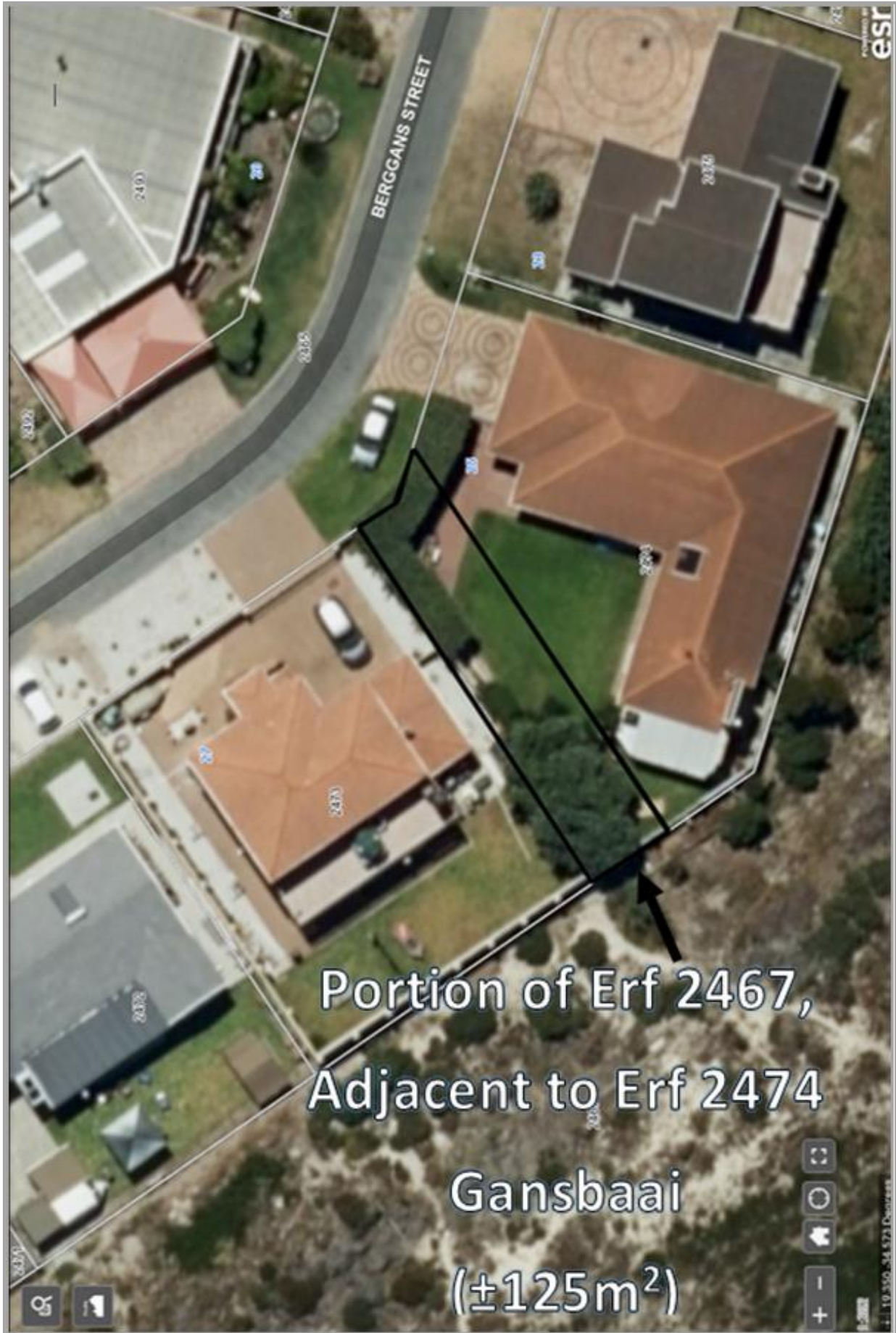
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CERTIFIED COPY FOR REGISTRATION  
 FOR SURVEYOR-GENERAL  
 DATE: 26-07-2022  
*Shamuel*

VAN DYK & Associates Inc. (V21200)

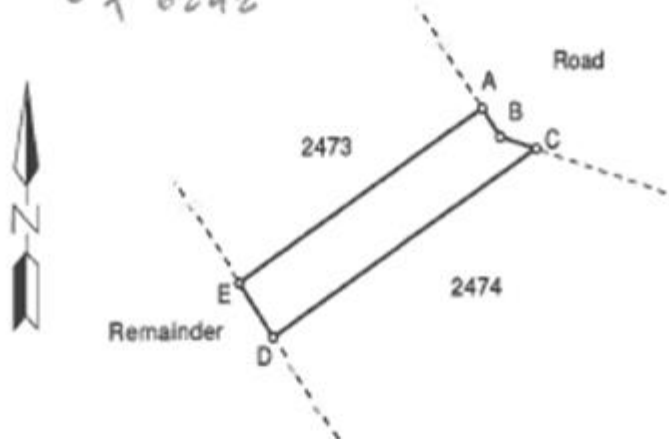
SIDES metres	ANGLES OF DIRECTION	CO-ORDINATES		SG No. 1372/2022 approved
		Y System: WG 19° X	X	
		Constants	0,00	+3 800 000,00
AB	2,78   326.05.10	A	-32 144,53	+27 280,87
BC	3,22   287.42.50	B	-32 146,08	+27 283,18
CD	27,00   56.05.10	C	-32 149,15	+27 284,16
DE	5,31   146.05.10	D	-32 126,74	+27 299,23
E A	25,00   236.05.10	E	-32 123,78	+27 294,82
BAVIAANSFONTEIN 3		△	-41 395,97	+23 422,75
DE KELDERS 128		△	-33 437,61	+25 964,07

for *[Signature]*  
 SURVEYOR-GENERAL  
 26/07/2022

BEACON DESCRIPTIONS

A,B,E : Hole on wall  
 C,D : 12mm Iron Peg

*Included in Couzol.  
 Vide dgn. 1373/2022  
 Erf 6292*



THIS DIAGRAM REPRESENTS A  
 .....CLOSED PUBLIC PLACE

Scale: 1/ 500

The figure ABCDE represents 135 square metres of land, being

**Erf 6291 (a portion of Erf 2467) Gansbaai**

situate in the Overstrand Municipality  
 Administrative District of Caledon

Western Cape Province  
 Surveyed in March 2022 by me

*[Signature]*  
 LA van Dyk  
 Professional Land Surveyor  
 Registration Number: PLS 1069

EXEMPT FROM PROVISIONS OF ACT  
 70 OF 1970  
 SECTION 1 (a)

Approved I.O. Section 61  
 of Municipal Land Use Planning Bylaw  
 Ref: 2467 & 2474, GGB  
 Date: 08 April 2022

This Diagram is annexed to No. Registrar of Deeds	The original diagram is S.G. No. 1371/2022	File: S2326/5
	Transfer No.	S.R. No. 837/2022
		Comp AI-5BC/V53 (496)
		LPI No. C0130009

Erf 6291 Gansbaai