

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 November 2020  
(Also the agenda for the Council Meeting: 25 November 2020)**

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**6.**

**IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF 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**

**18 September 2020**

**(028) 316 - 5623**

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**1. Executive Summary**

To obtain approval in principle for the direct alienation of a portion of Erf 2467 ( $\pm 125\text{m}^2$  in extent) Gansbaai adjacent to Erf 2474 Gansbaai, situated between 25 and 27 Berggans Street, Gansbaai, to the owner of Erf 2474 Gansbaai, being EL Aldrich. See the Locality Plan attached hereto marked Annexure "A".

**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

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

**Background/Discussion**

An application was received from EL Aldrich, hereafter referred to as “the Applicant”, for the purchase of a portion of Erf 2467 Gansbaai ( $\pm 125\text{m}^2$  in extent) adjacent to Erf 2474 Gansbaai situated between 25 and 27 Berggans Street, hereafter referred to as “the Property”.

The Applicant is the owner of Erf 2474 Gansbaai. The Applicant explained that when she purchased Erf 2474 Gansbaai from the previous owner, she was unaware that the Property was incorporated into the boundaries of her property. The previous owner sold Erf 2474 Gansbaai without informing the Applicant that the Property is not part of the sale, the applicant was thus placed under the impression that she was buying the whole area which includes the Property. The applicant wishes to consolidate the Property with her own as it is already enclosed with a boundary wall. If approved, the Applicant will use the Property for gardening purposes as her garden is already incorporated into the Property. The size of the Property is  $\pm 125\text{m}^2$  in extent.

The Property is registered in the name of N1-City Seven (Pty) Ltd and is included in the Municipality’s Fixed Asset Register. As it is a public place as per General Plan 1802/1998, the property vests with the Municipality in terms of LUPA and must still be transferred to the Municipality. See the General Plan: S.G. No.: 1802/1998 attached hereto marked Annexure “B”.

Due to the locality, shape, intended use and size of the Property, it cannot be developed independently, and thus it can be classified as a non-viable property. Non-viable property can in terms of the current Administration of Immovable Property Policy be alienated directly to adjoining property owner, subject to certain conditions. The adjoining property owner of Erf 2473 Gansbaai confirmed that they are not interested in purchasing the Property.

One of the conditions to the alienation will be that no structures of any kind (excluding a boundary wall or fence) may be erected on the Property.

**Subsequent costs**

The Applicant will be liable for the costs of the transaction which include, but not limited to, the application fee, valuation, amendment of conditions, closure of a public place, rezoning, subdivision and consolidation of the property and transfer costs, as well as the required Section 14 advertisement in terms of the MFMA and the Administration of Immovable Property Policy.

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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 location, shape, size and proposed and restricted use thereof. The adjoining property owner of Erf 2473 Gansbaai confirmed that they are not interested in purchasing the Property.

***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 indicate that the Property is not needed for the provision of municipal services.

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- (b) Boland Valuers determined the market related value in September 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 (restriction) of the Property
- (d) The reasons for preferred direct sale are discussed above and will subsequently be recorded in the minutes.

***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 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 will be liable for the costs of the transaction which will include, but not limited to, the application fee, valuation, amendment of conditions, closure of public place, rezoning, subdivision and consolidation, Section 14 advertisement and 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 shall 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 will be 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 will be included in the Deed of Sale and title deed of the "to be" consolidated property.

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***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 will be included in the Deed of Sale.

***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.”***

A condition to this effect will be included in the Deed of Sale.

***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 will be included in the Deed of Sale.

**B: Advertisement/Notification**

The necessary advertisement in terms of Section 14 of the MFMA will be published after obtaining this in principle approval. The Applicant will be liable for the costs of the Section 14 advertisement.

**Conclusion**

Taking the comments of the internal departments, as well as the above discussion into consideration, it is recommended that the direct alienation of the Property to the owner of Erf 2474 Gansbaai, EL Aldrich, be approved in principle.

Furthermore the Applicant will be liable for all cost involved to affect transfer of the Property in the deeds office. Subsequently the costs will entail the application fee, valuation costs, amendment of conditions, closure of public place, rezoning, subdivision and consolidation, Section 14 advertisement and the transfer costs.

**7. Financial Implications**

The Municipality stands to gain a market related purchase price 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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**8. Staff Implications**

None

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

**Senior Manager: Gansbaai/Stanford Administration: Mr F Myburgh – (028) 384 8365**

*“The favourable consideration of selling of the portion of Erf 2467 (±125m<sup>2</sup> adjacent to Erf 2474, Gansbaai / Perlemoenbaai) is supported if the land is not reserved for the installation of municipal services. The applicant will also have to be liable for cost involved in consolidation of the land with Erf 2474.”*

**Senior Manager: Operational Services (Gansbaai): Mr W Germishuys– (028) 384 8312**

**“2. RECOMMENDATION**

2.1. *With regard to the application for the sale / alienation of the relevant Portion of Erf 2467, Gansbaai, the Department: Operational Services has no objections to the application, subject to the following conditions:*

- 2.1.1. *That, as no municipal water- and sewerage services will be rendered to the relevant Portion of Erf 2467, the applicant is responsible for the provision of any water supply and sewerage services to the development on the relevant Portion of Erf 2467.*
- 2.1.2. *That the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage.*
- 2.1.3. *That on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Department: Operational Services.*
- 2.1.4. *That any additional and / or extended vehicle entrances will be for the owner’s account.*
- 2.1.5. *That the Electrical- and Traffic Departments, as well as Telkom and any other relevant authorities and service providers not have any objections to the application.”*

Comments from Property Administration: Conditions 2.1.1-2.1.3 are not applicable as this is not a development. The Property may only be used for gardening purposes. Should the Applicant want to use it as an additional entrance, in terms of conditions 2.1.4 above, a formal application will be needed as it might entail an amendment of the conditions of sale. As to condition 2.1.5, we have obtained the comments of all the internal

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departments. The comments of any external departments, i.e. Telkom, will be obtained during the Town Planning processes.

**Manager: Engineering Services: Mr R Andrews – (028) 313 5073**

*“The Engineering Services Department has no comment.”*

**Senior Town Planner: Mr S van der Merwe – (028) 313 8906**

*“The application for the purchase of a portion of Erf 2467, Perlemoenbaai refers.*

*The applicant’s motivation is noted. It should be borne in mind that the nature of the dispute is a civil legal matter between the buyer and seller in respect of Erf 2474, Perlemoenbaai.*

*The motivation incorrectly refers to the relevant portion of Erf 2467, the subject of the above dispute to be 2,5m wide. The site plan circulated with the application to purchase indicates 5,517m wide and will be verified via survey.*

*During the marketing of the Erf 2474, the former owner submitted a planning application in an attempt to legalize unauthorized additions to the property over the rear building line. Approval was granted, subject to conditions, amongst others that the encroachment onto municipal property, Erf 2467 be removed and the area be rehabilitated to the satisfaction of the municipality. The owner to date failed to adhere to this condition and access onto the municipal property is not possible.*

*The portion of Erf 2467 to the rear of Erf 2474 is not a functional / usable piece of land and predominantly provides for storm water drainage. As such, the area the subject of the proposed alienation is not used to gain access to the larger tract of Public Open Space. The proposed alienation is therefore supported from a planning point of view, provided that the applicant obtains the necessary land development approvals at his / her cost.*

*The Applicant shall be responsible for all the planning and advertisement costs. Should the title deed contain restrictive conditions, further applications and costs may apply.”*

**Senior Manager: Electrotechnical Services (Gansbaai): Mr D Maree – (028) 384 8311**

*“We have no objection.”*

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**Manager: Waste Management: Mr C Mitchell – (028) 313 5045**

*“No objection from a solid waste planning point of view.”*

**Building Inspector (Gansbaai): Mr R Dickson – (028) 384 8319**

*“Overstrand Building Department does not have any objection for the purchase of the above property.”*

**Assistant Chief: Traffic Operations, Admin, Logistic & Fines: Mr X Titus – (028) 316 8255**

*“The application do not bare any traffic implications, therefore we do not have any objections to the application at hand.”*

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

*“There is no objection against the alienation. The portion of Erf 2467 ( $\pm 125\text{m}^2$  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 soon 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 asset.”*

## **10. Annexures**

Annexure A: Locality Map

Annexure B: General Plan: S.G. No.: 1802/1998

## **RECOMMENDATION TO THE COUNCIL:**

1. that the direct alienation of a portion of Erf 2467 (adjacent to Erf 2474) Gansbaai situated in Berggans Street,  $\pm 125\text{m}^2$  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;

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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).

<b>RESPONSIBLE OFFICIAL:</b>	<b>W MURTZ</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>31 DECEMBER 2020</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>18 DECEMBER 2020</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>

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**6.  
IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF 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**

**18 September 2020**

**(028) 316 - 5623**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
17 NOVEMBER 2020, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE COUNCIL:**

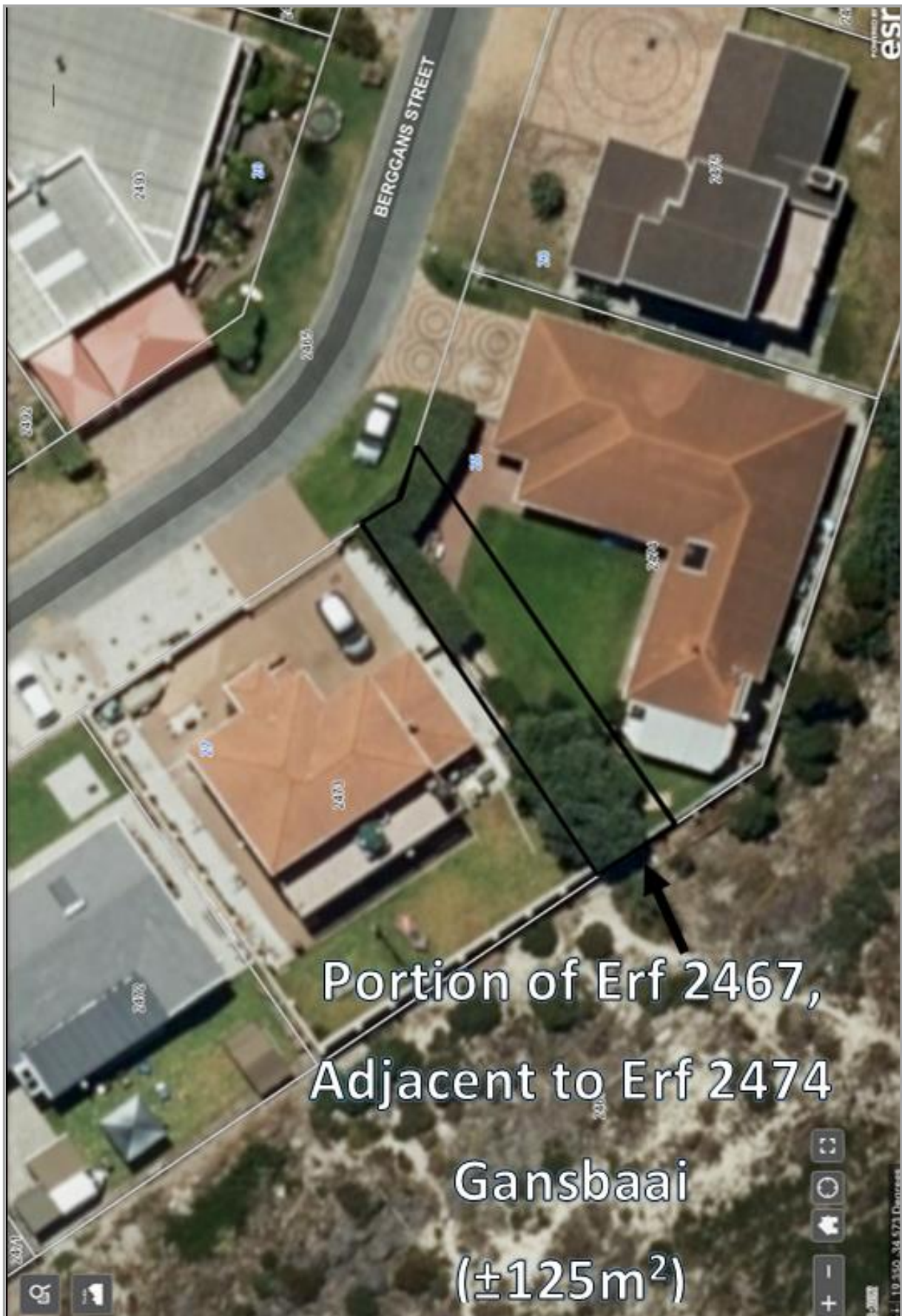
1. that the direct alienation of a portion of Erf 2467 (adjacent to Erf 2474) Gansbaai situated in Berggans Street,  $\pm 125\text{m}^2$  in extent, to the owner of the adjoining Erf 2474 Gansbaai, EL Aldrich, at an amount of R172.80/m<sup>2</sup> (ONE HUNDRED AND SEVENTY TWO RAND AND EIGHTY CENTS PER 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

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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).

<b>RESPONSIBLE OFFICIAL:</b>	<b>W MURTZ</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>31 DECEMBER 2020</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>18 DECEMBER 2020</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>



S. G. No.: 1802/1998

APPROVED: *[Signature]*  
for Surveyor General  
1998-05-24

AMENDED IN THE OFFICE OF THE SURVEYOR GENERAL  
BY ORDER OF THE SURVEYOR GENERAL  
DATE: 03-03-1998

MAHARASHTRA ALLOTMENT AREA

**GENERAL PLAN NO. 1802/1998**  
**OF SUBDIVISIONS OF ERF 2465 GANSAABAI**  
VIDE PLAN NO. 1802/1998 AMENDED TO CREDIT OF TRANSFEREE  
CONVEYANCES TO ERFAS NUMBERED 2466 AND 2468 & 2469  
OF PUBLIC PLACE NUMBERED 2467, AND STREETS  
ESTIMATE IN THE MUNICIPALITY OF THE DISTRICT OF GANDEGAJI  
ADMINISTRATIVE DISTRICT OF CALEDON  
PROVINCE OF WESTERN CAPE  
SCALE: 1/2500

CDR

ERF NO.	AREA (SQ. METERS)	AREA (SQ. METERS)	AREA (SQ. METERS)	AREA (SQ. METERS)
2465	100.00	100.00	100.00	100.00
2466	100.00	100.00	100.00	100.00
2467	100.00	100.00	100.00	100.00
2468	100.00	100.00	100.00	100.00
2469	100.00	100.00	100.00	100.00

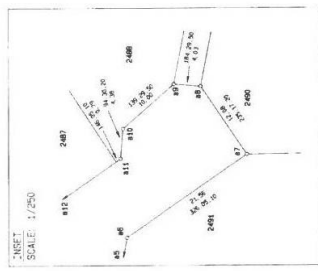
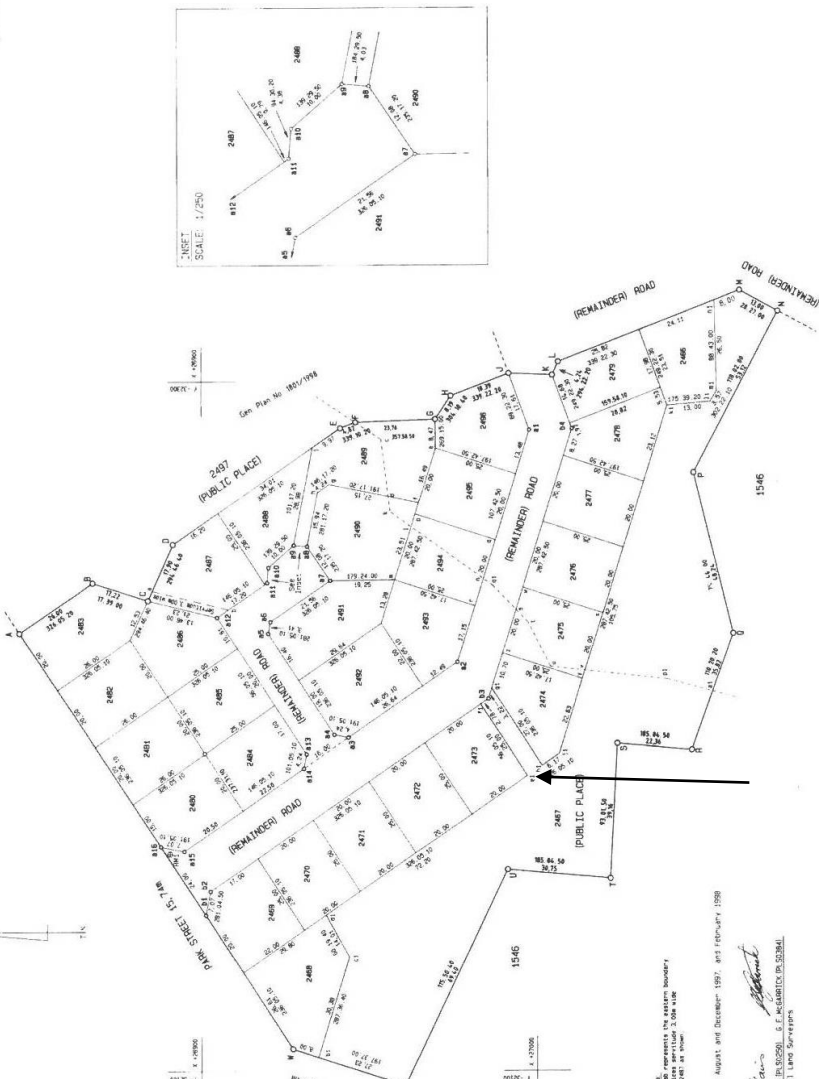
ERF NO.	AREA (SQ. METERS)	AREA (SQ. METERS)	AREA (SQ. METERS)	AREA (SQ. METERS)
2470	100.00	100.00	100.00	100.00
2471	100.00	100.00	100.00	100.00
2472	100.00	100.00	100.00	100.00
2473	100.00	100.00	100.00	100.00
2474	100.00	100.00	100.00	100.00

ERF NO.	AREA (SQ. METERS)	AREA (SQ. METERS)	AREA (SQ. METERS)	AREA (SQ. METERS)
2475	100.00	100.00	100.00	100.00
2476	100.00	100.00	100.00	100.00
2477	100.00	100.00	100.00	100.00
2478	100.00	100.00	100.00	100.00
2479	100.00	100.00	100.00	100.00

ERF NO.	AREA (SQ. METERS)	AREA (SQ. METERS)	AREA (SQ. METERS)	AREA (SQ. METERS)
2480	100.00	100.00	100.00	100.00
2481	100.00	100.00	100.00	100.00
2482	100.00	100.00	100.00	100.00
2483	100.00	100.00	100.00	100.00
2484	100.00	100.00	100.00	100.00

ERF NO.	AREA (SQ. METERS)	AREA (SQ. METERS)	AREA (SQ. METERS)	AREA (SQ. METERS)
2485	100.00	100.00	100.00	100.00
2486	100.00	100.00	100.00	100.00
2487	100.00	100.00	100.00	100.00
2488	100.00	100.00	100.00	100.00
2489	100.00	100.00	100.00	100.00

ERF NO.	AREA (SQ. METERS)	AREA (SQ. METERS)	AREA (SQ. METERS)	AREA (SQ. METERS)
2490	100.00	100.00	100.00	100.00
2491	100.00	100.00	100.00	100.00
2492	100.00	100.00	100.00	100.00
2493	100.00	100.00	100.00	100.00
2494	100.00	100.00	100.00	100.00



APPROVED	DATE
<i>[Signature]</i>	1998-05-24

ORIGINAL PLAN	DATE
Sup. Plan No. 1802/1998	1998-05-24
Date of Survey	1998-05-24

S. G. FILE NO.:	S/238/1/3
E. R. NO.:	174/1998
DATE:	13-06-1993 (1998)
DATE:	13-06-1993 (1998)
DATE:	13-06-1993 (1998)

C

THIS PLAN REPRESENTS THE BOUNDARY OF THE ERF AS SHOWN BY THE SURVEY OF 1998 AND IS NOT TO BE USED FOR ANY OTHER PURPOSE.

Dated 13th June 1998  
BY: *[Signature]*  
Professional Land Surveyor

DESCRIPTION OF BEACONS  
ALL ARE 120mm ROUND IRON PIPES.  
BOTH ARE 120mm ROUND IRON PIPES IN CONCRETE