



**ORDINARY MEETING OF THE MAYORAL  
COMMITTEE**

**GEWONE VERGADERING VAN DIE  
BURGEMEESTERSKOMITEE**

**INTLANGANISO YESIQHELO YEKOMITI  
KASODOLOPHU**

**A G E N D A  
I-AJENDA**

**DATE / DATUM / UMHLA : 15 NOVEMBER / NOVEMBA 2023  
BANQUETING HALL,  
CIVIC CENTRE  
HERMANUS**

**TIME / TYD / IXESHA : 10:00**

## **MUNICIPALITY / MUNISIPALITEIT / UMASIPALA WE-OVERSTRAND**

Office of the Municipal  
Manager  
Municipal Offices  
HERMANUS

**9 November 2023**

### **NOTICE TO ALL ALDERMEN AND COUNCILLORS**

**NOTICE IS HEREBY GIVEN** that an **ORDINARY MEETING** of the **MAYORAL COMMITTEE** will be held in the **BANQUETING HALL, CIVIC CENTRE, HERMANUS** on **WEDNESDAY, 15 NOVEMBER 2023** at **10:00** to consider the items set out in the attached agenda.

**D O'NEILL**  
**MUNICIPAL MANAGER**

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**9 November 2023**

### **KENNISGEWING AAN ALLE RAADSHERE EN RAADSLEDE**

**KENNIS WORD HIERMEE GEGEE** dat 'n **GEWONE VERGADERING** van die **BURGEMEESTERSKOMITEE** gehou sal word in die **BANKETSAAL, BURGERSENTRUM, HERMANUS** op **WOENSDAG, 15 NOVEMBER 2023** om **10:00** vir oorweging van die items op die meegaande agenda.

**D O'NEILL**  
**MUNISIPALE BESTUURDER**

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**9 Novemba 2023**

### **ISAZISO ESIYA KUBO BONKE OOCEBAKHULU NOOCEBA**

### **INTLANGANISO YESIQHELO YEKOMITI KASODOLOPHU WE-OVERSTRAND**

**OKU KUKWAZISA** ukuba intlanganiso **YESIQHELO yeKOMITI KASODOLOPHU**, iza kuba se **I-BANQUETING HALL, kwiZiko, eHERMANUS** Ulwesithathu **UMHLA, 15 NOVEMBA 2023** ngeye-**10:00** ukuqwalasela imicimbi ekule ajenda iqhotyoshelwe apha.

**D O'NEILL**  
**UMPHATHI KAMASIPALA**

**AGENDA/...**

# OVERSTRAND MUNICIPALITY

## MAYORAL COMMITTEE MEETING

15 November 2023

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No items were received by Secretariat

**1. OPENING**

**2. APPLICATIONS FOR LEAVE OF ABSENCE**

**3. CONFIRMATION OF MINUTES**

3.1 Minutes of an **Ordinary Meeting** of the **Mayoral Committee** held on **Wednesday, 16 August 2023 at 10:00**

**4. STATEMENTS AND COMMUNICATIONS BROUGHT FORWARD BY THE EXECUTIVE MAYOR / DEPUTY EXECUTIVE MAYOR**

SALGA Matters:

**5. OVERSTRAND MUNICIPALITY: PUBLIC PLACE TRADING POLICY****R Kuchar                      Senior Manager : Town & Spatial Planning****4 October 2023****(028) 313 8019**

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**1. Executive Summary**

A draft policy was presented to the Executive Mayor on 11 October 2022. The decision was to advertise it for public comment.

The item serves to provide council with the comments received and amendments made to the Public Place Trading Policy for the Overstrand area. The policy with the amendments is to be presented to Council for adoption.

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

Directorate: Infrastructure & Planning  
Department: Town and Spatial Planning

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable, and ethical governance  
The provision and maintenance of municipal services  
Creation and maintenance of a safe and healthy environment  
The promotion of tourism, economic and social development

**4. Delegated Authority**

None

**5. Legal Requirements**

- Constitution of the Republic of South Africa Act 108 of 1996 Business Act no. 71 of 1991.
- Spatial Planning and land Use management Act, 2013 Act 16 of 2013) (SPLUMA).
- Overstrand Spatial Development Framework 2020.
- Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- National Road Traffic Act 93 of 1986.
- Counterfeit goods Act 37 of 1997.

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

### **Background**

Trading on public places was regulated according to by-laws previously adopted by the individual Municipalities. After forming the Overstrand Municipality these continued.

It has now become important to establish a uniform policy to provide guidelines regarding trading on public places in the Overstrand Wide area.

Attached is a draft Public Place Trading Policy together with maps identifying the different trading areas and trading forms taking place in the area.

The Draft Policy was brought before the Council on 11 October 2022. The minutes of the Mayoral Committee Meeting held on 16 November 2022 resolved that the Draft Policy **be accepted** and that it be advertised for public comment before resubmission to Council for adoption.

The advertisement for public comment took place between 23 March 2023 and 6 April 2023 resulting in seven (7) comments received from the public.

The Draft Overstrand Municipality: Public Place Trading Policy has been amended with regards to the comments received from the public which is attached as Annexure A and the summary of comments and responses has been attached as Annexure D.

### **Discussion**

The policy gives guidelines with regard what type of trading is allowed, where it is allowed and how it would be allowed. The policy is named "Public Place Trading Policy" and not "Informal Trade Policy" as it includes various forms of trading which is not always recognized as informal trading. Further the aim of the policy is to foster entrepreneurial spirit within the community as a whole.

Further the areas demarcated for public place trading will be adopted as part of the policy and in terms of the Overstrand Municipality Land Use Scheme 2020. The policy deals with the different types of trades being ad hoc, lease and event trading.

Trading taking place via permit to be obtained will be administrated by the area manager or as per the designated post as approved by the Municipal Manager. Trading taking place subject to a lease will be dealt with under the Immovable Asset Management Policy. Trading taking place as an event will be dealt under the Events Policy. As can be seen the policy does not supersede existing policies in the Overstrand but supports these policies.

As soon as the policy is adopted a public trading by-law will be submitted to Council for adoption. Thus, to ensure that the policy be complied with and if not, that law enforcement and prosecution can be instituted.

**Comments Received during Public Participation**

The following is a summary of the main points received during public participation. Note that the policy document has been amended as per comments received.

<b>Comments</b>	<b>Response</b>
Spelling and grammar errors.	Comment is noted, policy document has been amended accordingly.
Inconsistent wording and or definitions.	Comment is noted, policy document has been amended accordingly.
There should be no informal public trading in the CBD.	Informal trading cannot be omitted from publicly trading in the CBD area. Note that each application is to be evaluated on own merit.
No indication of what form of facilities will be provided by Overstrand Municipality.	The basic infrastructure referred to in the policy document is the provision of urban furniture.
Will Overstrand Municipality realistically enter into a lease agreement with every single trader in the CBD who wants to sell a few items.	Please note that procedures / processes are already in place for the various applications to trade in public places. Refer to section 6 of the policy document.
Does Overstrand Municipality have the resources or the competence to adjudicate or enforce the statement "trading diversity"?	Each application is evaluated on its own merit. In addition, the procedures / processes are already in place for the various public trade applications.
There are other more suitable locations.	Only alternative location has been provided, unfortunately this location is private property which is outside the scope of this policy.
Concerns regarding sleeping in stalls.	Traders will not be permitted overnight.
The policy must first be incorporated into the Kleinbaai Nodal Development Plan.	The Kleinbaai Nodal Development Plan already recommends that more commercial activity be welcomed in the Harbour.
Kleinbaai Harbour requires additional parking.	Kleinbaai Nodal Development Plan indicates that the parking in the area is sufficient.
Problem with security and safety of children riding bicycles in the area.	Section 11 of the Policy makes provision for safety and security.

These informal / public trading areas will become an eyesore for tourists.	Each application will be evaluated on its own merit.
Inadequate parking will result in impact on traffic flow.	
Specific shelters are required for sites in Zwelihle.	
Betty's Bay CBD area does not make provisions for any parking or trading and leaves parking in the hands of business owners.	
Any trading and parking in Betty's Bay to be developed in the Betty's Bay CBD Wetland area.	<p>The development of erven is on the owners own account and must be in compliance with all applicable legislation. Please note that development surrounding the wetland area is not feasible due to the fact that it is located in a wetland area. In addition, the possible new area to be included in the public trading areas is at Penguin Road in Betty's Bay (area that is more viable to small business and public traders). This area is therefore considered to be included into the Public Trading Areas list.</p> <p>Any upgrading or development that be done to the wetland area as well as the consideration of additional parking and road requirements be referred to the Environmental Management Services and the Engineering Department for their comment.</p>
Rezoning Thabo Mbeki road to include street vendors and small businesses.	It must be noted that this comment was not received during the public participation for this Public Place Trading Policy. It was however included as it is seen as relevant. The response is that no new trading places along Mbeki Road can be accommodated as it is a high traffic route. There are a few residences that already conduct public trading from their residences. It is therefore considered these existing trading areas be included in the review of the Growth Management Strategy.

**Conclusion**

The opinion is held that the proposed policy will benefit the community as a whole and help ensure socio-economic growth and ease of doing business. The amendments have been conducted as per the comments received during public participation. It is proposed that the Amended Public Place Trading Policy be considered by Council for final approval.

**7. Financial Implications**

The financial implication of this policy is currently unknown as the Municipality will provide support in various aspects such as keeping a clean environment, advertising, law enforcement and providing basic services. It is however the opinion that the costing of this support will be low as it is functions which the Municipality already does daily.

**8. Staff Implications**

No additional staff implications are foreseen as the relevant key decision makers and role players already perform the required functions. This policy will be a tool which the decision makers and role players can use.

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

None

**10. Annexures**

- Annexure A: Amended Public Place Trading Policy
- Annexure B: Identified Trading Areas
- Annexure C: Consideration of Additional Betty's Bay Trading Area
- Annexure D: Summary of Comments and Responses

**RECOMMENDATION TO THE COUNCIL:**

that the Overstrand Municipality: Public Place Trading Policy **be accepted** by Council for adoption.

**RESPONSIBLE OFFICIAL :**

**R KUCHAR**

**TARGET DATE FOR IMPLEMENTATION :**

**6 DECEMBER 2023**

# OVERSTRAND MUNICIPALITY



*# Overstrand for all.*

## PUBLIC PLACE TRADING POLICY

Responsible Directorate:

Community Services and Area Management

4 October 2023

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## 1. DEFINITIONS

For purposes of this policy, unless otherwise stated, the following definitions shall apply:

Businesses Act	Means the Businesses Act, No. 71 of 1991 including any regulations issued thereunder.
Demarcated public trading area	Means an area on municipal land allocated and marked for public trading and published in the Provincial Gazette.
Illegal goods	Goods that are illegal to sell or to buy (including but not limited to counterfeit goods as defined in the Counterfeit Goods Act No. 37 of 1997) and Second-hand Goods Act, 2009 No. 6 .
Public Trader	Means a trader which trades within the demarcated public trading areas, and which holds a permit (in the form of an informal trader), has a lease agreement (in the form of a lessee) or partakes in an authorised special event, within a demarcated area.
Informal trader	Means a person, or an enterprise which is not registered or incorporated in terms of the corporate laws of South Africa, and who or which engages in informal trading whether such person is registered as an informal trader or not.
Law Enforcement officer	Shall be an officer who is duly authorized to function as a peace officer in terms of Commissioner of Oath and Justice of Peace Act of 1975
Lease-holder	Means a trader who has been granted a lease agreement with the Municipality to conduct trading in a trading area.
Permit-holder	Means an trader who has been granted a permit by the municipality to conduct informal trading, or a trader who has been granted a permit by the Events Coordinator on the recommendation of the events committee to partake in a special event, in a demarcated trading area.
Events	May include, but are not limited to, sport and sporting events, night markets, flea markets, bazaars, traditional events, fundraising events, cultural events, music festivals, promotional events and religious events and as further defined in the Overstrand Municipality : Events Policy.
Municipal Land	Means any land in public ownership and includes land zoned as, Open Space Zone 1: Nature Reserve, Open Space Zone 2: Public Open Space and Transport Zone 2: Road and Parking (TR2 B - public road and public parking).

## 2. PREAMBLE

The Constitution of the Republic of South Africa, 1996 provides that Municipal government is responsible for "trading regulations" and "street trading" within its area of jurisdiction, and a local government's objective is to promote social and economic development.

The Municipality recognizes that trading and more specifically informal trading, makes an important contribution to the economic and social environment of Overstrand and thereby helps to include many who would otherwise be economically excluded.

The Municipality acknowledges the need to shift away from a culture of prosecution to a culture of accommodation of entrepreneurs and public traders. The emphasis is shifting away from punitive law enforcement towards creating a supportive environment for the public trading sector to thrive and the entrepreneurial spirit to growth within the community.

The Overstrand Municipality's Public Place Trading policy contains provisions that govern public trade within designated trading areas on Municipal Land. Certain definitions and provisions of this Policy will apply to the By-law to ensure consistency and effective law enforcement.

## 3. LEGISLATIVE FRAMEWORK

The following are key legislative imperatives that provide a mandate to Overstrand Municipality to support, manage and control activities within the Public Trading sector.

LEGISLATION	RELEVANCE
Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996)	Section 22 of the Constitution of the Republic of South Africa (the Constitution) provides for the freedom of trade, occupation and profession. It provides that "every citizen has the right to choose their trade, occupation or profession freely." It is accepted that this freedom extends to public and informal trading. Section 22 of the Constitution further provides that "the practice of a trade, occupation or profession may be regulated by law."
The Businesses Act 71 of 1991	Prescribes the different type of businesses which require business licenses prior to trading.
The National Road Traffic Act 93 of 1996	Determines where, on public roads, a trader may/may not trade.
The Promotion of Equality and the Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000)	Prohibits the state or any person from discriminating unfairly against any person on the grounds of race or gender through the denial of access to opportunities for rendering services or by failing to take steps to reasonably accommodate the needs of such persons.

Regulation 918 promulgated under the Health Act 63 of 1977	Establishes the manner for the application and issue of Certificates of Acceptability.
The Atmospheric Pollution Prevention Act 45 of 1965	Establishes the framework for the prevention of pollution in the atmosphere and provides for matters incidental thereto.
Counterfeit Goods Act 37 of 1997	Introduces measures aimed against the trade of counterfeit goods.
Overstrand amendment By-Law on Municipal Land Use Planning 2020	Determines where and how Overstrand Municipality may allow for public and informal trading.
Public Place Trading By-law	The document regulating how the Overstrand Municipality will manage public trading.
Note: The Area Manager posts have been omitted in the new draft municipal organogram. The duties of the Area Manager will then be the responsibility of the new post / equivalent post as per the amended municipal organogram.	

#### 4. POLICY SCOPE, OBJECTIVES AND PRINCIPLES

##### 4.1 Policy Scope

The different types of public trading that take place in the municipality are covered by the policy, namely:

Trader Description	Trader Types
Permit Traders	Informal Traders & Seasonal Traders
Lease Agreement Holders	Lease Holders of restaurants, eateries and formal market traders
Traders for Events	As contained in the Events Policy

The different types of demarcation of areas to accommodate the different types of trading.

Colour Code	Trader Demarcation Areas	Trader Types
Yellow	Roadside trading in front of business	<ul style="list-style-type: none"> <li>Lease Holders</li> </ul>
Blue	Market Trading	<ul style="list-style-type: none"> <li>Lease Holders</li> <li>Informal Traders</li> <li>Events &amp; Seasonal Traders</li> </ul>
Red	Business Hive Trading	<ul style="list-style-type: none"> <li>Lease Holders</li> <li>Informal Traders</li> <li>Events &amp; Seasonal Traders</li> </ul>
Green	Roadside trading in front of properties other than business zoning	<ul style="list-style-type: none"> <li>Lease Holders</li> <li>Informal Traders</li> <li>Events &amp; Seasonal Traders</li> </ul>

## 4.2 Policy Objective

Overstrand Municipality acknowledges the relevance and contribution of public traders and specifically informal trading to the economic and social life of the area. Trading provides some income to those who are unemployed as well as providing an alternative to established traditional formal sector retail options. Public trading will also foster an entrepreneurial spirit in the community.

The main aim of the Public Place Trading Policy is to create a favourable economic environment that recognizes informal trade as a legitimate expression of business and economic activity through effective management, control and law enforcement.

## 4.3 Guiding Principles

The key principles that govern the Municipality's approach to public trading are economic, social and spatial:

### a) Economic Principles

Economic growth will be facilitated through:

- Linking the development and growth of trading areas to commercial zones to create viable hubs of business activity that will mutually benefit formal/informal businesses.
- Providing a range of facilities, capacity building and business support services that caters for the different levels of public traders, from the weekly Saturday trader and small survivalist trader to larger traders.
- Ensuring that the buildings and property owned by the Municipality are used for the maximum social and economic development of the community within which they are located; and
- Targeting highly accessible and visible locations for the promotion of tourism related trading in order to derive benefit for public traders from the tourism potential.

### b) Social Principles

The promotion of equity within Overstrand to create a dignified trading area through:

- Spreading public spending in an equitable manner throughout the area with an emphasis on the historically disadvantaged parts of the Overstrand area that have not historically benefited from Public Sector investment.
- Viewing the location of Public Sector investment as an opportunity to improve the general environmental condition of the historically disadvantaged areas of the region.
- Viewing the location of Public Sector investment as an opportunity to integrate communities that have historically been spatially separated; and
- Providing basic services such as water and refuse facilities to all areas where public health and public safety are at risk.

### c) Spatial Principles

Public trading contributes to the value of public spaces as amenities, place of dignity, and has the potential to be a catalyst for generating positive public spaces through:

- Developing those areas that will have most significant impact on the largest number of people, i.e., areas with large flows of pedestrian traffic.
- Allocating spaces for public trading areas in accordance with broad spatial planning policies of Council and the Spatial Development Framework; and
- Providing minimal infrastructure for public trading, which would vary depending on the type of activity.

## 5. DEMARCATION PROCEDURE

### 5.1 Demarcation by way of Section 6 of the Businesses Act of 1991

Demarcation in terms of Section 6 of the Businesses Act of 1991 shall be applied in the following manner:

- Overstrand Municipality may, by resolution, demarcate areas for the purposes of public trade on municipal owned land.
- Once such resolution is taken, the Municipality shall advertise the resolution with the intended areas to be demarcated, for public comment for 30 days.
- Once the demarcated areas have been advertised for 30 days, and the comments from the public has been considered, the Municipality shall take a resolution to publish the demarcated areas in the Provincial Gazette for a period of 60 days.

Demarcation in terms of Overstrand amendment By-Law on Municipal Land Use Planning 2020

- The Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020 grants legislative competence to the MPT (Municipal Planning Tribunal) and the AO (Authorised Official). The MPT and the AO therefore have the legislative competence to approve areas identified for Public Trading in terms of the required process for each applicable zoning.

## 6. APPLICATION TYPES AND PROCESS

A permit or lease agreement will have to be obtained depending on the type of occupation, as seen below:

### 6.1 Lease agreement (Additional trading areas)

This will be for trading areas for the purpose of outdoor seating for restaurants or to display goods on the sidewalk outside commercial properties. Although the trading areas are demarcated in terms of this policy, a lease agreement in terms of the Administration of Immovable Property Policy will be required. These applications will be administered and managed by the Property Administration Department. No additional or altered form of use may be incorporated other than stipulated in the lease agreement.

### **a. Seasonal / Special lease agreements**

These agreements will be to trade at specific places for a specific period and/or purpose as approved by the Municipality. These are typically for areas of high demand and limited space, such as seasonal trading at beaches and other demarcated areas on municipal land. Although these trading areas are demarcated in terms of this policy, a lease agreement in terms of the Administration of Immovable Property Policy will be required. These applications will be administered and managed by the Area Managers.

### **b. Ad hoc trading permits**

This is an annual permit issued to anybody applying to trade on specific demarcated trading areas. No trading areas will be allocated, and trading may take place on a first come first service basis. Tariffs will be determined by the municipal Council during the annual budget process. These applications will be administered and managed by the Area Managers.

### **c. Events trading**

This will be a trading permit which will permit trading at an event which is approved in terms of the Overstrand Municipality: Events Policy. It will be the Event Organiser's responsibility to manage the traders and ensure that the trading is set up and conducted according to the event permit and the approval thereof. The permit will be issued by the Area Manager with the approval of the event.

*Note: The Area Manager's post has been omitted per the new organogram. The events licenses will be evaluated and granted per the new post created as the duly authorised person to perform these duties.*

## **7. Criteria for trading permits and lease agreements**

### **7.1 Criteria for road-side outdoor trading (in front of Business zoned erven) bays**

- Only shop owners directly adjacent to the trading bay will be eligible and will be dealt with according to the Fixed Asset Management Policy.

### **7.2 Criteria for road-side and informal ad hoc trade areas not adjacent to business zoned erven or areas earmarked for public trading.**

- The public trader must be in possession of a valid South African identification document or working permit;
- There must be sufficient product diversity in an area to ensure the needs of consumers are appropriately met as well as ensuring sufficient market share for traders, for them to operate profitably; and
- In the case of foodstuffs, the trader must be in possession of the required business license and certificate of acceptability by the Overstrand District Municipality.

### 7.3 Criteria for Event trading

- Dealt with according to Events Policy

## 8. PERMITS

The municipality will consider the following factors when considering an application for a permit:

- The applicant's ability to meet the trading hours for the relevant trading area as the municipality may determine;
- The need to give preference to applicants that are historically disadvantaged individuals;
- The nature of the trading goods which the applicant intends selling, or the services which the applicant intends rendering, bearing in mind the nature of the businesses within that trading area or in its immediate vicinity;
- The need to give preference to unemployed applicants; and
- The applicant who shares a household with a permit-holder is not a dependent or financially reliant upon such permit-holder.

Other conditions:

- No person may conduct trading on municipal land without a valid lease agreement, permit or approval as issued by the municipality; and
- The municipality may charge an application fee and a trading fee.

## 9. ASSISTANCE TO ENTREPRENEURS SEEKING TO START TRADING

### 9.1 Trader's support strategy

- Support for traders is provided through a Department as delegated by the Municipal Manager.

### 9.2 Provision of infrastructure

- **In certain instances**, the municipality provides basic infrastructure to traders by utilizing its capital budget to build shelters for public traders. The structures that are built are rented to the traders under condition as contained in the lease agreement. Ad hoc infrastructure may include toilet facilities, hand basin and wash up areas.

## 10. TARRIFF STRUCTURE

The tariff as included in Council's annual budget or in specific cases as may be decided by a professional valuer.

## 11. LAW ENFORCEMENT

To ensure, a clean, safe and healthy environment for Overstrand's residents and visitors, the conduct of traders will be strictly monitored. Anti-social and other unruly behaviour will be viewed as misconduct.

- No trader will be permitted to continue such business in a manner, which creates a nuisance, is a danger or threat to public health and safety, or damages any Council property;
- Disciplinary and appeal procedures will be dealt with as outlined on page 32 in paragraph 62 in the Municipal Systems Act 32 of 2000;
- Where a trader violates the permit conditions, he/she will be informed in writing of the violation and the course of action. Permit fees will not be refundable if the permit is revoked or suspended;
- Disciplinary measures could include a warning, a suspension for a specified period or the total withdrawal of such trading permit;
- The trader will have the opportunity to put his/her case forward at an inquiry and he/she will be permitted to submit written representations to the Municipal Manager or delegated official; and
- In the case of a trader being refused a permit or having his/her permit revoked, the appeal procedures will be followed through the Appeals Committee. In terms of the Municipal Systems Act, should the complaint be about a Council Official it must be referred to the Municipal Manager, should the complaint be about the Municipal Manager it should be referred to the Executive Mayor.

#### 11.1 Removal and impoundment

- A Law Enforcement Officer may remove and impound any goods of a Public Trader which he/she reasonably suspects is being used, has been used or is intended to be used for or in connection with public trading which is in contravention of this policy or any other applicable law.
- The removal and impoundment of goods may be conducted irrespective of whether or not such goods are in the possession or under the control of any third party at the time.
- Any Law Enforcement Officer who removes and impounds must, except where goods have been left or abandoned, issue the Public Trader a receipt which:
  - itemizes the goods to be removed and impounded;
  - provides the address where the impounded goods will be kept;
  - states the period of impoundment;
  - states the terms and conditions which must be met to secure the release of the impounded goods;
  - states the impoundment fee to be paid to secure release of the impounded goods;
  - states the terms and conditions on which unclaimed goods will be sold or otherwise disposed of; and
  - provides the name and address of a municipal official to whom any representations regarding the impoundment may be made and the date and time by which representations must be made.
- The Municipality may at any time after the impoundment sell, destroy or otherwise dispose of:
  - impounded perishable goods if the goods represent or might represent a health risk or a nuisance; and
  - Foodstuffs that are unfit for human consumption.
- Impounded goods other than perishable goods may be sold by the municipality if the owner does not, or is unable to, pay the impoundment fee within one month from the date of impoundment of those goods.

- If in the reasonable opinion of a Law Enforcement Officer, a Public Trader is suspected of trading in illegal goods, then those goods may be immediately confiscated and, in the event of such a confiscation, the Authorized Official must immediately surrender the suspected illegal goods to the possession of the South African Police Service.
- When an employee or agent of a Public Trader contravenes a provision of any public trading policy or public trading permit, the Public Trader shall be deemed to have committed such contravention himself or herself unless such Public Trader satisfies the court that he/she took reasonable steps to prevent such contravention.
- A person is guilty of an offence if he/she.
  - Trades without a trading permit or approval;
  - Contravenes any provision of this policy;
  - Contravenes any condition on which a permit has been issued to him or her;
  - Contravenes any provision of an applicable By-Law; and
  - Threatens, resists, interferes with or obstructs any Law Enforcement officer in the performance of official duties or functions in terms of or under this Policy.

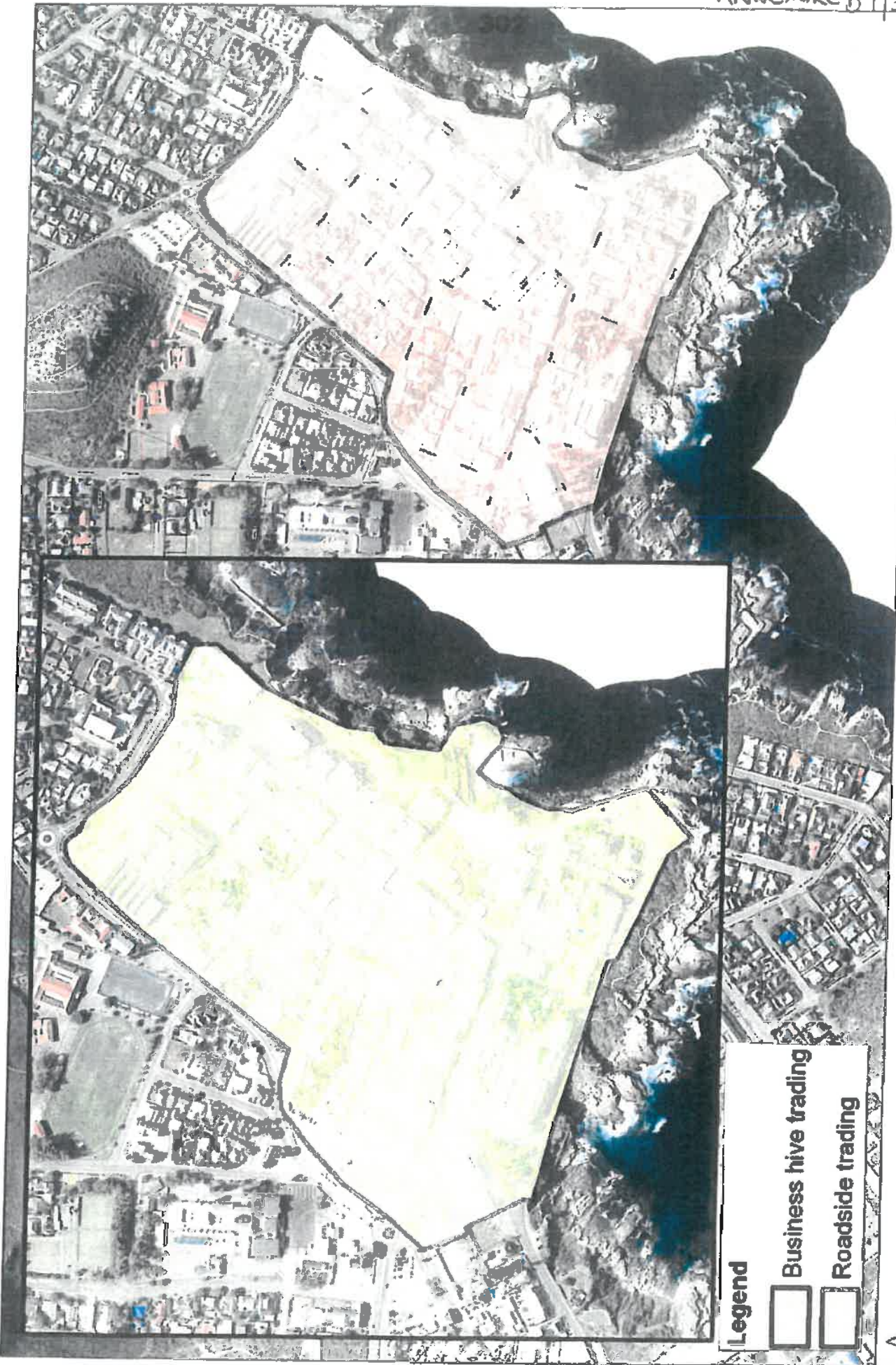
## **12. DISPUTE RESOLUTION PROCEDURE**

All traders that were informed by the Area Manager or Manager Property Administration Division that their application was unsuccessful or when a permit has to be recalled shall be entitled to appeal such decision in terms of the normal administrative justice process. The process shall be as follows:

- The Public Trader shall request in writing to the Department to furnish reasons why he/she was not successful. The Department must respond within 7 days of receipt of request.
- Once the Department furnishes the Public Trader with reasons, the Public Trader shall be afforded the opportunity to make written representations to an appeals committee dealing with the appeal. The committee shall consist of the Municipal Manager or Delegated Official; and
- Once the ad hoc Appeals Committee has reached its decision, it shall communicate such decision to the Public Trader in writing within 14 days.

## **13. REGULAR REVIEW PROCESSES**

The Public Place Trading Policy must be reviewed when necessary to ensure that it complies with the Municipality's strategic objectives and applicable legislation.



Hermanus (CBD) - Public Place Trading Area



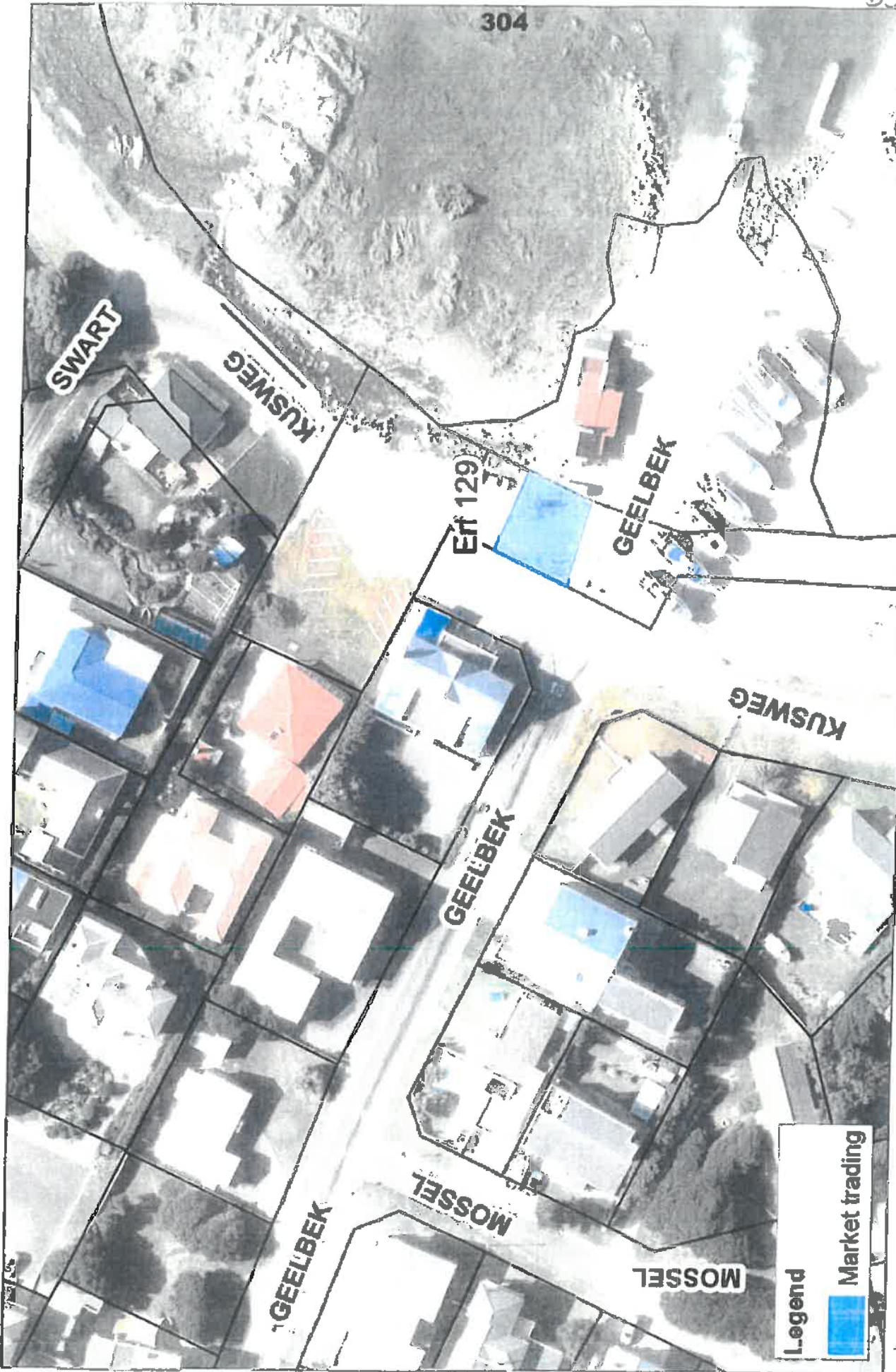
Hermanus (Voëklip Skulpiesbaai) - Public Place Trading Area



**Legend**

 Market trading





304



Kleinbaai - Harbour Public Trading Area

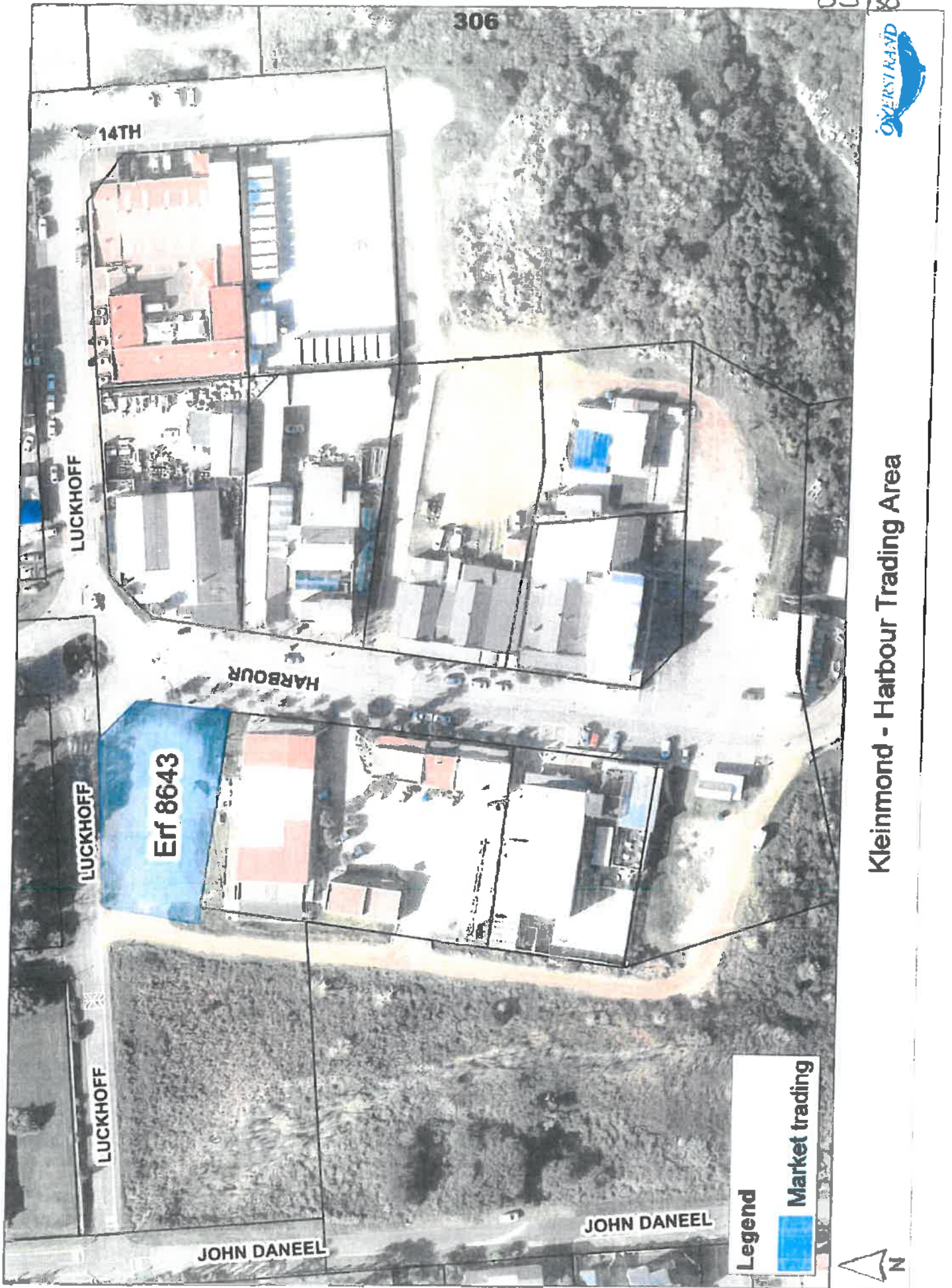
Legend

Market trading





**Kleinmond - Beach Trading Area**



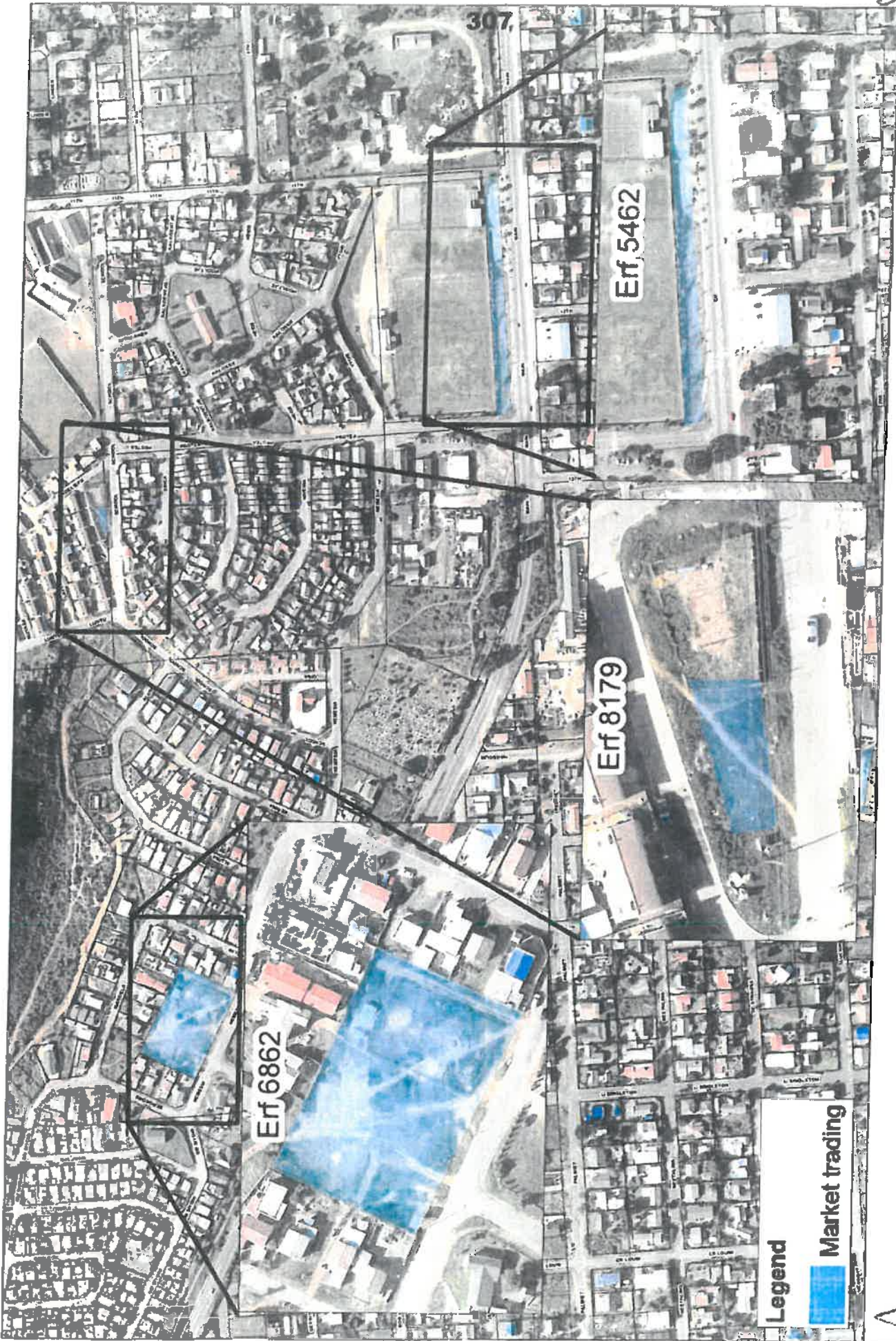
Kleinmond - Harbour Trading Area



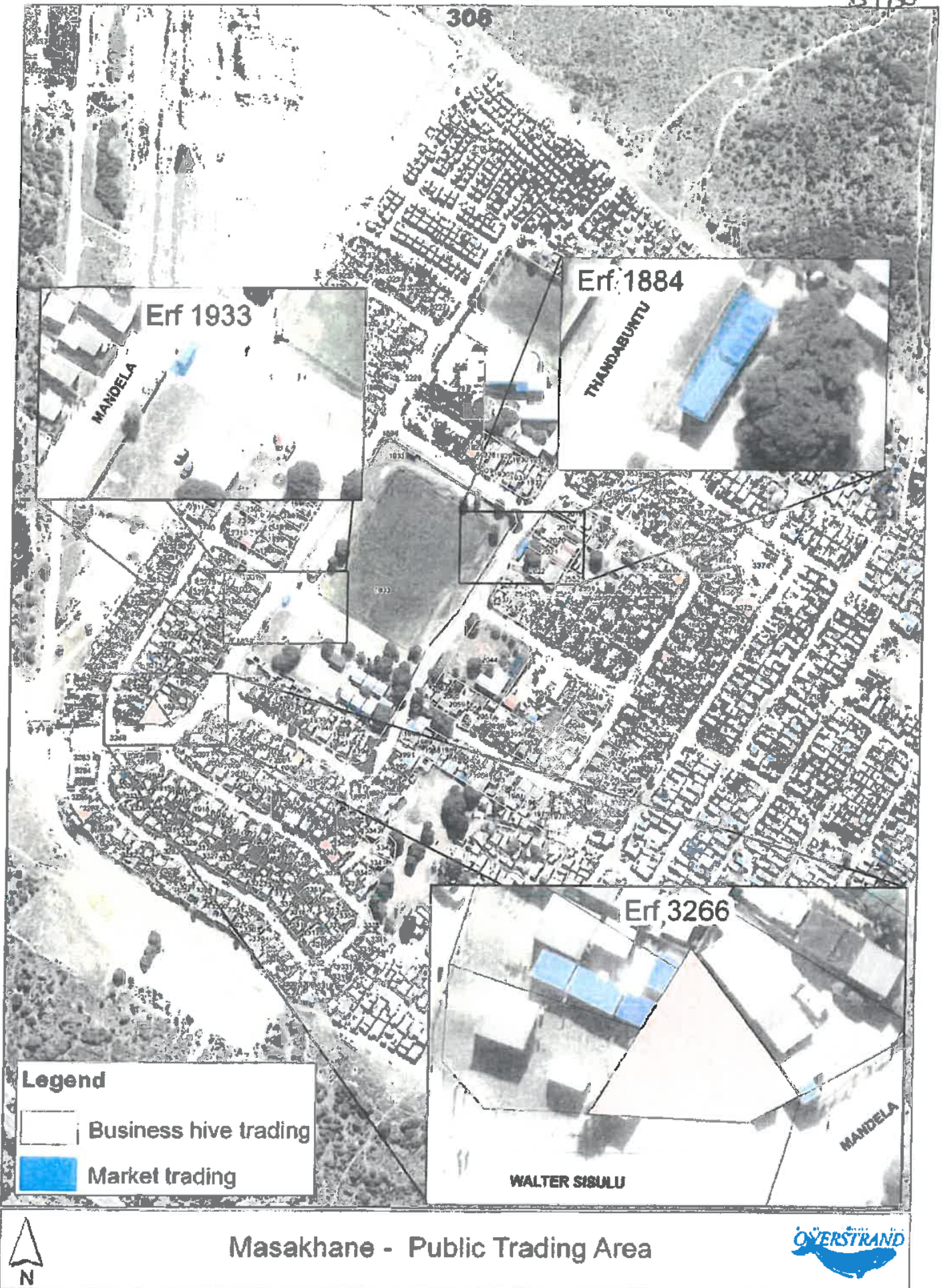
**Legend**

 Market trading





Kleinmond - West Public Place Trading Area



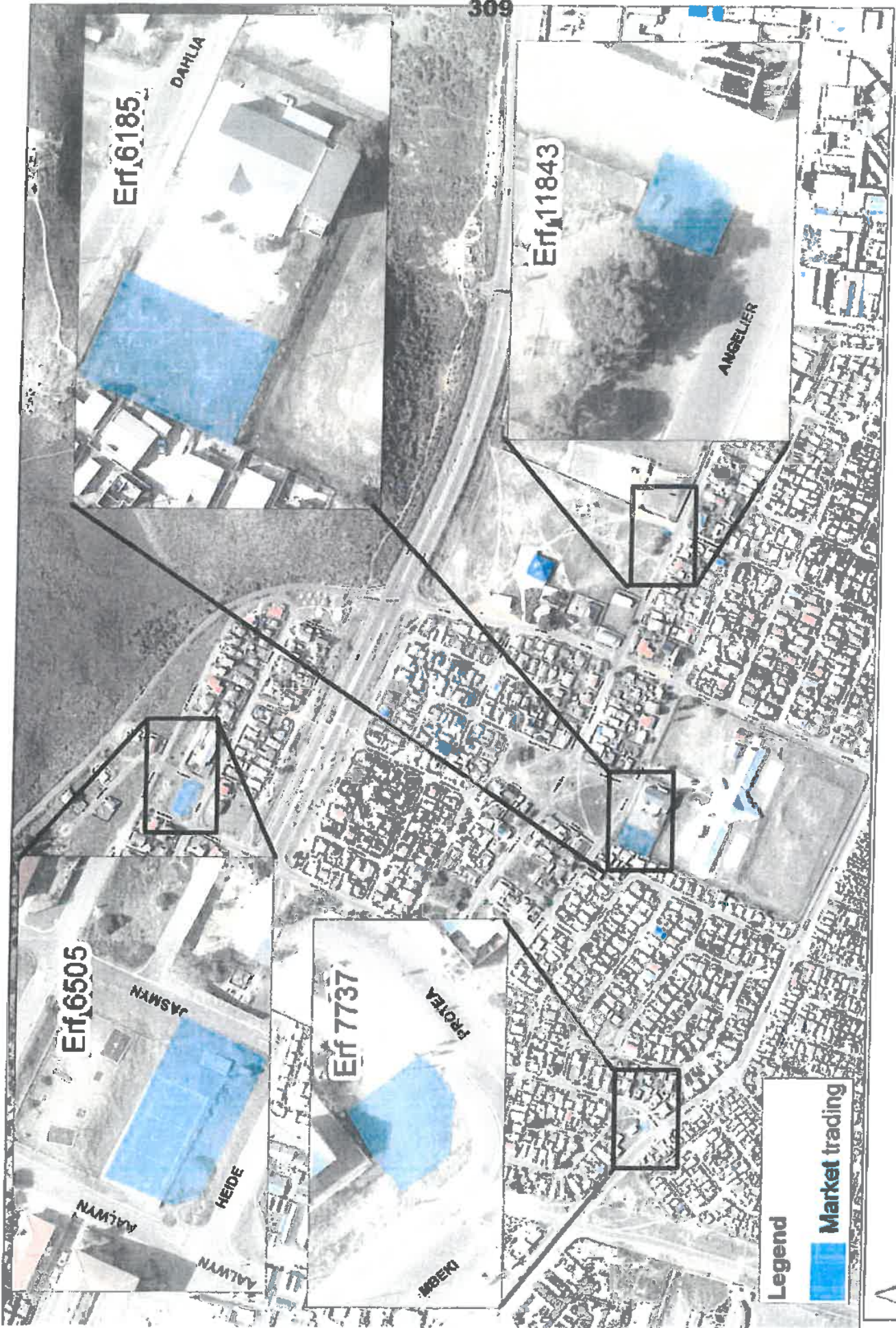
**Legend**

-  Business hive trading
-  Market trading



Masakhane - Public Trading Area





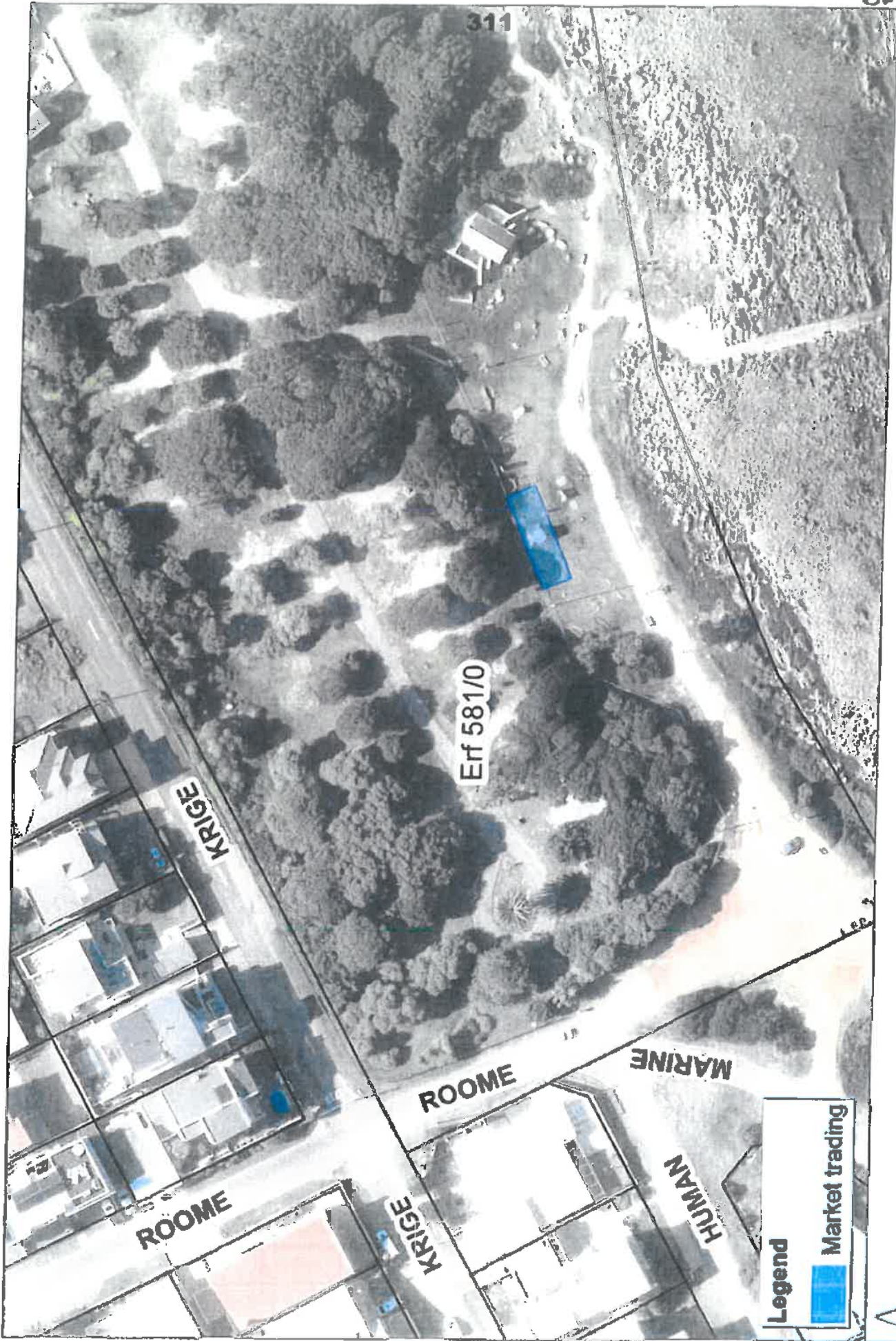
Mount Pleasant - Public Place Trading Area





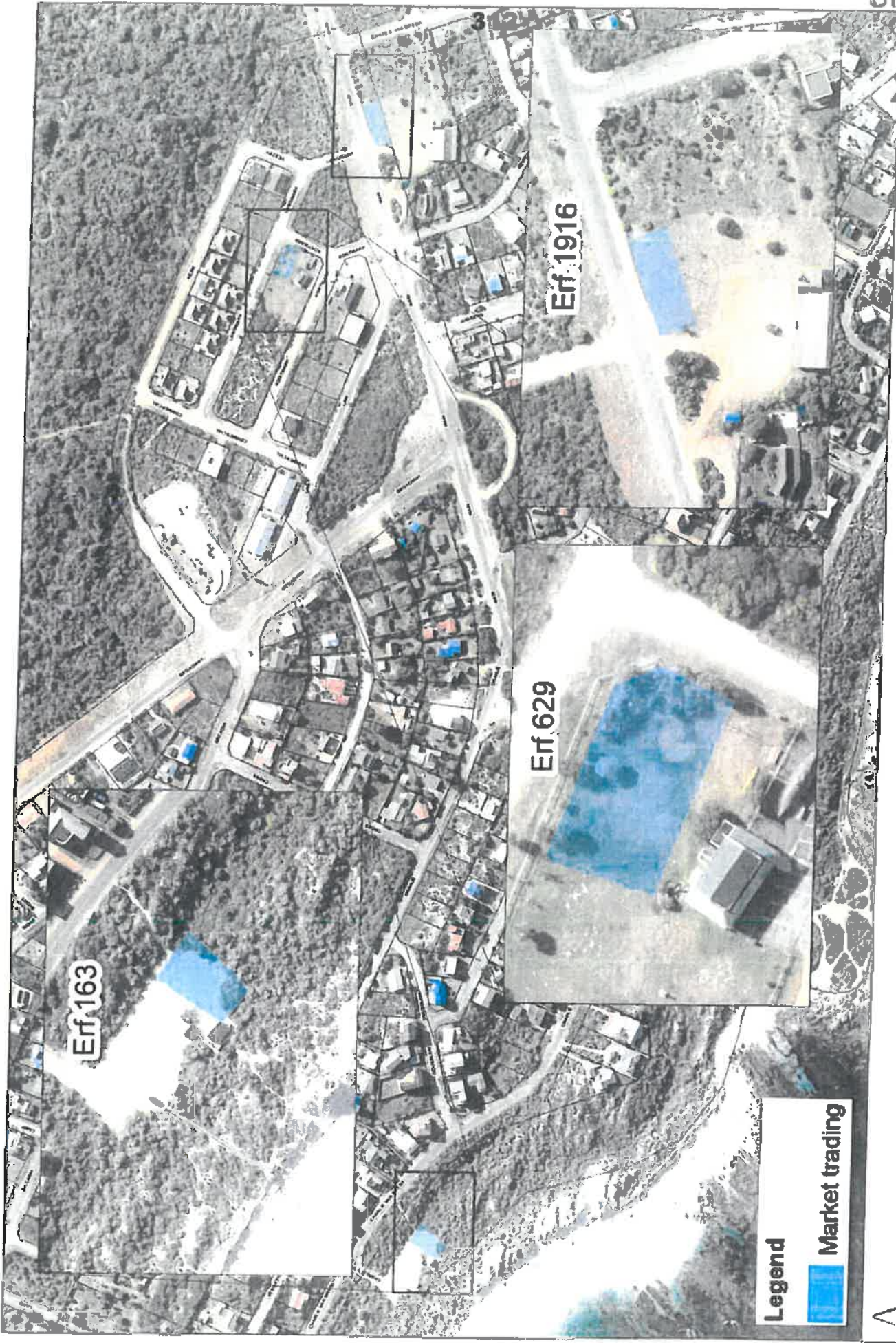
**Onrus - Beach Public Place Trading Area**

B0130



Onrus - Davies Pool Public Place Trading Area

B11/30

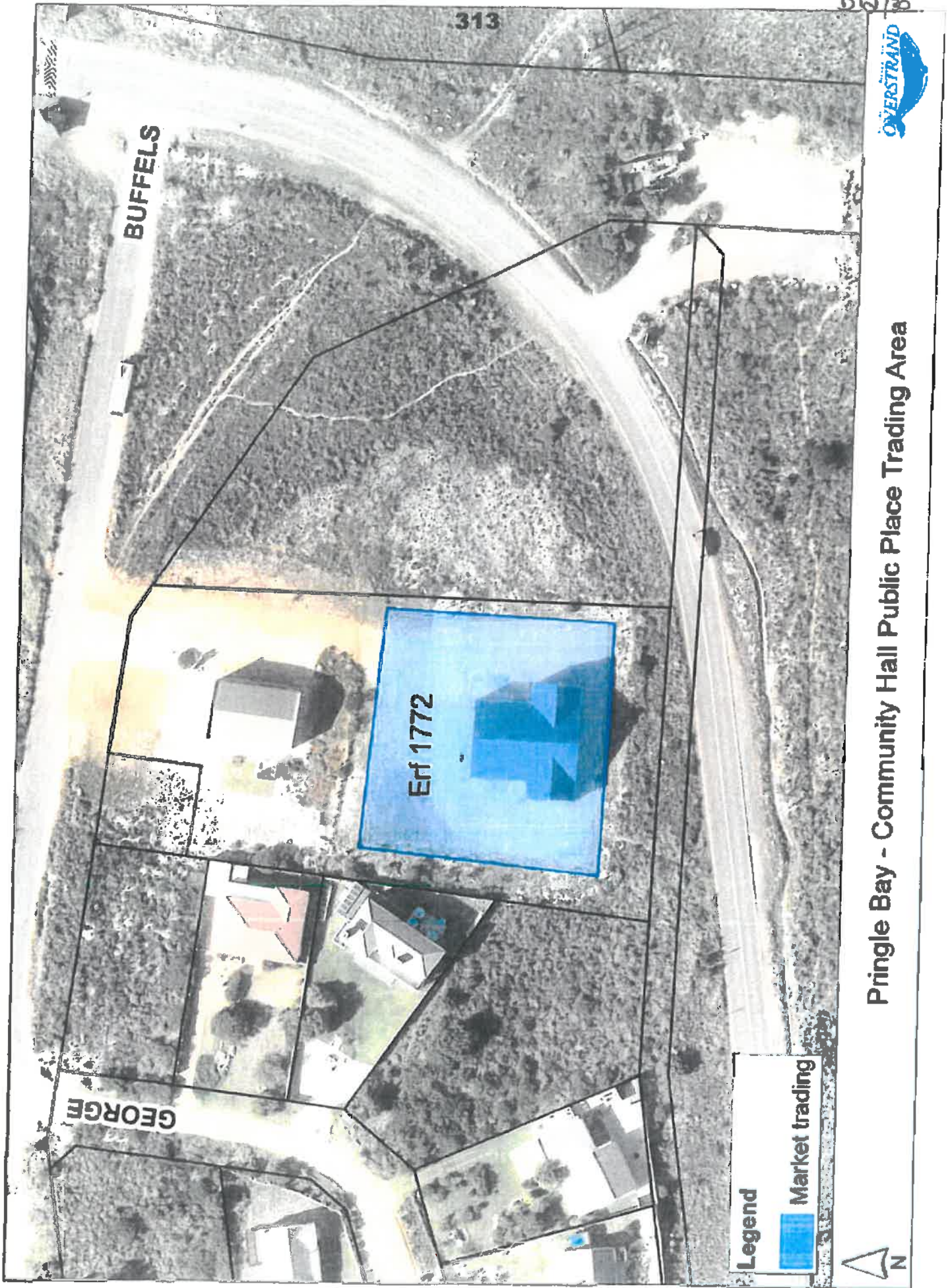


**Pearty Beach- Public Place Trading Area**

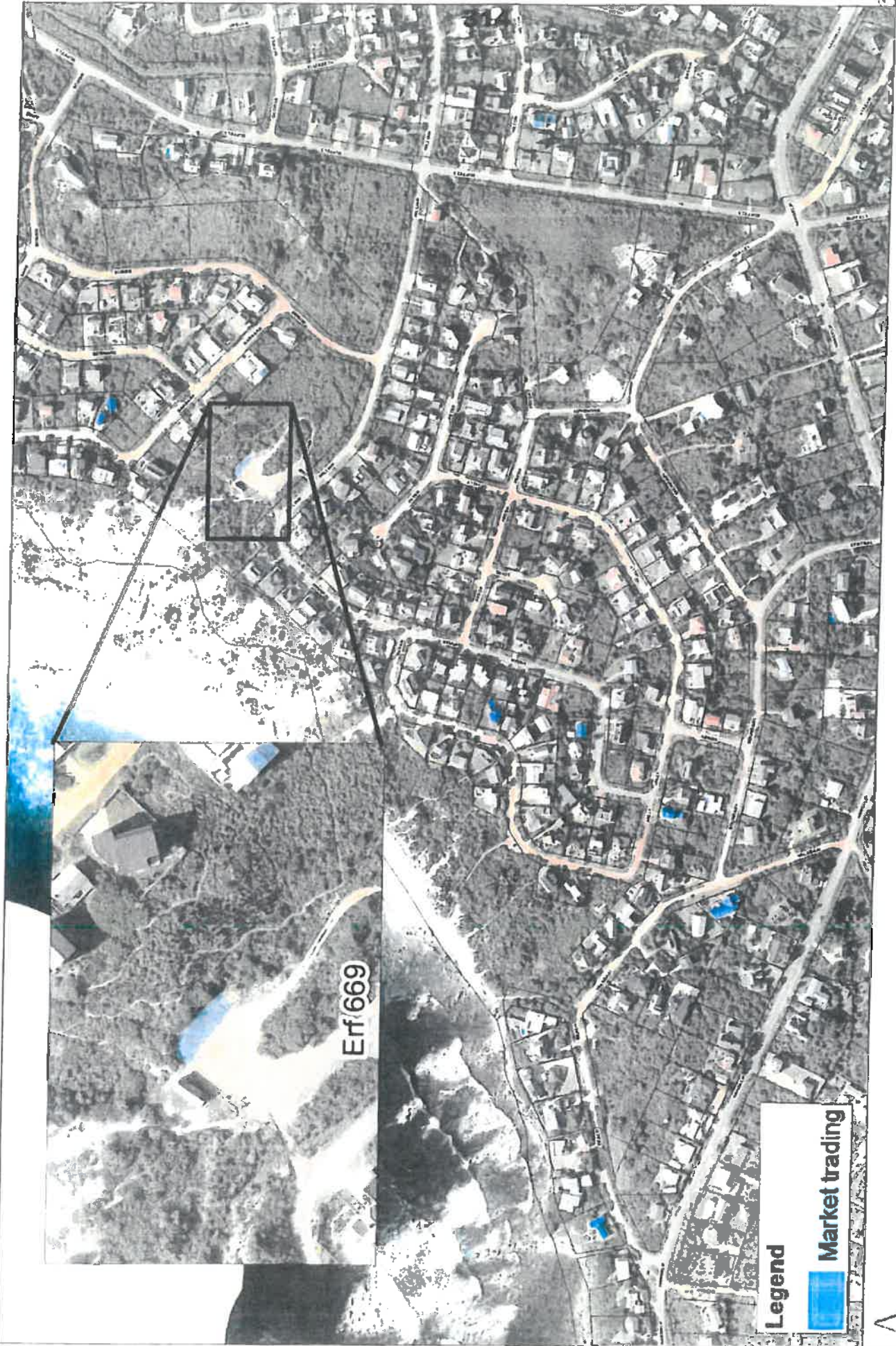
**Legend**  
 **Market trading**



B12/30



Pringle Bay - Community Hall Public Place Trading Area

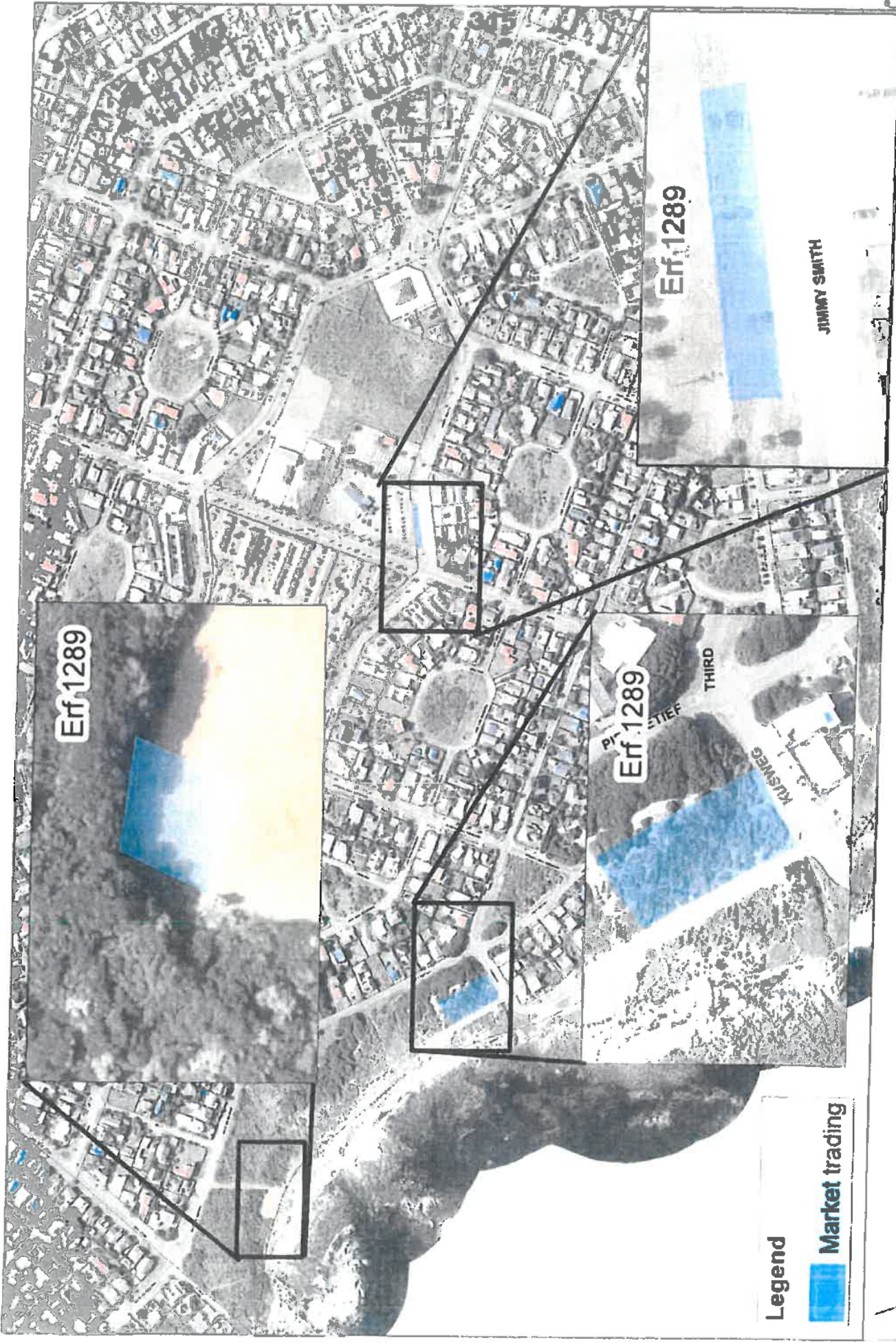


Pringle Bay - Beach Public Place Trading Area

**Legend**

 **Market trading**






Erf 1289

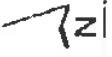
Erf 1289

Erf 1289

JIMMY SMITH

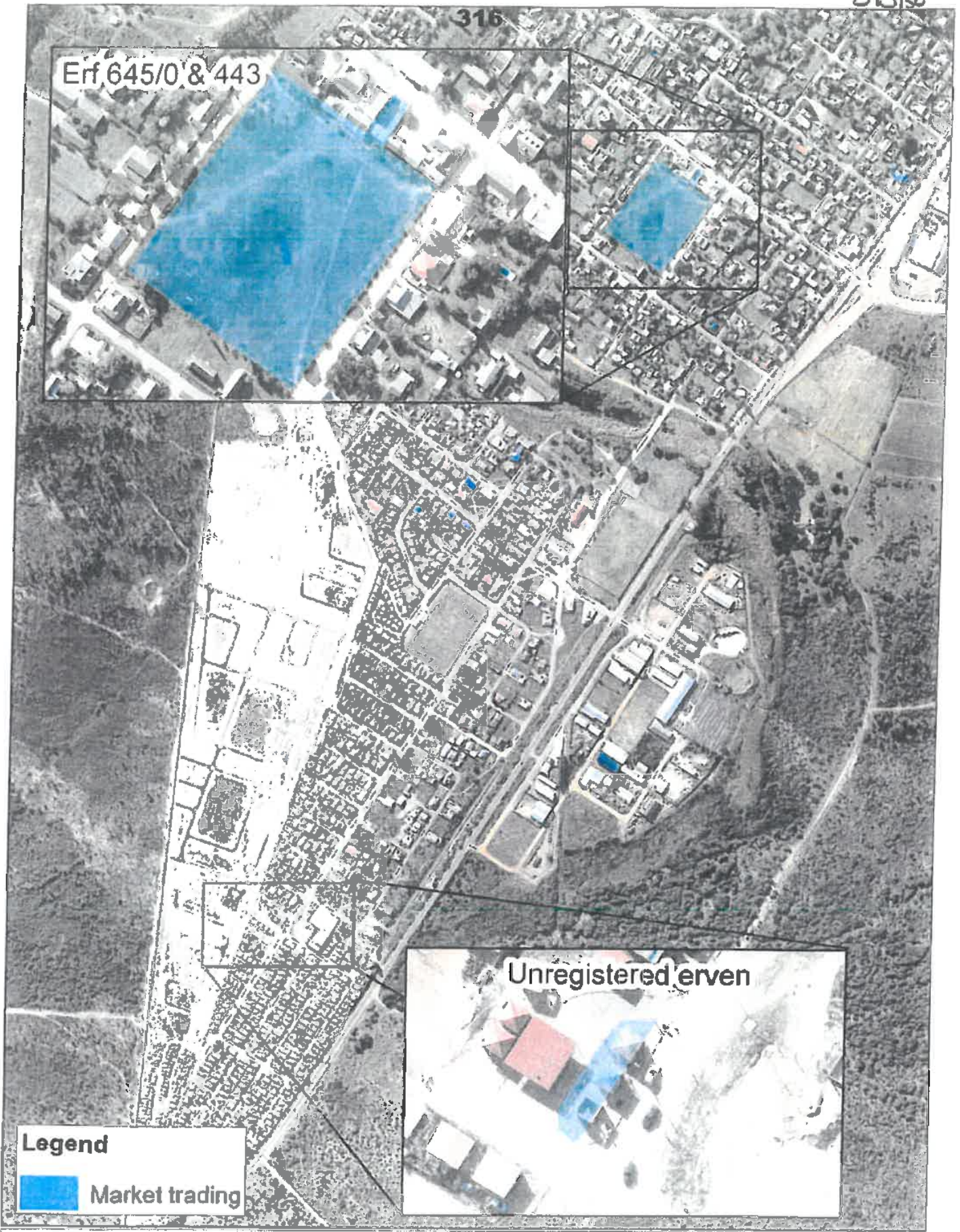
Legend

 Market trading



Sandbaai - Public Place Trading Area





**Legend**

 Market trading

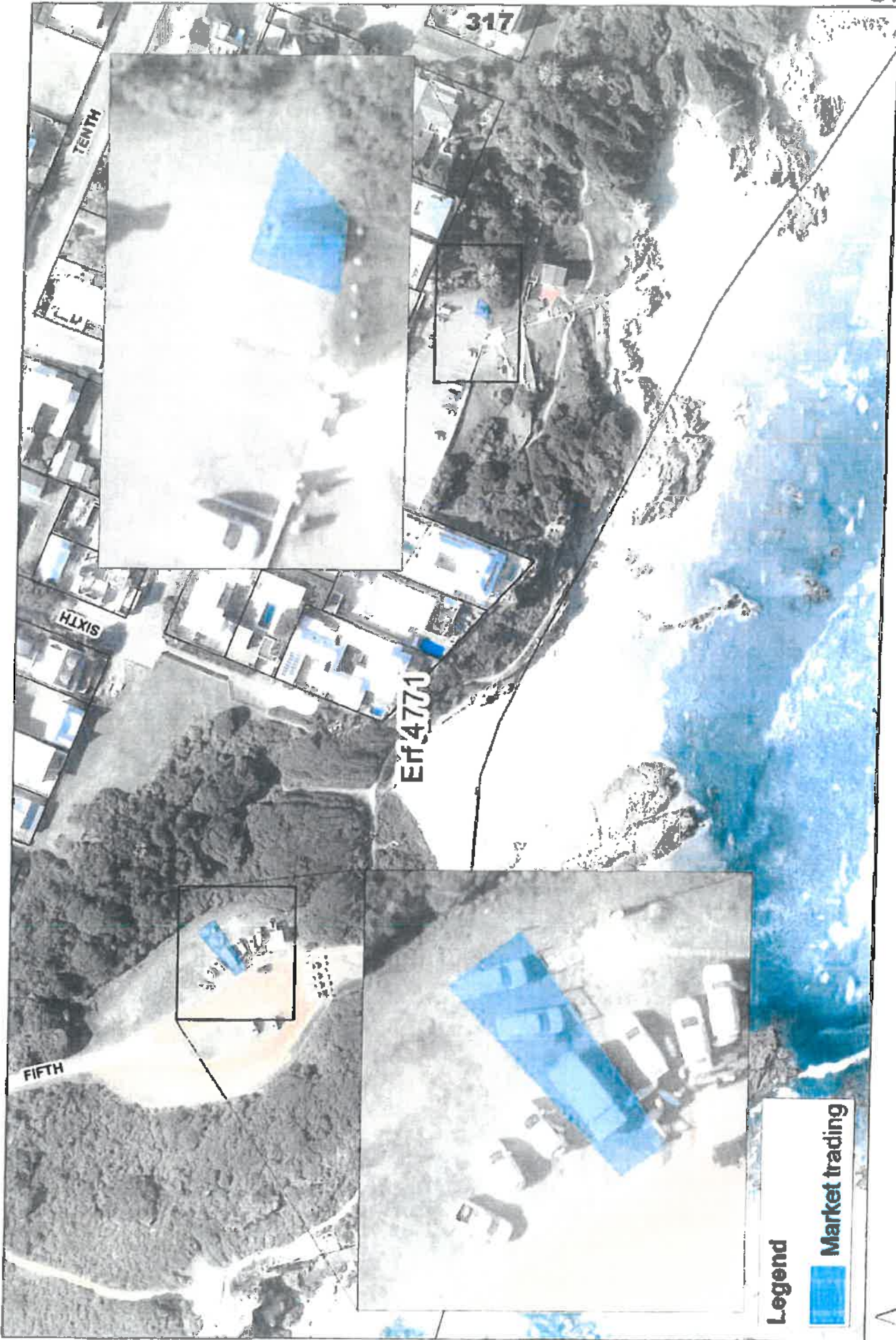
**Unregistered erven**



**Stanford - Public Place Trading Area**



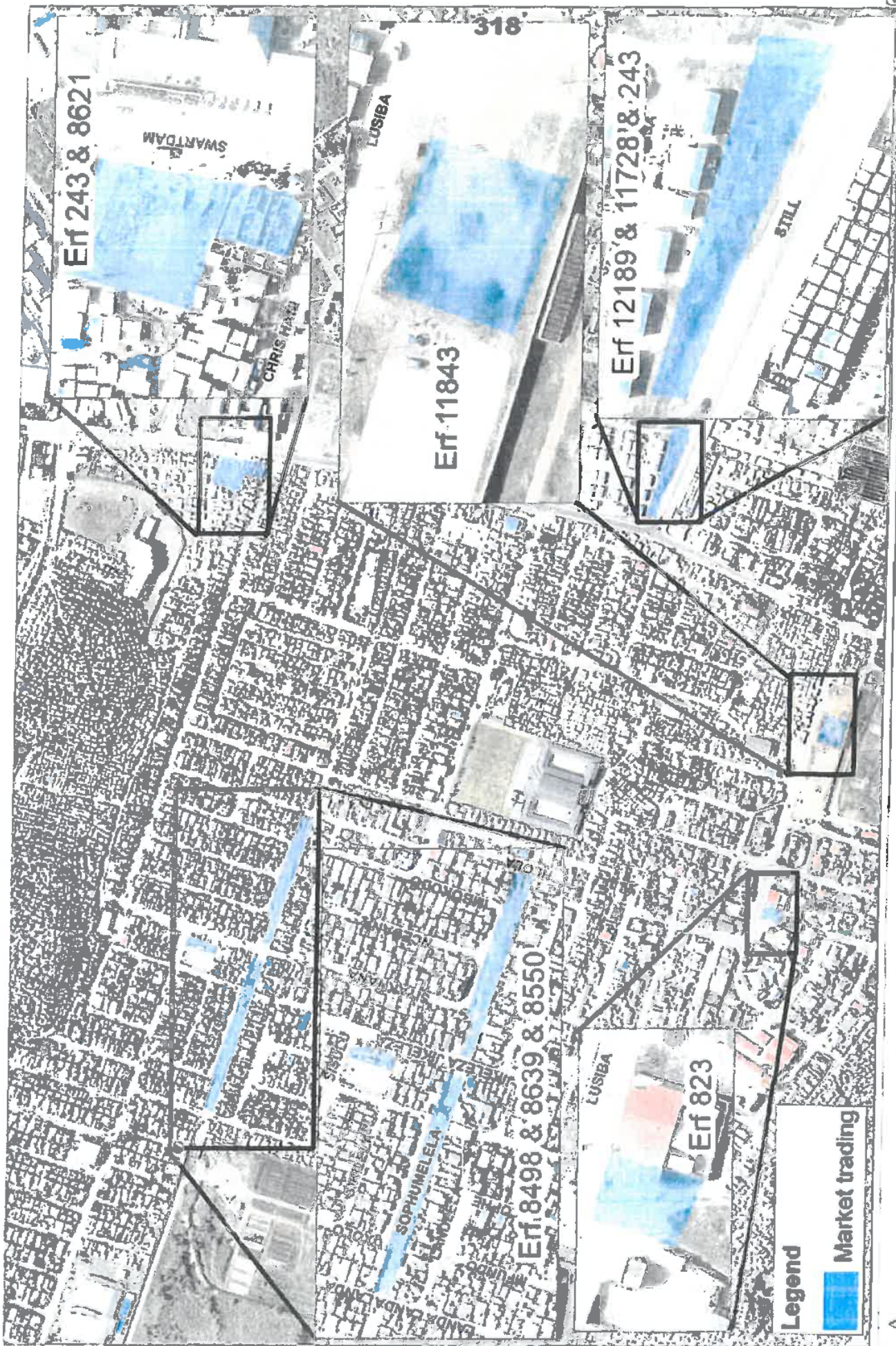
B16/30



**Voëlklip & Kammabaai - Public Place Trading Area**

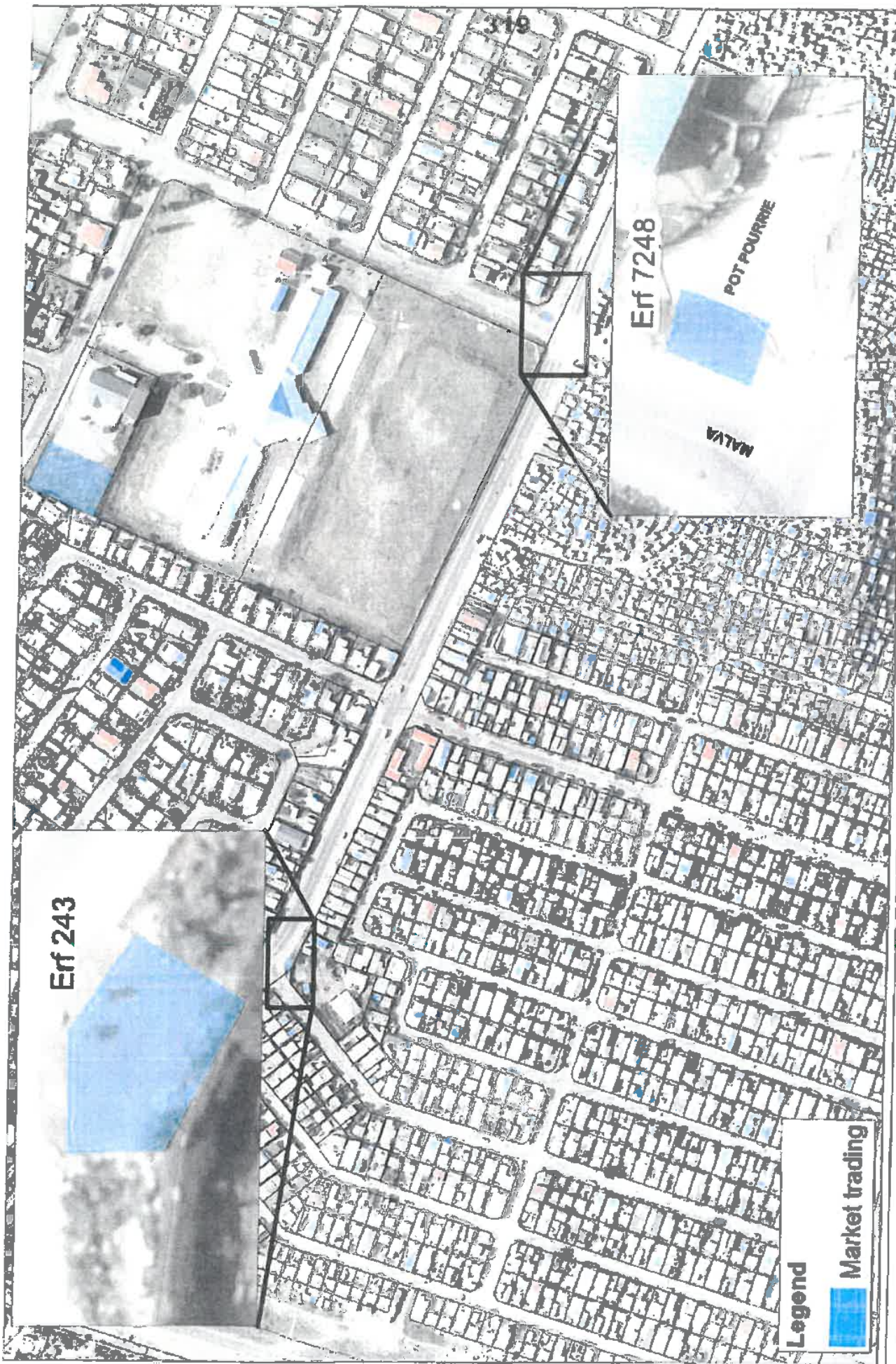
**Legend**  
 Market trading





Zweilohle - Public Place Trading Area

B15/30

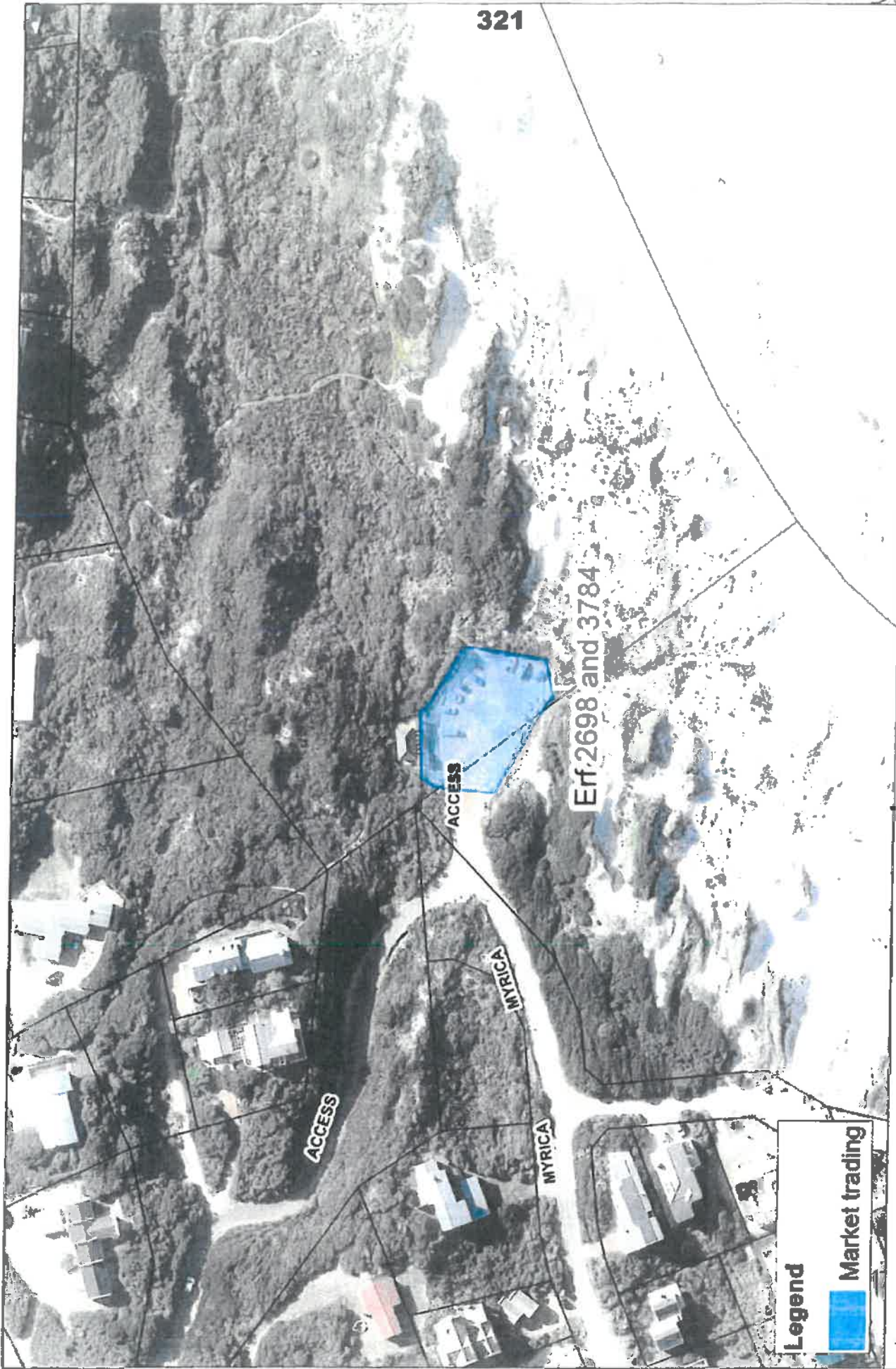


Zweihle & Mount Pleasant - Public Place Trading Area



319/20





321

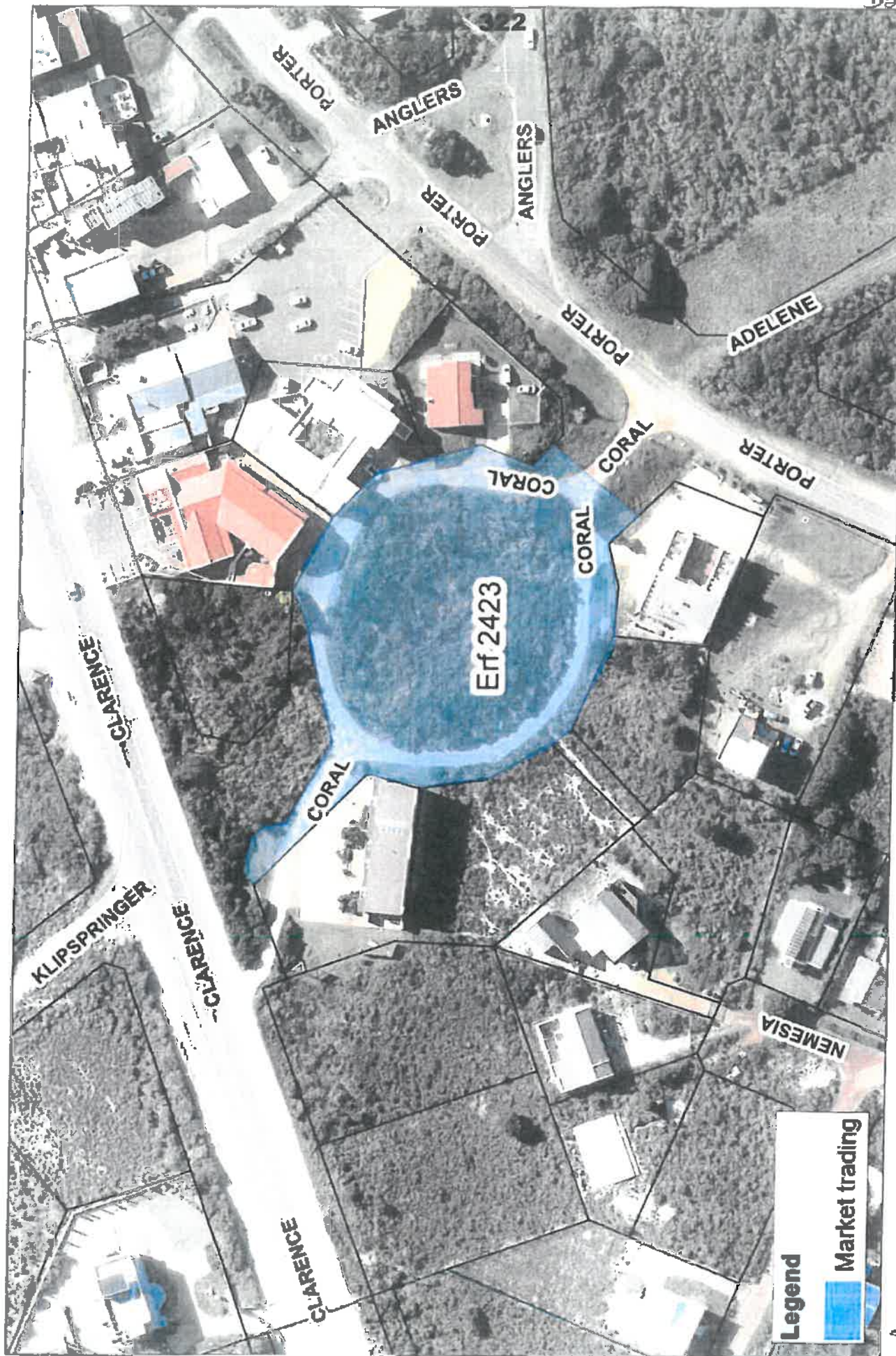


Betty's Bay - Beach Parking Public Trading Area

**Legend**

 Market trading





Betty's Bay - Commercial Parking Public Place Trading Area

**Legend**

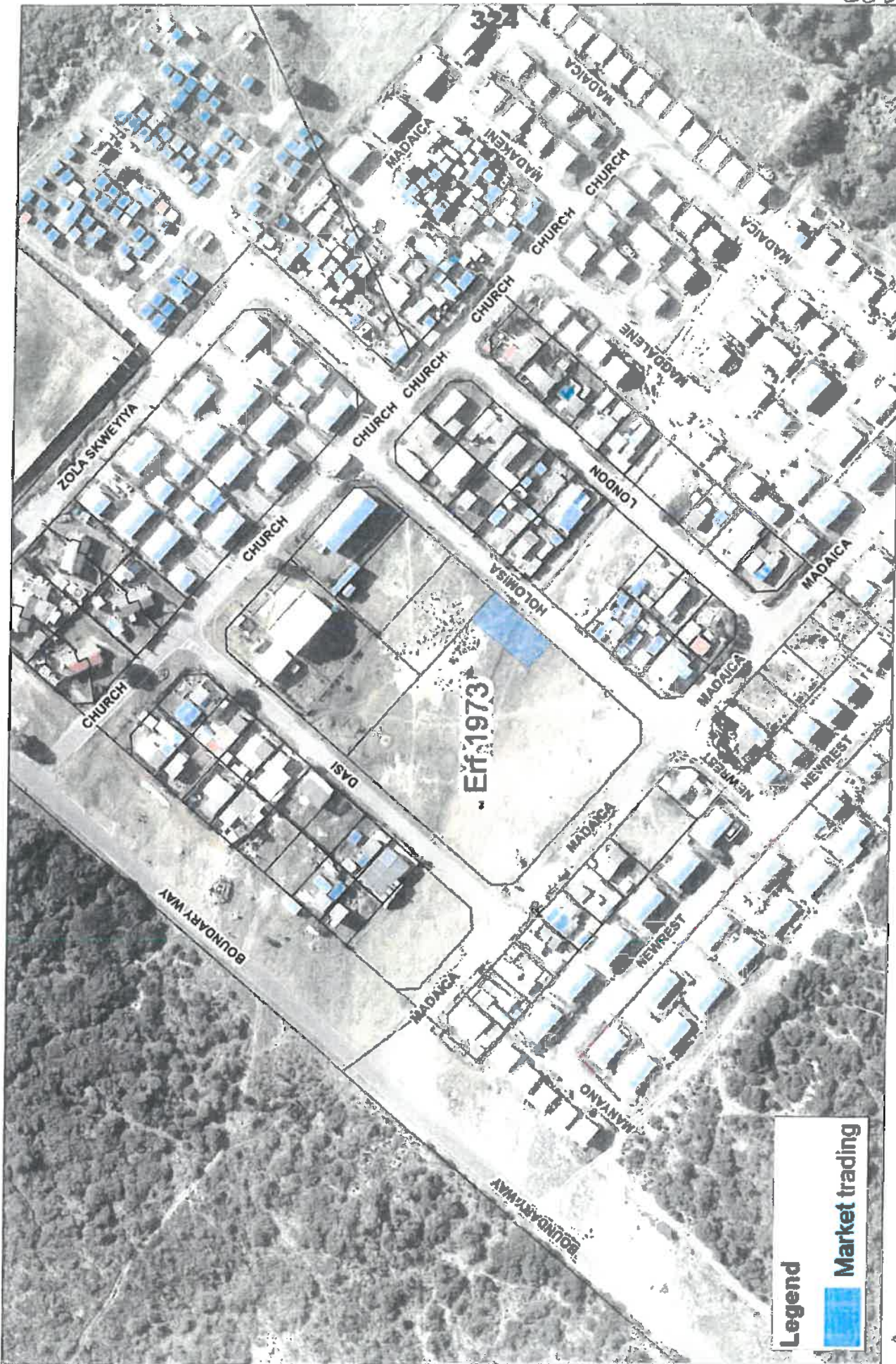
 Market trading

B00130



Blompark - Public Trading Area





Eluxoweni - Public Place Trading Area

**Legend**

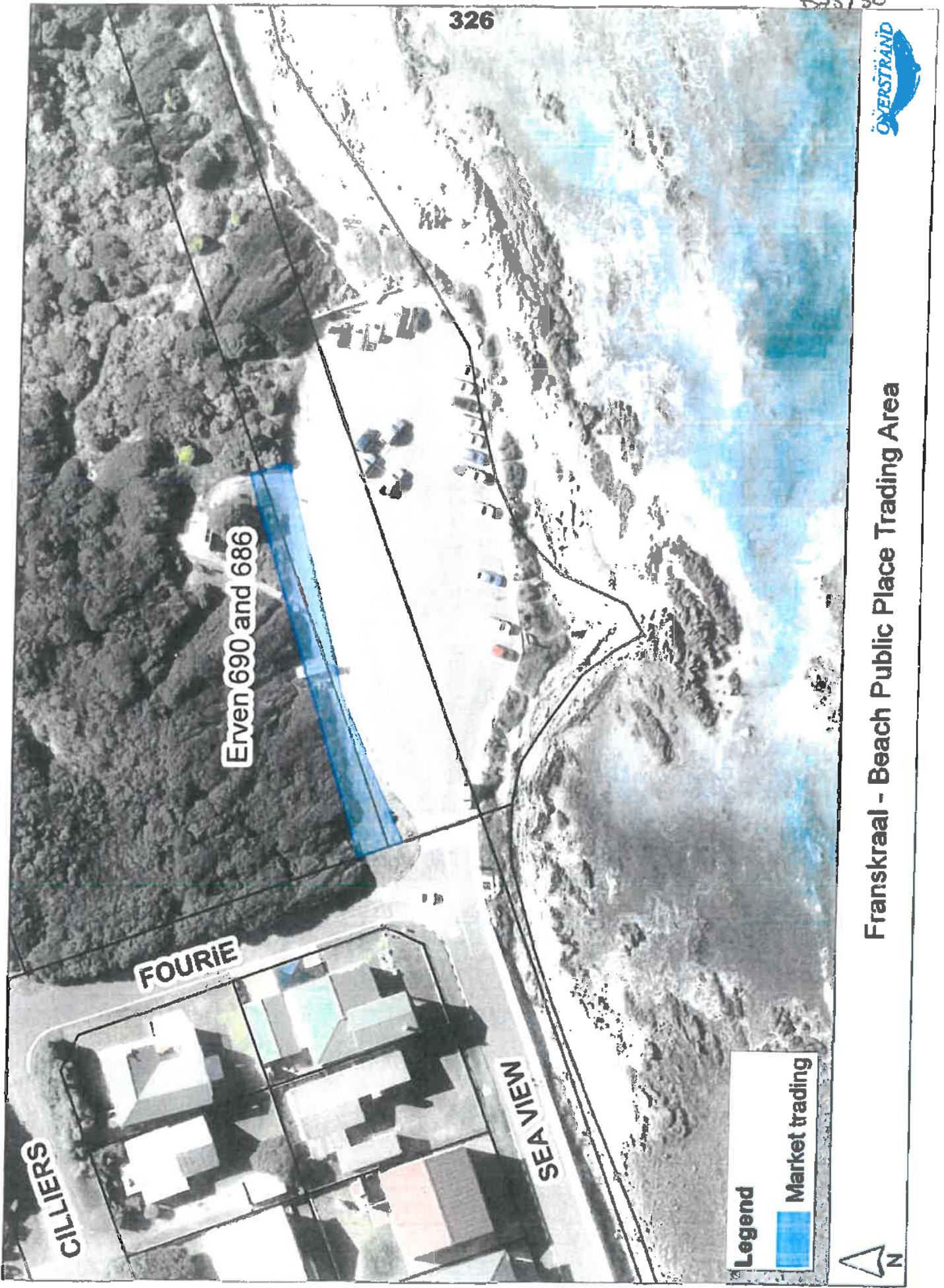
 Market trading



B24/30



**Fisherhaven - Botrivier Lagoon Public Place Trading Area**



Franskraal - Beach Public Place Trading Area



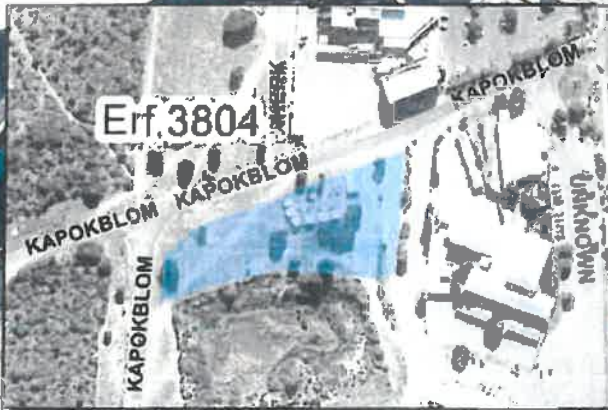
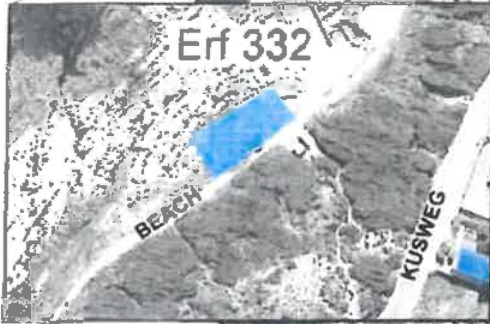
**Legend**

 Market trading



396/30

327



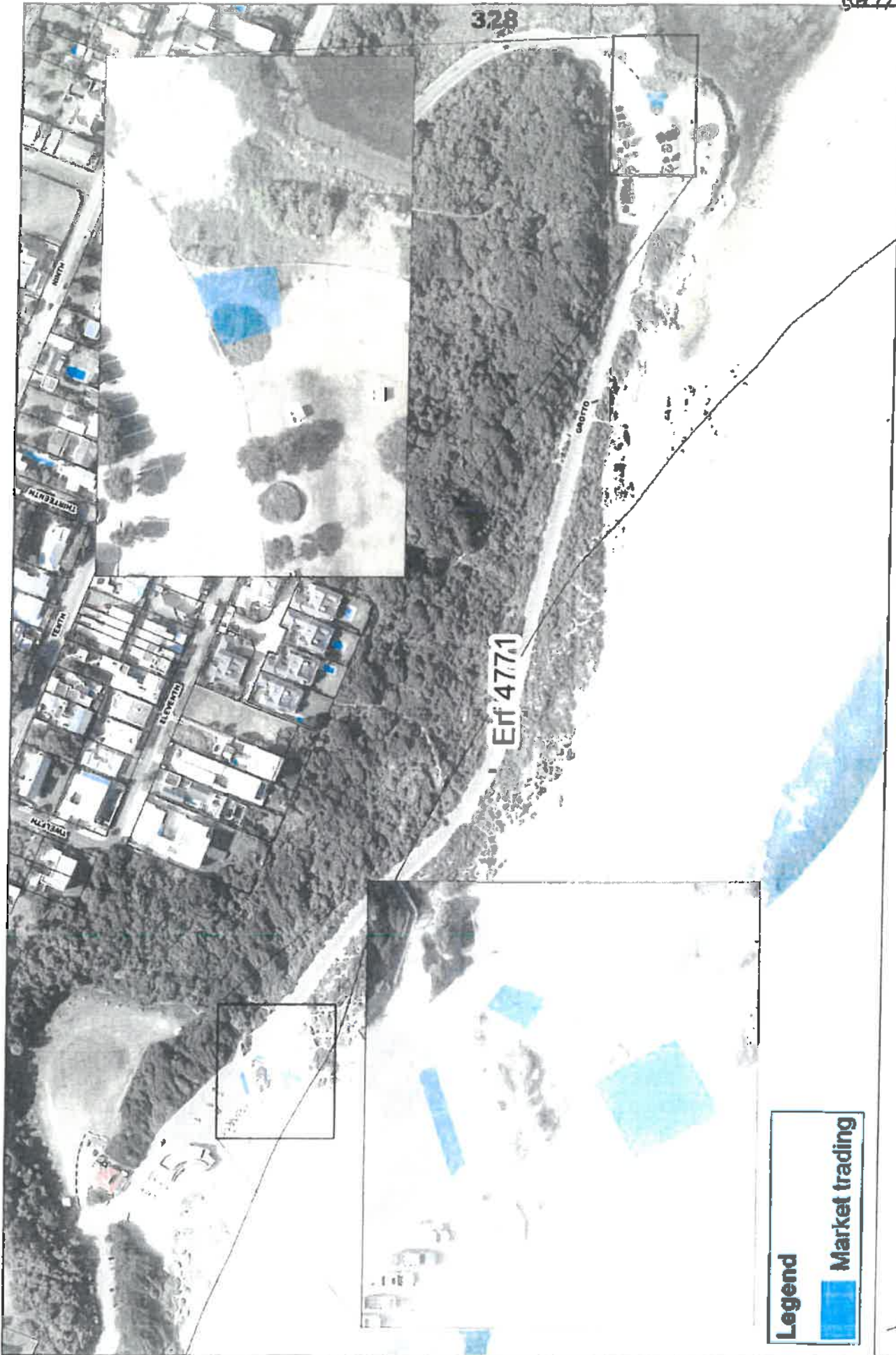
Legend

-  Business hive trading
-  Market trading




Gansbaai - Public Place Trading Area





Grotto Beach - Public Place Trading Area

**Legend**

 Market trading



328/30

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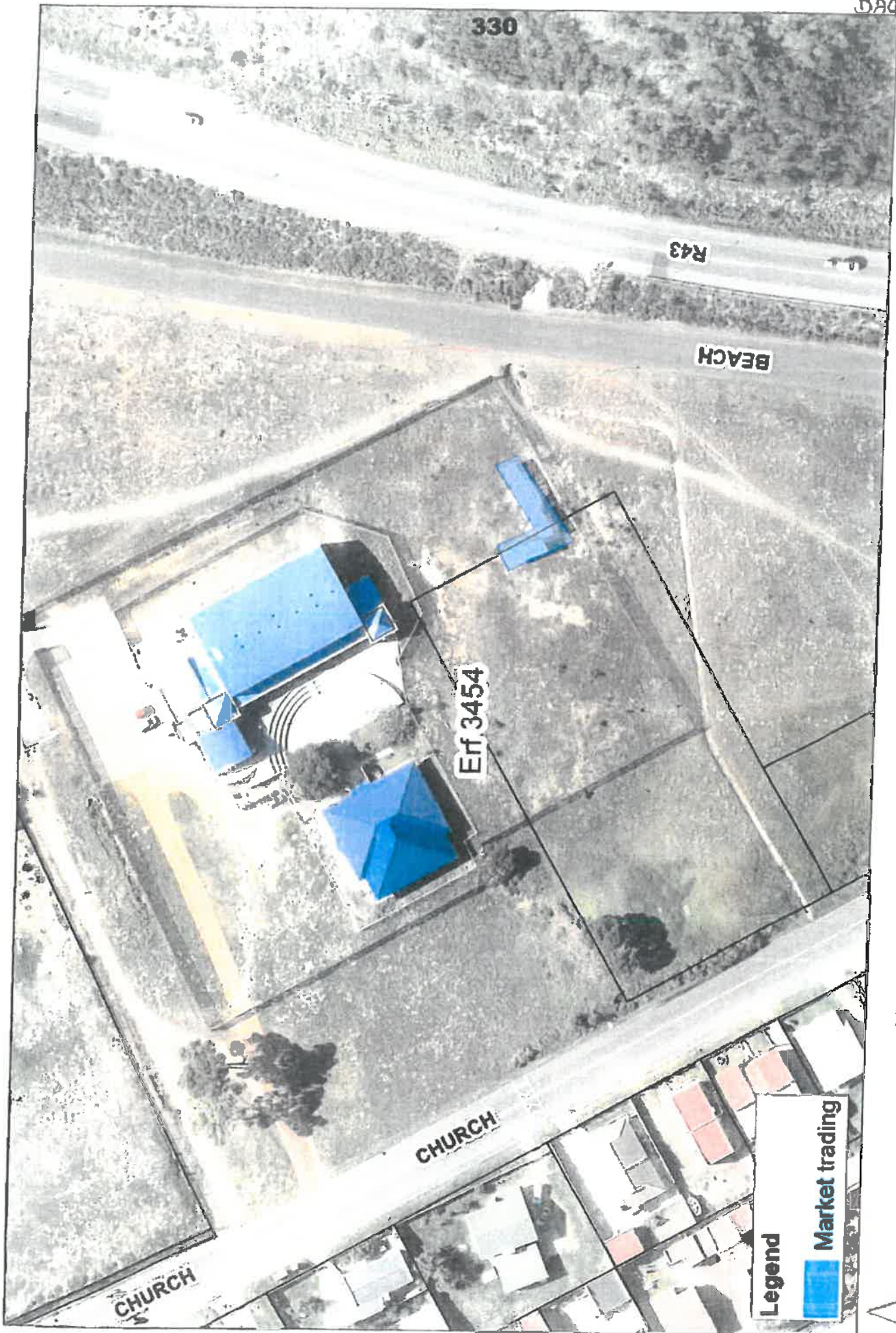
**Legend**

 Market trading



**Hawston - Public Place Trading Area**





Hawston - Thusong Centre Public Place Trading Area

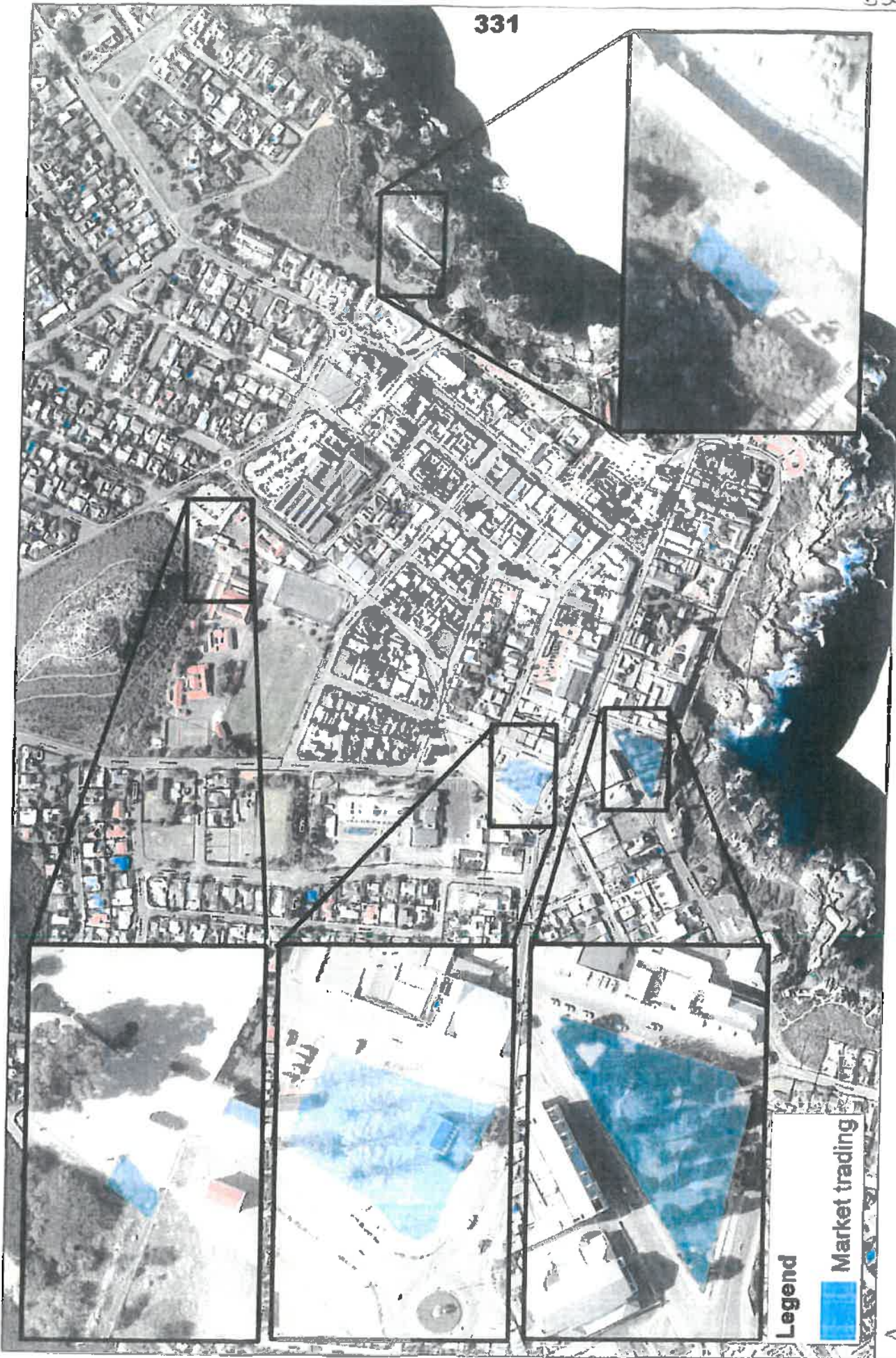
**Legend**

 Market trading





Hermanus (CBD) - Public Place Trading Area



Legend  
Market trading





PENGUIN ROAD – PUBLIC PLACE TRADING AREA



**LEGEND**

 Market trading

**The following is a response to the comments that were received by the public:**

In terms of the Constitution of the Republic of South Africa, Municipal government is responsible for “trading regulations” and “street trading” within its area of jurisdiction, and a local government’s objective is to promote social and economic development. The Municipality recognizes that trading and more specifically informal trading, makes an important contribution to the economic and social environment. The Municipality recognizes that trading and many who would otherwise be economically excluded. The Public Place Trading Policy was advertised 1 March 2023 till the 31 March 2023. The advertisement (public participation) granted the public to provide their comments with regards to the policy. The public requested that an additional 10 days to provide their comment. The comments received within the 10 days were then accepted as valid comments. Hereafter is a summary of comment received and response thereon.

<b>POINTS OF COMMENT:</b>	<b>RESPONSE:</b>
<p><b>1. HERMANUS RATEPAYER’S ASSOCIATION:</b></p> <p>1.1. We won’t comment on the spelling and grammar issues as these are easily fixable at a later stage.</p>	<p>1.1. Noted, the policy document has been amended accordingly.</p>
<p>1.2. There are a number of descriptions which are unclear and need clarification as they leave themselves open to misinterpretation.</p>	<p>1.2. There is no indication of which descriptions are unclear and require clarification.</p>
<p>1.3. Our main source of concern is the Zoning of the entire CBD as a RED zone. The Policy scope on Page 5 firstly lists the different types of public trading, namely Permit Traders, Lease Agreement Holders and Traders for Events and goes on to list the different types of demarcation of areas to accommodate different types of trading. The third line of the description of the different demarcations namely “Business hive” talks about “informal traders” but this should read “permit traders”. The wording is not consistent throughout and is the source of our biggest concern. If left unchanged it implies that in the RED Zone Informal and Seasonal trading will be permitted. We find this unacceptable as it is out of keeping with the CBD Regeneration Project as adopted by Council.</p>	<p>1.3. It is noted that the wording (of the description of the different demarcation areas) is not consistent, the report has been amended accordingly. Please note that Informal and Seasonal Trading will be permitted within the RED Zone (CBD area). Additionally, each application for either a lease agreement or permit will be circulated to the various departments and evaluated accordingly.</p>

<p>1.4. The Yellow Zone only permits Lease Agreement Holders &amp; the RED Zone permits Permit Traders (which includes informal traders); Lease Agreement Holders &amp; Traders of Events. The CBD does permit informal traders as it is both a YELLOW &amp; RED Zone area.</p>	<p>1.4. Simply stated – THERE MUST BE NO INFORMAL TRADE IN THE CBD AS DEFINED BY THE YELLOW AND RED ZONING.</p>
<p>1.5. Please note that only Section 9 of the policy addresses the provision of infrastructure. And only in certain instances, basic infrastructure will be provided such as structures (urban furniture) and ad hoc infrastructure. This infrastructure will be built according to all relevant legislation applicable to the specific site within the municipal area. The lease agreement will include the cost of provision and upkeep of the built structure.</p>	<p>1.5. In a number of cases mention is made of facilities to be provided by the OM but there are no specifics as to design nor to who will bear the cost of provision and upkeep. The same principle applies to the terms Public Spending and Public Sector Investment.</p>
<p>1.6. There is no point 4.2c. There is a point 4.3c which starts with “Public trading contribute...” Your comment is noted, and the section has been amended accordingly.</p>	<p>1.6. Under Section 4.2c Spatial Principles, the first sentence beginning “Public trading contributes..... simply doesn’t make sense in English.</p>
<p>1.7. Noted, the policy document has been amended accordingly.</p>	<p>1.7. Section 5.2 Demarcation.... The wording is clumsy and makes no sense or conclusion.</p>
<p>1.8. Please note that procedures/processes are already in place for the various applications to trade in public places. This policy serves as a guiding document in identifying which type of public trading is permitted in the demarcated public trading areas.</p>	<p>1.8. Section 6: Is the OM realistically going to enter into an additional lease agreement with every single trader in the CBD who wants to sell a few items on the sidewalk? At what cost in terms of admin and manpower?</p>
<p>1.9. Noted, the policy document has been amended accordingly.</p>	<p>1.9. Section 6.3: The wording is a bit clumsy.</p>

<p>1.10. Section 7.2: Reference to trading diversity...Does the OM have the resources or the competence to adjudicate or enforce this statement? We think not. Remove it. Finally, we question whether there are sufficient Law Enforcement personnel in the employ of the OM to fulfil the roles described here.</p>	<p>1.10. Please refer to response point 1.8. In addition, each application will be evaluated on their own merits.</p>
<p>1.11. We request that you do us the courtesy of allowing us to add some quality to the spelling and grammar before final publication. We will do it for free.</p>	<p>1.11. Noted, the policy document has been amended accordingly.</p>
<p><b>2. Green Willow Properties 203: Objection</b></p>	
<p>This email serves to confirm that Green Willow Properties 203 (Pty) Ltd is the owner of Portion 193 of Farm 213 (BaardscheedersBosch), Bredasdorp District is adjacent to the property where the informal trading is proposed.</p> <p>2.1. We would like to formally object as there is other more suitable municipal properties available for this in the area.</p>	<p>2.1. Please note that the public trading in these areas is subject to the submission and approval of a lease agreement or permit as well as the provision and formalisation of the parking requirements.</p>
<p>2.2. The property is directly in the line of sight of visiting tourists and if not suitably maintained could result in an eye sore and have direct effect on the town being earmarked as not viable for visitation.</p>	<p>2.2. As above, the requirement will be addressed during the Environmental Impact and Town Planning phase. One must remember that an SDF does not give rights or take rights away and serves as a strategic document.</p>
<p>2.3. The property does not have suitable toilet facilities which could result in the stall owners making use of other alternatives such as the trees on my piece of land.</p>	<p>2.3. Refer to response point 1.5.</p>

<p>2.4. Inadequate parking for the informal trading and would directly impact on traffic flow around the property as well as along the main road which is a regional road. This could also result in unnecessary accidents and possible deaths unless suitably adapted to cater for more parking.</p>	<p>2.4. Each application will undergo a different process. If it is deemed a requirement of the application process, then the application will be circulated to the various departments for their comment (such as the traffic and engineering department). In addition, the evaluation of the parking requirements will form part of the application process which is subject to the need thereof.</p>
<p>2.5. There is lei water which runs on the border of my premises and the earmarked area which could be affected by pollution due to inadequate refuse removal and sewerage. This could have a further effect further down the lei water system.</p>	<p>2.5. Please refer to response point 2.4. In addition, the objection is speculative and has no merit.</p>
<p>2.6. There are further security concerns, regarding the storage of trading stalls or if these will be permanent structures as this may create the environment where sleeping could take place in the stalls and could result in squatting on my piece of land as a direct result of this informal trading.</p>	<p>2.6. Please note that in the case of structures "stalls", each entrepreneur will be subject to a lease agreement as per section 9 of the public trading policy. The lease agreement will indicate the responsibilities of the lessee. In addition, the use of the property must remain compliant to the Overstrand Municipality Zoning Scheme Regulations, (2020) and any other relevant legislation applicable to the site. Traders will however not be permitted overnight.</p>
<p>2.7. A more suitable location would be the area outside of what used to be known as the "Strandvlei Pub" where old school hall is. This site offers toilet facilities and adequate parking.</p>	<p>2.7. This is noted. However, this is a private property which is outside the scope of the Policy.</p>

<p><b>3. CHRIS MEYER</b></p>	<p>Die KBBV Komitee het die aangeleentheid bespreek en besluit dat die inwoners van Kleinbaai self moet besluit of hulle informele handelsbedryf by die Kleinbaai Hawe wil toelaat of nie. Daar is oor die aangeleentheid gestem en die uitslag was soos volg:  Aantal Stemme: 105 uit 124 – 85%  Ja: Informele Handelsbedryf moet toegelaat word: 19  Nee: Informele handelsbedryf moet nie toegelaat word nie: 86  Dit is dus duidelik dat die meerderheid van die Kleinbaai inwoners nie Informele Handelsbedryf by die Hawe wil hê nie.</p> <p>Die volgende is die hoof redes:</p> <p>3.1. Die huidige toilet geriewe by die hawe is reeds nie voldoende nie en sal nie die nuwe aantal mense kan hanteer nie.</p>	<p>3.1. Artikel 9 van die Openbare Handelsbeleid maak voorsiening vir fasiliteite.</p>
<p>3.2. Die idee moet eers ingelyf word by die Kleinbaai Nodal Development Plan.</p>	<p>3.2. Punt 6.2 van die Kleinbaai Nodal Development Plan verwys na “Improvements of the Kleinbaai commercial area” en aanbeveel dat beide kante van Kusweg voorsiening moet maak vir kommersiële aktiwiteite.</p>	<p>3.3. Verwys na antwoord punt 3.2. Die Public Place Trading Policy maak voorsiening vir beide formeel en informele kommersiële aktiwiteite.</p>
<p>3.3. Daar is alreeds 'n informele winkel in die hawe. Sal daar gesorg word dat dieselfde produkte nie verhandel word nie.</p>	<p>3.4. Daar is reeds 'n tekort aan parkering. Dit is aangespreek in die KBNDP, maar sonder inagnome van die 'trading' plan. Die beplande parkering moet eers voorsien word.</p>	<p>3.4. Punt 7.1.(r) van die Kleinbaai Nodal Development Plan stel dat Kusweg en die Kleinbaai Hawe voldoende voorsiening van parkering het en dat geen addisionele parkering voorsien moet word nie.</p>

<p>3.5. Kleinbaai inwoners het beswaar gemaak oor die verlies van uitsig en onooglikheid a.g.v. haai bote. Getal haai bote was gevolglik beperk. Informele Handel sal 'n soortgelyke probleem skep.</p>	<p>3.5. Verwys na punt 3.3 wat die kommersiële aktiwiteite aanspreek. Die beswaar het geen meriete dat "Publieke" handel 'n soortgelyke probleem sal skep.</p>
<p>3.6. Daar is reeds bekommerde ouers oor die mate van sekuriteit en veiligheid van kinders wat daar fietsry.</p>	<p>3.6. Artikel 11 van die Openbare Handelsbeleid maak voorsiening vir wetstoepassing (om 'n skoon en veilige omgewing te verseker).</p>
<p>3.7. Daar is reeds 'n bekommernis oor die skoonhou van die area. Indien daar nie permanente skoonmakers gaan wees nie, gaan rommel rondlê en in die see waai.</p>	<p>3.7. Verwys na antwoord punt 3.6.</p>
<p>4. V Ndlebu:</p>	
<p>4.1. I heard about the plots in Zwellihle that will be prepared for small businesses. We as residents of this area can be happy for those plots.</p>	<p>4.1. Noted.</p>
<p>4.2. I suggest that we can have divided shelters that can be locked, with enough space for tables and for the clothing rails. I am a dressmaker and desperately in need of this shelter.</p>	<p>4.2. Each application for public trading will be evaluated on its own merit.</p>

<p><b>5. Carla Kessler &amp; Steven O'Callaghan:</b></p>	
<p>5.1. With reference to the Public Place situated at the corner of Main Road and Protea Street, Baardkeedersbos, as a trading area:</p> <ul style="list-style-type: none"> <li>• There are no ablution facilities.</li> <li>• There is no parking area.</li> </ul>	<p>5.1. Noted.</p>
<p>5.2. We refer to all the Committee Meeting Minutes of the Baardkeedersbos Home-Owners Association (2022), wherein the Committee on the behest of the Home-Owners have repeatedly expressed their dismay, disgust, and concern with regard to how this public place is being used for:</p> <ul style="list-style-type: none"> <li>• (underage) public drinking;</li> <li>• Urinating;</li> <li>• Loitering;</li> <li>• Vandalism; etc.</li> </ul> <p>Law Enforcement, SAPS and/or the Municipality have been either unable and/or unwilling to assist the Home-Owners in finding a solution for this problem.</p> <p>Should this Public Place now be allowed to become an informal trading area, the above-mentioned problem will just be exacerbated, which would definitely not benefit the residents and the community as a whole.</p>	<p>5.2. Please refer to section 11 of the Public Trading Policy which makes provision for Law Enforcement.</p>

**6. Betty's Bay Ratepayer's Association**

6.1. The CBD upgrade plan does not make allowances for any parking or trading and leaves the parking area responsibility in the hands of the business owners to provide within their property boundaries. We must also take cognisance of the fact that there is already a large parking space close by and this may also be enlarged with little effort or funds. The responsibility of security is also an important aspect of parking spaces which is to be placed on the owner and not the municipality. Our collective approach, therefore, must include the wetland as a landmark of excellence within our urban design. This will be acceptable and practically possible within budget constraints. We would like to see that any parking and/or trading that takes place in this area must be done around the wetland at all costs as indicated in figure 1 below. This paragraph must be read in conjunction with the documents indicated in the background.

6.1. The development of an erf is at the owners own account and must be in compliance with the land use planning legislation. Please note that the conceptual design of Coral Road does include public parking around the proposed traffic circle. The public trading area is limited to the centre of the traffic circle and will be developed in-line with the relevant legislation with the consideration of the wetland. Please note that development surrounding the wetland is not feasible due to the fact that it is within the wetland. However, in addition to the Coral Road Public Place Trading Area, the Penguin Road Small Business Node should be included into the applicable trading areas. The small business area surrounding Penguin Road is being upgraded by the private property owners which captures and attracts tourists as well as the locals in the area. With the addition of accommodating the formal traders as well as informal traders along Penguin Road will increase the amount of foot traffic and lock tourists to this small economic node providing additional socio-economic opportunities.

6.2. The Main beach area in Betty's Bay is used extensively by all throughout the year. By improving the actual parking space and trading area here will improve our tourism face and eliminate the congestion during peak periods, not to mention the opportunities it will create for our little economy. Our current proposal with the OM would be to upgrade the size of this parking to suit our current and future parking demands as indicated below in figure 2. Provision would need to be made to prevent beach sand from accumulating in the parking area by stabilising the dunes on the seaward side. Vegetation on the western side must be maintained to provide a screen to hide the parking area from ERFs 3683 – 3685, noise reduction and sand encroachment onto Morea Road.

6.2. Refer to engineering department and environmental management department.

<p>6.3. Let us not forget what is taking place at Penguin Place and the potential for a smaller CBD environment here. Business is good in this area with the addition of The Hub recently. Our request is that we include this space in the policy to make the total schedule for Betty's Bay move from two sites to four. This will be seen as a smart move in the right direction and show positive forecasting planning in our municipal strategy.</p>	<p>6.3. Noted from a planning perspective. This comment be referred to the engineering department for their comment.</p>
<p>6.4. The importance of Silversands beach to locals and visitors must not be overlooked by us as it plays a very important role in the distribution of tourists and local users. This area is definitely over congested in peak season and the upgrade and beautification thereof will add tremendous value to this area of Betty's Bay. Formalising private driveways is of importance during the planning of this upgrade. Park Road leading from Porter Drive to this parking area should be dust proofed as it is the main access road. Ablutions facilities are sorely needed in this area.</p>	<p>6.4. Noted from a planning perspective. This comment be referred to the engineering department for their comment.</p>
<p><b>7. COMMENT FROM THE LAND PARTY:</b></p>	
<p>The comment below is with regards to the Review of the IDP.</p> <p>7.1. Rezone Thabo Mbeki road for street vendors and small businesses.</p>	<p>7.1. Also note that this comment was not included into the comments received for the Public Trading Policy.</p> <p>No new trading places along Mbeki Road can be accommodated as it is a high traffic route. A few of the existing residences that live along Mbeki Road already conduct public trading from their residences. It is therefore considered these existing trading areas be included in the review of the Growth Management Strategy.</p>