



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Regulation Gazette

No. 11604

Regulasiekoerant

Vol. 697

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2023

No. 48959

PART 1 OF 2

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes

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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

IMPORTANT NOTICE:

THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.

No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

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government
printing

Department:
Government Printing Works
REPUBLIC OF SOUTH AFRICA

HIGH ALERT: SCAM WARNING!!!

TO ALL SUPPLIERS AND SERVICE PROVIDERS OF THE GOVERNMENT PRINTING WORKS

It has come to the attention of the *GOVERNMENT PRINTING WORKS* that there are certain unscrupulous companies and individuals who are defrauding unsuspecting businesses disguised as representatives of the *Government Printing Works (GPW)*.

The scam involves the fraudsters using the letterhead of *GPW* to send out fake tender bids to companies and requests to supply equipment and goods.

Although the contact person's name on the letter may be of an existing official, the contact details on the letter are not the same as the *Government Printing Works*. When searching on the Internet for the address of the company that has sent the fake tender document, the address does not exist.

The banking details are in a private name and not company name. Government will never ask you to deposit any funds for any business transaction. *GPW* has alerted the relevant law enforcement authorities to investigate this scam to protect legitimate businesses as well as the name of the organisation.

Example of e-mails these fraudsters are using:

PROCUREMENT@GPW-GOV.ORG

Should you suspect that you are a victim of a scam, you must urgently contact the police and inform the *GPW*.

GPW has an official email with the domain as [@gpw.gov.za](mailto:GPW@gpw.gov.za)

Government e-mails DO NOT have org in their e-mail addresses. All of these fraudsters also use the same or very similar telephone numbers. Although such number with an area code 012 looks like a landline, it is not fixed to any property.

GPW will never send you an e-mail asking you to supply equipment and goods without a purchase/order number. *GPW* does not procure goods for another level of Government. The organisation will not be liable for actions that result in companies or individuals being resultant victims of such a scam.

Government Printing Works gives businesses the opportunity to supply goods and services through RFQ / Tendering process. In order to be eligible to bid to provide goods and services, suppliers must be registered on the National Treasury's Central Supplier Database (CSD). To be registered, they must meet all current legislative requirements (e.g. have a valid tax clearance certificate and be in good standing with the South African Revenue Services - SARS).

The tender process is managed through the Supply Chain Management (SCM) system of the department. SCM is highly regulated to minimise the risk of fraud, and to meet objectives which include value for money, open and effective competition, equitability, accountability, fair dealing, transparency and an ethical approach. Relevant legislation, regulations, policies, guidelines and instructions can be found on the tender's website.

Fake Tenders

National Treasury's CSD has launched the Government Order Scam campaign to combat fraudulent requests for quotes (RFQs). Such fraudulent requests have resulted in innocent companies losing money. We work hard at preventing and fighting fraud, but criminal activity is always a risk.

How tender scams work

There are many types of tender scams. Here are some of the more frequent scenarios:

Fraudsters use what appears to be government department stationery with fictitious logos and contact details to send a fake RFQ to a company to invite it to urgently supply goods. Shortly after the company has submitted its quote, it receives notification that it has won the tender. The company delivers the goods to someone who poses as an official or at a fake site. The Department has no idea of this transaction made in its name. The company is then never paid and suffers a loss.

OR

Fraudsters use what appears to be government department stationery with fictitious logos and contact details to send a fake RFQ to Company A to invite it to urgently supply goods. Typically, the tender specification is so unique that only Company B (a fictitious company created by the fraudster) can supply the goods in question.

Shortly after Company A has submitted its quote it receives notification that it has won the tender. Company A orders the goods and pays a deposit to the fictitious Company B. Once Company B receives the money, it disappears. Company A's money is stolen in the process.

Protect yourself from being scammed

- If you are registered on the supplier databases and you receive a request to tender or quote that seems to be from a government department, contact the department to confirm that the request is legitimate. Do not use the contact details on the tender document as these might be fraudulent.
- Compare tender details with those that appear in the Tender Bulletin, available online at www.gpwonline.co.za
- Make sure you familiarise yourself with how government procures goods and services. Visit the tender website for more information on how to tender.
- If you are uncomfortable about the request received, consider visiting the government department and/or the place of delivery and/or the service provider from whom you will be sourcing the goods.
- In the unlikely event that you are asked for a deposit to make a bid, contact the SCM unit of the department in question to ask whether this is in fact correct.

Any incidents of corruption, fraud, theft and misuse of government property in the *Government Printing Works* can be reported to:

Supply Chain Management: Ms. Anna Marie Du Toit, Tel. (012) 748 6292.
Email: Annamarie.DuToit@gpw.gov.za

Marketing and Stakeholder Relations: Ms Bonakele Mbhele, at Tel. (012) 748 6193.
Email: Bonakele.Mbhele@gpw.gov.za

Security Services: Mr Daniel Legoabe, at tel. (012) 748 6176.
Email: Daniel.Legoabe@gpw.gov.za

Closing times for **ORDINARY WEEKLY** **REGULATION GAZETTE** **2023**

*The closing time is **15:00** sharp on the following days:*

- **29 December**, Thursday for the issue of Friday **06 January 2023**
- **06 January**, Friday for the issue of Friday **13 January 2023**
- **13 January**, Friday for the issue of Friday **20 January 2023**
- **20 January**, Friday for the issue of Friday **27 January 2023**
- **27 January**, Friday for the issue of Friday **03 February 2023**
- **03 February**, Friday for the issue of Friday **10 February 2023**
- **10 February**, Friday for the issue of Friday **17 February 2023**
- **17 February**, Friday for the issue of Friday **24 February 2023**
- **24 February**, Friday for the issue of Friday **03 March 2023**
- **03 March**, Friday for the issue of Friday **10 March 2023**
- **10 March**, Friday for the issue of Friday **17 March 2023**
- **16 March**, Thursday for the issue of Friday **24 March 2023**
- **24 March**, Friday for the issue of Friday **31 March 2023**
- **30 March**, Thursday for the issue of Thursday **06 April 2023**
- **05 April**, Wednesday for the issue of Friday **14 April 2023**
- **14 April**, Friday for the issue of Friday **21 April 2023**
- **20 April**, Thursday for the issue of Friday **28 April 2023**
- **26 April**, Wednesday for the issue of Friday **05 May 2023**
- **05 May**, Friday for the issue of Friday **12 May 2023**
- **12 May**, Friday for the issue of Friday **19 May 2023**
- **19 May**, Friday for the issue of Friday **26 May 2023**
- **26 May**, Friday for the issue of Friday **02 June 2023**
- **02 June**, Friday for the issue of Friday **09 June 2023**
- **08 June**, Thursday for the issue of Thursday **15 June 2023**
- **15 June**, Thursday for the issue of Friday **23 June 2023**
- **23 June**, Friday for the issue of Friday **30 June 2023**
- **30 June**, Friday for the issue of Friday **07 July 2023**
- **07 July**, Friday for the issue of Friday **14 July 2023**
- **14 July**, Friday for the issue of Friday **21 July 2023**
- **21 July**, Friday for the issue of Friday **28 July 2023**
- **28 July**, Friday for the issue of Friday **04 August 2023**
- **03 August**, Thursday for the issue of Friday **11 August 2023**
- **11 August**, Friday for the issue of Friday **18 August 2023**
- **18 August**, Friday for the issue of Friday **25 August 2023**
- **25 August**, Friday for the issue of Friday **01 September 2023**
- **01 September**, Friday for the issue of Friday **08 September 2023**
- **08 September**, Friday for the issue of Friday **15 September 2023**
- **15 September**, Friday for the issue of Friday **22 September 2023**
- **21 September**, Thursday for the issue of Friday **29 September 2023**
- **29 September**, Friday for the issue of Friday **06 October 2023**
- **06 October**, Friday for the issue of Friday **13 October 2023**
- **13 October**, Friday for the issue of Friday **20 October 2023**
- **20 October**, Friday for the issue of Friday **27 October 2023**
- **27 October**, Friday for the issue of Friday **03 November 2023**
- **03 November**, Friday for the issue of Friday **10 November 2023**
- **10 November**, Friday for the issue of Friday **17 November 2023**
- **17 November**, Friday for the issue of Friday **24 November 2023**
- **24 November**, Friday for the issue of Friday **01 December 2023**
- **01 December**, Friday for the issue of Friday **08 December 2023**
- **08 December**, Friday for the issue of Friday **15 December 2023**
- **15 December**, Friday for the issue of Friday **22 December 2023**
- **20 December**, Wednesday for the issue of Friday **29 December 2023**

LIST OF TARIFF RATES FOR PUBLICATION OF NOTICES

COMMENCEMENT: 1 APRIL 2018

NATIONAL AND PROVINCIAL

Notice sizes for National, Provincial & Tender gazettes 1/4, 2/4, 3/4, 4/4 per page. Notices submitted will be charged at R1008.80 per full page, pro-rated based on the above categories.

Pricing for National, Provincial - Variable Priced Notices		
Notice Type	Page Space	New Price (R)
Ordinary National, Provincial	1/4 - Quarter Page	252.20
Ordinary National, Provincial	2/4 - Half Page	504.40
Ordinary National, Provincial	3/4 - Three Quarter Page	756.60
Ordinary National, Provincial	4/4 - Full Page	1008.80

EXTRA-ORDINARY

All Extra-ordinary National and Provincial gazette notices are non-standard notices and attract a variable price based on the number of pages submitted.

The pricing structure for National and Provincial notices which are submitted as **Extra ordinary submissions** will be charged at **R3026.32** per page.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

The **Government Printing Works (GPW)** has established rules for submitting notices in line with its electronic notice processing system, which requires the use of electronic *Adobe Forms*. Please ensure that you adhere to these guidelines when completing and submitting your notice submission.

CLOSING TIMES FOR ACCEPTANCE OF NOTICES

1. The *Government Gazette* and *Government Tender Bulletin* are weekly publications that are published on Fridays and the closing time for the acceptance of notices is strictly applied according to the scheduled time for each gazette.
2. Please refer to the Submission Notice Deadline schedule in the table below. This schedule is also published online on the Government Printing works website www.gpwonline.co.za

All re-submissions will be subject to the standard cut-off times.

All notices received after the closing time will be rejected.

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
National Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Regulation Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Petrol Price Gazette	Monthly	Tuesday before 1st Wednesday of the month	One day before publication	1 working day prior to publication
Road Carrier Permits	Weekly	Friday	Thursday 15h00 for next Friday	3 working days prior to publication
Unclaimed Monies (Justice, Labour or Lawyers)	January / September 2 per year	Last Friday	One week before publication	3 working days prior to publication
Parliament (Acts, White Paper, Green Paper)	As required	Any day of the week	None	3 working days prior to publication
Manuals	Bi- Monthly	2nd and last Thursday of the month	One week before publication	3 working days prior to publication
State of Budget (National Treasury)	Monthly	30th or last Friday of the month	One week before publication	3 working days prior to publication
<i>Extraordinary Gazettes</i>	As required	Any day of the week	<i>Before 10h00 on publication date</i>	<i>Before 10h00 on publication date</i>
Legal Gazettes A, B and C	Weekly	Friday	One week before publication	Tuesday, 15h00 - 3 working days prior to publication
Tender Bulletin	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Gauteng	Weekly	Wednesday	Two weeks before publication	3 days after submission deadline
Eastern Cape	Weekly	Monday	One week before publication	3 working days prior to publication
Northern Cape	Weekly	Monday	One week before publication	3 working days prior to publication
North West	Weekly	Tuesday	One week before publication	3 working days prior to publication
KwaZulu-Natal	Weekly	Thursday	One week before publication	3 working days prior to publication
Limpopo	Weekly	Friday	One week before publication	3 working days prior to publication
Mpumalanga	Weekly	Friday	One week before publication	3 working days prior to publication

GOVERNMENT PRINTING WORKS - BUSINESS RULES

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
Gauteng Liquor License Gazette	Monthly	Wednesday before the First Friday of the month	Two weeks before publication	3 working days after submission deadline
Northern Cape Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 working days after submission deadline
National Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 working days after submission deadline
Mpumalanga Liquor License Gazette	Bi-Monthly	Second & Fourth Friday	One week before publication	3 working days prior to publication

EXTRAORDINARY GAZETTES

3. *Extraordinary Gazettes* can have only one publication date. If multiple publications of an *Extraordinary Gazette* are required, a separate Z95/Z95Prov *Adobe* Forms for each publication date must be submitted.

NOTICE SUBMISSION PROCESS

4. Download the latest *Adobe* form, for the relevant notice to be placed, from the **Government Printing Works** website www.gpwonline.co.za.
5. The *Adobe* form needs to be completed electronically using *Adobe Acrobat / Acrobat Reader*. Only electronically completed *Adobe* forms will be accepted. No printed, handwritten and/or scanned *Adobe* forms will be accepted.
6. The completed electronic *Adobe* form has to be submitted via email to submit.egazette@gpw.gov.za. The form needs to be submitted in its original electronic *Adobe* format to enable the system to extract the completed information from the form for placement in the publication.
7. Every notice submitted **must** be accompanied by an official **GPW** quotation. This must be obtained from the *eGazette* Contact Centre.
8. Each notice submission should be sent as a single email. The email **must** contain **all documentation relating to a particular notice submission**.
 - 8.1. Each of the following documents must be attached to the email as a separate attachment:
 - 8.1.1. An electronically completed *Adobe* form, specific to the type of notice that is to be placed.
 - 8.1.1.1. For *National Government Gazette* or *Provincial Gazette* notices, the notices must be accompanied by an electronic Z95 or Z95Prov *Adobe* form
 - 8.1.1.2. The notice content (body copy) **MUST** be a separate attachment.
 - 8.1.2. A copy of the official **Government Printing Works** quotation you received for your notice. (*Please see Quotation section below for further details*)
 - 8.1.3. A valid and legible Proof of Payment / Purchase Order: **Government Printing Works** account customer must include a copy of their Purchase Order. **Non-Government Printing Works** account customer needs to submit the proof of payment for the notice
 - 8.1.4. Where separate notice content is applicable (Z95, Z95 Prov and TForm 3, it should **also** be attached as a separate attachment. (*Please see the Copy Section below, for the specifications*).
 - 8.1.5. Any additional notice information if applicable.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

9. The electronic *Adobe* form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered. The information submitted on the electronic *Adobe* form will be published as-is.
10. To avoid duplicated publication of the same notice and double billing, Please submit your notice **ONLY ONCE**.
11. Notices brought to **GPW** by “walk-in” customers on electronic media can only be submitted in *Adobe* electronic form format. All “walk-in” customers with notices that are not on electronic *Adobe* forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format.
12. Should a customer submit a bulk submission of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.

QUOTATIONS

13. Quotations are valid until the next tariff change.
 - 13.1. **Take note:** **GPW**'s annual tariff increase takes place on **1 April** therefore any quotations issued, accepted and submitted for publication up to **31 March** will keep the old tariff. For notices to be published from 1 April, a quotation must be obtained from **GPW** with the new tariffs. Where a tariff increase is implemented during the year, **GPW** endeavours to provide customers with 30 days' notice of such changes.
14. Each quotation has a unique number.
15. Form Content notices must be emailed to the *eGazette* Contact Centre for a quotation.
 - 15.1. The *Adobe* form supplied is uploaded by the Contact Centre Agent and the system automatically calculates the cost of your notice based on the layout/format of the content supplied.
 - 15.2. It is critical that these *Adobe* Forms are completed correctly and adhere to the guidelines as stipulated by **GPW**.
16. **APPLICABLE ONLY TO GPW ACCOUNT HOLDERS:**
 - 16.1. **GPW** Account Customers must provide a valid **GPW** account number to obtain a quotation.
 - 16.2. Accounts for **GPW** account customers **must** be active with sufficient credit to transact with **GPW** to submit notices.
 - 16.2.1. If you are unsure about or need to resolve the status of your account, please contact the **GPW** Finance Department prior to submitting your notices. (If the account status is not resolved prior to submission of your notice, the notice will be failed during the process).
17. **APPLICABLE ONLY TO CASH CUSTOMERS:**
 - 17.1. Cash customers doing **bulk payments** must use a **single email address** in order to use the **same proof of payment** for submitting multiple notices.
18. The responsibility lies with you, the customer, to ensure that the payment made for your notice(s) to be published is sufficient to cover the cost of the notice(s).
19. Each quotation will be associated with one proof of payment / purchase order / cash receipt.
 - 19.1. This means that **the quotation number can only be used once to make a payment.**

GOVERNMENT PRINTING WORKS - BUSINESS RULES**COPY (SEPARATE NOTICE CONTENT DOCUMENT)**

20. Where the copy is part of a separate attachment document for Z95, Z95Prov and TForm03
- 20.1. Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.
- The content document should contain only one notice. (You may include the different translations of the same notice in the same document).
- 20.2. The notice should be set on an A4 page, with margins and fonts set as follows:
- Page size = A4 Portrait with page margins: Top = 40mm, LH/RH = 16mm, Bottom = 40mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;
- Page size = A4 Landscape with page margins: Top = 16mm, LH/RH = 40mm, Bottom = 16mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

CANCELLATIONS

21. Cancellation of notice submissions are accepted by **GPW** according to the deadlines stated in the table above in point 2. Non-compliance to these deadlines will result in your request being failed. Please pay special attention to the different deadlines for each gazette. Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.
22. Requests for cancellation must be sent by the original sender of the notice and must be accompanied by the relevant notice reference number (N-) in the email body.

AMENDMENTS TO NOTICES

23. With effect from 01 October 2015, **GPW** will not longer accept amendments to notices. The cancellation process will need to be followed according to the deadline and a new notice submitted thereafter for the next available publication date.

REJECTIONS

24. All notices not meeting the submission rules will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za). Reasons for rejections include the following:
- 24.1. Incorrectly completed forms and notices submitted in the wrong format, will be rejected.
- 24.2. Any notice submissions not on the correct *Adobe* electronic form, will be rejected.
- 24.3. Any notice submissions not accompanied by the proof of payment / purchase order will be rejected and the notice will not be processed.
- 24.4. Any submissions or re-submissions that miss the submission cut-off times will be rejected to the customer. The Notice needs to be re-submitted with a new publication date.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**APPROVAL OF NOTICES**

25. Any notices other than legal notices are subject to the approval of the Government Printer, who may refuse acceptance or further publication of any notice.
26. No amendments will be accepted in respect to separate notice content that was sent with a Z95 or Z95Prov notice submissions. The copy of notice in layout format (previously known as proof-out) is only provided where requested, for Advertiser to see the notice in final Gazette layout. Should they find that the information submitted was incorrect, they should request for a notice cancellation and resubmit the corrected notice, subject to standard submission deadlines. The cancellation is also subject to the stages in the publishing process, i.e. If cancellation is received when production (printing process) has commenced, then the notice cannot be cancelled.

GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY

27. The Government Printer will assume no liability in respect of—
 - 27.1. any delay in the publication of a notice or publication of such notice on any date other than that stipulated by the advertiser;
 - 27.2. erroneous classification of a notice, or the placement of such notice in any section or under any heading other than the section or heading stipulated by the advertiser;
 - 27.3. any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

LIABILITY OF ADVERTISER

28. Advertisers will be held liable for any compensation and costs arising from any action which may be instituted against the Government Printer in consequence of the publication of any notice.

CUSTOMER INQUIRIES

Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While **GPW** deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

GPW has a 2-working day turnaround time for processing notices received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

29. Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
30. Requests for Quotations (RFQs) should be received by the Contact Centre at least **2 working days** before the submission deadline for that specific publication.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

PAYMENT OF COST

31. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.
32. Payment should then be made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.
33. Every proof of payment must have a valid **GPW** quotation number as a reference on the proof of payment document.
34. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the Gazette Contact Centre, **Government Printing Works**, Private Bag X85, Pretoria, 0001 email: info.egazette@gpw.gov.za before publication.
35. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the **Government Printing Works** banking account.
36. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the **Government Printing Works**.
37. The **Government Printing Works** reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the List of Fixed Tariff Rates, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

PROOF OF PUBLICATION

38. Copies of any of the *Government Gazette* or *Provincial Gazette* can be downloaded from the **Government Printing Works** website www.gpwnonline.co.za free of charge, should a proof of publication be required.
39. Printed copies may be ordered from the Publications department at the ruling price. The **Government Printing Works** will assume no liability for any failure to post or for any delay in despatching of such *Government Gazette(s)*

GOVERNMENT PRINTING WORKS CONTACT INFORMATION

Physical Address:

Government Printing Works
149 Bosman Street
Pretoria

Postal Address:

Private Bag X85
Pretoria
0001

GPW Banking Details:

Bank: ABSA Bosman Street
Account No.: 405 7114 016
Branch Code: 632-005

For Gazette and Notice submissions: Gazette Submissions:

For queries and quotations, contact: Gazette Contact Centre:

E-mail: submit.egazette@gpw.gov.za

E-mail: info.egazette@gpw.gov.za

Tel: 012-748 6200

Contact person for subscribers: Mrs M. Toka:

E-mail: subscriptions@gpw.gov.za

Tel: 012-748-6066 / 6060 / 6058

Fax: 012-323-9574

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

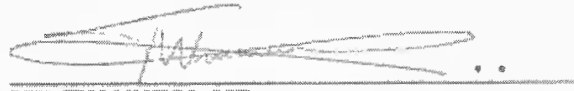
DEPARTMENT OF EMPLOYMENT AND LABOUR

NO. R. 3665

14 July 2023

LABOUR RELATIONS ACT, 1995
CANCELLATION OF GOVERNMENT NOTICES
BUILDING INDUSTRY BARGAINING COUNCIL (CAPE OF GOOD HOPE)


I, **THEMBELANI WALTERMADE NXESI**, Minister of Employment and Labour, hereby, in terms of section 32(7) of the Labour Relations Act, 1995, cancel Government Notices No. R.425 of 12 May 2017, R.1513 of 22 November 2019, R. 224 of 28 February 2020 and R. 2675 of 28 October 2022 with effect from the second Monday after the date of publication of this notice.



MR TW NXESI, MP
MINISTER OF EMPLOYMENT AND LABOUR
DATE: 30/06/2023

UMNYANGO WEZEMISEBENZI NEZABASEBENZI
UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA-1995
UKUHOXISWA KWEZAZISO ZIKAHULUMENI
UMKHANDLU WOKUXOXISANA PHAKATHI KWABAQASHI
NABASEBENZI EMBONINI YEZOKWAKHA (IKAPA ELIHLE
LESETHEMBISO)

Mina, **THEMBELANI WALTERMADE NXESI**, uNgqongqoshe Wezemisebenzi NezabaSebenzi ngokwesigaba 32(7) soMthetho Wobudlelwano KwezabaSebenzi ka-1995 ngihoxisa iZaziso zikaHulumeni ezinguNombolo R. 425 somhlaka 12 kuNhlaba 2017, R.1513 somhlaka 22 kuLwezi 2019, R.224 somhlaka 28 kuNhlolanja 2020 kanye nonombolo R.2675 somhlaka 28 kuMfumfu 2022 kusukela ngoMsombuluko wesibili emva kosuku lokushicilelwa kwalesisaziso.



MNUMZANE TW NXESI, MP
UNGQONGQOSHE WEZEMISEBENZI NEZABASEBENZI
USUKU: 30/06/2023

DEPARTMENT OF EMPLOYMENT AND LABOUR

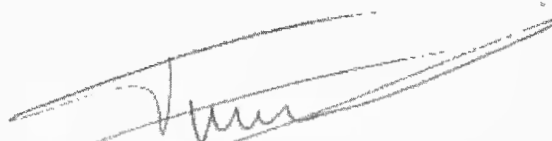
NO. R. 3666

14 July 2023

LABOUR RELATIONS ACT, 1995

**BARGAINING COUNCIL FOR THE FURNITURE MANUFACTURING
INDUSTRY KWAZULU NATAL: EXTENSION TO NON-PARTIES OF THE
MAIN COLLECTIVE AMENDING AGREEMENT**

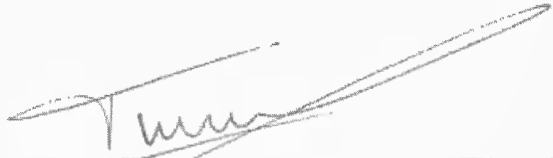
I, **THEMBELANI WALTERMADE NXESI**, Minister of Employment and Labour, hereby in terms of section 32(2) of the Labour Relations Act, 1995, declare that the Collective Agreement which appears in the Schedule hereto, which was concluded in the **Bargaining Council for the Furniture Manufacturing Industry KwaZulu Natal**, and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the Agreement, shall be binding on the other employers and employees in that Industry with effect from the Second Monday after publication of this Notice and shall remain in force until the 30 June 2027.



MR TW NXESI, MP
MINISTER OF EMPLOYMENT AND LABOUR
DATE: 30/06/2023

UMNYANGO WEZEMISEBENZI NEZABASEBENZI**UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA-1995****BARGAINING COUNCIL FOR THE FURNITURE MANUFACTURING
INDUSTRY KWAZULU NATAL: UKWELULELWA KWESIVUMELWANO
PHAKATHI KWABAQASHI NABASEBENZI ESIYINGQIKITHI SELULELWA
KULABO ABANGEYONA INGXYENYE YESIVUMELWANO**

Mina, **THEMBELANI WALTERMADE NXESI**, onguNgqongqoshe Wezemisebenzi neZabasebenzi, ngokwesigaba 32(2) soMthetho Wobudlelwano Kwezabasebenzi ka-1995, ngazisa ukuthi isivumelwano sabaqashi nabasebenzi esitholakala kwiSheduli yesiNgisi exhunywe lapha, esenziwa kwi **Bargaining Council for the Furniture Manufacturing Industry KwaZulu Natal**, ngokwesigaba 31 soMthetho Wobudlelwano Kwezabasebenzi, ka 1995 esibopha labo abasenzayo, sizobopha bonke abanye abaqashi nabasebenzi kuleyoMboni, kusukela ngomSombuluko wesibili emuva kokushicilelwa kwalesisaziso kuze kube isikhathi esiphela ngomhlaka 30 kuNhlangulana 2027


MNUMZANE TW NXESI, MP
UNGQONGQOSHE WEZEMISEBENZI NEZABASEBENZI
USUKU: 30th Dec 2023

SCHEDULE**BARGAINING COUNCIL FOR THE FURNITURE MANUFACTURING
INDUSTRY, KWAZULU-NATAL****MAIN COLLECTIVE AMENDING AGREEMENT**

in accordance with the provisions of the Labour Relations Act, 1995, made and entered
into by and between the

**KwaZulu-Natal Furniture Manufacturers' Association and
Allied Business Association**

(hereinafter referred to as the "employers" or the "employers' organisation") of the one
part,

and the

National Union of Furniture and Allied Workers' of South Africa

(hereinafter referred to as the "employees" or the "trade unions") of the other part, being
the parties to the Bargaining Council for the Furniture Manufacturing Industry, KwaZulu-
Natal to extend, amend the Agreement published under Government Notices No. R. 427
of 15 March 2019, R.601 of 15 October 2021, R.411 of 9 July 2021 and R. 1778 of 2
May 2023.

PART 1**1. SCOPE OF APPLICATION**

1. The terms of this Agreement shall be observed in the Furniture Manufacturing Industry, as
defined hereunder, in KwaZulu-Natal in the Magisterial Districts of Camperdown,
Chatsworth, Durban, Inanda, Municipal Area of KwaDukuza also referred to as Ilembe or
Lower Tugela, Pietermaritzburg, Pinetown, Mount Currie and the Municipal Area of
Mandini also referred to as Isithebe.

"Furniture Manufacturing Industry": means without in any way limiting the ordinary
meaning of the expression, the manufacture of furniture either in whole or in part of all
types of furniture irrespective of the materials used and shall include the following:

- 1 -

↓ AD

(a) Furniture:

Assembling of all items and / or components of furniture, repairing, spraying, polishing, re-polishing, wood machining, veneering, woodturning, carving, painting, staining, wood bending and laminating, the making of and / or repairing of frames, loose covers and / or cushions. Furniture manufacturing shall also include hotel, tea room or restaurant furniture, office, church, school, bar and theatre furniture, cabinets for musical instruments and radio cabinets. The veneering, laminating, papering and / or wrap of all types of doors, large or small, including the manufacturing of all items or components, whether or not such items are intended to be free standing, built in and / or affixed to a building as listed in (i) to (vii) below :

- (i) dressers, cupboards, units for the housing of sinks and appliances, grocery cupboards, shelves, pigeon holes, worktops, tables, chairs, benches and pelmets ;
- (ii) multi purpose cabinets which can be used either singly or in combination with each other for various purposes, including kitchen dressers, kitchen cupboards and fittings including cupboards and / or cabinets in any other part of a building ;
- (iii) headboards and pedestals for beds, wardrobes and wall units ;
- (iv) other cabinets and cupboards, benches, tables, chairs, benches for laboratories, shops, offices or banks ;
- (v) counters, shelves and cupboards for use in bars, hotels, shops, offices or banks.
- (vi) the assembly of and fitting in any building of any type of furniture ;
- (vii) the repairing or remedying in any building of any type of furniture ;

(b) Bedding :

The manufacture and / or processes involved in the manufacture of bedding, including all types of mattresses, spring mattresses, overlays, pillows, bolsters, spring units, bed spring unit mattresses and studio couches, which is designed for seating and / or conversion into a bed and of which the frame is constructed



mainly of metal and the seating and / or sleeping surface consists of a mattress and / or cushion.

(c) Upholstery :

The upholstering and / or re-upholstering of all types of furniture, or item of furniture, bedding, pelmets and mattress bases.

(d) Curtain Making :

The making, altering, repairing and / or fitting of curtains, rails, rods and pelmets.

(e) Cane Furniture :

The manufacturing of furniture made principally of wicker, cane and / or grass.

(f) Ancillary Items :

The manufacture in a factory, building and / or elsewhere in conjunction with items specified under (a) to (e) products of which wood constitutes the main component, which shall include plywood, veneer boards, chip board, laminated board, block board and / or any similar product for use in ;

- (i). the erection, completion, renovation, repair, maintenance or alteration of permanent finish of buildings or structures, including but not limited to mouldings, skirting boards, panelling, shelving, banisters, partitioning and shall include doors and door frames, windows and window frames.

- (g)** Manufacturing of metal furniture, metal bedsteads and furniture manufactured wholly from plastic materials, shall be excluded.

2. Notwithstanding the provisions of sub-clause (1), the provisions of this Collective Agreement shall –

- (a) only apply in respect of employees for whom minimum wages are prescribed in this Agreement and employers of such employees;



- (b) apply to learners in so far as they are not inconsistent with the provisions of the Skills Development Act, 1998, or any contracts entered into or any conditions fixed thereunder;
 - (c) not apply to professional, technical, administrative, sales and office staff: Provided that such employees are in receipt of regular remuneration in excess of the maximum rate prescribed in Annexure A of this Agreement, plus R35.00 ;
 - (d) not apply to managers, sub-managers, foremen and supervisory staff if such employees are in receipt of regular remuneration of not less than R132,870.44 per annum or, R156,312.93 per annum where the employer of such employee does not provide or maintain a registered retirement fund and a registered medical aid fund. These limits shall be increased from year to year by the same percentages as the increases granted to employees earning the highest rate set out in Annexure A of this Agreement;
- (3) Notwithstanding the provisions of sub-clauses (1) and (2), employers who carry on not more than one business within the scope of application of Part 2 Annexure A of this Agreement and who employs less than five employees at all times in or in connection such business, shall be entitled to the following phasing-in concessions: Provided that their employees consent to it, in writing in the prescribed form:

Phase One : First two years from Commencement.

During this period, the employer shall comply with the NMW in terms of Wages. The employer shall be exempt from all the other provisions as contained under Annexure A, except for the provisions of Clause 6 under Part 2 of Annexure A, provided that :

Any pro-rata holiday pay benefits accrued by employees during the first two years from commencement, must be paid by the employer in terms of the Basic Conditions of Employment Act, 1997 as amended, when due.

Phase Two : Third year from Commencement.

During this period, employees must be remunerated as per the NMW applicable, provided that the employer complies with the following:

Any pro-rata holiday pay benefits accrued by employees during the third year of commencement, must be paid by the employer in terms of the Basic Conditions of

Employment Act 1997 as amended when due, including compliance under Part 2 of Annexure A.

Phase Three : Fourth year from Commencement.

During this period, employees must be remunerated as per the NMW applicable, provided that the employer complies with Clause 6, Part 2 of Annexure A.

In addition, the following contributions shall come into effect :

Clause 15 – Holidays and Holiday Fund read with Part 2 Schedule A Clause 5 Holiday Fund.

Phase Four : Fifth year from Commencement.

During this period, employees must be remunerated as per the NMW applicable, provided that the employer complies with the following :

- (a) Clause 15 Holidays and Holiday Fund, read with Part 2 Schedule A, Clause 6 Holiday Fund.
- (b) Provident Fund and Mortality Benefit contributions as prescribed under that Collective Agreement as amended and extended from time to time.

Phase Five : Sixth year onwards.

All provisions of the Main Collective, Provident Fund and Mortality Benefit Association Collective Agreements which includes Part 2 Annexure A as amended and extended from time to time shall apply.

The provisions of Sub-Clause (3) above shall not apply where an employer has more than four employees in his employ at the date of coming into operation of this Agreement, and subsequently reduces this number of employees to fewer than five.

5. New Employees :

Phasing In Provision: For new employees in existing establishments other than those as identified under Sub-clause 1(3) excluding employees falling within the Scope of Annexures B and C.

A two year phasing in provision for new employees shall apply after coming into operation of this Agreement in relation to employers and employees falling under the Scope of Part 2 Schedule A, as follows :

- (a) Provident Fund - exempted.
- (b) Leave pay to be paid for 16 days only, directly to the employee.
- (c) Mortality Fund contributions of 0.50 cents per employer and 0.50 cents per employee per week to be paid monthly towards the Mortality Benefit Association as per Chapter III of the Natal Furniture Workers' Mortality Benefit Association as it appears in Government Gazette No. 34463 dated 22 July 2011, published under Regulation No. R 589 read with correction notice under Gazette No 34511, Regulation No. 642 dated 12 August 2011, including any successor thereof,
- (d) Full compliance with the provisions towards the Holiday Fund, Provident Fund and Natal Furniture Workers' Sick Benefit Society Collective Agreements, from the third year onwards.

2. PERIOD OF OPERATION OF AGREEMENT

- 1 This Agreement shall be binding on the Parties to this Agreement as from 01 July 2023 and if for non parties this Agreement comes into effect after 01 July 2023 then the implementation date of this Agreement shall be from the date as determined by the Minister of Employment and Labour.
- 2 The Agreement shall remain in force for the period ending 30 June 2027.

PART 2

ANNEXURE A

- 3. Replace Annexure A with the following:

"ANNEXURE A

1. SCOPE OF APPLICATION

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- 1 This part of the Agreement applies to the Magisterial Districts of Camperdown, Chatsworth, Durban, Inanda, Pietermaritzburg, Pinetown.

2. PERIOD OF OPERATION

- (1) This part of the Agreement is effective from the coming into operation of this Agreement until 30 June 2025.

3. WAGE LEVELS

- 3.1. Wage rates shall be based on hourly rate of pay for the duration of this Agreement.
- 3.2. The wage levels of wage categories referred to in Part 1 Clause 10 of this Agreement, shall apply as per Table A in the first full pay week of coming into operation of this Agreement.
- 3.3. The wage levels as per Table A to be increased by the same percentage increase applied to the national minimum wage.

Table A :

Occupational Skills Level	First full pay week in July 2023 for parties and for non-parties if the Agreement comes into effect after the First full pay week in 1 July 2023 then the implementation date of this provision/clause will be from the date as determined by the Minister	First full pay week in July 2024
Unskilled	As per National Minimum Wage	As per National Minimum Wage
Semi Skilled	R27-07 per hr	R28-70 per hr
Skilled	R28-60 per hr	R30-31 per hr
Chargehand/ Foreman/ Supervisor	R30-83 per hr	R32-68 per hr

4. WAGE INCREASE

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- 4.1. **Party Shops** : Subject to the provisions of Sub-Clause 4.3 and 4.4, all categories of employees to receive a 6,5% wage increase on actual wages paid as from the 1 July 2023.
- 4.2. For those employees whom received the awarded National Minimum Wage increase, a topping up to their wages will be increased by the percentage differential between the across the board increase and the National Minimum wage increase, from the **1 July 2023**.
- 4.3. **Non-Party Shops** : All categories of employees to receive an increase of 6,5% on actual wages paid from **1 July 2023 or if the Agreement comes into effect after 1 July 2023 then the implementation date of this provision/clause will be from the date as determined by the Minister.**
- 4.4. For those employees whom received the awarded National Minimum Wage increase, a topping up to their wages will be increased by the percentage differential between the across the board increase and the National Minimum wage increase, from the **1 July 2023 or if the Agreement comes into effect after 1 July 2023 then the implementation date of this provision/clause will be from the date as determined by the Minister.**
- 4.5. The wage increases as per Sub-Clause 4.1. to 4.4. above, shall be subject to re-negotiations for the affected period as follows :
- (a) In the event that the CPI rate be below 3,9% or above 9% the Parties to this Agreement shall meet to re-negotiate the wage increase relating to the period affected.
- 4.6. Wage increase per category as from the first **July 2024** are as follows:-
- 4.7. **All** categories of employees to receive a 6% wage increase on actual wages paid as from the 1 July 2024.

5. HOLIDAY FUND

Holiday Fund in line with Clause 15 in Part 1 of this Agreement shall be calculated as follows:

- (1) 12.5% of the employees' remuneration : Provided that –
- (a) the first and last working week of each calendar year shall be calculated at the actual number of ordinary hours worked in the establishment ; and

- (i) during the first week of commencement of employment, Holiday Fund shall be calculated in the same manner as in (i) above;
 - (ii) in the event that an employee has worked 44 hours and more in any one week, Holiday Fund shall be calculated on the actual ordinary as well as overtime hours worked ; and
 - (iii) where an employee is working in an establishment that works as ordinary hours, less than 44 hours a week, Holiday Fund shall be calculated as if such employee had worked 44 hours in any one week ;
 - (iv) if an employee has worked up to half an hour less than the aforesaid hours, Holiday Fund shall be calculated at 44 hours ; and
 - (v) in the case of a casual employee, the employer shall pay him upon termination of employment, leave pay calculated at 12,5 per cent of the wages earned by him ; and
 - (vi) in the case of a working partner, director or member, Holiday Fund shall be calculated at 12,5 per cent of the highest prescribed rate in Part 2 Annexure A to this Agreement.
- (b) 10% of the employees' remuneration if he has worked less than 43,5 hours in any one week.
- (c) 7.5% of the employees' remuneration if he has worked less than 40 hours in any one week.
- (2) In the event that an employee is off due to illness, Holiday Fund shall be calculated as prescribed in Part 2, Annexure A of this Agreement ; Provided that –
- (a) a valid sick certificate is produced ; and
 - (b) days off sick have not exceeded 30 days in any one year commencing in January and ending in December of each year.
- (3) In the event that a paid public holiday falls within a normal working week, Holiday Fund shall be calculated in accordance with sub-clause (1) (a) above.
- (4) All amounts payable in terms of Holiday Fund, shall be paid by the employer.
- (5) Payments shall be made month by month and not later than the 10th day of each month following.
- (6) All payments in respect of Holiday Fund, shall be made to the Secretary of the Council for deposit into the Furniture Manufacturing Industry, KwaZulu-Natal Holiday Fund.
- (7) Any payment in terms of Sub-Clause 6 above, shall be in the prescribed form as specified by the Council from time to time.

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- (8) Arrear payments : An employer that is in arrears with his Holiday Fund payments and who, after being warned in writing by the Council, fails to forward such outstanding amounts within seven days of the date such notice was issued, shall by further notification submit the amounts payable in terms of this clause weekly, subject to the following :
- (a) The weekly amounts to reach the Secretary of the Council no later than the Friday following the pay day of the week in terms of which the amounts are due.
 - (b) The payment submitted in respect of the last pay day of each calendar month, shall be accompanied by the statement as referred to under sub-clause (7) above.
 - (c) An employer to whom the provisions of this sub-clause has been applied, may only revert to monthly payments after being duly notified by the Council in writing.
 - (d) Interest : Should any amount due in terms of this Clause not be received by the Secretary of the Council by the 15th day of the month following in which the monies are payable, the employer shall pay interest on such amount or on the lesser amount as remains unpaid, calculated at :
 - (i). 2% per month ; or
 - (ii) at the prevailing prime overdraft rate of First National Bank, whichever rate is the higher, per month or part thereof from the 15th day until the day upon which payment is actually received.
- (9) The Council shall be entitled in its absolute discretion to waive payment of such interest or part thereof.
- (10) Holiday Fund payable in terms of this Clause shall be paid by the employer in addition to any remuneration payable to an employee in terms of this Agreement and shall not be deducted from the remuneration of such employee.
- (11) The Council shall retain a record of each employee of whom payments are made to the Holiday Fund in terms of this Clause, as well as the amount paid on his behalf.
- (12) Holiday Fund shall be distributed to employees as follows :
- (a) Distribution shall not commence earlier than the first Monday in December ; and
 - (b) shall be completed by the 15th day of December, the amount shall be ;
 - (i) the amount contributed by the employer in respect of such employee during the year ending on the last pay day in September of each year.
 - (ii) the validation slip issued to employees, shall reflect the leave pay and bonus portion separately.



- (iii) Employees who are absent on the first day after the payment of leave pay or bonuses in the month of December, prior to the annual shut-down, without a valid sick certificate, shall be paid his leave pay and / or bonus on the last day before going on annual leave from the following year onwards, provided that the employer forward a list of names and benefit numbers to the Secretary of the Council by no later than the month of August of each year.
- (13) Learners : If a learner receives holiday pay in terms of this Clause, less than the remuneration he would have received had the establishment not closed and he had worked the ordinary hours of work during the leave period, the employer shall pay him in addition an amount equal to the difference between holiday pay received and the amount he would have earned had he worked.
- (14) Unclaimed Holiday Fund_ : in the event that Holiday Fund monies remain unclaimed, the following shall apply :
- (a) if unclaimed for a period of 2 years from date it became payable, such unclaimed monies shall ;
- (i) accrue to the general fund of the Council : Provided that the Council shall be liable for payment from the general fund of any Holiday Fund monies claimed during a further period of 3 years after accrual to the General Fund ;
- (15) The Holiday Fund shall be administered by the Council ; and
- (a) All expenses incurred in connection with such administration shall form a charge against the Council.
- (b) All monies paid to the Holiday Fund shall be deposited in a bank account to be opened in the name of the Fund.
- (c) Payments from the Holiday Fund be either by ;
- (i) cheque drawn on the Funds' account and duly signed by two persons as authorised by the Council's Constitution ; or
- (ii) by electronic transfer.
- (d) Monies contributed to the Holiday Fund may be invested in ;
- (i) Fixed deposit ;
- (ii) on call with a registered commercial bank.
- (e) Interest accruing from such investment shall be credited to the general fund of the Council.
- (16) Audit : The Council shall appoint a public accountant for the purpose of ;
- (1) auditing the accounts of the Holiday Fund : Such audit shall-
- (a) commence as soon as possible after 30 June of each year ; the Secretary of the Council shall –



- (b) prepare an account of income and expenses of the Fund for the preceding 12 months as well as a statement reflecting the Funds' assets and liabilities ; which
- (c) shall be audited by the public accountant ; and
- (d) signed by the Secretary and Chairperson of the Council.
- (e) copies of the signed accounts and any management reports shall thereafter lie for inspection at the offices of the Council.
- (f) copies of the said accounts together with any management report shall be forwarded to the Registrar of Labour Relations as contemplated by Section 54 of the Act.

6. COUNCIL EXPENSES.

- (1) Every employer shall deduct a Council Levy in the amount of R6.22 from the period of operation of this Agreement to 30 June 2024 and shall add a like amount and pay the total sum to the Secretary of the Council in the prescribed form over to the Secretary of the Council by no later than the 10th day of each month following.
- (2) The Council shall be entitled to recover from an employer all monies in respect of legal fees and expenses incurred in the recovery of any monies due in terms of this Agreement, but not paid over to the Council at the appropriate attorney and client scale.
- (3) Every employer shall deduct a Council Levy in the amount of R6.60 from the first July 2024 to 30 June 2025 and shall add a like amount and pay the total sum to the Secretary of the Council in the prescribed form over to the Secretary of the Council by no later than the 10th day of each month following.
- (4) The Council levy to be increased annually by the same wage increase detailed in 4.1.

7. DEATH AND DISABILITY SCHEME

- (1) A Death and Disability Scheme for all employees within the Scope of Application of this Part of the Agreement is hereby established.
- (2) Service provider for the duration of this Agreement shall be the Fedgroup.
- (3) Contributions :
 - (a) Employer R20.34 per month.
 - (b) Employee R20.33 per month.



(4) Benefits :

- (a) All benefits are up to the age of 60.
- (b) Life cover is equal to once annual income capped at a maximum of R12 000.00
- (c) Capital disability cover equal to once annual income capped at a maximum of R12 000.00
- (d) The Funeral cover for members is as follows :

Insured Amount

Employee	R15 000.00
Spouse	R15 000.00
Child (15 to 24 years old)	R15 000.00
Child (6 to 14 years old)	R7 500.00
Child (0 to 5 years old)	R3 750.00
Stillborn	R3 750.00

(5) Payment of Death and Disability :

All payments of the Death and Disability Scheme shall be as follows :

- (1) Payments shall be made month by month and not later than the 10th day of each month following.
- (2) All payments in respect of the Death and disability Scheme, shall be made towards the Secretary of the Council for payment to the Fedsure Group.
- (3) Any payment in terms of Sub-clause (2) above, shall be in the prescribed form as specified by the Council from time to time.
- (4) The employer shall pay both the employer and employee Death and Disability Scheme contributions in cases where an employee is on unpaid sick leave for a period of up to six (6) months, on condition that the employee has contributed to the Death and Disability Scheme for at least twelve (12) months prior to going off on unpaid sick leave.
- (5) Arrear payments : An employer that is in arrears with the payment of the Death and Disability Scheme and who, after being warned by the Council in writing, fails to forward such outstanding amounts within seven days of the date such notice was issued, shall by further notification, submit the amounts payable in terms of this clause, weekly, subject to the provisions of Clause 5, Sub-clauses (8) and (9), read with changes to the context thereof.

8. PROVIDENT FUND

- (1) Provident Fund contributions to be calculated at the hourly rate of pay on the date of coming into operation of this agreement as per Annexure A as it appears in the Provident Fund and Mortality Benefit Association Collective Agreement, dated 30 September 2016 and renewed under Gazette No. 40312 Regulation No. 1187, for the duration of this wage Agreement."

ANNEXURE B

4. Replace Annexure B with the following:

"ANNEXURE B

1. SCOPE OF APPLICATION

1. This part of the Agreement applies to the Municipal Area of Kwadakuza, also referred to as Ilembe and / or Lower Tugela.

2. PERIOD OF OPERATION

- 1 This Agreement shall be binding on the Parties as from 1 July 2023 until 30 June 2027
- 2 This agreement shall come into operation in respect of non-parties if the Agreement comes into effect after 1 July 2023 then the implementation date of this Annexure B will be from the date as determined by the Minister for the period ending 30 June 2027.

3. WAGE INCREASE

- 3.1. Period 1 July 2023 for parties and for non-parties if the Agreement comes into effect after 1 July 2023 then the implementation date of this provision/clause will be from the date as determined by the Minister until 30 June 2027:

3.2 As from the 1 July 2023 for parties and non-parties if the Agreement comes into effect after 1 July 2023 then the implementation date of this provision/clause will be from the date as determined by the Minister, the following wage increases shall apply :

(a)

Across the Board wage increase of 5,5% on actual wages as from the 1 July 2023 for parties and for non-parties if the Agreement comes into effect after 1 July 2023 then the implementation date of this provision/clause will be from the date as determined by the Minister.

For those employees whom received the awarded National Minimum Wage increase, a topping up to their wages will be increased by the percentage differential between the across the board increase and the National Minimum wage increase, from the 1 July 2023 for parties and for non-parties if the Agreement comes into effect after 1 July 2023 then the implementation date of this provision/clause will be from the date as determined by the Minister.

Year 2 – Percentage Increase

Across the Board wage increase of 5,5% on actual wages as from the 1 July 2024. For those employees whom received the awarded National Minimum Wage increase, a topping up to their wages will be increased by the percentage differential between the across the board increase and the National Minimum wage increase, from the 1 July 2024.

Year 3 – Percentage Increase

Across the Board wage increase of 5,5% on actual wages as from the 1 July 2025. For those employees whom received the awarded National Minimum Wage increase, a topping up to their wages will be increased by the percentage differential between the across the board increase and the National Minimum wage increase, from the 1 July 2025.

Year 4 – Percentage Increase

Across the Board wage increase of 5,5% on actual wages as from the 1 July 2026. For those employees whom received the awarded National Minimum Wage increase, a topping up to their wages will be increased by the percentage differential between the across the board increase and the National Minimum wage increase, from the 1 July 2026.

4. MINIMUM WEEKLY WAGE RATES

4.1. From 1 July 2023 for parties and for non parties if the Agreement comes into effect after 1 July 2023 then the implementation date of this provision/clause will be from the date as determined by the Minister until 30 June 2027:

Entry Level -	As per National Minimum Wage
Level 4 -	As per National Minimum Wage
Level 3 -	As per National Minimum Wage
Level 2 -	As per National Minimum Wage
Level 1 -	As per National Minimum Wage

5. LEAVE PAY

5.1. The employer to pay 15 working days leave pay calculated as per daily rate at shut down in December of each year directly to the employee and subject to 6.1

6. YEAR-END BONUS

6.1. It is agreed to implement an incentive scheme as follows:

Year 1 – 1 week

Year 2 – 1 week

Year 3 - 1 week

Year 4 – 1 week

The 1 week is in addition to the 15 working days leave pay.

The incentive scheme shall be operated as follows:

- The 1 week bonus shall be pro-rata for employees joining during the year;
- Absenteeism will be the only basis and proxy used as a measurement in the incentive scheme;
- Absenteeism will be measured from 1 September of each year to factory closure;
- Employees will earn 1 week's additional wage for 100% attendance;
- In the event of absence due to illness the employee will not be deemed to be absent in the following cases:
 - o The employee produces a certificate:

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- signed by a registered medical practitioner;
- issued by the clinic confirming dates of collection of chronic medication;
- A certificate issued by the clinic and accepted on a medical basis by the Employer;

In line with the practice of the metro area, the 15 working days leave pay to be paid over to the Bargaining Council on a monthly basis from 1 January 2024, for payment to employees.

The 1 week incentive bonus shall be paid directly to employees at year end.

7. COUNCIL EXPENSES

7.1. The Employer shall pay the Council a levy of R5.80 per employee per week from the 1 July 2023 for parties and for non-parties if the Agreement comes into effect after 1 July 2023 then the implementation date of this provision/clause will be from the date as determined by the Minister.

The Employer to deduct an amount of R4.20 from each employee from 1 July 2023 for parties and for non-parties if the Agreement comes into effect after 1 July 2023 then the implementation date of this provision will be from the date as determined by the Minister and to pay a total amount of R10.00 per employee per week monthly over to the Council in the prescribed form, by no later the 10th of each month following.

7.2 The Council shall be entitled to recover from an employer all monies in respect of legal fees as well as other expenses incurred in the recovery of all monies due not paid over to the Secretary of the Council at the appropriate attorney client scale in terms of this Agreement.

7.3 Every employer shall deduct a Council Levy from each employee as follows:

From 1 July 2024 – R4.45 per week

From 1 July 2025 – R4-70 per week

From 1 July 2026 – R4-95 per week

and pay the total sum to the Secretary of the Council in the prescribed form by no later than the 10th day of each month.

7.4 Every employer shall pay a Council Levy as follows:

From 1 July 2024 – R6-10 per week

From 1 July 2025 – R6-45 per week

From 1 July 2026 – R6-80 per week

and pay the total sum to the Secretary of the Council in the prescribed form by no later than the 10th day of each month.

7.5 The Council levy to be increased annually by the across the board wage increase.

8. PROVIDENT FUND

8. The Provident fund employee and employer contribution is agreed to be phased in and accumulated as follows:

8.1 Year 1 – 1,81% of actual wages

8.2 Year 2 – 3,62% of actual wages

8.3 Year 3 – 5,43% of actual wages

8.4 Year 4 – 7,25% of actual wages

The phase-in is applicable to employee and employer contributions towards the retirement fund and will result that employees contribute 7,25% and employers contribute 7,25% at the commencement of year 4.

The "New employees" clause shall apply to the first three months of employment only and the phase-in of the Provident fund shall be implemented from month four.

9. DEATH AND DISABILITY SCHEME

(1) A Death and Disability Scheme for all employees within the Scope of Application of this Part of the Agreement is hereby established.

(2) Service provider for the duration of this Agreement shall be the Fedgroup.

(3) Contributions :

(a) Employer R20.34 per month.

(b) Employee R20.33 per month.

(4) Benefits :

(a) All benefits are up to the age of 60.

(b) Life cover is equal to once annual income capped at a maximum of R12 000.00

(c) Capital disability cover equal to once annual income capped at a maximum of R12 000.00

(d) The Funeral cover for members is as follows :

- 18 -

Insured Amount

Employee	R15 000.00
Spouse	R15 000.00
Child (15 to 24 years old)	R15 000.00
Child (6 to 14 years old)	R7 500.00
Child (0 to 5 years old)	R3 750.00
Stillborn	R3 750.00

(5) Payment of Death and Disability :

All payments of the Death and Disability Scheme shall be as follows :

- (1) Payments shall be made month by month and not later than the 10th day of each month following.
- (2) All payments in respect of the Death and disability Scheme, shall be made towards the Secretary of the Council for payment to the Fedsure Group.
- (3) Any payment in terms of Sub-clause (2) above, shall be in the prescribed form as specified by the Council from time to time.
- (4) The employer shall pay both the employer and employee Death and Disability Scheme contributions in cases where an employee is on unpaid sick leave for a period of up to six (6) months, on condition that the employee has contributed to the Death and Disability Scheme for at least twelve (12) months prior to going off on unpaid sick leave.
- (5) Arrear payments : An employer that is in arrears with the payment of the Death and Disability Scheme and who, after being warned by the Council in writing, fails to forward such outstanding amounts within seven days of the date such notice was issued, shall by further notification, submit the amounts payable in terms of this clause, weekly, subject to the provisions of Clause 5, Sub-clauses (8) and (9), read with changes to the context thereof."

ANNEXURE C

5. Replace Annexure C with the following:

ANNEXURE C**1. SCOPE OF APPLICATION.**

- (1) This part of the Agreement applies in the Municipal Area of Mandini also referred as Isithebe.

2. PERIOD OF OPERATION

- (1) This part of the Agreement is effective from the coming into operation of this Agreement until 30 June 2027.

3. LEAVE PAY

- (1) The employer to pay 15 working days leave pay calculated as per the daily rate at shut down in December each year, directly to the employees subject to clause 6.

4. TRADE UNION SUBSCRIPTIONS

- (1) As per Clause 36 of Part 1 of this Agreement shall apply.

5. EXPENSES OF THE COUNCIL

- (1) The employer shall pay a Council levy in the amount of R9.00 per employee per week with no deduction from the wages of the employees paying towards the expenses of the Council.
- (2) The employer to pay the total amount for each employee over to the Secretary of the Council in the specified form, by no later than the 10th day of each month following.

6. BONUS

- (1) It is agreed to implement an incentive scheme as follows:

Year 1 – 1,59% of actual wages

Year 2 – 3,18% of actual wages

Year 3 - 4,77% of actual wages

Year 4 – 6,375% of actual wages

The incentive scheme shall be operated as follows:

- Absenteeism will be the only basis and proxy used as a measurement in the incentive scheme;

- Absenteeism will be measured from the 1 September of each year to factory closure;
- Employees shall forfeit 1 week's incentive bonus for 1 day of unauthorized absence, limited to 1 week forfeit per month ;
- In the event of absence due to illness the employee will not be deemed to be absent in the following cases:
 - o Inform/his/her supervisor that he/she will be absent for the day due to illness;
 - o The employee produces a medical certificate on return to work;
 - o Scheduled clinic visits for chronic conditions must be arranged with HR;

In line with the practice of the metro area, the 15 working days leave pay and incentive portion to be paid over to the Bargaining Council on a monthly basis, for payment to employees as follows:

Year 1 – 7,715% of actual wages

Year 2 – 9,305% of actual wages

Year 3 – 10,895% of actual wages

Year 4 – 12,50% of actual wages

The forfeited incentive portion shall be refunded to the Employer.

7. SICK LEAVE

- (1) As per Clause 30 of Part 1 of this Agreement shall apply.

8. SHORT TIME

- (1) As per Clause 9 of Part 1 of this Agreement shall apply.

9. MINIMUM WEEKLY WAGE RATE

- (1) The following minimum weekly wage rates per level shall apply with effect from coming into operation of this Agreement until 30 June 2027.

Entry Level	-	no entry level
Level 4 Unskilled	-	National minimum wage
Level 3 Semi-Skilled	-	National minimum wage
Level 2 Skilled	-	National minimum wage

Level 1 Chargehand

-

National minimum wage

- (2) In the event that the Government implements the national minimum hourly rate of pay or any amendments during the duration of this Agreement in terms of the National Minimum Wage Act and the hourly rates of pay of the employees above are below the national minimum hourly rate of pay, such hourly rates of pay shall be adjusted to the national minimum hourly rate of pay in accordance with the implementation date of such national minimum hourly rate of pay in terms of the National Minimum Wage Act.

10. WAGE INCREASE

Period 1 July 2023 for parties until 30 June 2027 and for non-parties if the Agreement comes into effect after 1 July 2023 then the implementation date of this provision/clause will be from the date as determined by the Minister. until 30 June 2027:

- 1 As from the 1 July 2023 for parties and for non-parties if the Agreement comes into effect after 1 July 2023 then the implementation date of this provision/clause will be from the date as determined by the Minister., the following wage increases shall apply :

(a)

Across the Board wage increase of **4%** on actual wages as from the **1 July 2023 for parties and for non-parties if the Agreement comes into effect after 1 July 2023 then the implementation date of this provision/clause will be from the date as determined by the Minister.**

For those employees whom did not benefit from the National Minimum Wage increase, will be awarded with an increase of **4%**, from the **1 July 2023 for parties and for non-parties if the Agreement comes into effect after 1 July 2023 then the implementation date of this provision/clause will be from the date as determined by the Minister.**

Year 2 – Percentage Increase

Across the Board wage increase of **4%** on actual wages as from the **1 July 2024.**

For those employees whom received the awarded National Minimum Wage increase, a topping up to their wages will be increased by the percentage differential between the across the board increase and the National Minimum wage increase, from the **1 July 2024.**

Year 3 – Percentage Increase

Across the Board wage increase of **4%** on actual wages as from the **1 July 2025.**

For those employees whom received the awarded National Minimum Wage increase, a topping up to their wages will be increased by the percentage

differential between the across the board increase and the National Minimum wage increase, from the **1 July 2025**.

Year 4 – Percentage Increase

Across the Board wage increase of **4%** on actual wages as from the **1 July 2026**. For those employees whom received the awarded National Minimum Wage increase, a topping up to their wages will be increased by the percentage differential between the across the board increase and the National Minimum wage increase, from the **1 July 2026**.

11. PROVIDENT FUND

11 The Provident fund employee and employer contribution is agreed to be phased in and accumulated as follows:

- 11.1 Year 1 – 1,81% of actual wages
- 11.2 Year 2 – 3,62% of actual wages
- 11.3 Year 3 – 5,43% of actual wages
- 11.4 Year 4 – 7,25% of actual wages

The phase-in is applicable to employee and employer contributions towards the retirement fund and will result that employees contribute 7,25% and employers contribute 7,25% at the commencement of year 4.

The “New employees” clause shall not apply to the phase in of the Provident Fund.

12. DEATH AND DISABILITY SCHEME

- (1) A Death and Disability Scheme for all employees within the Scope of Application of this Part of the Agreement is hereby established.
- (2) Service provider for the duration of this Agreement shall be the Fedgroup.
- (3) Contributions :
 - (a) Employer R20.34 per month.
 - (b) Employee R20.33 per month.
- (4) Benefits :
 - (a) All benefits are up to the age of 60.
 - (b) Life cover is equal to once annual income capped at a maximum of R12 000.00
 - (c) Capital disability cover equal to once annual income capped at a maximum of R12 000.00
 - (d) The Funeral cover for members is as follows :
Insured Amount

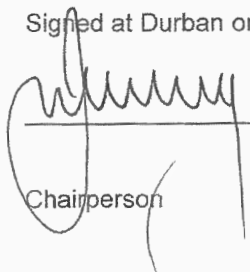
Employee	R15 000.00
Spouse	R15 000.00
Child (15 to 24 years old)	R15 000.00
Child (6 to 14 years old)	R7 500.00
Child (0 to 5 years old)	R3 750.00
Stillborn	R3 750.00

(5) Payment of Death and Disability :

All payments of the Death and Disability Scheme shall be as follows :

- (1) Payments shall be made month by month and not later than the 10th day of each month following.
 - (2) All payments in respect of the Death and disability Scheme, shall be made towards the Secretary of the Council for payment to the Fedsure Group.
 - (3) Any payment in terms of Sub-clause (2) above, shall be in the prescribed form as specified by the Council from time to time.
 - (4) The employer shall pay both the employer and employee Death and Disability Scheme contributions in cases where an employee is on unpaid sick leave for a period of up to six (6) months, on condition that the employee has contributed to the Death and Disability Scheme for at least twelve (12) months prior to going off on unpaid sick leave.
- (5) Arrear payments : An employer that is in arrears with the payment of the Death and Disability Scheme and who, after being warned by the Council in writing, fails to forward such outstanding amounts within seven days of the date such notice was issued, shall by further notification, submit the amounts payable in terms of this clause, weekly, subject to the provisions of Clause 5, Sub-clauses (8) and (9), read with changes to the context thereof."

Signed at Durban on this 22nd day of June 2023.


Chairperson



Vice-Chairperson

A.C Davids
Secretary of the Council

[Handwritten marks]

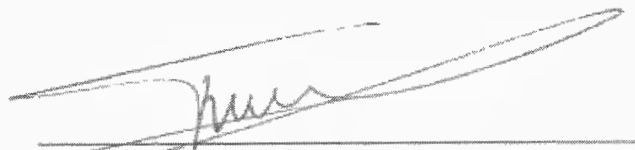
DEPARTMENT OF EMPLOYMENT AND LABOUR

NO. R. 3667

14 July 2023

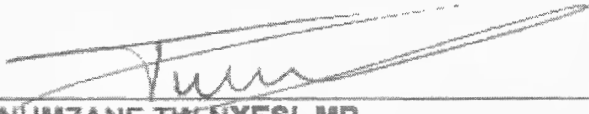
LABOUR RELATIONS ACT, 1995**BUILDING INDUSTRY BARGAINING COUNCIL (CAPE OF GOOD HOPE):
EXTENSION TO NON-PARTIES OF THE MAIN CONSOLIDATED
COLLECTIVE AGREEMENT**

I, **THEMBELANI WALTERMADE NXESI**, Minister of Employment and Labour, hereby in terms of section 32(2) read with section 32(5) and 32(8) of the Labour Relations Act, 1995, declare that the provisions of the collective agreement which appears in the Schedule hereto, which was concluded in the **Building Industry Bargaining Council (Cape of Good Hope)** and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the agreement, shall be binding on the other employers and employees in that Industry, with effect from the second Monday after the date of publication of this agreement and for the period ending 31 October 2025.


MR TW NXESI, MP
MINISTER OF EMPLOYMENT AND LABOUR
DATE: 30/06/2023

UMNYANGO WEZEMISEBENZI NEZABASEBENZI**UMTHETHO WOBUDLELWENO KWEZABASEBENZI KA-1995****UMKHANDLU WOKUXOXISANA PHAKATHI KWABAQASHI NABASEBENZI
EMBONINI YEZOKWAKHA (IKAPA ELIHLE LESETHEMBISO):****UKWELULWA KWESIVUMELWANO SABAQASHI NABASEBENZI
ESIHLANGANISAYO SELULELWA KULABO ABANGEYONA INGXYENYE
YESIVUMELWANO**

Mina, **THEMBELANI WALTERMADE NXESI**, uNgqongqoshe Wezemisebenzi NezabaSebenzi, ngokwesigaba 32(2) sifundwa nesigaba 32(5) kanye nesigaba 32(8) soMthetho Wobudlelwano KwezabaSebenzi ka-1995, ngazisa ukuthi isiVumelwano sabaqashi nabasebenzi esitholakala kwiSheduli yesiNgisi exhunywe lapha, esenziwa uMkhandlu Wokuxoxisana phakathi Kwabaqashi Nabasebenzi Embonini yezokwakha (Ikapa Elihle Lesethembiso), futhi ngokwesigaba 31 soMthetho Wobudlelwano kwezabaSebenzi, ka 1995 esibopha labo abasenzayo, sizobopha bonke abanye abaqashi nabasebenzi kuleyomboni, kusukela ngoMsombuluko wesibili emva kokushicilelwa kwalesisi Vumelwano futhi kuze kube ngumhlaka 31 kuMfumfu 2025.


MNUMZANE TW NXESI, MP
UNGQONGQOSHE WEZEMISEBENZI NEZABASEBENZI
USUKU: 30/06/2023

SCHEDULE**BUILDING INDUSTRY BARGAINING COUNCIL (CAPE OF GOOD
HOPE)****COLLECTIVE AGREEMENT**

In accordance with the provisions of the Labour Relations Act No. 66 of 1995, made and entered into by and between the:

CONSOLIDATED EMPLOYER ORGANISATION**(CEO)****MASTER BUILDERS AND ALLIED TRADES' ASSOCIATION BOLAND****(MBA BOLAND)****MASTER BUILDERS AND ALLIED TRADES' ASSOCIATION WESTERN CAPE****(MBA WC)**

(hereinafter referred to as employers or the "employers' organisations"), of the one part,
and the

BUILDING WOOD AND ALLIED WORKERS' UNION OF SOUTH AFRICA**(BWAWSA)****BUILDING WORKERS' UNION****(BWU)****NATIONAL UNION OF MINEWORKERS****(NUM)**

(hereinafter referred to as employees or the "trade unions"), of the other part, being the parties
to the Building Industry Bargaining Council (Cape of Good Hope).

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CHAPTER ONE: SCOPE OF APPLICATION, PERIOD OF APPLICATION, INDUSTRIAL ACTION, LEVELS OF BARGAINING AND DEFINITIONS

1. SCOPE OF APPLICATION

- 1) The terms of this Agreement shall be observed in the Building Industry –
 - a) by all employers who are members of the employers' organisations and by all employees who are members of the trade unions;
 - b) by all employers who are not members of the employers' organisations and by all employees who are not members of the trade unions;
 - c) as defined hereunder excluding all electrical activities undertaken in the Magisterial Districts of Bellville, Goodwood, Kuils River, Malmesbury, Mitchells Plain, Paarl, Simonstown, Somerset West, Stellenbosch, Strand, The Cape, Wellington, Wynberg and the Local Municipality of Overstrand; and
 - d) as defined hereunder including the manufacture and erection of gravestones and cemetery memorials of all types in the Magisterial Districts of Bellville, Goodwood, Kuils River, Malmesbury, Mitchells Plain, Paarl, Simonstown, Somerset West, Stellenbosch, Strand, The Cape, Wellington, Wynberg and the Local Municipality of Overstrand; and
- 2) Notwithstanding the provisions of sub clause (1), the terms of this Agreement shall apply to -
 - a) employees in the Building Industry undergoing training consistent with the provisions of the Skills Development Act, 1998;
 - b) temporary employment services, labour-only contractors, working partners, working directors, principals, contractors and working members of close corporations who do work in the Building Industry.
- 3) Notwithstanding the provisions of sub clause (1), the terms of this Agreement shall not apply to –
 - a) clerical employees, supervisory staff and administrative staff, unless hourly paid; and
 - b) university students and graduates in Building Science, and to construction supervisors, construction surveyors and other persons doing practical work in order to complete their academic training; and

- c) non-parties unless the Agreement is extended to non-parties in respect of clauses 45, 46 and 48 of this Agreement.

2. PERIOD OF OPERATION OF AGREEMENT

- 1) This Agreement shall come into operation on the date fixed by the Minister of Employment and Labour as the effective date.
- 2) The Minister of Employment and Labour may extend the operation of the Agreement to non-parties or decline to extend the Agreement to non-parties from the effective date.
- 3) The Agreement shall remain in force until 31 October 2025.

3. INDUSTRIAL ACTION

No person who is subject to the provisions of this Collective Agreement entered into by the parties shall engage or participate in a strike or lockout or any conduct in furtherance or in support of a strike or lockout in respect of any matter regulated by this Agreement for its duration.

4. LEVELS OF BARGAINING

The Council shall be the sole forum for negotiating all matters pertaining to all agreements entered into by the Council.

5. DEFINITIONS

- 1) Any expressions used in this Agreement which are defined in the Labour Relations Act 66 of 1995, shall have the same meaning as in that Act, and any reference in this Agreement to an Act shall include any amendment to such Act; further, unless the context otherwise indicates-
- 2) In this Agreement, unless the context indicates otherwise words importing the singular shall include the plural and vice versa, words importing any gender shall include the other gender and words importing persons shall include partnership and bodies corporate or any other format of business.

5A: GENERAL DEFINITIONS

"Act" means the Labour Relations Act 66 of 1995.

"Alternative building systems": including all alternative building systems utilized for the purpose of erecting, completing, renovating, repairing, maintaining or altering buildings or structures. These systems include, but are not limited to the following type of activities:

- a) Tilt-up construction techniques
- b) Use of Interlocking or self-locking blocks
- c) Hollow core walling technique
- d) Metal containers to form a structure

"Apprenticeship" means a Learner/Apprentice registered with the Construction SETA as an apprentice.

"Area A" means the Magisterial Districts of Bellville, Goodwood, Kuils River, Mitchells Plain, Simonstown, Somerset West, Strand, The Cape, Wynberg.

"Area B" means the Magisterial Districts of Paarl, Stellenbosch, and Wellington.

"Area C" means the Magisterial District of Malmesbury.

"Area D" means the Municipal area of Overstrand.

"Asphalting" includes covering floors or flat and/or sloping roofs, waterproofing or damp-proofing basements or foundations, whether or not with prepared roll roofing or asphalt sheeting having glazed or unglazed surfaces, whether or not using tar, macadam, or any other type of solid or semi-solid asphalt, mastic or emulsified asphalt or bitumen's, applied either hot or cold to such roofs, floors, basements or foundations;

"BIBC" means "the Building Industry Bargaining Council (Cape of Good Hope)"

"Block" means a walling unit of which the face dimensions exceed either 300mm in length or 150mm in height.

“Bricklaying” includes concreting and fixing glass bricks, concrete blocks, slabs or plates, tiling walls and floors, jointing brickwork, pointing, paving, mosaic work, facing work in slate, in marble and in composition, drain laying, slating, roof tiling, cement-caulking earthenware pipes, bituminous work, asphaltting and sheeting, and the erecting of prefabricated concrete structures or garden walls and/or boundary walls with posts or slabs;

“Building Industry” or “Industry” means, subject to the provisions of any demarcation determination made in terms of section 76 of the Labour Relations Act, 1956, and without in any way limiting the ordinary meaning of the expression, the industry in which employers and their employees are associated for the purpose of erecting, completing, renovating, repairing, maintaining or altering buildings or structures and/or making articles for use in the erection, completion or alteration of buildings or structures, whether the work is performed, the material is prepared or the necessary articles are made on the sites of the buildings or structures or elsewhere: Provided that such manufacturing activities shall be limited to the specific manufacturing activities that are mentioned in the definitions of the trades and occupations, and shall further be limited to the carrying out of such activities by an employer who is associated with his employees for the purpose of erecting, completing, renovating, repairing, maintaining or altering buildings or structures for use by him in the conducting of building work, and includes all work executed or carried out by persons therein who are engaged in the following trades or subdivisions thereof, including excavations and the preparation of sites for buildings as well as the demolition of buildings, unless such demolitions were not carried out for the purpose of preparing the sites for building operations but does not include clerical employees and administrative staff, nor the wiring of or installation in buildings of lighting, heating or other permanent electrical fixtures, and the installation, maintenance or repair of lifts in the buildings:

“Concrete work” includes the supervision of concrete being placed in situ and levelling the surfaces thereof;

“Contractors” means a person or firm that undertakes a contract to provide materials or labour to perform a service or do a job.

- a) **“Labour only contractor”** means Designating or relating to a form of contracting in which the contractor supplies only the labour for a particular piece of work; (also) designating or relating to a contractor.
- b) **“Main Contractor”** means a general contractor, or prime contractor who is responsible for the day-to-day oversight of a construction site, management of vendors and trades, and the communication of information to all involved parties throughout the course of a building project.

- c) "Sub-Contractors" means a company or person whom a main contractor hires to perform a specific task as part of an overall project and normally pays for services provided to the project.

"Continuous employment" means any period during which an employee has been continuously employed by the same employer, and for this purpose periods of employment with the same employer broken by not more than 60 days from date of termination of employment to re-engagement of the employee owing to the discharge or retrenchment of the employee by the employer shall be deemed to be continuous service;

"Council" means the Building Industry Bargaining Council (Cape of Good Hope), registered in terms of section 29 of the Act;

"Employee" means any person, who works for or renders services to any other person is presumed, until the contrary is proved, to be an employee, regardless of the form of the contract, if any one or more of the following factors are present;

- a) the manner in which the person works is subject to the control or direction of another person;
- b) the person's hours worked are subject to the control or direction of another person;
- c) in the case of a person who works for an organisation, the person is a member of that organisation;
- d) the person has worked for that other person for part of a working day over the last three months.
- e) the person is economically dependent on the other person for whom that person works or renders services;
- f) the person is provided with tools of trade or work equipment by the other person; or
- g) the person only works for or renders service to one person.

Excluded from the definition of Employee are:

- e) Independent contractors; and
- f) any person who earns in excess of the amount determined from time to time by the Minister of Employment and Labour in terms of section 6(3) of the Basic Conditions of Employment Act, 1997.

"Employer" means any person, including an independent contractor, who employs or provides work to any person and remunerates or expressly or tacitly undertakes to remunerate him or who permits any person in any manner to assist him in the carrying on or conducting of his business; including ensuring registration with the BIBC of sub-contractor and their respective sub-contractors and includes any person who carries on an associated or related activity or business by or through an employer if the intent or effect of their doing so is or has been to directly or indirectly defeat the purposes of this Agreement.

"Fixed-term contract" means a contract terminating on a special date stipulated in the contract;

"Floor laying and wall covering" includes laying and fixing of floors of wood, mosaic, composition, rubber or any other material; sandpapering of same, and the fixing of all types of flooring or wall coverings in tile or sheets, including resilient flooring, linoleum, inlaid linoleum, althoid, asphalt tiles or asphalt-based materials, cork, rubber, carpeting, vinyl and plastic compositions; supervision of artisan's assistants engaged on floor laying and floor and wall covering.

"French polishing" includes polishing with a brush or pad and spraying with any composition.

"General fund" means Council funds excluding Sick Fund, Medical Aid Fund, Tool Fund, Pension Scheme and Provident Fund, Holiday Fund, and Bonus Funds.

"Glazing" includes the cutting and/or fixing of all kinds of glass or other like products into the rebates formed in wooden or metal doors, windows, frames or like fixtures, and all operations incidental thereto;

"Industrial action" means any action contemplated in terms of the definition of "strike" and "lockout", respectively, in the Act;

"Joinery" includes the fixing of all wooden fittings and the manufacture of all articles of joinery incidental to such fittings, whether or not the fixing in the building or structure is done by the person making or preparing the article used, including cupboards, kitchen dressers or other kitchen fixtures which accrue to the building as a permanent part thereof;

"Masonry" includes stone masonry, stone-cutting and building (also the cutting and building of ornamental and monumental stonework), concreting and fixing or building pre-cast or artificial stone or marble, paving, mosaic work, pointing, wall and floor tiling, operating a portable spinner and flexible cutting, finishing and other stone working machine, stone-polishing machinery, and sharpening mason's tools and drawing, designing and setting out of letters and enrichments; cutting and carving of letters

by hand and pneumatic hammer; final surfacing and finishing of the material whether or not the fixing in the building or structure is done by the person making or preparing the article used;

"Mass-manufacturing section" means that section of the building industry in which activities are carried out in connection with the mass-manufacturing in off-site workshops, using repetitive processes of articles and/or component parts for articles and/or the assembly of articles which are manufactured for use in the erection, completion, renovation, repair, maintenance or alteration of building or structures and include all work executed or carried out by persons in such workshops, excluding clerical employees and administrative staff, who are engaged in the mass manufacture and/or assembly of roof trusses, laminated beams, mouldings, skirting boards, panelling, ceiling boards, hollowcore floor panels, cantilevers, lintels, precast staircases, floor blocks, building *blocks*, including those manufactured from alternative materials, windows / doors / window frames and door frames made of wood, aluminium or other material, kitchen cupboards and other kitchen fittings, partitioning, shop, office and bank fittings and other fixtures which are built in and/or affixed to buildings and structures. This section includes the manufacture of wooden components which includes but is not limited to the cutting and edging of chipboard, laminating chipboard with melamine, or any other type of laminate, the manufacture of post form tops which include, but is not limited to the cutting and edging thereof with melamine.

"Metal work" includes aluminium and includes the fixing of steel ceilings, metal windows, metal doors, builder's smith work, metal frames and metal stairs and architectural metal work, together with the manufacture and/or fixing of drawn metal and sheet and extruded metal, whether or not the fixing in the building or structure is done by the person making or preparing the article used;

"Monumental Masonry Industry" means the Industry in which employers and employees are associated for the purpose of making and erecting gravestones and cemetery memorials of all types.

"Normal working hours" means the number of hours that a particular employer has contracted with an employee to be worked on any normal working day, but excluding all overtime hours worked on any day;

"Normal working day" means any day that a particular employer has contracted with an employee to be a normal working day including public holidays that fall on a normal working day, but excludes all other days that do not fall on a normal working day, that are to be remunerated at overtime rate of pay;

“Off-site workshop” means any premises which is not situated on a site where building construction activities are being carried out and which are registered or are liable for registration as a ‘factory’ in terms of the provisions of the Occupational Health and Safety Act 85 of 1993 as amended, and on which any activities in connection with the mass-manufacturing of the building industry, using woodworking machines including, but not limited to, portable electric and/or pneumatic tools, are being carried out.”

“Painting” includes decoration, paperhanging, glazing, distempering, lime and colour washing, staining, varnishing, graining, marbling, spraying, wall decoration, applying primer and undercoat, enamelling, gilding, lining, stencilling, wax polishing, and woodwork preservation, using rope access to apply paint and which also includes paint removal, scraping, washing and cleaning painted or distempered walls and washing and cleaning woodwork when such removal, scraping, washing and cleaning are preparatory to any of the said processes;

“Paving” means a surface that is constructed by manual or mechanical means utilising pre-manufactured segmental, slab, brick, block or cobble units laid to form a hard surfacing. Areas of application shall be deemed to include all sites requiring such surfacing. This includes, but is not limited to, parking areas, pavements, driveways, pool surrounds, patios, roads and forecourts.

“Period determined by the Council” means a period prescribed to be not later than the 7th day of each month in respect of every employee employed by the employer during the preceding month;

“Plastering” includes moulding, mould-making, facing casts to moulds, making and fixing plaster board ceilings and fibrous plaster or other compositions, granolithic, terrazzo and composition floor-laying, composition wall covering and polishing, operating a portable spinner and flexible cutting and finishing machine, pre-cast or artificial stone work, wall and floor tiling or cladding, paving and mosaic work, metal lathing, acoustic spraying and all processes incidental to the completion of ceilings and walls, whether or not the fixing in the building or structure is done by the person making or preparing the article used;

“Plumbing” includes brazing and welding, lead burning, gas fitting, sanitary and domestic engineering, drain laying, caulking, ventilating, heating, hot and cold water fitting, fire prevention installation and the manufacture and fitting of all sheet metal work, whether or not the fixing in the building or structure is done by the person making or preparing the article used;

“Principal” means the most important or senior person in an organisation or group.

"Scaffold" means any structure of framework used for the support of persons, equipment and material in elevated positions in connection with building or excavation work.

"Shop, office and bank fitting" includes the manufacture and/or fixing of shop fronts, window enclosures, showcases, counters, screens and interior fittings and fixtures;

"Skills and Education Trust" means the MBAWC Skills and Education Trust, trust deed number IT1029/2001;

"Skilled worker" means a worker who has special skill, training or knowledge which they can then apply to their work. A skilled worker may have attended a college, university, or technical school. Alternatively, a skilled worker may have learned their skills on the job.

"Steel construction" includes the fixing of metal or steel roof sheeting and/or wall cladding, all classes of steel or other metal columns, girders, steel joints or metal in any form which forms part of a building: Provided that the on-site assembly, placing and fixing in position and erection of the metal or steel framework (excluding metal or steel roof sheeting and/or wall cladding) that is to form part of a building shall be excluded from this definition when such activities are carried out by the employees of an employer who manufactures such metal or steel framework;

"Steel reinforcing" includes the making and erecting of shuttering and supervising the bending, placing, and fixing in position of steel;

"Structure" includes walls, boundary, garden and retaining walls and monuments.

"Temporary employment service" or Labour Broker means any person who, for reward, procures for or provides to a person (hereinafter referred to as the 'client') other persons-

- a) who render services to, or perform work for, the client; and
- b) who are remunerated by the temporary employment services;

"Wage" means the basic wage prescribed in terms of clause 18 of this Agreement in respect of the ordinary hours laid down in clause 19.

"Woodworking" includes carpentry and veneer panelling and the polishing and sandpapering of same, woodworking, the manufacture of fixtures to specification for installation in specified buildings and the

manufacture of stocks, machining, turning, carving, fixing corrugated iron or asbestos tile, shingling and other roof coverings, sound and acoustic material, cork and asbestos insulation, wood-lathing, composition ceiling and wall covering, plugging walls, covering woodwork with metal and covering metal with woodwork, block and other flooring, including wood, linoleum, rubber composition, asphalt-based floor covering or cork, and the sandpapering of same, operating a of portable spinner and flexible cutting, finishing and polishing machine, shuttering and/or preparing forms of moulds for concrete, cork carpeting and any class or kind of linoleum when fixed in any building or structure, and the application of asphaltic saturated felt or fabrics to floors and/or walls and/or roofs, whether or not the fixing in the building or structure is done by the person making or preparing the article used. For the purposes of this definition "structure" means structure in the nature of, or incidental to, a building;

"Working directors" means the director of a private company who is actively engaged in conducting the affairs of the business.

"Working members of close corporations" means the owners of a closed corporation who are the members of the company. Members have a membership interest in the closed corporation and work in/for the business.

"Working partners" means an individual who is a partner of the business and is actively engaged in conducting the affairs of the business.

5B: REGISTERED CATEGORIES OF EMPLOYMENT

"Apprentice 1st year" means an employee who has completed less than 55% of credits applicable to his trade, but has not completed a trade test, but could be regarded as proficient in the relevant trade.

"Apprentice 2nd Year" means an employee who has completed 55%-74% of credits applicable to his trade, but has not completed a trade test, but could be regarded as proficient in the relevant trade.

"Apprentice 3rd Year" and a means an employee who has completed 75%-99% of credits applicable to his trade, but has not completed a trade test, but could be regarded as proficient in the relevant trade.

"Artisan" means a person who is registered as such in terms of clause 17 of this Agreement.

"Driver" means an employee who is engaged in driving a motor vehicle, and for the purposes of this definition, "driving a motor vehicle" includes all periods of driving and any time spent by the driver on

work connected with the vehicle or the load and all periods during which he is obliged to remain on duty in readiness to drive; further, for the purposes of this Agreement, a driver shall be classified in one of the following categories:

- a) drivers of vehicles which require the driver to be in possession of a Code C1 licence or above;
- b) drivers of vehicles which require the driver to be in possession of a Code A, A1 or B licence or below;

"General worker" means an employee who is not a Labourer and who operates at a level higher than a Labourer, who has developed specific skills recognised by his employer.

"Labourer" is an employee responsible for cleaning and carrying out various unskilled manual and mechanised tasks, relating to:

- a) the mixing and placing of materials, for incorporation into the final building elements, and in temporary or false works;
- b) all unskilled aspects of work pertaining to the general preparation of construction sites for the erection, alteration to and modification of structures and buildings; and
- c) the unloading, moving, placing and loading of raw materials, plant and equipment and the operation and cleaning of small construction machinery, such as concrete mixers, compactors and concrete vibrating equipment.

"Security guard" means any employee who is engaged in protection or safeguarding property and/or premises in any manner, including but not limited to guarding, patrolling, watching over of security property and/or premises;

"Tradesman Class 2" means an employee who has completed 75%-99% of credits applicable to his trade, has not completed a trade test, but could be regarded as proficient at this level in the relevant trade.

"Tradesman Class 3" means an employee who has completed 55%-74% of credits applicable to his trade, has not completed a trade test, but could be regarded as proficient at this level in the relevant trade.

"Tradesman Class 4" means an employee who has completed less than 55% of credits applicable to his trade, has not completed a trade test, but could be regarded as proficient at this level in the relevant trade.

5C: TRADES AND OCCUPATIONS

"Alternative building systems Installer 2" means an employee registered and remunerated as a Tradesman Class 4, who is able to perform activities associated with alternative building systems.

"Alternative building systems Installer 3" means an employee registered and remunerated as a Tradesman Class 3, who is able to perform activities associated with alternative building systems.

"Aluminium Installer/Fixer" means an employee is registered and remunerated as a non-designated Artisan in terms of clause 17 of this Agreement and who exclusively works on a construction site as and is engaged in all of the following activities:

- a) Using tools of the trade effectively;
- b) Identifying and transferring datum and grid lines;
- c) Setting out and marking out accurately;
- d) Drilling holes at correct centres, plumb and square;
- e) Using correct lengths of plugs and screws;
- f) To accurately and effectively install windows, doors, shop fronts, curtain walls, glass assemblies, glass balustrades, roof tiles, attached correct ironmongery, apply silicone sealant accurately and neatly.

"Aluminium Manufacturing Worker" means an employee registered and remunerated as a Tradesman Class 3 and is engaged in all of the following activities:

- a) Interpreting the working drawing for a particular product including relevant details;
- b) Doing all setting out activities and making up all materials for machining or further processing;
- c) Processing material with on-programmable machine/tools;
- d) Reporting technical complications and effectively performing his function within the production line as prescribed by such working drawing.

“Assistant floor layer” means an employee registered and remunerated as a Tradesman Class 2 and who works under the supervision of a floor layer.

“Banksman” means an employee who is registered as a Tradesman Class 4 and who demonstrates an integrated practical and theoretical grounding in Crane Operations, inspecting and evaluating lifting gear, preparing and slinging regular loads, as well as communicating during crane operations.

“Block layer” means an employee who is registered as a Tradesman Class 2 and who is engaged in the laying of blocks as defined in this Agreement, on any type of construction, or the laying of paving slabs, precast concrete channels and kerbs.

“Bricklayer” means an employee who is registered as an Artisan with the Council in terms of clause 17 of this Agreement and who engages in bricklaying and related works to lay bricks, pre-cut stones and other types of building blocks in mortar to construct and repair walls, partitions, arches and other structures.

“Carpenter” means an employee who is registered as such with the Council in terms of clause 17 of this Agreement and who cuts, shapes, assembles, erects, maintains and repairs various types of structures and fittings made from wood and other materials.

“Carpet fitter” means an employee who is registered as a Tradesman Class 2 and who, under the supervision of a carpet layer, is engaged in one or more of the following activities:

- a) Fixing of all types of carpet wall coverings, excluding gauging, panelling, marking out and setting out;
- b) Laying and/or fixing and/or fitting and/or stretching of all types of carpeting, excluding marking out and setting out.

“Carpet layer” means an employee who is registered as a Tradesman in the Class related to the Tradesman proficiency level 2, 3 or 4, and who is engaged in one or more of the following activities: The laying and/or fixing and/or fitting and/or stretching of all types of carpeting and carpet wall coverings, including the supervision of employees engaged in carpet fitting and the fitting of carpet wall coverings, and of general workers;

“Ceiling and/or partition worker” means an employee who is registered as such with the Council and who, under the supervision of an Artisan, is engaged in one or more of the following activities: all

operations connected with the fixing of metal partition grids, excluding plumbing and levelling; all operations connected with the suspension of metal ceiling grids, excluding levelling; applying dry-wall tape and jointing compound; cutting and fitting of ceiling panels to metal grid systems; fitting dry-wall sheets; fitting partitions panels; fitting pre-cut glass; fitting skirting, glazing beads and cover strips; operating a compressed air nailing machine; operating a spray gun to apply glue or plaster mix; square cutting, using an aluminium cut-off saw; using a drilling machine; using a dry-wall screwdriver.

"Clerical worker" means an hourly paid worker receiving benefits applicable to Tradesman Class 3.

"Designated Glazier" means an employee registered and remunerated as an Artisan with the Council in terms of clause 17 of this Agreement and is engaged in one or more of the following activities and has completed the SAQA requirements for a Designated Glazier:

- a) Performing all the following functions independently as prescribed on the workshop drawings; identify glass; gaskets; beads; cut glass; accurately position packers; glaze windows; glaze shop fronts; glaze curtain walls; glass and assemblies and flush glaze;
- b) Engaged in the final fitting of glass into frames;

"Driver code EC1 and above" means an employee who is registered as a Tradesman Class 2 and who operates an articulated heavy motor vehicle (heavy motor vehicle drawing a trailer[s]).

"Floor layer" means an employee who is registered as a Tradesman in the Class related to the Tradesman proficiency level 2, 3 or 4, and who is engaged in one or more of the following activities: laying and fixing of all types of floor or wall coverings, including wood, composite rubber, resilient flooring, linoleum, asphalt tiles, or asphalt based materials, cork, rubber, vinyl, and plastic composition or any other similar material excluding carpeting, and supervising of assistant floor layers and general workers.

"Joiner" means an employee who is registered as an Artisan with the Council in terms of clause 17 of this Agreement and who cuts, shapes, assembles, erects, maintains and repairs various types of structures and fittings made from wood and other materials.

"Joinery assembler" means an employee who is registered as a Tradesman Class 3.

"Leading hand/junior foreman" means an hourly paid person in a supervisory position receiving benefits applicable to an Artisan.

"Machine Operator" means an employee who is registered as a Tradesman Class 2 and is engaged in all of the following activities:

- a) Interpreting the working drawings and details for machining;
- b) Independently setting out and marking up all material for machining and processing;
- c) Independently operating a programmable machine to cut or cut out openings/slots/grooves on materials as per details on working drawings;
- d) Write up formulae for programmable machine;
- e) Performing minor checks and minor machine repair.

"Manufacturing worker" means an employee who is registered as a Tradesman Class 4.

"Non-Designated Glazier" means an employee who is registered as a Tradesman Class 2, who is engaged in all of the following activities but has not completed the requirements for a Designated Glazier:

- a) Performing all the following functions independently as prescribed on the workshop drawings; identify glass; gaskets; beads; cut glass; accurately position packers; glaze windows; glaze shop fronts; glaze curtain walls; glass and assemblies and flush glaze;
- b) Engaged in the final fitting of glass into frames;

"Painter" means an employee who is registered as an Artisan with the Council in terms of clause 17 of this Agreement and who prepares surfaces of buildings and other structures for painting and applies protective coatings to manufactured items or structures.

"Plant operator" means a person operating a power-driven plant, and for the purposes of this Agreement, a plant operator shall be classified in one of the following categories:

- a) Registered as a Driver, this person must be in possession of a Code C1 licence or above; operators of plant which requires the plant operator to be in possession of a Code A, A1 or B licence;

- b) Registered as a Tradesman Class 2, "Crane drivers" has proven competencies as per the Driven Machinery Regulations Code C41 (tower crane top slewing) or Code C42 (tower crane bottom slewing).

"Plasterer" means an employee who is registered as an Artisan with the Council in terms of clause 17 of this Agreement and who installs, maintains and repairs plasterboard in buildings and applies decorative and protective coverings of plaster, cement and similar material to the interiors and exteriors of structures.

"Plumber" means an employee who is registered as an Artisan with the Council in terms of clause 17 of this Agreement and who assembles, installs, repairs and maintains pipe systems, fittings and fixtures for water, gas, drainage, sewerage systems, and hydraulic and pneumatic equipment.

"Roofer" means an employee who is registered as a Tradesman Class 2 and who is responsible for the setting out of a roof from drawings or otherwise, who determines the positions of battens, slates, tiles, sheets and other roofing materials, including shingles, thatch, etc. who may fix flashings, gutters and downpipes to roofs, who is in charge of and supervises the work of others engaged in roof construction.

"Scaffold erector" means an employee who is registered as a Tradesman Class 4 and is able to identify, erect and dismantle all types of scaffolding systems according to SANS 10085.

"Stonemason" means an employee who is registered as an Artisan with the Council in terms of clause 17 of this Agreement and who cuts and shapes hard and soft stone blocks and slabs for the construction and maintenance of stone structures and monumental masonry and carve designs and figures in stone.

"Tiler" means an employee who is registered as an Artisan with the Council in terms of clause 17 of this Agreement and who installs, maintains and repairs flooring, and covers floors walls and other surfaces with tiles or mosaic panels for decorative and other purposes.

"Tower care operator" means an employee who is registered as a Tradesman Class 2 and is a "crane driver" with proven competencies as per the Driven Machinery Regulations for:

- a) Code C41 (tower crane top slewing) or
- b) Code C42 (tower crane bottom slewing)

“Waterproofing worker” means an employee remunerated as a Tradesman Class 4 and who is engaged in one or more of the following activities: Waterproofing and damp proofing of all horizontal, sloping or vertical surfaces (including all types of tanking) with all types of roofing membranes, sheetings and liquid or semi-liquid or mastic coatings; Applying protective paint and/or coating to waterproofing surfaces; All other work in connection with waterproofing and damp proofing.

CHAPTER TWO: GENERAL DUTIES OF EMPLOYERS AND SUB-CONTRACTING PARTIES

6. REGISTRATION OF EMPLOYERS

- 1) Every employer in the industry who falls within the registered scope of the Council shall register with the Council within 14 (fourteen) calendar days of operating within the scope of this Agreement.
- 1) An employer shall register with the Council by furnishing the required particulars to the Council on the prescribed form and shall provide evidence that an application has been made for registration with the South African Revenue Services relating to tax and value-added tax (if applicable), registration with the Unemployment Insurance Fund and registration under the Compensation for Occupational Injuries and Diseases Act, 1993.
- 2) The Council may refuse to register an employer with the Council if that employer is substantially the same employer as a previously registered employer who remains indebted to the Council. Where the Council agrees to register such an employer, the registration shall be subject to that employer providing a wage guarantee that equates to the wages of 10 (ten) general workers' employment for 3 (three) months and at the discretion of Council.
- 3) Every employer shall notify the Council in writing of any change in the particulars furnished on registration or of the ceasing operations in the Industry within 14 (fourteen) days of such change or of the ceasing operations.
- 4) A certificate of registration signed by either the Chairperson or the Secretary of the Council shall be issued to each registered employer. A newly registered employer shall receive free orientation training from the Council relating to employment legislation, this Agreement and the preparation of wage records.
- 5) The Council shall have the right at any time to call upon any employer to submit a report on any project or site, in a form and manner prescribed by the Council, relating to all sub-contractors that

are utilised by the employer, details of the employees utilised by the sub-contractor and the category of employment.

- 6) Newly registered employers must ensure full compliance with this Agreement within (2) two weeks of registration. This grace period is only available to an employer who is a new entrant into the Building Industry.
- 7) A newly registered employer shall be regarded as being compliant for a period of 2 (two) weeks which period shall commence from the date of registration with this Council if the employer is new to the Building Industry.

7. COMPLIANCE BY EMPLOYERS, SUBCONTRACTING AND USE OF TEMPORARY EMPLOYMENT SERVICES

- 1) The Council shall keep a register of employers in good standing and a register of employers not in good standing which registers shall be generally made known and published and shall be available to any person on request.
- 2) An employer shall be in good standing with the Council for purposes of this clause if:
 - a) the employer is registered as an employer with the Council: and
 - b) the employer is compliant with all obligations provided for in this Agreement to be fulfilled by an employer.
- 3) No employer ("the subcontracting party") may subcontract any work (this includes the provision of temporary employment services) that falls under the definition of "Building Industry" or Industry" in clause 5 of this Agreement, to another person who is subject to this Agreement ("the subcontractor"), unless both the subcontracting party and the subcontractor are, at all times during the subcontracting, employers in good standing.
- 4) Regardless of whether or not sub clause (3) above has been complied with-
 - a) section 200B of the Act applies to a subcontracting party who, by or through a subcontractor, intends or the effect of doing so is or has been to directly or indirectly defeat the purposes of this Agreement
 - b) the subcontracting party and the subcontractor (or the temporary employment service) are jointly and severally liable if the subcontractor, in respect of any of its employees, contravenes:

- i) This Agreement or any other Council agreement regulating terms and conditions of employment and/or benefits;
 - ii) A binding arbitration award that regulates or relates to terms and conditions of employment; or
 - iii) The Basic Conditions of Employment Act, No 75 of 1997, as amended from time to time.
- 5) Notwithstanding the provisions of sub-clause 4, any person determining whether a contravention has occurred, must have consideration for the guidelines and principles established by the Compliance Committee in respect of this clause, as envisaged by clause 56(2)(b) of this Agreement, and published from time to time.
- 6) No person may utilize a temporary employment service or Labour Broker for work in connection with the Building Industry unless, both the person and the temporary employment service are, at all times during the use of the temporary employment service, employers in good standing with the Council. The provisions of section 198 of the Act, shall apply to any person who enters an agreement to utilize a temporary employment service or Labour Broker for work in connection with the Building Industry.

8. REGISTRATION OF EMPLOYEES

- 1) All persons employed in the Building Industry shall be registered with the Council and the employer of such an employee shall be responsible for the registration of the employee, including apprentices and learners, with the Council within 10 (ten) working days of commencement of employment, provided that all provisions of this Agreement are applicable from the later of the first day of employment or from the effective date of this Agreement including, but not limited to, minimum wages and employee benefit contributions.
- 2) The Council shall issue to each registered employee a Bargaining Council identity card and the employee shall be required to retain that card at all times whilst engaged in work in the Building Industry.
- 3) The Council shall bear the initial costs of the Council identity card, but the employee may be liable for the costs of the replacement of the card.
- 4) Every employee who has been registered in terms of this clause shall, upon accepting employment in the Industry, produce his BIBC identity card to his employer and also to any Agent of the Council on request.

9. WAGE PAYMENT PROCEDURE

1) Payment of wages:

- a) An employee shall receive payment of his wages at a time and place determined by his employer: Provided that payment shall be made-
 - i) at weekly, fortnightly or monthly intervals;
 - ii) in cash, or by means of electronic bank transfer, as agreed, between the employer and the employee; and
 - iii) not later than close of business on the final working day of each pay interval.
- b) With the exception of payment by means of electronic bank transfer, an employee's remuneration shall be paid to him on the site where he is employed, or at the office or workshop of the employer.
- c) An employee whose services are terminated shall receive payment of the appropriate wage on or before the date of termination of his services.
- d) Every employer shall provide each of his employees the following information in writing (payment advice or payslip) on each day that the employee is paid:
 - i) The employer's name and physical address;
 - ii) the employee's name, occupation and registered category of employment in terms of this Agreement;
 - iii) the period for which the payment is made;
 - iv) the employee's remuneration in money;
 - v) the amount and purpose of any deduction made from the remuneration including contributions to the Council stipulating each contribution separately;
 - vi) the actual amount paid to the employee;
 - vii) the employee's rate of remuneration and overtime rate;
 - viii) the number of ordinary and overtime hours worked by the employee during the period for which the payment is made;

- ix) the number of hours worked by the employee on a Sunday or public holiday during that period; and
 - x) a calculation of the employee's gross remuneration, deductions, overtime payments, allowances and net remuneration.
- e) All payment advices, payslips and payments made in cash shall be enclosed in a sealed envelope.
- f) An employer shall, at the time of payment of an employee's remuneration, make the requisite benefits payment to the Council via the benefit code system by the 7th of the month following the month for which the payment was due.

2) Deductions from wages:

- a) An employer shall be entitled to make deductions from an employee's wages in respect of deductions prescribed in the following clauses:
- i) 31(13) and (14) in terms of the Pension Fund or Provident Fund;
 - ii) 43(1) in terms of the Council levy;
 - iii) 46 in terms of trade union subscriptions; and
 - iv) 33(3) in terms of the Medical Aid Fund;
- b) if the employer is entitled or required to do so by law;
- c) if there was an error made in the payment to the employee by the employer or by the Council; and
- d) in respect of any other matter, with the employee's written consent.

10. RECORD KEEPING

- 1) **Written particulars of employment:** An employer must supply an employee, when the employee commences employment, with the following particulars in writing—
- a) the full name and address of the employer;
 - b) the name, occupation and registered category of employment in terms of this Agreement and a brief description of the work for which the employee is employed;

- c) the place of work, and, where the employee is required or permitted to work at various places, an indication of this;
 - d) the date on which the employment began;
 - e) the employee's ordinary hours of work and days of work;
 - f) the employee's wage or the rate and method of calculating wages;
 - g) how frequently remuneration will be paid;
 - h) any deductions to be made from the employee's remuneration;
 - i) the leave to which the employee is entitled;
 - j) the period of notice required to terminate employment, or if employment is for a specific period, the date when employment is to terminate with a justification for temporary employment in terms of section 198B of the Act, where applicable;
 - k) any period of employment with a previous employer that counts towards the employee's period of employment;
 - l) A description of the Council;
 - m) a list of any other documents that form part of the contract of employment, indicating a place that is reasonably accessible to the employee where a copy of each may be obtained.
- 2) When any matter listed in subsection (1) changes—
- a) the written particulars must be revised to reflect the change; and
 - b) the employee must be supplied with a copy of the document reflecting the change.
- 3) If an employee is not able to understand the written particulars, the employer must ensure that it is explained to the employee in a language and in a manner that the employee understands.
- 4) Written particulars in terms of this section must be kept by the employer for a period of three years after the termination of employment.
- 5) **Keeping of records:** Every employer must keep a record containing at least the following information:
- a) the employee's name and occupation;

- b) the time worked by each employee;
 - c) The remuneration paid to each employee;
 - d) the registration category of each employee in terms of this Agreement;
 - e) the identity number or other available identification number; and
 - f) any other information prescribed by any law.
- 6) No person may make a false entry in a record maintained in terms of sub clause (5).

11. STORAGE AND PROVISION OF TOOLS

- 1) Every artisan, learner or apprentice shall be required at all times to be in possession of such tools as are necessary to perform the designated category of work in respect of which he is registered and shall further be required to maintain such.
- 2) Every employee shall be required to provide his own toolbox, which is capable of being securely locked, for the storing of his tools when not in use.
- 3) An employer shall provide a suitable place to store an employee's toolbox at each site and shall ensure that such place is locked at all times. This provision shall not apply to jobbing work.

12. SHELTER AND ABLUTION FACILITIES

- 1) At any site where the building operations are being carried out employers shall provide suitable accommodation (refer to clause 25 for overnight accommodation) in terms of the construction regulations-
 - a) to serve as shelter for employees during wet weather; and/or
 - b) to serve as a change room: Provided that the provisions of this sub clause shall not apply to jobbing work and on sites where fewer than ten employees are employed or where the circumstances peculiar to the site or the nature of the work in progress do not permit of accommodation for a change room.
 - c) Such accommodation may be any lockable shed, room or similar place constructed of walls and a roof composed of concrete, brickwork, wood, iron or any combination thereof or any other

material approved by the Council and the whole to be so constructed as to provide a place for employees to change their clothes, to wash and to take shelter.

- d) Such accommodation may include clothes lockers or similar lock-up facilities in which employees can safely store changes of clothing and other personal possessions while at work.
- 2) An employer shall provide proper and adequate sanitary accommodation on each job, which shall at all times be maintained in a hygienic and proper condition and shall further conform to the legislation of the local authority in whose area the job is situated.

13. NOTICE BOARD

Every employer and all employers working in partnership shall, wherever building operations are being carried out, display in a conspicuous place, accessible to the public, a notice- board of a size not less than 60 cm by 45 cm or a notice board approved by the Council showing clearly the name and trading name of the company or partnership and address of such employer or partnership in letters not less than 75 mm high, provided that subcontractors may use letters not less than 50mm high.

14. HEALTH AND SAFETY

- 1) Every employer shall provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of his employees.
- 2) Without derogating from the generality of an employer's duties under subsection (1), the matters to which those duties refer include in particular-
 - a) the provision and maintenance of systems of work, plant and machinery that, as far as is reasonably practicable, are safe and without risks to health;
 - b) taking such steps as may be reasonably practicable to eliminate or mitigate any hazard or potential hazard to the safety or health of employees, before resorting to personal protective equipment;
 - c) making arrangements for ensuring, as far as is reasonably practicable, the safety and absence of risks to health in connection with the production, processing, use, handling, storage or transport of articles or substances;
 - d) establishing, as far as is reasonably practicable, what hazards to the health or safety of persons are attached to any work which is performed, any article or substance which is produced,

processed, used, handled, stored or transported and any plant or machinery which is used in his business, and he shall, as far as is reasonably practicable, further establish what precautionary measures should be taken with respect to such work, article, substance, plant or machinery in order to protect the health and safety of persons, and he shall provide the necessary means to apply such precautionary measures;

- e) providing such information, instructions, training and supervision as may be necessary to ensure, as far as is reasonably practicable, the health and safety at work of his employees;
 - f) as far as is reasonably practicable, not permitting any employee to do any work or to produce, process, use, handle, store or transport any article or substance or to operate any plant or machinery, unless the precautionary measures contemplated in paragraphs (b) and (d), or any other precautionary measures which may be prescribed, have been taken;
 - g) enforcing such measures as may be necessary in the interest of health and safety;
 - h) ensuring that work is performed, and that plant or machinery is used under the general supervision of a person trained to understand the hazards associated with it and who have the authority to ensure that precautionary measures taken by the employer are implemented; and
 - i) causing all employees to be informed regarding the scope of their authority as contemplated in this section.
- 3) Every employee shall at work-
- a) take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions;
 - b) as regards any duty or requirement imposed on his employer, co-operate with such employer or person to enable that duty or requirement to be performed or complied with;
 - c) carry out any lawful order given to him, and obey the health and safety rules and procedures laid down by his employer or by anyone authorized thereto by his employer, in the interest of health or safety;
 - d) if any situation which is unsafe or unhealthy comes to his attention, as soon as practicable report such situation to his employer or to the health and safety representative for his workplace or section thereof, as the case may be, who shall report it to the employer; and
 - e) if he is involved in any incident which may affect his health or which has caused an injury to himself, report such incident to his employer or to anyone authorized thereto by the employer,

or to his health and safety representative, as soon as practicable but not later than the end of the particular shift during which the incident occurred, unless the circumstances were such that the reporting of the incident was not possible, in which case he shall report the incident as soon as practicable thereafter.

- 4) No person shall intentionally or recklessly interfere with, damage or misuse anything which is provided in the interest of health or safety.
- 5) An employee will only be permitted on site if wearing protective clothing as provided by the employer.
- 6) No employer shall in respect of anything which he is in terms of this section required to provide or to do in the interest of the health or safety of an employee, make any deduction from any employee's remuneration or require or permit any employee to make any payment to him or any other person.

CHAPTER THREE: CATEGORIES OF EMPLOYMENT

15. GENERAL PROVISIONS

- 1) All Employees shall be registered as defined in clause 5 and receive the benefits and wages associated with the categories of employment.
- 2) Employers must contact the Council on the first day of employment to establish the employee's registered category.

16. LEARNER/APPRENTICESHIP

- 1) A Learner/Apprentice is a registered employer or an employers' organisation acting in terms of a group scheme may employ a person as a Learnership/Apprentice under a contract of Learner/Apprenticeship in accordance with the Skills Development Act, 1998 as amended, and the Council shall register such person as a Learner/Apprentice subject to the following terms and conditions:
 - a) The person has been registered as a Learner/Apprentice by the Construction Education Training Authority (CETA).

- b) The Learner/Apprentice shall be entitled to perform work in a designated trade only once the Council has received from the CETA a valid certificate of registration for the Learner/Apprentice in respect of such trade.
 - c) For purposes of his Learner/Apprenticeship, the Learner/Apprentice shall be entitled to undergo training with his employer or under the auspices of any accredited training institution.
 - d) Upon successful completion by the Learner/Apprentice of the necessary group of credits in respect of a course of training as provided for by the Quality Council for Trades and Occupations (QCTO), the Council shall register the Learner/Apprentice in the appropriate tradesman category.
 - e) A Learner/Apprentice shall be entitled to the payment of wages in accordance with the wage prescribed in terms of clause 18 in respect of the category of tradesman in which he is registered from time to time.
- 2) An Apprentice in a specified category shall be registered as follows:
- a) As an Apprentice (1st year), where he has completed less than 55 percent of the credits of the prescribed course;
 - b) As an Apprentice (2nd year), where he has completed 55 to 74 percent of the credits of the prescribed course; and
 - c) As an Apprentice (3rd year), where he has completed 75 to 99 percent of the credits of the prescribed course.
- 3) Employers and trade unions shall endeavour to ensure that Learner/Apprentices complete their training within the specified time.
- 4) Subject to the employee agreeing, any person who has been employed within or outside the registered scope of the Council as a skilled worker, other than an artisan qualified in terms of clause 17, shall be required to undergo a prior learning assessment with an accredited training provider in order to determine the unit standards in which he is competent and in respect of which he should be credited with and, pursuant thereto, shall be registered as a Learner/Apprentice in a particular category, as follows:

Proficiency Level	Class
Below 55 percent	1) Learner/Apprentice 2) Year 1/Tradesman 3) Class 4
55-74 percent	1) Learner/Apprentice 2) Year 2/Tradesman 3) Class 3
75-99 percent	1) Learner/Apprentice 2) Year 3/Tradesman 3) Class 2
Completed all credits	Artisan

17. ARTISANS

- 1) An employee shall be registered as an artisan once he has completed and passed the trade test or has completed the number of credits that qualify him to work as an artisan and his employer has requested registration in writing.
- 2) An artisan shall be entitled to the payment of wages in accordance with the wage prescribed for his category in terms of clause 18.
- 3) If at any stage an employer is of the opinion that a registered artisan is not performing his duties to an acceptable level of proficiency, the employer may, at its own cost, require that artisan to undergo a proficiency test, in which case the artisan shall be obliged to undergo such test.

- 4) In this clause, a credit means a credit as defined from time to time under the regulations made under the South African Qualifications Authority Act, 1995 as amended.
- 5) The registered trades are as defined in clause 5.

CHAPTER FOUR: MINIMUM WAGES, WAGE AND BENEFIT PARITY

18. MINIMUM BASIC WAGES

- 1) Basic Wages: The basic wages in the Industry shall be as set out in this clause.
- 2) From the date of coming into operation of this Agreement to 31 October 2023:

Category of Employee	Minimum Wage Per Hour
Labourer	R34.70
General Worker	R45.11
Tradesman Class 4	R49.11
Tradesman Class 3	R54.17
Tradesman Class 2	R73.84
Drivers/Plant operators code C1	R61.64
Drivers code A, A1 or B	R46.41
Artisan	R98.90
Security Guard	R415.90 per day
Apprenticeship Year 1	R34.62
Apprenticeship Year 2	R49.46
Apprenticeship Year 3	R74.19

- 3) For the period 1 November 2023 to 31 October 2024 the wages applicable shall be increased on 01 November by the CPI percentage + 1% (as at the 1st of July 2023 as published by Statistics South Africa) provided that the minimum increase shall be 5% and the maximum increase be no higher than 7%.
- 4) For the period 1 November 2024 to 31 October 2025 the wages applicable from 1 November 2024 shall be increased by the CPI percentage + 1% (as at the 1st of July 2024 as published by Statistics South Africa) provided that the minimum increase shall be 5% and the maximum increase be no higher than 7%.
- 5) Nothing in this clause shall prevent an employer from paying more than the prescribed basic wage.
- 6) No Party to this Agreement, nor any employee, shall be entitled to embark upon industrial action in order to compel an employer to pay more than the basic wage prescribed in this Agreement.
- 7) If an employer regularly pays an employee a wage higher than the basic wage in respect of the ordinary hours, the prescribed basic wage shall mean such higher amount and the employee shall qualify for the equivalent amount of increase in the basic wage for that category of employee on 1 November each year.
- 8) The basic wage payable in terms of sub clause (2) shall be deemed to include allowances for inclement weather, travelling time and transport costs.

CHAPTER FIVE: TERMS OF EMPLOYMENT

19. ORDINARY HOURS OF WORK

- 1) No employee shall ordinarily be required to work more than the following hours:

Category	Area A		Areas B, C and D	
	Daily Hours	Weekly Hours	Daily Hours	Weekly Hours
Security Guard	9 hours	45 hours	9 hours	45 hours
Driver	8 hours 45 minutes	43 hours 45 minutes	9 hours	45 hours
Labourer General Worker	8 hours 30 minutes	42 hours 30 minutes	9 hours	45 hours
All other employees	8 hours	40 hours	9 hours	45 hours

- 2) With the exception of security guards, who shall be required to work not more than 6 (six) consecutive days in any week, ordinary hours shall be worked daily between 7:00 and 19:00, Mondays to Fridays.

20. OVERTIME

- 1) An employee shall be entitled to payment in respect of overtime worked in accordance with this clause as follows: Provided that in Areas B, C and D the first hour of overtime worked Mondays to Thursdays shall be at the basic rate if the work is performed on a construction site and not in a closed shop or controlled workshop environment:

Days worked	Multiple of basic wage
Mondays to Saturdays, inclusive	1 ½
Sundays	2

- 2) All time worked in excess of the number of ordinary working hours on any day shall be overtime.
- 3) An employer may request, which request shall not be unreasonably rejected, an employee to work overtime for a period not exceeding 3 (three) hours daily, from Mondays to Fridays, and not exceeding 8 (eight) hours on Saturdays or Sundays: Provided that the maximum number of hours' overtime worked in any week shall not exceed the maximum hours' overtime prescribed in the Basic Conditions of Employment Act;
- 4) Subject to sub clause (3) above, an employer and any employee who is required to drive motor vehicles may agree and contract that a maximum of 1 (one) hour's overtime prior to the commencement or ordinary hours of work and a maximum of 1 (one) hour's overtime at the conclusion or ordinary hours of work each day be compulsory overtime for the purpose of transporting employees to and from their place of work, subject to the requirement for an employee to transport workers being included in a separate agreement between employer and employee.
- 5) An employee who is engaged in a continuous process of work shall be obliged to work until that process has been completed and shall be paid at overtime rates, if applicable.

21. FLEXIBLE WORKING HOURS

- 1) An employer and an employee may contract to work either a compressed working week or to average the hours of work.
- 2) Compressed working week: an agreement in writing may require or permit an employee to work up to 12 (twelve hours) in a day, inclusive of the intervals required in terms of clause 22 without receiving overtime pay.
- 3) An agreement in terms of sub clause (2) may not require or permit an employee to work
 - a) more than 45 (forty-five) ordinary hours of work in any week:

- b) more than 10 (ten) hours' overtime in any week; or
 - c) on more than 5 (five) days in any week.
- 4) Averaging hours of work: the ordinary hours of work and overtime of an employee may be averaged over a period of up to 4 (four) months in terms of an agreement in writing.
- 5) An employer may not require or permit an employee who is bound by a written agreement in terms of sub clause (4) to work more than -
- a) an average of 45 (fourty-five) ordinary hours of work in a week over the agreed period.
 - b) an average of 5 (five) hours' overtime in a week over the agreed period.
- 6) A written agreement in terms of sub clause (4) lapses after 12 months.

22. INTERVALS/LUNCH AND TEA BREAKS

- 1) Every employee shall be entitled to daily meal and/or rest intervals totalling not more than 60 (sixty) minutes, which shall not form part of ordinary working hours, and shall be at such times as agreed to with his employer.
- 2) No employer shall require an employee to work for more than 5 (five) hours continuously without an interval.

23. SHIFT WORK

- 1) An employer may require his employees to work shifts: Provided that no employee shall be required to work more than an 8-hour or 12-hour shift in any period of 24 (twenty-four) hours.
- 2) An employee who works any shift other than the shift during the ordinary hours of work shift shall receive the basic wage payable in terms of clause 18, plus 15% of his basic wage: Provided that the provisions of this sub clause shall not apply to security guards.
- 3) Notwithstanding any other clause in this Agreement, security guards are required to work shifts in accordance with the employer's operational requirements: Provided that no security guard shall be required to work more than 13 (thirteen) hours during a night shift and 11 (eleven) hours during a day shift.

- 4) Notwithstanding anything contained in sub clauses (1) to (3) above, if a security guard's shift work includes work on a Sunday or public holiday, payment in respect of such Sunday or public holiday work shall be at the ordinary basic rate, unless it constitutes overtime in accordance with clause 20 above in which case payment shall be at a rate of one and a half of the ordinary basic rate.

24. PUBLIC HOLIDAYS

- 1) The public holidays proclaimed in terms of the Public Holidays Act, 1994, shall be recognised as paid public holidays if they fall on a day on which the employee would ordinarily work.
- 2) The annual holiday payment made by the Council within the annual shutdown period shall include payment for all the public holidays that fall within the three-week shutdown period and shall include payment for the public holiday that falls on the 16th of December irrespective of whether or not it falls within the annual shutdown period. Notwithstanding the above, Public Holidays that fall within the annual shutdown period, but is declared after the commencement of the benefit year, will not be included in the annual holiday payment made by the Council.
- 3) An employee who is not required to work on a public holiday which would normally be a normal working day, shall receive his normal daily basic wage in respect of that public holiday.
- 4) An employee who is required to work on a public holiday which would normally be a normal working day shall, in addition to wages paid in terms of sub clause (3), be paid at a rate equal to his ordinary basic wage in respect of all hours worked on that day.
- 5) An employee who is required to work on a public holiday which falls on a Saturday or Sunday shall be remunerated in accordance with normal overtime rates and shall not be entitled to any additional payment on such a public holiday.

25. OVERNIGHT ALLOWANCE AND ACCOMMODATION

- 1) An employee who is required to work away and spend a night away from his ordinary place of residence shall be paid a living-away allowance of a minimum of the amounts as per the table below per day and the employee shall be provided with suitable accommodation by the employer in respect of each night he is required to spend away from his ordinary place of residence, from the date of coming into operation of this Agreement to 31 October 2023:

Overnight Allowance Amount per day

All Employees: R210.00

For the period 1 November 2023 to 31 October 2024 the allowance applicable shall be increased on 01 November 2023 by the CPI percentage + 1% (as at the 1st of July 2023 as published by Statistics South Africa) provided that the minimum increase shall be 5% and the maximum increase be no higher than 7%.

For the period 1 November 2024 to 31 October 2025 the allowance applicable from 1 November 2024 shall be increased by the CPI percentage + 1% (as at the 1st of July 2024 as published by Statistics South Africa) provided that the minimum increase shall be 5% and the maximum increase be no higher than 7%.

- 2) **Suitable accommodation:** the accommodation shall be appropriate for its location and be clean, safe and, at a minimum, meet the basic needs of workers. It must take into account, but is not restricted, to the following considerations: the provision of minimum amounts of space for each worker; provision of sanitary, laundry and cooking facilities, potable water; the location of accommodation in relation to the workplace; any health, fire safety or other hazards; the provision of first aid and medical facilities; and heating and ventilation.

26. TRANSPORT FOR EMPLOYEES

- 1) Employers shall not be compelled either to provide transport for employees or to pay any additional transport allowance.
- 2) If an individual employer deems it necessary for operational or logistical reasons such employer may negotiate with employees on a specific site regarding transport arrangements or additional transport allowances where no public transport exists, and such employees shall be entitled to trade union representation.

27. PERFORMANCE STANDARD CONTRACTS

- 1) An employer and an employee may enter into a written performance standard contract subject to an agreement being reached at least 5 (five) working days before the task is to commence.
- 2) Remuneration under a performance standard contract shall not be less than the basic wage plus benefits prescribed for the particular category of employee in this Agreement for normal working hours.
- 3) All statutory provisions for employment contracts, including unemployment insurance, income tax deductions and all provisions of this Agreement shall be observed.

28. PROBATIONARY PERIOD

Any probationary period for a contract of employment shall be dealt with in accordance with the Act, and the Code of Good Practice, referred to in Schedule 8 of the Act, before termination of employment is to be made, provided that the probation period shall not be longer than 3 (three) months and that contributions towards employee benefits in terms of this Agreement shall be from the first day of employment, regardless of when the employee is registered at the Council.

CHAPTER SIX: EMPLOYEE BENEFIT SCHEMES

29. EMPLOYEE BENEFITS: GENERAL PROVISIONS

- 1) Every employee who works at least 7 (seven) hours on a normal working day, or who is entitled to be off duty on a public holiday that falls on a normal working day, shall be entitled to receive benefits in terms of this Agreement, and shall for the purposes of this Agreement be deemed to be an eligible employee: Provided that an employee who works for an employer on any normal working day, but is prevented from working the full normal working hours owing to circumstances beyond his control, or for any good reason accepted by his employer, shall also be deemed to be an eligible employee in respect of that day.
- 2) An employee who has been laid off in terms of clause 40 shall not be entitled to benefits.
- 3) An employer shall contribute employee benefits in the prescribed manner from the Council for the purpose of making the contributions prescribed in this Agreement in respect of all eligible employees

and pay the contributions over to the Council within the period determined by the Council for such purposes.

- 4) The Council shall retain each eligible employee's benefits record, and the benefits so purchased by the employer shall be indicated on the employee's payslip.
- 5) An employee who contracts to work compressed working weeks of less than 5 (five) normal working days shall be entitled to benefits for 5 (five) days for each compressed working week that is worked.
- 6) An employer who does not pay to the Council the levies and contributions payable by him and his employees each week within the period determined by the Council as defined in clause 5 shall be liable for any benefit that would have been due to the employee in terms of this Collective Agreement.
- 7) If an employer is assessed for arrear benefits, the employer will be liable for both the employer and employee portions of the arrear benefits.

30. HOLIDAY AND BONUS FUNDS

- 1) The Holiday and Bonus Funds are hereby continued and shall continue to be administered by the Council for the purpose of providing eligible employees with leave and bonus pay for the annual leave period in terms of clause 37.
- 2) Monies contributed to the Funds by employers shall be vested as provide for in terms of section 53(5) of the Act.
- 3) Every employer shall pay the contribution to the Council by the 7th of each month following the month for which the contributions are due.
- 4) The Council shall determine a date before the commencement of the annual leave period in terms of clause 37 upon which eligible employees shall receive payment of the amount standing to their credit in the Holiday and Bonus Funds: Provided that no payment shall be made from the Holiday and Bonus Funds –
 - a) In respect of benefits contributed by an employer after 31 October each year, which benefits shall be deemed to have been issued during the following year;
 - b) In respect of more than 245 daily benefits in any single year ending on 31 October of that year;

- c) If an employee fails to claim the value of the benefits within 6 (six) months of the commencement of the annual leave period, unless the Council in its discretion decides otherwise, in which event the value of the benefits shall accrue to the general funds of the Council;
 - d) In respect of deductions made in respect of an employee's Holiday and Bonus Fund entitlement in terms of clause 39(3);
 - e) Subject to the provisions of sub clause (5), prior to the date determined by the Council in terms of this clause.
- 5) In the event of an eligible employee's death, all amounts to his credit in the Holiday and Bonus Funds shall be paid to his duly appointed nominee, if any. Should no nominee survive the employee, or should a surviving nominee fail to claim payment within 12 (twelve) months of the date of the employee's death, the amount to his credit shall be paid into his estate.
- 6) Subject to the provisions of sub clause (5), the amount standing to an employee's credit in the Holiday and Bonus Fund shall not be transferable, and any employee who attempts to assign, transfer, cede, pledge or lend any benefits contribution shall forfeit the value to the general funds of the Council.
- 7) Notwithstanding the expiry or cancellation of this Agreement, the Council shall continue to administer the Holiday and Bonus Fund until such time as it is liquidated or transferred to any other fund created for the purpose of providing annual leave pay to employees.
- 8) In the event of the Council being wound up or dissolved, the Holiday and Bonus Fund shall continue to be administered by a committee appointed for such purpose by the parties before the winding up or dissolution of the Council, which committee shall consist of an equal number of employer and employee representatives. In the event of such committee being unable to carry out the duties for any reason, the parties shall appoint a trustee or trustees to carry out the duties of the committee and such trustees shall have the same powers as the committee for this purpose.
- 9) In the event of there being no Council in existence at the time of expiry of this Agreement, the Holiday and Bonus Fund shall be liquidated by the committee or trustee appointed in terms of sub clause (8).
- 10) In the event of the liquidation of the Holiday Fund and Bonus Fund in terms of sub clauses (7) or (8) the moneys remaining after the payment of all claims against the Holiday and Bonus Fund, including administration and liquidation expenses, shall be paid into the general funds of the Council. In the event of the Council having been wound up before the liquidation of the Holiday and

Bonus Fund the monies remaining shall be distributed equally among the parties to the Council immediately prior to its dissolution.

30A. HOLIDAY FUND

- 1) An employer shall contribute to the Holiday Fund on behalf of an eligible employee in respect of each normal working day that the employee remains in his employ ("a contribution day"), an amount which shall be calculated as follows, from the date of coming into operation of this Agreement to 31 October 2023:

Category of Employee	Holiday Fund Contribution per day
Labourer	R22.08
General Worker	R28.68
Tradesman Class 4	R30.47
Tradesman Class 3	R33.60
Tradesman Class 2	R45.81
Drivers/Plant operators code C1	R40.15
Drivers code A, A1 or B	R30.22
Artisan	R61.37
Security Guard	R32.25
Apprenticeship Year 1	R21.48
Apprenticeship Year 2	R30.68
Apprenticeship Year 3	R43.60

- 2) For the period 01 November 2023 to 31 October 2024 the contributions applicable from 01 November 2023 shall be increased by the CPI percentage + 1% (as at the 1st of July 2023 as published by the Statistics South Africa) provided that the minimum increase shall be 5% and the maximum increase be no higher than 7%.

- 3) For the period 01 November 2024 to 31 October 2025 the contributions applicable from 01 November 2024 shall be increased by the CPI percentage + 1% (as at the 1st of July 2024 as published by the Statistics South Africa) provided that the minimum increase shall be 5% and the maximum increase be no higher than 7%.

30B. BONUS FUND

- 1) An employer shall contribute to the Bonus Fund on behalf of an eligible employee in respect of a maximum of 15 normal days that the employee remains in his employ ("a contribution day"), a daily amount which shall be calculated as follows, from the date of coming into operation of this Agreement to 31 October 2023:

Category of Employee	Bonus Fund Contribution per day
Labourer	R16.45
General Worker	R21.40
Tradesman Class 4	R24.05
Tradesman Class 3	R26.53
Tradesman Class 2	R36.17
Drivers/Plant operators code C1	R28.28
Drivers code A, A1 or B	R21.30
Artisan	R48.43
Security Guard	R25.47
Apprenticeship Year 1	R16.96
Apprenticeship Year 2	R24.87
Apprenticeship Year 3	R38.76

- 2) For the periods 01 November 2023 to 31 October 2024 and 01 November 2024 to 31 October 2025, the applicable increase for bonus contributions will be calculated once the percentage of the annual increase has been finalised.

31. PENSION SCHEME/PROVIDENT FUND

- 1) The Western Province Building Industry Pension Scheme and Provident Fund ('the Funds') are hereby continued and shall continue to be administered by the Council in accordance with the provisions of the Act for the purpose of providing pensions to employees in respect of whom contributions are made in terms of this clause.
- 2) Every employee for whom a contribution is required in the table in sub clause (4) below shall be a member of either of the Funds, subject always to the rules of the said funds.
- 3) For the purpose of achieving the objects of this clause, the Council shall be entitled to enter into any agreements it deems fit and shall further be entitled to make rules in respect of the operation and administration of any fund established in terms of this clause, which may be amended from time to time.
- 4) An employer shall contribute the following amounts to the Funds, as the case may be, on behalf of each eligible employee in respect of each contribution day worked, from the date of coming into operation of this Agreement to 31 October 2023:

Category of Employee	Employer Contribution per day
Labourer	R22.77
General Worker	R29.59
Tradesman Class 4	R31.44
Tradesman Class 3	R34.67
Tradesman Class 2	R47.25
Drivers/Plant operators code C1	R41.43
Drivers code A, A1 or B	R31.19
Artisan	R63.30
Security Guard	R33.27
Apprenticeship Year 1	R22.16
Apprenticeship Year 2	R31.65
Apprenticeship Year 3	R47.48

- 5) For the period 01 November 2023 to 31 October 2024 the contributions applicable from 01 November 2023 shall be increased by the CPI percentage + 1% (as at the 1st of July 2023 as

published by the Statistics South Africa) provided that the minimum increase shall be 5% and the maximum increase be no higher than 7%.

- 6) For the period 01 November 2024 to 31 October 2025 the contributions applicable from 01 November 2024 shall be increased by the CPI percentage + 1% (as at the 1st of July 2024 as published by the Statistics South Africa) provided that the minimum increase shall be 5% and the maximum increase be no higher than 7%.
- 7) Every employer shall further deduct a contribution from the remuneration of each eligible employee in respect of each contribution day, which shall be calculated as follows, from the date of coming into operation of this Agreement to 31 October 2023:

Category of Employee	Employee Contribution per day
Labourer	R21.34
General Worker	R27.74
Tradesman Class 4	R29.46
Tradesman Class 3	R32.49
Tradesman Class 2	R44.30
Drivers/Plant operators code C1	R38.83
Drivers code A, A1 or B	R29.24
Artisan	R59.33
Security Guard	R31.19
Apprenticeship Year 1	R20.78
Apprenticeship Year 2	R29.67
Apprenticeship Year 3	R44.52

- 8) For the period 01 November 2023 to 31 October 2024 the contributions applicable from 01 November 2023 shall be increased by the CPI percentage + 1% (as at the 1st of July 2023 as published by the Statistics South Africa) provided that the minimum increase shall be 5% and the maximum increase be no higher than 7%.
- 9) For the period 01 November 2024 to 31 October 2025 the contributions applicable from 01 November 2024 shall be increased by the CPI percentage + 1% (as at the 1st of July 2024 as

published by the Statistics South Africa) provided that the minimum increase shall be 5% and the maximum increase be no higher than 7%.

- 10) Every employer shall pay the above contributions to the Council within the period determined by the Council.
- 11) Subject to an eligible employee's right to nominate a beneficiary to receive any amounts which may become due in terms of the Funds in the event of his death before retirement any pension benefits accruing to an employee in terms of this Agreement, shall not be transferable, and may not be ceded or pledged.
- 12) When an employee fails to qualify for death, disability, and/or funeral benefits in terms of the Funds because an employer has failed to pay contributions owing by it in respect of the employee's membership, such employer shall be liable to pay to such employee or his beneficiary an amount of money equal to the death, disability and/or funeral benefits that would have been payable to the employee under the rules of the applicable fund had the contributions been paid by the employer.
- 13) In the event of the Council's being dissolved, wound up or ceasing to operate during the currency of this Agreement, the parties shall appoint a trustee or trustees before such dissolution, winding up or ceasing to operate to perform the functions of the Council set out in this clause, and such trustees shall have all the powers vested in the Council for this purpose.

32. SICK PAY FUND

- 1) The Sick Pay Fund for the Building Industry ("the Fund") is hereby continued and shall continue to be administered by the Council for the purposes of recompensing employees during periods of absence from work due to incapacity and paying gratuities to employees in the event of permanent disability, in accordance with the rules of the Fund.
- 2) The fund shall be administered by the Council in accordance with the rules which it may make from time to time for this purpose ("the Rules"), and all moneys of the Fund shall be administered, invested, and paid out in accordance with the Rules. Copies of the Rules shall be available for inspection at the offices of the Council.
- 3) Every employer shall contribute to the Fund in respect of each normal working day that an eligible employee works, an amount which shall be calculated as follows, from the date of coming into operation of this Agreement to 31 October 2023:

Category of Employee	Contribution per day
Labourer	R3.55
General Worker	R4.62
Tradesman Class 4	R4.91
Tradesman Class 3	R5.42
Tradesman Class 2	R7.39
Drivers/Plant operators code C1	R6.46
Drivers code A, A1 or B	R4.88
Artisan	R13.85
Security Guard	R5.20
Apprenticeship Year 1	R3.47
Apprenticeship Year 2	R4.71
Apprenticeship Year 3	R7.42

- 4) For the period 01 November 2023 to 31 October 2024 the contributions applicable from 01 November 2023 shall be increased by the CPI percentage + 1% (as at the 1st of July 2023 as published by the Statistics South Africa) provided that the minimum increase shall be 5% and the maximum increase be no higher than 7%.
- 5) For the period 01 November 2024 to 31 October 2025 the contributions applicable from 01 November 2024 shall be increased by the CPI percentage + 1% (as at the 1st of July 2024 as published by the Statistics South Africa) provided that the minimum increase shall be 5% and the maximum increase be no higher than 7%.
- 6) An employee shall receive payment in the amount set out in the table below in respect of each working day, including public holidays, that he is absent owing to illness or injury in a cycle of 365 calendar days:

Normal working days absent	Percentage of minimum wage prescribed in Clause 18
1st to 10th day	80%
11th to 20th day	33%

- 7) An employee with more than 10 years employment in the industry receives 15 (fifteen) days sick leave at 80% and 5 (five) days at 33%.
- 8) Subject to the Rules of the Fund, an employee shall not be entitled to sick pay-
- a) until 90 (ninety) consecutive days' contributions have been made to the Fund in respect of such employee: Provided that contributions interrupted by a period of unemployment, or a change of employer shall be deemed to be consecutive;
 - b) for more than 130 days in any 365-day cycle, calculated from the first day in respect of which the employee is entitled to sick pay;
 - c) if he is absent from work owing to an accident compensable under the Compensation for Occupational Injuries and Diseases Act, 1993;
 - d) if his absence from work is related to the use of alcohol or illegal drugs, or he is incapacitated through sickness owing to his own negligence or misconduct;
 - e) if he fails to observe the instructions of a medical practitioner, or has in the opinion of that practitioner aggravated his condition or retarded his recovery through his own actions;
 - f) if he suffers from an injury for which a third party is liable to pay or does pay compensation to him;
 - g) while he undergoes treatment prescribed by any person other than a registered medical practitioner;
 - h) if he fails to provide the Council with any relevant information which it may require;
 - i) if he is found by the Council to be fit to resume his employment or to be permanently disabled, in which event he shall cease to be entitled to sick pay from a date fixed by the Fund for this purpose; and
 - j) at any time when the amount to the credit of the Fund drops below R100 000,00 and until such time as the amount to the credit of the Fund exceeds R500 000,00.
- 9) The Fund shall be entitled to recover any amount paid to an employee-
- a) in consequence of false information furnished to the Fund or on behalf of such employee; and

- b) if the employee fails to notify the Fund timeously of any change in his circumstances which could lead to the amount of the benefits being reviewed or withdrawn, in which event the Fund may claim from the employee any money overpaid to him.
- 10) In the case of any employee taking maternity leave, the Fund shall pay that employee 33% of her current wages for a maximum period of 120 days.
- 11) The Fund shall continue to pay employer contributions to the Holiday and Bonus Fund and the Building Industry Medical Aid Fund on behalf of an employee during a period of one or more consecutive days in any pay week that the employee receives sick pay in terms of this clause.
- 12) In the event of the expiration of this Agreement, the dissolution or winding up of the Council or a cessation of its operations, the provisions of clause 30(7), (8) and (9) relating to the Holiday and Bonus Fund shall apply equally to this Fund.

33. MEDICAL AID FUND

- 1) The Building Industry Medical Aid Fund ("the Fund") is hereby continued and shall continue to be administered by the Council in terms of the Act for the purposes of-
- a) assisting members in regard to the cost of medical services incurred by them or their dependants, as may be provided in the rules of the Fund;
 - b) taking such measures as the Council deems necessary for the prevention of sickness and for the improvement and promotion of health amongst members and their dependants;
 - c) contracting with any medical practitioner, hospital, nursing home, convalescent home or other similar institution, person or authority in respect of medical services; and
 - d) meeting the cost of such arrangements and the medical expenses of members or their dependants as provided in the rules of the Fund.
- 2) The Fund shall be managed by the Council in accordance with the Rules which it may make from time to time for this purpose ("the Rules"), and all moneys of the Fund shall be administered, invested and paid out in accordance with the Rules, copies of which shall be available for inspection at the offices of the Council. The Council shall appoint auditors to audit the books of account of the Fund annually.
- 3) An employee who is eligible in terms of the Rules to become a member of the Fund shall contribute half of the total contribution and his employer shall contribute the remaining half of the contribution

for each normal working day that the employee remains in his employ, which contribution shall be as follows, from the date of coming into operation of this Agreement to 31 October 2023:

Medical Aid Contribution per day
<p>Artisan Member Employee contribution: R38.30</p> <p>Employer contribution per Artisan: R38.30</p>
<p>For the period 1 November 2023 to 31 October 2024 the contributions applicable shall be increased on 01 November by the CPI percentage + 1% (as at the 1st of July 2023 as published by Statistics South Africa) provided that the minimum increase shall be 5% and the maximum increase be no higher than 7%.</p>
<p>For the period 1 November 2024 to 31 October 2025 the contributions applicable from 1 November 2024 shall be increased by the CPI percentage + 1% (as at the 1st of July 2024 as published by Statistics South Africa) provided that the minimum increase shall be 5% and the maximum increase be no higher than 7%.</p>

- 4) Every employer shall deduct a contribution from the remuneration of each eligible employee in respect of each contribution day and the employer shall add to it an equal amount.
- 5) Every employer shall pay the above contributions to the Council within the period determined by the Council for such purpose.
- 6) In the event of the expiration of this Agreement, the dissolution or winding up of the Council or a cessation of its operations, the provisions of clause 30(7), (8) and (9) relating to the Holiday and Bonus Fund shall apply equally to this Fund.

CHAPTER SEVEN: LEAVE

34. MATERNITY LEAVE

- 1) An employee is entitled to at least 4 (four) consecutive months' maternity leave.
- 2) An employee may commence maternity leave—
 - a) at any time from 4 (four) weeks before the expected date of birth, unless otherwise agreed; or
 - b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.
- 3) No employee may work for 6 (six) weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.
- 4) An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for 6 (six) weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.
- 5) An employee must notify an employer in writing, unless the employee is unable to do so, of the date on which the employee intends to—
 - a) commence maternity leave; and
 - b) return to work after maternity leave.
- 6) Notification in terms of subsection (5) must be given—
 - a) at least 4 (four) weeks before the employee intends to commence maternity leave; or
 - b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.
- 7) The payment of maternity benefits will be determined by the Minister subject to the provisions of the Unemployment Insurance Act, 1966 (Act No. 30 of 1966).
- 8) No employer may require or permit a pregnant employee or an employee who is nursing her child to perform work that is hazardous to her health or the health of her child.
- 9) During an employee's pregnancy, and for a period of 6 (six) months after the birth of her child, her employer must offer her suitable, alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment, if—

- a) the employee is required to perform night work, or her work poses a danger to her health or safety or that of her child; and
- b) it is practicable for the employer to do so.

34A. PARENTAL LEAVE

- 1) An employee, who is a parent of a child, is entitled to at least 10 (ten) consecutive days parental leave.
- 2) An employee may commence parental leave on—
 - a) the day that the employee's child is born; or
 - the date—
 - i) that the adoption order is granted; or
 - ii) that a child is placed in the care of a prospective adoptive parent by a competent court, pending the finalisation of an adoption order in respect of that child,
 - iii) whichever date occurs first.
- 3) An employee must notify an employer in writing, unless the employee is unable to do so, of the date on which the employee intends to—
 - a) commence parental leave; and
 - b) return to work after parental leave.
- 4) Notification in terms of sub clause (3) must be given—
 - a) at least 1 (one) month before the—
 - i) employee's child is expected to be born; or
 - ii) date referred to in sub clause 2(b); or
 - b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.
- 5) The payment of parental benefits will be determined by the Minister, subject to the provisions of the Unemployment Insurance Act, 2001.

- 6) An employee, who is an adoptive parent of a child who is below the age of 2 (two), is subject to sub clause (11), entitled to—
 - a) adoption leave of at least 10 (ten) weeks consecutively; or
 - b) the parental leave referred to in clause 34A.
- 7) An employee may commence adoption leave on the date—
 - a) that the adoption order is granted; or
 - b) that a child is placed in the care of a prospective adoptive parent by a competent court, pending the finalisation of an adoption order in respect of that child,
 - c) whichever date occurs first.
- 8) An employee must notify an employer in writing, unless the employee is unable to do so, of the date on which the employee intends to—
 - a) commence adoption leave; and
 - b) return to work after adoption leave.
- 9) Notification in terms of sub clause (8) must be given—
 - a) at least 1 (one) month before the date referred to in sub clause (7); or
 - b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.
- 10) The payment of adoption benefits will be determined by the Minister, subject to the provisions of the Unemployment Insurance Act, 2001.
- 11) If an adoption order is made in respect of two adoptive parents, one of the adoptive parents may apply for adoption leave and the other adoptive parent may apply for the parental leave referred to in clause 34A: Provided that the selection of choice must be exercised at the option of the two adoptive parents.
- 12) If a competent court orders that a child is placed in the care of two prospective adoptive parents, pending the finalisation of an adoption order in respect of that child, one of the prospective adoptive parents may apply for adoption leave and the other prospective adoptive parent may apply for the parental leave referred to in clause 34A: Provided that the selection of choice must be exercised at the option of the two prospective adoptive parents.

- 13) An employee, who is a commissioning parent in a surrogate motherhood agreement is, subject to sub clause (18), entitled to—
- a) commissioning parental leave of at least 10 (ten) weeks consecutively; or
 - b) the parental leave referred to in clause 34A.
- 14) An employee may commence commissioning parental leave on the date a child is born as a result of a surrogate motherhood agreement.
- 15) An employee must notify an employer in writing, unless the employee is unable to do so, of the date on which the employee intends to—
- a) commence commissioning parental leave; and
 - b) return to work after commissioning parental leave.
- 16) Notification in terms of sub clause (15) must be given—
- a) at least one month before a child is expected to be born as a result of a surrogate motherhood agreement; or
 - b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.
- 17) The payment of commissioning parental benefits will be determined by the Minister, subject to the provisions of the Unemployment Insurance Act, 2001.
- 18) If a surrogate motherhood agreement has two commissioning parents, one of the commissioning parents may apply for commissioning parental leave and the other commissioning parent may apply for the parental leave referred to in clause 34A: Provided that the selection of choice must be exercised at the option of the two commissioning parents.

35. FAMILY RESPONSIBILITY LEAVE

- 1) This clause applies to an employee—
- a) who has been in employment with an employer for longer than 4 (four) months; and
 - b) who works for at least 4 (four) days a week for that employer.
- 2) An employer must grant an employee, once only per benefit year, at the request of the employee, 5 (five) days' paid leave, which the employee is entitled to take—

- a) when the employee's child is sick; or
 - b) in the event of the death of-
 - i) the employee's spouse or life partner; or
 - ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.
 - c) In the event of the illness of-
 - i) The employee's spouse or life partner.
- 3) Subject to sub clause (5), an employer must pay an employee for a day's family responsibility leave—
- a) the wage the employee would ordinarily have received for work on that day; and
 - b) on the employee's usual pay day.
- 4) In the event of the death of the employee's spouse, life partner, parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling, the employee will be entitled to a further 4 (four) working days unpaid leave, provided that the employee notifies the employer at least 24 (twenty-four) hours in advance and that the employee provides reasonable proof of the event. If the employee has given notice and proof of the event, the employer will not be entitled to take disciplinary action against the employee.
- 5) An employee may take family responsibility leave in respect of the whole or a part of a day.
- 6) Before paying an employee for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in sub clause (2) for which the leave was required, provided that, if the unpaid leave is granted in terms of sub clause (4), such proof is compulsory.
- 7) An employee's unused entitlement to leave in terms of this clause lapses at the end of the benefit year in which it accrues.

36. LEAVE FOR TRADE UNION ACTIVITIES

- 1) An employee who is an office-bearer of a representative trade union, or of a federation of trade unions to which the representative trade union is affiliated, is entitled to take reasonable leave during working hours for the purpose of performing the functions of that office.

- 2) The representative trade union and the employer may agree to the number of days of leave, the number of days of paid leave and the conditions attached to any leave.
- 3) An arbitration award in terms of section 21(7) of the Labour Relations Act, 1995, regulating any of the matters referred to in subsection (2) remains in force for 12 (twelve) months from the date of the award.

37. ANNUAL LEAVE

- 1) Every employee shall be entitled to 15 (fifteen) working days annual leave during the annual Building Industry shutdown period, the dates of which shall be determined by the Council.
- 2) Notwithstanding the provisions of sub clause (1), an employee may agree with his employer to work during the annual leave period and shall be paid the basic wage laid down in clause 18(2) for any time worked during such period, subject to the employer granting a minimum of 10 (ten) working days during the annual shut down period.
- 3) Security guards and other employees who work during the annual leave period shall, by agreement with their employers, be granted leave equal to the period worked during annual shutdown.

38. SICK LEAVE

An employee shall be entitled to sick leave in accordance with the provisions of the Sick Pay Fund for the Building Industry and clause 32 of this Agreement, and to payment for the period of such sick leave in terms thereof.

CHAPTER EIGHT: TERMINATION OF EMPLOYMENT

39. TERMINATION OF CONTRACT OF EMPLOYMENT

- 1) An employer or employee who intends terminating a contract of employment shall give the other party at least 1 (one) week's written notice of termination of such contract, which notice shall be given before 12:00 on any working day and shall commence as from 08:00 on the following working day if such contract has been for up to 6 (six) months, continuous employment and 2 (two) weeks written notice if such contract has been for longer than 6 (six) months' continuous employment.

- 2) Instead of giving an employee notice in term of sub clause (1) an employer may pay the employee the remuneration that the employee would have received if the employee had worked during the notice period. If an employee gives notice of termination of employment, and the employer waives any part of the notice, the employer must pay the employee in terms of sub clause (1), unless the employer and employee agree otherwise.
- 3) In the event of an employee absconding during his notice period and where the employer has proven such, the employer shall be entitled to deduct payment for the days that the employee was required to but did not work during his notice period from any monies due to the employee in terms of the Holiday and Bonus Fund.
- 4) Nothing in this clause shall affect the right of an employer or employee to terminate a contract of employment without notice for any cause recognised by law.
- 5) A contract of employment may be terminated if an employee is absent from work without the employer's consent for a continuous period of 5 (five) working days, unless the employee's absence is due to circumstances beyond his control: Provided that the employer shall investigate the absence of the employee and apply fair procedures to determine if the termination is to be made effective.

40. TEMPORARY LAY-OFF

- 1) An employer shall be entitled to lay off an employee temporarily on account of -
 - a) inclement weather, or
 - b) a shortage of materials, due to circumstances beyond the employer's control, or
 - c) on account of a temporary shortage of work, or
 - d) loadshedding - where work cannot be performed without the use of electricity, or
 - e) civil and/or political unrest, where this unrest action prevents the normal work activities from continuing on a specific site.
- 2) In all instances where this clause is to be implemented, the following process is to be followed by the employer -
 - a) written notice of the lay-off shall be given to the employee before completion of the normal working shift preceding the day on which the lay-off is to be implemented;

- b) the written notice must include the reason for the lay-off and the period of the lay-off;
 - c) where it is not possible to comply with sub clause (a) above, the employer shall pay the employee the equivalent of two hours' wages for short notice of the lay-off;
 - d) in the case of loadshedding, employers and employees are to negotiate alternative working hours around loadshedding hours to catch up with the work lost due to loadshedding. Where agreement is not reached or the loadshedding hours are of such a nature that alternative work hours are not practical, the employee can be laid off for the day in question.
- 3) The employer shall not be liable to pay employee wages and benefits except as specified in sub clause (2)(c) above during the lay-off.
- a) Where the lay-off period includes a public holiday, the employer will not be compelled to remunerate the employee for the public holiday.
 - b) An employer may not apply the lay-off clause to avoid complying with the provisions of the Public Holidays Act (Act No 36 of 1994).
- 4) An employer may lay an employee off in terms of sub clause (1) above for a continuous period not exceeding 20 (twenty) working days and if at the end of such period the employer wishes to extend the lay-off period for a further 10 (ten) working days the employee shall first be given the option of being retrenched in accordance with the procedure laid down in clause 41.
- 5) The number of lay-offs permitted in terms of sub clause (4) above is limited to 2 (two) per benefit year (1 November to 31 October), thereafter the employer must apply for exemption in terms of Clause 57 to implement further lay-offs during this period.
- a) This sub clause does not apply to lay-offs for the following reasons –
 - i) inclement weather, or
 - ii) loadshedding, or
 - iii) civil and/or political unrest, where this unrest action prevents the normal work activities from continuing on a specific site.
- 6) Where it can be established that the employer has not complied with the provisions of this clause, the employer will be held liable to remunerate the employee for the period that the employee was laid off.

- 7) Where it can be established that the employer has used the lay-off clause contrary to clause 39 and simply used a lay-off as a disciplinary measure without following the applicable disciplinary procedures, the employer will be held liable to remunerate the employee for the period that the employee was laid off.

41. RETRENCHMENT

- 1) An employer who proposes retrenchment, shall immediately when retrenchment is considered, provide any of the trade unions of which, to his knowledge, prospective retrenchees may be members, with the following information in writing:
 - a) the number of employees who may be retrenched, together with their names, duration of service, Council Holiday Fund numbers, and job categories;
 - b) the proposed date of retrenchment;
 - c) the reasons for the proposed retrenchment, including all alternatives which the employer has considered and the reasons for rejecting them;
 - d) the proposed selection criteria in respect of retrenchees;
 - e) the proposed date for consultations with the trade union(s) and/or employee(s) likely to be affected;
 - f) the proposed severance pay; and
 - g) the employer's proposals for assistance to retrenchees, including the possibility of reemployment.
- 2) In the event of an employee likely to be affected by the proposed retrenchment not being a union member, the information mentioned in sub clause (1) above shall be forwarded directly to that employee(s).
- 3) The trade union(s) and/or the employee(s) shall provide the employer with a written response to its retrenchment proposals by not later than 3 (three) working days before the proposed date of consultation, which shall include all proposals in respect of the retrenchment.
- 4) The employer shall attempt to reach consensus with the trade union(s) and/or employee(s) on the retrenchment proposals through consultation: Provided that should consensus not be reached before the date on which the retrenchment is to take place, the employer shall be entitled to implement its retrenchment proposals.

- 5) The employer shall be entitled to implement its retrenchment proposals at any stage if the trade union(s) and/or employee(s) do not provide written responses or refuse and/or fail to consult with the employer in accordance with this sub clause.
- 6) An employee who is retrenched in terms of this sub clause shall be entitled to severance payment of a minimum of 1 (one) week of that employee's current remuneration per completed year of continuous service with his employer.

CHAPTER NINE: COUNCIL ADMINISTRATION

42. AUDIT AND ACCOUNTING

The Council shall ensure that proper books of account and records are kept in respect of each of the Funds administered by it, and that an annual audit of each of the Funds is performed in accordance with the provisions of the Act and the Council's Constitution.

43. EXPENSES OF COUNCIL

- 1) Every employer shall deduct an amount as reflected in the table below per normal working day from the wages of each eligible employee and shall add an equal amount to the amount so deducted.
- 2) Every employer shall pay the contributions referred to in sub clause (1) to the Council within the period determined by the Council.
- 3) The contribution paid to the Council in terms of this clause shall be utilized for the purpose of meeting its general expenses and shall be administered in accordance with the provisions of the Council's Constitution.

BIBC Levy Amount per day

From the date of coming into operation of this Agreement to 31 October 2023.

- a) Labourer and General Worker: R2.66
- b) All other employee categories: R2.65

For the period 1 November 2023 to 31 October 2024 the levies applicable shall be increased on 01 November by the CPI percentage + 1% (as at the 1st of July 2023 as published by Statistics South Africa) provided that the minimum increase shall be 5% and the maximum increase be no higher than 7%.

For the period 1 November 2024 to 31 October 2025 the levies applicable from 1 November 2024 shall be increased by the CPI percentage + 1% (as at the 1st of July 2024 as published by Statistics South Africa) provided that the minimum increase shall be 5% and the maximum increase be no higher than 7%.

44. EXHIBITION OF AGREEMENT

- 1) The parties agree that the English version of this Agreement shall determine the meaning and the intention of the parties and the translations in Afrikaans and Xhosa shall be made available by the Council for inspection by any person during working hours at the offices of the Council.
- 2) Any person may acquire a copy of this Agreement by paying to the Council the sum of R10,00.
- 3) Each party to this Agreement shall receive two free copies of the Agreement and Constitution.

45. VALUE ADDED TAX (VAT)

- 1) All monetary values listed below are inclusive of value added tax:
 - a) Council levies in terms of clause 43.
 - b) Master Builders Association (MBA) Skills and Education Trust levy in terms of clause 49.

CHAPTER TEN: PARTY ARRANGEMENTS

46. TRADE UNION SUBSCRIPTIONS

- 1) Trade unions may opt for either one of the following mechanisms, in each case deductions of trade union subscriptions may be authorized only by the affected employee, and in writing.
- 2) Each trade union shall be entitled to approach each employer in the Industry direct for the purpose of establishing stop-order facilities for the deduction of trade union subscriptions, or
- 3) The employer shall deduct the Trade Union Subscription Amount (as amended by the Trade Unions from time to time) from an employee who is a member of a registered trade union and for whom wages are prescribed in clause 18 of this Agreement.
- 4) An employer shall pay the amounts deducted by him in terms of sub-clause (3) to the Council within the period determined by the Council.
- 5) Each month the Council shall pay over to the trade unions all moneys so collected by the employers in terms of sub clause (3) above.

47. TRADE UNION ACCESS

- 1) Officials of trade union parties shall in the ordinary course of their duties have access to building sites and workshops during working hours.
- 2) Trade Union Officials shall not be allowed to interfere with the continued performance of work by any employee or approach any employee without the prior consent of the employer or his duly authorized representative, which consent shall not unreasonably be withheld.

48. SPECIAL MEMBERSHIP LEVY: EMPLOYERS

- 1) Each member of an employers' organisation shall pay a membership levy to that employers' organisation in respect of each employee employed by such member entitled to benefits in terms of this Agreement.
- 2) An employers' organisation shall be entitled to use the facilities of the Council for the collection of such levies.

- 3) Each month the Council shall pay over to the employers' organisation all moneys so collected from the employers in terms of paragraph (1).

49. MASTER BUILDERS ASSOCIATION (MBA) SKILLS AND EDUCATION TRUST

- 1) Every member employer of the MBA Western Cape shall pay to the Council the contribution prescribed by the MBAWC Skills and Education Trust.
- 2) Each month the Council shall pay over the collected funds to the MBAWC Skills and Educational Trust.

CHAPTER ELEVEN: COMPLIANCE, MONITORING AND EXEMPTIONS

50. PROCEDURE TO ENFORCE COMPLIANCE WITH THIS AGREEMENT

- 1) The Council shall take all reasonable steps necessary to ensure compliance with this Agreement.
- 2) If, whether through its own investigations or through any other source, it appears as if the provisions of this Agreement have been breached then the following procedure shall apply to enforce compliance:
 - a) The Secretary of the Council shall appoint a designated agent to investigate the alleged breach.
 - b) If, upon completion of the investigation, the designated agent has reason to believe that this Agreement has been breached, the agent shall issue a compliance order.
 - c) The Secretary of the Council may:
 - i) impose a fine in terms of clause 54; or
 - ii) refer the matter to arbitration in terms of this Agreement if the respondent party does not consent to the compliance order or the fine, in which case the respondent party may be ordered to pay the costs of the process; or
 - iii) take such other steps as he may deem reasonable:
- 3) The Secretary of the Council may apply to make an arbitration award an order of the Labour Court in terms of section 158 (1) of the Act.

- 4) Notwithstanding any the provisions of this Collective Agreement the Council may utilise section 33A of the LRA 1995 (as amended) in conjunction with Annexure "A" (Rules for conciliating and arbitrating disputes in the Building Industry Bargaining Council) to monitor and enforce compliance with its collective agreement and to conciliate and arbitrate LRA, 1995 disputes.

51. POWERS OF DESIGNATED AGENTS

- 1) A designated agent appointed by the Minister in terms of section 33 (1) of the Act to attempt to resolve a dispute or to investigate any alleged contravention and for purposes of routine inspection to enforce compliance with this Agreement may-
- a) subpoena for questioning any person who may be able to give information or whose presence at the conciliation or arbitration proceedings may help to resolve the dispute;
 - b) subpoena any person who is believed to have possession or control of any book, document or object relevant to the resolution of the dispute to appear before the designated agent to be questioned or to produce that book, document or object;
 - c) administer an oath or accept affirmation from any person called to give evidence or be questioned;
 - d) at any reasonable time, but only after obtaining the necessary written authorisation-
 - i) enter and inspect any premises on or in which any book, document or object relevant to the resolution of the dispute is to be found or is suspected on reasonable grounds of being there;
 - ii) examine, demand and production of, and seize any book, document or object that is on or in those premises and that is relevant to the resolution of the dispute; and
 - iii) take a statement in respect of any matter relevant to the resolution of the dispute from any person on the premises who is willing to make a statement;
 - e) inspect, and retain a reasonable period, any of the books, documents or objects that have been produced to, or seized by, the designated agent.
- 2) A subpoena issued for any purpose in terms of sub clause (1) shall be signed by the Secretary of the Bargaining Council and shall-
- a) specifically require the person named in it to appear before the designated agent;
 - b) sufficiently identify the book, document or object to be produced; and

- c) state the date, time and place at which the person is to appear.
- 3) The written authorisation referred to in sub clause (1)(d)-
- a) if it relates to occupied residential premises, may be given only by a judge of the Labour Court and with due regard to section 14 of the Constitution of the Republic of South Africa, and then only on the application of the designated agent setting out under oath or affirmation the following information:
 - i) The nature of the dispute;
 - ii) the relevance of any book, document or object to the resolution of the dispute;
 - iii) the presence of any book, document or object on the premises; and
 - iv) the need to enter, inspect or seize the book, document or object.
 - b) in all other cases, may be given by the Secretary of the Council.
- 4) The owner or occupier of any premises that a designated agent is authorised to enter and inspect, and every person employed by that owner or occupier, shall provide facilities that a designated agent requires to enter those premises and to carry out the inspection or seizure.
- 5) The appointed person shall issue a receipt for any book, document or object seized in terms of sub clause (1).
- 6) The law relating to privilege, as it applies to a witness subpoenaed to give evidence or to produce any book, document or object before a court of law, applies equally to the questioning of any person or the production or seizure of any book, document or object in terms of this clause.
- 7) The appointed person shall pay the specified witness fee to each person who appears before him in response to a subpoena issued.
- 8) A person shall be in contempt of the designated agent-
- a) if, after having been subpoenaed to appear before him, the person without good cause does not attend at the time and place stated in the subpoena;
 - b) if, after having appeared in response to a subpoena, that person fails to remain in attendance until excused by the designated agent;
 - c) by refusing to take the oath or to make an affirmation as a witness when a designated agent so requires;

- d) by refusing to answer any question fully and to the best of that person's knowledge and belief, subject to sub clause (6);
 - e) if the person, without good cause, fails to produce the book, document or object specified in a subpoena to a designated agent;
 - f) if the person wilfully hinders a designated agent in performing any function conferred by or in terms of the Act;
 - g) if the person insults, disparages or belittles a designated agent, or prejudices or improperly influences an employee in the process of a designated agent carrying out his function as conferred by or in terms of this Agreement.
 - h) by wilfully interrupting the conciliation or arbitration proceedings or misbehaving in any other manner during investigation or improperly anticipates the designated agent's recommendations during those proceedings;
 - i) by doing anything else in relation to the designated agent which, if done in relation to a court of law, would have been contempt of court.
- 9) The designated agent may refer any contempt to the Labour Court for an appropriate order.
- 10) A designated agent may decline to investigate and follow up on a complaint made by an employee who reports the dispute to the Council more than 17 weeks after the dispute arose: Provided that the employer of the complainant shall be assessed for the full period of non-compliance including interest and penalties as prescribed in this Agreement.
- 11) A designated agent may decline to investigate and follow up on a complaint made by a trade union if the trade union has not attempted first to resolve the alleged dispute directly with the employer party to the alleged dispute.

52. ARBITRATION PROCEDURES TO ENFORCE COMPLIANCE WITH THIS AGREEMENT

- 1) If the Secretary to the Council decides to refer the matter for arbitration, he shall appoint an arbitrator to hear and determine the alleged breach of this Agreement.
- 2) The Secretary, in consultation with all parties who may have a legal interest in the outcome of the arbitration, shall decide the date, time and venue of the arbitration hearing.

- 3) The Secretary of the Council shall serve notice of the date, time and venue of the arbitration on all parties who may have a legal interest in the outcome of the arbitration.
- 4) Any party who has a legal interest in the outcome of the arbitration shall have the right to-
 - a) give evidence;
 - b) call witnesses;
 - c) question the witnesses of any other party;
 - d) address the concluding arguments to the arbitrator;
 - e) be represented by a legal practitioner or co-employee or an office-bearer or official of his trade union or employers' organisation and, if the party is a juristic person, by a director or employee thereof.
- 5) Any award made by the arbitrator, together with any reasons, shall be served on all interested parties by the Council.
- 6) The Secretary of the Council may apply to make the arbitration award an order of the Labour Court in terms of section 158 (1) of the Act.
- 7) The provisions of this procedure shall stand in addition to any other legal remedy which the Council may apply to enforce a collective agreement.

53. POWERS OF AN ARBITRATOR

- 1) The arbitrator shall have the following general powers:
 - a) To determine whether there has been a breach of this Agreement.
 - b) To make any appropriate award that gives effect to the Collective Agreement and to ensure compliance therewith.
 - c) To determine the appropriate form of and the procedure to be followed at the arbitration proceedings.
 - d) To make any order as to costs that he deems appropriate.
- 2) The arbitrator shall have the power to make an award in the absence of a party who is alleged to have breached the Agreement, if-

- a) such party fails to appear in person or to be represented at the arbitration proceedings;
 - b) proof is presented that such party has been notified of the proceedings: Provided that notice of the arbitration proceedings shall be deemed to have been given if proof is presented that written notification has been forwarded to such party-
 - i) by registered mail to such party's last-known address and 14 (fourteen) days have elapsed since such notification has been mailed; or
 - ii) by fax transmission to such party's last-known fax number; or
 - iii) by hand delivery to such party's last-known business or residential address; or
 - iv) an electronic mail has been sent to such party
 - c) prima facie evidence has been presented to the arbitrator that the party in question has failed to comply with this Agreement.
- 3) The arbitrator shall have the power to vary, rescind or amend any arbitration award made by him or any arbitrator. The arbitrator shall have this power if-
- a) the award was erroneously sought or erroneously made in the absence of any party affected by the award;
 - b) the award is ambiguous or contains an obvious error or omission, but only to the effect of that ambiguity, error or omission;
 - c) the award was granted as a result of a mistake common to the parties to the proceedings.
- 4) If the arbitrator finds that any party to the dispute has failed to comply with a provision of any of the Council's Collective Agreements which are binding on that party, then the arbitrator shall, in addition to any other appropriate order, impose a fine on the non-compliant party in accordance with clause 50.

54. FINES, ARBITRATION COSTS AND INTEREST

- 1) The fine that the Secretary may impose, and an arbitrator shall impose for a failure to comply with a provision of a Collective Agreement is as follows:

- a) The fine application for failure to pay an amount due to an employee/party in terms of any provision, shall be 25% of the amount due, plus any interest owing on the amount at the date of the order.
- 2) A cost award by an arbitrator may include the following costs or any costs which in the opinion of the arbitrator should be awarded:
 - a) Fee of the arbitrator including travelling and accommodation;
 - b) venue costs;
 - c) administration fee of the Council;
 - d) costs of issuing subpoenas;
 - e) representative's fee which is to be taxed by the Labour Court;
 - f) cost of the designated agent or other staff of the Council who must attend the arbitration.
- 3) An employer who does not pay to the Council the levies and contributions payable by him and his employees each week within the period determined by the Council as defined in clause 5 shall pay interest to the Council at the prime bank rate charged by the Council's bank plus 2%, calculated from the due date of payment.

55. PROCEDURE FOR THE RESOLUTION OF DISPUTES ABOUT THE APPLICATION OR INTERPRETATION OF THIS AGREEMENT

- 1) Any person who falls within the registered scope of the Council may refer a dispute about the interpretation or application of this Agreement to the Council for resolution in terms of this Agreement.
- 2) If a dispute is so referred to the Council, it shall attempt to resolve the dispute through conciliation and, if the dispute remains unresolved after conciliation, the Council shall appoint an arbitrator to arbitrate the dispute.
- 3) The powers of the arbitrator shall be the same as in clause 53 above.

56. COMPLIANCE COMMITTEE

- 1) The Council shall nominate a subcommittee to be known as the 'Compliance Committee' that will be responsible for the effective investigation and enforcement action in respect of non-compliance with this Agreement.
- 2) The Compliance Committee shall:
 - a) consist of 1 (one) representative from each party to this Agreement, including Employer Organisation representatives and Trade Union representatives;
 - b) establish guidelines and principles covering all aspects of the enforcement of this Agreement, which are acceptable to the parties to this Agreement, and which shall provide fair, cost-effective, unbiased and corruption free enforcement of this Agreement;
 - c) actively monitor and ensure that the guidelines and principles so established are adhered to by the agents of the Council;
 - d) provide open communication regarding the actions of the Council or the Compliance Committee with all employers and employees interested in these actions;
 - e) investigate positive methods for promoting compliance especially amongst informal sector employers and employees and including the lobbying of all persons and institutions responsible for the preparation of tender documents to provide for compulsory compliance with this Agreement by the employers who are successful in winning such tenders;
 - f) provide for quick and cost-effective conciliation or arbitration of disputes between the Council and employers or employees.

57. EXEMPTIONS

- 1) All applications for exemption shall be in writing (on an application form as provided by the Council) and shall be addressed to the Secretary of the Council.
- 2) The Council hereby establishes an Exemptions Body constituted of the Compliance Committee appointed by the Council to consider all applications for exemptions of the Council's Collective Agreement.
- 3) Any person subject to the constitution/agreement may apply for exemption.
- 4) The Council shall decide an application for exemption within 30 (thirty) days of receipt.

- 5) All applicants for exemption shall be substantiated, and such substantiation shall include the following details:
 - a) The period for which the exemption is required;
 - b) the Agreement and clauses or sub-clauses of the Agreement from which exemption is required; and
 - c) proof that the exemption applied for has been discussed by the employer, his employees and their respective representatives, and the responses resulting from such consultation, either in support of or against the application, are to be included with the application.
- 6) Upon receipt of a valid application by the Council it shall immediately refer the application to the Exemptions Body which may, if deemed expedient, request the applicant to attend the meeting at which the application is considered, to facilitate the deliberations.
- 7) The authority of the Council is to consider applications for exemptions and grant exemptions.
- 8) In considering the application, the Council or the Independent Exemptions Body in the case of an appeal, shall take into consideration all relevant factors, which may include, but shall not be limited to, the following exemption criteria:
 - a) The period for which the exemption is sought.
 - b) The number of employees affected and how many of such employees are members of a registered trade union.
 - c) The written and verbal substantiation provided by the applicant
 - d) Be accompanied by relevant supporting data and financial information.
 - e) the terms of the exemption;
 - f) the effect of the exemption on any employee benefit fund or training provision in relation to the alternative comparable bona fide benefit or provision, including the cost to the employee, transferability, administration management and cost, growth and stability;
 - g) The employer must consult with the workforce, through a trade union representative or, where no trade union is involved, with the workforce itself, and must include the views expressed by the workforce in the application.

- h) Where the views of the workforce differ from that of the employer, the reasons for the views expressed must be submitted with the application.
- i) An application for exemption shall not be considered unless the employees or their representatives have been properly consulted and their views fully recorded in an accompanying document. Where an agreement between the employer and the workforce is reached, the signed written agreement must accompany the application.
- j) If the nature of the relief sought dictates, the application shall be accompanied by a plan reflecting the objectives and strategies to be adopted to rectify the situation giving rise to the application and indicating a time frame for the plan.
- k) The applicant's past record (if applicable) of compliance with the provisions of this agreement, its amendments and Exemptions Certificate.
- l) any precedent that might be set;
- m) it is fair to both the employer, its employees and other employees in the sector;
- n) it does not undermine this Agreement;
- o) reporting requirements by the applicant and monitoring and re-evaluation processes; and
- p) it will make a material difference to the viability of a business;
- q) it will assist with unexpected economic hardship occurring during the currency of the Agreement and will save unnecessary job losses.
- r) the interest of the industry as regards:
 - i) unfair competition;
 - ii) collective bargaining;
 - iii) potential for labour unrest;
 - iv) increased employment;
- s) the interest of employees' as regards:
 - i) exploitation;
 - ii) job preservation;

- iii) sound conditions of employment;
 - iv) possible financial benefits;
 - v) health and safety;
 - vi) infringement of basic rights
- t) the interest of the employer as regards:
- i) financial stability;
 - ii) impact on productivity;
 - iii) future relationship with employees' trade union;
 - iv) operational requirements
 - v) any special circumstance that exist;
- 9) In the event of the Council or the Independent Exemptions Body granting, partially granting or refusing to grant an application, the applicant shall be informed of the decision and the reasons for the decision within 14 (fourteen) normal working days and non-parties shall have the right to appeal in writing against the decision to the Independent Body within 14 (fourteen) days from the date of being informed of the outcome. Such an appeal shall be fully reasoned.
- 10) In terms of section 32(3)(e) of the Act, the Council hereby establishes an Independent Body to be known as the "Independent Exemption Board" to hear and decide any appeal brought against-
- a) the Council's refusal of a non-party's application for exemption from the provisions of this Agreement;
 - b) the withdrawal of such an exemption by the Council.
 - c) an appeal shall be decided within 30 (thirty) days.
- 11) No representative, office bearer, or official of the Council, trade union or employers' organisation party to the Council may be a member or participate in the deliberations of the Independent Exemptions Board.
- 12) The Council may also refer any application for exemption directly to the Independent Exemptions Board. The Independent Exemptions Boards decision regarding the granting or denying of the

exemption will be final and both the applicant and the Council will be bound to the decision of the Independent Exemption Board.

- 13) The Secretary of the Council shall submit the appeal, together with the Council's decision regarding the application for exemption, to the Independent Exemptions Board which shall as soon as possible and not later than 30 (thirty) days hear and decide the matter with reference to the exemption criteria set out in sub clause (8) hereof and when requested by the applicants or objectors to do so, may interview applicants or any objectors at its following meeting: Provided that the Independent Exemptions Board may defer a decision to a following meeting if additional motivation, information or verbal representations are considered necessary to decide on the application for exemption.
- 14) When the Independent Exemptions Board decides against granting an exemption or part of an exemption requested it shall advise the applicant(s) within 14 (fourteen) normal working days of the date of such decision and shall provide the reason or reasons for the decision not to grant an exemption.
- 15) Once the Council has granted an exemption or the Independent Exemptions Board has decided to uphold the appeal and grant an exemption it shall issue a certificate and advise the applicant(s) within 14 (fourteen) normal working days of the date of the decision, clearly specifying-
 - a) the full name of the applicant(s) or enterprise concerned;
 - b) the trade name; the provisions of the Agreement from which exemption has been granted;
 - c) the period for which the exemption shall operate;
 - d) the date of issue and from which the exemption shall operate;
 - e) the condition(s) of the exemption granted; the area in which the exemption applies
 - f) the reporting requirements by the applicant and the monitoring and re-evaluation processes.
- 16) The Council or Independent Exemptions Body shall;
 - a) retain a copy of the certificate
 - b) forward the original certificate to the Secretary of the Council; and
 - c) a copy of the exemption certificate is sent to the applicant
- 17) An employer to whom a certificate has been issued shall at all times have the certificate available for inspection at his establishment.

- 18) Unless otherwise specified in the certificate of exemption, any exemption from this Agreement shall be valid only in the region of the Council in which the application was made.

Signed at Bellville on this 1ST day of AUGUST 2022

A BODILL 

for the Master Builders' and Allied Trades' Association, Western Cape

D. UYS 

Master Builders' and Allied Trades' Association, Boland

S. KIRSTEN 

for the Consolidated Employers Organisation (CEO)

L. JONKERS 

for the Building Workers' Union (BWU)

T. NTSOMI 

for the Building, Wood and Allied Workers' Union of South Africa (BWAUSA)

L. MGQAMQO 

for the National Union of Mineworkers (NUM)

ANNEXURE A: RULES FOR CONCILIATING AND ARBITRATING DISPUTES IN THE BUILDING INDUSTRY BARGAINING COUNCIL (RULES)

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- 4) How to serve documents on other parties
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- 9) What words mean in these Rules

PART A: SERVING AND FILING DOCUMENTS**1. Council contact details and addresses at which documents must be filed**

- 1) The addresses, telephone numbers, e-mail addresses and telefax numbers of the offices of the Council are listed in Schedule 1 to these Rules.
- 2) Documents may be filed with the Council only at those addresses, e-mail addresses or telefax numbers listed in Schedule 1.
- 3) The Council's offices will be open every day from Monday to Friday, excluding public holidays, between the hours of 08h00 and 16h00, or during such other times as are determined by the Council.
- 4) Documents may be filed with the Council during the hours referred to in sub-rule (3).
- 5) Notwithstanding sub-rule (4), documents may be faxed and e-mailed to the Council at any time on any day of the week.

2. How to calculate time periods

- 1) For the purpose of calculating any period of time in terms of these Rules-
 - a) day means any day of the week including Saturdays, Sundays and public holidays, but excludes the days from the 16th of December to the 7th of January, both days inclusive.
 - b) the first day is excluded and the last day is included, subject to sub rule (2). The last day of any period must be excluded if it falls on a Saturday, Sunday, public holiday or any day between 16 December and 7 January. ¹

Example 1

¹ This Rule is not applicable to timelines regulated by the Labour Relations Act, Employment Equity Act and/or the Basic Conditions of Employment Act, which timelines shall be governed by the provisions of the relevant legislation, alternatively, the Interpretation Act.

Rule 7 below refers to 7 (seven) days after the document was posted. If the document was posted on a Friday then the 7 (seven) days would include the Saturday and Sunday and would be presumed to have been received on the next Friday.

Example 2

Rule 7 below refers to 7 (seven) days after the document was posted. If the date of postage was on a Friday, the 12th of December, the first 3 (three) days would be counted (the days before the 16th being the 13th, 14th and 15th) and final 4 (four) days would be counted from 8th of January (being the 8th, 9th, 10th and 11th). In other words the period would run from the 12th of December to the 11th of January.

Example 3

Rule 10 below refers to a 14 days' notice period for conciliation. If the notice was faxed on Thursday, 10 October, the conciliation may be scheduled on Friday, 25 October or any day thereafter. It must be 14 clear calendar days.

3. Who must sign documents

- 1) A document that a party must sign in terms of the Act or these Rules may be signed by the party or by a person entitled in terms of the Act or these Rules to represent that party in the proceedings.
- 2) If proceedings are jointly instituted or opposed by more than one employee, documents may be signed by an employee who is mandated by the other employees to sign documents. A written list of the names of the employees who have mandated the employee to sign on their behalf must be attached to the referral document.

4. How to serve documents to other parties

- 1) A party must serve a document on the other parties to a dispute -
 - a) by handing a copy of the document to-
 - i) the person if that person is a party to the dispute;

- ii) a person authorised in writing to accept service on behalf of the party to the dispute;
 - iii) a person who appears to be at least 16 years old and in charge of the party's place of residence, business or employment;
 - iv) a person identified in sub-rule (2); or
- b) by leaving a copy of the document at –
- i) an address chosen by the person to receive service; or
 - ii) any premises in accordance with sub-rule (3);
- c) by e-mailing, faxing or telefaxing a copy of the document to that party's e-mail address or fax number that was chosen by that party to receive service; or
- d) by sending a copy of the document by registered post to the last-known address of the party or to an address chosen by the party to receive service.
- 2) A document may also be served –
- a) on a company or other body corporate by handing a copy of the document to a responsible employee of the company or body at its registered office, its principal place of business within the Republic or its main place of business within the magisterial district in which the dispute first arose;
 - b) on an employer by handing a copy of the document to a responsible employee of the employer at the workplace where the employees involved in the dispute ordinarily work or worked;
 - c) on a trade union or employers' organisation by handing a copy of the document to a responsible employee or official at the main office of the union or employers' organisation or its office in the magisterial district in which the dispute arose;
 - d) on a partnership, firm or association by handing a copy of the document to a responsible employee or official at the place of business of the partnership, firm or association or, if it has no place of business, by serving a copy of the document on a partner, the owner of the firm or the chairman or secretary of the managing or other controlling body of the association, as the case may be;

- e) on a municipality, by serving a copy of the document on the municipal manager or any person acting on behalf of that person;
 - f) on a statutory body, by handing a copy to the secretary or similar officer or member of the board or committee of that body, or any person acting on behalf of that body; or
 - g) on the State or a province, a state department or a provincial department, a minister, premier or a member of the executive committee of a province by handing a copy to a responsible employee at the head office of the party or to a responsible employee at any office of the State Attorney.
- 3) If no person identified in sub-rule (2) is willing to accept service, service may be effected by affixing a copy of the document to -
- a) the main door of the premises concerned; or
 - b) if this is not accessible, a post-box or other place to which the public has access.
- 4) The Council or an arbitrator may order service in a manner other than prescribed in this Rule.
- 5) The Council may provide notice of a conciliation or arbitration or any other proceedings before it, by the same means as listed in this rule or by means of a short message service.

5. How to prove that a document was served in terms of the Rules

- 1) A party must prove to the Council or a Council arbitrator that a document was served in terms of these Rules, by providing the Council or a Council arbitrator with the following:
- a) a copy of proof of mailing the document by registered post to the other party;
 - b) a copy of the telegram or telex communicating the document to the other party;
 - c) a copy of the telefax transmission report indicating the successful transmission of the whole document to the other party;
 - d) if a document was served by e-mail, with a copy of the sent e-mail indicating the successful dispatch to the other party of the e-mail and any attachments concerned; or
 - e) if a document was served by hand -
 - i) with a copy of a receipt signed by, or on behalf of, the other party clearly indicating the name and designation of the recipient and the place, date and time of service; or

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- ii) with a statement confirming service signed by the person who delivered a copy of the document to the other party or left it at any premises.
- f) If proof of service in accordance with sub rule (1) is provided, it is presumed, until the contrary is proved, that the party on whom it was served has knowledge of the contents of the document.
- g) The Council may accept proof of service in a manner other than prescribed in this rule, as sufficient.

6. How to file documents with the Council

1) A party must file documents with the Council

- a) by handing the document in at an office of the Council;
- b) by sending a copy of the document by registered post to the Council;
- c) by sending an electronic mail in PDF or Word format; or
- d) by faxing the document to the Council;

at the addresses, email addresses or fax numbers referred to in Schedule 1 to these Rules.

2) A document is filed with the Council when-

- a) the document is handed to the office of the Council and is stamped by the Council;
- b) a document sent by registered post is received or presumed to be received by the Council in terms of Rule 7 below;
- c) the electronic mail has been successfully delivered to the Council's e-mail address; or
- d) the transmission of a fax is successfully completed.

7. Documents and notices sent by registered post

Any document sent by registered post is presumed, until the contrary is proven, to have been received by the person to whom it was sent 7 (seven) days after it was posted.

8. How to seek condonation for documents delivered late

- 1) This Rule applies to any document, including a referral or an application, delivered outside of a time period prescribed in the Act or in these Rules.
- 2) A party must apply for condonation, in terms of Rule 30, when delivering the document to the Council.
- 3) An application for condonation must set out the grounds for seeking condonation and must include details of the following:
 - a) the degree of lateness;
 - b) the reasons for the lateness and degree of fault;
 - c) the referring party's prospects of succeeding with the referral and obtaining the relief sought against the other party;
 - d) any prejudice to the other parties; and
 - e) any other relevant factors.

PART B: CONCILIATION OF DISPUTES**9. How to refer a dispute to the Council for conciliation**

- 1) A party must refer a dispute to the Council for conciliation by completing the Council's referral form, by serving it on the other parties to the dispute and by filing it with the Council.
- 2) The referring party must-
 - a) sign the referral form in accordance with Rule 3;
 - b) attach written proof that the referral form was served on the other parties to the dispute in accordance with Rule 5;
 - c) if the referral form is filed late, attach an application for condonation in accordance with rule 8 read with Rule 30.
- 3) The Council must refuse to accept a referral document until sub-rule (2) hereof has been complied with.

10. When must the Council notify the parties of a conciliation hearing

The Council must give the parties at least 14 (fourteen) days' written notice of a conciliation hearing, unless the parties agree to a shorter period of notice. An additional 7 (seven) days from the date of posting must be provided if a notice of conciliation in terms of this Rule is sent by registered post only.

11. The Council may seek to resolve a dispute before a conciliation hearing

The Council arbitrator may contact the parties by telephone or by other means, prior to the commencement of the conciliation, in order to seek to resolve the dispute.

12. What happens if a party fails to attend or is not represented at a conciliation hearing

- 1) If a party to a dispute, that is not a mutual interest dispute, fails to attend in person or to be represented in terms of Rule 23(1)(a) at a conciliation hearing the Council arbitrator may -
 - a) continue with the proceedings;
 - b) adjourn the conciliation to a later date within the 30-day period; or
 - c) conclude the proceedings by issuing a certificate that the dispute remains unresolved.
- 2) In exercising a discretion in terms of sub-rule (1), a Council arbitrator should take into account, amongst other things -
 - a) whether the party has previously failed to attend a conciliation in respect of that dispute;
 - b) any reason given for that party's failure to attend;
 - c) whether conciliation can take place effectively in the absence of one or more of the parties;
 - d) the likely prejudice to the other party of the Council arbitrator's ruling; and
 - e) any other relevant factors.
- 3) In an interest dispute, if a party to the dispute fails to attend the conciliation hearing or be represented at the hearing, and that party-
 - a) had referred the dispute to the Council, a Council arbitrator may extend the conciliation period for another 30 (thirty) days and notify the parties of the extension in writing; or

- b) had not referred the dispute to the Council, the Council arbitrator may immediately issue a certificate stating that the dispute remains unresolved.
- 4) A Council arbitrator must be satisfied that the party had been properly notified of the date, time and venue of the proceedings, before making any decision in terms of sub rule (3).

13. How to determine whether or not Council arbitrator may conciliate a dispute

If it appears during conciliation proceedings that a jurisdictional issue has not been determined, the Council must require the referring party to prove that the Council has the jurisdiction to conciliate the dispute.

14. Extension of the conciliation period in terms of Section 135 (2A) of the Act and the issuing a certificate in terms of section 135 (5) of the Act

- 1) The conciliating Council arbitrator or a party to a conciliation process may request an extension of the conciliation period referred to in section 135 of the Act.
- 2) The request must be made on the prescribed form and before the expiry of the conciliation period as determined in terms of section 135.
- 3) The Secretary must within 2 (two) days of receipt of the request -
 - a) consider whether:
 - i) an extension is necessary to ensure a meaningful conciliation process;
 - ii) the refusal to agree to the extension is unreasonable; and
 - iii) there are reasonable prospects of reaching agreement; and
 - b) Advise the parties on whether or not the extension is granted and where the extension is granted, the period of such extension, which may not exceed 5 (five) days.
- 4) The Secretary may not extend the conciliation period if the State is the employer party.
- 5) A certificate issued in terms of section 135 (5) of the Act stating that the dispute has or has not been resolved, must identify the nature of the dispute as described in the referral document or as identified by the Council arbitrator during the conciliation proceedings.

15. Conciliation proceedings may not be disclosed

- 1) Conciliation proceedings must be treated as private and confidential and must be conducted on a without prejudice basis. No person may refer to anything said at conciliation proceedings during any subsequent proceedings, unless the parties agree to this in writing or if they are ordered to do so by a court of law.
- 2) No person, including a Council arbitrator, may be called as a witness during any subsequent proceedings in the Council or in any court to give evidence about what transpired during the conciliation proceedings unless ordered to do so by a court of law or by the Council arbitrator.

PART C: CON-ARB**16. Conduct of con-arb in terms of section 191 (5A) of the Act**

- 1) The Council must give the parties at least 14 (fourteen) days' written notice that a matter has been scheduled for con-arb.
- 2) A party that intends to object to a dispute being dealt with in terms of section 191(5A) must serve a written notice on the Council and the other party, at least 7 (seven) days prior to the scheduled date in terms of sub-rule (1).
- 3) Sub-rule (2) does not apply to a dispute concerning-
 - a) the dismissal of an employee for any reason related to probation; or
 - b) an unfair labour practice relating to probation.
- 4) If the respondent party fails to appear or to be represented at a hearing scheduled in terms of sub-rule (1), the Council arbitrator conduct the con-arb on the date specified in the notice issued in terms of sub-rule (1) or adjourn the proceeding until a later date if a notice of objection to con-arb has been filed in terms of sub-rule (2).
- 5) The provisions of the Act and these Rules that are applicable to conciliation and arbitration, respectively apply, with the changes required by the context, to con-arb proceedings. This includes the rules on representation.
- 6) If the arbitration does not commence or does not conclude on the dates specified in terms of the notice referred to in sub-rule (1), the Council must schedule the matter for arbitration either in the presence of the parties or by issuing a notice in terms of Rule 20.

PART D: ARBITRATIONS

[Part D does not apply to arbitrations in respect of failure to comply with the provisions of a collective agreement in terms of section 33A(4) of the Act]

17. How to request arbitration

- 1) A party may request the Council to arbitrate a dispute by delivering a duly completed document in the form of Annexure LRA7.13 ("the referral document").
- 2) The referring party must-
 - a) sign the referral document in accordance with rule 3;
 - b) attach to the referral document written proof that the referral document was served on the other parties to the dispute in accordance with rule 5; and
 - c) if the referral document is served out of time, attach an application for condonation in accordance with rule 8.
- 3) The Council must refuse to accept a referral document until sub rule (2) has been complied with.
- 4) This rule does not apply to con-arb proceedings held in terms of section 191(5A) read with rule 16.

18. When parties may be directed to file statements

- 1) The Council or a Council arbitrator may direct-
 - a) the referring party in an arbitration to file a statement of case within a specified time period; and
 - b) the other parties to file an answering statement within a specified time period.
- 2) A statement in terms of sub rule (1) must-
 - a) set out the material facts upon which the party relies and the legal issues that arise from the material facts; and
 - b) be delivered within the time period specified by the Council or the Council arbitrator.
- 3) The Council arbitrator has a discretion to continue with the matter despite non-compliance with a directive of the Commission or Council arbitrator in terms of sub-rule (1). However, any non-

compliance may be taken into account when considering costs at the conclusion of the arbitration hearing.

19. When parties may be directed to hold a pre-arbitration conference

- 1) The parties to an arbitration must hold a pre-arbitration conference dealing with the matters referred to in sub-rule (3), if:
 - a) both parties are represented by a trade union, employer's organisation, legal practitioner and/or candidate attorney;
 - b) both parties agree to hold a pre-trial conference; or
 - c) directed to do so by the Council or the presiding Council arbitrator.
- 2) A pre-trial conference convened in terms of sub-rule (1)(a) and (b) must be convened at least 14 (fourteen) days prior to the date of the scheduled arbitration.
- 3) In a pre-arbitration conference, the parties must attempt to reach consensus on the following-
 - a) any means by which the dispute may be settled;
 - b) facts that are agreed between the parties;
 - c) facts that are in dispute;
 - d) the issues that the Council is required to decide;
 - e) the precise relief claimed and if compensation is claimed, the amount of the compensation and how it is calculated;
 - f) the sharing and exchange of relevant documents, and the preparation of a bundle of documents in chronological order with each page numbered;
 - g) the manner in which documentary evidence is to be dealt with, including any agreement on the status of documents and whether documents, or parts of documents, will serve as evidence of what they appear to be;
 - h) whether evidence on affidavit will be admitted with or without the right of any party to cross-examine the person who made the affidavit;
 - i) which party must begin;

- j) the necessity for any on-the-spot inspection;
 - k) securing the presence at the Council of any witness;
 - l) the resolution of any preliminary points that are intended to be taken;
 - m) the exchange of witness statements;
 - n) expert evidence;
 - o) any other means by which the proceedings may be shortened;
 - p) an estimate of the time required for the hearing;
 - q) the right of representation; and
 - r) whether an interpreter is required and, if so, for how long and for which languages.
- 4) Unless a dispute is settled, the parties must draw up and sign a minute setting out the facts on which the parties agree or disagree.
- 5) A minute in terms of sub-rule (4) may also deal with any other matter listed in sub-rule (3).
- 6) The referring party must ensure that a copy of the pre-arbitration conference minute is delivered to the presiding Council arbitrator 7 (seven) days prior to the date scheduled for the arbitration.
- 7) The presiding Council arbitrator may, after receiving a pre-arbitration minute -
- a) direct the parties to hold a further pre-arbitration conference; or
 - b) issue any other directive to the parties concerning the conduct of the arbitration, including rescheduling the matter for hearing on another date.
- 8) The presiding Council arbitrator has a discretion to continue with the matter despite non-compliance with the directive in terms of sub-rule (1), or the provisions of sub-rule (4), (5) and/or (6). However, any non-compliance may be taken into account when considering costs at the conclusion of the arbitration hearing.

20. What notice the Council is to give of an arbitration hearing

The Council must give the parties at least 14 (fourteen) days' written notice of an arbitration hearing, unless the parties agree to a shorter period. An additional 7 (seven) days from the date of posting must be provided if a notice of arbitration in terms of this Rule is sent by registered post only.

21. How to determine whether a Council arbitrator may arbitrate a dispute

If, during the conciliation or arbitration proceedings, it appears that a jurisdictional issue has not been determined, the Council's presiding Council arbitrator must require the referring party to prove that the Council has jurisdiction to arbitrate the dispute.

22. How to postpone an arbitration

- 1) The Council must postpone an arbitration without the parties appearing if-
 - a) all the parties to the dispute agree in writing to the postponement; and
 - b) the written agreement for the postponement is received by the Council more than 7 (seven) days prior to the scheduled date of the arbitration; and
 - c) there are compelling reasons to postpone.
- 2) Any party may apply in terms of Rule 30 to postpone an arbitration by serving an application on the other parties to the dispute and filing a copy with the Council before the scheduled date of the arbitration. The applicant must indicate in the application whether the other parties to the dispute agree to the postponement.
- 3) After considering the written application in sub-rule (2), the Commission may -
 - a) without convening a hearing, postpone the matter; or
 - b) convene a hearing to determine whether to postpone the matter.

PART E: RULES THAT APPLY TO CONCILIATIONS, ARBITRATIONS AND CON-ARBS**23. Who may represent a party before the Council**

- 1) In conciliation proceedings before the Council a party to a dispute may appear in person or be represented only by-
 - a) if the party is an employer, a director or employee of that party and, in addition, if it is a close corporation, a member or employee of that close corporation;
 - b) any member of that party's registered trade union or registered employers' organisation or an office bearer or official as defined in the Act or an office bearer or official as defined in the Act of a registered federation of trade unions or registered federation of employers' organisations;

- c) if the party is a registered trade union, any member of that trade union or any office bearer or official as defined in the Act and authorized to represent that party or an office bearer or official as defined in the Act of a registered federation of trade unions and authorized to represent that party;
 - d) if the party is a registered employers' organisation, any director or employee of an employer that is a member of that employers' organisation or an official or office bearer as defined in the Act and authorized to represent that party or an office bearer or official as defined in the Act of a registered federation of employers' organisations and authorized to represent that party;
 - e) if a party is the department of labour, any employee or official of the department of labour; or
 - f) another party to the dispute if proceedings are brought or opposed by more than one party.
- 2) Subject to sub-rule (3) below, in arbitration proceedings before the Council a party to a dispute may appear in person or be represented only by-
- a) a legal practitioner;
 - b) a candidate attorney; or
 - c) an individual entitled to represent the party at conciliation proceedings in terms of sub-rule (1).
- 3) Notwithstanding sub rule (1), if the dispute being arbitrated is about the fairness of a dismissal and a party has alleged that the reason for the dismissal relates to the employee's conduct or incapacity, the parties are not entitled to be represented by a legal practitioner or a candidate attorney in the proceedings unless-
- a) the Council arbitrator and all the other parties' consent;
 - b) the Council arbitrator concludes that it is unreasonable to expect the party to deal with the dispute without legal representation, after considering-
 - i) the nature of the questions of law raised by the dispute;
 - ii) the complexity of the dispute;
 - iii) the public interest; and
 - iv) the comparative ability of the opposing parties or their representatives to deal with the dispute.

- 4) No person representing a party in proceedings before the Council in a capacity contemplated in sub-rule (1) or (2) other than a legal practitioner or candidate attorney contemplated in sub-rule (2), may charge a fee or receive a financial benefit in consideration for agreeing to represent that party.
- 5) If a party to a dispute objects to the representation of another party to the dispute or the presiding Council arbitrator suspects that the representative of a party does not qualify in terms of this rule, the Council arbitrator must determine the issue and may call upon the representative to establish why that representative should be permitted to appear in terms of this rule.
- 6) Despite the provisions of sub-rule (1) and (2), a presiding Council arbitrator may exclude any person who is representing a party in any proceedings on the basis that they are a member of the same employers' organisation as an employer party, or a member of an employers' organisation that is a party to proceedings, if the Council arbitrator, after enquiring into the matter and considering relevant representations, believes that –
 - a) the representative joined the employer's organisation for the purpose of representing parties in the Commission; or
 - b) the representative's participation in the dispute resolution process—
 - i) would be contrary to the purpose of the rule which is to promote inexpensive and expeditious dispute resolution in a manner that is equitable to all parties;
 - ii) is not in keeping with the objectives of the Labour Relations Act 66 of 1995; or
 - iii) may have the consequence of unfairly disadvantaging another party to the dispute.
- 7) Subject to the provisions of sub-rule (4), the presiding Council arbitrator may, on application brought in accordance with rule 30, allow a person not contemplated by sub-rule (2) to represent a party at arbitration proceedings before the Council, after considering –
 - a) whether it is unreasonable to expect the applicant party to deal with the dispute without representation, after considering the factors set out in sub-rule 3(b)(i) to (iv);
 - b) the reason why a person contemplated in this rule cannot represent the applicant party, which includes affordability, if applicable;
 - c) the ability of the proposed representative to meaningfully represent the applicant;
 - d) whether the proposed representative is subject to the oversight and discipline of a professional or statutory body;

- e) whether the proposed representative will contribute to the fairness of the proceedings and the expeditious resolution of the dispute;
- f) prejudice to the other party; and
- g) any other relevant factors.

24. How to join or substitute parties to proceedings

- 1) The Council or a Council arbitrator may at any stage prior to the conclusion of an arbitration proceedings make a ruling joining any number of persons as parties to the proceedings if:
 - a) the right of the referring party to relief depends on substantially the same question of law or fact, which, if a dispute were to be referred separately against the person sought to be joined, it would arise in a separate claim;
 - b) the party to be joined has a substantial interest in the subject matter of the proceedings; or
 - c) the party to be joined may be prejudicially affected by the outcome of the proceedings.
- 2) A Council arbitrator may make a ruling in terms of sub rule (1)-
 - a) of the Council arbitrator's own accord;
 - b) on application by a party; or
 - c) if a person entitled to join the proceedings applies in terms of rule 30 at any time during the proceedings to intervene as a party.
- 3) When making a ruling in terms of sub-rule (1), a presiding Council arbitrator may -
 - a) give appropriate directions as to the further procedure in the proceedings; and
 - b) make an order of costs in accordance with these Rules.
- 4) If in any proceedings it becomes necessary to substitute a person for an existing party, any party to the proceedings may apply to the Council in terms of Rule 30 prior to the conclusion of the arbitration proceedings for an order substituting that person for an existing party, and a Council arbitrator may make such a ruling or give appropriate directions as to the further procedure of the proceedings.

- 5) An application to join any person as a party to proceedings or to be substituted for an existing party must be accompanied by copies of all documents previously delivered, unless the person concerned or that person's representative is already in possession of the documents.
- 6) A ruling for joinder or substitution in terms of this rule does not affect any steps already taken in the proceedings unless directed by the presiding Council arbitrator in such a ruling.

25. How to correct the citation of a party

If a party to any proceedings has been incorrectly or defectively cited, the Council may of its own accord; with the consent of the parties or on application from a party in terms of Rule 30, correct the error or defect.

26. When the Council may consolidate disputes

- 1) The Council or a Council arbitrator may, of its own accord, be consent of the parties or on application from a party in terms of Rule 30 consolidate more than one dispute so that the disputes may be dealt with in the same proceedings.
- 2) The Council or a Council arbitrator may consolidate separate disputes where-
 - a) the relief sought in each of the separate dispute to be consolidated, depends on the determination of similar or substantially the same questions of law and fact;
 - b) there will be no substantial prejudice on the party or parties sought to be joined through a consolidation ruling;
 - c) the balance of convenience favours the consolidation; and
 - d) the Council has jurisdiction on all disputes sought to be consolidated.

27. Disclosure of documents

- 1) Any party may request a Council arbitrator to make a ruling requiring any other party to the dispute to disclose relevant documents.
- 2) A request in sub-rule (1) must be made no less than 14 (fourteen) days prior to the hearing date.
- 3) The party to whom the request is made must respond to the request within 5 (five) days from the date on which the request was received.

- 4) A Council arbitrator may either before or during the proceedings of own accord, or on application from a party, make a ruling as to the disclosure of relevant documents or other evidence.
- 5) Notwithstanding the above, the parties may agree on the disclosure of documents or other relevant evidence.

28. What happens if a party fails to attend arbitration proceedings

- 1) If a party to a dispute fails to attend or be represented at any arbitration proceedings before the Council, and that party-
 - a) had referred the dispute to the Council, a Council arbitrator may dismiss the matter by issuing a written ruling; or
 - b) had not referred the matter to the Council, the Council arbitrator may-
 - i) continue with the proceedings in the absence of that party; or
 - ii) adjourn the proceedings to a later date.
- 2) A Council arbitrator must be satisfied that the party had been properly notified of the date, time and venue of the proceedings, before making any decision in terms of sub rule (1).
- 3) If a matter is dismissed, the Council must send a copy of the ruling to the parties.

PART F: APPLICATIONS

29. How to bring an application

- 1) This Rule applies to any -
 - a) application for condonation, joinder, substitution, variation, rescission, or postponement;
 - b) application in a jurisdictional dispute; and
 - c) other preliminary or interlocutory application.
- 2) Subject to rule 30, an application must be brought at least 14 (fourteen) days prior to the date of the hearing on notice to all persons who have an interest in such application.
- 3) The party bringing the application must sign the notice of application in accordance with rule 3 and must state-

- a) the title of the application;
 - b) the case number assigned to the matter by the Council, if a case number has been assigned;
 - c) the relief sought;
 - d) the address at which the party delivering the document will accept delivery of all documents in the proceedings;
 - e) that any party that intends to oppose the matter must deliver a notice of opposition and answering affidavit within 5 (five) days after the application was served on that party;
 - f) that the application may be heard in the absence of a party that does not comply with subparagraph (e);
- 4) The application must be supported by an affidavit that must clearly and concisely set out-
- a) the names, description and addresses of the parties;
 - b) a statement of the material facts, in chronological order, on which the application is based, in sufficient detail enable any person opposing the application to reply to the facts;
 - c) a statement of legal issues that arise from the material facts, in sufficient detail to enable any party to reply to the document;
 - d) if the application is filed outside the relevant time period, grounds for condonation in accordance with rule 8; and
 - e) if the application is brought urgently, the circumstances why the matter is urgent and the reasons why it cannot be dealt with in accordance with the time frames prescribed in these Rules.
- 5) Any party opposing the application may deliver a notice of opposition and an answering affidavit within 5 (five) days from the day on which the application was served on that party.
- 6) A notice of opposition and an answering affidavit must contain, with the changes required by the context, the information required by sub rules (3) and (4), respectively.
- 7) The party initiating the proceedings may deliver a replying affidavit within 3 (three) days from the day on which any notice of opposition and answering affidavit are served on it.
- 8) The replying affidavit must address only issues raised in the answering affidavit and may not introduce new issues of fact or law.

- 9) The Council arbitrator may permit the affidavits referred to in this rule to be replaced by a written statement.
- 10) In an urgent application, the Council or a Council arbitrator may-
 - a) dispense with the requirements of this rule; and
 - b) only grant an order against a party who has had reasonable notice of the application.
- 11) The Council must allocate a date for a hearing of the application once a replying affidavit is delivered, or once the time limit for delivering a replying affidavit has lapsed, whichever occurs first.
- 12) The Council must notify the parties of the date, time and place of the hearing of the application.
- 13) Notwithstanding this rule, the Council or a Council arbitrator may determine an application in any manner it deems fit, provided that the Council or the Council arbitrator informs the parties of how the process will be conducted and that the parties be given an opportunity to be heard.

30. How to apply to vary or rescind arbitration awards or rulings

An application for the variation or rescission of an arbitration award or ruling must be made within 14 (fourteen) days of the date on which the applicant became aware of the arbitration award or ruling.

31. How to refer a dismissal dispute to the Labour Court

- 1) An application in terms of section 191 (6) of the Act to refer a matter to the Labour Court, must be delivered within 90 (ninety) days of a certificate being issued that the dispute was not resolved through conciliation.
- 2) Notwithstanding sub rule (1), a party that requests arbitration may not thereafter make an application in terms of section 191(6) of the Act.
- 3) The application in terms of section 191(6) of the Act must state the grounds on which a party relies in requesting that the dispute be referred to the Labour Court.
- 4) If any party to the dispute objects to the matter being referred to the Labour Court, that party must state the grounds for the objection in terms of section 191(7) of the Act within 7 (seven) days of receipt of the application.
- 5) The Council must notify the parties of the decision in terms of section 191(8) of the Act within 14 (fourteen) days of receiving the objection.

- 6) In the event that the request has been granted, the party who applied for the referral to the Labour Court must refer the matter to the Labour Court in terms of the Labour Court Rules.

PART G: PRE-DISMISSAL ARBITRATIONS

32. How to request an inquiry in terms of section 188A of the Act

- 1) An employer requesting the Council to conduct an inquiry in terms of section 188A of the Act into allegations about an employees' conduct or capacity must do so by delivering a completed prescribed referral form to the Council.
- 2) The employee must sign the referral form consenting to the inquiry. If an employee has consented in terms of section 188A(4)(b)², the referral form does not have to be signed by the employee, but a copy of the contract of employment containing the consent must be attached to the form. An employee may only consent to the inquiry if the employee has been advised of the allegations in sub rule (1).
- 3) When filing the referral form, the employer must pay the prescribed fee to the Council. Payment of the fee may only be made by electronic transfer into the bank account of the Council.
- 4) Within 14 (fourteen) days of receiving a request in terms of sub rule (1) and payment of the prescribed fee, the Council must notify the parties to the inquiry when and where the inquiry will be held.
- 5) Unless the parties agree otherwise, the Council must give the parties at least 14 (fourteen) days' notice of the commencement of the inquiry.
- 6) The Council will only be required to refund the fee paid in terms of sub rule (3), if the Council is notified of the resolution of the matter prior to issuing a notice in terms of sub rule (4).

² Only an employee whose earnings exceed the amount determined by the Minister in terms of section 6(3) of the Basic Conditions of Employment Act, (currently R211,596.30 per annum) may consent to an inquiry in a contract of employment.

- 7) If an employee alleges in good faith that the holding of an inquiry contravenes the Protected Disclosures Act, that employee or the employer may require an inquiry to be conducted in terms of this rule.

PART H: GENERAL

33. Unrepresented applicants without email addresses, postal addresses or fax numbers

- 1) An unrepresented applicant who intends to refer a dispute to the Council and who does not have an email address, postal address or a fax number must hand-deliver the referral form to the Council.
- 2) If a referral form is received by hand delivery by an unrepresented applicant, the Council must provide the applicant with a case number and written instructions to contact the Council by telephone or in person, within 7 (seven) days of the date of referral, in order for the Council to notify the applicant of the details of the hearing.
- 3) The administrator who notifies the applicant of the hearing in terms of sub rule (2) must record on the case file and on the case management system that the applicant has been notified of the details of the hearing.
- 4) The record made in terms of sub rule (3) will constitute proof that the applicant was notified of the hearing.

34. Condonation for failure to comply with the Rules

- 1) The Council or a Council arbitrator may condone any failure to comply with any provision of these Rules, on good cause shown.
- 2) In exercising its powers and performing its functions the Council and a Council arbitrator may act in such a manner as is deemed expedient in the circumstances in order to achieve the objects of the Act. In doing so it shall have regard to substance rather than form, save where the Act provides otherwise.
- 3) The provisions of this Rule do not apply to Rule 23 relating to representation.

35. Recordings of Council proceedings

- 1) The Council must keep a record of-
 - a) all processes except conciliations, unless otherwise stated in these Rules; and

b) any arbitration award or ruling made by a Council arbitrator .

- 2) The record must be kept by means of a digital recording and, if practically possible, also by legible notes.
- 3) A party may request a copy of the record or a portion of a record kept in terms of sub rule (2), on payment of the costs where applicable.

36. How to have a subpoena issued and served

- 1) Any party who requires the Council or a Council arbitrator to subpoena a person in terms of section 142(1) of the Act, must file a completed prescribed form, requesting a subpoena together with a written substantiation setting out why the evidence of the person to be subpoenaed is necessary.
- 2) A party requesting the Council to waive the requirement for the party to pay witness fees in terms of section 142(7)(c) for good cause shown must set out the reasons for the request in writing at the time of requesting the Council to issue a subpoena in respect of that witness. The Council's decision in relation to the request to waive the witness fee must be given in writing when issuing the subpoena.
- 3) An application in terms of sub rule (1) must be filed with the Council at least 14 (fourteen) days before the arbitration hearing, or as directed by the Council arbitrator hearing the arbitration.
- 4) The Council or a Council arbitrator may refuse to issue a subpoena if-
 - a) the party does not establish why the evidence of the person is necessary;
 - b) the party subpoenaed does not have a reasonable period in which to comply with the subpoena;
 - c) the Council or a Council arbitrator is not satisfied that the party has made arrangements to pay the witness fees and the reasonable travel and subsistence costs of the person subpoenaed.
- 5) A subpoena must be served at least 7 (seven) days before the scheduled date of the arbitration by the person who has requested the subpoena or by the sheriff.
- 6) Service is effected in terms of this Rule by -
 - a) handing a copy of the subpoena to the subpoenaed person;
 - b) handing a copy of the subpoena to a person authorised in writing to accept service on behalf of the subpoenaed person; or

- c) leaving a copy of the subpoena at the subpoenaed person's place of residence or place of business or employment with a person who apparently is at least sixteen (16) years of age and is residing or employed there.
- 7) The Council or a Council arbitrator may order service in a manner other than prescribed in this Rule.
- 8) If directed by the Council, the subpoena must be accompanied by payment of the prescribed witness fees for 1 (one) day in accordance with the tariff of allowances published by notice in the Gazette in terms of section 142(7) of the Act and the witnesses' reasonable travel and subsistence costs.

37. Expert witnesses

A party intending to call an expert witness shall give 7 (seven) days' notice prior to the hearing to the Council and the other party to the dispute together with a summary of the proposed evidence of the expert witness, any document on which the witness will rely during evidence and the basis on which the witness is regarded to be an expert to enable the other party to consider the summary and to obviate the need for any postponement.

38. Payment of witness fees

- 1) A witness subpoenaed in any proceedings in the Council must be paid a witness fee in accordance with the tariff of allowances published by notice in the Gazette in terms of section 142 (7) of the Act.
- 2) The witness fee must be paid by-
 - a) the party who requested the Council to issue the subpoena; or
 - b) the Council, if the issue of the subpoena was not requested by a party or if the Council waives the requirement to pay witness fees in terms of section 142(7)(c).
- 3) Notwithstanding sub rule (1), the Council arbitrator may, in appropriate circumstances, order that a witness receive no fee or only part of the prescribed fee.

39. Costs orders and taxation of bills of cost

- 1) The basis on which a Council arbitrator may make an order as to costs in any arbitration is regulated by section 138(10) of the Act.
- 2) In any arbitration proceedings, the Council arbitrator may make an order for the payment of costs according to the requirements of law and fairness and when doing so should have regard to -

- a) the measure of success that the parties achieved;
 - b) considerations of fairness that weigh in favour of or against granting a cost order;
 - c) any with prejudice offers that were made with a view to settling the dispute;
 - d) whether a party or the person who represented that party in the arbitration proceedings acted in a frivolous and vexatious manner—
 - i) by proceeding with or defending the dispute in the arbitration proceedings; or
 - ii) in its conduct during the arbitration proceedings;
 - e) the effect that a cost order may have on a continued employment relationship;
 - f) any agreement concluded between the parties to the arbitration concerning the basis on which costs should be awarded;
 - g) the importance of the issues raised during the arbitration to the parties as well as to the labour community at large;
 - h) any other relevant factor.
- 3) A Council arbitrator may make an award of costs in favour of a party who appears or is represented in arbitration in respect of reasonable disbursements actually incurred in the conduct of the case in the arbitration. A Council arbitrator who makes an award in terms of this provision must specify clearly the items and amounts in respect of which costs are ordered.
- 4) A Council arbitrator may make an award of costs in respect of the legal fees of a party that is represented in an arbitration by a legal practitioner or candidate attorney, only if the other parties to the arbitration were represented by a legal practitioner or candidate attorney.
- 5) An award for costs in terms of sub-rule (4) must be in the amount of –
- a) in respect of the first day of an arbitration (including any arbitration concluded in a single hearing) – R7 000-00 (VAT inclusive);
 - b) in respect of each additional day of an arbitration – R4 700-00 (VAT inclusive).
- 6) An award for costs in respect of a candidate attorney must be 50 percent of the amount set out in sub-rule (5).

- 7) The Secretary of the Council may appoint taxing officers to perform the functions of a taxing officer in terms of these Rules.
- 8) The taxing officer must tax any bill of costs for services in connection with proceedings in the Council, on Schedule A of the prescribed Magistrates' Courts tariff, in terms of the Magistrates' Courts Act, No. 32 of 1944, unless the parties have agreed to a different tariff.
- 9) At the taxation of any bill of costs, the taxing officer may call for any book, document, paper or account that in the taxing officer's opinion is necessary to properly determine any matter arising from the taxation.
- 10) Any person requesting a taxation must complete a referral form requesting taxation and must satisfy the taxing officer-
 - a) of that party's entitlement to be present at the taxation; and
 - b) that the party liable to pay the bill has received notice of the date, time and place of the taxation.
- 11) Notwithstanding sub rule (10), notice need not be given to a party-
 - a) who failed to appear or to be represented at the hearing; or
 - b) who consented in writing to the taxation taking place in that party's absence.
- 12) Any decision by a taxing officer is subject to review by the Labour Court.

40. Payment of an arbitration fee ordered in terms of section 140 of the Act

- 1) Where the Council arbitrator, having found that the dismissal was procedurally unfair, orders payment of an Arbitration fee in terms of 140(1) of the Act, the employer must pay the prescribed fee to the Council within 14 (fourteen) days of receipt of the award ordering payment of such a fee.
- 2) Payment of the fee may only be made by electronic transfer into the bank account of the Commission.

41. What words mean in these Rules

Any expression in these Rules that is defined in the Labour Relations Act, 1995 (Act No. 66 of 1995), has the same meaning as in that Act and-

"Act" means the Labour Relations Act, 1995 (Act No. 66 of 1995), and includes any regulation made in terms of that Act;

"Association" means any unincorporated body of persons;

"con-arb" means proceedings held in terms of section 191(5A) of the Act, where an arbitration commences immediately after certifying that the dispute remains unresolved in conciliation;

"Council" means the Building Industry Bargaining Council registered in terms of section 29 of the Act;

"Council arbitrator" means an individual appointed by the Council to resolve disputes;

"deliver" means serve on other parties and file with the Commission;

"mutual interest dispute" means any dispute concerning a matter of mutual interest; excluding any dispute that a party has the right to refer to arbitration or to the Labour Court under the Act, a collective agreement or an arbitration agreement;

"dispute of right" means a dispute relating to an entitlement based on an employment contract or practice, a collective agreement, a statute or the common law;

"file" means to lodge with the Council in terms of rule 6;

"Labour Court" means the Labour Court established by section 151 of the Act and includes any judge of the Labour Court;

"party" means any party to proceedings before the Council;

"legal practitioner" means a practicing advocate or attorney;

"public holiday" means a public holiday referred to in section 1 of the Public Holidays Act, 1994 (Act No. 36 of 1994). These currently include-

1 January: New Year's Day

21 March: Human Rights Day

Good Friday

Family Day

27 April: Freedom Day

1 May: Worker's Day

16 June: Youth Day

9 August: National Women's Day

24 September: Heritage Day

16 December: Day of Reconciliation

25 December: Christmas Day

26 December: Day of Goodwill,

and any public holiday declared as such in terms of section 2A of the Public Holidays Act, 1994.³

"Rules" means these rules and includes any footnote to a rule;

"Secretary" means the secretary of the Council;

"serve" means to serve in accordance with rule 4 and "service" has a corresponding meaning; and

"taxing officer" means any competent person appointed by the Secretary in terms of rule 32.

³ The dates on which Good Friday and Family Day fall varies each year. The Public Holidays Act determines whenever any public holiday falls on a Sunday, the Monday following on it shall be a public holiday.

SCHEDULE 1 REGISTERED ADDRESSES OF THE COUNCIL

The Secretary 81 Voortrekker Road BELLVILLE 7530	Private Bag X29 BELLVILLE 7535	Tel: (021) 950 7400 Fax: (021) 950 7404 E-mail: bibc@bibc.co.za
Garlink Building 29 Lady Grey Street PAARL 7646	P O Box 323 PAARL 7620	Tel: (021) 872 1505 Fax: (021)872 2301
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DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT**NO. R. 3668****14 July 2023****NATIONAL ENVIRONMENTAL MANAGEMENT: INTEGRATED COASTAL MANAGEMENT
ACT, 2008 (ACT NO. 24 OF 2008)****COASTAL MANAGEMENT LINE FOR GARDEN ROUTE NATIONAL PARK
IN TERMS OF SECTION 25(1) READ WITH SECTION 25(5)(a)**

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries and the Environment, hereby establish the Coastal Management Line for the Garden Route National Park in terms of section 25(1), read with section 25(5) of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) as set out in the schedule to this notice, for implementation.



BARBARA DALLAS CREECY
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

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1. DEFINITIONS

A word or expression defined in the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) has the same meaning in this document, and—

“**CML**” and “**CMLs**” means a coastal management line and coastal management lines, respectively, declared in terms of section 25(1) of the Act;

“**competent authority**” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“**dynamic coastal processes**” means all natural processes continually reshaping the shoreline and the near shore seabed and includes—

- a) wind action;
- b) wave action;
- c) ocean currents;
- d) tidal action;
- e) littoral active movement;
- f) river flows; and
- g) erosion and accretion events;

“**Garden Route National Park**” and “**GRNP**” refers to all properties which comprise the Garden Route National Park initially declared as such in Government Notice No. 248 in *Government Gazette* 31981 dated 6 March 2009 in terms of the Protected Areas Act including all other properties deemed to form part of the national park in terms of the Protected Areas Act;

“**Garden Route National Park Management Plan**” refers to the management plan for the Garden Route National Park and World Heritage Site in terms of sections 39, 40 and 41 of the Protected Areas Act and chapter 4 of the World Heritage Convention Act, 1999 (Act No. 49 of 1999);

“**SANParks**” means South African National Parks governed in terms of the Protected Areas Act; and

“**the Act**” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008).

2. PURPOSE AND DECLARATION

2.1. The Act provides for the declaration of CMLs in terms of section 25.

2.2. Section 25(1), read with section 25(5) of the Act, empowers the Minister to declare a CML—

- (a) to protect coastal public property, private property and public safety;

- (b) to protect the coastal protection zone;
 - (c) to preserve the aesthetic values of the coastal zone; or
 - (d) for any other reason consistent with the objectives of the Act.
- 2.3 Section 25(5) of the Act obliges the Minister, after consultation with the relevant MEC, to exercise the powers and perform the functions in section 25 if such power relates to any part of an area that—
 - (a) is a national protected area as defined in the Protected Areas Act;
 - (b) straddles a coastal boundary between two provinces; or
 - (c) extends up to, or straddles, the borders of the Republic.
- 2.4 The objectives for declaring the GRNP CML are to—
 - (a) minimise the human and environmental conflicts that occur in the coastal areas of the GRNP;
 - (b) provide measures to control and manage development to avoid coastal risks and vulnerability emanating from coastal processes that could impact on property, human life, social dynamics and economic opportunities; and
 - (c) provide additional mechanisms for preserving coastal spaces that have social importance such as cultural and heritage sites as identified in the Garden Route National Park Management Plan.
- 2.5 The Minister is, in terms of section 25(5) of the Act, empowered to declare the CML within the boundaries of the GRNP since the park is a national protected area in terms of the Protected Areas Act.
- 2.6 A single, interrupted CML is hereby adopted in terms of section 25(1)(b), (c) and (d), read with section 25(5) of the Act, within the boundaries of the GRNP to—
 - (a) manage risks from the effects of climate change, dynamic coastal processes and rising sea levels;
 - (b) protect and enhance public access to coastal public property;
 - (c) discourage inappropriate development in sensitive coastal areas in order to ensure public safety and sustainable development;
 - (d) maintain and enhance the functioning of coastal ecosystems and its ecological features;
 - (e) protect and preserve features of social, cultural and heritage significance; and
 - (f) preserve the aesthetics or 'sense of place' including the visual integrity of the coast.
- 2.7 The CML informs and must be read in conjunction with the zonation of the GRNP as set out in the Garden Route National Park Management Plan. Section 41(2)(g) of the Protected Areas Act stipulates that a Park Management Plan must contain the "*zoning of the area indicating what*

activities may take place in different sections of the park and the conservation objectives of those sections". In combination with the CML, the zonation therefore acts as the primary determinant of suitable developments and activities within the GRNP.

- 2.8 The purpose of the CML is to highlight risks which must be taken into account when considering activities seawards of the CML and to aid in minimising impacts of infrastructure on the natural environment in line with SANParks' conservation objectives.
- 2.9 The CML guides new or the maintenance of existing infrastructure located seaward of the CML.

3. APPLICABLE AREA

The CML is applicable within the boundaries of the GRNP and will be managed and implemented principally by SANParks on behalf of the Minister.

4. DEVELOPMENTAL RISK MANAGEMENT MEASURES

The following risk management measures are applicable to a **NEW INFRASTRUCTURE** development within the GRNP.

- 4.1 A proponent of a new infrastructure development seaward of the CML must demonstrate that the following principles have been followed with the proposed development.
 - 4.1.1 The proponent sought to avoid development of the proposed infrastructure seaward of the CML but there are sound reasons why this cannot be achieved, which are articulated in the development proposal.
 - 4.1.2 The footprint of the proposed development area is only located seaward of the CML to the extent that this is necessary for the structural integrity, safety of the development and the aesthetic value of the development, which cannot be achieved by locating the development landward of the CML.
 - 4.1.3 That the impact of predicted hazards to the proposed development will be minimised by employing suitable design modifications, for example the use of stilts; and
 - 4.1.4 mitigate impacts on proposed development where development seaward of the CML is deemed necessary.
- 4.2 Where development of new infrastructure is proposed seaward of the CML in the GRNP, the following rules will apply.
 - 4.2.1 SANParks should only develop or approve the development of infrastructure seaward of the CML—
 - (a) if the proposed infrastructure, by their nature, require them to be situated seaward of the CML; or

- (b) if alternative development proposals were investigated and presented to the delegated official responsible for approving infrastructure development within the GRNP as part of any development proposal and approval process.

4.2.2 In circumstances where no alternative locations are feasible or reasonable, such infrastructure must be located so as to minimise risk faced by the infrastructure from dynamic coastal processes and must be developed in such a way to minimise impacts on the environment, surrounding infrastructure and other users of the area.

4.2.3 Any new development must take into account shifting risks and the level of vulnerability such as the likelihood of shifting the coastal risk e.g. shifting risk downstream when retention walls are placed along estuaries, as well as the likelihood of liabilities.

The following risk management measures are applicable to **EXISTING INFRASTRUCTURE** developments.

4.3 Where maintenance of infrastructure is proposed in areas at risk to dynamic coastal process which may adversely affect the structural integrity of the infrastructure or the safety of those who occupy it, the following will apply.

4.3.1 A feasibility study on the maintenance of infrastructure seaward of the CML must be completed within 10 years of publication of this CML and which must address—

- (a) costs estimates associated with the infrastructure over a ten (10) year horizon if the infrastructure is to be retained as well as if the infrastructure is to be moved landwards of the CML; and
- (b) the long-term implications on the GRNP if such infrastructure is revenue-generating infrastructure.

4.3.2 Should the maintenance of existing infrastructure be considered unfeasible or uneconomical by SANParks or the competent authority, SANParks must develop a plan for moving such infrastructure landwards of the CML or for the removal of such infrastructure, including timeframes for the moving of that infrastructure.

4.3.3 Should the maintenance of existing infrastructure be considered feasible or economical, SANParks must—

- (a) prepare a plan, within 10 years of the publication of this CML, which is aligned with the GNRP Management Plan, to provide for the modification of structures to reduce any adverse impacts from coastal processes; and
- (b) develop a strategy within 10 years of publication of this CML which addresses the movement of infrastructure which is at risk of being adverse impacted by coastal processes to locations landward of the CML.

5. METHODS APPLIED

5.1 The following hierarchy of methods were considered when deciding the appropriate location of declaring the GRNP CML:

- (a) use of the best scientific information available such as modelled risk scenarios to inform the position of the line, taking into account dynamic coastal processes and flooding;
- (b) use of nationally recognised data and information as proxies such as the 5m contour line where accurate flood information for an estuary is not known;
- (c) where reliable data is available to e.g. allow for differentiating *between* the risks associated with floodplains versus gorges along estuaries, modifying the line accordingly; and
- (d) use of historic records for the GRNP, including data and local knowledge on areas known to be highly vulnerable and at risk of, or protected from, dynamic coastal processes to inform and modify the position of the CML if required.

5.2 The following proxies were used when developing the GRNP CML:

- (a) the 10m contour line was used by SANParks to show areas at potential risk along the rocky Tsitsikamma coastline as modelled risk scenarios were unavailable;
- (b) the 10m contour line was modified at the Storm River Rest Camp based on local knowledge of where areas that are at - or protected from - risk are located due to the nature or orientation of coastline; and
- (c) where differing approaches were used for adjacent sections of coast, such as at estuary mouths where a 10m contour proxy was used along the coast and a 5m contour proxy was used along the estuary, a joining line was applied.

6. DESCRIPTION OF THE GARDEN ROUTE NATIONAL PARK'S COASTAL MANAGEMENT LINE

6.1 The CML declared in GRNP is set out in **Annexure 1** which lists its descriptions. In addition to coordinates, Annexure 1 also contains a description of where the start and endpoint of the CML is running within the GRNP's boundaries.

6.2 The descriptions in Annexure 1 are to be read together with the maps in **Annexure 2** which show where the line is located.

7. IMPLEMENTATION AND REVIEW

- 7.1 The CML is only declared within the GRNP's boundary.
- 7.2 The management authority responsible for the implementation of CML in the GRNP is SANParks;
- 7.3 The CML established in the GRNP may be reviewed in line with the Garden Route National Park Management Plan's process if or when necessary, but the review period may not exceed 10 years.

8. DATA ACCESSIBILITY

- 8.1 The maps can also be viewed at the following links:
 - (a) DEA Coastal viewer: <https://mapservice.environment.gov.za/Cml/>
 - (b) SANParks' website: <https://www.sanparks.org.za/>
- 8.2 Hard copies of the CML and the attached maps with the descriptions can be viewed at the following SANParks' facilities:
 - (a) Ebb & Flow, Wilderness – Physical Address: Ebb & Flow Drive, Wilderness, 6560
 - (b) Thesens Island Office, Knysna – Physical Address: Long Street, Thesens Island, Knysna, 6571
 - (c) Storms River Village Office, Storms River village – Physical Address: Darnell Street, Stormsriver, 6308
 - (d) Koukamma Satellite Office, Nompumelelo – Physical Address: Community Hall, Nompumelelo

Annexure 1

Zone	Map	Location on map	GRNP CML descriptions
Zone A	1a	Wilderness, George Local Municipality, Garden Route	i – CML starts on the boundary of Erf No. 1271 and Waterside Road south of the north-eastern corner of Erf No. 1262, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary of remainder of Erf No. 1278 and Waterside Road, situated approximately 0.64 km west of the junction of Waterside Road and Hoekwil Road
	1b	Wilderness, George Local Municipality, Garden Route District Municipality	i – CML starts on the boundary of remainder of Erf No. 1278 and Waterside Road, situated approximately 0.42 km west of the junction of Waterside Road and Hoekwil Road, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary of remainder of Erf No. 1278 and Waterside Road, situated approximately 0.25 km west of the junction of Waterside Road and Hoekwil Road
			ii – CML starts on the boundary of remainder of Erf No. 1278 and Waterside Road, situated approximately 0.12 km west of the junction of Waterside Road and Hoekwil Road, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary of remainder of Erf No. 1278 and Waterside Road, situated approximately 0.10 km west of the junction of Waterside Road and Hoekwil Road
			iii – CML starts on the boundary of remainder of Erf No. 1278 and Waterside Road, situated approximately 0.05 km west of the junction of Waterside Road and Hoekwil Road, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary of remainder of Erf No. 1278 and Waterside Road, at the junction of Waterside Road and Hoekwil Road
			iv – CML starts on the western boundary of portion 131 of Farm No. 192 and Bo-Langvlei Road, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary between portion 131 of Farm No. 192 and remainder of portion 33 of Farm No. 192, approximately 0.07km south of Bo-Langvlei Road
			v – CML starts on the boundary between portion 64 of Farm No. 192 and portion 4 of Farm No. 192 approximately 0.47km east of the junction of Bo-Langvlei Road and Hoekwil Road, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary between portion 64 of Farm No. 192 and portion 4 of Farm No. 192 approximately 0.93km east of the junction of Bo-Langvlei Road and Hoekwil Road
			vi – CML starts on the south-western most point of the boundary between portion 64 of Farm No. 192 and portion 4 of Farm No. 192 approximately 0.95km east of the junction of Bo-Langvlei Road and Hoekwil Road, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary between portion 64 of Farm No. 192 and portion 67 of Farm No. 192 approximately 0.17km north-west of the junction of Bo-Langvlei Road and Die Vleie Road
			vii – CML starts on the boundary of portion 64 of Farm No. 192 adjacent to and in line with the common boundary of portion 98 of Farm No. 192 and portion 99 of Farm No. 192, follows a curvilinear line along the 5m contour line around the estuary and ends on portion 64 of Farm No. 192, in line with the northern border of portion 302 of Farm No. 192

			<p>viii - CML starts on the boundary between portion 64 of Farm No. 192 and portion 65 of Farm No. 192 approximately 0.21km west of the junction of Bo-Langvlei Road and Die Vleie Road, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary between portion 64 of Farm No. 192 and portion 65 of Farm No. 192 approximately 0.15km west of the junction of Bo-Langvlei Road and Die Vleie Road</p>
			<p>ix - CML starts on the boundary between portion 64 of Farm No. 192 and Bo-Langvlei Road approximately 0.03km east of the junction of Bo-Langvlei Road and Die Vleie Road, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary between portion 64 of Farm No. 192 and Bo-Langvlei Road approximately 0.30km east of the junction of Bo-Langvlei Road and Die Vleie Road</p>
	1c	Wilderness, George Local Municipality, Garden Route District Municipality	<p>i – CML starts on portion 64 of Farm No. 192, in line with the northern border of portion 302 of Farm No. 192, follows a curvilinear line along the 5m contour line around the estuary and ends on border between portion 64 of Farm No. 192 and the north-eastern boundary of portion 115 of Farm No. 192, in line with the southern boundary of portion 113 of Farm No. 192</p>
			<p>ii – CML starts on the common boundary between portion 64 of Farm No. 192, portion 86 of Farm No. 192 and portion 85 of Farm No. 192, follows a curvilinear line along the 5m contour line around the estuary and ends on the common boundary between portion 64 of Farm No. 192, portion 210 of Farm No. 192 and portion 87 of Farm No. 192</p>
			<p>iii – CML starts on the boundary between portion 134 of Farm No. 192 and portion 8 of Farm No. 192 approximately 0.16km east of the south-western boundary of portion 8 of Farm No. 192, follows a curvilinear line along the 5m contour line around the estuary and ends on the common boundary between portion 3 of Farm No. 189 and portion 31 of Farm No. 189</p>
			<p>iv - CML starts on the boundary between portion 31 of Farm No. 189 and portion 3 of Farm No. 189, south of the southern boundary of portion 13 of Farm No. 189, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary between portion 31 of Farm No. 189 and portion 3 of Farm No. 189, south of the southern boundary of portion 12 of Farm No. 189</p>
			<p>v – CML starts on the boundary between portion 11 of Farm No. 189 and portion 3 of Farm No. 189, immediately north of the southern common boundary of portion 11 of Farm No. 189, portion 3 of Farm No. 189 and portion 31 of Farm No. 189 and ends on the boundary between portion 11 of Farm No. 189, and portion 62 of Farm No. 189, at the south-western most point of portion 62 of Farm No. 189</p>
			<p>vi – CML starts on the boundary of portion 11 of Farm No. 189 and portion 142 of Farm No. 189 and ends on the boundary between portion 37 of Farm No. 189 and portion 17 of Farm No. 189, along the south-western border of portion 17 of Farm No. 189 approximately 0.41km south of the junction of Bo-Langvlei Road and Rondevlei Road</p>
	2a	Wilderness, George Local Municipality,	<p>i – CML starts on the boundary between Erf No. 1096 and Erf No. 189, approximately 0.03km north of the western edge of the N2 bridge across the Touw / Wilderness Estuary, follows a curvilinear line along the 5m contour line</p>

	Garden Route District Municipality	around the estuary and ends on the boundary between Erf No. 1096 and Erf No. 1776 in line with Erf No. 362
		ii – CML starts on the boundary between Erf No. 1096 and Erf No. 1776 in line with Erf No. 533, follows a curvilinear line along the 5m contour line around the estuary and ends between Erf No. 1096 and Erf No. 493, in line with the common boundary between Erven No.'s 369 and 370
		iii – CML starts on the boundary between Erf No. 1096 and Erf No. 493 in line with Erf No. 370, follows a curvilinear line along the 5m contour line around the estuary and ends on the common boundary between Erven No.'s 1096 and 424 and Waterside Road, in line with Erf No. 370
		iv – CML starts on the boundary of Erf No. 424 and Waterside Road south of Erf No. 374, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary of Erf No. 424 and Waterside Road south of Erf No. 377
		v - CML starts on the boundary of Erf No. 422 and Waterside Road south of Erf No. 1129, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary of Erf No. 422 and Waterside Road south of Erf No. 1071
		vi – CML starts on the common border between Erf No. 422 and remainder Farm No. 158 and Waterside Road south of Erf No. 389, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary of remainder Farm No. 158 and Erf No. 523 near the south-westernmost point of Erf No. 523
		vii – CML starts on the border of remainder Farm No. 158 and remainder Erf No. 425 north of remainder Erf No. 2259, follows a curvilinear line along the 5m contour line around the estuary and ends on the border of remainder Farm No. 158 and Erf No. 490 west of the border between remainder Farm No. 158 and Erf No. 1017
		viii – CML starts on the boundary of Erven No.'s 1017 and 1118 along the eastern boundary of Erf No. 1118, follows a curvilinear line along the 5m contour line around the estuary and ends on boundary between Erven No.'s 1017 and 1019 along the north-western boundary of Erf No. 1019
		ix – CML starts on the common boundary between remainder Erf No. 1270 and Erf No. 2458, south of the common boundary of remainder Erven No.'s 1270 and 2581 and Erf No. 2458, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary between Erven No.'s 1282 and 1275, in line with the south-westernmost point of the boundary between Erf No. 1282 and remainder Erf No. 1281
		x - CML starts on the boundary of remainder Erven No.'s 1264 and 1270 south of Erf No. 1027, follows a curvilinear line along the 5m contour line around the estuary and ends on boundary between Erf No. 1268 and remainder Erf No. 1270 south of the common boundary of Erf No. 1268 and remainder Erven No.'s 1270 and 1264
		xi – CML starts on the boundary between Erf no. 1271 and Dumbelton Road, approximately 0.11km east of the junction of Waterside Road and Dumbelton Road, follows a curvilinear line along the 5m contour line around the estuary

			and ends on the boundary between Erven No.'s 1271 and 1999, approximately 0.18km east of the junction of Waterside Road and Dumbelton Road
			xii - CML starts on the boundary of Erf No. 1271 and Dumbelton Road east of the remainder of Erf No. 1264, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary of Erf No. 1271 and Dumbelton Road east of the remainder of Erf No. 1264
			xiii - CML starts on the boundary of Erven No.'s 1268 and 1271 east of the common boundary between Erven No.'s 1268, 1994 and 1271, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary of Erven No.'s 1268 and 1271 east of the common boundary of Erf No. 1268 and remainder Erven No.'s 1270 and 1264
			xiv – CML starts on the boundary of Erven No.'s 1271 and 1999, east of the common boundary between Erf No. 1030 and remainder Erf No. 1264, follows a curvilinear line along the 5m contour line around the estuary and ends on Erf No. 1271 approximately 0.29km south-west of the western point of the Waterside Road bridge over the Touw / Wilderness Estuary
			xv - CML surrounds an "island" which falls outside the CML situated above the 5m contour line
			xvi – CML starts on the boundary between Erven No.'s 1282 and 1275, along the eastern boundary of Erf No. 1275, follows a curvilinear line along the 5m contour line around the estuary and ends on Erf No. 1282, north of Erf No. 577
			xvii – CML starts on the southern boundary of Erf No. 2173, moving towards the coast and following the 100 year risk line and ends south of the most southern corner of Erf No. 2348
2b	Wilderness, George Local Municipality, Garden Route District Municipality	i – CML starts on Erf No. 1282 north of Erf No. 577, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary of Erven No.'s 939 and 1283 in line with the common boundary of Erven No.'s 579 and 580	
		ii – CML starts south of Erf No. 2348, follows a curvilinear line along the 100-year risk line along the coast and ends on the common boundary between unalienated state land and Erf No. 1462, south of Erf No. 1449	
		iii – CML starts on the boundary of Erf No. 939 and Erf No. 1283, at the eastern border of Erf No. 939, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary of Erf No. 1283, adjacent to and in line with Erf No. 646	
		iv – CML surrounds an "island" which falls outside the CML situated above the 5m contour line	
		v - CML surrounds an "island" which falls outside the CML situated above the 5m contour line	
		vi – CML starts on the boundary of Erf No. 963 adjacent to and in line with Erf No. 679, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary of Erf No. 963 adjacent to and in line with Erf No. 687	
		vii - CML starts on the boundary of Erf No. 963 adjacent to and in line with Erf No. 2419, follows a curvilinear line along the 5m contour line around the	

			estuary and ends on the boundary of Erf No. 963 adjacent to and in line with Erf No. 704
			viii - CML starts on the boundary of Erf No. 963 adjacent to and in line with Erf No. 706, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary of Erf No. 963 adjacent to and in line with Erf No. 723
			ix - CML starts on the boundary of Erf No. 963 adjacent to and in line with Erf No. 2624, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary of Erf No. 963 adjacent to and in line with Erf No. 725
			x - CML starts on the boundary of remainder Erf No. 1297 and portion 64 of Farm No. 192 approximately 0.1km east of Erf No. 2625, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary of remainder Erf No. 1297 and portion 64 of Farm No. 192 approximately 0.62km east of Erf No. 2625
			xi - CML surrounds an "island" which falls outside the CML situated above the 5m contour line
			xii - CML surrounds an "island" which falls outside the CML situated above the 5m contour line
			xiii – CML starts on the boundary between portion 64 of Farm No. 192 and portion 310 of Farm No. 192 approximately 0.75km north of the junction of Die Vleie Road and the N2 and ends on the boundary between portion 64 of Farm No. 192 and the boundary between portion 98 of Farm No. 192 and portion 99 of Farm No. 192 approximately 0.21km west of the junction of Bo-Langvlei Road and Die Vleie Road
			xiv - CML starts on the boundary between portion 64 of Farm No. 192 and portion 306 of Farm No. 192 approximately 0.57km north of the junction of Die Vleie Road and the N2 and ends on the boundary between portion 64 of Farm No. 192 and portion 249 of Farm No. 192 approximately 0.43 km north of the junction of Die Vleie Road and the N2
			xv – CML starts on the boundary between portion 64 of Farm No. 192 and portion 249 of Farm No. 192 approximately 0.41 km north of the junction of Die Vleie Road and the N2 and ends on the boundary between portion 64 of Farm No. 192 and remainder Erf No. 1298 approximately 0.4 km east of the junction of Die Vleie Road and the N2
			2c
ii – CML starts on border between portion 64 of Farm No. 192 and the north-eastern boundary of portion 115 of Farm No. 192, in line with the southern boundary of portion 113 of Farm No. 192, follows a curvilinear line along the 5m contour line around the estuary and ends on the border between portion 34 of Farm No. 189 and remainder portion 15 of Farm No. 189, approximately 1.65km south of the junction of Bo-Langvlei Road and Rondevlei Road			

Zone B	1b	Wilderness, George Local Municipality, Garden Route District Municipality	i – CML starts on the boundary between portion 23 of Farm No. 187 and portion 17 of Farm No. 186 near the northernmost tip of portion 23 of Farm No. 187, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary between portion 23 of Farm No. 187 and portion 17 of Farm No. 186
		Sedgefield, Knysna Local Municipality, Garden Route District Municipality	ii – CML starts on the boundary between portion 11 of Farm No. 187 and portion 17 of Farm No. 186 near the southernmost tip of the common boundary between the two properties, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary between portion 23 of Farm No. 187 and portion 36 of Farm No. 186 near the northern-eastern tip of portion 36 of Farm No. 186
			iii – CML starts on the boundary between portion 10 of Farm No. 187 and portion 37 of Farm No. 187, approximately 0.21km east of the eastern extent of portion 26 of Farm No. 187, follows a curvilinear line along the 5m contour line around the estuary and ends on the boundary between portions 10 and 36 of Farm No. 187 along the northern boundary of portion 36 of Farm No. 187
	2a	Wilderness, George Local Municipality, Garden Route	i – CML starts on the boundary between unalienated state land and remainder Farm No. 191 approximately 0.12km east of the common boundary between unalienated state land, remainder Erf No. 1288 and remainder Farm No. 191, follows a curvilinear line along the 100-year risk line along the coast, or the park boundary and ends along the coastline of unalienated state land situated south of the southern border of portion 14 of Farm No. 189
	2b	Wilderness, George Local Municipality,	i – CML starts along the coastline of unalienated state land situated south of the southern border of portion 14 of Farm No. 189, follows a curvilinear line along the 100-year risk line along the coast and ends along the coastline of unalienated state land situated south of the southern boundary of remainder portion 1 of Farm No. 187
	2c	Sedgefield, Knysna Local Municipality, Garden Route	i – CML starts along the coastline of unalienated state land situated south of the southern boundary of remainder portion 1 of Farm No. 187, follows a curvilinear line along the 100-year risk line along the coast and ends on the boundary between unalienated state land and remainder Farm No. 185 along the western border of remainder Farm No. 185
Zone C	1a	Knysna Local Municipality,	i – CML starts at the western bank of the Noetzie Estuary mouth along the border of remainder of Farm No. 394, east of Erf No. 20374, follows a curvilinear line along the 100-year risk line along the coast and 5m contour line around the estuary and ends on the eastern shore of the Noetzie Estuary, east of Erf No. 20330
	2a	Knysna Local Municipality,	i – CML starts on the eastern shore of the Noetzie Estuary, east of Erf No. 20330, follows a curvilinear line along the 100-year risk line along the coast and ends along the coastline of Farm No. 558, approximately 3.4 km east of the Noetzie Estuary mouth
	2b	Bitou Local Municipality,	i – CML starts along the coastline of Farm No. 558, approximately 3.4 km east of the Noetzie Estuary mouth, follows a curvilinear line along the 100-year risk line along the coast and ends along the coastline of Farm No. 558, approximately 7.1 km east of the Noetzie Estuary mouth
	2c	Bitou Local Municipality,	i – CML along the coastline of Farm No. 558, approximately 7.1 km east of the Noetzie Estuary mouth, follows a curvilinear line along the 100-year risk line

			along the coast and ends at the southernmost point where Farm No. 558 and remainder Farm No. 432 have a common boundary
Zone D	1c	Bitou Local Municipality,	i – CML starts along the coastline of Farm No. 241 approximately 0.7 km south-west of the Sout (Oos) Estuary mouth, follows a curvilinear line along the 100-year risk line along the coast and 5m contour line around the estuary and ends at the boundary between Farm No. 241, unalienated state land and Erf No. 444
	2a	Bitou Local Municipality, Garden Route District Municipality	i – CML starts along the coastline near the border between remainder of Farm No. 296 and portion 1 of Farm No. 299, follows a curvilinear line along the 100-year risk line along the coast and ends along the coastline near the border between portion 1 of Farm No. 299 and remainder of Farm No. 496
			ii – CML starts along the coastline at the border between remainder of Farm No. 496 and Farm No. 241, follows a curvilinear line along the 100-year risk line along the coast and ends along the coastline of Farm No. 241, approximately 0.4 km northeast of the border between remainder of Farm No. 496 and Farm No. 241
	2b	Bitou Local Municipality,	i – CML starts along the coastline of Farm No. 241, approximately 0.4 km northeast of the border between remainder of Farm No. 496 and Farm No. 241, follows a curvilinear line along the 100-year risk line along the coast and ends along the coastline of Farm No. 241 approximately 1.9 km southwest of the Sout (Oos) Estuary mouth
	2c	Bitou Local Municipality, Garden Route	i – CML starts along the coastline of Farm No. 241 approximately 1.9 km southwest of the South (Oos) Estuary mouth, follows a curvilinear line along the 100-year risk line along the coast and ends along the coastline of Farm No. 241 approximately 0.7 km south-west of the Sout (Oos) Estuary mouth
Zone E	1a	Nature's Valley, Bitou Local Municipality, Garden Route	i – CML starts on Farm No. 241 at the Nature's Valley Rest Camp, follows a curvilinear line along the 5m contour line around the estuary and ends on Farm No. 250 near the eastern shore of the Groot (West) Estuary opposite the Nature's Valley Rest Camp
	2a	Nature's Valley, Bitou Local Municipality, Garden Route District Municipality	i – CML starts on the boundary of Farm No. 241 north of Erf No. 455, follows a curvilinear line along the 5m contour line around the estuary and ends on Farm No. 241 at the Nature's Valley Rest Camp
			ii – CML starts on Farm No. 250 near the eastern shore of the Groot (West) Estuary opposite the Nature's Valley Rest Camp, follows a curvilinear line along the 100-year risk line along the coast and 5m contour line around the estuary and ends near the southernmost point of the boundary between Farm No. 250 and Farm No. 287
			iii – CML starts near the southernmost point of the boundary between Farm No. 250 and Farm No. 287, follows a curvilinear line along the 10m contour line along the coast and ends approximately 0.85 km east of the south-easternmost point of Farm No. 287
	2b	Bitou Local Municipality,	i – CML starts approximately 0.85 km east of the south-easternmost point of Farm No. 287, follows a curvilinear line along the 10m contour line along the coast and ends approximately 0.1 km southwest of the Klip River mouth on Farm No. 287
	2c	Bitou Local Municipality,	i – CML starts approximately 0.1 km southwest of the Klip River mouth on Farm No. 287, follows a curvilinear line along the 10m contour line along the

			coast, the 5m contour along the estuary and short straight lines joining the 5m and 10 contour lines at their closest points around the estuary mouth and ends approximately 0.3 km east of the Bloukrantz Estuary mouth on Farm No. 397
Zone F	1a	Kou-Kamma Local Municipality, Sarah Baardman	i – CML starts approximately 100m west of the Bloukrantz Estuary mouth on Farm No. 250, follows a curvilinear line along the 10m contour line along the coast, the 5m contour along the estuary and short straight lines joining the 5m and 10 contour lines at their closest points around the estuary mouth and ends approximately 2.9 km east of the Bloukrantz Estuary mouth on Farm No. 397
	1b	Kou-Kamma Local Municipality,	i – CML starts along the coastline on Farm No. 397 approximately 2.9 km east of the Bloukrantz Estuary mouth, follows a curvilinear line along the 10m contour line along the coast and ends along the coastline approximately 3 km east of the Bloukrantz River mouth on Farm No. 397
	2b	Kou-Kamma Local Municipality,	i – CML starts along the coastline approximately 3 km east of the Bloukrantz River mouth on Farm No. 397, follows a curvilinear line along the 10m contour line along the coast and ends along the coastline on Farm No. 397 approximately 2 km west of the Lottering Estuary mouth
	2c	Kou-Kamma Local Municipality, Sarah Baardman	i – CML starts along the coastline on Farm No. 397 approximately 2 km west of the Lottering Estuary mouth, follows a curvilinear line along the 10m contour line along the coast, the 5m contour along the estuary and short straight lines joining the 5m and 10 contour lines at their closest points around the estuary mouth and ends on along the coastline Farm No. 397 approximately 1 km east of the Lottering Estuary mouth
Zone G	1a	Kou-Kamma Local Municipality, Sarah Baardman District Municipality	i – CML starts along the coastline on Farm No. 397 approximately 0.5 km east of the Lottering Estuary mouth, follows a curvilinear line along the 10m contour line along the coast, the 5m contour along the estuary and short straight lines joining the 5m and 10 contour lines at their closest points around the estuary mouth and ends on the boundary between unalienated state land and Farm No. 412 on the western side of the Elansbos Estuary
			ii – CML starts on the boundary between unalienated state land and Farm No. 412 on the eastern side of the Elansbos Estuary, follows a curvilinear line along the 10m contour line along the coast, the 5m contour along the estuary and short straight lines joining the 5m and 10 contour lines at their closest points around the estuary mouth and ends along the coastline on Farm No. 397 immediately east of the Elandsbos Estuary mouth
	2a	Kou-Kamma Local Municipality,	i – CML starts along the coastline on Farm No. 397 immediately east of the Elandsbos Estuary mouth, follows a curvilinear line along the 10m contour line along the coast and ends along the coastline on Farm No. 397 approximately 0.8 km east of the Elandsbos Estuary mouth
	2b	Kou-Kamma Local Municipality, Sarah Baardman	i – CML starts along the coastline on Farm No. 397 approximately 0.8 km east of the Elandsbos Estuary mouth, follows a curvilinear line along the 10m contour line along the coast and ends along the coastline on Farm No. 397, west of the southernmost section of the boundary between Farm No. 397 and Farm No. 429 (Kleinbos river mouth)
	2c	Kou-Kamma Local Municipality, Sarah Baardman	i – CML starts along the coastline on Farm No. 397, west of the southernmost section of the boundary between Farm No. 397 and Farm No. 429 (Kleinbos river mouth), follows a curvilinear line along the 10m contour line along the coast and ends along the coastline on Farm No. 429 approximately 3.1 km east of the Kleinbos River mouth

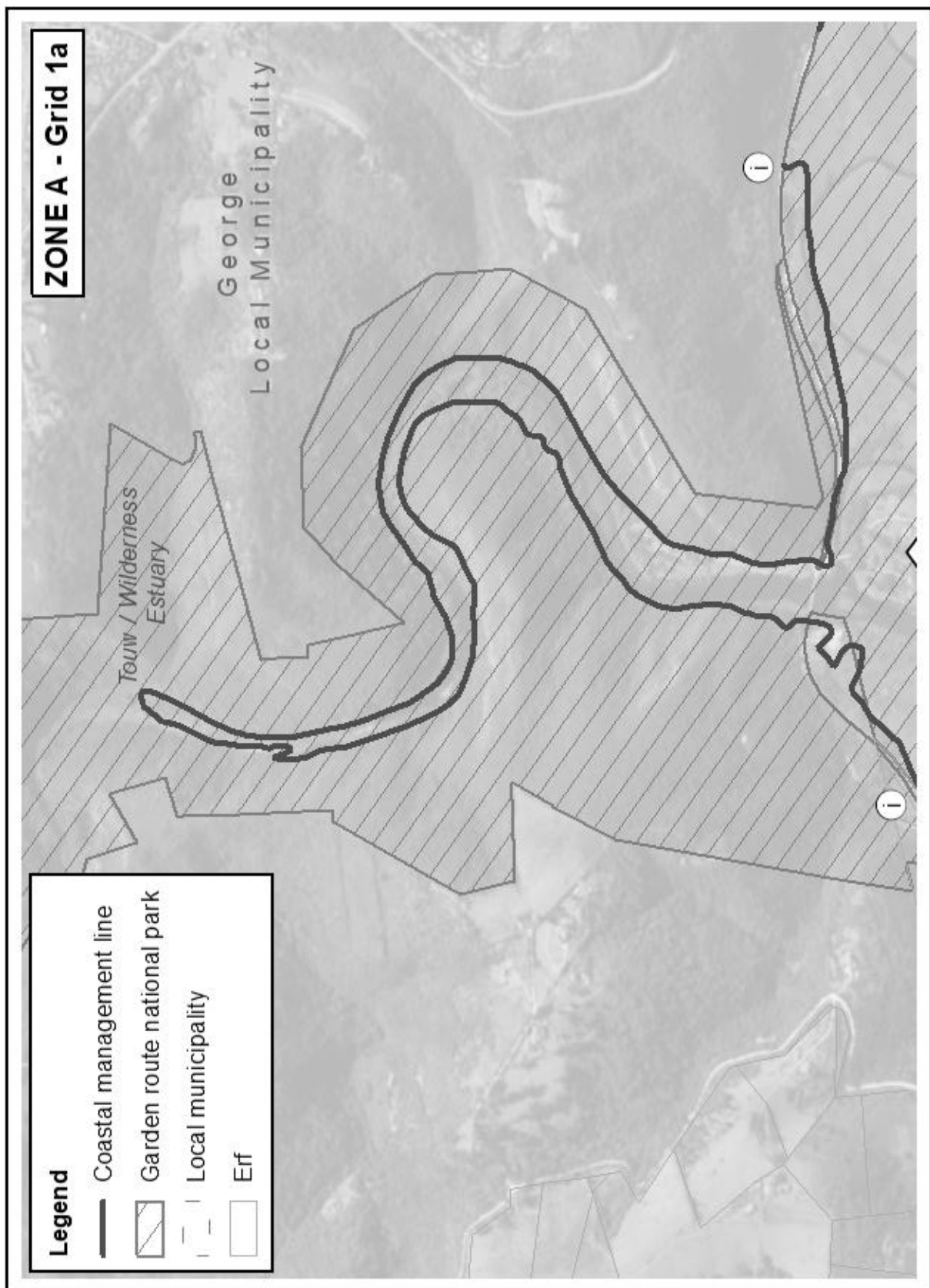
Zone H	1a	Kou-Kamma Local Municipality,	i – CML starts along the coastline on Farm No. 429 approximately 2.7 km east of the Kleinbos River mouth, follows a curvilinear line along the 10m contour line along the coast and ends along the coastline on Farm No. 429 approximately 2.6 km west of the Storms River mouth
	1b	Kou-Kamma Local Municipality, Sarah Baardman District Municipality	i – CML starts along the coastline on Farm No. 429 approximately 2.6 km west of the Storms River mouth, follows a curvilinear line along the 10m contour line along the coast, a curvilinear line based on historical records of flood risk in front of the Storms River Rest Camp, the 5m contour along the estuary and short straight lines joining the 5m and 10 contour lines at their closest points around the estuary mouth and ends along the coastline on Farm No. 431 approximately 0.7 km east of the Storms River mouth
	1c	Kou-Kamma Local Municipality,	i – CML starts along the coastline on Farm No. 431 approximately 0.7 km east of the Storms River mouth, follows a curvilinear line along the 10m contour line along the coast and ends along the coastline on Farm No. 431 approximately 3.5 km east of the Storms River mouth
Zone I	1a	Kou-Kamma Local Municipality, Sarah Baardman	i – CML starts along the coastline on Farm No. 431 approximately 3 km east of the Storms River mouth, follows a curvilinear line along the 10m contour line along the coast and ends along the coastline on Farm No. 431 approximately 4.9 km east of the Storms River mouth, south of the southernmost point of the boundary between Farm No. 441 and Farm No. 442
	2a	Kou-Kamma Local Municipality, Sarah Baardman	i – CML starts along the coastline on Farm No. 431 approximately 4.9 km east of the Storms River mouth, south of the southernmost point of the boundary between Farm No. 441 and Farm No. 442, follows a curvilinear line along the 10m contour line along the coast and ends along the coastline on Farm No. 431 approximately 6.1 km east of the Storms River mouth, south of Farm No. 443
	2b	Kou-Kamma Local Municipality, Sarah Baardman	i – CML starts along the coastline on Farm No. 431 approximately 6.1 km east of the Storms River mouth, south of Farm No. 443, follows a curvilinear line along the 10m contour line along the coast and ends along the coastline on Farm No. 448 approximately 9.3 km east of the Storms River mouth, south of Farm No. 449
	2c	Kou-Kamma Local Municipality,	i – CML starts along the coastline on Farm No. 448 approximately 9.3 km east of the Storms River mouth, south of Farm No. 449, follows a curvilinear line along the 10m contour line along the coast and ends along the coastline on Farm No. 523 approximately 4 km west of the Elands River mouth
Zone J	1a	Kou-Kamma Local Municipality,	i – CML starts along the coastline on Farm No. 523 approximately 4 km west of the Elands River mouth, follows a curvilinear line along the 10m contour line along the coast and ends along the coastline on Farm No. 523 approximately 0.8 km west of the Elands River mouth
	1b	Kou-Kamma Local Municipality, Sarah Baardman	<p>i – CML starts along the coastline on Farm No. 523 approximately 0.8 km west of the Elands River mouth, follows a curvilinear line along the 10m contour line along the coast, or the park boundary if the 10m contour line extends beyond the park boundary and ends along the coastline</p> <p>ii – CML starts on the boundary of Farm No. 524, east of the Elands River mouth, following a curvilinear line along the 10m contour line, ending within the Tsitsikamma section of the Garden Route National Park south of Farm No. 569 approximately 2.3 km east of the Elands River mouth</p>

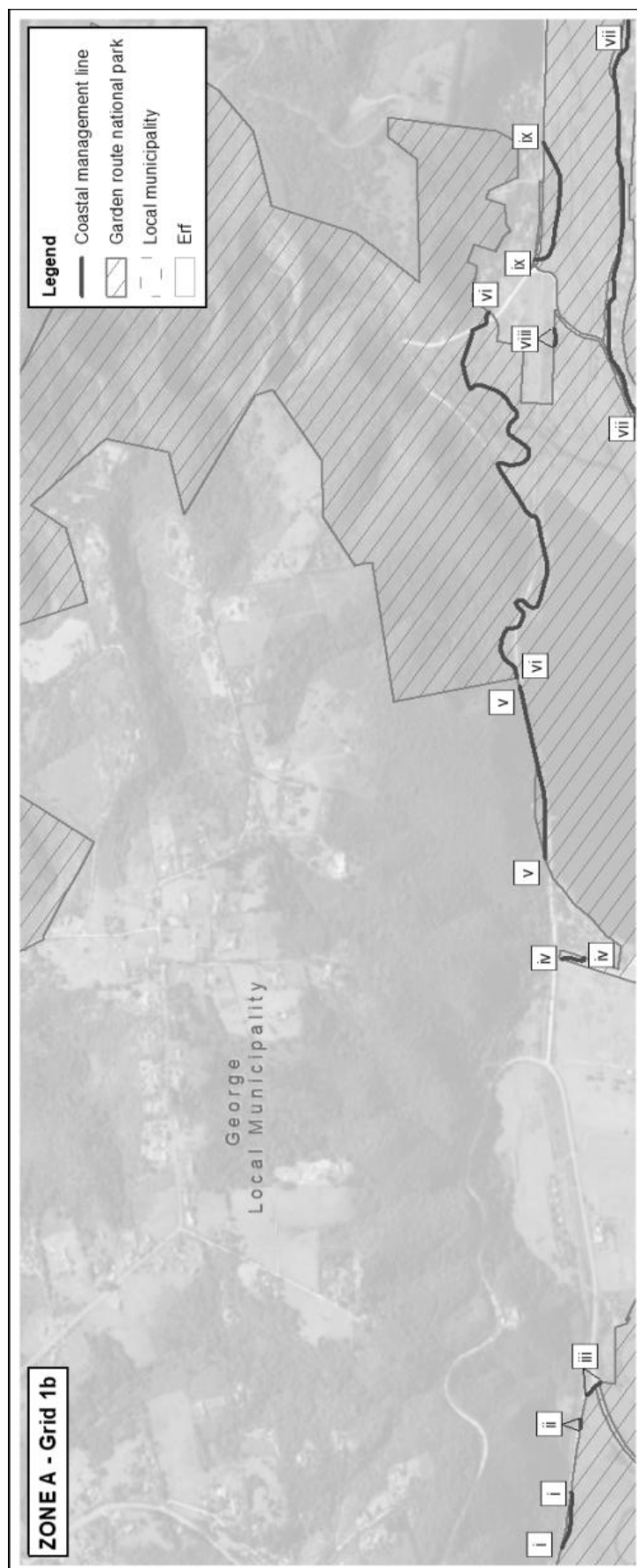
	2c	Kou-Kamma Local Municipality, Sarah Baardman District Municipality	i – CML starts along the coastline within the Tsitsikamma section of the Garden Route National Park south of Farm No. 569 approximately 2.3 km east of the Elands River mouth, follows a curvilinear line along the 10m contour line along the coast and ends along the coastline within the Tsitsikamma section of the Garden Route National Park immediately south of portion 2 of Farm No. 569 (no Farm No.) approximately 5.2 km west of the Groot (Oos) River mouth, east of the south-eastern border point of Farm No. 571
Zone K	1a	Kou-Kamma Local Municipality, Sarah Baardman	i – CML starts along the coastline on Farm No. 571 approximately 5.2 km west of the Groot (Oos) River mouth, follows a curvilinear line along the 10m contour line along the coast and ends along the coastline within the Tsitsikamma section of the Garden Route National Park immediately south of portion 2 of Farm No. 569 (no Farm No.) approximately 2.8 km west of the Groot (Oos) River mouth, south of Farm No. 577
	1b	Kou-Kamma Local Municipality, Sarah Baardman District Municipality	i – CML starts along the coastline within the Tsitsikamma section of the Garden Route National Park immediately south of portion 2 of Farm No. 569 (no Farm No.) approximately 2.8 km west of the Groot (Oos) Estuary mouth, south of Farm No. 577, follows a curvilinear line along the 10m contour line along the coast, the 5m contour along the estuary, or the park boundary if the 5m contour line extends beyond the park boundary and ends on Farm No. 582 along the western bank of the Groot (Oos) Estuary mouth

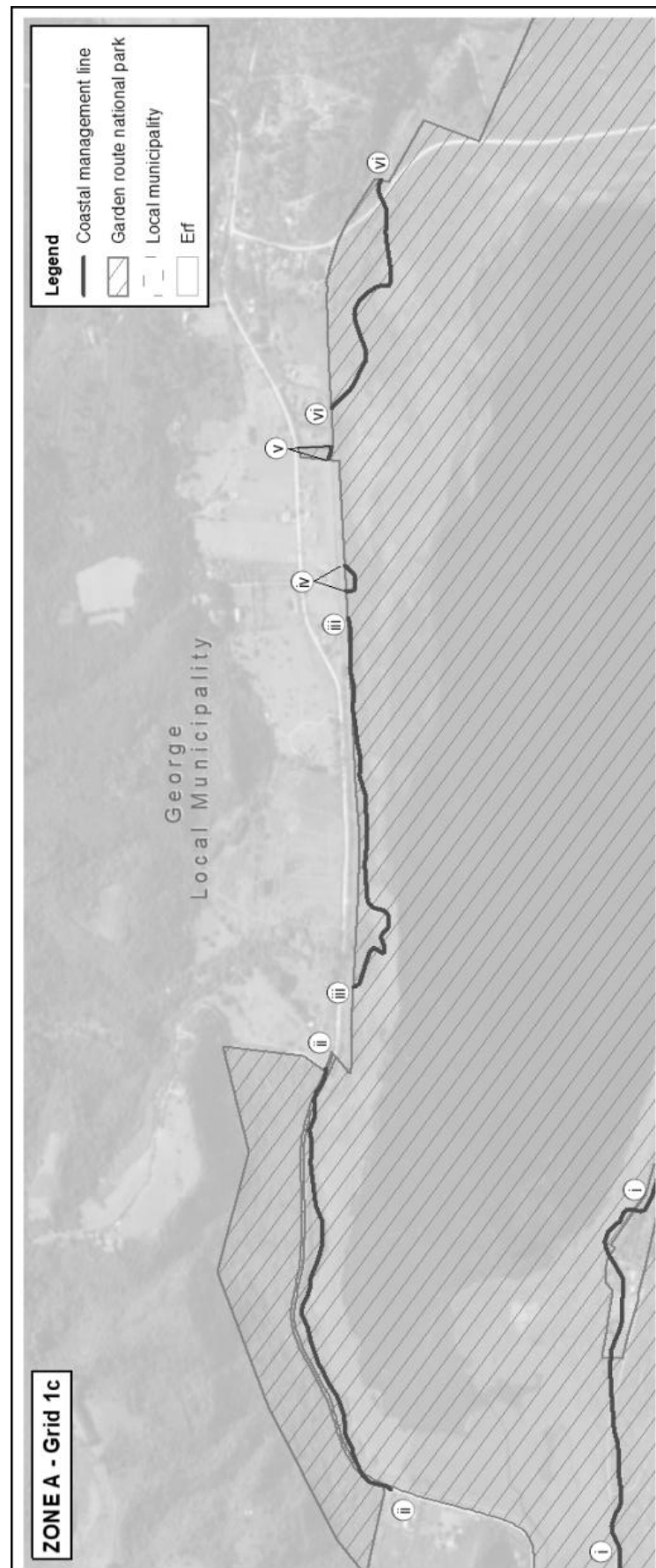
Annexure 2

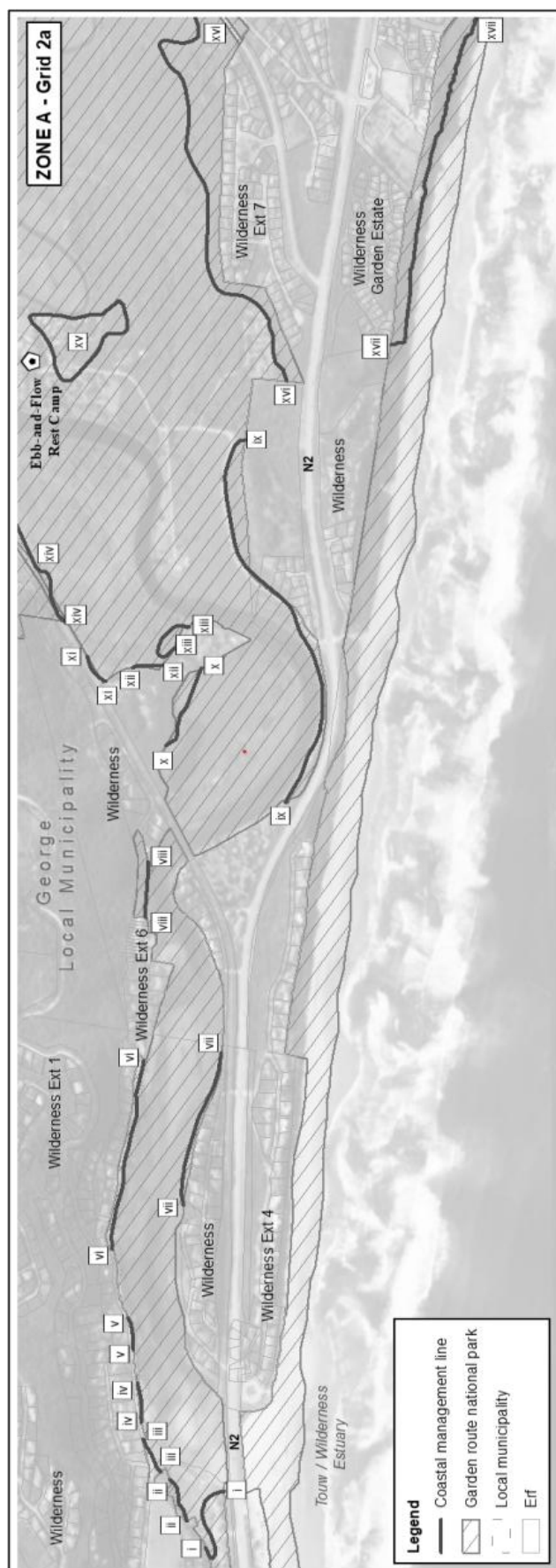


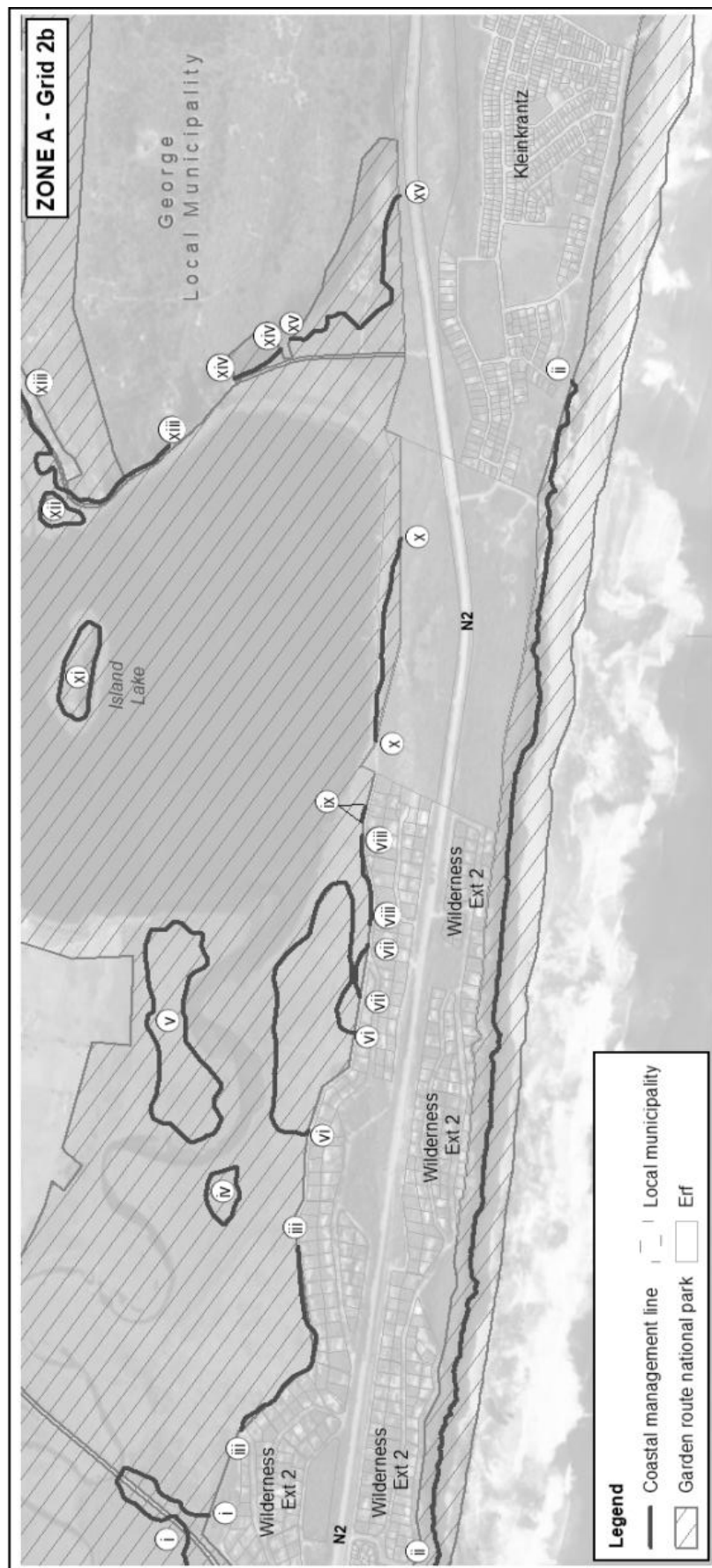


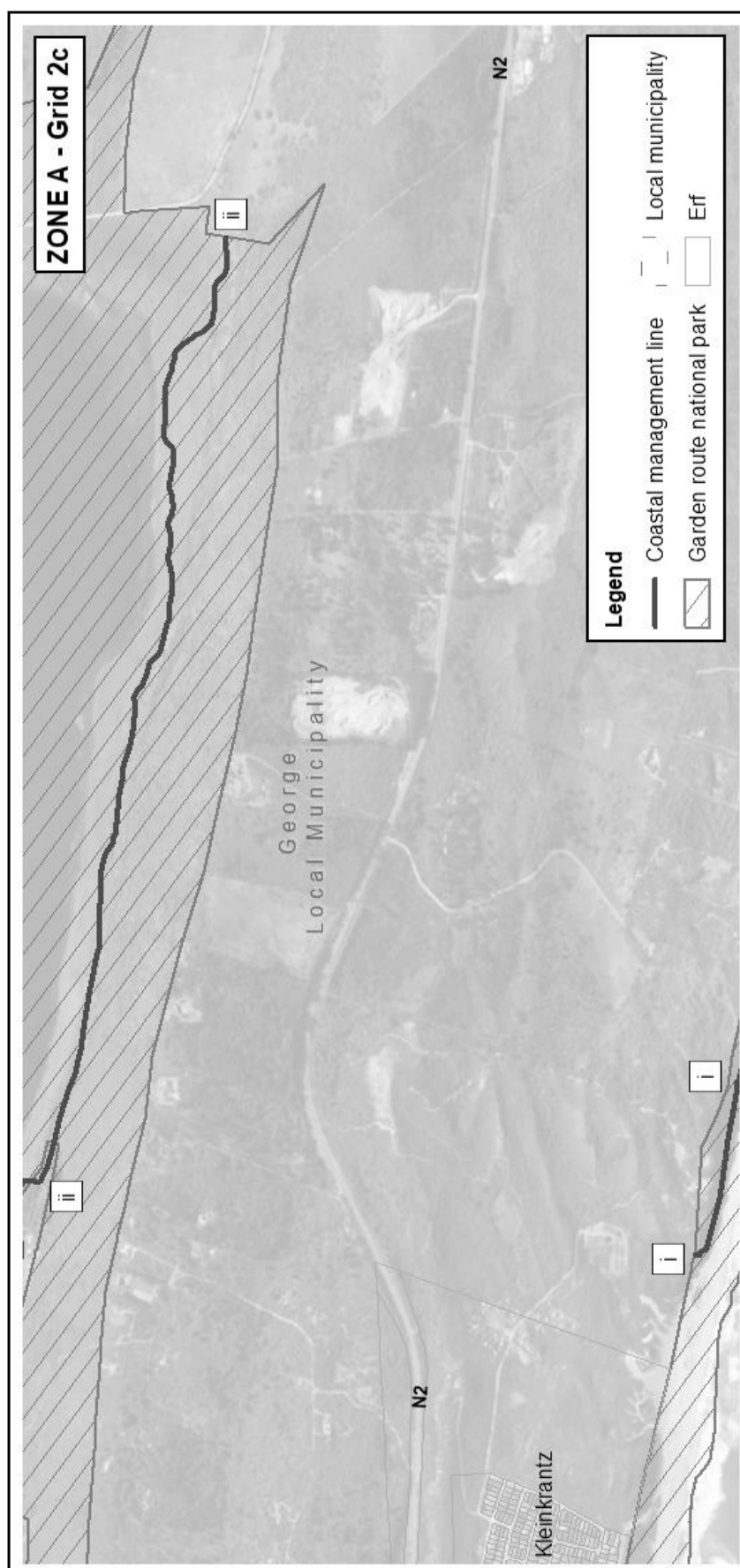


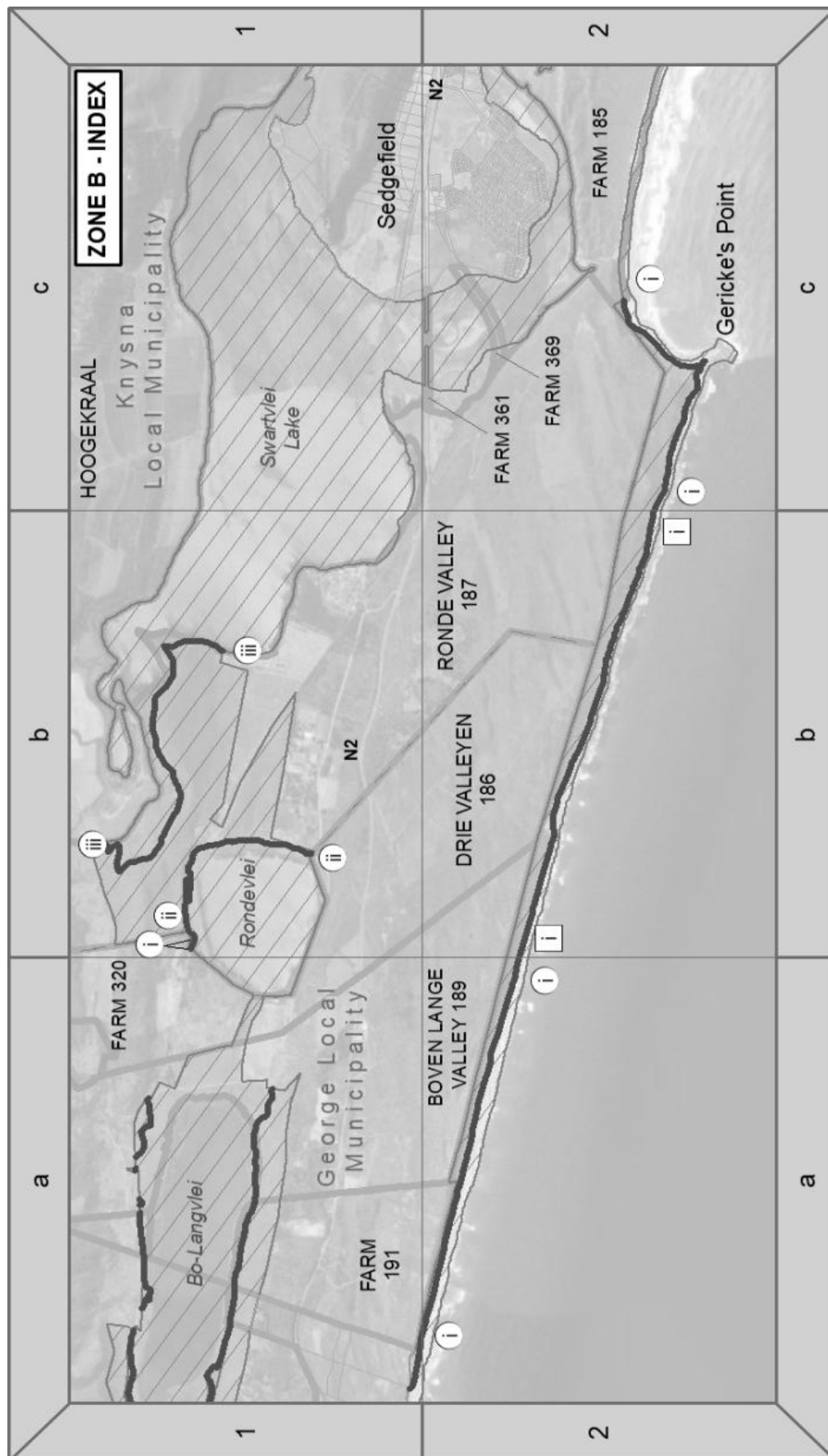


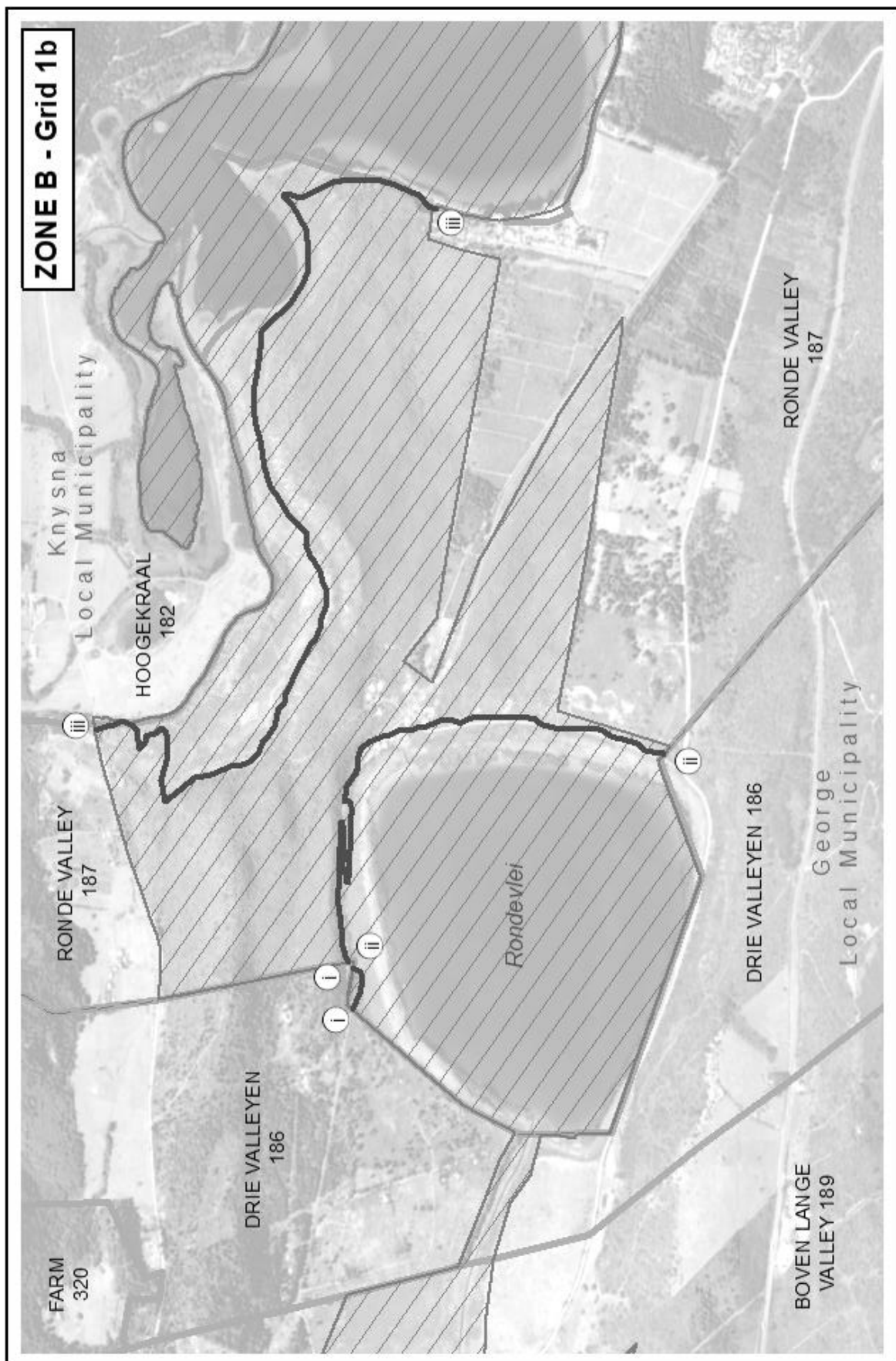




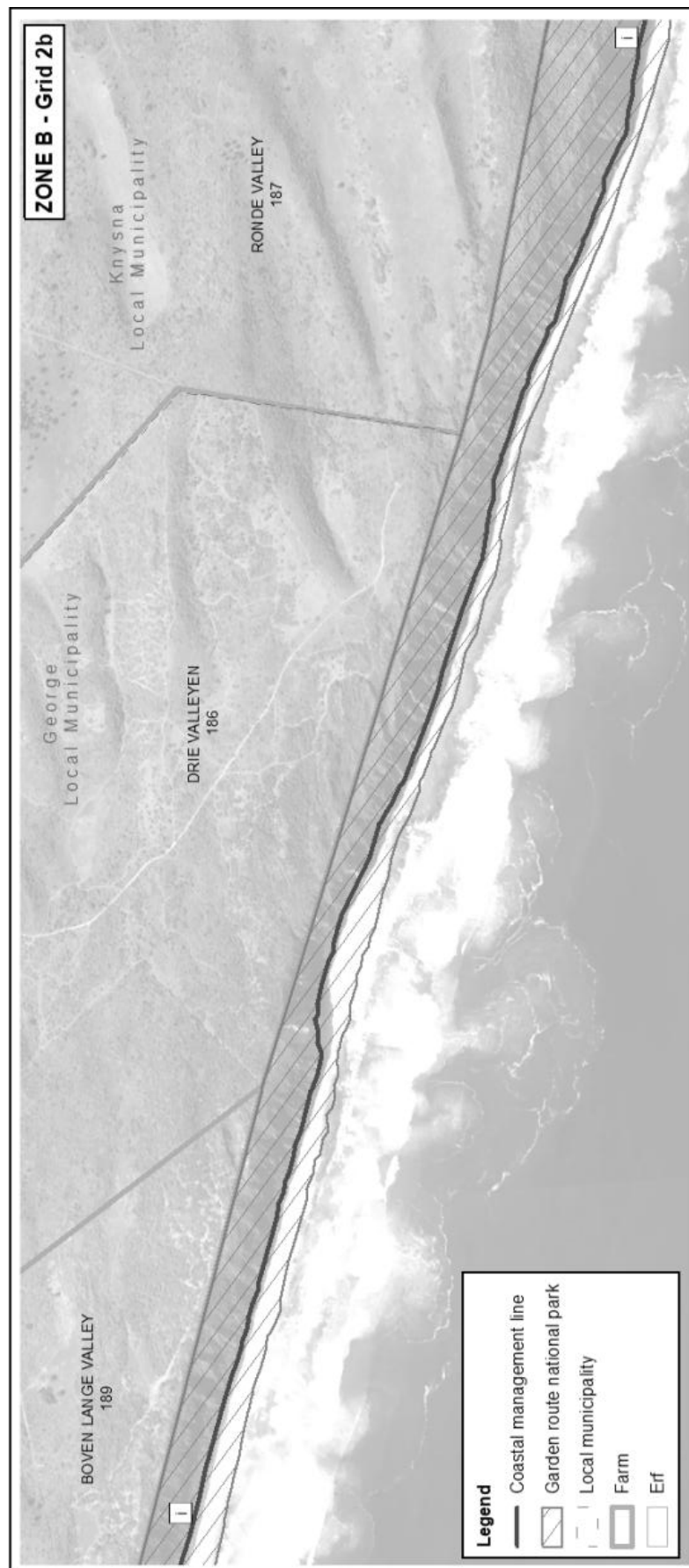


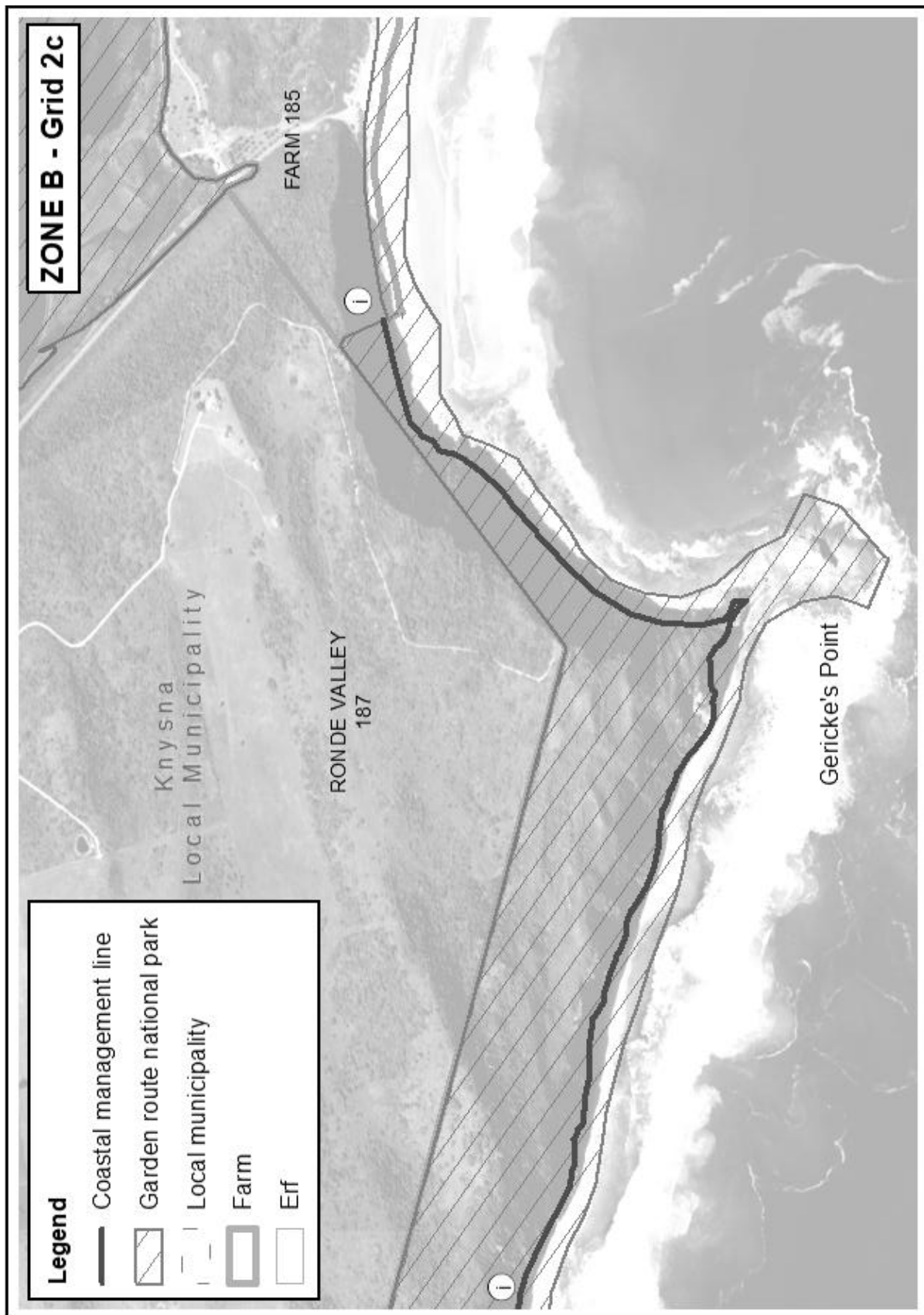


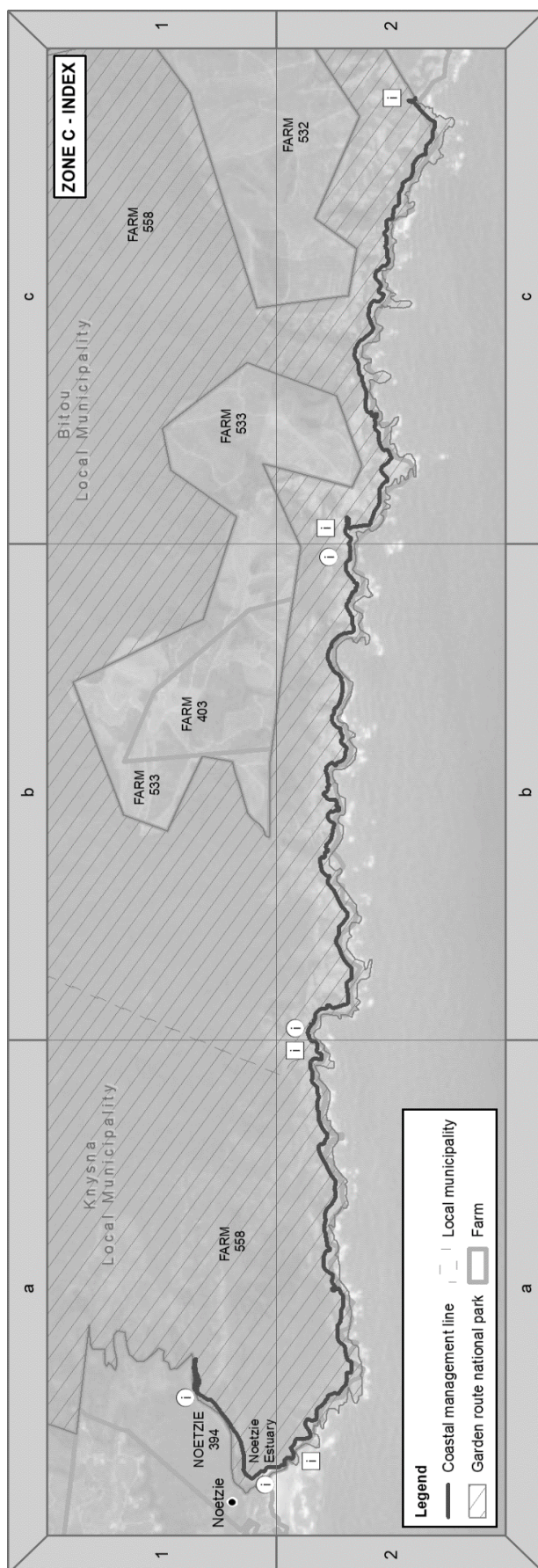


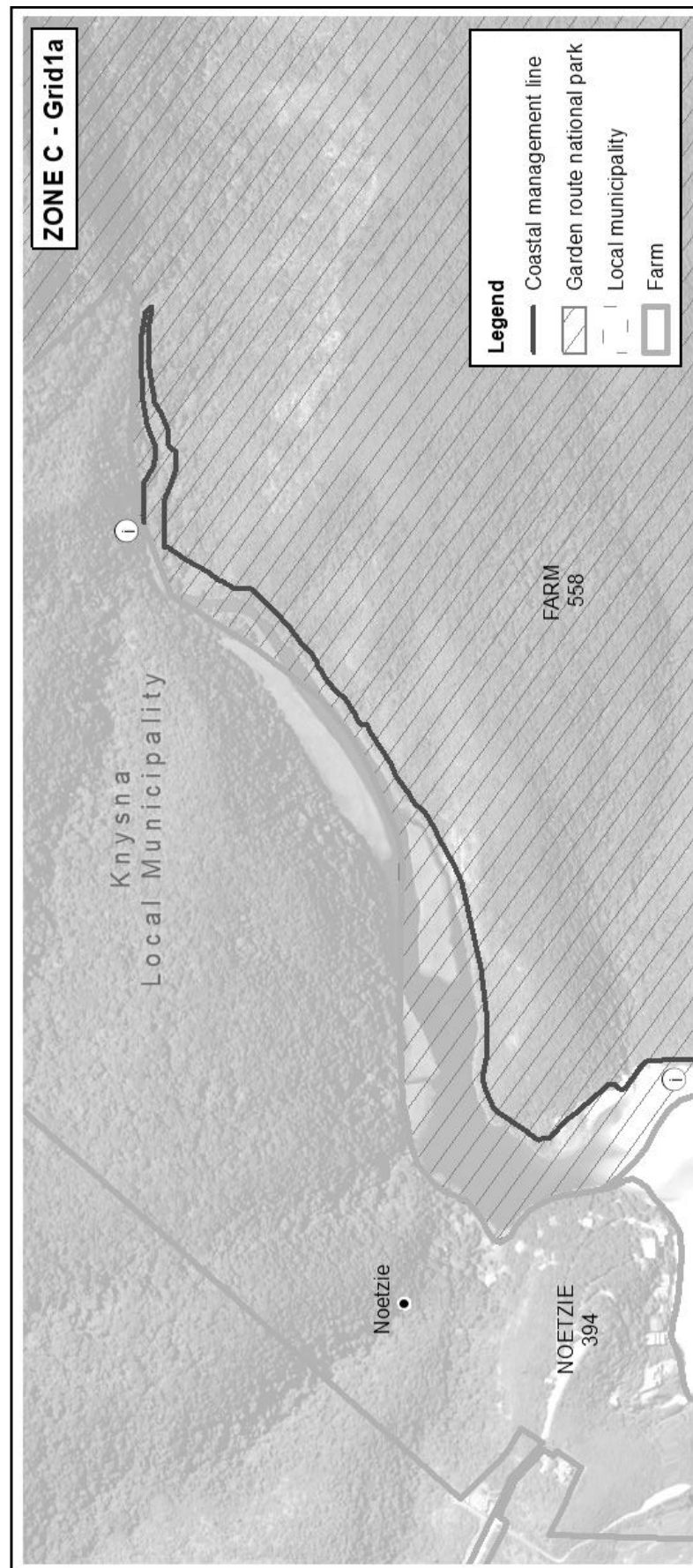


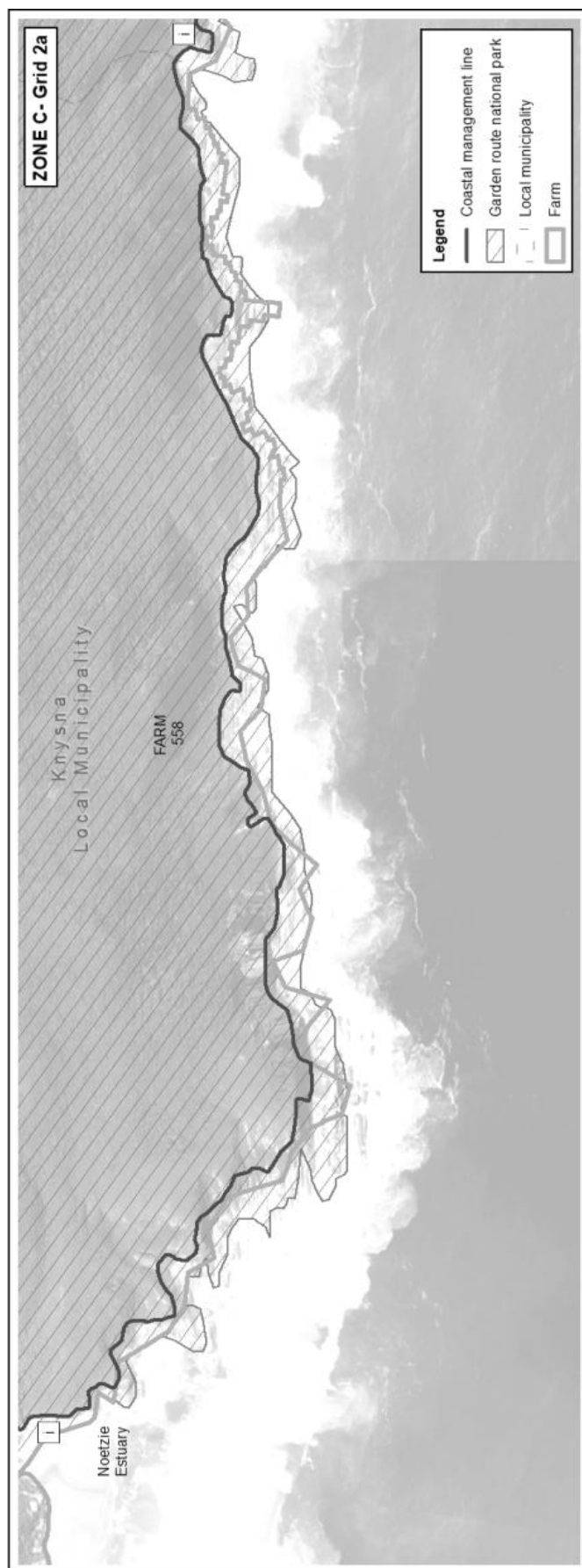


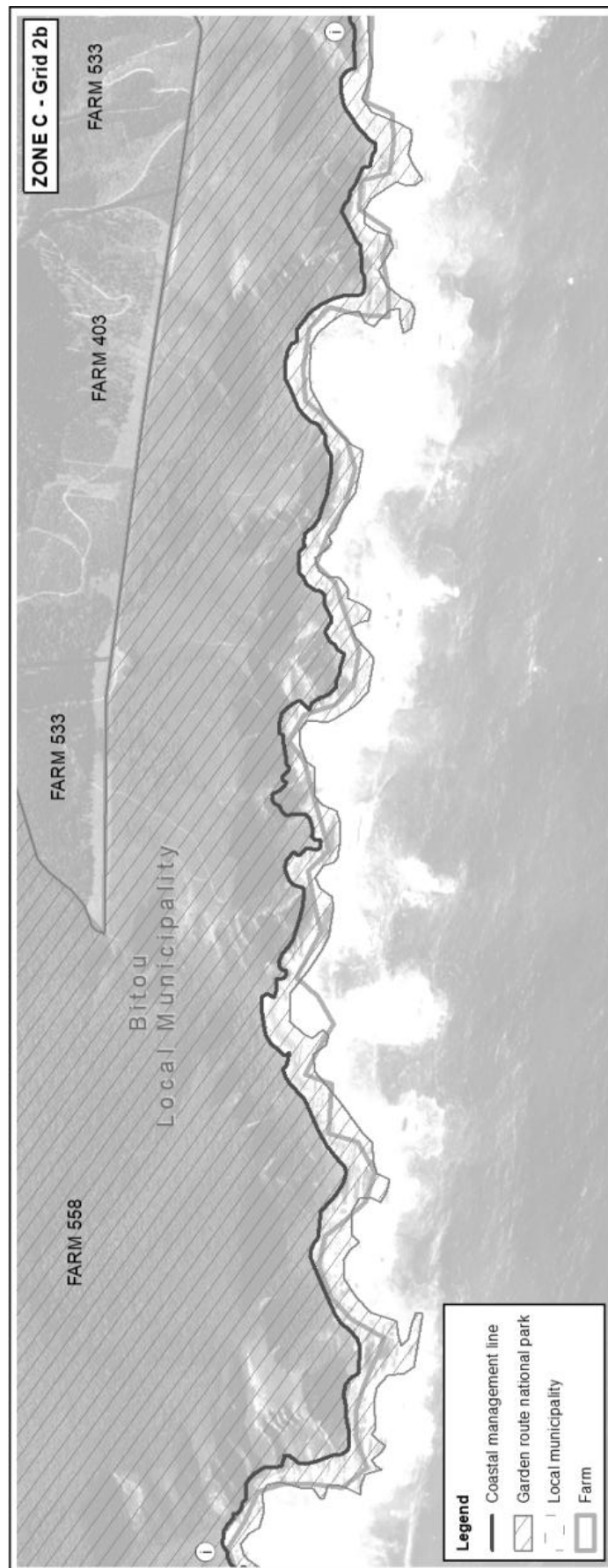


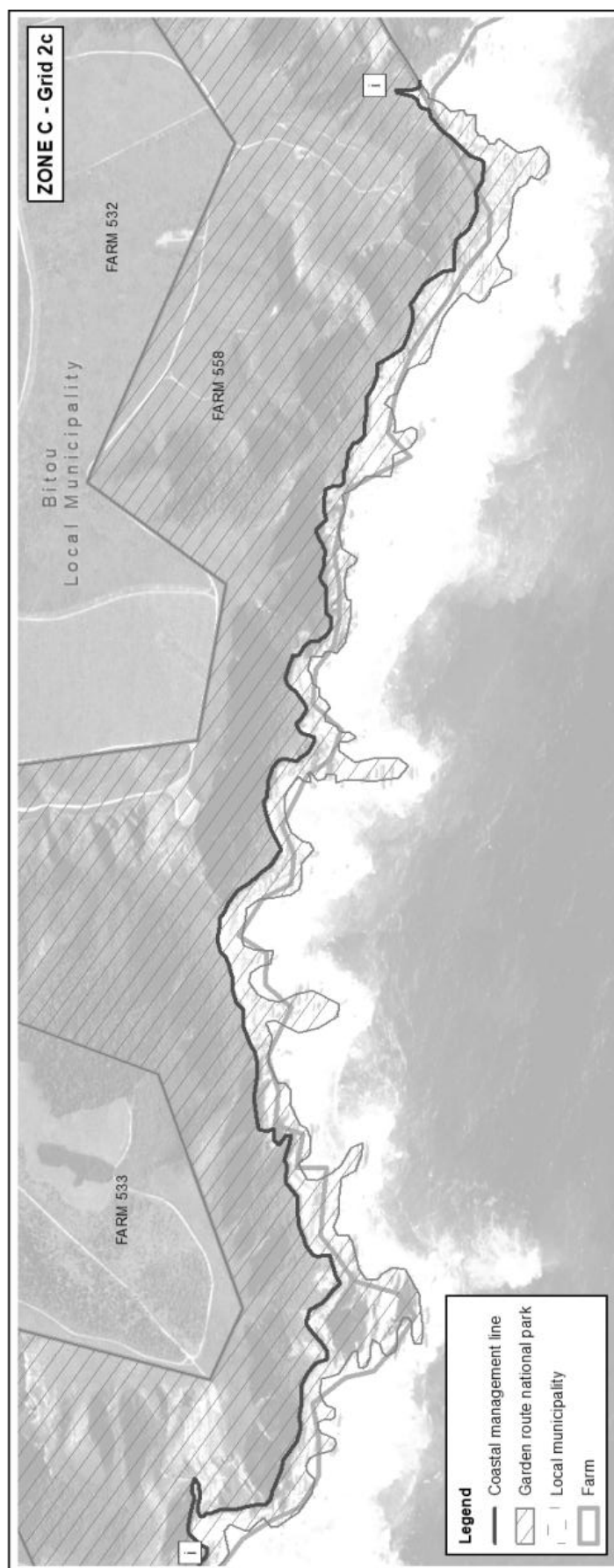


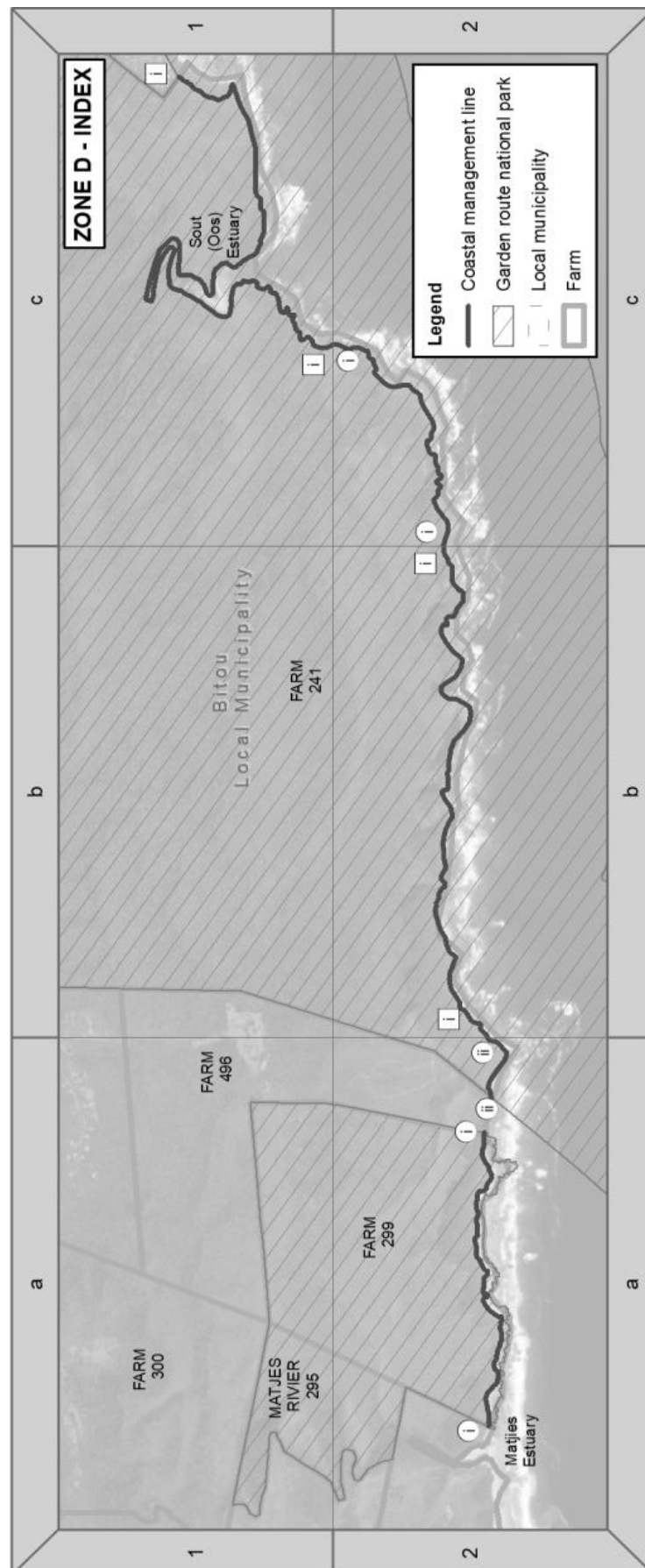


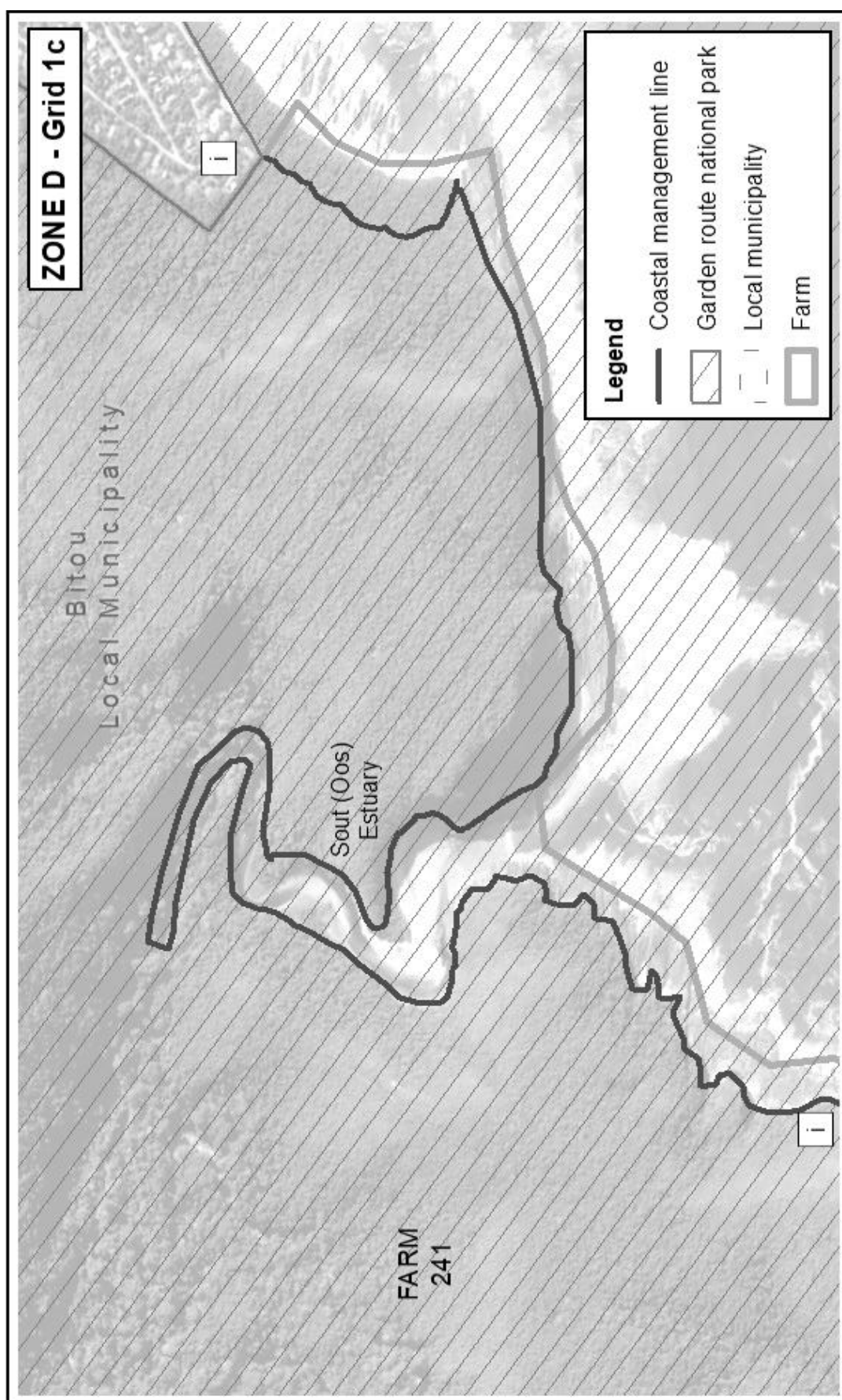


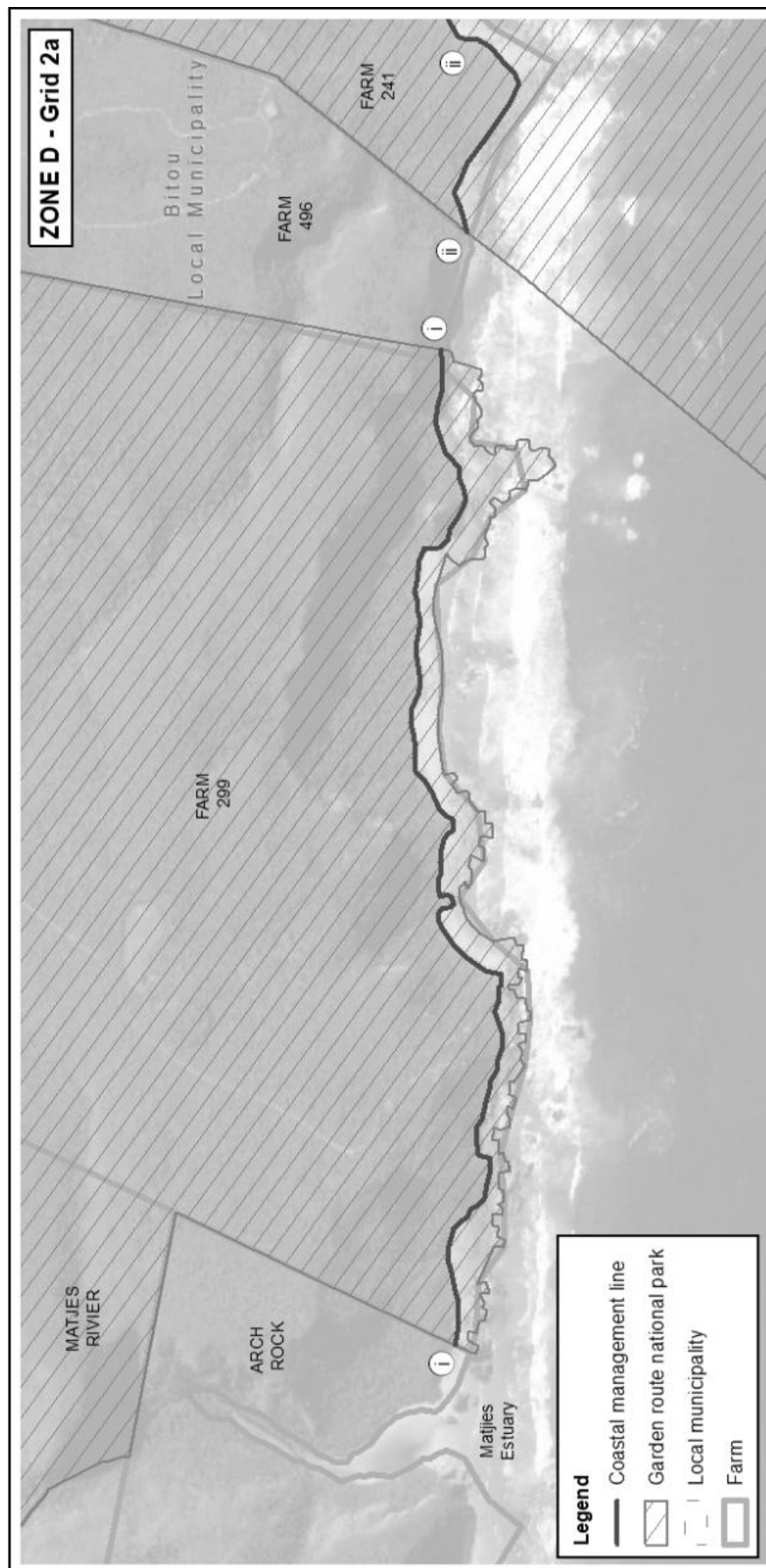


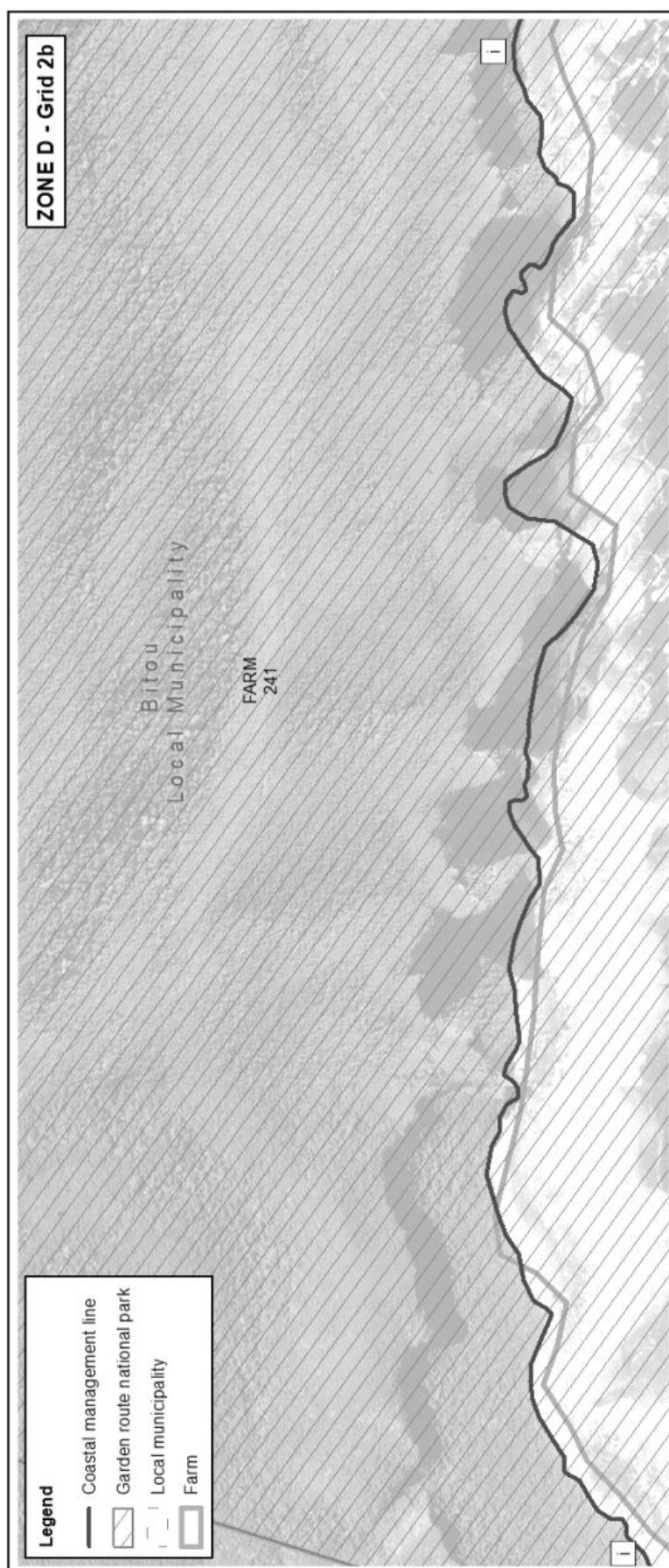


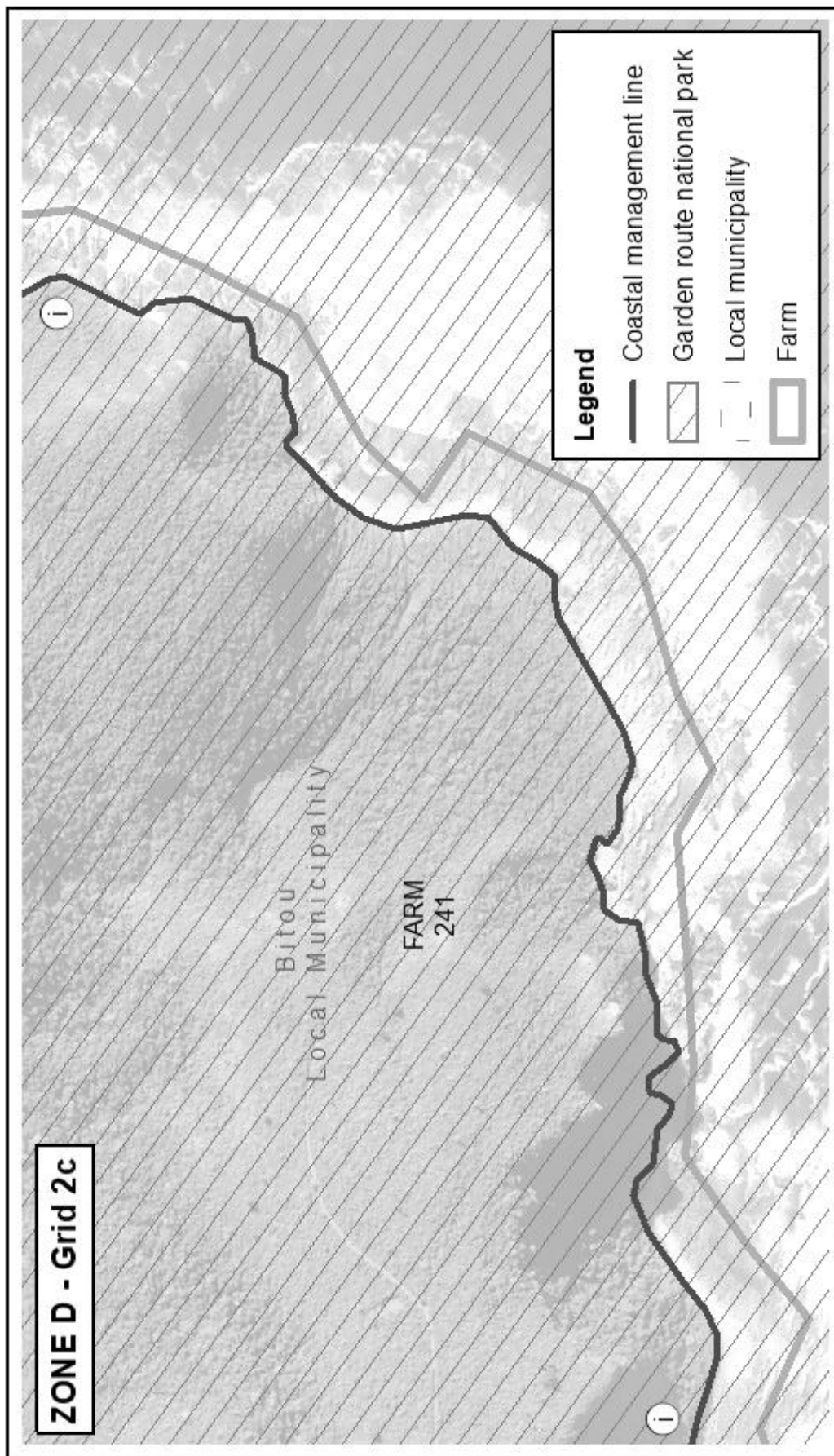


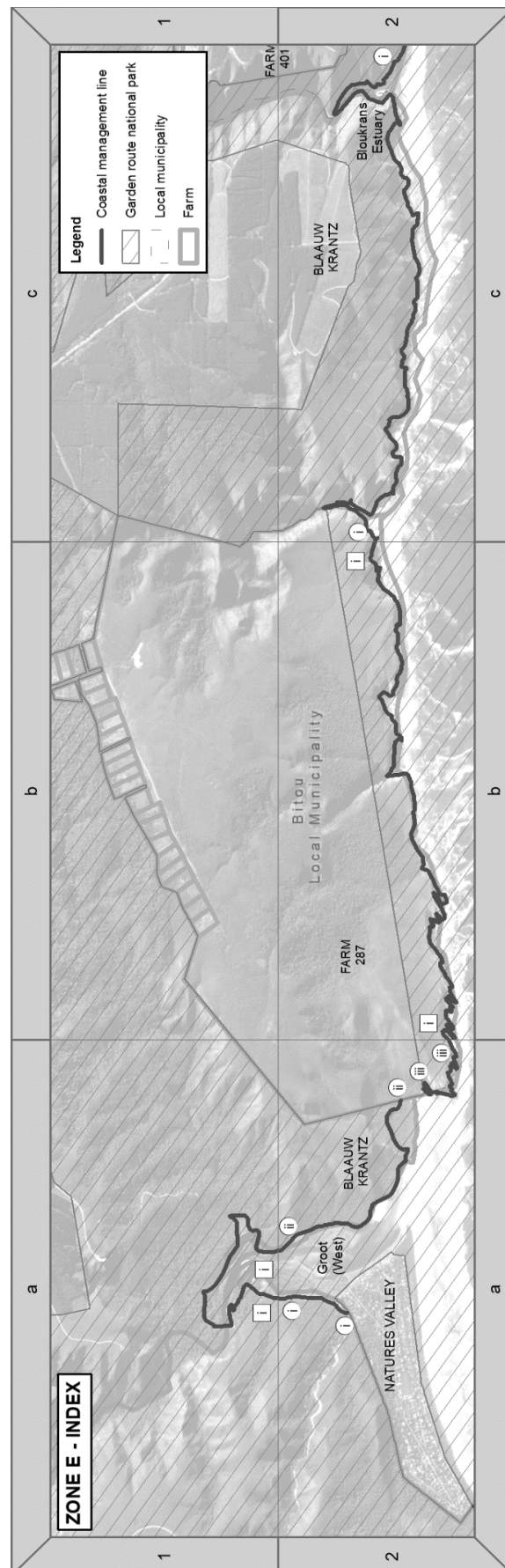


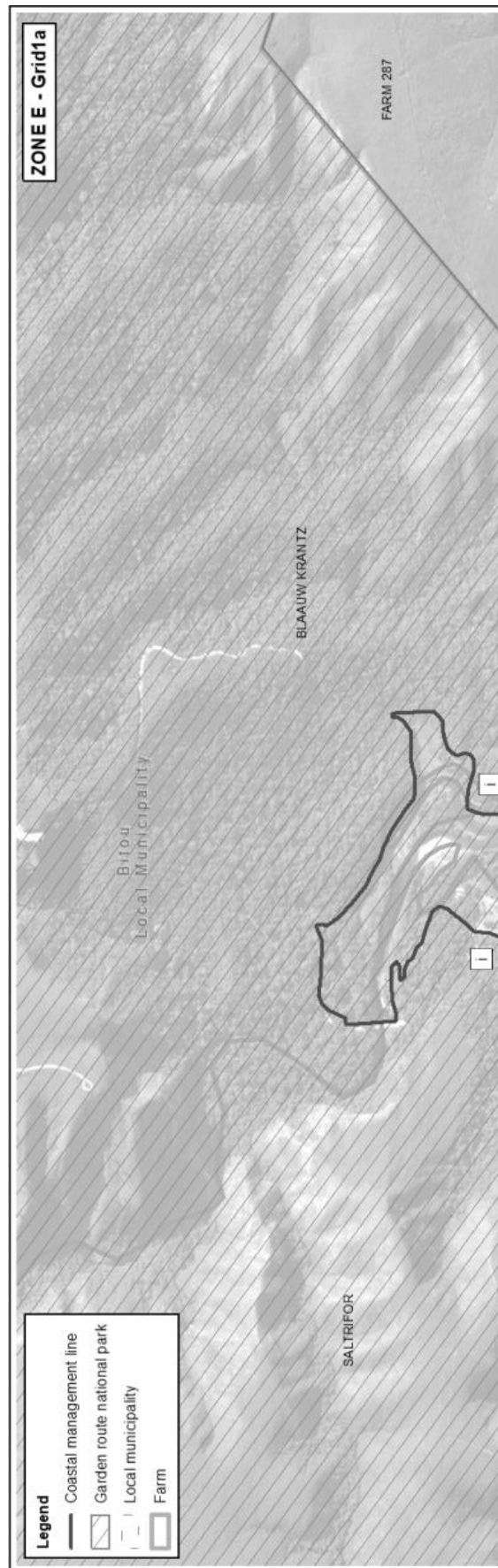


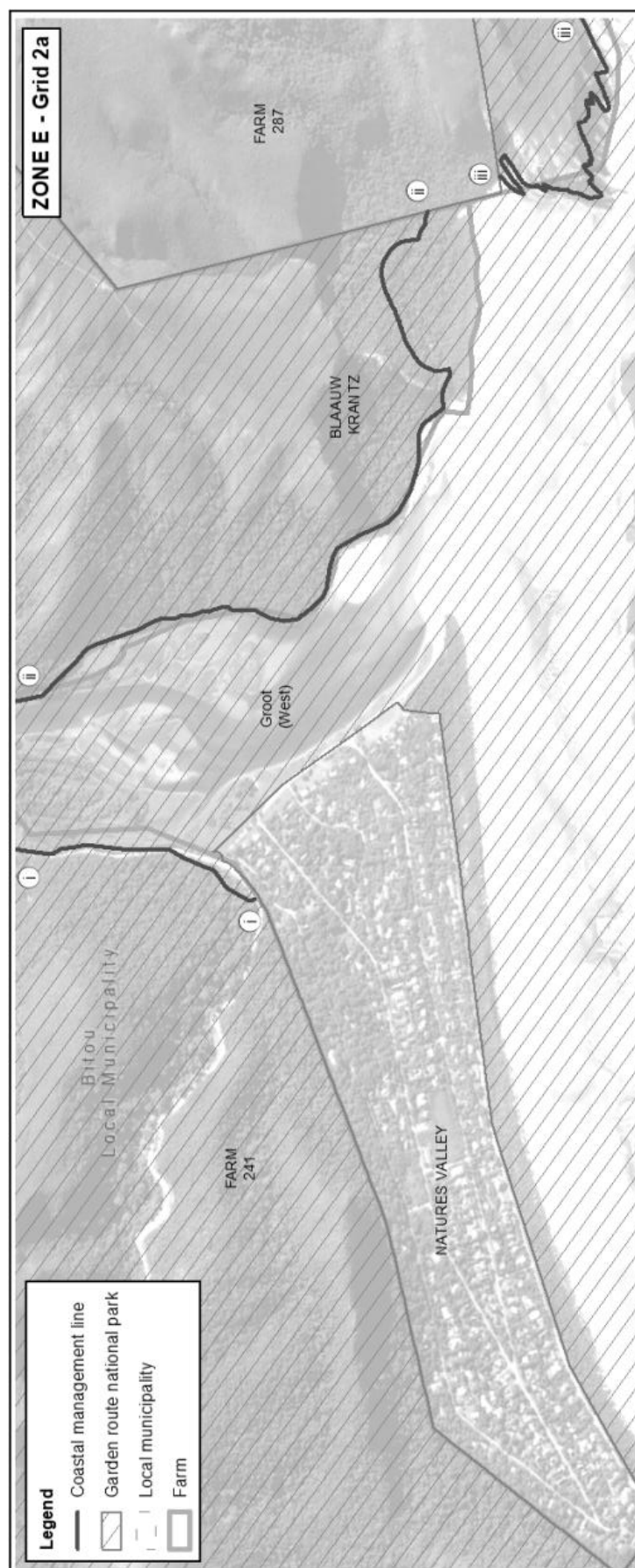


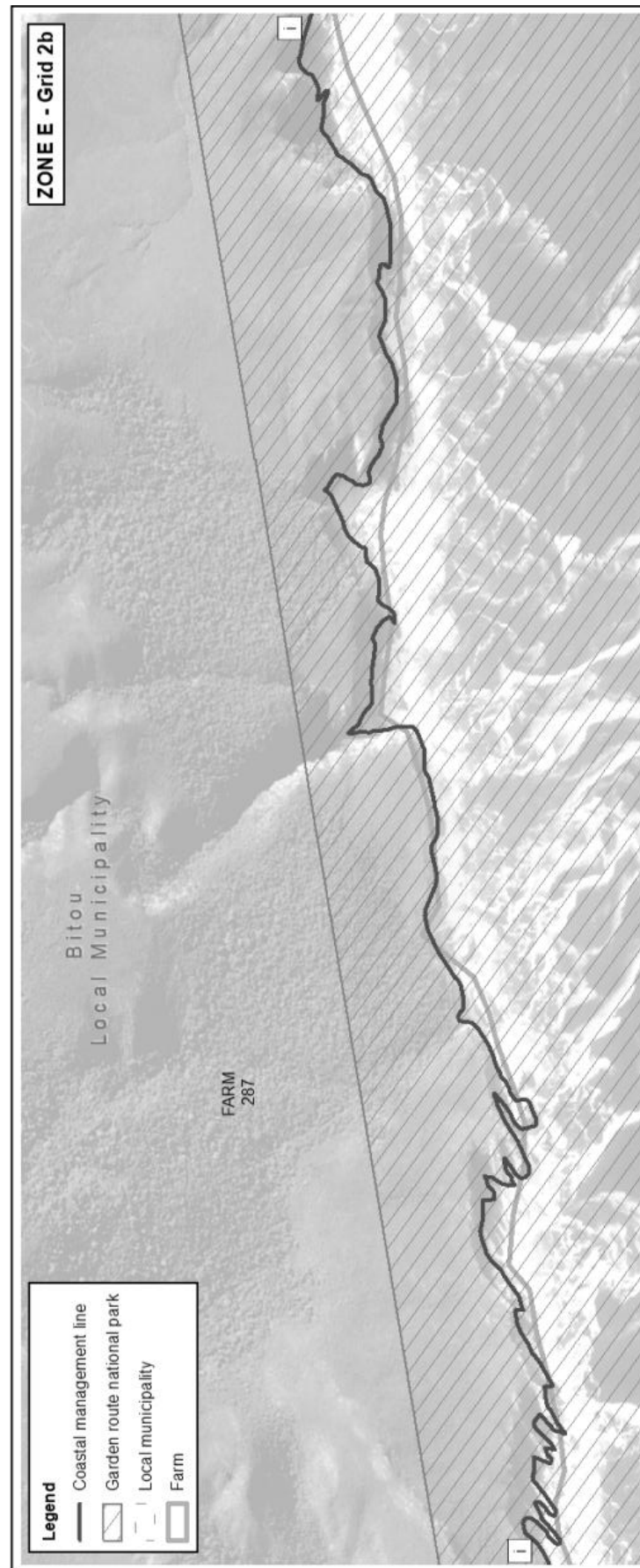


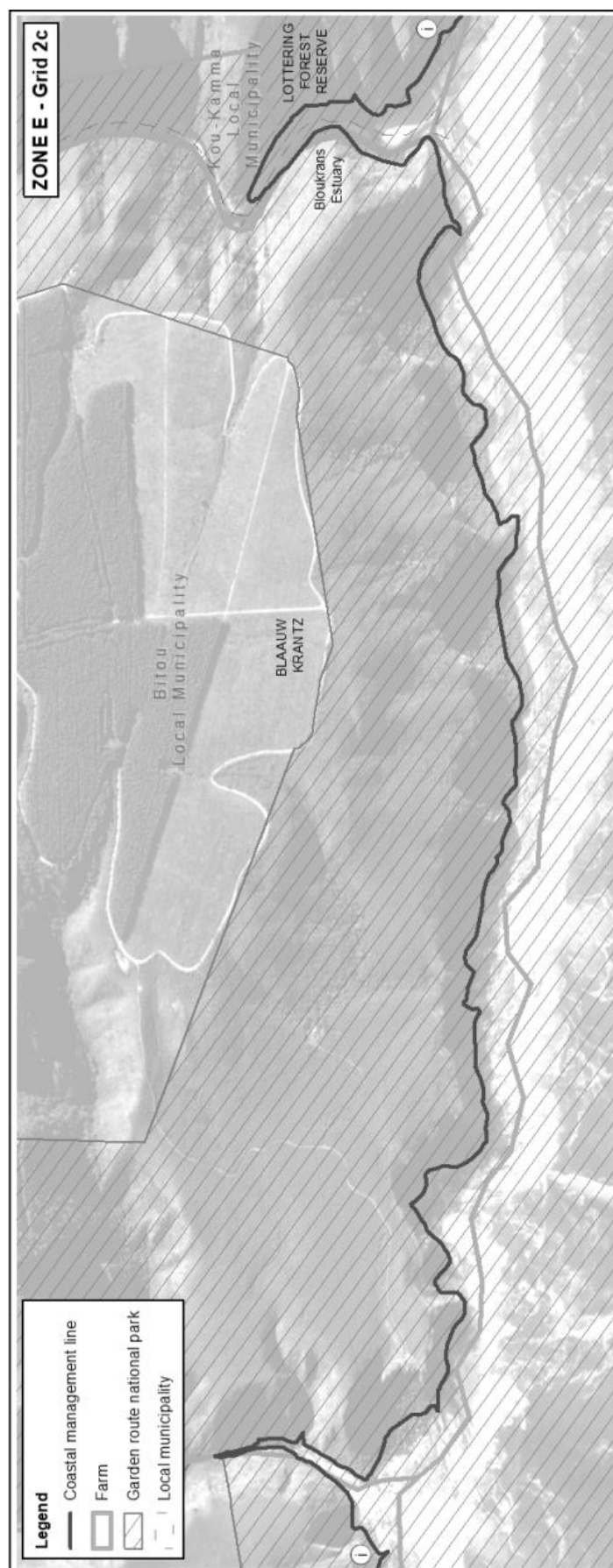


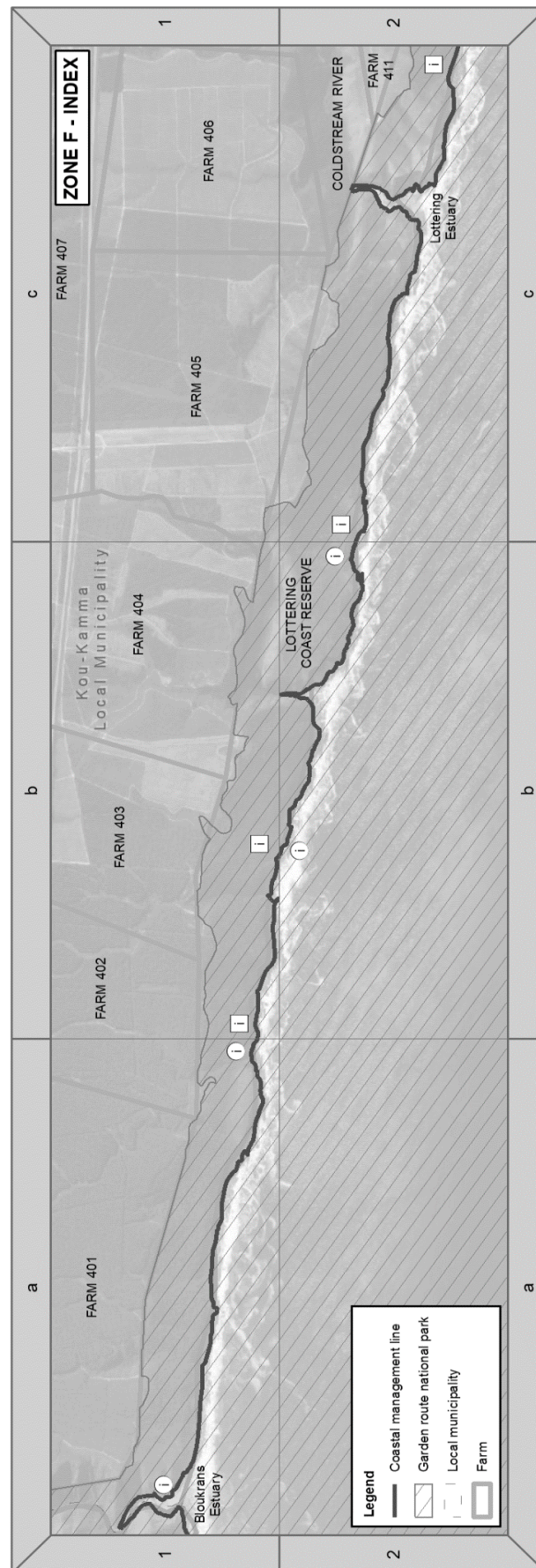


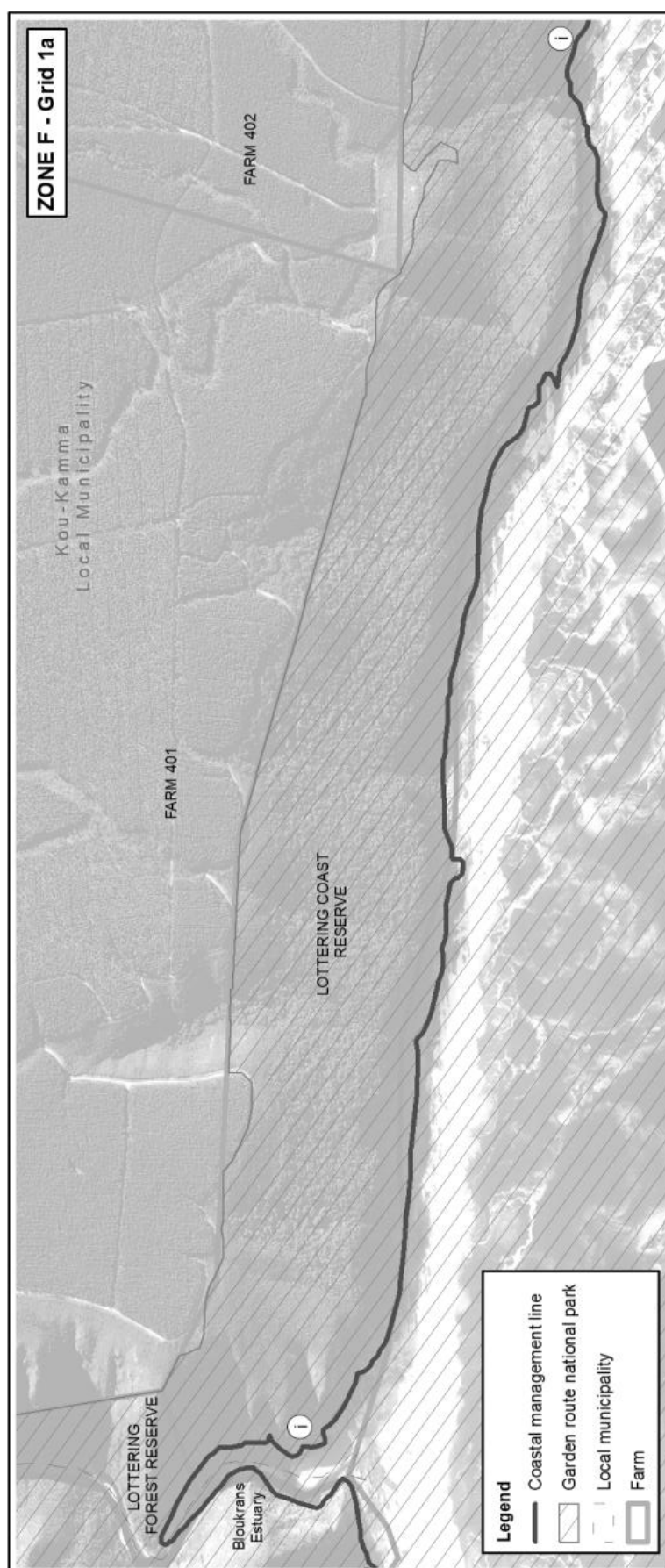


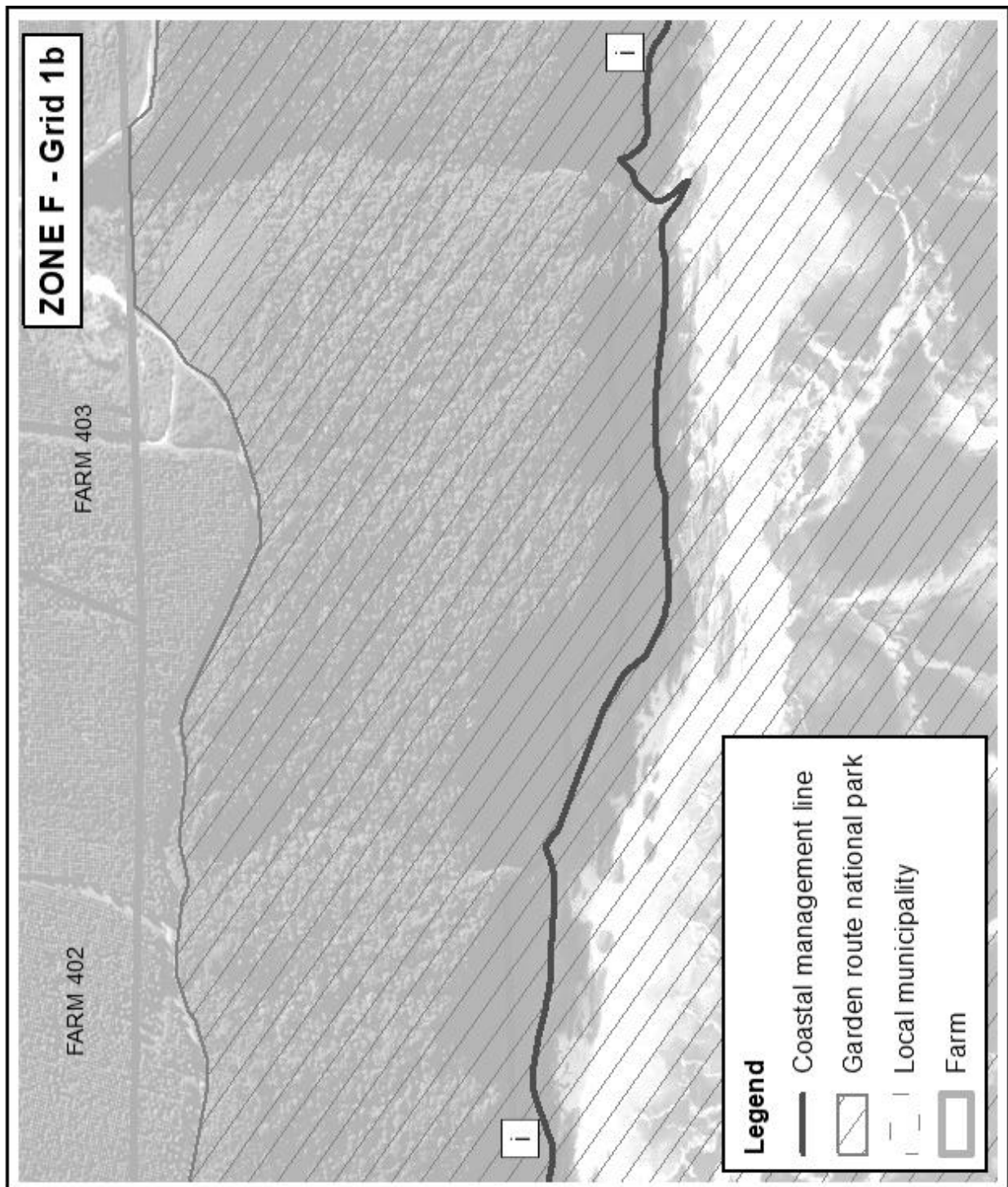


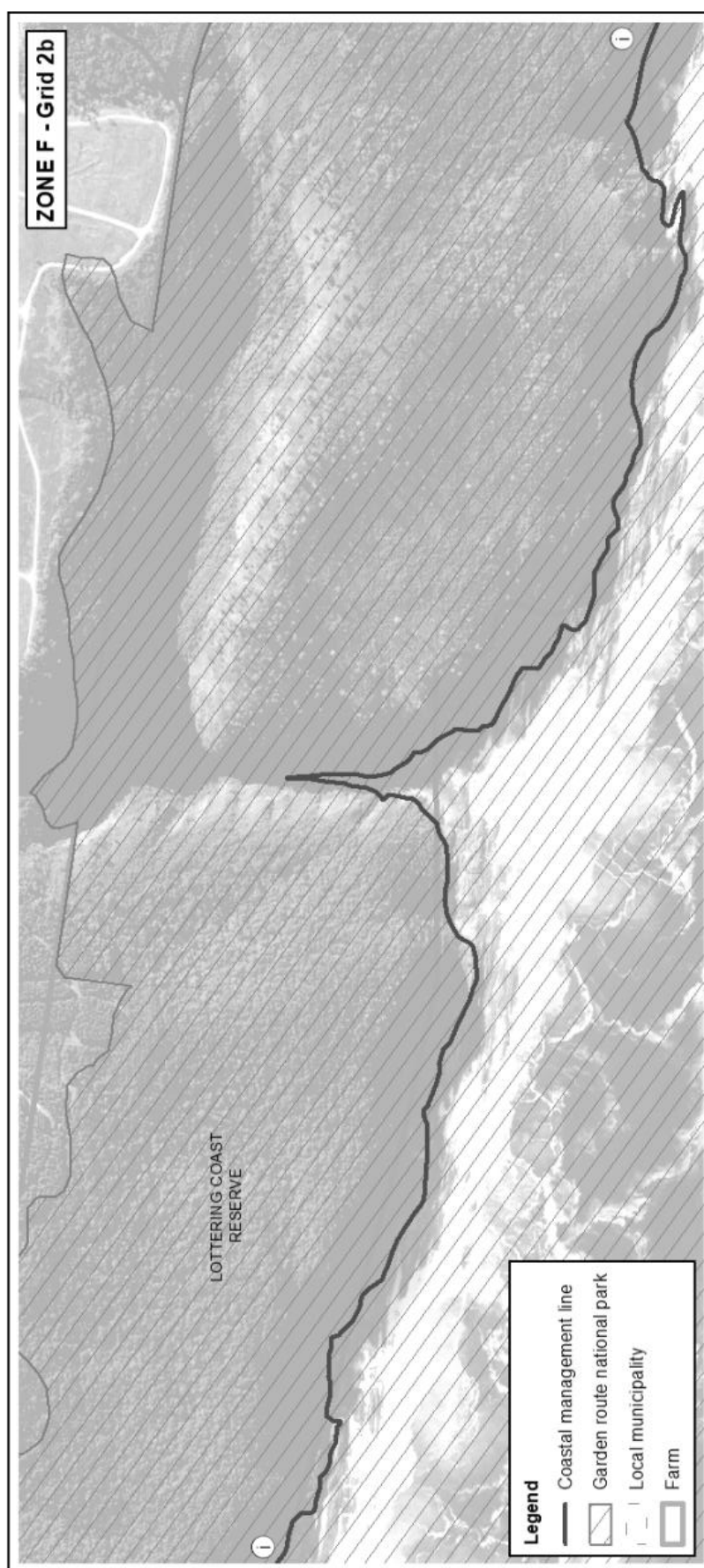


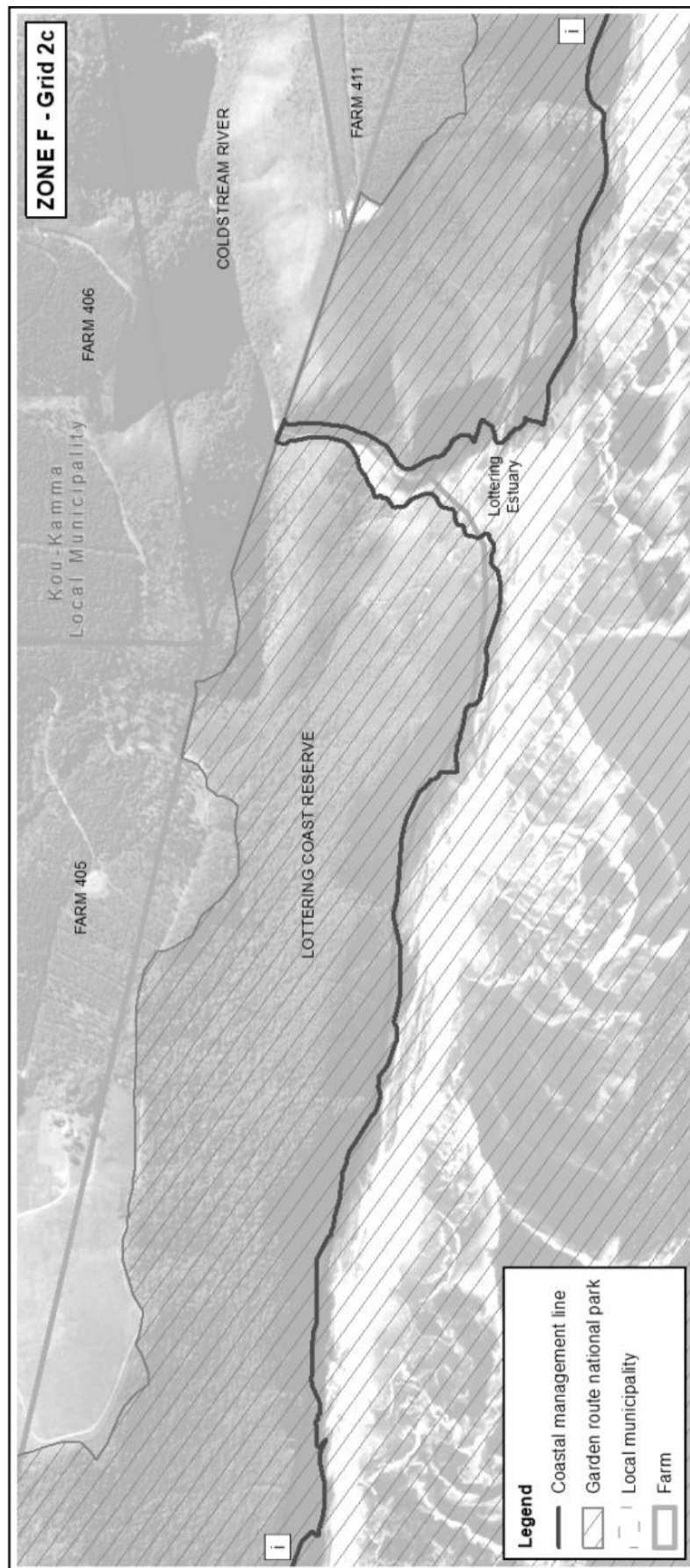


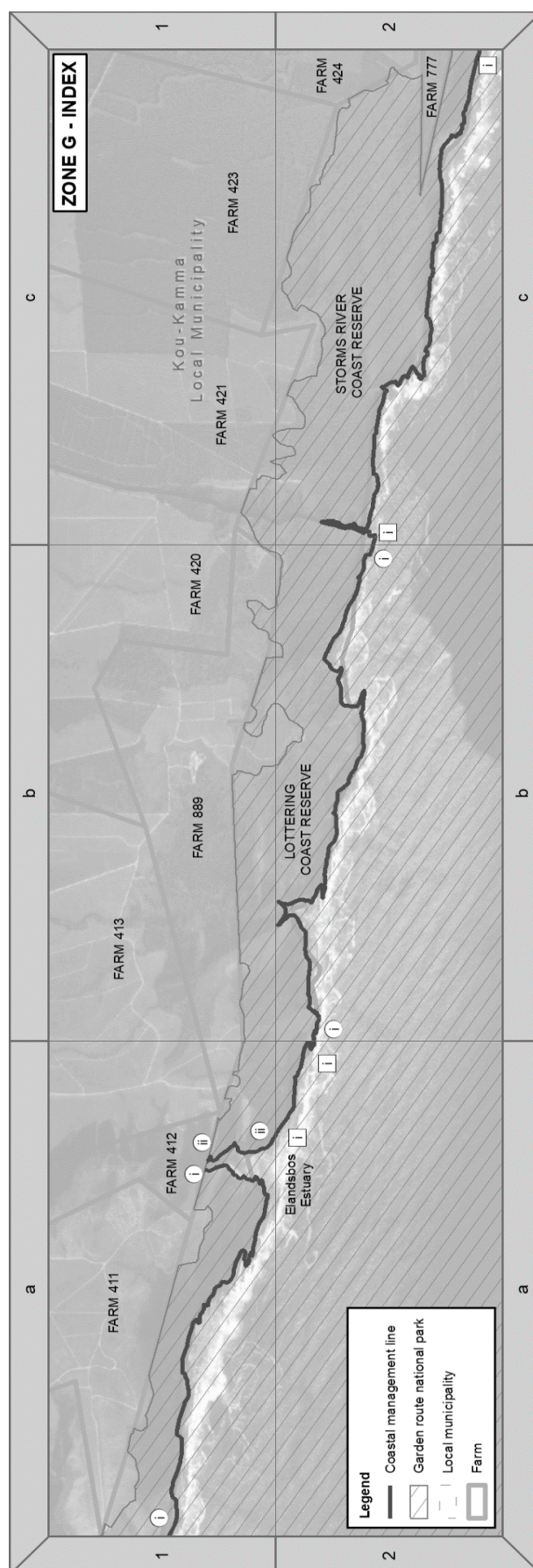


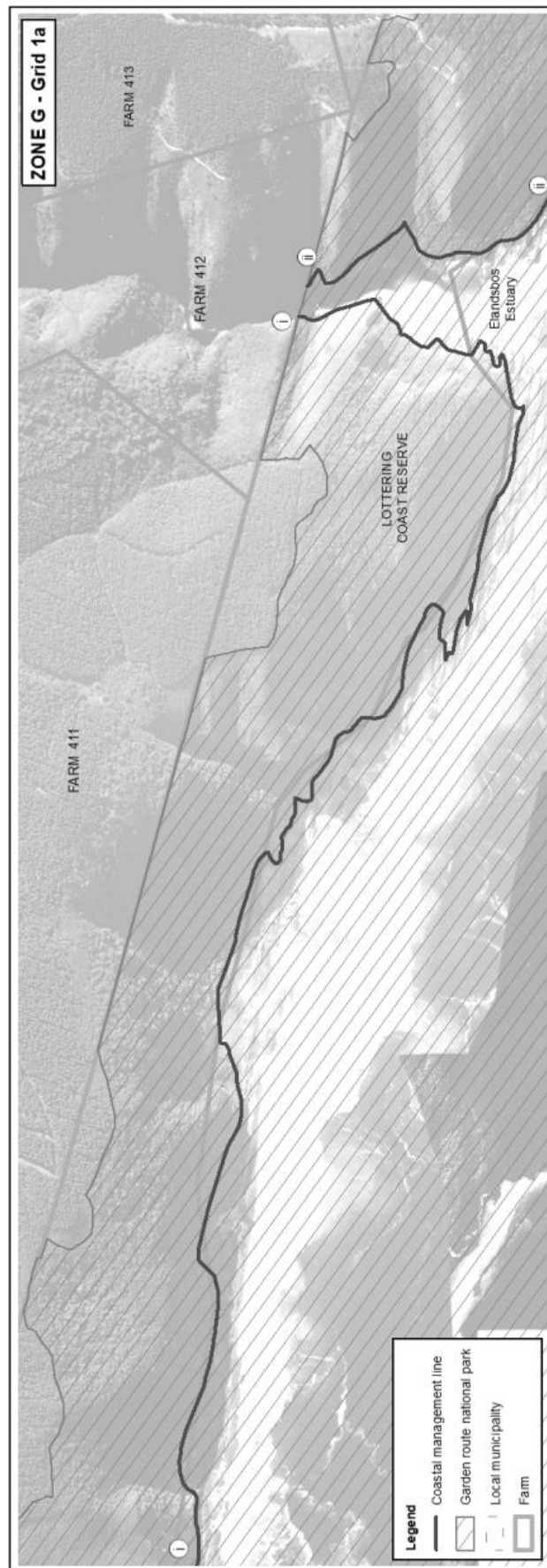


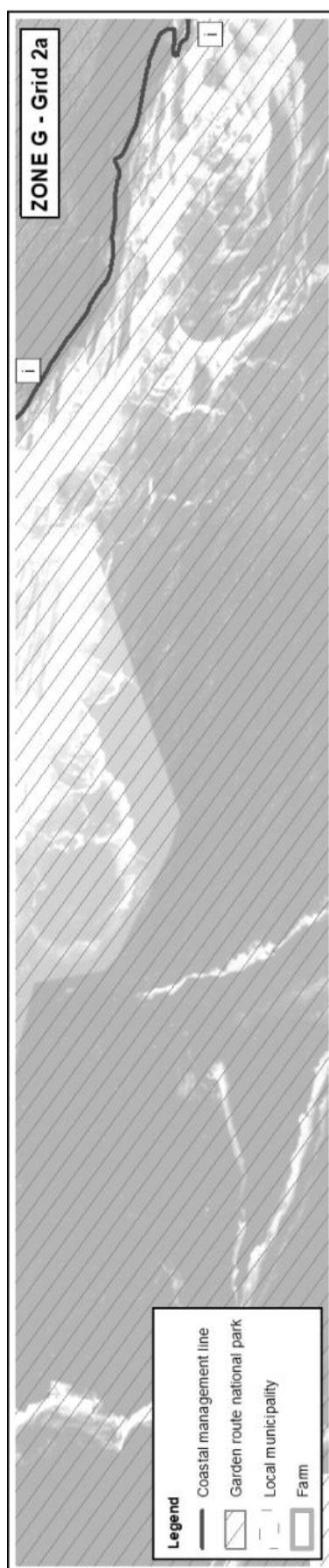


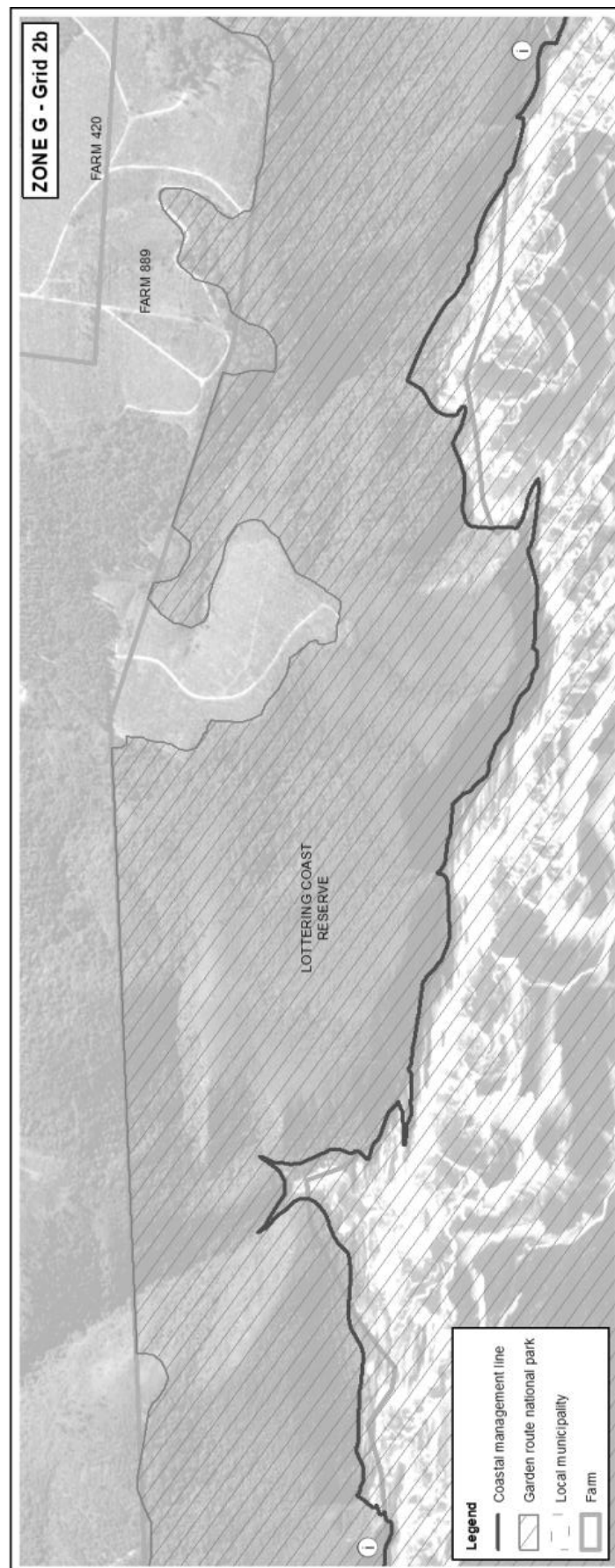


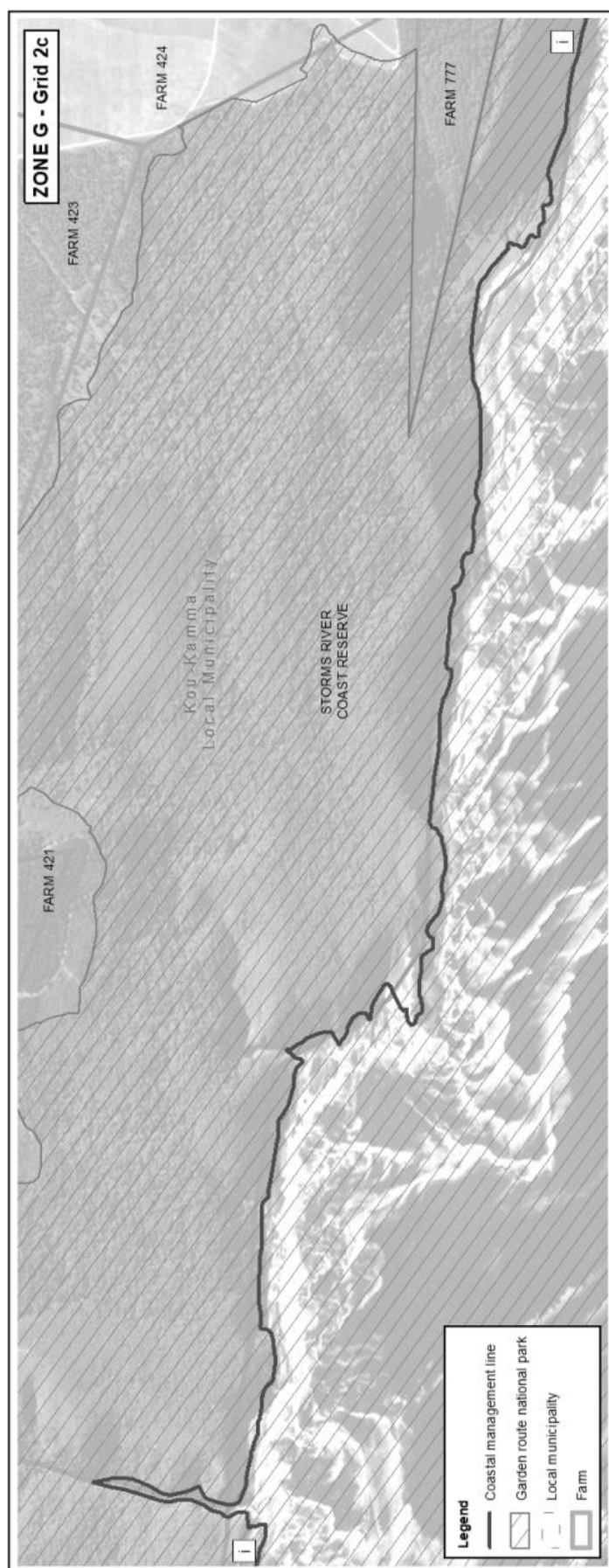


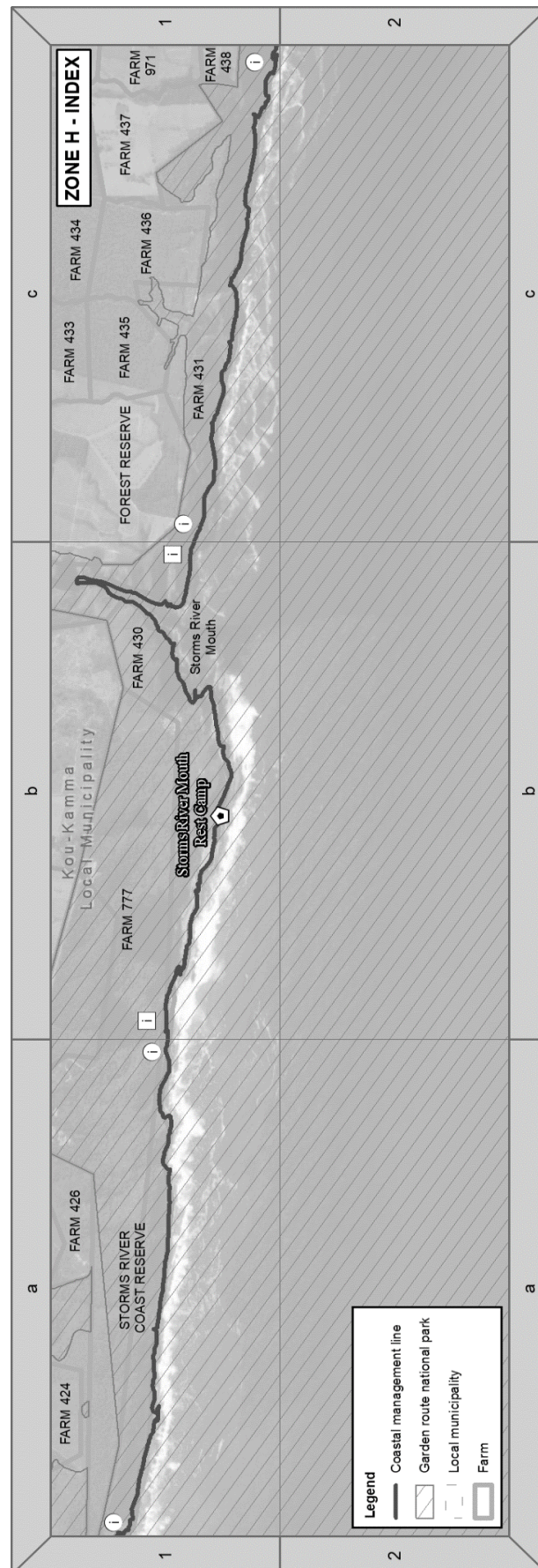


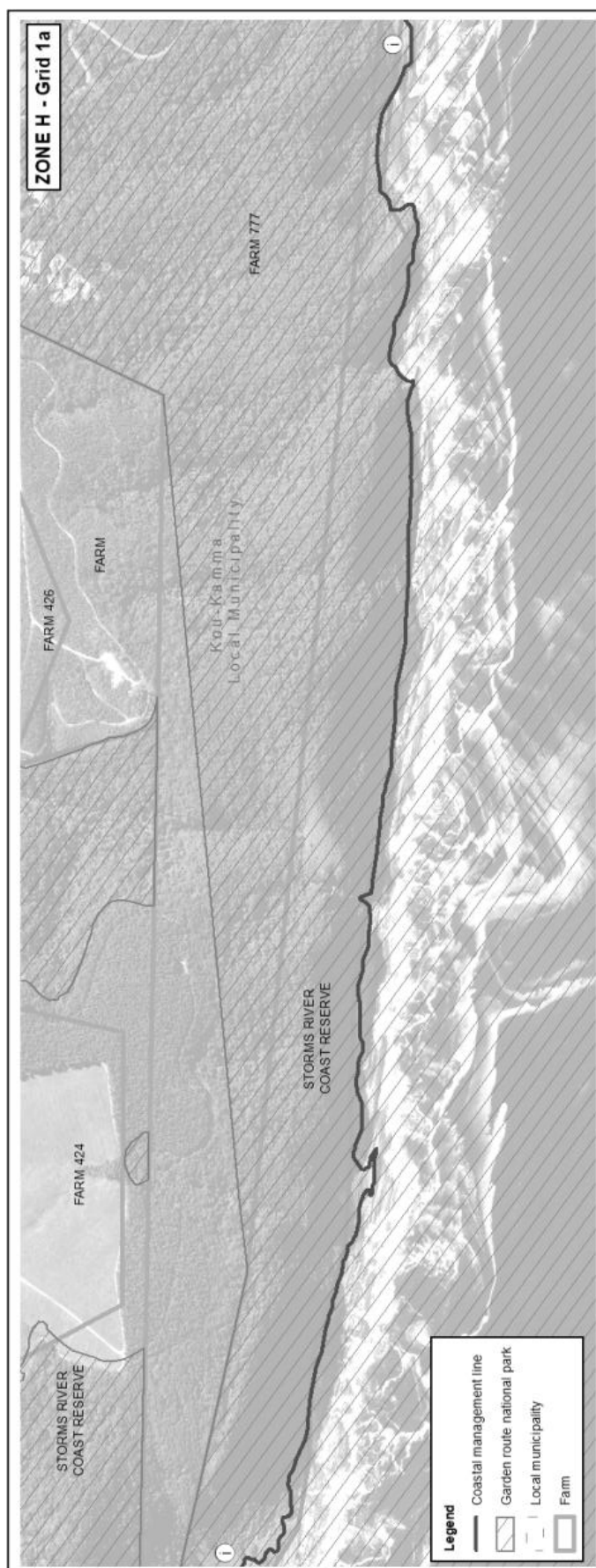


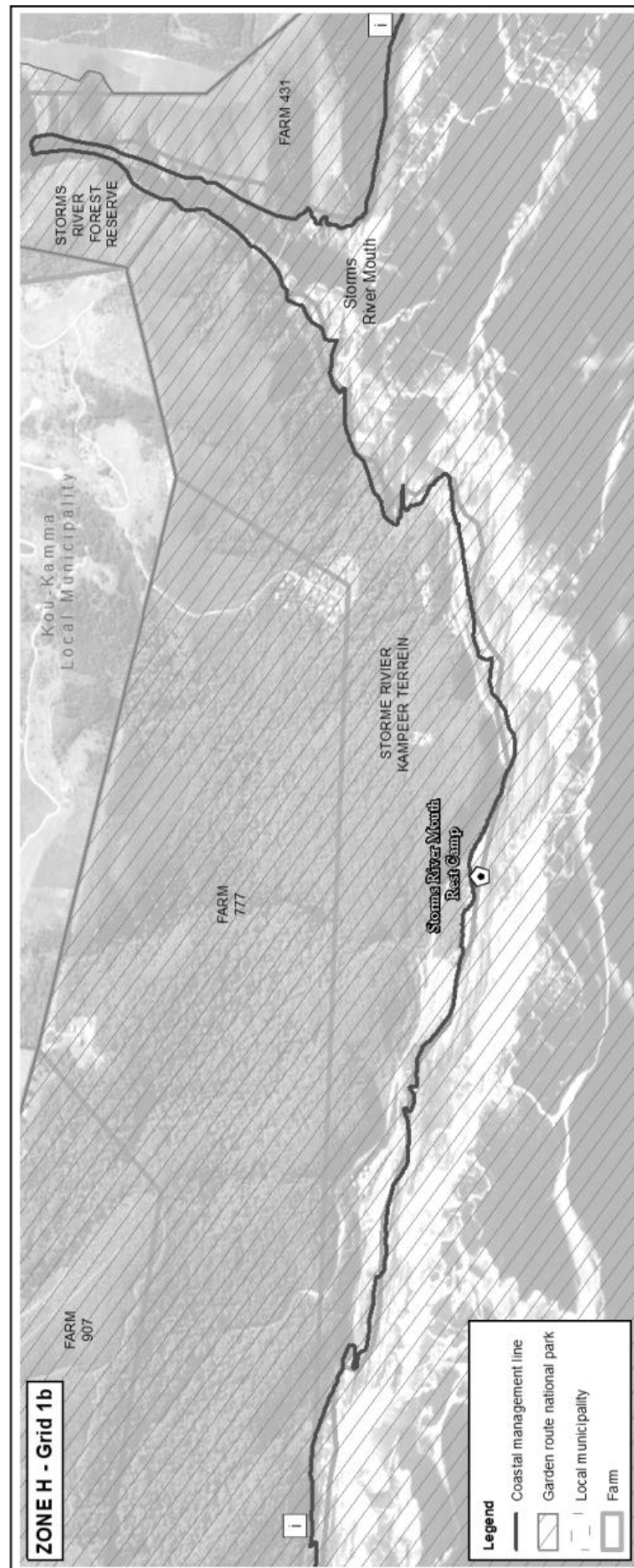


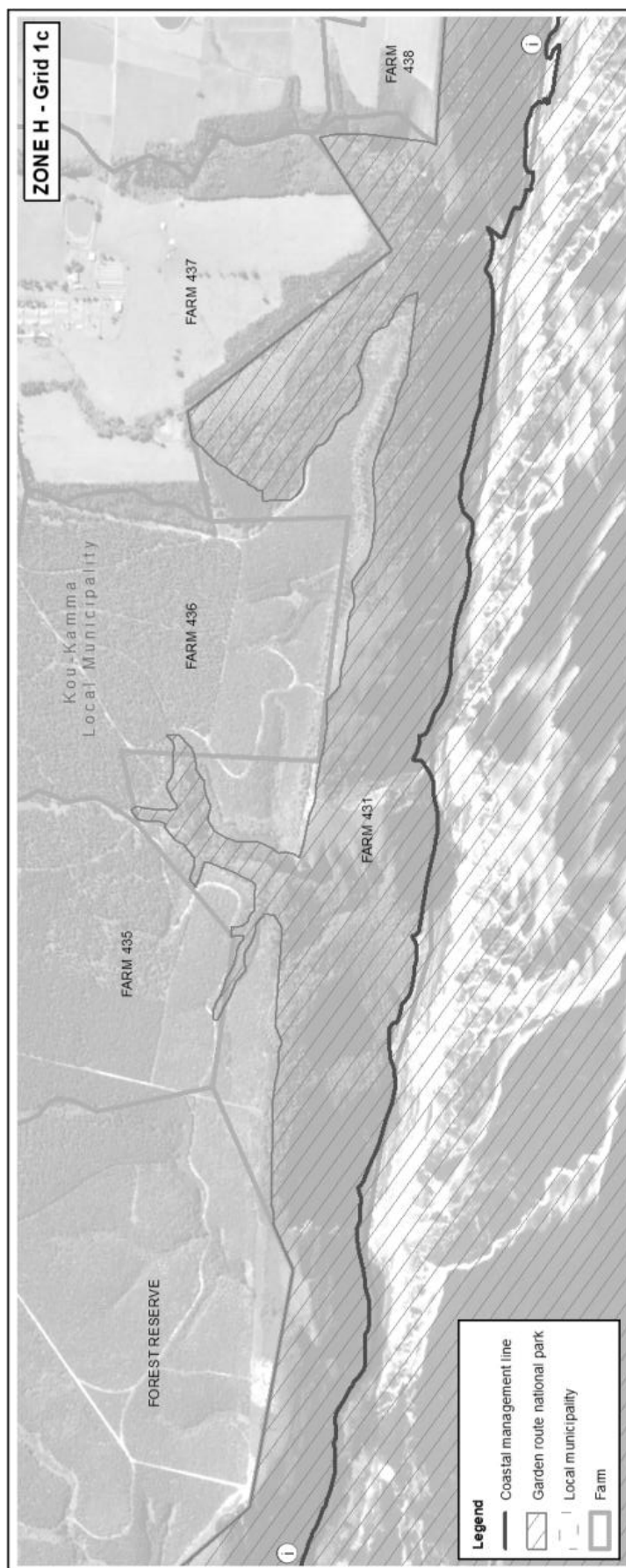


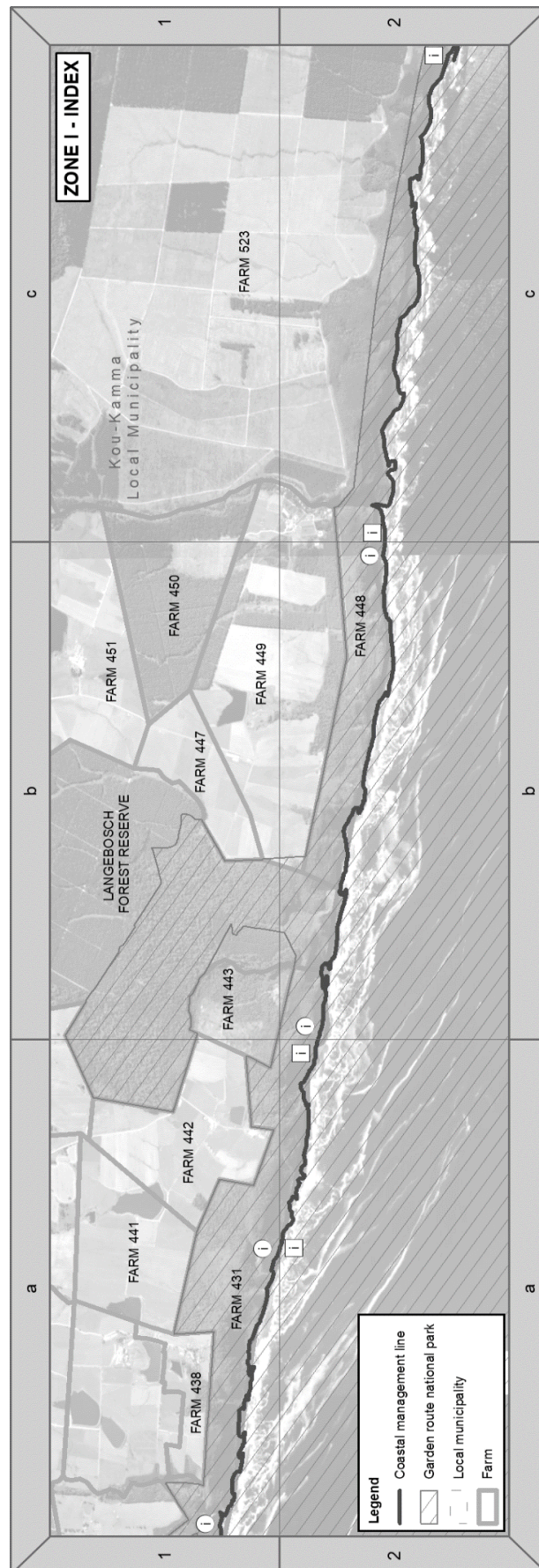


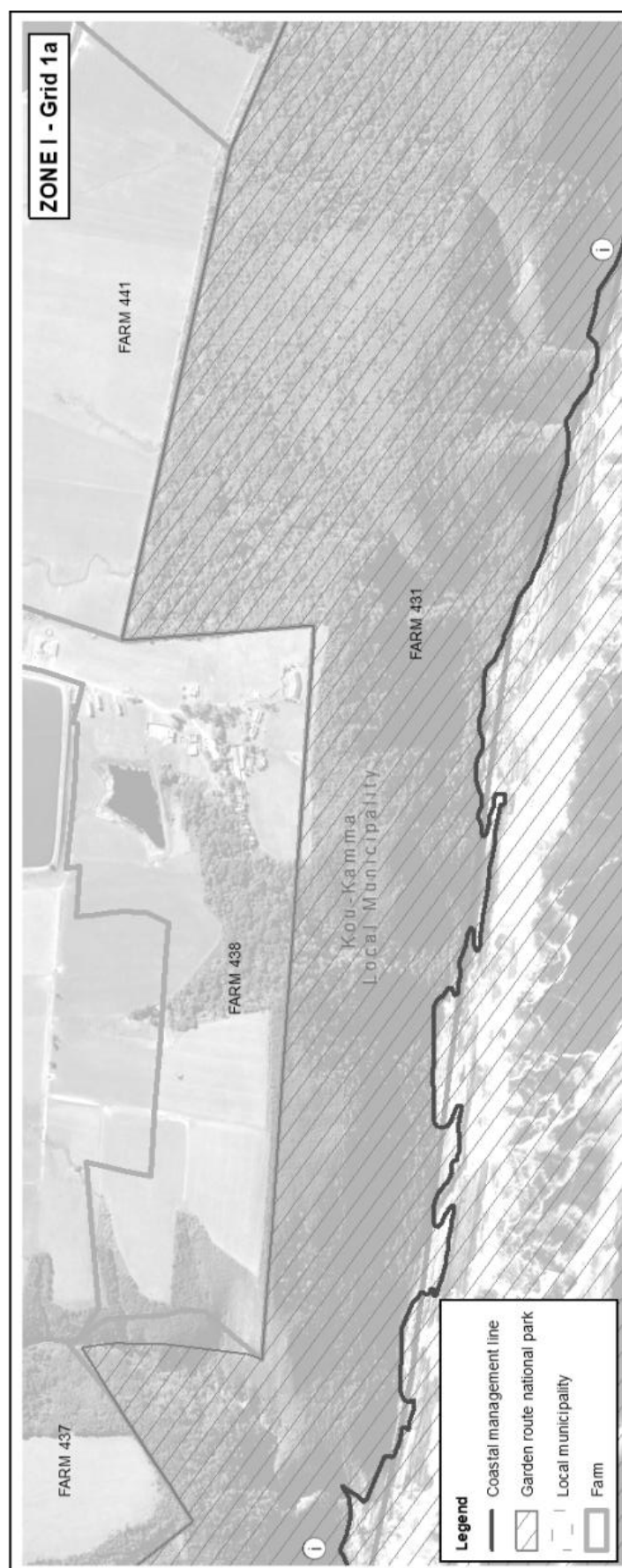


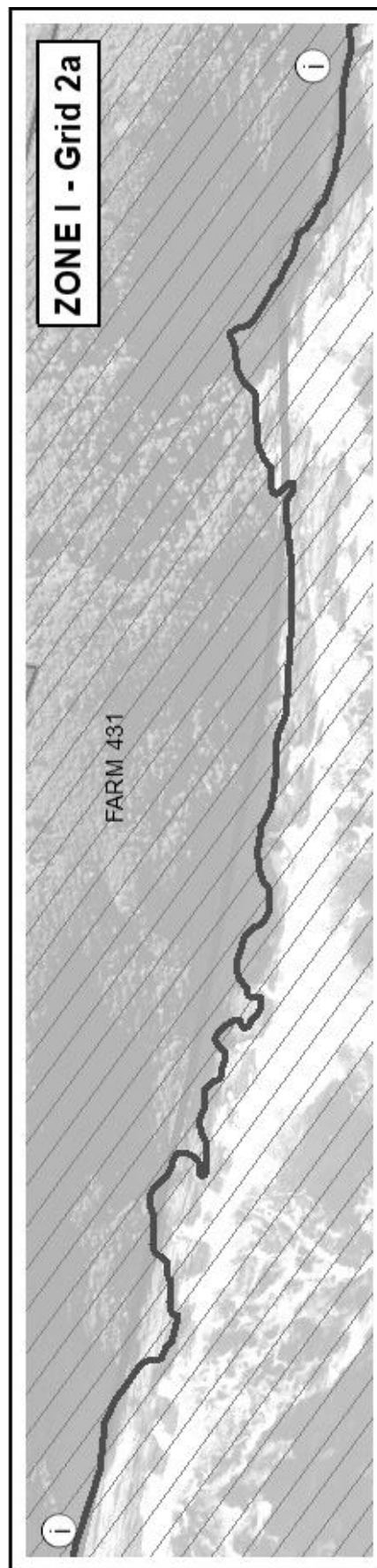


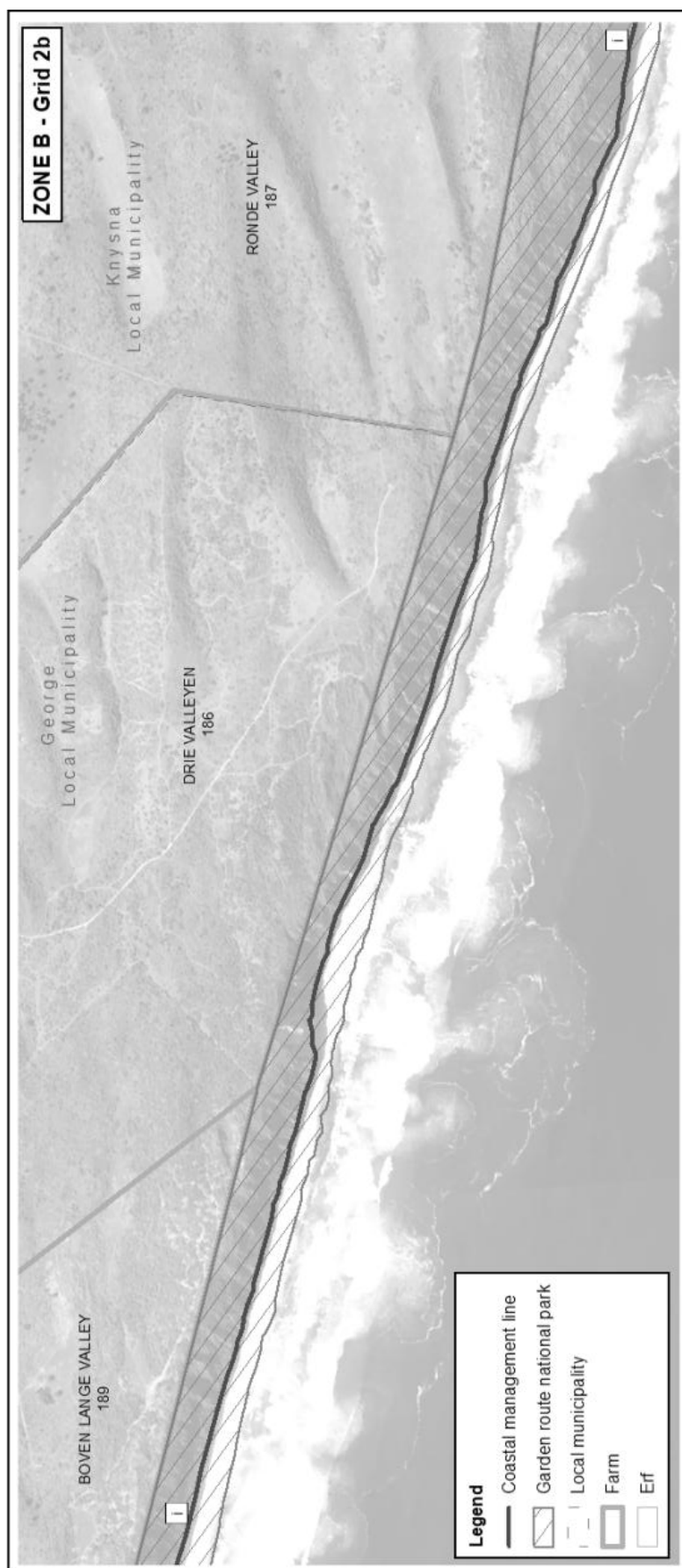


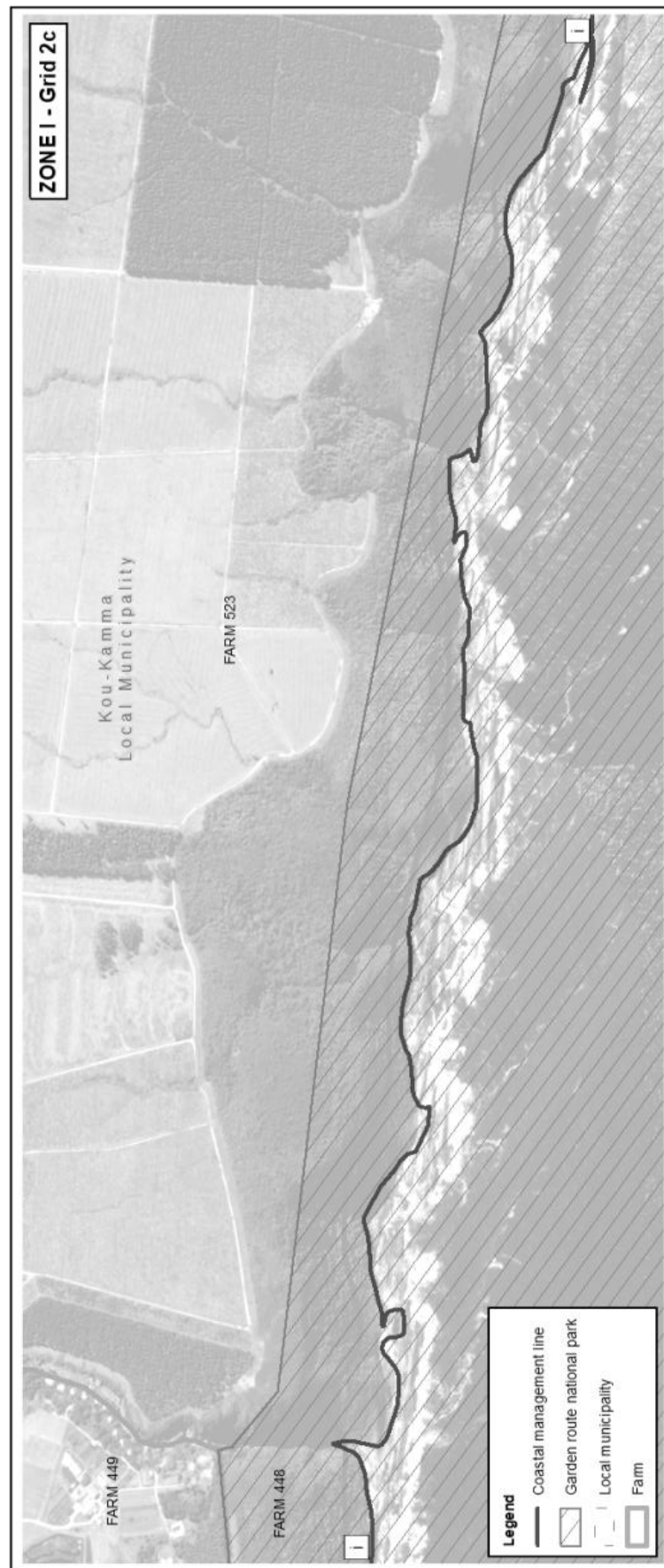


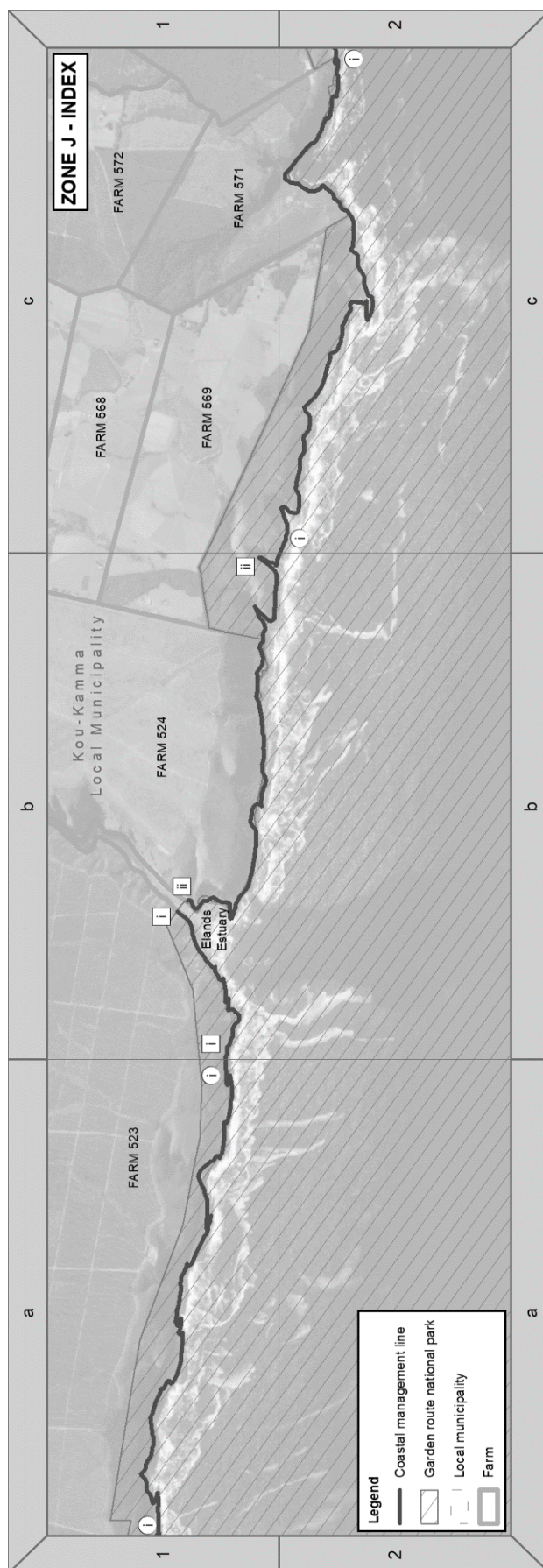


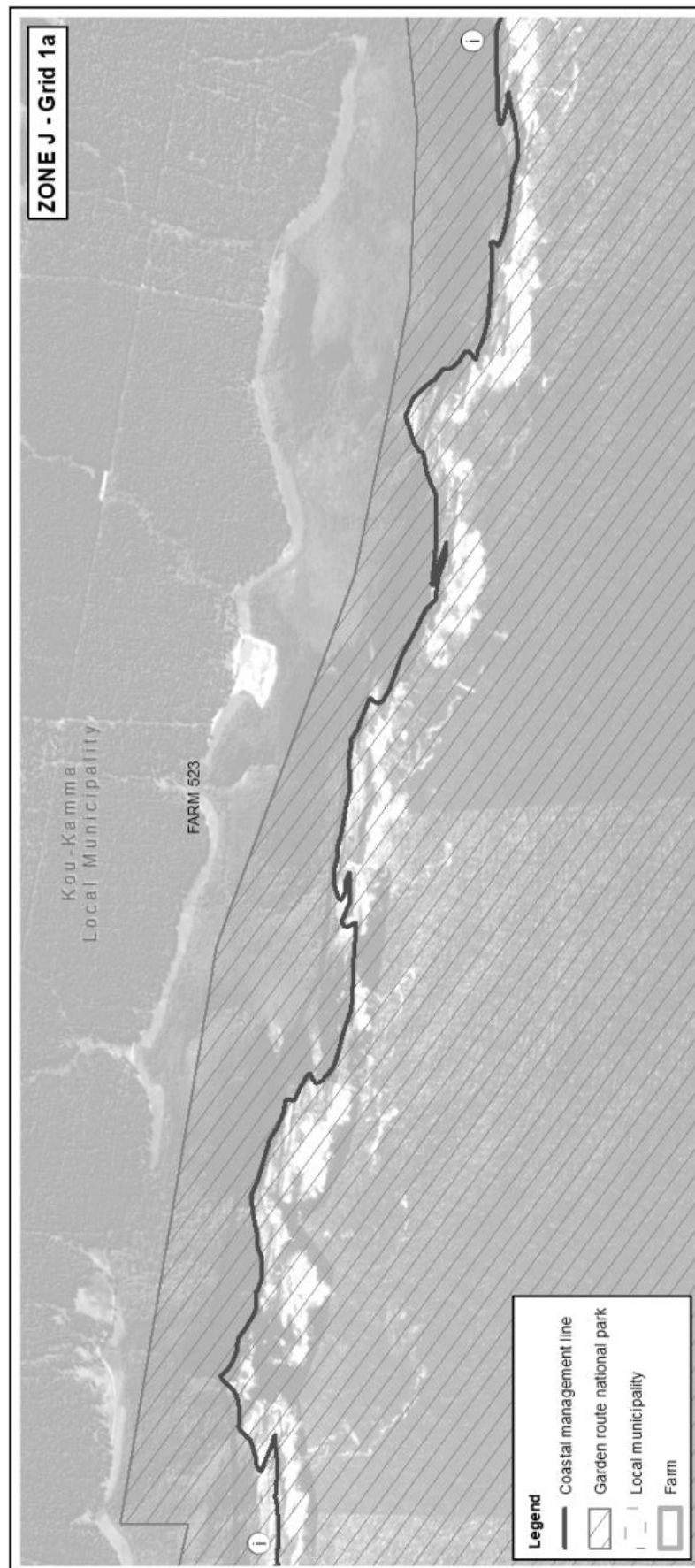


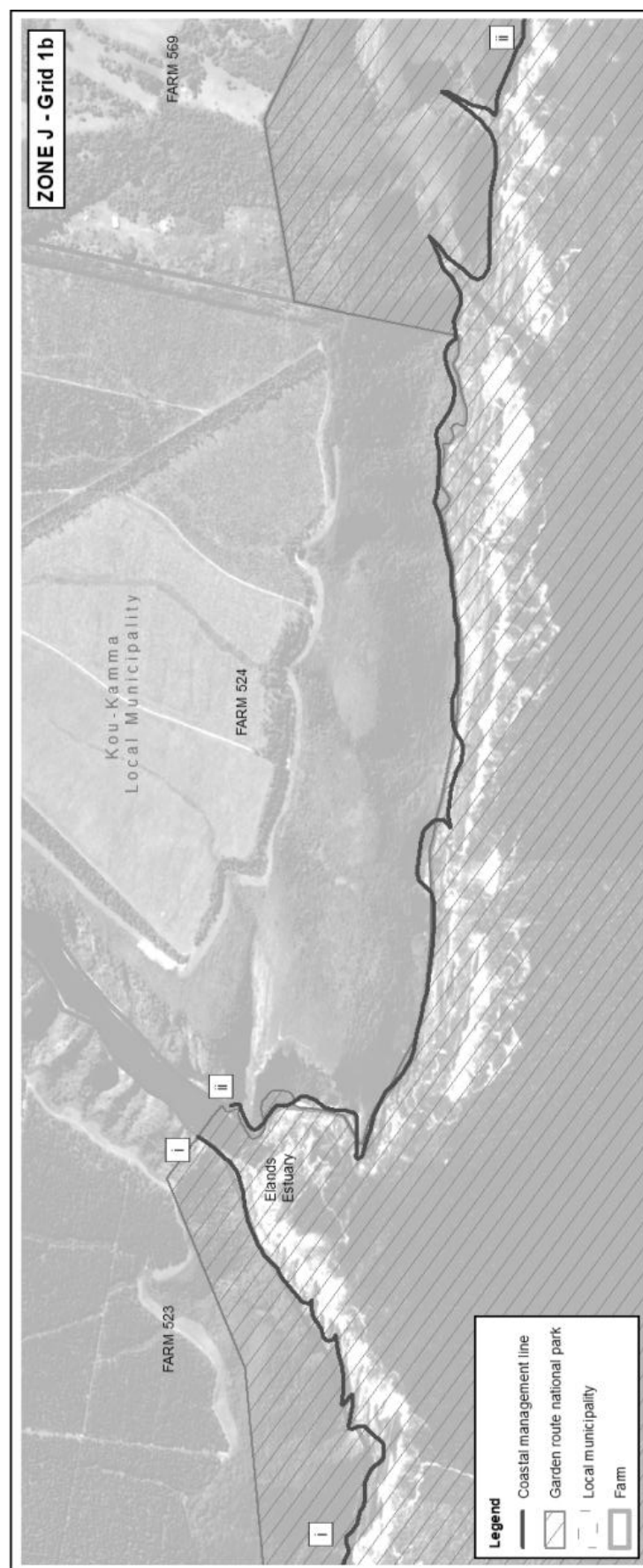


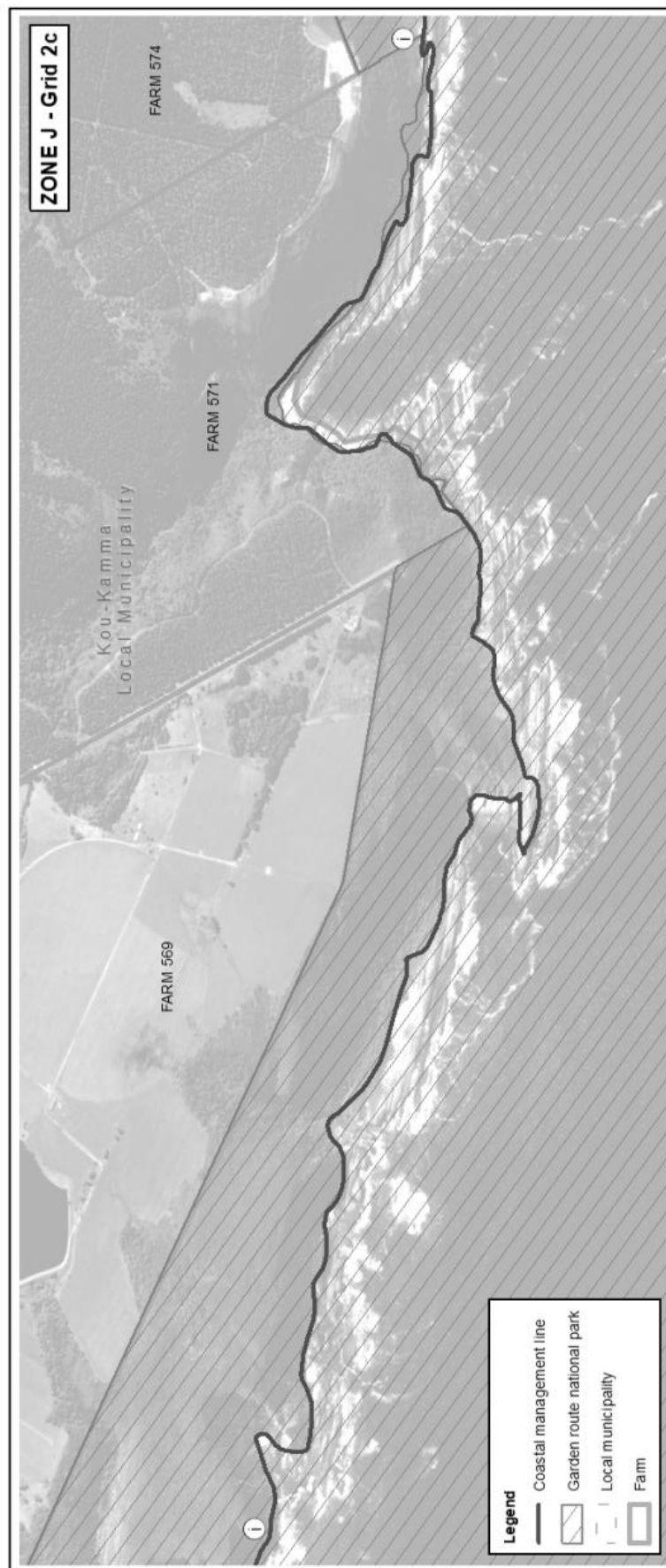


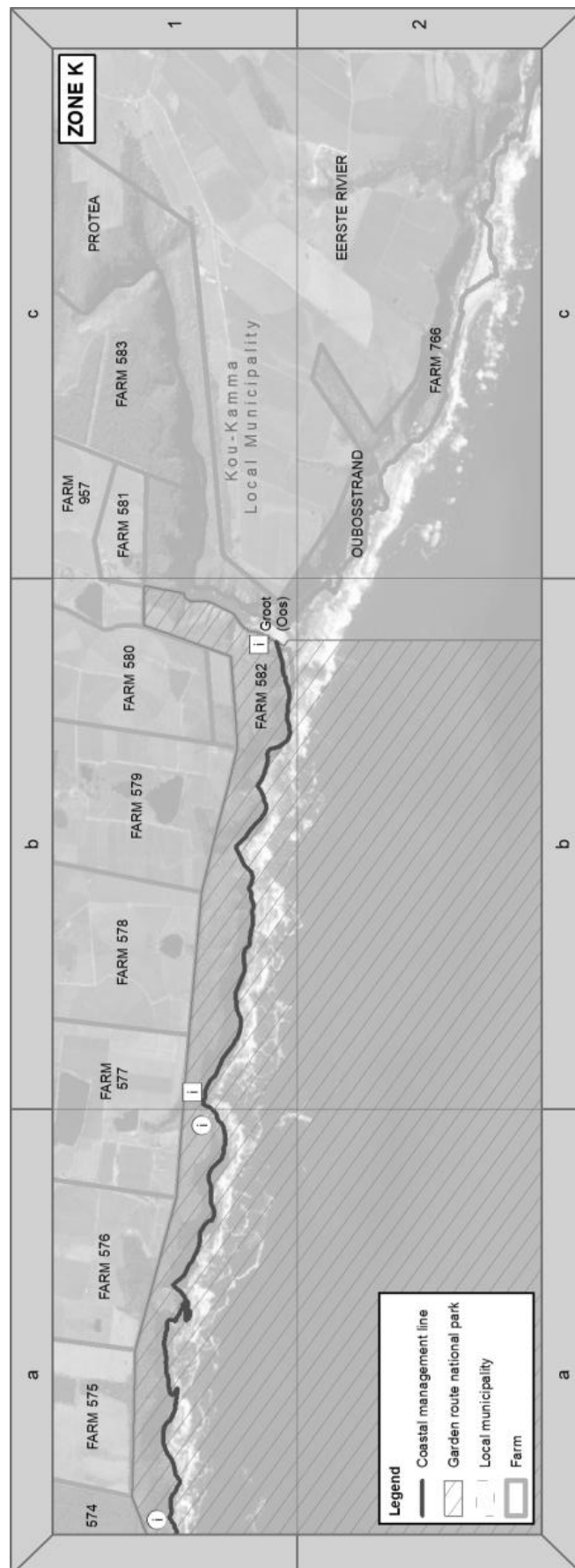


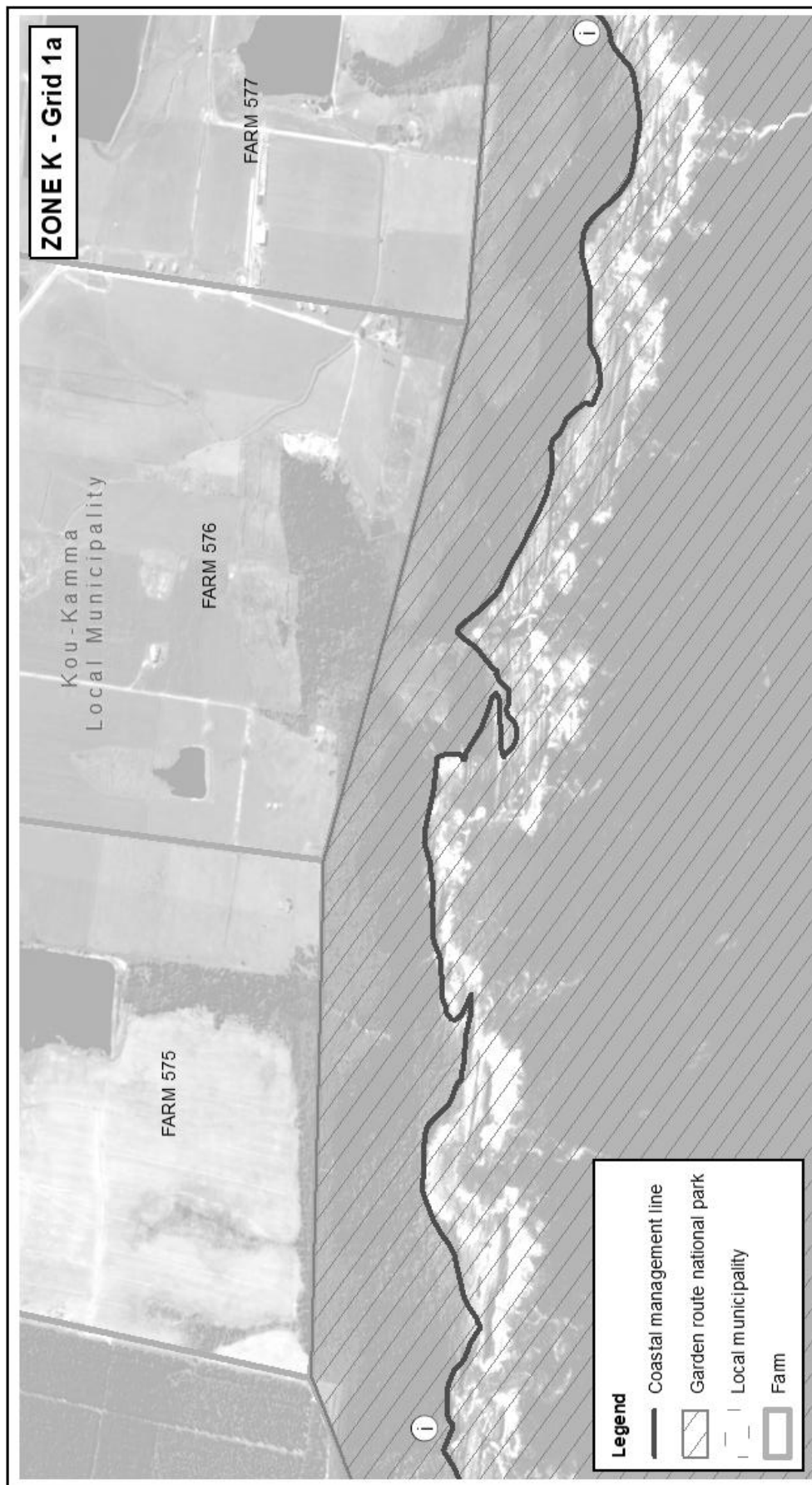


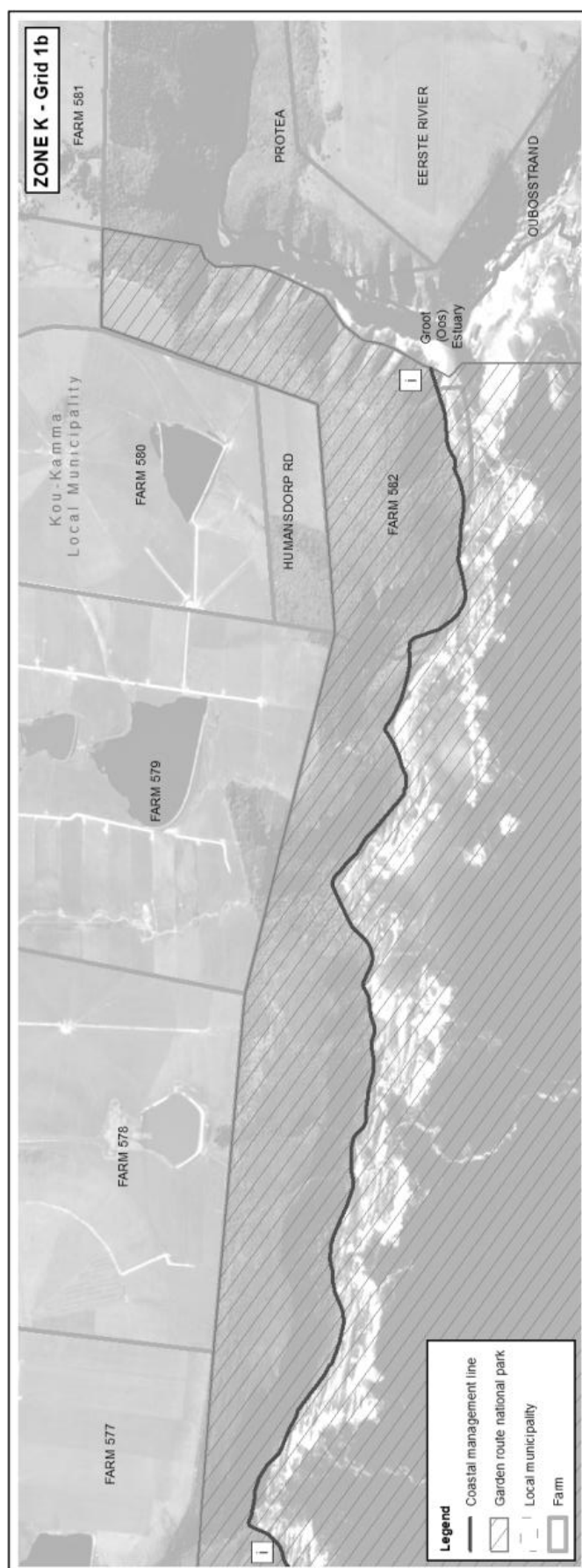












SOUTH AFRICAN REVENUE SERVICE

NO. R. 3669

14 July 2023

CUSTOMS AND EXCISE ACT, 1964.
AMENDMENT OF SCHEDULE NO. 6 (NO. 6/3/63)

In terms of section 75 of the Customs and Excise Act, 1964, Part 3 of Schedule No. 6 to the said Act is hereby amended, with retrospective effect from 1 April 2023 up to and including 31 March 2025, to the extent set out in the Schedule hereto.



ENOCH GODONGWANA
MINISTER OF FINANCE

SCHEDULE

By the insertion of the following Note(s) 14 after Note 13 in Part 3 of Schedule No. 6:

14. For the purposes of item 670.05, the following applies to the purchase and use of distillate fuel for the manufacture of foodstuffs during the period 1 April 2023 to 31 March 2025:
- (a) Application of provisions and definitions:
- (i) The refund provided for in this item is subject to these Notes and the provisions of section 75 (11).
- (ii) Unless the context otherwise indicates -
- "distillate fuel" means -
- (aa)
- (A) distillate fuel, and
- (B) biodiesel as contemplated in Section 37B (2)(a)(ii),
- in respect of which a fuel levy and Road Accident Fund levy is prescribed in Part 5A and Part 5B of Schedule No. 1 respectively, and which has been duly entered for home consumption or which is deemed to have been duly entered for home consumption, whether or not such distillate fuel and biodiesel have been mixed; and
- (bb) excludes the following:
- (A) "smokeless diesel", a mixture of kerosene and a lubricity agent, normally used in underground mines;
- (B) any mixture of distillate fuel with kerosene or any other substance except biodiesel;
- (C) any distillate fuel entered for export or ships stores or in terms of any other procedure except for home consumption or on which the levies are not paid as contemplated in this definition.
- "electricity generation" means electricity generated from distillate fuel used in stationary fixed electric power generators and excludes mobile portable electric power generators.
- "foodstuffs" means products and preparations for human consumption, classifiable in Chapters 2 to 21 of Part 1 to Schedule No. 1, but excludes the following:
- (aa) products and preparations for making beverages classifiable in any of the tariff subheadings included under Section A of Part 7 to Schedule No. 1; and
- (bb) goods of Chapters 5, 6, 13 and 14.
- "logbooks" means systematic written tabulated statements for the regular periodic recording of all activities and occurrences that impact on the validity of refund claims. Logbooks must provide a full audit trail of distillate fuel for which refunds are claimed. Storage logbooks must reflect details of the receipt, storage, removal, disposal or loss of distillate fuel. Usage logbooks must reflect details of the source and usage of distillate fuel for the manufacture of foodstuffs or other activities.
- "manufacture" means the execution at manufacturing premises of operations that contribute to the realisation of foodstuffs for commercial gain, which -
- (aa) includes, but is not limited to the following activities:
- (A) slaughtering of animals in an abattoir;
- (B) mixing, forming or producing foodstuffs;

By the insertion of the following Note(s) 14 after Note 13 in Part 3 of Schedule No. 6:

- (C) processing, converting or extracting foodstuffs;
 - (D) handling, storing or preserving foodstuffs;
 - (E) conveying or transferring foodstuffs;
 - (F) packing or measuring off foodstuffs;
 - (G) lighting or air-conditioning for such manufacture;
 - (H) waste management as the result of manufacture; or
 - (I) electricity generation for such manufacture; and
- (bb) excludes any activities specified in Note 6 which are eligible for a refund contemplated in item 670.04.
- "manufacturing premises" means -
- (aa) the business premises where the operations for the manufacture of foodstuffs are executed; and
 - (bb) excludes any business premises at which -
 - (A) the floor surface of the publicly accessible portion of the trading area for wholesale or retail sales outlet activities comprises more than 10 per cent of the total floor surface of the business premises; or
 - (B) only the wholesale or retail distribution or sales of goods occur.
- "refund" means a refund of the Road Accident Fund levy only to the extent provided for in this item.
- "tax invoice" means an invoice containing the following information:
- (aa) the words "Tax Invoice";
 - (bb) the name, address and VAT number (a 10-digit number starting with 4) of the supplier;
 - (cc) the name and address of the purchaser (if the invoice value is over R500);
 - (dd) date of the transaction;
 - (ee) description of the goods (being diesel or distillate fuel);
 - (ff) quantity delivered or purchased;
 - (gg) value of the supply;
 - (hh) the amount of VAT, which must be shown as 0% since VAT is not levied on distillate fuel or diesel.
- (b) Application for registration and claiming of refunds:
- (i) Every person that for the purposes of this item both purchases and uses distillate fuel for the manufacture of foodstuffs must apply for registration as a refund user.

By the insertion of the following Note(s) 14 after Note 13 in Part 3 of Schedule No. 6:

- (ii) Each such application includes application for registration of the manufacturing premises and must be accompanied by a detailed floor plan according to scale for all the buildings on the premises which indicates the purpose and use of all areas therein.
- (iii) Application for registration must be made on form DA 185 and annexure DA 185.4A3 obtained from any SARS office or the SARS website (www.sars.gov.za).
- (iv) An application for registration must be submitted per person and information required in respect of each manufacturing premises must be furnished separately for each such premises on an addendum which must be attached to form DA185.4A3.
- (v) Every application for registration that is approved will be issued with effect from 1 April 2023 as the date on which the refund user became eligible for the claiming of refunds.
- (vi) No claim for a refund of levies on distillate fuel for the manufacture of foodstuffs shall be considered until the refund user and the manufacturing premises are so registered.
- (vii) The refund user must in addition to the registration required under this Act also be registered under the provisions of the Value Added Tax Act, 1991 (Act No. 89 of 1991).
- (viii) Any claim for a refund of levies on distillate fuel must be submitted in the prescribed form (form DA 66) together with all necessary supporting documents relating to such claim.
- (ix) The refund user must for purposes of any claim for a refund -
- (aa) submit the screen or page of the electronic application that corresponds to form DA 66 electronically through the communicative system indicated on the SARS website for that purpose; or
 - (bb) in instances where the electronic application process contemplated in item (aa) is unavailable, submit a completed form DA 66 at the SARS office nearest to the manufacturing premises.
- (x) A refund may only be claimed in respect of duty-paid distillate fuel purchased in and used in the Republic and for which a duly completed tax invoice was issued and retained.
- (c) Keeping of records, books, accounts and other documents:
- (i) The refund user must keep record of each manufacturing or other operation or process executed at the manufacturing premises, including the -
 - (aa) area of the manufacturing premises where the activity occurs;
 - (bb) method or elements of the activity and stage thereof in the process flow; and
 - (cc) ratio of distillate fuel used for the activity relative to overall distillate fuel usage.
 - (ii) Records, books, accounts or other documents (including purchase invoices, sales invoices, storage logbooks and usage logbooks) must show in respect of each refund claim how the quantity of distillate fuel on which a refund was claimed was calculated.
 - (iii) The Commissioner may determine such time and such form of evidence to be produced by any particular refund user in respect of each refund claim by that user for the period 1 April 2023 until the date on which this Note comes into operation.
 - (iv) All such records, books, accounts or other documents to substantiate each refund claim must be kept for a minimum period of 5 years from the date of purchase, use, disposal or loss of the distillate fuel or the refund claim, whichever occurs last.
 - (v) Any such records, books, accounts or other documents must be produced for inspection to any officer in accordance with the provisions of section 4 of this Act.

By the insertion of the following Note(s) 14 after Note 13 in Part 3 of Schedule No. 6:

- (vi) Purchase documentation in respect of the receipt of distillate fuel must be in the name of the refund user and original purchase invoices in the form of tax invoices must be obtained and retained by the refund user.
- (vii) Storage documentation (including storage logbooks) in respect of the receipt, storage, removal, disposal or loss of distillate fuel must reflect the
- (aa) capacity of the storage tank;
 - (bb) date of receipt, removal, disposal or loss;
 - (cc) quantity received, removed, disposed or lost;
 - (dd) purpose of removal or details of disposal or loss;
 - (ee) monthly opening and closing balance of storage level.
- (viii) Usage documentation (including usage logbooks) in respect of the source and usage of distillate fuel for the manufacture of foodstuffs or other activities must reflect the -
- (aa) source of distillate fuel;
 - (bb) date and time of each activity of usage;
 - (cc) quantity in respect of each activity of usage; (dd) purpose in respect of each activity of usage; (ee) equipment powered in each activity of usage.
- (ix) Usage logbook entries must be substantiated by the source documentation and additional information that informed the completion of such logbooks, including the
- (aa) serial number or identification marking of equipment;
 - (bb) manufacturer specifications of equipment;
 - (cc) distillate fuel or power usage rate of equipment;
 - (dd) frequency, intensity and duration of use of equipment;
 - (ee) function and place of such equipment in the overall process flow;
 - (ff) any other incidents, facts and observations relevant to the measurement of distillate fuel usage.
- (x) Notwithstanding the usage logbook obligations prescribed in paragraph (c)(viii) -
- (aa) where multiple equipment is powered simultaneously in respect of both the manufacture of foodstuffs and other activities, the volume of distillate fuel so used must be apportioned based on the ratio of distillate fuel used for the manufacture of foodstuffs relative to overall distillate fuel usage;
 - (bb) where the volume of distillate fuel used in any activity cannot with reasonable certainty be gauged, the volume of distillate fuel so used must be determined based on the average rate of distillate fuel consumption of the equipment concerned over the total time period of the usage thereof.

By the insertion of the following:

Rebate Item	Tariff Item	Rebate Code	CD	Description	Extent of Rebate	Extent of Refund
670.05	000.00	01.00	06	Distillate fuel purchased for use and used in the manufacture of foodstuffs as specified and subject to compliance with Note 14		Full Road Accident Fund levy less 20%

SUID-AFRIKAANSE INKOMSTEDIENS

NO. R. 3669

14 Julie 2023

**DOEANE- EN AKSYNSWET, 1964.
WYSIGING VAN BYLAE NO. 6 (NO. 6/3/63)**

Kragtens artikel 75 van die Doeane- en Aksynswet, 1964, word Deel 3 van Bylae No. 6 by bogenoemde Wet hiermee gewysig, met terugwerkende krag vanaf 1 April 2023 tot en met 31 Maart 2025, in die mate in die Bylae hierby aangetoon.



**ENOCH GODONGWANA
MINISTER VAN FINANSIES**

BYLAE

Deur die invoeging van die volgende Opmerking(s) 14 na Opmerking 13 in Deel 3 van Bylae No. 6:

14. Vir die doeleindes van item 670.05, is die volgende op die koop en verbruik van distillaatbrandstof vir die vervaardiging van voedsels gedurende die tydperk van 1 April 2023 tot 31 Maart 2025 van toepassing:
- (a) Toepassing van voorsienings en omskrywings:
- (i) Die terugbetaling waarvoor in hierdie item voorsiening gemaak word is onderhewig aan hierdie Opmerkings en bepalings van artikel 75(11).
- (ii) Tensy die samehang anders aandui - beteken "distillaatbrandstof" -
- (aa)
- (A) distillaatbrandstof, en
- (B) biodiesel soos beoog in artikel 37B (2)(a)(ii),
- ten opsigte waarvan 'n brandstofheffing en Padongelufondsheffing onderskeidelik voorgeskryf is in Deel 5A en Deel 5B van Bylae No. 1 en wat behoorlik vir binnelandse verbruik geklaar is of wat geag word as behoorlik vir binnelandse verbruik geklaar te wees, hetsy sodanige distillaatbrandstof en biodiesel al gemeng was al dan nie; en
- (bb)
- uitgesonderd die volgende:
- (A) "rooklose diesel", 'n mengsel van kerosene en 'n smeringsmiddel, normaalweg in ondergrondse myne gebruik;
- (B) enige mengsel van distillaatbrandstof met kerosene of enige ander middel behalwe biodiesel;
- (C) enige distillaatbrandstof geklaar vir uitvoer of skeepsvoorraad of ingevolge enige ander prosedure behalwe vir binnelandse verbruik of waarop die heffings nie betaal is soos beoog in hierdie omskrywing nie.
- "elektrisiteit opwekking" beteken elektrisiteit opgewek van distillaatbrandstof verbruik deur vasstaande blywende elektriese kragopwekkers en sluit mobiele draagbare elektriese kragopwekkers uit.
- "voedsels" beteken produkte en preparate vir menslike verbruik, indeelbaar in Hoofstukke 2 tot 21 in Deel 1 by Bylae No. 1, maar uitgesonderd die volgende -
- (aa) produkte en preparate vir die maak van drankie indeelbaar in enige van die tariefsubposte ingesluit onder Afdeling A van Deel 7 by Bylae No. 1; en
- (bb) goedere van Hoofstukke 5, 6, 13 en 14.
- "logboeke" beteken sistematiese geskrewe getabuleerde state vir die gereelde periodieke rekordhouding van alle aktiwiteite en gebeure wat 'n impak op die geldigheid van terugbetalingsseise het. Logboeke moet 'n volle oudit spoor voorsien van distillaatbrandstof waarvoor terugbetalings geëis word. Bergingslogboeke moet besonderhede weergee van die ontvangs, berging, verwydering, beskikking of verlies van distillaatbrandstof. Gebruikslogboeke moet besonderhede weergee van die bron en gebruik van distillaatbrandstof vir voedsel vervaardiging of ander aktiwiteite.
- "vervaardiging" beteken die uitvoering van bedrywighede by die vervaardigings perseel wat bydra tot die verwesenliking van voedsels vir kommersiële gewin, wat -
- (aa) insluit, maar nie beperk is tot die volgende bedrywighede nie:

Deur die invoeging van die volgende Opmerking(s) 14 na Opmerking 13 in Deel 3 van Bylae No. 6:

- (A) slag van diere by 'n abattoir;
- (B) meng, vorming of vervaardiging van voedsels;
- (C) verwerking, omskakeling of ekstrahering van voedsels;
- (D) hantering, berging of preservering van voedsels;
- (E) afvoer of oordrag van voedsels;
- (F) verpakking of afmeting van voedsels;
- (G) beligting of lugversorging vir sodanige vervaardiging;
- (H) afval bestuur as gevolg van vervaardiging; of
- (I) elektrisiteit opwekking vir sodanige vervaardiging; en
- (bb) uitgesonderd enige bedrywighede in Opmerking 6 vermeld wat geregtig is op 'n terugbetaling beoog in item 670.04 "vervaardigingsperseel" beteken-
- (aa) die sake perseel waar die bedrywighede vir die vervaardiging van voedsels uitgevoer word; en
- (bb) uitgesonderd enige sake perseel waarby -
- (A) die openbare toeganklike deel van die handelsgebied vir groothandel of kleinhandel verkoep afsetgebied bedrywighede bestaan uit meer as 10 persent van die totale vloer oppervlakte van die sake perseel; of
- (B) slegs die groothandel of kleinhandel verspreiding of verkoep van goedere plaasvind.
- "terugbetaling" beteken 'n terugbetaling van die Padongelukfondsheffing slegs tot die mate in hierdie item voorsien.
- "belasting faktuur" beteken 'n faktuur wat die volgende inligting bevat:
- (aa) die woorde "Belasting faktuur";
- (bb) die naam, adres en BTW nommer ('n 10 syfer nommer wat met 4 begin) van die verskaffer;
- (cc) die naam en adres van die aankoper (as die faktuur waarde oor R500 is);
- (dd) datum van die transaksie;
- (ee) beskrywing van die goedere (wat diesel of distillaatbrandstof is);
- (ff) hoeveelheid afgelewer of aangekoop;
- (gg) waarde van die voorraad; en
- (hh) die bedrag van BTW, wat as 0% gewys moet word omdat BTW nie gehef word op distillaatbrandstof of diesel nie;

Deur die invoeging van die volgende Opmerking(s) 14 na Opmerking 13 in Deel 3 van Bylae No. 6:

- (b) Aansoek vir registrasie en eis van terugbetalings.
- (i) Elke persoon wat vir die doeleindes van hierdie item beide distillaatbrandstof aankoop en gebruik vir die vervaardiging van voedsels moet aansoek doen vir registrasie as 'n terugbetalingsgebruiker.
 - (ii) Elke sodanige aansoek sluit in aansoek vir registrasie van die vervaardigingsperseel en moet vergesel word van 'n gedetailleerde vloerplan volgens skaal vir al die geboue op die perseel wat die doel en gebruik van alle oppervlaktes daarin aandui.
 - (iii) Aansoek vir registrasie moet op vorm DA 185 en aanhangsel DA 185.4A3 gemaak word, verkrygbaar by enige SAID kantoor of die SAID webwerf (www.sars.gov.za).
 - (iv) Elke aansoek vir registrasie moet voorgelê word per persoon en inligting vereis ten opsigte van elke vervaardigings perseel moet afsonderlik ingedien word op 'n addendum wat aangeheg moet word aan vorm DA 185.4A3 vir elke sodanige perseel.
 - (v) Elke aansoek vir registrasie wat goedgekeur word sal uitgereik word met ingang vanaf 1 April 2023 as die datum waarop die terugbetalingsgebruiker geregtig geword het vir die eis van terugbetalings.
 - (vi) Geen eis vir 'n terugbetaling van heffings op distillaatbrandstof vir die vervaardiging van voedsels sal oorweeg word totdat die terugbetalingsgebruiker en die vervaardigingsperseel so geregistreer word nie.
 - (vii) Die terugbetalingsgebruiker moet bykomend tot die registrasie vereis ingevolge hierdie Wet ook geregistreer wees ingevolge die bepalinge van die BTW Wet, 1991 (Wet No. 89 van 1991).
 - (viii) Enige eis vir 'n terugbetaling van heffings op distillaatbrandstof moet voorgelê word op die voorgeskrewe vorm (vorm DA 66) tesame met al die nodige stawende dokumente verwant aan sodanige eis.
 - (ix) Die terugbetalingsgebruiker moet vir die doeleindes van enige eis vir 'n terugbetaling -
 - (aa) die skerm of bladsy van die elektroniese aansoek wat ooreenstem met vorm DA 66 elektronies voorlê deur die kommunikasie stelsel op die SAID webwerf aangedui vir daardie doeleinde doel; of
 - (bb) in gevalle waar die elektroniese aansoek proses beoog in item (aa) nie beskikbaar is nie, 'n volledig voltooide DA 66 voorlê by die SAID kantoor naaste aan die vervaardigingsperseel.
 - (x) 'n Terugbetaling mag slegs geëis word ten opsigte van regbetaalde distillaatbrandstof aangekoop en verbruik in die Republiek en waarvoor 'n behoorlik voltooide balasting faktuur uitgereik en behou was.
- (c) Hou van rekords, boeke, rekeninge en ander dokumente:
- (i) Die terugbetalingsgebruiker moet rekord hou van elke vervaardiging of ander bewerking of proses uitgevoer by die vervaardigingsperseel, met inbegrip van die -
 - (aa) area van die vervaardigingsperseel waar die bedrywigheid plaasvind;
 - (bb) metode of elemente van die bedrywigheid en stadium in die vloeiproses daarvan; en

Deur die invoeging van die volgende Opmerking(s) 14 na Opmerking 13 in Deel 3 van Bylae No. 6:

	(cc)	verhouding van distillaatbrandstof verbruik vir die bedrywigheid relatief tot die algehele distillaatbrandstof verbruik.
(ii)		Rekords, boeke, rekeninge of ander dokumente (met inbegrip van aankoop fakture, verkoop fakture, stoor logboeke en gebruiksligboeke) moet ten opsigte van elke terugbetalingseis aantoon hoe die hoeveelheid distillaatbrandstof waarop 'n terugbetaling geëis was, bereken was.
(iii)		Die Kommissaris mag sodanige tyd en sodanige vorm van bewyse bepaal wat enige besondere terugbetalingsgebruiker moet voorlê met betrekking tot elke terugbetalingseis deur daardie gebruiker vir die tydperk van 1 April 2023 tot die datum waarop hierdie Opmerking inwerking tree.
(iv)		Alle sodanige rekords, boeke, rekeninge of ander dokumente om elke terugbetalingseis te staaf moet vir 'n minimum tydperk van 5 jaar gehou word vanaf die datum van aankoop, gebruik, beskikking of verlies van die distillaatbrandstof of die terugbetalingseis, wat ook al laaste gebeur.
(v)		Enige sodanige rekords, boeke, rekeninge of ander dokumente moet voorgelê word aan enige beampte vir ondersoek in ooreenstemming met die bepalings van artikel 4 byhier die Wet.
(vi)		Aankoop dokumentasie ten opsigte van die ontvangs van distillaatbrandstof moet in die naam van die terugbetalingsgebruiker wees en oorspronklike aankoop fakture in die vorm van belasting fakture moet verkry word en gehou word deur die terugbetalingsgebruiker.
(vii)		Bergingsdokumentasie (met inbegrip van bergingsligboeke) ten opsigte van ontvangs, berging, verwydering, beskikking of verlies van distillaatbrandstof moet die volgende reflekteer -
	(aa)	inhoudsvermoë van die opgaartenk;
	(bb)	datum van ontvangs, verwydering, beskikking of verlies;
	(cc)	hoeveelheid ontvang, verwyder beskik of verloor;
	(dd)	doel van verwydering of besonderhede van die beskikking of verlies; en
	(ee)	maandelikse openings- en sluitingsbalans van bergingsvlak.
(viii)		Gebruiksdokumentasie (met inbegrip van gebruiksligboeke) ten opsigte van die bron en gebruik van distillaatbrandstof vir voedsel vervaardiging of ander aktiwiteite die volgende reflekteer -
	(aa)	bron van distillaatbrandstof;
	(bb)	datum en tyd van elke aktiwiteit of verbruik;
	(cc)	hoeveelheid ten opsigte van elke aktiwiteit of verbruik;
	(dd)	doel ten opsigte van elke aktiwiteit of verbruik; en
	(ee)	toerusting aangedryf in elke aktiwiteit of verbruik.
(ix)		Gebruiksligboek inskrywings moet deur die bron dokumente bevestig word en addisionele inligting wat die voltooiing van sodanige logboeke inlig, met inbegrip van -
	(aa)	reeksnommer of identifikasie merke van toerusting;
	(bb)	vervaardiger se toerusting spesifikasies;

Deur die invoeging van die volgende Opmerking(s) 14 na Opmerking 13 in Deel 3 van Bylae No. 6:

- (cc) distillaatbrandstof of krag gebruikstempo van toerusting;
- (dd) frekwensie, intensiteit en duur van gebruik van toerusting;
- (ee) funksie en plek van sodanige toerusting in die algehele vloeiproses ; en
- (ff) enige ander insidente, feite en waarnemings verwant aan die meet van distillaatbrandstof verbruik;
- (x) Nieteenstaande die gebruiksgoedek verpligtinge omskryf in paragraaf (c)(viii) -
 - (aa) waar veelvoudige toerusting gelyktydig aangedryf is ten opsigte van beide die vervaardiging van voedsels en ander bedrywighede, moet die volume van distillaatbrandstof so verbruik verdeel word gegrond op die verhouding van distillaatbrandstof verbruik vir die vervaardiging van voedsels relatief tot die algehele distillaatbrandstof gebruik; of
 - (bb) waar die volume distillaatbrandstof verbruik in enige bedrywighede nie met redelike sekerheid gemeet kan word nie, moet die volume distillaatbrandstof so verbruik bepaal word gegrond op die gemiddelde skaal van distillaatbrandstof gebruik van die betrokke toerusting oor die totale tydperk van gebruik daarvan.

Deur die invoeging van die volgende:

Kortingtem	Tariefitem	Kortingkode	TS	Beskrywing	Mate van Korting	Mate van Terugbetaling
670.05	000.00	01.00	06	Distillaatbrandstof gekoop vir gebruik en gebruik by die vervaardiging van voedsels soos omskryf en onderhewig aan nakoming met Opmerking 14		Volle Padongelukfondsheffing min 20%

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