

30 October 2024

The Municipal Manager
Beaufort West Municipality
112 Donkin Street
Beaufort West
6970

Dear Mr C Wright

Dear Sir

Land development application: consent use

Borrow pit No. DR2310/28.90/0.02L **(part of the WGC regravelling programme)**

Remainder of Farm Elandsfontein 150

We are submitting this consent use application to change the land use on a portion of the property known as Remainder of Farm Elandsfontein 150. The property is located about 25 km east of Beaufort West.

The aim is to establish a borrow pit to extract material for road maintenance and/or construction of DR2310 on about 3.2 hectares of said property at km 29 along DR2310.

Please note the land use for which we are applying was approved by the Beaufort West Municipality in September 2016 as a temporary departure. However, the permitted land use rights were not exercised and have lapsed.

If you have any questions or require clarity on any of the issues, please do not hesitate to contact me.



B P Rode Pr. Pln

Director / Town and Regional Planner @ RodePlan (Pty) Ltd

Municipal land use planning bylaw

Consent use application

Borrow Pit:

**Supply of material for the regravelling
and maintenance,**

Central Karoo District

Subject property

Remainder of Farm Elandsfontein 150

Registration Division Beaufort West, Western Cape

Applicant

Western Cape Government (Department of Infrastructure)

Assisted by:

RodePlan (Pty) Ltd

Date:

October 2024

Applicant:

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Executive summary

Application

The Western Cape Government (WCG) submits this consent use application to change the land use on a portion of the property known as Remainder of Farm Elandsfontein 150. The application is submitted in terms of section 15(2)(o) of the municipal land use planning bylaw (Provincial Gazette 8046 of 2018) read together with Schedule 1 and 2 of the Zoning Scheme Bylaw.

The aim is to obtain a change of land use for excavating material for road maintenance and/or construction on about 3.2 ha of Remainder of Farm Elandsfontein 150 (or subject property). This activity is part of the provincial regravelling programme. The duration of the mining activities would be 30 years, i.e. to operate as a strategic borrow pit. The borrow pit is to be excavated for wearing course and binder material to be used in the maintenance and resurfacing of roads.

The privately-owned farm and the mining area are zoned Agriculture Zone 1, with the WCG having obtained ownership of the mining area as expropriated area.

Land use right

The Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA), requires that the use of land must be in accordance with the zoning of such land, *irrespective of the user*. Complying with SPLUMA, the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA), states that 'no person may utilise or develop land unless the utilisation or land development is permitted in terms of a zoning scheme or an approval consistent with this Act and applicable by-laws'.

The proposal to excavate material for road maintenance and/or construction implies a non-conforming land use on land zoned as Agriculture Zone I. Hence, as provided for in the relevant bylaw a consent use application is made to accommodate the mining activity on the subject property for a period of 30 years.

Previous approval

The land use rights for which we are applying were approved by the Beaufort West Municipality in September 2016 as a temporary departure and the desirability of the borrow pit, and suitability of the location have not changed since then. However, the permitted land use rights were not exercised and have lapsed.

Development site and proposal

This consent use application is to obtain the land use rights for the extension of an existing borrow pit with the following attributes:

Closest town:	Beaufort West
Local Municipality:	Beaufort West Municipality
District Municipality:	Central Karoo District Municipality
Mining footprint (ha):	about 3.2
Surrounding land use:	Grazing and water for domestic and livestock
Farm area (ha):	3328

Current use status of site: Mined

Other rights

According to the Minerals and Petroleum Resources Development Act, 2002, mineral resources are in the custodianship of the State. The WCG would temporarily acquire the right to mine the borrow pit, subject to consent by the Department of Mineral Resources (DMR). In addition, the mining would be subject to the issuing of the applicable land use rights in terms of the relevant municipal bylaws.

Rights status re borrow pits number DR2310/28.90/0.02L

- National Environmental Management Act (NEMA) (No. 107 of 1998): The Department of Mineral Resources issued the Environmental Authorisation in July 2020 (see **Annexure 8**),
- National Heritage Resource Act, 1999 (Act 25 of 1999): see **Annexures 12**.
- Municipal land use planning bylaw: The subject of this application.

Site selection

Various criteria were used in the identification and selection of the preferred site. These included, *inter alia*, the availability and type of road building material, current land use, the type and condition of the vegetation on site, potential impacts including visual, erosion, and dust, watercourse sedimentation, failure of rehabilitation, the ability to stockpile, the proximity to farm or other dwellings and the potential dust and noise nuisance to these, as well as the potential operational and post-closure risks to people/animals in the vicinity. Several site alternatives were assessed during the impact assessment process.

Please note that the suitability of the borrow pit is evidenced by the 2016 municipal approval of the land use as a temporary departure. This source of wearing course gravel material lies on the northern side and next to DR2310, at km 23. The pit is 23 km east of the intersection of DR2310 and R61, and about 25 km east of Beaufort West. This proposed enlargement of a roughly oblong existing borrow pit is on a flat pediment with a slight slope to the southeast and which DR2310 traverses in a roughly east west direction.

In the selection and development of the specific site, cognizance was also taken of the quantity and quality of road building material needed for the regravelling and/or maintenance of the entire length or section(s) of a particular road; as a once-off intervention and/or in terms of future requirements.

Benefits of the development

The main benefit of sourcing the material on location is a better road network through cost-effective road maintenance and construction. The excavation of material and subsequent road work would benefit road users and local inhabitants by ensuring greater road safety, minimising maintenance-related disruptions and supporting the local economy by ensuring continual access to markets.

Development parameters

At the time of writing, the applicant was not aware of any documented set of land use parameters, pertaining to (specifically) excavating material for road maintenance and/or construction. We propose that the Municipality considers

development parameters as conditions of approval in accordance with the municipal Zoning Scheme Bylaw and as set out in this application.

Desirability

The proposed development will be the continuation of a site-specific land use that is different to the established land use of farming. In this regard, the impact on on-site and adjacent land use because of the mining activity would be very low if mitigating measures are applied, i.e. farming can continue optimally.

When applying the principles of economies of scale and highest and best use of land, the rationale for 'mining' on the site becomes clear. In this regard, the proposed development promotes the (better) economic use of land, cost-effective road maintenance and construction and conforms to the outcome of socio-political interaction.

We believe the change of the land use on Remainder of Farm Elandsfontein 150, (1) will not have a significant effect on the health and well-being of people in the surrounding areas, (2) the environment or cultural heritage, and (3) the subject land can, with rehabilitation, revert to its previous lawful use upon the expiry of the use right.

It is also clear that the proposal conforms to the intention of the development principles listed in section 7 and section 58 of the Spatial Planning and Land Use Management Act, 2016 (Act 16 of 2013) and the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), respectively.

Section I – Preamble

1. Introduction

The road infrastructure in the Western Cape, excluding the urban areas and the national roads, is owned and managed by the Department of Infrastructure (the then Department of Transport and Public Works) of the Western Cape Government (WCG). In a provincial study it was stated that almost 61% of trunk, main and divisional roads are unsurfaced. The WCG manages the major portion of this unsurfaced road network, with the assistance of the District Municipalities. In this regard, a District Municipality is responsible for routine road maintenance and the bulk of periodic road maintenance (regravelling) in its jurisdiction area.

The steady rate of decline in the condition of gravel roads over recent years is attributed to the rapid gravel-loss experienced owing to increased traffic volumes and flood damage. In addition, limited maintenance funding and non-availability of material results in an ever-increasing road maintenance backlog and impact negatively on the delivery of infrastructure projects.

For the regravelling of roads a road building material source should be available within a short distance from the worksite, thereby reducing haul distances and wear and tear on the surrounding road network. It would also not make financial sense to source material from localities that are some distance from the work site. In the Provincial Rural Roads Map, the gravel condition of DR2310 is listed as POOR meaning the road surface is in an extremely bad condition.¹ In this regard, the Department submits this application to obtain the land use rights for borrow pit DR2310/28.90/0.02L to extract material for road maintenance and/or construction of DR2310. Note that the frequency of mining on the site would depend on the condition of the gravel road.

The land use rights for which we are applying on Remainder of Farm Elandsfontein 150, were approved by the Beaufort West Municipality in September 2016 as a temporary departure *and the desirability of the borrow pit, and suitability of the location have not changed since then*. Why? Because the facts and circumstances associated with the use of the borrow pit have not changed. However, the permitted land use rights were not exercised and have lapsed.

2. Programme context

Land ownership

The source of road building material would normally be a borrow pit located on rural farmland. Hence, there are many operational borrow pits across the province on privately owned land. The subject property is also privately-owned.

¹ <https://www.westerncape.gov.za/general-publication/provincial-rural-road-maps>. The "Road Condition Index" scores the category description of "very poor" between 0 and 30 meaning the road surface is in an extremely bad condition. The description of "poor" is scored between 30 and 50, meaning a bad condition, and fair/warning between 50 and 70, indicating a reasonable condition but with regravelling soon to be required.

Where a proposed borrow pit is situated on private property one of the following scenarios will be relevant:

- The Power of Attorney of the landowner will be obtained.
- The land will be expropriated by the WCG.
- A formal agreement will be entered into between the landowner and the WCG.

When land is expropriated, the WCG would not take transfer of the property, and the relevant District Municipality would manage the site until decommissioning and closure. Pursuant to achieving closure in terms of the Minerals and Petroleum Resources Development Act, 2002 (No 28 of 2002) (MPRDA) the land would return to the landowner.

Mining and other rights

As per the requirements of the Minerals and Petroleum Resources Development Act, 2002, all mining activities, including the extraction of material from borrow pits and quarries, require authorisation from the Department of Mineral Resources (DMR). As per the provision of Section 106(1) of the Act, on 25 June 2004, and by notice in Government Gazette No. 26501, various organs of state (including Provincial Governments) were exempted from the provisions of sections 16, 20, 22 and 27 of the Act in respect of any activity to remove any mineral for the construction and maintenance of dams, harbours, roads and railway lines and for purposes incidental thereto. In terms of this exemption, where the WCG is undertaking the maintenance/ upgrading of roads under its control, no application needs to be submitted for a mining right or permit. However, as per the provisions of Section 106(2) of the Act, the WCG is required to (determine and then) prepare and submit an *Environmental Management Programme* to the Department of Mineral Resources for their approval, prior to the extraction of any material from a proposed borrow pit or quarry. Since December 2014, this department is now also the decision-making authority regarding the National Environmental Management Act (NEMA) (No. 107 of 1998) and its listed activities, promulgated in June 2010, in GN 544, 545, and 564.

Service providers

MPAMOT has been appointed by the WCG to obtain the required use rights to operate suitable sources of gravel for the regravelling and maintenance of certain gravel roads. This work is governed by the MPRDA, National Environmental Management Act, 1998 (Act 107 of 1998) and the suite of land use legislation that includes the municipal land use planning bylaw for Beaufort West Municipality and the Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA). In addition, the WCG has appointed RodePlan (Pty) Ltd to obtain the relevant land development rights for excavating material at the borrow pit on the subject property.

Standard operating procedures

On- and off-site activities will be according to standard operating procedures, which will be audited according to industry norms, and health and safety standards.^{2,3} For example, (1) an Environmental Control Officer will be appointed

² On-site activities are all quarrying and related activities that occur within the expropriated area serving as borrow pit — the subject of this application.

to ensure that mining operations follow the approved scale of development and implementation of mitigating measures, and (2) the implementation of standard traffic accommodation measures which will audited according to the South African Road Traffic Signs Manual.

We also argue that, in determining the desirability of any borrow pit, the Decision maker must differentiate between possible impacts as a result of on-site activities and those activities associated with the regravelling of any gravel road which will occur irrespective of the location of the source of material. Such regravelling is normally associated with safety-, dust- and noise-related impacts occurring where (1) the material is sourced — the subject of this application, (2) those sections of the road under repair (off-site) and (3) the road sections inbetween (off-site).

3. Rationale for borrow pits

The Department of Infrastructure is responsible for the construction and maintenance of DR2310 and, to ensure cost-effective maintenance, submits this application to obtain the land use rights for borrow pit DR2310/28.90/0.02L. In securing the development and use rights, the WCG has also obtained ownership the borrow pit as expropriated area (see **Annexures 1 and 13**).

For a gravel road to be able to carry traffic safely and effectively, an upper layer of gravel, known as a wearing course, which meets specific technical requirements, must be placed on the prepared roadbed. With time, the wearing course is eroded away by both traffic and the elements, and this needs to be replaced to continue to deliver a safe and functional surface to the road user. During re-gravelling, the existing road surface is shaped (if the density of the layer complies with the specification) or ripped, and re-compacted to ensure easy drainage of surface water. Side drains are reshaped to further facilitate drainage and increase the longevity of the road. Target thickness for the new wearing course is 150 mm for Divisional Roads and 140 mm for Main Roads. Borrow pits serve as sources of road building material to be used or stockpiled on site for routine and emergency maintenance or repairs in future.

The proposed mining timetable, duration and sequence for a borrow pit depend on the extent of work required at the time, the nature and extent of planned re-gravelling and upgrade projects, and the likelihood of events such as floods and landslides that could necessitate emergency repairs at short notice. Larger borrow pits are divided into several zones which will be mined in phases as the need for more material arises. Where mining will take place in more than one phase, earlier zones will be rehabilitated and designated as no-go areas.

4. Mining objectives

In committing to the responsible and sustainable utilisation of materials for the maintenance of gravel roads, the WCG articulated the following strategic vision in the Operational Manual:

³ Off-site activities as all activities related to the regravelling of any road, except activities regarded as on-site activities.

"Extract suitable quality material from proven, authorised borrow areas for the maintenance of gravel roads on a sustainable basis".

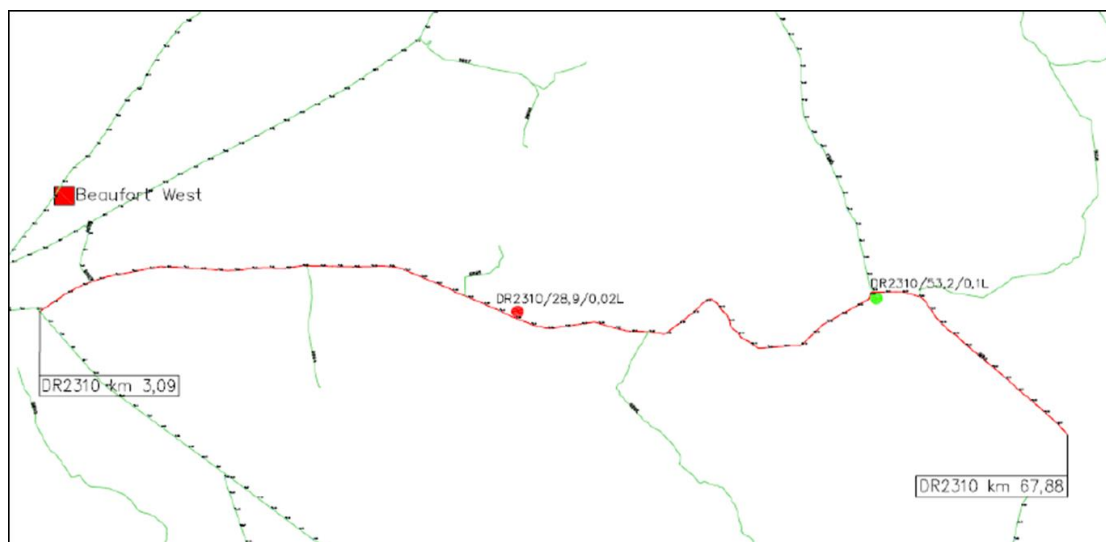
In responding to this vision, the WGC have further articulated the following mining objectives for all of the material sources under their control:

- Optimising the yield and economic viability.
- Enhancing the technical efficiency of extraction.
- Optimising the operational efficiency.
- Minimizing adverse environmental impacts.
- Promoting health and safety.
- Maintaining legal and technical compliance at the highest level.
- Mitigating risks to all stakeholders, including landowners, affected parties and local and provincial authorities.
- Meeting budget constraints.
- Honouring conditions of agreement with landowners.
- Assuring that the land is restored to beneficial use thereafter.

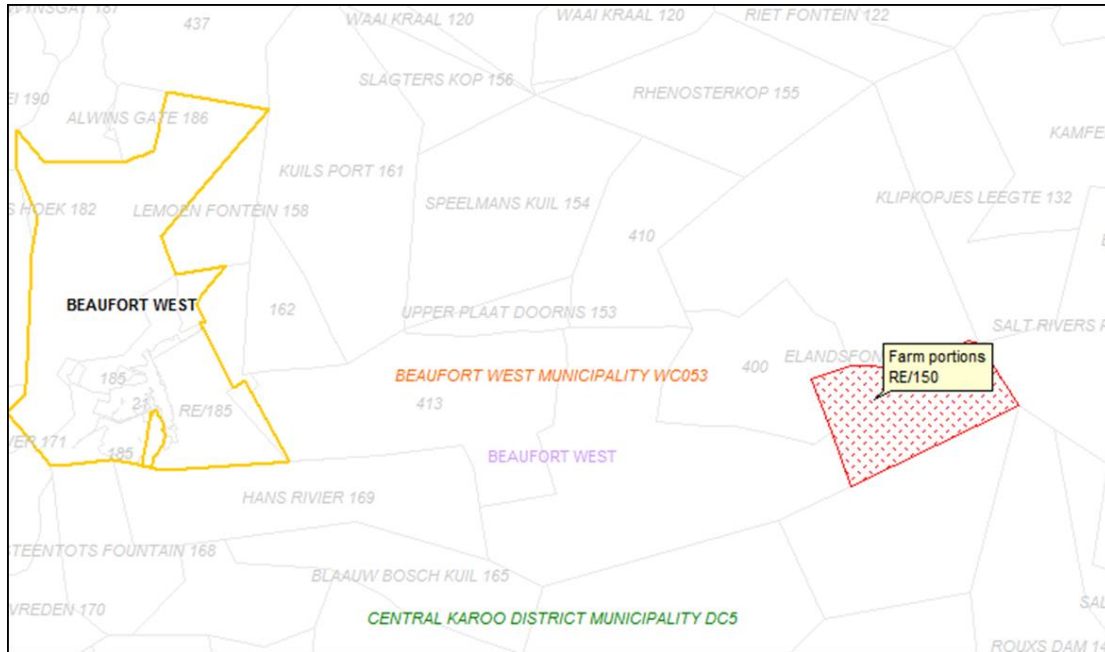
These mining objectives, which are encapsulated in the phrase "*Mine with the end in mind*", have become a fundamental informant of the WCG's approach to the identification, operation and closure of material sources used in the maintenance of the gravel road network under their control.

5. Development proposal

The potential source of wearing course gravel material lies on the northern side and next to DR2310, at km 23. The pit is 23 km east of the intersection of DR2310 and R61, and about 25 km east of Beaufort West. This proposed enlargement of a roughly oblong existing borrow pit is on a flat pediment with a slight slope to the southeast and which DR2310 traverses in a roughly east west direction (see maps and Google images below).



Map 1: Location next to DR2310



Map 2: Location of subject property

The following attributes are relevant to the borrow pit:

Closest town:	Beaufort West
Local Municipality:	Beaufort West Municipality
District Municipality:	Central Karoo District Municipality
Mining footprint (ha):	about 3.2
Surrounding land use:	Grazing and water for domestic and livestock
Farm area (ha):	3328

Material type:

Colluvium: Dry, light greyish brown, medium dense, fine gravelly silty sand. In places, pedogenically calcretised and strongly streaked and spotted white, dense, and well cemented. Residual (disintegrated) mudstone: Dry, black streaked reddish brown, loose to medium dense, silty sandy fine to medium GRAVEL of angular shards of mudstone. In places, pedogenically calcretised and grey discoloured light grey and streaked reddish brown and white, loose to medium dense, and with a film of hard calcite on shard surfaces. Mudstone: Grey discoloured light blue-ish grey, fine to very fine grained, medium bedded horizontally. Slightly weathered, hard, closely to medium fractured with thick becoming thin to very thin downwards greyish brown silty sand fill. In places, pedogenically calcretised and discoloured light grey, highly weathered, and with a film of hard calcite on fracture surfaces. Teekloof Formation, Adelaide Sub-group, Beaufort Group.

Mining volume (m³): 40 000

Future Pit Development:

Vegetation and about 200mm of topsoil should be cleared from unworked ground and then stockpiled for later rehabilitation before excavation of the potential wearing course gravel material. The extended pit should be designed to enlarge the existing off-stream borrow pit that temporarily retains runoff. Extraction should be phased so that it commences from the existing pit and furthest from

DR2310. Access to the various subsequent phases of excavation of the proposed pit should be via the existing pit, to avoid traversing previously mined and rehabilitated areas of the extension.

Rehabilitation:

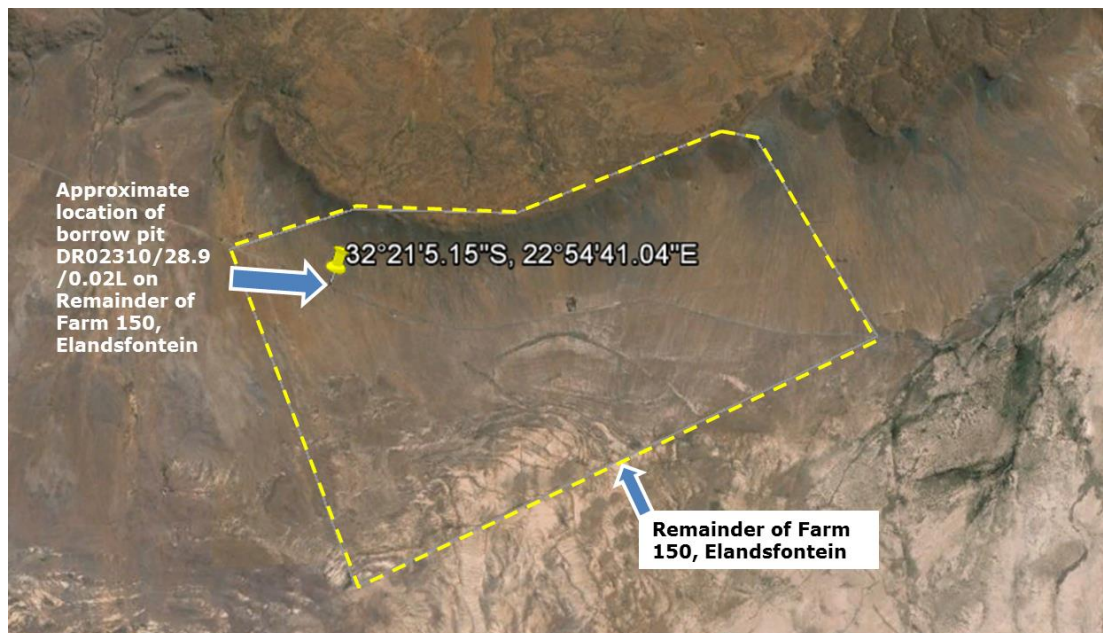
All possible worked surfaces should be covered as soon as possible with any available and stockpiled topsoil. Previously mined and rehabilitated areas should not be traversed as far as possible by access tracks to, nor covered by temporary stockpiles of gravel from, the subsequent mining phases. The proposed pit should be designed to be worked such that any portion/phase is free-draining towards the existing pit at all times. A stockpile of loosened gravel should be left after each mining phase as close as possible to the access from DR2310.

Current operational status: Mined

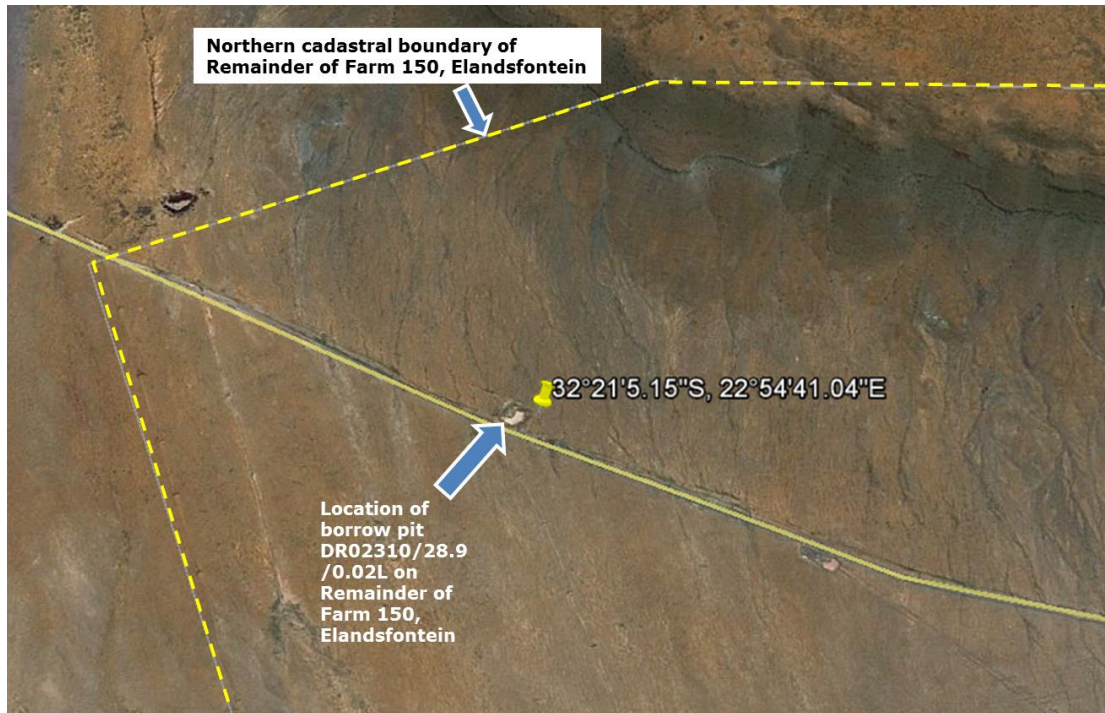
The relevant coordinates are 32°21'5.15"S, 22°54'41.04"E.



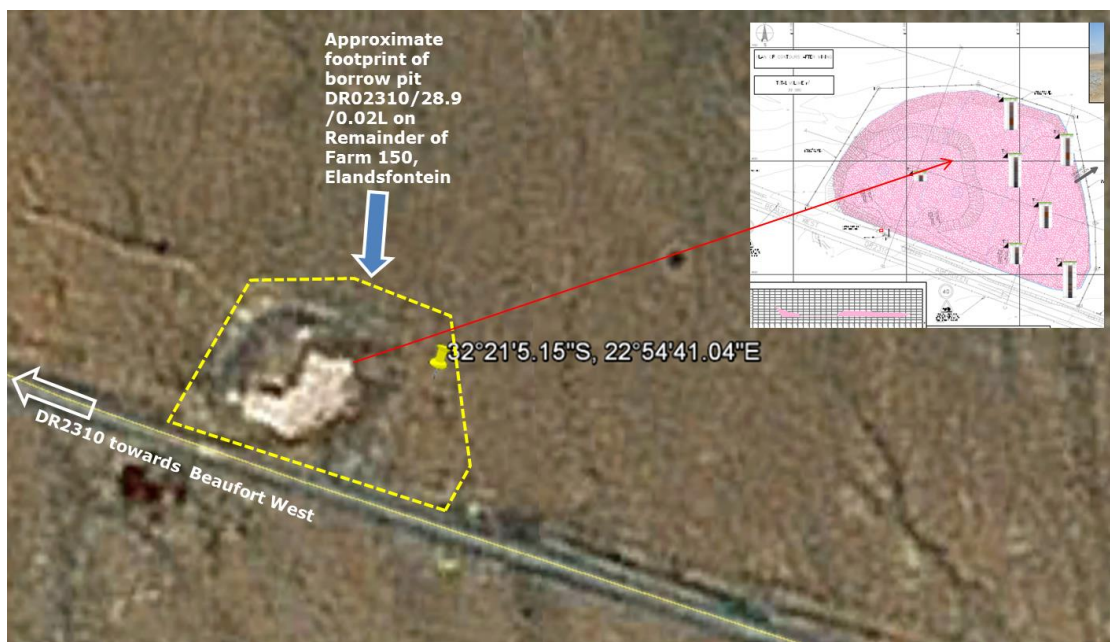
Map 3: Regional location of borrow pit



Map 4: Location of borrow pit on subject property



Map 5: Location of borrow pit next to DR2310



Map 6: Site Development Plan

6. Objective of this application

The objective of this application is to obtain the applicable land use rights in terms of the municipal Zoning Scheme Bylaw and Land Use Planning Bylaw (Provincial Gazette No. 8046 of 2018). These rights must allow the excavation of material for road maintenance and/or construction on about 3.2 ha on Remainder of Farm Elandsfontein 150.

This document constitutes:

- An application in terms of section 15(2)(o) of the bylaw to obtain the applicable land use rights as consent use to excavate material for road maintenance and/or construction on about 3.2 ha on Remainder of Farm Elandsfontein 150.

Please note the land use for which we are applying was approved by the Beaufort West Municipality in September 2016 as a temporary departure. However, the permitted land use rights were not exercised and have lapsed. *All other authorisations (e.g. licences, permits) to excavate material at the borrow pit have been obtained and are still in place.*

7. Preparatory work

RodePlan was appointed to compile and submit this application to the relevant authority in terms of the applicable municipal bylaw(s).

As service provider for WCG and MPAMOT, Mr B Rode met with Mr Wright (official of the Beaufort West Municipality) on Friday, 20 September 2024. The section below is a summary of the discussion:

1. Applicable land use rights: **Consent Use** on land zoned as Agriculture Zone I with the validity period equal to the life expectancy of the borrow pit.
2. The Beaufort West Municipality: Bylaw on Municipal Land Use Planning (PN 8046 of 2018) and Zoning Scheme Bylaw, 2020, serve as the relevant municipal directives regarding land use management, with a consent use application to be submitted in terms of section 15(2)(o) of the bylaw.
3. The Beaufort West Spatial Development Framework is the relevant directive for municipal spatial planning.
4. The provided application form should be used.
5. The application can be submitted electronically via *WeTransfer* to the following email address: christopher@beaufortwestmun.co.za
6. Application fee to be paid after the Municipality has confirmed a complete application and on the instruction of the Municipality.
7. The Municipality to then also inform RodePlan of the notification process and the responsibilities of the applicant in this regard.

8. Fees

The application fee will be paid on instruction of the Municipality.

9. Advertising process

From experience, the public participation could entail the following and of which the Municipality will inform the applicant of any responsibility in this regard:

- Obtain comment from Interested and Affected Parties.

- Place advertisements in the local media (and Official Gazette if required).
- Notify adjacent property owners of the application received.

10. Report structure

This report is structured to firstly introduce the application process as well as the development proposal in the context of a rationale for excavating material for road maintenance and/or construction. Section II then describes the legal framework and Section III the spatial directives as parameters for the establishment of a borrow pit. Section IV refers to the NEMA application. Sections V and VI interpret the receiving environment and provide detailed specifics of the development proposal.

Section VII provides information about the public participation process and we conclude, in Section VIII, by providing clarity on the wording of the land use change and desirability. Section IX includes reference to the annexures.

11. List of table and maps

Table 1: Details about the farm parcel and owner of the property concerned

Map 1:	Location next to DR1720
Map 2:	Location of subject property
Map 3:	Location of subject property
Map 4:	Coordinates of borrow pit on subject property
Map 5:	Borrow pit in local context
Map 6:	Site Development Plan
Map 7:	Spatial Planning Categories

Section II – Legislative and development framework

12. Land use legislation 12.1 Municipal Land Use Planning Bylaw

The Spatial Planning and Land Use Planning Act, 2013 (Act 16 of 2013) and the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014) are the governing framework for spatial planning and land use management in the province; replacing Ordinance 15 of 1985. The former is effective, countrywide, since 1 July 2015 and the Provincial Act is implemented in the Beaufort West municipal area since 7 October 2015.

SPLUMA requires that the use of land must be in accordance with the zoning of such land, *irrespective of the user*. Complying with SPLUMA, it is stated in LUPA that 'no person may utilise or develop land unless the utilisation or land development is permitted in terms of a zoning scheme or an approval consistent with this Act and applicable by-laws'. In accordance with this governing framework, the Municipality approved the Municipal Land Use Planning Bylaw as published in the Provincial Gazette 8046 on 22 February 2018 — being constitutionally empowered to make and adopt detailed laws pertaining to land use management. This bylaw governs land use planning and management in the municipal area. Its purpose is to, *inter alia*, make provision for rezoning, subdivision, consent use and departure in respect of land use, decision making in this regard as well as to provide for spatial development frameworks and zoning schemes.

A Zoning scheme regulates the way in which land is used. The relevant zoning scheme bylaw was promulgated under Provincial Gazette 8245, 5 June 2020 and stipulates that the land use of quarry is a consent use on land zoned as Agriculture Zone 1. Thus, the proposal to excavate material for road maintenance and/or construction implies a non-conforming land use on land zoned as Agriculture Zone I. Hence, as provided for in the relevant bylaws, a consent use application is submitted to the Beaufort West Municipality (as the authority of first instance) to accommodate the mining activity on the relevant property for a period of 30 years.

12. Land use legislation (continued) 12.2 Zoning Scheme Bylaw

The Zoning Scheme Bylaw regulates the way in which land is used. It confers and controls land use rights.

12. Land use legislation (continued) 12.3 Other relevant legislation (in the context of this application)

Spatial Planning and Land Use Management Act, 2013

The Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) aims to develop a new framework to govern planning permissions and approvals, sets parameters for new developments and provides for different lawful land uses in South Africa. SPLUMA is a framework law, which means that the law provides broad principles for a set of provincial laws that will regulate planning – the Western Cape does have a provincial law in this respect. SPLUMA also provides clarity on how planning law interacts with other laws and policies.

The Act emerged through the Green Paper and White Paper processes to replace (mainly) the Development Facilitation Act as the legislative instrument to regulate spatial planning and land use management in the country. As can be expected, the Act is all-encompassing and, amongst others, addresses the issue of putting in place a uniform, recognisable and comprehensive system of land use management to ensure economic unity and equal opportunity or equal access to government services. In this regard, the development principles as described in Section 7 of the Act is a key outcome. However, SPLUMA nor any other legislation determine or translate the legislated development principles into quantifiable outcomes.

National Environmental Management Act, 1998 (Act 107 of 1998)

See **Section IV**.

National Heritage Resource Act, 1999 (Act 25 of 1999)

See **Annexure 12**.

13. Policy guidelines

The writer of this report is not aware of any set of regulatory guidelines that specifically regulate or direct the siting of borrow pits. We acknowledge that land is a finite resource and the way it is used is one of the principal drivers of environmental change, with significant impacts on quality of human life and ecosystems as well as on the management of infrastructure.⁴ In this regard, there are national legislative and policy directives that guide the use of land — as is discussed in this section of the report.

The use of land is influenced by a number of important drivers, *inter alia*, demography, economic development, resource availability, environmental conditions, development costs, transport infrastructure and regional and local planning policies. These drivers are influenced by, *inter alia*, Government's goals and regulatory mechanisms, i.e target-setting for biodiversity conservation, infrastructure programmes, land reform, renewable energy generation, economic growth and poverty alleviation. In this regard, land users and/or owners, continually decide on the quantum, quality and location of product (and space) required to meet, *inter alia*, specific objectives — as highest and best use of land. The highest and best use of land is viewed as what is physically possible, appropriately justified and legally permissible. Road building material as a natural resource (product) does provide extraction opportunities to meet road maintenance and construction targets, i.e. a borrow pit is the highest and best use on about 3.2 ha of Remainder of Farm Elandsfontein 150.

⁴ <http://www.eea.europa.eu/highlights/data-and-maps/indicators/land-take-2/assessment#toc-4>.

13. Policy guidelines (continued)

13.1 Local

Integrated Development Plan Beaufort West Municipality, 2024/2025

The Integrated Development Plan provides an overview of the municipality's policies, activities and budget allocations. The IDP states that the Beaufort West municipal area has a backlog of 57km gravel roads that needs to be surfaced or rehabilitated.

The IDP states that the Central Karoo District Municipality identified the improvement and maintenance of district roads as a high priority to ensure safe road transport and to prevent and minimize the impact of possible disasters in the region. This objective was also identified in the municipal IDP under focus area 3 as basic service delivery. In this regard and aligned with the district objective, the Municipality prioritised the following approach:

- Invest to maintain – repair and upgrade to keep existing systems, services and infrastructure in a good working order.
- Invest to enhance – more, better and faster services, without major building investment.
- Invest to expand, where appropriate – new infrastructure requiring major improvements.

It is state that the geographical distribution of innovation infrastructure in Beaufort West Municipality is relatively good. However, many artillery roads require upgrading and others require construction with many of these roads providing access to farms and other settlements. It is also stated that the municipal area is particularly vulnerable to the effects of climate change.

13. Policy guidelines (continued)

13.2 Issue-specific

Western Cape Land Use Planning: Rural Guidelines, January 2018⁵

This set of guidelines has the following objectives:

- To promote sustainable development in appropriate rural locations and to ensure that the poor share in the growth of the rural economy.
- To safeguard priority biodiversity areas and the functionality of the Province's life supporting ecosystem services (i.e. environmental goods and services).
- To maintain the integrity, authenticity and accessibility of the Western Cape's significant farming, ecological, cultural and scenic rural landscapes, and natural resources.
- To assist Western Cape municipalities to plan and manage their rural areas more effectively, and to inform the principles of their zoning schemes.

⁵ Draft report for public comment.

- To provide clarity to the provincial government's social partners on what kind of development is appropriate beyond the urban edge, suitable locations where it could take place, and the desirable form and scale of such development.

The following principles underpin the Western Cape's Land Use Planning: Rural Guidelines in the context of this application:

- Decisions on rural development applications should be based on the spatial principles in the PSDF.
- Accessibility should be a key consideration in all development decisions.
- No development should be permitted below the 1:100 flood line.
- Priority should be given to the re-use of previously developed sites in preference to greenfield sites.
- All development in rural areas should be in keeping and in scale with its location, and sensitive to the character of the rural landscape and local distinctiveness.
- Only activities that are appropriate in a rural context, generate positive socio-economic returns, and do not compromise the environment or ability of the municipality to deliver on its mandate is supported.
- The cumulative effect of all ancillary and non-agricultural land uses should not detract from the rural character of the landscape and the primary agricultural activities.

The provincial approach to managing development pressures for the rural land uses is covered in 9 categories of which we only list and discuss the application-specific category of 'industry in rural areas' – extracting minerals is identified as a rural industrial activity. This category (and activity) is critical towards strengthening the rural economy through the development of rural industrial activity in suitable locations and at appropriate scale. The municipal Integrated Development Plan is consistent with this objective in advancing the upgrading of gravel roads as of high economic value. The provincial policy places the activity in three spatial planning categories, viz. settlement, agriculture and buffer 2. In this regard, it is stated that 'Extractive industry (i.e. quarrying and mining)' have to take place at the mineral or material source.

14. Programme response

We structure our response to the section on the regulatory environment by considering the provincial objectives regarding road maintenance and safety and secondly the land use management issue. In **§18** we deal with the site selection criteria.

We believe that the proposed activity promotes and supports all policy guidelines and development objectives/targets as formulated by the government in respect of road maintenance and safety. We already mentioned that the use of land is influenced by a number of important drivers and these drivers are influenced by Government's goals. In this regard, we believe that the mining activity on about 3.2 ha of Remainder of Farm Elandsfontein 150, concurs with road maintenance and construction targets in a cost-effective and sustainable way. This is also as a result of the approach to source road building material as close as possible to the worksite thereby reducing haul distances and wear and tear on the surrounding road network. Furthermore, we believe that this particular mining activity is permissible in terms of the relevant bylaws and for a period of 30 years.

Section III – Spatial directives

15. Spatial rationale

What determines the optimum location of a borrow pit?

As with the extraction of any mineral, the optimum location of the mining activity is at the mineral or material source. This notwithstanding, the following criteria was used to determine the location of the borrow pit:

- The availability and type of material.
- The current land use and sites deemed favourable for the expansion/creation of a borrow pit by the landowner.
- The type and condition of the vegetation on site, and the proximity to protected areas.
- The presence of any cultural or archaeological artefacts or structures.
- The potential impacts of creating a borrow pit including visual, erosion, dust, watercourse sedimentation, failure of rehabilitation.
- The proximity to services such as power and telephone lines and farm infrastructure such as water pipes, and the potential disruption to these.
- The proximity to farm or other dwellings and the potential dust and noise nuisance to these.
- The ability to stockpile.
- The potential operational and post-closure risks to people/animals in the vicinity.

In the selection and development of a specific site, cognizance is also taken of the quantity and quality of road building material needed for the regravelling and/or maintenance of the entire length or section(s) of a particular road; as a once-off intervention and/or in terms of future requirements.

16. Regional methodology for site selection

As far as a regional methodology for site selection is concerned, the landscape and biodiversity can be identified to be under constant threat from different types of development. In this regard, the mapping of critical biodiversity areas and priorities for conservation provide insight into possible environmental sensitivities and threats. In addition, the (agricultural) land capability index is a key informant to land use management.

As stated, there is no study that identifies site level and/or regional factors to be considered in the siting of borrow pits. In this regard, we refer to a study⁶ to identify suitable locations for wind energy facilities that proposed a “Hybrid” method that considers the issue of cumulative impacts as well as adding “positive criteria” layers to a primary “negative mapping” technique. An approach that was adopted to identify the subject property and the specific location.

⁶ Provincial Government Western Cape, Strategic Initiative to Introduce Commercial Land Based Wind Energy Development to the Western Cape, Towards a regional methodology for wind energy site selection, Report 6: Proposed project level methodology, May 2006.

Our approach also includes the economic use of land as a vital cog in the present-day planning and management paradigm. We are also aware of the natural resource capacity and the competition for land between different uses as key variables that influence the (cost) and use of land. In this regard we applied the principles of economies of scale and highest and best use of land to understand the rationale for the proposed land conversion.

There is also no guidance on the preferred (optimum) size of a borrow pit. This aspect was considered based on resource availability and volume of material required.

17. Spatial Development Frameworks

Western Cape Provincial Spatial Development Framework (2014) (PSDF)

The methodology and procedure used to draft the PSDF, were based on a review of the 2009 provincial SDF and replacing it with a *transversal* Provincial framework. In this regard, three interrelated themes were used, i.e. sustainable use of spatial assets, opening up opportunities in the space-economy and developing integrated and sustainable settlements.

In taking the national and provincial agendas forward, the PSDF 2014 applies the following five spatial principles:

1. Spatial justice
2. Sustainability and resilience
3. Spatial efficiency
4. Accessibility
5. Quality and liveability.

Are these principles in line with the development principles in the Spatial Planning and Land Use Management Act as the 'rule' of how spatial planning (and land use management) should be done henceforth? Yes. However, there are slight nuanced differences in name and content. Note that, in SPLUMA, there are some additional principles and sub-principles as directives for, specifically, land use management. Basically, the same results should be achieved if the SPLUMA and PSDF principles are 'considered' as concerns in decision-making, and by using the means provided in SPLUMA.

In the context of this application, the current provincial road network is experiencing maintenance and, occasionally in certain areas, capacity and safety problems at current utility levels. This hinders accessibility for many users (and would-be users) to (economic and growth) opportunities.

We refrain from any further interpretation and discussion of the PSDF based on the assumption that the provincial Rural Guidelines (2015) provides detailed guidelines for rural land use management in the spatial context ordered by the PSDF.

Central Karoo Spatial Development Framework

The district SDF divides the jurisdiction area into functional areas based on Spatial Planning Categories (SPCs) of the Bioregional Planning Framework (BPF)

for the Western Cape. Basic guidelines for land use management for the SPCs are used in the District SDF as this supports alignment with the Western Cape Bioregional Planning Framework (BPF) and PSDF. The Central Karoo is structured into functional areas as follows:

- Rural areas
- Rural settlements
- Institutional settlements
- Local towns, and
- Main local towns.

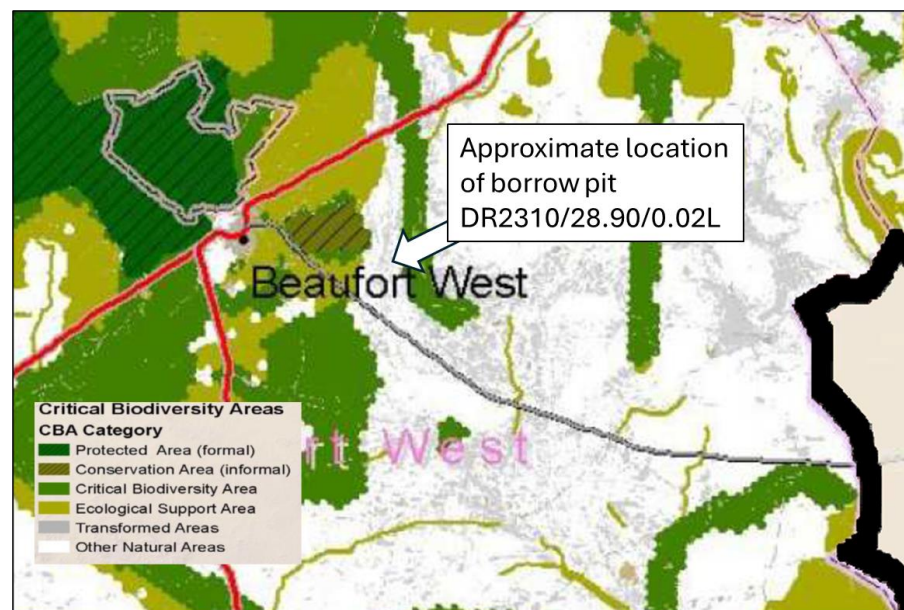
It is particularly important to note, *inter alia*, the following conditions for agricultural areas, given the dominance of the sector in the Central Karoo:

- Care should be taken to maintain the rural character of non-urban areas.
- The formation of small rural towns should be avoided.
- Areas should provide for the development of alternative agricultural use, to make a positive contribution to sustainable economic growth.

Beaufort West Spatial Development Framework

It is stated in the Spatial Development Framework (SDF) of the Beaufort West Municipality that the Bioregional Planning Framework will guide spatial planning and management in the Western Cape. Hence, the formulation and demarcation of Spatial Planning Categories (SPC) in the municipal area were based on the bioregional planning principles.

The SPCs for the rural area include the following categories, viz. core, buffer, intensive agriculture and urban settlement with a basic description of each. The SDF does include a spatially-referenced map of 'demarcated' SPCs at a very coarse-scale as well as the map below illustrating the critical biodiversity areas at the same scale (see **Map 7**). Please note that borrow pit DR2310/28.90/0.02L is not located within a critical biodiversity area.



Map 7: Spatial Planning Categories

The land-use guidelines in the SDF do include conditions applying to development proposals in rural areas. However, these conditions, besides being generic, are presented as high-level criteria and are grouped under the following headings, viz. scale of development, subdivision of land and protecting the environmental integrity. The latter issue is dealt with in mandatory environmental processes with only the scale of development a relevant concern as subdivision of land is not applicable to the PGWC regravelling programme. In this regard, it is stated that the scale of development should not be too large in comparison with the rural character of the environment.

The land-use activity of excavating material for road maintenance and/or construction, viz. quarrying is included in the framework but as an economic subsector. Hence, this leaves a void as to guidelines, i.e. the preferred scale of development. Furthermore, the SDF does not provide any spatial and/or development guidelines regarding, for example site identification, form and decommissioning of borrow pits. The only reference to mining activities in the SDF is to 'exploitation' in the form of uranium mines. Notwithstanding the use of this negative connotation, the occurrence of uranium mines is allowed subject to no residential development on the mining site. This we believe represents an economy-led response to spatial development in the municipal area. When considering economies of scale in road maintenance, it is imperative that the road building material source should be available within a short distance from the worksite thereby reducing haul distances and wear and tear on the surrounding road network. It would also not make financial sense to source material from sources that are located some distance from the work site.

The SDF also does not provide a site level methodology for determining location and development of borrow pits to assist in both the detailed preparation of proposals and assisting the local authority in assessing such proposals. In the absence of a provincial, regional and local assessment process, the preferred location of borrow pits was based on the availability, type and quality of road maintenance material. Furthermore, the identification and selection of the location of this borrow pit was also based on a phased approach where alternatives were considered, i.e. screening. The preliminary screening phase typically results in the exclusion of 50% or more of potential sites. Sites which are potentially suitable for the creation or expansion of borrow pits proceed to the second phase of screening which involves a botanical and heritage assessment; resulting in a preferred mine site. In the end, the screening and the application of the before-mentioned criteria and anticipated risks were used.

Please note that the suitability of the proposed site to excavate road building material is evidenced by the 2018 municipal approval of the land use as a temporary departure.

Section IV – NEMA application

19. Environmental impact assessment

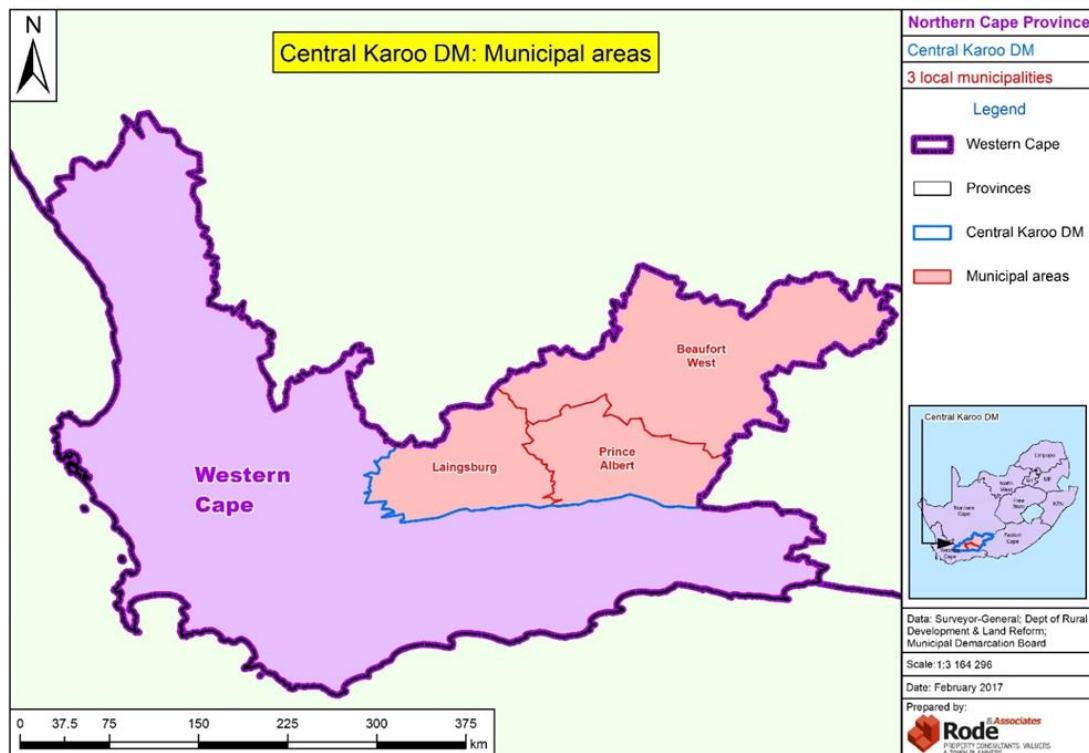
The Western Cape Government is required to (determine and then) prepare and submit an *Environmental Management Programme* to the national Department of Mineral Resources for their approval, prior to the extraction of any material from a proposed borrow pit or quarry. Since December 2014, this department is now also the decision-making authority regarding the National Environmental

Management Act (NEMA) (No. 107 of 1998) and its listed activities, promulgated in June 2010, in GN 544, 545, and 564. The DMR issued the Environmental Authorisation in 2020 (see **Annexure 8**).

Section V – Development context

20. Receiving environment 20.1. Regional and local context

This land development application concerns properties in the jurisdiction area of the Beaufort West Municipality with Central Karoo District Municipality the category-C municipality (see map below).



Map 7: Central Karoo region with municipalities

The Central Karoo district can be described as having, *inter alia*, the following local characteristics:

- It is a small to medium-town sub-region with a low level of development despite the strategic location in terms of the road and rail national transport corridor.
- Sparsely populated towns with a number of larger towns serving as “agricultural service centres”; spread evenly throughout the district as central places.
- High rate of unemployment, poverty and social grant dependence.
- Prone to significant environmental changes owing to long-term structural changes (such as climate change, energy crises and other shifts).
- Geographic similarity in economic sectors, growth factors and settlement patterns.

- Economies of scale not easily achieved owing to the relatively small size of towns.
- A diverse road network with national, trunk, main and divisional roads of varying quality.
- Potential and impact of renewable energy resource generation.
- Potential and impact of 'fracking', i.e. the possible exploration for shale gas.

21. Development specifics

21.1. Site information

The potential source of wearing course gravel material lies on the northern side and next to DR2310, at km 23. The pit is 23 km east of the intersection of DR2310 and R61, and about 25 km east of Beaufort West.

This proposed enlargement of a roughly oblong existing borrow pit is located on a flat pediment with a slight slope to the southeast and which DR2310 traverses in a roughly east west direction. The site lies on private land to the north (left hand) side of DR2310. An electricity power line crosses the field. It has an east-west alignment and its servitude defines the northern limit of potential gravel extraction. An ephemeral natural water courses marks the eastern possible limit of borrow pit enlargement. The existing pit holds runoff from the roadside drain.

Please see **Annexure 7** for a detailed description of the site attributes.

21. Development specifics (continued)

21.2. Ownership

The prime site for the borrow pit involves one property. The details of the land parcel, farm name and owner are tabled below. The SG diagram is attached as **Annexure 3**.

Table 1: Details about the farm parcel and owner of the property concerned

Farm	Parcel number	Title deed doc no.	Farm size (ha)	Owner's name
150	Remainder	T14743/2001	3328	AGE van Velden

21. Development specifics (continued)

21.3 Mine plan

The site development (mine) plan is attached as **Annexure 5**.

21. Development specifics (continued)

21.4. Infrastructure

The key components of the proposed borrow pit includes, *inter alia*, the following, which are discussed in more detail below:

- Access road and site access.
- Additional project infrastructure.

Access road and site access

No new roads will be constructed to provide access to the proposed site or to remove material from source. Access will be obtained from the existing DR2310 road.

Additional project infrastructure

No permanent structure will be erected on the site. Construction equipment, vehicles and other amenities, e.g. portable toilets and waste bins would be used and stored on-site and removed when operations stop.

21. Development specifics (continued) 21.5. Development impacts

See **Annexure 10** for the possible development impact of the mining activity and for mitigating measures.

21. Development specifics (continued) 21.6 Title deed

The title deed of the property is attached as **Annexure 2**. A detailed deeds search was not completed as part of this land development application. We also attach a conveyancer's certificate as **Annexure 9**.

21. Development specifics (continued) 21.7 Benefits of the programme

The main benefit of sourcing the material on location is a better road network. The excavation of material and subsequent road work would also benefit road users and local inhabitants by ensuring greater road safety, minimising maintenance-related disruptions and supporting the local economy by ensuring continual access to markets and tourism destinations.

Section VI – Development parameters

22. Land use parameters

At the time of writing, the applicant was not aware of any documented set of land use parameters, pertaining to (specifically) excavating material for road maintenance and/or construction. We propose that the Municipality considers development parameters as conditions of approval in accordance with the municipal Zoning Scheme Bylaw and as set out below. Please also note the conditions made subject to the Environmental Authorisation.

The following section includes some (proposed) parameters in the context of the subject property and borrow pit DR2310/28.90/0.02L.

Parameter 1: Modification

The local authority will be informed of any substantial changes to the mine site, mine plan and the structures after approval of the consent use.

Parameter 2: Existing servitudes

Observe existing servitudes.

Parameter 3: Building lines (project infrastructure):

To be 30 metres from all cadastral boundaries.

Parameter 4: Visual and environmental impact

Visual and environmental impacts must be addressed according to DMR requirements.

Parameter 5: Land clearing, soil erosion and habitat impact

Land clearing, soil erosion and habitat impact must be addressed according to DMR requirements.

Parameter 6: Noise, air quality and nuisance

Noise, air quality and nuisance must be addressed according to DMR requirements.

Parameter 7: Project infrastructure

No permanent structure can be erected on the mine site.

Parameter 8: Decommissioning

Decommissioning (including rehabilitation) must be addressed according to DMR requirements.

Section VII – Communication and participation

23. Interested and Affected Parties

We believe the municipality will inform the applicant of any responsibility regarding the notification process, i.e. notifying Interested and Affected Parties and to advertise the application.

Please note that, in 2015, Heritage Western Cape issued no-objection letter regarding the disability of the borrow pit and the suitability of the location (see **Annexure 12**).

Section VIII – Conclusion

24. Wording of land use change

It is recommended that consideration be given to the following:

An application in terms of section 15(2)(o) of the municipal land use planning bylaw read together with the Zoning Scheme Bylaw for excavating material for road maintenance and/or construction on about 3.2 ha of Remainder of Farm Elandsfontein 150. The duration of the consent use would be 30 years, i.e. the life span of the mine.

25. Desirability

The development will introduce a site-specific land use that is different to the established land use of farming. However, as with previous excavations, it is foreseen that the impact on on-site and adjacent land use because of the mining activity, is very low if mitigating measures are applied, i.e. farming can continue optimally. When applying the principles of economies of scale and highest and best use of land, the rationale for 'mining' on the site becomes clear. In this regard, the development promotes the (better) economic use of land, cost-effective road maintenance and construction and conforms to the outcome of socio-political interaction.

We believe the change of the land use on Remainder of Farm Elandsfontein 150, (1) will not have a significant effect on the health and well-being of people in the surrounding areas, (2) the environment or cultural heritage, and (3) the subject land can revert to its previous lawful use upon the expiry of the use right.

It is also clear that the proposal conforms to the intention of the development principles listed in section 7 and section 58 of the Spatial Planning and Land Use Management Act, 2016 (Act 16 of 2013) and the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), respectively.

We also believe that this motivation report (as referenced in the following section) includes sufficient information regarding (1) the criteria as listed in section 65 of the municipal bylaw, which must be considered in decision making on a land development application. The relevant response is given after each of the numbered criteria.

- (1) *When the Municipality considers an application, it must have regard to the following:*
 - (a) *the application submitted in terms of this Bylaw*
 - This land development application is submitted in terms of section 15(2)(o) of the municipal land use planning bylaw.
 - (b) *the procedure followed in processing the application*
 - The Beaufort West Municipality is to inform the applicant of any responsibility for the processing and notification of the application.
 - (c) *the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding the desirability of proposed land uses*
 - The desirability of the proposed utilisation of land, viz. extraction of material, is explained in this report.
 - (d) *the comments in response to the notice of the application, including comments received from organs of state, municipal departments and the Provincial Minister in terms of section 45 of the Land Use Planning Act*
 - The Beaufort West Municipality is to inform the applicant of any responsibility for the processing and notification of the application.
 - (e) *the response by the applicant, if any, to the comments referred to in paragraph (d)*
 - The applicant will respond to any comments received from any Interested and Affected Party.
 - (f) *investigations carried out in terms of other laws that are relevant to the consideration of the application*
 - This report includes reference to investigations carried out in terms of 'other' laws.
 - (g) *a registered planner's written assessment in respect of an application for—*
 - (i) *a rezoning*
 - (ii) *a subdivision of more than 20 cadastral units*
 - (iii) *a removal, suspension or amendment of a restrictive condition if it relates to a change of land use*
 - (iv) *an amendment, deletion or imposition of additional conditions in respect of an existing use right*
 - (v) *an approval of an overlay zone contemplated in the zoning scheme;*
 - (vi) *a phasing, amendment or cancellation of a subdivision plan or part thereof*
 - (vii) *a determination of a zoning*
 - (viii) *a closure of a public place or part thereof*
 - This is the responsibility of the Beaufort West Municipality.
 - (h) *the impact of the proposed land development on municipal engineering services*
 - Municipal services will not be used.
 - (i) *the integrated development plan, including the municipal spatial development framework*
 - These plans have been assessed in this report to guide the desirability of the proposed mining activity.
 - (j) *the integrated development plan and spatial development framework of the district municipality, where applicable*
 - These plans have been assessed in this report to guide the desirability of the proposed mining activity.
 - (k) *the applicable local spatial development frameworks adopted by the Municipality*

- These plans have been assessed in this report to guide the desirability of the proposed mining activity.
- (l) *the applicable structure plans*
 - Not applicable.
- (m) *the applicable policies of the Municipality that guide decision making*
 - These policies have been assessed in this report to guide the desirability of the proposed mining activity.
- (n) *the provincial spatial development framework*
 - This plan has been assessed in this report to guide the desirability of the the proposed mining activity.
- (o) *where applicable, a regional spatial development framework contemplated in section 18 of the Spatial Planning and Land Use Management Act or provincial regional spatial development framework*
 - Not applicable.
- (p) *the policies, principles and the planning and development norms and criteria set by the national and provincial government*
 - These guidelines (where applicable) have been assessed in this report to guide the desirability of the proposed mining activity.
- (q) *the matters referred to in section 42 of the Spatial Planning and Land Use Management Act*
 - We are confident that the aspects to be considered in decision making by the relevant entity have been addressed in this report.
- (r) *the principles referred to in Chapter VI of the Land Use Planning Act*
 - We are confident that the aspects to be considered in decision making by the relevant authority have been addressed in this report.
- (s) *the applicable provisions of the zoning scheme*
 - The provisions in the zoning scheme bylaw have been adhered too.

Finally, we believe this document contains all the necessary information to enable the relevant authority to process and the decision-making entity to evaluate this land development application.

Section IX – Annexures

Annexure 1	Power of Attorney
Annexure 2	Title deed
Annexure 3	SG Diagram
Annexure 4	Application form
Annexure 5	Site Development Plans (Mine plan)
Annexure 6	Location map
Annexure 7	Previous approval
Annexure 8	Environmental Authorisation
Annexure 9	Conveyancer certificate
Annexure 10	Botanical report
Annexure 11	Borrow pit report
Annexure 12	HWC comment
Annexure 13	Expropriation notice