

## 4.3

**ERF 6135, 18 CLIFF ROAD AND A PORTION OF REMAINDER ERF 249, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CLOSURE OF PUBLIC OPEN SPACE, REZONING, CONSOLIDATION AND REGISTRATION OF A SERVICES SERVITUDE: MESSRS WRAP PROJECT OFFICE ON BEHALF OF D & P TURPIE AND OVERSTRAND MUNICIPALITY**

**6135 & Rem 249 HWC (5140/2025)**

**B Minnaar**

**(028) 313 8900**

**Hermanus Administration**

**9 April 2026**

## 1. EXECUTIVE SUMMARY

An application has been received on 1 December 2025 from Messrs WRAP Project Office on behalf of D & T Turpie and Overstrand Municipality applicable to Erf 6135 & a portion of Remainder Erf 249, Westcliff, Hermanus in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the following:

- ❖ **Closure of public place** in terms of Section 16(2)(n) of the By-Law to accommodate the closure of a public road portion of Remainder Erf 249 Hermanus (adjoining Erf 6135 and 1840 Hermanus) with extent the of  $\pm 446\text{m}^2$ ;
- ❖ **Rezoning** in terms of Section 16(2)(a) of the By-Law of a portion of Remainder Erf 249, Hermanus from Transport Zone 2: Road and Parking to Residential Zone I: Single Residential (SR1);
- ❖ **Consolidation** in terms of Section 16(2)(e) of the By-Law of Erf 6135, Hermanus (Westcliff) with a portion of Remainder Erf 249, Hermanus (Westcliff) Hermanus to create a single residential property of  $\pm 1281\text{m}^2$  in extent, and
- ❖ **Exemption of Subdivision / Consolidation** in terms of Section 26 of the By-Law to allow the registration of a service servitude.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the proposed Consolidation Plan (with 2m wide service servitude) is attached as Annexure C.

## 2. DECISION AUTHORITY

Municipal Planning Tribunal

## 3. BACKGROUND / SITE HISTORY

The property owner of Erf 6135, Hermanus intends to acquire the adjacent property (a portion of Remainder Erf 249, Hermanus) which is Municipal Property and is currently zoned as Transport Zone 2: Road and Parking. The acquisition of this property will enable the property owner to consolidate the aforementioned property and their property to form a single property.

The portion of Remainder Erf 249, Hermanus has services along the northeastern boundary and therefore the following applications is proposed:

- Closure of a public place (Road);
- Rezoning,
- Consolidation, and
- Exemption of subdivision / consolidation.

#### 4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation of the applicant is summarised below (the detailed motivation report is attached as Annexure B for additional information:

- On 27 August 2025, the sale of a portion of municipal property (a portion of Remainder Erf 249, Hermanus) was in principle approved by council.
- The application is to accommodate the acquisition of a portion of land that is underutilised by the municipality as well as to improve security.
- The application is for the following:
  - Closure of a public place (Remainder of Erf 249, Hermanus);
  - Rezoning of the Remainder of Erf 249 Hermanus from Transport Zone 2: Road;
  - Parking to Residential Zone 1: Single Residential;
  - Consolidation of the Remainder of Erf 249 Hermanus with Erf 6135, Hermanus, and
  - Exemption to permit the registration of a services servitude.
- A relatively small portion of the road will be incorporated into the application area.
- The closure of a portion of road will be rezoned to allow for the consolidation with Erf 6135, Hermanus.
- A portion of Remainder Erf 249, Hermanus does not fulfil any active transport functions but used by the municipality for engineering services that will remain untouched. The Overstrand Municipality has confirmed that this strip of land is not required for the current or future connection of Westcliff Road and Cliff Road and has agreed to its disposal to facilitate consolidation with Erf 6135, Hermanus.
- No services are impacted by the proposal since a 2m wide service servitude will be accommodated to allow the Municipality's rights and responsibilities relating to the service maintenance to remain fully intact.
- The rezoning of a portion of Remainder Erf 249, Hermanus will allow the property to be consolidated with Erf 6135, Hermanus and will only be utilised for garden purposes, access and egress and the construction of a boundary fence or wall.
- Consolidation will ensure that the newly acquired portion of land becomes an integral part of the parent property, thereby enabling a coherent and legally recognised cadastral unit for planning, building plan approval, and land use management purposes.
- There are no restrictions contained in the title deed that would prohibit the proposed development.
- Engineering services will remain intact and the proposal to accommodate a 2m wide services servitude along the northeastern portion of a portion of Remainder Erf 249, Hermanus will ensure that services are not impacted on.
- Access and egress to the property will be gained from Westcliff Road or Cliff Road, it is still to be decided.
- No additional structures are proposed on a portion of Remainder Erf 249, Hermanus apart from a boundary wall or fence which will be in keeping with the surrounding residential context.

- The application is located within the Coastal protection EMOZ, and the proposal is not expected to have an impact on the purpose of the Coastal protection EMOZ.
- The property is located in the Coastal Strip HPOZ, and the proposal is not expected to have an impact on the Coastal Strip HPOZ since the character of the area will not negatively be impacted on.
- The Overstrand Municipality Spatial Development Framework (2020) supports the rationalisation of underutilised public land, reinforcement of established residential areas, and the promotion of orderly urban development.
- The proposal will not have a negative impact on the surrounding properties.
- The proposal will not contribute to densification and is therefore consistent with the Overstrand Municipality Growth Management Strategy.
- The planning principles will be discussed later in this report.

## 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local Newspaper	<b>Yes</b>	22/01/2026	27/02/2026
E-mail notices & site notice	<b>Yes</b>	22/01/2026	27/02/2026
Internal departments	<b>Yes</b>	22/01/2026	27/02/2026
Ward Committee	<b>Yes</b>	22/01/2026	27/02/2026
External Departments	<b>Yes</b>	22/01/2026	27/02/2026
Total comments	<b>FIVE (5) OBJECTIONS &amp; ONE (1) COMMENT</b>		
Total letters of support	<b>NONE</b>		
Was public participation undertaken in accordance with section 46- 50 of the By-law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly (if no, elaborate below):			<b>Yes</b>
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			<b>Yes</b>

## 6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
<b>Building Control</b>	22/01/2026	No objection.
<b>Fire Department</b>	29/01/2026	No objection subject to compliance with the NBR, SANS 10400: T & W and the Overstrand Community Fire Safety By-Law PN 6454-2007.
<b>Services Report</b>	13/02/2026	See Annexure D.

<b>Property Administration Department</b>	28/01/2026	See Annexure E.
<b>Environmental Management Services Department</b>	09/04/2026	See Annexure F.

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

The public participation included notices sent to the relevant affected neighbours via email, a site notice was displayed as well as an advertisement was placed in the Village News newspaper.

Five (5) objections and one (1) comment was received during the public participation phase (attached as Annexure G). The applicant was provided the opportunity to response to the objections and comments received (attached as Annexure H).

- ❖ *M Clark*
- ❖ *E Potgieter*
- ❖ *CA Dyer*
- ❖ *VY Calvert*
- ❖ *L Venter*
- ❖ *A Hopgood*

The objections, comments, applicants' response to objections/comments and the town planner's response is summarised below:

### **OBJECTION**

 **L. POTGIETER**

*I am the registered owner of Erf 111, which is directly affected by the proposed sale of a servitude over Erf 249 to the owner of Erf 6135. I hereby lodge a formal objection to this proposed transaction.*

*The proposed sale must be viewed in the context of the approved and anticipated development on Erf 6135, which will already result in the loss of approximately 90% of my existing sea view. The alienation of the servitude over Erf 249 would eliminate the last remaining portion of sea view available to my property, resulting in a material and permanent loss of amenity. This sale will directly implicate the value of my property and my access to the cliff path.*

#### **1. Loss of Amenity and Property Rights**

*While there is no absolute right to a view, South African planning law recognises the protection of existing amenity and the principle that development and land disposal decisions must not impose unreasonable or disproportionate harm on neighbouring properties. The cumulative impact of the development on Erf 6135 together with the sale of the servitude over Erf 249 creates exactly such an outcome.*

*The proposed sale would confer a private benefit on the owner of Erf 6135 at the direct expense of neighbouring landowners, including myself, without sufficient public-interest justification.*

## **2. Conflict with SPLUMA Principles**

Section 7 of the Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA) requires that all land use and land disposal decisions promote:

- Spatial justice – preventing unfair advantage to one landowner over others;
- Spatial sustainability – protecting existing neighbourhood character and environmental assets;
- Efficiency and good administration – avoiding decisions that create foreseeable disputes and long-term planning conflicts.

*The sale of this servitude undermines these principles by enabling overdevelopment, eroding established amenity, and setting an undesirable precedent for the disposal of servitudes that function as de facto development extensions.*

## **3. Precedent and Planning Integrity**

*Although the advertisement may state that the servitude is intended for limited purposes such as gardening or security, such assurances are not permanent land-use controls. Once sold, the servitude becomes a real right, and future applications or incremental intensification may follow. Council would have limited ability to reverse the consequences of this decision.*

*Approving the sale would therefore compromise the integrity of the planning framework and expose Council to future objections and disputes.*

## **4. Public Interest Considerations**

*Municipal land and servitudes are held in trust for the public. Their disposal must demonstrably serve the broader public interest, not merely enhance the development potential or value of an adjacent private erf. In this instance, no clear public benefit has been demonstrated that outweighs the significant negative impact on surrounding properties.*

## **5. Request**

- *For the reasons set out above, I respectfully request that Council:*
- *Refuse the proposed sale of the servitude over Erf 249; or At minimum, defer the decision pending a full assessment of cumulative visual, spatial, and amenity impacts on affected neighbouring properties.*

*I trust that Council will give due consideration to the long-term planning implications, fairness, and legal principles applicable to this matter.*

## **OBJECTION**

 VY CALVERT

1. *The rezoning prohibits access from my property to the Cliff Path, and the sea view.*
2. *If the municipality rezones state owned land and open spaces for building use, then Hermanus open spaces will no longer be what open spaces are intended for. One approval will lead to another until the entire Hermanus will be cluttered with huge buildings.*

**OBJECTION**

 M CLARK

*I wish to object to the closure of public place, rezoning and consolidation in respect of the two abovementioned erven.*

*The walkway between Westcliff Road and Cliff Road is well used by people wishing to access the Cliff Path.*

*May I suggest that only a portion of the remainder of Erf 249 be sold and consolidated leaving an alley way for the use of pedestrians.*

*This would not create a precedent as there is already an alley running from Smuts Avenue to Westcliff Road (between erf 386 and 387 and between erf 378 and 368). This continues from Westcliff Road down to the cliff path between erf 359 and 361.*


*I would appreciate it if my suggestion could receive serious consideration.*

**OBJECTION**

 CA DYER

1. *Expropriation of land should not be allowed without good reason. The new owners were aware of the extent of the land for sale and bought it as such. It seriously concerns us that Town Planning would even consider selling this servitude and in so doing setting a precedence.*
2. *The further concern is that the ratio per square meter is substantially lower than what was paid for the property – why !!*
3. *The servitude is used by people walking through from Westcliff Road onto the access was to the Cliff Path.*

**OBJECTION**

 A HOPGOOD


*I am a neighbour at 76 Westcliff Rd and received the notification via your email. My erf number is 110. Unfortunately, you have sent me an Adobe document which I cannot edit in a sensible manner. Hence my Objection is noted in this email.*

**Objection to sale of Public Land to an individual property owner:**

*The Overstrand Municipality is a public institution and owns land on behalf of all the residents and ratepayers of the Overstrand Municipal Area. Accordingly, its primary duty is to serve the interests of the entire community and in this particular respect, the residents of the suburb of Westcliff. The sale of public land to an individual landowner is not a mandate and / or power that can be assumed the Municipal Council has been granted in terms of its establishment, without a sufficient public interest purpose to be noted. One of the primary arguments that can be put forward in this matter is there is a potential decision of the Municipality to favour the interests of one particular landowner over the wider interests of the community. The particular piece of land is used as a walkway through to the coastal footpath and this use accords with its land use as a parking area. There is no sufficient cause to alter the land use for which it was established, and it is quite apparent that the sale of this piece of municipal land (held by the Municipality on behalf of the entire community and for the use of the entire community) is to serve the interests of one particular landowner.*

*A further ground to object to the sale of the land is the arbitrary value determined for this piece of land – R2000 per square metre. It is quite apparent that even if it could be argued that the Municipality should sell municipal land held in the public interest that this price is completely inadequate. This further indicates that the Municipality has not considered its fiduciary duties in terms of the Public Finance Management Act where it may not enter into a financial transaction such as the sale of land without determining the market value of such land and ensuring that this value is realised in the sale. One questions whether a sworn valuation of the piece of land was obtained from a registered professional valuator taking into account the sale price. Regardless of whether any restrictions are placed on the erf that the Municipality wishes to sell to D & P Turpie, the key point remains that the land will pass from the ownership of a public body to a private person with all the attendant rights of private land ownership. This cannot be seen as the Municipality taking its responsibility to the wider community of Overstrand and Westcliff suburb as its paramount concern. Accordingly, I wish to record my strong objection to this sale transaction and as well as the change in land use.*

#### **COMMENTS**

 **L. VENTER**

*I am not objecting against the principle that a garden is made, but the property therefore almost get doubled against I assume fair price, though owner of Erf 6135 (which we haven't met yet) paid almost three times more for plot 249.*

*I have state with plans to change our house Erf 310 Mnandi Trust; JM; LM Venter through AKA Projects. Currently our house was and is built next to plot 6900 (Matty's) with a 1 metre building line. I would like to extend my garage (new) on that line as well as have a 1m building line (as per original plan) on the side of the NTS. We don't have any neighbours there.*

#### **RESPONSE FROM APPLICANT AND TOWN PLANNER ON SUMMARISED POINTS:**

##### **Objection Point 1: Loss of public access and pedestrian movement**

##### **APPLICANT'S RESPONSE:**

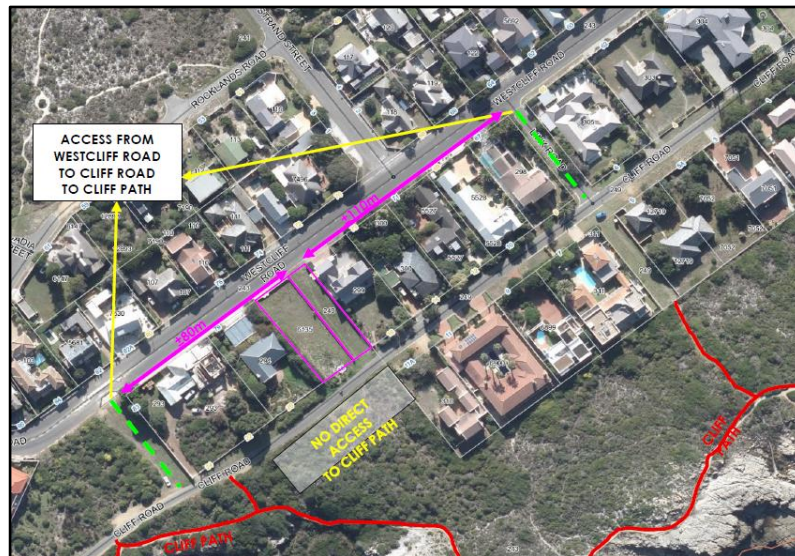
Several comments raised concern that the proposal will restrict pedestrian movement between Westcliff Road, Cliff Road, and the coastal walkway. Objectors indicated that the Remainder of Erf 249, Hermanus is currently being used by pedestrians as an informal route toward the coastline.

It is acknowledged that the land is currently accessible to the public as it forms part of municipal land. The area in question is however not a constructed road or formal pedestrian walkway. It forms part of the Road reserve that was historically planned but never developed as a roadway. The portion therefore exists as an undeveloped grassed strip of public land and does not constitute a designated pedestrian access route.

The Overstrand Municipality has assessed the land and confirmed that this portion of the road reserve is not required for the operation, upgrading, or future extension of the Road, and Council has subsequently approved the disposal of the land subject to the

required statutory planning processes. The proposed closure and consolidation are therefore consistent with the Municipality's assessment that the land is surplus to its public infrastructure requirements.

While the land may currently be used informally by pedestrians due to its public ownership, the proposal will not remove formal access to the coastline or coastal walkway. Established public access points remain available within the surrounding area refer to the figure below, including access routes located further along the road network in close proximity to the site. These access points will continue to provide convenient pedestrian connections to the cliff path at strategic points closer to access the cliff path directly.



The proposal therefore relates only to the consolidation of a surplus portion of undeveloped road reserve with the adjoining residential property and does not result in the closure of any formal public access route or recognised pedestrian connection to the coastline. Public access to the coastal walkway will remain available through the existing network of designated access points within the area.

### TOWN PLANNER'S RESPONSE

The portion of Remainder Erf 249, Hermanus is currently zoned as Transport Zone 2: Road and Parking which is currently underutilised by the municipality as a functional road reserve, however there is engineering services located between the aforementioned property and the adjacent Erf 1840, Hermanus. The subject property is currently utilised by pedestrians to access the Cliff Path however, the closer of this portion of land will not completely restrict access to the Cliff Path as the illustration by the applicant indicates that other access paths and roads provide a more direct access to the Cliff Path.

Furthermore, the proposal includes a services servitude which enable the municipality to continue with service maintenance.

The objection is therefore resolved since there are sufficient access paths and roads that provide a more direct access to the Cliff Path than the aforementioned property.

Objection point 2: Loss of public open space

**APPLICANT'S RESPONSE**

Several comments received during the public participation process raised concern that the proposal would result in the loss of public open space, with objectors indicating that the land should remain available for community use rather than being transferred into private ownership.

It is important to clarify that the land forming the Remainder of Erf 249, Hermanus is not zoned or designated as public open space. The property is currently zoned Transport Zone 2: Road and Parking and forms part of the road reserve. As outlined in the application, the portion identified for disposal is an undeveloped section of the road reserve that lies outside the constructed roadway and does not serve a recreational, environmental, or public open space function.

The Overstrand Municipality has assessed the land and determined that this portion of the road reserve is not required for road infrastructure purposes, and Council has in principle approved the disposal of the land subject to the required statutory planning processes. The proposal therefore does not involve the alienation of land formally designated for public open space or conservation purposes.

Furthermore, the land does not contain any facilities or features typically associated with public open space, such as landscaped areas, recreational infrastructure, public seating, or formalised pedestrian spaces. Its current condition as an undeveloped grassed strip of road reserve does not provide a structured or intended recreational benefit to the broader community.

The proposal therefore represents the rationalisation of a surplus portion of municipal road reserve rather than the loss of functional public open space. The closure and consolidation of the land with the adjoining residential property will not reduce the availability of public parks, recreational areas, or designated open spaces within the neighbourhood.

**TOWN PLANNER'S RESPONSE**

In terms of the Chief Surveyor Generals Records, the subject property is indicated as a public road and in terms of the GIS viewer, the property is zoned as Transport Zone 2: Road and Parking. The subject property is therefore to be used for purposes of a road reserve and not merely as public open spaces. As stipulated by the applicant, the municipality does not intend to develop the subject property for road purposes or develop tables or seating or other urban furniture.

It is further stipulated by the Environmental Service Department that the location of the subject property does not influence the function and integrity of coastal ecosystems, and the property also does not provide direct access to the coastal zone.

It must be noted that although the property functions informally as a pathway access to the carious Cliff Path, the subject property is not zoned as Open Space and does not serve as a functional community space to accommodate community related facilities or structures.

It is therefore considered that the objection has been adequately resolved.

**Objection Point 3: Disposal of municipal land and public interest****APPLICANT'S RESPONSE**

Several comments raised concerns regarding the disposal of municipal land, questioning whether the Municipality should dispose of the land, whether the process is fair, and whether the transaction benefits a private landowner at the expense of the public.

The disposal of municipal land is regulated by the Overstrand Municipality in accordance with applicable legislative and administrative processes governing the alienation of municipal property. In this instance, the Municipality assessed the Remainder of Erf 249, Hermanus and determined that the portion forming part of the undeveloped road reserve is not required for additional municipal infrastructure or future road purposes. Council has subsequently approved the disposal of the land, subject to the required statutory planning processes, including the closure of the public place, rezoning, and consolidation.

The land use application before the Municipality does not determine whether the land should be sold but rather facilitates the planning approvals required to implement Council's decision. These approvals include the closure of the public place, the rezoning of the land to Residential Zone 1, and its consolidation with the adjoining Erf 6135, Hermanus.

Concerns relating to the price of the land should also be viewed within the context of the limited development potential of the portion being disposed of. Once consolidated with Erf 6135 Hermanus, the land will form part of the residential property's garden area and will not function as a separate developable erf. No additional dwelling rights or development opportunities are created through the proposal. The land will therefore only be used for ancillary residential purposes such as gardening, pedestrian access within the property, and the erection of a boundary wall or fence.

The Municipality will receive compensation based on a valuation conducted by a registered professional valuer, ensuring that the disposal takes place at a market-related value that reflects the actual use and limitations of the land. The transaction therefore takes into account the fact that the land cannot be independently developed and will merely become part of the adjoining residential property.

The disposal of the land therefore represents the responsible management of surplus municipal property, where land that no longer serves a public infrastructure function is transferred in a controlled and lawful manner, while ensuring that the Municipality receives appropriate compensation and that the land continues to be maintained as part of the surrounding residential environment. It is also important to note that should the public be concerned with the sale, an objection should have been submitted to the Property Management Division.

**TOWN PLANNER'S RESPONSE**

The purchase of a portion of Remainder Erf 249, Hermanus was in approved in-principal at a council meeting as per the Ordinary Council Meeting Minutes dated 27 August 2025 (see Annexure I). The in-principal approval was granted due to the

property not being considered in future development or upgrading the site for road purposes.

Furthermore, the price/m<sup>2</sup> for the site is calculated at market value (conducted by a professional registered property valuer), subject to any adjustments as per the deed of sale between the purchaser and the Overstrand Municipality.

It must also be noted that the conditions of the deed of sale be adhered to which restricts the subject property to the development of garden spaces, boundary wall or fence and a 3m wide services servitude (and not a 2m wide services servitude as per the applicant's application and response to objections).

This objection point has therefore been adequately responded to.

**Objection Point 4: Impact on views**

**APPLICANT'S RESPONSE**

Several comments raised concerns that the proposal may obstruct views toward the ocean, affect the visual character of the coastal area, or negatively impact views currently experienced from neighbouring properties.

The proposal involves the closure and consolidation of the Remainder of Erf 249, Hermanus with the adjoining Erf 6135 Hermanus. Once consolidated, the portion will form part of the existing residential erf and would only be used for gardening purposes. The only structure that will be allowed is a boundary fence or wall, which is permitted in terms of the Overstrand Municipal Land Use Scheme.

It is important to note that the proposal does not introduce any additional building rights or development potential beyond those already applicable to Erf 6135 Hermanus, which is zoned Residential Zone 1: Single Residential. No additional dwellings or buildings are proposed on the portion of land being consolidated, and the area will not accommodate structures that would materially alter the existing built form of the neighbourhood.

Furthermore, the Remainder of Erf 249 Hermanus currently forms part of a road reserve and is located at ground level adjacent to the existing property. The consolidation of this land will not alter the topography or introduce built structures of a scale that could reasonably obstruct views toward the coastline. The erection of a standard residential boundary wall or fence is a common feature within the surrounding residential area and is not expected to materially impact broader views within the neighbourhood.

The proposal therefore does not introduce development of a nature or scale that would compromise the visual character of the area or result in a meaningful obstruction of coastal views. The surrounding residential character and visual qualities of the Westcliff area will remain unchanged.

**TOWN PLANNER'S RESPONSE**

The conditions contained in the deed of sale for the in-principal approval stipulates that the subject property may only be utilised as garden space and permit the construction of a boundary wall or fence.

Noting the above, the property owner will only be permitted to develop the initially owned property (Erf 6135, Hermanus) in terms of the relevant development rights applicable to subject zoning and not the portion of Remainder Erf 249, Hermanus.

The above objection has therefore been adequately responded to.

**Objection Point 5: Additional studies or investigations**

**APPLICANT'S RESPONSE**

Certain comments received during the public participation process suggested that additional studies or investigations should be undertaken before a decision is made on the application. These requests generally relate to concerns about the potential impacts of the proposal and whether sufficient information has been provided to support the application.

It should be noted that the application submitted to the Municipality contains the information required in terms of the applicable planning legislation and municipal procedures. The proposal relates specifically to the closure of a public place, the rezoning of the land, its consolidation with an adjoining residential property, and the registration of a services servitude. These applications are administrative and planning processes that are assessed against the relevant provisions of LUPA, the Overstrand Municipal Land Use Scheme, and applicable spatial planning policies.

The portion of land in question forms part of an undeveloped road reserve that has been confirmed by the Municipality as not required for current or future road infrastructure purposes. The proposal does not introduce additional development rights, new land uses, or intensification of the site. The consolidated portion will only function as an extension of the existing residential property and will be used for gardening purposes, with only a boundary wall or fence allowed.

Given the limited scope and nature of the proposal, no specialist studies relating to traffic, environmental impact, visual impact, or infrastructure capacity are required. The application has already demonstrated that the proposal will not adversely affect municipal services, the public road network, or the surrounding residential environment.

The Municipality will ultimately assess the application based on the information submitted, together with the comments received during the public participation process and any input from the relevant municipal departments. The information provided in the application is therefore considered sufficient to enable an informed decision to be made.

**TOWN PLANNER'S RESPONSE**

The application submitted is in line with the various legislative processes and has complied with the relevant requirements to the satisfaction of the municipality in relation the land use planning application.

Furthermore, the comment received relating to the development of another site will not be considered in this application. An application must be submitted to obtain the relevant development rights on the applicable property.

**8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS**

Refer to point 7 of this report.

**9. MUNICIPAL ASSESSMENT OF COMMENTS**

Refer to point 7 of this report.

**10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)****10.1 Background**

N/A

**10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)**

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

**Spatial Justice**

The application proposes to acquire additional space ( $\pm 446\text{m}^2$  of unutilised municipal property) to accommodate garden space. The application will not promote spatial injustice.

**Spatial Sustainability**

The subject property is located within the urban edge and will not negatively impact on any sensitive or environmentally protected areas. Furthermore, the property is located within the Coastal Protection EMOZ and the Coastal Strip HPOZ. The closure of a portion of Remainder Erf 249, Hermanus will not negatively impact on the interest of the public since it is not providing direct access to the Cliff Path and there are various other pathways and roads that provide direct access to the coastal zone. It must also be noted that the acquired portion of land will not be developed upon but rather be limited to garden space, boundary wall and fencing and a 3m wide services servitude. The application is therefore in line with the principle of spatial sustainability.

**Efficiency**

The application proposes improved development potential space on Erf 6135, Hermanus but limits the development on a portion of Remainder Erf 249, Hermanus. Furthermore, the site will accommodate a 3m wide services servitude to accommodate maintenance of the existing services located between a portion of Remainder Erf 249, Hermanus and Erf 1840, Hermanus. The application is therefore in line with the principle of efficiency.

**Spatial Resilience**

The application is not in conflict with any spatial planning policy or municipal planning regulations or future planning strategies.

**Good Administration**

The application followed the required planning procedures to ensure that land use activity is in line with Municipal By-laws and the public participation process has been followed.

**10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)**

Same as Point 10.2 above.

**10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies**

The application is located within the Urban Development area of the and is consistent with the Spatial Development Framework.

The proposal does not propose any densification and is therefore consistent with the Overstrand Municipality Growth Management Strategy.

A portion of Remainder Erf 249, Hermanus is located within both the Coastal Protection EMOZ and the Coastal Strip HPOZ.

**Coastal Protection EMOZ:**

As per the Environmental Management Service (see Annexure F): The subject property will not influence the function and integrity of coastal system. The closer of a Portion of Remainder Erf 249, Hermanus will not negatively impact the access to the coastal paths since there are various other routes that provide direct access to the coastal paths.

**Coastal Strip HPOZ:**

The application is to consolidate the two subject erven and the portion of Remainder Erf 249, Hermanus will be restricted to the use of garden space, construction of a boundary wall or fence and a services servitude. Therefore, no construction of buildings will be accommodated or be proposed on this portion of land. The HPOZ regulations stipulate that the purpose of the Coastal Strip HPOZ is to ensure that any land use application resulting in additional rights complies with the existing character and contextual significance. Therefore, since the application proposes to maintain the portion of Remainder Erf 249, Hermanus as garden space with the construction of a boundary wall or fence, the application is therefore in line with the regulations which is in keeping with the character of the area.

**10.5 (In)consistency with guidelines prepared by the Provincial Minister**

N/A

**10.6 Impact on Municipal Engineering Services**

The existing services are available and have been viewed positively by the Engineering Services Department.

Furthermore, there are municipal services located between the portion of Remainder Erf 249, Hermanus and Erf 1840, Hermanus. Therefore, the applicant proposes a services servitude along the northeastern side of the property to allow the municipality to access the existing services.

It must be noted that the application is for a 2m wide services servitude, however the property Administration Department provided their comment that stated that the services servitude be 3m wide which formed part of the in-principal approval of the for the sale of a Portion of Remainder Erf 249, Hermanus.

#### **10.7 Outcomes of investigations/applications i.t.o other legislation**

N/A

#### **10.8 Existing and proposed zoning comparisons and considerations**

The application is in line with the Overstrand spatial documents. The application is in line with the Overstrand Zoning Scheme.

### **11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS**

N/A

### **12. THE DESIRABILITY OF THE PROPOSAL**

The application properties is located within Westcliff, Hermanus. Erf 6135, Hermanus has an extent of 835m<sup>2</sup> and the portion of Remainder Erf 249, Hermanus is ±446m<sup>2</sup> in extent. The property owner intends to purchase the municipal property and consolidate it with their own property to form a single erf with an extent of ±1281m<sup>2</sup>.

The proposal is to acquire an additional portion of land requires the following applications:

- Closure of a public place (Remainder of Erf 249, Hermanus);
- Rezoning of the Remainder of Erf 249 Hermanus from Transport Zone 2: Road;
- Parking to Residential Zone 1: Single Residential;
- Consolidation of the Remainder of Erf 249 Hermanus with Erf 6135, Hermanus, and
- Exemption to permit the registration of a services servitude.

#### **DESIRABILITY**

The portion of Remainder Erf 249, Hermanus is a grass strip with bollards and is currently zoned as Transport Zone 2: Road and Parking. This property is currently utilised by the general public as a pathway to move between Westcliff Road and Cliff Road to access the Cliff Path as indicated by the objectors and the applicant.

The application made to acquire the portion of land and consolidate it with Erf 6135, Hermanus is considered favourably for the following reasons:

- The subject property is not utilised for its intended status being a road as per the Surveyor Generals records (see attached status report attached as Annexure J).
- The municipality has no intention to develop the subject property for its intended use.
- The conditions of sale stipulate that the property may only be developed to accommodate a garden space, construction of a boundary wall or fence and to provide a 3m wide servitude to allow the municipality access to the relevant services along the north easter side of the subject property.
- The application area location does not influence the function or integrity of coastal reserves.
- The application will not prohibit access to coastal pathways since there are various other routes which provide direct access to the coastal paths in the area and is therefore in line with the EMOZ regulations.
- The application does not propose any development over the subject property that will be obtained and is therefore in line with the HPOZ regulations.
- No development by the property owner will occur on the portion of Remainder Erf 249, Hermanus and will therefore not negatively impact on the character of the area, sunlight and view lines.
- The application is in line with the various spatial planning policies.
- The objection received during public participation has been adequately resolved.

The application is therefore recommended for approval.

### 13. RECOMMENDATION

1. that the objections be noted.
2. that the application in terms of Section 16(2)(n) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 for the **closure of public place** to accommodate the closure of a public place / road applicable to a portion of Remainder Erf 249, Hermanus (closure of a public road adjoining Erf 6135 and 1840 Hermanus) with the extent of  $\pm 446\text{m}^2$ , **be approved**, in terms of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 for the **rezoning** of a portion of Remainder Erf 249, Hermanus from Transport Zone 2: Road and Parking to Residential Zone I: Single Residential (SR1), **be approved**, in terms of Section 61 of the By-Law;
4. that the application in terms of Section 16(2)(e) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 for the **consolidation** of Erf 6135, Hermanus and a portion of Remainder Erf 249, Hermanus to create a single residential property of  $\pm 1281\text{m}^2$  in extent, **be approved**, in terms of Section 61 of the By-Law;
5. that the approvals in Points 2. to 4. above be subject to the following conditions:

- (a) that a revised subdivisional plan be submitted to reflect a three (3) metre wide services servitude be submitted to this department for approval;
  - (b) that all the conditions in the Services Report and Property Administration Department (attached as Annexure D and E), be complied with;
  - (c) that all conditions stipulated in Council's decision, dated 27 August 2025 (attached as Annexure I) be complied with;
  - (d) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
  - (e) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
6. that the application in terms of Section 26 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 for the **exemption of subdivision/consolidation** to allow a 2m wide services servitude along the northeastern portion of a portion of Remainder Erf 249, Hermanus, **be approved**, in terms of Section 61 of the By-Law.
  7. that the amended title deed be submitted to this office for record purposes.
  8. that the applicant be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2020 with regard to the above conditions of approval.

#### 14. REASONS FOR RECOMMENDATION

- ❖ The subject property is not utilised for its intended status being a road as per the Surveyor Generals records and the applicable zoning of the property.
- ❖ The application has an in-principal approval from Council for the alienation of a Portion of Remainder Erf 249, Hermanus.
- ❖ The portion of Remainder Erf 249, Hermanus may only be utilised as garden space, construction of a boundary wall or fence and to provide a 3m wide servitude to allow the municipality access to the relevant services along the north easter side of the subject property.
- ❖ The municipality has no intention to develop the subject property for its intended use.
- ❖ The subject property location does not influence the function or integrity of coastal reserves.
- ❖ The application will not prohibit access to coastal pathways since there are various other routes which provide direct access to the coastal paths in the area and is therefore in line with the EMOZ regulations.
- ❖ The application does not propose any development over the subject property that will be obtained and is therefore in line with the HPOZ regulations.
- ❖ No development by the property owner will occur on the portion of Remainder Erf 249, Hermanus and will therefore not negatively impact on the character of the area, sunlight and view lines.
- ❖ The application is in line with the various spatial planning policies.
- ❖ The objection received during public participation has been adequately resolved.

**15. ANNEXURES**

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Services Report
Annexure E:	Comment: Property Administration Department
Annexure F:	Comment: Environmental Management Services Department
Annexure G:	Objections & comment received
Annexure H:	Applicant's Response to objections & comment received
Annexure I:	Council's Decision to alienate a portion of Remainder Erf 241, Hermanus
Annexure J:	Status Report of a Portion of Remainder Erf 249, Hermanus

**SIGNATURES****AUTHOR**

Name: **BC MINNAAR**

SACPLAN Reg No: **C/8630/2021**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**REGISTERED PLANNER**

Name: **SW VAN DER MERWE**

SACPLAN Reg No: **A/1850/2014**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Plan 1 - Locality Plan**  
RE/249 & Erf 6135 Hermanus

Plan prepared by: Thian Jansen

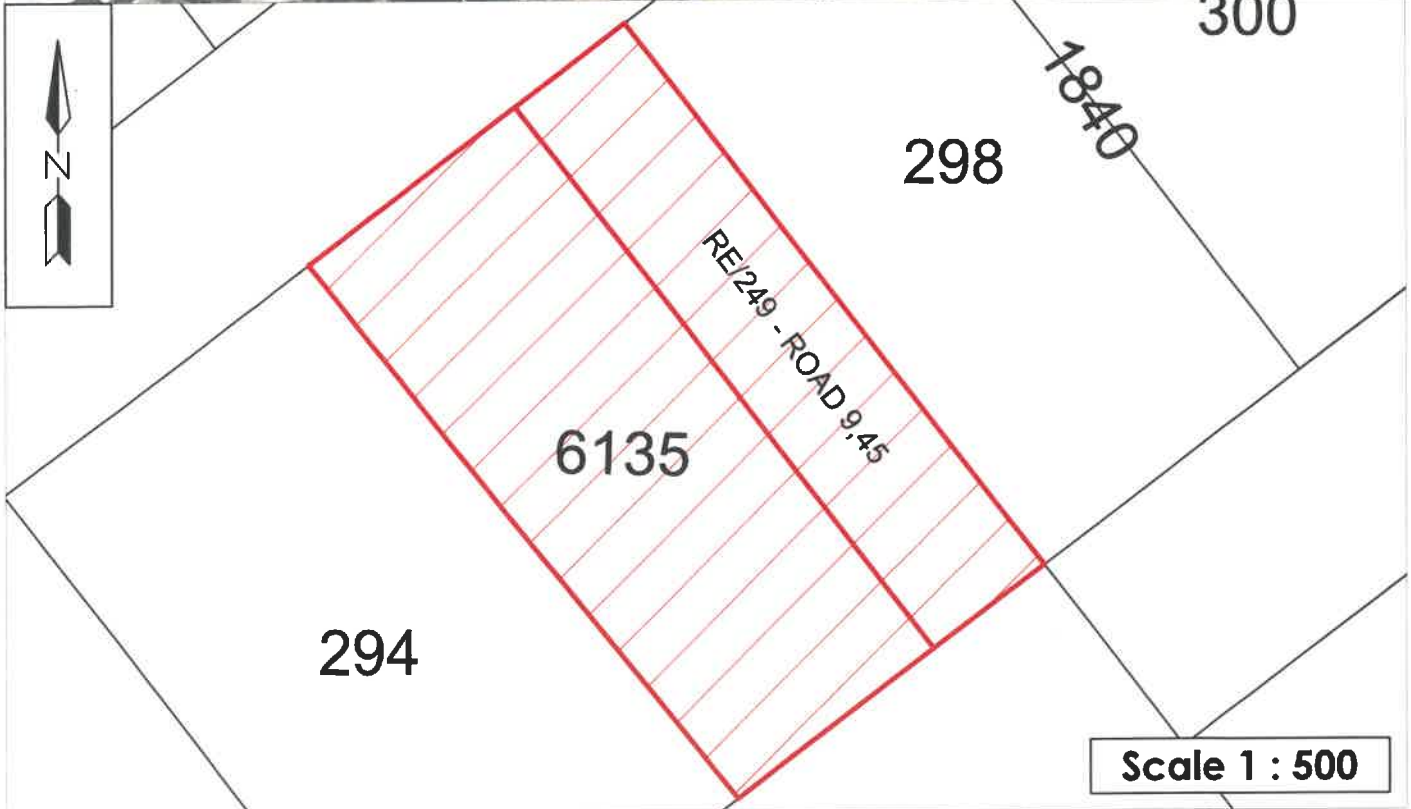
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**Project Office**  
Town Planning & Project Management



**Scale 1 : 500**



## 1. ABBREVIATIONS

Table 1

<b>OM</b>	Overstrand Municipality
<b>OMLUS</b>	Overstrand Municipality Land Use Scheme, 2020
<b>By-Law</b>	Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020
<b>PSDF</b>	Western Cape Provincial Spatial Development Framework, 2014
<b>LUPA</b>	Western Cape Land Use Planning Act, 2014.
<b>MSDF</b>	Overstrand Spatial Development Framework, 2020

## 2. PROPERTY DETAILS

Table 2

<b>Erf Number</b>	Erf 6135, Hermanus	Remainder of Erf 249, Hermanus
<b>Extent</b>	835 m <sup>2</sup>	±466m <sup>2</sup>
<b>Zoning</b>	Residential Zone 1: Single Residential	Transport Zone 2: Road and Parking

## 3. BACKGROUND AND INTENT

Erf 6135, Hermanus, together with the Remainder of Erf 249, Hermanus (hereafter collectively referred to as the subject properties), are situated in Westcliff, Hermanus (refer to **Plan 1: Locality Plan**). The owners of Erf 6135, Hermanus have appointed WRAP Project Office as their authorised representative to attend to the land use applications and statutory approvals required to consolidate the Remainder of Erf 249 Hermanus with Erf 6135 Hermanus (refer to **Annexure A: Power of Attorney**).

The owners investigated the potential acquisition of the Remainder of Erf 249 Hermanus from the Overstrand Municipality. This portion of land, located along the eastern boundary of Erf 6135 Hermanus as illustrated in the aerial extract, provides an opportunity, both to increase the extent of the existing residential property and to enhance on-site security by enabling the construction of a formal boundary along the roads. The intention is therefore to acquire the entire Remainder of Erf 249, Hermanus, as illustrated in Plan 1.

As the Remainder of Erf 249 Hermanus is presently earmarked and zoned as a public road, several statutory processes are required to enable its disposal and subsequent consolidation with Erf 6135 Hermanus. The following applications must therefore be considered and approved:

- Closure of a public place (Remainder of Erf 249, Hermanus).
- Rezoning of the Remainder of Erf 249 Hermanus from Transport Zone 2: Road and Parking to Residential Zone 1: Single Residential.
- Consolidation of the Remainder of Erf 249 Hermanus with Erf 6135, Hermanus.
- Exemption to permit the registration of a services servitude.



## MOTIVATION

### 4. PROCEDURE TO ACHIEVE THE PROPERTY OWNER'S INTENT

WRAP compiled this report to ensure the property owners' vision is achieved. The following is proposed:

#### 4.1 Closure of a public place (The Remainder of Erf 249, Hermanus).

The Remainder of Erf 249, Hermanus is currently zoned Transport Zone 2: Road and Parking and was supposed to be built to connect Westcliff Road and Cliff Road. Although designated for transport purposes, the portion identified for disposal comprises an unused, grassed area. It does not fulfil any active transport functions but used by the municipality for engineering services that will remain untouched. The Overstrand Municipality has confirmed that this strip of land is not required for the current or future connection of Westcliff Road and Cliff Road and has agreed to its disposal to facilitate consolidation with Erf 6135, Hermanus.

The closure of the public place is therefore required to enable the lawful transfer of the Remainder of Erf 249, Hermanus to the adjoining landowner. The proposal serves two primary purposes as mentioned above:

- to increase the extent of Erf 6135 Hermanus in a logical and contextually appropriate manner; and
- to enable the erection of a boundary fence/wall to enhance on-site security and improve property management.

The land in question represents surplus public land that does not contribute to the public road network or public movement. Its requirement to connect Westcliff Road and Cliff Road was identified as redundant as there is an established connection in close proximity. Consolidation with the adjoining erf ensures the land is placed into effective use rather than remaining vacant, underutilised, or at risk of illegal dumping or unauthorised activity.

Section 37(6) of LUPA provides the framework for assessing the closure of a public place. The relevant considerations and corresponding motivations are summarised below:

Section number	Content	Motivation
(6)(a)	<i>"Make provision for the payment of compensation to a person who has suffered loss or damage as a result of the permanent closure of the public place."</i>	A valuation conducted by a registered professional valuer determined the market value per square metre of the land. This amount will be paid to the Municipality as compensation for the transfer of the land.
(6)(a)	<i>"Regulate the ownership of the land following the permanent closure of the public place."</i>	Following the closure, the entire Remainder of Erf 249, Hermanus will be transferred and consolidated with Erf 6135, Hermanus. This consolidation



**MOTIVATION**

	forms part of the land use applications submitted.
--	--

The closure, rezoning and consolidation represent a sensible and policy-aligned spatial intervention that supports the efficient and orderly use of urban land. The proposal is consistent with the principles of SPLUMA, particularly spatial justice and spatial efficiency. It promotes the rational restructuring of underutilised public land, aligns with the established residential character of Westcliff, and does not compromise any public infrastructure or future municipal needs. No adverse impacts on neighbouring properties or the public domain is anticipated, as the land does not currently provide public access or circulation benefits.

The permanent closure of the Remainder of Erf 249, Hermanus, followed by its consolidation with Erf 6135, Hermanus, therefore represents the most appropriate, sustainable, and desirable use of the land.

**4.2 Rezoning** of the Remainder of Erf 249, Hermanus from Transport Zone 2: Road and Parking to Residential Zone 1: Single Residential

The Remainder of Erf 249, Hermanus is currently zoned Transport Zone 2: Road and Parking, reflecting its historical designation as part of a future connection point. As demonstrated in the sections above, this portion of land no longer fulfils any transport-related function and is not required for the current or future operation of the adjacent public road. Its intended disposal and consolidation with Erf 6135, Hermanus necessitate the amendment of its zoning to align with that of the receiving property.

Erf 6135, Hermanus is zoned Residential Zone 1: Single Residential, as illustrated in Plan 2 – Status Quo Zoning Plan. To comply with the provisions of LUPA, the Overstrand Municipal Land Use Scheme (OMLUS), and standard consolidation procedures, the properties to be consolidated must share a common zoning. Retaining the existing Transport Zone 2 zoning would render the consolidation procedurally impossible and would not reflect the intended long-term use of the land.

Rezoning the Remainder of Erf 249, Hermanus to Residential Zone 1 will therefore:

- Ensure zoning uniformity across the consolidated erf;
- Reflect the transition of the land from surplus public road reserve to private residential area;
- Enable lawful utilisation of the land for residential purposes, including gardening, access and egress, and the erection of a boundary fence or wall; and
- Reinforce the established residential character of the surrounding Westcliff neighbourhood.

The proposed rezoning will not introduce any new land use rights that differ from those already permitted on Erf 6135, Hermanus. It simply aligns the zoning with the intended and appropriate use of the land following its closure and acquisition. No adverse impacts on neighbouring properties or municipal infrastructure are anticipated, as the land will continue to function as an extension of an existing residential erf without altering local traffic patterns, service capacities, or the established streetscape.



## MOTIVATION

The rezoning is therefore a necessary and desirable step to facilitate the orderly management, consolidation, and long-term use of the land in a manner consistent with municipal policy and the prevailing character of the area.

### 4.3 Consolidation of The Remainder of Erf 249, Hermanus with Erf 6135, Hermanus;

The final step in the process is for The Remainder of Erf 249, Hermanus to be consolidated with Erf 6135 Hermanus. Consolidation will ensure that the newly acquired portion of land becomes an integral part of the parent property, thereby enabling a coherent and legally recognised cadastral unit for planning, building plan approval, and land use management purposes. Refer to **Table 4** below and **Plan 4 - Consolidation Plan** which illustrates the proposed extent of the consolidated property.

<b>Table 4: Proposed consolidation</b>	
<b>Status Quo</b>	
Erf 6135, Hermanus	835m <sup>2</sup>
Remainder of Erf 249, Hermanus	±466m <sup>2</sup>
<b>Proposed Consolidation</b>	
Proposed Consolidated Erf	±1301m <sup>2</sup>

From a practical and visual perspective, the proposed consolidation will have minimal impact, as the Remainder of Erf 249, Hermanus is already adjacent to the existing property and not actively used by the public. Technically, the primary change will be administrative in nature (reflected in cadastral records and land use rights) with the only possible physical alteration being the future erection of a boundary wall or fence to secure the extended property.

### 4.4 Exemption to allow the registration of a service servitude;

Municipal engineering services currently traverse the Remainder of Erf 249, Hermanus. Although this land is proposed to be closed as a public place and consolidated with Erf 6135, Hermanus, the Municipality must retain access to its infrastructure for maintenance, upgrades, and emergency intervention. To safeguard this access, the owners of Erf 6135, Hermanus have agreed to register a services servitude in favour of the Overstrand Municipality over the affected portion of land.

- The servitude pertains solely to the protection and continued operation of existing municipal services;
- It does not alter land use rights, property access, or the functioning of surrounding erven; and
- The Municipality's rights and responsibilities relating to service maintenance remain fully intact.

The servitude will ensure that municipal infrastructure continues to be lawfully accessible without interruption, even after the consolidation of the Remainder of Erf 249, Hermanus with Erf 6135, Hermanus. The registration therefore serves the dual purpose of protecting public assets and supporting the efficient administration of land, while enabling the land consolidation process to proceed in an orderly and compliant manner.



## MOTIVATION



Figure 1: Existing Municipal Services

### 5. LAND USE ENVIRONMENT

The properties surrounding the subject property are primarily zoned for residential purposes. The surrounding area's zonings are illustrated in **Plan 2 – Status Quo Zoning Plan**.

### 6. TITLE DEED

The title deeds T25513/2025 and CAF2-14/1901 (refer to **Annexure B**) were reviewed, and there are no restrictive conditions that would prohibit the proposal.

### 7. ZONING

Erf 6135 Hermanus is zoned Residential Zone 1 and proposed to be consolidated with the Remainder of Erf 249, Hermanus. The zoning of the Remainder of Erf 249, Hermanus is currently zoned Transport Zone 2: Road and Parking and will be rezoned to Residential Zone 1.

### 8. SERVICES

The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is therefore discussed below:

#### **Electricity, Water, Sewage and Solid Waste**

Erf 6135 Hermanus is connected to the OM's services network which includes electricity, water, sewage and solid waste. Solid waste is collected every week by the OM. The proposal of consolidation is not anticipated to impact on the existing services.



## MOTIVATION

### **Access and Egress**

Access and egress to the property can be gained from Westcliff Road or Cliff Road, it is still to be decided.

## **9. NEED AND DESIRABILITY**

To achieve the intent proposed by the owners, it is necessary to apply for the closure of a public place, the rezoning of the Remainder of Erf 249, Hermanus, and its subsequent consolidation with Erf 6135 Hermanus. The need and desirability of the approval and implementation of this proposal in accordance with Section 66 (1) (c) of the OM By-Law can be outlined in Table 6 as follow:

**Table 6: Need and desirability of the proposal**

Socio-economic impact	The proposal is not expected to have a socio-economic impact.
Compatibility with surrounding uses	The proposal is compatible with the surrounding residential character of the area, as the Remainder of Erf 249, Hermanus will be consolidated with an existing residential property. The intended use for gardening and a boundary fence is in keeping with the low-intensity nature of neighbouring land uses and will not introduce any adverse impacts or land use conflicts.
Impact on the external engineering services	Refer to <i>Section 8</i> of this report.
Impact on safety, health and wellbeing of the surrounding community	The proposal will eliminate an underutilised and unsecured portion of municipal land that could attract unlawful activities. Consolidation of the Remainder of Erf 249, Hermanus with the adjoining Erf 6135 Hermanus will ensure proper maintenance and control, thereby enhancing the overall security and appearance of the area.
Impact on heritage	Neither of the subject properties are listed in the OM Heritage Register.
Impact on the biophysical environment	It is not predicted that the proposal will have an impact on the biophysical environment as the Remainder of Erf 249, Hermanus consists of a maintained grassed area and will continue to be used for gardening purposes.
Traffic impacts, parking, access and other transport related considerations	The proposal will not have an impact on traffic, parking or access as the Remainder of Erf 249, Hermanus lies outside the constructed roadway and is not required for current or future road or public access purposes.

### **Impact on views, sunlight and character of the area**

The proposal will have no negative impact on views, sunlight, or the character of the area, as no additional structures are proposed on the Remainder of Erf 249, Hermanus after consolidation other than a boundary wall or fence, which will be in keeping with the surrounding residential context.



## MOTIVATION

### **Economic impact**

The proposal is not expected to have a long-term financial impact, but as mentioned in Section 4.1 of this report, the Remainder of Erf 249, Hermanus will be purchased from the municipality at market value.

### **Opportunity cost**

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or foregoing of valued land use rights of interested and affected parties when an application is approved. The proposal is not predicted to have a negative impact on surrounding properties.

### **Environmental impact**

The proposal is not expected to have a negative impact, as the process is purely administrative, any future changes or proposals need to be addressed in terms of their environmental impact.

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## 10. POLICIES AND REGULATIONS

### **10.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)**

The Remainder of Erf 249 Hermanus is located within the Coastal Protection EMOZ. The proposed rezoning and consolidation are not expected to have an impact on the purpose of the Coastal Protection EMOZ.

### **10.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)**

Both Erf 6135 Hermanus and the Remainder of Erf 249, Hermanus is located within the Coastal Strip HPOZ. The Coastal Strip HPOZ aims to ensure that any land use applications introducing additional development rights remain compatible with the coastal strip's established character. Its objectives are to safeguard the transition zone between the built environment and the coastline, protect the natural and scenic qualities of the area, preserve key lateral mountain-sea view lines, maintain the fine-grain development pattern typical of the Overstrand coastal vernacular, and retain structures that hold intrinsic or contextual significance. The proposed rezoning and consolidation are not expected to have an impact Coastal Strip HPOZ.

### **10.3 Spatial Planning Policies**

The proposal is fully aligned with the relevant spatial policy frameworks. It does not conflict with the Western Cape Provincial Spatial Development Framework (2014), which promotes the efficient use of existing urban areas, the consolidation of fragmented land parcels, and the optimisation of existing infrastructure. Similarly, the Overstrand Municipality Spatial Development Framework (2020) supports the rationalisation of underutilised public land, reinforcement of established residential areas, and the promotion of orderly urban development.

The closure, rezoning, and consolidation of the Remainder of Erf 249, Hermanus are consistent with these policy objectives, as the land no longer serves a public or transport-related function and its incorporation into an existing residential erf represents a logical and efficient spatial outcome. The proposal therefore accords with the overarching spatial vision for the municipality and the province.



## MOTIVATION

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### 11. PLANNING PRINCIPLES

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Chapter 2 of SPLUMA contains 5 uncompromisable planning principles by which each development application must be guided by. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

#### **Spatial justice**

Spatial justice refers to planning proposals that do not perpetuate apartheid spatial development imbalances. This proposal to purchase the Remainder of Erf 249, Hermanus and consolidate it with Erf 6135 Hermanus is not expected to contribute to past spatial injustices as the Remainder of Erf 249, Hermanus currently serves no critical municipal or public function and is unused by the broader community. By allowing the consolidation, the Remainder of Erf 249, Hermanus is reallocated in a manner that serves a direct, beneficial purpose without detracting from the public good.

#### **Spatial sustainability and Efficiency**

Spatial sustainability refers to planning proposals that result in viable communities. The subdivision and subsequent consolidation allow for better use of land that would otherwise remain vacant and unproductive.

#### **Spatial resilience**

This proposal is not in conflict with any spatial planning policies or other OM regulations which is a hallmark of resilience.

#### **Good administration**

The OM has a credible track record of good administration regarding the method of public participation. Public participation forms an integral part of the land use planning process. The public participation process provides people who may be affected by the proposal with an opportunity to provide comment and to raise issues of concern about the proposal or make possible suggestions that may result in an enhanced outcome of which both parties benefit. Comments will be reviewed and considered after which it will be addressed accordingly.



## CONCLUSION AND RECOMMENDATION

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### 12. CONCLUSION

The proposed closure, rezoning, and consolidation of the Remainder of Erf 249, Hermanus with Erf 6135 Hermanus, together with the registration of a services servitude, represent a logical and policy-aligned land use intervention. The portion of land identified for disposal no longer serves a transport or public access function and has been confirmed by the Municipality as surplus to its operational requirements. Its incorporation into the adjoining erf supports the orderly and efficient use of urban land, aligns with statutory planning principles, and enhances the long-term management of the property.

The rezoning to Residential Zone 1 ensures zoning uniformity across the consolidated erf and reflects the intended residential use of the land. The proposal is consistent with the established character of the Westcliff area and does not introduce any adverse impacts on neighbouring properties, municipal services, or the public realm. The proposed services servitude further secures the Municipality's ability to access and maintain existing infrastructure, thereby protecting public assets and ensuring service continuity.

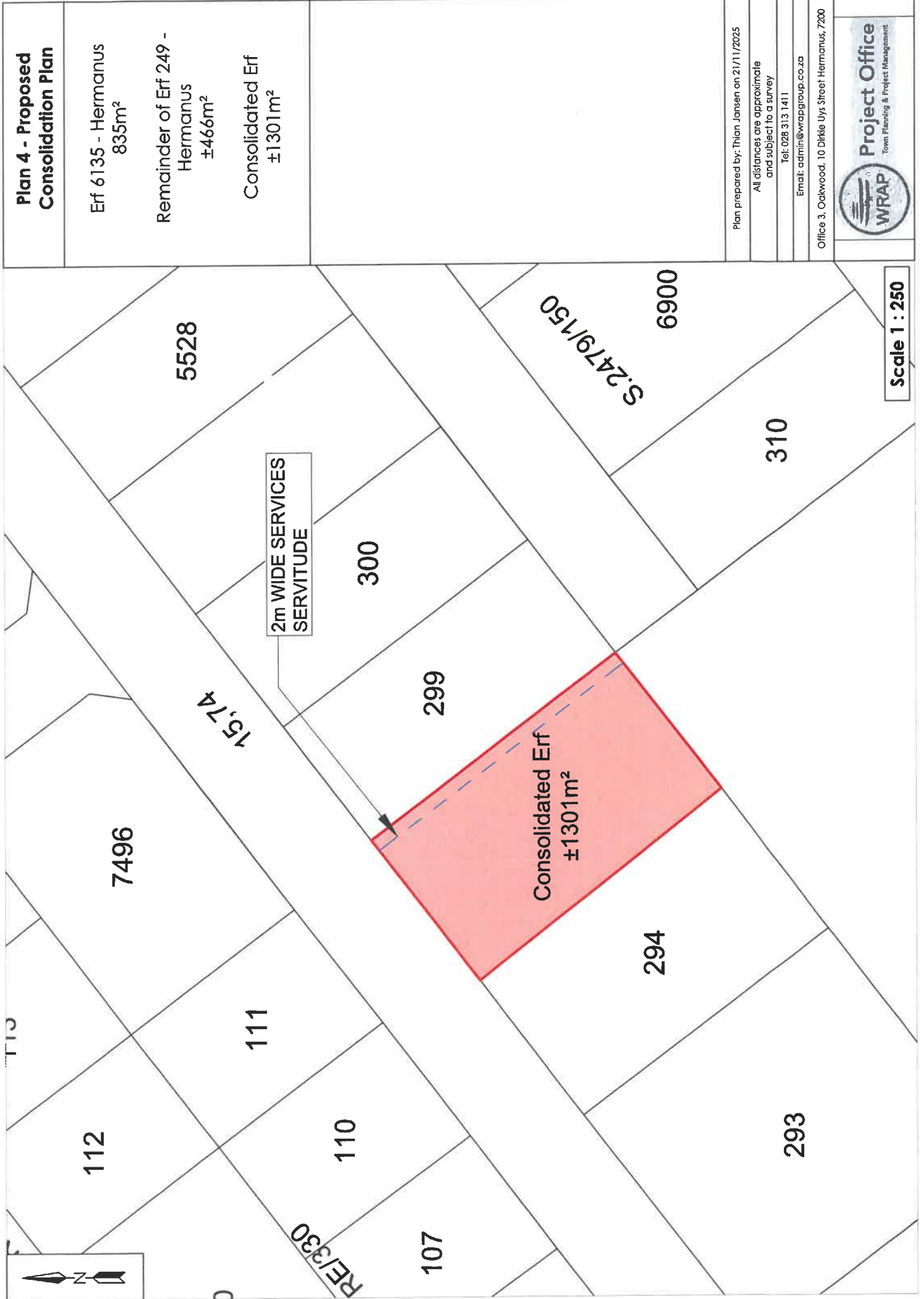
The application accords with the requirements of LUPA, the Overstrand Municipal Land Use Scheme, and the principles of SPLUMA, particularly those relating to spatial justice, spatial sustainability, and the efficient use of land. It reinforces sound urban management, eliminates an underutilised fragment of public land, and contributes positively to the spatial structure of the neighbourhood. For these reasons, the proposed land use amendments are considered appropriate, desirable, and in the public interest, and the application is therefore worthy of approval.

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### 13. RECOMMENDATION

Based on the abovementioned motivation, it is recommended that the following be approved:

- 13.1 Closure of a public place** (the Remainder of Erf 249, Hermanus) in terms of Section 16(2)(n) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;
- 13.2 Rezoning** of the Remainder of Erf 249, Hermanus from Transport Zone 2: Road and Parking to Residential Zone 1: Single Residential in terms of Section 16(2)(a) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;
- 13.3 Consolidation** of the Remainder of Erf 249, Hermanus and Erf 6135, Hermanus, in terms of Section 16(2)(e) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020; and
- 13.4 Exemption** to allow the registration of a services servitude in terms of Section 26(1)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.



**Plan 4 - Proposed Consolidation Plan**

Erf 6135 - Hermanus  
835m<sup>2</sup>

Remainder of Erf 249 -  
Hermanus  
±466m<sup>2</sup>

Consolidated Erf  
±1301m<sup>2</sup>

Plan prepared by: Thian Jansen on 21/11/2025

All distances are approximate  
and subject to a survey

Tel: 028 313 1411




Email: admin@wrapgroup.co.za

Office 3, Oakwood, 10 Dirkie Uys Street Hermanus, 7200



**Scale 1 : 250**

**Plan 2 - Status Quo Zoning Plan**  
RE/249 & Erf 6135 Hermanus

-  Residential Zone 1: Single Residential
-  Open Space Zone 1: Nature Reserve
-  Transport Zone 2: Road and Parking (Public)

Plan prepared by: Thian Jansen

All distances are approximate and subject to a survey

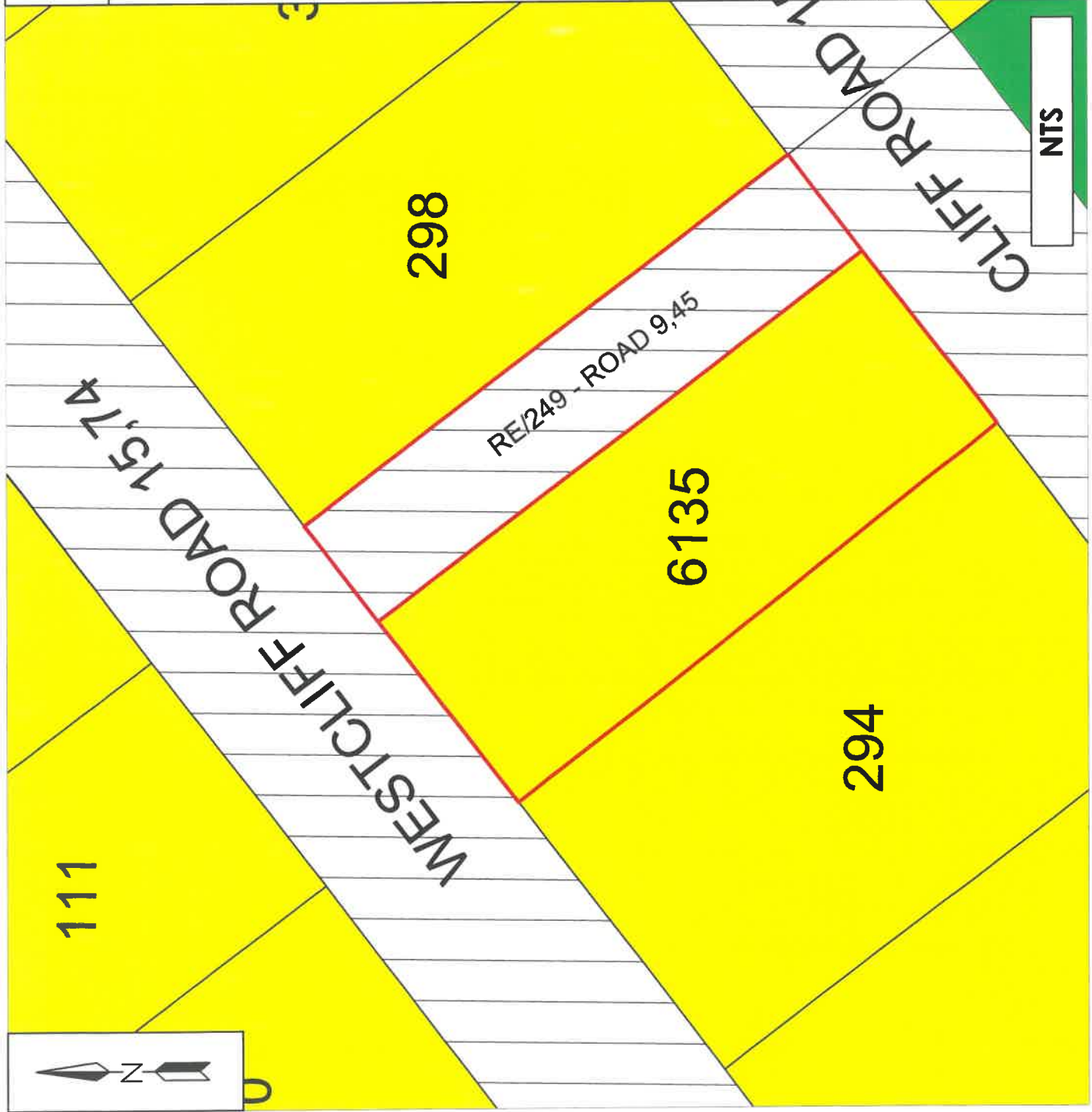
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Town Planning & Project Management



**Plan 3 - Proposed Zoning Plan**  
RE/249 & Erf 6135 Hermanus

-  Residential Zone 1: Single Residential
-  Open Space Zone 1: Nature Reserve
-  Transport Zone 2: Road and Parking (Public)

Plan prepared by: Thian Jansen

All distances are approximate  
and subject to a survey

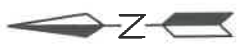
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**Project Office**  
Town Planning & Project Management



**COMMENTS FROM THE PROJECT MANAGEMENT DIVISION FOR:  
APPLICATION FOR CLOSURE OF PUBLIC OPEN SPACE, REZONING,  
CONSOLIDATION AND REGISTRATION OF A SERVICES SERVITUDE:  
ERF 6135 & A PORTION OF REMAINDER ERF 249, WESTCLIFF  
(5140/2025)**

Electricity	:	In order
Water	:	In order
Sewer	:	In order
Stormwater	:	In order
Roads and traffic	:	In order

**Conditions:**


1. that the existing sewer connection(s) be used to service the proposed consolidated development;
2. that the water connections to the erven must be consolidated to one connection and that one water meter be allowed/ registered;
3. that the electricity connections to the erven must be consolidated to one connection and that one electricity meter be allowed/ registered;
4. that should additional electrical capacity be required, an investigation be conducted, regarding the capacity required and that available, at the owner's cost;
5. that electrical submetering for second/additional dwelling(s) remains the responsibility of the developer/owner;
6. that servitudes for municipal services be registered at the developer's cost in respect of all existing municipal services concerned crossing private property;
7. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*;
8. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the Principal Technologist: Engineering Services-Hermanus for written approval;
9. that any additional and / or extended vehicle entrances will be for the owner's account;

10. that no reservation of on-street parking be allowed;
11. that stormwater discharged from higher lying properties and generated in the catchment area of the property be allowed to drain freely through the property;
12. that stormwater reticulation and connection(s) to the municipal system be provided at the owner's cost, if required.



**RICARDO ANDREW**  
**PRINCIPAL TECHNOLOGIST:**  
**DEVELOPMENT CONTROL**

13/02/2026  
DATE

<b>FILE REF: 6135 &amp; 249 HWC</b> <b>APP ID: 5140/2025</b>	<h1>Internal Memorandum</h1>			
<p style="text-align: center;"><b>FROM:</b></p> <p style="text-align: center;"><b>TOWN &amp; SPATIAL PLANNING</b></p> <p style="text-align: center;"><b>TOWN PLANNER:</b> B Minnaar</p> <p style="text-align: center;"><b>DATE:</b> 22 January 2026</p> <p style="text-align: center;"><b>NOTES:</b> Please provide your comments (with specific reference to any conditions of approval that should be imposed) in the space provided above or in a separate Memo <u>by not later than the date stipulated below</u>. If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the MPT will be informed accordingly.</p> <p style="color: red; font-size: small;">Building Control Department to confirm that all structures on the property/ies are in accordance with the approved building plans.</p>	<p><b>APPLICANT:</b> MESSRS WRAP PROJECT OFFICE ON BEHALF OF D AND P TURPIE AND OVERSTRAND MUNICIPALITY</p>			
	<p><b>PROPERTY DETAILS:</b> ERF 6135, 18 CLIFF ROAD AND A PORTION OF REMAINDER ERF 249, WESTCLIFF, HERMANUS</p>			
	<p><b>APPLICATION:</b> APPLICATION FOR CLOSURE OF PUBLIC OPEN SPACE, REZONING, CONSOLIDATION AND REGISTRATION OF A SERVICES SERVITUDE</p>			
	<p style="text-align: center;"><b>PUBLIC LIAISON MANAGER</b></p>	<p style="text-align: center;"><b>BUILDING CONTROL</b></p>	<p style="text-align: center;">DISTRICT HEALTH</p>	<p style="text-align: center;"><b>ELECTRICAL</b></p>
	<p style="text-align: center;">LOCAL HERITAGE</p>	<p style="text-align: center;"><b>ENGINEERING SERVICES</b></p>	<p style="text-align: center;"><b>FIRE DEPARTMENT</b></p>	<p style="text-align: center;"><b>TRAFFIC</b></p>
<p style="text-align: center;"><b>OPERATIONAL</b></p>	<p style="text-align: center;"><b>PROPERTY ADMINISTRATION</b></p>	<p style="text-align: center;"><b>WASTE MANAGEMENT</b></p>	<p style="text-align: center;"><b>WARD COUNCILLOR</b></p>	
<h2>INTERNAL DEPARTMENT COMMENTS</h2>				
<p>The application for closure of public place of a <b>portion of Remainder Erf 249 Hermanus (±446m<sup>2</sup> in extent)</b>, the rezoning thereof and consolidation with Erf 6135 Hermanus is supported as it is in line with the Council's in principle approval and the Deed of Sale signed in this regard.</p>				
<p>The registration of a <b>3m wide service servitude</b> along the Eastern Boundary of the portion of Remainder 249 Hermanus to be alienated is also supported.</p>				
<p>Please note the following important information:</p>				
<ol style="list-style-type: none"> <li>The application mentions the closure, rezoning and consolidation of Remainder Erf 249 Hermanus, <b>only a portion of Remainder Erf 249 Hermanus (±446m<sup>2</sup> in extent)</b>, will be closed, rezoned and consolidated with Erf 6135 Hermanus as described in the advertisement.</li> <li>The Service Servitude <b>must be 3m wide</b> and not 2m as indicated on Plan 4 attached to the application.</li> </ol>				
<p><b>SIGNATURE:</b></p>				
<p><b>DATE:</b></p>		<p>28/01/2026</p>		

### CLOSING DATE:

**27 February 2026**

*Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments.*



TPA-EMS-260409-01

Town Planning Application on 09-04-2026

Generated on Unit by Penelope Aplon on 09-04-2026

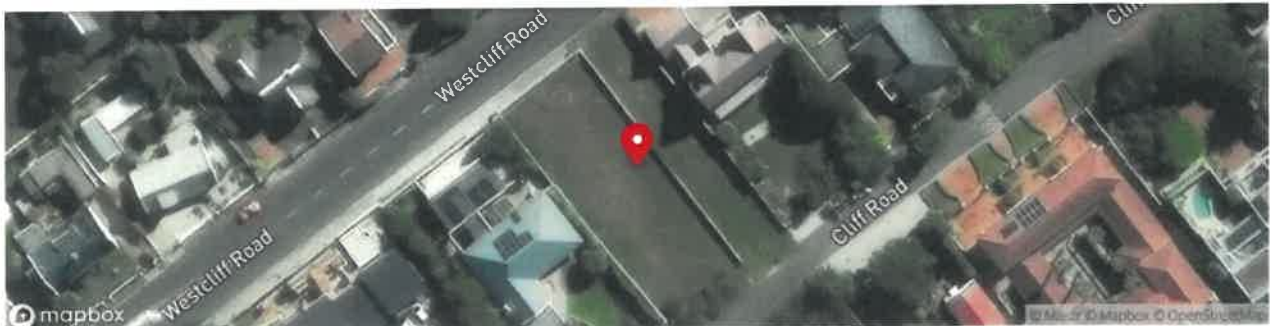
Basic Information

<b>Captured Reference</b>	09-04-2026 10:34 TPA-EMS-260409-01	<b>Call Time</b>	09-04-2026 10:34	<b>Captured By Office</b>	Penelope Aplon EMS
<b>District</b>	Overberg District Municipality			<b>Status</b>	Open
<b>Municipality</b>	Overstrand Local Municipality				

Description

Erf 6135 and Erf 249: Consolidation, rezoning, exemption of subdivision/consolidation, closure of public place

Geographical Information



18 Cliff Road, Hermanus, South Africa (-34.4285; 19.2280)

Application Details

<b>File Reference</b>	6135 & 249 HWC MESSRS WRAP PROJECT OFFICE ON BEHALF OF D AND P
<b>Applicant</b>	TURPIE AND OVERSTRAND MUNICIPALITY ERF 6135, 18 CLIFF ROAD AND A PORTION
<b>Property Details</b>	OF REMAINDER ERF 249, WESTCLIFF, HERMANUS

Application Comments

In terms of the EMOZ regulations, Erf 249 is located in the Coastal Protection zone. However this location does not influence the function or integrity of coastal ecosystems. The property also does not provide direct access to the coastal zone. The applicant intend to use the site for gardening purposes.

Despite the applicable planning approvals requested, access to the coast is still possible via various other routes in the area. This office has no objection to this application, provided that it is maintained for gardening purposes as per the application.

Application Types


Rezoning

Consolidation Of Land

Closure of Public Place or Part Thereof

Closing Comments

Penelope Aplon



09/04/2026

Name and Surname

Signature

Date

	<b>DIRECTORATE: PLANNING &amp; DEVELOPMENT</b> <b>TOWN &amp; SPATIAL PLANNING</b> <b>LAND USE PLANNING APPLICATION RESPONSE FORM</b> <small>E-mail to relevant person stipulated on the notice: <a href="mailto:loretta@overstrand.gov.za">loretta@overstrand.gov.za</a> / <a href="mailto:alida@overstrand.gov.za">alida@overstrand.gov.za</a>          16 Paterson Street / PO Box 20 HERMANUS, 7200 / Tel: 028 313 8900</small>
	<b>APPLICATION DETAILS</b>

Application erf number:

6135 + 249 HWC

APP ID:

How did you receive notice of the application?

STATE YOUR INTEREST IN THE APPLICATION:

TICK RELEVANT BOX <input checked="" type="checkbox"/>	OBJECTION <input checked="" type="checkbox"/>	COMMENT <input type="checkbox"/>	SUPPORT <input type="checkbox"/>
REASONS FOR OBJECTION / COMMENT / SUPPORT:			

access

① The rezoning prohibits access from my property to the cliff path, and the sea view.

② If the municipality rezones state<sup>owned</sup> and open spaces for building use, then hermannus open spaces will no longer be what ~~the~~ <sup>open sp</sup> are ~~was~~ intended for.

One approval will lead to another — until the entire hermannus will be cluttered with huge buildings.

Feel free to continue on separate page(s)...

**PERSONAL INFORMATION (To be completed in full – Compulsory)**

Name & surname (PRINT) Vanessa Yvonne Calvert Your erf number: 107

Company/Trust details:

Postal address: 78 Westcliff Rd,

Contact details: Cell: 082 3745822

E-mail address: vcalvert@gmail.com

Signature: 

Date: 13 Feb 2026

Please note that in terms of the Protection of Personal Information Act (POPIA), you will be entering into a public process and as such agree and consent to your name, surname, contact details and comment(s) may be disclosed/used in the application process. Any objection, comment or representation received as a result of a public notice process must be in writing and addressed to the person mentioned in the notice within the time period stated in the notice.

**Alida Conradie**

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**From:** Michael Clark <mikeclark@hermanus.co.za>  
**Sent:** Monday, 02 February 2026 10:01  
**To:** Alida Conradie  
**Subject:** Erf 6135 and Erf 249 Westcliff, Hermanus.

Dear Madam,

**ERF 6135, 18 CLIFF ROAD AND A PORTION OF REMAINDER OF ERF 249 WESTCLIFF HERMANUS.**

I wish to object to the closure of public place, rezoning and consolidation in respect of the two abovementioned erven.

The walkway between Westcliff Road and Cliff Road is well used by people wishing to access the Cliff Path.

May I suggest that only a portion of the remainder of Erf 249 be sold and consolidated leaving an alley way for the use of pedestrians.

This would not create a precedent as there is already an alley running from Smuts Avenue to Westcliff Road (between erf 386 and 387 and between erf 378 and 368). This continues from Westcliff Road down to the cliff path between erf 359 and 361.

I would appreciate it if my suggestion could receive serious consideration.

Kind regards,

Michael Clark,  
71 Westcliff Road,(12 Cliff Road)  
Hermanus 7200  
073 462 0533

06 FEB 2026



DIRECTORATE: PLANNING & DEVELOPMENT  
TOWN & SPATIAL PLANNING

LAND USE PLANNING APPLICATION RESPONSE FORM

E-mail to relevant person stipulated on the notice: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)  
16 Paterson Street / PO Box 20 HERMANUS, 7200 / Tel: 028 313 8700

alida@overstrand.gov.za  
DOCUMENT CONTROL  
OVERSTRAND MUNICIPALITY

APPLICATION DETAILS

Application erf number:

GRF 6135 + Rem GRF 249

APP ID:

How did you receive notice of the application?

VIA E-MAIL.

TP-A Theart  
(L Olivier)

STATE YOUR INTEREST IN THE APPLICATION:

I AM A RESIDENT AT 24 CLIFF RD AND OWNER OF SAID PROPERTY.

TICK RELEVANT BOX <input checked="" type="checkbox"/>	OBJECTION <input checked="" type="checkbox"/>	COMMENT	SUPPORT
REASONS FOR OBJECTION / COMMENT / SUPPORT:			

- EXPROPRIATION OF LAND SHOULD NOT BE ALLOWED WITHOUT GOOD REASON. THE NEW OWNERS WERE AWARE OF THE EXTENT OF THE LAND FOR SALE AND BOUGHT IT AS SUCH.

IT SERIOUSLY CONCERNS ME THAT TOWN PLANNING WOULD EVEN CONSIDER SELLING THE STRUCTURE AND IN SO DOING SETTING A PRECEDENCE.

- THE FURTHER CONCERN IS THAT THE RATE PER SQUARE METRE IS SUBSTANTIALLY LOWER THAN WHAT WAS PAID FOR THE PROPERTY — WHY!!

- THE SERVICE IS USED BY PEOPLE WALKING THROUGH FROM WESTCLIFF RD ONTO THE ACCESS WAY TO THE CLIFF PATH.

Feel free to continue on separate page(s)...

PERSONAL INFORMATION (To be completed in full – Compulsory)

Name & surname (PRINT)

CARL ANDREW DYER

Your erf number:

Company/Trust details:

Postal address:

Contact details:

Cell:

083-6464609.

E-mail address:

carlodger59@gmail.com

Signature:

FILE NO. Erf 61356 ✓  
Rem Erf 249-HWC  
SCAN NO.  
2973214  
Date: 2/2/2026.

Please note that in terms of the Protection of Personal Information Act (POPIA), you will be entering into a public process and as such agree and consent to your name, surname, contact details and comment(s) may be disclosed/used in the application process. Any objection, comment or representation received as a result of a public notice process must be in writing and addressed to the person mentioned in the notice within the time period stated in the notice.

**Alida Conradie**

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**From:** Adrian Hopgood <adrian.hopgood@avenggroup.com>  
**Sent:** Friday, 27 February 2026 23:48  
**To:** Alida Conradie  
**Subject:** RE: Erven 6135 and 249, Westcliff - PUBLIC PARTICIPATION - Notification to potentially affected property owner Objection from A P Hopgood - 76 Westcliff Rd

Dear Ms Conradie

I am a neighbour at 76 Westcliff Rd and received the notification via your email. My erf number is 110. Unfortunately, you have sent me an Adobe document which I can not edit in a sensible manner. Hence my Objection is noted in this email.

**Objection to sale of Public Land to an individual property owner**

The Overstrand Municipality is a public institution and owns land on behalf of all the residents and ratepayers of the Overstrand Municipal Area. Accordingly, its primary duty is to serve the interests of the entire community and in this particular respect, the residents of the suburb of Westcliff. The sale of public land to an individual landowner is not a mandate and / or power that can be assumed the Municipal Council has been granted in terms of its establishment, without a sufficient public interest purpose to be noted. One of the primary arguments that can be put forward in this matter is there is a potential decision of the Municipality to favour the interests of one particular landowner over the wider interests of the community. The particular piece of land is used a walkway through to the coastal footpath and this use accords with its land use as a parking area. There is no sufficient cause to alter the land use for which it was established and it is quite apparent that the sale of this piece of municipal land (held by the Municipality on behalf of the entire community and for the use of the entire community) is to serve the interests of one particular landowner. A further grounds to object to the sale of the land is the arbitrary value determined for this piece of land – R2000 per sq metre. It is quite apparent that even if it could be argued that the Municipality should sell municipal land held in the public interest that this price is completely inadequate. This further indicates that the Municipality has not considered its fiduciary duties in terms of the Public Finance Management Act where it may not enter into a financial transaction such as the sale of land without determining the market value of such land and ensuring that this value is realised in the sale. One questions whether a sworn valuation of the piece of land was obtained from a registered professional valuator taking into account the sale price. Regardless of whether any restrictions are placed on the erf that the Municipality wishes to sell to D & P Turpie, the key point remains that the land will pass from the ownership of a public body to a private person with all the attendant rights of private land ownership. This can not be the seen as the Municipality taking its responsibility to the wider community of Overstrand and Westcliff suburb as its paramount concern. Accordingly, I wish to record my strong objection to this sale transaction and as well as the change in land use.

Regards

**Adrian Hopgood**

Cell:0833205829

Email: adrian.hopgood@avenggroup.com

**Alida Conradie**

---

**From:** Liz Potgieter <lizabethpotgieter@gmail.com>  
**Sent:** Monday, 02 February 2026 15:52  
**To:** Alida Conradie; Madelein Erasmus; Anja le Roux  
**Cc:** Liz Potgieter  
**Subject:** Objection to the sale of erf 249 Hermanus Westcliff

**Formal Objection to the Sale of Servitude over Erf 249**

To: The Municipal Manager / Planning Department  
 Overstrand  
 2 Magnolia Avenue

Hermanus

7200

Dear Ms Alida Erasmus and Ms Anja Le Roux

**RE: FORMAL OBJECTION TO THE PROPOSED SALE OF SERVITUDE OVER ERF 249 TO THE OWNER OF ERF 6135**

I am the registered owner of Erf 111, which is directly affected by the proposed sale of a servitude over Erf 249 to the owner of Erf 6135. I hereby lodge a formal objection to this proposed transaction.

The proposed sale must be viewed in the context of the approved and anticipated development on Erf 6135, which will already result in the loss of approximately 90% of my existing sea view. The alienation of the servitude over Erf 249 would eliminate the last remaining portion of sea view available to my property, resulting in a material and permanent loss of amenity. This sale will directly implicate the value of my property and my access to the cliff path.

**1. Loss of Amenity and Property Rights**

While there is no absolute right to a view, South African planning law recognises the protection of existing amenity and the principle that development and land disposal decisions must not impose unreasonable or disproportionate harm on neighbouring properties. The cumulative impact of the development on Erf 6135 together with the sale of the servitude over Erf 249 creates exactly such an outcome.

The proposed sale would confer a private benefit on the owner of Erf 6135 at the direct expense of neighbouring landowners, including myself, without sufficient public-interest justification.

**2. Conflict with SPLUMA Principles**

Section 7 of the Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA) requires that all land use and land disposal decisions promote:

- Spatial justice – preventing unfair advantage to one landowner over others;
- Spatial sustainability – protecting existing neighbourhood character and environmental assets;
- Efficiency and good administration – avoiding decisions that create foreseeable disputes and long-term planning conflicts.

The sale of this servitude undermines these principles by enabling overdevelopment, eroding established amenity, and setting an undesirable precedent for the disposal of servitudes that function as de facto development extensions.

### 3. Precedent and Planning Integrity

Although the advertisement may state that the servitude is intended for limited purposes such as gardening or security, such assurances are not permanent land-use controls. Once sold, the servitude becomes a real right, and future applications or incremental intensification may follow. Council would have limited ability to reverse the consequences of this decision.

Approving the sale would therefore compromise the integrity of the planning framework and expose Council to future objections and disputes.

### 4. Public Interest Considerations

Municipal land and servitudes are held in trust for the public. Their disposal must demonstrably serve the broader public interest, not merely enhance the development potential or value of an adjacent private erf. In this instance, no clear public benefit has been demonstrated that outweighs the significant negative impact on surrounding properties.

### 5. Request

For the reasons set out above, I respectfully request that Council:

- Refuse the proposed sale of the servitude over Erf 249; or
- At minimum, defer the decision pending a full assessment of cumulative visual, spatial, and amenity impacts on affected neighbouring properties.

I trust that Council will give due consideration to the long-term planning implications, fairness, and legal principles applicable to this matter.

Yours faithfully,

Elizabeth Potgieter

Owner: Erf 111  
74 Westcliff drive

Hermanus

7200

Mobile no: 0609946390


**DIRECTORATE: PLANNING & DEVELOPMENT  
TOWN & SPATIAL PLANNING**
**LAND USE PLANNING APPLICATION RESPONSE FORM**

 E mail to relevant person stipulated on the notice [lorissa@overstrand.gov.za](mailto:lorissa@overstrand.gov.za) / [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)  
14 Peterson Street / PO Box 20 HERMANUS, 7200 / Tel: 028 313 8900

**APPLICATION DETAILS**

Application erf number:

Erf 6135, 18 Cliff Road

APP ID:

How did you receive notice of the application?

Via email

**STATE YOUR INTEREST IN THE APPLICATION:**

I would like to ask for giving permission for us to do renos on old building line

TICK RELEVANT BOX



OBJECTION

COMMENT



SUPPORT

**REASONS FOR OBJECTION / COMMENT / SUPPORT:**

I am not objecting against the principal that a garden is made, but the property therefor almost get doubled against a I assume fair price, though owner of Erf 6135 (which we haven't met yet) payed almost three times more for his plot 249.

I have started with plans to change our house ERF 310 Mnandi Trust; J.M.; L.M. Venter through AKA projects.

Currently our house was and is build next to plot 6900 (Matthey's) with a 1 metre building line. I would like to extend my garage (new) on that line as well as have a 1 m building line (as per original plan) on the side of the NTS. We don't have any neighbours there

Feel free to continue on separate page(s).
**PERSONAL INFORMATION (To be completed in full - Compulsory)**

Name &amp; surname (family)

Leanie Venter

Your erf number

310

Company/Trust details:

Mnandi Trust (J.M. en L.M. Venter); J.M.; L.M. Venter

Postal address:

11 A Cliff Road  
Hermanus

Contact details:

Cell:

0823373227

E-mail address

leanievent@mweb.co.za

Signature:

Date:

25/2/2026

Please note that in terms of the Protection of Personal Information Act (POPIA), you will be entering into a public process and as such agree and consent to your name, surname, contact details and comment(s) may be disclosed/used in the application process. Any objection, comment or representation received as a result of a public notice process must be in writing and addressed to the person mentioned in the notice within the time period stated in the notice.



# Project Office

Town Planning & Project Management

Our Reference: 25/39

16 March 2026

The Municipal Manager  
Overstrand Municipality  
P O Box 20  
**HERMANUS**  
7200

Attention: Mr B Minnaar

**ERF 6135 HERMANUS AND REMAINDER OF ERF 249 HERMANUS: APPLICATION FOR CLOSURE OF A PUBLIC PLACE, SUBDIVISION, REZONING, CONSOLIDATION AND EXEMPTION TO ALLOW THE REGISTRATION OF A SERVICES SERVITUDE**

A number of objections were received during the public participation process to the proposed application for closure of a public place, subdivision, rezoning, consolidation and exemption to allow the registration of a services servitude on Erf 6135 Hermanus and Remainder of Erf 249 Hermanus. The objections have been carefully reviewed and grouped according to their main category.

This document provides a structured and comprehensive response to each category of objection. The purpose of the response is to clarify factual inaccuracies, address legitimate concerns, and demonstrate that the proposed development complies with all applicable legislation and planning policy frameworks.



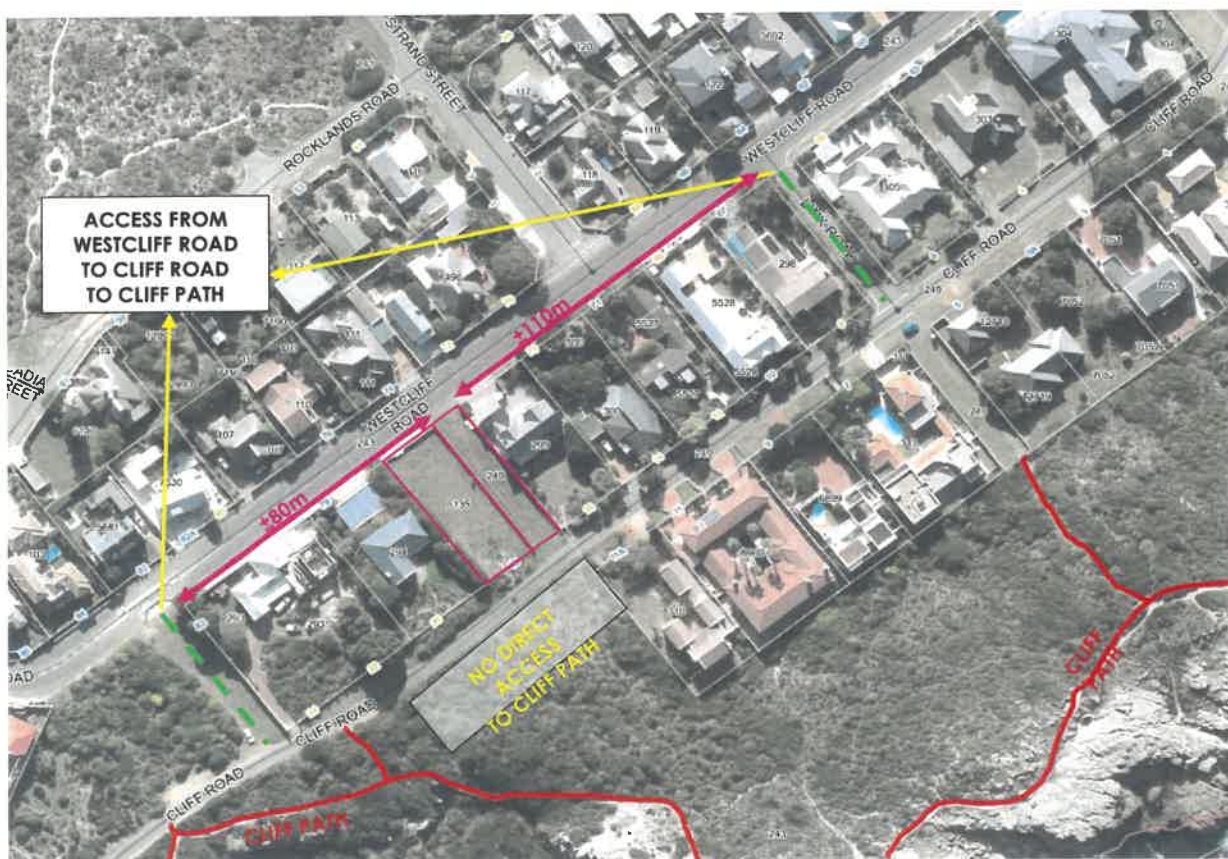
## RESPONSE TO OBJECTIONS: LOSS OF PUBLIC ACCESS AND PEDESTRIAN MOVEMENT

Several comments raised concern that the proposal will restrict pedestrian movement between Westcliff Road, Cliff Road, and the coastal walkway. Objectors indicated that the Remainder of Erf 249, Hermanus is currently being used by pedestrians as an informal route toward the coastline.

It is acknowledged that the land is currently accessible to the public as it forms part of municipal land. The area in question is however not a constructed road or formal pedestrian walkway. It forms part of the Road reserve that was historically planned but never developed as a roadway. The portion therefore exists as an undeveloped grassed strip of public land and does not constitute a designated pedestrian access route.

The Overstrand Municipality has assessed the land and confirmed that this portion of the road reserve is not required for the operation, upgrading, or future extension of the Road, and Council has subsequently approved the disposal of the land subject to the required statutory planning processes. The proposed closure and consolidation are therefore consistent with the Municipality's assessment that the land is surplus to its public infrastructure requirements.

While the land may currently be used informally by pedestrians due to its public ownership, the proposal will not remove formal access to the coastline or coastal walkway. Established public access points remain available within the surrounding area refer to the figure below, including access routes located further along the road network in close proximity to the site. These access points will continue to provide convenient pedestrian connections to the cliff path at strategic points closer to access the cliff path directly.





The proposal therefore relates only to the consolidation of a surplus portion of undeveloped road reserve with the adjoining residential property and does not result in the closure of any formal public access route or recognised pedestrian connection to the coastline. Public access to the coastal walkway will remain available through the existing network of designated access points within the area.

#### **RESPONSE TO OBJECTIONS: LOSS OF PUBLIC OPEN SPACE**

Several comments received during the public participation process raised concern that the proposal would result in the loss of public open space, with objectors indicating that the land should remain available for community use rather than being transferred into private ownership.

It is important to clarify that the land forming the Remainder of Erf 249, Hermanus is not zoned or designated as public open space. The property is currently zoned Transport Zone 2: Road and Parking and forms part of the road reserve. As outlined in the application, the portion identified for disposal is an undeveloped section of the road reserve that lies outside the constructed roadway and does not serve a recreational, environmental, or public open space function.

The Overstrand Municipality has assessed the land and determined that this portion of the road reserve is not required for road infrastructure purposes, and Council has in principle approved the disposal of the land subject to the required statutory planning processes. The proposal therefore does not involve the alienation of land formally designated for public open space or conservation purposes.

Furthermore, the land does not contain any facilities or features typically associated with public open space, such as landscaped areas, recreational infrastructure, public seating, or formalised pedestrian spaces. Its current condition as an undeveloped grassed strip of road reserve does not provide a structured or intended recreational benefit to the broader community.

The proposal therefore represents the rationalisation of a surplus portion of municipal road reserve rather than the loss of functional public open space. The closure and consolidation of the land with the adjoining residential property will not reduce the availability of public parks, recreational areas, or designated open spaces within the neighbourhood.

#### **RESPONSE TO OBJECTIONS: DISPOSAL OF MUNICIPAL LAND AND PUBLIC INTEREST**

Several comments raised concerns regarding the disposal of municipal land, questioning whether the Municipality should dispose of the land, whether the process is fair, and whether the transaction benefits a private landowner at the expense of the public.

The disposal of municipal land is regulated by the Overstrand Municipality in accordance with applicable legislative and administrative processes governing the alienation of municipal property. In this instance, the Municipality assessed the Remainder of Erf 249, Hermanus and determined that the portion forming part of the undeveloped road reserve is not required for additional municipal infrastructure or future road purposes. Council has subsequently approved the disposal of the land, subject to the required statutory planning processes, including the closure of the public place, rezoning, and consolidation.



The land use application before the Municipality does not determine whether the land should be sold but rather facilitates the planning approvals required to implement Council's decision. These approvals include the closure of the public place, the rezoning of the land to Residential Zone 1, and its consolidation with the adjoining Erf 6135, Hermanus.

Concerns relating to the price of the land should also be viewed within the context of the limited development potential of the portion being disposed of. Once consolidated with Erf 6135 Hermanus, the land will form part of the residential property's garden area and will not function as a separate developable erf. No additional dwelling rights or development opportunities are created through the proposal. The land will therefore only be used for ancillary residential purposes such as gardening, pedestrian access within the property, and the erection of a boundary wall or fence.

The Municipality will receive compensation based on a valuation conducted by a registered professional valuer, ensuring that the disposal takes place at a market-related value that reflects the actual use and limitations of the land. The transaction therefore takes into account the fact that the land cannot be independently developed and will merely become part of the adjoining residential property.

The disposal of the land therefore represents the responsible management of surplus municipal property, where land that no longer serves a public infrastructure function is transferred in a controlled and lawful manner, while ensuring that the Municipality receives appropriate compensation and that the land continues to be maintained as part of the surrounding residential environment. It is also important to note that should the public be concerned with the sale, an objection should have been submitted to the Property Management Division.

#### **RESPONSE TO OBJECTIONS: IMPACT ON VIEWS**

Several comments raised concerns that the proposal may obstruct views toward the ocean, affect the visual character of the coastal area, or negatively impact views currently experienced from neighbouring properties.

The proposal involves the closure and consolidation of the Remainder of Erf 249, Hermanus with the adjoining Erf 6135 Hermanus. Once consolidated, the portion will form part of the existing residential erf and would only be used for gardening purposes. The only structure that will be allowed is a boundary fence or wall, which is permitted in terms of the Overstrand Municipal Land Use Scheme.

It is important to note that the proposal does not introduce any additional building rights or development potential beyond those already applicable to Erf 6135 Hermanus, which is zoned Residential Zone 1: Single Residential. No additional dwellings or buildings are proposed on the portion of land being consolidated, and the area will not accommodate structures that would materially alter the existing built form of the neighbourhood.

Furthermore, the Remainder of Erf 249 Hermanus currently forms part of a road reserve and is located at ground level adjacent to the existing property. The consolidation of this land will not alter the topography or introduce built structures of a scale that could reasonably obstruct views toward the coastline. The erection of a standard residential boundary wall or fence is a common feature within the surrounding residential area and is not expected to materially impact broader views within the neighbourhood.



The proposal therefore does not introduce development of a nature or scale that would compromise the visual character of the area or result in a meaningful obstruction of coastal views. The surrounding residential character and visual qualities of the Westcliff area will remain unchanged.

### **RESPONSE TO OBJECTIONS: ADDITIONAL STUDIES OR INVESTIGATIONS**

Certain comments received during the public participation process suggested that additional studies or investigations should be undertaken before a decision is made on the application. These requests generally relate to concerns about the potential impacts of the proposal and whether sufficient information has been provided to support the application.

It should be noted that the application submitted to the Municipality contains the information required in terms of the applicable planning legislation and municipal procedures. The proposal relates specifically to the closure of a public place, the rezoning of the land, its consolidation with an adjoining residential property, and the registration of a services servitude. These applications are administrative and planning processes that are assessed against the relevant provisions of LUPA, the Overstrand Municipal Land Use Scheme, and applicable spatial planning policies.

The portion of land in question forms part of an undeveloped road reserve that has been confirmed by the Municipality as not required for current or future road infrastructure purposes. The proposal does not introduce additional development rights, new land uses, or intensification of the site. The consolidated portion will only function as an extension of the existing residential property and will be used for gardening purposes, with only a boundary wall or fence allowed.

Given the limited scope and nature of the proposal, no specialist studies relating to traffic, environmental impact, visual impact, or infrastructure capacity are required. The application has already demonstrated that the proposal will not adversely affect municipal services, the public road network, or the surrounding residential environment.

The Municipality will ultimately assess the application based on the information submitted, together with the comments received during the public participation process and any input from the relevant municipal departments. The information provided in the application is therefore considered sufficient to enable an informed decision to be made.

### **Conclusion**

All comments received during the public participation process have been carefully considered and assessed against the information contained in the application, the applicable planning legislation, and the relevant municipal policy framework. The objections raised primarily relate to concerns regarding pedestrian access, the perceived loss of public open space, the disposal of municipal land, potential impacts on views, and the need for additional studies.

As demonstrated in the responses above, the portion of land forming the Remainder of Erf 249, Hermanus is an undeveloped section of the road reserve that has been confirmed by the Municipality as not required for current or future road infrastructure purposes. The land is not zoned or designated as public open space, nor does it contain any formal pedestrian routes, recreational facilities, or infrastructure serving a broader public function. While the



land is currently accessible to the public due to its municipal ownership, its use as an informal pedestrian passage does not constitute a formal or protected public access route.

The Overstrand Municipality has already in principle approved the disposal of the land, subject to the completion of the required statutory planning processes. The purpose of the present application is therefore to enable the necessary planning approvals to give effect to Council's decision through the closure of the public place, rezoning of the land to Residential Zone 1, consolidation with Erf 6135, Hermanus, and the registration of a services servitude to protect existing municipal infrastructure.

The proposal does not introduce additional development rights, intensification of land use, or built structures beyond those already permitted within the surrounding residential context. The consolidated portion will form part of the existing residential property and will primarily be used for gardening and access purposes, with only a boundary wall or fence anticipated.

Furthermore, public access to the coastline and coastal walkway will remain available through established access points within the surrounding road network, and the proposal will not negatively affect municipal infrastructure, the public road network, or the character of the Westcliff neighbourhood.

In light of the above, the objections raised do not identify impacts that would justify the refusal of the application. The proposal represents the rationalisation of surplus municipal land and supports the orderly and efficient management of land within the urban environment. The application is therefore considered appropriate and desirable, and it is respectfully submitted that the objections do not warrant withholding approval.

Yours faithfully

**T JANSEN**  
**PROFESSIONAL TOWN PLANNER (PR PLN A/2858/2019)**

## ANNEXURE: B – MINUTES OF THE MEETING

6

MINUTES : ORDINARY COUNCIL MEETING

27 AUGUST 2025

6.2

IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF REMAINDER ERF 249 HERMANUS (PORTION OF PUBLIC ROAD), ADJACENT TO ERF 6135 HERMANUS, SITUATED IN CLIFF ROAD, HERMANUS, TO P & D TURPIE

(ITEM 7 PAGE 284 : PLANNING & DEVELOPMENT PORTFOLIO - MAYORAL COMMITTEE MEETING : 26 AUGUST 2025)

RESOLVED (SUPPORTED BY 24 COUNCILLORS):

1. that the direct alienation of a portion of Remainder Erf 249 Hermanus (±446m<sup>2</sup> in extent), situated next to 18 Cliff Road Hermanus, to the owners of the adjoining Erf 6135 Hermanus P & D Turpie at an amount of R2.000.00/m<sup>2</sup> (TWO THOUSAND RAND PER SQUARE METRE) (VAT excluded) for security and gardening purposes, be approved in principle.
2. that it be noted that the direct alienation is possible as the portion of Remainder Erf 249 Hermanus can be classified as a non-viable property;
3. that, subject to the approval in 1 above, a public participation process be followed at the cost of the Applicants/purchasers;
4. that it be noted that a condition for the alienation will be that the portion of Remainder Erf 249 Hermanus must be consolidated with the adjoining property of P & T Turpie;
5. that the Applicants/purchasers must, at own cost, simultaneous with the transfer of the portion of Remainder Erf 249 Hermanus, register a services pipeline servitude that runs parallel with the property boundary in favour of the Municipality, for the protection of the existing municipal infrastructure.
6. that the property may only be used for gardening purposes and no structures of any kind (excluding a boundary wall or fence) may be erected on the portion of Remainder Erf 249 Hermanus, which conditions must be registered against the title deed of the consolidated property;
7. that the alienation of the portion of Remainder Erf 249 Hermanus be subject to a suspensive condition that the Applicants/purchasers obtain approval for all the required land use rights, which may include, the closure or a portion of road subdivision, rezoning and consolidation;

*Handwritten signature/initials: P. D. Turpie*

*Handwritten signature/initials: P. D. Turpie*

MINUTES : ORDINARY COUNCIL MEETING

27 AUGUST 2025

8 that all costs pertaining to the transaction, e.g. application costs, valuation costs, closure of a portion of road, subdivision, rezoning and consolidation, the required public participation transfer and related costs, etc. be paid by the Applicants/purchasers P & D Turpie and

that it be noted that the municipal property herewith envisaged to be alienated is not required for the provision of further basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government Municipal Finance Management Act (Act 56 of 2003).

*P. B. OF. J.*

*Dol  
MB. ME*

Annexure J 1/2

THE SURVEYOR-GENERAL- WC  
PRIVATE BAG X9028  
CAPE TOWN  
8000

WRAP TOWN PLANNING  
PRIVATE BAG X16  
HERMANUS  
7200

2025-11-04

**MY REF: S/2479/150 v1 p 69**

Your ref: email

Dated: 2025-10-30

Note: THIS STATUS REPORT  
IS VALID FOR 3 YEARS.

ATTENTION: Salome Kotze

**STATUS REPORT: CLOSURE OF PUBLIC ROAD ADJOINING ERF 6135  
AND 1840 HERMANUS**

1. The proposed closure of land on the attached Locality Plan represents : Portion of Erf 249 Hermanus as shown on General Plan H34(2) 2738 represents.

It is shown as **Public Street** in my records

2. **FOR OFFICE USE:** The following properties will be endorsed: ERVEN 1840 AND 6135 HERMANUS AND GENERAL PLAN H34(2) 2738

3. Status Report fees amount to: **R275.00 (Received p 68 )**  
Endorsement fees amount to: **R540.00 (Recieved p )**

4. I require a copy of a diagram suitable for registration purposes, surveyed by a land surveyor, of the following: **portion to be closed**


5. A written notification/consent to amend a general plan is required in terms of **Section 25(3) of the Overstrand's Municipal Planning Amendment Bylaw on Municipal Land Use Planning 2020** for the amendment of **GENERAL PLAN NO: H34(2) 2738**

**SEE REVERSE SIDE, EXAMPLE B**

**FOR OFFICE USE**

CERTIFICATE p  
GAZETTE No p  
DATED

Yours faithfully



**T. Heath**  
**For SURVEYOR-GENERAL: WESTERN CAPE**

R S A)

**TYPICAL EXAMPLES OF WRITTEN CONSENTS/NOTIFICATIONS REQUIRED BY LOCAL AUTHORITIES.**

The following must be used.

**B WHERE A PORTION OF ROAD IS CLOSED.**

Consent is hereby given in terms of Section 25(3) of the Overstrand's Municipal Planning By-Law 2020 to the amendment of General Plan No.H34(2) 2738 ( by the addition of the portion of road to be closed as one additional erf  
[ with/without ] conditions.

[ ] Please Specify