

4.4

ERF 91, 52 KUSWEG, SANDBAAL, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE, DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF SC SOLOMON

91 HSB (4701/2024)

B Minnaar

08 June 2026

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application, in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) has been received on 16 October 2025 from Messrs PlanActive Town and Regional Planners on behalf of SC Solomon applicable to Erf 91, Sandbaai, Hermanus for the following:

- ❖ **Removal of restrictive title deed conditions** in terms of Section 16(2)(f) of the By-Law of condition B.(a), C.(a), C.(c) and C.(d) as contained in Title Deed T41901/2022.
- ❖ **Consent use** in terms of Section 16(2)(o) of the By-Law in order to operate a five (5) bedroom guest house from the property.
- ❖ **Departure** in terms of Section 16(2)(b) of the By-Law to:
 - a) relax the western lateral building line from 2m to 1.88m to accommodate the existing garden shed;
 - b) relax the northern rear building line from 2m to 1.3m to accommodate the existing garden shed, and
 - c) relax the eastern lateral building line from 2m to 1.71 and 1.77m to accommodate a portion of the existing dwelling.
- ❖ **Determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law to for the existing building encroachments and land use contravention.

The Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the application is attached as Annexure B and the Site Development Plan is attached as Annexure C. Title Deed T41901/2022 is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

Erf 91, Sandbaai is situated at 52 Kusweg. The property is zoned as Residential Zone 1, measuring 951m² in extent and comprising of a dwelling house (utilised as a guest house) with two (2) outbuildings.

The dwelling house is currently utilised as a guest house without municipal approval and one of the outbuildings has been converted into a staff quarters. Furthermore, the property utilises municipal land to accommodate driveway access, parking and garden space.

It must also be noted that the property is restricted in terms of the restrictive conditions contained in the title deed.

To accommodate the proposed use and position of the structures on the property an application for removal of restrictive title deed conditions, consent use, departures and the determination of an administrative penalty.

4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation for the application is summarised as follows:

- The property is located in the Sandbaai neighbourhood and is zoned Residential Zone 1: Single Residential.
- The property is utilised as a guest house without the prior permission of the municipality.
- The property is situated in a predominantly residential area with similar guest house approvals approved in the area.
- The proposal consists of the following:
 - lower ground floor: double garage and storage areas.
 - ground floor: 2 guest rooms, a lounge, a dining room, a kitchen, and a manager's/owner's bedroom.
 - the first floor: 3 guest rooms, a dining hall, a kitchen and a lounge.
- The application entails the removal of restrictive title deed conditions, consent use, departures and the determination of an administrative penalty to accommodate the utilisation of the property as a guest house with additional structures in their current position.
- The property owner acquired the property in 2022 and made renovations starting in January 2023 and ending in September 2023.
- The property owner applied for guest house license and rebate which led to the discovery of the property being utilised as a guest house without prior municipal planning approval.
- As stipulated by the applicant, the property owners had limited knowledge of the relevant Overstrand Municipality Land Use Scheme 2020 (hence known as the Scheme) and conducted a self-catering unit comprising of three bedrooms while the renovations were underway.
- The discovery of the unauthorised land use led to the further discovery of the unauthorised encroachments in terms of the Scheme as well as encroachments over the property boundary onto municipal property (which was inherited from the previous property owners). It must be noted that the previous owners did have a lease agreement in place however, the lease agreement is not transferrable to the new property owners. The property owners then appointed a professional land surveyor to determine the relevant encroachments at the request from the municipality.
- The removal of restrictive conditions will allow the property to be restricted in terms of the scheme with regards to the land use rights of the property.
- Although an application for consent use is applied for to accommodate a guest house, the use of the property will remain residential.

- The departures are minor and comply with the 1m setback for doors, windows and openings.
- The guest house proposal is in line with the uses that have been approved previously in the area.
- The proposal does not compromise the character of the area.
- The proposal will not negatively impact on external engineering services.
- The proposal is consistent with the Overstrand Municipality Spatial Development Framework as well as the Overstrand Municipality Growth Management Strategy.
- The property is not situated within the HPOZ.
- The property is situated within the HPOZ and must therefore comply with the schedules of the said EMOZ.
- The planning principles will be discussed in point 10.2 of this report.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local Newspaper	Yes	30/10/2025	05/12/2025
Gazette	Yes	31/10/2025	05/12/2025
Notices (<i>possibly affected property owners</i>)	Yes	28/10/2025	05/12/2025
Notices (<i>persons mentioned in title deed</i>)	N/A	28/10/2025	05/12/2025
Internal Departments	Yes	28/10/2025	05/12/2025
Ward councillor	Yes	28/10/2025	05/12/2025
Total comments	EIGHT (8) OBJECTIONS		
Total letters of support	NONE		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly?			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA?			Yes
In case of application for removal, amendment or suspension of restrictive title conditions if notices in accordance with Section 35(3)(d) of the By-Law on Municipal Land Use Planning was served on all persons mentioned in the title deed for whose benefit the restriction applies?			Yes

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

Name	Date received	Summary of comments
Building Department	29/10/2025	No objection: All buildings to comply with NBR and all other applicable law.
Property Administration	01/12/2025	Attached as Annexure G.
Fire Department	01/12/2025	The fire department has no objection subjection to compliance with the provision of SANS 10400-A, 10400-T:2024 and the By-Law relating fire safety.
Waste Management	03/12/2025	No objection from Waste Management
Environmental Services	05/12/2025	No objection. The property falls within the Coastal Protection EMOZ, therefore the applicant must familiarise themselves with the schedules of said EMOZ. For Example, swimming pool backwash must not be discharged into any natural waterbodies.
Services Report	15/01/2026	Attached as Annexure H.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Registered letters sent to interested and affected parties; advertisements published in the Village News (local newspaper) and Provincial Gazette as well as a site notice invited the public to comment on the application during public participation. Eight (8) objections were received during the public participation process.

The objections are attached as Annexure E, and the response to objections by the applicant is attached as Annexure F.

See below a summary of the objections and applicant's response thereon, and also the municipal town planners' comments thereon.

OBJECTION 1

The objections collectively raise concerns regarding the appropriateness of operating a guesthouse in a residential area, including potential impacts on neighbourhood character, noise levels, privacy, traffic, and security. Several objectors expressed concern that the presence of guests may increase traffic volumes in Kusweg and result in insufficient parking space. Others raised issues relating to the visual impact of vehicles parked near the street, possible obstruction of sea views, and the perceived commercialisation of a quiet residential neighbourhood.

RESPONSE FROM APPLICANT

The proposed guesthouse is considered fully compatible with Residential Zone 1, as the Overstrand Land Use Scheme expressly includes guesthouses as a permissible consent use. This reflects a long-standing municipal policy approach that acknowledges the coexistence of low-intensity tourism accommodation within residential neighbourhoods such as Sandbaai. The guesthouse consists of only five guestrooms, is well managed, and the owner's daughter will be permanently residing on the property to oversee operations on a full-time basis. This ensures responsible supervision and immediate response to any concerns, contributing positively to the maintenance of the residential character.

Concerns regarding noise, crime, and general nuisance are not supported by land-use evidence. Small guesthouses generate no more noise than typical residential households and significantly less activity than many short-term holiday homes. The Overstrand Spatial Development Framework (2020) further encourages small-scale tourism uses in established coastal settlements as a means of supporting local economic development without expanding the urban footprint.

With regard to parking, the Land Use Scheme requires seven parking bays, all of which are provided on-site. This satisfies municipal standards and ensures that vehicles are not required to park in the street or on adjoining properties. The photographs submitted by certain objectors were taken on a single day when routine external painting was underway. Vehicles were temporarily moved to avoid paint contamination and were returned to the on-site parking bays as soon as the paint had dried. The parking arrangement is now formalised and fully compliant.

RESPONSE FROM TOWN PLANNER

The Scheme permits the development of a guest house as a consent use right in terms of the current zoning of the property. It is noted that the guest house will be managed by the property owner's daughter which will reside on the property full time. However, the consent use to permit a maximum of 5 guest rooms is subject to the compliance with all the applicable development parameters, specifically parking.

It is agreed with the applicant that the generation of noise would be similar to that of a single-family residential property or alternatively a "holiday home". Furthermore, the provision of small-scale tourist accommodation is encouraged by the Overstrand Spatial Development Framework. The issue relating to noise must be mitigated through proper management. Therefore, as a condition of approval, the property owners must mitigate these issues with conduct rules of a guest house.

The parking requirement for a five (5) bedroom guest house is seven (7) parking bays. Two (2) parking bays for the owner/manager and one (1) parking bay per guest room. However, the site cannot accommodate the necessary parking bays required for a five (5) bedroom guest house. The parking on the western side of the property is impractical and is obstructed by the dwelling house. The parking bay located south of the outside stairs at the entrance of the property is obstructed by the staircase and therefore is not a practical parking bay. Therefore, only three (3) parking bays are available to the guests located on the south eastern portion of the property. This results in only three guest rooms being permitted on site.

OBJECTION 2

A number of submissions also refer to environmental matters, particularly relating to the public open space (POS2) near the coastal walkway and vegetation management. Concern was expressed regarding the use of adjoining municipal land and whether the operation of the guesthouse may affect public access or environmental management activities in the coastal zone.

RESPONSE FROM APPLICANT

It should also be noted that members of the general public routinely utilise the unconstructed portion of Kusweg, located to the east of Erf 91, as well as portions of the neighbouring property's verge, when accessing the coastal walkway. This occurs regardless of any activity on Erf 91, and the property owner cannot reasonably be held responsible for public use of municipal land for recreational access.

Environmental objections pertaining to coastal open space do not relate to the subject property. Erf 91 does not encroach onto POS2 or interfere with coastal access. The only municipal land associated with the property is the formally leased 274 m² portion of Erf 1298, authorised under the Encroachment Agreement dated 8 July 2025. This agreement permits gardening, the existing retaining wall, and parking under municipal conditions. No environmental authorisation is triggered under NEMA, and municipal environmental officials have confirmed that no conflict exists with coastal vegetation management.

RESPONSE FROM TOWN PLANNER

The applicant is correct when stipulating that the current property owner has entered a lease agreement with the municipality regarding a portion of Erf 1298 (274m²). This agreement is exclusively to accommodate the existing structures that encroach the property boundary of Erf 91 and all activity relating to Erf 91 must be done and provided on the subject property, not on the leased area.

Furthermore, the property is located within the EMOZ and the Environmental Management Services division has no objection to the application subject to the compliance with the schedules stipulated within the EMOZ regulations.

OBJECTION 3

Certain objectors took issue with the building line departure application, citing apprehension that permitting departures may set a precedent for future structures to be built closer to property boundaries. This includes concerns about the two garden sheds and the portion of the dwelling that encroaches marginally into building line setbacks. Related to this, some objections referred to a believed

“proposed balcony” that may overlook neighbouring properties and result in loss of privacy.

RESPONSE FROM APPLICANT

Privacy concerns relating to a “proposed balcony” arise from a misunderstanding of the application. No balcony or external addition is proposed, and the dwelling retains its existing approved building envelope. The three building line departures relate only to historic encroachments established between 2002 and 2018 by previous owners.

In addition to the above, it is important to clarify the limited and low-impact nature of the two existing garden sheds situated partially within the rear and western lateral building lines. These structures are small in scale, single-storey, visually unobtrusive, and have existed in their current form for many years without giving rise to any complaints or measurable impact on neighbouring amenity. Their footprint and height are modest, and their positioning does not compromise sunlight, privacy, movement, or access on any adjoining property.

The regularisation of these encroachments through the building line departure application is intended solely to formalise their historic and longstanding presence. Should the Municipality approve the departures, such approval will apply only to the existing structures as currently configured and for the specific use described. Any future alteration, extension, change of use, or construction of new structures within the building line areas would require a separate application to the Municipality and cannot occur without prior approval. The granting of the requested departures does not relax building line requirements for any other purpose, nor does it establish a precedent for new encroachments.

RESPONSE FROM TOWN PLANNER

The north facing “balcony” is situated within the prescribed building line parameters and do not require consent since it complies with the relevant development parameters.

The single storey garden sheds that encroach the rear and western lateral building lines are minor encroachments since only a small portion of these structures encroach the applicable building lines. The garden shed encroachments do not consist of windows, doors or openings over the building lines and are considered acceptable since they are more than 1m from the property boundary which complies with the fire regulation. It must also be noted that the boundary wall located at the rear of the property is not built according to the property boundary and is built further inwards of the property. Therefore, the encroachment may seem larger than it actually is. Refer to the topographical survey of the property attached as Annexure K. It must be noted that the notion of privacy is therefore considered acceptable from a town planning perspective.

Furthermore, the encroachment of the dwelling house is existing and was confirmed by a professional land surveyor. The encroachment is also considered minor since only a small portion of the existing dwelling encroaches the eastern lateral building line. The encroachment of the eastern lateral building line is considered acceptable since no doors and windows are located closer than 1m from the erf boundary.

OBJECTION 4

Further concerns relate to the height of the eastern boundary wall and the possibility that sections of it exceed municipal height restrictions. Several objectors argued that the wall negatively affects views and streetscape quality. Objections also included references to the number of guest rooms being let, temporary parking of vehicles on municipal verges, and alleged impacts arising from guesthouse operations.

RESPONSE FROM APPLICANT

Regarding the eastern boundary wall, a site inspection confirmed that a portion does exceed the permissible height of 2.1 m. The owner has undertaken to remove the upper section of the affected portion to ensure full compliance with municipal regulations. This corrective action addresses the concern and demonstrates the owner's proactive commitment to compliance.

RESPONSE FROM TOWN PLANNER

The confirmation to reduce the wall height to comply with the 2.1m height restriction is noted and will form part of the conditions of approval.

APPLICANT'S CONCLUSION ON OBJECTIONS

The objections raised have been comprehensively considered and adequately addressed. The concerns largely stem from misunderstandings about the nature of the proposal, temporary operational circumstances during maintenance work, or issues relating to long-standing inherited conditions. The proposal aligns fully with the Overstrand Land Use Scheme and Spatial Development Framework, maintains the residential character of the neighbourhood, and supports local economic development through a low-impact, well-managed guesthouse with permanent on-site supervision.

Parking requirements are fully met, no new external structures are proposed, environmental objections are not applicable, and the owner has committed to remedying the boundary wall height non-compliance. The historic encroachments—including the two small garden sheds partially within the building lines—are minor in scale, visually unobtrusive, and have no material impact on adjacent properties. The approval of building line departures regularises these longstanding conditions only and will not authorise any future encroachments or structural modifications unless separately and formally applied for.

Accordingly, the objections do not present grounds for refusal, and the application should be favourably considered

RESPONSE FROM TOWN PLANNER

The applicant's conclusion is noted however, the conclusion on the parking provision is not agreed with since only three (3) parking bays can be practically considered for transient guests.

In light of the above, the objections and response thereto have been adequately discussed and resolved.

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 can be motivated in terms of the principles in the following manner:

Spatial Justice

The principle of spatial injustice is not applicable to the subject property.

Spatial sustainability

The property is located within the Coastal Protection of the Environmental Overlay Zone. However, the Environmental Management Services Department has no objection to the application subject to the compliance with the provisions of the EMOZ regulations.

Efficiency

The proposal to accommodate a guest house on the subject property is of such a nature that it seeks to diversify the use of the property and still maintain the residential nature of the property. The application is therefore in line with this principle.

Spatial Resilience

The proposal to accommodate a guest house on the residential property optimises the property by enabling additional income by renting guest rooms to transient guests and is therefore in line with the principle of spatial resilience.

Good administration

The application followed the required planning procedures to ensure that land use activity is in line with municipal By-Laws and a public participation process had 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 10.2 above.

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

The application is consistent with the SDF.

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

N/A

10.6 Impact on municipal engineering services

The proposed development is situated on an already serviced site and no additional services are required. The proposal is supported by the Engineering Services Department.

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

The application does not trigger the provisions of NEMA or Section 38 of the National Heritage Resources Act.

Furthermore, the Environmental Management Services Department confirmed that they do not have an objection to the application. However, since the property is located within the Coastal Protection Zone of the EMOZ, the property owners must comply with the schedule tables contained in the EMOZ regulations.

10.8 Existing and proposed zoning comparisons and considerations

The proposal to accommodate a guest house on the property is in line with the consent use rights of the Single Residential zoning subject to the submission of an application. The guest house applications have previously been approved in the Sandbaai area along Kusweg. However, as discussed previously in the response to objections, only three (3) parking bays for guests can be accommodated practically on the site. This results in only 3 guest rooms permitted on the site.

Furthermore, the departures relating to the garden sheds on the rear and western lateral building line as well as the departure relating to the existing dwelling encroaching the eastern lateral building lines are considered minor since only a small portion of these structures encroach the building lines. The departures are as follows:

- a) relax the western lateral building line from 2m to 1.88m to accommodate the existing garden shed;
- b) relax the northern rear building line from 2m to 1.3m to accommodate the existing garden shed, and
- c) relax the eastern lateral building line from 2m to 1.71 and 1.77m to accommodate a portion of the existing dwelling.

The encroachments over the applicable building lines do not have doors, windows or openings closer than 1m from the erf boundary. This allows sufficient privacy, views and compliance with the fire regulations. Furthermore, the structures have been in place since the property owners took ownership in 2022.

The objections relating to the boundary wall height exceeding the 2.1m height restriction has been mitigated since the applicant confirms that the property owners will remove the portions of the wall to comply with the height restriction and the relevant development parameters.

It must also be noted that the property has been utilised as a guest house prior to municipal approval being granted, therefore the application will also accommodate the determination of an administrative penalty.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The restrictive conditions as contained in Title Deed T.41901/2022 to be removed, read as follows:

Clause B.(a) - *“Dat die Maatskappy behou homself en sy opvolgers in regte alleenreg tot alle hotelle en dranklisensies, en die Transportnemer/s of sy/hulle opvolgers in regte sal die reg nie hê om enige hotel op te rig of om enige dranklisensie te besit, sonder om eers die skriftelike toestemming van die Direkteur van die Maatskappy of sy opvolgers in regte, te verkry.”*

The removal of the condition B.(a) is supported since the property owner will be permitted to apply for a liquor licence to serve alcohol to the guests of the guest house which is permitted under the use of a guest house in terms of the Scheme.

Clause C.(a) - *“That the above erf or erven be used for residential purpose only.”*

Clause C.(c) - *“That not more than one dwelling together with outbuildings and accessories be erected on any of the above erven and that not more than one half of the area of any one of the above erven be built upon.”*

The removal of the conditions C.(a) and C.(c) is supported since the use of the property will remain in line with the applicable development rights in terms of the Scheme. A guest house is a consent use in terms of the Scheme and the development of a second dwelling (manager's/owner's quarters) is also in line with the Scheme. Furthermore, the Scheme permits a 50% coverage which makes the restriction of the coverage in terms of the title deed moot.

Clause C.(d) - *“That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may only be used as gardens but shall not be built upon.”*

The removal of the condition C.(d) is considered favourable since the Scheme permits a 4m setback from the street boundary line and the removal of the conditions will allow the existing structures (outside stairs) to be in line with the latest approved building plan and to accommodate the proposed parking for the guests of the guest house.

In terms of Chapter 4, Section 35(4) of the Overstrand Municipality's By-Law on Municipal Land Use Planning, 2020 and Section 39(5) of the Land Use Planning Act, 2014, when the municipality considers the removal, suspension or amendment of a restrictive condition; the municipality must consider the following:

The financial or other value of the rights

No financial or other value of the rights in terms of the restrictive conditions enjoyed by the owner, are evident.

The personal benefits which accrue to the holder of rights in terms of the restrictive condition

No material personal benefits which accrue to the holder of the rights in terms of the restrictive conditions are evident.

The personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended

The property owner will benefit from the removal of the abovementioned title deed restrictions which will allow the utilisation of the property as a guest house, permit the on-site consumption of liquor for the guest house and legalise the existing encroachments over municipal property. The land use rights will therefore be in line with the development rights applicable in terms of the Scheme.

The social benefit of the restrictive condition remaining in place in its existing form and the social benefit of the removal, suspension or amendment of the restrictive condition

No material social benefits to the restrictive conditions remaining in place in its existing form are evident.

The removal of the restrictive conditions will allow the property owners to accommodate the guest house on the property in line with the applicable development rights in terms of the Scheme.

Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights?

The removal of the restrictive title deed conditions mentioned above will enable the property owner to utilise the property in line with the applicable development rights as per the scheme regulations.

Furthermore, the proposal for a guest house will benefit the Overstrand area by means of additional rates and the increase the notion of tourism accommodation which is in line with the SDF.

Conclusion

The proposed application for the removal of the aforementioned restrictive title deed conditions is therefore considered favourable from a town planning perspective.

12. THE DESIRABILITY OF THE PROPOSAL

Erf 91, Sandbaai is situated at 52 Kusweg. The property is zoned as Residential Zone 1, measuring 951m² in extent. The desirability of the proposal to accommodate a five (5) bedroom guest house on the property and the legalise the unauthorised encroachments and activity is as follows:

Accommodating a guest house on the property is in line with the consent use rights in terms of the Scheme and the applicable zoning. Similar developments have been accommodated in the Sandbaai area, specifically along Kusweg in Sandbaai. These developments have been approved subject to compliance with the development parameters.

The departures relating to the two (2) garden sheds (applicable to the rear and western lateral building lines) as well as the departure of the existing dwelling (applicable to the eastern lateral building line) is considered minor since only small portions of these structures encroach the building lines. The departures maintain the 1m fire safety regulation as well as the 1m setback for doors, windows and openings from the erf boundary. Therefore, the departures are considered desirable from a planning perspective.

The parking indicated on the subject property for a five (5) bedroom guest house with a second dwelling unit accommodating the manager's/owner's quarters is not considered adequate. The parking required is seven (7) parking bays: two (2) parking bays for the owner/manager and one (1) parking bay per guest room. Apart from the owner/manager's parking requirements, only three (3) parking bays can practically be provided on-site as discussed previously. Therefore, the number of guest rooms is limited to three (3) due to the parking provision constraints.

The property is not located within the HPOZ however, it is located within the Coastal Protection Zone of the EMOZ. The Environmental Management Services Department has no objection subject to the property owner complying with the schedule tables of the EMOZ regulations.

The current property owners entered into a lease agreement on 8 July 2025 with the municipality for structures and gardening purposes that encroach onto the municipal property (see the encroachment agreement attached as Annexure I).

The property is already located within a serviced area and is subject to the compliance with the Services Report by the Engineering Services Department.

The additional use of the property being for guest house purposes will not negatively impact on the character of the area since the utilisation of the property will remain for residential purposes.

The possible impacts of view corridors and privacy is maintained since the garden sheds over the applicable building lines are single storey and the encroachment of the existing dwelling house is considered minor.

It must also be noted that the lower ground floor which contains a garage and access to a section of the of this floor be limited to storage use only since the floor to ceiling height does not comply with the requirements of habitable space.

Noting the objections relating to nuisance, noise and operational issues, the manager/owner of the establishment must therefore ensure that there are rules in place in order to mitigate the aforementioned issues.

The unauthorised use of the property and the existing encroachments trigger the need for the determination of an administrative penalty which will be discussed below.

DETERMINATION OF AN ADMINISTRATIVE PENALTY

In terms of the By-Law the applicant must provide the following in terms of Section 90(3) of the By-Law, namely:

(a) nature, duration, gravity, and extent of the contravention

- The property owner took ownership of the property in 2022. As stipulated by the applicant, renovations were conducted to the property between January 2023 to September 2023. This is noted however, a website investigation was conducted which revealed that a total of 6 bedrooms were available to let. This notion is clear from the application for rates rebate. See investigations and application for rates rebate attached as Annexure J.
- A professional survey revealed 3 building line encroachments. Existing building line encroachment for the two garden sheds over the western lateral and rear building lines as well as a portion of the existing dwelling house over the eastern lateral building line.
- Western lateral building line encroachment of the larger garden shed is 0.016m².
- Northern rear building line encroachment of the smaller garden shed is 0.695m².
- The eastern lateral building line encroachment of the existing dwelling house is 1.14m².
- Existing total floor area of approximately 490.87m² being utilised for the guest house.

(b) the conduct of the person (allegedly) involved in the contravention

- The dwelling house was constructed in 2002 by the previous owner.
- The garden sheds were constructed by the previous property owner in 2013 and 2018.
- The current property owner remained operational during the processing of the subject application.

(c) a report by a quantity surveyor in matters of unauthorised building/construction

A quantity surveyor provided the following price/m² for the encroachments over the building lines:

Western lateral boundary (Garden shed, "A")

Encroachment area: ±0.016 m²

Assessed at R 1,772.91/m²

Applicable cost: R 28.36 (VAT incl.)

Northern rear boundary (Garden shed, "B")Encroachment area: $\pm 0.695 \text{ m}^2$ Assessed at R 4,063.33/m²

Applicable cost: R 2,824.01 (VAT incl.)

Eastern lateral boundary (Portion of existing dwelling, "C")Encroachment area: $\pm 1.14 \text{ m}^2$ Assessed at $\pm R 9,000.00/\text{m}^2$ (average market rate for comparable finishes)

Applicable cost: R 10,260.00 (VAT incl.)

The total construction cost attributable to the encroachments is R13 112.37 (VAT inclusive), which is to be used as the basis for calculating the administrative penalty.

The unauthorised use of the property as a guest house is calculated by utilising the total building footprint since the rooms are utilised interchangeably by the property owners/managers and the guests. The extent of the unauthorised use of the guest house is therefore 490.87m².

(d) whether the unlawful conduct was stopped

However, the previous property owner is responsible for both unauthorised building work that was completed in 2013 and 2018. The current property owner only took ownership of the property in 2022 and utilised the property as a guest house before and during the processing of the application.

(e) whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law

The property owner only took ownership of the property in 2022. However, the previous owner is responsible for the unauthorised building work, and the current owner is responsible for the unauthorised utilisation of the property as a guest house.

It must be noted that the property owner was informed during the rates rebate application that an application for the relevant unauthorised activity be submitted.

ADMINISTRATIVE PENALTY CALCULATION

The contravention calculation is as follows:

Unauthorised encroachment

Quantity Surveyor Calculation: R13 112.37

Encroachment: 1.851m²

Note: It is of the opinion that the property owner sought immediate rectification of the unauthorised building line encroachment. Therefore, the opinion is held that an administrative penalty of 5% be imposed.

Administrative penalty: (R13 112.37 x 5%) = R655.62

Unauthorised land use

Land Value: R2 280 000.00

Erf Size:	951m ²
Price/m ² :	Land value ÷ erf size = R 2 397.48 / m ²
Unauthorised Land Use extent:	490.87m ² ÷ 2 = 245.44m ²
Contravention Value:	(245.44m ² x R2 397.48) = R588 437.49

Note: Only one floor for guest house purposes is considered, therefore 50% of the floor area is used in the calculation. The property owner did not receive a notice of non-compliance and was previously subject to payment of outstanding rates, therefore an administrative penalty of 2.5% is imposed.

Administrative penalty: (R588 437.49 x 2.5%) = R14 710.94

Total contravention penalty = Building work + land use
= R655.62+ R14 710.94
= R15 366.56

Conclusion

With the above-mentioned stated, it is evident that the application is considered desirable from a town planning perspective subject to conditions of approval and that the property owner **not be exempt** from an administrative penalty.

13. RECOMMENDATION

1. that the objections be noted;
2. that the application in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the **removal of restrictive title conditions** B.(a), C.(a), C.(c) and C.(d) as contained in Title Deed T41901/2022 applicable to Erf 91, Sandbaai, in order to accommodate a guest house with a manager's/owner's quarters on the subject property, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for **consent use** applicable to Erf 91, Sandbaai, in order to operate a five (5) bedroom guest house with a manager's/owner's quarters on the subject property, **be partially approved be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the application in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for **departure** in order to:
 - (a) relax the western lateral building line from 2m to 1.88m to accommodate the existing garden shed;
 - (b) relax the northern rear building line from 2m to 1.3m to accommodate the existing garden shed, and
 - (c) relax the eastern lateral building line from 2m to 1.71 and 1.77m to accommodate a portion of the existing dwelling,**be approved** in terms of the provisions of Section 61 of the By-Law;

5. that the determination of an administrative penalty in terms of Section 90(4) of the By-Law for the unauthorised building work over building lines and the unauthorised land uses on the subject property, **be imposed**, and that an administrative penalty fee of **R15 366.56** be payable within sixty (60) days of this decision; and
6. that the decisions in paragraphs 2. to 4. above be subject to the following conditions:
 - (a) that the approval of the guest house is limited to three (3) guest rooms only,
 - (b) that the manager/owner must reside on the premises permanently in relation to this planning approval;
 - (c) that the parking layout be revised to reflect condition point (a) above;
 - (d) that revised site plans reflecting condition points (a), (b) and (c) above be submitted at building plan submission stage;
 - (e) that building plans be submitted to the Building Department for approval, and that all conditions of the Building- and the Fire Department, be complied with at that stage;
 - (f) that all the conditions of the Property Administration and the Engineering Services Department (attached as Annexures G and H), be complied with;
 - (g) that the rates of the property be amended accordingly in terms of the latest rates policy;
7. that the applicant and person who commented be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above conditions of approval.

14. REASONS FOR RECOMMENDATION

Reasons for approval

- ❖ The application has followed due procedure.
- ❖ None of the relevant departments have any objection.
- ❖ The objection has been adequately responded to.
- ❖ The actual use of the property remains for residential purposes and is in line with the residential character of the Sandbaai area.
- ❖ The subject property is not able to accommodate adequate parking for five (5) guest rooms and the manager's/owner's parking.
- ❖ Adequate services are provided on-site, therefore no additional services are required.
- ❖ The Overstrand Zoning Scheme Regulations have sufficient control measures when it comes to land use and building line parameters.
- ❖ The proposal will not negatively impact on existing/vested rights of adjoining property owners or the character of the area.
- ❖ The proposal is considered in line with the Municipality's SDF.

- ❖ The proposal is consistent with the planning principles in terms of LUPA and SPLUMA.
- ❖ That the administrative penalty is imposed; the onus remains on the property owner to ensure their property has the necessary development rights.

15. ANNEXURES

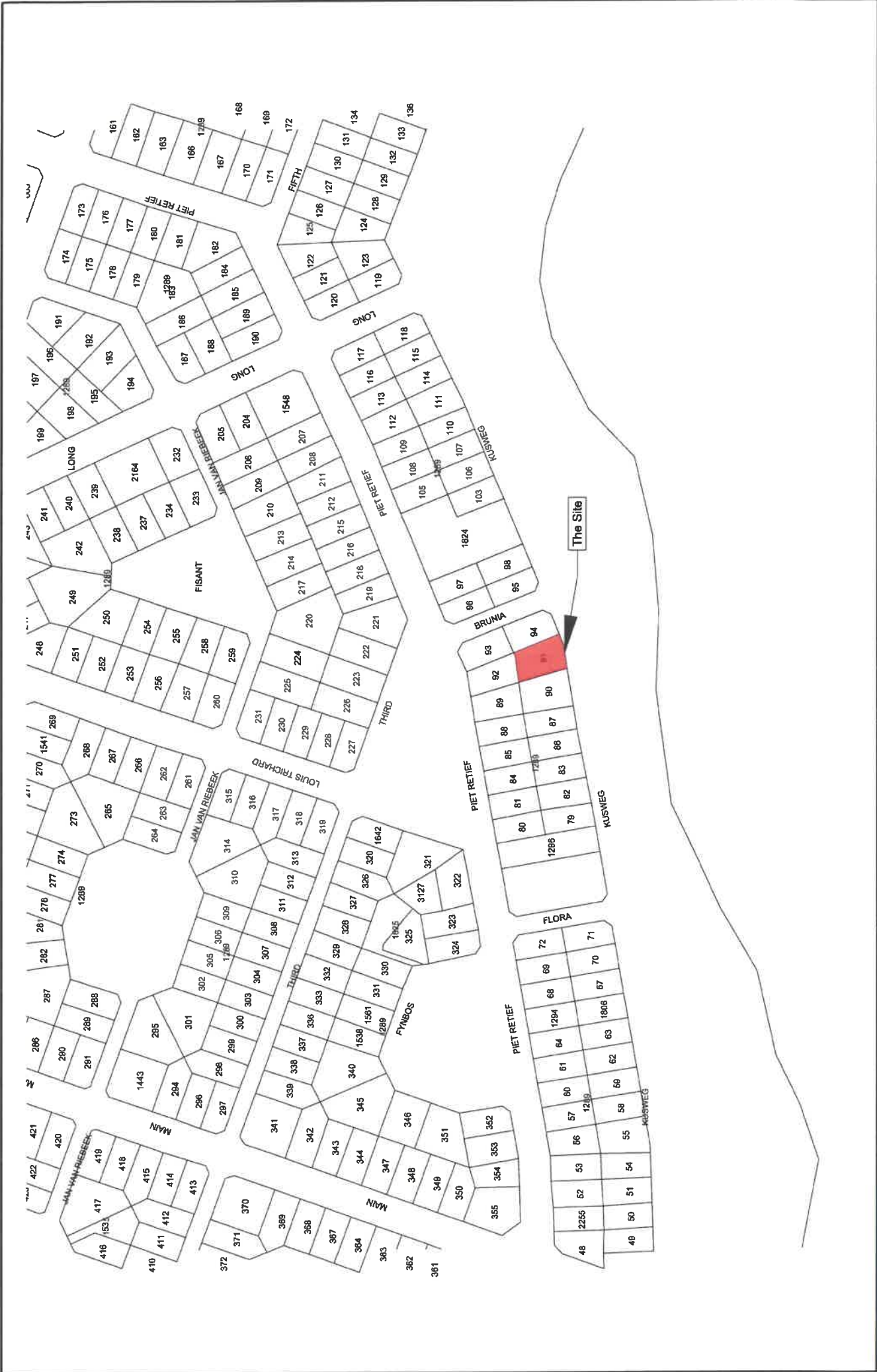
Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Title Deed T41901/2022
Annexure E:	Objections received
Annexure F:	Response to objections by the applicant
Annexure G:	Comment: Property Administration Department Objection received
Annexure H:	Service Report
Annexure I:	Encroachment Agreement
Annexure J:	Website investigations and Rebate Application Form
Annexure K:	Professional Survey

SIGNATURES**AUTHOR**

Name:	BC MINNAAR
SACPLAN Reg No:	C/8630/2021
Signature:	_____
Date:	_____

REGISTERED PLANNER

Name:	H VAN DER STOEP
SACPLAN Reg No:	A/1708/2013
Signature:	_____
Date:	_____



Stads- en Streeksbeplanners
Town & Regional Planners

Property Description:

ERF 91
SANDBAAI

Plan Description:

LOCALITY
MAP

Scale:

NTS

All distances approximate
and subject to survey.

COPY RIGHT RESERVED

Drawing Nr: Erf 91 Sandbaai.dwg
Date: 21 Feb 2024

**PROPOSED CONSENT USE, REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
BUILDING LINE DEPARTURES AND AN
ADMINISTRATIVE PENALTY**

ERF 91 SANDBAAI

MOTIVATION REPORT

1. BACKGROUND

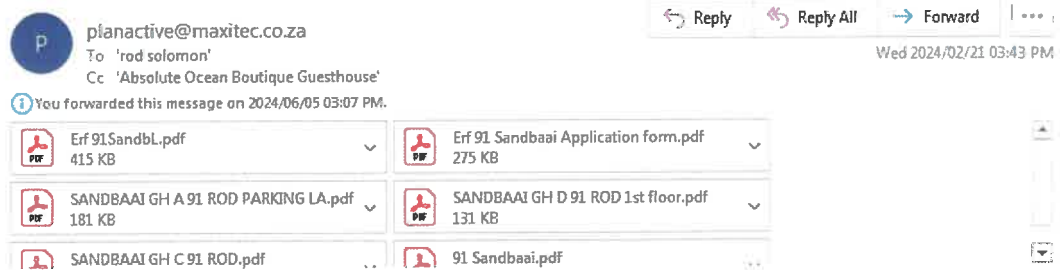
This report provides an overview and details regarding the proposed establishment of a guesthouse on Erf 91 Sandbaai, owned by Mrs. S.C. Solomon. To assist with this initiative, Mrs. Solomon has appointed Plan Active Town and Regional Planners to apply for consent use, the removal of restrictive Title Deed conditions, building line departures and the determination of an administrative penalty.

Erf 91 Sandbaai, situated at 52 Kusweg, Sandbaai, covers an area of 951m² and is registered under Title Deed number T041901/22. Importantly, there is currently no bond registered against the property. Mrs. Solomon purchased the property in 2022 with plans to develop a guesthouse. To support this goal, she appointed building contractors to renovate parts of the existing dwelling, with renovations starting in January 2023 and completing in September 2023. All renovations was limited to the inside of the existing dwelling. A certificate of completion was issued on September 27, 2023.

On September 23, 2023, the owner applied for a guesthouse license and rebate, believing this was the correct step for obtaining a business license. After notifying the Overstrand Municipality Rates Department about the guesthouse, the municipality requested that the owner pay R60,078.06 in additional rates and taxes, retroactive from September 2022 to October 2023.

Plan Active Town and Regional Planners was tasked with preparing a motivation report to meet municipal standards, as the initial application documentation was found to be inadequate. A motivation report was subsequently drafted and emailed to both the client and the manager for submission to the Overstrand Municipality. The motivation report and accompanying instructions were sent on February 21, 2024. Please refer to the email excerpt below:

Erf 91 Sandbaai



Good afternoon Rod,

Enclosed please find a copy of the motivation report, locality map and partially completed application form for your attention. please complete you sections A, B and G.

The motivation report (attached) must be accompanied by:

- A copy of you Title Deed;
- Conveyancer Certificate to be requested from Transferring Attorney or Conveyancer;
- Locality Map attached;
- 2 x Sets of Wilman's proposed building plans attached;
- 2 x parking layout plans supplied by Wilman attached.

Please refer to Section F of the application form.

If you have any questions please feel free to contact us.

Kind regards
John Mc Lachlan
 Tsh.Ptn B/8250/2014
 MSAP1 Nr.10908

During their time in Australia, Mrs Solomon and her husband entrusted a property manager with responsibility for handling the application process. However, upon their return, they discovered that the application had not been submitted, as the manager had resigned due to health reasons.

With limited familiarity with the Overstrand Municipality Zoning Scheme Regulations, the owner temporarily rented accessible portions of the dwelling as a self-catering unit comprising three bedrooms while renovations were underway. These short-term rentals occurred in July and August 2023. The property was only utilised as a guesthouse following the completion of renovations at the end of September 2023, when the first booking was made through Booking.com.

During the course of the application, the Overstrand Municipality required that a professional survey be undertaken. Geomatics Africa Land Surveyors was

subsequently appointed, and the survey revealed that the existing dwelling and two garden sheds encroach upon the lateral and rear building lines. As a result, the application was expanded to include a request for departures from the building lines, together with an additional submission relating to the determination of an administrative penalty.

Mrs Solomon intends to establish a guesthouse comprising five guest rooms on the property. To realise this objective, she is required to secure consent for the proposed use, obtain the removal of restrictive Title Deed conditions, and address the administrative penalty associated with the building line encroachments.

The prime location of Erf 91, situated in the vibrant Sandbaai area, offers distinct advantages for the proposed guesthouse. Its close proximity to key amenities and attractions positions the property favourably to meet the growing demand for accommodation in the region, presenting a promising opportunity for hospitality development.

In conclusion, the proposed establishment of a guesthouse on Erf 91 Sandbaai represents both a meaningful investment in the local hospitality sector and a contribution to the economic and tourism growth of the area. The successful navigation of the regulatory requirements will be essential to unlocking the full potential of the property.

2. APPLICATION DETAILS

The application is hereby submitted in terms of the following provisions of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020:

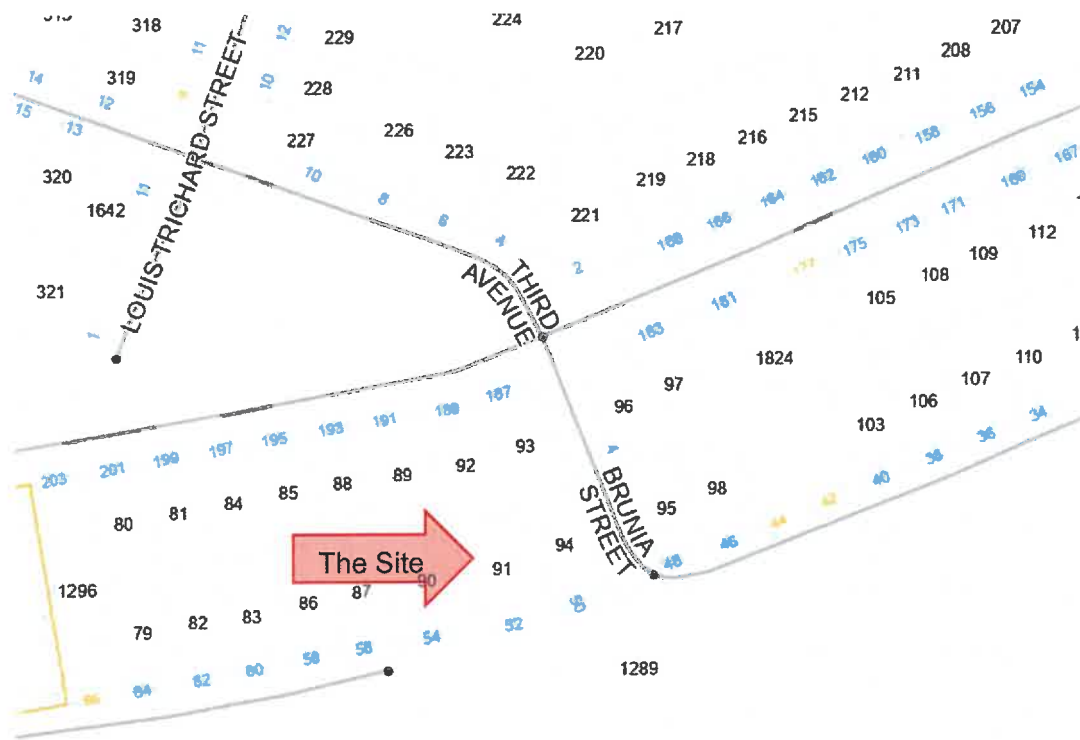
- Chapter 4, Section 16(2)(o): Application for consent use to permit the establishment of a guesthouse on Erf 91, Sandbaai.
- Chapter 4, Section 16(2)(b): Application for building line departures applicable to Erf 91, Sandbaai.
- Chapter 4, Section 16(2)(f): Application for the removal of restrictive Title Deed conditions to enable the establishment of a guesthouse on Erf 91, Sandbaai.

- Chapter 4, Section 16(2)(q): Application for the determination of an administrative penalty in respect of Erf 91, Sandbaai.

3. GENERAL APPLICATION INFORMATION

3.1 PROPERTY DESCRIPTION

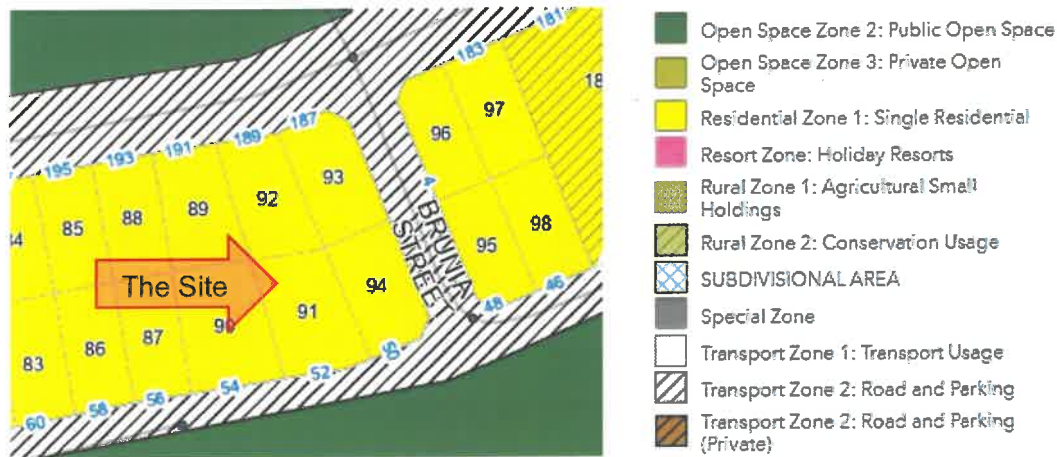
Erf 91 Sandbaai is located at 52 Kusweg, Sandbaai. Please refer to the attached locality plan and the abstract below:



Erf 91 Sandbaai is 951 m² in extent and is located in a predominantly residential area, where consent uses for guesthouse purposes have previously been approved.

3.2 ZONING

Erf 91 Sandbaai is classified as Residential Zone 1: Single Residential. The surrounding properties are similarly zoned for Residential Zone 1: Single Residential purposes. Please refer to the zoning map abstract below:



3.3 LAND USE

Erf 91, Sandbaai is currently developed with an existing dwelling and associated outbuildings. The property was purchased by the current owner in 2022, after which building plans were submitted and duly approved to modernise the dwelling in preparation for its future use as a guesthouse.

During the renovation period, limited portions of the dwelling were rented out on two occasions as a self-catering unit. Upon completion of the renovations in late September 2023, the property formally commenced operation as a guesthouse, with the first booking facilitated through Booking.com.

The surrounding land uses comprise predominantly single residential dwellings, several of which are also utilised as guesthouses, along with areas of public open space and the adjoining public road network.

3.4 PROPOSED APPLICATION

The application is hereby submitted in terms of the following provisions of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020:

- Chapter 4, Section 16(2)(o): Application for consent use to permit the establishment of a guesthouse on Erf 91, Sandbaai.
- Chapter 4, Section 16(2)(b): Application for building line departures applicable to Erf 91, Sandbaai.
- Chapter 4, Section 16(2)(f): Application for the removal of restrictive Title Deed conditions to enable the establishment of a guesthouse on Erf 91, Sandbaai.
- Chapter 4, Section 16(2)(q): Application for the determination of an administrative penalty in respect of Erf 91, Sandbaai.

3.4.1. PROPOSED CONSENT USE

The subject property is zoned for single residential purposes. According to the Zoning Scheme Regulations, a guesthouse can be established on the property through a consent use application, as outlined in Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020.

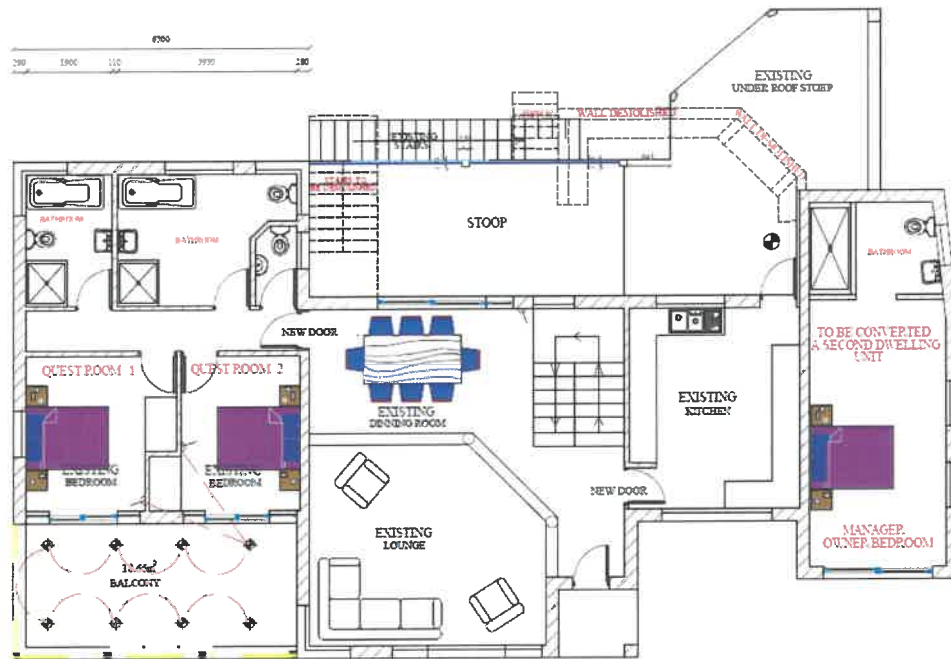
This report details the proposed development of a guesthouse featuring five guestrooms, along with facilities for both guests and the owner/manager. The guesthouse is designed to offer comfortable accommodation for visitors, emphasizing convenience and functionality.

The guesthouse can be described as follows:

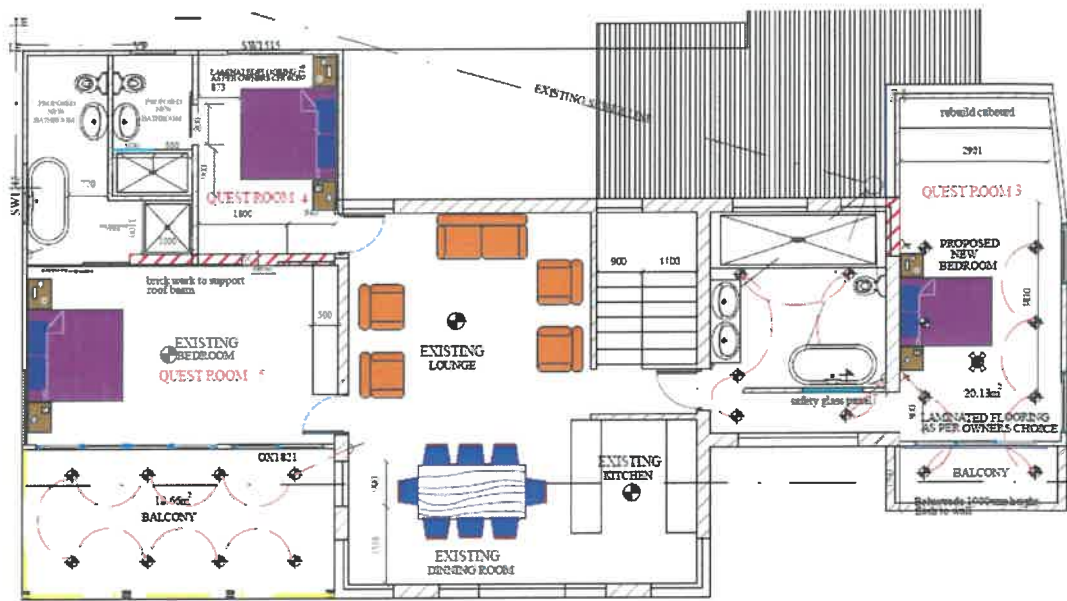
Ground Floor

- 2 guestrooms will be located on the ground floor.
- Guestrooms 1 and 2 will have their own bathroom across the hallway, ensuring ease of access for guests.
- A former bedroom that gained access through the kitchen will now be utilised as a second dwelling for the accommodation of the owner / manager due to the fact that the door used to access the bedroom has been closed and an electrical inverter has been installed in its place.

- Please refer to the building plan abstract below for the ground floor layout:



- The first floor will feature 3 guestrooms.
- These bedroom labelled Guestroom 3 to 5 has it's own en-suite bathroom facilities;
- Additionally, the first floor will include communal areas such as a lounge, kitchen, and dining room, offering ample space for socializing and relaxation for both guests and the owner/manager.



The benefits of the proposal are as follows:

- **Efficient Use of Space:** By distributing guestrooms and communal areas across two floors, the guesthouse optimizes space utilization while maintaining a comfortable environment for occupants.
- **Privacy and Convenience:** Providing some guestrooms with en-suite bathrooms enhances privacy and convenience for guests, catering to various preferences and needs.
- **Separate Owner/Manager Quarters on ground floor:** Offering a dedicated bedroom and facilities for the owner/manager ensures their comfort and convenience, allowing them to oversee operations while maintaining a distinct living space.

The proposed development of a guesthouse featuring five guestrooms across two floors presents a well-designed and functional accommodation option for visitors. With a mix of en-suite bathroom facilities, alongside communal areas for dining and relaxation, the guesthouse aims to provide a comfortable and enjoyable experience for guests while also addressing the needs of the owner/manager.

3.4.2. PROPOSED BUILDING LINE DEPARTURES

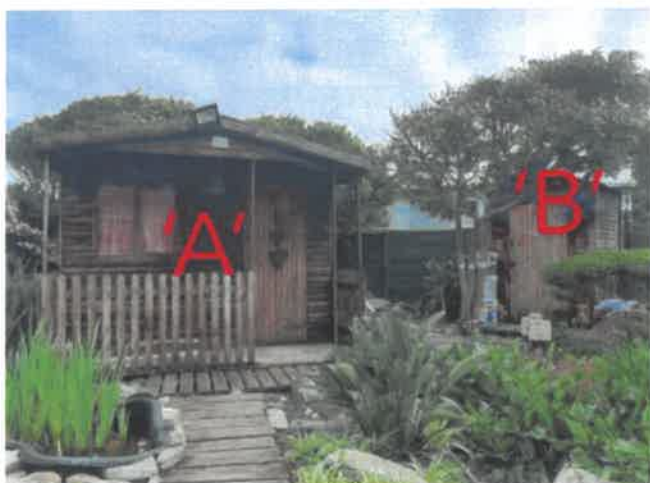
In terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning (2020), this application includes a request for building line departures applicable to Erf 91, Sandbaai. The property is zoned Residential Zone 1: Single Residential, which prescribes 2m rear and lateral building lines and a 4m street building line.

A professional land survey undertaken in July 2025 confirmed that three structures—two garden sheds and a portion of the existing double-storey dwelling—extend marginally into the prescribed building lines. These encroachments are historic, having been constructed by former owners prior to the purchase of the property by Mrs Solomon in 2022, and were only discovered after the Municipality required a formal survey as part of the broader consent use application. Aerial imagery shows that the dwelling was built in 2002, the larger garden shed in 2013, and the smaller garden shed in 2018. The encroachments are therefore longstanding, predate current ownership, and were inherited in good faith.

The departures required are as follows:

- A. A departure from the western lateral building line, from 2.0m to 1.88m, to accommodate an existing garden shed encroaching by 0.12m.
- B. A departure from the northern rear building line, from 2.0m to 1.30m, to accommodate a smaller garden shed encroaching by 0.70m.
- C. A departure from the eastern lateral building line, from 2.0m to 1.71m and 1.77m, to accommodate a portion of the existing double-storey dwelling encroaching by 0.29m and 0.23m.

Please refer to the attached set of building plans and photographs below depicting the garden sheds and portion of the dwelling that encroach the above mentioned building lines.



These encroachments are minor in extent, negligible in impact, and entirely existing structures. They do not compromise neighbouring properties, public safety, or the character of the residential environment. Importantly, the Overstrand Municipality Land Use Scheme allows for the regularisation of such instances through a departure process, and the current application seeks to bring the property into full compliance with planning law.

The inclusion of these departures in the current application is also consistent with the applicant's broader efforts to regularise the property, which includes obtaining consent use for a five-room guesthouse, the removal of restrictive title deed conditions, and the determination of an administrative penalty. The approach reflects the owner's proactive commitment to resolving inherited irregularities and ensuring the lawful use of the property going forward.

3.4.3 PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS

Fairbridges Wertheim Becker Attorneys were requested to confirm, by means of a conveyancing certificate, if the Title Deed contains restrictive conditions that will have to be addressed. The enclosed Title Deed, T041901/22 contains the following restrictions as per the attached conveyancer certificate:

- **Page 2, Paragraph (B)(a): “Dat die Maatskappy behou homself en sy opvolgers in regte alleenreg tot alle hotelle en dranklisensies, en die Transportnemer/s of sy/hulle opvolgers in regte sal die reg nie hê om enige hotel op te rig of om enige dranklisensie te besit, sonder om eers die skriftelike toestemming van die Direkteur van die Maatskappy of sy opvolgers in regte, te verkry. “**
- **Page 3, paragraph (C)(a): “That the above erf or erven be used for residential purpose only”**
- **Page 3, paragraph (C)(c): “That not more than one dwelling together with the necessary outbuildings and accessories be erected on any of the above erven and that not more than one-half of the area of any one of the above erven be built upon”**
- **Page 3, paragraph (C)(d): “That no building shall be erected on the above erf or erven within 4.72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as garden but shall not be built upon.”**

Addressing the above mentioned Title Deed restrictions is due to the following reasons:

- An application is lodged for a consent use for a 5 bedroom guesthouse. The owner wishes be able to apply for a liquor license for the onsite consumption of liquor in order to be able to provide guests with alcoholic beverages. We are therefore applying for the removal of the following restrictive Title Deed condition: **Page 2, Paragraph (B)(a): “Dat die Maatskappy behou homself en sy opvolgers in regte alleenreg tot alle hotelle en dranklisensies, en die Transportnemer/s of sy/hulle opvolgers in regte sal die reg nie hê om enige hotel op te rig of om enige dranklisensie te besit, sonder om eers die skriftelike toestemming van die Direkteur van die Maatskappy of sy opvolgers in regte, te verkry. “**
- The proposed use of the dwelling as a guesthouse contradicts the prescribed land use as defined in the Title Deed. The Title Deed restricts the land use to residential purposes only, that does not include a guesthouse. We are therefore applying to have the following Title Deed restriction removed.

“Page 3, paragraph (C)(a): “That the above erf or erven be used for residential purpose only”

- As mentioned above, a guesthouse is proposed. Erf 91 Sandbaai is limited to a single dwelling only in terms of the Title Deed. The restriction read as follows: **“Page 3, paragraph (C)(c): “That not more than one dwelling together with the necessary outbuildings and accessories be erected on any of the above erven and that not more than one-half of the area of any one of the above erven be built upon.”** We are therefore applying for the removal of this restrictive Title Deed condition to make provision for a guesthouse.
- A portion of the dwelling was constructed 4m from the street boundary and the position of the building was approved as such by the Overstrand Municipality. The approved building plan contradicts the Title Deed due to a condition stipulating that a 4.72m street building line applies. We are therefore applying for the removal of the following restrictive Title Deed condition: **Page 3, paragraph (C)(d): “That no building shall be erected on the above erf or erven within 4.72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as garden but shall not be built upon.”**

In terms of **Chapter 4, Section 35(4)** of the Overstrand Municipality’s By-law on Municipal Land Use Planning, 2020 and **Section 39(5)** of the Land Use Planning Act, 2014, when the Municipality considers the removal, suspension or amendment of a restrictive condition; the municipality must consider the following:

- **The financial or other value of the rights in terms of the restrictive conditions enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the person as the owner of a dominant tenement.**

The removal of these Title Deed restrictions will enable the property to be developed as proposed, in line with the primary land use rights outlined in the Overstrand Municipality Zoning Scheme Regulations. We are applying for a guesthouse as a

consent use, which will enhance the market value of the property and positively impact the local tourist sector, benefiting nearby shops, restaurants, and other businesses.

- **The personal benefit which accrues to the holder of rights in terms of the restrictive conditions.**

The personal benefits accrued to the owners within the township are minimal concerning the Title Deed conditions proposed for removal. None of the existing owners in the township stand to gain personally from the removal of these restrictions, which currently prevent the property from being developed as a guesthouse.

The proposal is expected to have an extremely low impact on the existing built environment and land use in the area; however, such changes have received support in the region. Surrounding property owners will remain protected by existing policies, including the Zoning Scheme Regulations of the Overstrand Municipal Area and the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020.

The primary advantage of removing these restrictive Title Deed conditions lies in the potential increase in the property's market value. This could subsequently lead to social and economic benefits for the local community by attracting greater investment.

- **The personal benefit which will accrue to the person seeking the removal of the restrictive conditions, if removed.**

The property owner will benefit from the removal of the specified Title Deed restrictions, as it will enhance the development rights available for the subject property. In accordance with the primary land uses and consent uses defined in the Overstrand Municipal Zoning Scheme Regulations, this removal will facilitate the proposed use of the dwelling as a five-guestroom guesthouse.

- **The social benefit of the removal, suspension or amendment of the restrictive conditions remaining in place.**

The particular township has already undergone changes through previously approved applications that included departures, consent uses, and the removal of restrictive Title Deed conditions, or combinations thereof. The implication is that if these conditions are maintained, the current situation will continue unchanged. However, there are doubts about whether retaining these conditions would yield significant social benefits.

Additionally, maintaining these restrictions would place further enforcement responsibilities on the Overstrand Municipality, adding to the existing obligations outlined in the Zoning Scheme Regulations.

In summary, there is a consideration of whether keeping certain restrictions in the township is necessary or advantageous, particularly in light of the potential administrative burden and the uncertain social benefits they may provide.

- **The social benefit of the removal, suspension or amendment of the restrictive conditions**

There are several potential social benefits to removing the restrictive Title Deed conditions and allowing for a guesthouse to be established on Erf 91 Sandbaai. Here are some points supporting this argument:

- Encouraging Appropriate Land Uses: Allowing the establishment of a guesthouse on the property aligns with the principle of encouraging appropriate land uses in all areas. This can contribute to efficient land utilization and prevent underutilization of space.
- Modern City Development and Diversification: Permitting the utilization of a dwelling as a guesthouse reflects modern city development trends where mixed land uses are encouraged to create vibrant and diverse communities. This diversification can enhance the attractiveness and liveability of the area.

- **Prevention of Urban Sprawl:** By repurposing existing structures for commercial use, rather than building new ones on undeveloped land, the removal of restrictive conditions can contribute to the prevention of urban sprawl. This supports more sustainable urban development practices.
- **Efficient Use of Land:** Allowing for the establishment of a guesthouse can be seen as a more efficient use of land, especially if the property is located in an area with tourism potential. It maximizes the economic potential of the land while meeting the demand for tourist accommodation.
- **Alignment with Policy Objectives:** Permitting guesthouse establishment aligns with various policies that advocate for a more efficient use of land and appropriate development practices. It supports goals related to sustainable development, tourism promotion, and economic growth.

Overall, removing restrictive Title Deed conditions to allow for a guesthouse on Erf 91 Sandbaai can have positive social benefits by promoting sustainable development, enhancing economic opportunities, and contributing to the overall vibrancy and attractiveness of the area.

Furthermore, the removal of these Title Deed conditions is in line with the land use planning principles of efficiency and spatial sustainability as set out in the SPLUMA and LUPA, in that the development curtails urban sprawl, and promotes intensification of land uses with the constraints of existing infrastructure, without detracting from the visual or residential appeal of the area.

- **Whether the removal, suspension or amendment of the restrictive conditions will completely remove all rights enjoyed by the beneficiary or only some of the rights**

The removal of the restrictions will not remove the rights completely, as the

Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 provides a certain level of control that will guide the manner in which the property is both used and developed.

With reference to Section 47 of the **Spatial Planning Land Use Management Act, 2013**, the removal of restrictive Title Deed conditions will not deprive any person in the subject area of Sandbaai as contemplated in Section 25 of the **Constitution of the Republic of South Africa**. By denying the removal of the Title Deed restrictions, additional people will be deprived from diversification of land use opportunities. It will also deprive the current owner from utilizing the subject property as a guesthouse.

The application for the removal of the applicable Title Deed restrictions is made in the prescribed manner as per the **Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020**. The proposed removal of restrictions will therefore be in the interest of the landowner and the general public. In relation to the above, the benefit of removing the Title Deed restrictions outweighs the benefits of keeping the restrictions in place.

The reasons to have the abovementioned Title Deed restrictions 2(a) and 2(c) removed are mainly to give the owner the opportunity to utilise the property for the purposes of a guesthouse.

3.4.4 DETERMINATION OF AN ADMINISTRATIVE PENALTY

The owner acquired the property in 2022 with the intention of establishing a guesthouse within the existing dwelling. Subsequently, contractors were appointed to undertake alterations aimed at transforming the property into an upscale guesthouse. However, with limited knowledge of the necessary approval processes, the owner initially applied for a business license, a rebate for the guesthouse, and submitted an application for consent use, which did not comply with regulatory requirements.

To address this, Plan Active was engaged to prepare a compliant motivation report. This report was completed and forwarded to the owner, who was overseas at the time,

as well as to the manager, who was instructed to submit the application. Upon the owner's return, it was discovered that the application had not been submitted, as the manager had left due to health reasons. A subsequent meeting was held between the owner and Mr. Helgaardt Boshoff (Municipal Town Planner) to discuss the application process and next steps. Our team also attended the meeting, where it was agreed that we would submit an application for consent use, the removal of restrictive Title Deed conditions, and the determination of an administrative penalty.

Alterations to the dwelling were undertaken between January and September 2023, following the approval of the submitted building plans. During this period, a portion of the dwelling remained accessible and functional as a residence. This section was rented out on two occasions as a three-bedroom self-catering unit, as previously noted. Upon completion of the renovations at the end of September 2023, the property commenced operation as a guesthouse.

As part of the current application process, the Overstrand Municipality requested that a professional survey be undertaken to verify the positioning of the existing buildings in relation to the erf boundaries. Geomatics Africa Land Surveyors conducted the survey and issued a plan dated July 2025, a copy of which is enclosed for reference.

The survey confirmed the presence of three minor building line encroachments. These encroachments must now be regularised through an application for building line departures, together with the determination of an administrative penalty.

In accordance with Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning (2020), this application is made for the determination of an administrative penalty for unauthorized land use and building line encroachments. According to Chapter 9, Section 90(1), "A person who is in contravention of this By-Law, and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned."

Furthermore, as stipulated in Chapter 9, Section 90(3) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning (2020), the applicant must provide the following to the satisfaction of the Municipality:

3.4.4.1 CRITERIA FOR DETERMINATION OF AN ADMINISTRATIVE PENALTY

a) The Nature, duration, gravity, and extent of the contravention

The contravention relates to the unauthorised use of Erf 91, Sandbaai, as a guesthouse comprising five guestrooms, without the necessary consent use approval from the Overstrand Municipality.

Following the property's purchase in 2022, the owner undertook alterations between January and September 2023 to modernise the dwelling and prepare it for guesthouse operations. Due to limited knowledge of municipal procedures, an incomplete application for business licensing and consent use was submitted, which did not comply with prescribed requirements. During the renovation period, a portion of the dwelling was rented out on two occasions as a three-bedroom self-catering unit. Full guesthouse operations commenced at the end of September 2023, once renovations were complete.

With respect to building line compliance, the main dwelling was already positioned as currently constructed when Mrs Solomon acquired the property in 2022. Building plans for the internal alterations were duly submitted and approved prior to construction. It is assumed that the newly submitted plans were compiled using previously approved plans, without the benefit of a professional survey. The owner therefore reasonably believed that no building line encroachments existed.

A professional survey subsequently revealed three building line encroachments, none of which were caused by the current owner. Instead, these were inherited from previous owners. Aerial imagery confirms that:

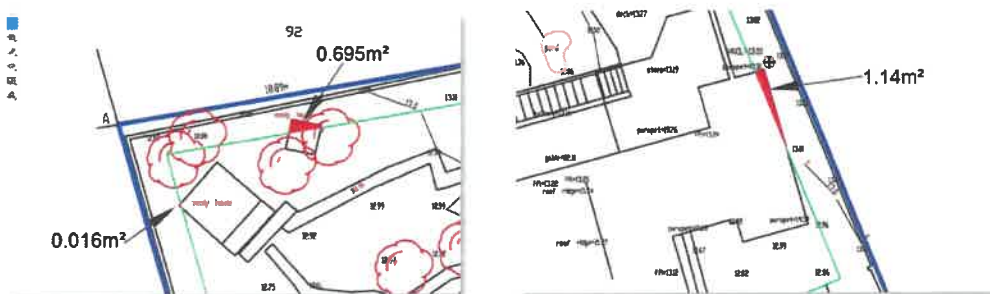
- The dwelling was constructed in 2002;
- The larger of the two garden sheds was erected in December 2013; and

- The smaller garden shed was erected in April 2018.

The encroachments identified are as follows:

- Western lateral boundary: Garden shed encroachment of approximately 0.016m²;
- Northern rear boundary: Smaller garden shed encroachment of approximately 0.695m²;
- Eastern lateral boundary: Existing dwelling encroachment of approximately 1.14m².

For ease of reference, please see the extracts from the survey drawing below.



The gravity of the contravention arises from the owner's oversight in commencing guesthouse operations without obtaining the requisite municipal approvals, as well as the existence of building line encroachments inherited from previous owners. These circumstances constitute a conflict with Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning (2020). Consequently, the unauthorised land use and building line encroachments necessitates the imposition of an administrative penalty in terms of Chapter 9, Section 90(1) of the By-law.

In terms of extent, the contravention has affected municipal land use planning processes and carries implications for compliance standards within the local hospitality sector. Notably, upon becoming aware of these issues, the owner acted in good faith to regularise the matter by appointing Plan Active Town and Regional Planners to prepare and submit a comprehensive application addressing:

- Consent use for the operation of a guesthouse;

- Removal of restrictive Title Deed conditions;
- Determination of an administrative penalty; and
- Building line departures.

b) The conduct of the person involved in the contravention

The owner of Erf 91, Sandbaai has acted with a proactive and cooperative approach to rectify the contraventions once they were identified. Initially, the owner pursued business licensing, a guesthouse rebate, and an application for consent use, though these efforts did not fully comply with the regulatory requirements of the Overstrand Municipality. Limited knowledge of the municipal zoning and land use regulations contributed to this initial oversight.

Upon discovering that the initial application had not been submitted by the appointed property manager, who had resigned due to health reasons, the owner promptly engaged Plan Active Town and Regional Planners to prepare a motivation report in accordance with municipal standards. A meeting was then convened between the owner, Mr Helgaardt Boshoff, and Plan Active to ensure that all corrective steps were identified.

In addition to addressing the unapproved guesthouse use, a professional survey requested by the Municipality revealed three minor building line encroachments—the existing dwelling on the eastern boundary, a larger garden shed on the western boundary, and a smaller garden shed on the northern boundary. These encroachments were not caused by the current owner but rather inherited from previous landowners. Aerial imagery confirms that the dwelling was constructed in 2002, the larger garden shed in December 2013, and the smaller shed in April 2018, all predating the current ownership.

The owner has since taken full responsibility for addressing both the guesthouse use and the inherited encroachments, by submitting a comprehensive application to obtain consent use approval, remove restrictive Title Deed conditions, apply for the required building line departures, and determine the administrative penalty in terms of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning (2020).

This conduct reflects a clear commitment to compliance and demonstrates a responsible, good-faith effort to regularise all aspects of the property's use and development in alignment with municipal regulations and legal requirements.

c) Whether the unlawful conduct was stopped

The guesthouse on Erf 91, Sandbaai has been operational since the end of September 2023, following the completion of substantial renovations aimed at creating an upmarket accommodation offering. Despite being aware of the need for regulatory approvals, the owner has continued to operate the five-bedroom guesthouse to recoup investments and cover ongoing property expenses, relying on this income to support financial commitments made toward the establishment of the guesthouse.

In addition to the guesthouse use, a professional survey requested by the Municipality confirmed the existence of three minor building line encroachments—the main dwelling along the eastern boundary, a larger garden shed along the western boundary, and a smaller garden shed along the northern boundary. These encroachments predate the current ownership, having been established by previous owners between 2002 and 2018, and were only recently identified through the survey process.

While acknowledging both the unauthorised guesthouse use and the inherited encroachments, the owner has taken steps to rectify the situation by engaging Plan Active Town and Regional Planners to prepare and submit applications for consent use, removal of restrictive Title Deed conditions, building line departures, and the determination of an administrative penalty as required by the Overstrand Municipality.

As the application and approval processes remain underway, halting operations at this stage would impose a significant financial burden on the owner. The guesthouse therefore continues to operate in order to generate the revenue necessary to meet financial obligations, with the clear intention of fully regularising both the property's use and its compliance with building line regulations once municipal approvals are granted.

d) A report by a quantity surveyor in matters of unauthorised building/construction

In this case, the application pertains to the unauthorised use of the property as a guesthouse, rather than the unauthorised construction of new buildings or alterations. All physical alterations to the existing dwelling on Erf 91, Sandbaai, were carried out in full compliance with approved building plans that had been submitted and sanctioned by the Overstrand Municipality prior to construction. These alterations, completed between January and September 2023, were undertaken by professional contractors to modernise the dwelling for its future use as a guesthouse.

Accordingly, the report compiled by Smart Solution Architecture and Architectural Consultants does not identify any unlawful building activities in respect of the renovations, since all such works align with the approved plans. Instead, the report provides a cost estimate of existing structures encroaching into the building lines, as identified in the professional survey, for the purpose of determining an administrative penalty. These encroachments were inherited from previous owners and not constructed by the current owner.

The encroachments and their associated costs are as follows:

1. Western lateral boundary (Garden shed, "A")

Encroachment area: $\pm 0.016 \text{ m}^2$

Assessed at R 1,772.91/m²

Applicable cost: R 28.36 (VAT incl.)

2. Northern rear boundary (Garden shed, "B")

Encroachment area: $\pm 0.695 \text{ m}^2$

Assessed at R 4,063.33/m²

Applicable cost: R 2,824.01 (VAT incl.)

3. Eastern lateral boundary (Portion of existing dwelling, "C")

Encroachment area: $\pm 1.14 \text{ m}^2$

Assessed at $\pm R 9,000.00/\text{m}^2$ (average market rate for comparable finishes)

Applicable cost: R 10,260.00 (VAT incl.)

The total construction cost attributable to the encroachments is R 13,112.37 (VAT inclusive), which is to be used as the basis for calculating the administrative penalty.

The contravention therefore arises solely from:

- The initiation of guesthouse operations without consent use approval; and
- The existence of minor building line encroachments established by previous owners.

This represents a regulatory matter concerning land use permissions under the Overstrand Municipality's Zoning Scheme, distinct from any unauthorised or unlawful construction activities.

Given that the identified encroachments are minor in extent, relatively low in construction value, and were inherited from previous owners long before the current owner's purchase of the property, it is submitted that these factors warrant the imposition of a reduced administrative penalty. The current owner has acted in good faith, undertaking approved renovations, engaging professionals to ensure compliance, and proactively submitting a comprehensive application to regularise the use of the property. The imposition of a disproportionate penalty in these circumstances would be unduly punitive, whereas a reduced penalty would recognise both the limited scale of the contraventions and the owner's cooperative approach in resolving the matter.

e) Whether a person involved in the contravention has previously contravened this By-Law or a previous planning law

To the best knowledge of the applicant, and as confirmed by the landowner, there has been no prior contravention of this By-Law or any previous planning laws by the current owner.

The only contraventions now under consideration relate to:

- The operation of a guesthouse without the required consent use approval; and
- The existence of three minor building line encroachments identified through a professional survey, namely:
 - A garden shed encroaching on the western boundary ($\pm 0.016 \text{ m}^2$);
 - A garden shed encroaching on the northern boundary ($\pm 0.695 \text{ m}^2$); and
 - A portion of the existing dwelling encroaching on the eastern boundary ($\pm 1.14 \text{ m}^2$).

These encroachments were not caused by the current owner but were inherited from previous landowners. Aerial imagery confirms that the dwelling was built in 2002, the larger garden shed in 2013, and the smaller shed in 2018—well before the present ownership. The current owner became aware of the encroachments only once the survey was completed and has since taken steps to regularise them through the present application.

We respectfully appeal to the Overstrand Municipality to consider the minimal impact of both the guesthouse use and the encroachments on the surrounding area. Importantly, no complaints regarding the operation of the guesthouse have been received from neighbouring property owners.

Furthermore, the owner incurred additional tax liabilities amounting to R 60,078.06 while the property was not actively operating as a guesthouse. Although the guesthouse officially commenced operations at the end of September 2023 (following the issue of the Certificate of Completion), the rates and taxes were backdated from October 2022 to September 2023. During this renovation period, the dwelling was only rented out twice as a self-catering unit, which does not constitute guesthouse use.

Through this application, the owner now seeks to obtain all necessary approvals for the operation of the five-guestroom guesthouse and to regularise the building line encroachments. Given that the encroachments are historic, of very limited extent, and were not caused by the current owner, together with the fact that additional rates and taxes have already been paid, we respectfully request that the Municipality apply fairness and proportionality in its decision-making and consider a reduced or waived penalty fee in this matter.

3.4.5 ENCROACHMENT AGREEMENT

The Overstrand Municipality, through its Property Administration Department, issued formal consent to retain an existing encroachment on municipal property adjacent to Erf 91, Sandbaai. The encroachment area forms part of Erf 1298, Sandbaai, measuring approximately 274 m² in extent, and is utilised for gardening, retaining wall, and parking purposes. Please refer to the plan abstract below:



This consent, dated 8 July 2025, was granted following an application by the owner, Mrs S.C. Solomon.

The agreement recognises the encroachment as historic and longstanding, allowing for its continued use under specific municipal conditions. The encroachment area adjoins the western boundary of Erf 91 and includes a portion of the municipal road reserve along Kusweg, which terminates in a cul-de-sac. The owner maintains a lease agreement with the Overstrand Municipality for the use of this municipal land, which serves as an extension of the existing garden and parking area associated with the property.

Under the terms of the approval, the owner:

- Indemnifies the Overstrand Municipality against any liability, claim, or expense arising from the use of the encroachment area.
- Retains responsibility for the ongoing maintenance and upkeep of the encroachment area, ensuring that it remains safe and well maintained at all times.
- May not extend, alter, or construct any additional structures within the encroachment area without prior written consent from the Municipality.
- Shall not obtain prescriptive or ownership rights over the encroachment area; the consent is for use only and does not confer any legal tenure.
- May only use the encroachment area for the existing purposes approved—namely, gardening, a retaining wall, and parking.

The Municipality reserves the right to withdraw consent with thirty (30) days' written notice should the conditions not be complied with, or should the area be required for municipal purposes. The Municipality also maintains unrestricted access rights for inspection, maintenance, or installation of municipal services within or adjacent to the encroachment area.

The encroachment consent was granted in accordance with Paragraph 64.1(c) of the Administration of Immovable Property Policy (adopted by Council on 25 November 2015), which allows for limited encroachments on municipal road reserves and public thoroughfares to encourage adjoining owners to maintain such areas. The approval

falls under Transport Zone 2: Road and Parking, and includes a partially enclosed portion, as illustrated in the attached locality plan.

This formal consent regularises the historic encroachment associated with Erf 91, Sandbaai, ensuring that the use of the municipal land remains lawful, clearly defined, and compatible with the surrounding residential and coastal environment. The arrangement further complements the broader land use application, as it supports the provision of on-site parking and landscaping associated with the proposed guesthouse establishment.

In conjunction with the building line departure application, which addresses three minor encroachments within the erf boundaries (a dwelling encroachment of 0.29m, a garden shed encroachment of 0.12m, and a smaller shed encroachment of 0.70m), this encroachment agreement demonstrates the owner's commitment to achieving full compliance with both municipal land use and property management requirements. The Municipality's willingness to formalise and manage the encroachment through consent also confirms that the arrangement presents no detrimental impact on municipal land, access, or neighbouring properties.

3.5 CHARACTER OF THE ENVIRONMENT

Erf 91, Sandbaai is situated within a well-established, predominantly residential neighbourhood characterised by single residential dwellings, many of which have been modernised or repurposed to accommodate guesthouse operations. The property is zoned Residential Zone 1: Single Residential, consistent with the zoning of surrounding erven, thereby reinforcing the residential character of the area.

The immediate environment reflects a balance between permanent residences and short-term visitor accommodation, with several properties in close proximity already operating as guesthouses. This demonstrates an existing pattern of land use diversification within the suburb, aligned with Sandbaai's role as both a residential area and a tourism node.

Public open spaces and road networks further support the residential and tourism functions of the area, ensuring accessibility and integration with the wider Hermanus–

Sandbaai urban context. The coastal location enhances the appeal of the area, attracting visitors seeking accommodation within walking distance of the sea and other key amenities.

The proposed guesthouse on Erf 91 is therefore compatible with the character of the environment. Its scale—five guestrooms within an existing residential dwelling—ensures that the property retains the outward appearance of a home while contributing to the established pattern of low-intensity guest accommodation in the area. Importantly, the proposed use does not compromise the residential amenity of neighbouring properties, as the building form and footprint remain unchanged, with only internal alterations having been undertaken.

By formalising the guesthouse use through this application, the proposal will reinforce the area's mixed residential–tourism character, while safeguarding compliance with municipal planning requirements and maintaining the integrity of the surrounding environment.

3.6 POTENTIAL OF THE PROPERTY (DESIRABILITY OF THE PROPOSED UTILIZATION)

Erf 91, Sandbaai holds significant potential for utilisation as a guesthouse, owing to both its location and its existing built form. Situated at 52 Kusweg within close proximity to the coastline and key amenities, the property is ideally positioned to meet the growing demand for visitor accommodation in Sandbaai and the wider Hermanus area. The region has developed into a sought-after tourism destination, with strong demand for small-scale, well-managed guesthouses that provide personalised services in a homely environment.

The dwelling, which has been modernised through recently approved renovations, is already well-suited to guest accommodation. The internal layout allows for the efficient distribution of five guestrooms together with appropriate communal facilities, while preserving a separate space for the resident owner/manager. This ensures that the property can be operated in a professional yet low-impact manner, consistent with the

Overstrand Municipality's planning objectives for mixed residential and tourism-oriented uses.

From a land-use perspective, the proposed guesthouse is compatible with both the zoning and the surrounding environment. The area already accommodates several guesthouses within its predominantly residential fabric, illustrating the desirability of such a use and the absence of adverse impacts on the neighbourhood character. The retention of the dwelling's residential scale and appearance further ensures that the proposed utilisation will integrate seamlessly with its context.

Economically, the proposed guesthouse will unlock the latent potential of the property by creating a steady revenue stream, contributing to the local tourism economy, and supporting associated businesses such as restaurants, shops, and service providers. This in turn will enhance the rates base of the municipality, as evidenced by the backdated rates and taxes already paid by the owner.

In conclusion, the proposed use of Erf 91, Sandbaai as a five-room guesthouse represents a desirable and appropriate utilisation of the property. It capitalises on its locational advantages, contributes positively to the local economy, aligns with established land-use patterns, and reflects a responsible investment that strengthens the mixed residential-tourism character of the area.

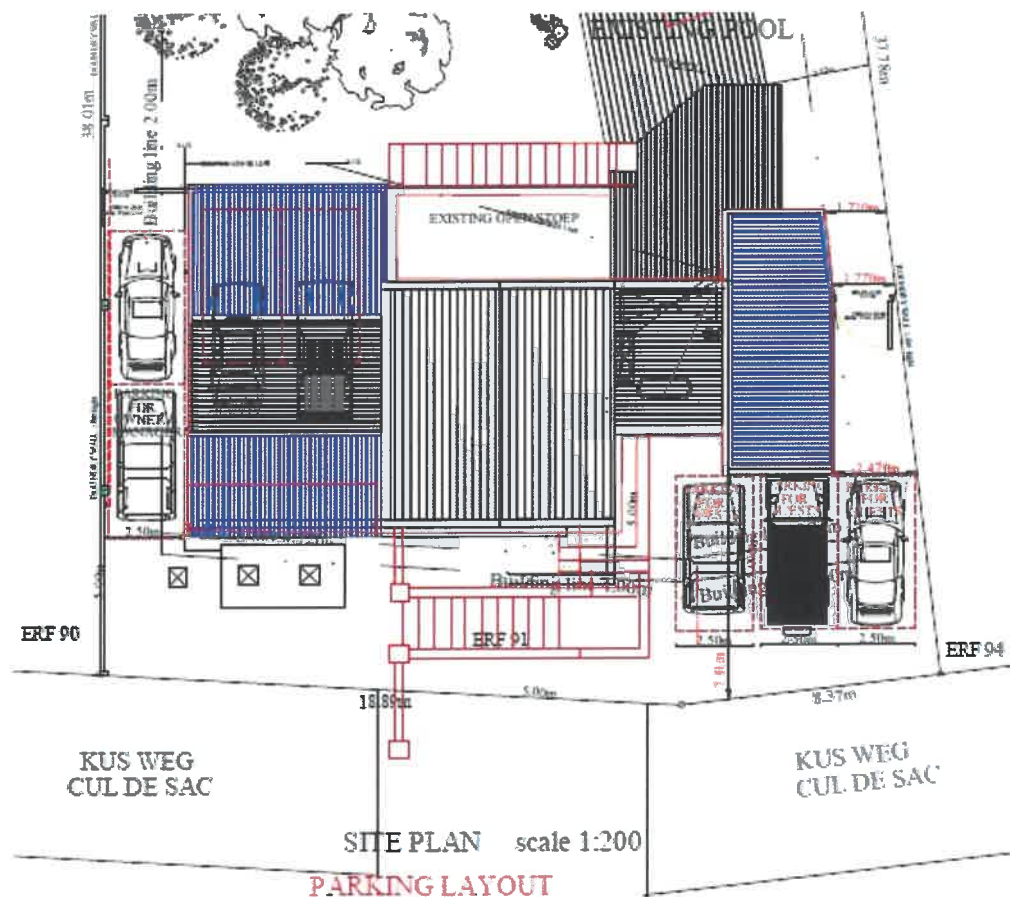
3.7 IMPACT ON EXTERNAL ENGINEERING SERVICES

3.7.1 PROVISION OF SERVICES

All necessary services are already in place on the subject property. Any additional services required will be installed in accordance with the specifications set forth by the Overstrand Municipality.

3.7.2 PARKING, ACCESS AND TRAFFIC IMPACT

Vehicular access to Erf 91, Sandbaai is obtained directly from Kusweg. In terms of the Overstrand Zoning Scheme Regulations (2020), one on-site parking bay is required per guestroom, together with an additional two parking bays for the owner/manager. Accordingly, a total of seven parking bays have been provided on the property. The owner/manager's two bays are accommodated as tandem bays on the western side of the proposed guesthouse. Following the completion of the professional survey, it has been confirmed that sufficient space exists on-site to accommodate these tandem bays. Please refer to the extract from the proposed site development plan attached below.



It should be noted that Kusweg terminates in a cul-de-sac at Erf 91, thereby limiting through-traffic. The owner also holds a lease agreement with the Overstrand Municipality permitting the use of a portion of the adjoining road reserve for existing gardening and parking purposes.

The proposed guesthouse constitutes a low-impact development, and the provision of the required on-site parking will ensure that no adverse impacts arise in terms of traffic circulation, the streetscape, or the residential character of the area. Given that the proposed land use is compatible with surrounding single residential and guesthouse uses, it is anticipated that the operation of the guesthouse will have a negligible impact on local traffic flow.

3.8 TITLE DEED

There are restrictive Title Deed conditions in Title Deed No. T041901/22 that need to be addressed in order for the proposed consent use of Erf 91 Sandbaai to be approved as mentioned in Section 3.4.3 above. There is no bond registered against Erf 91 Sandbaai.

3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.9.1 HERITAGE VALUE

The subject property is not located within a Heritage Overlay Zone, as defined by the Overstrand Municipal Growth Management Strategy (2010). Additionally, it is not designated for heritage conservation purposes and is not associated with any significant individuals, groups, events, or activities. The property has no ties to the history of slavery and is not utilized for living heritage.

In light of the above, it is clear that the proposed consent use will not negatively impact the heritage value of the Sandbaai area. Furthermore, the proposed consent use does not trigger any other listed activities under Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed consent use does not trigger any listed activities under the National Environmental Management Act (NEMA), 1998 (Act No. 107 of 1998).

3.10 FORWARD PLANNING AND LAND USE DOCUMENTS

Overstrand Growth Management Strategy

According to the Overstrand Growth Management Strategy, the subject erf falls within Planning Unit 3, which primarily comprises of single residential erven. No densification is proposed for this planning unit.

The application for consent use and the removal of restrictive Title Deed conditions to allow for the use of a dwelling as a guesthouse aligns with the objectives outlined in the Overstrand Wide Spatial Development Framework and the Overstrand Growth Management Strategy.

Therefore, we believe that the proposed consent use and the removal of the restrictive Title Deed conditions are justifiable and in accordance with the current land use trends in the area.

Overstrand Municipality Spatial Development Framework (May 2020)

According to the Overstrand Municipality Spatial Development Framework (May 2020), the subject property and surrounding erven are designated as an Urban Development Area. The proposed consent use and removal of restrictive Title Deed conditions to accommodate a five-guestroom guesthouse align with the key policies guiding future management and development.

3.11 PLANNING PRINCIPLES

Spatial Justice: The proposed guesthouse on Erf 91, Sandbaai contributes to spatial justice by diversifying land-use opportunities within an existing residential

neighbourhood. By permitting a guesthouse use on land zoned for residential purposes, the application broadens access to economic opportunities and supports tourism-related employment. The formalisation of this use further ensures that the property operates in full compliance with municipal planning regulations, providing a transparent framework for fair and equitable land use across the community. The application does not displace or disadvantage surrounding property owners but instead enhances local value through improved service provision and tourism activity.

Spatial Resilience: The development promotes spatial resilience by adapting an existing dwelling to meet shifting economic and social needs. Hermanus and Sandbaai are increasingly reliant on tourism, and the introduction of a compliant, small-scale guesthouse supports the local economy's resilience against fluctuating market conditions. By diversifying land use in a manner consistent with surrounding patterns, the property contributes to the ability of the area to adapt to changing demands while maintaining its predominantly residential character. The reuse of existing infrastructure further reduces vulnerability to external pressures, ensuring long-term sustainability.

Spatial Sustainability: The utilisation of Erf 91 as a guesthouse reflects the principles of spatial sustainability, as it optimises the use of existing urban land and infrastructure without contributing to urban sprawl. The proposal accommodates tourism demand within the existing residential fabric, thereby preventing unnecessary outward expansion of the town. The minimal scale of the development, limited to five guestrooms, ensures compatibility with the neighbourhood while maximising the economic potential of the property. Furthermore, the adaptive reuse of the existing dwelling reduces the environmental footprint of development, aligning with sustainable planning practices.

Efficiency: The proposed development promotes efficiency by leveraging existing infrastructure and services already available in Sandbaai. Water, electricity, sewerage, and road access are established, meaning no additional bulk infrastructure is required to accommodate the guesthouse. The design of the guesthouse—using an existing dwelling with approved internal alterations—ensures that resources invested into the property yield maximum benefit without duplicating or overburdening services. The provision of adequate on-site parking in compliance with zoning regulations further

demonstrates efficient land use management, balancing the needs of residents, guests, and the municipality.

Good administration: Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2016.

4. RECOMMENDATION

In light of the above considerations, it is recommended that the Council favourably evaluate the applications for consent use, removal of restrictive Title Deed conditions, building line departures, and the determination of an administrative penalty in respect of Erf 91, Sandbaai, based on the following:

- Existing municipal services (water, sewer, electricity, and access roads) are already in place, enabling the smooth transition of the property to its proposed use as a guesthouse without requiring additional infrastructure investment.
- The zoning of the property will remain Residential Zone 1: Single Residential, ensuring that the application aligns with existing land use regulations while introducing a consent use that is specifically contemplated within the zoning scheme.
- The proposal is compatible with the existing built environment and surrounding land uses, many of which already accommodate guesthouses. The low-impact nature of the proposed guesthouse preserves the residential character of the area while providing complementary economic activity.

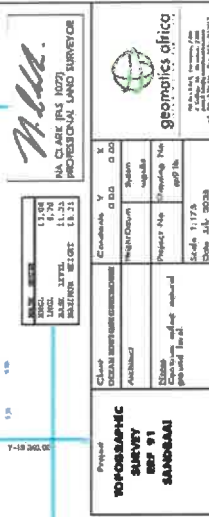
- Traffic impacts will be negligible, with only a minimal increase anticipated from guesthouse operations. The property is located at the end of Kusweg (a cul-de-sac), which further limits any potential traffic conflicts.
- On-site parking provision meets regulatory requirements, with seven parking bays supplied, including two tandem bays allocated for the owner/manager. This ensures sufficient capacity to accommodate both residents and guests without affecting the streetscape.
- The proposed guesthouse will not adversely affect the character or land values of surrounding properties. On the contrary, the improvement and lawful utilisation of the dwelling are anticipated to enhance the appeal of the area and contribute positively to the local economy.
- The application poses no negative environmental implications, as all renovations were limited to the internal structure of the existing dwelling. The land use change therefore complies with environmental management principles.
- Importantly, the professional survey conducted in July 2025 identified three minor building line encroachments—a garden shed on the western boundary (0.12m encroachment), a smaller garden shed on the northern boundary (0.70m encroachment), and a portion of the dwelling on the eastern boundary (0.29m encroachment). These encroachments are longstanding, predate current ownership (2002–2018), and were inherited by the applicant. They are minor in extent, negligible in impact, and can be appropriately regularised through the building line departure process included in this application.
- The determination of the administrative penalty is informed by a cost estimate prepared by Smart Solution Architecture and Architectural Consultants, which values the encroaching areas at R13,112.37 (VAT inclusive). As the encroachments are historic in nature, limited in extent, and were inherited by the current owner without their involvement, it is respectfully submitted that

Council apply the principles of fairness and proportionality by considering the imposition of a reduced penalty, or alternatively, the waiver of the penalty in full.

- The proposal is fully consistent with the spatial planning frameworks and policies applicable to Sandbaai, as well as the development principles of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA) and the Land Use Planning Act, 2014 (LUPA). It supports spatial justice, resilience, sustainability, efficiency, and quality by ensuring lawful, appropriate, and sustainable use of the property.

Conclusion

For these reasons, the application should be supported, as it ensures that Erf 91, Sandbaai is brought into full compliance with municipal planning regulations, while unlocking its potential to operate as a small-scale guesthouse that contributes to the local economy, tourism sector, and community character.



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DRAWN BY: WILMAN GROBLER



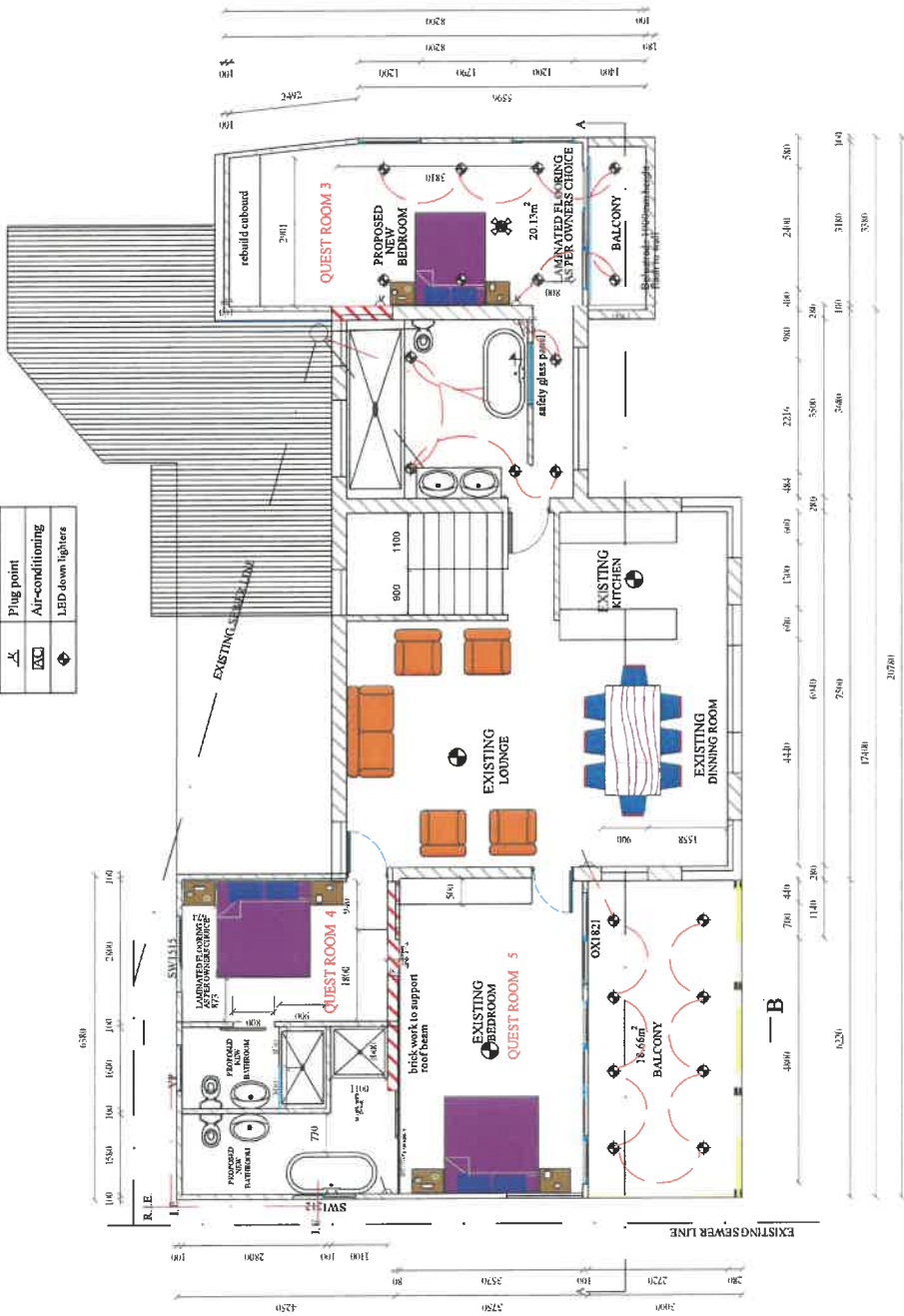
12:21 PM (Africa/Johannesburg) on 30 Jul 2025



South African Council
for the Architectural Profession

ELECTRICAL LEGEND

Centre light	Centre light
Lead tube light 18w	Lead tube light 18w
Ceiling fan	Ceiling fan
DISTRIBUTION BOARD	DISTRIBUTION BOARD
Light switch	Light switch
Hot water geyser	Hot water geyser
Plug point	Plug point
Air-conditioning	Air-conditioning
LED down lighters	LED down lighters



FLOORPLAN scale 1:100
FIRST FLOOR

EXISTING BALCONY CONVERT INTO STUDY AND BATHROOM	27.37m ²
OPEN BALCONY CONVERT TO UNDER ROOF BALCONY	18.66m ²
PROPOSED NEW UNDER ROOF BALCONY	18.66m ²
UNDER ROOF STOEP CONVERT TO BEDROOM	25.04m ²
OPEN STOEP CONVERT TO UNDER ROOF STOEP	20.80m ²
NEW EXPOSED BEDROOM ON EXISTING BEDROOM	27.13m ²
ALTERATIONS TOTAL	137.85m ²
EXISTING BUILDING	353.01m ²
TOTAL	490.86m ²
	117.86m ²

W.F. Grobler
ARGITEKTONIESE DIENSTE BK
Member of S.A.C.A.P.
D0575
DRAWN BY WILMAN GROBLER

PROPOSED ALTERATIONS FOR R SOLOMON
ON ERF 91, 52 KUSWEG, SANDBAAL

Owner Signature

PROJECT: WFG/SB91/01

ERF SIZE
COVERAGE 93.76m²
39.96%

DRAWING NO:

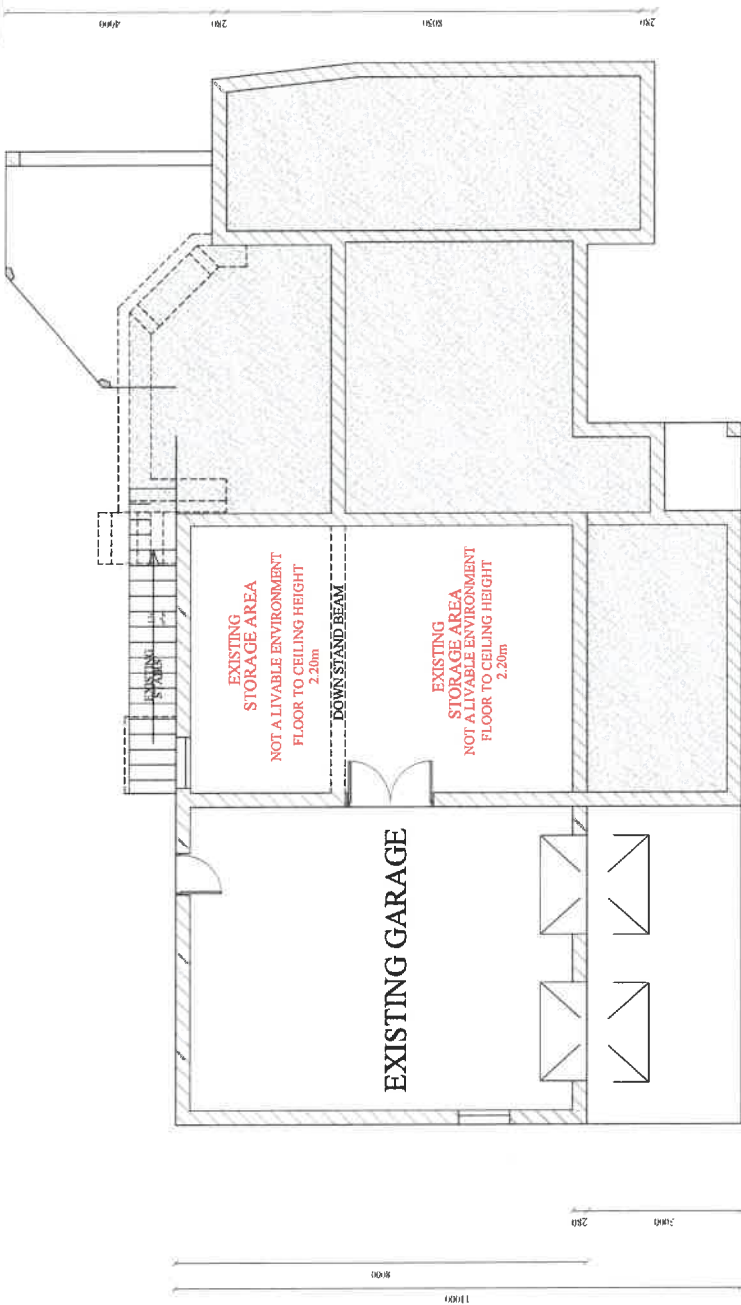


PROFESSIONAL ARCHITECTURAL
DRAUGHTSPERSON
WILMAN FREDERICK GROBLER
11:23 AM (Africa/Johannesburg) on 04 Aug 2025



ELECTRICAL LEGEND

	Centre light
	Led tube light 18w
	Ceiling fan
	DISTRIBUTION
	Light switch
	Hot water geyser
	Plug point
	Air-conditioning
	LED down lighters



FLOORPLAN scale 1:100
GARAGE AND STORAGE AREA

EXISTING BALCONY CONVERT INTO STUDY AND BATHROOM	27.37m ²
OPEN BALCONY CONVERT TO UNDER ROOF BALCONY	18.66m ²
PROPOSED NEW UNDER ROOF BALCONY	18.66m ²
UNDER ROOF STOEP CONVERT TO BEDROOM	25.04m ²
OPEN STOEP CONVERT TO UNDER ROOF STOEP	20.80m ²
NEW EXPOSED BEDROOM ON EXISTING BEDROOM	27.33m ²
ALTERATIONS TOTAL	137.86m ²
EXISTING BUILDING	353.01m ²
TOTAL	490.87m ²
	137.86m ²



PROFESSIONAL ARCHITECTURAL
DRAUGHTSPERSON

WILMAN FREDERICK GROBLER

11:23 AM (Africa/Liège) on 04 Aug 2025



PROPOSED ALTERATIONS FOR R SOLOMON
ON ERF 91.52 KUSWEG, SANDBAAL

Owner Signature

ERF SIZE
COVERAGE
933.76m²
39.96%

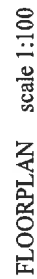
PROJECT: WFG/SB91/01

DRAWING NO:

W.F.Grobler
ARGITEKTONIESE DIENSTE BK
Member of S.A.C.A.P. D0375

DRAWN BY: WILMAN GROBLER

	Centre light
	Led tube light 18w
	Ceiling fan
	DISTRIBUTION BOARD
	Light switch
	Hot water geyser
	Plug point
	Air-conditioning
	LED down lighters



EXISTING BALCONY CONVERT INTO STUDY AND BATHROOM	27.37m ²
OPEN BALCONY CONVERT TO UNDER ROOF BALCONY	18.66m ²
PROPOSED NEW UNDER ROOF BALCONY	18.66m ²
UNDER ROOF STOE CONVERT TO BEDROOM	25.46m ²
OPEN STOE CONVERT TO UNDER ROOF STOE	20.80m ²
NEW PROPOSED BEDROOM ON EXISTING BEDROOM ALTERATIONS TOTAL	27.37m ² 117.86m ²
EXISTING BUILDING	333.01m ²
TOTAL	490.87m ² 137.86m ²



PROFESSIONAL ARCHITECTURAL
DRAUGHTSPERSON

WILMAN FREDERICK GROBLER

11:23 AM (Africa/Johannesburg) on 04 Aug 2025

W.F. Grobler
ARGITEKTONIESE DIENSTE BK
D0375
Member of S.A.C.A.P.

South African Council
for the Architectural Profession

ERF SIZE	933.76m ²
COVERAGE	39.96%
PROJECT: WFG/SB91/01	

DRAWN BY: WILMAN GROBLER



KVV DU PLOOY Inc.
Conveyancers & Notaries

TITLE DEED

T41901/2022

SUSAN CAROL SOLOMON

Identity Number 510310 0192 18 3

**Married, which marriage is governed by the laws of
Zimbabwe**

3B Village Lane,
Hemel & Aarde Village
Sandbaai
HERMANUS
PO Box 1005
Hermanus
7200
Tel.: 028 316 3707
VAT Registration No: 4040280010
E-Mail: marica@kvvduplooyinc.co.za

53

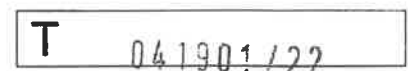
3B Village Lane
Hemel & Aarde Village
Sandbaai
Hermanus

Prepared by me



CONVEYANCER
LOUIS RUDLOPH LE ROUX (82492)

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 6200 000	R. 2745,50
Reason for exemption	Category Exemption	Exemption i t o. Sec/Reg. Act/Proc.



DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

LYNNE BOTHA (82492) (82076)

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney granted to him/her by

Neville Anthony Matodes
Identity Number 570525 5058 082
and
Estelle Denise Matodes
Identity Number 590213 0061 080
Married in community of property to each other

which said Power of Attorney was signed at Hermanus on 28 June 2022

And the appearer declared that his/her said principal had, on 23 May 2022, truly and legally sold by Private Treaty, and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

Susan Carol Solomon

Identity Number 510310 0192 183

Married, which marriage is governed by the laws of Zimbabwe

her Heirs, Executors, Administrators or Assigns, in full and free property

**Erf 91 Sandbaai
In the Overstrand Municipality
Division Caledon
Western Cape Province**

IN EXTENT 951 (NINE HUNDRED AND FIFTY ONE) Square metres

FIRST TRANSFERRED by Deed of Transfer No T1602/1946 with Diagram No. 6879/1945 relating thereto and held by Deed of Transfer No T31096/2012.

- A. SUBJECT to the conditions referred to in Deed of Transfer No T31096/2012.
- B. SUBJECT FURTHER to the special conditions contained in Deed of Transfer No T1602/1946 dated 11 February 1946 imposed by and in favour of SANDBAAI SEASIDE ESTATE COMPANY (PROPRIETARY) LIMITED as owner of the remainder of Lot No 3 of the farm ONRUST RIVIER, held by Deed of Transfer No. T11466/1929 dated 18 November 1929 as well as the owners of erven in the said township which have already been transferred or may in future be transferred subject to similar conditions, namely:

"(a) Dat Maatskappy behou vir himself en sy opvolgers in regte die alleenreg tot alle hotelle en dranklisensies, en die Transportnemer/s of sy/hulle opvolgers in regte sal die reg nie hê om enige hotel op te rig of om enige dranklisensie te besit, sonder om eers die skriftelike toestemming van die Direkteure van die Maatskappy of sy opvolgers in regte, te verkry.

(b) Die Maatskappy en sy opvolgers sal nie geregtig wees om die grond liggende tussen die erwe verkoop as seefronterwe en die see, in erwe te verdeel en/of te verkoop nie.

(c) Dat geen gebou opgerig sal word op die hierbokeskrywe eiendom voordat die planne van sulke geboue nie voorgelê is aan en goedgekeur is deur die Direkteure van die gesegde Maatskappy of sy opvolgers in regte.

(d) Die Transportnemer/s of sy/hulle opvolgers in regte van die hierbokeskrywe eiendom sal die reg hê om enige stroom water wat oor die eiendom loop, af te keer langs enige van die lane of strate soos aangewys op die algemene plan van die dorp.

- (e) Die Maatskappy behou vir homself en sy opvolgers in regte die vrye en onbelemmerde oorgang van elektriese, telegraaf- of telefoonlyne, te enige tyd hierna oor en op enige gedeelte van die hierbokeskrywe eiendom, met die verdere reg om hulle aan enige gebou van watter aard ookal te laat vassit, nie minder dan 3,05 meter van die grond af, met reg van toegang tot sulke lyne vir die doel om hulle te verwyder of in orde te hou.
 - (f) Die Maatskappy behou die reg vir homself en sy opvolgers in regte, om te enige tyd hierna pype te lê en in orde te hou onder enige gedeelte van die hierbokeskrywe grond of op enige ander plek, en ten alle tye reg van toegang te hê en sulke pype, vir verwydering, in orde hou of uitbreiding daarvan of vir enige ander doel en om alles te laat doen as nodig mag blyk vir die gerief van die inwoners van die dorpsgebeid in verband met verskaffing van water aan hulle.
 - (g) Die Maatskappy behou vir homself die alleenreg tot alle water wat ontstaan of vloei oor die eiendom van die Maatskappy. Daar sal egter van hierdie voorbehoud uitgesluit word enige water verkry deur 'n eienaar van die hierbokeskrywe grond deur middel van putte of boorgate op sulke grond gegrawe of geboor.
- C. SUBJECT FURTHER to the following conditions contained in Deed of Transfer No. T1602/1946 dated 11 February 1946, and imposed by the Administrator of the Cape Province on the approval of the establishment of Sandbaai Township, viz:-
- (a) That the above erf or erven be used for residential purposes only;
 - (b) That the above erf or erven be not subdivided;
 - (c) That not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than one-half the area of any one of the above erven be built upon;
 - (d) That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as gardens but shall not be built upon.

WHEREFORE the said Appearer, renouncing all rights and title which the said

NEVILLE ANTHONY MATODES and ESTELLE DENISE MATODES,
Married as aforesaid

heretofore had to the premises, did in consequence also acknowledge them to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

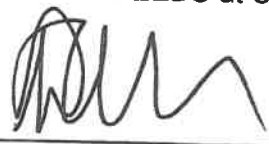
SUSAN CAROL SOLOMON, Married as aforesaid

her Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R6 200 000,00 (SIX MILLION TWO HUNDRED THOUSAND RAND) .

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on

30 August 2022.



q.q.

In my presence


REGISTRAR OF DEEDS

u

n

	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 / alida@overstrand.gov.za 16 Paterson Street / PO Box 20 HERMANUS, 7200 / Tel: 028 313 8900	
	APPLICATION DETAILS	
Application erf number: <u>Erf 91 Sandbaai</u> How did you receive notice of the application?	OVERSTRAND MUNICIPALITEIT APP ID: <u>REKORDBEHEER</u> <u>02 DEC 2025</u> DOCUMENT CONTROL OVERSTRAND MUNICIPALITY	
STATE YOUR INTEREST IN THE APPLICATION: <u>Illegal parking on erf 91 TP-A Theart (Hollivier)</u>		

TICK RELEVANT BOX ☒	OBJECTION ☒	COMMENT	SUPPORT
REASONS FOR OBJECTION / COMMENT / SUPPORT:			

Illegal parking on plot (private) 94

Absolute Ocean Boutique Guest House use plot 94 for their guest to park, their entrance on Kusweg 52.

added photos as proof.

I clean plot 94 twice a year been doing it for 15 years. All alien plants Remove. people sleep overnite in their cars on plot 94

or sits and drink in the day. Please what can we do, maybe a sign Private Property. I'm a woman on my own

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

PERSONAL INFORMATION (To be completed in full - Compulsory)	
Name & surname (PRINT): <u>Heloise Bergh</u> Company/Trust details:	Your erf number: <u>93</u> <u>Brakkeval 1-12-2025</u>
Postal address: <u>187 Piet Retiefcrescent s. Brakkeval</u>	KOMMISSARIS VAN EDE (RSA) Riona van der Merwe Posisie: Algemene Belasting Praktisyn (SA) SAIT: 190-50491 Derde Laan 60, Sandbaai, 7200
Contact details: Cell: <u>082 405 6168</u> E-mail address: <u>heloisebergh@gmail.com</u>	Date: <u>1/12/25</u>
Signature: <u>H. Bergh</u>	
Please note that in terms of the Protection of Personal Information Act (POPIA), you will be entering into a public process and as such a fee 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.	

FILE NO. Erf 91-HSB

SCAN NO. 2921725

11P

Picture proof of illegal parking / non-compliant guesthouse

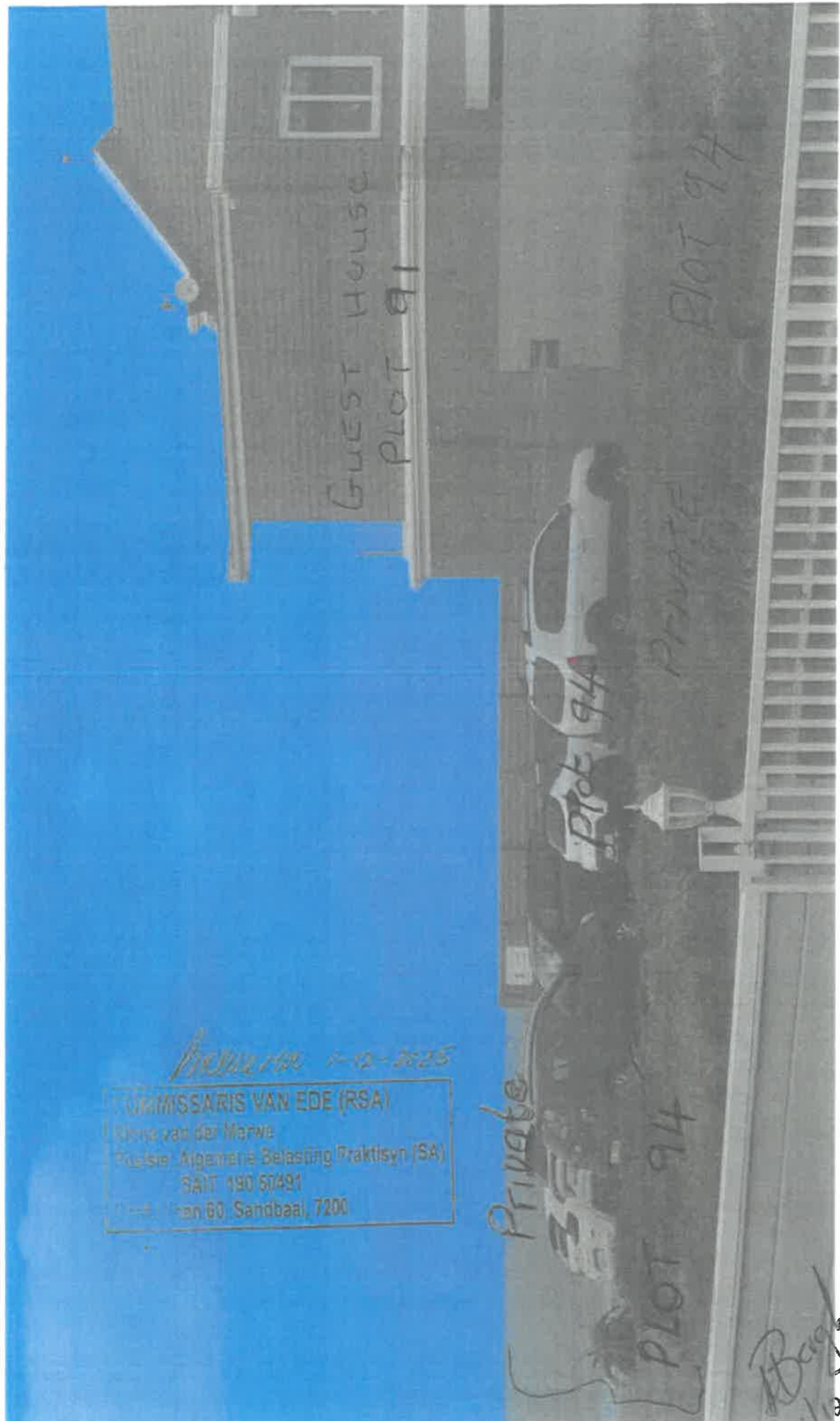


guest Room
thats why they
dont park their

Proclamation 1-12-2025

KOMMISSARIS VAN EDE (RSA)
Riona van der Merwe
Posisie: Algemene Belasting Praktisyn (SA)
SAIT 190 50491
Derde Laan 60, Sandbaai, 7200

Berg-
1/12/25



02 DEC 2025


**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 / all

16 Paterson Street / PO Box 20 HERMANUS, 7200 / Tel: 028 313 8900

DOCUMENT CONTROL

OVERSTRAND MUNISIPAL

APPLICATION DETAILS

Application erf number:

Erf 91 Sandbaai

APP ID:

TP-Atheart
(Holwier)

How did you receive notice of the application?

STATE YOUR INTEREST IN THE APPLICATION:

Illegal parking on private property Erf 91 Up to 7-8 cars.

Illegal running business on residential erf.

TICK RELEVANT BOX



OBJECTION

COMMENT

SUPPORT

REASONS FOR OBJECTION / COMMENT / SUPPORT:

- * I constantly parking of cars on private erf 91 Up to 8 cars. Destroying indigenous fynbos. Making a lot of noise.
- * Drop & Pick up of staff in Brunia str and on erf 91 at uncomfortable hours. Making a lot of noise. They are suppose to use lower kusweg
- * Putting out heaps of rubbish on corner of kusweg & Brunia, causing the "bag pickers" to mess all over place.

1-12-2025

FILE NO Erf 91- HSB ✓

SCAN NO.

2921758

COLLABORATOR NO.

(For use to continue on separate page(s)...)

KOMMISSARIS VAN EDE (RSA)

Riona van der Merwe

Posisie: Algemene Belasting Praktisyn (SA)

SAIT 190 50491

Derde Laan 60, Sandbaai, 7200

PERSONAL INFORMATION (To be completed in full - Compulsory)

Name & surname (PRINT):

JULIA BRANDT

Your erf number:

95

Company/Trust details:

ANJU TRUST

Postal address:

POSNET 73, P.BAG X11

HERMANUS

Contact details:

Cell:

071 125 9906

E-mail address:

besterjulia@gmail.com

Signature:

Brandt.

Date:

01/12/2025

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.

TP

B.

Picture proof of illegal parking / non-compliant guesthouse



Broudered 1-12-2025

KOMMISSARIS VAN EDE (RSA)
 Riona van der Merwe
 Posisie: Algemene Belasting Praktisyn (SA)
 SAIT 190 50491
 Derde Laan 60, Sandbaai, 7200

[Handwritten signature]



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 / alida@overstrand.gov.za
16 Paterson Street / PO Box 20 HERMANUS, 7200 / Tel: 028 313 8900

APPLICATION DETAILS

Application erf number:

erf 91 Sandbaai

APP ID:

How did you receive notice of the application?

STATE YOUR INTEREST IN THE APPLICATION:

Illegal parking around erf 91. / Illegal use of erf 91 as guesthouse (not compliant)

TICK RELEVANT BOX



OBJECTION

COMMENT

SUPPORT

REASONS FOR OBJECTION / COMMENT / SUPPORT:

- Illegal parking on municipality property and illegal on plot 94 (private owned)
- This parking blocks our views into the ocean.
- 24 h movement of cars.
- added photo's as proof (3 pics)

TP- A Theart
(H Olivier)

OVERSTRAND MUNISIPALITEIT

REKORDBEHEER

0-2 DEC-2025

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

Brouwer 1-12-2025

FILE NO. erf 91-HSB

SCAN NO.

COLLABORATOR NO.

2921740

KOMMISSARIS VAN EDE (RSA)

Riona van der Merwe

Posisie: Algemene Belasting Praktisyn (SA)

SAIT 190 50491

Derde Laan 60, Sandbaai, 7200

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

PERSONAL INFORMATION (To be completed in full - Compulsory)

Name & surname (PRINT)

Philip Vermeulen + Adriaan den Braber

Your erf number:

Company/Trust details:

Postal address:

2, 3RD AVENUE, 7200 Sandbaai

Contact details:

Cell:

082-259 0126

E-mail address:

Ron.den.Braber@hotmail.com

Signature:

Date:

28 Nov. '25

Please note that in terms of the Protection of Personal Information Act (POPIA) you are entering into a public process and as such agree and consent to your name, surname, contact details and comment(s) may be disclosed 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.

TP

Picture proof of illegal parking / non-compliant guesthouse



Achterwae 1-12-2025

KOMMISSARIS VAN EDE (RSA)
 Riona van der Merwe
 Posisie: Algemene Belasting Praktisyn (SA)
 SAIT 190 50491
 Derde Laan 60, Sandbaai, 7200

A. van der Merwe

Nov. 28, 2015



**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 / alida@overstrand.gov.za
16 Paterson Street / PO Box 20 HERMANUS, 7200 / Tel: 028 313 8900

APPLICATION DETAILS

Application erf number:

How did you receive notice of the application?

Erf 91 Sandbaai

APP ID:

OVERSTRAND MUNISIPALITEIT

REKORDBEHEER

02 DEC 2025

STATE YOUR INTEREST IN THE APPLICATION:

Illegal parking on erf 91

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

TICK RELEVANT BOX



OBJECTION



COMMENT

SUPPORT

REASONS FOR OBJECTION / COMMENT / SUPPORT:

municipal area
Illegal parking on grass in front of erf 94 is unsightly & blocks the view of the ocean for residents & tourists. Please stop Absolute Boutique guests, staff & other tourists etc from parking there.

TP-A Theart (Holliver)

Handwritten 2.12.2025

KOMMISSARIS VAN EDE (RSA)

Riona van der Merwe

Posisie: Algemene Belasting Praktisyn (SA)

SAIT 190 50491

Derde Laan 60, Sandbaai, 7200

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

PERSONAL INFORMATION (To be completed in full – Compulsory)

Name & surname (PRINT): Charlene Lucas

Company/Trust details:

Postal address: 4 BRUNIA STREET

Contact details:

Cell: 07911477403

E-mail address:

Signature:

[Handwritten signature]

FILE NO.

Erf 91-HSB

Your erf number:

96

SCAN NO.

COLLABORATOR NO.

2921773

Date:

25/12/2025

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.

TP

Picture proof of illegal parking / non-compliant guesthouse



Phumelani 2.12.2025

COMMISSARIS VAN EDE (RSA)
 Riona van der Merwe
 Posisie: Algemene Belasting Praktisyn (SA)
 SAIT 190 50491
 Derde Laan 60, Sandbaai, 7200

2/12/2025

Alida Conradie

From: Nikki Pagan <nikki.pagan14@gmail.com>
Sent: Friday, 05 December 2025 22:21
To: Alida Conradie
Subject: Re: ERF 91, 52 KUSWEG, SANDBAAI, HERMANUS - PUBLIC PARTICIPATION - You are regarded as a potentially affected property owner.

Good day Alida

I am writing to formally submit my objection and representations regarding the application for Erf 91, 52 Kusweg, Sandbaai (the "Absolute Ocean Guest House" proposal).

My details are as follows:

Name: Nikki Pagan

Property Address: Erf 89, 191 Piet Retief Crescent, Sandbaai, 7200

Contact Details: Cell - 083 326 8684; Email - nikki.pagan14@gmail.com

Interest in the Application: I am the Title Deed holder of Erf 89, a potentially affected property owner.

My objections are as follows:

1. Objection to Building Line Departures for Existing Garden Sheds

While I am not concerned with the existing sheds, I object to granting a formal departure which would set a precedent, allowing current or future owners of Erf 91 to expand the main dwelling right up to the boundary, which would potentially compromise the privacy and value of Erf 89.

2. Objection to Proposed Balcony on the North-Facing Side

I strongly object to the proposal to construct a balcony on the north-facing side of the property. This balcony, for guest use, will directly overlook my lounge, patio and private garden, eroding my privacy.

Kind regards,

Nikki Pagan

Alida Conradie

From: Alida Conradie
Sent: Thursday, 04 December 2025 13:41
To: 'Helen Potgieter'
Subject: RE: ERF 91, 52 KUSWEG, SANDBAAI, HERMANUS - PUBLIC PARTICIPATION

Tracking:	Recipient	Delivery	Read
	'Helen Potgieter'		
	Enquiries	Delivered: 2025/12/04 13:41	Read: 2025/12/04 13:42

Good day

Receipt is hereby acknowledged of your objection. Your objection will be forwarded to the applicant for comment and further communication will be addressed to you in due course.

KINDLY REGARD THIS EMAIL AS YOUR FORMAL ACKNOWLEDGEMENT.

Kind Regards

Alida Conradie

Administrative Officer, Town- and Spatial Planning

Directorate: Planning & Development, Overstrand Municipality, Hermanus

A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20

T: 028 313 8900 | F: 028 313 2093 | E: alida@overstrand.gov.za

From: Helen Potgieter <herdrallyhermanus@gmail.com>
Sent: Thursday, 04 December 2025 00:42
To: Alida Conradie <alida@overstrand.gov.za>
Subject: ERF 91, 52 KUSWEG, SANDBAAI, HERMANUS - PUBLIC PARTICIPATION

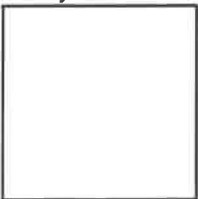
Dear Alida

I am attaching my objection letter

As well as a copy of my email regarding the environmental impact letter to Anja le Roux (Town Planner) in this email.

Helen Potgieter <herdrallyhermanus@gmail.com>

to anjaleroux



Beste Me Anja Le Roux

My naam is Helen Potgieter, inwoner van Kusweg en 'Alien-Plant-Hacker' van die Sandbaai kusstrook, 'Public Open Space Zone 2' [POS2], huidiglik onder die 'Hermanus Hackers' se Co- Management Agreement (CMA), terwyl ons steeds wag vir goedkeuring van ons eie Sandbaai CMA.

Die parkeer area wat die publiek gebruik om ons Sandbaai kusstrook te geniet (na werk of om 'n middag-happie met 'n uitsig te geniet), word **UITKYK (by 50 Kusweg)** genoem. Hierdie area lê op 'n hoë bult met 'n steil afgrond aan die see se kant, op die hoek van Brunia Str en Kusweg.

Daar is a los bolaag grond met los klippe op die rotsbank, wat met 3 tipes gras bedek word, naamlik Kweek (Bermuda), Buffels en Kikuyu gras.

Omdat Kusweg onderbreek word op daardie punt (by 52 Kusweg) en die vorige 2 eienaars 'n gedeelte van die POS Zone 2 opgeëis het as deel van hulle tuin, het inwoners van die Kuspaadjie bestuur die grond voetpaadjie geskep teen die steilte af, vir besoekers/inwoners om af te loop na die Kuspaadjie vanaf Brunia straat.

Twee eienaars gelede, het hulle nog die voetpaadjie asook 'n gedeelte van die plantegroei voor hulle woning (by 52 Kusweg) teen die steilte af onderhou.

Die vorige eienaars het dit nie onderhou nie wat gelei het tot grondstortings in Februarie 2025. Hierdie grondstorting het plaasgevind tydens een van ons kusstrook skoonmaak sessies. Daar was ook bewyse van verdere stortings in Mei 2025, in die nag tydens die swaar reëns.

Ek en my span het daar begin werk want die voetpaadjie asook die 'parkeer area' was oorgeneem deur onkruid en uitheemse plante.

Liezl de Villiers en Marco Cornelius van OM Omgewingsbestuur het in Maart 2025 daarna kom kyk. As gevolg van die feit dat daardie area POS2 sone is, het hulle aangedui dat hulle nie kon betrokke raak nie en het dit deurgegee aan Samkelo Tyelinzima (van 'Parks, Recreation, Cemeteries & Refuse Removal' onder De Wet Nel) met aanwysings oor wat om te doen.

In April 2025 het Samkelo saam met my die duin-bult by **UITKYK (by 50 Kusweg)** besoek en ons het besluit, om verdere erosie en grondstortings te voorkom moet ons alle voertuie weg hou van die bult, voor ons met die herstel en versterking van die duin-bult kan begin. Ek het ook 'n voorstel vanaf 'n plaaslike ingeneur voorgelê, wat deur Samkelo aanvaar is.

Ek wil graag die verdere ontwikkelings so gou as moontlik met u bespreek, want intussen het hier allerhande nuwe dinge gebeur:

- Aksies wat geneem is deur die bestuurderes van die Gastehuis by 52 Kusweg, teen Samkelo se span werkers tydens die plasing van 'bollards' in Junie 2025;
- Opdragte deur die nuwe eienaars aan die bestuurderes van die Gastehuis by 52 Kusweg (wat nou as 'n **'Hotel'** geadverteer word) en **UITKYK (by 50 Kusweg)** nou as hulle 'privaat parkeer area' (vir gaste) gebruik;
- Ook die bewering wat die bestuurderes maak dat die **Hotel** nou 'consent-use' goedkeuring vanaf u kantore bekom het en dat hulle huur betaal daarvoor.

[Portfolio Committee : Planning & Development -4 June 2025]

D. SC Solomon: Garden, retaining wall, and driveway (±256m2 in extent) on a portion of Erf 1289 Sandbaai]



Ek hoop om spoedig van u te hoor."

Please get in touch with me on my cell: 072 2189607.

regards

Helen Potgieter

erf 132 Kus road Sandbaai

Alida Conradie

From: Alida Conradie
Sent: Monday, 03 November 2025 08:01
To: 'Jet Shaw'
Subject: Erf 91 sandbaai

Tracking:	Recipient	Delivery
	'Jet Shaw'	
	Enquiries	Delivered: 2025/11/03 08:01

Good day

Receipt is hereby acknowledged of your objection.

KINDLY REGARD THIS EMAIL AS YOUR FORMAL ACKNOWLEDGEMENT

Kind Regards

Alida Conradie
 Administrative Officer, Town- and Spatial Planning
 Directorate: Planning & Development, Overstrand Municipality, Hermanus
 A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20
 T: 028 313 8900 | F: 028 313 2093 | E: alida@overstrand.gov.za

-----Original Message-----

From: Jet Shaw <lionjet3@gmail.com>
 Sent: Friday, 31 October 2025 16:35
 To: Alida Conradie <alida@overstrand.gov.za>
 Subject: Erf 91 sandbaai

I am objecting to the proposed changes of erf 91 from a single family residence to a guest house. This is a residential area and not a commercial area. The increased vehicles, litter and water consumption is not conducive to a quiet environment for permanent home owners.

I am opposing a new business on the beach front road in a residential neighbourhood. Sandbaai does not have the advantages as other wards have in regards to law enforcement, traffic control and and general safety enforcement.

The influx of more cars and people (due to guesthouses) causes more congestion and noise. Our neighbourhood is affected as is the wildlife.

More guesthouses invites opportunistic crime incidents which cannot be mitigated by law enforcement as we do not have enough to patrol the entire Overstrand district.

Please consider these reasons for denying another guest house to be operated.

My erf number is 340

14 Fynbos Crescent
 Sandbaai, 7200

Thank you
 Jet Shaw
 Movie Mutts
 0760301386

Alida Conradie

From: Rob Yeowart <robyeowart@gmail.com>
Sent: Friday, 05 December 2025 01:35
To: Alida Conradie; natasha@planactive.co.za
Cc: Edmund Wessels; nikki.pagan14@gmail.com
Subject: Re: ERF 91, 52 KUSWEG, SANDBAAI, HERMANUS - PUBLIC PARTICIPATION - You are regarded as a potentially affected property owner.

To the Overstrand Municipality,

I am writing to formally submit my objection and representations regarding the application for Erf 91, 52 Kusweg, Sandbaai (the "Absolute Ocean Guest House" proposal).

My details are as follows:

Name: Robert Lindsay Yeowart

Property Address: Erf 92, 189 Piet Retief Crescent, Sandbaai, 7200

Contact Details: Cell - 084 809 4932; Email - robyeowart@gmail.com

Interest in the Application: I am the Title Deed holder of Erf 92, a potentially affected property owner.

My objections are as follows:

1. Objection to Building Line Departures for Existing Garden Sheds

I strongly object to the requested Municipal Departure for the encroachments of the two garden sheds on the western and northern boundaries.

My father, the previous owner of Erf 92, previously approached the former owners of Erf 91 to request the removal of these sheds, as the western shed already substantially impeded the sea view from the west side of Erf 92. Although my father did not pursue the matter, the issue remains.

While I am willing to tolerate the existing sheds until they naturally disintegrate, I absolutely object to granting a formal departure. Granting a departure would permanently reduce the building line and set a precedent, allowing current or future owners of Erf 91 to expand the main dwelling right up to the boundary, which would further compromise the value and amenity of Erf 92.

2. Objection to Proposed Balcony on the North-Facing Side

I object to the proposal to construct a balcony on the north-facing side of the property. This balcony, for guest use, will directly overlook my lounge, bedrooms, and private garden, further eroding the minimal privacy I currently have.

I believe the need for additional communal space is questionable, as the existing south-facing balcony offers an ample, unobstructed 180-degree sea view, which is more than adequate for the benefit of the guesthouse guests.

3. Parking Requirements and Operational Scale

The application states the guesthouse has five guestrooms and requires seven parking bays (five for guests and two for the manager/owner). However, based on my intimate knowledge of the operation, there are currently six rooms being let to guests, which would require more than the seven bays proposed.

Furthermore, the manager does not and has never resided on-site, meaning the proposed owner/manager parking bays are unnecessary and the overall parking provision is inadequate.

My neighbours and I have already experienced issues with guest house guests and staff parking vehicles on the private land on the east side of the property. This parking impedes our remaining sea view from Erf 92, which is often reduced to the sight of car roofs and distant shacks. I also note that vehicles are not parked in front of the South-East second-floor bedroom, presumably to protect that room's sea view at the expense of surrounding properties.

4. Unauthorized Eastern Perimeter Wall

The application report makes no mention of the eastern perimeter wall towards the south end of the property. This wall was extended and raised by Mr. Solomon and clearly exceeds the 2.1m height regulation. This unauthorized height has negatively affected the minimal sea view remaining from Erf 92 and must be brought into compliance with Municipal regulations.

The existing structures on Erf 91 have already dramatically reduced the value of my property, Erf 92, and I am not prepared to have the proposed development and associated regularisation further diminish its value.

Sincerely,

Robert Yeowart

On Fri, Oct 31, 2025 at 9:47 AM Natasha <natasha@planactive.co.za> wrote:

To whom it may concern

You are regarded as a potentially affected property owner.

Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 (By-Law) requires that notice must be given, and Section 49 allows for a period of not less than 30 days from the date on which notice was given to affected persons to submit comments, objections, or representations in respect of a land use planning applications. Council, during a meeting held on 30 November 2023, resolved that such **notice be given via e-mail** in accordance with the provisions of the Electronic Communications and Transactions Act, 25 of 2002. Due to ongoing difficulties in service delivery experienced by the South African Post Office, and as per the aforesaid Council resolution, **NO** registered mail/letters will be forwarded in the interim period.

Kindly regard this email as your formal notification of such land use application. With reference to the attached application documentation and formal notice, kindly provide your comment, objection or representations, if any, as per the instructions of the attached notice.

Also note that the notice will be available at the Town & Spatial Planning Department, and on the municipal webpage at the following link: <https://www.overstrand.gov.za/en/documents/town-planning/land-use-planning-applications>

Yours faithfully

John Mc Lachlan

Tch.Pln B/8250/2014

MSAPI Nr.10908



Tel: 028 313 1673

Fax: 028 312 1351

web: www.planactive.co.za



The content of this email is confidential and intended for the recipient specified in message only. It is strictly forbidden to share any part of this message with any third party, without a written consent of the sender. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.



TOWN & REGIONAL PLANNERS
STADS-EN STREEKSBEPLANNERS

6 Magnolia St / Str
PO Box / Posbus 296
HERMANUS

7200

Tel: (028) 313 1673

Fax / Faks: (028) 312 1351

Email:

planactive@hermanus.co.za

Website: www.planactive.co.za

Our reference: PA24 072

Your reference: 91 HSB

Date: 10 December 2025

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS, 7200

For Attention: Mr. Brady Minnaar

ERF 91, 52 KUSWEG, SANDBAAL: Application for Removal of Restrictive Title Deed Conditions, Consent Use, Departure, and Determination of an Administrative Penalty

Your email dated 10 December 2025 refers.

Objections were received from the following neighbouring and interested property owners:

- J. Shaw
- R. Yeowart
- H. Potgieter
- H. Bergh
- C. Lucas
- P.V. & A. den Braber
- J. Brandt
- N. Pagan

Below is a description of the objections received, followed by our comments for your attention.

The objections collectively raise concerns regarding the appropriateness of operating a guesthouse in a residential area, including potential impacts on neighbourhood character, noise levels, privacy, traffic, and security. Several objectors expressed concern that the presence of guests may increase traffic volumes in Kusweg and result in insufficient parking space. Others raised issues relating to the visual impact of vehicles parked near the street, possible obstruction of sea views, and the perceived commercialisation of a quiet residential neighbourhood.

A number of submissions also refer to environmental matters, particularly relating to the public open space (POS2) near the coastal walkway and vegetation management. Concern was expressed regarding the use of adjoining municipal land and whether the operation of the guesthouse may affect public access or environmental management activities in the coastal zone.

Certain objectors took issue with the building line departure application, citing apprehension that permitting departures may set a precedent for future structures to be built closer to property boundaries. This includes concerns about the two garden sheds and the portion of the dwelling that encroaches marginally into building line setbacks. Related to this, some objections referred to a believed "proposed balcony" that may overlook neighbouring properties and result in loss of privacy.

Further concerns relate to the height of the eastern boundary wall and the possibility that sections of it exceed municipal height restrictions. Several objectors argued that the wall negatively affects views and streetscape quality. Objections also included references to the number of guest rooms being let, temporary parking of vehicles on municipal verges, and alleged impacts arising from guesthouse operations.

Comments on the Objections

The proposed guesthouse is considered fully compatible with Residential Zone 1, as the Overstrand Land Use Scheme expressly includes guesthouses as a permissible consent use. This reflects a long-standing municipal policy approach that acknowledges the coexistence of low-intensity tourism accommodation within residential neighbourhoods such as Sandbaai. The guesthouse consists of only five guestrooms, is well managed, and the owner's daughter will be permanently residing on the property to oversee operations on a full-time basis. This ensures responsible supervision and immediate response to any concerns, contributing positively to the maintenance of the residential character.

Concerns regarding noise, crime, and general nuisance are not supported by land-use evidence. Small guesthouses generate no more noise than typical residential households and significantly less activity than many short-term holiday homes. The Overstrand Spatial Development Framework (2020) further encourages small-scale tourism uses in established coastal settlements as a means of supporting local economic development without expanding the urban footprint.

With regard to parking, the Land Use Scheme requires seven parking bays, all of which are provided on-site. This satisfies municipal standards and ensures that vehicles are not required to park in the street or on adjoining properties. The photographs submitted by certain objectors were taken on a single day when routine external painting was underway. Vehicles were temporarily moved to avoid paint contamination and were returned to the on-site parking bays as soon as the paint had dried. The parking arrangement is now formalised and fully compliant.

It should also be noted that members of the general public routinely utilise the unconstructed portion of Kusweg, located to the east of Erf 91, as well as portions of the neighbouring property's verge, when accessing the coastal walkway. This occurs regardless of any activity on Erf 91, and the property owner cannot reasonably be held responsible for public use of municipal land for recreational access.

Environmental objections pertaining to coastal open space do not relate to the subject property. Erf 91 does not encroach onto POS2 or interfere with coastal access. The only municipal land associated with the property is the formally leased 274 m² portion of Erf 1298, authorised under the Encroachment Agreement dated 8 July 2025. This agreement permits gardening, the existing retaining wall, and parking under municipal conditions. No environmental authorisation is triggered under NEMA, and municipal environmental officials have confirmed that no conflict exists with coastal vegetation management.

Privacy concerns relating to a "proposed balcony" arise from a misunderstanding of the application. No balcony or external addition is proposed, and the dwelling retains its existing approved building envelope. The three building line departures relate only to historic encroachments established between 2002 and 2018 by previous owners.

In addition to the above, it is important to clarify the limited and low-impact nature of the two existing garden sheds situated partially within the rear and western lateral building lines. These structures are small in scale, single-storey, visually unobtrusive, and have existed in their current form for many years without giving rise to any complaints or measurable impact on neighbouring amenity. Their

footprint and height are modest, and their positioning does not compromise sunlight, privacy, movement, or access on any adjoining property.

The regularisation of these encroachments through the building line departure application is intended solely to formalise their historic and longstanding presence. Should the Municipality approve the departures, such approval will apply only to the existing structures as currently configured and for the specific use described. Any future alteration, extension, change of use, or construction of new structures within the building line areas would require a separate application to the Municipality and cannot occur without prior approval. The granting of the requested departures does not relax building line requirements for any other purpose, nor does it establish a precedent for new encroachments.

Regarding the eastern boundary wall, a site inspection confirmed that a portion does exceed the permissible height of 2.1 m. The owner has undertaken to remove the upper section of the affected portion to ensure full compliance with municipal regulations. This corrective action addresses the concern and demonstrates the owner's proactive commitment to compliance.

Conclusion

The objections raised have been comprehensively considered and adequately addressed. The concerns largely stem from misunderstandings about the nature of the proposal, temporary operational circumstances during maintenance work, or issues relating to long-standing inherited conditions. The proposal aligns fully with the Overstrand Land Use Scheme and Spatial Development Framework, maintains the residential character of the neighbourhood, and supports local economic development through a low-impact, well-managed guesthouse with permanent on-site supervision.

Parking requirements are fully met, no new external structures are proposed, environmental objections are not applicable, and the owner has committed to remedying the boundary wall height non-compliance. The historic encroachments—including the two small garden sheds partially within the building lines—are minor in scale, visually unobtrusive, and have no material impact on adjacent properties. The approval of building line departures regularises these longstanding conditions only and will not authorise any future encroachments or structural modifications unless separately and formally applied for.

Accordingly, the objections do not present grounds for refusal, and the application should be favourably considered.

Yours faithfully

A handwritten signature in black ink, appearing to read 'John Mc Lachlan', with a stylized, cursive script.

John Mc Lachlan

FILE REF: 91 HSB APP ID: 4701/2025	Internal Memorandum			
<u>FROM:</u> TOWN & SPATIAL PLANNING <u>TOWN PLANNER:</u> Brady Minnaar <u>DATE:</u> 28 October 2025 <u>NOTES:</u> 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. <i>Building Control Department to confirm that all structures on the property/ies are in accordance with the approved building plans.</i>	<u>APPLICANT:</u> PLAN ACTIVE TOWN- AND REGIONAL PLANNERS ON BEHALF OF SC SOLOMON <u>PROPERTY DETAILS:</u> ERF 91, 52 KUSWEG, SANDBAAI <u>APPLICATION:</u> REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY			
	<u>PUBLIC LIAISON MANAGER</u>	<u>BUILDING CONTROL</u>	<u>DISTRICT HEALTH</u>	<u>ELECTRICAL</u>
	<u>ENVIRONMENTAL</u>	<u>ENGINEERING SERVICES</u>	<u>FIRE DEPARTMENT</u>	<u>TOURISM</u>
	<u>OPERATIONAL</u>	<u>TRAFFIC</u>	<u>WASTE MANAGEMENT</u>	<u>WARD COUNCILLOR</u>
	INTERNAL DEPARTMENT COMMENTS			
The Applicant does not have a lease agreement with the Municipality, but an encroachment agreement for, amongst others, parking. However, this does not mean that encroachment agreement can be taken into consideration regarding the parking requirements the applicant must meet. All required parking must be on This is as the agreement can be cancelled by the Municipality and cannot be linked to the permanent right the applicant wishes to acquire. Note that the property has in the meanwhile been sold and duly registered in the deeds office in the name of One Love Guesthouses (Pty) Ltd. According to the Manager of the guesthouse, this registration took place in October 2025. We are in the process of preparing the necessary letter for the new owner to sign. It must be noted that the four-room guesthouse is still being advertised and managed as such.				
<u>SIGNATURE:</u>				
<u>DATE:</u>				

CLOSING DATE:

05 December 2025

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.



**COMMENTS FROM THE PROJECT MANAGEMENT DIVISION FOR:
APPLICATION FOR THE REMOVAL OF RESTRICTIVE TITLE DEED
CONDITIONS, CONSENT USE, DEPARTURE AND DETERMINATION OF AN
ADMINISTRATIVE PENALTY: ERF 91, SANDBAAI (4701/2025)**

Stormwater (SW)	:	In order
Electricity	:	In order
Water	:	In order
Sewer	:	In order
Roads and traffic	:	In order

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, regarding the capacity required and that available, at the owner's cost;
3. that the developer investigates and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 – P: 2010: *Drainage*;
4. 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: Hermanus for written approval;
5. that any additional and / or extended vehicle entrances will be for the owner's account;
6. that no reservation of on-street parking be allowed;
7. that stormwater discharged from higher lying properties and generated in the catchment area of the property be allowed to drain freely through the property;
8. that stormwater reticulation and connection(s) to the municipal system be provided at the owners cost, if required.


RICARDO ANDREW


DATE

PRINCIPAL TECHNOLOGIST: DEVELOPMENT CONTROL

☎ 20
HERMANUS
7200

Tel: 028 – 316 5601
Fax: 028 – 316 3721



Property Administration
PROPERTY MANAGEMENT

e-mail: wmurtz@overstrand.gov.za
website: www.overstrand.gov.za

Enquiries: W Murtz

Our Ref: 7/2/5 – SC Solomon (HSB 1298)
Your Ref:

Date: 8 July 2025

Ms SC Solomon
52 Beach Road
SANDBAAI
7200

BY EMAIL:

rodsolomon@gmail.com

Dear Ms Solomon

RE: CONSENT TO RETAIN ARCHAIC ENCROACHMENT ON MUNICIPAL PROPERTY, A PORTION OF ERF 1298 SANDBAAI, FOR A GARDEN, RETAINING WALL AND PARKING PURPOSES (±274M² IN EXTENT)

We refer to the abovementioned matter.

It is with great pleasure that we herewith inform you that your application to encroach on municipal property, being a portion of Erf 1298 Sandbaai, ±274m² in extent, as indicated on the attached locality map, (hereinafter called the "encroachment area"), adjacent to Erf 91 Sandbaai, for gardening and parking purposes (which also include a portion of a retaining wall), at no fee payable, **is approved** subject to the following conditions:

1. You, as the owner of the adjacent property and encroacher:
 - 1.1 will and must at all times well and sufficiently indemnify the Municipality and keep the Municipality indemnified against all liability howsoever caused or arising that may be direct or indirect result of the use of the encroachment area in question, and against all actions, suits, proceedings, claims, demands, costs and expenses whatsoever which may be taken or made against the Municipality or incurred or become payable by the Municipality at the suit of any person which may be direct or indirect result of the use of the encroachment area in question.
 - 1.2 shall not at any time, or under any circumstances have any claim against the Municipality for improvements effected to or on the encroachment area.
 - 1.3 shall be responsible for the maintenance and upkeep of the encroachment area and to ensure that the encroachment area is safe at all times during the period of this consent.
 - 1.4 will not obtain any vested and/or prescriptive rights on the encroachment area due to the Municipality's knowledge of the said encroachment nor any right or lawful claim to a grant of the encroachment area.
 - 1.5 may not erect any new buildings and/or further structures within the encroachment area and where it is an open encroachment, may not enclose the approved encroachment.
 - 1.6 may not extend the size of the encroachment area beyond the area applied for and subsequently approved.
2. This approval shall under no circumstances be deemed to confer any real rights or servitude of any kind in favour of the encroacher.



3. The encroachment area may only be used for the existing gardening and parking purposes (which also include a portion of retaining wall).
4. Any damage caused to the encroachment area and surrounding municipal land as a result of the works to be done or as a result of your failure to maintain the encroachment area in such good order and condition shall be made good by the Municipality at your own cost and expenses within 30 (THIRTY) days after written notice have been sent to you to rectify.
5. This consent may be cancelled with immediate effect should the conditions hereof not be adhered to and you could be requested to restore the encroachment area at your cost.
6. Notwithstanding anything in this consent contained, whether in the instance of the Municipality needing the encroachment area for own use, the Municipality may resume possession thereof at any time on giving 3 (THREE) months written notice to that effect and may cancel this consent accordingly. Upon a demand made by the Municipality, in terms of this consent, for possession of the encroachment area, you will be bound to give such possession without any right to compensation, whether for useful, necessary expenses or other improvements.
7. You take note that there are municipal services located within the encroachment area. Should there be a burst pipe below the encroachment area, or any work needs to be done within the encroachment area and there are damages to the driveway and/or the garden, the Municipality will have to remove the bricks/pavement, which might cause damage to the driveway, wall and/or garden, for which damage the Municipality will not be held liable for.
8. The Municipality reserves the right of free access, without notice, to the Property, for as many of its officers and servants, or any duly appointed agent, as may be necessary for the purpose of inspection, maintenance, renewal, cleansing, repairs and reconstruction of, or in connection with, existing municipal services, or any works appurtenant thereto, or in regard to any such or other municipal services which the Municipality may in future lay in or across the encroachment area, the Municipality reserving to itself the right to establish such services without notice. The Owner shall not build any further structure over, alter, or in any manner disturb such services except under the express consent in writing of the delegated authority or its authorized representative in respect of the service concerned, and upon due compliance with any specified precautionary measures.
9. This consent shall be binding upon and be enforceable by the heirs, executors, successors in title or assigns of both the owner of Erf 91 Sandbaai and the Municipality.

In terms of the above policy, it is noted that the encroachment area is partially enclosed and zoned as Transport Zone 2: Road and Parking, although it is not currently being used for that purpose. The portion of road is enclosed, but the majority enclosure is natural. As the wall is only a small portion of the encroachment, this matter is addressed under Paragraph 64.1 of the Administration of Immovable Property Policy, as approved by Council on 25 November 2015, with the deviation from 64.1(c) as to the partial enclosure. Paragraph 64.1 makes provision that the Municipality may:

"64.1 permit encroachments on road reserves and public thoroughfares in order to encourage adjoining owners to maintain the road reserves adjoining their properties provided inter alia that:



- (a) *the planting of trees, shrubs and alien lawn or the erection of seating, statues or other similar objects within 1,5 metres measured from the tarred or gravel surface of the road, are not permitted;*
- (b) *the 1.5 meter area referred to in paragraph 64.1(a) may be planted with lawn of a type approved by the relevant directorate of the Municipality or paved at own costs to the satisfaction of the Municipality and subject to the owner of the adjoining property allowing at all times the free movement of pedestrians in those encroached areas;*
- (c) *no such encroachment shall be partially or wholly enclosed or fenced by any means whatsoever, permanently or otherwise, for the exclusive use of the encroacher; and*
- (d) *no encroachment fee shall be charged by the Municipality and no formal agreement need to be entered into in respect of the above encroachment; and*
- (e) *the Municipality shall have the right of free access to the encroachment at all times for inspection, maintenance and repair of any services which may traverse the encroachment or to install such services in which case the Municipality shall not be liable for any damage to the encroachment which may arise from such inspection, maintenance, repair or installation,"*

We trust you find the above in order and herewith request your written acceptance of the conditions as imposed by the Overstrand Municipality in consenting to the use of the encroachment area.

Yours sincerely,

MS A LE ROUX
DIVISIONAL MANAGER: PROPERTY MANAGEMENT

I, SUSAN CAROL SOLOMON with Identity Number 510310 0192 18 3, herewith acknowledges that I understand and accept the conditions as stipulated in this consent.

Signature

Date

Witness:

ANNEXURE A: LOCALITY MAP

Munisipaliteit • U-Mosipala • Municipality



OVERSTRAND
MUNICIPALITY

A Portion of Erf 1289 Sandbaai

Date: 2025/07/08



Del



Luxury Accommodation in Hermanus

Absolute Boutique Guesthouse and Penthouse is a luxurious and exclusive accommodation option that epitomizes sophistication and comfort. The penthouse, in particular, is the crowning jewel of the establishment. Offering breathtaking views of the ocean

One of the standout features of Absolute Ocean Boutique Guesthouse and Penthouse is its exceptional staff. The team is renowned for their professionalism, warmth, and dedication to ensuring each guest's stay is nothing short of extraordinary. From the moment you arrive, you will experience the highest level of personalized service, with staff members attending to your every need with a genuine smile.



Oceanfront Luxury Penthouse

From: R 5000.00 Sleeps: 4 Number of Units: 1 Size: 90m²



Oceanfront Penthouse Suite

From: R 2900.00 Sleeps: 2 Number of Units: 1 Size: 40m²





Oceanfront Luxury Penthouse

From: R 5000.00 Sleeps: 4 Number of Units: 1 Size: 90m²



Oceanfront Penthouse Suite

From: R 2900.00 Sleeps: 2 Number of Units: 1 Size: 40m²



Seafront Private Suite

From: R 2500.00 Sleeps: 2 Number of Units: 1 Size: 30m²



Oceanfront Family Suite

From: R 3500.00 Sleeps: 4 Number of Units: 1 Size: 40m²





All images

Absolute Ocean Boutique Guesthouse



4.5/5 Tripadvisor (10)

Reviews

 **Tripadvisor**
4.5/5 10 reviews

>

 **Booking.com**
9.2/10 42 reviews

>

Social profiles



Details

Welcome to our exquisite boutique guesthouse, a hidden gem nestled on the serene shores of the ocean, offering unrivaled and uninterrupted sea views that will transport you to a tranquility and relaxation. Our Guest house offers a perfect blend of coastal serenity and luxury accommodation. Sink into plush beds with premium linens and in room facilities such as flat screen TVs, coffee makers and bar fridges. Our guesthouse is perched on the edge of the ocean, ensuring that every moment you spend here is accompanied by soothing sounds of waves and gentle caress of the breeze. Nature enthusiasts and explorers alike will find themselves in paradise

-  Free breakfast
-  Airport shuttle
-  Balcony
-  Dryer
-  Free parking
-  Smoke-free rooms
-  Has TV
-  Massage service
-  Free Wi-Fi
-  Laundry rooms
-  Refrigerator
-  Private beach





Beachfront

Private beach

Airport shuttle

Absolute Ocean Boutique Guesthouse

52 Kusweg, 7200 Hermanus, South Africa – Excellent location - show map



Ivan

Singapore



King Suite with Ocean View



1 night November 2023



Solo traveller

Reviewed 9 November 2023

Exceptional

There are no comments available for this review



Hammond

Zimbabwe



Luxury Holiday Home



5 nights April 2023



Family

Reviewed 23 April 2023

Exceptional

There are no comments available for this review



Wels

South Africa



Luxury Holiday Home



2 nights February 2023



Solo traveller

Reviewed 27 February 2023

Superb

There are no comments available for this review



Sandy

Zimbabwe



King Suite with Ocean View



1 night April 2024



Couple

Reviewed 29 June 2024

Good

There are no comments available for this review



Moloko

South Africa

Reviewed 3 March 2024

Disappointing



Deluxe Suite with Sea View

There are no comments available for this review

This response is the subjective opinion of the management representative and not of TripAdvisor LLC



Bradley B wrote a review Dec 2023

2 contributions



Luxury getaway

I had an incredible experience at Absolute Ocean Guesthouse! The breathtaking ocean views, impeccable service, and comfortable accommodations made my stay truly memorable. The staff went above and beyond to ensure a delightful stay, and the attention to detail was evident in every aspect. I highly recommend this gem for anyone seeking a relaxing and rejuvenating getaway. Can't wait to return!

Read less

Date of stay: July 2023

Trip type: Traveled solo



Location

This review is the subjective opinion of a TripAdvisor member and not of TripAdvisor LLC. TripAdvisor performs checks on reviews as part of our industry leading trust & safety standards. [Read our transparency report to learn more.](#)



Response from Rodney Solomon, General Manager at Absolute Ocean Boutique Guesthouse

Responded Jan 17, 2024

Thank you so much for your fantastic review! We're thrilled to hear that your experience at Absolute Ocean Guesthouse was nothing short of incredible. It's wonderful that the breathtaking ocean views, impeccable service, and comfortable accommodations contributed to making your stay truly memorable.

We're especially grateful for your appreciation of our staff's efforts to go above and beyond, and we're pleased that the attention to detail was evident throughout your stay. Thank you for recommending us as a gem for those seeking a relaxing and rejuvenating getaway.

We can't wait to welcome you back for another delightful stay!

Report response as inappropriate



PLEASE SUBMIT THE APPLICATION FORM TO YOUR NEAREST ADMINISTRATION OR SEND IT BY EMAIL TO :
enquiries@overstrand.gov.za

APPLICATION FOR REBATE: B&B and GUESTHOUSE
Local Government: Municipal Property Rates Act, 2004. Section 15

APPLICANT INFORMATION

Owner Surname	Solomon
Owner Christian name	Susan Carol
Owner ID Number	5103100192183
Physical address	52 Kusweg, Sandbaai
	Hermanus
Postal Code	7200
Postal address	Same as physical
Postal Code	
Contact telephone number	0840848484
E-mail address	rodsolomon@gmail.com
Municipal account number	900000756786
Erf number	91
Suburb/Town	Sandbaai
Establishment type (B&B, G/House)	Boutique Guesthouse
Establishment name	Absolute Ocean Boutique Guesthouse
Number of lettable rooms (Only 3 to 5 Rooms may apply)	4 Rooms
Date of approval (Departure / Re-zoning)	
<i>Copy of the form MUST accompany the application</i>	

DECLARATION BY OWNER

Herewith I Susan Carol, ID nr: 5103100192183

Declare, with the knowledge of the penalties of perjury that all documents and declarations submitted and attached to this application for rebate, are truthful and correct.

Signed ssolomon at Hermanus on 20 September 2023

In the case of misrepresentation or false declaration, the Municipality reserves the right to refuse the approval of the rebate, to recover any if already granted and may institute appropriate legal action civil or otherwise, against guilty party(ies).

