

## 4.4

**ERF 271, 45 KUSWEG, GANSBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS ME PLANNERS ON BEHALF OF M NEL**

271 GFK (3727/2021)

SW van der Merwe

2 June 2023

(028) 313 8900

Hermanus Administration

**1. EXECUTIVE SUMMARY**

An application has been received from Messrs ME Planners on behalf of M Nel in terms of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) applicable to Erf 271, Gansbaai for the following:

- ❖ **removal of restrictive title condition** in terms of Section 16(2)(f) of the By-Law, namely condition C.1(c) contained in Title Deed T79622/2016, to accommodate the encroachment of the maximum permissible coverage from 50% to 60,95%;
- ❖ **departure** in terms of Section 16(2)(b) of the By-Law for the following encroachments:
  - relaxation of the 2m northern lateral building line varying between 1,1659m and 0m at ground floor to accommodate the existing garage and storeroom;
  - relaxation of the 2m northern lateral building line at first floor level varying between 1,568m to 0,255m and 1,475m to 1,167m to accommodate a balcony and a portion of the existing dwelling as well as a proposed planter;
  - relaxation of the 2m southern lateral building line varying between 1,994m and 1,294m at first floor to accommodate the existing dwelling;
  - relaxation of the street building line from 4m to 0m to accommodate the existing balcony, deck and planter;
  - encroachment of the maximum permitted coverage from 50% to 57,35% to accommodate the existing dwelling, and
  - to increase the coverage, from 57,35% to 60,95% to accommodate proposed additions;
- ❖ **determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law to accommodate the existing building.

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 (SDP) is attached as Annexure C. Title Deed T79622/2016 is attached as Annexure D.

**2. DECISION AUTHORITY**

Municipal Planning Tribunal

### 3. BACKGROUND / SITE HISTORY

The property is situated east of the junction of Kusweg and Middel Kusweg, Gansbaai. The property measures 694m<sup>2</sup> in extent, zoned for Residential Zone 1 purposes and developed with a two-storey dwelling with a ground floor outbuilding (garages and storage) and the dwelling at first floor.

The property is situated in a low-density residential area with sea views across Walkerbay and surrounded by vacant and developed residential properties to the north, east and south.

The property owner bought the property from a deceased estate on auction during 2016 with the encroachments as per the application existing.



*Erf 271, No. 45 Kusweg, Gansbaai, GIS Street view Image, September 2010*

The applicant proposes renovations to the property during which deviations from the historic approvals was discovered. Firstly, the application for departure, removal of restrictive title conditions, coverage encroachment to 57,35% and determination of an administrative penalty seeks condonation of historic contraventions caused by the former property owner(s). In addition, the application also entails proposed 25m<sup>2</sup> additions that will increase the existing coverage encroachment from 57,35% to 60,95%.

The property had been surveyed by a professional land surveyor indicating boundary wall encroachments over portions of the lateral-, rear-, and street boundaries of the property. The SDP indicates demolition of the said encroachments beyond the property boundary and therefore needs not to be addressed in the application.

### 4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation for the application is summarised as follows:

#### *Removal of restrictive title deed conditions*

- ❖ Removal application is motivated on the basis that the existing building footprint already exceeds 50% of the property.

*Departure*

- ❖ Coverage departure relates to existing and proposed coverage encroachments as set out below:
  - existing building footprint amounts to 398m<sup>2</sup> or coverage of 57,35%;
  - proposed footprint extension of 25m<sup>2</sup> with a total building footprint of 423m<sup>2</sup> or coverage encroachment of 60,95%.

*Administrative penalty*

- ❖ Application for Administrative Penalty is motivated in terms of Section 90(3)(a) to (e) of the By-Law as follows:
  - Nature, duration, gravity and extent of the contravention  
The owner bought the property as it is currently. The current situation was inherited from the former owner, and it is considered unfair to penalise the current owner. The nature of the development on the erf does not impact upon privacy or negatively affect the surrounding built environment. There were never complaints regarding the existence of the building.
  - Conduct of the person (allegedly) involved in the contravention  
The owner has building plans drawn up to legalise the development. Submission of the application proves the applicant is not deliberately contravening the By-Law.
  - Report by Quantity Surveyor  
Not provided, nor was it addressed by the applicant.
  - Whether the unlawful conduct was stopped  
The applicant motivates there is no sign of un-lawful conduct since the property is used for residential purposes with associated outbuildings reasonably related thereto.
  - Whether the person allegedly involved in the contravention previously contravened this By-Law or a previous planning law  
The registered owner has not deliberately contravened this By-Law or previous planning law.
- ❖ The applicant when planning renovations became aware that the approved plans on record does not reflect the full extent of the existing buildings on the property, necessitating submission of as built plans.
- ❖ Location of the dwelling on the erf is considered a historic situation.
- ❖ The applicant with the application intends to legalise the building line and coverage infringements that exists.
- ❖ Surrounding area is characterised by predominant residential uses.
- ❖ Approval of the application will not change the existing character of the area.
- ❖ The proposal does not impact upon views, hence the opinion that the application will not impact upon vested rights.
- ❖ No complaints had been received in the past.
- ❖ Adjoining property owners provided written consent for the proposed alterations.
- ❖ The development complies with the 8m height restriction applicable to Residential Zone 1.

- ❖ The development does not impact upon traffic flows.
- ❖ Municipal services will not be affected.
- ❖ The application is consistent with the SDF.
- ❖ The application is consistent with the planning principles in terms of LUPA and SPLUMA
- ❖ Heritage Protection Overlay Zone (HPOZ) – The proposal will not have a negative impact on the heritage value of the property or surrounding area.
- ❖ Environmental Protection Overlay Zone (EMOZ) – Proposal is not considered to have an adverse impact on the applicable EMOZ (Coastal Protection Zone).

## 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local Newspaper	Yes	29 April 2022	5 June 2022
Gazette	Yes	29 April 2022	5 June 2022
Notices ( <i>possibly affected property owners</i> )	Yes	09 May 2022	5 June 2022
Notices ( <i>persons mentioned in title deed</i> )	Yes	09 May 2022	5 June 2022
Internal Departments	Yes	29 April 2022	5 June 2022
Ward councillor	Yes	29 April 2022	5 June 2022
Total comments	<b>NONE</b>		
Total letters of support	<b>NONE</b>		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly?			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA?			<b>Yes</b>
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?			<b>Yes</b>

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

Name	Date received	Summary of comments
Building Department	03/05/2022	No objection. The building plan application must comply with all applicable law including fire safety distances.
Fire Services	05/05/2022	No objection subject to compliance with the provision of SANS 10400-A:2016, 10400-T:2020 and the By-Law relating to community fire safety.
Waste Management	11/05/2022	No objection
Telkom	24/05/2022	Attached as Annexure E.
District Health	27/05/2022	No comment.
Engineering Services	05/06/2022	Attached as Annexure F.

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

N/A

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

N/A

## 9. MUNICIPAL ASSESSMENT OF COMMENTS

N/A

All relevant departments provided positive comments.

## 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 proposed development will not further perpetuate historic spatial imbalances as it is situated on an erf as per the establishment of Gansbaai.

Spatial sustainability

The application is considered spatially sustainable as the existing property will be more optimally utilised without affecting natural vegetation. The redeveloped property will be compatible with the character of the area and do not negatively impact upon rights of adjoining property owners.

Efficiency

The proposed development intends to make optimal use of space on the property, thereby optimising existing resources, infrastructure and sustainable development and continues the existing suburban development typology.

Spatial Resilience

The development of the property will be in synchrony with the relevant spatial planning policies that adhere to the principle of spatial sustainability in terms of the Spatial Development Framework and the Overstrand Municipal Growth Management Strategy.

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 and OMGMS.

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

N/A

### **10.6 Impact on Municipal engineering services**

All services exist. The proposed additions will not have a significant impact upon existing services and 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.

### 10.8 Existing and proposed zoning comparisons and considerations

The Overstrand Land Use Scheme imposes a 4m street building line, 2m lateral- and rear building lines and a 50% coverage restriction. The encroachment of the street- and lateral building lines and coverage is addressed by means of the application.

## 11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

Title Deed T79622/2016 applicable to Erf 271, Gansbaai contains the following restrictive condition being proposed for removal:

*“C.1(c) That no more than half the area of this erf be built upon.”*

In view of the above being stated the following directly relates to Section 39(5) of LUPA, 2014 (Act 3 of 2014).

### ***The financial or other value of the rights***

The removal will increase the use rights of the property in that it will permit legalisation of the as built structure and well as proposed additions. There is no financial value to holder of the rights (municipality).

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

There is no personal benefit for the holder of the rights.

### ***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 personal benefit would be that the removal will facilitate the legalisation of the as built house as well as upgrade of the property in accordance with the provisions of the Overstrand Municipal Land Use Planning Amendment By-law and Land Use Scheme, thus increased property value.

### ***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***

The social benefit of the restrictive conditions remaining in place is that the character of the area will remain unchanged. Removal of the restrictive condition will enable legalisation of the existing dwelling.

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

Application is only made for removal of one restrictive condition, namely condition C.1(c) pertaining to coverage. Condition C.1(a) limiting the development and use of the property to residential purposes only will remain.

The desirability of the proposed removal of the restrictive title condition will further be evaluated under paragraph 12 below.

Given the above the opinion is further held that the proposal is sufficiently evaluated in terms of Section 39 (5) of LUPA, 2014 (Act 3 of 2014).

## 12. THE DESIRABILITY OF THE PROPOSAL

### *Building plan history*

Building plan approval dated 3 November 1995 (attached as Annexure G) indicated a 2,5m high retaining wall on the lateral- and rear property boundaries but set back 1m from the street boundary either side of the double garage but no filling, stoeps or balcony between the retaining wall and the front of the house. The site plan did not indicate building lines.

Building plan approval was granted on 16 October 1998 (attached as Annexure H) for a second dwelling unit (not constructed) extending to the rear- and lateral property boundaries as well as a washroom addition to the primary dwelling. The site plan indicates an existing stoep in front of the dwelling (adjacent to the garage) set back 1m from the street boundary when scaled from the approved building plan. The site plan did not indicate the applicable building lines or total building footprint.

Building plan approval dated 9 May 2006 (attached as Annexure I) indicates additions to the existing dwelling comprising a washroom and bathroom. The site plan indicates compliance with the 3m rear building line, although a portion of the existing dwelling is shown to encroach the southern 1,57m lateral building line without an indication of the applicable coverage.

Building plan approval dated 12 February 2008 (attached as Annexure H) indicates first floor additions comprising extensions towards the northern 1,57m lateral building line comprising a living room extension, sunroom, and study. The building plan indicates a void between the living room and study additions with an external staircase to ground level as well as a balcony. The plan also indicates a proposed balcony in front of the existing dwelling extending to the existing balcony positioned on the street boundary for which no building plan approvals are evident. The proposed balcony is shown extending onto the northern lateral property boundary with railings set back 1m from the boundary. The site plan indicates an existing balcony on the street boundary of the property, whilst there is no indication of the total building footprint / coverage. The plan also indicated ground floor servants' quarters adjacent to the garage.

Several discrepancies exist between the historic approved building plans and the proposed as built plans submitted with the application, namely:

- Boundary and retaining walls encroach portions of the street and lateral property boundaries. The SDP shows demolition to ensure the development is accommodated on the application property.
- Existing first floor entrance lobby on the northern property boundary and water tank extending onto the southern lateral property boundaries that encroach the respective building lines are illegal and will be demolished and was not addressed as part of the application.



- Ground floor outbuildings illegally extend up to the northern property boundary and together with the proposed alterations forms part of the current application.
- The existing street boundary wall forming part of the balcony encroach the street boundary. The SDP indicates demolition onto the property boundary.
- The existing balcony extending up to the street boundary adjacent Kusweg is an unauthorised structure and is to be legalised via the application. It should be noted that the applicant did not address the encroachment of the 2,1m boundary wall height encroachments, nor filling more than 1m above natural ground level within the building line.

### *Building line departure*

The encroachments of the lateral building lines to legalise the existing building line encroachments on ground- and first floor level to accommodate the garage, storeroom and first floor portions of the dwelling is not significant and will not detract from the character of the area, as most properties in the area are developed up to the former applicable 1,57m lateral building lines in terms of the former Gansbaai Zoning Scheme. The said encroachments are historic in nature and not enforced by the Building Control Department. Condonation of the said encroachments is not negatively impact upon vested rights of adjoining property owners and is thus supported.

Part of the encroachments of the said rear building lines as specified above, relates to balconies / covered walkways, which in itself is not considered to negatively impact the character of the area or vested rights, but contributes to the coverage encroachment of the existing building. This will be further evaluated under the coverage encroachment below.

The applicant will also demolish structures on the first floor (entrance lobby and water tank) that encroach the lateral building lines, as well as existing boundary wall encroachments extending beyond the property boundaries, which is considered an improvement upon the existing situation and to positively impact the appearance of the property and area character.

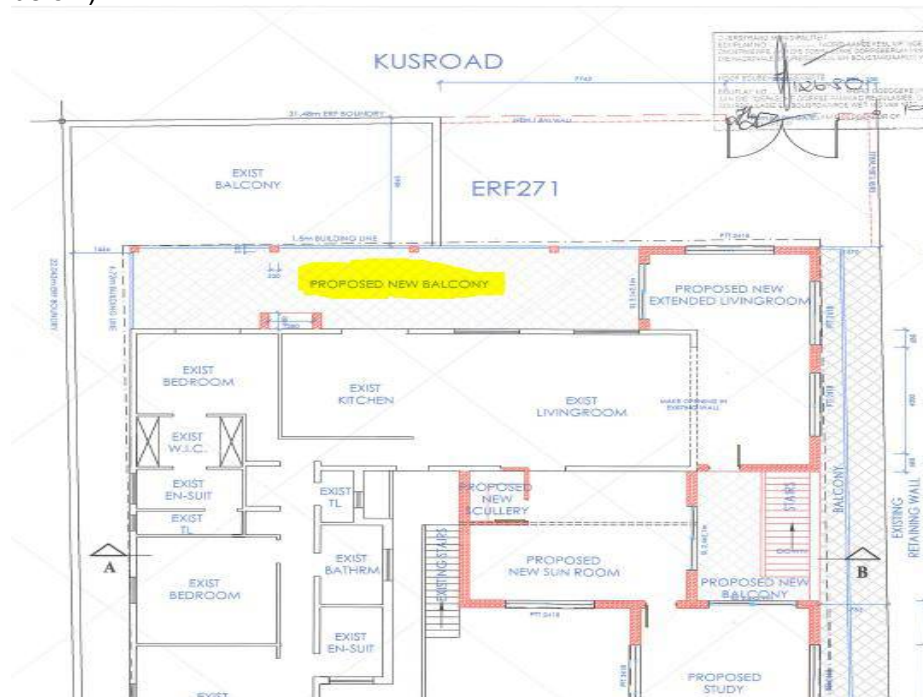
The proposed street building line departure is to accommodate the existing balcony with a proposed planter, swimming pool and overflow and street boundary wall that extends up to 3,355m high above natural ground level is not in keeping with the character of the area. The balcony encroachment of the 4m street building line measures  $\pm 42\text{m}^2$  and contributes significantly to the coverage encroachment and will be further assessed under coverage below. The applicant however failed to address the associated filling and boundary wall height encroachment above 2,1m as part of the departure application that don't just relate to an application for the retention of the existing balcony. Thus, the balcony encroachment over the building line from a technical point of view cannot be supported.

### *Coverage encroachment*

Over years several building plan approvals were granted for additions. Apart from specifying the floor area of the additions only, none of these plans contained compliance with the applicable development parameters such as building lines, total floor area (existing and proposed) and coverage. The applicable zoning schemes at the time of building plan submission also had a 50% coverage restriction, same as the current Overstrand Land Use Scheme and title deed.

It is therefore clear that compliance with coverage was not considered as part of the building plan submissions.

After scrutiny of the historic building plan records it is evident that the balcony onto the street boundary (indicated below as existing balcony) is an unauthorised structure and measures  $\pm 42\text{m}^2$  in extent. Approved building plans dated 19 February 2008 (see below) indicates a proposed balcony and extended living room in front of the existing dwelling extending up to the aforesaid unauthorised existing balcony. The portion of the balcony marked in yellow below represents an approved structure. The proposed living room had not been constructed but the proposed study had been over the void without permission, thus adding coverage (refer to the image below).



*Extract from approved building plan approval dated 19 February 2008*

The surrounding area is not characterised by development onto property boundaries, nor is excessive filling and high boundary walls. The street boundary wall on the adjoining Erf 272 is unauthorised structure and had been referred to the Building Control Department and Town Planning and Land Use Management and Compliance to deal with.

The retention of the balcony on the street boundary that contributes significantly to the coverage encroachment is considered overbearing in the street scape and not reflective of the area character. The applicant did not motivate any special circumstances as to why the coverage encroachment should be supported. The applicant also failed to address departures resulting from the boundary wall supporting the balcony exceeding the 2,1m height restriction up to 3,355m as well as filling more than 1m above natural ground level. The impact of the aforesaid cannot be assessed. The retention of the balcony is therefore not desirable and cannot be supported.

The applicant also proposes additions with a floor area of 25m<sup>2</sup> that will further increase the coverage encroachment. The applicant's motivation, despite requests as well as the SDP does not clearly indicate the new building work resulting in the encroachment apart from a 3m<sup>2</sup> bathroom and 12m<sup>2</sup> store. The applicant did not provide any site-specific motivations for the proposed coverage encroachment. The opinion is held that the first floor is sufficiently large enough to accommodate the proposals in a revised format / layout, whilst the ground floor outbuildings (garage and storage) have a floor area of 102m<sup>2</sup> which is more than adequate for storage of vehicles and general storage purposes. The applicant also did not indicate / motivate why a further 12m<sup>2</sup> store is required. Thus, the proposed additions / coverage encroachment is not desirable.

Given the historic nature of the development with building plans not indicating total floor areas and coverage, the approved balcony / walkways, save for the balcony portion extending over the street building line, is considered desirable and not to negatively affect vested rights.

#### *Removal of restrictive title conditions*

Having had regard to the background and evaluation above, it is evident that there are approved structures that do contribute to the encroachment of the 50% coverage restriction as rights vest with building plan approval. Thus, removal of the title deed condition limiting coverage could be supported and is not considered to negatively impact upon the public interest since the By-law and Overstrand Land Use Scheme contains sufficient controls to enforce the development footprint. The removal of the coverage condition is considered desirable.

#### *Determination of 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 existing building line and coverage encroachments existed for years and were the doing of the former property owners. The current owner bought the property on auction from a deceased estate in 2016 with all encroachments existing. The coverage encroachment amounts to an area of 51m<sup>2</sup>.

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

The property owner attempts to rectify the contravention with the application, which is not by his wrongdoing.

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

A report from a quantity surveyor has not been provided.

##### *(d) whether the unlawful conduct was stopped and*

The owners are in process of rectifying the contravention via an application for determination of an administrative penalty, departure, and removal of restrictive title conditions.

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

The property owner did not previously contravene the By-law.

Having had regard to the history of the development of the property, various building plan approvals without having had regard to floor area / coverage restrictions in terms of the land use scheme, the fact that the applicant will be required to demolish 42m<sup>2</sup> of the balcony encroachment the street building line at his cost, together with the fact that Building Control never enforced the deviations for the approved plans, the opinion is held that the applicant cannot be held liable for payment of an administrative penalty. It is thus recommended that the applicant be exempted from payment of an administrative penalty.

### Conclusion

Having had regard to the evaluation above, the opinion is held that the applications for removal of restrictive title conditions and building line departure are desirable and supported in accordance with the recommendation below. The proposed coverage encroachment of 57,35% (or 51m<sup>2</sup>) to accommodate the as built development and street building line encroachment up to the street boundary and further proposed coverage increase to 60,95% (25m<sup>2</sup>) as per the application is considered excessive and not supported. The applicant will be required to demolish the balcony over the street building line that will reduce the existing coverage encroachment to 51,29m% representing an encroachment of 9m<sup>2</sup>, thus a partial coverage encroachment is considered desirable.

## 13. RECOMMENDATION

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 (By-Law) for removal of restrictive title condition C.1(c) contained in Title Deed T79622/2016, to accommodate the encroachment of the maximum permissible coverage, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. application for departure in terms of Section 16(2)(b) of the By-Law for the following encroachments:
  - departure of the 2m northern lateral building line varying between 1,1659m and 0m at ground floor to accommodate the existing garage and storeroom;
  - departure of the 2m northern lateral building line at first floor level varying between 1,568m to 0,255m and 1,475m to 1,167m to accommodate a balcony and a portion of the existing dwelling as well as a proposed planter;
  - departure of the 2m southern lateral building line varying between 1,994m and 1,294m at first floor to accommodate the existing dwelling,

**be approved** in terms of the provisions of Section 61 of the By-Law;

3. that the application for departure in terms of Section 16(2)(b) of the By-Law to allow the encroachment of the maximum permitted coverage from 50% to 57,35% and 60,95% to accommodate the existing dwelling and proposed coverage encroachments **be partially approved** in terms of the provisions of Section 61 of the By-law to **51,29% only**;
4. that the application for departure in terms of Section 16(2)(b) of the By-Law for departure of the street building line from 4m to 0m to accommodate the existing balcony, deck and planter, **not be approved** in terms of the provisions of Section 61 of the By-Law;
5. that the application in terms of Section 16(2)(q) of the By-Law for determination of an administrative penalty **be exempted** from the payment of an administrative penalty in terms of the provision of Section 990(4) of the By-Law;
6. that the decisions in paragraphs 2. and 3. above be subject to the following conditions:
  - (a) that building plans be submitted for the upgrading and renovation of the property indicating site coverage not to exceed 51,29m<sup>2</sup>;
  - (b) that the applicant at his cost demolish the balcony up to the 4m street building line to the satisfaction of the municipality;
  - (c) that the applicant at his cost demolish all encroachments of the existing building / structures beyond the property boundary and made good to the satisfaction of the municipality;
  - (d) 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
  - (e) that all the conditions in the Services Report (attached as Annexure F), be complied with.
  - (f) that all other development parameters as prescribed in the relevant Zoning Scheme, be complied with;
  - (g) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation, and
7. that the applicant 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 Overstrand Zoning Scheme Regulations have sufficient control measures when it comes to land use, coverage and building line controls.
- ❖ The proposal will not negatively impact on existing/vested rights of adjoining property owners or the character of the area.
- ❖ The property was acquired by the applicant from a deceased estate as was not responsible for any of the encroachments.
- ❖ The proposal will improve the aesthetic appearance of the property and character of the area as a whole.

##### Reasons for partial approval

- ❖ Rights vest with building plan approval, thus the approved balcony, although adding coverage cannot be refused.
- ❖ The applicant bought the property unaware of the existing encroachments.

##### Reasons for non-approval

- ❖ The proposed coverage encroachments are excessive and to the detriment of the character of the area and appears overly prominent in the street scape.
- ❖ The coverage encroachments are not in line with the character and morphology of development in the area.
- ❖ The motivation and building plans do not clearly indicate and describe the coverage encroachments.

#### 15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Title Deed T79622/2016
Annexure E:	Comment: Telkom
Annexure F:	Services Report
Annexure G:	Building plan dated 3 November 1995
Annexure H:	Building plan dated 16 October 1998
Annexure I:	Building plan 9 May 2006
Annexure J:	Building plan dated 12 February 2008

**SIGNATURES****AUTHOR**

Name:

**SW VAN DER MERWE**

SACPLAN Reg No:

**A/1850/2014**

Signature:

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Date:

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**APPLICATION FOR THE REMOVAL OF RESTRICTIVE CONDITIONS AND SUBSEQUENT APPLICATION FOR DEPARTURES AS WELL AS AN APPLICATION FOR THE DETERMINATION OF AN ADMINISTRATIVE PENALTY FOR ERF 271 GANSBAAI: 24 KUSWAY: GANSBAAI: OVERSTRAND MUNICIPALITY: DIVISION CALEDON: PROVINCE OF WESTERN CAPE**

**MOTIVATION REPORT**

**1. INTRODUCTION**

- 1.1 Applicant: ME Planners Town and Regional Planner  
P.O. Box 757  
Heilbron  
9650
- 1.2 Power of Attorney: Power of Attorney has been rendered to ME Planners Town and Regional Planner to lodge this Application for Removal of Restrictive Conditions in terms of Section 16(2)(f) and Permanent Departures in terms of Section 16(2)(b) read with Section 20(1)(a) of the Overstrand Municipality Amendment By-law on Municipal Land Use Planning, 2020; as well as an application for the Determination of an Administrative Penalty.
- 1.3 Property: Erf 271 Gansbaai (hereafter referred to as "the site of application" or "the property")
- 1.4 Street address: Kus Way 45, Gansbaai.
- 1.5 Locality: Erf 271 Gansbaai is situated on the southern side of Kus Way abutting Erf 272 on the western side, Erf 268 on the eastern side, Erf 270 on the southern side, with Erf 269 on the South-Eastern and Erf 273 on the South-Western corners respectively.

**2. OVERVIEW OF APPLICATIONS**

Chapter IV, Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020:

- 2.1 Application for the Removal of Restrictive Title Deed Conditions in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

## ANNEXURE B 2/11

FINAL UPDATED MEMORANDUM / ADDITIONAL INFORMATION / Erf 271 Gansbaai

## 2.1.1 TITLE DEED

In terms of its Title Deed, No. T 000079622/2016 the property is described as "Erf 271 Gansbaai, geleë in die Overstrand Munisipaliteit, Afdeling Caledon, Provinsie van die Wes-Kaap", and is "694 (seshonderd vier en negentig) vierkante meter" in size.

The property is registered in the name of "MARIANA NEL,  
Identiteitsnommer: 7306070194083  
Getroud buite gemeenskap van goed".

## 2.1.2 The enclosed Title Deed contains the following Title Deed Restrictions that have to be addressed:

The Removal being applied for is for Condition CI (c) of Title Deed No. T000079622/2016 that reads as follows:

"CI(c) That not more than one-half the area of this erf be built upon."

The reason for this removal is to legalise the fact that more than one-half of the area has already been built upon.

*This issue will also lead to an application for a 'Departure of the coverage'*

- **A copy of the Title Deed is attached to the application.**

## 2.2 Chapter IV, Section 16(2) (b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020:

Application for permanent departures in terms of Chapter IV, Section 16(2) (b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

2.2.1 Building Line Departures being applied for are:a) Exceeding of the following 2.00m side building line restrictions:A: Ground storey:

- Eastern side: The North-Eastern corner of the garage from 2, 00m to 1,659m;
- The South-Eastern corner of the garage and the Eastern side of the storage room from 2, 00m to 0,00m;
- In summary the exceedance varies between ,341m and 2,00m.

**B: First storey:**

- i. North-Western side: From 2,00m to 1,294m;
- ii. Eastern side - on the most northern side of the building - From 2,00m to 1,662m;
- iii. South-Eastern side: From 2,00m to 1,167m;
- iv. In summary the exceedance varies vary between 0,338 and 0,833m.

**b) Exceeding of the 4.00m street building line restrictions:**

- i. Planter: 4,00m to 0,00m
- ii. Overflow: 4,00m to 0,00m

- *Refer to the site plans attached to the application.*

**2.2.2 Application for a departure of the allowable coverage:**

As prescribed by the Overstrand Zoning Scheme, the coverage on a "Residential Zone 1" erf is 50%. In addition to the provisions of the zoning scheme, the coverage is also limited by the condition in the Deed of Title. (See paragraph 2.1.2)

The existing footprint on the erf is: 398m<sup>2</sup>.

The new additions are 25m<sup>2</sup> which result to a total footprint of 423m<sup>2</sup>.

These changes result to a total coverage of 60.95%

The existing building will not be expanded any further and the existing excess of 10,95% will stay as is. No new additions will take place.

**2.3 Application for an Administrative Penalty**

Application for Administrative Penalty in terms of Section 16(2) (q) of the Overstrand Municipality read together with Section 90 of the Bylaw Municipal Land Use Planning (November 2020).

It is stated in Section 90 (1) of the said Bylaw that the applicant may rectify any contravention on a property by applying to the Municipality to pay an Administrative Penalty. In this case, no formal application is made for the payment of such an administrative penalty.

The reasons are dealt with by discussing them in accordance with Section 90 (3) of the same Bylaw.

a) Section 90 (3) (a) refers to the nature, duration, gravity and extent of the contravention. In order to address this, it is important to motivate that the owner does not violate any regulation.

b) The nature of the development on the erf does not impose on the privacy of any of the surrounding owners and has no negative effect on the surrounding built environment. There has never been any complaint about the existence of the building. (Section 87 of the Amendment Bylaw on Municipal Land Use Planning, 2020)

c) Section 90 (3) (b): The application and the submission of the 'as built' plans, proves that the owner is not deliberately involved in any contravention. The owner has plans drawn up in order to legalise the proposed flats on the property.

d) Section 90 (3) (d): There is no sign of any unlawful conduct. The use of the erf is primarily for residential purposes and such outbuildings ordinarily used therewith, as is the case with this application, as well as the legalisation of the two flats at the back of the building.

e) Section 90 (3) (e): The registered owner has never deliberately contravened this By-Law or any previous planning law.

### 3. GENERAL APPLICATION INFORMATION

#### 3.1 PROPERTY DESCRIPTION

Erf 271 Gansbaai is situated at the locality as described in paragraph 1.4 above.

At the time when the owner wanted to make improvements to the building, he became aware of the fact that there were no fully approved plans available for the property. So, it became necessary that "as built" plans had to be drawn up.

The location of the dwelling can be considered a historic situation. The registered owner (s) of the erf took transfer of the erf in 2016.

Nevertheless, an Application for Administrative Penalty in terms of Section 16(2) (q) of the Overstrand Municipality read together with Section 90 of the Bylaw Municipal Land Use Planning (November 2020) is applicable.

It is stated in Section 90 (1) of the said Bylaw that the applicant may rectify any contravention on a property by applying to the Municipality to pay an Administrative Penalty. In this case, no formal application is made for the payment of such an administrative penalty.

The reasons are dealt with by discussing them in accordance with Section 90 (3) of the same Bylaw.

## ANNEXURE B 5/11

FINAL UPDATED MEMORANDUM / ADDITIONAL INFORMATION / Erf 271 Gansbaai

- a) Section 90 (3) (a) refers to the nature, duration, gravity and extent of the contravention. In order to address this, it is important to motivate that the owner does not violate any regulation.
- b) The new owners literally bought the house as is, and when the building plans were drawn up, it was realized what a mess he had inherited. It is unfair that he is held accountable. He tries to fix the mess.
- c) The previous building plans were already approved in 1997. The plans as they are currently there are accurate.
- d) The nature of the development on the erf does not impose on the privacy of any of the surrounding owners and has no negative effect on the surrounding built environment. There has never been any complaint about the existence of the building (Section 87 of the Amendment Bylaw on Municipal land Use Planning, 2020)
- e) Section 90 (3) (b): The application and the submission of the 'as built' plans, proves that the owner is not deliberately involved in any contravention. The owner has plans drawn up in order to legalise the buildings on the property.
- f) Section 90 (3) (d): There is no sign of any unlawful conduct. The use of the erf is primarily for residential purposes.
- g) Section 90 (3) (e): The registered owner has never deliberately contravened this By-Law or any previous planning law.

3.2 SIZE

The property is 694m<sup>2</sup> in extent.

3.3 ZONING

Erf 271 Gansbaai is zoned "Residential Zone 1" and is utilized as such. Surrounding properties are also zoned for single residential purposes.

3.4 LAND USE

3.4.1 The property is developed with a partly double-storey Single Dwelling House, with the garages and storage rooms on the ground floor and the house on the first storey.

3.4.2 The property was purchased, with the house and outbuilding at their current locations on the property. The original plans for the buildings on the property were apparently lost at the municipal buildings and when the property was purchased by the present owner, no existing

plans could be discovered or handed over to them. All the buildings on the attached plans are therefore shown as existing.

- 3.4.3 It is the sole intention of the landowner to legalize the infringement of the building lines as described in paragraph 2.2.1 above plus all the existing buildings as shown on the attached plans.  
(The "as built" building plans of all structures will be submitted to the Municipality for approval.)

- *Refer to the Building Plans attached to the application.*

### 3.5 CHARACTER OF THE ENVIRONMENT

The area, in which the site is located, is characterized by predominantly residential uses. The application, if approved, will change nothing in the existing character of the area.

### 3.6 NEED AND DESIRABILITY OF THE PROPOSED UTILIZATION

- 3.6.1 The need in this instance centres mainly on the fact that the owner wishes to legalise the structures that were constructed beyond the building lines as prescribed.

- 3.6.2 Ample space is available between the present buildings on the erf and any future buildings on the sides of the common boundaries with any of the adjoining residential erven to ensure that no views in various directions are spoilt. Hence the view is formed that the encroachments have in the past and will in future have no mentionable impact on adjoining or surrounding property owners.

Further, no complaints by adjacent or surrounding landowners had been received in this regard in the past. The surrounding landowners are aware of the existing encroachments.

The application was discussed with them. All three adjoining owners indicated that they had been aware of the building in its current position for several years. They are aware of the fact that the surrounding walls (which are to be demolished), exceed their properties. The plots and owners affected are the following:

- i) Erf 268, Gansbaai (JVR Cloete);
- ii) Erf 272, Gansbaai (MAJ Venter); and
- iii) Erf 270, Gansbaai (G&M Barnard)

All three owners of the plots concerned have given their consent for the development and interior alterations to continue. These permissions are attached to the application.

Taking any possible "darkening" of surrounding properties into consideration, the long existing position of the primary dwelling unit and its outbuildings is not regarded as being

undesirable and will not have any detrimental impact on the rights of surrounding property owners nor the existing built environment in future. It is the considered opinion that the building line encroachments are of no consequence to the owners of any of the properties next door.

The proposed alterations to the building are also not in contravention of the prescribed height restriction of the maximum height of 8,0m in terms of the Overstrand Municipality Land Use Scheme, 2020. The highest elevation of the building on the north-west side is 7,962m.

From the foregoing it is clear that the character of the area will not be disturbed should this application be approved, and although Gansbaai is one of the oldest established townships in the Overstrand area, it will not be necessary to also consider the possibility of the heritage value being affected and disturbed by the application as the existing buildings will not be affected by the application.

### 3.6.3 RORA IMPLICATION

As far as Section 35(4)(a) – (d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 is concerned, the following can be stated:

- (a) The only value for the applicant, as far as the application is concerned, is that it will give him the chance to have more living space inside the existing buildings. No other benefits, financial, personal or social, will accrue to the applicant.
- (b) See (a) above.
- (c) See (a) above.
- (d) There will be no social benefit of the restrictive condition remaining in place in its existing form.
- (e) The only social benefit of the removal will be to provide more in-door living space.
- (f) The removal, suspension or amendment of the restrictive condition will remove no rights enjoyed by the beneficiary.
- (g) No financial or other values will be added by the removal.
- (h) The desirability for the removal of the title deed building lines is therefore clear and evident.

### 3.7 TRAFFIC IMPACT, PARKING AND ACCESS

- 3.7.1 The traffic flow patterns around the site will not be affected at all.
- 3.7.2 The present access to the property is from Kus Way and provides safe access to and exit from the development.
- 3.7.3 In the light of what has been mentioned as far as the need is concerned for this application, the desirability needs no further motivation, but the following is relevant and of interest:
- a) The existing as well as the future character of the area will not be adversely affected should the application be approved.
  - b) The traffic flow pattern in the area will not be affected.
  - c) Services will not be affected adversely.
  - d) The prescribed standards and conditions for the existing zoning of the erf will not be adversely affected through the approval of the application.
  - e) No darkening of neighbouring properties will take place.

- *Refer to the site plan attached to the application. (Drawing no. 1)*

### 3.8 IMPACT ON EXTERNAL ENGINEERING SERVICES

- 3.8.1 The site is located in an existing township.
- 3.8.2 All services on the property already exist and are sufficient to accommodate the existing buildings and land use.

### 3.9 FORWARD PLANNING & OTHER LAND USE DOCUMENTS

#### 3.9.1 OVERSTRAND MUNICIPALITY SPATIAL DEVELOPMENT FRAMEWORK (May 2020)

The Overstrand Municipality Spatial Development Framework (2020) earmarks the area where Erf 271Gansbaai is situated, for residential purposes. The current Residential Zone 1 zoning will be retained and the current access from Middelkus Way will also remain as is. The proposal will, therefore, be in line with spatial planning guidelines for the area.

#### 3.9.2 OVERSTRAND MUNICIPAL GROWTH MANAGEMENT STRATEGY (2010)

With reference to the Overstrand Growth Management Strategy the subject erf falls within Planning Unit 1 that consists mainly of Gansbaai single residential erven. No densification of the planning unit is proposed.



3.10 THE RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION3.10.1 HERITAGE VALUE AND IMPACT

Erf 271 Gansbaai is situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010).

In the past, heritage 'properties' were often thought of as individual buildings or monuments, such as churches and temples. Today it is generally recognised that the whole environment (or site) of a property is important and has been influenced by its interaction with the surrounding environment.

The practice of heritage management involves strategic planning, project and site management.

- a) The purpose of the GMS (May 2020) is to improve the Overstrand Municipality's overall environmental sustainability by enhancing the quality and efficiency of the built environment.
- b) The following core objectives of the strategy will be used to test the suitability of the proposed development.

- ***"Ensure optimal land use planning and the efficient use of infrastructure, services, facilities and land."***

The proposal seeks to make optimal use of the erf and will result in more efficient use of the infrastructure.

- ***"Contribute to place making and the development of attractive and safe urban environments."***

The proposed development will contribute to place making and a more attractive property and environment.

- ***"Ensure that the scale and character (in terms of bulk, height and architectural styling) of the higher density areas are appropriate to the immediate context."***

The proposed development will change nothing in the scale and character of the area.

In the light of the above mentioned it is evident that the proposed departure will not have a negative impact on the heritage value of the subject property or the Greater area of Gansbaai.

3.10.2 ENVIRONMENTAL IMPACT

Environmental Impact Assessment or EIA is the process through which an environmental impact of a proposed development is evaluated. It takes into consideration the socio-economic, cultural, and human health impacts.

An EIA evaluates the potential impact of human actions, for example, development proposals, on the receiving environment, and how the opportunities and constraints in this environment influence the intended human actions.

The proposed ROR application and the application for the departures for erf 271 Gansbaai does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

### 3.11 PLANNING PRINCIPLES

#### 3.11.1 SPATIAL JUSTICE

The right of owners to develop land in accordance with current use rights must be recognized as is the case with this application.

#### 3.11.2 SPATIAL SUSTAINABILITY

The existing development and associated parking are accommodated in an established residential area. The application has no impact on the conservation worthy areas of Gansbaai. Spatially the land uses on the property is in keeping with the residential character of the area.

The development on the property in question is designed towards sustainability and limiting urban sprawl.

#### 3.11.3 EFFICIENCY

The development on the property optimizes the use of existing resources and infrastructure. The development is conveniently located close to the beach, walkways and the business areas in Gansbaai.

#### 3.11.4 SPATIAL RESILIENCE

Not applicable to this application.

#### 3.11.5 GOOD ADMINISTRATION

The applicant is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient and will ensure that timeframes are adhered to.

### 4. RECOMMENDATION

4.1 Land uses in the area and on the site of application are being regulated and controlled by the Overstrand Municipality Land Use Scheme, 2020.

4.2 The application is made for the purpose of helping to ensure that orderly planning as far as the Town Planning and building regulations are concerned will be in place for future reference.

**ANNEXURE B I I / I I**

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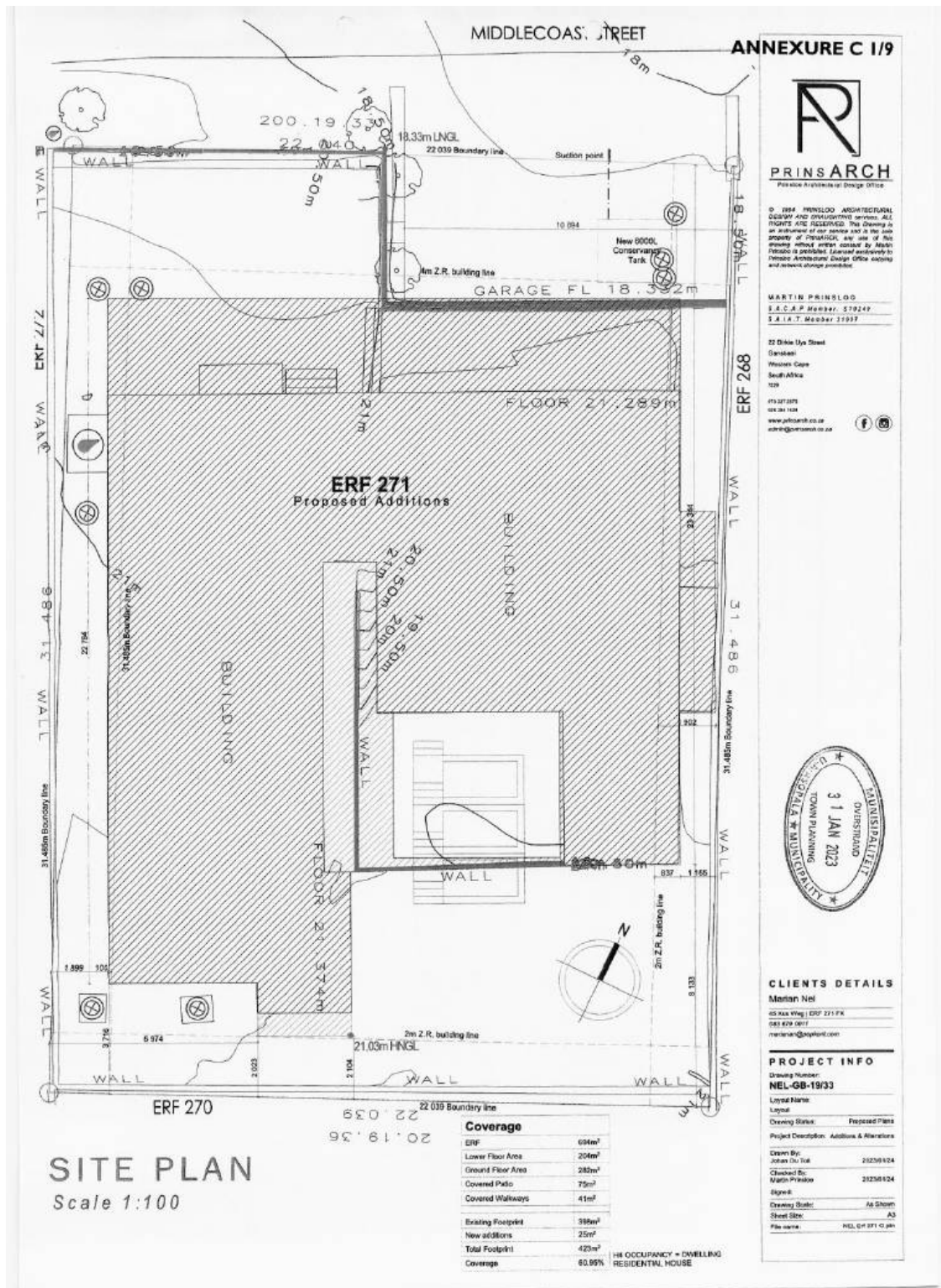
FINAL UPDATED MEMORANDUM / ADDITIONAL INFORMATION / Erf 271 Gansbaai

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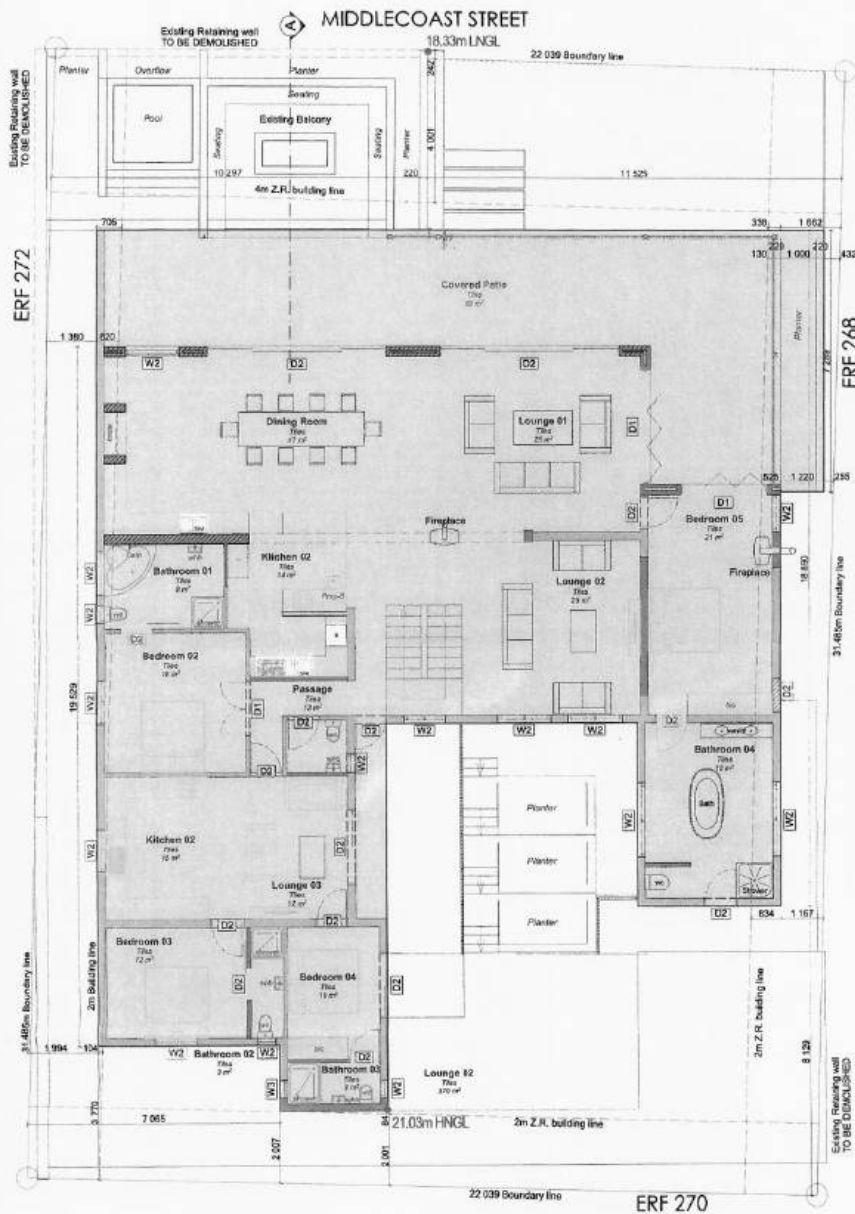
- 4.3 The owner of the property states that he is not aware of complaints by surrounding landowners or even the Overstrand Municipality, about the exceeding of the building lines described above.
- 4.4 From the contents of this report it is apparent that the existing building line encroachment of the building(s) as well as the exceeding of the allowable coverage on Erf 271, Gansbaai will have no negative impacts in general, and it is thus requested that the Municipality favour the application as set out in this motivation report.

**END OF MOTIVATION REPORT:**

**APRIL 2022**



## ANNEXURE C 2/9



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**PROJECT INFO**  
Drawing Number: NEL-GB-19/33  
Layout Name:  
Layout:  
Drawing Status: Proposed Plans  
Project Description: Addition & Alterations  
Drawn By: Johan De Vos 2023/01/24  
Checked By: Martin Prinsloo 2023/01/24  
Signed:  
Drawing Scale: As Shown  
Sheet Size: A3  
File Name: NEL-GB-19/33-01



216

ANNEXURE C 4/9



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S.A.C.A.P. Member: ST9249  
S.A.I.A.T. Member: 31997

22 Dille Uys Street  
Gansbaai  
Western Cape  
South Africa  
7225

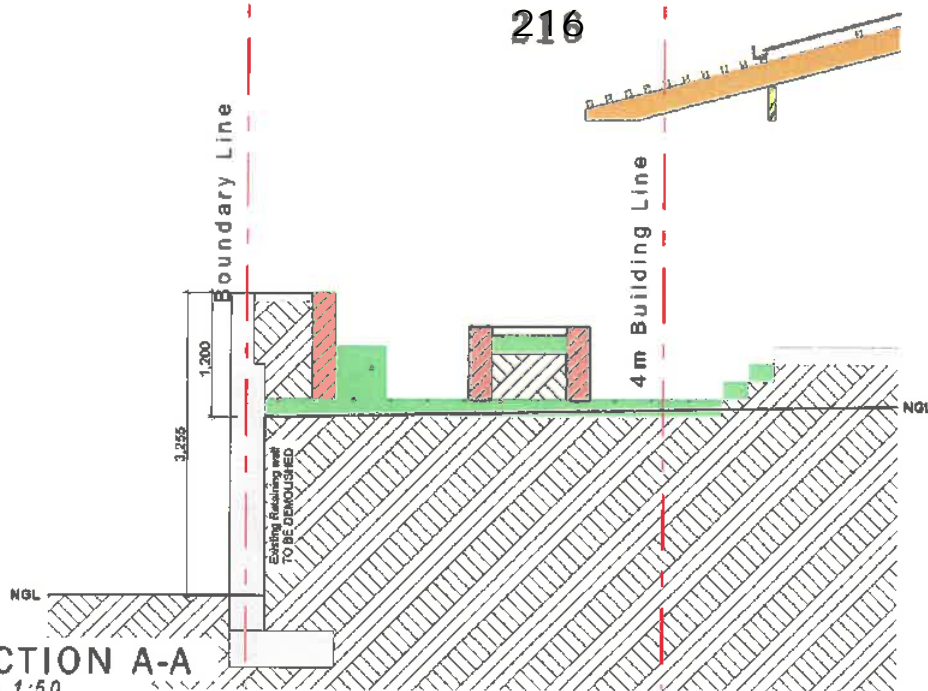
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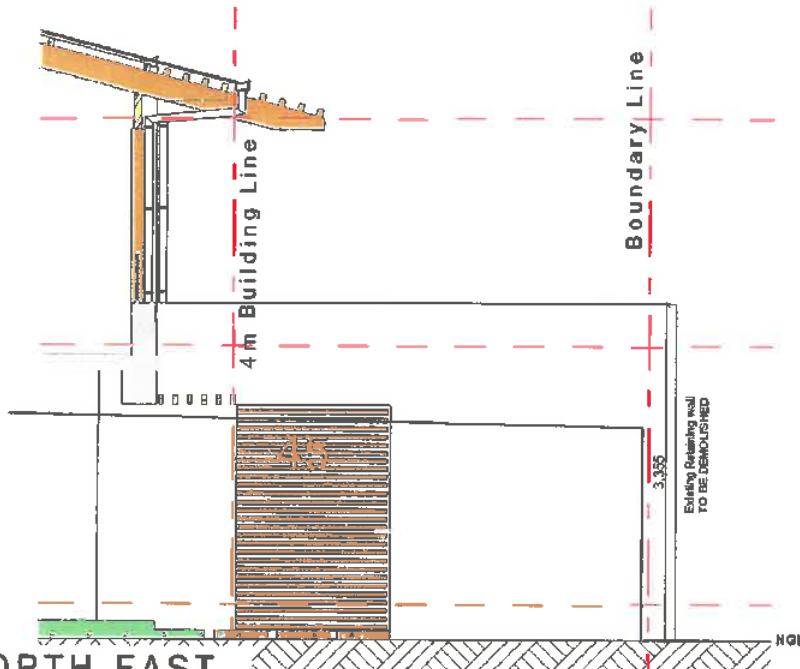
www.prinsarch.co.za  
admin@prinsarch.co.za



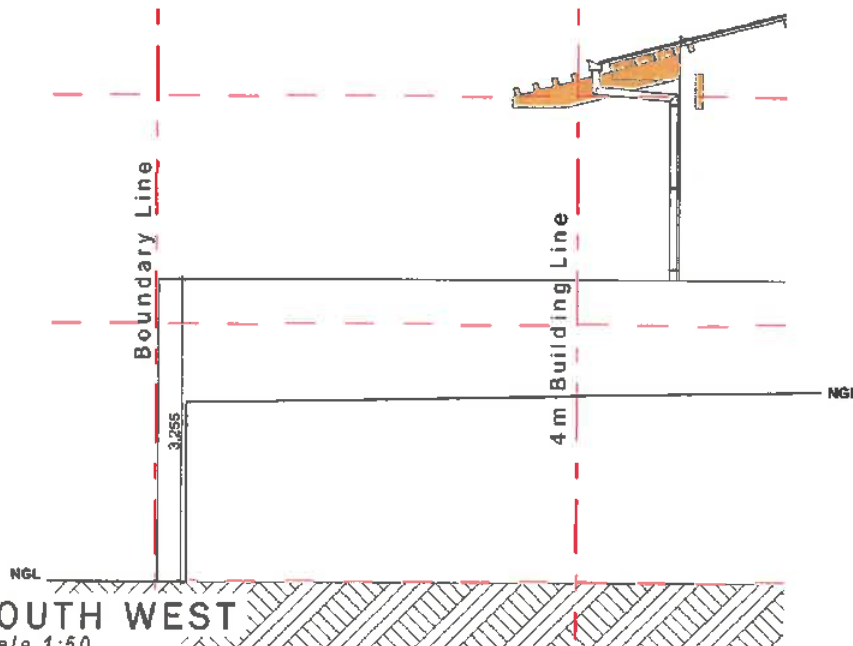
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**NORTH EAST**  
Scale 1:50



**SOUTH WEST**  
Scale 1:50



#### CLIENTS DETAILS

**Marian Nel**

45 Kus Wag | ERF 271 FK

083 679 0011

marian@napkonk.com

#### PROJECT INFO

Drawing Number:

**NEL-GB-19/33**

Layout Name:

Layout

Drawing Status:

Proposed Plans

Project Description: Additions & Alterations

Drawn By:

John De Toll 2023/01/24

Checked By:

Martin Prinsloo 2023/01/24

Signed:

Drawing Scale:

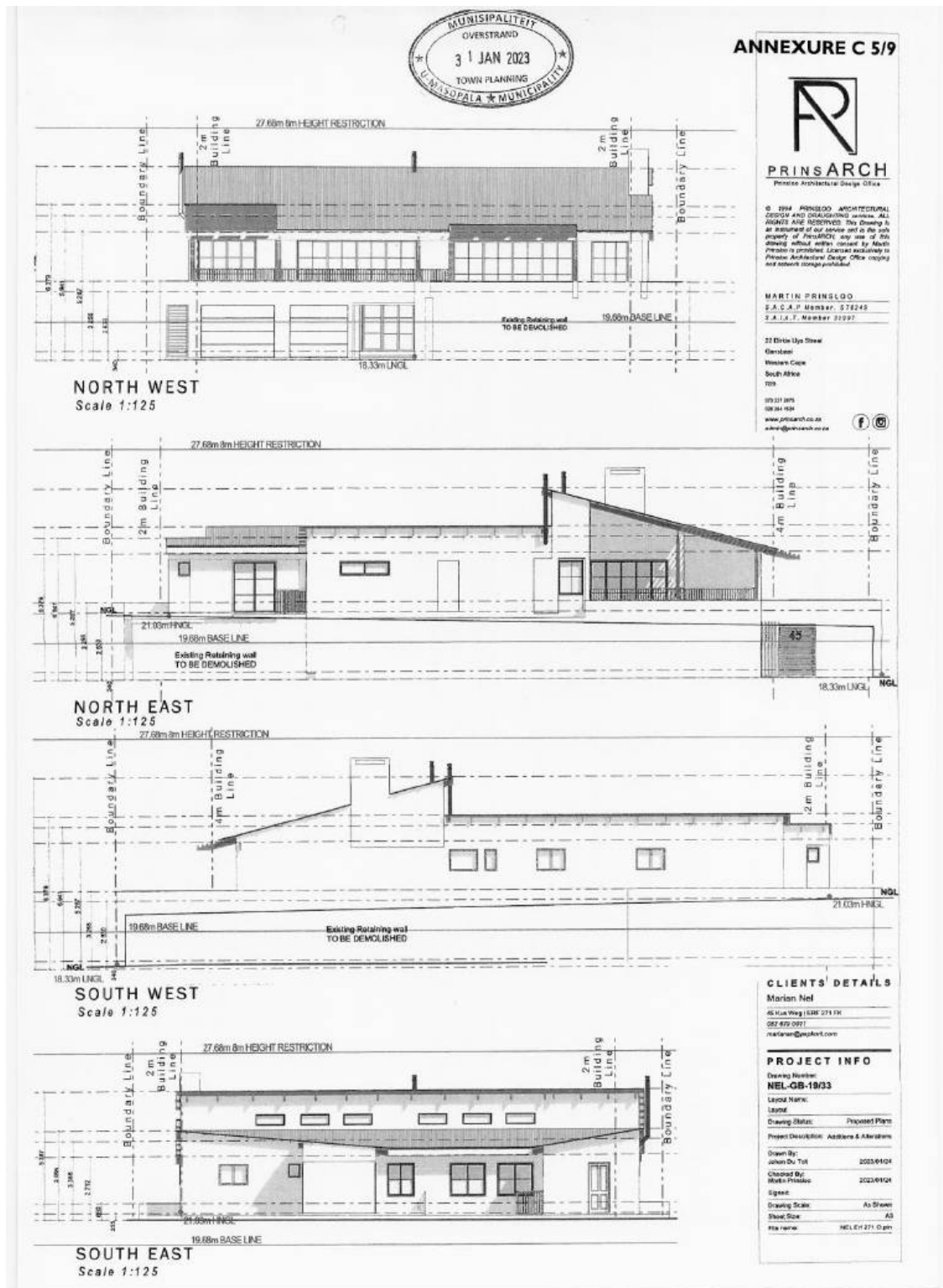
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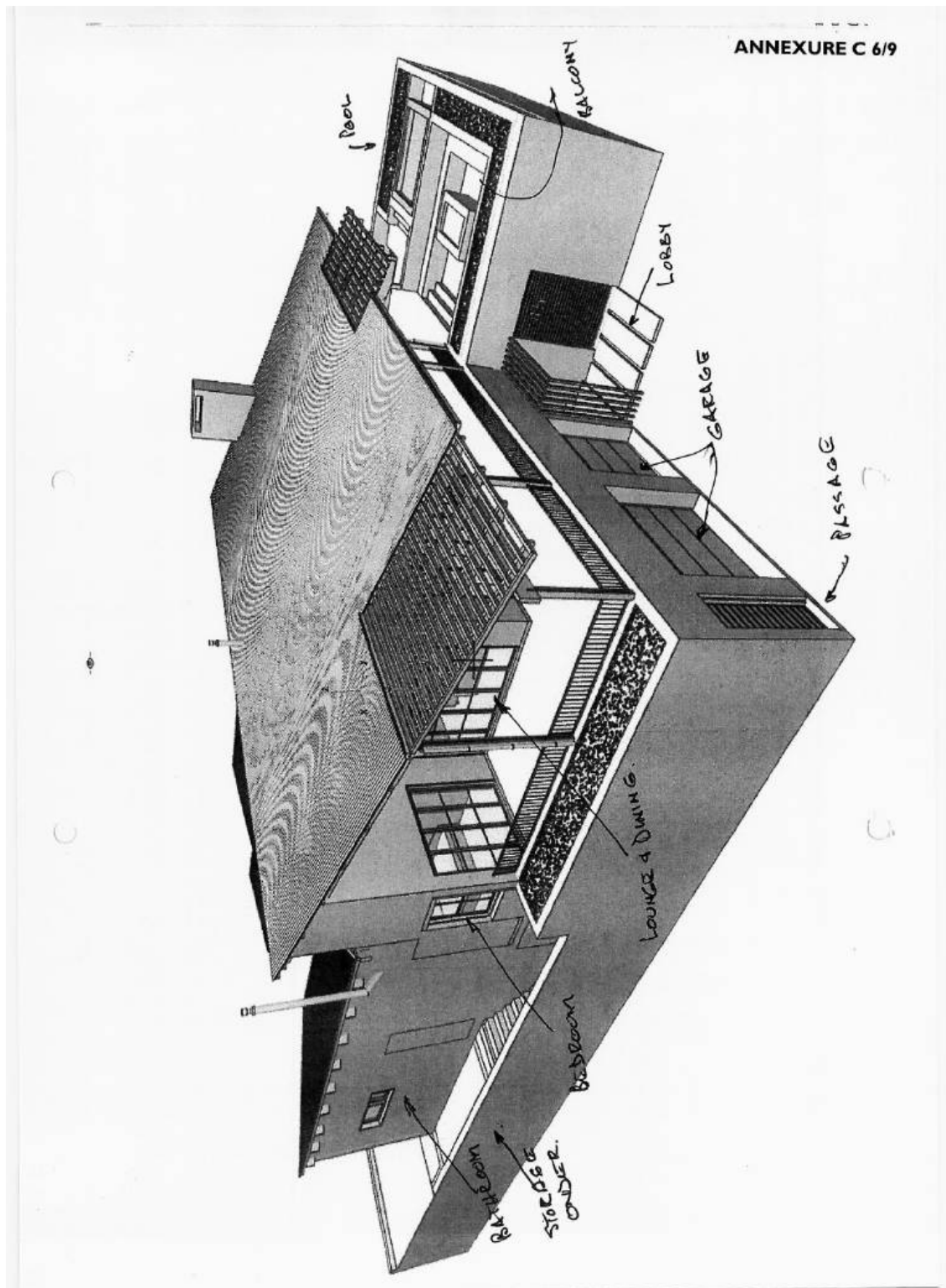
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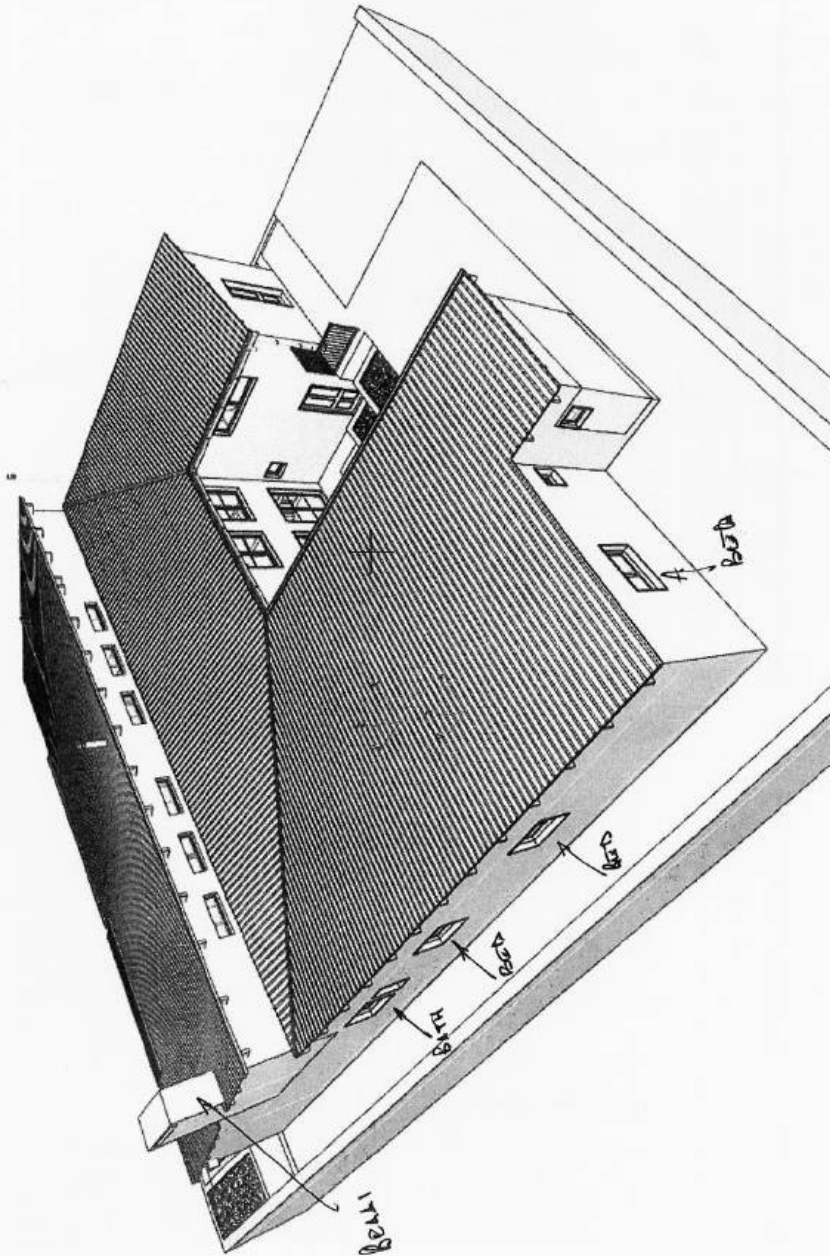
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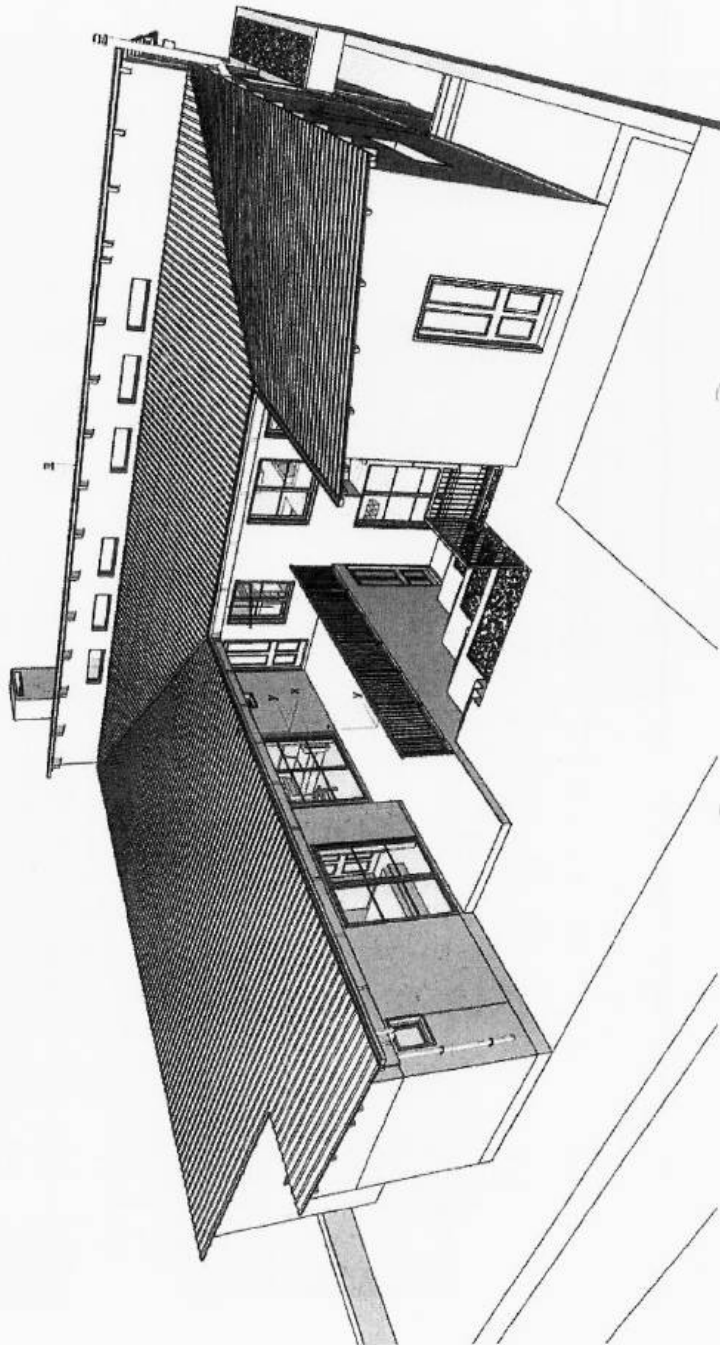


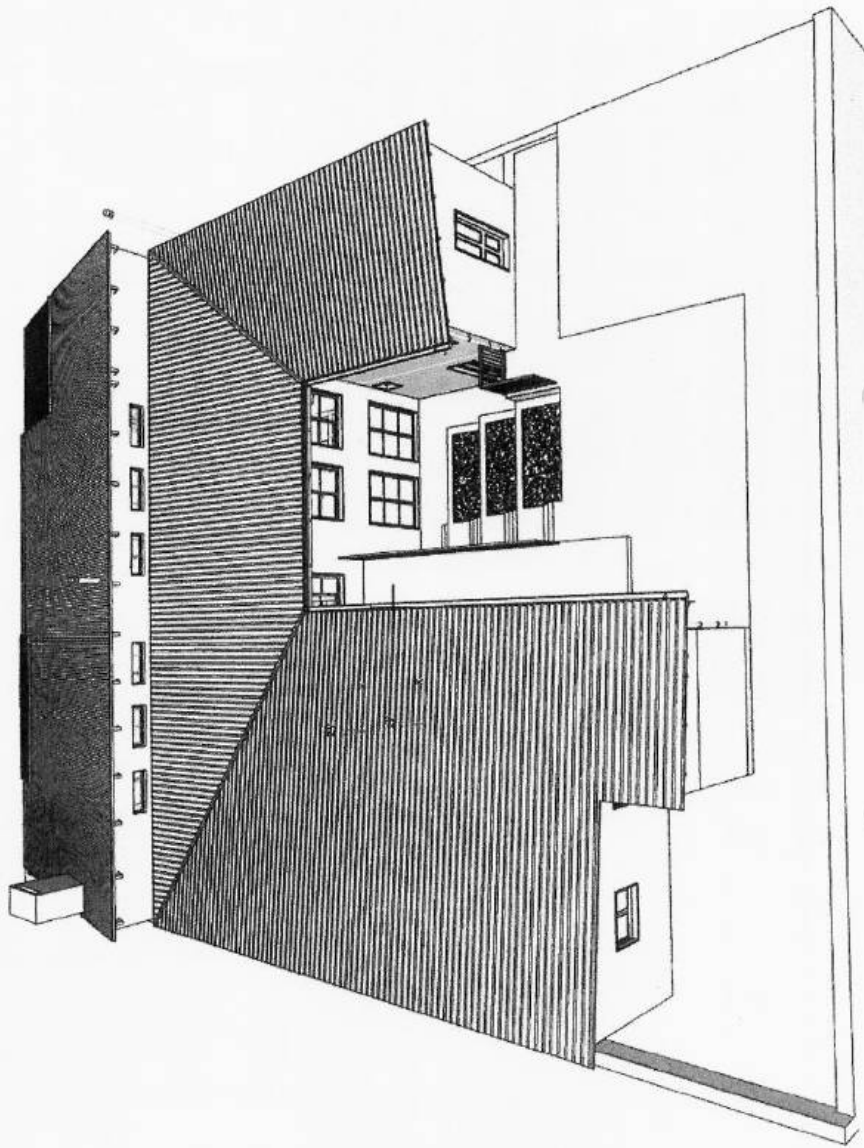




## ANNEXURE C 7/9







ANNEXURE D 1/4

**CTN01278**

Laetitia Knoetze  
Blousuikerbosstraat 22  
BELLVILLE  
7530

Opgestel deur my

  
TRANSPORTBESORGER  
LAETITIA KNOETZE

VERBOD	MORTGAGED
R 970 000,00	
000034394 / 2016	
21 DEC 2016	



1700 000,00  
~~R 193 800,00~~ on  
FINE  
990,00  
~~R 440 000,00~~

T000079622 / 2016

**TRANSPORTAKTE**

HIERBY WORD BEKEND GEMAAK DAT

**ANTON LUTHER POSTHUMUS**

voor my verskyn het, REGISTRATEUR VAN AKTES te KAAPSTAD, hy die genoemde  
komparant synde behoorlik daartoe gemagtig kragtens 'n Volmag aan hom verleen deur

Die Eksekuteur in die Boedel Wyle  
FLORIS JOHANNES MOSTERT  
Nommer 011174/2015

geteken te DURBANVILLE op 23 FEBRUARIE 2016



En genoemde Komparant het verklaar dat sy prinsipaal, op 16 November 2015, waarlik en wettiglik verkoop het by openbare veiling, en dat hy, in sy voorgenoemde hoedanigheid hierby seëer en transporteer aan en ten gunste van

**MARIANA NEL**  
**Identiteitsnommer 7306070194083**  
**Getroud buite gemeenskap van goed**

haar Erfgename, Eksekuteurs, Administrateurs of Regverkrygendes, in volkome en vrye eiendom

**ERF 271 GANSBAAI, GELEë IN DIE OVERSTRAND MUNISIPALITEIT**  
**AFDELING CALEDON**  
**PROVINSIE VAN DIE WES-KAAP**

**GROOT 694 (SES HONDERD VIER EN NEGENTIG) Vierkante meter**

**AANVANKLIK OORGEDRA** kragtens Transportakte Nommer T4544/1947 gedateer 18 Maart 1947 ten gunste van V Freeman met Kaart. Nr. 1473/42 wat daarop betrekking het en gehou kragtens Transportakte Nommer T17201/1981

A. **ONDERHEWIG** aan die voorwaardes waarna verwys word in Transportakte gedateer 18 Maart 1947, Nr 4544;

C. **ONDERHEWIG VERDER** aan die volgende spesiale voorwaardes vervat in Sertifikaat van Dorpstitel Nr. 13233 gedateer 12 Desember 1941, opgelê deur die Administrateur van die Kaap Provinsie by goedkeuring van gesegde dorp :

I AS being in favour of the registered owner of any erf in the Township and subject to amendment or alteration by the Administrator under the provisions of Section 18(3) of Ordinance No. 33 of 1934 :-

- (a) That this erf be used for residential purposes only;
- (b) .....
- (c) That not more than one-half the area of this erf be built upon;
- (d) .....

II As being in favour of the Administrator:-

- (e) That this erf be not subdivided except with the consent in writing of the Administrator.

III AS being in favour of the Municipality of Gansbaai:-

- (f) That the owner of this erf shall be obliged to allow the drainage or sewerage of any other erf to be conveyed over this erf if deemed necessary by the Municipality of Gansbaai, and in such manner and in such position as may from time to time be reasonably required by the said Municipality.

*M*

*A*

D. **ONDERHEWIG VERDER** aan die volgende spesiale voorwaardes vervat in Sertifikaat van Dorpstitel Nr. 13233 gedateer 12 Desember 1941, opgelé deur die transportgewer, die Munisipaliteit van Gansbaai, vir sy voordeel as eienaar van die restant van Erf Nr. 225, Gansbaai ('n gedeelte van Erf Nr. 210) nou bekend as Gansbaai Dorp, Uitbreiding Nr. 2, gelee soos hierbo, naamlik :-

- (a) The transferor reserves to itself and its successors in title the right at any time hereafter to the free and undisturbed passage of electric, telegraph or telephone wires over or upon any portion of this erf with the further right of causing them to be affixed to any building or erection thereof, not less than 3,05 metres from the ground with right of access at any time to such wires for the purpose of removal, replacement or maintenance.
- (b) The transferor reserves to itself and its successors in title the right at any time hereafter to lay and maintain piping under any portion of this erf, at all times to have access thereto for removal, maintenance, extension or any other purpose and to do all such acts and things as shall be required for the convenience of the inhabitants of the Township in connection with the supply of water.
- (c) The transferor reserves to itself and its successors in title, the sole right to all water arising on or flowing over this erf or any water whereupon the property of the said transferor has the riparian rights either by servitude or agreement and the transferee or his successors in title will not be entitled to any such water nor shall any transferee have any riparian rights.

**NIE ONDERHEWIG** aan voorwaarde B op bladsye 2 en 3 van T17201/1981 nie, in ooreenstemming met Artikel 53 van die Wysigingswet op die Registrasie van Myntitels 24 van 2003.

M

WESHALWE die komparant afstand doen van al die regte en titel wat

**Boedel Wyle FLORIS JOHANNES MOSTERT**

voorheen op genoemde eiendom gehad het, en gevolglik ook erken het dat die boedel geheel en al van die besit daarvan onthef en nie meer daartoe geregtig is nie en dat, kragtens hierdie akte, bogenoemde

**MARIANA NEL , Getroud soos vermeld**

haar Erfgename, Eksekuteurs, Administrateurs of Regverkrygendes, tans en voortaan daartoe geregtig is, ooreenkomstig plaaslike gebruik, behoudens die regte van die Staat en ten slotte erken sy dat die verkoopprijs die bedrag van **R1 700 000,00 (Een Miljoen Sewe Honderd Duisend Rand)** beloop en dat die kommissie deur haar betaalbaar op die verkoopprijs die bedrag van **R193 800 (Een Honderd Drie-en-Negentig Duisend Agthonderd Rand)** beloop, en dat hereregte betaal is op die verkoopprijs plus kommissie.

TEN BEWYSE WAARVAN ek, genoemde Registrateur, tesame met die Komparant hierdie Akte onderteken en dit met die Ampseël bekragtig het.

ALDUS GEDOEN EN VERLY op die Kantoor van die REGISTRATEUR VAN AKTES te KAAPSTAD op hede die

2016 -12- 21

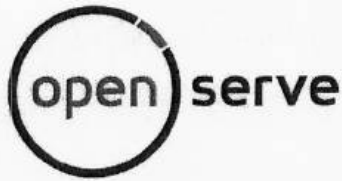
In my teenwoordigheid

REGISTRATEUR VAN AKTES

q.q.

M





61 Oak Avenue, Highveld,  
P.O. Box 1142, Port Elizabeth  
Private Bag X881, Pretoria, Gauteng, 0001  
Techno Park, Centurion 0157,

Our reference: WWIP\_WGNB1562\_22  
Your reference: Erf 271, 45 Kus Road, Gansbaai  
Enquiries: P. Ngqakayi  
TEL: 043 7056236/0813922403  
EMAIL: [Portlan@openserve.co.za](mailto:Portlan@openserve.co.za) / [Njgqakapz@telikom.co.za](mailto:Njgqakapz@telikom.co.za)

24 May 2022

Attention: Marlize Miller

Overstrand Municipality  
16 Paterson Street  
Hermanus,  
7200 P  
PO Box 20

#### OPTIC FIBRE & COPPER PLANT AFFECTED

RE: ERF 271 45 KUS ROAD, GANSBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR ADMINISTRATIVE PENALTY: ME PLANNERS OF BEHALF OF M NEL

With reference to your application received 12 May 2022.

As important cables are affected, please contact our representative **Melt van As** telephone number **081 363 7873**, I hereby inform you that Open Serve approves the proposed work indicated on your drawing in principle. This approval is valid for **6 months** only, after which reapplication must be made if the work has not been completed.

Any changes or deviations from the original planning during or prior to construction must immediately be communicated to this office.

Approval is granted, subject to the following conditions:

As per sketch attached, Open Serve infrastructure will be affected, consequently the conditions below and on the attached legend will apply.

Telecommunication services position is shown as accurately as possible but should be regarded as approximate only.

Should alterations or relocation of existing infrastructure be required, such work will be done at the request and cost of the applicant.

Telikom SA SOC Limited Reg no 3991/005476/30, Directors: MS Moloko (Chairperson), SN Maseko (Group Chief Executive Officer), D Beyneke (Acting Group Chief Financial Officer), N Kapla\*, PCS Luthuli, DD Mokgatle, KW Maendeki, F Petersen-Cook, EA Rayner, A Samuels, SP Sibisi, H Singh, RG Tomlinson, LI Van Zeuren.  
Company Secretary: AC Ceba \*India  
Internal Use



Please notify this office within 21 working days from this letter of acceptance and if any alternative proposal is available or if a recoverable work should commence.

It would be appreciated if this office can be notified within 30 days of completion of the construction work. Confirmation is required on completion of construction as per agreed requirements.

Should Open Serve infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Open Serve rights remain reserved.

Yours faithfully

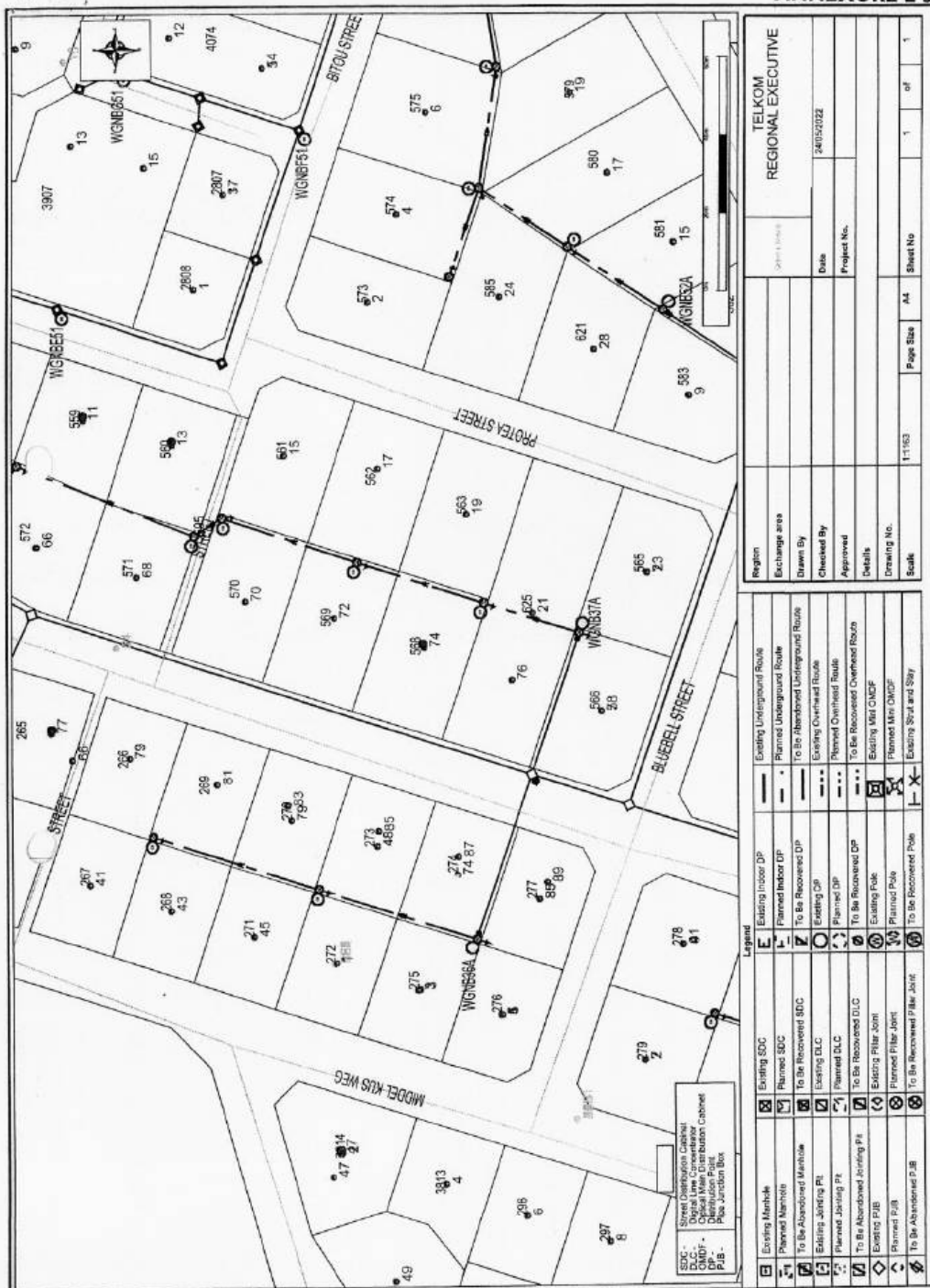
*P Ngqakayi*

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For Selwyn Bowers  
Operations Manager  
Wayleave Management: Southern and Western Region

Telkom SA SOC Limited: Reg no 1991/0054716/30. Directors: MTS Moleko (Chairperson), SH Maseko (Group Chief Executive Officer), D Reyneke (Acting Group Chief Financial Officer), N Kapite\*, PCS Luthuli, DD Mkgotla, KW Mzondeni, F Petersen-Cook, KA Rayner, A Samuels, SP Sibisi, H Singh, RG Tomlinson, LL Van Zeeuner.  
Company Secretary: AC Cebu \*Indie

Internal Use




## ANNEXURE F

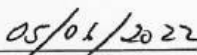
**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR: REMOVAL OF RESTRICTIVE TITLE DEED  
CONDITIONS, DEPARTURE & DETERMINATION OF AN  
ADMINISTRATIVE PENALTY: ERF 271, GANSBAAI**

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

**Conditions:**

1. that only the existing water and sewerage connections will be available to the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the developer's cost;
2. that only the existing, standard electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the developer's cost;
3. that the developer should arrange with Gansbaai Electrical Department staff to determine the location of electrical services before any excavations are done for the removal of the retaining wall. Please note that the municipality have existing electrical services in the road reserve in front of the property.
4. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 140400 – P: 2010: Drainage;
5. that any additional and / or extended vehicle entrances will be for the developer's account;
6. that stormwater be allowed to discharge through Erf 271, Gansbaai, unobstructed;
7. that no on-street parking be allowed.

  
**DENNIS HENDRIKS**  
**SENIOR MANAGER: ENGINEERING SERVICES**

  
**DATE**

## ANNEXURE G

