



MEETING OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

A G E N D A

DATE:	28 MAY 2026
VENUE:	TOWN PLANNING COMMITTEE ROOM
TIME:	10:00

OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT
Civic Centre
HERMANUS
7200

21 May 2026

TO : THE MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

CONVENING NOTICE : SESSION OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

NOTICE IS HEREBY GIVEN that the **Municipal Planning Tribunal (MPT)** will go into session in the Town Planning Committee Room on **Thursday, 28 May 2026** at **10:00** to consider the attached agenda.

S MULLER
CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL

Distribution:

1. Mr S Müller (Chairperson)
2. Ms T de Waal (Vice-Chairperson)
3. Mr H Blignaut (Member)
4. Ms R Louw (Member)
5. Mr R Kuchar (Authorised Official)
6. Mr S van der Merwe (Principal Town Planner)
7. Ms H van der Stoep (Principal Town Planner)
8. Secretariat

MUNICIPAL PLANNING TRIBUNAL (MPT)

28 May 2026

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- 1. OPENING**

- 2. APPLICATIONS FOR LEAVE OF ABSENCE**

- 3. CONFIRMATION OF MINUTES**
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 - 4.1 ERF 412, 92 CILLIERS STREET, FRANSKRAAL, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: J MINNAAR ON BEHALF OF ZOUGA TRUST**

Report attached

 - 4.2 ERF 372, 31 PEAK ROAD, PRINGLE BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE: MRP ARCHITECTURAL SOLUTIONS ON BEHALF OF DA MELROSE**

Report attached

4.1

**ERF 412, 92 CILLIERS STREET, FRANSKRAAL, OVERSTRAND MUNICIPAL AREA:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: J MINNAAR
ON BEHALF OF ZOUGA TRUST**

412 GFK (4971/2025)
SW van der Merwe
18 May 2026

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 30 April 2025 from J Minnaar on behalf of Zouga Trust applicable to Erf 412, Franskraal for the following:

- ❖ **Removal of restrictive title deed condition** in terms of Section 16(2)(f) of the By- Law for the removal of restrictive title deed condition C.(20)(d) as contained in the Title Deed T14841/2022 to accommodate a proposed dwelling on the 2m rear building line.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report in support of the proposal is attached as Annexure B and the Site Development Plan is attached as Annexure C. The Title Deed is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The property is zoned Residential Zone 1: Single Residential (SR1) and measures 595m² in extent. The property is vacant. The property contains several Milkwood trees, most of which is situated on the northern half of the property.

It is the intent of the property owner to erect a three-storey dwelling on the property, situated on the 2m rear building line in terms of the land use scheme. The proposed dwelling therefore encroaches the 3,57m rear title deed building line.

Initially the property owner submitted an application to relax the rear title deed building line but failed to obtain written consent from the adjacent property owners and subsequently submitted an application for the removal of restrictive title deed conditions.

The application therefore comprises removal of restrictive title deed condition C.(20)(d) contained in the Title Deed T14841/2022 that read as follows:

“geen geboue of struktuur of enige gedeelte daarvan behalwe grensmure en heinings mag binne 4,72 meter van die straatlyn wat `n grens van hierdie erf vorm opgerig word nie ook nie binne 3,57 meter van agtergrens of 1,57m vanaf die sygrens van `n aangrensende erf nie, met dien verstande dat `n buitegebou met die toestemming van die plaaslike owerheid op die voorgeskrewe ruimte langs die agtergrens opgerig mag word mits sodanige buitegeboue nie `n hoogte van 3,05 meter te bowe gaan nie, watter

hoogte gemeet moet word van die vloer tot die ankerplaat en mits geen gedeelte daarvan vir bewoningsdoeleindes deur mense aangewend word nie.”

4. SUMMARY OF APPLICANT’S MOTIVATION

A BRIEF SUMMARY OF THE MOTIVATION IS PRESENTED BELOW; HOWEVER, THE FULL MOTIVATION MUST BE CONSIDERED WITH THE EVALUATION AND IS ATTACHED AS ANNEXURE B TO THIS REPORT.

REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS

- The proposed location of the dwelling is informed by the location of Milkwood trees on the property, which is a protected tree and restrict the applicable development footprint.
- The dwelling has been set back to avoid possible future damage to the root system of the Milkwood trees and the dwelling.
- Having to comply with environmental constraints the proposed design should be supported.
- The proposal is only to allow the development of a main dwelling house which is a primary land use right in terms of the current Overstrand Municipality Land Use Scheme and should therefore be considered favourably.
- The property is within the urban edge and is indicated as part of the “urban development area”. The proposal is therefore consistent with the SDF and Overstrand Municipal Growth Management Strategy.
- The proposed dwelling encroaches the rear title deed building lines and does not encroach the 2m rear scheme building line.
- The property is also subject to environmental constraints such as Milkwood trees situated in the middle of the property. The proposal seeks to comply with both the land use scheme parameters and environmental constraints therefore limiting the applicable development footprint.
- It is only proposed to remove the title deed building lines applicable and not the scheme building lines which the proposed development is compliant with.
- Any further/additional encroachments will require another application of the same applicable building lines.
- This proposal is in harmony with all relevant planning principles and forward planning documents and should be considered desirable from a town planning point of view.

In terms of Section 39(5) of the Land Use Planning Act (LUPA), 2014, stipulates that a Municipality should have regard to the following factors when considering the “*removal, suspension or amendment of a restrictive condition*”

- (a) Financial the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement

The value of the rights in terms of the restrictive condition vests in the surrounding property owners of Erf 412, Franskraal. The removal of the restrictive conditions will allow the property owners to accommodate the proposed dwelling house that will encroach the rear title deed building line. The financial benefit of removing the rights is that the dwelling house will increase the value of the property and will allow the current property owners to increase the asking price when placed on the market. Additionally, by having the title deed building line parameters removed, the purchaser

of the subject property will benefit by not going through a removal or title deed relaxation process if the property owners decide to develop the residential property further.

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

The restrictive title deed conditions were imposed by the administrator for the benefit of the property owners of the Township Franskraal. With most municipalities adopting their own land use scheme the only benefit that accrues to the holder of these rights is that the property owners have more restrictive land use parameters in place when developing their property.

Keeping the restrictive condition in place will not benefit the administrator, the applicable municipality (Overstrand Municipality) nor will it benefit the property owner.

(c) 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 removal of the restrictive conditions will benefit the property owners by being able to erect a dwelling house that encroaches the rear title deed building line. The proposal will still be subject to provisions of the Overstrand Municipal Land Use Scheme.

(d) The social benefit of the restrictive condition remaining in place in its existing form

There is not a social benefit if the restrictive conditions are to remain in place.

(e) The social benefit of the removal, suspension or amendment of the restrictive condition

The removal of the restrictive conditions will allow the scheme building line regulation to set the guidelines for future developments on the subject property. The social benefit will only be for the property owner as it will allow the owner to erect a dwelling house that is encroaching the rear title deed building line on the subject property and will allow future developments constructed to be in line with the scheme regulations only.

(d) Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights

The removal of the restrictive conditions will not remove the rights enjoyed by the owners, as it will expand the value of the property by accommodating the proposal. This will not have an impact on the rights of anyone or the character of the area.

PLANNING PRINCIPLES

Spatial Justice

Spatial justice refers to planning proposals which do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal to remove the title deed conditions will not trigger the principle of spatial justice due to the normal residential nature of the structure.

Spatial Sustainability

Spatial sustainability refers to planning proposals which result in communities that are viable. The property is subject to environmental constraints (Milkwood trees) which informed the placement of the proposed building footprint. The property therefore complies with the principle of spatial sustainability.

Spatial resilience

The proposed application is in line with the normal residential nature of the predominantly residential neighbourhood, however, the building was positioned in such a way, to reduce the possible environmental constraints (Milkwood tree placement).

Efficiency

The proposed development was positioned in such a way to maximise the utilization of the property while taking the environmental constraints into consideration.

Good administration

The Overstrand Municipality has a credible track record of good administration regarding the method of public participation which invites and accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local Newspaper	Yes	05 September 2025	10 October 2025
Gazette	Yes	05 September 2025	10 October 2025
Notices (<i>possibly affected property owners</i>)	Yes	03 September 2025	10 October 2025
Internal Departments	Yes	01 September 2025	10 October 2025
Ward councillor	Yes	01 September 2025	10 October 2025
Total comments	Six (6) letters of objection		
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
Waste Management	01/09/2025	No objection.
Building Control	0209/2025	No objection. All buildings to comply with the NBR and all other applicable law.
Fire Services	18/03/2025	No objection, subject to compliance with the provision of SANS 10400-A, 10400-T:2024 and the By-law relating to fire safety.
Development Control	26/09/2025	Attached as Annexure G.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Six (6) letters of objection were received from the adjoining property owners in the area. The objections are attached as Annexure E and the applicant's response as Annexure F.

The main grounds of objection are summarised as follows

POINT OF OBJECTION

D van den Berg, owner of Erf 413, Franskraal

- Loss of privacy.
- Blocking of natural light.
- Overloading of infrastructure.
- Reduction in property values.
- Reduced airflow and ventilation.
- Safety – fire hazard due to distance between erf boundary and building.
- Access and services – sufficient space between building and boundary to accommodate underground services.
- The property is large enough to place the building without encroaching the building lines and the Milkwood trees will be damaged no matter how the building is placed.

RESPONSE FROM APPLICANT

The reasoning behind the objection is flawed. If the property is setback 2m or 3.15m makes no difference with regards to privacy. Furthermore, the proposal is only to deviate from the title deed building line up to the scheme building line. The title deed building line is more restrictive compared to the scheme building line which is acceptable building parameters that have been set for the entire Overstrand Municipal jurisdiction. Therefore, the impact of the privacy will remain the same either way.

The proposed three-storey dwelling house is compliant with the height restriction as per the Overstrand Land Use Scheme which is mainly due to the fact that the site is

proposed to be cut to lower the height of the dwelling house. Therefore, the impact with regards to the sunlight is within acceptable mitigating factors. Following are the researched figures calculated by NOAA Solar Calculator for Franskraal, Latitude = -34.6, Longitude = 19.2, Time zone = UTC+2, showing the length of the shadow an 8m high building will throw on average at different times during the winter months of May-August when the winter sun is at its lowest angle:

(<https://gml.noaa.gov/grad/solcalc/>)

09:00 - avg 32.55 m (median 33.31 m)

10:00 - avg 18.68 m (median 19.14 m)

11:00 - avg 13.59 m (median 13.97 m)

12:00 - avg 11.45 m (median 11.80 m)

13:00 - avg 11.07 m (median 11.40 m)

14:00 - avg 12.29 m (median 12.67 m)

15:00 - avg 15.67 m (median 16.08 m)

16:00 - avg 23.75 m (median 24.45 m)

17:00 - avg 54.58 m (median 54.94 m)

Noting that the above solar calculation, the impact on the proposed the development regarding sunlight will not make much of a difference if the dwelling house is setback from both the scheme and title deed building lines. Therefore, the objection should be dismissed.

The deviation of the building line has no relevance with regard to the possible overload of infrastructure. It must be noted that there are multiple other dwelling houses in the Overstrand Municipality that are much larger and require much more additional services capacity compared to the proposed dwelling unit. The proposed development of a single dwelling house is within the acceptable services capacity of the for the Overstrand Municipality.

The Overstrand Municipality utilises the comparative valuation model for their property valuation. The open market also utilises the comparative valuation model. This valuation method utilises the sales of similar properties in the area in order to sell a property in that same area. Therefore, there is no sufficient justification as to how the proposal will reduce the property value.

The objector's property is setback far enough to not have a negative impact on their airflow and ventilation. The subject property will remain 2m from the neighbouring property which is more than adequate to have sufficient airflow or ventilation. Residential estates with town housing have 1m setbacks from their erf boundary which is sufficient for airflow and ventilation. Airflow and ventilation are related to how the dwelling house is designed. Therefore, the objector should think about how to design their property better to improve their airflow and ventilation.

The fire regulations require a 1m setback from the property boundary. The subject property will remain 2m from the property boundary and is therefore compliant with the applicable fire safety.

Municipal services are placed within the road reserves and house connections are linked to the main municipal services. Therefore, the objection with regards to access and services should be disregarded.

With regards to Milkwood trees and the placement of the dwelling house, the house is positioned in such a way that only one Milkwood tree will be affected by the development of this erf compared to both trees being cut down or damaged.

General comment: it must be noted that when one looks at the aerial imagery, it is clear that the objector's dwelling house must have gone through a departure for the lateral building lines since it is situated much closer the neighbouring properties over the 2m lateral building lines. The question is why the subject property owner cannot build up to the 2m scheme building line when the objector has built over the 2m scheme building line.

RESPONSE FROM MUNICIPAL TOWN PLANNER

Refer to paragraph 9 below.

POINT OF OBJECTION

R Aspeling, owner of Erf 410, Franskraal

The objector did not provide reasons for the objection.

RESPONSE FROM APPLICANT

The objector does not substantiate his objection.

RESPONSE FROM MUNICIPAL TOWN PLANNER

The objector did not indicate the relevant facts and circumstances pertaining to the objection or undesirable impact of the proposal. The objection should therefore be dismissed.

POINT OF OBJECTION

J Spiers, owner of Erf 415, Franskraal

I'm sorry I can't from my side go with this plan as it will take away my privacy.

RESPONSE FROM APPLICANT

The objector's property is the abutting neighbour to the north-east along Cilliers Street. With that said, the proposal is only for the relaxation of the rear title deed building line from 3.15m up to the 2m Scheme building line. It must be noted that if the title deed building lines were not in place, the proposed development will be compliant with the relevant planning building parameters. Furthermore, the balconies located on the eastern side of the property remain within the applicable scheme and title deed building lines, therefore the proposal would still have the same impact on the objector if the rear title deed building lines were not to encroach. With that said, the proposal should be considered for approval and this objection point be dismissed.

RESPONSE FROM MUNICIPAL TOWN PLANNER

Refer to paragraph 9 below.

POINT OF OBJECTION**N Vermaak, owner of Erf 414, Franskraal**

- Loss of sunlight and natural warmth.
- Loss of privacy.
- Reduction in property value.
- Loss of amenity and enjoyment.
- Contravention of Spatial Planning Objectives.
- Undesirable precedent.
- Nature of proposed building plan.
- Milkwood trees.

RESPONSE FROM APPLICANT

The proposed three-storey dwelling house is compliant with the height restriction as per the Overstrand Land Use Scheme which is mainly due to the fact that the site is proposed to be cut to lower the height of the dwelling house. Therefore, the impact with regards to the sunlight is within acceptable mitigating factors. Following are the researched figures calculated by NOAA Solar Calculator for Franskraal, Latitude = -34.6, Longitude = 19.2, Time zone = UTC+2, showing the length of the shadow an 8m high building will throw on average at different times during the winter months of May-August when the winter sun is at its lowest angle:

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 15:00 - avg 15.67 m (median 16.08 m)
 16:00 - avg 23.75 m (median 24.45 m)
 17:00 - avg 54.58 m (median 54.94 m)

Noting that the above solar calculation the impact on the proposed the development regarding sunlight will not make much of a difference if the dwelling house is setback from both the scheme and title deed building line. Therefore, the objection should be dismissed.

The reasoning behind the objection is also flawed similar to the objection by D van den Berg. If the property is setback 2m or 3.15m makes no difference with regards to privacy. Furthermore, the proposal is only to deviate from the title deed building line up to the scheme building line. The title deed building line is more restrictive compared to the scheme building line which is acceptable building parameters that have been set for the entire Overstrand Municipal jurisdiction. The Overstrand land use scheme prescribes a 2m building line which the property owner remains compliant with and should therefore deem the objector's statement moot.

The Overstrand Municipality utilises the comparative valuation model for their property valuation. The open market also utilises the comparative valuation model. This valuation method utilises the sales of similar properties in the area in order to sell a property in that same area. Therefore, there is no sufficient justification as to how the proposal will reduce the property value. The Overstrand Municipality utilises the comparative valuation model for their property valuation. The open market also utilises the comparative valuation model. This valuation method utilises the sales of similar properties in the area in order to sell a property in that same area. Therefore, there is no sufficient justification as to how the proposal will reduce the property value. Furthermore, the objector stipulates that there will be a loss of sunlight however, due to the objectors' own development on their property being built up to the rear erf boundary, they reduced their own loss of natural sunlight.

With regards to the amenity and enjoyment of the garden and patio space, the objector has built his property to the maximum reducing natural sunlight and allowing minimal open space. Therefore, the objection is flawed since the objector developed their own house in a way that reduces their natural sunlight and enjoyment of their property and should not limit the subject property owner to develop their property within the Overstrand Land Use Scheme building parameters.

The objector stipulates that the subject property owner should build within the relevant development restrictions contained in the title deed which preserves privacy, maintains uniform setbacks and safeguards the residential character of Franskraal. It must be noted that the proposal will not deviate from the residential character of the Franskraal area since the property will be used for residential purposes. The subject property only seeks to comply with the applicable Overstrand land use scheme building lines since the title deed building lines are outdated. Allowing the proposed development will still be in line with the Spatial Planning Objectives. In comparison, the objector built their property up to the rear erf boundary which is not in line with the uniform setbacks as their objection claims. Therefore, the objection point should be dismissed.

This proposal will not create an undesirable precedent since it remains compliant with the relevant Overstrand land use scheme planning controls. The question remains that why the objector may deviate from the Overstrand Planning controls but in contrast, the subject property owner may not deviate and build their property up to the rear erf boundary. With that said, it is requested that this objection point should be dismissed.

The objector does not substantiate how the proposal will impose a huge risk for future possible building irregularities/planning and financial loss to their neighbours. It is difficult to respond to this objection point since there is no concrete evidence that the development (which is within the Overstrand land use scheme parameters) will foster high risk for future possible building irregularities / planning and financial loss to neighbours. This point should therefore not be considered valid.

The objector claims that the proposed dwelling house will be developed right up to the rear boundary which is not the case. The dwelling house is proposed to be developed up to the 2m Overstrand land use scheme building line. The question again remains why the objector may build up to their rear erf boundary when the proposal is only to build up to the 2m rear building line. Furthermore, the placement of the dwelling is positioned in such a way to reduce the impact on the Milkwood tree that is located in the centre of the subject property rather than damaging both Milkwood trees.

RESPONSE FROM MUNICIPAL TOWN PLANNER

Refer to paragraph 9 below.

POINT OF OBJECTION**A Veenstra, owner of Erf 416, Franskraal**

- The proposal will take away their view.
- The proposal will lower our property value.

RESPONSE FROM APPLICANT

The objector does not specify how the proposal will take away their view. It must also be noted that the subject property is located much lower than the objector's property. Furthermore, the proposal is to "cut" ground level which will lower the height of the building and therefore reduce any impact on views. With that said, the objector is also positioned two houses from the subject property with both views of the mountain as well as the ocean. Therefore, this point should be dismissed.

The objector does not stipulate how the proposal will reduce property value of the surrounding erven. It must be noted that the open market as well as the municipal valuation utilises the comparative valuation method. Therefore, the development of a vacant erf with a three-storey dwelling house will inevitably increase the property value of the surrounding erven rather than reduce them. This point should therefore be dismissed since the objection does not substantiate their statement.

RESPONSE FROM MUNICIPAL TOWN PLANNER

Refer to paragraph 9 below.

POINT OF OBJECTION**F Joubert, owner of Erven 408 & 409, Franskraal**

- The building parameters should stay in place.
- I worry that this could invade the privacy of the affected neighbour.
- The Milkwood trees could be cut by 30% and the building plan be moved back to accommodate the structure.

RESPONSE FROM APPLICANT

This objection has already been dealt with. The Overstrand Municipality Land Use Scheme building lines will remain in place which is applicable to all residential erven in the Overstrand area. Furthermore, the only building lines that are to be removed is the title deed building lines that were set prior to land use schemes being applicable.

With regards to privacy, this point has been responded to. It must however be noted that the building is to be lowered and complies with all the scheme building parameters. The notion of privacy is mitigated since the building will be lowered meaning the property will have a similar effect / impact that a double storey building would have.

The objection regarding the Milkwood trees have been responded to in previous objections above.

RESPONSE FROM MUNICIPAL TOWN PLANNER

Refer to paragraph 9 below.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

Refer to paragraph 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS

The main ground of objections and the town planner's response thereto are summarised below and should be read together with the applicants comment in paragraph 7 above:

Loss of privacy

The title deed rear building line of 3,57m is not correct as the township establishment refers to a 3,15m title deed building line. The land use scheme provides for a 2m rear building line which had buy-inn from the Overstrand Community at large.

Despite the objections, should the dwelling be situated on the title deed building line, it will still impact adjoining properties in terms of overlooking and loss of privacy, regardless of whether the dwelling is constructed on the 2m land use scheme or 3,15m title deed building line.

The biggest impact will be to the rear gardens of Erf 413 directly to the south of the application property and Erf 410 to the southwest. Erf 414 to the southeast is a guest house and developed with an illegal canopy extending onto the rear boundary blocking views onto the rear elevation. The flank elevation of this property contains non-habitable room windows. The primary recreational spaces of the aforesaid erven are south facing, comprising balconies with ocean views, not affected by the proposal.

The proposed site development plan indicates a first and second floor balcony to the northeast facing the flank elevation of the objectors' property (Erf 415). The dwelling on this property is situated 7,5m from the rear property boundary. Thus, even should the title deed building line be retained, the impact in terms of privacy and overlooking would be similar especially as the proposed dwelling complies with the applicable lateral building lines. It can be argued that the proposed dwelling location will have a slightly lesser impact as it would look over the bottom end of Erf 415's rear garden.

Blocking of natural light

The proposed dwelling, regardless of the location will result in some impact upon adjoining properties in terms of sun / daylight. Given the difference of only 1,15m between the land use scheme and title deed, the impact of the proposed building location will have a similar impact which is not considered so significant as to justify refusal of planning permission.

Overloading of infrastructure

The point of objection is speculative and should be dismissed.

Reduction in property values

The point of objection is speculative and should be dismissed as it is not substantiated by factual evidence.

Reduced airflow and ventilation

The objection is speculative and not substantiated by evidence. The 2m resulting building lines to be retained is still sufficient to ensure ventilation and airflow.

Safety – fire hazard due to distance between erf boundary and building

The objection is speculative and not substantiated by evidence. Also, the building plan submission will be scrutinised for compliance with the building and fire regulations, which 1m normally considered the minimum.

Access and Services – space between building and boundary to accommodate underground services

Though services are mostly provided for in the road reserve the proposed 2m building line is sufficient for the on-site service requirements.

The property is large enough to place the building without encroaching the building lines and the Milkwood trees will be damaged no matter how the building is placed

More than 50% of the front half of the property contains milk wood trees, leaving only a southern rear portion suitable for development purposes. The proposed siting will only impact one smaller Milkwood tree in the vicinity of the dwelling whilst the remaining Milkwood trees will be retained.

Contravention of Spatial Planning Objectives

The objector, owner of Erf 414 states that removal will impact uniform building line setbacks imposed to protect the character of the area and will be negatively impacted by the proposal. The proposal is therefore inconsistent with the SDF and the By-law that protects neighbourhood character, compatibility of scale and safeguard the rights of adjoining owners.

The title deed provides for outbuildings, including servants' quarters to be constructed on the rear property boundaries. Scrutiny of building plans reveals several outbuildings and additions onto and in close proximity to the rear property boundaries in the vicinity, albeit mainly storage, garage or carport related structures, including on the objectors properties. This specific objector operates a three-bedroom guest house. The entertainment and relaxation areas is mainly the sea facing balcony in front, whilst the rear elevation contains an illegal canopy up to the rear property boundary. Unauthorised additions over the street building line have also been made, both of which encroach the title deed building lines. The western flank elevation of the property contains mainly contain windows to non-habitable rooms and will and will not

unacceptably impact the property owner sufficient to justify refusal of planning permission.

Undesirable precedent

Precedent is not a valid reason for refusal as each application is to be considered on merit.

Nature of proposed building plan posing future risk for building / planning irregularities and financial loss to neighbours

The proposed building plan complies with the development parameters in terms of the land use scheme in terms of building line, height and coverage. The objection is not considered to have merit given that the proposal is to be evaluated and considered based on the information in front of the decision maker.

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

10.1 Background

N/A

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

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

Spatial Justice

The application will not further perpetuate spatial injustices being on an existing erf within the established residential area of Franskraal.

Spatial sustainability

The proposal is not in conflict with the applicable spatial planning policies that adheres to the principle of spatial sustainability.

Efficiency

The proposal will ensure the optimal use of space on the property thereby optimising existing resources, infrastructure and sustainable development and continues the existing suburban development typology, whilst the developed is informed and will retain most of the protected trees on the property.

Spatial resilience

The proposal is not in conflict with the applicable spatial planning policies that adheres to the principle of spatial sustainability.

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 Point 10.2 above.

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

The application is consistent with the SDF being an existing property in the residential area of Franskraal.

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

N/A

10.6 Impact on Municipal engineering services

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

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The proposal is consistent with the development parameters in terms of the Overstrand Land Use Scheme, 2020.

10.9 Additional Planning Motivation for Removal of Restrictive Condition

The property is subject to restrictive title deed conditions contained in Title Deed No. T14841/2022 that read as follows:

“geen geboue of struktuur of enige gedeelte daarvan behalwe grensmure en heinings mag binne 4.72 meter van die straatlyn wat `n grens van hierdie erf vorm opgerig word nie ook nie binne 3.57 meter van agtergrens of 1,57m vanaf die sygrens van `n aangrensende erf nie, met dien verstande dat `n buitegebou met die toestemming van die plaaslike owerheid op die voorgeskrewe ruimte langs die agtergrens opgerig mag word mits sodanige buitegeboue nie `n hoogte van 3.05 meter te bowe gaan nie, watter hoogte gemeet moet word van die vloer tot die ankerplaat en mits geen gedeelte daarvan vir bewoningsdoeleindes deur mense aangewend word nie.”

It must be pointed out that the 3,57m building line referred to in the title deed is not correct as the conditions of township establishment refers to a 3,15m title deed building line. The applicant did not submit a conveyancing certificate although the title deeds of the adjoining developed erven was scrutinised as being subject to a 3,15m rear building line.

The application for removal of restrictive title deed condition is motivated on the basis that the title deed conditions originally intended to protect the residential character of the area where municipal management of zoning and development parameters were not as clear and defined as it is now.

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 vest in the person as the owner of a dominant tenement

No person or entity will be affected financially by the removal of the restrictive condition. The applicant will benefit as enable the development of the property in accordance with the provisions of the land use scheme.

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

There is no personal benefit to 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 property owner will benefit as removal will allow them to align with the development parameters in terms of the Overstand Land Use 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

The restrictive conditions remaining in place do not have a social benefit.

The social benefit will only be for the property owner as it will allow the owner to erect a dwelling house in accordance with the provisions of the scheme regulations.

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

The application only entails removal of the restrictive building line clause from the title deed.

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).

11. THE DESIRABILITY OF THE PROPOSAL

The subject property is constrained by mature Milkwood trees situated mostly between the street boundary and the middle of the property. The location of the Milkwood trees informed the placement of the dwelling, where it will result in the removal of only one Milkwood tree, provided that the competent authority will issue a permit.

The title deed provides for the construction of outbuildings up to the rear property boundary which is evident in the area and used for storage purposes or garaging of motor vehicles. Typically, these are single storey structures.

The property has a 2,5m slope between the highest and lowest natural ground level points in the vicinity of the southeast rear and north west street boundaries.

The title deed incorrectly refers to a 3,57m rear title deed building line, whilst the town ship establishment refers to a 3,15m rear building line as is evident in the title deeds of the adjoining developed properties available on the municipal system. The proposed encroachment is in fact, less, being a 1,15m encroachment over the title deed building line up the 2m land use scheme building lines.

Building line encroachments over the scheme regulations are usually limited to single storey encroachments. The proposal complies with the applicable development parameters of the land use scheme. Thus, the 1,15m rear title deed building line encroachment is not considered out of keeping with the area character and has the buy inn from the public at large.

When evaluating the proposal, even at 3,15m or 3,57m from the rear boundary the proposal will have some impact upon sunlight and daylight most significantly to the properties to the south, namely Erven 410, 413 and 414 as discussed in paragraph 9 above. Same for privacy impacts, which in case of Erf 415 would be worse should the title deed building line not be removed. The proposed 2m building line will not have a dissimilar impact, thus the opinion is held that refusal based on loss of sunlight, daylight, outlook and privacy cannot be justified.

Each planning application is also to be considered on merit. The placement of the applicant's dwelling is informed by the location of Milkwood trees on the property, whilst the chosen position will have the least impact on the Milkwood trees, resulting in the removal of only one. A permit would however be required for removal and or trimming thereof. Based on the site-specific circumstances there is merit in the retention of the milk wood trees.

The proposed dwelling complies with the development parameters of the land use scheme. The dwelling will have to be made interleading as the one dwelling unit restriction is retained. Therefore, it is not clear how the proposal will aid to non-compliances of planning and building legislation as alleged by the applicant.

The scale and height of the proposal will be monitored by a professional land surveyor that will be required to set out the building and provide the relevant benchmark prior to commencement of building work, including the provision of a height certificate prior to compliance.

The application is considered desirable and recommended for approval.

12. RECOMMENDATION

1. that the objections be noted;
2. that the application, applicable to Erf 412, Franskraal, 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 deed condition C.20(d)** as contained in Title Deed No: 14841/2022, **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions

- (a) that the approvals are for the development as indicated on Site Development Plan 0278/17 as submitted with the application;
 - (b) that the applicant at his cost appoint a Professional Land Surveyor to set out the building and to provide the relevant benchmarks prior to commencement of building work to ensure compliance with the land use scheme;
 - (c) that upon completion and prior to the occupation of the building the applicant furnishes a height certificate demonstrating compliance with the 8m height restriction as applicable;
 - (d) that building plans be submitted to the Building Department and all comments from the Building- and Fire Departments be complied with at that stage;
 - (e) that the conditions in the Services Report (attached as Annexure G), be complied with;
 - (f) that the milkwood trees in line with the applicants motivation may not be removed, other than the milkwood tree along the south western rear boundary to accomote the proposed dwelling;
 - (g) that the removal of milkwood trees be subject to a valid permit issued by the Department of Forrestry and Fisheries;
 - (h) that all other applicable development parameters as prescribed in the relevant Land Use Scheme be complied with, and
 - (i) that this approval does not absolve the landowners from compliance with any other relevant legislation.
3. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 regarding the above decisions.

13. REASONS FOR RECOMMENDATION

- ❖ The application has followed due process.
- ❖ The application is in line with policy documents.
- ❖ Character of the area and vested rights will not be unacceptably impacted upon.
- ❖ Consistent with planning principles in terms of LUPA and SPLUMA
- ❖ Consistent with the SDF.

14. ANNEXURES

- Annexure A: Locality Plan
- Annexure B: Motivation Report
- Annexure C: Site Development Plan
- Annexure D: Title Deed
- Annexure E: Objections received
- Annexure F: Response from applicant
- Annexure G: Services Report

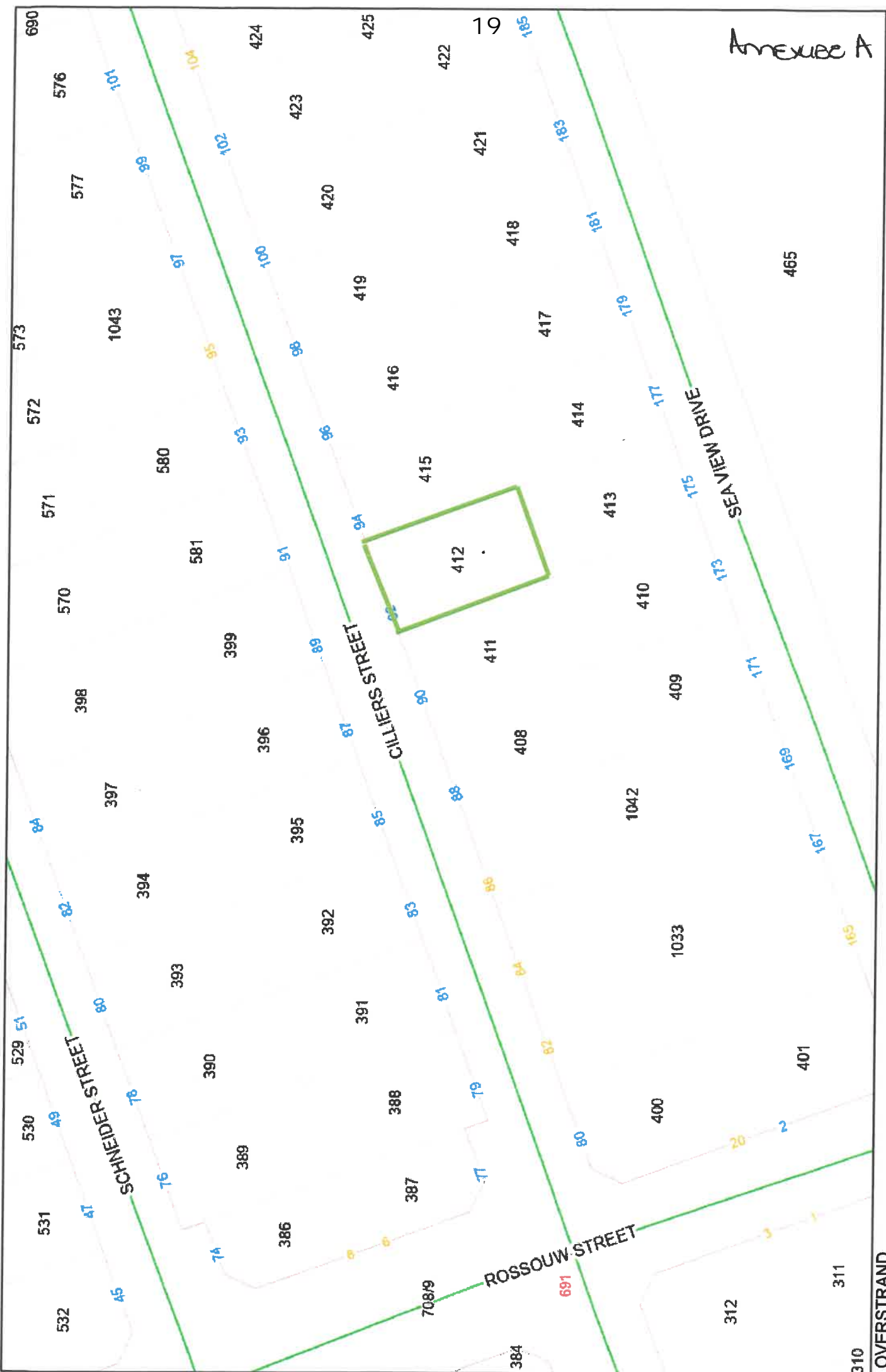
SIGNATURES

Name: **SW VAN DER MERWE**

Signature: _____

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

Date: _____



Annexure A

LOCALITY PLAN: ERF 412, FRANSKRAAL

1. Background

The subject property Erf 412 is situated in the residential neighbourhood of Franskraal and is located along Cilliers Street with an extent of 595m². According to the zoning map & Overstrand Municipal Land Use Scheme, 2020 the property is zoned as Residential Zone I: Single Residential (SRI). The property is currently vacant.

It is the intent of the property owner to erect a three-storey dwelling house on the property. The dwelling house will consist of the following on each floor: The ground floor will consist of a one (1) bedroom with a living room, bathroom and a laundry room with a floor area of 94.40m². The first floor will consist of two (2) bedrooms (including en-suites) with a living area and a bar with a floor area of 80.70m². The second floor will consist of an en-suite bedroom with a TV lounge and a kitchen with a floor area of 79.45m².

The property owner recently applied for a title deed building line relaxation and unfortunately did not receive consent from neighbouring property owners. The client was advised to cancel the previous application and apply for a removal of title deed conditions as the new dwelling house is encroaching the 3.57m rear title deed building line.

Jeané Douglas is hereby duly appointed by the property owner (Don Wessel) to submit a land use planning application to accommodate the new dwelling house.

See Appendix-B for the Power of Attorney & Appendix- C for the Site Development Plan

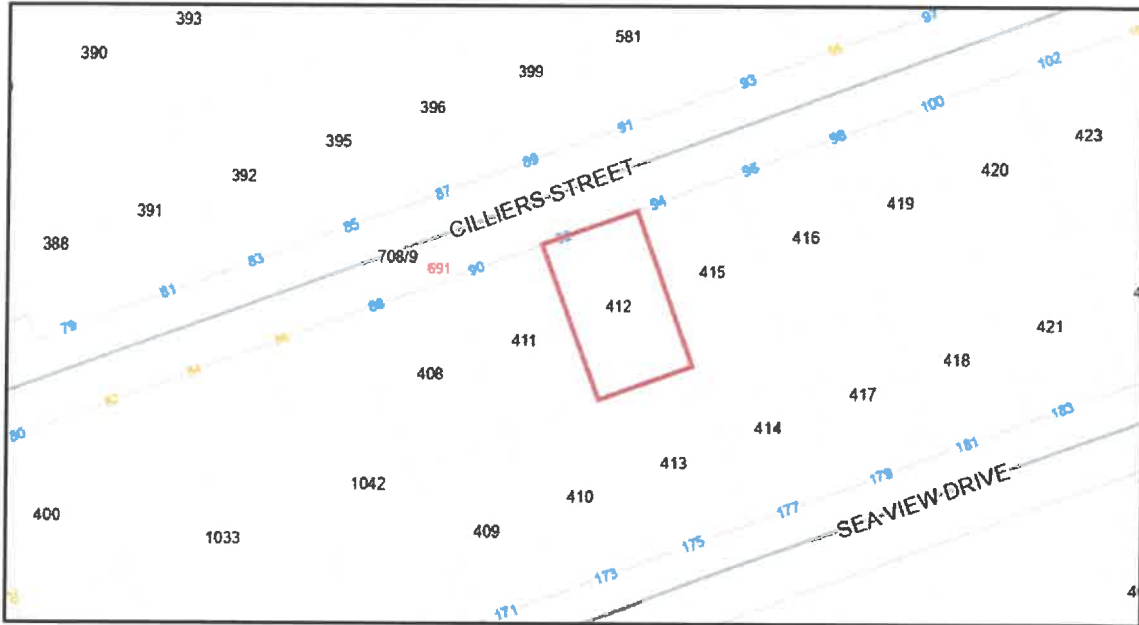
2. Application

The following is proposed:

Application is hereby submitted in terms Section 16 (2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the removal of the following restrictive title deed condition 20 (d) contained Title Deed No. T/ 14841/2022 in order to accommodate the dwelling house proposed over the 3.57m rear title deed building line.

3. Locality

The subject property is situated within the Overstrand Municipality, located at 92 Cilliers Street, Franskraal. The location of the property is shown in the figure below.



4. Land Use Environment

The property is situated in the residential neighbourhood of Franskraal where the predominant use of the area is for residential purposes. The zoning of the subject erf and the surrounding properties are zoned Residential Zone 1: Single Residential Zone (SR1) with business zones and open spaces in close proximity. The zoning in the area is shown below as Figure 2 and Appendix D.



Figure 2: Surrounding Zoning

5. Land Use Scheme Parameters

The property is zoned Residential Zone 1: Single Residential Zone (SR1) in terms of the Overstrand Municipality Land Use Scheme, 2020. The proposed development does not trigger any departure in terms of the applicable land use scheme building parameters. Please see table below.

	Scheme Parameters	Proposed Development	Departure Required
Coverage	50%	16.07%	No
Street Building Line	4m	Not applicable	No
Street Title Deed Building Line	4.72m	Not applicable	No
Western Side Building Line	2m	Not applicable	No
Western Title Deed Building Line	1.57m	No	No
Eastern Side Building Line	2m	Not applicable	No
Eastern Title Deed Building Line	1.57m	Not applicable	No
Rear Building Line	2m	Not applicable	No
Rear Title Deed Building Line	3.57m	Dwelling house encroaches the 3.57m rear title deed building to 2m, requires removal of the condition.	Yes

6. Title Deed

In terms of the Title Deed No T/ 14841/2022, Erf 412 Franskraal is registered in the name of Zouga Trust with title deed conditions restricting the proposed development. The Title Deed is attached hereto as Appendix E.

The proposal is restricted by the following section 20 (d) contained in the title deed No T/ 14841/2022:

“20(d) geen geboue of struktuur of enige gedeelte daarvan behalwe grensmure en heinings mag binne 4.72 meter van die straatlyn wat `n grens van hierdie erf vorm opgerig word nie ook nie binne 3.57 meter van aangresende erf nie, met dien verstande datm `n buitegebou met die toestemming van die plaaslike oewerheid op die voorgeskrewe ruimte langs die agtergrens opgegrig mag word mits sodanige buitegeboue nie `n hoogte van 3.05 meter te bowe gaan nie, watter hoogte gemeet moet word van die vloer tot die ankerplaat en mits geen gedeelte daarvan vir bewoningsdoeleindes deur mense aangewend word nie:”

The property is subject to a title deed rear building line which restricts the proposal. Application is therefore made to remove the aforementioned title deed condition in order to accommodate the dwelling house. The dwelling house is situated 2m from the southern rear boundary line. Therefore, the building encroaches the 3.57m southern rear title deed building line up to the 2m. It is therefore evident that the dwelling only encroaches the southern title deed building lines and not the scheme building lines.

The reason for the dwelling being proposed in its current proposed position is due to the position of the milkwood trees on the property which is seen as a protected tree in the Overstrand area and restricting the applicable development footprint and encouraging the design. Additionally, the proposed development is also setback due to possible future damage to either the root system of the milkwood trees or the dwelling itself (with reference to the roots of the tree). The proposed design should therefore be supported due to having to comply with the environmental constraints.

Section 39(5) of the Land Use Planning Act (LUPA), 2014, stipulates that a Municipality should have regard to the following factors when considering the “removal, suspension or amendment of a restrictive condition”:

- **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 vest in the person as the owner of a dominant tenement**

The value of the rights in terms of the restrictive condition vests in the surrounding property owners of Erf 412 Franskraal. The removal of the restrictive conditions will allow the property owners to accommodate the proposed dwelling house that will encroach the rear title deed building line. The financial benefit of removing the rights is that the dwelling house will increase the value of the property) and will allow the current property owners to increase the asking price when placed on the market. Additionally, by having the title deed building line parameters removed, the purchaser of the subject property will benefit by not going through a removal or title deed relaxation process if the property owners decide to develop the residential property further.

- **The personal benefits which accrue to the holder of rights in terms of the restrictive conditions**

The restrictive title deed conditions were imposed by the Administrator for the benefit of the property owners of the Township Franskraal. With most municipalities adopting their own land use scheme the only benefit that accrues to the holder of these rights is that the property owners have more restrictive land use parameters in place when developing their property. Keeping the restrictive condition in place will not benefit the administrator, the applicable municipality (Overstrand Municipality) nor will it benefit the property owner.

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

The removal of the restrictive conditions will benefit the property owners by being able to erect a dwelling house that encroaches the rear title deed building line. The proposal will still be subject to provisions of the Overstrand Municipal Land Use Scheme.

- **The social benefit of the restrictive conditions remaining in place in its existing form.**

There is not a social benefit if the restrictive conditions are to remain in place.

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

The removal of the restrictive conditions will allow the scheme building line regulation to set the guidelines for future developments on the subject property. The social benefit will only be for the property owner as it will allow the owner to erect a dwelling house that is encroaching the rear title deed building line on the subject property and will allow future developments constructed to be in line with the scheme regulations only.

- **Whether the removal of the restrictive conditions will completely remove all rights enjoyed by the beneficiary or only some of those rights.**

The removal of the restrictive conditions will not remove the rights enjoyed by the owners, as it will expand the value of the property by accommodating the proposal. This will not have an impact on the rights of anyone or the character of the area.

Conclusion:

With reference to the above-mentioned, the proposal to remove the specific title deed restrictive conditions is only to allow the development of a main dwelling house which is a primary land use right in terms of the current Overstrand Municipality Land Use Scheme. The removal of the above-mentioned title deed conditions should therefore be considered favourably from a town planning perspective.

7. Engineering Services

The subject property will be required to connect to the Overstrand Municipality services network, which will create additional connection requirements.

8. Policies and Regulations

Overstrand Municipal Spatial Development Framework, 2020 (MSDF)

The Municipal Spatial Development Framework is a sectoral component of the IDP that, in terms of the MSA, is aimed at providing general direction to guide decision making on an ongoing basis, aiming at the creation of integrated, sustainable, and habitable regions, cities, towns and residential areas.

The proposed application is located within the urban edge and is indicated as part of the "urban development area". The proposed addition to the residential zoned property is therefore in line with this forward planning document.

Overstrand Municipality Spatial Growth Management Strategy, 2010 (OMSGMS)

The Growth Management Strategy promotes the longer-term sustainability of the municipal area and its sub-regions. The property falls within the planning unit 5.

The new dwelling should be considered in line with the residential nature of the area since the property is already situated within the existing established residential neighbourhood. The proposal should therefore be deemed in line with this forward planning document.

9. Planning Principles

Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA)

Section 7 of the "Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)" list 5 development principles based on which any development application must be evaluated.

The principles referred to are as follows:

1. Spatial Justice

Spatial Justice refers to planning proposals which do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal to remove the title deed conditions will not trigger the principle of spatial justice due to the normal residential nature of the structure.

2. Spatial Sustainability

Spatial sustainability refers to planning proposals which result in communities that are viable. The property is subject to environmental constraints (Milkwood trees) which informed the placement of the proposed building footprint. The property therefore complies with the principle of spatial sustainability.

3. Spatial resilience

The proposed application is in line with the normal residential nature of the predominantly residential neighbourhood, however, the building was positioned in such a way, to reduce the possible environmental constraints (Milkwood tree placement).

4. Efficiency

The proposed development was positioned in such a way to maximise the utilization of the property while taking the environmental constraints into consideration.

5. Good administration

The Overstrand Municipality has a credible track record of good administration regarding the method of public participation which invites and accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications.

10. Need and Desirability

It is the intent of the property owner to erect a new dwelling house on the property and is subject to a title deed restrictive condition (building parameters) and environmental aspect (milkwood trees).

The dwelling house is proposed in such a position that it is setback over the 3.57m rear title deed building line and the dwelling unit encroaches the rear title deed building lines and does not encroach the 2m rear scheme building lines. The building is also subject to environmental constraints such as milkwood trees situated in the middle of the property.

The proposal seeks to comply with both the land use scheme parameters and environmental constraints therefore limiting the applicable development footprint.

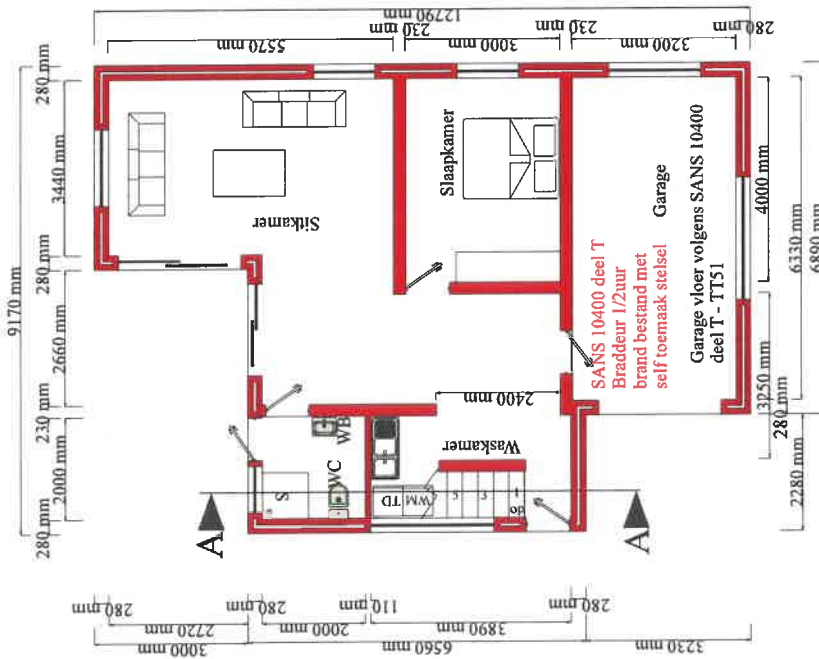
It must be noted that it is only proposed to remove the of title deed building lines applicable and not the scheme building lines which the proposed development is compliant with. Any further/ additional encroachments will require another application of the same applicable building lines.

This proposal is in harmony with all relevant planning principles and forward planning documents and should be considered desirable from a town planning point of view.

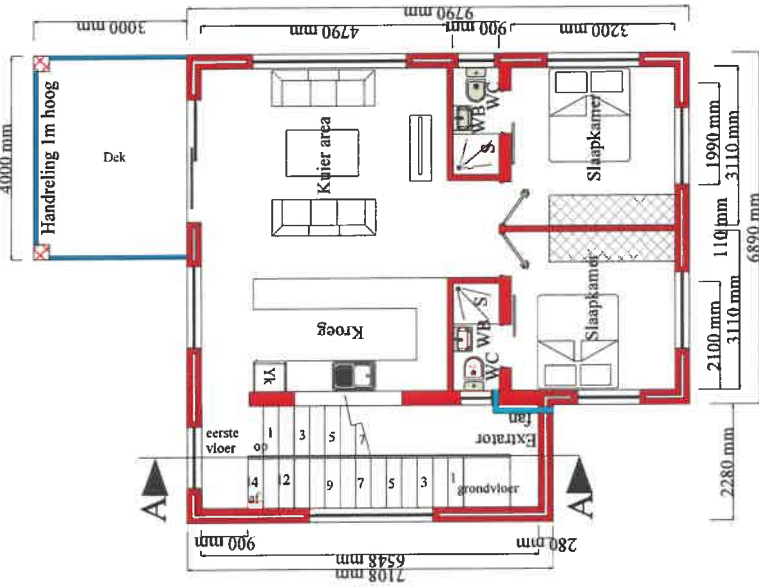
11. Recommendations

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

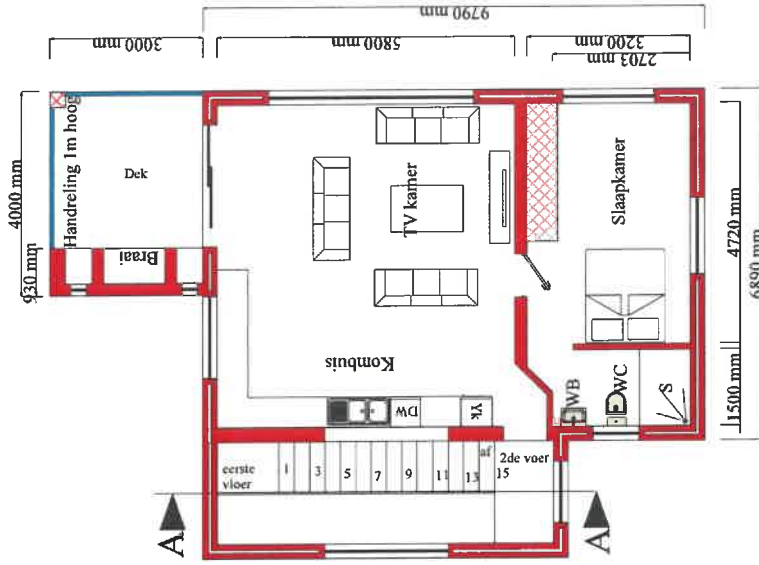
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Grondvloer 94.40vkm
Skaal 1-100



Eerste vloer 80.70 vkm
Skaal 1 - 100



2de vloer 79.45 vkm
Skaal 1 - 100

NOTA:
Alle regulasies van plaaslike owerhede moet nagekom word.
Kontraakteur is verantwoordelik om alle munisipale regulasie na te kom en te verstaan.
Mees geniet voorkeur en moet gecontroleer word voor bouwerk begin.
Alle afwykings tussen bou greuse, gekommuniseer word.
Alle SANS swerk streng volgens NHBRC Ingrepe swerkplakke genid voorkeur.
Terminplan ten alle tyd en teich.
Terraen moet skoon gebou word gedurende bouwerk.
Water en elektrisiteitsaansluiting moet gedoen word voor bouwerk mag begin.



Woning = 254.55vkm
Erf = 595 vkm
Dekking = 16.07%

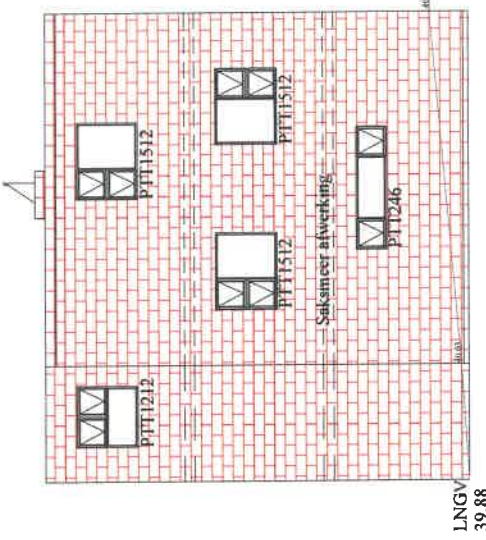
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Tekening: Vloerplan
Skaal: 1- 100 (A5)
Blad: 2 van 8
Datum: 03/04/2023

Beskrywing:
Voorgestelde Woning vir ZOU/GA Trust Erf 412
92 Cilliers straat
Franskraal
Overstrand Munisipaliteit

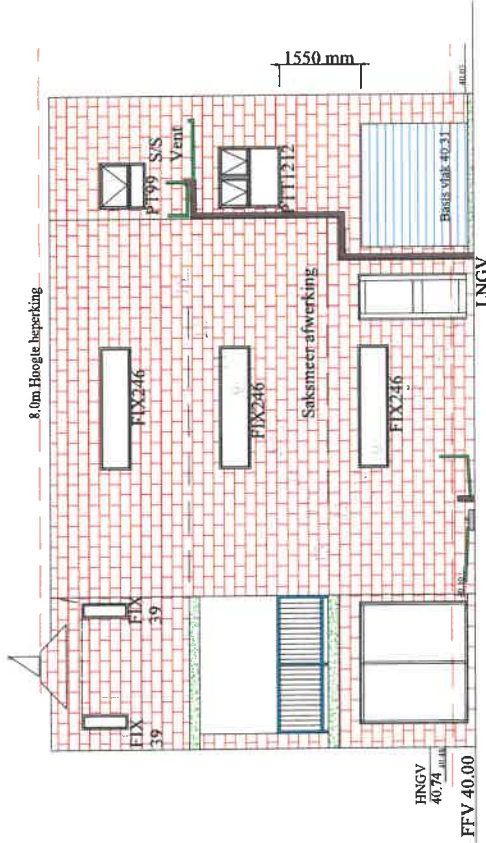
Plan gesteken deur:
Jacobus A van Staden
3 Smeugans
Perlemoenbaai
Gansbaai
Reg nr. D1661
riaanvs38@gmail.com
Tel: 082 929 8688



Suid Oos aansig
Skaal 1 - 100

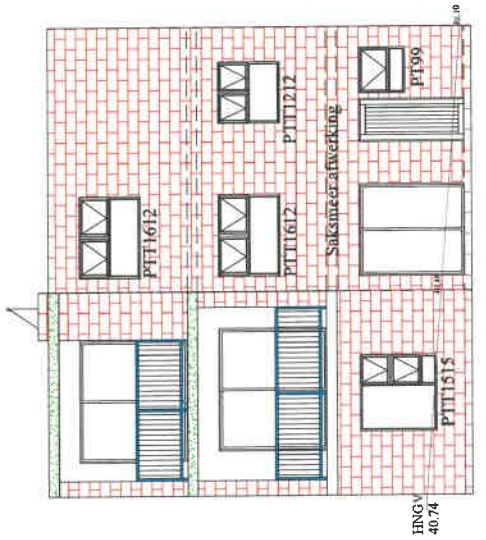


Suid Wes aansig
Skaal 1 - 100



Noord Wes aansig
Skaal 1 - 100

Alle vensters in trappskag moet veiligheids glas wees



Noord Oos aansig
Skaal 1 - 100

NOTA:
Alle regulasies van plaaslike owerhede moet nagekom word.
Kontraakteur is verantwoordelik om alle munisipale bouregulasie na te kom en te verstaan.
Maats getuie voorkeur en moet gekontroleer word voor bouwerk begin.
Alle bouwerk tussen bou geense.
Alle atwykings moet met tekenaar gekommunikeer word.
Alle bouwerk streng volgens NHBRC en SANS voorafte.
Tegniese spesifisies: geniet voorkeur.
Tussenplan en alle yte op te teek.
Teek moet skoon gebou word gedurende bouwerk.
Water en elektrisiteitsaansluiting moet gedoen word voor bouwerk mag begin.

Beskrywing:
Voorgestelde Woning vir
ZOUGA Trust
Erf 412
92 Cilliers straat
Frasnkraal
Overstrand Munisipaliteit

Tekening nr: 0278/17
Tekening: Aansigte
Skaal: 1 - 100 (A3)
Blad: 3 van 8
Datum: 03/04/2023

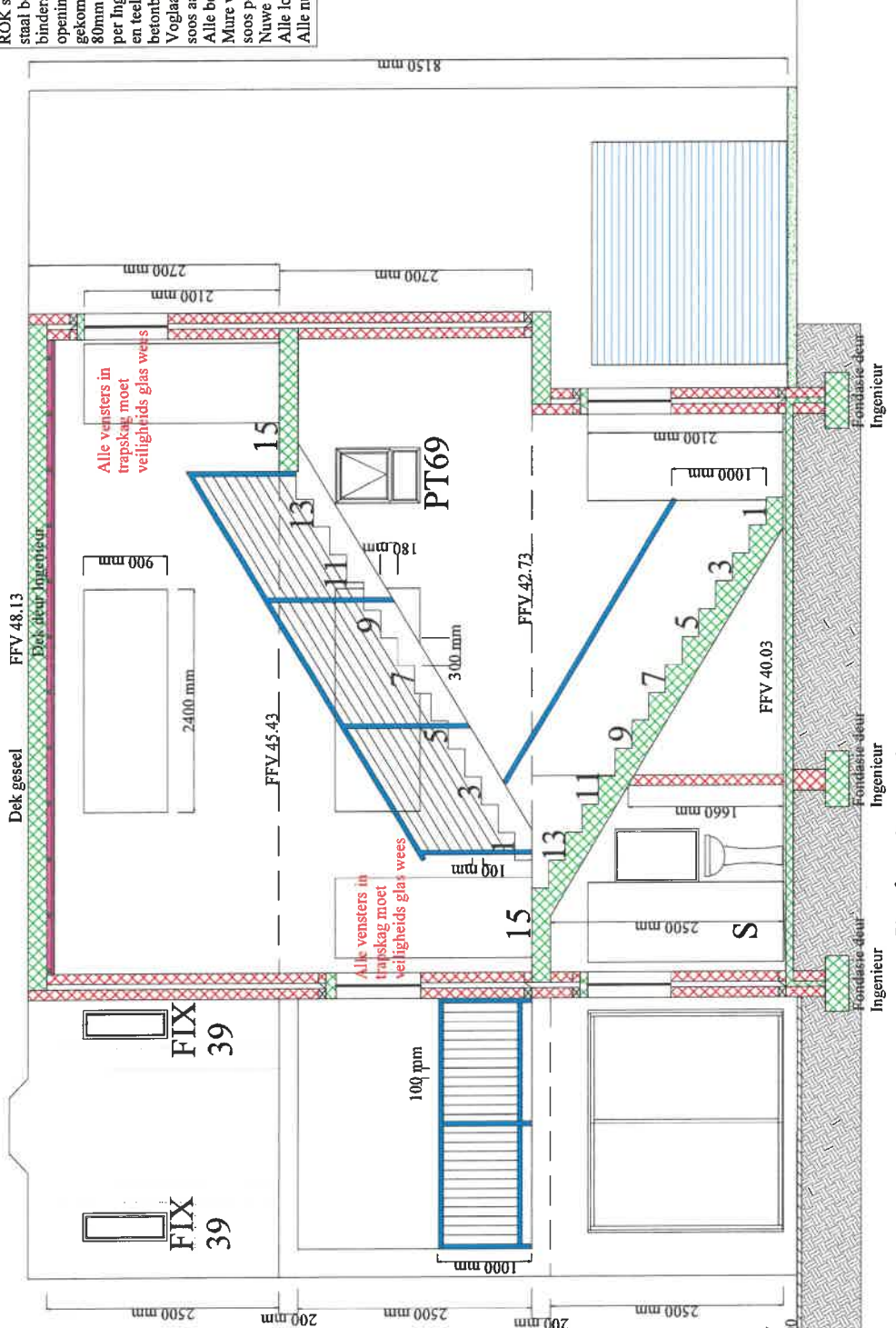
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3 Sneeuwens
Perlemoenbaai
Gansbaai
Reg nr. D1661
riaanvs38@gmail.com
Tel: 082 929 8688



R Waarde vir beton dek
 Buite lug film 0.03
 Bitumen 0.01
 Vlaklaag 0.09
 Beton 0.18
 Binn lug film 0.11
 Totaal 0.42
 R-waarde van 3.7 benodig
 Dus die volgende moet onder
 aan die beton gevoeg word-
 Isotherm 50mm R-w 1.40
 Isopine 50mm R-w 1.90
 Totaal dan R-w = 3.72

SA Den 38x50 @ 600mm C/C
Dek detail met plafon
Skaal 1 - 50

Bouers nota -
 Alle bouwerk streng volgens SANS10400
 Fondasie nie minder as 300mm onder die
 NGV nie. Fondasie deur Ingenieur aangedui.
 ROK stene uit gebou tot dak hoogte met
 staal bewapening elke 3de steen laag, vlinder-
 binders 3 pvkm geplaas. Lateie bo all
 openinge. Voglaag geplaas bo-op goed
 gekompakteerde grondvulling, gevolg met
 80mm betonblad en staal bewapening soos
 per Ingenieur. 30mm Vlak laag bo-op beton
 en teels soos per eienaar. Voglaag onder
 betonblad uit gebring na buite soos aangedui.
 Voglaag bo alle vensters en deur in gebou
 soos aan gedui.
 Alle beton vloere deur die Ingenieur aangedui
 Mure word gepleister en geverf. Verf kleur
 soos per eienaar.
 Nuwe vensters en deur uit Aluminium
 Alle loodgieter werk deur spesialis.
 Alle nuwe elektriese werk deur spesialis



Snit A - A

Skaal 1 - 50

Trappe volgens SANS 10400
 Deel M - MM1 & MM2
 Handreling volgens SANS 10400
 Deel M - MM3

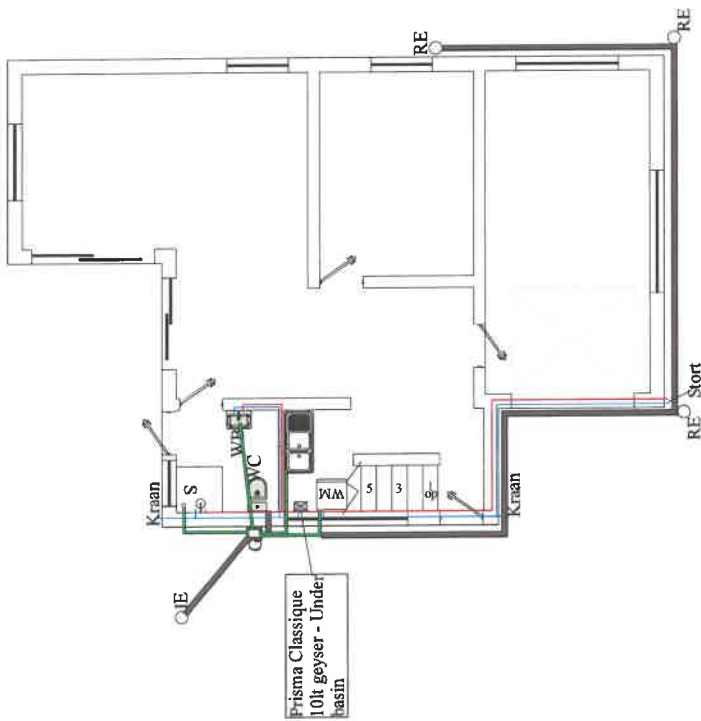
Beskrywing:
 Voorgestelde Woning vir
ZOUGA Trust
Erf 412
92 Cilliers straat
Fraserkraal
Overstrand Munisipaliteit

Tekening nr: 0278/17
 Tekening: Snit A-A
 Skaal: 1- 50 (A3)
 Blad: 4 van 8
 Datum: 03/04/2023

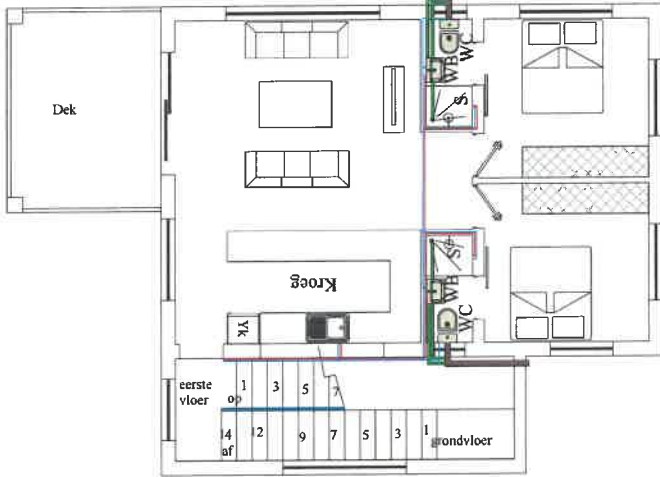
Plan geteken deur:
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 te verstaan.
 Mites gratis voorkeur en moet
 gekontroleer word voor bouwerk begin.
 Alle bouwerk tussen bou geuse.
 Alle amspreekers moet geteken.
 Alle bouwerk streng volgens NIEBRC
 en SANS voorskrifte.
 Ingenieurs spesifikasies geniet voorkeur.
 Terreinplan ten alle oye op terrein.
 Water en elektrisiteitsaansluiting moet gedurende
 bouwerk.
 Water en elektrisiteitsaansluiting moet gedoen
 word voor bouwerk mag begin.

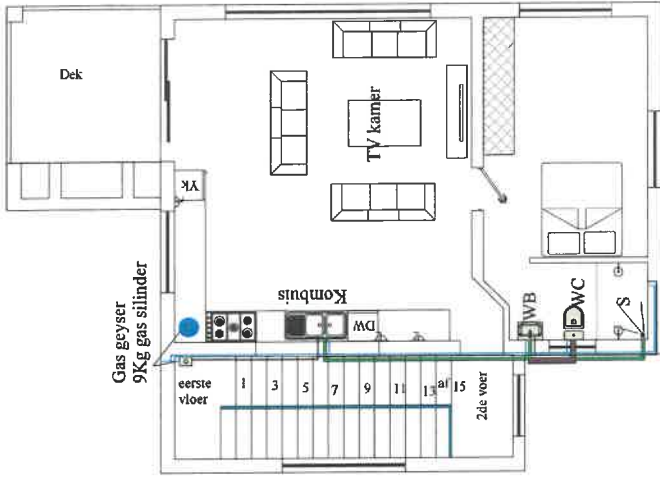




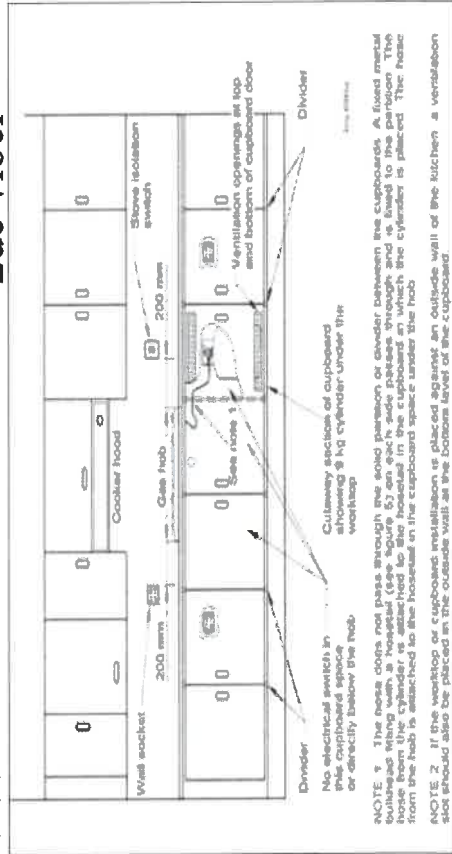
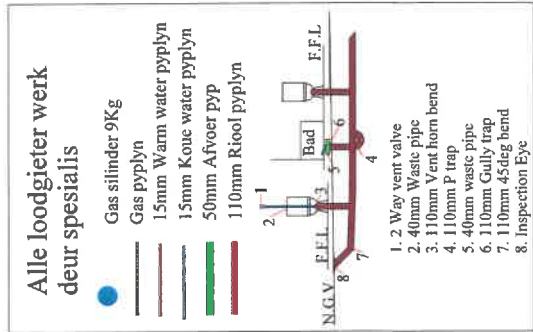
Grondvloer



Eerste vloer



2de vloer



Beskrywing:
 Voorgestelde Woning vir
ZOUGA Trust
 Erf 412
 92 Cilliers straat
 Franskraal
 Overstrand Munisipaliteit

Tekening nr: 0278/17
 Tekenings: Rookplan
 Skaal: 1- 100 (A3)
 Blad: 6 van 8
 Datum: 03/04/2023

Plan geteken deur:
 Jacobus A van Staden
 3 Sneeuags
 Perlemoenbaai
 Gansbaai
 Reg nr: D1661
 riaanvs38@gmail.com
 Tel; 082 929 8688

NOTA:
 Alle regulasies van plaaslike owerhede moet ingekom word.
 Kontrakteur is verantwoordelik om alle munisipale bouregulasie in te kom en te betaal.
 Mates geniet voorkeur en moet gekontroleer word voor bouwerk begin.
 Alle bouwerk tussen bou gense.
 Alle afwykings moet met tekenaar gekommunikeer word.
 Alle bouwerk streng volgens NHBRC en SANS voorskrifte.
 Ingenieurs spesifikasies geniet voorkeur.
 Terreinplan ten alle tye op te rein.
 Water en elektrisiteitsaansluiting moet gedoen word voor bouwerk mag begin.

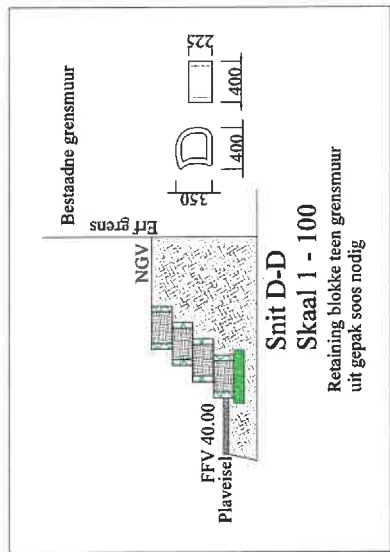
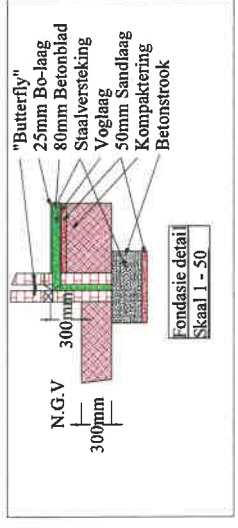
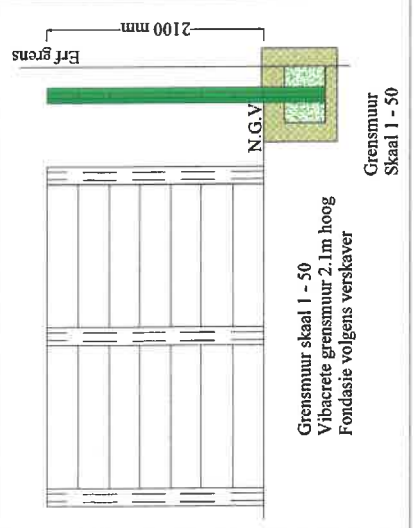


Bouers nota -
Alle bouwerk streng volgens SANS10400

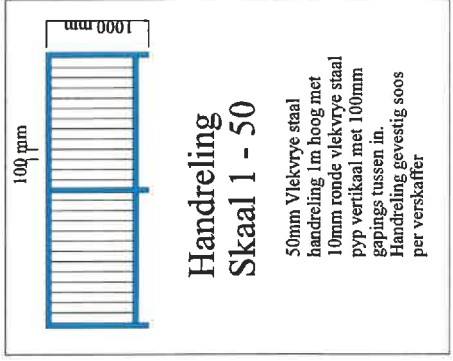
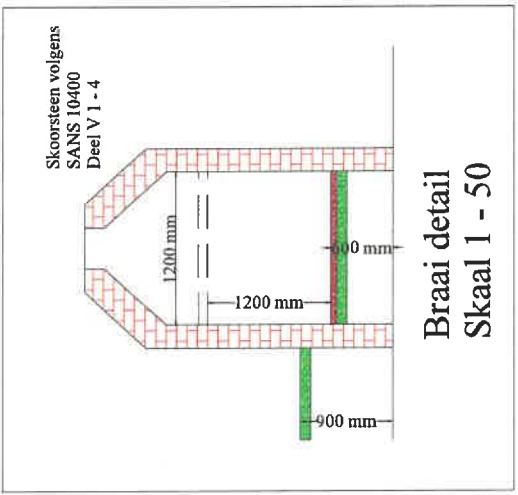
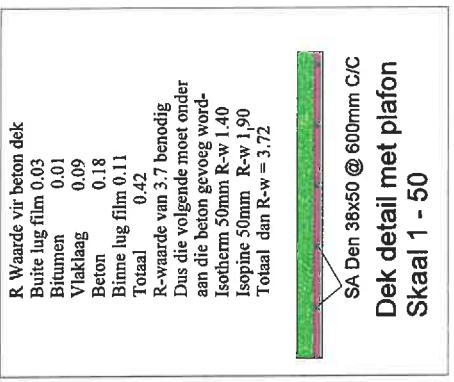
Fondasie nie minder as 300mm onder die NGV nie. Fondasie deur Ingenieur aangedui. ROK stene uit gebou tot dak hoogte met staal bewapening elke 3de steen laag, vlinderbinders 3 pvkm geplaas. Lateie bo all openinge. Voglaag geplaas bo-op goed gekompakteerde grondvulling, gevolg met 80mm betonblad en staal bewapening soos per Ingenieur. 30mm Vlak laag bo-op beton en teels soos per eenaar. Voglaag onder betonblad uit gebring na buite soos aangedui. Voglaag bo alle vensters en deur in gebou soos aan gedui.

Alle beton vloere deur die Ingenieur aangedui Mure word gepleister en geverf. Verf kleur soos per etenaar.

Nuwe vensterse en deur wit Aluminium Alle loodgieter werk deur spesialis. Alle nuwe elektriese werk deur spesialis



NOTA:
 Alle regulasies van plaaslike owerhede moet nagekom word.
 Kontrakteur is verantwoordelik om alle munisipale boueregulasie na te kom en te verstaan.
 Altes gender voorkeur en moet gekontroleer word voor bouwerk begin.
 Alle bouwerk tussen bou grense.
 Alle afwykings moet met tekenaar ooreenstemmend word.
 Alle bouwerk streng volgens NHBRC en SANS voorskrifte.
 Ingenieurs spesifikasies geniet voorkeur.
 Terrain plan ten alle tye op te sien.
 Water en elektrisiteitsaansluiting moet gedurende bouwerk.
 Water en elektrisiteitsaansluiting moet gedoen word voor bouwerk mag begin.



Tekening nr: 0278/17
 Tekening: Detail plan
 Skaal: 1-100 (A3)
 Blad: 7 van 8
 Datum: 03/04/2023

Beskriving:
 Voorgestelde Woning vir ZOUGA Trust
 Erf 412
 92 Cilliers straat
 Franskraal
 Overstrand Munisipaliteit

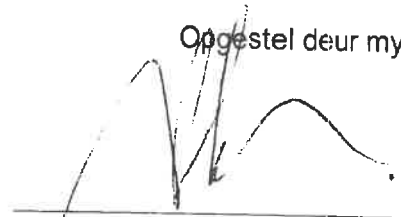
Plan geteken deur:
 Jacobus A van Staden
 3 Sneeuigans
 Perlemoenbaai
 Gansbaai
 Reg nr. D1661
 riaanyv38@gmail.com
 Tel: 082 929 8688



4

STOFBERG PROKUREURS
 POSBUS 451
 STELLENBOSCH
 7599

Opgestel deur my



TRANSPORTBESORGER
 HENDRIK PETRUS SERFONTEIN (82200)

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 220 000,00	R. 1200,00
Reason for exemption	Category Exemption.....	Exemption i to. Sec/Reg..... Act/Proc.....

T 0000 04 22

TRANSPORTAKTE

HIERBY WORD BEKEND GEMAAK DAT
 MURIEL SNYDERS
 (LPC Membership number: 97613)

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

MATTHYS ANDREAS DE VRIES
 Identiteitsnommer 440822 5022 08 7
 Getroud buite gemeenskap van goed

wat Volmag geteken te GANSBAAI op 26 OKTOBER 2021

Bladsy 2

En genoemde Komparant het verklaar dat sy/haar prinsipaal, op 6 Oktober 2021, waarlik en wettiglik verkoop by Privaat ooreenkoms, en dat hy/sy, in sy/haar voorgenoemde hoedanigheid hierby sedeer en transporteer aan en ten gunste van

ZOUGA TRUST
Registration Number IT002071/2015

diese Opvolgers in Amp of Regverkrygendes, in volkome en vrye eiendom

ERF 412 FRANSKRAALSTRAND
 IN DIE OVERSTRAND MUNISIPALITEIT
 AFDELING CALEDON PROVINSIE WES KAAP.

GROOT 595 (VYFHONDERD VYF EN NEGENTIG) Vierkante meter.

AANVANKLIK oorgedra kragtens Transportakte Nr T11249/1955 met Kaart Nr 2036/51 wat daarop betrekking het en gehou kragtens Transportakte Nr T 19353/1984.

A. ONDERHEWIG aan die voorwaardes waarna verwys word in Transportakte Nr 5544/1941.

B. GEREKTIG op die voordeel van die serwittut waarna verwys word in die aantekening gedateer 18 Augustus 1951, op Sertifikaat van Dorptitel Nr 14397, gedateer 18 Augustus 1951, naamlik:

"Kragtens Notariële Akte van Serwittut Nr 478/1951 gedateer 3/3/1951 is die eiendom hierin beskrywe geregtig op sekere serwittut met betrekking tot waterregte, waterleiding, opgaardamme en suiweringswerke geleë op die eiendomme gehou onder Transport Nr 5546 gedateer 13 Junie 1941 en soos aangedui op Serwittutkaart Nr 3241/50 aan gesegde Notariële Akte geheg, tesame met sekere meegaande regte en onderhewig aan sekere voorwaardes soos meer breedvoerig sal blyk uit gesegde Akte en Kaart, 'n kopie waarvan hieraan geheg is."

C. ONDERHEWIG aan die volgende addisionele voorwaardes vervat in gemelde Transportakte Nr ~~T1249/1955~~ ^{T11249/1955}, op geleë deur die Administrateur van die Kaap Provinsie tot hy die stigting van die Dorp kragtens die bepalinge van Ordonnansie Nr 33 van 1934 goedgekeur het, naamlik:

"17. Enige woorde en uitdrukkings wat in die volgende voorwaardes gebesig word het dieselfde betekenis as wat daaraan geheg word het dieselfde betekenis as wat daaraan geheg word by die regulasies afgekondig by Kennisgewing van die Provinsiale Administrasie Nr 401 van 17 Oktober 1935 en in die memorandum wat genoemde regulasies vergesel het.

18. Die eienaar van hierdie erf is verplig om sonder betaling van vergoeding toe te laat dat die rioolvuil en dreinerings, insluitende reënwater van enige ander erf of erwe binne of buite hierdie dorp, oor hierdie erf gevoer word indien dit deur die plaaslike of 'n ander statutêre owerheid nodig geag word, en wel op die wyse en plek wat van tyd tot tyd redelikerwys vereis word. Dit sluit die reg op toegang te alle redelike tye tot die eiendom in met die doel om enige werke met betrekking tot bogenoemde aan te lê, te wysig, te verwyder of te inspekteer;

Bladsy 3

19. Die eienaar van hierdie erf is verplig om sonder betaling van vergoeding die material te ontvang of enige uitgrawings op die erf toe te laat wat nodig mag wees om die gebruik van die volle wydte van die straat toe te laat en 'n veilige en behoorlike skuinste aan sy wal te voorsien weens verskil tussen die hoogte van die straat soos finaal aangelê en die erf tensy hy verkies om steunmure te bou tot bevrediging van die plaaslike owerheid en binne 'n tydperk wat die genoemde owerheid bepaal.
20. Hierdie erf is onderhewig aan die volgende voorwaardes met die verstande dat indien die Administrateur, na oorleg met die Dorpekommissie en die plaaslike owerheid, dit raadsaam ag dat die beperking in enige sodanige voorwaarde te eniger tyd opgeskort of versag behoort te word, hy die nodige opskorting of versagting kan goedkeur onderworpe aan sodanige voorwaardes as wat hy oplê:
- (a) dit mag nie onderverdeel word nie;
 - (b) dit mag alleen gebruik word vir die doel om een woning, tesame met die buite geboue wat gewoonlik in verband daarmee gebruik word daarop te rig
 - (c) op nie meer as helfte van die oppervlakte daarvan mag gebou word nie.
 - (d) geen geboue of struktuur of enige gedeelte daarvan behalwe grensmure en heinings mag binne 4,72 meter van die straatlyn wat 'n grens van hierdie erf vorm opgerig word nie ook nie binne 3,57 meter van die agtergrens of 1,57 meter van die sygrens van 'n aangrensende erf nie, met dien verstande datm 'n buitegebou met die toestemming van die plaaslike oewerheid op die voorgeskrewe ruimte langs die agtergrens opgerig mag word mits sodanige buitegeboue nie 'n hoogte van 3,05 meter te bowe gaan nie, watter hoogte gemeet moet word van die vloer tot die ankerplaat en mits geen gedeelte daarvan vir bewoningdoeleindes deur mense aangewend word nie."

D. ONDERHEWIG VERDER aan die voorwaardes vervat in gemelde Transportakte Nr T11249/1955 opgelê deur die Dorpseienaar met die goedkeuring van die gesegde Administrateur vir die voordeel van sigself as eienaar van die restant van die Erwe in die Dorp en wedersydse voordeel van alle eienaars van erwe daarin naamlik:

1.
2. That no building shall be erected on the erf unless the plans thereof have been approved by the Company."

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

MATTHYS ANDREAS DE VRIES , Getroud soos vermeld

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

ZOUGA TRUST Registration Number IT002071/2015

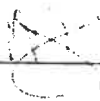
diese Opvolgers in titel of Regverkrygendes, tans en voortaan daartoe geregtig is, ooreenkomstig plaaslike gebruik, behoudens die regte van die Staat en ten slotte erken hulle dat die verkoopprijs die bedrag van R820 000,00 (AGT HONDERD EN TWINTIG DUISEND RAND) beloop.

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 08 APR 2022

-2022-

10



q.q.

In my teenwoordigheid



REGISTRATEUR VAN AKTES

06 OCT 2025

Alida ConradieTP - A Theart
(Svd Kerwe)DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

From: Dalena van den Berg <dalenavdb@gmail.com>
Sent: Saturday, 04 October 2025 08:03
To: Alida Conradie
Subject: Objection against removal of Title Deed Restriction / Change of Building Line - Erf 412, 92 Cilliers Street, Franskraal
Attachments: OverstrandPage3.jpg; OverstrandPage1.jpg; OverstrandPage2.jpg

Please Acknowledge Receipt of this email.

Attached Please find the signed letter

30 September 2025

Attention: Alida

OBJECTION AGAINST REMOVAL OF TITLE DEED RESTRICTIONS ON ERF 412, 92 CILLIERS STREET, FRANSKRAAL / CHANGE OF BUILDING LINE

We, Ian van den Berg and Barbara Magdalena van den Berg, trustees of the Ian van den Berg Familie Trust are writing this letter to lodge our formal objection to the erection of a three-storey house closer to the prescribed building line by my neighbour, Mr Don Wessels at Erf 412, 92 Cillier Street, Franskraal. Our property, situated at Erf 413, 175 Seaviewdrive Franskraal, is directly adjacent to this property.

I refer to my email dated February to Jeane Douglas, the private town planner, in which we stated that we are AGAINST changing the building line regulation. We confirm that we remain AGAINST the proposed change of building line.

Here are the reasons for our decision:

Loss of privacy

The proposed three-storey dwelling, if built closer to our boundary, will overlook our home and entire back garden. All of our neighbour's living areas and balconies will face directly into our rooms and sunroom, as well as our entire backyard. This will leave us with no privacy if the building is constructed so close to our property

Natural sunlight

FILE NO	EF 412- GFK
SCAN NO.	
COLLABORATOR NO.	2876942

If the new three-story structure is erected closer to the boundary, the building will block the sunlight to our entire back garden, several rooms as well as our sunroom. This will negatively affect our quality of life as well as increase our energy consumption because we will have to use more lights and heating.

Overloading Infrastructure

The original building lines and zoning for a residential area were designed based on the expected load on services such as water, sewer, and electricity. At present, it may appear that a single relaxation of building regulations would not have a major impact, but if more such requests are approved, it could place significant pressure on the local infrastructure. The Building Line regulations are there to protect the character of the environment and the rights of all property owners. Allowing deviations sets a dangerous precedent and could cause future developments to become uncontrolled, while also disturbing the overall appearance of the street.

Property Value:

Buildings erected outside the prescribed building lines can negatively affect the market value of our property as well as surrounding properties.

Airflow and Ventilation:

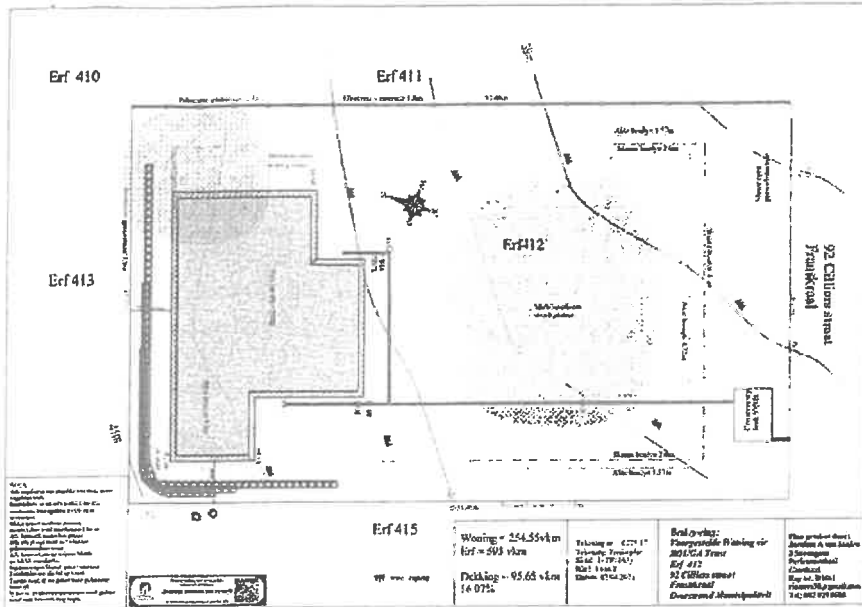
Because this is such a large building (three storeys) proposed directly across the border, closest to our yard, it is likely to restrict natural airflow and ventilation.

Safety

A building that is too close to the border can pose safety risks to us as close neighbours, for example in the event of a fire. As well as the risk of falling items during construction.

Access and Services:

The space between a building and a boundary is essential for things like the placement of underground water and sewer pipes, as well as for easy access during construction, maintenance, and emergencies. If the space is not sufficient, the above cannot take place successfully.



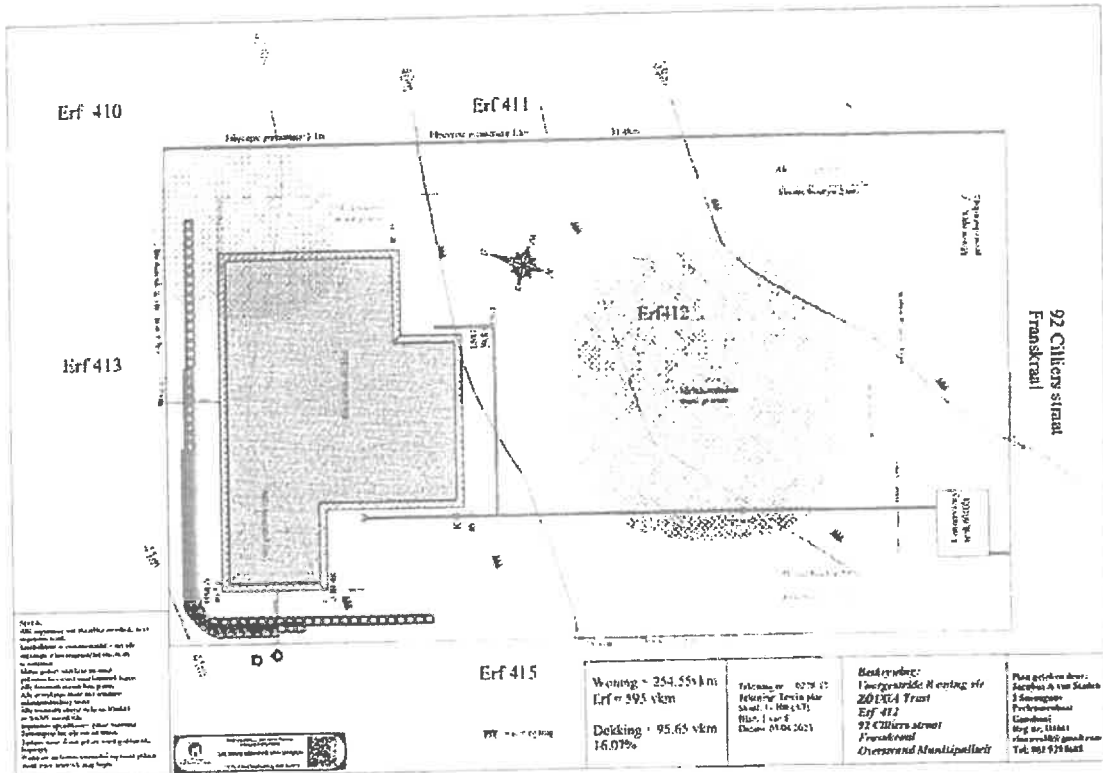
These are the building plans provided to us in January, as you can see for yourself, his yard is large enough so there is no need for him change the building lines at all. There are large milkwood trees in front and back of his yard, so no matter where he is going to set up his house, the milkwood trees are going to be damaged.

Based on the above reasons, we strongly object against the removal of the Title Deed restrictions / change of building line on Erf 412, 92 Cilliersstreet, Franskraal and want the existing building rules be maintained.

Please confirm receipt of my email.

Ian van den Berg

Barbara M van den Berg



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Ian van den Berg
Ian van den Berg

Barbara M van den Berg
Barbara M van den Berg

30 September 2025

Attention: Alida

**OBJECTION AGAINST REMOVAL OF TITLE DEED RESTRICTIONS ON ERF 412, 92
CILLIERS STREET, FRANSKRAAL / CHANGE OF BUILDING LINE**

We, Ian van den Berg and Barbara Magdalena van den Berg, trustees of the Ian van den Berg Familie Trust are writing this letter to lodge our formal objection to the erection of a three-storey house closer to the prescribed building line by my neighbour, Mr Don Wessels at Erf 412, 92 Cillier Street, Franskraal. Our property, situated at Erf 413, 175 Seaviewdrive Franskraal, is directly adjacent to this property.

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TP- A Theart
(Suid merke)

11 NOVEMBER 2025 7112 17 SEP 2025 DOCUMENT CONTROL OVERSTRAND MUNICIPALITY

Alida Conradie

From: Robert Aspeling <robert@galileocapital.co.za>
Sent: Wednesday, 17 September 2025 08:03
To: Alida Conradie
Subject: FW: Erf 412 , Franskraal- Public participation-You are regarded as an affected property owner.
Attachments: SKM_C55825090111290.pdf

From: CSA <csa@robcor.co.za>
Sent: 03 September 2025 14:25
To: Robert Aspeling <robert@galileocapital.co.za>
Subject: FW: Erf 412 , Franskraal- Public participation-You are regarded as an affected property owner.

Hi Alida
 Ek is teen die voorlegging. 173 Seaview rylaan. Franskraal
 Groete
 Robert
 083 453 2879

From: Jeane Douglas <jeaned04@outlook.com>
Date: Wednesday, 03 September 2025 at 13:24
To:
Subject: Erf 412 , Franskraal- Public participation-You are regarded as an affected property owner.

Good day ,

You are hereby notified that you are an interested and an affected party for the application on the removal of title deed restrictions on Erf 412 Franskraal (92 Cilliers Street).

I am a private Town Planner submitting the above mentioned application to the Overstrand Municipality on behalf of my client Don Wessels.

You are hereby requested to submit your comment support or objection to the Overstrand Municipality as part of the public participation process. If you would like to provide your comment, support or objection please send an email to alida@overstrand.gov.za before or on 10 October 2025

The notice for public participation is attached to this email for ease of reference.

For any further queries regarding this email or the application ,please contact Alida Conradie at the town planning department at the above mentioned email address.

Kind Regards
Jeane Minnaar

Disclaimer

FILE NO. Erf 412-GFK
SCAN NO.
COLLABORATOR NO.
2865434

TP - A Theart
(S vld Merwe)

11 SEP 2025

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

Alida Conradie

From: Jeane Douglas <jeaned04@outlook.com>
Sent: Thursday, 11 September 2025 08:37
To: Alida Conradie
Subject: Fw: Erf 412 , Franskraal- Public participation-You are regarded as an affected property owner.

Hi Alida

Please see attached objection received.

Regards

Jeané Minnaar

FILE NO.	Erf 412-GFK
SCAN NO.	
COLLABORATOR NO.	2862259

From: Jan Spiers <jspiers69@gmail.com>
Sent: Thursday, September 11, 2025 8:33:07 AM
To: Jeane Douglas <jeaned04@outlook.com>
Subject: Re: Erf 412 , Franskraal- Public participation-You are regarded as an affected property owner.

Hi Jeane

I'm sorry I can't from my side go with this plan as it will take away all my privacy,

Jan

On Wed, 03 Sept 2025, 1:24 pm Jeane Douglas, <jeaned04@outlook.com> wrote:

Good day ,

You are hereby notified that you are an interested and an affected party for the application on the removal of title deed restrictions on Erf 412 Franskraal (92 Cilliers Street).

I am a private Town Planner submitting the above mentioned application to the Overstrand Municipality on behalf of my client Don Wessels.

You are hereby requested to submit your comment support or objection to the Overstrand Municipality as part of the public participation process. If you would like to provide your comment, support or objection please send an email to alida@overstrand.gov.za before or on 10 October 2025

The notice for public participation is attached to this email for ease of reference.

TT

9/12

OVERSTRAND MUNICIPALITY
REKORDBEHEER
04 SEP 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Alida Conradie

TP - A Theart
(S vld merke)

From: Naas Vermaak <naas@tinsky.co.za>
Sent: Wednesday, 03 September 2025 15:52
To: Alida Conradie; 'Vermaak, Leonie'
Subject: OBJECTION - Erf 412, Franskraal- Public participation-You are regarded as an affected property owner.
Attachments: SKM_C55825090111290.pdf

Good day Alida,

I trust you are keeping well, please refer herby to the below objection subject ERF 412 relaxation of building title deed conditions.

I, Ignatius Petrus Vermaak and Leonie Vermaak, owners of Kanaan Beleggings (Pty) Ltd, owning property on ERF 414 address 177 Sea View Drive, hereby **strongly object** to the following application submitted to the Overstrand Municipality:

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 deed condition 20(d) contained in Title Deed No. T/14841/2022, in order to accommodate the dwelling house proposed over the 3.57m rear title deed building line."

Grounds for Objection:

The proposed three-storey dwelling on Erf 412, together with the removal of the 3.57m rear building line restriction, will have a direct and negative impact on me as an adjoining homeowner in the following ways:

1. Loss of Sunlight and Natural Warmth

During the winter months, when the sun is at a lower angle, the height and proximity of the proposed structure will cast extended shadows over my property. This will materially reduce the number of hours of direct sunlight I currently receive. Reduced solar access negatively affects indoor comfort, outdoor living, and energy efficiency, thereby conflicting with the principles of sustainable development and amenity protection recognised in the **Overstrand Municipal Land Use Scheme, 2020**.

1. Sun angles – the solar path for Franskraal's latitude ($\pm 34.6^\circ$ S), which varies significantly between summer and winter months.
2. In winter (May–August), when the sun is lower in the sky, a three-storey structure with reduced setback will cast much longer shadows than a two-storey house within the normal building line.
3. This can result in a loss of 2–4 hours of sunlight per day on neighbouring yards and north-facing windows, depending on orientation.

2. Loss of Privacy

A three-storey dwelling (Building plans indicating patios overlooking our properties) built in such close proximity to the boundary will result in direct overlooking of my home and garden from the upper levels. This infringes on my legitimate expectation, as a neighbouring property owner, to privacy and quiet enjoyment – a key planning principle embedded in municipal land use management and South African common law rights of neighbours.

3. Reduction in Property Value

The loss of sunlight, privacy, and residential amenity will directly affect the desirability and market value of my property. Prospective purchasers are deterred by overshadowed, overlooked, or constrained properties, thereby diminishing the value of my investment and undermining the intent of title deed restrictions to protect neighbouring owners.

FILE NO.
Erf 412 - GFK
SCAN NO.
2858254

4. Loss of Amenity and Enjoyment

The overshadowing will limit the use of my garden, patio, and outdoor spaces, particularly in winter when natural sunlight is already scarce. This reduces my ability to use and enjoy my property as intended under the Residential Zone 1 (Single Residential) zoning category, which is designed to protect low-density residential amenity.

5. Contravention of Spatial Planning Objectives

The restrictive title deed condition was specifically imposed to protect neighbouring property owners, preserve privacy, maintain uniform building setbacks, and safeguard the residential character of Franskraal. Its removal will directly and negatively impact these rights.

The application is inconsistent with the objectives of the Municipal Spatial Development Framework (MSDF) and the Overstrand By-law on Municipal Land Use Planning, 2020, which emphasise protecting neighbourhood character, ensuring compatibility of scale, and safeguarding the rights of adjoining owners. Relaxation of the title deed condition would undermine these objectives.

6. Undesirable Precedent

Granting this application would create an undesirable precedent for similar applications within the neighbourhood, thereby eroding compliance with established planning controls, undermining the integrity of the Land Use Scheme, and leading to incremental loss of sunlight, privacy, and amenity across the area.

7. Nature of Proposed Building Plan

This proposal as per the nature of the building plans impose a huge risk for future possible building irregularities/ planning and financial loss to their neighbours.

8. Melkbos Trees

The claim that the presence of the Melkbos trees necessitates building right up to the rear boundary is unfounded. The property owner has the option to apply for a building line relaxation to accommodate tree removal, if necessary. Upon reviewing the submitted plans, it appears that the proposed construction would require removal of these trees regardless of the building line encroachment. Therefore, the justification provided for encroaching on the 3.57m rear building line is not valid and should not be accepted as a reason to compromise neighbouring property rights or residential amenity.

Conclusion

For the above reasons, I strongly object to the removal of the restrictive title deed condition. Approval of this application would not only have a direct negative effect on my property but would also contravene established planning principles, undermine the intent of zoning controls, and set a precedent harmful to the wider community.

Please confirm receipt of my email communication with regards to the subject matter.

Best regards

Naas Vermaak

Group Managing Director

M +27 84 525 7981

T +27 87 351 6024

E naas@tinsky.co.za

TinSKY CONNECT 

Ground Floor, Building 7, Thornhill Office Park, 94 Bekker Road, Vorna Valley Ext. 60, Midrand

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04 SEP 2025

11/12

Alida Conradie

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

From: annalie veenstra <annalie.veenstra@gmail.com>
Sent: Wednesday, 03 September 2025 22:08
To: Alida Conradie
Subject: Erf 412 : 92 Cillier Street

TP- A Theart
(S vld merke)

Good evening

Please note that I am an share holder of 96 Cilliers street and have a problem with a 3 story house on erf 412, it will take away our view and will lower our value of the property.

Regards
A F Veenstra
Bouvorstra

FILE NO.	Erf 412-GFK
SCAN NO.	
COLLABORATOR NO.	2858253

TP

OVERSTRAND MUNICIPALITY 12/12

REKORDBEHEER
13 OCT 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP - A Theart
(Svd merke)

Alida Conradie

From: Alida Conradie
Sent: Monday, 13 October 2025 16:13
To: 'Joos Klip'
Subject: RE: Erf 412 , Franskraal- Public participation-You are regarded as an affected property owner.

Dear Mr Joubert

Receipt is hereby acknowledged of your objection.

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: Joos Klip <joos.se.klip@gmail.com>
Sent: Friday, 10 October 2025 23:41
To: Alida Conradie <alida@overstrand.gov.za>
Subject: Erf 412 , Franskraal- Public participation-You are regarded as an affected property owner.

Good evening Ms. Alida

I would like to object and that the building parameters stay in place. I worry that this could invade on the privacy of the effected neighbour. I also believe that the Milkwood trees could be cut by 30% and the building plans moved back to accomodate the structure.

Kind regards
Francois Joubert

Sent from Outlook for Android

FILE NO.	Erf 412-GFK
SCAN NO.	
COLLABORATOR NO.	2881740

Handwritten mark

14 November 2025

For Attention: S van der Merwe

This letter refers,

RESPONSE TO OBJECTIONS: REMOVAL OF TITLE DEED RESTRICTIVE CONDITION: ERF 412, FRANSKRAAL, OVERSTRAND MUNICIPALITY

The public participation process for this application received 5 objections. The main objection points and the response thereto are detailed below:

<p>Objection from D van den Berg (Erf 413):</p> <ul style="list-style-type: none"> • Loss of privacy. • Blocking of natural light. • Overloading of infrastructure. • Reduction in property values. • Reduced airflow and ventilation. • Safety – fire hazard due to distance between erf boundary and building. • Access and Services – sufficient space between building and boundary to accommodate underground services. • The property is large enough to place the building without encroaching the building lines and the milkwood trees will be damaged no matter how the building is placed.
<p>RESPONSE:</p> <ul style="list-style-type: none"> • The reasoning behind the objection is flawed. If the property is setback 2m or 3.15m makes no difference with regards to privacy. Furthermore, the proposal is only to deviate from the title deed building line up to the scheme building line. The title deed building line is more restrictive compared to the scheme building line which is acceptable building parameters that have been set for the entire Overstrand Municipal jurisdiction. Therefore, the impact of the privacy will remain the same either way. • The proposed three-storey dwelling house is compliant with the height restriction as per the Overstrand Land Use Scheme which is mainly due to the fact that the site is proposed to be cut to lower the height of the dwelling house. Therefore, the impact with regards to the sunlight is within acceptable mitigating factors. Following are the researched figures calculated by NOAA Solar Calculator for Franskraal, Latitude = -34.6, Longitude = 19.2, Time zone = UTC+2, showing the length of the shadow an 8m high building will throw on average at different times during the winter months of May-August when the winter sun is at its lowest angle: (https://gml.noaa.gov/grad/solcalc/) 09:00 - avg 32.55 m (median 33.31 m) 10:00 - avg 18.68 m (median 19.14 m) 11:00 - avg 13.59 m (median 13.97 m) 12:00 - avg 11.45 m (median 11.80 m) 13:00 - avg 11.07 m (median 11.40 m) 14:00 - avg 12.29 m (median 12.67 m) 15:00 - avg 15.67 m (median 16.08 m) 16:00 - avg 23.75 m (median 24.45 m) 17:00 - avg 54.58 m (median 54.94 m) <p>Noting that the above solar calculation, the impact on the proposed the development regarding sunlight will not make much of a difference if the dwelling house is setback</p>

from both the scheme and title deed building lines. Therefore, the objection should be dismissed.

- The deviation of the building line has no relevance with regard to the possible overload of infrastructure. It must be noted that there are multiple other dwelling houses in the Overstrand Municipality that are much larger and require much more additional services capacity compared to the proposed dwelling unit. The proposed development of a single dwelling house is within the acceptable services capacity of the for the Overstrand Municipality.
- The Overstrand Municipality utilises the comparative valuation model for their property valuation. The open market also utilises the comparative valuation model. This valuation method utilises the sales of similar properties in the area in order to sell a property in that same area. Therefore, there is no sufficient justification as to how the proposal will reduce the property value.
- The objector's property is setback far enough to not have a negative impact on their airflow and ventilation. The subject property will remain 2m from the neighbouring property which is more than adequate to have sufficient airflow or ventilation. Residential estates with town housing have 1m setbacks from their erf boundary which is sufficient for airflow and ventilation. Airflow and ventilation is related to how the dwelling house is designed. Therefore, the objector should think about how to design their property better to improve their airflow and ventilation.
- The fire regulations require a 1m setback from the property boundary. The subject property will remain 2m from the property boundary and is therefore compliant with the applicable fire safety.
- Municipal services are placed within the road reserves and house connections are linked to the main municipal services. Therefore, the objection with regards to access and services should be disregarded.
- With regards to milkwood trees and the placement of the dwelling house, the house is positioned in such a way that only one milkwood tree will be affected by the development of this erf compared to both trees being cut down or damaged.

General comment: it must be noted that when one looks at the aerial imagery, it is clear that the objector's dwelling house must have gone through a departure for the lateral building lines since it is situated much closer the neighbouring properties over the 2m lateral building lines. The question is why the subject property owner cannot build up to the 2m scheme building line when the objector has built over the 2m scheme building line.

Objection from R Aspeling (Erf 410):

- Ek is teen die voorlegging.
- Translation – "I am against the proposal".

RESPONSE:

- The objector does not substantiate why they are against the proposal. Therefore, this objection point should be dismissed.

Objection from J Spiers (Erf 415):

- I'm sorry I can't from my side go with this plan as it will take away my privacy.

RESPONSE:

- The objector's property is the abutting neighbour to the north-east along Cilliers Street. With that said, the proposal is only for the relaxation of the rear title deed building line from 3.15m up to the 2m Scheme building line. It must be noted that if the title deed building lines were not in place, the proposed development will be compliant with the relevant planning building parameters. Furthermore, the balconies located on the eastern side of the property remain within the applicable scheme and title deed

building lines, therefore the proposal would still have the same impact on the objector if the rear title deed building lines were not to encroach. With that said, the proposal should be considered for approval and this objection point be dismissed.

Objection from N Vermaak (Erf 414):

- Loss of sunlight and natural warmth.
- Loss of privacy.
- Reduction in property value.
- Loss of amenity and enjoyment.
- Contravention of Spatial Planning Objectives.
- Undesirable precedent.
- Nature of proposed building plan.
- Melkbos trees.

RESPONSE:

- The proposed three-storey dwelling house is compliant with the height restriction as per the Overstrand Land Use Scheme which is mainly due to the fact that the site is proposed to be cut to lower the height of the dwelling house. Therefore, the impact with regards to the sunlight is within acceptable mitigating factors. Following are the researched figures calculated by NOAA Solar Calculator for Franskraal, Latitude = -34.6, Longitude = 19.2, Time zone = UTC+2, showing the length of the shadow an 8m high building will throw on average at different times during the winter months of May-August when the winter sun is at its lowest angle:

(<https://gml.noaa.gov/grad/solcalc/>)

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15:00 - avg 15.67 m (median 16.08 m)

16:00 - avg 23.75 m (median 24.45 m)

17:00 - avg 54.58 m (median 54.94 m)

Noting that the above solar calculation the impact on the proposed the development regarding sunlight will not make much of a difference if the dwelling house is setback from both the scheme and title deed building line. Therefore, the objection should be dismissed.

- The reasoning behind the objection is also flawed similar to the objection by D van den Berg. If the property is setback 2m or 3.15m makes no difference with regards to privacy. Furthermore, the proposal is only to deviate from the title deed building line up to the scheme building line. The title deed building line is more restrictive compared to the scheme building line which is acceptable building parameters that have been set for the entire Overstrand Municipal jurisdiction. The Overstrand land use scheme prescribes a 2m building line which the property owner remains compliant with and should therefore deem the objector's statement moot.
- The Overstrand Municipality utilises the comparative valuation model for their property valuation. The open market also utilises the comparative valuation model. This valuation method utilises the sales of similar properties in the area in order to sell a property in that same area. Therefore, there is no sufficient justification as to how the proposal will reduce the property value. The Overstrand Municipality utilises the

comparative valuation model for their property valuation. The open market also utilises the comparative valuation model. This valuation method utilises the sales of similar properties in the area in order to sell a property in that same area. Therefore, there is no sufficient justification as to how the proposal will reduce the property value. Furthermore, the objector stipulates that there will be a loss of sunlight however, due to the objectors own development on their property being built up to the rear erf boundary, they reduced their own loss of natural sunlight.

- With regards to the amenity and enjoyment of the garden and patio space, the objector has built his property to the maximum reducing natural sunlight and allowing minimal open space. Therefore, the objection is flawed since the objector developed their own house in a way that reduces their natural sunlight and enjoyment of their property and should not limit the subject property owner to develop their property within the Overstrand Land Use Scheme building parameters.
- The objector stipulates that the subject property owner should build within the relevant development restrictions contained in the title deed which preserves privacy, maintains uniform setbacks and safeguards the residential character of Franskraal. It must be noted that the proposal will not deviate from the residential character of the Franskraal area since the property will be used for residential purposes. The subject property only seeks to comply with the applicable Overstrand land use scheme building lines since the title deed building lines are outdated. Allowing the proposed development will still be in line with the Spatial Planning Objectives. In comparison, the objector built their property up to the rear erf boundary which is not in line with the uniform setbacks as their objection claims. Therefore, the objection point should be dismissed.
- This proposal will not create and undesirable precedent since it remains compliant with the relevant Overstrand land use scheme planning controls. The question remains that why the objector may deviate from the Overstrand Planning controls but in contrast, the subject property owner may not deviate and build their property up to the rear erf boundary. With that said, it is requested that this objection point should be dismissed.
- The objector does not substantiate how the proposal will impose a huge risk for future possible building irregularities/planning and financial loss to their neighbours. It is difficult to respond to this objection point since there is no concrete evidence that the development (which is within the Overstrand land use scheme parameters) will foster high risk for future possible building irregularities / planning and financial loss to neighbours. This point should therefore not be considered valid.
- The objector claims that the proposed dwelling house will be developed right up to the rear boundary which is not the case. The dwelling house is proposed to be developed up to the 2m Overstrand land use scheme building line. The question again remains why the objector may build up to their rear erf boundary when the proposal is only to build up to the 2m rear building line. Furthermore, the placement of the dwelling is positioned in such a way to reduce the impact on the Milkwood tree that is located in the centre of the subject property rather than damaging both Milkwood trees.

Objection from A Veenstra (Erf 416):

- The proposal will take away our view.
- The proposal will lower our property value.
- The objector does not specify how the proposal will take away their view. It must also be noted that the subject property is located much lower than the objector's property. Furthermore, the proposal is to "cut" ground level which will lower the height of the building and therefore reduce any impact on views. With that said, the objector is also

<p>positioned two houses from the subject property with both views of the mountain as well as the ocean. Therefore, this point should be dismissed.</p> <ul style="list-style-type: none"> • The objector does not stipulate how the proposal will reduce property value of the surrounding erven. It must be noted that the open market as well as the municipal valuation utilises the comparative valuation method. Therefore, the development of a vacant erf with a three-storey dwelling house will inevitably increase the property value of the surrounding erven rather than reduce them. This point should therefore be dismissed since the objection does not substantiate their statement.
<p>Objection from F Joubert (Erf 408 & 409)</p>
<ul style="list-style-type: none"> • The building parameters to stay in place. • I worry that this could invade the privacy of the affected neighbour. • The milkwood trees could be cut 30% and the building plan be moved back to accommodate the structure.
<ul style="list-style-type: none"> • This objection has already been dealt with. The Overstrand Municipality Land Use Scheme building lines will remain in place which is applicable to all residential erven in the Overstrand area. Furthermore, the only building lines that are to be removed is the title deed building lines that were set prior to land use schemes being applicable. • With regards to privacy, this point has been responded to. It must however be noted that the building is to be lowered and complies with all the scheme building parameters. The notion of privacy is mitigated since the building will be lowered meaning the property will have a similar effect / impact that a double storey building would have. • The objection regarding the milkwood trees have been responded to in previous objections above.

In essence, the proposal is only to build the dwelling house up to the Overstrand land use scheme. The scheme building setbacks for the rear and lateral spaces is 2m which the property complies with and is therefore in line with the development planning controls of the Overstrand Municipality. Furthermore, the title deed restrictive building line setbacks are outdated since the development controls were put into the township establishment conditions prior to land use schemes being adopted by municipalities to control development. Now that land use schemes are in place, building parameters contained in title deeds serve no purpose in protecting privacy, safety and general enjoyment of amenities.

With the above stated, we hereby look forward to receiving a positive outcome for the subject application.

Kind regards

Jeané Minnaar

COMMENTS FROM THE PROJECT MANAGEMENT DIVISION FOR APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION: ERF 412, FRANSKRAAL (4971/2025)


Electricity	:	Refer to Conditions
Water	:	Refer to Conditions
Sewer	:	Refer to Conditions
Stormwater	:	Refer to Conditions
Roads and traffic	:	Refer to Conditions

Conditions:

1. that the existing water connection to- and sewer conservancy tank on Erf 412 shall be used to service Erf 412;
2. that only the existing 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 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;
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 office of the Principal Technologist: Gansbaai for written approval;
5. that the on-site parking facilities are provided as per the Planning Schedule, and to the satisfaction of the Department: Operational Services;
6. that any additional and / or extended vehicle entrances will be for the developer's account;
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
PRINCIPAL TECHNOLOGIST:
DEVELOPMENT CONTROL**


DATE