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**ERF 33, 46 BROADWAY, FISHERHAVEN, OVERSTRAND MUNICIPAL AREA:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: WRAP
PROJECT OFFICE ON BEHALF OF JURDEN SCHUURMAN**

33 HFH (5188/2026)

H Olivier

28 July 2026

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received 3 March 2026 from WRAP Project Office on behalf of Jurden Schuurman on Erf 33, Fisherhaven in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the removal of restrictive title deed conditions E.4.(a), E.4.(b) and E.4.(d) as contained in Title Deed T14163/2026 of the property, that limits the development of the property to apartments, that has restrictive building lines and that does not allow subdivision.

The restrictive title deed conditions read as follows:

“E. SUBJECT FURTHER to the following special conditions in Deed of Transfer Number 11717/1975 imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 of 1934 when approving of the establishment of Fisherhaven Township, namely:

4. This erf shall be subject to the following further conditions, provided especially that where in the opinion of the Administrator, after consultation with the Townships Board and the Local Authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation, subject to compliance with such conditions as he may impose:

(a) It shall not be subdivided;

(b) It shall be used only for the purpose of erecting thereon a building designed for use as residential flats together with such outbuildings as are ordinarily required to be used therewith;

(c)

(d) No building or structure or any portion thereof except boundary walls or fences shall be erected nearer than 4,72 metres to the street line which forms a boundary common to any adjoining erf, provided that with the consent of the Local Authority, an outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate may be erected within the above prescribed rear space and within the above prescribed lateral space for a distance of 9,45 metres reckoned from the rear boundary. On consolidation of any two or more erven this condition shall apply to the consolidated area as one erf.”

The Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the application is attached as Annexure B and the Zoning Map is attached as Annexure C. The Title Deed is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The subject property is situated along Broadway next to the Bot River Lagoon. The property measures 1774m² in extent. The property is zoned Residential Zone 1: Single Residential and is currently vacant.

The current owner intends to develop a dwelling on the subject property. The property is held by Title Deed no. T14163/2026, which contains a restrictive condition that only flats may be constructed on the property. The property owner is applying to remove such restrictive condition and the conditions prohibiting subdivision and more restrictive building lines than stipulated by the Overstrand Municipality Land Use Scheme.

The owner has thus appointed a professional town planner to apply for the removal of the restrictive Title Deed conditions to accommodate the new dwelling.

4. SUMMARY OF APPLICANT'S MOTIVATION

THE MOTIVATION FOR THE APPLICATION IS SUMMARISED AS FOLLOWS:

- ❖ The new owner wants to develop a dwelling.
- ❖ The subject property is currently vacant and not being utilized.
- ❖ The restrictive conditions are not appropriate anymore.
- ❖ The title deed restriction that the property may not be subdivided restrict development more than the existing densification guidelines.
- ❖ The Title Deed restrictions are inconsistent with the current zoning provisions.
- ❖ The condition that only flats may be constructed on the property was imposed in 1975, and this was the only form of land use control at that stage to prevent other types of unwanted development.
- ❖ No residential flats have been developed in the surrounding area, and the title deed put the property at odds with its Residential Zone 1 zoning.
- ❖ The title deed building line is not in line with the Land Use Scheme, and the Land use Scheme provides sufficient control to ensure orderly development.
- ❖ The municipal planning legislation provides clear and comprehensive framework to assess subdivision. The prohibition of subdivision is therefore no longer necessary.
- ❖ The property is connected to existing Municipal services.
- ❖ Access to the site can be obtained from Riverside Street or Broadway Street.
- ❖ The property falls within an EMOZ area. The development of the site will be in line with its zoning and therefore remains consistent with the intent of the overlay zone.
- ❖ The property is situated in an HPOZ Landscape of Very High Natural Scenic and Heritage Significance. Any development will be in line with zoning provisions, the overlay zone and development controls, and will not undermine the objectives of the overlay.
- ❖ The proposal is not in conflict with the Overstrand Municipality Spatial Development Framework, 2020.
- ❖ The application will ensure that development on the site will be compatible with surrounding uses, which are mostly single residential dwellings.
- ❖ External engineering services will not be impacted.
- ❖ The application will not have a negative impact on traffic.
- ❖ The application will not impact views, sunlight or have a negative impact on the character of this area.

PLANNING PRINCIPLES:❖ **Spatial Justice**

The restrictive conditions place unreasonable restrictions on the property to not be utilized in line with its zoning and the prevailing planning framework, and the removal of the conditions will promote equitable access to development.

❖ **Spatial Sustainability and Efficiency**

The removal of the restrictive conditions will support efficient land utilization, reduce regulatory duplication, and ensure alignment between zoning provisions and land use control.

❖ **Spatial Resilience**

Removing the prescriptive requirements will introduce appropriate flexibility by allowing the property to respond to the changing circumstances. This supports long term adoptability.

❖ **Good Administration**

The Municipality followed a good public participation process.

EVALUATION IN TERMS OF SECTION 39.(5)(A) - (F) OF THE BY-LAW IS AS FOLLOWS:***The financial or other value of the rights:***

No person or entity will be affected financially by the removal of these restrictive title deed conditions.

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

No person is personally benefitting from these conditions as it is only restricting the owners.

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 owners will benefit from the removal of the restrictive conditions as it will allow them to utilise the property in accordance with the current zoning.

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 do not provide social benefits.

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

There is no specific beneficiary of these conditions, and no person or entity will be affected if this is removed.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local Newspaper	Yes	2 April 2026	8 May 2026
Gazette	Yes	2 April 2026	8 May 2026
E-mail notices & site notice	Yes	2 April 2026	8 May 2026
Internal departments	Yes	2 April 2026	8 May 2026
Ward councillor	Yes	2 April 2026	8 May 2026
Total comments	ONE (1)		
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

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

Name	Date received	Summary of comments
Building Control	08/04/2026	No objection.
Fire Services	13/04/2026	No objection.
Engineering Services	07/05/2026	See Annexure F.
Municipal Environmental Division	25/05/2026	See Annexure G.
Telkom	08/04/2026	See Annexure H.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

The application was duly advertised in the local newspaper and Government Gazette. Registered letters were also sent out to all owners of Fisherhaven and the Fisherhaven Ratepayers Association. A notice board was also placed on-site by the applicant's consultant.

In the public participation process one (1) letter of objection and one (1) letter of support were received.

OBJECTION

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The applicant was provided with an opportunity to respond to the objection received. The objection letter is attached as Annexure E and the applicant's response is attached as Annexure F respectively.

The objection, the applicant's reply and the Municipal Town Planner's response thereon can be summarized as follows:

 OBJECTION

"We object to the removal of restrictive condition 4 (d) for the following reasons:

Condition 4 (d) relates to building lines, and the restrictive condition is present in all title deeds in the area. Fisherhaven has therefore developed in the way it has due to these building lines.

The applicant's property is therefore not onerously affected by such and the lifting of such, and the reliance on lesser local authorities building lines potentially may have an onerous result on the neighbour's property, and the look and feel of the area.

We are cognisant that this objection may delay the process, which is not our intention as we encourage the owner to develop their site, however for the removal/relaxation of building line restrictions, we would require sight of the plans before commenting.

As stated before. Whilst this is effectively an objection, we totally support and encourage the development of the site, and you are welcome to contact the writer who will assist wherever possible to facilitate a positive outcome for both parties."

APPLICANT'S RESPONSE

The concern raised relate to the potential impact the removal of the restrictive building line condition may have on the established character, spatial form, and visual appearance of Fisherhaven.

This application is not for building plan or building line encroachments approvals, only to remove title deed restrictions in the Title Deed that duplicate and conflict with the Land Use Scheme.

The development controls in the Land Use Scheme are intended to control and regulate development on Residential Zone 1 even that protects adjoining properties and maintain the neighbourhood character. The removal will not result in unrestricted development rights or the automatic relaxation of building lines.

The Municipality's statutory planning controls now fulfil the regulatory function.

Any future proposals or building plan that may seek departures from the parameters will have to apply and will be subject to a public participation process. Adjacent property owners would thus be able to comment on such proposals before any approval.

The objection is noted but sufficient planning controls remain in place to ensure orderly and contextually appropriate development on the property. The removal of the condition is considered justified, reasonable and consistent with the motivations in the application.

TOWN PLANNER'S RESPONSE

The objection and applicant's response is noted.

The applicant is correct in that the development controls in the Title Deeds were only inserted in the Title Deeds as there were now other form of development controls in Fisherhaven when it was established.

In 1985 the first Zoning Scheme was approved with development parameters, and it was replaced over the years, and the latest applicable building controls is the Overstrand Land Use Scheme updated in 2020.

Over the years many Title Deed conditions have been removed from Title Deeds from properties with various zonings and different parameters, to align it with the more modern parameters of the Land Use Scheme. Every application must however be evaluated on its own merits.

The objector's opinion that the removal of the restrictive condition stipulating specific building lines will have a negative impact on the character of the area, will be discussed in detail under the Evaluation heading in this report.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

Refer to paragraph 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS

All relevant departments provided positive comments.

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

10.1 Background

N/A

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

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

Spatial Justice

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

Spatial sustainability

The application will allow the property to be developed in line with the development parameters of its current zoning and is therefore considered spatially sustainable.

Efficiency

There is a conflict between the development rights of the property in the properties Title Deed and Zoning. This creates a situation that one or the other must be amended. The removal of the Title Deed restrictions is an efficient way to ensure the property owner can develop the erf in line with its zoning.

Spatial Resilience

The development of the property will be in line with the relevant spatial planning policies.

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)

The application is consistent with the planning principles.

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

Consistent since the land use remains Residential.

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

N/A

10.6 Impact on Municipal engineering services

All services exist in the area. The proposal will not have a significant impact on existing services.

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

The Title Deed does contain restrictive conditions, and application is made to remove such conditions.

10.8 Existing and proposed zoning comparisons and considerations

N/A

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights:

No person or entity will be affected financially by the removal of the restrictive title deed conditions.

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

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

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

The removal of the conditions will benefit the property owners as they would be able to construct a dwelling as at this stage only flats are allowed, application could be made to subdivide the property in future, and less imposing building lines will apply.

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 applicant will be gaining from the removal of the restrictive condition as the property can then be utilized in line with the primary uses of the Land Use Scheme, but there is no real social benefit to retain or remove the conditions.

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

Only the restrictive conditions limiting the development to flats, that the property may not be subdivided and the restrictive building lines, will be removed. The other restrictive conditions will remain in place.

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

12. THE DESIRABILITY OF THE PROPOSAL

The subject property is situated along Broadway next to the Bot River Lagoon, in Fisherhaven. The property measures 1774m² in extent. The property is zoned Residential Zone 1: Single Residential and is currently vacant.

The current owner intends to develop a dwelling on the subject property. The property is held by Title Deed no. T14163/2026, which contains a restrictive condition that only flats may be constructed on the property. The property owner is applying to remove such restrictive condition and the conditions prohibiting subdivision and more restrictive building lines than stipulated by the Overstrand Municipality Land Use Scheme.

The application is for the Removal of Restrictive Title Deed Conditions 4.(a), 4.(b) and 4.(d) in Deed of Transfer Number T14163/2026.

Condition E 4(a) stipulate that the erf may not be subdivided.

The applicant does not propose subdivision at this stage but want to keep options open for the future. It appears that the two erven directly north, erven 780 and 781 use to be Erf 34, Fisherhaven. It also had the no subdivision condition in the Township Establishment rules, and it is therefore assumed that this erf also had the same no subdivision condition in its Title Deed, and that it was removed. The removal of this condition can thus be supported,

Condition E 4(b) stipulate that the erf may only be developed with residential flats.

The property owner wants to develop a residential dwelling, and the Land Use Scheme will also make it possible to construct a second dwelling of 120m². Erf 34 as discussed above also would have had this limitation, but residential dwellings have been erected on new Erven 780 and 781. The removal of this condition will allow the property owner to develop the property in line with the existing Residential Zone 1 zoning, and this should have a less of an impact on the surrounding area than residential flats.

Condition E 4(d) stipulate restrictive building lines.

The wording in the Title Deed is not in line with the building line restriction as stipulated in the Fisherhaven Township Establishment rules. Which stipulated 6,3m street building lines and 3,15m lateral and rear building lines. The Title Deed only refers to a 4,72m street building line, and no distance is provided what the lateral and rear building lines must be. It appears as if the wording in the Title Deed has been amended but in a format which does not clearly describes the lateral and rear building lines. The Title Deed must however be considered as the legally binding document.

Considering the above, this means that the Land Use Scheme street building lines are 4m and the Title Deed 4,72m. This means if the condition is removed buildings can be constructed 4m from the street boundary, a mere 0,72m closer to the street.

In the public participation process one (1) objection was received, and it related specifically about the condition stipulating building lines. Considering the above, and the fact that the Land Use Scheme street building line is a mere 0,72m closer to the street boundary, the impact on the objector's property and the other surrounding erven will not be significant. Due to a clear lack of indicating of lateral building line measurements in the Title Deed, 2m lateral building lines will be applied.

The applicant's opinion that the Title Deed restriction is outdated and replaced with the more modern Land Use Scheme parameters is supported, and many removals of title deed restrictions have been approved in Fisherhaven over the last 10 to 15 years.

The application was circulated to all relevant Municipal Branches, Telkom as well as the Fisherhaven Ratepayers' Association, and no objections were received. The Municipal Environmental Division indicated they have no objection, but that the property owner must take cognisance of environmental legislation and must make sure that an EIA application is not required for the construction phase of the site.

Considering the above, the application is in line with the character of this area and will have no negative impact on surrounding property owners. The application is desirable and is supported.

13. RECOMMENDATION

1. that the objection be noted.
2. that the application in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 on Erf 33, Fisherhaven for the removal of restrictive title deed conditions E.4.(a), E.4.(b) and E.4.(d) as contained in Title Deed T14163/2026 of the property, that limits the development of the property to apartments, that has restrictive building lines and that does not allow subdivision, **be approved**, in terms of the provisions of Section 61 of the By-Law; subject to the following conditions:

- (a) that all the conditions in the Services Report (attached as Annexure F), be complied with; and
 - (b) that the amended title deed be submitted for record purposes to the Municipality.
3. that the following comments **be noted**:
- Overstrand Municipal Environmental Division (Annexure G); and
 - Telkom (Annexure H).
4. that the applicant and objector be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above conditions of approval.

14. REASONS FOR RECOMMENDATION

- ❖ The application has followed due procedure.
- ❖ None of the relevant departments have any objection.
- ❖ The Overstrand Land Use Scheme Regulations have sufficient control measures when it comes to building lines and land use controls.
- ❖ The objection that the more restrictive building line in the Title Deed remain to ensure the character of the area is not changed is not supported, as the difference from the Title Deed street building line (4,72m) to the Land Use Scheme Street building line (4m) is only 0,72m, and will not have a significant impact on surrounding neighbours or the character of the area.
- ❖ The restrictive condition prohibits the property to be developed for residential zone one purposes, whilst the zoning in terms of the land use scheme prohibits the residential flats to be developed on the property. This application will make development possible.
- ❖ The proposal is considered in line with the Municipality's SDF.
- ❖ The proposal is consistent with the planning principles of Spatial Sustainability and Efficiency in terms of LUPA and SPLUMA, as the removal of the restrictive conditions will support efficient land utilization and reduce regulatory duplication.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Zoning Map
Annexure D:	Title Deed T14163/2026
Annexure E:	Objection received
Annexure F:	Applicant's reply on objection
Annexure G:	Services Report
Annexure H:	Comment: Municipal Environmental Division
Annexure I:	Comment: Telkom
Annexure J:	Fisherhaven Township Establishment Rules

SIGNATURES**AUTHOR:**

Name: **HENK OLIVIER**

SACPLAN Reg No: **B/8128/2004**

Signature: _____

Date: _____

REGISTERED PLANNER

Name: **H VAN DER STOEP**

SACPLAN Reg No: **A/1708/2013**

Signature: _____

Date: _____

Plan 1: Locality Plan Erf 33 Fisherhaven

Plan prepared by: Thian Jansen

Tel: 028 313 1411

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Street, Hermanus, 7200
Project Office
Town Planning & Project Management




1. PROPERTY DETAILS

Property description	Erf 33 Fisherhaven
Extent	1774m ²
Zoning	Residential Zone 1: Single Residential
Title Deed	T14163/2026

2. EXECUTIVE SUMMARY

Erf 33, Fisherhaven, hereafter referred to as the subject property, is situated at 46 Broadway, Fisherhaven, as indicated on **Plan 1, the Locality Plan**. The property is currently in the process of being transferred to new owners, who intend to improve the site through the development of a dwelling unit that is consistent with the prevailing residential character of the area.

When Fisherhaven was established in the 1970s, the subject property was identified for the development of residential flats. This intention was secured through the registration of a restrictive condition in the title deed, requiring development to occur in accordance with this original planning approach. While this may have been appropriate at the time of establishment, subsequent development within Fisherhaven has not materialised in the form of residential flats, nor has a demonstrable need for such development arisen within the area.

Over time, Fisherhaven has evolved into a predominantly low density, single residential neighbourhood. In response to broader growth pressures and the need for orderly spatial development, the municipality has since adopted planning legislation and policy instruments that specifically identify appropriate locations for densification. The subject property is not located within an area earmarked for higher density development and is therefore not aligned with the original intent underlying the title deed restriction.

The subject property is zoned Residential Zone 1: Single Residential and the proposed development accords fully with the development parameters and land use rights associated with this zoning. The surrounding properties are similarly zoned Residential Zone 1, with the immediate environs characterised by established single residential development and public streets, as illustrated on **Plan 2, the Zoning Plan**.

In addition, the title deed contains restrictive conditions that prohibit the future subdivision of the property (if this is ever considered) and impose development parameters that are more onerous than those prescribed by the Overstrand Municipality Land Use Management Scheme (OMLUS). These conditions unduly constrain the reasonable development potential of the subject property and are inconsistent with the current statutory planning framework. As a result, the title deed restrictions no longer serve a valid planning purpose and conflict with the intent and application of contemporary municipal land use controls.

The continued enforcement of the restrictive title deed condition is therefore inconsistent with current zoning provisions, the surrounding land use context, and the municipality's contemporary spatial planning objectives. The removal or amendment of this condition is necessary to enable reasonable development of the property in line with current planning policy and to promote orderly and sustainable land use management.



3. PROCEDURE TO ACHIEVE THE OWNERS' INTENT

This application is submitted in terms of the By-Law and consists of four components:

(a) Removal of restrictive title deed conditions to accommodate the proposed use of the property;

As previously indicated, the restrictive title deed condition must be removed in order to lawfully develop the subject property with a dwelling house. The applicable condition was imposed by the Administrator of the Province of the Cape of Good Hope at the time of the establishment of Fisherhaven and was intended to give effect to the planning objectives applicable at that time.

The condition currently reads as follows:

"E. SUBJECT FURTHER to the following special conditions contained in Deed of Transfer Number T11717/1975, imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 of 1934 when approving of the establishment of Fisherhaven Township, namely:"

Proposed sub-conditions to be removed under Condition E:

"4. This erf shall be subject to the following further conditions, provided especially that where in the opinion of the Administrator, after consultation with the township Board and the local authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation, subject to compliance with such conditions as he may impose:

(a) it shall not be subdivided;

(b) it shall be used only for the purpose of erecting thereon a building designed for use as residential flats together with such outbuildings as are ordinarily required to be used therewith;

(d) no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary common to any adjoining erf, provided that with the consent of the Local Authority, an outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate may be erected within the above prescribed rear space and within the above prescribed lateral space for a distance of 9,45 metres reckoned from the rear boundary. On consolidation of any two or more erven, this condition shall apply to the consolidated area as one erf;"

The rationale for the removal of the restrictive title deed conditions is to enable the owners to utilise the property in a manner that is consistent with its current zoning and the prevailing land use rights. Furthermore, the removal of these conditions would ensure that the property is not unreasonably constrained by outdated restrictions and would allow for the potential future subdivision of the property, should the need arise, subject to compliance with the applicable municipal planning legislation and approval processes.



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Motivation for the removal of conditions E.4(b)

The rationale for the proposed removal

Condition E.4(b), which restricts the use of the property to the erection of residential flats, was imposed in 1975 at the time of the establishment of Fisherhaven Township. During this period, township establishment approvals were commonly accompanied by prescriptive land use conditions intended to secure specific development outcomes envisaged by the planning authorities at the time.

The condition was imposed to give effect to the original township layout and planning vision for Fisherhaven, which anticipated the development of higher density residential accommodation in certain areas through the construction of residential flats. This approach was aligned with planning principles prevalent in the 1970s, which sought to accommodate population growth, optimise land utilisation, and provide a defined housing typology within newly established townships.

At the time, the imposition of such conditions served as a mechanism to ensure that land was developed in accordance with the approved township establishment scheme and to prevent alternative forms of development that could have undermined the intended spatial structure. The condition therefore reflected the development needs, demographic expectations, and planning methodologies applicable at the time of approval.

Status quo

The subject property, Erf 33 Fisherhaven, is currently vacant and zoned Residential Zone 1: Single Residential in terms of the Overstrand Municipality Land Use Management Scheme. Despite this zoning, the property remains encumbered by a restrictive title deed condition requiring development exclusively in the form of residential flats.

The surrounding properties within the immediate area have developed as single residential erven, with dwelling houses being the predominant and established form of development. No residential flat developments have materialised in the vicinity, and the area has, over time, evolved into a low-density residential neighbourhood.

The restrictive condition therefore places the subject property at odds with both its zoning and the prevailing development pattern within Fisherhaven. As a result, the property cannot be reasonably or practically developed in accordance with current planning legislation without first removing the restrictive title deed condition.

Motivation for the removal of conditions E.4(a) & E.4(d)

Status quo

The subject property, Erf 33 Fisherhaven, is encumbered by restrictive title deed conditions that prohibit subdivision of the property Condition E.4(a) and impose building line and setback requirements that are more restrictive than those contained in the Overstrand Municipality Land Use Management Scheme Condition E.4(d).

In terms of the current statutory planning framework, subdivision and building setbacks are regulated through the applicable zoning provisions, development parameters, and municipal approval processes set out in the OMLUS. These instruments provide sufficient and appropriate control to ensure orderly development, protection of adjoining properties, and consistency with the surrounding built form.



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The continued application of Conditions E.4(a) and E.4(d) results in development controls that are inconsistent with the current zoning and duplicate or conflict with municipal regulations. As a consequence, the subject property is subject to more onerous restrictions than similarly zoned properties within the immediate area.

The rationale for the proposed removal

Condition E.4(a), which prohibits the subdivision of the property, was imposed at the time of township establishment to retain a specific erf configuration and to support the original development vision for Fisherhaven. However, current municipal planning legislation provides a clear and comprehensive framework to assess subdivision applications on their individual merits, taking into account factors such as minimum erf size, access, service capacity, and spatial planning objectives.

The absolute prohibition on subdivision is therefore no longer necessary and unduly restricts the future development potential of the property. The removal of this condition will not result in an automatic right to subdivide but will allow any future subdivision proposal to be considered in accordance with the applicable municipal policies and approval processes.

Condition E.4(d) prescribes building lines and setback requirements that predate and are more restrictive than those contained in the Overstrand Municipality Land Use Management Scheme. The Scheme provides updated and context-sensitive development parameters that are applied uniformly across similarly zoned properties and are better aligned with contemporary planning standards.

The continued enforcement of Condition E.4(d) is therefore redundant and results in unnecessary limitations on building placement and design flexibility. The removal of this condition will ensure that development on the subject property is regulated solely by the applicable zoning scheme, thereby promoting consistency, fairness, and alignment with the current statutory planning framework.

The removal of Conditions E.4(a) and E.4(d) will not confer additional development rights beyond those already permitted under the existing zoning. Instead, it will remove outdated and redundant restrictions, enable reasonable development in line with current legislation, and support orderly and sustainable land use management.

In terms of the requirements of LUPA, the table below addressed the removal of the restrictive title deed conditions in terms of Section 39(5)(a-f):

LUPA, Section 39(5) (a-f)		
(a)	<i>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;</i>	No person or entity will be affected financially by the removal of these restrictive title deed conditions.
(b)	<i>the personal benefits which accrue to the holder of rights in terms of the restrictive condition;</i>	No person is personally benefitting from these conditions as it is only restricting the owners.
(c)	<i>the personal benefits which will accrue to the person seeking the removal, suspension or amendment of the</i>	The owners will benefit from the removal of the restrictive conditions, as it will allow

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	<i>restrictive condition if it is removed, suspended or amended;</i>	them to utilise the property in accordance with the current zoning.
(d)	<i>the social benefit of the restrictive condition remaining in place in its existing form;</i>	The restrictive conditions do not provide social benefits.
(e)	<i>the social benefit of the removal, suspension or amendment of the restrictive condition; and</i>	
(f)	<i>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.</i>	There is no specific beneficiary of these conditions, and no person or entity will be affected if this is removed.

4. PLANNING ASSESSMENT**4.1. ZONING**

The subject property is zoned Residential Zone 1: Single Residential in terms of the OMLUS. If approved, the property will be developed and utilised as a standard single residential property, in full compliance with the land use rights and development parameters applicable to this zoning category.

4.2. ENGINEERING SERVICES

The availability of municipal services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is addressed below. The subject property is connected to existing municipal service networks in the area, including electricity, water, and sewerage. The proposal does not introduce any additional development rights or intensity of use and is therefore not anticipated to place any additional demand on existing municipal services.

Access, Egress and Parking

Access to and egress from the property will be obtained from either Riverside Street or Broadway Street.

4.3. POLICIES AND REGULATIONS**4.3.1. Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)**

The subject property is located within an Environmental Management Overlay Zone (EMOZ), specifically the Coastal Protection EMOZ. Although the property falls within this Environmental Protective Overlay Zone, the proposal is limited to the utilisation of the property in accordance with its existing zoning and land use rights.

No development is proposed within environmentally sensitive or undeveloped areas, and the proposal will not result in any encroachment beyond the established extent of lawful development. The proposed use is therefore not expected to compromise the environmental integrity, function, or objectives of the EMOZ, and remains consistent with the intent of the overlay to protect sensitive coastal environments while allowing appropriate and controlled development.



4.3.2. Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

A portion of the subject property is located within the Landscapes of Very High Natural, Scenic and Heritage Significance Overlay Zone (HPOZ). The purpose of this overlay is to ensure that land use and development proposals resulting in additional rights are compatible with the existing landscape character and contextual significance of the area.

In this regard, the objectives of the Landscapes HPOZ include the following:

- To protect and enhance landscapes identified as having high natural, scenic and heritage significance that contribute to the character, sense of place, and economic base of the Overstrand.
- To promote the cultural, tourism, environmental, and amenity potential of landscapes of significance within the Overstrand area.

The proposed removal of the restrictive title deed conditions will not in itself result in additional development rights or physical alterations to the landscape. Any future development of the property will remain subject to the applicable zoning provisions, overlay zone requirements, and municipal development controls. The proposal is therefore not expected to have a negative impact on the Landscapes HPOZ or undermine the objectives of the overlay.

4.3.3. Spatial Planning Policies

This proposal is not in conflict with any provisions of the Western Cape Provincial Spatial Development Framework, 2014 or the Overstrand Municipality Spatial Development Framework, 2020.

4.4. PLANNING PRINCIPLES

Chapter 2 of Spatial Planning and Land Use Management Act establishes development principles that must be applied to all land use and development applications. These principles provide the normative framework for evaluating proposals and guide decision making to promote spatial justice, sustainability, efficiency, resilience, and sound administration. The principles relevant to the proposed removal of restrictive title deed conditions are addressed below:

Spatial justice

The principle of spatial justice seeks to ensure fair and equitable access to land use rights and opportunities, while avoiding the perpetuation of historical spatial distortions and exclusionary practices.

The continued enforcement of outdated restrictive title deed conditions places an unreasonable limitation on the lawful development of the subject property and results in unequal treatment when compared to similarly zoned properties within the surrounding area. The removal of these conditions will ensure that the property may be utilised in accordance with its zoning and prevailing planning framework, thereby promoting equitable access to development rights without conferring preferential treatment or additional rights beyond those permitted under current legislation.

Spatial sustainability and Efficiency

Spatial sustainability and efficiency require that land development optimises the use of existing resources and infrastructure, supports orderly development patterns, and avoids unnecessary constraints on reasonable land use.



MOTIVATION

The proposal enables development in accordance with the existing Residential Zone 1 zoning and does not introduce new land uses or intensification beyond what is already permitted. The property is located within an established residential area that is adequately serviced by existing municipal infrastructure. The removal of the restrictive conditions will therefore support efficient land utilisation, reduce regulatory duplication, and ensure alignment between zoning provisions and land use controls, without compromising environmental or service capacity considerations.

Spatial resilience

Spatial resilience promotes flexible and adaptable land use systems that are responsive to changing social, economic, and environmental conditions over time.

The restrictive title deed conditions impose rigid and prescriptive requirements that no longer reflect the current or future needs of the area. Their removal will introduce appropriate flexibility by allowing the property to respond to changing circumstances, including potential future subdivision or development proposals, subject to the applicable municipal approval processes. This approach supports long term adaptability while maintaining regulatory oversight through the existing planning framework.

Good administration

The principle of good administration requires that land use management systems be transparent, consistent, efficient, and based on clear and up to date regulatory instruments.

The continued application of restrictive title deed conditions that duplicate or conflict with current zoning and scheme provisions undermines administrative efficiency and regulatory clarity. The removal of these conditions will ensure that development is governed solely by the applicable statutory planning instruments, thereby promoting consistency, reducing unnecessary complexity, and supporting sound and efficient decision making in line with contemporary land use management practices.

5. NEED AND DESIRABILITY

The need and desirability of the approval and implementation of this proposal in accordance with Section 66(1)(c) of the OM By-Law is outlined in the table below:

Socio-economic impact	The proposed removal of the restrictive title deed conditions will enable the reasonable utilisation of the subject property in accordance with its existing zoning and land use rights. The proposal will not result in additional land use rights or intensification beyond what is permitted in terms of the Overstrand Municipality Land Use Management Scheme. As such, no adverse socio-economic impacts are anticipated. On the contrary, the proposal supports orderly development, investment certainty, and the long-term sustainability of the residential area.
Compatibility with surrounding uses	The subject property is located within an established residential neighbourhood characterised predominantly by single residential development. The proposed use of the property as a single residential dwelling is fully compatible with the surrounding land uses and zoning pattern. The removal of the restrictive conditions will align the development potential of the property with that of neighbouring erven and will not result in land use conflicts or changes to the established character of the area.



MOTIVATION

Impact on the external engineering services	The proposal does not introduce additional development rights or increased density beyond that permitted under the current zoning. The anticipated development can be adequately accommodated by existing municipal engineering services, including water supply, sanitation, electricity, and stormwater infrastructure. No upgrading of external engineering services is required as a result of the proposal.
Impact on safety, health and wellbeing of the surrounding community	The proposed development will be subject to compliance with all applicable building regulations, municipal standards, and land use controls. The removal of the restrictive title deed conditions will not give rise to activities that may negatively affect the safety, health, or wellbeing of the surrounding community. The proposal is therefore not expected to result in any adverse impacts in this regard.
Impact on heritage	The proposal relates solely to the removal of restrictive title deed conditions and does not entail physical development or alterations to structures of heritage significance. No heritage resources are affected by the proposal, and any future development will remain subject to the applicable heritage legislation and approval processes, where required.
Impact on the biophysical environment	The proposal does not involve development within environmentally sensitive areas and will not result in physical alterations to the natural environment. Any future development will be regulated by the applicable zoning provisions and overlay zone controls.
Traffic impacts, parking, access and other transport related considerations	The proposed removal of the restrictive title deed conditions will not result in increased traffic generation or parking demand beyond that associated with a standard single residential dwelling. Existing access arrangements to the property are adequate and compliant with municipal requirements. The proposal is therefore not expected to have any material impact on traffic conditions, parking availability, or the surrounding transport network.

Impact on views, sunlight and character of the area

The proposed removal of the restrictive title deed conditions will not in itself result in physical development or alterations to the built form. Any future development of the subject property will be undertaken in accordance with the applicable development parameters, and municipal controls, including height restrictions, building lines, and coverage limitations as prescribed by the OMLUS.

The proposed development of a single residential dwelling is consistent with the prevailing development pattern and scale of the surrounding area, which is characterised by low density single residential properties. As such, no unreasonable obstruction of views or loss of access to sunlight is anticipated beyond what is ordinarily associated with lawful residential development.

The proposal will not result in a change to the established character of the area, nor will it introduce development that is out of scale or incompatible with the surrounding neighbourhood. The removal of the restrictive conditions will simply enable development in line with current planning controls and will not adversely affect the visual amenity or residential character of Fisherhaven.

Economic impact

The proposed removal of the restrictive title deed conditions will enable the lawful utilisation of the subject property in accordance with its existing zoning. The proposal is expected to have a neutral to positive economic impact by facilitating property improvement and



MOTIVATION

supporting investment certainty, without placing additional demands on municipal infrastructure or altering the residential character of the area.

Opportunity cost

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

6. CONCLUSION

This application seeks the removal of restrictive title deed Conditions E.(a), E.(b), and E.(d) imposed at the time of the establishment of Fisherhaven Township. These conditions restrict subdivision, require development exclusively in the form of residential flats, and impose building line requirements that are more restrictive than those contained in the Overstrand Municipality Land Use Management Scheme. The continued enforcement of these conditions is no longer aligned with the current zoning, planning framework, or established development pattern of the area.

The subject property is zoned Residential Zone 1: Single Residential and is located within an established low density residential neighbourhood that has developed in accordance with this zoning. The proposal does not seek to introduce additional land use rights or intensification, but rather to remove outdated and redundant restrictions so that the property may be developed and regulated solely in terms of the prevailing statutory planning instruments. All relevant planning considerations, including environmental overlays, heritage, infrastructure capacity, traffic, visual amenity, neighbourhood character, and socio-economic impacts, have been assessed and no adverse impacts are anticipated.

The application has been evaluated against the applicable principles of SPLUMA and has been shown to promote spatial justice, sustainability, efficiency, resilience, and good administration. The removal of the restrictive title deed conditions will ensure consistency with current municipal policy, support orderly and sustainable land use management, and enable reasonable development of the property in the public interest.

7. RECOMMENDATION

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

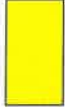
- **Removal of restrictive title deed conditions** in terms of Section 16(2)(f) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020.

Plan 2: Zoning Plan

Erf 33 Fisherhaven



Transport Zone 2: Road and Parking



Residential Zone 1: Single Residential



Open Space Zone 2: Public Open Space

Plan prepared by: Thian Jansen

All distances are approximate
and subject to a survey

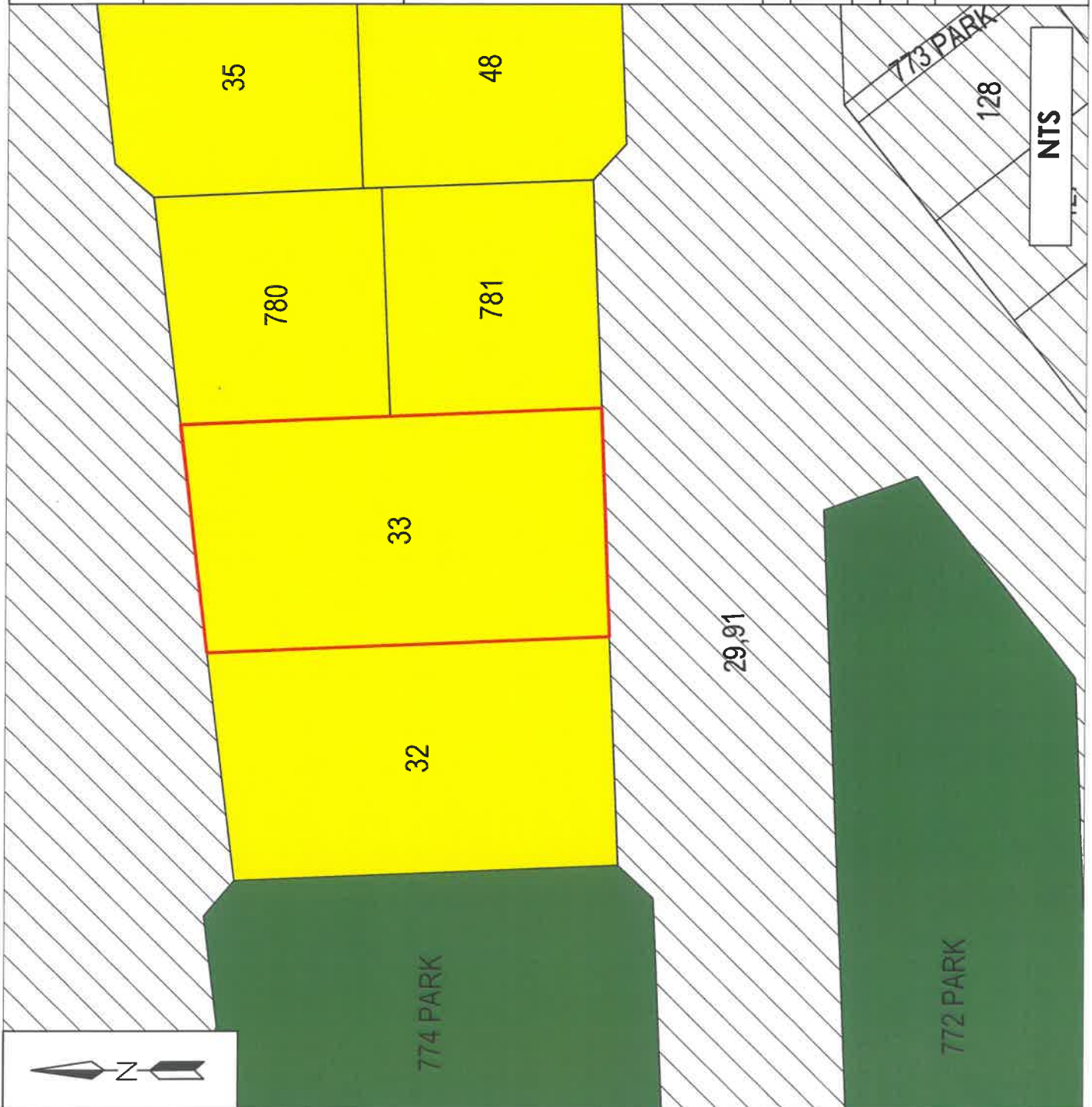
Tel: 028 313 1411

Email: admin@wrapgroup.co.za

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



Project Office
Town Planning & Project Management



320

Van Wyk Van Heerden Attorneys
 296 Main Road
 Paarl
 7646

Prepared by me

CONVEYANCER

BIANCA VIDETTE ESMERALDO (43445)

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 2 700 000,00	R. 2 281,00
Reason for exemption	Category Exemption	Exemption i t o. Sec/Reg..... Act/Proc.....

T000014163 / 2026

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

Carla Batt LPCM 86715

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



VUCA PROOF ADVISORY AND INVESTMENT SERVICES (PTY) LTD
 Registration number 2018/634745/07

which said Power of Attorney was signed at WELLINGTON on 11 FEBRUARY
 2026

And the appearer declared that his/her said principal had, on 28 January 2026, truly and legally sold by Private Treaty, and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

JURDEN SCHUURMAN
Identity Number 561028 5029 08 9
Unmarried

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

ERF 33 FISHERHAVEN
IN THE OVERSTRAND MUNICIPALITY
DIVISION CALEDON
IN THE PROVINCE OF THE WESTERN CAPE

IN EXTENT 1774 (ONE THOUSAND SEVEN HUNDRED AND SEVENTY FOUR) Square metres

FIRST TRANSFERRED by Deed of Transfer Number T 11717/1975 with Diagram SG No. 1321/1975 relating thereto and held by Deed of Transfer Number T25496/2025

- A. **SUBJECT to the conditions referred to in Deed of Transfer Number T5659/1959.**
- B. **SUBJECT FURTHER to the conditions mentioned in Deed of Partition Transfer Number T8000/1931, in favour of Josias Servaas Delport, that Petrus Johannes Delport and his successors in title of the property called ROOI SAND, part of AFDAKS RIVIER, transferred to him by Deed of Transfer Number T7998/1931, shall have the right of trekking with his sheep twelve times a year over the property hereby transferred at a spot to be indicated by the said Transferee and his aforesaid.**
- C. **SUBJECT to the following conditions contained in Certificate of Uniform Title Number T5659/1959 namely:**
- "a.
- b. **To the right to take land and remove materials for making and repairing public roads."**
- D. **SUBJECT FURTHER to the conditions referred to in the Endorsement dated 11 May 1970, on said Deed of Transfer Number T11975/1967, which endorsement reads as follows :**

"Registration of Servitude

Page 3

The within described land is subject to a servitude with regard to apportionment of water in terms of an Order of the Water Court (Water Court District Number 11/64) dated 1 February 1965, as will more fully appear on reference to the copy of the said Order annexed to Deed of Transfer Number T11190/60."

E SUBJECT FURTHER to the special conditions contained in Deed of Transfer Number T11717/1975 imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 of 1934 when approving of the establishment of Fisherhaven Township, namely

1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Administration Notice Number 401 dated 17 October 1935, and in the Memorandum which accompanied the said regulations.
2. The owner of this erf shall, without compensation, be obliged to allow electricity and water mains and the sewage and drainage including stormwater of any other erf or erven within or without this township to be conveyed across this erf, if deemed necessary by the Local Authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.
3. The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf as may be required to allow use of the width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the Local Authority.
4. The erf shall be subject to the following further conditions, provided especially that where in the opinion of the Administrator after consultation with the Township Board and the Local Authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation, subject to compliance with such conditions as he may impose :

(a) It shall not be subdivided

(b) It shall be used only for the purpose of erecting thereon a building designed for use as residential flats together with such outbuildings as are ordinarily required to be used therewith;

Page 4

(c) not more than half the area thereof shall be built upon;

(d) no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary common to any adjoining erf, provided that with the consent of the Local Authority, an outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate may be erected within the above prescribed rear space and within the above prescribed lateral space for a distance of 9,45 metres reckoned from the rear boundary. On consolidation of any two or more erven, this condition shall apply to the consolidated area as one erf;

(e) in the event of the provision of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above, then the provisions of such scheme shall apply.

F FURTHER SUBJECT to the condition in Deed of Transfer Number T11717/1975, imposed by the Transferor Company therein, namely Lake Marina Properties (Proprietary) Limited, in its favour as owner of the remainder of Fisherhaven Township, and its successors in title, and held by it by said Deed of Transfer Number T11975/1967, namely :

"No buildings shall be placed on the land hereby sold until the plans and locations of the buildings have been submitted and approved by both the Company and the Local Authority."

In the abovementioned condition the expression "the Company" shall mean Lake Marina Properties (Proprietary) Limited and its successors in title."

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

VUCA PROOF ADVISORY AND INVESTMENT SERVICES (PTY) LTD
Registration number 2018/634745/07

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

JURDEN SCHUURMAN, Unmarried



his Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R2 700 000,00 (TWO MILLION SEVEN HUNDRED THOUSAND RAND) .

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

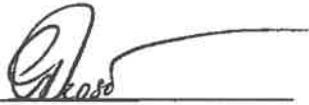
THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS:
WESTERN CAPE at CAPE TOWN on

2026 -03- 11



q.q.

In my presence



REGISTRAR OF DEEDS



274

Annexure E 1/2
TP-A Theart
(H Olivier)



Project Office

Town Planning & Project Management

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
25 MAY 2026
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Our Reference: 26/09
Your Reference: 33 HFH 5188/2026

25 May 2026

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

FILE NO. Erf 33- HFH
SCAN NO.
COLLABORATOR NO.
3060568

Sir

APPLICATION FOR REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION ON ERF 33 FISHERHAVEN

Your email dated 20 May 2026, refers.

Comments and objections were received from:

Antony Berrill

RESPONSE

The objection and supporting comments submitted by Mr Antony Berrill are acknowledged and appreciated. It is noted that support is provided for the removal of Conditions 4(a) and 4(b), with the objection being limited to the proposed removal of Condition 4(d), relating to the restrictive building lines contained within the title deed.

The concern raised is understood to relate primarily to the potential impact that the removal of the restrictive building line condition may have on the established character, spatial form, and visual appearance of Fisherhaven. In this regard, it is important to note that the application does not seek approval for any specific encroachment into building lines, nor does it seek approval of building plans through the present process. The purpose of the application is to remove outdated title deed restrictions that duplicate and conflict with the current statutory planning framework contained within the Overstrand Municipality Land Use Management Scheme.

Project Planning | Project Feasibility | Land Use Applications | Project Execution Management | Liquor Licensing

Office 3, Oakwood,
10 Dirkie Uys Street, Hermanus

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Private Bag X16, Hermanus, 7200

Tel: +27 (0)28 313 1411
Email: admin@wrapgroup.co.za
Web: www.wrapgroup.co.za

20 YEARS

WRAP Group Established 2002

Use Management Scheme already prescribes building lines, coverage, height, and other development controls applicable to Residential Zone 1 properties, and these controls are specifically intended to regulate development in a manner that protects adjoining properties and maintains neighbourhood character. The removal of the restrictive title deed condition will therefore not result in unrestricted development rights or the automatic relaxation of building lines.

Furthermore, while the restrictive title deed condition may historically have contributed to the original development form of Fisherhaven, the municipality has since adopted comprehensive statutory planning controls that now fulfil this regulatory function. The continued retention of additional restrictive title deed building lines results in duplication and places the subject property under more onerous restrictions than those applicable in terms of the current municipal planning framework.

It is also important to note that any future development proposal or building plan that may seek departures from applicable municipal development parameters would remain subject to separate municipal approval processes, including additional public participation where required by legislation. Adjacent property owners would therefore retain the opportunity to comment on any future proposal should such approvals become necessary.

The objection is therefore respectfully noted, but it is however submitted that sufficient planning controls remain in place to ensure orderly and contextually appropriate development of the property. The proposed removal of Condition 4(d) is considered justified, reasonable, and consistent with the motivations contained in this application. Approval of the application is accordingly still recommended.

Yours faithfully



T JANSEN

PROFESSIONAL TOWN PLANNER (A/2858/2019)



DIRECTORATE: PLANNING & DEVELOPMENT
TOWN & SPATIAL PLANNING (16 Paterson Street / PO Box 20 HERMANUS, 7200 / Tel: 028 313 8900)
LAND USE PLANNING APPLICATION RESPONSE FORM
 E-mail address: landuse@overstrand.gov.za

APPLICATION DETAILS

Application erf number:

Erf 780 Fisherhaven

APP ID:

How did you receive notice of the application?

Site notice board

STATE YOUR INTEREST IN THE APPLICATION:

We are the adjacent neighbour



TICK RELEVANT BOX

OBJECTION



COMMENT

SUPPORT



REASONS FOR OBJECTION / COMMENT / SUPPORT:

SUPPORT:

We support the removal of restrictive conditions 4 (a) & 4 (b)

OBJECT:

We object to the removal of restrictive conditions 4 (d) for the following reasons

Condition 4 (d) relates to building lines, and this restrictive condition is present in all title deeds in the area. Fisherhaven has therefore developed in the way it has due to these building lines.

The applicants property is therefore not onerously affected by such and the lifting of such, and the reliance on lesser local authorities building lines potentially may have an onerous result on the neighbours property, and the look and feel of the area.

We are cognisant that this objection may delay the process, which is not our intention as we encourage the owner to develop their site, however for the removal / relaxation of building line restrictions, we would require sight of the plans before commenting.

As stated before, whilst this is effectively an objection, we totally support and encourage the development of the site and you are welcome to contact the writer who will assist wherever possible to facilitate a positive outcome for both parties.

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

PERSONAL INFORMATION (To be completed in full – Compulsory)

Name & surname (PRINT)

Antony Berrill

Your erf number:

790

Company/Trust details:

Lisant Trust T 2884/94

Postal address:

28 Avenue Alexandra; Fresnaye; 8005

Contact details:

Cell: **083 461 5174**

E-mail address: **berrill@me.com**

Signature:

Date:

14/4/2026

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

**COMMENTS FROM THE PROJECT MANAGEMENT DIVISION FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS:
ERF 33, FISHERHAVEN (5188/2026)**

Stormwater (SW)	:	Refer to conditions
Electricity	:	Eskom Area
Water	:	Refer to conditions
Sewer	:	Refer to conditions
Roads and traffic	:	Refer to conditions

Conditions:

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



**RICARDO ANDREW
PRINCIPAL TECHNOLOGIST:
DEVELOPMENT CONTROL**

07/05/2026
DATE

TPA-EMS-260525-03

Town Planning Application on 25-05-2026

Generated on Unit by Heloise Fortune on 25-05-2026



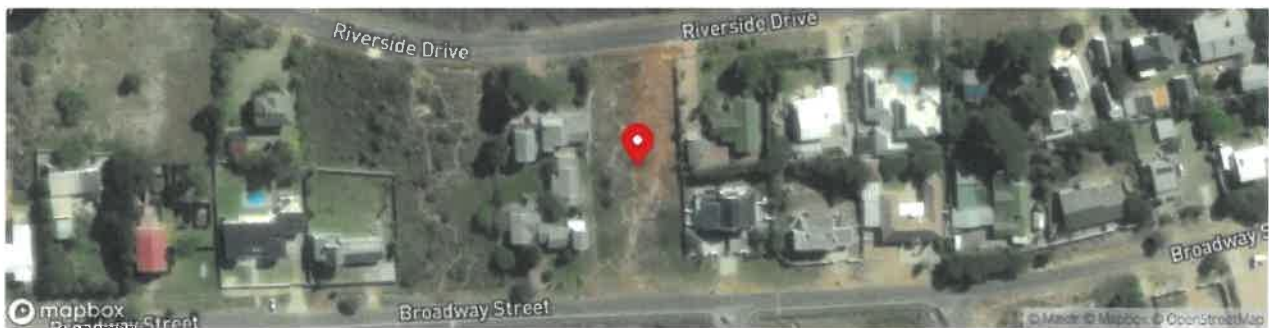
Basic Information

Captured Reference	25-05-2026 13:17	Call Time	25-05-2026 13:17	Captured By	Heloise Fortune
District	TPA-EMS-260525-03			Office	EMS
	Overberg District Municipality			Status	Open
Municipality	Overstrand Local Municipality				

Description

REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS - ERF 33, 46 BROADWAY, FISHERHAVEN

Geographical Information



46 Broadway Road, Fisherhaven, South Africa (-34.3574; 19.1262)

Application Details

File Reference	FILE REF: 33 HFH APP ID: 5188/2026 LI
Applicant	WRAP PROJECT OFFICE ON BEHALF OF JURDEN SCHUURMAN
Property Details	ERF 33, 46 BROADWAY, FISHERHAVEN

Application Comments

This office has no objection to this application. It should be noted that the development of new land parcels may require Environmental Authorisation from the Western Cape Department of Environmental Affairs and Development Planning should any listed activities in terms of the applicable NEMA EIA Regulations be triggered.

Closing Comments

Heloise Fortune



25 May 2025

Name and Surname

Signature

Date



280

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
08 APR 2026
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Annexure I 1/4

TP- A Theart
(H Olivier)

1 Platinum CT
Block A
Marconi Beam
Milnerton
7441

Gideon Rossouw

Cell: 0614193857

Email: wayleaveswr@telkom.co.za

OUR REF : WWIP_WHWS1183_26
YOUR REF : 5188/2026

08 April 2026

Attention: Loriaan Isaacs
Overstrand Municipality

Dear Sir /Madam

FILE NO. Erf 33- HFH
SCAN NO.
COLLABORATOR NO. 3020887

SERVICES AFFECTED

APPLICATION FOR WAYLEAVE : Removal of restrictive title deed conditions - Erf 33, 46 Broadway, Fisherhaven

The approval wayleave letter also serves as the permit.

With reference to your application dated 02 April 2026

As important cables are affected, please contact our representative Melt van As telephone number 0813637873/MeltVA@openserve.co.za at least 48 hours prior of commencement on construction work.

I hereby inform you that Openserve approves the proposed work indicated on your drawing in principle. This approval is valid for 06 months only, after which reapplication must be made if the work has not been completed.

61 Oak Avenue, Highveld, Techno Park, Centurion 0157,
Private Bag X881, Pretoria, Gauteng, 0001

TP 08 APR 2026

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

Approval is granted, subject to the following conditions.

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

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

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

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

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

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

All Openserve rights remain reserved.

Yours faithfully



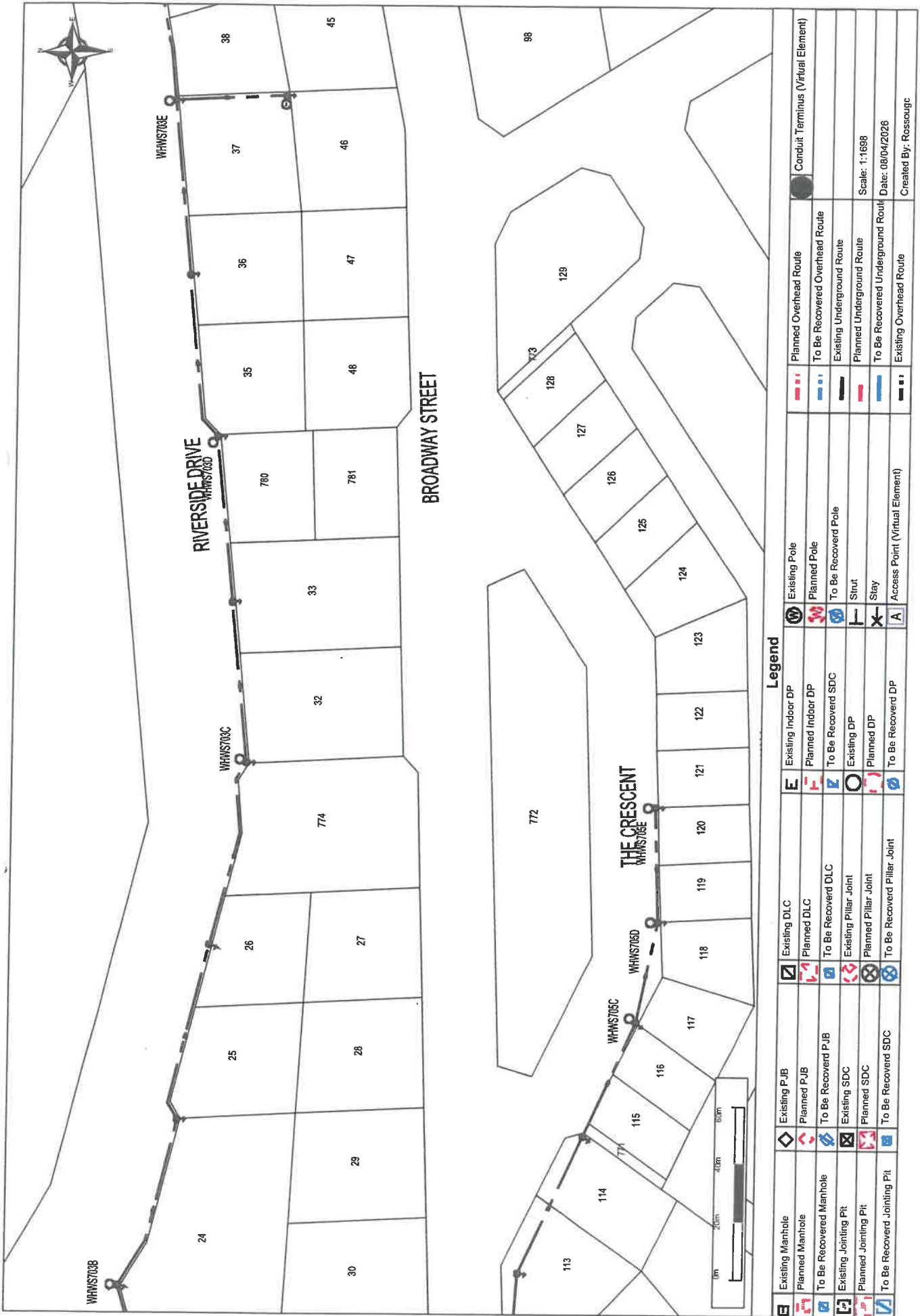
Gideon Rossouw

FOR

Selwyn Bowers

Operations Manager

Wayleave Management: Western Region



Scale: 1:1698

Date: 08/04/2026

Created By: Rossougc

PLANT AFFECTED : FIBRE AND COPPER

This wayleave, Reference Number **WWIP_WHWS1183_26** valid for 06 months from date here of and is subject to the following conditions:

1. No mechanical plant or vibrator type compactors may be used within three metres of any Openserve plant (I.E. any Telecommunication equipment above or below ground level).
2. The position of our plant affected by the proposal is indicated as approximate and **Melt van As/0813637873/MeltVA@openserve.co.za** must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of Openserve Plant will be indicated on site.
3. A written request must be submitted to Openserve for consideration should the applicant require our plant to be relocated. The cost of such relocation will be recoverable from the applicant.
4. It is the responsibility of the applicant to verify the existence of the indicated plant and to notify Openserve immediately should the applicant locate any Openserve plant which is not indicated on the plans.
5. Should the applicant expose any Openserve plant, the safeguard thereof will be the applicant's full responsibility.
6. Failing to comply with the above conditions or any special conditions addendum hereto will be regarded as gross negligence and the applicant will be held responsible for the damage or loss as a result thereof.

Date: 08 April 2026

By: Gideon Rossouw
For Regional General Manager

Legend	
1. Underground Pipe	
2. Underground Cable	
3. Manhole	
4. Street Distributio Cabinet (SDC)	
5. Jointing Pit / AJB	
6. Jointing Pillar (PJ)	
7. Pipe Junction Box (B/S)	
8. Robot Control	
9. Pole	
10. Stay	
11. Strut	
12. Aerial Cable (A/C)	
Optic Fibre indicated in PINK on the plan	

The pipeline indicated (in Pink) contains **OPTIC FIBRE** cables.



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1956 (GP)

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ESTABLISHMENT CONDITIONS

Annexure J 1/8

RE : FISHERHAVEN TOWNSHIP : CALEDON

Condition 6(c) has been amended to read : (c) an agreement of servitude the terms of which shall have been approved by the Administrator shall have been registered in favour of the Divisional Council in terms of which there is handed over to the Divisional Council, without payment of compensation, to hold in trust for such urban local Authority as may hereafter be constituted for this township.

1. This Township shall consist of the erven and public places shown on Plan No. P. A. 13/A/1/1-C subject to such amendments as are required ~~as a~~ required as a result of Condition No. 12 below.
2. The corners of the erven at the junctions of all streets exclusive of the pedestrian lanes designated as public places meeting at any angle less than 130° shall be splayed in such a manner that the base of the isosceles triangle cut off from the corner shall be tangential to a circle of not less than 25 feet radius having its centre at not less than that distance from the street boundaries of the erf. the part cut off to form portion of the street.
3. No erf shall be sold, transferred or built upon until the street on which such erf abuts has, in the opinion of the Local Authority, been cleared, graded and roughly formed to the extent necessary to give practicable vehicular access to such erf.
4. The owner shall pay to the Divisional Council of Caledon an amount equal to $7\frac{1}{2}\%$ of the amount on which transfer duty is payable in respect of the sale of each erf as an endowment for any urban local authority that may hereafter be established for the township provided that if there is a building on such erf at the date of sale then the amount on which $7\frac{1}{2}\%$ shall be payable as an endowment shall be such sum as the Administrator may determine to be the value of the erf.
5. No transfer of any erf shall be registered in the Deeds Registry unless there has been produced to the Registrar of Deeds, documentary evidence that endowment moneys payable in respect of that erf have been paid.
6. No erf shall be sold, transferred or built upon until :-
 - (a) the Administrator or his nominee shall have approved of a scheme (including the reticulation system) and the specifications of such scheme, for supplying the township with a piped water supply of not less than 200 gallons per erf per day at the rate of three gallons per minute, plus such quantity of water for local authority purposes as the Administrator may deem necessary ;
 - (b) a piped water supply in accordance with such scheme is available within not more than 50 feet of such erf ;
 - (c) (Condition (c) Amended, See opposite & P/S mem dd. 28/11/57 on file.)
the owner shall have entered into an agreement of servitude and registered it in favour of the Administrator in terms of which, without payment

/ of any.....

of any compensation, he hands over to the Divisional Council to hold in trust for such urban local authority as may hereafter be constituted for this township :-

- (i) the right to the quantity of water as set out in paragraph (a) above ;
- (ii) the headworks, reservoirs, pipes and all other appurtenances and things constructed by him (the owner) in accordance with the scheme referred to in paragraph (a) above ;
- (iii) the right to store water and construct the necessary impounding works ;
- (iv) the right of aqueduct from the intake to the township ;
- (v) the right of access to the pipeline servitude and the intake dam, etc., for inspection, construction and maintenance purposes ;

and in terms of which he agrees that he will maintain and administer the water supply and reticulation system referred to above until an urban local authority is established for this township or the Divisional Council takes over the maintenance and administration of such scheme after due notice in writing to the owner. The owner may during the period when the scheme is maintained and administered by him levy such charge on erfholders in respect of such service of maintenance and administration as may be approved by the Administrator.

- 7. It shall, if the owner so desires, be a condition of the agreement entered into in terms of paragraph (c) of Condition No. 6 above, that all water in excess of the quantity required in terms of paragraph (a) of Condition No. 6 shall remain the property of the owner who shall have the right to lead such excess water from the present or future headworks- reservoir by means of a conduit or pipe.
- 8. No transfer of any erf shall be registered until the Registrar of Deeds has been furnished with a certificate by the Divisional Council to the effect that :-
 - (a) the water supply system has been constructed in accordance with the scheme and specifications approved by the Administrator in terms of paragraph (a) of Condition No. 6 to the extent necessary to deliver at the boundaries of the township or if any distribution reservoir has to be provided in the township then to such reservoir, the total quantity of water required in terms of paragraph (a) of Condition No. 6 ;
 - (b) The distribution reservoirs, if any, and the reticulation pipes necessary to deliver in accordance

/ with.....

with paragraphs (a) and (b) of Condition No. 6 water to such erf, and to the erven already transferred, have been constructed and installed in accordance with the scheme and specifications approved by the Administrator in terms of paragraph (a) of Condition No. 6.

9. The extents of all corner residential erven shall be not less than 6,500 sq. ft. each and the extents of all other residential erven shall be not less than 6,000 sq. ft. each.
10. The General Plan of this township shall not be approved by the Surveyor General until the applicant has obtained title to all the land comprised in the layout as shown on Plan No. P.A. 13/A/1/1-c
11. The eastern boundary line of erven 750 and 751 must coincide with the western edge of the Main Road as proclaimed.
12. The following erven shall be reserved for the purposes stated :-
 - (a) Erf No. 136 for local authority purposes ;
 - (b) Erven Nos. 199, 488, 777 and 778 for local authority purposes to be used as Electricity Sub-Stations sites ;
 - (c) Erven No. 279 and 634 for Educational purposes ;
 - (d) Erven Nos. 135 and 382 for Government purposes ;
 - (e) Erven Nos. 750 to 775 as public places to be indicated as such on the General Plan ;
 - (f) Erf No. 776 for recreation and sporting purposes ; this erf should be indicated as a public place on the General Plan.
 - (g) Erf No. 749 as Commonage for the Local Authority ;
 - (h) Erf No. 376 for Railway purposes to be used in connection with Motor Transport Services.
13. The Conditions under the Heading "Conditions of Title" below shall apply to the respective erven as from the date of approval of the application and each erf shall be subject to existing conditions and servitudes.

CONDITIONS OF TITLE.

14. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them " by the regulations published under Provincial Administration Notice No. 401 dated 17th October, 1935, and in the memorandum which accompanied the said regulations.
15. The owner of this erf shall without compensation be obliged to allow electricity and water mains and the sewage and drainage including stormwater of any other erf or erven within or without this township to be conveyed across this erf, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order

/to.....

Re Reserved Erven. Cond. 12. For appointment of Trustees See P/S Minute AF17/1/1 dated 1/9/1959 in T'Slips File.

(4)

to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto,

16. The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build a retaining walls to the satisfaction of and within a period to be determined by the local authority.

17. Additional Conditions applying to Erven Nos. 1 to 12, 14 to 23, 25 to 31, 35 to 66, 68 to 114, 137 to 198, 200 to 278, 280 to 375, 377 to 381, 383 to 394, 396 to 487, 489 to 504, 506 to 633 635 to 728 and 730 to 748:

This erf shall be subject to the following further conditions, provided especially that where, in the opinion of the Administrator only, after consultation with the Townships Board and Local Authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation subject to compliance with such conditions as he may impose :-

- (a) it shall not be subdivided ;
- (b) it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith ;
- (c) not more than 30% of the area thereof shall be built upon ;
- (d) no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 15 feet to the street line which forms a boundary of this erf, nor within 10 feet of the rear or 5 feet of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority, an outbuilding not exceeding 10 feet in height, measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space. On consolidation of any two or more erven, this condition shall apply to the consolidated areas as one erf ;
- (e) in the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more stricitive than the provisions contained in the above, then the provisions of such scheme shall apply.

18. Additional Conditions applying to Erven Nos. 67 and 115 to 128:

Same as preamble of Condition No. 17 :-

- (a) It shall not be subdivided ;
- (b) it shall be used for shop purposes only ;
- (c) not more than two-thirds of the area thereof shall be built upon ;

/(d).....

- (d) no building or structure or any portion thereof except boundary walls, fences, verandahs and balconies shall be nearer than $7\frac{1}{2}$ feet to the street line which forms a boundary of this erf ;

- (e) Same as Condition No. 17(e)

19. Additional Conditions applying to Erf No. 129

Same as preamble of Condition No. 17 :-

- (a) it shall not be subdivided ;
- (b) it shall be used for the purpose of erecting thereon a garage and/or service station ;
- (c) not more than two-thirds of the area thereof shall be built upon ;
- (d) same as Condition No. 18(d)
- (e) same as Condition No. 17(e)

20. Additional Conditions applying to Erf No. 729

Same as preamble of Condition No. 17 :-

- (a) it shall not be subdivided ;
- (b) it shall be used for the purpose of erecting thereon a service station only ;
- (c) not more than two-thirds of the area thereof shall be built upon ;
- (d) same as Condition No. 18 (d)
- (e) same as Condition No. 17 (e)

21. Additional conditions applying to Erven Nos. 395 and 505

Same as preamble of Condition No. 17:

- (a) it shall not be subdivided :
- (b) it shall not be used except only for the purpose of erecting thereon a place of assembly together with such outbuildings as are ordinarily required to be used therewith ;
- (c) not more than one-third of the area thereof shall be built upon ;
- (d) no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 30 feet from any boundary ;
- (e) same as Condition No. 17(e)

22. Additional Conditions applying to Erf No. 13.

Same as preamble of Condition No. 17

- (a) it shall not be subdivided ;

/(b).....

- (b) it shall be used only for the purpose of erecting thereon one hotel, together with such outbuildings as are ordinarily required to be used therewith ;
- (c) not more than one half the area thereof shall be built on;
- (d) no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 25 feet to the street line which forms a boundary of this erf.
- (e) same as Condition No. 17(e)

23. Additional Conditions applying to Erven Nos. 32 to 34 & 131 to 134

Same as preamble of Condition No. 17:-

- (a) it shall not be subdivided ;
- (b) it shall be used only for the purpose of erecting thereon a building designed for use as residential flats, together with such outbuildings as are ordinarily required to be used therewith ;
- (c) not more than half the area thereof shall be built upon ;
- (d) no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 20 feet to the street line which forms a boundary of this erf, nor within 10 feet of the lateral or rear boundary common to any adjoining erf; provided that with the consent of the local authority an outbuilding not exceeding 10 feet in height measured from the floor to the wall plate may be erected within the above prescribed rear space within the above prescribed lateral space for a distance of 30 feet reckoned from the rear boundary. On consolidation of any two or more erven, this condition shall apply to the consolidated area as one erf ;
- (e) same as Condition No. 17(e)

24. Additional Conditions applying to Erf No. 130

Same as preamble of Condition No. 17 ;-

- (a) it shall not be subdivided ;
- (b) it shall be used only for the purpose of erecting thereon a building designed for use as a cinema or theatre provided that this shall not be deemed to preclude the provision of shop premises in the same building ;
- (c) not more than 50% of the area thereof shall be built upon ;
- (d) no building or structure or any portion thereof except boundary walls, fences and verandahs shall be erected nearer than $7\frac{1}{2}$ feet to the street line which forms a boundary of this erf ;
- (e) same as Condition No. 17 (e)

25. Additional Conditions applying to Erf No. 24

Same as preamble of Condition No. 17 :-

- (a) it shall not be subdivided ;
- (b) it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith, provided that this shall not be deemed to prevent the erection of a private sporting club house ;
- (c) not more than 30% of the area thereof shall be built on ;
- (d) no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 15 feet to the street line which forms a boundary of this erf, nor within 10 feet of the rear or 5 feet of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority an outbuilding not exceeding 10 feet in height, measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space;
- (e) same as Condition No. 17(e).

26. Additional Conditions applying to Erven Nos. 135, 376 and 382.

Same as preamble to Condition No. 17 :-

- (a) it shall not be subdivided ;
- (b) it shall be used for Government purposes only ;
- (c) no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 15 feet to the street line which forms a boundary of this erf.

27. Additional Conditions applying to Erf No. 136:

Same as preamble of Condition No. 17 :-

- (a) it shall not subdivided ;
- (b) Same as condition No. 25(c)

28. Additional Conditions applying to Erven Nos. 279 and 634

Same as preamble of Condition No. 17 :-

- (a) no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 25 feet to the street line which forms a boundary of this erf.

29. Additional Conditions applying to Erven Nos. 199, 488, 777 & 778

Same as preamble of Condition No. 17

- (a) it shall not be subdivided;
- (b) it shall be used only for the erection of buildings or structures in connection with the supply of electricity.
- (c) same as Condition No. 25(b)

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8/8

BQ 1826.

AAN : MIKRO - SEKSIE

·(HIERDIE BLADSY MOET NIE VERFILM WORD NIE)

N.B. NADAT DIE AANGEHEGTE AKTE DEUR
MIKRO SEKSIE FINAAL NAGESIEN IS,
MOET HIERDIE AANGEHEGTE AKTE DEUR
DIE TOESIGHOUER VERNIETIG WORD.

A F L E W E R I N G : Indien hierdie afskrif in n Akte
of omslag is moet dit nie aflewer nie
maar stuur terug na Mikroseksie.