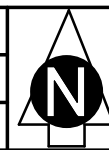
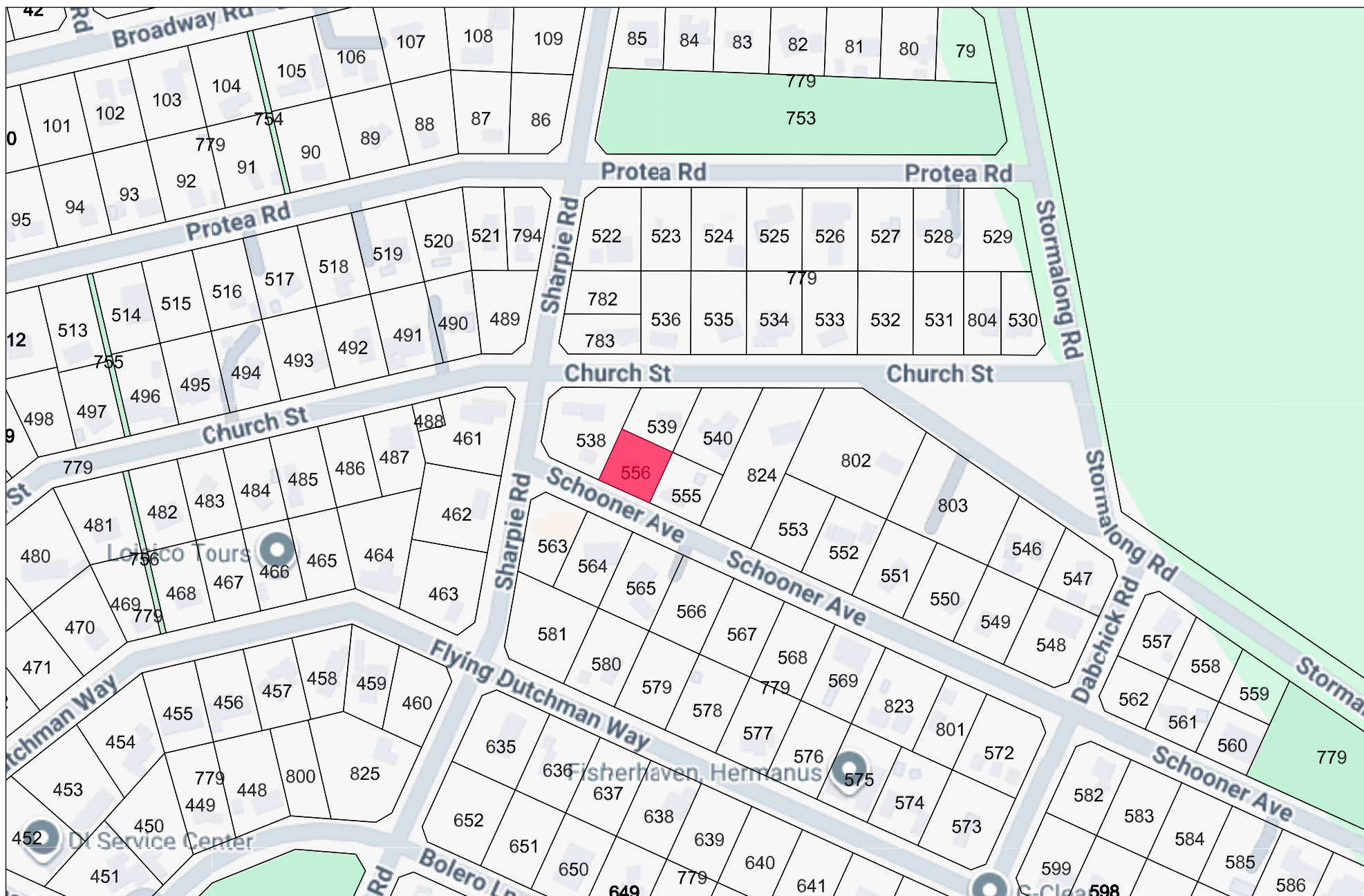




OVERSTRAND MUNICIPALITY	OVERSTRAND MUNISIPALITEIT	UMASIPALA WASE-OVERSTRAND
<u>ERF 556, 54 SCHOONER AVENUE, FISHERHAVEN: APPLICATION FOR REMOVAL AND AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF E WOKE</u> Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), of the following applications applicable to Erf 556, Fisherhaven (the property), namely: <u>Removal and Amendment of Restrictive Title Deed Conditions</u> Application in terms of Section 16(2)(f) of the By-Law for the removal of a restrictive title deed condition E.4.(b) and amendment of conditions E.4.(c) and E.4.(d) as contained in Title Deed T48804/2019 of the property, to accommodate a second dwelling and future development of the property. <u>Determination of an Administrative Penalty</u> Application in terms of Section 16(2)(q) of the By-Law to legalize the unauthorised use changes of the garages into habitable space. Full details regarding the proposals above are available for inspection during weekdays between 08:00 and 16:30 at the Division: Town and Spatial Planning, 16 Paterson Street, Hermanus and on the municipal webpage at the following link https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/ Any comments must be in writing and reach the Municipality (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) on or before 21 August 2026, with your name, address, contact details, interest in the application and the reasons for comment. Telephonic inquiries can be made to the Town Planner, Mr. H. Olivier at 028-3138900. The Municipality may refuse to accept comments after the closing date. Any person who cannot read or write can visit the Division: Town and Spatial Planning where they will be assisted by a municipal official in formulating their comments. 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.	<u>ERF 556, SCHOONERLAAN 54, FISHERHAVEN : AANSOEK OM OPHEFFING EN WYSIGING VAN BEPERKENDE TITELAKTEVOORWAARDES EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: PLAN ACTIVE STADS- EN STREEKBEPLANNERS NAMENS E WOKE</u> Kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die onderstaande aansoeke van toepassing op Erf 556, Fisherhaven (die eiendom), naamlik: <u>Opheffing en Wysiging van Beperkende Titelaktevoorwaardes</u> Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van 'n beperkende titelaktevoorwaarde E.4.(b) en wysiging van voorwaardes E.4.(c) en E.4.(d) soos vervat in Titelakte T48804/2019 van die eiendom, om 'n tweede wooneenheid te akkommodeer en toekomstige ontwikkeling van die eiendom. <u>Bepaling van 'n Administratiewe Boete</u> Aansoek ingevolge Artikel 16(2)(q) van die Verordening om die ongemagtigde gebruikveranderinge van die motorhuise in bewoonbare area, te wettig. Besonderhede aangaande die voorstel lê ter insae gedurende weksdae tussen 08:00 en 16:30 by die Afdeling: Stads- en Streekbeplanning te Patersonstraat 16, Hermanus en op die munisipale webtuiste by die volgende skakel https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/ Enige kommentaar moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (e) landuse@overstrand.gov.za) voor of op 21 Augustus 2026, met u naam, adres, kontak besonderhede, belang in die aansoek en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die Stadsbeplanner, Mnr. H. Olivier by 028-3138900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Afdeling: Stads- en Streekbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer. U aandag word gevestig op die Bepalinge van die "POPI" Wet, en aangesien u opmerking deel sal uitmaak van 'n openbare deelname proses, u derhalwe toestem dat u naam, van en kontakbesonderhede openbaar gemaak mag word.	<u>ISIZA ESINGU-ERF 556, 54 SCHOONER AVENUE, FISHERHAVEN: ISICELO SOKUSHENXISA NOKUHLLOMELA IIMEKO EZIYIMIQOBO KWIITAYITILE ZOBUNINI NENGQIKELELO YOMDLIWO WOBHALISO: NGABAKWAPLAN ACTIVE TOWN NABACWANGCISI BENINGQI EGAMENI LIKA E WOKE</u> Kukhutshwe isaziso esingemiba emayela neSoloty lama-47 nelama-48 loMthethwana kaMasipala waseOverstrand OsihiHlomelo EsihangeZicwangciso ZokuSetyenziswa koMhlaba kaMasipala ku2020, (Umthethwana), esi sicelo sisebenza kwiSiza esingu-Erf 556, Fisherhaven (isiza/umhlaba), esibizwa: <u>Ukushenxisa nokuHlomela iimeko Eziyimiqobo kwiitayitile zoBunini</u> Sisebenziseka ngokwemiba yeSoloty le16(2)(f) loMthethwana ongokushenxiswa kweemeko eyimiqobo kwiitayitile E.4.(b) nezihlomelo zeemeko E.4.(c) ne E.4.(d) njengoko ziqukathwe kwiitayitile zoBunini T48804/2019 zomhlaba, ukulungiselela indawo yokuhlala yesibini nophuhliso lomhlaba oluzayo/oluza kuqhutywa. <u>Inggikelelo Yomdlivo WoBhaliso</u> Isicelo esimayela nemiba yeSoloty le16(2)(q) loMthethwana ukugunyazisa ngokoMthetho ukusetyenziswa kweegaraji zibe yindawo yokuhlala. linkcukacha ezipheleleyo mayela nezi ziphakamiso zingentla ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi phakathi kwentsimbi ye08:00 neye16:30 kwiCandelo: Lezicwangciso zeDolophu noBume Bendawo, 16 Paterson Street, Hermanus nakwiwebhpheyyi kamasipala kweli qhakamshela lilandelayo https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/ Naziphi na izimvo mazibhalwe phantsi zifike kwaMasipala (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) ngomhla okanye ngaphambi komhla wama-21 Agasti 2026, uchaze igama lakho, idilesi, iinkcukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zakho zokuhlomla. Imibuzo ngefowuni ingathunyelwa kuMcwangcisi weDolophu, uMnu. H. Olivier kwa 028-3138900. UMasipala angala ukwamkela izimvo ezifike emva komhla wokuvala. Nabani na ongakwazi ukufunda okanye ukubhala angahambela kwiCandelo: LeziCwangciso zeDolophu noBume BeNdawo apho igosa likamasipala liza kumnceda afake izimvo zakhe ahlomle ngokusemthethweni. Nceda uqaphele ukuba le miba imayela noMthetho Okhusela Ingxelo Ngomntu(POPIA), iza kungena kwinkqubo kawonkewonke ngoko ke uvumelana kwaye unika imvume yokusebenzisa igama lakho, ifani, iinkcukacha ofumaneka kuzo ezinokudizwa/eziza kusetyenziswa kwinkqubo (yokufaka isicelo).
Dr DGI O'Neill Municipal Manager / Munisipale Bestuurder / Umphathi Kamasipala PO Box / Posbus / Ibhokisi yePosi 20 HERMANUS 7200 Notice no. / Kennisgewing nr. / Inothi siyeNomb: 142/2026		



MOTIVATION REPORT

Proposed Removal of Restrictive Title Deed Conditions and Determination of an Administrative Penalty

ERF 556 | FISHERHAVEN | DIVISION: CALEDON | OVERSTRAND MUNICIPALITY

Property	Erf 556 Fisherhaven
Physical Address	54 Schooner Avenue, Fisherhaven
Extent	991 m ²
Title Deed	T48804/2019
Owner	Mrs Elzanne Woeke
Bondholder	Standard Bank
Zoning	Residential Zone 1 (Single Residential)
Division	Caledon
Municipality	Overstrand Municipality
Prepared by	Plan Active

1. BACKGROUND

Mrs Elzanne Woeke, the registered owner of Erf 556 Fisherhaven, has appointed Plan Active to prepare and submit an application for the removal of restrictive Title Deed conditions and the determination of an administrative penalty applicable to the property.

The property is currently developed and a double-storey dwelling was approved thereon. The ground floor, which was previously approved as a garage, has been progressively converted into 2 studio-style single-bedroom granny flats: the first conversion occurred prior to the current owner's acquisition of the property in November 2019, and the second was undertaken by the owner in 2024. The first floor functions as the primary dwelling. The owner proposes to undertake alterations and additions to the ground floor, which will, upon completion, become the primary dwelling, with the first-floor unit becoming the second dwelling unit. In order to enable this development, it is necessary to address the relevant Title Deed restrictions through an application for the removal of restrictive Title Deed conditions and the determination of an administrative penalty.

Erf 556 Fisherhaven measures 991 m² in extent and is held under Title Deed No. T48804/2019. The property is subject to a registered bond in favour of Standard Bank. A bondholder's consent letter supporting this application is attached.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the removal of restrictive Title Deed conditions.
- Chapter 4, Section 16(2)(q) read together with Section 23 of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an administrative penalty in respect of an unauthorised change of land use.

3. DESIRABILITY

3.1 Property Description

Erf 556 Fisherhaven is situated at 54 Schooner Avenue, Fisherhaven. The property measures 991 m² in extent and is currently used for residential purposes, comprising a double-storey dwelling with 2 studio-style single-bedroom granny flats on the ground floor and the primary dwelling on the first floor. Please refer to the enclosed locality plan.

3.2 Zoning

Erf 556 Fisherhaven is zoned Residential Zone 1. The surrounding area is predominantly characterised by properties zoned for single residential use, together with associated public roads.



Figure 1: Zoning Map — Erf 556 Fisherhaven (highlighted in red), Residential Zone 1

3.3 Land Use

Erf 556 Fisherhaven is currently developed with an existing double-storey dwelling of which the ground floor was previously a garage and has been progressively converted into 2 studio-style single-bedroom granny flats. The first studio-style single-bedroom granny flat was established prior to Mrs Woeke's acquisition of the property in November 2019.

In 2020, an existing laundry room was converted into a servants bathroom. In 2024, the garage door was removed and bricked up, and the remaining section of the garage was converted into a second studio-style single-bedroom granny flat; a temporary pantry and storage structure was also constructed at that time. The converted ground floor comprises the 2 studio-style single-bedroom granny flats, 2 bathrooms totalling 12 m² in extent, a pantry of 11 m², and a covered veranda currently used as a temporary storage area. The total garage area that was converted measures 61 m² in extent. The total area of the 2 studio-style single-bedroom granny flats, including the bathrooms and pantry, is approximately 84 m².

The first floor contains the primary dwelling comprising two bedrooms and associated residential amenities. The property is utilised solely for residential purposes. The owner currently occupies one of the studio-style single-bedroom granny flats on the ground floor, while the first-floor dwelling is presently vacant. The surrounding area is characterised by low-density residential development, consisting predominantly of single dwelling units and second dwelling units on individual erven, together with supporting public road infrastructure. There are no significant non-residential land uses in the immediate vicinity.

The established land use pattern reflects a stable and cohesive single residential neighbourhood, within which the subject property is appropriately located.

3.4 Proposal

The following is proposed:

- The removal of restrictive Title Deed conditions and the determination of an administrative penalty, in terms of Chapter 4, Section 16(2)(f) and Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020.

Erf 556 Fisherhaven, measuring 991 m² in extent, is currently developed with 2 studio-style single-bedroom granny flats on the ground floor and a two bedroom dwelling on the first floor. The owner proposes to undertake alterations and additions to the ground floor, which will, upon completion, become the primary dwelling. The first-floor unit will consequently become the second dwelling unit and will remain as is. The ground floor will undergo alterations and additions to create a single dwelling unit consisting of an open-plan kitchen, living room and dining room area, a bedroom, dressing room, a mud room, and a covered

entrance. The existing temporary storage area will be converted into a covered veranda, and a garden, tool and bicycle store is also proposed. The bathroom accessible only from the exterior will function as a servants' bathroom in future. Please note that the ground floor proposals are current proposals and may differ in future; however, the proposed ground floor primary dwelling will be larger than the second dwelling on the first floor, and the first-floor second dwelling will not exceed the maximum allowable footprint of 120m².

The Title Deed applicable to the property contains restrictive conditions that limit development to a single dwelling unit and impose more stringent building lines and coverage controls than those prescribed by the Overstrand Municipality Zoning Scheme Regulations, 2020. This application therefore seeks to remove these restrictions to align with the applicable zoning provisions and to accommodate both a primary dwelling and a second dwelling unit on the property, and to determine an administrative penalty in respect of the unauthorised change of land use from garage to dwelling unit.

The second dwelling unit, to be located on the first floor, will be accessible via a proposed staircase on the western side, and the separate external staircase on the eastern side onto the covered balcony will be retained, ensuring independent access to the second dwelling. The second dwelling unit comprises an open-plan kitchen and living area, two bedrooms, one bathroom, and a balcony, with a total floor area of approximately 74m², which is well within the maximum permitted size of 120m² for a second dwelling unit. The enlarged ground-floor primary dwelling will be formalised and regularised as part of this application and the associated building plan submission.

The current building coverage on the property is approximately 14%, which remains significantly below the permissible threshold. This allows sufficient space on the erf to accommodate additional on-site parking. Provision for at least one additional parking bay will be incorporated, and the final layout and design of both the primary dwelling (ground floor) and the second dwelling unit (first floor) will be formalised through the submission of detailed building plans for municipal approval.

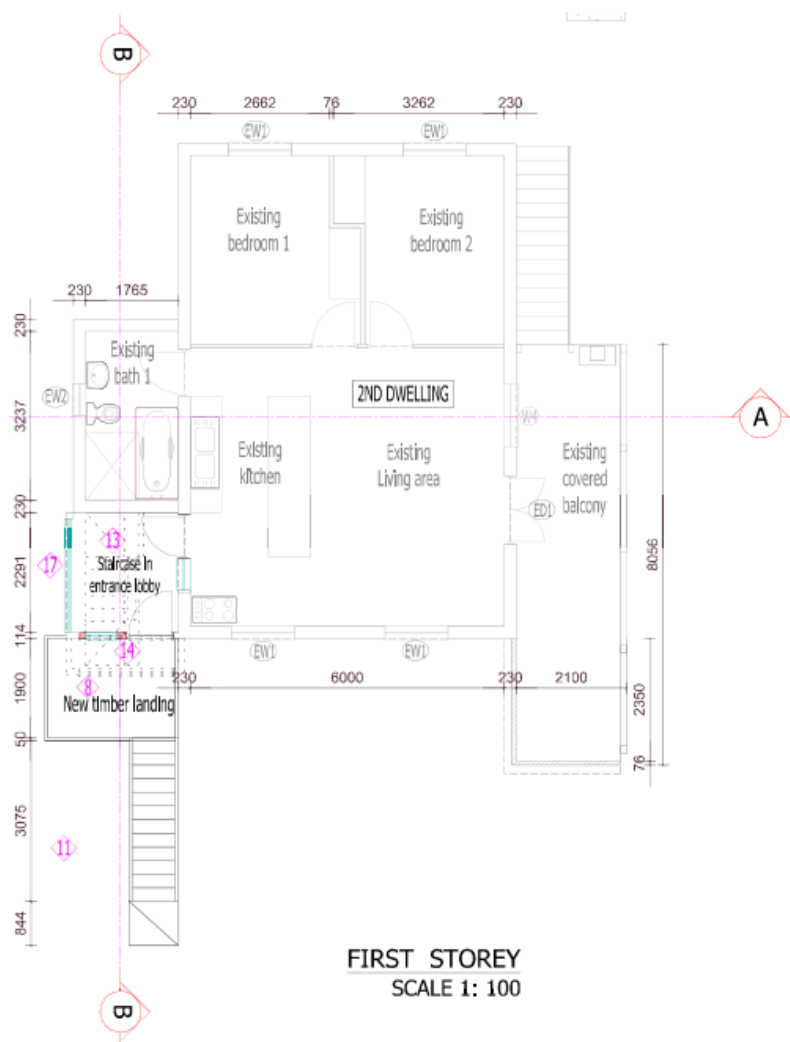


Figure 2: First Storey Floor Plan (Scale 1:100) — Proposed Second Dwelling Unit (First Floor), Erf 556 Fisherhaven

4. REMOVAL / AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS

4.1 Proposed Removal of Title Deed Restrictions

The Title Deed for Erf 556 Fisherhaven (T48804/2019), as confirmed by the attached Conveyancer's Certificate prepared by Ilaam Natherson of Von Lieres, Cooper & Barlow Attorneys, contains restrictive conditions that must be addressed to accommodate the proposed development. These restrictions, as reflected in the Title Deed, are more onerous than the development parameters prescribed in the Overstrand Municipality Zoning Scheme Regulations, 2020.

Relevant Title Deed Conditions

- Condition E.4.(b): The property shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;
- Condition E.4.(c): Not more than 30% of the area thereof shall be built upon;

- Condition E.4.(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, nor within 3.15 metres of the rear boundary or 1.57 metres of the lateral boundary common to any adjoining erf, subject to certain provisos relating to outbuildings.

The primary rationale for the proposed removal and amendment of these conditions is that they impose more restrictive development controls than those currently applicable in terms of the Overstrand Municipality Zoning Scheme Regulations for properties zoned Residential Zone 1: Single Residential (SR1).

In terms of the Zoning Scheme Regulations, the following development parameters apply:

- Primary Use Rights: Include dwelling house and second dwelling unit, amongst others;
- Coverage: Maximum of 50% for erven exceeding 400 m²;
- Building Lines: Street: 4.0 metres; Side and rear: 2.0 metres.

Proposed Amendments to Title Deed Conditions

Condition E.4.(b)

It is proposed that this condition be removed in its entirety to permit the establishment of a second dwelling unit on the property, as allowed under the primary use rights of the applicable zoning.

Condition E.4.(c)

The current limitation of 30% coverage is significantly more restrictive than the 50% coverage permitted in terms of the Zoning Scheme Regulations. It is therefore proposed that this condition be amended to read:

“Not more than 50% of the area thereof shall be built upon.”

This amendment will align the Title Deed with the applicable zoning provisions and allow reasonable future development, including outbuildings and ancillary structures.

Condition E.4.(d)

This condition is more restrictive in respect of the street and rear building lines, while being less restrictive in respect of lateral boundaries. It is proposed that this condition be amended to align fully with the Zoning Scheme Regulations as follows:

“No building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4.0 metres to the street boundary, nor within 2.0 metres of the rear boundary or 2.0 metres of the lateral boundary common to any adjoining erf, subject to the provisions relating to outbuildings as contained in the applicable Overstrand Municipality Zoning Scheme Regulations.”

The proposed removal and amendment of the Title Deed restrictions will enable the property to be developed in accordance with its primary land use rights as defined by the current zoning scheme. Importantly, no departures from the Zoning Scheme Regulations are required.

The proposal will not adversely affect the surrounding area in terms of land use compatibility, property values, or neighbourhood character. On the contrary, it facilitates more efficient utilisation of the property while remaining consistent with the established single residential character of the area.

It is evident that the Title Deed restrictions are outdated and unnecessarily restrictive when compared to the current regulatory framework. Their removal and amendment will ensure alignment with contemporary planning controls and enable appropriate development of the property.

4.2 Section 39(5) LUPA Considerations

In terms of Chapter 4, Section 35(4) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, and Section 39(5) of the Western Cape Land Use Planning Act, 2014 (LUPA), the Municipality is required to consider specific factors when evaluating an application for the removal, suspension, or amendment of restrictive conditions. These considerations are addressed as follows:

Financial or other value of the rights in terms of the restrictive conditions:

The restrictive conditions are of a general nature and were historically imposed to regulate development intensity and land use. They do not confer any specific financial advantage or measurable proprietary benefit to identifiable third parties or neighbouring property owners. As such, their removal or amendment is unlikely to result in any financial prejudice to other parties.

Personal benefit which accrues to the holder of rights in terms of the restrictive conditions:

There is no identifiable party that derives a direct personal benefit from the continued enforcement of these restrictive conditions. The conditions function as general development controls rather than conferring specific enforceable rights to neighbouring landowners.

Personal benefit which will accrue to the person seeking the removal of the restrictive conditions:

The removal and amendment of the restrictive conditions will enable the property owner to exercise the full extent of the primary land use rights associated with the Residential Zone 1 zoning. This includes the establishment of a second dwelling unit, thereby allowing more efficient utilisation of the property and enhancing its functional and economic value.

Social benefit of the restrictive conditions remaining in place:

While the restrictive conditions historically served to maintain low-density residential development, their continued application is no longer necessary given the existence of the Overstrand Municipality Zoning Scheme Regulations, 2020. These regulations provide an updated and comprehensive framework to manage land use and development, rendering the original conditions redundant.

Social benefit of the removal, suspension or amendment of the restrictive conditions:

The proposed removal and amendment will facilitate appropriate densification and more efficient use of well-located residential land in line with current planning principles. It supports sustainable development, optimises existing infrastructure, and aligns with broader spatial planning objectives without compromising the character of the area.

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

The proposal will not remove any specific vested rights held by identifiable beneficiaries. Rather, it seeks to amend outdated and overly restrictive conditions to align with current zoning provisions. To the extent that any generalised rights may exist, these are adequately safeguarded by the applicable zoning scheme and municipal regulatory framework.

The proposed removal and amendment of the restrictive Title Deed conditions are both reasonable and justified within the current planning and legal framework. The existing conditions are outdated and impose development limitations that are more restrictive than those prescribed by the Overstrand Municipality Zoning Scheme Regulations, 2020. Their removal and amendment will enable the property to be developed in accordance with its zoning, without requiring any departures, while still maintaining the established residential character of the area. The proposal will not result in any adverse impacts on surrounding properties or infringe on any identifiable rights, and instead promotes the efficient and optimal use of land. It is therefore respectfully submitted that the application be supported and approved.

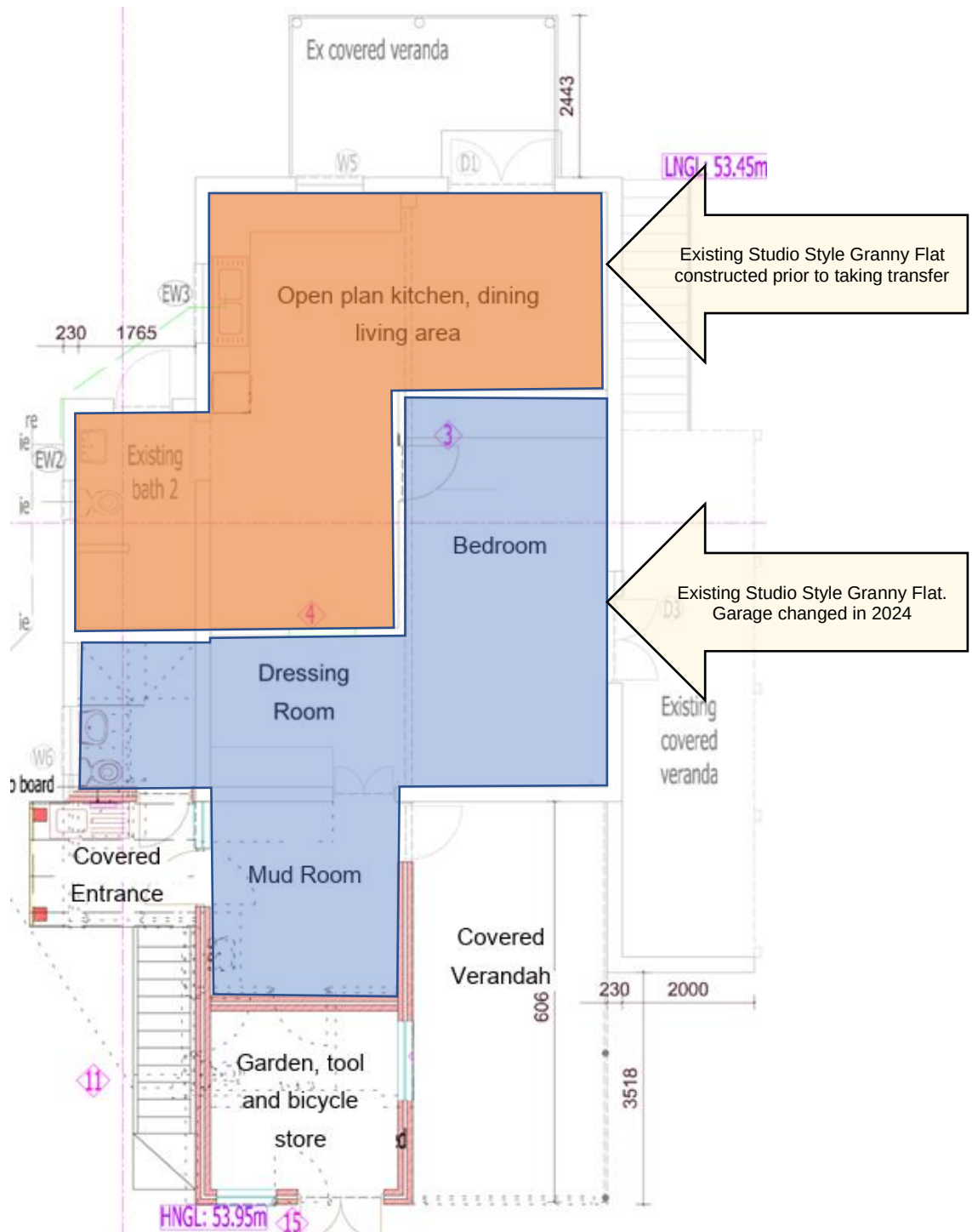
5. ADMINISTRATIVE PENALTY

5.1 Basis for the Administrative Penalty Application

The application includes a determination of an administrative penalty in respect of an unauthorised change of land use affecting Erf 556 Fisherhaven. Specifically, the ground-floor garage on the property was progressively converted into 2 studio-style single-bedroom granny flats without the requisite land use approval. The conversions constitute an unauthorised land use prohibited by a restriction in the Title Deed and are therefore subject to an administrative penalty in terms of the applicable municipal by-law.

It is important to note that the current owner, Mrs Elzanne Woeke, purchased and took transfer of the property in November 2019. At the time of purchase, a section of the garage had already been converted

into 1 studio-style single-bedroom granny flat. The exact date on which this initial conversion was undertaken is unknown, as the change was effected prior to the current owner's acquisition of the property. In 2020, an existing laundry room was converted into a bathroom by the current owner that is only accessible from the outside. Mrs Woeke primarily occupied the dwelling on the first floor until an accident involving her dog rendered it impractical for her to use the stairs. In 2024, the garage door was removed and bricked up, and the remaining section of the garage was converted into a second studio-style single-bedroom granny flat. A temporary pantry and storage structure was also constructed by the owner in 2024. The matter is accordingly being regularised through this application.



The first studio-style single-bedroom granny flat has been continuously occupied since transfer, and the second has been in use since its establishment in 2024. Mrs Woeke currently occupies one of the studio-style single-bedroom granny flats on the ground floor, and the first-floor dwelling is presently vacant. The use has persisted uninterrupted, and the application is accordingly submitted in the interest of regularising the existing land use position.

5.2 Nature of the Contravention

The contravention relates to a change of land use — specifically, the progressive conversion of an existing garage into 2 studio-style single-bedroom granny flats, the conversion of a laundry room into a bathroom in 2020, and the addition of a temporary pantry in 2024. This distinction is significant for the purposes of determining the applicable administrative penalty, as the penalty is calculated on the basis of the unauthorised change of land use and not on the basis of the cost of a building.

The converted garage is situated on the ground floor of the existing dwelling. The first studio-style single-bedroom granny flat was in place at the time of Mrs Woeke's acquisition in November 2019; the second was created in 2024 when the garage door was removed and bricked up. The converted garage area has a total floor area of 61 m². In addition, 2 bathrooms totalling 12 m² in extent (including the former laundry room converted to a bathroom in 2020) and a pantry of 11 m² constructed in 2024 are included. The total area of the 2 studio-style single-bedroom granny flats, inclusive of the bathrooms and pantry, is therefore 84 m².

5.3 Determination and Calculation of the Administrative Penalty

The administrative penalty is determined with reference to the municipal valuation of the property and is calculated as a percentage of the land value per square metre, applied to the floor area of the space in respect of which the unauthorised change of land use occurred.

The penalty is calculated as follows:

Description	Value / Amount
Total property extent	991 m ²
Municipal valuation (total property)	R 440 500.00
Land value per m ² (R 440 500 ÷ 991 m ²)	R 444.50 per m ²
Floor area subject to change of land use (converted garage including bathrooms and pantry)	± 84 m ²
Penalty rate (% of land value per m ² applied to affected area)	5%
Administrative Penalty (5% × 84 m² × R 444.50/m²)	R 1 866.90

The administrative penalty is therefore determined at R 1 866.90, calculated as 5% of the total floor area of the affected space (84 m², comprising the converted garage of 61 m², 2 bathrooms of 12 m² in total, and a pantry of 11 m²) multiplied by the land value per square metre (R 444.50/m²) as derived from the municipal valuation of the property.

5.4 Mitigating Circumstances

The following mitigating circumstances are relevant to the determination of the administrative penalty and are submitted for the municipality's consideration:

- The current owner, Mrs Woeke, purchased the property in November 2019 with the first studio-style single-bedroom granny flat already in place. She did not commission or authorise the initial conversion. The second studio-style single-bedroom granny flat, the conversion of the laundry room to a bathroom in 2020, and the temporary pantry structure constructed in 2024 were, however, undertaken by the owner.
- The exact date of the initial conversion of the garage into the first studio-style single-bedroom granny flat is unknown, as it pre-dates Mrs Woeke's acquisition of the property. The use has persisted continuously and has not ceased since her acquisition in November 2019. The owner currently resides in one of the studio-style single-bedroom granny flats, with the first-floor dwelling remaining vacant.
- The owner is proactively seeking to regularise the land use position through this application, demonstrating co-operative and transparent engagement with the municipality.
- The change of land use involves a change in the function of an existing structure only and does not constitute the erection of an illegal building.

The administrative penalty is calculated at R 1 866.90, being 5% of the total affected floor area (84 m², comprising 61 m² converted garage, 12 m² bathrooms, and 11 m² pantry) multiplied by the municipal land value per square metre (R 444.50/m²). The penalty is levied in respect of the unauthorised change of land use from garage to 2 studio-style single-bedroom granny flats, and not in respect of any illegally constructed structure. In light of the mitigating circumstances — in particular that the current owner did not commission the initial conversion and that the subsequent changes were undertaken to accommodate her personal circumstances — it is respectfully submitted that the determined penalty is fair and appropriate.

6. ACCESS

The subject property currently obtains vehicular and pedestrian access from Schooner Avenue. This access arrangement will remain unchanged as part of the proposed development, and no additional access points are proposed.

The proposed second dwelling unit will utilise the existing access, thereby maintaining a single point of entry to the property. This approach is considered appropriate and sufficient to accommodate the anticipated level of use, without impacting the functionality or safety of the surrounding road network. The coverage is calculated at 14% and there is ample space for the provision of 3 parking bays. The parking bays will be clearly indicated and formalised with the submission of a building plan once the layout of both the primary dwelling and second dwelling unit have been finalised and the application is concluded.

7. MUNICIPAL SERVICES

Erf 556 Fisherhaven is located within an established residential area and is currently serviced by the full range of municipal engineering services.

The property is already fully serviced. Solid waste is collected by the Overstrand Municipality as part of its regular refuse removal service.

The proposed development, comprising the addition of a second dwelling unit, is not expected to place significant additional demand on the existing municipal infrastructure. The current services are considered adequate to accommodate the proposed use, and no upgrades to bulk infrastructure are anticipated at this stage. Any internal service adjustments required to support the second dwelling will be addressed as part of the building plan approval process.

8. TITLE DEED

Erf 556 Fisherhaven is held under Title Deed No. T48804/2019 and is registered in the name of Mrs Elzanne Woeke. The property is subject to a registered bond in favour of Standard Bank, and the required bondholder's consent has been obtained and is attached to this application.

The Title Deed contains a number of restrictive conditions regulating land use, building coverage, and building lines applicable to the property. These conditions are considered more restrictive than the development parameters prescribed in the Overstrand Municipality Zoning Scheme Regulations, 2020.

A Conveyancer's Certificate, prepared by Von Lieres, Cooper & Barlow Attorneys, is attached and confirms the applicable restrictive conditions contained in the Title Deed. A detailed assessment and motivation for the removal of these restrictive conditions is provided in Section 4 of this report.

9. FORWARD PLANNING

9.1 Overstrand Municipal Spatial Development Framework (2020)

In terms of the Overstrand Municipal Spatial Development Framework (SDF), the subject property is located within an area earmarked for urban development. The proposed removal and amendment of the restrictive Title Deed conditions will not alter the underlying zoning of the property, which will remain Residential Zone 1. The proposal is therefore consistent with the SDF's designation and supports the continued use of the property for residential purposes within the urban edge.

9.2 Overstrand Growth Management Strategy (2010)

According to the Overstrand Growth Management Strategy (2010), Erf 556 Fisherhaven falls within Planning Unit 1, identified as the Fisherhaven Village area. The strategy promotes incremental densification within this planning unit, including the potential subdivision of approximately 20% of erven to accommodate additional dwelling opportunities.

The current proposal does not involve subdivision but rather the introduction of a second dwelling unit, which aligns with the broader intent of promoting moderate densification. The proposal will not adversely impact the planned density of the area and remains within the parameters of the existing zoning scheme. As such, the application is considered to be in line with the objectives of the Growth Management Strategy and can be supported from a forward planning perspective.

10. OTHER RELEVANT LEGISLATION

10.1 Heritage Value

Erf 556 Fisherhaven is not located within a designated Heritage Overlay Zone as identified by the Overstrand Municipality. Furthermore, the property is not identified as having heritage significance in terms of the Overstrand Heritage Survey Report (2009).

The subject property is not associated with any historically significant persons, groups, events, or cultural practices. It also has no known association with the history of slavery or any form of living heritage.

In light of the above, it is evident that the proposed removal and amendment of the restrictive Title Deed conditions and the determination of the administrative penalty will not have any adverse impact on the heritage significance of the property or the broader Fisherhaven area.

10.2 Impact on the Biophysical Environment

The proposed removal and amendment of the restrictive Title Deed conditions and the determination of the administrative penalty to permit a second dwelling unit on Erf 556 Fisherhaven is not expected to have any significant negative impact on the biophysical environment.

The property is located within an established urban area and has already been developed. As such, the proposal does not involve the transformation of undeveloped or sensitive natural land, nor does it encroach on any environmentally sensitive areas, critical biodiversity areas, or ecological corridors.

The scale of the proposed development is modest and limited to alterations and additions to an existing structure. No large-scale earthworks, vegetation clearance, or changes to the natural topography are anticipated. Existing municipal services infrastructure is in place, and no additional strain on natural resources beyond normal residential usage is expected.

Stormwater management will continue to be addressed in accordance with municipal requirements at building plan stage, ensuring that runoff is appropriately managed and does not negatively affect surrounding properties or the environment.

In conclusion, the proposal is considered environmentally sustainable and will not result in any adverse biophysical impacts.

11. PLANNING PRINCIPLES

In terms of Section 42 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA), and Chapter VI of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA), the proposed land use application must be assessed against the applicable development principles, norms, and decision-making criteria contained in the relevant legislation.

Spatial Justice:

The proposal advances spatial justice by enabling the owner to realise the full development potential of the property in accordance with its zoning. The removal and amendment of outdated and overly restrictive Title Deed conditions and the regularisation of the land use through the determination of an administrative penalty ensures equitable development rights and aligns the property with the regulatory framework applicable to similar properties within the area.

Spatial Sustainability:

The proposal supports spatial sustainability by promoting the efficient utilisation of already developed urban land and existing infrastructure. The introduction of a second dwelling unit within the existing built

form reduces the need for urban sprawl and contributes to a more compact and sustainable settlement pattern.

Efficiency:

The application promotes efficiency by optimising the use of the subject property and existing municipal services. The proposed development makes effective use of available infrastructure, including water, sewer, and electricity, without placing undue strain on municipal resources or requiring significant upgrades.

Spatial Resilience:

The proposal contributes to spatial resilience by allowing for flexible and adaptive land use within a residential context. The provision of a second dwelling unit accommodates evolving household structures, supports potential rental opportunities, and enhances the long-term functionality and sustainability of the property.

Good Administration:

Plan Active is committed to the principle of good administration and will engage constructively with the Overstrand Municipality to ensure an efficient and transparent land use planning process. The application complies with all procedural requirements as set out in the applicable municipal by-law, as well as relevant provincial and national legislation. All necessary steps will be taken to ensure that the application is processed within the prescribed timeframes in terms of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020.

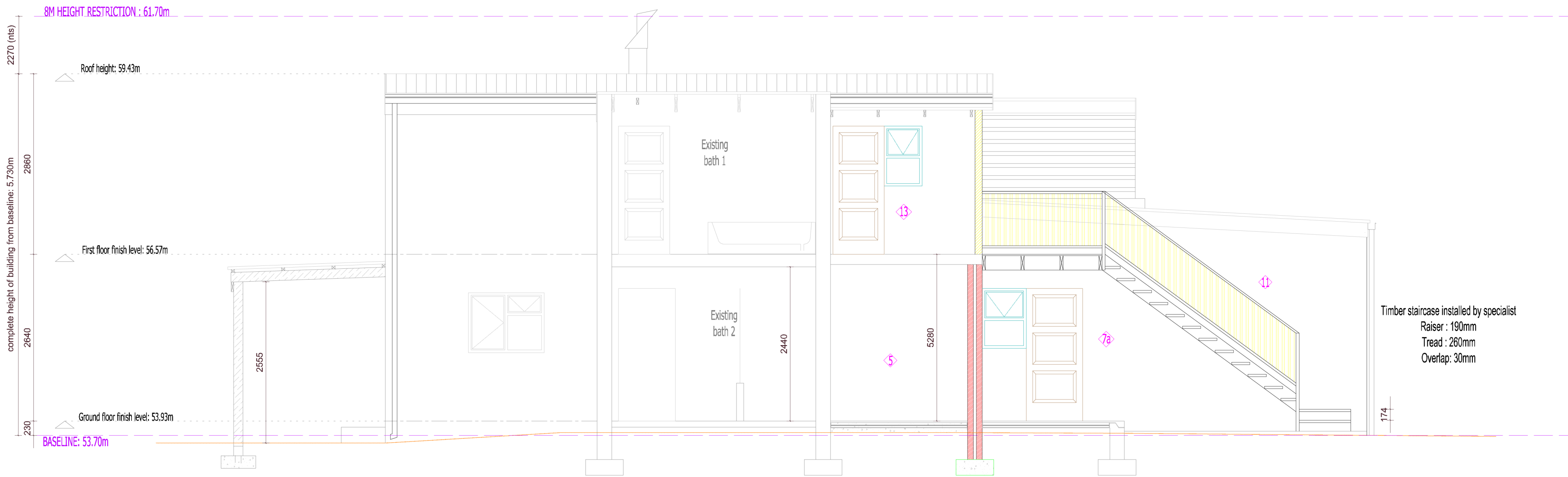
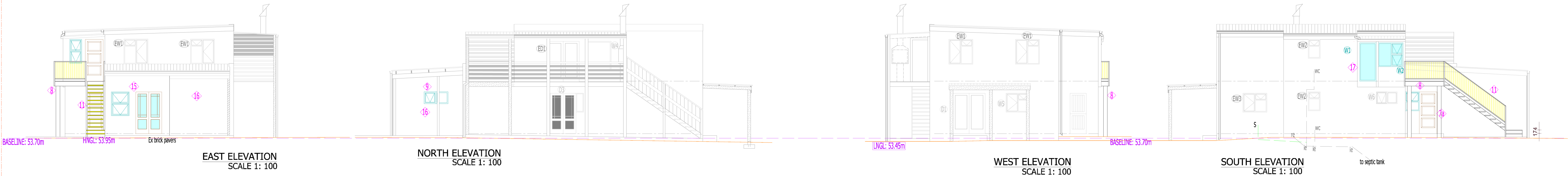
12. RECOMMENDATION

It is recommended that the application for the removal and amendment of restrictive Title Deed conditions and the determination of an administrative penalty applicable to Erf 556 Fisherhaven be approved, subject to the following considerations:

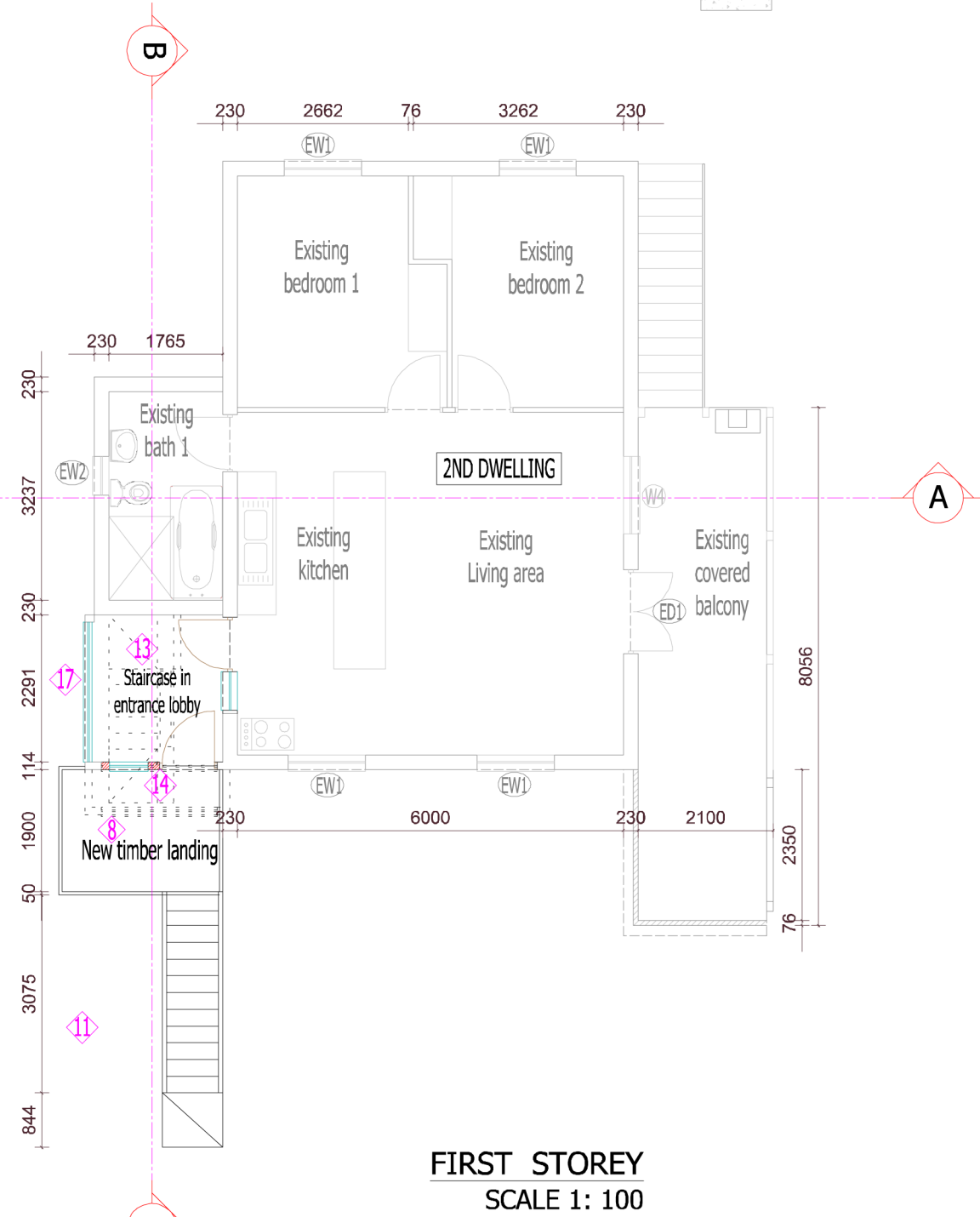
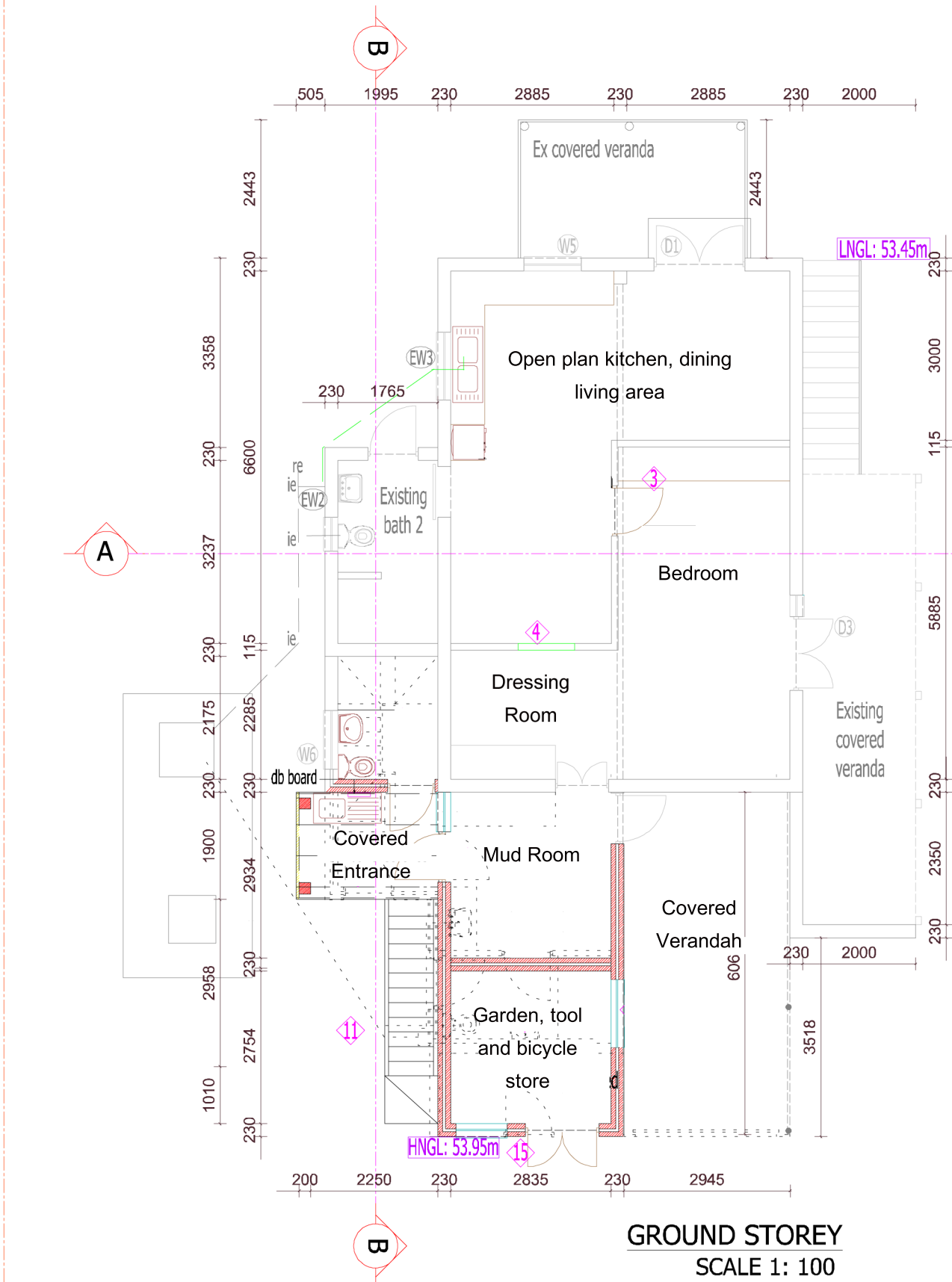
- The proposal is consistent with the Overstrand Municipality Zoning Scheme Regulations, 2020, and enables the utilisation of primary development rights associated with Residential Zone 1.
- The removal and amendment of the restrictive Title Deed conditions will align outdated restrictions with the current planning and regulatory framework.
- The proposed development will not have any negative impact on the surrounding properties, existing residential character, or property values.
- The introduction of a second dwelling unit constitutes appropriate and moderate densification in line with municipal spatial planning policies and strategies.

- The property is adequately serviced, and the existing municipal infrastructure can accommodate the proposed development.
- No environmental, heritage, or biophysical constraints have been identified that would preclude the approval of the application.
- The proposal complies with the applicable planning principles as set out in SPLUMA (2013) and LUPA (2014), including spatial justice, sustainability, efficiency, and resilience.
- All procedural requirements in terms of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, have been adhered to.
- The administrative penalty of R 1 866.90, determined in respect of the unauthorised change of land use from garage to 2 studio-style single-bedroom granny flats (84 m² total, comprising 61 m² converted garage, 12 m² bathrooms, and 11 m² pantry), has been calculated in accordance with the applicable methodology, being 5% of the affected floor area multiplied by the municipal land value per square metre (R 444.50/m²). The penalty is considered fair and appropriate having regard to the mitigating circumstances, including that the current owner did not commission the initial conversion, that subsequent changes were made to accommodate her personal circumstances, and that she is proactively regularising the position.

In light of the above, the application is considered desirable and justified from a planning perspective and is therefore supported.



GENERAL NOTES

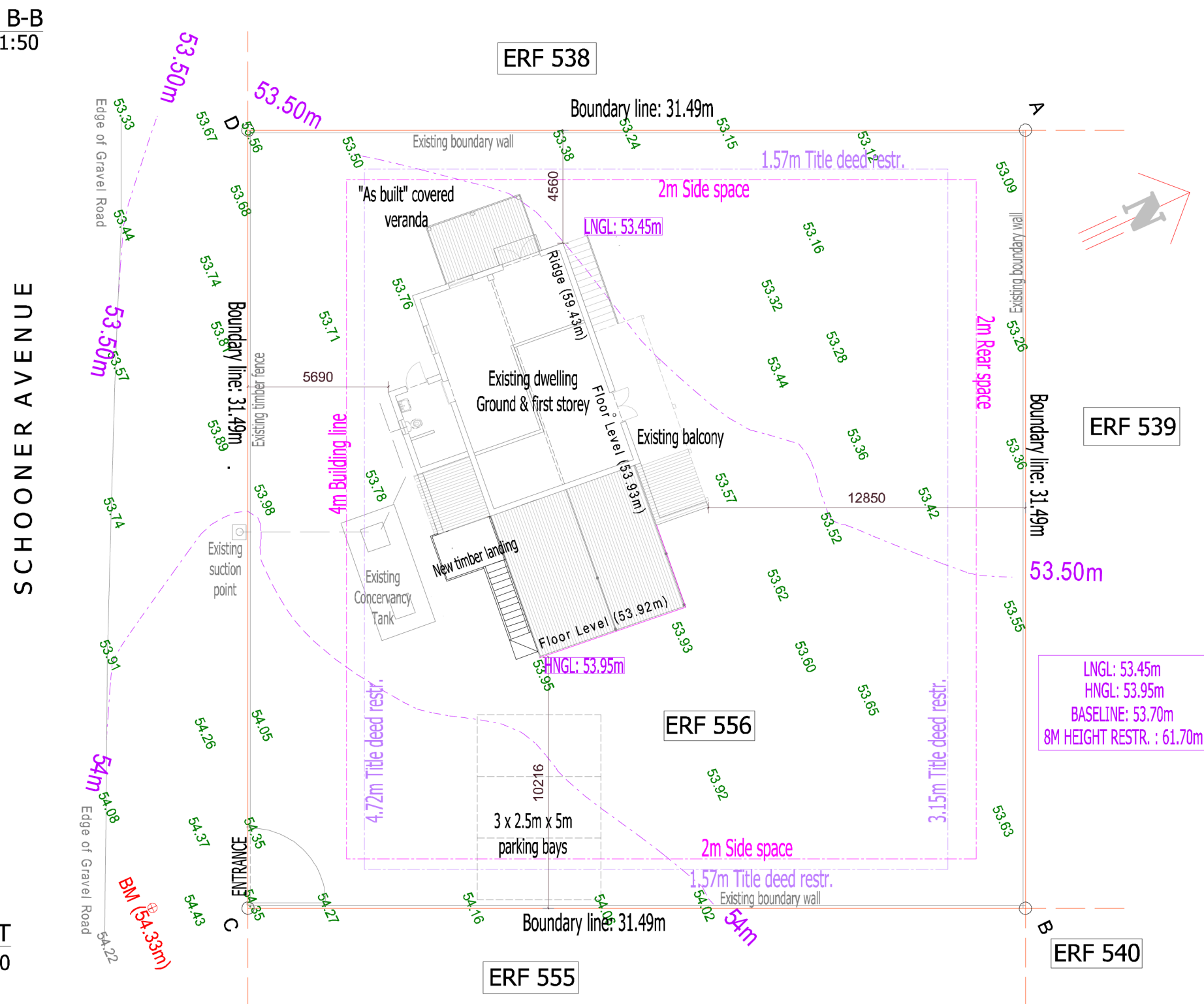


DEVIATION FROM APPROVED PLAN

- Existing servants quarter change into living & kitchen area
- Existing living area into dining area
- Staircase removed, bathroom fitted as indicated
- Dressing room into study
- Existing mud room into laundry, door, wall & basin removed
- Existing workshop into garden tool shed all walls, doors & sanitary ware removed
- Staircase into entrance lobby, new kitchen door & window fitted staircase & wall removed
- Windows W1 & W2 re fitted as indicated
- Fit new b/c & door in existing bedroom as indicated
- Break through opening, lintel across opening make good floor & arch
- New cavity wall fit new door & window as indicated
- New covered area form by timber landing, new pillars as indicated
- Fit new window as indicated, refer to window schedule
- Built new cavity wall as indicated
- Approved double wall in cavity wall
- Fit new staircase as indicated
- Fit new window & door as indicated
- Built new cavity wall, fit door & window as indicated
- Garage into covered veranda, removed garage door and all drywalling, make good floor

NOTES TO CONTRACTOR

SITE PLAN & ROOF LAY-OUT SCALE 1:200



SINGLE RESIDENTIAL OCCUPATION CLASSIFICATION : H 4

TOWN PLANNING REQUIREMENTS

	NEW	EXISTING	COVERAGE
FIRST STOREY	4.64m2	69m2	
BALCONY	5.03m2	11.26m2	
GROUND STOREY	4.29m2	69m2	73.29m2
COVERED VERANDAS	15.13m2	11.26m2	26.39m2
GARAGE INTO COVERANDA	18.20m2		18.20m2
NEW COVERED AREA	5.63m2		5.63m2
NEW EXTENSIONS	19.78m2		19.78m2
Previously approved:	74.13m2		
TOTAL	-1.43m2	160.52m2	143.29m2
ERF SIZE : 991M2			14.4%

PROJECT

DEVIATION FROM APPROVED PLAN WITH
NEW ADDITIONS ON ERF 556,
54 SCHOONER AVENUE, FISHERHAVEN
CLIENT

E WOEKE

DRAWING :

GROUND & FIRST STOREY LAY-OUT
SECTION A-A, B-B
ELEVATIONS
SITE PLAN & ROOF LAY-OUT

DATE	08/04/2026	PLAN NO:	FH556/2026
REVISED		SHEET NO	1 OF 1