

| OVERSTRAND MUNICIPALITY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | OVERSTRAND MUNISIPALITEIT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | UMASIPALA WASE-OVERSTRAND                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>ERF 477, 22 INGANG STREET, DE KELDERS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND SUBDIVISION: WRAP PROJECT OFFICE ON BEHALF OF T DE VILLIERS</b></p> <p>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 477, De Kelders, namely:</p> <p><b>Removal of restrictive title deed conditions</b><br/>Application in terms of Section 16(2)(f) of the By-Law, for the removal of restrictive title deed conditions F.(c) and F.(e) as contained in Title Deed No. T12584/2021 to accommodate the proposed subdivision and second dwelling.</p> <p><b>Subdivision</b><br/>Application in terms of Section 16(2)(d) of the By-Law to subdivide the property into two portions, namely Portion A (±565m<sup>2</sup>) in extent and Remainder (±565m<sup>2</sup>) in extent.</p> <p>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, Gansbaai Library, Main Road, Gansbaai and on the municipal webpage at the following link <a href="https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/">https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/</a></p> <p>Any comments must be in writing and reach the Municipality (16 Paterson Street, Hermanus / (e) <a href="mailto:landuse@overstrand.gov.za">landuse@overstrand.gov.za</a>) on or before <b>4 September 2026</b>, with your name, address, contact details, interest in the application and the reasons for comment. Telephonic inquiries can be made to <b>Mr SW van der Merwe</b> 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.</p> <p><i>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.</i></p> | <p><b>ERF 477, INGANGSTRAAT 22, DE KELDERS, OVERSTRAND MUNISIPALE AREA: AANSOEK OM OPHEFFING VAN BEPERKENDE TITELVOORWAARDES EN ONDERVERDELING: WRAP PROJECT OFFICE NAMENS T DE VILLIERS</b></p> <p>Kragtens Artikels 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die volgende aansoeke van toepassing op Erf 477, De Kelders, naamlik:</p> <p><b>Opheffing van beperkende titelaktevoorwaardes</b><br/>Aansoek ingevolge Artikel 16(2)(f) van die Verordening, vir die opheffing van beperkende titelaktevoorwaardes F.(c) en F.(e) soos vervat in Titelakte Nr. T12584/2021 om die voorgestelde onderverdeling en tweede woning te akkommodeer.</p> <p><b>Onderverdeling</b><br/>Aansoek ingevolge Artikel 16(2)(d) van die Verordening om die eiendom in twee gedeeltes te onderverdeel, naamlik Gedeelte A (±565m<sup>2</sup>) groot en 'n Restant (±565m<sup>2</sup>) groot.</p> <p>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, Gansbaai Biblioteek, Hoofweg, Gansbaai en op die munisipale webtuiste by die volgende skakel <a href="https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/">https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/</a></p> <p>Enige kommentaar moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (e) <a href="mailto:landuse@overstrand.gov.za">landuse@overstrand.gov.za</a>) voor of op <b>4 September 2026</b>, met u naam, adres, kontak besonderhede, belang in die aansoek en die redes vir kommentaar. Telefoniese navrae kan gerig word aan <b>Mnr SW van der Merwe</b> 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.</p> <p><i>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, kontakbesonderhede en kommentaar openbaar gemaak mag word.</i></p> | <p><b>ISIZA 477, 22 INGANG STREET, DE KELDERS INDAWO KAMASIPALA YASE-OVERSTRAND: ISICELO SOKUSUSWA KWEEMEKO EZITHINTELAYO KWITAYITILE YOBUNINI KUNYE ULWAHLULO: WRAP PROJECT OFFICE EGAMENI LIKA T DE VILLIERS</b></p> <p>Isaziso siyanikezelwa ngokweCandelo lama-47 nelama-48 loMthetho kaMasipala oLungisiweyo kaMasipala waseOverstrand kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, ka-2020 (uMthetho kaMasipala) kwezi zicelo zilandelayo zisebenza kwiSiza-477, De Kelders, ezizezi:</p> <p><b>Sokususwa kweemeko ezithintelayo kwitayitile yobunini</b><br/>Isicelo ngokweCandelo le-16 (2)(f) loMthetho kaMasipala wokususwa kwemiqathango yetayitile ethintelayo F.(c) kunye F.(e) njengoko kuqulethwe kwiSiqudu seSihlokwana T12584/2021 ukulungiselela ulwahlulwa-hlulo olucetywayo kunye nendawo yokuhlala yesibini.</p> <p><b>Ulwahlulo</b><br/>Isicelo ngokweCandelo le-16(2)(d) loMthetho kaMasipala Ukwahlula-hlula ipropati ibe yizahlulo ezibini, ezizezi, iSahlulo A (±565m<sup>2</sup>) kunye isiza esishiyekileyo (±565m<sup>2</sup>) ngobukhulu.</p> <p>linkcukacha ezipheleleyo mayela noku kucetywayo ziyafumaneka ukuze zihlolewe phakathi evekini phakathi ko-08:00 no-16:30 kwiSebe: Town and Spatial Planning, 16 Paterson Street, Hermanus, kwiThala leeNcwadi laseGansbaai, c/o Main Road, Gansbaai nakwiwebhusayithi kamasipala kule linki ilandelayo <a href="https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/">https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/</a></p> <p>Naziphi na izimvo mazibhalwe zize zingeniswe kuMasipala (16 Paterson Street, Hermanus / (e) <a href="mailto:landuse@overstrand.gov.za">landuse@overstrand.gov.za</a>) ngomhla okanye ngaphambi komhla <b>4 eyoMsintsi 2026</b>, ubhale igama lakho, idilesi yakho kunye nomdla kwisicelo nesizathu sokuhlomla kwakho. Imibuzo ngefowuni ingabuzwa <b>Mnu. SW van der Merwe</b> ku 028-3138900. UMasipala angangavumi ukwamkela amagqabaza okuhlomla afunyenwe emva komhla wokuvala. Nabani na ongakwaziyo ukufunda okanye ukubhala angatyelela iSebe: Town and Spatial Planning. Igosa likamasipala liya kumnceda akwazi ukufaka izimvo zakhe.</p> <p><i>Nceda uphawule ukUba ngokumayela noMthetho Wokukhuselwa kweNkcazelo yoBuqu (POPIA), uza kungena kwinkqubo yokuthatha inxaxheba koluntu ibe ngenxa yoko uyavuma ukuba igama, ifani yakho, iinkcukacha zakho zoqagamshelwano namagqabaza akho angadizwa / asetyenziswa kwinkqubo (yokufaka isicelo).</i></p> |
| <p>Dr DGI O'Neill<br/><b>Municipal Manager / Munisipale Bestuurder / Umphathi Kamasipala</b><br/>PO Box / Posbus / Ibhokisi yePosi 20 HERMANUS 7200</p> <p style="text-align: right;"><b>Notice No / Kennisgewing nr / Inombolo yesaziso: 153/2026</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

Plan 1: Locality Plan  
Erf 477 - De Kelders



Subject properties

Plan prepared by: Thian Jansen

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

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



**Project Office**  
Town Planning & Project Management



RE/476

1332

1334

477

478

**Scale 1 : 500**



**NOT TO SCALE**



## **ERF 477 DE KELDERS**

APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED  
CONDITIONS, SUBDIVISION AND EXEMPTION TO ALLOW THE  
REGISTRATION OF A RIGHT OF WAY SERVITUDE

**Application prepared for:**

Tersia de Villiers

**Application prepared by:**

WRAP Project Office  
PostNet Hermanus Suite 170  
Private Bag X16  
Hermanus 7200  
Tel: 028 313 1411  
Email: [admin@wrapgroup.co.za](mailto:admin@wrapgroup.co.za)  
Web: [www.wrapgroup.co.za](http://www.wrapgroup.co.za)

**Author**

Thian Jansen (PR. PLN. A/2858/2019)

**Submitted**

JUNE 2026 - VERSION 1



---

TABLE OF CONTENTS

OVERSTRAND MUNICIPALITY APPLICATION FORM

|                                                  |    |
|--------------------------------------------------|----|
| 1. PROPERTY DETAILS.....                         | 1  |
| 2. EXECUTIVE SUMMARY .....                       | 1  |
| 3. PROCEDURE TO ACHIEVE THE OWNER'S INTENT ..... | 1  |
| 4. PLANNING ASSESSMENT.....                      | 6  |
| 5. NEED AND DESIRABILITY .....                   | 13 |
| 6. CONCLUSION.....                               | 14 |
| 7. RECOMMENDATION .....                          | 16 |

**LIST OF PLANS**

**PLAN 1:** LOCALITY PLAN

**PLAN 2:** ZONING PLAN

**PLAN 3:** PROPOSED SUBDIVISION PLAN

**PLAN 4:** SURVEYOR GENERAL DIAGRAM

**LIST OF ANNEXURES**

**ANNEXURE A:** POWER OF ATTORNEY

**ANNEXURE B:** COPY OF TITLE DEED



---

**1. PROPERTY DETAILS**

---

|                   |                                        |
|-------------------|----------------------------------------|
| <b>Erf Number</b> | Erf 477 De Kelders                     |
| <b>Extent</b>     | 1130 m <sup>2</sup>                    |
| <b>Title Deed</b> | T12584/2021                            |
| <b>Zoning</b>     | Residential Zone 1: Single Residential |

---

**2. EXECUTIVE SUMMARY**

---

This application pertains to Erf 477 De Kelders, hereafter referred to as the subject property, situated at 22 Ingang Street, De Kelders, as indicated on **Plan 1** (Locality Plan). The property owner has appointed WRAP Project Office to act on her behalf in the submission of this land use application, as confirmed in **Annexure A** (Power of Attorney).

The owner proposes to subdivide Erf 477 De Kelders into two portions, with the remainder portion accommodating the existing dwelling. The implementation of this proposal is, however, constrained by restrictive conditions contained in the title deed of Erf 477 De Kelders. Accordingly, the application seeks the removal of the restrictive title deed conditions in order to facilitate the proposed subdivision.

The application is motivated on its planning merits and seeks to achieve a logical and orderly land configuration that remains compatible with the surrounding residential context while aligning with the intent of the applicable zoning and development parameters.

---

**3. PROCEDURE TO ACHIEVE THE OWNER'S INTENT**

---

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

**3.1 Removal of restrictive title deed conditions** to allow the proposed subdivision:

As previously indicated, in order to lawfully subdivide the property and facilitate the future development of a second dwelling unit, certain restrictive conditions contained in the title deed require removal. These conditions were originally imposed by the Administrator in terms of the provisions of Ordinance 33 of 1934 at the time of the establishment of the township.

The relevant restrictive title deed conditions are quoted below:

*"F. SUBJECT to the following condition imposed the Administrator in terms of the provisions of Ordinance 33 of 1934, when approving the Township:*

AS BEING IN FAVOUR OF THE REGISTERED OWNER OF EACH ERF IN THE TOWNSHIP:

*"(c) That not more than one dwelling, together with the necessary outbuilding and appurtenances be erected on this erf.*

AS BEING IN FAVOUR OF THE ADMINISTRATOR

*"(e) That this erf shall not be subdivided except with the consent in writing or the Administrator."*

Sub-condition (e) expressly prohibits the subdivision of the property without the prior written consent of the Administrator, while sub-condition (c) limits development on the erf to a single dwelling together with the necessary outbuildings and appurtenances. The removal of these restrictive title deed conditions is therefore required to facilitate the proposed subdivision of Erf 477 De Kelders into two portions. Following subdivision, each newly created erf will be capable of accommodating two dwellings in accordance with the applicable zoning and development parameters.

**Motivation for the removal of conditions F.(c)**
**Status quo**

The original purpose of the restrictive title deed conditions were to protect the residential character of the area and to regulate the form and intensity of development within the township. This objective is now effectively achieved with the provisions of the Overstrand Municipality Land Use Scheme (OMLUS), which provides clear and uniform development controls applicable throughout the municipal area. The continued enforcement of historic title deed restrictions alongside a comprehensive land use scheme results in unnecessary duplication and regulatory overlap.

**Rationale for the Proposed Removal**

Condition F(c) restricts the development of the erf to a single dwelling together with the necessary outbuildings and appurtenances. The removal of this condition is required to facilitate the proposed subdivision of Erf 477 De Kelders into two residential portions.

Following subdivision, each newly created erf will be developed and utilised in accordance with the provisions of the Residential Zone 1: Single Residential zoning. The proposed subdivision will not result in an increase in development rights beyond those already contemplated by the applicable zoning and land use management framework. Any future development on either portion will remain subject to the development parameters prescribed by the OMLUS, including controls relating to building lines, coverage, height, parking, and building plan approval.

The removal of Condition F(c) will therefore not result in uncontrolled or excessive development, nor will it undermine the established residential character of the area. Rather, it will enable the property to be developed in a manner that is consistent with the current statutory planning framework while ensuring that all future development remains appropriately regulated through the provisions of the OMLUS.

**Motivation for the removal of conditions F.(e)**
**The rationale for the proposed removal**

Condition F(e) of the title deed prohibits the subdivision of the erf without the prior written consent of the Administrator. The removal of this condition is required in order to facilitate the proposed subdivision of Erf 477 De Kelders.

At the time the township was established, restrictions of this nature were commonly imposed to regulate the subdivision of erven and to ensure that any future changes to the cadastral layout were subject to administrative oversight.

**Status quo**

In the current planning context, the function previously performed by such restrictive conditions is now fulfilled through the statutory land use management system established in terms of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA), the

Overstrand Municipality Municipal Planning By-Law, and the OMLUS. These legislative and policy instruments provide a comprehensive framework through which subdivision applications are assessed and approved by the Municipality.

The continued enforcement of Condition F(e) therefore results in unnecessary duplication, as the proposed subdivision is already subject to a formal land use application process and will be assessed by the Municipality against all relevant planning considerations, including compliance with zoning provisions, compatibility with surrounding development, and the availability of municipal services.

The removal of Condition F(e) will allow the proposed subdivision of Erf 477 De Kelders to be considered and implemented through the current statutory planning framework. The proposal remains consistent with the existing Residential Zone 1: Single Residential zoning of the property, aligns with the established development pattern of the surrounding area, and will not adversely affect the orderly development of the neighbourhood.

In terms of the requirements of LUPA, the table below address the removal of the restrictive title deed conditions F.(c) & F(e) in terms of Section 39(5)(a-f):

| <b>LUPA, Section 39(5) (a-f)</b> |                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>(a)</b>                       | <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> | The restrictive title deed conditions were imposed as part of the original township establishment process and were intended to regulate the subdivision and development of properties within the township. In the present planning context, these controls are substantially replicated through the provisions of the OMLUS and other applicable planning legislation. Accordingly, the rights enjoyed by the beneficiaries of the restrictive conditions have limited independent value, as the same planning objectives continue to be protected through the statutory land use management framework. |
| <b>(b)</b>                       | <i>the personal benefits which accrue to the holder of rights in terms of the restrictive condition;</i>                                                                                                                            | The primary benefit afforded to neighbouring property owners and other beneficiaries is the assurance that development within the area occurs in an orderly and controlled manner. This benefit is, however, already safeguarded through the Municipality's assessment of land use applications and the application of the development parameters contained in the OMLUS. The removal of the restrictive conditions will therefore not deprive beneficiaries of the protections afforded by the current planning framework.                                                                             |
| <b>(c)</b>                       | <i>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;</i>                                                      | The removal of the restrictive title deed conditions will enable the owner to exercise development rights that are consistent with the existing zoning of the property and the current statutory planning framework. Specifically, it will facilitate the proposed                                                                                                                                                                                                                                                                                                                                      |



|     |                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                                                                                                                                                             | subdivision of Erf 477 De Kelders and allow for the reasonable and efficient utilisation of the property in a manner that remains compatible with the surrounding residential area.                                                                                                                                                                                                                                                                           |
| (d) | <i>the social benefit of the restrictive condition remaining in place in its existing form;</i>                                                                             | The social benefit associated with retaining the restrictive conditions is limited, as the objectives for which they were originally imposed are now achieved through contemporary planning legislation, municipal policies, and the OMLUS. Retaining the restrictions would therefore not provide any significant additional public benefit beyond that already secured through existing regulatory controls.                                                |
| (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> | The removal of the restrictive conditions will not completely remove the rights or protections currently enjoyed by beneficiaries. Rather, the regulation of development and subdivision will continue through the provisions of SPLUMA, the Overstrand Municipality Municipal Planning By-Law, and the OMLUS. Beneficiaries will therefore continue to enjoy protection against inappropriate development through the existing statutory planning framework. |

In summary, the removal of the restrictive title deed conditions will be beneficial to the owners of the subject property, as it will enable the reasonable and appropriate subdivision of the land in accordance with the current statutory planning framework. Furthermore, the removal of the conditions will not create development rights that are inconsistent with, or exceed, those permitted in terms of the OMLUS. Any future development of the resultant erven will remain subject to the applicable zoning provisions and development parameters, thereby ensuring that the character, amenity, and orderly development of the surrounding area are maintained.

**3.2 Subdivision** of Erf 477, De Kelders into Portion A, ±565m<sup>2</sup> and the Remainder, ±565m<sup>2</sup>;

**3.3 Exemption** to allow the registration of a right of way servitude.

The application proposes the subdivision of Erf 477 De Kelders, measuring 1 130 m<sup>2</sup>, into two residential portions of approximately equal size, as follows:

| <b>Erf 477 De Kelders</b>                                   | <b>1 130m<sup>2</sup></b> |
|-------------------------------------------------------------|---------------------------|
| Proposed <b>Remainder of Erf 477 De Kelders</b>             | ±565m <sup>2</sup>        |
| Proposed <b>Portion A</b> (A portion of Erf 477 De Kelders) | ±565m <sup>2</sup>        |

The owner intends to retain the existing dwelling on one of the resultant erven and dispose of the newly created residential erf on the open market.



The proposed subdivision represents a logical and appropriate utilisation of a relatively large residential property within an established urban area. Both resultant erven will comply with the average erf size in the area and will be of a size and configuration capable of accommodating residential development in accordance with the applicable provisions of the OMLUS.

The proposal will not introduce a new or incompatible land use but rather facilitate the creation of an additional residential erf within an existing residential neighbourhood. The surrounding area comprises a variety of residential erven of different sizes, and the proposed subdivision is therefore compatible with the existing cadastral pattern and established character of De Kelders.

The subdivision also promotes the efficient utilisation of urban land by enabling the development potential of the property to be realised without placing undue pressure on municipal infrastructure or services. Both resultant erven will have appropriate access, adequate space for residential development, and will remain subject to the applicable zoning provisions and development parameters prescribed by the OMLUS.

Accordingly, the proposed subdivision represents a logical and orderly form of development that is consistent with sound planning principles and will not adversely affect the character, functionality, or amenity of the surrounding residential area.

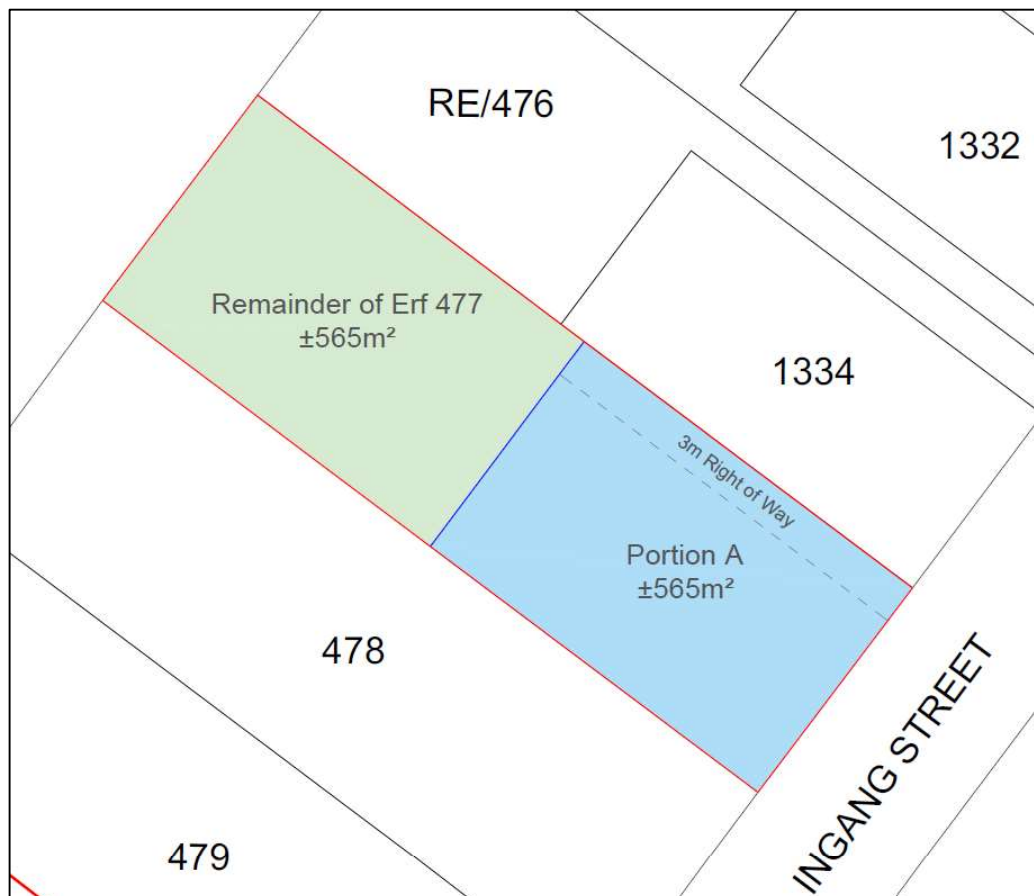


Figure 1: Proposed Subdivision Plan

### Right of Way Servitude

The proposed remainder will be situated behind Portion A and will obtain vehicular and pedestrian access by means of a 3.0m wide right of way servitude to be registered over Portion A. Accordingly, exemption is sought to permit the registration of the required right of way servitude.

The proposed subdivision layout has been carefully designed to respond to the existing improvements on the property while making efficient use of the available land. The use of a registered right of way servitude represents a more practical and efficient planning solution than the creation of a conventional panhandle erf.

Had a panhandle configuration been utilised, the applicable development parameters would effectively have required a substantially greater setback from the developable portion of Portion A. Although the access leg itself would be approximately 3.0m wide, the required building line would be measured from the boundary of the panhandle, resulting in an effective setback of approximately 5.0m before any building could be constructed. This would unnecessarily sterilise a significant portion of Portion A and reduce its development potential.

By contrast, the registration of a 3.0m wide right of way servitude provides the necessary legal access without creating an unnecessarily restrictive building envelope. The servitude ensures safe and functional access to the rear portion while allowing for a more efficient and logical utilisation of the land. The proposed arrangement therefore promotes sound planning principles by maximising the developable area of both erven without compromising access, functionality, or the amenity of adjoining properties.

The proposed subdivision and associated servitude will not alter the residential character of the area. Both resultant erven will comply with the minimum erf size requirements applicable to Residential Zone 1: Single Residential and will remain subject to all applicable development parameters prescribed by the Overstrand Municipality Land Use Scheme, including building lines, coverage, height, parking, and the building plan approval process.

The proposal therefore represents a logical and orderly subdivision of the property that makes efficient use of the available land while ensuring that future development remains appropriately regulated through the Municipality's statutory planning framework.

---

## **4. PLANNING ASSESSMENT**

---

### **4.1. ZONING**

The subject property is zoned Single Residential in terms of the OMLUS. The proposed subdivision will result in two residential erven, both of which will continue to be utilised in accordance with the permitted primary use rights applicable to the zoning.

The proposed development does not introduce any new or incompatible land uses, and both the remainder and the subdivided portion will remain residential in nature. The proposal is therefore fully aligned with the intent of the Single Residential zoning, which provides for low-density residential development, including dwelling houses and associated ancillary uses.

Accordingly, the subdivision and subsequent development of an additional dwelling unit are consistent with the applicable zoning and will not alter the existing land use character of the area.

## 4.2. ENGINEERING SERVICES

The availability and adequacy of engineering services is a relevant consideration in terms of Section 42(1)(c)(v) of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA), and is addressed below.

The subject property is already connected to the existing municipal engineering service networks, including potable water, electricity, sewerage, and stormwater infrastructure. These services are available within the surrounding urban area and currently serve the existing residential development on the property.

The proposed subdivision will create an additional residential erf within an established residential area. Although future development of the additional erf may result in a marginal increase in demand for municipal services, such demand is not expected to be significant and can be adequately accommodated by the existing engineering service infrastructure. No upgrading or extension of municipal services is anticipated as a result of the proposal.

Refuse removal services are provided by the Overstrand Municipality on a weekly basis and can readily be extended to serve both resultant erven. Accordingly, the proposed subdivision is not expected to place an unreasonable burden on municipal engineering services, and the application is considered acceptable from an engineering services perspective.

### **Access, Egress and Parking**

Access to and egress from the subject property are currently obtained from Ingang Street, an existing public road that provides access to the surrounding residential area.

Following subdivision, direct access to Portion A will continue to be obtained from Ingang Street. Access to the proposed remainder will be provided via a 3.0m wide right of way servitude to be registered over Portion A in favour of the remainder. The proposed servitude will ensure safe and legal vehicular and pedestrian access to the rear erf without requiring the establishment of a conventional panhandle configuration.

The proposed access arrangement is considered appropriate for a low-density residential development and is not expected to result in any adverse traffic or access impacts. Ingang Street has sufficient capacity to accommodate the limited additional vehicle movements that may result from the creation of one additional residential erf.

Parking for both resultant erven will be provided on site in accordance with the requirements of the OMLUS. Accordingly, the proposed subdivision is not expected to have any adverse impact on the surrounding road network or the availability of on-street parking.

## 4.3. POLICIES AND REGULATIONS

### Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

The subject property is located within the Coastal Protection Zone, as the proposal is only to subdivide it is not expected that there will be any impact on the EMOZ.



| <b>SCHEDULE A</b><br><b>PROHIBITED ACTIVITIES IN OVERSTRAND ENVIRONMENTAL MANAGEMENT OVERLAY ZONES</b>                                                                                                          |                                                         |                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|--------------------------------------|
| Prohibited Activity                                                                                                                                                                                             | Applicable Environmental Management Overlay Zone (EMOZ) | Applicable to the application or not |
|                                                                                                                                                                                                                 | Coastal                                                 |                                      |
| Agricultural practices within this EMOZ which may cause water logging and siltation.                                                                                                                            | X                                                       | N/A                                  |
| Planting or harbouring of declared emerging weeds on properties within and adjacent to this EMOZ.                                                                                                               | X                                                       | N/A                                  |
| Development or agriculture on slopes steeper than 1:4.                                                                                                                                                          | X                                                       | N/A                                  |
| Establishment of Informal settlements or Temporary Relocation Areas.                                                                                                                                            | X                                                       | N/A                                  |
| No land user within this EMOZ may utilise the vegetation in a vlei, marsh or within the flood area of watercourse in a manner that may cause the deterioration or damage to the natural agricultural resources. | X                                                       | N/A                                  |
| Placement of religious symbols or memorabilia.                                                                                                                                                                  | X                                                       | N/A                                  |
| Harvesting /collection of kelp / seaweed in municipal designated "no-take" zones.                                                                                                                               | X                                                       | N/A                                  |
| Harvesting, collection, moving, loading drying of kelp /seaweed, with a valid Seaweed Harvesting Permit or an exemption in terms of Section 81 or the MLRRA issued by the DAFF.                                 | X                                                       | N/A                                  |
| Stockpiling, drying, processing or loading of marine resources beyond areas designated, demarcated and signposted by the Municipal Council for such purposes.                                                   | X                                                       | N/A                                  |
| Modification of the littoral active zone / functional dune systems in absence of approved management plans.                                                                                                     | X                                                       | N/A                                  |
| Feeding, disturbing / pursuit of fauna.                                                                                                                                                                         | X                                                       | N/A                                  |
| Disturbance, modification or destruction of the environment or species within special management areas designated, demarcated and signposted by the Municipal Council from time to time.                        | X                                                       | N/A                                  |
| Defacing/damaging / removing of any notice, sign, barrier building or other infrastructure.                                                                                                                     | X                                                       | N/A                                  |
| Playing or tampering with any rope, float, buoy, vessel, shelter or similar life - saving device.                                                                                                               |                                                         | N/A                                  |
| Staying overnight.                                                                                                                                                                                              | X                                                       | It is a residential property.        |
| The discharging of domestic effluent / grey water into all natural systems.                                                                                                                                     | X                                                       | N/A                                  |
| Tampering with security / surveillance infrastructure.                                                                                                                                                          | X                                                       | N/A                                  |
| Defacing of rocky outcrops and placement of memorial plaques, religious symbols or structures on natural features.                                                                                              | X                                                       | N/A                                  |
| Graffiti, vandalism or damaging of municipal infrastructure.                                                                                                                                                    | X                                                       | N/A                                  |
| Littering                                                                                                                                                                                                       | X                                                       | N/A                                  |
| Disposal of cigarette butts, ash or other hazardous materials in any place or manner other than a receptacle designated for such items                                                                          | X                                                       | N/A                                  |
| Dog walking / exercising of dogs in non- designated zones.                                                                                                                                                      | X                                                       | N/A                                  |

| <b>SCHEDULE B</b>                                                                                                                                                                                                     |                                                                |                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|------------------------------------------------------|
| <b>ACTIVITIES ONLY PERMITTED WITH COUNCIL CONSENT IN OVERSTRAND ENVIRONMENTAL OVERLAY ZONES</b>                                                                                                                       |                                                                |                                                      |
| <b>A) Activities Only Permitted With Council Consent</b>                                                                                                                                                              | <b>Applicable Environmental Management Overlay Zone (EMOZ)</b> | <b>Applicable to the application or not</b>          |
|                                                                                                                                                                                                                       | <b>Coastal</b>                                                 |                                                      |
| Permission for the utilization of access routes to permitted kelp / seaweed harvesting sites.                                                                                                                         | X                                                              | N/A                                                  |
| Removal or destruction of vegetation which is protected and/or of conservation concern.                                                                                                                               | X                                                              | N/A                                                  |
| Dune maintenance on private land as per approved dune maintenance management plans.                                                                                                                                   | X                                                              | N/A                                                  |
| Excavation and destruction or removal of substrate (soil, substrate, rock, shellgrit, dune sediment, mineral deposits).                                                                                               | X                                                              | N/A                                                  |
| Discharging of pool backwashing or untreated grey water or the channelling of storm water into open spaces without the necessary approval from the Municipality.                                                      | X                                                              | Pool backwashing will not occur into the open space. |
| <b>B) Permit Upon Approval By Delegated Authority and / Receipt of Tariff</b>                                                                                                                                         | <b>Applicable Environmental Management Overlay Zone (EMOZ)</b> | <b>Applicable to the application or not</b>          |
|                                                                                                                                                                                                                       | <b>Coastal</b>                                                 |                                                      |
| Installation of conservancy tanks or biological treatment plants within 50 metres from the edge of a watercourse / wetland.                                                                                           | X                                                              | N/A                                                  |
| Access from private properties to open spaces, including the removal of vegetation and the establishment of paths, structures and infrastructure.                                                                     | X                                                              | N/A                                                  |
| Commercial filming.                                                                                                                                                                                                   | X                                                              | N/A                                                  |
| Construction or placement of any temporary object, building, shelter, path or structure.                                                                                                                              | X                                                              | N/A                                                  |
| Use of engine or motor driven vehicles, remotely piloted aircraft or any other means of transport or other conveyances beyond designated, demarcated and signposted areas.                                            | X                                                              | N/A                                                  |
| Launching of vessels at registered launch sites.                                                                                                                                                                      |                                                                | N/A                                                  |
| <b>C) Council Authorisation Pending Consent Use Application / Lease Agreement / Applicable Tariffs as applicable</b>                                                                                                  | <b>Applicable Environmental Management Overlay Zone (EMOZ)</b> | <b>Applicable to the application or not</b>          |
|                                                                                                                                                                                                                       | <b>Coastal</b>                                                 |                                                      |
| Buildings / Structures associated with: Taking of water, storing of water, impeding or diverting flow, stream flow reduction, altering the bed, banks, course characteristics, outflow structures or discharge pipes. | X                                                              | N/A                                                  |

|                                                                                                                                                                                                                       |   |                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|-----------------------------------|
| Buildings / Structures associated with: Taking of water, storing of water, impeding or diverting flow, stream flow reduction, altering the bed, banks, course characteristics, outflow structures or discharge pipes. | X | N/A                               |
| Application for the designation of industrial sites and activities associated with the seaweed harvesting, collection, drying, transport and processing fishery.                                                      | X | N/A                               |
| Encroachment of private buildings, structures, infrastructure, access routes.                                                                                                                                         | X | N/A                               |
| Commercial Harvesting/collection and removal of any natural resource.                                                                                                                                                 | X | N/A                               |
| Construction or placement of any permanent object, building, shelter, pathway or structure.                                                                                                                           | X | The properties will be developed. |

The table on previous pages shows that the majority of the impacts associated with the EMOZ are not applicable to the proposed development, as the site is located outside the identified influence area and does not exhibit the environmental characteristics or sensitivities typically associated with the EMOZ.

#### Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

Erf 477 De Kelders is located within the **Coastal Strip Heritage Protection Overlay Zone (HPOZ)**. The purpose of this overlay zone is to ensure that land use and development along the coastal strip are undertaken in a manner that respects and protects the area's scenic, environmental, and heritage qualities. In particular, the HPOZ seeks to:

- Protect the natural, environmental, and scenic qualities of the coastal strip;
- Protect lateral views between the mountain and the coastline by ensuring the continuation of existing view corridors and by controlling the massing and form of buildings adjacent to the coastal strip; and
- Protect and enhance the transition zone between the built environment, including the first line of erven facing the coast, the coastal walkway, and the coastline.

The proposal comprises the subdivision of an existing Residential Zone 1: Single Residential property into two residential erven and does not introduce a new or incompatible land use. The application does not seek approval for any additional buildings or departures from the applicable development parameters.

Any future development on the resultant erven will remain subject to the provisions of the Overstrand Municipality Land Use Scheme, the applicable HPOZ requirements, and the building plan approval process. Consequently, future development will continue to be assessed to ensure that it is compatible with the objectives of the overlay zone and does not adversely affect the scenic, environmental, or heritage significance of the coastal strip.

Accordingly, the proposed subdivision is not expected to negatively impact the objectives of the Coastal Strip HPOZ and remains consistent with the purpose and intent of the overlay zone.

#### Spatial Planning Policies

#### **Overstrand Municipality Spatial Development Framework (OMSDF)**

The Overstrand Municipality Spatial Development Framework (OMSDF) establishes the Municipality's long-term spatial vision by promoting sustainable, efficient, and well-managed urban development. The framework seeks to reinforce the unique sense of place associated

with the various settlements within the municipality while encouraging development that makes efficient use of existing infrastructure and services.

#### Policy Objectives

The OMSDF supports development proposals that are contextually appropriate, located within the urban edge, and contribute to the efficient utilisation of land and municipal infrastructure.

In this regard:

- The subject property is situated within the urban edge of De Kelders, where the OMSDF encourages appropriate infill development and the efficient utilisation of existing urban land.
- The proposed subdivision does not introduce a new or incompatible land use. Both resultant erven will retain the Residential Zone 1: Single Residential zoning and will continue to be utilised for residential purposes.
- The proposal represents a logical subdivision of an existing residential property and is compatible with the established residential character, scale, and urban form of the surrounding neighbourhood.
- The proposal makes efficient use of existing municipal infrastructure and services without requiring the outward expansion of the urban footprint.

The proposal is therefore considered to be consistent with the objectives and spatial vision of the OMSDF.

#### **Overstrand Municipal Growth Management Strategy (OMGMS)**

The Overstrand Municipality Growth Management Strategy (OMGMS) provides strategic guidance for accommodating future urban growth in a sustainable manner. The strategy promotes the efficient utilisation of existing urban land, optimisation of municipal infrastructure, and appropriate residential densification within the urban edge.

#### Policy Objectives

The OMGMS supports appropriately located subdivision and incremental residential densification where such development can be accommodated by existing municipal services and remains compatible with the surrounding area.

In this regard:

- The proposed subdivision promotes the efficient utilisation of an existing serviced residential property within the urban edge.
- The proposal creates an additional residential erf without extending the urban footprint or introducing an incompatible land use.
- Both resultant erven will remain appropriately sized for single residential development and will be capable of accommodating future development in accordance with the provisions of the Overstrand Municipality Land Use Scheme.
- The proposal contributes to the optimisation of existing municipal infrastructure and supports the efficient use of serviced urban land, which is a key objective of the Growth Management Strategy.



Accordingly, the proposed subdivision is consistent with the objectives of the Overstrand Municipality Growth Management Strategy and represents an appropriate and sustainable form of urban development.

Overall, the application aligns with the applicable spatial planning policies by promoting the efficient use of land within the urban edge, supporting orderly residential development, and maintaining the established character of the surrounding neighbourhood. The proposal should therefore be supported from a spatial planning policy perspective.

#### **4.4. PLANNING PRINCIPLES**

Chapter 2 of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA) sets out five development principles that must guide all spatial planning, land use management, and land development decisions. The proposed application has been assessed against these principles as follows:

##### **Spatial Justice**

The proposal promotes the equitable and reasonable use of privately owned urban land by enabling the subdivision of an existing residential property within the urban edge. The application does not exclude or prejudice any person or group, nor does it adversely affect the rights of neighbouring property owners. The proposal allows for the efficient use of an existing residential property while remaining compatible with the surrounding neighbourhood.

##### **Spatial Sustainability**

The proposal supports sustainable urban development by making efficient use of land that is already serviced by existing municipal infrastructure. The subdivision does not require the expansion of the urban edge or the extension of engineering services and is consistent with the principles of sustainable settlement planning. Any future development on the resultant erven will remain subject to the applicable zoning provisions and development parameters contained in the OMLUS.

##### **Efficiency**

The proposal promotes the efficient utilisation of an existing residential property by creating an additional residential erf within an established urban area. Existing roads, municipal services, and community infrastructure are already available to serve the property, thereby avoiding unnecessary expenditure on new infrastructure and promoting the optimal use of existing public investment.

##### **Spatial Resilience**

The proposed subdivision contributes to a more adaptable urban environment by allowing the property to respond to changing residential and housing needs over time. The creation of an additional residential erf within an established neighbourhood supports incremental urban growth while maintaining the character and functionality of the surrounding area.

##### **Good Administration**

The application seeks the lawful removal of outdated restrictive title deed conditions, the subdivision of the property, and the registration of a right of way servitude through the statutory planning process. The proposal is considered in terms of the applicable legislative and policy framework, thereby ensuring transparency, legal certainty, and sound land use management. The removal of the restrictive title deed conditions will eliminate unnecessary duplication between historic title restrictions and the current statutory planning framework, while ensuring

that all future development remains subject to the provisions of the Overstrand Municipality Land Use Scheme and the Municipality's building plan approval process.

Overall, the proposal is consistent with the development principles contained in Chapter 2 of SPLUMA and represents a logical, orderly, and sustainable form of residential development within the existing urban area.

## 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 proposal will have a positive socio-economic impact by enabling the owner to realise the development potential of the property through its subdivision. The creation of an additional residential erf contributes to the local housing market by increasing the supply of residential land within an established urban area. The proposal also promotes the efficient utilisation of existing municipal infrastructure without requiring the expansion of the urban footprint. |
| Compatibility with surrounding uses                                 | The proposed subdivision remains entirely residential in nature and is fully compatible with the surrounding land uses. Both resultant erven will retain the Residential Zone 1: Single Residential zoning, and any future development will be subject to the applicable provisions of the Overstrand Municipality Land Use Scheme. The proposal is therefore consistent with the established residential character and development pattern of De Kelders.                         |
| Impact on the external engineering services                         | The subject property is already connected to existing municipal engineering services, including potable water, electricity, sewerage, and stormwater infrastructure. Although the future development of the additional residential erf may result in a marginal increase in demand for municipal services, such demand is not expected to exceed the capacity of the existing infrastructure, and no upgrading of municipal services is anticipated.                               |
| Impact on safety, health and wellbeing of the surrounding community | The proposal does not introduce any land use that could adversely affect the safety, health, or wellbeing of the surrounding community. The subdivision will facilitate orderly residential development within an established neighbourhood and will remain subject to all applicable municipal planning and building regulations.                                                                                                                                                 |
| Impact on heritage                                                  | The property is located within the Coastal Strip Heritage Protection Overlay Zone (HPOZ). However, the proposal is limited to the subdivision of the property and does not include approval for new buildings or structures. Any future development will remain subject to the applicable HPOZ provisions and the building plan approval process. Accordingly, the proposal is not expected to adversely affect the heritage, scenic, or contextual significance of the area.      |
| Impact on the biophysical environment                               | The proposal is limited to the subdivision of an existing residential erf within the urban area. No environmentally sensitive features are known to be affected, and no significant impacts on biodiversity, vegetation, or natural systems are anticipated. The proposal is therefore considered acceptable from an environmental perspective.                                                                                                                                    |
| Traffic impacts, parking, access and                                | The subdivision is expected to generate only a negligible increase in traffic, which can be readily accommodated by the existing road                                                                                                                                                                                                                                                                                                                                              |

|                                        |                                                                                                                                                                                                                                                                                                                                                                                                                             |
|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| other transport related considerations | network. Access to the proposed remainder will be provided via a registered 3.0 m wide right of way servitude over Portion A, while Portion A will retain direct access from Ingang Street. Parking for future development on both erven will be provided in accordance with the requirements of the Overstrand Municipality Land Use Scheme. Accordingly, no adverse traffic or transport-related impacts are anticipated. |
|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Impact on views, sunlight and character of the area**

The proposed subdivision is not expected to result in any significant adverse impact on views, sunlight, or the established character of the surrounding area. The application facilitates the creation of two residential erven within an existing low-density residential neighbourhood and does not introduce a new or incompatible land use.

The proposal does not include the approval of any new buildings or departures from the applicable development parameters. Any future development on the resultant erven will remain subject to the provisions of the OMLUS and the building plan approval process, thereby ensuring compliance with the prescribed building lines, height restrictions, coverage, and other applicable development controls.

The proposed subdivision is compatible with the established residential character of De Kelders and represents a logical extension of the existing cadastral pattern. Furthermore, the creation of an additional residential erf is not expected to materially affect neighbouring properties in terms of views or access to sunlight. Any future building proposals will be assessed on their own merits to ensure that they do not result in unreasonable impacts on adjoining properties.

Accordingly, the proposed subdivision is not expected to adversely affect the visual amenity, character, or overall residential quality of the surrounding neighbourhood.

---

**6. CONCLUSION**

---

This application seeks approval for the removal of restrictive title deed conditions, the subdivision of Erf 477 De Kelders into two residential portions, and an exemption to permit the registration of a 3.0m wide right of way servitude in favour of the proposed remainder.

The proposed subdivision represents a logical and appropriate utilisation of an existing residential property within the urban edge of De Kelders. The resultant erven will remain appropriately sized for Residential Zone 1: Single Residential development and will be compatible with the established residential character and cadastral pattern of the surrounding neighbourhood.

The removal of the restrictive title deed conditions is justified, as the planning objectives they were originally intended to achieve are now comprehensively regulated through the provisions of the Overstrand Municipality Land Use Scheme (OMLUS), the Overstrand Municipality Municipal Planning By-Law, and the Spatial Planning and Land Use Management Act, 2013 (SPLUMA). Their continued enforcement would therefore result in unnecessary duplication without providing any additional planning benefit.

The proposed right of way servitude represents a practical and efficient access solution to the rear erf. It provides safe and legal access while avoiding the unnecessary sterilisation of developable land that would result from a conventional panhandle configuration. The

proposal therefore promotes the efficient utilisation of the property without compromising the functionality or amenity of either resultant erf.

The application has been assessed against the relevant statutory requirements, applicable spatial planning policies, and the development principles contained in Chapter 2 of SPLUMA. It has been demonstrated that the proposal is consistent with the objectives of the Overstrand Municipality Spatial Development Framework and Growth Management Strategy, promotes the efficient use of existing serviced urban land, is compatible with the established residential character of De Kelders, can be adequately accommodated by the existing engineering services and road network, and will not adversely affect the surrounding environment, heritage resources, visual amenity, or neighbouring properties. The proposal therefore represents orderly, sustainable, and well-managed land development.

In light of the above, it is respectfully submitted that the application is supported on sound planning principles, complies with the applicable legislative and policy framework, and serves the public interest. It is therefore recommended that the application for the removal of the restrictive title deed conditions, the subdivision of Erf 477 De Kelders, and the exemption to permit the registration of the proposed right of way servitude be approved by the Overstrand Municipality.

---

## 7. RECOMMENDATION

---

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

- 7.1 Removal of restrictive title deed conditions to accommodate the proposed subdivision** in terms of Section 16(2)(f) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020;
- 7.2 Subdivision** of Erf 477 De Kelders into Portion A,  $\pm 565 \text{ m}^2$  and the Remainder,  $\pm 565 \text{ m}^2$  in terms of Section 16(2)(d) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020; and
- 7.3 Exemption of the registration** of a right of way servitude in terms of Section 26(1)(h)(v) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.





**Plan 3: Subdivision Plan**  
Erf 477 De Kelders

**Erf 477 De Kelders**  
**1130m²**

**Proposed Subdivision**

Erf 477 De Kelders  
±565m²

Portion A  
±565m²

Plan prepared by: Thian Jansen on 09/07/2026

Plan Number - 26/007 (002)

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

**SCALE 1 : 250**