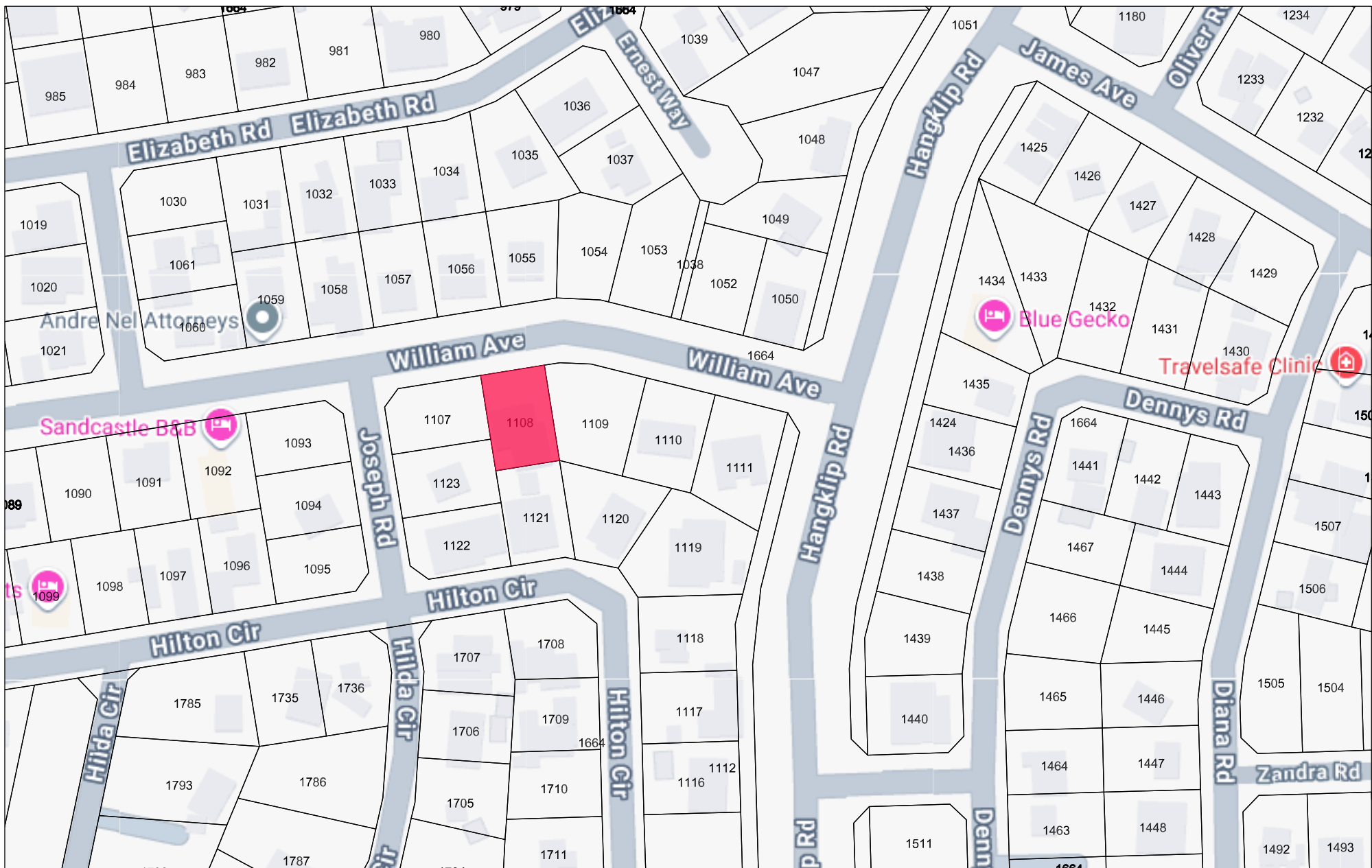




OVERSTRAND MUNICIPALITY	OVERSTRAND MUNISIPALITEIT	UMASIPALA WASE-OVERSTRAND
ERF 1108, 7 WILLIAM AVENUE, PRINGLE BAY: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF JP VAN DYK Notice 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 1108, Pringle Bay (the property), namely: Removal of a Restrictive Title Deed Conditions Application in terms of Section 16(2)(f) of the By-Law for the removal of a restrictive title deed conditions B.6.(a), B.6.(b)(i) and B.6.(b)(ii) as contained in Title Deed T5410/2026 of the property to accommodate the existing land use development on the property. Departure Application in terms of Section 16(2)(b) of the By-Law to relax the following: • Eastern lateral building line from 2m to 0,85m to accommodate the change of use of the existing single garage to a bedroom with an en-suite bathroom. • Western lateral building line from 2m to 1,78m to accommodate the existing double garage on the ground floor and the existing covered and open balcony on the first floor. • Western lateral building line from 2m to 0,67m to accommodate the existing garden shed. • Rear building line from 2m to 1,39m to accommodate the existing garden shed. Determination of an Administrative Penalty Application in terms of Section 16(2)(q) of the By-Law to accommodate the existing building line encroachments as mentioned above. 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, at the Betty's Bay Library, Clarence Drive, Betty's Bay and on the municipal webpage at the following link https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/ Any comments must be in writing and reach the Municipality (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) on or before 4 September 2026, with your name, address, contact details, interest in the application and the reasons for comment. Telephonic inquiries can be made to the Principal Town Planner, Mrs. H. van der Stoep 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. <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>	ERF 1108, WILLIAMLAAN 7, PRINGLEBAAI: AANSOEK OM OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDES, AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: PLAN ACTIVE STADS- EN STREEKBEPLANNERS NAMENS JP VAN DYK Kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die onderstaande aansoeke van toepassing op Erf 1108, Pringlebaai (die eiendom), naamlik: Opheffing van 'n Beperkende Titelaktevoorwaardes Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van 'n beperkende titelaktevoorwaardes B.6.(a), B.6.(b)(i) en B.6.(b)(ii) soos vervat in Titelakte T5410/2026 van die eiendom om die bestaande grondgebruiksontwikkeling op die eiendom te akkommodeer. Afwyking Aansoek ingevolge Artikel 16(2)(b) van die Verordening om die volgende te verslap: • Oostelike syboullyn vanaf 2m tot 0,85m om die gebruiksverandering van die bestaande enkel motorhuis na 'n slaapkamer met 'n en-suite badkamer te akkommodeer. • Westelike syboullyn vanaf 2m tot 1,78m om die bestaande dubbelmotorhuis op die grondvloer en die bestaande onderdak en oop balkon op die eerste verdieping te akkommodeer. • Westelike syboullyn vanaf 2m tot 0,67m om die bestaande tuinstoor te akkommodeer. • Agterboullyn vanaf 2m tot 1,39m om die bestaande tuinstoor te akkommodeer. Bepaling van 'n Administratiewe Boete Aansoek ingevolge Artikel 16(2)(q) van die Verordening om die bestaande boulynoorskrydings soos hierbo genoem te akkommodeer. Besonderhede aangaande die voorstel lê ter insae gedurende woensdae tussen 08:00 en 16:30 by die Afdeling: Stads- en Streekbeplanning te Patersonstraat 16, Hermanus, by die Betty'sbaai Biblioteek, Clarencerylaan, Betty'sbaai en op die munisipale webtuiste by die volgende skakel https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/ Enige kommentaar moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (e) landuse@overstrand.gov.za) voor of op 4 September 2026, met u naam, adres, kontak besonderhede, belang in die aansoek en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die Hoof Stadsbeplanner, Me. H. Van der Stoep 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. <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 en kontakbesonderhede openbaar gemaak mag word.</i>	ISIZA ESINGU-ERF 1108, 7 WILLIAM AVENUE, PRINGLE BAY: ISICELO SOKUSHENKISA IIMEKO EZIYIMIQOBO KWITAYITILE YOBUNINI, UKWAHLULA NENGIKELELO WOMDLIWO WOBHALISO: NGABAKWAPLAN ACTIVE TOWN NABACWANGCISI BENGINGQI EGAMENI LIKA-JP VAN DYK Kukhutshwe isaziso esimayela nemiba yeSolotya lama47 nelama48 loMthethwana OsisiHlomelo SoMthethwana kaMasipala waseOverstrand NgeZicwangciso Zokusetyenziswa koMhlaba kaMasipala ku2020 (Umthethwana), ngezi zicelo zilandelayo nezisebenza wkiSiza esingu-Erf 1108, Pringle Bay (isiza/umhlaba), ezibizwa: Ukushenxiswa kweeMeko EziyiMiqobo Kwitayitile Zobunini Application in terms of Section 16(2)(f) of the By-Law for the removal of a restrictive title deed conditions B.6.(a), B.6.(b)(i) and B.6.(b)(ii) as contained in Title Deed T5410/2026 of the property to accommodate the existing land use development on the property. Ukwahlula Isicelo ngokwemiba yeSolotya le16(2)(b) loMthethwana wokunyenyisa oku kulandelayo: • Umga wesakhiwo kwicala eliseMpuma yesakhiwo ukusuka kwiimitha ezi-2m ukuya kwim-0,85m ukulungiselela utshintsho lokusebenzisa igaraji engena imoto enye esele ikhona ibe ligumbi lokulala elinegumbi lokuhlambela (eline-ensuti). • Umga wesakhiwo kwicala eliseNtshona yomga wesakhiwo ukusuka kwiimitha ezi-2m ukuya kwi-1,78m ukulungiselela igaraj engena iimoto ezimbini esele ikhona kumgangatho osezantsi kunye nebhalkhoni evaliweyo nesele ikhona nebulwe kumgangatho osezantsi. • Umga wesakhiwo kwicala laseNtshona ukusuka kwiimitha ezi-2m ukuya kwi-0,67m ukulungiselela ishedhi esegadini esele ikhona. • Umga ongasemva kwisakhiwo ukusuka kwiimitha ezi-2m ukuya ku-1,39m ukulungiselela ishedhi esegadini esele ikhona. INgqikelelo YMdliwo woBhaliso Isicelo esi singemiba yeSolotya le16(2)(q) loMthethwana kamasipala ukulungiselela umga wesakhiwo esele sikhona ethe yangenelala yedlula kumda omiselweyo njengoko kuchazwe ngentla. Iinkukacha ezipheleleyo mayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini ukusuka phakathi kwentsimbi ye-08:00 neye-16:30 kwiCandelo: LeziCwangciso zeDolophu noBume BeNdawo, 16 Paterson Street, Hermanus, eBetty's Bay Library, Clarence Drive, Betty's Bay nakwiwebhsapheyiji kamasipala kweli qhakamshela lilandelayo https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/ Naziphi na izimvo ezibhaliweyo mazifike kwaMasipala (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) ngomhla okanye phambi komhla wama4 September 2026, uchaze igama lakho, idlesi yakho, iinkukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zakho zokuhlomla. Imibuzo ingathunyelwa kuMcwangcisi Omkhulu weDolophu, Nkskz. H. van der Stoep kwa-028-3138900. UMasipala angala ukwamkela izimvo ezifike emva kwexesha lokuvala. Nabani na ongakwazi ukufunda okanye ukubhala angahambela kwiCandelo: LeziCwangciso zeDolophu noBume BeNdawo apho igosa likamasipala liza kumnceda afake zimvo ahlomle ngokusemthethweni. <i>Nceda uqaphele ukuba ngokwemiba YoMthetho Okhuselao Ingxelo yoMntu (POPIA), uza kungena kwinkqubo kawonkewonke ngoko ke uyavuma ukwawumela ukusetyenziswa kwegama lakho, ifani, iinkukacha zakho noluvo lwakho (nezimvo zakho) zingadizwa/ zingasetyenziswa kwinkqubo yesicelo (kwisicelo).</i>
Dr DGI O'Neill Municipal Manager / Munisipale Bestuurder / Umphathi Kamasipala PO Box / Posbus / Ibhokisi yePosi 20 HERMANUS 7200		

Notice no. / Kennisgewing nr. / Inothisi yeNomb: 154/2026





MOTIVATION REPORT

*Proposed Building Line Departures, Removal of Title Deed Restrictions
and Determination of an Administrative Penalty*

ERF 1108 PRINGLE BAY | DIVISION: CALEDON | OVERSTRAND MUNICIPALITY

Property	Erf 1108 Pringle Bay, 7 William Avenue, Pringle Bay
Title Deed	T5410/2026
Extent	600 m ² (Six Hundred Square Metres)
Zoning	Residential Zone 1: Single Residential
Municipality	Overstrand Municipality, Division Caledon
Owner	Mr J.P. van Dyk
Applicant	Plan Active Town and Regional Planners

1. BACKGROUND

1.1 Introduction and Purpose of the Application

Mr J.P. van Dyk, the registered owner of Erf 1108 Pringle Bay, has appointed Plan Active Town and Regional Planners to prepare and submit a formal land use application to the Overstrand Municipality. The purpose of this application is to regularise existing minor building line encroachments and to address an associated change of use of a portion of the dwelling that affects the lateral building lines, as well as a garden shed that encroaches upon the rear building line. These encroachments were inherited by the current owner from the previous owner of the property.

The application comprises three inter-related components:

- Building line departures;
- The removal of a restrictive Title Deed condition; and
- The determination of an administrative penalty.

1.2 Property Description and Existing Development

Erf 1108 Pringle Bay measures 600 m² in extent and is held under Title Deed No. T5410/2026. The property is currently developed with a double-storey dwelling, comprising three bedrooms, an open-plan kitchen and lounge area, an enclosed balcony, an open balcony, a double garage, staff quarters, and a garden shed.

1.3 Discovery of Encroachments

In preparation for the intended sale of the property, the former owner, Mr Malherbe, commissioned a professional land surveyor to confirm the boundary beacons and verify the position of the existing structures relative to the cadastral boundaries. The survey revealed that the dwelling is incorrectly positioned on the erf, and that portions of the dwelling and the garden shed encroach upon the lateral and rear building lines as prescribed in both the Title Deed and the Overstrand Municipality Zoning Scheme Regulations. These encroachments are minor in nature.

It was further established that, approximately ten years prior, the previous owner converted an approved single garage — originally interleading to the dwelling — into a bedroom with an en-suite bathroom, thereby altering the approved land use configuration. The current owner inherited both the physical position of the structures and the consequences of this internal conversion.

2. APPLICATION DETAILS

This application is submitted in terms of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, specifically under the following provisions of Chapter 4:

Section 16(2)(b): Building line departures to regularise the existing lateral and rear building line encroachments.

Section 16(2)(f): Removal of restrictive conditions contained in the Title Deed, specifically Condition 6(a) limiting the erf to a single dwelling, and Conditions 6(b)(i) and 6(b)(ii) regulating outbuilding placement relative to lateral and rear boundaries, applicable to Erf 1108 Pringle Bay.

Section 16(2)(q): Determination of an administrative penalty in respect of the unauthorised building line encroachments and associated land use contravention.

3. DESIRABILITY

3.1 Property Location

Erf 1108 Pringle Bay is located at 7 William Avenue, Pringle Bay, measuring 600 m² in extent. The locality plan and aerial photograph below provide context for the property's position within the broader urban fabric of Pringle Bay.

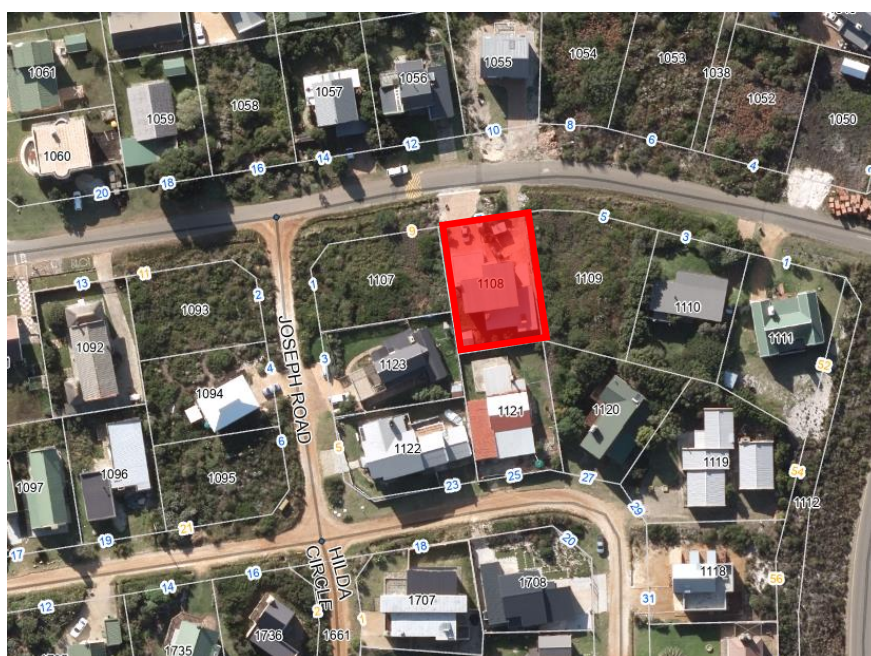


Figure 1: Locality Plan and Aerial Photograph — Erf 1108 Pringle Bay, 7 William Avenue, Pringle Bay

3.2 Zoning

According to the zoning map extract obtained from the Overstrand Municipality Geographic Information System (GIS), Erf 1108 Pringle Bay is zoned Residential Zone 1: Single Residential. The relevant zoning map extract is provided below for reference.

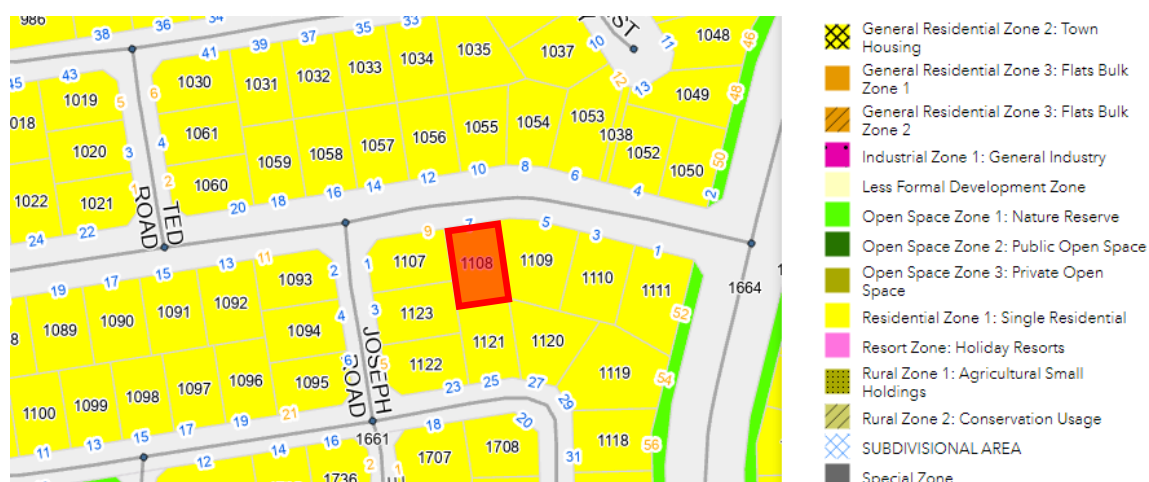


Figure 2: Zoning Map Extract — Overstrand Municipality GIS (Erf 1108 Pringle Bay highlighted)

3.3 Existing Land Use and Surrounding Context

Erf 1108 Pringle Bay is currently utilised for single residential purposes and is developed with a double-storey dwelling house and ancillary outbuildings, including a double garage, staff quarters, and a garden shed. The dwelling comprises three bedrooms, an open-plan kitchen and lounge area, enclosed and open balconies, and associated residential amenities.

The existing land use is consistent with the primary use rights applicable to properties zoned Residential Zone 1: Single Residential in terms of the Overstrand Municipality Land Use Scheme. The surrounding area is predominantly characterised by single residential properties developed with detached dwelling houses, consistent with the zoning and established development pattern of Pringle Bay.

4. PROPOSAL

4.1 Proposed Building Line Departures

In terms of the Overstrand Municipality Land Use Scheme Regulations, the prescribed lateral building lines applicable to Erf 1108 Pringle Bay are 2.0 metres from both the eastern and western property boundaries, and 2.0 metres from the rear boundary. A summary of the encroachments identified is provided in the table below, followed by a detailed description of each departure sought.

Location	Required Setback	Actual Distance	Encroachment	Affected Area
Eastern Lateral Boundary	2.00 m	0.85 m	1.15 m	9.267 m ²
Western Lateral Boundary (Main Structure)	2.00 m	1.78 m	0.22 m	1.176 m ²
Western Lateral Boundary (Garden Shed)	2.00 m	0.67 m	1.33 m	7.65 m ²
Rear Boundary (Garden Shed)	2.00 m	1.39 m	0.61 m	7.65 m ²

4.1.1 Eastern Lateral Boundary

A single garage was approved on 30 September 2016 at a distance of 1.100 metres from the eastern boundary. Subsequent to this approval, the garage was converted into a bedroom with an en-suite bathroom. A recent land survey has confirmed that the structure is in fact constructed 0.85 metres from the eastern lateral boundary. The encroachment therefore amounts to 1.15 metres in lieu of the required 2.0 metre building line.

Application is accordingly made for a building line departure to regularise the existing structure at 0.85 metres from the eastern boundary.

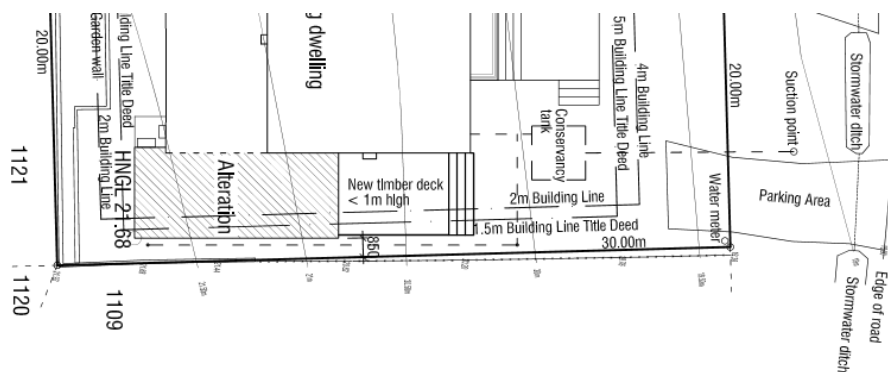


Figure 3: Building Plan Abstract — Eastern Boundary

4.1.2 Western Lateral Boundary

A double garage with an open and enclosed first-floor balcony was approved on 13 September 2019 at a distance of 2.0 metres from the western lateral boundary. The survey has confirmed that the structure has been constructed at a distance of 1.78 metres from the western boundary, resulting in an encroachment of 0.22 metres in lieu of the prescribed 2.0 metre lateral building line. Application is therefore made for a building line departure to regularise the structure at 1.78 metres from the western boundary.

In addition, a garden shed has been erected within the prescribed 2.0 metre western lateral building line at a distance of 0.67 metres from the boundary, resulting in an encroachment of 1.33 metres. Application is accordingly made for a building line departure to regularise the garden shed at 0.67 metres from the western boundary.

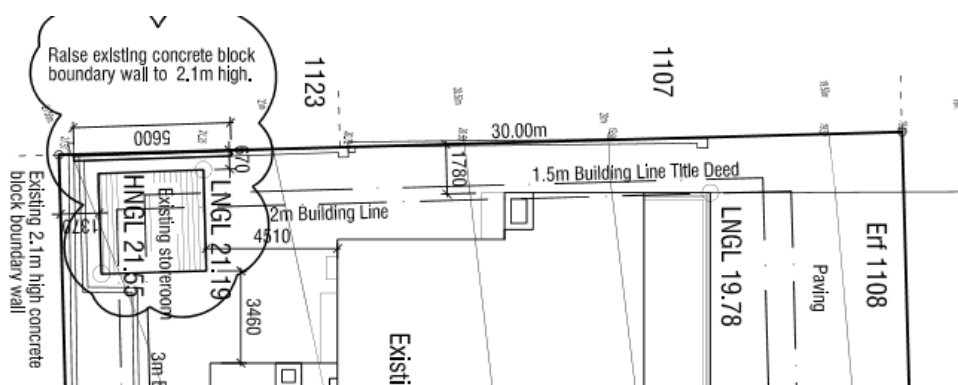


Figure 4: Building Plan Abstract — Western Boundary

4.1.3 Rear Boundary

In terms of the Overstrand Municipality Land Use Scheme Regulations, a 2.0 metre rear building line is applicable to Erf 1108 Pringle Bay. A garden shed has been constructed at a distance of 1.39 metres from the rear boundary, encroaching 0.61 metres into the prescribed 2.0 metre rear building line. Application is accordingly made for a building line departure to regularise the garden shed at 1.39 metres from the rear boundary.

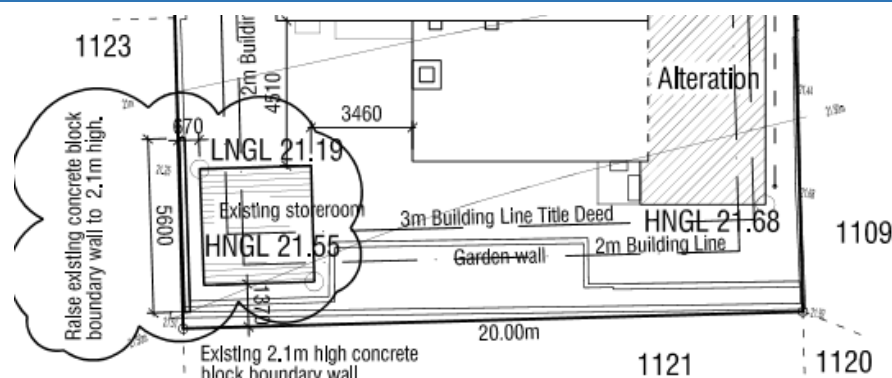


Figure 5: Building Plan Abstract — Rear Boundary

4.2 Proposed Removal of the Restrictive Title Deed Condition

4.2.1 Nature and Text of the Restriction

Title Deed No. T5410/2026, applicable to Erf 1108 Pringle Bay, contains restrictive conditions that must be removed to enable the approval of the building plans and to regularise the current position of the existing dwelling, garden shed, and the conversion of the approved single garage. Two distinct conditions are the subject of this removal application. The first is Condition 6(a), which limits the erf to a single dwelling, and which is implicated by the conversion of the approved garage into a bedroom and bathroom currently labelled as staff quarters — a configuration that may be interpreted as a second dwelling unit. The second are sub-paragraphs 6(b)(i) and 6(b)(ii), which regulate the placement of outbuildings relative to lateral and rear boundaries. These sub-paragraphs fall within the broader framework of Condition 6(b), the introductory portion of which provides:

“No building or structure or any portion thereof except boundary walls and fences, shall except with the consent of the Administrator, be erected nearer than 5m to the street line which forms a boundary of this erf, nor within 3m of the rear or 1.5m of the lateral boundary common to any adjoining erf...”

The conditions forming the subject of this removal application are set out below.

Condition 6(a):

“This erf shall be used solely for the purpose of erecting thereon one dwelling or other buildings for such purposes as the Administrator may, from time to time, after reference to the Townships Board and the local authority, approve, provided that if the erf is included within the area of a Town Planning Scheme, the local authority may permit such other buildings as are permitted by the scheme subject to the conditions and restrictions stipulated by the scheme.”

Condition 6(a) restricts the erf to a single dwelling. The conversion of the approved garage into a bedroom with an en-suite bathroom, currently designated and described as staff quarters, creates a risk that the unit may be interpreted as a second dwelling unit by the Municipality. While the applicant maintains that the converted space forms an integral part of the single dwelling and does not constitute an independent unit, the removal of this condition is sought as a precautionary measure to eliminate any regulatory ambiguity and to ensure that the application can be assessed and approved without this constraint.

Condition 6(b)(i):

“an outbuilding used solely for the housing of motor vehicles and not exceeding 3m in height, measured from the ground floor of the outbuilding to the wall-plate thereof, may be erected within such side and rear spaces, and any other outbuilding of the same height may be erected within the rear space and side space for a distance of 12m measured from the rear boundary of the erf, provided that in the case of a corner erf the distance of 12m shall be measured from the point furthest from the street abutting the erf.”

Condition 6(b)(ii):

“an outbuilding in terms of sub-paragraph (i) may only be erected nearer to a lateral or rear boundary of a site than the above prescribed spaces, if no windows or doors are inserted in any wall facing such boundary.”

It is confirmed by Van Zyl Kruger Attorneys, who have issued a conveyancer's certificate in this regard, that conditions 6(b)(i) and 6(b)(ii) as quoted above are the specific conditions applicable to the building line encroachments and forming the subject of that aspect of the proposed removal. Condition 6(a) is additionally included in this application on the grounds set out above.

4.2.2 Rationale for Removal

The removal of these restrictions is necessary for the following reasons:

- The building lines imposed in terms of the Title Deed differ from, and in certain respects are more restrictive than, those prescribed under the current Overstrand Municipality Land Use Scheme.
- While departures in terms of the Land Use Scheme may be considered and approved by the Municipality, the Title Deed restriction constitutes a separate, registered legal constraint. Even if the Municipality supports the proposed building line departures under the zoning scheme, such approval cannot lawfully be implemented while the Title Deed restriction remains in force.
- The requested departures are strictly limited to accommodating the existing structures as surveyed and described in this application. The application does not seek a blanket relaxation of building lines.
- Upon approval, the 2.0 metre lateral and rear building lines prescribed under the Land Use Scheme will continue to apply to all future additions or alterations, unless otherwise authorised through a separate land use application.
- Condition 6(a) of the Title Deed restricts the erf to a single dwelling. The previous owner's conversion of an approved single garage into a bedroom with an en-suite bathroom, currently described as staff quarters, creates a risk that the Municipality may classify this space as a second dwelling unit, which would constitute a direct contravention of Condition 6(a). While it is the applicant's position that the converted space remains an integral part of the principal dwelling and does not function as an independent unit, the removal of Condition 6(a) is sought as a

precautionary measure to remove regulatory uncertainty and to ensure the application can be assessed on its merits under the Land Use Scheme without this constraint.

- The land use as zoned — Residential Zone 1: Single Residential — already permits a dwelling house and ancillary outbuildings. The removal of Condition 6(a) does not introduce any additional use rights beyond what the zoning scheme already contemplates. The property will remain regulated in terms of the Land Use Scheme, and no second independent dwelling unit is proposed or sought as part of this application.

4.2.3 Consideration of Section 39(5) of LUPA

In terms of Section 39(5) of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014) (“LUPA”), a municipality must have due regard to specific considerations when evaluating an application for the removal of a restrictive condition. Each of these statutory criteria is addressed below.

Financial or Other Value of the Restriction

There is no identifiable financial or proprietary benefit accruing to any neighbouring landowner or third party as a direct result of the continued enforcement of the restrictive conditions. Neither Condition 6(a) nor Conditions 6(b)(i) and 6(b)(ii) creates a registered real right in favour of adjoining owners. Their removal will therefore not diminish any vested property value or legally protected entitlement.

Purpose of the Restrictive Condition

The original purpose of the restrictive condition was to regulate setbacks to ensure adequate light, air, privacy, and a consistent built form within the township at the time of its establishment. These objectives are now comprehensively regulated by the Overstrand Municipality Land Use Scheme, which prescribes building lines, coverage, height, and other development parameters. The Title Deed restriction effectively duplicates and, in certain respects, conflicts with contemporary statutory controls.

Duration of the Condition

The condition has been in force since the establishment of the township and has applied for several decades. Over time, the area has developed incrementally, often without formal re-survey or precise cadastral verification prior to construction. Minor building line encroachments by older dwellings and outbuildings are therefore not uncommon within Pringle Bay.

Enforceability of the Condition

Although the condition remains legally enforceable, its practical planning relevance has diminished. Land use management is now exercised through LUPA, the Overstrand Municipal Planning By-law, and the Land Use Scheme Regulations. The current application does not seek to negate development controls, but rather to regularise specific existing encroachments through the appropriate statutory mechanisms.

Impact on Rights and Legitimate Expectations

The proposed removal will not materially affect the rights or legitimate expectations of adjoining owners. The property will remain subject to the applicable zoning controls. The application does not introduce additional bulk, height, or intensified land use. Adjoining owners cannot reasonably expect perpetual enforcement of historic private setback provisions where a modern statutory framework provides structured and equitable regulation.

Public Interest

The removal is in the public interest as it facilitates the orderly and lawful regularisation of established development. Requiring demolition or rigid enforcement of historic private setback lines for marginal encroachments that have existed for extended periods would be unreasonable, economically wasteful, and inconsistent with the principles of proportionality and spatial justice embedded in LUPA. Regularisation promotes legal certainty while maintaining the integrity of current development controls.

Conflict with Applicable Planning Frameworks

The proposed removal does not conflict with the applicable Spatial Development Framework, the Overstrand Land Use Scheme, the Municipal Planning By-law, or any other relevant legislation. On the contrary, it enables the property to be regulated exclusively in terms of the prevailing statutory planning instruments, which are specifically designed to manage building lines and related development parameters in a consistent and equitable manner across the municipality.

Accordingly, the proposed removal satisfies all requirements of Section 39(5) of LUPA and is both reasonable and justifiable in the prevailing planning context.

4.3 Determination of an Administrative Penalty

4.3.1 Basis for the Application

In terms of Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, application is hereby made for the determination of an administrative penalty arising from the unauthorised building line encroachments and the associated change of use of a portion of the approved garage. The contraventions are historic in nature, relate to structures previously approved in principle, and were inherited by the current owner.

Chapter 10, Section 90(1) of the By-law provides that any person in contravention of the By-law who applies to rectify such contravention must simultaneously request the Municipality to determine an administrative penalty, unless a demolition directive has been issued in terms of Section 85. No such demolition directive has been issued in this instance.

4.3.2 Criteria for Determination of the Administrative Penalty

In terms of Chapter 10, Section 90 of the By-law, the Municipality must consider the following criteria when determining an appropriate administrative penalty. Each criterion is addressed below with specific reference to Erf 1108 Pringle Bay.

Nature, Duration, Gravity and Extent of the Contraventions

The contraventions relate to minor lateral and rear building line encroachments on the eastern and western boundaries, a rear boundary encroachment affecting the garden shed, and the unauthorised change of use of a portion of an approved single garage into a bedroom with an en-suite bathroom. As confirmed by the professional land survey:

- The eastern structure is 0.85 m from the lateral boundary (encroachment: 1.15 m). The affected area — where the land use was changed from garage to bedroom and en-suite — measures approximately 9.267 m².
- The western main structure is 1.78 m from the lateral boundary (encroachment: 0.22 m). The affected area measures approximately 1.176 m².
- The garden shed is 0.67 m from the western lateral boundary (encroachment: 1.33 m) and 1.39 m from the rear boundary (encroachment: 0.61 m). The total encroaching area constitutes approximately 7.65 m².

From a town planning perspective, the gravity of the contraventions is low. The primary land use remains Single Residential, no additional dwelling unit has been created, and there is no material increase in development intensity, height, or coverage. There is no demonstrable adverse impact on adjoining properties, nor any deviation from the established residential character of the area.

Conduct of the Person Involved

The current owner did not contravene the provisions of the Land Use Scheme or the Municipal Planning By-law. The encroachments and the internal conversion of the garage are historic in nature and were inherited with the property. The former owner commissioned a professional land survey voluntarily, demonstrating good faith and due diligence, and has elected to regularise the matter through the appropriate statutory procedures. There is no evidence of wilful disregard for planning legislation.

Cost Assessment of Encroaching Structures

A cost assessment has been undertaken by ITM Projects and Developments to determine the estimated construction value of the portions of the existing structures that encroach into the prescribed building lines. The assessment is based on the affected areas only and excludes compliant portions of the buildings. The results are summarised in the table below:

Component	Area (m ²)	Rate (R/m ²)	Estimated Value
Garden Shed (Wendy House) — encroaching portion	3.89 m ²	R 1,700.00	R 6,613.00
Double Garage & First Floor Balcony — encroaching brick wall (plastered wall area)	18 m ²	R 830.00	R 14,940.00
Former Garage (converted to Bedroom & En-Suite Bathroom) — encroaching portion	10.34 m ²	R 14,500.00	R 149,930.00
TOTAL ESTIMATED VALUE			R 171,483.00

This quantified value provides an objective and rational basis for the Municipality to determine an appropriate administrative penalty, consistent with the principle of proportionality. It is noted that the unauthorised change of use relates to an internal reconfiguration within the existing building footprint. No additional coverage, bulk, or structural expansion beyond the original approved form has occurred.

Cessation of Unlawful Conduct

No ongoing unlawful building activity is taking place on the property. The structures concerned have been completed for several years and no further construction or expansion has occurred. The current process is aimed at resolving historic non-compliance in a lawful and structured manner.

Prior Contraventions

There is no record or evidence that the current owner has previously contravened the Overstrand Municipality's Municipal Planning By-law or any predecessor planning legislation in respect of this property. The present contraventions are isolated, technical in nature, and historic, and do not form part of a pattern of non-compliance.

5. ACCESS AND PARKING

Vehicular access to Erf 1108 Pringle Bay is obtained via an existing driveway from William Avenue, providing direct access to the on-site double garage. This access arrangement is lawful, established, and fully operational. The existing driveway and garage access will be retained, and no additional vehicular access points are proposed or required as part of this application.

Adequate on-site parking is provided in the form of the double garage and associated driveway area, which accommodates parking in compliance with the requirements applicable to a property zoned Residential Zone 1: Single Residential. The application does not introduce an additional dwelling unit, increase the intensity of use, or generate additional parking demand beyond that ordinarily associated with a single dwelling house.

The existing access and parking arrangements are therefore sufficient to support the current land use and the proposed regularisation, and no further access infrastructure or parking provision is necessary.

6. MUNICIPAL SERVICES

Erf 1108 Pringle Bay is fully serviced with municipal infrastructure, including potable water supply, electricity, and sewer connections. Stormwater is managed in accordance with the established drainage patterns of the area.

The proposed applications relate solely to the regularisation of existing building line encroachments and an internal change of use within the existing dwelling footprint. No increase in bulk services demand, additional dwelling units, or intensified land use is proposed. Accordingly, the existing municipal services infrastructure has sufficient capacity to accommodate the current development, and no upgrading of engineering services or additional service connections are required.

7. TITLE DEED

7.1 Property Particulars

Erf 1108 Pringle Bay is held under Title Deed No. T5410/2026. The property is described as follows:

Erf Number	Erf 1108 Pringle Bay
Municipality	Overstrand Municipality
Division	Caledon
Province	Western Cape Province
Extent	600 m ² (Six Hundred Square Metres)

7.2 Restrictive Condition and Its Implications

The Title Deed records that the property is subject to conditions imposed upon the establishment of Pringle Bay Township Extension 3. Two categories of conditions are the subject of this removal application. First, Condition 6(a) limits the erf to a single dwelling and is implicated by the conversion of the former garage into a bedroom and bathroom designated as staff quarters, which carries a risk of classification as a second dwelling unit. Second, Conditions 6(b)(i) and 6(b)(ii) regulate the placement of outbuildings relative to lateral and rear boundaries. These sub-paragraphs fall within the broader Condition 6(b), which also imposes building line setbacks of 5.0 metres to the street, 3.0 metres to the rear, and 1.5 metres to lateral boundaries. The removal of sub-paragraphs 6(b)(i) and 6(b)(ii) is confirmed by the conveyancer's

certificate issued by Van Zyl Kruger Attorneys; Condition 6(a) is additionally sought on a precautionary basis as set out in this application.

The continued existence of these private restrictions creates a parallel and potentially conflicting regulatory layer. Even if building line departures are approved in terms of the Land Use Scheme, such approvals cannot be implemented while the Title Deed restrictions remain in force. Similarly, the risk of the staff quarters being classified as a second dwelling in contravention of Condition 6(a) creates legal uncertainty that must be resolved before the property can be regularised.

The application therefore seeks the removal of the restrictive conditions in order to:

- Regularise the existing position of the dwelling and garden shed as confirmed by the cadastral survey;
- Remove the regulatory risk posed by Condition 6(a) in respect of the converted garage space (staff quarters), which may be classified as a second dwelling unit;
- Regularise the internal conversion of the approved single garage within the encroaching portion of the structure; and
- Align the property's development controls with the prevailing statutory planning framework.

It is reiterated that the requested removal and associated departures are strictly limited to accommodating the existing structures as surveyed. The 2.0 metre lateral and rear building lines prescribed under the Overstrand Municipality Land Use Scheme will remain applicable to the property for all future development.

8. FORWARD PLANNING

8.1 Overstrand Municipal Wide Spatial Development Framework (2020)

In terms of the Overstrand Municipal Wide Spatial Development Framework (2020), Erf 1108 Pringle Bay falls within the urban development area of the municipality. The property is earmarked for continued residential use, and no change to its residential function is contemplated in the applicable spatial vision.

The proposed regularisation of minor building line encroachments and the removal of the restrictive Title Deed conditions do not alter the land use or development intensity of the property. The application is therefore consistent with the spatial intent of the Municipal Wide SDF and supports orderly, sustainable urban development within the existing built footprint of Pringle Bay.

8.2 Overstrand Growth Management Strategy (2010)

According to the Overstrand Growth Management Strategy (2010), the subject property falls within Planning Unit 2, which comprises the northern, established built-up area of Pringle Bay. No densification proposals or structural growth interventions are identified for this planning unit.

The present application does not introduce additional dwelling units, increased density, or intensified land use. It is limited to the regularisation of existing structures and an internal change of use within the established building footprint. The proposal is therefore aligned with the Growth Management Strategy and does not conflict with the planning objectives applicable to Planning Unit 2.

The proposal is fully aligned with both the Overstrand Municipal Wide Spatial Development Framework (2020) and the Overstrand Growth Management Strategy (2010). It does not introduce new development pressure, alter the residential character of the area, or conflict with any identified forward planning objectives.

9. OTHER RELEVANT LEGISLATION

9.1 Heritage Value

Erf 1108 Pringle Bay is not situated within a Heritage Overlay Zone as identified in the Overstrand Growth Management Strategy (2010). According to the Overstrand Municipality GIS, the property falls within LCZ Zone C1.

The property has no known association with persons of historical importance, significant events, cultural groups, or activities of heritage significance. There is likewise no connection to slavery, living heritage, or any recognised intangible cultural heritage resource. The existing dwelling is not older than 60 years and therefore does not trigger the age-related provisions of Section 34 of the National Heritage Resources Act, 1999 (Act 25 of 1999).

Considering the above, and that the application relates solely to the regularisation of minor building line encroachments and an internal change of use within the existing footprint, it is evident that the proposal will not negatively impact any heritage resource or the broader heritage character of Pringle Bay.

9.2 Impact on the Biophysical Environment

The proposed application does not trigger any listed activities in terms of the National Environmental Management Act, 1998 (Act 107 of 1998) ("NEMA") and the associated Environmental Impact Assessment Regulations. The application relates solely to the regularisation of existing structures and an internal change of use within the established building footprint of a single residential property.

No additional development footprint, expansion of coverage, vegetation clearance, earthworks, or infrastructure upgrades are proposed. The site is already developed and fully serviced, and the proposal does not introduce any activities that would result in significant impacts on biodiversity, coastal processes, water resources, or the broader biophysical environment. Accordingly, an Environmental Impact Assessment (EIA) is not required, as the proposal falls outside the scope of listed activities contemplated under NEMA and its regulations.

10. PLANNING PRINCIPLES

The planning principles of spatial justice, spatial sustainability, efficiency, spatial resilience, and good administration, as set out in the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014) (“LUPA”), are addressed as follows:

Spatial Justice

The application promotes spatial justice by applying the statutory planning framework in a fair and proportionate manner. The regularisation of minor, historic encroachments through the prescribed legal mechanisms ensures that development control is exercised consistently and equitably. The proposal does not confer undue advantage, nor does it prejudice adjoining property owners.

Spatial Sustainability

The proposal supports spatial sustainability as it relates solely to the regularisation of existing development within an established urban area. No expansion of the development footprint or intensification of land use is proposed. The property remains utilised for single residential purposes in line with its zoning and the spatial intent of the Municipal Spatial Development Framework.

Efficiency

The application promotes spatial and administrative efficiency by resolving historic technical non-compliance through the appropriate statutory processes, rather than resorting to demolition or unnecessary reconstruction. The erf is already serviced and developed, and the proposal does not require additional municipal infrastructure or public investment. The regularisation ensures clarity and legal certainty, thereby enhancing efficient land use management.

Spatial Resilience

The proposal contributes to spatial resilience by aligning the property’s development controls with the current statutory planning regime. By removing redundant Title Deed restrictions and regulating the property in terms of the Land Use Scheme, the application ensures that future development remains subject to clear, contemporary, and adaptable planning controls.

Good Administration

Plan Active Town and Regional Planners is committed to the principle of good administration and will cooperate fully with the Overstrand Municipality to ensure a time-efficient and uncomplicated land use

planning process. All measures will be taken to ensure compliance with the applicable timeframes stipulated by the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020.

11. RECOMMENDATION

When this application is evaluated, it is respectfully requested that the following material considerations be taken into account:

- The application relates to the regularisation of existing, minor building line encroachments and an internal change of use within an established single residential property. No additional dwelling unit, increased density, or intensified land use is proposed.
- The encroachments are limited in physical extent, as confirmed by a professional land survey, and are historic in nature. They were only identified during due diligence undertaken in preparation for the intended sale of the property.
- The departures sought are strictly confined to accommodating the existing structures as surveyed. Approval will not grant unrestricted development rights, and the prescribed 2.0 metre lateral and rear building lines in terms of the Overstrand Municipality Land Use Scheme will remain applicable to any future development.
- The removal of the restrictive Title Deed conditions is necessary to eliminate parallel and potentially conflicting regulatory constraints. Condition 6(a) is sought on a precautionary basis to resolve the risk of the converted staff quarters being classified as a second dwelling unit; Conditions 6(b)(i) and 6(b)(ii) are sought to enable regularisation of the outbuilding encroachments confirmed by the conveyancer's certificate. Both removals are required to align the property's development parameters with the prevailing statutory planning framework.
- The proposal is consistent with the Overstrand Municipal Wide Spatial Development Framework (2020), the Overstrand Growth Management Strategy (2010), and the applicable zoning provisions, and does not conflict with any adopted policy or legislation.
- There is no demonstrable adverse impact on adjoining properties, municipal services, heritage resources, or the biophysical environment.

In light of the above, it is respectfully submitted that the application satisfies the relevant statutory and planning considerations, and that the requested building line departures, removal of the restrictive Title Deed condition, and determination of an appropriate administrative penalty may be supported and approved.

All deviations from plan, however minor, must be reported to and approved by the Architect in writing. Failure to do so will absolve the Architect of ANY further responsibility relating directly or indirectly to the deviations.

SANS 10400-XA-2021 Ed 2

Contractor to take note of all notes listed below and included on drawings to ensure that the resulting building complies with the requirements as stipulated in the SANS 10400-XA-2021 Ed 2 document.
Contractor will be responsible to prove his compliance by means of photographic or physical evidence that will be evaluated by the Architect before practical completion and the issuing of the Occupancy Certificate.

Floors

Concrete floor slabs in accordance with SANS 10400-8-H/L
30mm Scribed
100mm Concrete footing (1:3:6 mass concrete) with R4 193 steel reinforcement to Engineer's specification.
Under floor membrane min. 0,25mm thick to be laid on a surface clean of sharp objects.
Membrane to be turned up around the perimeter of, and at least for the full thickness of the slab,
Joints in membrane to overlap min. 200mm and to be effectively sealed to Manufacturer's specifications.
300mm Wall compacted clean sand.
150mm Layers wall compacted hard core, free of organic material.
Surface test compaction to be inspected and approved by Engineer.
No under floor heating system installed.

Walls

Timber frame walls to Engineer's specification and to comply with SANS 10082.
Nulac building planks externally.
8mm OSB.
102mm Isover Camlybant insulation.
15mm Firestop board internally.
Timber frame.

Roof construction and Ceilings

All roof materials to be installed to Manufacturers' specifications.
Colorbond Ultra A2200 roof sheets @ 3°
Fasteners to comply with Australian Standard Class 4.
Fishing or ridge capping to be manufactured from the same material as used for the roofing.
Double sided Radeshield.
50 x 76 Purlins max. 900C/c.
100mm Rockwool insulation.
38 x 152 Batters max. 1050C/c.
Galvanised hoop iron strips to be built 600mm deep into walls.
Hurricane clips at all rafter and purlin crossings.
Rhinoboard ceilings skimmed and painted.
Rafter current access.
Seamless aluminum gutter and down pipe.
Finishes
All finishes including but not limited to floor coverings, skirtings, cornices, ceilings, paint, EICs, internal doors and door frames, joinmongery and window sills to be confirmed with Owner.

Electrical

All electrical work according to current SANS codes and to be done by a registered Electrician.
All electrical points to be confirmed with Owner before work commences.
Only LED or CFL lights to be used to comply with SANS 10400-XA-2021.

Pumbing and Hot Water Installation

All plumbing to comply with current SANS codes and to be done by a registered Plumber.
Requirements for water installations to be in accordance with SANS 10252-1 and SANS 10254.
All exposed hot water service pipes < 80mm diameter to be clad with insulation with a min. R-value of 1.
All exposed hot water service pipes > 80mm diameter to be clad with insulation with a min. R-value of 1,5.
Hot water cylinder insulation to have an R-value of 2.
A minimum of 50% by volume of the annual hot water heating requirements must be provided by means other than electrical resistance heating.

Building Sealing

Building envelope must be constructed to minimise air leakage.
Ensure that wall / roof junctions are properly sealed.
Joints in roof sheeting should be sealed.
Maximum permissible leakage:

Operable glazing 2,0L/s-m² with 75 Pa pressure difference - test to be performed according to SANS 613.
Chimneys of solid fuel burning appliances to have damper lip to allow closing off of chimney.
All doors leading from habitable rooms should be sealed with a foam rubber compressible strip or fibrous seal.

Windows and Doors

Windows and doors in accordance with SANS 10400-XA, SANS 10400-A and AAMSA.
All penetration to be designed for a wind load of 1500Pa, Min. 10% light and 5% ventilation per room.
Clear float glass in all areas except bathrooms.
Safety glass to all bathrooms.
Provide a rail / burglar bars in front of all windows lower than 1m from FF, where the drop outside is greater than 1m. Openings < 100mm.
Glass to doors and sidelights and glass lower than 500mm from FF, to be safety glass.
On completion of work a Glazing Compliance Certificate must be issued by a Specialist.

At Completion
No centrally controlled artificial ventilation or air conditioning.

Sandra Schutte
B.Arch.(U.P.)
Pr. Arch. (NACA) CA
Tel & Fax 028 271 4238
Cell 072 690 1650
121 Main Road
Kleinmond
7195



Engineer's Signature

Owner's Signature

Client **Mathebe** **2291**

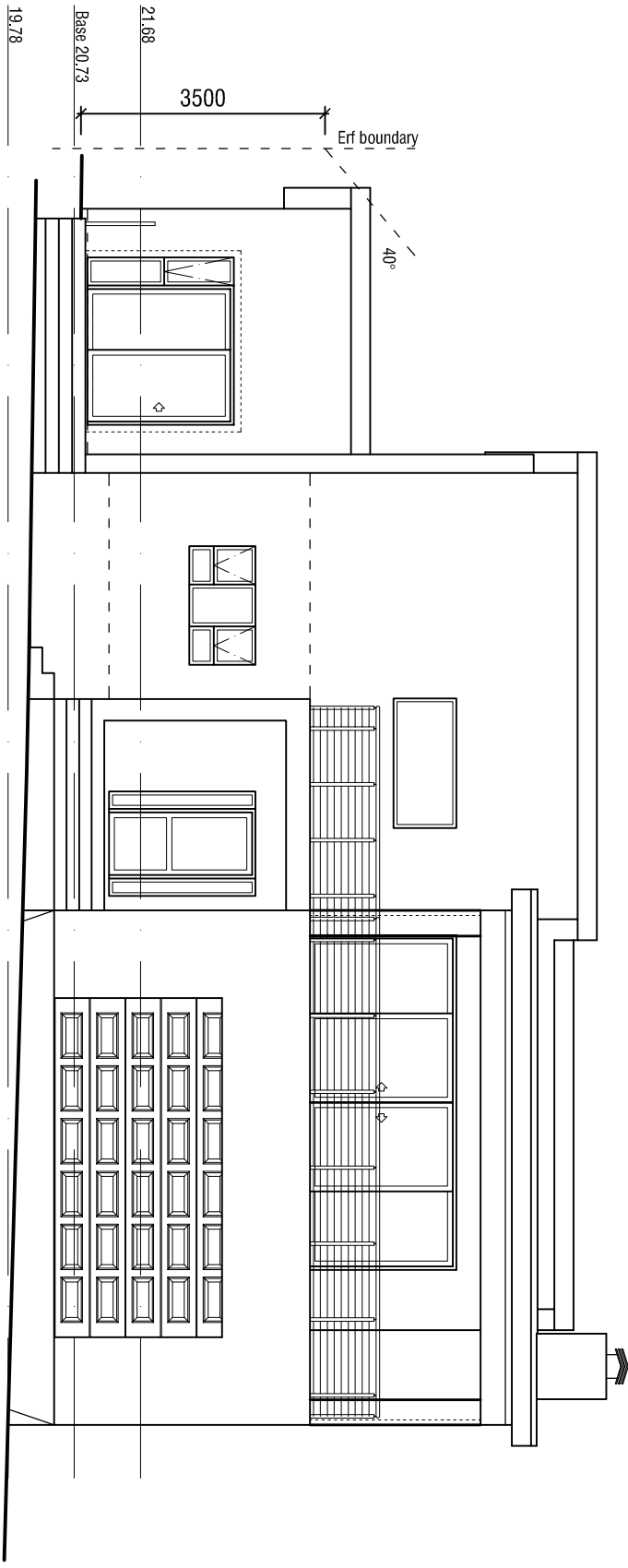
Project **Building Plans for Municipal Approval**
Documentation of existing dwelling and new storeroom
Erf No. 1108
7 William Avenue
Pinnacle Bay

Drawing Elevations

Scale 1:100

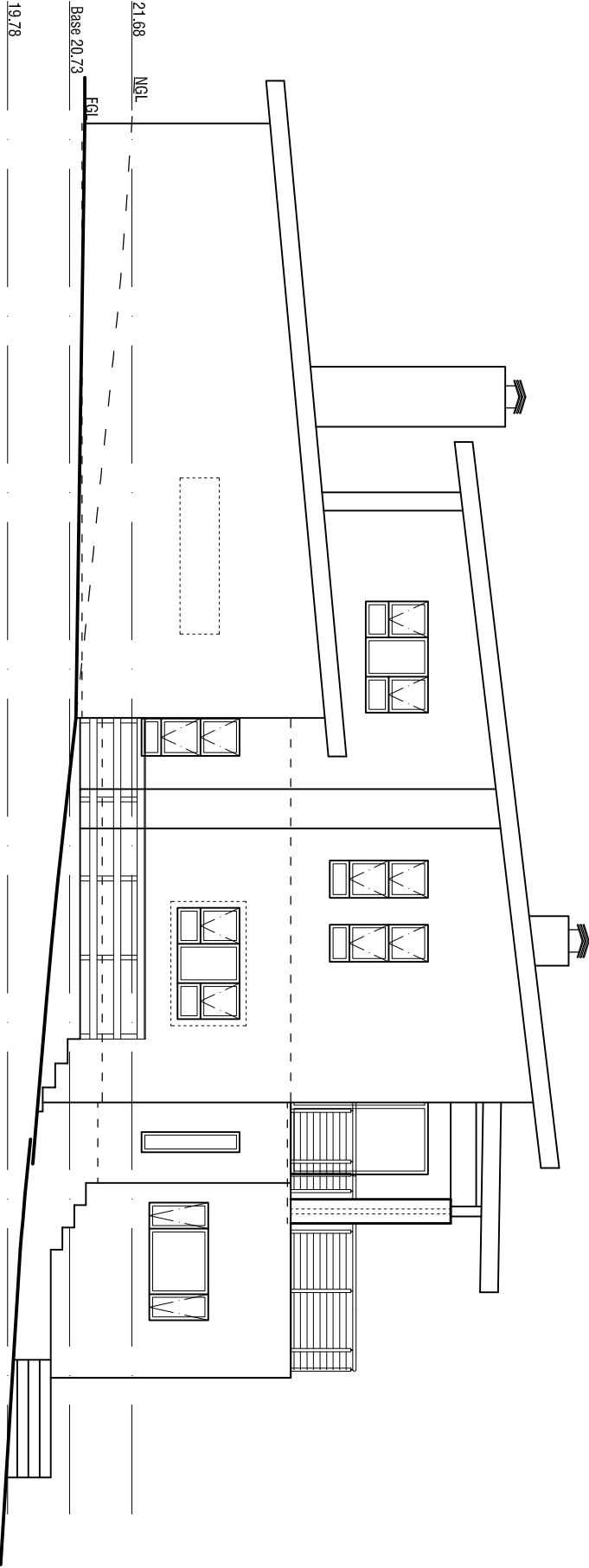
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Project No	Revision	Date	2025/12/15
E-453.P	0	Sheet No	2 of 2

Enthoofte verskoning 20/23



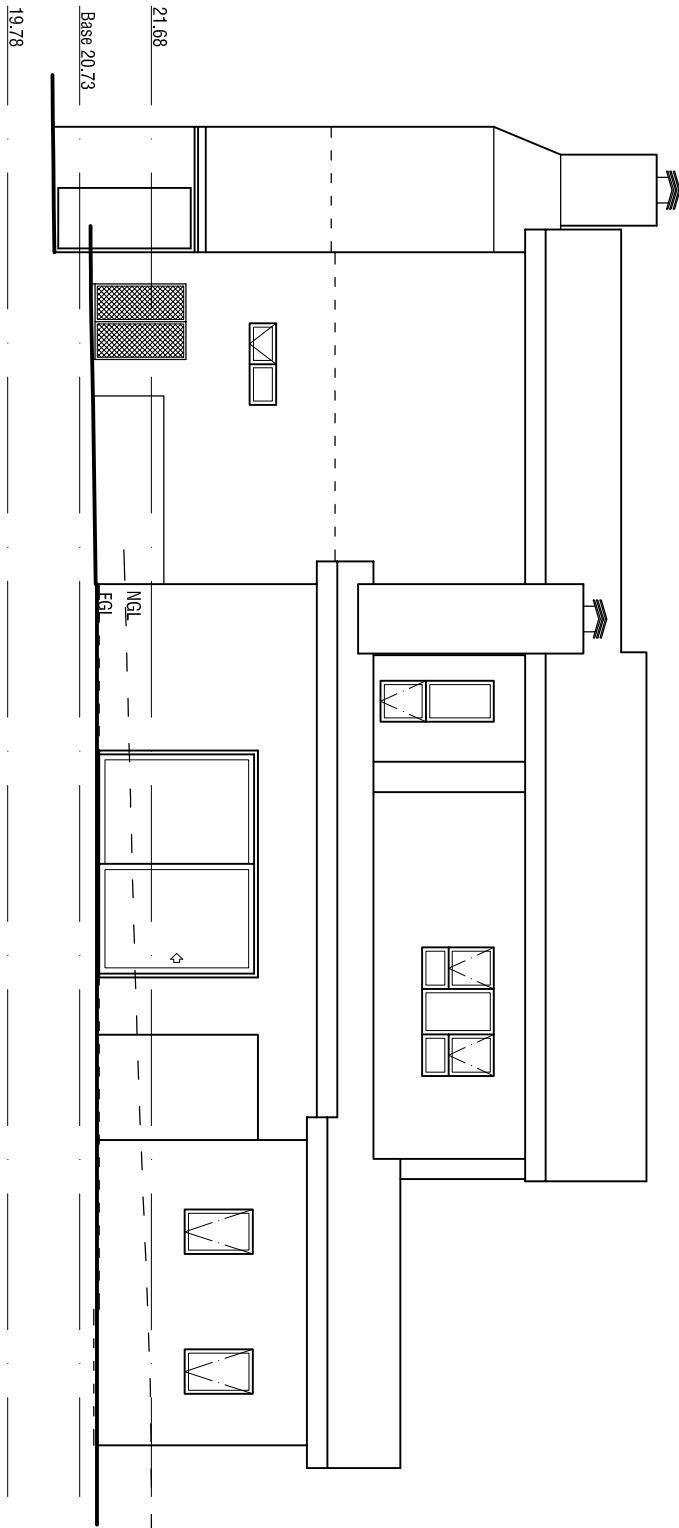
North Elevation

Enthoofte verskoning 20/23



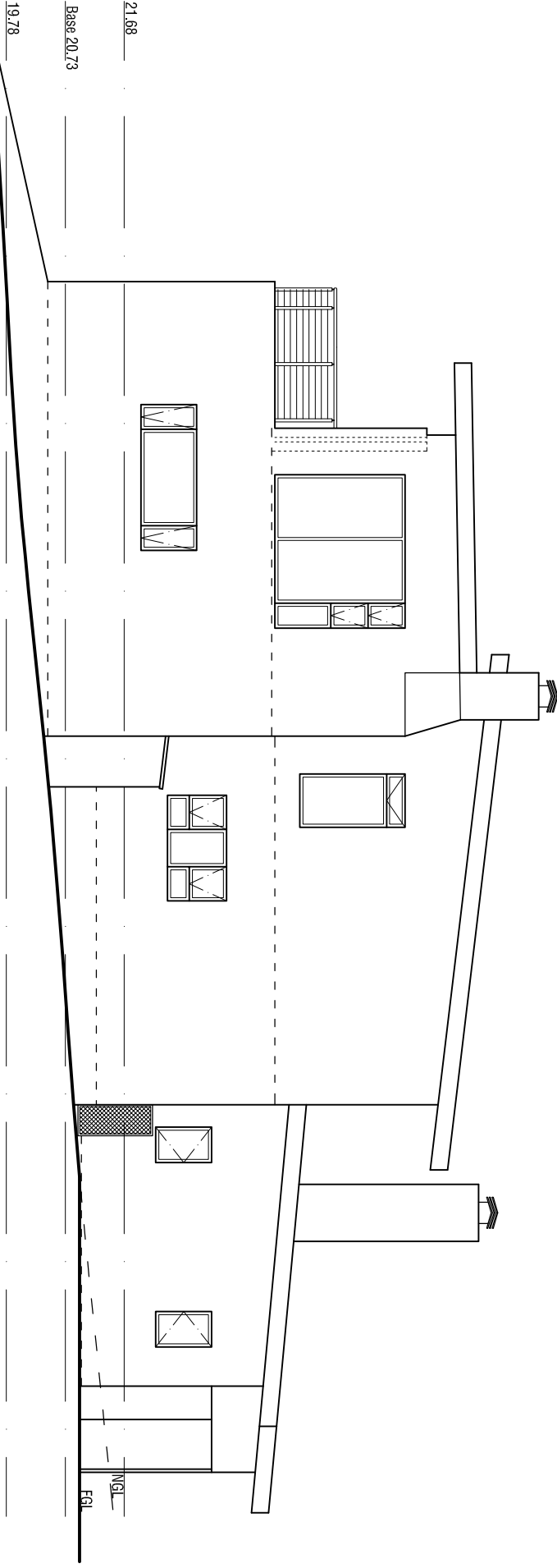
East Elevation

Enthoofte verskoning 20/23



South Elevation

Enthoofte verskoning 20/23



West Elevation