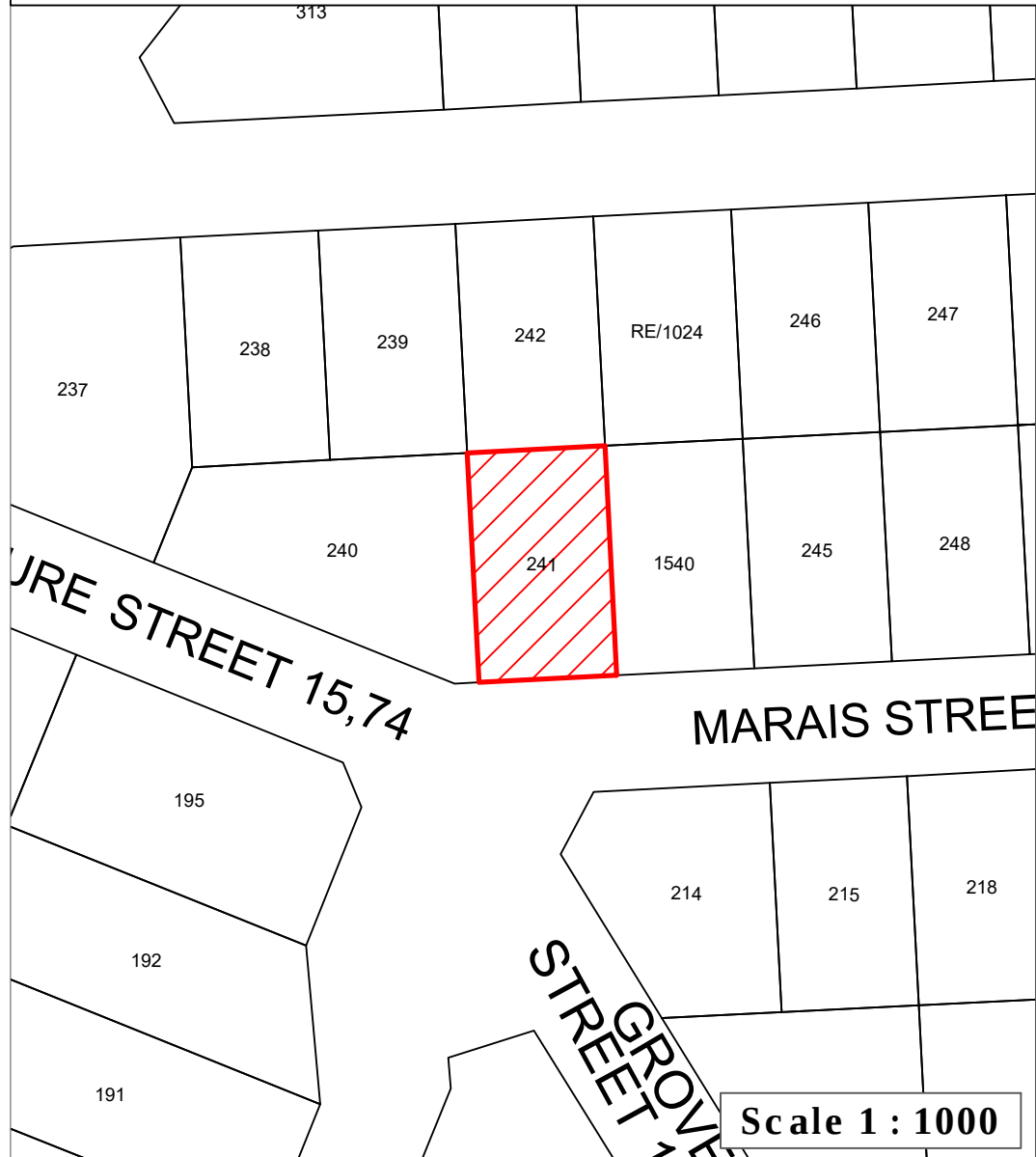


OVERSTRAND MUNICIPALITY	OVERSTRAND MUNISIPALITEIT	UMASIPALA WASE-OVERSTRAND
<u>ERF 241, 179 MARAIS STREET, FRANSKRAAL, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND DEPARTURE: WRAP PROJECT OFFICE ON BEHALF OF ANNELIZE GERSBACH</u> Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) of the following applications applicable to Erf 241, Franskraal, namely: <u>Removal of restrictive title deed conditions</u> Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed condition C.(4)(d) as contained in Title Deed T114164/1997 to accommodate the proposed garage. <u>Departures</u> Application in terms of Section 16(2)(b) of the By-Law in order to: • relax the eastern lateral building line from 2m to 0m to accommodate the proposed garage and storage area; • relax the rear building line from 2m to 0m to accommodate the proposed garage and storage area, and • relax the height restriction applicable to boundary walls from 2.1m to 2.9m to accommodate a fire wall. 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 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 16 October 2026, with your name, address, contact details, interest in the application and the reasons for comment. Telephonic inquiries can be made to Mr SW van der Merwe 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>	<u>ERF 241, MARAISSTRAAT 179, FRANSKRAAL, OVERSTRAND MUNISIPALE AREA: AANSOEK OM OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDES EN AFWYKING: WRAP PROJECT OFFICE NAMENS ANNELIZE GERSBACH</u> 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 241, Franskraal, naamlik: <u>Opheffing van beperkende titelaktevoorwaardes</u> Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelaktevoorwaarde C.(4)(d) soos vervat in Titelakte T114164/1997 om die voorgestelde motorhuis te akkommodeer. <u>Afwyking</u> Aansoek in gevolge Artikel 16(2)(b) van die Verordening ten einde die: • oostelike syboullyn vanaf 2m na 0m te verslap om die voorgestelde motorhuis en stoorarea te akkommodeer; • agterboullyn vanaf 2m na 0m te verslap om die voorgestelde motorhuis en stoorarea te akkommodeer, en • hoogtebeperking van toepassing op grensmure vanaf 2.1m na 2.9m te verslap om 'n brandmuur te akkommodeer. 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 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 16 Oktober 2026, met u naam, adres, kontak besonderhede, belang in die aansoek en die redes vir kommentaar. Telefoniese navrae kan gerig word aan Mr SW van der Merwe 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, kontakbesonderhede en kommentaar(e) openbaar gemaak mag word.</i>	<u>ISIZA 241, 179 MARAIS STREET, FRANSKRAAL, OVERSTRAND UMMANDLA KAMASIPALA: ISICELO SOKUSUSWA KWEEMKO EZITHINTELAYO KWITAYITILE YOBUNINI KUNYE SOKUTENXA NGOKUSISIGXINA: MESSRS WRAP PROJECT OFFICE EGAMENI LE ANNELIZE GERSBACH</u> Isaziso siyanikezelwa ngokweCandelo lama-47 nelama-48 loMthetho kaMasipala oLungisiweyo kaMasipala waseOverstrand kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, ka-2020 (uMthetho kaMasipala) izicelo esebenzayo kwiSiza-241, Franskraal , esizezi: <u>Sokususwa kweemeko ezithintelayo kwitayitile yobunini</u> Isicelo ngokweCandelo le-16 (2)(f) loMthetho kaMasipala wokususwa kwemiqathango yetayitile ethintelayo C.(4)(d) njengoko kuqulethwe kwiSiquendu seSihlokwana T114164/1997 ukulungiselela igaraji ecetywayo. <u>Ukutenxa</u> Isicelo ngokweCandelo le-16 (2)(b) loMthetho kaMasipala ukuze ndi: • ukunciphisa umda wokwakha osecaleni eliempuma ukusuka kwi-2m ukuya kwi-0m ukuze kulungiselelwe igaraji kunye nendawo yokugcina izinto ecetywayo; • ukunciphisa umda wokwakha ongasemva ukusuka kwi-2m ukuya kwi-0m ukuze kulungiselelwe igaraji kunye nendawo yokugcina izinto ecetywayo; kunye • nokwandisa umda wokuphakama kweendonga ezikwimida yepropati ukusuka kwi-2.1m ukuya kwi-2.9m ukuze kulungiselelwe udonga lokukhusela emlilweni. linkcukacha ezipheleleyo mayela noku kucetywayo ziyafumaneka ukuze zihlolwe phakathi evelini 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 https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/ Naziphi na izimvo mazibhalwe zize zingeniswe kuMasipala (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) ngomhla okanye ngaphambi komhla 16 EyeDwarha 2026, ubhale igama lakho, idilesi yakho kunye nomdla kwisicelo nesizathu sokuhlomla kwakho. Imibuzo ngefowuni ingabuzwa Mnu. SW van der Merwe 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. <i>Nceda uphawule ukUba ngokumayela noMthetho Wokukhuselwa kweNkazelo yoBuqu (POPIA), uza kungena kwinkqubo yokuthatha inxaxheba koluntu ibe ngenxa yoko uyavuma ukuba igama, ifani yakho, iinkcukacha zakho zoqhagamshelwano namagqabaza akho angadizwa / asetyenziswa kwinkqubo (yokufaka isicelo).</i>
Dr DGI O'Neill Municipal Manager / Munisipale Bestuurder / Umphathi Kamasipala PO Box / Posbus / Ibhokisi yePosi 20 HERMANUS 7200		Notice No / Kennisgewing nr / Inombolo yesaziso: 186/2026

Plan 1 - Locality Plan

Erf 241 - Franskraal



NTS



Plan prepared by: Thian Jansen

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Office 3, Oakwood, 10 Dirkie Uys Street, Hermanus



Project Office
Town Planning & Project Management

1. PROPERTY DETAILS

Property description	Erf 241 Franskraalstrand
Extent	595m ²
Zoning	Residential Zone 1: Single Residential
Title Deed	T114164/1997

2. EXECUTIVE SUMMARY

Erf 241 Franskraalstrand, hereafter referred to as the subject property, is situated at 179 Marais Street, Franskraalstrand, as illustrated in **Figure 1: Locality Plan**.



Figure 1: Locality of the subject property

The owners have owned the property since 1997 and have historically utilised it as a holiday home. Having recently retired, they now intend to make the property more suitable for permanent occupation. As part of these improvements, the owners have identified the need for a garage. Owing to the layout and positioning of the existing dwelling, it is not feasible to accommodate a garage within the current building footprint. Consequently, it is proposed that a separate garage be constructed to the rear of the property.

The title deed contains restrictive building line conditions that prohibit the proposed development. Accordingly, an application is required for the removal of the relevant restrictive title deed condition. Furthermore, the proposed garage will encroach over the applicable building line prescribed in the Overstrand Municipal Land Use Scheme (OMLUS), necessitating a Permanent Departure to relax the building line.

WRAP Project Office has therefore been appointed to prepare and submit the necessary land use application in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning (By-Law), to facilitate the proposed development. The authority to act on behalf of the owners is confirmed in **Annexure A: Power of Attorney**.

3. PROCEDURE TO ACHIEVE THE OWNERS' INTENT

This application is submitted in terms of the By-Law:

3.1 Removal of restrictive title deed conditions

As previously indicated, the owners propose the construction of a new garage to the rear of the subject property. The title deed, however, contains restrictive building line conditions that prohibit the proposed development. Consequently, an application is required to remove the applicable restrictive title deed condition to facilitate the proposed development.

The restrictive condition was imposed by the Administrator of the Province of the Cape of Good Hope at the time of the establishment of the township in terms of Ordinance No. 33 of 1934 and currently reads as follows:

C.

ONDERHEWIG VERDER aan die volgende spesiale voorwaardes, genoem in Transportakte nr. T 31467/1970, opgelê deur die Administrateur van die Provinsie Kaap die Goeie Hoop tydens die goedkeuring van FRANSKRAAL DORP in terme van Ordonnansie nr. 33 van 1934, naamlik :-

4. Hierdie erf is onderhewig aan die volgende voorwaardes, met dien verstande dat indien die Administrateur, na oorleg met die Dorpekommissie en die plaaslike owerheid, dit raadsaam ag dat die beperking in enige sodanige voorwaarde te eniger tyd opgeskort of versag behoort te word, hy die nodige opskorting of versagting kan goedkeur onderworpe aan sodanige voorwaardes as wat hy oplê –

(d) geen gebou of struktuur of enige gedeelte daarvan, behalwe grensmure en heinings, mag 4,72 meter van die straatlyn wat 'n grens van hierdie erf vorm, opgerig word nie, ook nie binne 3,15 meter van die agtergrens of 1,57 meter van die sygrens van 'n aangrensende erf nie, met dien verstande dat 'n buitegebou met die toestemming van die plaaslike owerheid op die voorgeskrewe ruimte langs die agtergrens opgerig mag word, mits sodanige buitegebou nie 'n hoogte van 3,05 meter te bowe gaan nie, watter hoogte gemeet moet word van die vloer tot die ankerplaat, en mits geen gedeelte daarvan vir bewoningsdoeleindes deur mense aangewend word nie."

The proposal complies with the intent of the zoning applicable to the property, being Residential Zone 1: Single Residential, and the requested removal of the restrictive title deed Condition C.(4)(d) is required solely to enable the proposed garage to be constructed closer to the rear property boundary than permitted by the existing title deed restriction. The application will not alter the residential use of the property and is intended to facilitate reasonable improvements associated with a single residential dwelling.

Motivation for the removal of conditions C.(4)(d)

The rationale for the proposed removal

The restrictive title deed condition regulating the building lines was imposed at the time of the establishment of the Franskraal township. The purpose of the condition was to ensure an orderly pattern of development by controlling the siting of buildings in relation to the street and property boundaries. Prior to the introduction of comprehensive land use

schemes, restrictive title deed conditions were commonly used to regulate matters such as building lines, land use and development controls.

Today, the subject property is regulated by the OMLUS, which contains detailed development parameters, including building lines, coverage, height and other development controls. As a result, the restrictive title deed condition duplicates development controls that are already administered through the municipality's current land use management system.

Status quo

The owners have owned the property since 1997 and have recently retired. As part of adapting the property for their long-term needs, they wish to construct a garage at the rear of the property. Due to the location of the existing house and the layout of the property, it is not feasible to accommodate the garage elsewhere on the site.

The proposed garage encroaches over the building lines contained in the title deed. Although the title deed permits an outbuilding to be erected within the prescribed rear building line with the consent of the local authority, this concession is limited to structures not exceeding 3.05 metres in height and expressly prohibits the structure from being used for human occupation. As modern garages commonly exceed this height to achieve practical roof pitches and accommodate contemporary vehicle dimensions, the existing restriction is no longer appropriate for modern residential development.

The removal of the restrictive title deed condition is therefore sought to eliminate an outdated development control that no longer serves its original purpose and to align the title deed with the municipality's current planning framework. The proposal does not seek to intensify the use of the property or alter its residential character. Rather, it will enable the owners to make reasonable improvements to their single residential property while ensuring that the proposed development remains subject to the development controls contained in the OMLUS.

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

LUPA, Section 39(5) (a-f)		
(a)	<i>the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;</i>	The restrictive title deed condition was imposed as a general planning control at the time of the establishment of the township to regulate the positioning of buildings. There is no identifiable person, entity or dominant tenement that derives a direct financial or proprietary benefit from the continued existence of the restrictive condition. The condition functions solely as a historical development control and does not confer any measurable financial value or enforceable proprietary advantage on any third party.
(b)	<i>the personal benefits which accrue to the holder of rights in terms of the restrictive condition;</i>	The restrictive condition provides a general level of certainty regarding the positioning of buildings within the township. However, these objectives are now comprehensively regulated by the OMLUS, and the Municipality's building plan approval process. Accordingly, there is no significant personal benefit that accrues to any identifiable holder of rights through the continued enforcement of the restrictive condition.

(c)	<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 condition will enable the owners to construct a garage that meets their current and future needs while continuing to utilise the property as a single residential dwelling. The proposal will provide secure parking and storage, improve the functionality of the property, and allow the owners to reasonably develop their property without changing its residential character or introducing any additional land use rights.
(d)	<i>the social benefit of the restrictive condition remaining in place in its existing form;</i>	There is limited social benefit associated with retaining the restrictive condition in its current form. While the condition was originally intended to regulate the siting of buildings, these controls are now contained within the OMLUS. The continued existence of the restrictive condition unnecessarily duplicates modern planning controls without providing any additional public benefit.
(e)	<i>the social benefit of the removal, suspension or amendment of the restrictive condition; and</i>	The removal of the restrictive condition will enable the reasonable improvement of an existing residential property while ensuring that all future development remains subject to the Municipality's current planning framework and building plan approval process. The proposal supports the continued maintenance and improvement of the residential housing stock, accommodates the changing needs of the owners, and does not adversely affect the character or amenity of the surrounding neighbourhood.
(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 condition will not remove any identifiable rights enjoyed by a specific beneficiary. Development of the property will continue to be regulated by the OMLUS, the approved Permanent Departure application, and the National Building Regulations. Appropriate development controls will therefore remain in place, ensuring that neighbouring properties and the public interest continue to be protected.

3.2 Permanent Departure from the 2m Side building line to 0m to accommodate the proposed garage and storage area;

3.3 Permanent Departure from the 2m Rear building line to 0m to accommodate the proposed garage and storage area;

The proposed garage and storage area require a Departure from the prescribed 2.0 m side building line and 2.0 m rear building line in order to accommodate the structure on the subject property.

The proposed garage has been carefully positioned to make efficient use of the available space while complementing the existing dwelling. Due to the location of the existing residence and the configuration of the erf, there is no practical alternative location that would allow the owners to construct a functional garage whilst complying with the prescribed building lines. The proposal represents the most logical and practical solution to meet the owners' current needs without altering the residential use of the property.

In considering applications of this nature, the Overstrand Municipal Land Use Scheme provides guidance regarding garages that encroach over side and rear building lines. The proposal has been assessed against these requirements as follows:

(i) written consent from the immediate neighbours is obtained;	Although neighbour consent has not been obtained, all adjoining property owners will be afforded the opportunity to comment on the proposal during the statutory public participation process. This ensures that affected parties are informed of the application and are provided with an opportunity to raise any concerns before a decision is made.
(ii) no building that encroaches the building line may be higher than 3,5 m above the existing ground level on the common boundary, provided that the height may increase at a 40 degree angle away from such boundary;	Complies. The proposed garage will have a maximum height of 3.5 m on the common boundary and therefore satisfies this requirement.
(iii) the length and width of the structure does not exceed one third of the lateral and rear boundary concerned or 9,0 m, whichever is the most restrictive (except in cases as prescribed in point (iv) below);	Deviate The proposed garage measures ±9.43 m in length. Although this exceeds the prescribed limitation, the deviation is relatively minor and is necessary to provide a functional double garage and associated storage area. The additional length will not materially increase the visual or physical impact on adjoining properties.
(iv) where the lateral/rear boundary of the property is less than 19,5 m in width, the structure will have a maximum width of 6,5 m on the rear boundary;	Deviate The rear boundary measures approximately 18.89 m , and the proposed garage exceeds the 6.5 m limitation. The increased length is required to accommodate the owners' parking and storage requirements and is considered appropriate given the size of the property and the location of the structure at the rear of the erf.
(v) no doors and windows shall be permitted in any wall closer than 1,0 m to the rear or side boundary;	Deviate The proposed garage door will be located closer than 1.0 m to the boundary. The garage is intended solely for vehicle access, and a suitable firewall will be incorporated into the design where required to comply with the National Building Regulations and satisfy the Municipality's fire safety requirements.
(vi) a 1,0 m wide access may be required to the satisfaction of the Fire Department;	Comply

	The proposal will provide the required access should the Fire Department require it during the building plan approval process.
(vii) no runoff of rainwater from a roof shall be discharged directly onto adjoining properties;	Comply Rainwater from the proposed roof will be collected and disposed of within the subject property and will not be discharged onto neighbouring erven.
(viii) the garage/carport shall be included in the calculation of coverage on the land unit; and	Comply The proposed garage has been included in the coverage calculations submitted with this application.
(ix) the Municipality is satisfied that the structure does not pose a fire hazard and is constructed of appropriate material to its satisfaction.	The proposed garage will be designed and constructed in accordance with the National Building Regulations and any requirements imposed by the Municipality during the building plan approval process. Appropriate materials and fire protection measures, including a firewall where required, will be incorporated into the final design.

The proposed garage has been carefully positioned to make efficient use of the available space on the property while retaining the existing dwelling in its current position. Due to the configuration of the erf and the location of the existing dwelling, there is no practical alternative location where a functional garage and storage area can be accommodated whilst complying with the prescribed building lines. Positioning the garage elsewhere would compromise the functionality of the property, reduce the available outdoor living space, and require substantial alterations to the existing dwelling.

The proposal is intended to provide secure parking and storage for the owners, who have recently retired and are adapting the property for their long-term needs. The garage is an accessory structure that is customary and incidental to a single residential dwelling and will not alter the existing residential use of the property, increase the residential density, or establish any additional land use rights.

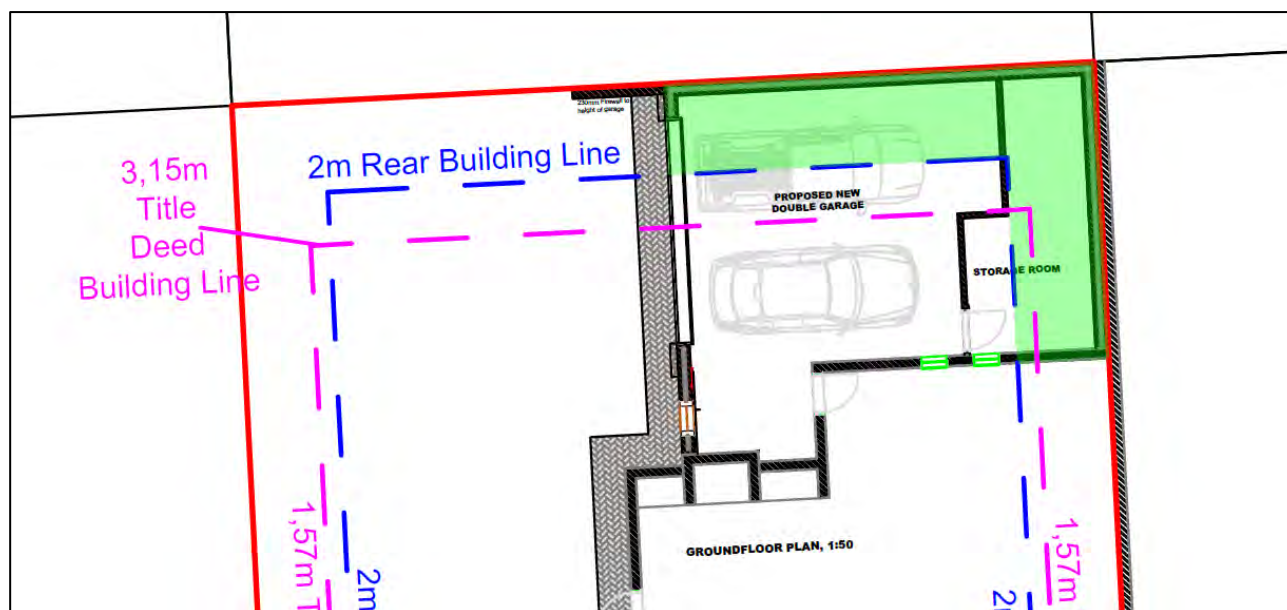


Figure 2: Proposed Garage and storage area

From a planning perspective, the location of the garage along the side and rear boundaries is appropriate as it positions the accessory structure behind the existing dwelling, thereby minimising its visual prominence from the public street. The garage will remain subordinate to the primary dwelling and will not detract from the character of the surrounding residential neighbourhood.

The proposal has also been assessed against the Municipality's policy considerations for garages that encroach over side and rear building lines. The proposed development complies with the majority of these requirements, including the maximum permitted height of 3.5 m on the common boundary, the provision for stormwater to be retained within the property, the inclusion of the structure in the coverage calculations, and the provision of appropriate access requirements. The proposed garage will also be designed and constructed in accordance with the National Building Regulations and any fire safety requirements imposed by the Municipality during the building plan approval process.

Although the proposal exceeds the recommended maximum length permitted along the rear boundary and includes a garage door closer than 1.0 m to the boundary, these departures are considered reasonable in the context of the application. The additional length is necessary to provide a functional garage and storage area, while the garage door is essential to provide direct vehicular access. These design elements will not materially increase the impact on adjoining properties, as the structure is intended solely for vehicle parking and storage and will incorporate the necessary fire protection measures where required.

Furthermore, the statutory public participation process will provide all adjoining property owners with an opportunity to comment on the proposal, thereby ensuring that any concerns regarding the proposed departures can be fully considered by the Municipality before a decision is made.

Overall, the proposed departures represent a reasonable and logical relaxation of the prescribed development parameters. The proposal facilitates the sensible improvement of an existing single residential property without compromising the residential character or amenity of the area. It makes efficient use of the available land, responds to the physical constraints of the site, and remains consistent with the objectives of the Residential Zone 1: Single Residential zoning.

It is therefore submitted that the requested Permanent Departures are desirable from a planning perspective and will not result in any unacceptable impact on neighbouring properties or create an undesirable precedent. Instead, the proposal represents a practical solution that enables the owners to improve the functionality of their property while remaining compatible with the surrounding built environment.

3.4 Permanent Departure from the permissible 2.1m boundary wall height to 2.91m to accommodate the proposed firewall;

The proposed garage is to be constructed on the common side and rear boundaries of the subject property. In order to comply with the fire safety requirements of the National Building Regulations and to provide the necessary fire separation between the proposed garage and adjoining properties, a firewall is required along the common boundary. As the firewall will have a maximum height of 2.91 m, a Permanent Departure is required from the maximum permissible boundary wall height of 2.1 m prescribed in the Overstrand Municipal Land Use Scheme, 2020.

The proposed firewall is not intended to function as a conventional boundary wall but forms an integral component of the garage structure. Its increased height is dictated by the roof profile and the fire safety requirements applicable to buildings constructed on a common boundary. The firewall is therefore a technical and safety requirement rather than an aesthetic or privacy feature.

The requested departure represents a relatively minor increase of 0.81 m above the permissible height. Given that the firewall is directly associated with the proposed garage, the additional height is considered reasonable and necessary to facilitate a safe and compliant development.

The proposal will not detract from the character of the surrounding residential area or adversely affect the streetscape. Furthermore, the wall is not anticipated to result in any unacceptable impact on adjoining properties, as its primary purpose is to improve fire safety and protect both the subject property and neighbouring erven.

The proposed departure does not introduce any additional land use rights, increase the residential density, or alter the residential use of the property. Rather, it enables the owners to construct a functional garage and storage area in a manner that complies with modern building safety standards.

Accordingly, the requested Permanent Departure from the permissible 2.1 m boundary wall height to 2.91 m is considered both reasonable and desirable. The departure facilitates an appropriate residential improvement, responds to the technical requirements of the National Building Regulations, and will not result in any significant adverse impact on the amenity of neighbouring properties or the character of the surrounding residential neighbourhood.

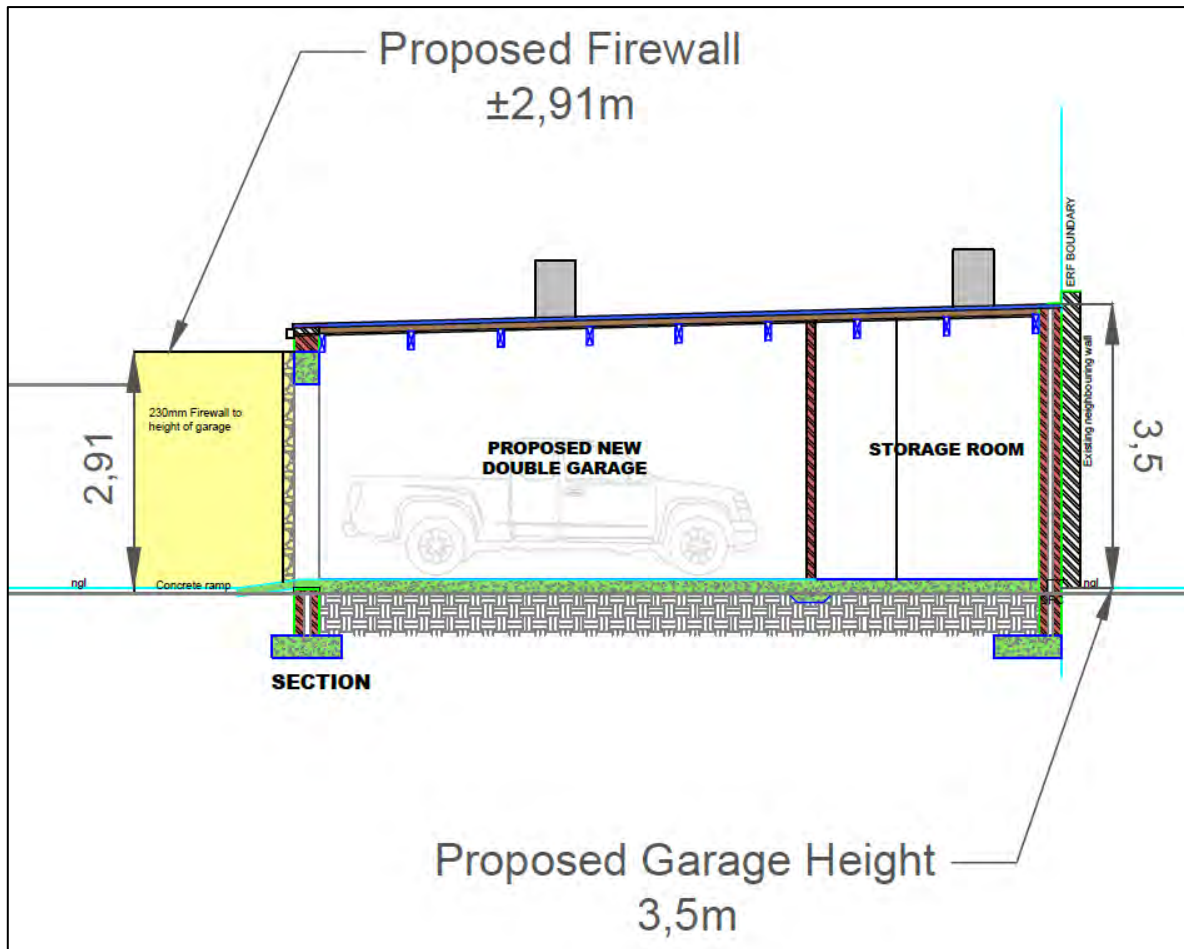


Figure 3: Section illustrating the proposed height

While the proposal requires departures from certain dimensional requirements, these departures are considered reasonable and will not result in unacceptable planning impacts. The garage is an accessory structure that is ordinarily associated with a single residential dwelling and will not alter the residential character of the property or surrounding neighbourhood.

The structure is located to the rear of the property where its visual impact on the streetscape will be limited. Furthermore, the proposal will not result in an increase in residential density or introduce any incompatible land use. The departures are therefore sought solely to enable the owners to make reasonable improvements to their property by providing secure parking and storage that cannot practically be accommodated elsewhere on the site.

Accordingly, it is submitted that the requested Permanent Departures are justified, represent sound planning, and will not adversely affect the amenity of neighbouring properties or the character of the surrounding residential area.

4. LAND USE ENVIRONMENT

The subject property is located in Franskraal, and the property is surrounded by other Residential Zone 1: Single Residential properties and Public Streets. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan).

5. PLANNING ASSESSMENT

5.1 ZONING

The subject property is zoned Residential Zone 1: Single Residential in terms of the Overstrand Municipal Land Use Scheme, 2020 (OMLUS).

The proposed removal of the restrictive title deed conditions will not alter the property's zoning. The property will remain subject to the development rights and parameters applicable to Residential Zone 1, and the proposed development will continue to be regulated in terms of the provisions of the OMLUS.

5.2 ENGINEERING SERVICES

The availability and capacity of engineering services are relevant considerations in terms of Section 42(1)(c)(v) of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA).

The subject property is already connected to the existing municipal engineering service networks, including potable water, sewerage, electricity and stormwater infrastructure. The proposed development comprises the construction of a garage and storage area as accessory structures to the existing single residential dwelling. As such, the proposal is not anticipated to increase the demand for municipal engineering services or place any additional burden on the existing infrastructure.

The proposed development will therefore not have a detrimental impact on the capacity or functioning of the existing engineering services serving the area.

Access, Egress and Parking

Vehicular access to the property will continue to be obtained from Marais Street, and no changes are proposed to the existing access arrangements.

The proposed garage will provide secure, covered parking for the existing dwelling, together with additional storage space. The proposal will improve on-site parking provision and functionality without generating additional traffic or affecting the operation or safety of the surrounding road network.

Accordingly, the proposal will not adversely affect access, egress, parking, or traffic conditions within the surrounding area.

5.3 POLICIES AND REGULATIONS

Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

The subject property is not located within the EMOZ.

Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The subject property is not located within the HPOZ.

Spatial Planning Policies

The proposal has been assessed against the applicable spatial planning policy framework and is not in conflict with the objectives or principles of the Western Cape Provincial Spatial Development Framework, 2014 or the Overstrand Municipal Spatial Development Framework, 2020 (OMSDF).

The application does not seek to introduce a new land use or increase the development potential of the property. Rather, it seeks to facilitate the construction of a garage and storage area that are accessory to the existing single residential dwelling through the removal of an outdated restrictive title deed condition and the granting of the necessary Permanent Departures.

The proposed development represents a modest improvement to an existing residential property, makes efficient use of land within the established urban area, and remains compatible with the surrounding residential character. The proposal will not alter the existing land use pattern, create undesirable precedent, or compromise the objectives of the applicable spatial planning policies.

Accordingly, the proposal is considered to be consistent with the applicable spatial planning policy framework and supports the orderly and sustainable development of the property.

5.4 PLANNING PRINCIPLES

Chapter 2 of the SPLUMA establishes five development principles that must guide all land use and development decisions. These principles provide the framework for assessing whether a proposed development promotes sustainable, equitable and efficient spatial planning. The principles considered most relevant to this application are discussed below.

Spatial justice

The principle of spatial justice seeks to ensure that land use management decisions are fair, equitable and do not impose unnecessary restrictions on the reasonable use and development of land. In this instance, the proposal seeks to remove an outdated restrictive title deed condition and obtain the necessary Permanent Departures to facilitate the construction of a garage and storage area that are accessory to the existing dwelling.

The proposal does not introduce a new land use or intensify the existing residential use of the property. Rather, it enables the owners to make reasonable improvements to their property while ensuring that the proposal remains subject to the Municipality's current statutory planning framework.

Spatial sustainability and efficiency

Spatial sustainability and efficiency encourage the optimal use of existing land and infrastructure while promoting orderly development within established urban areas.

The subject property is located within the existing urban area of Franskraalstrand and is already connected to all the necessary municipal engineering services. The proposal makes efficient use of an existing residential property by improving its functionality without requiring additional infrastructure or extending the urban footprint. The proposed garage and storage area represent a logical improvement to an established residential property and are consistent with the intended use of land zoned Residential Zone 1: Single Residential.

Spatial resilience

Spatial resilience recognises the need for settlements to adapt to changing social and economic circumstances over time.

The owners have recently retired and are adapting the property to better meet their long-term needs. The proposed garage and storage area will improve the functionality and usability of the property while allowing it to continue to serve as a single residential dwelling. The proposal

therefore contributes to the continued sustainable use and maintenance of the existing housing stock without altering the character of the surrounding neighbourhood.

Good administration

The principle of good administration requires that land use decisions are transparent, consistent and based on the current statutory planning framework.

The proposal seeks to remove an historic restrictive title deed condition that no longer reflects modern planning practice and duplicates development controls already contained in the OMLUS. The accompanying Permanent Departures will enable the Municipality to consider the site-specific merits of the proposal while ensuring that the development remains subject to the applicable planning and building control processes.

Accordingly, the proposal promotes sound land use management by aligning the title deed with the current planning framework and enabling the reasonable development of the property in a manner that is compatible with the surrounding residential environment.

6. 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 is not expected to have any adverse socio-economic impacts. The construction of a garage and storage area represents a modest improvement to an existing single residential property and will enhance the functionality and value of the property without altering its residential use. The proposal does not place additional demand on community facilities or municipal resources.
Compatibility with surrounding uses	The proposal is fully compatible with the surrounding land uses. The subject property is located within an established single residential neighbourhood, and the proposed garage and storage area are customary accessory structures associated with residential properties. The proposal will not alter the residential character of the area or introduce any incompatible land use.
Impact on the external engineering services	The subject property is already connected to the existing municipal engineering service networks, including potable water, sewerage, electricity and stormwater infrastructure. The proposal will not result in a material increase in demand for municipal services and is therefore not anticipated to have any adverse impact on the capacity or functioning of the existing engineering infrastructure.
Impact on safety, health and wellbeing of the surrounding community	The proposal is not anticipated to negatively affect the safety, health or wellbeing of the surrounding community. The proposed firewall will improve fire protection for both the subject property and adjoining properties, while the garage will provide secure off-street parking and storage. The development will be constructed in accordance with the National Building Regulations and any requirements imposed by the Municipality.
Impact on heritage	The proposal is not anticipated to have any impact on heritage resources. The development comprises a modest accessory structure on an existing residential property and does not involve any known heritage resources or culturally significant features.

Impact on the biophysical environment	The proposal is limited to the construction of a garage and storage area within an existing residential erf. No environmentally sensitive areas, indigenous vegetation or natural features will be affected.
Traffic impacts, parking, access and other transport related considerations	Existing vehicular access to the property from Marais Street will remain unchanged. The proposal will improve the availability of secure on-site parking and storage without generating additional traffic or affecting the operation or safety of the surrounding road network. The development is therefore not expected to have any adverse transport-related impacts.

Impact on views, sunlight and character of the area

The proposed garage and storage area are accessory structures that are customary and incidental to a single residential dwelling. The structures will be located along the side and rear boundaries of the property, behind the existing dwelling, thereby limiting their visibility from the public street and reducing their visual impact on the surrounding area.

Although the proposed firewall exceeds the permissible boundary wall height, the additional height is required to comply with fire safety requirements and is not anticipated to materially detract from the character of the neighbourhood. Given the modest scale of the proposal and its location on the site, any impact on neighbouring properties in terms of views or sunlight is expected to be limited and not of such a nature that it would warrant the refusal of the application. The proposal is therefore considered compatible with the existing residential character and built form of the surrounding area.

7. CONCLUSION

This application seeks the removal of an outdated restrictive title deed condition together with the necessary Permanent Departures to facilitate the construction of a garage and storage area that are accessory to the existing single residential dwelling on Erf 241 Franskraalstrand.

The restrictive title deed condition was imposed at the time of the establishment of the township to regulate the siting of buildings before the introduction of modern land use management systems. Today, the subject property is regulated by the OMLUS, which contains comprehensive development controls relating to building lines, coverage, height and other development parameters. The continued existence of the restrictive title deed condition therefore duplicates the Municipality's current planning framework and unnecessarily restricts the reasonable development of the property.

The proposed Permanent Departures are required due to the location of the existing dwelling and the physical constraints of the property, which make it impractical to accommodate a functional garage elsewhere on the site. The proposal has been carefully designed to make efficient use of the available land while ensuring that the garage remains subordinate to the existing dwelling and compatible with the surrounding residential character. Although the proposal includes departures from the prescribed building lines and permissible boundary wall height, these departures are modest, are justified by the site-specific circumstances, and will not result in unacceptable impacts on neighbouring properties or the surrounding area.

Importantly, the application does not seek to change the zoning or land use of the property. The property will remain zoned Residential Zone 1: Single Residential, and the proposed garage and storage area constitute accessory structures that are customary and incidental to a single residential dwelling. The proposal will not increase the residential density, introduce

any incompatible land use, or place an unreasonable demand on existing municipal engineering services.

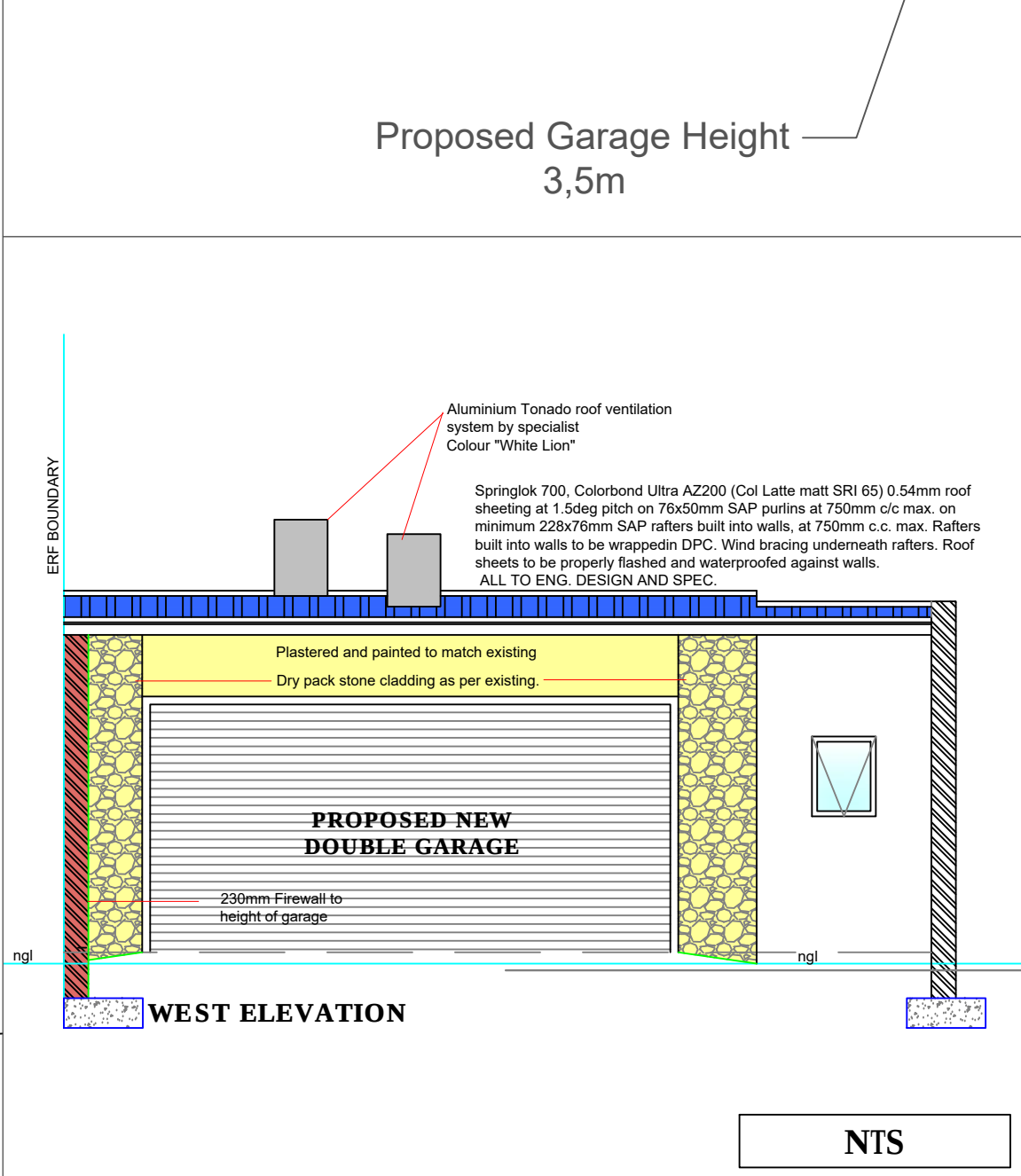
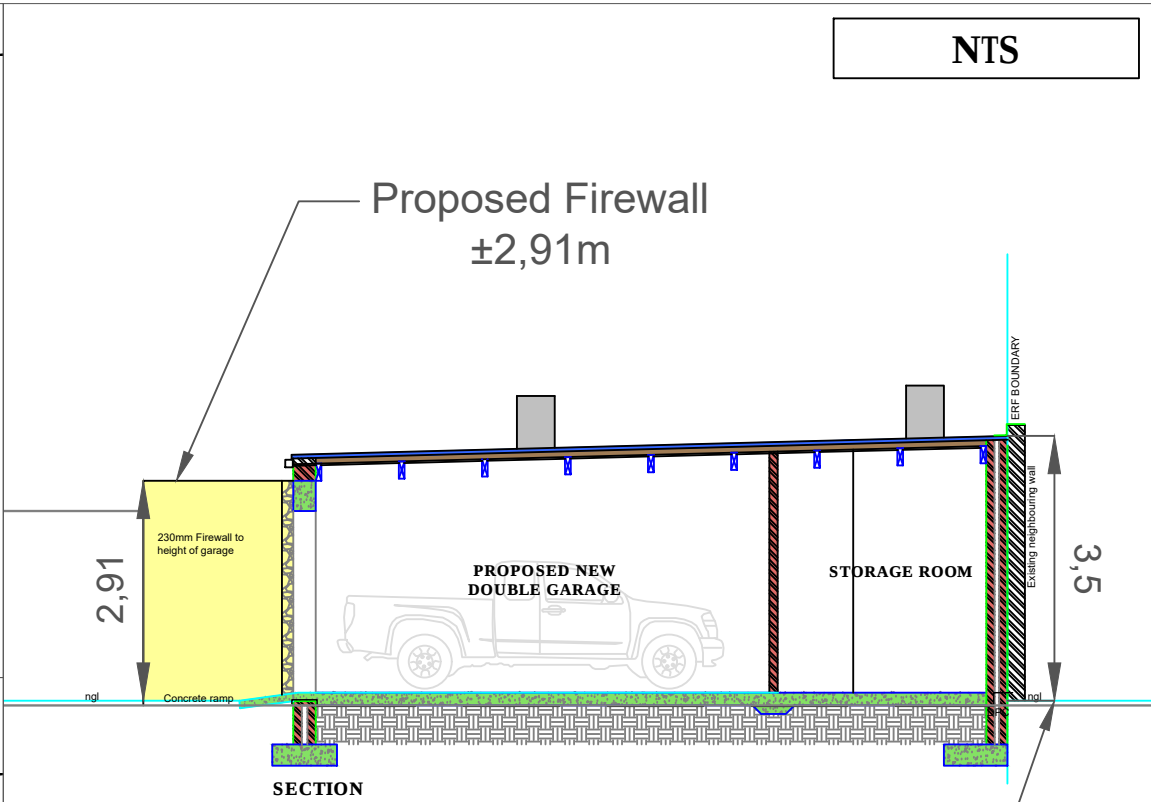
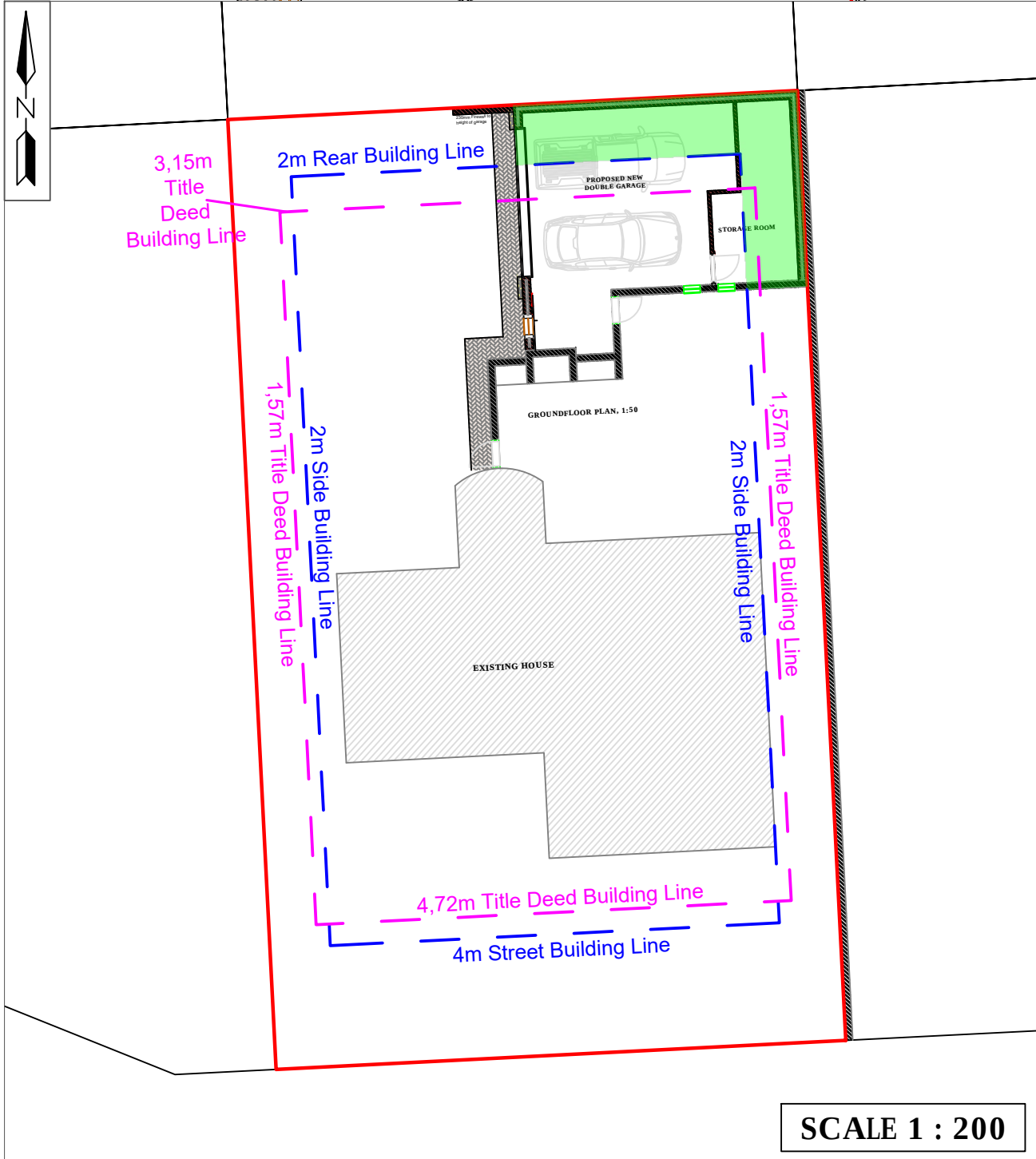
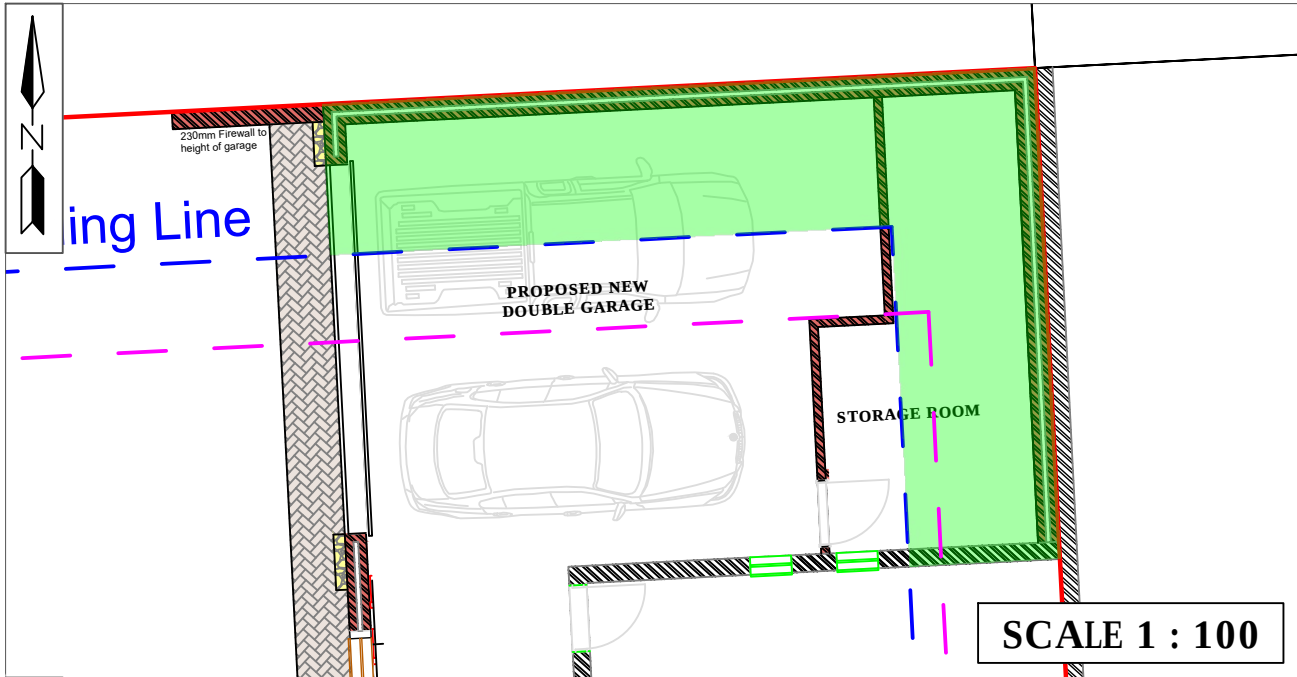
The proposal has been assessed against the relevant planning legislation, policies and decision-making criteria, including the principles of SPLUMA, the provisions of LUPA, the Western Cape Provincial Spatial Development Framework, the Overstrand Municipal Spatial Development Framework, and the Overstrand Municipal Land Use Scheme, 2020. It is considered to be consistent with the applicable planning framework and represents an appropriate and desirable form of development within an established residential neighbourhood.

Having regard to the planning merits of the proposal, it is respectfully submitted that the removal of the restrictive title deed condition and the granting of the requested Permanent Departures will facilitate the reasonable improvement of the property without compromising the amenity of adjoining properties or the character of the surrounding area. The proposal is therefore considered desirable from a planning perspective.

8. RECOMMENDATION

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

- 8.1 Removal of restrictive title deed conditions** to allow the proposed garage and storage area in terms of Section 16(2)(f) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020.
- 8.2 Permanent Departure** from the 2m Side building line to 0m to accommodate the proposed garage and storage area in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020.
- 8.3 Permanent Departure** from the 2m Rear building line to 0m to accommodate the proposed garage and storage area in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020.
- 8.4 Permanent Departure** from the permissible 2.1m boundary wall height to 2,91m to accommodate the proposed firewall in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020.



Plan 3: Site Plan

Erf 241 Franskra al

Plan prepared by: Thian Jansen on 06/08/2026
Based on plans from We Design

Plan Number - 26/103

All distances are approximate
and subject to a survey

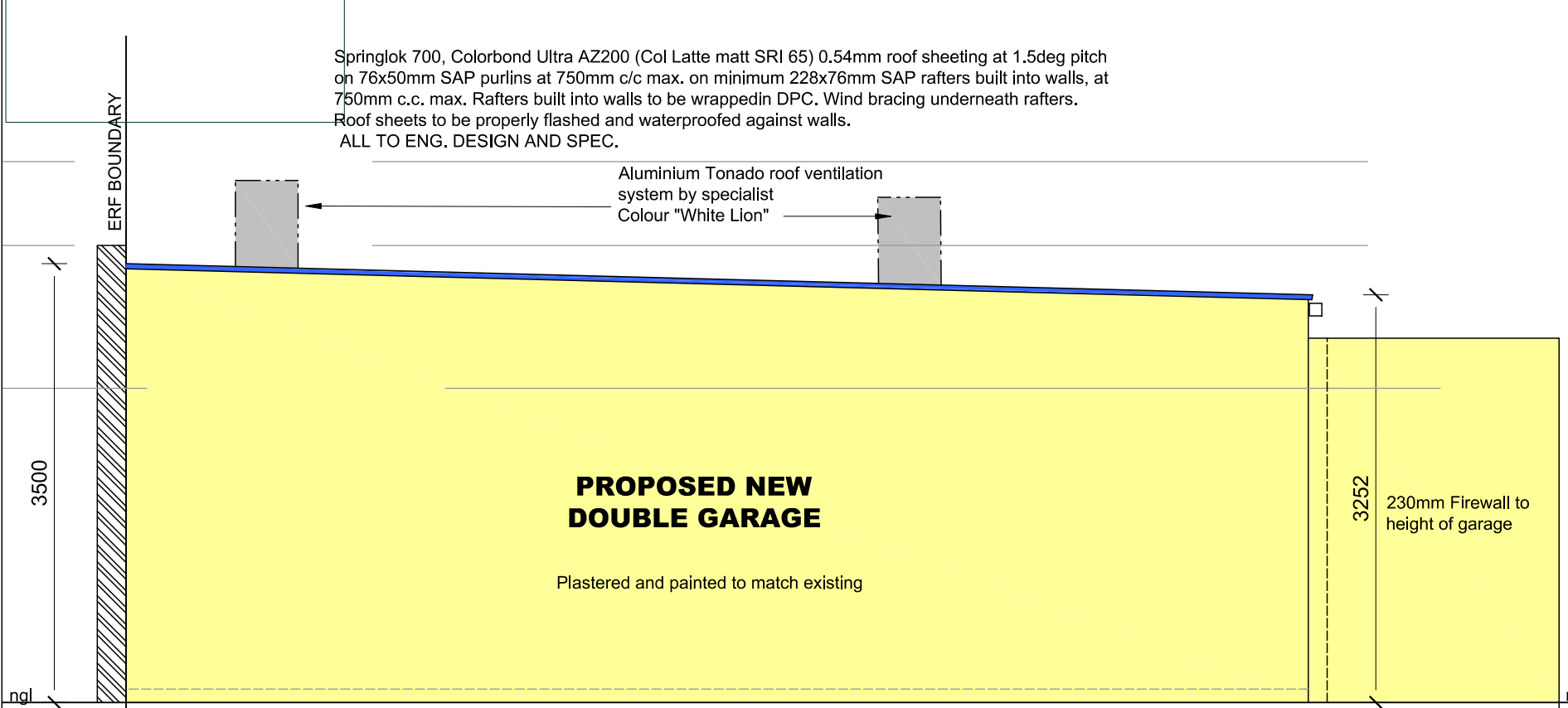
Tel: 028 313 1411

Email: admin@wrapgroup.co.za

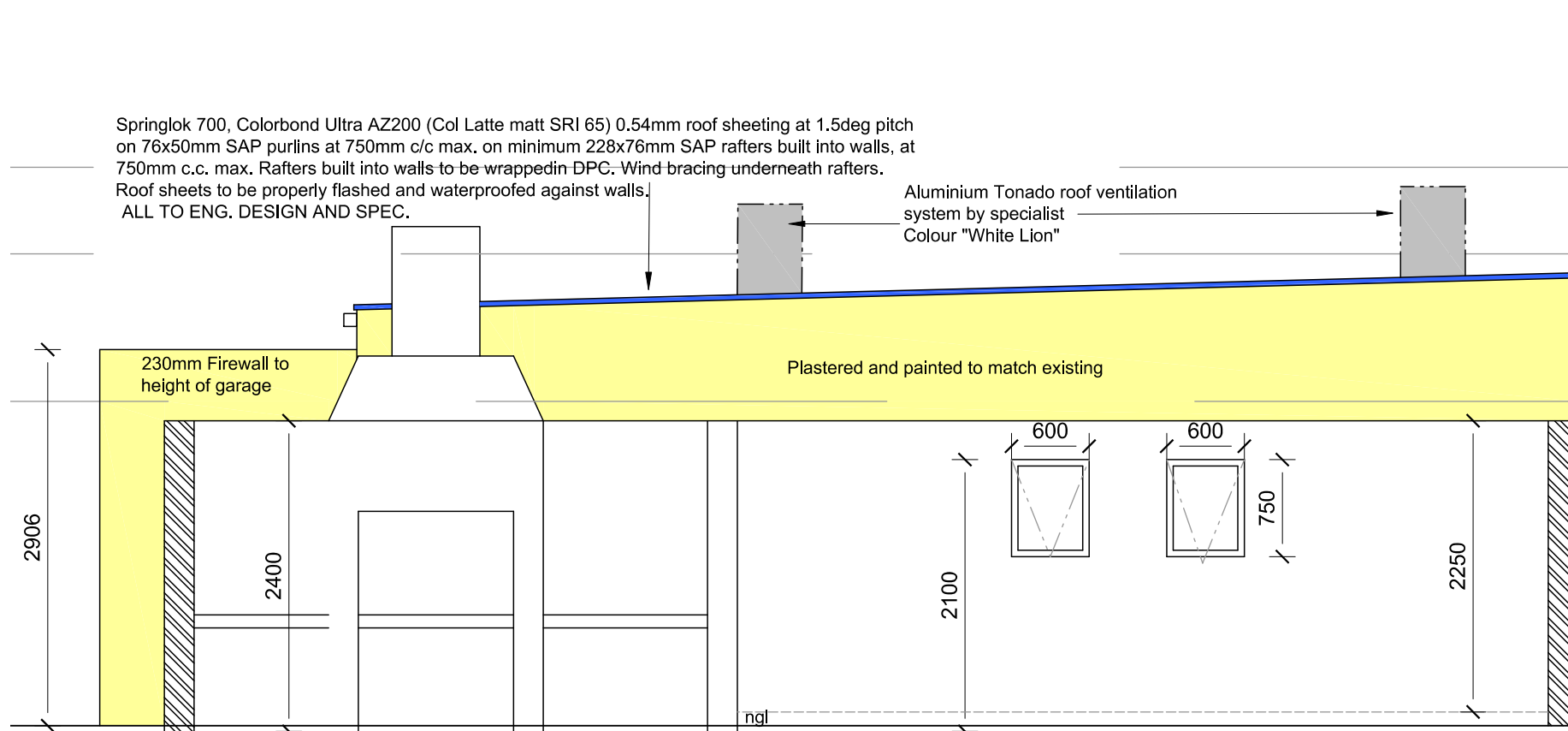
Office 3, Oakwood, 10 Dirkie Uys
Street Hermanus, 7200



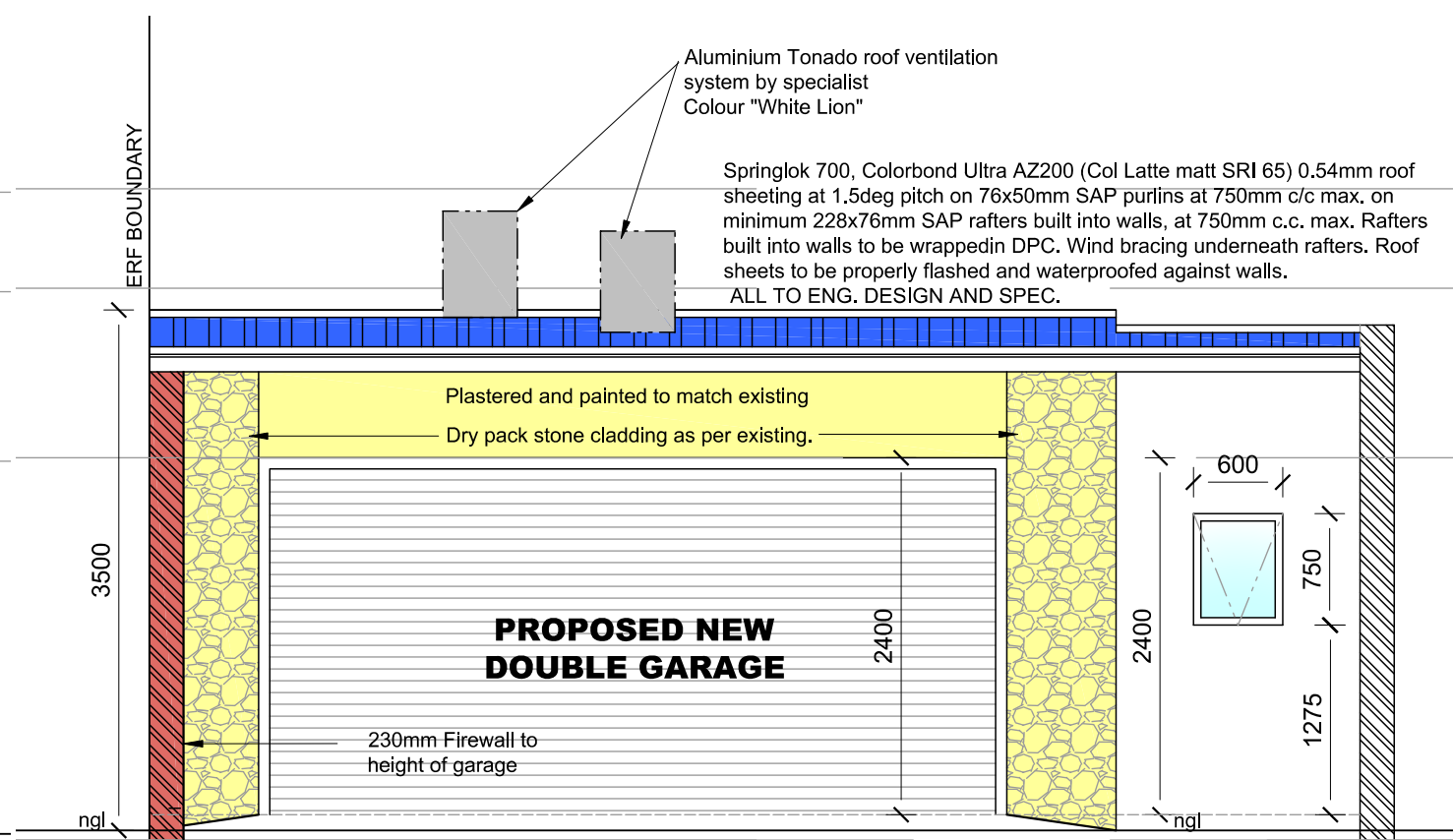
Project Office
Town Planning & Project Management



NORTH ELEVATION, 1:50



SOUTH ELEVATION, 1:50



WEST ELEVATION, 1:50

GENERAL NOTE:

- * ALL WORK MUST COMPLY WITH LOCAL AUTHORITIES AND NBR BY-LAWS.
- * READ FIGURED DIMENSIONS IN PREFERENCE TO SCALES.
- * ONE (1) METER = 1000 MILLIMETERS. SETTING OUT THE DIMENSIONS OF THE SITE AND TO CHECK SAME AGAINST THE SET OF DRAWINGS BEFORE COMMENCING WORK AND TO CONVINCE HIMSELF THAT THE INFORMATION CONTAINED IN THE DRAWINGS IS CORRECT.
- * CONTRACTORS ARE TO LOCATE EXISTING SERVICES ON SITE AND TO PROTECT THEM.
- * DAMAGE THROUGHOUT THE DURATION OF THE WORKS.
- * THE CONTRACTOR IS RESPONSIBLE FOR THE CORRECT IDENTIFICATION OF ALL EXISTING AND NEW SERVICES.
- * PARTICULAR REFERENCE TO GRIDLINES, COLUMN POSITIONS, EXTERNAL AND INTERNAL WALLS FROM THE SURVEYOR MARKS, BOUNDARIES, BUILDING LINES.
- * ANY ERRORS, DISCREPANCIES OR OMISSION TO BE REPORTED TO THE ARCHITECT IMMEDIATELY.
- * 4 PLY DAMP PROOF-COURSE UNDER ALL WALLS AND CHILLS AND VERTICAL PLY TO ALL CHANGES OF FLOOR LEVELS.
- * ALL ROOF ROOF STRUCTURE TO BE SUPPLIED BY ROOF MANUFACTURER AND SUBMITTED TO BUILDING SURVEY DEPT. AT LOCAL COUNCIL.

NOTE:
ALL WORK AS PER NBR AND SANS 10400-XA:2011 (OR SANS 204:2011, WHERE INVOKED BY SANS 10400-XA:2011) AND TO APPROVAL OF THE LOCAL AUTHORITY.

ORIENTATION:
REFER TO FLOOR PLANS. CLIMATIC ZONE 4.

ROOF OVERHANGS AS SHOWN ON PLANS AND SECTIONS.

EXTERNAL WALLS:
REFER TO FLOOR PLANS, ALL WALLS PLASTERED AND PAINTED INTERNALLY,
PLASTERED AND PAINTED EXTERNALLY TO MATCH, 250 / 230mm CLAY BRICK WALLS
AND / OR 270 / 280 / 350mm CLAY BRICK CAVITY WALLS, COMPLIES WITH SANS
10400-XA PART 4.4.3.2.

ALUMINIUM FRAMED SYSTEM WITHOUT THERMAL BREAK, DOUBLE GLAZING, ALL AS PER SCHEDULES. ALL NEW EXTERNAL DOORS AND OPENABLE WINDOWS TO BE FITTED WITH RUBBER GASKET TO MINIMISE DRAUGHT/ AIR LEAKAGE TO A MAXIMUM OF 2,00 L/S.M.SQ. NON-OPENABLE WINDOWS MAXIMUM AIR LEAKAGE OF 0,31 L/S.M.SQ - ALL AS PER SANS 613,

ROOF ASSEMBLY AND THERMAL INSULATION:
INSTALL THERMAL INSULATION, AS PER SPECIFICATION, ROOF ASSEMBLY TO
COMPLY WITH SANS 10400-XA WITH TOTAL R-VALUE OF 3,70 M.SQ.K/W FOR HEAT
FLOW UP DIRECTION.

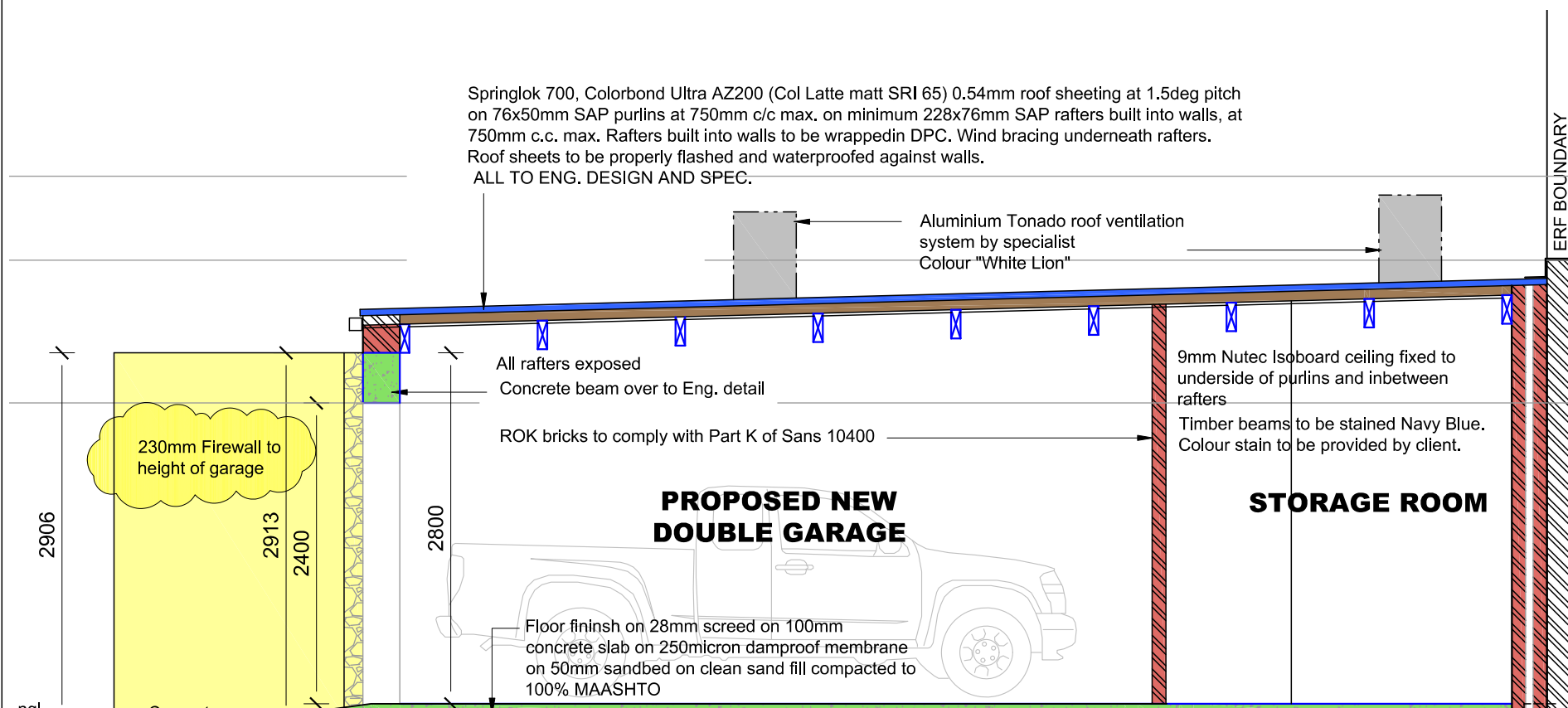
IN-SLAB HEATING:

FLOOR SLAB INSULATION:
PERIMETER INSULATION ONLY, MINIMUM R-VALUE OF 1.00 M.S.Q./K/W (30mm)

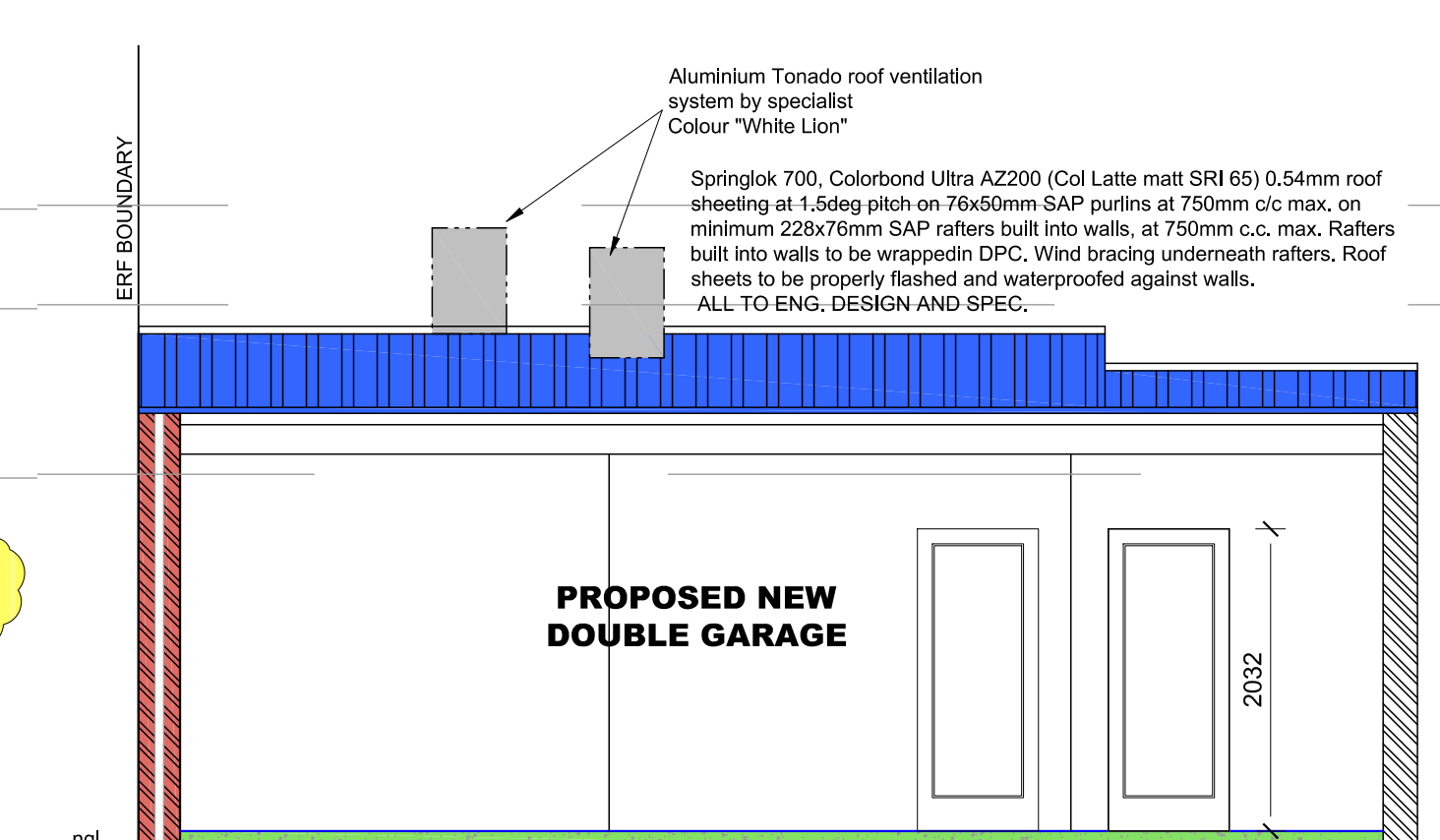
SERVICES:
LIGHTING AND POWER - LIGHTING TO NEW AREAS NOT TO EXCEED 85VA/SQ.M AND

AIRCONDITIONING AS PER MECH. ENG.

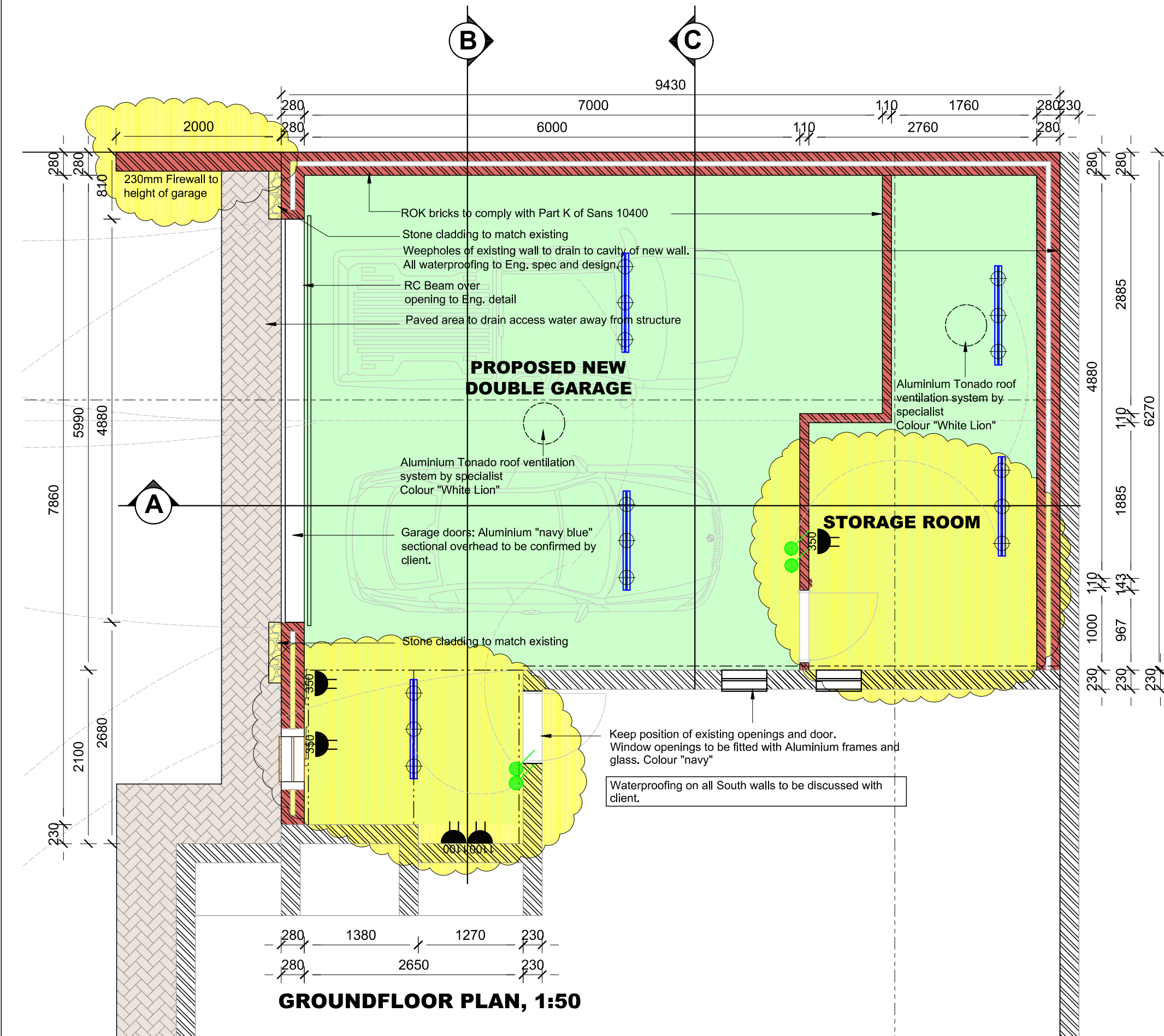
HOT WATER SUPPLY:
MAXIMUM OF 50% BY VOLUME, WATER HEATING BY ELECTRICAL RESISTANCE HEATING. ALL ADDITIONAL WATER HEATING TO BE PROVIDED BY MEANS OTHER THAN ELECTRICAL RESISTANCE HEATING. HOT WATER VESSEL TO BE INSULATED BY INSULATION WITH MINIMUM R-VALUE OF 2.00 M.S.Q./W. ALL HOT WATER SERVICE PIPES TO BE CLAD WITH INSULATION WITH A MINIMUM R-VALUE OF 1.00 M.S.Q./W FOR PIPES WITH A DIAMETER OF LESS OR EQUAL THAN/TO 80mm AND A MINIMUM R-VALUE OF 1.50 M.S.Q./W FOR PIPES WITH A DIA. OF MORE THAN 80mm.



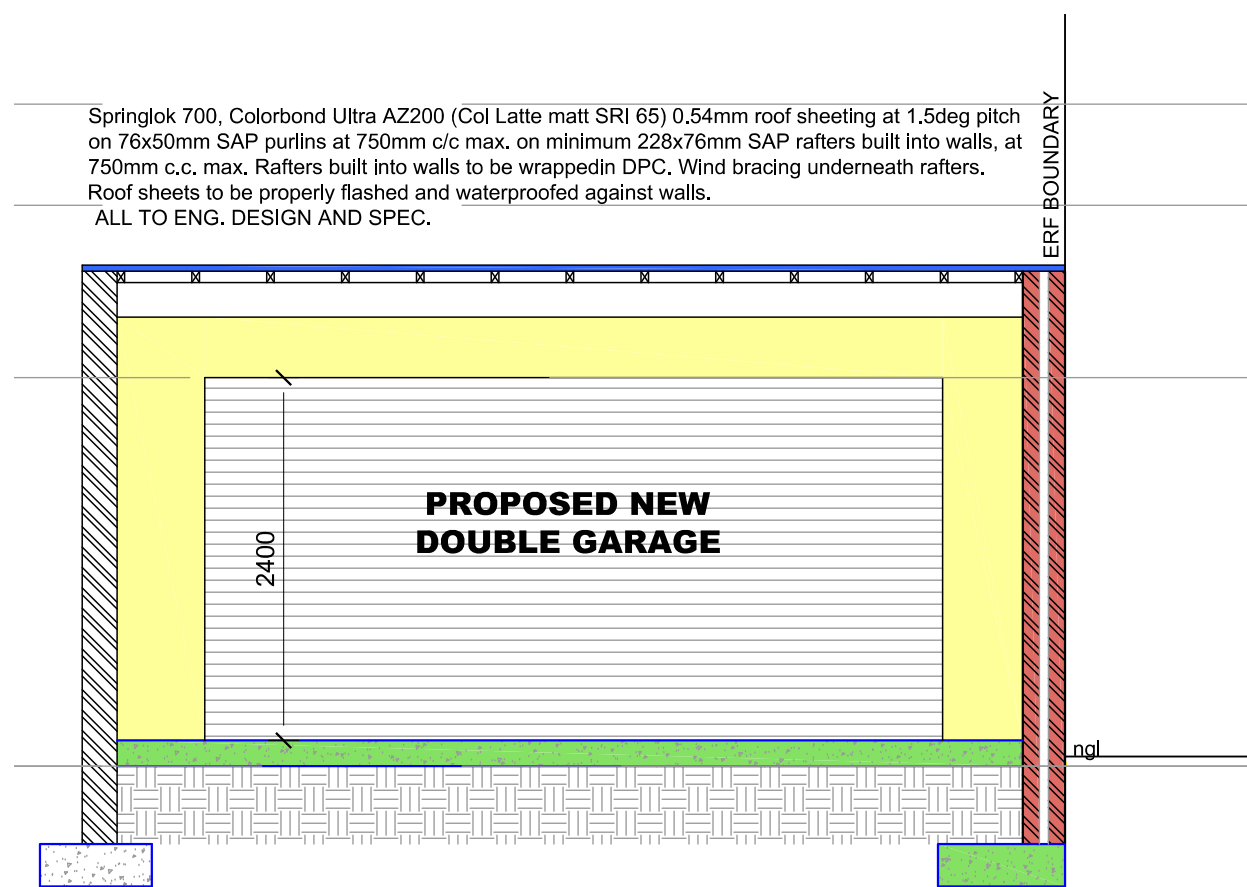
SECTION A-A, 1:150



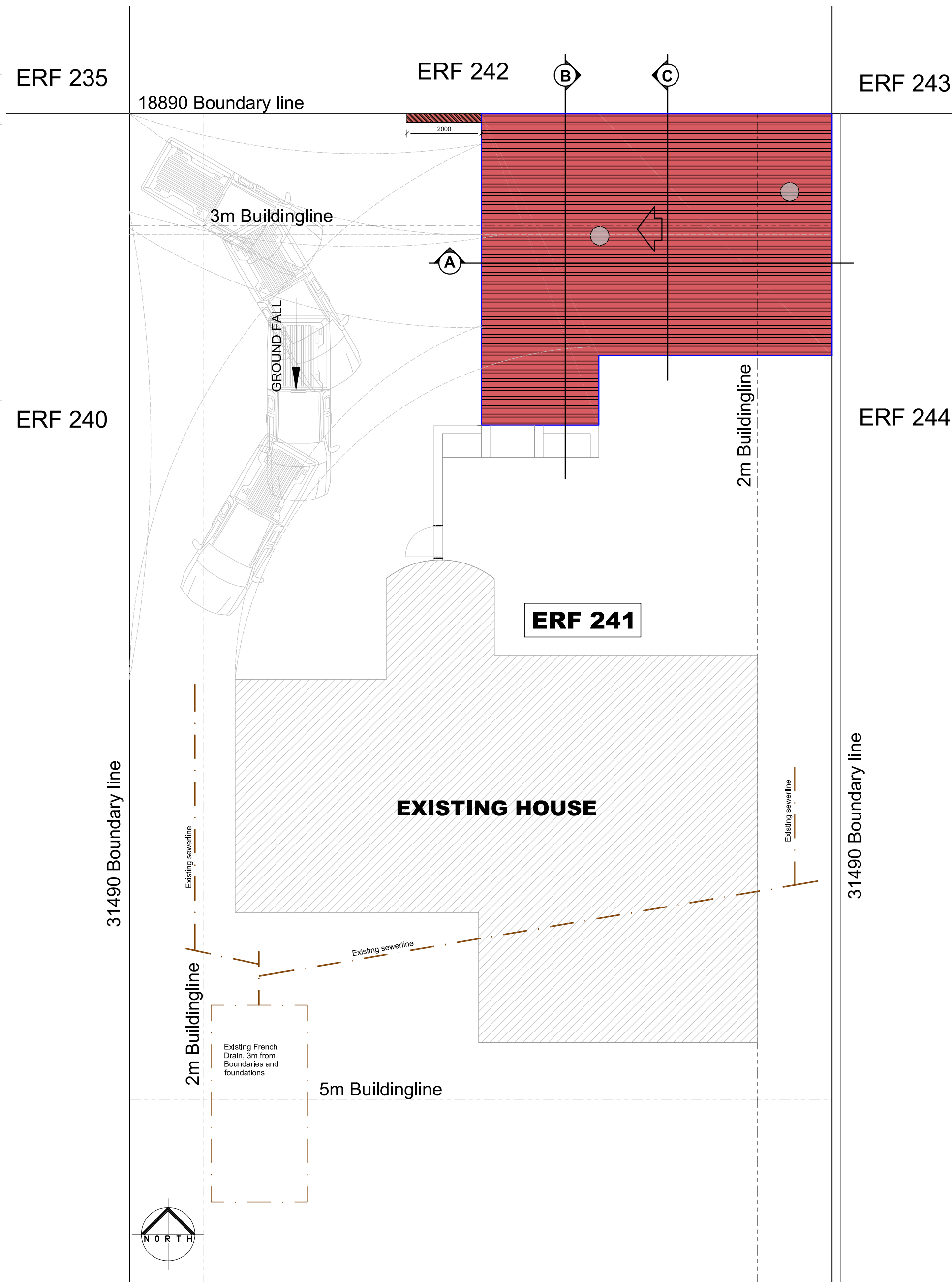
SECTION B-B, 1:100



GROUND FLOOR PLAN, 1:50



SECTION C-C, 1:50



SITE PLAN, 1:100

18890 Boundary line

MARAIS STREET

ZONING: SR1	
SITE:	595m²
EXISTING COVERED AREAS	240.3m²
NEW PROPOSED GARAGE	64.8m²
TOTAL AREAS	305.1m²
COVERAGE (273m²)	51%



CAROL THERON
25 VERGELEGEN AVENUE, SOMERSET WEST
PROFF. ARCH D. : SACAP PAD20564
CONTACT: CAROL@CTUDIO.CO.ZA/ 0825173218

client

HOUSE GERSBACH

submission

COUNCIL APPROVAL

project description

**PROPOSED NEW
GARAGE ON ERF
241, FRANSKRAAL**

drawing description

**PLANS/ ELEVATIONS/
SECTIONS/ SITEPLAN**

dwn	scale
CT	1:100
date	
03-06-2026	
proj.no.	drawing no.
GER-02	100-02