



**OVERSTRAND MUNISIPALITEIT**  
**ERF 121, THE CRESCENT 51, FISHERHAVEN:**  
**AANSOEK OM OPHEFFING VAN**  
**BEPERKENDE TITELAKTEVOORWAARDE EN**  
**VERGUNNINGSGEBRUIK: INTERACTIVE**  
**STADS- EN STREEKBEPLANNING NAMENS R**  
**& BA HAGGARD**

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 121, Fisherhaven (die eiendom), naamlik:

**Opheffing van Beperkende Titelaktevoorwaarde**

Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelaktevoorwaarde E.4(c) soos vervat in Titelakte T28893/2021 van die eiendom om die voorgestelde aanbouings aan die bestaande wwoonhuis op die eiendom te akkommodeer.

**Vergunningsgebruik**

Aansoek ingevolge Artikel 16(2)(o) van die Verordening om 'n voorgestelde wooneenheid op die grondvloer te akkommodeer.

Besonderhede aangaande die voorstel lê ter insae gedurende weksdae tussen 08:00 and 16:30 by die Departement: Stadsbeplanning te Patersonstraat 16, Hermanus.

Enige kommentare moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) bereik voor of op **10 May 2024**, met u naam, adres en kontakbesonderhede, belang in die aansoek, en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die Stadsbeplanner, Mnr. H Olivier by 028-3138900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word om hul kommentare te formuleer.

DGI O'Neill, Munisipale Bestuurder,  
Overstrand Munisipaliteit, Posbus 20,  
HERMANUS, 7200

**Munisipale Kennisgewing Nr. 58/2024**

**OVERSTRAND MUNICIPALITY**  
**ERF 121, 51 THE CRESCENT, FISHERHAVEN:**  
**APPLICATION FOR REMOVAL OF**  
**RESTRICTIVE TITLE DEED CONDITION AND**  
**CONSENT USE: INTERACTIVE TOWN &**  
**REGIONAL PLANNING ON BEHALF OF R & BA**  
**HAGGARD**

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 application applicable to Erf 121, Fisherhaven (the property), namely:

**Removal of Restrictive Title Deed Condition**

Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed condition E.4(c) as contained in Title Deed T28893/2021 of the property to accommodate the proposed additions to the existing dwelling on the property.

**Consent Use**

Application in terms of Section 16(2)(o) of the By-Law to accommodate a proposed dwelling unit on the ground floor.

Details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department : Town Planning at 16 Paterson Street, Hermanus.

Any comments must be in writing to reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) on or before **10 May 2024**, quoting your name, address and contact details, interest in the application, and the reasons for comment. Telephonic enquiries can be made to the **Town Planner, Mr. H Olivier** at 028-313 8900. The Municipality may refuse to accept comment received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comments.

DGI O'Neill, Municipal Manager, Overstrand Municipality, P.O. Box 20, HERMANUS, 7200

**Municipal Notice No. 58/2024**

**UMASIPALA WASE-OVERSTRAND**  
**ISIZA 121, 51 THE CRESCENT, FISHERHAVEN:**  
**ISICELO SOKUSUSWA KWEMIQATHANGO**  
**ENESITHINTELO KWITAYITILE NEMVUME**  
**YOKUSEBENZISA: ABAKWA-INTERACTIVE**  
**TOWN & REGIONAL PLANNING EGAMENI**  
**LIKA- R& BA HAGGARD**

Kukhutshwa isaziso ngokumayela neCandelo 47 neCandelo 48 loMthetho Otshintshiweyo woMasipala waseOverstrand ongokuSetyenziswa Nokucetywa koMhlaba kaMasipala, 2020 (uMthetho kaMasipala), ukuba kufunyenwe ezi zicelo zilandelayo ezimayela neSiza 121, Fisherhaven (ipropathi), ukuba:

**Ukususwa Komqathango Onezithintelo Kwitayitile**

Isicelo ngokumayela neCandelo 16(2)(f) loMthetho kaMasipala ukuba kususwe umqathango E.4(c) onesithintelo njengoko uqulethwe kwiTayitile T28893/2021 yepropathi ukulungiselela ukwandiswa kwendlu ekwipropathi.

**Invume Yosetyenziso**

Isicelo ngokumayela neCandelo 16(2)(o) loMthetho kaMasipala ukuze kubekho indawo yokuhlala kumgangatho osezantsi.

linkcukacha ezimayela nezi zicelo ziyafumaneka ukuze zihlolwe phakathi evekini phakathi ko 08:00 no 16:30 kwiSebe: Town Planning e-16 Paterson Street, Hermanus.

Naziphi na izimvo ezibhaliweyo mazingeniswe kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) ngaphambi okanye ingadlulanga i-**10 kaMeyi 2024**, ubhale igama lakho, idilesi yakho kunye neenkukacha zoqhagamshelwano, umdla wakho kwisicelo nezizathu zokubhala izimvo zakho. Imibuzo ngefowuni ingabhekiswa ku**Mcebisi Dolophu, Mnu. H Olivier** ku 028-313 8900. UMasipala angangavumi ukwamkela amagqabaza okuhlomla afunyenwe emva komhla wokuvala. Nabani na ongakwazi kufunda okanye ukubhala angatyelela iSebe lokuCeba iDolophu apho igosa lakwamasipala liya kumnceda afake amagqabaza akhe okuhlomla.

DGI O'Neill, uMphathi kaMasipala, uMasipala wase-Overstrand P.O. Box 20, HERMANUS, 7200

**Isaziso sikaMasipala No. 58/2024**





# ERF 121 FISHERHAVEN, OVERSTRAND

51 The Crescent

**Application for the removal of a  
restrictive title deed condition & a  
consent use for a dwelling unit on the  
ground floor**



Andre Wiehahn Pr Pln A/927/1996  
B Art et Sc (Town and Regional Planning)  
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**March 2024**

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Annexure A: Application form .....  
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Annexure C: Title Deed .....  
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Annexure G: Land Use Plan .....  
Annexure H: Zoning Map .....  
Annexure I: Title deed condition to be removed.....  
Annexure J: Proposed Building Plan .....  
Annexure K: Approved Building Plan .....

Notes

## 1. Introduction

### a. Brief

Refer to Annexure B for the Power of Attorney.

Interactive Town and Regional Planning was appointed by the owner of the property Raymond and Belinda Haggard to prepare and submit an application for the removal of a restrictive title deed condition and a consent use for a dwelling unit on the ground floor of Erf 121, Fisherhaven in terms of the relevant legislation.

### b. Background, Development Objective & Application Proposal

The **development objective** is to legalise an existing double storey dwelling and the proposed addition of more than 30% coverage in terms of the title deed restriction to be aligned with the Overstrand Municipal Zoning Scheme.

The zoning scheme does not allow for a dwelling on the ground floor as a primary right in terms of the existing zoning scheme.

The title deed contains a title deed condition that restricts coverage to 30%. Additions are proposed which will exceeds in a coverage of 30%.

As a result, application is made to remove title deed Condition E.4.(c) from Title Deed 28893/2021 as also application is made for a consent-use for a dwelling unit on the ground floor.

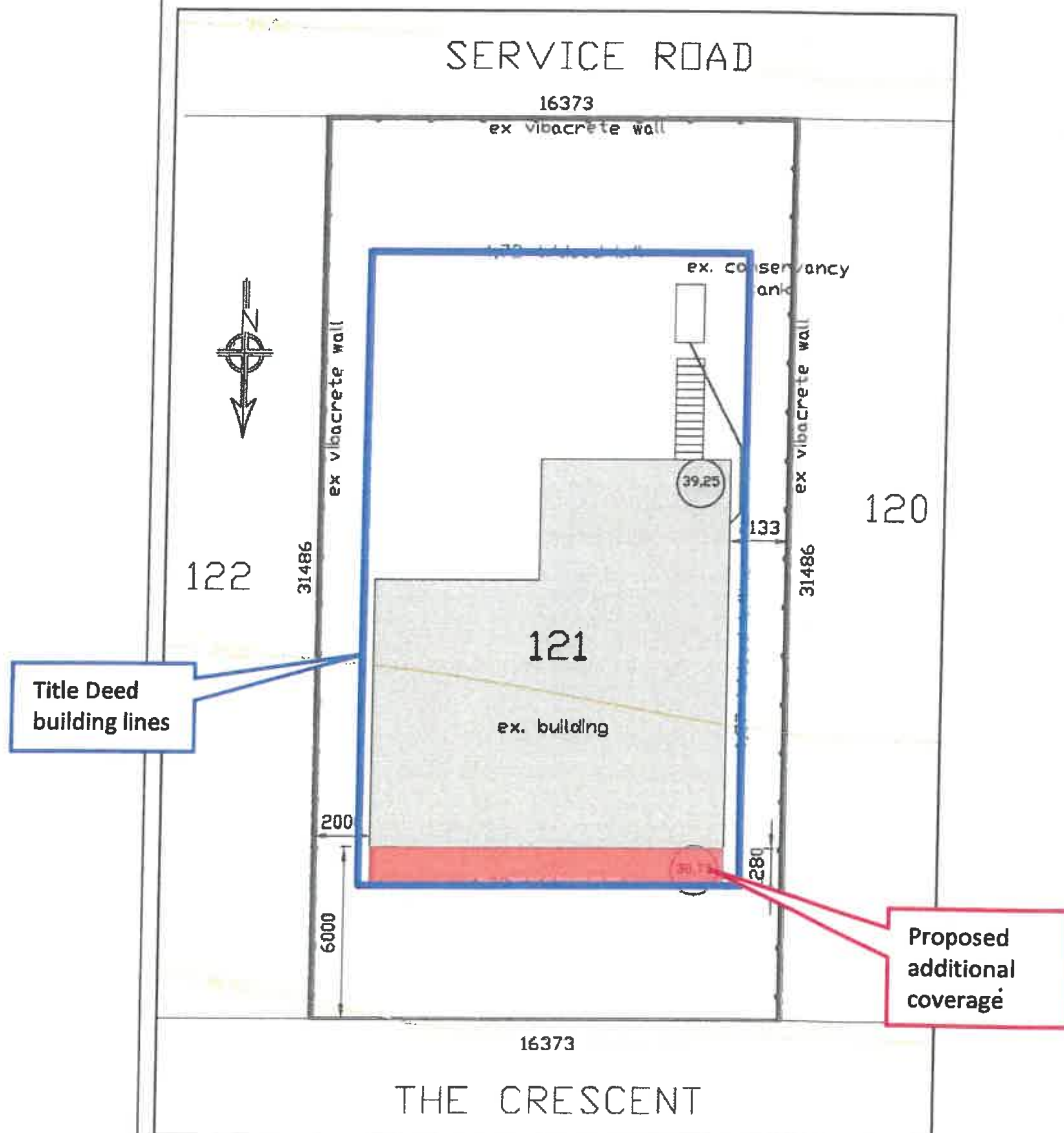


Figure 1: Site Plan extract

## 2. The Application

**a. Analysis:  
Title Deed**  
Refer to  
**Annexure D** for  
the Conveyancer  
Certificate.

The conveyancer, Amelia Galvin from Virtual Lawyers provided a conveyancer certificate confirming that several title deed conditions exists which restricts the property from being developed effectively.

**Title Deed 28893/2021**

*"E. SUBJECT FURTHER to the following special conditions newly imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance No 33 of 1934 when approving the establishment of Fisherhaven Township, as contained in Deed of Transfer T36503/1982."*

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

*"(c) not more than 30% of the area thereof shall be built upon;"*

<b>b. Analysis: Development Criteria:</b>  The development parameters for Erf 121 Overstrand as per the Overstrand Municipality Land Use Scheme, 2020 are summarised as follows:	<b>Parameters</b>		<b>Existing Zoning:</b>	<b>Proposal:</b>	<b>Comments</b>
	<b>Zoning</b>		Business Zone 3: Local Business	Business Zone 3: Local Business	Consistent
	<b>Primary Use</b>		Shops, dwelling unit (above ground floor), flats (above ground floor), offices, restaurant, caretaker's accommodation and self-catering.	Shops, offices & dwelling units above ground floor	Consistent
	<b>Consent Uses</b>		Bottle store, business premises, clinic, conference facility, dwelling unit (on ground floor), flats (on ground floor), town housing, tourist accommodation, hotel, institution, place of assembly, place of entertainment, place of instruction, place of worship, recreational facilities, residential building, sale of alcoholic beverages, service station, service trade and transmission apparatus.	Dwelling unit on the ground floor	<b>Application includes a consent use</b>
	<b>Coverage</b>		75% (30% in term of the title deed)	34%	<b>Application includes the removal of a restrictive title deed condition</b>
	<b>Floor factor</b>		1.5	0.68	Consistent
	<b>Height</b>		8.5m 2 storeys	6.8m	Consistent
	<b>Building lines</b>	<b>Street</b>	0m (4.72m in terms of the title deed)	4.72	Consistent
		<b>Side</b>	0m 3m when abutting a different zone (1.57m in terms of the title deed)	2m	Consistent
		<b>Rear</b>	3m (3.15m in terms of the title deed)	12m	Consistent
	<b>Parking</b>		2 bays per dwelling unit	2 bays for the dwelling unit	Consistent
<b>c. Application:</b>  The application form is attached as <b>Annexure A.</b>	Application is subsequently made in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020: <ul style="list-style-type: none"> <li>• The removal of restrictive title deed condition E.4.(c) from Title Deed 28893/2021 in terms of Section 16(2)(f).</li> <li>• Consent Use for a dwelling unit on the ground floor in terms of Section 16(2)(o).</li> </ul>				



### 3. Contextual Site Information

**a. Property Description**

Property	Extent	Title Deed	Registered Owner
Erf 121 Fisherhaven	516m <sup>2</sup>	T28893/2021	Raymond and Belinda Haggard

Refer to Annexure E for the SG Diagrams, Annexure C for the Title Deed of Erf 121 Fisherhaven.

The following Surveyor General Plans reflect the application site:

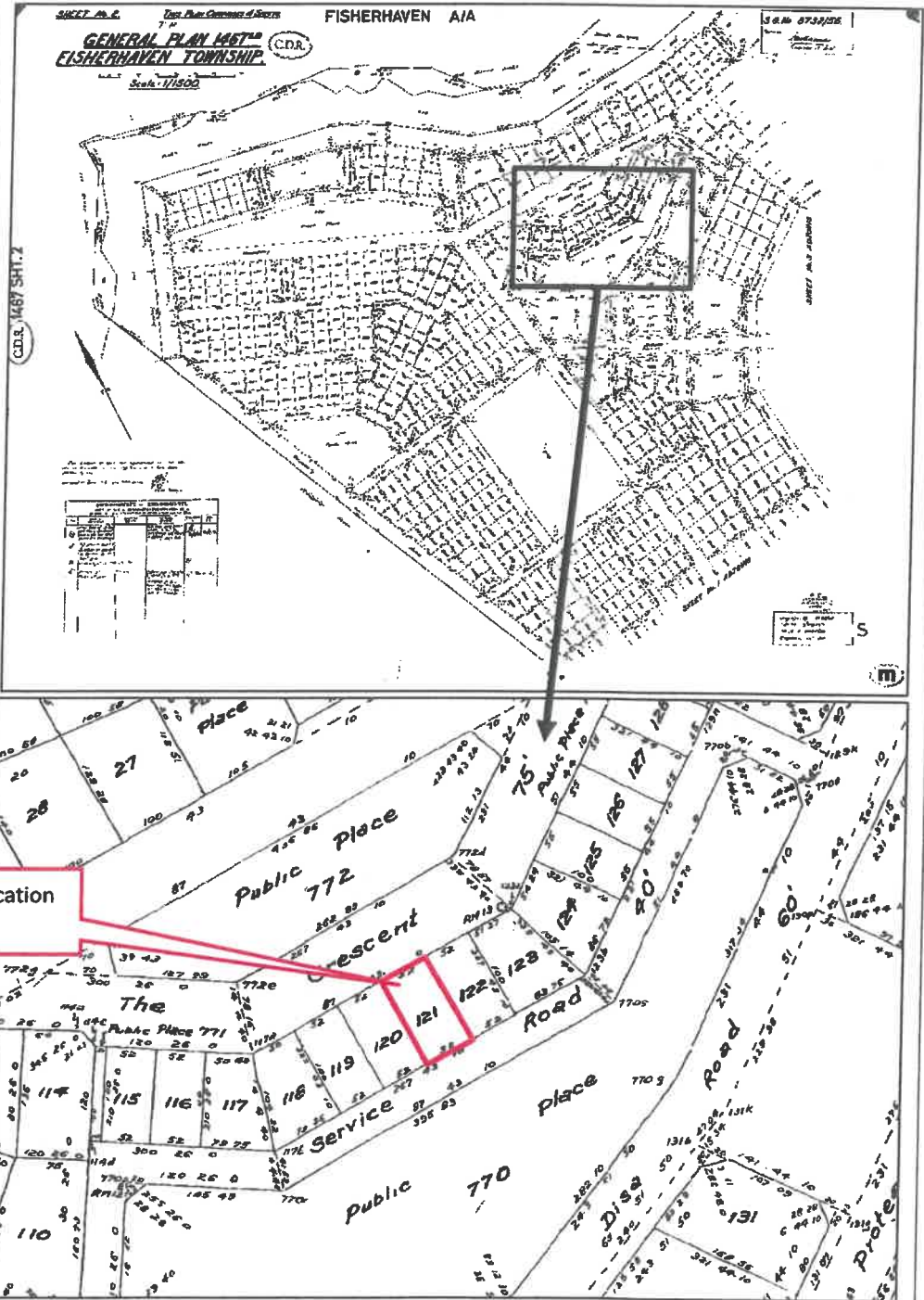


Figure 2: Extracts of the Surveyor General Plans of the application site

**b. Location:**

For the Locality Plans refer to Annexure F

**Regional Context:**

Within the regional context, the application area is located within Fisherhaven. Fisherhaven is located on the eastern bank of the Bot River estuary, 9km west of the Hermanus CBD and 8km east of Kleinmond and predominantly functions as a retirement/ residential and holiday destination with approximately 30% of the dwellings permanently occupied.

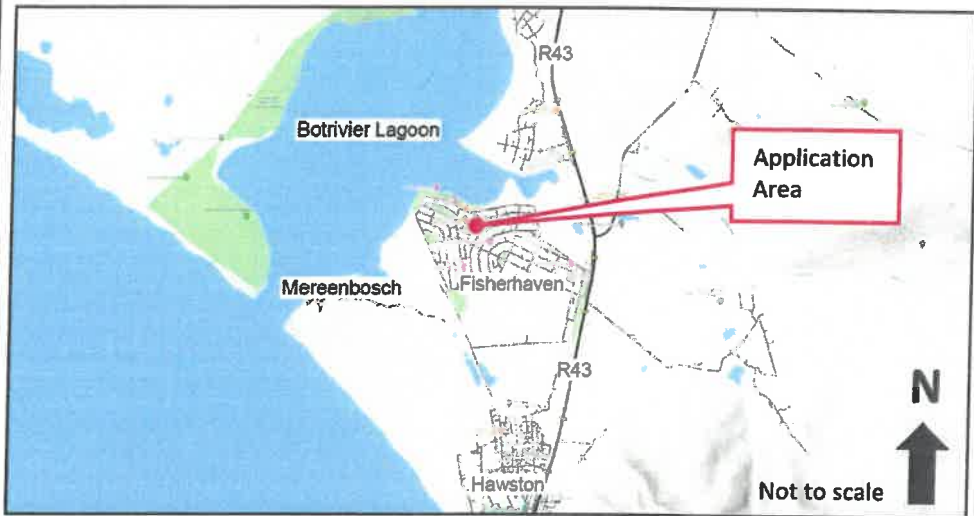


Figure 3: Locality Plan – Regional Context

**Local Context:**

The application area is located at number 51 The Crescent and forms part of the existing Fisherhaven business node.

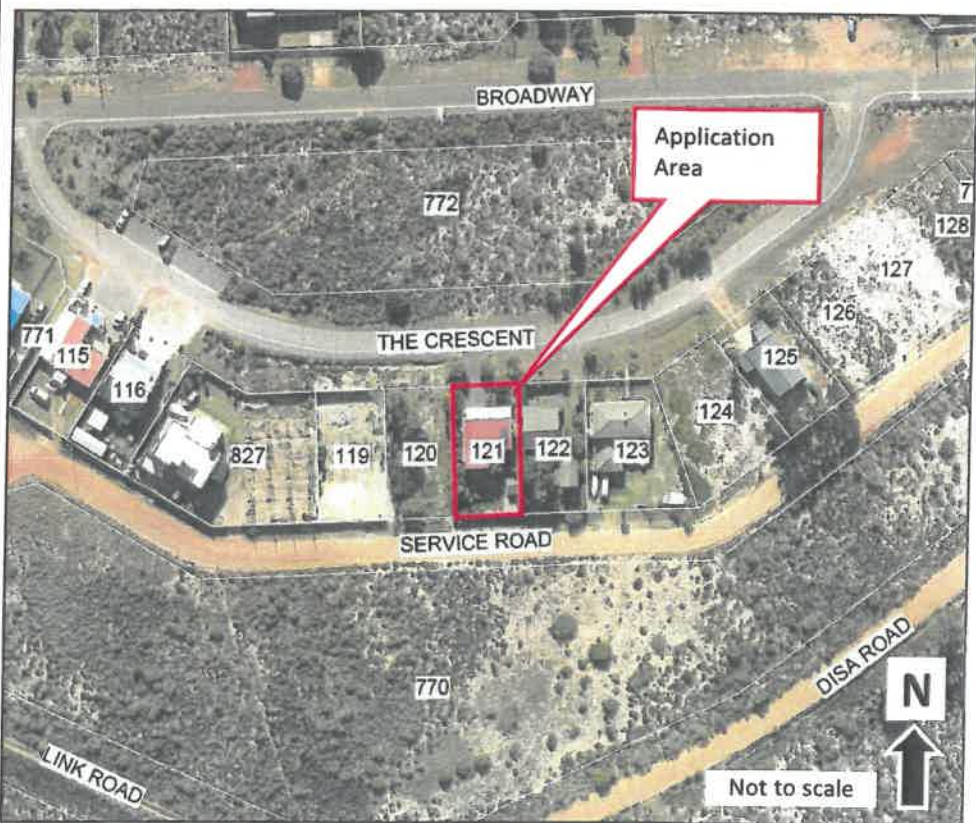


Figure 4: Locality Plan – Local Context

**c. Land Use:**

Refer to the Extract of Overstrand Zoning plan attached as Annexure G.

The application area consists of a single residential erf. The surrounding land-uses consist of single residential dwellings, business premises, open space and vacant erven. The area is thus a mixed use area. No change in land use is proposed. The application proposal is consistent with the land use of the area.

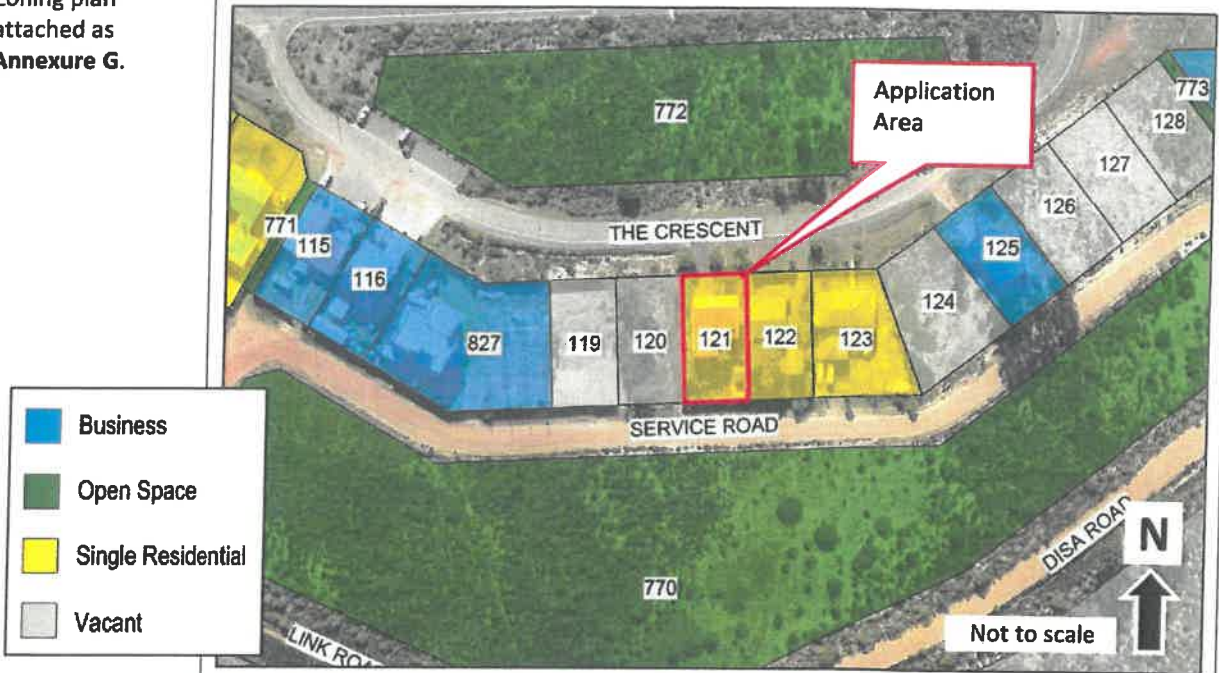


Figure 5: Aerial Image illustrating the residential land-use activities of the application area and surrounding properties

**d. Zoning:**

Refer to the Extract of Overstrand Zoning plan attached as Annexure H.

The application area, Erf 121, Fisherhaven is zoned Business Zone 3: Local Business. The surrounding erven are zoned Business Zone 3: Local Business as well as Open Space Zone 2: Public Open Space. No change in zoning is proposed. The application proposal is consistent with the zoning of the area.

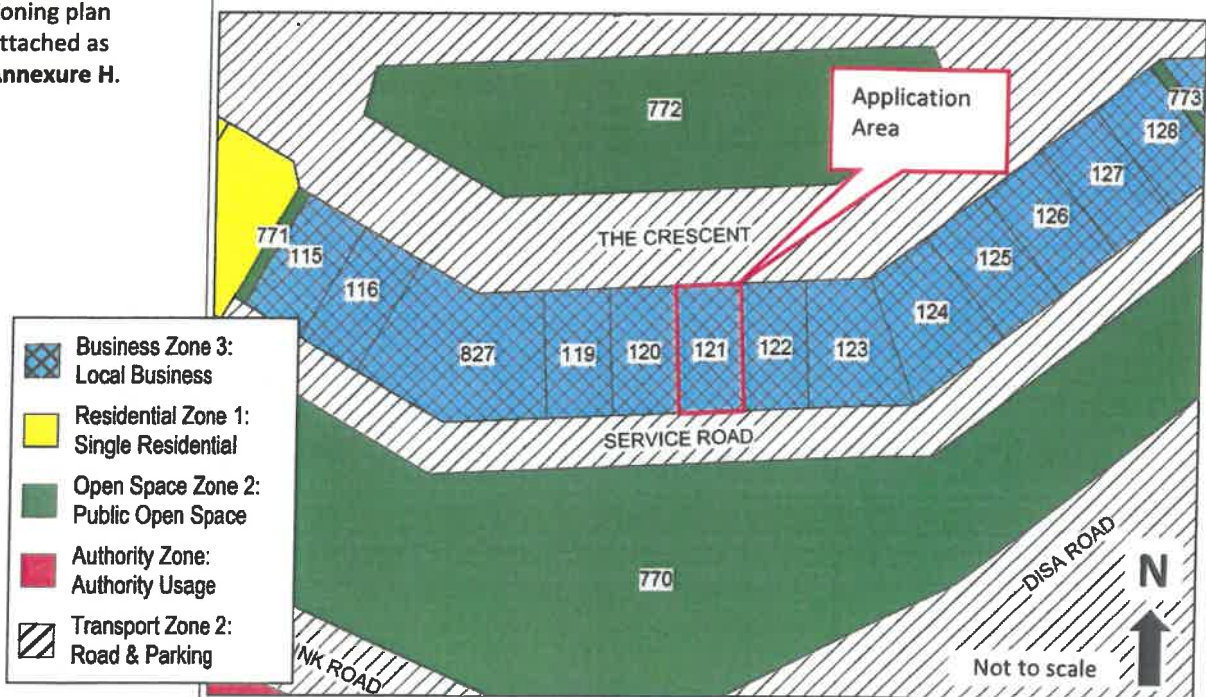


Figure 6: Extract from the Overstrand Municipality: Online zoning viewer

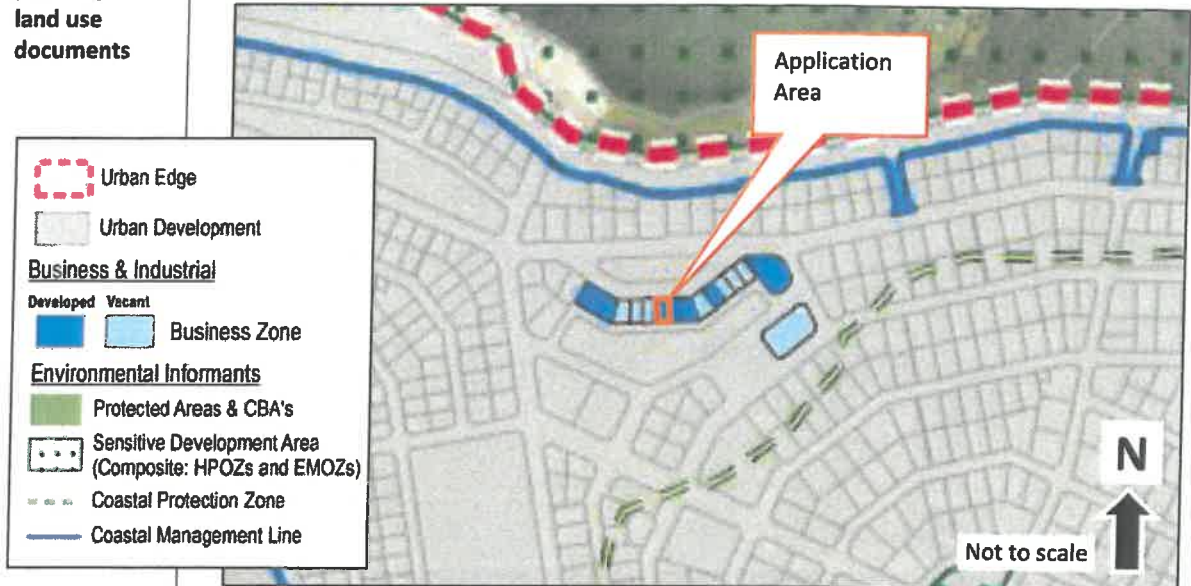
e. **Laws and policies relevant to the consideration of the application and forward planning and land use documents**

The following policy is applicable to the application area.

**i. Overstrand Municipal Spatial Development Framework, 2020**

The application area falls within a Developed Business Zone. The proposal is for additions to the existing dwelling house. No change in land use is proposed.

The application is compatible with the Overstrand Municipal Spatial Development Framework, 2020.



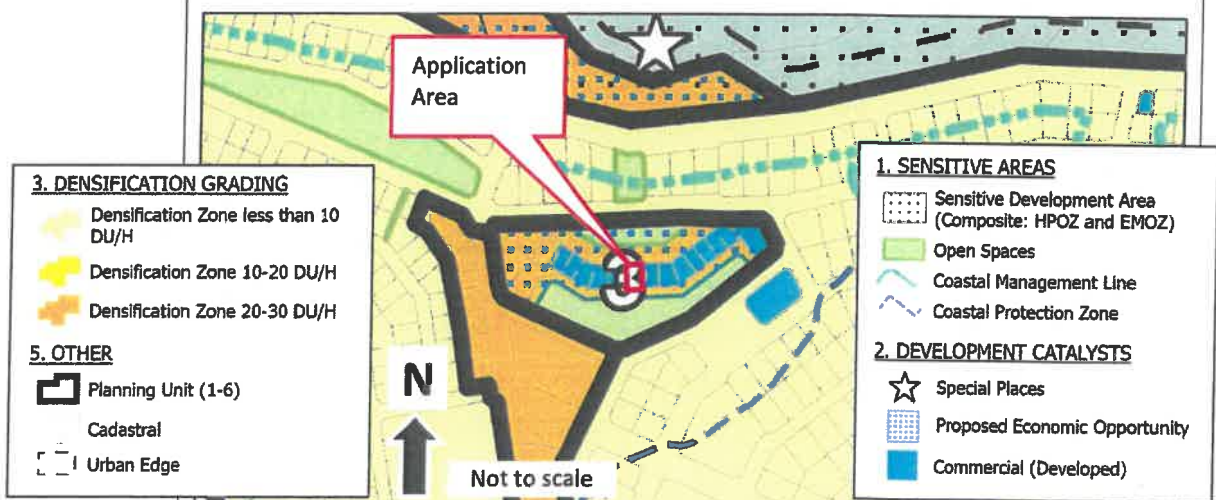
**Figure 7: Spatial Development Framework 2020 Spatial Proposals Plan**

**ii. Overstrand Municipality Growth Management Strategy, 2020**

The application area is within an area earmarked for a 20 to 30 Dwelling Units Per Hectare (DU/H) Density Zone as well as a Proposed Economic Opportunity area.

The proposal for the amendment of the existing dwelling will not impact on density and the existing land use will be retained.

The application is thus compatible with the Overstrand Municipality Growth Management Strategy, 2020.



**Figure 8: Extract from the Overstrand Municipality Growth Management Strategy, 2020 reflecting the envisaged land-uses for the area.**

## 4. Motivation

**Motivation for the application:**

Refer to Annexure I for the Building Plan

### a. Introduction and Background

The application area accommodates a dwelling house on Erf 121 Fisherhaven which is located within the existing Fisherhaven business node. The application area is zoned Business Zone 3: Local Business, which only allows for a dwelling unit on the ground floor as a consent use.

In addition to the above, the title deed contains a title deed condition that restricts the coverage of buildings to 30%. The zoning scheme allows for a coverage of up to 75%. The development proposal is for additions to the existing dwelling exceeding 34% coverage. Therefore an application is made for the removal of the restrictive title conditions as well as for a consent-use to allow the use of the property for residential purposes on the ground floor level as well.

Building plans have been approved in 2021 with a dwelling unit that is on both the ground and first floors.

The ground floor was approved with a garage, bedroom, bathrooms, store and workshop.

The first floor was approved with a living room, bedroom, bathroom and kitchen.

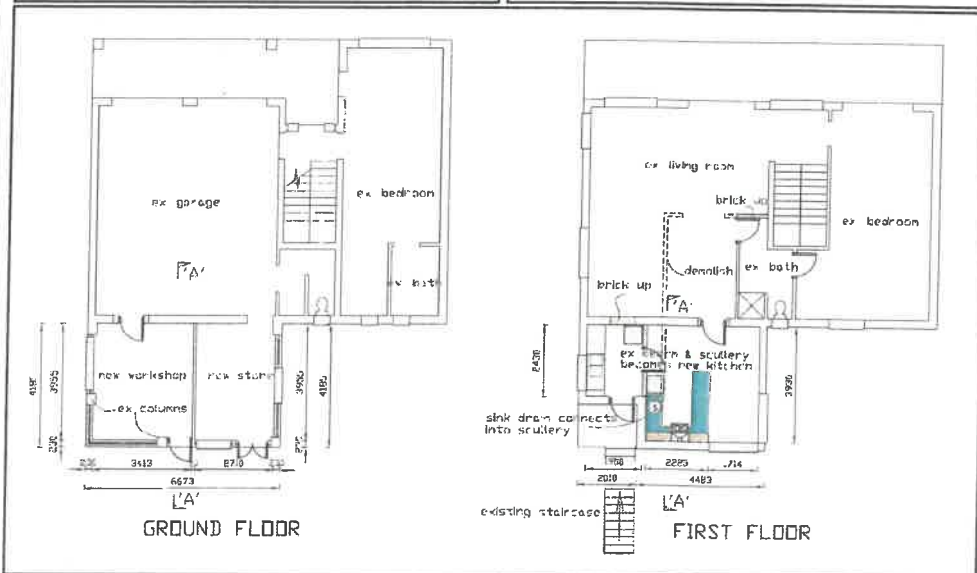
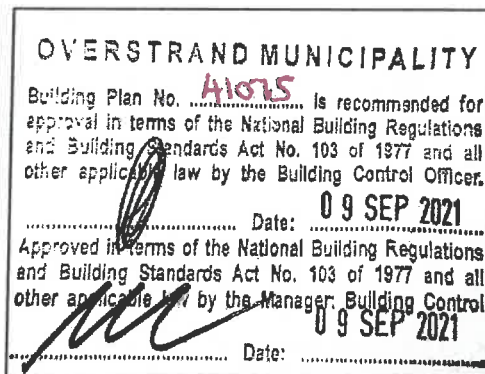
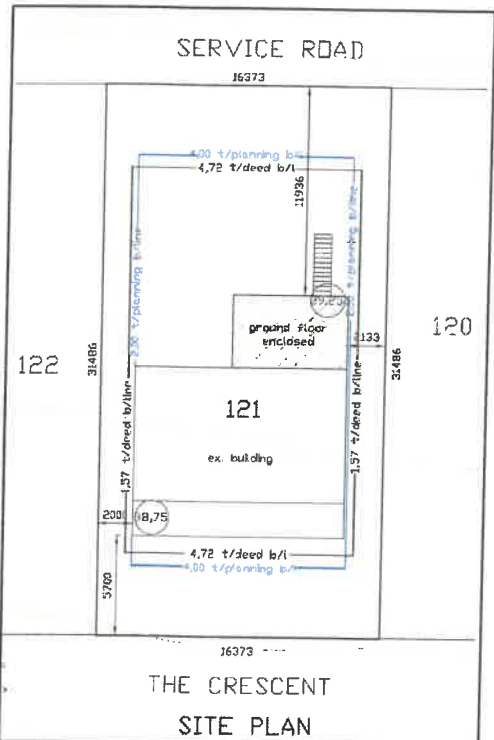


Figure 9: Screenshots of the building plans approved in 2021 and a photograph extract showing the approval stamp

**Title Deed 28893/2021**

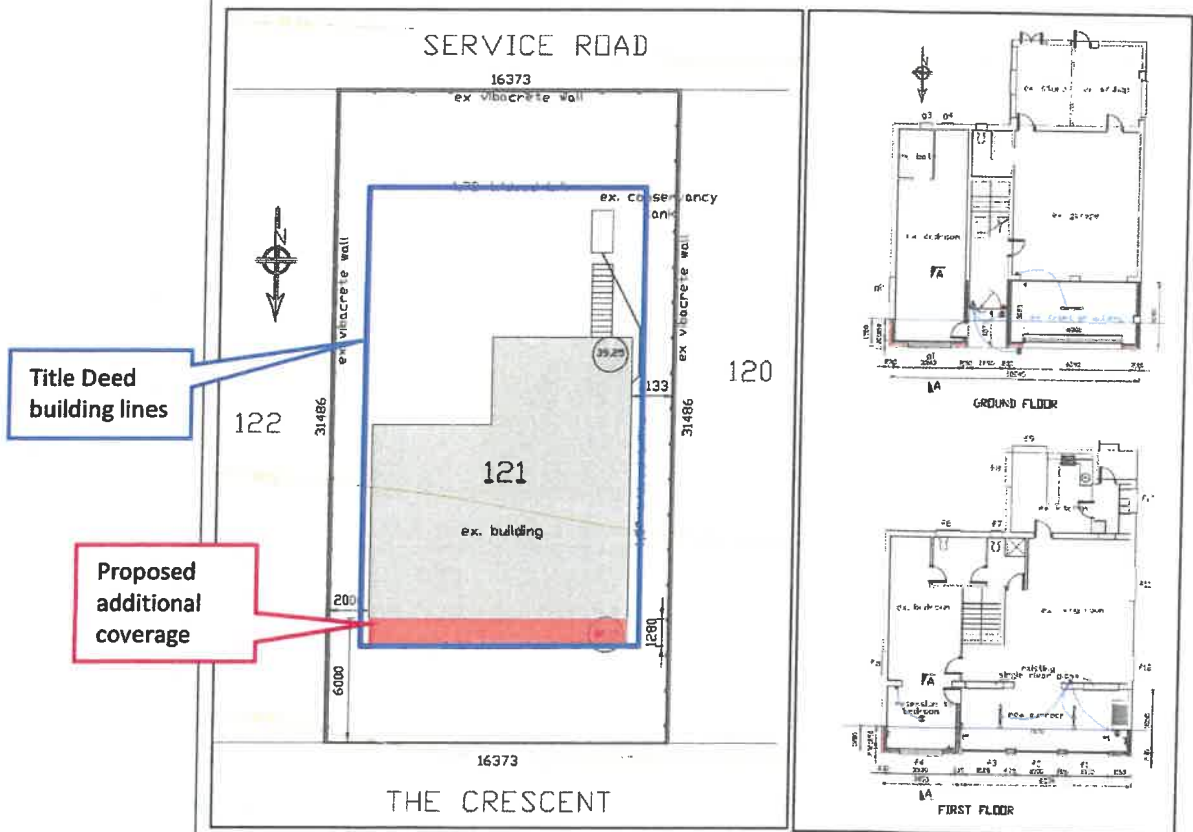
*"E. SUBJECT FURTHER to the following special conditions newly imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance No 33 of 1934 when approving the establishment of Fisherhaven Township, as contained in Deed of Transfer T36503/1982."*

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

*"(c) not more than 30% of the area thereof shall be built upon;"*

**b. Proposal**

The **development objective** is to legalise the existing dwelling on the ground floor level and to extend the dwelling unit to enlarge two bedrooms, a garage and the addition of a sunroom. The proposal will result in a coverage of 34% which exceeds the title deed 30% coverage restriction. Application is therefore to remove the coverage restriction from the title deed and to apply to allow for residential purposes on ground floor level.



**Figure 10: Site Plan extract & Floor Plan extracts**



**Figure 11: Elevations**

The dwelling unit is proposed to be extended 1.28m towards The Crescent from 6m to 4.72m resulting to a coverage of 34%. The proposal is consistent with both the title deed and zoning scheme building lines and will not negatively impact on views, privacy, light, safety or the character of the area.

The existing building was approved and built as a double storey dwelling, however the zoning scheme restriction only allowing a dwelling unit above ground floor level was not prohibited during the time when the building plans were submitted and accordingly approved. Therefore this application serves as legalisation of the dwelling unit on ground floor level. Evident from the Land-Use Plan (Figure 5) two adjacent properties are also developed as residential properties, hence aligned with the general character of the area. The residential use is not considered to have a negative impact on the business earmarked area and has the potential to be used for business purposes in future.

**c. Desirability**

The application proposal is considered desirable for the following reasons:

- The application proposal will improve the functionality of the dwelling unit.
- The proposed coverage is consistent with the Overstrand Municipality Land Use Scheme, 2020.
- The proposal will not affect views, privacy or light of neighbouring properties.
- The proposal is consistent with the character of the area.
- The proposal is consistent with the relevant policy documents.
- Sufficient space is still available around the property for access for services, maintenance, emergency services and so forth.

**d. Planning Principles**

In terms of Chapter VI of the Spatial Planning and Land Use Management Act, 2013 the following Planning Principles have been applied to the application site:

- 1) **Spatial Justice** which refers to the need for redressing the past apartheid spatial development imbalances and aims for equity in the provision of access opportunities, facilities, services and land.

	<p><b>Possible results of the development</b> The development proposal will allow for the amendment of the existing dwelling and will not impact on spatial justice.</p> <p>The application proposal is <b>consistent with spatial justice</b>.</p> <p>2) <b>Spatial Sustainability</b> which refers to the fact that a spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.</p> <p><b>Possible results of the development</b> The application proposal will result in the amendment of the existing dwelling and will not impact on valuable agricultural land, environmentally sensitive areas, biodiversity rich areas or scenic or cultural landscapes.</p> <p>The application proposal is <b>consistent with spatial sustainability</b>.</p> <p>3) <b>Spatial Efficiency</b> which refers to the manner in which settlements themselves are designed to function in such a way that there will be a minimum need to travel long distances to access services, facilities and opportunities.</p> <p><b>Possible results of the development</b> The application proposal will not impact on the design of Fisherhaven and will not impact on spatial efficiency.</p> <p>The application proposal is <b>consistent with the efficiency principle</b>.</p> <p>4) <b>Spatial Resilience</b> which, in the context of land use planning, refers to spatial plans, policies and land use management systems which should enable communities to be able to resist, absorb and accommodate any economic and environmental shocks which might occur in a timely and efficient manner.</p> <p><b>Possible results of the development</b> Approval of the application will allow for the existing dwelling, thus avoiding a potential economic shock, that will occur should the application not be approved.</p> <p>The application proposal is <b>consistent with the principle of spatial resilience</b>.</p> <p>5) <b>Good Administration</b> which, in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure that a joint planning approach is pursued.</p> <p><b>Possible results of the development</b> Consultive practices are being followed in this application as it is done in consultation with the Planning Department of the Overstrand Municipality who will also advertise the application in such a manner as to enable the different spheres of government and the general public to participate in the eventual decision-making process.</p> <p>The application proposal is <b>consistent with the principle of good administration</b>.</p>
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## 5. Conclusion

The application as motivated in this report is regarded **desirable** within its local context and well-integrated within the existing community land-use activities.

It is therefore recommended that the application **be approved** in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020:

- The removal of restrictive title deed condition E.4.(c) from Title Deed 28893/2021 in terms of Section 16(2)(f).
- Consent Use for a dwelling unit on the ground floor in terms of Section 16(2)(o).



**PROPOSED ALTERATIONS**  
on Erf No. 121 FISHERHAVEN  
NO 51, THE CRESCENT,  
FOR RAYMOND & BELINDA HAGGARD

Floor Areas	
Existing Ground Floor	146,6 m <sup>2</sup>
Additions - Ground Floor	29,0 m <sup>2</sup>
Total Ground Floor	175,6 m <sup>2</sup>
Existing first floor	117,9 m <sup>2</sup>
Additions - first floor	15,7 m <sup>2</sup>
Total first floor	133,6 m <sup>2</sup>
Total floor area	309,2 m <sup>2</sup>
Total additions	44,7 m <sup>2</sup>
Erf Area	515,5 m <sup>2</sup>
Coverage	34,06 %

**General Specifications**

All work to comply with the relevant building regulations. All measurements & levels to be checked on site before commencement of work, any discrepancies to be checked on site. DO NOT SCALE OFF DRAWING - USE ONLY FIGURED DIMENSIONS. ALL FINISHES TO MATCH EXISTING.

Footings to be 150mm below concrete on 300mm below ground level. Foundation walls to be 200mm RBCs with SANS approved plastic w/lay & sched 193 BRC eddresh. All masonry work to comply with SANS200-CH-2012. Walls to be cement brick bag-washed & painted to match existing internal finish. 210 mm. Reinforcement to be 12mm. Pre-stressed inlets above lintel height to all openings. Lintels to be every second course for cavity walls.

**RDF'S FASTENING**

Refer to be used into walls with 30mm x 12 mm. All fastenings to be stainless steel. All fastenings to be waterproofed with approved waterproofing membrane system.

**STRUCTURAL**

Concrete to comply with SANS200-CH-2012. All masonry work to comply with SANS 200-CH-2012.

**See detailed Calculations**

Roof - required R-value	3,7
Colourbond sheeting	0,00
150mm Isotherm insulation	0,680
100mm Isotherm insulation	0,179
Total	4,189
Roof complies for R-value	

**Energy consumption**

Occupancy - 1A	6 persons
Design occupancy	7 M <sup>2</sup> /m <sup>2</sup>
Total energy demand	
Total energy consumption	

Signature: *[Signature]* date: 8th November 2023

**PLAN No** : LKH 151/2023 - Rev 1  
**Sheet No** : 1 of 10 - 1:50  
**Principal** : Alan Voolough (MArch)  
**SACAP Reg No** : PSAT24723663  
**SAIAI Reg No** : 32057  
**Date** : 29th November 2023  
**Drawn by** : adw  
**Checked by** : oadw

**Revisions**

Rev No	Date	Details
1	29 Nov 2023	Window sizes changed

**14 MAR 2024**

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