



OVERSTRAND MUNISIPALITEIT
ERF 1619, CEASARWEG 9, PRINGLEBAAI:
AANSOEK OM OPHEFFING VAN
BEPERKENDE TITELAKTEVOORWAARDE EN
AFWYKING : WRAP (nms SERFIE
SERFONTEIN TRUST)

Kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Gewysigde Verordening vir Munisipale Grondgebruikbeplanning, 2020 word hiermee kennis gegee van die onderstaande aansoek van toepassing op Erf 1619, Pringlebaai naamlik:

Opheffing van Beperkende Titelaaktevoorwaardes

Aansoek ingevolge Artikel 16(2)(f) van bogenoemde verordening met verwysing na Klousules B.6.(a), B.6.(b), B.6.(b)(i) en B.6.(b)(ii) van Titelaakte T123280/97.

Afwyking

Aansoek ingevolge Artikel 16(2)(b) van bogenoemde verordening om die suid-westelike syboullyn vanaf 2m na 0,02m te verslap om 'n gedeelte van die bestaande woning te akkommodeer.

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

Enige kommentaar moet skriftelik ingedien word in terme van Artikels 51 en 52 van die bogenoemde Verordening aan die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) voor of op **9 April 2021**, stipuleer u naam, adres, kontak besonderhede, belang in die aansoek en redes vir kommentaar. Telefoniese navrae kan gerig word aan die **Senior 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 Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer.

Munisipale Bestuurder, Overstrand Munisipaliteit, Posbus 20, **HERMANUS**, 7200

Munisipale Kennisgewing Nr. 31/2021

OVERSTRAND MUNICIPALITY
ERF 1619, 9 CEASAR ROAD, PRINGLE BAY:
APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS AND
DEPARTURE: WRAP (obo SERFIE
SERFONTEIN TRUST)

Notice is hereby given in terms of Section 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 of the applications mentioned below applicable to Erf 1619, Pringle Bay namely:

Removal of Restrictive Title Conditions

Application in terms of Section 16(2)(f) of the aforementioned By-Law with reference to Clauses B.6.(a), B.6.(b), B.6.(b)(i) and B.6.(b)(ii) of Title Deed T123280/97.

Departure

Application in terms of Section 16(2)(b) of the aforementioned By-Law to relax the south western lateral building line from 2m to 0,02m to accommodate a portion of the existing dwelling.

Detail regarding the proposal is available for inspection during weekdays between 08:00 and 16:30 at the Department : Town Planning at 16 Paterson Street, Hermanus and at the Betty's Bay Library, Clarence Drive, Betty's Bay.

Any written comments must be submitted in accordance with the provisions of Sections 51 and 52 of the said By-law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before **9 April 2021**, quoting your name, address, contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the **Senior Town Planner, Ms. H. van der Stoep** 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 comment.

Municipal Manager, Overstrand Municipality, P.O. Box 20, **HERMANUS**, 7200

Municipal Notice No. 31/2021

UMASIPALA WASE-OVERSTRAND
ISIZA 1619, 9 CEASAR ROAD, EPRINGLE BAY:
ISICELO SOKUSUSWA KWEZITHINTELO
NGOKWEMIGAQO YEEMEKO
NOKUPHAMBUKA: WRAP (egameni lika
SERFIE SERFONTEIN TRUST)

Esi saziso sikhutshwa ngokwemiqathango yeSoloty 47 no 48 loMthethwana kaMasipala waseOverstrand Otshintshiweyo woYilo lokuSetyenziswa koMhlaba (uMthethwana) wowama-2020 ngokwezicelo ezichazwe ngezantsi esicapazela iSiza 1619, ePringle Bay:

Isicelo sokushenxiswa kwemiqathango yeemeko

Isicelo ngokweSoloty 16(2)(f) lalo Mthethwana sokususwa kwezithintelo ngokwemigaqo yeemeko ngokwemihlati: B.6.(a), B.6.(b), B.6.(b)(i) kwaye B.6.(b)(ii) njengoko kuqulatwe kwiTitle Deed T123280/97.

Ukuphambuka

Isicelo sokuphambuka ngokweSoloty 16(2)(b) lalo Mthethwana ukuvumela okulandelayo ukuphambuka kumgca wokwakha osecaleni kwintshona ukusuka kwi-2m ukuya kwi-0,02m ukulungiselela indlu ekhoyo.


linkcukacha ngokwemiba yesi sindululo ziyafumaneka ukuze zihlolwe ngamaxesha okusebenza aphakathi kwentsimbi yesi-08:00 ne-16:30 kwiCandelo: Zicwangiso ngeDolophu kwa-16 Paterson Street, Hermanus kwaye nakwiThala leencwadi eBetty's Bay, Clarence Drive, eBetty's Bay.

Naziphi na izimvo ezibhaliweyo ngokwemiba yezibonelelo zeCandelo lama-51 nama 52 oMthethwana kufuneka zifike kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ngomhla okanye ngaphambi kwe **9 uAprili 2021**, ubhale igama lakho, idilesi yakho, iinkcukacha zoqhagamshelwano, umdla kwisicelo nezizathu zokufaka amagqabaza. Imibuzo ngefowni ingabhekiswa ku**Mcwangcisi weDolophu oPhakamileyo, Nksz. H. van der Stoep** ku 028-313 8900. Umasipala angangavumi ukwamkela amagqabaza okuhlomla afunyenwe emva komhla wokuvala. Nabani na ongakwazi kufunda okanye ukubhala angatyelala iSebe lokuCeba Idolophu apho igosa lakwamasipala liya afake izimvo zakhe ngokusemthethweni.

Umlawuli kaMasipala, Overstrand Municipality, P.O. Box 20, **HERMANUS**, 7200

Inothi kaMasipala Nombolo. 31/2021

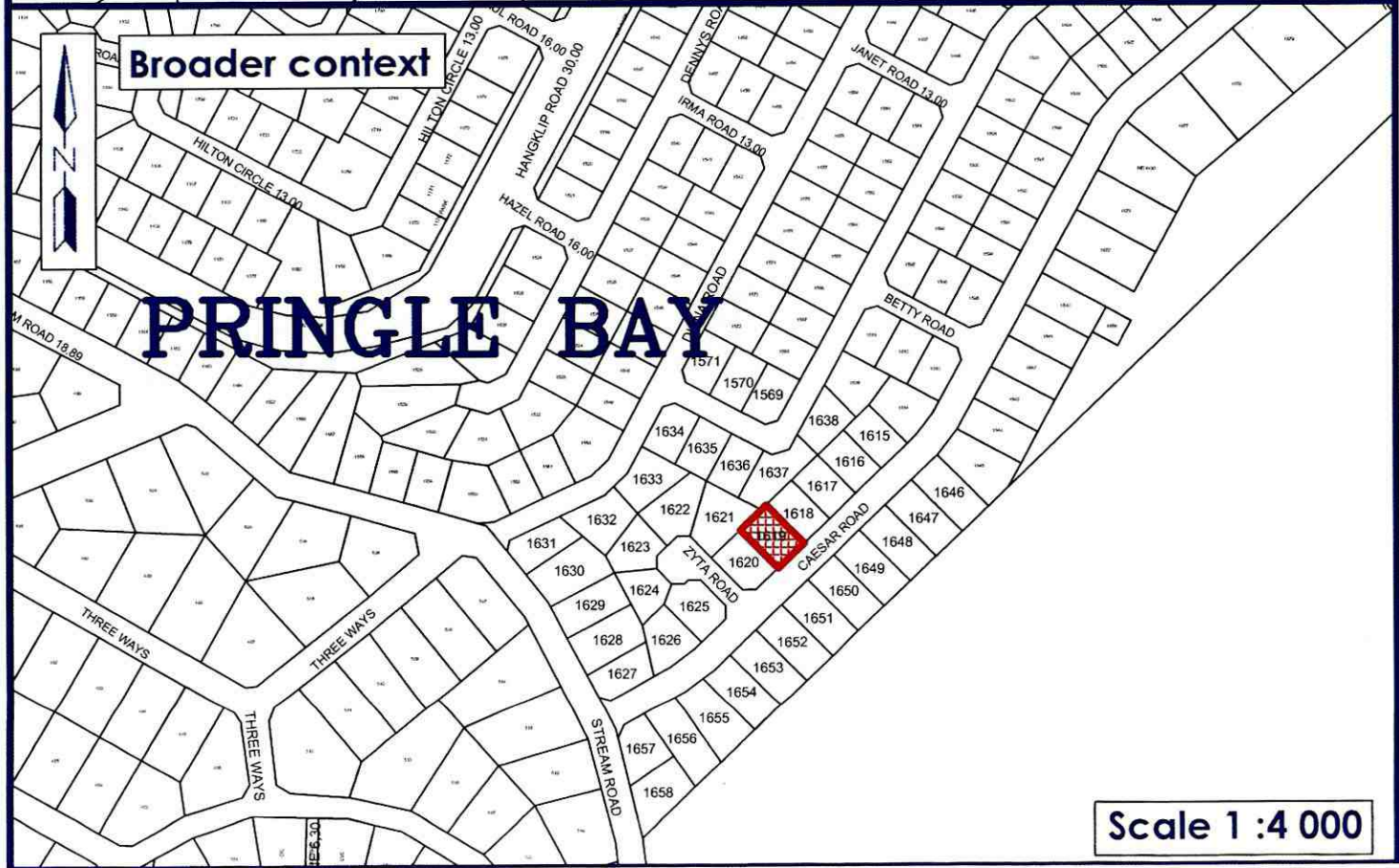
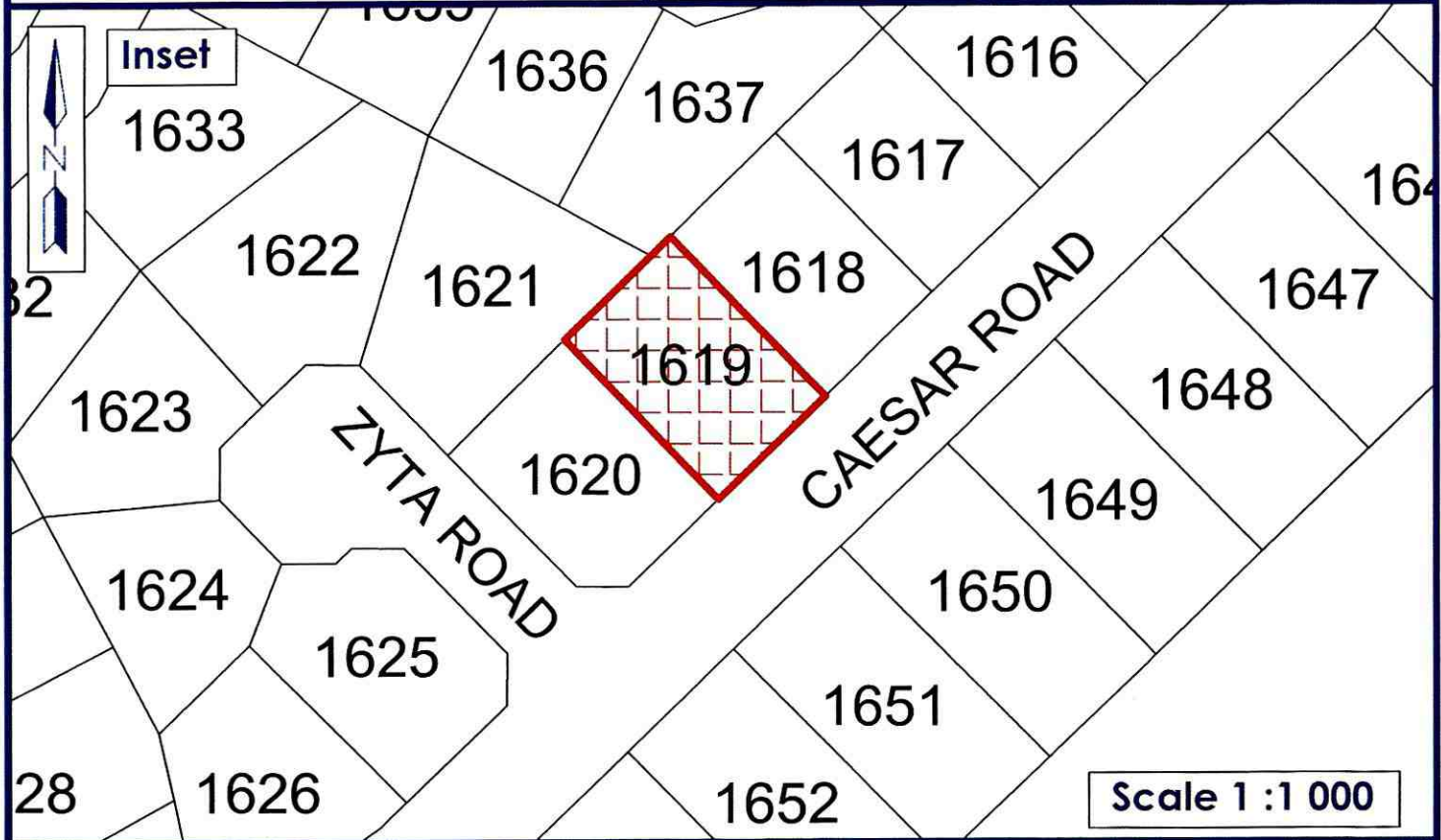
Plan 1: Locality Plan Erf 1619 Pringle Bay

 Erf 1619 Pringle Bay (600m²)

Tel: 028 313 1411
 Email: admin@wrapgroup.co.za
 Plan 1.1
 Unit B, Corner of Royal and Dirkie Uys
 Street Hermanus, 7200
 Plan prepared by: Reatlehle Jankie
 All distances are approximate
 and subject to a survey



Project Office
 Town Planning & Project Management





1. ABBREVIATIONS

1.1	OMLUS	Overstrand Municipality Land Use Scheme, 2020
1.2	SDF	Overstrand Municipality Spatial Development Framework, 2020
1.3	OM	Overstrand Municipality
1.4	By-Law	Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended
1.5	OMGMS	Overstrand Municipal Growth Management Strategy, 2010
1.6	SPLUMA	Spatial Planning and Land Use Management Act, 2013
1.7	LUPA	Land Use Planning Act, 2014
1.8	DEADP	Western Cape Department of Environmental Affairs and Development Planning
1.9	SDP	Site Development Plan
1.10	SR1	Residential Zone 1: Single Residential

2. SUMMARY OF STATUS QUO PROPERTY DETAILS

2.1	Property description	Erf 1619 Pringle Bay
2.2	Registered owner and applicant	Serfie Serfontein Trust
2.3	Consultant	WRAP Project Office
2.4	Restrictive title deed conditions	B.6(a), B.6.(b), B.6.(b)(i) and B.6.(b)(ii) in title deed T123280/1997
2.5	Property extent	600m ²
2.6	Current zoning	Residential Zone 1: Single Residential (SR1)

3. BACKGROUND AND APPLICANTS BRIEF

- 3.1 The owner of the subject property (hereafter referred to as the applicant) appointed a building contractor to construct the current dwelling in accordance with the building plans (refer **Plan 5**). The plans illustrate that no portion of the dwelling encroaches on the OMLUS and title deed side building line;
- 3.2 When the owner of a neighbouring property started with extensions to an existing dwelling, it was suspected that the existing dwelling encroaches on the south western side building line as prescribed in the OMLUS and title deed. A land surveyor was appointed to survey the location of the existing building in relation to the cadastral boundaries and it was confirmed that the existing dwelling encroaches on the side building line (refer **Plan 4**);
- 3.3 The applicant has therefore appointed WRAP Project Office to obtain the necessary land use approvals to legalise the location of the existing dwelling over the side building lines which is a result of an oversight by the original building contractor; and
- 3.4 The applicant also envisages establishing a second dwelling unit which the title deed of the subject property currently prohibits.

4. PROCEDURE TO ACHIEVE THE DEVELOPERS INTENT

The following application is submitted for the applicant to achieve the brief discussed in Section 3 of this report:



4.1 Removal of restrictive title deed conditions B.6(a), B.6.(b), B.6.(b)(i) and B.6.(b)(ii) from title deed T123280/1997 in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The rationale for the removal of the restrictive title deed conditions will herewith be summarised and motivated in detail in Section 7 of this report.

4.1.1 Restrictive title deed condition B.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 Township 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 in the scheme."*

4.1.1.1 The applicant envisages establishing a second dwelling unit on the subject property which will measure a maximum of 120m² which necessitates the removal of this restrictive title deed condition.

4.1.2 Restrictive title deed condition B.6.(b) *"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, provided that with the consent of the local authority."*

4.1.2.1 A portion of the existing building is located 0,02m from the south western side building line which necessitates the removal of this restrictive title deed condition.

4.1.3 Restrictive title deed condition B.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 the rear space and side space for a distance of 12m shall be measured from the point furthest from the street abutting the erf."*

Restrictive title deed condition B.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."*

4.1.3.1 The OMLUS provides prescripts which pertain to the location of motor vehicles on properties which are zoned SR1 which makes the title deed conditions superfluous.

4.2 Departure from the 2m south western side building line to 0,02m to accommodate the existing dwelling in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

4.2.1 The existing dwelling is located 0,02m from the south western boundary line which necessitates a departure application. The portion of the existing building which encroaches on the south western boundary line measures 14m² which is minimal and constitutes 8,8% of the total footprint of the existing building. The use of the portions of the building which encroach on the side building line are the covered stoep on the ground floor and habitable rooms as illustrated in the photograph in figure 1;



Figure 1: A photo from the rear of the property, of the portion of the building which encroaches on the side building line.

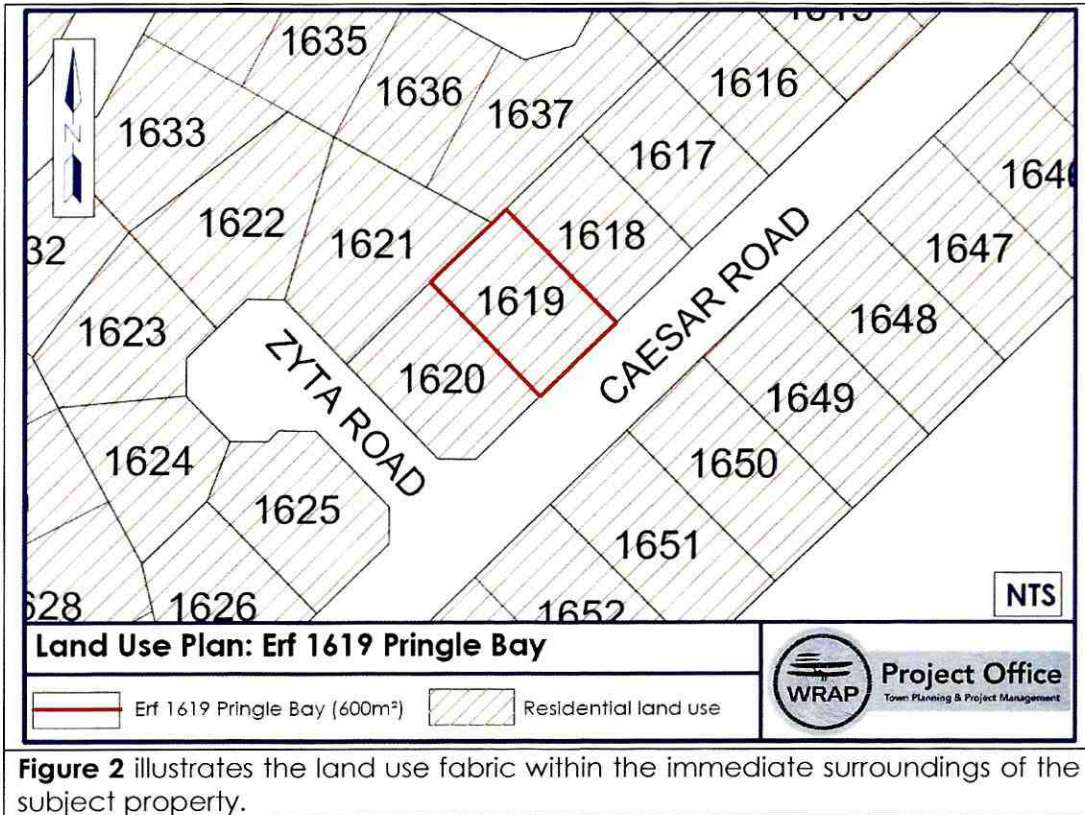
- 4.2.2** When figure 1 is assessed in conjunction with the survey (refer **Plan 4**) the existing dwelling is "skew" in relation to the cadastral boundaries. At the time of the survey the fence was incorrectly misaligned with the cadastral boundaries which was incorrectly used to inform the construction of the existing dwelling. It is suspected that one of the rear boundary beacons was incorrectly identified when the foundations of the house were set out;
- 4.2.3** Figure 1 also illustrate that the only neighbour who is materially impacted by the building line encroachment is the owner of Erf 1620 Pringle Bay who has become accustomed to the location of the existing building;
- 4.2.4** It would also be financially unfeasible for the portion of the existing dwelling which encroaches on the side building line to be demolished as that will have significant financial implications in terms of the total structure which will have to be rebuilt and the portion of the wall which will have to be demolished and re-constructed at a location which does not encroach on the side building line; and
- 4.2.5** A partial demolition would also destroy the high architectural integrity of the existing building as all the walls of the building currently intersect in a rectangular form.
- 4.3** It is therefore motivated that the approval of this application would retain the visual contribution of the existing building towards the built form of Pringle Bay. This is in contrast with partial demolition as an alternative, which would result in the architectural integrity of the existing building being destroyed.

5. APPLICATION

- 5.1** Considering the applicant's intent highlighted in Section 4 the following is applied for:
- 5.1.1 Removal of restrictive title deed conditions** B.6(a), B.6.(b), B.6.(b)(i) and B.6.(b)(ii) from title deed T123280/1997 in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and
- 5.1.2 Departure** from the 2m south western side building line to 0,02m to accommodate the existing dwelling in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

6. LAND USE FABRIC

The land use fabric surrounding the subject property is illustrated below:



The existing dwelling and the proposed second dwelling unit will be used for residential purposes and are in harmony with the residential land use fabric of the area illustrated in figure 2.

7. TITLE DEED

The title deed was perused (refer **Annexure C**), and the following restrictive title deed conditions prohibits the land use rights which are applied for in this application and are proposed for removal:

7.1	Title deed restriction
	B.6(a) <i>"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 Township 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 in the scheme."</i>



MOTIVATION

	<p>Motivation</p> <p>Rationale for the proposed removal The applicant envisages establishing a second dwelling unit towards the rear of the subject property which will measure a maximum of 120m². The second dwelling unit will be used for the permanent occupancy of a single family.</p> <p>Background The restrictive title deed condition which limits one dwelling on the subject property was inserted in 1981 in an era when the prevailing urban development model was low density urban sprawl which was coupled with to low population growth.</p> <p>Status quo Rapid population growth which is exacerbated by urbanisation places pressure on residential units to be unlocked within the urban edge. This is to avoid the rapid establishment of greenfield developments which are characterised by urban sprawl and negative implications thereof such as habitat fragmentation, water and air pollution and increased infrastructure costs which tend to be incurred by local authorities. The second dwelling unit proposed on the subject property is therefore instrumental in contributing towards unlocking additional accommodation options which alleviate the pressures for outward settlement establishment. All current spatial planning policies promote contextually appropriate densification and the proposed establishment of a second dwelling unit on the subject property is in harmony with the current policy prescripts.</p>
<p>7.2</p>	<p><u>Title deed restriction</u></p> <p>B.6.(b) <i>"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, provided that with the consent of the local authority."</i></p> <p>Motivation</p> <p>Rationale for the proposed removal A portion of the existing dwelling is located 0,02m from the south western side building line and encroaches on the 1,5m lateral building line as prescribed in the title deed. The removal of this restrictive title deed condition is necessary to legalise the existing accidental encroachment.</p> <p>Background The rationale for the insertion of this restrictive title deed condition was for the creation of a peculiar suburban fabric and for the building lines.</p> <p>Status quo The partial demolition of the portion of the existing dwelling which is located over the building line would destroy the architectural integrity of the building and therefore adversely impact on the suburban character of Pringle Bay which surrounding property owners have become accustomed to. The distance between the corner of the existing dwelling on the subject property and the dwelling on the neighbouring Erf 1620 Pringle</p>



MOTIVATION

Bay is 2,3m which acts as sufficient space for access to the back of the neighbouring erf by the fire brigade in case of a fire. On the north-eastern boundary of the subject property no buildings are encroaching on the building line which makes the back of the property easily accessible in case of an emergency or fire. The removal of this restrictive title deed condition is requested by the applicant to correct the error made by the building contractors in positioning the building on the erf and to safeguard the architectural integrity of the existing building on the property.

7.3 Title deed restriction

B.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 the rear space and side space for a distance of 12m shall be measured from the point furthest from the street abutting the erf."

B.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."

Motivation

Rationale for the proposed removal

Although this proposal is not related to the regularisation of a garage which is located over the building lines, the title deed conditions listed above are a subsection of title deed condition B.6.(B) which necessitates the removal thereof. The OMLUS contains prescripts related to the location of outbuildings over the building lines which makes these title deed conditions superfluous.

Background

This title deed condition was inserted in an era where garages which were located in the side building line were generally offset at a distance from the street boundary which resulted in the creation of long driveways which was the general preference of the property owners who bought erven in Pringle Bay at the time.

Status quo

The status quo is characterised by property owners establishing second dwelling units as sought in this application which increase the amount of space which is used on properties which invalidates the need for long driveways for garages along the boundary line. The OMLUS also contains prescripts relating to the location of garages on properties zoned SR1 which makes the retention of this title deed condition unnecessary.

8. AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE CONDITIONS

This application is motivated in conjunction with considerations for the removal of restrictive title deed conditions which is a relevant consideration in terms of Section 35(4) of the By-Law:

8.1 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.



MOTIVATION

It is unlikely that the existing restrictive title deed conditions add any financial value to the owners of erven in Pringle Bay for the following reasons:

- 8.1.1** Title deed condition B.6(a) was intended to prevent Pringle Bay from having second dwelling units as that was seen to have the potential of altering the single residential look and feel which the neighbourhood has. The proposed second dwelling unit is intended to be located towards the rear of the existing main dwelling and will not be visible from the street. This will therefore not interfere with the single residential look of the subject property from the street which this title deed condition seeks to protect. The OMLUS allows a second dwelling unit as a primary right on properties zoned SR1 in Pringle Bay and the removal of this restrictive title deed condition does not constitute a departure from the land use rights which are enjoyed by other property owners in the Overstrand Municipality. The removal of the restrictive title deed conditions can therefore not be regarded as depriving surrounding property owners of any financial interests which might currently be enjoyed.
- 8.1.2** Title deed condition B.6.(b) pertaining to building lines was inserted to act as a mechanism to allow access to the back of the property in case of fire or emergencies and does not have any financial value. Considering that the distance between the part of the dwelling which encroaches on the side building line and the dwelling on the neighbouring property is 2,3m it constitutes sufficient space to serve this purpose. The removal of this restrictive title deed condition will therefore not undermine the initial intent of this condition and not deprive any property owners of any financial value.
- 8.1.3** Title deed conditions B.6.(b)(i) and B.6.(b)(ii) are unnecessary as the OMLUS contains prescripts related to the location of garages in relation the cadastral boundary lines.
- 8.2 The personal benefits which accrue to the holder of rights in terms of the restrictive condition.**
There are no personal benefits which accrue to the holder of the rights in Pringle Bay. The title deed conditions also limit the ability of the applicant to exercise all primary rights and development parameters applicable to the SR1 zoning which generally promote a better utilisation of land which would not be possible if the title deed conditions remained in place.
- 8.3 The personal benefits which will accrue to the person seeking the removal of the restrictive condition if it is removed.**
The removal of the restrictive condition will enable the applicant to legalise the location of the existing building over the title deed building line and allow the construction of a second dwelling unit in the future when it is financially feasible to do so.
- 8.4 The social benefit of the restrictive condition remaining in place in its existing form.**
There is no social benefit which will accrue with this restrictive title deed condition remaining in place as the land use rights and development parameters applicable on the subject property will still have to conform to the SR1 zoning. This will be a mechanism which will protect the residential character of the site and not deviate from the general expectation which society has for the subject property to be used for residential purposes.



MOTIVATION

8.5 The social benefit of the removal or amendment of the restrictive condition.

The removal of the restrictive title deed condition will have a positive social benefit as it will enable the construction of a second dwelling unit and further encourage the applicant to make improvements to the subject property which would be to the visual benefit of surrounding property owners.

8.6 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.

The removal of the restrictive title deed condition will remove the imposition of the title deed building lines which would legalise the encroachment of the existing building over the building lines in conjunction with the building line departure applied for from the OMLUS. The removal of the restriction of the second dwelling unit will allow the applicant to construct a second dwelling unit which is a land use right enjoyed by all other property owners where the applicable zoning is SR1 in the Overstrand Municipal area. The SR1 land use rights which are applicable on the subject property will continue to protect the land use rights enjoyed by the beneficiaries of the restrictive title deed conditions which can be regarded as positive.

9. ZONING

This proposal was assessed in conjunction with the SR1 zoning applicable on the subject property:

Residential Zone 1: Single Residential				
		Parameters	Proposal	Deviate or comply
9.1	(a) Primary use	crèche, dwelling house , guest rooms, home occupation, second dwelling unit and self-catering.	Dwelling house and second dwelling unit.	Comply
9.2	(b) Consent use (which may be applied for)	day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and intensive horticulture	N/A	Comply
Development rules				
9.3	Coverage	50%	46.3	Comply
9.4	Street building line	4m	5m	Comply
9.5	Side building line	2m	Departure from the 2m south western side building line to 0,02m to accommodate the existing dwelling.	Departure motivated
9.6	Height	8m	6,5m	Comply
9.7	Parking	Dwelling house Two on-site parking bays per dwelling unit, provided that	There are 3 parking bays required and 2 parking bays are proposed in	Comply



MOTIVATION

	on even less than 400 m ² , only 1 on-site parking bay needs to be provided.	addition to the existing garage.	
	Second dwelling One bay		

Second dwelling unit

The following additional development parameters apply to second dwelling units and the compliance of this proposal therewith will herewith be illustrated.

	Parameters	Proposal	Deviate or comply
9.8	The total floor area (footprint) of the second dwelling unit shall not exceed 120m ² .	120m ² .	Comply
9.9	A second dwelling unit may be contained within the same building as a primary dwelling unit and may be either on the ground or first floor.	The proposed second dwelling unit is not contained within the existing dwelling unit as it is proposed to be a separate structure.	Comply
9.10	A second dwelling unit may not be separately alienated in terms of the Sectional Title Act.	The applicant has no intention to alienate the proposed second dwelling unit in terms of the Sectional Title Act.	Comply
9.11	A second dwelling must be located within the applicable building lines.	The proposed second dwelling unit does not encroach on the building lines which are applicable to the SRI zoning.	Comply

10. ADDITIONAL REGULATORY REQUIREMENTS

The subject property is not located within the HPOZ or the EMOZ.

11. SERVICES

The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is herewith illustrated:

11.1 Solid waste

Solid waste is collected from the subject property by the OM on a weekly basis and the additional waste which will be generated from the proposed second dwelling unit will be collected with the waste from the primary dwelling.

11.2 Electricity

The existing building is connected to the electricity network available in Pringle Bay which the proposed second dwelling unit will also connect to.



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11.3 Water

The existing building is connected to the reliable water network supplied by the OM which the proposed second dwelling unit will connect thereto.

11.4 Sewage

The existing building is connected to a conservancy tank which is located on the subject property and the proposed second dwelling unit will connect thereto.

11.5 Access and egress

Access and egress to the subject property is gained from Caesar Road.

12. SPLUMA MOTIVATION REQUIREMENTS

The following are relevant considerations in terms of Section 42 (c) of SPLUMA and is motivated as follows:

12.1 Public interest

The approval and implementation of this proposal will enable the applicant to construct a second dwelling unit which will increase the value of the subject property. This will consequently lead to higher rates collected by the OM from the applicant which will contribute towards service delivery and is in the public interest.

12.2 Opportunity costs

Opportunity cost in the context of land use planning refers to the devaluation or foregoing a valued land use right of interested and affected parties when an application is approved. The dwelling which encroaches on the side building line and title deed restrictions already exists and will not be an additional visual impact or imposition. The proposed second dwelling unit will be located towards the rear of the subject property and will not be visible from the street and will therefore not be a visual imposition. The approval and implementation of this proposal will therefore not present an opportunity cost for surrounding property owners.

12.3 Respective rights and obligations of all those affected

The legalisation of the existing building over the building lines and construction of a second dwelling unit will not result in surrounding property owners occupying respective properties in discomfort for the following reasons;

12.3.1 The primary dwelling and proposed second dwelling unit is in harmony with the residential land use fabric of the surrounding;

12.3.2 The primary dwelling exists, and neighbours have become accustomed thereto and it is not projected to unlock additional land use rights which may negatively affect surrounding property owners; and

12.3.3 The proposed second dwelling unit is in harmony with the primary land use rights which are conferred by the SR1 zoning which are enjoyed by other property owners with the same zoning in Pringle Bay and therefore does not unlock extraordinary land use rights for the applicant.



13. POLICY FRAMEWORK

13.1 The compliance of this proposal with the applicable spatial development policies was assessed. These policies are instrumental in guiding spatial development and providing prescripts of what constitutes sound town planning development patterns. The compliance of this proposal in conjunction with provincial and local policies which are key development informants will be illustrated.

	Applicable policy	Administrative authority
13.1.1	Western Cape Provincial Spatial Development Framework, 2014 (PSDF)	Provincial
13.1.2	Overstrand Municipality Spatial Development Framework, 2020 (SDF)	Municipal
13.1.3	Overstrand Municipal Growth Management Strategy, 2010 (OMGMS)	Municipal

13.2 PSDF

13.2.1 Policy preface

The PSDF is a product of a provincial inter departmental and inter-governmental collaboration under the guidance of the interdepartmental steering committee with the private sector, academia, and non-governmental organisations. This broad participatory process has created a shared spatial vision which is intended to inform spatial development patterns of urban areas in the province.

13.2.2 Broad policy objectives

The objective of the policy is to promote liveable settlements with quality infrastructure and high architectural integrity. The development principles in the PSDF are informed by other spatial planning policies which are aimed at creating a policy alignment between different spheres of government. The intent is to ensure that spatial development is uniformly guided according to spatial development principles which have been agreed upon by the relevant stakeholders.

13.2.3 The compliance of this proposal with the policy proposals in the PSDF which are pertinent to this proposal are recorded below:

13.2.3.1 The PSDF promotes the preservation of the unique local built form and typologies. The existing primary dwelling is in harmony with the housing typologies in Pringle Bay and the unique local built form. In contrast, the partial demolition of a portion of the existing primary dwelling which encroaches on the side building line would create an oddly shaped building which would deviate from the housing typologies of the area and therefore deviate from the prescripts of the PSDF;

13.2.3.2 The PSDF promotes progressive housing improvements and incremental development through private finance. The approval and construction of the second dwelling unit will constitute incremental housing improvement on the subject property through private finance as prescribed by the PSDF; and



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13.2.3.3 The PSDF promotes contained settlement footprints which incrementally transition into contextually appropriate higher density neighbourhoods. This proposal entails the removal of a restrictive title deed condition which would enable the applicant to establish a second dwelling unit in the future when it is financially feasible to do so. This will contribute towards the containment of settlement footprints as the pressure for urban expansion on settlement edges will be reduced.

13.3 SDF

13.3.1 Policy preface

The SDF's intention is to ensure compliance with national, provincial and district legislation policies and principles. The SDF aims to provide sufficient guidance regarding what constitutes appropriate spatial development land uses and direction within the urban edge. The SDF was drafted after considering input from other state departments and the public and provides a shared spatial vision which development proposal should ideally attempt to synchronise with.

13.3.2 Broad policy objectives

The broad policy objectives of the SDF include enhancing the image of the Overstrand as a liveable urban and rural area which accommodates a variety of life. Development proposals should also capitalise on the unique sense of place which settlements and urban areas in the Overstrand are renowned for. The SDF promotes developments which enhance the visual quality and attraction of the built environments while preserving the social and cultural attributes which are valued by inhabitants.

13.3.3 The compliance of this proposal with the policy proposals in the SDF which are pertinent to this proposal are recorded below:

13.3.3.1 The SDF highlights that the quality and attraction of the built environment is enhanced as result of a commitment on prioritising aesthetics. The rationale for this proposal is for the applicant to be allowed to legalise the existing location of the subject property over the building line and improve the aesthetics on the subject property by constructing an attractive second dwelling unit which contributes towards creating an attractive built environment as prescribed by the SDF.

13.3.3.2 The policy cites that foreign and unsympathetic buildings should be discouraged in urban settlements to strengthen the local sense of place. The existing primary dwelling which encroaches on the side building lines is sympathetic to the character of the existing settlement and so will the second dwelling unit and can therefore be regarded as being in harmony with the local sense of place.

13.3.3.3 The subject property is designated as urban development in the SDF and the land use rights which are sought in this application are in harmony with this land use designation.

13.4 OMGMS

13.4.1 Policy preface

The policy was created to manage the urban growth of the OM where densification would play a pivotal role in the effective implementation of



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infrastructure and community facilities provision. The policy carefully considered market cycles, municipal budgeting and capital spending.

13.4.2 Broad policy objectives

The policy acknowledges that low densities are expensive and inefficient and that certain economic activities can only be attained once densities reach a certain threshold. The policy therefore promotes densification through instruments such as second dwelling units (dual occupancy) and subdivisions. The overall rationale for the document is to create an enabling environment for residents in the OM to attain an enhanced quality of life.

13.4.3 The compliance of this proposal with the policy proposals in the OMGMS which are pertinent to this proposal are recorded below:

13.4.3.1 The policy highlights that the built environment of the OM needs to be enhanced. This proposal primarily entails legalising the location of the existing building and enhancing the built environment on the subject property through the construction of a second dwelling unit and consistent with the prescripts of the OMGMS.

13.4.3.2 The policy promotes densification which is sensitive to the immediate surrounding. The proposed second dwelling unit is a marginal densification as the unit is proposed to the rear and will not alter the character of the site when viewed from the street and can be regarded as a form of densification which sensitive to the character of the area as prescribed in the policy.

13.4.3.3 The spatial proposal plan designates the subject property for residential purposes. The land use rights and departure from the development parameter as sought in this application are in harmony with the residential land use rights as prescribed in the spatial proposal plan.

14. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains planning principles which each development application must be guided by. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

14.1 Spatial Justice

Spatial justice in the context of land use planning refers to addressing spatial development imbalances caused by apartheid planning. The construction of a second dwelling unit will create employment opportunities which will primarily benefit the historically marginalised who will use incomes earned to contribute towards accessing housing and services which will contribute towards upward socio-economic mobility. Although the construction of a second dwelling unit is a minor construction project but in the current economic climate which is characterised by limited economic opportunities, such a development proposal is to be welcomed.

14.2 Spatial Sustainability

Spatial sustainability refers to land use management systems which result in communities which are viable. Viability in the context of land use planning means a regulatory and policy framework which enables property owners to continually improve the aesthetics of

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properties to make the properties more liveable. This proposal is in harmony with the principles of spatial sustainability.

14.3 Efficiency

Efficiency in the context of land use planning refers to the need for urban settlements to optimally make use of space, land and resources. The proposed second dwelling unit is intended to optimally make use of space on the subject property to accommodate a single family which is a hallmark of efficiency.

14.4 Spatial Resilience

Spatial resilience in the context of land use planning refers to spatial plans, policies and land use management systems that should enable the communities to resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner. This proposal is aligned with the spatial resilience principles contained in the PSDF, SDF and OMGMS.

14.5 Good administration

The OM is the organ of state which is responsible for good administration by means of public participation and complying with the prescribed time frames in the By Law. The OM has a credible history of upholding the principles of good administration.

15. NEED AND DESIRABILITY

The need and desirability for the approval and implementation of this proposal will be illustrated in accordance with Section 66 (1) (c) of the OM By-Law and DEADP Provincial Support Document on Relevant Considerations, 2015:

15.1 Need and desirability

Desirability, amongst others, refers to two components where need refers to "time" and desirability refers to "place". In other words, is it the right time and is it the right place for locating the proposed type of land use/activity? The legalisation of the existing primary dwelling which is located over the building lines is proposed at the right time as sufficient evidence has been put together to enable a land use planning application to be submitted. The second dwelling unit is proposed at the most appropriate location as it is located towards the rear where it is not visible from the street and will therefore not adversely alter the visual character which is prevalent on the subject site.

15.2 Impact on views, sunlight and character of the area

The neighbours have become accustomed to the existing primary dwelling which encroaches on the side building line and no additional visual impacts are projected to be unlocked with the approval and implementation of this component of the application. The proposed second dwelling unit does not encroach on the side and rear building lines and therefore not projected to create any shadows into the neighbouring properties. The approval and construction of the second dwelling unit will also not alter the residential character of the area considering that the unit will be located towards the rear.

15.3 Impact on safety and wellbeing

The approval and construction of the second dwelling unit is projected to attract an additional family that would reside on the subject property. This will consequently increase

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the number of people who would enter and egress the subject property who would be additional surveillance into the surrounding which would act as a crime reduction mechanism.



RECOMMENDATION

16. EVALUATION


- 16.1** This motivation report has illustrated that the rationale for this proposal is twofold: (1) to legalise the location of the existing building over the title deed- and OMLUS building lines which were caused by the poor workmanship of the building contractors, and (2) for the applicant to construct a second dwelling unit in compliance with the primary rights conferred by the SRI zoning.
- 16.2** The primary dwelling which is located over the building lines does not constitute an additional visual imposition on the built landscape of the area and can be regarded as being compatible with the character of the surrounding.

17. RECOMMENDATION

- 17.1** It is recommended that the following is approved:
- 17.1.1 Removal of restrictive title deed conditions** B.6(a), B.6.(b), B.6.(b)(i) and B.6.(b)(ii) from title deed T123280/1997 in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and
- 17.1.2 Departure** from the 2m south western side building line to 0,02m to accommodate the existing dwelling in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

Plan 3: Site Development Plan

Erf 1619 Pringle Bay

 Erf 1619 Pringle Bay (600m²)
 50% permissible coverage and 46.3% proposed
 3 parking bays required and 2 parking bays and a garage provided

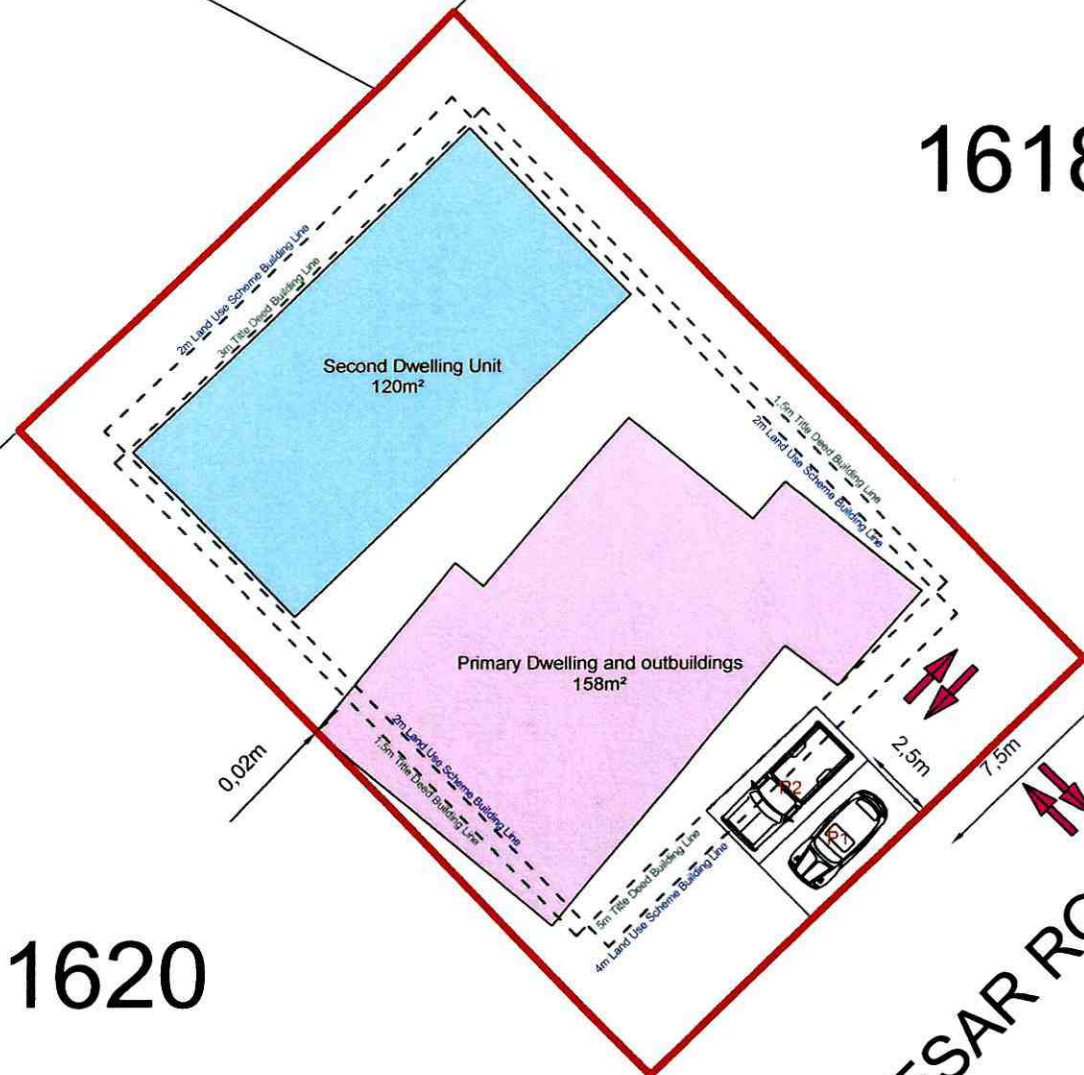
Tel: 028 313 1411
 Email: admin@wrapgroup.co.za
 Plan 3.1
 Unit B, Corner of Royal and Dirkie Uys
 Street Hermanus, 7200
 Plan prepared by: Reatlehile Jankie
 All distances are approximate
 and subject to a survey



Project Office
 Town Planning & Project Management



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CAESAR ROAD

Scale 1 : 250