

OVERSTRAND MUNISIPALITEIT

**ERF 4563, DUIKER STRAAT 53, NORTHCLIFF,
 HERMANUS: AANSOEK OM OPHEFFING VAN
 BEPERKENDE TITELAKTEVOORWAARDES: MNRE
 WRAP PROJECT OFFICE NAMENS BA MASSON**

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 4563, Northcliff (die eiendom), naamlik:

Opheffing van beperkte titelaktevoorwaardes

Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelaktevoorwaardes A(2) en A(4), soos vervat in titelakte T57380/1997 van die eiendom om die voorgestelde tweede woning 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 op die voorstel moet skriftelik wees in ooreenstemming met Artikels 51 en 52 van die Verordening en die Munisipaliteit (Patersonstraat 16, Hermanus / (e) loretta@overstrand.gov.za) bereik voor of op Vrydag, **16 Mei 2025**, met u naam, adres en kontakbesonderhede, belang in die aansoek, asook die redes vir kommentaar. Telefoniese navrae kan gerig word aan die **Stadsbeplanner, Mnr. H Olivier** by 028-3138900. Die Munisipaliteit mag weier om kommentare wat na die sluitingsdatum ontvang word, te aanvaar. 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. 81/2025

OVERSTRAND MUNICIPALITY

**ERF 4563, 53 DUIKER STREET, NORTHCLIFF,
 HERMANUS: APPLICATION FOR REMOVAL OF
 RESTRICTIVE TITLE DEED CONDITIONS: MESSRS
 WRAP PROJECT OFFICE ON BEHALF OF BA MASSON**

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 4563, Northcliff (the property), namely:

Removal of restrictive title deed conditions

Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions A(2) and A(4) as contained in the title deed T57380/1997 of the property to accommodate the proposed second dwelling.

Details 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.

Any comments on the proposal must be in writing in accordance with Sections 51 and 52 of the By-Law to reach the Municipality (16 Paterson Street, Hermanus / (e) loretta@overstrand.gov.za) on or before Friday, **16 May 2025**, quoting your name, address and contact details, interest in the application, as well as the reasons for comment. Telephonic enquiries can be made to the **Town Planner, Mr H Olivier** at 028-3138900. The Municipality may refuse to accept comments 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. 81/2025

UMASIPALA WASE-OVERSTRAND

**ISIZA 4563, 53 DUIKER STREET, NORTHCLIFF,
 HERMANUS ISICELO SOKUSUSWA KWEEMEKO
 ZETAYITILE EZITHINTELWEYO : WRAP PROJECT
 OFFICE EMAGENI LIKA BA MASSON**

Isaziso sinikwe apha ngokweCandelo lama-47 nelama-48 loMthetho kaMasipala oLungisiweyo we-Overstrand kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, wowama-2020 (uMthetho kaMasipala) wezi zicelo zilandelayo zisebenza ku-Erf 4563, Northcliff (ipropati), ezizezi:

Ukususwa kweMiqathango yeSithintelo setayitile yoBunini

Isicelo ngokweCandelo le-16 (2)(f) loMthetho kaMasipala wokususwa kwemiqathango yesiqinisekiso setayitile engu-A (2) no-A (4) njengoko kuqulethwe kwisivumelwano setayitile T57380/1997 sepropati ukulungiselela indawo yokuhlala yesibini ecetywayo.

Iinkcukacha malunga nesindululo ziyafumaneka ukuze zihlolwe phakathi evekini phakathi kwe-08:00 kunye ne-16:30 kwiSebe: UCwangciso lweDolophu e-16 Paterson Street, eHermanus.

Nawaphi na amagqabantshintshi ngesindululo kufuneka abhalwe ngokungqinelana neCandelo lama-51 nelama-52 loMthetho kaMasipala ukuze ufikelele kuMasipala (16 Paterson Street, Hermanus / (e) loretta@overstrand.gov.za) ngoLwesihlanu okanye ngaphambi koko, **16 Meyi 2025**, ucaphula igama lakho, idilesi kunye neenkukacha zoqhagamshelwano, umdla kwisicelo, kunye nezizathu zokuphawula. Imibuzo yomnxeba inokwenziwa **kuMchwangcisi weDolophu, uMnu H Olivier** ngo-028-3138900. UMasipala usenkqala ukwamkela izimvo azifumeneyo emva komhla wokuvala. Nawuphi na umntu ongakwaziyo ukufunda nokubhala angatyelela iSebe loCwangciso lweDolophu apho igosa likamasipala liya kubancedisa ukuze benze izimvo zabo zibe sesikweni.

Umphathi kamasipala, Umasipala iOverstrand, Ibhokisi yePosi 20, **HERMANUS, 7200**

Inombolo yesaziso. 81/2025

1. Locality Plan
Erf 4563 - Hermanus



Subject property

Plan prepared by: Veronica Jansen

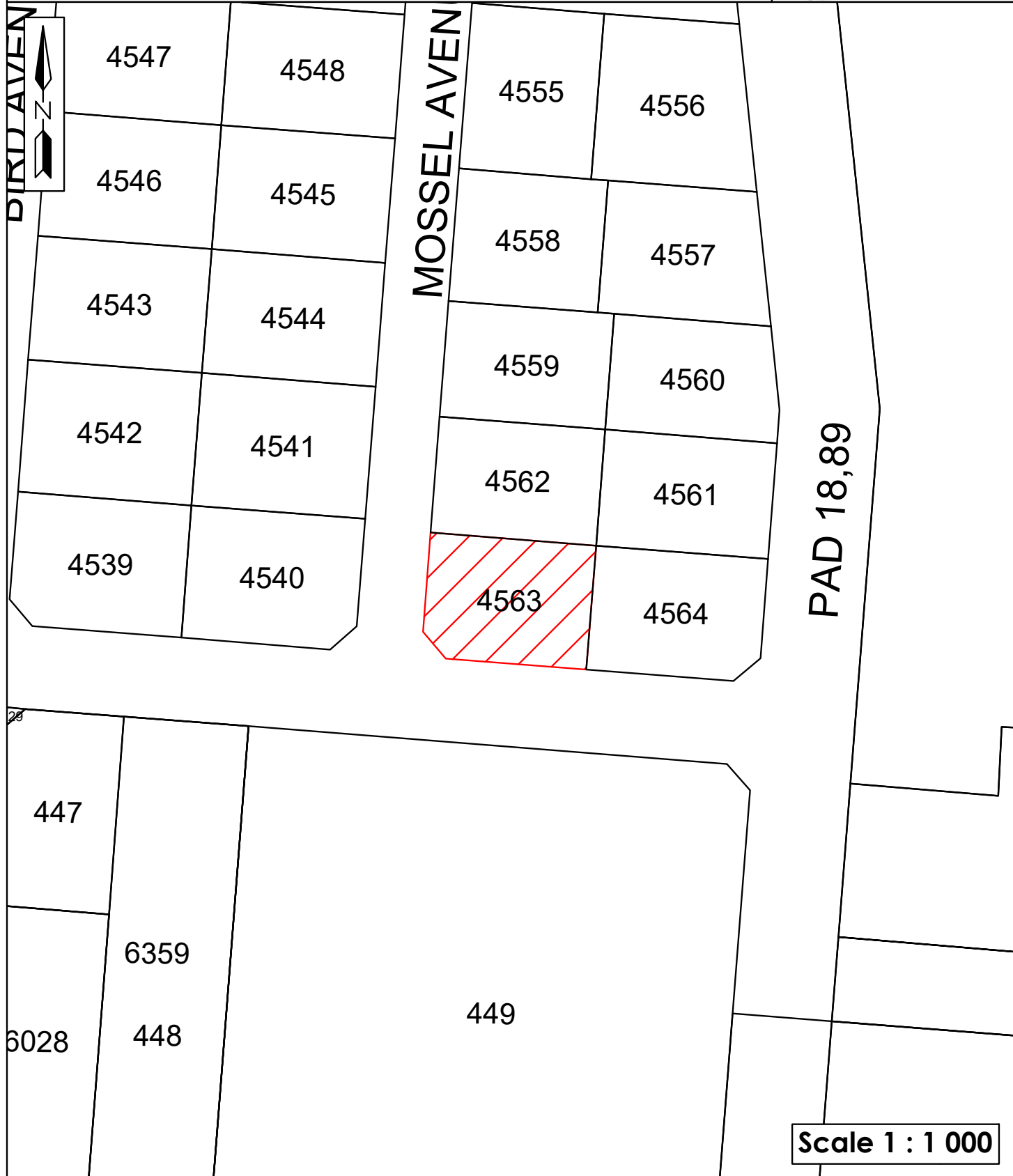
Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Unit B, Standard House,
Corner of Royal and Dirkie Uys
Street Hermanus, 7200



Project Office
Town Planning & Project Management





1. ABBREVIATIONS

OM	Overstrand Municipality
OMLUS	Overstrand Municipality Land Use Scheme, 2020
BY-LAW	Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020
PSDF	Western Cape Provincial Spatial Development Framework, 2014
MSDF	Overstrand Spatial Development Framework, 2020
SR1	Residential Zone 1: Single Residential

2. PROPERTY DETAILS

Consultant	WRAP Project Office
Erf Number	Erf 4563 Hermanus
Extent	732m ²
Zoning	Residential Zone 1: Single Residential

3. BACKGROUND AND INTENT

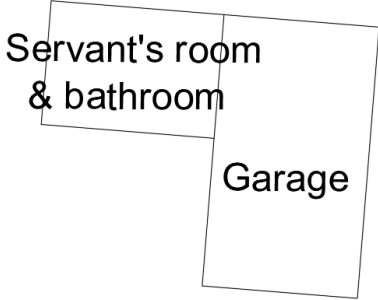
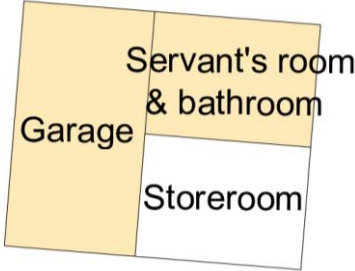
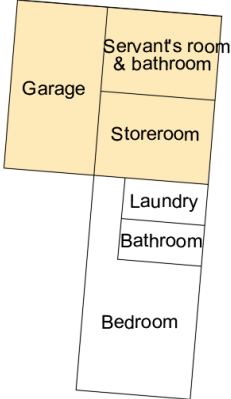

Erf 4563 Hermanus, hereafter referred to as the subject property, is located at 53 Duiker Street, Northcliff, refer to **Plan 1 - Locality Plan**. The owner appointed WRAP Project Office to submit a land use application on their behalf, refer to **Annexure A - Power of Attorney**.

The owner wishes to make alterations to the existing approved outbuilding on the property. The outbuilding was approved in 1976 which included a bedroom, bathroom, washing room, servants' quarters, store room and a single garage. There is a title deed condition that relates to this application which prohibits a second dwelling. It, however, needs to be reiterated that the uses as mentioned, were approved in 1976 and has been existing since approval, refer to **Annexure D - Historically approved building plans**.

Table 1 on the following page illustrates the additions and alterations done to the outbuilding since 1954 as per the approved building plans.



MOTIVATION

Year & addition/alteration	Illustration of outbuilding for information purposes
<p>1954 New outbuilding: Servant's room, bathroom & garage</p>	
<p>1958 Addition: Storeroom</p>	
<p>1976 Additions: Laundry, bathroom & bedroom</p>	
<p>2024 Addition: Garage</p>	

The owner is now proposing to convert the outbuilding into a second dwelling consisting of two bedrooms but requires approval for the removal of the restrictive title deed condition which prohibits a second dwelling on the property. Refer to **Figure 1** for a basic illustration of the proposal.

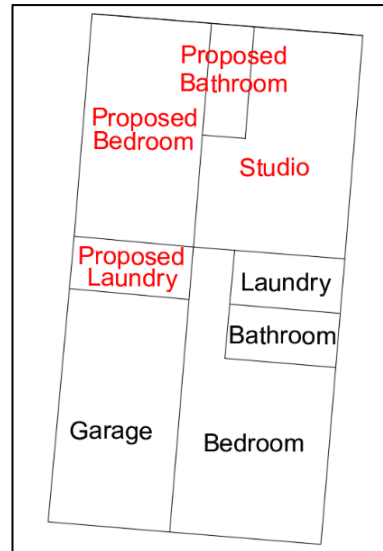


Figure 1: Basic illustration of the proposal

In addition to the above, the owner also wants to remove another condition from the title deed which relates to the building lines. Due to the outbuilding proposed to be converted to a second dwelling, removal of a restrictive title deed condition relating to the building lines is also proposed with this application. This condition is more restrictive than what is allowed in terms of the OMLUS. This application therefore includes the removal of two restrictive title deed conditions.

As a result, approval of the following application is required:

- Removal of the restrictive title deed condition A(2) & A(4).

4. PROCEDURE TO ACHIEVE THE OWNER' INTENT

WRAP compiled this report to ensure that the owner's requirements are met.

The following is proposed:

4.1 Removal of the restrictive title deed condition to accommodate the proposed second dwelling.

There is a title deed condition that prohibits the land use rights necessary for the proposed second dwelling and the rationale for the removal of this condition is discussed below:

Restrictive Title Deed Condition

File 24/192
Erf 4563 Hermanus
February 2025



Condition A(2) – “That only one dwelling together with such outbuildings as are ordinarily required to be used therewith, be erected on this erf. ”

The abovementioned condition prohibits the owner from having a second dwelling on the property. The title deed condition is more restrictive than what is allowed in terms of the OMLUS. A second dwelling, in terms of the OMLUS, may be erected on a land unit where a dwelling house is permitted, and such second dwelling unit may be a separate structure provided that when an outbuilding is used for accommodation purposes, such outbuilding shall be considered a second dwelling unit.

The rationale for the removal of the restrictive title deed conditions is to enable the owner to achieve her intent highlighted in Section 3 of this report. The reasoning for the removal of this restrictive title deed condition will be discussed in detail in Section 7 of this report.

4.2 Removal of the restrictive title deed condition to accommodate only the building lines as outlined within the OMLUS.

There is a title deed condition that prohibits the land use rights necessary for the proposed second dwelling and the rationale for the removal of this condition is discussed below:

Restrictive Title Deed Condition

Condition A(4) – “That no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than fifteen (15) feet to the street line which forms a boundary of this erf. No such building or structure shall be situated within seven and a half (7½) feet of the lateral boundary common to any adjoining erf.”

The abovementioned condition prohibits any structure within 4,5 meters from the street, and within 2,3 meters from the lateral boundaries of the property. It is important to note that structures are allowed up to 2m from the lateral and rear boundary and 4m from the street boundary in terms of the OMLUS on a single residential zoned property of this extent. Therefore, this condition is more restrictive than what is allowed in terms of the OMLUS. The removal is required to allow the second dwelling in its proposed position.

The rationale for the removal of the restrictive title deed conditions is to enable the owner to achieve their intent highlighted in Section 3 of this report. The reasoning for the removal of this restrictive title deed condition will be discussed in detail in Section 7 of this report.

5. LAND USE ENVIRONMENT

The subject property is located in Northcliff, an established residential area. The property is predominantly surrounded by other Residential Zone 1: Single Residential properties and Public Streets but also by Business Zone 2 properties on the northern and easter side of the subject property. The surrounding area's zonings are illustrated in **Plan 3 - Zoning Plan**.



6. TITLE DEED

Title deed T57380/1997 (refer to **Annexure B**) was perused and there are two restrictive conditions that requires removal to allow the proposed second dwelling to be compliant.

Title deed restrictions

Condition A(2) – “That only one dwelling together with such outbuildings as are ordinarily required to be used therewith, be erected on this erf. ”

Motivation

The rationale for the proposed removal

The subject property is currently improved with one dwelling and an outbuilding. Due to the proposal of a second dwelling not complying with this restrictive condition of the title deed, she is unable to ensure compliance with OMLUS legislation in order to receive approval for the building plans.

Title deed condition background

The restrictive title deed condition was originally intended to protect the residential character of the area. Any amendment or removal of these conditions require the consent of the Overstrand Municipality.

Status quo

The current OMLUS has clear development guidelines in place to ensure the whole of the Overstrand Area’s residential properties are managed in a similar manner. The title deed condition A(2) is more restrictive with regards to what is allowed on a residential property in terms of the development parameters of the OMLUS. The development parameters of the OMLUS allows a second dwelling as a primary use on single residential zoned properties.

This condition made sense prior to the OMLUS, however, is now more restrictive than the provisions of the OMLUS. Removal of condition A(2) is therefore proposed to allow a second dwelling on the property.

Title deed restrictions

Condition A(4) – “That no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than fifteen (15) feet to the street line which forms a boundary of this erf. No such building or structure shall be situated within seven and a half (7½) feet of the lateral boundary common to any adjoining erf.”

Motivation

The rationale for the proposed removal



The subject property is currently improved with one dwelling and an outbuilding. Due to the proposal of the conversion of the outbuilding to a second dwelling not being compliant with this restrictive condition of the title deed, she is unable to ensure compliance with OMLUS legislation in order to receive approval for the building plans.

Title deed condition background

The restrictive title deed condition was originally intended to protect the residential character of the area. Any amendment or removal of these conditions require the consent of the Overstrand Municipality.

Status quo

The current OMLUS has clear development guidelines in place to ensure the whole of the Overstrand Area's residential properties are managed in a similar manner. Title deed condition A(4) is more restrictive with regards to the street- and lateral boundary building lines than the development parameters of the OMLUS. The development parameters of the OMLUS allows structures up to 2 meters from the lateral boundary- and 4 meters from the street boundary of the property.

This condition made sense prior to the OMLUS, however, is now more restrictive than the provisions of the OMLUS. Removal of condition A(4) is therefore proposed to allow the proposed second dwelling on the property.

In terms of the requirements of LUPA, the following is addressed in terms of Section 39(5)(a-f):

LUPA, Section 39(5) (a-f)	
<i>(a) 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>	No person or entity will be affected financially by the removal of the restrictive title deed conditions.
<i>(b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;</i>	No person is personally benefitting from this condition as this condition is only restricting the owner.
<i>(c) 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 owner will be gaining from the removal of the restrictive condition as it will allow them to convert their outbuilding to a second dwelling on the property.
<i>(d) the social benefit of the restrictive condition remaining in place in its existing form;</i> <i>(e) the social benefit of the removal, suspension or amendment of the restrictive condition; and</i>	The restrictive conditions do not provide socials benefits.



MOTIVATION

(f) 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.	There is no specific beneficiary of these conditions, and no person or entity will be affected if this is removed.
--	--

7. ZONING

The following zoning parameters were assessed in conjunction with the SR1 OMLUS zoning as this is a relevant consideration in terms of Section 66(1)(q) of the OM By-Law:

RESIDENTIAL ZONE 1: SINGLE RESIDENTIAL			
	Parameters	Proposal	Comply/ deviate
Primary use	Crèche, Dwelling House , Guest Rooms, Home Occupation, Second Dwelling Unit and Self-Catering.	Dwelling House, Second Dwelling	Comply
Consent use	Day Care Centre, Green House, Guest House, House Shop, Institution, Place of Instruction, Place of Worship, Residential Building, and Intensive Horticulture.	N/A	N/A
Development parameters			
Coverage	The maximum coverage for all buildings on the land unit is determined in accordance with the net erf area: 400m ² and greater = 50%	37%	Comply
Building lines	(i) The street building line is determined in accordance with the net erf area: 400 m ² and greater = 4m (ii) The side and rear building lines are determined in accordance with the net erf area: Greater than 400 m ² = 2m	(i) & (ii) All building lines are being adhered to.	Comply
Height	The maximum height of a building, measured from the base level to the top of the structure, is 8,0 m.	The existing structures adhere to the 8,0m height restriction.	Comply



MOTIVATION

Garages and carports	Garages and carports may be constructed within building lines in accordance with Chapter 16.1.2.	There is an existing garage with additional parking options on the property.	Comply
-----------------------------	--	--	--------

8. SERVICES

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

Electricity, Water, Sewage and Solid Waste

The subject property is connected to the existing networks in the area, which include electricity, water and sewage. The proposal of this application is not anticipated to impact on existing services.

Solid waste is collected every week by the OM.

Access and Egress

Access and egress to the property is gained from Duiker Street.

9. 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 may be illustrated as follow:

Need and desirability.

The need for the land use application was a result of addressing all the land use requirements and ensuring the property meets the requirements of the owner. To achieve this, the owner is required to apply for the removal of restrictive title deed conditions.

Socio-economic impact	The removal of the restrictive title deed conditions is not predicted to have a socio-economic impact.
Compatibility with surrounding uses	The proposal is to ensure the property complies with the OMLUS. It is not predicted that the proposal is out of line with the surrounding area as it will still be used for residential purposes and there are many properties in the area that are improved with a second dwelling.
Impact on the external engineering services	Refer to <i>Section 8</i> of this report.
Impact on safety, health and wellbeing of the surrounding community	It is not predicted that the proposal will have an impact on safety, health, and wellbeing of the surrounding community.
Impact on heritage	The subject property is not listed in the OM Heritage Register.
Impact on the biophysical environment	It is not predicted that the proposal will have an impact on the biophysical environment.



Traffic impacts, parking, access and other transport related considerations	The proposal will not have an impact on traffic, parking or access.
---	---

Impact on views, sunlight and character of the area

The subject property is located in a residential setting and the dwelling is existing. The outbuilding that is proposed to be converted to a second dwelling, is also an existing structure; however, a second dwelling is not uncommon within the surrounding area. The proposed second dwelling is not predicted to have an impact on any surrounding property owner as the structure is existing.

Economic impact

The proposal is not expected to have a long-term economic impact, but a short-term economic impact may occur when the building work for the alterations will be done.

Opportunity cost

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or foregoing of valued land use rights of interested and affected parties when an application is approved. The proposal is not predicted to have a negative impact on the surrounding properties.

Environmental impact

The subject property is not located within an environmentally important area.

10. POLICIES AND REGULATIONS

10.1 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The subject property is not located within the HPOZ.

10.2 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

The subject property is not located within the EMOZ.

10.3 Spatial Planning Policies

This proposal is not in conflict with any provisions of the Western Cape Provincial Spatial Development Framework, 2014 or the Overstrand Spatial Development Framework, 2020.

11. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains 5 uncompromisable planning principles by which each development application must be guided by. Policy proposals in SPLUMA which are pertinent to this proposal are recorded:

Spatial justice

Spatial justice refers to planning proposals that do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal to convert the existing outbuilding to a second dwelling, and to remove restrictive title deed



conditions in order to allow a second dwelling, is not predicted to influence past spatial injustices.

Spatial sustainability

Spatial sustainability refers to planning proposals which result in communities that are viable. The proposed removal of restrictive title deed conditions intends to ensure the subject property is utilised to its maximum capabilities as allowed in terms of the OMLUS.

Efficiency

This proposal is intended to maximise the usage of the subject property.

Spatial resilience

This proposal is not in conflict with any spatial planning policies or other OM regulations which is a hallmark of resilience.

Good administration

The OM has a credible track record of good administration regarding the method of public participation. Public participation forms an integral part of the land use planning process.

The public participation process provides people who may be affected by the proposal with an opportunity to provide comment and to raise issues of concern about the proposal or make possible suggestions that may result in an enhanced outcome of which both parties benefit. Comments will be reviewed and considered after which it will be addressed accordingly.



EVALUATION & RECOMMENDATION

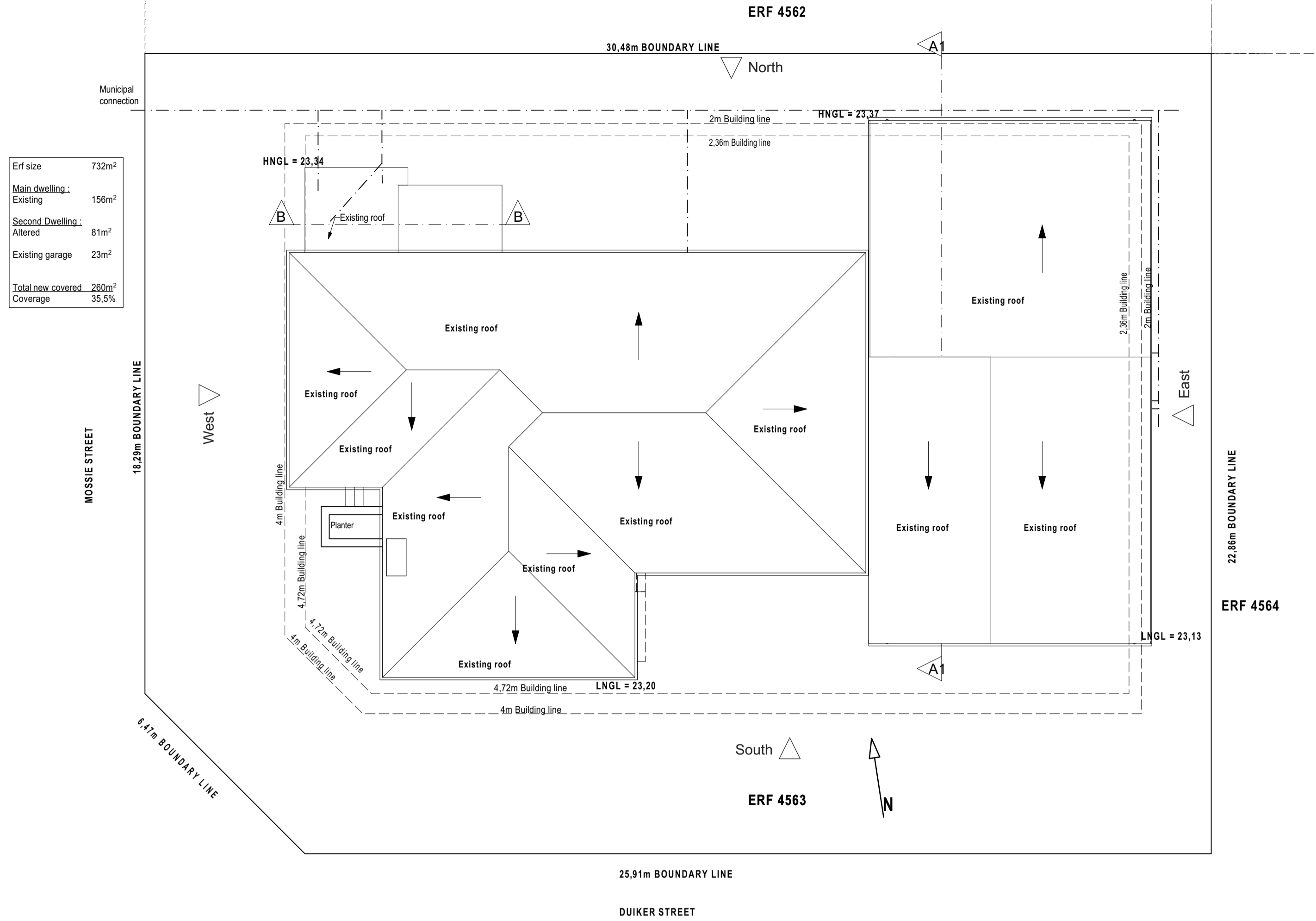
12. EVALUATION

The purpose of submitting this application is to enable the owner to convert the existing outbuilding to a second dwelling. The removal of the restrictive title deed condition is as a result of the conditions being more restrictive than the parameters of the OMLUS for a SR1 zoned property.

13. RECOMMENDATION

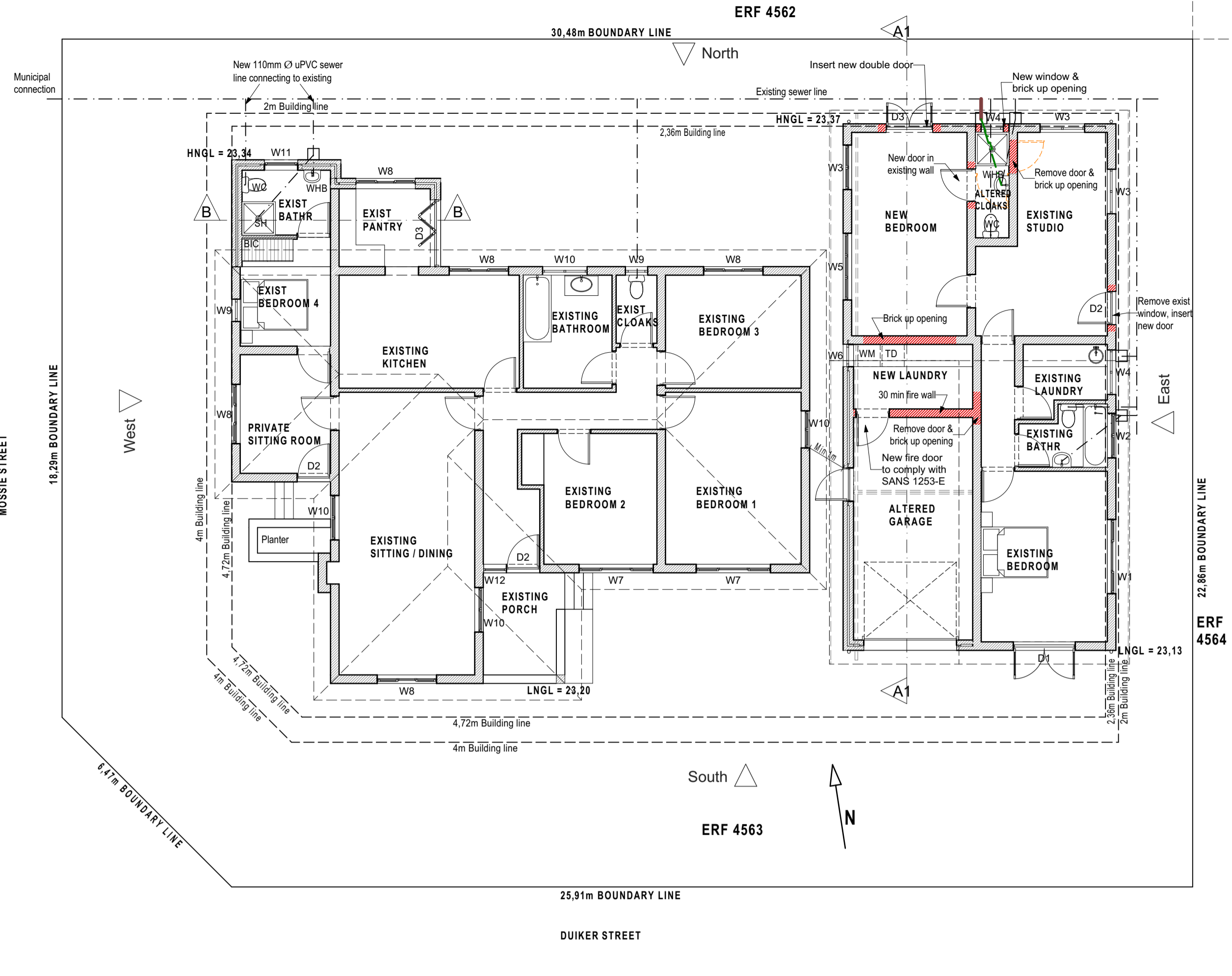
Based on the abovementioned motivation, it is recommended that the following be approved:

- 13.1 Removal of restrictive title deed conditions** in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

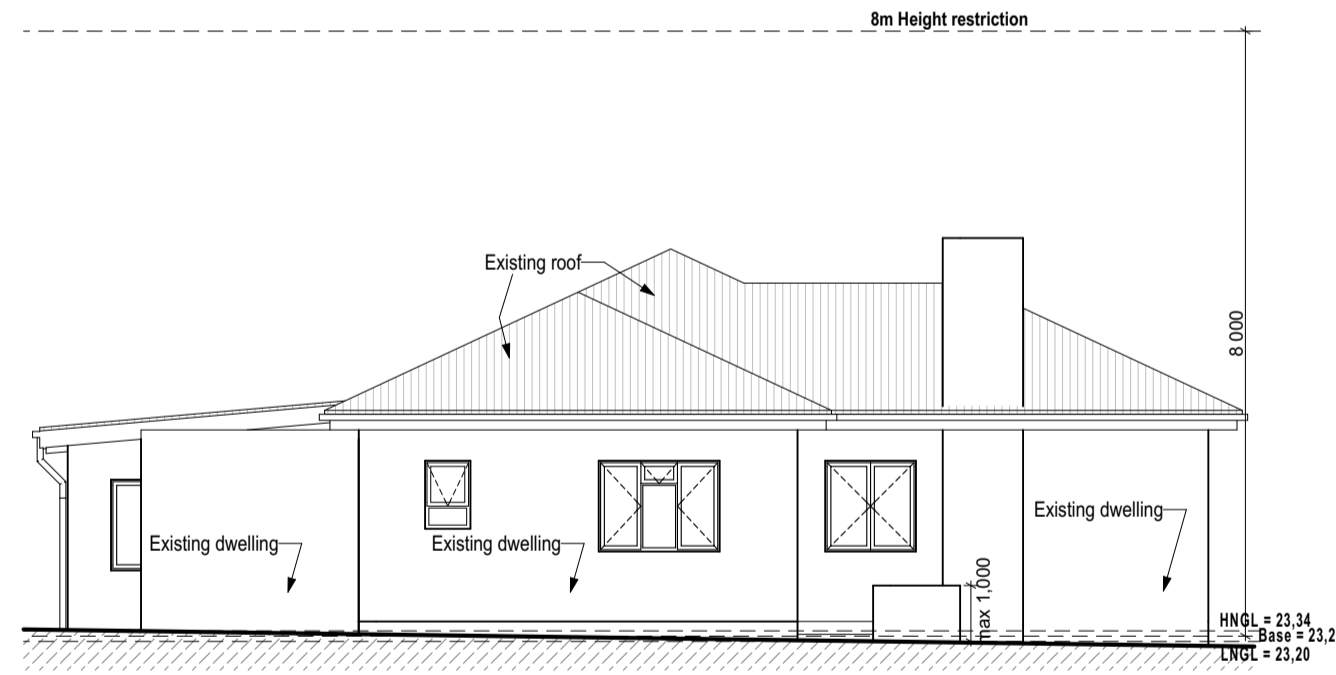


Erf size	732m ²
Main dwelling - Existing	156m ²
Second Dwelling - Altered	81m ²
Existing garage	23m ²
Total new covered	260m ²
Coverage	35.5%

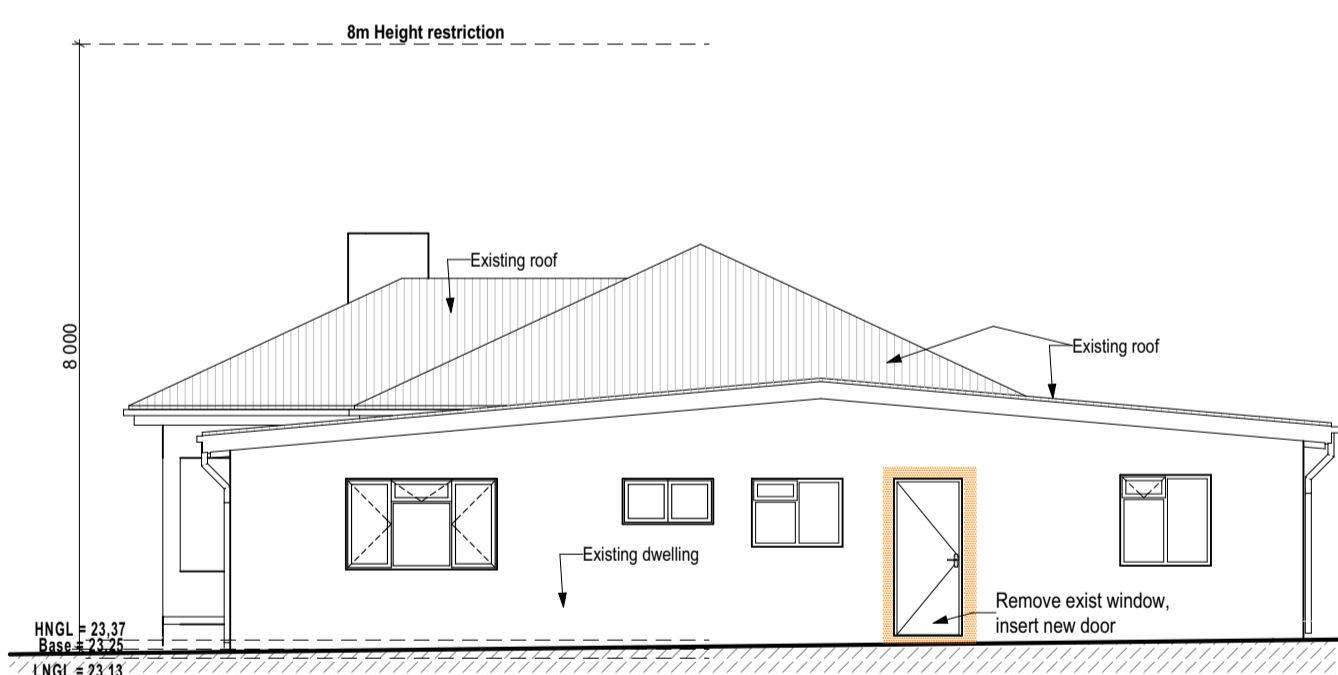
SITE PLAN
1:100



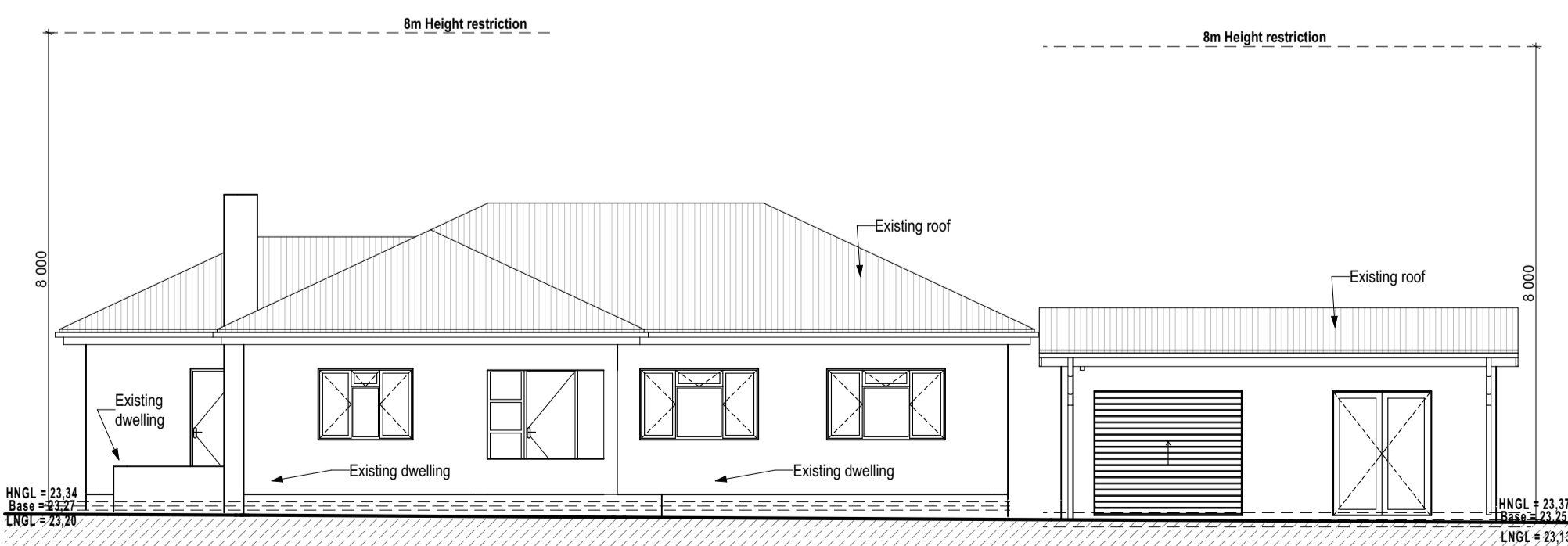
FLOOR PLAN
1:100



WEST ELEVATION
1:100



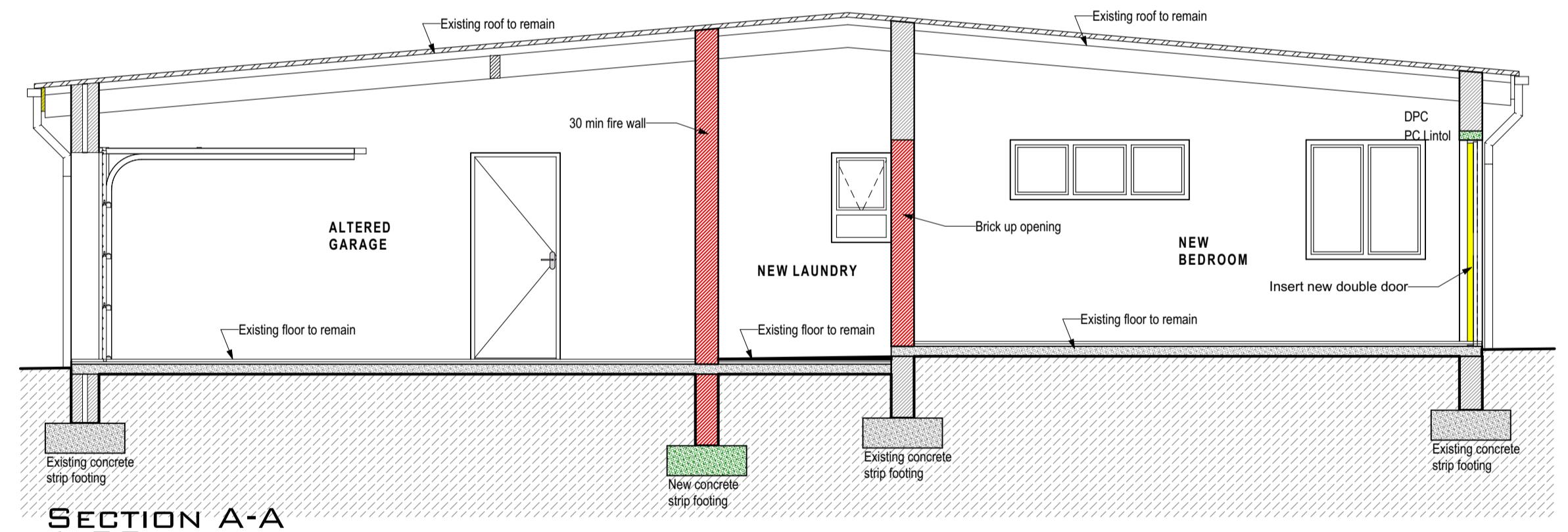
EAST ELEVATION
1:100



SOUTH ELEVATION
1:100



NORTH ELEVATION
1:100



SECTION A-A
1:50

NOTE:
THIS DRAWING IS COPYRIGHT.
CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE BEFORE COMMENCING WORK.
ALL DIMENSIONS ARE IN mm.
USE FIGURED DIMENSIONS IN PREFERENCE TO SCALING.
ALL WORK TO COMPLY WITH NATIONAL BUILDING REGS AND LOCAL AUTHORITY REQUIREMENTS.
ALL DRAWINGS TO BE READ IN CONJUNCTION WITH SPECIFICATION AT ALL TIMES.
ANY DISCREPANCIES TO BE REPORTED TO ARCHITECT IMMEDIATELY.
CEMENT BRICK WALLS OF THICKNESS SHOWN ON PLAN.
ALL REINFORCED CONCRETE WORKS TO ENGINEER'S SPEC.
ALL LAUNDRY TO BE STRICTLY IN ACCORDANCE WITH SANS 10400 PART N

Revisions:
Client
Architect

New dwelling
for approval

VUE
architecture

HOUSE MASSON
ERF 4563
53 DUIKER STREET
NORTHCLIFF
HERMANUS
OVERSTRAND

DRAWINGS :
Site plan
Floor plan
Section
Elevation

SCALE : AS INDICATED
DATE : 2025/02/12
PAPER SIZE : A2

DRG. NO. Erf 4563