

OVERSTRAND MUNISIPALITEIT
ERF 1659, ARCSTRAAT 24, EASTCLIFF, HERMANUS EN
ERF 1660, ARCSTRAAT 26, EASTCLIFF, HERMANUS:
AANSOEK OM OPHEFFING VAN BEPERKENDE
TITELAKTEVOORWAARDES EN KONSOLIDASIE: MNRE
PLAN ACTIVE TOWN & REGIONAL PLANNERS NAMENS
W.K. INVESTMENTS PTY LTD

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 1659 en 1660, Hermanus naamlik:

Opheffing van beperkende titelaktevoorwaardes

Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelaktevoorwaardes 1. D. (b) (*bladsy 3 en na verwys op bladsy 6 paragraaf 2. D.*) en 1. E. (3) en (5) (*bladsy 4 en na verwys op bladsy 5, paragraaf 2. E.*) soos vervat in Titelakte T27264/1965.

Konsolidasie

Aansoek ingevolge Artikel 16(2)(e) van die Verordening vir die konsolidasie van Erf 1659, Hermanus (3881m²) met Erf 1660, Hermanus (4369m²) om 'n gekonsolideerde gedeelte van ongeveer 8250m² te skep.

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

Enige kommentaar op die voorstel moet skriftelik wees in ooreenstemming met Artikels 51 en 52 van die Verordening en moet die Munisipaliteit (Patersonstraat 16, Hermanus / (e) alida@overstrand.gov.za) bereik voor of op **17 Januarie 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 P Roux** by 0283138900.

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

Munisipale Kennisgewing Nr. 196/2024

OVERSTRAND MUNICIPALITY
ERF 1659, 24 ARC STREET, EASTCLIFF, HERMANUS AND
ERF 1660, 26 ARC STREET, EASTCLIFF, HERMANUS
OVERSTRAND MUNICIPAL AREA: APPLICATION FOR
REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND
CONSOLIDATION: MESSRS PLAN ACTIVE TOWN &
REGIONAL PLANNERS ON BEHALF OF W.K. INVESTMENTS
PTY LTD

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 Erven 1659 and 1660, Hermanus 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 1. D. (b) (*page 3 and as referenced on page 6, paragraph. 2. D.*) and 1. E. (3) and (5) (*page 4 and as referenced on page 5, paragraph 2. E.*) as contained in Title Deed T27264/1965.

Consolidation

Application in terms of Section 16(2)(e) of the By-Law to accommodate the consolidation of Erf 1659, Hermanus (3881m²) with Erf 1660, Hermanus (4369m²) to create a consolidated portion of approximately 8250m².

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 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) alida@overstrand.gov.za) on or before, **17 January 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. P. Roux** at 0283138900.

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

Municipal Notice No. 196/2024

UMASIPALA WASE-OVERSTRAND
ISIZA ESINGU-ERF 1659, 24 ARC STREET,
EASTCLIFF, HERMANUS AND ERF 1660, 26 ARC
STREET, EASTCLIFF, HERMANUS KUMMANDLA
KAMASIPALA WASE-OVERSTRAND: ISICELO
SOKUSHENKISA IIMEKO EZIYIMIQOBO
KWIITAYITILE ZOBUNINI NOYENDELELANISO:
ABAMNUM BAKWAPLAN ACTIVE TOWN &
REGIONAL PLANNERS EGAMENI LE-W.K.
INVESTMENTS PTY LTD

Kukhutshwe isaziso esimayela nemiba yeSootya lama-47 nelama-48 loMthethwana kaMasipala Osisihlomelo somMthethwana kaMasipala wsae-Overstranda NgeZicwangciso ZokuSetyenziswa koMhlaba kaMasipala ku2020 (UMthethwana), ngezicelo ezilandelayo nezisebenziseka kwiZiza u-Erven 1659 no1660, Hermanus ezibizwa:

Ukushenxiswa kweemeko eziyimiqobo kwiitayitile zobunini

Isicelo esi sisebenzisana nemiba yeSolotya le16(2)(f) loMthethwana ongokushenxiswa kweemeko eziyimiqobo kwiitayitile zobunini 1. D. (b) (*iphepha 3 njengoko kwalathisiwe kwiphepha 6, umhlathi. 2. D.*) no 1. E. (3) no (5) (*iphepha 4 njengoko kwalathisiwe kwiphepha 5, kumhlathi 2. E.*) ngokweziqulatho zeTayitile Yobunini T27264/1965.

Uyondelelaniso

Isicelo esis sisebenziseka ngokwemiba yeSolotya le16(2)(e) loMthethwana ukulungiselela uyondelelaniso lweSiza u-Erf 1659, Hermanus (3881m²) neSiza u-Erf 1660, Hermanus (4369m²) ukudala uyondelelaniso olwenza inxalenye engumlinganiselo ongama-8250m²

linkcukacha ezipheleleyo mayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini ukusukela phakathi kwentsimbi ye08:00 neye16:30 kwiSebe: Izicwangciso zeDolophu kwa16 Paterson Street, Hermanus.

Naziphina izimvo ezimayela nesi siphakamiso mazibhalwe phantsi ngokwezibonelelo zeSolotya lama51 nelama52 loMthethwana zifike kwaMasipala (16 Paterson Street, Hermanus / (e) alida@overstrand.gov.za) ngomhla okanye ngaphambi, **27 Eyomqungu 2024**, uchaze igama lakho, idilesi neenkukacha ofumaneka kuzo, umdla wakho kwesi sicelo, kwakunye nezizathu zakho zokuhlomla. Imibuzo ngefowuni ingathunyelwa kuMchwangciso Omkhulu weDolophu, **Mnu. P. Roux** kwa-0283138900.

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

Inothisi kaMasipala Nomb. 196/2024



PROPOSED CONSOLIDATION & REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS

ERVEN 1659 AND 1660 HERMANUS

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

Plan Active Town & Regional Planners has been appointed by E.P. Vickery, on behalf of W.K. Investments Pty Ltd, the owner of erven 1659 and 1660 Hermanus, to apply for the consolidation and removal of restrictive title deed conditions of the subject properties.

The main dwelling and double garage have been constructed over the common boundary line between the two erven, in accordance with the approved building plans. The owner intends to construct a second dwelling on the consolidated property.

The current structures, as built, encroach upon the common boundary line between erven 1659 and 1660. To address this encroachment issue, it is proposed to consolidate erven 1659 and 1660 Hermanus into a single property. This consolidation will resolve the boundary encroachment and align the property boundaries with the as-built structures.

According to the single residential zoning regulations, the construction of a second dwelling is a primary right on the property. However, the title deed currently includes a restriction that prohibits the construction of a second dwelling on the property. To facilitate the proposed second dwelling, it is necessary to amend the title deed to remove the restriction that prohibits a second dwelling.

To enable the construction of the second dwelling and resolve the encroachment issue, it is proposed that:

- The erven 1659 and 1660 be consolidated into a single property.
- The title deed restriction prohibiting a second dwelling be removed to align with the zoning regulations that permit a second dwelling.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(e) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for **the consolidation of erven 1659 and 1660 Hermanus**.
- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the **removal of restrictive title deed conditions** of erven 1659 and 1660 Hermanus.

3. NEED AND DESIRABILITY

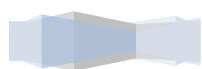
3.1 PROPERTY DESCRIPTION

Erven 1659 and 1660 Hermanus are situated at 24 & 26 Arch Street, Fernkloof, Hermanus. Erf 1659 Hermanus is 3881m² in extent. Erf 1660 Hermanus is 4369m² in extent. The subject properties are held by title deed no. T27264/1965.

The subject properties gently slope in a south-easterly direction and are characterized by residential structures.

3.2 ZONING

Erven 1659 and 1660 Hermanus have the following land use rights:



ERF NUMBER	ZONING
Erf 1659 Hermanus	Residential Zone 1: Single Residential
Erf 1660 Hermanus	Residential Zone 1: Single Residential

Surrounding properties are zoned for single residential, public road, public open space and nature reserve purposes.

3.3 LAND USE

There is an existing double storey dwelling with double garage, servant's quarter (now changed to pool house), swimming pool, tennis court and garden situated on the subject property.

Land uses that surround the subject properties are dwellings, vacant erven, public open spaces, a nature reserve and public roads.

3.4 THE POTENTIAL OF THE PROPERTY

The Fernkloof suburb is characterized by its larger erven and its unique location between the mountains and the ocean. This setting influences property owners' considerations and decisions in several ways. Larger properties in Fernkloof often afford expansive views of the natural surroundings. Consolidation of properties can help preserve these views by preventing potential obstructions from new developments.

Consolidating the subject properties allows for greater control over the layout and placement of new structures, which will enhance privacy for the property owner by reducing the likelihood of adjacent properties impacting each other.



The proposed consolidation will help protect and potentially enhance the property value by ensuring that new developments (such as the proposed second dwelling) are in harmony with the existing landscape and are less likely to compromise the area's aesthetic and value.

The subject properties have been developed as if they were a single entity, and this integration is evident in the current use and appearance. Formalizing the consolidation will reflect the existing reality and support coherent property management. The proposed consolidation will allow for the proposed addition of a second dwelling unit, ensuring that the development is consistent with zoning allowances and property management practices.

It is proposed to retain the zoning and land use of the newly consolidated portion. The location of the subject property within an existing established single residential area allows the property to be developed in future for low impact land uses only. No deviations from land use restrictions will apply to the existing and proposed structures on the consolidated property.

Compliance with the current spatial planning policies (discussed in this report) support and confirm the potential of the subject property for development.

3.5 PROPOSAL

The following is proposed:

1. The **consolidation** of erven 1659 and 1660 Hermanus in terms of Chapter 4, Section 16(2)(e) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, as follows:
 - Erf 1659 Hermanus of 3881m² in extent to be consolidated with
 - Erf 1660 Hermanus of 4369m² in extent to create a newly consolidated SR1 zoned portion of ±8250m² in extent.



2. The **removal of restrictive title deed conditions** of erven 1659 and 1660 Hermanus in terms of Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, to remove conditions 1.D (b) on page 3 and as referenced on page 6. Par. 2. D. and conditions 1. E. (3) & (5) on page 4 and as referenced on page 5, par. 2. E. of title deed no. T27264/1965 to accommodate the proposed second dwelling unit on the subject property.

3.5.1 Consolidation

When the proposed consolidation of the subject properties was considered, cognisance was taken of the following criteria:

- accessibility to the subject property;
- impact on the character of the area;
- erf shape;
- position of the existing approved structures;
- land use restrictions;
- applicable spatial planning policies and densification guidelines.

The main dwelling and double garage have been constructed over the common boundary line between the two erven. These structures were approved and built as if the erven were already consolidated. Both erven are owned by the same party and are currently managed and maintained as a single property.

The as-built structures encroach upon the boundary between erven 1659 and 1660. This issue needs to be addressed, especially with the proposed addition of a second dwelling unit. The properties are visually and practically developed as a single unit, demonstrating the potential benefit of formalizing the consolidation.

It is proposed to consolidate the subject properties as follows:

PROPOSED CONSOLIDATION	Erf 1659 Hermanus: 3881m ²
	Erf 1660 Hermanus: 4369m ²
TOTAL EXTENT OF PROPOSED CONSOLIDATION	8250m ²

Refer to the proposed consolidation plan attached.

All structures will remain on the consolidated property. The SR1 zoning building lines will remain relevant to the consolidated property (4m street building lines and 2m lateral building lines).

The coverage of the existing structures on the newly consolidated erf is $\pm 722,41\text{m}^2$ / 8,8%. The coverage will therefore be within the maximum prescribed coverage of 50% for SR1 zoned properties.

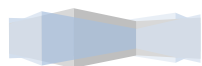
The proposed consolidation does not have a negative impact on the surrounding erven as the subject property's zoning will remain Single Residential Zone I and the proposed portion size is compatible with similar surrounding property sizes.

The proposed consolidation of erven 1659 and 1660 Hermanus is not in contrast to the existing land uses tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

The proposed consolidation of the abovementioned properties will not have a negative impact on the environment, traffic or character of the area (the land use will remain unchanged). We therefore do not anticipate any problems with the proposed application.

3.5.2 Removal of restrictive title deed conditions

Title Deed no. T27264/1965 has restrictive title deed conditions that need to be removed to accommodate the second dwelling unit on the subject property. Refer to the copies of the conveyancer's certificates compiled by Mr H.L. van Zyl of Van Zyl Kruger Attorneys dated 19 August 2024 attached. A copy of the pivot title deed no. T3907/1932 is also attached.



It is proposed to remove the following restrictive title deed conditions registered by the Administrator (now the Overstrand Municipality) to accommodate the proposed second dwelling on newly consolidated erf 1659 and 1660 Hermanus:

Title deed no. T27264/1965, conditions 1.D (b) on page 3 and as referenced on page 6. Par. 2. D. and conditions 1. E. (3) & (5) on page 4 and as referenced on page 5, par. 2. E. that read as follow:

Conditions 1. D. (b) on page 3

1. *CERTAIN piece of redeemed quitrent land, situate in the Municipality of Hermanus, Division Caledon, being Erf No. 1659 Hermanus; MEASURING Thirty-Nine Thousand One Hundred and Sixty-Two (39,162) square feet;*

D. To the following special conditions contained in said Deed of Transfer No. 1076 dated 14th February 1941 as having been imposed by the then transferor Company (such company being the Mossel River Estate Company Limited) for its benefit and that of its successors in title as owners of the remainder of Mossel River West Township held by said Certificate of Registered Title No. 3907 dated 25th June, 1932:-

(b) All the buildings being dwelling houses shall be so placed that the front line of such building (including any stoep or porch) shall coincide with the building line laid down by the Transferor. Outbuildings shall be erected behind the building line in such position as shall be approved by the Transferor. The sides of every building shall be parallel to the boundaries of the said Lot, unless the Transferee and his Successors in Title be specially exempt by the Transferor in writing. In the case of irregular lots the relation between the sides of the building and the boundaries of the property shall be subject to the approval of the Transferor.

The above condition referenced on page 6, par. 2. D.

2. *CERTAIN piece of redeemed quitrent land, situate in the Municipality of Hermanus, Division of Caledon, being Erf No. 1660 Hermanus; MEASURING Forty-Four Thousand and Eighty-Nine (44,089) square feet;*

D. To the special conditions contained in said Deed of Transfer No. 1076 dated 14th February 1941 as having been imposed by the then company

(such company being the Mossel River Estate Company Limited) for its benefit and that of its successors in title as owners of the remainder of Mossel River West Township held by said Certificate of Registered Title No. 3907 dated 25th June, 1932 and as now set forth in Paragraph 1(D) above.

Conditions 1. E. (3) & (5) on page 4

E. To the following special conditions contained in said Deed of Transfer No. 1076 dated 14th February 1941, as having been imposed by the Administrator in approving the said Mossel River West Township:-

“(3) That no more than one building be erected on the above Lots...”

(5) That all outbuildings to be erected on the above property shall stand back not less than 20 feet from the line of the street on which the Lots abut.”

The above conditions referenced on page 5, par. 2. E.

3. *CERTAIN piece of redeemed quitrent land, situate in the Municipality of Hermanus, Division of Caledon, being Erf No. 1660 Hermanus; MEASURING Forty-Four Thousand and Eighty-Nine (44,089) square feet; E. To the special conditions contained in said Deed of Transfer No. 1076 dated 14th February 1941 as having been imposed by the Administrator in approving the said Mossel River West Township and as now set forth in Paragraph 1(E) above.*

The reasons for the removal of the conditions specified above are as follow:

- The above condition restricts the use of the subject property to one building only. The subject property is already developed with a dwelling with double garage and a servant's quarter (approved structures). The Overstrand Municipality considers a servant's quarters as a second dwelling unit in terms of the land use scheme regulations, as a result the approved structures already contradicts the title deed conditions. The title deed condition that prohibits a second dwelling unit (in this case a servant's quarters) was not removed with previous building plan approval.
- The servant's quarter will change use to a pool house / games room as indicated on the site development plan. This proposed change of use will allow our client to construct a new second dwelling on the newly consolidated property. A second dwelling unit is considered a primary land use on a SR1 zoned property. In addition, more than one building will be present on the

subject property – main dwelling with double garage, pool house / games room and proposed second dwelling unit. The specified title deed condition that permits only one building is therefore considered restrictive. It is therefore proposed to remove this condition to allow the owner to retain all As Built structures and the respective and proposed uses thereof and the proposed second dwelling unit.

- Conditions 1. E.(5) and 1.D.(b) limits the shape of the proposed structure in relation to the building lines on the newly consolidated erf (erven 1659 and 1660 Hermanus).

Section 39(5) of the Land Use Planning Act (LUPA), 2014, stipulates that a Municipality should have regard to the following factors when considering the “removal, suspension or amendment of a restrictive condition”:

- ***The financial or other value of the rights in terms of the restrictive conditions 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***

The removal of the restrictive conditions intends to increase the use rights of the property to permit the As Built and proposed structures as described above. The value of the rights is vested in the owners of the previous Mossel River West Township (now Eastcliff).

Property owners not seeking that the title deed restrictions should be in line with the land use scheme regulations primary rights will favour the restrictive title deed conditions since the conditions impede the development of a residential property in line with the zoning scheme and retaining the As Built structures (more than one approved building on the property) and proposed second dwelling unit.

The proposed second dwelling will be developed in line with the land use scheme regulations and is not an unusually large-scale form of development. All other buildings were constructed as per the approved building plans. Removing the “one building only” condition will allow the owner to continue to exercise the primary land use right – i.e. to change the use of the servant’s quarters and to construct a new second dwelling unit in terms of the land use scheme regulations.

- ***The personal benefits which accrue to the holder of rights in terms of the restrictive conditions***

The conditions were imposed by the Administrator for the benefit of the registered owners of the Mossel River West township. The only personal benefit to each holder is that the properties are more restricted in terms of retaining As Built structures and developing new structures (in this case the second dwelling unit) on the subject property. The Administrator is now the Overstrand Municipality, who governs land use applications in line with the existing Land Use Scheme Regulations and relevant spatial planning policies. To keep the title deed conditions will neither have any personal benefit to the Administrator / Overstrand Municipality nor the properties in whose favour the conditions were registered.

- ***The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if they are removed***

The removal of the restrictive title deed conditions will bring about personal benefits to the current landowner since it will allow them to retain the already more than one building on the subject property (and the proposed uses thereof) and to construct a second dwelling as per the proposed site development plan.

The existing property owner will be able to enjoy the personal benefits of the existing structures instead of demolishing the structures. The latter will have a great financial burden on the current property owner.

- ***The social benefit of the restrictive conditions remaining in place in its existing form***

If the title deed conditions remain unchanged and enforced, the social benefits would be minimal. The restriction to “one building only” would require the owner to adhere strictly to this condition, limiting the ability to develop the property according to zoning regulations.

The impact on neighbouring properties regarding privacy, noise, and streetscape would be marginally lower under the title deed’s more restrictive conditions compared

to the scheme regulations. The restrictive conditions could potentially reduce the scale of development and its impact on the immediate area.

- ***The social benefit of the removal or amendment of the restrictive conditions***

The removal of the restrictive title deed conditions will allow the scheme regulations' primary uses to set the rules for future development on the subject property. The social benefit will therefore only be to the property owner of erven 1659 and 1660 Hermanus since it will allow them to keep the existing As Built structures. It will also allow the property owner to construct a second dwelling on the subject property and potentially benefit from the social gain such a unit brings to a SR1 zoned property.

- ***Whether the removal, suspension or amendment of the restrictive conditions will completely remove all rights enjoyed by the beneficiary or only some of those rights***

The removal of the restrictive conditions will not remove all rights enjoyed by the beneficiary, but only some rights and will instead expand the value of these rights to accommodate the existing and new structures. The latter is more desirable for the zoning and extent of the subject property without having a detrimental impact on the rights of anyone else or the character of the area. All other title deed conditions not mentioned in this report will be retained.

The benefits of removing the "one building only" restriction will allow the property owner to fully utilize the property rights under the zoning regulations and will support the intended development of a second dwelling.

From the above as well as the motivation in Sections 3.4 and 3.5 of this report it is evident that the removal of the restrictive title deed conditions can be favourably considered.

3.5.3 General

The proposed second dwelling unit will meet the requirements of the consideration of a second dwelling unit in terms of the land use scheme regulations:

- The total floor area (footprint) of the second dwelling unit will be 119,73m²



and will therefore not exceed the limit of 120m²;

- Provision is made for an additional parking bay on-site;
- The second dwelling unit is located within the land use scheme and title deed building lines.

Refer to the Cottage Site and Floor plans attached. The cottage will consist of an en-suite bedroom, another two bedrooms, a second bathroom and an open plan sitting / living room with kitchenette.

The area schedule for the subject property after consolidation and including the new second dwelling unit will be as follows:

TOWN PLANNING CONTROLS		
ZONING = RESIDENTIAL		
ERF 1659	3880.92 m ²	(39162 ft ²)
ERF 1660	4369.18 m ²	(44089 ft ²)
TOTAL SITE AREA	8250.09 m²	(83251 ft²)
COVERAGE		
ALLOWED	@ 50.0%	4125.05 m ²
EXISTING	@ 8.8%	722.41 m ²
NEW 2ND DWELLING	@ 1.5%	119.73 m ²
TOTAL	@ 10.2%	842.14 m²
DWELLING AREAS		
GROUND FLOOR		
MAIN DWELLING	423.21 m ²	
POOL HOUSE	50.40 m ²	
GARAGE	45.63 m ²	
COVERED TERRACE	98.37 m ²	
COVERED ENTRANCE	7.87 m ²	
FIRST FLOOR		
MAIN DWELLING	338.51 m ²	
TOTAL EXISTING		
	963.99 m²	
NEW SECOND DWELLING		
GROUND FLOOR		
	119.730 m²	
TOTAL AREA		
	1083.72 m²	

The total coverage on the newly consolidated property inclusive of the proposed second dwelling unit of 10,2% (842,14m²) meets the maximum permissible coverage of 50% for SR1 zoned properties.



The zoning of newly consolidated erf 1659 and 1660 Hermanus will remain unchanged (Residential Zone I: Single Residential) as well as the primary land use (single residential purposes). The impact on the adjacent property owners and the passers-by will therefore be marginally higher than if these structures / encroachments did not exist.

The proposed application does not have any impact on the character or property values of the surrounding properties since the structures already exist on the subject property that was developed and is managed as one property – only a new second dwelling is proposed. The existing structures on the subject property do not create an infringement to any passing traffic or public activity due the position of the As Built structures on site in relation to the existing structures on the neighbouring properties and considering that no deviations are being applied for. It is submitted that the massing and height of the existing and proposed structures are compatible with the character of the area.

It is submitted that the existing structures are compatible with the character of the area, do not impact negatively on the rights of anyone else and that no good reason exists for not approving this application. When considering the proposed consolidation and removal of restrictive title deed conditions, the point of departure is the need to discourage the phenomenon of urban sprawl and to encourage densification and more compact towns and cities, all of which relates to more responsible resource use or sustainable development.

The proposed consolidation and removal of restrictive title deed conditions of erven 1659 and 1660 Hermanus are consistent with the existing land use patterns in the surrounding area. Therefore, we anticipate no issues with the proposed application.

3.6 ECONOMIC IMPACT

The proposed consolidation and removal of restrictive title deed conditions are expected to positively impact the property's value. This will enhance the appeal of the property for future resale. The ability to retain all existing structures and develop a second dwelling unit will increase the property's marketability and resale potential.

The proposed consolidation and title deed conditions removal will have a low but positive impact on the local economy. The increase in property value and the potential for further development can contribute to local economic activity and growth.

3.7 SOCIAL IMPACT

The proposed application is expected to have no significant impact on the social wellbeing of the area. The property will continue to be occupied by a single family in the main dwelling and a smaller family / couple in the second dwelling unit, and no negative social impacts are anticipated.

The social coherence of the adjacent community will remain unaffected. The extent of the proposed consolidation and the land use will align with the zoning and land uses typical of the immediate area, ensuring compatibility with the existing community fabric.

3.8 COMPATIBILITY WITH SURROUNDING LAND USES

The subject property is situated in an existing low-density residential area. The application proposes to create a larger single residential erf. The land use will therefore be for single residential purposes. The proposed consolidation creates an erf that is compatible with the surrounding zonings and land uses of the area.

In addition, the proposed consolidation and removal of restrictions to develop a second dwelling unit will have no impact on the views of the adjacent properties or properties situated in the immediate vicinity.

The consolidation and removal of restrictive title deed conditions are expected to have minimal additional impact compared to the scheme regulations. The development will be managed in a way that aligns with existing land use practices, ensuring that the impact on neighbouring properties remains acceptable.

The proposal continues the existing suburban development typology in Eastcliff. By

consolidating the erven and allowing for the construction of a second dwelling, the development aligns with the established patterns of land use and residential density in the area. The proposal maintains the suburban character of the neighbourhood, ensuring that the new development is consistent with the existing urban fabric and contributes positively to the area's overall aesthetic and functional cohesion.

According to the development rules of the Overstrand Land Use Scheme (2020) the consolidation will allow for the development rules for erven >400m² to apply to the newly consolidated single residential portion. The proposed consolidation will therefore maintain the existing development parameters that apply to the existing residential erven before consolidation and the erven in the immediate vicinity.

The proposed application will contribute towards the value of the subject property and consequently have a positive impact on the area. The use of the subject property will primarily remain for residential purposes (main dwelling with double garage, second dwelling, pool house / games room and recreational use structures such as the swimming pool and tennis court).

3.9 IMPACT ON EXTERNAL ENGINEERING SERVICES

All services on the subject property already exist. The As Built structures and new second dwelling addition will have a low impact on the usage of the existing available services.

Additional services (if required) will be provided to the satisfaction of the Overstrand Municipality and if applicable, bulk services levies will be paid accordingly.

3.10 IMPACT ON SAFETY, HEALTH AND WELLBEING OF SURROUNDING COMMUNITY

The proposed consolidation and removal of restrictive title deed conditions will have no impact on the general safety and wellbeing of the surrounding community.



Furthermore, future additions will conform to the relevant land use and construction guidelines of the municipality. The latter will ensure the safe construction of additions and guarantee the safety and minimal noise pollution during construction to the immediate community.

Since the proposed consolidation and removal of restrictive title deed conditions are not associated with a noxious trade with polluting air emissions the impact on the health of the community will be kept to a minimum.

3.11 IMPACT ON HERITAGE

The application does not involve changing the character of a site larger than 5 000m². Consequently, the proposed application for consolidation and removal of restrictive title deed conditions does not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

Erven 1659 and 1660 Hermanus are not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality's Zoning Scheme Heritage Protection Overlay Zone (2020). The subject property is also not earmarked for heritage conservation purposes with reference to the Overstrand Municipal Growth Management Strategy (2010).

In the light of the above mentioned it is evident that the proposed consolidation and removal of restrictive title deed conditions will not have a negative impact on the heritage value of the Eastcliff area.

3.12 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed consolidation and removal of title deed conditions do not trigger any listed activities in terms of the National Environmental Management Act (NEMA),



1998 (Act no. 107 of 1998). The subject property is not situated within the Overstrand Municipality's Zoning Scheme Environmental Overlay Zone (2020).

3.13 TRAFFIC IMPACT, PARKING AND ACCESS

Access to the main dwelling on the newly consolidated erf 1659 and 1660 Hermanus will remain unchanged and will be from Arc Street. The proposed second dwelling will also take access from Arc Street at a second access point as indicated on the site development plan. The distance between the two entrance gates is 22,525m. The subject property also has an existing access gate in Contour Street. The newly consolidated property is a corner property and therefore the access point in Contour Street will remain. Refer to the site plan.

The Overstrand Municipality Land Use Scheme Regulations (2020) stipulate that a minimum of two parking bays are required for a dwelling house and one additional parking bay for a second dwelling unit. The main dwelling on the subject property is developed with a double garage. A new parking bay is proposed for the second dwelling unit as indicated on the site development plan. Provision is therefore made for two parking bays for the main dwelling and one parking bay for the second dwelling on site. The dwelling house and proposed second dwelling therefore comply with the minimum parking requirements for SR1 zoned properties.

The subject property will be used primarily for single residential purposes and therefore the impact on the traffic flow in the area will remain unchanged.

3.14 TITLE DEED

Title Deed no. T27264/1965 has restrictive title deed conditions that need to be removed to accommodate the proposed second dwelling unit on the subject property. Refer to the copies of the conveyancer's certificates compiled by Mr H.L. van Zyl of Van Zyl Kruger Attorneys dated 19 August 2024 attached. A copy of the pivot title

deed no. T3907/1932 is also attached. The removal of the restrictive title deed conditions application is discussed in detail in Section 3.5.2 of the report.

There are no bonds registered against erven 1659 and 1660 Hermanus.

3.15 FORWARD PLANNING AND LAND USE DOCUMENTS

The ***Overstrand Spatial Development Framework (2020)*** earmarks the area where erven 1659 and 1660 Hermanus are situated, for urban development purposes. The subject property falls within the demarcated urban edge. All structures As Built have approved building plans with a second dwelling unit proposed in line with the land use scheme regulation parameters. The application is therefore merely to an improved erf within the urban edge with no impact on the biophysical environment.

The zoning and use of the subject property will remain unchanged (Residential Zone 1: Single Residential). As a result, the impact of the proposed consolidation and removal of the restrictive title deed conditions on the spatial integrity of the area will be minimal and is therefore consistent with the Overstrand SDF (2020).

The ***Overstrand Municipal Growth Management Strategy (OMGMS, 2010)*** specifies that erven 1659 and 1660 Hermanus form part of Planning Unit no. 2. This planning unit stipulates an increase in density from 3,3du/ha to 4,2du/ha. The application proposed to consolidate the subject properties to address existing building encroachments. Part of the application is to accommodate a new second dwelling unit on the subject property. The status quo will therefore remain. Second dwellings are a preferred choice of densification for the area. The land use application for the subject property therefore falls within the existing planning for the Hermanus East area.

The proposal will promote land development in a location that is sustainable. The proposed consolidation and removal of restrictive title deed conditions are to an improved erf within an established residential area and will not impact on urban sprawl or upon a sensitive environment. The impact on the overall density of this

part of Hermanus will therefore be kept to a minimum since the proposed application still promotes a low-density residential area.

From the above it is evident that the proposed development **adheres and complies** with the relevant municipal spatial planning policies.

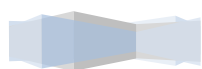
3.16 PLANNING PRINCIPLES

The planning principle of spatial resilience does not apply to this application.

Spatial justice: The proposed land use application ties in with the existing character of the area and will not have a negative impact on the surrounding neighbours. The impact on the biophysical environment will be low as the subject property has been in existence since 1931.

The proposed application will not promote spatial development imbalances. This application is for an erf as per the establishment of the existing Hermanus Township. The proposed application is in character with the existing area where similar applications have been approved in the past and therefore, the approval of the proposed application will not be spatially biased.

Spatial sustainability: The proposed consolidation and removal of restrictive title deed conditions will have a minimal impact on the visual elements of the subject property and surroundings as motivated in this report. It is submitted that the proposed application is compatible with the character of the area (as motivated in previous sections of this report). The consolidation and removal of restrictive title deed conditions to accommodate As Built structures and a new second dwelling will have no impact on the massing of the buildings and the impact on the streetscape or passers-by since all land use requirements will be met. The As Built and proposed structures and the respective uses thereof merge well with the built form of the area.



Factors such as the good quality materials used, the overall layout of the structures on the subject property, the scale of the surrounding built environment, the low impact on the streetscape, the location of the subject property, the existence of the structures on the subject property for the past few years, the compliance with all building line, coverage and height requirements, etc. allow for the consideration and approval of the consolidation and removal of restrictive title deed conditions without having an adverse impact on the spatial sustainability of the area. To accommodate the As Built and new structures and the subsequent uses thereof are to an improved erf within an established residential area will not impact on urban sprawl, or upon a sensitive environment.

The application is considered spatially sustainable as the existing property is optimally utilised. The property is compatible with the character of the area and does not impact negatively on the rights of any adjacent property owner.

Efficiency: The subject property is easily accessible and conveniently located close to the Hermanus CBD and major routes. It proves to be resourceful to approve the proposed consolidation (to accommodate the approved structures) and removal of restrictive title deed conditions (to accommodate a new second dwelling) since it is compatible with the existing built environment and the way the property was developed and will continue to be developed is aesthetically pleasing.

The proposed consolidation and removal of title deed restrictions are efficient as they make optimal use of existing resources and infrastructure. By consolidating the properties, the development leverages the current infrastructure, avoiding unnecessary duplication of services and utilities. The consolidation supports the efficient use of local infrastructure, such as roads, utilities, and public services, which are already in place to accommodate residential development. The application minimizes additional strain on municipal resources and supports sustainable development practices. Furthermore, the proposal continues the existing suburban development typology.

Good administration: Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient,



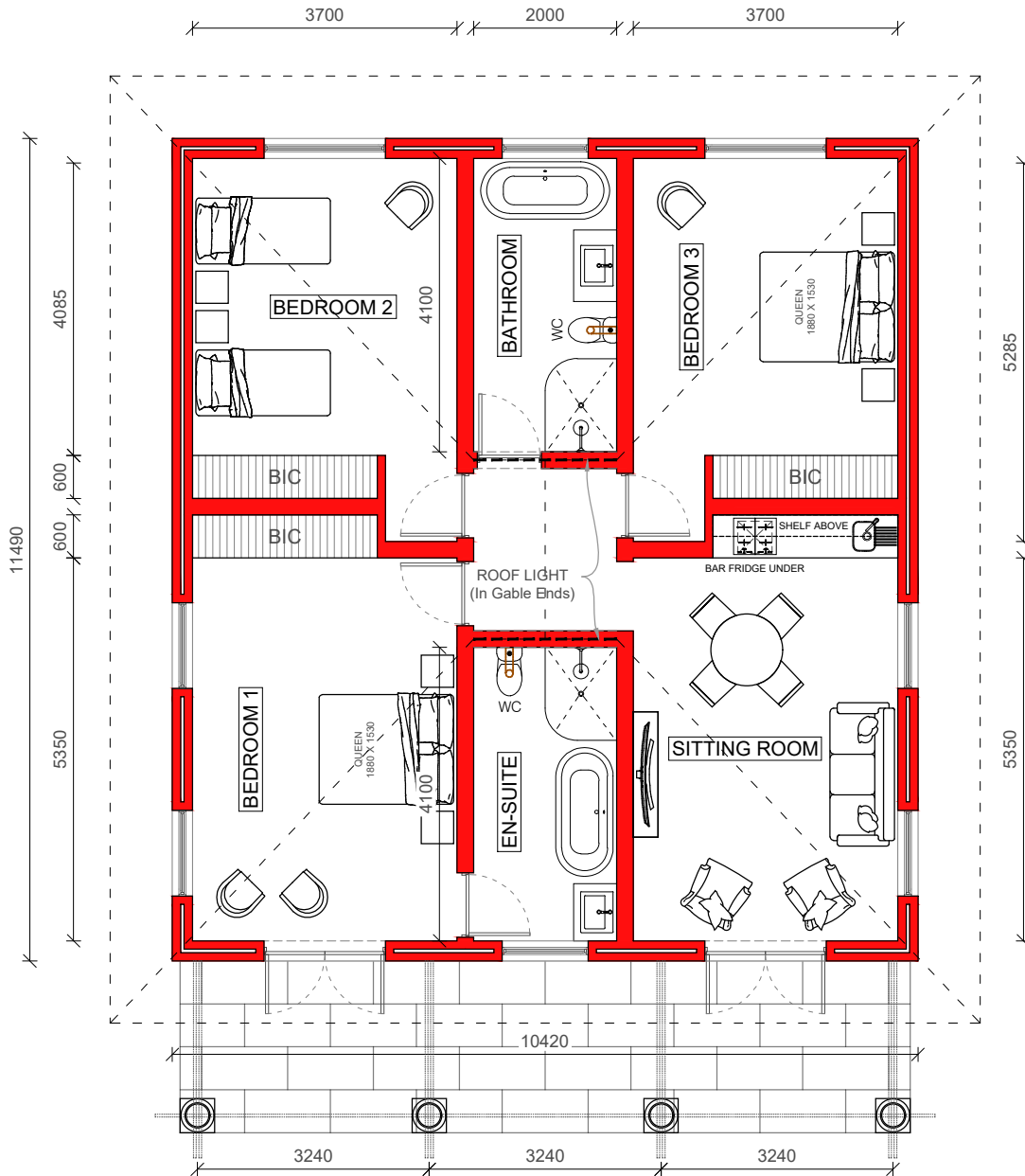
uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020.

4. RECOMMENDATION

When this application is evaluated, it is important to take note of the following:

- All services on the subject property already exist and no additional loading of the existing infrastructure is anticipated;
- The proposed consolidation will resolve the boundary encroachment and align the property boundaries with the as-built structures;
- The densification in the form of a second dwelling unit is in line with the relevant densification policies for the area;
- The zoning and primary land use of the subject property will remain unchanged;
- No deviations from the applicable scheme regulations' and title deed building lines, coverage or height requirements are proposed to accommodate As Built and new structures;
- The proposal is compatible with the existing built character of the area;
- Impact on the traffic and services will be kept to a minimum;
- Ample parking bays are provided on site;
- There are no heritage aspects that will negatively impact the application;
- There are no environmental aspects that will negatively impact the application and the application will not have a negative impact on any environmental factors;
- The proposal is compatible with the spatial planning strategies for the area;
- The application is fully compliant with the applicable planning principles described in the LUPA (2014) and SPLUMA (2013);

The application can be supported for your favourable evaluation. The opinion is held that this application will have no negative impact on the land values, privacy, built environment and character of the area.



GROUND FLOOR PLAN

1:100 (A4)
1:50 (A2)

NOTES

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REV	DATE	REVISION
C	2024.09.19	COVERAGE AREA UPDATE

TOWN PLANNING CONTROLS

ZONING = RESIDENTIAL

ERF 1659	3800.92 m ²	(99160 F ²)
ERF 1680	4389.18 m ²	(44095 F ²)
TOTAL SITE AREA	8290.09 m²	(93251 F²)

COVERAGE

ALLOWED	@ 50.0%	4125.05 m ²
EXISTING	@ 8.8%	722.41 m ²
NEW 2ND DWELLING	@ 1.5%	119.73 m ²
TOTAL	@ 10.2%	842.14 m²

DWELLING AREAS

GROUND FLOOR

GROUND FLOOR	625.48 m²
MAIN DWELLING	423.21 m ²
POOL HOUSE	50.40 m ²
GARAGE	45.63 m ²
COVERED TERRACE	36.37 m ²
COVERED ENTRANCE	7.87 m ²

FIRST FLOOR

FIRST FLOOR	338.51 m²
MAIN DWELLING	338.51 m ²

TOTAL EXISTING

TOTAL EXISTING	963.99 m²
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NEW SECOND DWELLING

GROUND FLOOR	119.73 m²
TOTAL AREA	1083.72 m²

QUALITY MANAGEMENT SCHEDULE

Drawn By	NAME	SIGNATURE	DATE
Checked By	NAME	SIGNATURE	DATE

ARCHITECT'S SIGNATURE

ENGINEER'S SIGNATURE

Client

Project
**HOUSE QUIRK HERMANUS
NEW GARDEN COTTAGE
ADDITION & ALTERATIONS**

Drawing Title

**COTTAGE
FLOOR PLANS**

Drawing No.	HQ-CP-02	Revision:	C
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Scale:	1:100 (A4)	Drawn:	JRH	Date:	2024/09/19
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FOR INFORMATION ONLY



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REV	DATE	REVISION
D	2024.09.19	COVERAGE AREA UPDATE

TOWN PLANNING CONTROLS		
ZONING = RESIDENTIAL		
ERF 1659	3880.92 m ²	(39162 ft ²)
ERF 1660	4369.18 m ²	(44089 ft ²)
TOTAL SITE AREA	8250.09 m²	(83251 ft²)
COVERAGE		
ALLOWED	@ 50.0%	4125.05 m ²
EXISTING	@ 8.8%	722.41 m ²
NEW 2ND DWELLING	@ 1.5%	119.73 m²
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FIRST FLOOR		
MAIN DWELLING	338.51 m ²	
TOTAL EXISTING	963.99 m²	
NEW SECOND DWELLING		
GROUND FLOOR	119.730 m²	
TOTAL AREA	1083.72 m²	

QUALITY MANAGEMENT SCHEDULE			
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Checked By	NAME	SIGNATURE	DATE
ARCHITECT'S SIGNATURE			
ENGINEER'S SIGNATURE			
Client			
Project			
HOUSE QUIRK HERMANUS NEW GARDEN COTTAGE ADDITION & ALTERATIONS			

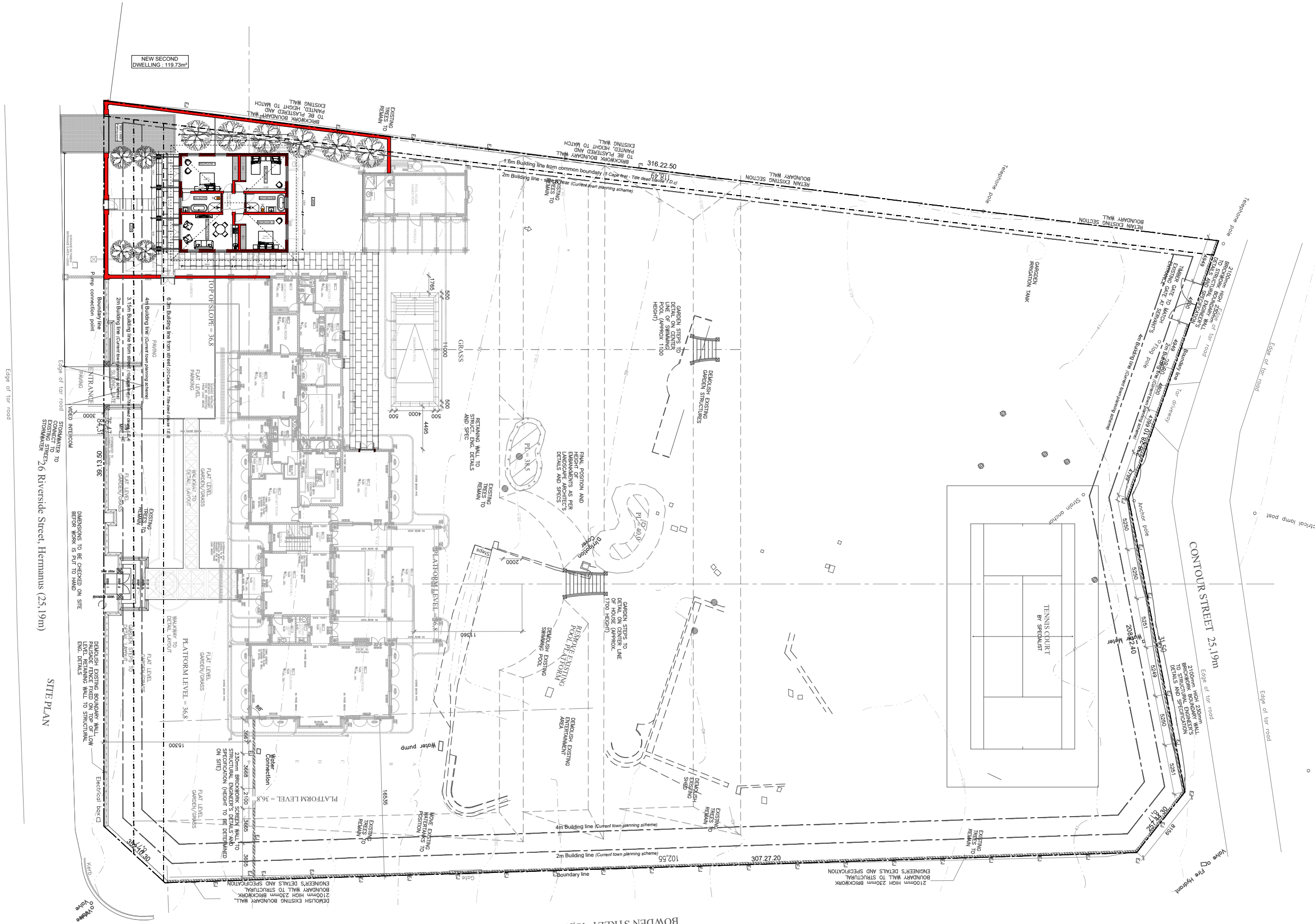
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COTTAGE SITE PLAN	
Drawing No:	Revision:
HQ-CSP-01	D
Scale:	Drawn:
1:400 (A3)	JRH
Date:	2024/09/19




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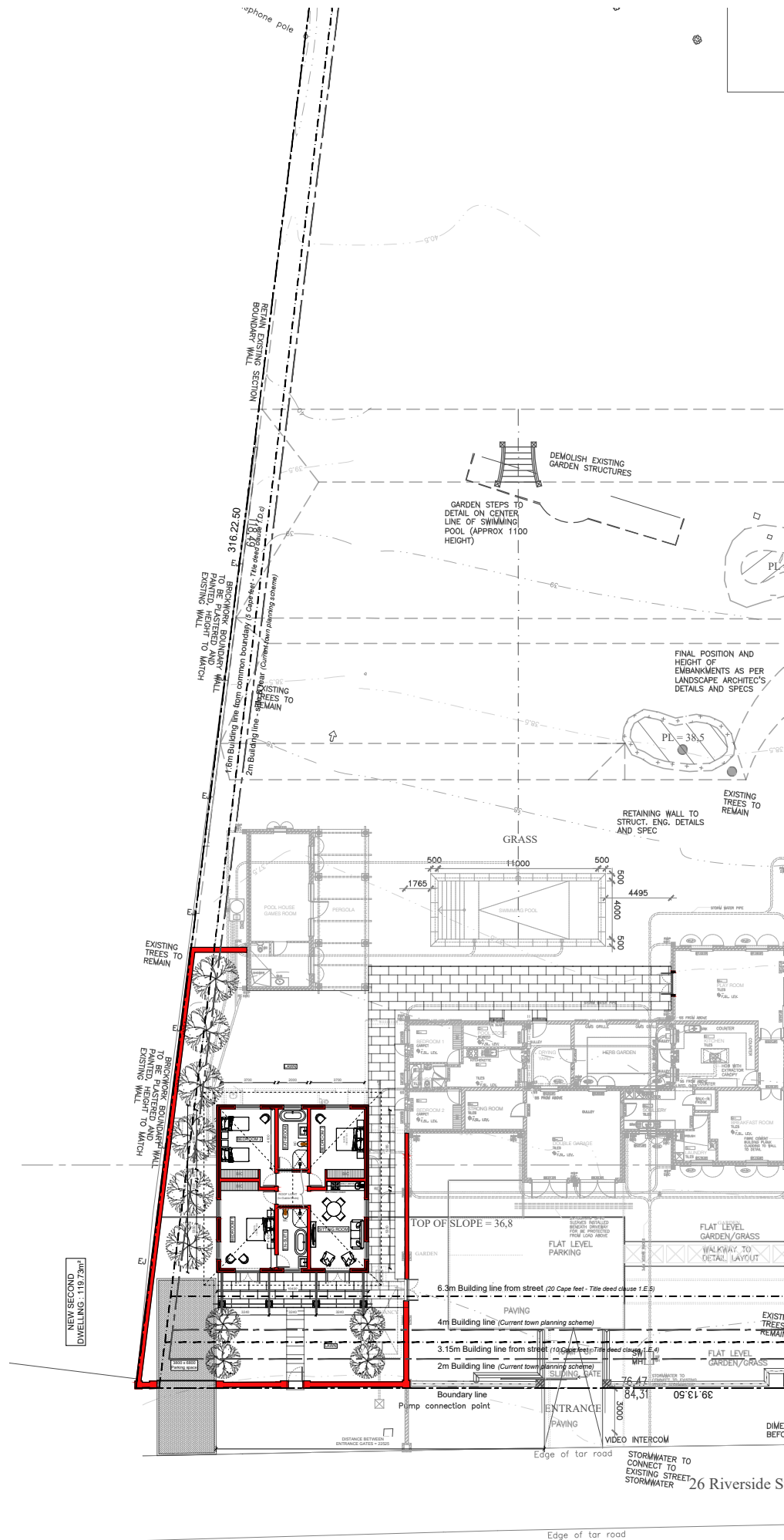
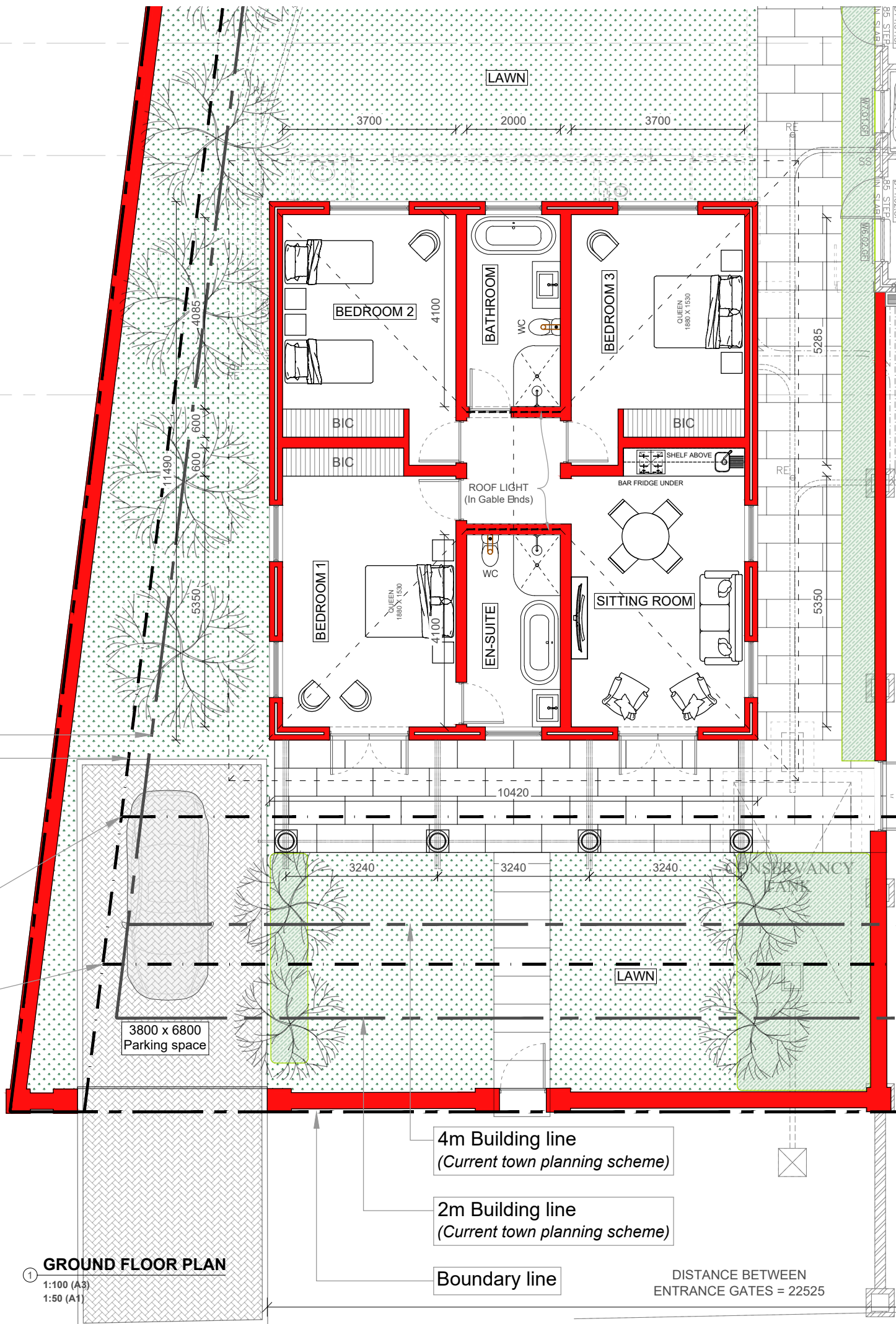
SITE PLAN
1:400 (A3)
1:200 (A1)

1.6m Building line from common boundary
(5 Cape feet - Title deed clause 1.D.c & 3.c)

2m Building line - side & rear
(Current town planning scheme)

6.3m Building line from street
(20 Cape feet - Title deed clause 1.E.5)

3.15m Building line from street
(10 Cape feet - Title deed clause 1.E.4)



- NOTES**
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QUALITY MANAGEMENT SCHEDULE

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ARCHITECT'S SIGNATURE

ENGINEER'S SIGNATURE

Client

Project

**HOUSE QUIRK HERMANUS
NEW GARDEN COTTAGE
ADDITION & ALTERATIONS**

Drawing Title

**COTTAGE SITE
& FLOOR PLAN**

Drawing No: **HQ-CSP-02** Revision: **C**

Scale: **AS SHOWN (A3)** Drawn: **JRH** Date: **2024/09/19**



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