



ERF 1313, 329 MAIN ROAD, EASTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE & DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF M. VENTER

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) that an application has been received for the following:

- **departure** in terms of Section 16(2)(b) of the By-Law to relax the permissible height restriction applicable to Residential Zone 1: Single Residential (SR1) properties from 8m to 8.90m to accommodate the as-built roof pitch, and
- **determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, Paterson Street, Hermanus. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (e) alida@overstrand.gov.za) on or before **04 April 2025**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the Town Planner, **Mr. P Roux** at 028-313 8900. 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.

ERF 1313, HOOFWEG 329, EASTCLIFF, HERMANUS: OVERSTRAND MUNISIPALE AREA: AANSOEK VIR AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: MNRE PLAN ACTIVE STADS- EN STREEKSBEPLANNERS NAMENS M VENTER

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening op Munisipale Grondgebruikbeplanning, 2020 dat 'n aansoek ontvang is vir die volgende:

- **afwyking** ingevolge Artikel 16(2)(b) van die Verordeninge om die toelaatbare hoogtebeperking van toepassing op Residensiële sone 1: Enkel Residensieel (SR1) eiendomme van 8m tot 8.90m te verslap om die soos geboude dakhelling te akkommodeer, en
- **bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) van die Verordening.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (e) alida@overstrand.gov.za) voor of op **04 April 2025**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan die Stadsbeplanner, **Mnr. P. Roux** by 028-313 8900. Die Munisipaliteit mag weier om die kommentaar 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 formaliseer.

ISIZA ESINGU-ERF 1313, 329 MAIN ROAD, EASTCLIFF, HERMANUS, KUMASIPALA WASEOVERSTRAND: ISICELO SOKWAHLULA NENGQIKELELO YBHALISO LOMDLIWO: NGABAMNU BAKWAPLAN ACTIVE TOWN AND REGIONAL PLANNERS EGAMENI LIKA- M. VENTER

Kukhutshwe isaziso esimayela nemiba yeSoloty lama-48 loMthethwana kaMasipala waseOverstrand Osisihlomelo Esingezicwangciso ZokuSetyenziswa koMhlaba kaMasipala ku2020 (Umthethwana) isaziso esi sinale miba ilandelayo:

- **ukwahlula** ngokwemiba yeSoloty le16(2)(b) loMthethwana ongokushenxisa imiqobo yobude obuvumelekileyo kwiNdawo Elungiselelwe Ukuhlala Usapho Olunye Izowuni 1: Indawo Ehlalala Umntu Omnye (SR1) iziza ezibude busuka kwiimitha ezingu-8m ukuya ku-8.90m ukulungiselela ipitshi ekuphakama-njengokwakhiwa kophahla,
- **nengqikelelo yobhaliso lomdlwo** ngokwemiba yeSoloty le16(2)(q) loMthethwana.

Iinkcukacha eziphelelyo mayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini phakathi kwentsimbi ye-08:00 neye-16:30 kwiSebe: Lezicwangciso zeDolophu, Paterson Street, Hermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zeSoloty lama-51 nelama-52 loMthethwana kwaMasipala (16 Paterson Street, Hermanus / (e) alida@overstrand.gov.za) ngomhla okanye **ngaphambi komhla ka, 04 April ku2025**, uchaze igama lakho, idilesi neenkukacha eziphelelelyo, umdla wakho kwesi sicelo nezizathu zakho zokuhlomla. Imibuzo ngefowuni ingabuzwa kuMchwangcisi Omkhulu weDolophu, u**Mnu. P Roux** kwa-028-313 8900. Umasipala angala ukwamkela izimvo ezifike emva komhla wokuvala. Nabani ongakwazi ukubhala nokufunda angahambela kwiSebe Lezicwangciso zeDolophu apho igosa likaMasipala liza kumnceda ukuze angenise izimvo zakhe ngokusemthethweni.

#overstrand4all



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We care



We serve



Stads- en Streeksbeplanners
Town & Regional Planners

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**PROPOSED DETERMINATION OF AN ADMINISTRATIVE
PENALTY & DEPARTURE**

ERF 1313 HERMANUS

DIVISION: CALEDON

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

Plan Active Town & Regional Planners has been appointed by Marlene Venter, the owner of Erf 1313 Hermanus, to apply for an administrative penalty and a departure from the height restriction for the property. The subject property has been developed with a double-storey guesthouse, a double garage, guest parking, and a swimming pool. Previously, consent use for the guesthouse with four guestrooms was approved, and an additional application is currently pending to add one more guestroom.

In 2018, the property owner received municipal approval for building plan alterations to the guesthouse. The approved plans confirmed that the dwelling adhered to the height restriction requirements. Handwritten annotations were included in the approved plans, specifying a roof ridge height of 25.750 meters, a base level of 17.750 meters, and a roof pitch of 15°. These details ensured the structure was designed within the 8-meter maximum height limit for a property zoned as Residential Zone 1: Single Residential (SR1).

After construction was completed, Geomatics Africa Land Surveyors were engaged to conduct a height survey and to provide a height restriction certificate. On 4 September 2024, the certificate indicated that the roof height exceeded the permissible 8-meter limit. This height encroachment occurred due to an error during

construction, where the incorrect building plan—lacking the handwritten annotations—was circulated to both the construction team and the roof truss manufacturers. As a result, the roof trusses were produced with an 18° pitch instead of the approved 15°, causing the unintended height infringement.

The purpose of this application is to address the unlawful height encroachment of the "As Built" structure. The deviation was an unintentional result of a miscommunication during construction, and this application seeks to bring the development into compliance with the municipality's regulations through the required administrative penalty and departure approval.

2. APPLICATION DETAILS

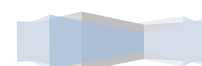
Application is made in terms of:

- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an **administrative penalty** for Erf 1313 Hermanus;
- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for **the departure (height deviation)** of erf 1313 Hermanus.

3. NEED AND DESIRABILITY

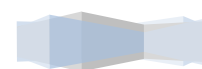
3.1 PROPERTY DESCRIPTION

Erf 1313 Hermanus is located at 329 Main Road, a prime location within Hermanus that offers easy access to the town's amenities and tourist attractions. As illustrated in the attached locality plan and the abstract below:





The property spans 892m² and is registered under Title Deed No. T65194/2017. The property is developed with a double-storey guesthouse, currently providing four guestrooms, offering comfortable accommodation for visitors. In addition to the guesthouse, the property includes a double garage for secure parking, along with designated guest parking spaces to accommodate additional vehicles. The guesthouse also features a swimming pool, enhancing the overall guest experience and increasing its appeal as a hospitality venue. The design of the guesthouse and its facilities make efficient use of the available space, creating a welcoming and functional environment for guests. The existing development aligns with the property's use as a guesthouse, contributing to the local tourism economy and supporting the commercial activity of the area.



3.2 ZONING

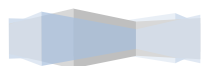
Erf 1313 Hermanus holds the following land use rights:

- Zoning: Residential Zone 1: Single Residential
- Approved Consent Use: Guesthouse

The surrounding properties are predominantly zoned for single residential purposes, with additional zoning for public roads and public open spaces. This reflects the mixed-use nature of the area, which combines residential living with public amenities, contributing to the overall character of the neighbourhood. Please refer to the zoning map abstract below:



The approved guesthouse use on Erf 1313 Hermanus fits harmoniously within this setting, offering accommodation while maintaining the residential nature of the area.



3.3 LAND USE

The subject property is currently developed with a double-storey guesthouse, which includes a double garage, guest parking, and a swimming pool. The property is thus primarily used for guesthouse purposes, providing accommodation within the residential setting.

Surrounding land uses consist of single and double-storey residential dwellings, as well as public open spaces and public roads. This mix of residential and public spaces defines the neighbourhood's character, allowing for the operation of a guesthouse while maintaining harmony with the surrounding residential environment. The guesthouse blends into the area's existing urban fabric, contributing to the local economy while respecting the residential nature of the neighbourhood.

3.4 PROPOSAL

The following is proposed for Erf 1313 Hermanus:

An administrative penalty is sought to address the roof structure of the existing "As Built" dwelling, where the roof pitch encroaches upon the maximum permissible height limit. This is being applied for under Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020.

In addition, a departure is being requested for Erf 1313 Hermanus in accordance with Chapter 4, Section 16(2)(b) of the same By-law. This departure seeks to deviate from the maximum permissible height limit of 8 meters, as stipulated for Residential Zone 1 (SR1) properties in the Overstrand Land Use Scheme Regulations (2020), Section 6.1.2 c)(i). The deviation requested is to accommodate an existing roof pitch, which reaches a height of 8.90 meters measured from base level.

The property owner would like to legalize all the existing "As Built" structures, and no new additions or alterations are being proposed. This application specifically addresses the height encroachment of the existing roof structure, with the goal of

bringing the property into compliance. Details of the proposed application are provided below for consideration.

3.4.1 Rectification of contravention

In accordance with Chapter 5, Section 90(1) of the Municipal Planning Amended By-Law (2020), any individual who is found to be in contravention of the by-law and wishes to rectify this contravention must apply to the Municipality for the determination of an administrative penalty. This provision applies only if the Municipality has not already issued a demolition directive in terms of Section 85 concerning the land, building, or any part thereof that is in violation. This process allows property owner to address and resolve any non-compliance issues in a formal manner, seeking to legalize existing structures while avoiding further legal repercussions.

As this application seeks to rectify a contravention of the By-Law, it includes a request for the determination of an administrative penalty fee in accordance with Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020. It is important to note that the Municipal Planning Tribunal (MPT) holds the authority to decide whether to impose such a fee.

In accordance with Section 90(3) of the Municipal Planning By-Law (MPBL), the MPT is required to consider several factors when determining the appropriate administrative penalty. These factors include, but are not limited to:

- **The nature, duration, gravity and extent of the contravention**

Our client obtained municipal building plan approval for the residential structures on the subject property on 9 September 2018, which indicated the maximum permissible height for the roof pitch as 25.750 meters (see attached copy of the approved building plan). Following the completion of the approved structures, Geomatics Africa Land Surveyors were engaged to conduct a height survey and issue a height restriction certificate confirming the "As Built" height of the structures. The height restriction certificate, dated 4 September 2024, revealed that the roof ridge height exceeds the maximum permissible height of 8 meters for Residential Zone 1 (SR1) properties.

The height encroachment occurred due to amendments made to the building plans by hand, as previously mentioned. Unfortunately, electronic copies were circulated to the building team and roof truss manufacturers, and these plans did not include these handwritten amendments. Consequently, the roof trusses were manufactured with an 18° pitch instead of the approved 15°. This led to the roof ridge height being 900 millimetres (90 cm) higher than indicated on the approved building plan.

This error was only identified when the final height was measured by the land surveyor. During the construction process, the floor heights were recorded accurately, but the three-degree difference in roof slope resulted in the height exceedance. Our client was completely unaware of this issue at the time.

The height encroachment information confirmed by the land surveyor in the height certificate is as follows:

A topographic survey was completed in March 2018 prior to construction. The height restriction was derived from the architect's plans, and the roof pitch was surveyed, yielding the following results:

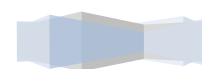
- Highest Natural Ground Level: 18.00m
- Lowest Natural Ground Level: 17.30m
- Base Level: 17.65m

The maximum allowable height, given the 8-meter restriction, is 25.65 meters. However, the actual measurement for Roof Pitch 1 was 26.55 meters, indicating that the apex of the roof is 0.90 meters above the height restriction.

Refer to the latest "As Built" building plan, which shows that the maximum height restriction of 8 meters has been exceeded by 0.90 meters.

An application is therefore submitted for a departure to allow deviation from the maximum permissible height of 8 meters for SR1 zoned properties, accommodating the existing "As Built" dwelling (roof pitch) as follows: from 8 meters to 8.90 meters (25.65 meters to 26.55 meters).

While it is understood that the property owner may be tempted to exceed permissible building heights to gain benefits such as improved views, the purpose of



administrative penalties is to deter property owners from intentionally disregarding regulations for personal gain.

It is important to note that the additional height of the one roof structure has no material impact on the neighbouring landowner. All floor levels and wall plate heights were constructed according to the approved plans, indicating that there is no advantage to the owner in terms of enhanced views resulting from the increased roof pitch.

- **The conduct of the person involved in the contravention**

The landowner derived no real benefit or advantage from the unintentional exceedance of the permitted roof height. This situation arose due to bona fide changes made by hand on the building plans that were approved by the Overstrand Municipality, along with the electronic circulation of plans to the building team and the roof truss manufacturer, which unfortunately excluded the handwritten amendments.

It is crucial to emphasize that there was no intention on the part of the owner to wilfully fail to comply with the applicable height restriction. The alterations were made in good faith, and the owner was unaware of the implication these changes had on the overall height of the structure. Their conduct reflects a commitment to adhere to municipal regulations, and the contravention was purely a result of miscommunication and oversight during the construction process. The landowner has demonstrated a willingness to rectify the situation by submitting this application for the determination of an administrative penalty and seeking the necessary departure to legalize the existing structures.

- **Whether the unlawful conduct was stopped**

The construction work on the property has been completed. The owner is actively seeking to rectify the contravention by submitting the application for an administrative penalty, along with the subsequent departure application. These efforts aim to legalize all the "As Built" structures on the subject property. By taking these steps, the owner is demonstrating their commitment to addressing the situation and ensuring compliance with municipal regulations moving forward.

- **A report by a quantity surveyor in matters of unauthorised building / construction or cost estimate from registered building contractor**

A cost estimate has been obtained concerning the construction of the section of the roof that exceeds the prescribed height restriction by 0.90 meters. According to the estimate, 20.17 square meters of the roof surpasses the height limitation. The total cost associated with this portion of the roof that exceeds the height restriction amounts to R15,105.31, excluding VAT. Please refer to the enclosed cost estimate for your records.

Rectifying the roof to achieve compliance with the height restrictions would entail significant expenses. Given that the guesthouse has already been completed, this process would involve extensive modifications, including redoing the ceilings, installing new insulation, ensuring proper waterproofing, and replacing the roof sheets. These alterations would further contribute to the overall costs and logistical challenges of bringing the structure into compliance.

- **Whether a person involved in the contravention has previously contravened this By-Law or a previous planning law**

To the best knowledge of the applicant, and as confirmed by the landowner, she has never previously contravened this By-Law or any other previous planning law. This indicates that the current contravention is an isolated incident, resulting from unintentional oversights rather than a pattern of non-compliance. The landowner has demonstrated a commitment to adhering to municipal regulations and maintaining the integrity of their property.

- **Summary**

The landowner derived no real benefit or advantage from unknowingly exceeding the permitted building height. This situation resulted from the electronic circulation of building plans that excluded the handwritten amendments made to the plan that was formally approved by the Overstrand Municipality. Importantly, there was no intention on the part of the property owner to wilfully disregard the applicable height restrictions.

All floor levels and wall plate heights were constructed in accordance with the approved plans, indicating that there is no advantage for the owner in terms of enhanced views. In light of these circumstances, we respectfully request that a minimal or no penalty fee be imposed on the property owner for the reasons outlined above.

3.4.2 Departure (height deviation)

The building positions on Erf 1313 Hermanus were surveyed, along with the roof pitch. The height encroachment information, as confirmed by the land surveyors on the height certificate dated 4 September 2024, is as follows:

A topographic survey was completed in March 2018 prior to construction. The height restriction was derived from the architect's plans, and the roof pitch was surveyed after completion of the structures, yielding the following results:

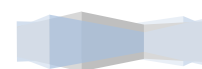
- Highest Natural Ground Level: 18.00m
- Lowest Natural Ground Level: 17.30m
- Base Level: 17.65m

Given the 8-meter restriction, the maximum allowable height is 25.65 meters. However, the actual measurement for Roof Pitch 1 is 26.55 meters, indicating that the apex of the roof exceeds the height restriction by 0.90 meters.

An application is submitted for a departure to deviate from the maximum permissible height of 8 meters for Single Residential Zone 1 (SR1) properties to accommodate the "As Built" dwelling (Roof Pitch No. 1) as follows: from 8 meters to 8.90 meters.

Refer to the site development plan. The additional height of the structure has no material impact on any of the landowners in the area.

The height encroachment of the roof, as previously mentioned, results from handwritten amendments made to the building plan submitted to the Overstrand Municipality that was subsequently approved. Electronic copies of the building plans



were sent to the building team and the truss manufacturers, but these copies excluded the handwritten amendments. Consequently, the roof trusses were manufactured with an 18° pitch instead of the approved 15° pitch, leading to the apex of the roof exceeding the height restriction by 900 millimetres.

Given that only the apex of the roof exceeds the height restriction, the streetscape is not affected, and the building does not detract from the surrounding properties.

From the above, it is evident that the height encroachment will not negatively impact the neighbouring properties or the area.

When considering the height encroachment, the following should be noted:

- The visual impact of the "As Built" structures is considered minimal.
- Demolishing or altering the roof structure to comply with the relevant height requirement would be costly and could diminish the aesthetic and property value of the dwelling.

The area of the roof exceeding the height restriction is approximately 20.17 square meters. The proposed application does not impact the character or property values in the vicinity.

The existing structures on the subject property do not infringe upon any passing traffic or public activities due to their position on the site. It is submitted that the massing and height of the existing structures are compatible with the character of the area, regardless of the departure being applied for.

The zoning of Erf 1313 Hermanus will remain unchanged. All structures, other than the roof apex, comply with all other land use scheme regulations and Title Deed parameters for SR1 zoned properties. The roof apex that encroaches the applicable maximum permissible height, as indicated on the site plan, already exists, and this application addresses the existing structure that encroaches the height requirement; no new additions are proposed. Consequently, the proposed departure will not create a greater visual impact on the surrounding properties. The impact on adjacent property owners and passers-by will therefore be marginally higher than if the structure did not exist.



It is submitted that the existing structures are compatible with the character of the area, do not negatively impact the rights of others, and that no valid reason exists for not approving this application.

The proposed departure for Erf 1313 Hermanus aligns with the existing land use trends in the surrounding environment, and we do not foresee any issues arising from the proposed application.

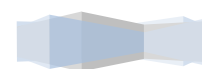
3.5 THE POTENTIAL OF THE PROPERTY

The zoning and approved consent use for a guesthouse on the subject property will remain unchanged. Situated within a single residential area, the property is designated for low-impact land uses, specifically as a guesthouse, which it is currently utilized for. The proposed departure will not impede on any future land use applications concerning Erf 1313 Hermanus.

To date, the position and height of the dwelling have not attracted any complaints, and it is regarded as aesthetically pleasing. All existing structures adhere to the applicable land use regulations and Title Deed requirements for Single Residential Zone 1 (SR1) properties, as illustrated on the site plan.

The visual impact of the guesthouse is minimal. The "As Built" roof is an integral part of the dwelling's design, and any alterations or demolitions to the apex of the roof to comply with the height restriction would not only compromise the aesthetic appeal but also potentially decrease the property value.

When assessing the potential of the property to accommodate the proposed departure, it is important to consider the scale of the surrounding built environment and the low impact on the streetscape. The existing structures were constructed using high-quality materials, further enhancing their appeal and integration within the neighbourhood. Overall, the property maintains its compatibility with the surrounding area while fulfilling its intended use as a guesthouse.



3.6 ECONOMIC IMPACT

The proposed departure aims to accommodate an existing roof structure that currently encroaches on the maximum height restriction. By granting this departure, the owner will be able to legalize the roof apex height, which is likely to enhance the property's marketability and resale potential in the future.

Additionally, approving the "As Built" structures will allow the owner to avoid the significant costs associated with demolishing or altering the roof structure to achieve compliance. This not only preserves the property's value but also enables the owner to allocate their resources more effectively, ensuring the continued viability of the guesthouse business. Overall, the economic implications of this application support both the property owner's interests and the broader goals of maintaining a vibrant and sustainable local economy.

3.7 SOCIAL IMPACT

The proposed departure will have no effect on the social status quo of the area. Instead, it will allow the owner to retain the existing "As Built" structures on the subject property, which contributes positively to the neighbourhood.

No negative impact on the social well-being of the surrounding community is anticipated as a result of this application. The existing development is compatible with the character of the area and aligns with the community's aesthetic and functional expectations. Furthermore, the structure does not infringe upon the rights of the neighbouring property owner, ensuring that the overall social fabric of the area remains intact. By maintaining the property as a functioning guesthouse, the owner continues to support local tourism and foster community engagement, further enhancing the social dynamics of the locality.

3.8 COMPATIBILITY WITH SURROUNDING LAND USES

The subject property is located within an established low-density residential area, and the proposed application does not seek to alter the existing zoning or land use. Therefore, the proposal is inherently compatible with the surrounding land uses.



Adjacent properties consist of single and double-storey dwellings primarily utilized for permanent residences and holiday accommodation. The scale of the structures on Erf 1313 Hermanus aligns harmoniously with the dimensions of the surrounding homes, ensuring a cohesive neighbourhood aesthetic.

Legalizing the existing "As Built" structure that exceeds the relevant height restriction will not only enhance the value of the subject property but also positively influence the surrounding area. The intended use of the property as a guesthouse will remain unchanged, supporting local tourism and community engagement. Moreover, the visual impact on the streetscape is minimal, and there is no adverse effect on passers-by, reinforcing the notion that the application is consistent with the character and function of the neighbourhood.

3.9 IMPACT ON EXTERNAL ENGINEERING SERVICES

All necessary services for the subject property are already in place, and the existing infrastructure is fully operational. The "As Built" roof structure will not affect the utilization of these services, as no additional load on the current civil infrastructure is expected. Consequently, the proposed departure will not impose any strain on external engineering services, ensuring that the property continues to function efficiently within the existing framework of the neighbourhood. This stability further supports the rationale for approving the application, as it indicates that the development is sustainable and aligns with the overall planning objectives of the area.

3.10 IMPACT ON SAFETY, HEALTH AND WELLBEING OF SURROUNDING COMMUNITY

The proposed departure will not adversely affect the overall safety and wellbeing of the surrounding community. It is expected that the property will continue to operate as a guesthouse, while also being suitable for accommodating a single family.

Furthermore, the proposed departure does not involve any activities associated with noxious trades or significant air pollutants, ensuring that any potential health impacts on the community are minimal. The existing use of the property aligns with the

residential character of the area, contributing positively to the neighbourhood's atmosphere and maintaining a safe environment for all residents and visitors.

3.11 IMPACT ON HERITAGE

The application for the proposed departure does not involve altering the character of a site larger than 5,000 square meters. Therefore, it does not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

Erf 1313 Hermanus is not located within the Heritage Protective Overlay Zone as defined by the Overstrand Municipality's Land Use Scheme Heritage Overlay Zone (2020). Additionally, the property is not designated for heritage conservation in accordance with the Overstrand Municipal Growth Management Strategy (2010). The dwelling on the subject property is less than 60 years old and is not connected to any notable individuals, groups, significant events, or activities. Moreover, it has no associations with the history of slavery and is not utilized for living heritage.

Given these considerations, it is clear that the proposed departure will not adversely affect the heritage value of Hermanus.

3.12 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed departure does not trigger any listed activities as defined under the National Environmental Management Act (NEMA), 1998 (Act No. 107 of 1998). Furthermore, the subject property is not located within the Environmental Overlay Zone established by the Overstrand Municipality's Land Use Scheme (2020). As such, the application for the departure will not have any adverse effects on the biophysical environment.

3.13 TRAFFIC IMPACT, PARKING AND ACCESS

Access to erf 1313 Hermanus will remain unchanged and will continue to be from Main Road. No new access points are proposed and all required parking bays are established on-site being within a double garage and uncovered parking bays.



3.14 TITLE DEED

Title Deed No. T65194/2017 does not contain any restrictive conditions that would require removal to facilitate the proposed departure regarding the maximum permissible height. A conveyancer's certificate is not included with this application, as the title deed is straightforward. Additionally, it is confirmed that there is no bond registered against Erf 1313 Hermanus.

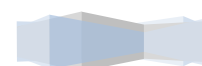
3.15 FORWARD PLANNING AND LAND USE DOCUMENTS

The Overstrand Spatial Development Framework (SDF) 2020 designates the area where Erf 1313 Hermanus is located for urban development purposes. The existing zoning and use of the property will remain unchanged, maintaining its classification as Residential Zone 1: Single Residential. Consequently, the impact of the proposed departure on the spatial integrity of the area will be minimal, aligning with the objectives outlined in the Overstrand SDF (2020).

Furthermore, the Overstrand Municipal Growth Management Strategy (OMGMS, 2010) identifies Erf 1313 Hermanus as part of Planning Unit No. 8, which does not propose any densification. The land use application for the subject property is therefore consistent with the existing planning framework for the Hermanus East area.

This proposal supports land development in a sustainable location. The intended departure pertains to an improved erf within an established residential neighbourhood and will not contribute to urban sprawl or adversely affect sensitive environments. The overall density of this part of Hermanus will remain low, ensuring that the application promotes continued low-density residential development.

In summary, the proposed development complies with the relevant municipal spatial planning policies, demonstrating alignment with the long-term planning goals of the Overstrand Municipality.



3.16 PLANNING PRINCIPLES

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

Spatial justice: In the context of erf 1313 Hermanus, the proposed departure for the height encroachment aligns with the principles of spatial justice by promoting the continued use of the property as a guesthouse within a low-density residential area.

The existing structures on the property, including the encroaching roof, do not detract from the surrounding environment and are compatible with the character of the neighbourhood. By allowing the legal recognition of these structures, the application enhances the value of the property and contributes positively to the local economy, providing employment opportunities and services to the community.

Additionally, the lack of complaints regarding the existing height suggests that the surrounding residents accept and support the use of erf 1313 Hermanus as a guesthouse. This application does not propose any new development but seeks to rectify an inadvertent oversight, which exemplifies a commitment to responsible land use and community well-being. The proposal therefore upholds the principles of spatial justice by ensuring that the property continues to function within its intended purpose without imposing negative impacts on its neighbours or the community at large.

By maintaining the current land use and legalizing the As Built structures, the proposal promotes inclusivity and economic growth while respecting the existing spatial dynamics of the area. The approach taken in this application exemplifies a balanced perspective that prioritizes both the rights of the property owner and the interests of the surrounding community, ensuring that spatial justice is upheld in the decision-making process.

Spatial sustainability: Spatial sustainability focuses on the responsible management of land and resources to promote long-term environmental health, economic viability, and social equity. In the case of erf 1313 Hermanus, the proposed departure for the height encroachment is aligned with the principles of spatial sustainability by

preserving the integrity of the existing built environment while enhancing the property's contribution to the local community.

The guesthouse serves as a low-impact land use that capitalizes on the established infrastructure and amenities of the surrounding residential area. By legalizing the As Built structures, the proposal not only rectifies an inadvertent contravention but also supports the sustainable use of resources by minimizing the need for extensive demolition or reconstruction. The preservation of the existing roof structure prevents waste generation and reduces the environmental impact associated with new construction, including the consumption of materials and energy.

Furthermore, the continued operation of the guesthouse contributes to the local economy by providing employment opportunities and supporting local businesses, such as restaurants and shops, which are crucial for community vitality. The integration of the property within the existing residential fabric fosters a sense of place and promotes sustainable tourism practices, encouraging visitors to experience the natural and cultural assets of Hermanus.

The application is consistent with the Overstrand Spatial Development Framework (2020), which earmarks the area for urban development while promoting low-density residential uses. This alignment ensures that the proposed departure does not disrupt the overall spatial planning objectives of the municipality, maintaining a balance between development and conservation.

In summary, the proposed departure for erf 1313 Hermanus embodies the principles of spatial sustainability by preserving existing structures, enhancing economic opportunities, and ensuring compatibility with the surrounding land uses. This approach promotes responsible land management, protects the environment, and supports the long-term sustainability of the community.

Efficiency: Efficiency in land use planning refers to the optimal allocation and utilization of resources to achieve desired outcomes without unnecessary waste or duplication of efforts. In the context of the proposed departure application for erf 1313



Hermanus, efficiency is a critical consideration that supports the sustainable development of the property while addressing existing regulatory compliance issues.

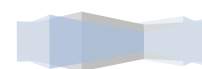
The proposal seeks to legalize the existing As Built structure, which has been constructed in accordance with the approved building plans, albeit with an unintended height encroachment. By rectifying this contravention through a departure application rather than requiring costly demolition and reconstruction, the landowner is utilizing resources efficiently. This approach avoids the environmental impacts associated with new construction activities, such as material waste and energy consumption, thereby promoting more sustainable practices.

Additionally, the existing guesthouse provides a low-impact land use that integrates seamlessly into the surrounding residential area. The property's location capitalizes on established infrastructure, including roads, utilities, and services, which minimizes the need for additional investment in new infrastructure development. This efficient use of existing resources reduces costs for both the landowner and the municipality, allowing for continued investment in community improvements without burdening public resources.

The proposal aligns with the Overstrand Spatial Development Framework (2020), ensuring that development is concentrated in areas with existing infrastructure and services. This strategic alignment fosters efficient land use patterns, promoting higher-density development where it is most feasible while protecting open spaces and environmentally sensitive areas.

In conclusion, the proposed departure for erf 1313 Hermanus exemplifies efficiency in land use planning by optimizing existing resources, reducing waste, and aligning with municipal development strategies. This not only benefits the landowner and the immediate community but also contributes to broader goals of sustainable and responsible land management.

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



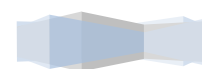
uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable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

4. RECOMMENDATION

The application for the departure regarding the height restriction on erf 1313 Hermanus warrants careful consideration based on the following key points that underline the rationale for approval:

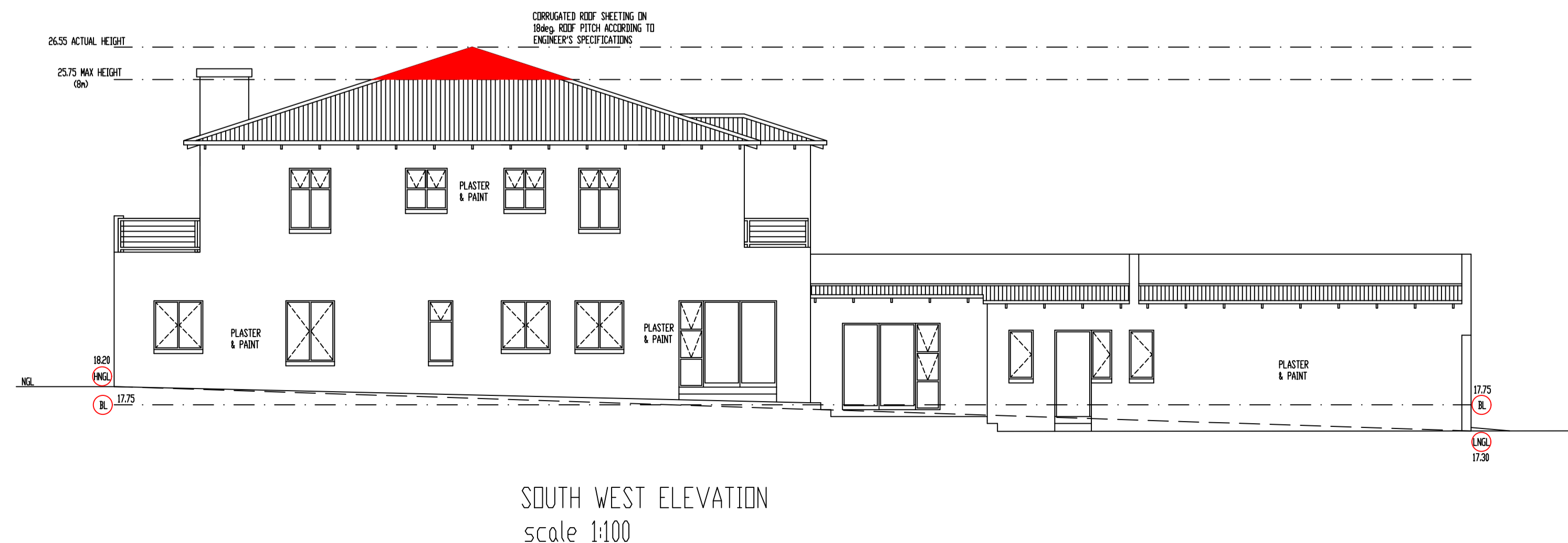
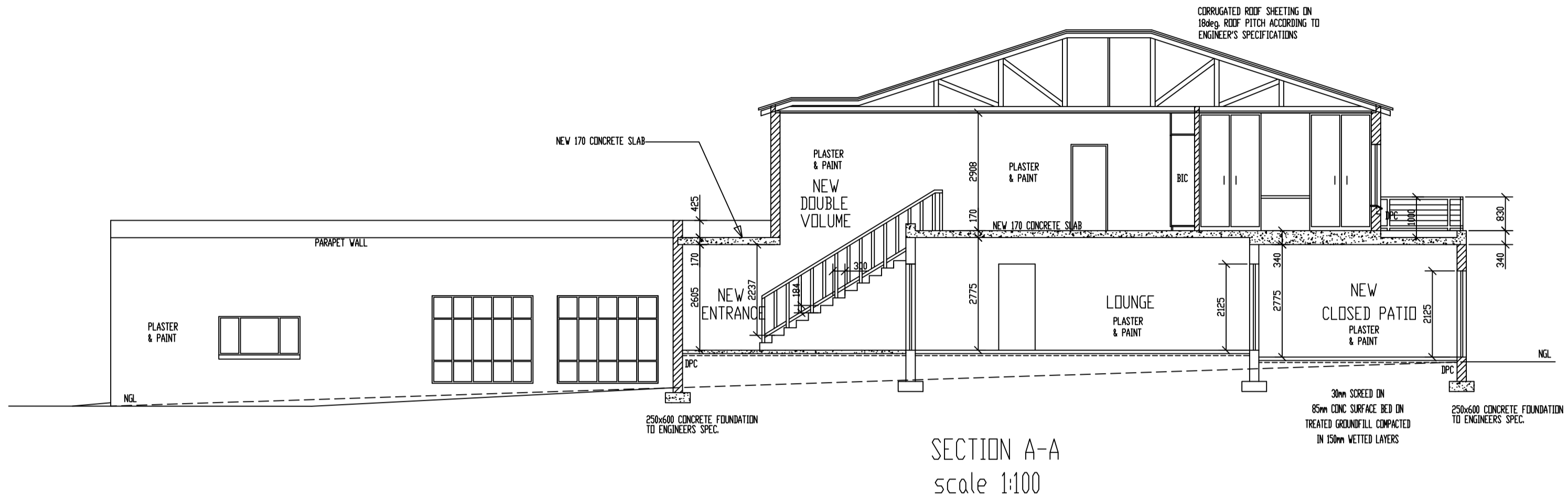
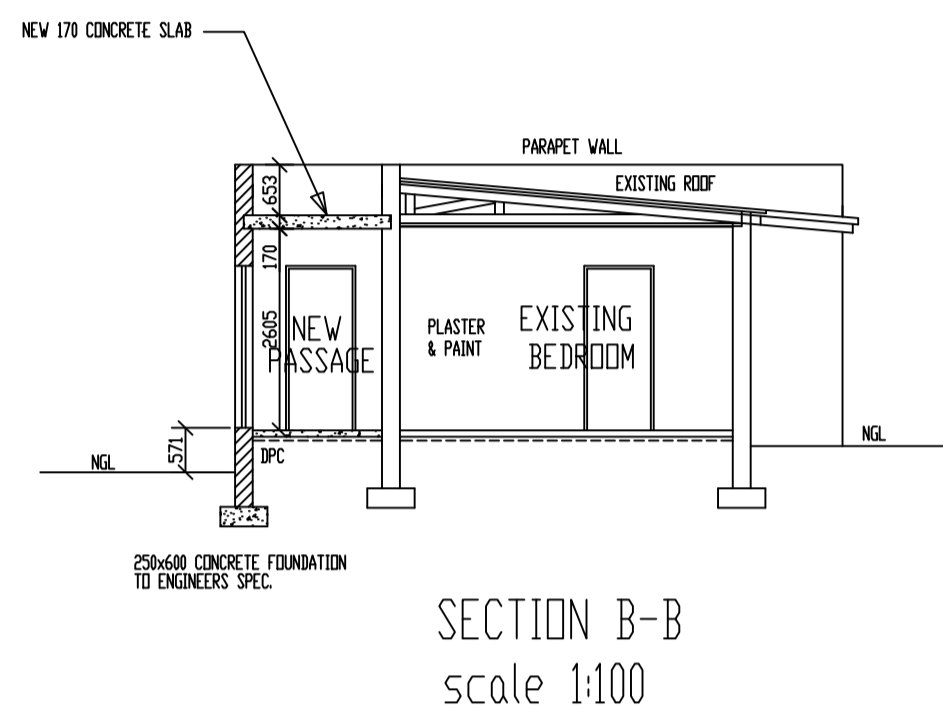
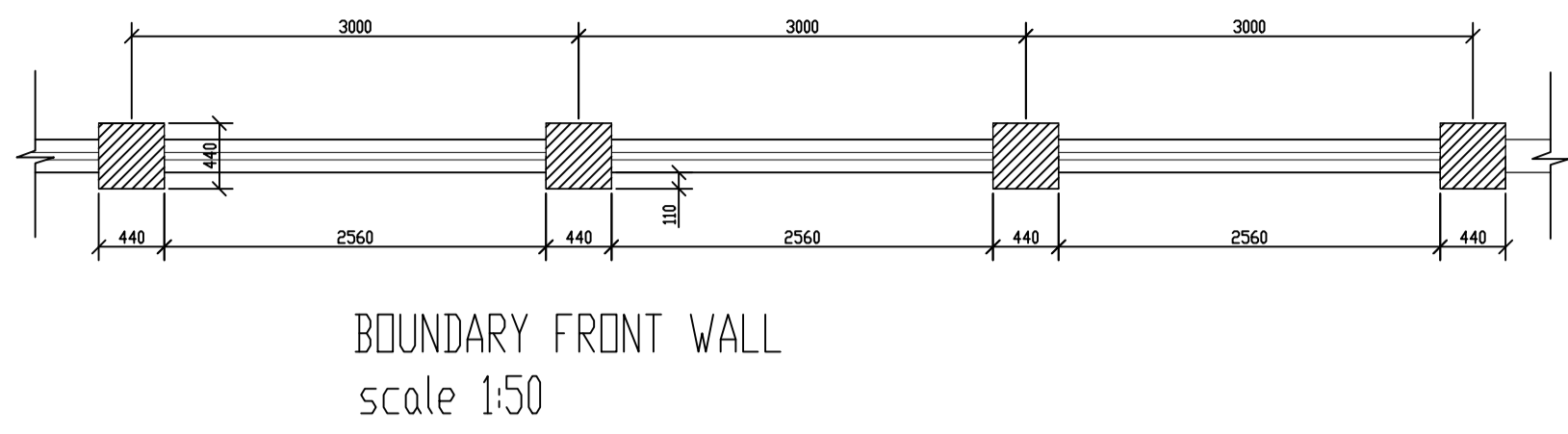
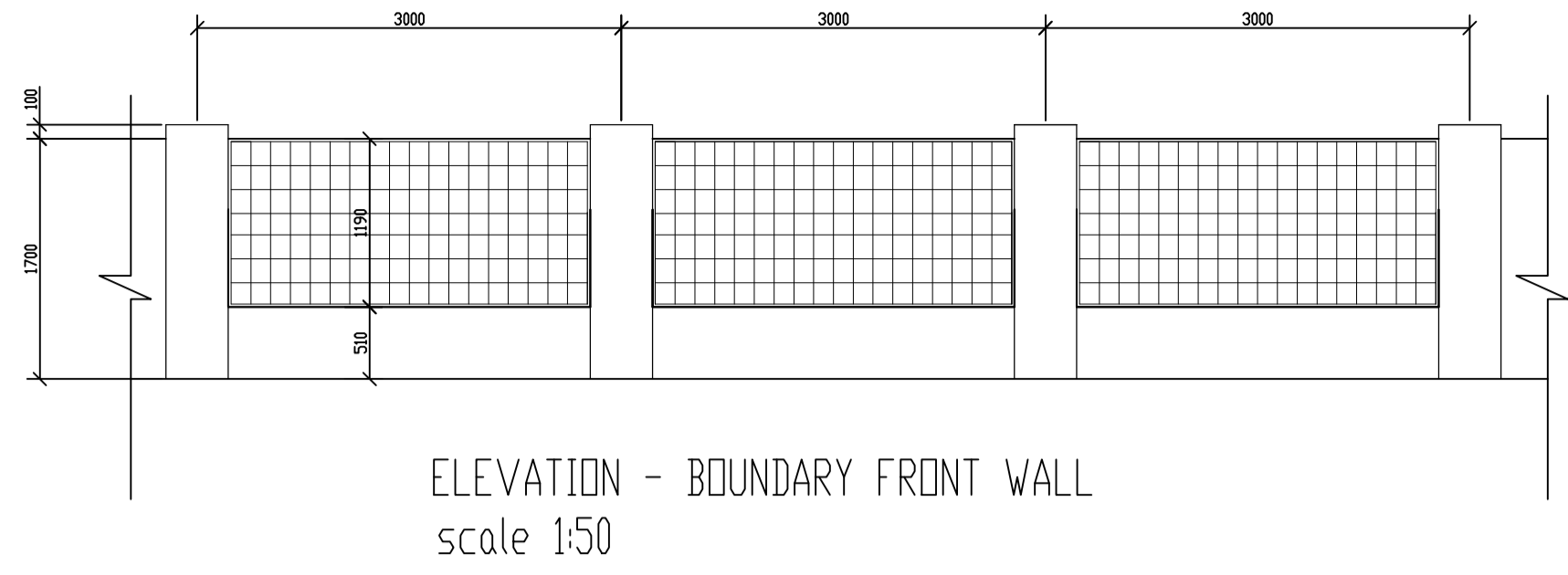
- **Existing Infrastructure:** All necessary municipal services, including water, electricity, and sewage systems, are already operational on the subject property. The proposed application does not anticipate any additional loading on this existing infrastructure, ensuring that municipal resources remain adequately supported and are not strained by the current development.
- **No Densification Proposed:** This application explicitly does not propose an increase in density within the area. The current zoning as Residential Zone 1 (SR1) will remain intact, and the property will continue to function as a guesthouse, which is consistent with the low-impact land uses characteristic of this residential area. This approach maintains the community's existing residential ambiance and promotes sustainable development.
- **Unintentional Height Encroachment:** The height encroachment associated with the As Built roof structure is characterized as a low-impact issue that arose unintentionally. This mistake occurred due to handwritten amendments that were inadvertently excluded from electronic copies of the building plans. The landowner acted in good faith and had no intention to violate the applicable height restrictions. The mistake does not reflect negligence but rather a miscommunication during the construction process.
- **Unchanged Zoning and Land Use:** The zoning classification and primary land use of the property will remain unchanged as a guesthouse. This continuity is crucial for maintaining compatibility with surrounding properties, which are predominantly used for permanent residences and holiday homes.

- **Compatibility with Built Character:** The proposed departure allows for the accommodation of an existing As Built structure that aligns with the character and scale of neighbouring developments. The additional height of the roof does not detract from the visual harmony of the area and is in keeping with the established aesthetic, thereby enhancing the overall appeal of the streetscape.
- **No Traffic Impact:** The approval of this application will not adversely affect traffic flow or service availability in the area. The property has ample on-site parking, minimizing any potential congestion or inconvenience for neighbours or visitors.
- **No Negative Heritage or Environmental Impact:** The subject property is not located within any designated heritage areas, nor does the proposed application trigger any environmental assessments. It has been established that the existing structures do not compromise any significant heritage values or environmental standards. The application aligns with sustainable practices that promote the community's well-being.
- **Consistency with Spatial Planning Strategies:** The proposal is consistent with the spatial planning strategies established for the area, which prioritize sustainable development practices. This approach not only supports the current land use but also ensures that future development remains in line with the community's character and needs.
- **Compliance with Planning Principles:** This application fully complies with the relevant planning principles outlined in the Land Use Planning Act (LUPA, 2014) and the Spatial Planning and Land Use Management Act (SPLUMA, 2013). It meets the regulatory framework established by the municipality, ensuring adherence to the necessary planning and zoning laws.
- **Request for No Penalty Fee:** Given the unintentional nature of the height encroachment and the minimal impact of the proposed application on the surrounding area, we respectfully request that no administrative penalty fee be imposed on the property owner. The owner is committed to rectifying the situation through this application and have acted in good faith throughout the process.



In conclusion, the application for the departure regarding the height restriction on erf 1313 Hermanus is strongly supported. The anticipated approval is not expected to have any negative effects on land values, privacy, or the built environment in the area. We recommend a favourable evaluation and approval of this application, as it aligns with community standards and planning regulations while promoting sustainable development in the Hermanus area.





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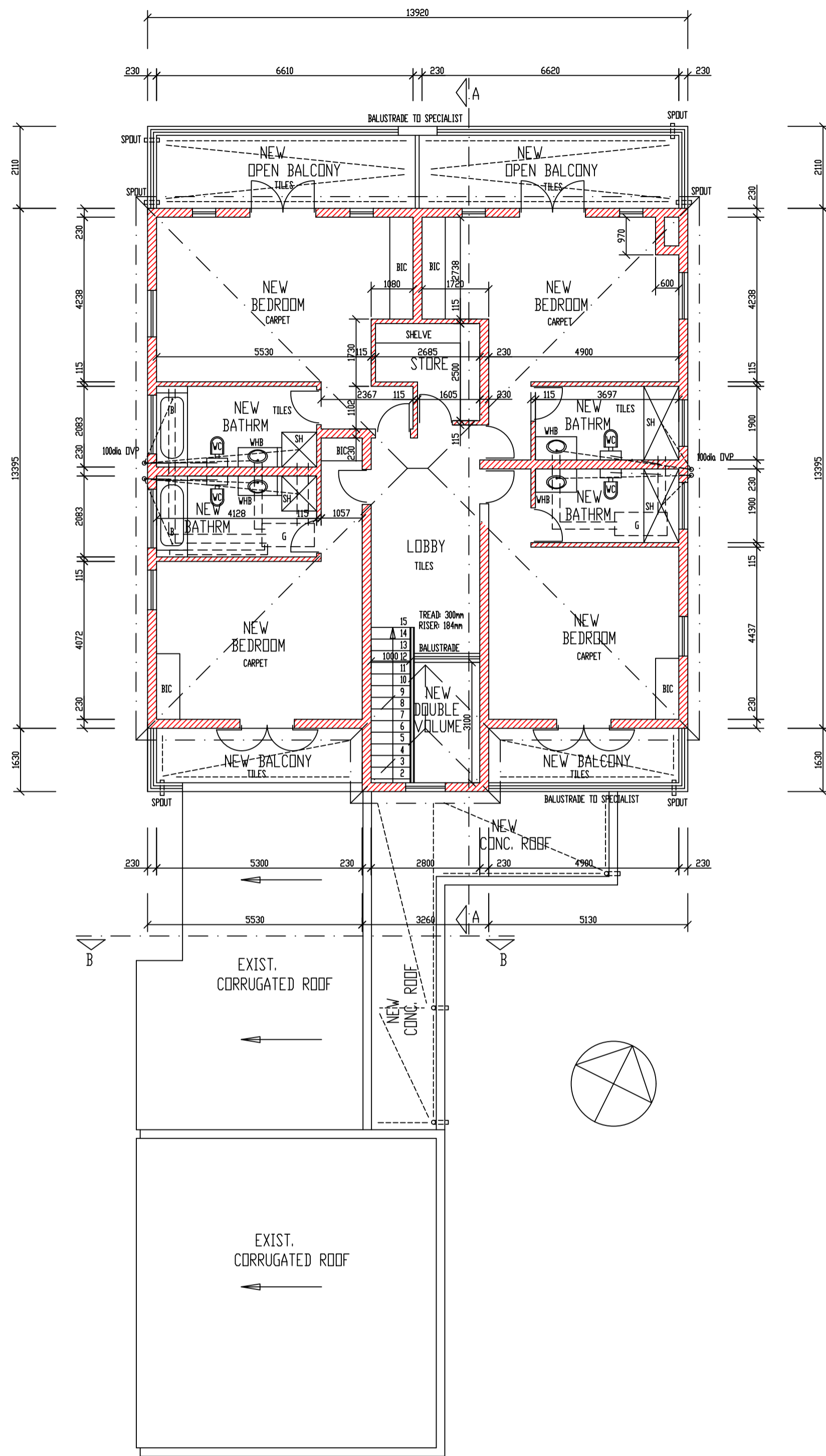
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STAND AREA: 892 SQM
EXISTING HOUSE: 304 SQM
NEW GROUND FLOOR ADDITION: 68 SQM
NEW GROUND FLOOR TOTAL: 372 SQM
NEW FIRST FLOOR ADDITION: 185 SQM
NEW TOTAL HOUSE AREA: 557 SQM
COVERAGE: 42 %

PROJECT DESCRIPTION:
NEW ADDITION FOR MR. & MRS. VENTER ON ERF 1313 HERMANUS

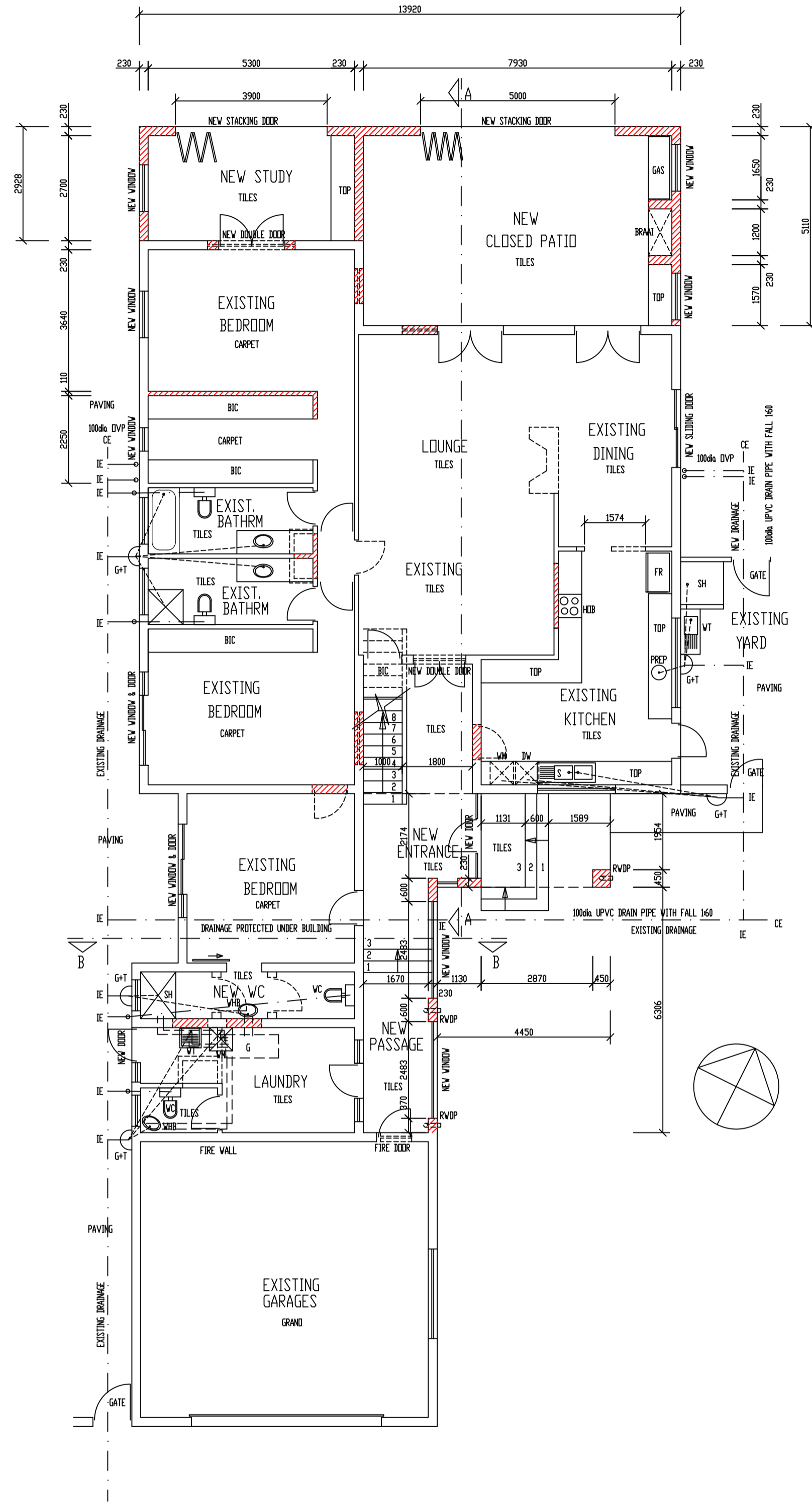
A Enslin Archi Designs
SACAP: 57118
WEB: 074474061
MAIL: a@enslinarchi.co.za

DRAWING DESCRIPTION:
SECTIONS
ELEVATIONS

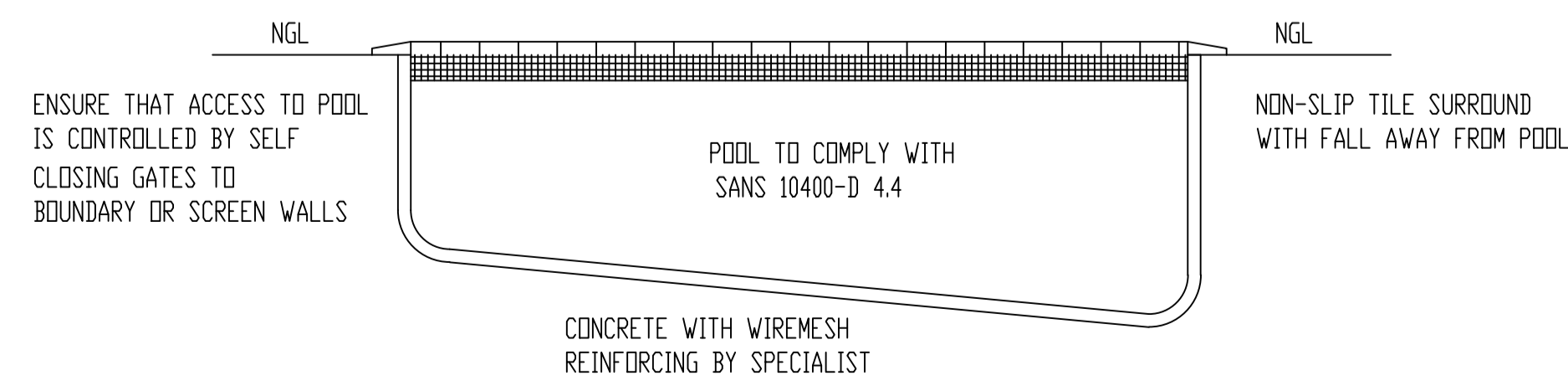
designed by: A. ENSLIN	documented by: A. ENSLIN
client approval:	date drawn: 9/12/24



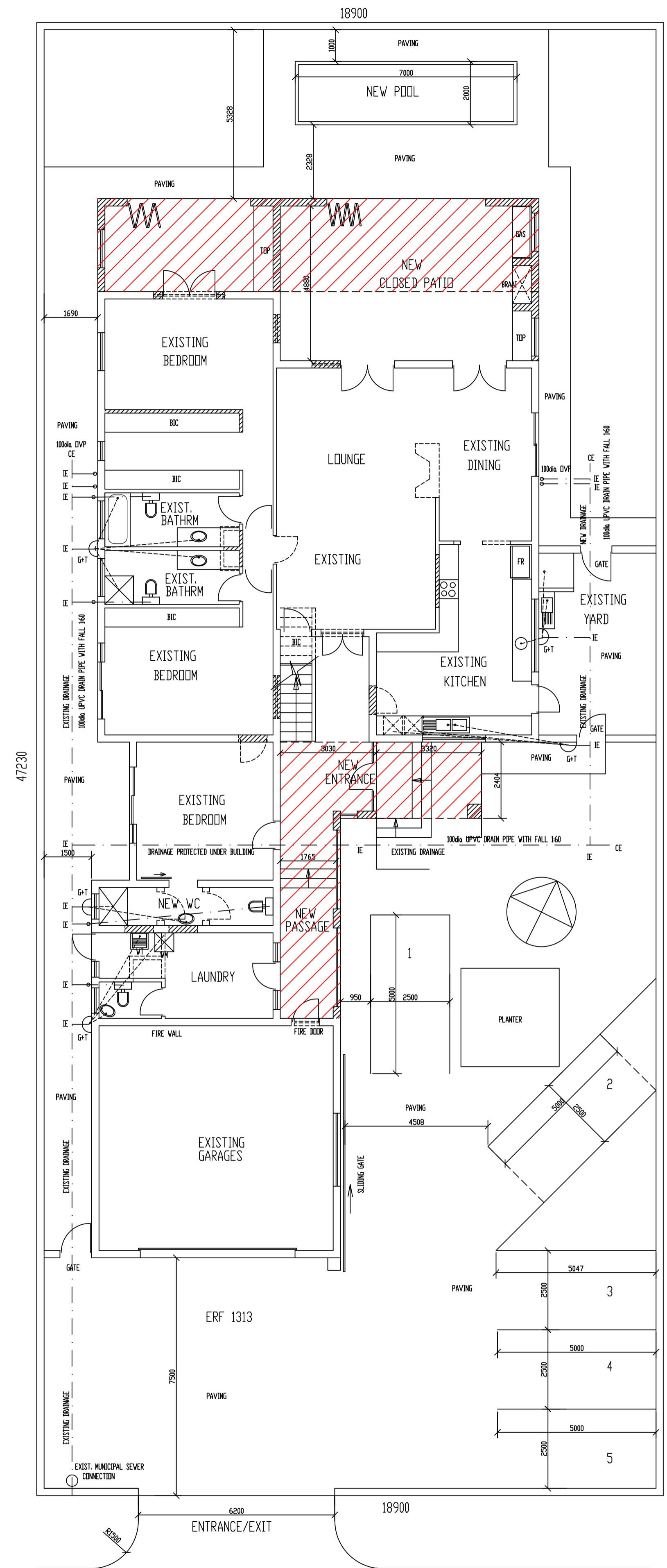
NEW FIRST FLOOR PLAN
scale 1:100



GROUND FLOOR PLAN
scale 1:100



POOL SECTION
scale 1:100



SITE/GROUND FLOOR PLAN
scale 1:100

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NEW ADDITION FOR MR. & MRS. VENTER
ON ERF 1313
HERMANUS

A Enslin Archi Designs

SACAP: 57118
NMBILE: 074474061
MAIL: a@enslin@web.co.za

DRAWING DESCRIPTION:

SITE PLAN
GROUND FLOOR PLAN
FIRST FLOOR PLAN

designed by:	documented by:
A. ENSLIN	A. ENSLIN
client approval:	date drawn:
	13/09/24