



**ERF 1821, 21 HEMEL-EN-SEE LANE, VERMONT: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: ENGELBRECHT & SCORGIE ARCHITECTURAL OFFICE ON BEHALF OF NI HICKMAN**

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

- **departure** in terms of Section 16(2)(b) to relax the street building line from 4m to 3,7m to accommodate the encroachments of a portion of the existing double garage and ground floor balcony.
- **determination of an administrative penalty** in terms of Section 16(2)(q) for unauthorised building line encroachments as mentioned above.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town & Spatial Planning, 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 / [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) on or before **4 October 2024**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the Senior Town Planner, **Mr. H Olivier** 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 & Spatial Planning Department where a municipal official will assist them to formalize their comment.

**ERF 1821, HEMEL-EN-SEELAN 21, VERMONT: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: ENGELBRECHT & SCORGIE ARGITEKTONIESE KANTOOR NAMENS NI HICKMAN**

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

- **afwyking** ingevolge Artikel 16(2)(b) om die straatboulyn vanaf 4m na 3,7m te verslap om die oorskreidings van 'n gedeelte van die bestaande dubbelmotorhuis en grondvloerbalkon te akkommodeer.
- **bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) vir ongemagtigde boulynoorskreidings soos hierbo genoem.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stads- en Streekbeplanning, 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 / [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) voor of op **4 Oktober 2024**, 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. H Olivier** 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 Stads- en Streekbeplanning Departement besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

**ISIZA 1821, 21 HEMEL-EN-SEE LANE, E-VERMONT: ISICELO SOPHAMBUKO NOKUMISELWA LWESOHLWAYO SOLAWULO: ENGELBRECHT & SCORGIE ARCHITECTURAL OFFICE EGAMENI LIKA NI HICKMAN**

Isaziso sinikezelwa ngokwemiqathango yeCandelo 48 loMthetho kaMasipala oLungisiweyo woMasipala wase-Overstrand ongoCwangciso lokuSetyenziswa koMhlaba kaMasipala, 2020 sokuba isicelo sifunyenwe soku kulandelayo:

- Utyeshelo lomqathango ngokweCandelo le-16(2)(b) lokunyenya umda wesakhiwo ukusuka kwisitrato ukuya kwi-4m ukuya kwi-3,7m ukulungiselela ungenelelo lwenxalenye yegaraji ekhoyo ephindwe kabini kunye nebhalkhoni yomgangatho ophantsi.
- ukumiselwa kwesohlwayo solawulo ngokwemigaqo yeCandelo 16(2)(q) lokunyhashwa kwemigaqo yesakhiwo ngokungekho mthethweni njengoko kukhankanyiwe ngasentla.

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ukuze zihlolwe ngeentsuku zokusebenza ngamaxesha okusebenza phakathi kwentsimbi yesi-08:00 neye-16:30 kwiSebe: UCwangciso lweDolophu, eHermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokuhambelana nezibonelelo zeCandelo lama-51 kunye nelama-52 alo Mthetho kaMasipala oxeliweyo kuMasipala (16 Paterson Street, eHermanus / [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) ngomhla okanye ngaphambi komhla wama-**4 Oktobha 2024**, uchaze igama lakho, idilesi kunye neenkukacha zohagangamshelwano, umdla kwisicelo kunye nezizathu zezimvo. Imibuzo ngomnxeba ingenziwa kuMchwangcisi weDolophu, **UMnzn. H Olivier** kule nombolo yomnxeba 028-313 8900. UMasipala unokwala ukwamkela izimvo ezifunyenwe emva komhla wokuvalwa. Nabani na ongakwaziyo ukufunda okanye ukubhala angandwendwela iSebe loCwangciso lweDolophu apho igosa likamasipala liya kuthi limncedise ukuze abhale ngokusesikweni izimvo zakhe.





26 June 2024

The Town Planner  
Overstrand Municipality  
P O Box 20  
HERMANUS  
7200

For attention: Mr. H. Olivier

Dear Sir

**DEPARTURE FROM THE OVERSTRAND MUNICIPALITY'S ZONING SCHEME REGULATIONS: ERF 1821: MS. N.I. HICKMAN: 21 HEMEL & SEE LANE, VERMONT – OVERSTRAND MUNICIPALITY**

Please find enclosed the following information and annexures relevant to this Departure Application Document:

- Motivation report
  - Annexure A - Town planning application form
  - Annexure B - Application proof of payment
  - Annexure C - Title deed
  - Annexure D - Home Owner's Association consent letter
  - Annexure E - Power of attorney
  - Annexure F - Municipal account
  - Annexure G - SG Diagram
  - Annexure H - Locality layout
  - Annexure I - Application form for the determination of an administrative penalty
  - Annexure J - Previously approved drawings
  - Annexure K - A1 (to scale) drawings
  - Annexure L - A3 (not to scale) drawings
  - Annexure M - Photos of the unauthorized, as-built structures
  - Annexure N - Land Surveyor's diagram
  - Annexure O - Costing report in matters of the unauthorized building / construction work

1. **INTRODUCTION TO THE DEPARTURE APPLICATION:**

1.1 **BACKGROUND:**

The owner of the property, Ms. N.I. Hickman has instructed Brandon Scorgie from the firm Engelbrecht & Scorgie Architectural office to apply for a building line departure from the Overstrand Municipality's Zoning Scheme Regulations. Refer to Annexure E for the enclosed Power of Attorney.

Erf 1821, referred to in this document as the application area, measures 502m<sup>2</sup> in extent and is held by Title Deed no. T000009482/2022. Refer to annexure C for the enclosed Title Deed.

1.2 **APPLICATION DETAIL:**

1.2.1 **PERMANENT STREET BUILDING LINE DEPARTURE APPLICATION:**

The Overstrand Municipality's By-Laws on Municipal Land Use Planning, Chapter 4, Section 16(2)(b), 2020, states that an owner of an erf may apply to the Overstrand Municipality for a permanent departure from the provisions as stated in the Overstrand Municipality's Zoning Scheme Regulations; therefore, an application is made in terms of;

Section 6.1.2 (b)(i) of the Overstrand Municipality's Zoning Scheme Regulations for the permanent departure from the street building lines applicable to the application area.

According to the Overstrand Municipality's Zoning Scheme Regulations, the street building line is determined in accordance with the net erf area, as listed in the table below:

<b>Net erf area:</b>	<b>Street building line</b>
400m <sup>2</sup> and greater	4.0m

1.2.2 **PERMISSION REQUIRED APPLICATION:**

The Overstrand Municipality's By-Laws on Municipal Land Use Planning 2020, states that an owner of an erf may apply to the Overstrand Municipality for the permission required to make changes within previously approved structures that encroach Municipal Building Lines; therefore, an application is made for the permission required to replace only the deteriorated timber floor decking on the ground floor timber balcony that currently encroaches the 4.0m Municipal Street Building Line.

1.2.3 **DETERMINATION OF AN ADMINISTRATIVE PENALTY:**

The Overstrand Municipality's amended By-laws on Municipal Land Use Planning, Chapter 10, Section 90, 2020, states that a person who is in contravention of these By-laws, and submits application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty; therefore, an application is made for the determination of an administrative penalty for the unauthorized, as-built structures that currently encroaches the 4.0m Municipal Street Building Line as raised later in this Departure Application Document.

### 1.3 PROPERTY DESCRIPTION, ZONING AND PROPERTY ANALYSIS:

#### 1.3.1 PROPERTY DESCRIPTION:

The application area of 502m<sup>2</sup> in extent is situated in the South-Western part of Vermont within the residential development, Hemel & See at number 21 Hemel & See Lane. Refer to Annexure H for the enclosed Locality plan. The existing dwelling on the application area faces North East towards the Vermont Mountain range, taking access of Hemel & See Lane.

The application area is situated adjacent to similar type up-market, average to large double or single storey dwellings that function either as permanent residences or holiday houses. All properties to the rear and lateral sides of the application area are elevated due to the natural topography of the region. These properties generally offer excellent views toward the Vermont Mountain Range in a Northern direction, while providing minimum to fair views of the sea in a Southern direction.

The existing dwelling on the application area is characterized by residential structures comprising typical family style living accommodation. Due to the steep slope of the erf, the existing dwelling comprises both a lower ground floor and a ground floor level. The lower ground floor level, comprises an entrance foyer, a double garage, taking access from Hemel & See Lane, and two guest bedrooms each with its own en-suite bathroom. The ground floor level comprises a kitchen, living area, dining area, a guest bathroom, an enclosed braai stoep, and the main bedroom with an en-suite bathroom.

Refer to Annexures K and L for the enclosed drawings indicated the as-built dwelling along with the proposed new development on the application area.

The footprint of the existing dwelling on the application area along with the proposed new additions and alterations, as discussed later in this Departure Application Document, comprise the following:

#### **EXISTING FLOOR AREAS:**

##### **LOWER GROUND FLOOR COVERED AREA:**

Existing dwelling floor area	= 67.13m <sup>2</sup>
Existing double garage	= 41.49m <sup>2</sup>
Existing ground floor balcony at garage	= 1.72m <sup>2</sup>
<u>Total existing floor areas</u>	<u>= 110.34m<sup>2</sup></u>

##### **GROUND FLOOR COVERED AREA:**

Existing dwelling floor area	= 153.59m <sup>2</sup>
<u>Total existing floor areas</u>	<u>= 153.59m<sup>2</sup></u>

##### **GROUND FLOOR AREAS (NOT COVERED):**

Existing timber deck	= 20.78m <sup>2</sup>
Existing concrete balcony	= 5.49m <sup>2</sup>
<u>Total existing floor area (not covered)</u>	<u>= 26.27m<sup>2</sup></u>

**COVERAGE CALCULATIONS:**

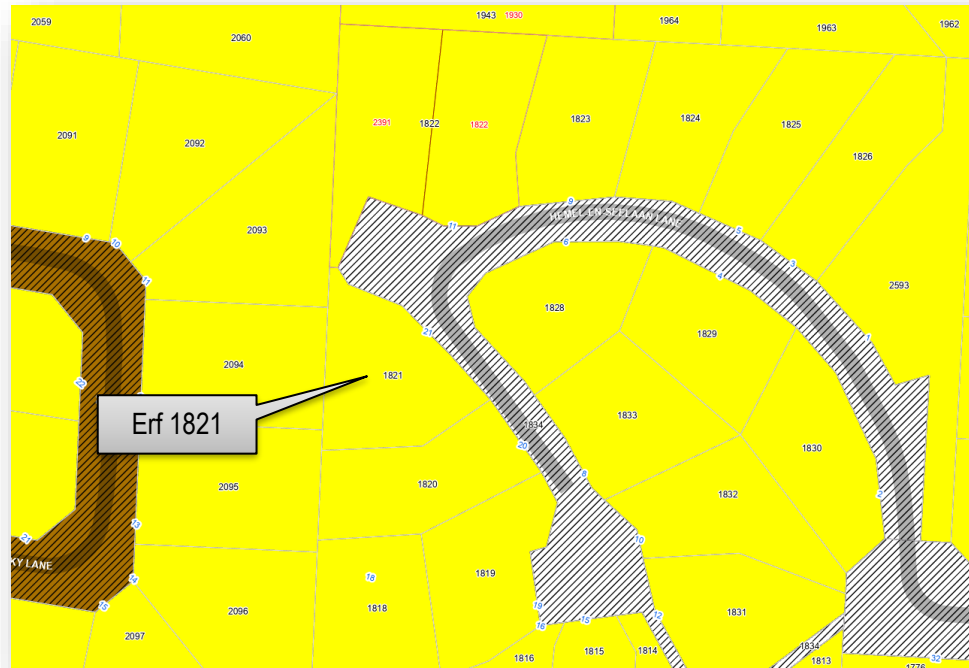
Erf size = 502.00m<sup>2</sup>  
Total covered area (m<sup>2</sup>) = 159.08m<sup>2</sup>  
Total covered area (%) = 31.69%

**1.3.2 ZONING:**

Erf 1821, the application area, has the following land use rights:

<b><u>Erf number:</u></b>	<b><u>Zoning:</u></b>
Erf 1821, Vermont	Residential Zone 1: Single Residential

All erven directly surrounding the application area are also zoned as Residential Zone 1: Single Residential erven, with the exception of the surrounding roadway zoned as Transport Zone 2: Road and Parking and Transport Zone 2: Road and Parking (Private). Please refer to the zoning map abstract provided below.



- Residential Zone 1: Single Residential
- Transport Zone 2: Road and Parking
- Transport Zone 2: Road and Parking (Private)

Figure 1: Zoning, an extract from the Overstand Public Viewer – NOT TO SCALE

1.3.3 **PROPERTY ANALYSIS AS PER THE OVERSTRAND MUNICIPALITY'S ZONING SCHEME REGULATIONS:**

The development parameters for the application area as per the Overstrand Municipality Land Use Scheme, 2020 can be summarized as follows:

Design parameters:		Overstrand Municipality's Zoning Scheme Regulations:	Proposal:	Comments:
<b>Zoning</b>		Residential Zone 1: Single Residential (SR1)	Residential Zone 1: Single Residential (SR1)	Unchanged
<b>Primary Use</b>		Crèche, dwelling house, guest rooms, home occupation, second dwelling unit and self - catering	Dwelling house	Unchanged
<b>Consent Use</b>		Day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and intensive horticulture	None	Unchanged
<b>Coverage</b>		50%	31.69%	Unchanged
<b>Height Restriction</b>		8.0m	8.0m	Unchanged
<b>Building lines</b>	<b>Street</b>	4.0m	3.7m	<b>Application for a departure</b>
	<b>Side</b>	2.0m	2.0m	Unchanged
	<b>Side</b>	2.0m	2.0m	Unchanged
	<b>Rear</b>	2.0m	2.0m	Unchanged
<b>Parking</b>		Dwelling house: 2 bays	Dwelling house: 2 bays	Unchanged

1.3.4 **PROPERTY ANALYSIS AS PER THE TITLE DEED OF THE APPLICATION AREA:**

Refer to Annexure C for the enclosed Title Deed for Erf 1821, Vermont.

Title Deed No. T000009482/2022 was perused and there are no restrictive conditions that prohibits the proposals being made.

1.3.5 **PROPERTY ANALYSIS AS PER THE HOME OWNER'S ASSOCIATION OF HEMEL & SEE:**

Refer to Annexure D for the enclosed Home Owner's Association consent letter.

## 2. CONTEXTUAL SITE INFORMATION:

### 2.1 LOCATION:

#### 2.1.1 APPLICATION AREA WITHIN A REGIONAL CONTEXT:

Within a regional context, the application area is located in the South-Western part of Vermont. Refer to Annexure H for the enclosed Locality layout.



Figure 2: Erf 1821 within a Regional Context, an extract from Google Maps – NOT TO SCALE

#### 2.1.2 APPLICATION AREA WITHIN A LOCAL CONTEXT:

Within a local context, the application area is situated within the residential development, Hemel & See at number 21 Hemel & See Lane.



Figure 3: Erf 1821 within a Local Context, an extract from the Overstrand Public Viewer – NOT TO SCALE

### 3. BACKGROUND AND INTRODUCTION TO THE APPLICATION AND THE ACTUAL APPLICATION:

#### 3.1 BACKGROUND AND INTRODUCTION TO THE APPLICATION:

Our firm, Engelbrecht & Scorgie Architectural Office, was appointed in late 2023 by Ms. N.I. Hickman to prepare drawings for a few renovations and alterations to the existing dwelling on Erf 1821. These renovations and alterations comprise the following:

- Replacing a section of the existing roof structure with a similar type flat roof structure. This decision comes in response to the existing roof's leakage and structural issues,
- Replacing some of the existing timber frame windows and sliding doors at ground floor level. This decision comes in response to the deterioration of the existing timber frame windows and doors,
- Renovating and refurbishing the existing kitchen, creating a better flow for usage,
- Renovating and refurbishing two of the existing en-suite bathrooms. One of these bathrooms is located on the lower ground floor, while the other one is situated on the ground floor.

Refer to Annexure K & L for the enclosed drawings indicated the as-built dwelling along with the proposed new development on the application area.

Given the irregular shape of Erf 1821 and the irregular shape of the existing dwelling on the subject erf, which complicates taking precise and accurate measurements to work with for the proposed new additions and alterations to the existing dwelling, we appointed Geomatics Africa Land Surveyors to place the existing dwelling in relation to the erf boundaries.

Upon receiving the Land Surveyor's diagram (refer to Annexure N for the enclosed Land Surveyor's diagram), we noted that during the initial construction of the dwelling in the year 1997, the dwelling was not positioned and constructed in accordance with the indicated setting-out dimensions provided on the subject approved building plans. The initial dwelling, indicated as a proposed new dwelling for Mr. and Ms. Muller, was intended to be constructed parallel with the A-H-G erf boundary lines measuring a total distance of 5.0m from the A-H-G erf boundary line to the outer wall of the dwelling. Refer to Annexure J for the enclosed previously approved drawings.

As the appointed firm responsible to further examine the above-mentioned incongruity, we made the **assumption** that the setting-out discrepancy may have arisen due to an inadvertent setting-out error made by the contractor appointed by the former property owner, Mr. & Ms. Muller, during the construction of the initial dwelling on the application area. This **assumption** is based on the irregular shape of the erf.

In addition to the Council Submission drawings for the above-mentioned proposed renovations and alterations to the existing dwelling on the application area, our services were then further expanded by preparing and submitting a Departure Application to rectify the above-mentioned discrepancies on behalf of our client, Ms. N.I. Hickman, and preparing and submitting an application for the determination of an Administrative Penalty for the incorrect placement of the as-built dwelling.

## 3.2 THE ACTUAL APPLICATION:

### 3.2.1 PERMANENT BUILDING LINE DEPARTURE APPLICATION:

As stated elsewhere in this Departure Application Document, the Overstrand Municipality's By-Laws on Municipal Land Use Planning, Chapter 4, Section 16(2)(b), 2020, state that an owner of an erf may apply to the Overstrand Municipality for a **permanent building line departure** from the provisions as stated in the Overstrand Municipality's Zoning Scheme Regulations; therefore, an application is made for:

#### 3.2.1.1 The relaxation of the Municipal Street Building Line from 4.0m to 3.7m:

The subject relaxation is necessary to accommodate:

- a minor portion of the existing double garage's footprint that encroaches the 4.0m Municipal Street Building Line. *The subject encroachment is **unauthorized** as a result of an inadvertent setting-out error during the construction of the initial dwelling on the application area,*
- a portion of the existing ground floor balcony that encroaches the subject building line. *The subject encroachment is **unauthorized** as a result of an inadvertent setting-out error during the construction of the initial dwelling on the application area.*

### 3.2.2 PERMISSION REQUIRED APPLICATIONS:

The Overstrand Municipality's By-Laws on Municipal Land Use Planning 2020, state that an owner of an erf may apply to the Overstrand Municipality for the permission required to make changes within previously approved structures that encroach Municipal Building Lines; therefore, an application is made for the permission required to replace only the deteriorated timber floor decking on the ground floor timber balcony that currently encroaches the 4.0m Municipal Street Building Line.

Refer to Annexure A for the enclosed Town Planning application form.

Refer to Annexure K and L for the enclosed drawings indicating the unauthorized, as built structures along with the new proposed additions and alterations to the existing dwelling on the application area.

### 3.2.3 DETERMINATION OF AN ADMINISTRATIVE PENALTY:

The Overstrand Municipality's amended By-laws on Municipal Land Use Planning, Chapter 10, Section 90, 2020, state that a person who is in contravention of this By-laws, and submits application to rectify the contravention, must apply to the Municipality for the **determination of an administrative penalty**; therefore, an application is made for the determination of an administrative penalty for the unauthorized, as-built structures constructed over the 4.0m Municipal Street Building Line, as highlighted throughout this Departure Application Document.

Refer to Annexure I for the enclosed administrative penalty application form.

### 3.2.3.1 BACKGROUND AND SUMMARY OF THE CONTRAVENTION:

As mentioned elsewhere in this Departure Application Document, our firm, Engelbrecht & Scorgie Architectural Office, was appointed in late 2023 by Ms. N.I. Hickman to prepare drawings for a few renovations and alterations to the existing dwelling on Erf 1821, the application area. Please refer to point 3.1 “*Background and introduction to the application*”.

Given the irregular shape of Erf 1821 and the irregular shape of the existing dwelling on the subject erf, which complicates taking precise and accurate measurements to work with for the proposed new additions and alterations to the existing dwelling, we appointed Geomatics Africa Land Surveyors to place the existing dwelling in relation to the erf boundaries.

Upon receiving the Land Surveyor’s diagram (refer to Annexure N for the enclosed Land Surveyor’s diagram), we noted that during the initial construction of the dwelling in the year 1997, the dwelling was not positioned and constructed in accordance with the indicated setting-out dimensions provided on the subject approved building plans. The initial dwelling, indicated as a proposed new dwelling for Mr. and Ms. Muller, was intended to be constructed parallel with the A-H-G erf boundary lines measuring a total distance of 5.0m from the A-H-G erf boundary line to the outer wall of the dwelling. Refer to Annexure J for the enclosed previously approved drawings.

Being the appointed firm responsible to further examine the above-mentioned incongruity, we made the **assumption** that the setting-out discrepancy may have arisen due to an inadvertent setting-out error made by the contractor appointed by the former property owner, Mr. & Ms. Muller, during the construction of the initial dwelling on the application area. This **assumption** is based on the irregular shape of the erf.

In line with the above-mentioned background and summary of the contraventions, the contraventions can be summarized as follows:

- A minor portion of the existing double garage’s footprint that encroaches the 4.0m Municipal Street Building Line. *The subject encroachment is **unauthorized** as a result of an inadvertent setting-out error during the construction of the initial dwelling on the application area.*
- A portion of the existing ground floor balcony that encroaches the 4.0m Municipal Street Building Line. *The subject encroachment is **unauthorized** as a result of an inadvertent setting-out error during the construction of the initial dwelling on the application area.*

### 3.2.3.2 NATURE, DURATION, GRAVITY AND EXTENT OF THE CONTRAVENTION:

As contemplated in the Overstrand Municipality’s amended By-laws on Municipal Land Use Planning, Chapter 10, Section 90, 2020, the following factors must be considered when determining an appropriate administrative penalty:

### **1. Nature of the unauthorized, as-built structures;**

The nature of the unauthorized, as-built structures is highlighted throughout this Departure Application Document, but can be summarized as follows:

- A minor portion of the existing double garage's footprint that encroaches the 4.0m Municipal Street Building Line.
- A portion of the existing ground floor balcony that encroaches the subject 4.0m Municipal Street Building Line

### **2. Duration of the unauthorized, as-built structures;**

As mentioned earlier in this Departure Application Document, the unauthorized, as-built structures on the application may have arisen due to an inadvertent setting-out error made by the contractor appointed by the former property owner, Mr. & Ms. Muller, during the construction of the initial dwelling on the application area. In the subsequent drawings submitted for proposed new additions and alterations to the existing dwelling by various other appointed Architects / Draughtsman over the years, a Land Surveyor was never appointed to accurately place the existing dwelling in relation to the Erf Boundaries. As a result of the above-mentioned failure to correctly indicate the accurate, as-built placement of the existing dwelling, the proposed new ground floor stoep for the former property owner, Mr. J.G Weir, which was submitted and approved in 2008 was inadvertently constructed over the 4.0m Municipal Street Building Line. Refer to Annexure J for the enclosed previously approved drawings.

With the above being said, our client, Ms. H.I. Hickman purchased the property in 2022 and was never served with a notice with regards to the transgression.

### **3. Gravity of the unauthorized, as-built structures;**

The gravity of the contravention is not considered serious insofar as its extent is limited to a footprint of 2.17m<sup>2</sup>. See the calculation provided below.

When determining the gravity of the unauthorized, as-built structures, it is important to take note that the unauthorized, as-built structures that currently encroach the 4.0m Municipal Street Building Line, constitute common residential components typically found on any residential property. With the above being said, it can be assured that the unauthorized, as-built structures are unobtrusive to adjacent property owners and any passersby, do not have a negative impact on the character of the area, do not have a negative impact on the environment, do not have a negative impact on the streetscape, and do not have a negative impact on any of the surrounding properties, as discussed and highlighted later in this Departure Application Document.

### **4. Extent of the unauthorized, as-built structures;**

The extent of the unauthorized, as-built structures calculates to a total of 2.17m<sup>2</sup>, refer to the calculation provided below:

- The minor portion of the existing double garage's footprint currently encroaching the 4.0m Municipal Street Building Line:  
= 0.041m<sup>2</sup>
- The portion of the existing ground floor balcony currently encroaching the 4.0m Municipal Street Building Line:  
= 2.13m<sup>2</sup>

**5. Conduct of the person involved in the contravention:**

As mentioned, and highlighted throughout this Departure Application Document, the footprint / portions of the existing dwelling that currently encroach over the 4.0m Municipal Street Building Line may have arisen due to an inadvertent setting-out error made by the contractor appointed by the former property owner, Mr. & Ms. Muller, during the construction of the initial dwelling on the application area. With this being said, the intention was never to knowingly contravene the provisions as stated in the Overstrand Municipality's Zoning Scheme Regulations.

**6. Whether the unlawful conduct was stopped:**

The unauthorized structures, as highlighted throughout this Departure Application Document, are as-built structures. The Overstrand Municipality did not stop the building work and has also not issued a notice with regards to the transgression.

Our client, Ms. N.I. Hickman is attempting to rectify the contravention by submitting the administration penalty application and subsequent departure application in order to legalize the contraventions, which, as mentioned elsewhere in this Departure Application, were not the wrongdoing of her but rather the appointed contractor who was appointed to construct the initial dwelling on the application area.

**7. Whether the person involved in the contravention has previously contravened this By-law or previous planning law:**

To the knowledge of this office, it is unknown whether the person involved in the contravention has previously contravened this By-Law or any other previous planning law.

**8. A report by a quantity surveyor in matters of the unauthorized building / construction work:**

Due to the small-scale nature of the encroachment, no Quantity Surveyor was appointed. Our firm, Engelbrecht & Scorgie Architectural Office, consulted with a local, reputable contractor to provide us with an estimating cost report on the unauthorized structures, at current building rates.

Refer to Annexure O for the enclosed costing report in matters of the unauthorized building / construction work.

### 3.2.3.3 **RECOMMENDATION FOR THE DETERMINATION OF THE ADMINISTRATIVE PENALTY:**

In light of the above assessment, it is requested that the administrative penalty be waived, as this application serves as a procedure to rectify the contraventions, which were not the wrongdoing of our client, Ms. N.I. Hickman, but rather the wrongdoing of the appointed contractor who was appointed to construct the initial dwelling on the application area.

## 4. **GENERAL:**

### 4.1 **CHARACTER OF THE ENVIRONMENT IN GENERAL:**

The application area is situated in the South-Western part of Vermont within the residential development, Hemel & See at number 21 Hemel & See Lane. Refer to Annexure H for the enclosed Locality Plan.

The Hemel & See residential development is known for its Cape traditional architecture, presented in a contemporary manner with white linear type walls, flat roof structures and an overall colour scheme of white and dark blue.

The application area is surrounded by similar type up-market, average to large double-storey dwellings all zoned as Single Residential even. These properties function either as permanent residences or holiday houses.

Due to the natural topography of this particular section of Vermont, all properties within the Hemel & See residential development, along with the other surrounding properties, are elevated with a steep gradient from North to South. The properties within the Hemel & See residential development as well as other surrounding properties generally offer excellent views towards the Vermont Mountain Range in a Northern direction, while providing minimum to fair views of the sea in a Southern direction.

### 4.2 **EFFECTS THAT THE UNAUTHORIZED, AS BUILT STRUCTURES WILL HAVE ON THE CHARACTER OF THE AREA, THE ENVIRONMENT, THE STREETScape, AND SURROUNDING PROPERTIES:**

When determining the effects that the unauthorized, as-built structures will have on the character of the area, the environment, the streetscape, and surrounding properties, it is important to take note of the following:

- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, constitute common residential components typically found on any residential property.
- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, do not have a greater visual impact than the existing dwelling on the application area,
- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, have been integral to the existing dwelling on the application area as the existing double garage has been in place for approximately 27 years and the existing ground floor balcony has been in place for 16 years

With the above being said, it can be assured that the unauthorized, as -built structures:

- Are unobtrusive to adjacent property owners and any passersby,
- Do not have a negative impact on the character of the area,

- Do not have a negative impact on the environment,
- Do not have a negative impact on the streetscape,
- Do not have a negative impact on any of the surrounding properties.

Refer to Annexure K and L for the enclosed drawings indicating the unauthorized, as built structures along with the new proposed additions and alterations to the existing dwelling on the application area.

#### **4.3 COMPATIBILITY AND IMPACT OF THE UNAUTHORIZED, AS-BUILT STRUCTURES ON IMMEDIATE SURROUNDING PROPERTIES:**

The compatibility and impact that the unauthorized, as-built structures will have on the immediate surrounding properties were assessed based on the following five factors:

- **Location and proximity:**  
The position and proximity of the affected surrounding property in relation to the application area.
- **Land use compatibility:**  
This comprise evaluating how well the unauthorized, as-built structures align with the existing zoning and the current land use in the area.
- **Views:**  
This comprises how the unauthorized, as-built structures might affect the visual landscape of the immediate surrounding properties.
- **Privacy:**  
This comprise evaluating how the unauthorized, as-built structures might affect the privacy of the immediate surrounding properties.
- **Gravity and visual aesthetics:**  
This comprise evaluating how the unauthorized, as-built structures will harmonize with the immediate surrounding properties.

The aerial photo below reveals the sole properties potentially affected by the proposed development on the application area, which are the following:



The impact on **privacy** resulting from the unauthorized, as-built structures on Erf 1821 in relation to the subject erf, Erf 1820, is considered negligible. This conclusion is based on the following three factors:

- As mentioned above, the unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line have been integral to the existing dwelling on the application area as the existing double garage has been in place for approximately 27 years and the existing ground floor balcony has been in place for 16 years.
- The current layout of the existing dwelling on Erf 1820 ensures that it lives out toward the North Eastern and North Western corners of the erf. With this being said, the unauthorized, as-built structures on the application area are located to the North of the subject erf, Erf 1820.
- The position of the existing dwelling on the application area ensures that the un-authorized, as-built structures are obscured from the subject erf, Erf 1820.

When assessing the **gravity** and **visual aesthetics** of the unauthorized, as-built structures, it is important to take note of the following:

- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, constitute **common residential components** typically found on any residential property.
- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, do not have a greater **visual impact** than the existing dwelling on the application area,

In summary, it can be assured that the **gravity** of the unauthorized, as-built structures is considered negligible, as this seamlessly integrate with the existing residential context and enhance the **visual aesthetics** of the neighborhood as a whole.

#### 4.3.2 Erf 1822, 11 Hemel & See Lane, Vermont:

Erf 1822 is **located** North of the application area and is currently one of the three vacant erven within the Hemel & See residential development. If the property owner decides to develop this land, the dwelling on the subject erf, Erf 1822 will stand as one of the farthest properties in close **proximity** to the existing dwelling on Erf 1821, the application area. The distance between these two subject properties surpasses that of any of the immediate surrounding properties, primarily due to Hemel & See Lane separating the subject two properties.

Erf 1822 is zoned as Residential Zone 1: Single Residential and is exclusively zoned for residential uses. The unauthorized, as built structures, as mentioned and highlighted throughout this Departure Application Document, are also for residential purposes and adhere to the relevant provisions outlined in the Overstrand Municipality's Amended By-Laws on Municipal Land Use Planning, 2020. Consequently, the above-mentioned structures on the application area align seamlessly with the existing **zoning** and the prevailing **land-use** within the area.

Due to the natural topography of this particular section of Vermont, all properties within the Hemel & See residential development, along with the other surrounding properties are all elevated with a steep gradient from North to South. If the property owner decides to develop this land, the dwelling can be designed in such a way that it enjoys uninterrupted Mountain views in a Northern direction and fair sea views in a Southern direction. With this being said, the unauthorized, as-built structures on the application area are located South West of Erf 1822, ensuring that it will not affect the existing views or alter the visual landscape for the property owners.

The impact on **privacy** resulting from the unauthorized, as-built structures on Erf 1821 in relation to the subject erf, Erf 1822, is considered negligible. This conclusion is based on the following three factors:

- As mentioned above, the unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line have been integral to the existing dwelling on the application area as the existing double garage has been in place for approximately 27 years and the existing ground floor balcony has been in place for 16 years.
- The subject erf, Erf 1822, is a vacant erf, and should the property owner decide to develop the land, the dwelling can be designed in such a way that their privacy is protected.
- Hemel & See Lane serves as the dividing boundary between the two erven, creating a distinct separation.

When assessing the **gravity** and **visual aesthetics** of the unauthorized, as-built structures, it is important to take note of the following:

- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, constitute **common residential components** typically found on any residential property.
- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, do not have a greater **visual impact** than the existing dwelling on the application area,

In summary, it can be assured that the **gravity** of the unauthorized, as-built structures is considered negligible, as this seamlessly integrate with the existing residential context and enhance the **visual aesthetics** of the neighborhood as a whole.

#### 4.3.3 Erf 1823, 9 Hemel & See Lane, Vermont:

Erf 1823 is **located** North East of the application area and is currently one of the three vacant erven within the Hemel & See residential development. If the property owner decides to develop this land, the dwelling on the subject erf, Erf 1823 will stand as one of the farthest properties in close **proximity** to the existing dwelling on Erf 1821, the application area. The distance between these two subject properties surpasses that of any of the immediate surrounding properties, primarily due to Hemel & See Lane separating the subject two properties and the vacant erf, Erf 1822, located to the West of the subject erf, Erf 1823.

Erf 1823 is zoned as Residential Zone 1: Single Residential and is exclusively zoned for residential uses. The unauthorized, as built structures, as mentioned and highlighted throughout this Departure Application Document, are also for residential purposes and adhere to the relevant provisions outlined in the Overstrand Municipality's Amended By-Laws on Municipal Land Use Planning, 2020. Consequently, the above-mentioned structures on the application area align seamlessly with the existing **zoning** and the prevailing **land-use** within the area.

Due to the natural topography of this particular section of Vermont, all properties within the Hemel & See residential development along with the other surrounding properties are all elevated with a steep gradient from North to South. If the property owner decides to develop this land, the dwelling can be designed in such a way that it enjoys uninterrupted Mountain views in a Northern direction and fair sea views in a Southern direction. With this being said, the unauthorized, as-built structures on the application area are located South West of Erf 1823, ensuring that it will not affect the existing views or alter the visual landscape for the property owners.

The impact on **privacy** resulting from the unauthorized, as-built structures on Erf 1821 in relation to the subject erf, Erf 1823, is considered negligible. This conclusion is based on the following three factors:

- As mentioned above, the unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line have been integral to the existing dwelling on the application area as the existing double garage has been in place for approximately 27 years and the existing ground floor balcony has been in place for 16 years.
- The subject erf, Erf 1823 is a vacant erf, and should the property owner decide to develop the land, the dwelling can be designed in such a way that their privacy is protected.
- Hemel & See Lane as well as the vacant erf, Erf 1822, located to the West of the subject erf, Erf 1823 serves as the dividing boundary between the two erven creating a distinct separation.

When assessing the **gravity** and **visual aesthetics** of the unauthorized, as-built structures, it is important to take note of the following:

- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, constitute **common residential components** typically found on any residential property.
- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, do not have a greater **visual impact** than the existing dwelling on the application area,

In summary, it can be assured that the **gravity** of the unauthorized, as-built structures is considered negligible, as this seamlessly integrate with the existing residential context and enhance the **visual aesthetics** of the neighborhood as a whole.

#### 4.3.4 Erf 1828, 6 Hemel & See Lane, Vermont:

Erf 1828 is **located** directly to the East of the Application area and comprises an existing dwelling that stands as one of the closest properties in **proximity** to the existing dwelling on Erf 1821, the application area. The proximity of the existing dwelling on Erf 1828 surpasses that of any of the immediate surrounding properties even though Hemel & See Lane serves as a dividing boundary between the subject two erven.

Erf 1828 is zoned as Residential Zone 1: Single Residential and is exclusively developed for residential uses. The unauthorized, as built structures, as mentioned and highlighted throughout this Departure Application Document, are also for residential purposes and adhere to the relevant provisions outlined in the Overstrand Municipality's Amended By-Laws on Municipal Land Use Planning, 2020. Consequently, the above-mentioned structures on the application area align seamlessly with the existing **zoning** and the prevailing **land-use** within the area.

Due to the natural topography of this particular section of Vermont, all properties within the Hemel & See residential development along with the other surrounding properties are all elevated with a steep gradient from North to South. The existing dwelling on Erf 1828 was designed to capture optimal mountain **views** in a Northern direction and fair sea **views** in a Southern direction. With this being said, the unauthorized, as-built structures on the application area are located to the West of Erf 1828, ensuring that it will not affect the existing views or alter the visual landscape for the property owners.

The impact on **privacy** resulting from the unauthorized, as-built structures on Erf 1821 in relation to the subject erf, Erf 1828, is considered negligible. This conclusion is based on the following three factors:

- As mentioned above, the unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line have been integral to the existing dwelling on the application area as the existing double garage has been in place for approximately 27 years and the existing ground floor balcony has been in place for 16 years.
- Hemel & See Lane serves as the dividing boundary between the two erven creating a distinct separation.
- The current layout of the existing dwelling on Erf 1828 ensures that it lives out toward the North and North Eastern corners of the erf. With this being said, the unauthorized, as-built structures on the application area is located to the West of the subject erf, Erf 1828.

When assessing the **gravity** and **visual aesthetics** of the unauthorized, as-built structures, it is important to take note of the following:

- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, constitute **common residential components** typically found on any residential property.
- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, do not have a greater **visual impact** than the existing dwelling on the application area,

In summary, it can be assured that the **gravity** of the unauthorized, as-built structures is considered negligible, as this seamlessly integrate with the existing residential context and enhance the **visual aesthetics** of the neighborhood as a whole.

#### 4.3.5 Erf 1833, 8 Hemel & See Lane, Vermont:

Erf 1833 is **located** South East of the application area and comprises an existing dwelling that stands as one of the farthest properties in close **proximity** to the existing dwelling on Erf 1821, the application area. The distance between these two subject properties surpasses that of any of the immediate surrounding properties. This is primarily due to Hemel & See Lane and the existing dwelling on Erf 1828, which is located to the North West of the subject erf separating the subject two properties.

Erf 1833 is zoned as Residential Zone 1: Single Residential and is exclusively developed for residential uses. The unauthorized, as built structures, as mentioned and highlighted throughout this Departure Application Document, are also for residential purposes and adhere to the relevant provisions outlined in the Overstrand Municipality's Amended By-Laws on Municipal Land Use Planning, 2020. Consequently, the above-mentioned structures on the application area align seamlessly with the existing **zoning** and the prevailing **land-use** within the area.

Due to the natural topography of this particular section of Vermont, all properties within the Hemel & See residential development along with the other surrounding properties are all elevated with a steep gradient from North to South. The existing dwelling on Erf 1833 was designed to capture optimal mountain **views** in a Northern direction and fair sea **views** in a Southern direction. With this being said, the unauthorized, as-built structures on the application area are located to the North West of Erf 1833, ensuring that it will not affect the existing views or alter the visual landscape for the property owners.

The impact on **privacy** resulting from the unauthorized, as-built structures on Erf 1821 in relation to the subject erf, Erf 1833, is considered negligible. This conclusion is based on the following three factors:

- As mentioned above, the unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line have been integral to the existing dwelling on the application area as the existing double garage has been in place for approximately 27 years and the existing ground floor balcony has been in place for 16 years.
- Hemel & See Lane, along with the existing dwelling on Erf 1828 located to the North West of the subject erf, Erf 1833 serves as the dividing boundary between the two erven creating a distinct separation.
- The current layout of the existing dwelling on Erf 1833 ensures that it lives out towards the North Eastern boundary of the erf. With this being said, the unauthorized, as-built structures on the application area is located to the West of the subject erf, Erf 1833.

When assessing the **gravity** and **visual aesthetics** of the unauthorized, as-built structures, it is important to take note of the following:

- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, constitute **common residential components** typically found on any residential property.
- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, do not have a greater **visual impact** than the existing dwelling on the application area,

In summary, it can be assured that the **gravity** of the unauthorized, as-built structures is considered negligible, as this seamlessly integrate with the existing residential context and enhance the **visual aesthetics** of the neighborhood as a whole.

#### 4.3.6 Erf 2093, 13 Milky Lane, Vermont:

Erf 2093 is **located** North West of the Application area and comprises an existing dwelling that stands as one of the closest properties in **proximity** to the existing dwelling on Erf 1821, the application area. The proximity of the existing dwelling on Erf 2093 surpasses that of any of the immediate surrounding properties.

Erf 2093 is zoned as Residential Zone 1: Single Residential and is exclusively developed for residential uses. The unauthorized, as built structures, as mentioned and highlighted throughout this Departure Application Document, are also for residential purposes and adhere to the relevant provisions outlined in the Overstrand Municipality's Amended By-Laws on Municipal Land Use Planning, 2020. Consequently, the above-mentioned structures on the application area align seamlessly with the existing **zoning** and the prevailing **land-use** within the area.

Due to the natural topography of this particular section of Vermont, all properties within the Hemel & See residential development along with the other surrounding properties are all elevated with a steep gradient from North to South. The existing dwelling on Erf 2093 was designed to capture optimal mountain **views** in a Northern direction with no chance of sea **views**. With this being said, the unauthorized, as-built structures on the application area are located to the South East of Erf 2093, ensuring that it will not affect the existing views or alter the visual landscape for the property owners.

The impact on **privacy** resulting from the unauthorized, as-built structures on Erf 1821 in relation to the subject erf, Erf 2093, is considered negligible. This conclusion is based on the following three factors:

- As mentioned above, the unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line have been integral to the existing dwelling on the application area

as the existing double garage has been in place for approximately 27 years and the existing ground floor balcony has been in place for 16 years.

- The 3.0m wide access servitude registered to the West of the application area serves as the dividing boundary between the two erven creating a distinct separation.
- The current dense vegetation located to the East of the subject erf, Erf 2093.

When assessing the **gravity** and **visual aesthetics** of the unauthorized, as-built structures, it is important to take note of the following:

- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, constitute **common residential components** typically found on any residential property.
- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, do not have a greater **visual impact** than the existing dwelling on the application area,

In summary, it can be assured that the **gravity** of the unauthorized, as-built structures is considered negligible, as this seamlessly integrate with the existing residential context and enhance the **visual aesthetics** of the neighborhood as a whole.

#### 4.3.7 Erf 2094, 12 Milky Lane, Vermont:

Erf 2094 is **located** West of the Application area and comprises an existing dwelling that stands as one of the closest properties in **proximity** to the existing dwelling on Erf 1821, the application area. The proximity of the existing dwelling on Erf 2094 surpasses that of any of the immediate surrounding properties.

Erf 2094 is zoned as Residential Zone 1: Single Residential and is exclusively developed for residential uses. The unauthorized, as built structures, as mentioned and highlighted throughout this Departure Application Document, are also for residential purposes and adhere to the relevant provisions outlined in the Overstrand Municipality's Amended By-Laws on Municipal Land Use Planning, 2020. Consequently, the above-mentioned structures on the application area align seamlessly with the existing **zoning** and the prevailing **land-use** within the area.

Due to the natural topography of this particular section of Vermont, all properties within the Hemel & See residential development along with the other surrounding properties are all elevated with a steep gradient from North to South. The existing dwelling on Erf 2094 was designed to capture optimal mountain **views** in a Northern direction with no chance of sea **views**. With this being said, the unauthorized, as-built structures on the application area are located to the South East of Erf 2094, ensuring that it will not affect the existing views or alter the visual landscape for the property owners.

The impact on **privacy** resulting from the unauthorized, as-built structures on Erf 1821 in relation to the subject erf, Erf 2094, is considered negligible. This conclusion is based on the following three factors:

- As mentioned above, the unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line have been integral to the existing dwelling on the application area as the existing double garage has been in place for approximately 27 years and the existing ground floor balcony has been in place for 16 years.
- The 3.0m wide access servitude registered to the West of the application area serves as the dividing boundary between the two erven creating a distinct separation.
- The current dense vegetation located to the East of the subject erf, Erf 2094.

- The position of the existing dwelling on the application area ensures that the un-authorized, as-built structures is obscure from the subject erf, Erf 2094.

When assessing the **gravity** and **visual aesthetics** of the unauthorized, as-built structures, it is important to take note of the following:

- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, constitute **common residential components** typically found on any residential property.
- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, do not have a greater **visual impact** than the existing dwelling on the application area,

In summary, it can be assured that the **gravity** of the unauthorizes, as-built structures is considered negligible, as this seamlessly integrate with the existing residential context and enhance the **visual aesthetics** of the neighborhood as a whole.

#### 4.3.8 Erf 2095, 11 Milky Lane, Vermont:

Erf 2095 is **located** South West of the Application area and comprises an existing dwelling that stands as one of the closest properties in **proximity** to the existing dwelling on Erf 1821, the application area. The proximity of the existing dwelling on Erf 2095 surpasses that of any of the immediate surrounding properties.

Erf 2095 is zoned as Residential Zone 1: Single Residential and is exclusively developed for residential uses. The unauthorized, as built structures, as mentioned and highlighted throughout this Departure Application Document, are also for residential purposes and adhere to the relevant provisions outlined in the Overstrand Municipality's Amended By-Laws on Municipal Land Use Planning, 2020. Consequently, the above-mentioned structures on the application area align seamlessly with the existing **zoning** and the prevailing **land-use** within the area.

Due to the natural topography of this particular section of Vermont, all properties within the Hemel & See residential development along with the other surrounding properties are all elevated with a steep gradient from North to South. The existing dwelling on Erf 2095 was designed to capture optimal mountain **views** in a Northern direction with no chance of sea **views**. With this being said, the unauthorized, as-built structures on the application area are located to the South East of Erf 2095, ensuring that it will not affect the existing views or alter the visual landscape for the property owners.

The impact on **privacy** resulting from the unauthorized, as-built structures on Erf 1821 in relation to the subject erf, Erf 2095, is considered negligible. This conclusion is based on the following three factors:

- As mentioned above, the unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line have been integral to the existing dwelling on the application area as the existing double garage has been in place for approximately 27 years and the existing ground floor balcony has been in place for 16 years.
- The 3.0m wide access servitude registered to the West of the application area serves as the dividing boundary between the two erven creating a distinct separation.
- The current dense vegetation located to the East of the subject erf, Erf 2095.
- The position of the existing dwelling on the application area ensures that the un-authorized, as-built structures is obscure from the subject erf, Erf 2095.

When assessing the **gravity** and **visual aesthetics** of the unauthorized, as-built structures, it is important to take note of the following:

- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, constitute **common residential components** typically found on any residential property.
- The unauthorized, as-built structures that currently exceed the 4.0m Municipal Street Building Line, do not have a greater **visual impact** than the existing dwelling on the application area,

In summary, it can be assured that the **gravity** of the unauthorized, as-built structures is considered negligible, as this seamlessly integrate with the existing residential context and enhance the **visual aesthetics** of the neighborhood as a whole.

#### **4.4 IMPACT OF THE UNAUTHORISED, AS-BUILT STRUCTURES:**

##### **4.4.1 Economic impact:**

The Overstrand Municipality's Land Zoning Scheme Regulations govern structures and the uses thereof on properties. The unauthorized, as-built structures on the application area, as highlighted throughout this Departure Application Document, form part of common residential components one would find on any typical residential erf. With this being said, the unauthorized, as-built structures on Erf 1821 add value to the property on the application area as well as the area in which it is located.

##### **4.4.2 Social impact:**

The unauthorized, as-built structures on Erf 1821 will have no impact on the social status of the area in which the application area is located, as no negative impact on the social wellbeing of the surrounding properties was anticipated. As mentioned elsewhere in the Departure Application Document, the above-mentioned structures are compatible with the character of the area and do not negatively impact the rights of any of the adjacent properties in the area.

##### **4.4.3 Compatibility with surrounding land uses:**

The application area is situated in an existing low-density residential area. The Departure Application does not pose to change the current zoning or the current land use of the application area, and therefore the current land use is compatible with the surrounding land uses.

As mentioned above, the surrounding properties are developed with single and double storey dwellings and the use of the surrounding properties is for permanent residences and holiday houses. The scale of the existing dwelling, and the scale of the unauthorized, as-built structures on the application area merge well with the scale of the surrounding dwelling in the immediate area.

##### **4.4.4 Impact on Municipal Engineering services:**

All services on the application area already exist.

The unauthorized, as-built structures on the application area have no negative impact on the usage of the existing available municipal services, such as electricity, water, or sewerage, since no additional loading of the existing municipal services is needed.

#### 4.4.5 **Impact on health, safety and the wellbeing on the surrounding community:**

The unauthorized, as-built structures on the application area have no impact on the general safety and wellbeing of the surrounding community.

#### 4.4.6 **Impact on heritage and heritage value:**

Erf 1821, the application area, is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality's Heritage Overlay Zone, has no grading, and has no heritage value.

#### 4.4.7 **Impact on traffic, parking and access:**

Access to the existing garage established on the application area will remain unchanged.

The land use of the property will remain the same and therefore the impact on the traffic flow and parking in the area will remain unchanged.

## 5 **PLANNING PRINCIPLES**

Policies, principles, planning, development norms, and criteria as set out in Section 42 of the Spatial Planning and Land Use management Act (SPLUMA) and Chapter VI of the Land Use Planning Act (LUPA) were considered and the proposed Departure Application is in compliance with this. The principles are defined and recorded below:

### 5.1.1 **Spatial justice:**

Spatial justice refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access to opportunities, facilities, services, and land. In the broadest sense, it seeks to promote the integration of communities and the creation of settlements that allow the poorest of the poor to access opportunities.

The primary objective of this application is to enable the owner of Erf 1821, the application area, to legalize and rectify the unauthorized, as-built structures and the proposed new additions and alterations to the application area. With this being said, it is important to note that it is not predicted that the unauthorized, as-built structures along with the proposed new development on the application area is set to influence past spatial injustices.

### 5.1.2 **Spatial sustainability**

Spatial sustainability refers to a sustainable form of development. This means promoting less resource consuming development typologies that promote compaction, pedestrianization and mixed-use urban environments which allow for the development of a functional public transport system and space economy.

The proposed Departure Application intends to ensure that the property on the application area is utilized to its maximum capabilities.

### 5.1.3 **Efficiency**

Efficiency refers to the need to create settlements that optimize the use of space, energy, infrastructure, resources, and land.

The proposed Departure Application, as mentioned above, is intended to logically maximize the use of space of the subject property within a developed residential area.

#### 5.1.4 **Spatial resilience**

Spatial resilience in the context of land use planning refers to the need to promote the development of sustainable livelihoods for the poor (i.e. communities that are more likely to suffer the impacts of economic and environmental shocks). Spatial resilience also refers to the requirement for flexibility in spatial plans, policies, and land use management systems to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks. The spatial plans, policies and land use management systems should enable the communities to be able to resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner, which includes the preservation and restoration of essential basic infrastructure and functions, but also adaption in order to ensure increased resilience in terms of future shocks.

With the above being said, we are of the opinion that the principle of Spatial Resilience is not applicable to this Departure Application.

#### 5.1.5 **Good administration**

Good administration in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role-players ensure a joint planning approach is pursued. Furthermore, it is critical that decisions made in terms of land use planning seek to minimize the negative financial, social, economic, and environmental impacts of a development. Furthermore, good administration in the context of land use planning, refers to a system which is efficient, well run, and where the timeframe requirements are adhered to.

Engelbrecht & Scorgie Architectural Office:

Our Company 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 Departure Application will follow due process as stipulated in the relevant Municipal By-Laws and related provincial and national land use planning legislation. All measures will be taken to ensure and efficient and streamlines process within the applicable timeframes as stipulated by the Overstrand Municipality's By-Laws on Municipal Land Use Planning, 2020.

Overstrand Municipality:

The Overstrand Municipality has a credible track record of good administration regarding the method of public participation, as this forms an integral part of the land use planning process. This process provides people who may be affected by the proposal with an opportunity to provide their comments and to raise any possible issued of concern about the proposal or make possible suggestions that may result in an enhanced outcome of which both the affected parties will benefit from as these comments will be reviewed and considered after which it will be addressed accordingly.

## 6 **FORWARD PLANNING**

The Overstrand Spatial Development Framework, 2020, earmarks the area where Erf 1821, the application area, is situated, for urban development purposes. The unauthorized, as-built structures, along with the proposed new structures for which the Departure Application is required, form part of any typical residential component and the Overstrand Municipality's Zoning Scheme Regulations make provision for departure procedures to incorporate structures within the building line zones.

The character and zoning of the application area will remain unchanged and therefore the property falls within the existing planning of the Vermont area.

With the above being said, it is therefore recommended that the application be approved in terms of the Overstrand Municipality's Amended By-Lay on Municipal Land Use Planning, 2020.

Your sincerely

---

BRANDON SCORGIE  
**for Engelbrecht & Scorgie Architectural Office.**

**AREA CALCULATIONS:**

**LOWER GROUND FLOOR COVERED AREA**

Existing dwelling floor area = 67.13m<sup>2</sup>  
 Existing double garage = 41.49m<sup>2</sup>  
 Ext. ground floor car/bicycle balcony of garage = 1.72m<sup>2</sup>  
**Total existing floor area = 110.34m<sup>2</sup>**

**GROUND FLOOR COVERED AREA**

Existing dwelling floor area = 153.59m<sup>2</sup>  
**Total existing floor area = 153.59m<sup>2</sup>**

**GROUND FLOOR NOT COVERED AREA**

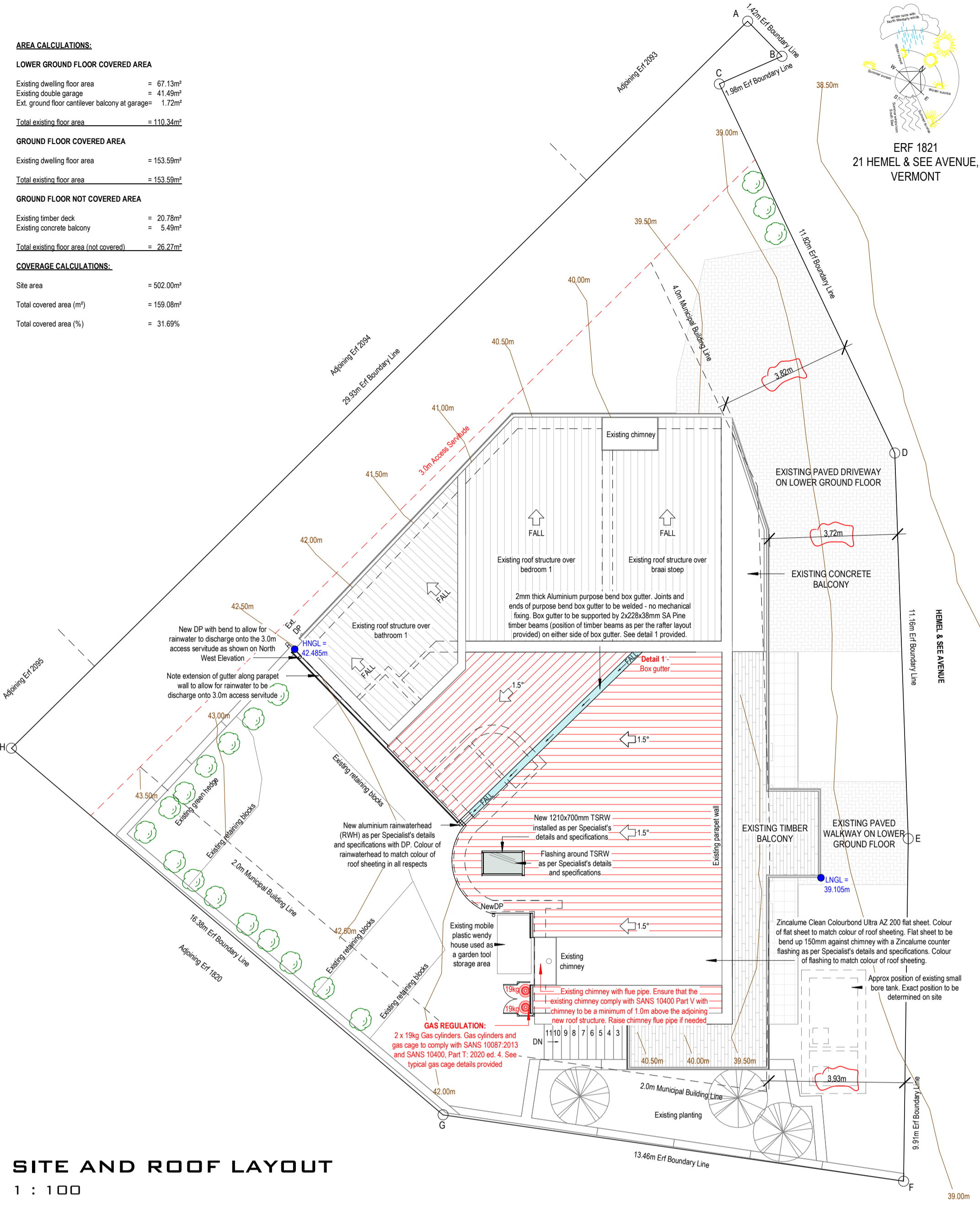
Existing timber deck = 20.78m<sup>2</sup>  
 Existing concrete balcony = 5.48m<sup>2</sup>  
**Total existing floor area (not covered) = 26.27m<sup>2</sup>**

**COVERAGE CALCULATIONS:**

Site area = 502.00m<sup>2</sup>  
 Total covered area (m<sup>2</sup>) = 159.08m<sup>2</sup>  
 Total covered area (%) = 31.69%

**SITE AND ROOF LAYOUT**

1 : 100



**ROOF SPECIFICATION 1:**

R Value Required = 3.700

Outside air film = 0.300  
 Double roof sheathing = +0.600  
 Double sided Radsheild = +1.500  
 100mm thick Knauf Ecosse Mineral wool insulation = +2.500  
 6.4mm thick Gypsum ceiling board - 3mm thick skimmed = +0.545  
 Indoor air film = 0.110

**R Value achieved = 4.545 - COMPLY**

**NEW ROOF STRUCTURE OVER LIVING AREA AND DINING AREA:**  
 Diamondek 407 concealed fix metal roof sheathing Clean Colourbond Ultra A2200 (colour of roof sheathing to match existing in all respects) at 1.5° roof pitch onto 25x50mm SA Pine timber spacers fixed to underside of roof sheathing as per Roof Specialist's details and specifications onto 75x50mm SA Pine timber purins fixed to underside of SA Pine timber spacers as per Roof Specialist's details and specifications onto double 2x228x38mm SA Pine timber rafters (spacing of SA Pine roof rafters as per the provided rafter layout). Roof rafters fixed to existing brockwork / timber beams (refer to detailed layout provided) with hot dipped galv. mild steel truss hangers as per Structural Engineer's details and specifications. Allow for a 38x38mm SA Pine timber batten structure suspended from roof rafters as per Roof Specialist's details and specifications. Batten spacing not to exceed 300mm C/C. Underside of ceiling board to be skimmed smooth and painted as per client. Allow for a 100mm thick Knauf Mineral Wool insulation blanket and double sided Radsheild between timber spacers and timber purins as shown. **SEE ROOF SPECIFICATION 1.**

**NEW ROOF STRUCTURE OVER SECTION OF NEW KITCHEN:**  
 Diamondek 407 concealed fix metal roof sheathing Clean Colourbond Ultra A2200 (colour of roof sheathing to match existing in all respects) at 1.5° roof pitch onto 25x50mm SA Pine timber spacers fixed to underside of roof sheathing as per Roof Specialist's details and specifications onto 75x50mm SA Pine timber purins fixed to underside of SA Pine timber spacers as per Roof Specialist's details and specifications onto 228x38mm SA Pine timber rafters (spacing of SA Pine roof rafters as per the provided rafter layout). Roof rafters fixed to existing brockwork / timber beams (refer to detailed layout provided) with hot dipped galv. mild steel truss hangers as per Structural Engineer's details and specifications. Allow for a 38x38mm SA Pine timber batten structure suspended from roof rafters as per Roof Specialist's details and specifications. Batten spacing not to exceed 300mm C/C. Underside of ceiling board to be skimmed smooth and painted as per client. Allow for a 100mm thick Knauf Mineral Wool insulation blanket and double sided Radsheild between timber spacers and timber purins as shown. **SEE ROOF SPECIFICATION 1.**

**NEW ROOF STRUCTURE OVER STAIRCASE:**  
 Diamondek 407 concealed fix metal roof sheathing Clean Colourbond Ultra A2200 (colour of roof sheathing to match existing in all respects) at 1.5° roof pitch onto 25x50mm SA Pine timber spacers fixed to underside of roof sheathing as per Roof Specialist's details and specifications onto 75x50mm SA Pine timber purins fixed to underside of SA Pine timber spacers as per Roof Specialist's details and specifications onto 228x38mm SA Pine timber rafters (spacing of SA Pine roof rafters as per the provided rafter layout). Roof rafters fixed to existing brockwork / timber beams (refer to detailed layout provided) with hot dipped galv. mild steel truss hangers as per Structural Engineer's details and specifications. Allow for a 38x38mm SA Pine timber batten structure suspended from roof rafters as per Roof Specialist's details and specifications. Batten spacing not to exceed 300mm C/C. Underside of ceiling board to be skimmed smooth and painted as per client. Allow for a 100mm thick Knauf Mineral Wool insulation blanket and double sided Radsheild between timber spacers and timber purins as shown. **SEE ROOF SPECIFICATION 1.**

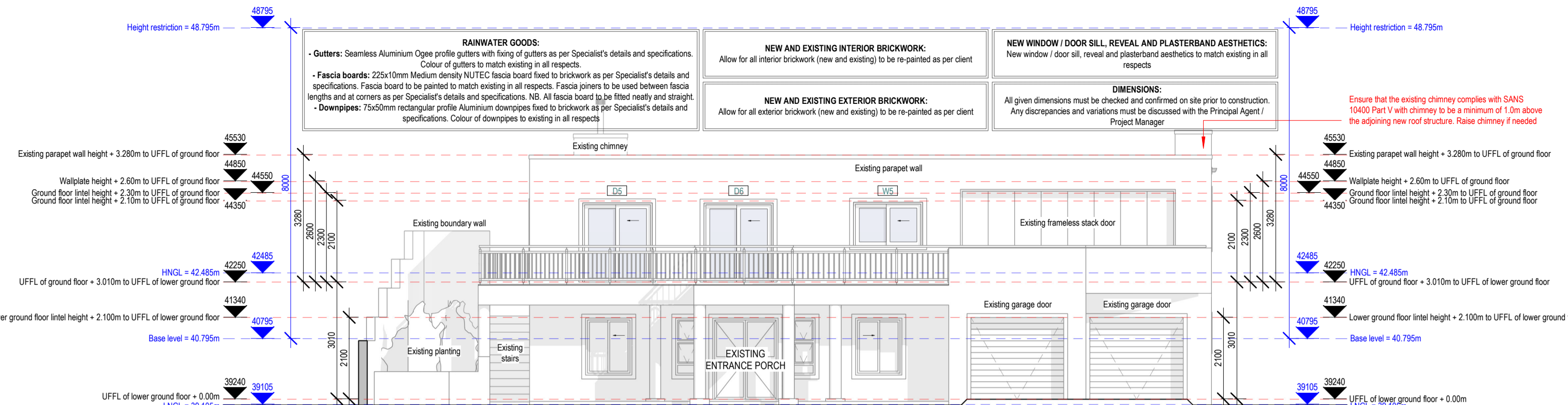
**NEW ROOF STRUCTURE OVER SECTION OF NEW KITCHEN AND QUEST BATHROOM:**  
 Diamondek 407 concealed fix metal roof sheathing Clean Colourbond Ultra A2200 (colour of roof sheathing to match existing in all respects) at 1.5° roof pitch onto 25x50mm SA Pine timber spacers fixed to underside of roof sheathing as per Roof Specialist's details and specifications onto 75x50mm SA Pine timber purins fixed to underside of SA Pine timber spacers as per Roof Specialist's details and specifications onto 228x38mm SA Pine timber rafters (spacing of SA Pine roof rafters as per the provided rafter layout). Roof rafters fixed to existing brockwork / timber beams (refer to detailed layout provided) with hot dipped galv. mild steel truss hangers as per Structural Engineer's details and specifications. Allow for a 38x38mm SA Pine timber batten structure suspended from roof rafters as per Roof Specialist's details and specifications. Batten spacing not to exceed 300mm C/C. Underside of ceiling board to be skimmed smooth and painted as per client. Allow for a 100mm thick Knauf Mineral Wool insulation blanket and double sided Radsheild between timber spacers and timber purins as shown. **SEE ROOF SPECIFICATION 1.**

**NEW AND EXISTING INTERIOR BRICKWORK:**  
 Allow for all interior brickwork (new and existing) to be re-painted as per client

**NEW AND EXISTING EXTERIOR BRICKWORK:**  
 Allow for all exterior brickwork (new and existing) to be re-painted as per client

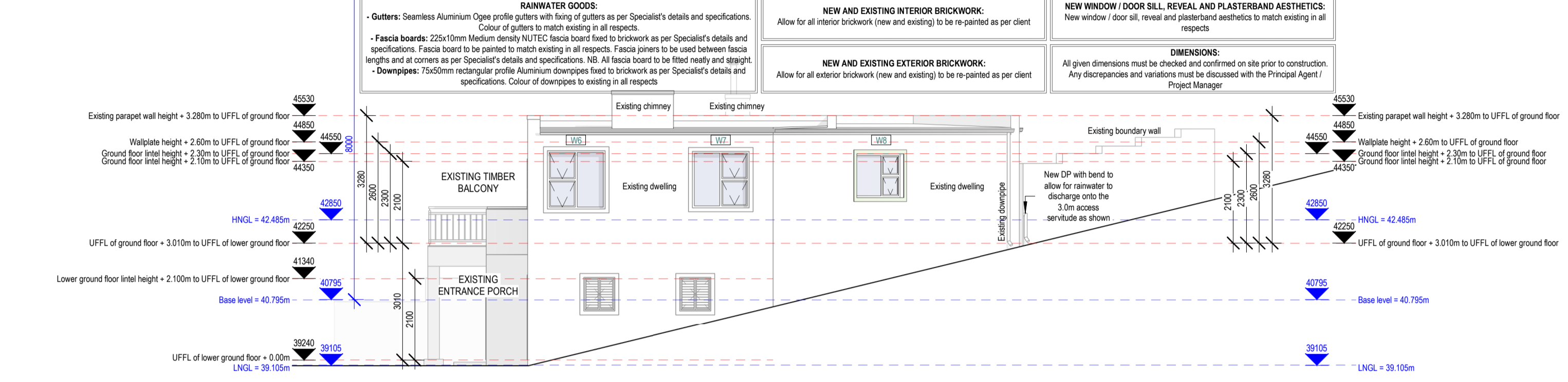
**DIMENSIONS:**  
 All given dimensions must be checked and confirmed on site prior to construction. Any discrepancies and variations must be discussed with the Principal Agent / Project Manager

**RAINWATER GOODS:**  
 - Gutters: Seamless Aluminium Ogee profile gutters with fixing of gutters as per Specialist's details and specifications. Colour of gutters to match existing in all respects.  
 - Fascia boards: 225x10mm Medium density NUTEC fascia board fixed to brockwork as per Specialist's details and specifications. Fascia board to be painted to match existing in all respects. Fascia joiners to be used between fascia lengths and at corners as per Specialist's details and specifications. NB. All fascia board to be fitted neatly and straight.  
 - Downpipes: 75x50mm rectangular profile Aluminium downpipes fixed to brockwork as per Specialist's details and specifications. Colour of downpipes to existing in all respects.



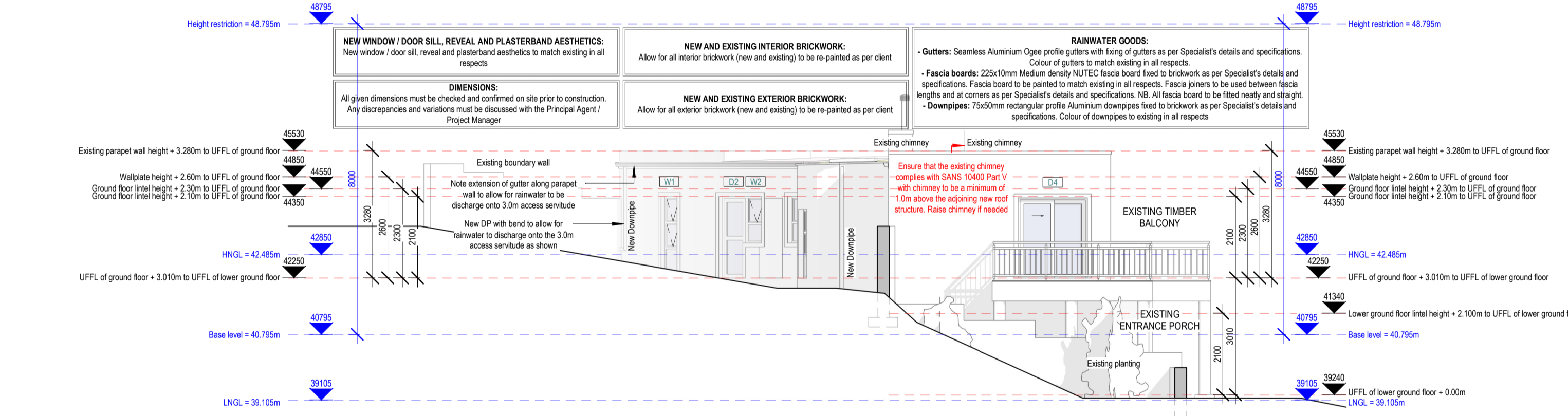
**NORTH WEST ELEVATION**

1 : 100



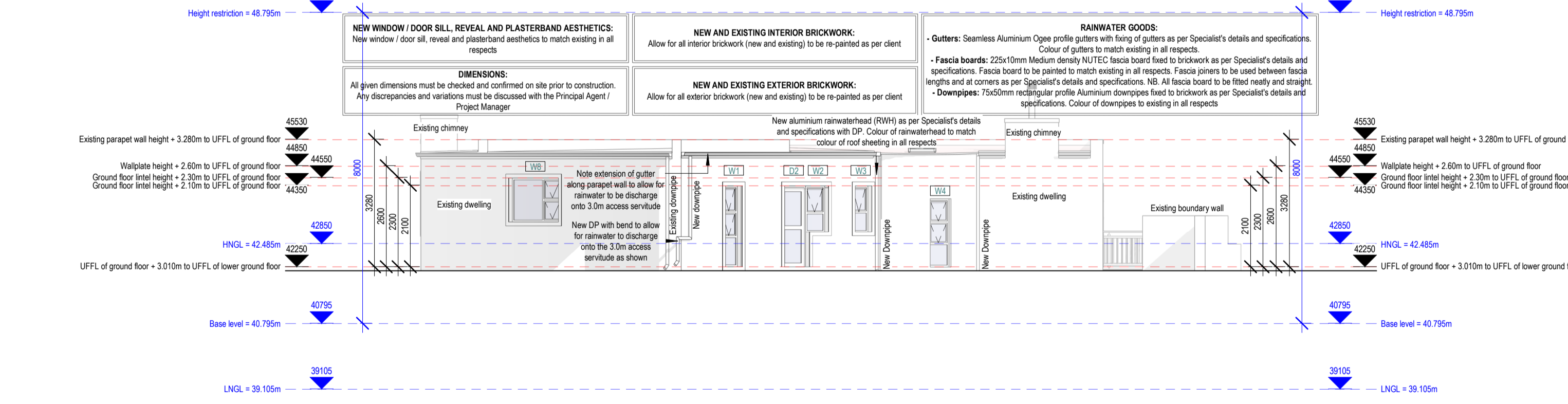
**NORTH EAST ELEVATION**

1 : 100



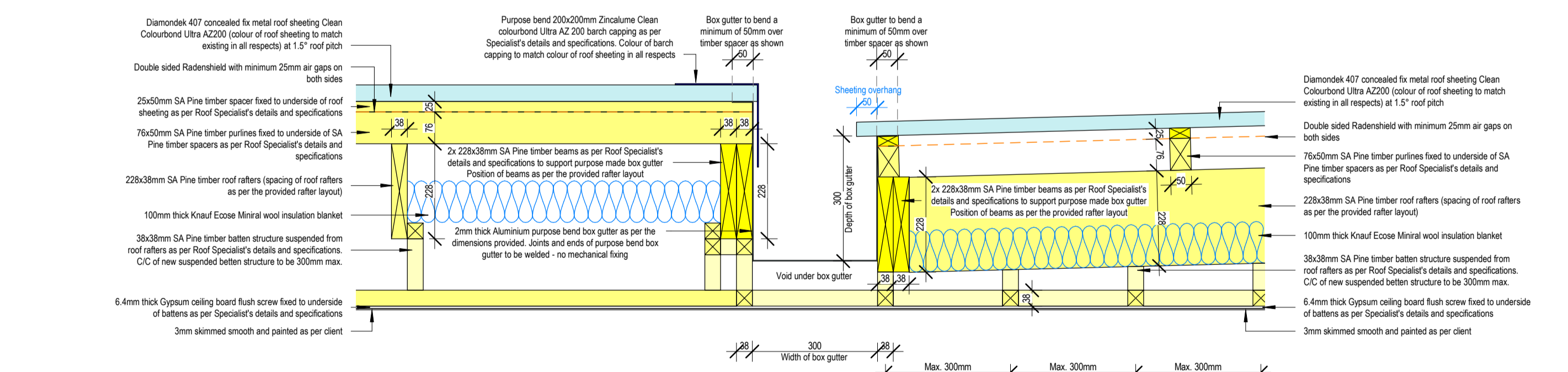
**SOUTH WEST ELEVATION**

1 : 100



**SOUTH EAST ELEVATION**

1 : 100



**DETAIL 1 - PURPOSE MADE BOX GUTTER**

1 : 10

**NOTES:**

1. Diamondek 407 concealed fix metal roof sheathing Clean Colourbond Ultra A2200 (colour of roof sheathing to match existing in all respects) at 1.5° roof pitch onto 25x50mm SA Pine timber spacers fixed to underside of roof sheathing as per Roof Specialist's details and specifications onto 75x50mm SA Pine timber purins fixed to underside of SA Pine timber spacers as per Roof Specialist's details and specifications onto double 2x228x38mm SA Pine timber rafters (spacing of SA Pine roof rafters as per the provided rafter layout). Roof rafters fixed to existing brockwork / timber beams (refer to detailed layout provided) with hot dipped galv. mild steel truss hangers as per Structural Engineer's details and specifications. Allow for a 38x38mm SA Pine timber batten structure suspended from roof rafters as per Roof Specialist's details and specifications. Batten spacing not to exceed 300mm C/C. Underside of ceiling board to be skimmed smooth and painted as per client. Allow for a 100mm thick Knauf Mineral Wool insulation blanket and double sided Radsheild between timber spacers and timber purins as shown. **SEE ROOF SPECIFICATION 1.**

**MUNICIPAL APPROVAL:**

1. 11-07-2023  
 2. Revised plans issued to client  
 3. Revised layout as discussed with client  
 4. Revised sketch plans as per Brandon's meeting with clients on 22-02-2024  
 5. Council submission drawings 03-04-2024  
 6. Additional specifications 08-04-2024  
 7. Electrical Layout and additional specifications 02-05-2024

**ENGELBRECHT & SCORGIE**  
 ARCHITECTURAL OFFICE

48 Main Rd, Oranui River • PO Box 181 • Oranui River 7201  
 Tel 028 316 3294 • Fax 028 316 2200 • archoffice@maxitec.co.za  
 Members: G Engelbrecht & B Scorgie  
 CK 2003/026839/23

Rev	Description	Date
1	Sketch plans issued to client	11-07-2023
2	Revised layout as discussed with client	05-02-2024
3	Window and door at kitchen	05-02-2024
4	Revised sketch plans as per Brandon's meeting with clients on 22-02-2024	25-02-2024
5	Council submission drawings	03-04-2024
6	Additional specifications	08-04-2024
7	Electrical Layout and additional specifications	02-05-2024

archoffice@maxitec.co.za

DRAWN BY: Liz-Marie Smit  
 CHECKED BY: Brandon Scorgie

PROJECT: Additions and alterations

CLIENT: Ms. N. Hickman  
 ADDRESS: 21 HEMEL & SEE AVENUE, VERMONT  
 ERF: 1821

PAGE DESCRIPTION: ROOF LAYOUT & ELEV. PROJECT AND PAGE NUMBER: J1206; A1-01

DATE: 02-05-2024 SCALE: As indicated REVISION: 7

This drawing and design is subject to copyright and must not be reproduced in part or in whole without prior written consent. Contractors must verify all dimensions on site before commencing work or preparing shop drawings.