



ERF 1890, 12 TERRAVERT CLOSE, VERMONT: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF KA & VM JACKSON

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 eastern lateral building line from 2m to 1m and 1,5m to accommodate the existing tandem garage and 1m high brick balustrade of the existing balcony above the existing garage, and garden shed respectively.
- **departure** in terms of Section 16(2)(b) to relax the western lateral building line from 2m to 1m and 1,8m respectively to accommodate the existing fireplace with chimney and existing dwelling.
- **departure** in terms of Section 16(2)(b) to relax the rear building line from 2m to 1,2m to accommodate the existing garden shed.
- **determination of an administrative penalty** in terms of Section 16(2)(q) for unauthorised building line encroachments to accommodate the existing as-built structures on the property.

Full detail regarding the proposal is available for inspection during weekdays between 08:00 and 16:30 at the Department: Town and Spatial Planning at 16 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 / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before **25 October 2024**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to **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 and Spatial Planning Department where a municipal official will assist them in order to formalize their comment.

ERF 1890, TERRAVERTSLOT 12, VERMONT: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: PLAN ACTIVE STADS- EN STREEKBEPLANNERS NAMENS KA & VM JACKSON

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 oostelike syboullyn vanaf 2m na 1m en 1,5m te verslap om onderskeidelik die bestaande tandem-motorhuis en die 1m hoë baksteen balustrade van die bestaande balkon bo-op die bestaande motorhuis, en die tuinskuur te akkommodeer.
- **afwyking** ingevolge Artikel 16(2)(b) om die westelike syboullyn onderskeidelik vanaf 2m na 1m en 1,8m te verslap om die bestaande kaggel met skoorsteen en bestaande woonhuis te akkommodeer.
- **afwyking** ingevolge Artikel 16(2)(b) om die agterboullyn vanaf 2m na 1,2m te verslap om die bestaande tuinskuur te akkommodeer.
- **bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) vir ongemagtigde boulynoorskredings om die bestaande strukture op die eiendom te akkommodeer.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stads- en Streekbeplanning, 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 / (f) 0283132093 / (e) loretta@overstrand.gov.za) voor of op **25 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 **Mnr. H Olivier** at 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 Stads- en Streekbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

ISIZA ESINGU-ERF 1890, 12 TERRAVERT CLOSE, VERMONT: ISICELO SOKWAHLULA NENGQIKELELO YOMDLIWO WOBHALISO: NGABAKWAPLAN ACTIVE TOWN & REGIONAL PLANNERS EGAMENI LIKA- KA & VM JACKSON

Kukhutshwe isaziso esimayela nemiba yeSoloty lama-48 loMthethwana kaMasipala wase-Overstrand Osisihlomelo NgeziCwangciso zokuSetyenziswa koMhlaba kaMasipala ku2020 isaziso esi sifunyenweyo singale miba ilandelayo:

- **ukwahlula** ngokwesoloty le16(2)(b) ukunyenisa umgca wesakhwo omelene nesakhiwo kwicala elisempuma ukusuka kwiimitha ezi-2m ukuya kwi-1m ne-1,5m ukulungiselela igaraji yebhayisekile eyakhiwe ngezitena ekuphakama kuyimitha nereyile yezitena ekwibhalkhoni ephezu kwegaraji esele ikhona, neshedi esegadini ngaxeshanye.
- **ukwahlula** ngokwesoloty le16(2)(b) ukunyenisa umgca wesakhiwo kwicala elisentshona omelene nomgca ozimitha ezi-2m ukuya kwi-1m ne-1,8m ngokufanayo ukulungiselela indawo yokubasa umlilo netshimini esele ikhona nendawo yokuhlala kwindawo esele ikhona.
- **ukwahlula** ngokwesoloty le16(2)(b) ukunyenisa umgca wesakhiwo kwicala elingasemva komgca wesakhiwo ukusuka kwiimitha ezi-2m ukuya kwi-1,2m ukulungiselela ished i esele ikhona egadini.
- **ingqikelelo yomdlivo wobhaliso** ngokwemiba yeSoloty le16(2)(q) lomgca wesakhiwo ophumela ngaphaya komgca wesakhiwo ngagunyaziswanga nongekho emthethweni ukulungiselela izakhiwo esele zikhona kwesi siza.

Iinkcukacha ezipheleleyo mayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini ukusukela kwiintsuku ye-08:00 neye-16:30 kwiSebe: Izicwangcis ngeDolophu neNdawo kwa-16 Paterson Street, Hermanus. Naziphi na izimvo zingangeniswa kwaMasipala ngokwezibonelelo zeSoloty lama-51 nelama-52 loMthethwana ochazwe ngentla (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ngomhla okanye ngaphambi komhla wama-**25 Okthobha 2024**, uchaze igama lakho, idilesi neenkukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zakho zokuhlomla. Imibuzo ingathunyelwa ku**Mnu. H Olivier** kwa-028-313 8900. UMasipala angala ukwamkela izimvo ezifike emva komhla wokuhlomla. Nabani na ongakwazi ukufunda nokubhala angaya kwiSebe LeziCwangciso zeDolophu neNdawo apho igosa likamasipala liza kumnceda ukuhlomla ngokusemthethweni.

- **DETERMINATION OF AN ADMINISTRATIVE PENALTY**
 - **BUILDING LINE DEPARTURE**
ERF 1890 VERMONT
OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. **BACKGROUND**

Plan Active Town & Regional Planners has been retained by Mr. K.A. Jackson and Mrs. V.M. Jackson, the owners of Erf 1890 Vermont, to submit an application for an administrative penalty and a building line departure for the subject property.

The property in question includes a double-storey residence with a tandem garage and a garden shed. The original building plans for the dwelling and carport were approved in 1997, following the approval of a building line departure that allowed the carport to be erected 1 meter from the lateral boundary line. This approval was subject to the following condition:

“That the carport be single storey and that no veranda or second storey be erected within the area exceeding the building line.”

After construction, the carport was enclosed and fitted with a timber garage door, effectively converting it into a tandem garage. Additionally, a garden shed was constructed, and the final positioning of the dwelling differed from the location indicated in the approved building plan. Specifically, the dwelling is situated 1.8 meters from the western lateral boundary, with the chimney breast located 1 meter from the same boundary.

Mr. and Mrs. Jackson purchased the property in 2018, unaware that the approved carport had been altered into a tandem garage without an updated building plan, that the garden shed lacked approval, and that the house was incorrectly positioned on the erf. They now intend to sell the property and have sought approved building plans. Upon review, and with the assistance of architect Mr. Les Abbott, they discovered these discrepancies and now wish to address and formalize them.

The current proposal seeks to address the building line encroachments and requests approval to retain the existing dwelling, garage, and garden shed in their current positions and for their intended uses.

2. APPLICATION DETAILS

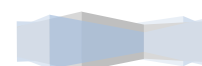
The application is submitted in accordance with:

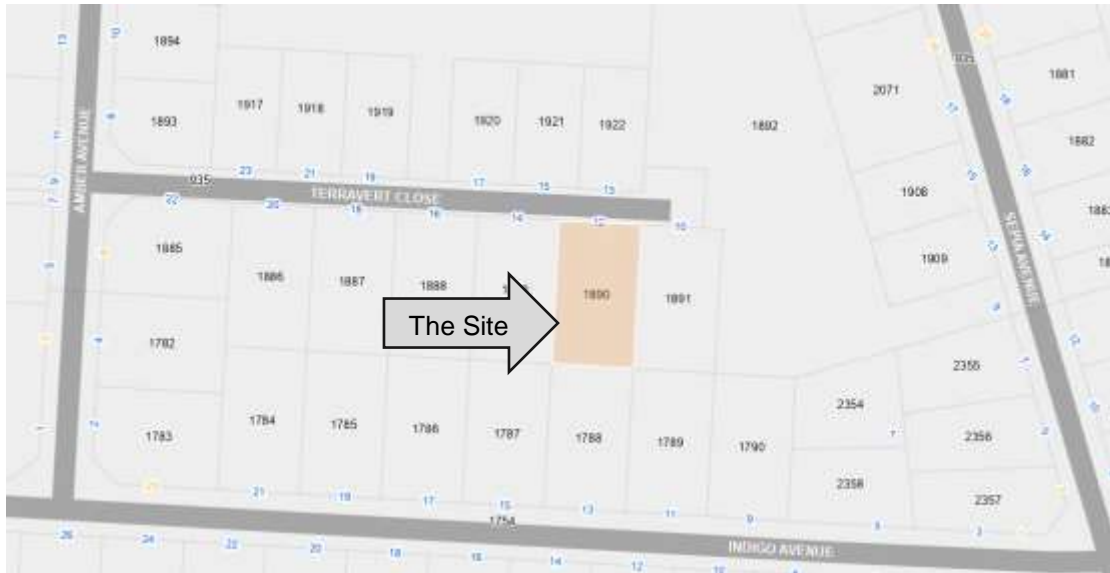
- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an administrative penalty for Erf 1890 Vermont.
- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for building line departures applicable to Erf 1890 Vermont.

3. NEED AND DESIRABILITY

3.1 PROPERTY DESCRIPTION

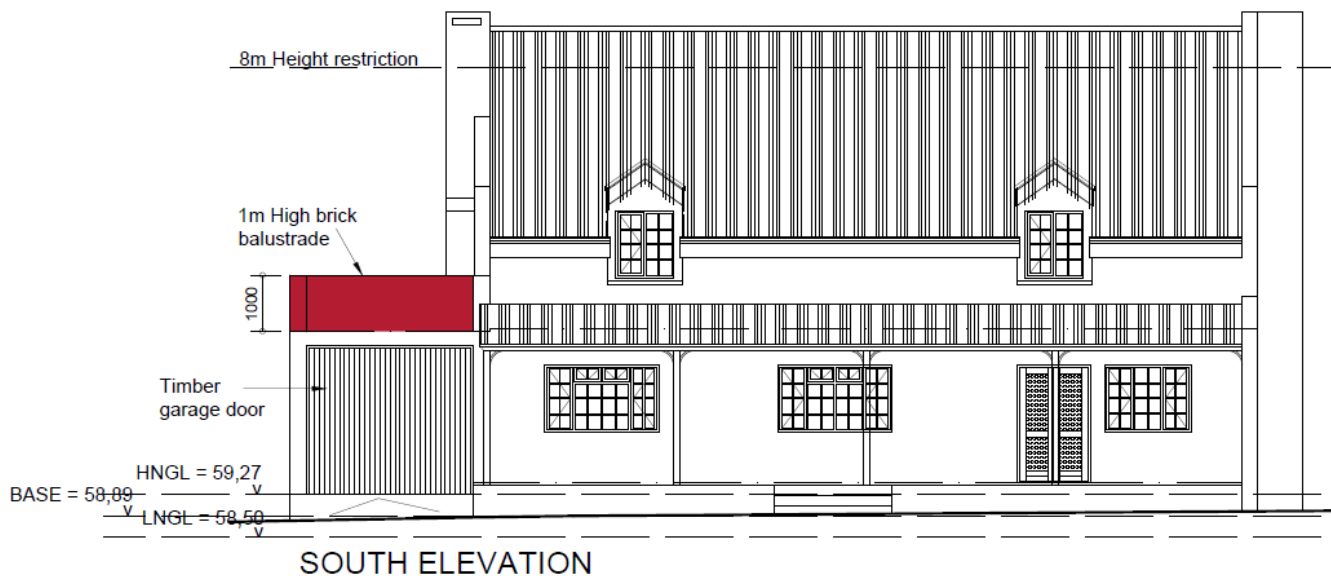
Erf 1890 Vermont is located at 12 Terravert Close, Vermont. Please refer to the attached locality plan and the map excerpt below.

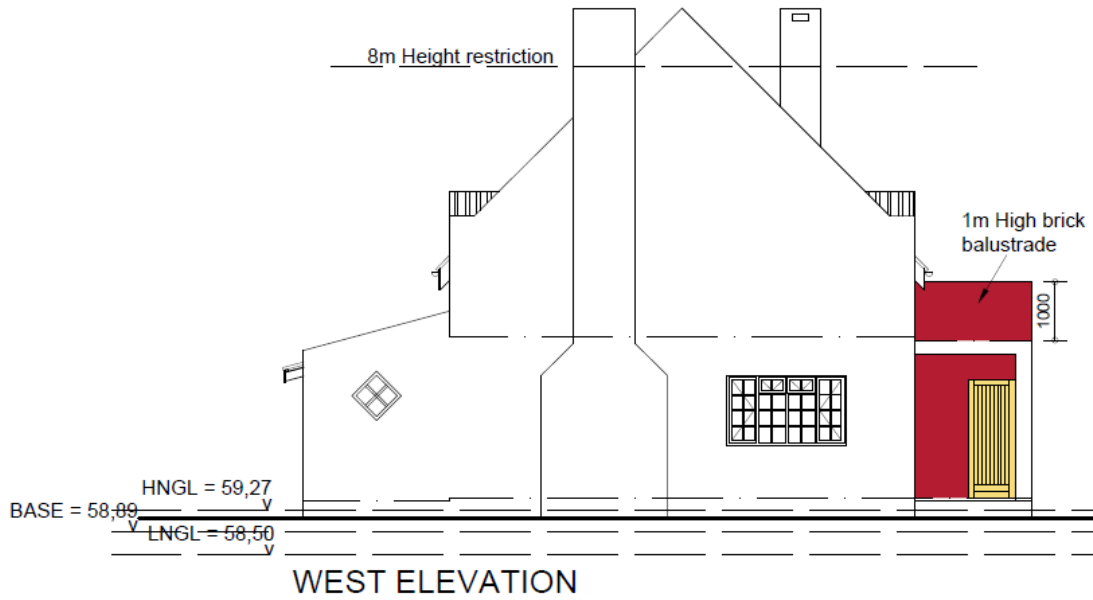




Erf 1890 Vermont spans an area of 702m² and is held under Title Deed No. T2769/2018.

The property features a double-storey residential structure with a tandem garage and a garden shed, as illustrated in the building plan excerpts below.





The total coverage of the site is 323.5m², which represents 46% of the property's total area.

3.2 ZONING

Erf 1890 Vermont has the following land use rights:

ERF NUMBER	ZONING
Erf 1890 Vermont	Residential Zone 1: Single Residential

Surrounding properties are zoned for single residential, public road and public open space purposes. Please refer to the zoning map abstract below:



3.3 LAND USE

Erf 1890 Vermont features an established double-storey dwelling that includes a tandem garage, offering ample parking space for residents. The dwelling is thoughtfully designed for comfortable living, comprising four bedrooms, three bathrooms, a kitchen, dining room, two lounge areas, and a storeroom. This configuration ensures a cohesive and functional living space, ideal for family life.

The tandem garage enhances the property's utility and flexibility, catering to the needs of modern residential living. Additionally, a 6m x 3m garden shed is established in the southeastern corner of Erf 1890 Vermont. This shed provides practical storage solutions, contributing to the property's overall functionality and organization. Its location ensures it is accessible while maintaining the aesthetic and operational integrity of the garden area.

As a result, the property is utilized exclusively for single residential purposes.

The surrounding land uses of Erf 1890 Vermont are primarily characterized by single residential dwellings, similar to the subject property. This creates a cohesive and harmonious living environment, fostering a sense of community and stability within the neighbourhood.

In addition to residential properties, the area includes a public open space, which contributes to the overall quality of life for residents. The property is also bordered by a public road, ensuring accessible transportation routes for residents. This access road facilitates convenient travel to and from the property, connecting it to the broader Vermont area and beyond. The presence of well-maintained public roads supports the residential nature of the area by providing essential infrastructure for daily commuting, service deliveries, and emergency access.

Overall, the subject property's integration into a predominantly single residential area, complemented by public open space and accessible road networks, underscores its suitability for continued residential use. The harmonious blend of residential, recreational, and transportation elements, along with the added utility of the garden shed, enhances the attractiveness and functionality of Erf 1890 Vermont as a residential property.

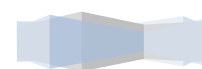
3.4 PROPOSAL

The following is proposed:

1. The determination of an **administrative penalty** for Erf 1890 Vermont to accommodate the existing as built structures encroaching the 2m lateral and rear building lines in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020;
2. The **departure** of Erf 1890 Vermont in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, to:
 - relax the eastern lateral building line as follows:
 - from 2m to 1m to accommodate a tandem garage.
 - from 2m to 1.5m to accommodate a garden shed.
 - relax the southern rear building line as follows:
 - from 2m to 1.2m to accommodate a garden shed.
 - relax the western lateral building line as follows:
 - from 2m to 1m to accommodate a fireplace and chimney.
 - From 2m to 1.8m to accommodate the existing dwelling.

The potential of the subject property is discussed in detail in *Section 3.5 Potential of the property*.

The property features a double-storey dwelling, tandem garage and garden shed. The building plans for the existing dwelling were approved in 1997 as mentioned above. The dwelling, tandem garage and garden shed was constructed prior to 2002. We have managed to obtain aerial photography dating as far back as 2002 clearly depicting the mentioned structures as proof that it was not constructed by the current owner. Please refer to the aerial photograph below:





Aerial Photograph: December 2002



Aerial Photograph: January 2012





Aerial Photograph: January 2016

As previously noted in this report, Mr. and Mrs. Jackson acquired the property in 2018 in good faith, unaware that the approved carport had been converted into a tandem garage without an updated building plan, that the garden shed lacked approval, and that the house was not positioned according to the approved plan. They now intend to sell the property and have sought approved building plans. With the assistance of architect Mr. Les Abbott, they have identified these discrepancies and wish to address and formalize them.

The following details outline the proposed application for consideration:

3.4.1 Rectification of contravention

In accordance with Chapter 5, Section 90(1) of the Municipal Planning Amended By-Law (2020), a person who is in contravention of the By-Law and submits an application to rectify the contravention must seek the determination of an administrative penalty from the Municipality, provided that the Municipality has not issued a demolition directive under Section 85 concerning the land, building, or any part thereof.

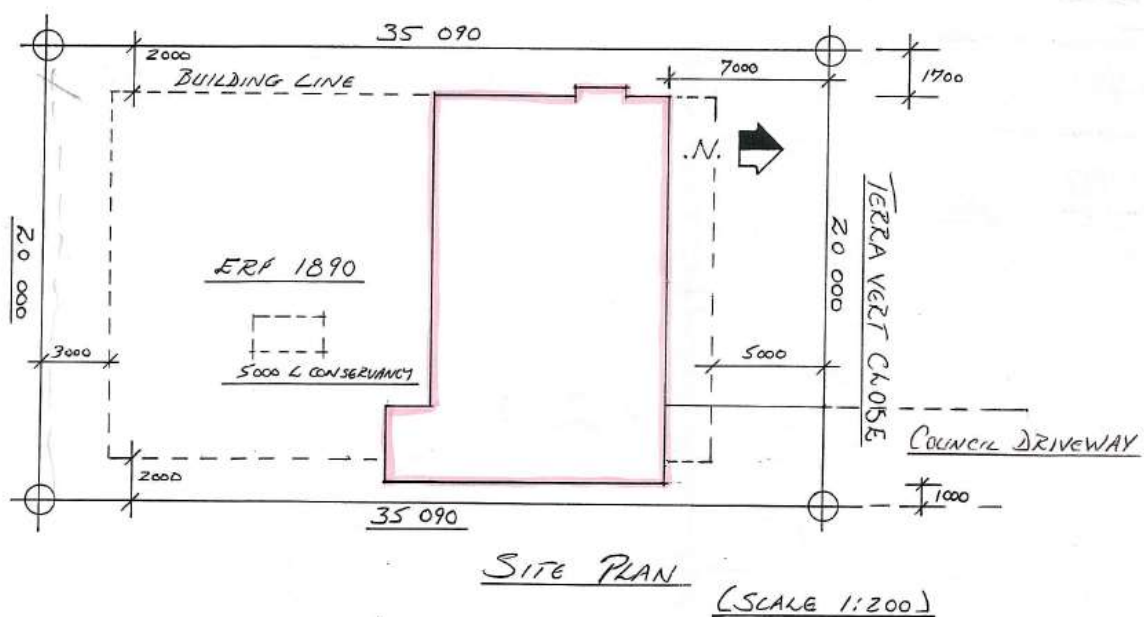
The current application seeks to rectify contraventions related to portions of the tandem garage, garden shed, and existing dwelling that extend beyond the 2-meter lateral and rear building lines. Therefore, an application is made for the determination of an administrative penalty fee under Chapter 4, Section 16(2)(q) of the Overstrand

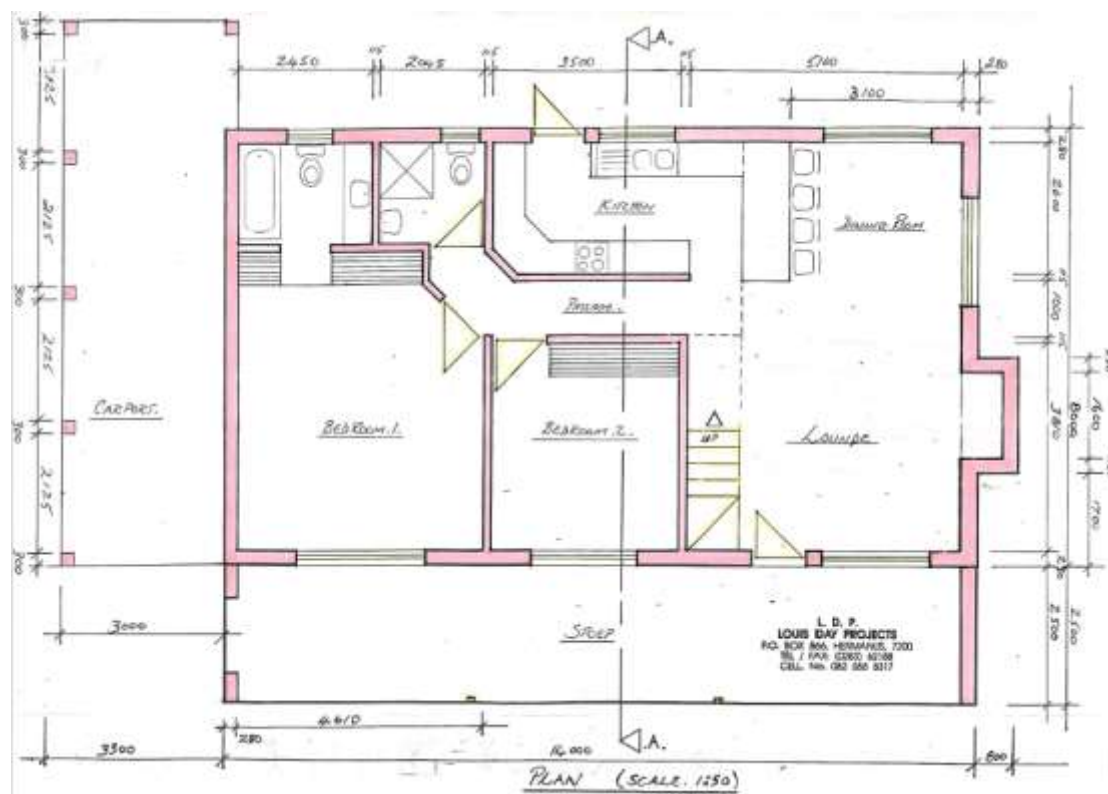
Municipality's Amended By-Law on Municipal Land Use Planning, 2020. It is important to note that the Municipal Planning Tribunal (MPT) has the discretion to decide whether to impose such a fee.

According to Section 90(3) of the Municipal Planning By-Law, the MPT must consider the following factors when determining an appropriate administrative penalty:

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

The previously approved building plan of 1997, for Erf 1890 Vermont, indicates the position of the dwelling on the western lateral building line as 2m, however the house was constructed 1.8m from the lateral boundary and the fireplace and chimney 1m from the lateral boundary line. A carport was approved 1m from the lateral boundary but was changed into a tandem garage without the necessary approvals. A garden shed was also built without the required approval 1.5m from the lateral boundary and 1.2m from the rear boundary encroaching the lateral and rear building line by 0.5 and 0.8m respectively. Please refer to the approved building plan abstract below for easy reference:

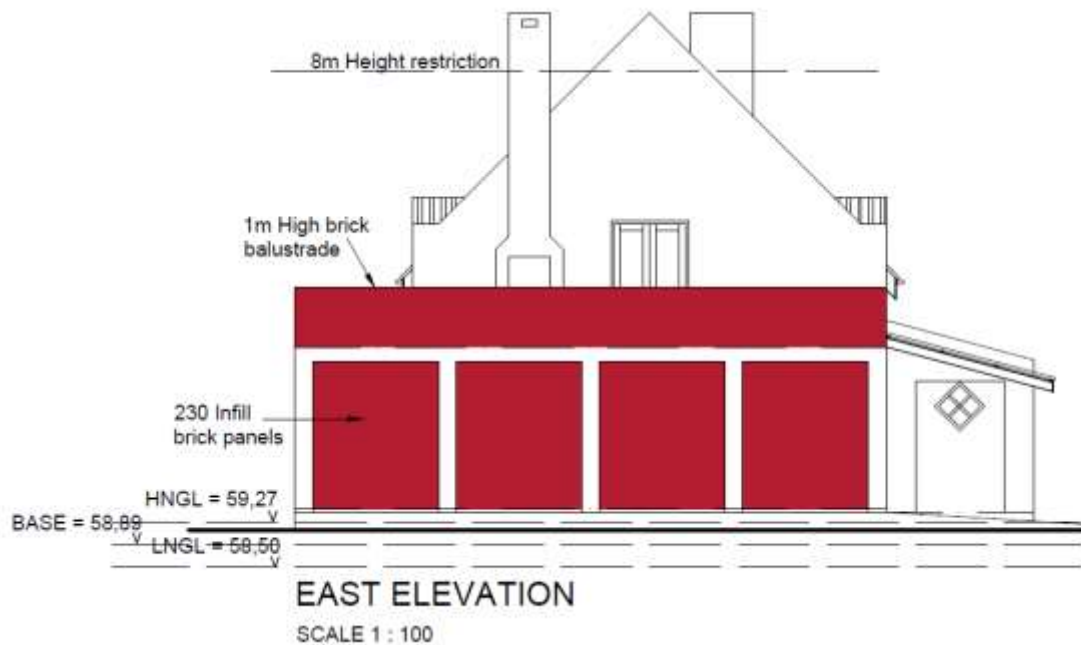
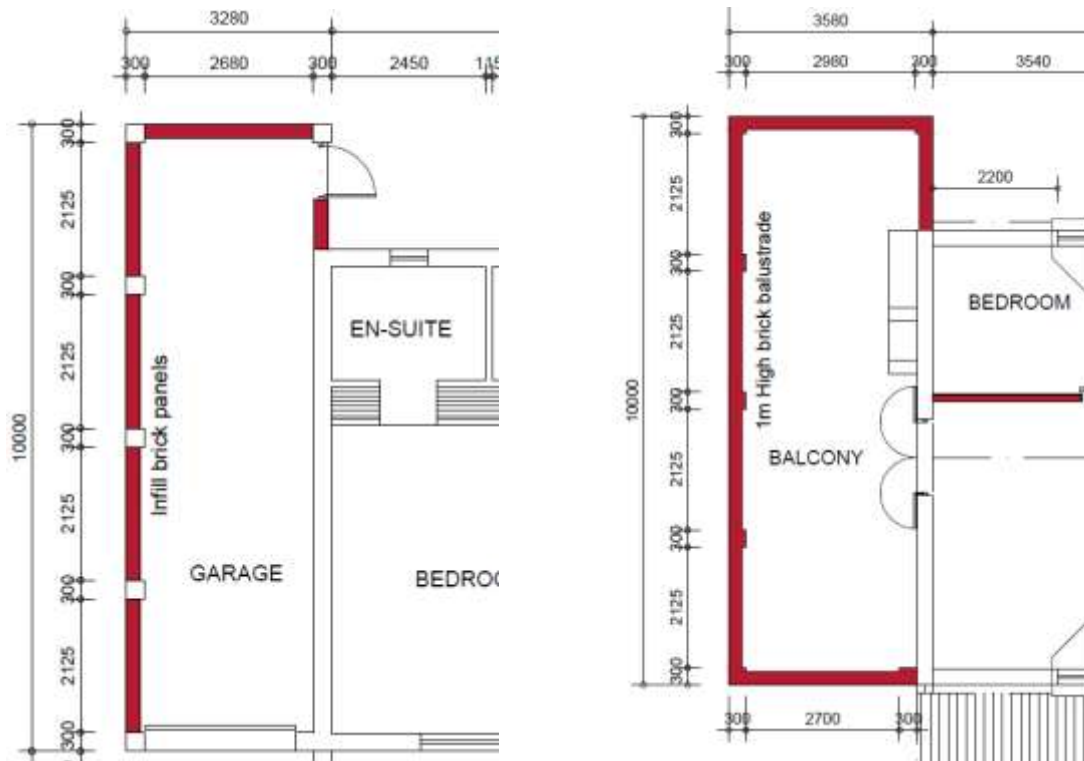




○ **The change of use of the approved carport:**

The original approved building plan for the property included a carport affixed to the dwelling, located 1 meter from the eastern lateral boundary line. However, this carport was converted into a tandem garage without obtaining the necessary approvals. These modifications were carried out by the previous owner, and the property including the dwelling, tandem garage, and garden shed in their current state was sold to our clients, Mr. and Mrs. Jackson, in 2018. Aerial photographs dating back to 2002 clearly indicate the presence of these structures.

The conversion of the carport involved enclosing it with infill brick panels between the approved columns, installing a wooden garage door on the northern side, and fitting a door on the western side that exits into the backyard. The section above the tandem garage was approved as a timber balcony with a wooden balustrade. As a result of the brick infill between the columns the brickwork was extended to create a 1m high brick balustrade replacing the wood balustrade. The tandem garage has a total length of 10 meters and a width of 3.58 meters. According to the as-built building plan, the garage is located 1.2 meters from the eastern lateral boundary, 0.2m further from the lateral boundary from where the carport was approved. Please refer to the as-built building plan abstract below:

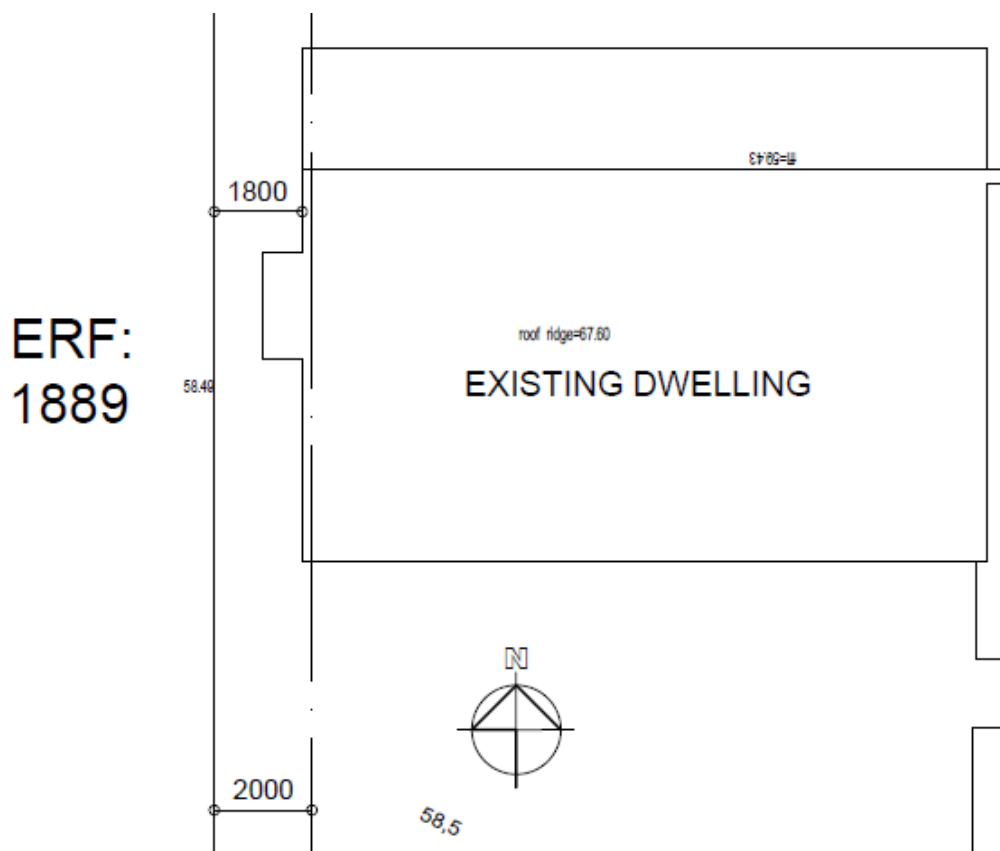


○ **The mispositioning of the existing dwelling:**

The existing dwelling was constructed in a position that deviates from the approved building plan, particularly in relation to the lateral boundaries. The original plan approved the dwelling to be situated 2 meters from the western lateral boundary, with a fireplace and chimney encroaching the 2-meter building line by 0.5 meters. However,

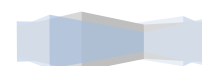
in reality, the house was built 1.8 meters from the western lateral boundary, with the fireplace and chimney positioned 1 meter from the same boundary.

As a result, the 2-meter building line is encroached upon by the dwelling by 0.2 meters and by the fireplace and chimney by 1 meter. Please refer to the site plan abstract below:

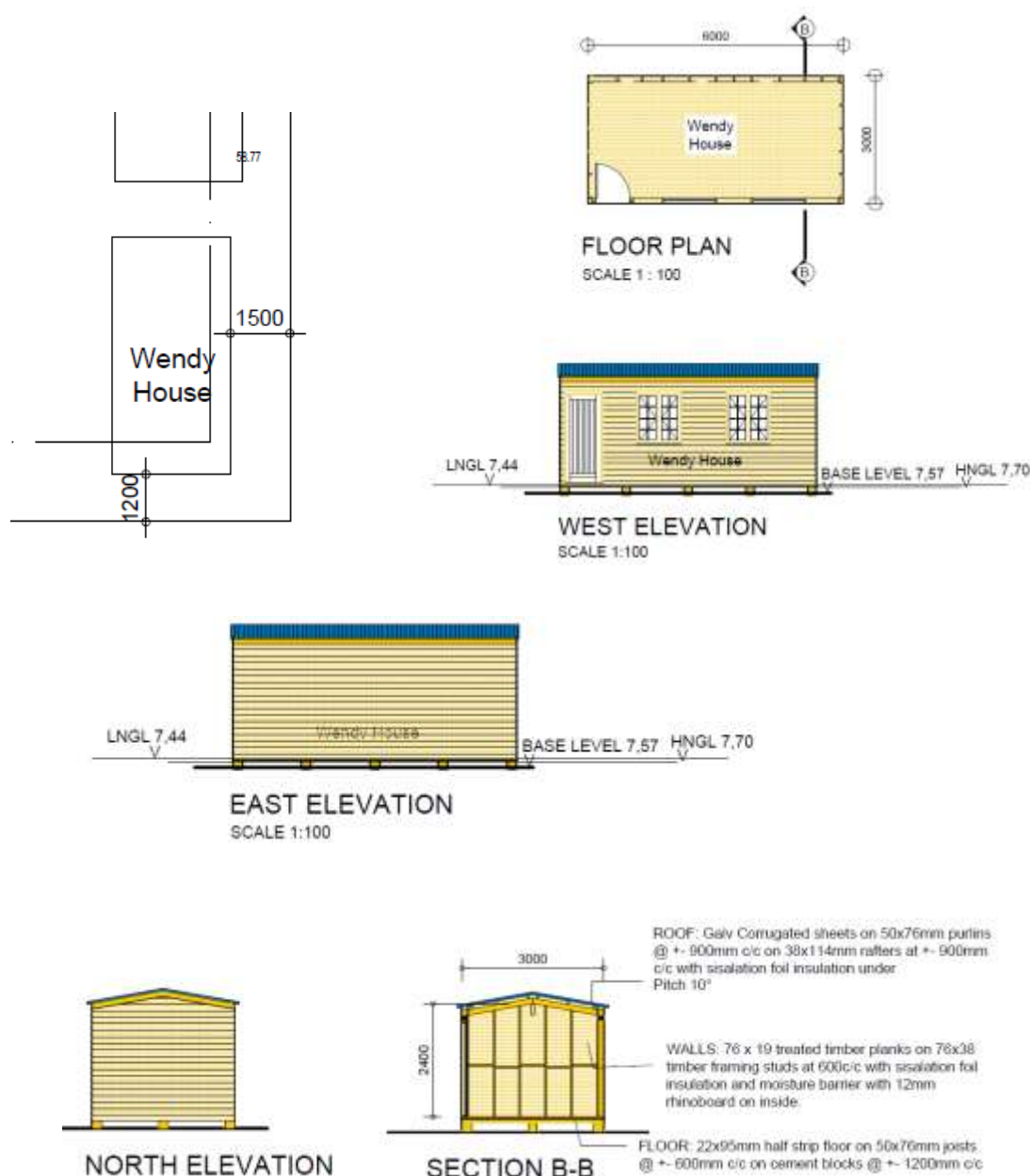


- **The construction of a Garden Shed:**

A garden shed measuring 6m x 3m was constructed in the southeastern corner of the site, within the prescribed building lines, but without obtaining the necessary approval. The shed is positioned 1.5 meter from the eastern lateral boundary and 1.2 meter from the rear building line. The structure is a typical wooden Wendy house-style shed.

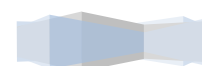


Please refer to the building plan excerpts provided below.



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

The current owners, Mr. and Mrs. Jackson, have not previously contravened the land use planning By-law. They purchased the property in good faith in 2018, under the assumption that all structures were in compliance. At the time of purchase, the dwelling, tandem garage, and garden shed were already established on the site. According to a neighbour, these structures have been in existence since they purchased their property in 1999. The earliest clear aerial photography available, dating back to 2002, also indicates the structures in question.



Upon being made aware of the unlawful nature of these structures, the current owners took immediate steps to address the issue, seeking the assistance of an architect to rectify the situation, as previously stated.

- **Whether the unlawful conduct was stopped**

The current owners were unaware that the tandem garage and garden shed had been constructed without the necessary approval and that the dwelling was incorrectly positioned on the property. Since acquiring the property in 2018, they have continued to utilize the house, tandem garage, and garden shed, believing all was in order. Upon discovering these issues, the owners have taken steps to rectify the situation by submitting an application for an administrative penalty and a subsequent departure application to legalize the as-built structures they inherited.

- **A report by a quantity surveyor in matters of unauthorised building / construction**

Given the circumstances, we do not intend to appoint a qualified quantity surveyor or building contractor to calculate the building costs of the existing unauthorised works. These unauthorized modifications, including the unlawful construction of the house, the conversion of a carport into a tandem garage, and the addition of a garden shed, were carried out by the former owner without obtaining the necessary approval.

Should the Overstrand Municipality determine that an administrative penalty fee is necessary for these unauthorised building work, we propose that the submission of a detailed report be considered only if the penalty is definitively required. This approach aims to avoid unnecessary expenditure and effort, particularly as these violations were not caused by the current owners.

Given that the encroachment is minimal and has no significant impact on the surrounding properties, we respectfully recommend that no penalty fee be imposed in this instance.

- **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 landowners, they have never previously contravened this By-Law or any other previous planning law.



- **Summary**

We appeal to the Overstrand Municipality to consider the minimal impact of the as-built dwelling, tandem garage and garden shed constructed over the lateral and rear building lines as described above and that no administrative penalty be imposed.

There are several compelling reasons why the Overstrand Municipality should consider not imposing an administrative penalty in this case:

- **Good Faith Acquisition by Current Owners:** Mr. and Mrs. Jackson, the current owners, purchased the property in 2018 in good faith, unaware of the unauthorized changes made by the previous owner before 2002. They believed that all structures, including the tandem garage, garden shed, and the position of the dwelling, were compliant with municipal regulations. They should not be penalized for actions they did not commit.
- **Responsibility Lies with the Former Owner:** The unauthorized modifications, including the unlawful conversion of a carport into a tandem garage, the construction of a garden shed, and the mispositioning of the dwelling, were all carried out by the former owner. The current owners inherited these issues and should not be held accountable for the previous owner's non-compliance.
- **Immediate Action Taken by Current Owners:** Upon discovering the discrepancies, the current owners took immediate steps to rectify the situation. They sought assistance from an architect, Mr. Les Abbott, to address and formalize the issues. This demonstrates their commitment to resolving the matter in accordance with municipal regulations.
- **Minimal Impact on Surrounding Properties**:** The encroachments caused by the unauthorized modifications are minimal and have no significant impact on the surrounding properties. The tandem garage, garden shed, and the dwelling's slight misalignment do not negatively affect the neighbouring properties or the broader community.
- **Avoidance of Unnecessary Costs:** The current owners prefer not to appoint a qualified quantity surveyor or building contractor to assess the unauthorized works, as these changes were made by the former owner. Imposing a penalty

would force the current owners to incur additional costs for issues they did not create, which would be an unjust burden on them.

- Absence of Malicious Intent: There was no malicious intent or deliberate disregard for municipal regulations by the current owners. They have acted responsibly and transparently throughout the process, working to rectify the situation as soon as they became aware of it.

In light of these factors, it would be reasonable for the Overstrand Municipality to consider waiving the administrative penalty, acknowledging that the current owners have acted in good faith and are committed to bringing the property into compliance.

3.4.2 Departure

To rectify the building line encroachments on Erf 1890 Vermont, it would be necessary to apply for departures from the lateral and rear building lines concerning the following structures:

- Dwelling: Since the dwelling was constructed closer to the western lateral boundary than originally approved, a departure would be required to legalize its current position.
- Tandem Garage: The conversion of the carport into a tandem garage, which encroaches on the eastern lateral building line, also necessitates a departure to formalize this modification.
- Brick Balcony Balustrade: If the brick balcony balustrade encroaches on any of the building lines, a departure would be required to regularize its position.
- Garden Shed: The garden shed, which was constructed within the prescribed building lines without approval, will need a departure to legalize its current placement in relation to the eastern lateral and southern rear boundaries.

Applying for these departures is a necessary step to ensure that all existing structures comply with municipal regulations, thereby rectifying any building line encroachments.

- **The existing dwelling**

The position of the dwelling relative to the property boundaries deviates from the location shown on the approved building plan. Following the approval of the building



plans in 1997, the dwelling, garage, and garden shed were constructed prior to 2002. The dwelling was built 1.8 meter from the western lateral boundary instead of the 2 meter specified in the approved plan. Additionally, the fireplace and chimney, which were approved to be located 1.5 meter from the western lateral boundary, were constructed 1 meter from the boundary line.

To rectify these discrepancies, we are applying for the relaxation of the western lateral building line as follows from 2 meter to 1.8 meter to accommodate the existing double-storey dwelling and from 2 meter to 1 meter to accommodate the existing fireplace and chimney.

The ground floor areas encroaching on the western building line include a dining room, lounge, fireplace, and chimney. Only a single window within the building line is located in the dining room. On the first floor, the encroaching areas include a bedroom and a double-volume section above the lounge, with no windows extending into the western building line.

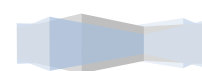
- **Tandem garage and brick balustrade**

In 1997, approval was granted for a carport situated 1 meter from the eastern lateral boundary, featuring a wooden balcony and wooden balustrade above. However, the previous owner converted the carport into a tandem garage. This conversion involved enclosing the carport with brick infill panels between the columns, installing a garage door on the northern wall, and fitting a standard door leading to the rear garden. To accommodate the as-built tandem garage, we are applying for a building line departure from 2 meter to 1.2 meter.

Additionally, the outer walls of the tandem garage were extended to include a 1-meter high brick balustrade along the edge of the existing balcony. As a result of replacing the wooden balustrade with a brick one, we are also applying for a relaxation of the eastern building line from 2 meter to 1.2 meter to accommodate the new 1-meter high brick balustrade.

- **Garden Shed**

A timber garden shed, typical of a wooden Wendy house construction, was established in the southeastern corner of Erf 1890 Vermont. The shed measures 6 meter by 3 meter and is approximately 2.5 meter in height. It is situated within the prescribed 2-



meter lateral and rear building lines, positioned 1.5 meter from the eastern boundary and 1.2 meter from the rear boundary.

To formalize the current placement of the garden shed, we are applying for a building line relaxation to adjust the eastern lateral boundary from 2 meter to 1.5 meter and the rear boundary from 2 meter to 1.2 meter.

Summery:

The proposed departures from the building lines for Erf 1890 Vermont should be approved due to the minor nature of the encroachments, their minimal impact on the surrounding area, and the fact that these encroachments existed prior to 2002. The current owners, who took transfer of the property in 2018, inherited these existing conditions.

The existing dwelling was constructed 1.8 meter from the western lateral boundary, with the fireplace and chimney encroaching 1 meter from the boundary. These deviations from the approved plan are slight and affect primarily internal spaces. The first-floor encroachments, which include no windows extending beyond the building line, further minimize any visual or privacy concerns for neighbouring properties.

The conversion of the carport into a tandem garage and the addition of a brick balustrade were made prior to the current owners' acquisition of the property. The relaxation of the eastern building line from 2 meter to 1.2 meter is required to accommodate these minor alterations. The brick balustrade, an aesthetic enhancement, does not negatively impact neighbouring properties.

The garden shed, established in the southeastern corner of the property, was constructed prior to the current owners' acquisition and is situated 1.5 meter from the eastern boundary and 1.2 meter from the rear boundary. These encroachments are minor and do not obstruct neighbouring properties or disrupt the residential character of the area.

In summary, given that the encroachments predate the current ownership, their minimal impact, and the low overall effect on the neighbourhood, approving the building line departures is justified and reasonable.



3.5 THE POTENTIAL OF THE PROPERTY

Erf 1890 Vermont is well-positioned to accommodate the proposed building line departures without impacting its value or the surrounding area's character. The zoning and primary land use of the property designated as Residential Zone 1: Single Residential will remain unchanged, ensuring that the property's fundamental purpose remains intact. The requested departures are minor and address structures that were established prior to 2002, long before the current owners acquired the property in 2018. These structures, including the dwelling, tandem garage, and garden shed, have not generated any complaints from neighbouring property owners, reflecting their minimal impact on the local environment. Consequently, the proposed departures will not hinder any potential future land use applications or developments. Overall, the subject property is well-suited for the requested building line adjustments, maintaining its residential functionality and contributing positively to the area's cohesion and aesthetic.

3.6 ECONOMIC IMPACT

The proposed building line departures for Erf 1890 Vermont are anticipated to have a minimal economic impact. By formalizing the existing structures, including the dwelling, tandem garage, and garden shed, the property will maintain its market value and utility, thereby safeguarding the owner's investment. The minor nature of the encroachments and their long-standing existence since prior to 2002 mean that the current and future value of the property is unlikely to be adversely affected. Additionally, approving these departures will prevent potential financial losses related to the need for costly alterations or legal disputes. The absence of any significant complaints from neighbours further underscores the property's integration into the community. Thus, the economic impact of granting the proposed departures is expected to be positive, supporting both the property's value and its smooth operation within the existing residential context.

3.7 SOCIAL IMPACT

The proposed building line departures for Erf 1890 Vermont are expected to have a positive social impact on the property and its surrounding community. The adjustments pertain to structures that have been in place since before 2002 and have been owned

by the current owners since 2018 without generating any complaints from neighbours.

The integration of the existing dwelling, tandem garage, and garden shed into the neighbourhood has proven to be harmonious, with no negative effects reported by nearby residents. By formalizing these existing structures, the property will contribute to maintaining the residential character and stability of the area.

The minimal nature of the encroachments ensures that they do not disrupt the visual or functional aspects of the neighbourhood. Furthermore, approving the building line departures will provide the current owners with the security of knowing their property is compliant, fostering a positive and supportive community environment. In summary, the proposed departures will enhance the property's integration within the neighbourhood, reinforcing social cohesion and contributing to a stable and pleasant residential area.

3.8 COMPATIBILITY WITH SURROUNDING LAND USES

The proposed building line departures for Erf 1890 Vermont are fully compatible with the surrounding land uses and the overall character of the neighbourhood. The property is situated within a Residential Zone 1: Single Residential area, consistent with the zoning and land use of adjacent properties. The encroachments in question pertain to structures that have been in place since before 2002 and have not adversely affected the neighbouring properties or elicited complaints from residents.

The existing dwelling, tandem garage, and garden shed are seamlessly integrated into the residential fabric of the area, aligning with the predominant land use of single residential homes. The minor nature of the proposed departures from the lateral and rear building lines, to accommodate the existing structures ensures that these adjustments do not disrupt the visual or functional harmony of the neighbourhood.

Furthermore, the approval of these departures will formalize existing conditions without altering the property's residential function or affecting the broader community. This alignment with existing land use patterns supports the continuity and stability of the residential environment, ensuring that the property's integration remains consistent with the surrounding land uses.

3.9 IMPACT ON EXTERNAL ENGINEERING SERVICES

The proposed building line departures for Erf 1890 Vermont are expected to have no impact on external engineering services. The minor encroachments associated with the existing dwelling, tandem garage, and garden shed do not interfere with or place additional strain on municipal infrastructure or services.

The property is adequately serviced by existing infrastructure, including water, sewage, and road networks, all of which are functioning within their designed capacities. The proposed adjustments to the building lines will not alter the usage or demand on these services. There are no plans to modify or expand the current structures in a way that would affect the surrounding utilities or infrastructure.

Given the minimal nature of the encroachments and the long-standing existence of these structures, the proposal will have no impact on external engineering. The proposed departures are intended to formalize existing conditions rather than introduce new or significant changes that could impact the provision or functionality of municipal services.

3.10 IMPACT ON SAFETY, HEALTH AND WELLBEING OF SURROUNDING COMMUNITY

The proposed building line departures for Erf 1890 Vermont are unlikely to have any adverse impact on the safety, health, or wellbeing of the surrounding community. The existing structures, including the dwelling, tandem garage, and garden shed, have been in place for several years and have not raised any safety or health concerns among neighbouring residents.

The minor encroachments associated with these structures do not pose any hazards or risks to the public. The buildings are constructed in a manner that adheres to standard safety regulations, and there have been no reported issues related to their presence or condition. The continued use of the property as a single residential dwelling ensures that the existing safety and health standards are maintained.

The proposed departures aim to formalize the existing structures without introducing any new elements that could impact the surrounding community. By ensuring

compliance with land use regulations, the adjustments will support the ongoing safety and wellbeing of the area, contributing to a stable and secure residential environment. Overall, the proposed building line adjustments are designed to maintain, rather than compromise, the quality of life and safety for residents in the vicinity.

3.11 IMPACT ON HERITAGE

The proposed building line departures for Erf 1890 Vermont are unlikely to have a significant impact on heritage values or assets. The property and its structures, including the existing dwelling, tandem garage, and garden shed, do not fall within any designated heritage areas or have heritage status themselves. The proposed adjustments pertain to minor encroachments that have been in place for many years, and there are no indications that these structures or their modifications affect any recognized historical or cultural heritage sites.

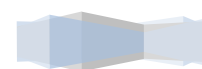
The adjustments requested are intended to formalize existing conditions rather than alter or introduce new elements that could influence heritage values. The property's integration into the neighborhood has been harmonious, with no adverse effects on the historical or cultural character of the area. The minor nature of the proposed departures ensures that the heritage integrity of the surrounding environment remains intact.

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

In conclusion, the proposed building line departures are designed to maintain the current use and appearance of the property while ensuring compliance with land use regulations. They are not expected to impact heritage resources or values, thereby preserving the historical and cultural context of the surrounding area.

3.12 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed building line departures for Erf 1890 Vermont are expected to have a minimal impact on the biophysical environment. The existing structures, including the



dwelling, tandem garage, and garden shed, have been in place for several years, and their construction predates the current application. As such, the adjustments sought are primarily aimed at formalizing existing conditions rather than introducing new development that could affect the environment.

The property is situated in a residential area with established infrastructure and land use patterns, and the minor encroachments associated with the proposed departures do not interfere with natural habitats or ecological systems. The areas impacted by the proposed adjustments are already developed, and the structures in question do not contribute to significant environmental degradation or disrupt local biodiversity.

The proposed adjustments to the building lines will not alter the existing landscape significantly or lead to increased impervious surfaces that could affect drainage or runoff patterns. There is no evidence suggesting that the proposed changes would negatively impact the natural environment or require additional environmental mitigation measures.

The proposed departure does not trigger any of the listed activities under the National Environmental Management Act (NEMA), 1998 (Act No. 107 of 1998).

Overall, the proposed building line departures are designed to accommodate existing structures within the established residential framework and are not expected to have any notable adverse effects on the biophysical environment.

3.13 TRAFFIC IMPACT, PARKING AND ACCESS

The proposed building line departures for Erf 1890 Vermont are not anticipated to have a significant impact on traffic flow, parking, or access in the surrounding area. The adjustments primarily involve minor relaxations of building lines to accommodate existing structures, which are already in place and functioning within the current residential context.

The property's current use as a single residential dwelling, including the tandem garage and garden shed, does not generate traffic volumes that would significantly affect local road networks. The proposed departures will not alter the property's use or increase its traffic generation, and therefore, no additional traffic impact is expected.

The existing tandem garage provides adequate parking space for the property's needs, ensuring that parking requirements are met on-site. The proposed departures will not affect the availability or functionality of the existing parking arrangements. The presence of the garage ensures that vehicles are accommodated within the property boundary, minimizing any potential spillover into the public road or surrounding areas.

The property is well-served by the existing road infrastructure, providing convenient access to and from the residence. The proposed building line adjustments do not impact the existing access arrangements or modify the driveway or road connections. The access to the property remains unchanged, ensuring that residents can continue to enter and exit the property without any disruption.

In summary, the proposed building line departures will not adversely affect traffic patterns, parking availability, or access to the property. The existing infrastructure adequately supports the current and anticipated needs of the property, maintaining smooth and efficient traffic and parking conditions in the area.

3.14 TITLE DEED

Title Deed No. T2769/2018 has no restrictive Title Deed conditions that need to be addressed with this application. A conveyancer's certificate is not included with this application since the Title Deed is uncomplicated.

There is no bond registered against the subject property.

3.15 FORWARD PLANNING AND LAND USE DOCUMENTS

The *Overstrand Spatial Development Framework (2020)* earmarks the area where Erf 1890 Vermont is situated, for urban development purposes. The zoning and use of the subject property will remain unchanged (Residential Zone 1: Single Residential). As a result, the impact of the proposed departures on the spatial integrity of the area will be minimal and is therefore consistent with the Overstrand SDF (2020).



The ***Overstrand Municipal Growth Management Strategy (OMGMS, 2010)*** specifies that Erf 1890 Vermont forms part of Planning Unit No. 1. Density increase is not proposed for this planning unit. No additional portions or second dwelling units are proposed with this application. The status quo of the area (low density residential) will remain unchanged. The land use application for the subject property therefore falls within the existing planning for the Vermont East area.

The proposal will promote land development in a location that is sustainable. The proposed departures are to an improved erf within an established residential area and will not impact on urban sprawl or upon a sensitive environment.

The impact on the overall density of this part of Vermont will therefore be kept to a minimum since the proposed application still promotes a low-density residential area.

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

3.16 PLANNING PRINCIPLES

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

Spatial justice: Spatial justice concerns the equitable distribution of land use rights and access to resources within a community. The proposed building line departures for Erf 1890 Vermont are consistent with principles of spatial justice as they seek to address existing discrepancies in land use while ensuring fair and equitable treatment for the property owners.

The proposed departures are intended to formalize existing structures that were established prior to the current owners' acquisition of the property in 2018. The adjustments seek to regularize the minor encroachments of the dwelling, tandem garage, and garden shed, ensuring that the property complies with current land use regulations without displacing or negatively impacting neighbouring properties.

The property's existing use as a single residential dwelling aligns with the surrounding land use patterns and does not alter the community's spatial dynamics. The proposed

departures will not impede access to public resources or amenities, maintaining the existing equitable access to residential opportunities within the area.

The minor nature of the proposed adjustments and the absence of any significant impact on surrounding properties reinforce the property's integration into the neighbourhood. The existing structures have been in place for several years without complaints, reflecting a harmonious relationship with the surrounding community.

In conclusion, the proposed building line departures uphold principles of spatial justice by ensuring that the property's land use is consistent with established patterns and regulations. The adjustments are designed to rectify existing conditions without creating inequities or disrupting the community's spatial balance.

Spatial sustainability: Spatial sustainability focuses on maintaining and enhancing the long-term viability of land use patterns and ensuring that developments support environmental, social, and economic sustainability. The proposed building line departures for Erf 1890 Vermont align with principles of spatial sustainability.

The proposed departures address minor encroachments of existing structures that have been in place for several years. The adjustments are not anticipated to lead to significant environmental impacts or changes in land use. The property is already developed, and the proposed modifications do not increase impervious surfaces or disrupt natural ecosystems. The minor adjustments are designed to formalize existing conditions rather than introducing new developments that could affect the environment.

The adjustments aim to resolve discrepancies in the property's land use status that were inherited by the current owners. By regularizing the existing structures, the application supports social stability and fairness, ensuring that the property complies with regulations without displacing or negatively impacting surrounding residents. The current use of the property aligns with the residential character of the neighbourhood, promoting a sense of community cohesion.

The proposed departures facilitate the formalization of existing structures, enhancing the property's value and usability without necessitating extensive new construction. By addressing minor encroachments, the adjustments contribute to the property's

economic viability and marketability. The regularization of the property also prevents potential future disputes or penalties that could arise from the current discrepancies.

The proposed adjustments are designed to ensure that the property remains compliant with land use regulations while minimizing any negative impacts. By addressing the existing encroachments, the application supports the long-term sustainability of the property within the residential context of the neighbourhood. The minor nature of the proposed departures ensures that they do not compromise the broader spatial sustainability of the area.

In summary, the proposed building line departures for Erf 1890 Vermont contribute to spatial sustainability by addressing existing conditions in a manner that supports environmental protection, social equity, and economic stability. The adjustments ensure that the property remains integrated and functional within its residential setting, promoting long-term viability and harmony with the surrounding area.

Efficiency: Efficiency in land use and planning focuses on optimizing resource utilization, minimizing waste, and ensuring effective use of space while adhering to regulations. The proposed building line departures for Erf 1890 Vermont exemplify efficiency in the following ways:

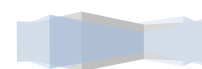
- **Optimal Use of Existing Structures**: The proposed departures are aimed at formalizing existing structures that were established prior to the current owner's acquisition of the property in 2018. By regularizing these structures rather than requiring their modification or removal, the proposal makes efficient use of the already developed space, avoiding unnecessary redevelopment or reconstruction that would otherwise incur additional costs and resource use.
- **Minimization of Disruption**: The proposed adjustments are minor and address existing encroachments without requiring significant alterations to the property. This approach minimizes disruption to the current use of the property and avoids the need for extensive new construction or substantial changes to the existing layout, thus ensuring efficient use of time and resources.
- **Cost-Effectiveness**: Addressing the encroachments through building line departures is a cost-effective solution compared to more extensive measures, such as demolishing and reconstructing portions of the structures. By

formalizing the existing conditions, the proposal prevents potential future costs associated with penalties, legal disputes, or required modifications, thus offering a more efficient resolution.

- Regulatory Compliance: The proposed departures align with regulatory requirements and seek to bring the property into compliance with current land use standards. This efficient approach ensures that the property adheres to legal frameworks without imposing unnecessary burdens on the owner or creating additional administrative complexities.
- Sustainable Land Use: By addressing minor deviations from approved plans, the proposal supports the sustainable use of land within the existing residential context. The adjustments help maintain the functional integrity of the property and ensure its continued compatibility with the surrounding area, promoting efficient and sustainable land management.

In summary, the proposed building line departures for Erf 1890 Vermont demonstrate efficiency by optimizing the use of existing structures, minimizing disruption, and offering a cost-effective solution for regulatory compliance. The approach ensures that the property remains functional and compliant while making efficient use of resources and adhering to sustainable land use practices.

Good administration: Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020.



4. RECOMMENDATION

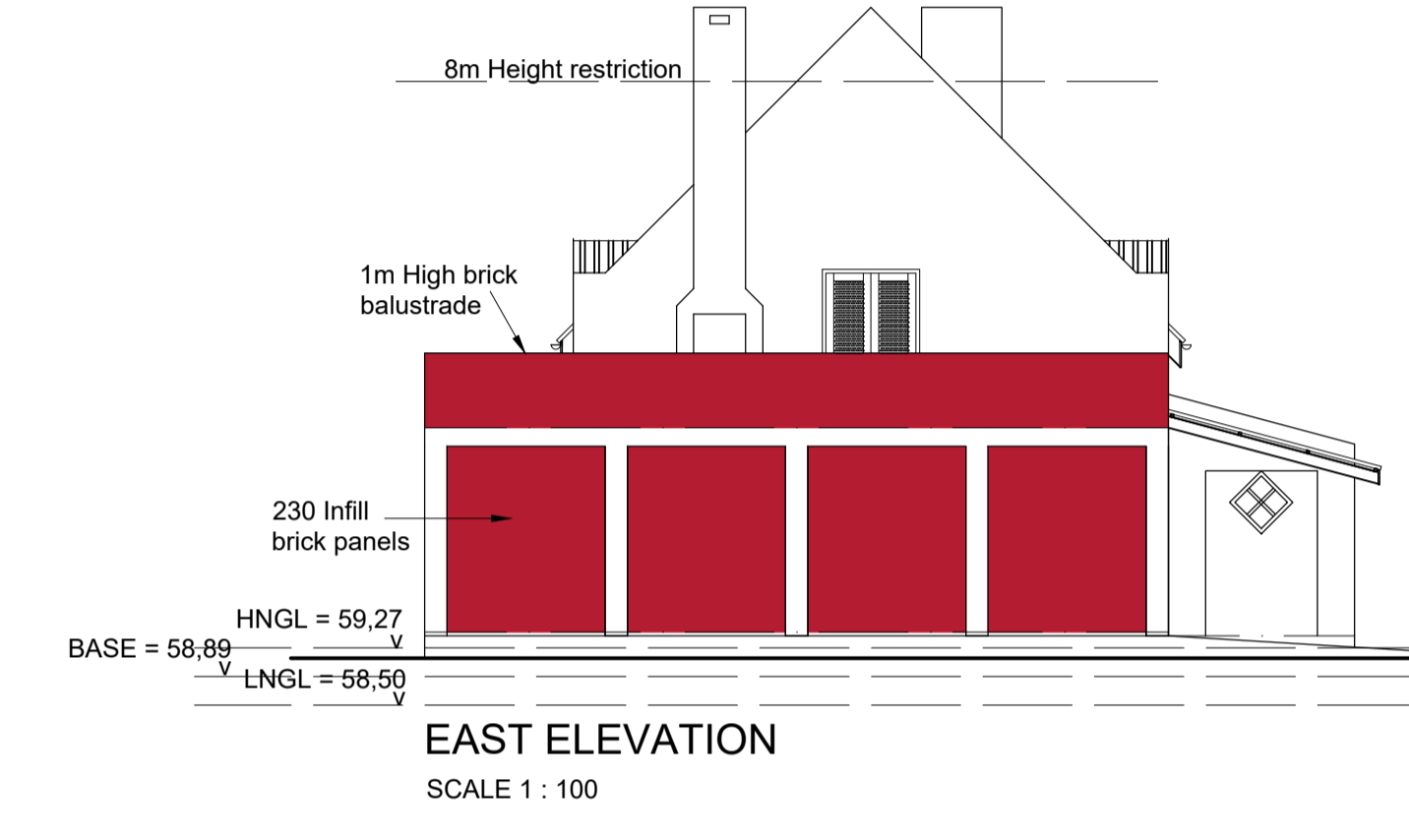
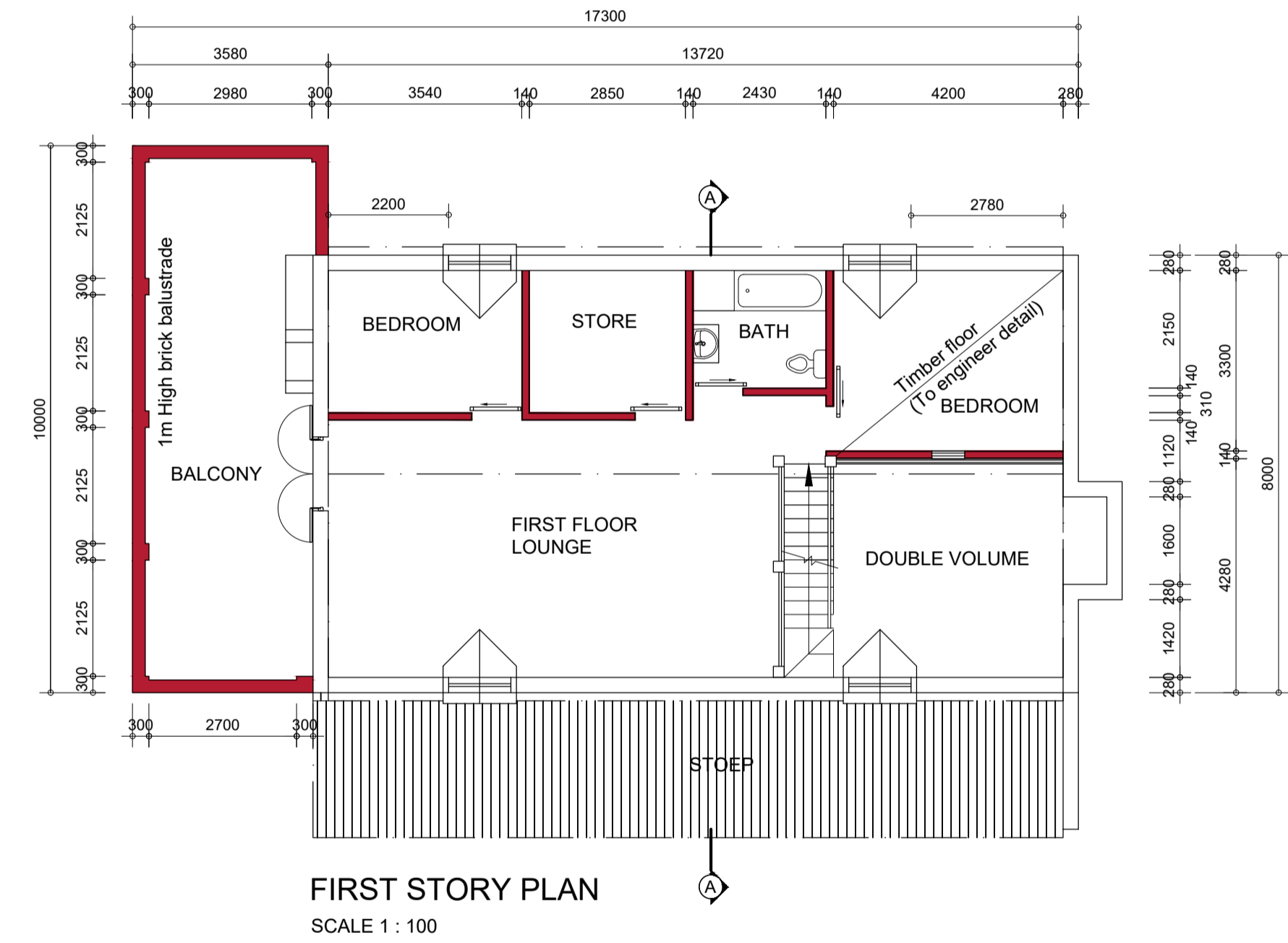
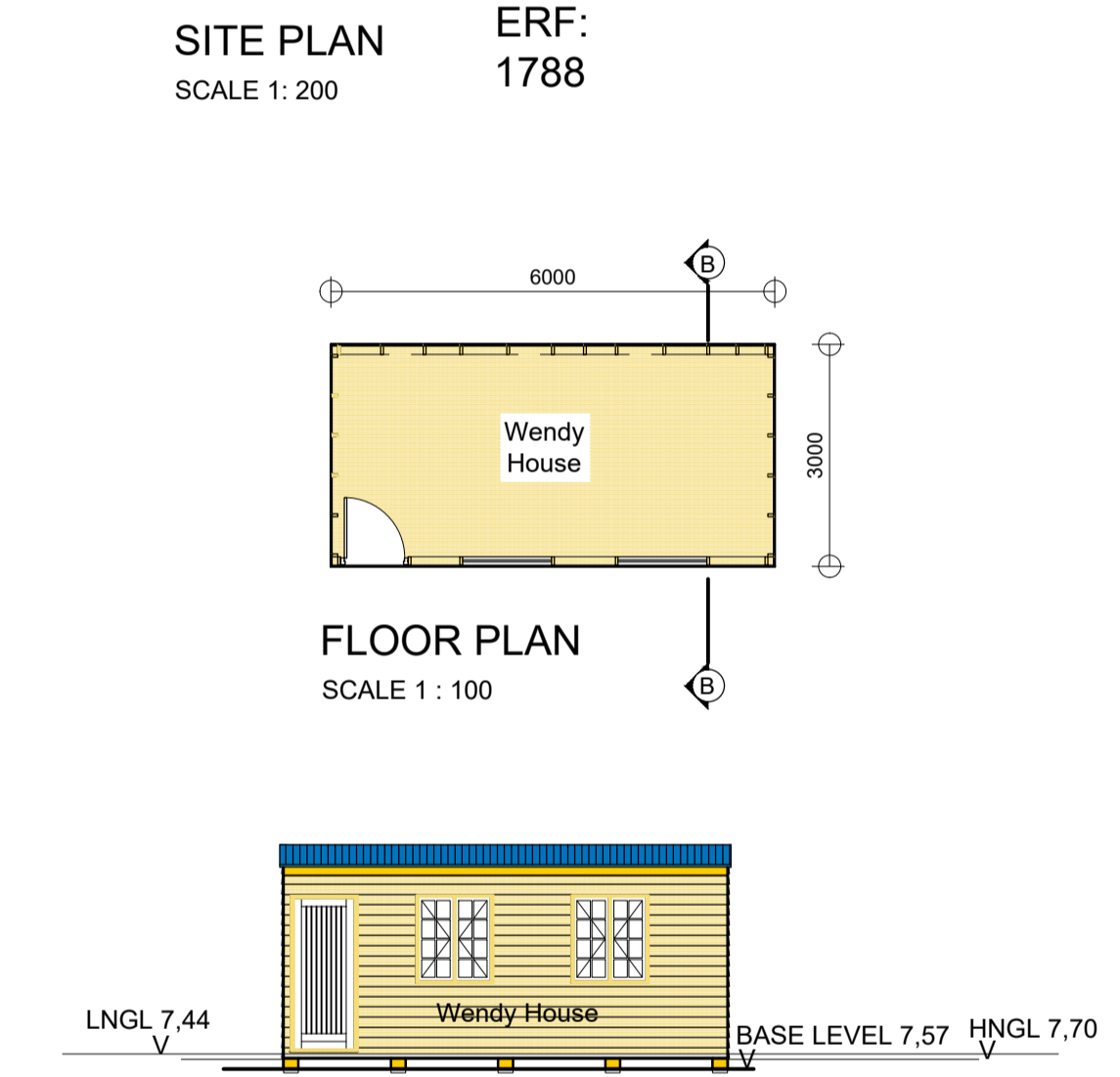
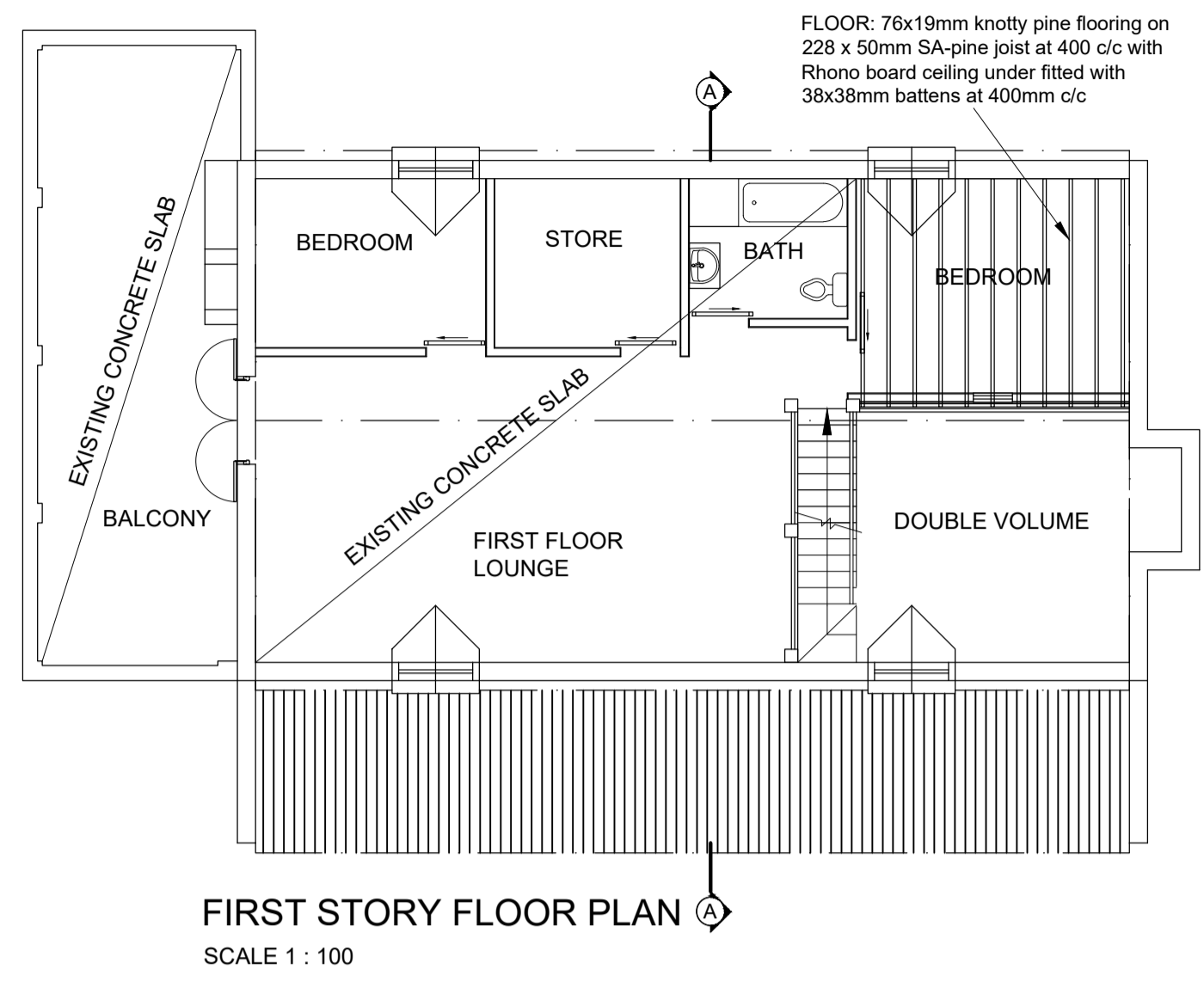
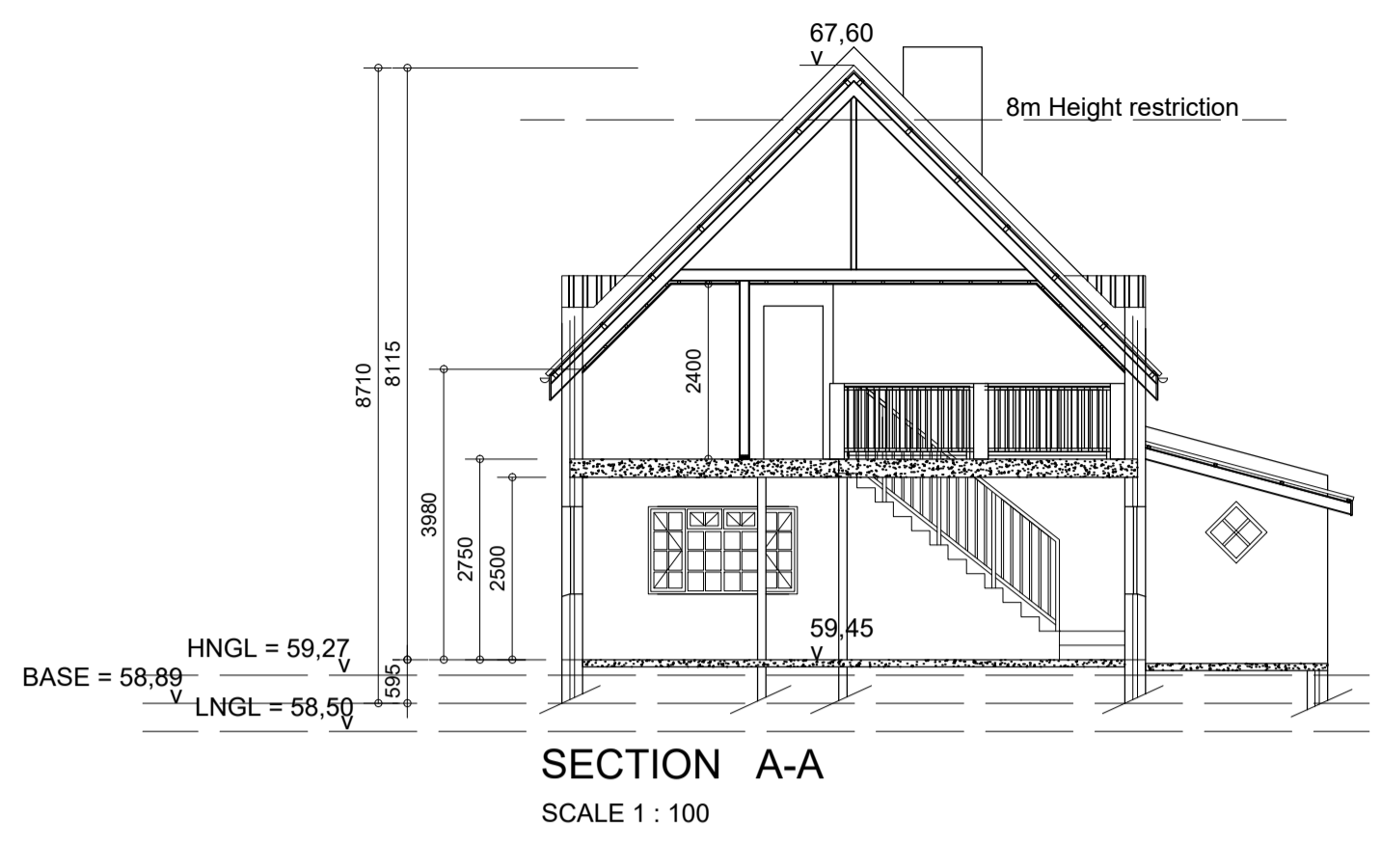
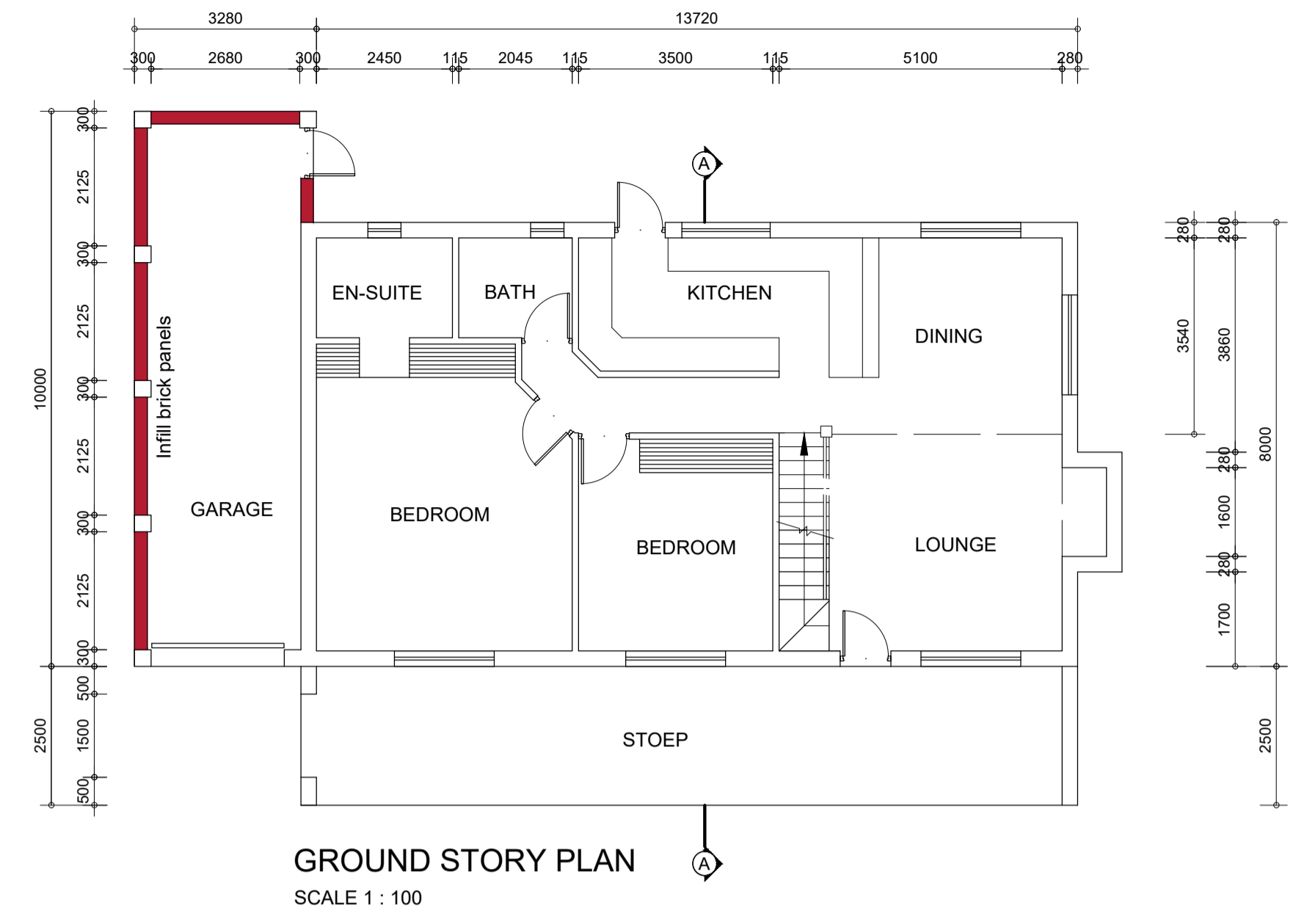
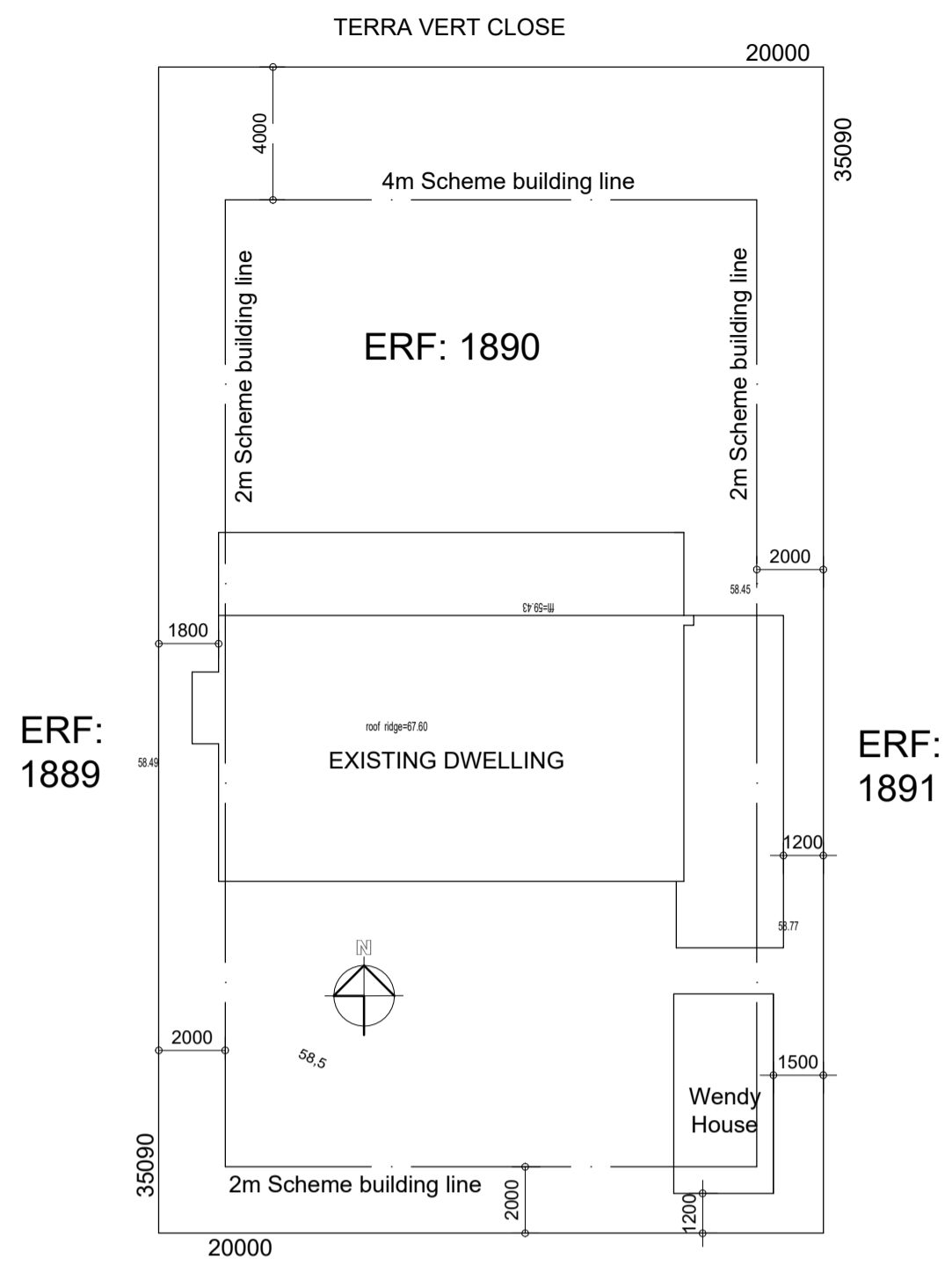
When this application is evaluated, it is important to take note of the following:

- The existing encroachments have been in place since prior to 2002. Mr. and Mrs. Jackson purchased the property in 2018 in good faith, unaware of the deviations from the approved plans. The as-built structures have existed without any reported complaints from neighbouring property owners, indicating that the changes have not negatively impacted the surrounding community.
- The encroachments are minimal and involve minor deviations that do not significantly affect the surrounding properties or the character of the neighbourhood. The proposed departures will not alter the primary land use or zoning of the property, which remains Residential Zone 1: Single Residential.
- Approving the application will support the property's economic viability by formalizing existing conditions and preventing potential future disputes or penalties. Socially, it ensures fairness for the current owners. The proposed departures do not introduce new developments or increase impervious surfaces, thereby having no significant impact on the biophysical environment.
- The proposal offers an efficient resolution by legalizing existing structures rather than requiring their modification or removal. This approach is cost-effective and avoids unnecessary redevelopment. The property is well-integrated within its residential setting, and the proposed adjustments ensure continued compatibility with the surrounding land uses, promoting community harmony.
- The application supports spatial sustainability by addressing minor deviations while maintaining the property's functional and aesthetic value. A detailed report from a quantity surveyor or building contractor is deemed unnecessary due to the negligible impacts and well-documented existing conditions.
- All services on the subject property already exist, and no additional loading of the existing infrastructure is anticipated. The densification status quo of the area will remain unchanged, with no impact on traffic or heritage aspects.

- The proposal aligns with spatial planning strategies and is compliant with applicable planning principles described in the LUPA (2014) and SPLUMA (2013).

In summary, the approval of the application for an administrative penalty and building line departures for Erf 1890 Vermont is recommended due to the minor nature of the encroachments, the lack of negative impact on the community or environment, and the efficient resolution it provides for existing discrepancies.





AREA
PLOT = 702m²

EXISTING DWELLING:
GROUND FLOOR = 114m²
COVERED VERANDAH = 34m²

FIRST FLOOR
OPEN BALCONY = 93m²
= 34m²

GARAGE
WENDY HOUSE = 30.5m²
= 18m²

TOTAL COVERAGE = 323.5m² = 46%

NO RESPONSIBILITY FOR THE DESIGN WILL BE TAKEN UNLESS THIS DRWG IS SIGNED BY A REPRESENTATIVE OF LA DESIGN STUDIO

SIGNATURE :
Les Abbott, Pr Arch
This drawing is the property of LA DESIGN STUDIO

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Revisions

Rev. no.	Date	Description

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VERMONT

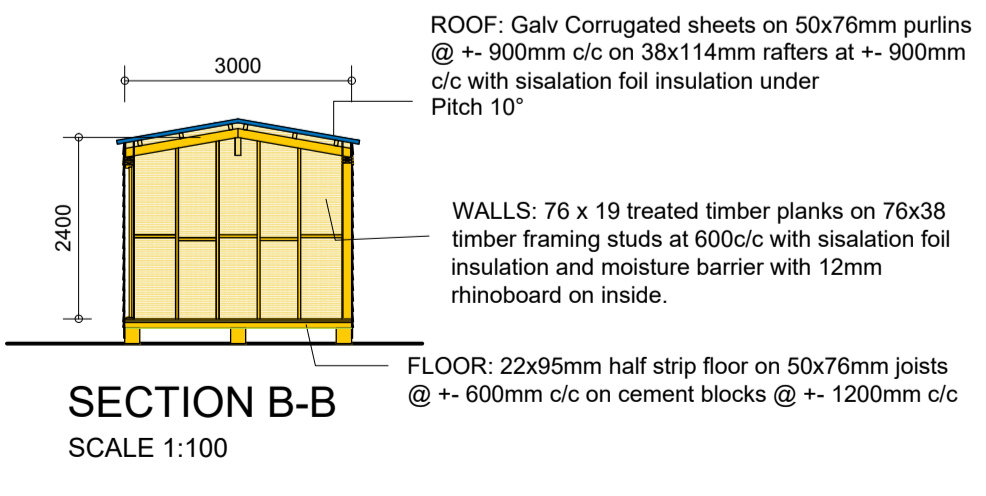
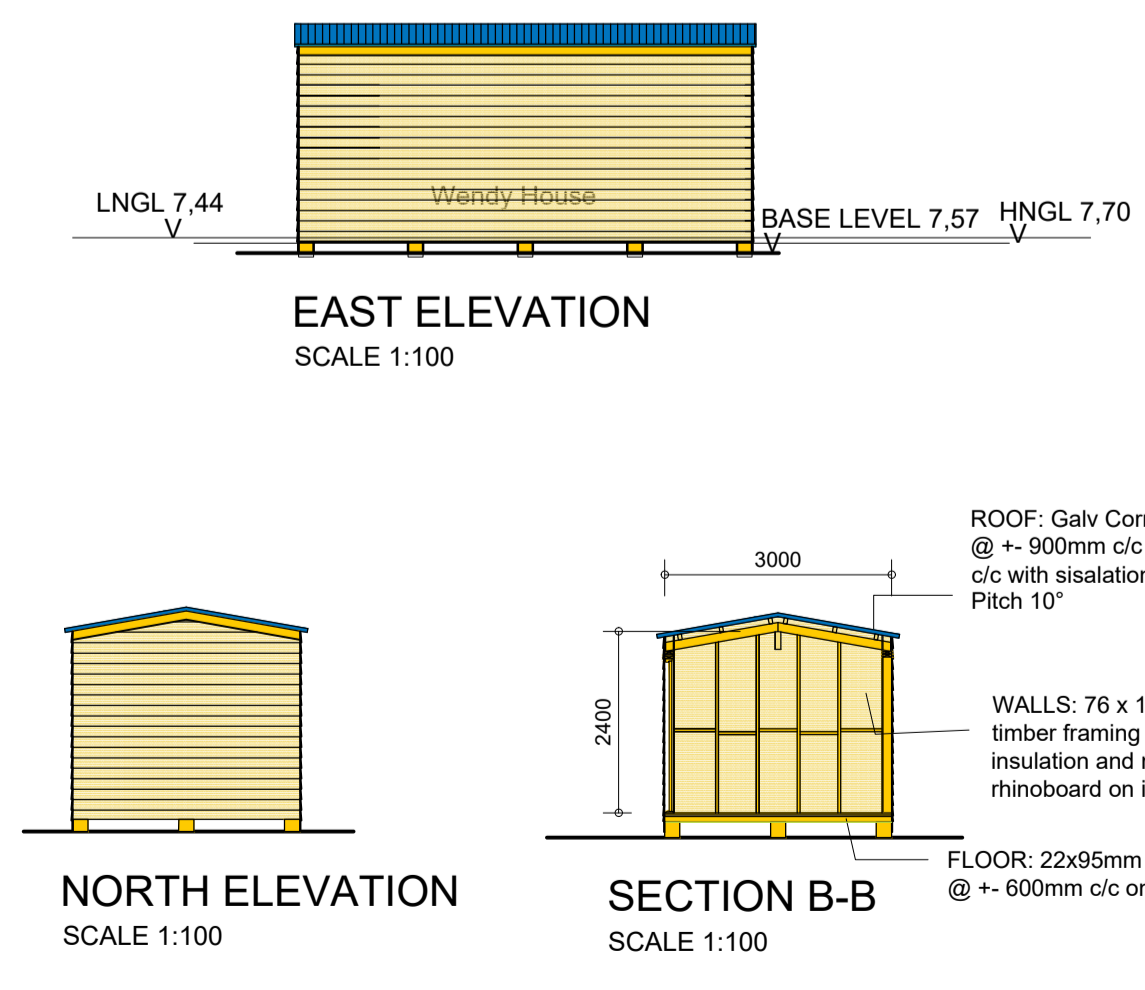
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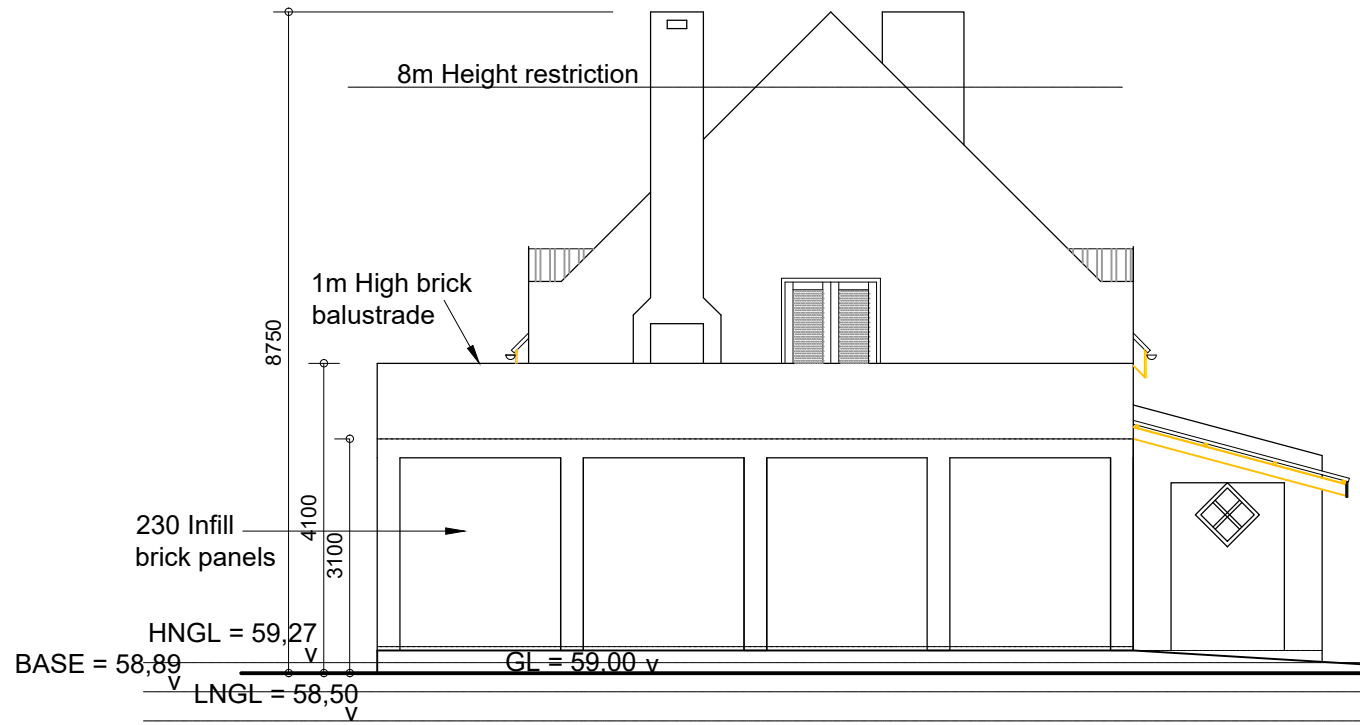
Project **AS-BUILT**

Drawing title **GENERAL PLAN** Date 31/01/2024
Scale 1:-

Project No. **671-24** Drawing No. **C02** Revision

Designed L. Abbott Drawn Plotted





EAST ELEVATION

SCALE 1 : 100