

ERF 3270, 1 RADYN STREET, ONRUSTRIVIER, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS MB PLAN TOWN PLANNING ON BEHALF OF HC ALANT

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

- > **Departure** in terms of Section 16(2)(b) of the Bylaw for the following:
 - relaxation of the western street building line from 4m to 0.26m, 1m and 1.950m to accommodate the existing garage, braai room with covered patio and the carport respectively.
 - relaxation of the northern street building line from 4m to 1.5m to accommodate the existing covered walkway and laundry.
 - Relaxation of the eastern building line from 2m to 1.28m to accommodate the covered walkway, scullery, tropical garden (with water tanks), bedroom and en-suite bathroom.
- > **Determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, Paterson Street, Hermanus. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (e) loretta@overstrand.gov.za) on or before **14 February 2025**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the **Town Planner, Mr. 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 Planning Department where a municipal official will assist them in order to formalize their comment.

ERF 3270, RADYN STRAAT 1, ONRUSTRIVIER, OVERSTRAND MUNISIPALE GEBIED: AANSOEK VIR AFWYKING & BEPALING VAN 'N ADMINISTRATIEWE BOETE: MNRE MB PLAN STADS BEPLANNING NAMENS HC ALANT

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) vir die:

- > **Afwyking** ingevolge Artikel 16(2)(b) van die verordening vir die volgende:
 - verslapping van die westelike straat boulyn vanaf 4m tot 0.26m, 1m en 1.950m om onderskeidelik die bestaande motorhuis, braaikamer met onderdakstoep en die motorafdak te akkommodeer.
 - verslapping van die noordelike straat boulyn vanaf 4m tot 1.5m om die bestaande onderdak loopgang en waskamer te akkommodeer.
 - verslapping van die oostelike boulyn vanaf 2m tot 1.28m om die onderdak loopgang, opwaskamer, tropiese tuin (met water tenke), slaapkamer en en-suite badkamer te akkommodeer.
- > **Bepaling van Administratiewe Boete** ingevolge Artikel 16(2)(q) van die Verordening.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (e) loretta@overstrand.gov.za) voor of op **14 Februarie 2025**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan die **Stadsbeplanner, Mnr. 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 Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

ISIZA 3270, 1 RADYN STREET, E-ONRUSTRIVIER, KUMASIPALA WASE-OVERSTRAND: ISICELO SOPHAMBUKO NOKUMISELWA KWESOHLWAYO SOLAWULO: MESSRS MB PLAN TOWN PLANNING EGAMENI LIKA HC ALANT

Isaziso sinikezelwa ngokwemiqathango yeCandelo 48 loMthetho kaMasipala oLungisiweyo woMasipala wase-Overstrand ongoCwangciso lokuSetyenziswa koMhlaba kaMasipala, 2020 ngoku kulandelayo:

Uphambuko lomqathango ngokweCandelo le-16(2)(b) loMthetho kaMasipala ngoku kulandelayo

- Ukunyenysiswa komda wesakhiwo esibucala ukusuka kwi mitha eziyi-4m ukuya kwii-mitha eziyi-0.26m kunye no 1.950 mitha ukulungiselela igaraji ekhoyo, indawo yokoja enendawo yokusithela kunye nendawo yokugcina imoto ngendlela eyiyo.
- Ukunyenysiswa komda wesakhiwo esingentla ukusuka kwimitha eziyi 4 ukuya kwi 1.5mitha ukulungiselela indawo ekhoyo yendlela yohamba kunye neyokuhlambela impahla.
- Ukunyenysiswa komda wesakhiwo ukusuka kwi mitha eziyi 2 ukuya kwi 1.28 mitha ukulugiselela indlela yohamba egqunywewo, indawo yokuhlambela izitya, igadi (enamatanki amanzi) igumbi lokulala eliquka igumbi langasese.

Ukumiselwa kwesohlwayo solawulo ngokwemigaqo yeCandelo le-16(2)(q) loMthetho kaMasipala

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, Hermanus / loretta@overstrand.gov.za) ngomhla okanye ngaphambi komhla wama **14 eyoMdumba 2025**, uchaze igama lakho, idilesi kunye neenkukacha zoqhagamshelwano, umdla kwisicelo kunye nezizathu zezimvo. Imibuzo ngomnxeba ingenziwa kuMchwangcisi weDolophu, **UMnzi. H Olivier** kule nombolo yomnxeba 028-313 8900. UMasipala unokwala ukwamkela izimvo ezifunyenwe emva komhla wokuvulwa. Nabani na ongakwaziyo ukufunda okanye ukubhala angandwendwela iSebe loCwangciso lweDolophu apho igosa likamasipala liya kuthi limncedise ukuze abhale ngokusesikweni izimvo zakhe.

1. Introduction

1.1 Brief

MB Plan Town Planning was appointed by the registered owner, Hendrina Cecilia Alant, to prepare and submit an application for Building Line Departures and the Waiving/Determination of an Administrative Penalty for Erf 3270, Onrus, in terms of the relevant legislation.

Refer to Annexure B for Power of Attorney.

1.2 Background

The following background will explain the origin and reasons for the existing contraventions on the application area, Erf 3270, Onrus.

1.2.1 Owner's Account

The application area was purchased and registered in the current owner and her late husband's names during June, 2015. However occupation already occurred during March 2015.

Upon occupation, the owners wished to affect certain changes to their new property and to the best of their knowledge they were following the correct statutory procedures to achieve this. According to the current owner, her late husband and her son were tasked with determining what the required procedure entailed. The process which followed included site visits by a municipal official/officials before and after proposed alterations were made. Furthermore, the developer who sold the subject property apparently advised that all changes first be affected before submitting the plans for approval.

The only alterations done by the current owner at this stage included raising the boundary walls, putting up a new boundary wall, converting a previously approved store into a laundry and erecting a covered walkway. The only other alteration was the replacement of the covered patio shade net with roof sheeting, which occurred during 2018.

After the alterations and inspections had occurred, the 2015 plans were submitted and stamped by the Health and Environmental Departments, but were rejected by the Building Control offices due to the existing unapproved building line encroachments.

However, apparently the developer provided the new owners with the unapproved 2015 building plans, informing them that they were approved. This confusion seems to have occurred due to the approval stamps on the plan from the Overstrand municipal fire brigade department and the Overberg District municipality's environmental health department. Refer to Annexure J for a copy of the 2015 unapproved plans as well as the rejection letter from the Building Control Department, which the new owners never received.

1.2.2. Building Plan History

As illustrated in Figure 1, the first approved plan on record is the 1985 plan which indicates that the garage and original dwelling (indicated as only a shell at that time) had already been built at an earlier stage. The 1985 plan shows internal construction of 3 bedrooms, a bathroom, a kitchen and a lounge. However the site plan does not indicate any distances between the building and the erf boundaries.

The following approved plan on record is the 1993 plan which indicates distances from the eastern, northern and western erf boundaries to be 2m, 3m and 1.4m respectively. On this plan additions to the eastern and southern side of the house were approved.

The latest approved plan dates back to 2002 where further additions to the southern side of the dwelling were approved. Before the approval of the 2002 plans, an application for the relaxation of the northern street building line was approved from 4m to 1.5m to accommodate an existing store, exceeding this building line.

As viewed on the current As-Built plans, the house was not positioned correctly as was indicated in the previously approved plans. The distance of the dwelling from the western boundary varies between 0.26m at its closest point up to 1.17m at its furthest point as opposed to 1.4m indicated on the previously approved plans.

The dwelling was constructed approximately 4.5m from the northern boundary which is further away than the 3m indicated on the previously approved plans. The new existing laundry as well as new existing covered walkway are 1.5m away from the northern boundary as was approved in 2002 for a previous store room, subsequently converted into the laundry.

On the eastern side, the dwelling is situated at a distance of 1.28m at its closest point and 1.30m at its furthest point to the eastern boundary as opposed to the previously approved 2m distance.

The carport on the southern side of the dwelling was erected by the previous owners but was moved back by the current owner up to approximately 2m from the western erf boundary. As the carport was never indicated on a plan, the date of construction is uncertain. The previous approved 2002 lounge and study were converted by the previous owners into the existing new bedroom and existing new en-suite bathroom, respectively between 2002 and 2015.

When the current owner put this property in the market, the estate agent established that the latest approved plans dated back to 2002 and that the 2015 plans were in fact never approved.

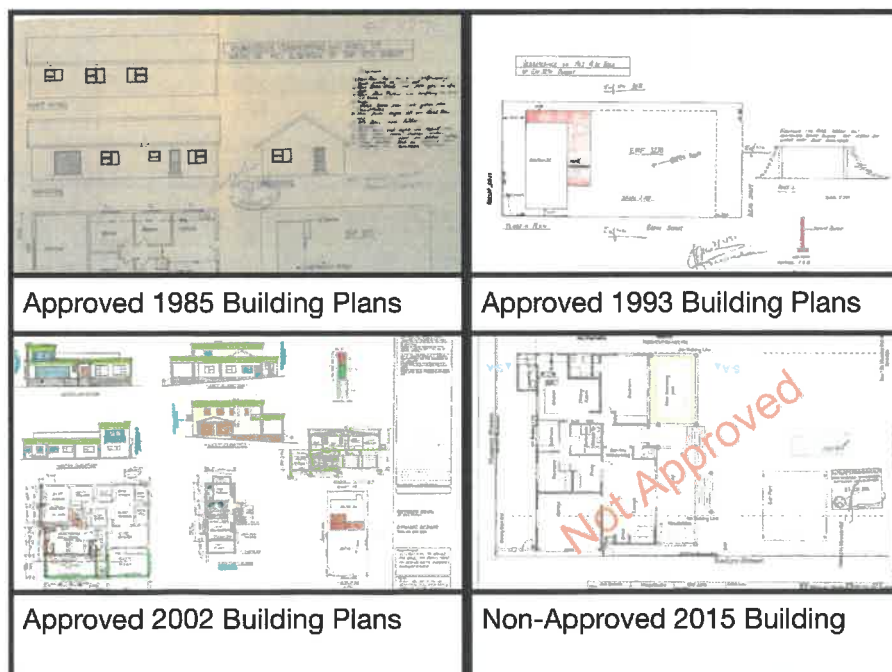


Figure 1: Extracts from Previously Approved Building Plans
 Refer to Annexure G for the approved building plans

This came as a complete shock to the current owner who now wishes to rectify all the unapproved structures, the unapproved land uses and the erroneously constructed dwelling which exceeds the building lines.

1.3 Summary of Development Objective and Application Proposal

The development objective is three-fold, namely:

- Legalise the existing unapproved structures exceeding the building lines
- Legalise the existing unapproved land-uses exceeding the building lines
- Legalise the existing approved but erroneously built structures exceeding the building lines

Refer to Figure 2 below which illustrates the existing structures/land uses exceeding the building lines. These structures/land uses include a carport, a covered patio, a braai room, a garage, a laundry, a covered walkway, a scullery, a bedroom, an en-suite bathroom and a tropical garden.

Therefore, the application proposal entails a building line departure and the determination of an administrative penalty.

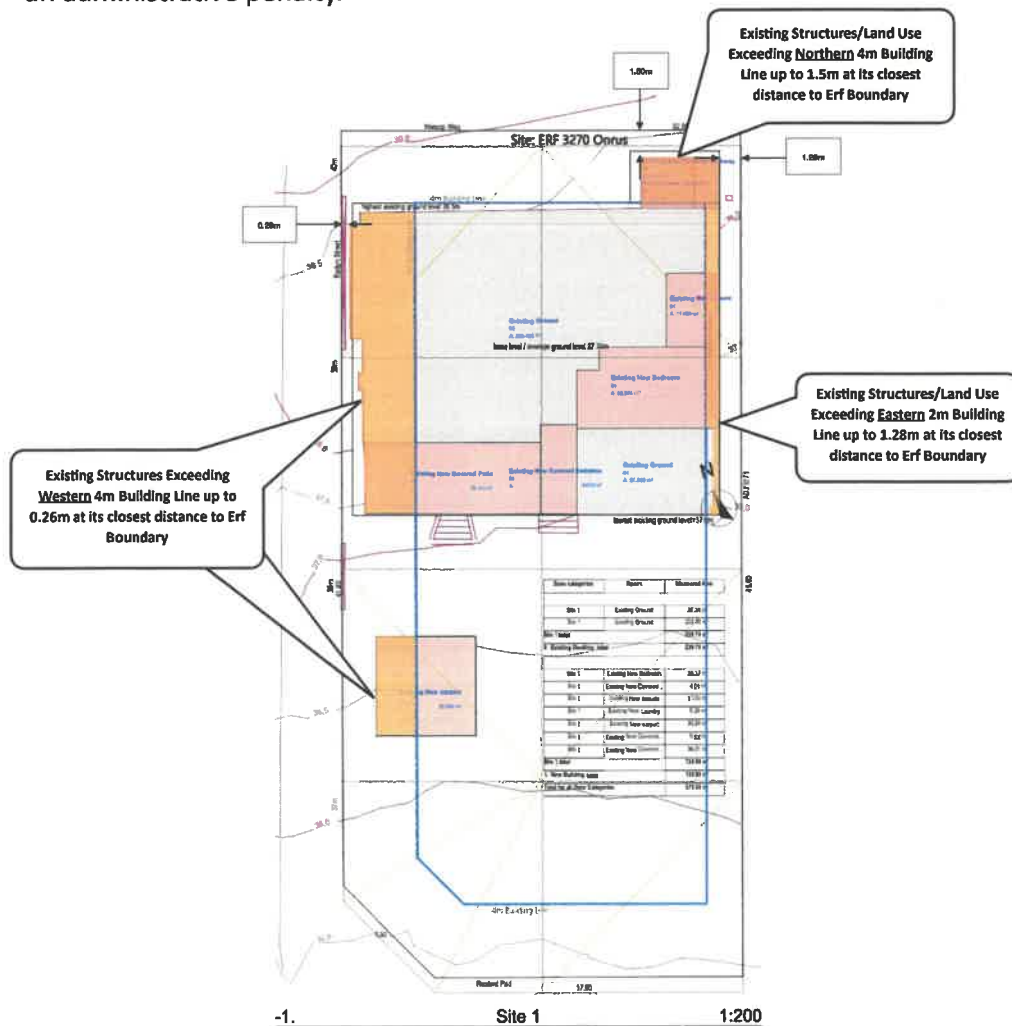


Figure 2: Building Line Contraventions to be Legalised
Refer to Annexure A for Completed and Signed Application Forms.

2. Contextual Information

2.1 Property Description & Ownership

Property Description: Erf 3270, Onrus

Owner: Hendrina Cecilia Alant

Title Deed: T4363/2019

Area: 1013m²

2.1.1 Title Deed

No title deed conditions restricting the application proposal could be located in the Title Deed T4363/2019. Refer to Annexure C for a copy of the Title Deed.

2.1.2 Surveyor General Diagram

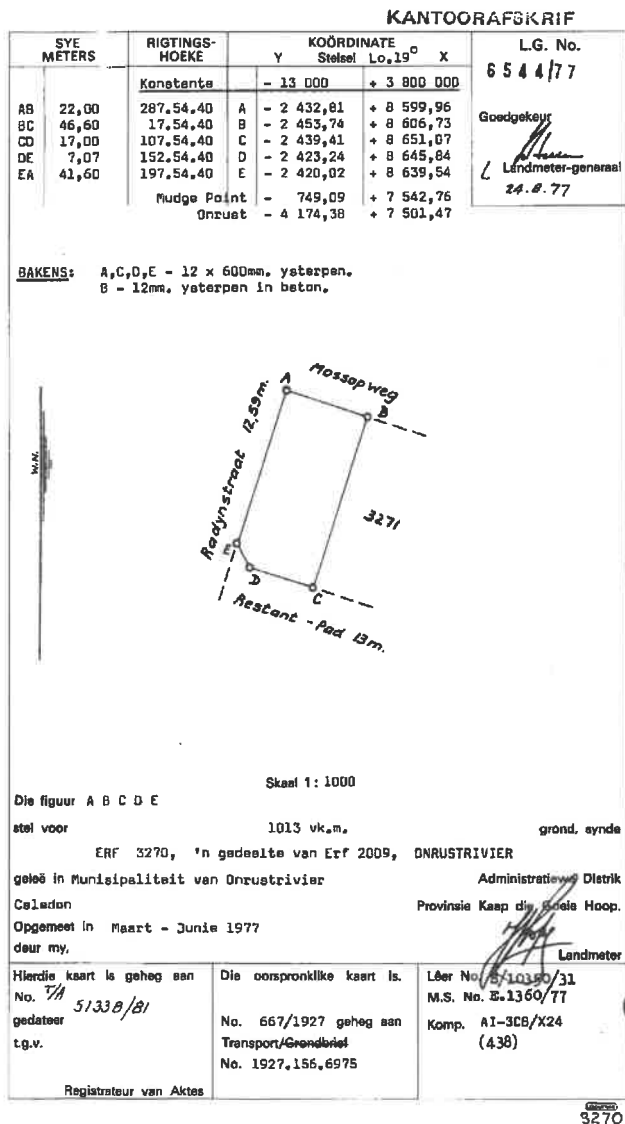


Figure 3: Surveyor General Diagram

Refer to Annexure D for the Surveyor General Diagram.

2.2 Locality

2.2.1 Regional Context

Within the regional context, the application area is located within Onrus residential suburb, within the Overstrand Municipal area. Onrus is approximately 7.5km west of the Hermanus CBD.



Figure 5: Regional Locality Plan
Refer to Annexure E for Locality Plan.

2.2.2 Local Context

From a local perspective, the application area street address is 1 Radyn Street.



Figure 5: Local Locality Plan
Refer to Annexure E for Locality Plan.

2.3 Zoning

2.3.1 Zoning Plan

The application area is zoned Single Residential Zone 1: Single Residential. The surrounding erven are mostly zoned Single Residential Zone 1 as well. An erf zoned Community Zone 1: Community Facilities exists on the opposite side of Mossop Road to the north and in close proximity to the east of the application area. The land use of the Community Zone 1 Erf on the opposite side of Mossop Road is an open space area with trees, whereas the Community Zone 1 erf to the east of the application area accommodates a Church. A Business Zone 3: Local Business erf exists in close proximity to the south of the application area. No change in zoning is proposed.

The application area is **consistent** with the zoning of the area.

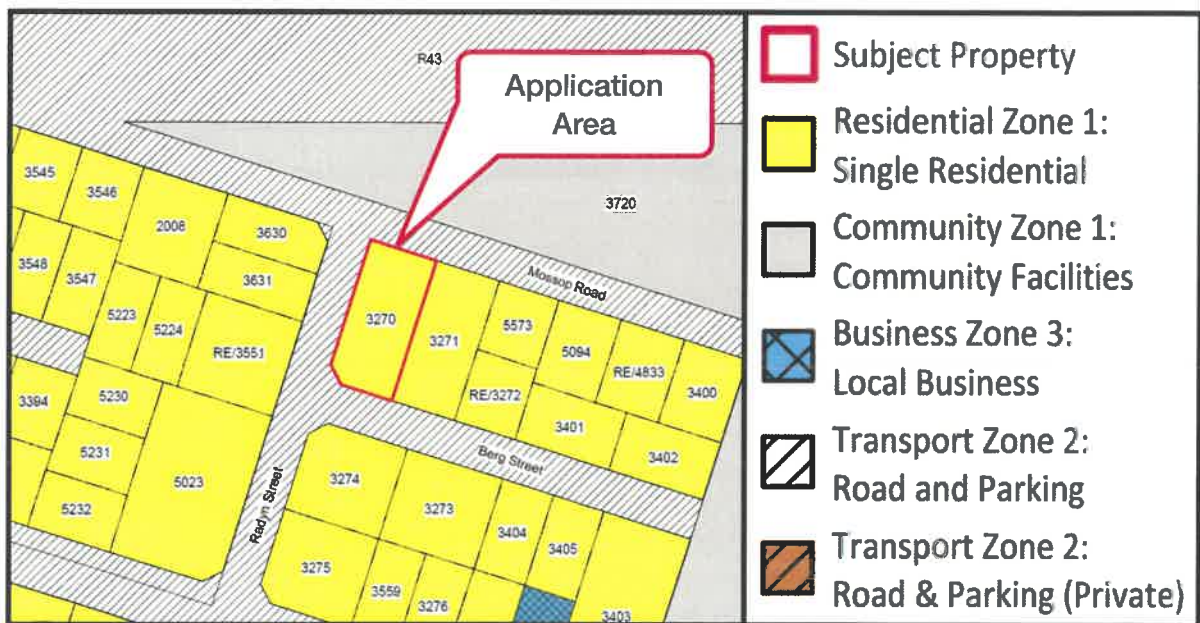


Figure 6: Zoning Map

Refer to Annexure F for Zoning Map

2.3.2 Zoning Criteria

The Zoning Criteria are presented in the table below and indicate that all Scheme criteria are adhered to, except for the western and northern 4m street building lines which are exceeded up to 0.26m and 1.5m from the respective erf boundaries as well as the eastern 2m side building line which is exceeded up to 1.28m from the eastern erf boundary.

Criteria	Existing Zoning	Proposal	Comments
Zoning	Residential Zone 1: Single Residential	Residential Zone 1: Single Residential	Consistent
Primary Uses	Crèche, dwelling house, guest rooms, home occupation, second dwelling unit and self-catering	Dwelling house	Consistent
Consent Uses	Day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and intensive horticulture	N/A	Consistent
Coverage	50%	37%	Consistent
Height	8m	5.7m	Consistent
Building lines	4m western street	0.26m street	Application includes departure
	4m northern street	1.5m street	
	2m eastern common	1.28m common	Consistent
	4m southern street	4m street	
Parking	2 bays per dwelling unit	2 bays	Consistent

2.4 Laws and Policies Applicable to the Application

2.4.1 Overstrand Municipal Spatial Development Framework, 2020

According to the OMSDF, 2020, the application area is located within an urban development area within the urban edge.

The application proposal is thus considered compatible with the Overstrand Municipal Spatial Development Framework, 2020.

2.4.2 Overstrand Municipal Growth Management Strategy, 2010

In terms of the Overstrand Municipal Growth Management Strategy, 2010, the subject property is located within a No Densification zone and within the Mountain Interface.

No densification and no further development is proposed. This application merely entails a legalisation of existing unapproved structures, existing unapproved land use and existing approved but erroneously built structures exceeding building lines.

The application proposal is thus considered compatible with the Overstrand Municipal Growth Management Strategy, 2010.

2.4.3 Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020

“90. Application for administrative penalty

(1) A person who is in contravention of this By-Law, and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned.

(2) A person making an application contemplated in Subsection (1) must –

- (a) submit an application;*
- (b) pay the prescribed fee;*
- (c) provide the information contemplated in Subsections (3); and*
- (d) comply with the duties of an applicant in Section 84.*

(3) The applicant must, to the satisfaction of the Municipality, provide the following information such as-

- (a) the nature, duration, gravity and extent of the contravention;*
- (b) the conduct of the person (allegedly) involved in the contravention;*
- (c) a report by a quantity surveyor in matters of unauthorised building/construction;*
- (d) whether the unlawful conduct was stopped; and*
- (e) whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.*

2.5 Engineer's Comments

The Engineering department was approached to provide comments regarding the following two aspects:

- a. Distance between the garage and the kerb on Radyn Street which is 3.7m, thus 1.3m shorter than the required 5m distance
- b. Two entrances to the application area from Radyn Street with a distance between them of 9.8m

The municipal engineer, Mr Ricardo Andrews, responded with no objection against the current location of the garage or the current location of the second entrance to the application area.

In his opinion the garage has already been approved through the building plan process and the previous approvals.

However any "new" transgressions which have not appeared on the previously approved building plans, are required to be dealt with differently.

This application is considered to support Mr Andrews' requirement.

Refer to Annexure L for the Comment from the Engineering Department

3 Motivation

3.1 Proposal

3.1.1 Development Objective

The development objective is to legalise the following unapproved structures/landuse exceeding the building lines as well as the approved but erroneously built structures exceeding the building lines:

Unapproved structures and erroneously built approved structures exceeding the western 4m street building line are as follows:

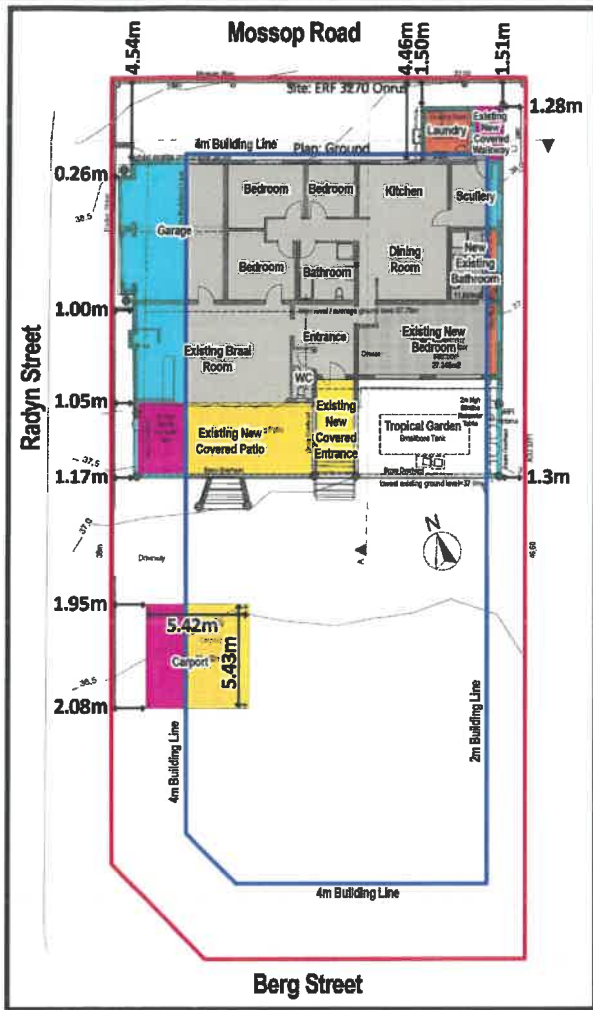
- Unapproved Carport up to 1.95m from the erf boundary
- Approved but Erroneously Built Stoep converted to Unapproved Covered patio up to **?m** from the erf boundary
- Erroneously Built Braai Room up to 1m from the erf boundary
- Erroneously Built Garage up to 0.26m from the erf boundary

Unapproved structures/land-use exceeding the northern 4m street building line are as follows:

- Unapproved Laundry Land Use up to 1.50m from the erf boundary
- Unapproved Covered Walkway up to 1.51m from the erf boundary

Unapproved Structures and erroneously built approved structures as well as unapproved land-uses exceeding the eastern 2m common building line are as follows:

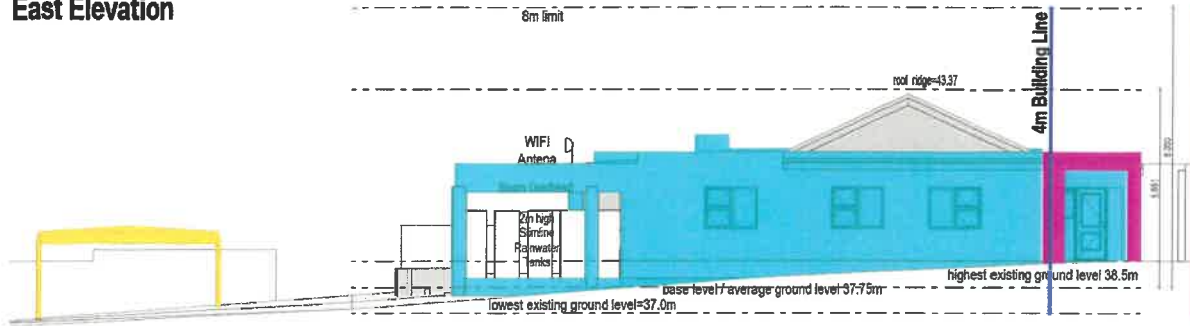
- Unapproved Covered Walkway up to 1.28m from the erf boundary
- Erroneously Built Scullery up to 1.28m from the erf boundary
- Approved but Erroneously built Lounge converted to Unapproved Bedroom Land Use up to 1.29m from the erf boundary
- Approved but Erroneously built study converted to Unapproved Bathroom Land Use up to 1.29m from the erf boundary
- Erroneously Built Tropical Garden up to 1.30m from the erf boundary



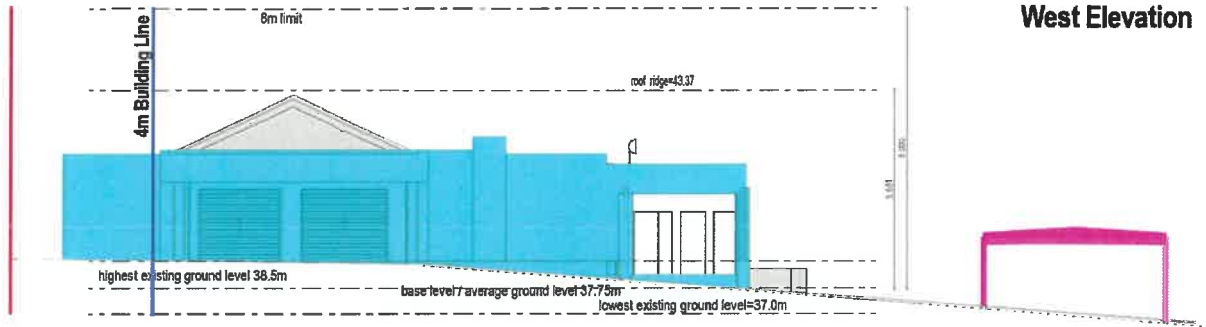
Structures/Rooms	Total footprint exceeding building lines	Land Use exceeding building lines	New structures exceeding building lines	New structures not exceeding building lines
Carport			11.8m ²	18.5m ²
Existing New Covered Patio			9.7m ²	25.3m ²
Covered Walkway to Entrance				9.8m ²
Existing Braai Room	15.3m ²			
Garage	25.9m ²			
Existing New Bedroom	3.0m ²	1.9m ²		
Existing New Ensuite	2.9m ²	1.9m ²		
Scullery	2.7m ²			
Existing New Laundry	7.2m ²	5.6m ²		
Existing New Covered Walkway			3.9m ²	
Tropical Garden Stoep Beams & Pillars	1.5m ²			

Figure 7: Development Proposal

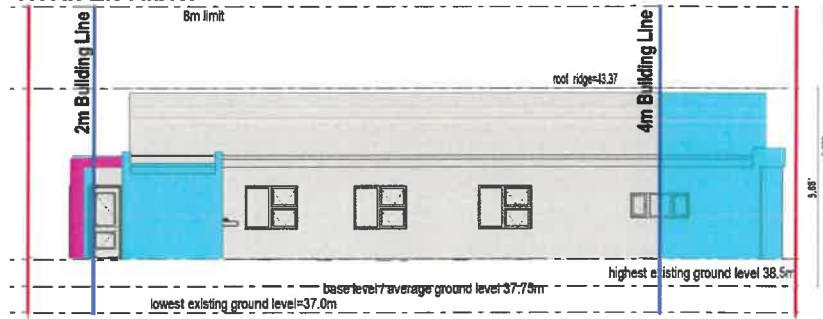
East Elevation



West Elevation



North Elevation



South Elevation

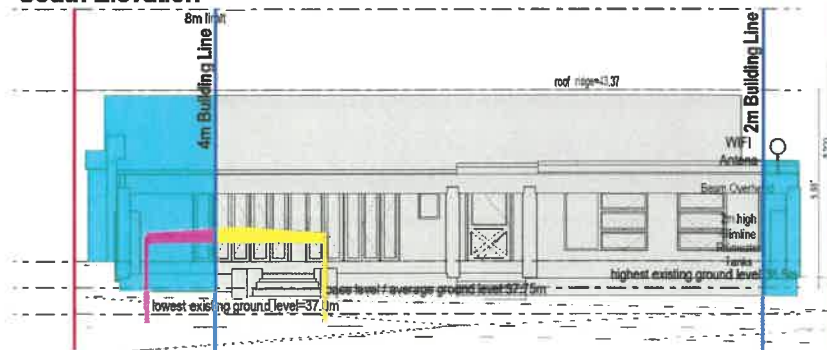


Figure 8: Elevations Illustrating Building Line Contraventions to be Legalised
 Refer to Annexure H for proposed building plans

3.1.2 The Application

Application is subsequently made in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:

- Building Line Departure to relax the western street building line from 4m to 0.26m to accommodate the following existing structures which exceed this building line namely, the garage, the braai room, the covered patio and the carport, in terms of Chapter IV, Section (16)(2)(b).
- Building Line Departure to relax the northern street building line from 4m to 1.50m to accommodate the following existing structure and land use which exceeds this building line namely, the covered walkway and the laundry, in terms of Chapter IV, Section (16)(2)(b).
- Building Line Departure to relax the eastern common building line from 2m to 1.28m to accommodate the following existing structures and land uses which exceed this building line namely, the covered walkway, the scullery, the tropical garden, the bedroom and the en-suite bathroom, in terms of Chapter IV, Section (16)(2)(b).
- Waiving/Determination of the Administrative Penalty in terms of Chapter IV, Section 16(2)(q) for the existing building lines contraventions.

3.1.3 Photos of Building Line Encroachments



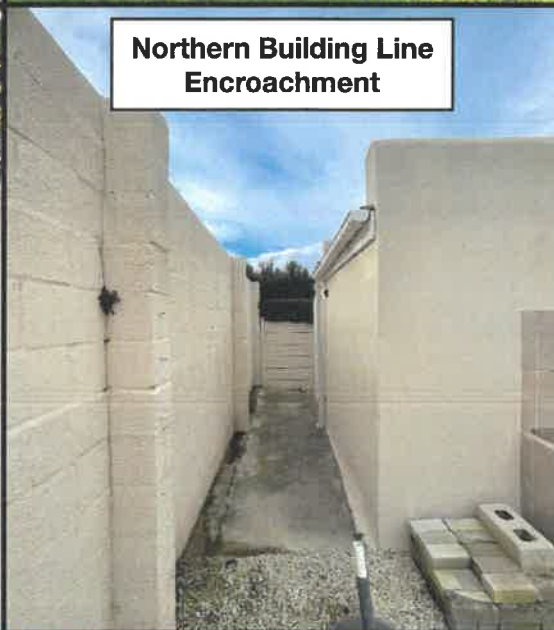
Garage Encroaching over Western Street Building Line



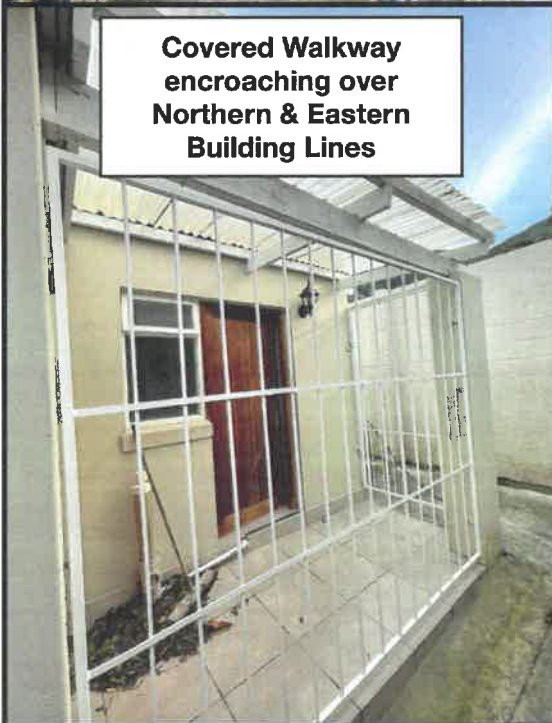
Carport Encroaching over Western Street Building Line



Eastern Building Line Encroachment



Northern Building Line Encroachment



Covered Walkway encroaching over Northern & Eastern Building Lines



Western Building Line Encroachment

3.1.4 Western Street Building Line Departure

Radyn Street is mostly a quiet residential street mainly providing access to the properties located along it. The municipal engineer was approached for a comment regarding the garage being closer than 5m to the road kerb and has confirmed that he has no objection to this.

Furthermore, due to the second entrance to the erf providing access to the carport, visitors are able to park on the property and therefore will not need to park in the street due to a shorter driveway. This situation has existed since before 1985 and according to the current owner, who lived there since the beginning of 2015, no accidents nor near-accidents have ever occurred due to a vehicle coming around the corner from Mossop Street into Radyn Street. The garage doors are automated which allows immediate access to the garage when returning home, without having to wait in the driveway.

Two of the uses exceeding the western street building line are non-habitable spaces namely the carport, and the garage.

The original garage was erroneously built up to 0.26m from the western erf boundary with an average distance of 3.7m from the road kerb. Previously approved building plans indicate the garage at a distance of 1.4m from the western erf boundary and therefore the garage was originally approved up to 2.6m over the 4m street building line. The difference between the approved distance (1.4m) and the actual distance from the erf boundary (0.26m at closest distance to erf boundary) is 1.14m.

Even though the carport was never approved and the date of origin is uncertain, the carport adheres to the Scheme requirements stipulated in Section 16.1.2(b) for a carport to be permitted over the street building line. The carport width is 5.2m, the height is 2.5m at its highest point, the roof is supported by metal posts and the carport is not enclosed on any side.

The only habitable areas encroaching over the western street building line are the braai room and covered patio which are approximately 1m and 1.2m from the erf boundary. These were previously approved at 1.4m, and therefore the difference is negligible.

The erf boundary wall and vegetation planted along a section of the boundary wall, serve as a screen between the portions of the dwelling exceeding the building line and the street, therefore providing privacy, safety and security to the property. It also minimises any visual impact as viewed from the street.

Therefore the encroachment over the western street building line has no impact on the character of the area either.

3.1.5 Northern Street Building Line Departure

The only land use and structure exceeding the northern street building line is the laundry and the covered walkway which are up to 1.5m and 1.51m from the northern erf boundary.

A building line departure was approved in 2002 for a store room up to 1.5m from the northern erf boundary. Subsequently, the store was converted into a servant's quarters by the previous owners and after that into a laundry by the current owner. The previous open walkway was enclosed by the current owner by burglar bars and a roof, covering a small area of 4m². The covered walkway provides secure and protected access to the laundry from the

main dwelling, minimising exposure to inclement weather, and providing a layer of security to the main dwelling. The laundry and the covered walkway are both non-habitable areas.

One of the reasons for this building line departure application is due to the change in land use from an approved store to a laundry. Therefore, the same reasons for approving the building line departure for a non-habitable structure/space up to 1.5m in the past, are still considered valid for approving the existing non-habitable structures/spaces at the same distance from the erf boundary.

The boundary wall provides screening, safety and security from the adjacent street.

Access is still available all along the northern boundary for emergency purposes.

The northern facade does not represent the main facade which is on the western side of the property and therefore no notable impact on the character of the area is evident.

3.1.6 Eastern Common Building Line Departure

The land uses and structures exceeding this building line include non-habitable spaces namely the covered walkway, a bathroom and a tropical garden. The habitable space consists of the scullery and the bedroom. This building line is only slightly exceeded up to approximately 1.28m at its closest point to the erf boundary. The dwelling was approved up to 2m from this boundary but erroneously built up to 1.28m, thus 0.72m further east than approved. According to the municipal public viewer aerial photo, the neighbouring dwelling to the east of the application area is located at least 4m away from the common erf boundary.

A boundary wall with a hedge above it, serves as a screen between the application area and the adjacent property to the east. This ensures privacy for both erven and prevents any potential visual impact on the neighbouring property.

Furthermore, the neighbour has provided his consent for the eastern building line departure application, confirming that no material impact is caused by the building line encroachment on the eastern side of the application area.

Access for emergency purposes is available all along the eastern boundary.

3.1.7 Conclusion

The unapproved additions and changes on the subject property implemented by the current owner represent improvements to existing structures on the application area in terms of the laundry, the covered patio and the covered walkway.

All other building line contraventions were the result of structures erroneously built over the building lines by previous owners, possibly dating back as far as 1977 when the erf was created. No building plans for the original structure are on record with Building Control.

It is evident that the building line encroachments do not cause any material impact on the surroundings or on the application area in terms of privacy, visual impact or access for emergency services. Furthermore, no notable impact from the building line encroachments on the character of the area is evident either.

The adjacent neighbour to the east supports the eastern building line departure application.

Therefore, approval of the building line departures is considered the most reasonable approach to the existing contraventions.

3.1.8 Waiving/Determination of an Administrative Penalty

Waiving/Determination of an Administrative Penalty in terms of Chapter IV, Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

The following information with regards to the administrative penalty is provided as required according to Chapter X, Section 90(3) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020:

3.1.8.1 The Nature, Duration, Gravity and Extent of the Contravention

The extent of the various building line contraventions, are as follows:

Extent of Structures Exceeding Western Street Building Line

- 11.8m² of the Carport - previous owner responsible, uncertain of date of origin
- 9.7m² of the Covered patio - current owner was merely responsible for replacing the shade net covering with permanent roof sheeting during 2018. The approved open stoep was originally covered with shade net by the previous owner after October 2002 and before March 2015
- 15.3m² of the Braai Room - previous owner responsible - approved since October, 2002
- 25.9m² of the Garage - previous owner responsible - approved before 1985
- Total extent of structures exceeding this building line is 62.7m² of which current owner is responsible for 9.7m² due to the unapproved roof sheeting

Extent of land use Exceeding Northern Street Building Line

- 5.6m² of the laundry - current owner converting October, 2002 approved store into laundry between March and June, 2015
- Total extent of the approved structure exceeding this building line is 7.2m² of which the current owner is responsible for 5.6m² building line contravention, due to the unapproved changed land use

Extent of structures/land use Exceeding Eastern Common Building Line

- 2.7m² of the scullery - previous owner responsible - approved 2002
- 2.9m² of the approved study and 1.9m² of the unapproved bathroom land use - previous owner responsible - after October, 2002 & before March, 2015
- 3m² of the approved lounge and 1.9m² of the unapproved bedroom land use - previous owner responsible - after October, 2002 & before March, 2015
- 1.5m² of the tropical garden - previous owner responsible - approved October, 2002
- Total extent of structures exceeding this building line is 10.1m² and total extent of changed land use exceeding the building line is 3.8m² of which current owner is responsible for 0m²

Extent of Structures Exceeding Eastern Common and Northern Street Building Lines

- 3.9m² of the covered walkway - current owner responsible for construction between March and June, 2015
- Total extent of structure exceeding these building lines is 3.9m² for which current owner is responsible for 3.9m² due to the construction of the unapproved covered walkway

Therefore, the total extent of building line contraventions is 86.1m².

The current owner is responsible for 19.2m² of the total building line contraventions and the previous owners are responsible for 66.9m² of the total building line contraventions.

3.1.8.2 The Conduct of the Persons (Allegedly) Involved in the Contravention

To be duly noted, is the owner's past attempt to follow what she and her late husband thought were the correct statutory procedures to approve proposed changes including the conversion of the approved store into a laundry, covering the open walkway and replacing the shade net over the patio with permanent roof sheeting, all to be considered improvements. The previous attempts of the current owner at following the correct procedures were complicated by erroneous information and misunderstandings.

This application indicates the owners' co-operation and willingness to rectify the existing contraventions by following the correct statutory procedures.

3.1.8.3 Report by a Quantity Surveyor in Matters of Unauthorised Building/Construction

Application is made to **waive or else to minimise** the administrative penalty.

The following reasons are presented for waiving or minimising the administrative penalty namely:

- Most of the building line contraventions were caused by the previous owners
- Current owner's previous attempt at following the correct statutory procedure for changes created on the property and her impression that the correct procedure was being followed
- Erroneous information, resulting in the owner's belief that the changes created by them were in fact approved
- Nature, scale and immaterial impact of the building line contraventions
- No objection from the engineering department
- Eastern neighbour's support for departure application
- Owners' co-operation and willingness to rectify the contraventions

Should the municipality decide to impose an administrative penalty, kindly refer to Annexure K for the building quote. As the current owner is only responsible for 13.6m² of the unapproved structures exceeding the building line, the building cost amounts to R46 240 for the covered patio and covered walkway, according to the building quote. The extent of the land use building line contravention caused by the current owner is 5.6m² for the laundry which is situated in a structure already approved over the building line

3.1.8.4 Whether the Unlawful Conduct was Stopped

Due to the nature of the contraventions being unapproved building line encroachments, stopping the unlawful conduct would imply demolishing the sections of the structures which exceed the building lines. This would be considered extreme, costly and unreasonable, not allowing the optimal use of the application area to provide a satisfactory residential environment.

Approval of this application to legalise the contraventions will enable the residents to fully utilise all structures on the property.

Therefore, the most reasonable, effective and cost-efficient approach in dealing with the unlawful conduct would be to legalise the building line contraventions which form a part of improvements made to the application area and which cause no material impact on the surroundings or on the character of the area.

3.1.8.5 Whether the Persons Allegedly Involved in the Contravention has Previously Contravened this By-Law or a Previous Planning Law

No, the current owner has not previously contravened this by-law or a previous planning law.

3.2 Desirability

To summarise, the proposal is therefore considered **desirable** for the following reasons, namely:

- It is in accordance with the relevant spatial planning legislation, policies and frameworks for the area.
- The eastern neighbour who could potentially be affected by the relevant building line departure supports this application. This confirms no material impact on the eastern neighbour.
- The owner is co-operative and willing to rectify the existing contraventions by following the correct statutory procedures.
- Most of the contraventions have been existing since before 1985, 1993 and 2002 without any known complaints or material impact on the surroundings.
- The owner was under the impression that she was following the correct statutory procedure for the changes affected to the application area and that she was subsequently provided with the approved building plans.
- The proposal contributes to addressing the essential needs of the residents for additional practical, functional, recreational and other spaces.
- The proposal supports the improvements made to the property and adds value.
- The proposal will not have a material impact on the surroundings or on the character of the area.
- Legalisation of the building contraventions is considered the most reasonable, cost-effective and efficient solution to the existing contraventions.
- All other Scheme criteria are adhered to by the proposal.

Therefore, the land will be optimally utilised to provide a satisfactory residential environment which caters for the full range of residential needs on the application area without any material impact on the surroundings or the character of the area.

3.3 Planning Principles

In terms of Chapter VI of the Spatial Planning and Land Use Management Act, 2013 the following Planning Principles have been applied to the application site:

3.3.1 Spatial Justice

Spatial Justice which refers to the need for redressing the past apartheid spatial development imbalances and aims for equity in the provision of access opportunities, facilities, services and land.

Possible Results of the Development

The proposal will in no way contribute to the perpetuation of past apartheid spatial development imbalances as it will merely legalise the existing unapproved/erroneous structures and unapproved land uses exceeding the building lines on a single residential erf.

The application proposal is **consistent** with spatial justice.

3.3.2 Spatial Sustainability

Spatial Sustainability which refers to the fact that a spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.

Possible Results of the Development

The proposal will permit the existing unapproved/erroneous structures and unapproved land uses which exceed the building lines on a single residential erf within the urban edge.

Therefore, no impact on agricultural land, environmentally sensitive areas and biodiversity rich areas will occur.

The application proposal can thus be deemed to be spatially sustainable.

3.3.3 Spatial Efficiency

Spatial efficiency which refers to the manner in which settlements themselves are designed to function in such a way that there will be a minimum need to travel long distances to access services, facilities and opportunities.

Possible Results of the Development

Approval of the application will allow for the optimal use of the application area to provide a satisfactory residential environment for the residents by creating sufficient practical, functional and recreational spaces.

The proposal for legalisation is considered the most reasonable, cost-effective and efficient approach to the existing contraventions, considering that no material impact on the surrounding land or on the character of the area is evident or foreseen.

The application proposal is **consistent** with the efficiency principle.

3.3.4 Spatial Resilience

Spatial Resilience which, in the context of land use planning, refers to spatial plans, policies and land use management systems which should enable communities to be able to resist, absorb and accommodate any economic and environmental shocks which might occur in a timely and efficient manner.

Possible Results of the Development

The application proposal will not cause any economic or environmental shocks to the community.

The application proposal is **consistent** with the principle of spatial resilience.

3.3.5 Good Administration

Good Administration which, 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 that a joint planning approach is pursued.

Possible Results of the Development

Consultive practices are being followed in this application as it is done in consultation with the Planning Department of the Municipality who will also advertise the application in such a manner as to enable the Government and the general public to participate in the eventual decision-making process.

The application proposal is **consistent** with the principle of good administration.

3.3.6 Planning Principles Conclusion

The application proposal is therefore considered fully **consistent** with the planning principles of spatial justice, spatial sustainability, efficiency, spatial resilience and good administration.

4 Conclusion

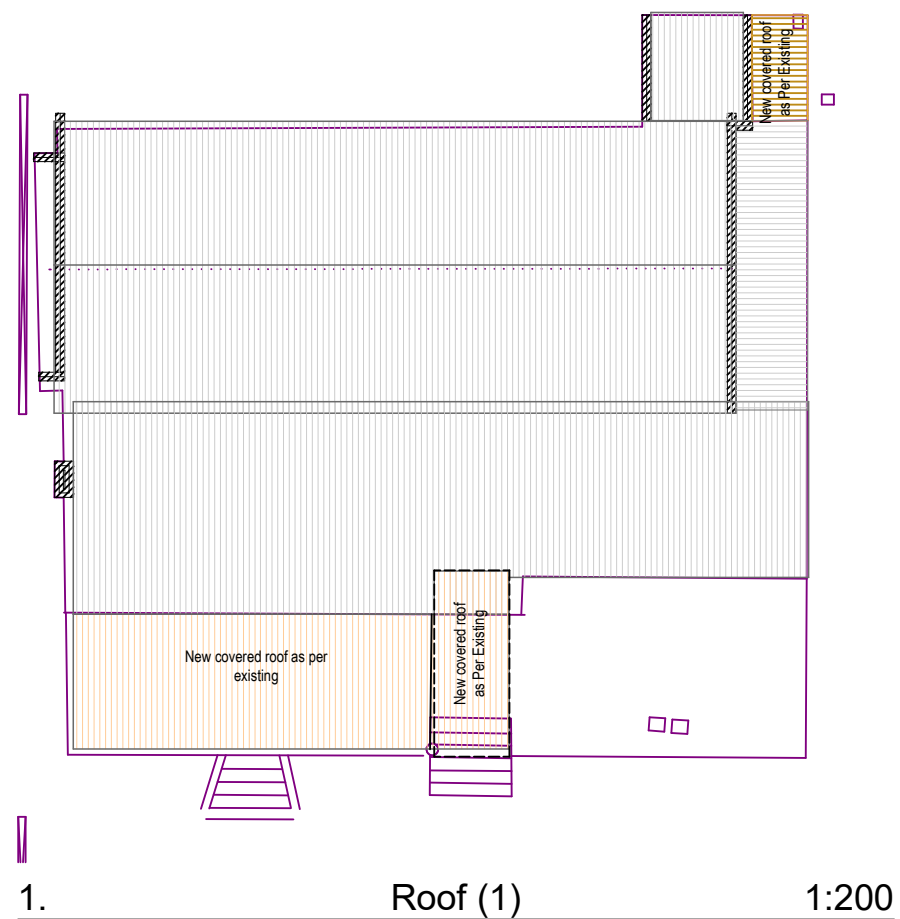
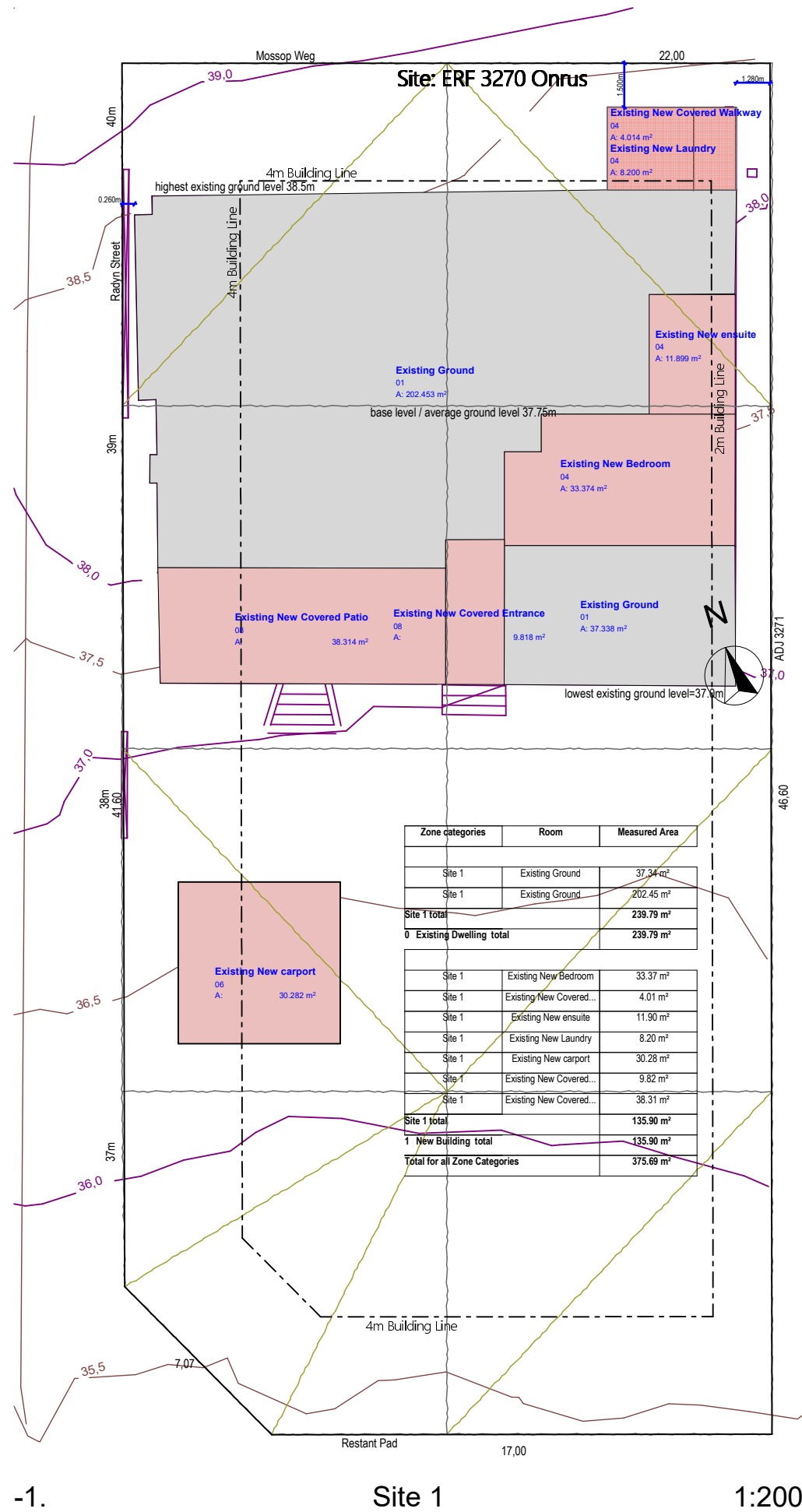
The development proposal allows for the optimal use of the application area to provide for the range of needs of the residents including a double garage, indoor and outdoor recreational spaces, additional bedroom and bathroom areas, a separate functional area for laundry and a practical covered walkway which provides security and shelter against inclement weather. This contributes to a more practical, functional and satisfactory residential environment for the residents.

The scope of the application as motivated in this report is considered the most reasonable, cost-effective and efficient approach to rectify the building line contraventions which represent improvements and for which no material impact on the surrounding properties or on the character of the area is evident or foreseen.

It is also very important to note that the current owner was under the impression that she was following the correct statutory procedure for the approval of changes to her property and that she was subsequently provided with the approved 2015 building plans. However, these plans were rejected by Building Control due to the existing encroachment of the building lines, but this information never reached the current owner.

The application is considered **desirable** within its local context and **well-integrated** within the existing community land-use activities and it is therefore recommended that the application be approved as follows:

- Building Line Departure to relax the western street building line from 4m to 0.26m to accommodate the following existing structures which exceed this building line namely, the garage, the braai room, the covered patio and the carport, in terms of Chapter IV, Section (16)(2)(b).
- Building Line Departure to relax the northern street building line from 4m to 1.50m to accommodate the following existing structure and land use which exceeds this building line namely, the covered walkway and the laundry, in terms of Chapter IV, Section (16)(2)(b).
- Building Line Departure to relax the eastern common building line from 2m to 1.28m to accommodate the following existing structures and land uses which exceed this building line namely, the covered walkway, the scullery, the tropical garden, the bedroom and the en-suite bathroom, in terms of Chapter IV, Section (16)(2)(b).
- Waiving/Determination of the Administrative Penalty in terms of Chapter IV, Section 16(2)(q) for the existing building line contraventions.



Zone categories	Room	Measured Area
Site 1	Existing Ground	37.34 m ²
Site 1	Existing Ground	202.45 m ²
Site 1 total		239.79 m²
0 Existing Dwelling total		239.79 m²
Site 1	Existing New Bedroom	33.37 m ²
Site 1	Existing New Covered...	4.01 m ²
Site 1	Existing New ensuite	11.90 m ²
Site 1	Existing New Laundry	8.20 m ²
Site 1	Existing New carport	30.28 m ²
Site 1	Existing New Covered...	9.82 m ²
Site 1	Existing New Covered...	38.31 m ²
Site 1 total		135.90 m²
1 New Building total		135.90 m²
Total for all Zone Categories		375.69 m²

Coverage calculation:
 1013m² x 50% = 556m²
 Actual Coverage = 376m²
 37% = Permitted Coverage



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Drawing Name

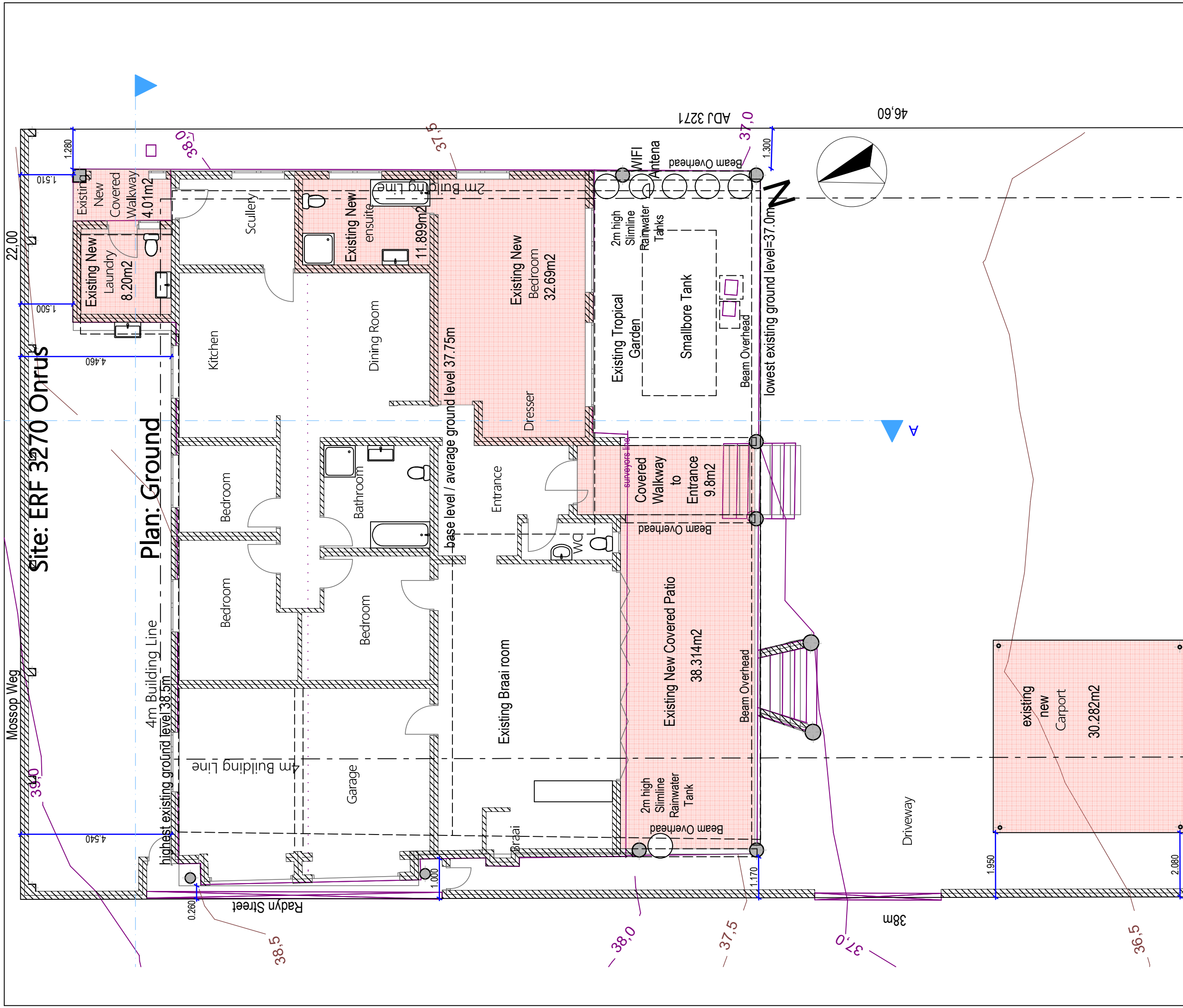
Site 1, Roof (1)

Drawing Status
Submission Drawings Only

Drawn by Date
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Drawing Scale
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Layout ID Status
 Revision
A001.1 Job bag.



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Ground
 Drawing Status
Submission Drawings Only

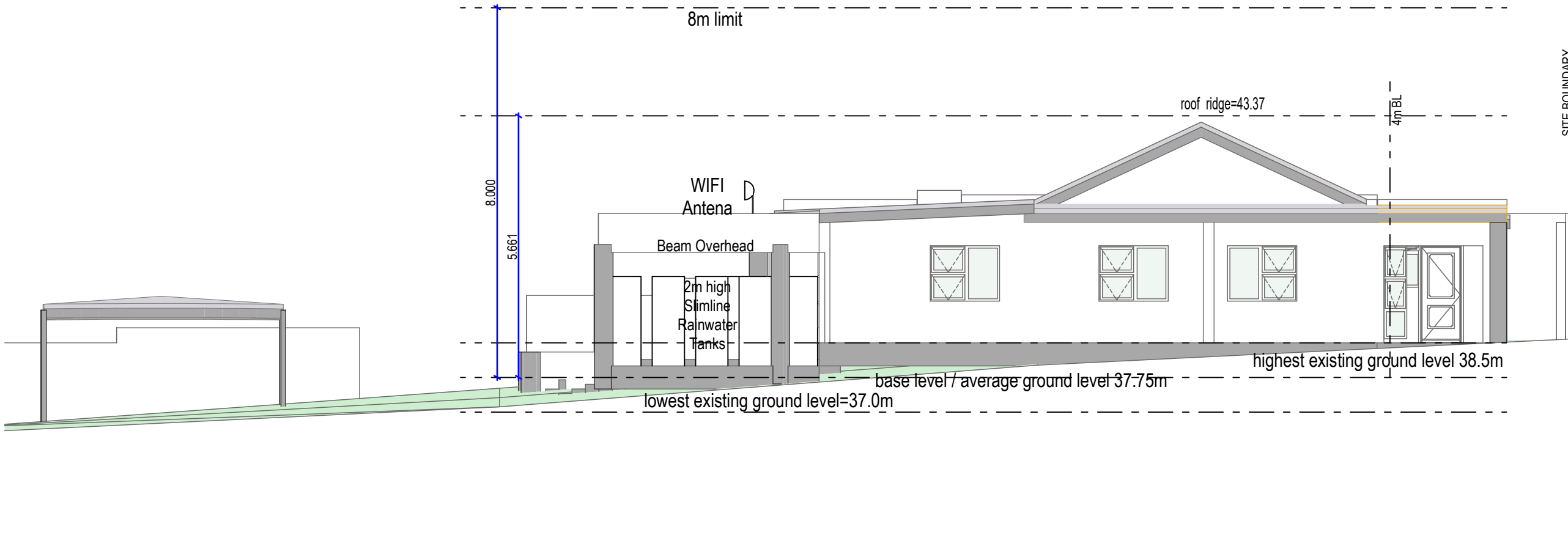
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Drawing Scale
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Layout ID Status
 Revision Job bag.
A01.2

1:100

0.



East Elevation (1)

1:100



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Drawing Name

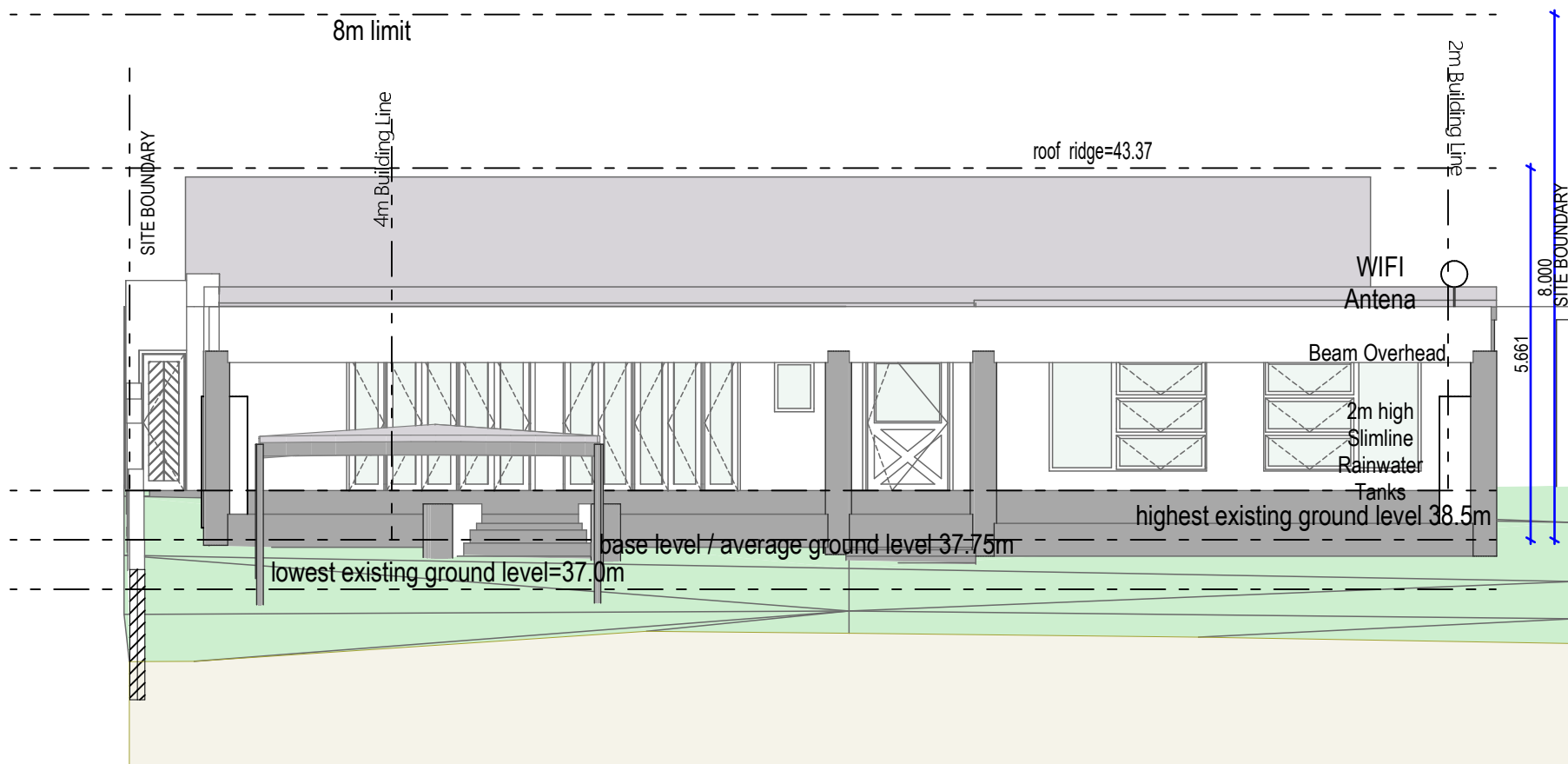
East Elevation (1), South Elevation (1)

Drawing Status
 Submission Drawings Only

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Drawing Scale
 1:100

Layout ID Status
 Revision
 A01.3 Job bag.



South Elevation (1)

1:100



West Elevation (1)

1:100



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Drawing Name

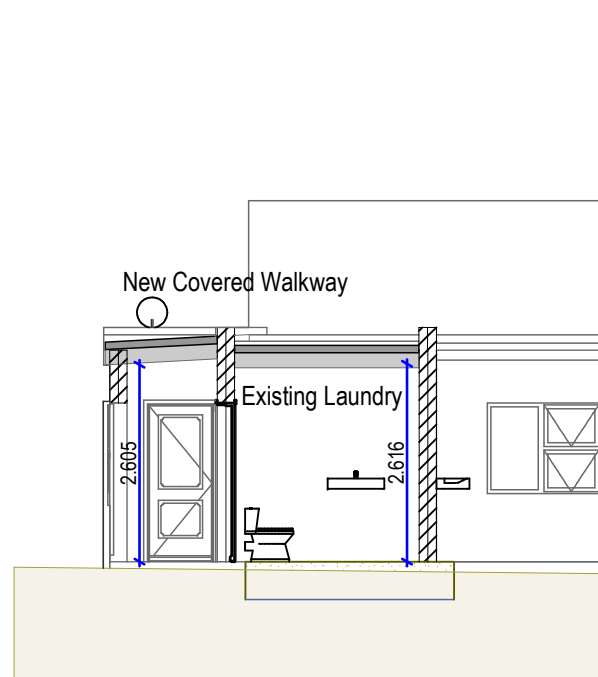
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 Elevation (1)

Drawing Status
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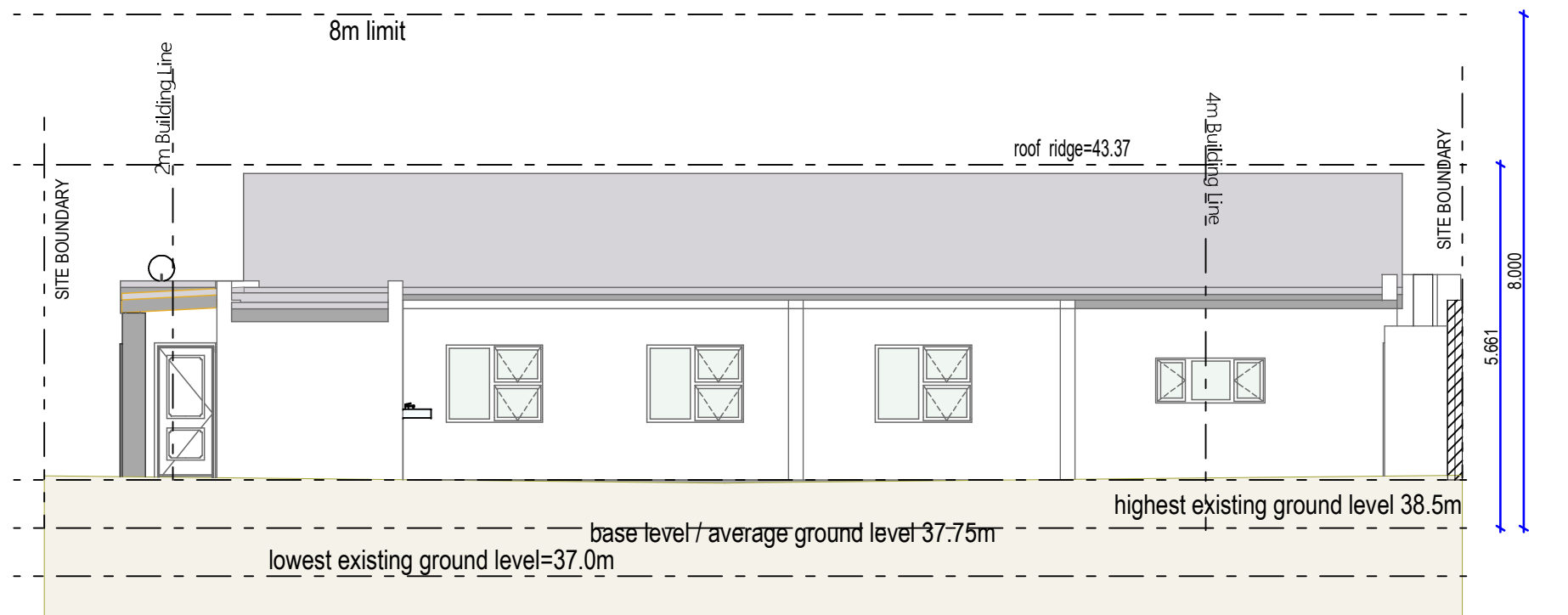
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Drawing Scale
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Layout ID Status
 Revision
 A001.4 Job bag.



B Building Section 1:100



North Elevation (1)

1:100

