



ERF 3664, 43 MYRICA ROAD, BETTY'S BAY: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: SMART SOLUTION ARCHITECTURAL CONSULTANTS ON BEHALF OF CM2R FAMILY TRUST

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 exceed the maximum height of a boundary wall from 2,1m to an approximate maximum of 3,0m to accommodate the existing fencing on all boundaries.
- **determination of an administrative penalty** in terms of Section 16(2)(q) for unauthorised land use to legalise the existing fencing and jacuzzi on the property.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town & Spatial Planning, Hermanus and at the Betty's Bay Library, Clarence Drive, Betty's Bay. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / loretta@overstrand.gov.za) on or before **4 April 2025**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the Town Planner, **Mrs. H van der Stoep** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town & Spatial Planning Department where a municipal official will assist them in order to formalize their comment.

ERF 3664, MYRICAWEG 43, BETTYSBAAI: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: SMART SOLUTION ARGITEKTONIESE KONSULTANTE NAMENS CM2R FAMILIETRUST

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 maksimum hoogte vir 'n grensmuur te oorskrei vanaf 2,1m tot 'n benaderde maksimum van 3,0m om die bestaande heining op alle grense te akkommodeer.
- **bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) vir ongemagtigde grondgebruik om die bestaande heining en jacuzzi op die eiendom te wettig.

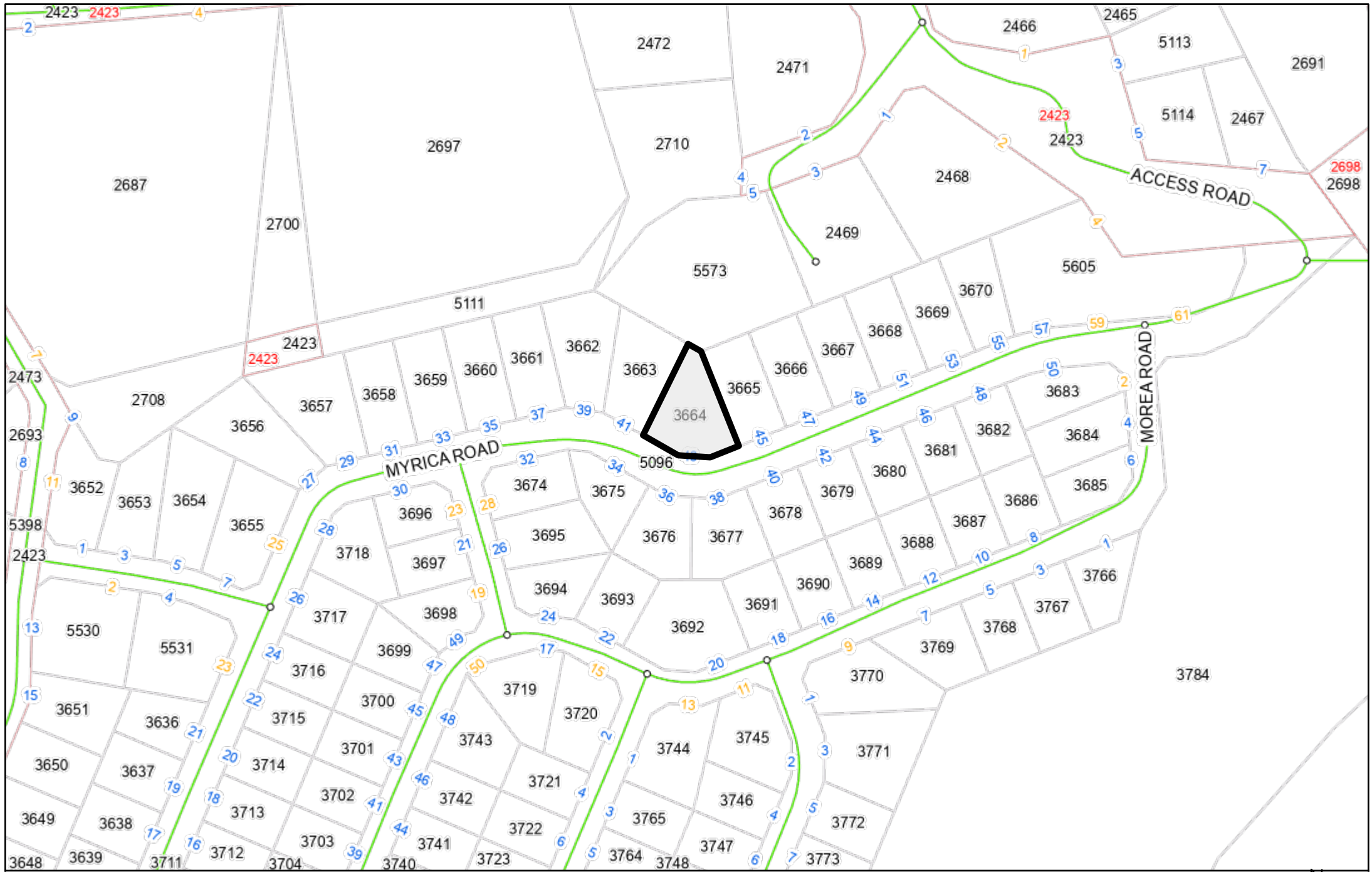
Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stads- en Streekbepanning, Hermanus en by die Bettysbaai Biblioteek, Clarencerylaan, Bettysbaai. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / loretta@overstrand.gov.za) voor of op **4 April 2025**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan die Stadsbeplanner, **Me. H van der Stoep** 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: Stads- en Streekbepanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

ISIZA 3664, 43 MYRICA ROAD, E-BETTY'S BAY: ISICELO SOPHAMBUKO KUNYE NOKUMISELWA KWESOHLWAYO SOLAWULO: SMART SOLUTION ARCHITECTURAL CONSULTANTS EGAMENI LE CM2R FAMILY TRUST

Isaziso siyanikezelwa ngokwemiqathango yeCandelo 48 loMthetho kaMasipala woLungiso loMthetho kaMasipala kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, 2020 sokuba isicelo sifunyenwe soku kulandelayo:

- **uphambuko** ngokwemiqathango yeCandelo 16(2)(b) ukogqitha ubude bobude bodonga lomda ukusuka kwii-mitha eziyi-2,1m ukuya kubude obumalunga nee-mitha eziyi-3,0m, ukukhawulelana ncingo elikwi ndonga zonke.
- **ukumiselwa kwesohlwayo solawulo** ngokwemiqathango yeCandelo 16(2)(q) usetyenziso lomhlaba olungagunyaziswanga, ukwenza ngokusemthethweni ucingo olukhoyo kunye ne jacuzzi ewi propati.

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ukuze zihlolwe ngeentsuku zokusebenza ngamaxesha okusebenza phakathi kwentsimbi ye-08:00 neye-16:30 kwiSebe: UCwangciso lweDolophu, ePaterson Street, eHermanus kunye nakwiThala leencwadi, Clarence Drive eBetty's Bay. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokuhambelana nezibonelelo zeCandelo lama-51 kunye nelama-52 alo Mthetho kaMasipala oxeliweyo kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / loretta@overstrand.gov.za) ngomhla okanye ngaphambi komhla wama-4 **Utshazimpuzi 2025**, uchaze igama lakho, idilesi kunye neenkukacha ziqhagamshelwano, umdla kwisicelo kunye nezizathu zezimvo. Imibuzo ngomnxeba ingenziwa kuCwangciso lweDolophu, **u-Nkosikazi van der Stoep** kule nombolo yomnxeba 028-313 8900. UMasipala unokwala ukwamkela izimvo ezifunyenwe emva komhla wokuvalwa. Nabani na ongakwaziyo ukufunda okanye ukubhala angandwendwela iSebe loCwangciso lweDolophu apho igosa likamasipala liya kuthi limncedise ukuze abhale ngokusesikweni izimvo zakhe.





OVERSTRAND MUNICIPALITY

BUILDING SERVICES DEPARTMENT

33 5TH AVENUE

KLEINMOND

7195

DATE: 30.10.2024

To whom it may concern

MOTIVATION LETTER FOR PROPOSED DEPARTURE APPLICATION

Pre-consultations	n/a
Property location:	Erf 3664 43 Myrica Road Betty's Bay 7141
Property size:	941.96m ²
Coverage permitted:	50.00%
Existing coverage:	23.51% (221.45m ²)
Property zoning:	Single Residential (SR1)
Title Deed number & date:	T 000007919/2022

A) PROPOSED DEVELOPMENT:

With reference to drawings attached to this application:

- I 0378/A3/01 - Site Plan*
- I 0378/A3/02 - Elevations*
- I 0378/A3/03 - Elevations*

Background:

The original building plans for the property was approved on 30 August 2021. **The building plan number was 41045.** Construction started the beginning of 2022, and the dwelling was planned to be completed towards end of 2022. Due to several reasons this did not happen. The works was only completed towards middle 2023. After the completion of the dwelling, we started with the process of obtaining all relevant CoC's and the occupation certificate. It became apparent that it was needed to submit a minor works application for the jacuzzi that was added and the fencing that was added on the perimeter of the property during the construction of the original dwelling house.

With the minor application (reference no: 48980) it was pointed out that a departure application is required, because the fencing is higher than 2100mm.

B) CHARACTER OF THE ENVIRONMENT:

Erf 3664, residential. Area is seen as a low-density area.

Street building line	4.0m
Lateral building lines	2.0m
Rear building line	2.0m
Height restriction	8.0m from base level
Coverage permitted	50%
Title Deed restrictions:	n/a
Title Deed Street Building Line	5.0m
Title Deed Lateral building line	3.0m
Title Deed Rear building line	3.0m

Adjoining and surrounding dwellings are double storey dwellings, with no heritage significance with average erf sizes of 450m² - 900m².

With the imposed 50% coverage permitted (for single residential properties) on most of the properties, the area is seen a low-density area.

C) DESIRABILITY OF THE PROPOSED UTILISATION

The proposed fencing height has no negative impact on any of the adjoining and surrounding properties.

- **Legalize unauthorized building work.**

Adding fencing on perimeter of property boundary during the original construction.

Adding a jacuzzi during the original construction of the dwelling house.

D) INVESTIGATIONS CARRIED OUT IN TERMS OF OTHER LAWS WHICH ARE RELEVANT TO THE CONSIDERATION OF THE APPLICANT.

If application is found favourable, building plans for a minor works application has already been submitted to Overstrand Building Control. No other laws/regulations other than the current Overstrand Zoning Scheme 2020, National building regulations and SANS10400 regulations are applicable to the current application.

E) THE IMPACT OF THE PROPOSED LAND DEVELOPMENT ON MUNICIPAL ENGINEERING SERVICES.

- No additional services will be required.
- No alterations to existing services supplied by municipality to the dwelling are required.
- Proposed Alterations/additions have no impact on existing municipal services or future planning services.

F) CONSIDERATION OF FORWARD PLANNING AND LAND USE DOCUMENTS

Current application has no influence on forward planning for the property and/or surrounding properties.

G) PLANNING PRINCIPLES

Not applicable to current application.

H) SUMMARY OF APPLICATION:

OWNER/S:

**CM2R FAMILY TRUST
ERF 3664
43 MYRICA ROAD
BETTY'S BAY**

We would like to apply and submit a departure application for the abovementioned property for the CM2R Family Trust. The building plan for the proposed new dwelling house was approved on 30 August 2021. The building plan number is 41045. Construction started in the beginning of 2022 and was supposed to be completed in December 2022. This did not happen, and the building work was only completed toward end of 2023.



Only a partial fence was approved at the back of the property with building plan number 41045.

During the construction process it became apparent that the owner needed to install a more secure fencing system around the perimeter of the property for security reasons and to keep out baboons. The client installed Betta / Clearvue Fencing around the property and installed 2 sliding gates and 1 pedestrian gate.

The Betta / Clearvue fencing has been installed on the boundary line. Certain heights are between 1200mm and 1800mm and other heights is between 2100 and 3000mm. The reason for this is due to the site constraints. The site has an extreme slope of 10 meter from back to front over a distance of ± 45 meter. The incline towards the back of the property is severe. It is impossible to install and fence so that one side of the fence will not be over 2100 meter.

The dwelling house was originally planned to be dug into embankment so to get into the height restriction and enjoy the views. The retaining wall structure on the common boundaries became high. It was planned that the retain wall is 1000mm high on the neighbour's side for safety, but the client/owner wanted to keep out unwanted visitors including baboons. 1000mm high to 1900mm high fencing was added on top of the existing approved retaining walls for safety and security.

The proposed fencing has no negative impact or effect on the surrounding properties and adds value and security to the existing property and direct neighbouring properties.

We hope you will consider the Betta / Clearvue fencing installation favourably.



It is clear to see from these two (2) photos that the slope over the property is extreme and that it would be extremely difficult to erect fencing with a height of 1800 to 2100 on the one side without it being or extending higher than the 2100mm height on the other side.





FENCING ON NORTH BOUNDARY



FENCING ON EAST BOUNDARY



FENCING ON EAST BOUNDARY



FENCING ON EAST BOUNDARY



FENCING ON EAST BOUNDARY



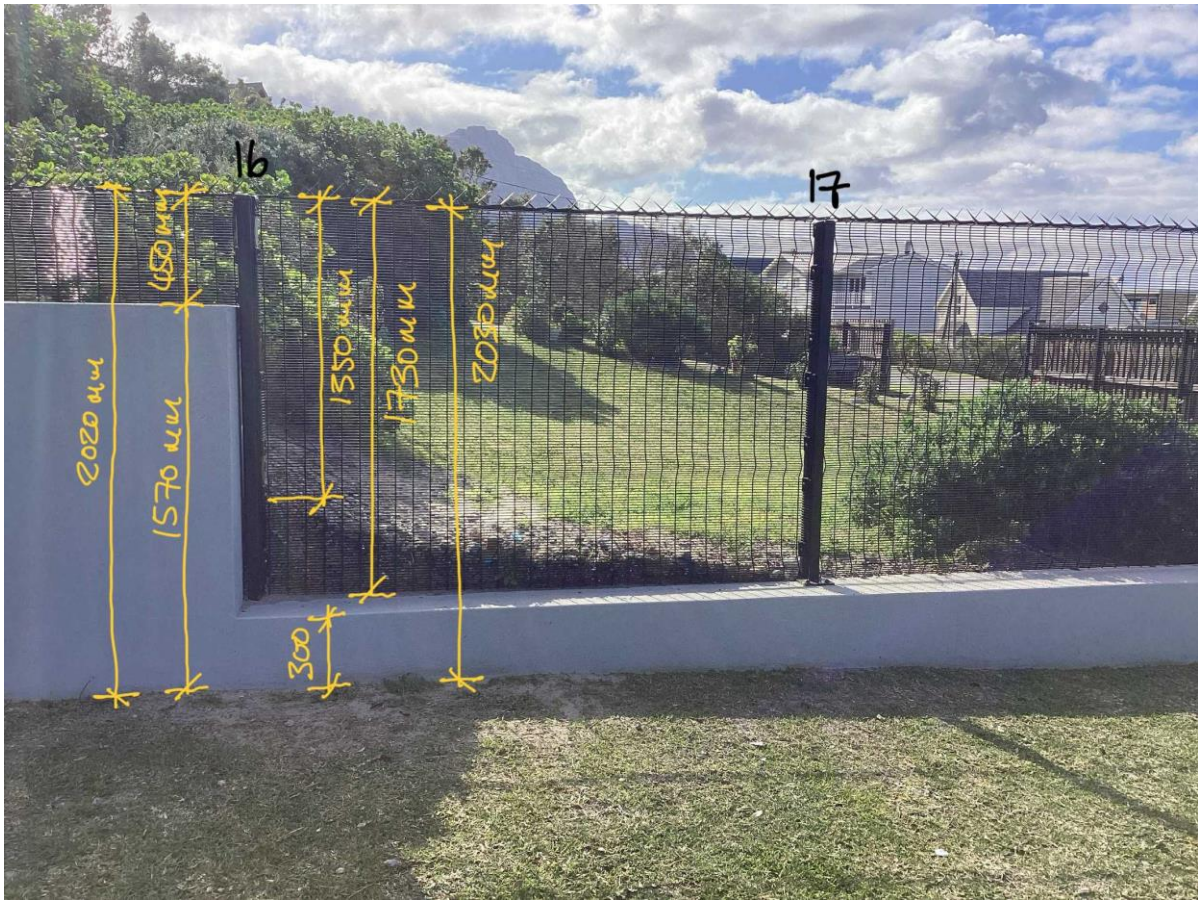
FENCING ON EAST BOUNDARY



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FENCING ON EAST BOUNDARY



FENCING ON EAST BOUNDARY



FENCING ON SOUTH BOUNDARY



FENCING ON SOUTH BOUNDARY



FENCING ON SOUTH BOUNDARY



FENCING ON WEST BOUNDARY



FENCING ON WEST BOUNDARY



FENCING ON WEST BOUNDARY



FENCING ON WEST BOUNDARY



FENCING ON WEST BOUNDARY



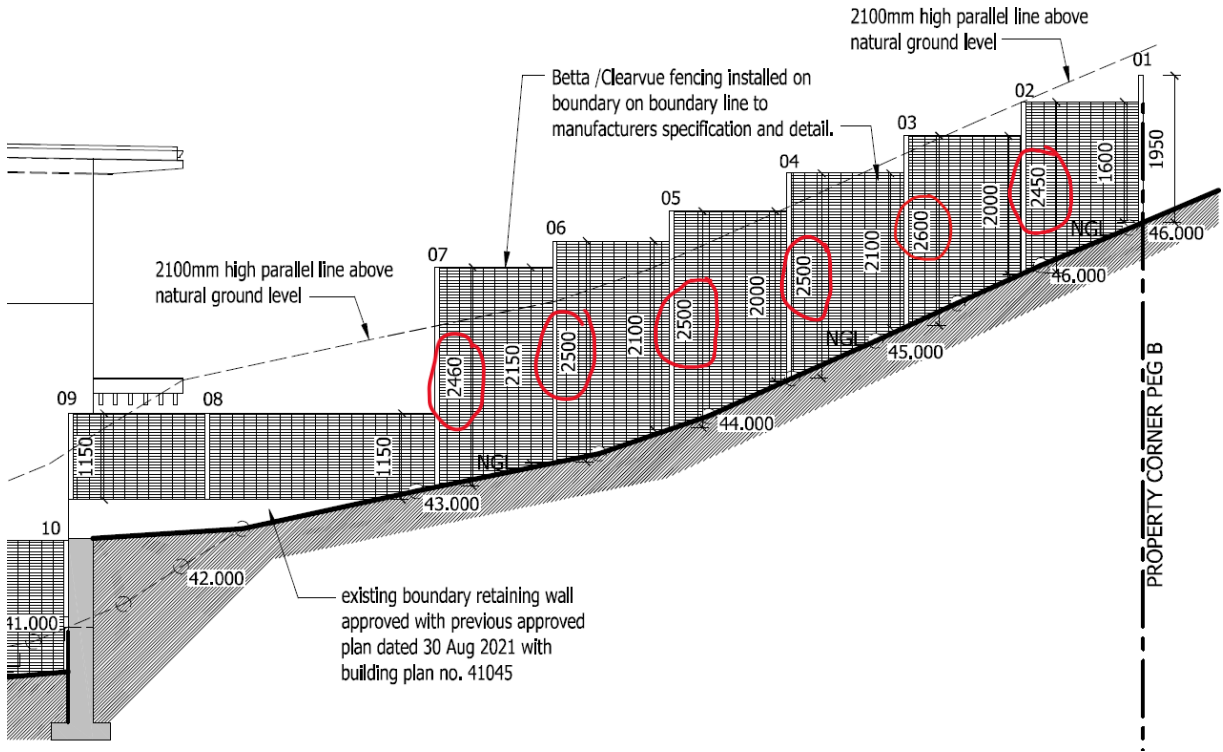
FENCING ON WEST BOUNDARY



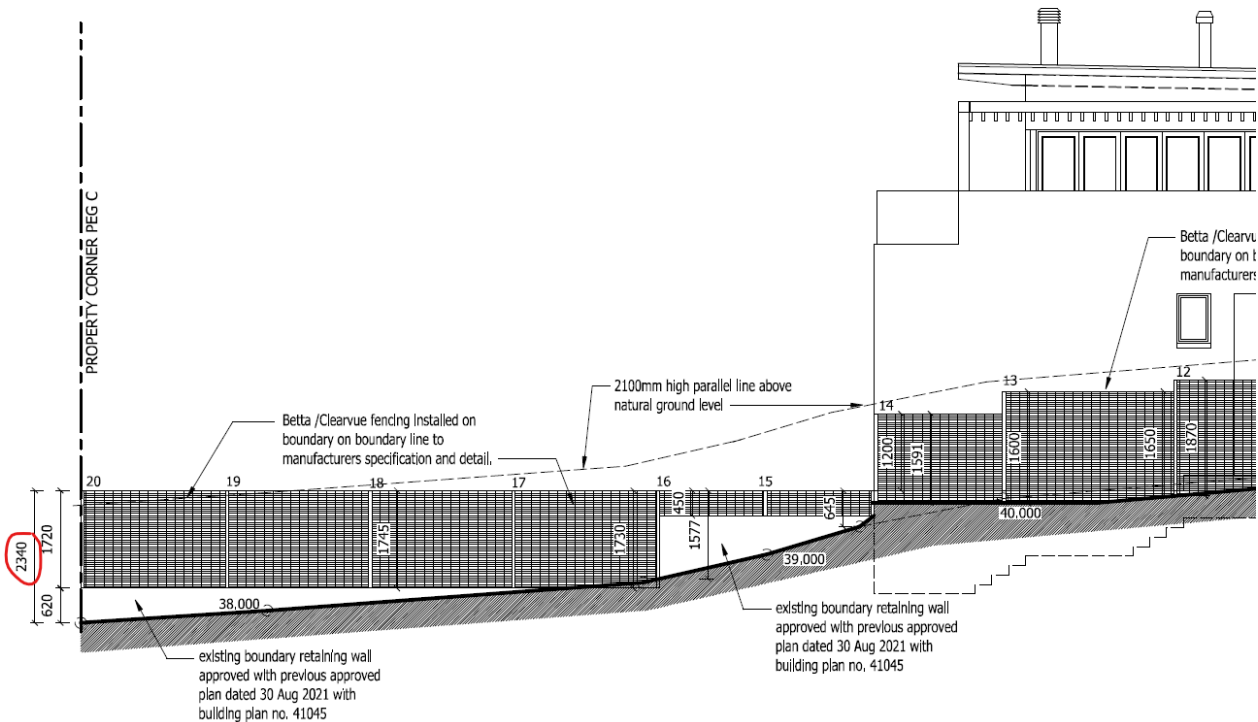
FENCING ON WEST BOUNDARY

J) Application:

- Permanent relaxation of the zoning scheme boundary wall height for fencing exceeding the 2.1m height above the existing ground level abutting such a fence on the Eastern boundary from 2.1m to maximum 2.6 m to accommodate the Beta/Clearvue Fencing.**



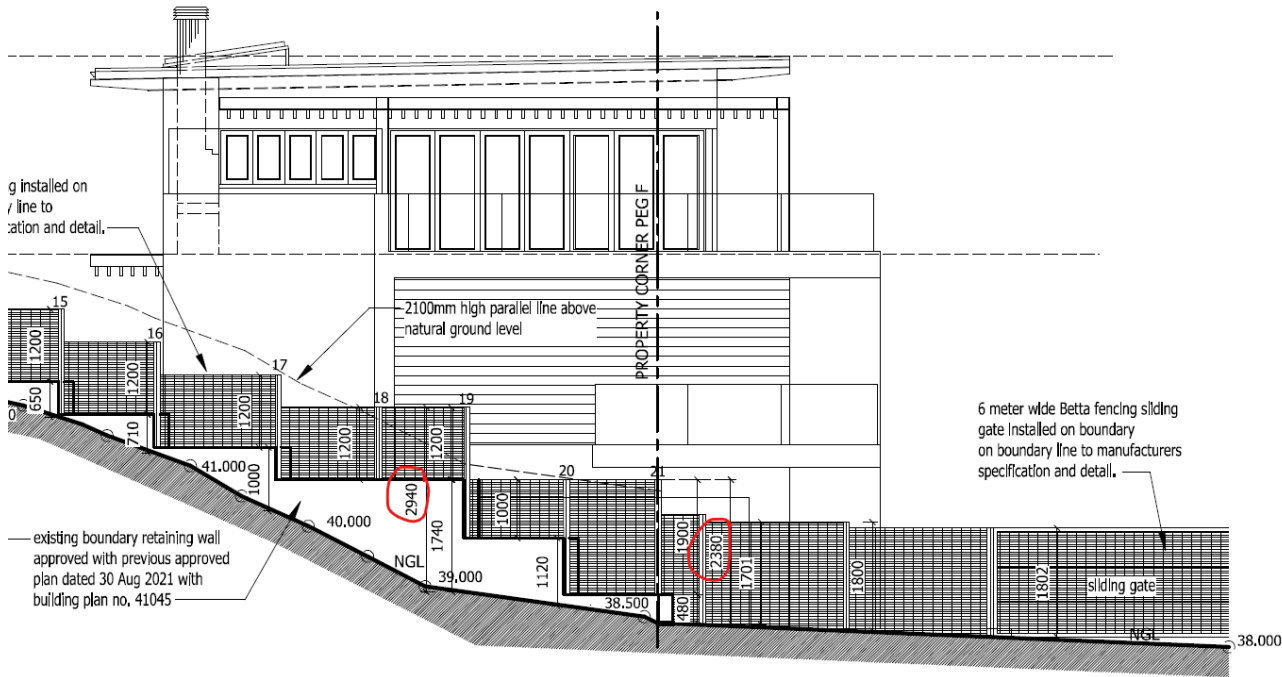
PARTIAL EASTERN ELEVATION



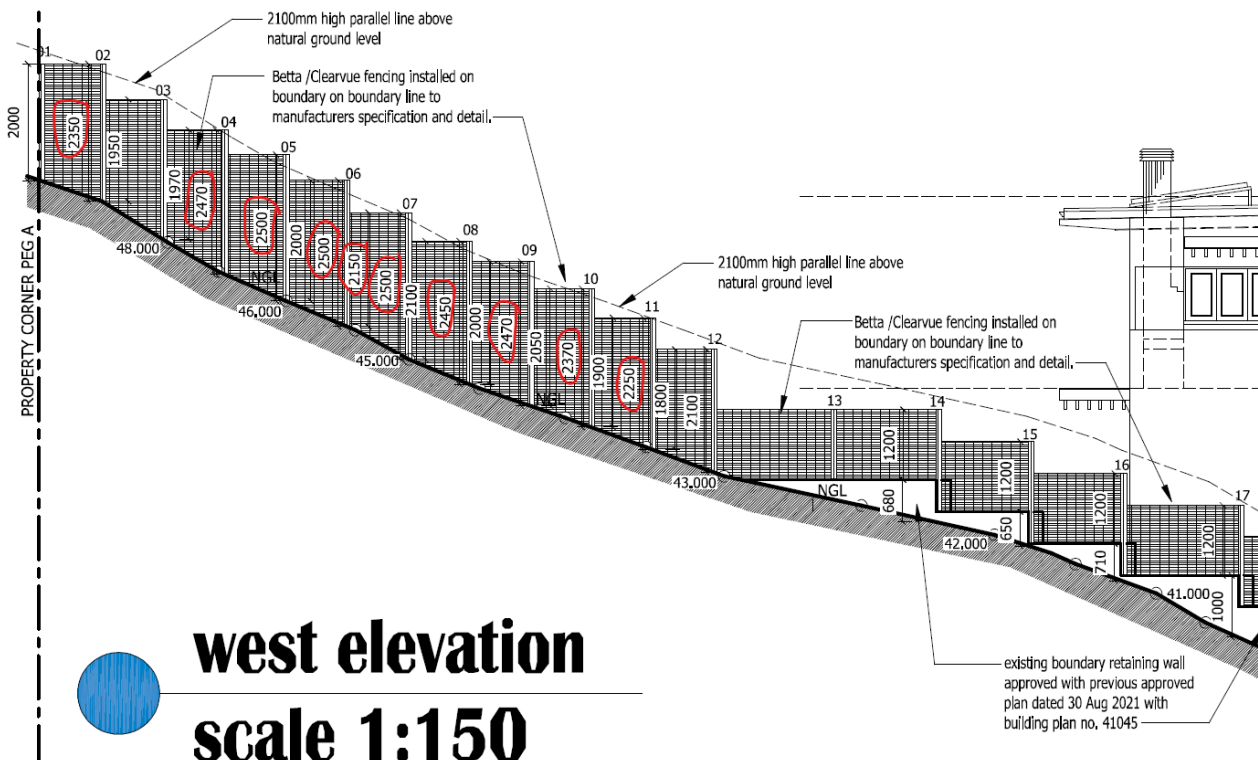
PARTIAL EASTERN ELEVATION

K) Application:

- Permanent relaxation of the zoning scheme boundary wall height for fencing exceeding the 2.1m height above the existing ground level abutting such a fence on the Western boundary from 2.1m to maximum 2.94 m to accommodate the Beta/Clearvue Fencing.**



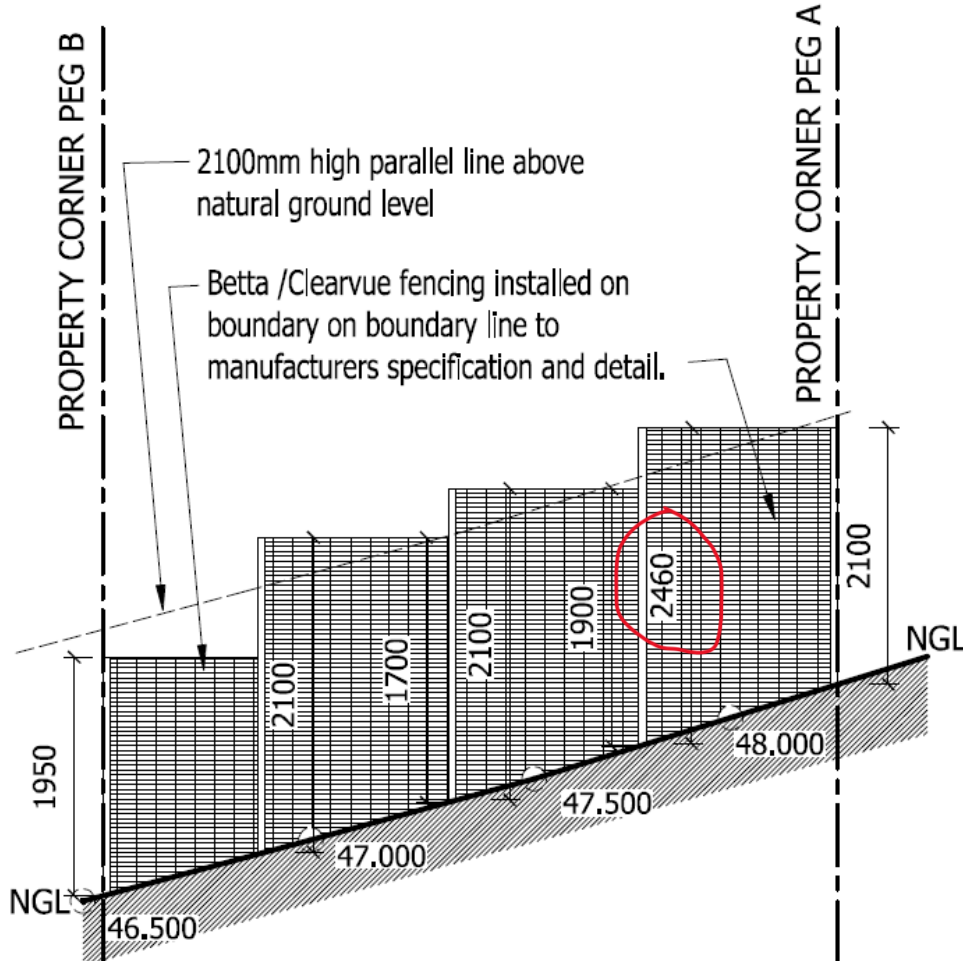
PARTIAL WESTERN ELEVATION



PARTIAL WESTERN ELEVATION

L) Application:

1. **Permanent relaxation of the zoning scheme boundary wall height for fencing exceeding the 2.1m height above the existing ground level abutting such a fence on the Northern boundary from 2.1m to maximum 2.460 m to accommodate the Beta/Clearvue Fencing.**



PARTIAL NORTHERN ELEVATION

M) Application for administrative penalty on Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 – Article 90, clause (3):

(a) *Nature, duration, gravity, and extent of the contravention.*

1. Unauthorized building work.
 - Adding fencing on perimeter of property boundary during the original construction that exceeded the 2.1 meter high restriction and to be legalized.
 - Adding a jacuzzi during the original construction of the dwelling house and to be legalized.

Construction cost calculation:

1. Fencing:
Construction cost:
R 169,139.20 (inc. VAT) – refer to attach quote.

2. Jacuzzi
Construction cost:
R 192,395.92 (Inc. VAT) – refer to attach quote.

Total construction cost for unauthorized building work = R 361, 535.12 (Inc. VAT)

(b) The conduct of the person (allegedly) involved in the contravention:

During the construction process it became apparent that the owner needed to install a more secure fencing system around the perimeter of the property for security reasons and to keep out baboons. The client installed Betta / Clearvue Fencing around the property and installed 2 sliding gates and 1 pedestrian gate.

The Betta / Clearvue fencing has been installed on the boundary line. Certain heights are between 1200mm and 1800mm and other heights are between 2100 and 3000mm. The reason for this is due to the site constraints. The site has an extreme slope of 10 meters from back to front over a distance of ± 45 meters. The incline towards the back of the property is severe.

The client/owner was not aware that building approval was required for fencing and did not deliberately try to contravene the zoning scheme rules and bylaws.

The jacuzzi was installed on a first storey level at the back of the house with no access by the public to the jacuzzi. The jacuzzi is for private use and when the client installed the jacuzzi was not aware that the same rules apply for the jacuzzi as for a swimming pool. Again, the client/owner was not aware that building approval was required for the installation of a jacuzzi and did not deliberately try to contravene the zoning scheme rules and bylaws.

The proposed fencing and jacuzzi has no negative impact or effect on the surrounding properties. The fencing adds value and security to the existing property and direct neighbouring properties.

We hope you will consider the Betta / Clearvue fencing installation favourably as well as the jacuzzi.

I / we would like to obtain approval and permission as required from Overstrand Town Planning Department to proceed with submission to Building Control Department for building plan approval for the building work as per drawings attached.

Regards

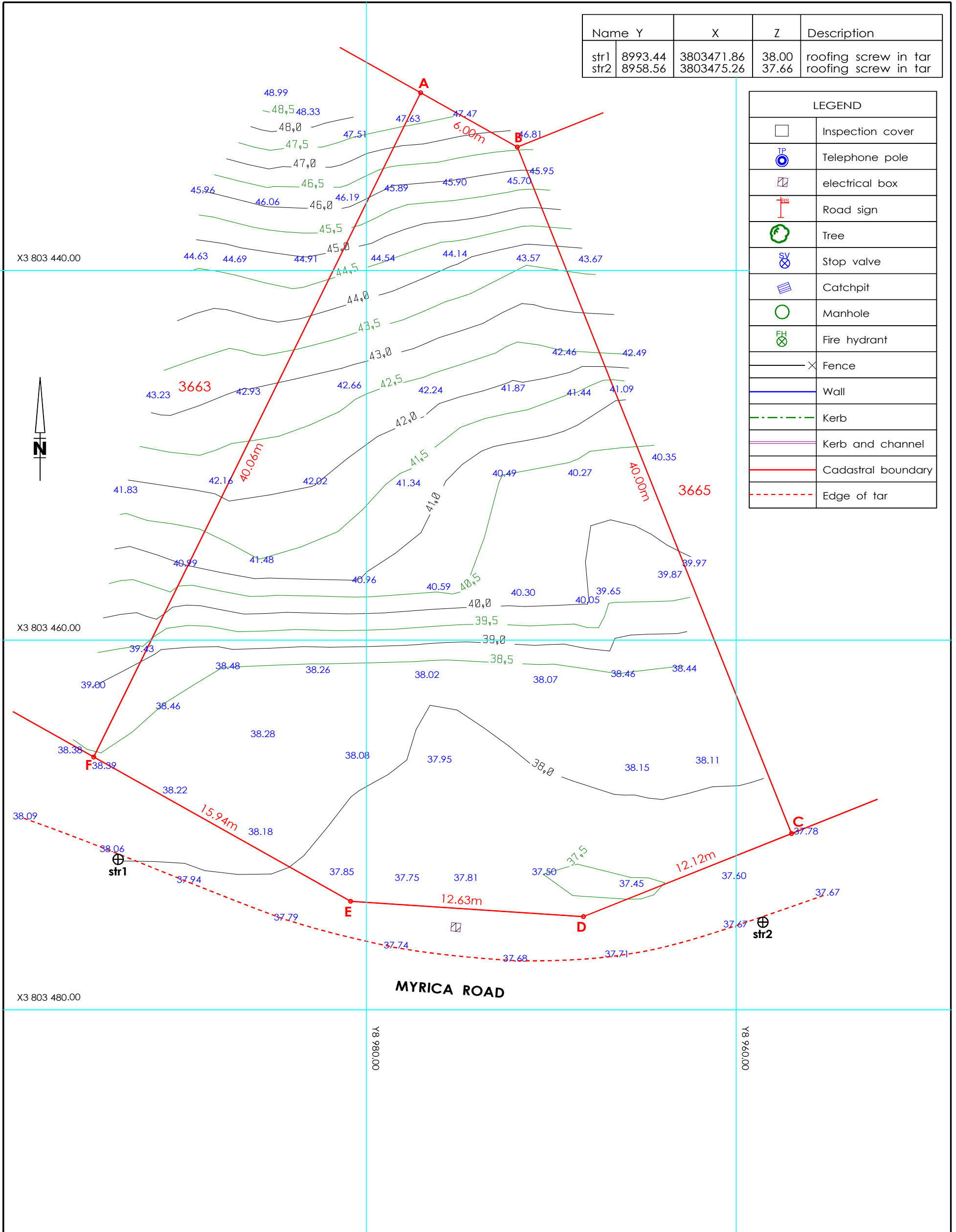


Ian Smit

For Smart Solution Architecture & Architectural Consultants

Name	Y	X	Z	Description
str1	8993.44	3803471.86	38.00	roofing screw in tar
str2	8958.56	3803475.26	37.66	roofing screw in tar

LEGEND	
	Inspection cover
	Telephone pole
	electrical box
	Road sign
	Tree
	Stop valve
	Catchpit
	Manhole
	Fire hydrant
	Fence
	Wall
	Kerb
	Kerb and channel
	Cadastral boundary
	Edge of tar



N. Clark
 NA CLARK (PLS 1072)
 PROFESSIONAL LAND SURVEYOR

Project
TOPOGRAPHIC SURVEY
ERF 3664
BETTY'S BAY

Client
C MOSES

Architect
SMART SOLUTION ARCHITECTURE

Notes
Beacon Descriptions
 B - wooden fence post
 All others - 12mm iron peg

Constants		Y	X
		0.00	0.00
Height Datum	System		
	WGS84		
Project No	Drawing No		
	BB3664		
Scale 1:200		Date Feb 2021	



geomatics africa
 LAND SURVEYING CONSULTANTS

PO Box 2245, Hermanus, 7200
 3 College Rd., Hermanus, 7200
 E-mail: info@geomatricsafrica.co.za
 Tel: 028 - 3131236 Fax: 028 - 3131237

MUNICIPAL REQUIREMENTS AND THOSE OF OTHER AUTHORITIES MUST BE ADHERED TO. CONTRACTORS AND SUB-CONTRACTORS ARE TO BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS BEFORE COMMENCING WORK. ENGINEER'S UNDERSIGNED TO BE TAKEN IN PREFERENCE TO SCALED MEASUREMENTS AND LARGE SCALE DETAILS SUPPLEMENTED SMALL SCALE DRAWINGS. THE DESIGN ON THIS DRAWING IS THE PROPERTY OF SMART SOLUTION ARCHITECTURE AND COPYRIGHT THEREOF IS RESERVED BY THEM.

VARIATIONS:	REV NO.	DATE:	DESCRIPTION:
	00	XX-XX-XXXX	XXXXXXXXXXXXXXXXXX

DRAWING STAGE:
COUNCIL SUBMISSION
DEPARTURE APPLICATION
SKETCH PROPOSAL
TENDER DRAWING
WORKING DRAWING

SITE RESTRICTIONS:	
STREET BUILDING LINE	4.00 m
LATERAL BUILDING LINE	2.00 m
REAR BUILDING LINE	2.00 m
HEIGHT RESTRICTION	8.00 m
TITLE DEED BUILDING LINES (see drawings)	YES

ZONE APPLICABLE:	
SINGLE RESIDENTIAL (SR1)	<input checked="" type="checkbox"/>
TOWN HOUSING - ZONE 1 (GR1)	<input type="checkbox"/>
TOWN HOUSING - ZONE 2 (GR2)	<input type="checkbox"/>
FLATS - ZONE 3 (GR3 and DR4)	<input type="checkbox"/>
LESS FORMAL DEVELOPMENT (LFD)	<input type="checkbox"/>

SMART SOLUTION ARCHITECTURE
 and Architectural Consultants
 028 135 0010
 151st St, 082 670 6710
 D SWAIT 075 694 1728
 Mail Collection 504, Pines & Avoca Estate, Verranvale, 7700

PROJECT NAME:
 HOUSE FOR CM2R FAMILY TRUST
 ERF 3664
 43 MYRICA ROAD
 BETTY'S BAY
 7141

DWG TITLE:
 SITE PLAN

DATE:
 30.10.2024

DRAWN BY:
 I SMIT

CHECKED BY:
 I SMIT

DRAWING SCALE
 AS SHOWN

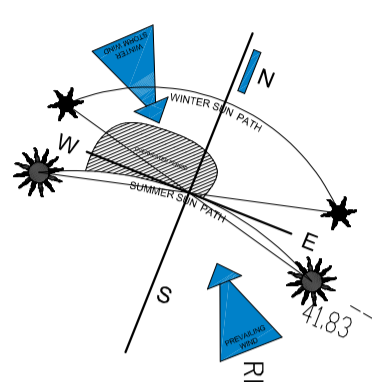
DRAWING NO.
 I 0378/A3/01

BUILDINGS	
DESCRIPTION	TOTAL
GROUND STOREY	(221,45 m ²)
dwellling	176,88m ²
covered service area	19,80m ²
covered patio	24,77m ²
open patio	36,55m ²
FIRST STOREY	(229,49m ²)
dwellling	194,83m ²
covered balcony	34,62m ²
SECOND STOREY	(78,02m ²)
dwellling	78,02m ²
open deck with pergola and pool	135,45m ²
HABITAT FLOOR AREA	(429,99m ²)
PERGOLA STRUCTURES	(75,12m ²)
pergola 01 - first storey	12,00m ²
pergola 02 - first storey	4,32m ²
pergola 03 - second storey	58,80m ²
TOTAL COVERED FOOTPRINT	221,45m ²
TOTAL COVERED FLOOR AREA	528,92m ²

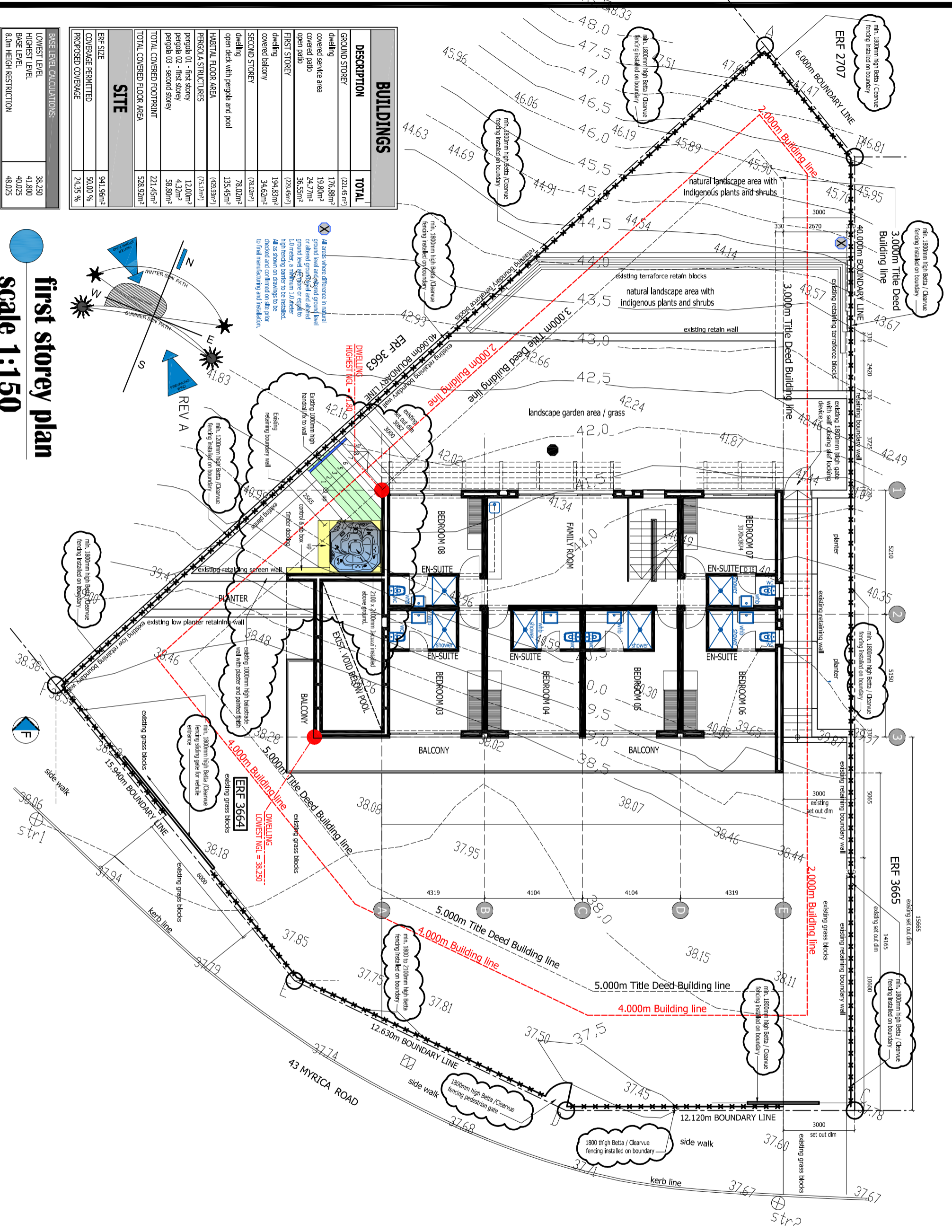
SITE	
ERF SIZE	941,96m ²
COVERAGE PERMITTED	50,00 %
PROPOSED COVERAGE	24,35 %

BASE LEVEL CALCULATIONS:	
LOWEST LEVEL	38,250
HIGHEST LEVEL	41,800
BASE LEVEL	40,025
8.0m HEIGHT RESTRICTION	48,025

first storey plan
 scale 1:150



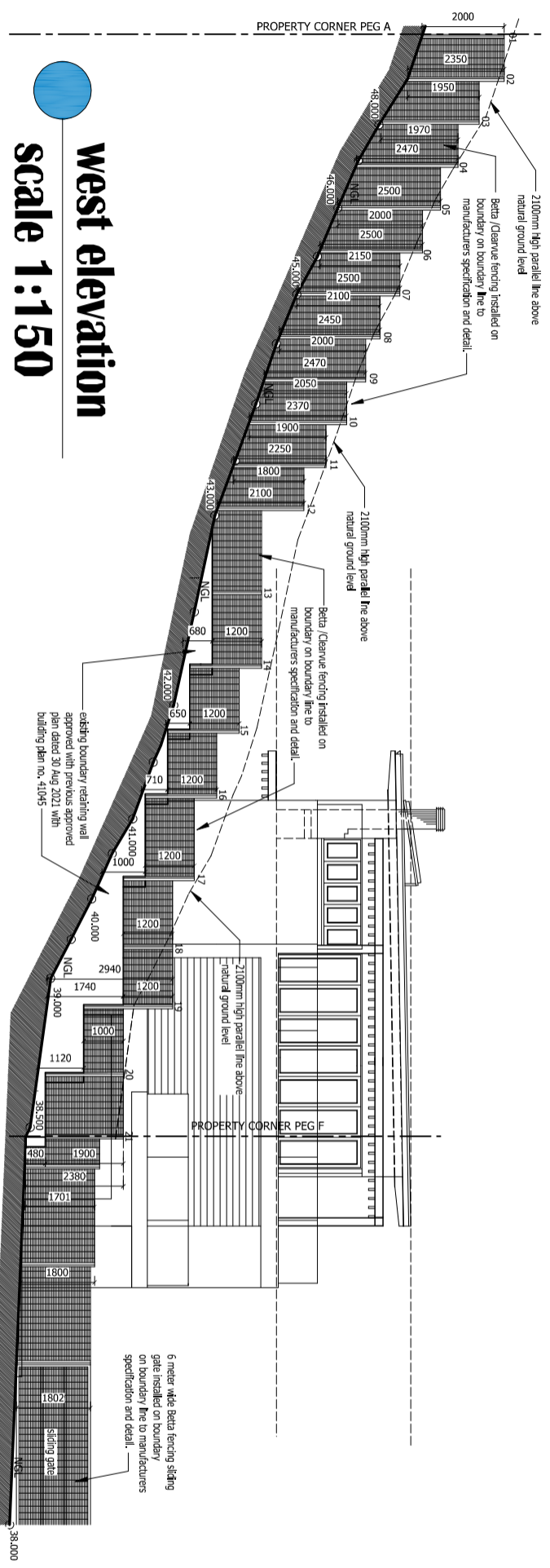
All areas where difference in natural ground level and designed ground level or altered ground level and allied ground level is greater or equal to 1.0 meter, a minimum 1.0 meter high fencing barrier to be installed. All as shown on drawings to be installed, checked and confirmed on site prior to final manufacturing and installation.



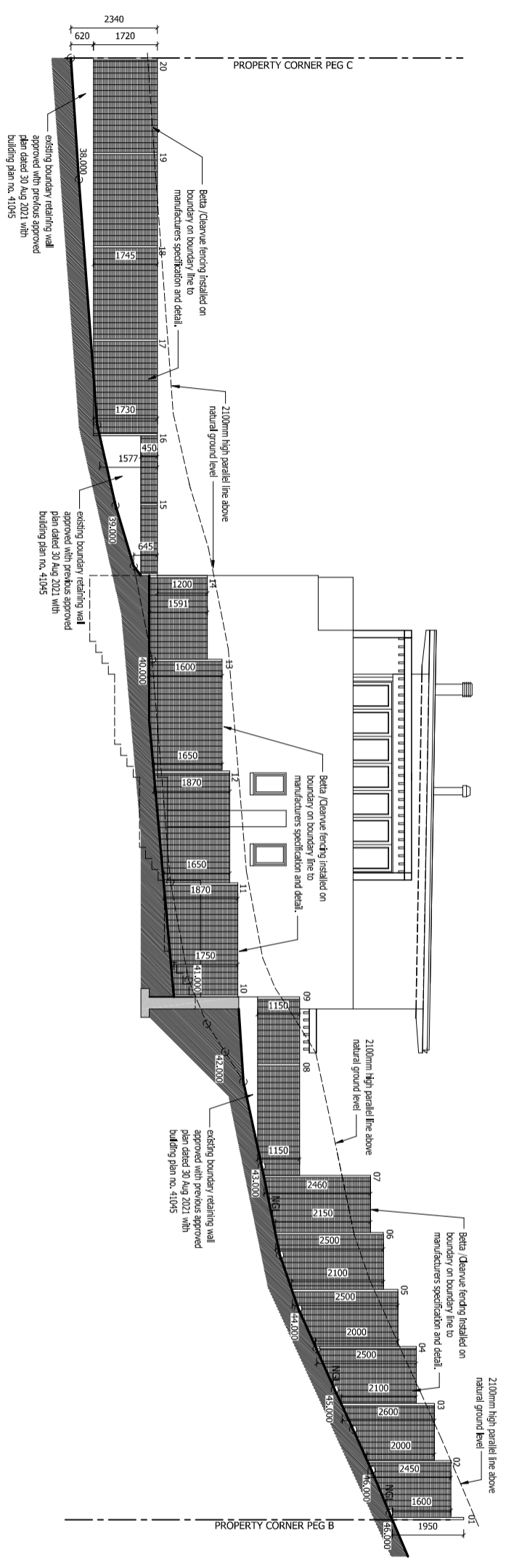
MUNICIPAL REQUIREMENTS AND THOSE OF OTHER AUTHORITIES MUST BE ADHERED TO. CONTRACTORS AND SUB-CONTRACTORS ARE TO CHECK ALL DIMENSIONS AND LEVELS ON THE BUILDING SITE BEFORE COMMENCING WORK, FIGURED DIMENSIONS TO BE TAKEN IN PREFERENCE TO SCALED MEASUREMENTS AND LARGE SCALE DETAILS SUPERSEDE SMALL SCALE DRAWINGS. THE DESIGNER ASSUMES NO LIABILITY FOR ANY ERRORS IN THE DESIGN. SMART SOLUTION ARCHITECTURE AND COPYRIGHT THEREOF IS RESERVED BY THEM.

VARIAIONS: _____

REV NO.	DATE:	DESCRIPTION:
00	XX-XX-XXXX	XXXXXXXXXXXXXXXXXX



west elevation
scale 1:150



east elevation
scale 1:150

DRAWING STAGE: _____

- COUNCIL SUBMISSION
- DEPARTURE APPLICATION
- SKETCH PROPOSAL
- TENDER DRAWING
- WORKING DRAWING

SITE RESTRICTIONS:

- STREET BUILDING LINE 4.00 m
- LATERAL BUILDING LINE 2.00 m
- REAR BUILDING LINE 2.00 m
- HEIGHT RESTRICTION 8.00 m
- TITLE DEED BUILDING LINES (see drawings) YES

ZONE APPLICABLE:

- SINGLE RESIDENTIAL (SR1)
- TOWN HOUSING - ZONE 1 (GR1)
- TOWN HOUSING - ZONE 2 (GR2)
- FLATS - ZONE 3 (GR3 and DR4)
- LESS FORMAL DEVELOPMENT (LFD)

SMART SOLUTION ARCHITECTURE
and Architectural Consultants
Members of SACSAP / C.A. / and SAAT
REGISTERED ARCHITECTS / ARCHITECTS
Office 028 125 0019
1 SMIT 082 879 6749
D SMIT 079 694 1728
Main Collection 104, Tennyson & Mason Streets, Thomastown, 7100

PROJECT NAME:
HOUSE FOR CM2R FAMILY TRUST
ERF 3664
43 MYRICA ROAD
BETTY'S BAY
7141

DWG TITLE:
ELEVATIONS

DATE:
30.10.2024

DRAWN BY:
I SMIT

CHECKED BY:
I SMIT

DRAWING SCALE
AS SHOWN

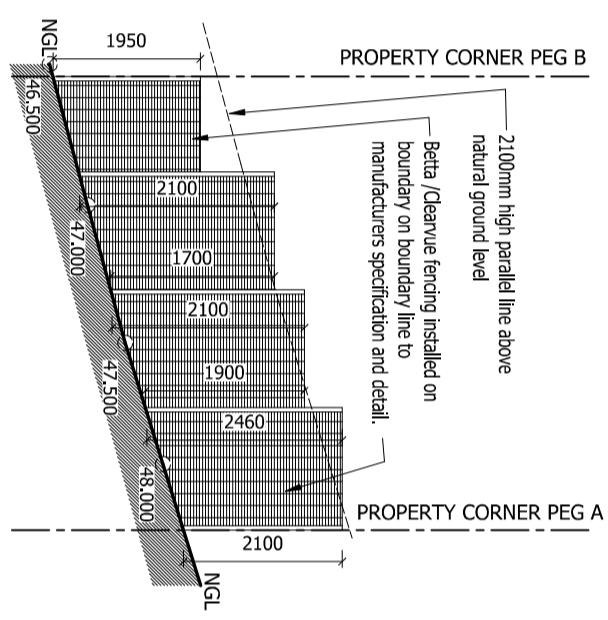
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REV NO. 0

SACAP REG.
T 0147

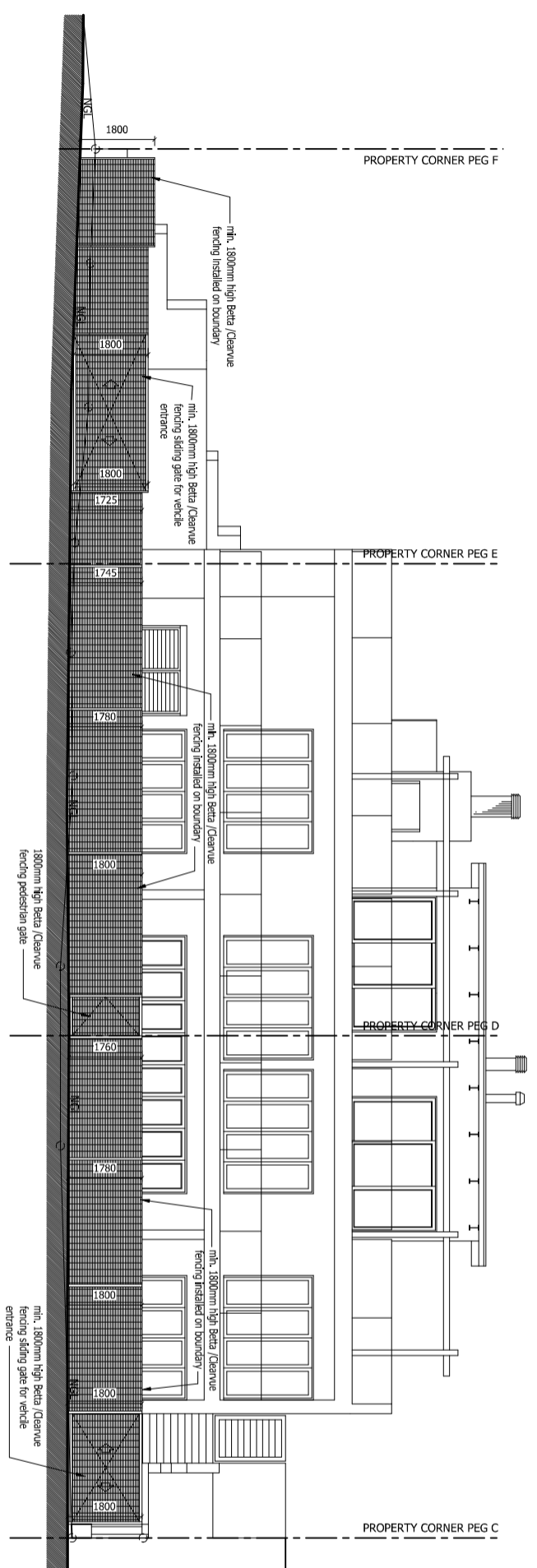
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VARIAIONS:

REV NO.	DATE	DESCRIPTION:
00	XX-XX-XXXX	XXXXXXXXXXXXXXXXXX



north elevation
scale 1:100



south elevation
scale 1:150

DRAWING STAGE:

- COUNCIL SUBMISSION
- DEPARTMENT APPLICATION
- SKETCH PROPOSAL
- TENDER DRAWING
- WORKING DRAWING

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- TOWN HOUSING - ZONE 2 (GR2)
- FLATS - ZONE 3 (GR3 and GR4)
- LESS FORMAL DEVELOPMENT (LFD)



Chief 028 125 0010
 1 Smeit 082 879 6749
 D Smeit 079 694 1728
 info@smartsolutionarch.com.au
 info@smartsolutionarch.com.au
 dsm@smartsolutionarch.com.au
 3441 Coleridge Street, Forest Hill, Victoria, 31780

PROJECT NAME:
 HOUSE FOR CM2R FAMILY TRUST
 ERF 3664
 43 MYRICA ROAD
 BETTY'S BAY
 7141

DWG TITLE:
 ELEVATION

DATE:
 30.10.2024

DRAWN BY:
 I SMITT

CHECKED BY:
 I SMITT

DRAWING SCALE:
 AS SHOWN

DRAWING NO.: I 0378/A3/03
REV NO.: 0