



ERF 9867, 28 MCFARLANE STREET, EASTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE & DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS WRAP PROJECT OFFICE ON BEHALF OF DWH & EC CHAPMAN

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), that an application, applicable to Erf 9867, Eastcliff (the property), has been received for:

- Departure in terms of Section 16(2)(b) of the By-Law for the following,
 - Relaxation of the south-western side building line from 2m to 0.27m to accommodate the existing cloakroom, pantry & scullery/laundry;
 - Relaxation of the north-eastern side building line from 2m to 1.43m to allow the repositioning of the existing bedroom wall.
- 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 comments must be in writing to reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) on or before **12 July 2024**, quoting your name, address and contact details, interest in the application, as well as the reasons for comments. Telephonic enquiries can be made to **Mr. P. Roux** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them to formalize their comment.

ERF 9867, MCFARLANE STRAAT 28, EASTCLIFF, HERMANUS, OVERSTRAND MUNISIPALE AREA: AANSOEK VIR AFWYKING EN DIE BEPALING VAN 'N ADMINISTRATIEWE BOETE: MNRE WRAP PROJECT OFFICE NAMENS DWH & EC CHAPMAN

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening), dat 'n aansoek, van toepassing op Erf 9867, Eastcliff (die eiendom) ontvang is vir die volgende:

- Afwyking ingevolge Artikel 16(2)(b) van die Verordening vir die volgende:
 - Verslapping van die suid-westelike sy boulyn vanaf 2m na 0.27m om die bestaande kleedkamer, spens & opwaskamer/waskamer te akkommodeer;
 - Verslapping van die noord-oostelike sy boulyn vanaf 2m na 1.43m om die herposisionering van die bestaande slaapkamermuur moontlik te maak.
- 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 wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) bereik voor of op **12 Julie 2024**, met u naam, adres en kontakbesonderhede, belang in die aansoek, asook die redes vir kommentaar. Telefoniese navrae kan gerig word aan **Mnr. P. Roux** by 028-313 8900. Die Munisipaliteit mag weier om die kommentaar te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

ISIZA 9867, 28 MACFARLANE STREET, EASTCLIFF, HERMANUS, KUMASIPALA WASE-OVERSTRAND: ISICELO SOKUNYENYISWA NOKUGQITYWA KWESOHLWAYO: WRAP PROJECT OFFICE EGAMENI LIKA DWH & EC CHAPMAN

Isaziso siyanikezelwa ngokweCandelo lama-48 loMthetho kaMasipala kaMasipala waseOverstrand kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, ka-2020 (uMthetho kaMasipala) sokuba isicelo esisebenza kwiSiza 9867, e-Eastcliff (ipropati) sifunyenwe ngoku kulandelayo:

- Ukutenxa ngokuhambelana malunga Candelo 16(2)(b) malunga noku kulandelayo:
 - Ukunciphisa komda wesakhiwo osecaleni kumzantsi-ntshona ukusuka kwi-2m ukuya ku-0.27m ukulungiselela igumbi lempahla esele likho, i-pantry & i-scullery okanye indawo yokuhlamba impahla;
 - Ukunciphisa komda wesakhiwo osecaleni kumntla-mpuma ukusuka kwi-2m ukuya kwi-1.43m ukuvumela ukubekwa ngokutsha kodonga olukhoyo lwegumbi lokulala.
- Ukumiselwa kwesohlwayo solawulo ngokweCandelo le-16(2)(q) loMthetho kaMasipala.

Inkcukacha mayela nesindululo siyafumaneka ukuze sihlolwe phakathi evekini ngamaxesha omsebenzi ukusuka kwintsimbi ye08:00 ukuya kweye16:30 kwiSebe: Izicwangciso Zedolophu kwanombolo 16 Paterson Street, eHermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zamaCandelo 51 nelama-52 alo Mthetho uYilwayo yaye mazithunyelwe kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) ngomhla okanye ngaphambi wama- Ulwesihlanu, **12 EyeKhala 2024** unike igama lakho, idilesi neenkukacha zonxibelelwano nawe, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Xa ufuna ukubuza into malunga nesi saziso ungatsalela umnxeba Umcwangcisi Wedolophu **uMnu. P Roux** kule nombolo 028-313 8900. Umasipala angala ukuzamkela izimvo ezifike emva komhla wokuvalwa. Nabani na ongakwaziyo ukufunda okanye ukubhala makaye kwiSebe loYilo lweDolophu apho igosa likamasipala liya kumncedisa azibhalelizimvo zakhe.

1. Locality Plan Erf 9867 - Hermanus

Plan prepared by: Veronica Jansen

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Unit B, Standard House,
Corner of Royal and Dirkie Uys
Street Hermanus, 7200



Scale 1 : 1000



1. ABBREVIATIONS

OM	Overstrand Municipality
OMLUS	Overstrand Municipality Land Use Scheme, 2020
BY-LAW	Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020
PSDF	Western Cape Provincial Spatial Development Framework, 2014
MSDF	Overstrand Spatial Development Framework, 2020
SR1	Residential Zone 1: Single Residential

2. PROPERTY DETAILS

Consultant	WRAP Project Office
Erf Number	Erf 9867 Hermanus
Extent	427m ²
Zoning	Residential Zone 1: Single Residential

3. BACKGROUND AND INTENT

The subject property, Erf 9867 Hermanus, is located in McFarlane Street, Eastcliff, refer to **Plan 1 - Locality Plan**. The property owners appointed WRAP Project Office to submit a land use application on their behalf, refer **Annexure A - Power of Attorney**.

The property owners bought the property to retire in Hermanus and as the property needed some renovations, they had some alterations done to the property. The main objective was to suit their family's needs. The alterations and renovation were approved in July 2023, refer to **Annexure D – Approved Building Plans**.

While starting the renovation process, the property owners picked up that there were some building works that were done by the previous owners. As they bought the property with these additions, they also upgraded and formalised the structures to match the existing, refer to figures 1 & 2.

It needs to be reiterated that the owners did not intend to retain the existing cloakroom, pantry, and scullery/laundry as they were not constructed according to national building regulations. After the 2023 building plans were approved the owners reconsidered their decision and had the structures formalised in accordance with all the requirements. Refer to *Figure 1* and *Figure 2* of this report indicating the structures which were constructed by the previous owner and formalised by the current owners.

As these structures have never been approved by the municipality the property owners instructed WRAP to submit this application on their behalf. In addition to the alterations approved in 2023, the property owners reconstructed the existing cloakroom, pantry and scullery/laundry without the necessary approvals and now want to remedy this contravention to align with OM legislation.

Approval of the following applications are required:

- Permanent Departure from the side building lines;
- Determination of an administrative penalty.

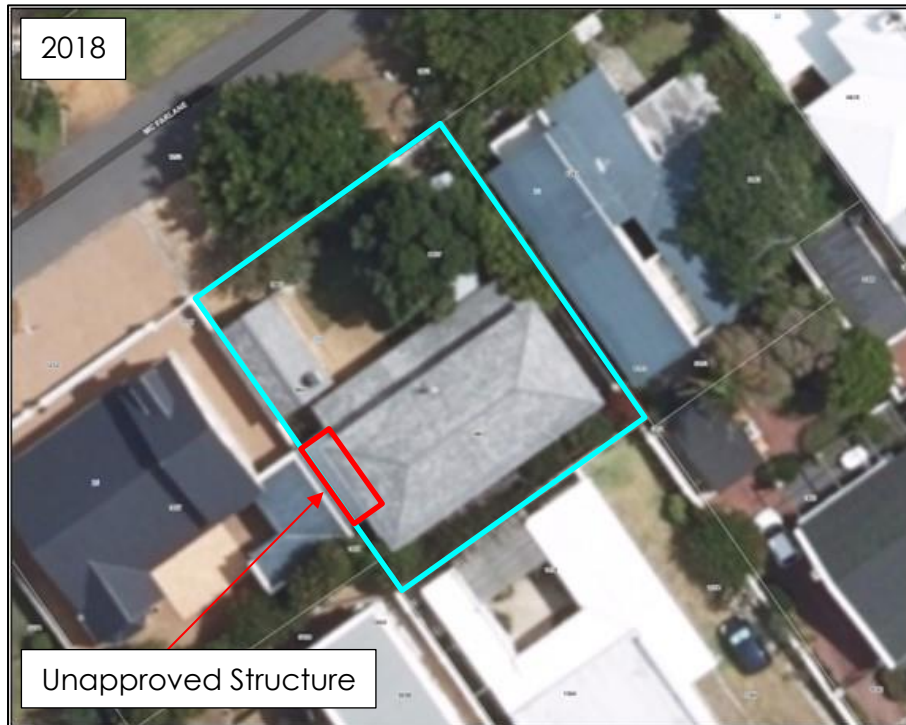


Figure 1: Aerial view indicating the unapproved additions constructed by the previous owners. (2018)



Figure 2: Aerial view indicating the unapproved additions. (2020)



4. PROCEDURE TO ACHIEVE THE PROPERTY OWNERS' INTENT

WRAP compiled this report to ensure that the property owners' requirements are met.

The following is proposed:

4.1 Permanent Departure from the 2m south-western side building line to 0,27m to allow the existing cloakroom, pantry and scullery/laundry in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

As mentioned in Section 3, the property owners are currently in the process of rectifying the past contraventions that occurred prior to their ownership of the property. As these structures have not been approved, the property owners are responsible to ensure their property is compliant in terms of the OMLUS and building regulations.

The cloakroom, pantry and scullery are additions to the dwelling that adds additional space by separating these uses. While it is crucial to adhere to OMLUS, there are compelling reasons why this application should be considered favourable:

- **Functional necessity:**
The scullery/laundry, pantry and cloakroom are integral components of modern living. These spaces contribute significantly to the functionality and efficiency of a home, enhancing the overall quality of life for the residents.
- **Minimal impact on surroundings:**
The renovation and construction had already been completed. It is evident that the addition does not impose any adverse effects on the immediate environment. The structures seamlessly blend with the existing architecture and landscaping, maintaining the overall aesthetic harmony of the Eastcliff neighbourhood.

The structures can also not be seen from the street and is not expected to have a visual impact from the streetscape. Additionally, the neighbouring property owner has a garage which abuts these structures meaning he has no line of sight and does not have access to the portion of property where the structure is located. There have also not been any complaints submitted as the neighbours have become accustomed to their position.

- **Contributions to Local Economy:**
The construction activities associated with the scullery, laundry, pantry, and cloakroom have stimulated economic growth by providing work opportunities for local contractors and suppliers. Approving the application will further encourage property owners to invest in their homes, thereby encouraging economic development within the community.

The property owners bought the property unknowing that there were illegal building work present on the property. However, they renovated the structures without building plans and are now required to obtain municipal approval and consent. The structures add value and functionality to the property while also optimising space on a smaller than normal erf.

4.2 Permanent Departure from the 2m north-eastern side building line to 1,43m to allow the repositioning of the existing bedroom wall in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

In addition, the owners' intent was to reposition the wall on the north-eastern side of the property to be in line with the existing wall. Therefore, the building line is encroached on this side. The intention was twofold. Firstly, to align the wall with the existing dwelling to achieve better architectural integrity. Secondly, utilising the historically approved existing wall's line that in return will increase the existing bedroom's size. Refer to figure 3 below:

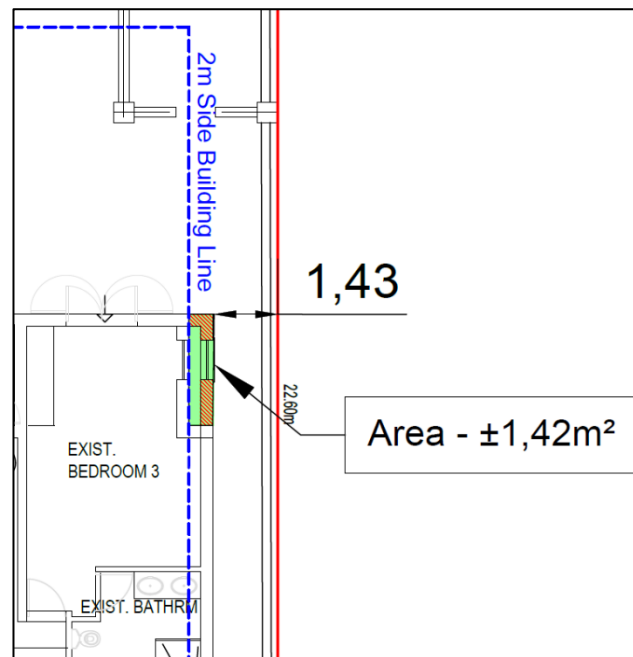


Figure 3: Extract from Site plan

The area that was added to the bedroom is mostly an external wall and does not add unnecessary habitable space in the building line. As illustrated in figure 3, only a small, estimated extent of 1,42m² will be encroaching on the side building line. In conclusion to the above, the current property owners have not received any complaints from any neighbours. Therefore, it is not predicted that these structures have a negative effect on the neighbouring properties.

4.3 Determination of an administrative penalty in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

To ensure compliance with the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, it is important to include an application for the determination of an administrative penalty. However, it is requested that a reduction in the administrative penalty be considered as the initial contravention was conducted by the previous owners. This application serves as method to rectify the contraventions that occurred by the current property owners while they were renovating the past contravention. The property owners expressed genuine remorse for the oversight in obtaining prior approval for the renovations that took place. It is important to recognise that the omission was not an attempt to bypass regulations and was done unintentional.



Section 90(3) of the By-law requires the following information:

The nature, duration, gravity and extent of the contravention

Section 4.1 indicates the nature and gravity of the additions that were constructed without prior approval. The total extent of the building lines encroachments is:

Existing cloakroom, pantry and scullery/laundry	±20,35m ²
Existing repositioned bedroom wall	±1,42m ²

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

The owners were responsible for ensuring that there were no contraventions in terms of the by-law; however, it is important to note that no malicious intent was found in their actions, and they aim to rectify the contravention.

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

Due to the small-scale nature of the encroachment no quantity surveyor was involved.

Whether the unlawful conduct was stopped

The structures have already been constructed.

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

To the knowledge of this office, the property owners have not previously contravened the By-Law.

5. APPLICATION

Considering the above, application is made for the following:

- 5.1 Permanent Departure** from the 2m south-western side building line to 0,27m to allow the existing cloakroom, pantry and scullery/laundry in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;
- 5.2 Permanent Departure** from the 2m north-eastern side building line to 1,46m to allow the repositioning of the existing bedroom wall in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020; and
- 5.3 Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

6. LAND USE ENVIRONMENT

The subject property is located in Eastcliff, an established residential area in Hermanus. The property is surrounded by other Residential Zone 1: Single Residential properties and Public Streets. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan).



7. TITLE DEED

Title deed T40671/2022 (refer **Annexure B**) was perused and there are no restrictive conditions that prohibits the approval of the proposal being made.

8. ZONING

The following zoning parameters were assessed in conjunction with the SR1 OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (a) of the OM By-Law:



RESIDENTIAL ZONE 1: SINGLE RESIDENTIAL			
	Parameters	Proposal	Comply/ deviate
Primary use	Crèche, Dwelling House , Guest Rooms, Home Occupation, Second Dwelling Unit and Self-Catering.	Dwelling House	Comply
Consent use	Day Care Centre, Green House, Guest House, House Shop, Institution, Place of Instruction, Place of Worship, Residential Building, and Intensive Horticulture.	N/A	N/A
Development parameters			
Coverage	The maximum coverage for all buildings on the land unit is determined in accordance with the net erf area: 400m ² and greater = 50%	Existing Structures = 201,55m ² Proposed Coverage = 47%	Comply
Building lines	(i) The street building line is determined in accordance with the net erf area: <ul style="list-style-type: none"> • 400 m² and greater = 4m (ii) The side and rear building lines are determined in accordance with the net erf area: <ul style="list-style-type: none"> • Greater than 400 m² = 2m 	<ul style="list-style-type: none"> • The street building lines are being adhered to. • Permanent Departure from the 2m side (north-eastern) building line to 1,43m to allow the repositioning of the existing bedroom wall. • Permanent Departure from the 2m side (south-western) building line to 0,27m to allow the existing cloakroom, pantry and scullery/laundry. 	Deviate
Height	The maximum height of a building, measured from the base level to the top of the structure, is 8,0 m.	The existing dwelling adheres to the 8,0m height.	Comply
Garages and carports	Garages and carports may be constructed within building lines in accordance with Chapter 16.1.2.	N/A	Comply



9. SERVICES

The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is herewith illustrated.

Electricity, Water, Sewage and Solid Waste

The subject property is connected to the existing networks in the area, which include electricity, water and sewage. The proposal of this application is not anticipated to impact on existing services.

Solid waste is collected by the OM weekly.

Access and Egress

Access and egress to the property is gained from McFarlane Street.

10. NEED AND DESIRABILITY

The need and desirability of the approval and implementation of this proposal in accordance with Section 66 (1) (c) of the OM By-Law can be illustrated as follow:

Need and desirability.

The need for the land use application was a result of addressing all the land use requirements and ensuring the property meets the requirements of the property owners. To achieve this, the property owners are required to apply for a permanent departure from the building line.

Socio-economic impact	The permanent departures are not predicted to have a socio-economic impact.
Compatibility with surrounding uses	The proposal is to ensure the property complies with the OMLUS. It not predicted that the proposal is out of line with the surrounding area.
Impact on the external engineering services	Refer Section 9.
Impact on safety, health and wellbeing of the surrounding community	It is not predicted that the proposal will have an impact on safety, health, and wellbeing of the surrounding community.
Impact on heritage	The subject property is not listed in the OM Heritage Register.
Impact on the biophysical environment	It is not predicted that the proposal will have an impact on the biophysical environment.
Traffic impacts, parking, access and other transport related considerations	The proposal will not have an impact on traffic, parking or access.



Impact on views, sunlight and character of the area

The subject property is located in a residential setting and the structures are existing, meaning that the adjacent property owners have become accustomed to the structures, and it is not predicted to affect any surrounding owners.

Economic impact

The proposal is not expected to have a short- or long-term economic impact.

Opportunity cost

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or foregoing of valued land use rights of interested and affected parties when an application is approved. The proposal is not predicted to have a negative impact on surrounding properties.

Environmental impact

The subject property is not located within an environmentally important area.

11. POLICIES AND REGULATIONS

11.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

The property is not located within the EMOZ.

11.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The property is not located within the HPOZ.

11.3 Spatial Planning Policies

This proposal is not in conflict with any provisions of the Western Cape Provincial Spatial Development Framework, 2014 or the Overstrand Spatial Development Framework, 2020.

12. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains five uncompromisable planning principles by which each development application must be guided by. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

Spatial justice

Spatial justice refers to planning proposals that do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal to rectify past contraventions is not predicted to influence past spatial injustices.

Spatial sustainability

Spatial sustainability refers to planning proposals which result in communities that are viable. The proposed departure intends to ensure the subject property is utilised to its maximum capabilities.

Efficiency

This proposal is intended to maximise the usage of the subject property.



Spatial resilience

This proposal is not in conflict with any spatial planning policies or other OM regulations which is a hallmark of resilience.

Good administration

The OM has a credible track record of good administration regarding the method of public participation. Public participation forms an integral part of the land use planning process.

The public participation process provides people who may be affected by the proposal with an opportunity to provide comment and to raise issues of concern about the proposal or make possible suggestions that may result in an enhanced outcome of which both parties benefit. Comments will be reviewed and considered after which it will be addressed accordingly.

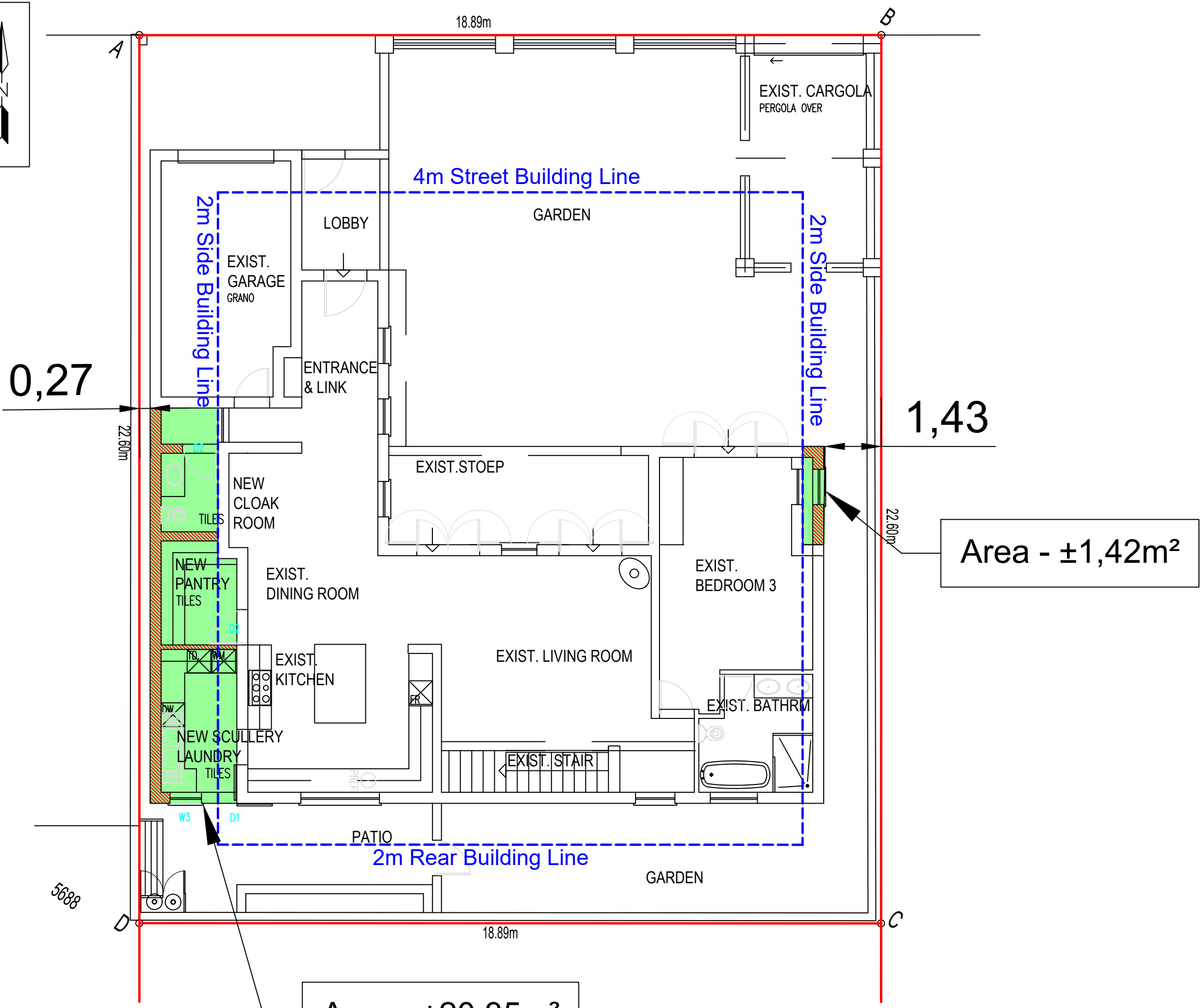
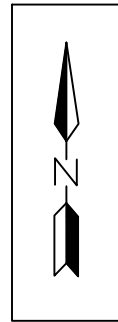
13. EVALUATION

The purpose of submitting this application is to enable the owners to rectify the contravention that had occurred prior to their ownership and to ensure the property has the necessary approvals to be compliant with the OMLUS. This application aims to balance the functional necessity of these essential facilities - that include a cloakroom, pantry and scullery/laundry, and the repositioning of the bedroom wall - while ensuring compliance with the required conditions outlined in the OMLUS. This includes the dimensions and other specifications of the structure.

14. RECOMMENDATION

Based on the abovementioned motivation, it is recommended that the following be approved:

- 14.1 Permanent Departure** from the 2m south-western side building line to 0,27m to allow the existing cloakroom, pantry and scullery/laundry in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;
- 14.2 Permanent Departure** from the 2m north-eastern side building line to 1,43m to allow the repositioning of the existing bedroom wall in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020; and
- 14.3 Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.



0,27

1,43

Area - ±1,42m²

Area - ±20.35m²

4. Site Plan Erf 9867 - Hermanus

Extent = 426m²
Existing Coverage = 47%

Plan Number: 22.91 (V1)

Plan prepared by: Thian Jansen on 12/01/2024
Based on plans by Luke Architect

All distances are approximate
and subject to a survey

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

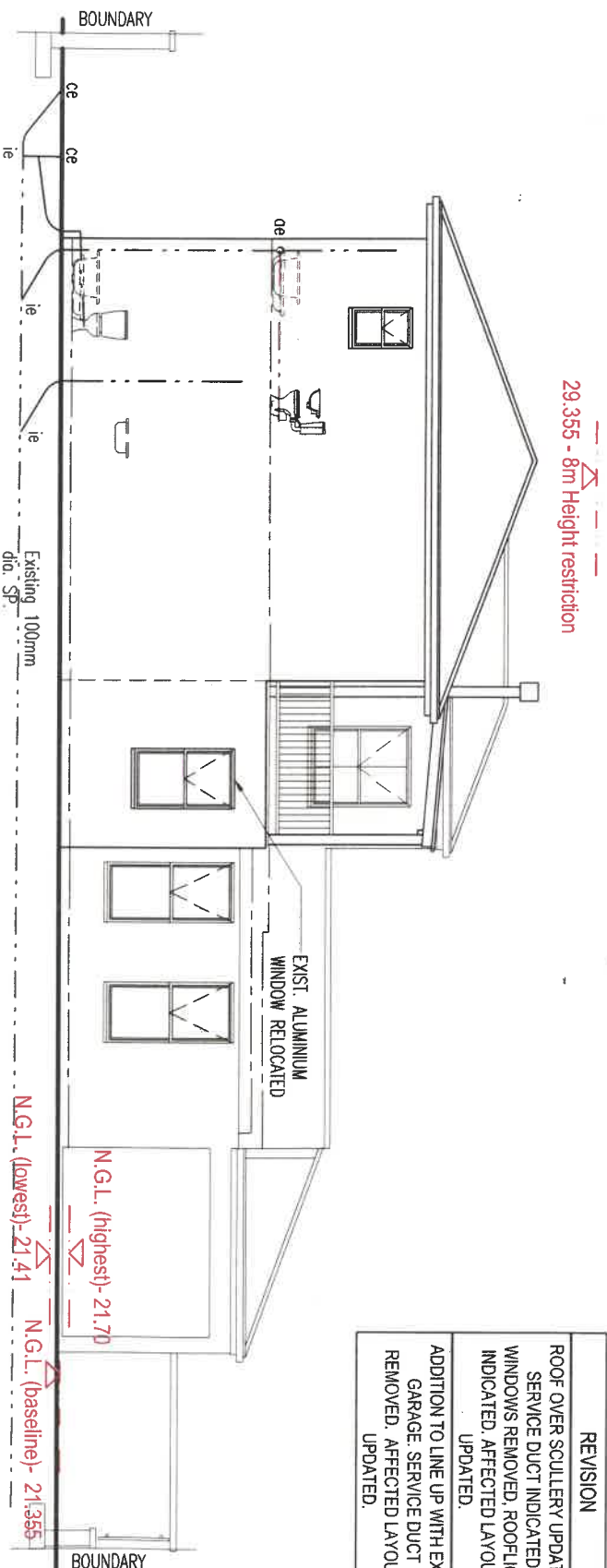
Unit B, Standard House, Corner of Royal and Dirkie Uys
Street Hermanus, 7200

GROUND FLOOR

Scale 1 : 100

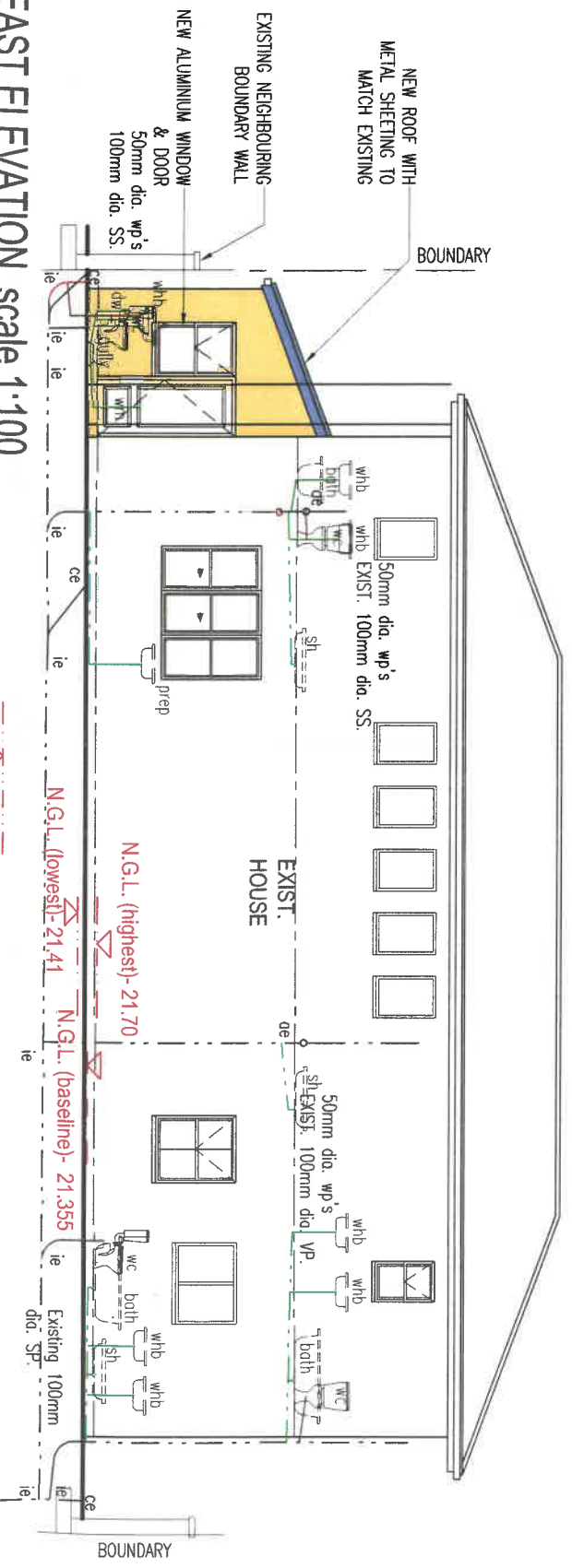


REVISION	NO	BY	DATE
ROOF OVER SCULLERY UPDATED. SERVICE DUCT INDICATED. WINDOWS REMOVED, ROOFLIGHT INDICATED. AFFECTED LAYOUTS UPDATED.	01	IWG	2023.11.30
ADDITION TO LINE UP WITH EXIST. GARAGE. SERVICE DUCT REMOVED. AFFECTED LAYOUTS UPDATED.	02	IWG	2023.12.15



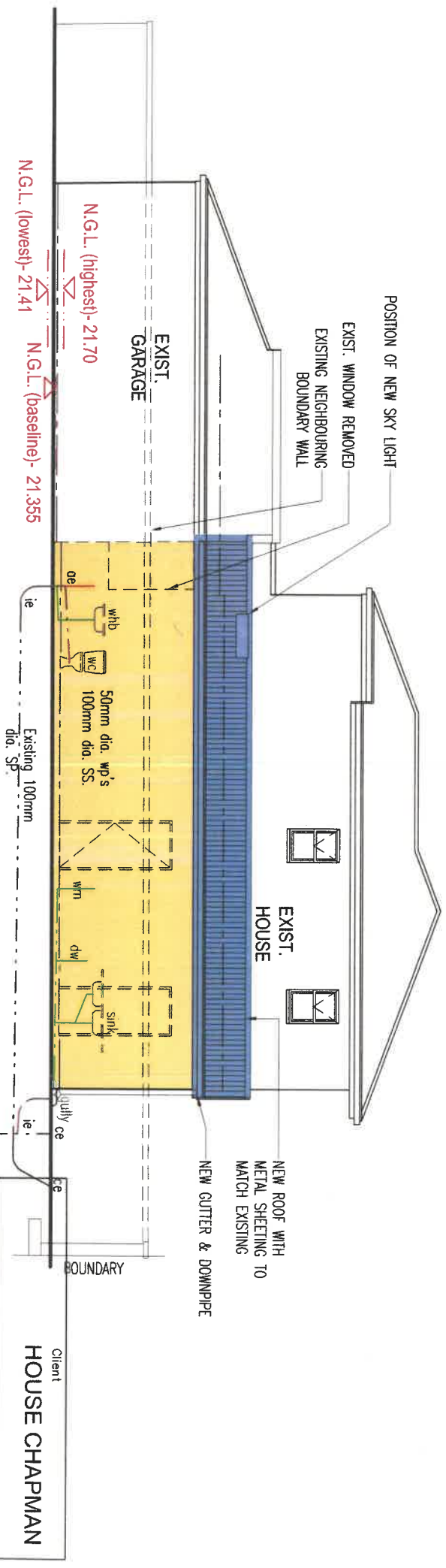
SOUTH EAST ELEVATION scale 1:100

29.355 - 8m Height restriction



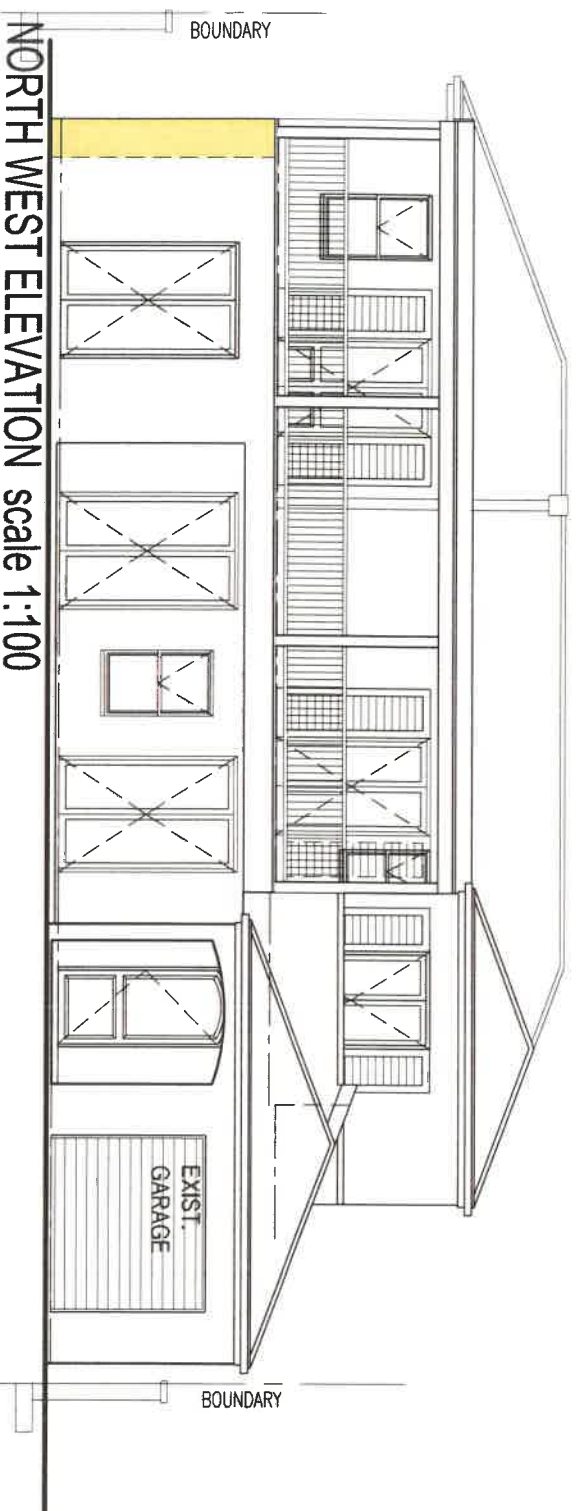
SOUTH EAST ELEVATION scale 1:100

29.355 - 8m Height restriction



SOUTH WEST ELEVATION scale 1:100

29.355 - 8m Height restriction



NORTH WEST ELEVATION scale 1:100

<p>Client HOUSE CHAPMAN</p>		
<p>LUKE Architect</p>		
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<p>Project ADDITIONS & ALTERATIONS ERF 9867 MC FARLANE STREET HERMANNUS</p>		
<p>Drawing ELEVATIONS</p>		
Date	Drawn	Scale
2023_10_01	IWG	SEE DRW
Project No	Drawing No	Revision No
CHAPMAN	300	02