

**PORTION 8 OF FARM THE DRAAY NO. 563, DIVISION CALEDON: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF THE TRUSTEES FOR THE TIME BEING OF THE JACK MITCHELL TESTAMENTARY 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 relax the northern lateral building line from 30m to 9,12m and 12,04m respectively to accommodate the additions and alterations to the existing additional dwelling (building no. 3) on the property.
- **departure** in terms of Section 16(2)(b) to exceed the maximum permissible size of 250m<sup>2</sup> for additional dwellings to accommodate the existing additional dwelling, with a floor area of approximately 286m<sup>2</sup> (building no. 3).
- **determination of an administrative penalty** in terms of Section 16(2)(q) for unauthorised building additions as mentioned above.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town & Spatial Planning, Hermanus and at the Kleinmond Library, Fifth Avenue, Kleinmond. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) on or before **16 May 2025**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to **Ms. 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.

**GEDEELTE 8 VAN DIE PLAAS DE DRAAY NR. 563, AFDELING CALEDON: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: PLAN ACTIVE STADS- EN STREEKBEPLANNERS NAMENS DIE TRUSTEES VIR TYD EN WYL VAN DIE JACK MITCHELL TESTAMENTÊRE TRUST**

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 noordelike syboullyn vanaf 30m na onderskeidelik 9,12m en 12,04m te verslap om die aanbouings en veranderings aan die bestaande addisionele woning (gebou nr. 3) op die eiendom te akkommodeer.
- **Afwyking** ingevolge Artikel 16(2)(b) om die maksimum toelaatbare grootte van 250m<sup>2</sup> vir addisionele wonings te oorskry om die bestaande addisionele woning met 'n vloeroppervlakte van ongeveer 286m<sup>2</sup> (gebou nr. 3) te akkommodeer.
- **Bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) vir ongemagtigde aanbouings soos hierbo genoem.

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

**INXALENYE 8 YEFAMA IFARM THE DRAAY NO. 563, DIVISION CALEDON: ISICELO SOKWAHLULA NENGQIKELELO YOMDLIWO WOBHALISO: PLAN ACTIVE TOWN & REGIONAL PLANNERS EGAMENI LE TRUSTEES FOR THE TIME BEING OF THE JACK MITCHELL TESTAMENTARY TRUST**

Kukhutshwe isaziso esimayela nemiba yeSoloty lama48 loMthethwana kaMasipala waseOverstrand OsisiHlomelo SoMthethwana EsiingeziCwangciso Zokusetyenziswa koMhlaba kaMasipala ku2020 isaziso esi sithi kufunyenwe isicelo esimayela nale miba ilandelayo:

- **ukwahlula** ngokwemiba yeSoloty le-16(2)(b) ukunyenisa umgca wesakhiwo omelene nomgca wesakhiwo ukusuka kwiimitha ezingama-30m ukuya kwi-9,12m ne-12,04m ngokufanayo ukulungiselela izongezo neenguquko kwisakhiwo esongezelelweyo nesele sikhona (isakhiwo nomb. 3) kwipropathi.
- **ukwahlula** ngokwemiba yeSoloty le16(2)(b) ukudlula kumlinganiselo ovunyelweyo ngomlinganiselo ozizikwemitha ezingama-250m<sup>2</sup> ukongeza kwiindawo zokuhlala ukulungiselela iindawo zokuhlala esele zikhona, enomgangatho obubanzi buzizikwemitha ezingama-286m<sup>2</sup> (building no. 3).
- **ingqikelelo yomdlivo wobhaliso** ngokwemiba yeSoloty le16(2)(q) lezongezo ezafakelweyo ngokwakha ngokungekho mthethweni izakhiwo ezongezelelweyo njengeko kuchazwe ngentla.

linkcukacha ezipheleleyo mayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini ukususela phakathi kwentsimbi yesi8h00 ukuya kweye-16:30 kwiSebe: Lezicwangciso zeDolophu & neNdawo, eHermanus naseKleinmond Library, Fifth Avenue, Kleinmond. Naziphi na izimvo ezibhalweyo mazingeniswe kwiSebe ngokwezibonelelo zeSoloty lama51 nelama52 loMthethwana ochazwe ngentla zifikwe kwaMasipala (16 Paterson Street, Hermanus / [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) ngomhla okanye ngaphambi **komhla wama16 Meyi 2025**, uchaze igama lakho, idilesi neenkukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zakho zokuhlomla. Imibuzo ngefowuni ingabuzwa ku**Nkszn H van der Stoep** ku028-313 8900. UMasipala angala ukwamkela izimvo ezifunyenwe emva komhla wokuvala. Nabani na ongakwaziyo ukufunda nokubhala angahambela kwiSebe Lezicwangciso zeDolophu & Nendawo apho igosa likamasipala liza kumnceda ahlomle ngokusemthethweni.



**PROPOSED DETERMINATION OF AN  
ADMINISTRATIVE PENALTY AND DEPARTURE  
PORTION 8 OF THE FARM DE DRAAY NO. 563  
OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT**

**1. BACKGROUND**

The company Plan Active has been appointed by N.J. Hossack, on behalf of The Jack Mitchell Testamentary Trust, the owner of Portion 8 of farm De Draay No. 563, to submit an application for the determination of an administrative penalty and departure in respect of Portion 8 of farm De Draay No. 563 to accommodate the additions and alterations undertaken to an existing additional dwelling (building no. 3) situated within the approved 9,12m and 12,04m northern common boundary farm building lines on the subject property. The As Built dwelling exceeds 250m<sup>2</sup> in size and therefore exceeds the maximum permissible floor area for an additional dwelling. An application is therefore submitted to address and seek approval for this encroachment in area.

This report addresses the concerns regarding the changes to dwelling unit no. 3. The key points of focus include the enclosure of the drying yard, the addition of the conservatory, and the resultant floor area encroachment calculation related to the structure.

**2. APPLICATION DETAILS**

Application is made for the following:

- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an **administrative penalty** for Portion 8 of the farm De Draay no. 563;

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the **departure** of Portion 8 of the farm De Draay no. 563.

### **3. GENERAL APPLICATION INFORMATION**

#### **3.1 PROPERTY DESCRIPTION**

The subject property is 36,2668ha in extent and is held by title deed no. T39676/2023.

The subject property is situated north of Kleinmond and the southern farm boundary abuts the residential area of Kleinmond. Refer to the locality plan attached. The subject property is located in an agricultural, residential (abuts Kleinmond to the south) and tourism environment.

The subject property is known as the Mountain Range Flora Farm. The farm is known for the farming and distribution of fresh flowers (Fynbos).

#### **3.2 ZONING**

Portion 8 of the farm De Draay No. 563 is zoned Agriculture Zone I: Agriculture with approved consent uses and departures. The subject property is used for agricultural purposes. Refer to the land use planning approvals previously issued for the property dated 8 August 2017, 17 November 2021 and 6 June 2022 attached.

Surrounding properties are zoned for Agriculture Zone I and Residential Zone 1 purposes.

#### **3.3 LAND USE**

The subject property is primarily used for agricultural purposes. The following agricultural activities occur on the subject property:



<b>Land use</b>	<b>Irrigated (ha)</b>	<b>Dry land (ha)</b>	<b>Total Extent in hectares</b>
Fynbos		25	25
Natural vegetation & veld, werf, roads, structures			11
<b>TOTAL</b>			<b>36</b>

The Fynbos species are divided into blocks by means of internal roads and seasonally harvested.

The following structures / land uses are also on the subject property:

- Three existing dwellings ( $\pm 350\text{m}^2$ ,  $250\text{m}^2$  and  $200\text{m}^2$  respectively);
- Two outbuildings ( $\pm 47\text{m}^2$  and  $16\text{m}^2$  respectively);
- Stable ( $\pm 30\text{m}^2$ );
- Swimming pool ( $\pm 50\text{m}^2$ );
- Tennis court ( $\pm 680\text{m}^2$ );
- 15 labourers' cottages (all structures amount to  $\pm 620\text{m}^2$ );
- Shed ( $\pm 125\text{m}^2$ );
- Ablution block ( $44\text{m}^2$ );
- Brick works (to be demolished);
- Three pack sheds (to be sold and removed from the farm);
- 1 pack shed to remain ( $\pm 180\text{m}^2$ ).

Land uses that surround Portion 8 of the farm De Draay No. 563 include agricultural activities; tourism related land uses and the Kleinmond town.

### **3.4 PROPOSED DEVELOPMENT**

The following is proposed:

1. The determination of an **administrative penalty** for Portion 8 of the farm De Draay no. 563 in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, to accommodate the unauthorised additions and alterations to the existing additional dwelling (building no. 3).
2. The **departure** of Portion 8 of the farm De Draay no. 563 in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, to:

- a. accommodate the As Built additional dwelling, with a floor area of approximately 286m<sup>2</sup> exceeding the maximum permissible size of 250m<sup>2</sup> for additional dwellings;
- b. accommodate the new additions and alterations on the previously approved 9,12m and 12,04m northern lateral building line in lieu of the 30m building line.

### 3.4.1 Rectification of contravention

In terms of Chapter 5, Section 90(1) a person who is in contravention of the Municipal Planning Amended By-Law (2020), 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.

As the application is for the rectification of a contravention of the By-Law, an application is submitted for the determination of an administrative penalty fee in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020. However, the Municipal Planning Tribunal (MPT) has the authority not to impose such a fee.

In terms of Section 90(3) of the MPBL, the MPT must at least consider the following factors when determining an appropriate administrative penalty:

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

Approvals were issued in 2017 and 2022 to relax the northern farm common boundary building line to accommodate the additional dwelling (building no. 3 on the approved site development plan for the subject property) on the respective 9,12m and 12,04m northern common boundary building line. An environmental applicability checklist undertaken in 2022 listed that the dwelling would be extended by 49,5m<sup>2</sup>. The dwelling was however extended by 62,8m<sup>2</sup> from 196,3m<sup>2</sup> to 259,1m<sup>2</sup>. These additions deviated from the latest approved building plan for building no. 3 and the decision issued by the Department of Environmental Affairs & Development Planning. These additions included:

- Conservatory / Bar Area (addition on first floor): 29,4m<sup>2</sup>
- Enclosed services yard: 8,1m<sup>2</sup>

- Balconies (viewing decks) on first floor (trafficable area): 25,3m<sup>2</sup>

The Department of Environmental Affairs & Development Planning confirmed that the As Built additions (larger building footprint) do not trigger any listed activities in terms of NEMA – refer to their letter dated 20 November 2024. The architect confirmed that the previously approved plans from July 2022 were approved with a coverage of 250m<sup>2</sup>. This excluded the drying yard, which was not part of the surface area / coverage. A copy of the approved building plan dated 5 July 2022 is attached.

The 7,97m<sup>2</sup> “*proposed*” as indicated in the area schedule of the SDP is therefore the extent of the structures that will be used for the determination of the administrative penalty application to allow the architect to submit the plans for scrutiny, as requested by the building department.

The enclosed pergola was never included as part of the footprint / coverage but was nonetheless approved. The ‘*surface area*’ is indicated separately from the coverage in the legend on the SDP. The enclosed pergola was demolished, and a new glass conservatory was added on the existing reinforced concrete roof on first floor level.

Plans for additions and alterations to this property were submitted in 2022 (see attached approved building plan). The renovations were completed in September 2022 and October 2023 respectively, during which the property owner implemented some practical modifications. However, the construction has taken place beyond the 30m northern lateral building line (given the building line relaxations granted for the dwelling in 2017 and 2022 respectively) without obtaining the required land use and building development management approvals. According to the architect the alterations to the latest additions to the dwelling are still within the initial approved building lines of 9,12m (2017 approval for building no. 3) and 12,04m (2022 approval for additions to building no. 3). We include a building line deviation nonetheless to accommodate the changes / additions that occurred to dwelling no. 3.

The ensuite bedroom and pergola addition to dwelling no. 3 are shown on the attached approved building plan and in the images below:



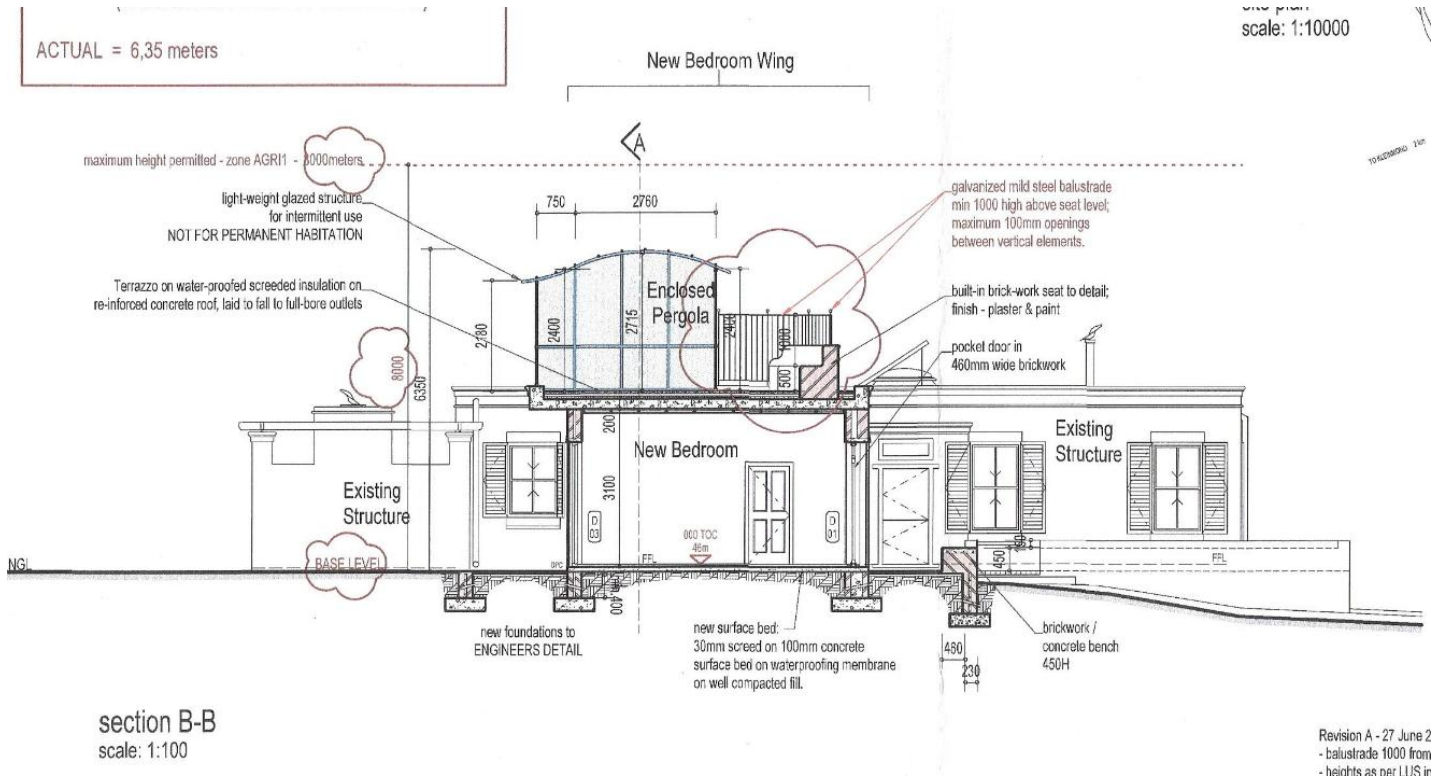


**Image 1: South elevation (approved building plan)**



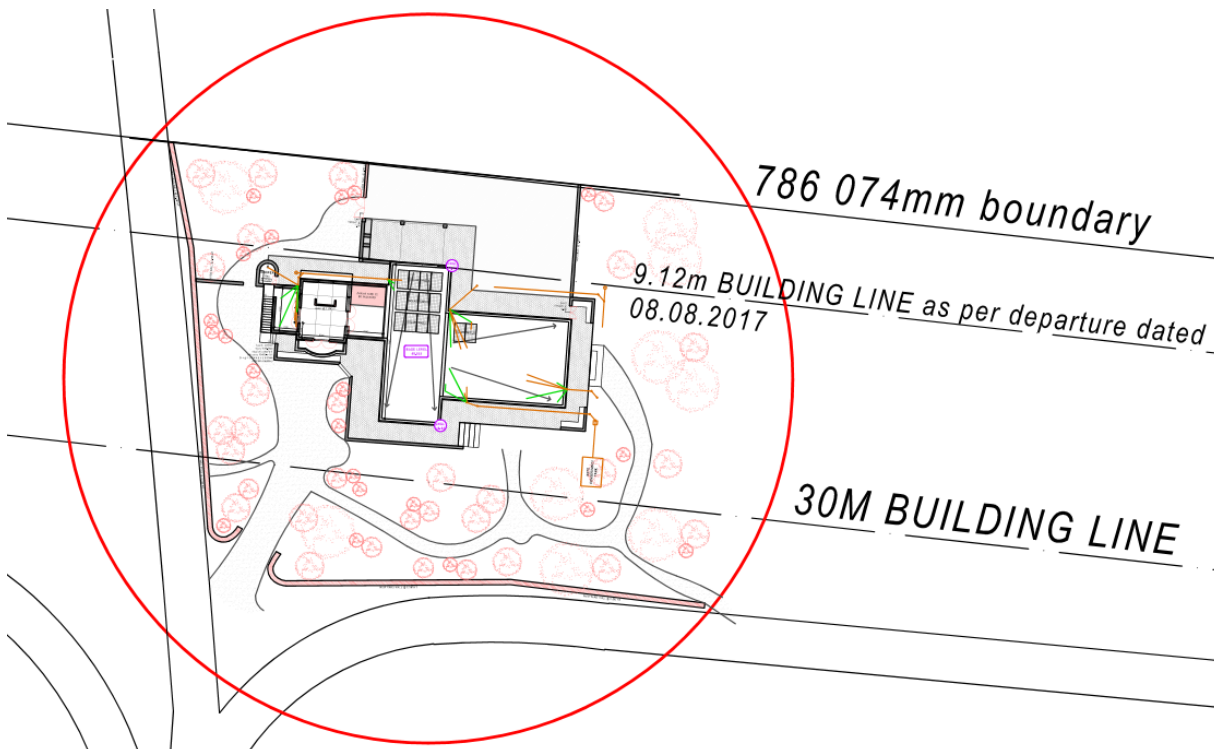
**Image 2: North elevation (approved building plan)**





**Image 3: Section plan (approved building plan)**

The deviations from the approved building plan adhered to the approved dwelling's northern lateral building lines and does not encroach closer to the farm boundary. See below the changes made to the enclosed pergola (demolished) and drying yard (now enclosed) during construction that is now addressed with this application:



**Image 4: Site plan**

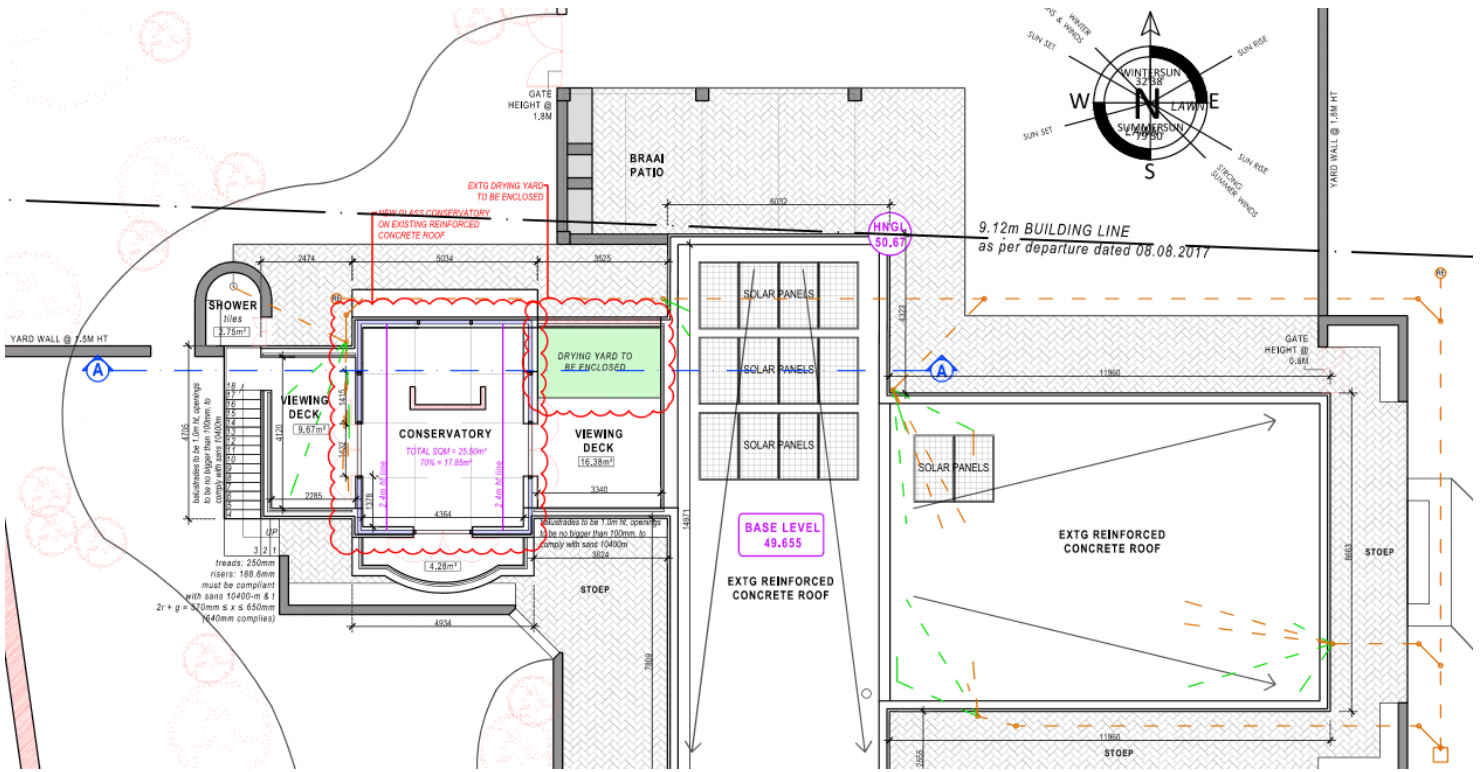


Image 5: Roof plan

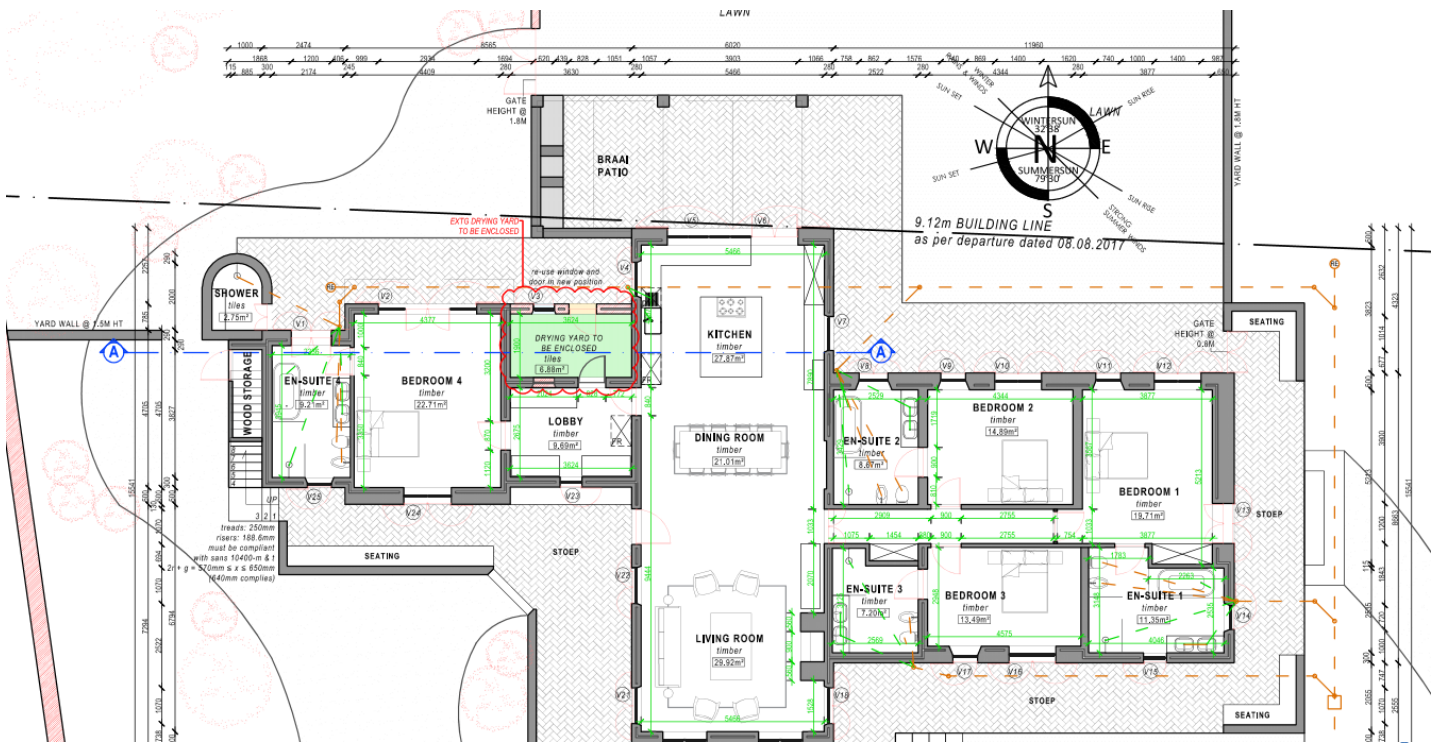
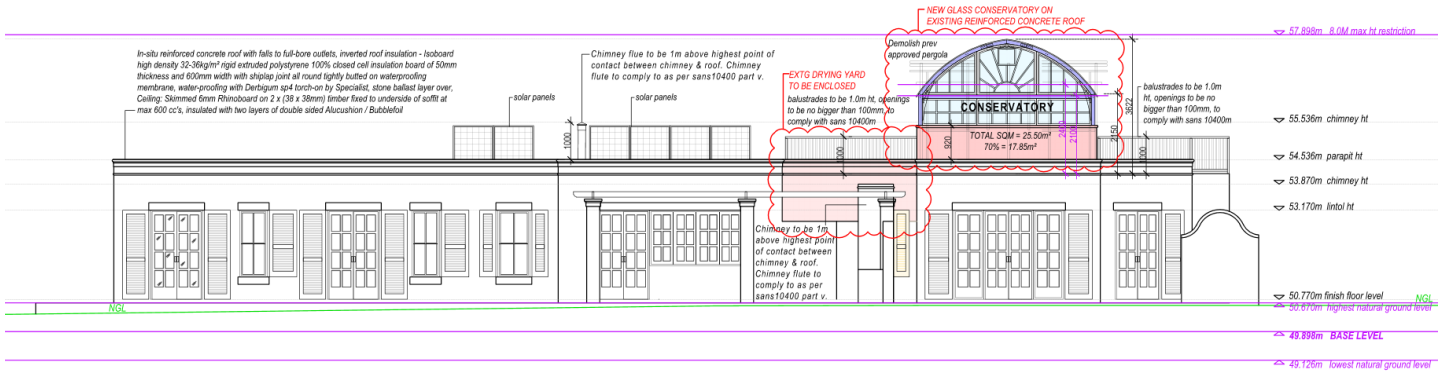
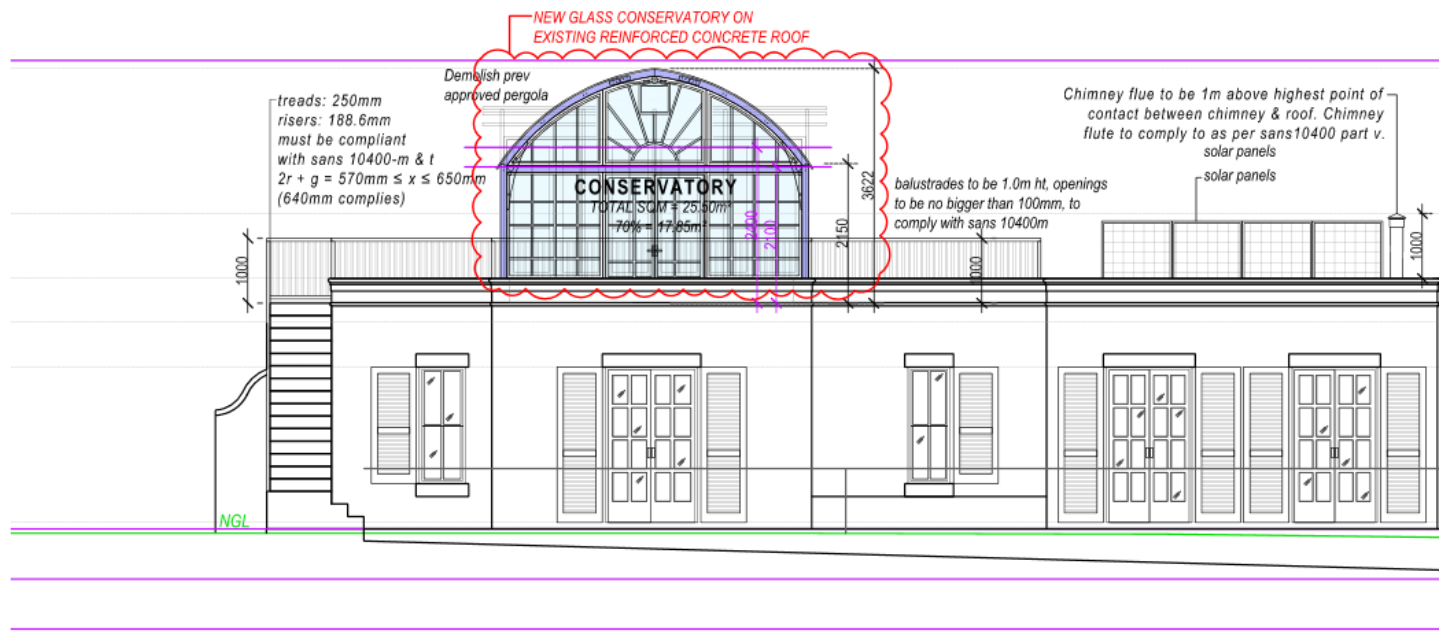


Image 6: Ground floor plan



NORTH ELEVATION | scale 1:100

**Image 7: North elevation plan**



SOUTH ELEVATION | scale 1:100

DRAWING

**Image 8: South elevation plan**

The client appointed Gerrit van der Wolff to redesign the conservatory. The original design and municipal submission were done by Architect Barry Gould. The architect issued the design of the conservatory but also added a north cantilever slab to provide shade to the new proposed bedroom below. The conservatory was also enlarged. The client then appointed a specialist to supply and install a solar PV system to the dwelling. The PV system necessitated the enclosure of the drying yard in order to accommodate the batteries and inverter. Gerrit van der Wolff issued drawings on 03 August 2023. Ian Williams issued the engineering layouts on 14 September 2023 for construction. The slab was cast on 09 October 2023.

The total extent of the existing unlawful structures is as follows:

<b><u>SURFACE AREA</u></b>	
ERF SIZE	= 36.2668HA
GROUND FLOOR	= 258.29m <sup>2</sup>
ENCLOSED PERGOLA	= 27.58m <sup>2</sup>
<b><u>TOTAL SURFACE AREA</u></b>	<b>= 285.87m<sup>2</sup></b>
BALCONY	= 30.33m <sup>2</sup>
STOEP	= 118.00m <sup>2</sup>
<b><u>TOTAL SURFACE AREA</u></b>	<b>= 148.33m<sup>2</sup></b>
<b><u>COVERAGE</u></b>	
ALLOWABLE COVERAGE	= 50.0%
GROUND FLOOR	= 0.0712%
ENCLOSED PERGOLA	= 0.0076%
BALCONY (N/A)	= 0.0083%
STOEP (N/A)	= 0.0325%
<b><u>TOTAL COVERAGE</u></b>	<b>= 0.0788%</b>
<b><u>TOTAL ADDITIONS</u></b>	<b>= 7.97m<sup>2</sup></b>

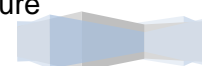
The As Built additions are unobtrusive in nature and do not impact negatively on the surrounding properties. A building line departure application to accommodate the As Built structures are included in this application.

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

The owner has never contravened the land use planning By-law in the past. They have addressed the matter related to the unlawful construction work by appointing the relevant consultants (architect and town planners) to assist to obtain the necessary approvals.

- **Whether the unlawful conduct was stopped**

The unauthorized structures have already been completed in 2022 / 2023 and are in use. Consequently, the unlawful activity was not halted. The owner would like to rectify the contravention by submitting the administration penalty application and subsequent departure application in order to legalise the As Built structures on the subject property.



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

The total construction cost amounted to R 30 279,16 for enclosing the drying yard as per the construction cost sheet compiled by Pro Projects dated 21 August 2023 attached. Since the enclosed pergola (now conservatory) was approved with the previous building plan, the construction cost is irrelevant to the determination of the administrative penalty.

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

To the best knowledge of the applicant and as confirmed by the landowner, they have never previously contravened this By-Law or any other previous planning law.

- **Summary**

We urge the Overstrand Municipality to consider the low impact that the As Built structures and their respective uses have had, and will continue to have, on the surrounding area. The As Built structures have minimal impact on neighbouring properties and other structures and land uses on the subject property.

The owner has been proactive in addressing this issue by promptly instructing consultants to submit a comprehensive and well-supported departure application, as well as an application for a determination of an administrative penalty. Therefore, we respectfully request that a minimal or no penalty fee be imposed on the property owner for the reasons outlined above.

### **3.4.2 Departure**

It is proposed to retain the As Built conservancy (to replace the approved covered pergola) and enclosed drying yard. The As Built additions were done to a structure already approved on the 9,12 and 12,04m northern lateral building line and the alterations and additions to the structures merely followed the existing lateral building line.

The conservancy is 29,4m<sup>2</sup> (25,5m<sup>2</sup> on the SDP) in extent. The enclosed dry yard is 8,1m<sup>2</sup> (6,88m<sup>2</sup> on the SDP) in extent. The conservancy merely replaced the enclosed pergola (the latter was approved at 27,58m<sup>2</sup> in extent and was demolished). The extent of the dry yard

was excluded from the coverage calculation with the 2022 building plan approval.

Approvals were issued in 2017 and 2022 to relax the northern farm common boundary building line to accommodate the additional dwelling (building no. 3 on the approved site development plan for the subject property) on the 12,04m common boundary building line. An environmental applicability checklist undertaken in 2022 listed that the dwelling would be extended by 49,5m<sup>2</sup>. The dwelling was however extended by 62,8m<sup>2</sup> from 196,3m<sup>2</sup> to 259,1m<sup>2</sup>. These additions deviated from the latest approved building plan for building no. 3 and the decision issued by the Department of Environmental Affairs & Development Planning. These additions included:

- Conservatory / Bar Area (addition on first floor): 29,4m<sup>2</sup>
- Enclosed services yard: 8,1m<sup>2</sup>
- Balconies (viewing decks) on first floor (trafficable area): 25,3m<sup>2</sup>

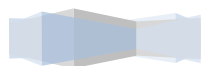
The As Built additions and alterations pushed the floor area of dwelling no. 3 over the maximum permissible floor area of 250m<sup>2</sup> for additional dwellings. An application is therefore submitted for a departure of Portion 8 of the farm De Draay no. 563 to accommodate the As Built additional dwelling no. 3, with a floor area of approximately 286m<sup>2</sup> exceeding the maximum permissible size of 250m<sup>2</sup> for an additional dwelling.

Secondly, the additions and alterations, namely the demolition of the previously approved pergola and replacement with a glass conservatory and enclosing the existing dry yard were done within the 30m northern lateral building line. There are previous approvals for the building line deviation up to 9,12m and 12,04m respectively and the additions and alterations follows the existing building lines. An application is therefore submitted to deviate from the 30m northern lateral building line to accommodate the glass conservatory and enclosed dry yard on the less restrictive 9,12m and 12,04m building lines (as per the 2022 approval).

The extent and position of the conservatory and enclosed drying yard have been described in detail above (both in text and image formats). To avoid repetition, this will not be restated in this section of the report. It is confirmed that both the conservatory and enclosed drying yard remain within the height restriction. In addition, the area schedule indicates that the total coverage of the As Built structures also meets the land use requirements.

The following should be noted when considering the As Built structures:

- No new additions are proposed.
- The increase in floor area resulting from the As Built additions is addressed simultaneously in this application;



- The subject property is a farm portion, with additions to one dwelling only on the subject property. The proposal is anticipated to have a low impact on neighbouring properties.
- The glass conservatory merely replaces the covered pergola, and both the conservatory and enclosed drying yard are not regarded as habitable spaces but are intended for relaxation and enjoying the views as well as for entertainment purposes.
- All additions followed the existing approved northern lateral building lines.
- The visual impact is considered minimal. All structures already exist. Although the As Built structures with their respective uses are visible to neighbouring properties, no encroachment of building lines are closer than the position of approved structures from the northern lateral erf boundary.
- The height requirements for the dwelling and additions are met.
- The materials used are aesthetically pleasing and merges well with the approved structures.
- The As Built structures and the respective uses thereof are an integral part of the property thus to demolish the structures to make it compliant to the respective building lines, will diminish the aesthetic value and property value.

Refer to the attached site development plan inclusive of the site plan, roof plan, ground floor plan and elevation plans.

The proposed application will not adversely affect the character or property values of the surrounding area. The existing structures on the subject property are positioned in such a way that they do not obstruct traffic flow or public activity, due to their location in relation to neighbouring properties and the low-impact nature of the structures themselves.

It is argued that the massing is in keeping with the character of the area, regardless of the departure being applied for. The zoning and primary right of Portion 8 of farm De Draay no. 563 will remain unchanged.

The height of all structures on the property complies with the permissible height regulations for AGR1-zoned properties. Any encroachments into the applicable building lines, as shown on the site development plan, involve existing structures. This application specifically addresses these encroachments. As such, the proposed departure will not result in a greater visual impact on surrounding properties. The impact on adjacent property owners and passers-by will be marginally greater than it would be if these structures did not exist.

of the area, do not negatively impact the rights of neighbouring property owners, and that there is no valid reason to deny approval of this application. The application aligns with responsible resource use and supports sustainable growth.

The proposed departure for Portion 8 of the farm De Draay no. 563 is consistent with the prevailing land use trends in the surrounding area, and therefore, we do not anticipate any adverse effects or issues arising from the approval of this application.

### **3.5 CHARACTER OF THE ENVIRONMENT: COMPATIBILITY WITH THE SURROUNDING LAND USES**

The subject property is situated at the foot of the Palmiet Mountain range in the Kleinmond area. The subject property is characterised by Fynbos and is currently a working farm.

It is not proposed to change the land use of the subject property. The impact on the character of the area will therefore remain unchanged. As previously mentioned, the proposed encroachments are compatible with the character of the area and does not impact negatively on the rights of anyone else.

Since no new additions or alterations are proposed (the structures will remain as built) the impact on the privacy of adjacent and surrounding property owners will remain unchanged.

Visually the proposed land uses will have no impact on the existing character of the subject property as well as the area since all the structures already exist on the subject property.

### **3.6 THE POTENTIAL OF THE PROPERTY (DESIRABILITY OF THE PROPOSED UTILIZATION)**

The subject property's zoning and land use will remain unchanged. All the structures already exist on the farm and do not have a negative impact on the adjacent property owners or agricultural activities. The location of the subject property within an agricultural area allows the property to be developed (in future) for low impact land uses only such as a bed-and-breakfast, guesthouse, home occupation, tourist facilities, etc. The proposed departure to accommodate the encroachment of the As Built additions and alterations to the

approved dwelling onto the 30m common boundary farm building lines will not hinder any future land use applications on Portion 8 of the farm De Draay No. 563.

The subject property allows for the deviations being applied for due to the extent of the subject property, the position of the subject property (in an agricultural environment), etc. The deviations are to accommodate the existing structures on the subject property only and the impact on the surrounding rural environment will be minimal, given the total extent of the property, i.e. position away from other dwellings on the surrounding farms. The deviation from the maximum floor space for additional dwellings is considered a low impact application.

### **3.7 ECONOMIC IMPACT**

During the construction of the additions in 2022-2023 the project contributed towards job creation on a temporary basis. Local vendors were also supported during the construction phase. In addition, the improvements made to the dwelling on the farm could indirectly contribute to the farm's overall productivity – a more comfortable and functional living space may attract and retain skilled agricultural labor, improving farm operations and potentially increasing output.

The project aligns with local spatial planning policies, ensuring that any economic risks are minimized while fostering sustainable development in the area.

### **3.8 SOCIAL IMPACT**

The proposed application will have no impact on the social status quo of the area. A larger, more functional living space provides a better quality of life, contributing to the overall well-being of those living on the farm.

No negative impact on the social wellbeing of the surrounding community is anticipated. It is submitted that the proposed departure is compatible with the character of the area and does not impact negatively on the rights of anyone else.

### **3.9 IMPACT ON EXTERNAL ENGINEERING SERVICES**

#### **3.9.1 PROVISION OF SERVICES**

All services and structures already exist and consequently the impact on the scale and usage of the existing available services will remain unchanged. No additional loading of the existing civil infrastructure is anticipated.

##### **Available water**

Water supply to the property was first by means of a furrow and currently by means of a pipeline. The furrow / pipeline route starts on Cape Nature's property (secured by means of an annual lease) and then runs over Farm Witteklip No. 546, Portion 2 of farm De Draay No. 563 and Portion 6 of farm De Draay No. 563. Since 1958 various catchment / storage tanks have been constructed and maintained by the owner's family on Portion 6 of farm De Draay No. 563. These tanks also provide the water supply to Portion 2 of farm De Draay No. 563 and Portion 6 of farm De Draay No. 563. In addition, Portion 8 has registered water rights for irrigation purposes with the Department of Water Affairs.

This application does not propose to transfer any water rights. The departures to accommodate the existing dwelling no. 3 will have no impact on the existing water use or rights.

##### **Sewerage**

All sewerage infrastructures for existing dwellings already exist. Some of the structures on the subject property are serviced with septic tanks and soak aways. Dwelling unit no. 3 is serviced with a conservancy tank as indicated on the latest approved building plan (2022).

##### **Electricity**

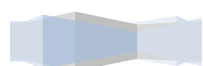
Eskom is the electricity supplier to the subject property. The labourers' cottages are serviced with prepaid electricity meters. The subject property receives municipal accounts for the existing pack sheds and all residences.

##### **Solid Waste**

All solid waste is removed by Mountain Range Flora themselves.

##### **Conclusion**

Since there are no changes in the services capacities and since it is not proposed to



construct any new structures, no additional services are required to accommodate the proposed application.

Additional services (if required) will be provided to the satisfaction of the Overstrand Municipality.

### **3.9.2 TRAFFIC IMPACT, PARKING AND ACCESS**

We are not applying for any new structures / land uses on Portion 8 of the farm De Draay No. 563. Consequently, no additional access points or access roads will be created, and the existing access points and roads will remain. Access to Portion 8 of the farm De Draay No. 563 will be obtained from the existing farm access point opposite Roos Avenue in Kleinmond. It is proposed to keep the existing access point for the purposes of this application.

All the existing structures are accessed by means of existing internal gravel farm roads on the subject property. No new access roads on the subject property are proposed.

The existing land uses and structures comply with the parking requirements for developments in the Overstrand municipal area. Due to the extent of the farm, there is ample space at each dwelling and pack shed to provide sufficient parking bays.

### **3.10 TITLE DEED**

The title deed T39676/2023 has no restrictions that need to be removed for this application to be approved. The title deed is straight forward and therefore a conveyancer's certificate is not included in this application. We do attach the conveyancer's certificate compiled by René Barry-Kleynhans from Henkes Nolte-Joubert Attorneys dated 13 February 2017 that accompanied the previous departure (building lines) application in 2017.

There no bond registered against the subject property.

All existing servitudes referred to in the subject property's title deed will remain unchanged. The proposed application will not have a negative impact on the existing rights of anyone.

### **3.11 FORWARD PLANNING AND LAND USE DOCUMENTS**

The *Overstrand Spatial Development Framework (2020)* specifies that Portion 8 of the farm De Draay no. 563 is situated inside of the approved urban edge and earmarks the area where the subject property is situated, for urban development purposes. The subject portion is however also earmarked as a sensitive development area with reference to the Heritage Protection Overlay Zone (HPOZ) and Environmental Management Overlay Zone (EMOZ). The zoning and use of the subject property will remain unchanged (Agriculture Zone I with consent uses). As a result, the impact of the proposed departure on the spatial integrity of the area will be minimal and is therefore consistent with the Overstrand SDF (2020).

The *Overstrand Municipal Growth Management Strategy (2010)* indicates that the subject property falls within planning unit no. 14. The aforementioned planning unit allows for densification from the existing 0 density units / hectare to 7,7du/ha in future.

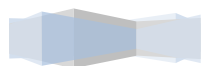
The subject property is currently utilized and will continue to be used for agricultural purposes. There are no proposals to rezone or subdivide the property to accommodate the existing structure, which encroaches upon the 30m northern common boundary farm building line and exceeds the maximum floor space. The status quo of both the subject property and the surrounding area will remain unchanged.

Based on the above, it is evident that the proposed departure is in alignment with and complies with the spatial planning policies for the Overstrand area.

### **3.12 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**

#### **3.12.1 HERITAGE VALUE**

The application does not involve changing the character of a site larger than 5000m<sup>2</sup>. Consequently, the proposed application for the departure does not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).



Zone as determined by the Overstrand Municipality's Zoning Scheme (2020). The subject property is also not earmarked for heritage conservation purposes with reference to the Overstrand Municipal Growth Management Strategy (2010).

The subject property is not associated with any important persons or groups or important events and activities. The subject property has no association with the history of slavery and is not used for living heritage.

In the light of the above mentioned it is evident that the proposed departure will not have a negative impact on the heritage value of the Kleinmond area.

### **3.12.2 ENVIRONMENTAL IMPACT**

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

The subject property is not situated within the Overstrand Municipality's Land Use Scheme Environmental Management Overlay Zone (EMOZ, 2020). The Overstrand Municipal Growth Management Strategy (2010) earmarks the subject property as part of the Coastal Management Zone. It is submitted that the minor additions and alterations to the approved dwelling no. 3 on the subject property will have no impact on the environment or aesthetics. As previously mentioned, the Department of Environmental Affairs & Development Planning confirmed that the As Built additions (larger building footprint) do not trigger any listed activities in terms of NEMA – refer to their letter dated 20 November 2024.

### **3.13 PLANNING PRINCIPLES**

The planning principles of spatial justice and spatial resilience do not apply to this application.

Spatial sustainability: It is submitted that the existing structures are compatible with the character of the area and do not impact negatively on the rights of anyone else. The impact on the biophysical environment has been kept to a minimum. Furthermore, the extent of the subject property, the position of the property (in an agricultural environment), previous

approvals granted, etc. allows for the consideration and approval of the proposed deviations without having an adverse impact on the spatial sustainability of the area. The proposed departure is to an improved farm building (legalizing the As Built dwelling no. 3 additions and alterations) and therefore will not lead to township establishment or impact upon a sensitive environment.

Efficiency: The subject property is easily accessible and conveniently located next to Kleinmond.

It is motivated that keeping the existing structures proof to be efficient as it relates to more responsible resource use or sustainable development. Furthermore, the proposal is efficient in that it optimizes existing resources. The existing structures are used for accommodation by the owner and add value to the farm. There is an approved building plan for dwelling no. 3 on the 9,12m and 12,04m northern lateral building lines respectively. The dry yard and enclosed pergola were approved on the relaxed building lines and the additions and alterations to these structures merely follows the approved building lines. It is therefore motivated that it proofs to be efficient to keep the existing structures since their positions and the impact thereof on the subject property (and surrounding properties) were already considered by municipal officials in the past.

Good administration: Our company is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation.

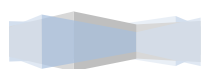
#### **4. RECOMMENDATION**

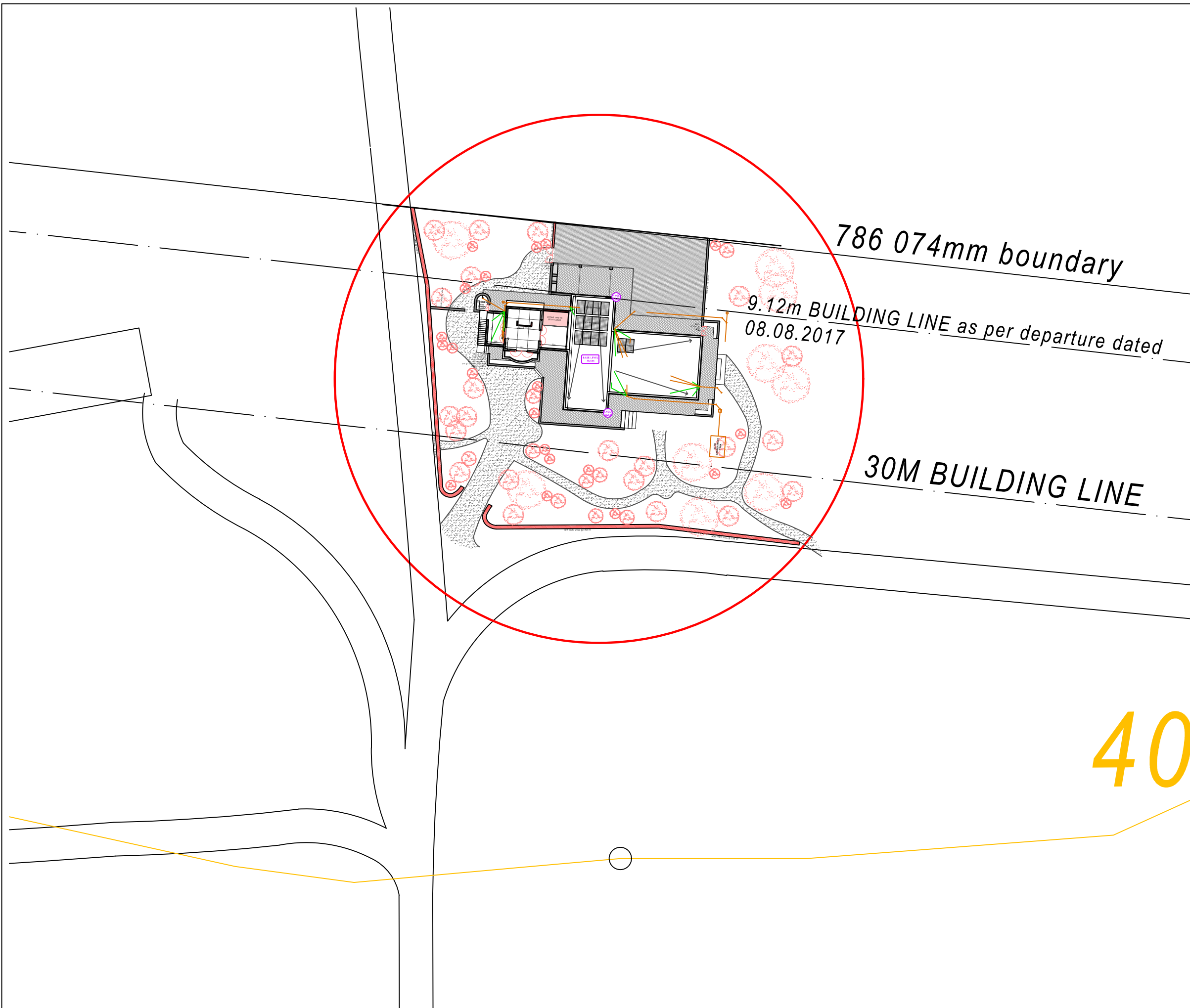
When this application is evaluated, it is important to take note of the following:

- All the structures already exist and are associated with the agricultural activities on the farm. The proposed land use application is to legalise the As Built additions and alterations to dwelling no. 3 that deviated from the approved 2022 building plan. The aforementioned will not have a negative impact on the current character and land values of the surrounding farms;
- The proposed land use application will not have a negative impact on the existing and future agricultural activities of the subject property;

- No additional access points or roads are proposed;
- The zoning will remain Agricultural Zone I: Agriculture with consent uses previously granted and acted upon;
- The proposed departure complies with the spatial planning policies of the area;
- There are no environmental aspects that will negatively impact the application, and the application will not have a negative impact on any environmental factors;
- There are no conditions in the title deed that prohibits the proposed land use application;
- The application is fully compliant with the applicable planning principles described in the LUPA (2014) and SPLUMA (2013).

The application can be supported for your favourable evaluation. The opinion is held that this application will have no negative impacts in the area.





786 074mm boundary

9.12m BUILDING LINE as per departure dated 08.08.2017

30M BUILDING LINE

<b>SURFACE AREA</b>	
ERF SIZE	= 36.2668HA
GROUND FLOOR	= 258.29m <sup>2</sup>
ENCLOSED PERGOLA	= 27.58m <sup>2</sup>
<b>TOTAL SURFACE AREA</b>	<b>= 285.87m<sup>2</sup></b>
<b>COVERAGE</b>	
ALLOWABLE COVERAGE	= 50.0%
GROUND FLOOR	= 0.0712%
ENCLOSED PERGOLA	= 0.0076%
BALCONY (N/A)	= 0.0083%
STOEP (N/A)	= 0.0325%
<b>TOTAL COVERAGE</b>	<b>= 0.0788%</b>
<b>TOTAL ADDITIONS</b>	<b>= 7.97m<sup>2</sup></b>

**PROJECT**  
 HOUSE MITCHELLE  
 PORTION 8 OF THE FARM THE DRAAY NO 563  
 CALEDON (KLEINMOND) | 7195

**ADDITIONS & ALTERATIONS**

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site plan

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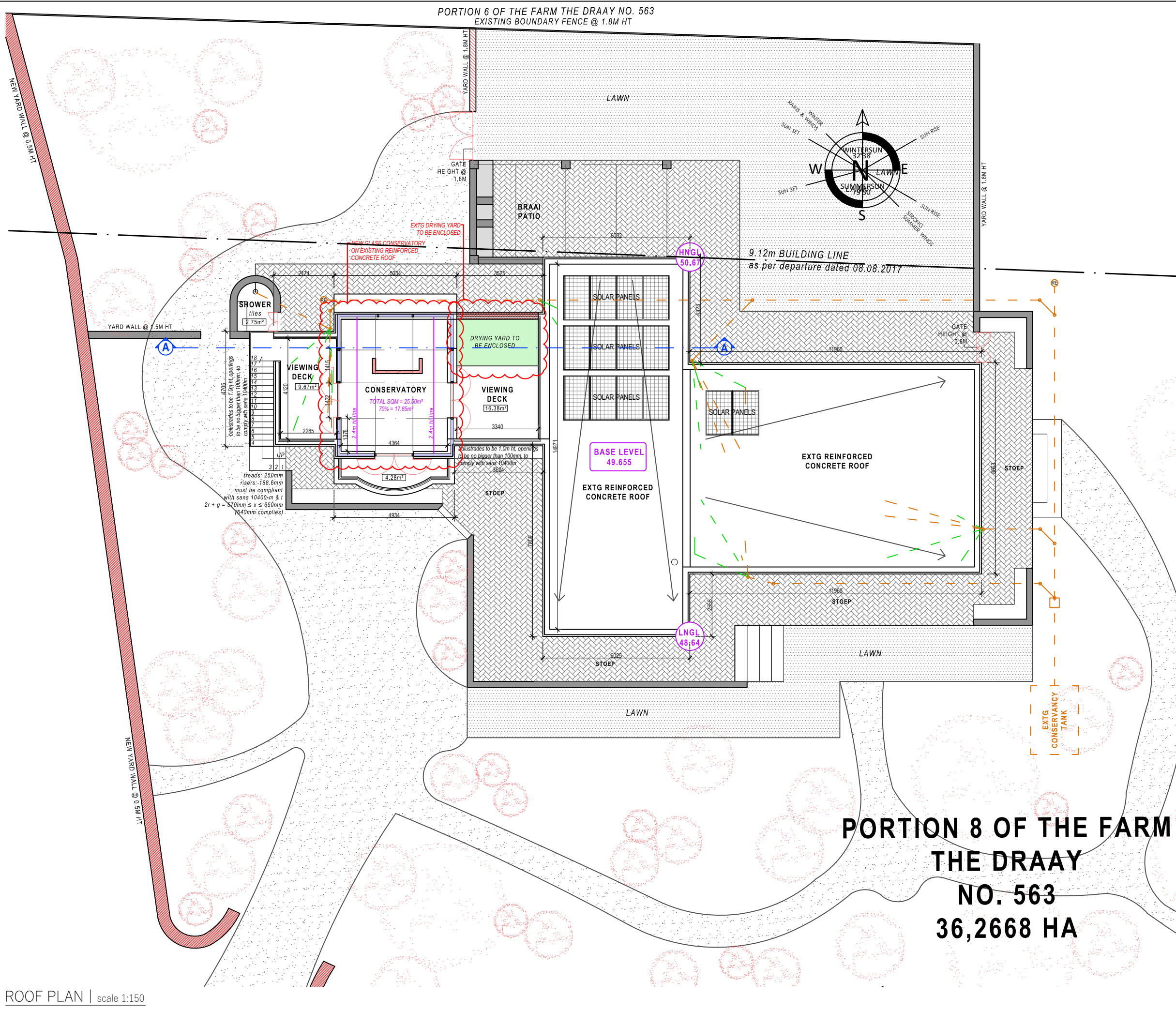
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**DIRECTORS:** JANESKE BRITS, PAD 42957824 (SACAP)  
 HANNES COETZEE, PR ARCH T 1467 (SACAP)

PORTION 6 OF THE FARM THE DRAAY NO. 563  
EXISTING BOUNDARY FENCE @ 1.8M HT



<b>SURFACE AREA</b>	
ERF SIZE	= 36.2668HA
GROUND FLOOR	= 258.29m²
ENCLOSED PERGOLA	= 27.58m²
<b>TOTAL SURFACE AREA</b>	<b>= 285.87m²</b>
BALCONY	= 30.33m²
STOEP	= 118.00m²
<b>TOTAL SURFACE AREA</b>	<b>= 148.33m²</b>
<b>COVERAGE</b>	
ALLOWABLE COVERAGE	= 50.0%
GROUND FLOOR	= 0.0712%
ENCLOSED PERGOLA	= 0.0076%
BALCONY (N/A)	= 0.0083%
STOEP (N/A)	= 0.0325%
<b>TOTAL COVERAGE</b>	<b>= 0.0788%</b>
<b>TOTAL ADDITIONS</b>	<b>= 7.97m²</b>

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HOUSE MITCHELLE  
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ground floor plan  
  
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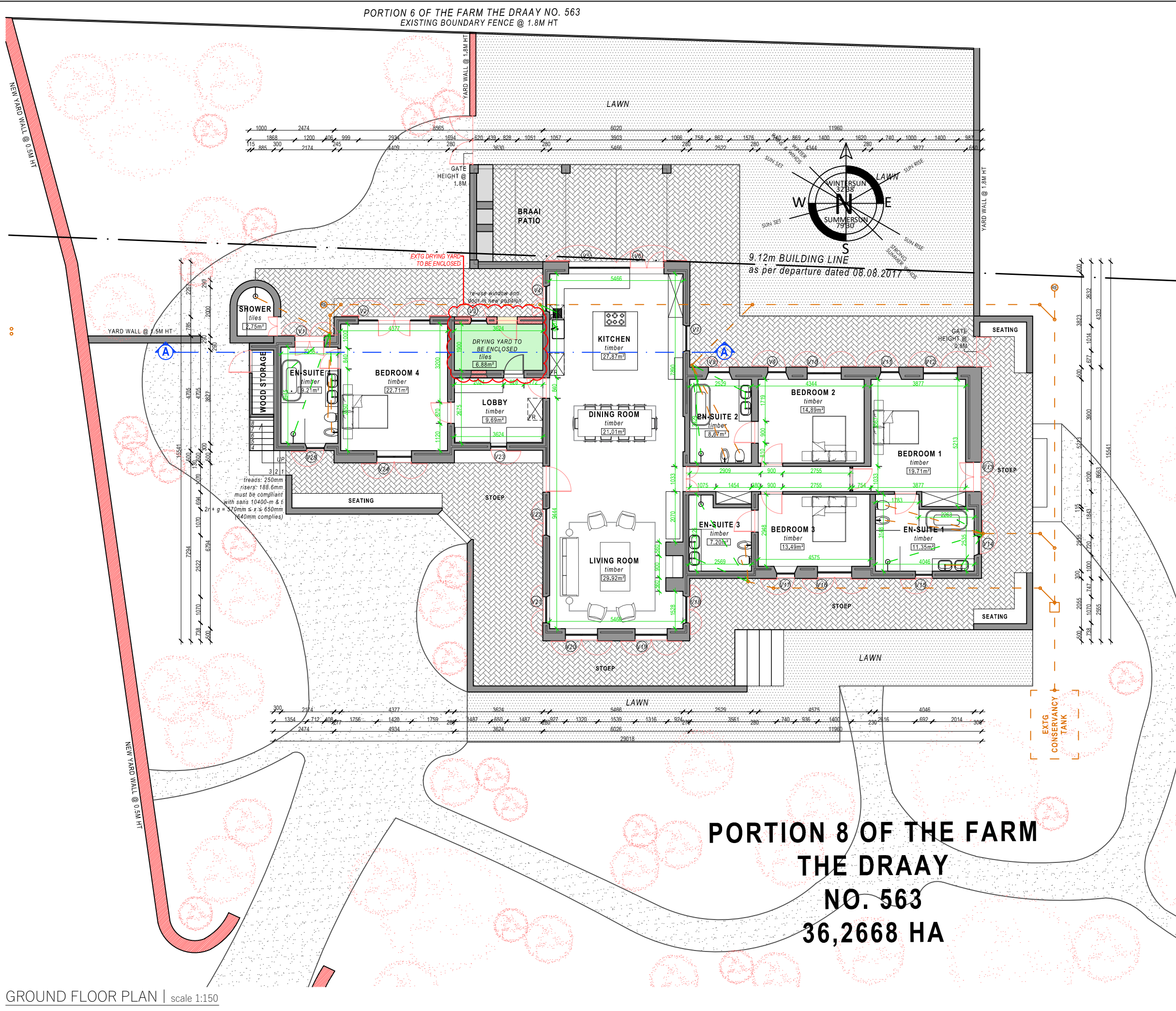
**PORTION 8 OF THE FARM  
THE DRAAY  
NO. 563  
36,2668 HA**

ROOF PLAN | scale 1:150

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PORTION 6 OF THE FARM THE DRAAY NO. 563  
EXISTING BOUNDARY FENCE @ 1.8M HT



SURFACE AREA	
ERF SIZE	= 36.2668HA
GROUND FLOOR	= 258.29m <sup>2</sup>
ENCLOSED PERGOLA	= 27.58m <sup>2</sup>
<b>TOTAL SURFACE AREA</b>	<b>= 285.87m<sup>2</sup></b>
BALCONY	= 30.33m <sup>2</sup>
STOEP	= 118.00m <sup>2</sup>
<b>TOTAL SURFACE AREA</b>	<b>= 148.33m<sup>2</sup></b>
COVERAGE	
ALLOWABLE COVERAGE	= 50.0%
GROUND FLOOR	= 0.0712%
ENCLOSED PERGOLA	= 0.0076%
BALCONY (N/A)	= 0.0083%
STOEP (N/A)	= 0.0325%
<b>TOTAL COVERAGE</b>	<b>= 0.0788%</b>
<b>TOTAL ADDITIONS</b>	<b>= 7.97m<sup>2</sup></b>

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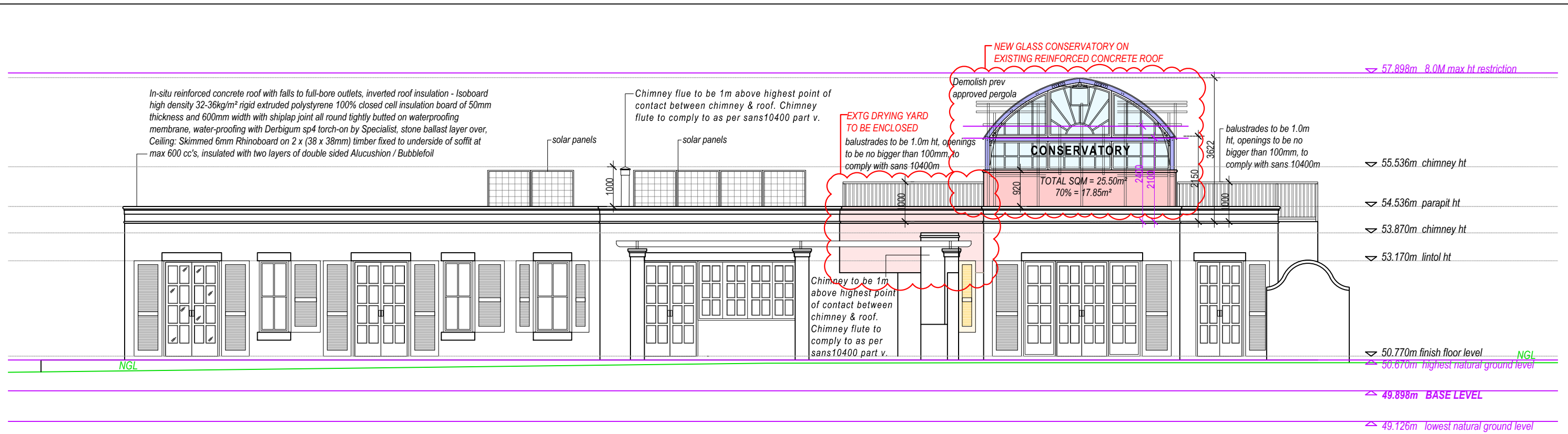
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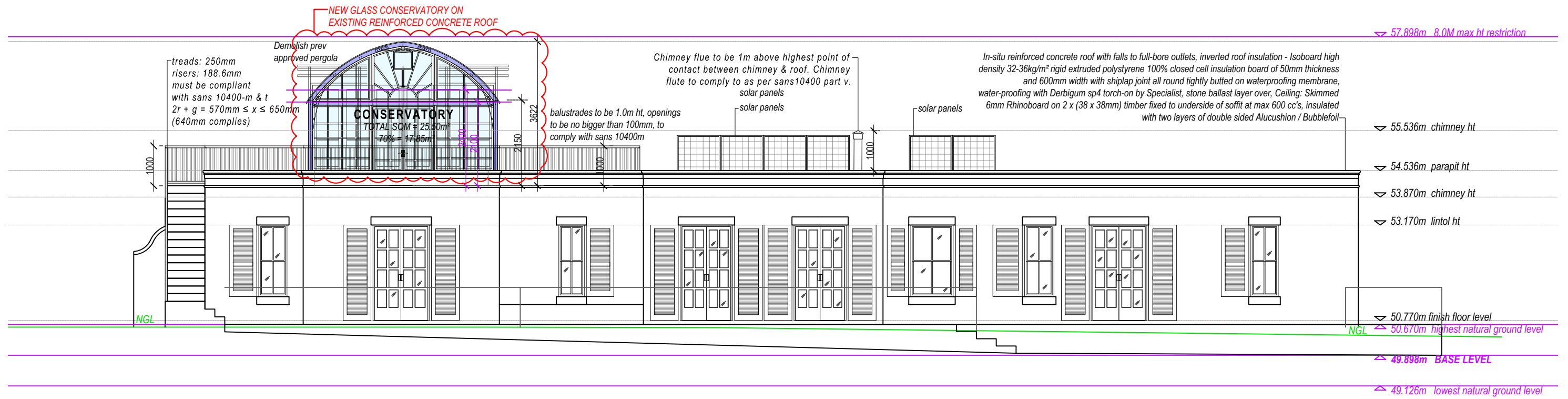
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**PORTION 8 OF THE FARM  
THE DRAAY  
NO. 563  
36,2668 HA**

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NORTH ELEVATION | scale 1:100



SOUTH ELEVATION | scale 1:100

SURFACE AREA		COVERAGE	
ERF SIZE	= 36.2668HA	ALLOWABLE COVERAGE	= 50.0%
GROUND FLOOR	= 258.29m²	GROUND FLOOR	= 0.0712%
ENCLOSED PERGOLA	= 27.58m²	ENCLOSED PERGOLA	= 0.0076%
<b>TOTAL SURFACE AREA</b>	<b>= 285.87m²</b>	BALCONY (N/A)	= 0.0083%
BALCONY	= 30.33m²	STOEP (N/A)	= 0.0325%
STOEP	= 118.00m²	<b>TOTAL COVERAGE</b>	<b>= 0.0788%</b>
<b>TOTAL SURFACE AREA</b>	<b>= 148.33m²</b>	<b>TOTAL ADDITIONS</b>	<b>= 7.97m²</b>

**DRAWING**  
elevations

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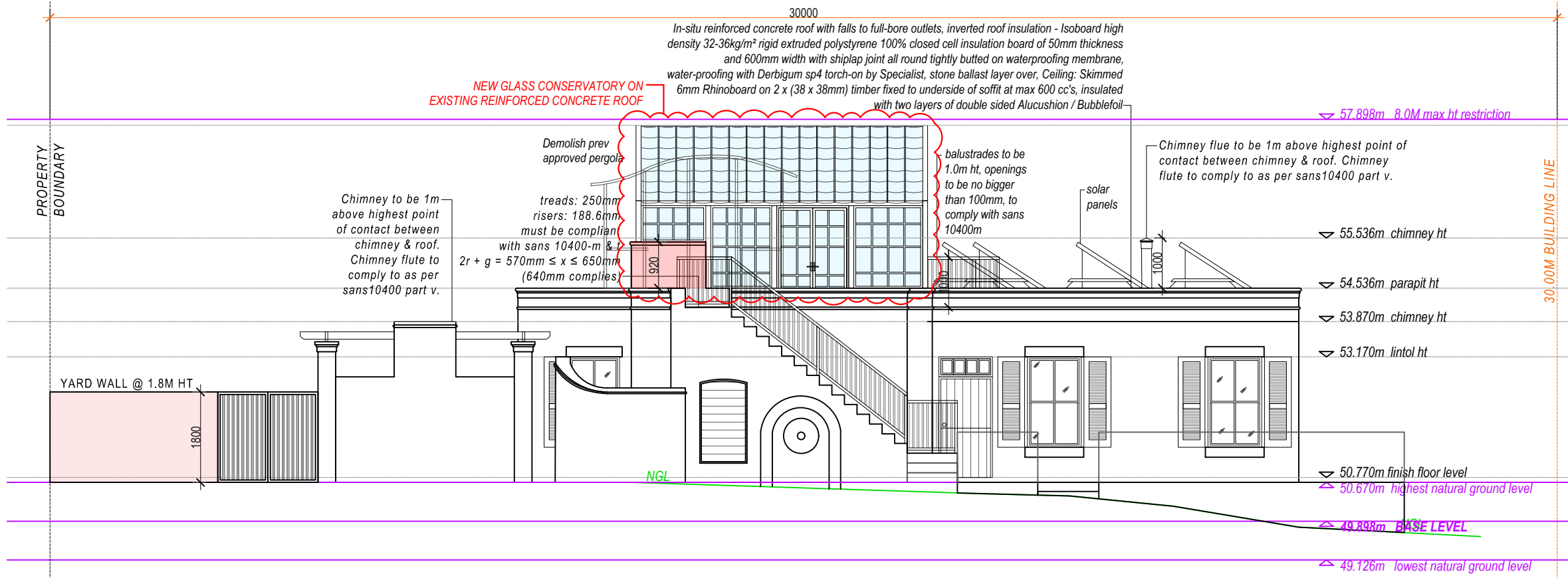
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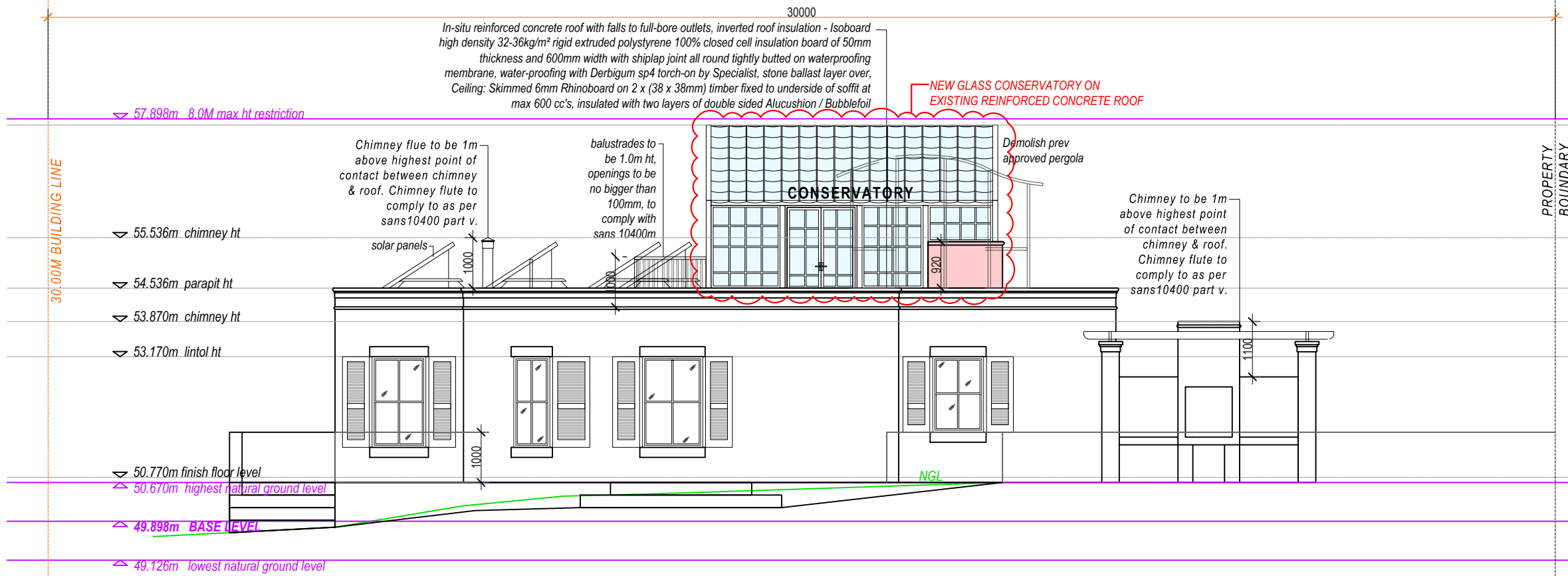
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NORTH ELEVATION | scale 1:100



SOUTH ELEVATION | scale 1:100

SURFACE AREA	
ERF SIZE	= 36.2668HA
GROUND FLOOR	= 258.29m <sup>2</sup>
ENCLOSED PERGOLA	= 27.58m <sup>2</sup>
<b>TOTAL SURFACE AREA</b>	<b>= 285.87m<sup>2</sup></b>
BALCONY	= 30.33m <sup>2</sup>
STOEP	= 118.00m <sup>2</sup>
<b>TOTAL SURFACE AREA</b>	<b>= 148.33m<sup>2</sup></b>
COVERAGE	
ALLOWABLE COVERAGE	= 50.0%
GROUND FLOOR	= 0.0712%
ENCLOSED PERGOLA	= 0.0076%
BALCONY (N/A)	= 0.0083%
STOEP (N/A)	= 0.0325%
<b>TOTAL COVERAGE</b>	<b>= 0.0788%</b>
<b>TOTAL ADDITIONS</b>	<b>= 7.97m<sup>2</sup></b>

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In-situ reinforced concrete roof with falls to full-bore outlets, inverted roof insulation - Isoboard high density 32-36kg/m<sup>2</sup> rigid extruded polystyrene 100% closed cell insulation board of 50mm thickness and 600mm width with shiplap joint all round tightly butted on waterproofing membrane, water-proofing with Derbigum sp4 torch-on by Specialist, stone ballast layer over, Ceiling: Skimmed 6mm Rhinoboard on 2 x (38 x 38mm) timber fixed to underside of soffit at max 600 cc's, insulated with two layers of double sided Alucushion / Bubblefoil

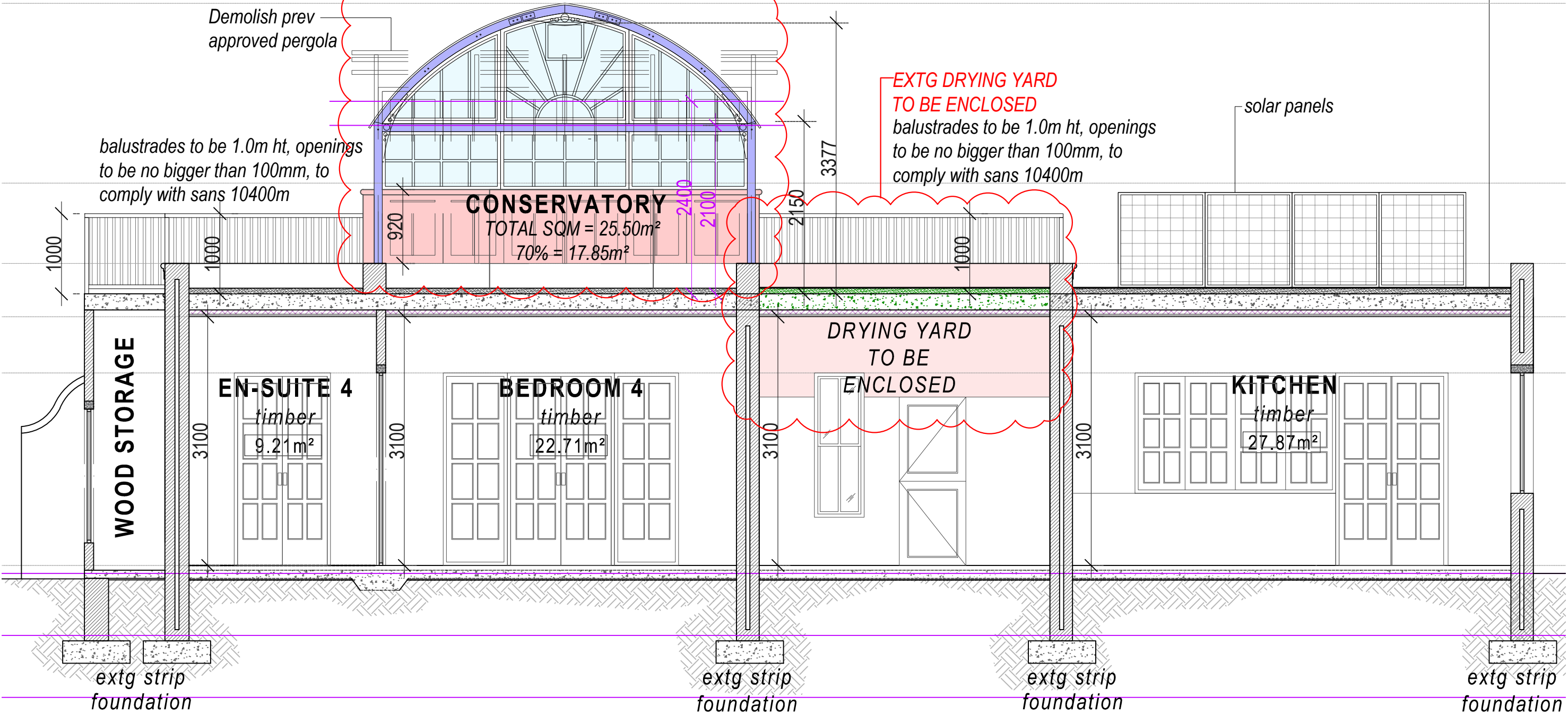
**NEW GLASS CONSERVATORY ON EXISTING REINFORCED CONCRETE ROOF**

Demolish prev approved pergola

**EXTG DRYING YARD TO BE ENCLOSED**

balustrades to be 1.0m ht, openings to be no bigger than 100mm, to comply with sans 10400m

solar panels



NORTH ELEVATION | scale 1:100

<b>SURFACE AREA</b>	
ERF SIZE	= 36.2668HA
GROUND FLOOR	= 258.29m <sup>2</sup>
ENCLOSED PERGOLA	= 27.58m <sup>2</sup>
<b>TOTAL SURFACE AREA</b>	<b>= 285.87m<sup>2</sup></b>
BALCONY	= 30.33m <sup>2</sup>
STOEP	= 118.00m <sup>2</sup>
<b>TOTAL SURFACE AREA</b>	<b>= 148.33m<sup>2</sup></b>

<b>COVERAGE</b>	
ALLOWABLE COVERAGE	= 50.0%
GROUND FLOOR	= 0.0712%
ENCLOSED PERGOLA	= 0.0076%
BALCONY (N/A)	= 0.0083%
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<b>TOTAL COVERAGE</b>	<b>= 0.0788%</b>
<b>TOTAL ADDITIONS</b>	<b>= 7.97m<sup>2</sup></b>

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**PROJECT**  
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PORTION 8 OF THE FARM THE DRAAY NO 563  
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