

**REMAINDER ERF 6063, 359 MAIN ROAD, EASTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DETERMINATION OF AN ADMINISTRATIVE PENALTY & DEPARTURE: PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF THE B ANDERSON TERRY CHILDRENS TRUST**

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

**Determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law for the for the as built bathroom, bedroom, storeroom & games room on the property.

**Departure** in terms of Section 16(2)(b) of the Bylaw for the following:

- Relaxation of the eastern lateral building line from 2m to 1.243m to accommodate the change of use of the existing garage to a bedroom and storeroom.
- Relaxation of the eastern lateral building line from 2m to 1.243m to accommodate the as built games room.
- Relaxation of the western lateral building line from 2m to 1.389m to accommodate the as built en-suite bathroom.
- Relaxation of the rear building line from 2m to 1.34m to accommodate the as built storeroom.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, Paterson Street, Hermanus. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) on or before **02 August 2024**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the **Town Planner, Mr. 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 in order to formalize their comment.

**REMANENT ERF 6063, HOOF WEG 359, EASTCLIFF, HERMANUS, OVERSTRAND MUNISIPALE GEBIED: AANSOEK VIR BEPALING VAN 'N ADMINISTRATIEWE BOETE & AFWYKING: PLAN ACTIVE STADS-EN STREEKSBEPLANNERS NAMENS THE B ANDERSON TERRY CHILDRENS TRUST**

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

**Bepaling van Administratiewe Boete** ingevolge Artikel 16(2)(q) van die Verordening vir die bepaling van 'n administratiewe boete vir die geboude badkamer, slaapkamer, stoorkamer & speletjies kamer op die eiendom.

**Departure** in terms of Section 16(2)(b) of the Bylaw for the following:

- Verslapping van die oostelike lateral boulyn vanaf 2m to 1.243m om die verandering van die gebruik van die bestaande motorhuis na 'n slaapkamer en stoorkamer te akkommodeer.
- Verslapping van die oostelike lateral boulyn vanaf 2m to 1.243m om die geboude speletjieskamer te akkommodeer.
- Verslapping van die westelike lateral boulyn vanaf 2m to 1.389m om die bestaande geboude en-suite badkamer te akkommodeer.
- Verslapping van die agterbou lyn vanaf 2m to 1.34m om die bestaande geboude stoorkamer te akkommodeer.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) voor of op **02 Augustus 2024**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan die **Stadsbeplanner, Mnr. 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.

**INTSALELA YESIZA U-ERF 6063, 359 MAIN ROAD, EASTCLIFF, HERMANUS, KUMMANDLA KAMASIPALA WASEOVERSTRAND: ISICELO SENGQIKELELO YOMDLIWO WOBHALISO & NOKWAHLULA: NGABAKWAPLAN ACTIVE TOWN & REGIONAL PLANNERS EGAMENI LE-B ANDERSON TERRY CHILDRENS TRUSTLE**

Kukhutshwe isaziso esihambelana nemiba yeSoloty lama-48 loMthethwana kaMasipala waseOverstrand ngoMthethwana ongeZicwangciso Zokusetyenziswa koMhlaba kaMasipala ku2020 (Umthethwana) isicelo singale miba ilandelayo:

**Ingqikelelo yomdliwo wobhaliso** ngokwemiba yeSolotyale 16(2)(q) loMthethwana ongokwaxhiwa kwegumbi lokuhlambela, igumbi lokulala, igumbi lokugcina iimpahla negumbi lemidlao kwesi siza.

**Ukwahlula** ngokwemiba yeSoloty le16(2)(b) loMthethwana ongemiba elandelayo:

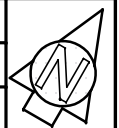
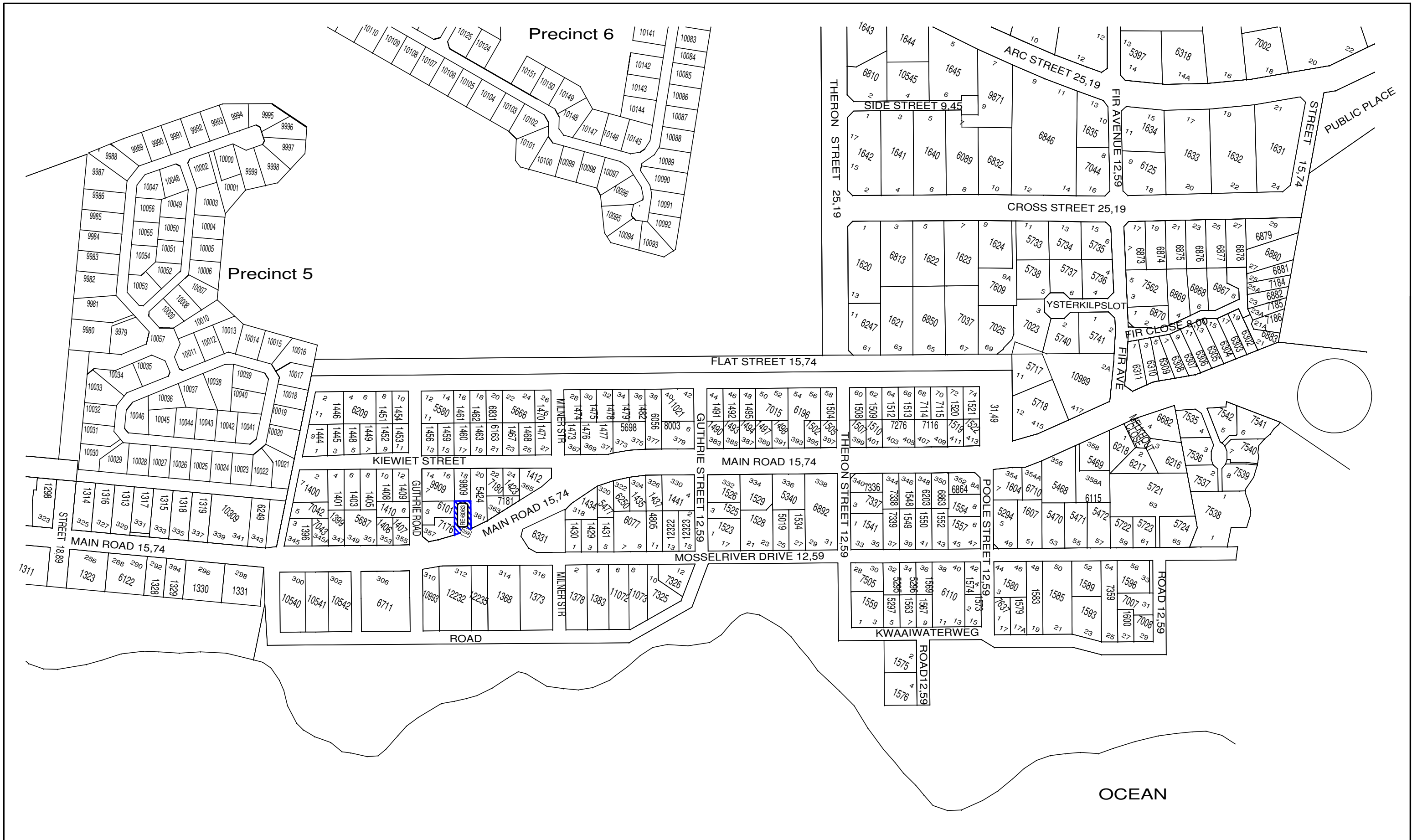
- Ukunyenisa umgca wesakhiwo kwicala elimelene nempuma yesakhiwo ukusuka kwiimitha ezi-2m ukuya ku-1.243m ukulungiselela utshintso ekusetyenzisweni kwegaraji ekhoyo ibe ligumbi lokulala negumbi lokugcina impahla.
- Ukunyenisa umgca wesakhiwo omelene nesakhiwo kwicala elisentshona ukusuka kwiimitha ezi2m ukuya kwimitha ezi1.243m ukulungiselela ukwakha igumbi lemidlalo.
- Ukunyenisa umgca wesakhiwo omelene nesakhiwo kwicala elisentshona ukusuk akwiimitha ezi-2m ukuya kweziyi-1.389m ukulungiselela ukwakha igumbi kohlambela elisegumbini lokulala (i-ensuti).
- Ukunyenisa umgca wesakhiwo ongemva kwesakhiwo ukusuka kwiimitha ezizimitha ezi-2m ukuy akweziyi-1.34m ukulungiselela ukwakha indawo yokugcina impahla.

linkcukacha eziphelelyo mayela nesi siphakamiso ziyafumaneka ukuze zihlolwe kwintsuku zaphakathi evekini ukusukela kwintsimbi ye-08:00 neye-16:30 kwiSebe: Izicwangciso zeDolophu, Paterson Street, Hermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe kwaMasipala ngokwezibonelelo zeSoloty lama-51 nelama-52 loMthethwana ochazwe ngentla (16 Paterson Street, Hermanus / (f) 0283132093 / [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) ngomhla okanye ngaphambi komhla ka **02 EyeThupa 2024**, uchaze igama lakho, idilesi neenkukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zokuhlomla. Imibuzo ngefowuni ingathunyelwa kuMchwangcisi weDolophu, **uMnu. P Roux kwa**-028-313 8900. Umasipala angala ukwamkela izimvo ezifunyenwe emva komhla wokulala. Nabani na ongakwazi ukufunda nokubhala angandwendwela kwiSebe Lezicwangciso zeDolophu apho igosa likamasipala liza kumnceda ukuhlomla ngokusemthethweni.

Tel: 028 313 8900 | Fax: 028 313 2093 | E-mail: [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)

PO Box 20 | **HERMANUS** 7200

[www.overstrand.gov.za](http://www.overstrand.gov.za)



**PROPOSED DETERMINATION OF AN ADMINISTRATIVE  
PENALTY & DEPARTURE**

**REMAINDER ERF 6063 HERMANUS**

**DIVISION: CALEDON**

**OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT**

**1. BACKGROUND**

Plan Active Town & Regional Planners has been appointed by D.H. Terry, on behalf of The B Anderson Terry Childrens Trust, the owner of Remainder erf 6063 Hermanus, to apply for the administrative penalty and departure of the subject property.

There is an existing single storey dwelling situated on the subject property. The property owner altered and added to the existing dwelling without the necessary land use and building plan approvals. This application intends to address the following unlawful change of use of structures positioned within the building lines:

- The existing garage was converted into a bedroom and store within the eastern lateral and rear building lines;
- A new games room was added to the existing dwelling. The As Built games room encroaches the eastern lateral building line;
- The As Built en-suite bathroom on the western boundary is a new addition and encroaches the western lateral building line;
- The new boundary wall and access gate are positioned within the 5m street provincial roads building line.

This application therefore proposes to address the As Built encroachments. No new additions are proposed.

## **2. APPLICATION DETAILS**

Application is made in terms of:

- 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 Remainder erf 6063 Hermanus;
- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for **the departure** of Remainder erf 6063 Hermanus.

## **3. NEED AND DESIRABILITY**

### **3.1 PROPERTY DESCRIPTION**

Remainder erf 6063 Hermanus is situated at 359 Main Road, Hermanus. Refer to the locality plan attached. Remainder erf 6063 Hermanus is 473m<sup>2</sup> in extent and is held by title deed no. T94436/2003.

The subject property gently slopes in a south south-westerly direction and is characterized by residential structures (single storey dwelling and swimming pool). The existing dwelling has a footprint (ground floor level) of 219m<sup>2</sup> in extent.

### **3.2 ZONING**

Remainder erf 6063 Hermanus has the following land use rights:

| <b>ERF NUMBER</b>  | <b>ZONING</b>                          |
|--------------------|--|
| Remainder erf 6063 | Residential Zone 1: Single Residential |

Surrounding properties are zoned for single residential, public road and public open space purposes.

### 3.3 LAND USE

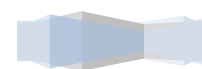
There is an existing single storey dwelling and swimming pool situated on Remainder erf 6063 Hermanus. The subject property is therefore used for single residential living purposes. According to our client, there are no approved building plans available at the municipality. That is also why Van Dyk Land Surveyors were appointed to compile an As Built plan, which was then used to develop the site plan attached to the application.

Land uses that surround the subject property are single residential dwellings, public open spaces and public roads.

### 3.4 PROPOSAL

The following is proposed:

1. The determination of an **administrative penalty** for Remainder erf 6063 Hermanus to accommodate the As Built en-suite bathroom, bedroom, storeroom and games room (that also encroaches the eastern and western lateral and rear building lines) and the covered patio, braai and swimming pool in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020;
2. The **departure** of Remainder erf 6063 Hermanus in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, to:
  - relax the eastern lateral building line as follows:
    - from 2m to 1,243m to accommodate the change of use of the existing garage to a bedroom and storeroom (As Built);
    - from 2m to 1,243m to accommodate the As Built games room (extension of the existing dwelling);
  - relax the western lateral building line as follows:
    - from 2m to 1,389m to accommodate the As Built en-suite



bathroom;

- Relax the rear building line as follows:
  - From 2m to 1,34m to accommodate the As Built storeroom.

There is an existing single storey dwelling situated on the subject property. The property owner altered and added to the existing dwelling without the necessary land use and building plan approvals. This application intends to address the following unlawful change of use of structures positioned within the building lines:

- The existing garage was converted into a bedroom and store within the eastern lateral and rear building lines;
- A new games room was added to the existing dwelling. The As Built games room encroaches the eastern lateral building line;
- The As Built en-suite bathroom on the western boundary is a new addition and encroaches the western lateral building line;
- The new boundary wall and access gate are positioned within the 5m street provincial road building line.

The unlawful As Built covered patio, braai and swimming pool do not encroach any building lines. This application therefore proposes to address the As Built encroachments. No new additions are proposed. Here follows the detail of the proposed application for consideration:

#### **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 (As Built alterations and additions), 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**

The current owner altered the existing structures and added new additions without the prior consent from the town planning and building management departments. The As Built en-suite bathroom, bedroom, storeroom and games room (that also encroaches the eastern and western lateral and rear building lines) and the covered patio, braai and swimming pool were altered (change of use) and / or new structures were added to the subject property.

Our client was under the impression that they will merely be required to submit a building plan to accommodate the alterations and additions on the subject property. A building plan was submitted by Cap-Lon Designs and the building control department refused the building plan submission – indicating that a land use application process had to be followed first, to address the As Built additions and alterations indicated in the above paragraph.

The approved garage was altered and converted into a bedroom and storeroom. The approved garage was already positioned within the eastern lateral building line and the As Built bedroom (habitable area) and storeroom have the exact same footprint as the approved garage.

A new games room was constructed on the property (considered an extension to the existing dwelling) without the necessary land use and building plan approvals. The approved dwelling is positioned on the 1,243m eastern lateral building line. It is therefore self-evident that an extension to the dwelling (in this case the games room) followed the existing line of the approved dwelling. Our client initially understood that the use of the structure did not necessitate a building line relaxation. The municipality confirmed that they considered the games room to be an extension of the dwelling (i.e. a habitable area) and that the necessary approvals had to be obtained.

In addition, an en-suite bathroom was added as an extension of the existing dwelling. The approved dwelling is positioned on the 1,389m western lateral building line and as a result the en-suite bathroom for the existing bedroom followed the existing line of the dwelling.

The owner also added a new covered patio, braai and swimming pool to the subject property. These structures do not deviate from the applicable building lines.

The total extent of the additions to the subject property is 82m<sup>2</sup>. However, the covered patio and braai do not encroach the building lines. The games room exceeds the building line by ±7,5m<sup>2</sup>. The new bedroom and storeroom (previous garage) exceed the building line by ±4,5m<sup>2</sup>. The en-suite bathroom exceeds the building line by ±1,3m<sup>2</sup>.

The position and nature of the As Built structures are unobtrusive in nature and do not impact negatively on the surrounding properties, as no complaint from surrounding property owners has been received up to date. A building line departure application to accommodate the As Built structures is included in this application.

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

The current owner has never contravened the land use planning By-law in the past. They addressed the matter related to the unlawful structures and change of use as soon as they were made aware of the fact and appointed the relevant consultants (architectural draughtsman and town planners) to assist them to obtain the necessary approvals.

- **Whether the unlawful conduct was stopped**

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 and change of use of the As Built structures on the subject property.



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

If the Overstrand Municipality finds it necessary that an administrative penalty fee needs to be enforced for the unauthorised building work, we will submit a report from a quantity surveyor / building contractor with reference to the unauthorised building work's construction fees. The reason being that if there is a chance that no penalty fee is imposed the report from a quantity surveyor will be unnecessary at this stage.

Our client confirmed that the construction cost for the outside braai was R15 850.00. The fee for digging the hole for the swimming pool (1,3m x 1,4m) was R8 000.00. Our client installed the swimming pool themselves.

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

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

- **Summary**

We appeal to the Overstrand Municipality to take into consideration the low impact the As Built structures and respective uses thereof have and will continue to have on the surrounding area (as further motivated in the building line relaxation application below). The As Built structures have a minimal impact on the neighbouring properties since the footprint of the structures will remain unchanged.

It should also be considered that no complaints from surrounding property owners were submitted with regards to the As Built structures.

The owner never hesitated to immediately give instruction to the consultants to assist in the matter to rectify the contravention by submitting a complete (and fully motivated) departure application and submitting a determination of an administrative

penalty application. We therefore respectfully request that a minimal / no penalty fee be imposed on the property owner for the reasons given above.

### 3.4.2 Departure

It is proposed to retain the As Built en-suite bathroom, games room and covered patio in its current position as well as the change of use of the approved garage to a bedroom and storeroom. The unlawful constructed As Built covered patio does not encroach any building lines.

The As Built en-suite bathroom and games room were constructed within the 2m eastern and western lateral Land Use Scheme building lines. The As Built alterations to the approved garage to convert the garage to a bedroom and storeroom were done to a structure already positioned within the 2m eastern lateral Land Use Scheme building lines.

Firstly, the approved garage was altered and converted into a bedroom and storeroom. The approved garage was positioned within the eastern lateral building line since the previous Hermanus Zoning Scheme permitted a 1,2m lateral building line. The As Built bedroom (habitable area) and storeroom have the exact same footprint as the approved garage. However, since the use of the garage changed, an application is submitted for a departure to accommodate the bedroom and storeroom as follows:

- relax the eastern lateral building line from 2m to 1,243m;
- relax the rear building line from 2m to 1,34m.

There is a small window in the storeroom facing the northern erf boundary but no window facing the eastern erf boundary. The bedroom has a window on the eastern erf boundary as indicated on the eastern elevation plan.

Secondly, a new games room was constructed on the property (considered an extension to the existing dwelling) without the necessary land use and building plan approvals. The approved dwelling is positioned on the 1,243m eastern lateral building line since the previous Hermanus Zoning Scheme permitted a 1,2m lateral building line. It is therefore self-evident that an extension to the dwelling (in this case

the games room) followed the existing line of the approved dwelling.

Our client initially understood that the use of the structure did not necessitate a building line relaxation. The municipality confirmed that they considered the games room to be an extension of the dwelling (i.e. a habitable area) and that the necessary approvals must be obtained. In addition, it was evident that to demolish a portion of the As Built games room by moving the outer wall to fit within the 2m building line would create a room that would most probably not be fully functionable. The owner therefore proposes to keep the As Built games room. To accommodate the As Built games room an application is submitted for a departure to:

- relax the eastern lateral building line from 2m to 1,243m.

The As Built games room has two windows facing the eastern erf boundary as indicated on the eastern elevation plan.

Lastly, to accommodate the As Built en-suite bathroom an application is submitted for a departure to:

- relax the western lateral building line from 2m to 1,389m.

The en-suite bathroom is an extension of the existing dwelling. The approved dwelling is positioned on the 1,389m western lateral building line since the previous Hermanus Zoning Scheme permitted less strict lateral building lines. It is therefore self-evident that the en-suite bathroom for the existing bedroom will follow the existing line of the dwelling. The en-suite bathroom has a small window facing the western erf boundary as indicated on the western elevation plan.

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

- No new additions are proposed.
- No structures encroach the street building line.
- All alterations and change of use were done within the existing structures, and additions followed the existing line of the approved structures.
- 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 lateral and rear erf boundaries.
- All other land use requirements are met;



- The erf size is a mere 473m<sup>2</sup>. The size of the property must be considered when evaluating the merit of the departure. Most dwellings and outbuildings on the neighbouring properties are positioned within the 2m lateral and / or rear building lines – largely due to the less strict lateral building lines of the previous zoning scheme and the extent of the properties (smaller properties). The application is therefore not creating a precedent since less strict building lines are being applied on existing smaller Kwaiwater properties.
- 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 roof layout, floor layout, elevations and sections.

The proposed application does not have any impact on the character or property values of the surrounding properties. The existing structures on the subject property do not create an infringement to any passing traffic or public activity due the position of the As Built structures on site in relation to the existing structures on the neighbouring properties and the low impact use of the respective structures.

It is submitted that the massing and height of the existing structures are compatible with the character of the area, regardless of the departure being applied for.

The zoning of Remainder erf 6063 Hermanus will remain unchanged (Residential Zone I: Single Residential) as well as the primary land use (single residential purposes). The height of all the structures on the subject property complies with the permissible height requirements for SR1 zoned properties. All buildings and uses thereof that encroach the applicable building lines as indicated on the site development plan already exist and the application addresses existing structures that encroach the building lines. Consequently, the proposed departure will not have a greater visual impact on the surrounding properties. The impact on the adjacent property owners and the passers-by will therefore be marginally higher than if these structures did not exist.



The area schedule and coverage for the subject property are as follows:

| COVERAGE          |           |
|-------------------|-----------|
| EXISTING DWELLING | : 137 sqm |
| PROPOSED ADDITION | : 82 sqm  |
| TOTAL             | : 219 sqm |
| TOTAL NEW         | : 82 sqm  |
| PLOT SIZE         | : 473 sqm |
| FOOTPRINT         | : 219 sqm |
| COVERAGE          | : 46,30%  |

The total coverage of 46,30% does not exceed the maximum permissible coverage of 50% for SR1 zoned properties.

It is submitted that the existing structures are compatible with the character of the area, do not impact negatively on the rights of anyone else and that no good reason exists for not approving this application. When considering the proposed building line deviations, the point of departure is the need to discourage the phenomenon of urban sprawl and to encourage densification and more compact towns and cities, all of which relate to more responsible resource use or sustainable development.

The proposed departure of Remainder erf 6063 Hermanus is not in contrast to the existing land use tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

### **3.5 THE POTENTIAL OF THE PROPERTY**

The zoning and primary land use of the subject property will remain unchanged. The location of the subject property within a single residential area allows the property to be developed for low impact land uses only (such as bed-and-breakfast establishments, day care, second dwelling, guest house and home occupation uses). The proposed departure will not hinder any possible future land use applications on Remainder erf 6063 Hermanus.

The subject property has the potential and allows for the deviations being applied for since the As Built structures have been on the subject properties without any



complaints from neighbours. All existing structures meet the maximum of 8m height requirement for SR1 zoned properties as depicted on the site development plan.

The following should be noted when considering the potential of the site:

- The visual impact will be kept to a minimum since the structures are As Built and no new additions are proposed.
- The massing and scale of the As Built structures are compatible with the area.
- Except for the departures (building line deviations) being applied for, all other land use parameters are met.
- The As Built structures form an integral part of the property thus to demolish the structures to make it compliant with the scheme building lines, will have a detrimental impact on the value of the property.

The scale of the surrounding built environment and the low impact on the streetscape are also factors that must be considered when contemplating the potential of the property to accommodate the departure. The following factors confirm the potential of the property to accommodate the proposed building line deviations:

- Good quality materials were used when the existing structures were built;
- The height of the As Built and approved structures will remain unchanged;
- No complaints have been received from neighbours re the As Built encroachments. No additions to these structures are proposed;
- The As Built structures add value to the subject property.

### **3.6 ECONOMIC IMPACT**

The proposed departure is to accommodate existing structures and uses thereof. The proposed departure will allow the owner to legalise the existing structures and their respective uses. This will also favour the resale of the property in the future.

The approval of the existing structures will save our client the cost of demolishing these structures. The proposed building line deviations will have a low but positive

impact on the local economy.

### **3.7 SOCIAL IMPACT**

The proposed departure will have no impact on the social status quo of the area. The building line deviations will however allow the owner to keep the existing As Built structures on the subject property.

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

### **3.8 COMPATIBILITY WITH SURROUNDING LAND USES**

The subject property is situated in an existing low-density residential area. The application does not propose to change the zoning or land use of the subject property and therefore the proposal is compatible with the surrounding land uses.

The surrounding properties are developed with single and double storey dwellings and the use of the surrounding properties is for permanent residences and holiday houses. The scale of the structures on Remainder erf 6063 Hermanus (and the respective uses thereof) merges well with the scale of the surrounding dwellings in the immediate area.

In addition, to accommodate (legalise) the existing As Built structures that encroach the relevant building lines will contribute towards the value of the subject property and consequently have a positive impact on the area. The use of the subject property will primarily remain for residential purposes (dwelling with outbuildings).



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

All services on the subject property already exist. The As Built structures will have no impact on the scale and usage of the existing available services since no additional loading of the existing civil infrastructure is anticipated.

### **3.10 IMPACT ON SAFETY, HEALTH AND WELLBEING OF SURROUNDING COMMUNITY**

The proposed departure will have no impact on the general safety and wellbeing of the surrounding community. It is anticipated that a maximum of one family will continue to occupy the subject property.

Since the proposed departure is not associated with a noxious trade with polluting air emissions the impact on the health of the community will be kept to a minimum.

### **3.11 IMPACT ON HERITAGE**

The application does not involve changing the character of a site larger than 5 000m<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).

Remainder erf 6063 Hermanus is not situated within the Heritage Protection Overlay 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).

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 Greater Hermanus area.



### **3.12 IMPACT ON THE BIOPHYSICAL ENVIRONMENT**

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 Zoning Scheme Environmental Management Overlay Zone (2020).

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

Access to Remainder erf 6063 Hermanus will remain unchanged and will be from Main Road as indicated on the site development plan. No new access points are proposed.

The Overstrand Municipality Land Use Scheme (2020) stipulates that a minimum of two parking bays are required for a dwelling house. Since the approved garage was converted to a bedroom and storeroom, provision is made for two on-site parking bays in front of the dwelling as indicated on the site plan. The dwelling on Remainder erf 6063 Hermanus therefore complies with the minimum parking requirements for SR1 zoned properties.

The subject property will still be used primarily for single residential purposes and therefore the impact on the traffic flow in the area will remain unchanged.

### **3.14 TITLE DEED**

Title Deed no. T94436/2003 has no restrictive title deed conditions that need to be addressed with this application. A conveyancer's certificate is not included with this application since the title deed is straight forward.

The mortgage has been redeemed and our client is waiting for the title deed to be

endorsed to show the cancellation stamp. The attorneys are currently dealing with it. The proof of the bond cancellation will follow.

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

The *Overstrand Spatial Development Framework (2020)* earmarks the area where Remainder erf 6063 Hermanus is situated, for urban development purposes. The zoning and use of the subject property will remain unchanged (Residential Zone 1: Single Residential). As a result, the impact of the proposed 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 (OMGMS, 2010)* specifies that Remainder erf 6063 Hermanus forms part of Planning Unit no. 8. This planning unit stipulates that the density status quo for the area should remain (7,6du/ha). No additional portions or second dwelling units are proposed with this application. The status quo of the area (low density residential) will remain unchanged. The land use application for the subject property therefore falls within the existing planning for the Hermanus East area.

The proposal will promote land development in a location that is sustainable. The proposed departure is to an improved erf within an established residential area and will not impact on urban sprawl or upon a sensitive environment. The impact on the overall density of this part of Hermanus will therefore be kept to a minimum since the proposed application still promotes a low-density residential area.

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



### 3.16 PLANNING PRINCIPLES

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

Spatial justice: The proposed land use application ties in with the existing character of the area and will not have a negative impact on the surrounding neighbours. The impact on the biophysical environment will be low as the subject property has been in existence since 1942.

The proposed application will not promote spatial development imbalances. This application is for an erf as per the establishment of the existing Hermanus Township. The proposed application is in character with the existing area where similar applications have been approved in the past and therefore, the approval of the proposed application will not be spatially biased.

Spatial sustainability: The proposed departure will have no impact on the visual elements of the subject property and surroundings since all the structures that encroach the building lines already exist. It is submitted that the proposed application is compatible with the character of the area (as motivated in previous sections of this report). The encroachment of the building lines has no impact on the massing of the buildings and the impact on the streetscape or passers-by. The As-Built unlawful structures merge well with the approved structures. The impact on the biophysical environment will also be kept to a minimum since the structures already exist.

Factors such as the good quality materials used, the overall layout of the structures on the subject property, the scale of the surrounding built environment, the low impact on the streetscape, the existence of the structures on the subject property, etc. allow for the consideration and approval of the proposed deviations without having an adverse impact on the spatial sustainability of the area. To accommodate the As Built structures to an improved erf within an established residential area will not impact on urban sprawl, or upon a sensitive environment.



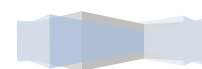
The application is considered spatially sustainable as the existing property will be more optimally utilised without affecting natural vegetation. The property will be compatible with the character of the area and do not impact negatively on the rights of any adjacent property owner.

Efficiency: The subject property is easily accessible and conveniently located in Hermanus and adjacent to major routes. The massing and height of the property is in line with the relevant zoning scheme regulations. It proves to be resourceful to approve the As Built structures with the proposed uses thereof to the subject property since it is compatible with the existing built environment and the way the additions were done is aesthetically pleasing.

It proves to be efficient to accommodate the existing structures and its proposed uses by approving the proposed departure of erf 6063 Hermanus instead of demolishing the structures / reverting to the approved use and as a result negatively impact on the whole look and feel of the subject property.

The proposed departure proves to be efficient since it discourages the phenomenon of urban sprawl, encourages densification and more compact towns and cities, all of which relates to more responsible resource and infrastructure use and sustainable development. Furthermore, the proposal is efficient in that it optimizes existing resources and infrastructure and continues the existing suburban development typology.

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



#### **4. RECOMMENDATION**

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

- All services on the subject property already exist and no additional loading of the existing infrastructure is anticipated;
- The densification status quo of the area will remain unchanged;
- The zoning and primary land use of the subject property will remain unchanged;
- The deviations from the applicable scheme regulations' building lines are to accommodate As Built structures and the existing use thereof only;
- The proposal is compatible with the existing built character of the area;
- Impact on the traffic will be kept to a minimum;
- There are no heritage aspects that will negatively impact the application;
- There are no environmental aspects that will negatively impact the application and the application will not have a negative impact on any environmental factors;
- The proposal is compatible with the spatial planning strategies for the area;
- The application is fully compliant with the applicable planning principles described in the LUPA (2014) and SPLUMA (2013);
- We request that a penalty fee not be imposed.

The application can be supported for your favourable evaluation. The opinion is held that this application will have no negative impact on the land values, privacy, built environment and character of the area.



tek nr **2022/09/35** dwg no

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 date dwg scale

SITEPLAN  
 description

HOUSE TERRY  
 PLOT NO 6063  
 HERMANUS  
 project

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 reg. no : D 0993

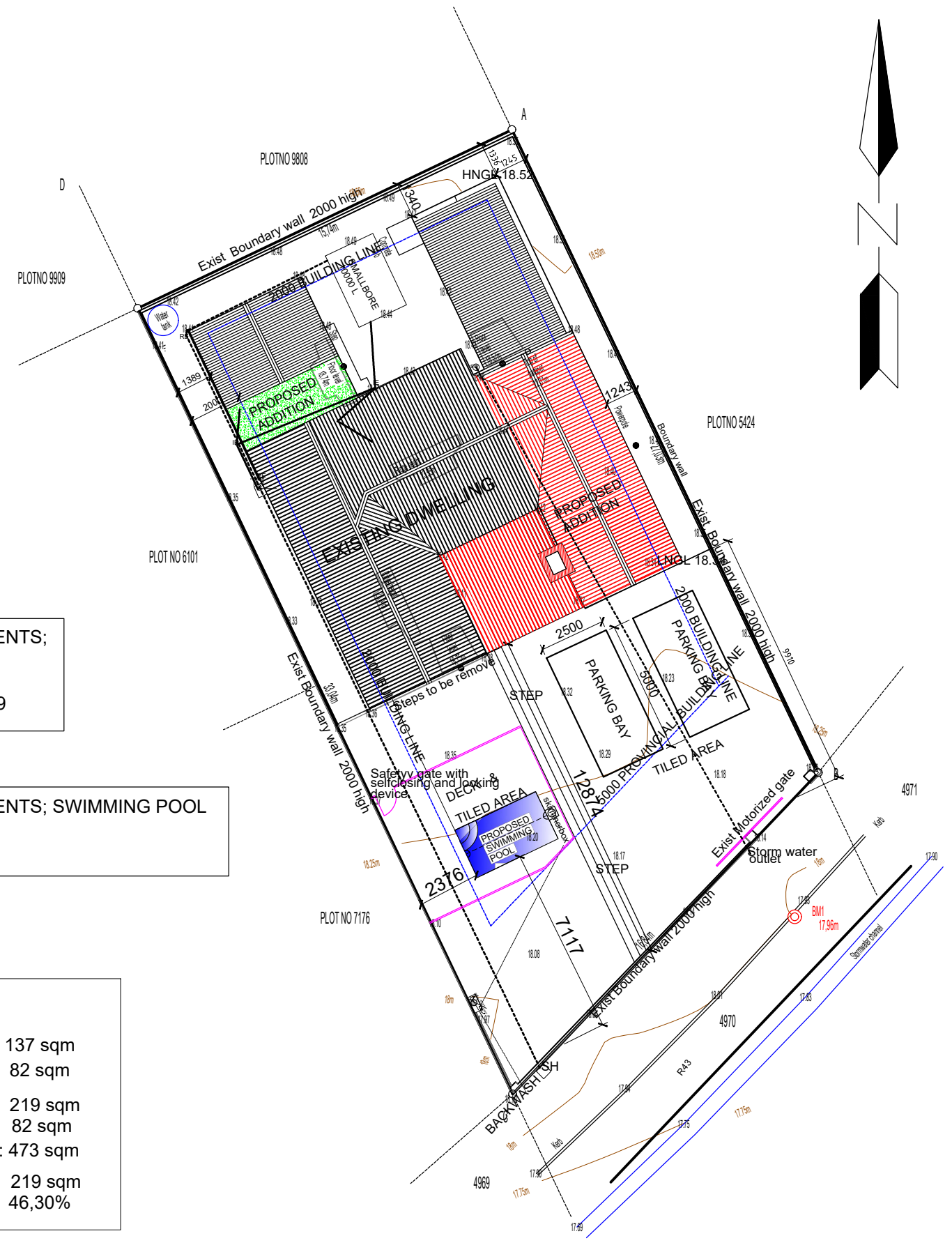
CAP-LON DESIGNS  
 P.A.D

**SITEPLAN**  
 Scale : 1: 200

SETOUT MEASUREMENTS;  
 FRONT: 12874  
 REAR : 1340  
 LATERAL : 1243 / 1389

SETOUT MEASUREMENTS; SWIMMING POOL  
 FRONT: 7117  
 LATERAL : 2376

**COVERAGE**  
 EXISTING DWELLING : 137 sqm  
 PROPOSED ADDITION : 82 sqm  
 TOTAL : 219 sqm  
 TOTAL NEW : 82 sqm  
 PLOT SIZE : 473 sqm  
 FOOTPRINT : 219 sqm  
 COVERAGE : 46,30%



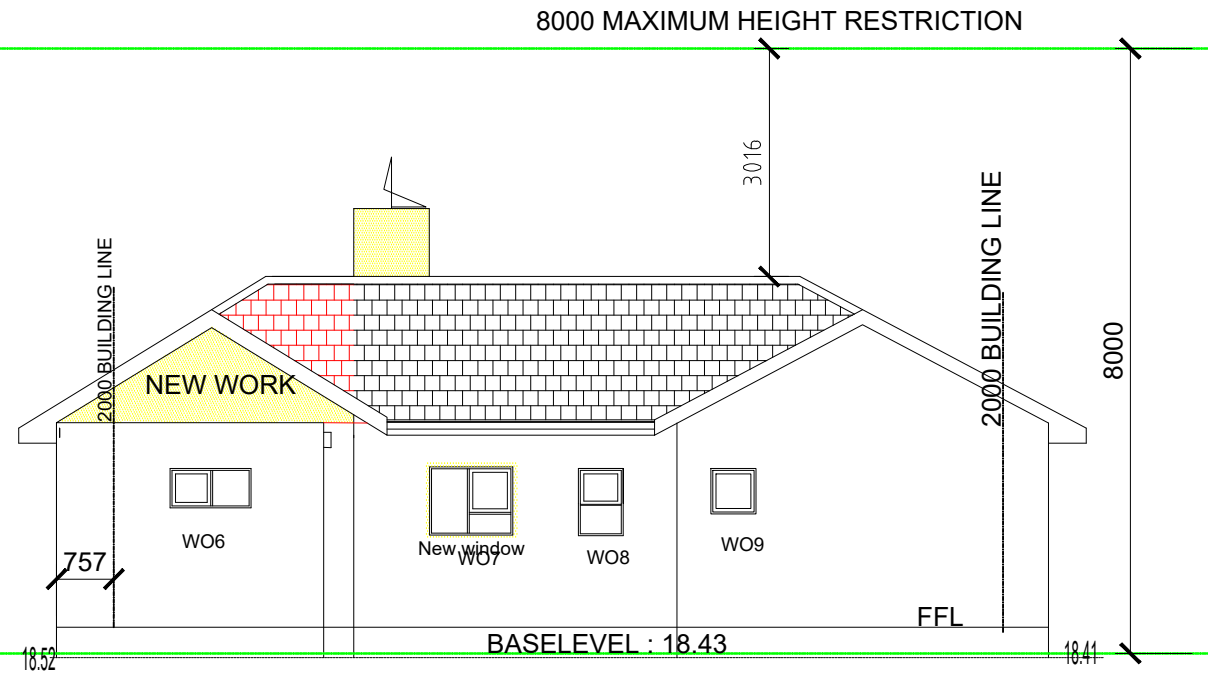
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SWIMMINGPOOL

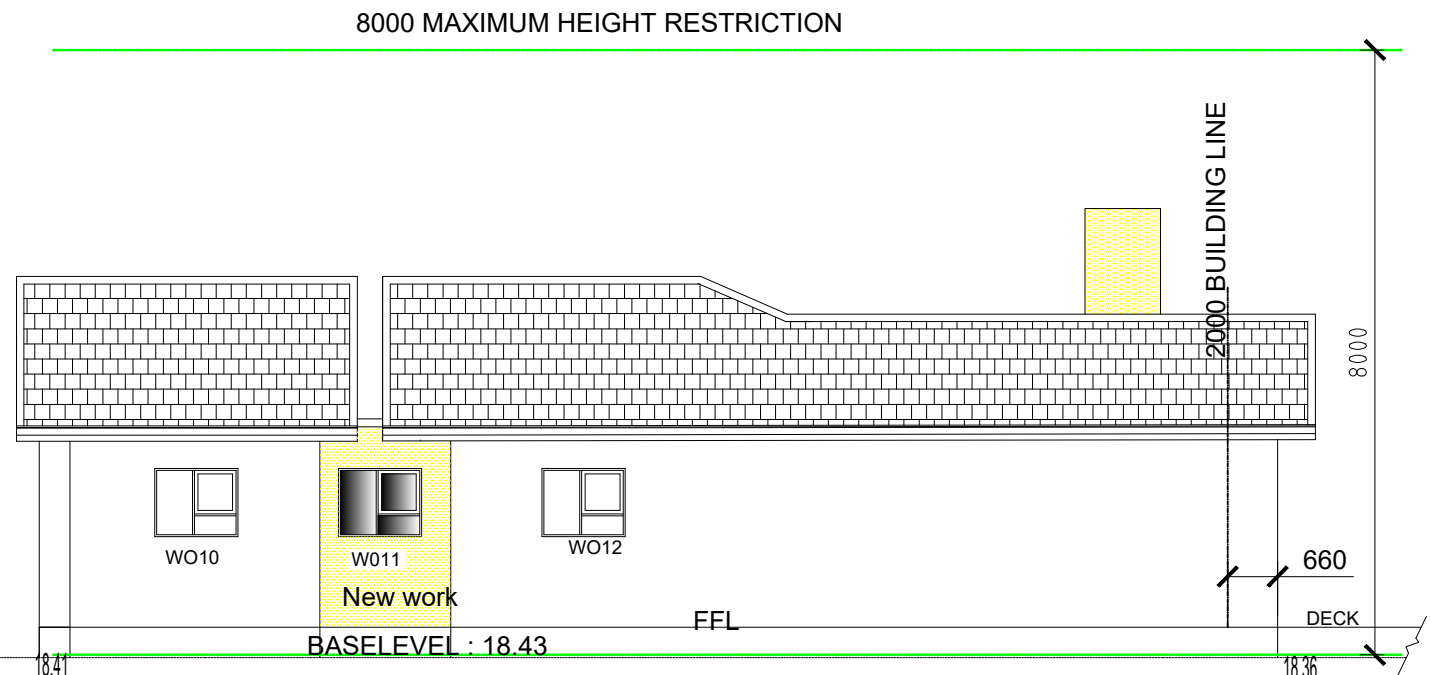
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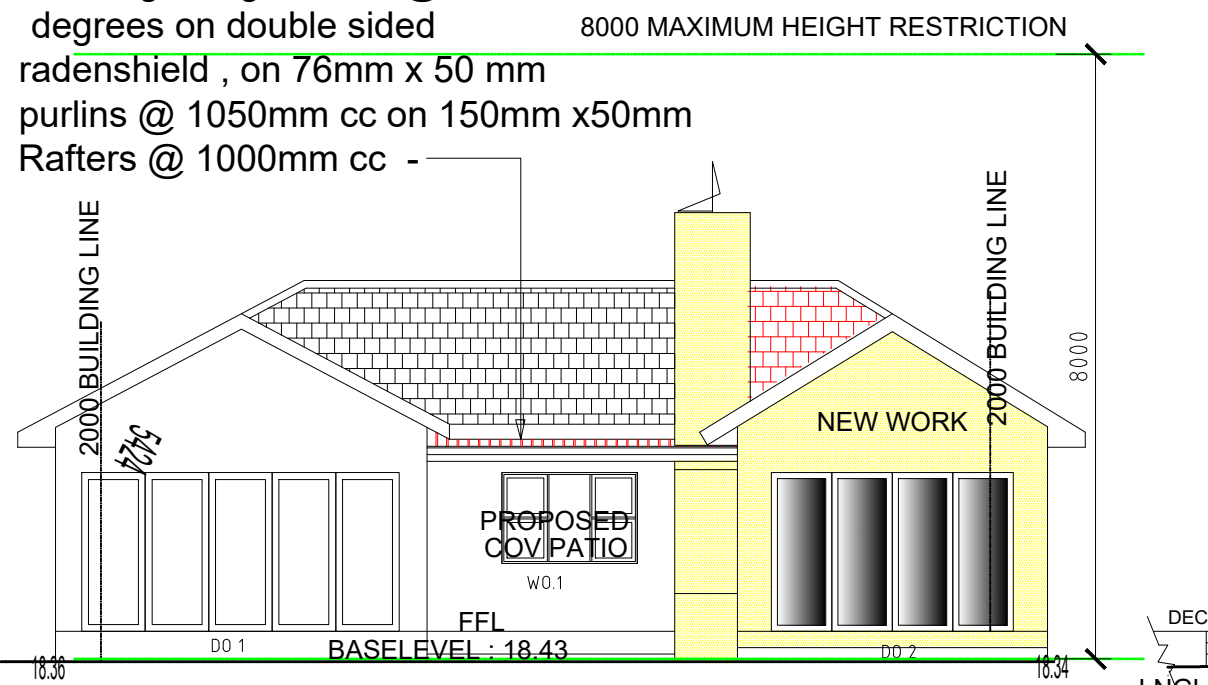
NORTH ELEVATION  
 ( Scale : 1: 100 )



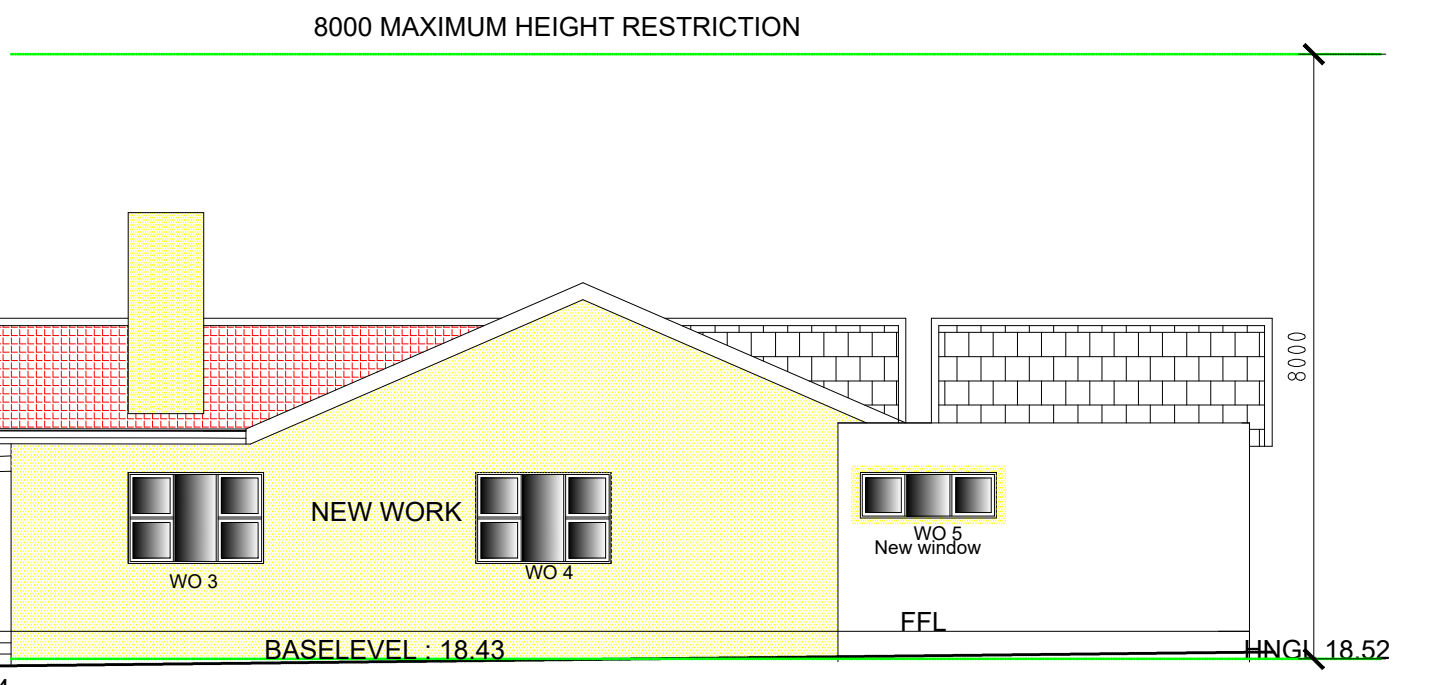
WEST ELEVATION  
 ( Scale : 1: 100 )

Any roof fall between 3 to 5 degrees should comply with Sans 10400 Part L Table 1

Colorbond IBR roof sheeting straight lenth @ 2 degrees on double sided radenshield , on 76mm x 50 mm purlins @ 1050mm cc on 150mm x50mm Rafters @ 1000mm cc -



SOUTH ELEVATION  
 ( Scale : 1: 100 )

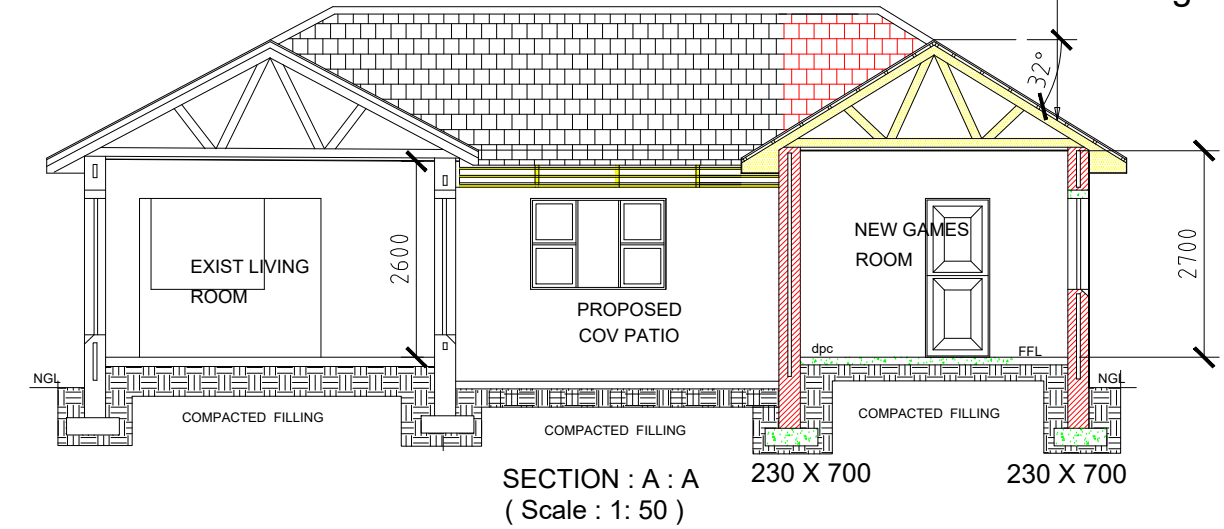


EAST ELEVATION  
 ( Scale : 1: 100 )

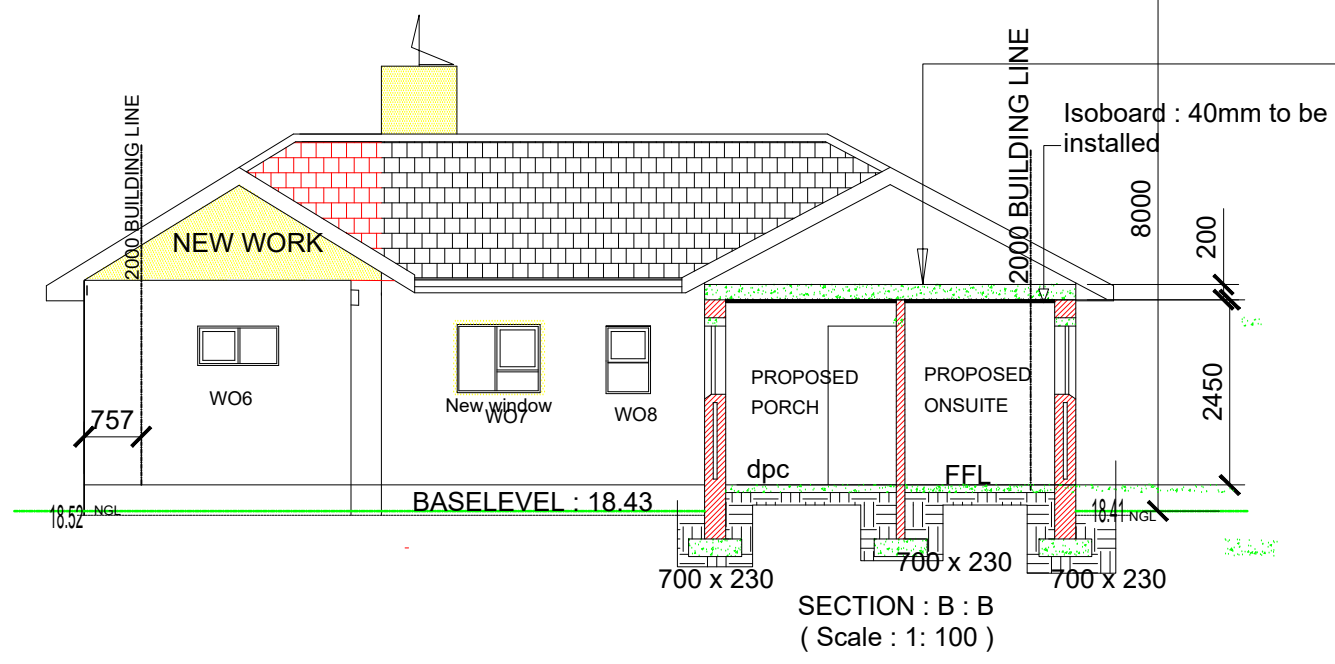


Waterproof @ roof coverings in accordance with  
 Sans10400 - K  
 Glazing : Type and Fixing in accordance Sans 10400  
 B and Sans 10400 - N 8000 MAXIMUM HEIGHT RESTRICTION  
 Floors: Laundry, shower, kitchen , wc etc in accordance  
 Sans10400-J  
 Lightning and ventilation in accordance with Sans10400-O

Roof sheeting :  
 Slate tiles on 38mm x38m  
 branding on 114mmx38m  
 trusses @1000mm CC  
 Ceiling : 6.4mmGypsum/ Rhinoboard



8000 MAXIMUM HEIGHT RESTRICTION



CONCRETE ROOF TO COMPLY WITH  
 SANS 204

R-Value for 100mm concrete slab = 0,07  
 R-Value for 200mm concrete slab = 0,14  
 Slope of topping on slab = 1:150mm  
 Waterproofing on roof : Torch - applied  
 Bituminous Membrane

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SECTION  
 description

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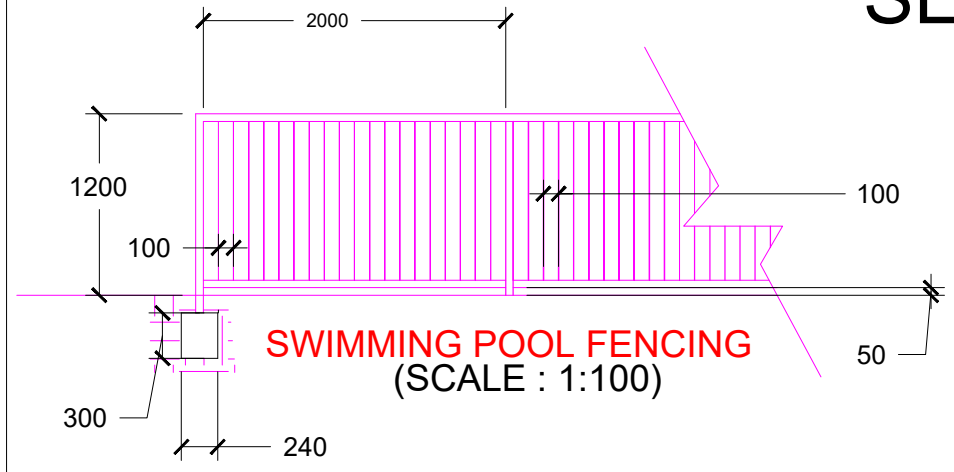
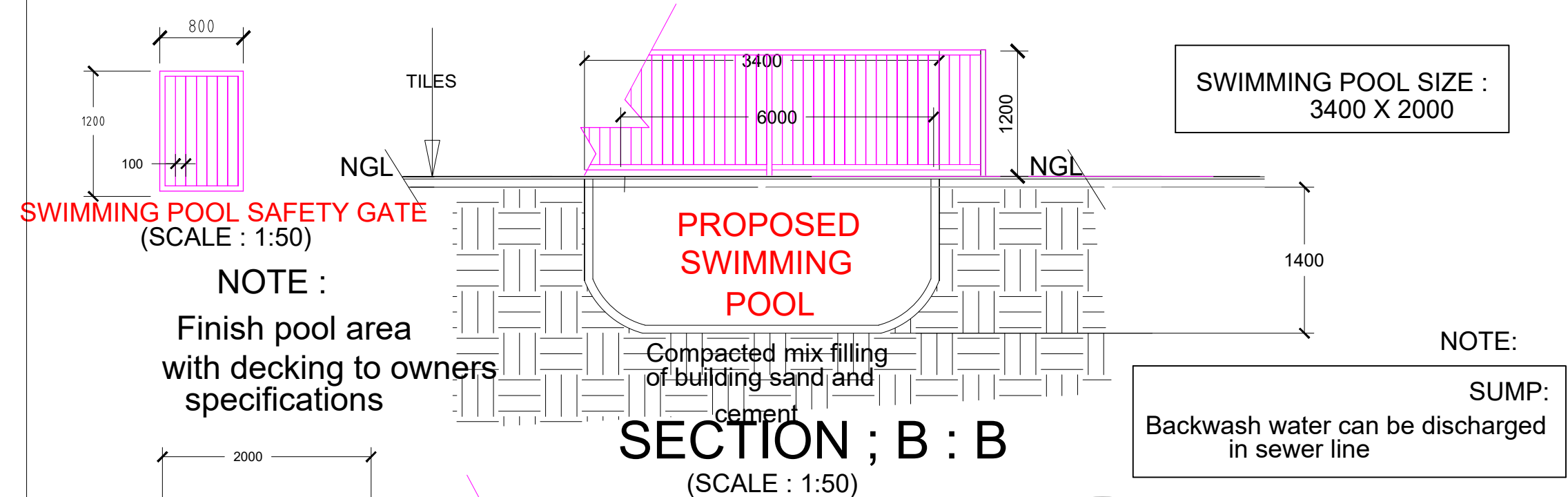
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HOUSE TERRY  
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CAP-LON DESIGNS  
 P.A.D



**NOTE :**  
**FENCING :**  
 By law , access to a pool is to be controlled by means of a 1200mm high fence and a self closing gate . Using all three boundary walls or fencing and the house , an area can be screened off with access through the house

