OVERSTRAND MUNISIPALITEIT ERF 2630, SHORTMARKETSTRAAT 8, PEARLY BEACH: AANSOEK OM OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDES, AFWYKING, EN VERGUNNINGSGEBRUIK: MNRE WRAP PROJECT OFFICE NAMENS LESLIE NEIL CILLIERS

Kennis word hiermee gee kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) vir die volgende aansoeke van toepassing op Erf 2630, Pearly Beach, naamlik:

1. opheffing van beperkende titelaktevoorwaardes ingevolge Artikel 16(2)(f) van die Verordening, ten einde voorwaardes 2(C)(4)(b), 2(C)(4)(d) en 4(4.3) te verwyder, soos vervat in Titelakte No. T18934/1952 van Erf 2630, Pearly Beach;

2. afwyking ingevolge Artikel 16(2)(b) van die Verordening, om 'n buitelug mark op die eiendom te akkommodeer;

3. vergunningsgebruik ingevolge Artikel 16(2)(o) van die Verordening, ten einde 'n karwas vanaf die eiendom te bedryf.

Volle besonderhede rakende die voorstel hierbo is beskikbaar vir inspeksie gedurende weeksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus en Gansbaai Biblioteek, Hoofweg, Gansbaai. Enige kommentare moet skriftelik wees, u naam, adres, en kontakbesonderhede bevat, sowel as u belang in die aansoek en die redes vir kommentaar, welke kommentaar die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) moet bereik voor of op **8 April 2022**. Telefoniese navrae kan gerig word aan die **Senior Stadsbeplanner, Mnr SW van der Merwe** by 028 313 8900.

Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persone wat nie kan lees of skryf nie kan bogenoemde toepaslike Munisipale Departement besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer.

Munisipale Bestuurder, Overstrand Munisipaliteit, Posbus 20, **HERMANUS**, 7200

Munisipale Kennisgewing Nr.15/2022

OVERSTRAND MUNICIPALITY ERF 2630, 8 SHORT MARKET STREET, PEARLY BEACH: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, DEPARTURE AND CONSENT USE: MESSRS WRAP PROJECT OFFICE ON BEHALF OF LESLIE NEIL CILLIERS

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) of the following applications applicable to Erf 2630, Pearly Beach, namely:

1. removal of restrictive title deed conditions in terms of Section 16(2)(f) of the By-Law, in order to remove conditions 2(C)(4)(b), 2(C)(4)(d) and 4(4.3) as contained in Title Deed No. T18934/1952 of Erf 2630, Pearly Beach;

2. departure in terms of Section 16(2)(b) of the By-Law, to accommodate an outdoor market on the property;

3. consent use in terms of Section 16(2)(o) of the By-Law, in order to operate a car wash from the property.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, 16 Paterson Street, Hermanus and Gansbaai Library, Main Road, Gansbaai. Any comment must be in writing, quoting your name, address and contact details, as well as your interest in the application and the reasons for comment, which comment must reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) on or before **8 April 2022.** Telephonic enquiries can be made to the **Senior Town Planner, Mr SW van der Merwe** at 0283138900.

The Municipality may refuse to accept comments received after the closing date. Any persons who cannot read or write may visit the above appropriate Municipal Department where a Municipal official will assist them in formulating their comment.

Municipal Manager, Overstrand Municipality, P.O. Box 20, **HERMANUS**, 7200

Municipal Notice No. 15/2022

MASIPALA WASE-OVERSTRAND ISIZA 2630, 8 SHORT MARKET STREET, PEARLY BEACH; ISICELO SOKUSUSWA KWEZITHINTELO, IMVUME YOKUSEBENZISWA NOKUPHAMBUKA: IOFISI YAKWA MESSERS WRAP PROJECT EGAMENI EGAMENI LIKA LESLIE NEIL CILLIERS

Esi saziso sikhutshwe ngokuvumelana neCandelo- 47 nele 48 loMthetho kaMasipala wase- Overstrand Otshintshiweyo omalunga Nokuceba Kokusetyenziswa Komhlaba kaMasipala (2020) ukuba kufunyenwe ezi zicelo zilandelayo eziqukiweyo kwi- Erf 2630 i- Pearly Beach, ngale ndlela:

1. Isicelo ngokuvumelana neCandelo - 16(2)(f) ngeMithetho Yedolophu yokususa imibandela eluqilima yetaytile yobunini- 2(C)(4)(b), 2(C)(4)(d) ne- 4(4.3), equkiweyo kwiTaytile Yobunini i- T18934/1952, seSiza 2630 Pearly Beach:

2. Isicelo sokuphambuka ngokweSolotya 16(2)(b) lalo Mthethwana kaMasipala ukwenzela kuvunyelwe isicelo semarike ngaphandle kwipropati;

3. Imvume yokusetyenziswa ngokweSolotya 16(2)(o) lomthethwana kaMasipala ukuze wenze indawo yokuhlamba imoto kwipropati.

Iinkcukacha ezipheleleyo mayela nesi siphakamiso ziyafumana kwiintsuku zaphakathi evekini ukususela phakathi kwentsimbi ye08:00 neye 16:30 kwiSebe: Lezicwangciso zeDolophu, 16 Paterson Street, Hermanus neGansbaai Library, Main Road, Gansbaai. Zonke izimvo mazibhalwe phantsi, uchaze igama lakho, idilesi neenkcukacha ofumaneka kuzo, kunye nomdla wakho kwesi sicelo nezizathu zakho zokuhlomla kufuneka zifike kwaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) ngomhla okanye ngaphambi komhla wama **8 UTshazimpunzi 2022.** Imibuzo ngefowuni ingabuzwa **kuMcwacngisi weDolphu OyiNtloko, uMnu SW van der Merwe kwa** 0283138900.

Umasipala anagala ukwamkela izimvo ezifike emva kwexesha okuvala. Nabani na ongakwazi ukubhala nokufunda angaya kwiSebe likaMasipala apho igosa likaMasipala liza kumnceda ukuhlomla nokufaka isicelo sakhe ngokusemthethweni.

UMlawuli kaMasipala, Overstrand Municipality, P.O. Box 20, **HERMANUS**, 7200

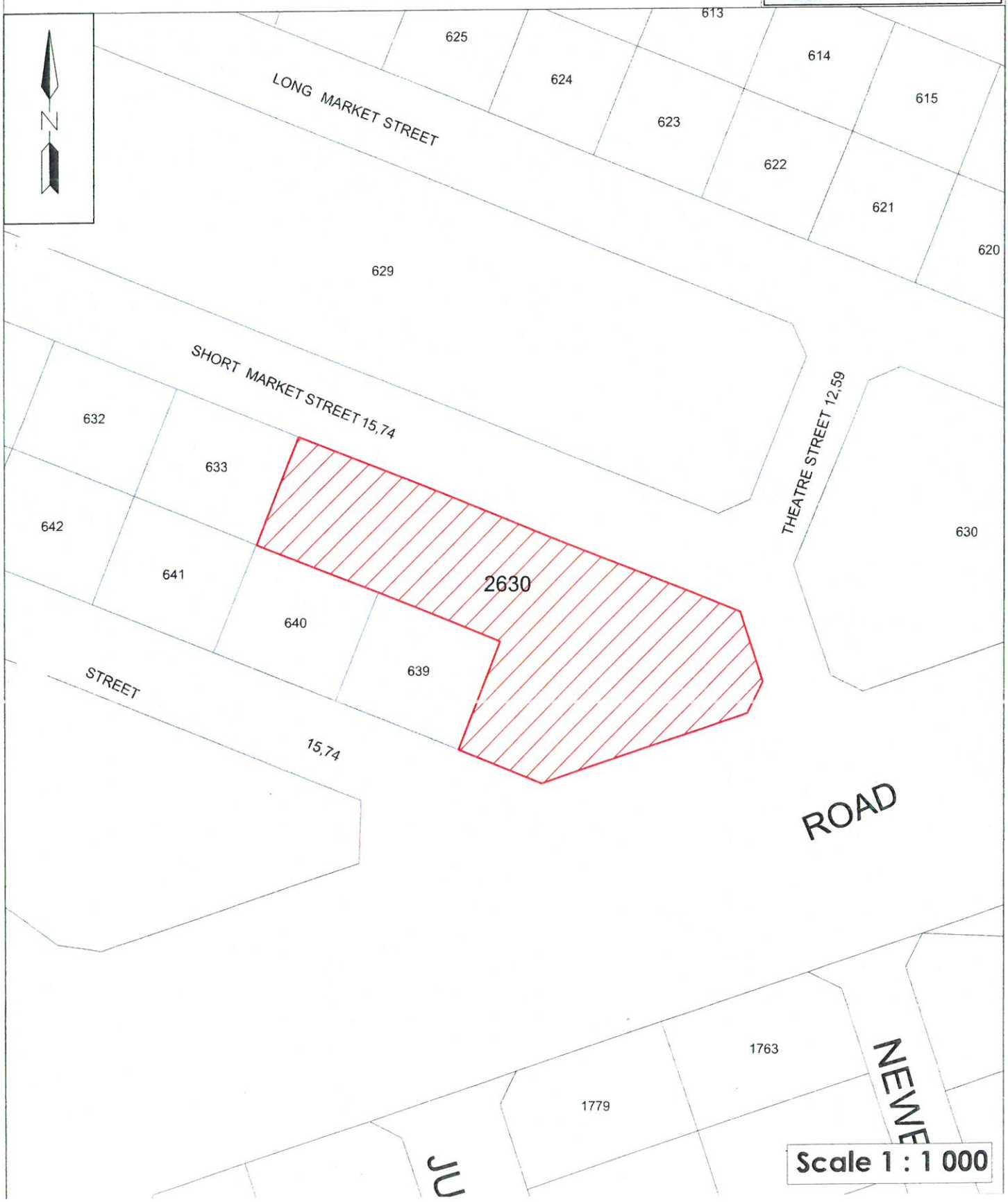
Inothisi kaMasipala Nomb. 15/2022

Locality Plan
Erf 2630 - Pearly Beach

Subject property (Erf 2630 - Pearly Beach)

Plan prepared by: Thian Jansen
Tel: 028 313 1411
Email: admin@wrapgroup.co.za
Unit B, Standard House,
Corner of Royal and Dirkie Uys
Street Hermanus, 7200

WRAP Project Office
Town Planning & Project Management



1. ABBREVIATIONS

OM	Overstrand Municipality
OMLUS	Overstrand Municipality Land Use Scheme, 2020
BY-LAW	Overstrand Municipality By-Law on Municipal Land Use Planning, 2015, as amended
PSDF	Western Cape Provincial Spatial Development Framework, 2014
LUPA	Western Cape Land Use Planning Act, 2014.
MSDF	Overstrand Spatial Development Framework, 2020
SDP	Site Development Plan
B3	Business Zone 3: Local Business

2. PROPERTY DETAILS

Consultant	WRAP Project Office
Erf Numbers	Erf 2630, Pearly Beach
Extents	2819m²
Zoning	Business Zone 3: Local Business

3. BACKGROUND AND INTENT

Erf 2630 Pearly Beach, hereafter referred to as the subject property (Refer to **Plan 1** for the locality), is owned by Mr Leslie Neil Cilliers, hereafter referred to as the applicant.

The applicant has owned Erf 2630 Pearly Beach, since 2018. The subject property has an existing building being utilised as shops, and a restaurant. The applicant has the vision to expand on his land uses to be able to utilise the property to its maximum potential and in the process create a unique experience in the Pearly Beach area.

The applicant wants to operate a car wash on the subject property, which will be a unique, new business in Pearly Beach. In addition to the car wash, the applicant wants to establish a market, which will be operated as a farmers' market where formal structures will be erected and rented out to local entrepreneurs that wish to sell homemade products and craft.

The market will attract tourists and local people when the market is in operation, and it will produce economic activity for the entire Pearly Beach area. There will be numerous advantages to provide additional tourist establishments in Pearly Beach.

To ensure the applicant's vision is achieved, approval of the following applications is required:

- Removal of restrictive title deed conditions;
- Consent use for a service station (car wash);
- Consent use to allow the sale of alcoholic beverages; and
- Departure to allow a 'market' on the subject property.

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4. PROCEDURE TO ACHIEVE THE APPLICANT'S INTENT

WRAP compiled this report to ensure the applicant's vision is achieved. The following is proposed:

4.1 Removal of restrictive title deed conditions in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

There are three restrictive title deed conditions that prohibit the land use rights sought by the applicant as described in Section 3 and the rationale for the removal of these conditions are discussed below:

Restrictive Title Deed Conditions
Condition 2(C)(4)(b) – *"it shall be used for shop purposes only;"* Condition 2(C)(4)(d) – *"No building or structure or any portion thereof, except boundary walls and fences, verandahs and balconies, shall be erected nearer than 2,36 metres to the street line which forms a boundary of this erf."* Condition 4(4.3) – *"SUBJECT to the terms of Endorsement dated 22 April 1955 on Deed of Transfer No. T18934/1952, reading as follows* *"By Notarial Deed No. 184/55 dated 19 November 1954 the following conditions created over the within property in favour of Erf 332, Pearly Beach Township, measuring 1,3423 (one comma three four two three) hectares. held by Deed of Transfer No. 11090/1954, viz:* *"That henceforth until the expiration of a period of ten years reckoned from the date upon which a liquor licence shall have been granted in respect of the said Dominant Property, no Hotel, Club, Bottle Store, Bar or other place or places for the sale or dealing in or beers, malt liquors, wines, spirits and intoxicating liquors of any kind whatsoever and whether such sale or dealing in be by retail or wholesale shall be carried out on the Servient Property."* *As will more fully appear on reference to the said Notarial Deed, a copy of which is annexed hereto."*

The rationale for the removal of the restrictive title deed conditions is to enable the applicant to achieve the development intent highlighted in Section 3. The title deed conditions are more restrictive than what is allowed in terms of the OMLUS. The applicant is currently not adhering to the title deed conditions above and necessitates the removal of any restrictive conditions.

The rationale for the removal of these restrictive title deed conditions will be discussed in detail in Section 7 of this report.

4.2 Departure from the Overstrand Municipality Land Use Scheme, 2020 to allow a 'Market' on Erf 2630 Pearly Beach in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The applicant has the vision to introduce a new tourist attraction to Pearly Beach and to establish a market on the subject property. The subject property has a B3 zoning which does not make provision for a market as a primary- or consent use, a departure from the OMLUS to allow the market to be established is therefore required. The outdoor market experience that is being applied for is not out of the ordinary for the Overstrand area and is established in most other towns within the Municipality.

According to the OMLUS, a market is defined as the following: *"**market**" means an outdoor venue for the sale of fresh produce, food and beverages, crafts, art and manufactured goods to the public;"*

The applicant's intent falls in line with the definition of a market, but also wish to expand on this definition to allow the sale of alcoholic beverages. The definition will then read as follows:

*"**market**" means an outdoor venue for the sale of fresh produce, food, beverages, and **alcoholic beverages**, crafts, art and manufactured goods to the public;"*

The market will consist of 6 (six) formal structures 6m x 4m (24m² each) that will be available to local entrepreneurs and crafters to rent and be utilised to serve food and drinks to the public. This will attract tourists and local patrons of the surrounding area. This is a unique land use for the area and Pearly Beach will greatly benefit from this attraction.

The 6 (six) structures will be constructed of the highest quality materials ensuring the product that is created remains of the utmost quality. The market will adhere to the development parameters of the B3 zoning and building plans will be submitted to the Overstrand Municipality's Building Control Department for approval before construction. Refer to **Plan 4** for the SDP.

4.3 Consent use to allow the sale of alcoholic beverages in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The definition for the 'sale of alcoholic beverages' in terms of the OMLUS is as follows: *"sale of alcoholic beverages" means the sale or offering for sale of drinks capable of producing intoxication in a consumer and may include bars, pubs and taverns;"*

The applicant envisions the market selling alcoholic beverages as mentioned above. The market will attract tourists and local patrons to enjoy locally made food and produce and enjoy beverages to be consumed on site, which may include alcoholic beverages.

All necessary liquor licenses will be obtained from the Western Cape Liquor Authority.

4.4 Consent use to allow a service station in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The definition of a service station in terms of the OMLUS is as follows: *"service station" means a property for the retail supply of fuel and includes trading in motor vehicles, oil, tyres and motor spares, general motor repairs to vehicles, exhaust fitment, **washing of vehicles**, and a shop of which the floor area does not exceed 50% of the total floor space of all buildings on the land unit but does not include spray painting, panel beating, black smithery or body work.*

The definition of a car wash in terms of the OMLUS is as follows: *"car wash" means any structure or structures where vehicles are washed and/or valeted;"*

Pearly Beach currently does not have a formal car wash and the applicant envisions filling the gap in the market. A car wash is allowed in terms of the OMLUS under the consent use of a "service station". Although is noted that a service station unlocks various other land uses, the applicant is only requiring the land use of a car wash and if required it can be made a condition of approval.

The operation of the car wash will create employment opportunities that will be filled by residents of the Pearly Beach area. The water used will be recycled, cleaned and stored on-site for reuse either for the washing of cars or for irrigation purposes on the entire property. The water will be stored in two 5000l water tanks placed next to the car was. If not required on the property, the cleaned and filtered wastewater it will be discarded into the OM's sewage network and not into the stormwater system. Refer to **Plan 4** for the SDP.

5. APPLICATION

Considering the above, application is made for the following:

5.1 Removal of restrictive title deed conditions in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;

5.2 Departure from the Overstrand Municipality Land Use Scheme, 2020 to allow a 'market' on Erf 2630 Pearly Beach in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;

5.3 Consent use to allow the sale of alcoholic beverages in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and

5.4 Consent use to allow a service station (car wash) in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

6. LAND USE ENVIRONMENT

The subject property is located in the business node of Pearly Beach and the surrounding area has residential and authority zonings. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan). All adjacent properties are zoned for business purposes. These properties are either vacant or being operated as a pub.

With the South African housing market changing, COVID has created a wave of South Africans that are 'semigrating' to the Western Cape. Semigrating is a term being used more and more and it means - movement from one part of a country to another (as opposed to emigration, which is migration to another country).

These new inhabitants are moving to coastal areas which in turn will require more businesses and more job opportunities, both of which are being proposed with the land use application.

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The area where the subject property is located is in Pearly Beach's business node (N1 as per the MSDF). Refer to **Plan 8** for the surrounding area's land use plan:

Erf 639 – Is being operated as the pub and grill.
Erf 631 – Is being operated as a business with residential above ground floor.
Erven 601 and 602 are being operated as business enterprises.
There are various other business opportunities within the area as there are numerous vacant erven that are zoned business that may be developed.

7. TITLE DEED

The title deed of the subject property was perused (T49822/2018, refer **Annexure B)** and it contains the following restrictive conditions:

Title deed restrictions

Condition 2(C)(4)(b) – "it shall be used for shop purposes only;"

Condition 2(C)(4)(d) – "No building or structure or any portion thereof, except boundary walls and fences, verandahs and balconies, shall be erected nearer than 2,36 metres to the street line which forms a boundary of this erf."

Motivation

The rationale for the proposed removal

The proposed and current land uses on Erf 2630 Pearly Beach, are currently being restricted by these two title deed conditions. The current land uses are in contravention with the title deed conditions as the subject property has a restaurant which is not aligned with the title deed conditions. A market and car wash are also not aligned with the conditions within the title deed.

The applicant envisions exercising primary- and consent uses within the development parameters set out by the OMLUS for a B3 zoning. Currently, the title deed conditions are more restrictive than the OMLUS and the applicant wants to utilise his property to the maximum and is currently being restricted.

Title deed condition background

The insertion of these restrictive title deed conditions occurred in 1934 when the most prominent commercial enterprises were shops that had an exclusively local customer base. Any amendment or removal of this condition requires the consent of the Administrator. This authority now vests with the Overstrand Municipality.

Status quo

The current OMLUS has clear development guidelines in place to ensure the whole of the Overstrand Area's business properties is managed in a similar manner. The title deed conditions are more restrictive than the OMLUS and the applicant has a vision and plans to expand beyond these conditions.

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Title deed restrictions

Condition 4(4.3) – "SUBJECT to the terms of Endorsement dated 22 April 1955 on Deed of Transfer No. T18934/1952, reading as follows

"By Notarial Deed No. 184/55 dated 19 November 1954 the following conditions created over the within property in favour of Erf 332, Pearly Beach Township, measuring 1,3423 (one comma three four two three) hectares. held by Deed of Transfer No. 11090/1954, viz:

"That henceforth until the expiration of a period of ten years reckoned from the date upon which a liquor licence shall have been granted in respect of the said Dominant Property, no Hotel, Club, Bottle Store, Bar or other place or places for the sale or dealing in or beers, malt liquors, wines, spirits and intoxicating liquors of any kind whatsoever and whether such sale or dealing in be by retail or wholesale shall be carried out on the Servient Property."

As will more fully appear on reference to the said Notarial Deed, a copy of which is annexed hereto."

Motivation

The rationale for the proposed removal

Although the subject property has a valid liquor licence, the title deed conditions are currently not being adhered to. The owners of Erf 332 Pearly Beach in whose favour this condition is registered, have not yet developed Erf 322 Pearly Beach. The restrictive title deed condition is limiting the uses that are allowed on the subject property.

The applicant's vision and intent are being limited and restricted by a condition that was inserted in the mid-1950's and has never been acted upon.

Title deed condition background

The restrictive title deed condition was originally intended to limit the number of liquor licences within the Pearly Beach area and allow Erf 322 Pearly Beach to operate uncontested for 10 years. With the condition originally inserted into the title deed in 1954 the 10 years allowed in terms of the condition should have lapsed in 1964 but was not acted upon which creates an unfair monopoly.

Status quo

Considering the above, the subject property has a valid liquor licence and when the application for removal of the restrictive condition is advertised, the owners of Erf 322 Pearly Beach will be afforded the opportunity to participate in the public participation process.

The land uses on the subject property is currently not aligned with the restrictive conditions in the title deed and is the rationale for the removal of the restrictive title deed conditions.

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In terms of the requirements of LUPA, the following information is addressed in terms of Section 39(5)(a-f):

LUPA, Section 39(5) (a-f)	
(a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;	No person or entity will be affected financially by the removal of these restrictive title deed conditions. The owners of Erf 322 Pearly Beach have not developed their property and they will not be affected financially.
(b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;	No person is personally benefitting from these conditions. Erf 322 Pearly Beach is not benefitting from the condition as they have not yet developed their property. The conditions are only restricting the applicants.
(c) the personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended;	The applicant will be gaining from the removal of the restrictive condition as it will allow him to utilise his property to its maximum capacity.
(d) the social benefit of the restrictive condition remaining in place in its existing form; *(e) the social benefit of the removal, suspension or amendment of the restrictive condition; and*	The restrictive conditions do not have a social benefit.
(f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.	The owners of Erf 322 Pearly Beach are still able to obtain a liquor licence should they wish. The conditions proposed for removal limits the applicant.

8. ZONING

The following zoning parameters were assessed in conjunction with the B3 OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (q) of the OM By-Law:

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BUSINESS ZONE 3: LOCAL BUSINESS (B3)			
Land Use Restrictions			
Primary use	**Shops**, Dwelling Unit (Above Ground Floor) In Accordance with 6.3.2, Flats (Above Ground Floor), Offices, **Restaurant**, Caretaker's Accommodation and Self-Catering.	Shop & Restaurant	Comply
Consent use	Bottle Store, Business Premises, Clinic, Conference Facility, Dwelling Unit (On Ground Floor) In Accordance With 6.3.2, Flats (On Ground Floor), Town Housing in Accordance with 6.3.2, Tourist Accommodation, Hotel, Institution, Place of Assembly, Place of Entertainment, Place of Instruction, Place of Worship, Recreational Facilities, Residential Building, **Sale of Alcoholic Beverages**, **Service Station**, Service Trade and Transmission Apparatus (Subject to the provisions of chapter 16.10).	- Sale of Alcoholic Beverages (Market area) - Service Station (Car Wash) - "Market" as defined in Section 4.2	Applied for and motivated
Development parameters			
	Parameters	**Proposal**	**Comply/ deviate**
Coverage	The maximum coverage for all buildings on the land unit is 75%. "**Coverage**" means the total area or percentage area of a land unit which may be covered by buildings and covered by a roof; provided that the following portions of buildings shall be disregarded in the calculation of coverage:	Erf extent = 2819m² Allowed coverage = 2114.25m² The existing and proposed building will have a coverage of **609m².** 609m² x 100 / 2819m² = **21,6%**	Comply
Floor factor	The maximum floor factor is 1.5	609m² / 2819m² = 0.22	Comply
Height	(i) The maximum height of a building measured from the base level to the top of the roof is 8,5 m;	(i)The height is below 8,5m; (ii) There is only one storey; and	Comply

	(ii) The maximum number of storeys is 2; and (iii) Earth banks and retaining structures shall comply with 16.6.	(iii) Comply	
Setback	(i) Council may require that all buildings and structures on the property are set back at least 6,5 m from the centre line of the street; (ii) Where special circumstances exist, Council may require a wider setback; and (iii) The general provisions of 16.2 apply.	(i) This is subject to the discretion of Council; (ii) This is subject to the discretion of Council; and (iii) This is subject to the discretion of Council.	Comply
Building lines	(i) The street building line is 0 m; provided that a 3,5 m building line applies where fuel pumps are erected; (ii) The side building line is 0 m provided that where any Business Zone 3 abuts another zone, the side building line is 3,0 m; (iii) The rear building line is 3,0 m; provided that where any Business Zone 3 abuts another zone, the rear building line is 4,5 m; (iv) Provided that Council may require more restrictive building lines in the interests of public health or safety or the environment or in order to enforce any applicable law or right; and (v) The building line exemptions in 16.1 apply.	(i) 0m from the street boundary; (ii) 0m from the side boundary; (iii) N/A (iv) This is subject to the discretion of Council. (v) Comply	Comply
Window and door placement	(i) Where a 0 m building line applies and where a wall of a building is erected 1,0 m or less from the side or rear building line, no door or window shall be permitted in the wall concerned; and (ii) Any portion of the building which contains a door or window onto a side or rear boundary, shall be placed at least 1,5 m away from such boundary. The portion of the building that is required to be set	(i) there are no doors or windows on the part of the property which is located up to 0m from the side and rear boundary; and (ii) there are no doors or windows on the part of the property which is located up to 0m from the side and rear boundary.	Comply

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	back shall include the door or window, together with such additional length of wall as is required to make up a total of 3,0 m.		
Parking and access	**Shops/Restaurants** 4 bays per 100m² of GLA **Car wash** 4 bays per wash bay plus 2 bays per 100m² GLA (for office component) **Market** No specific parking requirement is provided in the OMLUS. "Recreation" was used as it fits the general use. One bay per four seats or persons	• **Shops/Restaurant** = +/- 367m² GLA 15 Parking bays required • **Car Wash** 6 Parking bays required • **Market** Maximum of 44 people will be accommodated. 44/4 = 11 Parking Bays required 32 Parking Bays required 32 Parking Bays & 8 Motorcycle Parking Bays provided	Comply
Loading Bays	Loading bays must be provided on the land unit in accordance with 17.2.	This is subject to the discretion of Council.	
Screening	(i) The Council may require screening in accordance with 16.7; and (ii) Where a Business Zone 3 abuts a residential zone, Council may require a suitable wall of no less than 1,8 m in height to be erected on the common boundary.	(i) This is subject to the discretion of Council; (ii) This is subject to the discretion of Council;	Comply
Site development plan	Council may require that a site development plan be submitted for approval in accordance with 16.3.	An SDP which complies with 16.3 is submitted with the application.	Comply

9. SERVICES

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

Electricity, Water, Sewage and Solid Waste
The subject property is connected to the OM's networks, these include electricity, water and sewage. The proposal of this application will not have a negative impact of the area.

Solid waste is collected every week by the OM. Grey water will be used on site to irrigate and any additional will be discarded in a proper manner.

Access and Egress
Main Road and Short street are the access and egress points to the subject property and the proposal will not affect this.

10. NEED AND DESIRABILITY

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

Need and desirability
The need for the land use application is to allow the applicant to utilise his property to it maximum capabilities and meets all the needs of the applicant. The desirability is more often a personal feeling of the applicants. The applicant envisions aiding the economic growth in Pearly Beach by introducing businesses and experiences not yet available in the Pearly Beach area.

To be able to operate these businesses the applicant requires a workforce, and these employees will be from the local population, creating stable economic activities contributing to the financial sector of the Pearly Beach area.

To achieve their vision, the applicant has appointed WRAP Project Office to submit this application to ensure the proposed development is not in contradiction to any policies, legislation, or title deed conditions.

Impact on views, sunlight and character of the area
The subject property is located in a business node with several other uses in the area, refer to **Plan 2**. It is not proposed that the new land uses, or existing land uses will have any more of an impact than what is currently being experienced. The land uses sought by the applicant are in line with the character of the area.

The new businesses will comply with the OMLUS's development parameters ensuring no views, sunlight, or the character of the area is affected.

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Economic impact
These activities on the subject property already have an economic impact on the Pearly Beach area. There are three existing businesses that are being operated and employing staff and empowering residents of the surrounding area.

Once the construction is completed, which in itself will employ workers, more staff will be required to operate these new enterprises (Car Wash & Market). The market will empower small to medium enterprises as they will be able to "rent" one of the six (6) proposed structures to operate from and provide a service or product to the patrons of the market. The car wash is filling a gap in the market. These businesses will create a sustainable source of employment that will be utilised by the people from the surrounding areas.

Opportunity cost
An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or foregoing of valued land use rights of interested and affected parties when an application is approved. The development will not affect the values of surrounding properties and it is predicted that development should be encouraged in the Pearly Beach area.

Impact on heritage
The subject property is not listed in the OM Heritage Register.

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

11. POLICIES AND REGULATIONS

11.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)
The subject property is not located within this zone.

11.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)
The subject property is not located within this zone.

11.3 Spatial Planning Policies
The consistency of this proposal with the applicable spatial development policies will herewith be illustrated. The spatial policies which are pertinent to the submitted proposal are the following:

PSDF
The PSDF is a product of a provincial inter-departmental and inter-governmental collaboration under the guidance of the inter-departmental steering committee in collaboration with the private sector, academia, and non-governmental organisations. This broad participatory process has created a shared spatial vision that is intended to inform spatial development patterns in urban and rural areas in the province.

Throughout the PSDF economic development is a widespread term used and focussed on. Economic development is an aspect that is important to ensure the Provincial economy has a large impact on the National economy. The continual growth of the

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Provincial economy means that economic activity should be stimulated in lower spheres of the government. This application to allow additional businesses in a business node of Pearly Beach twill add value to the Pearly Beach area which in turn will have a positive impact on the Overstand Municipality. The application relates to the development of economic activity which is in line with the PSDF.

The approval and implementation of this expansion proposal will therefore contribute to making tourists appreciate the scenic and cultural landscape which exists in Pearly Beach.

MSDF

The objective of the MSDF is to formulate strategic spatially based policy guidelines and proposals where the needs, changes and growth in the area can be managed to benefit the inhabitants and the environment in the Overstrand Municipality. The MSDF is guided by a set of objectives and the consistency of this proposal will be assessed with these core objectives.

The subject property is being utilised to its maximum potential, developing land already earmarked for businesses purposes. The subject property has already been developed and is already aligned with the infill development imperatives of the MSDF. The subject proposal only entails expanding on existing land uses.

Patrons and tourists visiting the subject property will be attracted to not only the subject property but by the whole of Pearly Beach. The MSDF emphasises the importance of developing Pearly Beach as a tourism village which will be aided by the proposed development.

12. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains 5 uncompromisable planning principles by which each development application must be guided. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

Spatial justice

The subject expansion and additional land uses will offer employment opportunities to the historically marginalised. This will lead to the employees having an income which will contribute to promoting equity as the employees will be able to afford access to opportunities such as housing, services and facilities. The approval and implementation of this proposal will therefore contribute to addressing spatial development imbalances caused by apartheid planning and contribute to attaining a more spatially just urban landscape.

Spatial sustainability

The proposed development and properties are ideally located within a business node of Pearly Beach is a mixed-use environment area with other uses surrounding the subject property. The proposed development is intended to contribute to allowing a functional space economy in Pearly Beach. Utilising existing infrastructure and expanding thereon will ensure the businesses are able to cope with the expanding population growth.

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Efficiency

This proposal entails the optimal use of space as most of the property is proposed to be used for either parking or the proposed businesses and existing businesses. The engineering services on the premises will also cater to a greater number of people within the engineering services capacity limits.

Spatial resilience

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

Good administration

The OM has a credible track record of good administration regarding the method of public participation which invites and accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications.

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13. EVALUATION

To achieve the vision of the applicant, a departure and consent use is being applied for. This will allow the operation of a market and a car wash once approved. The proposal is aligned with the policies and guidelines of the Overstrand Municipality. The restrictive title deed conditions are required to be removed as they are not being adhered to currently. The removal thereof will not take away from any other person's right only allow the applicant to continue with his intent for the property.

The departure of the OMLUS is done to unlock land uses that is not currently available within the Business Zone 3 zoning and it is not out of character for the area and will attract tourists and patrons. The proposal is in harmony with all relevant spatial planning policies which illustrates that the applicant did not arbitrarily invent this proposal but had due consideration for relevant spatial planning policies.

14. RECOMMENDATION

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

14.1 Removal of restrictive title deed conditions in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;

14.2 Departure from the Overstrand Municipality Land Use Scheme, 2020 to allow a 'Market' on Erf 2630 Pearly Beach in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended;

14.3 Consent Use to allow the sale of alcoholic beverages in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended; and

14.4 Consent Use to allow a service station (car wash) in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

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Site Development Plan
Erf 2630 - Pearly Beach

Scale 1 : 250

Plan prepared by: Thian Jansen
Based partially on plans by Riaan van Staden

All distances are approximate
and subject to a survey

Tel: 028 313 1411
Email: admin@wrapgroup.co.za

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

WRAP Project Office
Town Planning & Project Management

Coverage - 21,6%
Floor Factor - 0.22

Parking

Shops/Restaurant = +-367m² GLA
15 Parking Bays required

Car Wash
6 Parking Bays required

Market
Maximum of 44 people will be accommodated.

44/4 = 11 Parking Bays required

32 Parking Bays required

32 Parking Bays provided & 8 Motorcycle Parki provided

Floor Space

Restaurant - 220m²
Outside Seating area - 99m²

Shops - 194m²

Carwash - 82m²

Market - 550m²

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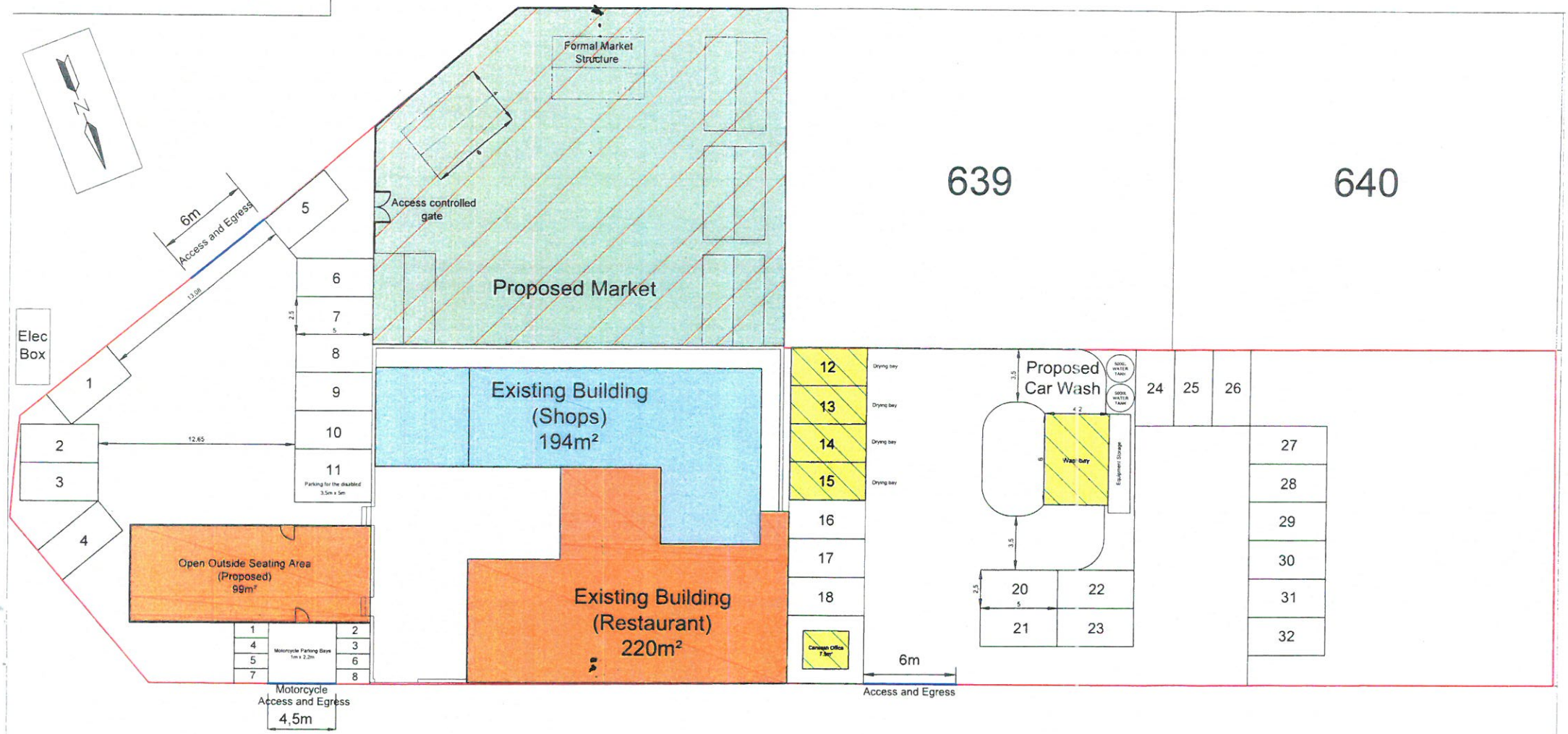
Land Use Plan
Erf 2630 - Pearly Beach

Scale 1 : 250



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44/4 = 11 Parking Bays required

32 Parking Bays required

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Land Uses

- Service Station (Car wash facility)
- Shops
- Restaurant
- Market and Sale of alcoholic beverages

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