

## 4.2

**ERF 340, 10 PERSPICUA ROAD, ROOIELS: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE: MESSRS PLAN ACTIVE ON BEHALF OF CP HOWARD & RJC TERLIEN**

340 KRE (3832)

H van der Stoep

18 March 2019

(028) 313 8900

Hermanus Administration

**1. EXECUTIVE SUMMARY**

An application has been received on 31 October 2017 from Messrs Plan Active Town and Regional Planners on behalf of CP Howard & RJC Terlien on Erf 340, Rooiels for the following:

- ❖ Removal of restrictive title conditions with reference to Clauses F.4.(b), F.4.(d) & F.4.(e) and Clause G.(b) & G.(g) of Title Deed T11086/2017 applicable to Erf 340, Rooiels in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to accommodate a guesthouse and second dwelling on the property.

The restrictive conditions contained in Title Deed T11086/2017 to be removed, read as follows:

*"F. SUBJECT FURTHER to the conditions contained in Deed of Transfer Number T20119/1953 and imposed by the Administrator of the Province of Cape of Good Hope when approving the General Plan of Rooi Els in terms of Ordinance 33/1934, namely:*

4. *This erf shall be subject to the following further conditions, provided especially that where, in the opinion of the Administrator after consultation with the Townships Board and the local authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation subject to compliance with such conditions as he may impose.*

*(b) It shall be used only for residential purposes only, but no building other than one dwelling together with such outbuildings as are ordinarily required to be used therewith shall be erected thereon.*

*(d) No building or structure except boundary walls and fences, shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf, nor within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf provided that with the consent of the Local Authority, and outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation may be erected within the above prescribed rear space and provided further that a garage may be erected up to such street line, if in the opinion of the Local Authority the level of the erf is such as to make that necessary;*

(e) *Pending the establishment of a Local Authority for this Township the sewage of this erf shall not be disposed of otherwise than means of a properly constructed septic tank if the nature of the soil permits, otherwise into a properly constructed vacuum tank serving one or more erven. If any such tank is situated on this erf, the owner shall without compensation, be obliged to remove it after three months' written notice served upon his by Local Authority.*

G. *SUBJECT FURTHER to the following conditions contained in Deed of Transfer No. T20119/1953 imposed by Hangklip Beach Estates Limited in favour of the registered owner of any erven in the said Rooi Els Township, which conditions read as follows:*

(b) *No wood and iron buildings of any description shall be erected on this erf, nor shall corrugated iron be used for roofing purposes.*

(g) *The Transferee shall not camp overnight or light fires on the erf, save with the written consent of the Company."*

- ❖ Consent Use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to enable the owner to utilize the existing dwelling house on the property as a guesthouse (5 rooms).

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the proposed Site Development Plan is attached as Annexure C. Title Deed T11086/2017 is attached as Annexure D.

## 2. DECISION AUTHORITY

Municipal Planning Tribunal

## 3. BACKGROUND / SITE HISTORY

Erf 340 is located in Rooiels seaward of Perspicua Road. The property is zoned Residential Zone 1. The existing dwelling has an approved building plan.

## 4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation is as follows:

The owners of Erf 340 have moved recently to Rooiels and have observed a lack of high-grade guesthouse accommodation in the Rooiels, Pringle Bay and Betty's Bay areas. They propose to upgrade the existing dwelling to accommodate a five (5) bedroom guest house where the rooms are adequately sized, all en-suite and the privacy from each other whilst enjoying the unique and significant connections to the surrounding views, vegetation and landscape.

The guesthouse will consist of five (5) bedrooms, a swimming pool, a braai and a pool lounge area, entrance foyer, home theatre, sunroom, three (3) garages, laundry room, wine store, new kitchen, pantry and staff accommodation. The aforementioned will be located on ground floor level. On the first-floor level will be one (1) room, kitchenette, an enclosed balcony and study. All the rooms are

interleading and can therefore easily be converted back into a single dwelling house in future. The guesthouse will provide meals prepared on-site. The proposed guesthouse will serve breakfast as well as lunch and dinner, on request.

The owners will offer multi day photography and botany tours to the local area as well as day tours to local sights and restaurants. The owners will train and employ two (2) members of the local community to provide guided tours in the surrounding areas. Two (2) permanent members of the staff will be accommodated on the erf and the other off-site employment opportunities include a permanent driver, walking guides (when needed) and a specialist tour guide (as required).

The extension of the existing dwelling will inevitably have an impact on the landscape and vegetation. The position of the new structures has been located where the visual impact is reduced and the structures themselves become wind and weather breaks and creates quiet zones. The additional guest rooms are integrated into and hidden by the surrounding rocky landscape and have no additional visual impact.

The proposed second dwelling is to be constructed and will become the residence of the owners. The second dwelling is a primary right in terms of the Zoning Scheme. The proposed dwelling will consist of two (2) en-suite bedrooms and open plan kitchen, dining and lounge area. The architectural style will be the same as the main dwelling. The building is to be located in a natural hollow on the property and single storey. In this position, placed to the side, it will not visually impact on the sea views or experience of the neighbour (Erf 257).

The guest house is for accommodation only and will not provide conference facility or place of entertainment. The proposed land use will therefore not result in any noise pollution to the adjacent residential area.

The diversification of the land uses on the subject property within the existing extended structure and the proposed second dwelling will blend in well with the existing built and natural environment. The proposed guest house and second dwelling are considered a low impact development and consequently the proposed land use will not adversely affect the traffic flow, the street scape or the general character of the area.

The subject property's zoning will remain unchanged. The impact of the engineering services will be restricted to the available sewage system. Preliminary discussions with the Municipality indicated there may be a capacity problem to empty conservancy tanks in the area. The applicant proposes an approved sewage system, Lilliput system, which has the approval of the Department: Agriculture, Forestry and Fisheries (Republic of South Africa). The system will be put in place should the Municipality not be able to service the conservancy tank. The applicant's intention is to create a green footprint with the installation of solar heating, water recycling and some solar energy. It will also install double glazing, effective insulation and shading over windows to ensure minimal heating and cooling as required.

The existing access point in Perspicua Road will remain. The parking requirements are complied with as per Scheme Regulations, and three (3) garages and five (5) parking bays will be provided. It is anticipated that that the proposed guest house will have a low impact on the traffic flow in the area.

The Conveyancer's Certificate indicates that there are restrictive conditions in the Title Deed that needs to be removed in order to establish a guest house and a second dwelling, since Condition F.4.(b) only allows one (1) dwelling and associated outbuildings for residential purposes and therefore must be removed to accommodate the proposed development.

Condition F.4.(d) has reference to the building lines. The Title Deed's building lines with regard to the street and lateral are more restrictive than the Zoning Scheme, whilst the lateral building line is less restrictive than the Zoning Scheme. The applicant proposes to remove the restriction to develop the property as per the Zoning Scheme being a 4m street building line and 2m rear and lateral building lines.

Condition F.4.(e) stipulates that a septic tank be provided however, this is out-dated and the Municipality does not allow this type of system anymore, and prefers a conservancy tank.

Conditions G.(b) and G.(g) were imposed by the Hangklip Beach Estates Limited, as a third party of which the only living relative, Mrs. EPE Wallers, has consented to with regard to the wood and iron and no open fire clauses.

The proposed development does not interfere with the heritage value of Rooiels and does not trigger any listed activities in terms of Section 38 of the National Heritage Resources Act, 1999 (Act No.25 of 1999).

In terms of the Spatial Development Framework, 2006 (SDF), the area is earmarked as a holiday and retirement village. The guest house promotes tourism to the area, whilst simultaneously promotes the town of Rooiels as a holiday village. The application is in line with the goals as stipulated in the SDF.

In terms of the Overstrand Municipal Growth Management Strategy, 2010 (GMS) the Rooiels area is not subject to a density increase. The application proposes the construction of a second dwelling in which the owners will reside and consequently the *status quo* of the area will remain unchanged. The document also encourages a greater range, choice and diversity of holiday accommodation in the village.

The planning principles are dealt with as follows:

#### Spatial sustainability

The existing large structure can with minimal alterations be done in such a manner to limit visual impact and merge with the existing dwelling on the property. The anticipated impact of the guest house is considered low. Neighbours are, for an urban context, distant and placed where an increased activity on Erf 340, Rooiels is unlikely to have a significant impact, apart from Erf 335, which is occupied on a transient basis and is also built on a ridge which allows visual access over Erf 340. The impact on the biophysical environment will be kept to a minimum.

#### Efficiency

The subject property is easily and conveniently located in a stunning setting close to the sea with a large surrounding area of uninhabited seafront and almost uninterrupted views in all directions. The consent use and removal of restrictions application proves to be efficient since this allows the optimal utilization of the subject property without compromising the biophysical environment. It is motivated that the guest house and second dwelling will be efficient since it discourages urban sprawl

and optimises existing resources and continues the existing suburban development typology.

#### Good administration

The firm is committed to the principle of good administration and will co-operate with the Municipality to ensure a time-efficient and uncomplicated land use planning process.

### 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Press	<b>Yes</b>	22 February 2018	29 March 2018
Gazette	<b>Yes</b>	23 February 2018	29 March 2018
Notices	<b>Yes</b>	22 February 2018	29 March 2018
Ward councillor	<b>Yes</b>	22 February 2018	29 March 2018
Total comments	<b>FORTY ONE (41)</b>		
Total letters of support	<b>ONE (1)</b>		
Was public participation undertaken in accordance with Section 47 - 50 of the By-Law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly (if no, elaborate below):			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			<b>Yes</b>

### 6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments	Recommendation
Engineering Services	4/04/2018	See Annexure G.	Supported
Fire	29/03/2018	See Annexure H.	Supported
District Health	22/03/2018	<ul style="list-style-type: none"> <li>•The alternative sewage effluent treatment system is not allowed. This can be reconsidered when information regarding this system is supplied.</li> <li>•Before the guesthouse commence with business – need to apply for a Health Certificate for Accommodation Establishment and Certificate of Acceptability for food premises for the kitchen</li> </ul>	

		where food will be prepared for the guests.	
Operational	23/03/2018	Would suggest that they look at a system treating and re-using only grey water, rather than a package sewer treatment option.	
Building Control	2/03/2018	Supported subject to the submission of building plans in compliance with SANS 10400 if any alterations and additions are required.	Supported
Traffic	23/02/2018	No parking, obstructions – free flow of traffic.	Supported

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

A total of forty one (41) objections have been received. The objections are summarised as follows:

### ➤ **Objection : Traffic and noise impact**

*The traffic and noise levels will increase substantially, in terms of vehicle movement and delivery trucks on a narrow gravel road. It is mentioned that visitors do not always adhere to traffic rules, which may pose a risk to members of the community. The approval of the guest house will lead to elevated noise levels as well as the honeysuckers (sewage tankers) of the Municipality and is not conducive to the present quiet environment.*

### **Reply from the applicant**

The conditions of approval will restrict the number of guest rooms and thus in return will restrict the volume of traffic that will be generated by the guest house. No evidence was submitted by the objectors that the guest house will have a negative impact on the road or traffic safety in the area.

Guest houses (especially on this scale) generate low traffic and noise pollution in residential area. In most instances guests do not arrive and or depart at the same time. The staggered nature of the arrivals and departures from the guest house with the maximum number of guests allows further mitigating measures to ensure that the present road network is not overwhelmed with vehicular traffic. The Municipality's internal departments did not express any concerns with regards to the width of the road, state of the road or additional traffic to the area.

The proposed development will provide sufficient parking on-site. The objections with regard to traffic increase are overstated. The proposed development will not jeopardize the safety of road-users (vehicular and pedestrian).

Numerous people have complained about the noise from other properties that are short term let to holidaymakers. The owners residing on the premises are a requirement for this consent use and is in place to ensure that the guests do not cause a disturbance (unlike unsupervised guests may be more likely to).

### Town Planner's response

The traffic and noise impact will be less if the application is approved as a legal entity, since there is more control over the visitor numbers, which are restricted to only five (5) rooms with a maximum of ten (10) people (two (2) persons/room). The traffic or supposed noise impact has not been proven with any study of what impact a guest house of five (5) rooms are in a residential area. The traffic generated will be seasonal and by nature orientated visitors, since that is the only amenity available in Rooiels.

#### ➤ **Objection : Environment**

*Rooiels is situated in a conservation area. The proposed development will increase pollution in the area as visitors are not familiar with the recycle procedures of the local area. Visitors will distribute litter in the area and cause damage to the area and its biodiversity. The proposed development will change the feeling of Rooiels to an urban setting and not the village feel. The proposed conservancy tank will cause ground disturbance and the area will be polluted with sewage and toxic gasses and pollution to the sea life. The rocky environment also caters for many natural habitats for wildlife and the proposed application will destroy the natural habitat in the developing process.*

#### **Reply from the applicant**

The owners of Erf 340, Rooiels want to keep the character on the natural environment, unlike many other properties in Rooiels which have huge buildings, no natural vegetation and taking up to 50% allowable coverage. The development will increase by 400m<sup>2</sup>, but one must keep in mind that the property is 4069m<sup>2</sup> in extent. The owner will be able to develop 50% of the property without any notification to any person in Rooiels.

The objections about animals have reference, it is that the architect will finalize the buildings design as environmentally friendly as possible and include the natural rock areas. It is unclear how the development will negatively impact the baboons and seals.

The Environmental Department of the Overstrand did not object to the application, but indicated that no development will be allowed in the coastal zone, outside the property boundary. However, to ensure that the proposed development minimises the impact on the environment, the site development plan was slightly adjusted and includes an Existing Vegetation Plan and Impact Plan.

#### The following adjustments were made:

- The new building and decking that are situated over currently undisturbed land will be suspended in order to reduce the impact on the environment.
- The layout of the parking bays were repositioned in order not having to cut into large areas of vegetation.
- The main extensions to the existing dwelling have been reduced in size and have been relocated to ensure the extensions are entirely over existing paved, concrete / degraded vegetation.
- The owners are aware of the set of guidelines published for home owners with regard to light pollution and will abide by it.

- The parking garage extent was reduced to lessen the impact on the vegetation. Thus, the owner has opted for a tandem garage.
- The five (5) parking bays for use of the guests were placed next to the existing gravel driveway.

Messrs Lorney Environmental Consultants were appointed to determine if any listed activities were triggered in terms of NEMA. The Department of Environmental Affairs and Development Planning in their comments dated 26 July 2018 indicated that no listed activity is triggered and a Basic Environmental Assessment is not necessary.

None of the decks are higher than 1 meter and no other structures transgress the building lines, except the pool, which will be built according to standard. The two (2) small pools will therefore use backwash-free treatment equipment, namely cartridge filters, which are eco-friendly. By cutting back on chlorine and not needing to do backwashes, cartridge pool filters are the best way to ensure a greener lifestyle.

### **Town Planner's response**

The applicant has a right to develop his property within the development parameters of the Zoning Scheme. It is unclear why an EIA would be applicable to the applicant, since no such requirement is made applicable when an owner intends to develop their erf. The character and the feel of Rooiels will not be compromised by the proposed development taking into consideration the present accommodation activities in the town.

#### ➤ **Objection : Infrastructure**

*The objectors made reference of the fact that the current infrastructure will not be able to cope with more strain. The road will not cope with more traffic and big trucks such as the sewage tankers. The treatment of sewage, the capacity of the existing tank, electricity and water supply all came under scrutiny.*

### **Reply from the applicant**

- The applicant already uses phosphate free cleaning materials.
- Use of low Macerating toilets is planned.
- Re-use of cleaned / treated water on-site is anticipated.
- Bulk laundry will be done at a commercial laundry.
- Guests will be requested to respect water usage in the Western Cape.
- Water supply is shared with Pringle Bay, a water user in Rooiels has the same effect on water consumptions as a water user in Pringle Bay.

The Municipal Engineering Services Department indicated that should additional sewer tanker services be required that the applicant considers an alternative treatment system. Messrs Deca Consulting Engineers were appointed to investigate the best option for sewage treatment on the subject property and still meet the requirements of the Overstrand Municipality's Engineering Services Department. In investigating, the Engineering Services Department confirms that the existing septic tank has sufficient capacity for the proposed development and thus the erf will not require a conservancy tank that needs servicing by the sewage tankers.

### Town Planner's response

The Engineering Services Department did not object to the application from a technical point of view. It is also unclear why a septic tank with a french drain can be more environmentally friendly in a natural setting versus a conservancy tank where no sewerage enters the groundwater system. The present situation is that where possible, erven in Rooi Els are required to install conservancy tanks.

➤ **Objection : Title Deed restrictions and the impact on the surrounding properties and character of the area:**

*Objectors feel that the restrictions were imposed on most properties in the area and the owners bought their property with full knowledge of these restrictions. These restrictions were imposed in order to enhance the open space areas in Rooiels. The restrictions with regard to building lines and second dwellings are to ensure a low-density character of the area. If the restrictions are removed it will allow for other owners to do the same applications and creates a precedent. The insertion of the restrictive conditions could be for no other reason than to preserve the amenities of the other erven as low-density, single residential properties with sea views and to maintain the character of the town. The interest with the removal of the conditions will not serve the broader public and will create an imbalance and spatial injustice. This will increase the density in the area dramatically.*

*The proposed development will have a negative impact on the value of the properties. The proposed development is contradictory with the character of the area and will degrade the residential character of the area.*

### Reply from the applicant

The conditions were imposed in 1953 when the General Plan of Rooiels was approved. In the past no Land Use Management Schemes or Zoning Schemes existed and thus Title Deeds determined and governed how an area should be developed. If only title deed conditions were to govern development of towns in the country at present, the development of a town, area and or province will be detrimentally restricted. It is the opinion that the conditions are outdated and not applicable and thus have no benefit for the erf or the character of the area. The restrictive conditions are also not aligned with the present-day planning principles and polices in terms of sustainability and resilience.

The erf is zoned Residential Zone 1 and a second dwelling is a primary right and does not need a separate connection to the municipal services network and thus allowed. The opinion is that the removal will not be to the detriment of the community since the zoning and primary land use will remain residential. A guest house is not deemed a commercial activity and thus the reference of rezoning and commercial activities are irrelevant.

The conditions related to wood and iron buildings and open fires on the property were imposed by a private company. These conditions were not imposed by a public authority in order to protect the general public interest. The private company's consent for the removal of these specific conditions was submitted with the application.

The value of the current restrictions on land use and the benefits flowing there from, relate mostly to maintain the character of the area. Rooiels is residential and

conservation in nature, comprising erven that are extensively for residential purposes. It is common place in the Overstrand to place guest houses on single residential erven. Furthermore, given the proposed extent of the development (the owner is allowed 50% development rights of the property), the proposed development coverage is only 14%.

The proposed guesthouse will be interleading and will meet the requirements of a dwelling house. There are no limitations on the amount of bedrooms when developing a standard house and the guest house can be easily reverted back to a dwelling house.

Removing the Title Deed conditions will allow the owners of the subject property to produce an income producing asset. The social benefit of maintaining the restrictive conditions are minimal, given the low impact the development will have on the residential amenity and conservation status of Rooiels. In comparison, there will be a social benefit flowing from the removal including increasing employment opportunities in the area, making the area more attractive to visitors and optimizing the use of land.

There is no indication that the proposed development will lead to a reduction in the value of the surrounding properties.

An investigation undertaken by the owner on accommodation booking sites, found that more than thirty (30) properties in Rooiels are listed for travel or holiday letting. Only two (2) properties were within the two (2) room limit as allowed by the Zoning Scheme. It is evident that a large number of properties in town are already used unlawfully for holiday accommodation and the character of the area has therefore already been compromised and the application on the erf will not be the first to suggest guest accommodation in the area.

### **Town Planner's response**

The applicant's development is only 27% coverage, with the remainder of the property in a natural state. Erven in Rooiels have been developed with more coverage and rolling lawns, which do not contribute to the natural environment, but is accepted, since every individual has a right to develop his or her property how it may seem fit, providing it remains within the development parameters.

The guest house policy restricts guest houses to five (5) bedrooms, which must all be interleading, thus the character of a dwelling remains intact. Therefore the feel and character will not be harmed in any way.

### **➤ Objection: Specialist Reports**

*The objectors indicate that environmental and water specialist reports, etc. needs to be compiled.*

### **Reply from the applicant**

No specialists' reports were requested by the Overstrand Municipality. The applicant did an Environmental Checklist and a Services Report. The development does not trigger any listed activity in terms of NEMA. The erf is not located within the Heritage Overlay Zone and determined by the Overstrand Municipal Growth Management Strategy, 2010. The structures on the property are not older than sixty (60) years

and do not trigger any of the activities mentioned in terms of Section 38 of the National Heritage Resources Act, 1999.

#### **Town Planner's response**

The Engineering Services and Operational Departments had no objections from a technical point of view. The Western Cape Government: Environmental Affairs and Development Planning did not require a Basic Assessment Study.

#### **➤ Objection : Non-compliance with Overlay Zones and Spatial Planning Policies**

*The Overlay Zones for the Overstrand Zoning Scheme Regulations (2013) have not been approved and as such has no legal status. The erf falls within the urban edge of Rooiels. The Draft Environmental Overlay Zones do not demarcate Erf 340 within an urban conservation zone, protected area buffer zone, mountain catchment zone or riverine management zone. The Draft Heritage Overlay Zone does include Erf 340 in the coastal strip protection overlay zone, however the document has not yet been approved by Council.*

#### **Reply from the applicant**

The Overstrand Spatial Development Framework earmarks the area for residential purposes and identifies the town as a retirement and holiday village. The amendment of the SDP was done in such a way to minimise the impact on the natural environment. The guesthouse promotes tourism to the area and the town as a holiday destination. The character and the zoning will remain intact and therefore the subject property will remain unchanged.

The Overstrand Municipal Growth Management Strategy, 2010 (OMGMS) specifies that Erf 340 falls within Planning Unit 1. No density increase is proposed for Rooiels. Although no densification proposals are made for Rooiels, it is stipulated that any growth in the number of residential units must simultaneously be accompanied by the provision of the necessary infrastructural services and community facilities. A second dwelling is not regarded as an additional load on the available bulk services in the area. The Engineering Services Department did indicate that the existing services on the subject property can accommodate the proposed guest house and second dwelling.

The OMGMS also encourages a greater range, choice and diversity of holiday accommodation in the village and the guest house and second dwelling are therefore in line with the aforementioned densification strategy for the area.

#### **Town Planner's response**

The application is in line with the policy documents of the Overstrand and the Provincial Spatial Development Framework (PSDF). The Western Cape and especially the Overstrand relies greatly on tourism as an income-generating source. Rooiels has limited attributes in terms of activities, but has plenty to offer for the nature lover. Thus, the type of visitor to the area is a nature lover, which in general will not destroy the natural environment.

The second dwelling will have no more impact than a habitable outbuilding. The fact that the owner resides on the property ensures vigilance and management of the property and its visitors.

➤ **Objection : Crime**

*The objectors indicated that the guest house facilities will attract crime to the area.*

**Reply from the applicant**

An occupied and actively observant property is likely to be more a security asset amongst properties that are to a significant degree vacant for most part of the year. With regard to poaching – a large part of Rooiels coastline in front of the houses are invisible to most of the residents and will now be under almost constant observation due to our client's occupation, activity and security of the subject property.

The objectors do not provide factual evidence that supports their claims that the proposed guesthouse will adversely impact on the safety, health and well-being of the surrounding community or the existing rights of other land owners.

**Town Planner's response**

No proof of any crime statistics relating to visitors to the area. Poaching and household crime is on the rise everywhere in the Western Cape.

➤ **Objection : The application will set a precedent for similar applications**

*Objections are related to possible similar applications in future and feel that there are sufficient guest houses in the area and that one in Rooiels is not necessary.*

**Reply from the applicant**

Approving the application will not set a precedent since each application is evaluated on merit. There are already guest houses and second dwellings in Rooiels.

**Tow Planner's response**

The precedent has been set by the owners of Rooiels itself, with the more than thirty (30) illegal guesthouses on various web platforms.

➤ **Objection : Incorrect locality map**

One (1) objector indicated that the locality map was wrong and not enough research was done by the applicant.

**Reply from the applicant**

The correct locality map was submitted.

**Town Planner's response**

Noted.

➤ **Objection : Impact on views**

*The objections relate directly to Erf 259, situated north-east of Erf 340. Perspicua Road is located between the two erven. It is indicated that the proposed development will impact on the view towards the sea i.e. Erf 257 will be affected.*

**Reply from the applicant**

Due to the possible impact on Erf 257, a sight line was determined and the sighting of the buildings was considered. The impact on Erf 259 will be minimal since Erf 259 is substantially higher than Erf 260. The lower floors of the building are not habitable spaces and thereby raising the property and reducing the impact of the proposed development.

**Town Planner's response**

Erf 257: The applicant did take the view corridor of the adjacent neighbours into consideration when he designed the structures. A corner of the proposed second dwelling will be partially blocking the view of Erf 257. However, one should take into consideration that the proposed second dwelling is situated in a depression, thus mitigating the view corridor substantially. It should be noted that the actual views from Erf 257 is towards the south and is one of the sea front erven.

Erf 259 is located on the northern side on Perspicua Road and is situated towards the road side of the erf, obviously to have better sea views. There are in fact two (2) erven e.g. Erven 340 and 257 that are to the sea view side of Erf 259. It is evident that the sea view of the particular erf will always be impeded on, since the owners of the two (2) sea front erven can built anywhere on their own two (2) erven, adhering to building lines. The sea view of Erf 259 was never guaranteed. No mention is made to the fact that the building on Erf 257 is already impeding on the sea view of Erf 259.

➤ **Objection : Need and Desirability**

*The need of a guest house is not justified. In the surrounding area there are already existing guest house facilities. The objectors indicate that there is no need for more guest house facilities in the area and will completely destroy the vision for the Rooiels area. The application is misleading as it is more of a boutique hotel and not a guest house.*

**Reply from the applicant**

The applicant is aware of the development pressures of Rooiels, however the proposed development does not constitute compromising development due to its minimal impact and compatibility with the surrounding area.

The subject property will be developed within the Zoning Scheme parameters and will remain Residential Zone 1. The proposed development meets the principle of efficiency since it promotes the optimization of land use, appropriate land development in a residential area and mild diversification. The proposed development is consistent with the criteria for the consideration of the application in terms of the By-Law and well as the spatial planning guidelines for the area.

### **Town Planner's response**

The need for accommodation has been established by the residents of Rooiels itself. There is only one (1) legally approved tourist accommodation in Rooiels and according to responses on another application "birders" come in their hundreds to see the Cape Rock Jumper, especially during breeding season. Thus the need for legal establishments for nature loving visitors is evident.

The erf's desirability has been proven in as far as design and locality is concerned. It is also in line with the policy documents that indicate the town as a holiday destination.

### **Internal Departments**

No objection was raised by the Internal Departments with regard to technical input.

## **8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS**

The Applicant's response to the objections received was discussed under Paragraph 7.

## **9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner's comment on objections/and response thereon)**

The Town Planner's response to the objections received was discussed under Paragraph 7.

## **10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)**

### **10.1 Background**

N/A

### **10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)**

The application is in line with the planning objectives applicable to this application.

#### **Spatial Justice**

Not applicable.

#### **Spatial sustainability**

Sustainability is to enhance the quality of life and reduce the environmental impact. The application will ensure that the applicant can ensure the maintenance of the property and due to the fact that the second dwelling is located in the existing building, the environmental impact is minimal.

The additional structures requested will be discussed under desirability of the application.

**Efficiency**

The existing infrastructure is being used and no additional capacity is required and the optimal uses of services are therefore ensured.

**Spatial Resilience**

Resilience is how prepared the area and/or erf is to whether shocks and disasters. The proposed use of a second dwelling in an existing approved building and compliance with the National Building Regulations is to ensure resilience in terms of built structures.

**Good administration**

The application went through the process as prescribed.

**10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)**

Same as Point 10.2 above.

**10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies**

Same as Point 10.2 above.

**10.5 (In)consistency with guidelines prepared by the Provincial Minister**

Not applicable.

**10.6 Impact on Municipal engineering services**

None.

**10.7 Outcomes of investigations/applications i.t.o other legislation**

An application for the removal of restrictive conditions was applied for.

**10.8 Existing and proposed zoning comparisons and considerations**

The existing zoning remains in place.

**11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS****The financial or other value of the rights**

The applicant may have the benefit of adding value in terms of primary rights acquired. The property value loss for the neighbour should the restrictions be removed is speculative with no evidence provided.

**The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal**

The application for the removal is a personal benefit.

**The social benefit of the restrictive condition remaining in place, and/or being removed / amended**

The social benefit is that the owner will have the option to accommodate a carer should it be required and or generate income to maintain the erf which is to the benefit of the wider community.

**Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights**

The application for the removal will remove some the rights enjoyed by the owners who have similar conditions.

**12. THE DESIRABILITY OF THE PROPOSAL:**

The application for a guest house and second dwelling is in line with the forward town planning policies of the Overstrand Municipality and the Kogelberg Biosphere Framework. The town is earmarked as a retirement village and holiday accommodation. Rooiels has very few permanent residents, while most of the homes are second homes of owners who use it as holiday accommodation.

In terms of the objections a few aspects need to be clarified. It was not necessary to distribute the application to all owners in Rooiels. The restrictive conditions applied for, are conditions of the Administrator, which do not refer to the benefit of all owners or erven in the Title Deed. Therefore, it is the prerogative of the Municipality to determine who the correspondence should be addressed to. The two (2) conditions of wood and iron and open fires are third party conditions relating to all erven and owners in the Rooi Els township, imposed by the Hangklip Beach Estate Limited, of which the last remaining member, Mrs. Wallers, gave her consent for the removal of the two (2) latter conditions.

The aspect of densification with regard to second dwellings - in terms of the Title Deeds of Rooiels, the erven are allowed one (1) dwelling and the normally associated outbuildings. In terms of Section 8 Regulations applicable before 2013, outbuildings consisted of store rooms, garages and servants' quarters. The latter a habitable building, the extent of which were not restricted, no kitchen, but could be accommodated on the rear and lateral building lines. With the amalgamation of the various Scheme Regulations, it became evident that should a second dwelling be allowed, a property would be able to have three (3) habitable units on the property. To eliminate that possibility, the Overstrand Zoning Scheme clearly stipulates that should a servant's quarters have been built, it will be deemed a second dwelling. Thus, in terms of the Zoning Scheme all properties in Rooiels which have built servant's quarters, in fact have a second dwelling. In many cases these servants' quarters have been converted into full functional units with a kitchen and are thus second dwellings.

The other reason for second dwellings and two (2) rooms to be let in a dwelling house is to cater for people, especially the elderly that require an extra income and or carer facilities. Literature has shown that the shock to an elderly person to have to move out of their area is more severe than losing a spouse.

The coverage of the proposed development of the erf is only 27%, which is about half of its developable area. It is located within the urban edge and thus does not need any NEMA application as an approved township erf. The applicant did

however go through an assessment with the Western Cape Government: Environmental Affairs and Development Planning (EADP), which indicated that no listed activities are triggered.

The comments of possible sewage tankers to service the conservancy tank as an objection does not make sense. A septic tank french drain system is much more of a pollutant than a conservancy tank. It is thus not clear how the preservation of the environment comes into play. In a similar fashion it must be mentioned that the Overstrand Municipality is moving away from septic tanks and french drains and request conservancy tanks.

Some of the objectors who have submitted in recent times building plans was requested to put in conservancy tanks. None of them came back to indicate that conservancy tanks pollute the environment.

The most important aspect with regard to the guest house objections is that there are more than thirty (30) tourism accommodations established in Rooiels operating as per the booking web sites. The Municipality has informed the transgressors that applications have to be lodged as they are illegal. This has sparked immense reaction and now there are forty one (41) objections to an application that is actually going through a legal process. One (1) of the neighbouring objectors, is advertising a three (3) bedroom tourism accommodation unit on the website Airbnb (According to proof submitted by the owner).

Presently there are one (1) legal guest house in Rooiels and two (2) who submitted applications. The number of illegal tourism accommodation in Rooiels is a clear indication of the need for actual legal facilities in the town.

The area is also renowned for bird watching, especially the Cape Rock Jumper along the coast. Thus there is a constant stream of tourists in need of a place to stay in order to enjoy the bird watching.

The Rooiels area as per the planning policies and documents is a dormant town, which is predominantly a retirement and holiday area. This is due to its location within the Kogelberg Biosphere, its bird watching possibilities and its natural setting. In order to cater for the needs of people visiting the area, accommodation is required. The low-key accommodation of a five (5) bedroom guest house will serve this purpose. To allege that this specific application will lead to crime, traffic activity, etc. is not correct if one takes into consideration that more than thirty (30) tourism accommodation operators exist and no complaint has yet been received from any resident in Rooiels.

To deal with the SDP as submitted with the application, the following needs to be addressed:

- The two (2) rooms and kitchenette of the employees are not interleading with the main dwelling and form thus a unit on its own.
- The number of units on the property is three (3), which is not permitted in terms of the Zoning Scheme.
- The main dwelling has two (2) kitchens and the second dwelling has one (1) plus the kitchenette in the employee's unit, which totals four (4) kitchens, also not permitted in terms of the Zoning Scheme.

- The employee unit must be interleading with the main dwelling with no kitchenette or kitchen facilities in order to comply with the Overstrand Zoning Scheme.
- Please note that interleading is not through a bedroom, bathroom or garage and this should be reflected in an amended SDP for approval.

In conclusion the application is deemed desirable in terms of its location and design. The precedent for tourism accommodation has been set by the owners themselves, taking into account that more than thirty (30) illegal tourism accommodation establishments may be found on the various booking web sites. No proof was submitted from the objectors that the guest house and or second dwelling is out of sync pertaining to what is already happening naturally in the town.

The guest house as per the application motivation will provide employment opportunities for permanent residents per se, which is always a plus especially the expertise available in the community with regard to the natural environment.

### 13. RECOMMENDATION

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the removal of restrictive title conditions Clauses F.4.(b), F.4.(d) & F.4.(e) and Clause G.(b) & G.(g) of Title Deed T11086/2017 applicable to Erf 340, Rooiels, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 340, Rooiels for a consent use in order to enable the owner to utilize the existing dwelling house on the property as a guesthouse (5 rooms), **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the approvals in 1. and 2. above be subject to the following conditions:
  - (a) that the approval be limited to only the five (5) guestrooms;
  - (b) that the second dwelling is for the owner/manager's use only;
  - (c) that no self-catering is allowed;
  - (d) that a site development plan be provided indicating the five (5) guest rooms to be utilized for guests, and also clearly showing the seven (7) required parking bays (including garages) as found on-site;
  - (e) that the owner/manager resides on the premises, and that the owner be responsible for the proper management of the guest house;

- (f) that commercial rates and service tariffs, as determined by the annual budget be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
  - (g) that the accommodation facility complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;
  - (h) that meals may only be provided for guests;
  - (i) that a single non-illuminated sign that complies with the Municipal By-Law on Signage may be displayed on the premises;
  - (j) that the accommodation facility be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area;
  - (k) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
  - (l) that building plans be submitted to the Building Department for approval for any proposed amendments;
  - (m) that all the conditions in the Services Report (attached as Annexure G), be complied with, and
  - (n) that all conditions imposed by the Fire Department (attached as Annexure H), be complied with.
4. that an amended Site Development Plan (dated 12 June 2018, Version 2.2) be submitted indicating the two (2) rooms to be interleading. The latter may not be through a garage, bathroom and or bedroom;
  5. that the kitchenette be removed in the employee's quarters;
  6. that the sewerage system be investigated by the Municipal Engineering Services Department to convert the existing septic tank to a conservancy tank;
  7. that the backwash of the pools be dealt with by the filter system as proposed by the applicant, and
  8. that the applicant and objectors be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

#### **14. REASONS FOR RECOMMENDATION**

##### **REASONS FOR APPROVAL**

- ❖ The proposed application is in line with the policy documents as a holiday village.
- ❖ The second dwelling is a primary right in terms of the Zoning Scheme and is viewed similarly to a habitable outbuilding for employees.

- ❖ The need has been proved by the residents itself taking into account the illegal accommodation activities already present.
- ❖ The area is renowned for the birding and nature opportunities and thus the type of visitor will be similarly inclined.
- ❖ The proposed development will have a green footprint.
- ❖ The design of the guest house is of such a nature that it can be used as a dwelling should the need arise.

**Points 4. and 5.**

- ❖ The employment rooms are not interleading and constitute a third unit.

**15. ANNEXURES**

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Title Deed T11086/2017
Annexure E:	Objections received
Annexure F:	Applicant's response to objections received
Annexure G:	Services Report
Annexure H:	Comment: Fire Department

**SIGNATURES**

**REGISTERED PLANNER**

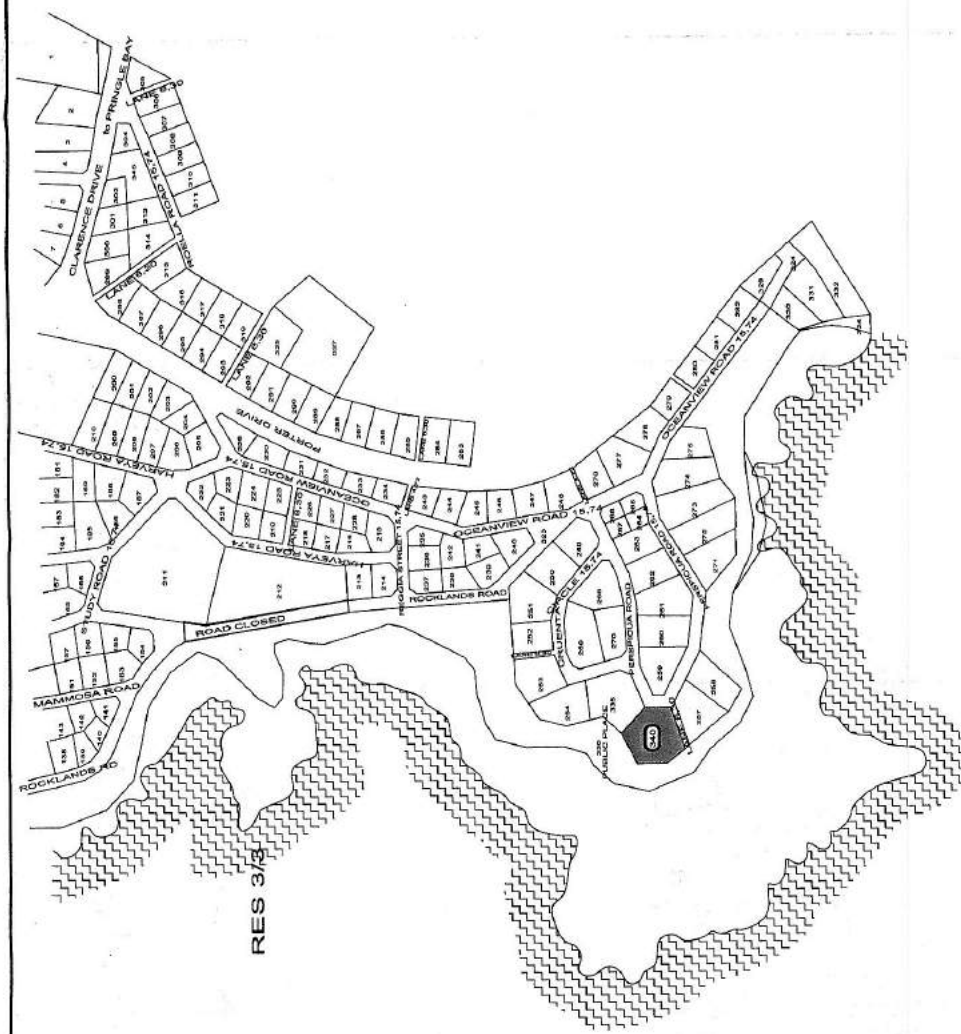
Name : **H VAN DER STOEP**

SACPLAN Reg No: **A/1708/2013**

Signature : \_\_\_\_\_

Date: \_\_\_\_\_

ANNEXURE A



Scale: NTS  
 Drawing No: 000033401.dwg  
 Date: 15 SEPTEMBER 2017

Plan Description:  
**LOCALITY MAP**

Property Description:  
**ERF 340  
 ROOI ELS**

All distances approximate  
 and subject to survey.  
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**Pi'n Active**  
 Stads- en Streeksplanners  
 Town & Regional Planners

**PROPOSED CONSENT USE & REMOVAL OF  
RESTRICTIVE TITLE DEED CONDITIONS**

**ERF 340 ROOI ELS**

**DIVISION: CALEDON**

**OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT**

**1. BACKGROUND**

C.P. Howard and R.J.C. Terlien, the owners of erf 340 Rooi Els, have instructed the company Plan Active to apply for the consent use and removal of restrictive title deed conditions to allow them to operate a five bedroom guest house from the subject property as well as to construct a second dwelling (owners' residence) on the subject property.

Erf 340 Rooi Els is 4069m<sup>2</sup> in extent and is held by title deed number T11086/2017. It is proposed to renovate and add to the existing dwelling to change the land use from single residential only to guest house purposes. It is also proposed to construct a new second dwelling on the subject property to serve as residence for the owners.

**2. APPLICATION DETAILS**

Application is made in terms of:

- Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the consent use of erf 340 Rooi Els;

## Motivation report

- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the removal of the restrictive title deed conditions of erf 340 Rooi Els.

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

#### **3.1 PROPERTY DESCRIPTION**

Erf 340 Rooi Els is situated at 340 Perspicua Road, Rooi Els. Refer to the locality plan attached. Erf 340 Rooi Els is 4069m<sup>2</sup> in extent and is situated in a mainly residential environment.

Erf 340 Rooi Els is ideally positioned to operate a guest house from the subject property since it is one of the largest erven in Rooi Els and contains a large existing structure that with minimal alterations can become an exceptional Guesthouse. The subject property has a rocky landscape with natural vegetation and a driveway / werf area. The property is situated in close proximity to the sea with a large surrounding area of uninhabited seafront and almost uninterrupted views in all directions.

#### **3.2 ZONING**

Erf 340 Rooi Els is zoned Residential Zone 1: Single Residential.

Surrounding properties are zoned for Residential Zone 1: Single Residential purposes.

### 3.3 LAND USE

There is a double storey dwelling with a double garage situated on erf 340 Rooi Els.

Land uses that surround erf 340 Rooi Els are single residential dwellings, public open space and public roads.

### 3.4 PROPOSED DEVELOPMENT

- The consent use of erf 340 Rooi Els in terms of Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, to accommodate a five bedroom guest house on the subject property;
- The removal of the restrictive title deed conditions in terms of Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, to accommodate a guest house on erf 340 Rooi Els, to remove all conditions relating to the land use parameters that are more restrictive than the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, and to remove conditions that are no longer relevant to the subject property.

The owners recently moved to Rooi Els looking for a way of life that allows them to commute less while enjoying the magnificent area in which they now live. Having observed that there is a lack of high grade Sea-front Guesthouse accommodation in the Rooi Els, Pringle and Betty's Bay areas, they propose upgrading the dwelling on erf 340 Rooi Els to accommodate a five (5) bedroom guest house where rooms are adequately sized, all en-suite, have privacy from each other whilst also enjoying unique and significant connections to the surrounding views, vegetation and landscape. It is therefore the intention of the owners of erf 340 Rooi Els to establish a five bedroom guest house on the subject property.

## Motivation report

A guest house can be accommodated as a consent use under the Residential Zone 1: Single Residential zoning. Application is therefore made for a consent use to establish a five bedroom guest house on erf 340 Rooi Els.

It is proposed to renovate and add to the existing dwelling to accommodate the proposed five bedroom guest house on the subject property. The guest house will consist on the ground floor of four en-suite guest bedrooms, a swimming pool, a braai and pool lounge area, an entrance foyer, a home theatre, a sunroom, three garages, a laundry room, a wine store room, a new kitchen and party and staff accommodation. On the first floor level there will be one guest room, an open plan lounge and dining room with kitchenette, an enclosed balcony and study. Refer to the site development plan attached.

All the bedrooms in the proposed guest house will be interleading. The proposed guest house can therefore easily be converted into a single dwelling house in future.

In order to provide a more comprehensive and up market tourism experience, the guest house will provide meals prepared on site, while also providing additional employment by offering tours and walks in the surrounding area.

The guests will have access to all the communal facilities. The proposed guest house will serve breakfast as well as lunch and dinner on request. The intention is to provide Adventure Meals and Mystery Murder Feasts (cooking is a passion of the owners) to the resident guests while also offering multi day photography and botany tours to the local area (both subjects in which the current owners have a keen interest). Day tours to the local sights and restaurants will also be provided. The owners expect to train and employ two members of the local community to provide guided walks in the surrounding areas.

The new renovated main dwelling will provide for two on site rooms with facilities for two of the guest house's permanent staff members as indicated on the site development plan. Other off-site employment opportunities include a permanent driver, walking guides (occasional as required) and a specialist tour guide (as required).

## Motivation report

While the extensions to the existing dwelling will inevitably have an impact on the landscape and vegetation, the position of the new structures have been located where the visual impact is reduced as much as possible and where the addition of the structures to facilitate and support the guest house operation are being done in such a way that they become an advantage to the built environment. The structures themselves become wind and weather breaks and create quiet zones. They are positioned and sized to be a diminutive and similar looking layer in front of the existing structure while also providing a formal entrance to the building. The additional guest rooms are integrated into and hidden by the surrounding rocky landscape and have no additional visual impact. The intention is also to develop the property in such a way that it can always revert back to a residential dwelling for the living purposes of a single family.

It is also proposed to construct a new second dwelling on the subject property. The second dwelling will become the residence for the owners who will also be managing the guest house. A second dwelling is a primary right in terms of the existing land use planning bylaw and consequently no additional applications are required to accommodate the second dwelling. The land use planning bylaw's definition of a guest house does not prohibit the second dwelling to be occupied by the owners and allow them to rent out the five guest rooms in the main dwelling. The second dwelling will consist of two en-suite bedrooms and open plan kitchen, dining and lounge area. Take note that the second bedroom drops in level and the balcony is under the rest of the building's roof line (as depicted on the left of the elevation). The extent of the proposed second dwelling will be 120m<sup>2</sup> and the architectural style of the proposed second dwelling will be the same as for the main dwelling. Elevations of both the main dwelling (proposed guest house) and new second dwelling are included on the site development plan.

The new owner's residence will be built into a natural hollow on the property and is restrained to a single storey. In this position, placed to the side, it will not visually impact the neighbour's (erf 257 Rooi Els') sea views or experience. The building will also be built with suspended floors and decks in such a way that most of the natural vegetation under the building remains intact while hopefully becoming a shelter for more of the local creatures.

A light steel frame will be used for the extensions to the existing dwelling and the second dwelling, which is cold rolled steel with fibre cement cladding (with shiplap



## Motivation report

remain unchanged. An aesthetically pleasing guest house and second dwelling will contribute towards the residential and tourism character of the area. The provision of parking was done in accordance with the relevant parking policy.

The proposed consent use and removal of restrictive title deed conditions of erf 340 Rooi Els are not in contrast to the existing land uses tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

### 3.5 CHARACTER OF THE ENVIRONMENT

Currently there is a lack of high grade Sea-front Guesthouse accommodation in the Rooi Els, Pringle and Betty's Bay areas. Erf 340 Rooi Els is ideally located in an area close to the sea with a large surrounding area of uninhabited seafront and almost uninterrupted views in all directions. Neighbours are, for an urban context, distant and placed where the increased activity on erf 340 Rooi Els is unlikely to have a significant, if any, impact (apart from 335 Perspicua which is occupied on a very transient basis and is also built on a ridge which allows it to look over erf 340 Rooi Els and therefore it will also have almost no impact.)

The diversification of the land uses on the subject property within the existing extended structure and the proposed second dwelling will blend in well with the existing built and natural environment. The position of the new building has been located where the visual impact is reduced as much as possible. The proposed additions of the structures to facilitate and support the guest house operation will be done in such a way that they become an advantage to the built environment. The structures themselves become wind and weather breaks and create quiet zones. They are positioned and sized to be a diminutive and similar looking layer in front of the existing structure while also providing a formal entrance to the building. The additional guest rooms are integrated into and hidden by the surrounding rocky landscape and have no additional visual impact.

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## Motivation report

We are therefore of the opinion that the impact on the existing character of the area will be kept to a minimum. The proposal to establish upmarket, luxurious guest accommodation and a second dwelling on the subject property will add value to the area and we do not foresee a negative impact on the surrounding property values.

The proposed guest house and second dwelling are considered a low impact development and consequently the proposed land use will not adversely affect traffic flow, the streetscape or the general character of the area.

In addition the proposed guesthouse will be used for accommodation purposes only and no conference facility or place of entertainment is proposed. The proposed land use will therefore not result in any noise pollution to the adjacent residential area.

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

The subject property's zoning will remain unchanged. The location of the subject property within a single residential area allows the property to be developed (in future) for low impact land uses only. The consent use application will not hinder any future land use applications on erf 340 Rooi Els.

Since the zoning will remain unchanged and the proposed guest house will be accommodated within the existing structure, the impact on the surrounding properties will be kept to a minimum. Property values of surrounding erven will therefore not be negatively affected by the proposed application. Given the location of the house and the need for upmarket guest accommodation in the area, it lends itself to be used more appropriately as a guest house than just purely residential. The subject property is also larger than the average erf in the relevant residential block and consequently the extent of the subject property lends itself to be developed for guest house and second dwelling purposes.

### **3.7 IMPACT ON EXTERNAL ENGINEERING SERVICES**

#### **3.7.1 PROVISION OF SERVICES**

All services on the subject property already exist. The proposed extensions and new second dwelling will only impact on the usage of the existing available sewage services since additional loading of the existing civil infrastructure is anticipated.

Preliminary service availability discussions with the municipality indicated that there is a problem with capacity to empty conservancy tanks in the area. Consequently the owners provided for an alternative system to treat the sewage on the subject property should the municipality fail to provide additional tankers to service a conservancy tank on the subject property. The owners propose to install an alternative domestic sewage effluent treatment system designed by Lilliput Treatment Technologies International CC if the municipality cannot deliver services in the area. The detail of the aforementioned sewage effluent treatment system is contained in the information sheet and schematic layout of the sewage effluent treatment system attached.

In addition it is the owners' intention to create a significantly green footprint, where solar heating, water recycling and some solar energy are provided on site. Double glazing, effective insulation and shading over windows will ensure that minimal heating and cooling are required.

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

The existing access point of 4,2m wide in Perspicua Road will remain. Guests to the proposed guest house, the owners (to reside in the second dwelling) and the staff will make use of the existing access point. Consequently no new access points are proposed and the existing access point will remain unchanged.

The Overstrand Zoning Scheme Regulations (2013) determines that one parking bay per guest room has to be provided on site and an additional two parking bays for the

owner / manager. A second dwelling requires an additional one parking bay. A total of eight (8) parking bays are provided for on site in line with the parking requirements: provision is made for five parking bays for guests and three garages for the owners and staff on site. All parking bays adhere to the minimum parking requirements. Refer to the site development plan attached.

Vehicular access is proposed from Perspicua Road - refer to the site development plan attached. The proposed guest house and second dwelling are a low impact development and consequently the proposed parking bays will not adversely affect traffic flow, the streetscape or the general character of the area.

Since the proposed land use is compatible with single residential land uses and the land uses in the area it is anticipated that the proposed guest house will have a low impact on the traffic flow in the area.

### 3.8 TITLE DEED

Title deed no. T11086/2017 has restrictive title deed conditions that prohibit the proposed guest house and second dwelling on the subject property. Refer to a copy of the conveyancer's certificated compiled by SVY Attorneys dated 27 September 2017. It is therefore proposed to remove the condition in the title deed that prohibit a guest house and second dwelling on erf 340 Rooi Els as well as the conditions that relates to the land use parameters that are more restrictive than the Overstrand Zoning Scheme Regulations (2013). An alternative sewage effluent treatment system will also be implemented if the municipality cannot provide the required sewage tanker services in the area. The title deed restricts the treatment of sewage to the installation of a septic tank only – last mentioned is however not allowed in the Overstrand Municipal area anymore and the municipality favours the installation of conservancy tanks above those of septic tanks.

To accommodate the proposed guest house and second dwelling, and to remove the more restrictive land use conditions stipulated in the title deed of erf 340 Rooi Els, it is proposed to remove the following conditions in the title deed:

Title deed no. T11086/2017, pages 3-4, paragraph F.4.(b), (d) and (e):

## Motivation report

"SUBJECT FURTHER to the conditions contained in Deed of Transfer Number T20119/1953 and imposed by the Administrator of the Province of Cape of Good Hope when approving General Plan of Rooi Els in terms of Ordinance 33/1934, namely:

4. This erf shall be subject to the following further conditions, provided especially that where, in the opinion of the Administrator after consultation with the Townships Board and the local authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation subject to compliance with such conditions as he may impose.

(b) It shall be used for residential purposes only, but no building other than one dwelling together with such outbuildings as are ordinarily required to be used therewith shall be erected thereon;

(d) No building or structure except boundary walls and fences, shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf, nor within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf provided that with the consent of the Local Authority, an outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation may be erected within the above prescribed rear space and provided further that a garage may be erected up to such street line if in the opinion of the Local Authority the level of the erf is such as to make that necessary;

(e) Pending the establishment of a Local Authority for this Township the sewage of this erf shall not be disposed of otherwise than by means of a properly constructed septic tank if the nature of the soil permits, otherwise into a properly constructed vacuum tank serving one or more erven. In any such tank is situated on this erf, the owner shall without compensation, be obliged to remove it after three months written notice served upon him by such Local Authority."

The existing land use will change from single residential use only to residential and guest house use. A second dwelling, a primary right in terms of the relevant zoning scheme, is also proposed on the subject property. The allowable primary and secondary land uses and buildings described in the title deed therefore prohibit the proposed guest house and second dwelling. In addition the title deed has more restrictive conditions pertaining to the building lines applicable to the subject property

than the existing Overstrand Zoning Scheme Regulations (2013) stipulate for SR1 zoned properties. The extensions to the proposed dwelling will be done in accordance with the zoning scheme's building lines, but since the title deed's condition pertaining to building lines is more restrictive, it is proposed to remove the condition that refers to the building lines to allow the owner to develop the subject property in line with the relevant zoning scheme regulations' land use restriction requirements.

Preliminary service availability discussions with the municipality indicated that there is a problem with capacity to empty conservancy tanks in the area. Consequently the owners provided for an alternative to treat the sewage on the subject property if the municipality fails to provide additional tankers to service the area. Condition 4.(e) described above stipulate that sewage may only be disposed of by means of a septic tank. The latter condition is in contrast to the existing policy of the municipality that does not allow for the installation of septic tanks. The owners propose to install an alternative domestic sewage effluent treatment system designed by Lilliput Treatment Technologies International CC if the municipality cannot deliver services in the area. The detail of the aforementioned sewage effluent treatment system was described in Section 3.7.1 of the report and the information sheet and design attached.

It is also proposed to remove the conditions in the title deed that refers to the construction materials allowed for buildings on the subject property and the making of fires on the subject property. It is submitted that these conditions are no longer relevant and consequently it is proposed to remove the following conditions to allow the renovations proposed to the existing dwelling as well as to allow the owners to enjoy a braai on the subject property:

Title deed no. T11086/2017, page 4, paragraph G.(b) and (g):

*"SUBJECT FURTHER to the following conditions contained in Deed of Transfer No. T201119/1953 imposed by Hangklip Beach Estates Limited in favour of the registered owner of any erven in the said Rooi Els Township, which conditions read as follows:*

*(b) No wood and iron buildings of any description shall be erected on this erf, nor shall corrugated iron be used for roofing purposes.*

*(g) The transferee shall not camp overnight or light fires on the erf, save with the written consent of the Company."*

## Motivation report

A light steel frame will be used for the extensions to the existing dwelling and the second dwelling, which is cold rolled steel with fibre cement cladding (with shiplap facing) with either a light weight concrete pumped into the cavity or a high tech insulation. It allows for thinner walls and less cost and building time. The owners are also considering timber frame if the aforementioned proofs to be better in a marine environment. They are yet to engage with professionals on the design and construction of the additions and second dwelling. The existing approved building on erf 340 Rooi Els is a timber construction and therefore already deviates from the condition relating to construction materials. In addition the shiplap fibre cement / timber frame also seems to be common in the area.

Guthrie & Theron Attorneys (Kleinmond) assisted to obtain the Hangklip Beach Estates Limited consent for the above mentioned conditions imposed by the company. The consent from Mrs E.P.E. Wallers on behalf of Hangklip Beach Estates Limited dated 30 October 2017 is attached.

There a bond registered against the subject property. The bondholder's consent dated 18 October 2017 is attached.

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

#### **3.9.1 HERITAGE VALUE**

The subject property is not situated within a Heritage Overlay Zone as determined by the Overstrand Municipal Growth Management Strategy (2010). The subject property is also not earmarked for heritage conservation purposes.

The existing structures on the subject property are not older than 60 years. Furthermore the existing structures will be added to and altered in line with the relevant scheme regulations to accommodate the extended main dwelling / proposed guest house. A new second dwelling is also proposed. 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 abovementioned it is evident that the proposed consent use and removal of restrictive title deed conditions will not have a negative impact on the heritage value of the Rooi Els area.

The proposed consent use and removal of restrictive title deed conditions do not trigger any other listed activities in terms of Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

### **3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT**

The proposed consent use and removal of restrictive title deed conditions do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

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

The *Overstrand Spatial Development Framework (SDF), 2006*, earmarks the area where erf 340 Rooi Els is situated, for residential purposes. The Overstrand SDF (2006) promotes among other things the conservation of the natural environment and identifies the town as a retirement and holiday village. The design of the extended main dwelling and new second dwelling were done in such a way to ensure the minimal impact on the existing vegetation and landscape as mentioned in the previous sections of this report. In addition the proposed guest house promotes tourism to the area while simultaneously promoting the town of Rooi Els as a holiday village. The application for consent use to accommodate a five bedroom guest house on the subject property and the removal of restrictive title deed conditions to accommodate the guest house and second dwelling is therefore within the goals stipulated in the Overstrand SDF (2006) and therefore falls within the existing planning for the Rooi Els area.

The character (residential) and zoning (Single Residential) for the subject property will remain unchanged and therefore the subject property falls within the existing planning for the Rooi Els area.

The *Overstrand Municipal Growth Management Strategy (OMGMS, 2010)* specifies that erf 340 Rooi Els forms part of Planning Unit no. 1. No density increase is proposed for Rooi Els. Although no densification proposals are made for Rooi Els, it should be noted that any growth in the amount of residential units must simultaneously be accompanied by the provision of the necessary infrastructural services and community facilities. This application proposes the construction of an additional dwelling unit (second dwelling) on the subject property. The second dwelling will be occupied by the owners of the subject property and consequently the status quo for the area will remain unchanged (owners residing in the main dwelling versus residing in the second dwelling). Proof of alternative means for sewage effluent treatment is submitted with the application and it is therefore submitted that the upgrading of the infrastructure for the subject property can accommodate the alterations and additions to the main dwelling and proposed second dwelling.

The OMGMS (2010) also encourages a greater range, choice and diversity of holiday accommodation in the village. The proposed guest house and second dwelling are therefore in line with the aforementioned densification strategy for the area.

From the above it is evident that the proposed consent use and removal of restrictive title deed conditions application adheres to the spatial planning policies for the Rooi Els area and consequently falls within the existing planning for the Rooi Els area.

### **3.11 PLANNING PRINCIPLES**

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

Spatial sustainability: The existing large structure (main dwelling with double garage) can with minimal alterations become an exceptional guest house. The position of the new structures was done to ensure the visual impact is reduced and the new structures will merge well with the existing built environment. It is therefore submitted that the proposed guest house and second dwelling are compatible with the character of the area and will not impact negatively on the rights of anyone else. The proposed guest house will be accommodated in an established residential area within an existing renovated and altered structure on erf 340 Rooi Els. The proposed application will have no impact on the conservation worthy areas of Rooi Els but it will instead generate greater diversity of holiday accommodation in Rooi Els – in line with the Spatial Planning Policies for the area. Spatially the land use will be in keeping with the residential character of the area.

The anticipated impact of the guest house is considered low. Neighbours are, for an urban context, distant and placed where the increased activity on erf 340 Rooi Els is unlikely to have a significant, if any, impact (apart from 335 Perspicua which is occupied on a very transient basis and is also built on a ridge which allows it to look over erf 340 Rooi Els and therefore will also have almost no impact).

The impact on the biophysical environment (design and placement of new structures) will be kept to a minimum. Furthermore the extent of the subject property, the location of the subject property, the need for more diverse holiday accommodation options in Rooi Els, low impact on the privacy of neighbours, compliance with the land use restrictions applicable concerning parking, coverage, height, street building lines, etc. allows for the consideration and approval of the proposed guest house (consent use) and removal of restrictive title deed conditions without having an adverse impact on the spatial sustainability of the area.

Efficiency: The subject property is easily accessible and conveniently located in a fantastic position close to the sea with a large surrounding area of uninhabited seafront and almost uninterrupted views in all directions.

## Motivation report

The consent use and removal of restrictive title deed conditions application proofs to be efficient since this will allow the optimal utilization of the subject property without compromising the biophysical environment. Given the extent of the subject property and its ideal location, it lends itself to be used more appropriately as a guest house than just purely residential.

It is motivated that the proposed guest house and second dwelling proofs to be efficient as it discourages the phenomenon of urban sprawl, encourages densification in Rooi Els in line with the interventions / strategies proposed, all of which relates to more responsible resource use or sustainable development. Furthermore the proposal is efficient in that it optimizes existing resources and continues the existing suburban development typology.

It proofs to be resourceful to enable the development of the second dwelling, which is a primary right for SR1 zoned properties, in the natural hollow on site. In this position, placed to the side, the second dwelling will not visually impact on the neighbour's experience or sea views.

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 By-law on Municipal Land Use Planning, 2016.

#### **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 alternative sewage effluent treatment options exist for the subject property;

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## Motivation report

- The densification status quo of the area will remain unchanged and where applicable the proposal meets the criteria for densification interventions in this area;
- The zoning of the subject property will remain unchanged;
- No deviations from the relevant zoning scheme regulations are proposed to allow the proposed consent use and removal of restrictive title deed conditions of erf 340 Rooi Els;
- The proposal is compatible with the existing built character of the area;
- Impact on the traffic will be kept to a minimum;
- Sufficient parking bays are provided on site for the proposed guest house and second dwelling;
- All proposed additions and renovations will be done in accordance with the land use restrictions applicable to Residential Zone 1: Single Residential properties;
- The guest house will be operated in a professional manner and according to international standards;
- The guest house does not negatively influence the existing character or land values in the area;
- The establishment of a luxury guesthouse in Rooi Els will contribute to enhancing the Rooi Els area as a unique holiday village;
- 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 can be supported for your favourable evaluation. The opinion is held that this application will have no negative impact on the land values, privacy and traffic of the area.



83

Bornman & Hayward Inc  
Suite 1  
2 Reiger Street  
Stellenberg  
7550  
Docex 55, Tygervalley

Prepared by me,

*Hendrik Pierre van der Merwe*  
CONVEYANCER  
HENDRIK PIERRE VAN DER  
MERWE

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VRS FOR R 3000 000,00	
B000005271/2017	
2017-03-01	REGISTRAR/REGISTRAR

T 00:011086 / 2017

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN:

THAT HENDRIK PIERRE VAN DER MERWE

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, he/she, the said Appearer, being duly authorised thereto by a Power of Attorney granted to him/her by

The Trustees for the time being of NJ SAAIMAN TRUST  
Registration Number TMP4456/1994

dated 6 February 2017  
and signed at BELLVILLE

DATA / CAPTURE  
15 MAR 2017  
LEEUW D

AND the said Appearer declared that his/her principal had on **3 November 2016** truly and legally sold and that he/she, the said Appearer in his/her capacity aforesaid, did, by these presents cede and transfer to and on behalf of:

1. **CAROL PATRICIA HOWARD**  
Identity Number 711209 0108 08 1  
Unmarried
2. **ROY JOHN CULLEN TERLIEN**  
Identity Number 650222 5075 08 3  
Unmarried

their heirs, executors, administrators or assigns in full and free property:

ERF 340 ROOI-ELS  
in the Overstrand Municipality  
Division CALEDON  
WESTERN CAPE PROVINCE

IN EXTENT: 4069 (FOUR THOUSAND AND SIXTY NINE) Square Metres

FIRST TRANSFERRED BY Deed of Transfer No. T4564/1989 with Diagram No. SG6750/1988 relating thereto and held by Deed of Transfer No. T15606/2001

- A. SUBJECT to the conditions referred to in Deed of Transfer No. T13367/1948.
- B. NOT SUBJECT to condition B on page 10 of Deed of Transfer No. T15606/2001 by virtue of Section 53 of the Mining Titles Registration Amendment Act 24 of 2003.
- C. ENTITLED to the benefit of the conditions as referred to in the Servitude endorsement dated 24<sup>th</sup> June 1940 on Certificate of Consolidated Title Number T3720/1937, which endorsement reads as follows  
  
"By Deed of Transfer No. 6068/40 dated 24/6/40 certain conditions relating to (a) .... (b) prohibition of Petrol Station on land (c) ..... (d) Wood and Iron buildings (e) Slaughter poles, cattle kraals and manufacture of bricks, tiles, etc. have been imposed on the property thereby conveyed for the benefit of the owner and its successors in the title of the remainder of the property held hereunder, as will more fully appear on reference to the said Deed of Transfer."
- D. SUBJECT FURTHER to the conditions contained in Deed of Grant dated 30 April 1839 (Stellenbosch freeholds Volume 12, Number 18) which conditions read as follows:

"On condition that all roads and thoroughfares running over this land shall remain free and uninterrupted; that said land shall be liable (without compensation to its Proprietor) to have any road made over it for the public good, by order of Government. That the road and thoroughfare leading to the Waaygat Bay shall also remain free and that the public shall be allowed to unteam their cattle at the said Bay, and be allowed, without hindrance, to fish there, and he shall be bound (according to the existing laws of this settlement) to have brought into such state of cultivation as it is capable of; the land thus granted being further subject to all

such duties and regulations as are either already, or shall in future be established in respect of land granted under similar tenure."

- E. SUBJECT FURTHER TO and ENTITLED to the benefit of the servitude referred to in Endorsement dated 8 April 1949 on Certificate of Township Title No. T13367/1948 which endorsement reads as follows:

"Registration of Servitude.

By Notarial Deed No. 107/49 dated 10<sup>th</sup> march 1949, the Administrator of the Province of the Cape of Good Hope, or his Nominee, in Trust for such local authority as may hereafter be constituted for the Rooi Els Township, for the benefit of the Erf holders and such Local Authority has been granted certain rights relating to (a) supply of water to Erfholders and Local Authority; (b) delivery of the said water to the abovementioned Township by means of a pipeline indicated on the Servitude diagram No. 8589/48 by the letters a, b, c, d, e, f, g, h, j, k, l, m, n, annexed to the aforesaid Notarial Deed (c) storage of water and constructing of the necessary impounding works (d) aqueducts (e) purification works and reservoirs; (f) access to the egress from the present or future headworks, site, pipeline, reservoirs and purification works over the remainder of the Farm Hangklip held over the remainder of the Farm Hangklip held under Cert. of Cons. Title No. 3720/1937, subject to the conditions as will more fully appear on reference to the said Notarial Deed a copy of which is annexed hereto."

- F. SUBJECT FURTHER to the conditions contained in Deed of Transfer Number T20119/1953 and imposed by the Administrator of the Province of Cape of Good Hope when approving of the General Plan of Rooi Els in terms of Ordinance 33/1934, namely:

- "1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Administration Notice No. 401 dated 17<sup>th</sup> October 1935, and in the memorandum which accompanied the said regulations.
2. The owner of this erf shall, without compensation be obliged to allow the sewage and drainage, including stormwater or any other erf or erven to be conveyed across this erf if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time, in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.
3. The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank, owing to difference between the levels of the street, as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.
4. This erf shall be subject to the following further conditions, provided especially that where, in the opinion of the Administrator after consultation

with the Townships Board and the local authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation subject to compliance with such conditions as he may impose.

- (a) It shall not be subdivided;
- (b) It shall be used only for residential purposes only, but no building other than one dwelling together with such outbuildings as are ordinarily required to be used therewith shall be erected thereon.
- (c) Not more than half the area thereof shall be built upon;
- (d) No building or structure except boundary walls and fences, shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf, nor within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf provided that with the consent of the Local Authority, and outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation may be erected within the above prescribed rear space and provided further that a garage may be erected up to such street line, if in the opinion of the Local Authority the level of the erf is such as to make that necessary;
- (e) Pending the establishment of a Local Authority for this Township the sewage of this erf shall not be disposed of otherwise than by means of a properly constructed septic tank if the nature of the soil permits, otherwise into a properly constructed vacuum tank serving one or more erven. If any such tank is situated on this erf, the owner shall without compensation, be obliged to remove it after three months' written notice served upon him by such Local Authority."

G. SUBJECT FURTHER to the following conditions contained in Deed of Transfer No. T20119/1953 imposed by Hangklip Beach Estates Limited in favour of the registered owner of any erven in the said Rooi Els Township, which conditions read as follows:

- "(b) No wood and iron buildings of any description, shall be erected on this erf, nor shall corrugated iron be used for roofing purposes.
- (c) No slaughter poles, cattle kraals, pig-sties or cowsheds shall be erected or carried on by any person whomsoever on this erf.
- (d) Save with the consent in writing of the Company and of any Local Authority, the owner shall not have the right to make or cause to be made upon the erf for any purpose whatsoever any bricks, tiles or earthenware pipes or other articles of such nature, nor shall he have the right (save and except to prepare the erf for building purposes) to dig or quarry any earth, gravel, lime or stone thereon."
- (e) No building (excluding outbuildings) shall be erected on this erf of a superficial area of less than 99 square metres.
- (f) No noxious trade or noxious business shall be carried on, on the erf.

(g) The Transferee shall not camp overnight or light fires on the erf, save with the written consent of the Company."

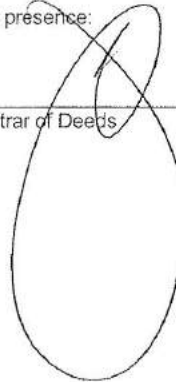
(The COMPANY referred to in the conditions are HANGKLIP BEACH ESTATES LIMITED.)

WHEREFORE the Appearer, renouncing all the right, title and interest which the said **NJ SAIMAN TRUST** heretofore had to the premises, did, in consequence also acknowledge him, to be entirely dispossessed of, and disentitled to, the same; and that, by virtue of these presents, the said **1. CAROL PATRICIA HOWARD, Unmarried and 2. ROY JOHN CULLEN TERLIEN, Unmarried**, their heirs, executors, administrators or assigns now is and henceforth shall be entitled thereto, conformably to local custom, the State, however, reserving its rights, and finally acknowledging the purchase price of the property hereby transferred to be the sum of **R4 000 000.00 (FOUR MILLION RANDS)**.

IN WITNESS WHEREOF I, the said Registrar of Deeds together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE AND EXECUTED at the Office of the REGISTRAR OF DEEDS at **CAPE TOWN** on *1<sup>st</sup> MARCH 2017.*

  
\_\_\_\_\_  
q.q. Signature of Appearer

In my presence:  
  
\_\_\_\_\_  
Registrar of Deeds

TP A Theart  
(Hild Stoep)

ANNEXURE E 1/86

FILE NO:	EL 340
SCAN NO:	Rooi Els
Restrictive Conditions and Consent Use:	
COLLABORATOR NO:	1142477

Loretta Gillion - The Application for Removal of Restrictive Conditions and Consent Use: Erf 340 Rooiels

**From:** Margie Ellis <ellis.margie@gmail.com>  
**To:** <loretta@overstrand.gov.za>, <bulletin@overstrand.gov.za>, <cgroenewald@...>  
**Date:** 23/03/2018 05:16 PM  
**Subject:** The Application for Removal of Restrictive Conditions and Consent Use: Erf 340 Rooiels

Dear Overstrand Municipality



**With respect to: APPLICATION 20/2018**

**The Application for Removal of Restrictive Conditions and Consent Use: Erf 340 Rooiels**

As homeowners and residents of Erf 277 Rooiels, we wish to lodge with you our objection, in the strongest possible terms, to the application for Removal of Restrictive Conditions and Consent Use for Erf 340 Rooiels.

As residents of Erf 277 which lies between the two entrances into Perspicua Road where Erf 340 lies, we would be severely affected by the increased footprint on the area and the increased traffic on a narrow, dirt road, with a blind curve, which would become extremely dangerous in even slightly increased traffic conditions.

**Rooiels Conservancy and Rooiels Vision:** We purchased our home in 2014 precisely because it was incorporated within the Rooiels Vision, which seeks to minimise the footprint on a highly ecologically sensitive area, and we immediately immersed ourselves in activities to sustain this Vision. There was no question but that our residents and neighbours who preceded us share that vision and value the the unique surroundings not only of Rooiels, but of this particular section of Rooiels. We all "walk very softly" in this special part of Rooiels, and show sensitivity to our neighbours who all take pleasure in the natural surroundings, and we all conform to modes of living such as limiting light pollution and noise. Is it appropriate to now devalue the meaning of the Conservancy and The Rooiels Vision, after so many others have made decisions to purchase based on these being in place?

**Title Deed Restrictions to One Dwelling:** We too have a large property size - large enough for two houses - but noted that our title deed, and those of our neighbours, does not allow for a second dwelling. It is precisely for reasons such as these we made the decision to make what was, for us, a very large financial investment. We made the not unreasonable assumption that given all of these factors we were purchasing a property where preservation of minimum impact upon our sensitive, natural environment, along with a community effort to keep traffic, noise and nuisance to a minimum, would be valued and continued and enforced ad infinitum, and this would be supported by the title deeds and other legal measures in place.

**We therefore object strongly to the notion that all of this could be overthrown and discarded for the sake of a (new) resident seeking extraordinary and exceptional authorisation to be relieved of title deed conditions for the sake of commercial gain.**

That the application submitted by Erf 340 states ""The proposed consent use and removal of title deed conditions of erf 340 Rooiels are not in contrast to the existing land use tendencies in the surrounding environment"" belies belief as this is unambiguously incorrect. With unequivocal certitude the plans submitted by Erf 340, if allowed, would irreversibly and negatively change this distinct and unique part of Rooiels.

Additionally we are extremely concerned about the following:

- **The precedent that would be set if the title deed conditions are lifted** as many other Erven are also large enough for additional dwellings. The title deed restrictions are understood to be of reciprocal retention.

Should Erf 340 choose to create one extremely large dwelling, by simply creating a passage between two buildings, plans should not be authorized given the following:

- **Application for Consent Use for a large Guesthouse.** It is indisputable that in terms of their current expectations that they have purchased property in a Conservancy Area, where the natural surroundings are to be as undisturbed as possible, the neighbours will be negatively affected. It is beyond ordinary expectations for the neighbours to agree to a business to operate in their midst. We do understand that the advent of

TP 26 MAR 2018

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## ANNEXURE E 2/86

AirBnB creates a hazy line, as there are indeed many small AirBnBs operating in Rooiels. However, to my knowledge, none of these are of the scale proposed for Erf 340, whereby they offer one or two rooms, on a much less formal basis, and often when the owners are not using the space themselves.

- **Traffic Impact** As already mentioned the existing road is extremely rough, floods in winter, and has an extremely dangerous blind curve at the entrance to Erf 340. A Guesthouse as proposed would require additional sewage tanker (1 x week), food and drink deliveries, non-resident staff coming and going, guests arriving and departing and engaging in multiple activities, and possibly guides and other service providers for the guests. This road is most certainly not designed to take two-way traffic of this dimension.

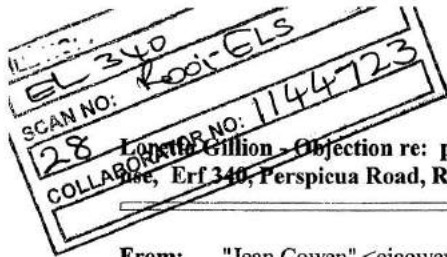
We trust that as you consider Application 20/2018 you will seriously take into consideration all the points raised above, as well as those from many other letters of objection of which you are in receipt.

Thank you so much for your consideration of this letter.

Regards

Margaret and Peter Ellis

Erf 277 Rooiels



**From:** "Jean Cowen" <ejcowen@mweb.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 29/03/2018 05:12 PM  
**Subject:** Objection re: proposed removal of restrictive conditions and consent use, Erf 340, Perspicua Road, Rooiels  
**Cc:** <rerarvb@gmail.com>, <bulletin@overstrand.gov.za>, <hvdstoep@overstrand....>

TP A Theart  
CHuld Stoep

To Whom It May Concern:

RE: Erf 340, 10 Perspicua Road, Rooiels: Proposed removal of restrictive conditions and consent use (Plan Active)

Having looked through the proposals sent to me by e-mail, my overall impression is that insufficient consideration has been given to the effect of this proposed change of use and further development of Erf 340, Rooiels, on the natural environment, in all its aspects. The arguments put forward focus mainly on the unlikelihood that the development will affect the neighbours. Which of course it will, if there are to be 8 parking bays, and the people accompanying those vehicles.

This erf is situated right on the rocky sea shore. The rocks are inevitably the habitat of all kinds of creatures, all kinds of plant life, as is the sea beyond the rocks.

The last thing this rich and sensitive environment would benefit from is a reduction in size through the proposed development, and its insensitive use from frequent visitors, many of whom are unlikely to have informed knowledge of the natural environment they are briefly visiting. Noise, of the kind that disturbs wildlife, and pollution will be the inevitable consequences of the development of this property as a tourist facility, however upmarket it may be. Strangers to the area are unlikely to be aware that a carelessly placed footprint can damage or destroy a unique form of plant life. And not all the visitors are likely to refrain from throwing plastic and metal and paper waste onto the rocks and into the bushes. Or would be aware that a match thrown into some dry fynbos is likely to start a fire.

One of my concerns is whether there will be an outflow of any kind whatsoever from the proposed treatment system of waste. If so, the use of this system would carry with it the probability of pollution at some time, perhaps all the time, when it is in use. This is simply unacceptable. The use of a conservancy tanks would not present this problem, but the installation of conservancy tanks creates a longlasting disturbance of the ground into which it is dug.

And there are still many undeveloped erven in Rooi Els. What is proposed could be the forerunner of a subdivision. Subdivisions have for many years been seen as quite unnecessary, considering the number of undeveloped erven. And that decision was taken before environmentalists and the interested public had come to recognise how important it is to keep our wild and semi-wild spaces as they are.

There are many places in the world where urban planning restricts development of any kind close to the seashore, with very good reason. Please do not allow an already unsatisfactory situation to become worse.

Thank you for giving me the opportunity to put a different point of view.

TP

- 3 APR 2018

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ANNEXURE E 4/86

Jean Cowen  
Owner, Erf 207, Harveya Road, Rooiels  
ID 4108230019082

**Loretta Gillion - Re Proposed removal of restrictive conditions on Title Deed for Erf 340, Perspicua Road, Rooi Els.**

**From:** "Steph Milne" <steph.milne1@gmail.com>  
**To:** <loretta@overstrand.gov.za>, <bulletin@overstrand.gov.za>, <dcoetzee@ove...>  
**Date:** 28/03/2018 02:02 PM  
**Subject:** Re Proposed removal of restrictive conditions on Title Deed for Erf 340, Perspicua Road, Rooi Els.

*J. A. Theart  
C. H. vd Stoep*

To Whom it may concern:



Dear Sirs

We herewith wish to lodge our objection to the proposed change of restrictive conditions on the above erf in Rooi Els for the following reasons:

1. We are resident in Perspicua Road and are concerned about a considerable increase in traffic along our road, resulting in noise pollution, additional wear and tear on the road, more dust, and increased hazard from a safety point of view. Many people walk with dogs and children and local residents adhere to the speed limit of 20 km, whereas experience has shown that visitors tend not to adhere to the speed limit.
2. We are concerned about the additional demand on the water supply, eg for laundry, gardening and human consumption. Having owned a guesthouse for many years we know that paying guests as a rule do not respect the need for conserving water, with a "we have paid for it, therefore we can waste it" attitude. Also our experience is that the water supply system is old and not very efficient and this increased use could lead to more frequent breakdowns of the system.
3. Of serious concern is the additional sewage which will be generated and will have to be disposed of. This will either mean the noise and stench of the pump out truck having to be used frequently, or alternatively the sewage being pumped or seeping into the sea, causing toxic pollution on our shores.
4. We also feel that if this change of restrictions is allowed, many property owners will follow suit and Rooiels will totally change in character, and in the long term put unsustainable strain on the whole infrastructure of the village, for example, roads, electricity and water supplies, not to mention the negative effect on the proclaimed World Heritage Site of the Koggelberg mountain range, and its Fauna and Flora.

We trust our objections and concerns will be taken into consideration by the responsible authorities.

Ian & Stephanie Milne  
 Erf 262, Perspicua Road  
 Rooiels.

FILE NO:	EL 340
	Rooi-Els
SCAN NO:	02
COLLABORATOR NO:	1144845

*TP*

- 3 APR 2018

ANNEXURE E 6/86

TRATheart  
(Hvd Stoep)

28 March 2018

Erf 273  
Perspicua Road  
Rooiels

The Municipal Manager

Overstrand Municipality  
Hermanus  
7200Email: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

FILE NO:	EL 340 RooiELS
SCAN NO:	01
COLLABORATOR NO:	1144843

Dear Sir

**PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS FOR ERF 340 - PERSPICUA ROAD / ROOIELS**

I, Maria Winifred Schwiebus, ID 6811110003088 am the owner-occupier of Erf 273, 20 Perspicua Road in Rooiels.

I am writing to formally object to the proposal mentioned above, for the following reasons:

1. The Rooiels Vision embodies its community's ethos and was created with the input and consensus of the whole community. The vision states "... the creation and maintenance of an ecologically well-balanced area in which indigenous flora, fauna, marine life and humans can coexist and thrive in harmony." The proposed removal of restrictive conditions to commercially operate a five-bedroomed, self-contained guesthouse as well as to construct a second standalone, self-contained dwelling to accommodate the owners and staff of the guesthouse, which is adjacent to a coastal nature reserve, is incongruent to the community's vision and previous owners' intent of Rooiels.
2. Rooiels consists almost exclusively of single-family dwellings. The development proposed by the Applicant is the construction of a second standalone and self-contained dwelling in addition to the self-contained current dwelling, with a swimming pool at each dwelling. The scale and spatial design of the new dwelling in relation to the existing house is of such a nature that the property would cease to be a single-family dwelling, and it would not be capable of reverting back to a single-family dwelling.
3. Erf 340 is situated in a quiet circle road, on a rocky sea shore that is less than 100 metres from the high-water mark and adjacent to a coastal nature reserve - Seal Point - in the southern part of Rooiels. The unique erf is vegetated by fragile succulents and coastal fynbos. The sizes of the plots in this zone of Rooiels are larger than the properties in the other zones that are close to the Rooiels beach. This creates a feeling of tranquillity, spaciousness and ruralness for residents. Erecting a second dwelling on the plot will not only harm the landscape and vegetation, but will also encroach on the nature reserve, increase the density of development on sea front plots and drastically impair the character of the area.
4. The attraction to purchase our plot in Rooiels was primarily because of the area's unique heritage, ecologically sensitive culture, tranquillity, the smaller number of erven, larger plots on

TP - 3 APR 2018

this southern end of Rooiels and the "one dwelling per erf" principle. We, as homeowners, were prepared to pay a premium for our property when compared to property prices in the other coastal villages. This is still one of the unique selling points of properties in Rooiels, but increased density will make our property less marketable to a discerning buyer interested in owning property in a village characterised by a country living atmosphere, which is also in close proximity to Cape Town.

5. The removal of the restrictions would also create a precedent for future owners to follow suit, which, if allowed, would certainly change the intrinsic characteristic of charm and serenity of the area. The purpose of the restrictions was exactly to prevent this from happening. The Applicant purchased Erf 340 subject to, and in no doubt, in full knowledge of such restrictions.
6. There are a number of high-grade guesthouses in Rooiels, Pringle and Betty's Bay area, which are not fully occupied at all times. Whilst there is an opportunity for the Applicant to gain from commercialising the property given its prime, seafront position, it must be weighed against the loss of residents' vested rights in sustaining the character of this area to be enjoyed in Rooiels.
7. The guesthouse operations will involve the transient of guests, staff, potential visitors and delivery of goods, which will lead to a significant increase in current levels of traffic as well as noise and nuisance factors. The nature of traffic will also change, e.g. the increased use and frequency in use of trucks to deliver goods and remove waste and sewerage from the premises. The design and capacity of the roads, principally Ocean View drive as well as the circular Perspicua Road, are not adequate to cope with such a change in traffic movements. Perspicua Road is a dirt road that is severely affected by erosion and increased traffic volumes would lead to a further rapid deterioration of the delicate road surface. Increased traffic will also adversely affect the pedestrian amenity of the streetscape.
8. We are aware that many homeowners in Rooiels are also against the removal of restrictive conditions to operate a guesthouse and construct a second standalone self-contained dwelling on Erf 340. This clearly demonstrates that there is a significant amount of opposition from the local community to this proposal, which should be a material factor to consider when deciding whether or not to approve the removal of restrictions attached to erf 340 Rooiels.

For all the reasons outlined above, we strongly object to the removal of the restrictions currently in force in relation to Erf 340 Rooiels.

Regards



Mariki & Johan Schwiebus

TRATheart  
CHuldStoep

Pierre & Eneth Kruger  
300 Clarence Drive, Rooiels  
e-mail: rooiels@hotmail.com



Municipal Manager  
Overstrand Municipality  
Email to: loretta@overstrand.gov.za  
hvdstoep@overstrand.gov.za

FILE NO:	EL 340
	RooiELS
SCAN NO:	34
COLLABORATOR NO:	1144778

**MUNICIPAL NOTICE 20/2018  
ERF 340 ROOIELS PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND  
CONSENT USE**

We hereby object to the application for consent use for a 5 bedroom (en suite) Guest House, second dwelling and the removal of title deed restrictions on erf 340 Rooiels.

We believe that erf 340 is totally unsuitable for this type of large scale commercial development, both from an ecological and town planning point of view.

It appears to be a "boutique hotel", which is attempted to be slipped through under "consent use" provisions. The proposed development is completely out of keeping with the surrounding quiet and uncommercialised area, which is single residential 1, where residents generally try to limit their human footprint. This type of development should only be allowed on a business zoning. There are plenty of business properties for sale in Rooiels. It is wrong to alter the town planning of a village in such a completely unnatural, arbitrary and ad hoc way, when need exists.

We both served on the Executive Committee of the Rooiels Ratepayers Association (RERA) during 2015 and we participated in various meetings with Overstrand planning and their consultants. We (RERA) was assured by officials of your planning department that Rooiels is not appropriate for densification. Until such time as you have implemented an Overlay for Rooiels (as promised), we will hold Overstrand Municipality to this.

Apart from the existing dwelling, the rest of this large property is in a near pristine state – which was no doubt what attracted the new owners. It is an important property in Rooiels because it borders on the seashore and a "wilderness" area where wildlife abounds, there is grysbok, klipspringer, a seal colony, various sea birds, a dassie colony, snakes, tortoises and sometimes even leopard and black eagles too! The fynbos and succulents found in this area are also of a very special nature. There are middens nearby and there could possibly even be middens on this property covered by vegetation.

The property is uneven, with many rocky outcrops and boulders offering shelter to fauna and creating micro ecosystems for flora. Any building work on this property is likely to be extremely difficult, involving a lot of disturbance. It would be virtually impossible to build underground conservancy tanks.

We find the application is vague and ill-informed about the history and prevailing conditions on the property. We are especially concerned that no specialist studies

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have been made available for us to comment on. This alone, is one of the reasons why the application should be refused.

The excessive use of water by the planned water feature, 2 swimming pools, 9 -11 bathrooms, laundry etc, is shocking. The applicants are vague in their proposal about the method of disposal of all this waste water. Both the Lilliput option and option of removal by municipal tanker are problematical. With the Lilliput option there is the likelihood of pollution, contamination of ground water, the smell of irrigated waste water and detrimental effects of the natural vegetation and animal life. Collection by tanker will probably have to be on a weekly basis and will likewise cause much noise, disruption, unpleasant smells and damage to our narrow roads.

We oppose any removal of title deed restrictions which would make the building of a second dwelling possible, as well as the removal of set back or building lines. These title deed conditions were inserted upon the founding of Rooiels in order to create the specific natural and spacious feel of this village. These conditions are a great asset, adding value to property in Rooiels and giving it a special sense of place. The village of Rooiels is also an established Conservancy as registered with CapeNature. The aims of the Conservancy include the protecting the environmental aspects, spaciousness and visual impact so that Rooiels retains with its own unique character and sense of place. This is in accordance with the principles set out in the Rooiels Vision to which all Rooiels property owners subscribe. The removal of these title deed restrictions is not in the interests of the natural environment nor of the residents of and visitors to Rooiels. The footprint and cumulative effect of the dwellings will be unacceptable from both an environmental and a visual point of view. It will detrimentally affect the ambiance of Rooiels and definitely result in lowering the property values of the surrounding properties.

*In a nutshell: it is not in the public interest to remove these title deed conditions.*

We trust that this application will be refused.

Please acknowledge receipt hereof.

Pierre and Eneth Kruger  
28 March 2018

ANNEXURE E 10/86

**LORETTA GILLION - RE: PROPOSED DEVELOPMENT CONTRADICTS  
OVERSTRAND PLANNING VISION FOR 2050**

*Re: Erf 340 Rooi ELS*

**From:** "Julia Aalbers" <juliaa@denovomedica.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 28/03/2018 02:39 PM  
**Subject:** RE: Proposed development contradicts Overstrand planning vision for 2050  
**Cc:** <dcoetzec@overstrand.gov.za>

**JULIA AALBERS**

70 Arlington Str • Evergen • Durbanville • 7550  
 PO Box 1013, Durbanville, 7551  
 Tel: 021 976 4378  
 Fax: 086 610 3395  
 E-mail: jlaalbers@gmail.co.za

To Municipal Manager  
 Overstrand Municipality

Municipal Notice 20/2018

Erf 340 Rooiels: Proposed removal of restrictive conditions and consent use



*TRATHART  
C H Jd/Steep*

FILE NO:	EL 340 Rooi-ELS
SCAN NO:	33
COLLABORATOR NO:	1144774

Dear Sir

**Proposed development contradicts Overstrand planning vision for 2050**

The above application refers.

I wish to object to the proposed removal of restrictive conditions and consent use on this property, erf 340 Rooiels, which is situated within the 100 metre coastal protection zone.

As a Councillor to this area in the period of the Hangklip-Kleinmond Municipality, I am also copying the Mayor as this type of development is not compatible with the Municipality's own vision for 2050 as stated in strategic documents held by the Overstrand Town Planning Office.

The 2 documents and strategic visions which I quote are detailed below:

- 1) IDF, The Integrated Spatial Development and Environment Framework. Pg 65 highlights of key actions.  
*"Protect residential areas that have a highly valued heritage character and use land use and design control measures to encourage development that retains these special characteristics."*
- 2) Overstrand IDF – Towards 2050 Environmental Management Framework (Overstrand EMF, Withers Environmental Consultants)  
 Section 5:2, Where we want to be by 2050! Pg 47 – *"The intrinsic character of the mountainous and coastal environments of the Overstrand Municipal Area is preserved"*

The overdevelopment of erf 340, with a Guest House (Boutique Hotel) of 5 bedrooms and supporting services, plus a Manager's/Owners' home (2 bedrooms) is in conflict with this 2050 vision of our area, particularly when one considers the unique character of Rooiels as "the gateway to the Overberg".

*TP*  
 - 3 APR 2018

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ANNEXURE E 11/86

A large number of individuals, including Community organisations in Rooiels are also concerned and have voiced their objections.

Please ensure that this objection is lodged and noted.

Yours sincerely  
Mrs JL Aalbers

ANNEXURE E 12/86

TPA Theart  
(Huldstroom)

Loretta Gillion - Rooiels Erf 340 Objection

From: Gail Voigt <gailvoigt@icloud.com>  
 To: <loretta@overstrand.gov.za>  
 Date: 28/03/2018 03:38 PM  
 Subject: Rooiels Erf 340 Objection  
 Cc: <herbertvoigt@icloud.com>

FILE NO:	EL 340 Rooi ELS
SCAN NO:	VOIGT
COLLABORATOR NO:	1144773

Dear Loretta...

The proposed removal of restrictive conditions on ERF 340 is in direct contradiction to all that has been achieved throughout the history of the village and in direct contradiction to the vision of Rooiels residents and the greater vision of the Unesco Kogelberg Biosphere Reserve, the Cape Floral Kingdom's model of a sustainable living!

The following points need to be highlighted with regard to the ERF 340 Issue:

- The proposed plans call for the removal of so-called restrictive conditions which clearly points to the establishment of a commercial venture indicative of a boutique hotel in an environmentally sensitive area where those very restrictive conditions were wisely introduced to preserve and conserve this piece of coastline in the Unesco Kogelberg Biosphere Reserve;
- The proposed renovations on Erf 340 is in contradiction with the accepted stipulation that no second dwellings are allowed in Rooiels;

Books have been written about our Village, so many folk, some gone before us have ... have spent their lives preserving what is such a unique village. It did not just happen, it has taken decades... of dedication by residents, past and present. It would be such a shame to set a precedent of this nature and sadly for the new owners ... it needs to be stopped.

So that is what we all know ...now our little story ... We have owned our place in Rooiels for almost 30 years and the main reason for purchasing there, was ...because of what paradise must be like!! and we would like to keep it that way.

Many residents rent out their homes to holiday makers, but having a busy guesthouse in our midst will take all this away.... and bring elements in during building and thereafter.... that we have worked so hard at keeping at bay....

Please hear our cry and let's stick to the rules. The new owners are probably lovely folk, however when they purchased recently they were aware of the rules and what Rooiels is all about.

We hope that you can make it even more clear to them that we who invested there before them, would love to share what we have with them... and that they should not spoil ...probably the most beautiful and unique spot in SA

With kind regards

and gratefulness For having to deal with these issues... please acknowledge receipt of my mail.

TP

- 3 APR 2018

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ANNEXURE E 13/86

Herbert Voigt and

Gail Voigt ( and sons who have grown up in Rooiels on weekends, away from the rat race... a place even now, in their 30s that they and their families can escape to)

At Erf 231 Oceanview Drive, Rooiels

Sent from my iPhone



Rooi Els Ratepayers Association  
PO Box 89 Betty's Bay 7141 - rerarebv@gmail.com



March 20, 2018

Municipal Manager  
Overstrand Municipality  
P.O. Box 20  
Hermanus  
7200

E-mail: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

TP A Theart  
(C H vd Stoep)

FILE NO:	EL 340-Rooi Els
SCAN NO:	32
COLLABORATOR NO:	1144766

**YOUR REF. MUNICIPAL NOTICE 20/2018  
ERF 340 ROOIELS PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE**

After long and thorough deliberation and interrogation, RERA has advised its members to submit objections, or not, to the rezoning of Erf 340, in their personal capacity directly to the Overstrand Municipality.

However, in regard to this RERA would like to make the following comments for consideration:

1. To the best of our knowledge there has not been an agreement by the Overstrand Municipality that the relaxed zoning principles as are currently advised will be universally applied. See attached 2 documents applicable to this matter. It appears that there is no urgency to finalise the process of the so-called overlays.
2. This delay leaves us without the necessary leverage to deal with our current and unique situation on the rezoning application submitted by the owners of Erf 340. This in turn has resulted in our community being divided in their opinions about this development.
3. Rooiels falls within a Biosphere buffer zone of the proclaimed Kogelberg Biosphere Reserve. Because of its unique character, nature and ecology densification is not

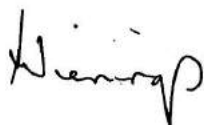
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supported in the Overstrand Policy Documents and all developments require careful deliberation and consideration.

4. Services in Rooiels are not designed to cope with the additional and growing burden as envisaged in rezoning requests. Furthermore the number of permanent residents settling in Rooiels has doubled over the past two or three years resulting in services becoming more and more problematical. These developments require the Municipality to budget and plan for in order to provide the necessary infrastructure upgrades before rezoning is addressed. Examples are frequent burst water pipes, the state of our roads, etc.
5. Considerable densification has happened over time and is still happening in Rooiels in the form of homes being renovated to include additional dwellings under the guise of so-called servant's quarters, studios or 'granny flats'. The merits of each case must be thoroughly investigated to ensure that any developments or additions do not impact negatively on the village and the environment. This would also allow for the principles of fairness to be applied to applicants seeking rezoning of their properties and removal of restrictive deeds conditions.
6. We request that a moratorium on all rezoning applications be instituted until an all-inclusive public participation process has been completed.

Yours sincerely



**RERA Chairperson**

**Report on Meeting with Councillor Lisel Krige and Riaan Kuchar Head of  
Department of Town Planning, Overstrand Municipality**

1. Riaan Kuchar gave an overview of current town planning legislation for our area.  
(He will provide copies of all documents on a disc for Frank's collection).
  - 1) Spatial Development framework – 2006
  - 2) Grown Management Strategy – 2010, including densification policy
  - 3) IDF – longer term vision for spatial development – completed recently
2. His department holds and has included a conservative view of any development in Rooi Els. Policy is to maintain status quo. Policy is very little densification. No second dwellings are envisaged.
3. Scheme Regulations – in place since 1 Jan 2013.
  - 1) Small holdings zoned Rural Conservation zone; with right to construct one dwelling, anything else must undergo a public consultation process.
  - 2) The Environmental and Heritage Overlay Zones for the Scheme Regulations has just been awarded to a tender. It will link into the Integrated Zoning Scheme. No property rights can be taken away – only amended within overlay for environmental or heritage reasons.
  - 3) In the interim, building plans to be reviewed by the Rooi Els Conservancy (REC) and the Rooi Els Ratepayers Association (RERA), in terms of new Scheme regulations. Recommendations re environmental sensitivities (drainage, plants, heritage and visual impact) can be made.
4. Setback lines: The municipality was anticipating problems as Province had designated too little funds to the process. The municipality in Hermanus is involved in the new 'refinement process'.
5. Personnel: It was agreed that Haneen van der Stoep will spend every 2<sup>nd</sup> Friday in Kleinmond. Her roster will go to the Ward Committee. Liason at Admin level with Lorianne Isaacs and Alida Calitz, Hermanus.
6. Current relevant projects being undertaken by Town Planning, Hermanus
  - 1) GIS system – live to viewer with the history of each site available
  - 2) Addressing Main road difficulties, Kleinmond.
7. Important notes
  - 1) EIA not needed within 100 metres of high water mark, if plans fall within scheme regulations. Vital that we identify dune problem on erf 106, opposite Mrs Visser, behind frontal dune in overlay
  - 2) Planning issues all go to Ward Committee, must be watched carefully
  - 3) We urged Nature Reserve Reclamation and Advisory Board appointments to be taken up with Liesl Bezuidenhout and suggestion favourably received.
  - 4) Riaan Kuchar and Lisel Krige happy to attend RERA meeting for specific issues
  - 5) Councillor Rudolph Smit (Fisherhaven) is the Councillor responsible for Town Planning in Overstrand.
  - 6) Riaan Kuchar will check whether the small holding known as Erf 324, has the same status as the adjacent small holdings.
  - 7) We informed them that the drainage issues of Erf 115 have not yet been complied with in terms of the EIA and Riaan Kuchar will follow up.

- 8) We asked that Erf 1, Koppie and Erf 320 (Coastal strip) be incorporated into the Nature Reserve and that the Nature Reserve be re-proclaimed in terms of the protected areas act. RERA will do a letter to the Environmental Officer.



**ROOI ELS RATEPAYERS ASSOCIATION**  
 PO Box 89 Betty's Bay 7141 - rerarebv@gmail.com

17 September 2015

**Urban Dynamics Western Cape (PTY) LTD**

FAX NO: 021 948 1588

EMAIL: [jaco@udwc.co.za](mailto:jaco@udwc.co.za)

**RE: DRAFTING OF OVERLAY ZONES – OVERSTRAND MUNICIPALITY**

Kindly take notice that I was instructed by the above association to note our initial comments to yourselves.

It is, inter alia, the object of our association is constitution to preserve the unique character of this very environmentally sensitive, coastal town. Rooi Els is situated next to the core area of the Kogelberg Biosphere reserve.

Rooi Els has adopted a vision document and I annex that document for your attention. It is self-explanatory. I also annex hereto a copy of a Report by Dr Heydom dated January 1982 for your attention. I specifically refer you to pages 20 and 21 of the report which are self-explanatory.

We submit that restriction be put in place regarding the following:

- a) No further sub-divisions of property be allowed;
- b) The footprint of buildings may not exceed 50% of property;
- c) No further re-zonings be allowed for commercial usage;
- d) No second dwellings be allowed;
- e) No further sub-divisions or densification be allowed on small holdings surroundings;
- f) Environmental and Heritage overlays also to be put in place (all public open spaces be incorporated into the nature reserve and be proclaimed as a nature reserve);
- g) The principals of the Biosphere reserve be implemented.

I note that inadequate notice was given for your public participation so far. Kindly note that I reserve the right to amplify our comments at a later stage and appropriate forum.

Kindly acknowledge receipt and kindly keep us informed of any other updates.

  
 Yours Faithfully

FHL RAYMOND  
 MEMBER FOR PLANNING ISSUES

ANNEXURE E 19/86

TP A Theart  
(Huld stoep)The Marlin Trust  
124 Priestlya  
Rooiels

28 March 2018

The Municipal Manager  
Overstrand Municipality  
Hermanus  
7200[loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

To whom it may concern

FILE NO:	EL 340
	Rooi ELS
SCAN NO:	
	BUTLER
COLLABORATOR NO:	
	1144761

**Objection – Proposed Removal of Restrictive Conditions Erf 340 Perspicua Road Rooiels**

I, Mark Reid Butler, as representative of the Marlin Trust object to the proposed removal of restrictive conditions at ERF 340.

1. Second dwellings on properties in Rooiels will spoil the character of the village. The planned scope of the additional buildings are not in keeping with a position such as that and will have an impact on the environment give the location of the property.
2. A guest house positioned where Erf 340 is will impact on the surrounding properties through increased noise and traffic and people movement.
3. Rooiels has gravel roads and increased traffic movement in that area will impact on the condition of the roads
4. Sewerage management will need to be more frequent and this will also impact on the surrounding properties both from a noise and road usage perspective.
5. Rooiels is a conservancy area and its relatively low density and single dwelling usage is a key part of that. Allowing this second dwelling will be a departure and create a precedent that may materially impact the nature of Rooiels in the future.
6. As much as the owners feel that there is a commercial need for a guesthouse in Rooiels the impact that this will have on the neighbours and surrounding area does not justify it.

Yours sincerely

 A handwritten signature in black ink, appearing to read "M R Butler".
 

M R Butler  
For Marlin Trust

TP

- 3 APR 2018

ANNEXURE E 20/86

TP-A Theart  
(H Jd Stoep)

**From:** Kevin Phillips <kevphil22@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 29/03/2018 09:01 PM  
**Subject:** Municipal Notice 20/2018 - Erf 340 Rooiels, removal of restrictive condition .

The Municipal Manager,  
 Overstrand Municipality,  
 PO Box 20,  
 Hermanus.



The Senior Town Planner.

Dear Ms van der Stoep,

I hereby wish to comment on the above notice.

As a resident of Rooiels (Erf 304), I am opposed to removal of the restrictive condition on erf 340 for only one dwelling, for the following reason:

The intention of the owners to create an "up market" (and the largest to date) guest house is contrary to the very essence of the conservancy Rooiels has managed to attain and uphold - - with the protection of all fauna and flora - - for many, many years. Most of the residents over the years have worked tirelessly offering their time to preserve the natural fynbos, animal and bird life which make Rooiels so unique and the only town to presently have full Conservancy status within Ward 9 and 10 Committees of Overstrand. Many of these Rooiels residents have been - and still are - people with notable qualifications and experience in botany, wildlife, conservation and the like. In turn they have also been a strong source of support and assistance to organizations such as Cape Nature and the Cape Leopard Trust.

The motivation report submitted by the owners fails to even make mention of the fact that the village borders on the Koegelberg Biosphere and the uniqueness of the village as such. As a UNESCO World Heritage Site we owe it not only to fellow South Africans, but have a duty to the rest of the world, to protect this wonderful heritage around us.

The granting of the removal of the restriction for only one dwelling would create a precedence and an influx of all sorts of developments (such as the creation of larger "boutique" type hotels for example) could occur. This would endanger the fauna and flora - - when the intention of creating entertainment events for guests such as games, walks, tours etc. purely for commercial gain takes over and eventually destroys protected plant life and animals. (The owners of the above property appear such entertainment in mind for their guests).

Please could you kindly consider our plea for our duty to uphold the protection of this most precious heritage of which we are all the honorary custodians (I am quite sure most of the residents of Rooiels feel this way as well).

Thanking you.

Kind regards,  
 Kevin Phillips.

Sent from my iPad

FILE NO:	EL 340 Rooi-ELS
SCAN NO:	31
COLLABORATOR NO:	1144760

TP

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Johan Bestbier (Trustee of JJMA Trust)  
Erf 240, Rooiels



TPA Theart  
(Huld stoep)

29 March 2018

The Municipal Manager  
Overstrand Municipality  
Emailed to [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

FILE NO:	EL 340
	Rooi-ELs
SCAN NO:	30
COLLABORATOR NO:	1144750

**MUNICIPAL NOTICE 20/2018**

**PROPOSED CONSENT USE & REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS – ERF 340 ROOIELS**

The JJMA Trust (IT4337/2006), which I am representing as Trustee, is the owner of Erf 240 Rooiels.

I, on behalf of the trust and its beneficiaries, am objecting to the referred application and the grounds of my objections are as follows:

1. The proposed development is far too bulky, on a type of commercial scale and therefor completely out of keeping with the surrounding quiet and un-commercialised area, which is Single Residential 1, where homeowners generally try to limit their physical intervention and footprint. This type of development should only be allowed on a business or commercial zoning.
2. I feel it is absolutely undesirable, wrong and out of character to change the town planning of a village in such a completely unnatural, arbitrary and ad hoc way. I believe Erf 340 is not suitable for this type of large scale, almost commercial style, development, which would create a precedent and lead to inconsistent and disorganised town planning. The sheer size and impact of what is proposed is totally out of keeping with the village and area in which it is situated.

There are several appropriately zoned undeveloped business properties on the market for such a development. It is wrong that the Rooiels business area is allowed to bleed dry, while all sort of commercial activities are allowed in single residential areas. This will not be good for our village, will destroy its character and create an "everything goes" attitude and mind-set.

3. The proposed commercial-style property development is situated in a non-commercial, quiet single residential part of Rooiels with narrow gravel roads, no

TP 3 APR 2018

street lighting, where it is peaceful and quiet and where nature is largely left undisturbed. I have invested in this part of Rooiels exactly for this reason.

Firstly, the physical scale of what is planned is totally out of character and unacceptable. However, the planned use and operations will add further to this; i.e. service delivery vehicles and staff visiting on a regular basis, delivery of ingredients and stock for 3 meals per day for guests, friends of guests visiting and causing traffic and parking problems, friends and family visiting staff members residing in the staff quarters provided on the property, etc.

4. I bought my property in Rooiels knowing exactly the title deed restrictions and therefor regard the restrictions (which are more or less similar to those of all other residential erven in Rooiels) as a social contract with my neighbours, which lends some security to all of us about what is allowed and what not in Rooiels.

The lay-out of Rooiels allows the village to retain a sense of living and place in harmony with nature and gives it a "natural" and true rural feel. This is what I bought into and which adds significantly to the value of my property. It is this which makes Rooiels different from most other coastal towns in the Overstrand municipality. The footprint and cumulative effect of the dwellings will be unacceptable from both an environmental and a visual point of view. It will detrimentally affect the ambiance of Rooiels and, as already mentioned, definitely result in lowering the property values of my and the surrounding properties.

5. The village of Rooiels is also an established Conservancy as registered with Cape Nature. The aims of the Conservancy include the protecting the environmental aspects, spaciousness and visual impact so that Rooiels retains with its own unique character and sense of place. This is in accordance with the principles set out in the Rooiels Vision to which all Rooiels property owners subscribe. The removal of these title deed restrictions is not in the interests of the natural environment nor of the residents of and visitors to Rooiels.

I accordingly strongly object to any tampering with or removal of reciprocal title deed conditions in Rooiels. It creates a disparity which is unjust to the town of Rooiels as a whole and to all other individual property owners who value Rooiels as it is.

6. I am strongly opposed to a second dwelling on Erf 340, which is presently prohibited by its conditions of title. Second dwellings amount to densification. Rooiels is not earmarked for densification in terms of greater planning policies. It is certainly not in line with our Rooiels Vision, which is a document on which the whole community has collaborated over the years and which sets out our values as a community. There is also no guarantee or fool-proof control that can and will ensure that such a second dwelling will not be unofficially used for guests in the future.
7. While Erf 340 may be a very large one, it is also one of the most ecologically sensitive ones in Rooiels and plays an important role in the ecosystem as it is located next to the sea shore. There is a seal colony directly in front of the property and there are also nesting sites of various sea birds, some of which are vulnerable. There are also some vulnerable species of plants occurring in the area, e.g. *Erica brachialis*. The application shows disrespect to this aspect.

8. I am very concerned about the planned extensive use of water on the property. Two swimming pools, a water feature, 9 – 11 bathrooms, a laundry, etc. seem excessive in a time when fresh potable water is becoming an issue. The use of swimming pools by guests almost inevitably leads to noise; which will again spoil the peaceful and tranquil atmosphere in this area.
9. The solutions proposed for dealing with effluent on the property is not convincing and without huge challenges. The Municipal tanker will find access extremely difficult to this property. It is smelly and noisy and there will be inevitably be contamination, given the frequency and volumes of effluent it will have to deal with from this property. The Lilliput option is even more hazardous with effluent being treated, re-used or irrigated on the property. This cannot be allowed in this sensitive area.

I truly believe that this application is completely ill-informed and inappropriate for the area and premises. I therefor strongly oppose any removal of title deed restrictions which would make the building of a second dwelling possible, as well as the removal of set back or building lines.

Yours faithfully,

J.B. Bestbier  
On behalf of the JJMA Trust (IT4337/2006) and its beneficiaries



TR A Theart  
(Huld Stoep)

**FHL RAYMOND**  
Erf 282, Rooiels  
frankraymond35@gmail.com

Your Ref: Municipal Notice 20/2018

Your Ref: Notice 20/2018  
29 March 2018

Overstrand Municipality  
Hermanus

By Fax 0283132093  
Email: loretta@overstrand.gov.za

Dear Sir or Madam

**MUNICIPAL NOTICE 20/2018**  
**ERF 340 ROOIELS PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND**  
**CONSENT USE**

Kindly take notice that I herewith formally note my objection to the proposed Application for the removal of restrictive conditions and consent use in respect of Erf 340 Rooiels.

The property in question is situated next to a Nature Reserve and is situated on a very sensitive coastal zone area. It is clear from the Application that the new owners of Erf 340 will be applying soon to sub-divide their property after being granted the permission to erect a second dwelling on the property. I attended a meeting with Ms. Aalbers with the Senior Town Planner Mr. Rian Kuchar during 2015 at the Municipal offices in Kleinmond. Mr. Kuchar informed us categorically that no identification would be allowed in Rooiels.

This was confirmed with him in a follow-up letter. I also annex herewith a copy of my letter dated September 2015 to Urban Dynamics Western Cape. The contents thereof is self-explanatory.

The current Application before the Municipality is fatally flawed because of inter alia the following reasons:

- a. This Application does not meet the sustainability requirement as set out in various Laws of the RSA. The establishment of two swimming pools and 11 bathrooms will have an detrimental impact on the Municipal infrastructure;
- b. The creation of a surage plant can only be done after an Environmental Impact Assessment has been granted;
- c. The proposed Application is a commercial venture and as such the Applicants are following the wrong procedure;
- d. No expert reports were annexed to the Applicants Application;
- e. This Application is clearly not in the public interests;

Kindly acknowledge receipt.

Yours faithfully

FHL RAYMOND

A handwritten signature in black ink, appearing to be "FHL Raymond".

FILE NO:	EL 340
	Rooi ELS ✓
SCAN NO:	RAYMOND
COLLABORATOR NO:	1144727

TP

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**ROOI ELS RATEPAYERS ASSOCIATION**  
PO Box 89 Betty's Bay 7141 - rerarebv@gmail.com

17 September 2015

Urban Dynamics Western Cape (PTY) LTD

FAX NO: 021 948 1588

EMAIL: [jaco@udwc.co.za](mailto:jaco@udwc.co.za)

**RE: DRAFTING OF OVERLAY ZONES – OVERSTRAND MUNICIPALITY**

Kindly take notice that I was instructed by the above association to note our initial comments to yourselves.

It is, inter alia, the object of our association is constitution to preserve the unique character of this very environmentally sensitive, coastal town. Rooi Els is situated next to the core area of the Kogelberg Biosphere reserve.

Rooi Els has adopted a vision document and I annex that document for your attention. It is self-explanatory. I also annex hereto a copy of a Report by Dr Heydom dated January 1982 for your attention. I specifically refer you to pages 20 and 21 of the report which are self-explanatory,

We submit that restriction be put in place regarding the following:

- a) No further sub-divisions of property be allowed;
- b) The footprint of buildings may not exceed 50% of property;
- c) No further re-zonings be allowed for commercial usage;
- d) No second dwellings be allowed;
- e) No further sub-divisions or densification be allowed on small holdings surroundings;
- f) Environmental and Heritage overlays also to be put in place (all public open spaces be incorporated into the nature reserve and be proclaimed as a nature reserve);
- g) The principals of the Biosphere reserve be implemented.

I note that inadequate notice was given for your public participation so far. Kindly note that I reserve the right to amplify our comments at a later stage and appropriate forum.

Kindly acknowledge receipt and kindly keep us informed of any other updates.

  
Yours Faithfully

FHL RAYMOND  
MEMBER FOR PLANNING ISSUES

ANNEXURE E 26/86

# RAYMOND McCREATH INC.

Unit 304 Crossfire Place, Gardner Wilkens Ave,  
Paardevel, Somerset West, 7129  
PO BOX 2962, Somerset West, 7130  
Deeds Office BOX 149, High Court Box No. 319

TEL 021 852 7660/6  
FAX / FAKS 021 852 7661  
admin@raymcc.co.za  
www.attorneys.co.za/raymcc

ATTORNEYS, CONVEYANCERS & ADMINISTRATORS OF ESTATES  
PROKUREURS, AKTEBESORGERES & BOEDELBEREDDERAARS

Franklyn Heinrich Lincoln Raymond BA LLB LL.M (Stel)  
Robert William McCreath BA LLB LL.M (Stel) (International Accredited Member)  
Accredited Arbitrators of the Arbitration Forum of South Africa  
Associate: Caryn Bergstadt B. Com Law & LLB (UWC)

REG. NO. 2000/031645/21 | VAT REGISTRATION NUMBER: 4240211740



Your Ref: Municipal Notice 20/2018

Our Ref: H Claassens  
28 March 2018

TRATheart  
CHuld stoep

Overstrand Municipality  
Hermanus

By Fax 0283132093  
Email: loretta@overstrand.gov.za

FILE NO:	EL 340
	Rooi Els
SCAN NO:	29
COLLABORATOR NO:	1144725

Dear Sir or Madam

## MUNICIPAL NOTICE 20/2018

### ERF 340 ROOIELS PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE

We have been instructed by our client, Ms H Claassens, the owner of erf 179 Rooiels to lodge a formal objection to the above application on her behalf.

We are instructed as follows:

#### Locus standi

1. Our client is a long standing resident of Rooiels and the registered owner of erf 179 Rooiels.
2. The title deed conditions under consideration for removal, are conditions imposed upon the establishment of Rooiels township and accordingly common to all/most properties in Rooiels. These are praedial servitudes or conditions inserted for the benefit of all other even in the Rooiels Township. Each erf in Rooiels is simultaneously both a servient tenement and a dominant tenement. It follows from the foregoing that our client has the necessary *locus standi* to object.

#### Application 20/2018

3. The owners of erf 340 Rooiels have applied for removal of certain title deed conditions to enable them to convert the existing dwelling to a Guest house and to build a second

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- 3 APR 2018

dwelling on their property. They are also applying for a consent use for a Guest House as the property is zoned single residential (SR1)

#### Removal of title deed restrictions

4. The title deed conditions at present prohibit the proposed Guest House and second dwelling (as acknowledged on p.11 of the application). Furthermore, the building lines and set back lines in the title deed conditions are more restrictive than Overstrand zoning scheme regulations (see p.12 of the application). The law is clear, when title deed conditions are stricter than zoning scheme regulations, the title deed conditions apply. (The converse is also true, when zoning scheme regulations are stricter than the title deed conditions, the particular zoning scheme regulations apply.) The legal principle is that the stricter of the two always applies.
5. In terms of Section 47 of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA) any removal, amendment or suspension of a restrictive condition by the Municipal Planning Tribunal (MPT) must have due regard to the respective rights of all those affected and to the *public interest*.
6. Judge Griesel in the Camps Bay Ratepayers case, laid down the test for "public interest" as follows:
 

*"... the personal interest of the applicant for removal is irrelevant. The interest which must be served by the removal are the broader interests of the township, area or public. ...The fact that the removal may not be undesirable does not in logic mean that such a removal is as a fact desirable."*

The test is the presence of a positive advantage to the community which will be served by granting the application, not the absence of a negative.

[See Camps Bay Ratepayers and Residents' Association and Other v Minister of Planning, Culture and Administration Western Cape 2001(4)294 (C) ]
7. Our courts have ruled that the *reason* for the insertion of title deed restrictions should always be taken into account when considering an application for their removal.
8. In a very similar case about similar title deed conditions to those pertaining to erf 340, Judge Revelas found that the insertion of restrictive conditions into the title deed could be for no other reason than to preserve the amenities of the other erven as low-density, single residential properties with sea views and to maintain this character of the township.
 

[See Van Rensburg N.O. and another v MEC for Housing, Local Government and Traditional Affairs (Case no 3399/2010)].
9. The same reasoning as in the Van Rensburg-case (cited above), applies to all the reciprocal title deed conditions in Rooiels. Rooiels title conditions (e.g. relating to only one dwelling per property, no commercial use, set back lines and no more than 50% coverage) give Rooiels its particular sense of place and lend it a spacious, rural atmosphere. This adds considerable value to properties in Rooiels. The reciprocal retention of title deed conditions are of the utmost importance to our client and indeed to the vast majority of the inhabitants of Rooiels. It is our client's submission that property owners in Rooiels

purchased their property full knowing that it is a conservation community and most would like to keep it that way.

10. It follows that the *ad hoc* removal of these particular title deed conditions (as requested in the application), would create imbalance, spatial injustice and that it is not in the public interest. In terms of Section 42 of SPLUMA, a municipal planning tribunal (MPT) *must* take into account the public interest.

#### **Environmental legislation**

11. In terms of Section 42 of SPLUMA, the MPT *must* furthermore ensure compliance with environmental legislation.
12. Erf 340 Rooiels is situated in the *coastal zone* as defined by the National Environmental Management Integrated Coastal Management Act, 2008. No mention is made of this in the application, nor of the impact on coastal setback lines to protect the coastal public property, the coastal zone and the aesthetic value of the coastal zone. (See section 25 of the Act). This is a serious omission. A Marine Engineer's Report is also notably absent.
13. Erf 340 falls within the proclaimed Kogelberg Biosphere Reserve and is within 10km of the Core Zone of this World Heritage Site and/or Biosphere Reserve and/or Nature Reserve. This triggers a full Environmental Impact Assessment under the National Environmental Management Act, 1998 (NEMA). See in this regard Listing Notice 3/2010. This has not been done and renders this application fatally flawed.
14. Likewise, the treatment/disposal facility of effluent could also trigger an EIA in terms of NEMA, depending on the volume. This has not been disclosed in the application and renders it flawed.
15. The applicants' statement (unsubstantiated) in paragraph 3.9.2 of the application that NEMA is not triggered, is therefore misleading and incorrect.
16. Erf 340 fronts onto a narrow strip of Public Open Space (Nature Reserve) and is within 100m of the high water mark. The precautionary principle (sec 2 of NEMA) applies and potential impacts to the environment need to be avoided/mitigated. Instead, the applicants are attempting an excessive and high impact development under consent use provisions. It is also noted that the maximum footprint allowed (120sq m) in respect of a second dwelling is envisaged. No attempts are made to mitigate environmental impacts.
17. In the context of Rooiels, the proposed development is a high impact one and inadequate information has been supplied in the application regarding:
- road traffic;
  - noise;
  - visual and aesthetic impact;
  - construction, due to the difficult terrain;
  - ground water, water run-off, waste water and potable water;
  - fauna and flora; and
  - heritage.
18. In order for the MPT to properly evaluate this application, as required by SPLUMA, Specialist Reports on the above matters should have been submitted as part of the

application. The Consultants for the applicants are not specialists in any of the fields mentioned in paragraph 17 above. (According to their Facebook page they advertise their services as being experts in sub-division and land use planning.)

19. In terms of Section 42 of SPLUMA, the MPT *must* furthermore be guided by development principles and relevant policies/frameworks (which incidentally do not propose densification for Rooiels).
20. In summary, the application ignores fundamental principles of SPLUMA and other legislation.
21. All our client's rights are reserved; including the right to fair hearing before the MPT, the right of appeal and/or review of any decision in the High Court.
22. Our client requests that we address the MPT on this matter on her behalf.

Kindly acknowledge receipt of this letter and keep our offices advised of any developments.

Yours faithfully



PHIL RAYMOND

TP A Theart  
(H vld Stoep)

Loretta Gillion - Erf 340 Rooi Els



**From:** "Annette van der Merwe" <annette@wynlandproperties.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 29/03/2018 04:21 PM  
**Subject:** Erf 340 Rooi Els

We have taken note of the applications submitted by the town planners. We object to the proposed removal of restrictive title deed conditions. We do not object to consent use for a guest house, as long as the appropriate number of parking bays are available on the erf.

Kind regards

Annette and Dawid van der Merwe  
114 Rocklands Road  
Rooi Els

FILE NO:	EL 340
	Rooi Els
SCAN NO:	27
COLLABORATOR NO:	1144715

TP

03 APR 2018

TP A Theart  
(M vd Stoep)

**Loretta Gillion - Proposed Removal of Restrictive Conditions for Erf 340 - Perspicua Road / Rooi Els**



**From:** lavinia lindsay <lavinia\_lindsay@yahoo.co.uk>  
**To:** "loretta@overstrand.gov.za" <loretta@overstrand.gov.za>  
**Date:** 28/03/2018 10:42 PM  
**Subject:** Proposed Removal of Restrictive Conditions for Erf 340 - Perspicua Road / Rooi Els

Dear Madam,

As owner of Erf 249 Perspicua Road I have been notified that the owners of Erf 340 have made an application to operate a 5 bedroomed guest house from this address and have additional plans to construct a second dwelling on this plot. In my view this will open the flood gates for further development of this nature in Rooi Els. I feel this will negatively impact this unique coastal environment, where humans and animals strive to live together harmoniously. Such a development would erode Rooi Els's unique charm and the peaceful environment would be destroyed forever. This most definitely would set a precedent with implications for the future were it allowed to go ahead.

Part of the attraction of Rooi Els is that it is a village that has remained relatively undeveloped. Besides environmental considerations there are implications for the infrastructure of Rooi Els which has not been planned to accommodate commercial activities of this nature. I strongly object to this application.

Regards  
Tracey van Den Brand UK Cell +44 7815 553375

Sent from Yahoo Mail for iPad

FILE NO:	EC 340 ✓ Rooi Els
SCAN NO:	BRAND
COLLABORATOR NO:	1144701

TP - 3 APR 2018

TR A Theart  
C H vd Stoep

Loretta Gillion - MUNICIPAL NOTICE 20/2018

**From:** Estelle Buys <BuysE@cput.ac.za>  
**To:** "loretta@overstrand.gov.za" <loretta@overstrand.gov.za>, "hvdstoep@overs...  
**Date:** 28/03/2018 09:31 PM  
**Subject:** MUNICIPAL NOTICE 20/2018  
**Cc:** Estelle Buys <BuysE@cput.ac.za>



**Municipal Manager**

Overstrand Municipality

**MUNICIPAL NOTICE 20/2018**

**ERF 340 ROOIELS PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE**

We are the owners of Erf 2, Clarence Drive, Rooiels and hereby object to the above application.

Our grounds of objection are the following:

1. Rooiels is a small coastal town situated in a conservancy making it unique in many ways. Allowing the removal of restrictive conditions and consent use for Erf 340 will set a precedent that nobody would ever be able to turn around. This will lead to Rooiels losing its uniqueness and just become another coastal town along this stretch of coast, which is the reason most people bought property here in the first instance.
2. By allowing the owners Erf 340 to build two dwellings of which one is a guest house in an area that is zoned as SR1 will allow business to creep into this residential area.
3. The footprint of this substantial guest house leads to concerns about the excessive use of water for 8 bathrooms, 2 swimming pools, a laundry AND a water feature; the large scale problem of disposal of effluent and waste water; the increase of traffic from guests, staff, deliveries, etc. on the single tract of dirt road of that part of Perspicua road, to name a few.

We respectfully request that you do **not set a precedent** which all current and future residents of Rooiels will deplore forever and we trust that this **application will be turned down**.

*Please acknowledge receipt hereof.*

Riël and Estelle Buys  
 buysriël@gmail.com and buyse@cput.ac.za

28 March 2018

FILE NO:	EL 340 Rooiels
SCAN NO:	KPE 340 ✓
COLLABORATOR NO:	1144582

Disclaimer

TP - 3 APR 2018

28. Mar. 2018 11:49

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ANNEXURE E 33/86

# BEUKMAN & ASSOCIATES

## ATTORNEYS | PROKUREURS

Tel 021 8500845  
 Fax 021 8500696  
 Cell 083 325 7140  
 Email dbeukman@telkomsa.net



22 Bright Street  
 Somerset West, 7130  
 P O Box 3352  
 Somerset West, 7129

Our Ref: DJB/LH  
 Your Ref:

TP - A Theert  
 (Huld Steep)

27 March 2018

Municipal Manager  
 Overstrand Municipality  
 PO BOX 20  
 HERMANUS  
 7200

Fax: 028 313 2093  
 Email: loretta@overstrand.gov.za

FILE NO:	EL 340
	Rooi-Els
SCAN NO:	05
COLLABORATOR NO:	1144491

**YOUR REF: MUNICIPAL NOTICE 20/2018**  
**OBJECTION TO THE APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS AND**  
**CONSENT USE: ERF 340 ROOI ELS**

We are instructed herein by our client, Friends of Rooiels, a voluntary association not for gain established in terms of its constitution.

We hereby lodge our client's objection to the above application to enable the applicants to operate a guest house and construct a second dwelling on erf 340 Rooiels.

### 1. RETENTION OF RECIPROCAL TITLE DEED RESTRICTIONS IN ROOIELS

#### 1.1. Removal is not in the public interest

The courts have been clear; the reason for the insertion of title deed restrictions should always be taken into account when considering an application.

The reason why these reciprocal title deed conditions relating, *inter alia*, to building lines, set back lines and a limit of one dwelling each per erf were imposed upon establishment of the Rooiels township, was to create and protect a certain sense of place and character. This manifests in the natural, rural and spacious "feel" which is prevalent in this particular village.

The **reciprocal retention** of title deed restrictions are regarded by our client (in accordance with its objectives as per constitution) as an important measure to secure the unique character of Rooiels as an ecologically sensitive village living in harmony with nature. This has "sense of place" constitutes a unique selling point, allowing Rooiels properties to be sold at a premium.

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Because these title deed conditions are applicable to **all** the residential properties in Rooiels, any removal would create imbalances and injustices and such removal will certainly not be to the public benefit and nor in the public interest.

Section 47 of the Spatial Planning and Land Use Management Act (SPLUMA), specifically stipulates that due regard must be given the **public interest** as opposed to merely the owner's interest. As a community organisation, Friends of Rooiels, places on record that it is **not in the public interest** to remove these title deed conditions.

### **1.2 Lack of spatial justice, *ad hoc* nature of particular development which is not in keeping with spirit of SPLUMA**

The potential removal of the title deed conditions in question in respect of erf 340 (while the vast majority of properties in Rooiels remain subject to the very same title deed conditions), is unequal and **spatially unjust** to the rest of the community and would allow development to occur in a **disharmonious** and *ad hoc* manner.

It is clear that this application is not in keeping with the principles of "integrated development", "spatial justice" and "upholding consistency of land use measures in accordance with environmental management instruments" as is legally required by SPLUMA and by which the planning tribunal is bound.

### **1.3 Application for removal of conditions pre-empts the finalisation of a special overlay for Rooiels**

An important consideration detrimentally affecting the whole community is that it will effectively preclude the finalisation of special zoning scheme overlay for Rooiels incorporating the various aspects of the *Rooiels Vision* (being the community ethos of limiting human impacts), which give expression to local land use needs and values. This is yet another reason why the application is clearly **not** in the public interest.

### **1.4 Creation of disharmony and conflict**

This application has already created considerable conflict in Rooiels as apparent from the numerous objections submitted. Should this application be granted, this will greatly escalate the situation with Overstrand Municipality bearing the brunt of the complaints, policing and legal interventions.

### **1.5 Social benefit**

In the light of the points raised in paragraphs 1.1 – 1.4 above, the social benefit of keeping these title conditions in place, by far out weighs the relatively small benefit that will be bestowed upon the individuals in question. The application for removal of all or any of the title deed conditions should accordingly be refused.

## **2. ENVIRONMENTAL AND HERITAGE CONSIDERATIONS REGARDING THE PROPERTY**

### **2.1 Lack of substantiation of environmental claims in the application**

This property is situated in a particularly sensitive area on the sea shore within 100m of the high water mark and is vegetated by fragile succulents (some which are threatened or vulnerable) and coastal fynbos (of which some species which occur here are threatened or vulnerable). No **botanical** assessment has been done by the applicants and this should have been a pre-requisite. Consequently the application lacks vital information.

-3-

The application also lacks information on the **seepage** and run off from the property to the sea and fails to set out how this would be impacted by the extensive enlargement of the footprint, an enlargement of no less than 391sq meters.

It is not sufficient that the applicants merely assert (without any substantiation thereof) that the provisions of the National Environmental Management Act (NEMA) do not apply. Has a NEMA check-list been submitted?

From an environmental perspective, Erf 340 is ill-suited for the extensive and relatively intensive usage thereof as proposed. While it is indeed a large property, the reason for the size of erf 340 was clearly the fact of its difficult topography with enormous boulders and some low lying areas where water collects with the winter rains. This is borne out by the fact that the existing dwelling is a wooden one and had been built on pillars. (The open bottom section was later enclosed).

No attempts appear to have been made to mitigate the potential environmental impact of this development. It should be noted that according to the application, the footprint of the substantial existing dwelling is more than doubled (by adding another 271sq meters). In addition, a second dwelling (120 sq meters) is to added – which the absolute **maximum** size allowed in terms of the zoning scheme.

## 2.2 Lack of substantiation of heritage claims in the application

The applicants state that no heritage considerations apply in respect of erf 340. What qualifications do the applicants have to make such claim? Have any heritage or archeological assessments been done?

There are numerous middens and other evidence of pre-historic peoples on the erven which surround erf 340, making it very likely that there may well be heritage considerations pertaining to erf 340. Dr Graham Avery (SA Museum) identified various middens of late stone age origin in the immediate vicinity of erf 340. For example, there is one on erf 260 Perspicua, which is just one property away from erf 340. In the interests of not inadvertently destroying valuable heritage through lack of knowledge, a thorough archeological study ought to be required before proceeding with this application.

## 2.3 Wasteful usage of water, disposal of treated effluent and waste water in an ecologically sensitive environment

Our client is concerned about the large scale usage of municipal potable water, which is a scarce resource. There are no less than 11 bathrooms, a large laundry, a water feature and 2 swimming pools. This is untenable on a property zoned for single residential use (and it really highlights the manipulation and abuse of the zoning scheme by the applicants as set out in paragraphs 4.1 and 5.2 below).

Furthermore, the application is silent as to the impact of such excessive water usage by the Guest House (for an additional 10 people, plus 4 staff). This is a glaring and serious omission in the application and needs to be rectified by an appropriate specialist report before the application is proceeded with.

Apart from excessive use of a scarce resource, there is the additional large scale problem of disposing of effluent, treated effluent and the waste water of the 2 swimming pools. The proposed re-use of treated effluent on the property presumably for irrigation (if the Lilliput alternative is allowed) is not supported. An environmental impact assessment needs to be done by a specialist regarding the effect of irrigation and that of increased phosphates on the fragile natural fynbos ecosystem in which erf 340 is situated. The effect thereof such a system on the seepage areas and run off into the sea should also be studied by a specialist in this field. Sewerage collection by municipality tanker is not a possibility in this particular location. It will cause an unbearable

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nuisance to neighbours in this quiet area, both with regard to noise and smell – sure to affect the value of the surrounding properties negatively.

### **2.3 Lack of Integrated development**

The principle of "integrated development" (as set out in SPLUMA), requires full disclosure of all the details and extent of a development so that the cumulative impact of a development can be properly assessed and considered. In the light of the apparent absence of proper due diligence, specialist reports and truthful disclosure regarding both ecological and heritage aspects, this requirement cannot be met and the application must be refused by the planning tribunal.

### **2.4 Ecological Support Area**

Your attention is drawn to the designation of Rooiels as an "Ecological Support Area" in terms of the Spatial Development Framework. As you are no doubt aware the municipality is legally bound to take into account both the IDP and SDF when considering an application and it should exercise extreme caution (in accordance with the precautionary principle established in our Environmental Law) when considering this application:

The present application seriously falls short of offering appropriate and thorough environmental input upon which a proper decision can be made by the municipal planning tribunal and must accordingly be refused.

### **3. INCORRECT LOCALITY MAP**

Information on the attached locality map is incorrect in a number of instances. For example, erven 332, 329, 330 and 331 do not exist. While this may not be a material flaw, it points to a lack of thorough research which is evident throughout this application and becomes much more serious as insofar as glib unsubstantiated statements are made regarding environmental and planning principles – as raised in paragraph 2 above and elsewhere in this objection.

It has been established by our courts that any flaws or inaccuracies in applications should be rectified prior to a decision being taken. We accordingly recommend that this application either be referred back or refused on the grounds that it is not complete and correct in all respects.

### **4. SECOND DWELLING NOT ALLOWED**

#### **4.1 Abuse of zoning scheme regulations**

We question the legality of allowing a "second dwelling" as of right, when there is only a Guest House (not a primary dwelling on a property). This was certainly not intended by the zoning scheme provisions and in our opinion constitutes an abuse thereof.

#### **4.2 Title deed condition does not allow a second dwelling**

Second dwellings are precluded in standard Rooiels title deed conditions - unless such title deed conditions are first removed (our client opposes such removal).

It is established law that zoning scheme regulations do not override title deed restrictions. Both are relevant and applicable and the stricter of the two must apply to the property in question. In this case, it is the title deed condition 4(b) which applies and which does not allow for a second dwelling on erf 340.

-5-

#### **4.3 A second dwelling is not in line with over-arching spatial planning policy for Rooiels**

In addition to the fact that a second dwelling on erf 340 is precluded by title deed condition 4(b) (as set out above), it is also inconsistent with the spatial planning policy for Rooiels. This is clear from the Spatial Development Framework and Overstrand Municipal Growth Management Strategy that densification is not appropriate for Rooiels. Rooiels simply cannot sustain any densification from an ecological perspective.

No description, nor justification has been given of the above inconsistency with policy in the advertisement or the application (as is required by section 7 of the Overstrand Land use planning by-law). Instead vague, unsubstantiated and untrue statements are made with regard to densification on p15 and p18 of the application, namely that *"the status quo for the area will remain unchanged (owners residing in the main dwelling versus residing in the second dwelling)"*. This statement is patently untrue on a number of grounds. Firstly the *"main dwelling"* will cease to be a main dwelling and will now become a Guest House housing at least 10 guests plus 2 staff in 7 bedrooms. Together with the proposed second dwelling, the property will house at least 14 -16 persons, but possibly even more depending on how many staff are employed.

This application amounts to a request for *ad hoc* densification, and clearly is not in line with Overstrand's over-arching spatial planning policies nor in the public interest.

#### **5. CONSENT USE APPLICATION FOR "GUEST HOUSE" WHICH IS ACTUALLY A BOUTIQUE HOTEL**

##### **5.1 Extent of Proposal and abuse of consent use provisions for Boutique Hotel**

The proposed "Guest House" entails an enormous development, which will more than double the existing volume of the existing substantial structure on erf 340. It more accurately conforms with the description of a Boutique Hotel, offering three meals a day, entertainment and extensive tourism services.

Our understanding of the zoning scheme (See 6.1.5 of Chapter 6 thereof) is that only 2 (two) guest rooms are allowed where an application is made for consent use under an SR1 zoning.

The position regarding the number of guest rooms would be different under a business zoning, where a Guest House is a primary use. A "Guest House" of this magnitude (i.e. a Boutique Hotel) would need to be operated from an appropriately zoned business property and not from SR1.

##### **5.2 Irrevocable commercialisation of SR1 property and abuse / manipulation of consent use provision**

The underlying intention of the "consent use" category in the zoning scheme is allow certain secondary uses of a property that do not fundamentally change or undermine the primary usage thereof. A property may therefore be developed under consent use in such a way that it can easily revert back to its primary use, i.e. single residential (SR1). It is not intended that the use of the property be irrevocably transformed by the consent use.

In the case of erf 340, the sheer magnitude of the proposed "Guest House" Boutique Hotel development is not something which was ever intended under the category of SR1 "consent use". It is ludicrous to assert that a property, which (if the consent use is allowed), will boast 9 bedrooms, 11 bathrooms and 2 swimming pools, can ever revert back to its original use as a single residential dwelling! It will be over-capitalised and totally out of keeping with the other single residential dwellings in the surrounding area - forever remaining a monument to bad town planning.

-6-

### **5.3 Business "creep" in single residential areas, while the Rooiels business area remains under-developed**

This type of large scale development (5 bedrooms with pool, extensive amenities and other tourism services), is ideally one that needs to occur on suitably zoned business premises in respect of which it is a primary use. There is an ample supply of such zoned premises in Rooiels and in our surrounding villages of Pringle Bay and Bettys Bay on the market. In Rooiels itself, a property suitable for Guest House purposes and previously run as tourism accommodation is presently on the market as well as two other vacant business sites. It would constitute poor town planning to allow existing business areas to bleed dry and remain under-utilised, while allowing business "creep" in a quiet secluded residential part of the village. This clearly undermines the zoning scheme and the harmonious development of our Rooiels and consequently should not be allowed.

## **7. FACTUAL ERRORS AND MISREPRESENTATIONS**

### **7.1 Traffic impact**

The application states that the proposed guest house and second dwelling will not adversely affect traffic flow. No substantiation of this (untrue) statement is given. It should be reasonably expected that there will be at least the following additional traffic:

- a sewage tanker 1x per week
- various food and drink deliveries 1 to 3 x per week
- non resident staff arriving at least twice per day, depending of shifts
- guests arriving and departing possibly (5 x 2) 10 x per day
- specialist guides arriving and departing 2x per day.

This will all take place on a very narrow stretch of Perspicua road which is a dirt road (allowing one car to pass at a time). The entrance to erf 340 is situated on a blind curve and on an incline. The road would need to be re-made to accommodate the development at the expense of the greater community just to benefit a single owner.

### **7.2 Impact on surrounding properties**

The statements about the surrounding properties (erven 257, 259 and 335) not being impacted upon is clearly untrue and insensitive. The neighbouring properties will be negatively affected by increased traffic (day and night), lights, the irrigation of treated effluent / sewerage trucks pumping the conservancy tanks, delivery vehicles, noise etc. The value of these properties as single residential will clearly be detrimentally affected as will be the peaceful enjoyment by the occupants thereof.

### **7.3 Consent use and removal of title deed condition is completely out of sync with other land use in the surrounding environment**

The application states at the end of paragraph 3.4 (p 7) that *"The proposed consent use and removal of title deed conditions of erf 340 Rooiels are not in contrast to the existing land use tendencies in the surrounding environment"*. This is untrue. The proposal is completely out of sync with the surrounding environment, which are all single residential (single dwelling only), there are no Guest Houses nearby and all properties are subject to similar title deed conditions, which the applicants are now seeking to remove in respect of their property only.

28. Mar. 2018 11:50

K2168805502

ANNEXURE E 39/86

-7-

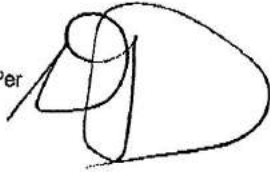
**CONCLUSION**

**In the light of the above, we trust that the application will be turned down.**

**Our client requests a hearing at the municipal planning tribunal in terms of section 77. Kindly advise us of the required procedure for this as well as the date and time of the hearing.**

Yours faithfully  
BEUKMAN & ASSOCIATES

Per

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

ANNEXURE E 40/86

FILE NO:	EL 340
	Rooi Els
SCAN NO:	21
COLLABORATOR NO:	1143362



PO Box 89, Bettys Bay, 7141

TPA Theart  
(Huld stoep)



28 March 2018

The Municipal Manager  
Overstrand Municipality  
By email to [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

Dear Sir/Madam

**MUNICIPAL NOTICE 20/2018  
ERF 340 ROOIELS PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND  
CONSENT USE**

The village of Rooiels is an established Conservancy and is registered with CapeNature. The aims of the Conservancy include the conservation of the environmental aspects of Rooiels with its own unique character and sense of place, in accordance with the principles set out in the Rooiels Vision.

We cannot support the present application which increases the existing footprint on this property by almost 200%.

**THE PRECAUTIONARY PRINCIPLE APPLIES TO THIS ECOLOGICALLY SENSITIVE ERF  
AND AREA**

1. As you are no doubt aware, Rooiels is situated within the proclaimed Kogelberg Biosphere Reserve and is regarded as the Gateway to the Kogelberg Biosphere Reserve. Rooiels is recognised in the SDF and other planning documents as deserving of ecological support. It is furthermore an area in which densification is not advised according to Overstrand's own policy documents and assurances which have been given to Rooiels community organisations by Overstrand officials and councillors in recent years.
2. Erf 340 Rooiels is situated on the seashore and abuts Open Space 1 Nature Reserve. As such erf 340 falls within the very sensitive coastal zone.
3. The applicants correctly point out that erf 340 is one of the larger erven in Rooiels. The reason for this is the topography of erf 340, which makes it difficult to build. Erf 340 is characterised by many enormous boulders and also a number of indentations and natural seepage areas which fill up with water in the rainy season. It was for this very reason, that the existing dwelling was built on stilts. The bottom portion was later enclosed.
4. There is a resident Hyrax population on the property, with frequent visits by Caracal, Verreaux's eagles and even the odd leopard (the latter seen a few years ago by Mr. Pierre du Toit, a former neighbour). There is a Cape fur seal colony directly in front of erf 340 and a number of Cape cormorant nesting sites.

TP  
21 MAR 2018

## ANNEXURE E 41/86

5. The natural vegetation in this area is in a near pristine state. There are endangered, vulnerable and rare species which occur in this particular part of Rooiels. *Erica brachialis*, *Diastella thymelaeoides*, *Erica pattersonia* and various *Erepsia* occur in the immediate vicinity and most likely too on erf 340. However, no botanist's report has accompanied this application. It is accordingly flawed as crucial information has not been submitted.

6. The application states that no heritage considerations apply in respect of erf 340. It is well known that there are numerous middens and other evidence of pre-historic peoples around Rooiels and especially on the erven which surround erf 340, making it very likely that there may be some on erf 340. In 2000 Dr. Graham Avery (SA Museum) identified various middens of late stone age origin in the immediate vicinity - including one on erf 260 Perspicua, which is just one property away from erf 340. Dr. Avery did not study erf 340 at the time, as he was invited by the former owners of erf 260 to look at some artifacts which they had discovered. However, in the interests of not inadvertently destroying anything of heritage value, an archeological assessment report ought to be required before proceeding with this application.

7.1 A Water specialist report needs to be submitted on the effect of effluent, treated waste water, possible sewerage spills and swimming pool overflow and backwash water on the natural seepage and water flows over erf 340, as well as on the terrestrial and marine ecosystems. Who is going to bear the costs of any inadvertent mishaps to the environment?

7.2 Likewise, a specialist report needs to be submitted regarding the effect of the extensive building works on the property on run-off and the existing seepage areas.

7.3 We are concerned about what amounts to excessive use of potable water in respect of two swimming pools, a laundry and 11 bathrooms, which we believe is not sustainable nor responsible in our day and age.

7.4 The topography of erf 340 is such that it is extremely difficult to dig foundations. It is important that no blasting be done to remove boulders and that any building work on this sensitive property at all times be done under the supervision of an independent environmental control officer.

8.1 We are opposed to the removal of the title deed conditions to enable the applicants to erect a second dwelling on the property, being contrary to planning policy with regard to Rooiels and Overstrand's assurances of non densification for Rooiels. Densification is simply not ecologically sustainable in Rooiels.

8.2 We are furthermore opposed to the removal of the title deed conditions pertaining to building lines and set backs. In a time of climate change, with more frequent storms, high seas and rising sea levels, it would be most irresponsible to relax the set back lines of a sea fronting property. A coastal engineer's report should have accompanied this application.

8.3 The title deed conditions which the applicants wish to remove, are reciprocal to most Rooiels properties and contribute to the village's spacious and natural feel. They also create corridors for natural wildlife. We accordingly believe that it is not in the public interest to delete these title deed conditions.

#### CONCLUSION

Due to the sheer magnitude of the proposed development, it is likely to negatively impact the natural run-off of water, endangered flora, wildlife, marine ecosystems and the ecology in general. We are also concerned about the effect of increased human impacts of approximately 14 people on the property (including noise and lights), the 2

swimming pools, a laundry, water feature and 11 bathrooms. Of great concern is the wasteful usage of potable water, the disposal and treatment of effluent and the disposal of waste water from the 2 swimming pools. In our view, the solutions offered are inadequate and vague. ANNEXURE E 42/86

The planning tribunal is urged to take a conservative and cautionary approach in this matter as:

- (a) the area is situated in an ecologically significant and sensitive area, but no specialist reports whatsoever have been submitted for public scrutiny; and
- (b) additional rights are being sought by the applicants which are likely to impact negatively on the natural environment and on other property owners in Rooiels.

We believe that this proposal is not in the public interest and is fraught with potential environmental problems. We trust that the application will be turned down.

Please acknowledge receipt hereof.

J Yeats  
On behalf of the Rooiels Conservancy  
jyeats@telkomsa.net

ZIETSMAN - HORN  
INGELYF/INCORPORATED  
REG NO: 92/06945/21

voorheen/previously:  
WESSELS & LE ROUX

BEYERS NAUDE RLN 208  
208 BEYERS NAUDE DRIVE  
RUSTENBURG  
0298

POSBUS/P O BOX 54  
RUSTENBURG  
0300

DOCEX 33 RUSTENBURG

TEL: (014) 59-20221  
FAKS: 086 6175 267  
(014) 597-2229

e-pos/e-mail:  
aktes/deeds  
barbie@zh.co.za

inv/coll  
sanet@zh.co.za

absa  
come@zh.co.za

DIREKTEURE/DIRECTORS:

CAREL PIETER ZIETSMAN  
B.PROC (UNISA)  
LLM (Environmental Law)  
(Omgewingsreg)  
DeMontford University  
(DMU) United Kingdom

JOHAN WILLEM HORN  
B.IUR (PU vir CHO)  
B.PROC (UNISA)

CORNÉ JOHANNES NEL  
B.IUR (UP) B.PROC (UP)

# ZIETSMAN - HORN

PROKUREURS, NOTARISSE & AKTEVERVAARDIGERS  
ATTORNEYS, NOTARIES & CONVEYANCERS

ONS VERW:/ OUR REF : MNR HORN/s reilly/HR356  
sanet@zh.co.za

U VERW / YOUR REF :

2018-03-27

OVERSTRAND MUNISIPALITEIT  
HERMANUS

EPOS: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

Waarde here



RONALD SCHILD TRUST – 217 HARVEYA WEG / GODS GIFT GUEST HOUSE en 2de  
WONING AANSOEK

Ons verwys na bogenoemde aangeleentheid en het opdrag van ons klient Ronald Schild Trust ontvang om hierdie skrywe aan u te rig en beswaar te maak teen die aansoek van Plan Active Town Planners namens CP Howard en RJC Terlien, die elenaars van Erf 340, Rooiels.

Ons klient maak beswaar teen die voorgestelde verwydering van die beperkende titelake voorwaardes en toestemmingsgebruik op die eiendom.

Dit is ons instruksies dat Rooiels 'n bewaringsgebied is en dat dit dus die rede is waarom daar beperkende titelvoorwaardes opgelê is teweete dat slegs 'n enkel residensiële eiendom op 'n erf opgerig mag word.

Die aansoek van Plan Active Town Planners behels dat 'n 2de woning op die erf opgerig word sodat die oorspronklike woning as 'n gastehuis bedryf kan word.

Dit is ons instruksies dat die bedryf van 'n gastehuis op Erf 340 Rooiels, die hele konsep van 'n bewaringsgebied kan benadeel. Om 'n kommersiële aktiwiteit teweete die bedryf van 'n gastehuis op Erf 340 Rooiels toe te laat, gaan indruis teen die beginsel van 'n bewaringsgebied. Dit gaan ook inbreuk maak op die rustigheid van die omgewing.

Ons klient is van mening dat die opheffing van die beperkende titelvoorwaardes geensins tot voordeel van Rooiels en die elenaars daarvan kan wees nie.

Geliewe dus hierdie beswaar gunstig te oorweeg en verneem ons dan mettertyd u beslissing hieromtrent.

Die uwe  
ZIETSMAN-HORN ING  
pp: J.W. HORN

FILE NO:	EL 340
SCAN NO:	Rooi E15
	HORN
COLLABORATOR NO:	1143219

TP

20 MAR 2018

TP-A Theart  
(C Huld Stoep)

**Loretta Gillion - MN 20/2018 OBJECTION TO ERF 340 ROOIELS PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE**



**From:** Estelle Raymond <eraymond@mweb.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 27/03/2018 04:22 PM  
**Subject:** MN 20/2018 OBJECTION TO ERF 340 ROOIELS PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE  
**Cc:** Estelle <eraymond@mweb.co.za>

FILE NO:	EL 340
	Rooi Els ✓
SCAN NO:	
	ESTELLE
COLLABORATOR NO:	1143169

**MUNICIPAL NOTICE 20/2018**

**ERF 340 ROOIELS PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE**

I am the owner of erf 278 Rooiels and hereby object to the above application.

My grounds of objection are the following:

1. I believe that erf 340 is totally unsuitable for this type of large scale commercial development, which would make for haphazard and disorganised town planning. The sheer size and impact of what is proposed is totally out of keeping with the area in which it is situated. This type of development should occur in an appropriately zoned area, of which there is no shortage in Rooiels.

Wonderlings BB has been on the market for a long time and so is "Something Else" on erf 38 (now standing empty, but which used to offer a restaurant and accomodation) in the Rooiels business district and close to the beach and public slipway.

There are also several appropriately zoned undeveloped business properties on the market. It is wrong that the Rooiels business area is allowed to bleed dry, while all sort of commercial activities pop up in single residential areas. This is irresponsible of Overstrand municipality and certainly not good for our village, destroying its character and creating a "free for all" mindset.

2. The property is situated in a non-commercial, quiet single residential part of Rooiels with narrow gravel roads, no street lighting and where nature is largely left undisturbed. I have invested in this part of Rooiels exactly for this reason.

I regard my title deed restrictions (which are more or less similar to those of all other residential erven in Rooiels) as a social contract with my neighbours, which lends some security to all of us about what is permissible and what not in Rooiels.

I especially appreciate the foresight with which the village was laid out by the original developers; with big erven, building restrictions regarding the percentage of property which may be built upon, only one dwelling allowed per property and its conservative setback and building lines. This allows Rooiels to retain a sense of living in harmony with nature and almost

TP

28 MAR 2018

gives it a "wild" and rural feel. This is what I bought into and which gives considerable value to my property. It is this which makes Rooiels different from most other coastal towns in the Overstrand municipality.

I accordingly strongly object to any tampering with or removal of reciprocal title deed conditions in Rooiels. It creates a disparity which is manifestly unjust to the town of Rooiels as a whole and to all other individual property owners who value Rooiels as it is.

3. I am strongly opposed to a second dwelling on erf 340, which is presently prohibited by its conditions of title. Second dwellings amount to densification. Rooiels is not earmarked for densification in terms of greater planning policies. It is certainly not in line with our Rooiels Vision, which is a document on which the whole community has collaborated over the years and which sets out our values as a community.

4. While erf 340 may be a very large one, it is also one of the most ecologically sensitive ones in Rooiels and plays an important role in the ecosystem as it is located next to the sea shore. There is a seal colony directly in front of the property and there are also nesting sites of various sea birds, some of which are vulnerable. I am personally aware of some vulnerable species of plants occurring in the area, e.g. Erica brachialis. I am truly astounded that no environmental scoping or other input has been ordered before lodging this large scale application - surely a dereliction of duty!

5. I am most sceptical of the claim that there are no heritage considerations. Rooiels is known for its fish traps, shell middens and various stone age artifacts, some of which have been found close to erf 340.

6. I am very concerned about the planned extensive use of water on the property. Two swimming pools and a water feature seem excessive in a time when fresh potable water is becoming an issue.

7. I am not happy with any of the solutions proposed for dealing with effluent on the property. The municipal tanker will find access extremely difficult. It is smelly and noisy and there will be inevitably be contamination, given the frequency and volumes of effluent it will have to deal with from this property. The Lilliput option is even more hazardous with effluent being treated, re-used or irrigated on the property. This cannot be allowed in this sensitive area where the effect on the ecosystem is most unlikely be a salutary one.

I have nothing personal against the new owners of erf 340 whom I have not met, but believe to be good people. I also don't have a problem with any non-intrusive, low impact occupational practice. I just believe that this application is completely ill-informed and inappropriate for the envisaged premises.

Please notify me of any new developments regarding erf 340 and of any amendments to the application. Please acknowledge receipt.

Yours faithfully

Estelle Raymond

[eraymond@mweb.co.za](mailto:eraymond@mweb.co.za)

27 Kendal Street

Eversdal  
7550

We trust that the application will be turned down.

Please acknowledge receipt hereof.

FILE NO:	EL 340
SCAN NO:	Rooi Els 42
COLLABORATOR NO:	1142472

TR A Theard  
CH Olivier



**From:** Eva Bakonyi <ebakonyi@ifc.org>  
**To:** "loretta@overstrand.gov.za" <loretta@overstrand.gov.za>  
**Date:** 24/03/2018 12:16 PM  
**Subject:** Objection/ Application of Removal of Restrictive Conditions for Erf 340 - Perspicua Road / Rooi Els  
**Cc:** "bulletin@overstrand.gov.za" <bulletin@overstrand.gov.za>, "mayor@overst...  
**Attachments:** Objection re application of changing restriction ERF 340 Rooi Els.docx

Dear Sir/Madam,

We would like to express our concerns and state objections regarding the application from Plan Active Town Planners on behalf of Roy Terlien and Carole Howard, the owners of Erf 340 Rooiels for the proposed removal of restrictive title deed conditions on the said property.

Hereby with this letter we, Eva Bakonyi and Kenneth Smith (257 Perspicua Road, Rooi Els), the undersigned, object to the proposed application of erf 340 to operate a five bedroom guest house as well as to construct a second dwelling on the said property.

This proposal sets a dangerous precedent and a possible start of changing the character of our village.

Rooiels take pride in being a Conservation Community living within the transition zone of the Kogelberg Biosphere Reserve in the heart of the Cape Floral Kingdom. This Reserve is amongst the world record holders for biodiversity, and is of such botanical importance that it was the first internationally recognized biosphere in Southern Africa.

As individuals and as a community, we acknowledge that it is both a privilege and a responsibility to live in a biosphere reserve where wildlife, marine life and flora are protected and the integrity of UNESCO biosphere principles maintained. As a community, we are united in our determination to conserve and preserve the rural character of Rooi Els.

We strongly object to this application for the following reasons:

Use of house:

We object to change the use of the said property from a residential house to a commercial use as a guest house. We are the next door neighbours to erf 340, we don't want to live next to a guest house with all the cars, traffic, noise, environmental damages, such a guest house would create. We, like many other residents in Rooi Els, bought our property to be in a village which is like a retirement village is quiet, peaceful, far from commercial activities. We bought our property, knowing that the restrictions in our title deed applies to all properties in our neighbourhood. We would have never bought our property next to a guest house.

TP

26 MAR 2018

file:///C:/Users/loretta/AppData/Local/Temp/XPgrpwise/5AB641A3HermanusMunpo... 2018/03/26

It does not constitute as appropriate use as a residential house in a village conservancy. Considering the proposed changes in the title deed would have a serious negative effect on the environment, flora, fauna, water. The incoming guests and employment of staff staying permanently staying on the property, their friends, relatives would have a negative effect on water sources and usage, usage of the bulk infrastructure, noise, air and light pollution, more usage of the walking paths and village amenities.

**Water usage, sewage and garbage:**

To have a second dwelling and run a five-bedroom guest house with staff permanently staying on the property will increase water usage, water wastage on constant washing of bedding and cleaning and the up keeping and housekeeping of the guesthouse.

The garbage and sewerage generated by the guest house will create a negative foot print for the removal of same, including noise and smell. Regarding the solution proposed by the applicants is not satisfactory.

**Construction:**

Being the next door neighbour, a concern is also lodged regarding the construction as well excavations. The original builder of this property encountered huge difficulties when breaking the rocks. We have not seen in the application that the applicants obtained an engineers report re the rocky land, and the effect these activities might have on the neighbouring existing house structures.

**Need:**

The applicant has not provided any evidence of need. There are already two guesthouses in Rooiels. One on the main road ("Wonderlings") with easy access to the village centre and a short walk to the main beach, the second close to the main beach. There are also many houses used as holiday lets. The supply of these holiday lets are much bigger already than the demand even during the busiest Christmas, New Year holiday season. These holiday lets are different nature, host small number of guests, time to time, instead of having a big concentration of guests and staff all the time as a commercial venture.

**Future similar applications:**

We strongly oppose to the departures requested as this will set a precedent in Rooi Els, whereby many other applications for double dwellings and business rights will be requested.

**Street usage:**

Additional traffic on already over laden gravel roads, caused by additional sewerage collections, constant deliveries to supply the business operation to uphold a five-bedroom guesthouse with a second dwelling would increase the negative impact on the streets, would create an extra disturbance in the area and would increase the costs to maintain the roads.

**Crime:**

Guest Houses attract a certain amount of crime. The closest Police Station is 25km from Rooiels in Kleinmond. More crime attracted to the area will result in a demand for more police capacity in the area.

Eva Bakonyi and Kenneth Smith  
Cell: (27) 83 441 2422  
Email: [ebakonyi@ifc.org](mailto:ebakonyi@ifc.org)

Ps. Our objection letter is also attached as a Word document.

ANNEXURE E 50/86



TP A Theart  
(H Jol Stoep)

Mrs. C. C. Venter  
259 Perspicua Road  
Rooi Els  
7196

23<sup>rd</sup> March 2018

The Municipal Manager  
Overstrand Municipality  
P.O. Box 20  
HERMANUS  
7200

Email: loretta@overstrand.gov.za

SENT BY COURIER AND BY EMAIL

FILE NO:	EL 340 Rooi Els
SCAN NO:	07
COLLABORATOR NO:	1142335

Dear Sir

YOUR REF: APPLICATION 20/2018

**OBJECTION TO THE APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE: ERF 340, ROOI ELS**

Mrs C.C. Venter, the registered owner of erf 259, Rooi Els hereby lodges her objection to the application for removal of title deed conditions and consent use to enable the applicants to operate a guest house and construct a second dwelling on erf 340, Rooi Els.

1. Any densification and commercialisation in this quiet and relatively pristine area of Rooi Els is not in keeping with the wishes of the majority of property owners in both Perspicua Road and Cruenta Circle, as this will detrimentally affect the character of the area.
2. There is a lack of integrated development, as this principle has not been addressed, since there have been no checks or disclosures made regarding the ecological or heritage aspects.
3. The application does not offer any input as to how the sensitive Ecological Support Area is going to be impacted. No adequate studies have been presented in this regard.
4. Some of the major selling points of properties in Rooi Els are the natural (no street lights), rural (no tarred roads) and spacious feel. This will be eroded with the establishment of a 5-bedroom guest house and the attendant disturbance due to the presence of guests and staff members.

TP

23 MAR 2018

5. A new owner's residence (second dwelling) and a 5-bedroom guest house, staff quarters, 3 garages, 5 parking bays, two swimming pools and the attendant paving and landscaping will severely negatively impact on the sea views of erf 259, Perspicua Road, Rooi Els, and will most definitely derogate the market value of this property. See attached photograph indicating the degradation of the view.
6. Building a second dwelling on erf 340 does not comply with the spatial planning policy of Rooi Els. This area is ecologically sensitive, and densification will negatively impact it, and is not in keeping with the character of this area.
7. The application for the development of erf 340 has been made without taking into account the environmental impact on this very sensitive piece of the shore line. The proposed development is within 100m of the high-water mark, and it has even been flooded on occasion due to unusually high seas. There is fragile and even some threatened vegetation on the property, and no botanical assessment has been done by the applicants. No research has been done regarding the impact of the management of effluent, or the impact of the enlarged footprint on the property. This contradicts the character of Rooi Els, and it is not in keeping with the natural disposition of the area.
8. It is of concern that should the title deed conditions prohibiting a second dwelling be removed for erf 340, this will negatively impact on any future development of Rooi Els properties in the vicinity of this erf, again diminishing the character of a spacious, rural village, and it will undermine the surrounding atmosphere and environment.
9. Traffic to the proposed guest house will increase dramatically, including heavy vehicles such as a sewage tanker, refuse removal, and miscellaneous delivery vehicles, as well as the vehicles of the staff and guests. There will be a severe traffic impact on the quiet, narrow and unpaved stretch of Perspicua Road running past my property, erf 259, which will create a nuisance due to traffic noise, dust and lack of privacy.

I trust that you will seriously consider the above objections to this development, and that the application will be turned down.

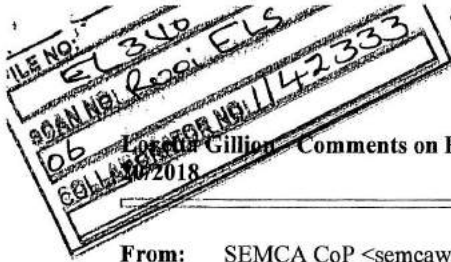
Yours faithfully



CLARISSA CAROLINA VENTER



x



TR A Theat  
CH Jol Strag

Gillian Comments on Proposal for a Boutique Hotel on Erf 340 Rooiels - Notice



**From:** SEMCA CoP <semcaweb@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 23/03/2018 04:29 PM  
**Subject:** Comments on Proposal for a Boutique Hotel on Erf 340 Rooiels - Notice 20/2018  
**Cc:** <veronica@elginlearning.org.za>, <rerarebv@gmail.com>, <dcoetzee@overstr...

Comments on Application for Removal of Restrictions and Consent Use on Erf 340, 10 Perspicua Road, Rooiels. Notice 20/2018

1. I would like to commend the applicants for their approach that stresses the efforts to blend in to the aesthetics and reduce the visual impact of the additional house and the extension of the existing house..

2. However this is an application for a Boutique Hotel -- it is going to include both accommodation and make three meals a day available to guests. It is not an application for a Bed and Breakfast guest house.

3. Even as a Guest House, the proposed application will significantly impact on water and sewerage -- it includes 11 WC/bathrooms on the property in the two houses which have 9 bedrooms and a large laundry room. At any one time there could be 16-18 people living on the property. This is a significant departure from the norm and will place heavy pressure on the water resources. Depending on the effluent treatment proposed, this could also place increased water usage.

4. The sewerage proposal is not clear. In the application there are vague statements that "if the municipality is unable to provide sewerage services" another system will be used. On the plans the proposed site for the sewerage treatment does not appear to be even where the Municipality could reach the system. So obviously they are not expecting Municipal sewerage services-- then the system proposed needs to be very clear. Especially what is going to be done with the waste from any system. Given the placement on the plans, it does not appear that either the wet, or solid waste, is going to be trucked out. What then is to happen to it? It is not acceptable for this to be disposed of locally - neither in the fynbos, nor in the sea, nor in the rocks.

THIS IS A KEY CONCERN -- The water treatment needs for a property with so many toilets and all the bed and table linen laundry, and hotel washing up etc is significant.

Before any consideration is given to removal of restrictions or change in "consent use", it needs to be very clear what system is going to be used.

5. There will also be a significant increase on the road traffic and special provision may need to be made with respect to road maintenance.

6. Rooiels is a small, low-impact village where the residents have chosen to be a part of the natural heritage of the Kogelberg Biosphere Reserve. It has limited infrastructure and services and the residents live closely with wild animals and nature. It is less suited to densely populated properties and high-level services that are needed for intensive tourist ventures such as that proposed.

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ANNEXURE E 54/86

On the above grounds, I register my objection to the lifting of the restrictions and on the change in consent use.

Yours sincerely,

Prof. K. Leresche  
25 Rocklands Road, Rooiels.

Loretta Gillion - objection to proposed changes to ERF 340 Rooiels

TP A Theart  
CH vld Stoep!

**From:** "Ruth " <ruthmatt@mweb.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 22/03/2018 09:46 PM  
**Subject:** objection to proposed changes to ERF 340 Rooiels



To Whom It May Concern

I would like to object to the proposed removal of restrictive title deed conditions and consent use on the property Erf 340 Rooiels.

I have owned a home in Rooiels since 1991 and currently reside at Erf 268 on the corner of Perspecua Road and Cruenta Circle. I have owned this home since 1996. It is with growing concern that I see large buildings being erected without concern for the environment. Rooiels is a conservancy community and tries very hard to protect the pristine and rare environment.

Perspicua Road is unpaved and very narrow. It leads to the sea and is home to rare plant and bird life as well as bordering on the sea. Further development in this area is unwise. Most erf's have already been built on. There are no sewers and water supply is an ongoing concern.

The road is poorly maintained and the extra heavy traffic required for building and increased number of visitors will further damage an already overused resource. In addition, you may be aware we are already battling with uncontrolled poaching in this area.

Ruth Mattison  
ERF 268  
Rooiels

FILE NO:	EL 340
	Rooi-Eis
SCAN NO:	45
COLLABORATOR NO:	1142109

TP

22 MAR 2018

Michael W Harrison, PO Box 82, Betty's Bay, 7141

The Municipal Manager  
Overstrand Municipality  
16 Paterson Street  
Hermanus  
7200



22 March 2018

TP-ATheart  
(Huld Stoop)

BY FAX: 028 313 2093

Email: [cgroenewald@overstrand.gov.za](mailto:cgroenewald@overstrand.gov.za)

[dlakey@overstrand.gov.za](mailto:dlakey@overstrand.gov.za)

[loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

[sdkrige@gmail.com](mailto:sdkrige@gmail.com)

[Allison@Vienings.com](mailto:Allison@Vienings.com)

FILE NO:	EL-340
	Rooi-ELS
SCAN NO:	01
COLLABORATOR NO:	1141837

**NOTICE 20/2018: ERF 340 ROOIELS: OBJECTION TO THE APPLICATION TO REMOVAL OF TITLE DEED RESTRICTIONS AND SECOND DWELLING**

I object to the application for removal of title deed conditions pertaining to Erf 340 Rooiels and the densification thereof by erecting a second dwelling.

I am the owner of the small holding (portion 137 of the farm Hangklip), which directly abuts Rooiels. My house overlooks the part of Rooiels where erf 340 is situated. I have resided here for more than 27 years and know the area and values of this community well.

I request that the application be turned down on the following grounds:

**1) SCALE OF DEVELOPMENT AND ABUSE OF REGULATIONS**

When reading through the Report, it soon becomes clear that the proposed development on erf 340 is, in fact a **boutique hotel** and it is a nismomer calling it a "guest house". That is indicated by several aspects indicated in the report:

TP

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- The scale of the development with five full suites exceeds the more modest specifications expected of a guest house; and
- Catering facilities all the way up to three meals a day (and even special exotic feasts) as well as an extensive programme of entertainment events.

At its inception, Rooiels did in fact have two erven zoned for hotels, those erven being at the centre of maximum activity (beach etc) in Rooiels, i.e. where a hotel could be located with some justification. However, over time, both those erven were rezoned to become residential. It must be recognised that the Rooiels community at that time had neither need nor wish for a hotel in the village and that same attitude still prevails today.

## **2) DEVELOPMENT IS INAPPROPRIATE AND INTRUSIVE IN THIS PART OF ROOIELS**

The report acknowledges (Section 3.10) that Rooiels has been identified as a "*retirement and holiday village*"; yet it aims at introducing a commercial enterprise of significant size into a particularly pristine and quiet area of the village. That is, it aims at introducing an industrial activity (for the hospitality industry is accepted as a true industry) into a quiet, peaceful and particularly beautiful part of Rooiels. It aims at summarily commencing a totally inappropriate and intrusive activity in the middle of a residential area and expects the whole neighbourhood and the whole of Rooiels to accept that! Moreover, through some distorted mode of reasoning, it suggests that the proposed development will make, somehow, Rooiels a better place and its community a happier one.

The character of Rooiels must not be changed in such a piecemeal and inappropriate manner. Rooiels does not have amenities for a steady stream of tourists. The scale of the boutique hotel envisaged would result in Rooiels becoming involved in the tourist industry beyond the scope of village amenities and beyond the needs and wishes of the Rooiels community as a whole.

The statement in the Report that there "*is a need for upmarket guest accommodation in the area*" is an unsubstantiated myth as far as Rooiels is concerned.

The further statement in the Report that the guest house "*will contribute to enhancing the Rooiels area as a unique holiday village*" is completely untrue and without foundation. The only enhancement hoped for by the applicants is their own individual financial enhancement with no benefit to the village.

The whole Report, it must be said, ignores completely the true interests of Rooiels and its community.

Further, there is a question that needs to be answered: Is there any intention to apply for a liquor licence? After all, a wine store room and fancy "feasts" do figure in the report. But even if no licence is contemplated and the business operates on a B.Y.O. basis, the prospect of exotic parties with 10 guests plus staff, manager and owners on a potentially nightly basis, is hardly appropriate in the area nor would it be in the interests of good neighbourly relations. What have the neighbours done to deserve such treatment?

### **3) MISGUIDED AND MISLEADING**

For the most part the Report is completely misguided and misleading. Much of its import is communicated in the statement "*Given the location of the house... it lends itself to be used more appropriately as a guest house than just purely residential.*" That statement is purely illogical nonsense! The location is in a very quiet, single residential area where the natural environment is close to pristine. The existing house on that property could easily and logically be held as an example of the best of Rooiels single residential property.

### **4) TITLE DEED CONDITIONS**

Much of the thrust of the Report is directed at the summary deletion of many title deed conditions. Those targeted for deletion have been selected solely to promote the self-serving aspirations of the owners and are to the detriment of Rooiels as a whole. To allow that deletion to take place would be completely unacceptable and contrary to the public interest. All title deeds are laid down to ensure uniformity of rights and obligations and apply to all properties grouped together in a particular category. To allow individual property owners to pick and choose for their own benefit, which conditions should be retained and which should be deleted will result in conflict and chaos in our community.

### **5) ABUSE OF TOWN PLANNING PROVISIONS TO AVOID REZONING**

The nature of the proposed development, as demonstrated earlier in this submission, is that associated with a boutique hotel operation. For this reason, the contention presented in the Report that the rezoning of the erf would not be necessary is erroneous. It is contended that **rezoning** from residential to hotel would be essential from both town planning and logical points of view.

## **6) SECOND DWELLING**

A reason for much concern is that the proposed development calls for **two** separate, freestanding buildings – each being a viable residence. This, of course, would be seen by the owners of erf 340 (or future owners) as a direct invitation to future sub-division. Sub-division and over-densification have always been contentious issues in Rooiels. In the report the erf is described correctly as being one of the largest erven in Rooiels. It is particularly important that none of the larger erven in Rooiels be subdivided, in order to maintain a full spectrum of erf sizes in Rooiels. For these reasons the second dwelling should not be allowed and the title deed condition which prohibits it should remain in place.

## **7) ROADS AND PARKING**

Rooiels roads are characterised by narrowness, gravel surfaces (often in poor condition in the rainy season), meandering layout, absence of kerbs, absence of road markings, absence of street lights, etc. They are used by pedestrians and wildlife. Consequently they are not suitable for the additional traffic that would result from this development proposal. After all, what is proposed is a significantly large operation requiring frequent deliveries and services together with guest movements throughout the day and night. This would result in a big increase in traffic in this area of Rooiels, an area which has been, hitherto, a quiet and peaceful haven.

Moverover, the shortage of daytime public parking (as opposed to off-road overnight parking) throughout Rooiels at popular diving / picnic spots, would aggravate the inconvenience experienced by all.

## **8) NEIGHBOURS DISMISSED**

Twice in the Report (Sections 3.5 and 3.11) the interests and rights of neighbouring properties are dismissed in a really cavalier fashion, on the basis that the property "*is occupied on a very transient basis*". This despite the Report admitting that the said property would suffer "*significant*" impact as it does overlook erf 340. Just the suggestion that the neighbouring property owner's interests and rights be ignored presents a callous attitude not consistent with the striving for good neighbourliness that does characterise, generally, attitudes within the Rooiels community.

## **9) DETRIMENTAL TO CHARACTER OF VILLAGE**

Both the applicants (who have newly bought the property), featured in the 2017 Rooiels newsletter. They had much to say in praise of the attraction and fascination of Rooiels as a place to live: "*getting back to nature*" in a "*completely*

*awesome place*" and set the tone of their relationship with the village. Then, in less than three months, they drop the bombshell, the development proposal in the Report, on that very village! The hypocrisy is astounding. This large scale development will seriously compromise the area in which they bought. Its impact would be highly noticeable and detract from in all aspects which give Rooiels its own unique character which is appreciated and valued by its community.

In the light of the above, I trust that the application will be turned down in due course.

Yours faithfully

Michael W Harrison

lolle  
TR A Theart  
CH vld Stoep



Loretta Gillion - Fwd: Overstrand Municipality, ERF 340, 10 PERSPICUA ROAD, ROOIELS, Proposed removal of restrictive conditions and consent use: Plan active (obo CP Howard and RJC Terlien)

From: Hanneen van der Stoep  
To: Loretta Gillion  
Date: 22/03/2018 11:48 AM  
Subject: Fwd: Overstrand Municipality, ERF 340, 10 PERSPICUA ROAD, ROOIELS, Proposed removal of restrictive conditions and consent use: Plan active (obo CP Howard and RJC Terlien)

>>> "Veronica Jacobs" <veronica@telgintearning.org.za> 2018/03/20 07:34 AM >>>  
TO WHOM IT MAY CONCERN: Overstrand Municipality

RE: Proposed removal of restrictive conditions and consent use: Erf 340, Rooiels

It is a well-known and cherished fact that the village of Rooiels never fails to charm and impress all who sets foot in this unique little hamlet at the foot of Klein Hangklip. This charm is the direct result of a community that, for many years, protected the environment and the rights of the property owners. It is also a reflection of a dedicated group of people who has tirelessly worked for many years to ensure that future generations will also enjoy the magic that is Rooiels.

Highlights of this passionate defence and protection of the environment and the village include:

- The Rooiels Rate Payers Association (RERA) preventing the planned short cut of the R44 straight across the main beach and along the coast side of Klein Hangklip. This lobby, with the support of the Pringle and Bettys Bay Rate Payers Associations which is proof of the passion which residents are willing to plough into issues crucial to the vision of protecting the environment, animals and people who live there. Today the mountain road (Porter Drive) on the coastal side of Klein Hangklip, is a favoured route for joggers, hikers and bikers. The unspoilt mountainside is home to many animals and birds. Bird lovers flock to see the Cape Rock Jumper colony that lives in the Fynbos.

RERA was instrumental in installing a gate to limit cars using Porter Drive;

- RERA has stopped, in the nick of time, the rezoning and sale of a school site in Rooiels to facilitate the successful proclamation of a nature reserve on that site, thus ensuring that the village has a green lung... a scarce feature in Overberg towns;
- RERA, and the community of Rooiels, took on the State and was successful in court to stop the testing of missile technology next to the Buffelsriverdam in the Kogelberg. This ended the huge explosions and mushroom clouds above the dam. The dam remains a very important resource of drinking water for the coastal villages and a beautiful feature in the Kogelberg. The area thrives with abundant flora and fauna which includes a good number of Cape Leopard protected by the Cape Leopard Trust and a group of energetic Rooiels residents;
- RERA collaborated with ESKOM to ensure that no streetlights ever appear in Rooiels and that all cables be laid underground thus preserving the road reserves. Today light pollution is limited in Rooiels leaving the sky gloriously starry!
- Rooiels was the first community to establish a registered conservancy... the Rooiels Conservancy (REC), in the Overstrand;
- The Rooiels Community was vehemently against the subdivision of Erf 324 which presented plans for multiple housing units on one erf and in sensitive wetlands. This opposition resulted in the subdivision being cancelled. A special resolution adopted by the Caledon Regional Council, which still stands, led to the fact that no subdivisions are allowed in Rooiels;
- The same applied to the so-called hotel site (Erf 115) which led to, in liaison with the CSIR, negotiations with the owners not to subdivide or to build a tourist establishment on the dunes at the point;

The above points are indicative of the hard work that has been done to answer to the Vision of RERA:

*Rooiels is a conservation community, Caring Together Today... for Tomorrow*

*We strive to be a caring community, united by our passion to conserve the natural splendour of Rooiels ...*

The proposed removal of restrictive conditions on ERF 340 is in direct contradiction to all that has been achieved throughout the history of the village and in direct contradiction to the vision of Rooiels residents and the greater vision of the Unesco Kogelberg Biosphere Reserve, the Cape Floral Kingdom's model of a sustainable living!

The following points need to be highlighted with regard to the ERF 340 Issue:

- The proposed plans call for the removal of so-called restrictive conditions which clearly points to the establishment of a commercial venture indicative of a boutique hotel in an environmentally sensitive area where those very restrictive conditions were wisely introduced to preserve and conserve this piece of coastline in the Unesco Kogelberg Biosphere Reserve;
- The proposed renovations on Erf 340 is in contradiction with the accepted stipulation that no second dwellings are allowed in Rooiels;
- It is furthermore clear that the proposed development are not supported by the infrastructure in the village. The roads are narrow and are either very dusty in summer or turns to muddy sludge in the winter which is a clear indication that any increase in heavy traffic will cause havoc;

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FILE NO:	EL 340
	Rooiels
SCAN NO:	1141767
	2018/03/22

## ANNEXURE E 62/86

- The challenge of removing refuse and sewage is a major concern. Already, in the peak times, we see removal and suction services kicking up noise and dust at all hours of what otherwise should be a restful holiday resort for residents and visitors.
- The proposed development extends to the edge of the coastline onto the rocks and the high tide break line. An independent environmental impact study needs to be done if the removal of the conditions is to be considered at all;
- Rooiels ratepayers bought their properties in Rooiels to get away from the hustle and bustle of busy streets and towns. This motivation and the steep prices paid for Rooiels properties should be respected;
- I believe that the majority of the residents in this village has no wish to see a development which is likened to establishments in Sea Point, Cape Town, be established in this peaceful little community. A stakeholder meeting will most certainly confirm this believe;
- The fierce protection of Rooiels Conservation values in the past and still today, is evidence of this. Conservation issues such as noise and light pollution as well as destruction of natural beauty, fauna and flora are not tolerated. The past has seen many occasions where the community has stood together to fight for their values;
- All four community associations, RERA, REC, the Rooiels Security Association (RESA) and the Rooiels Boat Club (RBC) are against this subdivision. These four associations are representative of the majority of ratepayers in the village;
- RESA is currently doing an excellent job with regard to security in the village. This means that local residents give their own time and money to ensure a safe community. This in an area where poaching and gangsterism present a threat to the safety and security of residents. The establishment of a commercial venture such as the one proposed for Erf 340 will place more demand on a handful of dedicated security volunteers;
- If this proposed removal of restrictive conditions is allowed to go through it would set an undesirable precedent to current and future property owners;
- The proposed development seems to have not taken into consideration at all the conservation achievements and values of the community at large. In fact there seems to be a blatant disregard for the fact that the development will upset the conservation equilibrium of the village and the Unesco Kogelberg Biosphere Reserve in which it is situated. It seems like personal enrichment is the main motive of a development which will clearly promote exclusivity and benefit advantaged groups while negatively impacting on many, especially the residents and ratepayers of Rooiels;
- The proposed development will place a further burden on the available municipal budget for Rooiels which is very limited in any case;

I implore all concerned with this application to consider and evaluate the proposal with insight and wisdom as well as with due regard for what has been achieved in the past, the hard work that is still going on and that which we all want to protect and conserve for future generations who will live and play in the Unesco Kogelberg International Biosphere Reserve.

Veronica Jacobs

Director, Unesco Kogelberg Biosphere Reserve Company

*Veronica Jacobs*

*Divisional Manager : Corporate Services*

*Fundraising and Client Relationships*

*E-mail: [veronica@elginlearning.org.za](mailto:veronica@elginlearning.org.za)*

*Tel: 021 848 9413*

*Fax: 021 848 9414*

*Website: [www.elginlearning.org.za](http://www.elginlearning.org.za)*

*Address: 9 Appletree Road Elgin, P.O. Box 654 | Grabouw 7160*

Sustainable development through value-driven learning



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*A thankful heart is not only the greatest virtue, but the parent of all the other virtues*  
Cicero



BEFORE PRINTING THIS EMAIL

*please consider the environment*



1011-e ANNEXURE E 63/86

TP A Theart  
(Huld Stoep)

To: [Lorette@overstrand.gov.za](mailto:Lorette@overstrand.gov.za)

RE: CHANGE S PROPOSED TO ERF 350 ROOI ELS

Re: Erf 340 Rooi Els

As the owner and occupier of erf 254 I object strongly to the changes listed in the application for the following reasons:

1. DESTRUCTION OF THE FYNBOS: in the area because of increased traffic, namely service vehicles, guests arriving and departing and increased number of visitors.
2. DAMAGE TO THE WILD LIFE in the area.  
This area is the last undeveloped pristine area in Rooi Els, the wild life including leopard, seals, otters, wild cats, such as rooikat, mongoose, baboons, dassies and various birds, will not be able to cope with the increased traffic of people and will vacate the area, being squeezed into an ever decreasing free space.
3. Increased numbers of people in the area, walking, hiking and stamping out paths.
4. Increased numbers of people fishing, both legal and illegal, will deplete the marine life considerably. There is no official docking area for the boats, so the vehicle and boats will further damage the fynbos.
5. The roads in that area are in a poor state, and will need to be upgraded and widened, again reducing the fynbos, as well as the potential need to blast the existing rocks to widen the road, upsetting the wildlife.
6. There is a sharp corner opposite the entrance to the plot where there have been several narrow escapes with road users.
7. Noise and light damage – lights on at night, noise of people arriving and departing all day and all night. Noise is a significant factor at disturbing the wildlife and household occupants in the area.
8. Who will pay for all this?

CONCLUSION:

The promises made by the developer, are difficult to believe due to the sensitivity of the environment and the area will inevitably be changed forever, and irreversible...

KIND REGARDS

JENNIFER VAN DER RIET

FILE NO:	EL 340 Rooi-ELS
SCAN NO:	46
COLLABORATOR NO:	1141607

TP

22 MAR 2018

ANNEXURE E 64/86

TP A Theart  
(Huld staap)**Loretta Gillion - Proposed Removal of Restrictive Conditions for Erf 340 - Perspicua Road / Rooi Els**

**From:** "Accounts@Bruces" <accounts@bruces.co.za>  
**To:** <loretta@overstrand.gov.za>, <mbosman@overstrand.gov.za>  
**Date:** 20/03/2018 02:55 PM  
**Subject:** Proposed Removal of Restrictive Conditions for Erf 340 - Perspicua Road / Rooi Els

To Whom it may concern

Proposed Removal of Restrictive Conditions for ERF 340 Perspicua Road, Rooi Els

I, Bruce Reyneke ID number 6003175072089, am the owner & resident of Erf 250 Cruenta Circle Rooi Els.

It has come to my notice that the owners of ERF 340 Perspicua Road have made application to operate a guest house from the above address as well as construct a second dwelling on the land.

It is my considered opinion that this will be the beginning of a dangerous and unwanted negative development in the character of Rooi Els where humans and animals strive to live together harmoniously in a mostly natural environment.

In my opinion Rooi Els's charm and peaceful environment would be negatively affected if this undesirable precedent with all its implications for the future were allowed to go ahead. Part of the attraction of Rooiels and the relatively higher prices we, as homeowners, have paid for our property compared to the other coastal villages, is the smaller number of erven and the "one dwelling per erf," principle.

Apart from environmental considerations there are implications on the infrastructure of Rooi Els which is not laid out to accommodate commercial activities.

I, therefore, object to the above application in the strongest possible terms, as it would negate my primary reason for purchasing property in Rooi Els.

Bruce Reyneke



315 Lynnwood Road Pretoria,  
 Telephone: (012) 362 1628

4 Graham Road (ext of Lynnwood road). In Shere- Centre  
 Telephone: (012) 941 9221|

FILE NO:	EL 340 Rooi Els
SCAN NO:	09
COLLABORATOR NO:	1141404

TP

20 MAR 2018

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**Loretta Gillion - Proposed Removal of Restrictive Conditions for Erf 340 - Perspicua Road / Rooi Els**

---

**From:** "Accounts@Bruces" <accounts@bruces.co.za>  
**To:** <ciska@dieventers.co.za>, "'Drooge Vallei Aartappels'" <dva@mylan.co.za>...  
**Date:** 20/03/2018 02:50 PM  
**Subject:** Proposed Removal of Restrictive Conditions for Erf 340 - Perspicua Road / Rooi Els

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I, Bruce Reyneke ID number 6003175072089, being the owner & resident of Erf 250 Cruenta Circle Rooi Els it has come to my notice that the owners of ERF 340 Perspicua Road have made application to operate a guest house from the above address as well as construct a second dwelling on the land. It is my considered opinion that this will be the beginning of a dangerous and unwanted negative development in the character of Rooi Els where humans and animals strive to live together harmoniously in a mostly natural environment.

In my opinion Rooi Els's charm and peaceful environment would be negatively affected if this undesirable precedent with all its implications for the future were allowed to go ahead. Part of the attraction of Rooiels and the relatively higher prices we, as homeowners, have paid for our property compared to the other coastal villages, is the smaller number of erven and the "one dwelling per erf," principle.

Apart from environmental considerations there are implications on the infrastructure of Rooi Els which is not laid out to accommodate commercial activities.

I, therefore, object to the above application in the strongest possible terms, as it would negate my primary reason for purchasing property in Rooi Els.

Bruce Reyneke



315 Lynnwood Road Pretoria,  
 Telephone: (012) 362 1628

4 Graham Road (ext of Lynnwood road). In Shere- Centre  
 Telephone: (012) 941 9221]

Email: [bruce@bruces.co.za](mailto:bruce@bruces.co.za)



ANNEXURE E 66/86

TR A Theart  
C H Jol Stoop

**Loretta Gillion - Proposed Removal of Restrictive Conditions for Erf 340 - Perspicua Road / Rooi Els**



**From:** "Rolf Schwerdtfeger" <rolfs@telkomsa.net>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 20/03/2018 01:36 PM  
**Subject:** Proposed Removal of Restrictive Conditions for Erf 340 - Perspicua Road / Rooi Els

Being the owner & resident of Erf 274 in Perspicua Road/Rooi Els it has come to my notice that the owners of the above property have made application to operate a guest house from the above address as well as construct a second dwelling on the land.

It is my considered opinion that this will be the beginning of a dangerous and unwanted negative development in the character of Rooi Els where humans and animals strive to live together harmoniously in a mostly natural environment.

Most plots in Rooi Els are probably of a size where a second dwelling could be accommodated – but is this really desirable and what residents want ?

In my opinion Rooi Els's charm and peaceful environment would be negatively affected if this undesirable precedent with all its implications for the future were allowed to go ahead. Part of the attraction of Rooiels and the relatively higher prices we, as homeowners, have paid for our property compared to the other coastal villages, is the smaller number of erven and the "one dwelling per erf," principle.

Apart from environmental considerations there are implications on the infrastructure of Rooi Els which is not laid out to accommodate commercial activities.

I, therefore, object to the above application in the strongest possible terms, as it would negate my primary reason for purchasing property in Rooi Els.

Anita R. Martin I.D. 520330 0106 08 0  
 Owner of Erf 274 Perspicua Road, Rooi Els, Ph: 021 794 3820/082 564 6002

FILE NO:	EL 340 Rooi Els ✓
SCAN NO:	ROLF
COLLABORATOR NO:	1141239

TP

20 MAR 2018

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ANNEXURE E 67/86

Overstrand Munisipaliteit

Patersonstraat 16

Hermanus

7200

[Loretta@overstrand.gov.za](mailto:Loretta@overstrand.gov.za)[Rera.committee@gmail.com](mailto:Rera.committee@gmail.com)

Posbus 12772

Meulstraat

8010

20 Maart 2018

Selnommer 082 5759801

TP-ATheart  
(Huld Stoop)

U VERWYSING: AANSOEK 20/2018

ERF 340 PERSPICUAWEG, ROOIELS: BESWARE TEEN OPHEFFING VAN TITELVOORWAARDES EN VERGUNNINGSGEBRUIK AS GASTEHUIS.

Aansoek 20/2018

Ek is die eienaar van erf 237 Rooi-Els. Ek het belang by die opheffing van die titelvoorwaardes waarvoor gevra word, omdat goedkeuring van die aansoek om die afskaffing van die titelvoorwaardes 'n presedent sal skep vir die afskaffing van dieselfde voorwaardes wat ook op my erf geld en op die van my bure.

Ek wil asseblief nie die voorwaardes afgeskaf hê nie, omdat dit beskerming bied aan my en ander erfeienaars op Rooiels.

1. 'N GASTEHUIS WORD ALREEDS OP DIE PERSEEL BEDRYF, SKYNBAAR SONDER DIE NODIGE VERGUNNING.

Ek vestig dringend u aandag daarop dat die aansoekers reeds 'n gastehuis op die perseel met drie kamers op internet adverteer onder die naam "Rocky Point".

- 1.1 Na my beste wete het u raad nie so'n vergunningsgebruik toegestaan nie.
- 1.2 Drie kamers word geadverteer, wat soos ek verstaan, strydig is met 'n SR1-sonering, wat slegs twee kamers toelaat.
- 1.3 Indien die aansoekers eie reg gebruik het, versoek ek u om asseblief 'n ongunstige siening te neem van die aansoek.

2. ROOIELS IS GEKANT TEEN DIE AFSKAFFING VAN BESTAANDE TITELVOORWAARDES.

2.1 Die vorige poging om titelvoorwaardes af te skaf, in 'n aansoek vir erf 106, het 'n groot aantal besware tot gevolg gehad, insluitend die besware van die Rooiels Belastingbetalersvereniging (REBV) en die Rooiels Bewarea.

FILE NO:	EL 340 Rooi ELs ✓
SCAN NO:	KRE 340
COLLABORATOR NO:	1141238

TP

20 MAR 2018

2.2 Die REBV het in die 1980's, toe ek vir Rooiels op die Caledonse Afdelingsraad verteenwoordig het, op hul jaarvergadering 'n besluit geneem, met 'n daaropvolgende bekragtiging deur die plaaslike owerheidsliggaam, dat geen onderverdeling in Rooiels toegelaat sal word nie, behalwe in uitsonderlike omstandighede.

Hierdie onderneming, op 'n raadsvergadering van die afdelingsraad, is na my mening steeds bindend op opvolgende owerheidsliggame soos u raad, totdat die REBV op sy jaarvergadering anders besluit.

2.3 Saam met 'n verbod op onderverdeling gaan hand-aan-hand die verbod op 'n tweede woonheid, anders word die verbod op onderverdeling prakties omseil.

2.4 Die verbod op hout-en-ystergeboue waarna die aansoeker verwys, het 'n lang geskiedenis. In die sewentigerjare is 'n advokaatsopinie verkry deur die destydse afdelingsraad. Die opinie was dat dit 'n verbod was op huise wat van hout gebou was, met 'n sinkplaatbedekking, en dat dit nie die gebruik van moderne material, soos houtgeboue en bedekkings wat deur die SA Buro vir Standaardde destyds nog goedgekeur is, verhinder nie.

Die opmerking van die aansoeker dat die bestaande houtgebou reeds in stryd is met die titelvoorwaardes en dat die titelvoorwaardes gewysig moet word, is bloot 'n aandagafleier om u te beweeg om te dink die titelvoorwaardes is verouderd en kan daarom afgeskaf word

Die verbod mag in hedendaagse tye weer relevant word, indien daar grondbesetting sou plaasvind en die eienaar strukture van letterlik hout-en-sink as huise sou toelaat, soos wat gewoonlik met grondbesettings opgerig word.

2.5 Die verkreë verlof deur die destydse ontwikkelaar van Rooiels is na my mening ook bloot bestem om u 'n rat voor die oë te draai. Dit is nie binne die ontwikkelaar se magte om verlof vir die afskaffing van titelvoorwaardes in Rooiels te gee nie, omdat alle eienaars op Rooiels wederkerige saaklike serwitute (praedial rights) in hulle guns, asook verpligtings op hulle, in terme van die titelvoorwaardes verkry het by die verdere verwisseling van eienaarskap na die oorspronklike verkoop van die erwe deur die ontwikkelaar.

### 3. TITELVOORWAARDES KAN NIE VERWYDER WORD BLOOT OMDAT DIT DEUR WETGEWING OF STADSBEPANNINGSKEMAS OOK GEREËL WORD NIE.

Die aansoeker motiveer dat die voorwaardes afgeskaf kan word omdat dit deur die meer toegeeflike Soneringskemaregulasies reël word.

Dit is vandag algemene kennis uit ons hofbeslissings dat "A town planning scheme does not override title deed restrictions. Both are relevant and applicable"

Ons verkies dat die strengste van die twee bepalings wat op erf 340 geld, toegepas sal word.

### 4. BOULYNE MOET ASSEBLIEF GEHANDHAAF WORD

4.1 Die strengste van die boulyne volgens die titelvoorwaardes of die skemaregulasies word, sover ek weet, alreeds deur u munisipaliteit gehandhaaf.

4.2 Ek versoek u om asseblief onder geen omstandighede afwykings van die boulyne toe te laat nie.

4.3 In 'n kUSDorp soos Rooiels probeer al die eienaars om van hul huise af 'n stukkie see te sien. Hulle is dikwels afhanklik daarvan om tussen huise deur te kyk. Strukture tot op die grens maak hierop inbreuk.

4.4 In die onderhawige geval wil die aansoeker selfs tot teenaan die grens van die kussone bou.

Dit is uit die bouse!

#### 5. 'N TWEDE WOONEENHEID IS 'N POGING OM ONDERVERDELING TE BEWERKSTELLIG.

5.1 Drie kamers word reeds (onwettiglik?) vir 'n gastehuis gebruik. Daar word beoog om die bestaande woning na 'n luukse gastehuis met 5 kamers uit te brei.

Daarbenewens word beoog om 'n verdere aansienlike nuwe private woning op die erf te bou.

Al daardie ekstra koste om twee slaapkamers by te kry maak vir my geen ekonomiese sin nie.

My vermoede is dat, sodra die gastehuis nie finansiell 'n sukses is nie, die eienaars hoed in die hand na u toe sal kom en vir u vra om 'n onderverdeling toe te laat, want niemand kan tog bekostig om een erf met twee huise daarop van die aansoekers te koop nie.

#### 6. ROOIELS IS GEKANT TEEN GASTEHUISE.

6.1 By vorige geleenthede het die eienaars van Rooiels beswaar gemaak teen gastehuse in Rooiels omdat bure die indringing van besighede in enkelwoningbuurte steurend vind.

6.2 'n Gastehuis is 'n perd van 'n ander kleur as 'n enkelwoninghuis. Die eienaar hoef self nie in die huls te woon nie. Daarmee saam gaan verlore 'n basiese toesig en dissipline oor die gaste deur 'n inwonende eienaar.

Die onderhawige gastehuis-onderneming is ook op 'n baie groter skaal as wat mens normaalweg vir gastehuse in byvoorbeeld Pringlebaai aantref.

6.3 Belastingbetalers elders in die Kaap bestry ook gastehuse asook die stellings van die aansoekers (soos in die onderhawige geval) dat dit toerismevoordele inhou:

So sê die Camps Bay Ratepayers and Residents Association in 'n beswaar teen 'n gastehuis:

"The mere fact that there might be a possible, miniscule benefit from tourism cannot discount the real property rights enjoyed by the affected neighbours, through their title deeds, to the current amenities that they are entitled. The balance of prejudice to the neighbours far outweighs any minimal (and notional) benefit to tourism."

7. DIE AANSOEK IS VIR DIE VOORDEEL VAN DIE AANSOEKER EN NIE VIR DIE VOORDEEL VAN DIE WYER GEMEENSAP VAN ROOIELS IN TERME VAN BEPLANNINGSBEGINSELS NIE.

7.1 Die gedeelte van Rooiels waar erf 340 geleë is, bestaan uit groter as die normale erwe. Dit is derhalwe 'n rustige, stil gebied, bestaande uit enkelwoonhuise.

Die aansoek sal 'n uiters nadelige impak hê op die rustige omgewing, met 'n opdringende ("invasive") besigheid wat 'n toename in mense- en voertuigverkeer tot gevolg het, wat groot ontwrigting vir die bure sal veroorsaak in terme van geraas te alle ure.

Dit is die basiese bewaar teen gasthuise in woongebiede, soos geformuleer deur die Kampsbaaise Belastingbetalersvereniging.

Die ander inwoners van Rooiels sal, net soos ek, dit sekerlik ook vir u uitwys.


8. EK VERSOEK DAT U ASSEBLIEF NIE 'N PRESEDENT VIR ROOIELS SKEP NIE.

8.1 Ek kan my besorgdheid nie beter formuleer as die Camps Bay Ratepayers and Residents Association nie:

**"Should the authorities approve this application (vir gastehuis en verwydering van titelvoorwaardes), it will be setting a very dangerous precedent that will be eagerly copied by other developers, thus causing untold damage to this extremely beautiful suburb, which really needs protection from such abuses. It is the Province, City and CBRRA's duty to protect the built environment from being damaged in such a manner, particularly when in contravention of the law and praedial rights".**

Daarby voeg ek met respek by dat dit eweneens u raad se plig is om Rooiels te beskerm teen opdringende en misbruikmakende aansoeke soos die onderhawige.

Die uwe,



E Brink

TP A Theert  
( C H vtd Stoep )

Loretta Gillion - Erf 340 Rooi Els

**From:** "bisbus13" <bisbus13@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 19/03/2018 09:38 AM  
**Subject:** Erf 340



To: Loretta Gillion

**Proposed alteration to title deed and usage of Erf 340**

As the owner of Erf 127 / 17, Rocklands Road Rooi Els, I object in the strongest possible terms to the proposed redevelopment of this Erf.

- 1) As far as I am aware Rooi Els is NOT earmarked by Overstrand for densification and all properties as per request are still subject to a single dwelling residential only. As such it would set an undesirable precedent.
- 2) Rooi Els is in the buffer zone of the Kogelberg Biosphere, an International and Endemic Bird Area and a registered conservancy.
- 3) The infrastructure of the village is not supportive of this type of rezoning as is not in keeping with the community's vision for the future which has been sanctioned by the Overstrand Council. This includes the fact that our sewerage system of septic tanks & holding tanks and NOT mains drainage as in Kleinmond and the already poor state of the "roads" in the village.
- 4) This development is against ALL rules and statuaries for homeowners in Rooi Els and NO EXCEPTIONS can be made

Yours faithfully,

Ms. H.C. Jones 127/17 Rocklands Rd., Rooi Els

FILE NO:	EL 340
	Rooi Els ✓
SCAN NO:	KRE 340
COLLABORATOR NO:	1140956

TP

11 MAR 2018

TP ATheart  
(HubStoop)



Loretta Gillion - Objection to proposed redevelopment of Erf 340 Rooi Els

**From:** "Alison Ayre" <alison.raringtogo@gmail.com>  
**To:** <loretta@overstrand.gov.za>, <rerarebv@gmail.com>, <bulletin@overstrand....>  
**Date:** 12/03/2018 11:55 AM  
**Subject:** Objection to proposed redevelopment of Erf 340 Rooi Els

To whom it may concern

Proposed alteration to title deed and usage of Erf 340

As the owner of Erf 147 / 19 Rocklands Rd Rooi Els I object in the strongest possible terms to the proposed redevelopment of this Erf.

- 1) As far as I am aware Rooi Els is NOT earmarked by Overstrand for densification and all properties as per request are still subject to a single dwelling residential only. As such it would set an undesirable precedent.
- 2) Rooi Els is in the buffer zone of the Kogelberg Biosphere and is also a registered conservancy.
- 3) The infrastructure of the village is not supportive of this type of rezoning as is not in keeping with the community's vision for the future, this includes the fact that the sewerage system of septic tanks & holding tanks *not* mains drainage as in Kleinmond and the already poor state of the "roads" in the village.
- 4) Rooi Els owners tend by and large to live interactively with the natural environment and in harmony with other residents, such a development is for the owners financial gain only and of no benefit to the village as a whole.

Yours faithfully

Mrs Alison R.F. Ayre  
147/19 Rocklands Rd  
Rooi Els

FILE NO:	EL 340
	Rooi Els ✓
SCAN NO:	KRE 340
COLLABORATOR NO:	1139013

TP

13 MAR 2018

ANNEXURE E 73/86



Loretta Gillion - Fwd: ERF 340

From: Mayor Overstrand
To: Riaan Kuchar
Date: 05/03/2018 04:23 PM
Subject: Fwd: ERF 340
Cc: Stephen Muller; Coenie Groenewald; sandra@honeytone.co.uk

TPA Theart
C H vd Stoep

Dear Mr Kuchar

Kindly refer to the email below for your attention.

Regards

Aid / Rdh Dudley Coetzee
Executive Mayor / Uitvoerende Burgemeester
Municipaliteit Overstrand Municipality
M: +27 (0) 82 574 4404 | T: +27 (0) 28 313 8058 |
E: mayor@overstrand.gov.za

>>> Dudley Coetzee 2018/03/05 08:48 AM >>>

>>> "Sandra Yeo" sandra@honeytone.co.uk > 2018/03/04 06:56 PM >>

I regret that I cannot find a reference number for this planning application but I have seen it in some detail. I make comment as follows:-

- 1. As I understand it, the restriction as to one dwelling place per erf is requested to be lifted. I do not object to that, per se, but I do object strongly as the suggestion is, in my view, overdevelopment of plot as, amongst other things, the large guesthouse seems to go over the building line.
2. Rooiels cannot remain in aspic, unfortunately, but Villagers can engage with the Planners and with the owners of said erf in order to come to a sensible outcome that fulfils the vision we have of man as part of nature not apart from nature.

I trust my comments are of assistance and will be on the end of an email after 10th April.

Sandra Yeo ERF 392
Rooiels
028 273 8163
079 580 6784

Form with fields: FILE NO: EL 340, Rooi ELS; SCAN NO:; COLLABORATOR NO: 1138366

TP

12 MAR 2018

**Loretta Gillion - Application for ERF 340, 10 Perspicua Road, RooiEls**

**From:** "David van der Merwe" <davidvander@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 12/03/2018 08:40 AM  
**Subject:** Application for ERF 340, 10 Perspicua Road, RooiEls  
**Cc:** "Allison Vienings" <Allison@Vienings.com>



*TR A Theart  
(Hvd stoep)*

Good day Loretta,

With regard to the application to the Overstrand Municipality: Erf 340, Persicua Road, RooiEls – Removal of restrictive conditions and consent usage.

**Primary purpose:**

In principle as a permanent resident in RooiEls, I have no objection to the utilization and alteration of the dwelling for the purposes of a guest house. There are a number of dwellings that are utilized for this purpose with or without the amendment of their title deeds and the application speaks to the transparency of the proposed activity.

The additional tourist traffic will hopefully stimulate business property owners to establish / upgrade the meagre offering in RooiEls.

I assume this is in effect a re-zoning as a business property – for interest does this constitute a change in rates and taxes?

From a municipal budgeting perspective – we’ve seen over time a number of infrastructure projects – cancelled despite rates and taxes contribution made by RooiEls residents – Will the development of business in the Town and immediate vicinity carry weight in securing budget for much needed maintenance?

**Second dwelling:**

In the document there is a contradiction – in one section it says that they bylaw is already in place to allow for a second dwelling and in another section the clause is quoted stating that a second structure is a non-occupational out building.

Can the Municipality provide clarity and an extract on this clause please?

This could have a significant impact with regard to densification of the area with increased load on infrastructure that can barely cope with the current dwelling utilization. A good example of this is the frequent water mains failures we’ve had over the past months as well as the impact on the unpaved roads.

Is this automatically applicable to all stands or must each individual stand apply for amendment of title deed?

**Building method and construction materials:**

These clauses have generated much debate and creative writing in the past. I have no objection to this clause being rescinded as long as the aesthetic is not offensive and detracts from the scenic beauty of the area and fits the general environment. The material selection and surface treatment must be a sound engineering solution and must withstand the environmental conditions prevailing in the area.

**Environmental impact:**

*TP*  
12 MAR 2018

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FILE NO: EC - 340  
SCAN NO: RooiEls  
COLLABORATOR NO: 1138365  
2018/03/12

## ANNEXURE E 75/86

Erf 340 is in close proximity to the seal colony – there is no alternative area for them to relocate to if disturbed – as with the penguin colony in Betties bay a sensitivity in this regard should be maintained. We have seen that any building activity has an impact on the Fauna and Flora. We have red listed species in both domains – and building activities in general do not take these into consideration – regular site inspections would be appreciated

**Alternative sewer:** onsite effluent treatment should only be considered if the manufacturers of process selected can provide certified proof from a recognized standards body of compliance from a health and safety perspective as well as containment of odour etc.

Regards

*David van der Merwe*  
*MMech Eng; HNDID; PMI*  
*082 451 6121*  
*Erf 160, 20 Priestleya Rd*  
*RooiEls*

Loretta Gillion - Fwd: ERF 340 Rooiels

TP A Theate  
CH vld/Steep)

From: Hanneen van der Stoep  
To: Loretta Gillion  
Date: 08/03/2018 04:34 PM  
Subject: Fwd: ERF 340 Rooiels

FILE NO:	EL 340
SCAN NO:	Rooi Els
COLLABORATOR NO:	1138364



>>> "Denise Esterhuysen" <info@insitu-chairs.co.za> 2018/03/07 06:43 PM >>>

**To whom it may concern**

Hereby I would like to OBJECT on the proposed application of erf 340 to operate a five bedroom guest house as well as to construct a second dwelling at the property.

We strongly object to this application for the following reasons which include overload of existing structure:-

Future similar applications

We strongly oppose to the departures requested as this will set a **precedent in Rooi Els**, whereby many other applications for double dwellings and business rights will be requested.

Street usage

Additional traffic on already over laden gravel roads which includes additional sewerage collections to uphold a 5 bedroom Guesthouse WITH a second dwelling.

Costly up keeping of roads..... Delivery vehicles/Sewerage lorries will also require access to the said property for the delivery of goods to this business operation. This will further have an impact on the streets and create an extra disturbance in the area. Rooiels as a Biosphere ...we have kids riding bicycles and people walking in our tranquil village watching birds/baboons and will put them in danger of heavy traffic and can cause speeding drivers...most incomers DONT OBEY TO OUR SPEED LIMIT of 20km per hour !!!

Holiday season

With addition visitors the locals already tried to travel as little as possible to make the flow of traffic easy in and out of Rooiels

Crime

Guest Houses also attract a certain amount of crime as potential perpetrators are wise to the fact that tourists travel with laptops, cameras and foreign exchange and this will result in more crime in Rooi Els. Police station is 25km from us and Kleinmond police station cover a fairly BIG area. More crime attracted to the area will result in a demand for street lights installed in Rooi Els which would definitely change the FOOTPRINT of Rooiels. Rooiels also have a by-law on light pollution and dogs on leashes...the owners themselves have 3 big dogs and don't obey to that by-law and one of their selling point on their advert AIRBNB is PET friendly !! This can cause baboon chasing and somebody gets hurt...Hospitals is 35km from Rooiels and Doctors is 10km away...

Water usage

To run such a huge business in Rooiels it will mean water wastage on constant washing of bedding and cleaning...up keeping and housekeeping of the guesthouse

**We ALL have heavily invested into the Rooiels lifestyle due to the tranquility and wildlife enviroment !! We find this extreamly arrogant and unreasonable as they knew by purchasing this property that Rooiels is a Biosphere and to keep the residents FOOTPRINT on nature to the minimum.**

TP

12 MAR 2018

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ANNEXURE E 77/86

**PS: Approval of this will only be for their benefit but at the expense of ALL Rooiels residents.**

Groete / Kind Regards,

Derek and Denise Esterhuysen  
267 Perspicua road Rooiels  
cell: 072 123 0883



Virus-free. [www.avast.com](http://www.avast.com)

ANNEXURE E 78/86

TP A Theart  
CH vld Steep

Loretta Gillion - Aansoek om God's Gift gastehuis en 2e woning



**From:** willempienaar6 <willempienaar6@gmail.com>

**To:** <loretta@overstrand.gov.za>

**Date:** 11/03/2018 03:09 PM

**Subject:** Aansoek om God's Gift gastehuis en 2e woning

Re: Erf 340 Rooi Els

Ons as permanente inwoners van Rooiels teken beswaar aan teen bg.projek wat beoog word op erf 340 in Perspicustraat Rooiels.

Rooiels is geleë in 'n geregistreerde bewarea /biosfeer en so 'n projek druis in teen die Rooiels-visie. Alles moontlik word gedoen om

mense en diere en plante in harmonie met mekaar te laat leef.

Die bedryf van 'n gastehuis sal baie druk op Rooiels se nou en meestal grondpaaie plaas.

Swaar verkeer sal die rustigheid versteur en die dierelewe ontwig.

'n Gastehuis sal misdaad tot gevolg hê omdat

toeriste met kameras, skootrekenaars, ens. reis

en dus meer in die kollig van misdadigers sal wees.

Toestemming tot so 'n projek sal 'n beginsel stel vir verdere aansoeke.

Ons almal is verantwoordelik om 'n kleiner voetspoor na te laat wat in die geval nie moontlik

sal wees nie as gevolg van die druk op Rooiels se infrastruktuur, waterverbruik en

rustigheid in die algemeen.

Ons hoop en vertrou dat ons pleidooi u gunstige oorweging sal ontvang.

Willie en Martie Pienaar

Cruentastraat 269 Rooiels

082 325 1437

FILE NO:	EL 340 Rooi Els
SCAN NO:	
COLLABORATOR NO:	1138328

TP

12 MAR 2018

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Loretta Gillion - Fwd: Gods Gift Guest House ERF 340 Rooi Els - 2nd dwelling



From: Hanneen van der Stoep  
To: Loretta Gillion  
Date: 08/03/2018 04:35 PM  
Subject: Fwd: Gods Gift Guest House ERF 340 Rooi Els - 2nd dwelling

TR A Theart  
(H. van der Stoep)

Re: Erf 340 Rooi Els

>>> Dagh <dagh@mweb.co.za> 2018/03/07 03:33 PM >>>

**To whom it may concern**

It has been drawn to our attention that the owners of Erf 340 have made application to operate a five bedroom guest house as well as to construct a second dwelling (owners residence) at the property. We strongly object to this application for the following reasons:-

Street usage

Rooi Els has narrow, mostly dirt roads and this does not lend itself to any additional amount of traffic from tourists staying at the proposed guest house.

Delivery vehicles will also require access to the said property for the delivery of goods to this business operation. This will further have an impact on the streets and create an extra disturbance in the area.

Sanitary Drain System

The sanitary drain system at the premises will be quick to be filled with all the additional people staying at the premises creating extra call outs for the municipal services which will also impact on the extra usage of roads and create a disturbance to the area, including weekends.

Crime

Guest Houses also attract a certain amount of crime as potential perpetrators are wise to the fact that tourists travel with laptops, cameras and foreign exchange and this will result in more crime in Rooi Els.

More crime attracted to the area will result in a demand for street lights installed in Rooi Els which would definitely be an unnecessary expense for the municipality.

Future similar applications

We strongly oppose to the departures requested as this will set a precedent in Rooi Els, whereby many other applications for double dwellings and business rights will be requested.

Kind regards  
Diana and Jan Dagh  
225 Ocean View Drive  
Rooi Els

FILE NO:	EL 340
	Rooi Els
SCAN NO:	
COLLABORATOR NO:	1138325

TP 12 MAR 2018

Re: Erf 340, Rooi Els



TO OVERSTRAND MUNICIPALITY  
ATT LORETTA OBJECTIONS DEPARTMENT

PR KONING

THE KONING FAMILY TRUST

260 PERSPICUA ROAD ROOIELS

OBJECTION AGAINST REMOVAL OF RESTRICTIVE CONDITIONS PLACED ON ERF 340 PERSPICUA ROAD ROOIELS.

TR A Theart  
(Huld Stoep)

OBJECTION ON CONCEPTUAL OVERVIEW GROUNDS.

The Rooiels area has a **Village Conservancy Vision that was accepted by the Rate payers Association** at a general meeting in which its objective was to preserve and incorporate village life and building development in harmony with The kogel Berg Nature Conservancy ,this is also what attracted the owners of 340 to Rooiels as they have stated in Cl 2,3 Of the proposed development quote' "moved to ROOIELS looking for a way of life that allows them to commute less while enjoying the magnificent area in which they now live". Unfortunately they now see a way of making money out of this life style and **the vision** has been thrown out .a contradiction interms if ever there was one .by all means buy a up market guest house in Pringle bay or Bettys bay , 4 have been in the current market.

OBJECTION ON FACTUAL GROUNDS

- 1.1 Overstrand notice 20/2018 clause 2 states 'to enable the owner to utilize the existing dwelling house on the property as a guest house" This is far from the facts presented that include additions to the existing house of plus minus 140SQmt and a second dwelling of 120SQmt.
- 1.2 No mention is made of 100mt high water mark and current legislation effecting buildings thereof this is a oversight by the Architects but needs mentioning if relevant to the new dwelling not additions NEMA act 1998. Section nu17.
- 1.3 Plan breeches building limits at a wooden deck off bedroom 4.
- 1.4 Plan breeches building limits at plan re plunge pool.
- 1.5 Plan breeches building limits at deck off pool lounge and guest room 1.
- 1.6 Cl 3.4 remove conditions that are no more relevant to the subject property , these conditions of densification that the metropolitan government are referring to are house holds /dwellings densification not guesthouse or motel/hotel densification .
- 1.7 There will be an Increase in pedestrian traffic and vehicle traffic to the erf 340. 2 permanent employees internal plus one permanent driver and two from local community to act as tour guides .locals from which area has not been specified. plus 5 possible extra cars per day .
- 1.8 Intention is also to develop the property in such a way that it can revert back to a residential dwelling for a single family , [How is this possible since there will be two dwellings on the same property.] contradiction.

FILE NO:	EL 340
SCAN NO:	Rooi ELS
COLLABORATOR NO:	1138324

TP

12 MAR 2018

- 1.9 A second dwelling is not a primary right if you intend to develop the primary dwelling into a guest house. Pls quote the relevant statute and section on this. In context.**
- 1.10 Define base level , the height of your platform?
- 1.11 3.4 states the development will contribute towards the residential and tourism character of the area please elaborate on residential character of the area.
- 1.12 The proposed content use /are not in contrast to the existing land use tendencies in the surrounding environment [PLS elaborate].
- 1.13 Land use will not adversely affect traffic flow[a] sewage tanker 1 per week [b] food deliveries once per week [c] staff delivery twice per day if not walking [c] guest driving 5 x possibly per day x 2 per day est,
- 1.14 3.6 states Proposed guest house will be within /the existing structure.[why build on additional 140sqmts for staff laundry etc if it is in the original structure.?)**
- 1.15 Cl 3.8 here we are informed that building lines need to be changed to accommodate the new building ,but we are informed that this is a 4069sqmt property large enough to accommodade the development ??.**
- 1.16 Cl3.10 please note there is no densification strategy for the area if so please present one ,the alternative is true for the area ,indications are that if Bettys bay and Pringle bay are developed to it full extent WATER SUPPLY will become a problem in 5yrs time .and now 5rooms x 2 persons on one erf will help to deplete the water usage faster than planned possibly.?**
- 1.17 Cl 3.11 Second dwelling proofs to be efficient as it discourages the phenomenon of urban sprawl and encourages densification in Rooiels in line with/strategies proposed[ please present these strategies and explain how does it discourage urban sprawl AND LINK IN WITH THE ROOIELS VISION AND AREA WHICH IS A REGISTERED CONSERVANCY .**
- 1.18 CL4 densification status /remain unchanged [blatant nonsense currently 3 persons on erf future 5 permanent and possible 10 guests so we move from 3 to 15 persons?.**
- 1.19 CL4 the proposal is compatible with existing built character of the area .HOW ?**
- 1.20 CL4 Rooiels is not a holiday village ; it is a village of secondary homes / holiday homes for owners and has 100 permanent inhabitants vs its 215 erfs plus minus. It is not a tourist destination.**
- 1.21 The proposal is not compatible with any spatial planning strategies of the area .read the CONSERVANCY VISION FOR THE VILLAGE.**

BOTTOM LINE IS THAT UNFORTUNATELY DUE TO ABOVE POINTS I OBJECT TO THE DEVELOPMENT ON ERF 340 FOR A GUEST HOUSE AS IT IS NOT IN KEEPING WITH THE VISION TAKEN BY THE RATE PAYERS NOR CAN THE INFRASTRUCTURE HANDLE THE INCREASE IN TRAFFIC , WATER SUPPLY „SEWAGE REMOVAL AND DENSIFICATION.

PETER KONING ERF 260 PERSPICUA ROAD ROOIELS  
EMAIL peterk@safine .co.za

Date 28/2/2018

PRKONING

ANNEXURE E 82/86

TP-A Theart  
(H. van der Stoep)**Loretta Gillion - Removal of restrictions Erf 340 Rooi Els**

**From:** zee van zyl <zeevanzyl@hotmail.com>  
**To:** "loretta@overstrand.gov.za" <loretta@overstrand.gov.za>  
**Date:** 04/03/2018 12:12 PM  
**Subject:** Removal of restrictions Erf 340 Rooi Els



To whom it may concern

We strongly object to the removal of restrictive conditions and consent use issued for erf 340 in Perspicua, Rooi Els.

We have had our house in Rooi Els for over 40 years and have seen how development has changed other villages in our area. Rooi Els is a beautiful and quiet place which is why we love it. Any increase of traffic will damage the road in front of our house even more, and all traffic to Erf 340 will pass by our house.

Please let us keep Rooi Els as it is.

Many thanks  
 The van Zyl family

Erf 270 Perspicua, Rooi Els  
 Zee - 072 147 3872

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FILE NO:	EL 340 Rooi Els ✓
SCAN NO:	KRE 340
COLLABORATOR NO:	1137989

P

12 MAR 2018

file:///C:/Users/loretta/AppData/Local/Temp/XPgrnwise/5A9BE2A5HermanusMunpo... 2018/03/12

Loretta Gillion - Objection to application, Erf 340 Rooiels

TR A Theart  
C Hubstoeper



**From:** Di Perton <diperton@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 28/02/2018 03:32 PM  
**Subject:** Objection to application, Erf 340 Rooiels  
**Cc:** <anuta@dekat.co.za>, <rerarebv@gmail.co.za>, <bulletin@overstrand.gov.za>

**Overstrand Municipality Erf 340, 10 Perspicua Road, Rooiels: Proposed Removal of Restrictive Conditions and Consent Use: Pal Active obo CP Howard and RJC Terlien**

I, Diana Jacqueline Perton, am the registered owner of erf 271, 16 Perspicua Road, Rooiels. My property has line of sight to erf 340 and is buffered by only one other dwelling-house on that side of Perspicua Road. Between my property and erf 340 there is pristine coastline.

I am opposed to the development of a guesthouse on erf 340 for the reasons below:

The village of Rooiels, since its earliest days, has been loved by its residents as a "secret" spot. Owners in the village are largely like minded and as one, wish to protect the village from unwelcome commercialisation. We are conservation-minded and take responsibility for protecting our environment.

The three villages: Rooiels, Pringle Bay and Betty's Bay; have together forged their own synergistic identities, with Rooiels content to know that the other villages have taken the responsibility for encouraging tourism and a degree of commercialisation. That Rooiels has largely remained a haven for the eco-minded and at the same time, commercially-shy is because that is the wish of its residents.

I would submit that the title deed conditions which the applicant seeks to have removed, support and seek to entrench the sentiments expressed in the preceding paragraph.

The applicant has not provided any evidence of need - where is the demand for a guesthouse at this location? There already exists two guesthouses. One on the main road ("Wonderlings") with easy access to the village centre and a short walk to the main beach, the second close to the main beach. There are also a large number of houses used as holiday lets - at no time are all of these properties in use at Christmas, or at any other time - once again highlighting the dubious need for another guesthouse.

And, if there is no demonstrable evidence that this new guesthouse will be supported then I submit that it would be rash in the extreme to grant this application only to see it fail.

I also submit that the roads infrastructure may not cope with an increased traffic demand, not just from guesthouse guests, but from non-residential staff arriving daily, as also other support staff. During crayfishing season the SW portion of Perspicua Road becomes uncomfortably congested and over parked supporting my belief that any increased traffic on this narrow, low order, sand road is undesirable.

I accordingly request that the application be turned down.

TP 01 MAR 2018

FILE NO:	EL 340
SCAN NO:	Rooi Els ✓
	KRE 340
COLLABORATOR NO:	1134411

file:///C:/Users/loretta/AppData/Local/Temp/XPgr0wise/5A96C87B/HermanusMunno 2018/03/01

ANNEXURE E 84/86

Diana J Perton  
Cell no: 079 522 6430  
Sent from my iPad

Di Perton  
Cell no: 079 522 6430  
Sent from my iPad

Re: Erf 340 Rooi E/SC <sup>TR A Theart</sup> ~~Hand Stoop~~



Erf 340, 10 Perspicua Road, Rooiels: Proposed removal of restrictive conditions and consent use: Plan Active (obo CP Howard and RJC Terlien)

I, Anuta Scholtz of erf 222 Rooiels, hereby wish to lodge my objection to this application.

While I may not be an immediate neighbour, I am a resident of Rooiels of long standing and as such I am an affected party.

I have perused the application and motivation and found at least 32 points on which I can comment or disagree with the compiler thereof. There are many inaccuracies and many motivations which are, in fact, so far removed from the situation on the ground that they amount to whitewash.

Rooiels has a very specific character which has been protected over many years by those who understand that if you want that character to be maintained, then all that is included in this application should be rejected.

The application is contrary to our expressed Vision for Rooiels, a document unanimously adopted by ratepayers at an AGM of the Rooiels Ratepayers Association many years ago.

In the window period between the promulgation of the National Building Regulations and the registration of an overlay plan for the village, the Municipality cannot compromise the vision for the village's development. They need to honour what they know to be the wishes of the people.

The title deed allows for a single residence, which the owners already have. They already have what they are entitled to.

Here follow some of my arguments:

- Have the Coastal Management Lines been taken into consideration? I don't see anything in the document on this matter.
- The size of the property should not be offered as a motivation for development.
- Relaxation of building lines should not be considered on a property of this size.
- Has an engineer submitted a report on the rocky land? The original builder encountered huge difficulties with breaking rocks.
- What constitutes "appropriate" use for a house in a village conservancy?
- We must consider landscape as well as seascape when assessing the impact on other residents.
- Rooiels doesn't have a typical tourism character.
- How will the development contribute to the special character of Rooiels?
- How is "diminutive" and "minimal alterations" defined when it constitutes almost the same footprint as the original house?"
- Who has established that Rooiels needs "more diverse holiday accommodation options"?

FILE NO:	EL 340
	Rooi ELS ✓
SCAN NO:	KRE 340
COLLABORATOR NO:	1133710

TP

12 8 FEB 2018

- Reference is made to “spacial sustainability”, yet they propose to build a second dwelling and maintain high occupancy on the property.
- Has the owner considered exactly why there are no luxury guesthouses along the coastline of our villages? Perhaps they don't fit into the appeal of these quiet seaside villages.
- Mention is made of double glazing on windows. This is a building regulation requirement anyway, depending on the ratio of windows to wall area.
- What is meant by “diversification of land uses ... will blend in well with the existing built and natural environment.”?
- The statement is made that the proposed development is “not in contrast to the existing land uses tendencies in the surrounding environment.” There is no other guesthouse in Rooiels, nor is there any second dwelling.
- They suggest that there will be “no impact” on surrounding erven because the zoning doesn't change. There is no logic here. We know that it will impact.
- They talk of providing shelter for local creatures. Natural shelters are what we need in a conservancy and Biosphere Reserve – not man-built ones.
- The existing house is built of stone below and logs above. Which is the architectural design they will follow in the second dwelling?
- The owners say that they want this development because it will provide them with an opportunity to earn their living while staying here, as opposed to commuting to Cape Town daily. They cannot be allowed to have their self-imposed needs impact on the lifestyle of a community.

In closing, Plan Active could at least have checked on the official spelling of the name of our village as listed in the Place Name Register of South Africa. It is not Rooi Els, but rather Rooiels.

Thank you for your attention.

ANNEXURE F 1/33

PLAN Active  
Town & Regional Planners  
Stads- en Streetsl



6 Magnolia St / Str  
PO Box / Posbus 296  
HERMANUS  
7200  
Tel: (028) 313 1673  
Fax / Faks: (028) 312 1351  
Email: [planactive@hermanus.co.za](mailto:planactive@hermanus.co.za)  
Website: [www.planactive.co.za](http://www.planactive.co.za)

Our reference: PA17049/ML  
Your reference: 340 KRE (3832)

TP-A Theart  
(Hvd Stoep)

19 JULY 2018

THE MUNICIPAL MANAGER  
OVERSTRAND MUNICIPALITY  
P.O. BOX 20  
HERMANUS  
7200

FILE NO: EL 340 - KRE
SCAN NO: KRE 340
COLLABORATOR NO: 1180185

FOR ATTENTION: MRS HANNEEN VAN DER STOEP

Sir

**PROPOSED CONSENT USE & REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS:**  
**ERF 340 ROOI ELS**

- C.P. HOWARD & R.J.C. TERLIEN

Reference is made to our application dated 31 October 2017 and your letter with objections attached thereto dated 12 April 2018.

Fourty one objections were received from the public. The amount of objections received does however not indicate whether a proposed land use lacks desirability or not. Due regard must be given to the substance of each objection and not merely the number thereof. It should also be noted that in spite of the proposed application not being circulated by the municipality to all ratepayers of Rooi Els as part of the formal advertising / public participation phase, almost the entire community was provided with a copy of the proposal (by RERA and RESA) and asked to react.

Following the conclusion of the public participation process our clients were requested to meet with RERA and was informed after their meeting that the RERA submission should not be considered an objection. In addition some of the objections submitted (for example by REC) were submitted by individuals and not under the mandate claimed on the objection letters.

Herewith a summary of the objections received and our response to the objections. Our response will attempt to further motivate that the application is considered to be desirable in terms of Section 66 of the Overstrand Municipality's Bylaw on Municipal Land Use Planning:

**1. Traffic and noise impact**

*It is mentioned that the traffic volumes in the subject area would drastically increase due to the proposed development. The additional volumes of traffic would cause additional noise in the surrounding area. There will also be more trucks using the roads and it can cause the very narrow dirt road to be damaged further as it will not be able to embrace a greater capacity of traffic volumes. The width of the road (very narrow) can also be seen as a dangerous factor as it will have to tolerate*

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Vat. No. 4770250340

John Mc Lachlan: Ndip (Town Planning) Tech Witwatersrand; MSAPI  
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)  
Meriké Lerm: B. Art et Scien Cum Laude (Town Planning) UNW, SACTRP

TP 12 JUL 2018

*a greater capacity of traffic. According to the objectors it should also be mentioned that visitors do not always adhere to speed limits when visiting an area and therefore it can also lead to dangerous and fatal situations.*

*Objectors claim that the approval of the guesthouse will generate high levels of noise. It is also said that the increased traffic levels and visitors will also raise the amount of noise in the area. Pump out trucks that have to visit the area will also generate noise that does not sit well with the current environment of Rooi Els.*

The conditions of approval will restrict the number of guest rooms, which will in turn restrict the volume of additional traffic that will be generated by the proposed guesthouse. No evidence is presented by the objectors that the guesthouse will have a negative impact on the traffic or road safety in the area.

Guesthouses (especially of this scale) generate low traffic and noise pollution to residential areas. In most instances guests do not arrive or depart at the same time either. The staggered nature of the arrivals and departures from the guesthouse together with the maximum number of guests allowed will further mitigate the proposed development's traffic impact and ensure that the surrounding area and its road network are not overwhelmed with vehicular traffic. We are of the opinion that the traffic and noise generated will be low and in keeping with the residential character. In addition, the internal municipal departments did not express any concerns with regards to the width of the road, the state of the road or additional traffic to the area and no requests for additional studies were received from the municipality.

The proposed development will provide sufficient parking bays on site. Many of the objector's concerns about the traffic increase were rather overstated. The proposed development will have little, if any, adverse impact on the safety, health and wellbeing of the surrounding community. The objectors' concerns regarding the road safety and increased traffic to the area are noted. However, as stipulated above, the proposed development (which is fairly minimal), within the Overstrand Zoning Scheme Regulations' parameters and subject to traffic control conditions for the area, will not jeopardize the safety of road-users (vehicular and pedestrian).

Numerous people have complained about the noise from other properties that are short term let to holidaymakers that occupy an entire property. The owners residing on the premises are a requirement for *this consent* use and is in place to ensure that the guests do not cause a disturbance, start fires or pollute (unlike unsupervised guests may be more likely to).

## **2. Environment**

*The Rooi Els establishment is situated in a conservation area. The proposed development will increase pollution in the area as visitors are not familiar with the recycle procedures of the local area. This will cause visitors to distribute litter in the area and cause damage to the area and its biodiversity. The area is also known as an ecological sensitive area. The increase of movement in the area can degrade the ecological status that is set out for the particular area. It is also mentioned that the conservancy tanks that will be implemented will cause ground disturbance in the area. According to one objector Rooi Els is known for the natural and rural feeling and the proposed development will allow for the feeling to change to a more urban environment. It is also mentioned that the area will be polluted with sewage and will allow for toxic gasses and pollution to the sea life. The rocky environment also caters for a lot of natural habitats for wildlife and the proposed application will destroy the natural habitat once in the developing process.*

*It is mentioned that Erf 340 Rooi Els is one of the most important erven with regards to conservation as it is one of the erven with the most sensitive ecological status and plays an important role in Rooi Els as it is located right next to the sea shore.*

The owners of erf 340 Rooi Els certainly want to keep with the character of natural environment - unlike many other properties in Rooi Els, which have huge concrete buildings, no natural vegetation (lawns are quite common) and taking up the total 50% allowable coverage of their property - which our client are not proposing. Yes, the development footprint is enlarged by  $\pm 400\text{m}^2$  (keeping in mind that the subject property is  $4069\text{m}^2$  in extent). But what the objectors seem to forget is that a total coverage of 50% is allowed for the subject property, regardless of the land use application proposed. Thus, the owner would be able to develop 50% of the subject property within the Overstrand Zoning Scheme Regulations (2013) without notifying or obtaining adjacent property owners' consent. Of course to develop erf 340 Rooi Els to its full potential will not disregard other legislation that might be applicable (such as NEMA).

The objections about animals refer. What the objectors fail to realize is that the architect will finalize the building's design as environmentally friendly as possible and include natural rock areas where Dassies can sleep. We fail to understand how the development will negatively impact on baboons and the seal colony?

In addition (and very importantly), the **Overstrand Municipality's Environmental Department has no objection** to the proposed application. Their comment on the application dated 18 April 2018 reads as follow:

- *The property falls within the urban edge;*
- *The property falls above the coastal setback line;*
- *The property falls above the high-water mark.*

*The environmental section has no objection to the consent use application for 340 Rooi Els, however no development into the coastal zone (towards the high-water mark) outside of the property boundary will be allowed as this is zoned as Open Space Zone 1 – Nature Conservation and development in this area will trigger NEMA regulations and will also be seen as encroachment onto municipal land.*

However, to ensure that all necessary precautions are taken to minimize the impact on the environment, our client revised the site development plan slightly. The revised set of plans include an Existing Vegetation Plan and Impact Plan indicating the possible impact the additions and alterations to the existing structures will have on the existing vegetation on the subject property. From the schedule on the Impact Plan it is evident that the renovations and additions to the existing structures to accommodate the proposed guesthouse and second dwelling will not trigger the NEMA listed activity for the removal of indigenous vegetation of  $300\text{m}^2$  and more. Refer to the schedule below:

### Dimensions - New Impact (Rounded up)

New building on Vegetation (Clearing required, Pool, 2nd D & site works)	175
New Building over existing (NO Clearing required)	280
New Decking over existing (NO Clearing required)	130
New Suspended Decking (NO Clearing required)	145
New parking (Rough Cut / Cleared)	± 80

The amendments to the SDP are considered to be minor amendments to reduce the impact on the fauna and flora on the site. The following should be noted with regards to the amendments to the SDP:

- The new building and decking that are situated over currently undisturbed land will be suspended in order to reduce the impact on the environment;
- The layout and position of the parking bays were reconsidered and re-planned in order to still meet the minimum parking requirements without having to cut large areas of the vegetation to accommodate these parking bays;
- The main extensions to the existing dwelling have been reduced in size and have been relocated to ensure these extensions are entirely over existing paved / concrete / degraded vegetation;
- The owners are aware of the set of guidelines published by the home owners of Rooi Els (for example light pollution) to which they are keen to adhere in their renovations to the property;
- The revised SDP still meets all the land use planning parameters with regards to building lines, coverage, bulk, total floor area, etc.;
- The parking garage was amended to reduce the extent of the building and thus the impact on the vegetation. As a result the owners will now have a tandem parking garage (two parking bays for the main dwelling) with one additional parking bay in the garage for the second dwelling (one additional parking bay as stipulated in the zoning scheme regulations);
- The five parking bays for use by the guests of the guesthouse were placed next to the existing gravel driveway (already disturbed) and thus only small sections of vegetation have to be cut to accommodate the five guest parking bays.

To determine whether a basic impact assessment will be required for the proposed additions and alterations to the subject property an Environmental Checklist application was submitted by Lornay Environmental Consulting in June 2018 for the proposed development on erf 340 Rooi Els. We await the outcome of the checklist application and the municipality will be informed accordingly.

The checklist will also determine whether a setback line will apply to the subject property for the proposed additions and alterations to accommodate the guesthouse and second dwelling.

There is no filling required to install the decking proposed around the exiting building as it is already in place as gravel or paving, and all that would be done is to put a composite or timber decking over the existing to improve the aesthetic / function. It is therefore not anticipated that the filling required will exceed 5m<sup>3</sup>. The latter will also be addressed / confirmed in the environmental checklist application.

None of the decks that are within the setbacks are higher than the 1m. No other structures will be positioned in the building lines apart from the swimming pool - which should it be a problem, can be moved away from the boundary, but as stated in our motivation report it would be to the engineers specifications, which would conform.

The two small pools will therefore use backwash free treatment equipment, namely **cartridge** filters: Cartridge filters are considered eco-friendly due to the fact that the larger surface area **prevents water wastage and the need to do a backwash**. Backwashes are extremely wasteful when it comes to water and as water is precious, it is best to preserve as much as possible. By cutting back on the chlorine and not needing to do backwashes cartridge pool filters are definitely the best way to go to ensure a greener lifestyle.

### **3. Infrastructure**

*It is mentioned that the current infrastructure is not able to cope with more strain. The roads in the area will not be able to accommodate more traffic or even heavy trucks as they would be needed for sewage removal in the area. The treatment of the sewage on site is also questioned (capacity of existing tank; proposed alternative sewage treatment plant and possible impact on the environment). Other infrastructure such as electricity, water supply etc. will also not be able to cope with the proposed development and may lead to more construction phases that will cause disturbance to the local area.*

The following should be noted with regards to the water and sewage on erf 340 Rooi Els:

- Our clients already use Phosphate free cleaning materials;
- Use of low flow Macerating Toilets is planned;
- Reuse of cleaned / treated water on site is anticipated;
- It is planned that should bulk laundry be required that this load will be shifted to a commercial laundry;
- That as with any guest coming to the Western Cape is requested to respect the restricted water supply in the Cape, the guests will similarly be encouraged not to overuse water.
- Water supply is shared with Pringle Bay, a water user in Rooi Els has the same effect on water consumption as a water user in Pringle Bay.

Overstrand Municipality's Engineering Services Department supports the proposed land use application, subject to certain conditions (copy of their comments dated 4 April 2018 attached). One of the conditions stipulates the following:

*3. that no additional sewer tanker services will be available, the owner should look at a system treatment and re-using only grey water, that should additional capacity be required.*

DECA Consulting Engineers were appointed to investigate the best option for sewage treatment on the subject property while still meeting the requirements of the Overstrand Municipality's Engineering Services Department. The outcome / services report will follow once all relevant departments' comments / input were obtained. The investigation and discussions with Overstrand Municipality's relevant engineering departments did however confirm that the existing septic tank has sufficient capacity for the proposed development on erf 340 Rooi Els and that the upgrading to a conservancy tank is not required. It was also discussed that the proposed guesthouse and second dwelling unit will not require additional servicing by the sewerage servicing trucks for the area.

It is evident from the Services Report submitted and the comments from the Engineering Services Department that the proposed guesthouse and second dwelling will have a low and acceptable impact on the engineering services.

#### **4. Title deed restrictions and the impact on the surrounding properties / character of the area**

*Objectors feel that the title deed restrictions were imposed on most of the properties in the area and the owners of erf 340 Rooi Els bought their property with the knowledge of these restrictions. These restrictions were imposed in order to enhance the open spacious areas in the Rooi Els establishments. The restrictions with regards to the second dwellings and building lines are implemented into the title deed to keep a low density for the area. Many residents claim that, that was the reason for purchasing property in the particular area to enhance a life style with open views and low density properties. If the restrictions are removed it will allow for other owners to do the same applications (i.e. set a precedent) and the density in the area will increase dramatically. The latter will compromise the natural and rural character of Rooi Els.*

*The insertion of restrictive conditions into a title deed could be for no other reason than to preserve the amenities of the other erven as low-density, single residential properties with sea views and to maintain the character of the township. The interest which must be served by the removal are the broader interests of the township, area or public. The ad hoc removal of the title deed conditions (as specified in the application) would create imbalance, spatial injustice and it is not in the public interest.*

*It is mentioned that the development will have a negative impact on the surrounding properties. Neighbouring properties will be negatively affected by noise, traffic, light etc. Surrounding property owners also feel that the valuation of their property will be negatively affected by the abovementioned factors.*

*The approval of the application will create the logic around the community that they can also apply to have their properties title deed restrictions removed and build second dwellings etc. this will all contribute to an area that was not intended for Rooi Els. The proposed development is contradictory with the character of the area. According to one objector development will not be able to convert back to single residential purposes. The development is also more towards a commercial use and there for will degrade the residential character of the area.*

The conditions imposed in the title deed were done when approving the General Plan of Rooi Els in 1953. In the past no land use management schemes or zoning schemes existed and thus title deeds determined and governed how an area and property should be developed. If only title deed conditions were to govern development of towns in the country at present, the development of a town, area or province will be detrimentally restricted. Thus, development management schemes, zoning schemes and spatial planning policies were promulgated to manage land use development. We are of the opinion that the conditions are out-dated and not applicable and thus will have no benefit for the erf or the character of the area. The restrictive conditions are also not aligned with the present day planning principles and policies in terms of sustainability and resilience.

The existing zoning of erf 340 Rooi Els is Single Residential Zone 1 (SR1). This allows for the construction of a second dwelling as a primary right. Currently there is a moratorium placed on subdivisions in Rooi Els due to the services constraints in the area. However, a second dwelling does not constitute separate connections to the municipal services network and thus it is allowed in Rooi Els.

The municipality is in agreement with the aforementioned since a recent approval for a second dwelling on erf 106 Rooi Els was issued (on 10 April 2018). This further proves that the municipality favours densification in the form of second dwellings for Rooi Els.

We are of the opinion that the removal of the title deed conditions will not be to the detriment of the community since the zoning and primary land use will remain residential. A guesthouse on a SR1 zoned property is not deemed a commercial enterprise, but can be accommodated as a consent use / secondary right and thus the reference to "rezoning" and "commercial activities" by the objectors are irrelevant.

The conditions related to wood and iron buildings and fires on the property were imposed by a private company. These conditions were not imposed by a public authority in order to protect the general public interest. The private company's consent for the removal of these specific conditions was submitted with the application.

The value of the current restriction on land use and the benefits flowing there from, relate mostly to maintaining the character of the area. Rooi Els is residential and conservation in nature, comprising erven that are, at least for residential purposes, extensive. Our client seeks to remove the conditions in the title deed to allow them to construct a second dwelling and operate a five bedroom guesthouse from the premises. It is commonplace in the Overstrand to locate guesthouses in single residential areas. Furthermore, given the proposed extent of the development (the owner is allowed to develop 50% of the property but the proposed coverage is only  $\pm 14\%$ ), the minimum impact it will have on the immediate residential erven (development is proposed in line with the zoning scheme regulations and the criteria for maximum rooms allowed for guest houses on a SR1 zoned property), we are of the opinion that the proposed land uses (second dwelling and guesthouse) will not undermine or excessively disrupt the character or amenity of the surrounding area.

The proposed guesthouse will be interleading and will meet the definition of a "dwelling house" with regards to the construction of the structure. There are no limitations on the amount of bedrooms, etc. when developing a standard dwelling house on a SR1 zoned property. Thus, if the guesthouse is developed within the land use parameters for SR1 zoned erven, it can easily revert back to a single (large) dwelling house and second dwelling in future.

Removing (or amending, however the municipality deems fit) the title deed conditions will allow the owners of the subject property to produce an income-producing asset. The social benefit of maintaining the restrictive conditions are minimal, given the low impact the development will have on the residential amenity and conservation status of Rooi Els. In comparison, there will be social benefits flowing from the removal / amendment of these conditions, including increasing employment opportunities in the area, making the area more attractive to visitors and optimizing the use of the land. The proposed development is therefore also in the public interest.

In addition there is no indication that the proposed development will lead to a reduction in the value of the surrounding properties. Land value is determined by supply and demand.

An investigation undertaken by our client on accommodation booking sites found that over 30 properties in Rooi Els are listed for travel / holiday lets. Only two properties were within the two room limit as allowed for by the zoning scheme. It is therefore evident that a large number of properties in the town are already used for holiday accommodation purposes (and mostly unlawfully so). The character of the area has therefore been already "compromised" and the application on erf 340 Rooi Els will not be the first to suggest guest accommodation in the area.

The proposed development will not diminish the area's residential footprint. It constitutes appropriate development for the area as it will introduce a guesthouse for the area on a scale that is allowed for SR1 zoned properties, will not constitute an undesirable non-conforming land use and will introduce appropriate land use diversity that is compatible with the surrounding area. In addition

the context in which the restrictive conditions were imposed pertaining to the Rooi Els area was taken into consideration to ensure that the proposed removal of the restrictive title deed conditions are not to the detriment of the character of the area and the land owners.

#### **5. Specialist Reports**

*Objectors propose that numerous specialists reports be submitted such as environmental reports, water specialists reports, heritage reports, coastal engineering reports etc. It is also mentioned that the sewage disposal system procedures is not clearly indicated and only vaguely mentioned.*

No specialist studies were requested by the municipality. As mentioned above an Environmental Checklist and a Services Report were compiled to ensure that the development does not trigger any listed activities in terms of NEMA and to ensure that the services (more specifically the sewerage system) on the subject property can meet the requirements of the proposed development.

With regards to the heritage concerns raised: the subject property is not situated within a Heritage Overlay Zone as determined by the Overstrand Municipal Growth Management Strategy (2010). The subject property is also not earmarked for heritage conservation purposes.

The existing structures on the subject property are not older than 60 years. Furthermore the existing structures will be added to and altered in line with the relevant scheme regulations to accommodate the extended main dwelling / proposed guest house. A new second dwelling is also proposed. 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.

The proposed consent use and removal of restrictive title deed conditions do not trigger any other listed activities in terms of Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999). The municipality can however approve the application subject to certain reservations should heritage resources be discovered on the property during the construction phase.

#### **6. Non-compliance with Overlay Zones and Spatial Planning Policies**

Take note that the Overlay Zones for the Overstrand Zoning Scheme Regulations (2013) have not been approved yet and as such has no legal status. Erf 340 Rooi Els falls within the demarcated urban edge of Rooi Els. The draft Environmental Overlay Zones do not demarcate erf 340 Rooi Els within an urban conservation zone, a protected area buffer zone, coastal protection zone, mountain catchment zone or riverine management zone. The draft Heritage Overlay Zones indicate that erf 340 Rooi Els falls within the demarcated coastal strip heritage protection overlay zone. Although erf 340 Rooi Els falls within the coastal strip area and although provision is made for certain requirements with regards to land use and building plan applications, the design of buildings, etc., the overlay zones remain a draft document and currently does not apply to the additions of the existing dwelling and proposed land use application. If the municipality is not in agreement with the status of the overlay zones, then the application would have been circulated to the local heritage and aesthetics committee for comment / approval.

The **Overstrand Spatial Development Framework (SDF), 2006**, earmarks the area where erf 340 Rooi Els is situated, for residential purposes. The Overstrand SDF (2006) promotes among other things the conservation of the natural environment and identifies the town as a retirement and holiday village. The design of the extended main dwelling and new second dwelling, and now especially the revision of the proposed SDP, was done in such a way to ensure the minimal impact on the existing vegetation and landscape. In addition the proposed guest house promotes tourism to the area while simultaneously promoting the town of Rooi Els as a holiday village. The application for consent use to accommodate a five bedroom guest house on the subject property and the removal of restrictive title deed conditions to accommodate the guest house and second dwelling is therefore within the goals stipulated in the Overstrand SDF (2006) and therefore falls within the existing planning for the Rooi Els area.

The character (residential) and zoning (Single Residential) for the subject property will remain unchanged and therefore the subject property falls within the existing planning for the Rooi Els area.

The **Overstrand Municipal Growth Management Strategy (OMGMS, 2010)** specifies that erf 340 Rooi Els forms part of Planning Unit no. 1. No density increase is proposed for Rooi Els. Although no densification proposals are made for Rooi Els, it is stipulated that any growth in the amount of residential units must simultaneously be accompanied by the provision of the necessary infrastructural services and community facilities. This application proposes the construction of an additional dwelling unit (second dwelling) on the subject property. A second dwelling is not regarded as an additional load on the available bulk services in the area (hence the positive comments / consent from the Overstrand's Engineering Departments for the proposed application). The existing insufficient bulk services availability in the area does however restrict the subdivision of properties in Rooi Els. The second dwelling will be occupied by the owners of the subject property and consequently the status quo for the area will remain unchanged (owners residing in the main dwelling versus residing in the second dwelling). DECA Consulting Engineers were appointed to investigate the best option for sewage treatment on the subject property whilst still meeting the requirements of the Overstrand Municipality's Engineering Services Department. As previously mentioned the outcome of the investigation / services report will follow once all departments' input were obtained. Initial discussions with the municipality did however indicate that the existing services on the subject property can accommodate the proposed guesthouse and second dwelling unit.

It is evident from the Services Report submitted and the comments from the Engineering Services Department that the proposed guest house and second dwelling will have a low and acceptable impact on the engineering services. The upgrading of the infrastructure for the subject property can accommodate the alterations and additions to the main dwelling and proposed second dwelling.

The OMGMS (2010) also encourages a greater range, choice and diversity of holiday accommodation in the village. The proposed guest house and second dwelling are therefore in line with the aforementioned densification strategy for the area.

From the above it is evident that the proposed consent use and removal of restrictive title deed conditions application adheres to the spatial planning policies for the Rooi Els area and consequently falls within the existing planning for the Rooi Els area.

#### **7. Crime**

*According to objectors guest house facilities attract crime to an area. It is argued that there will be a need for more police visibility as the current police station is 25km away from the proposed establishment.*

An occupied and actively observant property is likely to be a security asset amongst properties that are to a significant degree vacant for most part of the year.

With regards to poaching crime – a large part of the Rooi Els coastline in front of the house is invisible to most of the residents and will now be under almost constant observation due to our clients' occupation, activity and security of the subject property - which was not the case when the house was vacant, and would be enhanced by the proposed use.

Our clients discourage fishing and collecting and don't do it themselves, though this is a person's / guest's right to access public amenities should they have the legal / required permits and equipment.

The objectors do not provide factual evidence that supports their claims that the proposed guesthouse will adversely impact on the safety, health and well-being of the surrounding community or the existing rights of other land owners. Their statements are vague and unsubstantiated and should therefore be dismissed.

#### **8. The application will set a precedent for similar future applications**

*Objectors feel that local residents will also seek an opportunity in the future to submit similar applications in order to allow them to run guesthouses or to develop second dwelling etc. Objectors feel that there are sufficient guest house facilities in the surrounding areas and that one in the Rooi Els area is not necessary.*

Approving the proposed development will not set a precedent since each land use application is evaluated on its own merit. In addition there are similar land uses (guest houses and second dwellings) in Rooi Els, with the latest second dwelling application approved in April 2018. It therefore seems as if the precedent is already set for low-impact, low-scale diversification of the residential land uses in the Rooi Els area.

#### **9. Incorrect locality map**

*According to an objector the wrong locality map has been submitted and this is an indication that not enough research has been done by the applicant. The objector proposes that the correct info is submitted or the application be referred back.*

The correct locality map was submitted with the land use application and distributed with the notices sent to adjacent property owners.

#### **10. Impact on views**

Our clients did note the impact on erf 257 Rooi Els and a sight line was considered in sighting the new buildings (refer to the *drawing of sight line* as part of the appendices attached to the client's response to the objections). It is anticipated that the impact on erf 259 Rooi Els will be minimal since erf 259 is substantially higher than erf 260, and also seeing that the lower floors on that property are not habitable spaces thereby raising the property and reducing the impact of our development.

**11. Conclusion: Need and Desirability**

*The need for a new guesthouse establishment is not justified. In the surrounding area there are already existing guesthouse facilities. It is argued that there is not a need for more guesthouse facilities in the area and that it will completely temper with the vision that was put forward for the Rooi Els area. Objectors feel that the proposal is misleading because the proposal comes forth as a boutique hotel and not a guest house facility.*

It is submitted that the above response to the objections further motivates and confirms the need and desirability of the application. As a result we will merely summarize the reasons for consideration of the proposed development.

The applicant is aware of the development pressures of Rooi Els (restrictions on development due to lack of services availability in the area), however the proposed development does not constitute compromising development due to its minimal impact and compatibility with the surrounding area.

In addition, approving the proposed development will not set a precedent since each land use application is evaluated on its own merit.

From our response to the objections above it is evident that the development's impact on existing rights will be minimal. The subject property will be developed within the zoning scheme regulations' parameters (keeping the impact on views, privacy etc. to a minimum). There will be no increase in pollution. The subject property's zoning will remain SR1 and the surrounding properties will still be able to exercise the development rights attached to them as well as enjoy the amenity of the area where most erven are zoned for SR1 purposes.

The proposed development meets the principle of efficiency since it promotes the optimization of land use, appropriate land development in a residential area and mild diversification of land use.

To conclude, the proposed development is consistent with the criteria for the consideration of the application in terms of the Bylaw as well as the spatial planning guidelines for the area, since it promotes a low-impact, small-scale guesthouse establishment with second dwelling unit that does not require deviations from the applicable zoning scheme, while still allowing the area to be retained for residential living. The proposed development is consistent with the area since it is a primary right (second dwelling) and consent use (guesthouse) for the zoning of the subject property. The proposed development will not constitute an intensive and disruptive commercial enterprise.

**Find attached the following annexures for your attention:**

- Client's response to the objections *with appendices*;
- Revised set of plans (inclusive of site development plan, roof plan, vegetation plan and impact plan).

We trust that you find the above in order and that you will now be able to proceed with the processing of the application.

Yours faithfully



**M. LERM Pr. Pln (A/158/2009)  
PLAN ACTIVE**

Comments to the 41 submissions related to the Consent use of Erf 340 Rooiels

**Comments on the submissions themselves:**

- As far as we are aware the RERA submission is not an objection, having been informed of this by RERA after a meeting with the RERA committee.
- That some of the submissions that were made (eg the REC) were submitted by individuals, not under the mandate claimed on the submission.
- That there is strong community in Rooiels, and that that the RERA and RESA are both active and collaborate to ensure that they have updated contact details for the property owners. So in spite of the proposal **not** being circulated by council as part of the formal advertising / participation phase, almost the entire community was provided with a copy of the proposal and asked to react.

**Comments on the tone of the submissions**

- It would appear that there is a cohesive group of in the village who have been in Rooiels for many years that are disappointed by the area slowly filling up as the erven that have been vacant for so long are developed - and that along with this the inevitable change to the character that results.
- The reaction both verbal and in the submissions to the consent use has been characterised by the alterations being incorrectly described as a hotel, and therefore completely out of character with the village.
- This submission, with its "Hotel label" has created a node around which all the feelings of discontent have found a place to be voiced, namely the fact that there are many in Rooiels that object to building of any sort, the clearing of land to make those buildings, the impact on a perceived "natural-ness" that should be maintained, and that the population of Rooiels is increasing and using up resources
- We have subsequently had people inform us that there was an active lobby person pressurising people into making submissions, and that they now regret having done so. A similarity in wording from a number of objectors is also likely to be due to this activity.
- One of the key lobbyists has since (and had at the time already) sold the property and moved away.
- Statements like RERA, REC, RESA and RBC "all object" are not substantiated in any way, there is a confirmation that RERA is not objecting, and the REC submission is by a member not the organisation

**Comments on the activities proposed**

- By investigating on booking sites (attached), we have found over 30 properties in Rooiels that are listed for travel / holiday lets. Only 2 were within the 2 room limit in the zoning scheme. By this survey there were 176 holiday beds already to let in Rooiels.
- We have been told that the colloquially 'accepted' number of these properties is over 40.
- Most of these holiday lets are 'whole house' where the owners are absent and often the guests are rowdy and cause disturbance.
- There is also colloquial information that a number of properties already have (unapproved) 2nd dwellings.
- There is a fear that by formally applying for the title deed restriction on 2<sup>nd</sup> dwellings to be lifted that it will cause a flood – along with further changes to the village character. (It must be noted that the typical plot size in the village is far less than 1000m.
- Note that we would no longer be the precedent as a 2nd dwelling has been approved on Erf 106.
- In Rooiels tourism there are properties that are already providing meals, transport, tours and accommodation (attached)

## ANNEXURE F 13/33

- Should the title restrictions in place on Erf 340 be common to the village, these activities would be being done in contravention of these title restrictions, it has been commented that we could have done all of this far easier by just 'doing it under the radar' like everyone else.
- That while the alterations in this submission will be done with a real concern and sensitivity to the natural environment, a scan of the properties in RooiEls on Google Earth would indicate that 100 of the roughly 250 built properties have cleared almost their entire erven.

#### Enhancements to the SDP since last submission and changes to the proposal in response to the objections

- It will be specified that the 2 small pools use backwash free treatment equipment
- That the engineers report has confirmed that the exiting septic tank has capacity for the proposed developments and that no Conservancy tank will increase load on the existing services, and that the development will not create additional activity by the service truck (TBC).*
- Confirmed that the new building and decking that is over currently undisturbed land will be suspended in order to reduce the impact on flora and fauna.
- The parking has been re-planned in order to provide the required number of bays without needing to cut large areas of the vegetation in order to provide these bays.
- The main extensions to the existing building have been reduced in size and been relocated to ensure these extensions are entirely over existing paved / concreted / degraded vegetation
- There are a set of guidelines published for homeowners in Rooiels, (eg light pollution) to which we are keen to adhere.

#### Economic and social impact on the area

- By providing accommodation on-site for 2 staff members, transport pressures and housing requirements in Kleinmond are reduced.
- That the expected nature of the guest accommodation will require more service staff than the typical holiday let in the area - that typically require only cleaning staff after the guests have left.
- By already providing accommodation to one staff member, there is a 24 hour presence on the property which provides security, as well as benefitting the staff member who has expressed his appreciation of living in a safe environment.
- It would be expected that by improving the quality and value of this property, it would contribute to lifting property values in the area.

#### More detailed response / comments:

- Light**
  - It is our intention to comply with the village light pollution objective as we personally find this valuable
  - Because of the property location, most of the 'inhabited' side property is not visible to other residents as it faces the sea.
- Crime**
  - An occupied and actively observant property is likely to be a security asset amongst properties that are to a significant degree vacant for most of the year.
  - Should the guesthouse be seen as a target as suggested, then surely it would be the guest house that is targeted, not the surrounding properties?
  - Poaching crime - A large part of the RE coastline in front of the house is invisible to most of the residents and will now be under almost constant observation due to our occupation,




- Unlike the adjacent Erf 257 that has a substantially lower floor level, the main dwelling on this Erf has had no near approach from high seas and storms - even during the record storm of June 2017 which was substantial enough to close the schools. Floor level is probably three floor levels above the high water mark.
- The SDP indicates that the new 2nd dwelling Final Floor Level will be the same or higher than the existing building.
- **Traffic and Roads**
  - Should there be a conservative 2 vehicle movements per day for every developed Erf in Rooiels ( $\pm 250$ ), this would result in  $\pm 1000$  journeys, should every room in the guest house generate 2 journeys (one in, one out) this would result in another 10 journeys – an additional load of 1%
  - If Perspicua Road is regarded as unsafe then a submission to that effect should be made to council. This proposal is not the cause of that safety concern
- **Damage to plants and wildlife**
  - Expect to make a gentler impact and more provision for wildlife than most Rooiels houses, this is part of the very attraction that we would promote.
  - That we regard ourselves as conservationists, the fauna and flora the most valuable part of our immediate surroundings and would encourage it rather than damage it.
  - We actively patrol the shoreline in our area - collecting plastic pollution regularly before it can return to the sea. This activity would obviously need to increase should the house be operating as a guest house.
- **Dogs**
  - Does this really require a response
- **Optional sentences:**
  - Would it be appropriate for one of the objectors (obj6, no erf given) who is a councillor to be using this position for a personal objection?

**Appendices:**

- RERA letter - no objection
- RERA notice that they have a database
- List of guest houses collected
- The mountain being 'eaten' by a building up the road
- Screen captures of 257 activity and copy of title deed (confirming same restrictions)
- Drawing of 257 sight line

• **RERA letter - no objection**

RE: Erf 340 Guest House and 2nd dwelling application  Inbox x



**Allison Vienings** Allison@vienings.com [vut.zenargo.com](mailto:all@vut.zenargo.com)

Mon 28 May 16:52   

To me, Carol

Hi Ro & Carol

I think many people developed skewed ideas and opinions from reading the town planners motivation. Their objections to the Overstrand Municipality refer to your intended guesthouse as a 'boutique hotel'. ?????????? It might be a good idea to withdraw the current application and resubmit.

We will be telling the Council and the RE ratepayers that RERA will not be submitting an objection, or not and that if anyone wants to object they must do so in their personal capacity.

Kind regards

**Allison Vienings**  
Cell: 082 416 3916 Landline: 028 273 8153

## ANNEXURE F 17/33

- RERA notice that they have a database

RERA Newsflash  

rera.chair@rooieis.org.za

Thu 19 Apr 12:18

to: Roy Tenien

To all Rooieis Homeowners/Residents,

The Rooieis Ratepayers Association (**RERA**) is proud to announce that we now have a database of most homeowners and residents which will enable the Committee to communicate with you more easily, more regularly and more inclusively.

**THE OBJECTIVES OF RERA**

Working together to retain the unique character of Rooieis

- to foster and encourage interaction amongst ratepayers and residents and increase understanding through membership

Allison Vienings Allison.vienings.com [outlook.com](mailto:allison.vienings@outlook.com)  
to: me, carolahoward

Mon 28 Mar 06:32

Dear Roy and Carol

This is what was sent via a mailing to the RE residents for who we have email addresses.

Kind regards

**Allison Vienings**

Cell: 082 416 3916 Landline: 028 273 8153

Dear RERA Member/Ratepayer,

See attached notification from the Overstrand Municipality re the application from Plan Active Town Planners on behalf of Roy Tenien and Carole Howard, the owners of Erf 340 Rooieis (known as God's Gift but now called Rocky Point) for the proposed removal of restrictive title deed conditions and consent use on the property.

It is proposed to renovate and add to the existing dwelling to change the land use from single residential only to guesthouse purpose and to construct a new second dwelling on the property to serve as a residence for the owners.

Comments on the application/proposal are invited by the Overstrand Municipality in Hermanus. The deadline date for comments is 29 March 2018.

Should you wish to send your comments on the proposal directly to the Overstrand Municipality in Hermanus you should address them to [icw@overstrand.gov.za](mailto:icw@overstrand.gov.za)

The notice only calls for objections but should you wish to express support for the proposal please feel free to send through those comments to RERA.

Do not hesitate to contact us should anything require clarification.

Regards

**Allison Vienings**

Cell: 082 416 3916 Landline: 028 273 8153

Live simply so that others may simply live.

St Francis of Assisi



- **The mountain being 'eaten' by a building up the road**

500 metres to the North East, for which approval must have been obtained



- **Screen captures of 257 activity**

Example of similar activity by neighbour / objectors

Erf 257

**Separate dwelling**

<https://www.airbnb.com/rooms/22179376?location=Rooi%20Els%2C%20Western%20Cape%2C%20South%20Africa&s=CyP5CuNn>



ENTIRE APARTMENT

### Luxury apartment at the ocean an hour from Cape Town

Rooi Els

2 guests • Studio • 2 beds • 1 bath

**HOME HIGHLIGHTS**

- Sparkling clean: 5 recent guests have said that this home was sparkling clean.
- Great check-in experience: 100% of recent guests gave this home's check-in process a 5-star rating.
- Great location: 100% of recent guests gave this home's location a 5-star rating.

The apartment is on the ground floor of a beautiful house in Rooi Els, in a mystic

**R1,679 ZAR per night**

5.0

Check in → Check out

1 guest

**Request to Book**

You won't be charged yet.

[Report this listing](#)

Main Dwelling - 3 rooms

<https://www.airbnb.com/rooms/5551550?location=Rooi%20Els%2C%20Western%20Cape%2C%20South%20Africa&s=CyP5CuNn>



ENTIRE VILLA

Luxury beach house an hour from Cape Town

Rooi Els



Host

6 guests 3 bedrooms 6 beds 3 baths

HOME HIGHLIGHTS

**Sparkling clean** 3 recent guests have said that this home was sparkling clean

Ready  Not ready

**Great check-in experience** 100% of recent guests gave this home's check-in process a 5-star rating

Ready  Not ready

**Great location** 100% of recent guests gave this home's location a 5-star rating

Ready  Not ready

Beautiful house in Rooi Els in a mystic spot between the ocean and the mountains, surrounded by waves, rocks and fynbos. We can see dolphins seals, if different birds from our window, not to mention Table

R4,028 ZAR per night

\*\*\*\*\* 11

Dates

Check In



Check Out

Guests

1 guest



Request to Book

You won't be charged yet

Report this listing

Tours and safaris:

<http://www.barefoot-safaris.co.za/loдges/>



Lodges



**Barefoot Lodge**  
Barefoot Lodge in Lilongwe, Malawi is situated just 10kms from the centre of Malawi's capital. The location is perfect as a starting or ending point for a safari within Malawi or Zambia, with the town



**Barefoot House, Reel-Eis**  
Accommodation near Cape Town in a secluded spot, perfect to get away and relax, yet remain close to all of the Cape's attractions.

Top navigation Africa

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Name \*

Email \*

Start Date \*

End Date \*

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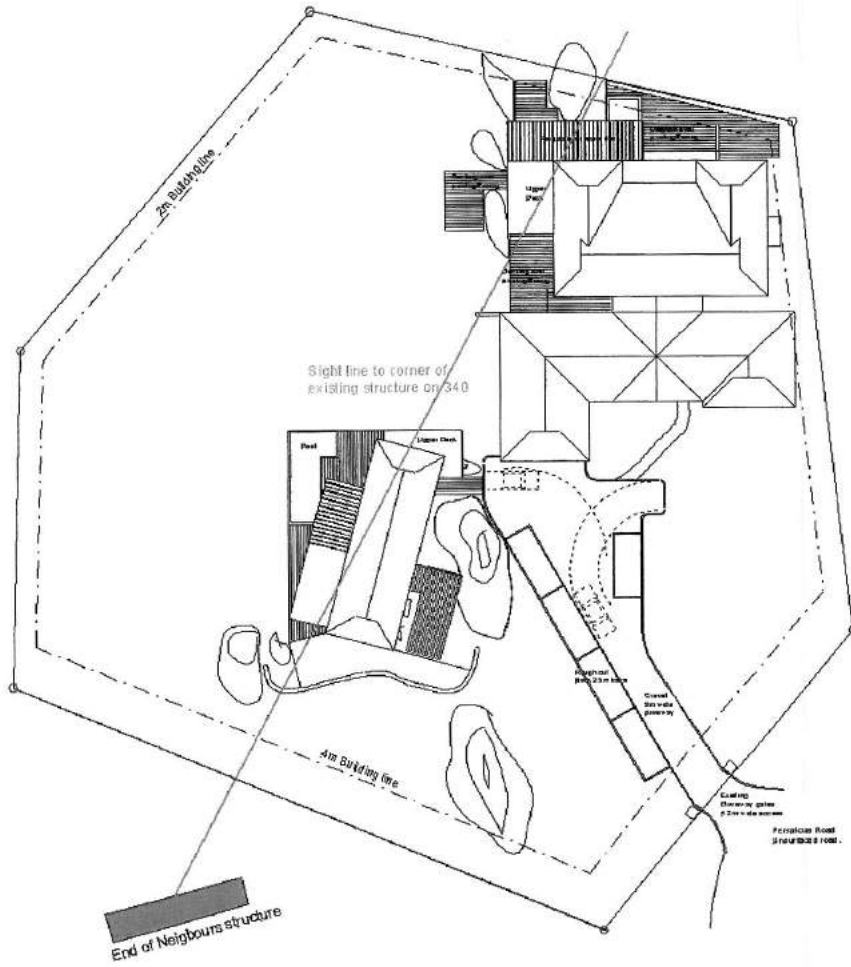
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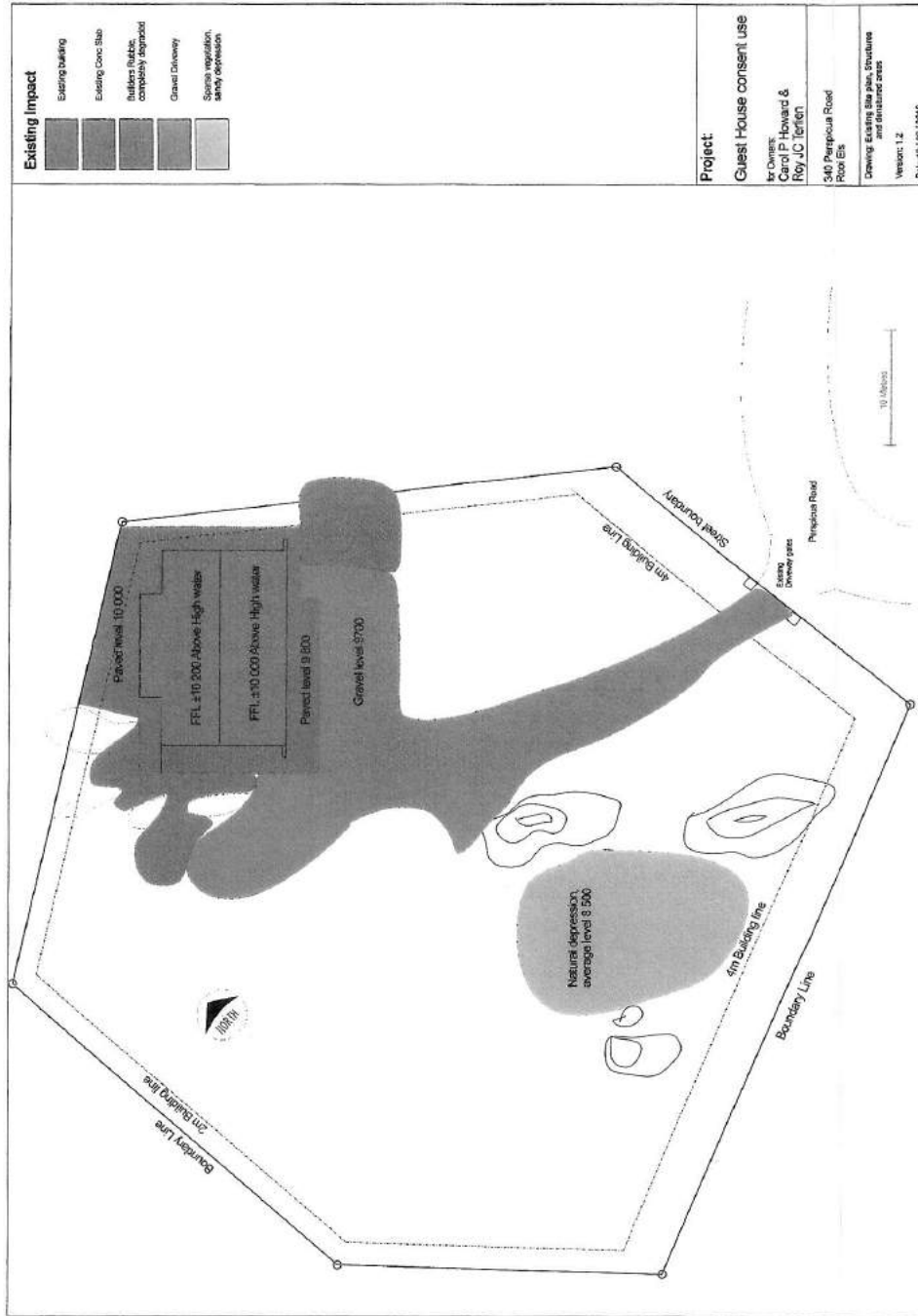
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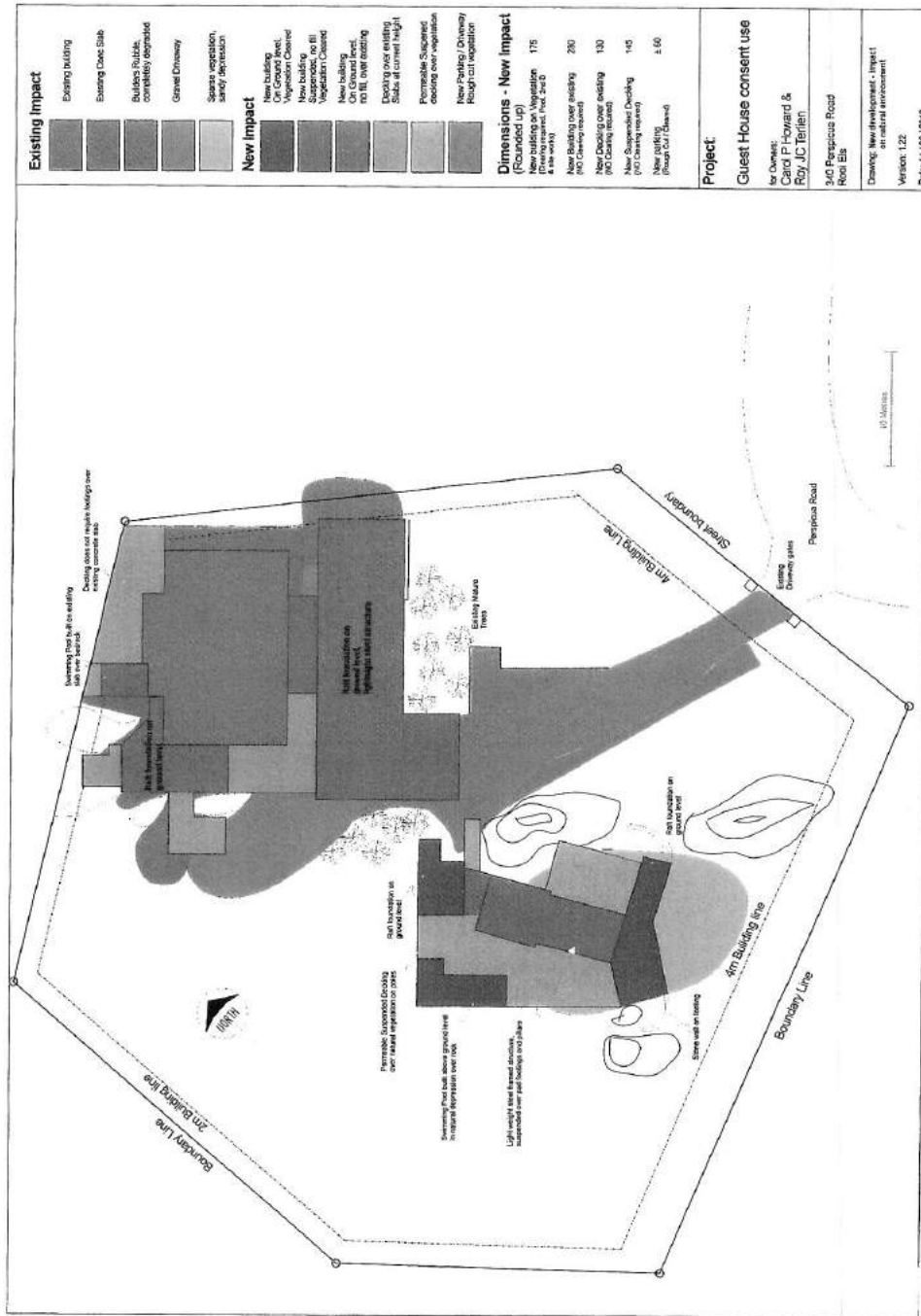
Click View Photo Album

Ken Smith (Director/Owner)  
+27 83 392 7202  
+27 78 630 8434  
Email: [ken@barefoot-safaris.co.za](mailto:ken@barefoot-safaris.co.za)  
Skype: BarefootSafaris18

• Drawing of 257 sight line







**Existing Impact**

- Existing building
- Existing Concrete Slab
- Buildings, Sheds, completely decomposed
- Gravel Driveway
- Sparse vegetation, sandy depression

**New Impact**

- New building
- On Ground level
- New building on ground level, suspended, no fill
- Suspended, no fill
- Vegetation Cleared
- New building on ground level, 10-15m over eading
- Existing one existing slab at current height
- Promote Saturated casing over vegetation
- New building on ground level, rough cut vegetation

**Dimensions - New Impact**

Dimensions - New Impact	Dimensions - New Impact
New building on Vegetation (27m x 10m, Foot, 2nd & 3rd story)	175
New building over existing	280
New building on ground level	130
New building on ground level (100m x 100m)	145
New building on ground level (100m x 100m)	± 60

**Project**

**Guest House consent use**  
 for Owners:  
 Carol P Howard &  
 Roy J C Tibbitt  
 1/10 Persipicus Road  
 Road E8  
 Drawing: New development - Impact  
 at natural environment  
 Version: 1.22  
 Date: 14/09/2018

**11**

STBB SMITH TABATA BUCHANAN BOYES  
 Somerset West  
 1st Floor, Dynarc Triangle  
 13 Urtef Crescent  
 Somerset Mall  
 Somerset West  
 7137  
 DoceX 15, Somerset West

Prepared by me,

*Corlene Mostert*  
 CONVEYANCER  
 CORLENE MOSTERT

For endorsement		
	Amount	Office fee
Purchase price/Value	R 5 035 000.00	R 1500.00
Mortgage capital Amount	R .....	R .....
Reason for exemption	Exempt i.t.o	
	Section	Act

T000003572 / 2015

**DEED OF TRANSFER**

BE IT HEREBY MADE KNOWN THAT

**LAUREN SULLIVAN**

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, he/she, the said Appearer, being duly authorised thereto by a Power of Attorney granted to him/her by

**CORLENE MOSTERT**  
 duly authorised thereto by Special Power of Attorney  
 dated at SOMERSET WEST on 03 December 2012  
 and granted to her by  
**PATRICIA ANN MCLAGAN**  
 Identity Number 450420 0327 18 4  
 Unmarried

DATA / CAPTURE  
 09 FEB 2015  
 MEEUW.D

signed at SOMERSET WEST dated 3 DECEMBER 2014

DATA / VERIFY  
 11 FEB 2015  
 OLIVIER YOLANDI

AND the said Appearer declared that his/her principal had on 3 December 2014 truly and legally sold by private treaty and that he/she, the said Appearer in his/her capacity aforesaid, did, by these presents cede and transfer to and on behalf of:

1. **EVA JUDIT BAKONYI**  
Born on 03 April 1959  
Married out of community of property  
  
4/5<sup>th</sup> (Four Fifth share)
2. **KENNETH GEORGE SMITH**  
Identity Number 560529 5005 08 7  
Married out of community of property  
  
1/5 (One Fifth share)

their heirs, executors, administrators or assigns in full and free property:

**ERF 257 ROOI ELS  
IN THE OVERSTRAND MUNICIPALITY  
DIVISION CALEDON  
WESTERN CAPE PROVINCE**

**IN EXTENT: 2789 (TWO THOUSAND SEVEN HUNDRED AND EIGHTY NINE)  
SQUARE METRES**

**FIRST TRANSFERRED** by Deed of Transfer No. T3741/1963 with Diagram No. 2328/1962 relating thereto and **HELD BY** Deed of Transfer No. T95828/1996.

- A. **SUBJECT** to the conditions contained in Certificate of Township Title No. 13367/1948.
- B. Not subject to condition B on page 2 of Deed of Transfer No T95828/1996 by virtue of Section 53 of the Mining Titles Registration Amendment Act 24 of 2003.
- C. **ENTITLED** to the benefit of the conditions referred to in the servitude endorsement dated 24 June 1940 and Certificate of Consolidated Title No. 3720/1937 which endorsement reads as follows:

"By Deed of Transfer No. 6068/1940 dated 24/6/1940 certain conditions relating to (a) non-subdivision for a period of 10 years (b) prohibition of Petrol Station on land (c) .....(d) Wood and iron buildings (e) slaughter poles, cattle kraals and manufacture of bricks, tiles, etc. have been imposed on the property thereby conveyed for the benefit of the owner and its successors in title of the remainder of the property held hereunder as will more fully appear on reference to the said Deed of Transfer."

- D. **SUBJECT** to the following conditions in Deed of Grant in favour of A J Louw dated 30 April 1839 (Stellenbosch Quitrents Volume 12 No. 18) which conditions read as follows:

"On condition that all roads and thoroughfares running over this land, shall remain free and uninterrupted; that said land shall be liable for the public good, by order of Government. That the road and thoroughfare leading to Waaygat Bay, shall also remain free and that the public shall be allowed to unteam their cattle at the said Bay - and be allowed, without hindrance, to fish there, and he shall and be bound (according to the existing laws of this Settlement) to have brought into such state of

C.M

cultivation as it is capable of; the land thus granted being further subject to all such duties and regulations as are either already, or shall in future be established in respect of land granted under similar tenure."

- E. ENTITLED FURTHER** to the benefit of the servitude referred to on the endorsement dated 8 April 1949 on said Certificate of Township Title No. 13367/1949 which endorsement reads as follows :

"Registration of Servitude.

By Notarial Deed No. 107/1949 dated 10<sup>th</sup> March 1949, the Administrator of the Province of the Cape of Good Hope, or his nominee, in Trust for such Local Authority as may hereafter be constituted for the Rooi Els Township, for the benefit of the Erfholders and such Local Authority has been granted certain rights relating to (a) supply of water to Erfholders and Local Authority (b) delivery of the said water to the above-mentioned Township by means of a pipeline indicated on the servitude diagram No. 8589/1948 by the letters *a b c d e f g h j k l m n* annexed to the aforesaid Notarial Deed (c) storage of water and constructing the necessary impounding works (d) aqueducts (e) purification works and reservoirs (f) access to and agrees from the present or future headworks, site, pipeline, reservoir and purification works over the remainder of the farm Hangklip held under Cert. of Cons. Title No. 3720/1937, subject to conditions as will more fully appear on reference to the said Notarial Deed a copy of which is annexed hereto."

- F. SUBJECT FURTHER** to the following conditions contained in said Deed of Transfer No. 3741/1963, imposed by the Administrator of the Province of the Cape of Good Hope approval of the General Plan of the said Rooi Els Township in terms of Ordinance 33 of 1934 which reads as follows :

1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Administration Notice No. 401 dated 17<sup>th</sup> October 1935, and in the memorandum which accompanied the said regulations.
2. The owner of this erf shall, without compensation be obliged to allow the sewage and drainage including stormwater of any other erf or erven to be conveyed across this erf if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto. A
3. The owner of this erf shall be obliged, without compensation, to receive the material or permit excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.
4. This erf shall be subject to the following further conditions, provide especially that where, in the opinion of the Administrator after consultation with the Townships Board and the local authority it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation subject to compliance with such conditions as he may impose.

C.M


- (a) It shall not be subdivided;
- (b) It shall be used for residential purposes only but no building other than one dwelling together with such outbuildings as are ordinarily required to be used therewith shall be erected thereon;
- (c) Not more than half the area thereof shall be built upon;
- (d) No building or structure except boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf nor within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf provided that with the consent of the Local Authority an outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation may be erected within the above prescribed rear space and proved further that a garage may be erected up to such street line if in the opinion of the Local Authority the level of the erf is such as to make that necessary;
- (e) Pending the establishment of a Local Authority for this township the sewage of this erf shall not be disposed otherwise than by means of a properly constructed septic tank if the nature of the soil permits, otherwise into a properly constructed vacuum tank servicing one or more erven. If any such tank is situated on this erf the owner shall without compensation be obliged to remove it after three months' written notice served upon him by such Local Authority.

**G. SUBJECT FURTHER** to the following conditions contained in said Deed of Transfer No. 3741/1963, imposed by Transferor Company therein being in favour of the registered owner of any erf in the Township:

- (a) .....
- (b) No wood and iron buildings of any description shall be erected on this erf nor shall corrugated iron be used for roofing purposes.
- (c) No slaughter poles, cattle kraals, pig-sties or cowsheds shall be erected or carried on by any person whomsoever on this erf;
- (d) Save with the consent in writing of the Company and of any Local Authority the owner shall not have the right to make or cause to be made upon the erf for any purpose whatsoever any bricks, tiles, or earthenware pipes or other articles of such nature, nor shall he have the right (save and except to prepare the erf for building purposes) to dig or quarry any earth, gravel, lime or stone thereon;
- (e) No building (excluding outbuildings) shall be erected on this erf of a superficial area of less than 99 square metres;
- (f) No noxious trade or noxious business shall be carried on this erf;
- (g) The Transferee shall not camp over-night or light fires on the erf save with the written consent of the Company.

C.M

H. **SUBJECT** to the following conditions contained in the said Deed of Transfer No. 3741/1963, imposed by the Transferor Company therein for its own benefit as owner of the remainder of the said Township:

- (g) The buildings, including all fences and garden or other gates, shall be of good design and sound construction and the plans, elevations and the specifications thereof must be lodged with and approved by the Company before tenders are called for, and no alterations in the plans, elevations and specifications when so approved shall be made without the consent in writing of the Company. The buyer shall not commence building operations until he has received the written approval of the Company to his plans, elevations and specifications. In the event of a breach of this Clause the Company shall have the right to interdict the buyer from proceeding with his building operations and shall have the option to repurchase the plot upon payment of the cost price thereof without compensation for improvements.
- (h) Outbuildings shall not be built prior to the erection of the main dwelling or building which shall be a complete building and not one partly built and intended for completion at a later date.
- (i) No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted upon the Special Residential erven.
- (j) No canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever (with the exception of boarding houses) shall be opened or conducted upon the General Residential erven.
- (k) No signs, advertisements, advertisement hoardings or other lettering shall be erected on the land hereby sold and purchased, nor shall any advertisements, signs or lettering be painted on any buildings, walls or fence erected or to be erected on the said land save with the written approval of the Company.
- (l) No debris, scrap or other unsightly material shall be deposited on the said land nor shall the Purchaser or his successors in title deposit or allow to be deposited any debris, scrap or other unsightly material on the said land without written consent of the Company first had and obtained. 
- (m) In the foregoing conditions the expression "the Company" shall mean "The Hangklip Beach Estates Limited as owner of the remaining extent of the Township" and its successors in title to the whole of such remainder.

C.M

WHEREFORE the Appearer, renouncing all the right and title which the said

**PATRICIA ANN MCLAGAN, Unmarried**

heretofore had to the premises, did, in consequence also acknowledge her, to be entirely dispossessed of, and disentitled to, the same; and that, by virtue of these presents, the said

- 1. **EVA JUDIT BAKONYI, Married as aforesaid**
- 2. **KENNETH GEORGE SMITH, Married as aforesaid**

their heirs, executors, administrators or assigns

now is and henceforth shall be entitled thereto, conformably to local custom, the State, however, reserving its rights, and finally acknowledging the purchase price of the property hereby transferred to be the sum of R5 035 000.00 (FIVE MILLION THIRTY FIVE THOUSAND RAND)

IN WITNESS WHEREOF I, the said Registrar of Deeds together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE AND EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 3 - FEB 2015

In my presence:



Registrar of Deeds



q.q.



C.M



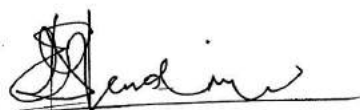


**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR CONSENT USE: ERF 340, ROOIELS (3832)**

Electricity : Eskom Area  
Water : In order  
Sewer : In order  
Stormwater : In order  
Roads and traffic : In order

**Conditions:**

1. that only the existing water connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that should additional services connections be required, the owner will be responsible for the payment of bulk services levies;
3. that no additional sewer tanker services will be available, the owner should look at a system treatment and re-using only grey water, that should additional capacity be required;
4. that waste water disposal be done in a safe and healthy manner and that plans thereof be submitted to the Municipality and DWA for approval;
5. that stormwater be allowed to discharge through Erf 340, Rooiels, unobstructed;
6. that no on-street parking be allowed;



**DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES**

04/04/2018  
DATE

## ANNEXURE H

	<p><b>OFFICE of THE CHIEF FIRE OFFICER</b>  <b>PO BOX 20</b>  <b>HERMANUS</b>  <b>7200</b>  <b>Tel: 028 313 8980</b>  <b>Fax: 028 313 1493</b></p>	
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**STANDARD REQUIREMENTS FOR OPERATION OF AN ESTABLISHMENT CLASSIFIED HOSPITALITY – H5 - GUEST HOUSE, BED & BREAKFAST OR SELF CATERING TOURIST ACCOMMODATION IN ANY H3 OR H4 CATEGORY BUILDING IN TERMS OF THE NATIONAL FIRE PROTECTION REGULATION SANS10400T:2011**

**ANNEXURE A – ERF 340 ROOI ELS, 10 PERSPICUA ROAD,**  
**TOWN PLANNING APPLICATION No: 3832**

The operation of Holiday/Tourist accommodation is subject to compliance with following requirements together with any other building compliance requirements as prescribed:

**Fire Extinguishers:**

SANS10400T:2011 – 4.37:

1 x Portable Fire Extinguisher per 100m<sup>2</sup> of a type - 4.5kg Dry Chemical Powder, 5kg CO<sub>2</sub> or 9 litre H<sub>2</sub>O.

**Combustibility of Fitted Floor Coverings:**

Shall comply with requirements of Section 4.14 of SANS10400T:2011 - Table 8 – As determined by SANS10177-4.

**Combustibility of Internal Finishes:**

Shall comply with requirements of Section 4.15 of SANS10400T:2011 - Table 9 – As determined by SANS10177-3.

**SANS10400T:2011 – 4.58 require the provision of:**

- Escape route signs – Photoluminescent SANS1186-5 in all passages and corridors and also above all exit doors.
- Self-contained luminaires (automatic actuating battery operated lights) in all passages and corridors
- Stand-alone smoke alarms compliant with the requirements of European Standard EN14604 in each:
  - Sleeping room
  - Communal area
  - Passage or corridor leading to rooms
- Fire Hose Reels for premises larger than 250m<sup>2</sup> at a ratio of 1 per 500m<sup>2</sup> of the establishment. (A dedicated 30 metre 19mm Garden Hose may be an alternative due to water supply connection restraints however this must be compensated with the provision of an addition of 2 x 4.5kg Dry Chemical Powder Fire extinguishers)
- Doors leading to the outside of the building with single turn locks or any other lock device approved by the Controlling Fire Authority.

A suitable approved emergency plan indicating evacuation routes that informs guests as to action that must be taken in the event of an emergency that is affixed to the back of each room door or prominent place in the room.

These plans must include:

- Action to be taken when discovering a fire or if an emergency arises
- Action to be taken for evacuation of the building and assuring accountability of all occupants.
- The interim action to be taken pending the arrival of emergency services
- An evacuation floor plan that identifies the escape route, appropriate exit doors and post evacuation mustering point.

**Occupancy is also subject to: Maximum design occupancy total of 16 persons as prescribed by section A21 Table 2 of National Building Regulations SANS10400A:2010 i.e. 4 x 4 sleeper or 8 x 2 sleeper rooms.**

Chief Fire Officer

ANNEXURE I  
TR A Theart  
C Hvd, Steep

Loretta Gillion - Removal of restrictive conditions: Erf 340 Rooielss

**From:** Piet Uys <ixia73@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 11/03/2018 03:30 PM  
**Subject:** Removal of restrictive conditions: Erf 340 Rooielss  
**Attachments:** Removal of restrictive conditions from erf 340.pdf



Hi Loretta,

Please note that I agree to the removal of the restrictions and extensions to erf 340 as per the attached application document.

I am owner of Erf 73 (Ixia Rd 11)

Regards

Piet Uys

FILE NO:	EL 340 Rooi ELS
SCAN NO:	
COLLABORATOR NO:	1138363

TP 12 MAR 2018