

4.4

ERF 1544 (A PORTION OF ERF 1438), 152 KUSWEG, SANDBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION AND DEPARTURE: MESSRS PLANACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF OULAP (PTY) LTD

1544 HSB (3884)

H van der Stoep

16 October 2018

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 18 December 2017 from Messrs Planactive Town & Regional Planners on behalf of Oulap (Pty) Ltd applicable to Erf 1544 (a portion of Erf 1438), Sandbaai for the following:

- ❖ Removal of restrictive title conditions 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 Deed condition 1.D.(d) as contained in Title Deed T950/1994 applicable to the above erf in order to remove the 4,72m street building line restriction.

The restrictive condition 1.D.(d) as contained in Title Deed T950/1994 to be removed reads as follows:

“(d) That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts, such space may be used as gardens but shall not be built upon.”

- ❖ Application is subsequently made in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the following departures:
 - to relax the north-eastern street building line from 4m to 2,215m in order to accommodate new entrance steps to the dwelling from Piet Retief Crescent;
 - to relax the north-western street building line from 4m to 0m to accommodate a new open suspended deck with a swimming pool; and
 - to relax the south-western lateral building line from 2m to 0m to accommodate the new open suspended deck with steps along the relevant lateral boundary.

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The erf is zoned Residential Zone 1: Single Residential, measures 720m² in extent and is located in the western section of the residential area of Sandbaai in close proximity of the sea. The property is developed with a three (3) storey dwelling unit and double garage. The property is a corner erf and is a new portion of the subdivision of Erf 1438, Sandbaai.

4. SUMMARY OF APPLICANT'S MOTIVATION

Only the main points of motivation are summarised as follows (the detailed report is attached as Annexure C):

- ❖ The landowners intend to add to and alter the existing structures by constructing new entrance steps to give access to the dwelling from Piet Retief Crescent, and a new swimming pool and terrace (suspended deck) with steps.
- ❖ The new aluminium door of the dwelling is not positioned on natural ground floor level, but on first storey level, hence a set of new entrance steps to link the footpath with the new door is required. Given the levels and position of the house, the new steps cannot comply with the maximum height requirement of 1m within a building line. The entrance steps will be ±1,415m above natural ground level at its lowest point and ±3,15m above natural ground level at its highest point where it meets the aluminium door on the 4,72m street building line. The entrance steps will be 5,8m² in extent.
- ❖ Although the entrance steps will be visible from the street it does not create an impact on passing traffic or public activity as it will merely serve as an entrance to the existing dwelling. It does not constitute habitable space or entertainment area that will impact on the streetscape. It will complement the existing dwelling and merges well with the renovation of the dwelling. The existing 1,8m high boundary wall lessens the impact the entrance steps may have on the streetscape. It will not compromise the privacy of the owner of the adjacent Erf 6. A road and public open space is situated to the north-east and the encroachment will not impact negatively on the properties situated to the north-east.
- ❖ The property is zoned single residential and used as such.
- ❖ Surrounding land uses are dwellings, public open spaces and public roads.
- ❖ As part of the swimming pool, a suspended deck is to be constructed around the swimming pool to serve as an entertainment area. The suspended deck and steps are higher than 1m within the building lines. A new 1,91m high boundary wall will be constructed between the subject property and the adjacent Erf 1438 and will ensure privacy. The pool and suspended deck additions will not impact on any passing traffic or public activity.
- ❖ The suspended deck and steps marginally exceeds the 1m height restriction within building lines and will not impact on the surrounding properties situated to the south-west – neither on their rights or privacy. The new pool and terrace with steps will complement the existing dwelling and merges well with the planned renovations for the dwelling. The boundary walls lessen the impacts the additions may have on the streetscape and surrounding property owners. There is a road and public open space to the north-west of the property and the encroachment of the pool and terrace on the north-western boundary will not impact on any adjacent property owners.
- ❖ The zoning of the property will remain unchanged.

- ❖ The proposals are not in contrast with the existing land use tendencies with the surrounding environment.
- ❖ The location of the property within a single residential area allows the property to be developed for low impact uses such as accommodation establishments, home occupation, etc. The removal of restrictions will not hinder any future land use applications on the property.
- ❖ The property allows for the deviations applied for due to the layout and position of the existing structures, the two (2) street building lines, the locality opposite public open spaces, the property's orientation towards the ocean, the ideal position of the pool and terrace, the materials used, the optimal usage of the existing resources / infrastructure, the scale of the surrounding built environment, and the low impact on adjacent property owners.
- ❖ The marginal height encroachments of the terrace with steps within the building lines will not have a greater impact on the surrounding property owners than what a 1m high permissible terrace with steps would have had on the neighbours.
- ❖ All services already exist on the property – no additional services are anticipated.
- ❖ Access to the property from Piet Retief Crescent will remain unchanged.
- ❖ The property is not situated within the heritage overlay zone and is not earmarked for heritage conservation purposes.
- ❖ The application is fully compliant with the planning principles described in LUPA and SPLUMA.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	20 March 2018	26 April 2018
Gazette	Yes	16 March 2018	26 April 2018
Notices	Yes	13 March 2018	26 April 2018
Ward councillor	Yes	13 March 2018	26 April 2018
Total comments	NONE		
Total letters of support	NONE		
Was public participation undertaken in accordance with Section 47 - 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

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

Name	Date received	Summary of comments	Recommendation
Local Heritage	20/03/2018	No objection.	Positive

Building Control	20/03/2018	Deck is ±400mm above allowable 1m and stairs have minimal impact. Plans to be submitted in compliance with SANS 10400.	Positive
Engineering Services	25/04/2018	Attached as Annexure E.	Positive
Fire Department	22/05/2018	No objection.	Positive
Telkom	26/07/2018	Attached as Annexure F.	Positive

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

No objections/comments were received.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

N/A

9. MUNICIPAL ASSESSMENT OF COMMENTS

N/A

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.

The objectives relating to:

Spatial Justice

The application will not perpetuate spatial injustices.

Spatial sustainability

The application is located within the urban edge and thus will not lead to urban sprawl. No natural habitat is impacted upon and it will have no negative influence on the environment.

Efficiency

The application will optimize the use of property in terms of municipal services and infrastructure.

Spatial resilience

The application will ensure that the existing resource (land) is used to its maximum in an affordable manner and in line with the Overstrand Municipality's forward planning documents.

Good administration

The application follows the required planning procedures and a good public participation process has been followed.

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

Inconsistent with the Zoning Scheme, but consistent with the Spatial Development Framework.

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

N/A

10.6 Impact on Municipal engineering services

The existing services are available and have been viewed positively by the Engineering Services Department.

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The application is in line with the Overstrand Spatial documents.

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

The removal of the relevant condition will ensure that less restrictive street building lines shall apply that will enlarge the developable area of the property that will increase the property value if developed to its full potential resulting in a beneficial financial impact for the landowner.

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

The original holder of rights was the township developer whose rights became null and void when the Municipality, the successor in title, took over its functions.

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

Whether the restrictive condition remains intact or being removed from the Title Deed, it will have no social benefit.

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

No, it will only result in the upgrading of the property resulting in the increase in value of the property.

12. THE DESIRABILITY OF THE PROPOSAL

Removal of Restrictive Title Deed Conditions

The owner of the subject property wishes to have the relevant restriction removed from the Title Deed in order to be in line with the street building lines, that is less restrictive, as set out in the Overstrand Municipality Zoning Scheme. Various property owners in the township already had their respective Title Deeds altered by means of relaxations or removals of the specific restrictive development clauses. The removal of the restrictive condition will thus enable the owner to utilise the property more efficiently.

Departure (entrance staircase)

It should be noted that the applicant incorrectly refers to a 4m zoning scheme street building line at the Piet Retief Crescent side of the property. In terms of the Zoning Scheme, street building lines of single residential properties are determined on the average depths of the erven from the streets it abut. Erven with an average depth of up to 20m has a 3m street building line in lieu of 4m. See copy of the erf diagram (attached as Annexure G). As can be observed on the diagram the property is not square. It was determined that a 3m zoning scheme street building line applies to the Piet Retief Crescent side of the property and not 4m as indicated by the applicant in its motivation report as the average depth of the property from Piet Retief Crescent is 18,45m. This section of the application will thus be dealt with as such.

The property has been surveyed due to proposed alterations to the existing dwelling and the contour lines have been carried over onto the layout plans submitted. On the attached plan no: 794/03 and 04 it can be observed that the ground levels and position of the house is of such a nature that the proposed new steps cannot comply with the maximum allowable height of 1m of structures within a building line. Including the balustrades, the entrance steps will be $\pm 1,415\text{m}$ above natural ground level at its lowest point and $\pm 3,15\text{m}$ above natural ground level at its highest point where it meets the access point to the dwelling at first floor level. Only a section of the open staircase will encroach the 3m Piet Retief Crescent street building line. The lowest section of the entrance steps will be situated $\pm 2,215\text{m}$ from the street boundary. Although the entrance steps will be visible from the street it would not impact on passing traffic or the public as it will be an open staircase that will only serve as entrance to the existing dwelling. It would also be partially concealed by the existing 1,8m high fence on the boundary and the proposed new 1,8m high entrance gate with 1,8m high sections of boundary walls on each side thereof, thus

also minimizing any impacts on the streetscape. It is expected that it will not impact on the views of the owner of the adjacent Erf 6 as he did not object to the proposed encroachment. Public open spaces are situated directly to the north-east and the north-west with no residential properties in that direction that can be impacted upon. The encroachment of the open staircase can thus be supported. (A condition should however be imposed that the steps may not be enclosed should it be approved.)

Departure (pool, suspended deck and steps)

The landowner also proposes to construct an open suspended deck/terrace with open steps together with a swimming pool (splash pool) that will serve as an outside entertainment area. The latter structures will form a unit and it is proposed to encroach the 4m north-western street building line and the 2m south-western lateral building lines up to the respective erf boundaries to accommodate the proposed outside entertainment area. The suspended deck, pool and steps are higher than 1m within the building lines that is in contradiction with the requirements of the Zoning Scheme. The steps leading to the suspended deck will be at the same level/height as the proposed deck. The owner also proposes to construct a boundary wall of $\pm 1,91\text{m}$ on the common boundary with the adjacent Erf 1438 to ensure privacy between the two (2) properties. The allowable 1m height restriction will be exceeded by approximately 0,685m at the highest point.

The encroachment may seem insignificant, but entertainment areas up to erf boundaries are not desirable and should not be supported when acceptable merit lacks. Given the proposed location of the entertainment area it is evident that the landowner intends to obtain an optimal sea view whilst utilising the entertainment area. It is however the opinion that the encroachment of the 4m north-western street building line can be supported in this instance. The better part of the deck will be situated on a natural dune system that occurs on that side of the property making sections of that part of the deck partially level with the ground levels. That side of the property also faces public open spaces towards the north-west and east, thus not impacting on any rights of property owners.

It appears that the ground level along the south-western lateral boundary has been lowered in the past by more than a metre. Although the affected property owner did not object to the proposed encroachment, it is the opinion that the encroachment may in future lead to privacy issues for the affected landowner or any possible successors in title. It is the opinion that the landowner can, without mentionable cost effective implications, lower the entertainment area to the allowable 1m height above natural ground level and still enjoy a proper sea view whilst utilising the entertainment area. The applicant also did not, as an alternative, provide reasons why the deck cannot be constructed at the 1m allowable level within the building lines along the south-western lateral boundary. The encroachment of the 2m south-western lateral building line can therefore not be supported due to a lack in merits.

In view of the above, the application is partially supported in the manner as set out in the recommendation of this submission.

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 Deed condition 1.D.(d) as contained in Title Deed T950/1994 applicable to Erf 1544 (a portion of Erf 1438), Sandbaai, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section (16)(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 on Erf 1544, Sandbaai for a departure in order to relax the north-eastern street building line from 3m to 2,215m in order to accommodate a new open staircase to the dwelling from Piet Retief Crescent, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the above approvals in 1. and 2. above be subject to the following conditions:
 - (a) that this approval is for the dimensions of the open staircase as indicated on Plan Numbers 794/02 to 04 dated November 2017 which was submitted with the application;
 - (b) that the entrance stairs from Piet Retief Crescent to the dwelling may not be enclosed in any way;
 - (c) that building plans be submitted to the Building Department for approval, and that all conditions of the Building – and the Fire Department be complied with at that stage;
 - (d) that all the conditions in the Engineering Report (attached as Annexure E), and Telkom (attached as Annexure F), be complied with;
 - (e) that the approvals do not absolve the applicant from compliance with any other relevant legislation, and
 - (f) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with.
4. that the application in terms of Section (16)(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 applicable to Erf 1544, Sandbaai to relax the north-western street building line from 4m to 0m to accommodate a new open suspended deck with a swimming pool, **be approved** in terms of the provisions of Section 61 of the By-Law, subject to conditions 3. (c) – (f) above;
5. that the application in terms of Section (16)(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 applicable to Erf 1544, Sandbaai to relax the south-western building line from 2m to 0m to accommodate a new open suspended deck with steps along the relevant lateral boundary, **be refused** in terms of the provisions of Section 61 of the By-Law, and

6. that the applicant be notified of its appeal right in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decisions.

14. REASONS FOR RECOMMENDATION

Approval of removal of the restrictive title deed condition and relaxation of the north western and north-eastern street building lines

- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ No objections were received.
- ❖ It is in line with policy documents.
- ❖ The north-western and north-eastern sides of the property face public open spaces, thus not impacting on any rights of property owners.
- ❖ Is not regarded as being undesirable from a town planning point of view.

Refusal for relaxation of the south-western lateral building line

- ❖ Acceptable merits lack.
- ❖ The landowner can, without mentionable cost effective implications, lower the entertainment area to the allowable 1m height above natural ground level and still enjoy a proper sea view whilst utilising the entertainment area.
- ❖ The applicant did not provide reasons why the deck cannot be constructed at the 1m allowable level within the building lines along the south-western lateral boundary
- ❖ The encroachment may in future have negative impacts on the owners of the adjacent Erf 1438, or any successors in title thereof.
- ❖ It is regarded as being undesirable from a town planning point of view.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Site Development Plans
Annexure C:	Motivation Report
Annexure D:	Title Deed T950/1994
Annexure E:	Engineering Services Report
Annexure F:	Telkom
Annexure G:	Erf diagram
Annexure H:	Aerial photo

SIGNATURES

REGISTERED PLANNER:

Name : **H VAN DER STOEP**

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

Signature : _____

Date: _____

ANNEXURE A



Scale: NTS
 Drawing No: 38021544.DWG
 Date: DECEMBER 2017

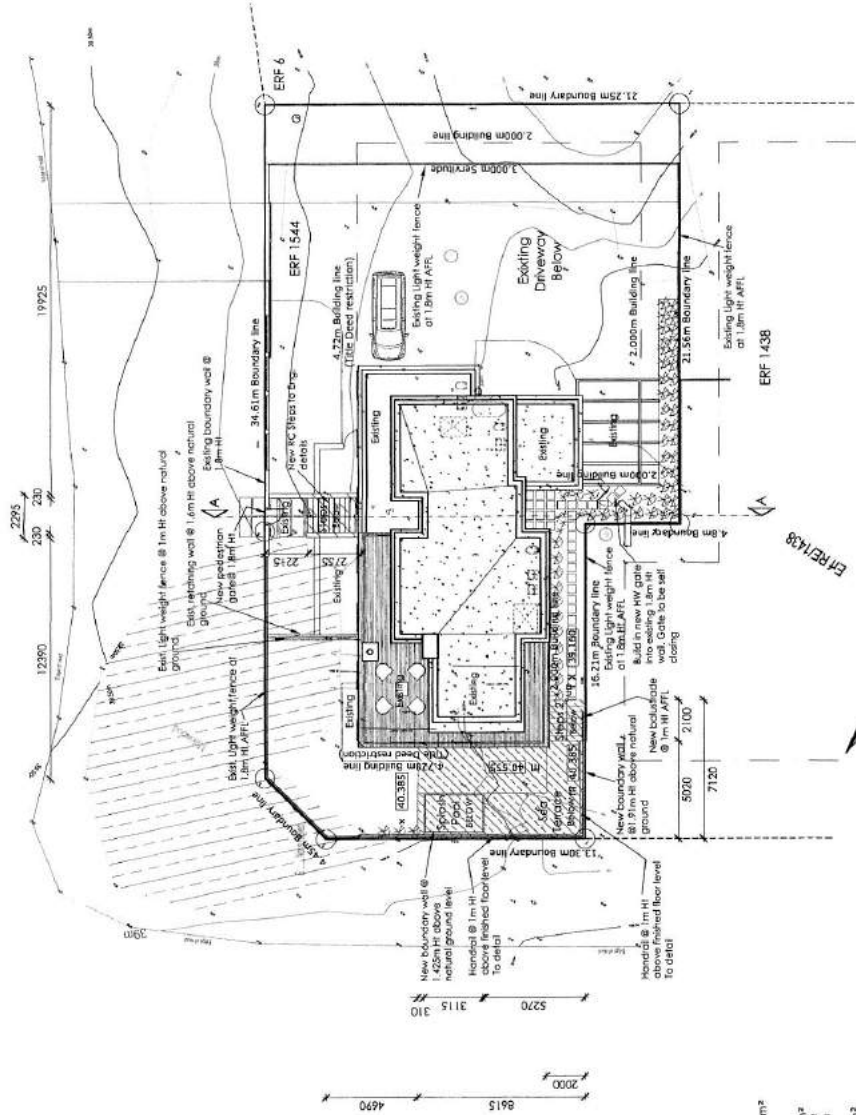
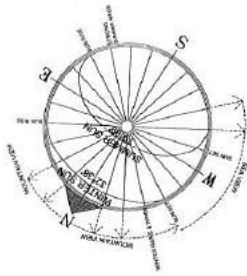
Plan Description:
LOCALITY MAP

Property Description:
**ERF 1544
 SANDBAAI**

All distances approximate
 and subject to survey.
 COPYRIGHT RESERVED

PIAn Stads- en Streeksbeplanners
 Active Town & Regional Planners

ANNEXURE B 1/5



AREAS:

Existing:	377.2m ²
New External:	
Sea Terrace	39.4m ²
Steps 1	5.8m ²
Steps 2	3.7m ²
Area of Site Coverage	720 m ² 26%

SITE PLAN
Scale: 1:200

DEPARTURE APPLICATION
Departure Application

DRAWING:
DEPARTURE APPLICATION
SITE PLAN
DWG NO: 794/01
SCALE: 1 : 200
DATE: NOVEMBER 2017
DRAWN: LAS

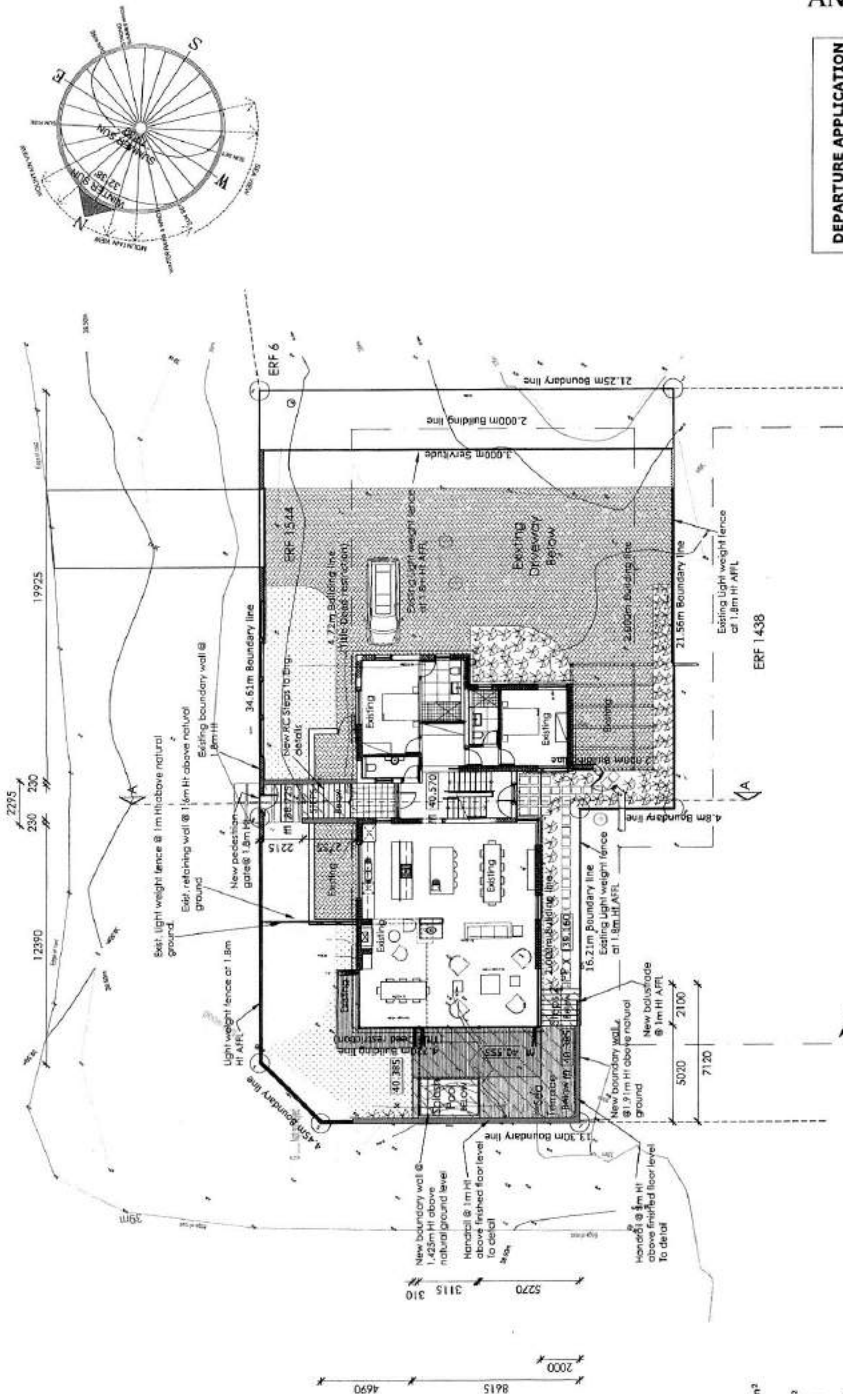
For Local Council Use

HOUSE PIENAAR
ERF 1544
No. 152
KUSWEC
SANDRA AI
HERMANUS

Note: This work has been prepared in accordance with the provisions of the Survey Act, 1981 (Act No. 94 of 1981) and the Survey Regulations, 1981 (Gazette No. 4397 of 1981). The drawings are prepared in accordance with the provisions of the Survey Act, 1981 (Act No. 94 of 1981) and the Survey Regulations, 1981 (Gazette No. 4397 of 1981). Any discrepancies between the drawings and the original survey data shall be the responsibility of the client. The drawings are prepared in accordance with the provisions of the Survey Act, 1981 (Act No. 94 of 1981) and the Survey Regulations, 1981 (Gazette No. 4397 of 1981). Any discrepancies between the drawings and the original survey data shall be the responsibility of the client.

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Tel: 0853 2 3071
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ANNEXURE B 2/5



AREAS:
 Existing: 377.3m²
 New Externals:
 See Terrace: 18.4m²
 Site: 5.8m²
 50825.2: 3.7m²
 Area of Site: 720 m²
 Coverage: 26%
FIRST STOREY
 Scale: 1:200

DEPARTURE APPLICATION
 Departure Application

DRAWING:
 DEPARTURE APPLICATION
FIRST STOREY
 DWG NO: 794/02
 SCALE: 1 : 200
 DATE: NOVEMBER 2017
 DRAWN: LAS

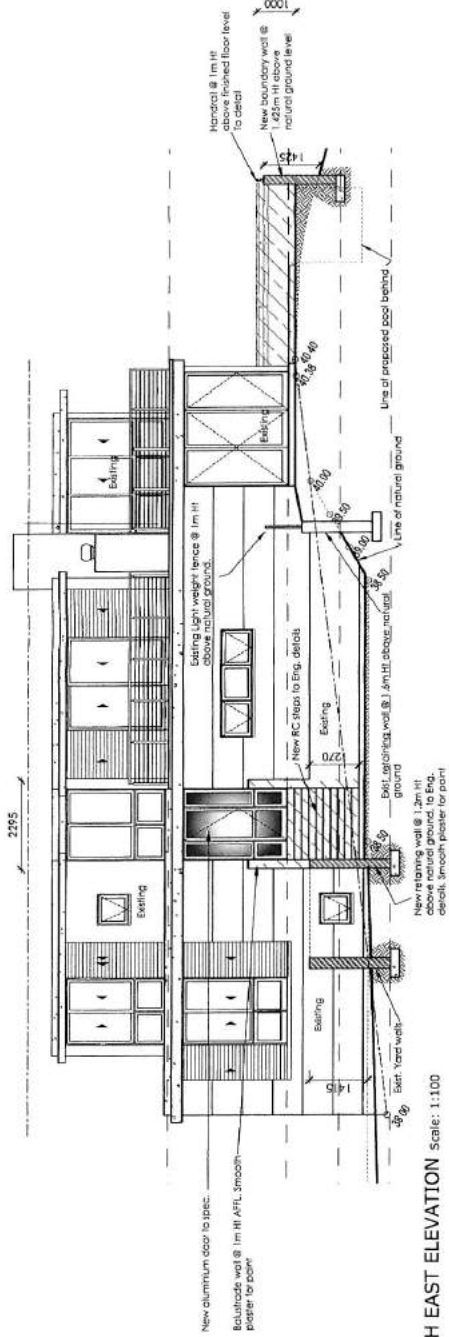
For Local Council Use

**HOUSE PIENAAR
 ERF 1544**
 NO. 152
 KUSWEG
 SANDBAAI
 HERMANUS

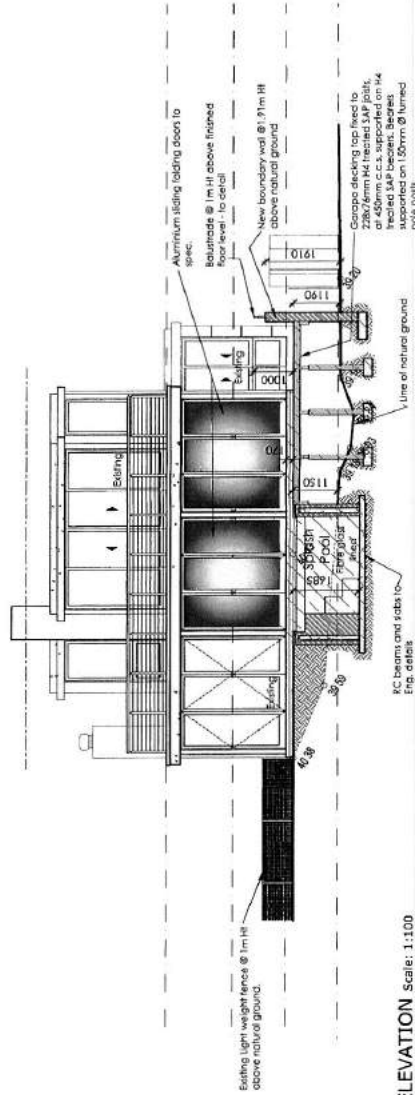
Notes:
 Set out works from Approved plans only.
 Use figured Dimensions only, do not make all
 All levels, dimensions, heights and details are to
 verified on site by contractor prior to works
 reported to the Architect. No portion of the
 foundations, structure or building can be produced
 with NRE and Local Authority requirements.

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ANNEXURE B 3/5



NORTH EAST ELEVATION Scale: 1:100



NORTH WEST ELEVATION Scale: 1:100

DEPARTURE APPLICATION
Departure Application

DRAWING:
DEPARTURE APPLICATION
North East & North West Elevations
DWG NO: 794/03
SCALE: 1 : 100
DATE: NOVEMBER 2017
DRAWN: LAS

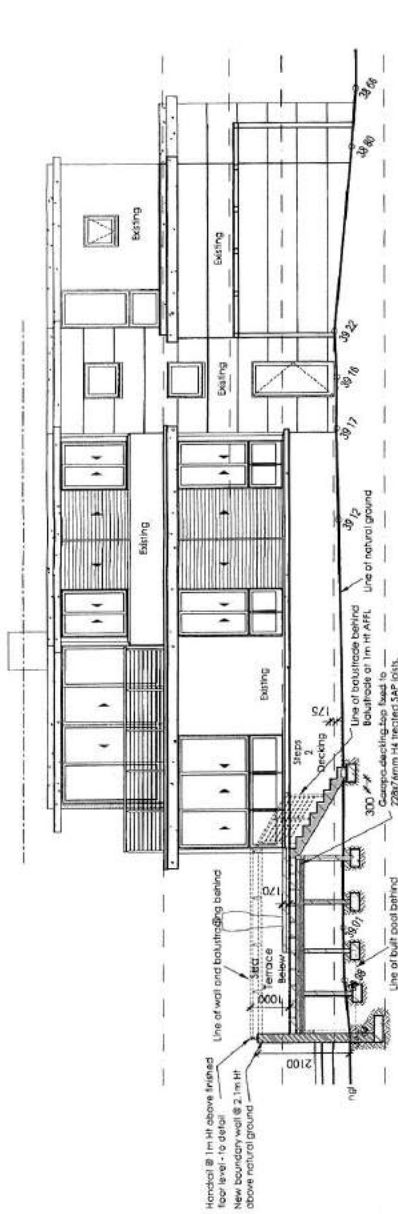
For Local Council Use

HOUSE PIENAAR
ERF 1544
 NO. 152
 KUSWEG
 SANDBAAI
 HERMANUS

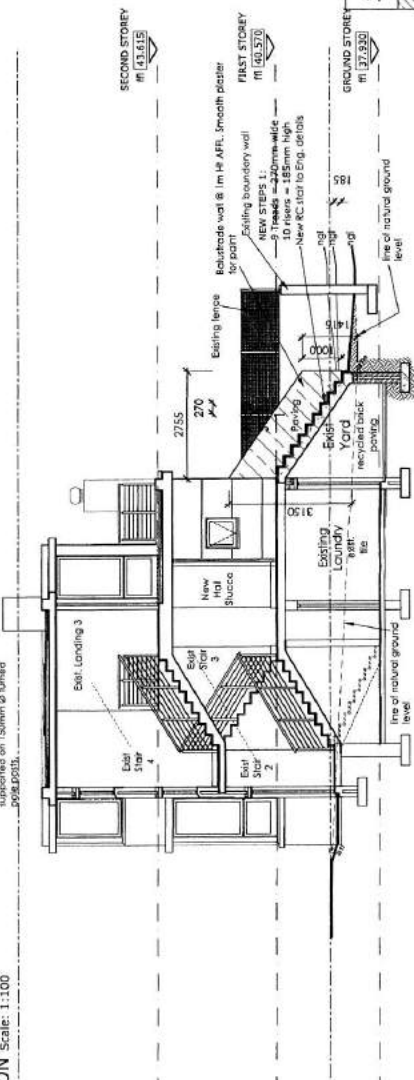
Notes:
 See cut walls from Approved plans only
 All heights are in metres unless otherwise stated
 All levels, dimensions, heights and details are to be confirmed on site by contractor prior to works
 Referenced to the Architect. No portion of the foundation, structure or building are to comply with NBR and Local Authority requirements.

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ANNEXURE B 4/5



SOUTH WEST ELEVATION Scale: 1:100



SECTION A Scale: 1:100

DEPARTURE APPLICATION
Departure Application

DRAWING:
DEPARTURE APPLICATION
South West Elevation &
Section A
DWG NO: 794/04
SCALE: 1 : 100
DATE: NOVEMBER 2017
DRAWN: LAS

For Local Council Use

HOUSE PIENAAR
ERF 1544
No. 152
KUSIEG
SANDRAI
HERMANUS

Notes:
See full works from Approvals plans only.
Dimensions given in drawings only, do not take off
drawings.
At all levels, dimensions, height and details are to
be in accordance with the relevant building code
commencing. Any discrepancies are to be
reported to the Architect. No portion of the
works shall be carried out without the written
consent of the Local Authority. All work to comply
with NHB and Local Authority requirements.

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**PROPOSED DEPARTURE & REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS:
ERF 1544 SANDBAAI**

DIVISION: CALEDON

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

Plan Active Town & Regional Planners has been instructed by Mr J.F. Pienaar, on behalf of the owner, Oulap (Pty) Ltd, of erf 1544 Sandbaai, to apply for the departure and removal of restrictive title deed conditions of the subject property.

Erf 1544 Sandbaai is 720m² in extent and is held by title deed no. T950/1994.

There is an existing three storey dwelling and double garage situated on the subject property. The owner intends to add to and alter the existing structures. Firstly, the proposed new entrance steps (steps 1) that give access to the house on the subject property will not meet the maximum height requirement for entrance steps positioned within the street building line. Secondly, it is proposed to add a new swimming pool and terrace (suspended decking) with steps (steps 2) to the subject property. The swimming pool will be positioned within 1m from the erf boundary. The new terrace (suspended decking) with entrance steps (steps 2) will be higher than 1m above original ground level. In addition the new entrance steps (steps 1), swimming pool and terrace with steps will also encroach the title deed's street building lines. This application therefore intends to address the zoning scheme regulations' street and lateral building line encroachments and the encroachment of the title deed's street building lines.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the departure (building lines only) of erf 1544 Sandbaai;
- 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 1544 Sandbaai.

3. GENERAL APPLICATION INFORMATION

3.1 PROPERTY DESCRIPTION

Erf 1544 Sandbaai is situated at 152 Kus Road, Sandbaai. Refer to the locality plan attached. Erf 1544 Sandbaai is 720m² in extent and situated in a residential environment.

3.2 ZONING

The subject property is zoned Residential Zone I: Single Residential and is utilized as such.

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

3.3 LAND USE

There is an existing three storey dwelling and double garage situated on the subject property. Consequently the subject property is used for single residential purposes only.

Land uses that surround erf 1544 Sandbaai are dwellings, public open spaces, public roads and the ocean.

3.4 PROPOSED DEVELOPMENT

- The departure (building lines only) of erf 1544 Sandbaai in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, to:
 - relax the north-eastern street (Piet Retief Crescent) building line from 4m to 2,215m to accommodate the new entrance steps positioned within the street building line and higher than 1m above the natural ground level.
 - relax the north-western street (Kus Road) building line from 4m to 0m to accommodate the new terrace (suspended decking) and swimming pool.
 - relax the south-western lateral building line from 2m to 0m to accommodate the new terrace with steps (steps 2).
- 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:
 - the proposed entrance steps (steps 1) within the north-eastern street (Piet Retief Crescent) building line;
 - the proposed terrace (suspended decking) of higher than 1m above natural ground level within the north-western street (Kus Road) building line;
 - the proposed swimming pool within the north-western street (Kus

Road) building line.

There is an existing double storey dwelling and double garage situated on the subject property. The owner intends to add to and alter the existing structures. Firstly, the proposed new entrance steps (steps 1) that give access to the house on the subject property will not meet the maximum height requirement for entrance steps positioned within the street building line. Secondly, it is proposed to add a new swimming pool and terrace (suspended decking) with steps (steps 2) to the subject property. The swimming pool will be positioned within 1m from the erf boundary. The new terrace (suspended decking) with steps (steps 2) will be higher than 1m above original ground level. In addition the new entrance steps (steps 1), swimming pool and terrace with steps will also encroach the title deed's street building lines. This application therefore intends to address the zoning scheme regulations' street and lateral building line encroachments and the encroachment of the title deed's street building lines.

Application is made for a permanent departure to:

- relax the north-eastern street (Piet Retief Crescent) building line from 4m to 2,215m to accommodate the new entrance steps positioned within the street building line and higher than 1m above the natural ground level.
- relax the north-western street (Kus Road) building line from 4m to 0m to accommodate the new terrace (suspended decking) and swimming pool.
- relax the south-western lateral building line from 2m to 0m to accommodate the new terrace with steps (steps 2).

1. Encroachment of the proposed new entrance steps (steps 1)

The owners intend to add a new pedestrian gate to the subject property from Piet Retief Crescent. It is proposed to use the existing footpath on erf 1544 Sandbaai to give access to the existing dwelling from Piet Retief Crescent. The new aluminium door of the dwelling is not positioned on natural ground floor level but on first storey level and hence a new set of entrance steps to link the footpath to the new door of the dwelling is required. Given the existing levels and position of the house, the new entrance steps cannot adhere to the maximum height requirement of 1m for entrance steps positioned within a building line. As a result an application is submitted to accommodate the new

entrance steps (steps 1) within the north-eastern street (Piet Retief Crescent) building line. The entrance steps will be $\pm 1,415\text{m}$ (at the lowest point and closest to the street on the $2,215\text{m}$ street building line) and $3,15\text{m}$ (at highest point where the staircase meets the aluminium door on the $\pm 4,72\text{m}$ building line) above natural ground level. The entrance steps (steps 1) will be $5,8\text{m}^2$ in extent ($2,755\text{m}$ long and $2,295\text{m}$ wide). Refer to the floor layout, site layout and elevations plans attached.

Although the new entrance steps will be visible from the street, the addition does not create an infringement to any passing traffic or public activity since it will merely serve the purpose of a new entrance to the existing dwelling. The latter does not constitute a habitable space or entertainment area that will negatively impact on the streetscape. The new entrance steps compliment the existing dwelling and merges well with the renovation of the dwelling. In addition the existing boundary wall of $1,8\text{m}$ high lessens the impact the entrance steps might have on the streetscape. The new entrance steps will not compromise the privacy of the adjacent property owner (erf 6 Sandbaai). There is a road and public open space situated to the north-east of the subject property and thus the encroachment to accommodate the entrance steps will not impact negatively on the properties positioned to the north-east of erf 1544 Sandbaai.

It is submitted that the proposed entrance steps are compatible with the renovated dwelling on erf 1544 Sandbaai as well as the character of the area, does not impact negatively on the rights of anyone else and that no good reason exists for not approving this application.

2. Encroachment of the proposed new swimming pool and terrace (suspended decking) with entrance steps

The owner intends to construct a new splash pool and terrace (suspended decking) with steps on the north-western and south-western erf boundaries of the subject property. The new splash pool will be positioned next to the new boundary wall on the north-western erf boundary. Since the splash pool will be positioned closer to 1m from the north-western erf boundary (on Kus Road's side), an application is submitted for the relaxation of the 4m Kus Road street building line to 0m to accommodate the proposed new splash pool. The splash pool will be $2,63\text{m}$ wide and $3,685\text{m}$ long. An engineering certificate for the proposed splash pool will be submitted with the building plans in future.

ANNEXURE C 6/16



Motivation report

As part of the extended swimming pool area it is proposed to add a new terrace in the western corner of the subject property. The terrace will serve the purposes of an entertainment and relaxation area around the swimming pool. Although a terrace is allowed within the applicable building lines, the proposed terrace encroaches the maximum height of 1m above existing ground level. The steps to access the terrace on the south-western boundary is also proposed and the latter encroaches the applicable lateral building line. An application is therefore submitted for a departure to deviate from the applicable zoning scheme's building lines to accommodate the proposed new terrace with steps on the 0m north-western street and south-western lateral building lines. The proposed new terrace will be 39,4m² in extent and 8,615m long on the north-western boundary and 5,02m wide on the south-western boundary. The steps (steps 2) will be 3,7m² in extent and 2,1m long on the south-western boundary and 2m wide on the north-western boundary. The new terrace will be 1,15m to 1,19m (plus another 0,17m for the decking up to the splash pool and dwelling's folding doors) above the natural ground level. Refer to the floor layout, site layout and elevations plans attached.

The new south-western boundary wall of 1,91m above natural ground level will ensure the necessary privacy between erf 1544 Sandbaai and the adjacent neighbouring property (erf 1438 Sandbaai). The splash pool does not encroach onto the south-western lateral building line but only the new terrace and steps (steps 2).

It is submitted that the splash pool and terrace additions do not create an infringement to any passing traffic or public activity. The new additions will afford the owner to construct a splash pool as an extension of their existing entertainment area within the dwelling without placing the splash pool in to close proximity to the existing dwelling. The new terrace and steps only marginally encroach the 1m height requirement for terraces and entrance steps in building lines and it is submitted that the slight encroachment will not have a greater impact on the surrounding property situated south-west of the subject property – neither on their existing rights nor their privacy. The new splash pool and terrace with steps compliment the existing dwelling and merges well with the planned renovations for the dwelling. In addition the boundary walls lessen the impact the additions might have on the streetscape and surrounding property owners. There is a road and public open space to the north-west of the subject property and thus the encroachment to accommodate the splash pool and terrace on the north-western erf boundary will not have a negative impact on any adjacent property owners.

It is submitted that the proposed splash pool and terrace with steps are compatible with the renovated dwelling on erf 1544 Sandbaai as well as the character of the area, does not impact negatively on the rights of anyone else and that no good reason exists for not approving this application.

The remaining extent of the existing dwelling and other proposed additions / alterations to the dwelling will be within the relevant zoning scheme regulations' lateral and street building lines. Refer to the floor layout, site layout and elevations plans attached.

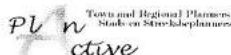
3. Removal of restrictive title deed conditions: new entrance steps (steps 1), new swimming pool and new terrace

The title deed of erf 1544 Sandbaai has restrictive title deed conditions with regards to the street building lines that have to be removed to accommodate the proposed departure application. Title deed no. T950/1994 stipulates that 4,72m street building lines apply to all structures on the subject property. The title deed's street building line condition is more restrictive than what the land use restrictions for Residential Zone 1: Single Residential allows for. In addition as described in the above sections of the application the new entrance steps (steps 1), the new swimming pool and the new terrace encroaches the scheme regulations' street building lines. It is therefore proposed to remove the following conditions in the title deed to accommodate the proposed new entrance steps (steps 1), swimming pool and terrace on the subject property:

Title deed no. T950/1994, Page 4, paragraph D.d):

- D. Aan die volgende voorwaardes vervat in gemelde Transportakte Nr. 3437/1946 opgelê deur die Administrateur van die Kaapprovinsie, by die goedkeuring van Sandbaai Dorp, naamlik:
- d) *That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts, such space may be used as gardens but shall not be built upon.*

The new steps to the terrace (steps 2) do not encroach the title deed's street building line.



Motivation report

Except for the building line deviations described in this report, all other structures meet the land use parameters applicable to SR1 zoned properties.

The zoning of erf 1544 Sandbaai will remain unchanged (Residential Zone I: Single Residential).

The proposed departure and removal of restrictive title deed conditions of erf 1544 Sandbaai are not in contrast to the existing land use tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

It is submitted that the proposed structures are compatible with the renovated dwelling as well as the character of the area, do not impact negatively on the rights of anyone else and that no good reason exists for not approving this application.

When considering the proposed relaxation of the north-eastern and north-western street building lines and the south-western lateral building line to accommodate the new entrance steps to the dwelling (steps 1), new splash pool and terrace with steps (steps 2) the point of departure is the need to discourage the phenomenon of urban sprawl and to encourage densification and more compact towns and cities, all of which relate to more responsible resource use or sustainable development.

3.5 CHARACTER OF THE ENVIRONMENT

It is not proposed to change the land use or zoning of the subject property. The impact on the character of the area will therefore remain unchanged. The surrounding properties are developed with single and double storey dwellings and the use of the surrounding properties are for permanent residences and holiday houses. The subject property abuts public roads and public open spaces on the north-eastern and north-western erf boundaries. It is therefore only the south-western lateral building line deviation to accommodate the new terrace and steps that can possible impact on the adjacent property owner (erf 1438 Sandbaai).

The new entrance steps (steps 1) will create a more welcoming pedestrian entrance to the existing dwelling on erf 1544 Sandbaai. Although the new entrance steps will be visible from the street, the addition does not create an infringement to any passing traffic or public activity since it will merely serve the purpose of a new entrance to the existing dwelling. The latter does not constitute a habitable space or entertainment area that will negatively impact on the streetscape. The new entrance steps compliment the existing dwelling and merges well with the renovation of the dwelling. In addition the existing boundary wall lessens the impact the entrance steps might have on the streetscape. The new entrance steps will not compromise the privacy of the adjacent property owner (erf 6 Sandbaai). There is a road and public open space to the north-east of the subject property and thus the encroachment to accommodate the entrance steps will not impact negatively on the properties positioned to the north-east of erf 1544 Sandbaai.

The new boundary wall of 1,91m above natural ground level will ensure the necessary privacy between erf 1544 Sandbaai and the adjacent neighbouring property (erf 1438 Sandbaai). The splash pool does not encroach onto the south-western lateral building line but only the new terrace and steps (steps 2).

It is submitted that the splash pool and terrace additions do not create an infringement to any passing traffic or public activity. The new additions will afford the owner to construct a splash pool as an extension of their existing entertainment areas in the dwelling without placing the splash pool in too close proximity to the existing dwelling. The new terrace and steps only marginally encroach the 1m height requirement for terraces and entrance steps in building lines and it is submitted that the slight encroachment will not have a greater impact on the surrounding property owner south-west of the subject property – neither on their existing rights nor their privacy. The new splash pool and terrace with steps compliment the existing dwelling and merges well with the planned renovations for the dwelling. In addition the boundary walls lessen the impact the additions might have on the streetscape and surrounding property owners. There is a road and public open space situated to the north-west of the subject property and thus the encroachment to accommodate the splash pool and terrace on the north-western erf boundary will not have a negative impact on any adjacent property owners.

It is submitted that the proposed additions are compatible with the renovated dwelling on erf 1544 Sandbaai as well as the character of the area, does not impact negatively on the rights of anyone else and that no good reason exists for not approving this application.

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

The subject property's zoning and land use will remain unchanged.

The location of the subject property within a single residential area allows the property to be developed (in future, *with further applications*) for low impact land uses only such as a Bed-and-Breakfast, guesthouse, home occupation, etc. The proposed departure and removal of restrictive title deed conditions will not hinder any future land use applications on erf 1544 Sandbaai.

The subject property allows for the deviations being applied for due to the layout and position of the existing structures, the two street building lines that apply to the subject property, the location of the subject property opposite public open spaces to the north-east and north-west, the subject properties orientation towards the ocean, the ideal position for the swimming pool and terrace in front of the entertainment areas of the existing dwelling, the materials used, the optimal use of the existing resources / infrastructure, the scale of the surrounding built environment, the low impact on adjacent property owners, etc. The new entrance steps (steps 1) within the north-eastern street building line and the new splash pool and terrace on the north-western erf boundary will not have a negative impact on the neighbours or the streetscape. The new terrace and steps only marginally encroach the 1m height requirement for terraces and entrance steps in building lines and it is submitted that the slight encroachment will not have a greater impact on the surrounding property owner south-west of the subject property than what a 1m high (permissible) terrace with steps would have had on the neighbours.

3.7 IMPACT ON EXTERNAL ENGINEERING SERVICES

3.7.1 PROVISION OF SERVICES

All services on the subject property already exist. No additional loading of the existing civil infrastructure is anticipated.

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

3.7.2 TRAFFIC IMPACT, PARKING AND ACCESS

Access to erf 1544 Sandbaai will remain unchanged and will be from Piet Retief Crescent. The existing access point will remain unchanged. Refer to the ground floor plan attached.

The Overstrand Zoning Scheme Regulations (2013) stipulate that a minimum of two parking bays are required for single dwellings. The subject property is developed with a double garage as indicated on the ground floor layout plan. The dwelling house on erf 1544 Sandbaai therefore complies with the minimum parking requirements.

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

3.8 TITLE DEED

The title deed of erf 1544 Sandbaai has restrictive title deed conditions with regards to the street building lines that have to be removed to accommodate the proposed departure application. Title deed no. T950/1994 stipulates that 4,72m street building lines apply to all structures on the subject property. The title deed's street building

line condition is more restrictive than what the land use restrictions for Residential Zone 1: Single Residential allows for. In addition as described in the above sections of the application the new entrance steps (steps 1), the new swimming pool and the new terrace encroaches the scheme regulations' street building lines. It is therefore proposed to remove the following conditions in the title deed to accommodate the proposed new entrance steps (steps 1), swimming pool and terrace with steps on the subject property:

Title deed no. T950/1994, Page 4, paragraph D.d):

D. Aan die volgende voorwaardes vervat in gemelde Transportakte Nr. 3437/1946 opgelê deur die Administrateur van die Kaapprovinsie, by die goedkeuring van Sandbaai Dorp, naamlik:

- d) *That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts, such space may be used as gardens but shall not be built upon.*

The new steps to the terrace (steps 2) do not encroach the title deed's street building line.

Refer to a copy of the conveyancer's certificate compiled by Hennie van Zyl at VZK Attorneys dated 13 December 2017. There is no bond registered against erf 1544 Sandbaai.

3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.9.1 HERITAGE VALUE

Erf 1544 Sandbaai is not situated within the Heritage Overlay Zone as determined by the Overstrand Heritage Report (2009). The subject property is also not earmarked for heritage conservation purposes with reference to the Overstrand Municipal Growth Management Strategy (2010) or the Overstrand Heritage Report (2009).

The existing structures on the subject property are not older than 60 years. 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 departure and removal of restrictive title deed conditions will not have a negative impact on the heritage value of Sandbaai or the Greater Hermanus area.

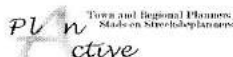
3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed departure and removal of restrictive title deed conditions of erf 1544 Sandbaai 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 (2006)* earmarks the area where erf 1544 Sandbaai is situated, for residential purposes. Refer to the Spatial Development Framework Plan (2006) attached. The zoning of the subject property will remain unchanged (Residential Zone I: Single Residential) and therefore the proposed application falls within the existing planning for the Greater Hermanus area.

The *Overstrand Municipal Growth Management Strategy (OMGMS, 2010)* specifies that erf 1544 Sandbaai forms part of Planning Unit no. 3. Planning unit no. 3 indicates that the density status quo of 7,8du/ha for the area should be maintained. This application does not propose to create any additional portions, nor does it propose the construction of an additional dwelling unit on the subject property. The density of the applicable planning unit will therefore remain unchanged.



Motivation report

From the above it is evident that the proposed departure and removal of restrictive title deed conditions application adheres to the spatial planning policies for Sandbaai and consequently falls within the existing planning for the Sandbaai and Greater Hermanus area.

3.11 PLANNING PRINCIPLES

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

Spatial justice: The proposed departure and removal of restrictive title deed conditions tie in with the existing character of the area and will not have a negative impact on the surrounding neighbours. The impact on the biophysical environment will be low as the subject property has been in existence since 1990.

Spatial sustainability: It is submitted that the proposed additions and alterations to the subject property are compatible with the character of the area and do not impact negatively on the rights of anyone else. The proposal promotes land development that is spatially compact as motivated in terms of the relevant spatial planning policies. The subject property allows for the deviations being applied for due to the layout and position of the existing structures, the two street building lines that apply to the subject property, the location of the subject property opposite public open spaces to the north-east and north-west, the subject property's orientation towards the ocean, the ideal position for the swimming pool and terrace in front of the entertainment areas of the existing dwelling, the materials used, the optimal use of the existing resources / infrastructure, the scale of the surrounding built environment, the low impact on adjacent property owners, etc.

The proposed new additions and alterations will promote land development in a location that is sustainable. The existing and proposed structures are to an improved erf within an established residential area and therefore will not impact on urban sprawl or upon a sensitive environment.



Motivation report

Efficiency: The subject property is easily accessible and conveniently located close to Sandbaai Beach, Hermanus and surrounding attractions.

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

The new entrance steps (steps 1) opens the dwelling more to the public realm without having a negative impact on the adjacent properties. It proves to be ideal to allow for the encroachment of the maximum permissible height for the entrance steps since the anticipated impact is minimal. In addition the new splash pool on the north-western boundary will not impact on the adjacent properties. It proves to be efficient to accommodate the structures in its proposed positions since it connects to the existing entertainment area of the dwelling without having a detrimental impact on the streetscape or neighbouring properties.

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

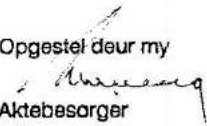
- The building line relaxations are to accommodate new entrance steps, a new splash pool and new deck with steps on the subject property. No habitable structures within the relevant building lines are proposed;
- The existing and proposed structures are compatible with the character of the area and do not impact negatively on the rights or privacy of anyone else;
- The proposal has a low impact on the streetscape;
- No impact on the scale and usage of the existing available services is anticipated;
- The architectural style and design of the altered dwelling and new additions as well as the materials used / to be used promote the desirability of the proposed deviations and removal of restrictive title deed conditions;
- The proposed departure and removal of restrictive title deed conditions will not have a negative impact on the current character and land values of the surrounding erven;
- The proposed land use application will comply with the relevant spatial planning policies for the area;
- The application is fully compliant with the applicable planning principles described in the LUPA (2014) and SPLUMA (2013).

With regards to the above mentioned it would be appreciated if the delegated authority / the municipal planning tribunal would approve the departure and removal of restrictive title deed conditions of erf 1544 Sandbaai.

ANNEXURE D 1/5

151. MARAIS MÜLLER

Opgestel deur my


 Aktebesorger
 MÜLLER N C


 L. MURIE

T	950 94
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SERTIFIKAAT VAN GEREGISTREERDE TITEL

Uitgereik kragtens die bepaling van Artikel 43 van
 die Registrasie van Akteswet 1937 (nr. 47 van 1937)

NADEMAAL

OULAP (EIENDOMS) BEPERK

(Reg No 69/16152/07)

aansoek gedoen het vir die uitreiking aan die Maatskappy van 'n Sertifikaat van
 Geregistreerde Titel kragtens Artikel 43 van die Registrasie van Akteswet, 1937, ten
 opsigte van die hierondergemelde grond, synde gedeelte van die grond geregistreer
 op die maatskappy se naam kragtens Sertifikaat van Verenigde Titel Nr T45920/1981

- 2 -

SO IS DIT DAT ingevolge die bepalinge van die genoemde Wet, ek, die Registrateur van Aktes te Kaapstad, hierby sertifiseer dat

OULAP (EIENDOMS) BEPERK
(Reg No 69/16152/07)

of sy gemagtigde, die geregistreerde eienaar is van

ERF 1544 'n gedeelte van Erf 1438 SANDBAAI in die Plaaslike Raad van Sandbaai, Afdeling Caledon.

GROOT : 720 (SEWE HONDERD EN TWINTIG) vierkante meter

SOOS blyk uit aangehegte kaart nr 8781/90 en gehou kragtens Sertifikaat van Verenigde Titel Nr T45920/1981

ONDERHEWIG

- I. Wat betref gedeelte yBCx op gemelde Kaart Nr 8781/90:
 - A. Aan die voorwaardes waarna verwys word in Transporakte Nr T5209 gedateer 21 Augustus 1915;
 - B. Aan die bepalinge van Artikel 4 van Sir John Cradock se Proklamasie gedateer 6 Augustus 1913 waarna verwys word in Grondbrief gedateer 15 Mei 1834 (Swellendam Erfpagte Boekdeel 2 (1) waar kragtens die grond toegeken is met die voorbehoud ten gunste van die Staat van alle regte op myne van Goud, silwer en Edelmesteentes;
 - C. Aan die volgende spesiale voorwaardes vervat in Transportakte Nr T 3427/1946 opgelê deur en ten gunste van SANDBAAI SEASIDE ESTATE COMPANY (PROPRIETARY) LIMITED (hierna genoem "Die Maatskappy" as eienaar van die restant van Perseel nr 3 van die plaas Onrust Rivier, gehou deur Die Maatskappy, kragtens Transportakte Nr T11466/1929 asook ten gunste van die eienaars van Persele in Sandbaai Dorp wat reeds getranspoteer is of wat in die toekomst getranspoteer mag word, onderhewig aan soortgelyke voorwaardes, naamlik:

- 3 -

- (a) Die maatskappy behou vir homself en sy opvolgers in regte die alleenreg tot alle hotelle en dranklisensies, en die Transportnemer/s of sy/hulle opvolgers in regte sal die reg nie hê om enige hotel op te rig of om enige dranklisensie te besit, sonder om eers die skriftelike toestemming van die Direkteure van die Maatskappy of sy opvolgers in regte, te verkry.
- (b) Die maatskappy en sy opvolgers sal nie geregtig wees om die grond liggende tussen die erwe te verkoop as seefronterwe en die see, in erwe te verdeel en/of te verkoop nie.
- (c) Dat geen gebou opgerig sal word op die hierbokeskrywe eiendom voordat die planne van sulke geboue nie voorgelê is aan en goedgekeur is deur die Direkteure van die gesegde Maatskappy of sy opvolgers in regte.
- (d) Die transportnemer/s of sy/hulle opvolgers in regte van die hierbokeskrywe eiendom sal die reg hê om enige stroom water wat oor die eiendom loop, af te keer langs enige van die lane of strate soos aangewys op die algemene plan van die dorp.
- (e) Die maatskappy behou vir homself en sy opvolgers in regte die vrye en onbelemmerde oorgang van elektriese, telegraaf of telefoonlyne, te enige tyd hierna oor en op enige gedeelte van die hierbokeskrywe eiendom, met die verder reg om hulle aan enige gebou van watter aard ook te laat vassit, nie minder dan 3,15 meter van die grond af, met reg van toegang tot sulke lyne vir die doel om hulle te verwyder of in orde te hou.
- (f) Die maatskappy behou die reg vir homself en sy opvolgers in regte, om te enige tyd hierna pype te lê en in orde te hou onder enige gedeelte van die hierbokeskrywe grond of op enige ander plek, en ten alle tye reg van toegang te hê na sulke pype, vir verwydering, in orde te hou of uitbreiding daarvan of vir enige ander doel en om alles te laat doen as nodig mag blyk vir die gerief van die inwoners van die dorpsgebied in verband met die verskaffing van water aan hulle.
- (h) Die Maatskappy behou vir homself die alleenreg tot alle water wat ontstaan of vloei oor die eiendom van die maatskappy. Daar sal egter van hierdie voorbehoud uitgesluit word enige water verkry deur 'n eienaar van die hierbokeskrywe grond deur middel van putte of boorgate op sulke grond gegrawe of geboor.

- 4 -

- D. Aan die volgende voorwaardes vervat in gemelde Transportakte Nr T3437/1946 opgelê deur die Aministrateur van die Kaapprovinsie, by die goedkeuring van SANDBAAI DORP, naamlik:
- (a) That the above erf or erven be used for residential purposes only;
 - (b)
 - (c)
 - (d) That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts, such space may be used as gardens but shall not be built upon.
- II. Wat betref gedeelte AyxDEFG op aangehegte Kaart Nr 8781/90:
- A. Aan die voorwaardes waarna verwys word in Transportakte Nr T5209 gedateer 21 Augustus 1915 en synde grond wat besit word kragtens Titelbewys afkomstig van 'n Grondbrief (Swellendam Erfpagte Boekdeel 2 (1) Nr 1, gedateer 15 Mei 1834, omskryf hierin ingevolge Artikel 19 (1) van Wet Nr 47 van 1937 as toegeken met die voorbehoud ten behoeve van die Staat van die regte op myne van goud, silwer en edelgesteentes vermeld in Artikel Vier van die Proklamasie van Sir John Cradock gedateer 6 Augustus 1813;
 - B. Aan die spesiale voorwaardes wat opgelê is in Transportakte Nr T14369 gedateer 19 Oktober 1945 ten voordele van die SANDBAAI SEASIDE ESTATE COMPANY (PROPRIETARY) LIMITED, as eienaar van die restant van Perseel Nr 3 van die Plaas OnrZust Rivier, soos gehou deur Transportakte Nr T11466 gedateer 18 November 1929, en die eienaar van die Persele in die gesegde dorp wat alreeds getranspoteer is of in die toekoms getranspoteer sal word onder soortelyke voorwaardes, en soos meer volledig uiteengesit onder Paragraaf I C (a) tot (h) hierbo;
 - C. Aan die voorwaardes opgelê in Transportakte Nr T14369 gedateer 19 Oktober 1945 deur die Aministrateur, toe hy die oprigting van die dorp goedgekeur het, en soos meer volledig uiteengesit onder Paragraaf I D (a) tot (d) hierbo.

- 5 -

EN dat kragtens hierdie Sertifikaat, genoemde

OULAP (EIENDOMS) BEPERK

(Reg No 69/16152)

of hul gemagtigdes, nou en voortaan daartoe geregtig is ooreenkomstig plaaslike gebruik maar behoudens die regte van die Staat.

TEN BEWYSE waarvan ek, die voornoemde Registrateur, hierdie Akte onderteken en met die Ampseel bekragtig het.

ALDUS GEDOEN en GETEKEN op die kantoor van die Registrateur van Aktes te Kaapstad, op 7 *Januarie* 1994. 1993. 3


REGISTRATEUR VAN AKTES

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL: ERF 1544, SANDBAAI (3884)**

Electricity : In order
Water : In order
Sewer : In order
Stormwater : In order
Roads and traffic : In order

Conditions:

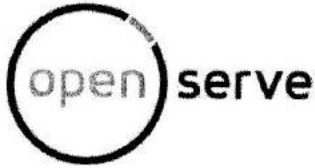
1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that only the existing electricity connection will be available for the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
3. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Area Manager: Hermanus for written approval;
4. that stormwater be allowed to discharge through Erf 1544, Sandbaai, unobstructed;
5. that no on-street parking be allowed.



DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES



DATE



TP - A Theart
(Holivier)

Division of Telkom SA SOC Ltd

10 Jan Smuts Drive
Pinelands
7404

Candice Spammer

Tel: 021 414 5582

Fax: 086 480 0617

Email: spammec1@telkom.co.za

Our Ref.:

WWIP_WHMN2230_18

1544 HSB 3884

26 July 2018

Attention: S Muller

Overstrand Municipality
HERMANUS

FILE NO: EL 1544-HSB	Your ref.:
SCAN NO: 16	
COLLABORATOR NO: 1183205	

PROPOSED REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION: ERF 1544, 154 KUSWEG, SANDBAAI

With reference to your letter received March 2018.

I hereby inform you that Open Serve approves the proposed work indicated on your drawing in principle. This approval is valid for 12 months only, after which reapplication must be made if the work has not been completed.

Any changes or deviations from the original planning during or prior to construction must immediately be communicated to this office.

Approval is granted, subject to the following conditions.

As per the drawing supplied, Open Serve infrastructure **will not be affected**. However, care should still be taken should it be evident that there is in fact Open Serve network present on the actual sites.

Please notify this office immediately if you locate any Open Serve plant that was not indicated. Please contact our representative **Frederik Swart** at telephone number **028 514 1199 / 081 363 7815 / FrederikS@openserve.co.za**

It would be appreciated if this office can be notified within 30 days of completion of the construction work. Confirmation is required on completion of construction as per agreed requirements.

61 Oak Avenue, Highveld, Techno Park, Centurion 0157,
Private Bag X881, Pretoria, Gauteng, 0001



Should Open Serve infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Open Serve rights remain reserved.

Yours faithfully

pp 

Selwyn Bowers
Operations Manager
Wayleave Management: Western Region

PLANT NOT AFFECTED

If any plant not indicated exists and information or supervision is required please contact this office at least 48 hours before any work commences.

Frederik Swart

081 363 7815

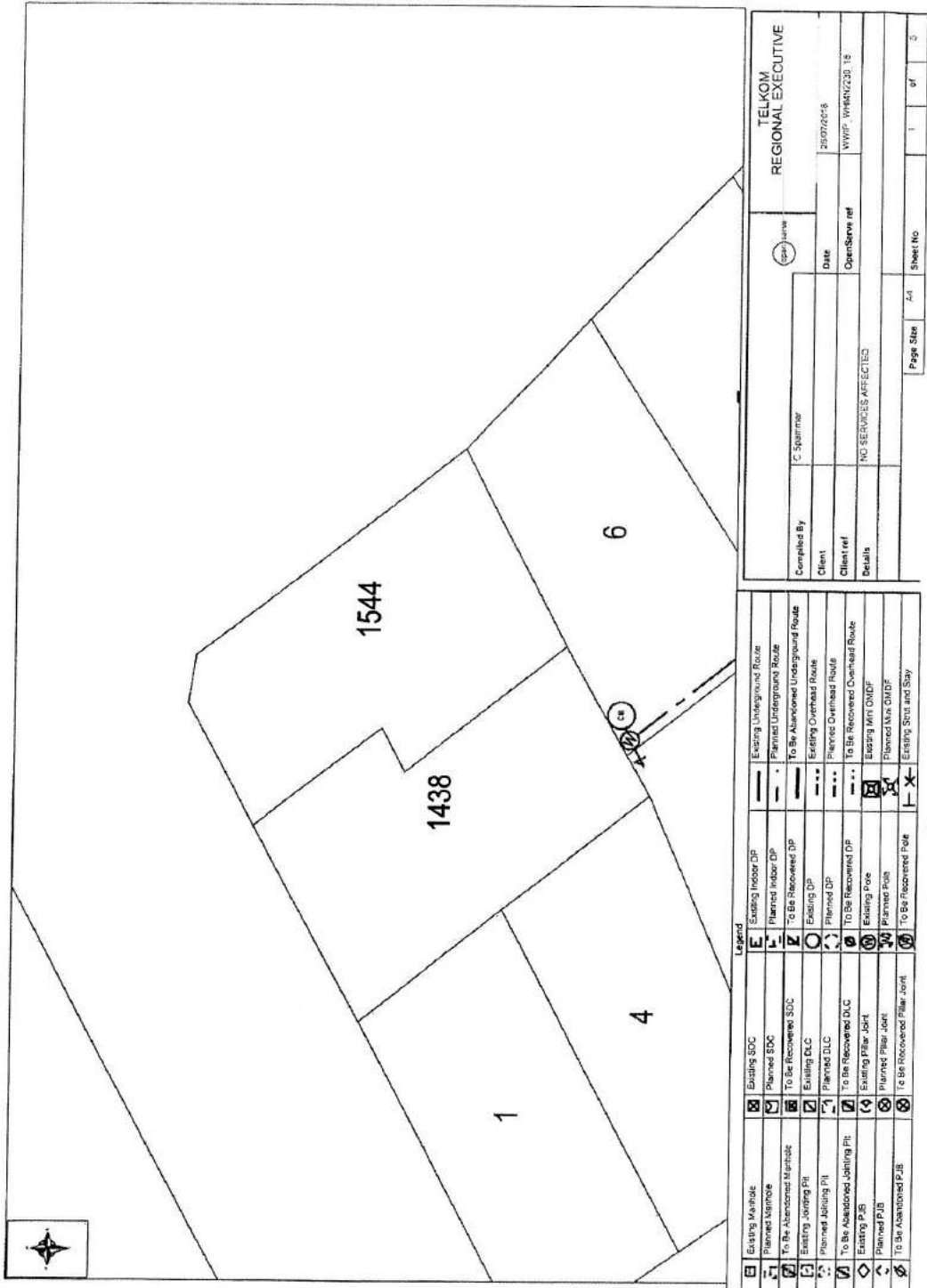
Reference number
WWIP_WHMN2230_18

Marked Up
Candice Spammer

Date
26-Jul-18



ANNEXURE F 4/4



Legend	
<input checked="" type="checkbox"/> Existing Manhole	<input checked="" type="checkbox"/> Existing SDC
<input checked="" type="checkbox"/> Planned Manhole	<input checked="" type="checkbox"/> Planned SDC
<input checked="" type="checkbox"/> To Be Abandoned Manhole	<input checked="" type="checkbox"/> To Be Recovered SDC
<input checked="" type="checkbox"/> Existing Jointing Pit	<input checked="" type="checkbox"/> Existing DLC
<input checked="" type="checkbox"/> Planned Jointing Pit	<input checked="" type="checkbox"/> Planned DLC
<input checked="" type="checkbox"/> To Be Abandoned Jointing Pit	<input checked="" type="checkbox"/> To Be Recovered DLC
<input checked="" type="checkbox"/> Existing PJB	<input checked="" type="checkbox"/> Existing Pillar Joint
<input checked="" type="checkbox"/> Planned PJB	<input checked="" type="checkbox"/> Planned Pillar Joint
<input checked="" type="checkbox"/> To Be Abandoned PJB	<input checked="" type="checkbox"/> To Be Recovered Pillar Joint
<input checked="" type="checkbox"/> Existing Indoor DP	<input checked="" type="checkbox"/> Existing Underground Route
<input checked="" type="checkbox"/> Planned Indoor DP	<input checked="" type="checkbox"/> Planned Underground Route
<input checked="" type="checkbox"/> To Be Recovered Indoor DP	<input checked="" type="checkbox"/> To Be Abandoned Underground Route
<input checked="" type="checkbox"/> Existing DP	<input checked="" type="checkbox"/> Existing Overhead Route
<input checked="" type="checkbox"/> Planned DP	<input checked="" type="checkbox"/> Planned Overhead Route
<input checked="" type="checkbox"/> To Be Recovered DP	<input checked="" type="checkbox"/> To Be Recovered Overhead Route
<input checked="" type="checkbox"/> Existing Pole	<input checked="" type="checkbox"/> Existing MFT OHDF
<input checked="" type="checkbox"/> Planned Pole	<input checked="" type="checkbox"/> Planned MFT OHDF
<input checked="" type="checkbox"/> To Be Recovered Pole	<input checked="" type="checkbox"/> Existing Strut and Stay

Completed By	C. Spammer	Scale	AS
Client		Date	25/07/2018
Client ref		Open/Save ref	WWIP - WPHN/238 18
Details	NO SERVICES AFFECTED		
Page Size	A4	Sheet No	1 of 3

TELKOM
REGIONAL EXECUTIVE

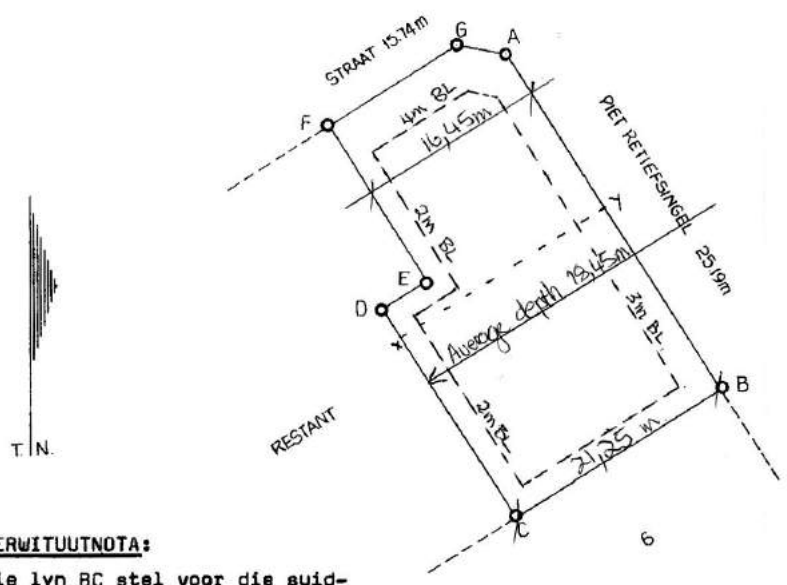
PF SPRONK, Landmeter, Hermanus

SYE METER	RIGTINGS- HOEKE	KOÖRDINATE		ANNEXURE G I/1
		Y	X	
	Konstante	- 10 000,00	+3800 000,00	8781-90
AB	34,61	A - 7 636,27	+ 10 477,63	Goedgekeur <i>P. J. Spronk</i> Landmeter-generaal 1991-01-23
BC	21,25	B - 7 655,02	+ 10 506,72	
CD	21,56	C - 7 637,16	+ 10 518,23	
DE	4,80	D - 7 625,48	+ 10 500,11	
EF	16,20	E - 7 629,52	+ 10 497,51	
FG	13,30	F - 7 620,74	+ 10 483,89	
GA	4,45	G - 7 631,92	+ 10 476,69	

▲ (31) Mudge Point - 3 749,09 + 7 542,76
 ▲ (207) Onrust - 7 174,29 + 7 501,45

BAKENS:

A,B,C,D,E,F,G - 12mm ysterpen



SERWITUUTNOTA:

Die lyn BC stel voor die suid-oostelike grens van 'n deurgang-serwituut 3m wyd.

Skaal 1: 500

Die figuur A B C D E F G
 stel voor 720 Vierkante meter grond, synde
 ERF 1544 *N GEDEELTE VAN ERF 1438 SANDBAAI
 geleë in die Plaaslike Gebied van Sandbaai Administratiewe Distrik
 Caledon Provinsie Kaap die Goeie Hoop.
 Opgemeeit in April - September 1990 deur my, *P. J. Spronk* Landmeter

Hierdie kaart is geheg aan No. 950/94 gedateer t.g.v. Registrateur van Aktes	Die oorspronklike kaart is. No. 5544/1981 geheg aan Transport/Grensbrieff No. 1981. .45920	Lêer No. 10350/5/6 M.S. No. B 2903/90 Komp. AI-3CB/Y34(448)
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ANNEXURE H 1/1

