



Enquiries
Olwethu Yonke

Contact details
044 501 3317

E-mail
townplanning@plett.gov.za

Our ref: 18/1544/PB

20 June 2024

Sir/Madam

PROPOSED PERMANENT DEPARTURE AND REMOVAL OF RESTRICTIVE CONDITION FOR ERF 1544, PLETTENBERG BAY, BITOU MUNICIPALITY

Applicant: Beacon Survey

Notice is hereby given that Bitou Municipality has received an application in terms of section 15(2) of the Bitou By-law on Municipal Land Use Planning 2015; the application details are as follows:

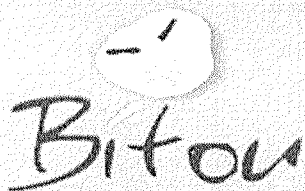
1. Application is made in terms of Section 15(2)(f) of the Bitou Municipality: Land Use Planning By-Law (the 'Planning By-Law') for the removal of the restrictive condition E(4)(d) that prescribes inter alia 4.72m street, 3.15m rear, and 1.57m lateral building lines.
2. Application is also made in terms of Section 15(2)(b), read with Section 36(2) and Section 18, for a permanent departure from the development parameters of the zoning scheme for the relaxation of the following building lines in accordance with the Site Development Plan P1544SDP-1:
 - 2.1. Relaxation of the eastern lateral building line from 1.5m to 0.64m in order to regularise a portion of the dwelling house;
 - 2.2. Relaxation of the western lateral building line from 3m to 2.38m in order to regularise a portion of the dwelling house; and
 - 2.3. Relaxation of the street building line from 4.5m to 4.21m in order to regularise a portion of the shed.

A copy of the application and full supporting documentation is available for viewing on the Municipal website. Enquiries regarding the application may also be directed to the Municipal Land Use Management official Olwethu Yonke at 044 501 3317/ townplanning@plett.gov.za.

Any comments or objections to the application, with reasons therefore, must be lodged in writing to the abovementioned official by means of email (townplanning@plett.gov.za) or hand-delivery within 30 days of the date of registration of this notice, and must include the name and contact details of the person concerned. Comments/ objections received after 30 days may be disregarded. A person who cannot write may visit the Land Use Management office, where a staff member will assist to transcribe their comments.

The personal information of anyone who submits comment / objection might be made available as part of processing the application and might be used during formal application processing.

Regards
Chris Schliemann
Manager: Land Use and Environmental Management



to be the best together

Private Bag X1002 Plettenberg Bay 6600
Tel +27 (0)44 501 3000 Fax +27(0)44 533 3485

LAND USE PLANNING APPLICATION FORM

BITOU MUNICIPALITY: LAND USE PLANNING BY-LAW

KINDLY NOTE: Please complete this form using BLOCK capitals and ticking the appropriate boxes.

PART A: APPLICANT DETAILS

First name(s)	PHILIP GEORGE		
Surname	TEGGIN		
South African Council for Planners (SACPLAN) registration number (if applicable)			
Company name (if applicable)	BEACON SURVEY		
Postal Address	PO Box 350		
	PLETTENBERG BAY	Postal Code	6600
E-mail	beaconsurvey@mweb.co.za		
Tel		Cell	072 767 6974
			044-5332230

PART B: REGISTERED OWNER(S) DETAILS (if different from applicant)

Name of registered owner(s)	THE TRUSTEES FOR THE TRUST BEING GEO - MARC TRUST		
E-mail	jacobsz@woldonline.co.za		
Tel		Cell	082 927 4829

PART C: PROPERTY DETAILS (in accordance with title deed)

Property Description (Erf No / Farm No):	ERF NO. 1544		
Physical/ Street Address (if available)	Rothersands Avenue, Plettenberg Bay		
Town	Plettenberg Bay		
Current Zoning	Single Residential	Land Use	Residential

Extent	907 m ² / ha		
Applicable Zoning Scheme	Plettenberg Bay Zoning Scheme Section 7		
	LUPO Scheme Regulations : Section 8		
Are there existing buildings?	Y <input checked="" type="checkbox"/>	N <input type="checkbox"/>	
Title Deed number and date	T 40123 / 2016		

Are there any restrictive conditions in the title deed that prohibit the proposed use/ development?		Y <input type="checkbox"/>	N <input type="checkbox"/>
If Yes, list such condition(s)	E (H)(d)		

Are the restrictive conditions in favour of a third party(ies)?		Y <input type="checkbox"/>	N <input checked="" type="checkbox"/>
If Yes, list the party(ies)			

Is the property bonded?		Y <input type="checkbox"/>	N <input checked="" type="checkbox"/>
If yes, (attach proof) If no proof is d provided upon submission a copy of Bondholders Consent must be provided prior to decision being taken.			

Are there any existing unauthorized buildings and/or land use/s on the subject property(ies)?	Y <input type="checkbox"/>	N <input checked="" type="checkbox"/>	If yes, is this application to legalize the building / land use?	Y <input type="checkbox"/>	N <input checked="" type="checkbox"/>
Are there any pending court case(s) / order(s) relating to the subject property(ies)?	Y <input type="checkbox"/>	N <input checked="" type="checkbox"/>	Are there any land claim(s) registered on the subject property(ies)?	Y <input type="checkbox"/>	N <input checked="" type="checkbox"/>

PART D: PRE-APPLICATION CONSULTATION			
Was a pre-application consultation held with the Municipality?	<input checked="" type="checkbox"/>	If Yes, complete the information below and attach the minutes of the pre-application consultation.	
Official's name	Ms A. Sanchez		Date of consultation

PART E: LAND USE PLANNING APPLICATIONS IN TERMS OF SECTION 15 (2) OF THE BITOU MUNICIPALITY : LAND USE PLANNING BY-LAW (tick applicable application/s)		
Tick	Section	Type of application
	2(a)	a rezoning of land;
✓	2(b)	a permanent departure from the development parameters of the zoning scheme;
	2(c)	a departure granted on a temporary basis to utilise land for a purpose not permitted in terms of the primary rights of the zoning applicable to the land;
	2(d)	a subdivision of land that is not exempted in terms of section 24, including the registration of a servitude or lease agreement;
	2(e)	a consolidation of land that is not exempted in terms of section 24;
✓	2(f)	a removal, suspension or amendment of restrictive conditions in respect of a land unit;

	2(g)	a permission required in terms of the zoning scheme;
	2(h)	an amendment, deletion or imposition of conditions in respect of an existing approval;
	2(i)	an extension of the validity period of an approval;
	2(j)	an approval of an overlay zone as contemplated in the zoning scheme;
	2(k)	an amendment or cancellation of an approved subdivision plan or part thereof, including a general plan or diagram;
	2(l)	a permission required in terms of a condition of approval;
	2(m)	a determination of a zoning;
	2(n)	a closure of a public place or part thereof;
	2(o)	a consent use contemplated in the zoning scheme;
	2(p)	an occasional use of land;
	2(q)	to disestablish a home owner's association;
	2(r)	to rectify a failure by a home owner's association to meet its obligations in respect of the control over or maintenance of services;
	2(s)	a permission required for the reconstruction of an existing building that constitutes a non-conforming use that is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building.

APPLICATION AND NOTICE FEES *(please note the following)*

1. Application fees are determined by Council annually in terms of the approved Municipal tariffs. An invoice will be sent to the applicant after an application is confirmed to be complete.
2. Application fees that are paid to the Municipality are non-refundable. Applications will only be processed after the application fees are paid in full and proof of payment is submitted to the Municipality.
3. The applicant is liable for the cost of publishing and serving notice of an application by.
4. The Municipality may request the applicant to undertake the publication and serving of notices
5. The Municipality will be responsible to serve notices to External Commenting Authorities, if necessary.

PART F: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION FOR LAND USE PLANNING

APPLICATION [section 15(2)(a) to (s) of the Bitou Municipality Land Use Planning By- Law]

Complete the following checklist and attach all the information and documentation relevant to the proposal. Failure to submit all information and documentation required will result in the application being deemed incomplete. It will not be considered complete until all required information and documentation has been submitted.

Primary Documentation

Y	<input checked="" type="checkbox"/>	N		Power of Attorney
Y	<input checked="" type="checkbox"/>	N		Company Resolution
Y	<input checked="" type="checkbox"/>	N		Motivation (based on the criteria in section 65 of the Bitou Planning By-law)
Y		N	<input checked="" type="checkbox"/>	Executive Summary of the Motivation
Y	<input checked="" type="checkbox"/>	N		Locality plan
Y	<input checked="" type="checkbox"/>	N		Site development plan or conceptual layout plan
Y	<input checked="" type="checkbox"/>	N		Full copy of Title Deed
Y	<input checked="" type="checkbox"/>	N		S.G. diagram / General plan extract
Y		N	<input checked="" type="checkbox"/>	Bondholders Consent

Supporting Information & Documentation (if applicable)

Y		N	<input checked="" type="checkbox"/>	Land use plan / Zoning plan
Y		N	<input checked="" type="checkbox"/>	Consolidation plan
Y		N	<input checked="" type="checkbox"/>	Proposed subdivision plan
Y		N	<input checked="" type="checkbox"/>	Proof of agreement or permission for required servitude
Y		N	<input checked="" type="checkbox"/>	Copy of any previous land development approvals (i.e. Rezoning , consent use departures)

Y	N	X	Abutting owner's consent
Y	N	X	Services Report or indication of all municipal services / registered servitudes
Y	N	X	Conveyancer's certificate
Y	N	X	Street name and numbering plan (Applicable to Subdivision Only)
Y	N	X	1 : 50 / 1:100 Flood line determination (plan / report)
Y	N	X	Landscaping Plan(if applicable)
Y	N	X	Home Owners' Association consent
Y	N	P	Proof of failure of Home owner's association
Y	N	X	Other (Specify)

PART G: AUTHORISATION(S) OBTAINED IN TERMS OF OTHER LEGISLATION

Y	N	Y	National Environmental Management Act, 1998 (Act 107 of 1998)
Y	N	Y	Specific Environmental Management Act(s) (SEMA) (e.g. Environmental Conservation Act, 1989 (Act 73 of 1989), National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004), National Environmental Integrated Coastal Management Act, 2008 (Act 24 of 2008), National Environmental Management: Waste Act, 2008 (Act 59 of 2008), National Water Act, 1998 (Act 36 of 1998)
Y	N	Y	National Heritage Resources Act, 1999 (Act 25 of 1999)
Y	N	Y	Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970)
Y	N	Y	Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA)
Y	N	Y	If required, has application for EIA / HIA / TIA / TIS / approval been made? If yes, attach documents / plans / proof of submission etc.
Y	N	X	If required, do you want to follow an integrated application procedure in terms of section 44(1) of Bitou Municipality: Land Use Planning By-Law ? If yes, please attach motivation.
Y	N	Y	Other (specify)

PART H: SUBMISSION OF APPLICATION

The application together with supporting information and documentation should be electronically lodged on the AFLA PORTAL system. This AFLA PORTAL has been designed and developed by Esri South Africa to assist Bitou Municipality to diminish queues and promote faster turnaround times on land development applications.

The AFLA system is accessible to members of the public, enabling online submission of town planning applications at Bitou Municipality using GIS.

A profile by either the owner of agent needs to be created before an application can be lodged on the Portal. Below is a link to the AFLA Portal.

<https://maps.bitou.gov.za/aflaportal/>

Hard copies will not be accepted by the Municipality unless supporting documentation and information may only be provided upon request by the Municipality.

SECTION I: DECLARATION

I hereby confirm the following :

1. That the information contained in this application form and accompanying documentation is complete and correct.
2. I'm aware that it is an offense in terms of section 86(1) to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.
3. I am properly authorized to make this application on behalf of the owner and (where applicable) that a copy of the relevant power of attorney or consent are attached hereto.
4. Where an agent is appointed to submit this application on the owner's behalf, it is accepted that correspondence from and notifications by the Municipality in terms of the by-law will be sent only to the agent and that the owner will regularly consult with the agent in this regard.
5. That this submission includes all necessary land use planning applications required, by Bitou Municipality: Land Use Planning By-Law to enable the development proposed in terms of the Bitou Municipality: Land Use Planning Bylaw (2015) as amended.
6. I am aware that development charges to the Municipality in respect of the provision and installation of external engineering services may be payable by the owner as a result of the proposed development.
7. I am aware that by lodging an application, the information in the application and obtained during the process, may be made available to the public.

SUBMISSION REQUIREMENTS

Y <input checked="" type="checkbox"/>	N <input type="checkbox"/>	Soft copy of the application submitted on the AFLA PORTAL (see Part H)
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Applicant's signature:



Date:

7/09/2023

Full name:

PHILIP GEORGE TEGGINS

Professional capacity:

LAND SURVEYOR

PLS III'S

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RESOLUTION

Resolution passed at the meeting of the Shareholders / Partners / Trustees / Members held
in Plettenberg Bay on the 06 day of January 2023.

Resolved that Allic Jacobsz in his / her capacity as Trustee,
be and is hereby authorised to do whatever may be necessary to give effect to this
resolution and to enter into and sign such documents necessary to proceed with the
applications as specified hereunder on behalf of the Company / Partnership / Trust / Close
Corporation with such modification as he/she sole discretion as he / she in his sole
discretion shall deem fit, his / her signature to be conclusive proof that the documents
which bear it are authorised in terms hereof.

DESCRIPTION OF PROPERTY:

ERF 1544 PLETTENBERG BAY

NATURE OF APPLICATION:

1. REMOVAL OF TITLE DEED RESTRICTIONS
2. DEPARTURE FROM ZONING SCHEME CONDITIONS

SIGNATURE OF SHAREHOLDERS / PARTNERS / TRUSTEES / MEMBERS
(NAME)

<u>Allic Jacobsz</u>	(<u>Allic Jacobsz</u>)
<u>R. Jacobsz</u>	(<u>R. Jacobsz</u>)
.....	()
.....	()
.....	()
.....	()

SPECIAL POWER OF ATTORNEY

I, the undersigned,

Oliver Jacoby

duly authorised, do hereby nominate, constitute and appoint **PHILIP GEORGE TEGGIN** of the firm **BEACON SURVEY**, Land surveyors, with power of substitution to be my lawful agent, in my name, place and stead to make application, as described below, to the relevant authorities and to sign all application forms, documents and other papers as may be required in such application.

DESCRIPTION OF PROPERTY:

ERF 1544 PLETTENBERG BAY

NATURE OF APPLICATION

1. REMOVAL OF TITLE DEED RESTRICTIONS
2. DEPARTURE FROM ZONING SCHEME CONDITIONS

SIGNED AT

Plettenberg Bay

THIS

06

DAY OF

January

2023

OWNER/AUTHORISED AGENT

WITNESSES

1.

2.



MOTIVATION REPORT

LAND USE APPLICATION

ERF 1544, PLETTENBERG BAY:

REMOVAL OF RESTRICTIVE CONDITION OF TITLE AND BUILDING LINE RELAXATION

Prepared on behalf of

BEACON SURVEY

SEPTEMBER 2023

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ANNEXURE B: GENERAL PLAN

ANNEXURE C: TITLE DEED

ANNEXURE D: PROPOSED BUILDING PLANS

ANNEXURE E: SITE DEVELOPMENT PLAN No. P1544SDP-1

APPENDIX: LAND USE PRINCIPLES

1. INTRODUCTION

PROPERTY DESCRIPTION	Erf 1544, Plettenberg Bay, situated in the Bitou Municipality Division Knysna, Western Cape
TITLE DEED	T40123/2016
PROPERTY SIZE	907
ZONING	Single Residential
RESTRICTIVE BUILDING LINES	4.72m Street Building Line 3.15m Rear Building Line 1.57m Lateral building line
ZONING SCHEME BUILDING LINES	4.5m Street Building Line 1.5m Lateral Building Line 4.5m Aggregate side space

1.1. Erf 1544, Plettenberg Bay ("Erf 1544") is situated in Rothersand Avenue as seen in Figures 1 and 2 below. The locality plan is attached as Annexure 'A'.



FIGURE 1: LOCALITY PLAN



FIGURE 2: CADASTRAL BOUNDARIES

- 1.2. Erf 1544 is 907 sqm in extent¹ and zoned as 'Single Residential' in terms of the Plettenberg Bay Zoning Scheme Regulations (the 'zoning scheme') promulgated under Section 7 of the Land Use Planning Ordinance, 1985 (Ord. 15 of 1985).
- 1.3. The property is situated within the 'Plettenberg Bay Township Extension No. 5'. An extract of the relevant General Plan is depicted in Figure 3 below, while the complete General Plan is attached as Annexure 'B'.

¹ In accordance with the Title Deed no. T40123/2016

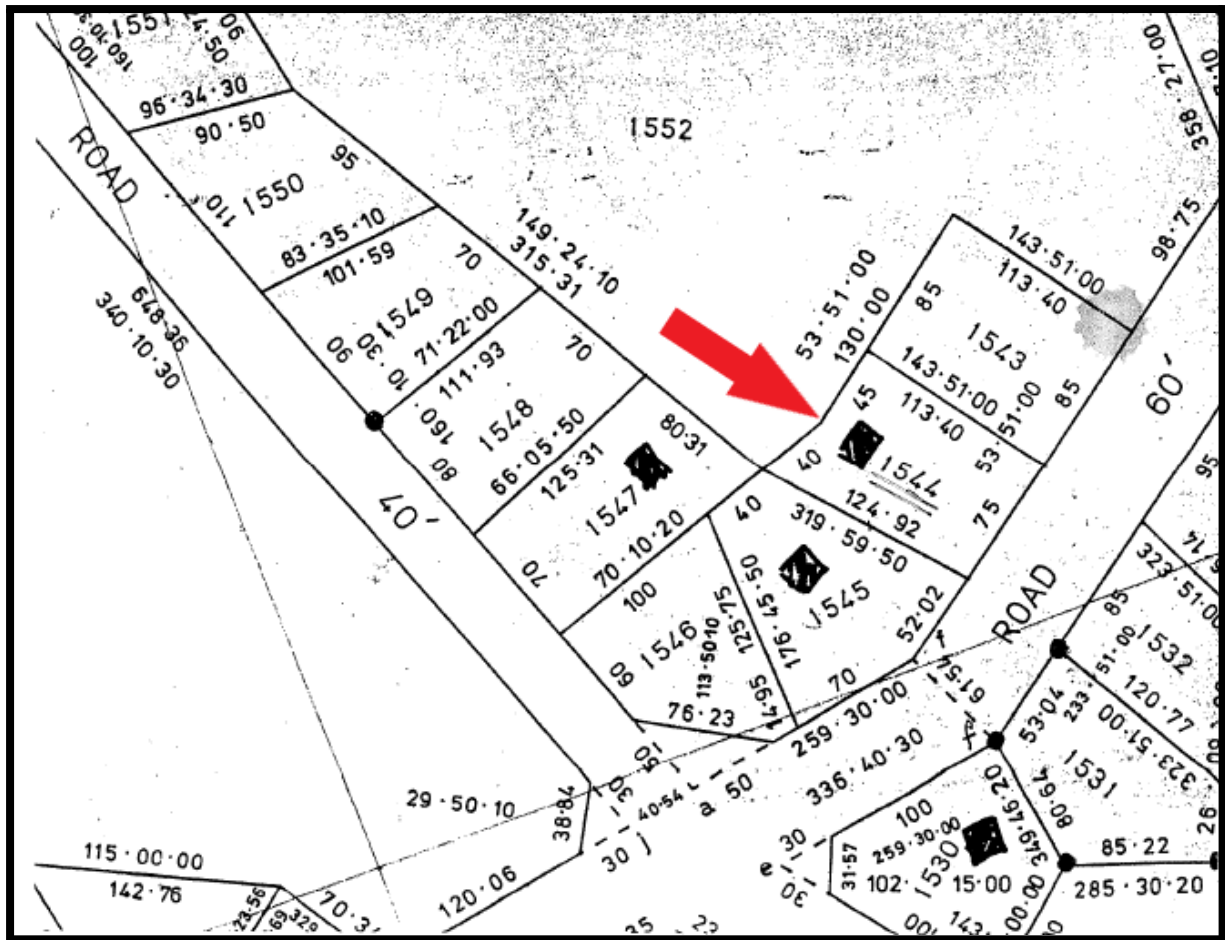


FIGURE 3: EXTRACT OF GENERAL PLAN

- 1.4. A dwelling house has been constructed on the property largely in accordance with the proposed building plans. Some portions of the dwelling house exceed both the title deed and municipal zoning scheme building lines.
- 1.5. In order to formalise the dwelling house, it is necessary to regularise these portions of the dwelling house which encroach on the respective restrictive and municipal zoning scheme building lines. This necessitates the current application for the removal of the applicable restrictive condition of title and relaxation of the zoning scheme building lines.

2. THE APPLICATION

- 2.1. Application is made in terms of Section 15(2)(f) of the Bitou Municipality: Land Use Planning By-Law (the 'Planning By-Law') for the removal of the restrictive condition E(4)(d) that prescribes *inter alia* 4.72m strEET, 3.15m rear, and 1.57m lateral building lines.
- 2.2. Application is also made in terms of Section 15(2)(b), read with Section 36(2) and Section 18, for a permanent departure from the development parameters of the zoning scheme for the relaxation of the following building lines in accordance with the Site Development Plan P1544SDP-1:
 - 2.2.1.1. Relaxation of the eastern lateral building line from 1.5m to 0.64m in order to regularise a portion of the dwelling house;
 - 2.2.1.2. Relaxation of the western lateral building line from 3m to 2.38m in order to regularise a portion of the dwelling house; and
 - 2.2.1.3. Relaxation of the street building line from 4.5m to 4.21m in order to regularise a portion of the shed.

2.3. THE DECISION-MAKING CRITERIA

- 2.3.1. Certain decision-making criteria prescribed in terms of the Land Use Planning and Land Use Management Act, 2013 (Act 16 of 2013) ('SPLUMA') and the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014)('LUPA') have to be applied by the Municipality during consideration of any application for land development. For the sake of completeness these criteria are briefly explained in the Appendix to this Report.
- 2.3.2. In addition to the above, the 'Planning By-Law' stipulates that when the Municipality considers the removal, suspension or

amendment of a restrictive condition the following aspects must also be considered²:

- 2.3.2.1. the financial or other value of the rights in terms of the restrictive condition enjoyed by a person as the owner of a dominant tenement;
- 2.3.2.2. the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
- 2.3.2.3. the personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is amended, suspended or removed;
- 2.3.2.4. the social benefit of the restrictive condition remaining in place in its existing form;
- 2.3.2.5. the social benefit of the removal, suspension or amendment of the restrictive condition; and
- 2.3.2.6. whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

3. TITLE DEED

- 3.1. The title deed is attached as Anneuxre 'C'.
- 3.2. The restrictive condition of title relevant to the current application is condition E(4)(d).
- 3.3. The sole objective for the removal of the 'building line' restrictive condition of title is to formalise the dwelling house and shed through regularising the portions which encroach on the restrictive building lines as depicted in the Site Development Plan No. P1544SDP-1.

² 'Planning By-Law' s. 33(5)

- 3.4. Condition E was initially included in Title Deed No. T15145/1975, which was imposed by the Administrator when granting approval for the creation of Plettenberg Bay Township Extension Number 5.
- 3.5. Condition E(4)(d) stipulates that: ***“no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4.72m to the street line which forms a boundary of this erf, nor within 3.15m of the rear or 1.57m to the lateral boundary common to any adjoining erf provided with the consent of the local authority, an outbuilding not exceeding 3.05m in height, measured from the floor to the wall late and no portion of which will be used for human habitation, may be erected within the above prescribed rear space. on consolidation of any two or more erven this condition shall apply to the consolidated area as one erf”***.

4. **THE PROPOSAL**

- 4.1. As mentioned above, the application pertains to the regularization of the dwelling house and shed in respect of both the title deed and municipal zoning scheme building lines.
- 4.2. The proposed building plans are attached as Annexure ‘D’, while the Site Development Plan No. P1544SDP-1 is attached as Annexure ‘E’.
- 4.3. It is important to emphasise that the application is made in accordance with the Site Development Plan No. P1544SDP-1, and that the building plans are included solely for illustrative purposes.

4.4. **BUILDING LINES**

- 4.4.1. The following restrictive building lines are applicable to the property as stipulated in the Title Deed:
- 4.4.1.1. 4.72m street building line;
 - 4.4.1.2. 3.15m rear building line; and
 - 4.4.1.3. 1.57m lateral building line

4.4.2. In accordance with the zoning scheme the property is subject to the following building lines:

4.4.2.1. 4.5m street building line;

4.4.2.2. 1.5m lateral building line; and

4.4.2.3. 4.5m aggregate side space.

4.4.3. The following factors are potential considerations when evaluating applications concerning building lines: impact on views; access to all unbuilt portions of the property; visual impact; privacy; solar access and shadowing effect; character of the area and sense of place.

4.4.4. The Site Development Plan attached as Annexure 'E' and shown in Figure 4 below indicates that specific portions of the dwelling house and shed that encroach on both the restrictive and zoning scheme building lines.

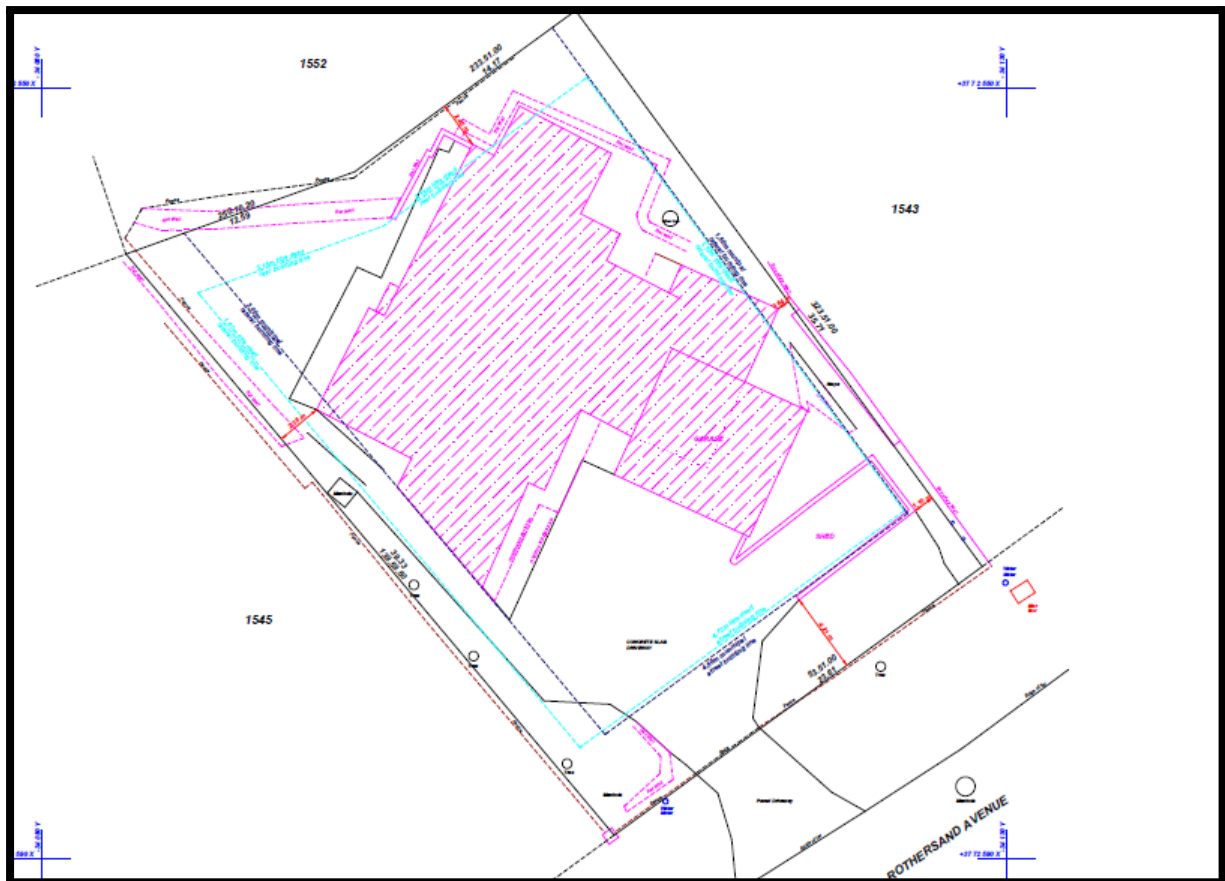


FIGURE 4: SITE DEVELOPMENT PLAN

4.5. STREET BUILDING LINE

- 4.5.1. An extract of the Site Development Plan showing the position of the structures on the property in relation to the street building line is shown in Figure 5 below.

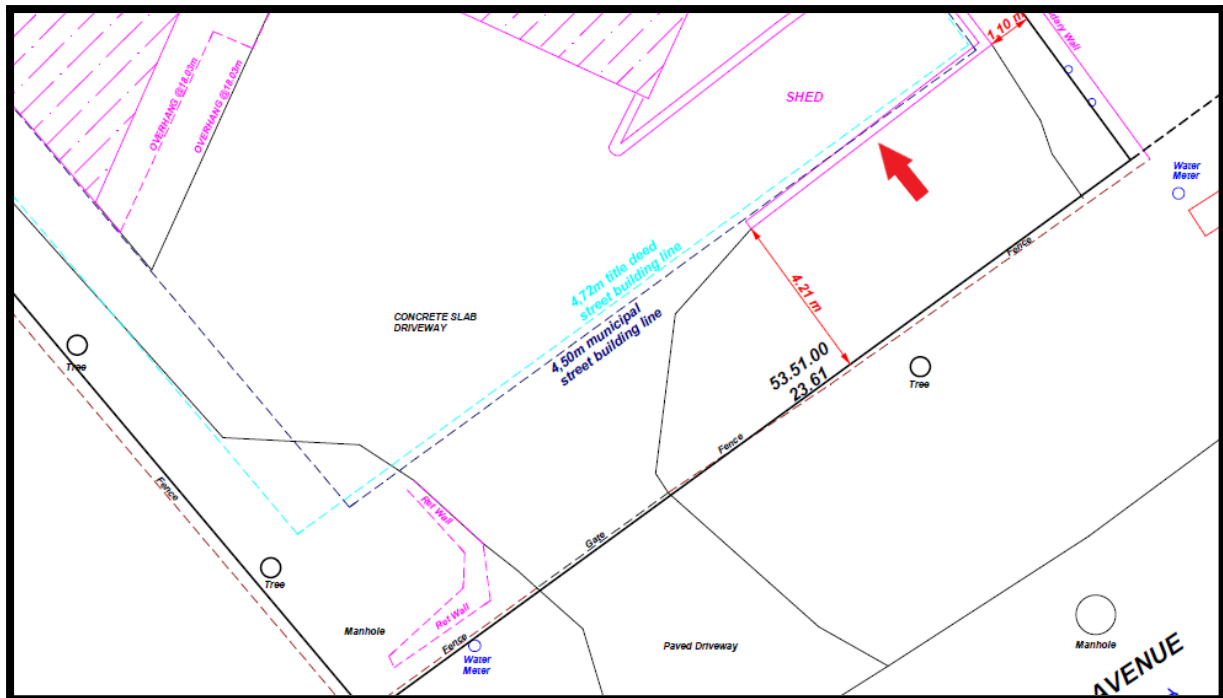


FIGURE 5: STREET BUILDING LINE ENCROACHMENT

4.5.2. It is evident from Figure 5 above that the shed is situated at 4.21m at its closest point to the street boundary. This results in a narrow sliver of the shed encroaching upon the 4.72m restrictive, and the 4.5m municipal street building line.

4.5.3. MOTIVATION AND IMPACT

4.5.3.1. It is evident from the figure above that only a narrow portion of the shed encroaches on the restrictive and municipal building lines. Furthermore, the shed does not span the entire length of the property.

4.5.3.2. The encroachment will not have any impact on the parking arrangement on the property, nor will it result in any 'stacking' of vehicles that could encroach onto the tarred road. This is due to the 4.21m gap between the nearest point of the structure and the property boundary, in addition to the significant space between the property boundary and the tarred road. Furthermore, due to the

narrow extent of the encroachment, it is not anticipated that there will be any effect on sight distances.

- 4.5.3.3. Considering these factors, the encroachment of the shed onto the street's building line will have no significant adverse visual impact and will not affect the area's character or its sense of place.
- 4.5.3.4. Additionally, the encroachment onto the street building line will have no impact on the privacy of abutting neighbours.
- 4.5.3.5. Moreover, due to the nature of the shed, the property's orientation, and the limited size of the encroachment, the encroachment will not obstruct solar access or have any shadowing effect on neighboring properties.
- 4.5.3.6. It is for these reasons that the shed's encroachment will not have any significant adverse impact on neighboring properties or the general area. Given its lack of any significant impact, it is considered desirable to regularise the as-built shed.

4.6. REAR BUILDING LINE

- 4.6.1. Figure 6 below displays an extract from the Site Development Plan, illustrating the encroaching portion of the dwelling house in relation to the rear boundary.

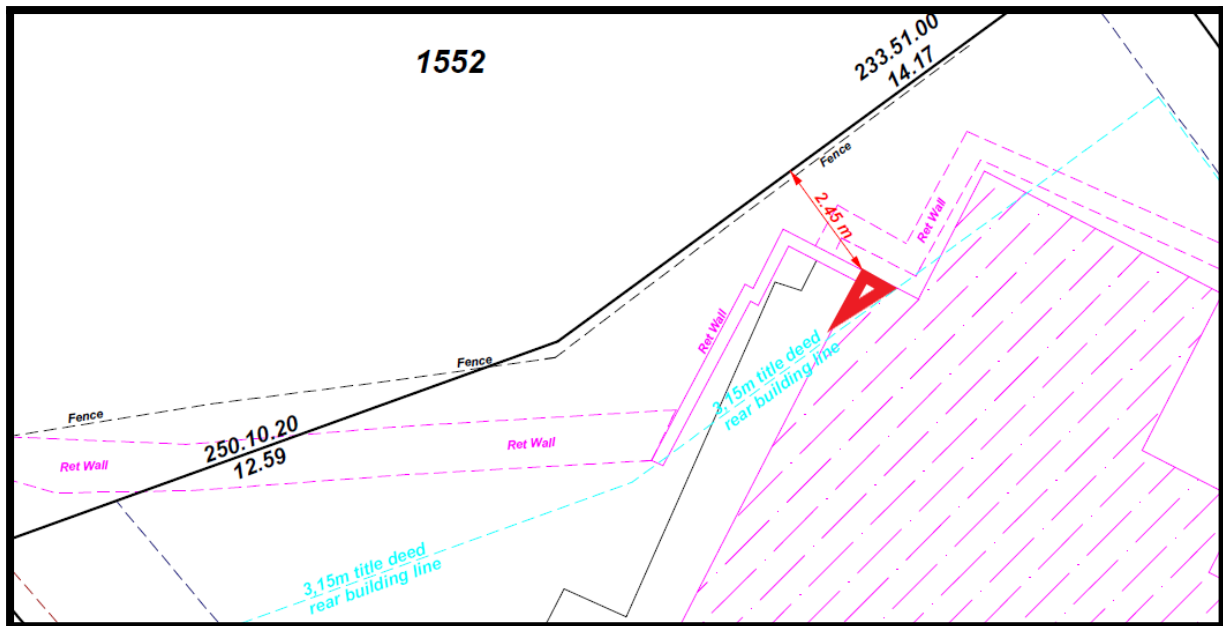


FIGURE 6: REAR BUILDING LINE ENCROACHMENT

- 4.6.2. The title deed prescribes a 3.15m rear building line, while the municipal zoning scheme prescribes 1.5m lateral (rear) building line.
- 4.6.3. As depicted in Figure 6 above, it is evident that the dwelling house is positioned at a distance of 2.45m from the rear boundary at its nearest point. Consequently, a small corner of the dwelling house exceeds the 3.15m restrictive rear building line by 0.7m at its closest point.

4.6.4. MOTIVATION AND IMPACT

- 4.6.4.1. It is significant to note that the dwelling house does not encroach on the municipal 'rear' building line. The regularisation of this portion of the dwelling house therefore does not require a departure from the development parameters of the zoning scheme, but rather only requires the removal of the restrictive building line condition of title.
- 4.6.4.2. Moreover, the encroaching portion constitutes merely a small corner of the dwelling house. As a minimum

distance of 2.45m is maintained between the property boundary and the nearest point of the dwelling house, the encroaching corner will not impose any noteworthy effects on abutting neighbors or the surrounding area in general. This includes the absence of significant adverse impacts on privacy, solar access, shadowing effects, access to all unbuilt areas, the character of the area, and its overall sense of place.

- 4.6.4.3. Consequently, it is deemed more desirable to regularise the encroachment than resorting to the demolition thereof.

4.7. EASTERN LATERAL BUILDING LINE

- 4.7.1. An extract of the Site Development Plan showing the position of the structures on the property in relation to the eastern lateral building line is shown in Figure 7 below.

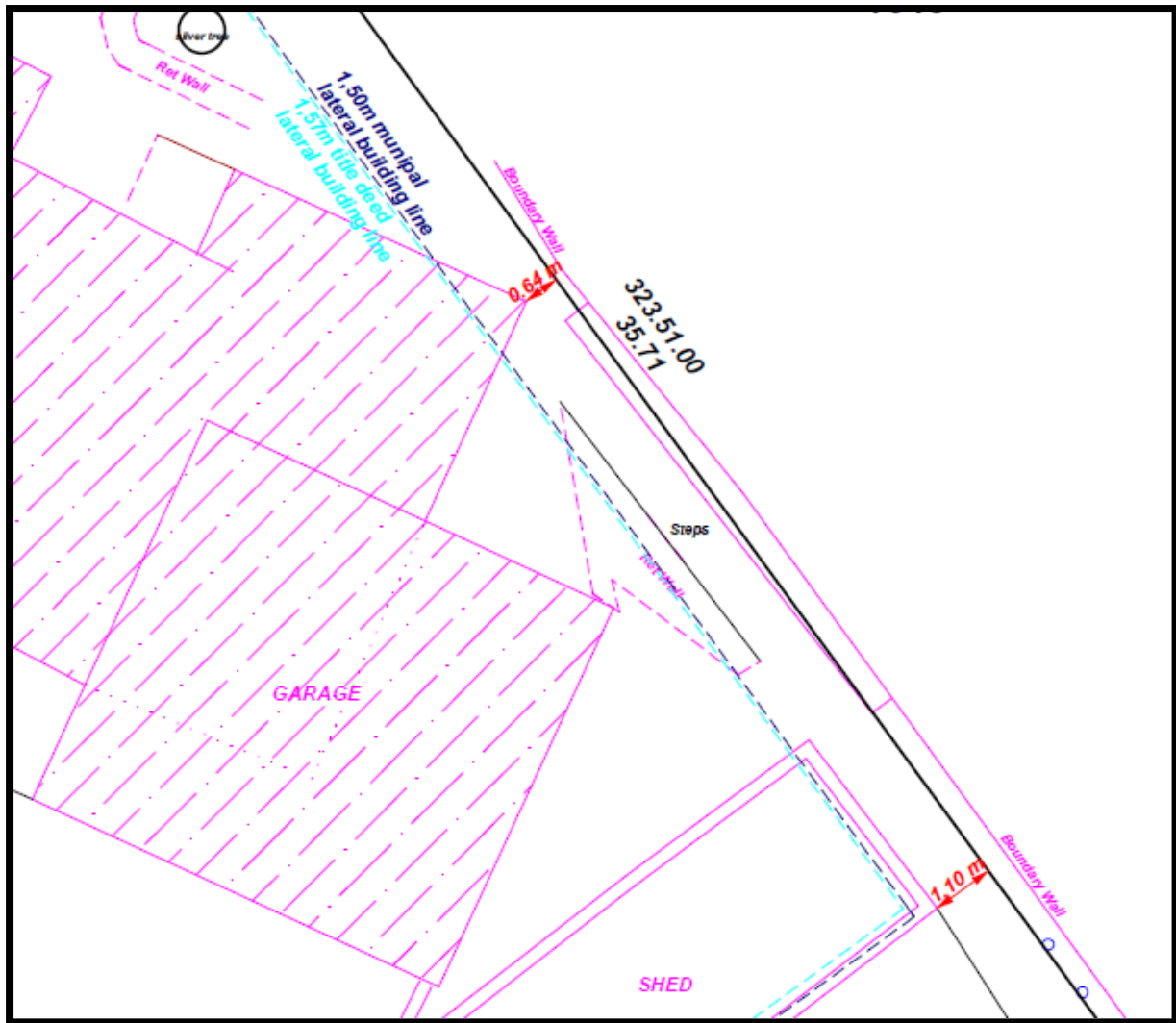


FIGURE 7: EASTERN LATERAL BUILDING LINE ENCROACHMENT

4.7.2. As depicted in Figure 7 above, the main dwelling house is positioned at a distance of 0.64m from the eastern lateral boundary at its nearest point, and the shed is located at 1.10m from the same boundary. Consequently, a portion of both the main dwelling house and the shed encroaches on the 1.57m restrictive and 1.5m municipal zoning scheme's eastern lateral building lines.

4.7.3. MOTIVATION AND IMPACT

4.7.3.1. Only a small sliver of the shed and a corner of the dwelling house encroach on the designated lateral building lines.

- 4.7.3.2. The encroachment of the corner of the dwelling house situated at a distance of 0.64m at its closest point to the boundary is not expected to have any substantial impact on the privacy of Erf 1543.
- 4.7.3.3. Similarly to paragraph 4.6.4, the encroachments are not expected to result in any noteworthy adverse effects on neighboring properties or the surrounding area. This encompasses no significant impact on aspects such as privacy; access to sunlight and shadowing effects; access to unbuilt areas; or any impact on the character of the area or its sense of place.
- 4.7.3.4. Consequently, it is deemed more desirable to regularise these encroachments than resorting to the demolition thereof.

4.8. WESTERN LATERAL BUILDING LINE

- 4.8.1. An extract of the Site Development Plan showing the position of the main dwelling house in relation to the western lateral building line is illustrated in Figure 8 below.

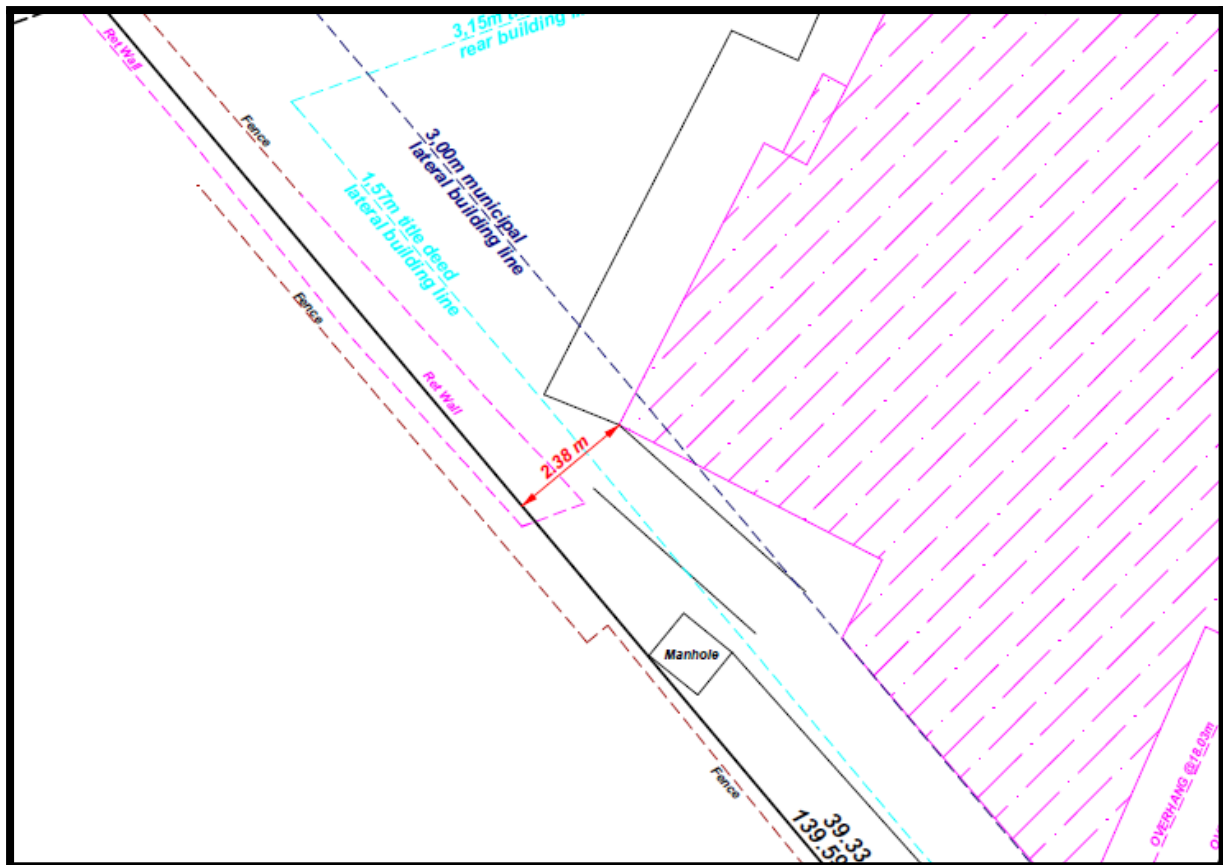


FIGURE 8: WESTERN LATERAL BUILDING LINE ENCROACHMENT

- 4.8.2. As depicted in Figure 8 above, the main dwelling house is positioned at a distance of 2.38m from the western lateral boundary at its nearest point.
- 4.8.3. The title deed stipulates a lateral building line of 1.57m, and this requirement has been complied with.
- 4.8.4. Furthermore, the zoning scheme specifies an aggregate side space of 4.5m with a minimum setback of 1.5m. Although the SDP designates a 1.5m building line for the eastern boundary and a 3m building line for the western boundary, it's important to note that strictly speaking the zoning scheme allows for staggered building lines that does not necessarily have to be uniform.
- 4.8.5. Therefore, it is clear that even though the main building is located 2.38m from the boundary, the aggregate side space in

relation to its corresponding point on the eastern boundary exceeds the minimum required 4.5m, thereby complying with the zoning scheme's building line requirements.

4.8.6. Notwithstanding the above, to mitigate any potential differences in the interpretation of the zoning scheme, application is nevertheless made for a relaxation of the 3m eastern lateral building line to 2.38m in order to regularise the 'encroaching' corner of the dwelling house.

4.8.7. Similar to paragraphs 4.6.4 and 4.7.3 the subject corner of the dwelling house is not anticipated to have any significant impact on the neighbouring Erf 1545 or the area in general. This includes no significant impact on aspects such as privacy; access to sunlight and shadowing effects; access to unbuilt areas; or any impact on the character of the area or its sense of place.

5. RESTRICTIVE CONDITIONS OF TITLE

5.1. INTRODUCTION

5.2. The sole reason for the application for the removal of the 'building line' restrictive condition of title is to formalise the dwelling house and shed on the property by regularising the encroaching portions of the structures in accordance with the Site Development Plan No. P1544SDP-1.

5.3. Restrictive condition E(4)(d) prescribes 4.72m street, 3.15m rear, and 1.57m lateral restrictive building lines.

5.4. MOTIVATION

5.4.1. The Planning By-Law stipulates that when the Municipality considers the removal of a restrictive condition the following aspects must also be considered³:

5.4.2. **The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity:**

5.4.2.1. The relevant conditions relating to building lines do not grant any direct financial benefit to any person.

5.4.3. **The personal benefits which accrue to the holder of rights in terms of the restrictive condition;**

5.4.3.1. The personal benefits of the above-mentioned restrictive conditions pertaining to building lines could include that of privacy, maintaining the character of the area and sense of place, solar access/overshadowing and so forth. It has been established in this report that the respective encroachments will not have a significant impact on any neighbouring property in particular, or the area in general..

5.4.4. **The personal benefits which will accrue to the person seeking the removal of the restrictive conditions if they are removed;**

5.4.4.1. The benefit that will accrue to the owner of Erf 1544 from the proposed removal of the restrictive building lines is that the owner would be able to regularise the dwelling house and shed on the property.

5.4.5. **The social benefit of the restrictive conditions remaining in place in their existing form;**

³ 'Planning By-Law' s. 33(5).

5.4.5.1. The retention of the restrictive building lines generally offers a potential social benefit by preserving the character of the area, particularly through the maintenance of a consistent streetscape.

5.4.5.2. It has been established in this report that the encroachments will not have any substantial impact on the character of the area or its sense of place. This is mainly attributed to the fact that only a narrow strip of the shed encroaches on the restrictive street building line.

5.4.5.3. Additionally, the encroachments on the rear and eastern lateral restrictive building lines will similarly not alter the character of the area or have any impact on its sense of place as they will have a minimal-to-insignificant visual impact from the streetscape.

5.4.6. The social benefit of the removal of the restrictive conditions;

5.4.6.1. The removal of the restrictive 'building line' condition of title is deemed to be desirable due to the following considerations :

5.4.6.1.1. The practice of imposing building line restrictive conditions predates the introduction of the zoning scheme. The reality is that maintaining two separate sets of building lines, one from the title deed and another from the zoning scheme causes fragmented requirements. For the sake of efficiency and 'good administrative' practices, it is preferable to maintain a single, cohesive set of building lines.

5.4.6.1.2. Moreover, it's important to recognise that development planning is a dynamic process. Virtually all Townships have incurred deviations

from what was originally envisaged at the township establishment stage. Furthermore, certain restrictive conditions of title can be considered to be archaic due to the evolution of development planning norms and principles. Lastly, the zoning scheme represents a more contemporary approach and reflects the current town planning dispensation, and it aligns with the current trends and objectives of the Municipality .

5.4.6.1.3. Lastly it is imperative to note that the removal of the restrictive building lines will not result in the complete removal of building lines, as building lines will continue to be regulated in accordance with the applicable zoning scheme.

5.4.6.2. The removal of the restrictive building lines would enable the regularization of the encroaching portions of the dwelling house and shed. This approach is preferable than resorting to the demolition of these sections in order to strictly adhere to the restrictive building lines. This is particularly the case due to the fact that the encroachments will have no substantial adverse impact on abutting neighbors or the area in general. Pursuing demolition of sections with a minimal-to-negligible impact is considered to be inconsistent with the principles of sustainability and efficient resource utilization.

5.4.7. **Whether the removal of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.**

5.4.7.1. This application solely pertains to the removal of the restrictive conditions that pertain to building lines while all other conditions of title will remain unaffected.

6. CONTEXT OF THE SURROUNDING URBAN ENVIRONMENT

6.1. As seen in Figure 11 below (an extract of Plettenberg Bay's Development Proposals in the local 'SDF') Erf 1544 is demarcated as 'urban' and is situated within the urban edge. Erf 1544 is surrounded by predominantly residential erven.

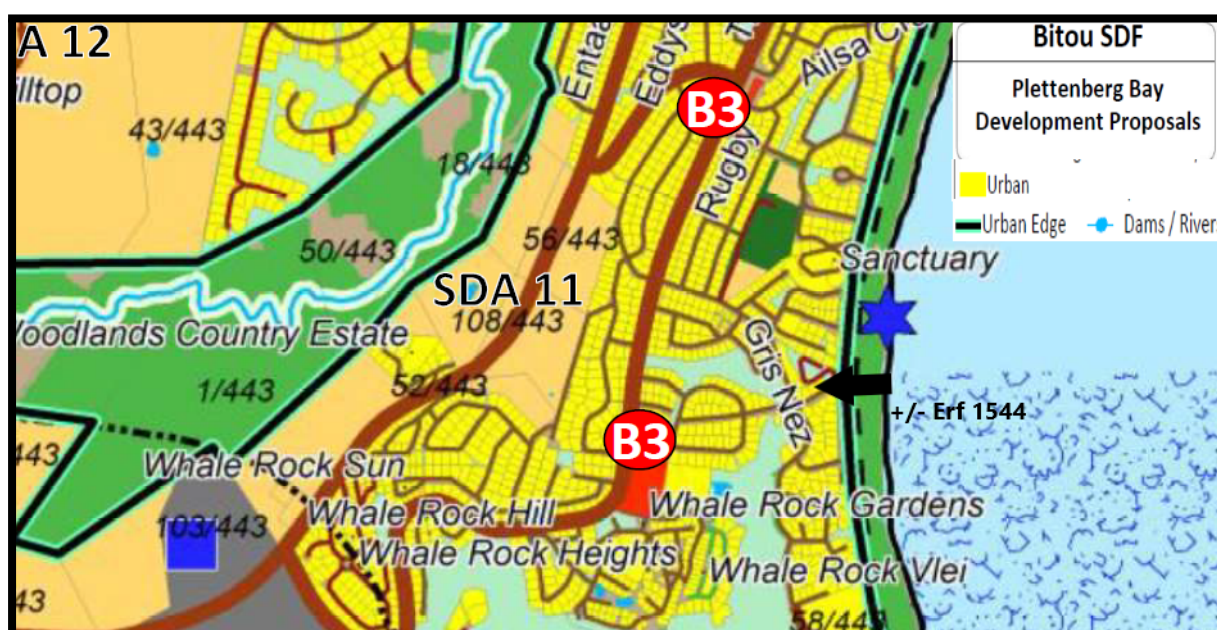


FIGURE 11: EXTRACT OF PLETTENBERG BAY'S DEVELOPMENT PROPOSALS

7. SITE SPECIFIC CONSIDERATIONS

7.1. Erf 1544 is not situated in an ecological corridors or an area with high biodiversity importance⁴. The immediate surrounding urban environment does not have any features of cultural⁵ or heritage⁶ significance. Although Robberg Nature Reserve and Marine Protected Area is situated in relatively close proximity to the property, the current application will have no impact on these protected areas. Additionally, the property is not situated in an area with steep slopes⁷, slippages, rock-falls and the like. The property is already developed and

⁴ Natural habitat, ecological corridors and areas with high biodiversity importance 'LUPA' s.59(2)(b)(i)

⁵ Landscapes or other natural features of cultural importance 'LUPA' s.59(2)(b)(iii)

⁶ Heritage Resources 'LUPA' s.59(2)(b)(ii)

⁷ Areas unsuitable for development, including flood plains, steep slopes, wetlands and areas with a high water table 'LUPA' S59(2)(b)(iii)

application is made for the regularisation of structures which have already been built.

8. SPATIAL DEVELOPMENT FRAMEWORK AND INTEGRATED DEVELOPMENT PLAN

- 8.1. The property is already developed and located within the urban edge. Hence, the proposal is consistent with the overall intentions and objectives of the SDF and IDP in relation to developing within the urban edge to prevent urban sprawl, and to use resources and the available municipal infrastructure in an efficient manner. The proposal which relates to building lines will not have any impact on the provision of services, impact on traffic and so forth.
- 8.2. The proposed removal of restrictive building lines and relaxation of zoning scheme building lines has minimal implications on specific policies and strategies within the SDF.
- 8.3. In a similar vein, there are no specific regulations or policies at the district, national or provincial government level that govern the removal or suspension of restrictive conditions of title in relation to restrictive building lines, or the relaxation of prescribed zoning scheme building lines. It will therefore serve little purpose for aspects such as compliance with district, provincial and national SDF's to be discussed in further detail. Nevertheless, these strategic documents, similarly to the local SDF, reiterate the principles of development within the urban edge and thereby the efficient use of resources. As the subject property is already developed and situated within the urban edge, the proposal similarly complies with the overall intention and objectives of these strategic documents and policies.

9. DEVELOPMENT PRINCIPLES

- 9.1. Notwithstanding the categorisation of land use principles as explained in the Appendix to this report all of them apply to all aspects of spatial planning, land development and land use management. Decisions

concerning land use development have to explicitly be related to the extent to which the proposal meets the objectives set out in these principles.

- 9.2. However, it is necessary for the principles to be considered holistically and at the appropriate planning level and geographic scale. This is so because the interpretation and application of the principles are context specific as the conditions upon which the principles have to be applied are not uniform throughout the municipal area.
- 9.3. In addition (and in particular) a mechanical approach whereby the land use principles are applied on a one-by-one basis without regard for their overall intention and spirit should be avoided. Such a 'one-by-one' methodology is contrary to the very purpose of a normative approach to planning (namely to move away from a controlling to an interpretive approach).
- 9.4. The reality is that no single development project/proposal can on its own achieve the overall objective envisaged by the introduction of the land use principles. Different development projects/proposals will have/achieved different objectives (compare for example a new school with a new shopping center), while not all the (components of the) various land use principles will necessarily apply in all instances. It is the responsibility of the Municipality as the 'planning authority' to ensure that the planning for and the actual use of land in the municipal area as a whole would comply with and achieve the desirable outcomes envisaged by the introduction of the land use principles.
- 9.5. In view of the above the land use principles do not prescribe 'yes-or-no' outcomes. In essence, a land development application has to be assessed in terms of its potential to further the holistic goals underpinning the principles.
- 9.6. Having said the above, the only principles that finds direct application in the current matter is:
 - 9.6.1. The principle of spatial sustainability insofar as it relates to:

- 9.6.1.1. *“Promoting land development that is within the fiscal, institutional and administrative means of the Republic”;*
- 9.6.1.2. *“uphold consistency of land use measures in accordance with environmental management instruments”;*
- 9.6.1.3. *“Consider(ing) all current and future costs to all parties for the provision of infrastructure and social services in land developments”;*
- 9.6.1.4. *“Promot(ing) land development in locations that are sustainable and limit urban sprawl”* and
- 9.6.1.5. *“(which will) result in communities that are viable”.*
- 9.6.1.6. The proposal aligns with, and complies with the principle of spatial sustainability insofar as it relates to the property's location within the urban edge. Furthermore, the current proposal to regularise structures which have already been constructed will not trigger any activities in terms of the environmental legislation.
- 9.6.2. The principle of efficiency insofar as it relates to:
 - 9.6.2.1. *“Land development (that) optimizes the use of existing resources and infrastructure”.*
 - 9.6.2.2. The property is already developed and situated within the urban edge. The current application pertaining to building lines will not require any additional Municipal infrastructure or services.

Nicolette Gericke-Jones

September 2023

Beacon Survey

Professional Land Surveyors
and Sectional Title Practitioners

103 Longships Drive P.O. Box 350 Plettenberg Bay

28 September 2022

Ref: P1544RH-1

Dr A. Jacobsz

By email : jacobsz@worldonline.co.za

HEIGHT REPORT ERF 1544 PLETTENBERG BAY

We confirm that we have surveyed the height of the new dwelling on Erf 1544 Plettenberg Bay above the NGL Approximation Plan and the results of our surveys are shown on plan P1544RH-1 dated September 2022 and in the table below.

NAME	HEIGHT	GROUND	DIFFERENCE
Parapet1	21.07	15.50	5.57
ridge1	23.15	19.41	3.74
ridge2	23.15	15.98	7.17
ridge3	20.40	14.82	5.58
ridge4	20.40	13.11	7.29

Wall Plate Height $(14,08 + 15,77)/2 + 6,00 = 20,92$.

Yours faithfully

Beacon Survey

Per:

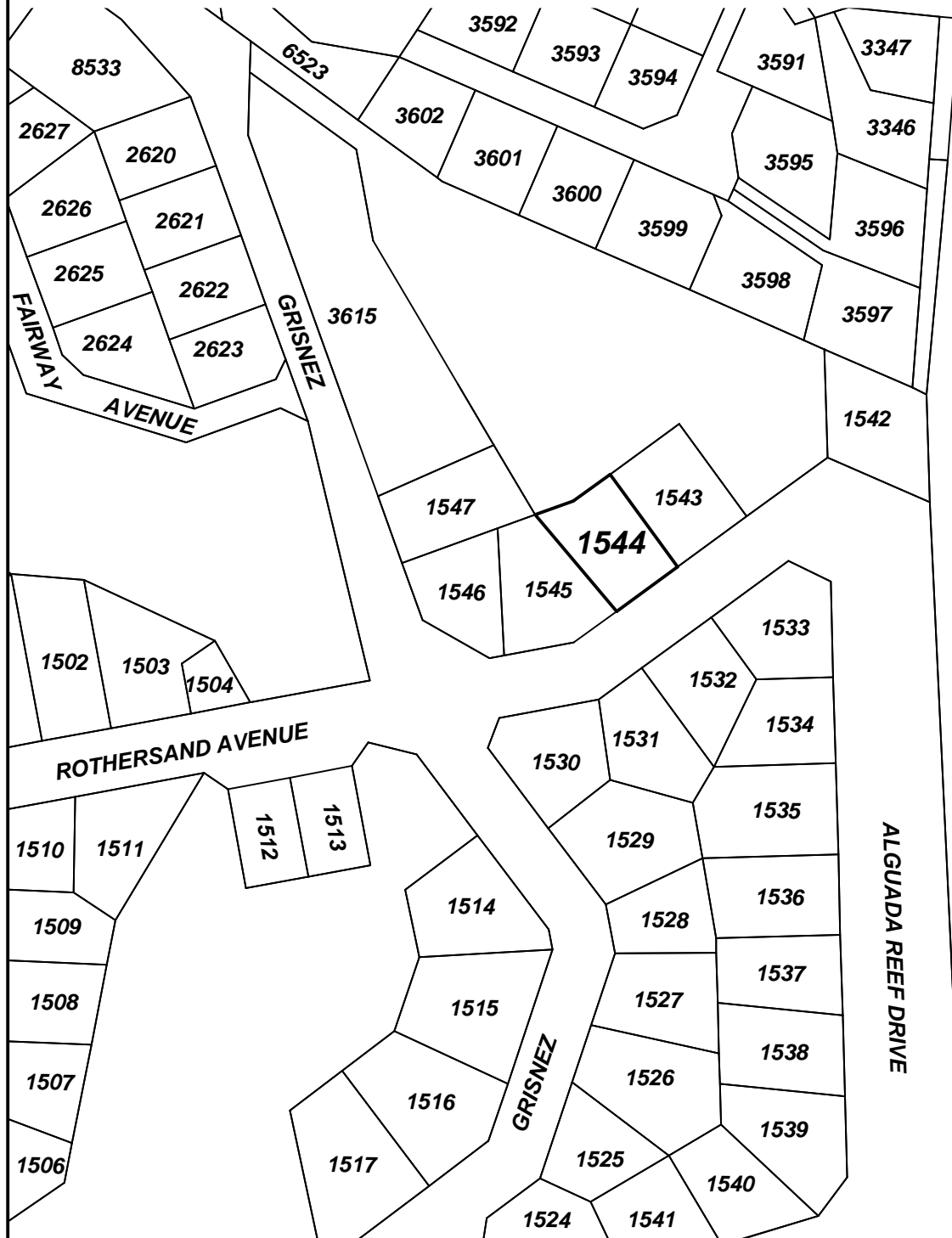
PGT/cr



LOCALITY PLAN
ERF 1544 PLETTENBERG BAY
situate in BITOU MUNICIPALITY
Administrative District of Knysna
Province of the Western Cape



SCALE 1:2000



Notes:

1. Cadastral information from Surveyor-General's GIS.

Beacon Survey

Professional Land Surveyors
and Sectional Title Practitioners

103 Longships Drive P.O.Box 350 Plettenberg Bay

Tel: (044) 533 2230 Fax: (044) 533 0264

e-mail: beaconsurvey@mweb.co.za

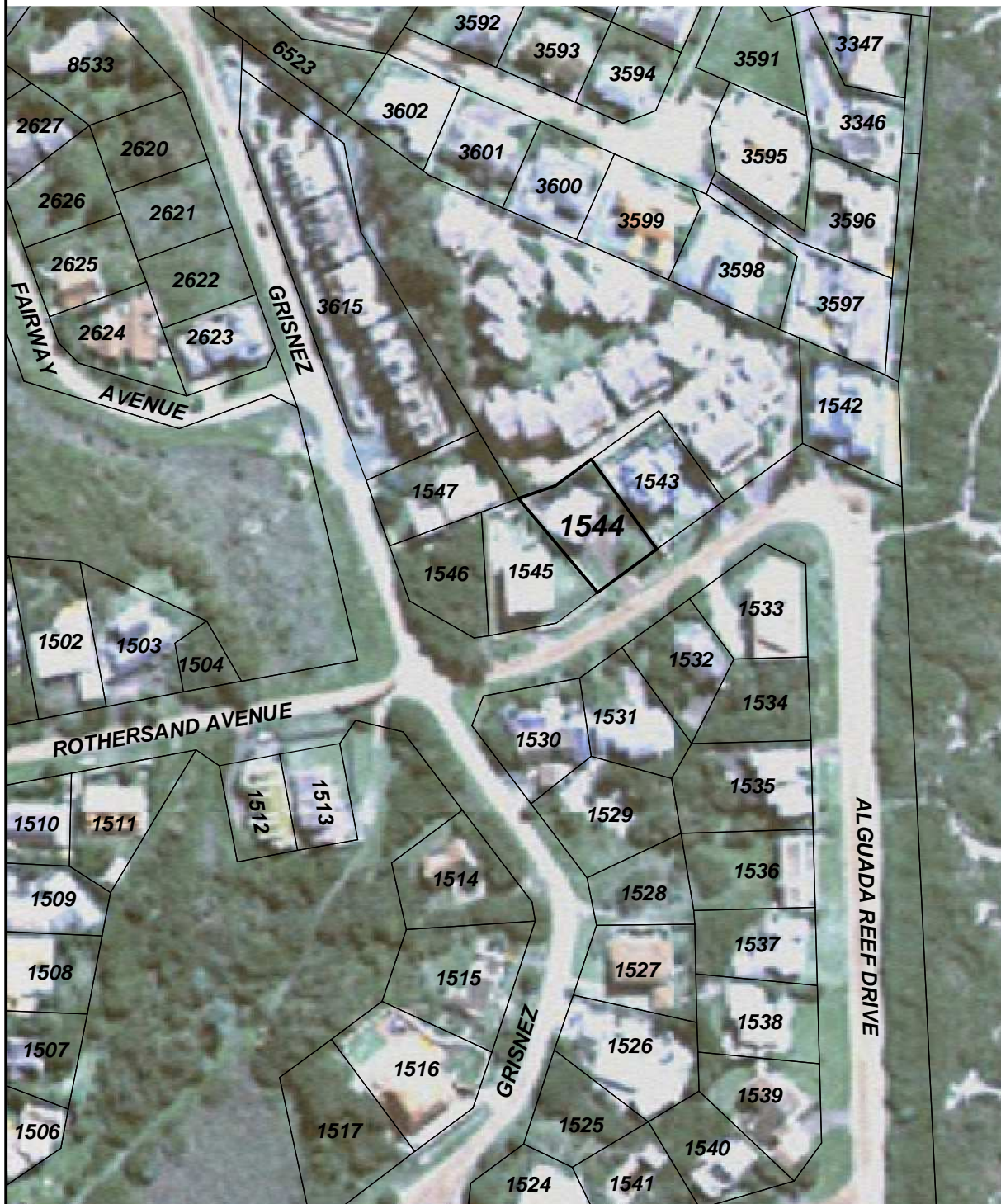
Date: January 2023

PLAN NO. P1544/LOC

AERIAL PHOTOGRAPHY PLAN
ERF 1544 PLETTENBERG BAY
situate in BITOU MUNICIPALITY
Administrative District of Knysna
Province of the Western Cape



SCALE 1:2000



Notes:

1. Cadastral information from Surveyor-General's GIS.

Beacon Survey

Professional Land Surveyors
and Sectional Title Practitioners

103 Longships Drive P.O.Box 350 Plettenberg Bay

Tel: (044) 533 2230 Fax: (044) 533 0264

e-mail: beaconsurvey@mw eb.co.za

Date: January 2023

PLAN NO. P1544/LOCIM

AERIAL PHOTOGRAPHY CONTOUR PLAN

ERF 1544 PLETTENBERG BAY
situate in BITOU MUNICIPALITY
Administrative District of Knysna
Province of the Western Cape



SCALE 1:2000



Notes:

1. Cadastral information from Surveyor-General's GIS.
2. Contours intervals = 2m intervals.

Beacon Survey

Professional Land Surveyors
and Sectional Title Practitioners

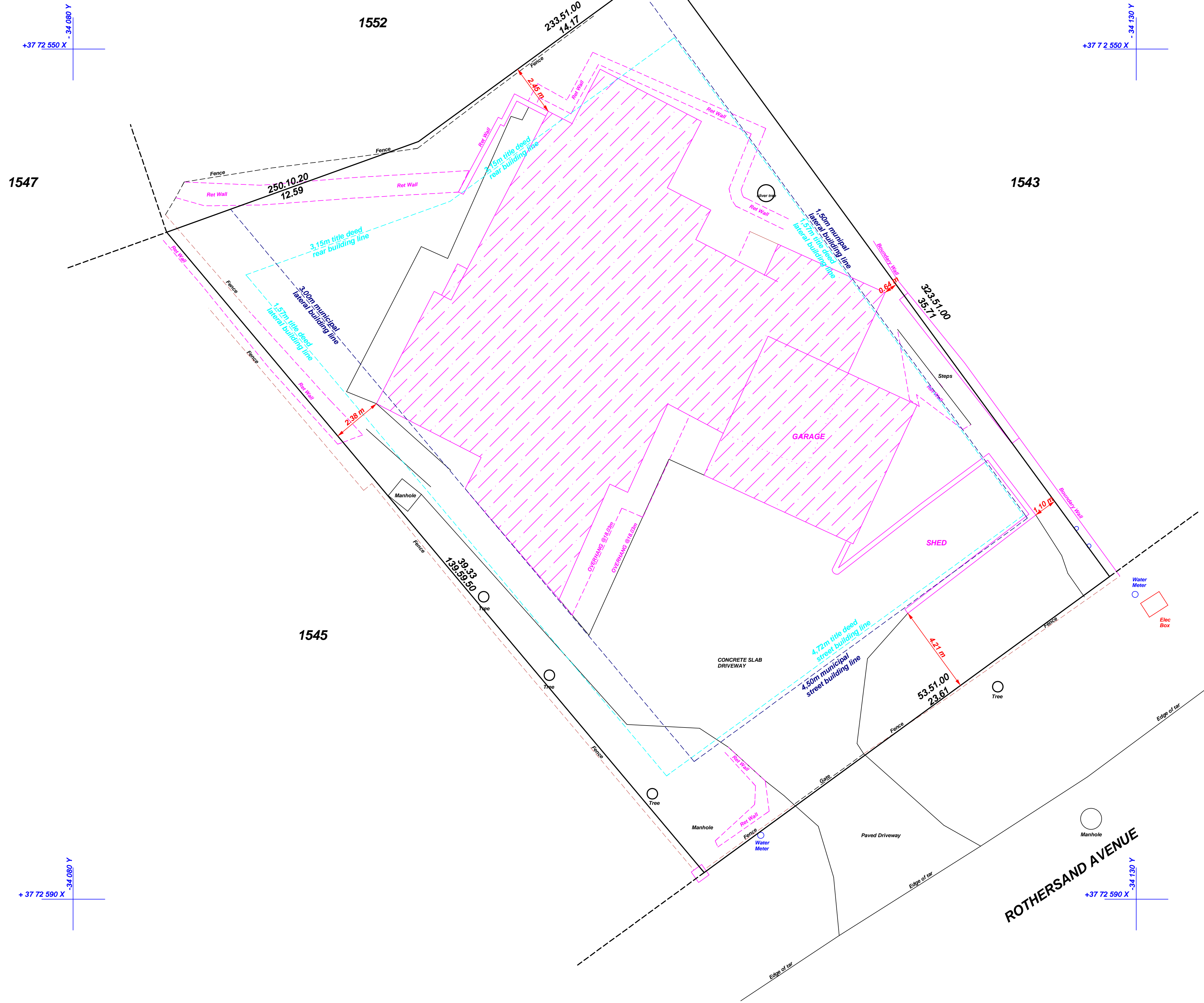
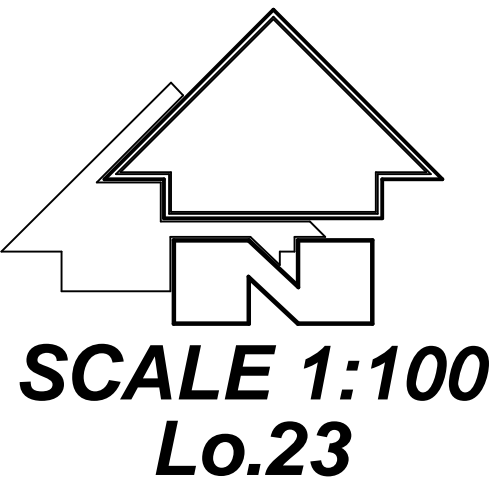
103 Longships Drive P.O.Box 350 Plettenberg Bay

Tel: (044) 533 2230 Fax: (044) 533 0264

e-mail: beaconsurvey@mw eb.co.za

Date: January 2023

PLAN NO. P1544/LOCIMCP



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Beacon Survey
Professional Land Surveyors
and Sectional Title Practitioners
103 Longships Drive P.O.Box 350 Plettenberg Bay
Tel: (044) 533 2230 Fax: (044) 533 0264
e-mail: beaconsurvey@mweb.co.za

CLIENT
Dr A. Jacobsz

PROJECT
**ERF 1544
PLETTENBERG BAY**

TITLE
**DETAIL PLAN &
ENCROACHMENTS**

DRG NO
P1544SDP-1

REV