

OVERSTRAND MUNICIPALITY	OVERSTRAND MUNISIPALITEIT	UMASIPALA WASE-OVERSTRAND
<u>REMAINDER OF PORTION 16 OF THE FARM ROCKLANDS NO 633, DIVISION CALEDON, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, DEPARTURE, CONSENT USE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF THE TRUSTEES FOR THE TIME BEING OF HEWITSON FAMILY TRUST</u> Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) of the following applications applicable to Remainder of Portion 16 of the Farm Rocklands No. 633, Division Caledon, namely: <u>Removal of restrictive title deed conditions</u> Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed condition E. as contained in Title Deed T34199/97. <u>Departures</u> Application in terms of Section 16(2)(b) of the By-Law for the following: - relaxation of the eastern lateral building line from 10m to 9.218m and 9.597m respectively to accommodate the existing garage; - relaxation of the eastern lateral building line from 10m to 2.322m to accommodate the woodstore; - relaxation of the eastern lateral building line from 10m to 7.07m to accommodate the proposed additional dwelling (cottage), and - relaxation of the eastern lateral building line from 10m to 2.880m and 3.510m respectively to accommodate the storage shed. <u>Consent use</u> Application in terms of Section 16(2)(o) of the By-Law to accommodate an additional dwelling (cottage). <u>Determination of an administrative penalty</u> Application in terms of Section 16(2)(q) of the By-Law to legalise the existing historic structures. Full details regarding the proposals above are available for inspection during weekdays between 08:00 and 16:30 at the Division: Town and Spatial Planning, 16 Paterson Street, Hermanus, Stanford Library, Queen Victoria Street, Stanford and on the municipal webpage at the following link https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/ Any comments must be in writing and reach the Municipality (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) on or before 21 August 2026, with your name, address, contact details, interest in the application and the reasons for comment. Telephonic inquiries can be made to the Town Planner, Mr P Roux at 028-3138900. The Municipality may refuse to accept comments after the closing date. Any person who cannot read or write can visit the Division: Town and Spatial Planning where they will be assisted by a municipal official in formulating their comments. <i>Please note that in terms of the Protection of Personal Information Act (POPIA), you will be entering into a public process and as such agree and consent to your name, surname, contact details and comment(s) may be disclosed / used in the (application) process.</i>	<u>REstant VAN GEDEELTE 16 VAN DIE PLAAS ROCKLANDS NR. 633, AFDELING CALEDON, OVERSTRAND MUNISIPALE AREA: AANSOEK OM OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDES, AFWYKING, VERGUNNINGSGEBRUIK EN BEPALING VAN ‘N ADMINISTRATIEWE BOETE: PLAN ACTIVE STADS- EN STREEKSBEPLANNERS NAMENS THE TRUSTEES FOR THE TIME BEING OF THE HEWITSON FAMILY TRUST</u> Kragtens Artikels 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die volgende aansoeke van toepassing op Restant Gedeelte 16 van die Plaas Rocklands Nr. 633, Afdeling Caledon, naamlik: <u>Opheffing van beperkende titelaktevoorwaardes</u> Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelaktevoorwaarde E. Soos vervat in Titelakte T34199/97. <u>Afwyking</u> Aansoek in gevolge Artikel 16(2)(b) van die Verordening ten einde die: - oostelike lateraleboulyn vanaf 10m tot 9.218 en 9.597m onderskeidelik te verslap om die bestaande motorhuis te akkommodeer; - oostelike lateraleboulyn vanaf 10m na 2.322m te verslap om die bestaande houtstoor te akkommodeer; - oostelike lateraleboulyn vanaf 10m na 7.07m te verslap om die voorgestelde addisionele wooneenheid (kothuis) te akkommodeer, - oostelike lateraleboulyn vanaf 10m na 2.880 en 3.510 onderskeidelik te verslap om die bestaande skuur te akkommodeer. <u>Vergunningsgebruik</u> Aansoek ingevolge Artikel 16(2)(o) van die Verordening om ‘n addisionele wooneenheid (kothuis) te akkommodeer. <u>Bepaling van ‘n administratiewe boete</u> Aansoek ingevolge Artikel 16(2)(q) van die Verordening om bestaande historiese strukture te wetting; Besonderhede aangaande die voorstel lê ter insae gedurende weeksdae tussen 08:00 en 16:30 by die Afdeling: Stads- en Streekbeplanning te Patersonstraat 16, Hermanus, Stanford Biblioteek, Queen Victoriastraat, Stanford en op die munisipale webtuiste by die volgende skakel https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/ Enige kommentaar moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (e) landuse@overstrand.gov.za) voor of op 21 Augustus 2026, met u naam, adres, kontak besonderhede, belang in die aansoek en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die Stadsbeplanner, Mr P Roux by 028-3138900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Afdeling: Stads- en Streekbeplanning besoek waar hul deur ‘n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer. <i>U aandag word gevestig op die Bepalinge van die “POPI” Wet, en aangesien u opmerking deel sal uitmaak van ‘n openbare deelname proses, u derhalwe toestem dat u naam, van en kontakbesonderhede openbaar gemaak mag word.</i>	<u>INTSALELO YESOHLULO 16 OF THE FARM ROCKLANDS NO 633, ICANDELO CALEDON, KUMMANDLA KAMASIPALA IOVERSTRAND:ISICelo SOKUSHENIXA IIMEKO EZIYIMIQOBO KWIITAYITILE ZOBUNINI, UKWAHLUKA, ISIVUMELO SOKUSEBENZISA NENGQIKELELO YOBHALISO LOMDLIWO: NGABAKWAPLAN ACTIVE TOWN NABACWANGCISI BENGINGQI EGAMENI LE- TRUSTEES ZETHUNTYANA ZE- HEWITSON FAMILY TRUST</u> Kuhutshwe isaziso esimayela nemiba yeSolotya lama-47 nelama-48 loMthethwana kaMasipala wase-Overstrand OsisiHlomelo soMthethwana kaMasipala ngeziCwangciso ZokuSetyenziswa koMhlaba ku2020 (Umthethwana) osebenziseka kwezi zicelo zeNtsalela yeNxaNenye 16 eisohlulo seFarm Rocklands No. 633, Division Caledon, esibizwa: <u>Ukushenxiswa kweemeko eziyimigobo kwiitayitile zobunini</u> Isicelo esisebenza ngokwemiba yeSolotya le16(2)(f) loMthethwana ongokushenxiswa kweemeko eziyimigobo kwiitayitile yobunini E.njengoko iqulethwe kwiTayitile Yobunini T34199/97. <u>Izahlulo</u> Isicelo esingemiba yeSolotya le16(2)(b) loMthethwana kule miba ilandelayo: - ukunyenxiswa kwemigca ekwicala elisempuma yesakhiwo emelene nesakhiwo ukusuka kwiimitha ezili-10m ukuya kweli-9.218m nengamai-9.597m ngokulandelelanayo ukulungiselela igaraji esele ikhona; - ukunyenxiswa komgca osepumpa okwicala elisempuma yesakhiwo ukusuka kwiimitha ezili-10m ukuya kwezi-2.322m ukulungiselela ivenkile yeenkuni; - ukunyenxiswa komgca okwicala elisentshona nomelene nesakhiwo ukusuka kwiimitha ezili10m ukuya kwezi-7.07m ukulungiselela indawo ekwisiphakamiso sokongezelela indawo yokuhlala(ikhotheji), esele ikhona, - nokunyenxiswa komgca wesakhiwo kwicala elisempuma yesakhiwo ukusuka kwiimitha ezili-10m ukuya kwi-2.880m ne-3.510m ngokulandelelanayo ukulungiselela ishedi yokugcina impahla. <u>Ukuvumela ukusebenzisa</u> Isicelo ngokwemiba yeSolotya le16(2)(o) loMthethwana ukulungiselela indawo eyongezelelwayo yokuhlala (ikhotheji). <u>Inggikelelo yomdliwo wobhaliso</u> Isicelo esingemiba yeSolotya le16(2)(q) loMthethwana okugunyazisa izakhiwo eziyimibali nesele zikhona. Iinkcukacha ezipheleleyo mayela ngeziphakamiso ezingentla ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi zasevekinikiwintsuku zaphakathi evekini ukusuka phakathi kwentsimbi ye-08:00 naye-16:30 kwiCandelo: LeziCwangciso Dolophu noBume beNdawo, 16 Paterson Street, Hermanus, Stanford Library, Queen Victoria Street, Stanford nakwiwebhpheji kamasipala kweliqhakamshela lilandelayo https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/ Naziphi na izimvo mazibhalwe phantsi zifike kwaMasipala (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) ngomhla okanye ngaphambi komhla wama 21 uAgasti 2026, ubhale igama lakho, idilesi yakho, iinkcukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zaho zokuhlomla. Imibuzo ngefowuni ingabuzwa kuMcwangcisi Omkhulu, Mnu P Roux kwa-028-3138900. UMasipala anagala ukwamkela izimvo ezifike emva komhla wokuvala. Nabani na ongakwazi ukufunda nokubhala angaya kwiCandelo: LeziCwangciso zeDolophu noBume beNdawo apho igosa likamasipala liza kumnceda ukwakha nokubhala izimvo zakhe bahlomle ngokusemthethweni. <i>Nceda uqaphele ukuba ngokoMthetho Okhusela Inxelo NgoMntu (POPIA), uza kube ungena kwinkqubo kawonkewanke ngoko ke uyavuma kwaye uvumelana nokuba igama lakho, ifani yakho, iinkcukacha zakho noluvo/nezimvo zakho zingadizwa/zingasetyenziswa kwinkqubo(kwisicelo) yesicelo.</i>
Dr DGI O'Neill Municipal Manager / Munisipale Bestuurder / Umphathi Kamasipala PO Box / Posbus / Ibhokisi yePosi 20 HERMANUS 7200 Notice No / Kennisgewing nr / Inombolo yesaziso: 131/2026		



MOTIVATION REPORT

*Consent Use, Building Line Departures, Administrative Penalty,
Approval in terms of Act 21 of 1940, and Removal of a Restrictive Title Deed
Condition*

PORTION 16 OF THE FARM ROCKLANDS NO. 633 | OVERSTRAND MUNICIPALITY

Property	Portion 16 of the Farm Rocklands No. 633
Title Deed	T34199/97
Owner	Hewitson Family Trust
Extent	6.3186 hectares
Zoning	Agriculture Zone 1 (AGR1)
Municipality	Overstrand Municipality
Application Types	Consent Use Building Line Departures Administrative Penalty Ribbon Development Act Approval Removal of Restrictive Title Deed Condition
Prepared by	Plan Active Town Planners

1. BACKGROUND

Plan Active Town Planners has been appointed by the Hewitson Family Trust, the owner of Portion 16 of Farm Rockland No. 633, held under Title Deed T34199/97, to prepare and submit an application for consent use, building line departures, the determination of an administrative penalty, approval in terms of the Ribbon Development Act, 1940 (Act 21 of 1940) and the Removal of a Restrictive Title Deed condition. The farm portion measures 6.3186 hectares in extent, and no bond is registered against the property.

The purpose of the applications is to regularise the existing cottage as a second dwelling and to obtain the necessary building line departures relating to the cottage, storage shed, woodstore, and garage, which currently encroach upon the eastern lateral building line of the subject property.

In addition, a restrictive condition in the Title Deed prohibits the use of the farm for any purpose other than agriculture and residential use, limited to one dwelling with outbuildings, and requires that the land be used exclusively for agricultural and residential purposes. This restriction was imposed in terms of the Ribbon Development Act, 1940, and may be amended with the written consent of the Controlling Authority as defined in Act 21 of 1940. Accordingly, this application must be circulated to the Controlling Authority (District Roads Engineer) for consideration and approval.

Furthermore, paragraph E on page 7 of the Title Deed imposes an additional restriction limiting the property to a single dwelling for use by a single family. This condition, imposed in terms of Section 196 of Ordinance 15 of 1952, may be amended or relaxed by the Administrator. Application is accordingly made for the complete removal of this condition in its entirety to permit the formalisation of the existing cottage as a lawful second dwelling unit.

2. APPLICATION DETAILS

Application is hereby submitted in terms of the following provisions and requirements:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for building line departures applicable to Portion 16 of Farm No. 633.
- Chapter 4, Section 16(2)(o) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for a consent use to permit an additional dwelling unit on the subject property.
- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an administrative penalty relating to Portion 16 of Farm No. 633.
- Approval from the District Roads Engineer for the consent of the Title Deed condition imposed in terms of the Ribbon Development Act, 1940 (Act 21 of 1940), which limits the use of the property to agricultural and single residential purposes.
- Section 16(2)(f), Chapter 4 – for the removal of the restrictive condition contained in paragraph E of the Title Deed in its entirety, in order to allow a second dwelling unit.

3. GENERAL APPLICATION INFORMATION

3.1 Property Description

Portion 16 of the Farm Rocklands No. 633 measures 6.3186 hectares in extent and is held under Title Deed T34199/97. The property forms part of a rural agricultural landscape situated along the northern bank of the Klein Rivier Lagoon, approximately 6.5 km east of Voëlklip, Hermanus and 9 km west of Stanford. Its location places it within a sensitive environmental setting characterised by expansive natural vistas, rural tranquillity, and proximity to surrounding agricultural holdings and rural residential land uses.

The subject farm is defined by two prominent and functionally significant boundaries:

Northern Boundary – R43 Provincial Road

The property fronts directly onto the R43, a major regional mobility route linking Hermanus, Voëlklip, and Stanford. This boundary provides the primary vehicular access to the site and positions the property within a strategic movement corridor that supports tourism, agriculture, and rural residential activity.

Southern Boundary – Klein Rivier Lagoon

The farm extends southwards to the edge of the Klein Rivier Lagoon, a key ecological feature forming part of a broader wetland and estuarine system. This boundary contributes to the scenic, environmental, and recreational value of the property and informs land-use management considerations, including biodiversity sensitivity, visual impact, and development restraint near the watercourse.

Overall, the property's setting—between a provincial road of regional significance and a sensitive lagoon system—creates a unique interface of agricultural, ecological, and rural-residential characteristics that guides the approach to land-use planning and development compliance.

3.2 Zoning

Portion 16 of Farm Rocklands No. 633 is zoned Agriculture Zone 1 (AGR1) in terms of the Overstrand Municipality Land Use Scheme, 2020. This zoning category is intended to accommodate bona fide agricultural activities while allowing a limited range of residential, tourism-related, and rural enterprise uses, subject to specified controls.

In Agriculture Zone 1:

- Primary land uses permitted as of right include agriculture, a dwelling house, guest rooms, a crèche, and home occupation.
- Consent uses that may be authorised by the Municipality include, among others: additional dwelling units, tourist accommodation, tourist facilities, guest houses, agricultural industry, aquaculture, lodges, places of assembly, places of entertainment, and wellness centres.
- Development parameters include a maximum total floor space of 5 000m² (unless relaxed for bona fide farming needs), height limits (8 m for dwelling units; 12 m for agricultural structures), and building lines determined according to land unit size. Given that the subject property is 6.3186ha in extent, a 10m street/road and common boundary building line applies.

Surrounding farms in the area are similarly zoned Agriculture Zone 1, with several properties having obtained consent uses to accommodate tourism-related activities, additional dwellings, guest accommodation facilities, and associated rural enterprises. This pattern of land-use rights reflects the Municipality's intention—expressed through the Scheme—to support diversified agricultural holdings that incorporate low-intensity tourism and rural residential components, provided that they remain compatible with the agricultural character and environmental sensitivities of the broader landscape.

3.3 Land Use

Portion 16 of the Farm Rocklands No. 633 is zoned Agriculture Zone 1 (AGR1) in terms of the Overstrand Municipality Land Use Scheme, 2020, and is further subject to restrictive conditions imposed in terms of the Ribbon Development Act, 1940 (Act 21 of 1940). Although zoned for agricultural purposes, the property is currently utilised predominantly for residential use, consistent with the historic development of the farm portion and the rights afforded under its primary zoning.

The site contains a main dwelling supported by several associated outbuildings, including a storage shed, woodstore, garage, and boathouse. In addition to these structures, an established cottage is located to the north of the primary dwelling. The cottage forms part of the existing built environment on the property and is the subject of the current application for regularisation as a second dwelling unit.

The broader area surrounding Portion 16 exhibits a mixed rural character, comprising:

- Agricultural activities, including traditional farming operations;
- Nature-oriented land uses, given the farm's proximity to the Klein Rivier Lagoon and natural landscapes; and
- Tourism-related activities, which are prevalent in the wider Rocklands–Stanford–Voëlklip rural corridor and typically include guest accommodation, farm-based tourism, and recreational amenities.

This combination of agricultural, environmental, and tourism-related land uses reflects the established rural development pattern within this segment of the Overstrand municipal area and provides an appropriate contextual basis for the proposed land use regularisation on the subject farm portion.

3.4 Proposed Development

- Building line departures in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020.
- Consent use to permit an additional dwelling unit in terms of Chapter 4, Section 16(2)(o) of the Amended By-law.
- Determination of an administrative penalty in terms of Chapter 4, Section 16(2)(q) of the Amended By-law.
- Approval from the District Roads Engineer in terms of paragraph D2 of the Title Deed and the Ribbon Development Act, 1940 (Act 21 of 1940).
- Removal of the restrictive Title Deed condition contained in paragraph E of the Title Deed in its entirety in terms of Section 16(2)(f) of the Amended By-law.

Portion 16 of Farm Rocklands No. 633 (6.277ha after R43 expropriation) contains a collection of long-established rural buildings whose development history is recorded through a combination of approved and historic plans. The 1990 approved site plan for the Main House extension clearly identifies the existing dwelling, boathouse, and the outlines of the cottage and an existing shed, establishing these structures as part of the verified built fabric at that time as depicted below:

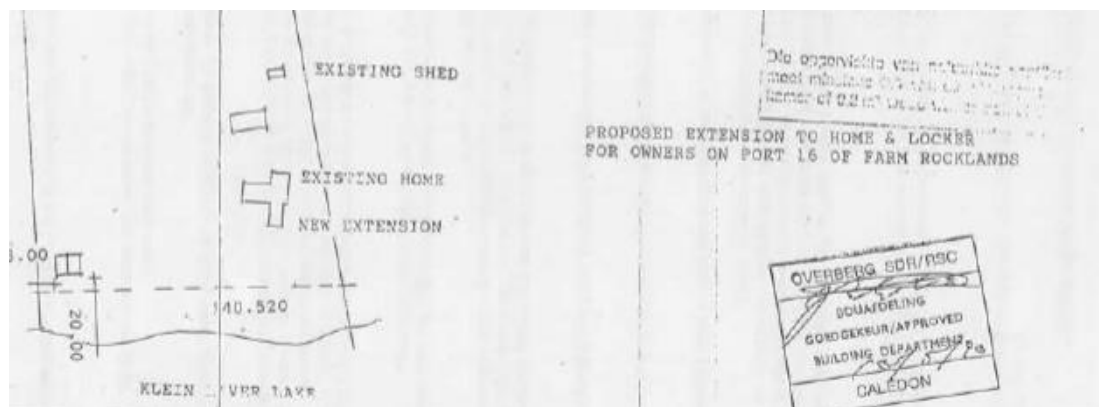


Figure 1: 1990 Approved Site Plan — Portion 16, Farm Rocklands No. 633

The cottage, originally a labourer's dwelling over 100 years old, already featured a kitchen and bathroom and was extended modestly in 1997; this expansion is documented in the sketch and floor plan below and reflects a continuation of the original footprint.

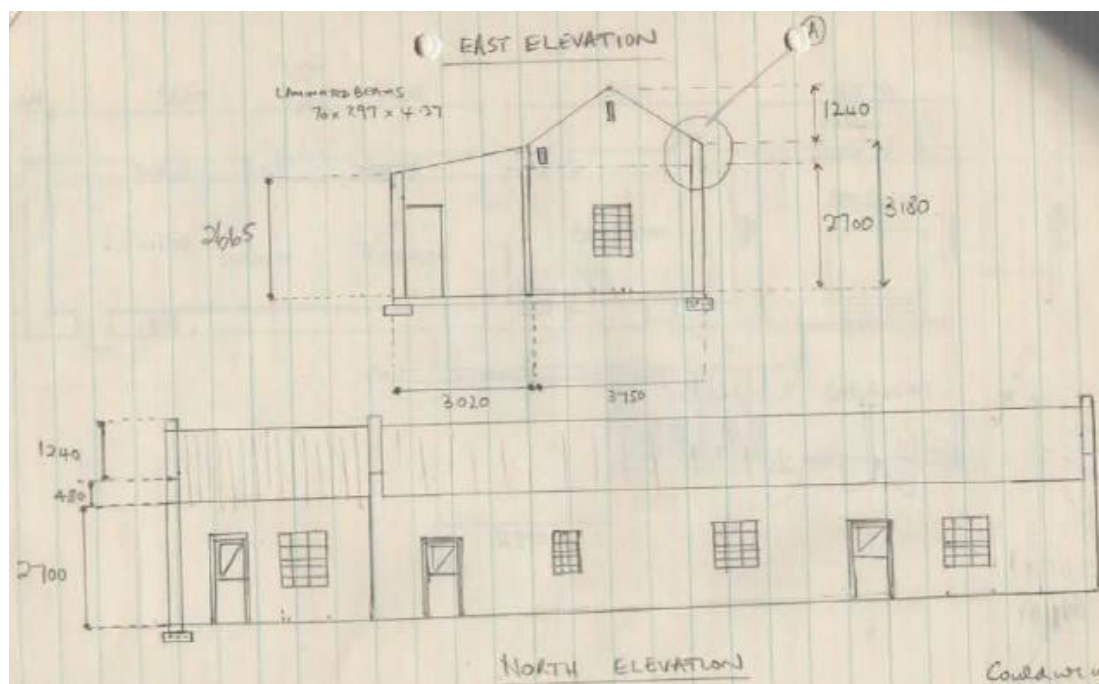


Figure 2: 1997 Cottage Extension Sketch — Portion 16, Farm Rocklands No. 633

1997 Cottage Extension

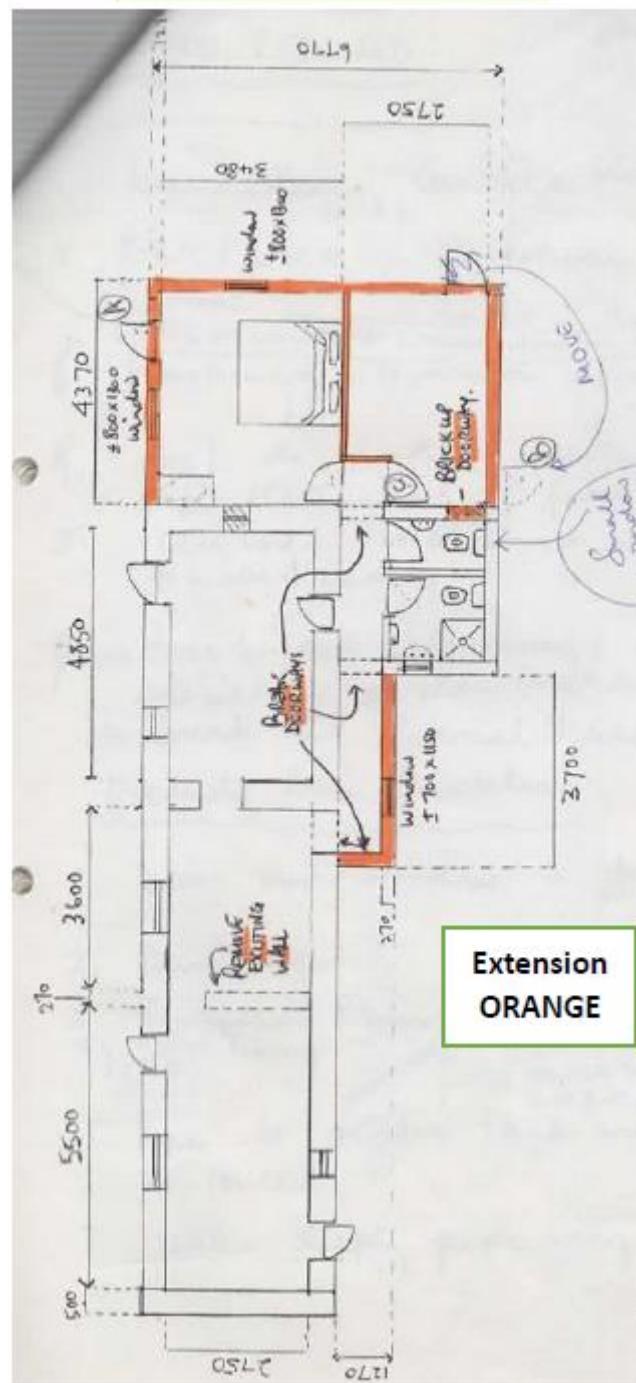


Figure 3: 1997 Cottage Extension Floor Plan — Portion 16, Farm Rocklands No. 633

The historic photographs below further illustrate the long-standing presence of the cottage on the property, showing the labourer's cottage as it appeared on purchase in 1968 and following a fire in 1991, after which it was repaired and continued in use.



Figure 4: Labourer's Cottage on Purchase (1968) — Portion 16, Farm Rocklands No. 633



Figure 5: Cottage Following Fire by Labourer (1991) — Portion 16, Farm Rocklands No. 633

The garage (a 2010 replacement of the old shed), storage shed, and woodstore do not have formally approved building plans, although their positions correspond closely to the structures shown on the 1990 site plan, indicating that they replaced or evolved from long-standing outbuildings. The photograph below shows the original wood and iron shed prior to its replacement by the current vibracrete garage in 2010.



Figure 6: Original Wood & Iron Shed, Replaced by Vibracrete Garage (2010) — Portion 16, Farm Rocklands No. 633

Recent as-built drawings (J1369 series) confirm the current dimensions and locations of all buildings—including the Main House, cottage, boathouse, garage, shed, and woodstore—and demonstrate that the property has consistently been developed with a primary dwelling and associated outbuildings typical of an agricultural holding. Collectively, the documentation provides a coherent record of the site's built environment and supports the regularisation of the existing structures and the cottage's consideration as an additional dwelling unit.

3.4.1 Proposed Building Line Departures

In terms of the Overstrand Municipality Land Use Scheme, 2020, properties zoned Agriculture Zone 1 (AGR1) must comply with the development parameters set out in Chapter 5.1 of the Scheme. The zoning prescribes building line requirements that vary according to the size of the land unit. For Agricultural Zone 1 properties greater than 1ha but less than or equal to 10ha, the Scheme specifies the following mandatory minimum building lines:

- Street boundary building line: 10 metres
- Common boundary (lateral and rear) building lines: 10 metres

Given that Portion 16 of Farm Rocklands No. 633 measures 6.3186 ha, these 10m building lines apply uniformly to all boundaries of the property. No differentiation is made between the northern road boundary (R43), internal agricultural boundaries, or boundaries adjacent to natural features such as the Klein Rivier Lagoon. All structures must therefore either comply with the required 10m setback or obtain a departure in terms of Chapter 16(2)(b) of the By-law.

As mentioned, the following structures encroach the eastern lateral boundary line:

Building Type	Building Size (m ²)	Encroachment (m ²)	Distance from Boundary
Garage	45.31	6.10	9.218m and 9.597m
Woodstore	11.64	11.64	2.322m
Cottage (Proposed Second Dwelling)	114m ²	12.90	7.07m
Storage Shed	15.04	15.04	2.880m and 3.510m

A review of the existing structures on Portion 16 of Farm Rocklands No. 633 as tabled above confirms that several buildings encroach into the prescribed 10-metre eastern lateral building line applicable to land zoned Agriculture Zone 1 (AGR1).

- The garage encroaches by 6.10m², being positioned 9.218m and 9.597m from the eastern lateral boundary, and therefore requires a relaxation of the building line from 10m to 9.218m.
- The woodstore, located 2.322m from the eastern lateral boundary and encroaching by 11.64m², requires a relaxation from 10m to 2.322m.

- The cottage, proposed to be formalised as a second dwelling, is situated 7.07m from the eastern lateral boundary, resulting in a 12.90m² encroachment and necessitating a relaxation from 10m to 7.07m.
- The storage shed, positioned 2.880m and 3.510m from the eastern lateral boundary and encroaching by 15.04m², requires a relaxation from 10m to 2.880m.

Please refer to the as-built site development plan for the precise positioning of the existing buildings, as well as the accompanying sets of building plans, which provide detailed information on the structures concerned.

All encroachments are small in scale relative to the size of the 6.3186ha property, have existed for an extended period, and do not generate any adverse impacts on health, safety, environmental factors, or neighbouring properties. Given their longstanding presence, functional importance, and compatibility with the rural setting, it is appropriate that the Municipality approve the required departures to relax the building line standard and regularise the existing, historically established built form.

3.4.2 Proposed Consent Use

In terms of Chapter 5.1 – Agriculture Zone 1 (AGR1) of the Overstrand Municipality Land Use Scheme, 2020, a second dwelling unit is a consent use that may be authorised by the Municipality, provided it remains subordinate to the primary dwelling and is compatible with the rural and agricultural character of the land. The existing cottage on Portion 16 of Farm Rocklands No. 633 is therefore proposed to be formally recognised as a second dwelling through this application.

The cottage is a historic structure exceeding 100 years of age, originally constructed and used as a labourer's cottage. Its long-standing presence on the property is reflected in the 1990 approved site plan, where its outline appears as part of the established built form. Although originally serving a basic residential and service function for farm labourers, the building has been adapted over time and now accommodates a fully functional residential unit.

The structure measures 114m² in extent and contains a complete set of habitable rooms consistent with the definition of a second dwelling under the Zoning Scheme. The internal layout comprises an open-plan lounge and kitchen, a passage, three bedrooms, a bathroom equipped with a washbasin, shower, and toilet, as well as a separate guest toilet. This configuration renders the cottage a self-contained dwelling capable of independent occupation while remaining clearly subordinate in scale and function to the main house. Please refer to the attached building plan set providing the as-built detail of the proposed second dwelling unit.

Given the substantial size of the property (6.3186ha), the generous spatial separation between buildings, and the cottage's historic, long-established presence, the proposed consent use will not detract from the prevailing rural character nor interfere with adjacent agricultural or tourism-related uses. Formalising the cottage as a second dwelling will ensure full compliance with the requirements of the Overstrand Municipality Land Use Scheme, 2020, while regularising existing conditions and supporting the lawful continuation of residential use on the property.

3.4.3 Proposed Determination of an Administrative Penalty

In terms of Chapter 5, Section 90(1) of the Overstrand Municipality Amended Municipal Land Use Planning By-law, 2020, any person who has contravened the By-law and seeks to rectify such contravention is required to apply to the Municipality for the determination of an administrative penalty, unless a demolition directive has already been issued in terms of Section 85 for the land or building concerned.

As this application seeks to regularise existing contraventions of the By-law, an application for the determination of an administrative penalty is accordingly submitted in terms of Chapter 4, Section 16(2)(q) of the By-law. It is noted, however, that the Municipal Planning Tribunal (MPT) retains the discretion not to impose an administrative penalty, taking into consideration the nature, extent, and circumstances of the contravention, as well as any mitigating factors presented as part of this application.

In terms of Section 90(3) of the Overstrand Municipality Municipal Land Use Planning By-law (2020), the Municipal Planning Tribunal (MPT) is required to consider, at a minimum, the following factors when determining an appropriate administrative penalty:

The Nature, Duration, Gravity and Extent of the Contravention

The contraventions relate solely to historic structures erected within the prescribed 10-metre Agriculture Zone 1 building line and, in some cases, without formally approved building plans. These structures have existed on the property for decades, pre-dating current ownership, and do not reflect recent or intentional non-compliance. The extent of the affected areas is limited and documented in the accompanying as-built drawings.

A small portion of the garage encroaches by 6.10m² into the building line. The structure is shown on the as-built garage and boathouse drawings (J1369_SK_02), which illustrate the vibracrete garage that replaced the original corrugated-iron shed indicated on the 1990 approved site plan. The encroachment is the result of the shed's historic position rather than the footprint of the 2010 replacement.

The woodstore, measuring 11.64m², is located entirely within the building line and forms part of the cluster of small utility structures historically associated with the dwelling. It is constructed with concrete columns supporting a mono-pitch roof and is open on all four sides. The footprint and configuration are detailed in drawing J1369_SK_03, which illustrates the building's layout and elevations.

A 12.90m² portion of the cottage, now intended to be formalised as a second dwelling, also encroaches on the building line. The encroaching area consists of part of the original 100-year-old structure and small portions of Bedrooms 1 and 2, added in 1997. This is illustrated clearly in the cottage floor plan and elevations (J1369_SK_03). The cottage also appears in outline on the 1990 approved site plan, confirming its historic presence on the property.

The storage shed, a 15.04m² wooden building, is situated entirely within the 10-metre building line. Its position and extent are confirmed in drawing J1369_SK_01, which illustrates the full footprint, elevations, and construction details. The shed is a lightweight timber structure resembling a typical garden-shed-style Wendy house.

Overall, the contraventions are limited in scale, long-standing, and do not compromise health, safety, environmental considerations, or neighbouring properties. They comprise small rural utility structures typical of the agricultural context.

The Conduct of the Person Involved in the Contravention

The owner has consistently acted in good faith, relying on historic municipal records—particularly the 1990 approved site plan, which identifies the main dwelling, boathouse, cottage outline, and shed footprint. At the time, it was reasonable to conclude that these long-standing structures complied with Title Deed provisions permitting “outbuildings ordinarily required.”

Where replacement occurred—such as the transformation of the original shed into the current garage—the owners replicated the original footprint and function, believing that additional approvals were unnecessary. Similarly, the 1997 extension to the cottage was undertaken in the understanding that the cottage was a recognised, established structure with existing ablutions and kitchen facilities.

Upon becoming aware of potential non-compliance, the owner acted responsibly by commissioning as-built measured drawings (J1369 series) and submitting the necessary applications to regularise all structures. Their conduct throughout reflects transparency, cooperation, and a commitment to resolving the matter in accordance with municipal requirements.

Whether the Unlawful Conduct Was Stopped

The contraventions relate to longstanding, static building footprints rather than ongoing activities. No further construction or alteration has been undertaken, and the owner has ceased all building work pending municipal approval. While the physical structures already exist, the unlawful situation has been effectively stopped by:

- commissioning professional as-built plans (J1369_SK_01, J1369_SK_02, J1369_SK_03);
- submitting applications for building line departures;
- submitting a consent use application to formalise the cottage as a second dwelling; and
- applying for the determination of an administrative penalty.

Accordingly, all unlawful conduct has been halted from a construction perspective, as the long-standing structures continue to be used only for their intended purposes. The owner has taken the necessary legal and procedural steps to regularise the existing built form.

Cost Estimate in Matters of Unauthorised Building / Construction

A cost estimate prepared by Engelbrecht & Scorgie Architectural Offices, dated 12 December 2025, accompanies this application and provides a market-related assessment of the portions of structures located within the prescribed building lines, with reference to the attached set of building plans. The report

identifies and quantifies only those limited portions of buildings that encroach into the building line, rather than the full structures, as follows:

- Open woodstore (Portion A): 11.64m² at R1 150/m², with an estimated cost of R13 386.00.
- Portion of garage (Portion B): 6.10m² at R4 295/m², with an estimated cost of R26 199.00.
- Portion of cottage (Portion C): 12.90m² at R8 927/m², with an estimated cost of R115 158.00.
- Storage shed (Portion D): 15.04m², pre-manufactured timber structure, with an estimated cost of R15 500.00.

The total estimated construction cost of the encroaching portions amounts to R170 243.00. Applying the commonly used guideline of 5% of construction cost to determine an administrative penalty would yield a penalty of approximately R8 512.00.

It is respectfully submitted that an administrative penalty should not be imposed in this instance. The encroachments are historic, minor in scale, and partially inherited, with no evidence of intentional non-compliance. Several of the structures appear on historic plans, including the 1990 approved site plan, and others represent like-for-like replacements or small ancillary structures customary to rural properties. No new construction was undertaken to intensify use or circumvent planning controls, and the owner has acted in good faith by commissioning professional as-built drawings, obtaining an independent cost assessment, and submitting a comprehensive regularisation application.

Furthermore, the structures pose no risk to health, safety, or the environment, do not prejudice neighbouring properties, and are compatible with the rural character of the area. In light of the limited extent of the contraventions, the absence of harm, and the owner's cooperative conduct, it is motivated that the Municipal Planning Tribunal exercise its discretion in terms of Section 90 of the Municipal Planning By-law to waive the administrative penalty, or alternatively to impose a nominal penalty only, should it deem this necessary.

Whether a Person Involved in the Contravention Has Previously Contravened This By-Law or a Previous Planning Law

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

3.4.4 Approval Request in Terms of the Ribbon Development Act, Act 21 of 1940

Title Deed No. T34199/97 contains restrictive conditions regulating the number of dwelling units permitted on the property. These conditions are confirmed by a Conveyancer's Certificate issued by Van Zyl Kruger Attorneys, which identifies the applicable provisions contained in paragraph D (page 6), specifically paragraphs D2 to D4, of the Title Deed.

Based on the review of the Title Deed and the nature of the proposed development, it is our considered opinion that only paragraph D2 is applicable to the current application for approval in terms of the Ribbon Development Act.

The relevant condition contained in paragraph D.2 on page 6 of the Title Deed reads as follows:

D. SUBJECT to the following conditions contained in the said Deed of Transfer No. 12289/1965, imposed by the Controlling Authority in terms of Act 21 of 1940, namely: 2. Not more than one dwelling house together with such outbuildings as are ordinarily required to be used in connection therewith, shall be erected on the land except with the written approval of the Controlling Authority as defined in Act No. 21 of 1940.

In terms of this provision, application is hereby made for the written approval of the Controlling Authority (District Roads Engineer) to permit the existing cottage to be formalised as a second dwelling unit.

As demonstrated in this report, the cottage is an existing structure of a historic nature, previously utilised as a labourer's dwelling, and currently functions as a compact, self-contained residential unit. The remaining structures on the property, including the garage, woodstore, storage shed, and boathouse, are customary outbuildings ordinarily required in connection with the main dwelling and accordingly fall within the scope of development permitted by the Title Deed.

Paragraphs D3 and D4, although confirmed in the Conveyancer's Certificate, are not considered applicable to the current application as they relate to land use restrictions and road building line controls which are not triggered by the proposal.

In conclusion, the proposed second dwelling is modest in scale, unobtrusive, and consistent with the rural character of the area. It will not adversely impact agricultural activities on the subject property or surrounding farms and is considered compatible with the prevailing land-use context. The proposal is therefore capable of approval within the framework of paragraph D2 of the Title Deed, subject to the requisite written approval from the Controlling Authority as outlined above.

3.4.5 Removal of Restrictive Title Deed Condition

Title Deed No. T34199/97, applicable to Portion 16 of the Farm Rocklands No. 633, contains a restrictive condition in paragraph E on page 7 that limits the property to a single dwelling for use by a single family. An existing second dwelling unit is present on the property in the form of the historic cottage, and the removal of this condition is necessary to accommodate and give legal recognition to that existing second dwelling.

The removal of this restriction is necessary as the condition prohibits the existence of more than one dwelling on the property, irrespective of the rights provided under the current Overstrand Municipality Land

Use Scheme. While a consent use for an additional dwelling unit may be considered and approved by the Municipality under the Land Use Scheme, the Title Deed restriction constitutes a separate, registered legal constraint over the property. Accordingly, even if the Municipality supports the consent use under the zoning scheme, such approval cannot lawfully be implemented while the restrictive Title Deed condition remains in force.

The removal of the restrictive condition is therefore required to accommodate the existing second dwelling unit and to align the property's legal position with the prevailing statutory planning framework, without altering the broader development controls applicable to the property.

The relevant condition, recorded on page 7, paragraph E of the Title Deed, provides as follows:

- SUBJECT to the following conditions in the said Deed of Transfer No. 12289/1965, imposed in terms of Section 196 of Ordinance 15 of 1952 and enforceable by the Divisional Council, Caledon, and in favour of the Administrator:
 - The land shall be subject to the following condition which may be amended or relaxed by the Administrator:
 - No building other than one dwelling for use by a single family together with such outbuildings as are ordinarily required to be used therewith may be erected on this land.

We have been advised by the Overstrand Municipality that this condition must be removed in its entirety. In light of the above, and having regard to the existing second dwelling unit on the property, the removal of this restrictive Title Deed condition is required to enable the Municipality to consider and determine the application on its planning merits.

Legislative Consideration: Section 39(5) of LUPA

In terms of Section 39(5) of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014) ("LUPA"), a municipality must have due regard to specific considerations when evaluating an application for the removal, suspension, or amendment of a restrictive condition. These considerations provide the statutory framework to ensure that any such removal is reasonable, justified, and aligned with sound planning principles.

The relevant factors include:

- The financial or other value of the restrictive condition to any person;
- The purpose of the restrictive condition;
- The duration for which the condition has been applicable;
- Whether the condition remains enforceable;
- Whether the removal, suspension, or amendment will materially affect the rights or legitimate expectations of any person;

- Whether the removal, suspension, or amendment would be in the public interest; and
- Whether the proposed removal, suspension, or amendment would conflict with any applicable:
 - Spatial Development Framework or adopted policy;
 - Approved municipal planning by-law;
 - Land Use Scheme; or
 - Other applicable municipal or provincial legislation.

Each of the above considerations is addressed below in support of the motivation for the removal of the restrictive Title Deed condition applicable to Portion 16 of the Farm Rocklands No. 633.

• **The financial or other value of the restrictive condition to any person**

There is no identifiable financial or proprietary benefit accruing to any neighbouring landowner or third party as a direct result of the continued enforcement of the restrictive condition in paragraph E. The restriction was imposed in favour of the Administrator and does not create a registered real right in favour of adjoining owners. Its removal will therefore not diminish any vested property value or legally protected entitlement held by any third party.

• **The purpose of the restrictive condition**

The original purpose of the restrictive condition was to limit the number of residential units on the property in order to control residential density and preserve the rural agricultural character at the time of its imposition. These objectives are now comprehensively regulated by the Overstrand Municipality Land Use Scheme, which provides for consent use approval of additional dwelling units, subject to defined criteria and Municipal Planning Tribunal consideration.

The Title Deed restriction effectively duplicates and, in certain respects, conflicts with the contemporary statutory controls. Its removal will not eliminate development control but will instead ensure that the property is regulated uniformly and exclusively in terms of the current planning framework.

• **The period during which the condition has been applicable**

The condition was imposed in terms of Section 196 of Ordinance 15 of 1952 and has applied to the property since at least 1965, when it was carried through via Deed of Transfer No. 12289/1965. It has therefore been in force for more than sixty years. Over this period, the legislative and regulatory framework governing land use has been fundamentally transformed through SPLUMA, LUPA, and the Overstrand Municipal Planning By-law. The long duration of the condition does not strengthen its relevance; rather, it underscores the extent to which it has become misaligned with the current planning regime.

• Whether the condition is still enforceable

Although the condition remains legally enforceable in a formal sense, its practical planning relevance has substantially diminished. Land use management is now exercised through LUPA, the Overstrand Municipal Planning By-law, and the Land Use Scheme, which provide clear and structured procedures for consent use approvals and regularisation based on the merits of each application.

The current application does not seek to negate development controls, but rather to accommodate an existing second dwelling unit through the appropriate statutory mechanisms. The removal of the condition will ensure that the property is managed exclusively within the current statutory framework, without the confusion and legal uncertainty created by the co-existence of an outdated private restriction and contemporary zoning controls.

• Whether the removal will materially affect the rights or legitimate expectations of any person

The proposed removal will not materially affect the rights or legitimate expectations of adjoining owners or any other person. The property will remain subject to all applicable zoning controls under the Land Use Scheme, including requirements for any future consent use applications. The condition was imposed in favour of the Administrator (now vesting in the Overstrand Municipality) and not for the benefit of individual neighbouring landowners.

The application does not introduce additional bulk, height, or intensified land use beyond the recognition of the existing second dwelling unit. It merely resolves an historic legal constraint in a manner consistent with the current statutory planning regime. Adjoining owners cannot reasonably expect perpetual enforcement of a condition imposed under repealed legislation where a modern statutory framework provides structured and equitable regulation.

• Whether the removal will be in the public interest

The removal is in the public interest as it facilitates the lawful accommodation of an existing second dwelling unit on a property with a documented history of residential use spanning more than a century. The existing second dwelling does not introduce any new building, intensify land use, or alter the rural character of the property.

Requiring enforcement of an historic private restriction imposed under repealed legislation—to prohibit a dwelling that has existed for over a century—would be unreasonable, legally inconsistent, and contrary to the principles of proportionality and spatial justice embedded in LUPA and SPLUMA. Removal promotes legal certainty while maintaining the integrity of current development controls.

• Whether the removal will conflict with any applicable spatial development framework, land use scheme, or legislation

The proposed removal does not conflict with the applicable Spatial Development Framework, the Overstrand Land Use Scheme, the Municipal Planning By-law, or any other relevant legislation. On the

contrary, it enables the property to be regulated exclusively in terms of the prevailing statutory planning instruments, which are specifically designed to manage land use and development parameters in a consistent and equitable manner across the municipality.

The Land Use Scheme expressly permits a second dwelling unit as a consent use on Agriculture Zone 1 properties. An existing second dwelling unit is present on the property and the removal of paragraph E removes an outdated constraint that prevents the lawful recognition of that dwelling, enabling the application to be assessed on its planning merits in accordance with the current statutory framework.

Accordingly, the proposed removal satisfies all relevant considerations of Section 39(5) of LUPA and is both reasonable and justifiable in the prevailing planning context. The condition is outdated, inconsistent with the current regulatory framework, serves no useful planning purpose, and prevents the lawful recognition of an existing second dwelling unit. Its removal is appropriate, proportionate, and consistent with the applicable legislative and policy framework.

4. CHARACTER OF THE ENVIRONMENT

The subject property forms part of the distinctive Hermanus–Stanford rural landscape, an area widely recognised for its exceptional scenic quality, tranquillity, and biodiversity. Set between the Klein River Lagoon and the Kleinrivier Mountains, the property enjoys uninterrupted views over natural vegetation, watercourses, and mountain backdrops—features that collectively contribute to the region’s status as an area of outstanding natural beauty. This broader landscape plays a central role in attracting both local and international visitors, forming a vital component of the Overstrand’s tourism economy.

The surrounding environment is characterised by a diverse yet harmonious blend of land uses, including long-established agricultural activities, nature-oriented rural holdings, and a range of tourism-related enterprises. These include wine estates offering tasting rooms and restaurants, curated function venues, farm stalls, and small-scale tourism accommodation. The wider area also supports numerous outdoor recreation opportunities such as hiking trails, mountain-biking routes, and lagoon-based activities, all of which contribute to the region’s rural appeal.

Within this context, the subject property fits seamlessly into the prevailing agricultural-tourism mosaic that defines the Hermanus–Stanford corridor. Its existing built form—comprising a main dwelling, historic cottage, boathouse, and small-scale utility outbuildings—is consistent with the low-intensity, rural residential character typical of farms in the area. The proposed formalisation of the cottage as a second dwelling unit respects this character, remains visually unobtrusive, and does not detract from ongoing agricultural or tourism functions within the broader environment.

5. THE POTENTIAL OF THE PROPERTY (DESIRABILITY OF THE PROPOSED UTILISATION)

The subject property, situated within the highly valued Hermanus–Stanford rural corridor, possesses significant environmental, scenic, and functional attributes that support the desirability of the proposed utilisation. Its extensive size (6.3186ha), established rural character, and strategic location between the Klein River Lagoon and the R43 collectively provide ample capacity to accommodate a second dwelling unit without compromising agricultural operations, the natural landscape, or the surrounding rural environment.

The proposed formalisation of the historic cottage as a second dwelling enhances the inherent potential of the property by enabling the lawful utilisation of an existing structure that has formed part of the built fabric for over a century. The cottage is compact in scale, respectful of the rural vernacular, and already integrated into the landscape. Formal recognition of the building as a second dwelling will not introduce any new visual, environmental, or infrastructural impacts, as the structure has long existed and continues to function independently without necessitating additional services beyond those currently available on the farm.

From a planning perspective, the proposed land use is desirable as it aligns with the Overstrand Municipality's strategic development and land use objectives, which support low-intensity residential accommodation in agricultural areas where such development does not undermine the primary rural character. The second dwelling will neither fragment agricultural land nor interfere with ongoing activities on the farm or adjacent properties. Instead, it optimises the use of existing infrastructure and contributes to the sustainable management of the property.

Additionally, given the broader rural setting—characterised by agricultural activities, tourism facilities, and selective accommodation offerings—the proposed utilisation is compatible with the established land-use pattern. The presence of an approved main dwelling with associated outbuildings, together with the long-standing cottage, confirms the property's suitability to accommodate two residential units without altering its functional or visual identity.

In summary, the potential of the property supports the desirability of the proposed second dwelling, which is modest in scale, historically present, environmentally compatible, and consistent with the prevailing rural context and planning policy framework. The proposal promotes efficient land use, enhances the lawful utilisation of existing structures, and maintains the integrity of the agricultural and scenic environment.

6. ECONOMIC IMPACT

The proposed formalisation of the existing cottage as a second dwelling unit is expected to have a neutral to positive economic impact, particularly given that the property functions primarily as a lifestyle farm rather than an actively cultivated agricultural unit. The limited size of the farm portion and its established residential–rural character mean that the property does not contribute significantly to primary agricultural production. As such, the proposed land-use change will not result in any loss of agricultural output or economic opportunity.

By regularising an existing structure, the proposal enhances the lawful and efficient use of the property without introducing new development pressures or requiring additional municipal infrastructure. The second dwelling may accommodate family members, caretakers, or individuals involved in maintaining the lifestyle and environmental value of the property, thereby supporting its ongoing management and upkeep. This contributes indirectly to the local rural economy by ensuring well-maintained properties within a high-value scenic corridor.

Furthermore, the Hermanus–Stanford area is characterised by tourism, lifestyle estates, wine farms, and nature-based recreation rather than intensive farming. Ensuring legal compliance and orderly land-use on lifestyle properties helps to sustain the broader tourism and amenity-driven economy that the region relies upon. The formalisation of the cottage will not alter the economic functioning of the surrounding area; instead, it reinforces the stable and predictable planning environment necessary for continued investment in tourism, recreation, and rural residential assets.

The proposal imposes no financial burden on the Municipality, as no new services or infrastructure upgrades are required. On the contrary, regularisation supports accurate property valuation and contributes to long-term planning certainty.

In summary, the proposed second dwelling is economically appropriate for a lifestyle farm, carries no negative economic implications, and aligns with the prevailing land-use patterns and economic drivers of the Hermanus–Stanford rural landscape.

7. SOCIAL IMPACT

The proposed formalisation of the existing cottage as a second dwelling unit is expected to have a negligible to positive social impact. As a long-established structure that has existed on the property for more than a century, the cottage has long formed part of the social and spatial fabric of the farm without generating conflict or incompatible activity. The proposal does not introduce new households, activities, or buildings but simply regularises an existing, historically occupied residential unit.

Given that the property functions primarily as a lifestyle farm, the second dwelling will continue to support the typical social use patterns associated with rural residential properties—accommodating family members, caretakers, or guests in a manner that is consistent with the area’s character. The presence of a second lawful dwelling also contributes to improved property oversight and enhances passive security, which is beneficial in low-density rural environments.

The proposal does not result in increased noise, traffic, or population density that could adversely affect neighbouring properties. The site is generously sized at 6.3186ha, ensuring substantial separation between dwellings on adjacent farms. The rural community within the Hermanus–Stanford corridor is accustomed to low-intensity residential accommodation associated with lifestyle farms, smallholdings, and tourism-oriented properties, and the regularisation of the cottage aligns with this prevailing social environment.

Importantly, the application promotes legal compliance and responsible land stewardship, which are socially desirable outcomes. Regularising the cottage helps ensure transparency in land-use administration and supports orderly development, thereby contributing to long-term social stability in the rural area.

In conclusion, the proposal has no adverse social impacts and is consistent with the established settlement pattern, expectations, and lifestyle characteristics of the surrounding rural community.

8. IMPACT ON EXTERNAL ENGINEERING SERVICES

8.1 Provision of Services

The proposed formalisation of the existing cottage as a second dwelling unit does not create any additional burden on municipal services, as all required services are already in place and currently support both the main dwelling and cottage. No new infrastructure is required, and no upgrades to existing systems are anticipated.

Due to the large extent of the property (6.3186ha) and the low residential density, there is no requirement for additional road access, stormwater infrastructure, or solid waste management interventions. Waste generation will remain minimal and consistent with existing lifestyle farm operations, and current waste-handling practices will continue to apply.

In summary, the proposed consent use does not trigger any increased demand on municipal services, nor does it necessitate new or upgraded infrastructure. The property is fully capable of accommodating the regularised second dwelling within the existing service capacity, and the application therefore poses no service-related constraints or impacts.

8.2 Traffic Impact, Parking and Access

The formalisation of the existing cottage as a second dwelling unit will have no material impact on traffic volumes, parking demand, or access arrangements on the property. The cottage has been in place and intermittently occupied for many years, and its regularisation does not introduce any new trips beyond those historically associated with its use. Given the property's location along the R43 and its substantial 6.3186ha extent, the anticipated traffic generation remains extremely low and well within the capacity of the surrounding rural road network.

Access to the property is already established and operates safely and efficiently. No modification to the existing access point is required or proposed, and the additional dwelling will not necessitate any changes to the current access geometry or sight distances. The low-intensity residential use associated with a lifestyle farm ensures that traffic movements remain infrequent and dispersed.

Parking provision on the property is more than sufficient. The site contains ample open space and existing outbuildings, including a garage and informal parking areas, which comfortably accommodate the limited parking demand generated by two dwelling units on a property of this size. No additional formal parking infrastructure is required.

Overall, the proposal will not result in any adverse traffic, access, or parking-related impacts. The existing infrastructure is fully capable of accommodating the regularised second dwelling, and the rural character and operational efficiency of the surrounding road network will remain unaffected.

9. TITLE DEED

Portion 16 of the Farm Rocklands No. 633 is held under Title Deed T34199/97, registered on 24 March 1997 in favour of the Hewitson Family Trust. The Deed records the extent of the property as 6.3186 hectares, which corresponds with the surveyed extent prior to the minor reduction resulting from the road expropriation.

A review of the Title Deed, supported by a Conveyancer's Certificate issued by Van Zyl Kruger Attorneys, confirms that the property is subject to restrictive conditions contained on page 6 (paragraphs D2 to D4) and page 7 (paragraph E) of the Deed of Transfer.

The condition most directly relevant to the Ribbon Development Act application is contained in paragraph D2 (page 6), which provides that not more than one dwelling house, together with such outbuildings as are ordinarily required for use in connection therewith, may be erected on the land without the written approval of the Controlling Authority, as defined in the Ribbon Development Act, 1940 (Act 21 of 1940). This condition limits the number of dwelling units but does not impose an absolute prohibition, as provision is made for additional development subject to the written approval of the Controlling Authority. The current application therefore seeks the required approval to permit the formalisation of the existing cottage as a second dwelling.

Paragraph D3 refers to the use of the land for residential and agricultural purposes and prohibits business or industrial activities without approval of the Controlling Authority. The proposed use remains compliant with this restriction, as the cottage will be utilised solely for residential purposes ancillary to the main dwelling. Paragraph D4, which relates to building restrictions in proximity to a road, is not applicable to the current proposal.

Paragraph E on page 7 of the Title Deed imposes an additional restriction limiting the property to a single dwelling for use by a single family. This condition was imposed in terms of Section 196 of Ordinance 15 of 1952 and may be amended or relaxed by the Administrator (now vesting in the Overstrand Municipality). Application is made for the removal of this condition in its entirety, as fully motivated in section 3.4.5 of this report.

The Conveyancer's Certificate confirms the applicable processes required to address these restrictions, namely that paragraph D2 requires written approval from the Controlling Authority, and paragraph E may be removed by the Administrator (Overstrand Municipality) in terms of Section 16(2)(f) of the Municipal Land Use Planning By-law, 2020. The remaining conditions contained in the Title Deed relate to historic water rights, servitudes, and rights-of-way, which are not affected by the proposed land use application.

In summary, the Title Deed imposes restrictions on the number of dwelling units; however, these are not absolute and may be addressed through the required approval and/or removal mechanisms. The proposed development is therefore capable of being authorised within the framework of Title Deed T34199/97.

10. FORWARD PLANNING & OTHER LAND USE DOCUMENTS

The proposed formalisation of the existing cottage as a second dwelling unit on Portion 16 of Farm Rocklands No. 633 is consistent with the broader forward-planning direction reflected in national, provincial, and municipal spatial policies. The property is situated within a rural landscape of high scenic and ecological value, where policy frameworks emphasise the protection of environmental resources while supporting appropriate rural development that is small-scale, low-impact, and compatible with the agricultural or lifestyle character of surrounding land. The proposal represents the regularisation of a long-standing residential structure and therefore does not introduce additional development pressure, fragmentation of rural land, or incompatibility with the region's spatial vision.

10.1 Western Cape Provincial Spatial Development Framework (PSDF, 2014)

The PSDF (2014) establishes guiding principles for sustainable rural development and land-use management in the Western Cape. Key policy directives relevant to this application include:

- Promoting efficient and sustainable settlement patterns: The PSDF encourages the optimal use of existing infrastructure and the consolidation of development within already transformed areas. Because the cottage already exists and is fully serviced, its formalisation as a second dwelling represents a highly efficient use of existing land and services, without introducing new settlement sprawl or fragmentation of rural land.
- Protecting high-value agricultural and environmental resources: The property operates as a lifestyle farm rather than a productive agricultural unit. The proposed second dwelling does not reduce agricultural potential, disturb ecological assets, or alter natural processes within the Klein River Lagoon and mountain landscapes.
- Promoting context-sensitive rural land use: The PSDF supports rural living and low-intensity accommodation where it is compatible with the surrounding environment. The small scale and historic nature of the cottage, together with the absence of new construction, ensures that the proposal fits seamlessly into the existing Hermanus–Stanford rural character.
- Supporting tourism, recreation, and landscape quality: The broader region is characterised by landscape-driven tourism. The highly unobtrusive nature of the second dwelling and the preservation of scenic qualities align with the PSDF's emphasis on maintaining rural character as a foundation for tourism.

Overall, the proposed regularisation of the cottage as a second dwelling is consistent with the PSDF's principles of sustainable rural development, land-use efficiency, and landscape conservation.

10.2 Western Cape Rural Development Guidelines (2019)

The Western Cape Rural Development Guidelines (2019) provide practical criteria for evaluating land-use proposals in rural areas, with specific emphasis on promoting compatibility, preventing land fragmentation, and safeguarding rural character. The application aligns strongly with these guidelines in several respects:

- No further fragmentation of rural land: The proposal does not create additional cadastral units nor introduce new residential entitlement beyond the formalisation of a long-standing building.
- Low-impact, small-scale built form: The cottage is modest in size (114m²), historically established, and visually unobtrusive. Its scale and placement are fully consistent with the Guidelines' requirement that additional dwellings on rural land must be subordinate to the main dwelling and integrated into the rural setting.
- Protection of scenic and natural resources: Because the building already exists and no additional construction is proposed, there is no incremental impact on landscape character, biodiversity, or ecosystem processes.
- Appropriate use of lifestyle properties: The Guidelines recognise that certain rural properties—such as this one—function primarily as lifestyle units rather than working farms. In such cases, limited

additional residential accommodation may be appropriate, provided it does not introduce urban characteristics or compromise rural sense-of-place.

- Alignment with rural tourism and amenity values: The Hermanus–Stanford corridor is defined by tourism activities, outdoor recreation, wine estates, and small-scale accommodation offerings. The second dwelling is consistent with this policy environment.

In conclusion, the proposal is fully aligned with the Western Cape Rural Development Guidelines' objectives of safeguarding rural character, avoiding land fragmentation, and supporting contextually appropriate rural land-use intensification.

10.3 Overstrand Spatial Development Framework (2020)

The Overstrand Spatial Development Framework (SDF) provides the municipality's long-term spatial vision and guides land-use decisions within the Hermanus–Stanford rural corridor. The SDF identifies this broader landscape as an area of high scenic, ecological, and tourism value, where land-use change must reinforce rural character, protect natural assets, and support sustainable settlement patterns. The proposed formalisation of the existing cottage as a second dwelling unit is consistent with these objectives.

The SDF recognises the role of lifestyle and smallholdings in the Overstrand's rural areas, particularly where agricultural production is limited by property size. In such cases, the SDF permits low-intensity residential use, provided that it does not lead to incremental urbanisation, ribbon development, or the fragmentation of rural land. The current proposal does not introduce any new buildings or cadastral subdivisions, and therefore maintains the integrity of the rural landscape as envisioned in the SDF.

Additionally, the SDF emphasises the importance of protecting viewsheds, natural vegetation corridors, and the visual qualities of the Klein River Lagoon and surrounding mountain slopes. Because the cottage already forms part of the long-established built environment on the property, its formalisation does not introduce new visual intrusion or alter the scenic character of the area.

The SDF also promotes the efficient use of existing infrastructure and the regularisation of historical settlement patterns where appropriate. Formalising the cottage supports this intent by ensuring legal compliance without requiring new service infrastructure or intensifying land-use beyond its long-established pattern.

In summary, the proposed consent use is in full accordance with the Overstrand SDF's development directives, reinforcing rural character, protecting environmental and scenic qualities, and enabling lawful and sustainable use of the property within an established rural settlement pattern.

11. OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

11.1 Heritage Value

The subject property exhibits elements of historical and cultural significance, most notably through the presence of the existing cottage, which exceeds 100 years in age and originally functioned as a labourer's dwelling. This building represents a tangible link to the agricultural history of the Rocklands area and reflects traditional rural settlement patterns characteristic of the early farming landscape along the Klein Rivier Lagoon. Its form, scale, and construction contribute to the cultural layering of the property and its surroundings.

The cottage retains key attributes of vernacular rural architecture—simple proportions, modest footprint, and functional design adapted to agricultural living. These characteristics reinforce its heritage value as a representative example of worker accommodation on historical Western Cape farmsteads. Although the structure has undergone minor extensions over time, including additions in 1997, the original core remains intact, and the building continues to reflect its historic use and cultural origins. The proposed formalisation of the cottage as a second dwelling respects this heritage significance, as no alterations or expansions are planned.

The broader landscape within which the property is situated also possesses heritage qualities. The Hermanus–Stanford rural corridor is defined by longstanding agricultural holdings, traditional farm structures, and cultural landscapes shaped by historic settlement and farming practices. The continued presence and proposed lawful recognition of the cottage contribute positively to the preservation of this rural heritage character.

Importantly, the application does not involve demolition, expansion, or modification of the cottage or other historic elements on the property. The heritage value of the site is therefore protected and maintained, and the proposed consent use supports the ongoing conservation of a culturally meaningful rural landscape.

In summary, the cottage and its setting carry identifiable heritage value, and the proposed utilisation aligns with good heritage management principles by recognising, retaining, and formalising a historically significant structure that forms part of the longstanding agricultural character of the area.

11.2 Environmental Impact

The proposed formalisation of the existing cottage as a second dwelling unit is expected to have no negative environmental impact, as the application deals exclusively with the regularisation of a long-standing structure and does not involve new construction, earthworks, vegetation clearance, or any alteration to the natural environment. The cottage, together with the other outbuildings on the property,

has formed part of the built landscape for decades and is already fully integrated into the environmental setting of the Klein Rivier Lagoon and surrounding rural landscape.

The property lies within a visually sensitive and environmentally significant area characterised by natural vegetation, proximity to the Klein Rivier Lagoon, and scenic vistas toward the Kleinrivier Mountains. The existing built form is compact and clustered around the main dwelling, leaving the remainder of the 6.3186ha property predominantly in its natural state. The formalisation of the cottage does not introduce additional habitat fragmentation, disturbance to ecological processes, or modification of the rural sense of place.

No additional services infrastructure, stormwater interventions, or effluent systems are required as part of this proposal. The continued use of existing rural servicing arrangements ensures that no increased pressure is placed on below-ground or surface environmental resources. Given that no new activity is triggered under applicable environmental legislation, no listed activities are implicated, and no environmental authorisation is required. Instead, the application supports the principle of environmental stewardship by ensuring that existing development is properly regularised and remains compatible with its natural surroundings.

In conclusion, the environmental impact of the proposed utilisation is negligible. The application maintains the ecological character of the property, respects the environmental sensitivity of the greater Hermanus–Stanford landscape, and aligns with provincial and municipal policies aimed at safeguarding biodiversity and rural environmental quality.

12. PLANNING PRINCIPLES

Spatial Justice

The application promotes spatial justice by regularising long-standing structures that have existed on the property for decades—namely the historic cottage, the garage (formerly a shed), the woodstore, and the storage shed. These buildings were constructed or adapted in a historical context where planning regulation was less clearly defined or where earlier records were incomplete. Formalisation corrects these inherited irregularities and ensures compliance without displacing any lawful use or imposing inequitable outcomes. Recognising these long-standing buildings through building line departures and the administrative penalty process ensures that historic rural settlement patterns are acknowledged and incorporated into the formal planning system.

Spatial Sustainability

Spatial sustainability is advanced through the optimal use and lawful recognition of existing structures rather than encouraging new construction or expansion of the development footprint. All four structures—the cottage (114m²), garage (6.10m² of encroachment), woodstore (11.64m²), and storage shed (15.04m²)—already form part of the built environment and do not compromise environmental integrity or agricultural activity on what is primarily a lifestyle farm. No additional clearing, infrastructure upgrades, or land disturbance is required.

Spatial Efficiency

The proposal supports spatial efficiency by making full and lawful use of existing infrastructure, buildings, and service connections. Regularising the cottage as a second dwelling and obtaining departures for the garage, woodstore, and storage shed ensures that the municipality can administer the property efficiently, with certainty regarding the location and extent of all existing structures. Because no new buildings are proposed, there is no duplication of infrastructure or unnecessary expansion of development.

Spatial Resilience

Spatial resilience is strengthened through the formalisation of buildings that are already integrated into the landscape and have existed for extended periods without negative impact. By ensuring legal compliance now, the application provides certainty for future land-use decisions and avoids risks associated with unlawful or unrecorded structures. The modest scale and rural character of the cottage, garage, woodstore, and storage shed enable the property to remain adaptable to changing environmental, regulatory, or socio-economic conditions.

Good Administration

This application is consistent with the legislative and policy framework guiding land use in the Overstrand, including the Spatial Development Framework (2020), EMOZ provisions, and HPOZ requirements. The applicant has followed due process, and the proposal is submitted in a transparent manner for public participation and fair consideration by the local authority.

13. RECOMMENDATION

It is respectfully recommended that the following applications in respect of Portion 16 of the Farm Rocklands No. 633, held under Title Deed T34199/97, be approved:

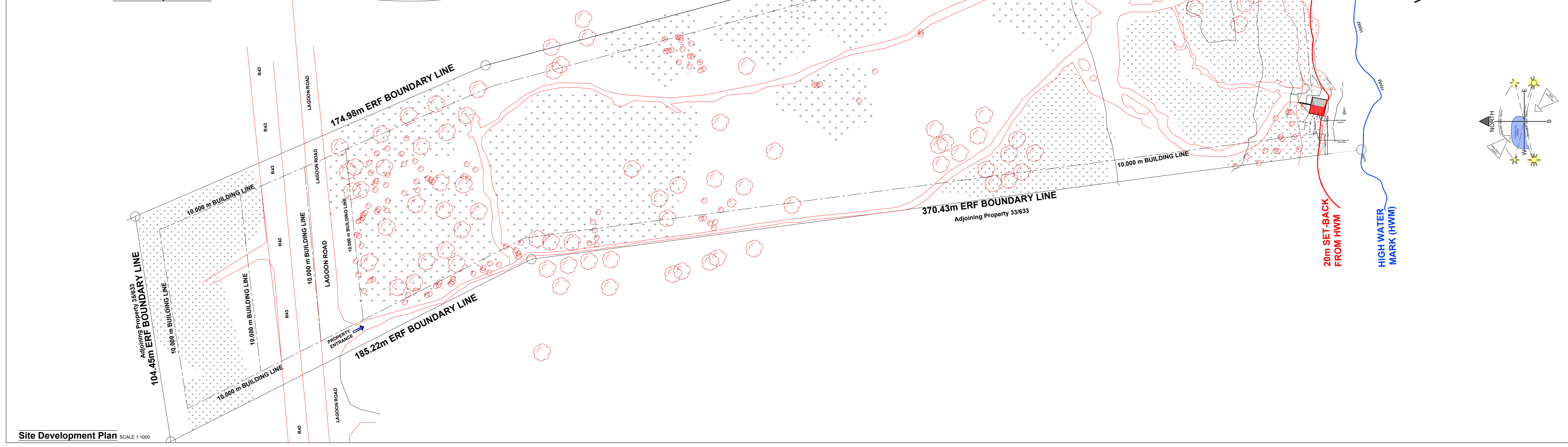
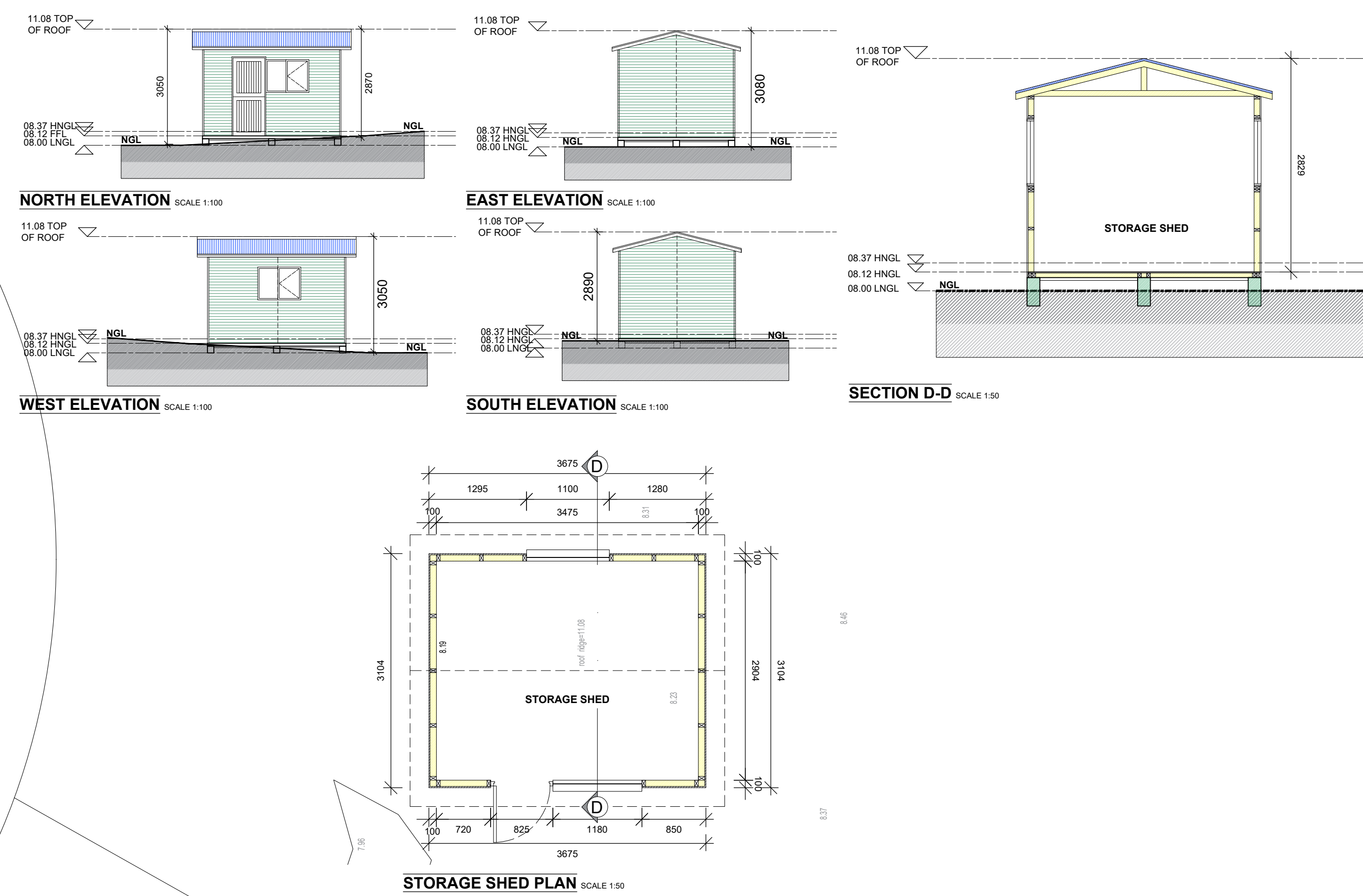
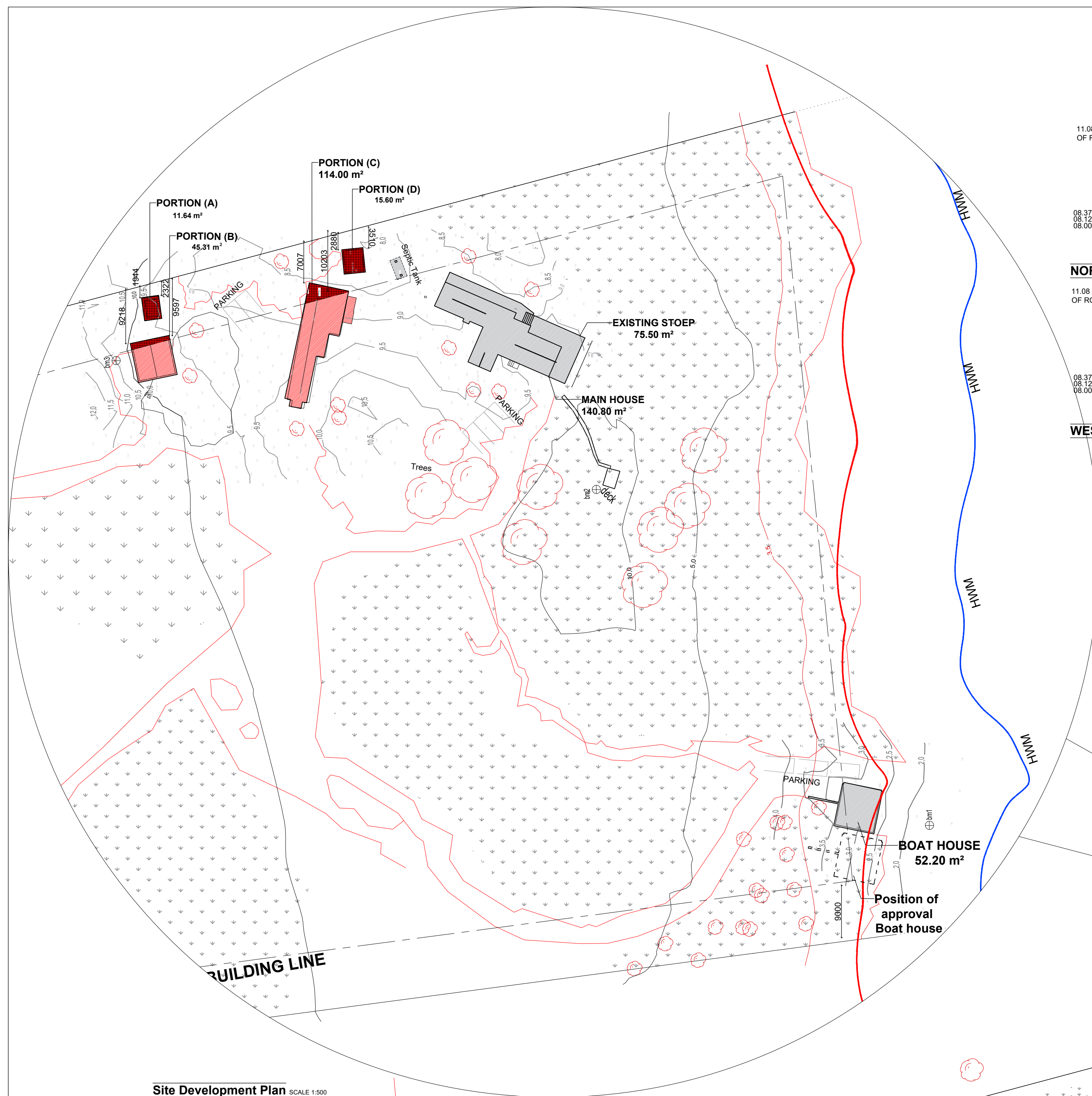
- Approval of the consent use to formalise the existing historic cottage as a second dwelling unit, in terms of Chapter 4, Section 16(2)(o) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020.

- Approval of the building line departures for the cottage, garage, woodstore, and storage shed in terms of Chapter 4, Section 16(2)(b) of the Amended By-law, to regularise encroachments on the eastern lateral building line.
- Determination and potential waiver of the administrative penalty in terms of Chapter 4, Section 16(2)(q) of the Amended By-law, in recognition of the historic nature of the contraventions and the owner's good-faith conduct.
- Written approval from the Controlling Authority (District Roads Engineer) in terms of paragraph D2 of the Title Deed and the Ribbon Development Act, 1940 (Act 21 of 1940), to permit the formalisation of the cottage as a second dwelling.
- Removal of the restrictive Title Deed condition contained in paragraph E of the Title Deed in its entirety, in terms of Section 16(2)(f) of the Amended By-law, to remove the outdated restriction imposed under the now-repealed Section 196 of Ordinance 15 of 1952.

The property is zoned Agriculture Zone 1, where a second dwelling is permitted as a consent use, and all existing buildings, including the 100-year-old cottage and long-standing outbuildings, are historically established and recorded in the J1369 as-built plans.

- The building line encroachments are minor and historic, with no detrimental effects on neighbouring properties or rural character: Garage: 6.10m²; Woodstore: 11.64m²; Cottage: 12.90m²; Storage Shed: 15.04m².
- The owner has acted in good faith and followed due process by submitting a complete regularisation application, supporting the justification for a minimal or waived administrative penalty.
- The proposal aligns with key policy frameworks, including the PSDF (2014), Western Cape Rural Development Guidelines (2019), and the Overstrand SDF, which support low-impact, non-intrusive rural residential uses that preserve landscape and environmental quality.
- No new development is proposed, ensuring no environmental or heritage impacts, while the historic cottage continues to contribute to the rural cultural landscape.
- Existing access, traffic, and service infrastructure adequately accommodate the proposed use, with no upgrades required.
- The restrictive Title Deed condition in paragraph E is outdated, inconsistent with the current statutory and planning framework, serves no useful purpose, and unreasonably limits the owner's rights. Its removal is appropriate, proportionate, and fully justified in terms of all relevant considerations under Section 39(5) of LUPA.

The application promotes efficient land use, maintains the rural character of the Hermanus–Stanford corridor, ensures long-term legal compliance for all existing structures, and removes an obsolete Title Deed restriction that is inconsistent with the applicable planning framework.



ALL NEW WORK SHALL COMPLY WITH THE LATEST VERSIONS OF SANS 10400:

Part A: General Principles and Requirements
Part B: Structure Design
Part C: Dimensions
Part D: Public Safety
Part E: Site operations
Part F: Excavations
Part G: Foundations
Part H: Floors
Part I: Walls
Part J: Roads
Part K: Stairways
Part L: Glazing
Part M: Lighting and Ventilation
Part N: Drainage
Part O: Stormwater Disposal
Part P: Fire Protection
Part Q: Space Heating
Part R: Fire Installation
Part S: Energy Efficiency

WHICH ARE APPLICABLE TO THE WORK SPECIFIED.
Contractor shall be responsible for ascertaining the "deemed to satisfy" requirements of SANS 10400 as described and listed, contractor must ensure that all these requirements are complied with as work proceeds.

AREA CALCULATIONS FOR MUNICIPAL APPROVAL:	
Existing	
16 Farm 633 (±63,186 m² = 6.3 ha, zoned AG1)	
Main Dwelling House (Existing with approved plans):	140.80 m²
Main House Stoep (Existing with approved plans):	75.50 m²
Cottage (Existing with no approved plans):	114.00 m²
Boat House (Existing with approved plans):	52.20 m²
Garage (Existing with no approved plans):	45.31 m²
Storage Shed (Existing with no approved plans):	15.04 m²
WoodStore (Existing with no approved plans):	11.64 m²
Sub-total:	454.49 m²
ERF SIZE:	63 186.00 m²
TOTAL COVERAGE (U/COVERED AREA):	0.72 %

AREA CALCULATIONS BUILDING LINE ENCROACHMENT	
Portion 16 Farm 633	
Portion A:	11.64 m²
Portion B:	6.10 m²
Portion C:	12.90 m²
Portion D:	15.04 m²



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CHECKED BY: Brandon Scorgie ST 1939

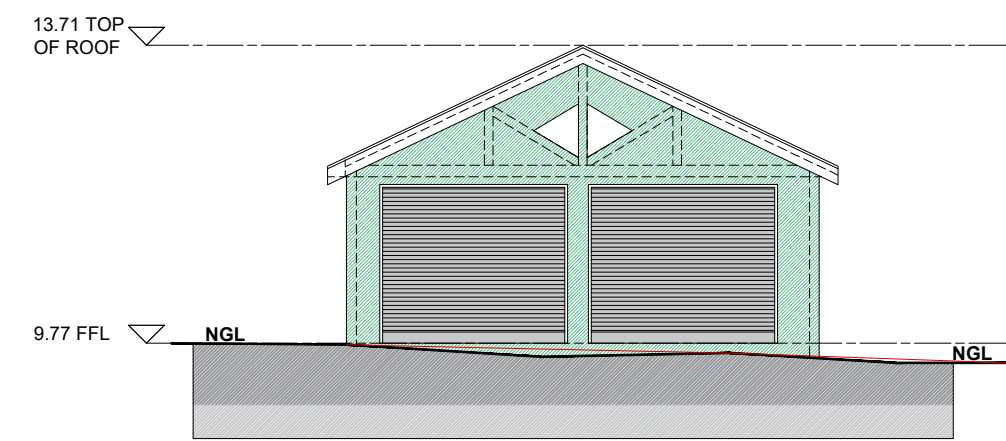
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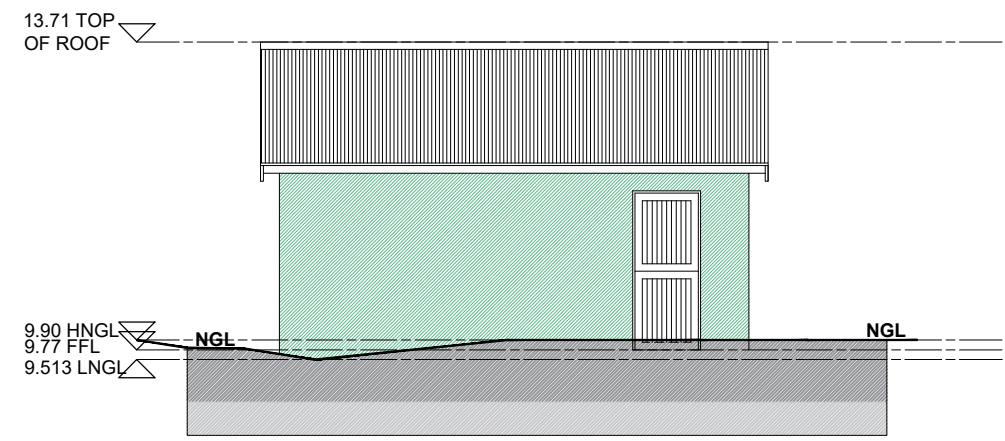
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ERF: 16/633
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PROJECT NUMBER J1369	SCALE As-shown	PAGE SIZE A1
DATE 27 November, 2025	PAGE No. 01	REV A

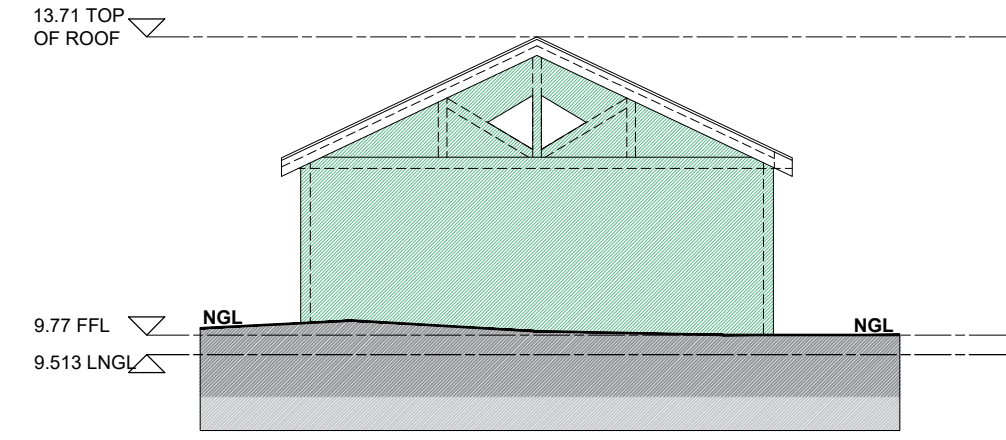




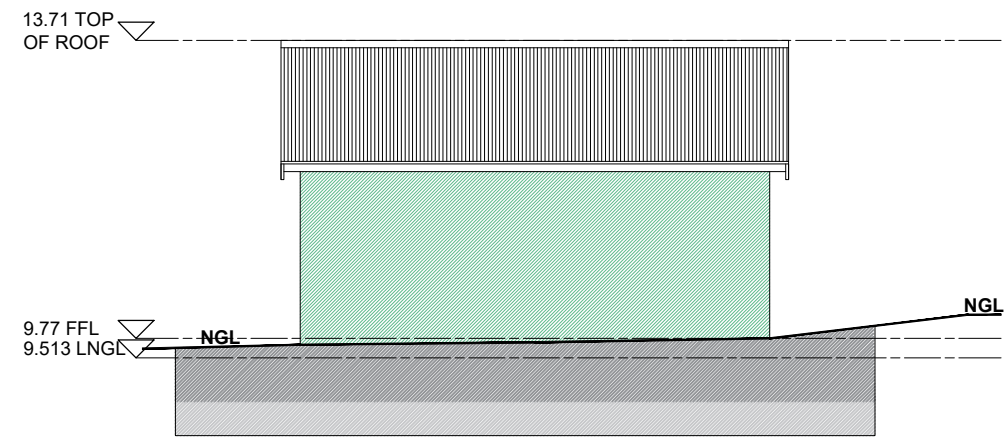
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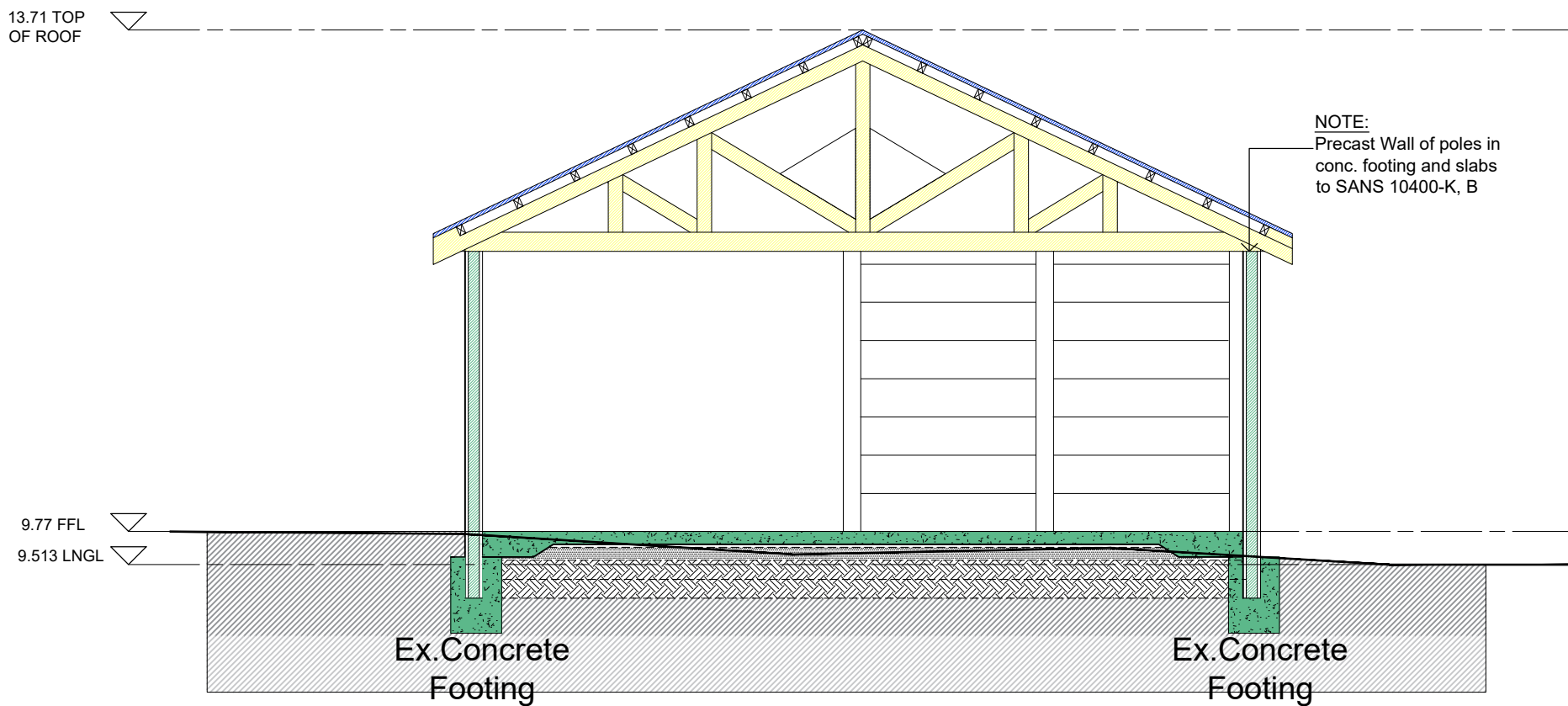
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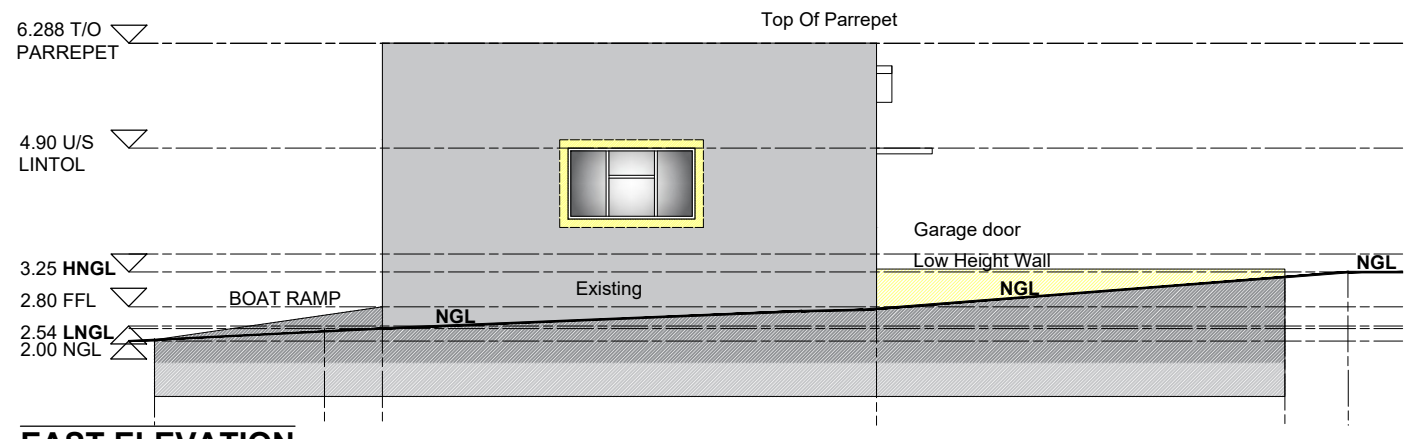
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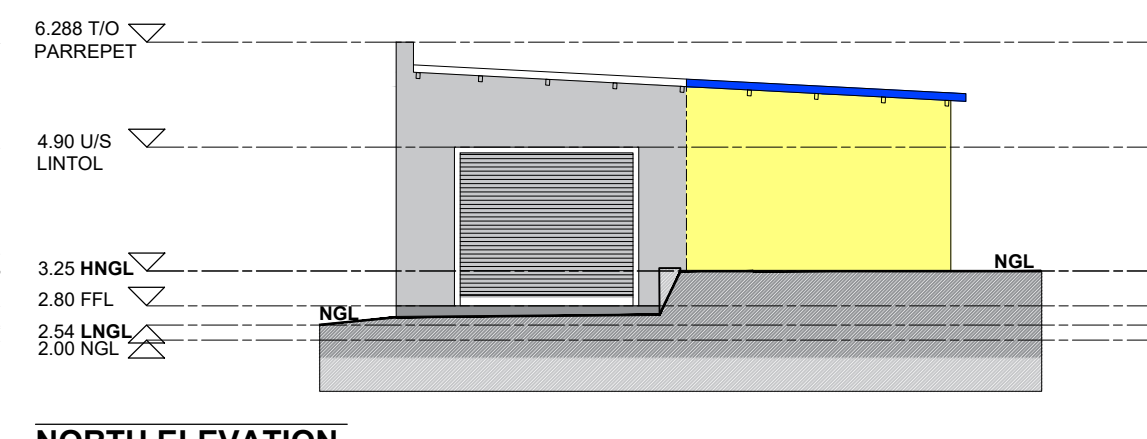
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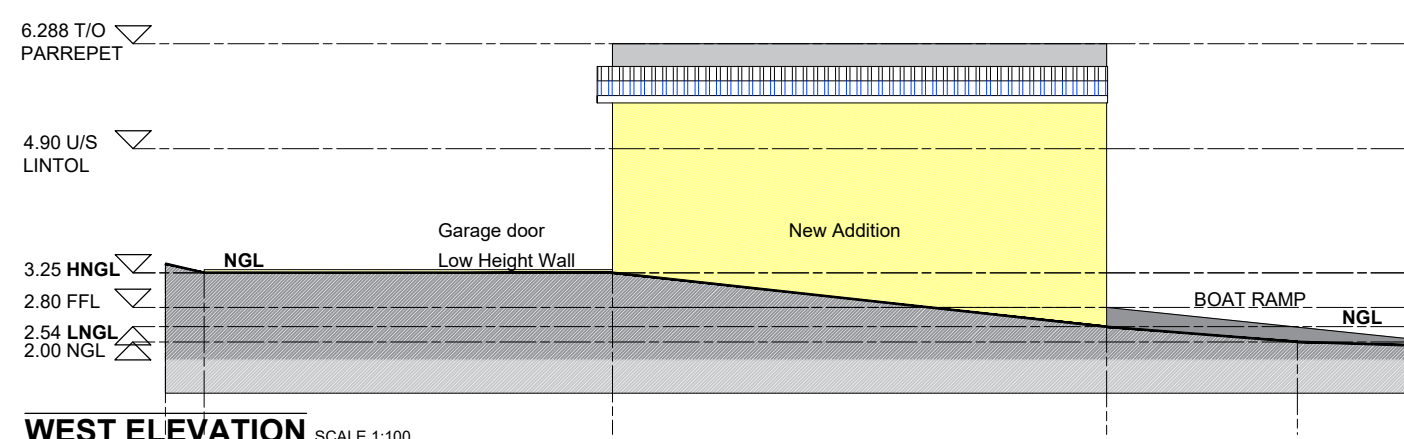
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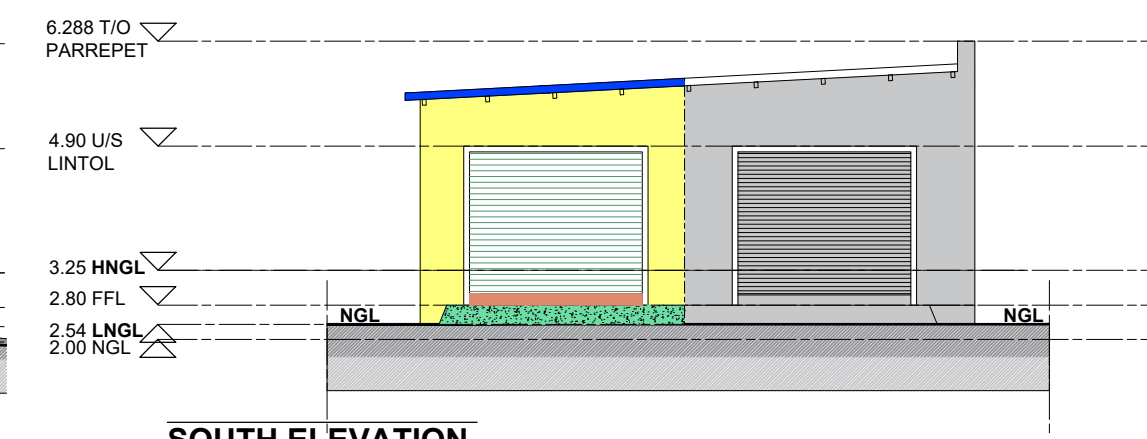
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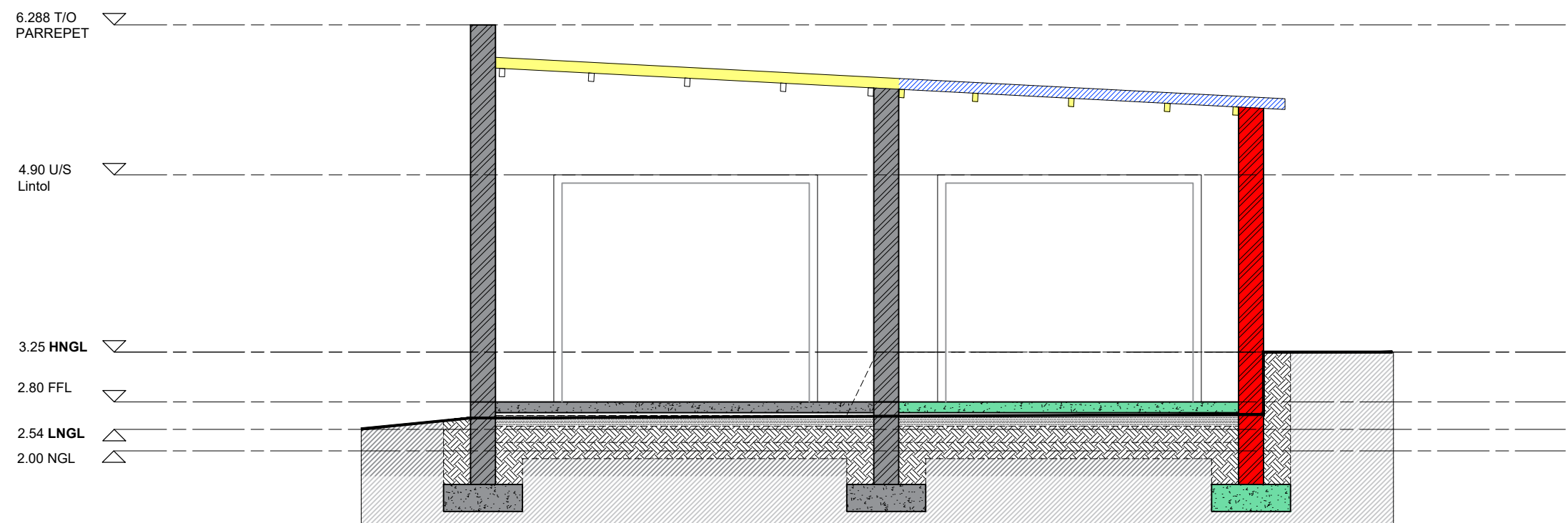
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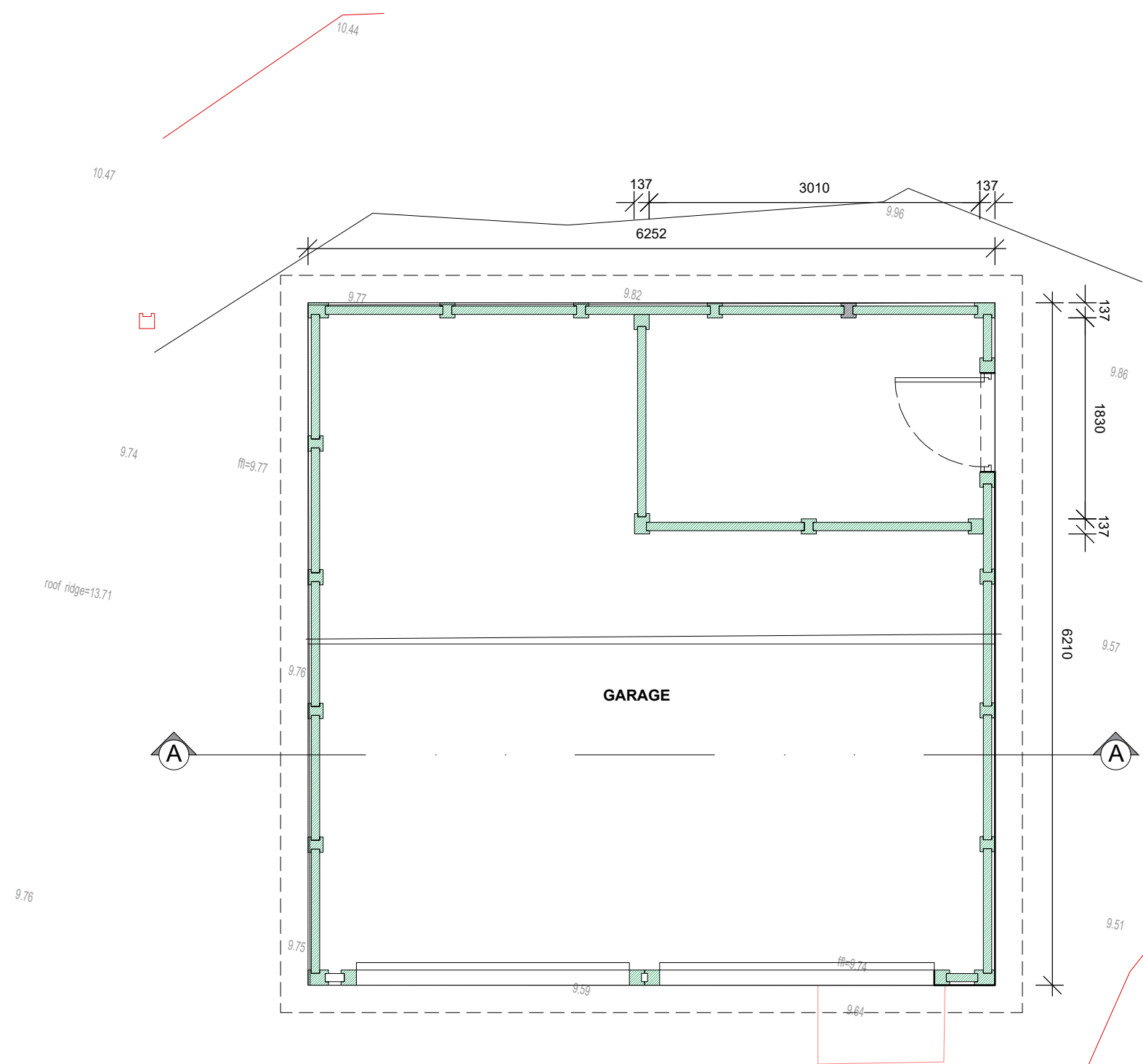
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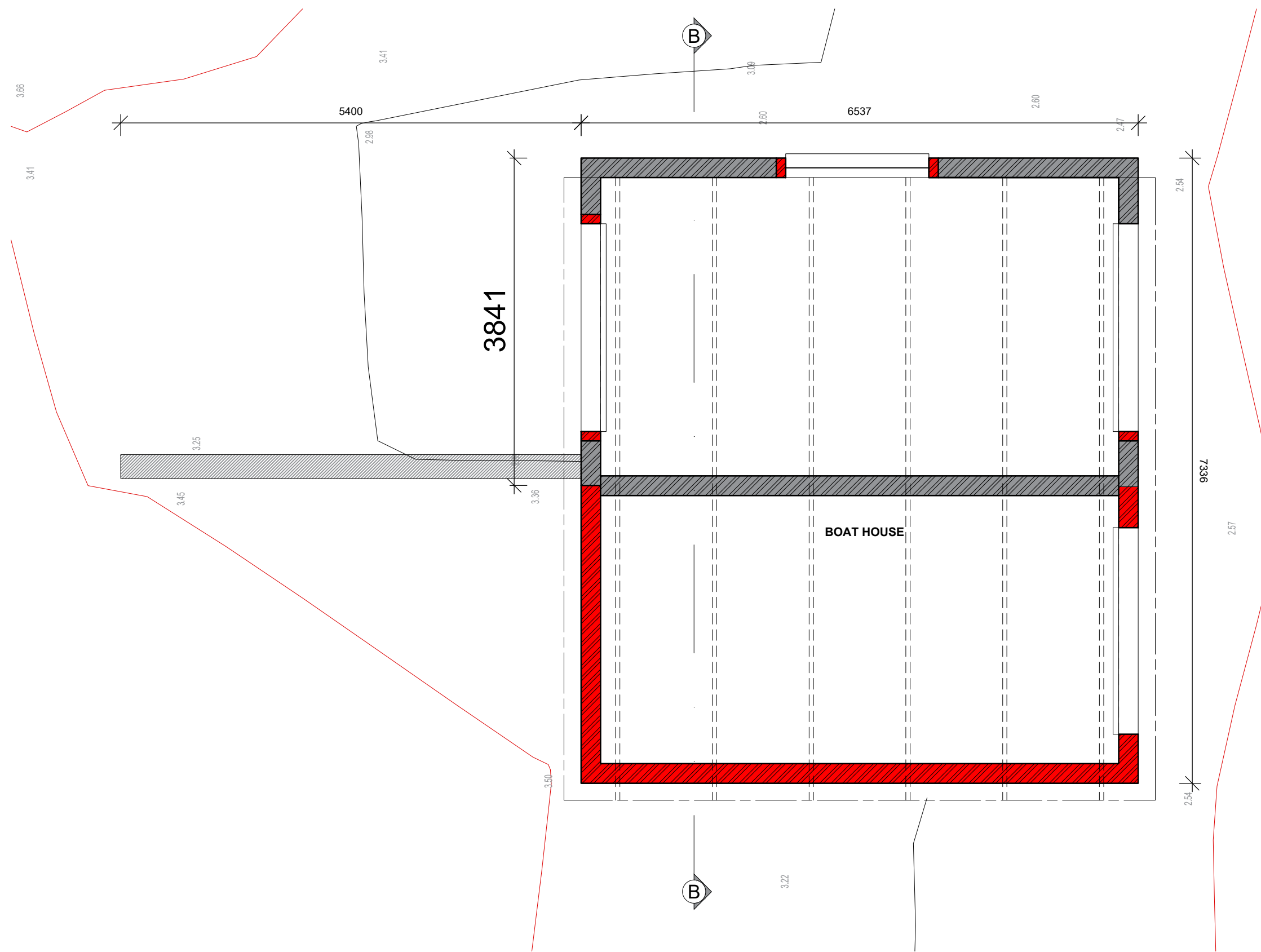
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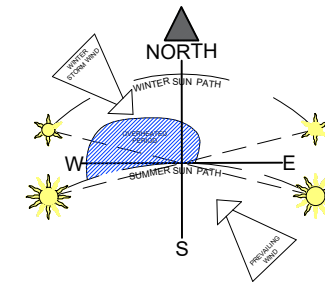
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GARAGE FLOOR PLAN SCALE 1:50



BOAT-HOUSE PLAN SCALE 1:50



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ENGELSBRECHT & SCORGIE
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CHECKED BY: Brandon Scorgie ST 1939

PROJECT DESCRIPTION: AS-BUILT

PAGE CONTENT: FLOOR PLAN, SECTIONS & ELEVATIONS

CLIENT: R LENNOX

ADDRESS: Port 16 Farm 633
Rocklands

ERF: 16/633

DRAWING No.: 1369_SK_01

PROJECT NUMBER: J1369

SCALE: As-shown

PAGE SIZE: A1

DATE: 27 OCTOBER, 2025

PAGE No.: 02

REV: A

