

<p><b>OVERSTRAND MUNISIPALITEIT</b>  <b>ERF 6301, HOOFWEG 82, KLEINMOND: AANSOEK</b>  <b>OM OPHEFFING VAN BEPERKENDE</b>  <b>TITELAKTEVOORWAARDE, AFWYKING EN</b>  <b>BEPALING VAN 'N ADMINISTRATIEWE BOETE:</b>  <b>FUTURE PLAN STAD- EN STREEKBEPLANNERS</b>  <b>NAMENS MALAKAI (TAGTIG)(PTY) LTD</b></p>	<p><b>OVERSTRAND MUNICIPALITY</b>  <b>ERF 6301, 82 MAIN ROAD, KLEINMOND: APPLICATION</b>  <b>FOR REMOVAL OF RESTRICTIVE TITLE DEED</b>  <b>CONDITION, DEPARTURE AND DETERMINATION OF</b>  <b>AN ADMINISTRATIVE PENALTY: FUTURE PLAN TOWN</b>  <b>&amp; REGIONAL PLANNERS ON BEHALF OF MALAKAI</b>  <b>(TAGTIG)(PTY) LTD</b></p>	<p><b>UMASIPALA WASE-OVERSTRAND</b>  <b>ISIZA 6301, 82 MAIN ROAD, E-KLEINMOND: ISICELO</b>  <b>SOKUSUSWA KWEZITHINTELO KWIMIQATHANGO</b>  <b>YETAYITILE, UPHAMBUKO KUNYE NOKUMISELWA</b>  <b>KWESOHLWAYO SOLAWULO: FUTURE PLAN TOWN &amp;</b>  <b>REGIONAL PLANNERS EGAMENI LIKA MALAKAI</b>  <b>(TAGTIG)(PTY) LTD</b></p>
<p>Kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die onderstaande aansoeke van toepassing op Erf 6301, Kleinmond (die eiendom), naamlik:</p> <p><b>Opheffing van Beperkende Titelaktevoorwaarde</b>  Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelaktevoorwaarde C.8 soos vervat in Titelakte T20614/2023 van die eiendom om die bestaande motorafdak op die eiendom te akkommodeer.</p> <p><b>Afwyking</b>  Aansoek ingevolge Artikel 16(2)(b) van die Verordening om die straatboulyn vanaf 4m na 0m te verslap om die bestaande motorafdak op die eiendom te akkommodeer.</p> <p><b>Bepaling van 'n Administratiewe Boete</b>  Aansoek ingevolge Artikel 16(2)(q) van die Verordening vir die ongemagtigde bestaande motorafdak op die perseel.</p> <p>Besonderhede aangaande die voorstel lê ter insae gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stads- en Streekbeplanning te Patersonstraat 16, Hermanus en by die Kleinmond Biblioteek, Vyfdelaan, Kleinmond.</p> <p>Enige kommentaar moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) <a href="mailto:loretta@overstrand.gov.za">loretta@overstrand.gov.za</a>) voor of op <b>11 Oktober 2024</b>, met u naam, adres, kontak besonderhede, belang in die aansoek en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die <b>Senior Stadsbeplanner, Me. H. van der Stoep</b> 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 Departement Stads- en Streekbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer.</p> <p><b>Dr. DGI O'Neill</b>  <b>MUNISIPALE BESTUURDER</b>  Overstrand Munisipaliteit  Posbus 20  <b>HERMANUS</b>  7200</p> <p><b>Kennisgewing nr. 136/2024</b></p>	<p>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 application applicable to Erf 6301, Kleinmond (the property), namely:</p> <p><b>Removal of Restrictive Title Deed Condition</b>  Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed condition C.8 as contained in Title Deed T20614/2023 of the property to accommodate the existing carport on the property.</p> <p><b>Departure</b>  Application in terms of Section 16(2)(b) of the By-Law to relax the street building line from 4m to 0m to accommodate the existing carport on the property.</p> <p><b>Determination of an Administrative Penalty</b>  Application in terms of Section 16(2)(q) of the By-Law for the unauthorised existing carport on the property.</p> <p>Full details regarding the proposals above are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town and Spatial Planning, 16 Paterson Street, Hermanus and at the Kleinmond Library, Fifth Avenue, Kleinmond.</p> <p>Any comments must be in writing and reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) <a href="mailto:loretta@overstrand.gov.za">loretta@overstrand.gov.za</a>) on or before <b>11 October 2024</b>, with your name, address, contact details, interest in the application and the reasons for comment. Telephonic inquiries can be made to the <b>Senior Town Planner, Mrs. H. van der Stoep</b> at 028-3138900. The Municipality may refuse to accept comments after the closing date. Any person who cannot read or write can visit the Town and Spatial Planning Department where they will be assisted by a municipal official in formulating their comments.</p> <p><b>Dr. DGI O'Neill</b>  <b>MUNICIPAL MANAGER</b>  Overstrand Municipality  P O Box 20  <b>HERMANUS</b>  7200</p> <p><b>Notice No. 136/2024</b></p>	<p>Isaziso sikhutshwe ngokwemiqathango yamaCandelo 47 kunye nelama-48 loMthetho kaMasipala oLungisiweyo woMasipala wase-Overstrand ongoCwangciso lokuSetyenziswa koMhlaba kaMasipala, 2020 (uMthetho kaMasipala), sesicelo ezilandelayo esisebenza kwiSiza 6301, e-Kleinmond (ipropati), ezizezi:</p> <p><b>Ukususwa koMqathango oneZithintelo kwiTayitile</b>  Isicelo ngokwemiqathango yeCandelo 16(2)(f) loMthetho kaMasipala sokokuba kususwe umqathango C.8 onesithintelo njengoko uqulethwe kwiTayitile T20614/2023 yepropathi ukulungiselela ikhapoti esele ikhona kwipropati.</p> <p><b>Uphambuko</b>  Isicelo ngokwemiqathango yeCandelo 16(2)(b) yoMthetho kaMasipala ukunyenisiswa komda wesakhiwo ukususela kwi-4m ukuya kwi-0m ukulungiselela ikhapoti esele ikhona kwipropati.</p> <p><b>Ukumiselwa kwesohlwayo solawulo</b>  Isicelo ngokwemiqathango yeCandelo 16(2)(q), loMthetho kaMasipala kwikhapoti ekhoyo engagunyaziswanga kwipropati.</p> <p>linkcukacha ezipheleleyo eziphathelene nesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini ukusuka phakathi kwentsimbi yesi-08:00 neye-16:30 kwiSebe: loCwangciso lweDolophu 16 Paterson Street, e-Hermanus kunye neThala leeNcwadi lase-Kleinmond, Fifth Avenue, Kleinmond.</p> <p>Naziphi na izimvo kufuneka zibhalwe ze zingeniswe kuMasipala (16 Paterson Street, e-Hermanus / (f) 0283132093 / (e) <a href="mailto:loretta@overstrand.gov.za">loretta@overstrand.gov.za</a>) ngomhla okanye phambi komhla <b>wama-11 Oktobha 2024</b>, uchaze igama lakho, idilesi neenkukacha zoqhagamshelwano, umdla wakho kwesi sicelo nezizathu zakho zokuhlomla. Imibuzo ngomnxeba zingathunyelwa ku<b>Mcwangcisi oPhezulu weDolophu, Nkszn H van der Stoep</b> kule nombolo 028-313 8900. UMasipala angala ukwamkela izimvo ezifike emva komhla wokulawla. Nabani na ongakwazi ukufunda nokubhala angaya kwiSebe loCwangciso lweDolophu apho igosa likaMasipala liza kumnceda ukuqulunqa izimvo zakhe.</p> <p><b>Dr. DGI O'Neill</b>  <b>UMPHATHI KAMASIPALA</b>  Umasipala iOverstrand  Ibhokisi yePosi 20  <b>HERMANUS</b>  7200</p> <p><b>Nombolo yesaziso. 136/2024</b></p>





## ERF 6301, KLEINMOND

A LAND USE PLANNING APPLICATION IN TERMS OF SECTION 16 OF THE OVERSTRAND MUNICIPALITY AMENDMENT BY-LAW ON MUNICIPAL LAND USE PLANNING OF 2020 FOR:

- *Section 16 (2) (b) - Permanent departure from the provisions of the zoning scheme*
- *Section 16 (2) (f) – Amendment, suspension, or deletion of restrictive condition in respect of a land unit*
- *Section 90 (5) - Determination of an administrative penalty*

**Application prepared for:**

Malakai Tagtig & Overstrand Municipality

**Application prepared by:**

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**Submitted:**

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## 1. EXECUTIVE SUMMARY

### 1.1. Background Information

The property owner, Talisman Tool Hire, recently constructed a carport for the storage of a motorised vehicle. The vehicle is used primarily for the transportation of products, in this instance, LP Gas. The business premise specialises in the short-term rental of the equipment and the distribution of LP Gas to Kleinmond and the surrounding communities.

*Future Plan Town and Regional Planners* (hereafter referred to as *this office*) were approached by the property owner to assist with the applicable town planning application.

### 1.2. Application Summary

While considering the previous section of this report, a land use planning application is now submitted in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning of 2020 (OMLUS) for:

- *Section 16 (2) (b) - Permanent departure from the provisions of the zoning scheme*
- *Section 16 (2) (f) – Amendment, suspension, or deletion of restrictive condition in respect of a land unit*
- *Section 90 (5) - Determination of an administrative penalty*

Please refer to the following attached Annexures:

**Annexure A:** Application Form

**Annexure B:** Power of Attorney

**Annexure C:** Title Deed





## 2. THE APPLICATION

### 2.1. Departures from the Provisions of the Zoning Scheme

An application is hereby made in terms of Section 16 (2) (b) for the relaxation of the street boundary building line from 5m to 0m to permit a carport.

The carport is tucked into the southwestern corner of Erf 6301 and was built according to specialist specifications as can be seen on the attached Site Development Plan. Please also refer to the figures on the following pages.

As stated earlier the carport is used solely for storage of one motorised vehicle used in conjunction with the existing business premise. The carport is not intended for use by the public, visiting the facility, or by any unauthorised motor vehicles. The carport consists of four pipe sections that support the shade cloth covering and measure 4.1m (width) by 6.1m (length) and provide a height clearance of 2.2m.

The carport is further enclosed by a boundary wall on two sides (south and west) and by a fence on the northern side of the carport. The aforementioned boundary walls form the perimeter of Erf 6301 and the fence forms the edge of the area demarcated for the storage of LP Gas canisters.

Additionally:

- Only the top of the shade cloth may be visible from the Main Road as it is enclosed by the aforementioned boundary wall. This will have little to no effect on the traffic flow of Main Road, nor cause any obstructions to the line of sight.
- The carport is architecturally sound and fitting with the existing land use of the application site. All of the construction work conducted on the application site has provided a gentrification of the application site and can be seen as an upgrade from the previous building that was on the application site.

### 2.2. Deletion of Restrictive Title Deed Condition

In terms of Section 35 of the Amendment By-Law on Municipal Land Use Planning, 2020, the Municipality must take into consideration a few aspects upon approving or refusing the removal, suspension, or amendment of a restrictive condition. The subject title deed contains a restrictive condition that will have to be removed. The condition reads as follows:

Condition C. 8: *“That all outbuildings to be erected on the land herein sold shall stand back at least 9, 45m from any street or 6, 30m from any avenue on which the lot or lots herein mentioned may front.”*







The owner erected a carport (outbuilding) on the boundary of Main Road, which is a direct contradiction of Condition C.8, as prescribed above in the subject title deed.

The Municipality must have regard to the following for the application to be considered:

*The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vested in the person as the owner of a dominant tenement.*

The subject restrictive conditions do not have any significant value to a person or entity, nor is it deemed that the deletion of this condition will alter the character of the surrounding area. The outbuilding is placed in a manner to provide secure parking for a delivery vehicle, which is used in conjunction with the business activities of the application site.

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

The deletion of the restrictive title deed condition will allow the property owner to construct the carport in a manner that is suitable for their business operations. It is further argued that no personal benefit will accrue as it will only be used for business purposes.

*The personal benefits which will accrue to the person seeking the removal of the restrictive condition if it is removed.*

The proposal will add value to an existing business premises, which is a fundamental aspect of any business and thriving community. It is argued that the proposal will also add value to the premises.

*The social benefit of the restrictive condition remaining in place in its existing form.*

There is no social benefit to be enjoyed should the restrictive conditions remain in place. The restrictive condition serves no purpose in terms of the health, safety, and wellbeing of the surrounding community. It has been stated that the carport will also not impact negatively on the streetscape of Main Road, nor impact negatively on the line of sight. In essence, the removal of the restrictive condition only limits the property owner in terms of development on their property.

*The social benefit of the removal or amendment of the restrictive condition.*

The subject restrictive condition holds no social benefits to the property owner not the surrounding community.





*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.*

This application entails the removal of restrictive conditions and will not attempt to alter the additional conditions as pertained in the subject Title Deed. Therefore, not all restrictive conditions will be removed.

As per the above, the removal of Condition C. 8 of the subject Title Deed is not deemed to impact negatively on the surrounding community or the abutting properties. This office requests the favourable consideration of this application.

### **2.3. Determination of an Administrative Penalty**

Application is hereby made in terms of Section 90 of the Overstrand Municipality Amended By-Law on Municipal Land Use Planning, 2020 for the determination of an administrative penalty.

An administrative penalty is a direct contravention of the Overstrand Municipal Planning By-Law on Land Use Planning. The following measures must be addressed to the satisfaction of the Municipality to determine whether the imposition of an administrative penalty is applicable. The information required is stipulated as follows:

#### *The nature, duration, gravity, and extent of the contravention.*

The administrative penalty application pertains to the illegal structure being built within the street boundary building line of Main Road. The carport was constructed during October 2023 and only lasted for two (2) calendar days.

#### *The conduct of the person (allegedly) involved in the contravention.*

Once the construction of the carport was completed, an architect was appointed to submit building plans to Overstrand Municipality. Upon scrutiny of the building plan and subsequent site inspection by the authorised official, it was determined that the carport was constructed before the submission of the plans. The property owner was instructed to immediately submit a land use application for the contravention.

The owner immediately made use of the services of the office, a Town Planning Consultancy firm to compile the required motivation and supporting documents for the land use application.







*A report by a quantity surveyor in matters of unauthorised building/construction.*

This office believes that a report by a quantity surveyor is not required at this stage. It is the opinion of this office that a cost estimate can be provided internally, without the use of a Quantity Surveyor. Should the need for this arise, this office will submit the necessary documents.

*Whether the unlawful conduct was stopped.*

Upon completion of the construction work, it was conveyed to the property owner that the conduct undertaken was illegal. The property owner immediately contacted the relevant professionals to rectify the situation and indicated that no further construction would take place before any further approvals.

*Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.*

To our knowledge, the current owners have not been in contravention of this By-Law or any other previous planning law.

This office respectfully requests that a penalty not be imposed on the owners of Erf 6301, due to the following reasons:

- No complaints have been received from the abutting neighbours or the surrounding community.
- The carport and previous construction work conducted on the application site is done in a manner that promotes the general gentrification of the Main Road corridor.
- The property owner has numerous business premises throughout the Western Cape Province. It is without a doubt that no ulterior motive is prevalent, besides the upliftment of communities and job creation.
- To the best of our knowledge, no previous contravention has been done by the property owners.

We respectfully request your favourable consideration of this matter.





2.4. Figures

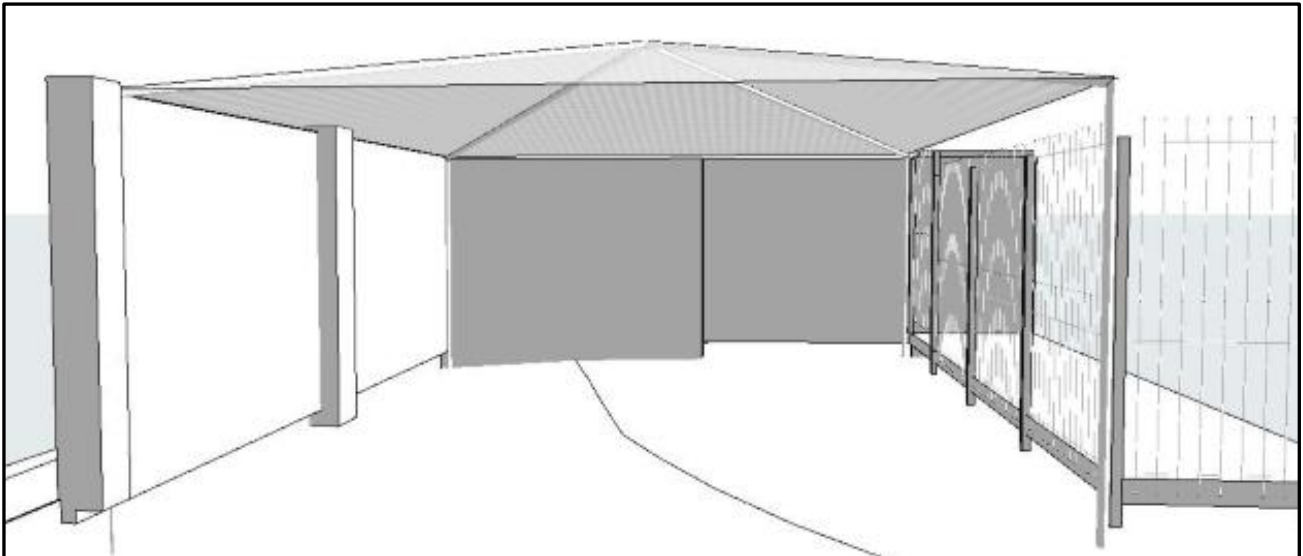


Figure 1: 3D Rendition of Carport

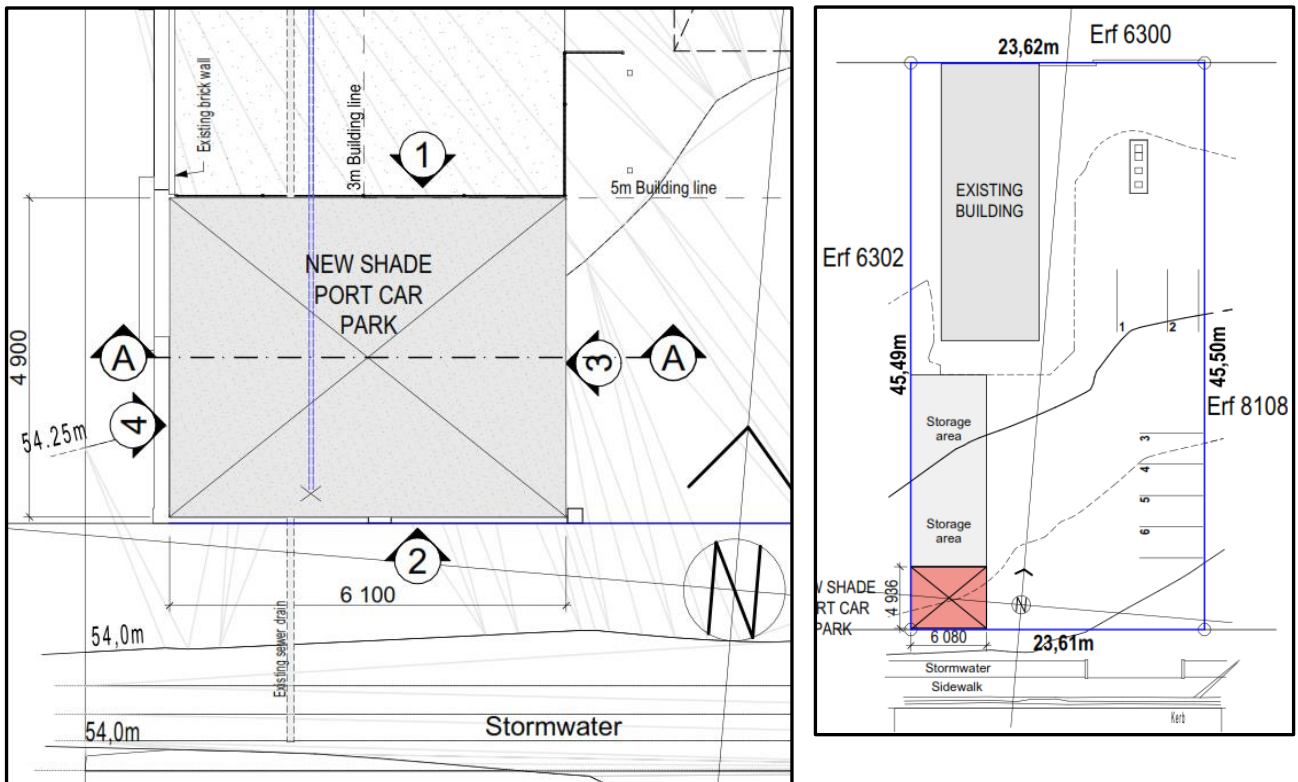


Figure 2 & 3: Ground Floor Plan and Site Plan



### 3. CHARACTER OF ENVIRONMENT

#### 3.1. Current Utilisation of Subject Erf & Zoning:

Erf 6301 is currently zoned as Business Zone 3 (B3) and utilised as a business premise as intended by the zoning.

#### 3.2. Location and Surrounding Land Uses:

The subject erf is located on Main Road within the town of Kleinmond, Overstrand Municipal jurisdiction.

#### 3.3. Land Uses in the Area:

Erf 6301 is in an activity corridor with various activities (ranging from residential to commercial land uses) west of Kleinmond's Central Business District (CBD).

#### 3.4. Ownership Details

Property Description	Erf 6301 Kleinmond, Overstrand Municipality, Division Caledon, Western Cape
Ownership	Malakai (Tagtig) (Pty) Ltd Registration Number: 2022/324597/07
Extent	1074m <sup>2</sup>
Title Deed Number	T20614/2023

#### 3.5. Municipal Services, Access, and Parking

The application site is well-serviced in terms of municipal services. Therefore, the proposal is not deemed to harm the existing services network. Furthermore, access to the application site will not be altered. It will thus remain as is, while adequate on-site parking is also provided.





#### 4. NEED & DESIRABILITY

For an informed decision to be made by the Authorised Official, it is crucial to address the need and desirability of an application. Therefore, this office has summarised a few key aspects that are site-specific and should be considered before a decision is made. Herewith is the need for the proposal:

- The carport provides secure parking for the motorised vehicle used in conjunction with the existing land use activity.
- The submitted building plans did not conform to the development parameters of the OMUS and thus required a land use application.

The proposal is deemed desirable due to the following reasons:

- The carport is not deemed to impact negatively on the line of sight/sight distances of Main Road as it has a relatively wide road reserve and will thus not pose a threat to passing vehicles nor impact negatively on entry and egress.
- The structure will add value to the existing property and land use.
- No negative impact on the streetscape of Main Road is envisaged.
- The carport will not detract from the abutting neighbours regarding privacy and loss of sunlight.
- No additional Municipal services will be required for the proposal.

The following aspects are also crucial to take into consideration when determining the desirability of an application:

Section 66 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning of 2020:

- *When the Authorised Official or Municipal Planning Tribunal considers an application, it must have regard to the following:*
  - *the application submitted in terms of this By-law;*
  - *the procedure followed in processing the application;*
  - *the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding proposed land uses;*
  - *the comments in response to the notice of the application and the comments received from organs of state and internal departments;*
  - *the response by the applicant to the comments referred to in paragraph (d);*
  - *investigations carried out in terms of other laws which are relevant to the consideration of the application;*
  - *a registered planner, or a planner eligible for registration, written assessment, which includes:*
    - *an amendment of a Spatial Development Framework or land use scheme*
    - *an approval of an overlay zone contemplated in the land use scheme*
    - *a phasing, amendment or cancellation of a subdivision plan or part thereof*
    - *a determination of a zoning*
    - *a rezoning*
  - *the integrated development plan and Municipal Spatial Development Framework;*
  - *the applicable Local Spatial Development Frameworks adopted by the Municipality;*
  - *the applicable policies of the Municipality that guide decision-making;*
  - *the Provincial Spatial Development Framework;*
  - *where applicable, the regional spatial development framework;*





- *the policies, principles, planning and development norms and criteria set by the national and provincial government;*
- *the matters referred to in Section 42 of the Spatial Planning and Land Use Management Act;*
- *the principles referred to in Chapter VI of the Land Use Planning Act; and*
- *the relevant provisions of the land use scheme.*
- *An Authorised Official or Municipal Planning Tribunal must approve a site development plan submitted to the Municipality for approval in terms of applicable development parameters or conditions of approval if the site development plan—*
  - *is consistent with the development parameters of the zoning;*
  - *is consistent with the development parameters of the overlay zone;*
  - *complies with the conditions of approval; and*
  - *complies with this By-law.*
- *When a site development plan is required in terms of development parameters or conditions of approval—*
  - *the Municipality may not approve a building plan if the site development plan has not been approved, and*
  - *the Municipality may not approve a building plan that is inconsistent with the approved site development plan.*

It is important to consider its applicability to the application and surrounding area. The proposal is not deemed to pose a significant threat to the surrounding area and will aid in the safety and security of the surrounding area. The land use is deemed in line with the regulations and planning of the area. The proposal is, therefore, not deemed to impact negatively on the above requirements.

Section 49 of the Western Cape Land Use Planning Act of 2014:

*When a municipality considers and decides on a land use application, the municipality must have regard to at least—*

- *the applicable spatial development frameworks;*
- *the applicable structure plans;*
- *the principles referred to in Chapter VI;*
- *the desirability of the proposed land use, and*
- *guidelines that may be issued by the Provincial Minister regarding the desirability of proposed land use.*

It is the opinion of this office that the proposed application is well motivated in terms of the legislation as provided for in this motivation report and is not deemed to impose an unusual risk to the surrounding community due to the following reasons:

- The proposal is not deemed to impact negatively on the traffic flow of Main Road
- No negative visual impact on the abutting neighbours as it is “hidden” behind the existing boundary walls.
- The extension is of the same architectural style as the existing building and land use.
- Vistas and other rights, such as privacy, remain intact.
- The proposal will add value to Erf 6301 and the surrounding area.
- No threat to the health and safety of the surrounding community is envisaged.

Thus, this office believes that the proposal can be deemed desirable.





## 5. LEGISLATION

### Overstrand Municipality Spatial Development Framework (May 2020)

The Municipal Spatial Development Framework is a sectoral component of the IDP that, in terms of the Municipal Systems Act, 2000 (Act No. 32 of 2000), is aimed at providing general direction to guide decision-making on an ongoing basis, aiming at the creation of integrated, sustainable, and habitable regions, cities, towns, and residential areas.

The key statutory requirements of the SDF are as follows:

- Give effect to the principles, norms, and standards.
- Include a written and spatial representation of the Municipality's five-year spatial development plan.
- Include a longer spatial development vision statement.
- Identify current and future structuring elements of the Municipal spatial form (i.e., development corridors, activity spines, economic nodes, etc.).
- Include population growth estimates for the next five years.
- Include estimates for the demand for housing units and the planned location and density of future housing developments.
- Include estimates of economic activity, employment trends, and locations in the Municipality for the next five years.
- Identify, quantify, and provide location requirements for the next five years of engineering infrastructure and services.
- Identify the designated areas where a national or provincial inclusionary housing policy may be applicable.
- Include a strategic assessment of the environmental pressures.
- Create opportunities (incl. spatial location of environmental sensitivities, high potential agricultural land, and coastal strips).
- Identify areas where more detailed local plans must be developed and shortened land use procedures may apply.
- Provide spatial expression of integration of municipal sectoral policies.
- Determine a capital expenditure framework for the Municipal development programmes depicted spatially.
- Include an implementation.

The proposal is not deemed to be in contravention of the Overstrand SDF as it does not contradict the abovementioned statutory requirements of the SDF. Further to those mentioned above, the application site







is in an urban development area within the urban edge of Kleinmond. The proposal is thus not in contravention of the SDF.

Overstrand Integrated Development Plan (May 2020)

The Overstrand Municipality Integrated Development Plan (IDP) aims to address our communities' development needs with clearly defined strategic objectives and performance indicators. These strategic objectives are as follows:

- The provision of democratic, accountable, and ethical governance
- The provision and maintenance of municipal services
- The encouragement of structured community participation in the matters of the municipality
- The creation and maintenance of a safe and healthy environment
- The promotion of tourism and economic and social development.

The IDP is crucial to take into consideration in any planning-related application. It is the opinion of this office that the proposal promotes social development and creates a safe and healthy environment, not only for the property owner but also for the surrounding businesses and property owners of the area.

Overstrand Municipal Growth Management Strategy (2010)

The Growth Management Strategy does not refer to individual erven but provides a guideline for densification and additional community facilities. This proposal does not entail the densification of Erf 6301 and would thus not contradict the Growth Management Strategy. Furthermore, the proposal adds to the character and natural landscape of the surrounding area as a holiday destination, but also as a subservient business node for the surrounding area (Bettys Bay and Pringle Bay). It would thus positively impact the promotion of tourism, economic development, and job creation.

The application site is not within a Heritage Overlay Zone defined in the Growth Management Strategy and will thus not constitute any heritage-related aspects.

Overstrand Municipality Amended By-Law on Municipal Land Use Planning (2020)

It is essential to consider Section 66 of the Overstrand Municipality Amended By-Law on Municipal Land Use Planning in terms of the "General criteria for consideration of applications":

- When the Authorised Official or Municipal Planning Tribunal considers an application, it must have regard to the following:
  - the application submitted in terms of this By-law;





- the procedure followed in processing the application;
- the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding proposed land uses;
- the comments in response to the notice of the application and the comments received from organs of state and internal departments;
- the response by the applicant to the comments referred to in paragraph (d);
- investigations carried out in terms of other laws which are relevant to the consideration of the application;
- a registered planner, or a planner eligible for registration, written assessment, which includes:
  - an amendment of a Spatial Development Framework or land use scheme
  - an approval of an overlay zone contemplated in the land use scheme
  - a phasing, amendment or cancellation of a subdivision plan or part thereof
  - a determination of a zoning
  - a rezoning
- the integrated development plan and Municipal Spatial Development Framework;
- the applicable Local Spatial Development Frameworks adopted by the Municipality;
- the applicable policies of the Municipality that guide decision-making;
- the Provincial Spatial Development Framework;
- where applicable, the regional spatial development framework;
- the policies, principles, planning and development norms and criteria set by the national and provincial government;
- the matters referred to in Section 42 of the Spatial Planning and Land Use Management Act;
- the principles referred to in Chapter VI of the Land Use Planning Act; and
- the relevant provisions of the land use scheme.
- An Authorized Official or Municipal Planning Tribunal must approve a site development plan submitted to the Municipality for approval in terms of application development parameters or conditions of approval if the site development plan—
  - is consistent with the development parameters of the zoning;
  - is consistent with the development parameters of the overlay zone;
  - complies with the conditions of approval; and
  - complies with this By-law.
- When a site development plan is required in terms of development parameters or conditions of approval—
  - the Municipality may not approve a building plan if the site development plan has not been approved; and





- o the Municipality may not approve a building plan that is inconsistent with the approved site development plan.

The proposal is not considered a deviation from the requirements described above; however, it is substantially in accordance with any residential neighbourhood and is not deemed to pose a significant threat to the surrounding community.

#### Planning Principles

The proposed development supports the principles of Chapter VI (Article 59) of the Land Use Planning Act (LUPA), Act 3 of 2014, and Chapter 2 (Article 7) of the Spatial Planning and Land Use Management Act (SPLUMA), Act 16 of 2013, as follows:

##### Spatial Justice

*Refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access opportunities, facilities, services, and land.*

The proposed application will not contribute to perpetuating past apartheid spatial development imbalances.

##### Spatial Sustainability

*A spatially sustainable settlement will be one which has an equitable land market while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity-rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.*

The proposed development will continue to protect any environmentally sensitive areas and cultural landscapes, as it is in an already developed area. It will thus not alter any environmentally sensitive areas.

##### Efficiency

*Efficiency refers to the need to create settlements that optimise the use of space, energy, infrastructure, resources, and land.*

The proposed development will optimally harness the potential that sustainably exists on the subject property, as is evident in the proposed SDP.





Spatial Resilience

*Spatial resilience in the context of land use planning refers to spatial plans, policies and land use management systems that should enable the communities to be able to resist, absorb and accommodate economic and environmental shocks and to recover from these shocks in a timely and efficient manner.*

The proposed development is well aligned with the spatial plans and policies, enabling the subject property to resist, absorb, and accommodate environmental and economic shocks and recover from shocks in a timely and efficient manner.

Good Administration

*Good administration in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure a joint planning approach is pursued.*

The proposed development will promote consultative planning as the Municipality will advertise the proposal to the public to allow the comments of the public to be taken into consideration. In addition, *Future Plan Town and Regional Planners* will also respond to the comments of the public and consider the comments in the project's planning.

This section outlines how the proposed development aligns with the core planning principles outlined in SPLUMA and LUPA. The proposal can therefore encompass and promote all planning principles.





## 6. CONCLUSION & RECOMMENDATION

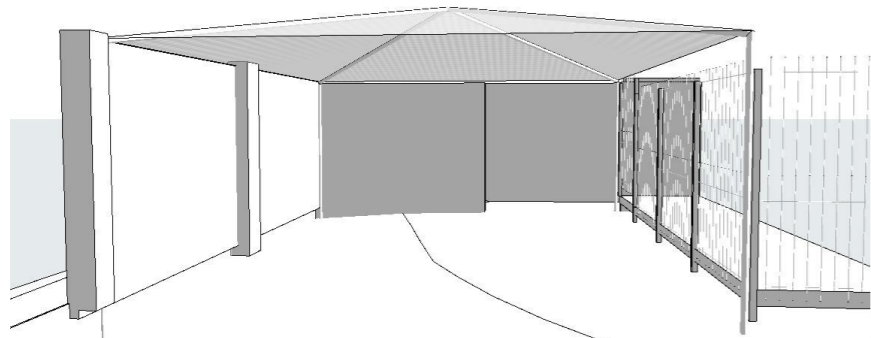
The motivation report has provided a clear and complete analysis of the land use proposal. It was proven that the application is desirable and will not adversely impact the existing landscape. The proposal was also proven well aligned with the spatial planning initiatives.

The following factors should also be taken into consideration when evaluating the outcome of the subject application and administrative penalty:

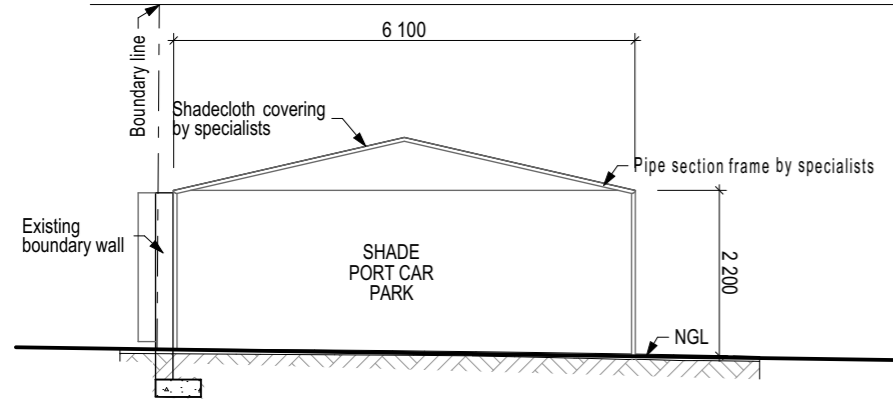
- The proposal will not negatively impact the abutting neighbours regarding privacy and loss of sunlight.
- It can be argued that the proposal will not negatively impact the health and safety of the surrounding community.
- The proposal will add value to the existing land use and neighbouring properties.
- The carport is an extension of the existing land use activity.
- Imposing a significant penalty would ultimately encumber the promotion of localised business ventures and an unnecessary financial burden on the property owner.
- The carport is not deemed to impact negatively on the streetscape of Main Road nor will it impact negatively on the line of sight for motorists.

be approved in terms of Section 16 of the OMLUS.



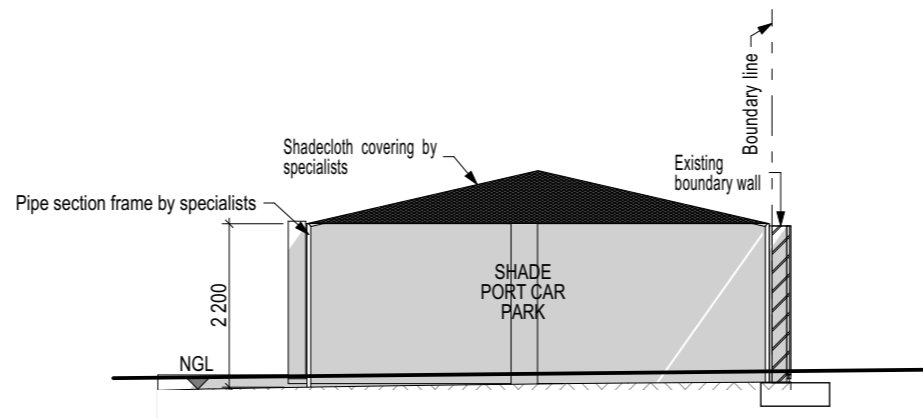


**EAST PERSPECTIVE VIEW**



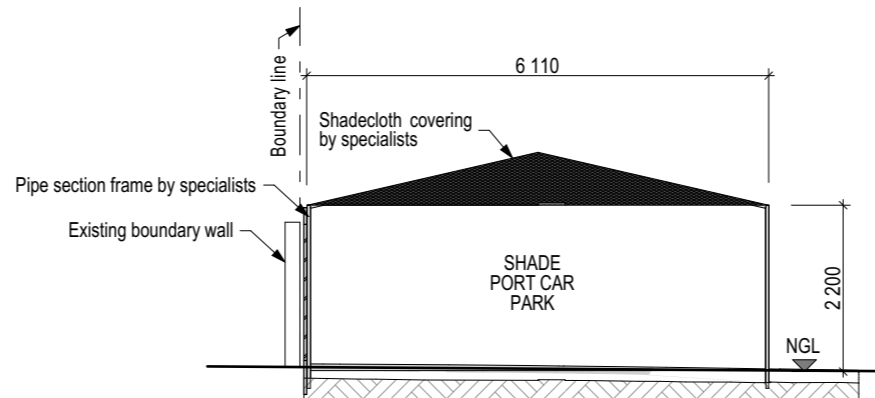
**SECTION A-A**

**1:100**



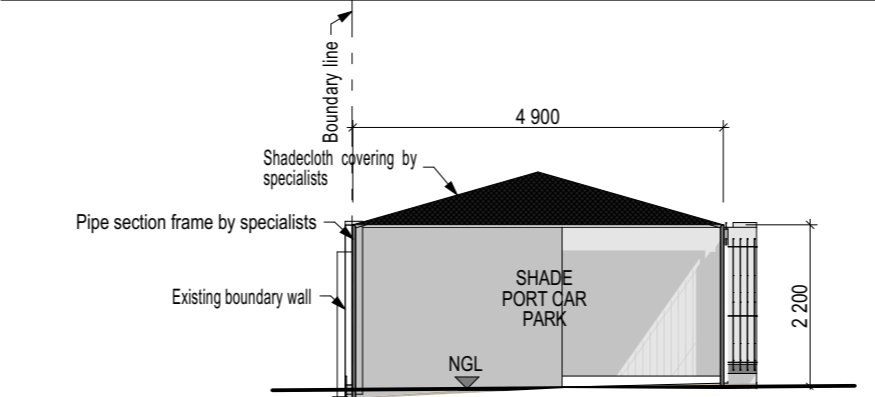
**NORTH ELEVATION**

**1:100**



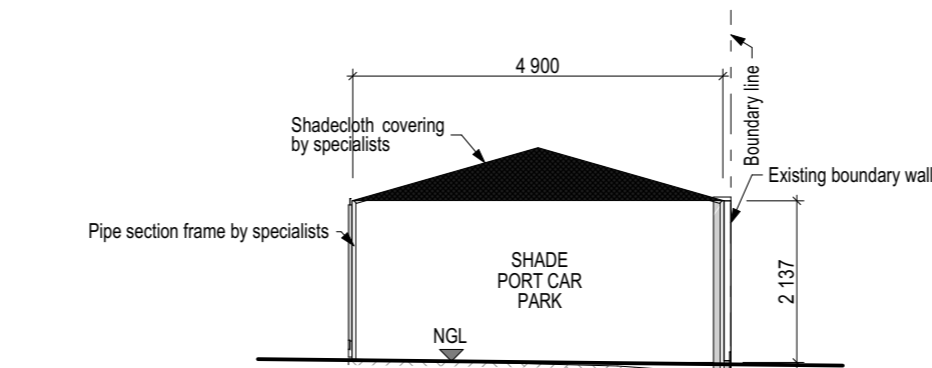
**SOUTH ELEVATION**

**1:100**



**EAST ELEVATION**

**1:100**



**WEST ELEVATION**

**1:100**

AREA OF THE ERF	1074,00m <sup>2</sup>		
COVERAGE	PERMISSIBLE	PROVIDED	
TOTAL COVERED AREA	50%	537,00m <sup>2</sup>	16,25%
EXISTING COVERED AREA			174,49m <sup>2</sup>
NEW SHADE PORT - CAR PARK			29,89m <sup>2</sup>
TOTAL COVERED AREA			204,38m <sup>2</sup>
COVERED AREA + AREA OF THE ERF X 100 = X%	174,49m <sup>2</sup> + 1074,00m <sup>2</sup> X 100 = 16,25%		
GROSS LATABLE AREA	GROSS LATABLE AREA INCLUSIVE OF COVERED AND UNCOVERED LETTABLE SPACE	184,91m <sup>2</sup>	
PARKING - BUSINESS ZONE 3	4 PARKING BAYS PER 100m <sup>2</sup> GLA		7
CLASS OF OCCUPANCY BUILDING			F2
OCCUPANCY	MEDIUM SIZE SHOP		
POPULATION	1 / 10m <sup>2</sup>		15
ORIENTATION	EAST		
CLIMATIC ZONE	4 - TEMPARATE COASTAL		

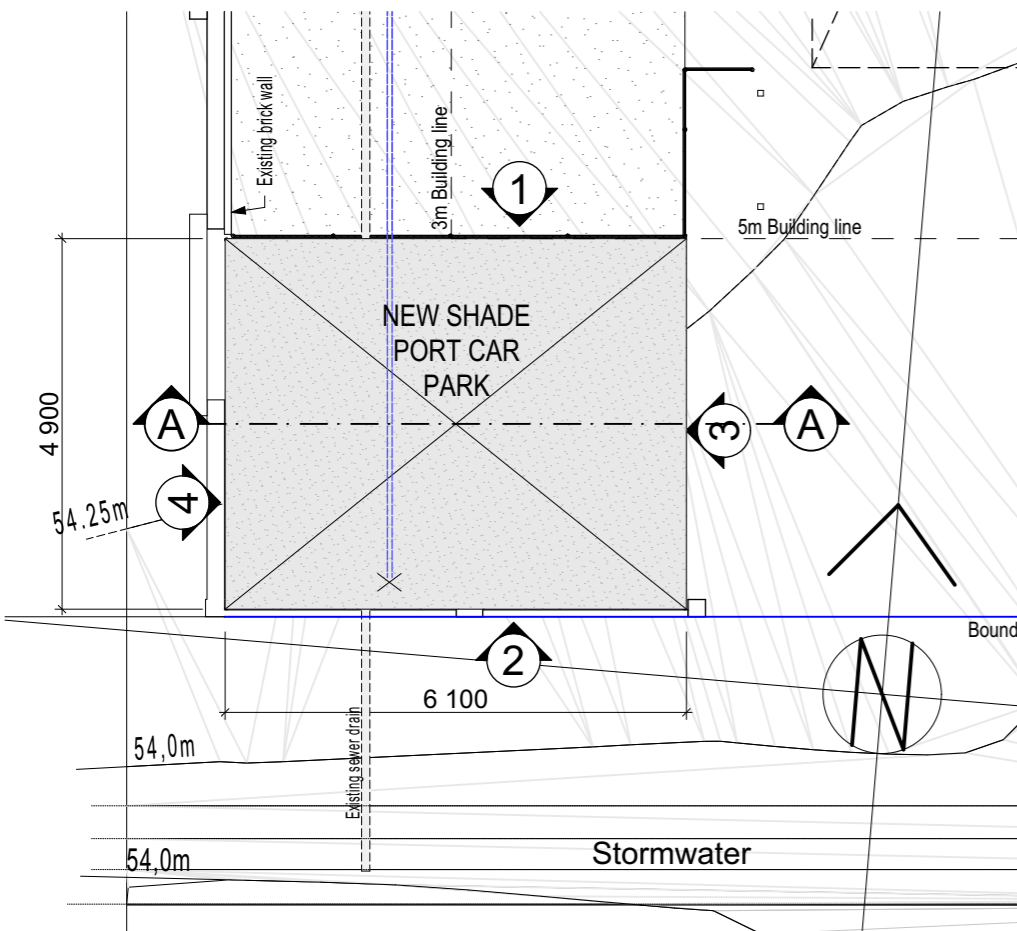
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NO	DATE	REVISION



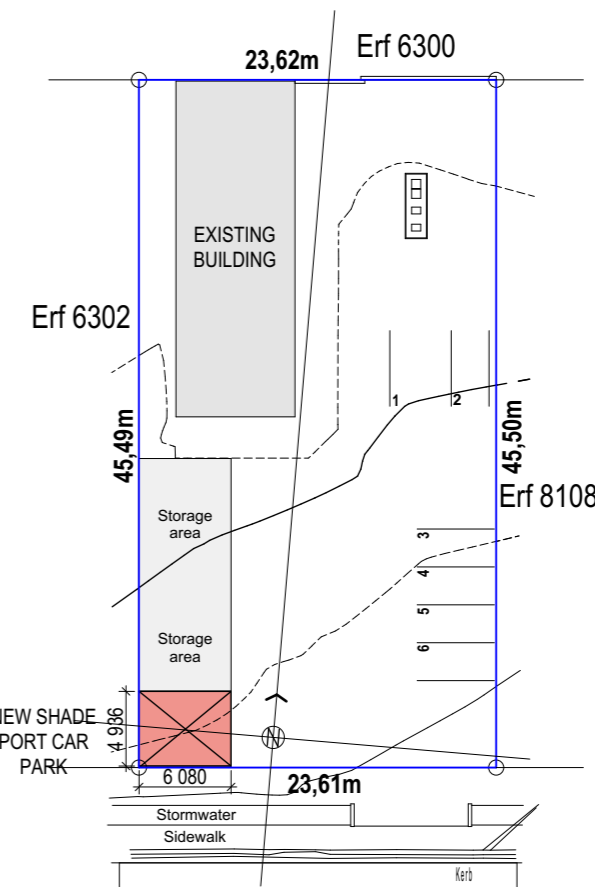
**SCIEPPAN**  
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SOMERSET WEST  
7130  
082 555 8337  
scieppan@mweb.co.za



**GROUND FLOOR PLAN**

**1:100**



**SITE PLAN**

**1:500**

PROJECT TITLE PROJECTITEL

**PROPOSED NEW SHADE NET  
PARKING FOR  
MALAKAI TAGTIG cc  
ON ERF 6301 KLEINMOND**

DRAWING TITLE TEKENINGITEL

**LAYOUT PLAN, SITE  
PLAN, SECTION AND  
ELEVATIONS**

DRAWING NO TEKENING NR

**23/101/ M-122**

C:\Data\2023\Talisman - Kleinmond\Talisman Kleinmond - 2024-02-16 - Building plan Shade net.dgn

SCALE	SKAAL	DRAWN	GETEKEN	REVISION
1:100, 1:355,58, 1:500		JUDY		
DATE	DATUM	LAST PLOT DATE	WYSIGING	
		2024/02/19		

HUGO & JUDY COETZEE  
SACAP. PSAT 0497 & PSAT 0498