



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Case ID 1500138330

Erf 69547, 6 Westbury Circus, Wynberg

Development Management

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ERF 69547 CAPE TOWN

Applications: Consent Use, Permanent Departures, and
Removal of Title Deed Conditions



URBAN SOLUTION

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1 INTRODUCTION

This report provides an evaluation of the proposal for Consent Use approval to establish a school within the existing premises (with additions), accommodating a maximum of 160 learners. The school serves the local community, providing specialized instruction rooted in Islamic principles while meeting local planning and land-use requirements.



1.1 APPLICATION

Application is made in terms of the following sections of the City of Cape MPBL, 2015 (amended 2022) for ERF 69547 CAPE TOWN (prescribed application forms are attached as **Annexure 1**):

Consent use Application: To permit the use of the site as a School (Place of Instruction). Application is made in terms of section 42 (i) of the MPBL, 2015 (amended 2022), to be read with section 21 (c) of the DMS.

Permanent Departures: Application is made in terms of section 42 (b) of the MPBL, 2015 (amended 2022)

Removal of Restrictive Title Deed Conditions: Application is made in terms of section 42 (g) and 42 (j) of the MPBL, 2015 (amended 2022)

See 2.2 of this report for detail of the applications.

1.2 PROPERTY DETAIL

1.2.1 Property and General Information

Erf number	ERF 69547 CAPE TOWN
Diagrams	SG No. 5808/1946(Annexure 2)
Property extent:	1026 m ²
Registered Owner:	
Title Deed number	(refer to Annexure 3: Deed of Transfer)
Title Deed Conditions	None
Applicant	Urban Solution (Power of Attorney – Annexure 4)
Current Zoning	Single Residential 1 (SR1)
Current land use	School
Current Access	Westbury Circus
Any unauthorised work	Yes, for the school (administrative penalty paid)
Previous approvals granted	None
Subject to SAHRA / PHRA	N/A

1.2.2 Location and Surrounding Context Analysis

Site Analysis

The property falls within the Southern District of the City of Cape Town Municipality and is located in the suburb of Wynberg. The property is situated on Westbury Circus (site address: 6 Westbury Circus, Wynberg), which is off Byrnes Avenue.

The property is intended to operate as a school using the structure on the property. The whole property will be used as a school.



Figure 1.1: Property Concerned 1

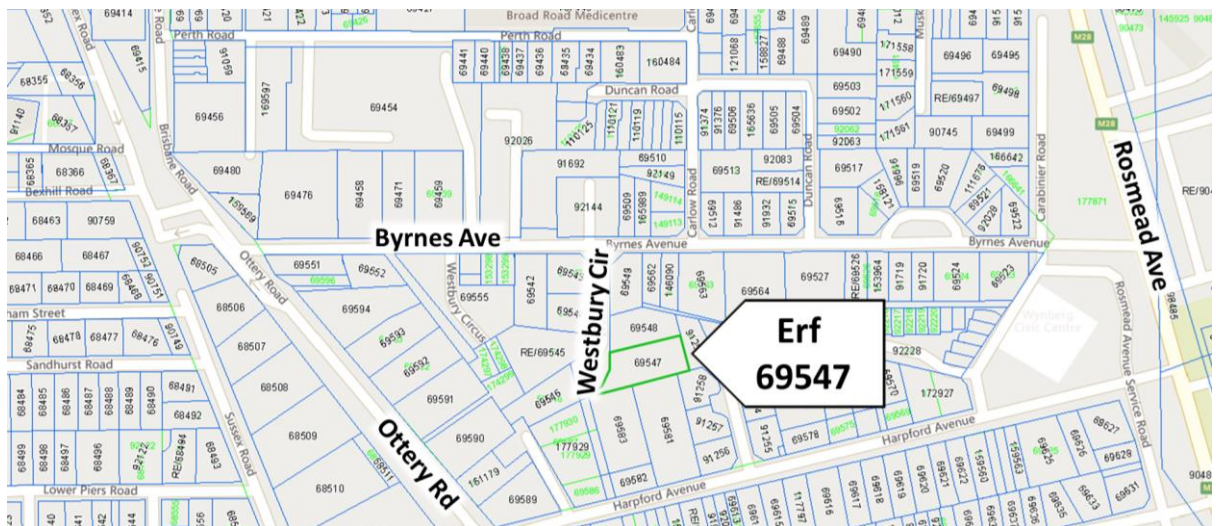


Figure 1.2: Property Concerned 2

Local Context

The site is situated in the suburb of Wynberg, in an area that is characterised as being of a mix of use, with the predominant use being residential. The bus terminus and train station are located less than 500m from the site. Higher order roads, such as Rosmead Avenue, Broad Road, and Ottery Road facilitate much of the vehicular movement within the area and public transport, and accommodate intensified uses. Byrnes Avenue is a local road, which has easy access to Rosmead Avenue and Ottery Road. Figure 1.3 below is a contextual analysis of the area, showing an aerial photo, which with the help of desktop research conducted via Google Earth identifies the surrounding uses and major roads. Figure 1.4 shows the zoning in the area, showing the mix of zoning.



Figure 1.3: Contextual Analysis: from desk top research

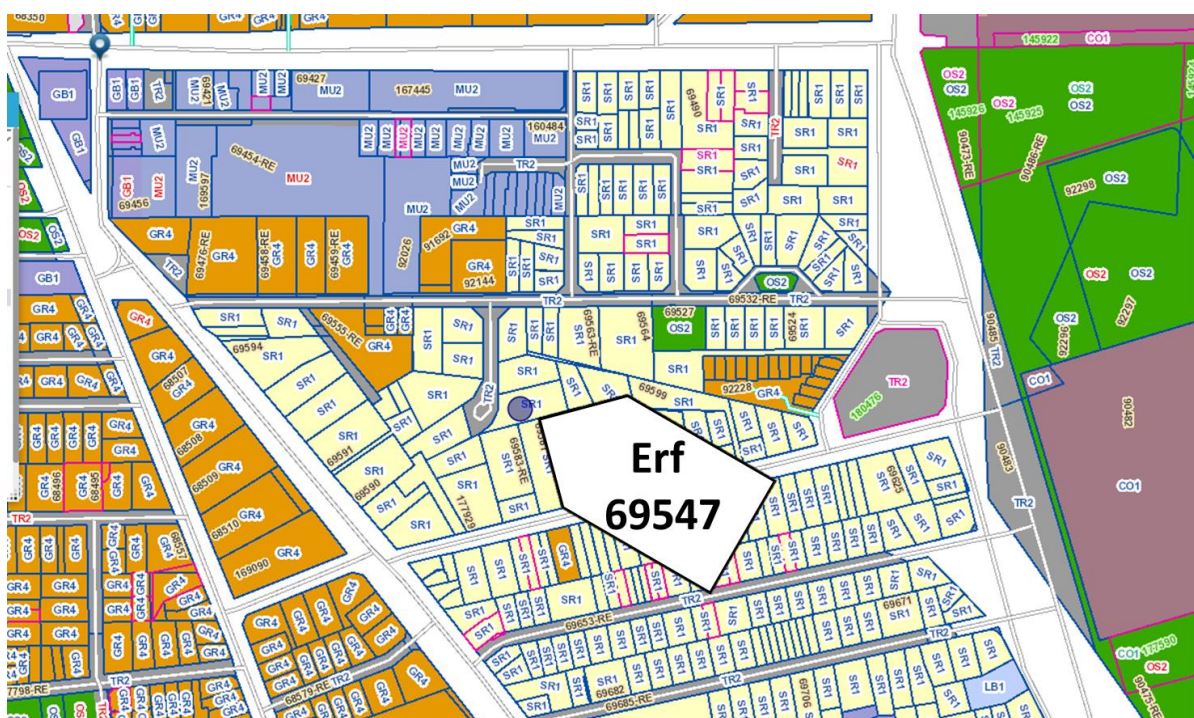


Figure 1.4: showing the surrounding land use around the property.

2 DEVELOPMENT PROPOSAL

2.1 Proposed usage of the property

Introduction The property owner seeks approval for a **Consent Use Application** to operate a primary school (grade R to 7) with a focus on Islamic education on the existing premises. The primary school will cater to 160 learners once planned extensions and modifications to the building are completed. This proposal aims to establish a small-scale educational institution that serves the local community, providing a school in accordance with Islamic principles while adhering to relevant land use and planning regulations. The property currently accommodates 96 learners, with an administrative penalty paid.

The following aspects outline the proposed:

Learner Capacity

- **Current capacity:** 138 learners
- **Proposed capacity post-extension:** 160 learners

Facilities and Staffing

- **Classrooms:** The school accommodates 7 classrooms. The extensions to the existing structure will create additional classrooms necessary to accommodate the increase in learners. The school will feature facilities suited to primary education, with a focus on Islamic studies.
- **Outdoor activities:** The property has sufficient space to provide for outdoor activities, ensuring students have access to recreational facilities that support physical development and learning.
- **Staffing:** The school will employ qualified teaching staff, including:
 - **Number of teachers:** 7 teachers
 - **Principal:** 1 principal
 - **Groundsmen and cleaners:** 1 groundsman and 1 cleaner
 - Total number of staff: 10 staff members
- **Hours of operation:**
 - Start: 08:00 (receiving starts at 07:00)
 - Dismissal:
 - Younger learners: 12:30
 - Mid aged learners: 13:30
 - Older learners: 15:00
 - Aftercare (14 children): 17:00
 - School closes: 17:30

Architectural and Streetscape Impact: The proposed building extensions are designed to integrate with the existing structure, ensuring that the architectural character of the property and surrounding streetscape remain unaffected. The scale and design of the additions will be in harmony with the residential nature of the area, minimizing any potential visual impact.

Access and Transport: Access to the site will be via the existing entrance from Westbury Circus. The property is well-serviced by local road networks, and the current access arrangements will adequately accommodate the expected traffic generated by the school. Parking provisions will be made for staff and drop-off zones for parents, ensuring efficient circulation and minimizing congestion. The school's small scale ensures that traffic and parking demand will remain within acceptable limits for the area.

Planning and Zoning Compliance: The proposed use is in line with the consent use provisions for educational facilities within residential areas, which are supported by the Development Management Scheme. The property's large size, existing infrastructure, and proximity to residential areas make it well-suited to accommodate the proposed primary school.

The consent use application is consistent with the surrounding land uses and spatial planning objectives, which promote mixed-use developments and the provision of community services, such as education, within close proximity to residential neighbourhoods.

Community Considerations: The proposal takes advantage of the majority of the existing infrastructure on the site – with some additions. The school will provide much-needed educational facilities for the community, and the focus on Islamic education adds to the diversity of local institutions. The proposal is also expected to have a positive impact on the local economy by providing employment opportunities for staff and teachers.

Conclusion The Consent Use Application for a Place of Instruction (primary school) aligns with the educational needs of the community and local planning objectives. The school's small scale and planned improvements to the existing structure ensure that it will integrate well within the surrounding residential area, maintaining the character of the neighborhood. Approval of this application will provide essential educational services while promoting efficient land use and community development.

2.2 Proposed Land Use Planning Applications, in terms of the MPBL, 2015 (amended 2022)

Consent use Application: To permit the use of the site as a school (place of instruction). Application is made in terms of section 42 (i) of the MPBL, 2015 (amended 2022), to be read with section 21 (c) of the DMS.

Permanent Departures: Application is made in terms of section 42 (b) of the MPBL, 2015 (amended 2022)

- Street Building Line: The existing building to be converted to an office, to be sited 4.282m, and a new garage to be 3,054m from the street building line (Westbury Circus) in lieu of 4.5m.
- Street Building Line: Garage to be closer than 5m from the Street Boundary (Item 22(f)(iii))
- Common Building Line (southern): New portions of the building to be sited 0,6m and 1,960m from the southern common boundary in lieu of 3m.
- Common Building Line (northern): The covered veranda to be sited 2,196m from the northern common boundary in lieu of 3m.
- Window Placement (southern boundary): Windows to be placed 0,7m from the common boundary in lieu of 1.5m.
- Height of a building within 3m of the common boundary: to be 5,854m in lieu of 4m
- Carriageway Crossing: 10m in lieu of 8m
- Carriageway Crossing: to permit 2 carriageway crossings on a site less than 30m in length.

Removal of Restrictive Title Deed Conditions: Application is made in terms of section 42 (g) and 42 (j) of the MPBL, 2015 (amended 2022):

- Condition B.(i)(a): The erf shall be used for residential purposes only.
- Condition B.(i)(b): Only one dwelling, together with such outbuildings as are ordinary required to be used therewith, shall be erected on this erf
- Condition B.(i)(c): Not more than one-half the area of this erf be built upon
- Condition B.(i)(d): No building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 15ft to the street line which forms a boundary of this Erf, nor within 10 ft. of the rear boundary or 5 ft. of the lateral boundary common to any adjoining erf provided that with the consent of the local authority, an outbuilding not exceeding 10 ft. in height, measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear and lateral spaces.

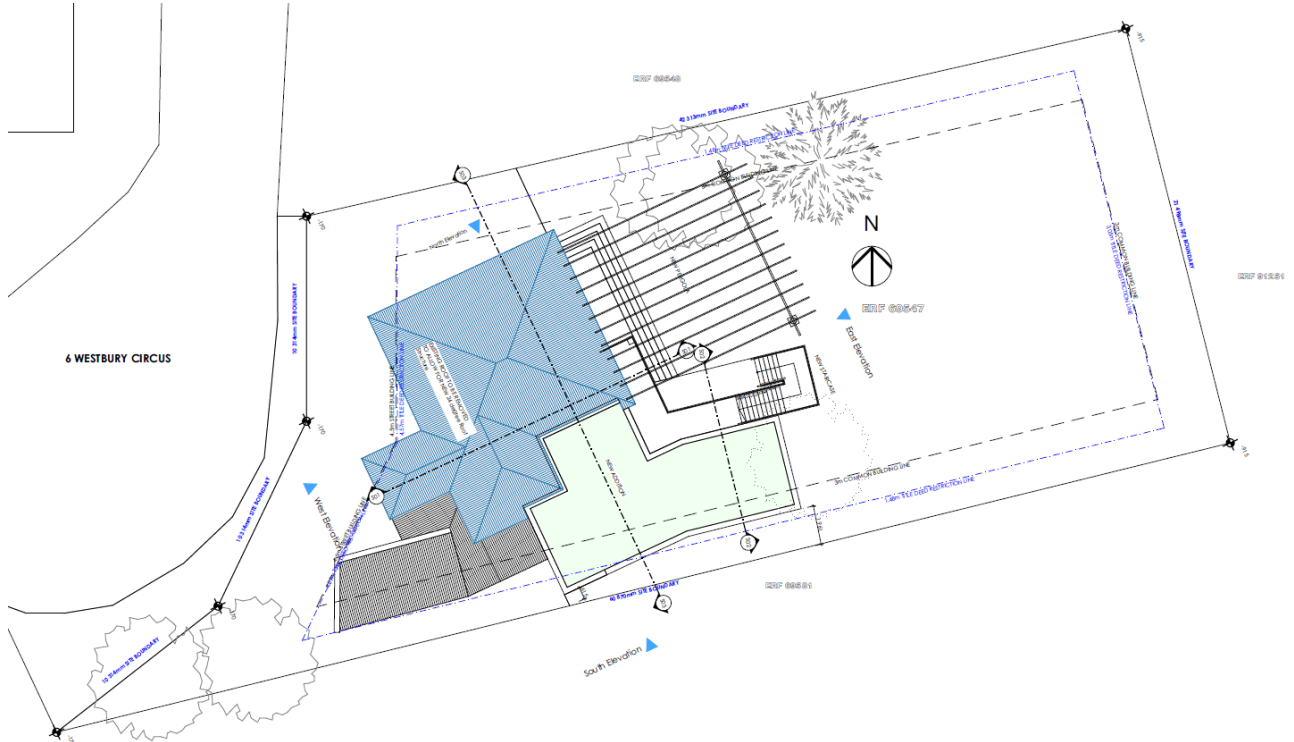


Figure 2.1: Roof Plan and Site Plan



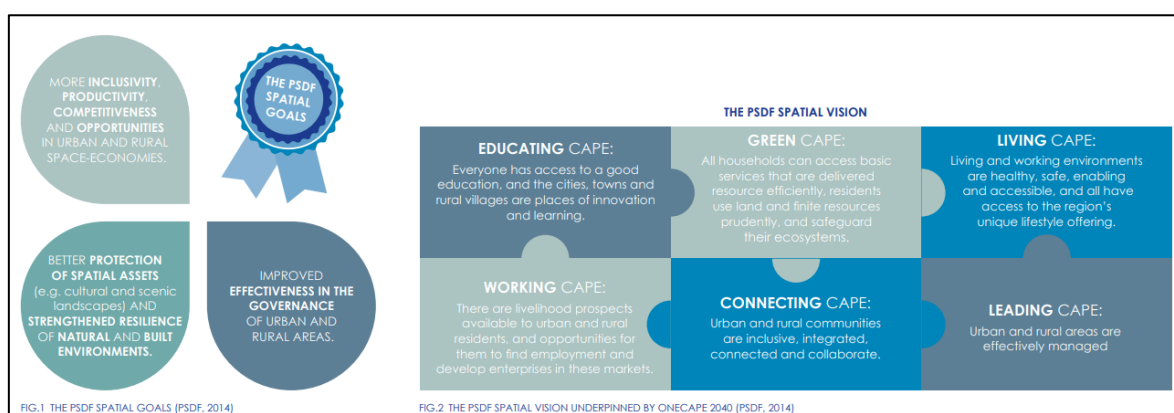
Figure 2.2: Street Elevation

3 MOTIVATION

3.1 Consistency with any applicable spatial development framework - (MPBL section 99 (1)(b)).

3.1.1 Western Cape Provincial Spatial Development Framework (WCPSDF), 2021.

The WCPSDF has now been framed by the objectives of the National Development Plan (NDP). Specifically looking at the urban and rural. Spatial Vision three broad spatial goals, as well as the 'key spatial transitions, framed from the perspective of the WCPSDF Themes. A noteworthy idea is that the Western Cape planning, budgeting and implementation system needs to be supported by institutional improvements in order to enable the province to achieve these transitions. Inclusivity and Education are key spatial visions. The proposal for the school within the context supports the vision of the WCPSDF.



Extract from the WCPSDF

The inclusion of a new school within this mixed-use, predominantly residential area supports these objectives by fostering a more integrated community. By locating essential services such as education near residential areas, the need for long commutes is reduced, contributing to a more sustainable, inclusive settlement. Additionally, the school adds to the diversity of land uses in the area, aligning with the principles of the WCPSDF to promote mixed-use development and support community needs.

3.1.2 Cape Town Municipal Spatial Development Framework (CTMSDF), 2023.

Cape Town's Municipal Spatial Development Framework (MSDF) outlines the spatial vision and development priorities needed to create a more inclusive and reconfigured urban form for the city. It serves as a spatial interpretation of the City of Cape Town's Integrated Development Plan and reflects the outcomes of the MSDF's five-year review. This framework is shaped by the requirements of SPLUMA, the City's Municipal Planning By-Law (MPBL), and various other national, provincial, and local policies.

The dimensions of the MSDF:

- Facilitating the integration of communities and the densification of urban form.
- Economic inclusion and job creation.

- Optimisation of social services and amenities.
- Intensification of land use (diversity and density) within the Urban and Coastal Development Edges.
- The proposal is in line with the dimensions of the MSDF, as it is a land use that creates an inclusive settlement type, where the school is accessible to the community. The proposal is well located in terms of access to the local community.



According to the Consolidated Spatial Plan Concept of the Cape Town Municipal Spatial Development Framework (MSDF), the site is strategically located within the Urban Inner Core and Development Corridor, areas prioritized for increased development intensity. These zones are characterized by higher densities, mixed land use, and greater connectivity to public infrastructure, which supports sustainable urban growth. The framework encourages land-use diversification and the integration of public amenities, such as schools, to enhance accessibility for local residents.

The site in question has sufficient bulk and infrastructural capacity, including road access, utilities, and proximity to public transport networks, making it suitable for the conversion of the existing residential dwelling into a school. The intensification of this site aligns with spatial planning objectives, particularly the promotion of educational facilities within walkable distances in residential neighbourhoods.

In terms of zoning, the site falls within an area of a mix of uses, and the site being SR1 allows for institutional uses such as schools, subject to necessary consent approval. The existing urban fabric, characterized by medium-density housing, is conducive to a small to medium-sized educational institution, minimizing any disruptive impact on surrounding land uses. Additionally, the site's proximity to an economic node enhances the opportunity for local employment and economic activity, further contributing to the area's socio-economic upliftment.

This proposal is consistent with the MSDF's focus on mixed-use development and the integration of social infrastructure, supporting both community cohesion and economic growth in the region.

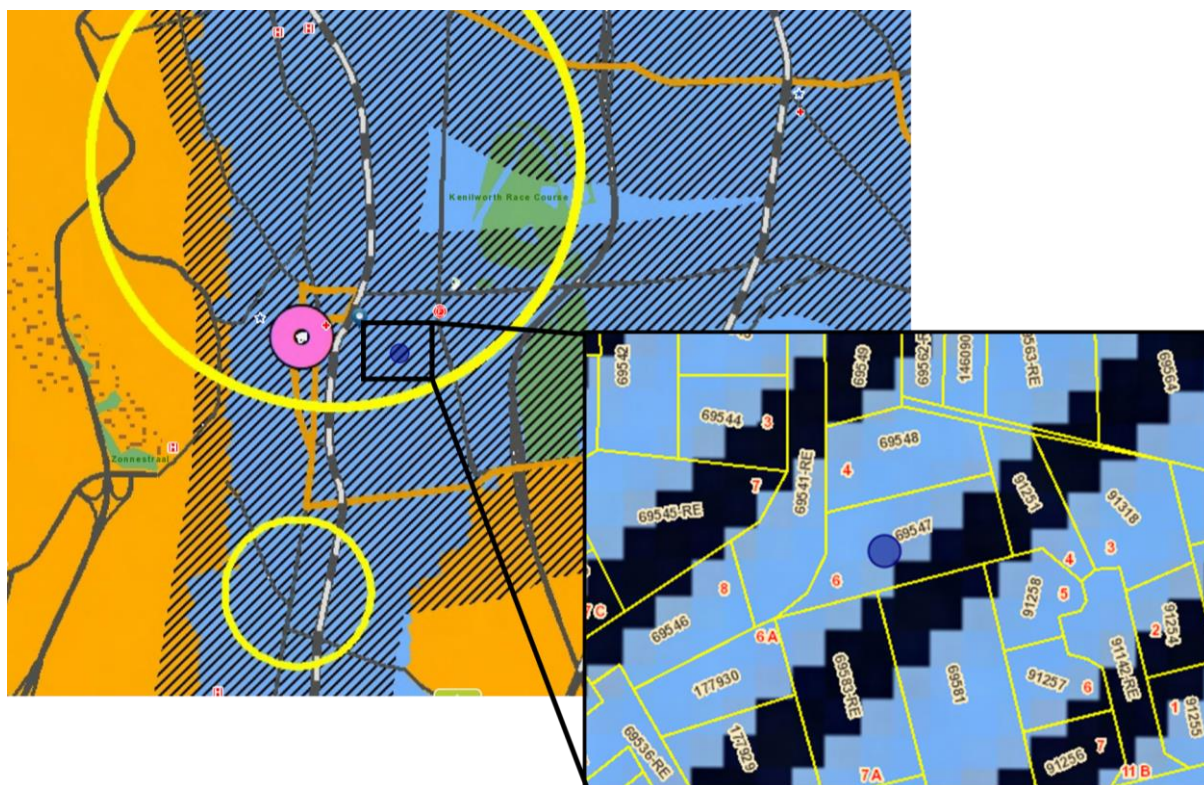


Figure 3.1: Extract from CTMSDF

3.1.3 Southern District Plan, Spatial Development Plan and Environmental Management Framework, Technical Report (2023)

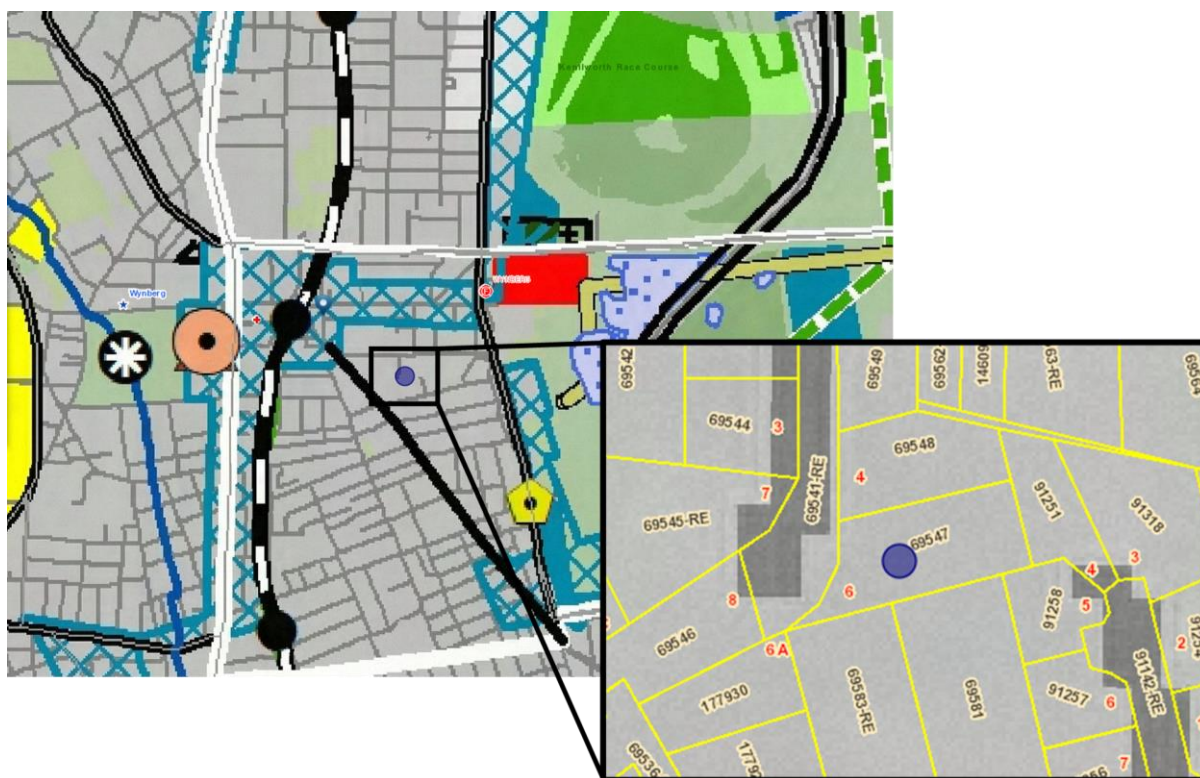
The Spatial Development Plan (SDP) and Environmental Management Framework serve as key guiding documents for assessing development proposals within the district. These documents establish the status quo and provide essential criteria to inform decision-making processes. Proposals that align with the objectives of the SDP are generally viewed favourably for approval, particularly when they contribute to sustainable urban development and align with district-level spatial planning goals.

According to the Sub-District 3 plan of the Southern District Spatial Development Plan, the proposed site for the new school is located within a designated development corridor and falls within an area earmarked for urban development. This area is characterized by higher-intensity land use, which typically includes denser, more diverse development compared to other parts of the city. These urban development zones are intended to accommodate mixed-use growth along major development routes, promoting efficient land use and improved access to services.

The site's position within this corridor aligns with the sub-district's vision of optimizing the integration of land uses, supporting densification, and fostering small business development. The conversion of the existing residential dwelling into a school fits seamlessly into this vision by adding an institutional use to a predominantly residential area, enriching the mix of land uses.

From a technical standpoint, the school's introduction is expected to increase foot traffic and enhance the demand for local services, contributing to economic stimulation in the immediate vicinity. The site benefits from adequate public infrastructure, including access to transport routes and utilities, further supporting the area's capacity for intensified land use. The surrounding road network is capable of accommodating any increase in traffic generated by the school, with minimal need for significant upgrades.

Additionally, the zoning of the site allows for educational facilities subject to specific land-use management approvals. The development corridor designation emphasizes the need for increased density and a mix of complementary uses, both of which are supported by the school proposal. This ensures consistency with the District Plan's goals of creating a diverse, integrated, and dynamic urban environment while contributing to community development and the broader planning objectives for the area.



3.4 Compliance with relevant criteria contemplated in the development management scheme - (MPBL section 99 (2)(b)).

The MPBL provides the mechanism to make applications for a consent use of the property. The proposed applications are therefore consistent with the MPBL, whereby it duly applies for the applications detailed in Chapter 2 of this report.

The application is for consent use only and the property does not trigger any departures.

3.5 Compliance with any applicable policy approved by the City to guide decision making - (MPBL section 99 (2)(c)).

Table 2: Applicable Policy	Consistency
Cape Town Integrated Development Plan (IDP) 2017-2022	✓
Transit Orientated Development (TOD) Strategic Framework, 2016	✓
Economic Growth Strategy	✓
Social Development Strategy	✓

3.5.1 Cape Town Integrated Development Plan (IDP)

The City of Cape Town's five-year Integrated Development Plan (IDP) serves as the City's primary strategic framework, built on five key pillars: creating an opportunity city, a safe city, a caring city, an inclusive city, and a well-run city. The IDP outlines the City's priorities and development goals, focusing on areas that will enable the realization of these objectives. Central to the City's strategy is the promotion of spatial transformation to address historical imbalances and improve access to opportunities for all residents.

A key strategy in achieving spatial transformation is the Transport-Orientated Development (TOD) approach, championed by the Transport and Development Authority (TDA). TOD emphasizes higher-density, mixed-use developments along key public transport corridors, such as Bus Rapid Transit (BRT) routes and rail station precincts, to promote more equitable urban development. By increasing density and diversifying land uses in these strategic locations, the City aims to overcome spatial disparities and reduce the socio-economic divide.

The proposed school in this predominantly residential mixed-use area will contribute directly to these objectives by introducing a necessary public service and diversifying the land use within the neighbourhood. Educational facilities are critical to fostering inclusivity in urban spaces, particularly in areas where access to quality education is limited. The school's establishment will not only provide much-needed educational opportunities but will also enhance the socio-economic fabric of the area by offering a key public service that supports community development.

From a technical perspective, the school will add to the area's functional diversity, aligning with the TOD principles by providing an essential service within walking distance of residential zones, thus reducing the need for long commutes. Its location within an urban area also promotes affordability and inclusivity by offering local education options in a context that encourages sustainable, compact urban living. Moreover, the integration of the school within the local land use framework supports the IDP's vision for a well-rounded, inclusive city where access to education and community facilities plays a key role in achieving spatial and social transformation.

3.5.2 Transit Orientated Development (TOD) Strategic Framework, 2016

TOD is defined as a long-term development strategy to address spatial inequality, improve public transport affordability, and address sprawl, driven by the integration of sustainable public transport and strategic land use intervention. It is built on the principles of affordability, accessibility, efficiency, intensification, and densification. The compliance with the core TOD principles is discussed below:

PRINCIPLE:	COMPLIANCE:
Affordability – reduce the cost of public transport to commuters and the cost of providing public transport to the City.	The proposed use of the site as a school aligns with the core principles of spatial planning and sustainable urban development. The establishment of an educational facility within this predominantly residential mixed-use area enhances the functional diversity of the neighbourhood, contributing to a more balanced and integrated urban environment. By introducing a place of instruction, the proposal supports social inclusivity, offering critical services to the local community and fostering long-term socio-economic growth. From a technical standpoint, the site is strategically positioned near major transport routes, including [Insert specific transport routes, such as BRT trunk lines or nearby arterial roads]. This proximity to public transport infrastructure not only increases accessibility for learners and staff but also supports the City's Transport-Oriented Development (TOD) objectives by encouraging the use of sustainable, non-motorized transport options. This reduces the need for private vehicle use, easing traffic congestion and minimizing the environmental impact associated with daily commutes. Furthermore, the school's location within the local transport network promotes affordability by allowing learners from surrounding areas to access the facility without the added burden of extensive travel costs. The school's integration into the existing transport system also
Accessibility – facilitate equal access to social and economic activity through strategic urban development and the provision of safe public transport.	
Efficiency – provide an environment and level of service that reduces trip lengths and dependence on private vehicles.	
Intensification & Densification – manage the desired form,	

composition and location of urban development conducive to affordable, accessible and efficient public transport.	increases efficiency by reducing travel times and enhancing connectivity between residential zones and essential services. Overall, the proposal leverages the site's strategic location to enhance accessibility, affordability, and efficiency, all of which are key to fostering an inclusive, well-connected urban community. This is in line with the City's broader goals of improving access to education and promoting sustainable, equitable development across all neighbourhoods.
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3.5.3 Economic Growth Strategy

The overarching objective of the City’s economic growth strategy is to stimulate sustainable growth, create employment opportunities, and address deep-rooted socio-economic imbalances, particularly in relation to unemployment and poverty. Central to this strategy is the vision of transforming Cape Town into an “Opportunity City,” a place where access to opportunities—whether in employment, education, or social services—is broadened, thereby improving overall quality of life for its residents. The strategic framework outlines various mechanisms to address these disparities, emphasizing the importance of social infrastructure in balancing economic inequalities.

The proposal for a school within a predominantly residential, mixed-use area directly supports the goals of this framework by focusing on both social and economic development. From a social perspective, the introduction of a school provides a critical service that improves access to education for the surrounding population. Education is a foundational element in social empowerment, offering long-term benefits that help lift communities out of poverty by enhancing skills and future employability.

Economically, the school contributes to local growth by creating direct employment opportunities for teachers, administrative staff, and support personnel such as cleaners and groundskeepers. This has a multiplier effect, as local employment reduces the need for residents to commute long distances, keeping economic activity within the neighbourhood. Additionally, the school’s presence can stimulate demand for nearby small businesses, such as shops and services, further supporting the local economy.

From a technical standpoint, the development of the school aligns with the City’s economic growth objectives by leveraging the educational facility as a catalyst for both human capital development and employment generation. By providing a local hub for education, the proposal contributes to a more inclusive, equitable economy and promotes upward social mobility, helping to bridge

existing economic imbalances in the City. This school will act as a long-term investment in the community's future, enhancing social cohesion while supporting the City's broader economic transformation goals.

3.5.4 Social Development Strategy

The City's Social Development Strategy is focused on improving the quality of life for all residents, with particular emphasis on vulnerable, marginalized, and disadvantaged populations. This strategy seeks to address key social inequalities by enhancing access to essential services, such as education, healthcare, and employment opportunities, which are critical for fostering inclusive, resilient communities.

The proposal for the development of a new school within a mixed-use, predominantly residential area aligns directly with the objectives of the Social Development Strategy. By providing a dedicated educational facility, the proposal addresses a significant social need in the community, particularly for families and children who may otherwise face limited access to quality education. Education is a fundamental driver of social development, and the introduction of this school supports the long-term empowerment of the local population by equipping learners with the skills and knowledge necessary for future success.

In addition to its educational benefits, the school will generate local employment opportunities. Positions for teaching staff, administrative personnel, and support roles such as cleaners and groundskeepers will be created, thereby contributing to economic empowerment and improving the livelihoods of residents. These job opportunities are especially valuable in mixed-use areas where employment prospects may be limited.

From a technical perspective, the school's location within a residential neighbourhood ensures that the social benefits of the proposal are maximized by being accessible to the local community, particularly those from lower-income groups who may not have the means to travel long distances for education. Furthermore, the school contributes to the broader social fabric of the area by fostering a sense of community and creating a focal point for social interaction.

Overall, the proposal supports the City's Social Development Strategy by addressing both education and employment needs, thus enhancing the quality of life for the local population and contributing to the upliftment of communities. The school will play a key role in promoting social equity, fostering inclusivity, and building a more resilient and cohesive community.

3.6 The desirability of the proposed use or development of land - (MPBL section 99 (2)(d)).

Refer to section 3.10 of this report.

3.7 Impact on existing rights - (MPBL section 99 (2)(e)).

In light of the legal planning considerations outlined in previous sections and the subsequent assessment of desirability, it is anticipated that the proposal for the new school will have no adverse impact on the existing rights of neighbouring property owners. The current zoning designation includes provisions for a "Place of Instruction" as a consent use, which allows for this type of development to be evaluated and approved by the relevant authorities. The following points illustrate how the proposal respects and preserves the rights of adjacent properties:

1. **Compatibility with Existing Zoning and Spatial Framework:** The proposed school aligns with the established zoning framework, which already accommodates educational facilities. As such, the school can be seen as a natural extension of the existing land use, enhancing the area's functionality without infringing on the rights of surrounding landowners. In terms of spatial framework, the site is strategically located within the Urban Inner Core and Development Corridor, areas prioritized for increased development intensity.
2. **Enhanced Surveillance and Safety:** The establishment of the school will increase activity on the site and in the immediate vicinity, thereby improving natural surveillance of adjacent properties and the surrounding street. This heightened visibility contributes to enhanced safety and security in the neighbourhood, which is beneficial for both residents and nearby businesses.
3. **Community Service Provision:** The school is designed to serve the local community by providing essential educational services. This not only addresses a pressing need for quality education in the area but also strengthens community ties and fosters a sense of belonging among residents. The presence of a school within a residential area encourages greater community engagement and interaction.
4. **Economic Benefits:** The proposal will generate local economic activity through the creation of employment opportunities for teachers, administrative staff, and support personnel. Additionally, the school may stimulate demand for local services and businesses, contributing to the economic vitality of the area. By bringing education and employment opportunities closer to home, the proposal enhances the overall economic well-being of the community.

Given these factors, we assert that the proposed school will have a positive impact on the area and surrounding property owners. It is our conclusion that the development aligns with both community needs and existing rights, fostering a sustainable, integrated environment that supports educational growth and community development.

In terms of the departures, we are of the opinion that they will not have an impact on the rights of the surrounding property owners, for the following reasons:

- The departures for street building lines and carriageway crossing do not have an impact on any neighbouring property, as they are facing on the public realm in front of the property – and therefore have no direct impact on anyone.
- The northern common boundary departure is for a veranda, which only has a portion of it over the 3m building line, but still an adequate distance of 2.196m away. Therefore, have no expected impact on anyone.
- The southern common boundary departure is an extension of the ground floor portion of the building, with only a small window only for light purposes and therefore will not have overlooking features. Therefore, have no expected impact on the neighbouring property.
- Window placement closer than 1.5m from the boundary will not impact the neighbouring property as is a small window only for light purposes and therefore will not have overlooking features.
- The height of the building within 3m of the common boundary (southern) is only 1.854m more than permitted. This portion of the building has one small window for light and ventilation purposes only, no overlooking.
- For the above, we are of the opinion that the departures will not have an impact on existing rights.

3.8 Other considerations prescribed in relevant national or provincial legislation - (MPBL section 99 (2)(g)).

3.8.1 Title deed Conditions

The following restrictive conditions are applicable to this application:

“imposed by the Administrator in terms of the Townships Ordinance Number 33 of 1934:”

“(i) As being in favor of the Council of the Municipality of Cape Town, and the registered owner of any Erf in the Township”

- Condition (i)(a): The erf shall be used for residential purposes only.
- Condition (i)(b): Only one dwelling, together with such outbuildings as are ordinary required to be used therewith, shall be erected on this erf
- Condition (i)(c): Not more than one-half the area of this erf be built upon
- Condition (i)(d): No building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 15ft to the street line which forms a boundary of this Erf, nor within 10 ft. of the rear boundary or 5 ft. of the lateral boundary common to any adjoining erf provided that with the consent of the local authority, an outbuilding not exceeding 10 ft. in height, measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear and lateral spaces.

The objectives of Removing the Restrictive Title Deed Conditions

- To allow the development of a school on the property and placement of new buildings.

Merits of the Application to Remove Title Conditions

SPLUMA (Section 47) and LUPA (Section 39) sets the criteria for the removal of restrictions applications.

- If the removal, amendment or suspension will deprive any person of property as contemplated in Section 25 of the Constitution then you have due regard for the respective rights of all those affected, and to the public interest.
 - The removal of the restrictive condition will not deprive any person of property as contemplated in Section 25 of the Constitution, as the conditions are development parameters and do not have a dominant tenement. The MPBL provides adequate development parameters to manage the development and use of land.
 - Section 25 of the Constitution stated the following: “the public interest includes the nation’s commitment to land reform”. The proposed development, aimed at providing community services, fosters greater accessibility for a wider demographic compared to a residential-only use. Retaining the restriction would disproportionately favour a small group, while removing it serves the broader public interest without negatively affecting surrounding property owners' rights.
 - The conditions proposed to be removed shall be regarded as an outdated development control, which do not have an appropriate mechanism to depart from, such as the MPBL has. The DMS contains adequate parameters to control the development, and has the appropriate mechanism to allow applications to be made in order of the relevant authority and decision-makers to assess it accordingly.
 - The proposed removal of the title deed restrictive conditions will not grant the applicant the proposed rights and departures as those will be assessed accordingly. The proposed removal will rather remove outdated development parameters.
 - To further support the restrictive conditions are not consistent with the spatial vision of the City, see detailed discussion of the City’s spatial documentation under sections 3.1.2 and 3.1.3 of this report above. And further to that, the assessment of the spatial and contextual analysis of the surrounding area shows that there are high density buildings, subdivisions, and properties with buildings close to common and street boundaries. Therefore, the restrictive conditions are inconsistent with the surrounding context of the areas and spatial planning.
 - Therefore, for the above, the removal of the restrictive conditions will not have an impact on public interest.

- 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 vest in the person as the owner of a dominant tenement.
 - The restrictive conditions carry no inherent financial or other value to any individual, as they are outdated development parameters imposed by former legislation for township control. Over time, new development regulations, including the DMS (Development Management Scheme), have superseded these conditions, establishing up-to-date standards aligned with current legislation. These contemporary regulations sufficiently manage development without reliance on obsolete title deed conditions.
 - As the conditions relate to development parameters in favour of the Council of the Municipality of Cape Town, and the registered owner of any Erf in the Township, and not a particular person or entity – therefore the public participation process will allow affected parties to submit their objections and these will be assessed on their legitimacy.

- The personal benefit that accrues to the holder of the rights
 - The title deed conditions provide no specific personal benefit to any individual holder. They were imposed on the entire township during its establishment as development controls. Since then, the development scheme has been implemented to regulate urban development, rendering many of these older title deed conditions obsolete. The current regulatory framework, including by-laws and planning acts, adequately governs land use and built form across the area, making the historic restrictions redundant.
 - We are of the opinion that the updated legislation and development control by-laws are adequate in regulating the built form of the area.
 - As per stated under the previous point of financial value, the public participation process will allow affected parties to submit their objections and these will be assessed on their legitimacy.

- The personal benefit which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended.
 - The removal of the restrictive condition will allow the property owner to utilize the land more effectively, facilitating a community-focused development. This aligns with the needs of the local population and maximizes the use of the property. The benefit extends to both the property owner and the operator, who will be better positioned to achieve efficient land use and community engagement.
 - It is noted that the removal of the proposed removal of the title deed restrictive conditions will not grant the applicant the proposed rights and departures as those will be assessed accordingly. The proposed removal will rather remove outdated development parameters

- The social/societal benefits of the restriction remaining in place
 - Retaining the restriction offers no significant social benefit. In fact, maintaining the restriction hinders the proposed community-oriented development, which would deliver a tangible public good. The City's planning frameworks, which promote densification and sustainable urban growth, support the removal of such restrictions to enable appropriate and inclusive development.
 - As previously noted, the applications will still be subject to scrutiny in terms of legislation and policy.
- The social/societal benefit of removing the restrictions
 - Removing the restrictive condition enables the land to be used more efficiently, unlocking its full development potential. This contributes to the creation of a more diverse and accessible neighbourhood, enhancing the community's access to important services. Moreover, it aligns with modern planning goals, which seek to optimize urban land use while encouraging mixed-use development patterns.
 - Existing legislation and policy will remain in control of the development of the site.
- 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
 - The removal of the restrictive condition will not fully extinguish the rights of any beneficiaries, as the property will remain subject to development controls under the DMS. This modern regulatory framework offers comprehensive oversight to ensure responsible development, thus safeguarding community interests while allowing for adaptive reuse of the property.
 - As the due process of the removal of restrictive title conditions will include extensive public participation, this aspect can only be adequately understood once the affected parties are given an opportunity to provide comments and objections. These will be assessed on their legitimacy.

3.8.2 Compliance with the Development Principles in SPLUMA and LUPA

Before any town planning application can be fully assessed, it must first be evaluated against the core principles of the Spatial Planning and Land Use Management Act (SPLUMA). These principles—spatial justice, sustainability, efficiency, and good governance—form the foundation for all land development decisions. Ensuring compliance with SPLUMA is the first and most critical step in the assessment process, as it determines whether a proposal aligns with broader planning objectives and legal requirements. For this reason, SPLUMA is addressed first in the motivation, setting the framework for all further considerations in the application.

Section 7 of the Spatial Planning Land Use Management Act (SPLUMA) and Section 59 of the Western Cape Land Use Planning Act (LUPA) describe five (5) development or planning principles that all new development should consider, namely: spatial justice, spatial sustainability, efficiency, good governance, and spatial resilience. The proposed development contributes to these principles in the following ways:

SPLUMA Principle	Consistency of the Proposal
1. THE PRINCIPLES OF SPATIAL JUSTICE	
Redress past spatial and other development imbalances must be redressed through improved access to and use of land.	The proposed development promotes equitable access to land and services for previously disadvantaged communities. The development integrates with existing urban areas to enhance accessibility and inclusivity. The principles of spatial justice are fulfilled through the improved utilisation of land. The purpose of the site is for education. The proposal will provide the youth with equal opportunity.
Alignment with Spatial development frameworks and policies at all spheres of government must address the inclusion of persons and areas that were previously excluded, with an emphasis on informal settlements, former homeland areas and areas characterised by widespread poverty and deprivation.	The development aligns with municipal, district, and provincial spatial plans. As the application is for a school, it may not that aim to redress past injustices, but rather provide a community use accessible to all. The site is located in an area that is well serviced by transport infrastructure, improved infrastructure and transport links.
Integration of Spatial planning mechanisms, including land use schemes, must incorporate provisions that enable redress in access to land by disadvantaged communities and persons	The application complies with local land use scheme, as it applies for the relevant applications and followed due process. The proposed school is accessible to all.
Inclusion of all Land use management systems must include all areas of a municipality and specifically include provisions that are flexible and appropriate for the management of disadvantaged areas, informal settlements and former homeland areas.	The development considers the need for places of instruction as a consent use in its planning approach. The land use scheme includes flexible zoning provisions to accommodate the activities. This application is not located in disadvantaged areas, informal settlements or former homeland areas, therefore not applicable.
Land development procedures must include provisions that accommodate access to secure tenure and the incremental upgrading of informal areas.	This application is not located in an informal area, therefore not applicable.
A Municipal Planning Tribunal considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property is affected by the outcome of the application	The assessment of this application is based on planning principles and not on speculative concerns regarding property values. The Tribunal's discretion in decision-making remains independent of private land value fluctuations.
2. THE PRINCIPLES OF SPATIAL SUSTAINABILITY	
Promote land development that is within the fiscal, institutional and administrative means of the Republic.	The proposed development is financially feasible and does not place undue strain on municipal resources.

	Infrastructure and service provision can be sustainably supported within existing municipal budgets. The site is located within the Urban Inner Core and development corridor. The City and public and private sectors are committed to coordinated, spatially targeted investment and land development to spatially transform and integrate the city form. The area has sufficient capacity to accommodate the conversion of an existing dwelling house to be used as a school.
Ensure that special consideration is given to the protection of prime and unique agricultural land.	The proposal avoids encroaching on high-potential agricultural land. The site is located within the urban edge, in the urban area. The site is located within the located within the Urban Inner Core and development corridor. Therefore, for the above, no prime and unique agricultural land are impacted at all.
Uphold consistency of land use measures in accordance with environmental management instruments.	The development complies with environmental legislation and impact assessments – and has been considered by the relevant departments. There are no sensitive ecosystems and biodiversity impacts.
Promote and stimulate the effective and equitable functioning of land markets.	The development contributes to a well-functioning land market by promoting diverse land uses. The proposal does not create artificial barriers to land access or development. The use of the existing large dwelling house and site to be a school will promote and stimulate the effective and equitable functioning of land markets by: - Access to an education facility close to residential. - Not significantly change the built form, as it retains its residential appearance – but still allows a mix of use. - The proposed use does not impact the functioning of the surrounding uses - but is rather complimentary as it is a service to the community.
Consider all current and future costs to all parties for the provision of infrastructure and social services in land developments.	There are no future costs, as the use does not require significant infrastructure upgrades. Although on a micro scale, the use is a community service/educational facility, therefore should be regarded as supporting future surrounding land development.
Promote land development in locations that are sustainable and limit urban sprawl.	The site is within the urban edge, and within Urban Inner Core. Therefore, the use of the property shall be regarded as sustainable and limiting urban sprawl – as it is contained in the urban area.
Result in communities that are viable.	The project contributes to a well-balanced urban environment with access to jobs, education, and services. The design fosters social cohesion and long-term economic sustainability.

	The school is a community service/educational facility within an existing community.
3. THE PRINCIPLES OF EFFICIENCY	
Land development optimises the use of existing resources and infrastructure.	The development makes use of existing road, water, and electricity networks efficiently. The proposal enhances the functionality of underutilized infrastructure. The site is also located in an area that is earmarked for intensification (Urban Inner Core and Development Corridor)
Decision-making procedures are designed to minimise negative financial, social, economic or environmental impacts.	A cost-benefit analysis indicates that the project is sustainable in the long term. The community service/educational facility has a long-term benefit to the community, without negatively impacting the surrounding as it is of low-scale and kept within the existing dwelling.
Development application procedures are efficient and streamlined and timeframes are adhered to by all parties.	The application complies with regulatory timelines and does not impose undue delays.
4. THE PRINCIPLE OF SPATIAL RESILIENCE	
Whereby flexibility in spatial plans, policies and land use management systems are accommodated to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks.	Flexibility in Spatial Plans and Policies: The proposal does not require flexibility in spatial plans and policies, as it aligned with these plans and policies. The land use management system supports the application, and the relevant process has been implemented.
5. THE PRINCIPLE OF GOOD ADMINISTRATION	
All spheres of government ensure an integrated approach to land use and land development that is guided by the spatial planning and land use management systems as embodied in this Act.	The application has been assessed in conjunction with relevant sectoral plans and policies – and found to be aligned. Government departments and agencies have provided input to ensure alignment with broader development goals.
All government departments must provide their sector inputs and comply with any other prescribed requirements during the preparation or amendment of spatial development frameworks.	Relevant government departments have been consulted for input on infrastructure, environmental, and social aspects. The proposal meets all legislative and regulatory requirements.
The requirements of any law relating to land development and land use are met timeously.	The application process adheres to prescribed statutory timelines. Legal compliance measures are in place to ensure smooth implementation.
The preparation and amendment of spatial plans, policies, land use schemes as well as procedures for development applications, include transparent processes of public participation that afford all parties the opportunity to provide inputs on matters affecting them.	The development application to undergo a fair and inclusive public consultation process.
Policies, legislation and procedures must be clearly set in order to inform and empower members of the public.	The application follows clearly defined procedures to ensure public awareness and understanding. Information about the development is readily available to all affected parties.

3.8.3 Land Use Planning Act (Act 3 of 2014)

The Land Use Planning Act sets out the principles for development, the minimum requirements for municipal planning matters, and the minimum content for metropolitan spatial development frameworks and zoning schemes at the provincial level.

The proposals adhere to the requirements of LUPA.

3.8.4 City of Cape Town Municipal Planning By-Law

The City of Cape Town Municipal Planning By-Law (MPBL) serves as the legal framework for processing land use applications within the municipality. Section 99 of the By-Law establishes the criteria that guide decision-makers in assessing these applications, ensuring that they are consistent with relevant planning principles, legislative requirements, and policy frameworks.

Section 99 requires a thorough evaluation of factors such as compliance with applicable legislation, impact on surrounding properties, municipal infrastructure capacity, and the promotion of sustainable development. This section is crucial in ensuring that land use decisions are made in the public interest and are aligned with broader spatial development goals.

The desirability of the proposed land use, a key component of Section 99, will be discussed in detail in Chapter 3.10 below, where it will address the specific factors influencing the appropriateness of the application in the local context.

3.8.5 National Environmental Management Act (25 of 1998)

The National Environmental Management Act and EIA Regulations identify certain activities that may be detrimental to the environment. This proposed development does not trigger the need for an environmental process.

3.8.6 National Heritage Resource Act (Act 25 of 1999)

The legislation aims to promote good management of the national estate and enable and encourage communities to nurture and conserve their legacy. Section 38 lists a host of development categories, which, if pursued, require the responsible heritage resource authority. This proposed development does not trigger the need for a heritage process. The building work will be dealt with at the BDM stage.

3.9 Whether the application complies with the requirements of this By-law - (MPBL section 99 (2)(h)).

This application complies with the By-Law requirements, as it makes the relevant applications to support the proposal.

3.10 Evaluation of Desirability - (MPBL Section 99(3)).

a) Socio-economic impact – (3)(a)

The proposal provides jobs for people in the community.

d) Compatibility with surrounding land uses – (3)(d)

The proposed development's compatibility with the surrounding land uses is a critical consideration for achieving a harmonious and sustainable urban environment. As outlined in Section 1 of this report, the site is positioned within a mixed-use area, with a predominant focus on residential uses. This mix of uses underscores the need for community-supporting amenities that enhance the neighbourhood's functionality, accessibility, and quality of life. Schools, as essential community facilities, play a pivotal role in sustaining residential areas by meeting educational needs and providing social and economic benefits.

The proposal seeks to introduce a school on the site through a consent-use application, which would formally allow this educational use in alignment with municipal requirements and community needs. Schools are recognized as vital components of residential neighbourhoods, as they not only offer educational services but also support a sense of place by acting as community gathering points. This particular site's suitability for a school is further reinforced by its integration with the surrounding residential land use, enabling convenient access for local families and minimizing the need for extensive commuting to distant educational facilities.

Additionally, the proposed school will contribute positively to the local economy by creating job opportunities, both directly (through teaching and administrative positions) and indirectly (through support services such as maintenance, transport, and supply). This aligns with broader town planning principles, which emphasize the importance of local employment opportunities in fostering a resilient and thriving community. By generating employment within the area, the proposal aligns with sustainable planning objectives that reduce travel demands, thereby minimizing potential traffic congestion and associated environmental impacts.

In summary, the establishment of a school on this site aligns with and supports the surrounding residential and mixed land uses, enhancing the neighbourhood's infrastructure and socio-economic fabric. This compatibility with the existing urban context confirms that the proposal is consistent with local planning policies and community needs, ensuring it will serve as a beneficial addition to the area. Further contextual analysis is available in Section 1.2.2 of this report.

(e) Impact on external engineering services – (3)(e)

The site is located in an area where the City encourages intensification and densification and has committed to service these sites where capacity is available.

(f) Impact on safety, health and wellbeing of the surrounding community – (3)(f)

Given the compatibility of the proposal with the surrounding urban fabric, we do not anticipate that there will be a negative impact on the safety, health and wellbeing of the surrounding community. It is more likely to positively impact the area as it will allow more people to use the area (improved surveillance), and convenient access to accommodation for people from other areas as well as tourists.

(g) Impact on heritage – (3)(g)

The site is not located in a HPOZ. The is indicated as a graded 3C site, which will be dealt with at BDM stage. The land use application should be regarded as not having an impact on heritage.

(h) Impact on the biophysical environment – (3)(h)

Not applicable as no trees or significant vegetation will be removed.

(i) Traffic impacts, parking, access and other related considerations – (3)(i)

It is noted that the site is located in a PT2 zone. The draft Transport Impact Assessment done on the property supports the application for 160 learners, with recommendations – see annexure 7, with the following recommendations:

1. That the intersection of Byrnes Avenue/Westbury Circus be priority controlled, with a stop sign and painted stop road marking on Westbury Circus.
2. That a warning (W308) be erected on the LHS of Westbury Circus.
3. That a spill out space (Pedestrian only space) be created using bollards to improve learner safety.
4. That vehicles belonging to staff park on the southern side of the property away from the spill out space.
5. That the developer introduce staggered dismissal hours for classes on a Friday as the queue of traffic will back up into Byrnes Avenue or that school buses be used for at least half of the learners.

The following outlines the traffic impacts and considerations for the proposed development.

Access:

The site is accessible via Westbury Circle, a cul-de-sac that provides controlled and limited vehicular access, ideal for the proposed use as a school. The cul-de-sac layout enhances traffic safety by reducing through-traffic and conflict points, facilitating smoother traffic flow for drop-offs and pick-ups, and ensuring minimal disruption to surrounding properties.

Parking and Congestion:

As the site falls within a PT2 zone, no on-site parking provision is required per the City's parking requirements. This designation supports reduced parking demand, especially given the site's public transport accessibility. The absence of mandatory parking helps alleviate potential congestion typically associated with school developments in higher-traffic areas.

Public Transport

Staff and students are expected to rely predominantly on public transport for commuting to and from the site. The site's strategic location within a well-serviced public transport zone ensures convenient access to various transit options, minimizing private vehicle use and further mitigating potential traffic and congestion impacts.

(j) Imposition of Mitigating Conditions - (3)(j)

The relevant departments will impose standard conditions of approval. Additionally, the mitigation measures outlined in the Traffic Impact Assessment (TIA) will be incorporated into these conditions. These measures include:

1. Intersection Control: Implement priority control at the Byrnes Avenue/Westbury Circus intersection, using a stop sign and painted road markings on Westbury Circus.
2. Traffic Warning Signage: Install a warning sign (W308) on the left-hand side of Westbury Circus.
3. Pedestrian Safety Zone: Create a spill-out zone for pedestrians, protected by bollards, to enhance learner safety.
4. Staff Parking: Designate staff parking on the southern side of the property, away from the pedestrian spill-out area.
5. Traffic Management for Dismissals: Introduce staggered dismissal times on Fridays to reduce traffic congestion or require at least half of the learners to use school buses.

4 CONCLUDING REMARKS

In conclusion, the Consent Use Application for establishing a school on this residential property aligns well with the goals and guidelines outlined by local and municipal planning frameworks. The proposal fulfils essential community needs by providing a conveniently located educational facility that supports the surrounding residential area. Furthermore, the school's operation and its planned extensions are thoughtfully designed to preserve the architectural character and streetscape, ensuring a minimal visual impact while enhancing the area's functionality.

The school's focus on Islamic education diversifies the community's educational offerings, supporting cultural inclusion and social cohesion. Economically, it promises local employment opportunities, benefiting teachers, support staff, and ancillary services. This community-based approach is in line with Cape Town's strategic objectives for creating inclusive, resilient neighbourhoods where social infrastructure enhances quality of life.

Given the proposal's careful consideration of traffic impacts, environmental factors, and zoning compliance, approval of this Consent Use Application would positively contribute to the area's development. The proposal represents a balanced integration of educational, social, and economic values, meeting both current needs and future aspirations for sustainable, inclusive growth in the region.

This application is therefore submitted for the Council's favourable consideration as it has been assessed in terms of its desirability and we are of the opinion that is desirable.

For **URBAN SOLUTION**