



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Case ID 1500152260

**Erven 3781 and 8640,
148 Empire Avenue, Hout Bay**

Development Management

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**Erven 8640 and 3781 Hout Bay
at Empire Avenue, Hout Bay**



Application for:

**Subdivison,
Rezoning,
Consolidation,
Removal of Restrictive Title Conditions,
Amendment/Deletion/Addition of Conditions of Approval,
Departure, City Approval and
Consent i.t.o. restrictive title deed conditions.**



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1. INTRODUCTION

MLH Architects and Planners (Cape) (Pty) Ltd has been appointed by the registered owner of Erven 8640 and 3781 Hout Bay, to prepare and submit a land use management application to the City of Cape Town.

The subject site is located in Hout Bay, on the corner of Victoria Road and Empire Avenue, and comprises two adjoining properties, Erf 8640 and Erf 3781. Erf 8640 is currently developed as Victoria Mall shopping centre, while Erf 3781 contains a single residential dwelling.

The intention of this application is to obtain the necessary development rights in order to consolidate the two erven, demolish the existing shopping mall, and redevelop the site for residential purposes. The proposed development comprises a block of flats of 50 units, with three storeys facing Victoria Road and four storeys facing Empire Avenue, including a small coffee shop, located on structured parking on ground floor/semi-basement level.

In order for the development proposal to be realised, the following land use management applications are required:

- a) **Subdivision** of a portion off from Erf 8640 Hout Bay, to create a separate land portion for the existing electrical substation,
- b) **Rezoning** of the newly subdivided portion from General Business 1 to Utility Zone,
- c) **Consolidation** of Erf 8640 and 3781 Hout Bay,
- d) **Removal** of Restrictive Title Conditions relating to a service servitude,
- e) **Amendment, Deletion and Addition** of Conditions of Approval, including the Site Development Plan
- f) **Permanent Departure** for development within 5m of a metropolitan road, and
- g) **City Approval** for parking within 10m of a street boundary.
- h) **Consent** in terms of restrictive title deed condition which relates to subdivision.
- i) **Consent** in terms of restrictive title deed condition which relates to permitted use.

Table 1. Summary of Property Information

Property Description:	Erf 8640 and Erf 3781 Hout Bay
Physical Address:	148 and 146 Empire Avenue
Property Extent:	2 445m ² and 540m ² (total 2 988m ²)
Property Owner	
SG Number:	SG 7495/1998 and SG 4726/1976
Title Deed:	
Restrictive Title Deed Conditions:	Yes - The title deed for Erf 8640 contains restrictive conditions which affects the proposed development. No - The title deed for Erf 3781 contains no restrictive conditions.
Current Zoning & Land Use	General Business 1 (GB1) Shopping Mall and Dwelling House

2. PLANNING BACKGROUND

In October 1988, the subdivision of Erf 1286 Hout Bay was approved by the Western Cape Regional Services Council (Council Ref. 15/3/2/8/22), resulting in the creation of Erf 5526. Erf 5526 was then further subdivided into nine portions - Erven 5527, 5528, 5529, 5530, 5531, 5532, 5533, 5535, and a remainder (road) portion. Erf 5527 was the northernmost portion abutting Victoria Road. A 3m-wide drainage servitude was imposed as a condition on eight of these portions and further inserted into the respective title deeds.

In February 1998, the rezoning of Erf 5527 from Single Residential Zone to Commercial Zone was approved by the South Peninsula Municipality. The adjacent Erf 4285 was similarly zoned for commercial purposes.

Later that year in October 1998, a 'development plan' for a shopping centre on Erven 4285 and 5527 was approved and subsequently building plans were approved by the South Peninsula Municipality for the Victoria Mall development. Erven 4285 and 5527 were then consolidated to form Erf 8640 Hout Bay (Certificate of Consolidated Title No. T22414/1999), together with the creation of the sectional title scheme that constitutes the current Victoria Mall.

In March 2021, an application was submitted to rezone Erf 3781 Hout Bay (situated south of Erf 8640) from Single Residential Zone (SR1) to General Business Subzone (GB1), and to obtain Council's approval for parking at ground level within 10m of Empire Avenue. The intention was to demolish the existing dwelling house and construct 19 off-street parking bays to support the shopping centre on Erf 8640.

The Municipal Planning Tribunal (MPT) refused the application in April 2022; however, the applicant's appeal was upheld by the Executive Mayor in August 2022. A condition of approval required that Erf 3781 be notorially tied to Erf 8640 prior to its use for parking. The notarial tie has since been registered in the Deeds Office. This rezoning approval has not been acted upon and remains valid until 23 August 2027.

Refer to **Annexure D: Previous Planning Approvals** and **Figure 1** below an extract from the noting sheet depicting the subject properties, surrounding erven and drainage servitude.

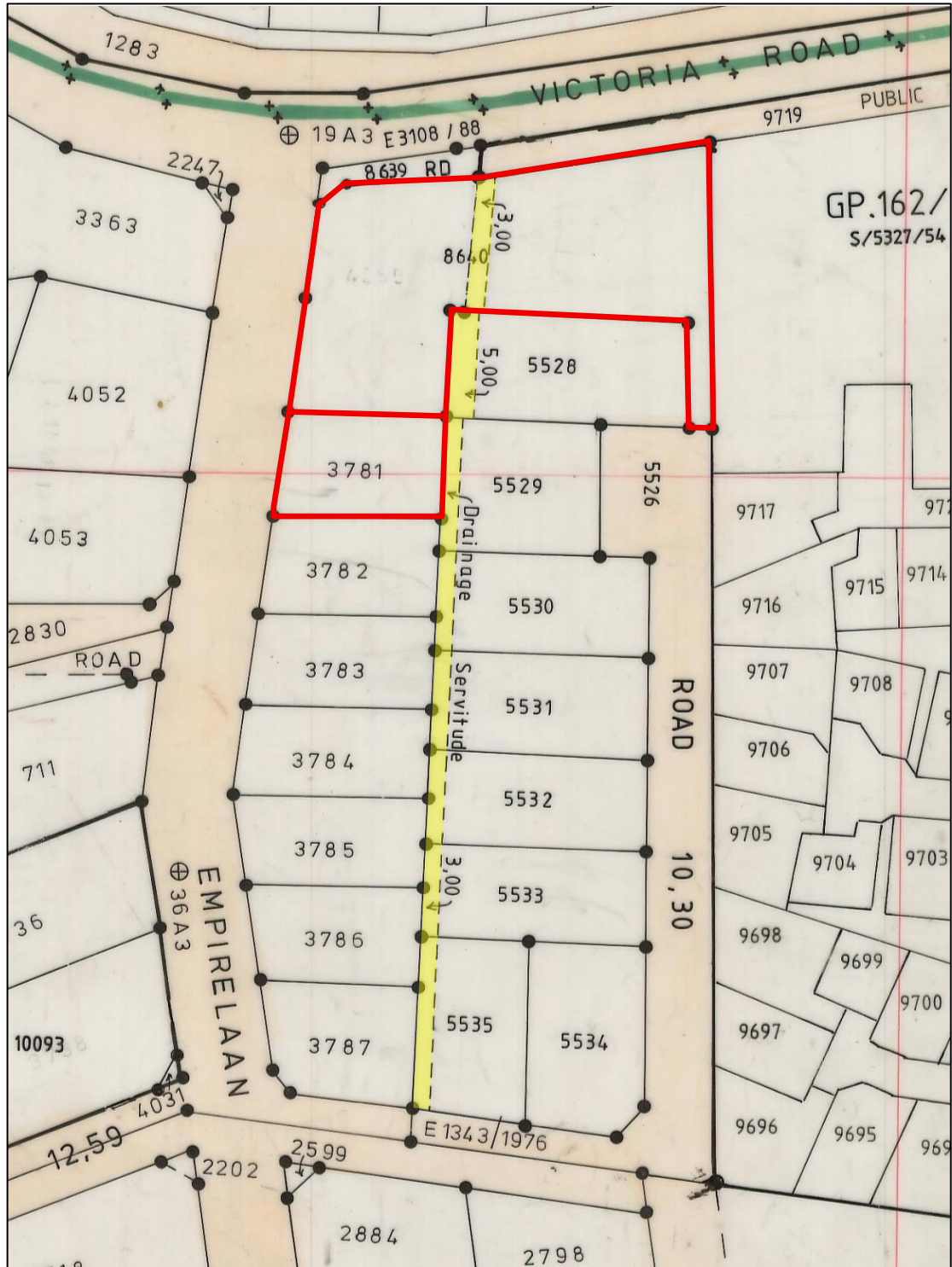


Figure 1. Extract from SG Noting Sheet M244, depicting the subject properties outlined in red, surrounding erven and drainage servitude in yellow.

3. CONTEXTUAL ANALYSIS

3.1. Locality

Erven 8640 and 3781 Hout Bay are located in the established suburb of Hout Bay, within the City of Cape Town's Southern Planning District.

The site is situated on the corner of Victoria Road (M6) and Empire Avenue, adjacent to Kronendal Retirement Village to the east, in a predominantly residential neighbourhood which is complimented by several institutional and community facilities in the vicinity:

- Ambleside School of Hout Bay, $\pm 190\text{m}$ to the south,
- Hout Bay International School, $\pm 500\text{m}$ to the south-east,
- Hout Bay Sports Complex, $\pm 250\text{m}$ to the east,
- SAPS Hout Bay Police Station, $\pm 500\text{m}$ to the east,
- Hout Bay Fire Station, $\pm 500\text{m}$ to the east,
- Hout Bay Clinic, $\pm 550\text{m}$ to the north-east.
- Hout Bay Reformed Church, $\pm 400\text{m}$ to the east.
- Royland Community Park, $\pm 100\text{m}$ to the north-west.



Figure 2. 2024 aerial photo, with the properties in red, showing the local context. (Source: City of Cape Town).

3.2. Site Description

Erf 8640 Hout Bay, located at 148 Empire Avenue, currently accommodates Victoria Mall, comprising two separate two-storey buildings containing shops, offices and semi-basement parking, constructed c2000. Vehicular and pedestrian access is provided exclusively from Empire Avenue, with no access off Victoria Road. The property provides a total of 43 off-street parking bays, including 12 semi-basement bays and 31 surface bays, as well as an 18m long on-street loading embayment along Empire Avenue. The property has a moderate eastward gradient, with the highest point on the property being 16.5m and the lowest being 11.5m above MSL. The property contains an existing electrical substation, situated along Empire Avenue.

Erf 3781 Hout Bay, located at 146 Empire Avenue, currently accommodates a single residential dwelling constructed c1980. Access to the property is via a driveway off Empire Avenue. Erf 3781 is flat and contains a number of trees.



Figure 3. A 2023 oblique aerial photo of Erven 8640 & 3781 Hout Bay from the corner of Victoria Road and Empire Avenue, showing the surrounding residential context.

3.3. Surrounding Zoning and Land Uses

Erven 8640 and 3781 Hout Bay are both zoned General Business 1 (GB1) in terms of the City of Cape Town's Development Management Scheme.

The properties are surrounded by typical suburban residential fabric, with Residential 1 (R1) zonings to the north, south, and west. Directly to the east lies Kronendal Retirement Village, which is zoned General Residential 2 (GR2).

3.4. Legal Description

Erf 8640 Hout Bay measures 2 450m² and is owned by Apollon Property Fund (Pty) Ltd, by virtue of Certificate of Registered Title No. Erf 3781 Hout Bay measures 540m² and is also owned by by virtue of Title Deed No.
Refer to **Annexure E**: SG Diagrams and **Annexure F**: Title Deeds.

Erf 8640 contains a 3m-wide drainage servitude (for sewer) running centrally in a north–south direction, as shown by lines C - H on SG Diagram No. 7459/1998. Erf 3781 contains no servitudes.

The two erven have been notarially tied since 2023 under Notarial Tie Agreement No. K583/2023, which was imposed as a condition of the 2022 rezoning approval of Erf 3781. As a result, neither property may be sold separately from one another.

Erf 8640 is also encumbered by a registered mortgage bond. Hence, the Bondholder's Consent has been obtained from the mortgagee, Investec Bank, as required for Removal of Restrictions applications.

3.5. Heritage Considerations

The existing buildings on Erf 8640 were constructed c2000. Historic aerial imagery indicates that earlier structures dating from around 1945 were demolished between 1998 and 1999 to make way for the current mall. The dwelling on Erf 3781 was built c1980. Since the structures are not older than 60 years, section 34 of the National Heritage Resources Act is not applicable, and no permit is required from Heritage Western Cape for its demolition or alterations.

Since the combined site does not consist of three or more erven, is not larger than 5 000m², does not require the rezoning of a site exceeding 10 000m² and since the proposal does not involve a linear development exceeding 300m in length, section 38 of the National Heritage Resources Act is not triggered by its redevelopment.

The subject site does not fall within a declared Heritage Protection Overlay Zone (HPOZ). Accordingly, no land use consent i.t.o. Item 162 of the MPBL is required for demolitions, external alterations, or for new development.

3.6. Hout Bay Local Area Overlay (LAO/11)

Erf 3781 and the western half of Erf 8640 fall within the Hout Bay Local Area Overlay Zone, as depicted on Plan LAO/11, where special provisions apply. This overlay stipulates that sites zoned Residential 1 (R1) shall be subdivided in accordance with a prescribed minimum erf size.

The provisions of this overlay zone are not applicable to the subject properties as they are both zoned General Business 1 (GB1).

4. DEVELOPMENT PROPOSAL

4.1. Description of the Proposed Development

The development proposal entails the consolidation of the two subject properties and the demolition of the existing Victoria Mall and dwelling house to facilitate the development of a new block of flats, with three storeys facing Victoria Road and four storeys facing Empire Avenue, situated on structured parking on ground floor/semi-basement level along Victoria Road and at basement level along Empire Avenue. The proposal will yield a total of 50 residential units, comprising a mix of one, two and three-bedroom unit typologies. The existing substation will be subdivided off Erf 8640 and rezoned to UT which has been deemed as a more appropriate zoning by the municipality.

The scale, design and massing of the proposed development have been informed by the surrounding urban context, with the building positioned closer to the street edges along Victoria Road and Empire Avenue. This arrangement enables overlooking onto the public realm and contributes to an active streetscape. The facades of the building have been articulated in a manner which introduces visual interest from the public realm and assists in reducing the perceived bulk of the building. In addition, the uppermost storey is accommodated in the roof, further mitigating the perceived height and massing of the development.

A small retail component, in the form of a coffee shop, is proposed on the corner of Victoria Road and Empire Avenue. This component will be accessible to both residents and the public. Refer to the **Figures 4 - 7** below depicting the proposal and **Annexure H: Site Development Plan Set** prepared by Peerutin Karol Architects.

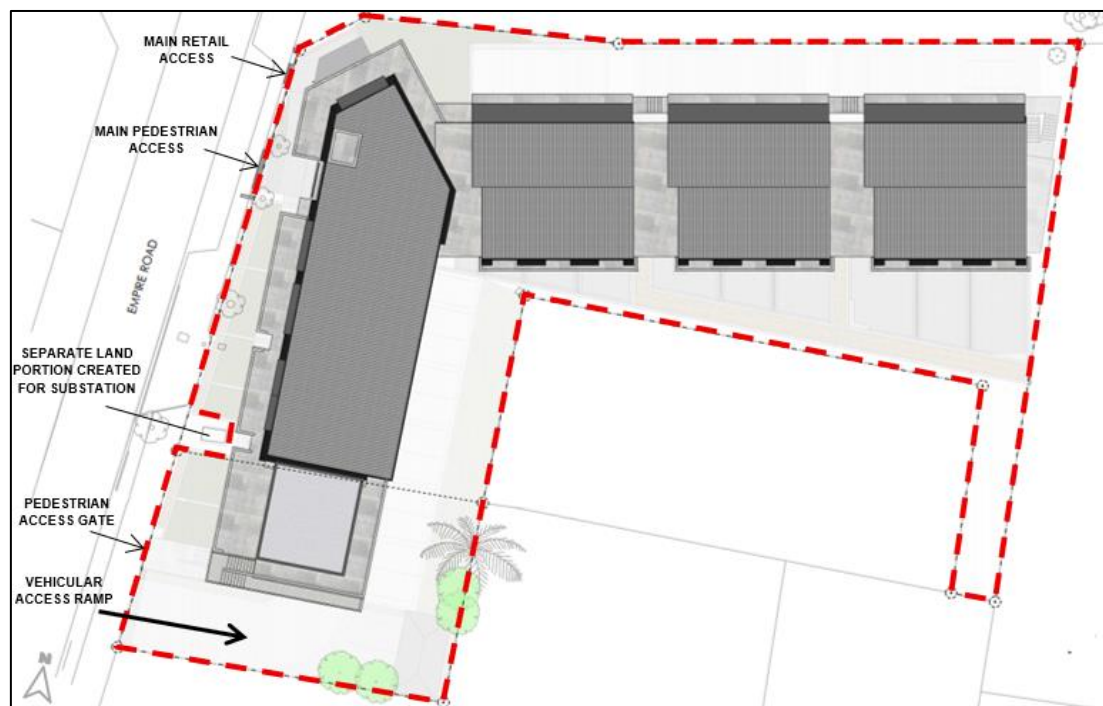


Figure 4. Indicative roof plan of the proposed development, showing the consolidated property and the vehicular/pedestrian access points off Empire Avenue. (Source: Peerutin Karol Architects)



Figure 5. Indicative 3D image of the proposal as viewed from the corner of Victoria Road and Empire Avenue (Source: Peerutin Karol Architects).



Figure 6. Indicative 3D image of the proposal as viewed from Empire Avenue (Source: Peerutin Karol Architects).



Figure 7. Indicative 3D image of the proposal as viewed from Victoria Road (Source: Peerutin Karol Architects).

The table below demonstrates compliance with the applicable development parameters as stipulated within the Development Management Scheme.

Table 2. Summary of Compliance with GB1 Subzoning Development Parameters.

	Permissible	Proposed	Compliant
Coverage	100%	66%	✓
Floor Factor	1.5	1.34	✓
Floor Space	4 485m ²	3 960m ²	✓
Height	12,5m above e.g.l.	12,5m above e.g.l.	✓
Street & Common Boundary Setback	0,0m up to 10m in Height. 4,5m (0,0m for common boundary) over 10m in height	-	✓
Off-Street Parking	1.25 bays per unit (62,5 bays required) + 4 bays per 100m ² (2 bays required) = 65 bays	65 bays	✓

4.2. Access, Parking and Circulation

Vehicular access to the subject site is provided off Empire Avenue, which leads to the ground floor/semi-basement parking level. The development will provide a total of 65 off-street parking bays, comprising 63 covered parking bays (for the residential component) and 2 open parking bays (for the retail component). This is in full compliance with the off-street parking requirements of item 137 of the DMS. In addition, 3 on-street parking opportunities are available within the existing street embayment located along Empire Avenue.

Due to the site's topography, the parking level is set below the existing ground level as experienced from Victoria Road and Empire Avenue and will be mostly concealed from the public view.

Pedestrian access is provided from Empire Avenue, with one access point serving the retail component (coffee shop) and the other access designated for residents.

4.3. Landscaping

Landscaping will include the retention of existing trees and hedges located along Victoria Road and Empire Avenue. The trees lining Victoria Road has a mature canopy, which will provide significant visual screening. Additional planting is proposed along Empire to enhance the streetscape and soften the interface between the development and the public realm, as well as on the southern boundary of the site, where possible, to enhance screening to the neighbouring properties.

These landscaping proposal is illustrated on **Figure 8** below and on the Site Plan attached as **Annexure H**.



Figure 8. Indicative illustration of landscaping proposal. (Source: Peerutin Karol Architects)

4.4. Engineering Considerations

L&S Consulting Engineers have been appointed to assess the impact which the proposed development will have on existing municipal infrastructure. Refer to **Annexure I: Civil Services Report** and a summary of the findings below:

- Roads:** Access to the proposed development will be taken off Empire Avenue, via a new carriageway crossing located on the south-western boundary of the property. Given the site's existing commercial use, it is anticipated that the proposed redevelopment will not significantly impact the surrounding road network.
- Stormwater:** The proposed development will alter the site's stormwater runoff characteristics due to the increased hard surfacing. Surface stormwater infrastructure, including grass-lined channels and associated headwalls, are present along Victoria Road in close vicinity of the site. Stormwater management will be designed in accordance with the standards of the City and discharged into an approved municipal system.
- Sewer Reticulation:** An existing Ø150mm council sewer pipe is located on the southern boundary of Erf 8640 and eastern boundary of Erf 3781. The proposed development will link to this existing sewer line. No external sewer upgrades are therefore required. The servitude on the property contains no infrastructure and will not be used in the future.
- Water Reticulation:** An existing Ø150mm diameter municipal water main is located along Empire Avenue and Victoria Road. The proposed development will obtain its water supply from this existing municipal main via a new water connection. No external water upgrades are required for the proposed development.

It is concluded that the proposed development can be adequately accommodated within the existing municipal infrastructure network.

A further investigation was undertaken by EDS Engineers regarding the proposed removal of the drainage servitude located on Erf 8640 Hout Bay. Engagement with the relevant City engineering departments confirmed that no municipal infrastructure is located within the servitude area and that it is not required for future infrastructure provision. Refer to **Annexure I: Engineering Statement** prepared by EDS Engineers.

4.5. Transport Considerations

Stef Naudé Transport Consulting has been appointed to prepare a Traffic Impact Statement (TIS) for the proposed development. See **Annexure J: TIS** and summary of the findings below:

- **Existing Trip Generation:** Traffic entering and exiting Victoria Mall is relatively low, with approximately 59 vehicles per hour recorded during the AM peak and 91 vehicles per hour during the PM peak.
- **Proposed Trip Generation:** The adopted trip generation rate for apartments is 0.65 vehicles per unit, resulting in approximately 33 peak hour trips for the 50 residential units. The coffee shop has conservatively been assessed as a stand-alone land use and is projected to generate approximately 2 trips in the AM peak hour and 12 trips in the PM peak hour. In total, the development is anticipated to generate approximately 35 vehicle trips during the AM peak hour and 45 vehicle trips during the PM peak hour, with movements predominantly outbound in the morning and inbound in the afternoon peak. The proposed development will therefore generate fewer trips than the existing use.
- **Site Access & Stacking Distance:** The existing vehicular access on Empire Avenue will be closed and replaced with a new dedicated access located further south, approximately 55.6m from the stop line at Victoria Road. This complies with the Road Access Guidelines, which require a minimum spacing of 45m for a low-volume driveway. The available stacking distance of approximately 56m can accommodate up to nine vehicles, and peak hour observations indicate that queues did not exceed eight vehicles, confirming sufficient capacity. Access to the semi-basement parking area will be controlled by a sliding gate at the bottom of the ramp, and as queues at this point are not expected to exceed a single vehicle, no spillback onto Empire Avenue is anticipated.
- **Parking Provision:** The site is located in a PT1 area and the requirements of Item 137 of the DMS must be complied with. The minimum parking requirement for the proposed development is 1 bay per unit plus 0.25 visitor bays per unit, and 2 bays per 100m² for shops. Based on 50 residential units and the proposed 54m² coffee shop, a total of 65 parking bays is required, and provided on site.

Based on the assessment the proposed development can be satisfactorily accommodated within the existing local road network.

4.6. Electrical Considerations

Meccanitek Consulting has been appointed to prepare an electrical statement demonstrating compliance with SANS 10400-XA and to determine the required electrical supply capacity based on the calculated diversified load of the proposed development. Refer to **Annexure N: Electrical Statement**.

The applied electrical demand is 55 VA/m², which is below the maximum allowable threshold of 56 VA/m² prescribed by SANS 10400-XA for H3 residential occupancies within Cape Town Energy Class 4. The load profiling was undertaken in accordance with SANS 10400-XA and SANS 204. Each residential unit incorporates energy-efficient lighting and controlled small power allowances, reducing the overall diversified electrical demand of the development.

The proposed development complies with the intent and requirements of SANS 10400-XA regarding electrical demand limitation and energy efficiency design criteria.

The development will have a single bulk metered municipal supply. A City of Cape Town AMI bulk meter will be installed within the street-frontage metering accommodation, complying with applicable by-laws. Each residential unit will be equipped with a Citiq split prepaid sub-meter, managed by the Body Corporate.

2. *"No structures may be erected, nor may any trees or shrubs be planted within the servitude area as depicted above, provided that the said servitude area may be used for gardening purposes".*

The former Erf 5527, as referred to in the title conditions, is a component of the current Erf 8640 Hout Bay, and as such these original restrictive conditions have been carried forward into the current deed of Erf 8640 and remain applicable.

Refer to **Annexure M**: List of Title Deed Conditions to be Removed.

- e) **Amendment, Deletion and Addition of Conditions of Approval** imposed in respect of existing approval granted in terms of **section 42(j)** of the MPBL.

The land use approvals and their associated conditions listed below are subject to amendment in order to enable the proposed development. (*Strikethrough text denotes deletion and underlined bold text denotes insertion.*)

Conditions imposed by the Western Cape Regional Services Council Application **Reference No.15/3/2/8/22**, when approving the subdivision of Erf 5526, a portion of Erf 1286 Hout Bay.

- Amendment to Condition 1.3: *"Portions 4 2 to 8 will be subject to a 3m drainage servitude."*

Note: *the beneficiaries of the reciprocal drainage servitude are the owners of Erven 5528, 5529, 5530, 5531, 5532, 5533 and 5535 Hout Bay, this application should be advertised to all of them.*

Conditions imposed by the South Peninsula Municipality Application **Reference No. 29/15/5/40** when approving the "Development Plan" for Erven 5527 and 4285 Hout Bay.

- Deletion of Condition iii: *"Roof colour to be matt or non reflective terracotta red or natural green. External walls, including boundary walls, to be plastered and painted white."*
- Amendment of the reference to a "Development Plan" applicable to the former Erven 5527 and 4285 (now Erf 8640) Hout Bay, approved under Application Reference No. 29/15/5/40, dated 27 October 1998 and substituting it with **the Site Development Plan Set bearing Drawing Numbers: SDP 01, SDP 02, SDP 03, SDP 04, SDP 05, SDP 06, SDP 07, SDP 08, SDP 09, SDP 010, SDP 011, SDP 012, SDP 013, SDP 014, SDP 015, SDP 016, SDP 017, SDP 018, SDP 019, SDP 020, SDP 021 all Revision 02, dated June 2026 prepared by Peerutin Karol Architects."**

Conditions imposed by the Development Management Department **Case Id: 70544368** when approving the rezoning of Erf 3781 Hout Bay.

- Deletion of Condition 2.1.1: *"The property shall only be used for parking at ground level in relation to Erf 8640 or for a dwelling house, second dwelling and/or third dwelling."*

- Deletion of Condition '2.2.3' (**Note:** should be 2.1.3): *"The parking area shall be hard surfaced, with water permeable paving, to prevent the creation of unnecessary dust."*
- Amendment of Condition 2.2.1: *"A landscape plan for the **consolidated** property, prepared by a qualified professional landscape architect / technician registered with the South African Council for the Landscape Architectural Profession (SACLAP) showing: species of trees and other vegetation to be planted, removed, relocated or retained, existing finished ground levels, landscaping features including fences, walls, retaining walls, street furniture, lighting, location of proposed trees and other vegetation with botanical names sizes and densities, irrigation and water source and the extent of hard surfaces shall be submitted for approval to the delegated official for approval prior to ~~the use of the property for parking in relation to Erf 8640~~ **the approval of building plans for the proposed development**. The landscaping plan shall focus on the visual screening of the parking area from the street and the neighbouring properties."*
- Amendment of Condition 2.2.2: *"The approved landscaping plan shall be implemented by and at the cost of the owner/developer, in accordance with the implementation plan, within 6 months of the practical completion of ~~hard surfacing of the parking area~~ **the proposed development of the property**. Implementation shall be substantially in accordance with the approved plan to the satisfaction of the Director: Environmental Management."*

f) Permanent Departure from item 121(2) of the DMS i.t.o. **section 42(b)** of the MPBL.

A departure from the required 5m building line along a designated Metropolitan Road (Victoria Rd) is requested. It is important to note that the required road widening has already taken place and land portions zoned TR2 for transport purposes. No further road widening is applicable.

g) City Approval in terms of **section 42(i)** of the MPBL, as required i.t.o. item 60(k)(ii) of the DMS.

Permission is requested from the City to permit parking at ground floor level to be closer than 10m from the street boundary. This approval is to enable parking inside the property on ground floor/semi-basement level along Victoria Road (M6) and Empire Avenue.

h) Consent in terms of a restrictive title deed condition where the restriction relates to subdivision, submitted in terms of **section 42(h)** of the MPBL.

Consent is required from the City, as Title Deed contains a special condition which requires written approval from the controlling authority for subdivisions. As this application includes subdivision, consent is required.

h) Consent in terms of a restrictive title deed condition where the restriction relates to permitted use, submitted in terms of **section 42(h)** of the MPBL.

Consent is required from the City, as Title Deed contains a special condition restricting the establishment of “new stores” or “places of business” on the Erf 8640. The proposed development introduces a new business use on the property, in the form of a coffee shop, for which consent is required.

6. PLANNING POLICY CONTEXT

Cape Town Municipal Spatial Development Framework (MSDF) (2023)

The Cape Town MSDF sets out the overarching spatial vision and development priorities that guide the City’s long-term growth and restructuring. It serves as the spatial expression of the Integrated Development Plan (IDP) and is informed by the most recent five-year review, ensuring ongoing alignment with the City’s strategic planning objectives.

The MSDF promotes a spatial vision of inward and upward growth to support a more compact, efficient and sustainable urban form. To direct this approach, the City identifies four Spatial Transformation Areas (STAs), namely the: Urban Inner Core, Incremental Growth and Consolidation Areas, Discouraged Growth Areas, and Critical Natural Asset Areas.

The subject site is situated within the **Incremental Growth and Consolidation Area**, a spatial category that in principle, supports more diverse and dense land uses, subject to the availability and capacity of bulk engineering infrastructure. In addition, the property abuts Victoria Road (M6) and is in close proximity to Victoria Avenue (M8) and Main Road, all of which form part of the Existing MyCiTi Network. Refer to **Figure 9** below.



Figure 9. Extract from the CCT MSDF Consolidated Spatial Plan Concept

The proposed development therefore aligns with the MSDF, as it supports inward and upward growth, facilitates the intensification within an existing urban area and is strategically located along an established public transport route.

Southern District Plan (2023)

The subject site is located within the City of Cape Town's Southern District, one of the eight designated planning districts within the metropolitan area. The vision for this district is *"a district renowned for its natural and cultural beauty, with a dynamic economy leveraging its comparative advantages, as well as quality recreation and services, all of which is accessible to all Capetonians, and with increasing focus on quality and affordable living for the widest range of people, significant new work and living opportunities, and sustainable urban areas."*

In terms of the Southern SDF, the site falls within the approved **Urban Development Edge** and is categorised for **Urban Development**. The site also abuts a **Scenic Route** (S2) being Victoria Road which is described as 'routes which traverse areas of high scenic quality and are frequently accessed'. The site lies within a designated **PT1 Area** with reduced parking requirements to encourage transit-oriented development (TOD). Its central location between three **Connector Routes** (Victoria Avenue, Victoria Road and Main Road), provides convenient access to the Hout Bay Harbour a designated **Destination Place** and the Hout Bay **Local** and **Neighbourhood Nodes**.

The subject site further lies within Sub-District 2: Hout Bay / Llandudno, Refer to **Figure 10** below, where the vision includes *"accommodating a wide range of living options,"* which aligns with the intent of the proposed development.

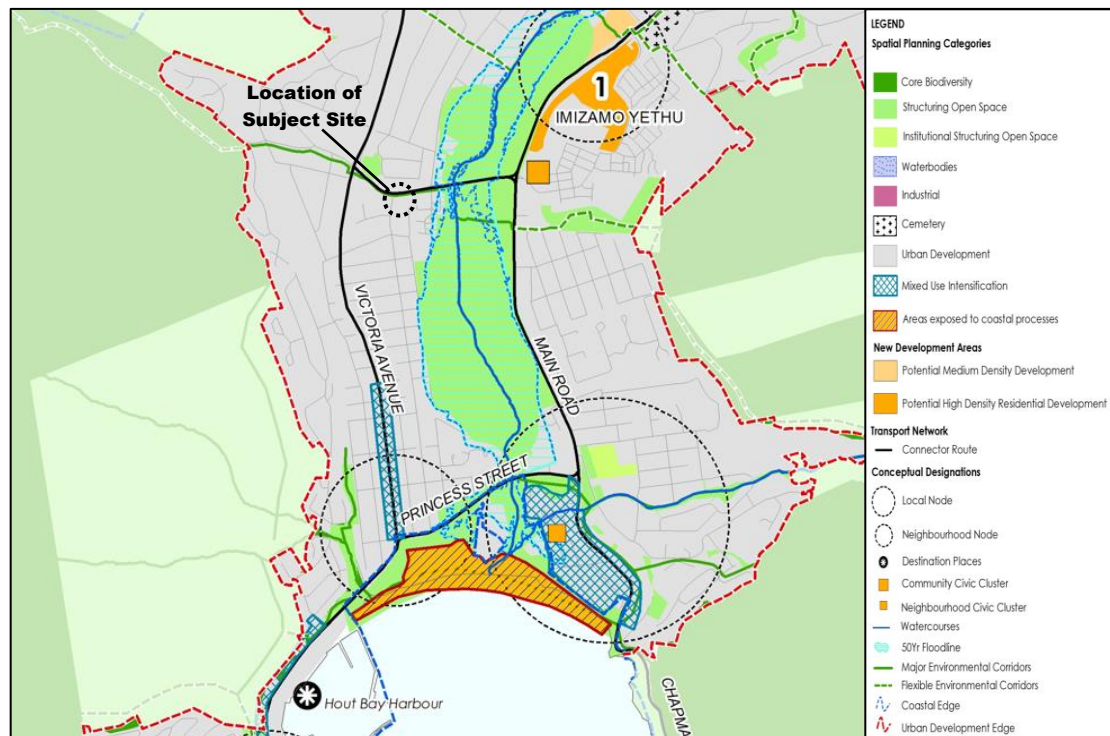


Figure 10. Extract from Southern District Sub-District 2 Plan: Hout Bay / Llandudno

The proposed development aligns with the Southern District Plan, supporting urban development and contributing to the diversification of living options within the study area.

Transit Orientated Development (TOD) Strategic Framework (2016)

The Transit-Oriented Development (TOD) framework is a strategic approach that integrates spatial and transportation planning to promote a compact and efficient urban environment. Its vision is to “*progressively move toward a compact, well-connected, efficient, and resilient urban form and movement system that is conducive to economic and social efficiency and equality, whilst providing cost effective access and mobility with the least possible negative impact on the environment*”.

To achieve this, the TOD identifies accessible and strategically located areas known as Transit Accessible Precincts (TAP's), where development intensity and land use diversity is encouraged. Hout Bay falls within an existing TAP and is serviced by the MyCiTi Bus Rapid Transit (BRT) system, as illustrated in **Figure 11** below.

The subject site is well serviced by MyCiTi, specifically route 109 (Hout Bay Beach / Imizamo Yethu / Sea Point / Adderley) and route 118 (Hangberg / Imizamo Yethu / Sea Point / Adderley), with two stops located directly adjacent to the site along Victoria Road. Victoria Avenue, situated approximately 200 metres to the west of the site, is additionally serviced by route 108 (Hangberg / Hout Bay Harbour / Sea Point / Adderley). Refer to **Figure 12** overleaf.

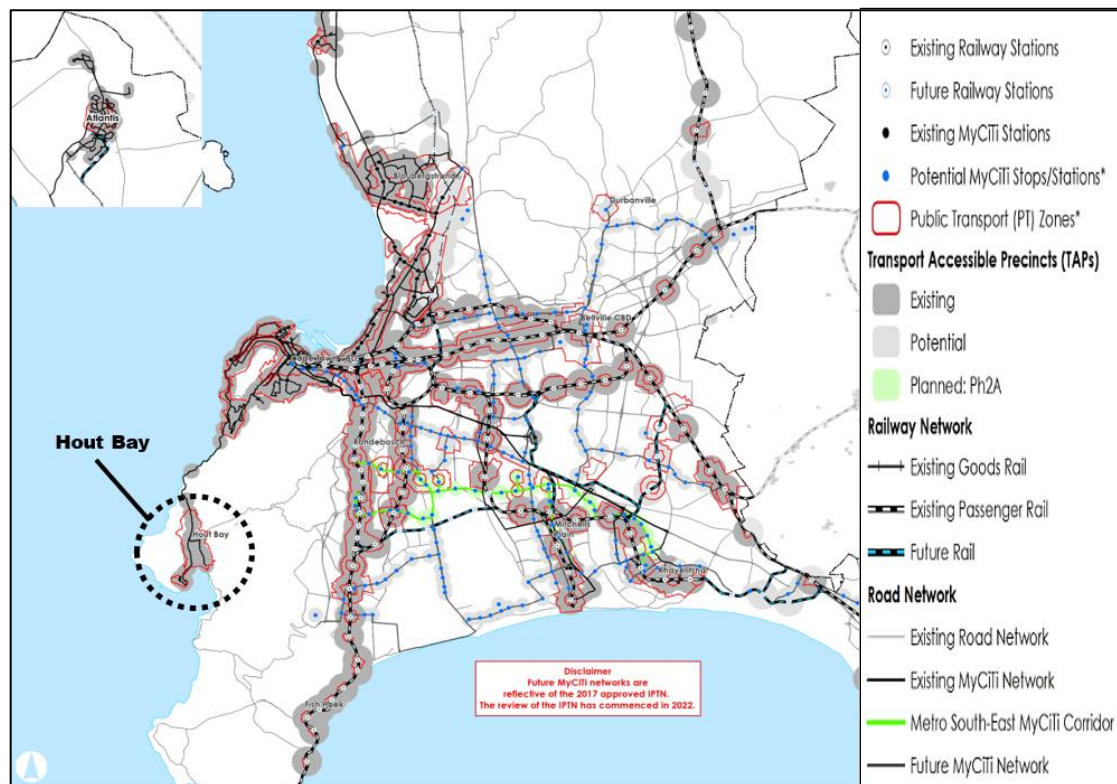


Figure 11. Extract from the MSDF 2023 depicting TAPS in relation to existing and planned IPTN.

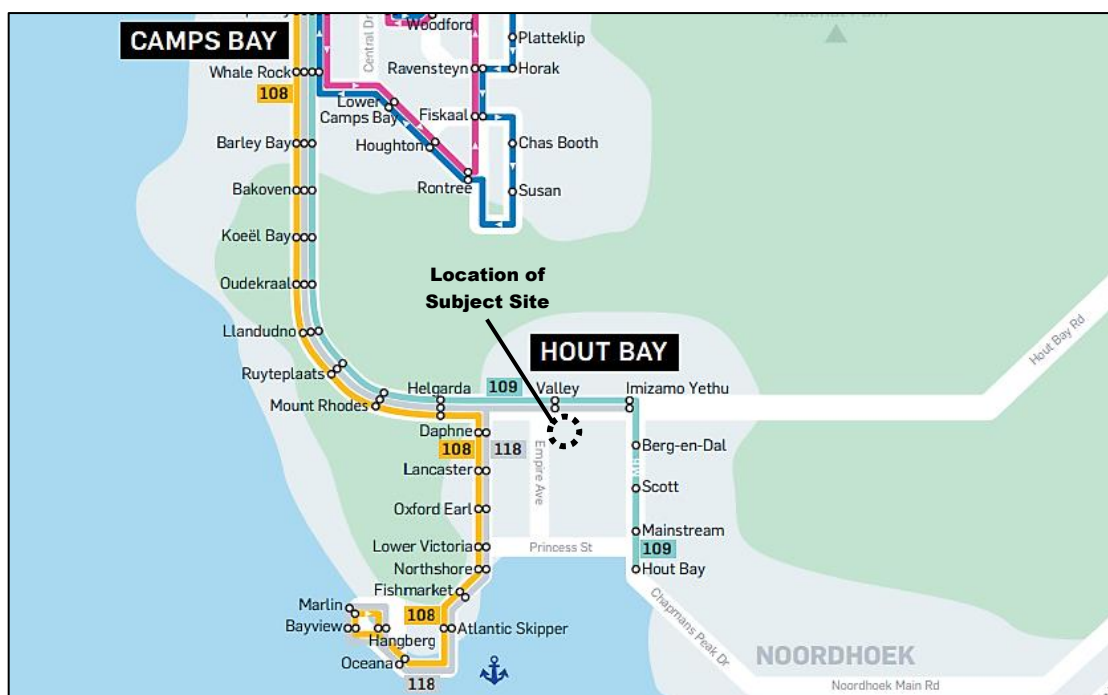


Figure 12. Extract from the 2025 MyCiTi Routes Map

The proposed development therefore aligns with the TOD objective of “*maximising location efficiency*”, in that it will encourage residents and visitors to conveniently walk, cycle, and make use of the existing public transport system.

Cape Town Densification Policy (2012)

The Densification Policy aims to improve the City’s sustainability and enhance the quality of the built environment through densification and land use intensification. The City’s long-term goal is to achieve an average gross base density of 25 dwelling units/ha within the next 20 - 30 years, with higher densities targeted thereafter.

Densification contributes to more efficient and sustainable urban environments by; “*reducing the consumption of valuable and non-renewable resources, supporting viable public transport, improving equity by locating accommodation closer to economic opportunities, facilitating economic activity and service provision, improving accommodation patterns and options, and contributing to place making and urban safety*”.

The policy further includes a strategic framework which guides densification decision making. The proposed development aligns with the “*generic considerations for densification*” as follows:

- Access to Public Transport:** The subject site is situated along two operational MyCiTi routes, with two MyCiTi stops located directly adjacent to the site along Victoria Road. A further MyCiTi route is located approximately 200m to the west of the site along Victoria Avenue.
- Proximity to Places of Employment, Services and Facilities:** The subject site is well located in relation to employment opportunities, services, and community facilities. Two nodes (local & neighbourhood) are situated to the south along the Hout Bay coastline,

while a civic cluster providing various services and facilities is located 500m to the east along Main Road. The MyCiTi network further provides convenient access to Cape Town's Central Business District.

- **Proximity to Open Space:** The subject site is located in close proximity to open spaces. Royland Community Park and the Disa Greenbelt are situated within a 200m radius of the subject site and are conveniently accessed off Victoria Road.
- **Infrastructure Capacity (existing and planned):** The appointed civil engineer has confirmed that sufficient capacity exists within the municipal infrastructure network to accommodate the proposed development.

The proposed development aligns with the Densification Policy as it promotes densification through land use intensification, enables more efficient use of well-located land, encourages upward growth, mitigating outward urban sprawl.

City of Cape Town Urban Design Policy (2024)

The objective of this policy is to guide the assessment of desirability by providing a transparent framework of urban design principles and objectives against which development applications are evaluated. The policy is informed by overarching design principles aimed at creating a more resilient and spatially integrated City.

The following policy objectives are applicable to the proposed development:

- *PS 2.5: Arrange buildings or erven so that the rear or backs of a development do not face onto the public realm (streets or open spaces), unless there is certainty that the buildings will be designed to provide a positive interface onto the space*
- *PS 3.1: Increase passive surveillance and safety in the public realm by optimising visual connections and ensuring adequate lighting. This will contribute to the reduction of vandalism, and anti-social and violent activities.*
- *PS 4.8: Car parking facilities must be located so that they offer convenient access, but not in a way that detracts from a positive public realm where the amenity of the streetscape, pedestrian safety and cycle lanes are compromised. Car parking facilities should not compromise the streetscape or pedestrian safety and convenience.*
- *PS 4.9: Design the placement, layout, scale and materials of car parking to minimise the impact of negative environmental and visual factors.*
- *PS 4.11: Provide for temporary stopping, such as for e-hailing services, lift clubbing or public transport drop-off/pick-up facilities, in development proposals.*
- *PS 6.1: Locate buildings so that they have a positive relationship and interface with the public realm (street or open space). This can be achieved through active uses, greening and overlooking features.*
- *PS 6.4: Design the interfaces of buildings with as many overlooking features onto the public realm as possible. Ensure appropriate glazing and fenestration that allows for a direct visual connection.*

- *PS 9.3: Development proposals should respond appropriately to their context and take into account the orientation and siting of buildings, interface, scale, massing, urban grain, and rhythm, as well as architectural articulation and typical design elements of the receiving context.*

The Urban Design Policy is supported by a suite of Guidelines prepared for different development scenarios. These Guidelines provide the practical “how”, complementing the Policy’s focus on the “what” and the “why”. For the purposes of this application, the proposed development is assessed against the Urban Designs: Multi-Storey Residential Development Design Guidelines, with specific reference to the five key structuring themes outlined therein:

- **Spatial Structure:** The subject site is located within an existing urban area along Victoria Road, a designated connector route. The proposed development of a multi-storey residential building supports the City’s spatial vision of inward and upward growth by intensifying development on well-located land.
- **Accessibility:** Vehicular access to the site is taken from Empire Avenue, with no direct access off Victoria Road mitigating any negative impacts on traffic along this route. Parking is on ground floor/semi-basement level, however, given the topography of the site, majority of the parking is concealed from the public view. The proposed parking allows for efficient vehicle circulation and parking whilst limiting the visual and spatial impact associated therewith. Pedestrian and vehicular access have been separated in order to create a safe and legible pedestrian environment.
- **Site Design:** The massing of the proposed building has been sensitively informed by the site’s context, with the bulk of the development orientated towards Victoria Road and Empire Avenue. This ensures the efficient use of the site while creating a defined edge along these streets. The inclusion of a small retail component on the corner of these streets further contributes to an active interface. The refuse room is positioned away from the street and pedestrian entrances as to mitigate negative impacts on the streetscape while still being easily accessible.
- **Open Space:** The subject site benefits from being located in close proximity to public open spaces, with Royland Park and the Disa Greenbelt located within an approximate 200m radius. These POS are within convenient walking distance of the proposed development and supports both active and passive recreational activities. The development makes provision for private garden/recreation spaces for 2nd storey units.
- **Interface:** The proposed development establishes a positive interface with the public realm through building orientation, overlooking features, and active uses at street level. The design maximises visual connection onto Victoria Road and Empire Avenue, enhancing passive surveillance and contributing to a safer and more engaging streetscape. The retail component at the corner further activates the public edge.

The proposed development aligns the Urban Design Policy and is consistent with the Multi-Storey Residential Development Design Guidelines.

City of Cape Town Inclusive Economic Growth Strategy (2020)

The central aim of the Inclusive Economic Growth Strategy is to stimulate sustained economic activity and increase employment opportunities, thereby fostering an economy that is more inclusive, competitive, accessible, resilient, and sustainable.

Although the proposed development is residential in nature, its implementation will have tangible economic impacts, influencing both local and broader economic scales. The associated benefits, from construction to long-term occupancy of the residential units, will stimulate economic activity and create employment opportunities in surrounding area.

The proposed development will increase the local population, thereby supporting surrounding businesses, services, and the existing public transport network. Both the construction and operational phases of the development will generate a diverse range of employment opportunities, ranging from the construction sector to ongoing management and maintenance of the development once completed.

Accordingly, the proposed development aligns with the objectives of the Inclusive Economic Growth Strategy.

7. MOTIVATION

7.1. Section 39(5) of LUPA and section 47 of SPLUMA

Due consideration must be given to section 39(5) of the Land Use Planning Act (LUPA) and section 47 of the Spatial Planning and Land Use Management Act (SPLUMA) when considering whether to remove, suspend or amend a restrictive title condition.

Table 3. Assessment of the Removal of Restrictions to Section 39(5) of LUPA

<i>(a) 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.</i>	The RoR relates to a services servitude imposed by Council in 1989 on Erf 8640. The City has confirmed that no engineering infrastructure exists within the servitude area, nor is any future use planned. The condition therefore serves no real purpose, confers no benefit to any party, and impose an unwarranted restriction on the property.
<i>(b) The personal benefits which accrue to the holder of rights in terms of the restrictive condition.</i>	The restrictive title conditions do not provide any material personal benefit to the holders of the rights, i.e. to the owners of Erven 5528, 5529, 5530, 5531, 5532, 5533 and 5535 Hout Bay.
<i>(c) The personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended.</i>	The RoR will allow the property owner greater flexibility to use and develop the property, enabling full utilisation of the property in accordance with the permitted zoning rights.
<i>(d) The social benefit of the restrictive condition remaining in place in its existing form.</i>	The restrictive condition applies only to a services servitude on the property and offers no tangible social or public benefit.
<i>(e) The social benefit of the removal, suspension or amendment of the restrictive condition</i>	The proposed RoR will result in a clear social benefit by facilitating the delivery of additional residential units within the City and supporting employment generation.
<i>(f) 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.</i>	The RoR will not remove any rights enjoyed by the beneficiaries (the owners of Erven 5528, 5529, 5530, 5531, 5532, 5533 and 5535 Hout Bay), as there is no beneficiary utilizing the servitude for its intended purpose. The City's Engineering Department has confirmed that this section of the servitude is not required.

With regard to the decision-making criteria as set out in SPLUMA, it must be noted that the removal of the conditions will not deprive any person of property as contemplated in Section 25 of the Constitution.

7.2. Section 99(1) of the Cape Town Municipal Planning By-Law (MPBL)

- (a) *Omitted from the By-Law.*
- (b) The proposed development is considered to be compliant with the Municipal Spatial Development Framework.
- (c) *Omitted from the By-Law.*
- (d) The departures requested with this application will not result in the alteration of permitted floor space or height.

7.3. Section 99(2) of the MPBL

- (a) The application complies with all applicable spatial development frameworks (SDFs). In terms of the MSDF, the property is situated in the Incremental Growth and Consolidation Area of the metropolitan, where land use intensification and residential densities are encouraged subject to available municipal network capacity. In terms of the Southern SDF, the site falls within the approved Urban Development Edge and is categorised for Urban Development.
- (b) The application complies with the relevant criteria set out in the Development Management Scheme (DMS).
- (c) The proposed development has been assessed in relation to the applicable City policies which guide land use decisions making, as set out in Section 6 of this report, and is considered to be consistent with the objectives of these policies
- (d) *Refer to subsection 99(3) hereafter.*
- (e) The proposed development will not negatively impact any existing rights.
- (f) The proposal includes an application for consolidation, as such the following items must be considered: *(i) the scale and design of the development; (ii) the impact of the building massing; and (iii) the impact on surrounding properties;*

The scale, design, and massing of the proposed development have been planned ensure compatibility with the surrounding context and to minimise its impact. The building has been positioned closer to Victoria Road and Empire Avenue in order to create an active interface with the public realm and further to reduce any privacy impacts on properties to the south. The proposed development complies with setback, height and floor space requirements, in order to ensure that is contextually appropriate.

- (g) Other considerations prescribed in relevant national or provincial legislation, which includes the development principles as contained in section 7 of the Spatial Planning and Land Use Management Act, 2013 (Act no. 16 of 2013).

Section 7 of the Spatial Planning and Land Use Management Act (SPLUMA) set out five development principles for land use planning. The development proposal is considered in light of these principles below:

- **Spatial Justice:** The proposal supports the principle of spatial justice by contributing additional residential opportunities within a well-located urban area that benefits from access to public transport, services and economic opportunities.
- **Spatial Sustainability:** The proposal promotes spatial sustainability by encouraging efficient land use and compact development within an established urban area, reducing the pressure for outward urban expansion.
- **Efficiency:** The proposal promotes spatial efficiency by optimally utilising existing municipal infrastructure and services. The development will connect to the established infrastructure network, which has adequate capacity to accommodate the development.
- **Spatial Resilience:** The proposed residential development promotes spatial resilience by allowing flexibility in land use, responding to the evolving urban context, and supporting long-term adaptability.
- **Good Administration:** The application will be processed in terms of the applicable statutory framework, including SPLUMA, LUPA, and the City of Cape Town Municipal Planning By-Law (MPBL) and will follow a fair process.

7.4. Assessment Criteria i.t.o. Section 99(3) of the MPBL

This subsection requires that the decision maker must consider inter alia, alignment with the applicable spatial development framework and any applicable policy. Section 99(3) also requires consideration of the extent of desirability of the proposed land use in terms of the criteria listed in this subsection, being:

(a) Socio-economic impact

The proposed development is expected to have a positive socio-economic impact by contributing to the City's residential stock and broadening the choice of housing types available in Hout Bay. In addition, the development will generate employment opportunities during both the construction phase and the ongoing operational phase, including building management and maintenance functions. The increased population will support surrounding local businesses, services and public transport system.

(d) Compatibility with surrounding uses

The proposed development is compatible with its surrounding context by virtue of its residential nature, scale, and location along a connector route. The area surrounding the subject site comprises a mix of residential uses, including lower density residential to the north, south and west of the site and a more intensive general residential (Kronendal Retirement Village) built form to the east.

The building facades and roof are articulated, to break up the massing of the building envelope, and the top floor is accommodated in the roof space, to reduce the height of the building and ensure a residential building typology. Furthermore, the floor space of the proposed development is 425m² less than the permissible floor space of the General Business GB1 zoning.

(e) Impact on the external engineering services

The impact on external engineering services has been assessed in Section 4.4 of this report. The appointed engineer has confirmed that the proposed development can be adequately accommodated within the existing municipal infrastructure network, which has sufficient capacity.

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

The proposal will have a positive impact on the safety, health, and well-being of the surrounding community. The multi-storey development will enable overlooking and passive surveillance of the adjacent streets, improving safety.

(g) Impact on heritage

There will be no impact on heritage.

(h) Impact on the biophysical environment

The subject site does not contain any environmentally significant resources. Existing trees within the road reserve will be protected.

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

The impact of the proposed development on the existing road network was assessed in Section 4.5 of this report, and the findings indicate that the proposed development will generate fewer trips than the existing use as a shopping mall and can be adequately accommodated on the existing network. The relocated driveway will be 55.6m from Victoria Road, which complies with the Road Access Guidelines, which require a minimum spacing of 45m. The proposal also complies with the off-street parking requirements of item 137 of the Development Management Scheme.

(j) The imposition of conditions in mitigation of impacts

The City may impose conditions it considers necessary and relevant to mitigate any adverse impacts associated with the proposed development. In addition to controlling development through an SDP and requiring the submission of a detailed Landscape Plan at building plan stage, it is proposed that the following conditions be imposed:

- The owner/developer shall submit a Construction Method Statement (CMS) for the installation of services and the construction of the buildings to the City for approval by the Director: Environmental Management prior to building plan approval. The CMS is required to contain, as a minimum, the following:
 - A fully dimensioned plan indicating the footprint of the structures on the property, the erf boundaries, the stockpile areas, toilet facilities during construction, entrances and exits to the erf during construction.
 - A notation on how the following issues are to be dealt with: dust, noise, erosion control, demarcation of site, ablution facilities, waste management during construction, protection of sensitive features (e.g. trees), material handling, storage and stockpiles.
- The owner/developer is bound to comply with and enforce compliance by contractors with provisions of the CMS during the earthworks, installation of the services and the construction of the buildings. The developer shall ensure that the CMS forms part of the contractor's documentation.
- The developer shall appoint an independent Environmental Site Officer (ESO), with appropriate environmental qualifications for the duration of the works contemplated in the CMS, in order to monitor compliance by all parties with the CMS and requiring the ESO to liaise with the City's environmental officers on a regular basis.
- The developer shall enter into a contract with the ESO detailing the minimum hours per week the ESO must be on site and conferring the power on the ESO to stop the construction on site if there is noncompliance with the CMS.

8. CONCLUSION AND RECOMMENDATION

Considering the motivation provided, the proposed development is considered reasonable, justified, sensitive to its context and supported by the following considerations:

- The development proposal aligns with the City of Cape Town Municipal Spatial Development Framework and the Southern District Plan.
- The proposal aligns with the objectives of the key land use and development policies, including the Transit-Oriented Development Framework, Densification Policy, Urban Design Policy, Multi-Storey Residential Development Design Guidelines, and the Inclusive Economic Growth Strategy.
- The proposal supports the development principles set out in the Spatial Planning and Land Use Management Act (SPLUMA).
- The proposal satisfies the assessment criteria contained in Section 99 of the City of Cape Town Municipal Planning By-Law and complies with the applicable development rules as stipulated in the Development Management Scheme for GB1 zoned properties.

- The proposed removal of restrictive title deed conditions is compliant with Section 39(5) of the Land Use Planning Act (LUPA) and Section 47 of SPLUMA and it has been confirmed that the drainage servitude is not used, neither is it required in the future.
- The development will result in positive socio-economic impacts through the provision of additional residential opportunities, broadening the choice of housing typologies, and the creation of employment during both the construction and operational phases.
- The design, scale and massing of the proposed development have been informed by the surrounding context to minimise potential adverse impacts and to ensure compatibility with the receiving environment.
- The Traffic Impact Statement has found that the proposed development will generate fewer trips than the existing use as a shopping mall and concluded that the proposed development can be satisfactorily accommodated within the existing local road network.
- The Civil Engineering Report confirmed that the proposed development can be adequately accommodated within the existing municipal infrastructure network.

Accordingly, it is recommended that Council approves this application for:

- (a) the **Subdivision** of a portion off Erf 8640 Hout i.t.o. section 42(f) of the MPBL to create Unregistered Erf 12799 Hout Bay which will accommodate the existing electrical substation,
- (b) the **Rezoning** of Unregistered Erf 12799 Hout Bay from General Business 1 to Utility Zone,
- (c) the **Consolidation** of Erven 8640 and 3781 Hout Bay i.t.o. section 42(f) of the MPBL,
- (d) the **Removal of Title Condition** 4(e) from Deed of Transfer T29305/2019 i.t.o. section 42(g) of the MPBL,
- (e) the **Deletion, Amendment, and Addition of conditions** imposed on an existing approval granted, including a Site Development Plan i.t.o. section 42(j) of the MPBL,
- (f) **Permanent Departure** from item 121(2) of the DMS for development within 5m from Victoria Road, a designated metropolitan road i.t.o. section 42(b) of the MPBL, and
- (g) **City Approval** to permit parking on ground floor within 10m of a street boundary i.t.o. section 42(i) of the MPBL.
- (h) **Consent** in terms of a restrictive title deed condition where the restriction relates to subdivision, submitted in terms of section 42(h) of the MPBL.
- (i) **Consent** in terms of a restrictive title deed condition where the restriction relates to permitted use, submitted in terms of section 42(h) of the MPBL.

MLH Architects and Planners (Cape) (Pty) Ltd



LOCALITY

LAND USE & ZONING TABLE

	ZONING	LAND USE	UNITS	AREA	%
PORTION 1	UT	SUBSTATION	1	22m²	0.90%
ERF 8640-RE	GB1	FLATS	1	2428m²	99.10
TOTAL			2	2450m²	100%

LEGEND

ERF 8640 HOUT BAY BOUNDARY

2m Contours

SERVITUDES

mlh architects & planners

Client

Project

ERF 8640 HOUT BAY
VICTORIA MALL

Drawing

PLAN OF SUBDIVISION

Issue Status

Issue Date

AUGUST 2026

Project Number

2026 641

Drawing Number

LP-6617-00

Revision

00

Drawn By

LF

Drawing Scale

1/250 @ A3

CAD Folder Location

\\10.0.0.93\Planning\Drawings\2026 617 Apollon Property Fund - Victoria Mall Hout Bay - Removal of Restrictions

Save Date

2026-08-06

