



**CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD**

Case ID 1500156107

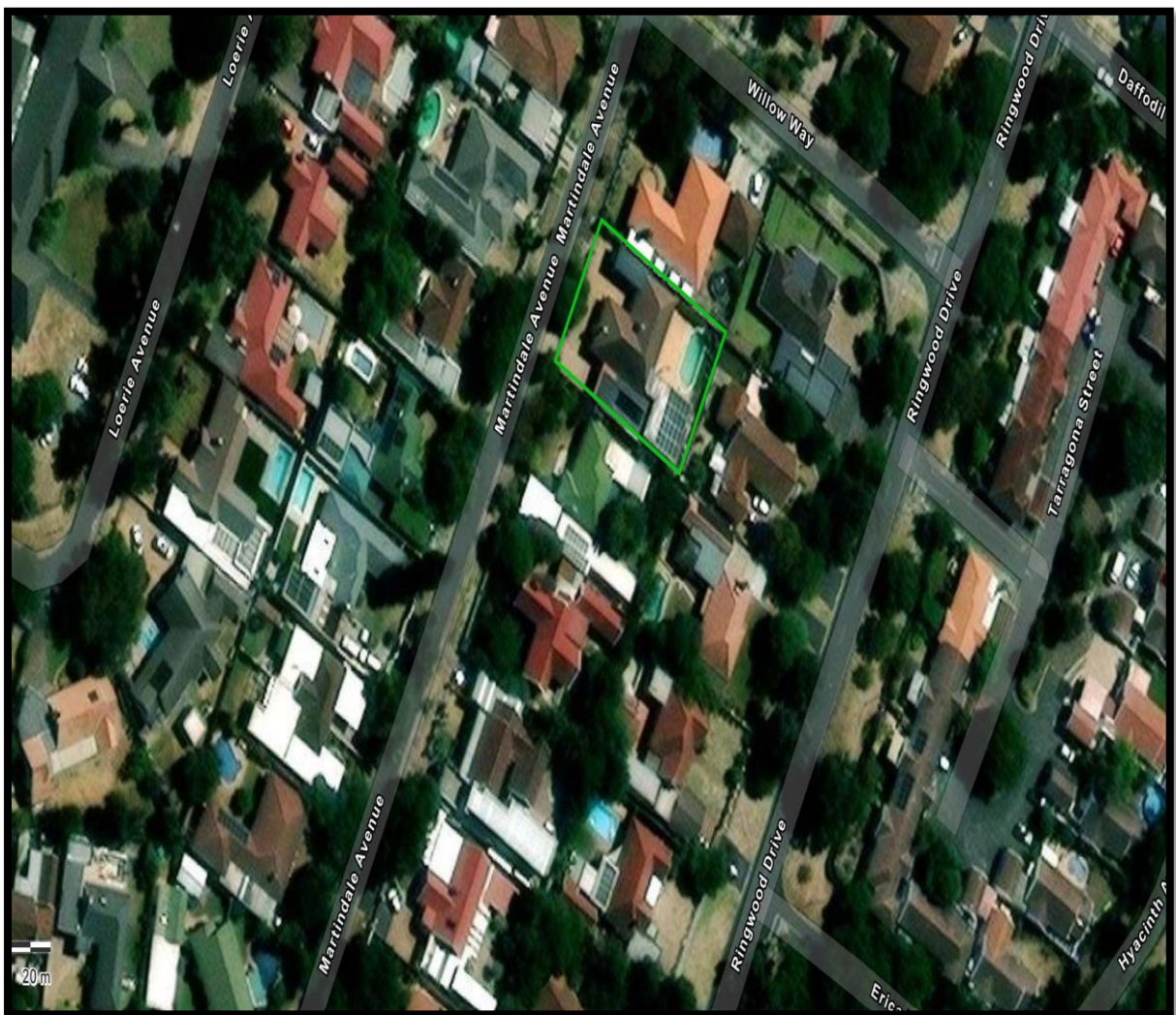
**Erf 2854, 12 Martindale Avenue,
Pinelands**

Development Management

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PROPOSED REMOVAL OF RESTRICTIVE TITLE CONDITIONS, AMENDMENT OF CONDITIONS OF TOWNSHIP ESTABLISHMENT AND DEPARTURES



ERF 2854, 12 MARTINDALE ROAD, PINELANDS

DECEMBER 2025

1. Site Background

The subject property, Erf 2854 Pinelands, is located at number 12 Martindale Avenue, Pinelands, in the Northern Suburbs of Cape Town. The site is currently zoned for Single Residential – SR1. The property is currently being used for residential purposes as a dwelling house.

The purpose of this land use application is to apply for regulation departures, the removal of title deed restrictions and amendment of the Township Establishment conditions to allow for greater utilisation of the site. The title deed restrictions restrict the property to one dwelling which is in contradiction of a number of current policies (including the densification policy and Inclusive Economic Growth Policy) and legislation.

The details of this application are set out below and are as follows:

1.1 Land Use applications applied for

The application is hereby made in terms of:

- Section 42(b) of the City of Cape Town Municipal Planning By-Law, 2019 (MPBL) to permit the following departures:
 - 1.2 m in lieu of 3.0 m along the north-east common boundary
 - To permit height to be 4.018 & 4.210m in lieu of 4m on the north-east and north-west common boundary.
- Section 42(g) and Section 42(j) of the City of Cape Town Municipal Planning By-Law, 2019 (MPBL) to permit the removal of the following conditions:
 - D.5.(c) – *“Not more than half the area thereof shall be built upon.”*
 - D.5.(c) – *“No building or structure or any part thereof, except boundary walls and fences shall be erected nearer than 15 feet to the street line which forms a boundary of this erf, nor within 10 feet of the rear or 5 feet of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority an outbuilding not exceeding 3,05 metres in height measured from floor to the wall plate and no portion of which will be used for human habitation may be erected within the above prescribed rear space. On consolidation of any two or more erven this condition shall apply to the consolidated area as one erf.”*

DESCRIPTION OF PROPOSALS

PROPOSED ADDITIONS AND ALTERATIONS

The purpose is to enable a proposed alteration/addition to the existing dwelling,

consistent with the Single Residential 1 (SR1) zoning, the character of the neighbourhood, and applicable municipal policy frameworks.

The dwelling encompasses a vast majority of the footprint and the additions and alterations require the removal of the relevant conditions as applied for along with a departure to allow construction to take place as per the Site development Plan as drawn by JZE Architects with Project Number 2534 dated 29 October 2025.

Alterations and Additions are required to:

- Improve the liveability and usability of the dwelling for the occupants;
- Accommodate modern household needs while ensuring compliance with planning and building regulations;
- Enhance the property's structural and environmental performance;
- Ensure the dwelling remains consistent with the architectural character of Pinelands.

PROPERTY CONTEXT AND SURROUNDING CHARACTER

Erf 2854 is located within the well-established Pinelands Garden City suburb, characterised by:

- SR1-zoned residential properties
- Single-storey and double-storey homes with incremental additions
- Mature tree canopy and cohesive suburban form
- A pattern of common boundary line variations due to historic layouts and individual household upgrades.
- The property is fully serviced, developed with a dwelling and located within a stable, quiet residential area.
- The proposed works occur within the internal portion of the site and do not impact on the wider streetscape.

PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS

The Title Deeds of this property contain a number of restrictive conditions which limit either the development or the use of the property to varying degrees. The Western Cape High Court granted a final order to effect that all conditions imposed by Garden Cities be waived thus these conditions are no longer in effect within Pinelands.

Furthermore, any conditions imposed by Garden Cities for its benefits within the title deeds of properties are no longer required to be formally amended, suspended or removed in terms of the local planning by-laws. No action is therefore required within this application concerning restrictive conditions contained within the subject property's title deeds which were imposed by Garden Cities.

There are, however, a number of restrictive conditions which were imposed by, and in favour of, the Administrator of the Cape Province in terms of the Townships Ordinance 33 of 1934. These restrictive conditions are still applicable and any

development on, or use of, the property is still required to conform to these restrictions. Contemporary planning by-laws have replaced the Townships Ordinance 33 and new mechanisms now control the development of properties within the City which are aligned to updated policies and legislation. Restrictive conditions imposed in terms of repealed laws often differ greatly in terms of the restrictions they place on development and land use when compared to more current legislation.

As elaborated on and motivated within this report, these restrictive conditions were imposed under a now repealed by-law and more contemporary laws have been drafted which directly address and support updated legislation, policies and spatial plans. These updated policies take into account both historical and current issues and pressures experienced by the city and aim to address these via various provisions including strategic objectives and spatial plans at the citywide and district and local levels. A number of these restrictive conditions are more restrictive than the development, land use and other provisions contained within the Municipal Planning By- Law, 2015, and application is hereby made to remove these conditions to allow for the property to be developed and utilised in a manner which is aligned to current laws and policies.

1.2 Site details

Erf no	Erf 2854, Pinelands
Extent of property	818m ² (as per Title Deed)
Title Deed no.	
Current Zoning	Single Residential – SR1
Current Land Use	Residential
Special/Conservation area overlay zone	N/A

1.3. Locality

Erf 2854 Pinelands is located at number 12 Martindale Avenue close to the corner of Willow Way, in the suburb of Pinelands (please see the Aerial Locality Plan below which depicts the location of the site in more detail).

Restrictive conditions are contained within the subject property's title deed which were imposed in terms of Townships Ordinance 33 of 1934 in favour of the Administrator of the Cape Province. This application seeks to remove these restrictive conditions in the title deed to enable the property to be developed in accordance with the contemporary town planning laws which govern development throughout the Cape Town Municipal area.

The property is currently developed with an existing residential dwelling, and the owners

would like to extend and expand the existing dwelling for their comfort. The proposed additions are intended to enhance the functionality, safety, and long-term sustainability of the dwelling without negatively affecting neighbouring properties or the surrounding built environment.

Access to the property is taken from Martindale via two (2) existing carriageway crossings. The property currently contains two established driveway access points along Martindale Avenue. Both crossings have been in use for many years and form part of the functional layout of the site. The image below, demonstrates that the property is surrounded by large houses set further apart and well screened from one another.



Site location circled in green



Streetscape and surrounds of the site. Entrance to Martindale Avenue.



Image depicting the subject property and surrounding erven.

Pinelands is a well-located suburb in the greater context of the City of Cape Town. It enjoys high degrees of accessibility to major structuring routes including the N1, N2, M5 and M3 freeways which provide connections to the greater municipal area and beyond.

It's location close to industrial and commercial areas and hubs make it a highly sought after suburb to reside in given its location in close proximity to places of employment and economic opportunities. The area is also well serviced with private and public amenities including an extensive public open space network, municipal departments, large shopping complexes, restaurants, coffee shops, schools and sporting facilities.

The area is well serviced in terms of external municipal engineering infrastructure which includes stormwater, sewer networks and electrical and water supply. Solid waste removal services and road networks are also well established and the City is committed to the continual upgrade and maintenance of all these services in the area.

The area is serviced by existing public transport infrastructure which provides access to the area from other locations within the City and provides residents with options in terms of mobility to the greater metropole. Pinelands location in close proximity to the city's CBD is another attribute which makes it a desirable area to reside in and the growing demand for residential opportunities in the area and for those requiring access to the CBD has necessitated the continual upgrade and maintenance of public transport infrastructure in the area.

Pinelands is primarily a residential neighbourhood and properties located within this area are predominantly zoned Single Residential 1 and contain either one, two, or three dwelling units as is permitted in terms of the DMS. Despite being a highly sought after area to reside in and its strategic location in the context of the city Pinelands remains a

low to moderate density residential area. A recent decision taken in terms of the Western Cape High Court has removed the necessity of properties in the area to conform to or abide by the provisions imposed in terms of restrictive conditions in their title deeds as imposed in favour of Garden Cities. This exemplifies that the area, while still protecting its character and heritage resources, is undergoing change and development and land use is being supported in line with contemporary laws and policies. Despite this, there are still a number of restrictive conditions which still remain in force.

The area falls within the defined boundaries of the Table Bay District which seeks to uphold spatial planning provisions and directives designed to guide the future development of the area. These plans and policies are discussed and considered in greater detail below as they relate to the proposals made within this application.

1.4 Title Deeds

The property is held under Title Deed No _____ The Title Deed reflects the owner as being _____ (please refer to the attached title deed for confirmation in this regard).

1.5 Physical characteristics of premises and surrounding area

Erf 2854 is located within the established residential suburb of **Pinelands**, a low-density garden-city neighbourhood characterised by spacious erven, mature tree canopies, and a consistent suburban architectural character.

Site Characteristics

Topography:

The erf is generally level with no significant slopes or gradients, allowing for conventional residential development and efficient access to the street.

Shape and Size:

Regular in shape, suitable for SR1 land-use activities, with sufficient depth and width to accommodate the existing dwelling and associated structures.

Existing Structures:

The site contains a single-storey residential dwelling typical of Pinelands, and landscaped garden areas. Built form is consistent with the suburb's heritage and architectural patterns.

Vegetation and Landscaping:

The property features established gardens and mature trees, reflective of the leafy character of Pinelands. No environmentally sensitive vegetation or protected species are present.

Vehicle Access:

The erf fronts a quiet, local residential street and benefits from safe, low-volume traffic conditions. Existing driveway access is typical for the area.

Surrounding Area Context

Land Use:

Surrounding properties are predominantly zoned SR1 and consist of single-storey or modest double-storey homes, adhering to the low-density suburban character.

Built Environment:

Architectural styles follow the Pinelands heritage aesthetic, with pitched roofs, muted colours, and garden-set structures. Buildings are generally set back from the road with landscaped front gardens.

Heritage Context:

Pinelands is located within a Heritage Protection Overlay Zone (HPOZ). The area is noted for its planned garden-city layout, uniform streetscape, and harmonious architectural language. Development is guided to preserve these qualities.

Infrastructure & Services:

The suburb is well-serviced with municipal infrastructure, including water, sanitation, stormwater, electricity, and road access. Public amenities, schools, and parks are within walking distance.

Overall Character

The premises form part of a stable, well-established residential neighbourhood with a distinctive heritage character. The site's physical attributes, level topography, and compatible surrounding land uses make it suitable for residential development and modest additions without detracting from the broader environmental or urban context.

1.6 Subject Property and Development Proposal

The application seeks approval for additions and alterations to the existing dwelling on Erf 2854. The proposed development aims to improve the functionality, comfort, and long-term suitability of the home while maintaining the architectural character and streetscape harmony of Pinelands.

The proposal includes:

- Internal alterations to modernise and reconfigure living spaces;
- Additions that provide additional rooms/amenities to meet contemporary household needs (e.g., expanded living area, new bedroom)
- Design elements that remain sympathetic to the HPOZ, including appropriate roof forms, materials, and building proportions;

The proposed additions have been designed to remain within the typical bulk, scale, and appearance of residential structures in Pinelands. The departure as

applied for is minor in nature and context and supported through technical and planning motivation submitted as part of this application.

Intent of the Proposal

The purpose of the additions and alterations is to:

- Enhance the livability and functional layout of the dwelling;
- Ensure the property continues to meet evolving family or lifestyle requirements;
- Improve energy efficiency, structural performance, and long-term sustainability;
- Maintain alignment with heritage, streetscape, and neighbourhood character guidelines.

The development preserves the residential use of the property, respects neighbouring amenities, and contributes positively to the ongoing maintenance and improvement of the built environment within Pinelands.

A large portion of Pinelands is covered by a Heritage Protection Overlay Zone which has been implemented over the area to preserve the character of the area as well as to better protect conservation worthy heritage resources located on properties within the area. The subject property is not located within this overlay zone therefore the provisions of this zoning do not impact on the proposed development or land use of this property.

There are no natural or biophysical features of significance located on the property and there is no proposal herein to remove trees or other vegetation from the property. As the proposed second dwelling unit is contained within the existing footprint of an approved structure this is not necessary.

The property is zoned Single Residential 1 and contains restrictive conditions in the title deed which place further restrictions on the use of and development on the property. This zoning and the various restrictive conditions are discussed in greater detail in other sections within this report along with the various laws and policies which are applicable to the proposals made within this application.



The images above show that the subject property is located within a predominantly residential neighbourhood surrounded by properties similar in size and by a comprehensive open space network.

TITLE DEED RESTRICTIONS TO BE REMOVED

Nature of Restrictions

The restrictions contained in **Item D(5)(c)** and **Item D(5)(d)** relate to:

- Historic building line controls
- Limitations on structure placement
- Restrictions on coverage or dwelling form
- The need for additional consents predating the current municipal zoning system

These conditions originate from historical township establishment and no longer align with modern municipal land-use regulation.

Motivation for Removal of Restrictive Conditions

The restrictions should be removed because:

a) They conflict with the City's Development Management Scheme (DMS)

The DMS now governs building lines, coverage, height, and land use.

Retaining restrictive deed clauses results in dual, inconsistent regulation.

b) They hinder reasonable residential improvements

Homeowners cannot fully use their SR1 zoning rights due to outdated controls.

c) They offer no public benefit

The conditions do not protect heritage, environmental resources, safety, or health.

Instead, they impose technical barriers to reasonable, policy-aligned development.

d) They are obsolete

Modern land-use controls supersede historic title-based constraints.

e) Their removal promotes equitable treatment

Other properties in Pinelands have similar municipal departures; retaining deed restrictions creates unnecessary inequity.

PROPOSED BUILDING LINE DEPARTURE

Nature of Departure

A **1.2 m setback** is requested in lieu of the prescribed **3.0 m** on the north-east common boundary to accommodate a modest residential extension.

Planning Rationale

The setback reduction:

- Fits within the prevailing-built form of the area
- Maintains structural and visual separation from neighbours
- Does not detract from character or amenity
- Make efficient use of existing developed land
- Allows for practical configuration of the dwelling on the erf

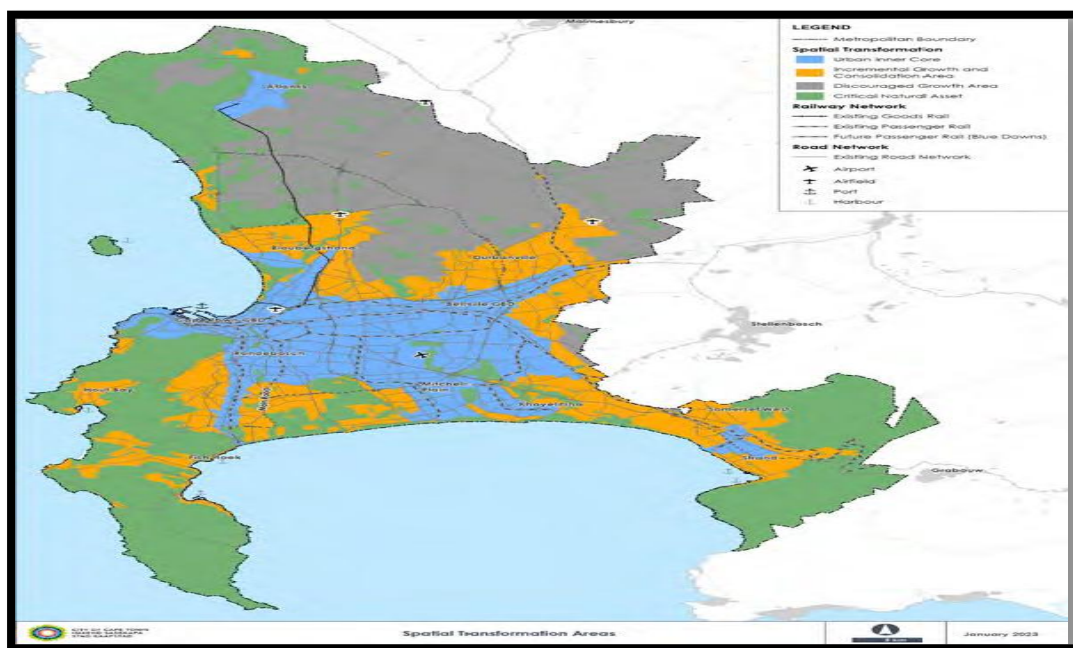
2. Assessment of forward planning policies.

2.1 Table Bay District Plan

The subject property forms part of the Table Bay District Plan. The site is within the Urban Inner Core which is an area earmarked for increased residential densities.

In terms of the Table Bay District Plan, Pinelands is earmarked for conventional urban development and, in this regard and the proposal complies with the proposals of the plan. Furthermore, the proposal is consistent with the District Plan objectives which encourage improvement of the existing fabric built.

The subject property is located within the Table Bay District for which a spatial planning policy has been drafted to guide future development in the area. The Spatial Objectives of this plan, the Table Bay District Plan, are strongly linked to the MSDF, as the spatial vision, development strategies and transformation agenda of this more high-level spatial framework for the City has to be translated to the finer scale of the district level.



The Table Bay District Spatial Development framework (above) shows that Pinelands is located in close proximity to a number of District and local nodes, and development corridors within and beyond the Table Bay District. The area falls within the Urban Development Spatial Planning Category (SPC) as depicted in light grey on the above plan. Incremental intensification is supported within these areas and the City is committed to upgrading existing engineering services. The proposal for additions and alterations is therefore supported in these areas and the City is committed to the continual upgrades and maintenance of engineering services to support the desired densification and intensification of land use. The policy

specifically includes the need to increase development within station precinct as an objective, which includes Pinelands.

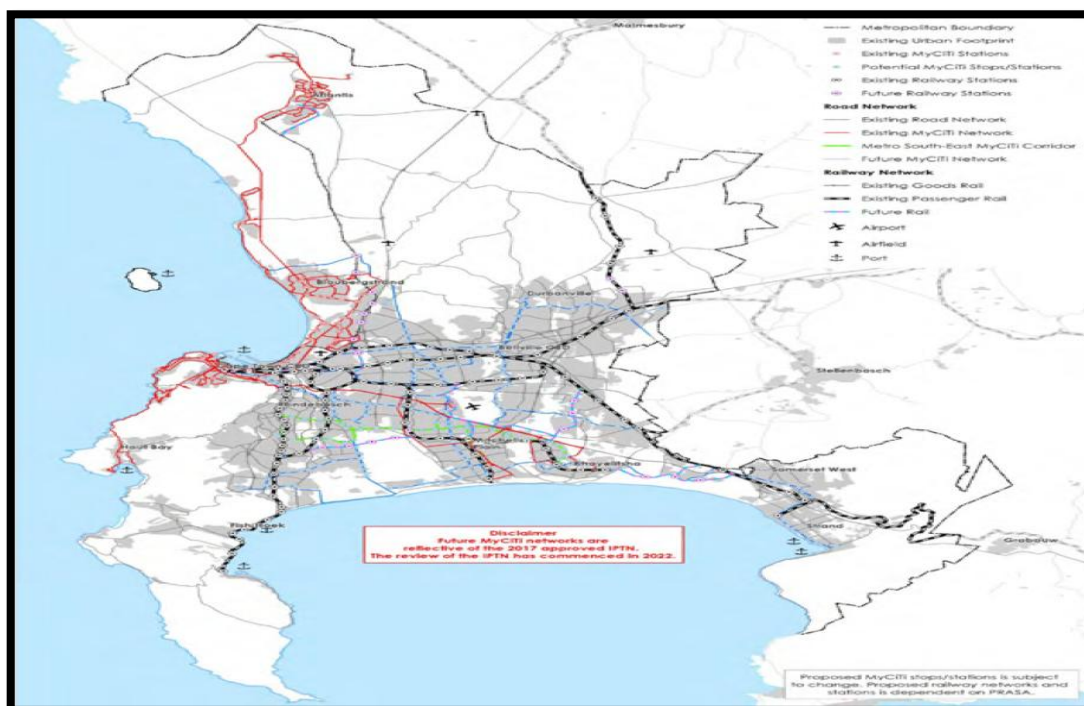
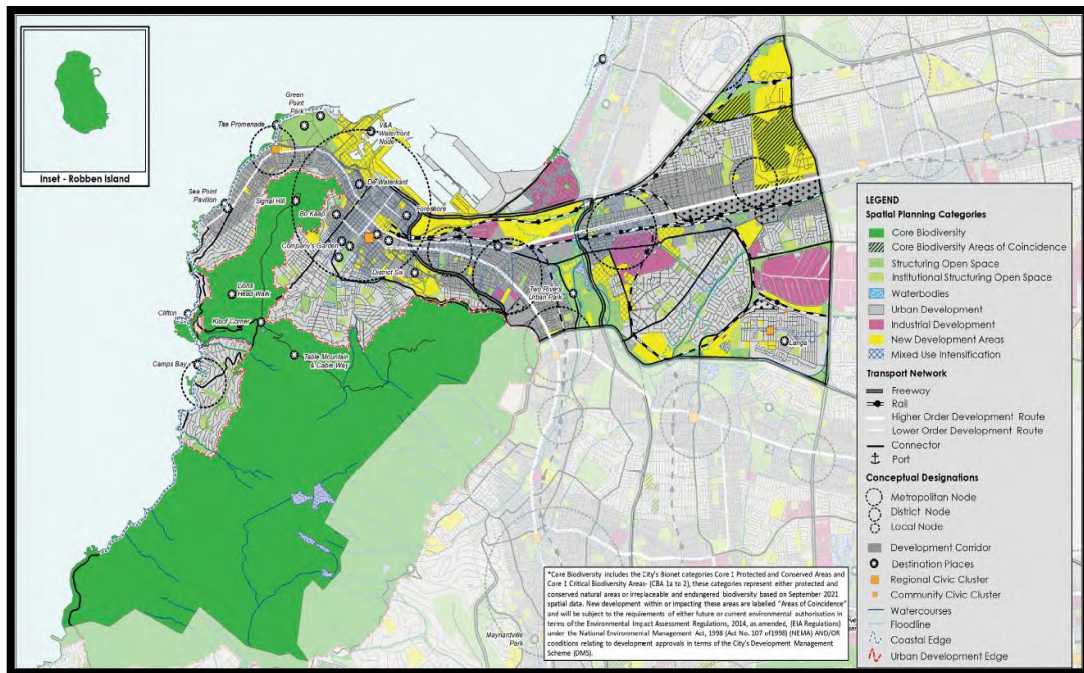
The policy identifies Pinelands as an area of heritage significance having been established in the 1920's as a Garden City with the provision of generous public space and a layout designed to radiate from a central square. It has however been noted that the subject property does not fall within the Heritage Protection Overlay Zone designed to act as a mechanism through which to protect heritage resources in the area.

The district plan provides a central vision for the area, "for Cape Town to be a city of hope for all – a prosperous, inclusive and healthy city where people can see their hopes of a better future for themselves, their children and their community become a reality. As the City government, we are focused on creating the conditions for the meaningfully faster economic growth we need to see more Capetonians lift themselves out of poverty". The strategies of the policy which are aligned with those contained with the MSDP, are designed to help achieve this vision.

Spatial Strategy 1 is to plan for employment and improve access to economic opportunities. This has been addressed within this application by indicating that the property is well located, and the provision of increased housing opportunities provides a greater number of people with the opportunity to reside close to places of employment with high degrees of accessibility to economic opportunities.

Spatial Strategy 2 addresses the need to manage urban growth in a sustainable and balanced manner. As discussed in the previous section, the proposal does not result in detrimental impacts to the natural environment, and it is well founded that densification is a means through which to promote sustainable urban growth as it reduces pressures on urban sprawl and creates an enabling environment for successful public transport systems.

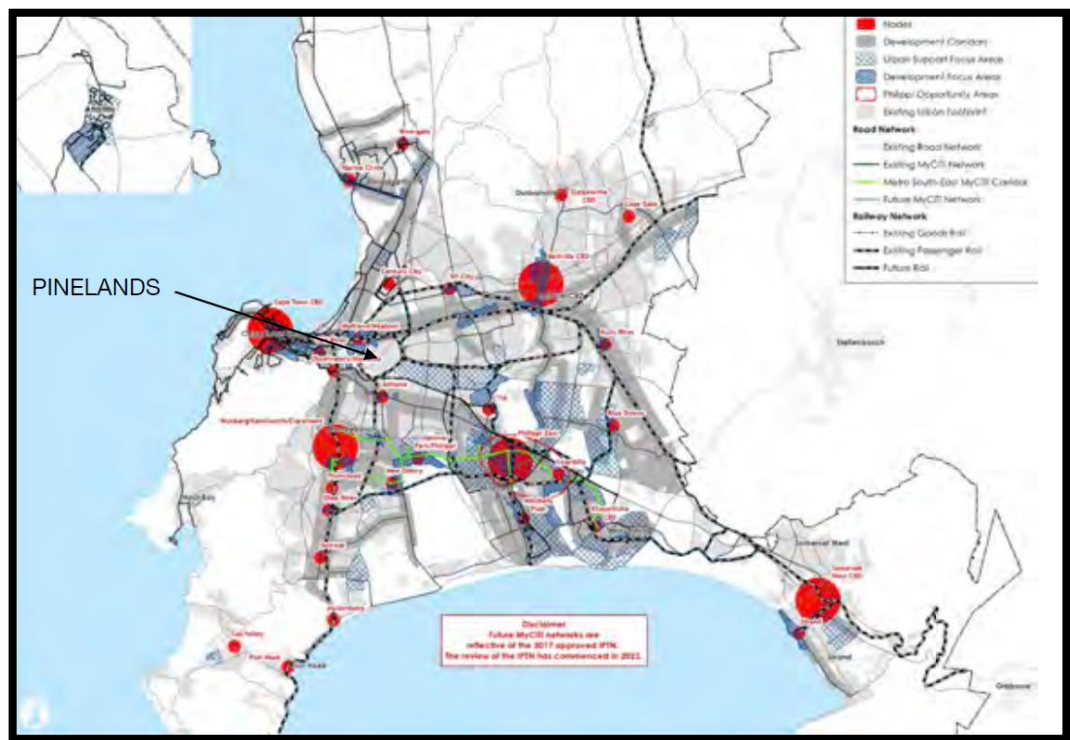
MANSB is to create an inclusive, integrated, vibrant, and healthy city. By providing increased housing opportunities in an area located close to municipal, district and local nodes and development corridors more people are able to access these places more easily thus creating a more inclusive environment.



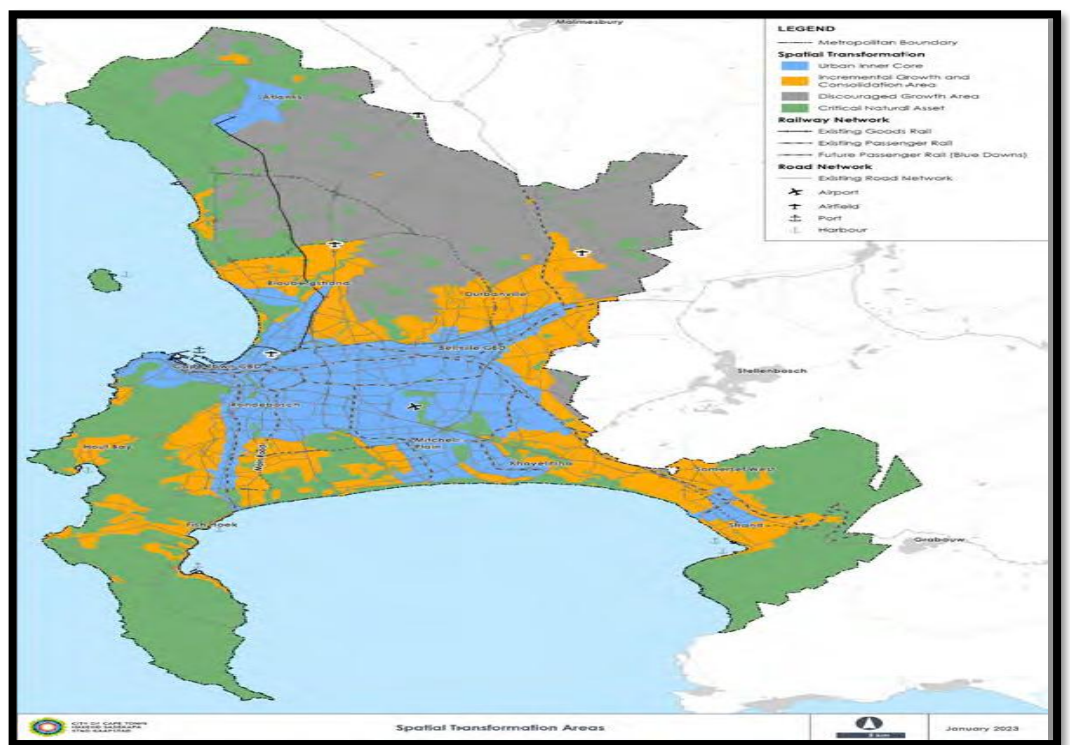
Cape Town's Transport Network Plan shows existing MyCiti Bus Routes and Passenger Rail routes in close proximity to the area which are further supported by informal public transport routes. Well established public transport infrastructure supports densification and provides residents with access to greater access to the city allowing higher degrees of accessibility to places of employment and a wide variety of amenities including healthcare facilities, schools and retail outlets.

Promoting the use of public transport supports the City's environmental objectives of reducing the use of fossil fuels, reduces pressure on public roads, reduces traffic

and congestion and further bolsters the sustainability and future development of transport infrastructure.



The above image is a conceptual plan depicting the development of corridors and urban nodes throughout the city. It is clear that Pinelands is an extremely well-located residential area within the context of the city given its proximity to major urban corridors and location between the Cape Town and Bellville CBD's.



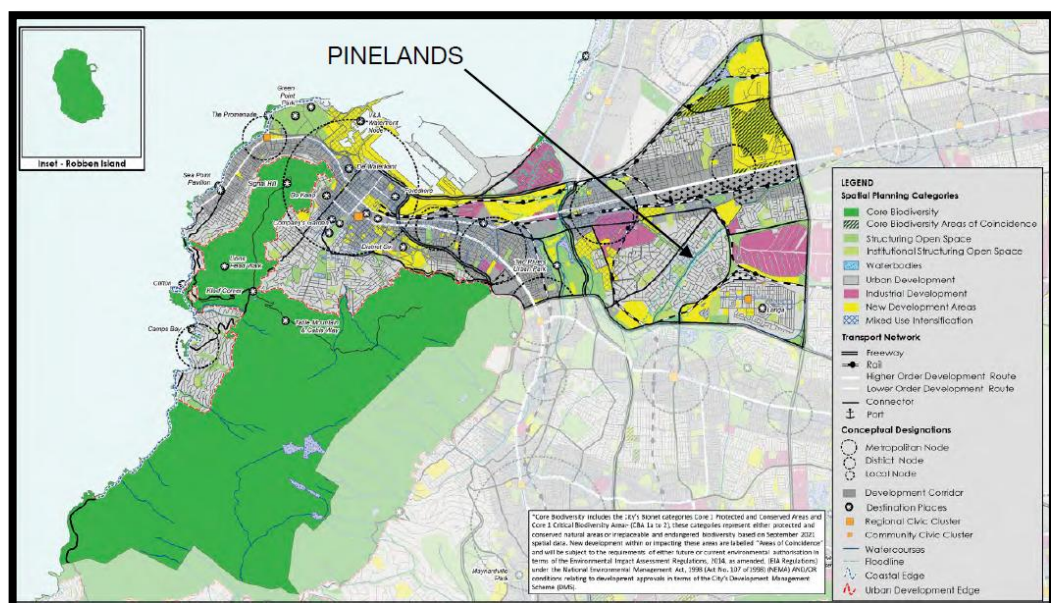
Pinelands clearly fall within the defined 'Urban Inner Core' as depicted in blue in the above image. The MSDF states that the City and public and private sectors are committed to coordinated, spatially targeted investment and land development to spatially transform and integrate the city form. Diverse and dense land uses are included as desirable spatial outcomes within these areas which will also be targeted in terms of investment into public transport infrastructure. Land use intensification is promoted and the maintenance of, and upgrades to, service delivery infrastructure is to be carried out on a continual basis to facilitate this desired intensification and densification in these areas.

It is clear that the subject property is well located in the context of the city and that the proposals made within this report are in support of the various spatial planning objectives contained therein. The proposed additions and alterations are a means through which to achieve densification and intensification of land use in the area. This densification will afford a greater number of people the opportunity to reside in a well-located area which directly supports **Strategy 1** of the MSDF.

Strategy 2 is also supported via densification as the proposal results in the use of underutilised well-located land close to existing public transport routes. This reduces pressures on urban sprawl thereby protecting valuable agricultural and natural land beyond the defined urban edge and creates conditions for sustainable public transport provision. The more people available to utilise public transport increases the financial viability of these systems and reduces dependancies on private transport thereby reducing the use of fossil fuels. Affording a greater number of people the opportunity to reside in a well-located area helps to support.

Strategy 3 of creating a more inclusive and integrated city.

It is clear from the above that the proposals made within this application do not jeopardise the achievement of the spatial directives of the MSDF and, in many ways, support these objectives.



The MSDF prioritises:

- Compact urban development
- Optimising existing infrastructure
- Removal of unnecessary development constraints
- Facilitating incremental household growth
- Promoting adaptable residential environments

This application supports the MSDF by:

- Making efficient use of a fully serviced erf
- Removing obsolete constraints to enable property improvement
- Supporting appropriately scaled intensification in a stable neighbourhood
- Encouraging long-term resilience through domestic investment

The proposal is therefore **fully consistent** with the MSDF's spatial transformation goals.

2.2 SOCIAL DEVELOPMENT STRATEGY & INCLUSIVE ECONOMIC GROWTH STRATEGY

The Social Development Strategy and Inclusive Economic Growth Strategy have been considered as they relate to the proposals made within this application. Neither of these policies are expected to be negatively impacted upon as a result of the approval of this application. Additional housing opportunities in a well-located area allow for a greater number of people to reside close to work opportunities as well as established public transport infrastructure supporting the creation of an opportunity city. This has been discussed in the previous sections, and it has been demonstrated how these proposals directly contribute to supporting the achievement of these policies.

2.3 DENSIFICATION POLICY

The form of densification proposed in this application is believed to be very much in line with the provisions of the Densification Policy. This policy promotes densification where appropriate in order to provide access to secure housing in well located areas and to protect the integrity of the designated urban edge. As has been discussed in this report, Pinelands is a well-located residential area in the context of the greater metropole and densification is supported in this area by both the MSDF and District Plan.

Densification is seen as a mechanism through which to promote the long-term sustainability of the City and protect valuable agricultural and natural land beyond the borders of the city. The policy notes that a 'one size fits all' approach should not be taken to densification throughout the city and the form of densification proposed within this application is believed to be sensitive to the context of the local area.

2.4 Assessment of proposal against zoning scheme and Municipal Planning Amendment By-Law, 2019

The development of the subject property will be subject to the development controls in a Single Residential (SR1) in terms of the Development Management Scheme, City of Cape Town Municipal Planning By-Law, 2019. The details are set out below and are as follows:

Development controls	Development Management Scheme Requirements	Applied to the site	Departure required
Height	10 m to Top of Roof 8 m to Wallplate	< 10 m < 8 m	No
Street Building line setback	3.5 m	> 3.5 m	No
Street Boundary line restriction	5m		No
Common boundary building line	3m	1.2m	Yes

Development Parameters:

These parameters pertain to structures located on a Single Residential property. The subject property measures +-818 square meters in area and is therefore required to conform to development rules which pertain to its size.

Requirements for floor factor limitations are not applicable to a property of this size but there is a limitation on floor space which may not exceed 1500 square meters. Limitations on total coverage are also not linked to properties of this size. Maximum heights of buildings are 11m to top of roof and 9m to wall plate.

The proposal involves extending the existing structure/adding a new room/altering the layout (specifics can be inserted) resulting in an encroachment into the northern common boundary line. The extent of the departure is **minor** and does not increase the overall bulk or height in a manner that negatively affects adjacent properties.

ASSESSMENT AGAINST THE MUNICIPAL PLANNING BY-LAW

Section 42(g): Removal of Restrictions

The application qualifies for removal because:

- Restrictive conditions are outdated and duplicated by the DMS.
- Restrictions prevent the property from being used in accordance with modern planning policy.
- Removal facilitates orderly, sustainable development.
- No municipal service, infrastructure, or public amenity is impacted.

Section 42(j): Public Interest

Public interest is promoted because:

- The removal supports efficient urban land use.
- It enables domestic reinvestment and maintains neighbourhood vitality.
- It removes outdated planning barriers without harming public health, safety, or amenity.
- The proposal retains harmony with the established suburban character.

3. APPLICABLE LEGISLATION FOR THE REMOVAL OF RESTRICTIVE CONDITIONS

3.1 Consideration in terms of Section 47(2)(a) and (b) of SPLUMA

Section 47 (1) and (2) of SPLUMA read as follows:

- (1) A restrictive condition may, with the approval of a Municipal Planning Tribunal and in the prescribed manner, be removed, amended or suspended.
- (2) A removal, amendment or suspension of a restrictive condition contemplated in subsection (1) must, in the absence of the contemplated written consent, be affected _
 - (a) in accordance with section 25 of the Constitution and this Act;
 - (b) with due regard to the respective rights of all those affected, and the public interest; and
 - (c) in the prescribed manner

(a) If such removal, amendment or suspension will deprive any person of property as contemplated in section 25 of the Constitution.

Section 47(1) and (2) make provisions for a title deed restriction to be reviewed for the purposes of its removal. These provisions will be adhered to, as per its application according to the Land Use Planning Act and the Municipal Planning By-Law. The deletion of restrictive conditions will not amount to arbitrary deprivation of property as set out in section 25(1) of the Constitution.

(b). With due regard to the respective rights of all those affected, and to the public interest

It is believed that rights of any party and the public interest will not be negatively impacted upon by the removal of these restrictive conditions. The public interest is currently protected by the Municipal Planning By-Laws, 2019, and the rules and regulations prescribed within the DMS.

The removal of the conditions should not be considered a deprivation of property. As indicated in this application, the proposed is consistent with the development and land use principles set out in SPLIM and LUPA, the MPBL and the DMS.

Furthermore, subject to Sections 6, 7 and 8 of SPLUMA (2013), which refer to good planning practice and procedures, Section 42 outlines the criteria that must be used by decision makers when evaluating an application and Section 47 refers to the removal of restrictive title deed conditions in particular. This application is made in accordance with the allowances of this legislation.

The provisions of both the Spatial Planning and Land Use Management Act (SPLUMA) and the Western Cape Land Use Planning Act (LUPA) have been considered as they relate to the applications contained within this report and it has been found that no proposal made herein is in contravention of these laws.

This application is believed to promote numerous Development Principles contained within SPLUMA. The principle of spatial justice is supported through the creation of increased residential opportunities in a well-located area. The creation of a resilient community is also promoted through the provision of increased housing in a well-located area close to job opportunities and existing public transport infrastructure. Making more efficient use of land within the urban edge is regarded as a means through which to protect the integrity of the urban edge by reducing pressures which result in urban sprawl which compromises valuable natural and agricultural land on the periphery of the city. The principle of efficiency is promoted in that the proposal makes more efficient and effective use of underutilised land in a well-located area. The Development Principles are carried out into provincial legislation, LUPA, as Land Use Planning Principles. These have been considered, and it is believed that the proposals made within this application support these principles in a similar manner to those described above.

Municipal Planning By-Laws, 2019, and the rules and regulations prescribed within the DMS. The restrictive conditions which have been registered on this property are older than these, more current, development regulations. The conditions were put in place to protect the character of the area, the character of which has changed significantly and in a manner which conforms to current legislation and policy. The land use rights prescribed to this property by current legislation which is informed by contemporary laws and policies are less restrictive than the restrictions contained within the title deeds. The public interest will continue to be

protected by the MPBL and the DMS and the amendment of the stipulated restrictive conditions will allow the owner of the property to exercise the current development rights permitted by the City.

(c). in the prescribed manner if such suspension, amendment or removal will deprive any person of property as contemplated in section 25 of the Constitution.

The proposed amendment of these restrictive conditions will not result in any person being deprived of property.

3.2 Land Use Planning Act, 2014 (LUPA)

When a municipality considers the removal, suspension or amendment of a restrictive condition, the municipality must have regard to at least the following:

- a. *The financial or other values 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 MPBL makes provision for three dwellings on a property zoned for single residential purposes. Thus, the removal of this condition relating to the property only having one dwelling for residential purposes is entirely consistent with the MPBL. The applicant is not qualified to comment on whether the condition impacts on property values or not. However, it is noted that numerous other properties in the broader area have additional dwellings, without negatively affecting property values. As a result, it is our opinion that removal of the conditions will result in limited, if any, impact on value. The deletion of the restrictions will enable additions and alterations to the existing dwelling under the single residential zone, which is considered to be in keeping with the character of the area given that a property is permitted to have three dwellings as per the new directive.

Given that the proposed use is allowed under the single residential zoning as well as the design not changing from the residential façade, there will be no decrease in value of surrounding properties. The restrictive conditions were imposed in order to maintain and preserve a strict residential character and prevent any landowner from detracting from this concept. The proposal is in keeping with the residential nature of the subject property and the surrounding area and in this regard, there is no negative impact on property values expected.

Maintaining restrictions which prohibit properties in this area restricts the ability of these properties from developing in a manner in line with current policies and laws. As the character of the area has changed significantly (increased densities) it is motivating that there remains little value in maintaining these conditions.

It should be noted that this will not have an impact on existing rights as the property will retain its SR1 zoning and is merely maximizing the development potential of them. Therefore, the applicant is of the opinion that the proposed is not only promoting

intensified use of land but also promoting social integration with the surrounding land uses while at the same time contributing to a safer community with more awareness in the area. Given the above, this means that the proposed would also not have a negative impact on surrounding landowners in terms of value of land.

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

The deletion of the restrictive conditions which were imposed by the Administrator does not result in direct personal benefit to the neighbours. The surrounding property holders will not be impacted on as a result of the deletion of the restrictions and it is evident that this will not have an adverse impact on the surrounding community given that numerous other landowners have extended dwellings on their properties and increased the on-site density.

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*

Granting the removal of the restrictive title deed conditions will enable the owner to extend the current dwelling. The property owner will achieve substantial personal benefits from the deletion of these conditions as it will allow the expansion of their development rights on the property, especially in the use of the property, as well as being limited to the development setbacks as stipulated in the current Development Scheme. This unlocks value for the owner and will benefit future owners as well.

The conditions are defunct and outdated and not in line with the MPBL. The application is also considered desirable and accords with the Table Bay District Plan. The deletion of the conditions will not only benefit the owner, but also the surrounding area and the general public.

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

It is not believed that there would be a social benefit of any significance to the surrounding community if the restrictive title deed conditions are kept in place, as the area is a residential area, and will lose the opportunity for the potential extension of the current dwelling and an additional dwelling. The restrictions were imposed many years back to ensure that properties do not change from a residential perspective but given that the conditions were imposed in 1940's, the implementation of the Municipal Planning By-Law allows for a greater use of land including the MSDF as well as numerous forward planning policies. Due to the lack of developable land in Cape Town the implementation of allowing 3 dwellings on a property indicates that a property should be used to its full potential. Given the aforementioned it has been clearly demonstrated that the proposed use is not only in line with the by-law and forward planning policies but also allows land use intensification.

- e. The social benefit of the removal, suspension or amendment of the restrictive condition

There are social benefits in removing the conditions, as it will enable the better utilization of the property in terms of modern city development, improve lack of job opportunity and align with various City policies that require a more efficient use of land where appropriate. The deletion of the restrictions will have a positive social benefit given that it will promote increased awareness and contribute to a safer community. The proposal is in accordance with the Provincial and Municipal policies and considered to be a direct benefit to the area and City as a whole.

- 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.

The restrictions were imposed by the Administrator (now deemed to be the City of Cape Town). The deletion of the restrictions will not remove the rights enjoyed by the City, but will increase rights, given that the proposal is in line with the City's forward planning policies and the fact that the proposed will result in increased job opportunity, which is in the direct interest of the City.

3.3 Minimum Threshold Requirements in terms of section 99(1)

This application complies with the minimum threshold requirements, as set out in section 99(1)

a. Compliance with the requirements of the Municipal Planning By-Law

The application complies with the requirements of this By-law.

b. Consistency with the MSDF

The proposed land use is consistent with the MSDF.

c. Desirability in terms of section 99(3)

As discussed below, the application is desirable as contemplated in section 99(3).

d. Development should not require departures that provide rights for the next subzone

The proposed will not have an effect of granting the property an additional dwelling or further extending the current dwelling within the Single Residential Zone.

Given the above, the application does not fail to comply with the minimum requirements as stated in Section 99(1) of the MPBL and should therefore not be refused but supported by the decision-maker.

3.4 Compliance with criteria in terms of Section 99(2)

In terms of the applicable District Plan, the area and subject property is designated for urban development. Given that the proposal is contained within an existing urban area and as described earlier in this report, it is clear that the proposal complies with the provisions of the District Plan. It has also been shown in this report that the proposal complies with any relevant criteria contemplated in the DMS. It has also been shown in this report that the proposal contributes positively and complies with various City Policies.

The proposal, which is minor in nature and basically allows for the further development of the property which will remain residential, will have no impact in terms of the City's Social Development Strategy and indirectly supports the Economic Growth Strategy. Given the assessment above and for the reasons listed in this report, it has been shown that the proposal is desirable as per the relevant consideration criteria as stated in Section 99(3) of the MPBL. It has been shown that the proposal will not have a negative impact on the existing rights of relevant surrounding property owners. With regards to this proposal, an assessment has been completed and compliance shown in terms of the relevant provisions of LUPA & SPLUMA. As per the application submitted and motivation provided, the applicant is of the opinion that the proposal complies with the requirements of the By-Law.

3.5 Desirability in terms of Section 99(3)

The applicant motivates in terms of Section 99(3) of the MPBL of the extent of desirability. The following criteria of the MPBL are addressed and motivated as follows:

a. Socio-economic impacts

The proposal for departures and to remove the restrictive conditions on the subject property will have a positive impact as it will allow for additional residential stock in a desirable area, which will improve access to amenities and employment opportunities in the local area.

b. Compatibility with surrounding land uses

The proposal is compatible with the surrounding land uses as the use on the site is compatible with the surrounding residential uses. As mentioned earlier in this report, the surrounding area is characterized by residential properties. Thus, the proposal is greatly compatible with the surrounding land uses. The proposal does not have a significant impact and is deemed to be in keeping with the character of the area.

c. Impact on external engineering services

It is not considered that the proposal will have any adverse impact on the adjacent services and will not have a significant impact on the bulk infrastructure demand. A development contribution will be paid should it be required.

d. Impact on safety, health and well-being of surrounding communities

The proposal will not impact on health and safety or well-being of the surrounding landowners.

e. Impact on Heritage

The subject property is not located within a Heritage Overlay Zone (HPOZ), thus there is no application required to permit development within an HPOZ.

f. Impact on the biophysical environment

The proposal will not have a significant impact on the biophysical environment. There are no conservation worthy trees that need to be removed to facilitate the proposed development. The proposal will therefore not have an adverse impact on the biophysical environment.

g. Traffic Impacts (parking, access/egress and other transport considerations).

Access to the subject property will continue to be taken from Morningside Road. The proposal does not impact on existing parking or traffic issues related to the subject property.

h. Impact on Existing rights

The rights of surrounding property owners are not expected to be negatively impacted upon as a result of the proposals made within this application.

The encroachment will not adversely affect the neighbouring property to the north because the structure remains and retain its architectural design and character and be kept modest in scale; there is no significant overshadowing, as the northern boundary receives good sunlight levels; there is no overlooking, privacy loss, or window placement that would create visual intrusion; noise, ventilation, and service placement remain compliant with building and health regulations.

As this structure is an existing building the impacts of the location of this building are expected to be negligible. The removal of the restrictive conditions will allow the owner of the subject property to develop the property more in line with the current Municipal Planning By-Laws.

4. Motivation in terms of Development Principles in Chapter 2 of SPLUMA and LUPA

4.1 Spatial Justice

This site is not subject to redress, nor is it characterised by informality or underdevelopment. As such, it is not the direct object of this principle. However, the incremental densification of this site will improve the use of this site and accessibility to this area in the long term.

4.2 Spatial Sustainability

This proposal promotes spatial sustainability to the extent that it is allowing for a form of contextually appropriate densification and allows for more intense use of a site that is already serviced.

4.3 Spatial Efficiency

This incremental densification promotes efficiency to the extent that the site makes use of already existing infrastructure and promotes more efficient use of resources in the form of land.

4.4 Spatial Resilience

The proposed departures and removal of restrictive title-deed conditions will increase the viability of this neighbourhood in the long term, as it allows for more than one dwelling on this site, which will increase the number of residents who are able to live in this well-located neighbourhood.

4.5 Good Administration

This application complies with all the relevant forward planning policies for the Cape Town Metro.

5 Conclusion

For the reasons set out above in this report, the proposal is therefore considered to be desirable as it complies with the criteria of desirability in the MPBL of 2019. The proposal is deemed to be minor in nature as the proposed additions and alterations do not impact significantly on the existing rights of any surrounding neighbours and community at large. The proposed additions and alterations will provide a valuable service to the community in terms of security and awareness.

The applicant submits that the above-mentioned application will not adversely affect the surrounding area but will in fact make several positive contributions as set out herein. It is accordingly requested that the City of Cape Town grant its approval.

This application contains all required supporting documentation as per the MPBL, 2019, as well as providing a comprehensive motivational report as per S99 of these By-Laws. We respectfully request that this application be assessed and approved.

Ebrahim Osman
Obo JZE Architects

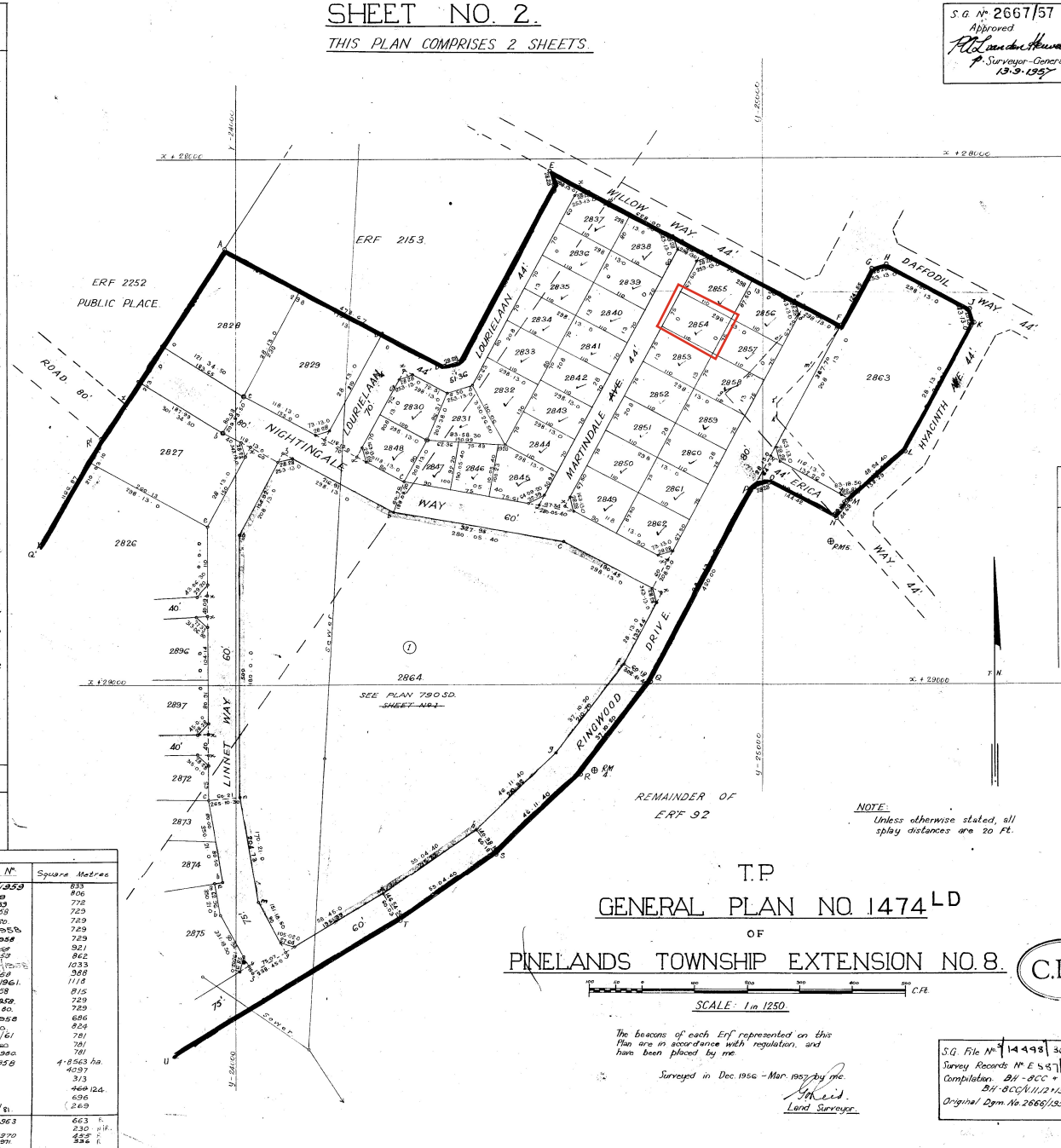
C.D.R. 14/4 SHI.2

SHEET NO. 2.
THIS PLAN COMPRISES 2 SHEETS

S.G. No. 2667/57
Approved
Richard Howard
Surveyor-General
13.9.1957

DATA OF MAIN FIGURE				CO-ORDINATES OF BLOCK CORNERS			
Station	Angle of Direction	Distance	Local System	Station	Angle of Direction	Distance	Local System
CO-ORDINATES				CO-ORDINATES			
AB	473.27	298.13	00	A	2397.04	28149.59	2826.6
BC	28.28	253.13	00	B	2439.57	28393.53	2826.6
CD	382.00	208.13	00	C	2445.87	28386.37	2826.6
DE	18.28	253.13	00	D	2403.47	28044.76	2827.9
EF	628.00	298.13	00	E	2459.31	28091.68	2827.9
FG	124.55	208.13	00	F	2514.09	28318.53	2827.9
GH	28.28	253.13	00	G	2530.59	28204.84	2828.0
HJ	180.00	298.13	00	H	2524.62	28200.68	2828.0
JK	28.28	253.13	00	J	2539.37	28281.79	2828.0
KL	277.91	28.13	00	K	25401.44	28310.85	2828.0
LM	159.29	48.24	40	L	25270.05	28557.74	2828.0
MN	44.69	38.18	50	M	25160.62	28648.54	2828.0
NO	144.62	118.13	00	N	25189.31	28641.65	2828.0
OP	28.28	253.13	00	O	25011.65	28610.33	2828.0
PQ	420.50	28.13	00	P	24984.57	28624.43	2828.0
QR	220.14	37.00	20	Q	24786.01	28594.09	2828.0
RS	220.31	46.11	40	R	24658.00	28570.00	2828.0
ST	222.36	55.04	40	S	24494.84	28520.00	2828.0
TU	371.21	65.00	00	T	24311.68	28449.79	2828.0
UV	347.27	340.58	40	U	23481.14	28953.79	2828.0
VW	334.18	124.34	40	V	23554.33	28982.10	2828.0
WX	450.37	34.37	20	W	23319.18	28902.43	2828.0
XY	194.21	29.31	20	X	23063.30	28463.05	2828.0
YZ	1055.03	101.02	30	Y	22967.00	28432.04	2828.0
ZA	275.47	235.16	30	Z	21931.11	28423.81	2828.0
AB	15.92	145.16	30	A	2157.52	28072.88	2828.0
BC	391.01	217.11	30	B	22140.45	28020.81	2828.0
CD	40.00	186.59	20	C	22304.82	28948.34	2828.0
DE	67.05	233.55	40	D	22389.69	28908.64	2828.0
EF	71.31	291.29	30	E	22419.16	28953.79	2828.0
FG	161.25	290.05	00	F	22522.00	28932.24	2828.0
GH	121.26	278.40	30	G	22674.07	28907.62	2828.0
HI	161.25	290.05	00	H	22835.50	28910.05	2828.0
IJ	161.26	255.51	40	I	22894.59	28904.27	2828.0
JK	14.47	244.27	10	J	22160.98	28904.67	2828.0
KL	15.92	145.16	30	K	22329.19	28904.67	2828.0
LM	28.28	193.45	00	L	22338.18	28937.35	2828.0
MN	238.46	148.45	00	M	22344.90	28948.34	2828.0
NO	112.81	216.00	00	N	22350.07	28967.73	2828.0
OP	100.00	120.03	10	O	22345.56	28960.00	2828.0
PQ	114.47	216.00	00	P	22160.98	28910.05	2828.0
RA	473.27	218.00	00	Q	22744.37	28530.00	2828.0

Area	Diagram No.	Square Metres
2814	1818/181	694
2815	1818/181	694
2816	1818/181	694
2817	1818/181	694
2818	1818/181	694
2819	1818/181	694
2820	1818/181	694
2821	1818/181	694
2822	1818/181	694
2823	1818/181	694
2824	1818/181	694
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2995	1818/181	694
2996	1818/181	694
2997	1818/181	694
2998	1818/181	694
2999	1818/181	694
3000	1818/181	694



S. G. O. OFFICE NOTES
1. Erven 2828 and 2829, to 3858 Vide dgm 6218.1991.

S.G. File No. 14498/30
Survey Records No. E 545/15
Compilation, B.I. & C.C.
24-8/2/12/13
Original Dgm No. 2666/1357

