



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Case ID 1500160185

**Erf 5049, 177 Athens Road, Table View,
Milnerton**

Development Management

This cover page is added by the City of Cape Town as part of our standard branding and document-management process. It does not indicate that the City authored, verified or endorses the submission. All application documents remain the responsibility of the applicant and the City assesses them as submitted. Any errors or discrepancies will be addressed through the normal land use assessment process.

All rights reserved. No part of this data may be reproduced or transmitted without written permission from the Development Management Department of the City of Cape Town. This document is available on the City of Cape Town website (www.capetown.gov.za/LandUseNotices) for a limited time. Please do not host the document independently; you may link to it from the City's site. Documents downloaded from any other website cannot be verified for authenticity.

Spaces, V&A Waterfront, Dock Rd Junction
Cnr Stanley & Dock Roads
Cape Town

Erf 5049 Milnerton (177 Athens Road, Table View)

Rev A

Prepared by:
FJC Consulting
– Mr. J. Francis

Prepared For:
City of Cape Town Municipality
– Mr. R. Allie

Prepared on behalf of:
Mr. A. R. Andrews &
Ms. M. Andrews

Date:
March 2026

Definitions

Executive Summary

SECTION ONE: INTRODUCTION

- 1.1 Background Information
- 1.2 The Client
- 1.3 The Consultants
- 1.4 The Application
- 1.5 The Purpose of the Report

SECTION TWO: PROPERTY DETAILS

- 2.1 Property Description
- 2.2 Ownership
- 2.3 Extent
- 2.4 Zoning
- 2.5 Existing Land Use
- 2.6 Access
- 2.7 Title Deed / Restrictive Conditions
- 2.8 Services
- 2.9 Servitudes
- 2.10 Heritage
- 2.11 Environmental Management
- 2.12 Overlay Zones

SECTION THREE: LAND USE APPLICATION

- 3.1 Proposed Rezoning - GR3
- 3.2 Removal of Restrictive Title Conditions
- 3.3 Deletion of Conditions of Approval
- 3.4 Development Controls – GR3
 - 3.4.1 Coverage
 - 3.4.2 Floor Factor
 - 3.4.3 Height
 - 3.4.4 Street Boundary Building Line
 - 3.4.5 Common Boundary Building Line
 - 3.4.6 Parking and Access
 - 3.4.6.1 Parking
 - 3.4.6.2 Access
 - 3.4.7 Screening
 - 3.4.8 Wind Mitigation

SECTION FOUR: MOTIVATION

- 4.1 Description of Surrounding Area and Uses
- 4.2 Criteria i.t.o Section 99(1) of the MPBL
 - 4.2.1 Compliance with the requirements of the MPBL
 - 4.2.2 Compliance / Consistency with the MSDF

- 4.3 Criteria i.t.o Section 99(2) of the MPBL
 - 4.3.1 Applicable Spatial Development Frameworks
 - 4.3.2 Relevant criteria contemplated in the DMS
 - 4.3.3 Applicable Approved Policy or Strategy to guide decision making
 - 4.3.3.1 Integrated Development Plan (IDP)
 - 4.3.3.2 Densification Strategy
 - 4.3.3.3 Social Development Strategy (SDS)
 - 4.3.3.4 Inclusive Economic Growth Strategy (IEGS)
 - 4.3.3.5 TOD Strategic Development Framework
 - 4.3.3.6 Blaauwberg Road LSDF (BRLSDF)
 - 4.3.4 Impact on Existing Rights
- 4.4 Criteria i.t.o Section 99(3) of the MPBL
 - 4.4.1 Socio-Economic Impact
 - 4.4.2 Compatibility with Surrounding Uses
 - 4.4.3 Impact on the External Engineering Services
 - 4.4.4 Impact on Safety, Health, and Wellbeing
 - 4.4.5 Impact on Heritage
 - 4.4.6 Impact on the Biophysical Environment
 - 4.4.7 Impact on Traffic / Parking / Access
 - 4.4.8 Conditions that can mitigate an adverse impact
 - 4.4.9 Would approval grant the development rules of the next subzone
- 4.5 SPLUMA & LUPA
 - 4.5.1 The Principle of Spatial Justice
 - 4.5.2 The Principle of Spatial Sustainability
 - 4.5.3 The Principle of Efficiency
 - 4.5.4 The Principle of Spatial Resilience
 - 4.5.5 The Principle of Good Administration
- 4.6 Restrictive Title Conditions
 - 4.6.1 Policy Guidelines
 - 4.6.3 Section 39(5) of LUPA
 - 4.6.3 Section 47 of SPLUMA
- 4.7 Summary

SECTION FIVE: CONCLUSION

Figures

Figure 1:	Locality Plan
Figure 2:	Locational Context
Figure 3:	GP Extract
Figure 4:	Zoning Plan
Figure 5:	Aerial View
Figure 6:	Servitudes

Diagrams / Photos / Illustrations

Diagram 1:	Street Building Line Encroachment
Diagram 2:	Common Boundary Building Line
Diagram 3:	PT2 Parking Area
Diagram 4:	Locational Context
Diagram 5:	MSDF Extract
Diagram 6:	Blaauwberg District Plan (Sub-District 3)
Diagram 7:	3D Generated Images of Development

Tables

Table 1:	Buildings Permitted in the Residential Use Zone (R1)
Table 2:	Buildings Permitted in the General Residential Use Zone (GR3)
Table 3:	Minimum off-street parking requirements
Table 4:	Spatial Planning Category: Urban Development
Table 5:	Sub-District 3 - Changes in Land Use and Form

Annexures

Annexure A:	Power of Attorney
Annexure B:	Title Deed
Annexure C:	General Plan
Annexure D:	Noting Sheet
Annexure E:	Zoning Map
Annexure F:	Conveyancers Certificate
Annexure G:	Pre-Application Consultation Minutes
Annexure H:	List of Conditions to be Removed
Annexure J:	Site Development Plan
Annexure K:	Landscape Plan
Annexure L:	Engineers Services Report
Annexure M:	Application Form

Definitions

For the purpose of this application, and unless it appears otherwise in the text, the terms used herein are as follows:

Property Concerned

The property concerned is **Erf 5049 Milnerton** and is located at **177 Athens Road, Table View**.

Client

The Client being represented in this matter is the registered owner of the property concerned, being

Consultants / Applicants

FJC Consulting Town Planners & Land Surveyors (**Mr Jody Francis**), acting for the Client in this matter.

Application

Application is hereby made:

- In terms of **Section 42(a)** of the City of Cape Town's Municipal Planning By-Law (2025) for the **Rezoning** of the subject property from Residential (R1) to General Residential (GR3).
- In terms of **Section 42(g)** of the City of Cape Town's Municipal Planning By-Law (2025) for the **Removal / Amendment of a Restrictive Title Condition** so as to permit the development of the subject property with a block of flats.
- In terms of **Section 42(j)** of the City of Cape Town's Municipal Planning By-Law (2025) for the **Amendment / Deletion of Conditions** (original Town Establishment Conditions) imposed in respect of Erf 5049 Milnerton.
- In terms of **Section 42(b)** of the City of Cape Town's Municipal Planning By-Law (2025) for the **Permanent Departure** associated with the development of the subject property with a block of flats.
 - o Permanent Departure from the permitted **Floor Factor / Floor Space** of 1.25 / 1255m² is required in order to permit the proposed Floor Factor / Floor Space of 1.357 / 1362m².
 - o Permanent Departure from the permitted **Coverage** of 60% (602,4m²) is required in order to permit the proposed coverage of 66% (664m²)
 - o Permanent Departure from the **Common Boundary Building Line** is required in order to permit the proposed storerooms to be on the common boundary in lieu of the required 4.5m.

Development Management Scheme (DMS)

The Development Management Scheme in terms of the City of Cape Town's Municipal Planning By-Law (2025), being the management scheme applicable to the property concerned.

Planning By-Law / MPBL

The City of Cape Town's Municipal Planning By-Law (2025).

MSDF

The Municipal Spatial Development Framework

District Plan / LSDF

The Blaauwberg District Plan (2023) / The Blaauwberg Road Local Spatial Development Framework

Local Authority / Council

City of Cape Town Municipality (District B – Blaauwberg)

Executive Summary

Date: March 2026

To:

Subject: Application in terms of Section 42(a), Section 42(b), Section 42(g) and Section 42(j) of the Municipal Planning By-Law for the Rezoning, Removal of Title Conditions, Deletion of Township Establishment Conditions and Permanent Departures necessary to permit the proposed development of the subject property with a block of flats.

1. Application Summary

- 1.1 Existing Zoning: Residential (R1)
- 1.2 Proposed Zoning: General Residential - Sub Zone 3 (GR3)
- 1.3 The Application: For the Rezoning, Removal of Restrictive Title Conditions, Deletion of Township Establishment Conditions, and associated Permanent Departures to permit the proposed block of flats.
- 1.4 Date of Application: March 2026
- 1.5 Recommendation:

All original documentation will be available to your committee.



Properties Consulted

Objecting Properties

Supporting Properties

Section One - Introduction

1.1 Background Information

The subject property, Erf 5049 Milnerton, is located along Athens Road in the established residential township of Table View.

The subject property is easily accessible from the surrounding area, as it is located in close proximity to Blaauwberg Road (M14), Otto du Plessis Drive (R27), and Potsdam / Koeberg Road (M5). The mentioned roads are the primary links to Table View, Blaauwberg, Milnerton, Cape Town CBD as well as the west coast.

The subject property is zoned Residential (R1) and borders other residentially zoned properties within Table View in the form of Residential (R1) and General Residential (GR), with a few business zonings dispersed throughout the area.

The Applicant seeks to demolish the existing main dwelling unit and develop a 15-unit block of flats.

A review of the conveyancer's certificate from Van Deventer and Van Deventer CPT Inc. has confirmed that certain conditions of title currently restrict the property to only one dwelling.

Given its proximity to Blaauwberg Road, the property's location supports the proposed densification.

This application therefore seeks to apply for the Rezoning, Removal of Title Conditions as well for the Deletion of original Township Establishment conditions to permit the proposed block of flats.

If the assessment finds that the block of flats exceeds the GR3 use zone's development parameters, it will be necessary to concurrently apply for departures from the relevant rule of the DMS.

1.2 The Client

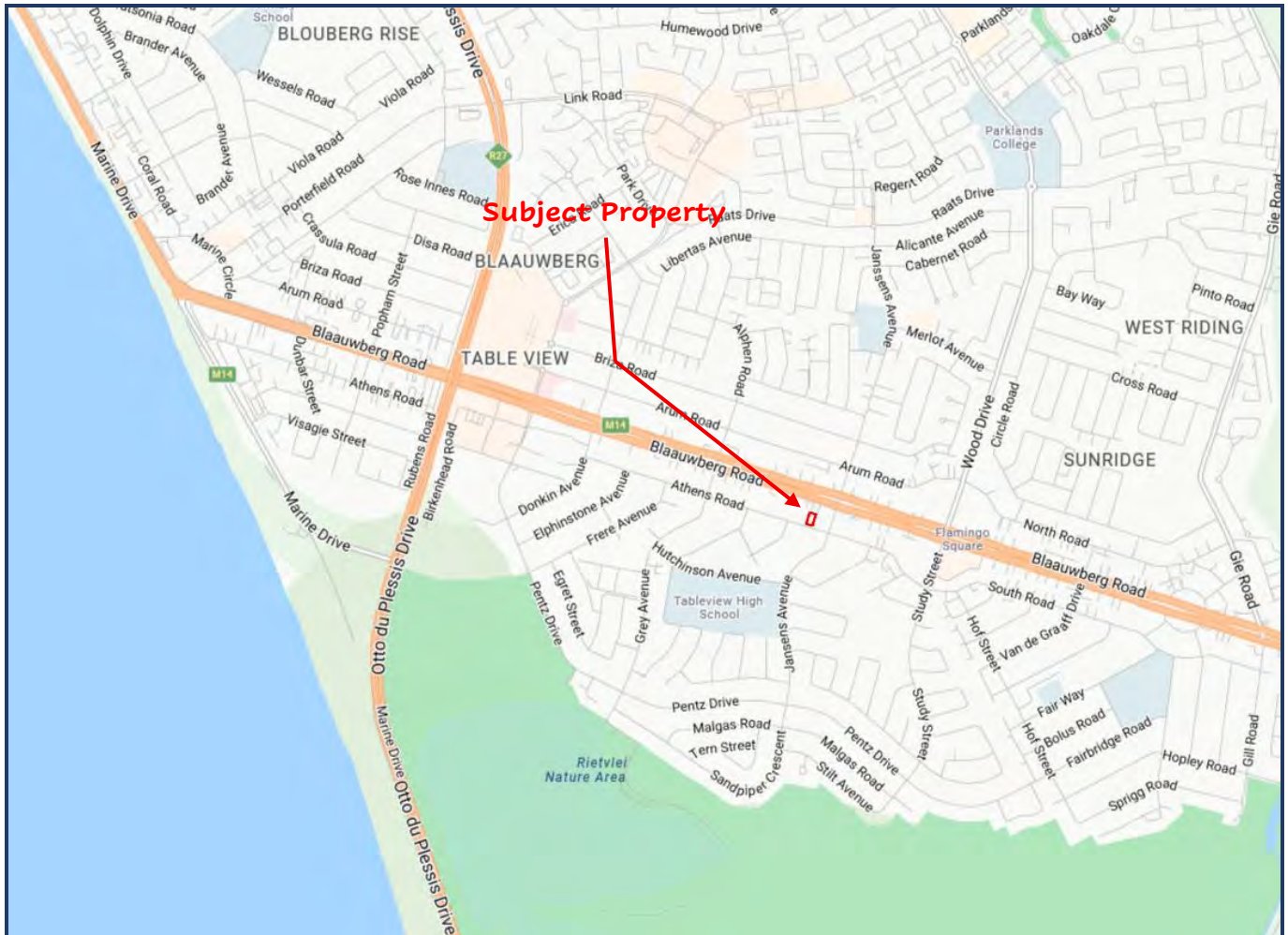
The Applicant acts under Power of Attorney (see **Annexure A**) for the registered owner of the subject property, being:

1.3 The Consultants

The Consultants in this matter are:



Represented herein by **Mr. Jody Francis**.



 FJC CONSULTING TOWN PLANNING & LAND SURVEYING	Project: Erf 5049 Milnerton	Title: Removals, Deletion, Rezoning & Departures	Date: Mar '26
	Legend:	North: 	Figure: 1 Locality Plan

1.4 The Application

Pursuant to the above, application is herewith made for the approval, by the City of Cape Town Municipality for the land use application submitted in favour of Erf 5049 Milnerton.

Application is made:

- In terms of **Section 42(a)** of the City of Cape Town's Municipal Planning By-Law (2025) for the **Rezoning** of the subject property from Residential (R1) to General Residential (GR3).
- In terms of **Section 42(g)** of the City of Cape Town's Municipal Planning By-Law (2025) for the **Removal of the Restrictive Title Conditions** so as to permit the development of the subject property with a block of flats.
- In terms of **Section 42(j)** of the City of Cape Town's Municipal Planning By-Law (2025) for the **Deletion of Conditions of Approval** (original Town Establishment Conditions) imposed in respect of Erf 5049 Milnerton.

- In terms of **Section 42(b)** of the City of Cape Town's Municipal Planning By-Law (2025) for the **Permanent Departure** associated with the development of the subject property with a block of flats.
 - o Permanent Departure from the permitted **Floor Factor / Floor Space** of 1.25 / 1255m² is required in order to permit the proposed Floor Factor / Floor Space of 1.357 / 1362m².
 - o Permanent Departure from the permitted **Coverage** of 60% (602,4m²) is required in order to permit the proposed coverage of 66% (664m²).
 - o Permanent Departure from the **Common Boundary Building Line** is required in order to permit the proposed storerooms to be on the common boundary in lieu of the required 4.5m.

1.5 The Purpose of the Report

The purpose of this report is to inform Council, officials and interested parties of the application submitted in favour of the property concerned.

This report also serves to provide a motivation in support of the proposals envisaged, as well as identify the specifics of such application, so as to facilitate for easier and more efficient processing of the application by the administration concerned.

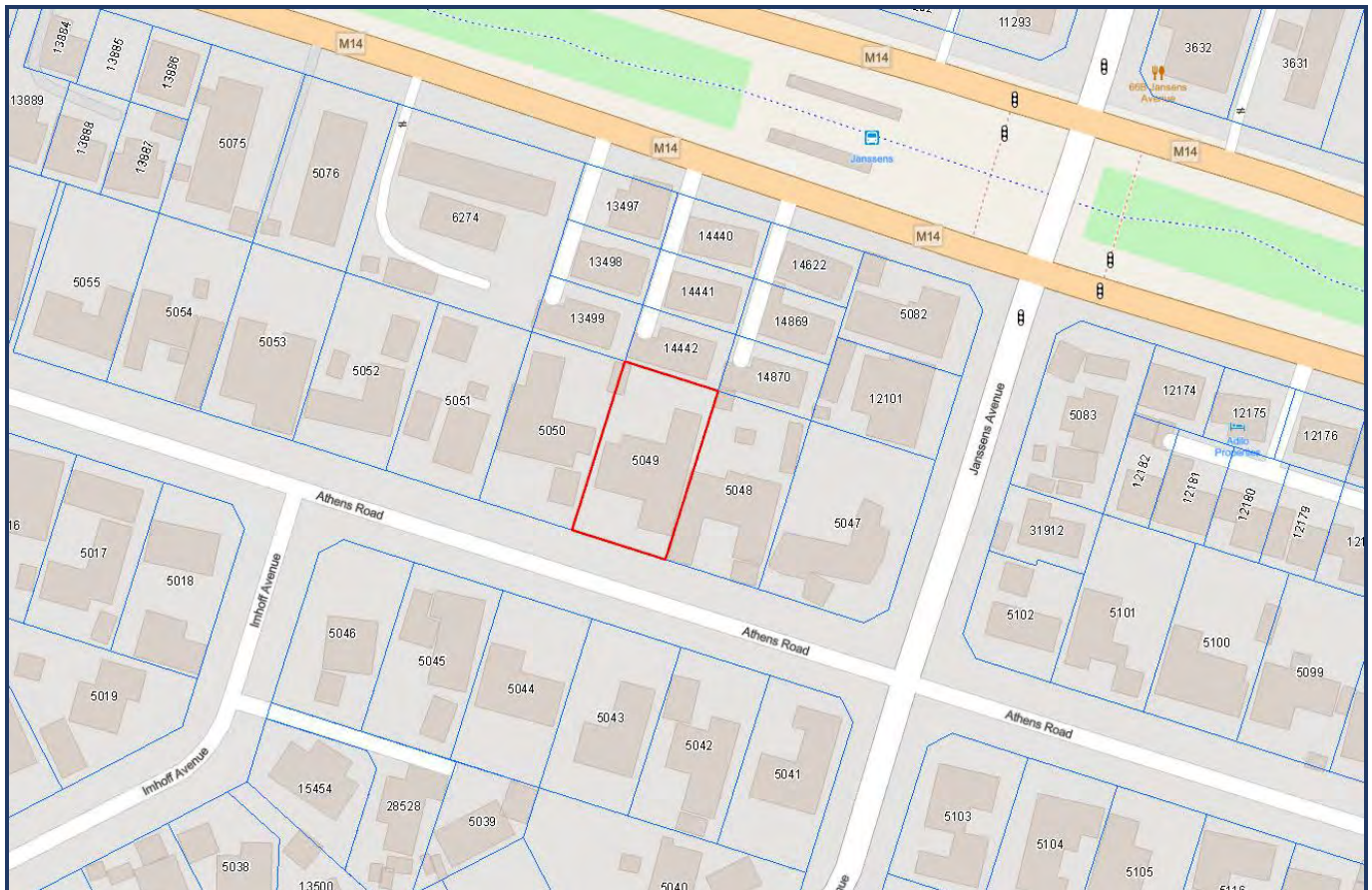
Section Two – Property Details

2.1 Property Description

With regard to the description of the property concerned, Title Deed describes the property as:

(see Annexure B),

**Erf 5049 Milnerton, in the City of Cape Town
Division Cape, Province of the Western Cape**



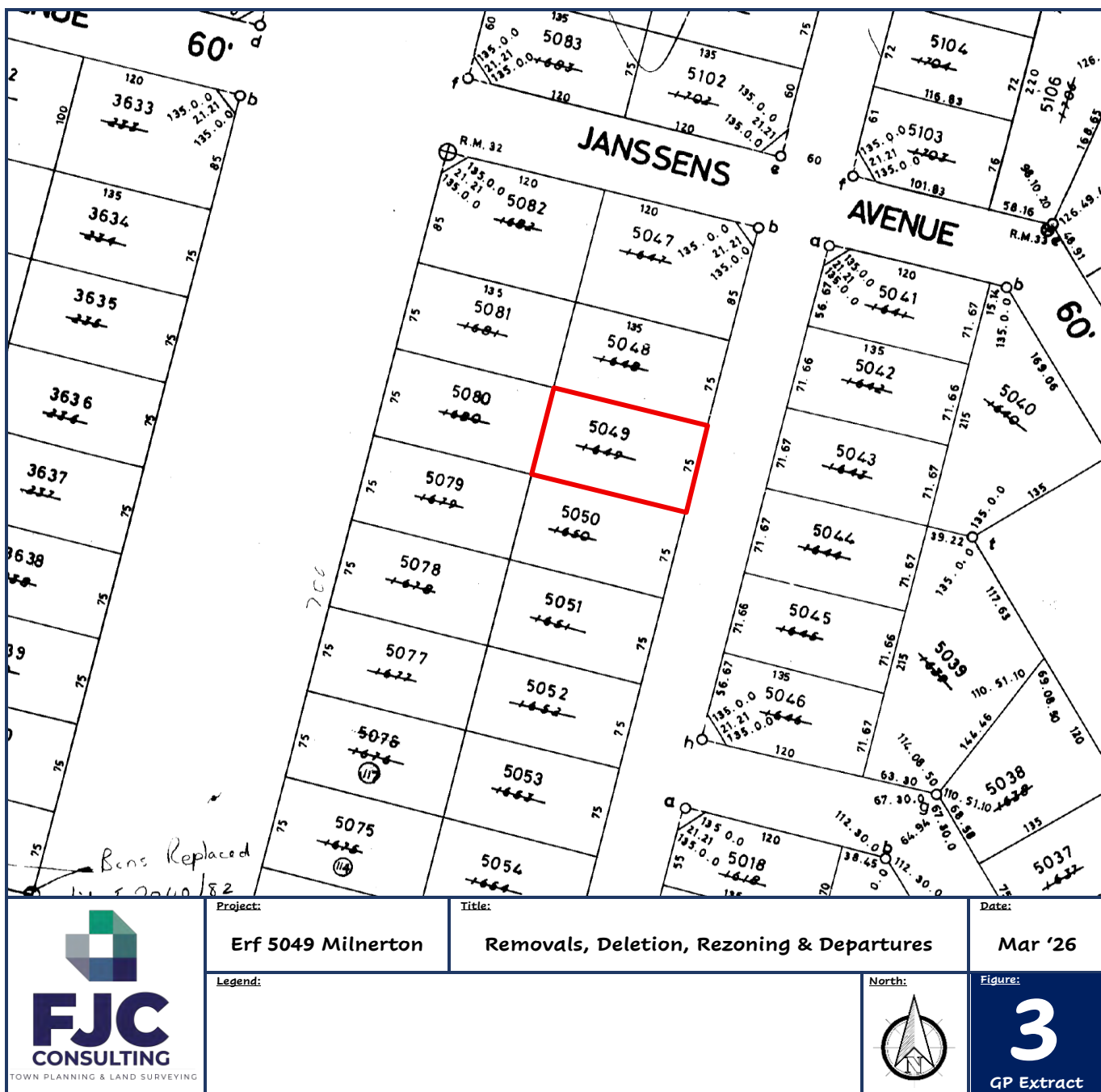
2.3

Extent

Regarding the extent of the property concerned, the Title Deed and General Plan (see **Annexure C**) confirm the extent of the subject property to measure:

1004m²

One Thousand and Four Square Meters

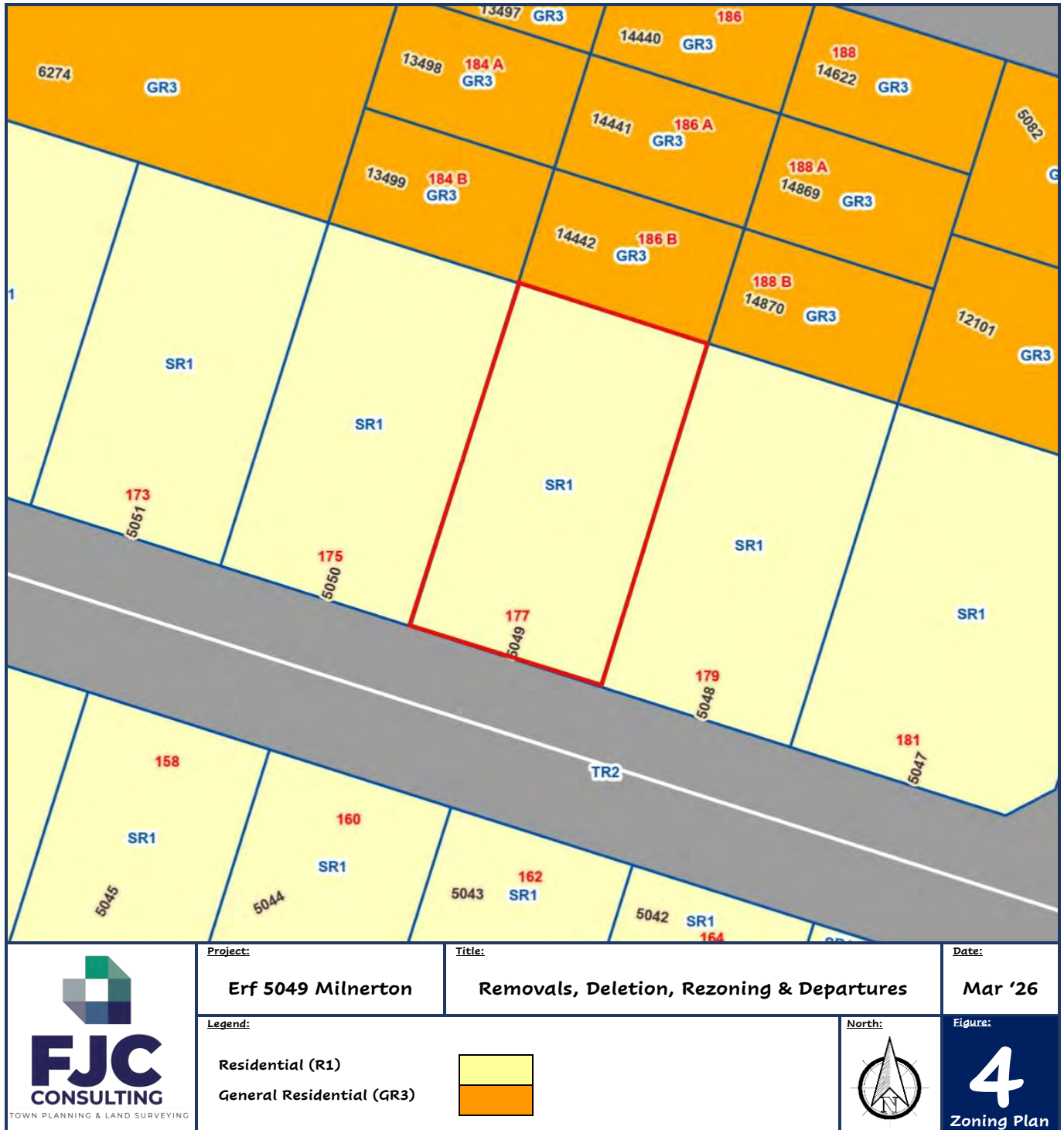


2.4

Zoning

In terms of the zoning of the subject property, investigation with the City of Cape Town (see **Figure 4** and **Annexure E**), revealed that in terms of the Development Management Scheme, the subject property is zoned:

Residential (R1)



2.5 Existing Land Use

As can be established from the aerial image provided for in **Figure 5** below, the subject property is currently developed with a main dwelling unit.

This application seeks to demolish the existing building and proposes the development of a 3-storey block of flats in its stead.



	Project:	Title:	Date:
	Erf 5049 Milnerton	Removals, Deletion, Rezoning & Departures	Mar '26
	Legend:	North:	Figure:
			5 Aerial View

2.6 Access

As can be established from **Figure 5** above, Athens Road is the public road which provides vehicular and pedestrian access to the subject property.

2.7 Title Deed / Restrictive Conditions

When regard is had to the title deed concerned, and the existence of any restrictive conditions contained therein, which are potentially in conflict with the proposed rezoning to enable its development with a block of flats, it is acknowledged that in terms of the Conveyancer's Certificate (see **Annexure F**) as produced by Van Deventer and Van Deventer CPT Inc. Attorneys, that there are certain restrictive conditions registered against the title that need to be assessed for compliance, and that should the proposal not comply, that it may be mandatory to apply to remove the offending conditions.

A thorough assessment of the identified conditions relative to the proposed development is undertaken in Section 4.6 below.

2.8

Services

We can confirm that the subject property is appropriately serviced, in that the existing building on Erf 5049 was developed and serviced and has been occupied for a lengthy period of time.

As a result, the subject property is suitably serviced to cater for the residential needs of the property. The consideration of the extent to which the proposed densification of the subject property will result in an increase in the demand for services, will be assessed in the later sections of report when the proposed development is considered.

It is understood that the application will be circulated to City's internal branches (Water and Sanitation / Potsdam WWTW) for comment on whether the services network can sustain the proposed development.

2.9

Servitudes

No record of any servitudes having been registered against the title of the subject property could be found in the title deed or reflected on the Survey Diagram / Noting Sheet.



 TOWN PLANNING & LAND SURVEYING	Project: Erf 5049 Milnerton	Title: Removals, Deletion, Rezoning & Departures	Date: Mar '26
	Legend:		North: 
			Figure: 6 Servitudes

2.10 Heritage

The application concerned is not associated with any heritage factors that could be impacted by the proposed development of the subject property with a block of flats.

It is noted that the subject property does not fall into any of the designated Heritage Protection Overlay Zones, neither does it fall into any of the Proposed Heritage Protection Overlay Zones.

In terms of the City's Heritage Inventory, the property is not designated as having any heritage significance.

2.11 Environmental Management

In assessing the potential environmental impact associated with the development application concerned, as well as in seeking to identify whether the proposed block of flats triggers any listed activity in terms of the National Environmental Management Act, a brief desktop assessment served to confirm that none of the listed activities are triggered by the development application concerned.

Based thereon, the Applicant did not consider it necessary to undertake an Applicability Checklist.

2.12 Overlay Zones

We note that the subject properties do not fall into any designated overlay zones which serve to include an additional layer of development controls which would need to be considered as part of the assessment of the development application concerned.

Section Three – Land Use Application

3.1 Proposed Rezoning - GR3

This land use application is primarily concerned with securing the appropriate zoning of the property, so as to enable the development thereof with the proposed block of flats.

It has been previously established that the subject property is currently zoned **Residential Zone (R1)**, this zoning designation permits the following uses:

Table 1: Buildings Permitted in the Residential Use Zone (R1)

Use Zone	Primary Uses	Consent Uses
Residential (R1)	• Dwelling House • Private Road • Micro Wind Turbine • Structure Mounted Energy System	• Utility Service • Place of Instruction • Place of Worship • House Shop • Institution • Guest House • Minor Rooftop Base Telecommunication Station • Rooftop Base Telecommunication Station • Wind Turbine Infrastructure • Open Space • Urban Agriculture • Veterinary Practice • Electrical Vehicle Charging Station • Small Scale Animal Care Centre • Chancery • Boarding House • Ground-Mounted Energy System • Commune • Clinic • Small-Scale Wind Turbine • Informal Trading • Halfway House
	Additional Uses • Home Occupation • Bed and Breakfast Establishment • Second Dwelling • Third Dwelling • Filming • Affordable Rental Flat • Supplementary Dwelling Unit • Small-Scale Wind Turbine • Place Of Instruction • Home Childcare	

The requirement for the rezoning is informed by the current use zone of the subject property, which is Residential Zone (R1) and as can be established from the above table extracted from the Development Management Scheme, does not make provision in the Primary Uses column, Additional Use column nor the Consent Use column for the development of a block of flats.

With regard to the proposed development of the subject property with a block of flats, we identify in the below table extracted from the DMS that the proposed development of a block of flats is identified as a Primary Use in the General Residential Use Zone (GR3).

In the above regard, the application proposes the rezoning of the subject property to **General Residential Zone (GR3)**.

Table 2: Buildings Permitted in the General Residential Use Zone (GR3)

Use Zone	Primary Uses	Consent Uses
General Residential (GR3)	- Dwelling House - Second Dwelling - Third dwelling - Group Housing - Boarding Housing - Guest House Flats - Private Road - Filming - Electric Vehicle Charging Stations - Micro Wind Turbine - Structure-Mounted Energy System - Open Space	- Utility Services - Place of Instruction - Place of Worship - Institution - Hospital - Place of Assembly - Home Occupation - Shops - Hotel - Conference Facility - Rooftop Base Telecommunication Station - Chancery - Ground-Mounted Energy System - Restaurant - Informal Trading - Veterinary Practice
	Additional Uses	
	- Supplementary Dwelling Unit - Home Occupation - Small-Scale Wind Turbine	

3.2 Removals of Restrictive Title Conditions

Scrutiny of the Title Deed revealed that the property is subject to the following restrictive conditions: -

B. SUBJECT FURTHER to the following special conditions contained in Deed of TRANSFER Number dated 8th September 1944, imposed by the Administrator of the Province of the Cape of Good Hope at the time the Table View Township was approved:

A. As being in favour of the registered owner of any erf in the Township and subject to amendment or alteration by the Administrator under the provisions of Section 18(3) of Ordinance Number 33 of 1934:

- (a) That this erf be used for residential purposes only, provided that after having first obtained the written consent of the Local Authority, such use shall not exclude the erf being used for the erection thereon of a special building.
- (b) That only one dwelling house, or, subject to the consent of the Local Authority, a special building be erected on this erf.
- (c) That not more than one-third the area of this Erf be built upon.
- (d) That no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf. No such building or structure shall be situated within 1,57 metres of the lateral boundary common to any adjoining erf.

- B. As being in favour of the Administrator
- (e) That this erf be not subdivided except with the consent in writing of the Administrator
- C. As being in favour of the Local Authority:
- (f) That the owner of this erf shall be obliged to allow the drainage or sewerage of any other erf to be conveyed over this erf if deemed necessary by the Local Authority and in such manner and in such position as may from time to time reasonably required by the Local Authority.
- (g) That the owner of this erf shall be obliged to receive material necessary give a proper slope to the bank if this erf is below the level of the adjoining street; and if this erf is above the level of the adjoining street he shall in like manner permit a safe slope to the bank, unless in either case he shall elect to build retaining walls to the satisfaction of the Local Authority and within a period to be determined by the said Local Authority.
- (h) To the following special conditions contained in the said Deed of Transfer Number imposed by the Porterfield Estates Limited in favour of the said Company and its successors in title as owner of the remaining extent of the said Township or any portion or portions thereof and in favour of the registered owners of any erf in the Township of Table View.
- (i) The owner shall not have the right to make or cause to be made upon this Erf for any purposes whatsoever any bricks tiles or earthenware pipes or other articles of such nature nor shall he have the right (save and except to prepare the Erf for building purposes) to dig or quarry any earth, gravel, lime or stone thereon.
- (j) No wood or iron buildings of any description shall be erected on this Erf.
- (k) No slaughter poles, cattle kraals, pigsties, or cowsheds shall be erected or carried on by any person whomsoever on this Erf.
- (l) This erf shall be neatly fenced to the satisfaction of the Company and the owner shall be obliged to use therefore hard wood, or iron paling or good wire fencing, or properly built stone, brick, or cement walls. Moreover, he shall not erect any unsightly fence, nor one of galvanised iron, canvas or other fabric or reeds, grass, soft wood, or other flammable material. The fence shall be kept in proper repair by the owner.

- (m) The Purchaser and every successive registered owner of the Erf or any portion thereof shall not remove any vegetation therefrom save and in so far as it is to be replaced by building or hard roads or paths, the intention being that all tendencies to sand drift are to be avoided and combatted - to which end moreover the purchaser and each successive registered owner thereof shall be regarded as having undertaken during his tenure to plant and maintain thereon such suitable plant life or vegetation or to apply and maintain thereon such other suitable surface covering as will effectively avoid and combat drift sand. And in so far as the purchaser or registered owner for the time being fails or neglects to observe this condition, the Company or its successors including any Local Authority controlling the area in which the Erf or any portion thereof may fall, shall have the right, but shall not be bound, to repair and /or supply any omission on the part of the defaulter and shall have the right to recover the cost thereof plus interest thereon from the registered owner for the time being.

Of the above quoted conditions which are registered against the title of the property, **Condition B.A.(b), Condition B.A.(c), and Condition B.A.(d)** are in direct conflict with the proposal for development of a block of flats on the property as reflected on the attached plans.

Based on the above, application is made for the removal of **Condition B.A.(b), Condition B.A.(c), and Condition B.A.(d)** of title.

In terms of the above, the Applicant records that the mandatory Pre-Submission Consultation with the Land Use Management Branch was held, with the minutes of such meeting attached as **Annexure G**.

3.3 Deletion of Conditions of Approval

As a result of the imposition of certain of the title conditions quoted in 3.2 above coming about through the conditions imposed as at the establishment of the township concerned in terms of Ordinance No. 33 of 1934, and based on Section 142(1) of the Municipal Planning By-Law, which reads:

Any approval, decision, designation, determination, consent, right, authorisation, confirmation or instruction issued, granted or in force in terms of a law repealed by the Land Use Planning Act, and in existence immediately before the commencement of the Land Use Planning Act, remains in force and where applicable is deemed to have been issued, granted or occurred in accordance with this By-law subject to the conditions under which it was issued and is valid for the period for which it was granted under the repealed law.

It is required that in addition to the application being made for the removal of the respective title deed condition, that application be simultaneously made for the deletion of the township conditions of establishment, as far as they relate to Erf 5049 Milnerton, as we hereby do.

3.4 Development Controls – GR3

This component of the application involves the physical aspects of the proposed development on the property concerned (see **Annexure J**). The Development Management Scheme (DMS) prescribes certain development controls, which serve to control development within the various zones identified in the scheme.

In this regard we seek to measure whether the proposed development complies with the various development rules associated with the General Residential Zone (GR3), or whether any permanent departures are triggered as a result of non-compliance.

The mentioned assessment will be conducted in terms the following development rules which are applicable to General Residential - Sub Zone 3.

- 3.4.1 Coverage**
- 3.4.2 Floor Factor**
- 3.4.3 Height**
- 3.4.4 Street Boundary Building Line**
- 3.4.5 Common Boundary Building Line**
- 3.4.6 Parking and Access**
 - 3.4.6.1 Parking**
 - 3.4.6.2 Access**
- 3.4.7 Screening**
- 3.4.8 Wind Mitigation**

3.4.1 Coverage

In terms of the provisions of the DMS, properties zoned General Residential (GR3) are permitted a coverage of 60% for all buildings.

In terms of the above allowance for coverage, we can confirm, based on the attached plans from Graham Holland Architectural Design (see **Annexure J**) that the proposed block of flats covers 664m² of the subject property (1004m²) and thus reflects a coverage which is 66% of the total site area.

As a result, a departure from coverage is required to authorise a coverage of 66% of the site area in lieu of the permitted 60%.

3.4.2 Floor Factor

In terms of the provisions of the DMS, properties zoned General Residential (GR3) are permitted a bulk factor of 1.25.

When this factor is applied to the extent of the property, which measures 1004m², we calculate that a total floor area of 1255m² is permitted.

In terms of the permitted floor space, we can confirm that the attached plans reflects that the proposed block of flats exceeds the permitted maximum floor space of 1255m², with a total proposed floor space of 1362m².

The proposed floor space exceeds the permissible maximum by 107m². When expressed as a factor, we observe that it requires a bulk factor of 1.357 as opposed to the permitted factor of 1.25.

Therefore, a departure from Floor Factor is required in order to authorise a floor space of 1362m² (1.357) in lieu of the permitted floor space of 1255m² (1.25).

3.4.3 Height

The DMS regulations which deal with the maximum permissible height, qualifies that, buildings zoned General Residential (GR3), may be developed up to a maximum height of 20,0m.

As can be established from the attached plans from Graham Holland Architectural Design, the maximum height of the proposed block of flats, is to be 14,343m, well below the permitted 20m maximum.

Therefore, **no departure** from Height is triggered.

3.4.4 Street Boundary Building Line

In terms of the Development Management Scheme regulations, properties which are zoned General Residential (GR3) are subject to a street boundary building line of 4,5m (points up to 25m above existing ground level)

As can be established from the site plan provided, it can be determined that the proposed development complies with the prescribed 4,5m street boundary building line setback save for the minor architectural features which encroach into the 4,5m building line setback area.

Section 121 of the DMS, permits certain features to be erected within the prescribed building lines – these include, inter alia, minor decorative features that do not project more than 500mm from the wall of the building.

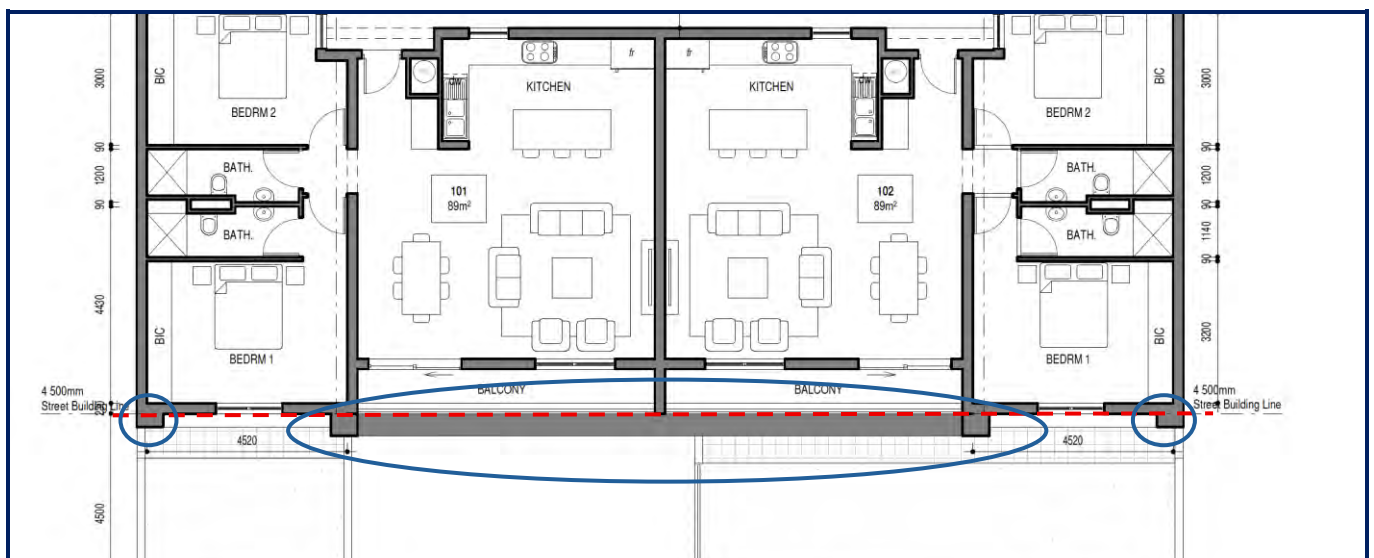
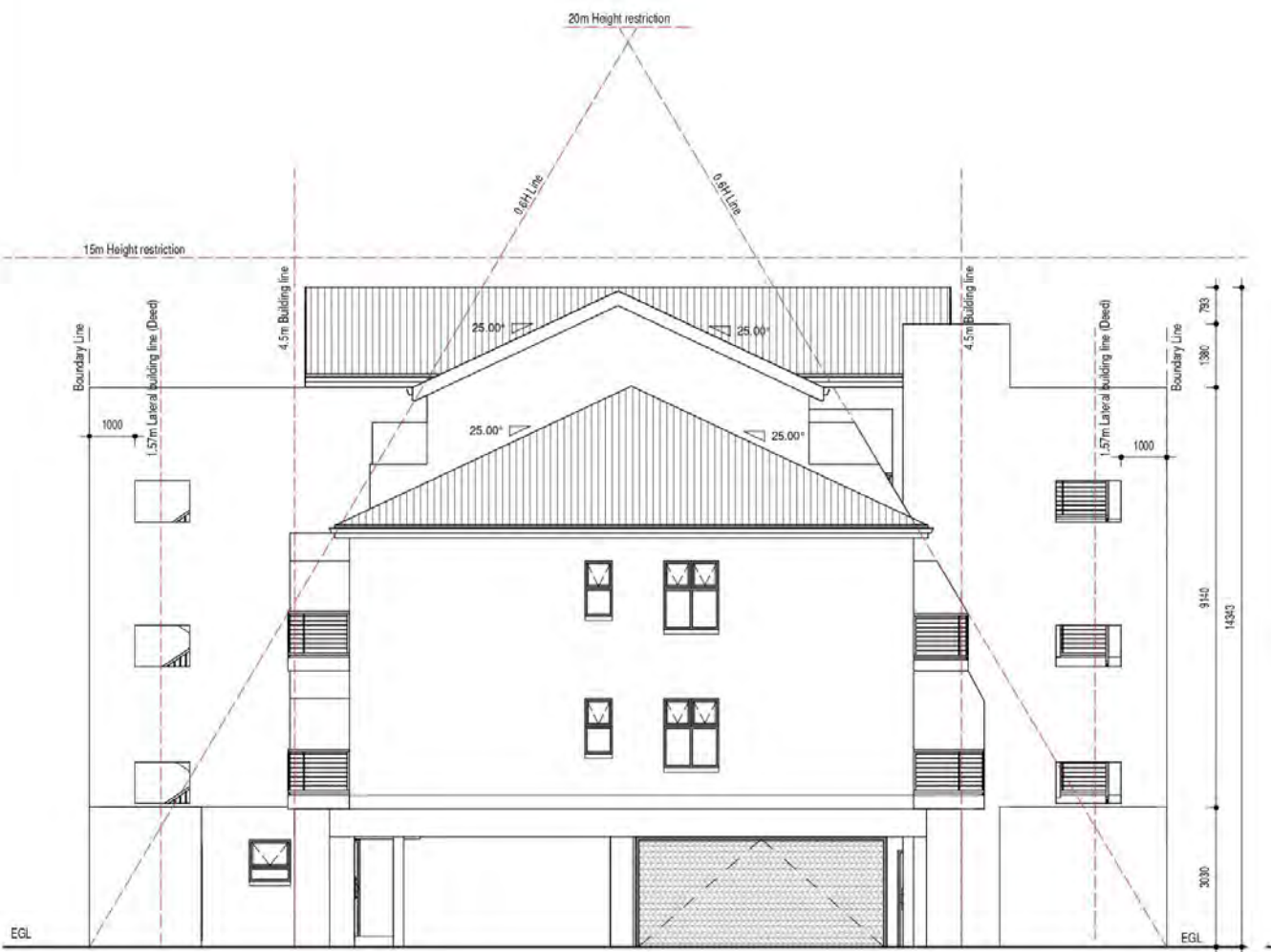


Diagram 1: Street Boundary Building Line Encroachment

The encroaching feature is confirmed to encroach 500mm over the 4,5m street building line and is thereby compliant and may be erected within the prescribed building line.

As a result, **no departure** from the Street Boundary Building Line is triggered.



NORTH ELEVATION
1 : 100



EAST ELEVATION

Diagram 2: Common Boundary Building Line

3.4.5 Common Boundary Building Line

In terms of the Development Management Scheme regulations, properties which are zoned General Residential (GR3) are subject to a common boundary building line of 4,5m or 0,6H (0,0 m up to 15,0m in height where intersecting a street boundary, for a distance of 18,0m measured perpendicular from such street boundary).

As can be established from the attached plans produced by Graham Holland Architectural Design, it is determined that the proposed block of flats is within the prescribed building lines (see **Diagram 2** above) save for minor roof overhangs (eaves), the refuse room and the storerooms.

Subsequent to the above, Section 121 of the Development Management Scheme provides additional development rules with regard to encroachment of building lines:

- (a) Notwithstanding the building line requirements set out in Division II, the following structures or portions thereof may be erected within the prescribed building lines, provided they do not extend beyond the boundaries of a land unit-
- (i) boundary walls, fences and gates;
 - (iA) walls, fences and gates, other than (i), being used as architectural features, garden walls and similar purposes;
 - (ii) open and uncovered stoeps;
 - (iii) entrance steps, landings, ramps, tracks, jetty and entrance porches leading to the ground floor or basement of a building;
 - (iv) (iv) a covered entrance or gatehouse that has a roofed area not exceeding 5 m² and a roof height not exceeding 3 m from floor to highest point;
 - (v) eaves and awnings projecting no more than 1 m from the face of a building;**
 - (vi) cornices, chimney breasts, flower boxes, water pipes, drain pipes and minor decorative features not projecting more than 500 mm from the wall of a building;
 - (vii) screen-walls not exceeding 2,1 m in height above the existing ground level abutting such wall;
 - (viii) swimming pools not closer than 1 m from any erf boundary;
 - (ix) any part of a basement that is below existing ground level;
 - (x) a refuse room required by the City in terms of item 145;**
 - (xi) a retaining structure within a street boundary building line, subject to item 126, or any retaining structure located under the existing ground level;
 - (xii) pergolas on ground floor not exceeding 40 m² in total extent and 4m in height from existing ground level;
 - (xiii) water tanks and their supporting structures not exceeding 3,2 m in height from existing ground level;
 - (xiv) child's playhouse or similar play structure not exceeding 10 m² in area and 3 m in height from existing ground level;
 - (xv) unless provided elsewhere in this development management scheme, two storage sheds not exceeding 5 m² each in area and 2,5 m in height from existing ground level, only from a common boundary;
 - (xvi) outdoor braai or pizza oven, provided than any chimney or flue shall not be closer than 1,5m from a boundary; or
 - (xvii) air conditioner units, heat pumps or similar systems and screening protruding not more than 500 mm from the face of a building.

Based on the above, the encroaching portion of the eaves and refuse room is therefore permitted within the prescribed building line in terms of Section 121, however the 5 proposed storerooms on the ground floor along the eastern common boundary are not included in the above list of structures or portions.

The Architect has taken the time to provide clear detail of the block of flats within the common boundary building line to show compliance in the attached plans, and as can be seen in **Diagram 2** above.

As a result of the above, a departure in terms of common boundary building line is triggered in order to permit the proposed storerooms to be on the common boundary in lieu of 4,5m.

3.4.6 Parking and Access

3.4.6.1 Parking

The provisions of Chapter 15 of the Development Management Scheme, as far as they relate to parking, requires that on-site parking be provided as below:

Table 3: Minimum Off-Street Parking Requirements			
Land Use	Standards Areas	PT1 Areas	PT2 Areas
Flats	1,25 bays per dwelling unit, plus 0,25 bays per dwelling unit for visitors	1 bay per dwelling unit, plus 0,25 bays per dwelling unit for visitors	Nil

Based on the above, the subject property is found to be located within the PT2 parking area (see **Diagram 3** below).



In terms of the above, the parking provision required is **0 parking bays**.

Nonetheless, the Applicant has provided 17 on-site parking bays to cater for those vehicle-owning tenants, as a means to avoid on-street parking.

As a result, **no departure** from parking is required.

3.4.6.2 Access

- In terms of the provisions of Chapter 15 of the Development Management Scheme, and as far as access is concerned, we confirm as below:

In terms of Section 140(1)(b) of the Development Management Scheme, no vehicular ingress or egress shall be closer than 10m from an intersection as defined by the prolongation of street boundaries; except for industrial-zoned properties, where the distance shall be 15 m.

In terms of the above provision, we qualify that the proposed access to the subject property is located well in excess of 10m from an intersection.

Based on the above, we confirm that **no departure** in terms of Section 140(1)(b) is triggered.

- **In terms of Section 140(2)(a) motor vehicle carriageway crossings are limited to one per site per public street or road abutting the site.**

As can be established from the attached Site Development Plan (see **Annexure J**), the property concerned proposes one carriageway crossing.

As a result, **no departure** from this regulation is required.

- **In terms of Chapter 15 Section 140(2)(c) the minimum and maximum widths of motor vehicle carriageway crossings shall be 2,4 m and 8,0 m, respectively.**

As can be determined from the Site development Plan, the proposed carriageway crossing is measured to be 6,4m wide, thereby complying with the regulation concerned.

Therefore, **no departure** from this regulation is required.

3.4.7 Screening

In the above regard, the Applicant acknowledges that the Development Management Scheme in **Section 41(g)** and read with **Section 125** provides that for any part of a land unit which is used for the storage or loading of goods, such area shall be enclosed with a suitable wall and/or landscape screening, and also where any external utility service or equipment which is required for a building shall be appropriately screened from view from a public street, and such screening shall be integrated with the building in terms of materials, colour, shape and size.

In the above regard, we are of the considered opinion that the proposed layout clearly communicates its intentions, in that all utility and storage areas are clearly enclosed and appropriately screened from the public.

3.4.8 Wind Mitigation

Section 41(h) of the Development Management Scheme provides that the City may:

- (i) require an assessment of how wind will affect the proposed building and its local surroundings; and
- (ii) impose conditions to mitigate adverse wind effects.

It is not anticipated that the wind patterns in the area will impact the proposed development of the subject property with a block of flats and its local surroundings.

However, should the municipality be of the view that an assessment is required, the Applicant will provide.

Section Four – Motivation

4.1 Description of Surrounding Area & Uses

The property concerned is located within the suburb of Table View, where the majority of properties have been developed for residential purposes in terms of the Residential (R1) and General Residential (GR3) Use Zones.

The subject property is located within 90m of Blaauwberg Road, which is an activity corridor and 1,3km of the R27 (Otto Du Plessis Drive) which links the area to the CBD, the northern and southern regions. The subject property is less than 4km from the N7, which provides further access and linkages to all parts of the city and to the west coast.

Diagram 4 below confirms the compatibility of the proposal with that of the surrounding properties.

Therefore, given the nature of the application concerned, it is evident that the location of the subject property is well suited for the land use intensification development as proposed.



Diagram 4: Locational Context

4.2 Criteria i.t.o. Section 99(1) of the MPBL

4.2.1 Compliance with the requirements of the MPBL

The application is submitted in accordance with the provisions of the MPBL.

The relevant processes and procedures, which will include public participation, will be carried out as prescribed in the By-Law.

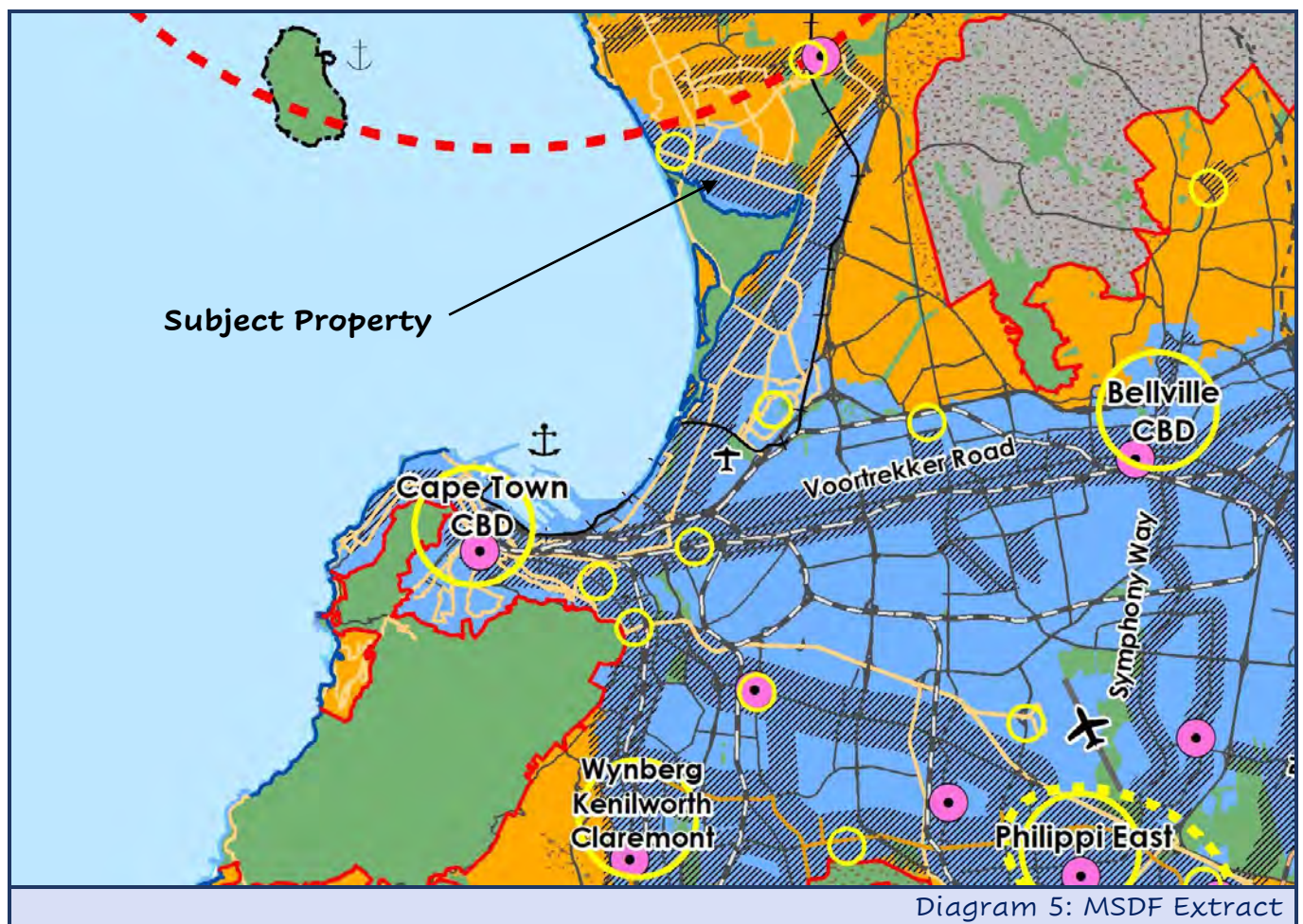
In the event of any comments / objections being received, it is anticipated that the application will need to be referred to the Municipal Planning Tribunal for a decision.

4.2.2 Compliance / Consistency with the MSDF

The provisions and proposals of the Municipal Spatial Development Framework (MSDF) do not address the very localised level of detail of the development concerned, as its provisions tend to be more at a strategic / conceptual level.

In this regard and given the technical nature of the application concerned for the rezoning of the subject property and the development thereof with a block of flats, assessment of the MSDF is limited to the fact that the subject property is located in an area which has been identified as being part of the **Urban Inner Core** and within a **Development Corridor**.

The Urban Inner Core is identified as the primary focus area for public investment and higher-density development, aiming to optimize existing infrastructure, reduce urban sprawl, and enhance accessibility to economic opportunities and services.



As such, the application for rezoning and the development thereof with a block of flats is considered compliant with the MSDF as the property falls within an area that is identified as the urban inner core, and with its emphasis on Spatial Transformation, it is required to focus resources inwards in support of intensification and prioritise investment in favour of sustainable job-generating economic growth over the medium-term. Achieving the desired spatial transformation will require an intensification of land uses in areas supportive of transit-oriented development.

In addition to STA's, land use intensification that is premised on Transit Oriented Development, in terms of the MSDF can be achieved within existing areas or properties and new developments accompanied by an increased number of dwelling units and / or population / households (densification), in accessible, high-opportunity locations. Land use intensification should be

encouraged in locations with good public transport accessibility, and also at concentrations of employment, commercial development, social amenities, and civic functions, in order to generate the thresholds required to support a sustainable public transport system.

Transit-oriented development is the City's basis for land use intensification and targets higher-density, mixed land use development in close proximity to high-capacity, high-quality public transport.

TOD principles adopted by the City and fundamental to the MSDF are:

- **Intensification** (densification and diversification) of land uses - prioritising higher density and a greater diversity of land uses within development corridors that include higher-order public transport routes with a particular focus on precincts associated with transit (Transit Accessible Precincts);
- **Affordability** – reducing the costs (time and money) and distances of transport for commuters; and the operating costs incurred by the City and other service providers to provide public transport;
- **Accessibility** – facilitating equal access to social and economic activity through strategically located urban development and the provision of safe public transport, non-motorised transport infrastructure; and
- **Efficiency** – providing an investment environment and differentiated levels of service that are conducive to and incentivises compact, inward urban growth and development.

As alluded to above, the provisions and proposals of the Municipal Spatial Development Framework (MSDF) do not address the level of detail of the application concerned and its proposal, as its provisions tend to be more at a strategic / conceptual level. Notwithstanding the above, we note that the MSDF motivates for land use intensification.

The proposed rezoning would ensure that any proposed development of the subject property would lead to an urban form with a higher density within the urban inner core, which is in line with the general spatial vision for this area.

In terms of the above, the proposal is considered to be in line with and to give effect to the MSDF's objectives.

4.3 Criteria i.t.o. Section 99(2) of the MPBL

4.3.1 Applicable Spatial Development Frameworks

The Blaauwberg District Plan includes a number of development objectives and criteria to be used in the evaluation of an application in order to achieve the spatial development objectives.

The District Plan designates the subject area as being earmarked for **Urban Development**.

Urban Development includes incremental densification over time where appropriate. This should be guided by available infrastructure capacity, neighbourhood density and character, proximity to job opportunities and social facilities, and access to public transport.

The Blaauwberg District Plan further provides the following guidelines and details pertaining to Urban Development Spatial Planning Category:

Table 4: Spatial Planning Category: Urban Development	
Typologies and District Elements	District Development Guidelines
a) Urban Development - General (Applicable to all areas)	1. These areas should be considered for a wide variety of urban uses such as housing development, public open spaces, community facilities, mixed use / business development (where appropriate), but should not include noxious industrial uses. 2. Sites indicated for urban development, but which also fall within identified precautionary areas should take into account associated district development guidelines. 3. Support the incremental intensification of urban areas where appropriate. This should be guided by suitability of the area for land use intensification, such as surrounding neighbourhood character and density; access to public transport; proximity to places of employment, services and social facilities; proximity to public open space, and infrastructure availability (existing and planned). In this regard, the provisions of the approved Densification Policy also apply. 4. Encourage resource efficient design and promote carbon neutral buildings and precincts in alignment with the Urban Design Policy. 5. Promote an appropriate interface between mixed-use areas and adjacent spatial designations (such as low-density residential, agricultural, critical natural assets, public open spaces, etc.) through the use of sensitive design as informed by local level guidance and spatial development plans where applicable.

Subsequent to the above, **Sub-District 3 (Greater Table View)** further provides certain supporting land use guidelines as below:

Table 5: Sub-District 3 - Changes in Land Use and Form	
Spatial Development Objectives (What?)	Supporting Land Use Guidelines (How and Where?)
a) Reinforce Blaauwberg Road as a public transport route and development corridor.	1. Support densification along Blaauwberg Road Development Corridor particularly in the first three rows of properties on either side. 2. In general, support predominantly residential development in the second row of properties abutting Blaauwberg Road (half block), with heights of 3- 4 storeys, and 3 storeys in the third row. More height may be appropriate at intersections and in nodes. Deviations from the contextual zoning and building heights should consider the Tall Building Policy. 3. Retain mature trees and implement landscaping to retain the green character of the area. 4. Support an intensification of development in relation to IRT trunk stations along the route and in relation to the nodes of Marine Circle, Bayside, Flamingo Square and Boy de Goede crescent.

The application concerned is generally consistent with the intentions of the policy. The proposal represents appropriate intensification and is considered desirable within the immediate and surrounding area.

The subject proposal for the redevelopment of the property into a block of flats is in alignment with the District Plans guidance for intensification and densification of land uses, especially in relation to the Development Corridor of Blaauwberg Road.

In addition, the sub-district 3 guidelines provide clear guidance that the rows abutting Blaauwberg Road should be targeted for increased residential density with heights of three to four storeys. The proposal provides an opportunity for increased housing and residential units in close proximity to a major public transport network and MyCiti trunk route and bus stop.



Diagram 6: Blaauwberg District Plan (Sub-District 3)

4.3.2 Relevant criteria contemplated in the DMS

The Application is extensively compliant with the provisions of the Development Management Scheme as far as they pertain to the General Residential (GR3) use zone save for the floor space, coverage and common boundary building line departures triggered.

4.3.3 Applicable Approved Policy or Strategy to guide decision making

The consistency of the proposed development will be tested against the following policies and strategy approved by the Municipality with a view to inform and guide decision making.

- 4.3.3.1 Integrated Development Plan (IDP)
- 4.3.3.2 Densification Strategy
- 4.3.3.3 Social Development Strategy (SDS)
- 4.3.3.4 Inclusive Economic Growth Strategy (IEGS)
- 4.3.3.5 TOD Strategic Development Framework
- 4.3.3.6 Blaauwberg Road LSDF

4.3.3.1 Integrated Development Plan (IDP)

The primary objective of the City of Cape Town's Integrated Development Plan (IDP) is to provide a strategic framework for the city's development over a five-year period. The IDP aims to coordinate and integrate the efforts of various stakeholders, including local government, businesses, and communities, to achieve sustainable and inclusive growth.

Key objectives typically include:

1. **Economic Growth and Job Creation:** Promoting economic development and creating employment opportunities.
2. **Service Delivery:** Ensuring the provision of basic services such as water, sanitation, electricity, and waste management.
3. **Spatial Planning:** Addressing spatial inequalities and promoting more equitable land use and development.
4. **Social Development:** Improving access to healthcare, education, and social services.
5. **Environmental Sustainability:** Protecting natural resources and promoting sustainable environmental practices.
6. **Good Governance:** Enhancing transparency, accountability, and public participation in governance processes.

The intensification associated with this application is considered to make a direct contribution in the right direction, in terms of the realisation of the vision for the City of Cape Town.

4.3.3.2 Densification Strategy

The Densification Strategy aims to promote more efficient and sustainable urban development by increasing population density in well-located areas, particularly those areas close to economic opportunities, public transport networks, and existing infrastructure.

This strategy is part of the city's broader spatial planning efforts to address historical spatial inequalities, reduce urban sprawl, and create a more inclusive, integrated, and resilient city.

Key objectives of the densification strategy include:

1. **Spatial Transformation:** Addressing apartheid-era spatial planning by creating more integrated and equitable urban spaces, reducing the need for long commutes, and improving access to jobs and services.

2. **Efficient Land Use:** Maximizing the use of existing infrastructure and services by concentrating development in areas that are already well-serviced, such as urban corridors and nodes.
3. **Affordable Housing:** Increasing the supply of affordable housing in well-located areas to improve access to opportunities for lower-income households.
4. **Transit-Oriented Development (TOD):** Encouraging higher-density development near public transport hubs to reduce reliance on private vehicles, lower transportation costs, and promote sustainable mobility.
5. **Economic Growth:** Supporting economic activity by creating vibrant, mixed-use neighbourhoods that attract investment and provide opportunities for businesses and residents.
6. **Environmental Sustainability:** Reducing urban sprawl and protecting natural areas by concentrating development in existing urban areas, which help to minimize the city's ecological footprint.
7. **Social Integration:** Promoting diverse and inclusive communities by encouraging mixed-income housing and reducing spatial segregation.

By focusing on intensification and densification, the City of Cape Town aims to create a more compact, connected, and sustainable urban environment that benefits all residents while addressing historical inequalities and supporting long-term growth.

In terms of the above, the proposed development is considered to align with the principles of the City of Cape Town's Densification Strategy.

4.3.3.3 Social Development Strategy (SDS)

The City of Cape Town's Social Development Strategy is understood to facilitate and encourage the improvement in the quality of life for all residents, particularly the most vulnerable and marginalized groups, by addressing social inequalities, promoting inclusivity, and fostering community resilience.

This strategy is part of the city's broader commitment to creating a more equitable and sustainable urban environment.

The Social Development Strategy is aligned with the City of Cape Town's Integrated Development Plan (IDP) and aims to create a more just, inclusive, and sustainable city where all residents can thrive.

It focuses on addressing the root causes of social challenges while empowering communities to participate in their own development.

The proposal is deemed to be consistent with the objectives of this Development Strategy.

4.3.3.4 Inclusive Economic Growth Strategy (IEGS)

The core objective of the City of Cape Town's Inclusive Economic Growth Strategy is to promote sustainable and equitable economic development that benefits all residents, particularly those who have been historically marginalized or excluded from economic opportunities.

This strategy aims to address systemic inequalities, reduce poverty, and create a more inclusive economy that fosters job creation, entrepreneurship, and shared prosperity.

This proposal is deemed compliant with the Inclusive Economic Growth Strategy due to its employment-creation through the construction period thereafter in the maintenance and upkeep of the development.

4.3.3.5 TOD Strategic Development Framework

The City of Cape Town's Transit-Oriented Development (TOD) Strategic Development Framework is described as a comprehensive planning and implementation tool designed to guide urban development around public transport nodes and corridors. The framework aims to create more efficient, sustainable, and inclusive urban spaces by integrating land use and transportation planning.

It focuses on maximizing the benefits of public transport infrastructure, reducing reliance on private vehicles, and promoting compact, mixed-use, and walkable neighbourhoods.

The proposal is considered to align with the objectives of the TOD Strategic Development Framework, due to its close proximity to Blaauwberg Road.

4.3.3.6 Blaauwberg Road LSDF (BRLSDF)

The Blaauwberg Road LSDF (2025) in its vision statement provides as follows:

"Blaauwberg Road develops into a thriving urban corridor, where residents can live, work and play, with world class destinations, walkable precincts, and quality public spaces. It is integrated with surrounding natural assets and presents best practice in sustainable urban development".

It further mentions certain key policy statements that are applicable to the subject property.

Policy Statement 3 (Manage responsible growth) outlines the following key principals for development:

- *Direct densification and intensification to appropriate areas to maximise public investment.*
- *Guide building form to fit in the suburban context. Discourage medium-high intensification outside of corridors and nodes.*
- *Redevelopment should minimise impacts on neighbours' privacy and overshadowing through appropriate setbacks and fenestration.*
- *In multi-level mixed-use or commercial redevelopments or multi-level residential redevelopment with more than 4 residential units, replace every mature tree removed with two new trees of minimum container size 250l. Maintenance of these trees will be required. If replacement of trees cannot be accommodated on site, then the Recreation and Parks Department to be consulted for alternative availability in public space.*

The subject property is located within **Precinct 2** and is designated as **Low Density Residential**. A primary residential use for low intensity densification to occur in line with the existing zoning rules i.e. second and third dwellings.

The framework further identifies development trends that provide urban design guidelines. The subject property falls under the **Multi Storey Residential Redevelopment** trend. This trend provides the following guidelines that are applicable:

- **Objective**

This trend sees the standard 1000m² erven being redeveloped into small blocks of flats along the second and third row of roads running parallel to Blaauwberg Road. Due to the constraints of the erf size, zoning envelope and over bulking of the site, the redevelopment proposals have a similar outcome of a central 'T-shape' built form and a car centric environment on the ground floor.

- o **Location of Entrances**

- A clear and prominent pedestrian entrance should be provided along the street edge.
- Prevent large setbacks from the street edge in order to maintain an active interface.

- o **Positive Interface**

- Provide landscaping to mitigate the effects of a blank facade.
- Enhance the character and identity of the area by retaining the green street verges and mature trees.

- o **Boundary Treatment**

- Incorporate low landscape walls to facilitate visual connectivity and interaction.
- Low walls imply spatial boundaries, transition from public to private and provide meaningful connection with the public realm.

- o **On Grade Parking**

- Locate car parking behind, beside or below the development, to lessen the impact on the street.
- Provide sufficient shading in parking areas to mitigate the urban heat island effect.

The proposed densification on the subject property aligns with the Blaauwberg Road LSDF. The proposal aligns in terms of the density, height and applicable urban design guidelines identified for multi-storey residential redevelopment trend.



STREET PERSPECTIVE VIEW



REAR PERSPECTIVE VIEW

Diagram 7: 3D Generated Images of Development

4.3.4 Impact on Existing Rights

The proposed rezoning of Erf 5049 from Residential 1 (R1) to General Residential 3 (GR3) represents an increase in residential density but does not introduce non-residential land uses. The character of the property remains residential in nature.

The rezoning does not alter or diminish the zoning rights of surrounding property owners. Neighbouring erven retain their full development potential, including their applicable height,

coverage, and building line protections. The subject property remains bound by statutory controls, including building line requirements, height restrictions, and the 0.6H envelope rule, which safeguards adjoining properties against excessive bulk, overshadowing, and privacy intrusion.

Traffic generated will be residential in character and mitigated through on-site parking provision.

While the rezoning permits increased density, intensification alone does not constitute a loss of existing rights. The development remains regulated within a controlled planning framework designed to protect surrounding properties.

Municipal planning policy promotes infill densification, more efficient use of favourably located land, and medium density residential development in appropriate areas.

Where policy supports densification, surrounding property owners cannot reasonably expect that adjoining land will remain permanently restricted to single dwelling use in perpetuity.

The rezoning is consistent with broader spatial planning objectives and represents an anticipated evolution of urban form as set out in the IDP, the MSDF, the DSDF and the LSDF.

Accordingly, it is submitted that the proposed rezoning does not negatively impact the existing lawful rights of adjacent property owners.

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

4.4.1 Socio-Economic Impact

The proposed rezoning and residential development on Erf 5049 will generate positive socio-economic benefits by increasing housing supply in a well-located urban area, promoting efficient use of existing infrastructure, and supporting municipal densification objectives.

The development will create temporary construction employment, stimulate local economic activity, and contribute to the municipal rates base upon completion.

By introducing medium-density housing within an established neighbourhood, the proposal enhances housing choice, supports local businesses and public transport viability, and contributes to a more sustainable and economically resilient urban environment.

4.4.2 Compatibility with Surrounding Uses

The proposed rezoning of the subject property to GR3 and the development of residential apartments on Erf 5049 is compatible with the surrounding area in that it maintains a residential land use consistent with the existing character of Athens Road and the broader Table View context.

While the proposal introduces increased density relative to single residential properties, it does not introduce commercial or industrial activities and therefore does not alter the central residential nature of the neighbourhood.

The building design complies with applicable height restrictions, building lines, and the 0.6H envelope controls, ensuring appropriate scale, massing, and protection of neighbouring properties.

Furthermore, the development aligns with municipal objectives promoting medium-density infill in well-located urban areas, supporting a gradual and planned evolution of the area rather than a disruptive change in character.

4.4.3 Impact on the External Engineering Services

The proposed development is not anticipated to have any materially negative impact on the external engineering services.

The subject property and surrounding area are designated for General Residential development, and this as a result, is anticipated that the services network ought to be in place to cater for the proposed block of flats.

In this regard, the application can be seen as not having an impact on the existing engineering services.

The Civil Services Report as prepared by BVi Consulting Engineers (see **Annexure L**) concludes that the proposed site redevelopment is sufficiently serviceable with the existing municipal water, sewer and stormwater infrastructure along Athens Road, and that the site's carriageway crossing will move from the eastern boundary to a position closer to the western boundary due to the redevelopment. Additional vehicular accesses or exits are not required.

The report confirms that detailed drawings will be submitted the relevant City of Cape Town Engineering offices for approval during the building plan submission stage.

4.4.4 Impact on Safety, Health, and Wellbeing

The proposed development is not expected to negatively affect the safety, health, or wellbeing of neighbouring properties or future residents. The use remains residential and does not introduce any hazardous activities. The building will comply with all municipal building, fire, and engineering regulations to ensure it is safe and properly serviced.

Safety is supported through controlled access, on-site parking, clear pedestrian walkways, and appropriate boundary walls. The design also allows for passive surveillance of the street, which improves security in the immediate area.

The development provides private and communal open space, access to natural light and ventilation, and proper stormwater and water-saving systems.

Overall, the proposal promotes a safe and healthy residential environment that fits responsibly within the surrounding area.

4.4.5 Impact on Heritage

The subject property does not fall into any Heritage Protection Overlay zone, and when the City's Map Viewer is consulted, we note that it does not reflect any graded buildings or heritage places that would require heritage consideration in the processing of this application.

4.4.6 Impact on the Biophysical Environment

The property is located in an established urban area and the proposal is not anticipated to have any material impact on the biophysical environment.

4.4.7 Impact on Traffic / Parking / Access

Based on the above assessment, we have been able to determine that the parking requirement associated with the block of flats requires the provision of 0 parking bays due to its designation of PT2.

Nonetheless, the Applicant confirms that provision is made for the parking of 17 cars on the property.

As a result, no impact is anticipated when regard is had to traffic, parking or access.

4.4.8 Conditions that can mitigate an adverse impact

Depending on whether the public or the municipality consider any one aspect of the land use application to potentially be beyond the threshold of what the area can reasonably sustain, it may be necessary to consider the imposition of conditions to deal with / address / control / limit the element giving rise to such concern.

From the Applicants perspective, no such unreasonable impact is obvious or can be anticipated, and thus the Applicant does not foresee any impact that would need to be mitigated via the imposition of conditions of approval.

4.4.9 Would approval grant the development rules of the next subzone

The development proposal is formulated within the limits of the permitted Height, building lines, and parking, so the built form and massing envisioned for the General Residential use zone (GR3) is realised in the proposal concerned.

4.5 SPLUMA & LUPA

The Spatial Planning and Land Use Management Act, as well as the Land Use Planning Act, provide that all principles as contained in the Act apply to all aspects of spatial planning, land development, and land use management.

In the above regard we note that the Act identifies the following Development Principles:

- 4.5.1 The Principle of Spatial Justice
- 4.5.2 The Principle of Spatial Sustainability
- 4.5.3 The Principle of Efficiency
- 4.5.4 The Principle of Spatial Resilience
- 4.5.5 The Principle of Good Administration

The application of these principles to the application concerned, is communicated in the below sections.

4.5.1 The Principle of Spatial Justice

Spatial justice is concerned with addressing historical spatial inequality by improving access to well-located land, opportunities, services, and amenities for a broader section of society.

In the case of the proposed rezoning and development on Erf 5049, the principle of spatial justice applies in the following ways:

- the development promotes access to well-located urban land. Table View is an established area with existing infrastructure, public transport access, schools, shops, and employment opportunities. Allowing medium-density housing in such areas broadens access beyond single-dwelling ownership, which is typically less accessible and more expensive.
- the proposal supports densification within the existing urban footprint, reducing reliance on peripheral expansion. Historically, lower-income households are often pushed to the urban edge, far from opportunities. By increasing housing supply in centrally located areas, the development contributes to more equitable distribution.
- the development introduces a greater variety of housing typologies, such as sectional title apartments, which are generally more attainable than freestanding homes. This improves housing choice and enables different household types—young professionals, smaller families, and retirees—to access established neighbourhoods.

Importantly, spatial justice does not mean disregarding the rights of existing property owners. In this case, the development remains residential in nature and complies with planning controls designed to protect neighbouring properties. It therefore promotes the spatial equity objectives without causing unlawful or unreasonable impact to existing residents.

4.5.2 The Principle of Spatial Sustainability

Key global and regional sustainability principles are instructive for the design process and have been implemented in this project to assist in the development of the proposals concerned. These include:

- **Ecological Planning** – appreciate the pressures being placed on the natural and pristine areas surrounding the core developed areas of the Cape Metropolitan Area and acknowledge its importance to the attraction of the area, and as a result, prioritise its conservation and protection.

This application seeks to acknowledge the natural and pristine areas which are significant to the attraction of the City and region, as well as to the areas which surround the subject community by ensuring that the intensification as proposed herein, does not encroach into the natural / pristine areas nor does it impact thereon in terms of the movement patterns, emissions, etc.

The application seeks to acknowledge and exploit the natural and pristine areas which surround the property concerned by making access to its appreciation and enjoyment easier for a greater number of people by increasing the density of the residential accommodation at the subject property.

Such improved access will also lead to the understanding and appreciation of the importance of these natural assets to the sense of place which defines the character of the area, and in so doing promote awareness and the conservation thereof.

- **Spatial Planning** – assessment of appropriate fit with local and regional planning, and the measure of the architectural language of the area and the complementary role which the proposed development can have.

This element of Spatial Planning is considered to have been complied with, in that the proposed development on the subject property is not associated with a scale or massing that is out of sync with the developed fabric of surrounding area.

As discussed in the earlier paragraphs of this report, there is a strong sense of fit in terms of the receiving environment. The proposed increase in densification and intensification is consistent both in terms of the principle advocated by the forward planning frameworks, as well as guiding spatial objectives of such frameworks.

In addition, the Applicant consulted the City's Spatial Planning Branch to test whether the proposed development aligned with city policy. In an email received on 15th October 2025, the Spatial Planning Branch advised as follows:

Kindly note, the approved Blaauwberg Road LSDF (2025), provides policy orientated guidance for the proposed redevelopment along Athens Road and the specific reference (extract) can be found attached (p.50 -51). The guidelines ensures for good urban form and a contextually sensitive response. The Blaauwberg Road LSDF (2025), can be found on the City's Planning Portal.

It is really encouraging and appreciated to see that the online engagements with the design team in the past has started to yield positive urban design principles. However, the Urban Design Branch would like to discuss the following concerns to ensure that the proposal is well-integrated and has a positive impact on the neighbouring properties.

Privacy Concern

With the neighbouring context predominantly consisting of single storey dwellings, there is a concern regarding the privacy towards the neighbours along the western and eastern common boundaries. In addition, the proposed walkways and balconies on first to third floor unfortunately create unwanted overlooking features onto the neighbouring properties' recreational spaces (backyards). The design team is encouraged to mitigate any privacy concerns by providing sufficient tree planting and screening along the common boundaries.

Boundary Condition

The proposed permeable boundary condition along Athens Road is noted. However, this condition could be further enhanced and any privacy concerns can be mitigated through the use of soft landscaping.

Lastly, the Branch would recommend that you share the proposed redevelopment with the Urban Mobility Department (RIM) for a positive comment (parking / access geometry) prior to formal circulation.

Based on the above recommendation from Spatial Planning, the Applicant instructed the Landscape Architect to produce a landscape plan which addressed the above concerns of the branch as well as to test with the municipality's Urban Design Branch whether the proposed plan was in order. This was undertaken.

In addition to approaching the Urban Design Branch (Landscape Architect), the Applicant also approached the RIM branch as recommend by Spatial Planning. In this regard, the below provisional feedback was received:

Preliminary comments related to the SDP for the abovementioned development is as follows:

1. The pedestrian gates face the private access space and not open into the road reserve;
2. Premix surfaced pedestrian sidewalk to be provided along the property frontage;
3. The carriageway crossing shall be premix surfaced up to the boundary;
4. Pedestrian pathways abutting the cwc be clearly demarcated to ensure ped safety;
5. The dropped kerbs at the existing carriageway crossing be raised;
6. Stormwater be connected to underground municipal system.

The above comments have since been addressed in terms of the proposed landscape plan as well as the services plan.

- **Minimise Consumption of Resources** – electricity, water, fuel, passive energy design (PED) principles provide for appropriate level of consumption, energy efficient design, energy efficient lighting, appliances, etc.
- **Use of Renewable Natural Resources** – harvest rainwater, use of solar and wind power, natural light, natural vegetation.

The initiatives referred to above with regard to the use of renewable resources, in the form of the harvesting of rainwater and the use of solar energy will in all likelihood be explored with a view to ensuring uninterrupted services supply to the property, as a means of improving the sustainability on the premises.

- **Economic Sustainability** – provide quality accommodation and outdoor areas with durable sustainable materials, which will not require frequent maintenance and / or replacement.

The development of the block of flats concerned will see the Applicant using materials that are of both durable and sustainable materials, so as to reduce the maintenance thereof.

- **Local materials and labour** – sourced from local communities and businesses, benefit local economy, reduce energy consumption, creation of employment construction and operational phases.

It is anticipated that the bulk of the materials and labour will be sourced from the immediately surrounding areas, thereby enabling locals to benefit via the proposed development for increased density within their area.

It is noted that the application concerned speaks directly to a number of the key objects of this principle, and that is to promote land use in locations that are sustainable and that is in line with the spatial planning objectives of the city.

The proposal entails the densification of the subject property, which is situated within the urban inner core, through the development of a block of flats. This approach aligns with the principle of promoting compact urban form, as it optimises land within an already established area. In doing so, it assists in curbing urban sprawl and reduces development pressure on outlying urban peripheries

4.5.3 The Principle of Efficiency

This Development Principle advocates the optimising of resources, infrastructure, and land; and encourages the promotion of the availability of residential and employment opportunities in close proximity to, or integrated with, each other. To this end, the proposed development application makes a definite contribution.

It also calls for the correction of historically distorted spatial patterns.

In pursuit of the above, this principle identifies that policy, administrative practice and legislation should promote speedy land development, which in terms of the ability for the Municipality to influence would include the efficient processing of development applications which represent such positive impacts for the receiving communities, as well as the decision-making and the associated timeframes associated therewith.

4.5.4 The Principle of Spatial Resilience

Spatial resilience refers to the ability of an urban area to adapt to change, be it social, economic, environmental, or demographic, while still maintaining functionality and long-term sustainability.

The proposed rezoning of the subject property to GR3 and the residential development on Erf 5049 supports spatial resilience:

- by increasing the density in an established area, the development reinforces the capacity of the neighbourhood to accommodate increased populations without requiring outward expansion.
- medium-density development improves the viability of existing infrastructure and services, including public transport, utilities, and local businesses. A broader residential base enhances economic stability and supports continued investment in the area.
- the proposal introduces a greater diversity of housing options, allowing different household types to live within the same neighbourhood. Housing diversity contributes to social resilience by accommodating changing demographic patterns over time.

Finally, by promoting compact development patterns and efficient land use, the proposal reduces dependence on sprawling growth and strengthens the long-term sustainability of the city's desired urban form.

4.5.5 The Principle of Good Administration

The forward planning informants in the MSDF and the Blaauwberg District Plan, which have been drawn on in the construction of this application report, collectively serve to confirm the consistency of the application concerned.

In the above regard, the Applicant is confident that the objects of the application are consistent with some of the challenges which the above planning references have identified as requiring particular spatial and intensification responses to.

4.6 Restrictive Title Conditions

Section 48(4) of the City of Cape Town's Municipal Planning By-law (2025) stipulates that, when considering the removal, suspension, or amendment of a restrictive condition, the Municipality must take the following factors into consideration:

- 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;
- b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
- 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;
- d) the social benefit of the restrictive condition remaining in place in its existing form;
- e) the social benefit of the removal, suspension, or amendment of the restrictive condition; and
- 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.

In addition to the above provisions of the Municipal Planning By-Law (2025), Section 39(5) of the Land Use Planning Act as well as Section 47 of the Spatial Planning and Land Use Management Act are applicable when considering whether to remove, suspend or amend a restrictive condition.

It is imperative for the points listed in Section 39(5) of LUPA and Section 47 of SPLUMA to be considered against the background of approved planning policies and the vision for the City as adopted by Province and the City.

Application for the removal of any restrictive conditions of title must include a motivation in support thereof. Such motivation must be based on criteria as set out in Section 47 of SPLUMA and Section 39(5) of LUPA.

In the sections below, the application assesses the application concerned and the proposals associated therewith against the mentioned criteria.

4.6.1 Policy Guidelines

Application is made for the following restrictive conditions (quoted in **bold** print) to be deleted:

- B. SUBJECT FURTHER to the following special conditions contained in Deed of TRANSFER Number T 12767/1944 dated 8th September 1944, imposed by the Administrator of the Province of the Cape of Good Hope at the time the Table View Township was approved:
- A. As being in favour of the registered owner of any erf in the Township and subject to amendment or alteration by the Administrator under the provisions of Section 18(3) of Ordinance Number 33 of 1934:
- (a) That this erf be used for residential purposes only, provided that after having first obtained the written consent of the Local Authority, such use shall not exclude the erf being used for the erection thereon of a special building.
 - (b) **That only one dwelling house, or, subject to the consent of the Local Authority, a special building be erected on this erf.**
 - (c) **That not more than one-third the area of this Erf be built upon.**
 - (d) **That no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf. No such building or structure shall be situated within 1,57 metres of the lateral boundary common to any adjoining erf.**
- B. As being in favour of the Administrator
- (e) That this erf be not subdivided except with the consent in writing of the Administrator
- C. As being in favour of the Local Authority:
- (f) That the owner of this erf shall be obliged to allow the drainage or sewerage of any other erf to be conveyed over this erf if deemed necessary by the Local Authority and in such manner and in such position as may from time to time reasonably required by the Local Authority.

- (g) That the owner of this erf shall be obliged to receive material necessary give a proper slope to the bank if this erf is below the level of the adjoining street; and if this erf is above the level of the adjoining street he shall in like manner permit a safe slope to the bank, unless in either case he shall elect to build retaining walls to the satisfaction of the Local Authority and within a period to be determined by the said Local Authority.
- (h) To the following special conditions contained in the said Deed of Transfer Number _____ imposed by the Porterfield Estates Limited in favour of the said Company and its successors in title as owner of the remaining extent of the said Township or any portion or portions thereof and in favour of the registered owners of any erf in the Township of Table View.
- (i) The owner shall not have the right to make or cause to be made upon this Erf for any purposes whatsoever any bricks tiles or earthenware pipes or other articles of such nature nor shall he have the right (save and except to prepare the Erf for building purposes) to dig or quarry any earth, gravel, lime or stone thereon.
- (j) No wood or iron buildings of any description shall be erected on this Erf.
- (k) No slaughter poles, cattle kraals, pigsties, or cowsheds shall be erected or carried on by any person whomsoever on this Erf.
- (l) This erf shall be neatly fenced to the satisfaction of the Company and the owner shall be obliged to use therefore hard wood, or iron paling or good wire fencing, or properly built stone, brick, or cement walls. Moreover, he shall not erect any unsightly fence, nor one of galvanised iron, canvas or other fabric or reeds, grass, soft wood, or other flammable material. The fence shall be kept in proper repair by the owner.
- (m) The Purchaser and every successive registered owner of the Erf or any portion thereof shall not remove any vegetation therefrom save and in so far as it is to be replaced by building or hard roads or paths, the intention being that all tendencies to sand drift are to avoided and combatted - to which end moreover the purchaser and each successive registered owner thereof shall be regarded as having undertaken during his tenure to plant and maintain thereon such suitable plant life or vegetation or to apply and maintain thereon such other suitable surface covering as will effectively avoid and combat drift sand. And in so far as the purchaser or registered owner for the time being fails or neglects to observe this condition, the Company or

its successors including any Local Authority controlling the area in which the Erf or any portion thereof may fall, shall have the right, but shall not be bound, to repair and /or supply any omission on the part of the defaulter and shall have the right to recover the cost thereof plus interest thereon from the registered owner for the time being.

Granting of the application will permit the proposed development thereof with a block of flats (15 units) on the subject property, as opposed to the restrictive title conditions which limits the property to one dwelling house, 1/3 built upon area and restrictive building lines.

The limitation of **Condition B.A.(b), Condition B.A.(c), and Condition B.A.(d)** to only permitting one dwelling house, 1/3 built upon area and building line restrictions on the subject property within an area such as Table View, is counterproductive to what the City seeks to achieve via a compact and sustainable city, and is in conflict with the MSDF, the DSDF and development rights as set out in the DMS of the MPBL.

Given that the MSDF identifies the subject property is located within the Urban Inner Core area where land use intensification ought to be promoted, these restrictive conditions undermine the ability to achieve such spatial objectives. It is clear that the desired form of compact development at increased densities cannot be realised by complying with the title deed restrictions concerned and it is submitted that the removal of the conditions from the title deed of Erf 5049 Milnerton (Table View) will enable a sensitive form of densification without detracting from the established character of the area.

Based on the prior arguments put forward in this submission, the application has shown to be in keeping with the principles and objectives of the MSDF, District Plan, and Blaauwberg Road LSDF as well as the supporting policies, with the result, that the title deed condition which impedes the proposed development of the property in line with these forward planning authorities, is itself in conflict with the vision for the City and should be removed.

4.6.2 Section 39(5) of LUPA

- 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;**

The Applicant acknowledges that the object of the title deed conditions is to seek to limit the density of development on a land unit. This can be considered to provide a value, financial or otherwise, in that it makes for a unique character for property owners and attempts to limit the demographics within the township concerned.

The restrictions were imposed in favour of the local authority and the deletion of the conditions do not impact on any financial rights enjoyed by the dominant tenement.

The Applicant is of the considered opinion that the restrictions concerned currently have a negative financial impact on owners of properties within the area concerned. Restrictive title conditions have been incrementally removed from the title deeds of numerous properties in the area over the years without negatively affecting property values in the area. Removal of the conditions will permit the property to be developed to

a greater level of intensity, which is coupled with increased contributions to the Municipality's rates base which is material to the maintenance and upkeep of the municipal services and infrastructure in the area for the benefit of all.

b) *the personal benefits which accrue to the holder of rights in terms of the restrictive condition;*

The City is the holder of the respective right and accrues no personal benefit from the restrictive condition.

It is considered that the condition is there to control the density of the subject properties within the township and has come out of the original subdivision application.

Whether such density limitation has any impact on property values would be a key consideration.

The Applicant appreciates that whilst the City does not gain any personal benefit from the condition itself, as the custodian of the rights the local authority is charged with safeguarding the impact of development on surrounding properties.

In this regard the proposed development will not change the built form in terms of the conditions, in that the permitted scale and massing of the proposed development on the property is not materially affected by the condition concerned. More importantly, the proposed development and its density is not out of context with the character of the area.

The personal benefits accruing to the holder of the rights in the area are negligible in relation to the conditions which the Applicant seeks to delete. None of the owners in the surrounding area gain anything personally by keeping a condition which prevents additional dwelling units. Their views and privacy are still being maintained.

The value of this right needs to be assessed in relation to the reality of a changing pattern of development in the area which is becoming more compact over time.

The application is for the deletion of the offending restrictive condition. It is evident from aerial photographs that the area has changed based on the prevailing built form and density of development. Therefore, deleting the condition would accrue minimal personal benefits to the holders, other than the increase in rates.

Accordingly, in the context of the changing character of the area, the benefits to the township derived from these conditions have been diluted to the extent that the personal benefits accruing to individual owners are considered negligible.

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;*

The Applicant will realise personal benefits from the deletion of these conditions as it will allow the proposed development thereof with a block of flats.

This unlocks value for the owner which will benefit future owners as well. The law appropriately enables restrictive conditions to be removed, suspended, or amended where it is reasonably required to accommodate the changing built form of the city and the changing needs of property owners, particularly where it aligns with municipal policy.

d) *the social benefit of the restrictive condition remaining in place in its existing form;*

The aims and objectives of the City, which are largely contained in the IDP identify the improvement of the social and economic potential of all its citizens as being the primary objective. The City goes on to put in place certain legislative instruments which are aimed at contributing to the realisation of the aims and objectives. These legislative instruments include the MSDF, the District Plans, Local Plans, various Policies, the Planning By-Law and Management Scheme.

In the above regard, outdated legislation which could not be repealed with the promulgation of the newer legislative instruments, in turn prove to be obstructive toward the realisation of the vision of the City. With the result that the social benefits associated with the implementation of the proposals of the various forward planning guides are either delayed or discouraged by the existence of these restrictive title deed conditions.

The removal of these conditions to the implementation of current land use and spatial planning development objectives is therefore considered to constitute a social benefit.

Therefore, the retention of the title deed condition will restrict the optimal development and utilisation of existing resources and opportunities, and the status quo will remain, and the policies and objectives of the City will not be realised.

The retention of the title deed conditions limits the number of units that may be developed on the property concerned. However, there are a number of properties in the area that have been either subdivided or been developed with more than one dwelling unit.

Should the restrictive conditions not be amended, the status quo of the number of units will remain, which is at odds with how development has occurred / been approved within the area. In terms of current City policy this cannot be considered to be a social benefit.

The social benefit of retaining the restrictive conditions is considered to be outweighed by the social benefit of deleting such conditions.

e) *the social benefit of the removal, suspension, or amendment of the restrictive condition;*

As intimated above, it can be argued that the social benefit of removing the restrictive condition concerned thereby allowing more than one dwelling unit, will be positive. The forward guiding instruments referred to above encourage appropriate levels of land use intensification in all areas. The removal of the restrictive condition will enable both diversification and densification.

Appropriate intensification should be encouraged in all areas, and in this regard the removal of the offending conditions will enable additional utilization of the property in terms of a more compact and sustainable city and will combat urban sprawl and align

with the various City policies which require appropriate densification of land and ultimately allow for additional accommodation opportunities into an already established area.

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 application concerned to remove the identified restrictive title conditions will not serve to remove all rights enjoyed / protected in favour of the beneficiaries, in fact the City's By-Law, the Development Management Scheme, the MSDP, the District Plan and the various policies in place all collectively serve to fulfil a similar function, which is to safeguard properties from development and land use which is not in keeping with the City's vision.

4.6.3 Section 47 of SPLUMA

Section 47 of SPLUMA states 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 sub-section (1) must, in the absence of the contemplated written consent, be affected –***

a) *In accordance with section 25 of the Constitution and this Act.*

Section 25(1) of the Constitution expressly permits the deprivation of property rights provided that it is done in terms of a law of general application and is not arbitrary. Such laws have been purposefully enacted, with the removal and amendment of conditions specifically permitted and regulated by laws of general applications (e.g., Section 47 of SPLUMA, Section 39 of LUPA and the City of Cape Town Municipal Planning By-law).

Given that the State will not acquire any property rights by removing the condition, the approval will not constitute the arbitrary deprivation or expropriation of properties as contemplated and prohibited by the Constitution.

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

A decision not to permit the removal of the identified restrictions will deny much needed residential accommodation, as well as the associated employment opportunities.

In addition to the above, and as has been consistently highlighted in the earlier paragraphs of this submission, the Municipality has put in place development frameworks, land use management scheme, policies and strategy's which encourage increased land use intensification (diversification and densification) in appropriate urban contexts. The proposed block of flats has been shown to be in line with these objectives without negatively impacting on the residential character of the surrounding area concerned.

The benefits conferred by this title deed conditions on the surrounding property owners need to be assessed relative to the wider social benefit of removing the restrictive condition and the benefit to the Applicant. There are substantial benefits to removing the restriction. In this regard, the Applicant is of the considered view that the social benefits outweigh any personal benefit that may be derived from the retention of the condition.

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

3) *A Municipal Planning Tribunal considering an application to remove, amend or suspend a restrictive condition is not liable to compensate any person for any loss arising from or related to a decision made in good faith and in terms of this Act to remove, amend, or suspend a restrictive condition*".

Section 47 enables the Municipal Planning Tribunal to approve the application for the removal of restrictive title condition.

Granting of the application to permit the proposed block of flats should be supported.

The land use application is considered to be consistent with the land use principles in SPLUMA and LUPA.

The removal of Condition B.A.(b), condition B.A.(c), and Condition B.A.(d) should be supported.

4.7 Summary

In the above paragraphs the Applicant has demonstrated that the proposed block of flats as reflected in the attached set of plans is desirable and appropriate due to:

- The application does not have any detrimental effect on the character of the area.
- The proposal aligns with the development goals outlined in the MSDF, the Blaauwberg District Plan, Blaauwberg Road LSDF, as well as with the relevant municipal policies and strategies.
- The proposed level of intensification is deemed both acceptable and suitable.
- Enhancing the property's intensity of use promotes greater sustainability and contributes to a compact City.
- As demonstrated above, there will be no negative impact on traffic.
- The proposal is expected to yield positive socio-economic outcomes.
- It is considered desirable and does not infringe upon existing rights.
- The application enhances access to opportunities.

Section Five – Conclusion

In the circumstances as fully detailed in this report, the Applicant submits that the land use application associated with the proposed development of the subject property has been shown to be desirable, to have a positive socio-economic impact and to be consistent with the MSDP, the Blaauwberg District Plan, the Blaauwberg Road LSDF and the municipally approved policies and strategies.

To this end, the Applicant recommends that the authorities concerned, approve the application made:

- In terms of **Section 42(a)** of the City of Cape Town's Municipal Planning By-Law (2025) for the **Rezoning** of the subject property from Residential (R1) to General Residential (GR3).
- In terms of **Section 42(g)** of the City of Cape Town's Municipal Planning By-Law (2025) for the **Removal of the Restrictive Title Conditions** so as to permit the development of the subject property with a block of flats.
- In terms of **Section 42(j)** of the City of Cape Town's Municipal Planning By-Law (2025) for the **Deletion of Conditions of Approval** (original Town Establishment Conditions) imposed in respect of Erf 5049 Milnerton.
- In terms of **Section 42(b)** of the City of Cape Town's Municipal Planning By-Law (2025) for the **Permanent Departure** associated with the development of the subject property with a block of flats.
 - o Permanent Departure from the permitted **Floor Factor / Floor Space** of 1.25 / 1255m² is required in order to permit the proposed Floor Factor / Floor Space of 1.357 / 1362m².
 - o Permanent Departure from the permitted **Coverage** of 60% (602,4m²) is required in order to permit the proposed coverage of 66% (664m²).
 - o Permanent Departure from the **Common Boundary Building Line** is required in order to permit the proposed storerooms to be on the common boundary in lieu of the required 4.5m.