



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

Case ID 1500164353

**Erf 402, 20 Norwich Drive,
Bishops court**

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.

CoCT REF	N/A
BSTP REF	1999 R Erf 402-RE Bishops court, 20 Norwich Drive
DATE	05 August 2026



**The Director: Development Management
City of Cape Town
Southern District
Cape Town
8000**

Attention: P Hoffa

Dear Sir / Madam,

APPLICATION FOR PERMANENT DEPARTURES, REMOVAL OF RESTRICTIVE TITLE CONDITIONS, SUBDIVISION, CONSENT AND CITY APPROVAL IN TERMS OF THE MUNICIPAL PLANNING BY-LAW OF 2015 (AS AMENDED IN 2025): ERF 402-RE BISHOPSCOURT, 20 NORWICH DRIVE.

1. INTRODUCTION

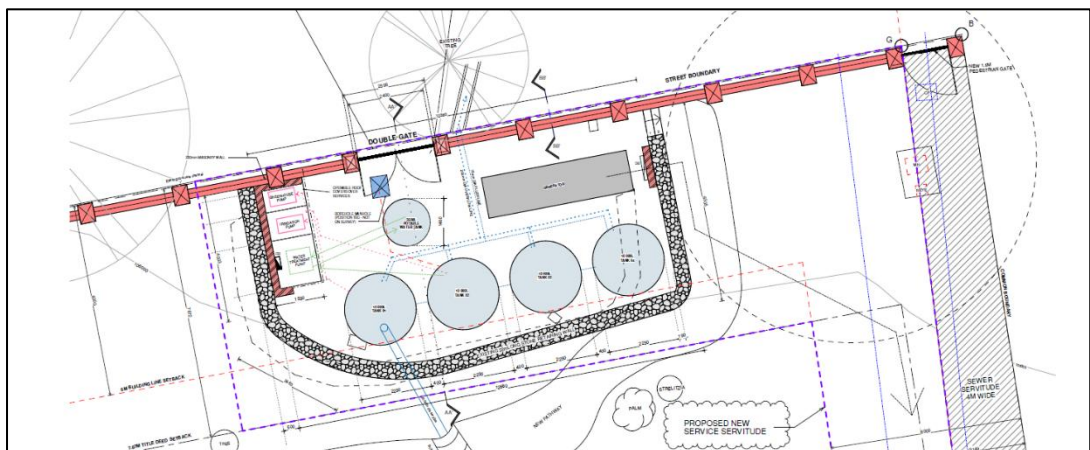
The purpose of this application is to permit for additions / alterations that require (1) permanent departures and (2) the removal of restrictive title conditions, (3) consent in order to include a ground-mounted energy system on the subject property, (4) subdivision in order to register a personal service servitude, (5) City Approval in relation to retaining walls and structures located on a property on which there are no dwellings located, and (6) the regularisation of unauthorised building work (stone retaining wall) on Erf 402-RE Bishops court, 20 Norwich Drive, hereafter referred to as the subject property.

Kindly note that:

- Permanent departures are required in relation to the proposed building work (as they are proposed to be located within the street boundary building lines and screened by a visually non-permeable street boundary wall).
- The removal of two restrictive title conditions is required in order to allow for structures to be located within setbacks (subject to mandatory application) and for an electric generating plant to be erected on the subject property (subject to voluntary application).
- The subdivision of the subject property is required in order to allow for the registration of a private services servitude over the subject property, which feeds / serves Erf 470 (located directly behind the subject property).

- It should be also noted that the subject property is not located in a Heritage Protection Overlay Zone (HPOZ), bears no heritage grading and existing structures do not exceed 60 years in age. As such, no heritage authorisation is required in this regard.

As noted above, the proposal entails building work on a property that contravenes the DMS in relation to (1) street building lines, (2) street boundary wall visual permeability, and (3) street boundary wall height above EGL. Further, the building work results in two additional application types, being 'City Approval', and the removal of two restrictive title conditions – see Section 1.2 of this report.



It should be noted that although the proposal at hand includes the subdivision of the subject property in order to register a personal services servitude, an application in terms of 109(e)(ii) is not required, as the proposal does not include the amendment of the physical property boundaries, but rather only the creation of a servitude area on the subject property which (1) restricts the utilisation of the subject property, and (2) limits the allowable developable area on the subject property, as one cannot develop over a servitude area. As such, no deviation in terms of the above Item is proposed.

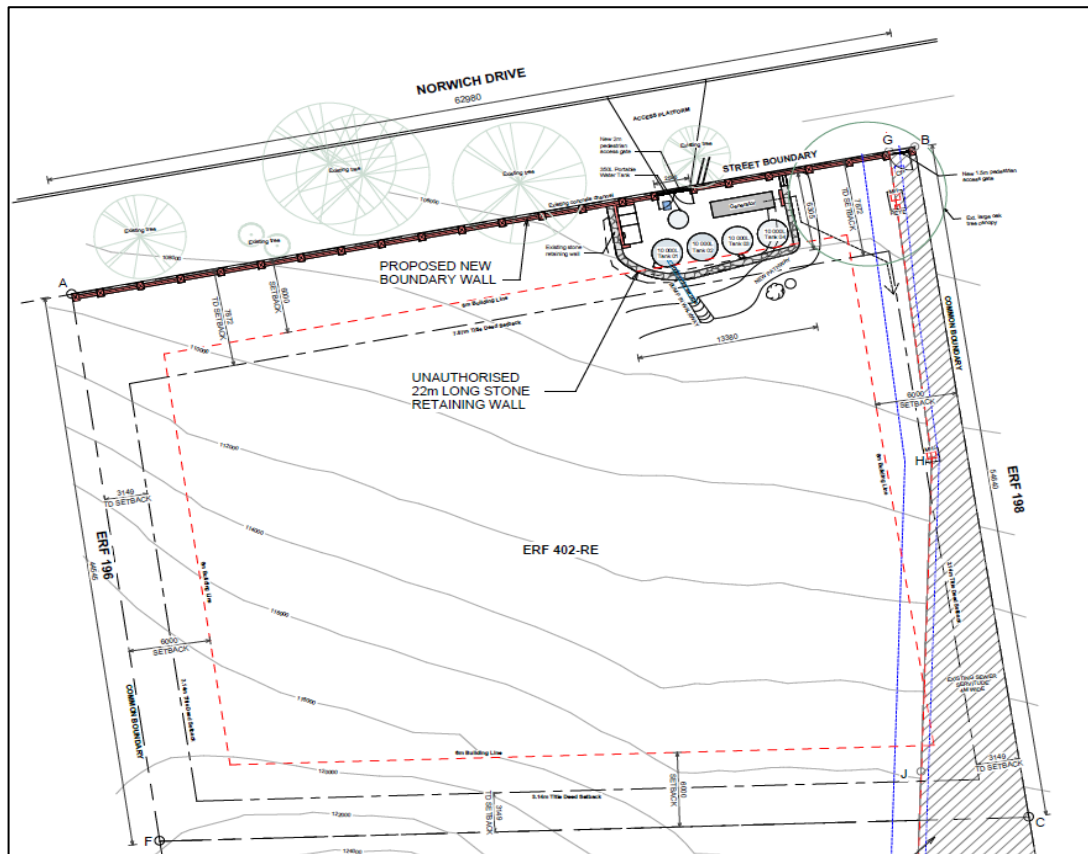


Figure 2: Proposed Site Development Plan (SDP).

1.2. Planning Applications Required in terms of the Municipal Planning By-Law (MPBL), 2025

Application is made in terms of Section 42 of the MPBL, 2025, for the following:

- **Section 42(i) – City Approval:**
 - **Item 126(b):** To permit for a retaining wall to be at a maximum height of 2.44m in lieu of 2m above EGL.
 - **Item 136A(1):** To permit for an outbuilding (residential service plant) on a property where no dwelling unit exists.
- **Section 42(d): Subdivision** to register a private services servitude over Erf 402-RE in favour of Erf 470.
- **Section 42(i) – Consent Use:**
 - **Item 108(c):** To permit for a ground-mounted energy system (domestic level generator) to be located on the subject property (Erf 402-RE).

- **Section 42(b) - Permanent Departures:**

- **Item 109(b):** To permit for building work to be located at a minimum of 0m in lieu of 6m from the street boundary (Norwich Drive).
- **Item 136B(a):** To permit for a street boundary wall height of 2.4m in lieu of 2.1m above EGL.
- **Item 136B(g)(aa):** To permit for a street boundary wall with 0% visual permeability in lieu of 60% along Norwich Drive.

- **Section 42(g) and 42(j) – removal of a restrictive title condition / condition of approval as contained in in relation to Erf 402-RE:**

- **Condition G.(4).(d)** which reads as follows:

"No outbuilding or structure or any portion thereof except boundary walls and fences shall be erected nearer than 25 feet to the street line which forms a boundary of this erf or within 10 feet of the rear or lateral boundaries thereof, provided that if the slope of the land necessitates it, a garage may be erected on this erf nearer to the street line boundary, on condition that the roof of such garage does not project more than 3 feet above the natural level of the surrounding ground and the building is not erected nearer than 4 feet 6 inches to the street boundary of this erf. Provided further that should two or more contiguous erven be registered in the name of the said owner such erven may be consolidated whereupon the consolidated holding shall become an erf in the Township and all the conditions shall apply to it as being one erf."

- **Section 42(g) – removal of a restrictive title condition as contained in in relation to Erf 402-RE:**

- **Condition H.(8)** which reads as follows:

"No electric generating plant, windmill, or wind operated machinery shall be established on this erf without the written consent of the Company."

1.3. Subject Property Description

The subject property is located at 20 Norwich Drive, Bishopscourt, is 3 131m² in total extent and is zoned Agricultural Zoning (AG). The subject property is mostly vacant and includes a readily existing services servitude which serves the directly adjoining property (Erf 470). The proposal at hand aims to extend the servitude area as to include the proposed ground-mounted energy system.

The subject property currently obtains pedestrian access onto the subject property via Norwich Drive and is also located in a 'Standard' public transport (PT) zone where standard parking requirements apply.



Figure 3: Current aerial view.

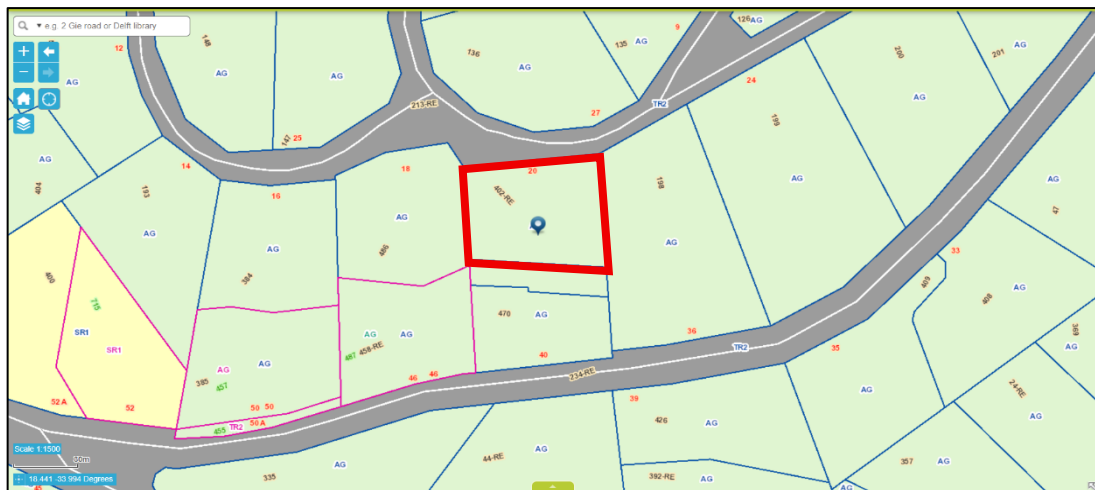


Figure 4: Zoning Extract.

Furthermore, the subject property is not located in a Heritage Protection Overlay Zone (HPOZ), bears no heritage grading and contains no structures that exceed 60 years in age. The subject property is also well treed, and no removal of vegetation is proposed in relation to the proposed additions / alterations.

It must be noted, however, that the relevant title deed and SG diagram indicate that the total extent of Erf 402-RE is 3 973m². However, a portion of Erf 402-RE had been transferred to Erf 470 in 2011 as per the below transfer stamp (see Figure 5).

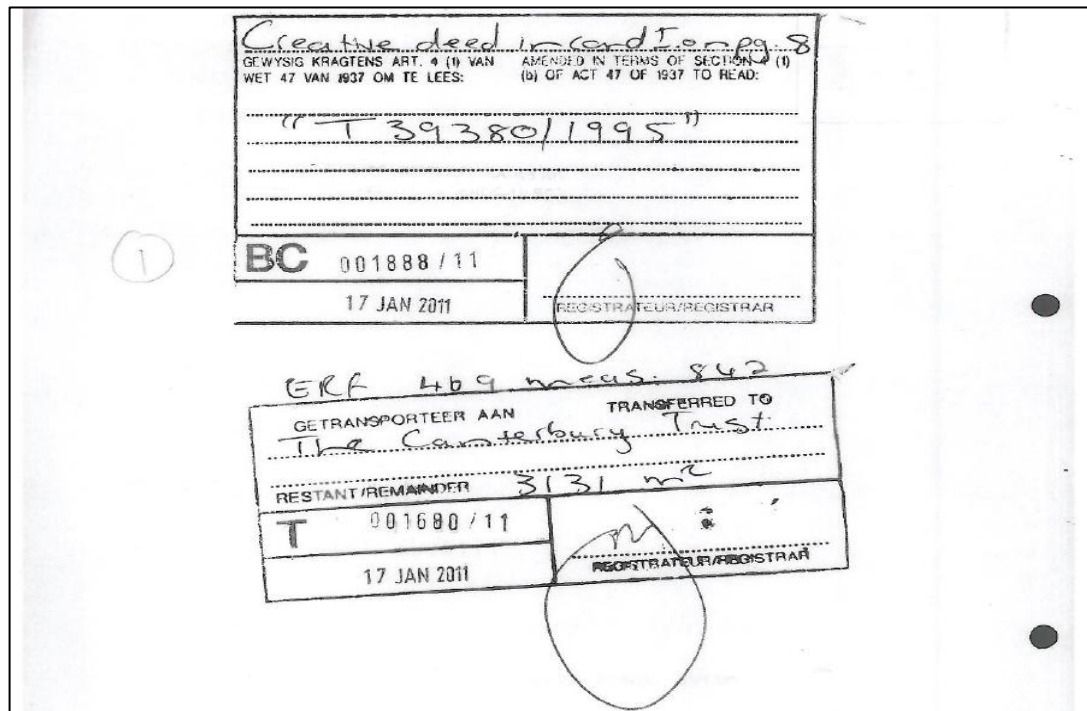


Figure 5: Transfer stamp indicating that Erf 469 had been obtained from Erf 402-RE.

As such, the actual extent of Erf 402-RE is 3 131m² as indicated in the relevant SDP. This is due to a portion of the rear of Erf 402-RE having been subdivided and consolidated to create the current-day Erf 470 located towards South of the subject property (kindly refer to Figures 6 – 8 below).

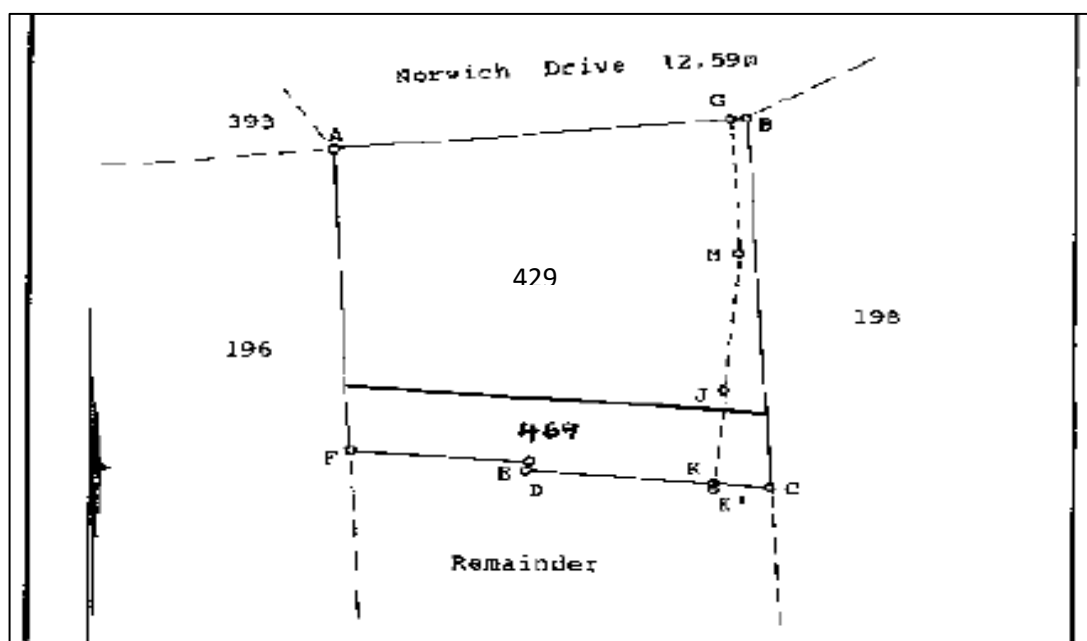
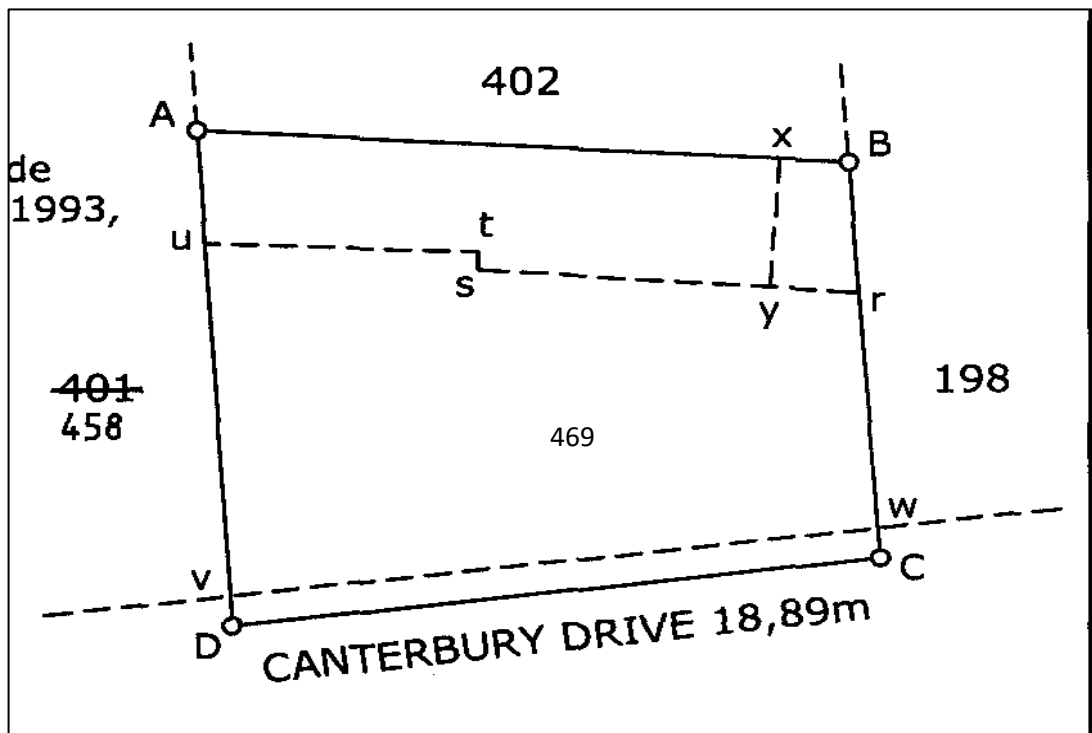
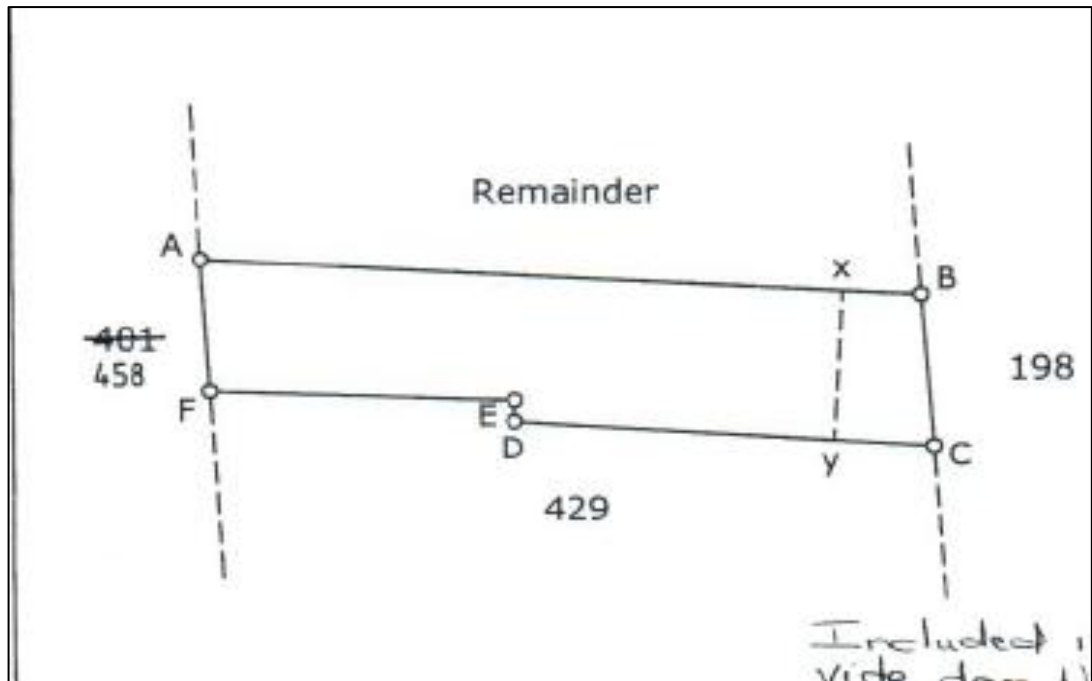


Figure 6: Erf 402-RE: SG Diagram property prior to the subdivision and consolidation of Erf 469 with Erf 470.



1.4. Character of Surrounding Area

Bishopscourt is a low to medium-density residential neighbourhood in close proximity to established commercial nodes and is accessible via well-established transport connections. The surrounding area is predominantly zoned Agricultural Zoning (AG) and is primarily developed with greened and spacious residential homes.

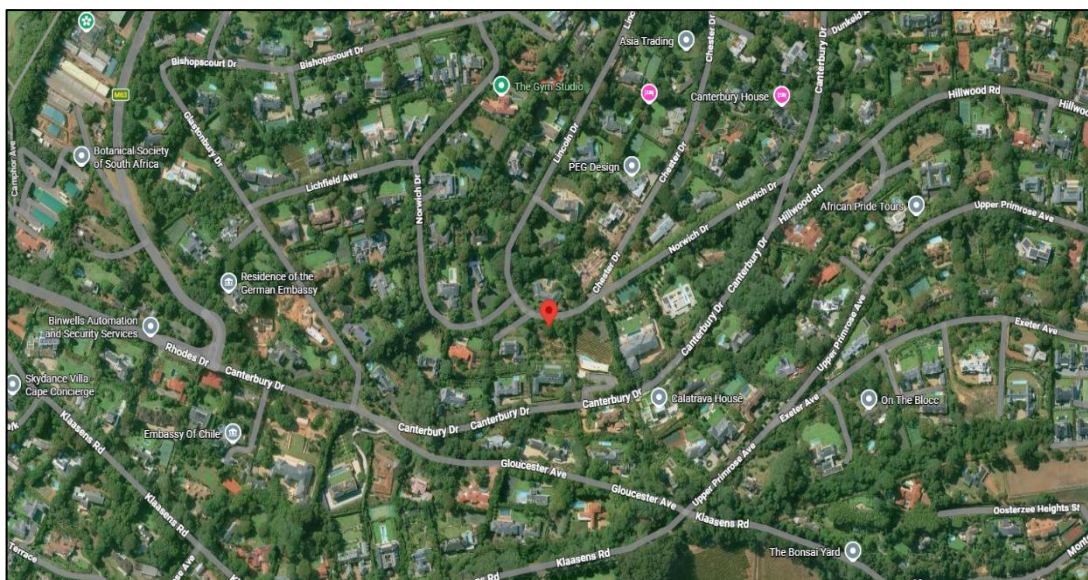


Figure 9: Character of surrounding activities.

Overall, Bishopscourt boasts high market value properties as it is considered to be a highly sought-after area from a residential amenity point of view; and is well located in relation to surrounding urban amenities and opportunities.

2. FURTHER INFORMATION

2.1. Applicant / Mandate

The property owner, The Trustees for the time being of _____ has duly appointed and authorised Black Square Town Planning to compile and submit an application on their behalf to the City of Cape Town for the applications referred to in Section 1.2 above; and to act as the applicant in this and all other related matters.

2.2. Development Management Scheme

As noted above, the property is zoned Agricultural Zoning (AG) and has an extent of 3 131m². Development rules as contained in the DMS are therefore as follows:

Table 1: AG Development Rules.

Departure Applications		
Development Criteria	Required / Allowed	Proposed
Floor space	1500m ² for dwelling houses.	No dwellings on subject property. Compliant.
Max. height above EGL (to top of building)	Dwelling house: 10m	No dwellings on subject property. Compliant.
	Agricultural buildings: 12m	N/A.
Building lines	Street: 6m	Min. 0m. Departure.
	Common: 6m	> 6m. Compliant.
Earth banks / retaining structures / support structures / similar devices.	The ground floor of a building may not be raised more than 1.5m above EGL.	< 1.5m. Compliant.
	May not exceed 2m above EGL.	2.44m. Departure. (see Table 2)
	May not exceed a cumulative height of more than 2.5m above EGL unless a 2m wide horizontal space is provided between successive structures for every 2m vertical raise.	No series. Compliant.
Boundary Walls	Street boundary: max. 2.1m above EGL and min. 60% visual permeability.	2.4m above EGL. Departure. 0% Visual Permeability. Departure.
	Common boundary: max. 2.5m above EGL.	No changes proposed. Compliant.
Parking (Standard)	One parking bay per dwelling.	No dwelling = no parking bays required. Compliant.
Carriageway crossings (cwc)	Min. distance of 10m to intersection.	No cwc proposed. Compliant.

	One cwc per per site per public street.	No cwc proposed. Compliant.
	Width: 2.4 – 8m.	No cwc proposed. Compliant.

Table 2: City Approval applications.

City Approval Applications		
Development Criteria	Required / Allowed	Proposed
Item 136A(1)	No person may use an outbuilding before the erection of the building to which it is an outbuilding.	Proposed new outbuilding in the absence of a main dwelling.
Item 126(b)	Retaining wall height above EGL: Max. 2m	2.44m above EGL.

Table 3: Consent Use application.

Consent Use Application		
Development Criteria	Required / Allowed	Proposed
Item 108(c)	Consent Use: 'Ground-mounted energy system'	To permit a 'ground-mounted energy system' on site.

2.3. Existing Ground Level (EGL) Determination

Kindly note that the contours as per the City's 2m Ground Level Map (as available on CoCT GIS) were used to determine existing ground levels on site. Such reference is also reflected on the SDP submitted herewith.

2.4. Title Deed:

In terms of the City's Title Deed Standard Operating Procedure (SOP, 2017) and Section 49A of the MPBL:

- The City may not grant an application in conflict with a restrictive condition imposed by a government body in terms of Ordinance 33 of 1934 or LUPO. Application for the amendment / removal of such conditions is therefore mandatory. Thus, application for removal of

condition G.(4).(d) is made herewith in terms of Sections 42(g) and (j) of the MPBL (see Section 1.2 of this report).

- Additionally, the City may grant an application that would conflict with a restrictive condition or servitude which is not a condition of approval imposed in terms of this By-Law (i.e. pre-1934 conditions), the Ordinance or the Townships Ordinance 33 of 1934. Removal of such conditions is therefore at the property owner's discretion and is accordingly subject to voluntary removal. Thus, application for removal of condition H.(8) is made herewith in terms of Section 42(g) of the MPBL.

As per _____, the following relevant condition (proposed for removal) had been imposed in 1934 by "the Administrator of the Province of the Cape of Good Hope in terms of Section 18 of Ordinance No. 33 of 1934", and is therefore subject to mandatory application:

- Condition G.(4)(d): relating to building lines and the erecting of a garage.

Similarly, the following relevant condition (proposed for removal) was imposed by Bishopscourt Estate Cape (Proprietary) Limited, therefore being subject to voluntary application due to it being categorised as a developer's condition:

- Condition H.(8): relating to the erecting of an energy plant.

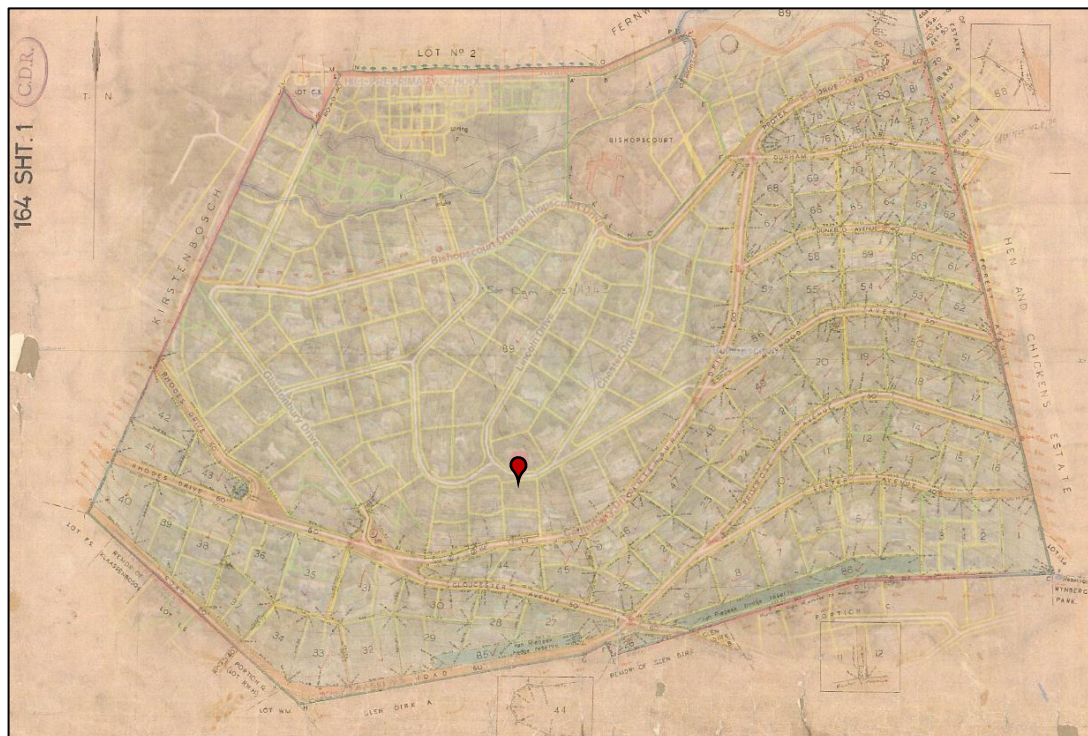


Figure 10: General Plan Extract. NOTE: Overlay included to indicate the subject property in relation to the previously unsubdivided property.

Kindly note that the subject property is included in the Township of Bishopscourt as per the above general plan extract (Township of Bishopscourt, SG no. 3235/1940), which means that during public participation, the proposed development would need to be advertised to the entire township contained in the attached general plan as they are to be considered the directly interested and affected parties in this instance.

3. REMOVAL OF RESTRICTIVE TITLE CONDITIONS AND A CONDITION OF APPROVAL

Application is made for the removal of two restrictive title conditions relating to (1) street setbacks [condition G.(4)(d) subject to mandatory application], and the presence of an energy plant [Condition H.(8) ,subject to voluntary application]. In light of the proposed removals, it should be noted that the surrounding area readily contains similar examples to that proposed, noting that those properties had to have undergone similar restrictive title condition removals / amendments in order to accommodate the structures located within property setbacks. Additionally, the removal of the clause pertaining to the erecting of an energy generation plant on the subject property, is technical in nature and is not considered a large area which is to be utilised as such by the applicant, being only an extension of the existing service servitude along the Eastern common boundary.

It should be noted however, that it is the intention of the current owners to retain the mostly vacant nature of the subject property, and are therefore not proposing to erect any unusual structures within the property's setbacks, noting that the proposed 'ground-mounted energy system' will not be visible from the street in light of the departures included in this report (i.e., a visually non-permeable street boundary wall). The applicant is merely applying for the removal of the relevant condition as the plant is not expected to result in unnecessary noise pollution in relation to the surrounding properties, thereby not being disruptive in nature, and is viewed as being linked to residential functionality as it feeds / serves Erf 470. The proposal also includes the removal of a restrictive title condition relating to street setbacks. It should be noted, however, that the DMS readily includes development parameters that exceed that contained in the subject property's title deed in terms of street setbacks. Therefore, the relevant condition is considered to be outdated, as contemporary spatial planning legislation readily provides more restrictive development parameters in this instance. As such, it should also be noted that the proposed removals will not result in unreasonable permanent development rights as the City's DMS will still remain applicable to the property which, in the event of encroachment, will require formal application to the City and will be accompanied by a public participation process – similar to that proposed.

It is further noted that restrictive title conditions were originally imposed to create a certain character in townships. In this area, specifically, the relevant conditions had been aimed at maintaining property density and wide road reserves in order to maintain its residential character and general built form. However, it can be noted from contextual development, that the needs of residents have indeed changed from the time the said title conditions had initially been imposed, and have resulted in various forms of title deed amendments and / or removals in

conjunction with departures from the DMS in order to create larger dwellings, some of which who utilise setbacks included in their relevant title deeds. Such developments therefore resulted in a slightly more compact urban form, thereby lessening the road reserve widths in some instances, especially along Norwich Drive. Additionally, it must be noted that the base zoning of the surrounding area is AG, which permits for a wide range of uses that are often not considered residential in nature. One can therefore attribute these neighbourhood changes to a change in contemporary residential needs, especially in popular suburbs such as Bishopscourt, which also houses some of the most expensive homes in Cape Town due to its desirable location.

It is therefore important to highlight that while the needs of citizens have evolved over time, the sustainability of the evolving urban form remains a priority to the City in order to ensure efficient urban function and a responsible urban environment in terms of development. This, *inter alia*, includes allowing for land use applications (in terms of the MPBL) in urban areas that increase developable space on properties for practical and sustainable reasons – although it is not the intention of the current owners to erect buildings on the subject property. It is also pointed out that the City is empowered by law, specifically in terms of Section 47(1) of SPLUMA, to remove / suspend / amend restrictive conditions via the MPBL where necessary and as reasonably required with appropriate motivation.

When considering removal / amendment of restrictive title conditions, Section 48(4) of the MPBL also requires the City to have regard to Section 39(5) of the Land Use Planning Act (LUPA) and Section 47 of the Spatial Planning and Land Use Management Act (SPLUMA). The relevant applications are therefore evaluated in terms of the criteria stipulated in the aforementioned legislation, which are as follows:

3.1. Section 39(5) of LUPA

- Financial and other value of rights:

Noting that restrictive title conditions were originally imposed with the intention of creating a certain character within townships, it should be noted that the surrounding area readily contains various forms of title deed deviations which resulted from various relevant removals / amendments. This clearly points towards the fact that residents in the area connect little value to the said restrictions in the light of evolving / contemporary residential needs.

This is especially evident in Bishopscourt as existing development in the area consists predominantly of very large homes, who often encroach onto building lines along street boundaries. As noted above, one can attribute this contemporary development forms to the evolving needs of citizens and contemporary development trends. In most instances, existing development in the area had to have undergone some form of title deed removals / amendments, coupled with deviations from the City's development management scheme (DMS) in order to achieve these larger homes and to allow for structures to be built within the setbacks.

Taking note of the existing built form in the area, one can conclude that the proposed building work is rather contemporary in nature and is not expected to negatively impact the aesthetic value of the area (even considering that a solid street boundary wall is proposed). The proposal at hand will also not have a negative effect of property values, as it merely aims to construct auxiliary structures that feed / serve Erf 470 (directly adjacent), thereby increasing its residential functionality and amenity, therefore increasing its property value. In fact, the property values in Bishopscourt have largely increased over recent years due to its desirability and favourable location (being close to a range of urban opportunities and amenities).

In light of the above, it can be concluded that there is a clear trend in the area between the changing needs of residents versus the title restrictions imposed at the time of original township's inception. It can therefore be stated that the proposed removal will not result in a loss in financial or other value of rights as per the reasons provided above.

- Personal benefit which accrues to the holder of rights (other properties in the township):

The term "personal benefits" refers to both adjacent and surrounding property owners in the township, where such benefits stem from the relevant title conditions that were mostly aimed at density control, and maintaining greenery and aesthetics. However, as noted above, the proposed removal of the relevant conditions must also be considered in the light of the township's current spatial reality and contemporary residential needs. It should also be pointed out though, that the various forms of removals / amendments in the township have neither negatively impacted on the aesthetics of the residential area, nor did it excessively increase the area's density considering that the neighbourhood is mostly residential in nature, although containing properties zoned AG.

As recorded above, the residential needs of the property owners have greatly evolved over recent decades which overall resulted in a more compact urban form in conjunction with a variety in built form. As such, contemporary residential development in the surrounding area have more recently indicated a lack of personal benefits offered by the relevant conditions. In fact, most property owners in the area have garages / supporting structures situated along the street front, which opposes the conditions contained in their respective title deeds, should their title deeds still contain conditions relating to street setbacks.

The original street setback is also not considered to serve its practical purpose in recent years, considering that the use of motor vehicles is not the primary function of this property. It is also well noted that appropriate development in such well-located areas generally boost property values. Moreover, the better utilisation of land (as is proposed) is also promoted in local, provincial and national legislation as it aids in

establishing a more efficient and sustainable urban form which is to the long-term benefit of all citizens.

As such, maintaining the relevant clause has become diluted, insofar as it no longer offers any substantial personal benefits to property owners in the township, especially given that the DMS readily provides similar and more restrictive development parameters to property owners. It should also again be noted that there are various examples of similar removals present in the area which, again, confirms the lack of benefits experienced from the relevant conditions. Moreover, the DMS (in conjunction with remaining conditions in the title deed) also offers sufficient protection against any potential future encroachment since any such encroachment would require a public participation process similar to the application at hand.

Maintaining the said conditions are therefore not considered to offer much benefit to property owners in the township, especially considering contemporary residential needs and the presence of DMS restrictions which, if encroached, requires a form of public participation.

- Personal benefits which will accrue to the person seeking the removal (property owner):

As noted above, the area readily contains various examples similar to that proposed, including the removal of street setbacks amongst other conditions. The proposal will also ensure an increase in the value of the subject property (however minor); and offer substantial benefits to the residents of the subject property and adjacent Erf 470 in terms of providing increased energy generation and water treatment thereby improving the affected properties' residential amenity. Accordingly, the proposed removal will offer substantial benefit to the property owner and the owner of Erf 470.

- Social benefit of restrictive conditions remaining:

Benefits offered to society are partially discussed in the subsection titled "personal benefit which accrues to the holder of rights". Nevertheless, as noted, the retention of the relevant clauses is in contrast with the current spatial reality of the township, especially considering that numerous forms of setback encroachments exist in the surrounding vicinity. As such, property owners in the area have more recently clearly illustrated the low importance of maintaining the relevant conditions; and retention is therefore considered as an insignificant social benefit to the township as a whole.

Moreover, not making the best use of available land (as a scarce resource) within the urban edge is also considered unsustainable in the long run, and is considered to be to the detriment of society as a whole. Accordingly, making better use of available land (in this case by means of the proposed permanent departures and removals) is a

general principle highly promoted in various policies and legislation (at local, provincial and national levels) as it strengthens urban sustainability and efficiency – a matter considered to be to the broader social benefit of residents in the City. It is therefore concluded that the benefit of removing the relevant clauses outweighs the benefit offered to society via retention. In fact, the proposed removals will most certainly strengthen the City's functionality in the long term in terms of contributing towards urban efficiency / sustainability and the protection of valuable land outside of the urban edge.

As will also be discussed below, the proposed removals will not strip the title deed of all restrictions and various controlling restrictions will remain in place which will continue to provide some form of density control in Bishopscourt.

- Social benefit of removing the restrictive conditions:

As noted above, the relevant conditions are not considered to offer substantial social benefit, especially when one considers the long-term sustainability of the urban form. Moreover, as noted, better land utilisation is also a concept strongly encouraged in overarching legislation and policies as it promotes a more efficient and sustainable urban form, thereby contributing towards the social benefit experienced by residents as a whole. Accordingly, the long-term positive effect should be considered as well.

As noted, the existing built form present in the surrounding area also depicts the lack of desire to keep the relevant conditions intact in the light of contemporary residential needs, especially considering the slope present in the area which deems the relevant conditions to be unnecessarily onerous in many instances which has led to various forms of removals / amendments. Accordingly, it is concluded that the benefit of the proposed removals completely outweighs the benefit of keeping the said conditions intact.

- Will the removal remove all rights enjoyed by the beneficiary or only some of those rights?

As noted in Section 1.2 of this report and in the introduction to Section 3, application is made for the removal of two restrictive title conditions relating to the street setback and on-site energy systems [condition G.(4)(d) subject to mandatory application and condition H.(8) subject to voluntary application]. As such, any and all other restrictive title conditions contained in the title deed shall remain intact. The remaining conditions in conjunction with the provisions of the DMS will also see thereto that any potential future development remains compatible with existing development in the surrounding area.

Accordingly, the rights of property owners in the township will remain adequately protected by the remaining title restrictions and the provisions of the DMS [while noting again that any encroachment of

DMS restrictions requires application to the City and is followed by a comment (advertising) period]. It is therefore concluded that the application for the removal of condition G.(4)(d) and condition H.(8) satisfy the requirements of Section 39(5) of LUPA.

3.2. Section 47 of SPLUMA

A restrictive condition may, with the approval of a Municipal Planning Tribunal and in the prescribed manner, be removed, amended or suspended. In this regard, it is proposed to remove two restrictive title conditions relating to street setbacks and energy systems on the subject property [condition G.(4)(d) subject to mandatory application and condition H.(8) subject to voluntary application]. It is also again pointed out that all other conditions, as contained in the relevant title deed, will remain intact and are to be unaffected by the proposal at hand.

Section 47 of SPLUMA also makes specific reference to Section 25 of the Constitution which relates to the arbitrary deprivation of property rights and the associated rights therewith. It is pointed out in this regard, that the applicant has assessed the impact of the proposed removal of the said conditions (refer to Section 3.1 of this report) and has reached the conclusion that the removals are well justified and that it will not negatively impact on the rights of surrounding property owners.

Accordingly, the proposed removal will also not result in the arbitrary deprivation of property rights. The proposed removal is also not considered procedurally arbitrary as the relevant applications have been made in terms of the applicable sections of the MPBL; and the application will be advertised to the relevant interested / affected parties which, in this case, includes all property owners in the immediate vicinity of the subject property (refer to Section 2.3 of this report).

Insofar as Section 47(2) of SPLUMA is concerned, removals of restrictive title conditions must be:

- In accordance with Section 25 of the Constitution:

As noted above, the proposal adheres to this legislation. It is therefore also pointed out that interested / affected parties will receive formal advertisement / notice thereby providing them with the opportunity to comment on this application.

- With due regard to the respective rights of all those affected, and to the public interest:

Refer to Section 3.1 of this report. Moreover, the application also requires mandatory notice to interested / affected parties (in this case, all property owners in the immediate vicinity of the subject property), as outlined in the MPBL. Accordingly, the proposal satisfies this requirement.

- In the prescribed manner:

The application for removal is made in terms of the MPBL and follows the due processes as prescribed.

Accordingly, the proposed removals are in accordance with both Section 47 of SPLUMA and Section 25 of the Constitution as it will not result in the arbitrary deprivation of property or rights associated therewith.

3.3. Section 48(4)(a) of the DMS:

As per the DMS, all properties are subject to a set of development rules dictates by the relevant zoning of that specific property. It must be noted that as the subject property is zoned Agricultural Zoning (AG), Item 109 of the DMS is applicable.

As per the SDP, the proposal conforms to the development rules to a degree that does not (1) enable rights similar to that of the next subzone and (2) require a rezoning of the subject property. Further, it must be noted that the proposal is compliant with the remainder of DMS development rules, only contravening the street building line development rule as described by the DMS (see Section 1.2 of this report). As such, it can be concluded that the proposal at hand conforms well to the parameters set out by the DMS as per the reasons above.

In terms of the subject property's relevant title deed, Clause G.(4)(d) relates to street setbacks and garages, and Clause H.(8) refers to on-site energy systems. As such, it is implied that a street building line of 0m be imposed on the subject property in favour of the property owner and a service servitude be registered in favour of Erf 470. In light of the restrictions provided in the above clauses, the proposal at hand is indeed in contrast therewith, hence applications for removal are made with this application, especially considering that the minor structures located within the street building line exceed the parameters set out by the DMS as per the SDP, therefore being in contrast therewith. As such, the relevant applications have been included in this proposal (see Section 1.2 of this report).

In light of the above, it can be concluded that the proposal at hand conforms well with the DMS despite being in contrast with the parameters set out by the subject property's applicable title deed. It can therefore be concluded that the proposal at hand satisfies the MPBL in terms of the above Section and is therefore compliant with the MPBL in this regard.

4. PRE-APPLICATION MEETING NOTES

Kindly note that a pre-application meeting had been held between the City and the applicant on 14 May 2026, during which it had been noted that the application at hand is to include a consent use application in order to accommodate the proposed generator on the subject property.

'ground-mounted energy system' means any ground-mounted apparatus or similar device, or grouping thereof, designed to generate, store, and convert energy mainly for ancillary use and includes any test facility or structure which may lead to the generation and export of energy, but excludes micro wind turbine or small-scale wind turbine;

Figure 11: Definition of a 'Ground-mounted energy system' as per Item 108(c) of the DMS.

As per Figure 11 above, it must be noted that the proposal includes a generator which is to provide power for the water treatment tanks on the subject property and is therefore considered to be a 'ground-mounted energy system' in terms of the DMS definition. Therefore, the applicant has included the relevant application in the application list of this report and is therefore proposing for the structures to persist in terms of Section 42(i) of the MPBL and Item 108(c) of the DMS.

5. PLANNING MOTIVATION: CONSENT USE, CITY APPROVAL, SUBDIVISION & PERMANENT DEPARTURES

It must be noted that the departures sought after are technical in nature and / or site-specific and it is not the intention of the proposal to over-bulk the property, but to improve practicality and amenity for the residents of the subject property.

A description of the applications applied for are as detailed below:

- Consent Use:

As noted in Section 1.2 of this report, the proposal at hand includes a generator aimed at providing power to the proposed water treatment systems located near the street boundary of the subject property. As the proposal at hand requires a 'ground-mounted energy system' (in terms of definition) to be installed on the subject property, the application requires a 'Consent Use' application in terms of Section 42(i) of the MPBL and Item 108(c) of the DMS. As such, the application is listed and included in this report. It must be noted that the proposed 'ground-mounted energy system' is aimed at feeding / serving Erf 470, located towards the rear of the subject property via the proposed private service servitude.

- City Approval:

As the proposal at hand includes new building work on a property which does not contain any form of dwelling unit, City Approval is required in order to authorise any building work to be completed on the subject property – as delineated in Section 42(i) of the MPBL and Item 136A(1) of

Additionally, the proposal at hand includes a stone retaining wall to be repositioned and located in excess of 2m above EGL (see figure 12 below). As such, City Approval is required in order to allow such structure to exist in its proposed form in terms of Item 126(b) of the DMS.



- Subdivision:

Furthermore, as the registration of the personal services servitude requires the subdivision of the subject property in order to allow for the servitude area to persist, the property's zoning dictates that a minimum subdivision size be maintained in order to allow for effective density control and consistency in terms of property extents across the Bishopscourt area. As the Southern District Local Area Overlay Zone does not include the subject

property within its scope, a standardised minimum subdivision size of 20ha applies to the subject property.

However, as the proposal at hand does not include the physical amendment of property boundaries, the above parameter is not applicable in this instance, as confirmed with the relevant case officer. In light of the above, it is important to consider that it is not the intention of the applicant to subdivide the subject property in order to create smaller physical properties, but rather to utilise a small portion of the subject property to allow for a personal services servitude to feed and serve Erf 470, located directly adjacent to the subject property.

As such, the approval of the proposed application will not result in incompatible built form or property sizes and will therefore be in alignment with the existing character of the surrounding area, which exhibits large property extents that are mainly utilised as residential properties.

- Street building lines:

As the proposal at hand includes a deviation from the DMS regarding structures being located within prescribed street building lines, it is therefore required that a relevant departure application be submitted in order to accommodate the contravention, thus included in this report.

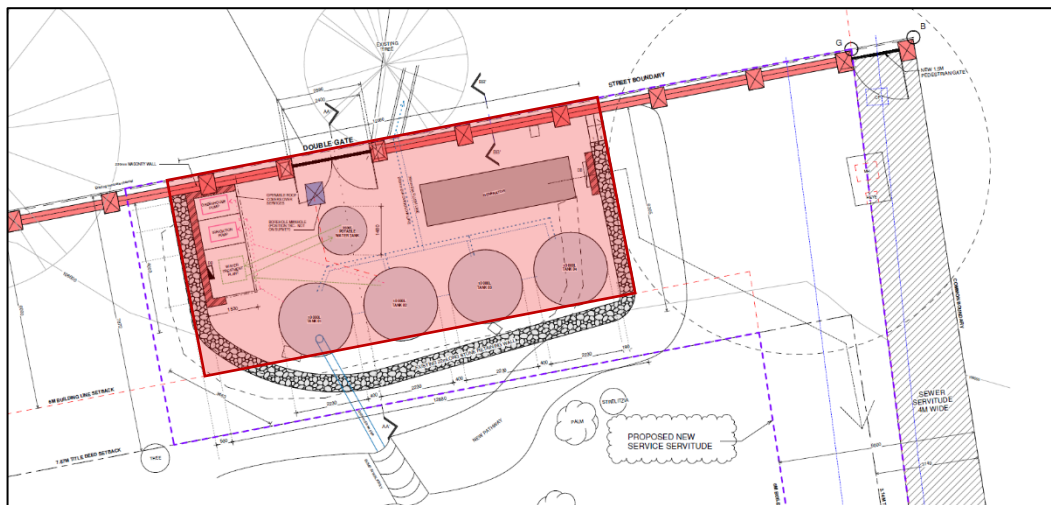


Figure 13: Structures located within prescribed street building lines at 0m in lieu of 6m (see RED hatching).

It should be noted that, as per Figure 13 above, the contravening structure relates to minor wall structures and the repositioning of an existing stone retaining wall which is proposed to connect with the proposed street boundary wall at a minimum of 0m in lieu of 6m from the street (Norwich Drive). This contravention is deemed to be minor, as the structures proposed to be within the aforementioned building lines are (1) not habitable, and (2) merely aim to provide water processing services to the directly adjacent property (Erf 470) via a service servitude.

It should further be noted that the structures are not linked to a residential dwelling house on the subject property but rather aid in providing protection for the proposed ground-mounted energy system. As such, the subject property is not to be used as a residentially oriented property, but rather in line with its base Agricultural (AG) zoning, therefore requiring building line departures to be in line with Item 109(b) of the DMS.

It should further be noted that the contravening structures are linked to residential functionality, albeit the functionality of Erf 470, by providing the residents of the directly adjacent property with water processing / treatment services. Therefore, it is considered that the proposal (1) improves the living experience on the directly property and its residents, by (2) supporting the residential character of the directly adjacent property and the surrounding properties.

It should also be noted that multiple instances of similar building line contraventions readily exist in the vicinity of the subject property. Therefore, the proposal at hand considers that the general built form of the area must be maintained and enhanced upon commencement of a land use development similar to this one. Additionally, the proposed development does not allow for development rules similar to that of the next subzone.

In light of the above, it is of the opinion that the street building line contravention is not severe in nature and will not negatively contribute to the residential character experienced in the area. As such, approval of the proposed departure will not result in (1) inconsistent built form, (2) intrusive development opportunities and (3) compatibility issues in terms of development styles – especially considering that the proposed departure is considered to be minor and directly linked to the enhancement of the existing residential amenity of the subject property (and Erf 470) and the surrounding area.

- 0% Visual Permeable street boundary wall:

As the proposal at hand includes a deviation from the DMS regarding the visual permeability of a street boundary wall, it is therefore required that a relevant departure application be submitted in order to accommodate the structure to persist in its proposed form, thus included in this report.

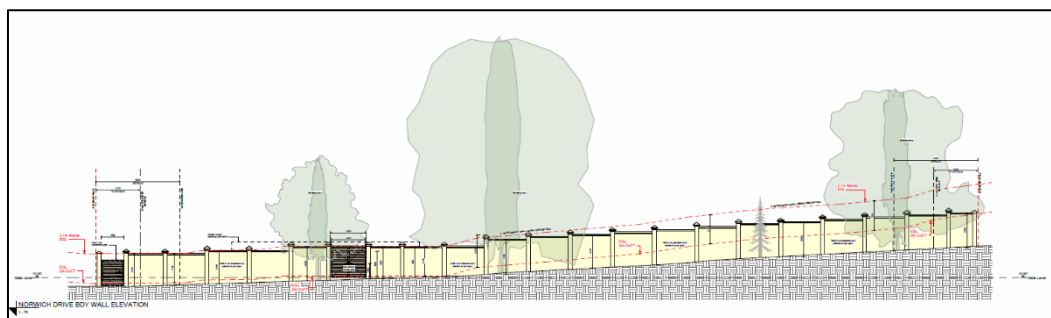


Figure 14: 0% Visually permeable street boundary wall along Norwich Drive.

It should be noted that, as per Figure 14 above, the contravening structure relates to a non-permeable street boundary wall and is deemed to be a very minor contravention. Given that (as per the SDP) all existing vegetation is to be retained, and that solid street boundary walls are not uncommon in the surrounding area, the proposal does well to follow the existing development styles and trends of the surrounding streetscapes (see Figure 15 below).

It is therefore noted that multiple instances of similar developments readily exist in the vicinity of the subject property. Therefore, the proposal at hand considers that the general built form of the area must be maintained upon commencement of a land use development similar to this one. The proposal therefore performs well in providing the subject property with a well compatible development style which considers the existing built form and character of the surrounding properties.



Figure 15: Non-permeable street boundary walls along the East of the subject property.

It should further be noted that the contravening structure is not considered to be intrusive in nature, by providing the subject property with increased privacy, screening from the proposed 'ground-mounted energy system' and prevents the disturbance of the existing streetscape of the area. Further, the proposed development also does not allow for development rules similar to that of the next subzone.

As per the above, it is of the opinion that the contravention is not severe in nature and will positively contribute to the residential character experienced in the area as well as the existing streetscapes. As such, approval of the proposed departure will not result in (1) inconsistent built form, (2) intrusive development opportunities and (3) compatibility issues in terms of development styles – especially considering that the proposed departure is considered to be minor in nature.

- Street boundary wall height above EGL:

As noted in the above, the proposal at hand includes a street boundary wall height of 2.4m in lieu of 2.1m along Norwich Drive. As the proposal is in contravention with the DMS with regards to Item 136B(a), a departure application is required in order to permit the structure to be erected in its desired form, thus included in this application.

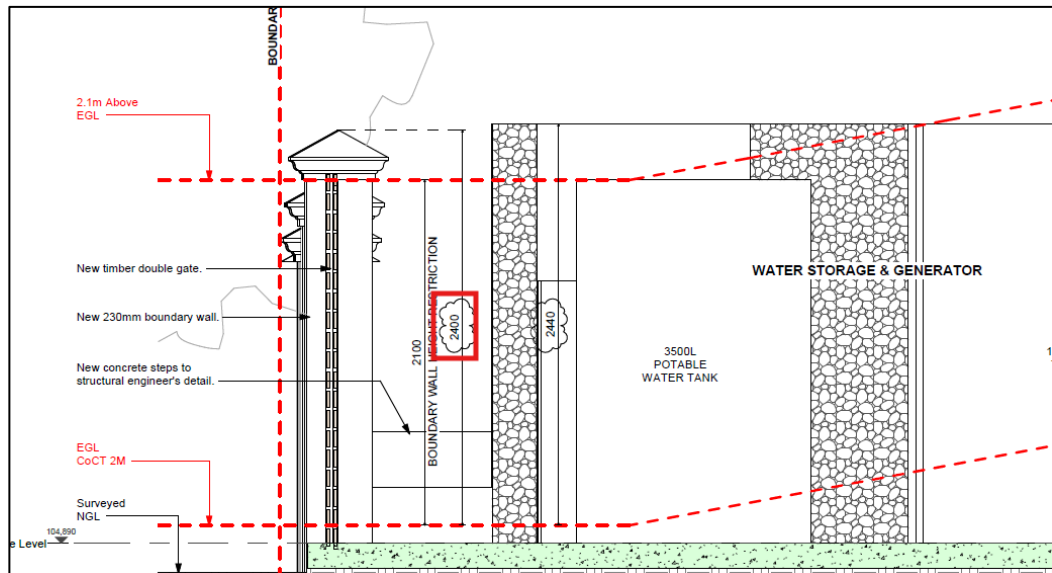


Figure 16: Section A-A: Street boundary wall height at a maximum of 2.4m in lieu of 2.1m above EGL.
NOTE: The physical wall structure is proposed to be at 2.1m exactly.

It should be noted that, as per Figure 16 above, the contravening structure relates to a street boundary wall height in excess of the maximum permissible building height of 2.1m above EGL. The structure exceeds the development parameters contained in the DMS for properties of similar zoning by 0.3m, being in excess of the relevant parameter by only 14.2%, which is deemed to be very minor in extent and severity.

Additionally, the proposed height of the street boundary wall is technical in nature as the general height of the 'actual' boundary wall is to be at exactly 2.1m above EGL. However, due to the decorative capping on the pillars of the walls, the height parameter is exceeded – see Figure 17 below.

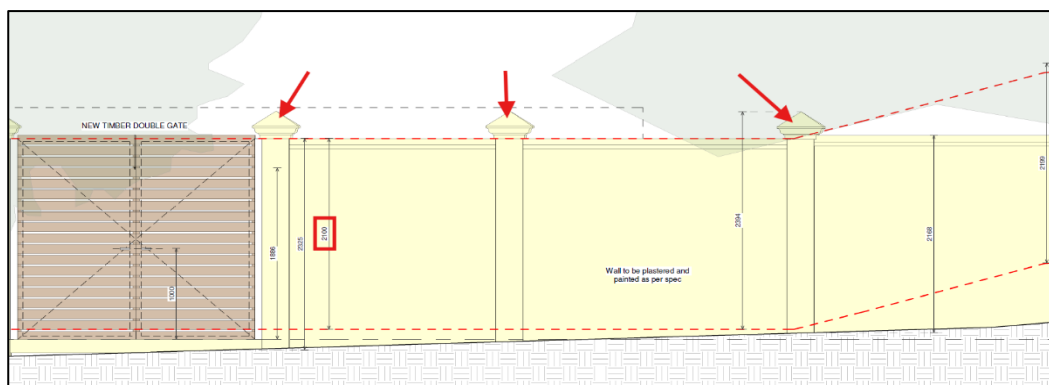


Figure 17: Decorative features exceeding the 2.1m maximum permissible street boundary wall heights.

As such, it is evident that this departure is not severe in nature as the contravening portions of the street boundary wall are merely considered to be decorative features. In light of the above, it is of the opinion that the proposal does not include a street boundary wall that is out of character with the surrounding area and that by allowing the proposed increase in building height for the street boundary wall, the departure is not deemed to be severe.

5.1. Municipal Spatial Development Framework (MSDF, 2022) and Southern District Plan (TBDP, 2023)

The MSDF is a strategic planning instrument which informs the spatial growth and development of the city and operates horizontally with the IDP. According to the MSDF, the subject property is located within the urban edge, the urban inner core (UIC), near a Metropolitan node and within an area earmarked for incremental growth & consolidation.

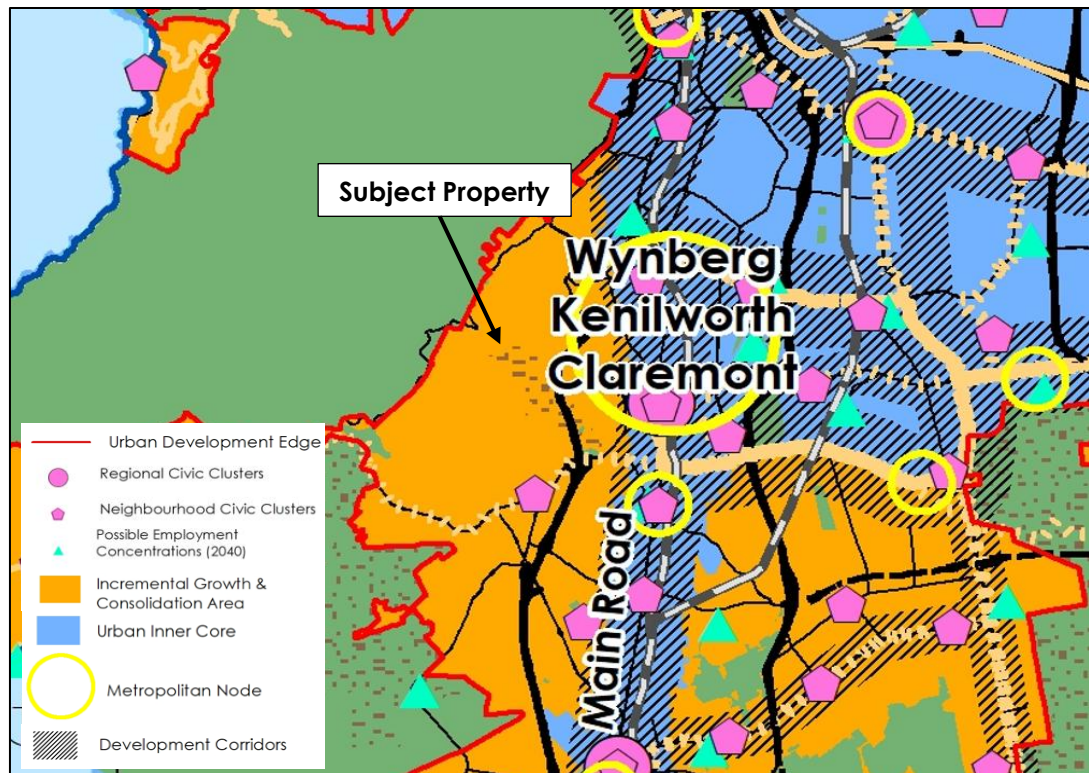


Figure 18: MSDF Extract.

The MSDF prioritises the above-mentioned areas for higher density and mixed-use development via, *inter alia*, promoting the better utilisation of land. While the proposal entails structures being located within the street building line, a 0% visually permeable street boundary wall and the removal of a restrictive title condition, it can still be considered as a minor form of better land utilisation whilst also strengthening the existing residential use of the subject property within a predominantly residential area.

In terms of the MSDF, the subject property is located within the scope of the Southern District Plan, an area-specific component of the MSDF which provides conceptual proposals for the future development of the City's Southern District as well as guidelines for the assessment of development applications. More specifically, the subject property falls within Sub-district 2 of the Southern District Plan, a district well known for its mix of historic and contemporary buildings, places, spaces and attractions whilst maintaining a well treed (green) aesthetic and large property sizes.

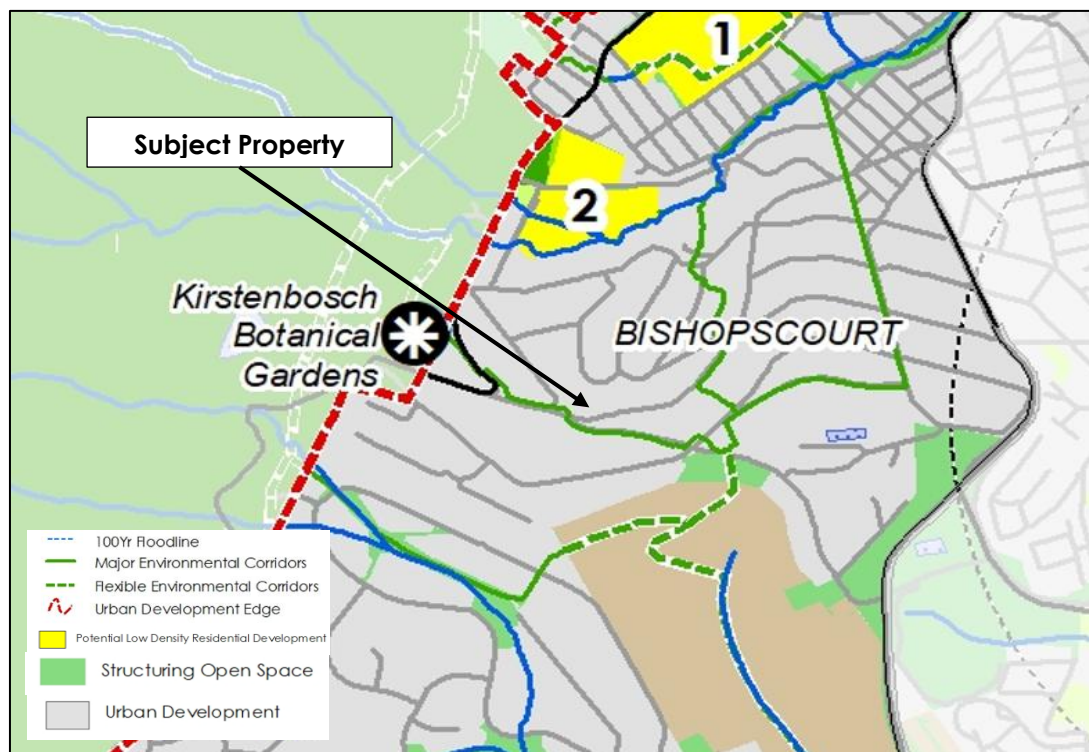


Figure 19: Southern District Plan Extract.

In terms of the Southern District Plan, the subject property is located in an area earmarked for urban development, and in close proximity to an area recognised as a destination place (Kirstenbosch Botanical Gardens). Specific to Bishopscourt, the proposal adheres to the following spatial objectives of the Southern District Plan:

- Ensure appropriate built form and land use to achieve a quality environment via, inter alia, the better utilisation of available land and the facilitation of taking up existing rights whilst maintaining and promoting the existing residential integrity.
- Protect the visual and amenity value of the area as a destination place via illustrating adherence to the overall heritage character.

It is therefore concluded that the proposal, even though minor in nature, wholly aligns with the contents of the MSDF and the Southern District Plan. As such, the proposal is also considered to meet the minimum threshold requirements as stipulated in Section 99(1) of the MPBL.

5.2. Integrated Development Plan (IDP)

This document is a strategic planning instrument which informs planning and development. The MSDP is also fully aligned with this document and with the proposal being compliant with the MSDP, it is also considered compliant with the IDP. Like the MSDP and Southern District Plan, the IDP also promotes a more efficient and sustainable urban form which is promoted by the proposal via the better utilisation of available land, even though minor in nature. The proposal therefore also conforms to the principles of the IDP.

5.3. Inclusive Economic Growth Strategy

The IEGS is a short, medium and long-term plan for addressing the economic crisis facing Cape Town. The strategy recognises that inclusive economic growth can contribute to the alleviation of existing poverty and inequality. While the proposal at hand does not directly address this policy, it is pointed out that the proposal is considered to have a positive impact on socio-economic growth as will be discussed in Section 4.7 of this report.

The proposal will, however, (1) contribute towards the availability of short-term employment opportunities during construction and (2) contribute to the fiscal value of the subject property due to the proposed additions and added functionality of the property.

5.4. Social Development Strategy

One of the key focus points of this strategy is to build and promote safe households and communities. Part of this is ensuring healthy communities and citizens. As the proposal promotes the functionality and practicality of the existing property, it is concluded that the proposal will greatly benefit the wellbeing and socio-economic stance of the residents of both the subject property and the surrounding area, thereby also contributing towards the sustainability of townships in the City in terms of socio-economic factors.

5.5. SPLUMA and LUPA

In terms of the provisions of SPLUMA and LUPA, land development must be consistent with the principles of spatial efficiency, spatial sustainability, spatial justice, spatial resilience and good administration.

As the City's spatial development frameworks and policies are premised on the principles of **spatial sustainability** and **spatial efficiency**, it is argued that the proposal also complies with SPLUMA and LUPA insofar as it supports the better utilisation of available land (even though minor in nature) and the associated promotion of a more sustainable and efficient urban form. Consequently, it is the opinion that the proposed development is consistent with the principles of spatial sustainability and efficiency.

The principle of **spatial justice** requires spatial planning mechanisms such as the MPBL and DMS to contain provisions which would enable access to land by disadvantaged communities and persons. In this regard, it is pointed out

that neither the MPBL nor the DMS currently contains any such provisions. Similarly, no policy framework for the provision of affordable housing by the private sector currently exists.

The proposal supports **spatial resilience** insofar as it supports the strengthening of the existing surrounding residential fabric within the urban edge whilst still largely respecting the character and visual appearance of the surrounding area. In return, the proposal also allows for a more sustainable urban form thereby contributing towards spatial resilience in general.

With regard to the principle of **good administration**, the application complies with the submission requirements of the MPBL, follows due process as prescribed, and has been motivated in terms of the decision-making criteria of the MPBL.

In view of the above it can be concluded that the proposal adheres to the development principles of SPLUMA and LUPA, thereby giving effect to the overarching goal of spatial transformation.

5.6. Impact on Existing Rights

The proposal is not requesting for an excessive increase in existing rights, especially considering that no change in zoning is proposed. Accordingly, the current use of the property will remain for single residential purposes and will not negatively impact on the rights of surrounding property owners.

It should be noted that the additions of a solid street boundary wall is not an intrusive structure in nature and will not result in the subject property being granted development rules different to that of the surrounding properties. Further, the minor additions (to be located within the stone retaining wall) are not considered to be intrusive in nature as these are posed to act as functional and practical features that support the current purpose of the subject property – to provide water processing / treatment services to the directly adjacent property (Erf 470). It should also be noted that the existing entry points along Norwich Drive is proposed to remain in their current location, therefore not affecting the flow of traffic in the abutting street.

Finally, the removal of the restrictive title condition is discussed in Section 3 of this report.

Accordingly, the impact on existing rights applicable to the property is negligible; and approval of the departures and removal will not grant rights similar to the next sub-zone as previously discussed. In addition, no change in use is proposed in relation to the subject property. As such, the proposal will not negatively impact on the rights and legitimate expectations of surrounding property owners, nor will this compromise their ability to exercise their rights in terms of the MPBL, DMS or any other property-related legislation. As elaborated in Section 4.7 below, the proposal is also considered to be well compatible with the surrounding residential fabric.

5.7. Desirability

- Socio-Economic Impact

Whilst certainly improving and enhancing the amenity and functionality of the subject property, the proposal will also see to an increase in the fiscal value thereof, thereby also seeing to a slight increase in the rates and taxes collected by the City which funds is spent all over the City to the benefit of all residents.

The proposal will also create short-term employment opportunities during construction, thereby having an indirect positive impact on socio-economic aspects. Accordingly, it can be concluded that approval of the proposal will have a positive socio-economic impact.

- Compatibility

Noting that no change in use is proposed and the proposed additions / alterations merely relate to functionality purposes, the proposal will not negatively impact on the existing single residential use of the surrounding properties as well as that of Erf 470; nor will it negatively impact on the streetscapes of the surrounding area.

It should be noted that multiple instances of 0% visually permeable street boundary walls readily exist in the surrounding area, therefore adhering to the existing development trends related to streetscapes in the area (see Figure 13).

Additionally, the proposed additions (stone retaining wall and other minor structures) will not be visible from the street as a result of this, therefore, the visual impact of the departures included in this report will not result in an intrusive and incompatible development style.

Finally, the proposed removal is not a phenomenon that is uncommon in the surrounding area, as multiple properties had to have undergone some form of title deed restriction removal / amendment in order to achieve larger homes in their current position. As such, it is evident that the proposed removal is not out of character with the general built form and density of the surrounding area, especially since the DMS provides similar restrictive conditions (development rules) in order to regulate development density in the area.

Accordingly, the proposal will not negatively impact on the existing character or aesthetics of either the existing building or the surrounding area, will not result in an incompatible built form or use and will not negatively impact on the residential character of the area.

- Impact on Safety, Health and Wellbeing

As noted, the proposal will not introduce any new or intrusive use within this residential area as the single residential status of the property will be maintained and enhanced.

Accordingly, residents on both the subject property and surrounding properties would be able to continue enjoying the unique character and amenity offered by this residential area. It is therefore concluded that the proposal as a whole will not negatively impact on adjacent properties, their rights, the character of the surrounding residential area, experience or general amenity of the surrounding area, and that it will not impact negatively on the safety, health or wellbeing of the surrounding community.

- Traffic Impact and Parking

Noting that the property will remain single residential in use and sufficient parking is provided on site in terms of DMS requirements, it can be stated that the proposal will not negatively impact on parking-related concerns. As such, the proposal is also not expected to negatively impact on traffic-related concerns.

- Impact on External Engineering Services

It can be noted that no new use or increase in dwelling units is proposed by the application at hand. However, the proposal at hand includes an additional generator which serves the treatment systems on the subject property. As such, although the subject property will retain its single residential nature, additional service connections / usage may be required.

- Impact on Biophysical Environment and Heritage

It should be also noted that the subject property is not located in a Heritage Protection Overlay Zone (HPOZ), bears no heritage grading and existing structures do not exceed 60 years in age. As such, no heritage authorisation is required in this regard.

The subject property is located within the urban edge, where conventional urban development is promoted. It should also be noted that no vegetation will be affected / removed in order to accommodate the proposed additions / alterations. Accordingly, no authorisation is required in terms of environmental legislation.

6. REASONS FOR SUPPORTING THE PROPOSAL

In terms of Section 99 of the MPBL, the following should be noted:

- The proposal complies substantially with the MSDF and Southern District Plan.

- Given the application made and its complete adherence to the legislation specified in this report, the application complies with the requirements of the MPBL.
- The proposal corresponds with the criteria and intent of the DMS.
- The proposal will not negatively influence the residential character and experience of the surrounding area; and will not have any negative impact on surrounding properties.
- Given the assessment above and for the reasons provided, it can be concluded that the proposal is desirable in terms of the relevant consideration criteria of Section 99(3) of the MPBL.

7. CONCLUSION

In the light of the above, it is hereby respectfully requested that the application be approved in terms of Section 98 of the MPBL.

We trust that this application will receive your favourable consideration. Should you have any queries, please do not hesitate to contact us.

Kind regards,
Pieter-Jan Rossouw | BSTP

 BLACK SQUARE TOWN PLANNING	PIETER-JAN ROSSOUW [BSc.URP] Junior Town Planner
--	---

