CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Case ID 1500147961

Erven 99, 3338, Remainder Erven 101 and 102, 5&7 Houghton Road and 139 and 141, Victoria Road, Camps Bay

Development Management

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REMOVAL AND AMENDMENT OF RESTRICTIVE CONDITIONS, CONSOLIDATION, REZONING, CONSENT USE, AND REGULATION DEPARTURES: ERVEN 99, 101-RE, 102-RE, AND 3338 CAMPS BAY

Rev. 8 – July 2026

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A. EXECUTIVE SUMMARY

The subject properties are located within the suburb of Camps Bay, more specifically Barley Bay, on the southwestern boundary with Bakhoven in the City of Cape Town Table Bay Subdistrict 1 "Atlantic Seaboard / Green Point" and front onto Houton Road to the southeast and to Victoria Road to the northwest.

The sites are developed with four single residential dwellings which are in various stages of construction completion.

The intention of the applications is to consolidate all four properties and the four dwellings into a merged hotel building over six (6) storeys which will house 28 hotel suites (including a 4-bedroom penthouse suite), and a restaurant which is available both to hotel guests and the public. Common hotel amenities, including terraces, swimming pools, a bar, a breakfast seating area, a small spa treatment facility, and back of house and maintenance/plant areas.

Parking is provided in the basement storey at grade with Victoria Road, and on the second (2^{nd}) storey via a vehicle lift accessible from Houghton Road. Parking is provided at the ratio required for the proposed uses.

Minor regulation departures are sought, to regularise the structure against the proposed GR4 zone (as opposed to the SR1 parameters that apply to the four separate dwellings) and to rationalise the consolidated building across the four sites. It is an important component of the proposal that the conjoined buildings do not exceed the approved built envelope, which was designed within the ambit of the local overlay zoning parameters. The new hotel remains within this built (approved) envelope for the most part and although now described as a six (6) storey structure, it does not add any storeys over and above that which has already been approved. The proposed consolidation, therefore, has little to no impact because the massing of the structure is much the same as what was approved across the four residential sites.

The rezoning to a general residential zone GR4 with a consent use for hotel is considered more appropriate than rezoning the consolidated property to a general business zone which includes hotel use as a primary right. With several similarly zoned (and tourist accommodation utilised) properties in the immediate vicinity, the proposed zoning and land use is considered appropriate.

The proposal does not impact on traffic, biodiversity, or heritage resources, and will both stimulate the local economy as well as provide full time employment and upskilling opportunities. Infrastructure upgrades as a result of the construction (replacement of old services) and development contributions payable will also result in a positive impact on the Camps Bay area.

Title deed restrictions related to land use and building form are outdated and have been replaced with the well-developed development management scheme and therefore have zero impact when removed.

For these reasons the proposal is deemed policy and forward planning compliant and will be a nett positive for the City.

1. INTRODUCTION AND BACKGROUND

1.1. Development Rationale

The property owners have identified the potential to convert the approved dwellings on the properties into an upmarket 28-key (room) boutique hotel – incorporating a 4-bedroom penthouse suite – which take advantage of the accessibility and amenity of the location and its proximity to tourist attractions such as the V&A Waterfront, the Atlantic blue flag beaches, amongst others to attract tourist clientele.

The four contiguous sites, and built form of the structures on site, lend themselves well to the amalgamation of the dwellings into a single hotel building. Importantly, the outside built form of the structure remains in keeping with the built form of the four individual buildings and therefore conforms to the goals of the local overlay zoning height expectations.

1.2. Status of current construction and building plan approvals

Four individual dwellings are under construction, each with a set of approved building plans and an approved set of rider plans for minor amendments as appears in the following table of building plan approval Case IDs and approval dates:

Erf no.	Building plan case ID / approval no.	Date	Rider plan case ID / approval no.	Date
99		20-12-2021	1700104599	20-12-2023
3338*		02-12-2021	-	-
101-RE		24-01-2022	1700104528	28-12-2023
102-RE		05-08-2022	1700473313 / 22945	12-03-2025

* previously erf 100, see section 4.1. Page 4.

1.3. Unauthorised building work

We are aware of unauthorised building work on the properties in contravention of the MPBL. The property owner has acted in good faith and has appointed consultants to preparing applications to Municipality to determine an administrative penalty in terms of section 129 of the MPBL.

However, it is binding precedent in this division Western Cape – when a Municipality considers an application, they need to consider the stated intention of the application on its merit and not alleged conduct on site. It is the stated intent of applicants as set out in this application which needs to be adjudicated. [1]

[1] Walker vs CoCT & others [2024] ZAWCHC 21 (19 February)

2. APPLICATIONS

Applications are submitted in terms of the City of Cape Town Municipal Planning By-law, 2015 ("the MPBL"), as follows:

- ***Consolidation*** of the 4 properties in terms of ***section 42(f)***.
- ***Rezoning*** of the consolidated property from GR2/SR1 to GR4 in terms of ***section 42(a)***.
- ***Consent use*** to permit a hotel on the GR4 zoned property in terms of ***section 42(i)***.
- ***Permanent departures*** from the provisions of the development management scheme, in terms of ***section 42(b)***:
    - To depart from the provisions of ***item 190(2)*** to permit a building which is 6-storeys tall on the Houghton Road stack of storeys of the property in lieu of 3-storeys as defined by the Camps Bay and Bakoven local area (LAO/9).

Note 1: the four individual dwellings are approved structures which do not exceed the three-storey limitation of this regulation as individual structures, and no additional storeys are proposed to be built on top of the approved buildings.

Therefore, insofar as built form and impact are concerned, the development remains within that which the overlay seeks to protect. It is only due to the consolidation of the properties and renaming of stories that this academic departure is required.

The following regulation departures are required to rationalise the approved buildings in terms of the proposed rezoning to General Residential subzone 4.

- ***Item 41(a)*** to permit a coverage of 81% in lieu of 60%.
- ***Item 41(b)*** to permit the floor factor to be 1.64 in lieu of 1.5.
- ***Item 41(e)*** to permit the building (portion of basement above EGL) to be 0m in lieu of 4.5m from the Victoria Road street boundary.
- ***Item 41(e)*** to permit the building (fourth storey in Houghton Road stack) to be 3.1m in lieu of 4.5m from the Houghton Road street boundary.

In terms of ***items 41(e)(i) and (aa)*** for portions of the buildings which lie outside of the area measured 18m from street boundaries and within 4,5m of the common boundaries:

- to permit the building at the third storey to be:
    - 3m in lieu of 4.5m from the northeastern common boundary with erf 2566,
    - 3m in lieu of 4.5m from the southeastern common boundary with erf 104
- to permit the building at the Victoria Road trafficable roof level (fourth storey) to be 3m in lieu of 7.2m from the northeastern common boundary with erf 2566.
- to permit the building at the fourth storey to be:
    - 3m in lieu of 7.14m from the northeastern common boundary with erf 2566,
    - 2.88m in lieu of 5.74m from the northern common boundary with erf 98,
    - 1.57m in lieu of 7.34m from the northeastern common boundary with erf 104, and
    - 3m in lieu of 6.06m from the southwestern common boundary with erf 97.
- to permit the building at the fifth storey to be:
    - 3.1m in lieu of 7.3m from the northern common boundary with erf 98,
    - 3m in lieu of 9.1m from the northeastern common boundary with erf 104, and
    - 3m in lieu of 7.38m from the southwestern common boundary with erf 97.
- to permit the building at the sixth storey to be:
    - 3.1m in lieu of 7.56m from the northern common boundary with erf 98,
    - 3m in lieu of 10.7m from the northeastern common boundary with erf 104, and

- 3m in lieu of 7.55m from the southwestern common boundary with erf 97.

- ***Removal*** *and* ***amendment*** *of restrictive title deed conditions* in terms of ***section 42(j)***, and ***section 42(g)*** as the conditions also function as ***conditions of approval***, as listed in section 6 hereunder.

3. SUPPORTING DOCUMENTATION

The following documentation are submitted in support of the proposed applications:

- Land use application forms
- Minute of the pre-application consultation
- Power of attorney and company resolution
- Copy of the title deeds
- Conveyancer certificate and notarial deed of servitude cancellation
- SG diagrams, township GP, and noting sheet extract
- Proposed plan of consolidation
- Proposed development plans and elevations
- HWC confirmation of no heritage triggers
- Professional valuer's commentary
- Attorney's commentary and motivation
- Approved building plans

4. PROPERTY DETAIL, LOCATION AND CONTEXT

4.1. Property Information

Table 1: Property Information

Erf numbers	99	3338	101-RE	102-RE
Allotment area	Camps Bay			
Extents	613m^2	653m^2	536m^2	338m^2
Street addresses	5 Houghton Road	7 Houghton Road	141 Victoria Road	139 Victoria Road
Current Zoning	SR1	GR2	SR1	SR1



Figure 1: Zoning, properties outlined in red (source: CoCT Map Viewer)

Note 2: A CoCT zoning viewer anomaly has maintained the portions of erven 101 & 102 that have been consolidated with erf 100 into erf 3338. See below consolidation diagram which has been ***registered*** with Title Deed no.

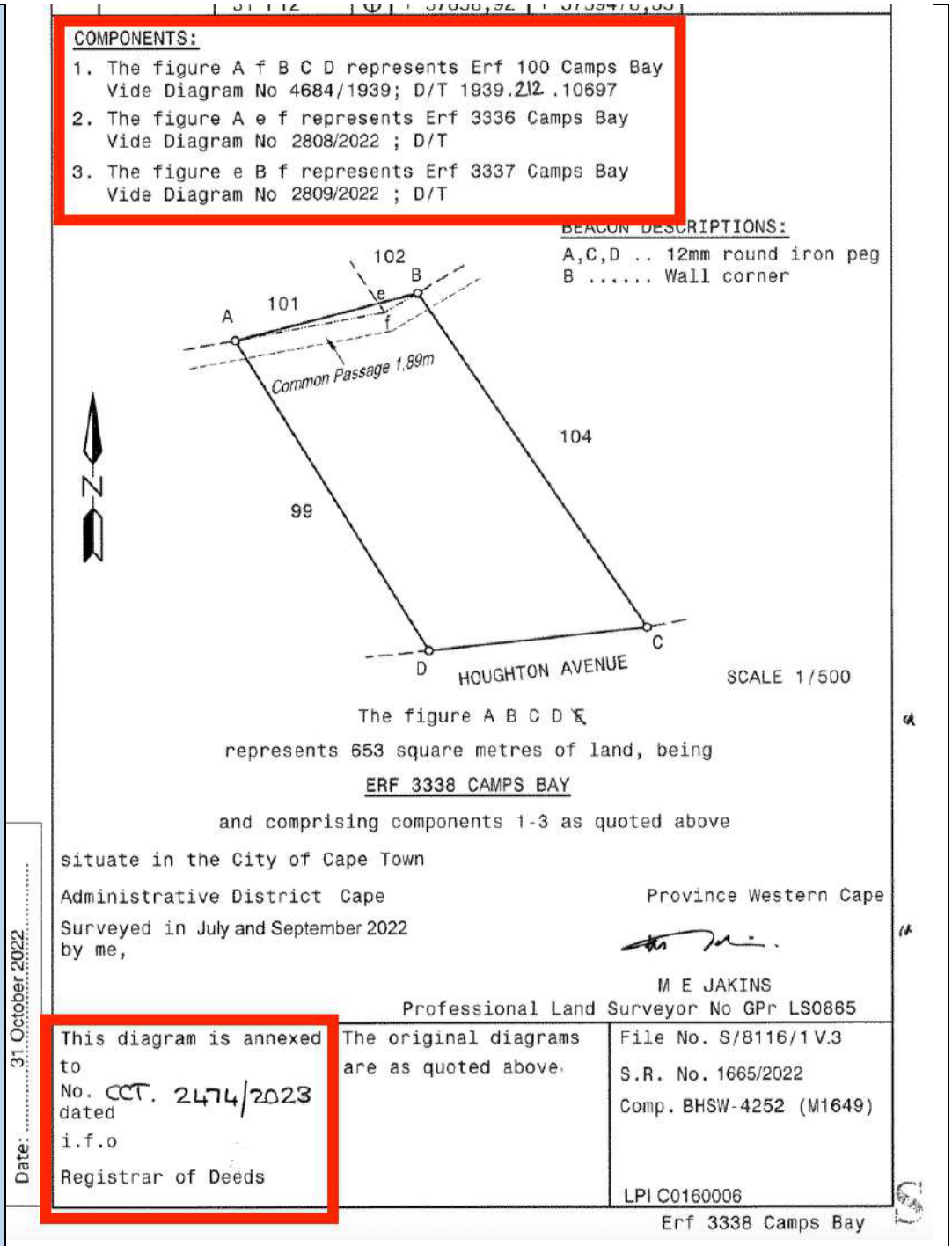


Figure 2: Extracted SG diagram of consolidated erf 3338 Camps Bay

Property Diagrams	A1941/1927	2810/2022	A2493/1926	A1346/1927
Noting Sheet Extract	M1649 (Comp. BHSW-4252)			
Registered Owner				
Title Deeds				
Restrictive Conditions	Yes, see section 6 hereunder.			
Subject to Servitudes	No, common passage servitudes cancelled by court order.			
Current Land Use	Buildings under construction			
Previous Approvals	• Subdivision of erven 101 & 102 Camps Bay and consolidation with erf 100 Camps Bay (Case ID: 70620709) • Approved building plans, see section 1.2.			

Subject to NHRA / NEMA Application	NHRA: No, see response from Heritage Western Cape uploaded to the DAMS portal. NEMA: Applicability checklist submission underway.
Special/ Conservation Area	Camps Bay/Bakhoven Local Area Overlay Zone (LAO9)

4.2. Locality and Access

The four properties occupy an area between Houghton and Victoria Roads on the southern edge of Camps Bay adjacent Bakhoven, the local area is known as Barley Bay. As a result, the properties fall within the City of Cape Town Municipality's Table Bay District and are administered by the same.

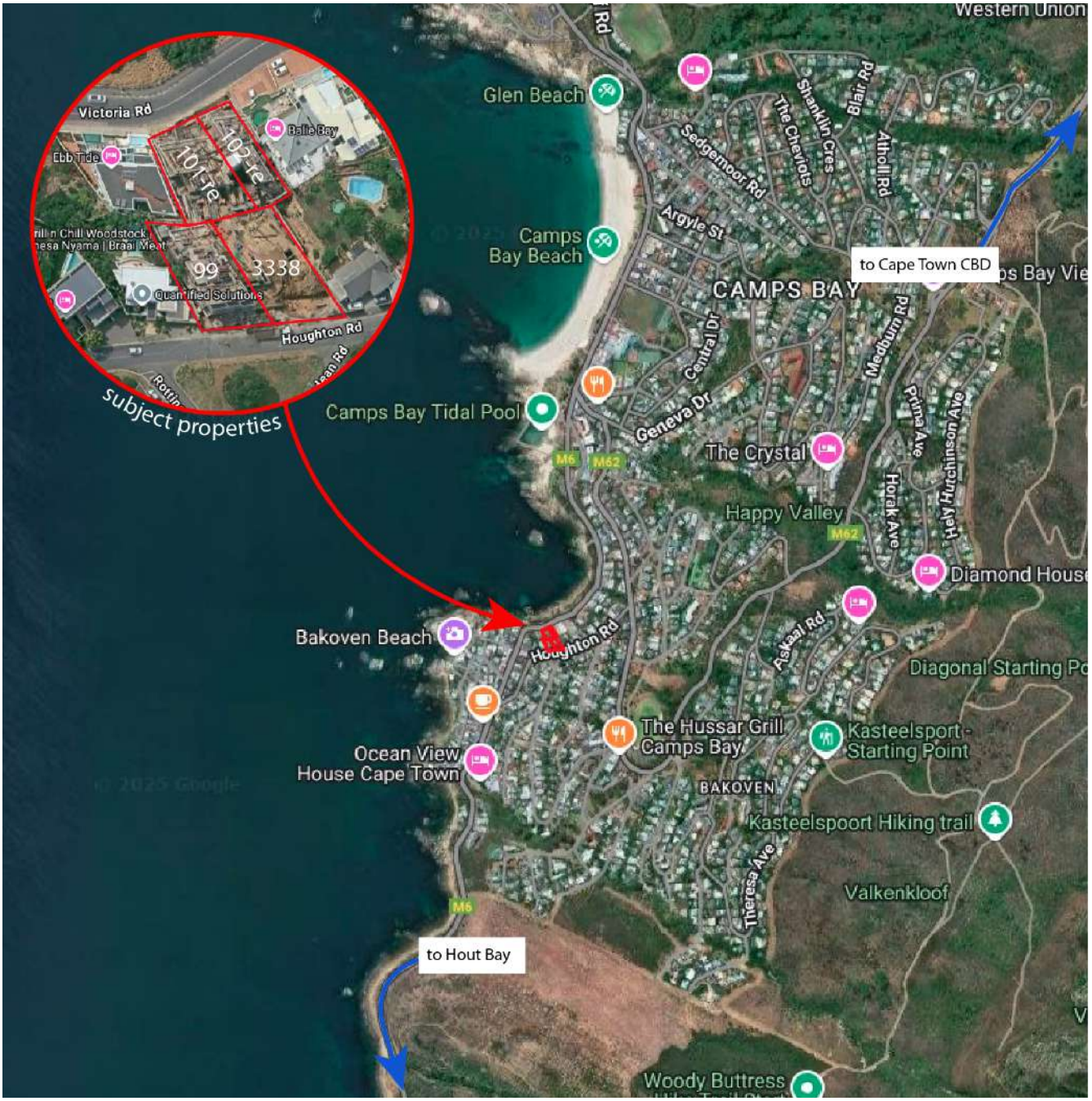


Figure 3: Locality

Erven 99 and 3338, the southern properties, take access from Houghton Road. Remainder erven 101 & 102 take access directly from Victoria Road.

5. DEVELOPMENT PROPOSAL

5.1. Proposed Boutique Hotel

The property owners have identified the potential to convert the approved dwellings on the properties into an upmarket 28 key (room) boutique hotel – incorporating a 4-bedroom penthouse suite – which takes advantage of the accessibility and amenity of the site and its proximity to tourist attractions such as the V&A Waterfront, the Atlantic blue flag beaches, amongst others.

By consolidating the properties and making internal structural changes, the four dwellings will be combined into a coherent hotel building which abuts Victoria Road to the north and Houghton Road to the south and takes access from both.

The structure contains a basement parking level at grade with Victoria Road, and structured parking on the second storey. The existing access on Houghton Road is used, with at least 12m stacking and a vehicle lift to provide access to the structured parking areas on the second storey.

Habitable storeys above the basement provide space for hotel rooms, internal communal areas (lounges and studies), and outdoor amenity areas (pools, terraces). Included are a breakfast terrace under cover but open to the elements on the ocean facing side, and a bar and restaurant which will be open for hotel guests and for the public.

Importantly, the outside built form of the structure remains in keeping with the built form of the four individual buildings and therefore conforms to the goals of the local overlay zoning height expectations.

5.1.1. Hotel rooms

28 hotel suites are proposed (including a 4-bedroom penthouse suite), taking advantage of the views towards the Atlantic over Victoria Road. Each suite is fitted with an en-suite bathroom and a small balcony which is open to the elements on its long side so that guests can take in the views over the Atlantic coast.



Figure 4: Artist's rendering of the proposed hotel suites (source: Welwitschia Property Company)

5.1.2. Restaurant

A ~140m^2 restaurant is proposed on the , offering both hotel guests and the public the opportunity to experience a unique seafood inspired menu. The restaurant is adjacent to the hotel bar and communal leisure areas of the fourth storey.



Figure 5: Artist's rendering of the proposed restaurant (source: Welwitschia Property Company)

5.1.3. Spa/wellness centre

A spa that is reserved exclusively for hotel guests is located on the second storey. It contains a limited number (2) of treatment rooms and a small garden with outdoor shower and cold plunge pool.

5.1.4. Amenity areas

Internal amenity areas include a lounge on the third storey with associated patio areas adjacent to the restaurant area. A small private terrace garden lies directly adjacent to the hotel rooms on the third storey.

On the fourth storey on the ocean side of the restaurant and lounge areas, two swimming pools within terraces are proposed which also incorporate a bar adjacent to the restaurant.



Figure 6: Artist's rendering of terrace area adjacent to swimming pools and hotel bar (source: Welwitschia Property Company)

5.1.5. Service areas/Back of house

Back of house is incorporated into the building as follows:

- Kitchen and associated cold rooms, freezers
- Staff areas, canteen, changerooms, and ablutions
- Housekeeping, cleaning, and linen stores
- Offices for hotel management
- Laundry
- Server rooms

5.1.6. Refuse removal

A refuse room (compliant with the DMS) is located within the first storey in the Houghton Road building. Refuse bins will exit via the vehicle lift on refuse collection days to the Houghton Road Street boundary.

5.2. Consolidation

It is proposed to consolidate the four properties into a single land unit measuring approximately 2140m^2 in extent. This makes allowance for the amalgamation of the 4 individual dwellings into a single building which will house the proposed boutique hotel, its associated facilities, and off-street parking.

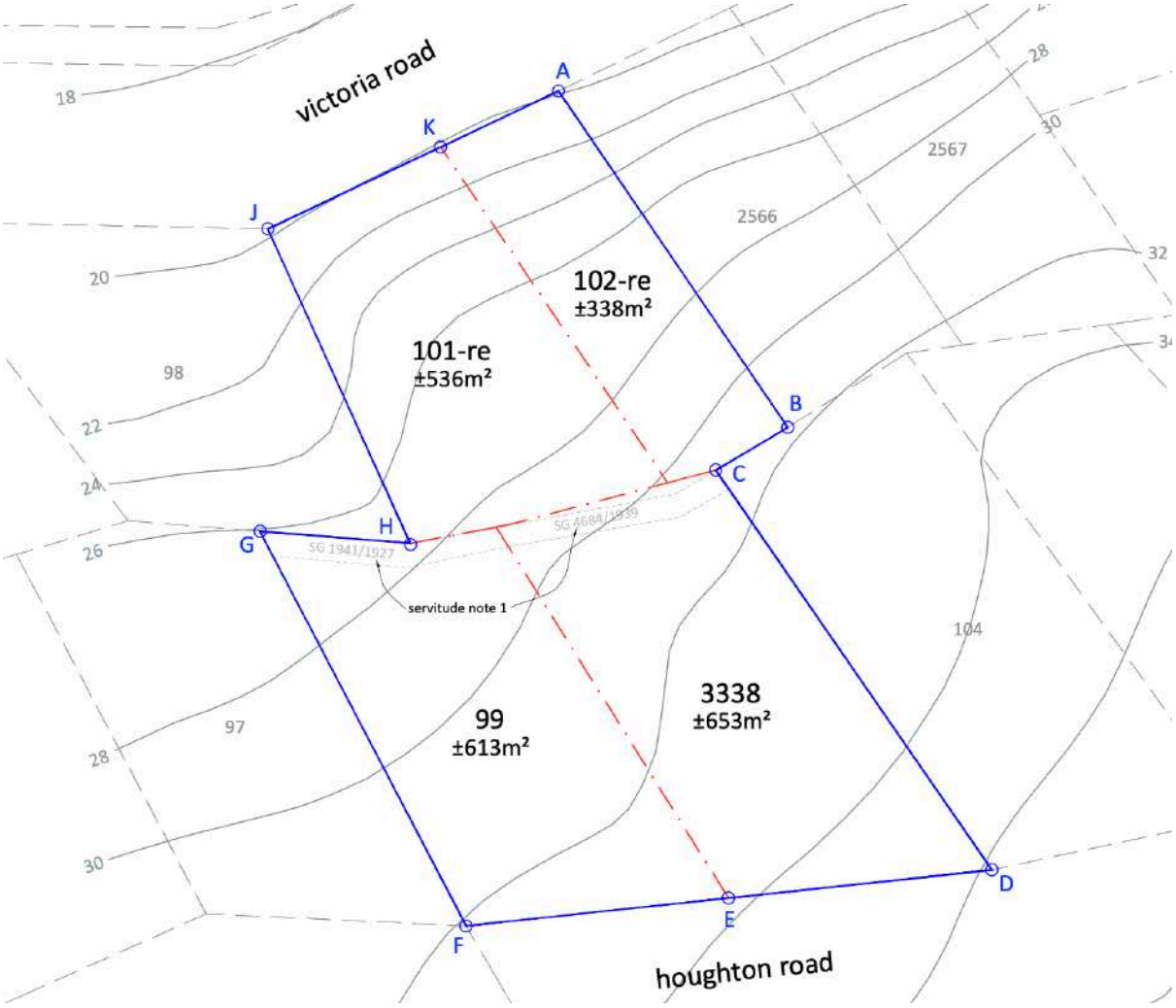


Figure 7: Extract from the proposed plan of consolidation

The massing of the structures remains, by design, the same as the massing of the structures that are approved on the four individual sites.

The architects have prepared massing diagrams indicating the extents of the R1/GR2 development rules envelope per site to compare with the proposed GR4 development rules envelope for the consolidated properties and structures. These are extracted in fig. 7 below and in the development drawings pack sheet 7.

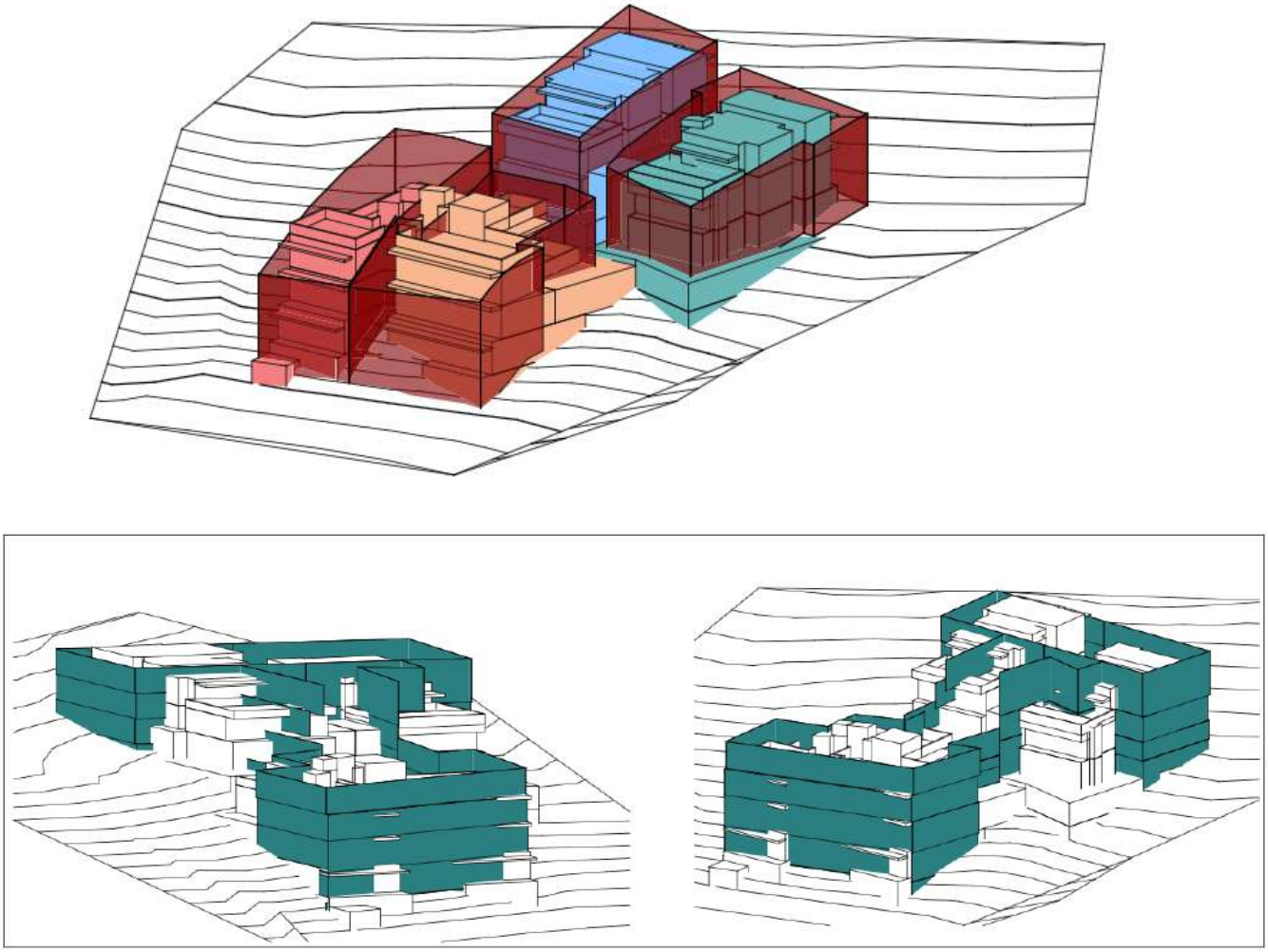


Figure 8: Comparative massing pre- (above indicating R1/GR2 envelopes) and post- (below indicating GR4 envelope) consolidation (source: Gerd Weideman Architects)

5.3. Rezoning

To remain consistent with the surrounding residential character, a rezoning is proposed from the current split of Single Residential 1 (SR1) and General Residential 2 (GR2) sub-zones to the General Residential 4 (GR4) sub-zoning which is well accounted for in the surrounding area for sectional title and hotel developments.

Rezoning of the consolidated site to GR2 sub-zone was considered. However, the floor factor of the consolidated structure would result in a departure to alter the development rules that exceeds 10% of the maximum floor space permitted under the GR2 zone (MPBL section 99(1)(d)(ii)) and therefore, GR4 was deemed more appropriate.

Full analysis of the GR4 zoning development rules is included under section 7.5 (table 3).

5.4. Consent Use

In addition to the rezoning, a consent use is required and applied for the hotel land use. A general residential sub-zoning (as opposed to a general business sub-zoning) does not contain hotel as a primary land use right. Therefore, to retain a residential fit the consent is deemed a more appropriate mechanism.

5.5. Permanent departures from the provisions of the development management scheme

Departures from floor factor, coverage, building lines, and from the 3-storey height restriction of the local area overlay zone are required, as a result of the consolidation and to rationalise the combined structure in terms of the DMS. These departures are technical in nature and should be read in this context given the approved dwellings that exist. **The overall external built form remains per the approved envelope of the dwelling houses under construction.** Internal and circulation changes make the necessary conversion from dwellings to hotel with associated amenities.

See section 7.5 (table 3) for DMS regulation analysis.

6. RESTRICTIVE TITLE DEED CONDITIONS

A title deed search was conducted by conveyancer Ilhaam Natheson who has prepared the conveyancer's certificate attached to the application. The title deed conditions have been confirmed by the conveyancer to be removed on a voluntary basis by the landowner because they were imposed by an original developer prior to Ordinance 33 of 1934.

Table 2: Summary of applicable Title Deeds

Erf Number	Applicable Title Deeds	Historic Title Deeds
Erf 99 Camps Bay		
Erf 3338 Camps Bay		
Erf 101-RE Camps Bay		
Erf 102-RE Camps Bay		

6.1. Removal of restrictive conditions

6.1.1. Erf 99, Camps Bay – Title Deed no.

Condition C.5.(h) "The purchaser shall not be entitled to enclose the ground with an unsightly fence and, before erecting any fence or enclosure, shall be bound to obtain the written approval of the company, as owners of the Estate as a whole, to the material and mode of erection. Any fence, enclosure or structure of that nature not approved by the Company, shall be removed on demand, failing which the Company shall be entitled to compel compliance by Order of any competent Court."

By the deletion thereof.

6.1.2. Erf 3338, Camps Bay – Certificate of Consolidated Title no. T2474/2023

This Certificate of Consolidated Title includes the following consolidated components:

- Erf 100 Camps Bay, dealt with in 6.1.2.1 hereunder.
- Erf 3336 Camps Bay, a portion of erf 101 Camps Bay, dealt with in 6.1.2.2 hereunder.
- Erf 3337 Camps Bay, a portion of erf 102 Camps Bay, dealt with in 6.1.2.3 hereunder.

6.1.2.1. Clause I. "As regards to figure AfBCD diagram SG no 2810/2022:"

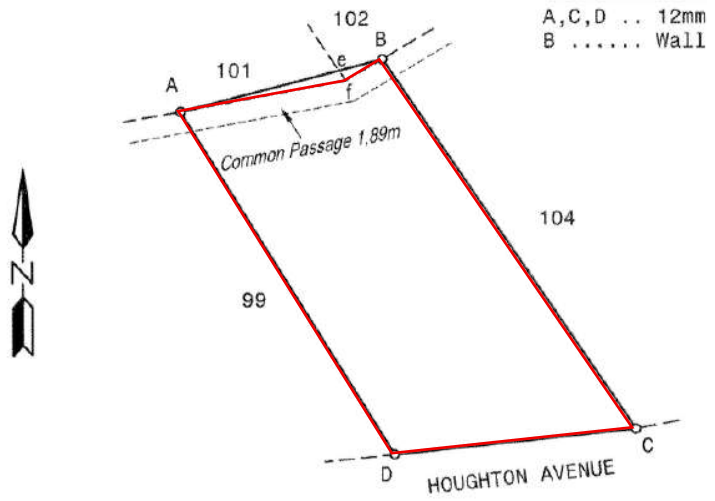


Figure 9: Component AfBCD figure of erf 3338 Camps Bay

Condition I.B.6.(i) "No erection of wood or iron shall be permitted without the special sanction of the Company, and the material to be used for the fencing of the land and the mode of erection thereof, shall be subject to the approval of the Company, but in no case shall any fencing with galvanised iron be allowed."

By the deletion thereof.

Condition I.B.6.(k) No roof constructed of corrugated iron shall be permitted.

By the deletion thereof.

Preamble to Condition I.B.6.(n) "The said plot has been sold subject to the following further special conditions imposed and enforceable by the Council of the City of Cape Town and endorsed under General Plan E411/25B namely:-"

Conditions I.B.6.(n)(1) and (2):

"1. That a space of not less than 3,15 metres in width be left in front of all lots fronting or abutting road 12,59 metres, such space may be utilised as gardens or forecourts.

2. That not more than one building be erected on any one lot and that not more than one-third of the area of any one lot shall be built upon."

By the deletion of both 1. & 2. thereof.

6.1.2.2. <u>Clause II. "As regards to figure Aef diagram SG no 2810/2022:"</u>

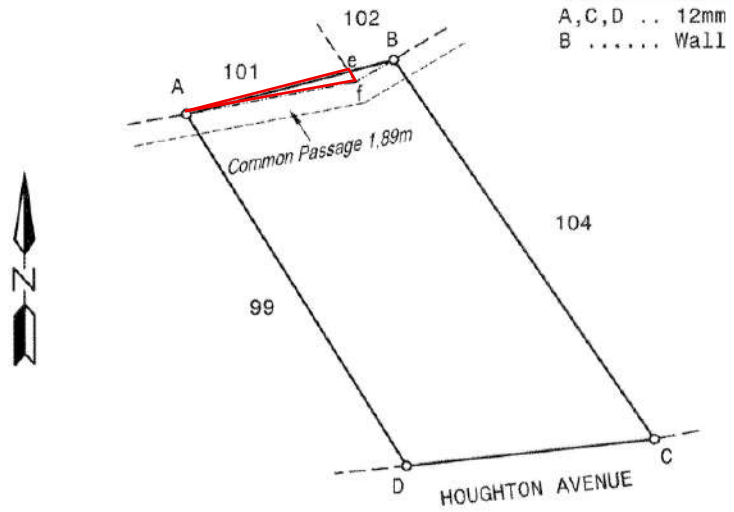


Figure 10: Component Aef figure of erf 3338 Camps Bay

Condition II.C.14a. "The Purchaser of this Lot or Lots shall not erect or cause to be erected any building of less value than £600 – exclusive of the value of the land. Such building must be used as a dwelling-house only, and no two or more dwelling-houses shall be erected under one roof, or attached to one another. No more than one house on any lot."

By the deletion thereof.

Condition II.C.c. "Purchasers shall likewise be obliged to setback such building or buildings to a line or building frontage approved by the Council, in the case of lots abutting on Victoria Road, near Bakoven 15 feet from such road and Lots not abutting on Victoria Road shall be 15 feet from the back of the footpath or the nearest road which space may be used as a garden or forecourt."

By the deletion thereof.

Condition II.C.e. "That no sky-sign or advertisements of any nature shall be exhibited on or painted on the walls or roof of any building, hoarding or structure on the said Lot or anywhere on the said lot or lots."

By the deletion thereof.

Condition II.C.g. "No erection of wood or iron shall be permitted without the special sanction of the Company."

By the deletion thereof.

Condition II.C.h. "The purchaser shall not be entitled to enclose the ground with any unsightly fence and before erecting any fence or enclosures shall be bound to obtain the written approval of the Company as owners of the estate as a whole to the material and mode of erection. Any fence, enclosure or structure of that nature not approved by the Company shall be removed on demand, failing which the Company shall be entitled to compel compliance by order of any competent Court."

By the deletion thereof.

Condition II.C.j. "Any roof constructed of corrugated iron must be painted an approved colour and kept so painted by the owner an occupier."

By the deletion thereof.

6.1.2.3. Clause III. "As regards to figure eBf diagram SG no 2810/2022:"

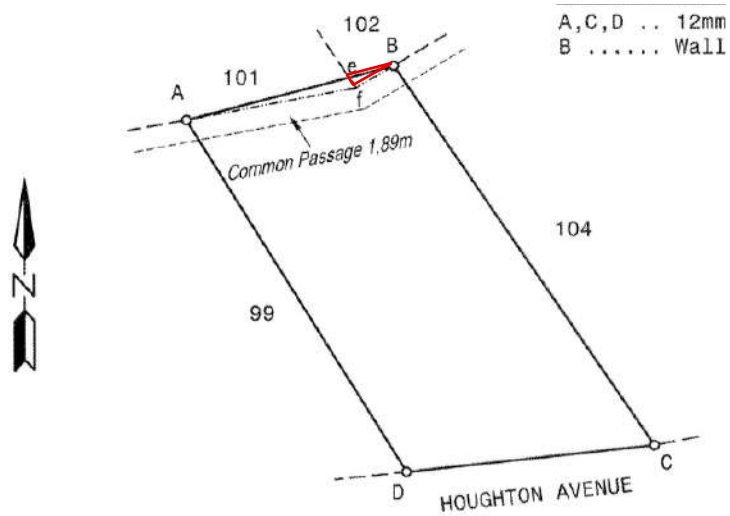


Figure 11: Component eBF figure of erf 3338 Camps Bay

Condition III.C."14.(a) "The Purchaser of this Lot or Lots shall not erect or cause to be erected any building of less value than £600 - exclusive of the value of the land. Such building must be used as a dwelling-house only, and no two or more dwelling-houses shall be erected under one roof, or attached to one another. No more than any one house on any lot."

By the deletion thereof.

Condition III.C. c. "Purchasers shall likewise be obliged to setback such building or buildings to a line or building frontage approved by the Council, in the case of lots abutting on Victoria Road, near Bakoven 15 feet from such road and Lots not abutting on Victoria Road shall be 15 feet from the back of the footpath or the nearest road which space may be used as a garden or forecourt."

By the deletion thereof.

Condition III.C.e. "That no sky-sign or advertisements of any nature shall be exhibited on or painted on the walls or roof of any building, hoarding or structure on the said Lot or anywhere on the said lot or lots."

By the deletion thereof.

Condition III.C.g. "No erection of wood or iron shall be permitted without the special sanction of the Company."

By the deletion thereof.

Condition III.C.h. "The purchaser shall not be entitled to enclose the ground with any unsightly fence and before erecting any fence or enclosures shall be bound to obtain the written approval of the Company as owners of the estate as a whole to the material and mode of erection. Any fence, enclosure or structure of that nature not approved by the Company shall be removed on demand, failing which the Company shall be entitled to compel compliance by order of any competent Court."

By the deletion thereof.

Condition III.C.j. "Any roof constructed of corrugated iron must be painted an approved colour and kept so painted by the owner an occupier."

By the deletion thereof.

6.1.3. Erf 3338 Camps Bay– Title Deed no. (historic deed of transfer)

Preamble to Condition 6. "The Transferee and any future proprietors shall moreover be bound by the following conditions:-"

Condition 6.(a) "That he shall not erect any building on any lot of less value than £800:0:0 sterling; except with the approval and the written permission of the Company, such building moreover must be a dwelling house and no two or more dwelling houses shall be erected under one roof, nor shall more than one dwelling house be erected on any one lot, and such dwelling house shall not be used as a flat or flats."

By the deletion thereof.

Note 3: This condition is not verbatim that which contained in the holding deed no. and therefore, it is necessary to also amend it within the historic deed.

6.1.4. Remainder of erf 101 and 102 Camps Bay – Title Deed no.

Condition 1.C."14(a) "The purchaser of this Lot or Lots shall not erect or cause to be erected on any building of less value than £600 – exclusive of the value of the land. Such building must be used as a dwelling house only, and no two or more dwelling-houses shall be erected under one roof, or attached to one another. No more than one house on any lot."

By the deletion thereof.

Condition 1.C.c. "Purchasers shall likewise be obliged to setback such building or buildings to a line or building frontage approved by the Council, in the case of lots abutting on Victoria Road, near Bakoven 15 feet from such road and Lots not abutting on Victoria Road shall be 15 feet from the back of the footpath or the nearest road which space may be used as a garden or forecourt."

By the deletion thereof.

Condition 1.C.e. "That no sky-sign or advertisements of any nature shall be exhibited on or painted on the walls or roof of any building, hoarding or structure on the said Lot or anywhere on the said lot or lots".

By the deletion thereof.

Condition 1.C.g. "No erection of wood or iron shall be permitted without the special sanction of the Company."

By the deletion thereof.

Condition 1.C.h. "The purchaser shall not be entitled to enclose the ground with any unsightly fence and before erecting any fence or enclosures shall be bound to obtain the written approval of the Company as owners of the estate as a whole to the material and mode of erection. Any fence, enclosure or structure of that nature not approved by the Company shall be removed on demand, failing which the Company shall be entitled to compel compliance by order of any competent Court."

By the deletion thereof.

Condition 1.C.j. "Any roof constructed of corrugated iron must be painted an approved colour and kept so painted by the owner an occupier."

By the deletion thereof.

6.1.5. Title Deed no.

Note 4: The following condition was carried forward with a spelling error in the first line "of" became "or" in restrictive condition 1.C.c. contained in Title Deed no. (see 6.4.1. above) and therefore must be removed in abundance of caution.

Condition 1.C.c. "Purchasers shall likewise be obliged to set back such building or buildings to a line of building frontage approved of by the Council, in the case of lots abutting on Victoria Road, near Bakoven 15 feet from such road and lots not abutting on Victoria Road shall be 15 feet from the back of the footpath of the nearest road which space may be used as a garden or forecourt."

By the deletion thereof.

6.2. Amendment of title deed restrictions

6.2.1. Erf 99, Camps Bay Title Deed no.

Condition C.5.(a) "He shall not erect any building on any lot of less value than £800 sterling; such building moreover must be a dwelling house and no two or more dwelling houses shall be erected under one roof, nor shall more than one house be erected on any one lot."

To be amended as follows (our ~~strikethrough~~ for deleted wording):

Condition C.5.(a) "He shall not erect any building on any lot of less value than £800 sterling; ~~such building moreover must be a dwelling house and no two or more dwelling houses shall be erected under one roof, nor shall more than one house be erected on any one lot.~~"

Condition C.5.(b) "He may however, build such additional and necessary adjuncts such as stables, coach houses and garage and all other necessary outbuildings as are usual for the convenience and comfortable habitation of any dwelling house so erected, subject to Municipal Regulations."

To be amended as follows (our ~~strikethrough~~ for deleted wording and **bold underline** for additional wording):

Condition C.5.(b) "He may however, build such additional and necessary adjuncts such as stables, coach houses and garage and all other necessary outbuildings as are usual for the convenience and comfortable habitation of any ~~dwelling house~~ **hotel** so erected, subject to Municipal Regulations."

Condition C.5.(g) "No shop business of any kind, nor any noisome, injurious or objectionable trade or business of any kind shall be carried on in any building erected on the said property or any part of the said property, nor shall any advertisement be painted on or exhibited on the walls or roofs of any building, hoarding or structure on the said property."

To be amended as follows (our ~~strikethrough~~ for deleted wording and **bold underline** for additional wording):

Condition C.5.(g) "No shop business of any kind, nor any noisome, injurious or objectionable trade or business of any kind shall be carried on in any building erected on the said property or any part of the said property, **except for a hotel, with restaurant, bar and spa facilities.** ~~nor shall any advertisement be painted on or exhibited on the walls or roofs of any building hoarding or structure on the said property~~ **The hotel is permitted to advertise the hotel with restaurant bar and spa facilities only, to the exclusion of any third party advertisement**."

6.2.2. Erf 3338, Camps Bay – Certificate of Consolidated Title no.

6.2.2.1. Clause I. "As regards to figure AfBCD diagram SG no 2810/2022:"

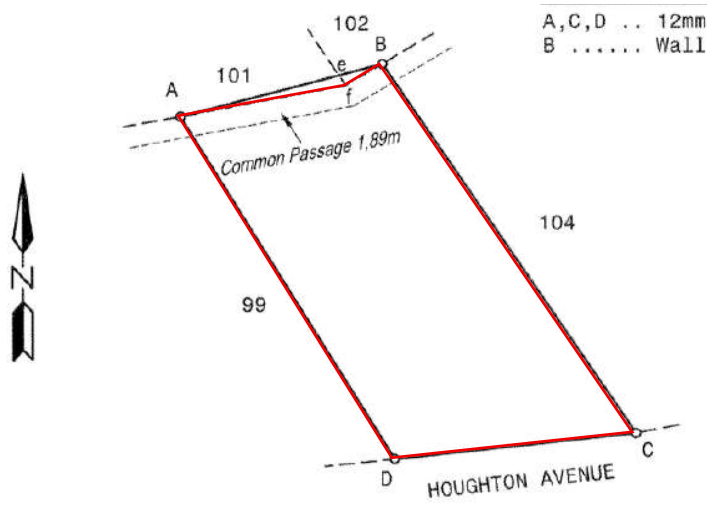


Figure 12: Component AfBCD figure of erf 3338 Camps Bay

Preamble to Condition I.B.6. "The Transferee and any future proprietors shall moreover be bound by the following special conditions:-"

Condition I.B.6.(a) "That he shall not erect any building on any lot of less value than R1 600.00, except with the approval and the written permission of the Company, meaning The Cape Marine Suburbs Limited, such building moreover must be a dwelling house and no two or more dwelling houses shall be erected under one roof, nor shall more than one dwelling house be erected on any one lot, and such dwelling house shall not be used as a flat or flats."

To be amended as follows (our ~~strikethrough~~ for deleted wording):

Condition I.B.6.(a) "That he shall not erect any building on any lot of less value than R1 600.00~~, except with the approval and the written permission of the Company, meaning The Cape Marine Suburbs Limited, such building moreover must be a dwelling house and no two or more dwelling houses shall be erected under one roof, nor shall more than one dwelling house be erected on any one lot, and such dwelling house shall not be used as a flat or flats~~."

Condition I.B.6.(b) "That he may, however, build such additional and necessary adjuncts such as a garage or other necessary outbuildings as are usual for the convenience and comfortable habitation of any dwelling house so erected subject to the Municipal Regulations."

To be amended as follows (our ~~strikethrough~~ for deleted wording and **bold underline** for additional wording):

Condition **I.**B.6.(b) "That he may, however, build such additional and necessary adjuncts such as a garage or other necessary outbuildings as are usual for the convenience and comfortable habitation of any ~~dwelling house~~ **hotel** so erected subject to the Municipal Regulations."

Condition I.B.6.(c) "That no shop or business of any kind shall be carried on in any such building or on the said land. No building shall be erected upon the said land unless the plans in duplicate and specifications therefor have been previously submitted to and approved by the Company, and every building which shall be commenced on the said land shall be completed without delay strictly in accordance with the whole of such approved plans and specifications. One copy of such plans shall be retained by the Company."

To be amended as follows (our ~~strikethrough~~ for deleted wording):

Condition I.B.6.(c) "~~That no shop or business of any kind shall be carried on in any such building or on the said land.~~ No building shall be erected upon the said land unless the plans in duplicate and specifications therefor have been previously submitted to and approved by the Company, and every building which shall be commenced on the said land shall be completed without delay strictly in accordance with the whole of such approved plans and specifications. One copy of such plans shall be retained by the Company."

Condition I.B.6.(d) "That no noisome, injurious, objectionable trade or business of any kind shall be carried on in any such dwelling house or building or on the said land."

By the amendment of the condition as follows (our **bold underline** for additional wording):

Condition **I.**B.6.(d) "That no noisome, injurious, objectionable trade or business of any kind shall be carried on in any such dwelling house or building or on the said land, **except for a hotel, with restaurant, bar and spa facilities.**"

Condition I.B.6.(h) "That no advertisement, name or lettering of any unsightly size, colour or character, shall be painted on or affixed to any wall, building or structure on the property and no advertisements, name or lettering of any kind shall be painted on or affixed to the roof of any building on the property, and no washing or any other such articles shall be exposed to view on the premises in a n unsightly manner."

To be amended as follows (our ~~strikethrough~~ for deleted wording and **bold underline** for additional wording):

Condition I.B.6.(h) "~~That no advertisement, name or lettering of any unsightly size, colour or character, shall be painted on or affixed to any wall, building or structure on the property and no advertisements, name or lettering of any kind shall be painted on or affixed to the roof of any building on the property, and no washing or any other such articles shall be exposed to view on the premises in an unsightly manner~~ **The hotel is permitted to advertise the hotel with restaurant bar and spa facilities only, to the exclusion of any third party advertisement**."

6.2.2.2. Clause II. "As regards to figure Aef diagram SG no 2810/2022:"

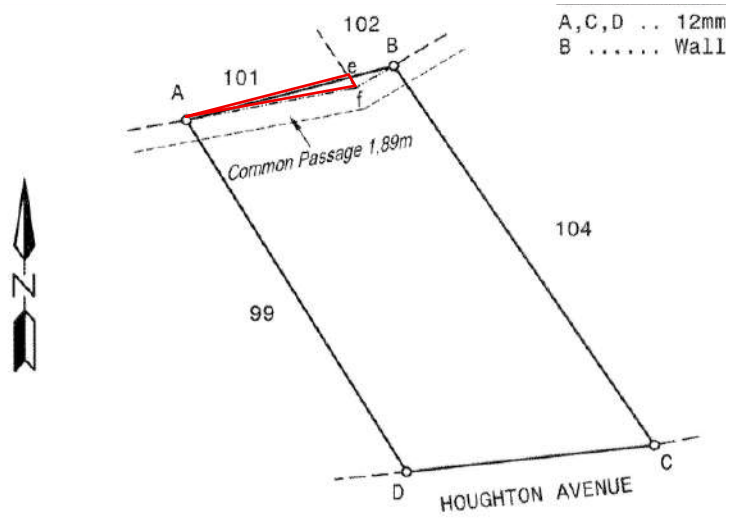


Figure 13: Component Aef figure of erf 3338 Camps Bay

Condition II.C.b. "The Purchasers may, however, build such additional and necessary adjuncts, such as stable, garage and all necessary outbuildings as are usual for the convenience and comfortable habitation of the said dwelling."

To be amended as follows (our ~~strikethrough~~ for deleted wording and **bold underline** for additional wording):

Condition **II.**C.b. "The Purchasers may, however, build such additional and necessary adjuncts, such as stable, garage and all necessary outbuildings as are usual for the convenience and comfortable habitation of the said ~~dwelling~~ **hotel**."

Condition II.C.d. "That no shop, business of any kind, laundry, abattoir, brickmaking, bar, bottle-store, or any dealing in spiritous liquor shall be carried on in any such building or adjuncts or on the said land."

To be amended as follows (our ~~strikethrough~~ for deleted wording and **bold underline** for additional wording):

Condition **II.**C.d. "That no ~~shop, business of any kind, laundry,~~ abattoir, brickmaking, ~~bar,~~ bottle-store, or any dealing in spirituous liquor **other than on-site consumption sales of liquor, by a hotel with restaurant, bar and spa facilities** shall be carried on in any such building or adjuncts or on the said land."

Condition II.C.l. "No noisome or injurious or objectionable trade or business of any kind shall be carried on in any such dwelling house or buildings or on any part of the said plot."

To be amended as follows (our **bold underline** for additional wording):

Condition II.C.l. "No noisome or injurious or objectionable trade or business of any kind shall be carried on in any such dwelling house or buildings or on any part of the said plot**, with the exception of a hotel, with restaurant, bar, and spa facilities**."

6.2.2.3. Clause III. "As regards to figure eBf diagram SG no 2810/2022:"

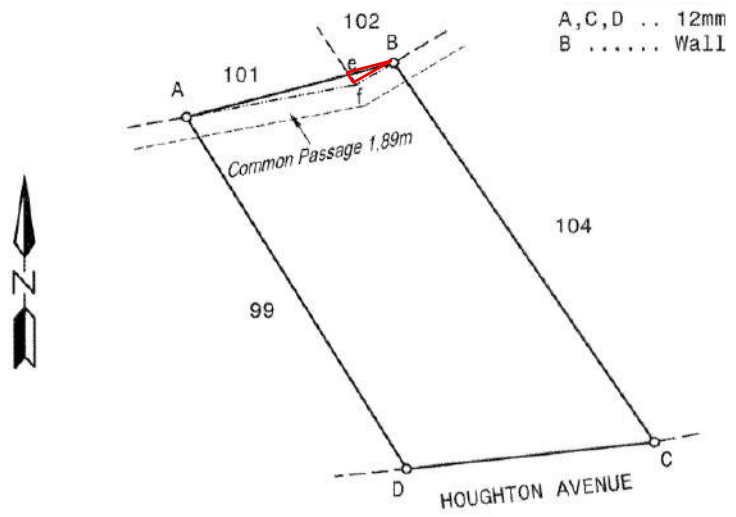


Figure 14: Component eBF figure of erf 3338 Camps Bay

Condition III.C.b. "The Purchasers may, however, build such additional and necessary adjuncts, such as stable, garage and all necessary outbuildings as are usual for the convenience and comfortable habitation of the said dwelling."

To be amended as follows (our ~~strikethrough~~ for deleted wording and **bold underline** for additional wording):

Condition **III.**C.b. "The Purchasers may, however, build such additional and necessary adjuncts, such as stable, garage and all necessary outbuildings as are usual for the convenience and comfortable habitation of the said ~~dwelling~~ **hotel**."

Condition III.C.d. "That no shop, business of any kind, laundry, abattoir, brickmaking, bar, bottle-store, or any dealing in spiritous liquor shall be carried on in any such building or adjuncts or on the said land."

To be amended as follows (our **bold underline** for additional wording):

Condition III.C.d. "That no ~~shop, business of any kind, laundry,~~ abattoir, brickmaking, ~~bar,~~ bottle-store, or any dealing in spirituous liquor **other than on-site consumption sales of liquor, by a hotel with restaurant, bar and spa facilities** shall be carried on in any such building or adjuncts or on the said land."

Condition III.C.l. "No noisome or injurious or objectionable trade or business of any kind shall be carried on in any such dwelling house or buildings or on any part of the said plot."

To be amended as follows (our **bold underline** for additional wording):

Condition III.C.l. "No noisome or injurious or objectionable trade or business of any kind shall be carried on in any such dwelling house or buildings or on any part of the said plot**, with the exception of a hotel, with restaurant, bar, and spa facilities.**"

6.2.3. Remainder of erf 101 and 102 Camps Bay – Title Deed no.

Condition 1.C.b. "The Purchasers may, however, build such additional and necessary adjuncts, such as stable, garage and all necessary outbuildings as are usual for the convenience and comfortable habitation of the said dwelling."

To be amended as follows (our ~~strikethrough~~ for deleted wording and **bold underline** for additional wording):

Condition 1.C.b. "The Purchasers may, however, build such additional and necessary adjuncts, such as stable, garage and all necessary outbuildings as are usual for the convenience and comfortable habitation of the said ~~dwelling~~ **hotel**."

Condition 1.C.d. "That no shop, business of any kind, laundry, abattoir, brickmaking, bar, bottle store or any dealing in spiritous liquor shall be carried on in any such building or adjuncts or on the said land."

To be amended as follows (our ~~strikethrough~~ for deleted wording and **bold underline** for additional wording):

Condition 1.C.d. "That no ~~shop, business of any kind, laundry,~~ abattoir, brickmaking, ~~bar,~~ bottle store or any dealing in spiritous liquor **other than on-site consumption sales of liquor, by a hotel with restaurant, bar and spa facilities** shall be carried on in any such building or adjuncts or on the said land."

Condition 1.C.l. "No noisome or injurious or objectionable trade or business of any kind shall be carried on in such dwelling house or buildings or on any part of the said plot."

To be amended as follows (our **bold underline** for additional wording):

Condition 1.C.l. "No noisome or injurious or objectionable trade or business of any kind shall be carried on in such dwelling house or buildings or on any part of the said plot **with the exception of a hotel, with restaurant, bar and spa facilities**."

7. MOTIVATION AND DESIRABILITY

7.1. Consistency with the applicable spatial development framework (MPBL, section 99 (1)(b))

The City of Cape Town Municipal Spatial Development Framework, 2023 – 2028 ("the MSDF") locates the site within the **Incremental growth and Consolidation (IGC)** spatial transformation area ("STA"), where investment is subject to capacity or existing inclusion in utilities master planning when serving proposed development.

The properties are located within the urban development edge and within the coastal edge as defined by the MSDF, 2023.



Figure 15: Extract from the MSDF 2023 thematic map 5D

The following table unpacks the various policy statements of the framework and establishes the development's compliance and alignment thereto.

Table 3: Application compliance with the MSDF, 2023

SPATIAL STRATEGY 1: PLAN FOR EMPLOYMENT AND IMPROVE ACCESS TO ECONOMIC OPPORTUNITIES	
Prioritise inclusive economic growth	**Compliance**
P1. Not applicable to the IGC spatial transformation area.	n/a
P2. Support and encourage investment (private & public) through improved access information, cross- sectoral planning and institutional efficiency.	Given the built envelope is already approved and actionable. The proposed consolidations only enhance the investment in the area through a more efficient development approach which is fit for purpose.
P3. Introduce land use policy reform and mechanisms that will support the development and growth of small businesses and township economies (both formal and less formal).	While not mandatory, the removal of restrictive township conditions from the title deeds of the properties is supported by a City led standard operating procedure ("SOP") which strongly suggests the removal of restrictive conditions from title deeds which limit use and development rules which are already governed by the development management scheme. Development of a relatively small hotel in Camps Bay will provide employment which has positive knock-on effects within the communities from where the staff are hired.
P4. Not applicable to the IGC spatial transformation area.	n/a
P5. Promote Cape Town as a globally competitive, diversified and productive city that supports a consolidated regional economy.	Strongly compliant, the Atlantic seaboard from Green Point Stadium and the V&A waterfront to Bakhoven is the playground of Cape Town's tourists and locals alike. The area has a strong tourist economy which is world renowned, and the proposed hotel will further bolster Camps Bay as a tourist destination and the productive economic activity that comes from that reputation.
Integrate land use, economic activities and transport planning that support the sustainable operation of the public transport network.	
P6. Not applicable to the IGC spatial transformation area.	n/a
P7. Plan and implement sustainable, high quality and human-scale public realm in and around transit precincts. These precincts must be legible and accessible to all and include universal access and non-motorised transport facilities and a public environment that is vibrant, inclusive and safe.	The development is not in and around a transit precinct.
P8. Support a strategic approach to parking allocations to encourage use of public transport.	Parking is provided on site at the required number of bays for the proposed land uses.
P9. Plan for incremental land use intensification and diversification in support of inward growth predicated on the public transport infrastructure, as outlined in Table 5.6	Given the location within an IGC STA, the compliance with the MSDF is based upon the available service infrastructure available in the surrounding are to support the development. The increase from 4 dwellings to a 28-room hotel is believed to be accounted for in the existing area which has adequate access to services. Any deficit will be made up for in development contributions payable upon the granting of development rights.
P10. Not applicable to the IGC spatial transformation area.	n/a

SPATIAL STRATEGY 2: MANAGE URBAN GROWTH, AND CREATE A BALANCE BETWEEN URBAN DEVELOPMENT, FOOD SECURITY AND ENVIRONMENTAL PROTECTION	
Enhance the city's unique assets, value of heritage resources, scenic routes and destination places.	
P11. Identify, conserve and manage heritage resources and cultural landscapes.	No heritage resources exist, a fact that has been confirmed by the Provincial heritage agency.
P12. Provide for cultural and social practices and events to promote spatial justice and spatial integration.	The scale of the proposed development is limited to 4 sites and is therefore too small in scale to function as an integrative site. Its benefit lies in the ability to provide employment during construction and future full-time employment ("FTE") positions during operation. The latter also acts as a skills development function, where unskilled staff are brought on and trained to take part in service, housekeeping, maintenance, and other functions of the hotel.
P13. Protect and enhance scenic route sightlines and places of scenic value, including destination places.	Compliant. The development is contained within the approved envelope of the four separate dwellings which are compliant with the local overlay zoning height requirements. For this reason, there will be no impact on scenic resources.
P14. Provide efficient access to destination places where potential exists, especially in or near areas of high social need, in support of economic inclusivity and spatial integration.	Not applicable, the development is neither within a destination place nor does it impede access to a destination place.
Enhance the city's unique assets, value of heritage resources, scenic routes and destination places.	
P15. Enable resource-efficient land development by levering the protection of renewable resources to improve cohesion between natural environmental resources and inclusive economic growth.	The development realises a more efficient use of land from an economic perspective, which relieves pressure on sensitive areas peripheral to urban areas. Where possible, renewable energy and rainwater harvesting will be utilised in the operation of the hotel to further reduce impact on Municipal infrastructure.
Appropriately protect the citizens of Cape Town from risk areas and activities.	
P16. Direct urban growth away from risk areas and activities.	The development is located within an urban area, inside of both the urban development and coastal edges.
P17. Avoid inappropriate urban growth and development in risk areas (fire, flooding, heat exposure, poor air quality and noise pollution).	Not applicable, development is located outside of any risk areas and is entirely within the urban area.
Appropriately manage land development impacts on natural resources, green infrastructure and critical biodiversity networks.	
P18. Increase efforts to protect and enhance biodiversity networks at all levels of government, with the public and private sector and private sector.	The increase in efficient use of land within existing urban areas, as is represented by the proposal, relieves development pressure from the periphery of urban development where sensitive environmental resources are located. The development sites do not contain any environmentally sensitive resources or systems.
P19. Plan for, and mitigate the impacts of urban development on water resources and encourage water-sensitive design responses.	Not applicable. No water resources exist on the sites which require impact mitigation.
P20. Promote risk-averse and sustainable urban development along the coast, in accordance with the coastal development edge.	Not applicable. The properties are located within the coastal development edge, within the existing urban area.
P21. Support food-sensitive planning that supports the food system value chain, from production, processing, and distribution to access, consumption and waste management.	Not applicable. The development does not entail the use or transformation of any sensitive agricultural land.
P22. Plan and adopt a proactive planning approach to mining resources.	Not applicable, no mining.

SPATIAL STRATEGY 3: BUILDING AN INCLUSIVE, INTEGRATED, VIBRANT AND HEALTHY CITY	
Encourage integrated settlement patterns.	
P23. Support the integrated intensification and diversification of land uses in identified areas, supportive of inward spatial growth, economically and incrementally.	Strongly compliant. The proposal results in an appropriate land use intensification within the IGC STA and within the urban and coastal development edges.
P24. Ensure urban development contributes to a safety and wellbeing for all.	Complies. The development is designed with safety at the forefront of all public and private areas.
Continue to transform the apartheid city	
P25. Support and enable programmes to enhance and facilitate access to land and housing supply in the City acknowledging that access to social and community facilities and well-functioning public open spaces are important for redressing and integration.	Not applicable. The site and its high land value are not suitable for the provision of social housing, which should ideally be provided for on available state-owned land. The site provides social benefit in its ability to employ and provide unskilled workers with an opportunity to upskill.
P26. Transform and integrate historically marginalised areas and informal settlements into spatially integrated neighbourhoods that enable economic and social opportunities for residents.	Not applicable, not an informal settlement upgrade project.

7.2. Subject to subparagraph in Section 99(1)(d)(ii), in the case of an application for a departure to alter the development rules relating to permitted floor space or height, approval of the application would not have the effect of granting the property the development rules of the next subzone within a zone (MPBL section 99(1)(d)(i))

The development rules of the GR5 sub-zoning (the next subzone within a zone) are not triggered by the proposal.

7.3. Approval of an application for a departure to alter the development rules relating to permitted floor space or height that does not exceed 10% of the maximum height or floor space of the existing subzone does not trigger the minimum threshold requirement (MPBL section 99(1)(d)(ii))

The height and floor space provisions of the proposal do not exceed the regulated maximums of the GR4 zone by more than 10% (proposed floor factor departure remains within the 10% threshold i.e. proposed floor space is 3523m^2 and the 10% threshold is 3531m^2).

If the consolidated property were to be zoned GR2 subzone, with an floor factor of 1,0, the proposed 1,64 floor factor would trigger this provision requiring a rezoning to a higher use sub-zone within the zone.

7.4. Compliance with any applicable spatial development framework (MPBL section 99(2)(a))

Consistency with the National Spatial Development Framework (NSDF), 2018 and the Western Cape Provincial Spatial Development Framework (PSDF), 2014 are established by proving consistency at the municipal SDF level.

The site is not of a scale to present a significant development objective at the national or provincial scale and the jurisdiction of development at the Municipal scale is the sole responsibility of the Municipality.

7.4.1. Table Bay District Plan ("DSDF") 2023

The property is located in Table Bay: Sub-district 1 – Atlantic Seaboard / Greenpoint and is within the area identified as "Existing Urban Development" (red circles in figure 13 below) where a variety of urban uses are supported. Within the urban development spatial planning category ("SPC") the following development guidelines presented by the DSDF are applicable and reinforced by the development proposal:

Policy statement 3.1.3 Urban development guidelines (our **bold underline** for emphasis).

Guideline 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.

Guideline 3. Support the **incremental intensification over time 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)**.

Guideline 4. **Consider the existing character** and heritage areas of significance (as may be reflected in detailed policies) as an informant to development and redevelopment proposals.

Guideline 5. **Encourage resource efficient design** and promote net zero carbon buildings and precincts in alignment with City Urban Design Policy.

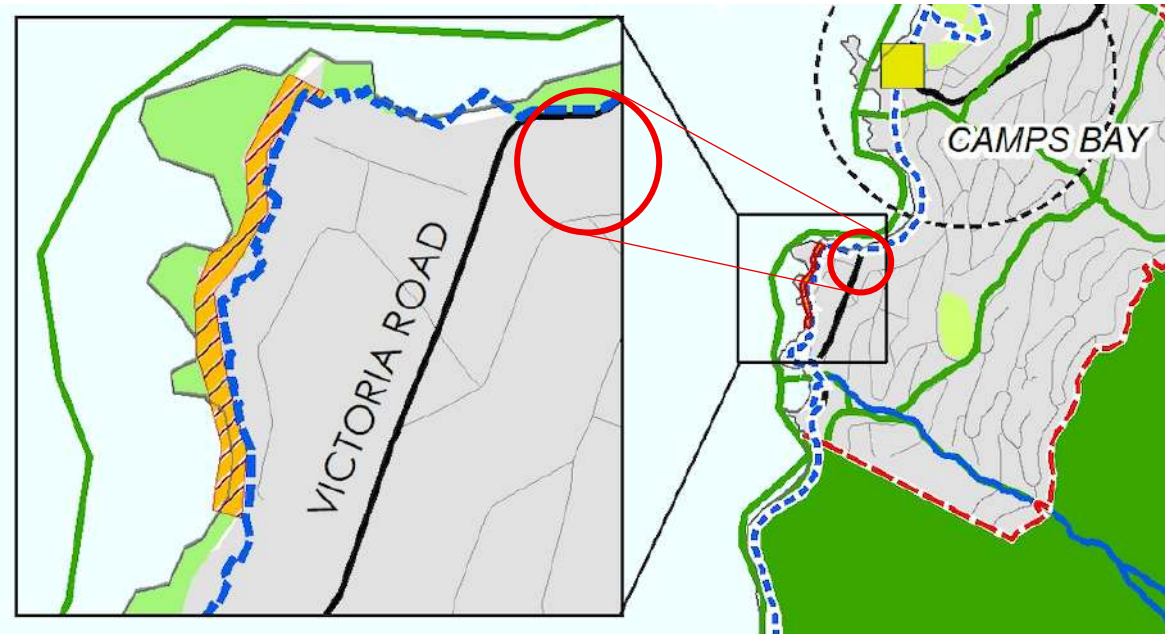


Figure 16: Extract from the Table Bay sub-district 1 map

The proposed hotel development is appropriate and compatible with the surrounding residential area, supported by infrastructure existing and planned, and will contribute to employment opportunities in the district.

No heritage or environmental resources exist which require protection.

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

The proposed general residential subzone GR4 is designed for higher density residential land uses as well as appropriate mixed-use development opportunities. The hotel use is permitted with the consent of the Municipality and is preferable within the residential sub-zoning which is more compatible with surrounding land uses.

The following table provides analysis of the development parameters of the GR4 subzone:

Table 4: Building compliance with GR4 development parameters

GR4 Development Parameters	Permitted	Proposed
41(a) Coverage	60% (1284m^2)	81% (1749m^2) **DEPARTURE**
41(b) Floor Factor	1,5 (3210m^2)	1.64 (3523m^2) **DEPARTURE**
41(c)(i) Maximum height to top of roof	24m (*see section 7.4.1.)	10m **COMPLIANT**
41(e) Street boundary building line	4,5m	**DEPARTURES** ***Item 41(e)*** to permit the building (portion of basement above EGL) to be 0m in lieu of 4.5m from the Victoria Road street boundary ***Item 41(e)*** to permit the building (fourth storey) to be 3.1m in lieu of 4.5m from the Houghton Road street boundary

41(e) Common boundary building line	4,5 m 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)	**DEPARTURES** ***Items 41(e)(i) and (aa)*** for portions of the buildings which lie outside of the area measured 18m from street boundaries and within 4,5m of the common boundaries: ○ to permit the building at the third storey to be: - 3m in lieu of 4.5m from the northeastern common boundary with erf 2566, - 3m in lieu of 4.5m from the southeastern common boundary with erf 104 ○ to permit the building at the Victoria Road trafficable roof level (fourth storey) to be 3m in lieu of 7.2m from the northeastern common boundary with erf 2566. ○ to permit the building at the fourth storey to be: - 3m in lieu of 7.14m from the northeastern common boundary with erf 2566, - 2.88m in lieu of 5.74m from the northern common boundary with erf 98, - 1.57m in lieu of 7.34m from the northeastern common boundary with erf 104, and - 3m in lieu of 6.06m from the southwestern common boundary with erf 97. ○ to permit the building at the fifth storey to be: - 3.1m in lieu of 7.3m from the northern common boundary with erf 98, - 3m in lieu of 9.1m from the northeastern common boundary with erf 104, and - 3m in lieu of 7.38m from the southwestern common boundary with erf 97. ○ to permit the building at the sixth storey to be: - 3.1m in lieu of 7.56m from the northern common boundary with erf 98, - 3m in lieu of 10.7m from the northeastern common boundary with erf 104, and - 3m in lieu of 7.55m from the southwestern common boundary with erf 97.
Item 121(A) Trafficable Roof	An unscreened trafficable part of a roof, balcony or terrace facing onto a common boundary must be set back at the common boundary building line or at least 2 m from the common boundary, whichever is more restrictive.	Trafficable roof areas against common boundaries are screened. **COMPLIANT**

Off-Street Parking (PT1 area) Hotel: 0,5 bays per bedroom Restaurant: 4 bays/100m^2	15.5 bays (31 bedrooms) 6 bays (140m^2 GLA) Total required: 21,5 bays (rounding up applies above 0.5 bays)	22 bays total **COMPLIANT**
Site access & exits	(1)(b) No vehicular ingress or egress may be closer than 10m from an intersection (as defined by the prolongation of street boundaries).	>10m **COMPLIANT**
	(2)(a) Motor vehicle carriageway crossings shall be limited to one per site per public street or road abutting the site;	1 vehicle access per public road **COMPLIANT**
	(b) Notwithstanding paragraph (a) above, where the total L of any street boundary of a site > 30m, one additional carriageway crossing may be permitted provided that no two carriageway crossings are closer than 12m to each other	1 vehicle access per public road **COMPLIANT**
	(c) The minimum and maximum width shall be 2,4m & 8m respectively.	Victoria Road 5.5m Houghton Road 6m **COMPLIANT**
Item 45A	Vehicle access to the property must be from an adjacent road reserve of at least 9m wide.	Houghton Road: at least 13m Victoria Road: ~13m **COMPLIANT**

Table 5: General parameters relating to all zones

Development Parameters	**Statement of compliance**
Item 126(a) no earth bank, retaining structure, column, suspended floor, other device or series of such devices shall be constructed that enables a ground floor of a building to be raised more than 1,5 m above existing ground level, provided that where such raising takes place, the height thereof shall still be measured from existing ground level.	The proposed development consists of the amalgamation of 4 existing approved structures on 4 individual erven, resulting in the basement of the new hotel structure lying at Victoria Road grade and underneath EGL. As such, and due to the slope of the site, no retaining structure results in the raising of the ground floor, as the entire structure is cut into the slope to create the desired (and approved) finished floor level. **COMPLIANT**
Item 126(b) no earth bank or retaining structure used for holding back earth or loose rock, whether associated with a building or not, shall be constructed to a height of more than 2 m above existing ground level	No external retaining structures exist for the sole use of holding back earth. **COMPLIANT**
Item 126(c) no series of earth banks or retaining structures shall be constructed to a cumulative height of more than 2,5 m above existing ground level, unless an approximately level area of at least 2 m wide is incorporated between successive embankments or retaining structures for every 2 m of cumulative height.	Not applicable, no external retaining structures exist for the sole use of holding back earth. **COMPLIANT**

7.5.1. Camps Bay/Bakoven Local Area Overlay (LAO/9) Provisions

Item 190(2) No building within the Camps Bay and Bakoven area shall exceed three storeys in height. DEPARTURE

Since the properties are located within an overlay zone that specifically refers to the word "storey" in the DMS, this is the terminology utilised to name levels of the structure in terms of the Land Use Advisory: Level labelling on plans of April 2026.

Academically, the proposed consolidated structure becomes non-compliant with this provision once the four sites are consolidated because of the definition of storey according to the DMS and MPBL:

> '**storey**' means that portion of a building included between the surface of any floor and the surface of the next floor above; or if there is no floor above, then up to the ceiling; provided that:
>
> (a) a basement does not constitute a storey;
>
> (b) a roof, or dome which forms part of a roof, shall not constitute a separate storey unless the space within the roof or dome is designed for or used for human occupation, in which case it is counted as a storey;
>
> (c) any storey which is greater than 4,8 m but equal to or less than 7,2 m in height shall, for the purposes of the height measurement, be counted as two storeys, and every additional 4,8 m in height or portion thereof, shall be counted as an additional storey; and
>
> (d) in counting the number of storeys of a building, the ground floor is the first storey and the next floor above is the second storey

Given the level differences of the site between Houghton and Victoria Roads, and the effective "stacking" of storeys on top of one another, our interpretation is as follows. See 14.

1. Two stacks of storeys are clear. The first, publicly accessible from Victoria Road at the NW of the proposed consolidated property. The second, publicly accessible from Houghton Road at the southeastern street boundary.

2. The Victoria Road "stack" consists of a basement storey plus three storeys (first, second, and third).

3. The Houghton Road "stack" consists of 6-storeys, of which the first storey in the Houghton Road stack was the previous Houghton Road properties' basement storey but is adjacent to the first storey of the Victoria Road stack. In terms of the DMS, a building may only have a basement underneath the first storey and therefore, once consolidated, the Houghton Road stack becomes part of the single building on the combined property and adjacent floors must be labelled in accordance with the DMS.

   The second level is ±5,9m tall at its highest point and according to the DMS definition of storey will count as two storeys (see definition point (c) above). This highest point, incidentally, exists below EGL. Due to the floor to ceiling height exceeding 4,8m this is determined as the second and third storeys.

   Within the approved envelope of the original dwellings on Houghton Road, the fourth, fifth and sixth storeys are above.

4. The definition of storey in the DMS is also helpful to define the Houghton Road number of storeys (our **bold underline** for emphasis):

"*…portion of a building included between the surface of any floor **and the surface of the next floor above**; or if there is no floor above, then up to the ceiling…*"

5. The important concept is the next floor continuity is from "*the surface of the next floor above*" insofar as the counting of storeys is concerned. While there is a level difference on each of the third, fourth, and fifth storeys within the Houghton Road stack, it is such that the floor above follows the same level difference and allows the storey to be consistent from NW to SE on the property. Always with the next storey beginning from its surface above the storey below.

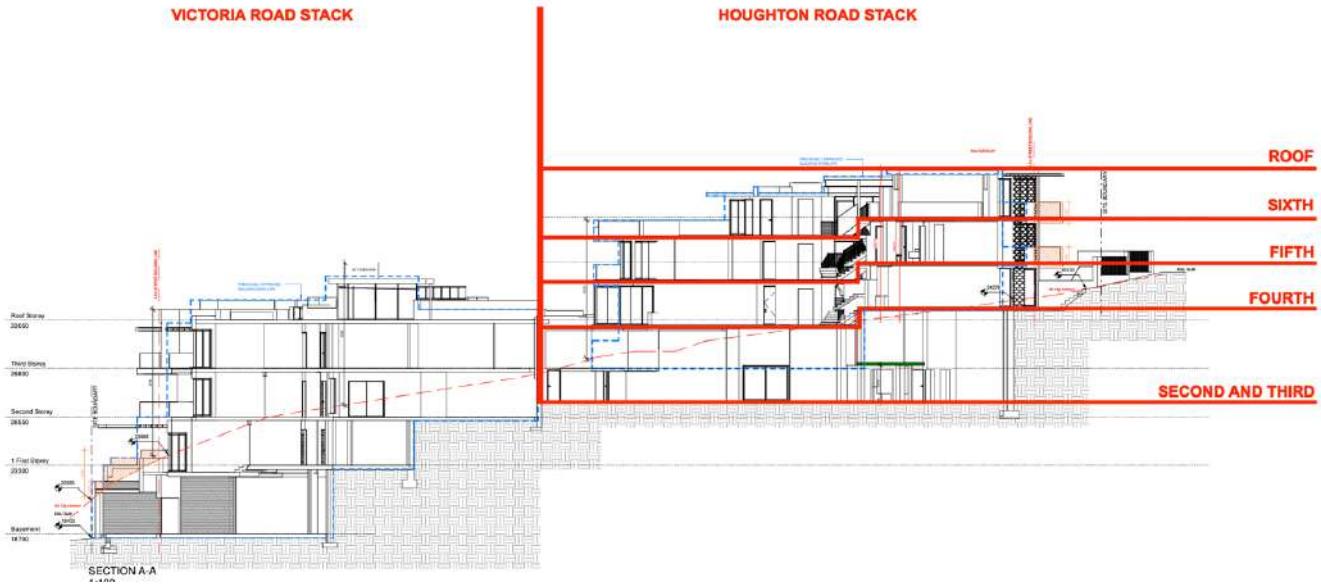


Figure 17: Stacking and numbering of storeys

In terms of motivating the technical departure from the provisions of the Overlay Zone, the four individual dwellings are approved structures which were constructed to not exceed the three-storey limitation of this regulation. No additional height is proposed by the hotel development proposal above the existing approved built envelope even though the number of storeys becomes more due to the consolidation of the structures.

The technical aspect of the level numbering that results in the departure is because of the consolidation and not because the applicant is proposing an additional three storeys on top of the existing approved structures. Therefore, insofar as observable built form and impact are concerned, the development remains within that which the overlay protects.

By inference, no impact from a built form perspective on neighbours uphill of the development can be associated with the applications at hand because they do not result in a built form exceeding that which is already approved in terms of the regulation stated above.

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

7.6.1. City of Cape Town Densification Policy, 2012

Although somewhat outdated, the principles of the densification policy are to combat urban sprawl and increase the efficiency of urban mobility networks by appropriately densifying existing urban areas.

The proposal results in intensification of land uses, rather than conventional densification, in the provision of 28 hotel suites.

7.6.2. Urban Design Policy

The development does not trigger any categories which require assessment in terms of the policy. Policy statement 2.1 “Policy Parameters textbox 2.1” refers:

1. No deviation from forward planning vision and spatial policies is required.
2. No new subdivisions of more than 20 land units are proposed, only the consolidation of properties.
3. The development site is less than 1ha in extent.
4. The sites are within development edges and do not impact any sensitive environmental resources.
5. The development does not affect any sensitive environmental or heritage resources.
6. The development is neither sectionalised, nor does it exceed 12 residential units or require a site development plan to be approved. Development extents are controlled by the regulation departures applied for and subsequent conditioning in terms of section 100 of the MPBL.
7. The spatial impact of the development is insignificant. It remains within the approved above-ground envelope of the single dwellings on the individual properties.
8. The development does not impede any public right of way.

7.6.3. City of Cape Town Guest Accommodation Policy, 2010

The City of Cape Town's Guest Accommodation Policy was adopted in 2010 to facilitate an already established range of tourist accommodation and related facilities in the City. Tourism is a major contributor to the City's economy and has grown considerably since the policy was adopted.

The following rationale for the development of the policy is salient to the proposed hotel conversion, and provides context to the developer's intentions:

- "*Estimated number of nights spend by foreign visitors in the Western Cape annually is 15 million and growing at 16.6%.*" – **taken at today's date with the same growth rate, this figure is ±19.2 million.**
- "*Hotels are the most common form of accommodation utilised by visitors (60%).*"
- "*…The smaller establishments in residential areas also play a major role in providing a wide range of guest accommodation facilities.*"

Almost more importantly, the Municipal Planning By-law has replaced the LUPO in regulating land use and has taken on a considerable amount of additional detail in respect of the regulation of tourism related land uses. The policy guidelines must be analysed with this lens. In 4.2 EXISTING ZONING SCHEME REGULATIONS the policy is clear, "Where similar land use categories (i.e. bed and breakfast, guest house) do exist in existing zoning schemes, **this policy can be applied to the extent that it is not in conflict with these regulations**.

For the purpose of the policy, hotel is described as, "*Large scale accommodation for transient guests incorporating various ancillary facilities*" and defined as,

"A property used as a temporary residence for transient Restaurant and/or guests, where lodging and meals are provided, and may include:

- a restaurant or restaurants;
- associated conference and entertainment facilities that are subservient and ancillary to the primary use of the property as a hotel; and
- premises which are licensed to sell alcoholic beverages for consumption on the property, but does not include an off-sales facility or a dwelling house."

The proposal complies with the definitions of the policy, however, in respect of scale is seen to be relatively small in scale, especially insofar as it is contained within the envelope of the four individual dwellings.

The policy requires certain assessment criteria to be satisfied, as follows:

Purpose: To operate a hotel as temporary residence for transient guests visiting Cape Town and to include a restaurant open to the public as well as ancillary bar (on-site consumption of alcohol) and spa/wellness centre for guest use. The hotel is located within 4 existing structures consolidated for the purpose of creating a single multiple storey structure.

Scale: The scale remains within that approved as four individual three-storey dwellings on the four properties and therefore, apart from minor departures, remains within the scale determined by the development management scheme and Camps Bay/Bakhoven local area overlay LAO/9.

A total of 28 rooms including a 4-bedroom penthouse suite (bookable as a single room) are proposed.

Location: Located within an existing urban area, with similarly scaled structures surrounding it. The site has excellent access to the mobility grid/public transport routes along Victoria Road and provides for sufficient on-site parking for the proposed uses.

The surrounding area is residential, with a range of larger general residential blocks of flats interspersed with large single residential dwellings.

Self-catering: No self-catering units are proposed.

Liquor use: Alcoholic beverages will be served in accordance with the necessary liquor licenses, which will be obtained. No off sales of alcohol are proposed, which is supported by the policy.

Ancillary tourist facilities: The policy contemplates restaurants and bars, as well as other facilities, to support the dominant hotel function. Other facilities may include restaurant and/or bar conference facilities, entertainment facilities, wellness centre and spa / hydro, gymnasium.

This development proposal is more limited than this definition, incorporating a restaurant, bar, and small spa/wellness centre. Only the restaurant will be available to the public.

On-site residence: No on-site staff residence is proposed; staff facilities are catered for but are not intended for permanent resident staff.

Parking and loading: Parking is provided on-site adequately to satisfy the DMS. Loading is not required, although adequate space is available outside of peak hours to allow for deliveries to take place at the Houghton Road access point.

Staff facilities: See "on-site residence" above.

Signage: Signage is intended to be subtle and will be submitted for approval in terms of the City's outdoor signage by-law.

Environmental/heritage impact: A design manual is not being submitted; however, a harmonious architectural style is already used across the 4 properties. Environmental and heritage impacts have been considered, any additional impacts that arise out of the development proposal will need to be assessed and authorised in terms of the respective statutes.

7.7. Impact on Existing Rights (MPBL section 99(2)(e))

No real rights or third-party title deed restrictions or servitudes are affected by the proposed development.

According to the title deeds for erf 3338, the common passage has been cancelled. This has been confirmed by the conveyancer, and the notarial deed of cancellation confirms that the passage of erven 3338 and 99 is no longer applicable.

> E. By virtue of an Order of the High Court (Cape of Good Hope Provincial Division) under Case Number 7553/2002 dated 4 November 2002 the common passage referred to in Condition 2.B.6(f) on page 5 of Deed of Transfer Number T54832/1989 (now page 3) has been cancelled. As will more fully appear from the Application filed as BC59715/2003.

7.8. Consolidations (MPBL section 99(2)(f))

The proposed consolidation is to facilitate the better and more efficient functioning of the hotel development as a combined building. In assessing the consolidation, the decision maker must consider the following:

(i) the scale and design of the development

In considering scale and design, firstly the decision maker must understand the as-built context of the development and the coordinated consolidation of the 4 land units as well as the dwellings that are approved and built upon them.

4 dwellings are approved, one per land unit, and have been built on the sites. The proposal involves internal amendments to the approved structures that will join them and allow them to be used as a single building across the proposed consolidated property.

The consolidation, in terms of scale, combines 4 separate dwellings into a single hotel building. In terms of design, in order to not abort and demolish valuable existing structures, the development appears very similar on the outside to the originally constructed 4 dwellings with the obvious inclusion of combined building accesses and internally the building is proposed to be connected.

(ii) the impact of the building massing

Since the proposed hotel building is to be combined within the outside structures of the as-built dwellings on the individual properties to be consolidated, the massing of the proposed development remains outwardly the same except now on one property versus previously on 4 properties. The impact is one large building on one large property versus the division of 4 buildings on 4 properties.

The existing massing triggers retrospective technical departures because of the proposed rezoning as it relates to the consolidated site. These two applications are not divorceable from one another and therefore, there is an impact generated by the proposal to apply for the necessary departures to permit the as-built structure within a different zoning.

While the departure is technical, the consolidation will not result in the purpose intent of DMS 190 (the Camps Bay/Bakoven Local Area Overlay) being affected negatively. The height measured from EGL remains within the now repealed section 190 (3) DMS at 10 meters to top of façade, post consolidation of the sloped site.

The consolidation does not give access to the full building massing of the GR4 zoning envelope because a specific building is being approved (the existing building under a new zoning) and the rights are restricted to that approved building together with aspects required in terms of the LUM determination.

The economic and social results of consolidation are very materially beneficial. There is no prejudice the skyline/overlay profile before and post consolidation will present. Above ground, the un-consolidated and consolidated structures appear identical.



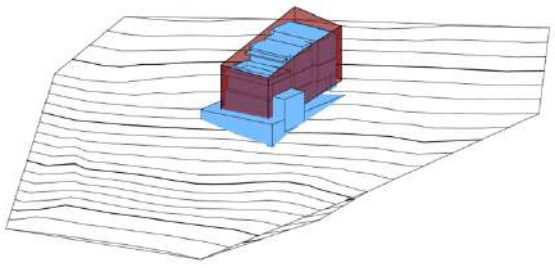
Figure 18: Artist's rendering of the development within the Victoria Road streetscape, showing similar massing to surrounding properties

The applicant will accept the need for continuity to condition that, subject to consolidation and giving effect to the application is the 'cap of the envelope' of the development, which is within the powers and function of the MPT in terms of section 100 MPBL, which supports consolidation.

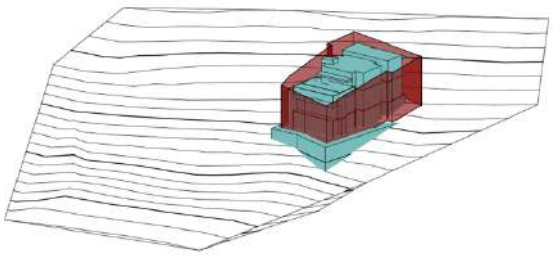
The prejudice absent consolidation would be extensive demolition (not that this is conceded in any way) and loss of economic and social opportunity represented by the approx. R150 million spend. Hotels represent a serious employer in the semi-skilled category, and with 62% youth unemployment and significant under employment that is an important factor to encourage employment and the social stability it brings.

And this consolidation will accord not only with Barley Bay but with other developments near the seaboard in Camps Bay.

The massing of the structures remains, by design, the same as the massing of the structures that are approved on the four individual sites. See figure 8 (page 9) reflected hereunder per property for ease of reference. The departures from the DMS effectively give rise to a scenario where the massing cannot be increased to that of the maximum built envelope of either the previous R1/GR2 split (if consolidated with the same zoning) or the full consolidated GR4 rights proposed. With the concession that the approved and built structures under the previous zoning already contain certain concessions from the permitted GR4 building line regulations which are dealt with by retrospective technical departures.

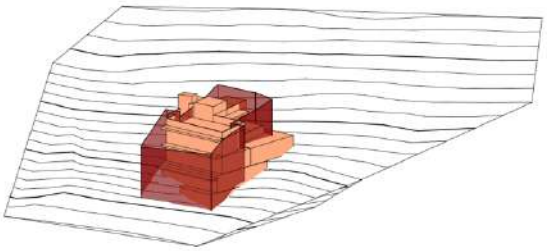


Previously Approved R1 Development Rules Erf 100 Massing Diagram

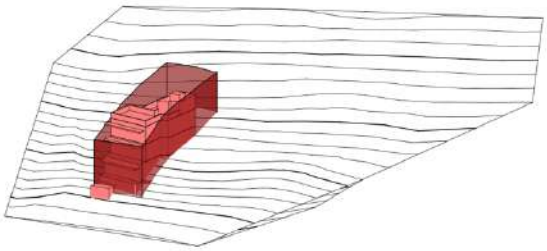


Previously Approved R1 Development Rules Erf 99 Massing Diagram

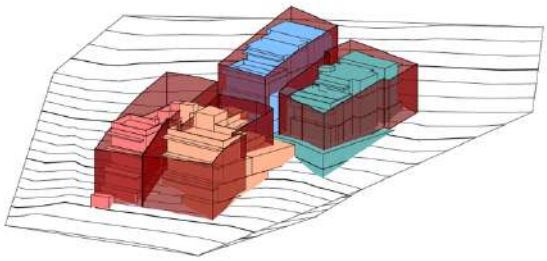
Figure 19: Comparative massing pre- and post-consolidation for erven 99 and 3338 (previously erf 100) (source: Gerd Weideman Architects)



Previously Approved R1 Development Rules Erf 101 Massing Diagram
1:500



Previously Approved R1 Development Rules Erf 102 Massing Diagram
1:500



Previously Approved R1 Development Rules Consolidated Massing Diagram

Figure 20: Comparative massing pre- and post-consolidation for erven 101, 102 and the combined site (source: Gerd Weideman Architects)

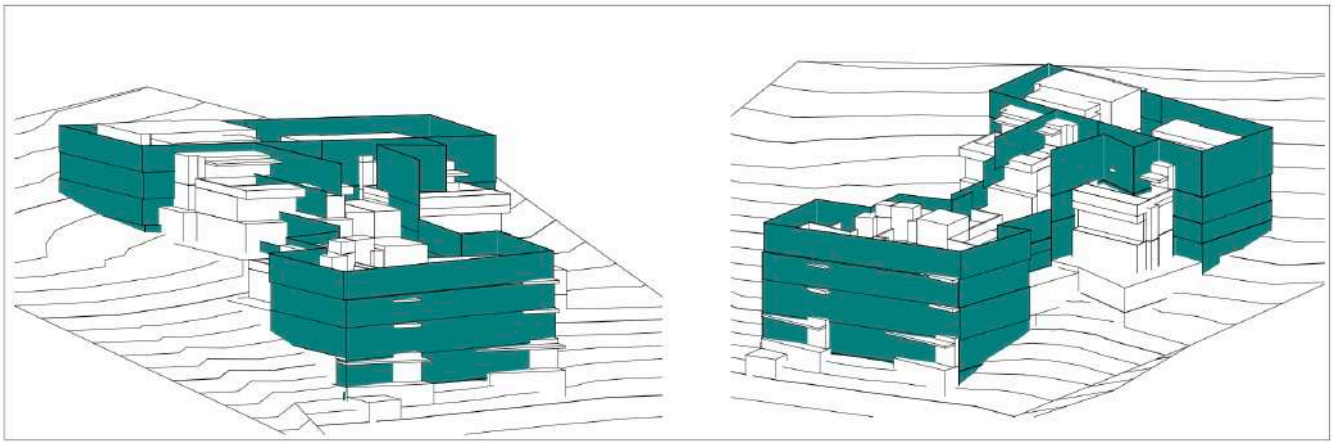


Figure 21: Massing diagram for the proposed consolidated and rezoned property (source: Gerd Weideman Architects)

The result is a massing **above EGL** that remains almost identical in height and built form to the approved structures, which by design will have no additional impact on neighbours.

The application that is submitted for assessment is for the consolidation of an already existing four buildings that are constrained by an overlay zone storey height, and therefore the assessment of the full extent of the GR4 rights (24m height, etc.) has no bearing on this consolidation.

(iii) the impact on surrounding properties

From a neighbour's point of view, because the structures will remain in the same position, with the same windows and doors as the approved dwellings, the impact is expected to be low to negligible, however one cannot forecast what a neighbour may feel about the proposal and raise as a perceived impact.

Given the reduction in CWCs from four (4) to two (2), with internal circulation of vehicles, the consolidation can be seen to have an overall positive impact on the public realm.

This proposal is unique because of the as-built existing form on the properties which are being consolidated. The mitigation of impact of the consolidation on the surrounding properties is achieved two-fold:

a) The form of the buildings is tied directly to the departures applied for, which limit the built form to that of the existing as-built dwellings insofar as they relate to neighbouring properties, and

b) The City may impose conditions in terms of section 100 of the MPBL which prevent any further construction of buildings on the property without the submission of an application and approval thereof. The applicant welcomes such conditions.

In amplification of the previous motivation in terms of the consolidation assessment criteria of MPBL 99(3)(f)(i)-(iii), the form that could be created by the consolidation is the conventional test to assess impact. However, in this case it is of academic interest only because the approval will be specifically tied to a much smaller building than the GR4 rights ordinarily would permit.

7.9. Evaluation in terms of other considerations prescribed in relevant national or provincial legislation (MPBL section 99(2)(g))

7.9.1. Spatial Planning Land Use Management Act (SPLUMA) and the Western Cape Land Use Planning Act (LUPA)

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

Table 6: Motivation in terms of SPLUMA and LUPA

Principle	Response
(1) Spatial justice	The development is located within a "consolidation area" whereby proposed developments are measured against the existing capacity of available infrastructure to support development in the immediate area. It has been established that the development is supported by sufficient Municipal services infrastructure capacity and ongoing transport network upgrading. Discouraged Growth Areas Consolidation Areas Urban Inner Core Structuring Corridors Critical Natural Assets Areas of Unique Agriculture & Heritage While the site has been established to not be appropriate for the provision of social or incremental housing (due to cost implications and location), the provision of employment opportunities contributes to the spatial justice of the development if one compares this to leaving the property in its current single residential state. The implication is that land appropriate for development cannot be ignored as it has a direct positive impact on the City's ability to implement spatial transformation in its marginalised communities, particularly where a development site such as this one under application has a higher servicing cost component attached to it, due to topography and geology.
(2) Spatial sustainability	The principle of spatial sustainability calls for the protection of both agriculturally and environmentally valuable land, whilst ensuring that land markets are well-functioning. Sustainability also refers to the consideration of current and future costs in terms of the provision of infrastructure for land developments, and to limit urban sprawl. The development furthers the principles of spatial sustainability given a well-designed, intensive and compact urban form which results in a more efficient use of urban land.
(3) Efficiency	The principle of efficiency dictates that optimum use of existing resources and infrastructure is ensured, and that negative financial, social, economic and environmental impacts are minimised. The proposal reflects an optimal use of resources, as the land is extremely well located for use as tourist accommodation. The negative costs to society are minimised using sustainable technologies where possible, and sustainable design elements.
(4) Good governance	The principle of good governance calls for an integrated approach to development, by involving stakeholders through a public participation process and incorporating solutions to mitigate perceived impacts (where necessary). The applications will follow an integrated process of consultation through to a balanced decision taken by the Municipality.
(5) Spatial resilience	The principle of spatial resilience calls for flexibility in spatial plans, policy and land use management systems to especially ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks. The addition of employment opportunities exhibits spatial resilience of the development, in giving continued economic potential to the area and a widened rates base from which the City may draw revenue.

7.9.2. Assessment of the deletion of restrictive title deed conditions

Regarding the assessment of the deletion of restrictive title deed conditions, the following must be considered in relation to the decision criteria as set out in the Land Use Planning Act, no. 3 of 2014 ("the LUPA"):

The financial or other value of the rights in terms of the restrictive conditions enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as owner of a dominant tenement:

- The restrictions control use and built form on the properties which is controlled by the more contemporary land use regulations contained in the MPBL and DMS. The financial value therefore lies in the ability to develop the property in line with modern expectations of land usage rather than that of regulation within title deeds of a century ago.

- Local government planning is an exclusive local government function, with regard to which, LUPA is merely supporting legislation. These provisions are at best supportive in nature and subordinate to The MPBL provisions especially 99(3).

- With regard to restrictive conditions of title, two judges of the High Court at Cape Town in a recent decision binding in this division (i.e. the Western Cape Province) in the matter of *Petra Walker v The City of Cape Town*,[2] determined that restrictive conditions of title are an outmoded form of town planning. That binding expression by the court needs to be applied when considering whether to remove or amend restrictive conditions of title or not. Applicant responds to LUPA section 39 in that context.

- The restrictive conditions of title, which the applicant seeks to remove or amend, can be grouped into the following categories:

    - The provision that dwellings on the erven should only be utilised for residential purposes (but including letting which is a commercial function) but not to trade in certain regards.

    - Supporting that, the provisions banning advertising or trades of any nature; and

    - Supporting provisions limiting the number of dwellings on any particular erf to one dwelling with outbuildings.

- In examining the portion of Camps Bay from the entrance to Camps Bay at The Retreat, to the exit of Camps Bay, at Bakoven / the route to Llandudno, it is clear that restrictive conditions of this nature have been expunged or amended significantly.

- The purpose of the historic restrictive conditions was to exclude some types of trading as letting was permitted-whether short, medium or long term , including short term holiday lets, but not other trades.

- The former is unquestionably commercial activity.

- It can never be argued that granting numerous short-term tenancies in any given month or year, does not constitute commercial activity while the operation of a guesthouse or hotel does.

- There are numerous examples of hotels and guesthouses and examples of these can be found in the applicant's motivation, see section 8.11 – ***compatibility with surrounding land uses.*** The West Beach Hotel is one, Crowne Bay further up Camps Bay Drive is another, and Bootleggers on Victoria Road is just one example of a restaurant / coffee shop in an area which comprises a mixture of guesthouse, tourist accommodation and residential uses in this popular international and local tourist area.

- In the circumstances, the effectiveness of the restrictive conditions of title in this precinct of Camps Bay stretching from The Retreat through to the exit of Camps Bay at Bakoven which is selective is redundant and no longer reflects the built fabric of this component of Camps Bay.

- The restrictions have little or no financial value for applicant. They also have little or no financial value for applicant's neighbours or nearby neighbours (a number of whom are in any event multiple dwelling body corporates and/or guesthouses), as the restrictive conditions of title limit the value of their properties.

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[2] *Petra Walker v The City of Cape Town, Mayor of Cape Town and Folkes Holding (Pty) Ltd* case number 12975/2022 *coram*: Samela J *et* de Waal AJ (19 February 2024)

- The non-financial value of the title deed restrictions is possibly intended to retain a certain low-density look and feel of the surrounding area. There are, of course, numerous examples both abutting the applicant's properties and close by, of significantly increased density, reduced building lines, garages located close to the road and increased building footprints. Especially in Barley Bay.

- The emphasis of the new modern development is, among other, on quality of space instead of quantity of garden space.

- However, the approach taken by the applicant should be taken into account:

    - The applicant has designed what effectively look like four large modern dwellings, one on each erf.

    - Extensive kitchen and support facilities and parking areas are all contained "underground" or underneath EGL for the most part.

    - In approaching the properties accessed from Houghton Road, there is a traditional ramp down between the two erven, facilitated by a lift, with significant stacking.

    - Likewise, the access and egress from Victoria Road is carefully positioned to evoke access to traditional dwellings, albeit it is an access arrangement with regard to the one, and egress from the other.

    - The improvements themselves are capped at 10m from immediately adjacent ground level to top of façade. As such, the built fabric is evocative of the area.

    - Given the objective of the applicant to "*fill the front of the cabin*" with a five-star establishment, the emphasis is on understated elegance, and each bedroom is en-suite.

- Therefore, there are proposals by the applicant for restrictive conditions of title to, in some regards, be amended rather than expunged.

- This is illustrated in the proposals to amend provisions for business, which are retained, with the exception of a hotel with ancillary hotel facilities.

- It is also evoked through the proposals to amend other restrictive conditions of title.

The personal benefits which will accrue to the holder of rights in terms of the restrictive conditions:

- The rights protect characteristics of the original township, which are also protected by the Development Management Scheme. The need to maintain the relevant conditions has diminished and has become diluted to the extent that they no longer offer any substantial personal benefits to property owners in the area.

- Cape Marine Suburbs Limited is de registered, see attached confirmation of deregistration of the company. Extracted in figure 18.

COMPANY SUMMARY			
Name	THE CAPE MARINE SUBURBS	Status	DEREGISTRATION FINAL
Registration Number	1804/000266/07	Registration Date	1899/05/16

Figure 22: Extract from CIPC search for Cape Marine Suburbs Ltd.

- The manner in which the applicant has proposed to amend or delete the conditions, is beneficial. Retaining the conditions does not offer much benefit to property owners in the area, especially considering recent trends and related property values, and in fact deprives them of uplift potential. See valuers report also.

- The area of Barley Bay has mainly (with the exception of a couple of open plots and one historic dwelling – Bingley Place – not near applicant's development) changed into a much more compact and denser urban fabric, reflecting the changing needs of the modern City in conjunction with City policies which has resulted in the general need for denser properties in line with the City policies supporting densification. Just one example of the planning decisions of the City is for three dwellings on erven zoned SR1.

- The personal benefit of the 50% built upon area condition is to ensure a small building footprint in relation to the outside private open space, thereby maintaining amenity. However, this community has changed with more compact

development taking place including bodies corporate and other denser developments which have been approved and constructed.

- The value of this condition therefore has limited value in this context. The proposed built upon area is a reasonable increase in footprint in the light of the changing urban context and character and no adverse impacts on personal rights are envisaged.

The personal benefits which will accrue to the person seeking the removal, suspension, or amendment of the restrictive conditions if they are removed, suspended, or amended:

- The removal of the conditions will allow the person seeking their removal to develop the properties, which will add value to the property and contribute to a more efficient use of urban land.

- The applicant will achieve the personal benefit as it will allow for the operation of a hotel, with ancillary facilities.

- The applicant would, of course, as of right be entitled to operate bed and breakfasts from each of the four dwelling units on each of the four erven.

- The operation of guesthouses, of ten bedrooms or less each (subject to consent use approval) could conceivably mean that applicant could apply to operate four guesthouses, one on each erf, of ten-bedrooms each in compliance with the guesthouse policy provided the consent is granted (and there are examples of such consents being granted throughout Camps Bay and the other seaside suburbs of Cape Town).

- Instead of operating a hotel by subterfuge masquerading as multiple guesthouses, applicant is being transparent and applying for a hotel consent use and of a much smaller scale.

- The hotel is limited to 28 rooms, including a penthouse suite (four bedrooms) amounting to 31 bedrooms with the necessary off-street parking provided. Four individual guesthouses could by contrast conceivably amount to 40 rooms.

- The hotel has more stringent fire safety requirements and all of these will be met, subject to approval.

- The benefit to the applicant will be the ability to operate the hotel.

The social benefit of the restrictive conditions remaining in place in their existing form:

- Given the restrictions do not require mandatory removal, the social benefit of them remaining in place is insignificant.

- That simply prevents densification from taking place, and prevents the opening of modern guesthouses, bodies corporate and development of multi-dwellings.

- There is little or no social benefit to this, as what must then be relied on is historic owners improving single dwellings.

- This is unlikely to happen with significant investment, as other dwelling units are developed to benefit community.

- There is little social benefit in retaining the status quo which, in the areas in which it has been retained, has led to a lack of investment.

The social benefit of the removal, suspension, or amendment of the restrictive conditions:

- The social benefit of the development lies in the ability of the properties to generate employment opportunities through their functioning as a hotel. Moreover, the ongoing appropriate land use intensification of existing urban areas allows for a more efficiently functioning City, deriving more tax revenue from its urban land which allows for upliftment projects and initiatives in areas of need.

- While the restrictions do not need to be removed, it is important that we depart from the usage of title deed restrictions to regulate land use and built form where we have developed modern statutes for regulating development in Cape Town in the MPBL and DMS. Removing the conditions allows for this distinction between archaic regulations and up to date, contextually relevant methods of regulation to be followed.

The social benefits in amending the conditions are the following:

- Increased vitality of the neighbourhood through the addition of the opportunity in a high amenity area nearby urban opportunity:
    - Better utilisation of the property in terms of modern City development.
    - Contribution to the prevention of urban sprawl.
    - Improved efficiency of infrastructure and provision and public transport provision.
    - Alignment with various of the City's policies which require more efficient use of land and appropriate densification.
    - Increased security of the public through increased densification.
    - Enabling guests to obtain access to the social amenities of Camps Bay and supporting the social fabric through investment, development and upliftment.
- The removal and amendment of the title deed conditions support the development and land use planning principles set out in SPLUMA and LUPA.
- For example, the proposal will support the principles of spatial sustainability by creating more efficient use of land within the constraints of existing infrastructure.
- The social benefit of removing and deleting some of the restrictive conditions will lead to a more efficient and more sustainable built environment and this outweighs the social benefits of retaining such conditions in the title deed / not amending same.

Whether the removal, suspension or amendment of the restrictive conditions will completely remove all rights enjoyed by the beneficiary or only some of those rights:

- In the case of the deleted conditions, the rights will be entirely removed. In the case of the 10 amendments proposed, only certain rights will be removed and/or adapted to the current development context of the City of Cape Town.
- It is proposed that some conditions are removed, whereas others are amended. Others remain unaffected. Therefore, the application will not remove all of the rights of the property owners in this segment of the Camps Bay community. They will still benefit from the restrictions (e.g. the condition prohibiting noise in objectionable trades) other than hotel uses.
- It is worth noting that they will continue to enjoy the rights conferred on them by the MPBL and the DMS. Specifically (and importantly) the development remains within the purview of DMS section 190(3) to the Municipal Planning By-Law in respect of the approved building form prior to consolidation.
- In addition, they have access to the enforcement arm of the City of Cape Town. In this regard, the case of *Petra Walker* (see page 24) also emphasises the role of enforcement to ensure that the City's policies, planning by-law provisions and the development management scheme are enforced.
- Section 47(a) of SPLUMA states "*if the removal, amendment or suspension will deprive any person of property as contemplated in section 25 of the Constitution, then you have due regard for the respective rights of all those affected and to the public interest*".
- This application does not affect any rights of any other parties to property in terms of section 25(1) of the Constitution.

Note 5: In relation to two conditions that are applied for removal in terms of Erf 3338 – title deed conditions II.C.c (see 6.1.2.2) and III.C.c (see 6.1.2.3) that refer to portions of erven that no longer abut Victoria Road but require forecourts and garden spaces to be retained (portions Aef and eBF) – do not have relevance to the application but are removed out of an abundance of caution. There are no financial, social, or personal benefits of these conditions and they are completely removed.

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

The application has been submitted with at least the minimum requirements of the MPBL.

7.11. Evaluation of Desirability (MPBL Section 99(3))

Socio-economic impact (99(3)(a)): The proposed development has significant socio-economic benefit to the City. Firstly, in generating employment during construction and then during operational phases. The employment is in the hospitality sector, which requires both skilled and unskilled staff, the latter of which can work in an environment where a skills base can be learned, thus realising a social development aspect of the development over simply employment creation.

Higher rates base and development contributions are levied against an intensification of use, which has the benefit of contributing to the City's ability to embark upon projects which benefit all residents of the City.

Compatibility with surrounding land uses (99(3)(d)): The proposed GR zoning and hotel land use are considered compatible and appropriate within the context of the surrounding land uses.

Several similar land uses exist within close proximity of the site, most notably the South Beach Hotel (21 rooms) located at erf 133 Camps Bay (6 Link Street) as well as nearby high-density accommodation developments at erf 116 Camps Bay (127 Victoria Road – see figs 10 & 11 label A) and neighbouring erven 2566 and 2567 Camps Bay (137 & 135 Victoria Roads respectively – see figs 10 & 11 label B) all of which offer tourist accommodation of some variety.



Figure 23: Surrounding property zoning categories (source: City of Cape Town Map Viewer)



Figure 24: Surrounding accommodation and general residential zoned properties

Impact on external engineering services (99(3)(e)): None expected. The area is well serviced, any upgrades required to surrounding Municipal infrastructure may be conditioned to the approval of the proposal and development contributions payable as a result of the increased rights will also contribute to district wide infrastructure upgrades.

Impact on safety, health and wellbeing of the surrounding community (99(3)(f)): Only positive impact because of increased investment in the area.

Impact on heritage (99(3)(g): No heritage resources exist, and this has been confirmed by the relevant heritage authority.

Impact on biophysical environment (99(3)(h)): None expected due to the location of the properties within the urban area on fully transformed land. An applicability checklist has been submitted to confirm that the NEMA and regulations do not apply.

Traffic impacts, parking, access and other transport related considerations (99(3)(i)): Access and parking will be provided at the ratios required by the DMS. The development lies under the threshold of 50 peak hour trips that requires a transport impact assessment to be compiled. A reduction of CWCs from four (4, two each from Victoria and Houghton Roads) to two (2) CWCs (1 each from Victoria and Houghton Roads) is resultant of the consolidation.

Whether the imposition of conditions can mitigate an adverse impact of the proposed use or development of land (99(3)(j): The applicant invites appropriate conditioning by CCT in support of the application.

8. CONCLUSION

The proposed development of a 28 key hotel, restaurant, and associated facilities and parking is compliant with metropolitan and district planning imperatives and the City's policy positions. It is located within an area where development intensification is supported on condition sufficient infrastructure capacity is available and this is understood to be the case for Camps Bay.

Full-time employment, and upskilling will be provided by the service industry development, fulfilling a critical economic role.

Title deed restrictions related to land use and building form are outdated and have been replaced with the well-developed development management scheme and therefore have zero impact when removed.

Departures relating to number of storeys, and coverage, are as a result of the consolidation of the sites and buildings, and the overall built form remains almost exactly within the envelope of the approved building plans and the intention of the overlay zone provisions.

CB99-102
Rev 8 – July 2026

HEADLAND
TOWN PLANNERS

1 : 1000

BHSW 4252

M 1649

CAMPS BAY

ATLANTIC OCEAN

CAPE ROAD

CAPE TOWN MUN. PROC. 19/1913

LOW WATER MARK

G.P.11091/93

B 14C (2378)

B14D (2211)

T.P. 31R (4204)

T.P. 17m (4648)

EXT NO. 3 T.P. 123

EXT NO 2 T.P. 1920

EXT NO 3 T.P. 123

INGLESIDE

HOUGHTON

ROAD

DRIVE

FINCHLEY

FISKRAAL STREET

CAMPS BAY AVENUE

CHAS BOOTH WAY

AMANDA STREET

VICTORIA ROAD

PITLOCHRY ROAD

ROTTINGDEAN ROAD

HOVE ROAD

ROSLYN LANE

PASSAGE

PUBLIC PLACE

SERV.E.LEC.

BHSW 4224 (M1647)

BHSW 4233 (M1648)

BHSW 4261 (M1650)

BHSW 4263 (M1652)

BHSW 4254 (M1651)

BHSW 4253 (M1653)

BHSW 42 (M1653)

18° 22' 30"

18° 23' 00"

33° 57' 30"

33° 57' 45"

+ 3 759 000 X

+ 3 759 200 X

57 600 Y

57 400 Y

57 200 Y

COMPILED IN THE OFFICE OF THE SURVEYOR-GENERAL, CAPE TOWN, 1987 C.A. TAYLOR, B. SMITH

TRIG SHEET NO. 3318

SYMBOLS SHOWN THUS:-

- LO CONNECTED BEACONS
- LO CONNECTED BEACONS ESTABLISHED
- BEACONS NOT CONNECTED
- BEACONS NOT CONNECTED ESTABLISHED
- + + + + ALLOTMENT, MUNICIPAL, GROUP, BLACK AREA BOUNDARIES
- . . . . . ESTABLISHED BOUNDARIES

BHSW-4252

M 1649 S

R

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1. The figure ABCDEFGHJK represents consolidated erven 99, 101-re, 102-re, and 3338 Camps Bay, measuring ±2140m^2.
   1.1. Erf 99 per title deed no. T3417/2021
   1.2. Erven 101-re & 102-re per title deed no. T23591/2020
   1.3. Erf 3338 per title deed no. T2474/2023
2. To be rezoned to General Residential subzone GR4 with consent use for hotel.
3. Servitude note 1: Common passage servitudes vide DGM 1941/1927 and DGM 4684/1939 to be deleted.
4. All dimensions are in metres and subject to final on site survey and checking.

victoria road

houghton road

A
B
C
D
E
F
G
H
J
K

102-re
±338m²

101-re
±536m²

99
±613m²

3338
±653m²

SG 4684/1939

SG 1941/1927

servitude note 1

26
1-re
73-re
3229
20
22
24
26
28
30
18
2567
2566
2458-re
32
20
98
34
95
22
24
26
36
105
2563
104
38
97
28
3139
30
32
34
36
1414-re
1-re
1196

notes

amendments

date	figure

project: proposed consolidation, rezoning, consent use, and removal of restrictions: erven 99, 101-re, 102-re, and 3338 Camps Bay

drawing: draft consolidation plan

c'

noting sheets	-	figure	99/09/01
authority	city of cape town municipality	file	cb99 - 102 & 3338
scale	1 : 400 (A3)	date	09-07-2025

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