



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Case ID 1500166395

**Erf 1003, 14 Ronald Avenue,
Camps Bay**

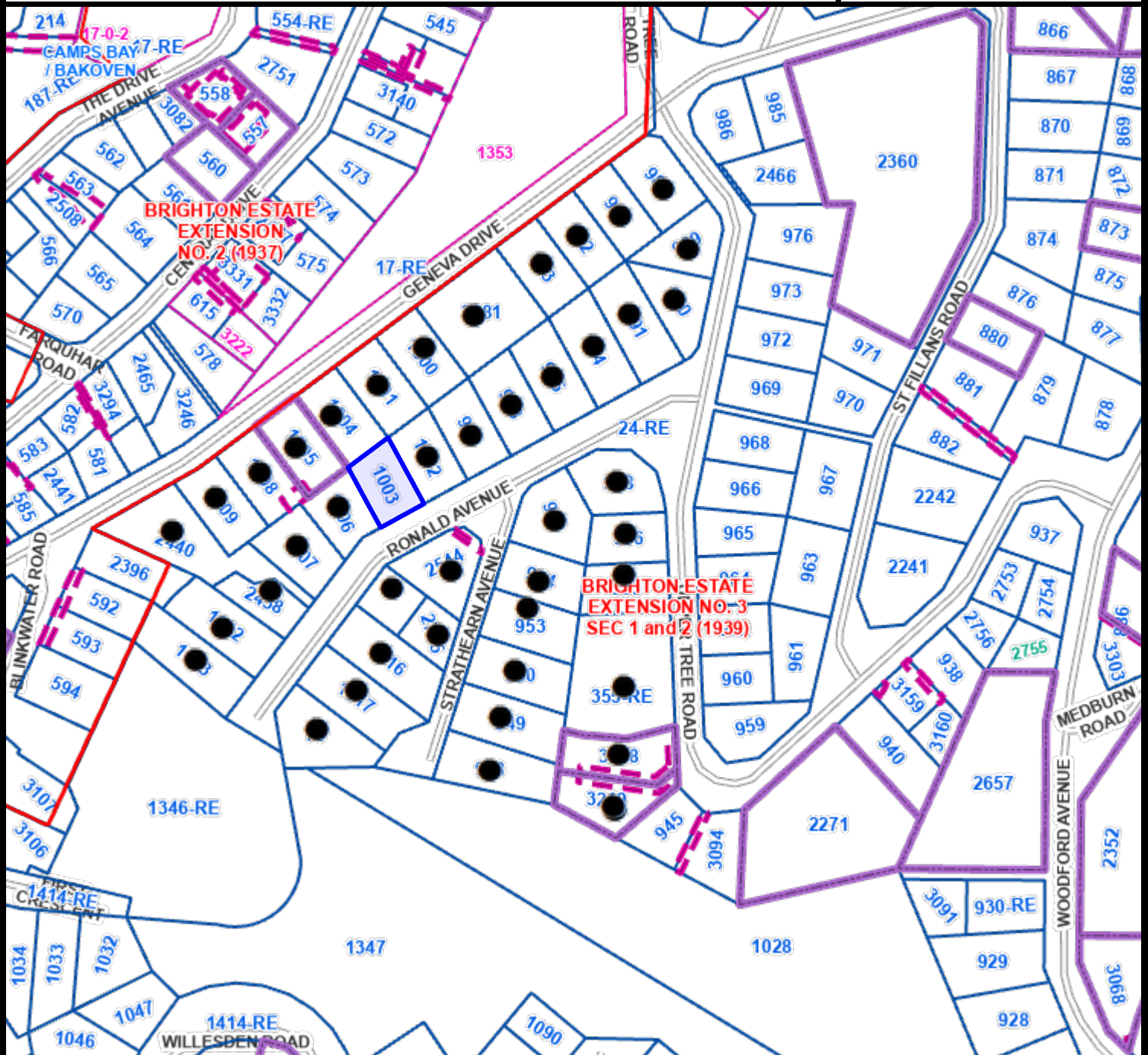
Development Management

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LOCALITY MAP DEVELOPMENT MANAGEMENT

ANNEXURE :



Overview

Erf: 1003

District: TABLE BAY

Allotment: CAMPS BAY

Suburb: CAMPS BAY / BAKOVEN

Ward: 54

Sub Council: 16



1:2 563

Notices Served



Support
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Petition
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Objections
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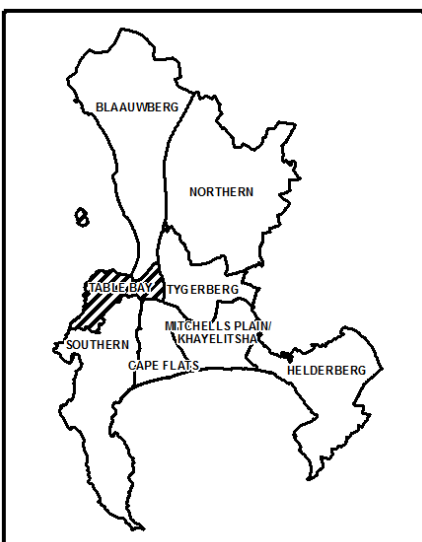
Date: 2026/09/29

File Reference:



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Making progress possible. Together.



Date: 26 June 2026
Ref: 11795 (Cor van der Merwe)



PROPOSED REMOVAL OF RESTRICTIONS, DELETION OF CONDITIONS OF AN EXISTING APPROVAL & DEPARTURES: ERF 1003 CAMPS BAY AT 14 RONALD ROAD

1. INTRODUCTION

The proposal is to obtain approval for existing but unauthorised building work on the property, as well as to obtain approval for proposed alterations and additions (to the existing garages). The details of the above will be set out later in this report.

An administrative penalty application was submitted with respect to the unauthorised building work and land use.



The Ronald Road street elevation of Erf 1003

The applications are made in terms of Section 42 of the City of Cape Town Municipal Planning Amendment By-law, 2025 (the "By-Law"):

- 1.1 Section 42(g): The **removal*** of Conditions B.6A.I.(b), (d), (e) and (f) from Deed of Transfer
- 1.2 Section 42(j): The **deletion* of the previous conditions of approval** from Deed of Transfer
- 1.3 Section 42(b): **Permanent departures** from the provisions of the Development Management Scheme (DMS) as follows:
 - 1.3.1 From Item 22(d): To permit a portion of the existing 2nd dwelling to be 2.415m in lieu of 3m from the north-east common boundary (1st storey).

- 1.3.2 From Item 22(d): To permit the existing pool to be 0.45m in lieu of 1m from the south-west common boundary (2nd storey).
- 1.3.3 From Item 22(d): To permit the existing covered entrance/building to be 0m in lieu of 3.5m from the street boundary (2nd storey/street level).
- 1.3.4 From Item 22(d): To permit the proposed garages' extensions to be 0m in lieu of 3.5m from the street boundary (2nd storey/street level).
- 1.3.5 From Item 22(d): To permit the proposed garage extension to be 0m in lieu of 3m from the south-west common boundary (2nd storey/street level).

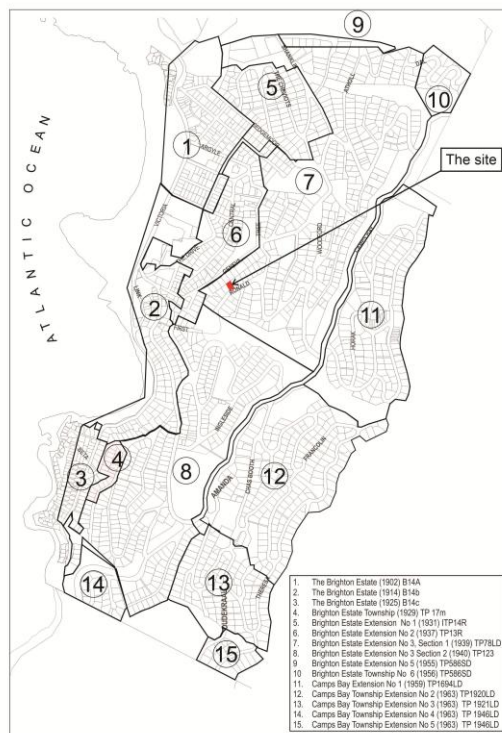
*For ease of reference, and for the purposes of this application, when referring to the "removal" of the conditions it will automatically also mean to "delete" the (same) conditions, unless specifically mentioned otherwise.

2. THE PROPERTY

Erf 1003 measures 705m² in extent and is zoned Residential Zoning 1: R1. It is located on the north-western (lower) side of Ronald Road, which is a cul-de-sac. Ronald Road is a wide suburban road with a road reserve measuring 15.74m in width. The north-western "sidewalk" measures approximately 8m in width (more than half the width of the entire road reserve), meaning that the street boundary of Erf 1003 is about 8m from the kerb line.

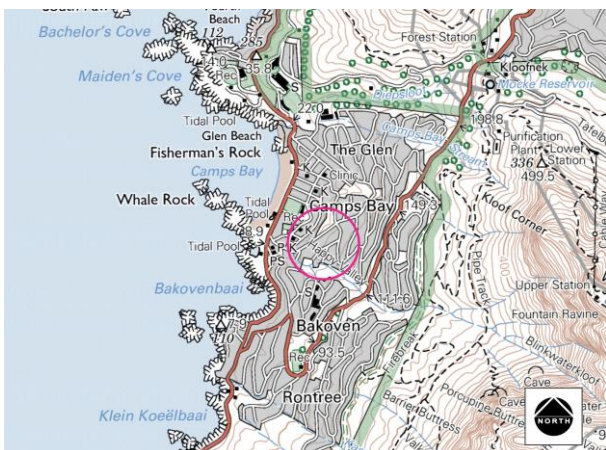
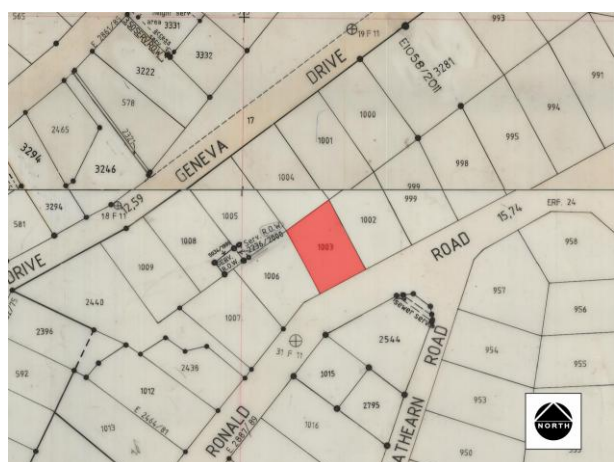
The existing building comprises of three storeys in total; however, it appears as a double-storey building from the street due to the slope of the terrain (away from the road). The first storey (ground floor) is relatively small (in area) and is situated beneath the bulk of the main dwelling. It is, for all intents and purposes, a "basement" (although not per definition in the DMS). Two double carports have been approved, taking direct access via two separate carriageway crossings, from the road (refer to the copies of the approved plans, attached).

The site forms part of the *Brighton Estate Extension No. 3 Township* (Section 1) was established in 1939. (Section 2 of the same Township Extension was established in 1940). The map, below, demonstrated the location of the property in the Camps Bay suburb.



The township as a whole is characterised by multi-storeyed and generally speaking large buildings comprising single dwelling houses, although a large number of properties have been improved with 2nd and even 3rd dwellings.

The locality map, aerial photo, zoning map and noting sheet of the property are below.



3. TITLE DEED CONDITIONS

When the Brighton Estate Townships was established (in 1939 & 1940), no town planning scheme existed for Cape Town. The subdivision of the Estate was approved subject to conditions that were imposed by the Administrator in favour of the registered owner of any erf in the Township, and in terms of the Township Ordinance No. 33 of 1934. These conditions were registered in the title deeds of the erven to regulate the development of the erven in particular and the township in general.

They are deemed to be restrictive title deed conditions as well as conditions of previous approval. In terms of the Council's Standard Operating Procedures, the removal/deletion of them are mandatory, and the application is therefore in terms of Sections 42(g) & (j) of the By-Law.

The following conditions are relevant:

Condition B.6A.1.(b) That only one dwelling, together with such outbuildings as are ordinarily required to be used therewith be erected on this erf, save as provided in condition (c) hereof.

Condition B.6A.1.(d) That not more than one half the area of this erf be built upon.

Condition B.6A.1.(e) That no building or structure or any portion thereof, except boundary walls or fences, shall be erected nearer than 4.72 metres to the street line which forms the boundary of this erf, save that a garage intended as an adjunct to a building and not exceeding 3.05 metres in height, measured from the floor to the top of the parapet or half the height of the roof whichever is the higher, may be erected in such a position that the distance between the garage and the street line which forms the boundary of this erf shall not be less than the value of ...x... as expressed by the following equation, when ...x... is a distance less than that otherwise prescribed as the building for this erf: -

$$X = l/s (\sqrt{h^2 + 400s} - (h + 20s))$$

where s is the factor of rise in accordance with the mean gradient of the land to be actually excavated for the erection of the garage such gradient to be measured at right angles to and from a point on the street boundary vertically opposite to the centre of that side of the garage which is most nearly parallel to the street boundary of the erf, and h is the difference between the mean level of the floor of the garage and the mean ground level at a point on the street boundary vertically opposite the centre of that side of the garage which is most nearly parallel to the street boundary of the erf, such difference to be positive or negative as the floor level of the garage is respectively below or above the mean ground level at the point specified.

Notwithstanding the foregoing, however, a garage shall not be erected nearer than 1.42 metres to the street line which forms a boundary of this erf and where no portion of a garage projects above the level of the ground immediately adjoining any side of such garage other than the side which is most nearly parallel to the street boundary of the erf, the corner of the bank at the intersection of the street boundary and the prolongation of those sides of the garage which are most nearly at right angles to such street boundary shall be splayed in such manner that the land cut off from the corner shall be in the form of an isosceles triangle the equal sides of which shall not be less than 1.42 metres.

Condition B.6A.1.(f) That no building or structure or any portion thereof, except boundary walls, fences and an outbuilding not exceeding 3.15 metres in height, measured from the floor to the top of the parapet, or half the height of the roof, whichever is the higher, and no portion of which is used for human habitation, shall be erected nearer than 1.57 metres from the lateral boundary common to this and any adjoining erf.

These conditions are to be removed and deleted (as the case may be) from the title deed to enable the regularisation of the existing structures and to permit the construction of the proposed alterations and additions.

4. DEVELOPMENT PROPOSAL

- The existing building will be retained. For all intents and purposes, the existing envelope (including the height) of the building will remain the same; the only physical change will be to extend the two existing double-garages (closer to the street boundary and closer to the south-west common boundary) – as indicated on the plans.
- The formerly approved “maid’s room” – situated underneath the main dwelling in the north-eastern corner of the property, and which has been extended and converted into a 2nd dwelling, is to be regularised. This requires the **removal** of the “one dwelling only” title deed condition and a minor **building line departure**.
- Existing portions of the two double garages which have been constructed within the street boundary building line (DMS) also need to be regularised. In addition, the garages are proposed to be extended further and will be 0m from the street boundary and from the south-west common boundary. (The new portion of the garage to the north-east of the site, at 1.44m from that common boundary, measures less than 3.5m in height from the EGL to the top of roof and the garage façade does not exceed a width of 6.5m; this garage is permitted to be at 0m from that boundary with respect to the DMS).

This requires the **removal** of the “built upon” and “building lines” title deed conditions, as well as **building line departures** (DMS).

- The existing pool, in the north-western (rear) corner of the erf, is situated within the permitted building lines (title deed and DMS). The structure must be regularised. This requires the **removal** of the “building lines” title deed condition, as well as a **building line departure** from the common boundary.

With respect to the development rules in the DMS:

4.1 Item 21: Land use (compliant)

The existing main dwelling (approved) and existing 2nd dwelling (unapproved) are a primary right and an additional use right respectively, on the R1-zoned property.

4.2 Item 22(b): Floor space (compliant)

The total proposed floor space is 536m² and complies with the permissible floor space of 1500m².

4.3 Coverage

Not applicable.

4.4 Item 22(c)(i): Height (compliant)

The permitted height for buildings on erven larger than 650m² is 10m to the “top of building” as measured from the existing ground level (EGL). The EGL is the City of Cape Town’s 2m contours as per the Ground Level Map, as indicated on the plans. The existing building (the main dwelling as well as the garages) will remain at the same height as the current structures - there is no further vertical extensions proposed.

4.5 Item 22(d): Building lines (departures)

- The property is subject to 3m common boundary building lines. As explained elsewhere, portions of the existing 2nd dwelling and pool, as well as a portion of one of the proposed garage extensions, are within these building lines and require **departures**.
- The property is subject to a 3.5m street boundary building line (for the dwelling house and garages).

The main dwelling (existing) complies with the building line.

- A garage is required to be 3.5m from the street boundary. The proposed extensions of the garages are at 0m and require **departures**.
- A covered entrance of 5m² and with a height of 3m from the floor to the highest point, as well as an entrance porch, is permitted within the 3.5m street boundary building line. Given that the proposed covered entrance (which effectively includes the entrance porch and the new glass roof) measure approximately 18m² in extent, it is not permitted as of right but requires a **departure**.

4.6 Item 25A: Second dwelling (compliant)

The existing 2nd dwelling complies with the criteria, including with sub-section (a) which relate to the permitted floor space of these dwellings in relation to the floor space of the main dwelling. The existing 2nd dwelling’s floor space is 91m².

4.7 Item 126: Raising of ground (compliant)

No raising of ground is proposed.

4.8 Items 137 & 140: Parking and access (compliant)

With the site being in a PT1 Area, 1 parking bay per dwelling house is to be provided (total of 2 bays required for the main and 2nd dwelling). In the event, at least 4 on-site parking bays are provided, and there is no departure. (The number of on-site parking bays will remain as is).

The two existing carriageway crossings (CWC) have been approved (refer to copies of approved building plans); the number and widths of the approved CWCs will remain unaffected and there is thus no land use application required.

5. ADJUDICATION CRITERIA

Section 48(4) of the By-Law, as amended, states that the Council must have regard to the following when deciding an application for the removal, suspension or amendment of a restrictive condition, as well as when assessing the proposed departures:

- (a) whether the result would better align with the development management scheme (DMS);
- (b) the decision-making criteria in section 99*; and
- (c) sections 42(1)(c) and 47 of SPLUMA.

*This includes references to Section 7 of SPLUMA and Section 39(5) of LUPA.

5.1 Adjudication criteria in terms of Section 48(4)(a) of the By-Law

The proposed removal of the restrictive conditions will have the result that the development or regulation of the development of the property is more aligned with the DMS (which permits up to three dwellings, and also has no restriction on the property with respect to built-upon). The building lines in the title deed are also “mis-aligned” with the building lines as per the DMS.

The proposal is thus consistent with this criterium.

5.2 Adjudication criteria in terms of Section 99 of the By-Law

5.2.1 Motivation in terms of Section 99(1) of the By-Law

The application complies with the following minimum threshold requirements:

- (a) The proposed land use is **consistent with the Municipal Spatial Development Framework (MSDF)** and no deviation from it is required. The property is situated in the “Incremental Growth & Consolidation Area”. The proposal will help to create a more compact city and the better utilisation of the site in a sensitive manner. This form of land use densification and intensification are aligned with the MSDF, and should be encouraged and supported.
- (b) The principle of “granting the property the development rules of the next subzone within a zone” is not applicable.

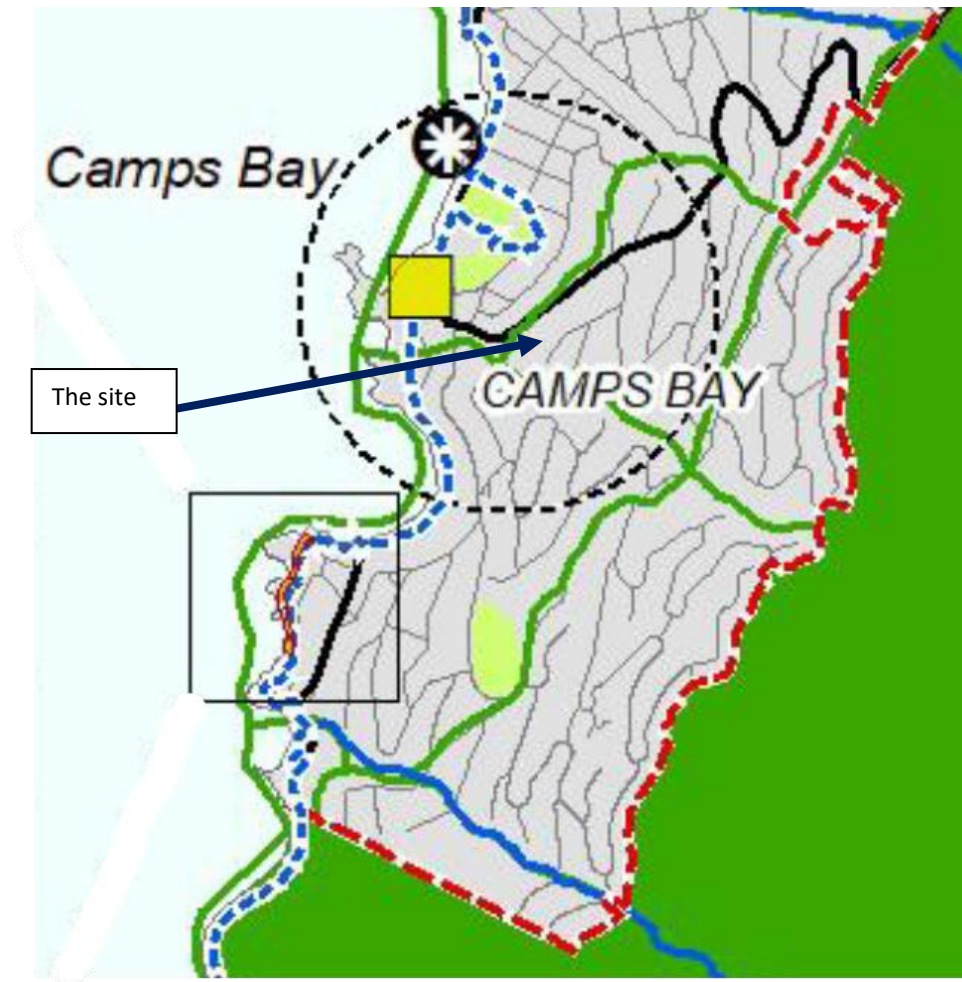
5.2.2 Motivation in terms of Section 99(2) of the By-Law

The application complies with the following relevant considerations:

- (a) Applicable Spatial Development Frameworks
 - The application is consistent with the **Provincial Spatial Development Framework (PSDF)** as it supports higher densities in existing urban areas which is already serviced, while more compact settlement footprints minimise environmental impacts and optimises infrastructure, reduce costs by improving financial sustainability with regard to the provision and maintenance of infrastructure, facilities and services.
 - The application is consistent with the **MSDF** and its Policies. The erf is in the Incremental Growth and Consolidation Area which has as some of its desired spatial outcomes and land use guidelines the following:
 - Diverse and dense land uses where bulk infrastructure allows.
 - Diversification of mono-use residential patterns.
 - Incremental densification (density and diversity) via e.g. 2nd dwellings.
 - Consolidation and diversification of city growth.
 - With respect to the **Table Bay District Plan**, its guidelines prescribe that within existing developed urban areas such as Camps Bay, land use intensification should be guided by available infrastructure capacity, neighbourhood density and character, proximity to job

opportunities and social facilities, and access to public transport. The existing character of the area must be considered as an informant to development proposals.

The site is in “Sub-District 1: Atlantic Sea Board Suburbs Area”. The property is situated in the area identified for “urban development” and is within the Urban Development Edge. It is located within the identified Local Node and in close proximity to the Community Civic Cluster.



The proposal is consistent with the Spatial Development Objectives of the Plan *inter alia* as follows:

- Ensure appropriate built form and land use to achieve a quality environment.
- Promote inclusive land use and transit oriented development.
- Promote land use intensification along development routes and in association with transit.

(b) Relevant Criteria in the DMS

The application complies with relevant criteria contemplated in the DMS; all necessary documents as required by the City are submitted with the application and the proposal considered desirable when assessed in terms of the adjudication criteria.

(c) Applicable strategies and policies

The City's MSDF must be implemented through various approved strategies and policies, with which the proposal complies:

- ❖ **Inclusive Economic Growth Strategy (2021)**: The proposal is, in principle, consistent with the aims of this Strategy (albeit in a relatively small manner), namely it represents private investment and contribute to economic growth – especially in an existing urban area. Given that the bulk of the components of this application relates to existing structures, no construction will take place and there is thus no proposed spending or job created (it is retrospective). The proposed extensions to the garages are relatively small as it does not represent comprehensive building work; however, it still represents “economic growth” and investment.
- ❖ **Social Development Strategy (2013)**: The proposal is consistent with the SDS. The SDS articulates the role of the City of Cape Town in promoting and maximising social development, the latter which is understood – broadly – as the overall improvement and enhancement in the quality of life. The proposal will, for example, provide a *wider diversity* of housing opportunities (also more affordable, given the relatively small size of the 2nd dwelling) in a popular residential area which will cater to the needs by the community. An increase in the number of people/families residing in an area also creates safer areas, generally speaking.
- ❖ **Environmental Strategy (2017)**: Residential densification and land use intensification of properties within the urban edge contributes to the containment of urban sprawl which complies with the vision of this strategy to enhance, protect and manage Cape Town's natural and cultural resources for long term prosperity, in a way that optimises economic opportunities and promotes access and social wellbeing.
- ❖ The proposal complies with the City's approved **Densification Policy** which aims to achieve a minimum average gross density of 25 du/ha across the City as a whole and which states that densification must *inter alia* be achieved by way of permitting subdivisions, second dwellings, third dwellings, or flats.

Residential densification within established urban areas is desirable for the following reasons:

- Efficient use is made of land which is an increasingly scarce resource, especially in a popular area such as Camps Bay.
 - More efficient use is made of existing municipal infrastructure.
 - Urban sprawl is contained which contributes toward environmental sustainability.
 - Densification facilitates the gradual restructuring of the City which is vital in terms of social, economic and environmental sustainability; a compact urban form is an essential pre-condition for well performing cities.
 - Residential densification is in the interest of the general public and the development of townships throughout the City.
-
- ❖ **Transit Oriented Development Strategic Framework (TOD)**: The vision for the TOD for Cape Town is to progressively move toward a compact, well connected, efficient, resilient urban form and movement system that is conducive to economic and social efficiency and equality whilst providing cost effective access and mobility, with the least possible negative impact on the environment. The proposed form of densification in principle supports the above.

Since the proposed development is to allow a second dwelling on the erf which is within walking distance (less than 200m) from a MyCiTi bus route & stop (in Geneva Drive/Tree Road), the application is consistent with the TOD.

(d) Desirability of the proposed use or development of land

The application is desirable, as contemplated in Section 99(3) of the By-Law. This aspect will be addressed further below.

(e) Impact on existing rights

It is not believed that there will be any negative impact on existing rights, as discussed below:

- All the R1-zoned properties in Camps Bay (in fact, in the whole city), has the right to be developed with a main, 2nd and 3rd dwelling (with respect to the DMS). The proposal is only to permit a relatively small 2nd dwelling.
- A large proportion of the properties in Camps Bay had their title deeds amended by either completely removing the relevant restrictive conditions, or by amending them (including the conditions relating to number of dwellings, built-upon and building lines). The proposed removal is therefore consistent with many other properties in the suburb (and the same Township Extension).
- The 2nd dwelling is relatively small (at only 91m²) and situated underneath the main dwelling, on a lower level (this ground floor/first storey, appears as and is, for all intents and purposes, a “basement”).

The 2nd dwelling was created by enlarging the previous domestic staff quarters (the extension was achieved by excavating below the existing house); the same vertical plane was kept (i.e. the 2nd dwelling was not extended towards the common boundary).

The 2nd dwelling has no impact on the neighbours’ privacy, or over-look or over-shadow adjacent properties.



View from the pool level to the east, with the 2nd dwelling just visible on the lower level, underneath the main dwelling (note its comparative low position in relation to the abutting neighbour plus the landscaped boundary between the two properties)

- There is sufficient on-site parking for both the main and the proposed 2nd dwelling.

- The pool complies with the required building line setback on the north-west common boundary (it is 1.34m from the boundary, whereas it is permitted at 1m). On the south-western common boundary, it is only 550mm over the permitted 1m building line (for pools).

The pool has been in existence for approximately 20 years, and has effectively become part of the accepted and existing built environment. During that time no objections (as far as our client is aware) were raised by the abutting neighbour. The implication being that it must be assumed that there is no impact on any existing rights. The pool is sufficiently screened along the south-western boundary to prevent any over-looking to that neighbour.



Google image indicating the pool on Erf 1819 with high screening to its south-west

- With respect to the street boundary building lines departures, Ronald Road is a wide road (measuring 15.74m wide) and which ends 100m from the subject erf in a cul-de-sac. This lower portion of Ronald Road therefore serves relatively few erven and comparatively little traffic (including no through-traffic). It is a quiet and spacious suburban street.

Any potential impact of the proposed departures on the street will be significantly mitigated by the (almost extraordinary) wide sidewalk on the northern side of the street (it measures about 8m from kerb to the erven's street boundaries). The sidewalk is, generally speaking, well landscaped along the entire northern side of the road (refer to aerial photo below).



The result is that the proposed street boundary building line departures will hardly be noticeable, and they are not believed to have any material impact on the street scape. Since there is no street boundary wall or fence, the property seamlessly “merges” or transitions into the road reserve, so that it is not noticeable where the property in fact ends and the road reserve begins. This has the positive effect and impact that the proposed 0m setback for the garage extensions and covered entrance/entrance porch will not create any impression of actually being on the street boundary, but will still appear to be situated quite “far” from the street. The photos below support the above:

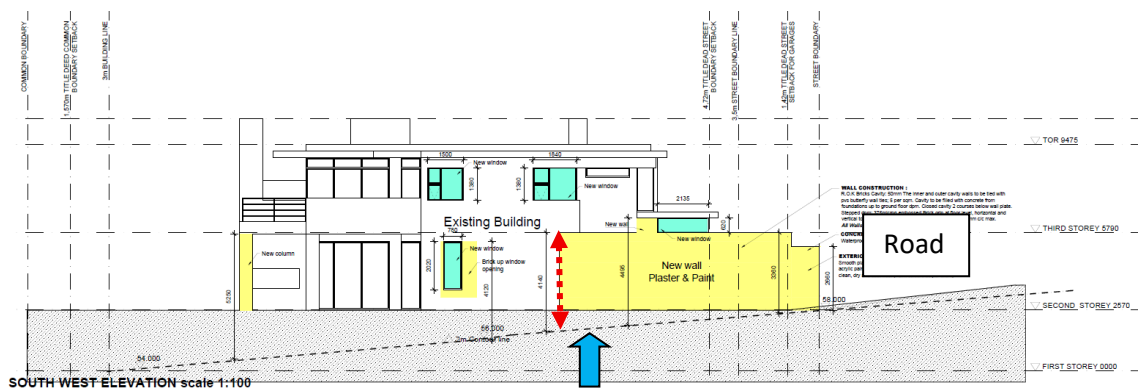


The street façade of Erf 1003 which will essentially remain the same, and with no impact on the street scape (note the extensive landscaping which will remain)



The character of Ronald Road, especially on the northern side of the street, with buildings in close proximity to the street boundary, the wide and landscaped sidewalk.

- The proposal will not reduce the ability of cars (visitors) to park off-street (i.e. on the 8m-wide sidewalk driveways). It will also not impact on any available street parking.
- A covered entrance and an entrance porch are permitted, *in principle*, within the street boundary building line. In this instance, the covered entrance is somewhat larger than the permitted 5m² whereas the entrance porch is, due to the slope of the land, next to the (theoretical) 2nd storey of the building (which is at street level). These departures are not believed to have any impact on any existing rights.
- The proposed departure relating to the garage extension on the south-west common boundary is not believed to impact that neighbour given that
 - Firstly, a garage is permitted, *in principle*, on the common boundary. In this instance it is only because the 2m contour (blue arrow below) slopes towards the north (away from the street), and which means that, *in theory*, the garage starts to exceed the permitted height of 3.5m above the EGL as one moves further away from the street (refer to red arrow, below). In reality however, the proposed garage extension will of course be level (horizontal), and measure only approximately 3.2m in height (from its floor to its roof). The required departure is therefore considered to be technical in nature.



South-West Elevation showing the proposed garage extension in relation to the (theoretical) ground level (2m contour)

- Second, the proposed garage extension abuts the paved drive-way of Erf 1006, plus the dwelling on the latter erf effectively has a blank façade facing the subject erf. The proposed garage extension will therefore not impact on any views, privacy or cause any unacceptable over-shadowing (i.e. no impact).



View of the common boundary (in yellow) between Erven 1006 and 1003. Note the paved drive-way of the abutting property.

- There is no impact on the existing height of the building, which will remain as is.
- There will be no impact on any existing views, including the “view corridor” (along the south-western side of Erf 1003) from the one property – Erf 2544 – which is directly opposite the subject erf on the upper (southern) side of Ronald Road. This is because:
 - The forward extensions to the garages (i.e. closer to the street) will be on the street side of the existing building (which appears as a double-storey from the street), and will thus be “in front of” the existing building (no impact on views over the erf).
 - The side extension to the one garage (to the south-west) will be in front of the existing boundary wall/store room immediately to the north of it (i.e. on the sea side), and will therefore also not impact on any views along this “view corridor”.
 - The property directly opposite Erf 1003 (there is only one – Erf 2544) is situated considerable higher than the building on the subject erf, and have clear views over the latter.
 - The pool will not have any impact on views, nor will be 2nd dwelling, which is effectively underneath the existing building.
- All the properties in the area are larger than 650m² in extent, meaning that they have the same existing rights with respect to the DMS, compared to Erf 1003. The proposed departures are not believed to impact on the existing rights of these other properties, or to preclude their owners to exercise their own existing rights.
- A large number of the properties in the township, including in the immediate vicinity as the subject erf, have been improved with buildings which required departures (including for the common & street boundaries) as well as the removal/amendment of title deed conditions.

With respect to the individual components of the application:

❖ Removal of conditions:

The proposal represents the sensitive densification and efficient use of the property in a contextually appropriate location. The proposal for a 2nd dwelling is considered desirable and respects the established built fabric and character of the surrounding area (e.g. with respect to the building's scale, height, footprint, envelope, proximity to boundaries, architectural style, quality of design, and appearance). Residential densification within established urban areas is desirable for a number of reasons, as already set out above.

Conditions have been amended and removed from the title deeds of a large number of properties within Camps Bay to enable residential densification and land use intensification. The character of the township has clearly not been established by the title deed restrictions alone, but also by developments which have been achieved following the amendment or removal of conditions from the title deeds.

❖ Common and street boundary setbacks:

These were already addressed above, in the assessment of the impact on “existing rights”.

5.2.3 Motivation in terms of Section 99(3) of the By-Law

In terms of this sub-section, the proposal is desirable for the following reasons:

(a) Socio-economic Impact

The proposal will enable the more efficient utilisation of the property, an increasingly scarce and expensive resource in a highly sought-after and affluent neighbourhood with high land values. It is not considered desirable or logical to restrict, in 2026, the development of such high-valued erven to one dwelling only, to a “built upon” area of only 50%, and to building lines which are either considered to be unnecessary onerous (e.g. the 4.72m street building line and prohibiting any “structure or portion thereof” within 1.57m from the common boundaries), or quite simply “unintelligible” (e.g. the very complicated formula as per Condition B.6A.I.(e) – which is considered best to be simplified as per the DMS). These conditions were imposed approximately 80 years ago and are not considered to be beneficial from a socio-economic perspective.

The proposal will not only add housing stock in the city but also a wider variety of housing types (i.e. smaller units) for people seeking smaller (and more affordable) dwellings in an appropriate and well-located area. This is considered as a positive social and economic impact.

The more efficient utilisation of the erf will ensure a better return on the investment made by the owners which is positive from their perspective, whereas the development will mean an increase in the municipal valuation of the property and hence additional rates and taxes for the city.

The owner is a motorcycle enthusiast and collector, and the additional garage space is required to store them (in addition to the vehicles). The proposed garage extension (departure) will thus have a positive social impact on him and his hobby.

The proposed departures are considered to be minor in nature and to not have any material external impact, including on existing rights and the surrounding built environment. This in itself will have a

positive socio-economic perspective on the surrounding property owners (due to a lack of negative impact).

The proposal will create employment opportunities during construction of the garage extension (if approved), albeit in a relatively small way due to the relative minor nature and extent of the proposed building work.

(b) Compatibility with Surrounding Uses

The subject property is zoned R1 and will be used for residential purposes (the same as all the other properties in the area). Many of those properties have been improved by means of departures from the provisions of the DMS and/or after their title deed conditions have been removed or amended.

The proposal is considered to be consistent and compatible with the land uses, built form and character of the surrounding area (including the street scape).

(c) Impact on External Engineering Services

It is not believed that there will be any impact; however, the proposal will be circulated to the relevant service branches for comments.

A Development Contribution will be payable for the second dwelling.

(d) Impact on Safety, Health & Wellbeing of the Surrounding Community

It is not believed that the proposal will have any impact on the surrounding community. On the contrary, the proposed increase in dwelling units (only one) is considered to have a positive impact on the overall safety of the area because of the relatively higher levels of people movement in the area, and thus higher levels of direct and indirect surveillance which generally deter anti-social behaviour.

More compact cities lead, in principle, to more viable communities and more sustainable cities, which benefit everyone.

(e) Impact on Heritage

The property is not situated in a Heritage Protection Overlay Zone and the existing building is not older than 60 years. There is no impact on heritage.

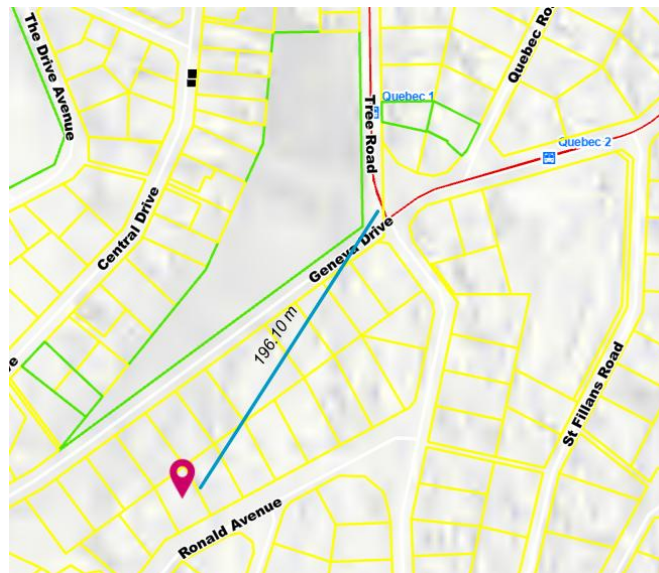
(f) Impact on the Biophysical Environment

There will not be any negative impact on the biophysical environment of the area. No trees or other vegetation will be removed as a result of the proposal.

(g) Traffic, Transport, Parking and Access

There will not be any impact on traffic, parking and access:

- There is no parking departure; four on-site parking bays exist on the site (and will continue to exist) for the main and 2nd dwelling, which exceeds the number of minimum on-site bays required by the DMS.
- The two existing carriageway crossings were approved and will remain unaffected.
- More than sufficient parking space exists on the sidewalk (between the kerb and the erf boundary) for off-street parking (and this will also remain unaffected).
- There is no impact on the available street parking.
- The proposal is consistent with the TOD as it represents a marginal increase in density within walking distance (less than 200m) of the MyCiTi bus route and stop – see below:



(h) Mitigation

It is not believed that it is necessary for any special conditions of approval be imposed (in the event that the application is supported); however, the Council may impose reasonable and relevant conditions if it deems appropriate to do so.

5.3. Motivation in terms of LUPA and SPLUMA

The proposal is consistent with the above legislation as demonstrated below:

5.3.1 Section 59 of LUPA & Section 7 of SPLUMA

- The proposal will help to limit urban sprawl and to create a more spatially compact city which is within fiscal, institutional and administrative means. This is consistent with the principle of social sustainability.

- This will help to protect prime agricultural land on the outskirts of the city and will have a positive impact on the environment. This is consistent with the principle of environmental sustainability.
- The proposal promotes land development in a contextually appropriate location which forms part of an existing urban area and will optimise the use of available land in a sensitive manner – principle of spatial sustainability.
- The proposal will optimise the use of existing infrastructure and encourage/support the use of public transport facilities, thereby curbing costs for the Council, developers and ultimately the general public. This is consistent with the principle of social efficiency.
- The creation of more compact cities and curbing the necessity to provide infrastructure for an ever-increasing metro, the saving of such money can be utilised to improve the lives of the previously disadvantaged by acquiring and/or developing land for those communities where required. Contextually speaking, appropriate densification and intensification of land use, such as what is proposed, will cumulatively help by taking pressure off from development elsewhere which normally drives the poor to the edges of the city. Low density urban areas closer to places with good opportunities inevitably displaces other people to worse located land.

The subject 2nd dwelling, which is relatively small in extent, is comparatively more affordable than a large, single dwelling – especially in Camps Bay. This will assist prospective buyers or tenants to also have the opportunity to reside in an affluent suburb but without the usual prohibitive costs to do so.

This is consistent with the principles of social justice.

- The property is considered to be under-develop with regard to its existing rights. The proposal is not an attempt to acquire additional floor space or height over and above what is permitted in terms of the DMS. The application is merely to make more efficient use of the property (and largely relates to existing alterations and additions to the building, which require regularisation). This is the principle of spatial resilience.
- The proposed densification of the area will ensure that the community will become more viable e.g. greater security (more surveillance) and more people to sustain facilities such as schools and to support the existing public transport in the area.
- The proposal directly supports the Densification Policy and the principles of the TOD, as well as statutory documents e.g. the District Plan, MSDF etc.

5.3.2 Section 39(5) of LUPA

- (a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;

It is our opinion that the conditions currently have a negative financial value to owners of properties within the Township Extension for the reasons set out further below.

The relevant conditions stem from approximately 80 years ago, and were imposed at the time when this Brighton Estate No. 3 was created. At the time, the township developers intended the

suburb to have a very particular “look and feel”, and deemed it “desirable” to impose these restrictions to control aspects such as the built form (of buildings), land uses and density (i.e. one dwelling only), to restrict structures around dwellings (i.e. specific spaces around the buildings), and even the extent to which buildings could be “built upon” the land. This was particularly done because no zoning schemes existed at that time in order to execute such “controls” and to regulate the manner in which erven develop. With the arrival of zoning schemes (which are far more in touch – or aligned, with modern planning principles and property developments) they have largely taken over the “role” of controlling property development from title deeds.

The erstwhile title deed conditions aimed, at the time of the creation of these properties, to provide some form of financial or other values to the holders of the rights in a “tangible” manner, e.g. what kind of character the township will have with regard to aesthetics, the number of people who could reside in the suburb, potential noise and traffic levels that can be expected, etc. In other words, the then owners could have, potentially, found some financial or other value (whether positive or negative) as a result of the “look and feel” of the township and which could have determined the utility and desirability of the township to a person. In this case, the alleged value of the rights relates to a residential area with a certain built form, aesthetic (including its appearance), and density that were envisioned. In the event, this Township Extension, and in fact the entire Camps Bay, have developed over the past approximate 120 years (since the first extension was created in 1902) to have a very different character and appearance than originally envisaged.

Restrictions have been removed from the title deeds of many properties in the township over the years without negatively affecting property values in the area; on the contrary, the property values in Camps Bay have been consistently higher with the passing of the years. In addition, there are other areas along the Atlantic Seaboard with a similar character and property values as Camps Bay, which areas are not subject to these conditions, and where developments for increased density and land use intensification have similarly not negatively affected property values in those areas.

Given that the proposed development will be in character with and sensitive to the surrounding built environment, it is not believed that there will be any undue impact on the financial or other values of the rights of the beneficiaries.

With respect to the individual conditions:

One Dwelling Only & Built-Upon

It is unlikely that the restrictions relating to the “one dwelling only” and “built upon” currently add any **financial** value to the owners of properties within this Township. These conditions restrict the ability to develop larger houses and/or additional residential opportunities in a well-located area, notwithstanding that the DMS and forward planning policy all make provision for densification in this area. By retaining these conditions, the City would not be able to adequately respond to the market needs of well-located housing in Cape Town. Such retention of conditions is also considered to be contrary to the City’s own approved Policies and other legislative frameworks.

Indeed, Section 48(1)(4)(a) of the By-Law (which deals with the “removal, suspension or amendment of restrictive conditions”) was specifically amended (on 1 October 2025) to read as follows (underlining is our emphasis):

The City must consider the following, when deciding an application for removal, suspension or amendment of a restrictive condition—

(a) whether the result would better align with the development management scheme;

The proposed removal of these conditions is consistent with the above as it would mean that the development of the erf is “better aligned” with the DMS.

This proposal for incremental and sensitive densification will also be more aligned with the density and character of the surrounding properties, which values still remain high (and higher with each municipal valuation). A number of properties in the area have had their title deed conditions removed/amended to enable the development of multiple dwellings and/or larger built-upon footprints, and there is no evidence that the surrounding properties’ values dropped as a result.

The removal of the conditions, especially the condition relating to the number of dwellings permitted, will add to the City’s rates income.

The Building Lines

The purpose of the 4.72m street building line (which applies to this erf) was to ensure that buildings were setback from the street to establish a particular street character, with gardens and forecourts. The existing building (the main bulk of it) is approximately 7-8m set back from the street boundary and also largely complies with the common boundary setbacks (fully compliant with respect to the rear boundary); however, relatively minor or no-impact structures e.g. a portion of the pool, garages and a portion of the covered pedestrian entrance are within the title deed building lines. This means that the intended character of this title deed restriction will largely still be achieved as the main bulk of the building, which already exists, is compliant with the building lines. In addition, the considerable width, character and appearance of Ronald Road have been explained elsewhere already, and because of this it is not believed that the proposed removal of the 4.72m title deed street boundary building line will have any material and undue impact on the street scape.

Similarly, only relatively minor portions of the existing and proposed alterations and extensions are within the 1.57m common boundary building lines (title deed). The removal of this condition is also believed to be desirable given that the DMS in fact carries a 3m common boundary building line, which is more onerous than the title deed.

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

These restrictions relate to the principle of and perceived density and appearance of an area, or, in other words, the character of the area. This application to remove these conditions may change this personal expectation of low residential density or spacious areas around dwellings. However, the character of the area is not considered to be of a “low density” but rather one of moderate to medium density, given the extent of the surrounding built environment (large, multi-storeyed houses – often more than one per erf, and in relative proximity to each other – due to previously granted departures or perhaps a different historic set of rules) which applied the time.

These unrealistic personal expectations (of a low density area or spacious erven) need to be considered against the ever-changing urban form of the City and growing housing pressures. The changing needs of the modern city as well as homeowners have resulted in the increased need for denser properties. As such, it is noted that the original intended character of this township has already changed a long time ago towards a more compact and denser pattern. In general,

developments are now increasingly regulated by good quality urban design and form rather than the preservation of unrealistic low densities, especially along this part of the Atlantic Seaboard where land values are some of the highest in the city.

The proposal is not believed to have any undesirable impact on the established built character of the area and as such, it will not impact negatively on the public or surrounding property owners. The character of the area has clearly not been established as a result of complying with the title deed restrictions, given that a large proportion of the buildings in the township do not comply with the conditions as originally imposed on the erven as the respective township extensions were created throughout the 1900's.

The personal benefits accruing to individual owners are negligible as they do not gain anything significant by keeping these conditions preventing more than one dwelling house on the subject property, to permit more than 50% built-upon, or to remove the building lines restriction (all of which is now regulated by the DMS), in place.

With the proposed development being compatible and in character with the surrounding built environment, it is not believed that the proposed removal of the conditions will have any impact, and nobody stands to gain anything by preventing the proposed development.

- (c) the personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended;

Granting the application will enable the relevant existing building work on the property to be regularised and to enable the existing garages to be marginally enlarged (in order to accommodate the owner's motorcycle collection). The proposed removal will also mean that the development rules applicable on the property will be more aligned with the DMS. This will optimise the investment made by the owner and his personal enjoyment of the erf.

Approval of the proposal will also enable the owner to potentially sectionalise the two dwellings (and sell one, or both independently), or to rent the 2nd dwelling out.

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

It is our opinion that there will be no social benefits should the restrictions remain in place. A "social benefit" implies the wider public, or society as a whole. Since the relevant conditions restrict the number of dwellings to one dwelling only, limit the permitted "built-upon" area of the erf, and restrict the development with respect to building lines, there is no apparent benefit to society if the conditions are retained, especially considering the nature, appearance and character of the existing surrounding built environment (where many, if not most, of the properties have been relieved of the same/similar title deed conditions, and have been improved over the building lines, exceeding a 50% built-upon, and with more than one dwelling).

The retention of these conditions would be at odds with the character of and many of the properties in the area.

It is not believed that society will gain anything if these conditions remain in place. It stands to reason that there is likewise no undue impact on society if the conditions are removed.

If the conditions are not removed, the property can only be developed with one dwelling house which would, for example, be inconsistent with approved Council policy and frameworks, and an under-utilisation of the high-value land in a highly appropriate location.

Notwithstanding the removal of these conditions the development potential of the erf will still be controlled by the DMS, and it is not believed to impact on the local or wider society.

It is not believed that society will gain anything if these conditions remain in place. It stands to reason that there is likewise no undue impact on society if the conditions are removed.

- (e) the social benefit of the removal, suspension or amendment of the restrictive condition; and

These restrictive conditions were imposed many decades ago when there were fundamentally different development requirements and availability of resources. At that time, planning and development was controlled in very different ways, and Cape Town was not subject to its current population and development pressures. Different concepts of appropriate and desirable land use prevailed. It should therefore come as no surprise that, many years after the title deed conditions were first imposed, residents are seeking to change some of the controls imposed through the restrictive title deed conditions (as they are indeed allowed to do in terms of the current and applicable legislation mechanisms).

The removal of the restrictions will have a positive social benefit given that it will enable the regularisation of existing, unauthorised portions of the building (which is not considered desirable to remain un-approved), as well as to permit relatively minor extension of the garages. Incremental and sensitive densification (i.e. “in-fill” development) within an established urban area – creating a more compact city, is considered to have social benefits. More compact urban environments have positive social impacts e.g. it limits urban sprawl, protect and optimise resources and infrastructure, create safer and more sustainable/viable communities, benefits the environment (less traveling; more people on buses), etc. This is underscored by the R1 zoning of the site which allows for up to three dwellings as a primary and additional use rights. In this regard the proposal is aligned with LUPA and SPLUMA with respect to “spatial sustainability and efficiency”.

Camps Bay is one of the most popular suburbs on the Atlantic Seaboard, with a high demand for housing stock. The proposal will enable the additional housing stock and a wider variety of housing options, which carry social benefits.

The better utilisation of the property in terms of modern urban development and without materially impacting on existing or other rights is also considered to be a positive social benefit.

The personal benefits that are conferred by these title deed conditions must be weighed up against the wider social benefit of removing the conditions, as well as the benefit to the applicant (land owner). It is believed that the benefits in removing these restrictive conditions outweigh any potential negative impacts as a result of the removal.

It is therefore believed that the proposal will have a material and positive social impact.

- (f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

The application will not remove all the title deed conditions; the restrictive conditions disallowing the subdivision of the erf, the development of the erf with flats, and the use of the property (residential purposes only), will remain in the title deed.

The conditions which are proposed to be removed are no longer considered relevant, and besides, the property will still be subject to the development rules as set out in the DMS.

5.3.3 Section 47 of SPLUMA

Section 47 of SPLUMA states as follows:

47. (1) *A restrictive condition may, with the approval of a Municipal Planning Tribunal and in the prescribed manner, be removed, amended or suspended.*
- (2) *A removal, amendment or suspension of a restrictive condition contemplated in subsection (1) must, in the absence of the contemplated written consent, be effected –*
- (a) In accordance with section 25 of the Constitution and this Act;*
 - (b) With due regard to the respective rights of all those affected, and to the public interest; and*
 - (c) In the prescribed manner,*
- if such removal, amendment or suspension would deprive any person of property as contemplated in section 25 of the Constitution”.*
- (3) *A Municipal Planning Tribunal considering an application to remove, amend or suspend a restrictive condition is not liable to compensate any person for any loss arising from or related to a decision made in good faith and in terms of this Act to remove, amend, or suspend a restrictive condition”.*

Section 47 enables the Municipal Planning Tribunal to approve the application for removal of restrictions.

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

Given that the State will not acquire any property rights by removing the conditions, plus the fact that the application will be widely advertised for public comment, and, if any comments are received, such comments will be thoroughly considered by the MPT, the approval will not constitute the *arbitrary* deprivation or expropriation of properties as contemplated and prohibited by the Constitution.

Appropriate residential densification is desirable and serves the public interest, as encouraged by all the approved City policies and development frameworks. Granting of the application to permit increased residential density on Erf 505 falls within this category and should be supported.

6. CONCLUSION

This report successfully demonstrates the *desirability* of the proposed removal of the conditions and the departures, as well as the *compliance* thereof with all the relevant adjudication criteria in SPLUMA, LUPA and Section 99 of the By-Law. The report also demonstrates consistency and compliance with all Council's approved Frameworks, Strategies, Plans and Policies.

The proposal is considered to be compatible and in character with, and sensitive to, the surrounding built environment, including the street scape. It is not believed that there will be any material impact on existing rights, on the street scape, views, privacy or the over-shadowing of abutting properties.

Given the above, it is trusted that the Council will recognize the positive impacts and desirability of the proposal, and favourably consider and **approve** the application.

TOMMY BRUMMER TOWN PLANNERS