CITY OF CAPE TOWN
ISIXEKO SASEKAPA
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Case ID 1500171757

Erf 951, 40 Van Der Byl Avenue, Durbanville

Development Management

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28 September 2026

The District Manager
Department of Planning and Building Development Management
Northern District
PO Box 25
Kraaifontein, 7569

Dear Sir/Madam,

APPLICATION FOR REZONING, SUBDIVISION, PERMANENT DEPARTURE, REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, DELETION OF CONDITIONS OF APPROVAL & SITE DEVELOPMENT PLAN APPROVAL: ERF 951, DURBANVILLE

Application is hereby made, on behalf of the registered owner, for the rezoning of Erf 951, Durbanville from Residential 1 (R1) to Subdivision Area, the subdivision into five (5) Group Housing (GR1) portions and a Remainder (private access road and common property), a permanent departure to the common (garage) building line, the removal of restrictive title deed conditions and deletion of the corresponding conditions of approval, and approval of the Site Development Plan, to permit a group housing development with five (5) dwelling units, And deviation from the district plan as motivated in the accompanying report.

Please find herewith attached the following:

1. Application Form
2. Power of Attorney
3. Company Resolution
4. Title Deed
5. Conveyancer's Certificate
6. General Plan
7. Subdivision Plan
8. Site Development Plan
9. Tree Survey
10. Figures (Locality Plan, Zoning Map & Aerial Photo)
11. Pre-Consultation Minutes (23 February 2026)
12. Stormwater Management Plan
13. Landscaping Plan

Trust the abovementioned suffices.

Kind Regards,

Jacorien Nel
For and on behalf of ELCO Property Developments

SECTION A: HISTORY AND BACKGROUND INFORMATION

A) 1. INTRODUCTION

ELCO Property Developments has been mandated to provide this planning motivation in support of an application for the rezoning, subdivision, permanent departure, removal of restrictive title deed conditions, deletion of conditions of approval and approval of a Site Development Plan, to permit a group housing development comprising five (5) dwelling units on Erf 951, Durbanville. The **Power of Attorney** and **Company Resolution** authorising this firm are attached hereto. The registered owner is the Power of Attorney is signed by as the individuals authorised to sign on behalf of per the attached Company Resolution.

This report outlines the proposal and motivates the necessity and desirability of the application, and provides the information required by the City so as to enable Interested and Affected Parties and Council to make informed comments and decisions on the proposed development.

A) 2. HISTORY AND BACKGROUND

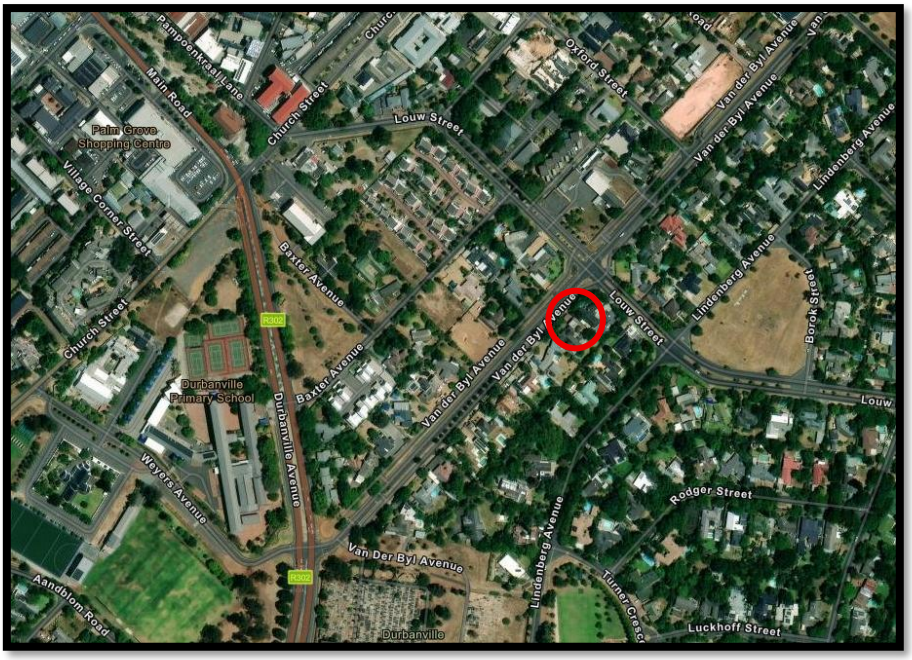


Fig. 1: Locality Plan

The property is situated at 40 Van Der Byl Avenue, Durbanville, and is currently zoned Residential 1 (R1). The site is currently utilised as a single residential dwelling with a shed, carport and swimming pool. A pre-application consultation was held with the relevant City departments on 23 February 2026; the comments and concerns raised at that meeting are addressed throughout this report and are attached as the **Pre-Consultation Minutes**.

SECTION B: APPLICATION

B) 1. THE APPLICATION

Application is hereby made on behalf of the owner for:

a) **Rezoning** of Erf 951, Durbanville, in terms of Section 42(a) of the City of Cape Town Municipal Planning By-Law, 2015 (MPBL), from Residential 1 (R1) to Subdivision Area, to allow a group housing development with five (5) dwelling units;

b) **Subdivision** in terms of Section 42(d) of the MPBL, into six (6) portions to allow Portions 1–5 and a Remainder (223m², for the private access road and common property), all zoned Group Housing (GR1);

c) **Permanent Departure** in terms of Section 42(b) of the MPBL, to allow a common (garage) building line of **1.5m** in lieu of 3m, along the North and South common boundaries;

d) **Removal** of restrictive title deed conditions in terms of Section 42(g) of the MPBL, being conditions B.3(a), (b), (c) and (d), C.I and C.IV of Pivot Deed

e) **Deletion** of the corresponding conditions of approval in terms of Section 42(j) of the MPBL, being the Ordinance-imposed conditions deemed to remain in force under Section 142(1) of the MPBL; and

f) **Approval of the Site Development Plan** in terms of Section 42(i) of the MPBL, to allow a group housing development with five (5) dwelling units.

g) **Consent in terms of the DMS** in terms of Section 42(i) of the MPBL, in order to deviate from the Northern District Plan by allowing densification outside the Secondary Business District.

h) **Street name and Complex name** proposed are Bronté Close and Barnwell Villas.

The **Application Form** is attached hereto.

SECTION C: LEGAL AND GENERAL INFORMATION

C) 1. TITLE ASPECTS

Erf 951, Durbanville is held under Title Deed , which refers to Pivot Deed for the restrictive conditions still binding the property. A copy of the **Title Deed** is attached hereto.

a) PROPERTY DESCRIPTION

The property is described in the Title Deed as *"Erf 951 Durbanville in the City of Cape Town, Cape Division, Western Cape Province"*.

b) PROPERTY SIZE

The extent of the property is 1487m², in accordance with the Title Deed. Please refer to the **Subdivision Plan** and **General Plan** (areas and dimensions on the Subdivision Plan are approximate and subject to final survey).

c) REGISTERED OWNER

The property is registered in the name of (Registration Number 2006/058490/23). The Power of Attorney and Application Form are signed by as the individuals authorised, per the attached Company Resolution, to sign on behalf of

d) MORTGAGE BONDS

A mortgage bond in the amount of R1 500 000 is registered against the property under Bond No. B00021823/2018, dated 3 October 2018. The bondholder's consent to the application will be obtained.

e) TITLE DEED CONDITIONS

The Pivot Deed contains the following restrictive conditions, per the **Conveyancer's Certificate**:

- **B.3(a):** the erf shall not be subdivided;
- **B.3(b):** the erf shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;
- **B.3(c):** not more than one-third of the area of the erf shall be built upon;
- **B.3(d):** no building or structure shall be erected nearer than 7.87m to the street line, nor within 3.15m of the rear or lateral boundary common to any adjoining erf;
- **C.I:** the transferee may not at any time acquire or become the registered owner of more than two erven in the Durbanville Extension No. 2 Township;
- **C.IV:** the frontage of each dwelling must face a street.

These conditions are addressed in Section G below. The Deed also carries a condition (B.2 of Deed 5966) obliging the owner to allow electricity, water, sewerage, drainage and stormwater infrastructure

of other erven to be conveyed across the erf without compensation; this condition is not affected by the current application.

f) SERVITUDES

A 3m services servitude is proposed along the south-eastern boundary of Erf 951, per the **Subdivision Plan** and **Stormwater Management Plan**, in response to the Water and Sanitation Department's pre-consultation requirement for a servitude along the boundary; the servitude also accommodates the proposed stormwater swale and outfall system. The Stormwater Management Plan proposes that this 3m servitude be extended onto the neighbouring Erf 952 to convey the stormwater outfall pipe and provide an overland escape route to the existing stormwater infrastructure on Erf Re/455. No other registered servitudes affect the property, per the Conveyancer's Certificate.

C) 2. GENERAL INFORMATION

a) LOCATION & ACCESSIBILITY

The physical address is 40 Van Der Byl Avenue, Durbanville. Access to the proposed development will be off Van Der Byl Avenue. Please refer to the **Figures** (Locality Plan, Zoning Map and Aerial Photo).

b) SITE CHARACTERISTICS

The property is currently developed with a single residential dwelling, a shed, a carport and a swimming pool, and carries a substantial number of established trees. Please refer to the **Tree Survey**. The site has a slope of 8.8% from the north-west to the south-east, towards the rear of the erf, per the topographical survey referenced in the **Stormwater Management Plan**.

c) EXISTING ZONING

In terms of the DMS, the property is zoned Residential 1 (R1). Please refer to the **Figures** (Zoning Map).

d) EXISTING LAND USE

The site is currently utilised as a single residential dwelling.

e) SURROUNDING LAND USES & ZONING

The immediately surrounding erven along Van Der Byl Avenue are predominantly zoned Residential 1 (R1). However, higher-intensity zonings are already established nearby: General Residential (GR2) zonings along Newhaven Street and Windell Street, a General Residential (GR4) zoning at the Edu-

Play Early Learning Centre erf, and General Business (GB2) zonings at erven fronting Van Der Byl Avenue further north-west, per the **Figures** (Zoning Map).

SECTION D: DEVELOPMENT PROPOSAL

D) 1. PROPOSED LAND USE

The proposal is a group housing development comprising five (5) dwelling units (Portions 1–5) with a private access road and common property (Remainder, 223m²), all zoned Group Housing (GR1), which zoning includes the use of the Remainder as a private road. Each unit is a double-storey dwelling with an attached garage. Please refer to the **Site Development Plan**, **Subdivision Plan**, **General Plan**, **Stormwater Management Plan and Landscaping Plan.**



Fig. 2: Proposed Development

D) 2. PROPOSED ZONING & REGULATIONS

The property will be rezoned from Residential 1 (R1) to Subdivision Area and subdivided into five (5) portions and a Remainder, all zoned Group Housing (GR1) – the GR1 zoning permitting the Remainder's use as the private access road and common property. Under the DMS, group housing is defined as “a group of separate and/or linked dwelling units which may be subdivided but are planned, designed and built as a harmonious architectural entity and integrated with open space in an ordered way”. GR1 prescribes a density of 35u/ha and a height of 9m, and does not prescribe a coverage or floor factor standard. The table below sets out the applicable regulations; the only departure required, beyond what the removal and rezoning enable, is the common (garage) building line.

Aspect	Title Deed / Original Approval	Zoning Scheme	Proposed
Use	One dwelling (B.3(b))	Multiple / Group Housing	Group housing (5 units)
Subdivision	Not permitted (B.3(a))	Permitted via Section 42(d)	**5 portions** (Portions 1–5) + Remainder, all zoned Group Housing (GR1)
Density	—	35u/ha	33.6u/ha – compliant
Height	—	9m	8.78m top of roof (5.7m wallplate) – compliant
Coverage / Built-upon Area	Max one-third (±33.3%) (B.3(c))	No coverage regulation (GR1)	36.1%
Floor Factor	One-third built upon (B.3(c))	No floor factor regulation (GR1)	±0.68 (1 012.8m² total floor area)
External Street Building Line (Van Der Byl Avenue)	—	5m	5m – compliant
Common Building Line – Dwelling	3.15m lateral (B.3(d))	3m	3m – compliant
Common Building Line – Garage (North & South)	3.15m lateral (B.3(d))	3m	**1.5m** in lieu of 3m
Internal Street Building Line	—	0m; 5m setback for garages	0m; 5m setback for garages – compliant
Outdoor Space	—	50m²/dwelling = 250m² total	496.6m² – compliant
Parking	—	1.75/dwelling + 0.25/dwelling visitor = 10 bays required	11 bays provided (10 + 1 visitor), with a 7m reversing distance to the visitor bays – compliant

SECTION E: POLICIES AND FRAMEWORKS

The proposal has been assessed against the relevant statutes, spatial frameworks and strategies below.

E) 1. NATIONAL HERITAGE RESOURCES ACT NO. 25 OF 1999

The existing dwelling on the property is not older than 60 years and is not identified as a heritage resource; no Section 34 approval or Notice of Intent to Develop is therefore required, as confirmed by the Environmental and Heritage Department at pre-consultation.

E) 2. NATIONAL ENVIRONMENTAL MANAGEMENT ACT NO. 107 OF 1998

No NEMA-listed activities are triggered by the proposal, and an Environmental Authorisation is therefore not required.

E) 3. CITY OF CAPE TOWN MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK (MSDF) (2023)

The subject property lies within an Incremental Growth and Consolidation Area in terms of the MSDF, which supports the diversification of mono-use residential patterns and the consolidation of land uses to support managed city growth, without requiring the intensity of a full mixed-use intensification node. The proposal supports this designation: the land is not valuable agricultural land, and the development achieves a more efficient use of an existing, well-located urban erf.

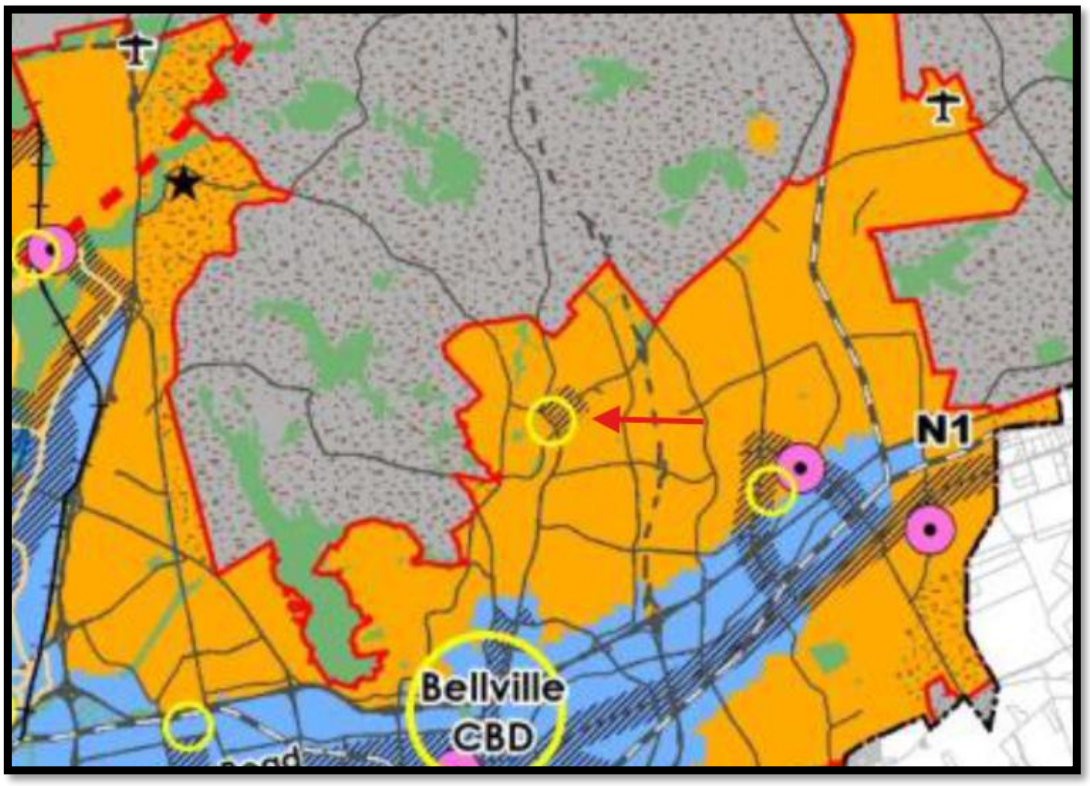


Fig. 3: Location within the MSDF

E) 4. NORTHERN DISTRICT SPATIAL DEVELOPMENT FRAMEWORK, VOLUME 2 (2023)

The property falls within Subdistrict 1, situated just outside the Durbanville CBD Delineation shown in Figure 15 of the Northern DSDF, in the area of larger Single Residential (SR1/R1) erven surrounding the Secondary CBD (SCBD).

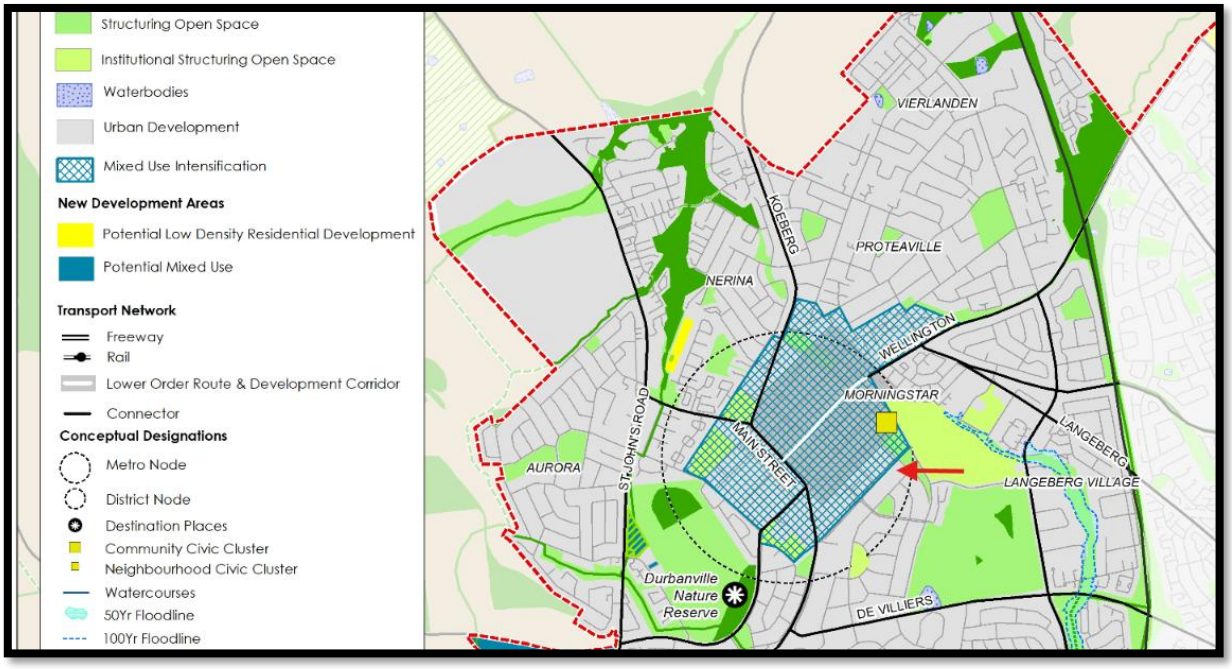


Fig. 4: Location within the NDP

Paragraph 34 (pages 76–77) specifically addresses this category of erf:

> *"34. No other densification, except in the form of 2nd and 3rd dwellings should be considered for the larger SR1 erven surrounding the Secondary CBD. No subdivision of SR1 properties outside SBA unless adhering to small scale incremental densification criteria (Densification Policy), i.e. panhandle subdivision which limits the impact on the street interface and character could be considered."*

The proposed development – a five-unit group housing scheme created by conventional subdivision, rather than 2nd/3rd dwellings on the existing erf or a panhandle subdivision limiting street-interface impact – does not comply with paragraph 34 as written. This non-compliance is acknowledged directly, and a motivation for departing from paragraph 34 is set out in Section F)2 below.

E) 5. DENSIFICATION POLICY (2012)

Densification is defined in the policy as "the increased use of space, both horizontally and vertically, within existing areas/properties and new developments, accompanied by an increased number of

units and/or population threshold". Its core principles include: (i) reducing urban sprawl and the consumption of valuable and environmentally sensitive land by using already-serviced urban land more intensively; (ii) making more efficient use of existing engineering infrastructure and public transport by increasing activity thresholds within already-serviced areas; (iii) providing a greater diversity of housing typologies, tenure options and price points across the city, rather than a single dominant typology; and (iv) directing the scale and pace of densification appropriately to the character of the receiving area.

The subject property lies just outside the Mixed Use Intensification area, and the policy does not require every site outside that boundary to remain single-residential; rather, its differentiated approach anticipates exactly this kind of proportionate, incremental infill on well-located residential erven adjoining a node. The proposal accords with these principles on that basis:

- **Reduced sprawl:** the property is not identified as valuable agricultural or environmentally sensitive land; the additional five units are accommodated within the existing urban footprint rather than by extending the urban edge.
- **Efficient use of infrastructure:** the site already has road frontage, water, sewer and electrical connections in Van Der Byl Avenue, so the additional units make fuller use of infrastructure already in place, rather than requiring new bulk extensions into undeveloped land.
- **Housing diversity:** the five smaller units (197m–462m² portions) introduce a smaller-unit typology and a different price point into an area presently dominated by large single-residential erven, broadening housing choice locally.
- **Proportionate, location-appropriate form:** the proposal is a two-storey, garden-unit group housing scheme (8.78m high, 33.6u/ha) rather than a high-rise or mixed-use form – the more intensive tier of densification the policy reserves for nodes and corridors such as the adjoining secondary CBD. This "gentle" density increase is the form of densification the policy anticipates for a residential site positioned just outside, but adjoining, such a node, rather than requiring the site to either remain single-residential or intensify to node-level intensity.
- **Transitional location:** the property adjoins established higher-intensity General Residential (GR2, GR4) and General Business (GB2) zonings (see Section C)2 e)), so the proposal also functions as a logical, contiguous step-down in intensity between the Durbanville node and the surrounding single-residential fabric – a recognised planning outcome in its own right, and a further reason the proposed intensification is appropriately located immediately outside rather than inside the node boundary.

CONTEXTUAL INFORMANTS (DENSIFICATION POLICY, TABLE 6)

Section 5.3 of the Densification Policy provides that the contextual informants in Table 6 should guide the evaluation of development applications in their immediate context. They are reproduced below (Cape Town Densification Policy 2012, p. 16) with a site-specific assessment for Erf 951, Durbanville.

Context	Informants (Densification Policy, Table 6)	Erf 951, Durbanville
Surrounding land uses	The general land use character of an area is important when considering the suitability of higher-density development. Urban areas (existing or planned) characterised by a diverse land use mix (including different types of residential development) and a fine built grain of development are best suited as locations for higher densities. If an area is solely single-dwelling residential, greater attention needs to be given to the height and form of new developments than where flats and other forms of mixed land use development already exist. Townhouses or low-rise flats can be highly compatible within a single-dwelling residential area. Higher-density residential development is not particularly appropriate in predominantly industrial areas, where amenity and general living are negatively affected.	The wider area is not solely single-dwelling residential: R1 erven predominate around the site, but higher order General Residential (GR2, GR4) and General Business (GB2) zonings are established across the road (see the Zoning Map in the Figures). The proposal is a two-storey townhouse-type group housing scheme, 8.78m to top of roof against the 9m standard.
Built and heritage	Higher-density forms of development need to be carefully evaluated in order to ensure that proposals fit in with the surrounding environment. The form and design of the development must be compatible with the area's built/natural character. If it is not possible to accommodate a compatible built form without negatively altering the existing built context, or compromising the surrounding built environment, the development should not be supported.	The existing dwelling is not older than 60 years and is not conservation worthy. The Urban Design Department found the proposed overlooking measures acceptable at pre-consultation. The street boundary wall is 50% permeable and the buildings are set back 5m from Van Der Byl Avenue. Built-form compatibility is motivated in Sections F)2 and F)4.
Infrastructure	The contextual consideration of applications for higher-density forms of development entails a number of infrastructural factors: • The capacity to accommodate larger flows of traffic must be considered in conjunction with planned public transport upgrades. If necessary, transport impact assessment(s) must be undertaken. • The capacity of the existing/planned bulk infrastructure services (water, wastewater/sewerage, electricity and stormwater) to accommodate increased service demands. Densification should not be supported where water, wastewater and stormwater capacity are reaching points of absolute constraint, and the cost implications of rectifying the situation are too high for the private sector, or are not provided for in the City's capital budget.	• **Traffic:** the Traffic Department found the proposal acceptable provided adequate parking and reversing space is supplied, the Roads Infrastructure Department considers the traffic impact not significant. • **Electricity:** the mini substation across the road has sufficient capacity (Energy, pre-consultation); a 3m setback from the overhead line is to be maintained. • **Stormwater:** the Stormwater Management Plan (BNC Engineering) meets the City's SUDS attenuation and purification targets and conveys the upstream external catchment through the site.

Context	Informants (Densification Policy, Table 6)	Erf 951, Durbanville
Socio-economic	The affordability of the product and the compatibility of the intended market and/or product with the surrounding local communities require consideration. Consideration should be given to the fact that multi-storey developments in low-income areas have not had a good track record, as they have become associated with negative social impacts.	The proposed townhouse development is a good transition development between the apartments on the other side of Van Der Byl Avenue and the Residential 1 properties outside the Secondary CPD. This will increase the housing options in the area and provide a wider range of housing types and price points.
Community facilities and open-space provision	The availability and/or provision of open space and community facilities (libraries, clinics, schools, police stations) are important contextual informants in the evaluation of medium to higher-density proposals.	A large Public open space (Erf Re/455) lies close to the site, across De Villiers Drive. The Durbanville Primary School and Durbanville Preparatory School, Durbanville library, police station and the local clinic are all in close proximity to the proposed development.
Natural environment	Higher-density forms of development should not have a negative impact on the landscape and scenic aspects of the surrounding natural environment, or on the operation of natural systems. The location, orientation, scale, height and design of higher-density development in scenic and sensitive landscapes should therefore be carefully considered to ensure that densification-related applications do not have a negative impact on the surrounding natural environment. For example, in locations abutting productive agricultural areas, lower-density forms of development may provide a more appropriate rural-urban interface and may reduce negative impacts such as crime and theft.	The proposed development is not in close proximity to any scenic drives or landmarks, nor agricultural land or areas of environmental significance and will therefore have no negative impact on the natural environment.

E) 6. SOCIAL DEVELOPMENT STRATEGY & INCLUSIVE ECONOMIC GROWTH STRATEGY (2021)

The proposal supports the Social Development Strategy through construction and post-construction employment opportunities, and the Inclusive Economic Growth Strategy through Development Contributions invested in City infrastructure and additional rates income. Development Contributions will be calculated by the City during the circulation of the application to the relevant internal departments.

SECTION F: MOTIVATION

Section 99 of the MPBL sets out the considerations relevant to the desirability of a proposed development: the socio-economic impact, compatibility with surrounding land uses, the impact on external engineering services, the impact on the safety, health and wellbeing of the community, the impact on heritage, the impact on the biophysical environment, and traffic, parking, access and other transport considerations.

F) 1. SOCIO-ECONOMIC IMPACT

The proposal has a positive socio-economic impact through construction employment, an increase in housing opportunities (five additional dwelling units on a single erf), and Development Contributions and additional rates income for the City, as discussed in Section E. The Development Contributions amount will be calculated by the City during circulation of the application.

F) 2. COMPATIBILITY WITH SURROUNDING LAND USES



Fig. 5: Zoning Map

The property lies between Residential 1 properties, with two higher density developments (GR2 & 4) located opposite Van Der Byl Avenue. These properties are four (4) storeys high and quite a stark contrast to the residential properties on the opposite side of the road.



Fig. 6&7: GR2&4 developments opposite the road

MOTIVATION FOR DEPARTURE FROM PARAGRAPH 34 OF THE NORTHERN DSDF

Paragraph 34 restricts the larger SR1 erven surrounding the Secondary CBD to 2nd/3rd dwellings, or to a panhandle subdivision limiting the impact on the street interface and character. This application seeks a five-unit group housing development by conventional subdivision, which does not fall within either of those two forms. The following considerations are put forward in support of a departure from paragraph 34:

- **The underlying concern, not just the prescribed form, is met:** paragraph 34's stated purpose is to limit the impact on the street interface and character, which is why it favours panhandle subdivision over conventional frontage subdivision. The proposed layout achieves a comparable outcome by a different route – a single shared internal access road serving all five units, rather than five separate erven each with its own driveway and boundary treatment directly onto Van Der Byl Avenue. A single, coordinated street frontage, set back 5–6m with a 50% permeable boundary wall (see Section F)4). The five units are also designed as two semi detached buildings and one larger unit. The five units thus only look like three buildings.
- **Scale is modest relative to what paragraph 34 already contemplates:** paragraph 34 already accepts up to three dwellings (a 2nd and 3rd dwelling) on such an erf without subdivision. The proposal's five units are a limited increment beyond that explicitly-contemplated ceiling, not an order-of-magnitude departure. The proposal is a low-rise, semi-detached group housing typology, not a block of flats as found across Van Der Byl Avenue.
- **The site adjoins, rather than sits deep within, the surrounding single-residential fabric:** as set out in Section C)2 e), General Residential (GR2, GR4) and General Business (GB2) zonings are already established in the immediate vicinity. The property therefore sits at the edge of the area paragraph 34 is chiefly protecting, rather than in its interior and creates a =n appropriate transition scale from the flats across the road to the single residential area.
- **Compliance with the DMS and the Densification Policy:** the proposal complies with every applicable density, height, coverage and floor-factor standard of the target Group Housing (GR1) zoning (see Section D)2), and accords with the Densification Policy principles set out in Section E)5, which paragraph 34 itself invokes as the relevant test for departures from the panhandle-only approach.

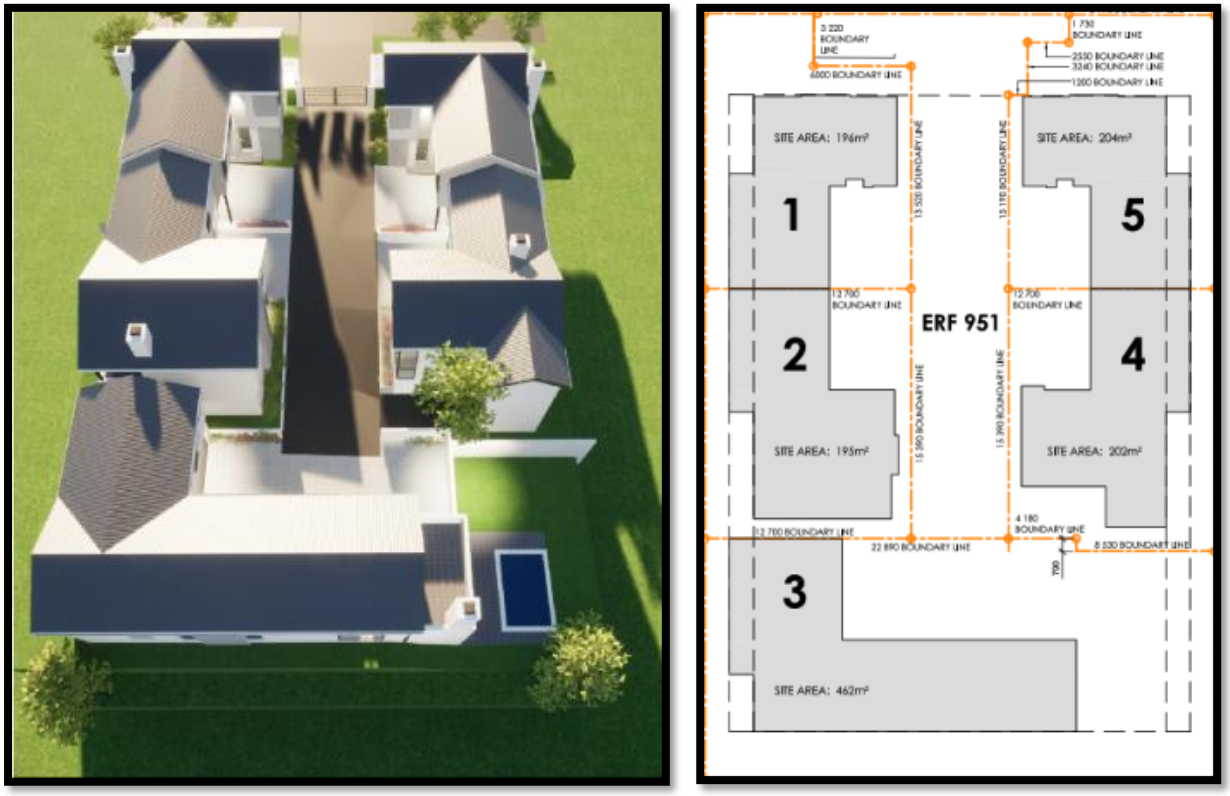


Fig. 8&9: Proposed footprint showing three buildings for 5 units

F) 3. IMPACT ON EXTERNAL ENGINEERING SERVICES

The Water and Sanitation Department has noted that capacity constraints have not yet been identified but require confirmation, and that a precedent may be created by approval of this application; these are acknowledged as matters for the City's own assessment. Separate water meter mains are located along Van Der Byl Avenue, and a single sewer connection is proposed where possible, in line with the Department's preference. A bulk water meter chamber (1200mm x 600mm minimum) is shown on the **Site Development Plan**.

The **Stormwater Management Plan** (BNC Engineering, Ref. 26007, September 2026) addresses the Catchment, Stormwater and River Management Department's pre-consultation requirement for a Stormwater Management Plan, and the Roads Infrastructure Department's note of a midblock sewer line along the boundary (the proposed stormwater pipe is designed to cross above the existing sewer pipe). Since the proposed new hardened surfaces exceed 600m², the City's Sustainable Urban Drainage System (SUDS) policies are triggered, requiring: 24-hour extended detention of the 1:1 year storm; attenuation of the 1:10 and 1:50 year post-development peak flows to pre-development levels; an evaluation of the 1:100 year storm event; and water quality treatment for the ½-year, 24-hour design storm, targeting 80% removal of total suspended solids and 45% removal of total phosphorus.

These requirements are met through a 30.3m dry enhanced swale within the 3m services servitude along the south-eastern boundary, providing 45.4m² of infiltration/purification area (against 45.4m² required) and 6.9m³ of attenuation storage (against 5.6m³ required). A staged outlet structure throttles the outflow to pre-development rates, discharging via a Ø250mm pipe through the servitude on Erf 952 into the existing Ø375mm stormwater pipe and open channel on Erf Re/455. Provision is also made, via openings in the boundary walls, to convey the 1:50 year peak flow from the upstream external catchment (13 327m², comprising the nine erven between Louw Street and Erf 951 that drain naturally towards the property) through Erf 951 and onward to De Villiers Drive, addressing the Catchment, Stormwater and River Management Department's request that provision be made for this upstream runoff. The bulk earthworks on Erf 951 are designed so that the 1:100 year storm event is directed, without trapped low points, towards the south-eastern boundary.

The City's Water Conservation By-law, including water harvesting per unit with dedicated space, will be addressed on the final building plans. Development Contributions will be payable to the City in respect of the additional bulk and units and will be calculated by the City during circulation of the application to the relevant internal departments.

F) 4. IMPACT ON SAFETY, HEALTH AND WELLBEING OF THE SURROUNDING COMMUNITY

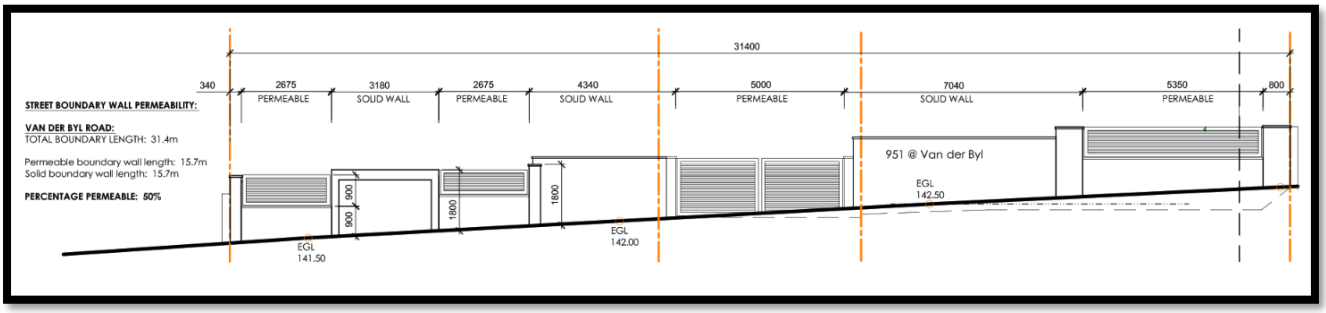


Fig. 10: Street Boundary Elevation

The development provides a 50% permeable street boundary wall along Van Der Byl Avenue (15.7m permeable of a 31.4m total boundary length), overlooking windows and balconies providing natural surveillance (“eyes-on-the-street”, consistent with CPTED principles), and a built form that steps back from the street behind private gardens rather than presenting a blank frontage.

The garage common building line departure (1.5m in lieu of 3m, North and South boundaries) applies only to garage structures, with the dwellings themselves remaining compliant at 3m; the impact on the adjoining erven is accordingly limited to the garage footprint. The Energy Department confirmed that the mini substation across the road has sufficient capacity to accommodate the proposal, subject to the buildings maintaining a 3m setback from the overhead electrical line, which will be confirmed against the final building plans. A detailed **Landscaping Plan**, addressing the public interface planting requested by the Urban Design Department is attached.

F) 5. IMPACT ON HERITAGE

As set out in Section E, the existing dwelling is not older than 60 years and is not identified as a heritage resource; no demolition or alteration of any structure of heritage significance is proposed.

F) 6. IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The development provides 496.6m² of open space, exceeding the 250m² (50m² per dwelling) required by the DMS. No Environmental Authorisation is anticipated to be required, as discussed in Section E. The proposed stormwater swale (see Section F3) will be planted with species from the City's approved SUDS Landscape and Indigenous Plant Species Guideline, complementing the site's landscaping.

F) 7. TRAFFIC, PARKING, ACCESS AND TRANSPORT

The Traffic Department confirmed at pre-consultation that the proposal is acceptable from a traffic perspective, provided adequate parking is supplied and sufficient sweeping and reversing space is accommodated. Parking provision (11 bays, comprising 10 unit-linked bays and 1 visitor bay) exceeds the DMS requirement of 10 bays, and the visitor bays are positioned to provide a 7m reversing distance, in accordance with the Traffic Department's pre-consultation comment. The Roads Infrastructure Department assessed the anticipated traffic impact of the proposal as not significant.

SECTION G: TITLE DEED RESTRICTIONS

Section 48 of the MPBL states that the City must have regard to Section 39(5) of the Land Use Planning Act (Act 3 of 2014) and Section 47 of SPLUMA (Act 16 of 2013) when considering whether to remove, suspend or amend a restrictive condition. Title deed restrictions of this kind were historically imposed to regulate development within the township and preserve a single-residential character. As set out in Section F2, the character of the area is already diversifying, with higher-intensity residential and business zonings established nearby, and current spatial policy (the MSDF and Northern District Plan) envisages managed, incremental intensification rather than a strictly static single-residential status quo. Retaining the restrictive conditions would prevent the property from being developed in line with this evolving context, while current DMS regulations (density, height, coverage and building lines, as set out in Section D) continue to provide the City with a level of control over the property independent of the title deed conditions.

Per the **Conveyancer's Certificate** (Addendum A), the affected conditions – B.3(a) to (d), C.I and C.IV of Pivot Deed – benefit the Administrator of the Cape and the Municipality of Durbanville (now the City), and not the township erven generally as a dominant tenement. Accordingly, this application is treated as notice to the benefiting organ of state under Section 47(b) of SPLUMA (see G) 2. b) below), rather than requiring advertising to all owners in the township.

G) 1. SECTION 39(5) OF THE LAND USE PLANNING ACT

i) **The financial or other value of the rights enjoyed under the condition.** The condition benefits the Administrator of the Cape and the Municipality of Durbanville (now the City), not a dominant tenement of neighbouring private owners. The conditions do not, in themselves, generate any financial value to the beneficiary organ of state; retaining them foregoes the Development Contributions and rates income the proposal would otherwise generate.

j) **The personal benefit accruing to the holder of the rights.** As the beneficiary is an organ of state rather than a private individual, there is no personal benefit at stake; the City's interest is served through its ordinary planning control under the MPBL and DMS, which remains in place irrespective of the title deed conditions.

k) **The personal benefit that will accrue to the person seeking the removal.** The owner will be able to develop the property to a group housing scheme in line with current spatial policy and the applicable zoning parameters, rather than being confined to a single dwelling under a condition imposed under superseded township-era standards.

l) **The social benefit of the conditions remaining in place.** Retention would add an additional, superseded layer of control on top of the DMS's own current density, height, coverage and building line regulation, without a corresponding social benefit, and would prevent a development that is broadly compatible with the surrounding area's evolving character, as discussed in Section F2.

m) **The social benefit of the removal.** Removal enables a development that supports the City's Densification Policy and the Northern District Plan / MSDF growth-management designations applicable to the site, and generates the socio-economic benefits set out in Section F1.

n) **Whether the removal will remove all rights enjoyed by the beneficiary or only some.** The removal does not remove control over the property entirely: the DMS continues to regulate density, height, coverage, building lines and parking on the property, as set out in Section D.

G) 2. SECTION 47 OF SPLUMA

Section 47 of SPLUMA concerns the assessment of public interest; the development has been shown to be in the public interest in the preceding sections.

o) **Deprivation of property (Section 25 of the Constitution).** The removal will not deprive any person of property as contemplated in Section 25 of the Constitution. Conversely, retaining the conditions would deprive the owner of the ability to use the property in line with current zoning and spatial policy.

p) **Notice to an organ of state benefiting from the condition.** As the conditions benefit the Administrator of the Cape and the Municipality of Durbanville (now the City), notice of this application constitutes the required written notice to the responsible organ of state, given in the prescribed manner through the MPBL application process.

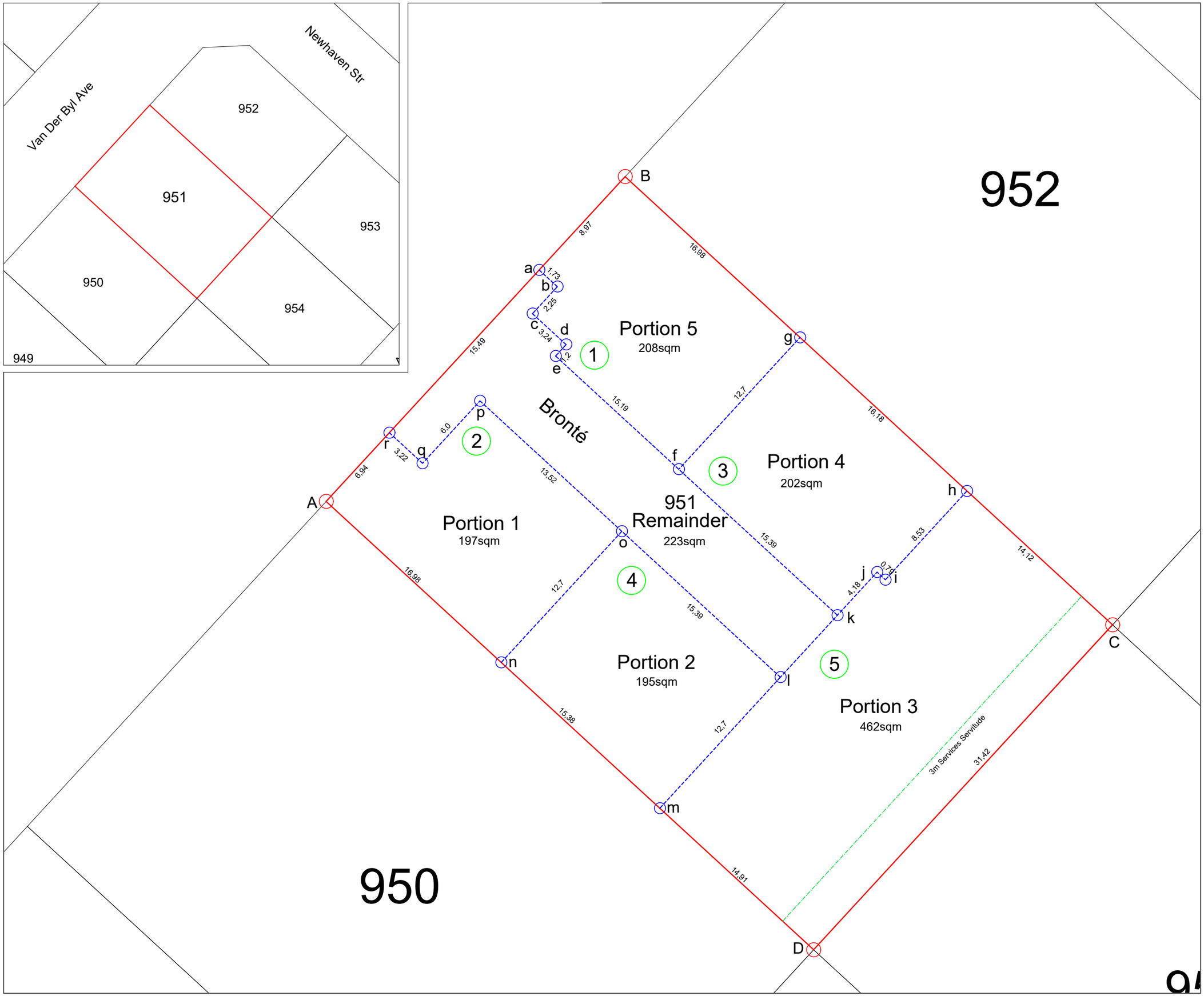
The benefits of removing the conditions outweigh the benefits of retaining them, and the removal is considered to be in the public interest. In addition to the title-deed removal, the deletion of the corresponding conditions of approval is required; under Section 142(1) of the MPBL, conditions imposed by the Administrator or the former Municipality of Durbanville under the applicable Township Ordinance are deemed to remain in force, so the suspension of those conditions is also sought. The removal and deletion together will allow the property to be developed to its full potential without an undue negative impact on the surrounding area.

SECTION H: SUMMARY AND CONCLUSION

As detailed in this report, the proposed group housing development on Erf 951, Durbanville is considered desirable, and the departure sought from paragraph 34 of the Northern DSDF (2023) and the removal and deletion of the affected title deed conditions are considered justified and in the public interest. ELCO Property Developments recommends approval of the application. This recommendation is supported by the following:

- The proposed five-unit group housing development does not exceed the density (33.6u/ha vs 35u/ha) or height (8.78m vs 9m) standards of the target zoning, and requires only a single building-line departure (garage common building line);
- Although the development does not comply with paragraph 34 of the Northern DSDF (2023) (which limits larger surrounding SR1 erven to 2nd/3rd dwellings or panhandle subdivision), the departure is motivated in Section F)2 on the basis that the single shared access road achieves the street-interface objective paragraph 34 protects, the increment beyond the already-contemplated three-dwelling ceiling is modest, the five units are developed as three buildings and the site adjoins rather than sits within the area paragraph 34 is chiefly protecting;
- Higher-intensity General Residential and General Business zonings are already established in the immediate vicinity, evidencing an area already in transition;
- The Traffic Department and Roads Infrastructure Department confirm the anticipated traffic impact is not significant, and parking provision (11 bays, with a 7m visitor bay reversing distance) exceeds the DMS requirement (10 bays);
- The removal of the restrictive title deed conditions benefits an organ of state rather than a dominant tenement of private owners, and the DMS continues to regulate the property independently of those conditions;

- The Stormwater Management Plan confirms the proposed dry enhanced swale meets the City's SUDS attenuation (6.9m³ provided vs 5.6m³ required) and purification (45.4m² provided and required) targets, and accommodates the upstream external catchment;
- No heritage or environmental authorisation constraints have been identified; open space provision (496.6m²) exceeds the DMS requirement (250m²); and



elco PROPERTY DEVELOPMENTS

Project management - Town Planning - Development

ERF 951, DURBANVILLE

PROPOSED SUBDIVISION PLAN

SUBDIVISION TABLE

Portions	Number of Erven	%	AREA (m^2)
Remainder (General Residential 1)	1	15	223
Portion 1 (General Residential 1)	1	13	197
Portion 2 (General Residential 1)	1	13	195
Portion 3 (General Residential 1)	1	31	462
Portion 4 (General Residential 1)	1	14	202
Portion 5 (General Residential 1)	1	14	208
TOTAL	6	100	1487

DESIGNED	J NEL
DRAWN	J NEL
APPROVED	E SMITH
DATE	16 Sept 2026
SCALE	1:250 @ A3
PLAN NO	Erf951DV_Sub1
REVISIONS	

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ERF Boundary

Proposed Subdivision

Existing Road Alignments & Carriage Way Crossing

(#) ROW Servitude

3m Services servitude

SPECIFICATION & NOTES:
1. FIGURE A-D REPRESENTS ERF 951, DURBANVILLE
2. FIGURE a-fklo-r REPRESENTS PROPOSED REMAINDER
3. FIGURE An-r REPRESENTS PROPOSED PORTION 1
4. FIGURE l-o REPRESENTS PROPOSED PORTION 2
5. FIGURE Ch-mD REPRESENTS PROPOSED PORTION 3
6. FIGURE f-k REPRESENTS PROPOSED PORTION 4
7. FIGURE Ba-g REPRESENTS PROPOSED PORTION 5

ALL DIMENSIONS AND AREAS ARE APPROXIMATE AND SUBJECT TO FINAL SURVEY.

INDEMNITY

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