

REPORT TO MUNICIPAL PLANNING TRIBUNAL

APPLICATION NO	70268599			
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PHONE NO	021 400 6458			
SECTION HEAD	G September			
PHONE NO	021 400 6447			
DISTRICT	Table Bay			
SUBCOUNCIL	16			
WARD	77			
WARD COUNCILLOR	Cllr D Bryant			
REPORT DATE	May 2016			
INTERVIEW REQUESTED	APPLICANT	YES	√	NO
	OBJECTOR(S)		√	

ITEM NO

APPLICATION FOR CITY APPROVALS IN TERMS OF THE DEVELOPMENT MANAGEMENT SCHEME AND CONSOLIDATION IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BYLAW IN RESPECT OF ERVEN 8210 AND 144698 CAPE TOWN, CITY BLOCK OF BUITENGRACHT / LONGMARKET / SHORTMARKET AND ROSE STREETS

AANSOEK OM STADSGOEDKEURINGS KRAGTENS DIE ONTWIKKELINGSBESTUURSKEMA EN KONSOLIDASIE KRAGTENS DIE STAD KAAPSTAD VERORDENING OP MUNISIPALE BEPLANNING TEN OPSIGTE VAN ERF 8210 EN 144698 KAAPSTAD, STADSBLOK VAN BUITENGRACHT/LANGMARK-/KORTMARK- EN ROSESTRAAT

ISICELO SOKUPHUNYEZWA SISIXEKO NGOKWENKQUBO YOLAWULO LOPHUHLISO, UTYESHELO LWEMIQATHANGO NOKUDITYANISWA NGOKOMTHETHO KAMASIPALA WESIXEKO SASEKAPA ONGEZOCWANGCISO NGOKUJOLISWE KWIZIZA-8210 NO-144698 EZISEKAPA, CITY BLOCK OF BUITENGRACHT / LONGMARKET / SHORTMARKET AND ROSE STREETS

LSU: G5733

1 EXECUTIVE SUMMARY

Property description	Erven 8210 & 144698 Cape Town			
Registered owner	Buitengracht Properties (Pty) Ltd			
Applicant / agent	Tommy Brummer Town Planners			
Site extent	3150m ²			
Current zoning	Mixed Use Subzone 3 (MU3) and Transport Zone 2			
Current land use	Business and offices			
Title deed restrictions	Yes		No	√
Application components / description (state briefly)	<ul style="list-style-type: none"> • The application is for the redevelop the majority of the city block into an 18 storey mixed use building (with 3 basement levels used for parking) consisting of 249 residential units, 310 parking bays (with vehicular access off Shortmarket Street) and business premises on the ground, first and second storeys. • Applications applied for are: <ul style="list-style-type: none"> ◦ City Approval for building work in a Heritage Protection Overlay Zone. ◦ Consolidation of two erven. ◦ City Approval to provide parking bays within 10m from the street on the ground and first floors. ◦ Building within 5m from a Provincial Main Road. 			
Submission date	28 October 2015			
Overlay / HPOZ	<ul style="list-style-type: none"> • Cape Town CBD Local Area Overlay Zone • Central City Heritage Protection Overlay Zone 			
Subject to PHRA / SAHRA	No, however a comment has been received from Heritage Western Cape, see Annexure O.			
Any unauthorised land use / building work? (for background info; not to form part of consideration or basis of decision)	N/A			
Has owner applied for the determination of an administrative penalty? If yes, has this been paid?	N/A			
Public participation outcome summary (key words only)	1017 objections were received (including invalid and late objections).			
Policies / plans applicable	<ul style="list-style-type: none"> • Cape Town Spatial Development Framework • Table Bay District Plan • Cape Town Densification Policy • Urban Design Policy • Tall Building Policy 			
Policy compliant	Yes	√	No	
Recommended decision	Approval (in whole or in part)	√	Refusal	

2 DECISION AUTHORITY

For decision by the Municipal Planning Tribunal.

3 BACKGROUND / SITE HISTORY

- 3.1 The application was advertised widely in November 2015, however, due to an administrative issue, the consolidation of application was not advertised in the press. However, as the deadline for this round of advertising was 15 December 2015, it ended at the start of the City's advertising dead period, therefore no further advertising could be undertaken until 15 January 2016. Given requests from objectors and after consultation with the applicant, it was agreed that any objection submitted after 15 December 2015 would still be considered to be valid within this time period. This extension was communicated to the existing objectors and other interested and affected parties and "extended" to co-incide with the closing date communicated in 3.2 below.
- 3.2 The full application was advertised in the press on 18 January 2016 with a deadline of 18 February 2016 and the objectors were notified of the increased advertising deadline.
- 3.3 This application had a large number of objections from the residents within Bo Kaap, as well as other Cape Town suburbs, from the rest of South Africa and a few people living outside of South Africa. This is in part due to the local civic association creating a website to object to the application. Of the objections received, almost all listed the same reasons for their objections (as the reasons were based on a template from the website/civic association). Online objections (670 persons) were also received by the website which included the names and contact details of the person as well as an email objection, and submitted as paper copies by the civic association.
- 3.4 Given the amount of objections, the varied locations of the objectors, and the objector's submitted property information, a comprehensive map of the location of the objectors is not able to be created, therefore the locality and advertising map (see Annexure B), does not mark the objectors' locations. However, it is noted that the majority of the erven surrounding the property and within the surrounding area have objected to the application.
- 3.5 Despite there being no legislative heritage triggers on the property or as a result of the proposal, given the nature of the objections received, further clarity on the historical aspects of the area was sought from City's Environment and Heritage Management Department (EHM) (see Annexure K), in terms of Section 94(3) of the Municipal Planning Bylaw (MPBL). These comments were requested in order to better understand the historical context of the area, as well as to understand the nature of

the objections relating to heritage, in order to be able to better assess the proposal.

- 3.6 Within the comments from EHM a request was made for the applicant to approach Heritage Western Cape (HWC). This was also requested by objectors.
- 3.7 In response, the applicant had a Heritage Statement (HS) produced (see Annexure N), approached HWC and presented the proposal to them. HWC provided a negative comment on the proposal (see Annexure O).
- 3.8 The initial advertised SDP (see Annexure E) differs from the revised SDP (see Annexure D) as the applicant changed the design in order to accommodate the concerns of objectors and reduce the scale of the proposal. The differences between the SDPs are as follows:
- The building was reduced in size and set back further from street boundaries, mainly in order to remove any building line departures after the 14th storey, which were advertised.
 - More articulation was done on all sides of the property.
 - Balconies were introduced in certain areas, expanded or reduced in other areas.
 - Unit sizes were adjusted, in most case they were reduced.
 - Business floor area was reduced by approximately 300m².
 - Canopies were added along Rose Street.
 - A pedestrian entrance added to Shortmarket Street near the corner with Rose Street.
 - Reduction in the number of parking bays from 324 to 310.
 - More articulation and façade changes done to Rose Street.
- 3.9 The amended development proposal resulted in the building line departures along both Longmarket and Shortmarket Streets from the 14th storey and higher being removed.

4 SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation of the proposed development (see Annexure F) may be summarised as follows:

- The proposal is compliant with Council policy.
- There are no bulk or height departures required.
- The development proposal does not utilise all of the floor space available on the site.
- The building is substantially set back from Rose Street.
- The building will add a mix of residential opportunities into the CBD.
- The design is supported by detailed urban design and architectural studies (See Annexure G).
- The building uses the residential incentive provided for in the DMS.

5 PUBLIC PARTICIPATION

			Comments
Advertising	Notice in the media	√	18 January 2016
	Provincial Gazette		
	Notices to a person	√	13 November 2015
	Notices to representatives	√	13 November 2015
	Notice to Provincial Government		
	Notice to an Organ of State		
	On-site display	√	13 November 2015
	Public meeting		
Outcome	Objections	√	<p>Total: 1017 objections</p> <ul style="list-style-type: none"> • Including 3 which are invalid due to a lack of documentation submitted with the objection. • Including 636 online objections as a result of the civic association's website submitted by hand by the civic association. • 5 invalid as received late.
	Objection petition		
	Intervener(s)		
	Support / No objection		
	Comments		
	Ward councillor response		None received.
	Request for oral hearing (provide details)	√	<ol style="list-style-type: none"> 1. Tommy Brummer Town Planners (Applicant) info@tommybrummer.co.za 021 531 8435 2. Bo Kaap Civic Association admin@bokaapcivic.org 082 739 2027 3. Olden & Associates info@oldenplanners.co.za 021 726 4080 4. Willem Buhrmann Associates willem@willembuhrmann.co.za 021 423 3752 5. Prof. F Todeschini fabiodesigncape@gmail.com 084 257 2981 6. MA Smith – Town and Regional 021 790 7805 mikesmith@mweb.co.za

5.1 **Summary of objections / comments**

Comments / objections received in respect of the application (see Annexure I) may be summarised as follows:

- The proposal does not comply with City policy.
- Property values will be negatively affected.
- The proposed development will block out sunlight.
- Balconies and windows will overlook properties.
- The visual and historic connection between the City and the Bo-Kaap will be blocked.
- A precedent will be created.
- Increase Traffic and congestion in the surrounding streets will be increased.
- The area's historic significance will be undermined.
- Social problems caused by income disparities/inequality will be exacerbated.
- Social cohesion will be undermined.
- Foreign investment, tourism, the film industry, etc. will be negatively impacted.
- The structural integrity will be undermined and damage will be caused to the historic houses due to the extensive basement parking.
- The development is too high with too many dwelling units.
- Redevelopment of the site is desirable, but only if it is of appropriate scale and size.
- The proposal will gentrify Bo Kaap.

5.2 **Summary of applicant's response**

The applicant's response to objections received (see Annexure M) may be summarised as follows:

- There are no specific provisions contained in the Heritage Protection Overlay for the area that overlays a portion of the site. In contrast the specific provisions in the CBD Overlay Zone give the property various rights.
- The advertising was conducted within the legal requirements of the Municipal Planning By-Law.
- The proposal is compliant with current approved City statutory planning documents.
- Positive development interface will be created with the Bo Kaap.
- The proposal is supported by SPUD. The applicant did an urban design evaluation.
- The retail uses at ground level activate the street interface.
- Increases in the number of pedestrians are considered a positive impact on the area.

- There is no height departure and the setback departures have been designed out of the revised proposal as a consequence of the objections.
- Along Rose Street, the building has been significantly lowered and sensitively set back from the Bo-Kaap low-density residential area maintaining the street scale of Rose Street and its immediate environs.
- Objections that the proposed building will be out of character with some of the surrounding buildings are unsubstantiated.
- Many multi-storey buildings in all the great cities of the world exist harmoniously side-by-side or in close proximity to much lower buildings.
- In response to the sensitivity of the Bo-Kaap edge, the tower building is stepped up from Rose Street to a three storey plinth which maintains the street scale of the immediate area.
- The bulk of the building is positioned along the Buitengracht edge where the wide road reserve and Riebeeck Square serves to mitigate the taller structure.
- This structure will also serve to positively improve the enclosure of Riebeeck Square is currently a parking lot with very little recreational value. Introducing residential uses around the Square may be the catalyst to develop a more human orientated facility rather than a vehicle orientated facility.
- Approximately 4 000m² floor space is not used in the current proposal.
- There is no application for additional rights that would lead to a loss of views, as the proposed development is within the existing "as of rights" development envelope.
- Any multi-storey building on the site will cast shadows over the abutting streets and lead to a loss of light and sunlight (and views). The fact that the building is within the allowed height and setbacks supports the legitimacy of overshadowing, loss of light and sunlight.
- Development within central business areas, would simply not be possible with "no overlooking" into neighbours' properties, given the intensity of development.
- The development is "as of right" within the permitted zoning parameters for height and setbacks within the contexts of the CBD of Cape Town.
- The concerns pertaining to the alleged devaluation of properties are unsubstantiated and no supporting evidence has been submitted to substantiate this claim.
- Construction impacts can be mitigated through a Construction Phase Management Plan.
- The increase in residential densities will serve to promote and improve the future viability and need for existing and future public transport infrastructure and NMT within Cape Town CBD.

- The additional traffic is deemed to be a “worst case” scenario. The development is however most likely to generate significantly less traffic for reasons as set out in the TIA.
- The consolidation will allow a better designed building for the site, with bulk moved away from Rose Street and locate it along Buitengracht, which is more appropriate position for a taller building.

5.3 Evaluation of objections / comments / response

5.3.1 Given the extent and nature of the objections to the application, they are evaluated in the report below.

5.4 Departmental comments of significance

Attached as Annexure J, departmental comments of significance may be summarised as follows:

Spatial Planning and Urban Design

- 5.4.1 The proposal is supported by this department. The proposal is generally aligned with the Cape Town Spatial Development Framework and the Table Bay District Plan. The development does not trigger the Tall Building or Urban Design policy itself.
- 5.4.2 Due consideration has been given to the context that the site is located.
- 5.4.3 The proposed building's massing is sensitive to the Bo Kaap and Riebeeck Square context.
- 5.4.4 Basement parking minimises the impact on street activity.

Transport for Cape Town

TCT: Asset Maintenance

- 5.4.5 No objection is raised. A development contribution is required towards the provision of bulk civil engineering services and upgrading of any infrastructure.
- 5.4.6 The access via Shortmarket Street is to be a maximum 8m wide.

TCT: Traffic Impact Assessment and Development Control

- 5.4.7 No objection is raised.

Environment and Heritage Management

- 5.4.8 This department is not supportive of the current proposal, but is not opposed to adding built form to the site (see Annexure K). The surrounding heritage resources will be impacted on in a negative manner to a certain degree by the proposed development due to the design's sheer size, height and magnitude. These issues are expanded upon in the heritage paragraphs below.

6 PROPOSAL ASSESSMENT

Character of the area and surrounding land uses

- 6.1 The subject property is located on the western edge of the Cape Town City Central Business District (CBD) while the Bo Kaap residential area is on the eastern lower slopes of Signal Hill (see Figure 1 below).
- 6.2 The property is located within a line of city blocks that historically abut the Bo Kaap area, and are all used for various business, offices or light industrial purposes. This line of city blocks has been part of the area for a very long time and has been used to frame the western edge of Riebeeck Square.
- 6.3 Bo Kaap is a historic residential area that is known for its distinctive residential dwelling house character of 1-2 storeys and narrow buildings built boundary to boundary, colourful paintwork, and raised street boundary stoeps.
- 6.4 Though the CBD contains typically very tall buildings, this area contains a lower scale of buildings, with the tallest building in the immediate vicinity being approximately 9 storeys (this despite the applicable zoning rights), though the old Christiaan Barnard Hospital (opposite Riebeeck Square) is approximately 18 storeys. It is considered that this underdevelopment has resulted due to this area being on the edge of the CBD and the limited investment in the past within the area (when compared to other parts of the CBD); noting that this "underdevelopment" occurs on many other erven within the city.
- 6.5 The property is bounded by four (4) streets, Buitengracht to the east, Longmarket to the South, Shortmarket to the North and Rose to the West.

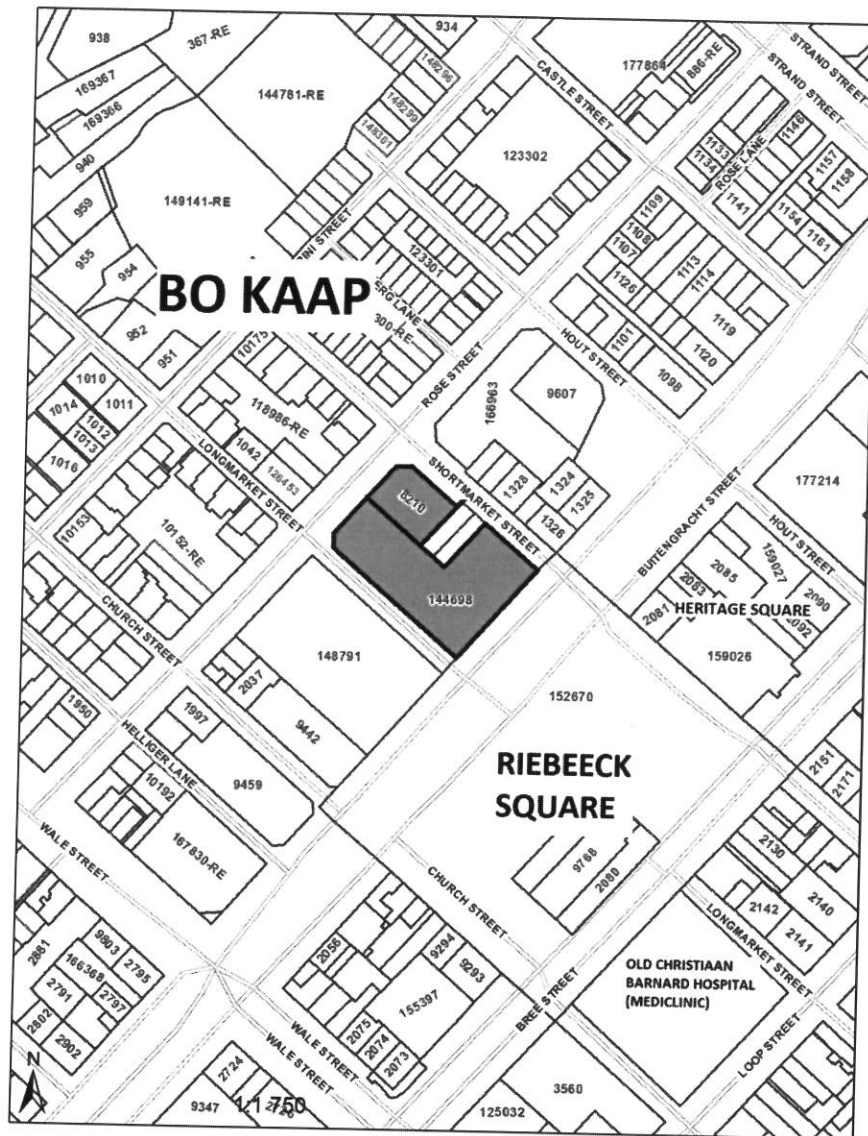


Figure 1: Labelled Locality

- 6.6 The property is well located, surrounding by roads of varying order and highly accessible to various parts of the metropole.
- 6.7 Buitengracht is a major road within the CBD and a Provincial Main Road (PMR 139). It has two lanes in either direction with a wide median between these roads. This median contains public parking bays and is well vegetated with mature tall trees.
- 6.8 On the eastern side of the property, over Buitengracht, is Riebeeck Square. This is a large open paid parking area, partially vegetated with large mature trees, tarred, and containing historic buildings. Surrounding Riebeeck Square are offices and business, the old Christiaan Barnard Hospital (Medi-clinic) as well as Heritage Square. Heritage Square is a city block of heritage worthy conserved buildings of only 2 storeys in height that have been retained and converted into business premises.

- 6.9 Longmarket and Shortmarket streets are minor narrow one way roads (Shortmarket one way up to Rose Street; Longmarket one way down to Buitengracht Street). Longmarket Street is surfaced with old rough cobbles between Rose Street and Buitengracht, indicating its heritage fabric.
- 6.10 Rose Street is a minor two-way street providing a dividing line between the CBD and residential Bo Kaap. This can be seen as each side of the street has a distinctive character. On the western (Bo Kaap) side of the street, the residential buildings are typically single to double storey, set on the advancing slope of Signal Hill (granting them additional height) with mainly the dwelling houses setback from the street with their traditional front stoeps. On the eastern (CBD) side, the buildings are largely three storeys and higher (to a maximum of nine storeys) in height with a bland/blank/"back of house" façades, with limited articulation on most of these buildings. The exception being the adjacent Erf 166963 ("35 on Rose"), which has a highly articulated façade are its 6 storey block of Flats (approved in 2002) which takes cognisance of the Bo Kaap architecture, but providing a modern interpretation thereof.

Description of the property

- 6.11 The subject property is contained within a city block and takes up most of the block with only 2 small erven (Erven 1299 and 1300) on its northern side not being part of this development. The rest of the block, and subject of this application, is made up of Erven 8210 and 144698. Erf 144698 contains a 3-4 storey motor vehicle dealership with roof parking (with vehicular access taken off Rose Street). Delivery access is taken off Shortmarket Street adjacent to Erf 1300. The current street façades along Shortmarket, Longmarket and Rose Streets are mainly blank or "back of house" facilities, and even the Buitengracht Street façade does not enhance the streetscape. Erf 8210 contains a 3-4 storey office building with large glass windows and pedestrian access of the corner of the erf.
- 6.12 The property has a gradual slope down from the west to the east with a drop of approximately 7.5m over the approximately 72m length of the property. This results in the ground storey on Buitengracht Street being underground along Rose Street, and that the ground storey along Rose Street is the second storey along Buitengracht Street.

Proposal

- 6.13 The proposal is to develop the subject property into an 18 storey (when viewed from Buitengracht) mixed use development with business premises on the ground, first and second storeys and 249 units on the remaining storeys. The proposal entails consolidating two erven on the subject property, with the City Approvals for parking bays within the 10m from the street boundaries, and the setback within a PMR.

6.14 Though the proposed building is 18 storeys along Buitengracht, it steps down over the length of the property until it is 3 storeys in height along Rose Street. Vehicular access is proposed along Shortmarket Street.

Zoning and existing rights

6.15 The majority of the property is zoned Mixed Use Subzone 3 (MU3) which allows for a range of uses, including Business Purposes and Flats. A small corner splay of the property on the corner of Buitengracht and Shortmarket Streets is zoned Transport Zone 2. No development is proposed within this zoning (both above and below ground).

6.16 There is a common passage servitude (totalling 1.84m in width) that is centred along the common property boundaries between the subject property and

- the western common boundary of Erf 1299
- the eastern common boundary on Erf 1300.

The proposed building is not located within the common passage area.

6.17 The property is located within the Cape Town CBD Overlay, which confers on it two different floor factors (in terms of Item 185(1)(b)(i)). Erf 8210 and a western portion of Erf 144698 (along Rose Street) have a floor factor of 6.8, with the rest of Erf 144698 having a floor factor of 7.9 (see Figure 2 below).

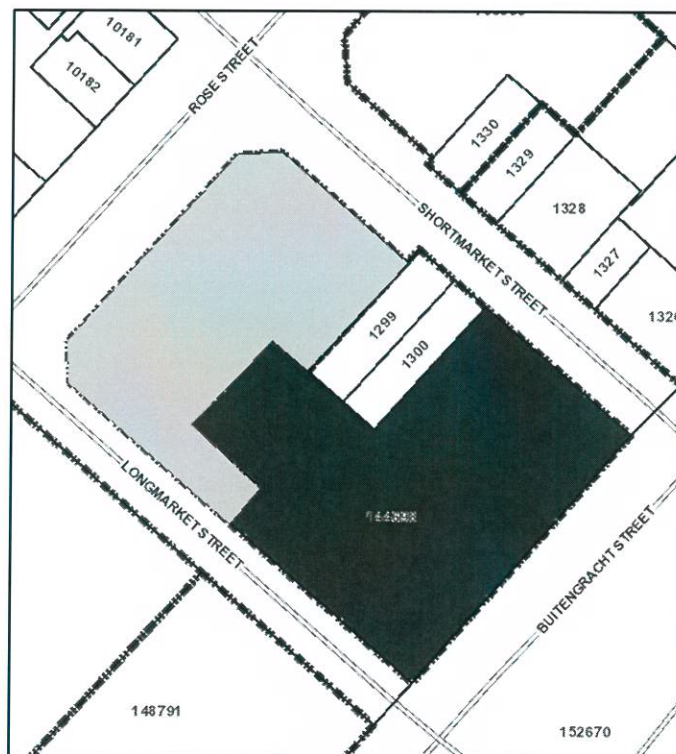


Figure 2: Floor Factor difference

FF: 6.8 FF: 7.9

6.18 Item 185(2)(c) of the CBD Overlay also allows for erven zoned MU3 with a floor factor of 6.8 or above to be subject to have the same height and building line requirements as the General Business Subzone 7 (GB7) zoning (see Table 1 below). The applicant is proposing to use these rights in their proposal.

Height		Mixed Use 3	General Business 7
Street & common boundaries	0m – 25m in building height	38m	60m
	25m – 38m	0m	0m
	Over 38m	(H minus 25m) divided by 2	0m
		N/A	(H minus 38m) divided by 2. (0m for common boundaries)

Table 1: Development rule differences as a result of the CBD overlay

6.19 Item 185(2)(b)(ii) of the CBD Overlay allows for a 30% increase in the floor factor, provided that at least 30% of the building floor space remains in use as flats (see Table 2 below). This proposal complies with this regulation and therefore is allowed an additional 30% of floor space.

Erf	Mixed Use 3	Floor Factor Overlay	Residential 30% allowance	Total allowable floor space	Proposed floor space
8210	6	6.8	8.84	30523m ²	26460m ²
144698	6	7.9	10.27		

Table 2: Floor Factor / Space calculation

6.20 It must be noted that all of the surrounding erven, east of Rose Street, have the same or similar zoning rights as the subject property.

Title deed

6.21 Within the title deed for Erf 144698 (T44659/92) it contains a condition (Condition B) which states (see Annexure H):

"As regards to the figure ApnmkHJ on the annexed Diagram No. 7987/89:

B. SUBJECT to the following special condition contained in Deed of Transfer No. 17550/1953 imposed by and for the benefit of the Municipality of Cape Town, namely:

The Transferor shall have the right to refuse permission to build or rebuild any building or structure on the said land unless the Architecture of that portion of such buildings or structure which fronts on Rose Street is in conformity with the general design and

Architecture of buildings situate in such area or areas of the City of Cape Town which is known and/or classified as the Malay Quarter."

- 6.22 Permission is required from the City to build any building or structure along a delineated portion of Erf 144698 that fronts onto Rose Street (see Figure 3 below) unless the architecture of that building or structure conforms to the general design and architecture of buildings situated in the "Malay Quarter" (i.e. Bo Kaap).

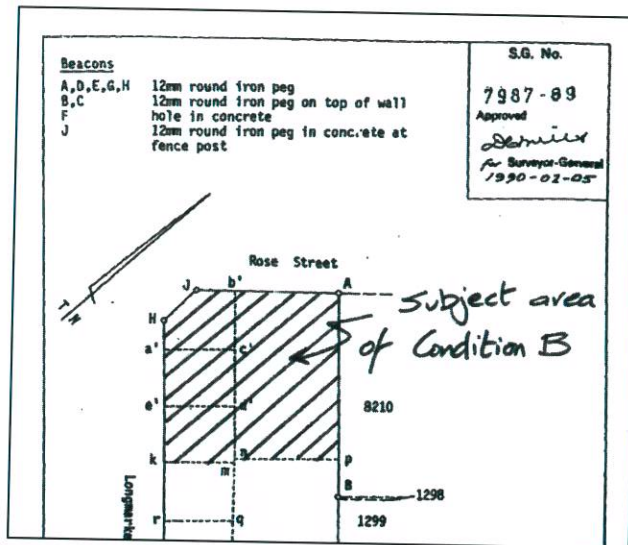


Figure 3: Extract from the SG diagram indicating the prescribed area for Condition B

- 6.23 It must be noted that there does not appear to be such a condition within the title deed submitted for Erf 8210.
- 6.24 Assessment of this aspect is explained in the "Title deed evaluation" paragraphs below.

Legal framework

- 6.25 The assessment of the application has to be based on the legal frameworks and mandates of the proposed individual applications as submitted as part of this proposal, as well as the existing rights applicable to the property.

Planning Policies / Development Frameworks

Table Bay District Plan

- 6.26 The property is located within the metropolitan node in Sub-district 2 of the 2012 Table Bay District Plan and falls within the City Bowl area. Table Bay District Plan states that development should be promoted within such nodes. Buitengracht is denoted as a development route along most of its length, which includes this section of the street on which the property is located. The proposal complies with the following aspects of the district plan:

- 6.26.1 The central city should be reinforced as a vibrant business district with a diverse range of economic activity and land uses.
- 6.26.2 Protect the fine-grained character of the central city HPOZ and provide suitable interfaces with the historical built fabric.
- 6.26.3 Encourage intensification of development to support urban regeneration.
- 6.26.4 The intensification of development routes should be facilitated.
- 6.26.5 Encourage a vibrant and pedestrian friendly central city by improving the public realm by defining and enclosing public space with active façades and human scale building edges. Encourage mixed use overlooking public spaces and pedestrian routes to facilities passive surveillance.
- 6.26.6 Appropriate built form that ensures mixed use intensification, increasing residential densities along public transport routes need to be promoted.
- 6.26.7 Properties along the western edge of Buitengracht Street are demarcated for mixed use intensification.

6.27 This Department is of the opinion that the proposal is consistent with the Table Bay District Plan.

Urban Design Policy

- 6.28 The proposal was circulated to the Urban Design department which stated that the application did not trigger this policy. However, clarity is provided below of the building in this context given the objections received.
- 6.29 The proposal does not trigger requirements of the Urban Design policy, as it complies with the principles of the policy in that:
 - 6.29.1 The proposal complies with forward planning and spatial planning policies at a local scale.
 - 6.29.2 The development contributes to an improved public realm with its active / business edges.
 - 6.29.3 Balconies and windows provide overlooking and "eyes on the street".
 - 6.29.4 The street edge is defined with the building being close / on the street boundary, framing the public realm.
 - 6.29.5 The parking is located within the building and not at the expense of the streetscape, given the slope of the land allowing the parking to effectively be underground and ensuring minimal blank facades.
 - 6.29.6 The façades and articulation of the building attempts to respect the heritage and cultural landscape, particularly along Rose Street, with its design mimicking the Bo Kaap architectural vernacular. Additionally the massing and placement of the building is away from Bo Kaap.

Tall Building Policy

- 6.30 The proposal was circulated to the Urban Design department which stated that the application did not trigger this policy. However, clarity is

provided below of the building in this context given the objections received.

- 6.31 The proposal does not trigger requirements of the Tall Building policy, as it complies with the principles of the policy in that:
- 6.31.1 Building is divided into three parts (base, middle and top).
 - 6.31.2 The building seeks to frame Heritage Square, and limit any imposition on Bo Kaap.
 - 6.31.3 The main face / orientation of the building is towards the CBD, with the building parallel to the street activities.
 - 6.31.4 The building transitions in scale and massing from the Buitengracht Street side (middle and top) down towards Bo Kaap with the building setbacks and a local scale base design.
 - 6.31.5 Access is at a local scale with pedestrian entrances on three of the property's four sides to the business components.
 - 6.31.6 The design and massing of the building attempts to take into account the heritage landscape in the surrounding area.
 - 6.31.7 The building creates active public realm at street and first floor levels.
 - 6.31.8 The design of the building attempts to mimic the local vernacular along Rose Street and provides a modern articulated design along Buitengracht Street.
 - 6.31.9 The building provides for weather protection on the street level with canopies along Buitengracht and Rose Streets.
 - 6.31.10 There are no height or no bulk departures;
 - 6.31.11 Despite that the building exceeds the height of the surrounding buildings, these erven also have similar rights to build similar buildings on their properties. The height of the building is also aligned with the CBD side of the property, away from the Bo Kaap.

Densification Policy

- 6.32 The proposal to densify the property is supported and represents appropriate densification. Appropriate densification, facilitates a gradual restructuring of the City which is vital in terms of social, economic and environmental sustainability and is an important mechanism towards improving the inefficient city structure that currently exists. It is widely accepted in professional and academic planning circles that a compact urban form is an essential pre-condition for well performing cities. Perpetuating relatively large properties / low densities in areas such as this contributes to urban sprawl by displacing other development.

Heritage

- 6.33 In terms of heritage legislation there are no triggers on the property (except for the City's Central City Heritage Protection Overlay Zone (HPOZ)). However, within the context of the surrounding area, the heritage issues are considered below.
- 6.34 The assessment of this aspect is undertaken in the "Heritage evaluation" paragraphs below.

Heritage Protection Overlay Zone

- 6.35 With regard to the Figure 4 below, it shows that the portion of the site which falls within the HPOZ “faces” Buitengracht, while the portion “facing” Rose Street falls outside of the HPOZ. A portion of Erf 144698 fronting onto Buitengracht Street is located within the HPOZ. This portion, approximately 27m in from Buitengracht Street (see Figure 4 below) is the only portion of the proposal that the HPOZ regulations are applicable to.

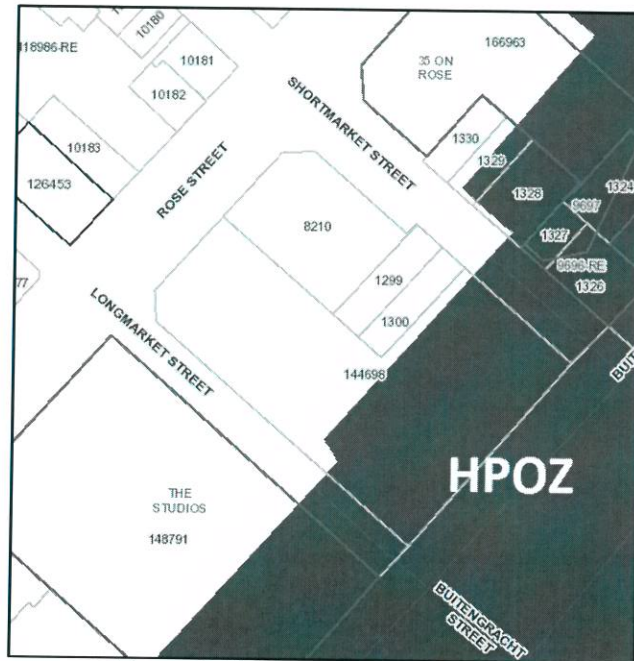


Figure 4: HPOZ extent over property

- 6.36 While the City is currently considering creating a Bo Kaap HPOZ, which would also include the rest of Erf 144698 and Erf 8210. However, as this has not been proclaimed yet, it has no statutory standing or influence over decisions on this application.
- 6.37 An application within a HPOZ does not require a HIS or an HIA. However, the applicant has submitted a HIS (see Annexure N and “Heritage Statement paragraph below) to clarify the heritage aspects of the site and the surrounding area.

Surrounding heritage resources

- 6.38 The main heritage resources within the surrounding area are considered to be (in no particular order):

Bo Kaap

- 6.39 This area is of high heritage value with many levels of significance which forms an important part of the history of Cape Town.
- 6.40 One of Bo Kaap’s levels of heritage significance is the historic fabric and corresponding three dimensional scale and density of the area.

6.41 However, the comments from HWC are re-iterated (Annexure O paragraphs 3 and 4).

6.42 A Provincial Heritage Site governed by the National Heritage Resources Act. The proposal does not trigger any listed activities in terms of Section 38(1) of the National Heritage Resources Act (NHRA), and whilst it abuts proclaimed PHS (Riebeeck Square and Bo Kaap), it does not require a permit in terms of Section 27(8) of the NHRA, as such, HWC is a commenting body, not an approving authority.

Riebeeck Square

6.43 This is a Provincial Heritage Site (PHS) designated as a public open space and retains its historic breathing space by being bounded by treed avenues of the surrounding streets. It was originally used as a market square and outspan for oxen and today it is currently used as a paid parking area.

6.44 St Stephens Dutch Reformed Church (a declared PHS) is along the Bree Street edge of the square, and was originally built as the town's first theatre.

Heritage Square

6.45 This is a block of preserved heritage buildings, all of which are graded 3A. The sensitive restoration and renovation of these buildings has resulted in a recognised city block which highlights heritage values. It is a successful and recognised urban renewal project in terms of good heritage practice.

Erven 1299 and 1300

6.46 The existing two storey buildings on the property are currently graded as "Potentially Grade 3" resources. The significance of these buildings is found in their age and in them indicating the early fabric of the area.

Heritage Statement

6.47 The applicant undertook a heritage statement for the proposal (see Annexure N), which made the following statements:

- The subject property has little heritage resource of related significance.
- Bo Kaap is a PHS with heritage significance, and is proposed to have Grade 1 significance, though not formally promulgated yet.
- Riebeeck Square is a PHS and one of the City's oldest public places, however, the quality of Riebeeck Square has deteriorated over time due to its utility usage.
- Heritage Square has no direct relationship with the subject property as its buildings address Riebeeck Square.
- The proposed development will have to be sensitive to the heritage significant resources surrounding it.

- The introduction of new retail/restaurants in the area will contribute to the economic health of the area.
- The proposal is supported from a heritage perspective as the impacts of the scheme on the townscape and streetscape is positive.

Heritage Western Cape

- 6.48 Given the heritage resources within the surrounding area, and based on the content of the objections received, as well as comments from EHM, the applicant voluntarily agreed to obtain comment from HWC (noting that HWC has no legal standing in this instance).
- 6.49 The applicant voluntarily presented the application to HWC, and they provided the following comments (see Annexure O):
- The proposal does not trigger any listed activities in terms of Section 38(1) of the National Heritage Resources Act (NHRA), and whilst it abuts proclaimed PHS (Riebeeck Square and Bo Kaap), it does not require a permit in terms of Section 27(8) of the NHRA, as such, HWC is a commenting body, not an approving authority.
 - The stepping effect down to Rose Street makes a gradual transition between the tall façade on Buitengracht and Bo Kaap. However, it is inadequate to mitigate the substantial heritage impact on Bo Kaap, which is fine grained and predominately one- and two storeys environment with a unique character.
 - The stepped massing and numerous projecting balconies, roof gardens and green walls will merely cause visual clutter, and are out of character with the area.
 - The HPOZ allows lawful deprivation, and takes precedence over the underlying development rights and was specifically promulgated to allow for context to inform development, and where necessary, limit it.
 - The 60m height is inappropriate and will dominate both Bo Kaap and Riebeeck Square and will exacerbate the separation of the Bo Kaap from the CBD.
 - The Netcare hospital cannot be used as justification for the construction of ziggurat building or that "counter balancing" the mass of the hospital would be successful mitigation for the negative effects of the existing hospital on the urban environment.
 - HWC does not object to the principle of a new building.
 - The tourism economy will be negatively affected by a very large building looming above the edge of Bo Kaap, overshadowing and divorcing it from the City.
 - The proposal is inappropriate in this heritage context and will have a detrimental effect on the heritage significance on both Riebeeck Square and Bo Kaap.

6.50 In light of the voluntary referral to HWC, the applicant chose not to amend their proposal after the comment from HWC was received, again noting that the HWC has no legal standing in respect of this application.

Heritage evaluation

6.51 Various commenting and objecting parties (as indicated above) have cited how the proposed building will impact on the surrounding heritage resources. Their main points relate to the proposed building's height, massing and position.

6.52 Despite the legislated heritage resources within the surrounding area (i.e. PHS), these resources do not have a legal standing to impose on the subject property.

6.53 The various objecting parties' calls for the reduction in the height of the building due to its impact on the various heritage resources in the area have not been quantified. The calls for a reduction in order to limit impact or to allow for a "bridge" between the city and Bo Kaap cannot override the primary rights allowable on the property as well as the applicable legislative context, as previously explained.

6.54 With respect to further arguments to limit the height of the portion of the building in the HPOZ, it is noted that:

6.54.1 If the permissible development rights of the portion outside of the HPOZ were to be accessed it would serve to "create a backdrop" to a development of the portion within the HPOZ. Despite this and to mitigate any impacts on the Bo Kaap area, the bulking of the building is towards Buitengracht and the CBD. This is some 65m from the Bo-Kaap.

6.54.2 The massing is designed to "bulk" the building towards the central city to "abut" other tall buildings in the city centre which is the economic hub of the City of Cape Town.

6.55 It is noted that other than the development rules for the development site, no development rules exist within the HPOZ as mentioned in Item 161 of the development management scheme.

6.56 In the absence of the qualification in 6.53, my Department considers the above and following comments in 6.57 to 6.61 relevant to evaluation of this application.

6.57 From a statutory point of view, this department re-affirms that no mechanism or legal basis exists to circumscribe the permissible development rights of the portion of the site outside the HPOZ, despite objections and the comments from HWC arguing for limiting development rights.

- 6.58 Furthermore, it is noted that the portion of the site outside the HPOZ largely complies with its underlying rights apart from the approvals required and reflected in Annexure A relating to the ground and second storeys.
- 6.59 Further arguments relating to the building massing and form are contained in the paragraphs below relating to the consolidation application.
- 6.60 It must be noted that the bulk of the building is in the lower levels of the building (9 storeys and below), which is at a similar height to the adjacent existing building on Erf 148791. In spite of the contentions by objectors relating to the size and scale of the proposed building, its permissible massing and form is guided by the extent of the site. Therefore any building on site, even copying the surrounding building's heights and massing may be considered to be a 'barrier' by the objectors. This sort of argument is seen as ignoring the changing and developing nature of a CBD as well as the primary rights applicable to a property while attempting to impose unsubstantiated limits over one property in favour of another.
- 6.61 Based on the existing rights applicable to the property, this department prefers the current proposal over a proposal solely based on the primary rights allowable to the property given the building setbacks, massing and heights proposed. The proposal provides an effective transition between the City and Bo Kaap, while being mindful of the heritage resources in the area.

Title deed evaluation

- 6.62 The current buildings on site do not completely conform to the title condition (see "Title deed" paragraph above), despite the condition being from 1953 and the current buildings having been altered extensively since then.
- 6.63 The applicant has stated that their proposal conforms to the condition, and that the conveyancer's certificate (see Annexure H) does not indicate that the condition is found elsewhere on the subject properties.
- 6.64 It would appear that the adjacent Erf 166963 may have a similar condition (though it cannot be confirmed despite research into the approved building plans file) in their title deed, given the design and articulation of that 2002 block of flats development.
- 6.65 It must be noted that this condition does not set down full parameters and guidelines, but points in a design direction applicable to a portion of the property (e.g. "... with the general design ..."). This allows some discretion on the City's part of the type of design allowable on this portion. In order to fully clarify the interface along Rose Street and to create the best possible street interface and transition, a condition is

imposed to allow for further consideration of this façade (see Annexure A) noting positive comments from EHM received concerning this revised interface.

Transport

6.66 The applicant undertook a Traffic Impact Assessment (TIA) (see Annexure G) given the number of units proposed.

6.67 The TIA concludes the following:

- The additional traffic generated by the proposed development is expected to have a slightly significant impact on the road network during peak hours. However the traffic is likely to be absorbed by the road network and surrounding intersections and the impacts will be mitigated by inner city living, which counters congestions.
- Traffic exits the site up Shortmarket and can reach all destinations via Rose Street, Wale Street and Strand Street.
- The area surrounding the site can be classified as a PT1 area, as adequate public transport is provided and well promoted in the area.
- Pedestrians are well accommodated within the development with universal access to persons with disabilities.
- Bicycle facilities are provided in the basement to make commuting by this mode more attractive.

6.68 In terms of Item 185(2)(a) of the CBD Overlay, there is a zero parking bay requirement within the CBD area. However, the applicant is proposing 310 parking bays to accommodate the residential and business uses. This will help to reduce an impact on the surrounding area, which does not have the street parking capacity to deal with such a development without any parking bays.

6.69 The area has a number of public transport facilities with 3 MyCiti bus stops within approximately 300m of the property, as well as Golden Arrow and taxi routes in close proximity. Cape Town Station is approximately 650m away downhill.

6.70 The parking bay provision is approximately 1 bay per unit with some bays for the business component. This is considered suitable for the promotion of Transit Orientated Design. However, the business component is expected to draw pedestrian traffic, given the nature of the CBD.

6.71 The applicant is proposing a 6.5m wide vehicular access from Shortmarket Street, which is compliant with the regulations and with the TCT condition concerning the maximum width of the access.

10m parking bay distance

6.72 As the property comprises of Mixed Use zoned erven which are located within the CBD overlay, there are regulations in order to enhance the

amenity of the street level. These state that no parking bays are permitted on the ground (first) and second storey levels of a land unit to be within 10m of the street boundary, whether outside or within a building, without City Approval.

- 6.73 The parking bays proposed on the ground (first) and second storeys within the 10m from a street boundary (see Annexure A) are technically underground at certain portions given the slope of the land, therefore the approval of this application is not undesirable as there will be no impact on the amenity of the streetscape.

Provincial Main Road

- 6.74 As Buitengracht is PMR139, permission from Provincial Roads Authority was required, given that the building was within the statutory 5m setback. This approval was obtained from both the City's TCT Directorate and the Western Cape Government's Transport and Public Works Department (see Annexure L).
- 6.75 The 5m setback is from the edge of the property along Buitengracht Street street boundary, not from the edge of the pavement.
- 6.76 This departure is considered to be desirable as it will not have a material impact on the streetscape as the existing building is already 0m on the street boundary and therefore the status quo will be maintained. The proposed building however is set back on the Buitengracht Street street level, which will enhance the streetscape. All the buildings along this section of Buitengracht Street are on their respective street boundaries.

Urban Design

- 6.77 The business component along the first two storeys along Buitengracht provides an intensification of business uses along this development route. The single level of business use along Rose Street activates this section of Rose Street which is currently characterised with mainly "back of house" facilities along the CBD side of the street.
- 6.78 The placement of the parking within and under the building helps to enhance the streetscape, but not creating blank / inactive façades.
- 6.79 As noted previously, there is a lower floor factor along Rose Street, compared to the Buitengracht Street side. This indicates the higher floor factor is preferred closer to the CBD to allow for a stepping down / transitioning of buildings closer to the Bo Kaap, as is proposed.
- 6.80 The stepping back of the building (above the third storey) from Bo Kaap attempts to recognise the importance of not imposing the building on Bo Kaap and its significance within the confines of primary development rights. This shows good acceptable urban design principles and consideration.

- 6.81 The revised design on Rose Street has improved on the initial submission. The height has been dropped to three storeys and the façade has been broken up and the design thereof matches the articulation and vernacular of Bo Kaap, but provides a modern interpretation of the vernacular found in Bo Kaap.
- 6.82 However, the amount of glazing of the proposed shop frontages along Rose Street needs to be reduced / narrowed and reconsidered, as it does not tie in with the historic architectural vernacular of the area, a condition has been proposed in this regard in Annexure A.
- 6.83 Balconies along Rose Street have had faux building panel sections added to create a Bo Kaap type architecture and the façade has been broken up to remove a large flat façade. However, the introduction of stand-out balconies along Rose Street, is not considered to conform to the local architecture, and these need to be reconsidered, as such a condition has been included in Annexure A in this regard.
- 6.84 The proposal provides a good transition between the CBD and the Bo Kaap by keeping the height and massing along Buitengracht Street and then reducing the building down to a level similar local context along Rose Street.
- 6.85 The massing along Buitengracht, while providing good articulation and outward facing residential units, will provide good interface and presence on Riebeeck Square. The building will help to frame and upgrade the square's perimeter, despite Buitengracht providing a significant separation barrier between the two. This may help to promote the future upgrading of the square away from that of a parking area into a functional public place.
- 6.86 After the 9th storey, the building starts to step back significantly from Bo Kaap, and gradually from Buitengracht, Longmarket and Shortmarket Streets, ending in the 17th and 18th storeys being confined to 2 units on each floor of between 80 – 146m² in size, with each floor being 7.65m and 9.15m respectively from the various street boundaries. These last two storeys can be considered to be the top/'crown' of the building and have a limited impact on the surrounding area given their setback and small extent.
- 6.87 Canopies at street level have been provided on the revised plans, and despite these sorts of interventions being welcomed due to the positive impact that they can have on the streetscape, it must be noted that any canopies on the proposed plans that are outside of the property boundaries will require further applications and agreements with the City before they can be considered.

Extent of Desirability

- 6.88 In terms of Section 99(1) of MPBL this application is not refused in terms of the minimum threshold requirements.
- 6.89 In terms of Section 99(2) this Department is of the opinion that the proposal will not impact on existing rights and is desirable for the following reasons:
- Economic impact
- 6.89.1 Approval of the proposal will have a positive impact in regard to providing additional employment opportunities, as well as provide a large economic injection into the area. This relates to the initial building development and the long term business uses on site, as well as an increase in people residing within the CBD (and the positive economic impact that that will have on the surrounding businesses).
- Social impact
- 6.89.2 The property is currently used for a motor vehicle dealership which can be considered to have a negative social impact, due to this uses largely inactive street interface. The proposal will allow for business uses at street level and more people living in the area. This will increase the amount of social interaction occurring in and around the property.
- 6.89.3 The proposal includes various apartment unit sizes which will improve access to accommodation in the CBD to more levels of society.
- Scale of capital investment
- 6.89.4 The proposal will provide a significant capital investment within the CBD and City.
- Compatibility with surrounding uses
- 6.89.5 Buitengracht Street is an activity route that contains businesses along its length, the proposal will continue this trend. Rose Street is along the edge of Bo-Kaap which is a residential area, the majority of the proposal is to provide residential units to the property, which is compatible with the area.
- Impact on external engineering services
- 6.89.6 The proposal will result in the additional load onto the engineering services in the area. However, should additional capacity be required, or alterations to the existing services be required it would be to the applicant's cost. No objections were received from the relevant service branches.
- Impact on safety, health and wellbeing of the surrounding community
- 6.89.7 The creation of active edges and increased numbers of people to the area will increase the safety, health and wellbeing of the surrounding community.

6.89.8 The placement of the development on the edge of the CBD and Bo Kaap will help to reduce future development ingress into Bo Kaap itself, and thus reduce the perceived so called 'gentrification' of the area.

Impact on heritage

6.89.9 The development has taken care with regards to the surrounding heritage elements and the proposal's impact is considered to be mitigated by the setbacks applied to the building, which results in limiting the building's imposition on the surrounding heritage resources.

Impact on the biophysical environment

6.89.10 The proposal will have no impact on the biophysical environment.

Traffic impacts, parking, access and other transport related considerations

6.89.11 The proposal will not have a dramatic negative traffic impact and ample off-site parking is proposed.

Mitigating conditions:

6.89.12 Conditions are proposed to mitigate potential impacts of the proposal.

6.89.13 Given the nature and scale of the proposal, its impact and the proposed conditions, the proposal will not impact on the rights of surrounding property owners.

6.89.14 Consolidation of land

Scale and Design of the development

6.89.14.1 The proposal is to create an erf that is 3150m² in extent (see Annexure C). Within approximately 200m radius there are a number of large erven (all of which within the CBD context):

- 3355m² (on adjacent Erf 148791 – *The Studios*)
- 3988m² (on Erf 9644 – old Christiaan Barnard Hospital)
- 1514m² (on Erf 159026 – part of Heritage Square)
- 1686m² (on north-east adjacent Erf 166963)
- 2126m² (on eastern adjacent Erf 177214)

6.89.14.2 The area contains a mix of small erven with buildings on individual erven, and buildings that straddle these individual erven. In terms of current legislation these erven will eventually require a consolidation application if the buildings on them were to expand over the property boundary. Therefore in future there will be an increase in the number of larger erven within the CBD.

- 6.89.14.3 As is indicated above, proposed erven of this size are not uncommon to this area, especially within the CBD context, therefore such a proposed size erf could not be undesirable.
- 6.89.14.4 The scale and design of the development is considered to be appropriate in terms of the reasons set out in this report.
- Impact on the building massing*
- 6.89.14.5 The applicant has provided 3D renderings of what the massing of the building would be if the permitted floor factor and height were used in comparison to an unconsolidated situation (see Annexure P). This indicates that the impact of the proposal, in its current form has a lower impact on the surrounding area, than if the erven were allowed to be developed individually within their primary rights. If the full primary rights were to be exercised it is considered that it would have more of a detrimental impact on the Bo Kaap, than the current proposal.
- Impact on surrounding properties*
- 6.89.14.6 The impact of the consolidation on the surrounding area is reduced when considering the current proposal and the existing primary rights. The development of the individual erven would allow for a greater impact on the surrounding area.
- 6.89.14.7 There is limited urban grain on the eastern side of Rose Street. The proposal here will enhance this side of the street given its articulation, and thus have a positive influence to the street and the surrounding area.

Evaluation of objections

- 6.90 Most of the issues raised by the objectors have been dealt with above. However, additional issues are dealt with below.
- 6.91 This Department is of the opinion that the proposal will not impact on the views from the objectors' property particularly considering the existing development rights and the fact that the proposal complies with the height restriction.
- 6.92 Given that the proposed building is stepped from all sides (and does not present as a solid wall of building for its entire height) after it goes beyond the surrounding buildings' heights, it is considered that this will mitigate any potential wind impacts as described by objectors.
- 6.93 Though the proposed building would be taller than the surrounding buildings, any building on site would cast shadows on surrounding properties given the primary rights applicable to the property as well. Impacts of the shadows cast by Signal Hill (in the evening) and established surrounding buildings need to be considered.

- 6.94 Issues of noise and dust during construction will be dealt with as part of the Construction Phase Management Plan (see Annexure A) and are also addressed in the National Building Regulations and Building Standards Act.
- 6.95 The application was advertised to a large number of properties within the surrounding area as well as many within Bo Kaap, the ward councillor and the local civic associations. The full extent of the advertising procedure was undertaken as prescribed in terms of the MPBL. This Department considers the extent and procedure of the advertising to be acceptable.
- 6.96 In terms of the MPBL, each application must be assessed on its own merits applications cannot either be approved or refused (solely) on the basis of precedent.
- 6.97 When considering the development rights that the property currently has, this Department is of the opinion that the property values of the neighbouring properties will not be negatively affected by this proposal. The objectors have provided no evidence to substantiate their claims.

7 REASONS FOR DECISION

Reasons for the recommended decision may be summarised as follows:

- The proposal complies with City policy (e.g. Table Bay District Plan, Densification policy, Urban Design policy and Tall Building policy).
- The proposal takes cognisance of the heritage resources within the area and shows good urban design, while sacrificing primary development rights.
- The proposal will provide an adequate transition between the City and Bo Kaap, while reinforcing and defining Riebeeck Square.
- The massing and height of the building is located away from the Bo Kaap.
- The interface and façades are considered to be acceptable and positive.
- The proposal will activate and improve the surrounding streetscapes.
- The proposal is considered desirable in terms of Section 99(2) of the Municipal Planning Bylaw.

8 RECOMMENDATION / AANBEVELING / IZINDULULO

In view of the above, it is recommended that:

In die lig van die bogenoemde, word daar aanbeveel dat:

Ngokwalo mcimbi ungentla, kundululwe ukuba:

- 8.1 That the application for City approvals in terms of the Development Management Scheme, as set out in Annexure A, on Erven 8210 and 144698 Cape Town, **be approved** in terms of Section 98 of the City of Cape Town Municipal Planning Bylaw, subject to the conditions contained in the attached Annexure A.
- 8.2 That the application for consolidation, as set out in Annexure A, on Erven 8210 and 144698 Cape Town, **be approved** in terms of Section 98 of the City of Cape Town Municipal Planning Bylaw, subject to the conditions contained in the attached Annexure A.
- 8.1 Die aansoek om Stadsgoedkeurings, soos uiteengesit in bylae A, kragtens die ontwikkelingbestuurskema vir erf 8210 en 144698 Kaapstad, **goedgekeur word** ingevolge artikel 98 van die Stad Kaapstad Verordening op Munisipale Beplanning, onderworpe aan die voorwaardes vervat in die aangehegte bylae A.
- 8.2 Die aansoek om konsolidasie, soos uiteengesit in bylae A, vir erf 8210 en 144698 Kaapstad, **goedgekeur word** ingevolge artikel 98 van die Stad Kaapstad Verordening op Munisipale Beplanning, onderworpe aan die voorwaardes vervat in die aangehegte bylae A.
- 8.1 Ukuba **makuphunyezwe** isicelo sesipghumezo seSixeko njengoko kuqulunqwe kwisihlomelo-A, ngokujoliswe kwiziza-8210 no-144698, eziseKapa, ngokungqinelana necandelo-98 loMthetho kaMasipala weSixeko saseKapa ongezoCwangciso loMmiselo woCwangciso lokuSetyenziswa koMhlaba ongunomb.15 wangowe-1985, ngokuxhomekeke kwimiqathango equlathwe kwisihlomelo-A esiqhotyoshelweyo.
- 8.2 Ukuba **makuphunyezwe** isicelo sokudityaniswa njengoko kuqulunqwe kwisihlomelo-A, ngokujoliswe kwiziza-8210 no-144698, eziseKapa, ngokungqinelana necandelo-98 loMthetho kaMasipala weSixeko saseKapa ongezoCwangciso, ngokuxhomekeke kwimiqathango equlathwe kwisihlomelo-A esiqhotyoshelweyo.

ANNEXURES

- Annexure A Applications proposed and conditions to be imposed
- Annexure B Locality plan / Public participation map
- Annexure C Proposed Consolidation diagram
- Annexure D Proposed site development plan
- Annexure E Advertised site development plan with differences indicated
- Annexure F Applicant's motivation
- Annexure G Application reports submitted (Urban design report, architectural report, and traffic impact assessment)
- Annexure H Copy of Title deed and conveyancer's certificate
- Annexure I Copy of objections
- Annexure J Internal departmental comments received
- Annexure K Environment and Heritage Resource Management comments
- Annexure L Provincial Main Road approval documentation
- Annexure M Applicant's response to objections and further studies
- Annexure N Heritage Statement
- Annexure O Heritage Western Cape comment
- Annexure P 3D representations of the proposal
- Annexure Q List of Interested and Affects Parties



Section Head : Land Use Management

Name GREGORY SEPTEMBER

Tel no 021 400 6447

Date 24/05/2016

Comment



District Manager

Name EMIL SCHNACKENBERG

Tel no 021 400-6443

Date 24/05/2016

Comment

ANNEXURE A

In this annexure:

"City" means the City of Cape Town

"The owner" means the registered owner of the property

"The property" means **Erven 8210 and 144698 Cape Town, City Block of Buitengracht / Longmarket / Shortmarket and Rose Streets**

"Bylaw" and "Development Management Scheme" has the meaning assigned thereto by the City of Cape Town Municipal Planning Bylaw, 2015

"Item" refers to the relevant section in the Development Management Scheme

"ED:EESP" means Executive Director: Energy, Environment and Spatial Planning

CASE ID: 70268599

1 CONSOLIDATION GRANTED IN TERMS OF SECTION 98 OF THE BYLAW

1.1 To permit the consolidation of Erf 8210 Cape Town and Erf 144698 Cape Town.

2 CITY APPROVALS GRANTED IN TERMS OF SECTION 98 OF THE BYLAW

2.1 Item 162(1): To permit building work within a Heritage Protection Overlay Zone (Central City).

2.2 Item 64(e)(ii) and Item 185(2)(f): City's Approval to permit parking bays on ground and first floor levels to be closer than 10m to the street boundaries as follows:

2.2.1 Ground floor (first storey):

2.2.1.1 Shortmarket Street - 2,5m in lieu of 10m

2.2.1.2 Longmarket Street – 0,5m in lieu of 10m

2.2.1.3 Rose Street – 1,5m and 0,8m in lieu of 10m

2.2.2 Second storey:

2.2.2.1 Shortmarket Street - 2,5m in lieu of 10m

2.2.2.2 Longmarket Street – 0,5m in lieu of 10m

2.2.2.3 Rose Street – 1,5m and 0,8m in lieu of 10m

2.3 Item 121(2): To permit a building to be 0m in lieu of 5m from a designated metropolitan road (Buitengracht Street – PMR 139).

3 CONDITIONS TO BE IMPOSED IN TERMS OF SECTION 100 OF THE BYLAW

Planning and Building Development Management

3.1 Development of the property shall be generally in accordance with the plans drawn by Fabian Architects LAO1-1618 dated 8 March 2016 Revision B, to satisfaction of the Director: Planning and Building

Development Management (after consultation with the Director: Environment Resources Management).

- 3.1.1 Details of the design along all façades (e.g. fenestration, articulation, balconies, wall massing etc.) within the Heritage Protection Overlay Zone and conditions within the title deed for the property shall be submitted to the Director: Planning and Building Development Management (after consultation with the Director: Environment Resources Management) for approval, prior to building plan approval.

Construction Phase Management Plan

- 3.2 A Construction Phase Management Plan (CPMP) shall be submitted detailing how the construction phase will be managed and its effects (i.e. noise, dust, movement of vehicles, pre-construction survey, etc.) mitigated, or the approval of the Director: Planning and Building Development Management (after consultation with the Director: Environment Resources Management) prior to building plan approval.
- 3.3 The developer must submit an A3 plan indicating all elements of the CPMP for the approval of the Director: Planning and Building Development Management (after consultation with the Director: Environment Resources Management) prior to building plan approval.
- 3.4 The CPMP is required to contain, at a minimum, the following:
 - 3.4.1 A fully dimensioned plan indicating the footprint of the structures on the property, the erf boundaries, the stockpile areas, toilet facilities during construction, entrances and exits to the erf during construction.
 - 3.4.2 A notation on how the following issues are to be dealt with: dust control, erosion control, construction traffic, demarcation of site, ablution facilities, waste management during construction, protection of sensitive features (e.g. trees), materials handling, storage and stockpiles.
 - 3.4.3 The developer is obliged to comply with the CPMP and ensure that the contractors (including sub-contractors) comply with the CPMP.
- 3.5 The owner / developer shall be responsible for all costs incurred in respect of the upgrading, extension, deviation, connection or removal of any existing storm water, sewerage, electricity, roads or other service or work arising from the development, to the approval of the relevant service department.
- 3.6 All services upgrading, extension, deviation or removal must be done in accordance with engineering design drawings which meet the requirements of and must be approved by the Commissionaire: Transport for Cape Town prior to building plan approval.

Development Contributions

- 3.7 The owner shall pay a development charge (DC) in accordance with the Development Charges Policy for Engineering Services for the City of

Cape Town. The total amount payable for the proposed land use right in accordance with the attached DC calculation is R1 178 245.21. It must be noted that this amount is calculated for the period up until 30 June 2016 and that the amount due will be escalated annually with the Construction Price Adjustment Formula (CPAF) using the industry indices of StatsSA. The DC's will be payable prior to approval of building plans.

Note: Failure to pay the full DC liability will be construed as non-compliance to the conditions of approval.

- 3.8 All points of infrastructure supply shall be consolidated to one supply per consolidated erf to the satisfaction of the relevant service department, prior to building plan approval.