

MOTIVATION: APPENDIX 1A:

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Project Reference: **LS21096**

Date: 31 January 2022

To: Land Use Management
Knysna Municipality

**APPENDIX 1A: MOTIVATION: AMMENDMENT OF CONDITIONS OF APPROVAL FOR SECOND DWELLING
PLOT 47 LEEUWENBOSCH ESTATE FOR THE ROSE TRUST
SIZE LIMIT FROM 141,8m² TO 175m²**

Appendix 1 is hereby withdrawn and replaced with this Appendix 1A.

This is an appendix (**revised**) to the submitted motivation, dealing solely with the issue of the second dwelling.

I) History:

In 2007 consent for a second dwelling (P1) on the property was granted. **The applicable zoning scheme at the time was the Section 8 Zoning Scheme.** The consent had a condition that the size be limited to 137m².

In 2013 this condition was amended to 142.8m². (**under the same zoning scheme**)

II) Reason for the Condition:

The Section 8 Zoning Scheme does not refer to any size limit or restriction for second/additional dwellings on Agricultural Zone 1. Section 8 Zoning Scheme (1988) page 18 for reference:

“3.1 AGRICULTURAL ZONE 1

3.1.1 Colour notation: Yellow-green outline

Primary use: agriculture.

Consent uses: additional dwelling units, farm stall, farm store, intensive feed farming, riding school, nursery, service trade, tourist facilities.

3.1.2 Land use restrictions

Street building line: at least 30 m.

Side building line: at least 30 m.

3.1.3 The provisions contained in a relevant guide plan that is in force in terms of section 6A of the Physical Planning Act, 1967 (Act 88 of 1967), shall mutatis mutandis apply as additional land use restrictions in this zone.

3.1.4 No farm store, farm stall, nursery, service trade or tourist facilities shall be approved in this zone within 5 km of the border of Bophuthatswana, Transkei or Ciskei without consent of the government of such state.”

And the definition does not include outbuildings/ancillary buildings:

*“**Additional dwellings units**” means dwelling units that may be erected with the consent of the Council on a land unit in agricultural zone I or residential zone I; provided that the units shall remain on the same cadastral unit as the primary unit; provided further that in residential zone I the unit shall be smaller than the primary unit and that in agricultural zone I one additional unit in all cases and further units with a density of one unit per 10ha up to a maximum of five additional units per land unit may be allowed and that no such unit shall be erected within 1 km of the high – water mark of the sea.”*

From the above, my assumption is that in the absence of a limit in the scheme, a limit of the size determined by the plan, as then submitted, was set (137m² and then 141.8m²).

III) Reason for this application to Amend the Condition of the size limit of 142.8m²:

In December 2017 while selling the property, the then owner submitted “as-built” plans, the receipt refers “building plan fee B3”.

In 2018 the property transferred to new owners.

The “as built” application was not followed through at this time and the new owner is now trying to legalise all structures on the property.

The second dwelling (P1) as it was inherited, measures 191m² (149m² excluding verandas). Therefore an application to amend the conditions will be required.

The Knysna Municipality Zoning Scheme By-Law was Gazetted in 2020, this zoning scheme refers:

“the total floor space of an additional dwelling including the floor space in all ancillary buildings to the additional dwelling, may not exceed 175 m²”

The current By-Law therefore accommodates a larger second dwelling, but includes ancillary buildings. The existing second dwelling (P1) exceeds this limit and if one includes ancillary buildings it far exceeds the limit and requesting an amendment of this scale would not be easily justified and would set an undesirable precedent for the area.

Proposed Solution:

A solution would be to look at the primary dwelling (S1) and consider converting this to the second dwelling.

The benefit would be two-fold:

- 1) It could easily be converted to comply with the current by-law, making an amendment application feasible.
- 2) The existing second dwelling (P1) makes much greater use of the property in terms of the way it responds to its location and ancillary structures. For this reason it is being occupied by the owner as if a primary dwelling.

By reducing the area of covered veranda as indicated on the accompanying drawings the existing primary dwelling (S1) floor space is 164m²

The current By-Law includes ancillary buildings. There is a wendy house store (S2) of 11m² which is the

only outbuilding on the property ancillary to the primary dwelling (S1).

The primary dwelling plus ancillary buildings is therefore 175m².

Attempting to make this primary building (S1) less than 164m² would be detrimental to its design as well as costly. The wendy house store (S2) is useful and preferable to keep.

As the by-law references 175m², we would like to hereby request:

That the primary (S1) and second (P1) dwellings be “swapped” and the condition limiting the size (which previously quite considerably exceeded the by-law of the time) to 142.8m², be amended to 175m², the maximum as stipulated in the current by-law.

IV) Unique Circumstances

The current By-Law now has a defined limit to the size of an additional dwelling on Agricultural Zoning 1. While usually a set of circumstances unique to the property in question would be the driving force for an application like this to be considered, in this situation it is perhaps the fact it is not unique which contributes a stronger argument. All farms (Agri 1) in the area are subject to these same conditions of there having been no limit for additional dwellings, to there now being a well-defined limit, and it would therefore be reasonable for any of these farms to make the same argument regarding existing additional dwellings.

V) Impact on rights of affected landowners:

The existing dwellings, both primary (S1) and second (P1), have been their current sizes for close on ten years without any obvious negative impact (the second dwelling (P1) being 191m²) on surrounding landowners other than to set a bad example, and potential negative precedent. Our application hopes to correct that and set the correct precedent of staying within the by-laws.

Neither dwelling encroaches on the 30m building line which affects each boundary, leaving a substantial distance between these dwellings and neighbouring properties.

The dwellings are not visible from the internal estate road.

There are adjacent properties of similar land size with second dwellings.

All Agri 1 properties in the area are subject to the same additional dwelling limit of 175m².

There is a restrictive condition in the Title Deed that the property may never be sub-divided and therefore the size of the second dwelling can never be a pre-cursor to an owner deciding to sub-divide which would compromise the feel and desirability of the area.

VI) Summary

There was no size limit to second/additional dwellings mentioned in the zoning scheme at the time of the original condition.

The new limit would be within the size limit of the current by-law. A size limit which applies to all Agri 1 properties in the area.

Neither dwelling encroaches on the 30m building line.

There is a restrictive condition in the Title Deed that the property may never be sub-divided.