



Our Ref: Pr22/20b02  
Your Ref:

21 June 2022

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The Manager: Planning & Development  
Knysna Municipality  
P.O. Box 21  
Knysna  
6570

**FOR ATTENTION: MR HENNIE SMIT**

Dear Sir,

**THE DETERMINATION OF AN ADMINISTRATIVE PENALTY AS CONTEMPLATED IN SECTION 93 OF THE KNYSNA SPATIAL PLANNING AND LAND USE MANAGEMENT BYLAW (2021): KNYSNA ERF 1918**

Marike Vreken Urban and Environmental Planners have been appointed by **MARK GREGORY MCKENNA** (See attached **ANNEXURE A**: Signed Power of Attorney dated 09 June 2022 June 2022) to prepare and submit the required application documentation for the determination of an administrative penalty as contemplated in Section 93 of the Knysna Spatial Planning and Land Use Management Bylaw (2021) on Knysna Erf 1918.

**1. BACKGROUND**

| PROPERTY DETAILS                |   |
|---------------------------------|---|
| <b>ERF NUMBER(S):</b>           | Erf 1918 Knysna in the Municipality and Division of Knysna, Western Cape Province |
| <b>SUBURB &amp; TOWN:</b>       | Leisure Island, Knysna  |
| <b>CURRENT ZONING:</b>          | Single Residential Zone I (SRI)   |
| <b>PROPERTY SIZE:</b>           | 524m <sup>2</sup> (Five Hundred and Twenty-Four) square metres                    |
| <b>REGISTERED OWNER(S):</b>     | Mark Gregory Mckenna  |
| <b>TITLE DEED NUMBER:</b>       | T20008/2022   |
| <b>TITLE DEED RESTRICTIONS:</b> | Condition C(f)  |
| <b>BONDS:</b>                   | None  |
| <b>SERVITUDES:</b>              | None  |

- 1.1. Knysna Erf 1918 is located at 15 Thella Road, Leisure Island, Knysna. The property is 524m<sup>2</sup> in extent and is currently zoned "Single Residential Zone I (SRI)" in terms of the Knysna Municipality Zoning Scheme By-law (2020) (See attached **ANNEXURE B: Locality Plan (Knysna Er 1918) Erf 1918**).
- 1.2. On 26 August 2015, Knysna Municipality approved a Permanent Departure application for the relaxation of the Street building line from 4.5m to 0.8m to allow for the construction of a swimming pool. The latest building plans were approved on 23 September 2015. (See attached **ANNEXURE C:** for the letter of approval).
- 1.3. An application for a permanent departure in terms of Section 15(2)(b) from the Knysna Municipality By-Law on Municipal Land Use Planning (2021) for the relaxation of:
  - The southern lateral building line from 2m to 0m to allow for the existing as-built deck;
  - The western lateral building line from 2m to 1.52m to allow for the existing as-built deck;And the Removal of Restrictive Title Deed Condition C(f) from Title Deed No T20008/2022 in terms of Section 15(2)(f) of the Knysna Spatial Planning and Land Use Management Bylaw (2021) to allow for the existing as-built deck was submitted to Knysna Municipality on 21 June 2022.
- 1.4. The landowners now wish to legalise the as-built deck and in order to allow for the as-built structures it is, therefore, necessary to apply determination of an administrative penalty as contemplated in Section 93 of the Knysna Spatial Planning and Land Use Management Bylaw (2021) on Knysna Erf 1918. (See attached **ANNEXURE D:** Application Form).

## 2. THE APPLICATION

In order to achieve the desired outcome, the following land use applications must be submitted in terms of Section 15(2)(r) of the Knysna Spatial Planning and Land Use Management Bylaw (2021):

- (i) The determination of an administrative penalty as contemplated in Section 93 of the Knysna Spatial Planning and Land Use Management Bylaw (2021) for Knysna Erf 1918.

## 3. EXISTING STRUCTURES IMPACT

- 3.1. The previous landowners of Knysna Erf 1918 constructed a wooden deck to cover their two rainwater tanks and enclosed this area under the deck. This deck does not reflect on the latest approved building plans. This deck is constructed over the prescribed zoning scheme building lines and the building lines prescribed in the title deed, but in order to obtain building plan approval, the existing encroaching as-built structures constructed over the prescribed building lines must be legalised. See attached **ANNEXURE G** for the as-built plans.

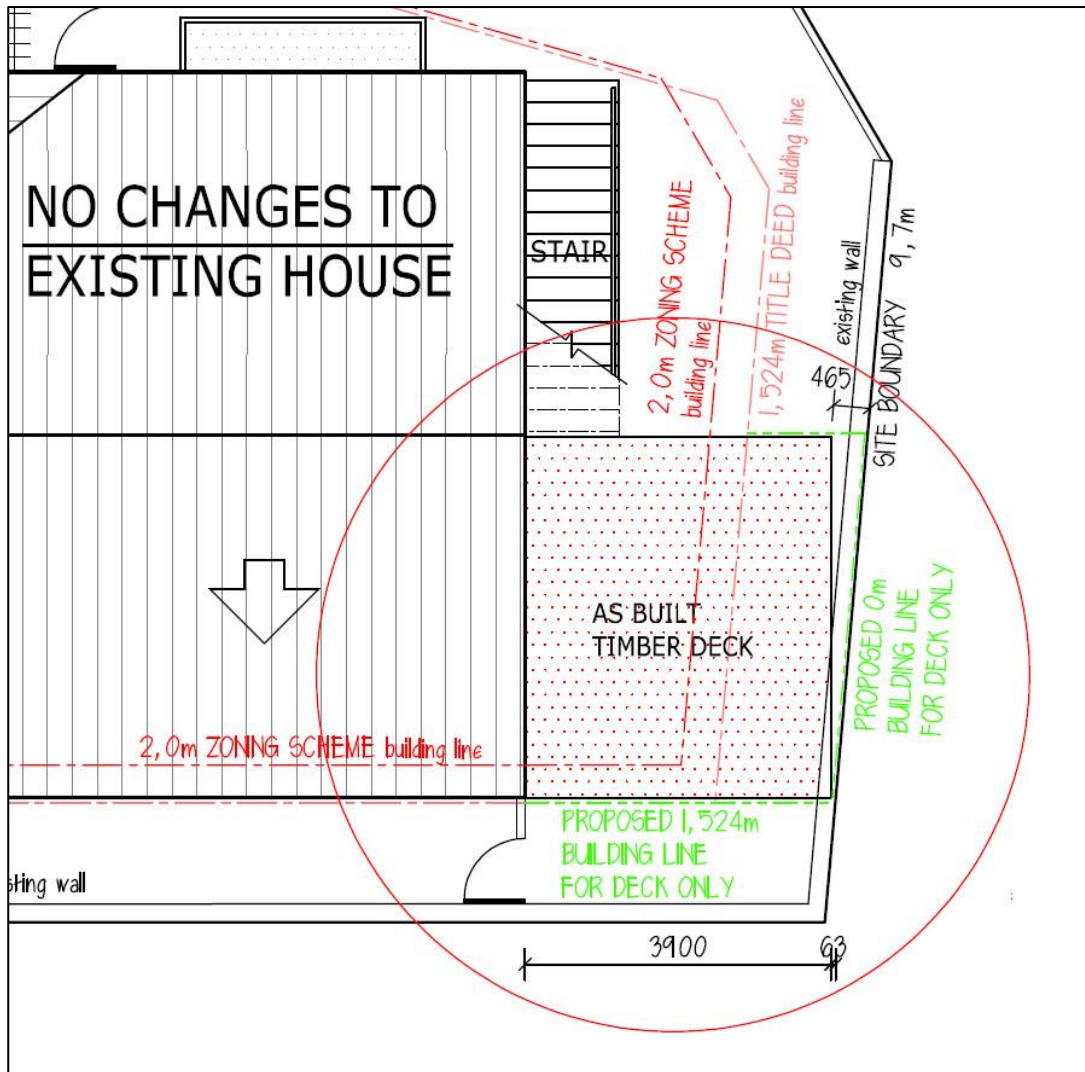
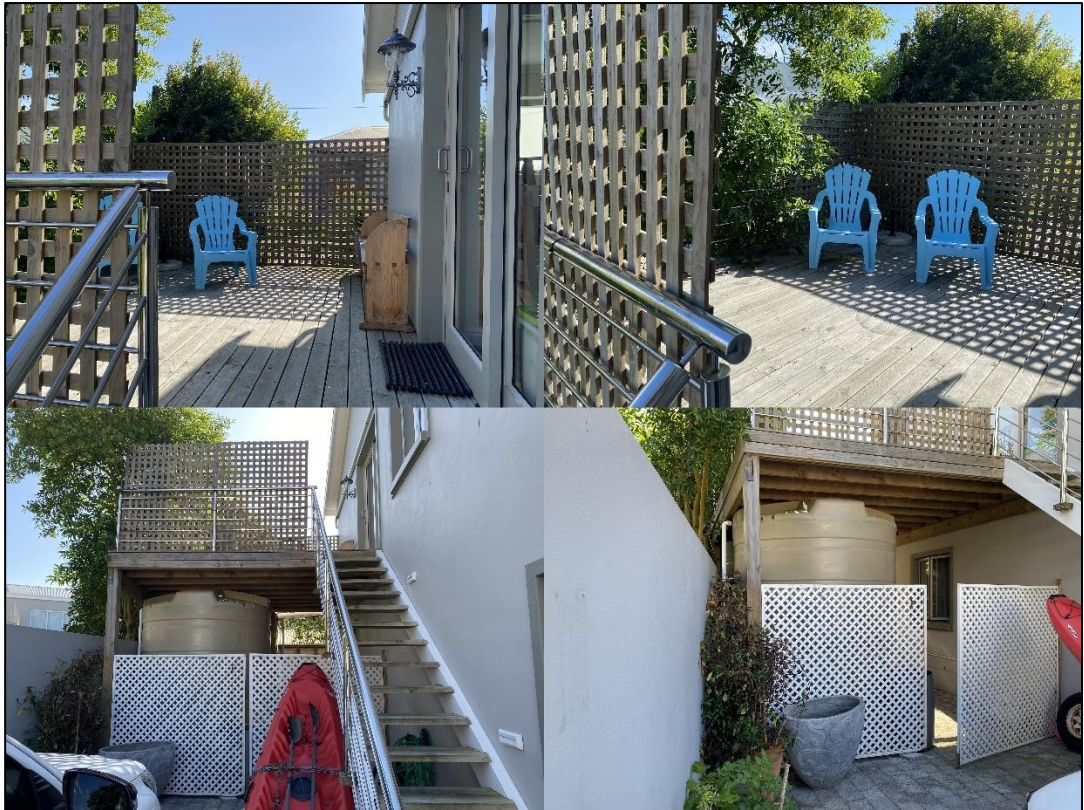


FIGURE 1: BUILDING LINE ENCROACHMENTS

3.2. The Knysna Municipality Zoning Scheme By-law (2020) prescribes a side & rear building line of at least 2m for “Single Residential Zone I (SRI)” (dwelling house) properties.

| PARAMETER                  | ERF 1918                           | COMPLIANCE                |
|----------------------------|------------------------------------|---------------------------|
| Street building line: 4.5m | North: 1m<br><i>*existing pool</i> | <b>COMPLY</b>             |
|                            | East: 1m<br><i>*existing pool</i>  | <b>COMPLY</b>             |
| Side building lines: 2m    | South: 0m                          | <b>DEPARTURE REQUIRED</b> |
|                            | West: 1.52m                        | <b>DEPARTURE REQUIRED</b> |



**FIGURE 2: EXISTING ENCROACHING STRUCTURE**

3.3. The surrounding landowners (indicated on the map below) provided their written support to the proposed application allowing for the existing encroaching as-built deck. They have also signed the proposed plan. See attached **ANNEXURE H**.

- Jonathan Broekman, landowner of Knysna Erf 1916
- Mark Sofianos, landowner of Knysna Erven 1919 & 1920
- Craig Carter & Heidie Carter, landowners of Knysna Erf 2281



**FIGURE 3: SURROUNDING LANDOWNERS**

- 3.4. The application area is located within the existing urban fabric and within an existing residential area. The proposal will not impact or prohibit the provision or rendering of any municipal services. The application area is currently connected to the Knysna Municipal Engineering Infrastructure Services. The services required will not increase from the current capacity that is allocated for Erf 1918. No additional infrastructure services capacity is required to accommodate the proposed development and no existing municipal infrastructure services are located along these boundaries
- 3.5. The determining factors as per Section 93 of the Knysna Spatial Planning and Land Use Management Bylaw (2021) for an appropriate administrative penalty:

| <b>DETERMINING FACTOR</b>   | <b>CONTRAVENTION ON KNYSNA ERF 1918</b>   |
|---|---|
| The nature, duration, gravity and extent of the contravention.  | <ul style="list-style-type: none"> <li>▪ Nature: structures constructed over the prescribed 2m lateral and 2m rear building line (as-built deck)</li> <li>▪ Duration: The landowners took ownership of the subject property on 10 May 2022 and the illegal structures were constructed and completed during October in the year 2018.</li> <li>▪ Gravity and extent: As outlined above, the contravention has no impact on the surrounding landowners, the character of the area, municipal services, and the safety of the landowners or the general public.</li> <li>▪ The illegal construction activities can be regarded as "minor building works", and the deck was constructed for aesthetic reasons, to cover / hide the rain water tanks.</li> <li>▪ The illegal construction work measures 18m<sup>2</sup> in extent.</li> </ul> |
| The conduct of the person involved in the contravention.  | The landowners were not aware that they illegally constructed the structures and were under the impression they would not require building plans for these minor building works.  |
| Whether the unlawful conduct was stopped  | Not an illegal land use, however, the landowners now applying to rectify the matter by legalising the structures, applying for the determination of the suitable penalty fee, and applying for the necessary building line departure.   |
| Whether a person involved in the contravention has previously contravened this by-law or a previous planning law. | No  |

#### 4. PRE-APPLICATION CONSULTATION

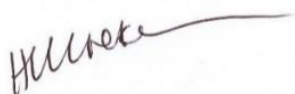
Pre-application consultation was held with the Knysna Municipality's Town Planning Pre-application panel on 31 March 2022 regarding the proposal. The pre-application consultation Panel did not highlight any "red flags" with regard to this application. (See attached as **ANNEXURE I**).

#### 5. CONCLUSION

- 5.1. The owner of Knysna Erf 1918 wishes to apply for the determination of an administrative penalty, to legalise the existing deck that was "illegally" constructed.
- 5.2. At the time the owner did not know that building plan approval is required for these minor building works that measure 18m<sup>2</sup> in extent.
- 5.3. Application is now made for the determination of an administrative penalty as contemplated in Section 93 of the Knysna Spatial Planning and Land Use Management Bylaw (2021).

We trust the above is in order. Please do not hesitate to contact us should you require any additional information in this regard.

Kind regards,



**MARIKE VREKEN**

**Pr. Pln 1101 M SAPI 10233**

#### LIST OF ANNEXURES

- |                    |   |
|--------------------|---|
| <b>ANNEXURE A.</b> | Signed Power of Attorney dated 09 June 2022   |
| <b>ANNEXURE B.</b> | Locality Plan (Knysna Er 1918)  |
| <b>ANNEXURE C.</b> | Approval letter Permanent Departure dated 26 August 2015                              |
| <b>ANNEXURE D.</b> | Application Form  |
| <b>ANNEXURE E.</b> | Title Deed (T20008/2022) Knysna Erf 1918  |
| <b>ANNEXURE F.</b> | General Plan SG 2395/1936   |
| <b>ANNEXURE G.</b> | Development Plans 'Frankenfeld & King Architects' dated April 2022                    |
| <b>ANNEXURE H.</b> | Signed comment forms & site plan - Landowners of Knysna Erven 1916, 1919, 1920 & 2281 |
| <b>ANNEXURE I.</b> | Pre-Application meeting minutes dated 31 March 2022                                   |