
ERF 2943 KNYSNA



Application for:

- **Consent Use**
- **Permanent Departure**
- **Removal of Restrictions**

Prepared by:

Seretse Mthembu (for Daimcon Personnel CC)

On behalf of:

Ms Tessa B Tanner (the property owner)

Date:

October 2025

Glossary of commonly used terms

'The erf'	used interchangeably with property, site, lot and often preceded with <i>'the subject'</i>
'Zoning scheme'	refers to the Knysna Zoning Scheme By-law (2020)
'Planning By-law'	refers to the Knysna Municipality Spatial Planning and Land Use Management By-law (2021)
'Spatial Development Framework' The	Knysna Municipality Spatial Development Framework (2020)
'Building line'	means an imaginary line on a land unit, which defines a distance from a specified boundary, within which the erection of buildings or structures are completely or partially prohibited.
'Second dwelling'	"second dwelling" means another dwelling that may, in terms of this By-law, be erected on a land unit where a dwelling house is also permitted; and the second dwelling may be a separate structure or attached to an outbuilding or may be contained in the same structure as the dwelling house; provided that: (a) a second dwelling may only be erected in a use zone where provision has been made in column 2 of the table set out in Schedule 1 for a second dwelling unit as a consent use; and (b) the second dwelling must Also referred to secondary dwelling.
"balcony / deck"	means a floor projecting outside a building at a level higher than that of the ground floor, enclosed only by low walls or railings or by containing walls of rooms abutting the projecting floor, and may include a roof over the projecting floor and pillars supporting the roof.

Table of Contents

1.	APPLICATION OVERVIEW	4
1.1.	Purpose of the application	4
1.2.	The applicant	4
1.3.	Property particulars	4
1.4.	Infrastructure services	4
1.5.	Environmental and Heritage Considerations	5
2.	CURRENT LAND USE MANAGEMENT CONTROLS	5
2.1.	The Knysna Zoning Scheme By-law (2020).....	5
2.2.	Deed of Transfer No. T 10880/2012	6
2.3.	Overlay zones	7
3.	PROPOSAL PARTICULARS	7
3.1.	The proposed development	7
3.2.	Application description	7
4.	MOTIVATION	8
4.1.	Impact on the character of the surrounding and property owners	8
4.2.	Style and architecture of the proposed dwelling	9
4.3.	Impact on traffic, safety and parking.....	10
4.4.	Compliance with the Spatial Development Framework	10
4.5.	Compliance with the Chapter 2 Principles of SPLUMA.....	11
5.	IMPLICATIONS OF SECTION 33(5) OF THE KNYSNA MUNICIPALITY PLANNING BY-LAW	12
5.1.	The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement.....	12
5.2.	The personal benefits which accrue to the holder of rights in terms of the restrictive condition	12
5.3.	The personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is amended, suspended or removed	13
5.4.	The social benefit of the restrictive condition remaining in place in its existing form.....	13
5.5.	The social benefit of the removal, suspension or amendment of the restrictive condition	13
5.6.	Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights	14
5.7.	Whether the removal would be in the public interest	14
6.	CONCLUSION	14

List of Annexures

Annexure A:	Architectural Drawings
Annexure B:	Power of Attorney
Annexure C:	Locality Map
Annexure D:	Title Deed
Annexure E:	SG Diagram
Annexure F:	Approve Building Plans
Annexure G:	Application Form

List of figures

No table of figures entries found.

List of tables

Table 1: Property Particulars.....	4
Table 2: Zoning table	5
Table 3: Building lines table	5
Table 4: SPLUMA Chapter 2 Development Principles	12

1. APPLICATION OVERVIEW

1.1. Purpose of the application

The purpose of this application is to obtain land use approval for a new 70,24m² second dwelling atop an existing outbuilding (garage and store). The proposed second dwelling comprises the following:

- a 57,68m² indoor area consisting of a kitchen/lounge area, a single separate bedroom and a bathroom, and
- a 12,56m² open deck.

A copy of architectural drawings illustrating all technical aspects of the proposed improvements is attached as **Annexure A** – Drawings of New Second Dwelling.

1.2. The applicant

The application is lodged by Mr. Seretse Mthembu of Daimcon Personnel CC on behalf of the property owner, Ms Tessa B Tanner as per power of attorney attached as Annexure B.

1.3. Property particulars

PROPERTY PARTICULAR	DESCRIPTION
Cadastral Description	Erf No. 2943 Knysna, in the Municipality and Division of Knysna, Province of Western Cape
Location	Cnr Tidswell Avenue and Hart Road, Leisure Isle, Knysna (Annexure C – Locality Map)
Vehicular & pedestrian access	Tidswell Avenue
Property size	734 m ²
Ownership	Tessa B Tanner
Title deed number	Deed of Transfer No. T 65734/2024 (Annexure D)
Title deed restrictions	<i>Conditions (i)B.II(b) and (i)B.II(f) which relate to building lines and the number of dwelling houses that may be permissible on the lot.</i>
Registered servitudes	N/A
Bondholder	N/A
General Plan No.	N/A
S. G. Diagram No.	S.G. No 6364/81 (Annexure E – SG Diagram)
Current Zoning	Single Residential Zone I
Predominant zoning	Single Residential Zone I
Current land use	Residential – living accommodation for the Tanner family
Predominant land use	Single family occupancy
Existing development	Single dwelling house and outbuilding (double garage and Workshop) (Annexure F – Approved building plans)

Table 1: Property Particulars

1.4. Infrastructure services

The property is provisioned with potable water from the existing municipal water reticulation network. Sewerage disposal is done via an existing septic tank with an elongated soakaway.

Stormwater discharge takes the form of sheet flow and is deposited directly onto offsite stormwater management system. The system consists of roadside channels leading into well placed stormwater culverts / inlets.

At this state no proposal is being made for the upgrading of any of the available services and as the existing level / capacity is deemed sufficient to accommodate the proposed improvements.

1.5. Environmental and Heritage Considerations

The site falls within the Garden Route Critical Biodiversity Area. However, the site is already developed and heavily disturbed and thus no longer has any fauna or flora of any conservation value. It has no historical buildings or artefacts of any historical or heritage value. The proposed improvements do not trigger any listed activities in terms of the current NEMA EIA Regulations. The Erf is not located within a 100-year flood line. The proposal under consideration will thus have no impact on the environmental integrity of the site or that of the surrounding area.

2. CURRENT LAND USE MANAGEMENT CONTROLS

2.1. The Knysna Zoning Scheme By-law (2020)

According to the zoning scheme, the site is zoned Single Residential Zone I with the primary and consent listed on the second and third columns of the below respectively.

ZONING	PRIMARY USE	CONSENT USE
Single Residential Zone I (SRII)		
<i>The objective of this zone is to provide for residential development where the predominant type of accommodation is a dwelling house for a single family, where each dwelling has its own land unit, and adequate outdoor space. Limited employment and additional accommodation opportunities are possible as primary or consent use, provided that the dominant use of the property remains residential, and impacts of employment and additional accommodation uses do not adversely affect the quality and character of the surrounding residential environment.</i>	Dwelling house	- Crèche - Guest house (>2rooms) - Home care facility - House shop - Second dwelling unit (>60m)

Table 2: Zoning table

As is self-evident, a second dwelling unit is a consent use right under the Single Residential Zone I classification. As it would be noted, the size of the proposed second dwelling exceeds the 60m² ceiling whereby second dwellings that exceed such are subject to consent use applications.

According to the zoning scheme by-law, building lines and coverage on properties zoned Single Residential Zone I are to be as follows:

ERF SIZE (in m ²)	COVERAGE	BUILDING LINES		
		Street	Side	Rear
≥ 500	50%	4,5 meters	2 meters	2 meters

Table 3: Building lines table

The zoning scheme by-law defines building lines as follows:

"building line" means an imaginary line on a land unit, which defines a distance from a specified boundary, within which the erection of buildings or structures are completely or partially prohibited.

It would be noted that, according to the site plan (**Annexure A**), that a portion of the proposed second dwelling falls within 2,753m of the street and 1,570 of the lateral building lines. This is in variance with the 4,5m street and the 2m lateral building lines contemplated in the zoning scheme by-law.

Given that the proposed second dwelling is to encroach both a street and lateral building lines, it is common cause that a building line relaxation application is applicable.

The zoning scheme also regulates the size of second dwelling units and in that respect, it provides that:

- *A second dwelling or additional dwelling, with a floor area which does not exceed 60 m²; provided that application for consent use must be submitted if the second dwelling or additional dwelling is larger than 60m².*

The scheme further provides that:

- *A second dwelling that is a separate structure to a dwelling house may not exceed a height of 6,5 metres.*

Considering the height parameters, it is common cause that no departure in respect of height is applicable in the current application.

For the purpose of this application and considering the additional 12,56m² constituting a balcony, the extent of the second dwelling is deemed to be 70,24m² and as such a consent use application is deemed to be applicable.

2.2. Deed of Transfer No. T 10880/2012

Condition (i)B.II(b) and (i)B.II(f) of the title deed provides as follows:

- (i) In so far as the figure A.B.C.d.F. on the said diagram No 6364/1981 is concerned:-

...

- B. SUBJECT FURTHER to the following conditions mentioned in Deed of Transfer No. T10821/1948

...

- II *Imposed by the Administrator by virtue of a Townships Ordinance no 13 of 1927 as being in favour of the Registered Owner of any erf in the Township:-*

...

- (b) *That no more than one dwelling, together with the necessary outbuildings and appurtenances be erected on residential erf or on Erf No. 357 is subdivided and used for residential purposes. No flats or tenement houses to be erected on any erf.*

...

- (f) *That no building shall be erected within 4,72 metres of any street line which forms a boundary of the erf. No building shall be situated within 1,57 metres of*

any adjoining erf, provided that this restriction shall not apply to the common boundary of erven held as one erf under consolidated title.

...

Based on the second dwelling unit being prohibited in terms of the title deed conditions and based on buildings in general being prohibited within a certain distance from building lines, it is common cause that the applicable restrictions are to be removed to realise the objective of the current application.

2.3. Overlay zones

No overlay zones are applicable on the subject property.

3. PROPOSAL PARTICULARS

3.1. The proposed development

The proposal is aimed at securing approval for a new second dwelling unit as described under Paragraph 1.1 and graphically represented under **Annexure A**. An artist's impression of the proposed structure is also available in the proposed architectural drawings.

3.2. Application description

The applications can be described as follows:

- a) Application is made for Consent Use on Erf 2943 Knysna in terms of Section 15(2)(o) of the Knysna Municipality Spatial Planning and Land Use Management By-law (2021), to allow a second dwelling unit with a 70,24m² floor area and a height of 6.5m.
- b) Application is made for Permanent Departure on Erf 2943 Knysna in terms of Section 15(2)(b) of the Knysna Municipality Spatial Planning and Land Use Management By-law (2021), for the relaxation of the following building lines:
 - i. The street building line along Tidswell Avenue, from 4,5m to 2,753m for a portion of a new second dwelling (open deck/balcony).
 - ii. The lateral building line adjacent to Erf 8560 Knysna from 2m to 1,750m for a portion of a new second dwelling.
- c) Application is made for Permanent Departure on Erf 2943 Knysna in terms of Section 15(2)(b) of the Knysna Municipality Spatial Planning and Land Use Management By-law (2021), for the relaxation of the zoning scheme requirement that second dwelling must be constructed in a style that is similar to the architecture of the main dwelling house in order to allow minor variations in architectural elements of the proposed second dwelling;
- d) Application is also made in terms Section 15(2)(f) of the Knysna Municipality Spatial Planning and Land Use Management By-law (2021) for the Removal of Conditions (i)B.II(b) and (i)B.II(f) framed in Deed of Transfer No. T 65734/2024 to allow a new second dwelling unit which has some portions over the street and lateral building lines.

The conditions to be removed read as follows:

...

(b) That no more than one dwelling, together with the necessary outbuildings and appurtenances be erected on residential erf or on Erf No. 357 is subdivided and used for residential purposes. No flats or tenement houses to be erected on any erf.

...

(f) That no building shall be erected within 4,72 metres of any street line which forms a boundary of the erf. No building shall be situated within 1,57 metres of any adjoining erf, provided that this restriction shall not apply to the common boundary of erven held as one erf under consolidated title.

...

The proposal is graphically represented on Drawing Number A100 to A103 drawn by Joan of ArchT Architectural Services dated/issued on 22 October 2025 (**Annexure A**).

A copy of the completed application form is attached as **Annexure H**.

4. MOTIVATION

4.1. Impact on the character of the surrounding and property owners

The impact of the proposed second dwelling unit is expected to be negligible in view of the following key considerations:

- The proposed secondary dwelling (except for the new deck) replaces and already approved structure (studio) which was approved in 1993. This structure was, however, never built.
- The structure in question falls within the 6,5m applicable to second dwelling houses as contemplated in the zoning scheme by-law. It is significantly lower than the previously approved structure, which was to be 7,7m in height. The impact of the proposed second dwelling unit is thus minimal in comparison to what was already approved.
- The dwelling falls within the 60m² floor area which is permissible as of right within the neighbourhood. The only factor that makes it exceed the 60m² is a balcony which is not considered a habitable structure but a welcome addition from a utilitarian and aesthetic perspective.
- The habitable section of the second dwelling is well within the 4,5m and 4,72m building lines. Only a small portion of the 3,2m wide balcony and staircase falls within the building restriction area.
- The width of Tidswell Avenue is ±12,00m and as such there is an allowance of ± 3m between the carriageway and the road reserve. The generous width of the road shoulder minimises the potential impact of the proximity of the proposed building from the street.
- The proposed deck does not overlook any private residential spaces. Instead, it overlooks Tidswell Avenue in terms of which no privacy issues exist. The fact that the proposed deck is to be on the upper means that there shall be no interference in terms of site distances with regard to traffic using
- There is an abundance of mature vegetation across Tidswell Avenue along Erf 1736 which provides ample screen that masks off potentially disagreeable

intrusion of the building onto the streetscape and the property directly across the road.

- Given that the proposed second dwelling unit is located within all building lines save for the street, no other properties are directly affected – neither from the visual, aesthetic, privacy or operational point of view.
- There is ample space for an additional parking in front of the main dwelling along Tidswell Avenue to accommodate an additional parking space in line with the requirements of the zoning scheme by-law.

For the reasons advanced as per the above considerations and many more, it is our submission that the proposed second dwelling will have no negative impact to the character of the surrounding area, nor will it have any negative impact to the safety and welfare of the surrounding property owners and the public in general.

4.2. Style and architecture of the proposed dwelling

According to the zoning scheme by-law, *'a second dwelling must be constructed in a style that is similar to the architecture of the main dwelling house.'* Whilst this should be the case, it is noted that the property owners have opted to fuse existing architectural elements with new ones in order to find balance between the requirement to maintain uniformity whilst adhering to zoning scheme height regulations.

For instance, all external walls are made up of plaster-and-paint which is to be finished with the same colour paint. The fascia boards are to be painted uniformly in keeping with the existing look and feel of the existing dwelling house.

The proposed window frames differ slightly with the windows of the existing dwelling in the sense that the windows of the proposed dwelling are to consist of aluminium whilst the window frames on the existing ones are made up of *meranti*. Whilst they might differ in terms of the materials, they are to be painted in a similar coating to create a uniform aesthetic.

As can be observed, the roof styles differ significantly in that the existing dwelling features a pitched style roof whilst the proposed second dwelling has adopted a flat-roof approach. This has been done deliberately to *inter alia* keep within the 6,5m maximum height permissible in respect of second dwellings and to allow each building its own identity given that these structures are meant to function independently of each other. Another one of the reasons for introducing a new architectural style is to denote the era during which each structure was designed and what was the dominant roof style of such an era. In the end what the two different elements achieve is that their contrasting characteristics amplify each buildings individual characteristics and make it easier to be appreciated when it is pitted against a different and yet equally imposing structure close by.

In our view the choice of architectural elements which informed the design of the proposed second dwelling will achieve the overall effect which is being deliberately avoided by the property owners. In this way the occupants of each structure will have no experience of either being dominant or servient to one

another based on the size of the structures. Changing the architectural element allows each structure to be compared only unto itself.

For all practical considerations, it is our considered view that the departure from the current architectural style, though it may be viewed as insignificant, has no negative aesthetic impact on the property and on the surrounding area in general. As such it is our sincere expectation that the application may not be considered in a negative light on the strength of this specific aspect. On the contrary, the different approach should be supported due to its impact in ensuring adherence to the 6,5m height limit which is in line with the spirit and purport of the zoning scheme by-law applicable to second dwelling units.

4.3. Impact on traffic, safety and parking.

There is no perceived impact on traffic along Tidswell Avenue or on the safety of the surrounding property owners and road users in general. The proposed second dwelling unit is located atop an existing garage, and its location does not affect the existing access into the existing garage. There is already an existing parking located in front of the main dwelling along Tidswell Avenue and access to this parking bay is obtained from the same access point along Tidswell Avenue. In other words, the existence of the second dwelling will not alter the existing parking access and egress regimen that is currently in place. As a zoning scheme by-law requirement, one additional parking has been provided with accounts for only one additional vehicle being added to the overall traffic volume along Tidswell Avenue. This, in our view, is considered negligible and could be used to render the proposed second dwelling unit unfit for approval.

4.4. Compliance with the Spatial Development Framework

The Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) makes it mandatory that future development within, for example, the Knysna Municipal area be consistent with the Knysna Spatial Development Framework (2020) and be, by extension, aligned with its policy guidelines.

The scale of the current proposal means it is quite a challenge to pinpoint the exact areas where the needs of the property owner and the broader policy proposals of the spatial development framework intersect.

However, with the broader objective of the SDF being the improvement of the general quality of life within and beyond the boundaries of the Knysna Municipality, coupled with the fact the subject property falls within the Knysna Urban Edge where developments of such a nature as secondary dwellings are promoted, it could be concluded that the current proposal and the objectives of the SDF are in alignment. Additionally, second dwelling units are seen as an appropriate strategy for settlement restructuring. The second dwelling units serve to provide sufficient densities to justify the cost of providing services within existing settlements which promotes efficiency from the municipality's standpoint. The promotion of second dwelling is, in the end, an official policy of the municipality and this is evident in that such buildings are allowed to be built on properties without the need for any additional rights to supplement the existing ones.

4.5. Compliance with the Chapter 2 Principles of SPLUMA

The below development principles set forth under Chapter 2 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) have reference.

SPLUMA PRINCIPLES		
PRINCIPLE	SUMMARY DESCRIPTION	APPLICABILITY TO CURRENT SCENARIO
Spatial Justice	This principle emphasizes the need to rectify past development imbalances by improving land access and usage, particularly focusing on addressing exclusion in informal settlements, former homeland areas, and areas marked by poverty. Spatial planning mechanisms and land use management systems are urged to incorporate provisions enabling redress for disadvantaged communities, and municipal planning procedures should facilitate secure tenure and incremental upgrading in informal areas while ensuring Municipal Planning Tribunals have the discretion to consider applications without undue influence based on property value.	For the purposes of this application, it is not considered relevant to find applicability of this principle in the current context. There are no historical considerations that this proposal seeks to address other than the contribution to creation of a better economic climate for the Knysna Town and to prevent the Leisure Isle settlement from imminent decline. What is more important is that the current proposal is not discordant with the core conception of this principle despite it being of no direct applicability to it.
Spatial Sustainability	The principle of spatial sustainability mandates spatial planning and land use management systems to promote fiscally responsible land development, with special attention to protecting prime agricultural land, maintaining consistency with environmental management instruments, stimulating equitable land markets, considering infrastructure costs, encouraging sustainable locations to limit urban sprawl, and ultimately fostering the creation of viable communities.	The nature of the proposed development from a physical and use point of view is such that it has a minimal impact on the natural environment. There are neither listed activities that are triggered by the proposed development nor any protected plant or animal species that are to be affected. The improvements fall with the urban edge – within an area designated for urban development. The proposal is considered therefore not to conflict with the intention and purport of this principle.
Efficiency	The principle of efficiency dictates that land development should maximize the utilization of existing resources and infrastructure, decision-making procedures must minimize adverse financial, social, economic, or environmental impacts, and development application processes should be streamlined and adhered to within specified timeframes by all involved parties.	A summary examination of aerial photography of the subject property in relation to the properties in the surrounding area demonstrates the degree to which the subject property is underdeveloped given its location within the urban edge. The proposed second dwelling on the property shall ensure that the property is being utilised to a fuller potential.
Spatial resilience	Resilience is the capacity and ability of community to withstand stress, survive, adapt, bounce back from a crisis or disaster and rapidly move on. The idea, in practical terms is to utilise internal or external shocks and disturbances like a financial crisis or climate change to spur renewal and innovative thinking	Our view in respect of this principle is that, ideally, the commitment to accelerated investment in the existing property stock by individual property owners collectively leads to a more resilient urban form which is also more likely to withstand external shocks and disturbances. What our submission is, all other things being equal, is that the proposed improvements on the subject property are not discordant with the principle of Spatial Resilience. In fact, these improvements rather give effect and meaning to this principle.
Good Administration	The principle of good administration mandates an integrated approach to land use and development guided by the spatial planning and land use management systems, requiring government departments to provide sector inputs and meet legal requirements promptly. It also emphasizes transparent public participation in the preparation and amendment of spatial plans, policies, land use schemes, and development procedures, while policies, legislation, and procedures should be clearly communicated to empower the public.	The submission of this application is seen to be one of the steps in a regulated process which should be followed by all participants in order that the process can produce a credible outcome. Having prepared our application in accordance with the guidelines set forth in the planning by-law, we are confident that the local authority shall also play its role in seeing that proper processes and procedures are adhered to.

5. IMPLICATIONS OF SECTION 33(5) OF THE KNYSNA MUNICIPALITY PLANNING BY-LAW

The Knysna Planning By-law provides that, when the municipality considers the removal, suspension or amendment of a restrictive condition, the municipality must have regard to the following:

5.1. The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement.

The restrictions that are to be removed determine the number of permissible dwellings and the distance from which structures are not permissible from site boundaries on the subject property. The area from which buildings are not permitted, which is determined by means of building lines, are commonly referred to as building restriction areas. The conditions that govern the number of buildings or areas on which property owners are prohibited to build upon are not considered to constitute rights as they do not confer on the owner of the subject property (or any other property), any financial or other value rights to be enjoyed. They constitute neither real nor direct personal rights which are directly conferred on any surrounding property owner or members of the public who might stand to be affected if the restrictions in question (*Conditions (i)B.II(b) and (i)B.II(f)*) are removed. In other words, the subject property is not subservient to any other, hence the absence of a dominant or servient tenement-like relationship. Therefore, demonstrably, there exists no financial or other value right in favour of a third party which stands to be affected by the removal of the restriction on the site in question. To clarify matters further, the only impact that could potentially be felt on the entire suburb is the continued existence of minor and insignificant encroachment of a second dwelling on the street and lateral building lines. Given that the accommodation of and proliferation of second dwelling units in an official policy of the municipality, the impact of the proposed structure is considered miniscule and could thus be supported without a pronounced impact on the established character of the surrounding area.

5.2. The personal benefits which accrue to the holder of rights in terms of the restrictive condition

There are no personal benefits *per se* that accrue to the holder of any right in the vicinity/township given that the restrictions in question confer no such upon any third parties. It must be noted that the third parties on whose favour the restrictions were imposed are collectively subject to zoning scheme regulations which have lesser development restrictions. For example, the ruling street building line is currently at 4,5m in lieu of the title restriction which remains 4,72m. Similarly, the lateral building lines are currently also governed in terms of the zoning scheme by-law which is in this case more restrictive than the title deed building line restrictions. The regulations dealing with second dwellings have been deliberately relaxed to allow compact residential settlements which contribute to more liveable settlements and justify the provision of outline infrastructure services.

The requested removal of restrictions applies mainly to the second dwelling and the position and composition of structures permissible on the subject property. These restrictions, in their conception, are effectively in favour of the other property owners within the Leisure Isle settlement. Given that said property owner are already collectively subject to the current zoning scheme by-law (2020), it longer serves any purpose to insist on imposing restriction upon them. The municipality could, if in its opinion and after giving due regard to the procedures outlined in the Knysna Planning By-law, deem it expedient to remove these impediments in line with the spirit and purport of the current zoning scheme by-law. Over and above, it must be emphasized that there are neither real nor personal rights affected that any of the adjoining property owners stand to forfeit due to the approval of the proposed second dwelling and the relaxation of the street building line on the subject property.

5.3. The personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is amended, suspended or removed

Apart from the effect of the approval of the development rights in respect of the second dwelling (and the necessary building relaxation), there are no other rights which will accrue to the owner (being the party seeking the removal of the conditions in question) as a result of a positive recommendation of this application.

5.4. The social benefit of the restrictive condition remaining in place in its existing form

As indicated in the preceding paragraphs, the condition for which removal is required governs the number of dwellings and the manner and the position of structures that are permissible on the subject property. It is noted that there may be some social benefits that maybe derived from the control of the position of buildings e.g. the distance between buildings and the street boundary may be kept within a certain distance to achieve uniformity in as far as the streetscape is concerned. However, due to the advent of the zoning schemes and the evolution of land use management mechanisms, this approach no longer has as much appeal as it was the case pre-zoning scheme era. The norm, currently, is to allow certain structures along the street boundary e.g. carports if is deemed to be desirable to do so. This allows for diversity and diffuses the monotony that could be one of the undesired effects of excessive uniformity. The same applies with street building lines where the restrictions have uniformly been relaxed to 4,5m instead of 4,72m. Whilst this is the current norm, it must be noted that the intention of the removal of this restriction is not to allow future additions to, for instance, an effective 0m street building line. It is not the intention of and neither in the best interest of the current owner to do so. The intention is to allow the closest portion of the main dwelling comprising a deck to be within 2,753m of the street boundary which is more likely to be supported by the adjoining property owners. Our conclusion is therefore that no social benefit is to be affected by the approval of the removal of restrictions on property's title deed since such removal is not required to accommodate unreasonable development on site.

5.5. The social benefit of the removal, suspension or amendment of the restrictive condition

There is no social benefit that will be realised due to the rationale advanced in Paragraph 4.5 above. The removal of the conditions in question stands to benefit only the property owner as the only party whose real rights are affected by the condition. On the other hand, no social benefit is to be forfeited by the surrounding property owners as none of the proposed portions of the structure for which the restrictions are removed could demonstrably be perceived to have a negative impact on the surrounding environs.

5.6. Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights

In the absence of any beneficiary (strictly in terms of potential negative impact) who demonstrably derives direct benefit to the condition being kept in the title deed, our position is that the removal will have no impact on any other potential holder of rights in the surrounding area. The restriction also does not specifically concern the manner in which any real or personal rights shall be handled when the property owner wishes to bequeath the property. Therefore, the removal of the conditions in question will have no impact regarding the observation of the above statement.

5.7. Whether the removal would be in the public interest

Given that the condition in question does not, evidently, have a direct impact on what might be considered public interest, our view is that its relaxation will invariably have no impact on the public's beneficial enjoyment and use of the surrounding area. This is due to the fact that the structure for which the condition is to be removed has no perceived negative impact on the character of the area or on the lives of surrounding property owners. It has no impact on privacy and, being on the second floor, has no obtrusive effect from the site distances point of view.

For the reasons advanced above, it is our view that the proposed removal of restriction does not lack desirability. It is also important to note that the only outcome that shall be realised after the removal of the restrictive conditions is finalised, pertains to the proposed secondary dwelling and deck. In other words, no other structures are to be erected on the property, and no change of use is to be expected as a result of the removal of the conditions. If there should be any need for additions or alterations on the subject property, such additions or alterations, as the case may be, shall be subject to proper town planning and building control scrutiny (which may include a public participation process) before it could be allowed.

6. CONCLUSION

The amount and depth of information shared in this report is aimed at soliciting the approval of the local authority for a proposed second dwelling indicated as such under **Annexure A**. It is our conclusion that the proposed building is warranted and has no perceived negative impact on the natural and built environment and, also, has no negative impact on the safety and welfare of surrounding property owners.

The proposed development is aligned with the broader municipal policies on densification. Sufficient service capacity exists within the Leisure Isle settlement to accommodate the proposed second dwelling. Furthermore, approval had already been granted for a higher and therefore significantly more impactful structure above the existing garage. It is therefore our considered view that the proposed second dwelling does not lack desirability and should be supported.