

VBGD Town Planners

Town Planners and Development Consultants

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Date: 3 December 2025

Reference:

The Municipal Manager
Planning and Development Department
Knysna Municipality
P. O Box 21
KNYSNA
6570
Attention: Manager: Land Use Management

Dear Sir,

APPLICATION FOR ERF 1440 KNYSNA "THE HEADS" RESPONSE TO COMMENTS:

I refer to our application submitted on 4 November 2025 and to your subsequent response by email dated 27 November 2025 as an incomplete application as stated below:

- (i) The title deed to the property has a restrictive title condition which limits the property to a single dwelling house only while the proposal is for a second dwelling. This restrictive title condition was imposed in terms of Ordinance No. 13 of 1927, meaning at the township establishment. This restrictive title condition does not allow for the consent of the "Administrator" it is thus argued that the appropriate application is an application in terms of Section 15(2) of the Planning By-law unless a conveyancing attorney explains or certifies the relevance of this restrictive title condition.
- (ii) Kindly include labelling on the plan for the natural ground level as it is important in the context of the retaining walls.
- (iii) It is assumed that some of the retaining walls exist and were built at the time of the original garage. However, kindly note that any new retaining wall structures within the building lines will require consideration as an application for departure to allow the relaxation of the building line.

We hereby respond to the above points as follows:

- (i) Regarding the Title Deed reference to the Administrator, we consulted Balt Attorneys, Director Marian Balt, and posed the following to her:

“COMPARATIVE REFERENCES IN TITLE DEEDS

1. The extract below is from a Title Deed for Erf 149 Brenton on Sea

6. Hierdie erf is onderhewig aan die volgende verdere voorwaardes , met dien verstande dat indien die Administrateur, na ooreleg met die Dorpekommissie en die Plaaslike Owerheid, dit raadsaam ag dat die bepalinge in enige sodanige voorwaarde te eniger tyd opgeskort of versag behoort te word, hy die nodige opskorting of versagting kan goedkeur onderworpe aan die voorwaardes wat hy ople:-

(a) dit mag nie onderverdeel word nie;

(b)

(c) Nie meer as helfte van die oppervlakte daarvan mag bebou word nie;

(d) Geen gebou of struktuur of enige gedeelte daarvan, behalwe grensmure en heinings, mag nader as 1 vierkante meter van die straatlyn, wat 'n grens van hierdie erf uitmaak, opgerig word nie, asook nie binne 1 meter van die agtergrens of 1 meter van die sygrens gemeen daaraan en aan 'n aangrensende erf nie met dien verstande dat 'n buitegebou van nie hoër as 1 meter nie, gemeet van die vloer tot by die muurplaat, met die toestemming van die plaaslike owerheid binne die hierbo voorgeskrewe agterruimte en binne die hierbo voorgeskrewe syruimte vir 'n afstand van 3 meter gereken van die agtergrens, opgerig mag word. Wanneer enige twee of meer erwe gekonsolideer word, is hierdie voorwaarde op die gekonsolideerde oppervlakte as een erf van toepassing.

2. **Condition 6 refers to the “Adminstrateur” imposing building lines in 6(b). The Knysna Municipality processed the application and granted Administrator’s Consent as per the attached letter. See Condition of approval 1. There was no process involved, it was not advertised in the gazette or anywhere else and routinely approved. We have done a large number of these both in Knysna and elsewhere in the same manner. No endorsement of the Title Deed is ever done, and no gazette notice is required, as is the case with a restrictive condition.**
3. **The application we now deal with is Erf 1440 Knysna where the wording is as follows in the Title Deed.**

B. SUBJECT FURTHER and entitled to the benefits under the following conditions contained in Deed of Transfer No T8904/1947, imposed by the Administrator of the Province of the Cape of Good Hope under the provisions of Ordinance No.13 of 1927 namely:-

1. That the erven be used for residential purposes only except erven no.'s 5, 33, 34, 35, 36, 37 and 38 which may if desired be used for business purposes.
2. That the erven be not subdivided without the approval of the Administrator.
3. That not more than one dwelling be erected on any one erf, and that not more than half the area of any residential erf be built upon.

4. That all buildings to be erected on this property shall stand back not less than 3,15 metres from the line of any street or avenue on which the erven may abut, and not less than 1,57 metres from the boundary of adjoining erven. Such space may be utilised as gardens but may not be built upon.

4. ***The reference is again to the “Administrator” imposing the condition, and the assumption is that the provisions of the Spatial Planning and Land Use Management Act (SPLUMA) (Act 16 of 2013) , Section 45(6) applies equally which reads as follows:***

(6) Where a condition of title, a condition of establishment of a township or an existing scheme provides for a purpose with the consent or approval of the administrator, a Premier, the townships board or any controlling authority, such consent may be granted by the municipality and such reference to the administrator, a Premier, the townships board or controlling authority is deemed to be a reference to the municipality.

5. ***The reference to the Administrator is now a reference to the municipality in terms of SPLUMA, which means the municipality is the controlling authority, and can dispose of a relaxation of conditions without removing them from the Title Deed. Please advise regarding the above”***

- (ii) Balt Attorneys elected to refer the query to their correspondent in Cape Town, who had more experience in the matter and the response from Marian Balt after this communication was the following;

“Good day Lloyd,

I discussed this with my correspondent in Cape Town, and he agrees with you that in this case the municipality can dispose of a building line matter accordingly without removing the conditions of Title Deed “ (See attached email from Balt)

- (III) Regarding the NGL and the retaining walls, please find the attached plans, which show the walls to be compliant, and also not within the building lines.

We trust the above is in order and look forward to acknowledgement and advancing of the application.



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