

MEMORANDUM IN SUPPORT OF THE APPLICATION FOR A DEPARTURE APPLICATION: ERF 1440 KNYSNA



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SUMMARY OF APPLICATION:

1. The application is to apply for a permanent departure to relax the lateral/street building lines in order to permit a second dwelling positioned above an existing garage.
2. Administrators Consent is also requested.

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ANNEXURES

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ANNEXURE B	Power of Attorney
ANNEXURE C	Previously approved Plans
ANNEXURE D	Plans for Second dwelling

PLANS:
Zoning Plan
SG Diagram

1. BACKGROUND INFORMATION

1.1 Pre- Application Consultation

No pre-application meeting took place as the application did not warrant one.

1.2 Application details:

Location: Situated in Catherine Street , corner of Horizon Street in The Heads area as shown below:



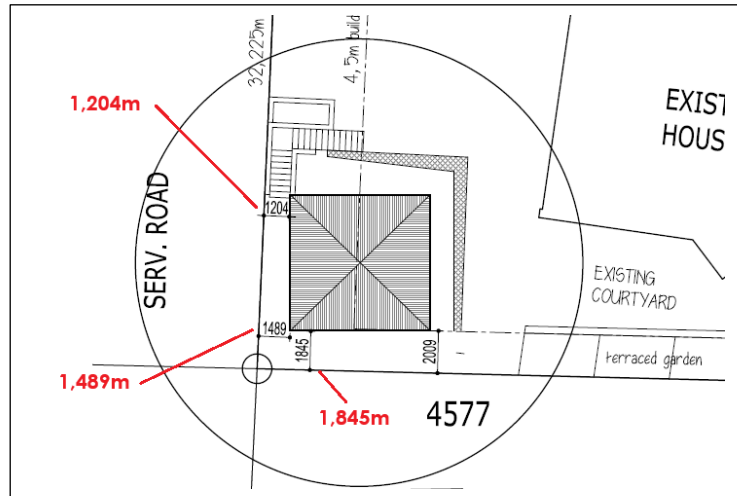
1.2.1. **The Application:**

The application is done to enable the landowner to submit new building plans for a second dwelling which is located above the existing garage. The second dwelling is within the limit size of 60m².

It is apparent that although the garage has been in existence for many years , the building lines stipulated in the Title Deeds referencing the Administrator have not been addressed, as well as the reference in the Title Deed to a second dwelling unit. Therefore these items are included in the application.

The applications are done in terms of the Knysna Municipal Spatial Planning and Land Use Management By-Law 2021 as follows.

- The **permanent departure** in terms of **Section 15(2)(b)** to relax the street building lines from 4,5m to 1,20-45m and 1,489m respectively and the southern lateral building line from 2m to 1,845m.
- **Administrators Consent** to allow more than one dwelling, and to relax the street and lateral building lines as shown below:



1.3 **Property Details and Ownership:**

The site is owned by BARTLE STUART BRETT by virtue of the attached Deed of Transfer T92162/2002 and is 2105m² in extent.

1.4 **Legal Matters:**

1.4.1 **Conditions of Title:**

The Title Deed contains two items which are not restrictive except in the context that Administrator's consent is necessary. They are B3 and 4 and read as follows:

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.

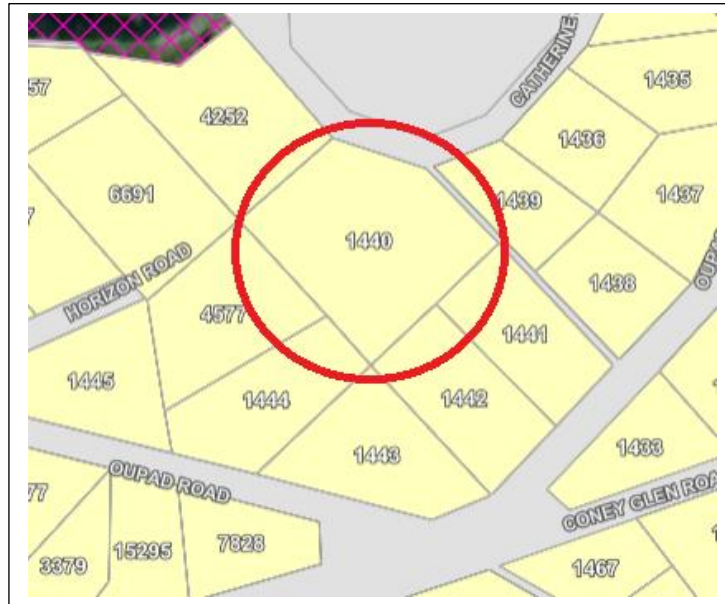
1.4.2 **Bond holders' consent:**

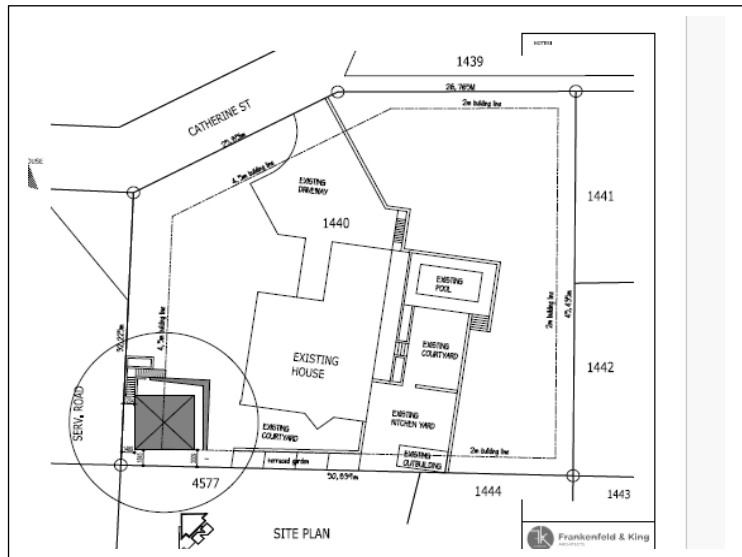
There are no bonds registered over the property.

1.4.3 Legal Jurisdiction and zoning:

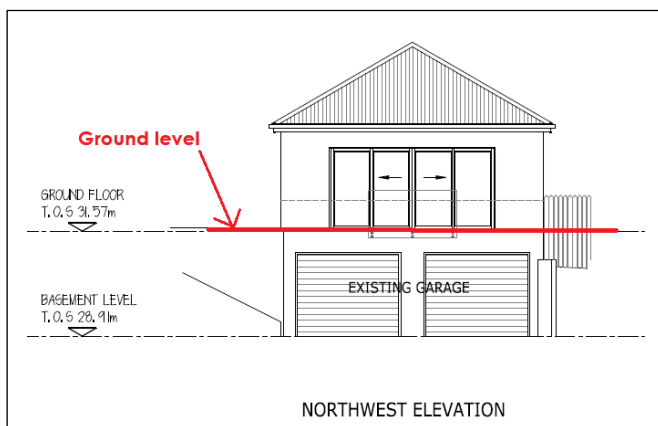
The property falls within the Knysna Heads area, and is zoned **Single Residential Zone 1** in terms of the Knysna Municipality Zoning Scheme By-Law 2020. See attached Zoning Plan and below:

ZONING: SINGLE RESIDENTIAL ZONE 1





The existing garage is cut into the slope, and therefore the second dwelling will essentially be at ground level as shown below:



2.2 Application details

2.2.1 The relaxation of Building lines:

The applicable building lines in terms of the Knysna Zoning Scheme for a Single Residential Zone 1 zoning with a size property exceeding 650m², are 4,5m on street boundaries, and 2m on lateral boundaries. The existing structure being the double garage is positioned as shown, and therefore the departure to relax the building lines is a necessity.

2.2.2 Conditions of Title:

Conditions B3 and B4 in the Title Deeds refer to alternative building lines as well as limitations for only one dwelling unit on the property, as imposed by the "Administrator".

It is to be noted that the reference is to the then Administrator of the Cape Province, who no longer exists. To dispose of such references, the Spatial Planning and Land Use

Management Act (Act 16 of 2013) or SPLUMA has included Section 45(6) 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.

The above provisions of the Act enable the municipality to be substituted for the reference to the Administrator, as we hereby do in this application.

3. SITE CONTEXT

3.1 Location and surrounding land uses:

In terms of site considerations, it can be noted that the site is within the residential township of Knysna in the area known as the Knysna Heads.

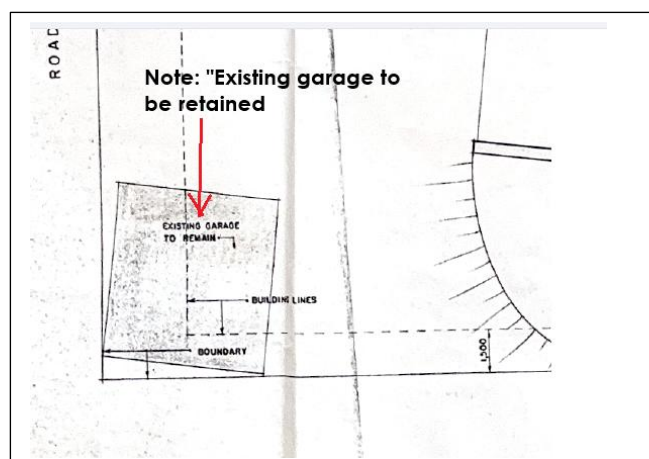
The surrounding uses are predominantly residential, although directly to the north is the public parking area for the Heads area in general, which accommodates visitor and bus parking for those wanting to park and walk to the viewpoint and restaurants at the Heads.

The proposed second dwelling will have no impacts on the surrounding area.

3.2 History of the site:

The house on the property is not the first one to be erected, and which was built according to the approved building plans in about August 1976.

The approved plans as attached indicate that the existing garages are to be retained and are shown on the plans as indicated below: (See attached 1976 Building Plans)



No other previous plans for the as built garage could be found, however, the garage was clearly in existence at the time of approval in 1976, and is therefore a legal structure.

The accuracy of the position of the existing garage in relation to the cadastral boundaries is now determined accurately in this submission.

4. POLICY FRAMEWORKS

4.1 Spatial Development Frameworks, SPLUMA and IDP's

4.1.1 Current Policy Implications

There have been no recent inclusions into any of the current planning documents or policies which have any bearing on the proposal in this application to require a departure from zoning scheme or Title Deed building lines, or the erection of a second dwelling. These are detailed items, which are not pronounced on in any policies.

In the case of SPLUMA, there are overall guiding principles contained in Chapter 2 of the Act, such as spatial sustainability and spatial efficiency, however the intended application has no bearing on this legislation or other policies such as the Spatial Development Frameworks for the area.

The zoning of the site is aligned with the zoning parameters of the Knysna Zoning Scheme By-Law, and which allows for departures, as we require in this application. The zoning scheme is therefore an integral part of planning policy implementation.

5. MOTIVATION OF APPLICATIONS

5.1 Reasons for the application:

The reasons for this application arise from the need to apply for departures from the Knysna Zoning Scheme where there are conflicts with standard parameters. In this instance the departure requested is as a result of the existing garage being positioned in a manner which brings the building lines into consideration, with the addition of the intended second dwelling unit.

Consent regarding the reference to the "Administrator" is a procedural requirement, which will be condoned in this application.

5.2 Impacts on the area:

As discussed in paragraph 2.1.1 above the existing garage is cut into the slope and has a garden and lawn above the garage, and therefore the addition of a second dwelling above the garage will essentially look like a single storey addition, if seen from adjoining property.

The view from the street is shown below:



The removal of the title condition has no impact on the surrounding area as all properties in this precinct are controlled by the Knysna Zoning Scheme 2020. The standard parameters in the zoning scheme are adequate to ensure that all development takes place in a compatible manner.

5.3 Conditions contained in the Title Deeds

The two conditions of Title referring to the Administrator were imposed in a different era, and before the existence of Land Use Management mechanisms as contained in the current Zoning Scheme By-Law.

There is no relevance to refer to the Administrator as this authority ceased to exist a long time ago. As described in paragraph 2.2.2. above, provision was made in SPLUMA for the municipality to replace this authority and therefore it will do so with due consideration for the merits. As this application has motivated the necessity to amend the building lines, the same will apply in consideration of the former Administrator's role. Likewise, as the Knysna Zoning

Scheme has specific clauses which permit a second dwelling, there is no reason not to grant the proposal.

5.4 Need and Desirability:

The applications as requested are both necessary and desirable and will facilitate the development of alterations and additions to the existing garage, to add a second dwelling in line with the provisions of the Knysna Zoning Scheme.

Second dwellings as proposed are commonplace in the Heads area, and will be both a desirable and needed addition for the owners of this property

6. SUMMARY AND RECOMMENDATIONS

6.1 In summary the application is for the following:

- Departure from the Knysna Zoning Scheme parameters relating to building lines, to accommodate a second dwelling above and existing garage structure.
- Administrator's consent to allow more than one dwelling on the property as is permitted in the Knysna Zoning Scheme.
- Both of the above interventions, will normalise the parameters for proposed development as stipulated in the Knysna Zoning Scheme.

6.2. Recommendations

The applications as motivated and the implications thereof, will facilitate the normalising of development parameters and will enable the development of additions to the existing structures.

Furthermore, the stipulated conditions of Title are redundant and therefore the application should be recommended for approval.