
ERF 2854 KNYSNA



Application for:

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

Prepared by:

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On behalf of:

Hilary J Bolton (the property owner)

Date:

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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'	"<i>second dwelling</i>" 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 remain on the same land unit as the dwelling house and not be alienated separately.
'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.
'Pergola'	means any unroofed horizontal or approximately horizontal grille or framework and associated vertical support structure.

Table of Contents

1.	APPLICATION OVERVIEW	4
1.1.	Purpose of the application	4
1.2.	The applicant	4
2.	THE PROPERTY	4
2.1.	Property particulars	4
2.2.	Property History and Extent of Development on Site	5
2.3.	Infrastructure services	5
2.4.	Environmental and Heritage Considerations	5
3.	CURRENT LAND USE MANAGEMENT CONTROLS	6
3.1.	The Knysna Zoning Scheme By-law (2020)	6
3.2.	Deed of Transfer No. T 10880/2012	7
3.3.	National Heritage Resources Act, 1999	8
3.4.	Overlay zones	8
4.	PROPOSAL PARTICULARS	8
4.1.	The proposed development	8
4.2.	Application description	9
5.	MOTIVATION	9
5.1.	Impact on the character of the surrounding and property owners	9
5.2.	Style and architecture of the proposed dwelling	10
5.3.	Impact on traffic, safety and parking	11
5.4.	Compliance with the Spatial Development Framework	11
5.5.	Compliance with the Chapter 2 Principles of SPLUMA	12
6.	IMPLICATIONS OF SECTION 33(5) OF THE KNYSNA MUNICIPALITY PLANNING BY-LAW	13
6.1.	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.	13
6.2.	The personal benefits which accrue to the holder of rights in terms of the restrictive condition	14
6.3.	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	15
6.4.	The social benefit of the restrictive condition remaining in place in its existing form	15
6.5.	The social benefit of the removal, suspension or amendment of the restrictive condition	16
6.6.	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	16
6.7.	Whether the removal would be in the public interest	16
7.	CONCLUSION	16

List of Annexures

Annexure A:	Architectural Drawings of the Proposed Improvements
Annexure B:	Power of Attorney
Annexure C:	Locality Map
Annexure D:	Title Deed
Annexure E:	SG Diagram
Annexure F:	Approve Building Plans
Annexure G:	Surveyor-prepared Site Layout
Annexure H:	Application Form

List of figures

No table of figures entries found.

List of tables

Table 1: Property Particulars.....	4
Table 2: Zoning table	6
Table 3: Building lines table	6
Table 4: SPLUMA Chapter 2 Development Principles	13

1. APPLICATION OVERVIEW

1.1. Purpose of the application

The purpose of this application is to obtain land use approval for a new 75,24m² second dwelling. The proposed second dwelling comprises the following:

- Two (2) en-suite bedrooms, and
- An open plan kitchen and lounge.

The proposal is furthermore for the approval of:

- A pergola (over the street building line).

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 Hilary J Bolton as per power of attorney attached as **Annexure B**.

2. THE PROPERTY

2.1. Property particulars

PROPERTY PARTICULAR	DESCRIPTION
Cadastral Description	Erf No. 2854 Knysna, in the Municipality and Division of Knysna, Province of Western Cape
Location	2 The Grove Street, Leisure Isle, Knysna (Annexure C – Locality Map)
Vehicular & pedestrian access	The Grove Street
Property size	554 m ²
Ownership	Hilary Jane Bolton
Title deed number	Deed of Transfer No. T 31343/2021 (Annexure D)
Title deed restrictions	<i>Conditions C(b) and C(f) which relate to the number of dwelling houses that may be permissible on the lot and building lines respectively.</i>
Registered servitudes	N/A
Bondholder	N/A
General Plan No.	N/A
S. G. Diagram No.	S.G. No 6923/62 and 7515/2006 (Annexure E – SG Diagrams)
Current Zoning	Single Residential Zone I
Predominant zoning	Single Residential Zone I
Current land use	Residential – living accommodation for the Bolton family
Predominant land use	Single family occupancy
Existing development	Single storey dwelling house with a basement and two outbuildings in the form of a rondavel, a maid's quarters and wooden shed. Both outbuildings are to be demolished to make way for the new second dwelling (Annexure F – Approved building plans and Annexure G – Surveyor-prepared site layout)

Table 1: Property Particulars

2.2. Property History and Extent of Development on Site

According to SG Diagram 6923/62 Erf 2854 Knysna was formed in 1962 by the consolidation of Erf 1750 and a Remainder Erf 1751 Knysna to create a unit measuring 1109m². Erf 2854 was subdivided in 2006 into what is currently known as Erf 16067 (555m²) and a Remainder Erf 2854 (554m²).

Plans indicating the original building on the property i.e. the main dwelling, the maid's quarters and the wooden shed could not be accessed from the archives. However, there is an existing approved building plan indicating a rondavel which was approved in February 1962. Therefore, it stands to reason that the main dwelling was approved prior to 1962. It also stands to reason that the subdivision of Erf 2854 into Erf 16067 and the remainder took place after building plans indicating the extent of the current building work on the property had been approved. No further town planning or building plan approvals were granted post 2006.

There are currently no illegal buildings or structures on site.

2.3. Infrastructure services

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

Stormwater discharge takes the form of sheet flow and is deposited directly onto and existing on-site soakaway. Excess stormwater is furthermore dissipated onto the offsite stormwater management system. The system consists of roadside channels leading into well placed stormwater culverts / inlets.

At this point 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.

2.4. 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.

Records indicate that the existing rondavel at the rear end of the main dwelling was approved in 1962. Common logic follows that the structure was completed in 1963 making it older than 60 years of age (63 years to be precise). The rondavel is to be removed upon receipt of a permit from the provincial heritage resources authority.

The Erf is not located within a 100-year flood line. Depending on the outcome of the provincial heritage resources authority with regard to the removal of the rondavel, the proposal under consideration will have no impact on the environmental integrity of the site or that of the surrounding area.

3. CURRENT LAND USE MANAGEMENT CONTROLS

3.1. 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 uses listed on the second and third columns of the table below respectively.

ZONING	PRIMARY USE	CONSENT USE
Single Residential Zone I (SR1I)		
<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 constitutes 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.

The by-law furthermore defines coverage as follows:

"coverage" means the area of a land unit that is covered by structures, expressed as a percentage of the total erf area of the land unit, excluding eaves and overhangs extending up to 1 metre beyond an exterior wall of a building or structure.

It would be noted that, according to the site plan (**Annexure A**), portions of the proposed pergola (to be attached to main dwelling) and those of proposed second dwelling falls within the 4,5m street and the 2m lateral / rear building lines respectively.

Given that the portions of the proposed pergola and 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 meters.*

The height of the proposed second dwelling is only 3,627m². Considering the height parameters which govern the height of a second dwelling at 6,5m, 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 extent of the second dwelling is deemed to be 75,24m² and as such a consent use application is deemed to be applicable.

Provision has been made for three parking bays i.e. two (2) tandem and one (1) straightforward bays. The maximum width of the proposed carriageway crossing is 4m. These proposals are in line with the parking and carriageway crossing parameters.

The proposed coverage is 35,4%. Therefore no coverage relaxation is required.

3.2. Deed of Transfer No. T 10880/2012

Conditions C(b) and C(f) of the title deed provide as follows:

...

C. SUBJECT FURTHER to the following conditions contained in the said Deed of Transfer No. 6947/1941 imposed by the Administrator under the Townships Ordinance no 13 of 1927 namely:-

...

- (b) *That no more than one dwelling, together with the necessary outbuildings and appurtenances be erected on any residential erf or business erf, or on Erf No. 357 if 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 buildings 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 (4,72m from the street building line to be precise), it

stands to reason that the applicable restrictions are to be removed to realise the objective of the current application.

3.3. National Heritage Resources Act, 1999

Section 34 of the National Heritage Resources Act, 1999 provides as follows:

34. (1) No person may alter or demolish any structure or part of a structure which is older than 60 years without a permit issued by the relevant provincial heritage resources authority.

A process to obtain a permit is already underway and the decision in respect of the current proposal shall become effective on receipt of said demolition permit. Any conditions relating to the permit shall be observed upon receipt.

3.4. Overlay zones

No overlay zones are applicable on the subject property.

4. PROPOSAL PARTICULARS

4.1. The proposed development

In summary, the proposal is primarily aimed at securing approval for a new second dwelling unit and for a portion of the proposed pergola encroaching building lines as described under Paragraph 1.1 - and graphically represented under **Annexure A**. The approval of the proposed improvements triggers applications for consent use, permanent departure and removal of restrictive title deed conditions. These applications are described in detail under paragraph 4.2 below.

The reference to the application for the removal of restrictive conditions, it is noted that the condition having a bearing to the current application has two parts being:

- The first part dealing with the number of permissible dwellings, and
- The second part dealing with flats and tenements.

This condition is framed in Deed of Transfer No. T 31343/2021 as Condition C(b) and reads as follows:

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.

Our proposal in relation to the condition in question is to remove it in its entirety. The motivation for the removal of the second part of the condition is contained in Paragraph 6 titled *IMPLICATIONS OF SECTION 33(5) OF THE KNYSNA MUNICIPALITY PLANNING BY-LAW*.

4.2. Application description

The applications that the application seeks approval for can be described as follows:

- a) Application is made for Consent Use on Erf 2854 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 75,24m² floor area and a height of 3,627m.
- b) Application is made for Permanent Departure on Erf 2854 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 The Grove Street, from 4,5m to 2,820m for a portion of a new pergola.
 - ii. The western lateral building line adjacent to Erf 4670 Knysna from 2m to 1,750m for a portion of a new second dwelling.
- c) 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 C(b) and C(f) framed in Deed of Transfer No. T 31343/2021 to allow the following:
 - o A new second dwelling unit which has some portions over the street and lateral building lines.
 - o A portion of the proposed pergola encroaching on the street building line along The Grove Street.

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 LAD 01 and LAD drawn by Thank.X.Cube Architectural Studio dated 4 December 2025 (**Annexure A**).

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

5. MOTIVATION

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

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

- The proposed secondary dwelling (except for the new deck) replaces an already approved structure (rondavel) which was approved in 1962. This structure is to be removed upon obtaining a permit from the heritage resources authority.
- The proposed second dwelling to replace the rondavel has a height 3,627m which falls within the 6,5m maximum height applicable to second dwelling houses - as contemplated in the zoning scheme by-law. The impact of the proposed second dwelling unit is thus negligible in comparison to what is permissible.
- The dwelling falls within the 150m² floor area which is the maximum permissible extent in terms of the zoning scheme by-law.
- The second dwelling is well within the 1,72m distance from the adjacent properties in line with the provision of the title deed in as far as building lines are concerned.
- The proposed pergola is a non-habitable structure of little or no negative impact on the streetscape and on the aesthetic appeal of the main dwelling.
- There is an abundance of mature vegetation along The Grove Street that provides ample screen that masks off potentially disagreeable intrusion of the building onto to streetscape and the property directly across the road.
- There is ample space for three parking bays along the south-eastern boundary in line with the requirements of the zoning scheme by-law.

For the reasons advanced as per the above, 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.

5.2. 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.'* In line with this requirement, the proposed second dwelling shares similar architectural elements with main dwelling.

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 are similar in all respects. There is simply no difference in terms of the materials. These are to be painted in a similar coating to create a uniform aesthetic.

As can be observed, the roof styles are in most respects similar both adopting the gable style corrugated iron sheets. 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.

In our view the choice of architectural elements which informed the design of the proposed second dwelling will achieve a uniform overall effect. Changing

the architectural elements has been avoided in order to preserve the unique architectural character of the subject erf. The proposed pergola provides a welcome architectural element that enhances the aesthetic appeal of the main dwelling whilst being sufficiently minimalistic in terms of its contribution to the building's mass.

For all practical considerations, it is our considered view that the preservation of the current architectural style ensures that there is no undue negative aesthetic impact on the property and on the surrounding area in general. As such it is our sincere expectation that the application should be considered in a negative light on the strength of this specific aspect.

5.3. Impact on traffic, safety and parking

There is no perceived impact on traffic along The Grove Street or on the safety of the surrounding property owners and road users in general. The proposed second dwelling unit is located on the rear end of the main dwelling in a manner that makes provision for sufficient space to accommodate three parking bays i.e. two tandem bays and one straightforward parking bay. 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, a total of three parking bays have been provided. The availability of parking remains not an issue that could be used to render the proposal undesirable.

5.4. 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 the Knysna Municipal area be consistent with the Knysna Spatial Development Framework and be, by extension, aligned with its policy guidelines.

The proposal is set within Leisure Isle which is located within the Knysna Urban Edge. Developments such as additions, alterations and second dwelling units all take place within an urban context where such developments are commonplace. The proposed development is urban in nature and thus in line with the nature of developments that are acceptable in an urban context.

The broader objective of the SDF is admittedly 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.

5.5. 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 the creation of a better economic climate for the Knysna Town and the rescuing of 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 within the urban edge – within an area designated for urban development. The proposal is considered therefore not to conflict with the intention or 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.	The proposed second dwelling is to be located within an area currently occupied by an old building. The removal of this building to replace it with the more modern structure is regarded as a more efficient method of maintaining the accommodation capacity of the site. The proposed second dwelling on the property ensures that the property is being utilised to its full 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. Our submission is that, all other things being equal, 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	The submission of this application is seen to be one of the steps in a regulated process which is mandatory to all participants in order to produce a credible outcome. Having prepared our application in accordance with the guidelines set forth in the planning by-law, it is our legitimate expectation that the local authority shall also

	amendment of spatial plans, policies, land use schemes, and development procedures, while policies, legislation, and procedures should be clearly communicated to empower the public.	play its role in seeing that proper processes and procedures are adhered to in the interest of a credible outcome.
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Table 4: SPLUMA Chapter 2 Development Principles

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

In dealing with the various hurdles that the proposal must go through to facilitate the property owner's objective of having a second dwelling and a veranda over the building line, regard must be had to the dual nature of condition C.(b) which, for the purpose of emphasis, reads as follows:

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.

The condition does not only prohibit additional dwellings it also goes as far as prohibiting flats and tenements. With regard to the title deed conditions relating to land use management matters it has always been an accepted position that, the advent of Zoning Scheme By-laws following the promulgation of SPLUMA and various Provincial Planning Legislation has rendered, to a certain extent, the title deed land use management restriction redundant. Even the Removal of Restrictions Act has wholly been repealed and the powers to decide on the removal of title deed restrictions delegated to local authorities. It needs to be noted that the local authorities in question are also in charge of managing and administering both the Zoning Scheme By –laws and the various title deed restrictions. In instances where there is a disjuncture between the ideals of the Zoning Scheme By-law and the title deed restrictions e.g. in relation to second dwellings, it has often been found that the title deed restrictions serve to frustrate the ideals of more recent and thoroughly compiled zoning scheme by-laws. It is for these reasons and many others that we regard title deed building lines as being a remnant of a past era where land use planning relied entirely on these in the absence of property land use management instruments i.e. the zoning scheme.

With specific reference to the segment of Condition C.(b) relating to the flats and tenements, it is our submission that this segment be removed alongside with the first one due to its existence being barely required in the presence of the Knysna Zoning Scheme By-law (2020). Its continues existence does not have any benefits that would be lost if it were removed. Our view and our submission is therefore the same – that it should be removed alongside with the first segment.

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:

- 6.1. 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 actually confer on the owner of the subject property (or any other property), financial or other value rights to be enjoyed. They constitute neither real nor direct personal rights which are ordinarily directly conferred on surrounding property owners or members of the public.

In this particular context no members of the public stand to be affected if the restrictions in question (*Conditions C(b) and C(f)*) are removed. This is in part due to the fact that the subject property is not subservient to another property, hence it is not caught up in 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 pergola and portions of a second dwelling on the street and lateral / rear building lines. Given that the accommodation of and proliferation of second dwelling units is 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. The same could be said for the pergola since the structure is in itself meant as an enhancement to the current aesthetic appeal of the existing main dwelling.

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

With regard to the conditions to be removed there are no specific personal benefits meant to accrue to the holder of any right in the vicinity/township as a result of these. This is due to the fact that the restrictions in question confer no such rights upon any third parties.

Furthermore, if the conditions conferred such rights to any third parties such third parties are collectively subject to zoning scheme regulations which vary slightly in terms of the severity of development restrictions. For example, the ruling street building line is currently 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 restriction e.g. 2m for zoning scheme by-law and 1,72 for title deed 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 number of dwellings (second dwelling) and the position of structures (pergola along the street boundary) 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 owners are already collectively subject to the current zoning scheme by-law (2020), it longer serves any purpose to insist on imposing title deed restrictions 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.

6.3. 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.

6.4. 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. buildings may be kept within a certain distance from boundaries 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 of an appeal as it used to be during the pre-zoning scheme era. The current norm 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 resulting from 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 pergola to be within 2,820m of the street boundary which is more likely to be supported by the adjoining property owners. Portions of the second dwelling are collectively to be within 1,57m of the western lateral and rear boundaries. Our conclusion is, therefore, that no social benefit is to be affected by the approval of the removal of restrictions on the property's title deed since such removal is not required to accommodate objectionable development on site.

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

There is no social benefit to 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 structures for which the restrictions are removed could demonstrably be perceived to constitute a negative impact on the surrounding environs.

6.6. 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.

6.7. Whether the removal would be in the public interest

Given that the conditions in question do not, evidently, have a direct impact on what might be considered public interest, our view is that their removal shall invariably have no impact on the public's beneficial enjoyment and use of the surrounding area. This is supported by the fact that the structures for which the condition are to be removed have no perceived negative impact on the character of the area or on the lives of surrounding property owners. They have no impact on privacy or have an obtrusive effect from the site distances point of view.

For the reasons advanced above, it is our considered view that the proposed removal of restrictions does not lack desirability. Importantly it must be noted that the only outcome that shall be realised after the removal of the restrictive conditions is finalised, pertains to the proposed secondary dwelling and pergola. 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.

7. 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 and pergola indicated as such under **Annexure A**. It is our conclusion that the approval of the

proposed improvements is warranted and will result in no negative impact on the natural and built environment and, also, 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. It is therefore our considered view that the proposed second dwelling and pergola do not lack desirability and the removal of title deed restrictions and permanent departures are necessary administrative actions in support of their approval.