
ERF 1647 KNYSNA



Application for:

- **Permanent Departure**
- **Removal of Restrictions**

Prepared by:

Daimcon Personnel Collaborative

On behalf of:

Mr R and Mrs P M Munro (property owners)

Date: July 2026

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"	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) remain on the same land unit as the dwelling house and not be alienated separately..
"garage"	means a building for the storage of one or more motor vehicles but does not include a motor repair garage or service station;
"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.
"parking bay"	means an area clearly outlined and demarcated for the parking of one motor and may be provided in the form of a garage or carport that is accessible for easy and safe vehicle movement;

Table of Contents

1. BACKGROUND	4
1.1. Property particulars	4
1.2. Property History	5
1.2.1. Property Establishment	5
1.2.2. Historical Land Use Approvals.....	5
1.3. Historical Building Plan Approvals	5
1.4. Status of Compliance with Zoning Scheme By-law (2020) and Conditions of Title	5
1.5. Nature of the Current Proposal	7
1.5.1. Zoning Scheme By-law.....	7
1.5.2. Title Deed.....	7
2. APPOINTMENT AND APPLICATION DESCRIPTION	8
2.1. Appointment.....	8
2.2. Application Description	8
3. MOTIVATION	9
3.1. Need for a Double Garage	9
3.2. Impact on the Character of the Area	9
3.3. Impact on traffic, safety and parking.	9
3.4. Compliance with the Chapter 2 Principles of SPLUMA	11
4. IMPLICATIONS OF SECTION 33(5) OF THE KNYSNA MUNICIPALITY PLANNING BY-LAW	12
4.1. 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
4.2. The personal benefits which accrue to the holder of rights in terms of the restrictive condition	13
4.3. 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
4.4. The social benefit of the restrictive condition remaining in place in its existing form	13
4.5. The social benefit of the removal, suspension or amendment of the restrictive condition	14
4.6. 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
4.7. Whether the removal would be in the public interest.....	14
5. CONCLUSION	15

List of Annexures

Annexure A:	Locality Map
Annexure B:	Title Deed
Annexure C:	Bondholder's Consent

Annexure D:	General Plan
Annexure E:	Approved Building Plans
Annexure F:	Draft Plan Indicating As-built Second Dwelling
Annexure G:	Photo Indicating As-built Carport
Annexure H:	Approval Letter for Consent Use + ROR
Annexure I:	Approval Letter for ROR from Province
Annexure J:	Proposed Plans

List of figures

Figure 1: Height of proposed garage above (NGL)	7
---	---

List of tables

Table 1: Compliance table	7
Table 2: SPLUMA Chapter 2 Development Principles	12

1. BACKGROUND

1.1. Property particulars

This motivation memorandum relates to Erf 1647 Knysna. Particulars relating to the subject erf (hereinafter referred to as the 'subject property', 'the site' or 'the erf') are summarised in the **Table 1** below.

PROPERTY PARTICULAR	DESCRIPTION
Cadastral Description	Erf 1647 Knysna, in the Municipality and Division of Knysna, Province of Western Cape
Location	12 Parkes Lane, Leisure Isle, Knysna (Annexure A – Locality Map)
Vehicular & pedestrian access	Parkes Lane
Property size	734 m ²
Ownership	Mr Roland Munro and Mrs Paula Merina Munro
Title deed number	Deed of Transfer T 7374/2013 (Annexure B – Title Deed)
Title deed restrictions	<i>Condition C(f): This relates to building lines being the distance within which no buildings are permitted from site boundaries.</i>
Registered servitudes	N/A
Bondholder	Nedbank Home Loans (Annexure C – Bondholder's Consent). The bondholder has no objection to the departure and the removal of restrictions as proposed.
General Plan No.	G. P. No. 2395/1936 (Annexure D – General Plan)
S. G. Diagram No.	N/A
Applicable Statutory Land Use & Development Controls	Knysna Zoning Scheme By-law & Deed of Transfer
Registered servitudes	The are no registered servitudes registered against the subject property
Current Zoning	Single Residential Zone I
Predominant Zoning – Surrounding Area	Single Residential Zone I
Current land use	Residential – living accommodation for the Munro family and their guests
Predominant land use	Single family occupancy
Existing development	- A 243m² Single-storey main dwelling with a 216m² ground floor and 27m² loft. - An as-built 2nd dwelling that is 48m² in extent (created through the conversion of the double garage) (see Annexure E – Approved Building Plans and Annexure F – Draft Plan indicating as-built second dwelling)
Parking	Two parking bays are available under the as-built carport (carport to be demolished and replaced with a double-garage) see Annexure G – As-built carport . Further to this, there are two parking bays that are indicated on the draft building plan attached as Annexure F .
Overlay Zones	The property does not fall under an overlay zone
Access to Infrastructure services	The property is provisioned with potable water from the existing municipal water reticulation network. Sewerage disposal is managed by means of an existing septic tank with an elongated soakaway. Stormwater discharge takes the form of sheet flow that follows a natural trajectory and is ultimately deposited lagoon. No visible artificial stormwater management system could be identified in the property's immediate vicinity. 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 (double-garage).
Current status on 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.

1.2. Property History

1.2.1. Property Establishment

The subject erf was created in 1936 with the approval of General Plan No. 2395/1936 (**Annexure D – General Plan**). It was referred, at that point, to as Erf 87 Steenbok Island. When Steenbok Island was later incorporated into the greater Knysna Division, the property adopted the new Erf number being Erf 1647 Knysna.

1.2.2. Historical Land Use Approvals

Municipal records indicate that, in September 2015, the Knysna Municipality approved an application for a consent use and recommended, to the Provincial Authority, the removal of a restrictive condition - Condition C.(f) - to accommodate a second dwelling (see **Annexure H – Approval for second dwelling**). Subsequent to that, the provincial authority approved the removal of restrictions in June 2016 (see **Annexure I – Approval of ROR** by the provincial authority). The removed condition prohibited the development of the property by more than one (1) dwelling.

It is worth noting that, as would be expected, no effort has been made to get the Registrar of Deed to make the proper entries to the title deed and to further do the necessary endorsements. However, since there was no specified period within which this step needed to be taken, it is our view that the appropriate entries and endorsement can still be done. Furthermore, no specified validity period specified in statutes in respect of consent use approvals. In the circumstances, our submission is that the Consent Use approval is still valid and can still be implemented.

1.3. Historical Building Plan Approvals

Records indicate that the original building plan was approved in April 1977. Another building plan for a swimming pool was subsequently approved in July 2012 (see **Annexure E**).

1.4. Status of Compliance with Zoning Scheme By-law (2020) and Conditions of Title

Table 2 below is a snapshot the proposal land use management indicators that are to be taken into account in order to determine the extent of departures that should be considered and what conditions might need to the relaxed, revised,

suspended or deleted for the sake of the proposal in its current format. As it will become clearer, very few of these parameters require relaxation since the proposal is in line with the majority thereof.

KNYSNA ZONING SCHEME BY-LAW AND TITLE DEVELOPMENT PARAMETERS					
	DEVELOPMENT PARAMETER	SCHEME REQUIREMENTS	COMPLIANCE	REQUISITE ACTION	ACTION TAKEN
1	On-site parking	3 bays (i.e. two bays per dwelling of 350m ² and larger)	Compliant (i.e. there are two parking bays in front of the as-built second dwelling and two more under the as-built carport)	No	Take no action
2	Floor factor	N/A	N/A	None	Take no action
3	Building lines: Zoning Scheme by-law	Street: 4.5m	Non-compliant (0m)	Permanent departure	Apply for permanent Departure
		Side: 2m	Compliant	None	Take no action
		Rear: 2m	Compliant	None	Take no action
	Building lines: Title Deed	Street: 4,72m	Non-Compliant (0m)	Removal of restrictions	Apply for removal of restrictions
		Side: 1,57m	Non-compliant (0m)	Removal of restrictions	Apply for removal of restrictions
		Rear: 1,57m	Compliant	None	Take no action
	Carriageway Crossing – Number	Limited to 1 carriageway crossing	Non-compliant (i.e. the application is to have 2 carriageway crossings in a site with a street boundary that is less than 30m in length)	Permanent departure	Apply for permanent Departure
	Carriageway Crossing – Distance	Carriageway crossings are permitted to be minimum 12m apart	Non-compliant - The carriageways are less than 12m apart.	Permanent departure	Apply for permanent Departure
4	Height: Zoning Scheme	Maximum: 8,5m	Compliant (4,491m maximum)	None	Take no action
	Height: Title Deed	N/A	N/A	None	Take no action
5	Servitudes (surveyor-general - and design)	No servitude rights are registered on the property	N/A	None	Take no action
6	Coverage (Zoning Scheme)	50% (for erf sizes greater than 500m ²)	Compliant (i.e. 42%)	None	Take no action
	Coverage (Title Deed)	No more than 2/3 of the property i.e. 66,6%	Compliant (i.e. 42%)	None	Take no action
	Coverage (Architectural guidelines)	N/A	N/A	None	Take no action
7	Retaining structures – Zoning Scheme (Height)	N/A	N/A	None	Take no action
		N/A	N/A	None	Take no action
		N/A	N/A	None	Take no action

9	Loading bays	N/A	N/A	None	Take no action
10	Refuse room	N/A	N/A	None	Take no action
11	Site development plan	N/A	N/A	None	Take no action

Table 1: Compliance table

1.5. Nature of the Current Proposal

It is the property owners desire to construct a **44m²** double-garage with a height of **4,491m** above natural ground level.

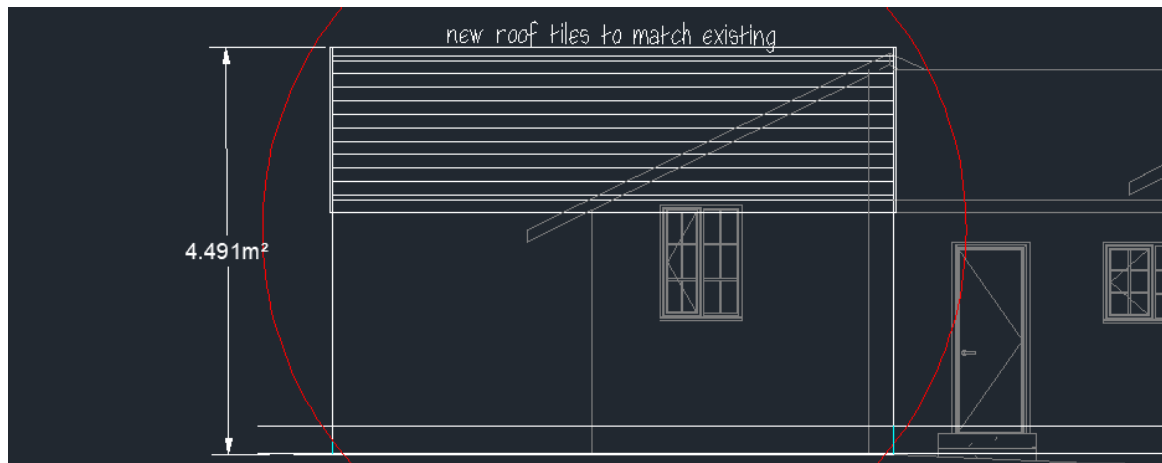


Figure 1: Height of proposed garage above (NGL)

The garage is required in order to provide protection for property owner's vehicles and other domestic implements from the elements. It is not that the proposed garage features a window on the side facing to the adjoining Erf 1650. The only protection that is available currently on site is in the form of a carport that is open on three sides.

According to Table 2 under Paragraph 1.4 above, the proposed double garage offends the following parameters contemplated in the zoning scheme by-law and the title deed:

1.5.1. Zoning Scheme By-law

- The garage is located within 0m from the street boundary instead of 4,5m.
- To accommodate parking in respect of the main and second dwelling, three parking bays are required. This will result in the creation of two separate carriageway crossings in variance with the zoning scheme by-law.
- The three parking bays required will be closer than two meters between each other in variance with the zoning scheme by-law

1.5.2. Title Deed

- The garage is located within 0m from the street boundary instead of 4,72m.
- The garage is located within 0m from the lateral boundary adjacent to Erf 1650 instead of 1,57m.

As suggested in **Column 6** of **Table 2** above, applications for permanent departure and the removal of approval conditions are inevitable. Architectural drawings representing the proposed double garage and its respective contraventions i.e. Drawing No. 101 & 102 (two sheets) prepared by Frankenfeld & King Architects dated May 2026, are attached as **Annexure J**.

2. APPOINTMENT AND APPLICATION DESCRIPTION

2.1. Appointment

Daimcon Personnel Collaborative has been appointed by the property owners, Mr and Mrs Roland and Paula M Munro with special power of attorney (**Annexure K – Power of Attorney**) to prepare and submit a land use application to Knysna Municipality to facilitate the approval of a proposed double garage. A graphical representation of said garage is depicted on **Annexure J – Proposed Building Plans**.

2.2. Application Description

In order to deliver on the mandate conveyed by the property owner and expatiated under **Paragraph 1.5** above, the following applications are made:

- a) Application is made for Permanent Departure on Erf 1647 Knysna in terms of Section 15(2)(b) of the Knysna Municipality Spatial Planning and Land Use Management By-law (2021), for the following:
 - i. The relaxation of the street building line along Parkes Lane from 4.5m to 0m for a portion of the new double garage.
 - ii. The relaxation of the provision contemplated under Section 45(4)(a) of the Knysna Zoning Scheme By-law (2020) in order to provide two carriageway crossings on a public street for a site with a street boundary that is less than 30m in length.
 - iii. The relaxation of the provision contemplated under Section 45(4)(b) of the Knysna Zoning Scheme By-law (2020) in order to provide two carriageways that are closer than 12m to each other.
- b) Application is made on Erf 11275 Knysna for the removal of Condition C.(f) set out in Deed of Transfer No. T7374/2013 in terms of Section 15(2)(f) of the Knysna Municipality Spatial Planning and Land Use Management By-law (2021), in order to permit a new double garage.

The condition to be removed reads as follows:

- ...
- C. SUBJECT FURTHER to the following conditions mentioned in Deed of Transfer No. T11538/1961, *imposed by the Administrator under the Townships Ordinance no 13 of 1927 as being in favour of the registered owner of any Erf in the Township:-*
- ...
- (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 proposed garage is graphically represented on Drawing No. 101 & 102 (two sheets) prepared by Frankenfeld & King Architects dated May 2026, are attached as **Annexure J**.

The application form is attached as **Annexure K**.

3. MOTIVATION

3.1. Need for a Double Garage

The subject proper is located within an island in a coastal area where the level of corrosion attributed to the proximity to the ocean is at its highest. At the moment, the vehicles belonging to the Munro family permanently kept outside under and as build carport. This situation it's not ideal as it invites unnecessary damage to property and also attracts high insurance premiums. It is therefore for these reasons, and many more, that the property owner wishes for the garage to be favourable considered.

3.2. Impact on the Character of the Area

The proposed garage is considered to be a logical addition to the existing dwelling house. The garage is therefore going to resemble the style of the main dwelling in terms of its both design, building materials and finishes. In as far as the question of character is concerned, the proposed double garage will have no negative impact.

In terms of the potential impact of proposed garage on the streetscape given its location in close proximity to Parkes Lane carriageway, no negative impact is foreseen. Parkes Lane is flanked by mature vegetation on both sides which serve to mask the minor variances in facades of various properties. The existence of and maintenance of mature vegetation on either side of the proposed garage will not only mask the structure from standing out, it will also ensure that there is consistency along Parkes Lane in so far as the deliberate maintenance of vegetation along street boundaries and the road reserve are concerned.

It is therefore our considered view that the proposed garage should not negatively considered on the basis of its potential impact on the of the area.

3.3. Impact on traffic, safety and parking.

It is foreseen that there will be no adverse impact on traffic movement and safety of off road users in respect of resulting from the approval of the proposed double garage. This is based on various key considerations which include, inter alia, the shape and designation of Leisure Isle in terms of the **Spatial Development Framework (2020)** and the functional classification of Parkes Lane.

According to a further reading of the SDF, the designation assigned to Leisure is that of 'Urban Development.' Our proposals in respect of the double garage are not discordant with the notion of Urban Development.

On the subject of 'Accessibility and Mobility Network' the Knysna Spatial Development Framework (2020), referencing the National Complete Streets Coalition, 2019, proposes subscription to a concept referred to as a '**complete street**.' Its point of departure is that 'streets are a vital part of liveable, attractive communities. Everyone, regardless of age, ability, income, race, or ethnicity, ought to have safe, comfortable, and convenient access to community destinations and public places—whether walking, driving, bicycling, or taking public transportation. But too many of our streets are designed only for speeding cars or creeping traffic jams.' In respect of the proposed double garage, whilst a view might be held by some that the location of the garage might create a certain degree of inconvenience to the users of Parks Lane, our view, taking into account the concept of complete streets is completely different. What might be considered to be inconvenience by some might be considered completely acceptable to many who do not support the road operational approach that is biased toward motorised vehicles. In other words and to put things bluntly, our view of Parkes Lane is that it is a conduit that provides much valuable access to all sorts of mobility needs and its perceived treatment as a mere conduit for vehicles diminishes this sacred function. This skewed perception runs the risk of sullyng every decision that requires a nuanced approach to the detriment, sometimes, of the property owners along the road to whom the road is supposed to offer convenience and relief.

According to the Knysna Spatial Concept, it can be observed that leisure is endowed with two major Coastal Destinations (Leisure Isle Beach and Bollards Bay Beach). Of these destinations, none is located along Parkes Lane, let alone serving as a shortcut or *en route* towards these.

The functional classification of Parkes Lane is Class 5 and it falls under the category of local streets. Its function is to carry traffic with origins or destinations in the immediate (local) area with the main purpose of giving access to individual properties. As per the definition, the roads serves a very limited segment of the Leisure Isle community and is not part of the of the higher class (e.g. Classes 3, 2 and 1) accessibility and mobility network. It is only available to provide convenience to property owners who want to have access to Hart road and Woodbourne Drive. With its narrow road reserve ($\pm 12,5\text{m}$, the road has a visible lack of pedestrian sidewalks. Our submission in this regard is that, the promotion and support for any proposal that seeks to dampen the traffic speeds along Parkes Lane, such as the proposed garage must be commended.

As a zoning scheme by-law requirement, three additional parking bays have to be provided to accommodate vehicles association with both the main dwelling (2 bays) and the second dwelling (1 bay). This has necessitated the creation of a second single carriageway crossing along the street boundary. Our views in relation to the second carriageway are part of our general submission in respect of the main carriageway. Leisure is already fully developed and the function of Parkes Lane is that of a Class 5 road (*TRH 26 South African Road Classification and Access Management Manual, 2012*). Traffic mobility in this class of road is

less of a consideration than in higher order roads. Access onto and out of the property, which requires reversing onto the carriageway with limited sight distances, cannot be regarded as a potential hazard due to limited vehicle speeds and the multi-function nature of the road itself e.g. walking, cycling, working, etc.

With this submission, we are of the view that the proposed double garage has merit when looked at in the context of Leisure Isle in respect of the Knysna Spatial Development Framework (2020) and the functional classification of Parkes Lane. There exists, therefore, a strong justification for its approval.

3.4. 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 that it will have 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 falls 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.	The approval of the proposed double garage will effectively transform and area that is currently being used for the parking of vehicles. The redevelopment of this area with a more functionally relevant structure translates to a more efficient use of space in a manner that improves the overall value of the property in question. The proposed improvements do, in our view. Give effect to the principle of efficiency.
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, essentially, is that the proposed double garage and second carriageway 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 observed.

Table 2: SPLUMA Chapter 2 Development Principles

4. 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:

4.1. 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 restriction that is to be removed determines the distance from which structures are not permissible from the boundaries on the subject property. The areas of a site 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 building lines are not considered to constitute property 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 restriction in question (*Conditions*) is 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. For further clarity, the only impact that could potentially be felt on the entire suburb is the development and functioning of minor and insignificant encroachment of a garage (and additional carriageway and parking) on the street and lateral building lines. Given that the accommodation of and proliferation of garages is a pervasive phenomenon since the advent of motorised vehicles, the impact of the proposed structure is considered negligible and should thus be supported with no apprehension of a pronounced impact on the established character of the surrounding area.

4.2. 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 restriction in question confer no such upon any third parties. It must be noted that the third parties on whose favour the restriction is imposed are collectively subject to zoning scheme regulations which have a more nuanced mechanism for their implementation and management. These regulation are, in certain instances, more restrictive than the title deed 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 that the title deed building line restrictions.

The requested removal of restrictions applies mainly to the double garage particularly the position and composition of structures permissible on the subject property. This restrictions, in its conception, is effectively in favour of the other property owners within the Leisure Isle settlement. Given that the said property owners are already collectively subject to the current zoning scheme by-law (2020), it longer serves any purpose to insist on imposing 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 (2021), 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 double garage and the relaxation of the street building line on the subject property.

4.3. 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 garage (and the necessary building line 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 potential positive recommendation of this application.

4.4. 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 position of structures that are permissible on the subject property in relation to site boundaries. 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 modern 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 the result 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 over and above the proposed garage. 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 garage to be within 0m 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 restriction on property's title deed since such removal is not required to accommodate unreasonable development on site.

4.5. 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.

4.6. 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.

4.7. 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, arguably, no perceived negative impact on the character of the area or on the lives of surrounding property owners. It, furthermore, has no obtrusive effect taking into account the site distances on a Class 5 road (local street).

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 garage. 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.

5. CONCLUSION

The amount and depth of information shared in this report is aimed at soliciting the approval of the local authority for a proposed garage indicated under **Annexure J**. 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 urban development. Sufficient service capacity exists within the Leisure Isle settlement to accommodate the proposed garage. It is therefore our considered view that the proposed garage does not lack desirability and that it should be supported.