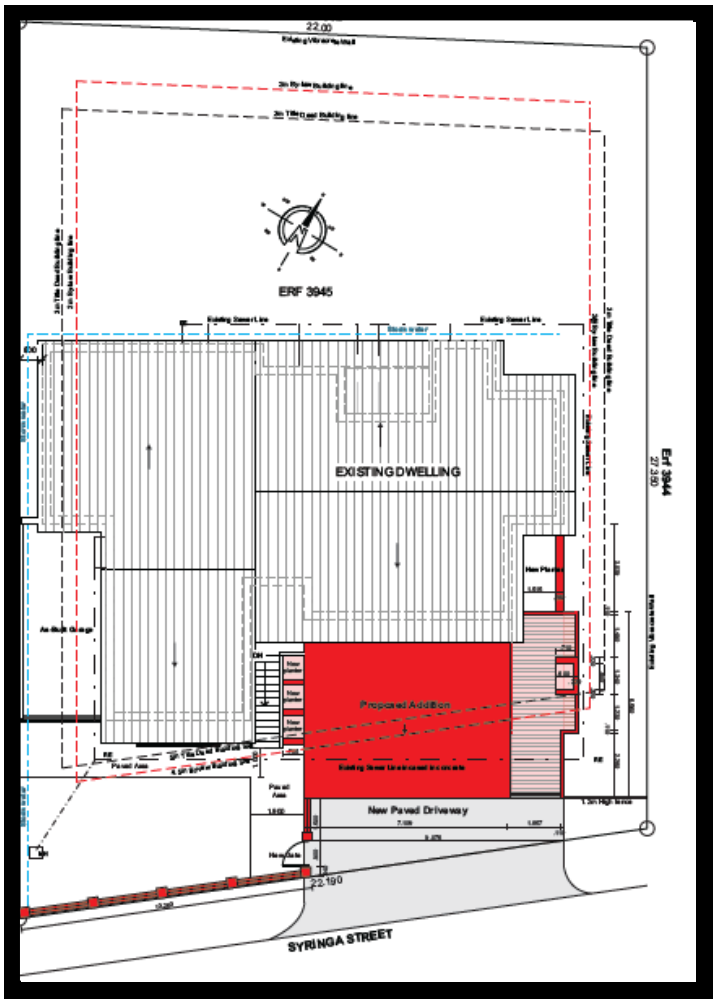
ERF 3945, Heuwelkruin, Knysna.

Application: Administrators Consent for Removal of Restrictive Title Deed Condition and Permanent Departure for Erf 3945, Knysna.



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1. Introduction/Application Details and Background:

1.1. Introduction and Application Details:

DelaRey Ferreira has been appointed by Jacques en Claudia Bloemhof Familie Trust, the owners of Erf 3945 Knysna (Annexure B and C), to prepare and submit the following applications in terms of:

- Section 39(4) of the Land Use Planning Act, 2014 for the Administrator's Consent from Condition 6(b) in the title deed (T38356 2021, Annexure D), to allow for proposed structure within current street building line, as depicted on proposed building plans Annexure A.
- Section 15 (2) (b): Application for a Permanent Departure from the provisions of the Knysna Spatial Planning and Land Use Management Bylaw 2021 for a building line relaxation on the street boundary from 4.5m to 1.5m in order to allow the proposed alteration as depicted on the proposed building plans, Annexure A.

1.2 Background:

The subject property is zoned for "Single Residential Zone 1" and is utilised as a 3 bedroom single family dwelling home. A guest/family suite is located on the ground floor, as shown on previously approved building plans circa 2022. The property consists of the main dwelling, with an ancillary south facing roofed decked area, as well as an adjacent carport. It is noted that the roof over the deck as well as the carport structure does not benefit from prior approval. These structures are currently in the process to be removed.

This application seeks to address and obtain approval of the Land Use Management aspects in order for the building plans to be resubmitted for positive consideration, as per Annexure A.

2. Property Information:

2.1.1 Locality:

The property is situated in the Heuwelkruin suburban precinct of the greater Knysna Municipality district located at 15 Syringa Street, as identified on Figure 1 below:



Figure 1: Application site Erf 3945, Knysna.

2.1.2 Property Detail and Description

Table 1 below summarizes the property information:

Title Deed Description	Erf 3945, in the Municipality and Division of Knysna, Province Western Cape.
Title Deed Number(s): Restrictive on proposal	T38356 2021: Condition 6(b) of respective title deed. Please refer to Annexure D for referenced title deeds and associated Conveyance Certificate
SG/GP Diagram No:	General Plan no: 8265
Registered Owner	Jacques en Claudia Bloemhof Familie Trust
Property size/extent	650m²
Applicable Zoning Scheme	Knysna Spatial Planning and Land Use Management Bylaw 2021
Current Land Use	Single residential family home
Current Zoning	Single Residential Zone 1
Property Bond, if applicable	Yes, see Annexure E: Bondholders consent

Table 1: Property Information and summary

3. Proposal and Motivation in terms of Statutory Context:

3.1. Proposal:

Erf 3945 is a single residential property comprising of the main house and ancillary roofed deck, as well as adjacent carport. There are no other detached structures on the property. The house has remained generally unaltered since its original authorised construction, with a deck at first floor added circa 1990. In 2022 Building plan approval had been granted for an as-built laundry room, garage as well as proposing the removal of the roof over the deck. Currently no prior approval can be confirmed for the roof over deck at first floor, as well as the adjacent carport at ground floor. It is therefore considered that the roof over deck and carport, are not compliant structures on the property.

The owners, in their awareness are seeking to remove/demolish these non-compliant structures as well as seeking approval for the proposed alterations as per proposed building plan, Annexure A. The current proposal includes a new and slightly larger deck to replace the existing and approved deck; new plaster wall and braai at first floor deck level; new roof over proposed deck; new garage at ground floor (x3); conversion of approved garage to workshop with new sliding door (as-built retention application); new plastered and painted boundary wall to Syringa Street, as well as minor cosmetic changes to north elevation.

DelaRey Ferreira had duly been appointed to address the Town Planning and Land Use Management considerations, as set out in this application, which was initially addressed during the formal pre-consultation meeting held in May 2026 with the Municipality.

The purpose of this current application is to obtain the necessary authorisations, as per application details set out in 1.1. above, prior to the submission of the proposed Building Plans to the Building Control Office. Contravention levies may be applicable at that stage due to historical unauthorised alterations, but such will be addressed during that application to Knysna Municipality Building Control Department. The unauthorised building works are not considered to have exceeded the parameters of the Zoning Scheme, and therefore is not considered to have created conflict.

This application seeks to address the applicable Land Use Management aspects only.

3.1.1. Removal of Restrictive Title Deed Conditions: Administrator's Consent

The application currently proposes to remove Condition 6(b) of the deed, with the consent of the Administrator, which relates to restrictive development and/or building line parameters that were imposed prior to the inception of the Knysna Zoning Scheme Regulations. The condition sets a restriction on the property that limits the development of buildings outside prescribed building lines, as indicated in the figure below.

Geen gebou of struktuur of enige gedeelte daarvan, behalwe grensmure en heinings, mag behalwe met die toestemming van die Administrateur nader as 5 meter van die straatlyn wat 'n grens van hierdie erf uitmaak, asook nie binne 3 meter van die agtergrens of 1,5 meter van die sygrens gemeen aan enige aangrensende erf opgerig word nie, met dien verstande dat met die toestemming van die plaaslike owerheid -

Figure 2: Condition 6(b) from Title Deed T38356 2021

The Knysna Zoning Scheme By-law (2020) is the locally adopted scheme regulation and currently prescribes building lines for single residential properties and it should be noted, that viewed in conjunction with title deed restrictions, which the most restrictive condition would apply.

The restrictive title deed condition is in favour of the Administrator (i.e. Knysna Municipality), whereby the condition can be removed with the permission of the Administrator. Therefore, the following application is made:

- Section 39(4) of the Land Use Planning Act, 2014 for the Administrator's Consent from Condition 6(b) in the Title Deed T38356 2021 Annexure D), to allow for a proposed structure within current street building line, as depicted on the proposed building plan, Annexure A.

The abovementioned condition was imposed by the "Administrator" as a condition of approval when the township area was originally granted, in order to protect the character and density of the surrounding residential prescient, as well as neighbouring residential amenity.
The current zoning regulations impose a restrictive street building line of 4.5m, which is more restrictive than the imposed title deed condition of 3m, and hence such development impact is controlled by the current zoning scheme. This current application requires a relaxation of the building line, which is motivated in the below section of the report 3.1.2.

It is therefore considered that there will be no undue impact, on any party, as a result of the Administrator approving this request.

3.1.1.1. **Statutory Consideration, Context and Motivation:**

- **SPLUMA 2013:**

Section 7 of the "Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)" lists 5 development principles which must be applied when any development application is to be evaluated. The principles referred to are as follows:

- "Spatial justice"
- "Spatial sustainability"
- "Spatial efficiency"
- "Spatial resilience"; and
- "Good administration"

Different development principles are identified under each of the 5 above-mentioned principles which must be applied when a land use application is to be evaluated by submitting professionals as well as Municipalities.

SPLUMA is a Provincial framework law, which means that the law provides broad principles for a set of objectives that will regulate planning. It does not have much relevance to individual departure applications, for relatively minor development proposals, that are mostly site-specific, and regulated under local Planning by-laws and regulations.
Furthermore, this application will follow due process and comply with the zoning regulations and relaxations granted by the Municipality, demonstrating a commitment to good governance and administration. The planning process will include consultations with various stakeholders and will address any concerns raised by the community, if any, ensuring transparency and inclusivity in decision-making.

The proposed application for the removal of the restrictive title deed condition is considered to have a negligible affect with regards to SPLUMA considerations, and is therefore not considered to be in conflict.

The proposed alteration to the dwelling will improve the use of the land as it is currently being underutilized in terms of quality semi-outdoor space, which is subject to climate/weather exposure and control. Due to its north/south layout and topography it has limited outdoor space available for passive leisure with the owners wanting to fully benefit from the magnificent south facing views towards the Knysna Lagoon. It is noted that other occupants in Syringa Street have also done similar alterations to dwellings to also benefit from creating outside covered decked areas taking advantage of a well renowned Knysna view.
The proposed alteration is therefore considered to be in keeping with the Syringa street where numerous incursions of parking and decked structures have occurred within the street building line.
The below figures aim to demonstrate the current streetscene:



Figure3: Syringa streetscene, Knysna.

Although the restrictive title deed condition 6(b) aims to preserve urban form and reduce adjoining residential impact, the proposal only impacts the street building line and would not infringe on adjoining occupier development rights, but would also provide an additional area at 1st floor level for occupiers to enjoy the adjacent views to Knysna Lagoon and Heads, without providing direct overlooking into adjoining residential private spaces. As the most affected and direct neighbours have demonstrated their support in favour of the application it can be accepted that there is no undue impact arising from the proposal in this regard. The proposal is therefore considered to preserve spatial justice, sustainability, resilience and administration by virtue of being in keeping in terms of use, design and making application to the relevant authority.

- **LUPA, 2014 (Act 3 of 2014) and Section 33 (5) of the Knysna Spatial Planning and Land Use Management By-Law 2021**

Section 39(5) of the Land Use Planning Act (LUPA 2014) and Section 33(5) of the Knysna Spatial Planning and Land Use Management By-Law 2021 aligns and states that a municipality must have regard to the principles, as listed below, when considering removing a restrictive condition. Motivation is provided below responding as to how the proposal adheres to the said principles. Due to the relatively minor details of the application it is not considered to have a significant substantial consideration in terms of LUPA, but motivation is provided nonetheless.

39(5)(a): 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 condition set out in Section 6(b) of the Title Deed was imposed by the Administrator as conditions of the township establishment. There is no financial value attached to these conditions, and the only purpose was to regulate impact of development in the area. Currently Knysna Zoning Scheme By-Law regulates development with entrenched value in terms of ensuring development compliance with such and in so ensuring harmonious residential development.

b) **The personal benefits which accrue to the holder of the rights in terms of the restrictive condition**: The restrictive condition concerning building lines was imposed by the Administrator prior to the adoption and implementation of a local Zoning Scheme. Title Deed restrictions were then the primary tool for regulating land use and development. With the later introduction of Zoning Schemes, prescribed building lines differ from those originally set out in the Title Deed. The original restrictions served a broad public purpose, such as managing character and density, in the absence of formal planning controls. However, no individual property owner in Heuwelkruin holds a personal legal right or specific benefit under these conditions. Given that current zoning regulations are now in effect, the Title Deed restrictions on building lines have become obsolete and are no longer necessary. Furthermore discrepancies between zoning scheme parameters and title deed restrictions, when not aligned, can cause much confusion with owners when considering their development rights. It is considered that no personal benefits are therefore infringed.

c). 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: There is a personal benefit to the owner of the property, by allowing the administrators consent to relax the title deed building line restriction, that the property can be extended to allow for more usable outdoor area under roof, as well as taking advantage of the surrounding views. Extending the property will also provide additional property value in a currently challenging economy. Any owner of a single residential property potentially personally benefits, subject to formal application to the relevant statutory bodies, so it is not considered that by endorsing this removal request that the Municipality would be allowing any additional personal benefit that is not available and applicable to other occupiers of single residential properties in this area who are bound by local zoning regulations and relevant statutory applications/approvals.

d). **The social benefits of the restrictive conditions remaining in place in their existing form:** The original intent of the Title Deed condition was to preserve a specific character in the area by restricting aspects of the built form. While maintaining these conditions can offer social benefits by promoting consistency in the neighbourhood's appearance, the proposed relaxation of Condition 6(b) will not negatively impact these benefits. Other applicable conditions will remain in effect, and the planned structure is in keeping with the existing character of the area, considering there appears to be a set precedent for adjoining structures encroaching the street building line, please see figure 3 above. As this application also proposes a building line departure from the Zoning Scheme, such application will be subject to public participation and social comment thereon.

e). **The social benefit of the removal, suspension, or amendment of the restrictive condition:** Relaxing the restrictive condition will allow the owner to modernize the house that has largely remained unaltered since its original construction, apart from the historical erection of the deck. The proposed architectural/cosmetic alteration should enhance the appearance of the property as well as the surrounding area and may also benefit neighbouring property owners, as a more visually appealing neighbourhood can contribute to increased property values and general urban improvement. The extension of properties in this area by virtue of adding light weight decked structures is very much in keeping with the architectural and lifestyle of the houses so the proposal is considered to be visually ''in keeping'' with the townscape.

(f) Whether the removal, suspension, or alteration of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights:
Only the deed restriction that relates to building lines will be relaxed; there are still other conditions that restrict development on the property. The Knysna Zoning Scheme By-Law 2021 remains applicable and safeguards and regulates other development parameters. Thus, no actual rights are being removed; only removal of an out-dated duplication of regulatory control is being requested.

(g) Whether the removal, suspension, or alteration of the restrictive conditions will be in the public interest:
The proposed relaxation of the restrictive Title Deed condition is not a matter of public interest. By relaxing the restrictive condition discussed above, the land use will not change, and the character of the area will not be affected, as the proposal is for residential purposes only and architecturally in keeping with adjacent houses.
Considering the above, the applicant is of the opinion that all public interest remains unaffected, albeit slightly improved due to the architectural merit of the proposal and design details. Interested and affected parties' right remain entrenched by virtue of the public participation process which is integral to the current detailed departure application as motivated below.

3.1.2. Permanent Departure: Building Line Relaxation

The Knysna Municipality Zoning Scheme By-law (2020) prescribes a Street building line of 4.5m, and a side and rear building lines of 2m for "Single Residential Zone I (SRI)" for erven greater than 500m². The prescribed building lines, as per title deed are confirmed in figure 5 below.

Statutory requirements have been considered for the merits of this Departure application and it is noted that the Spatial Development Framework does not address Departure applications, and that these would therefore have to be considered on individual merit, and assessed against the local Zoning Scheme criteria.

The building plan/proposal predominantly complies to Zoning Scheme requirements, apart from the street building line encroachment as highlighted in Figure 6 below, which forms the basis of application under 3.1.2 of this report. The proposed ground floor garage, first floor roofed deck (including plaster wall/braai) are proposed within the street building line, and as such forms the basis for this application.

Considering the street facing positioning of the Departure request, the writer of this report is of the opinion that there will be no undue impact on any neighbouring property, or its occupiers.
The proposal is considered to be very consistent with the character of the area, as shown on Figure 3 above, and will in fact provide aesthetic upliftment by removing the currently unauthorised carport and formalising carparking within the proposed garage with street facing doors. All cars will therefore be housed internally and not be visible from the road.
It is highly noticeable in this area that many primary structures have been extended by virtue of additional external verandas, decks and/or enclosed patios in order to make more efficient use of semi-outdoor space. Due to the limited size of the erven, vehicles are very noticeable within ground floor carports and/or hard standings/open parking areas in front of the properties.
The proposal makes provision for off-street parking by virtue of a garage, which can accommodate 3 parked vehicles. This is compliant with zoning scheme parking provisions, as per figure 5 below.

In 2022 approval was granted for the conversion of the then garage to a bedroom. This bedroom is to be retained as part of the current proposal, as well as the current application for the retention of

the carport change to workshop. The approved ground floor bedroom is intended for use by visiting family, or guests, but forms part of the single dwelling unit occupation. A matching opening stacker door has been installed to the workshop to match the appearance of the adjacent bedroom, see figure 4 below. These 2x rooms are not internally linked to the main house but accessible nonetheless within the curtilage of the property and are not considered to be in conflict with Section 21(2) of the Zoning Scheme.



Figure4: As-built ground floor south elevation to erf 3945, Knysna.

In terms of potential impact arising from the additional building work, the proposed Title deed restriction removal, as well as the required street building line Departure, the immediately adjoining neighbours have been identified and are considered to be the most potentially affected parties. During discussion and consultation with the owners of erven 3946,3944 and 3944 (directly opposite in Syringa Street, they have provided their written support for the application; please see Annexure N, which demonstrates their support for approval of the proposed building plan as well as Departure application request.

Building lines are utilised in urban design principles to establish attractive streetscapes, establish uniform areas, to assist with control of development densities as well as to create private living conditions if/where required. The topography of this precinct of Heuwelkruin is restraining in terms of its overall change in land levels, which could limit the optimization of land use/development within restrictive building line parameters. The proposal however, only incurs within the street building line and does not encroach towards neighbouring properties so therefore does not create visual massing between adjacent dwellings. The report to date has aimed at confirming conformity as well as visual upliftment to the Syringa Street scene in terms of urban planning and overall design and utilisation principles by demonstrating that very similar structures already dominate the streetscene. In urban design terms, the addition of a 1.2m street facing boundary wall will enhance the south street facing elevation as well as be more consistent with adjoining property walls and fences, improving the overall streetscene and providing increased privacy to the owners.

The building plans propose an additional 45.68m² decked area and 61.25m² for the proposed garage, included in the overall coverage calculation as per Figure 5 below. The Zoning Scheme allows for a maximum of 50% coverage on this property, to which the proposal complies to. The overall proposed coverage calculation is confirmed in the below table (Please see Annexure A, Site Plan, for area schedule) in terms of demonstrating the proposal's overall compliance with the Knysna Zoning scheme By-Law (2020):

Parameter	Proposal	Description	Zoning Scheme SR1	Title Deed	Compliance
Building Lines	1.5m	Street	2.5m	5m	Not Compliant
	4m	Side/Lateral	2m	1.5m	Complies
	na	Rear	2m	3m	Complies
Height of Structure(s)	6.6m		8.5m	Not Specified	Complies
Coverage	39%		50%	Not specified	Complies
Parking	2x space	garage	3x space	Not Specified	Complies

Figure 5: Proposal Compliance with Title deed and Zoning scheme requirements demonstrated

The proposal furthermore as a minor extension of the existing dwelling house creates additional living/entertainment space but will not significantly impact/alter any existing Municipal service infrastructure.

4. Conclusion:

It is hereby respectfully requested that Knysna Municipality favourably consider this application in terms of Section 1.1 of this report:

- Section 39(4) of the Land Use Planning Act, 2014 for the Administrator's Consent from Condition 6(b) in the title deed (T38356 2021, Annexure D), to allow for proposed structure within current street building line, as depicted on proposed building plans Annexure A.
- Section 15 (2) (b): Application for a Permanent Departure from the provisions of the Knysna Spatial Planning and Land Use Management Bylaw 2021 for a building line relaxation on the street boundary from 4.5m to 1.5m in order to allow the proposed alteration as depicted on the proposed building plans, Annexure A.

The proposal will not change the property's land use or the area's character, nor will it adversely affect the public, or highway/traffic services given the proposal's small-scale nature. All the existing and proposed buildings/structures remain well within the maximum allowable height of 8.5m and the additions do not obstruct views, impact privacy, cause overshadowing or provides positions of direct overlooking into adjoining private spaces, as noted by the written support of the proposal from the direct neighbours. No undue or detrimental impact is therefore expected on any existing rights.

The proposal complies with the Zoning parameters of the Zoning scheme, apart from the applied for street building line relaxation sought in this application. The proposal further aligns with the development principles outlined in SPLUMA, LUPA, KSDF, KSPLUM Bylaw 2021.

Concluding the assessment and hopeful approval of this application, revised building plans will be submitted to the KM for consideration and approval, as per Annexure A.

As per motivation provided within this report it is hereby concluded that the writer trusts that all required aspects of Land Use Management have been addressed and provided and that the application can be duly approved.