

KNYSNA LOCAL MUNICIPALITY

Notice is hereby given of an

INTERNAL MEETING

to be held by the

APPEAL AUTHORITY

on

Wednesday, 21 October 2026

at

09h00

in the Council Chambers

MUNICIPAL OFFICES
KNYSNA

ADMINISTRATOR

A G E N D A

Appeal Authority: Acting Executive Mayor

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AGENDA

1. Opening of the Hearing
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ITEM TO:
Appeal Authority

APPEAL REFERENCE	
REPORT DATE	18 September 2026
APPLICATION NO.	3541
REPORT AUTHOR	H Smit
JOB TITLE	Manager: Land Use Management
SACPLAN REG. NO.	A/1167/2000
TELEPHONE NO.	044-302-6319
APPLICATION DATE	19 August 2025
DECISION DATE	24 April 2026

APPEAL REPORT

CONSENT USE: ERF 450 BELVEDERE

Was the original application processed correctly (if no, elaborate below):	Y	N
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Not applicable

PART A: AUTHOR DETAILS

First name(s)	Hennie
Surname	Smit
Job title	Manager: Land Use Management
SACPLAN registration number	A/1167/2000
Directorate/Department	Land Use Management
Contact details	044-3026319

PART B: APPLICANT DETAILS

Name & Surname	Lloyd Druce				
Company name	VBGD Town Planners				
SACPLAN registration number	A/543/1987				
Registered owner(s)	Robert Stanley Vadas				
Is the applicant the appellant?	Y	N	Is the appeal valid	Y	N

PART C: APPELLANT(S) DETAILS (IF NOT THE APPLICANT)

First Name(s)	Surname	Property Description	Physical Address	Valid/invalid
Belvedere HOA	Belvedere HOA	Belvedere Estate	12 Circular drive	Valid
Total Valid Appeals	1			

PART D: APPLICATION PROPERTY DETAILS

Property description (in accordance with Title Deed)	Erf 450 Belvedere, in the Municipality of Knysna, Province of the Western Cape			
Property Extent (m²)	1,510			
Physical address	C/o Page Close & Lower Duthie Avenue			
Area/Town	Belvedere			
Current zoning	Single Residential Zone I			
Applicable zoning scheme	Knysna Zoning Scheme By-law (2020)			
Current land use	Dwelling house			
Are there existing buildings on the property?	Yes			
Title Deed number & date	T60657/2016 dated 21 June 2016			
Any unauthorised land use/building work	Y	N	If Yes, explain	N/A

PART E: SUMMARY OF PUBLIC PARTICIPATION

Total valid comments	2				Total valid comments and petitions	0			
Valid petitions	Y	N	If yes, number of signatures			None			
Community organisation(s) response	Y	N	N/A	Ward Councillor Response			Y	N	N/A
Total letters of support	None								
Was public participation undertaken in accordance with section 45 -49 of the By-law on Municipal Land Use Planning							Y	N	
If the Provincial Minister commented on the application, was he/she afforded the opportunity to comment on the appeal?							Y	N	
If the proposal triggered an application for land development in terms of Section 10 of the Western Cape Land Use Planning Regulations, 2015, was the Provincial Minister afforded the opportunity to comment on the appeal?							Y	N	

PART F: SUMMARY OF COMMENTS DURING PUBLIC PARTICIPATION

Comments and objections to the application were from the following:

Erf No.	Objector	Agent	Date Received
Erf 452 and Erf 453, Belvedere	Mr. Servaas van Breda Lombard	Mr. Jacques Marais (Fasken incorporated under Bill Dewar)	14 October 2025
None	Belvedere Homeowners' Association		

The following is a summary of the comments and objections received:

1. The objections highlight the legal standing of BHOA and the "Belvedere Estate Building Design Manual" (2024). The BHOA is governed by a constitution and is contractually binding on all members, including the applicant. It is stated that when the applicant/landowner took transfer of Erf 450, he contractually undertook – as all purchasers within the estate do – to comply with the conditions of title, the BHOA constitution, its regulations, and the decisions of the Architectural Committee.
2. The decisions made by BHOA's architectural committee on plans are binding and do not serve as 'merely advisory guidance' as suggested by the applicant. The objector, therefore, emphasises their point that the said powers are maintained in case law and are reflected in contractual law.
3. With these powers, the owners' association undertook to render a decision to reject the proposal of a second dwelling as it did not meet the criterion in section 5.1.1.2 of the BDM which sets out the conditions under which a second dwelling (granny flat or guest cottage) may be approved on a single residential erf. Among those conditions is the requirement that the combined coverage of the main house and outbuildings must not exceed 300m². The proposed second dwelling of 73.6m² causes the total coverage of Erf 450 to exceed this 300m². The Architecture Committee has already considered and rejected the applicant's request for approval on precisely this basis.
4. The objector rejects the applicant's attempt to reframe or reinterpret the coverage calculation to make the numbers appear compliant, but this reframing is not supported by the BDM's definitions, nor by the Architecture Committee's authoritative interpretation of the design manual – an interpretation that members are contractually bound to accept.
5. In light of the aforementioned, the objection vehemently expresses the reasons why the Municipality is not permitted to render a decision which is in conflict with the design manual. According to Section 29(8) of the Planning By-law, the design guidelines contemplated in subsection (3)(d) may introduce more restrictive conditions than the rules provided for in the zoning scheme, which in this instance applies.
6. Furthermore, Section 85(2) of the Planning By-law states that the Municipality must comply with and enforce compliance with the provisions of the Planning and Zoning Scheme By-laws. This is to say that it cannot lawfully approve plans that contradicts a framework that the Municipality itself, is required to recognise. The objection highlights Section 29(3) of the Planning By-law which requires the constitution of an owners' association, once approved by the Municipality, must include provision for control over design guidelines.
7. In reiterating the sentiments above, the objector makes example of the precedent set in the case of Vanilla Street Homeowners' Association v Ismail and Another (2014) at the Western Cape High Court where the court held that an

owners' association constitution imposing more restrictive land use rights than the zoning scheme, prevailed over the zoning scheme.

8. The objection concludes that on the aforementioned basis that any approval granted by the Municipality that conflicts with the estate's design guidelines would be ultra vires, meaning acting beyond its legal powers, and would thus be susceptible to legal challenge.
9. The objector also notes that the applicant failed to follow the dispute resolution procedures as set out in the estate's design manual and constitution, by going directly to the Municipality. Should the Architectural Committee have granted condonation for the maximum permissible floor area, it would be difficult for the owners' association to maintain consistency in future decision-making as the implications thereof are that overtime, the "development concept of the estate would be eroded" and it would constitute a failure of the Committee's fiduciary duties to all members of the estate.

10. Summary of Comments from Departments/Organs of State:

Name	Date Received	Summary of Comments	Recommendation
Infrastructure Services	30 September 2025	No objection.	Positive
Building Control	06 October 2025	Recommend for approval.	Positive

PART G: SUMMARY OF MUNICIPAL EVALUATION ON ORIGINAL APPLICATION

1. Application History

The Municipal Planning Tribunal determined an administrative penalty for the height of the dwelling house which exceeded the maximum permissible height as specified in the zoning scheme in 2023. It is unknown whether the penalty was paid; however, a plan approval was issued by the Municipality in October 2023 which implies that compliance with the zoning scheme was achieved.

2. Considerations in terms of SPLUMA

The Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013) list several development principles against which a land use application needs to be considered. These are broad principles and cannot always be weighed in terms of

all applications. In agreement with the applicant, however, it can be argued that the consent use to allow for a "second dwelling" would allow for optimal use of land and thus contribute to the concept of "spatial sustainability."

3. Consistency with SDF, IDP and applicable Policies

The Knysna Municipal Spatial Development Framework (2020) ("SDF") supports the consolidation of our existing urban settlements as opposed to the lateral expansion of our urban areas. Densification (including second dwellings) is considered a means of achieving this objective of the SDF as it allows the use of existing infrastructure capacity. In broad and strategic terms, the second dwelling unit proposal on the subject erf is considered consistent with municipal spatial planning policy.

4. Impact on Municipal Engineering Services

The subject erf is sufficiently serviced with municipal services. Furthermore, the Infrastructure Services directorate lodged no objections against the second dwelling proposal.

5. Zoning Considerations

The subject property is zoned "Single Residential Zone I" in terms of the Knysna Zoning Scheme By-law (2020) and no change in the primary use rights to the erf is proposed.

6. Desirability of Proposal

The desirability of the application was considered in terms of the following factors:

Assessment Criteria	Y	N	N/A
Has the motivation of the applicant been considered in the assessment of the application?	☒	☐	☐
Will the proposal have a negative impact on the character of the surrounding area in terms of form, density, and aesthetics?	☐	☒	☐
Does the proposal affect the residential amenity of the adjacent landowners negatively in terms of sunlight, privacy, views, and general enjoyment?	☐	☒	☐
Will the intended building proposal affect the adjacent land uses negatively?	☐	☒	☐
Will the proposal and/or building work have a negative effect on the architectural character of the streetscape?	☐	☒	☐
Will the proposal and/or building work have an impact on the municipal bulk services network?	☐	☒	☐
Does the proposal cause a negative impact on vehicular and pedestrian movement on the public street(s), including vehicle sight distances?	☐	☒	☐
Are there adequate on-site parking (including loading bays, where applicable) in accordance with the provisions of the Zoning Scheme By-law?	☒	☐	☐
Does the property have adequate and suitable vehicle access and egress in accordance with the provisions of the Zoning Scheme By-law?	☒	☐	☐

Will the proposal affect the natural and/or open space system negatively, including resulting in the removal of indigenous/protected trees on the site and/or road reserve?	☐	☒	☐
Does the proposal have any negative impact on heritage resources?	☐	☐	☒

6.1 The Knysna Zoning Scheme By-law (2020) allows a second dwelling unit of less than 60m² in area as of right while a second dwelling unit in greater area (and up to 150m²) is a secondary use with the consent of the Municipality. Therefore, the current proposal of 73m² in area is considered negligible.

6.2 The proposed second dwelling is not a separate structure as it is contained in the same building, and the aesthetic appearance would be in keeping with the development concept set out in the design manual of the estate. Furthermore, there is sufficient parking on the premises, and the consent use is unlikely to generate nuisance as it is in keeping with the residential zoning of the property. In light of the aforementioned, the proposal is in keeping with the character of the area and deemed to meet the criteria of desirability.

PART H: DECISION ON APPLICATION

At a Knysna Municipality Planning Tribunal meeting held on 24 April 2026, unanimously resolved the following:

1. That, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) for the Consent Use of a "second dwelling" measuring greater than 60m² as contemplated under "Single Residential Zone I" of the Knysna Zoning Scheme By-Law (2020), in respect of Erf 450, Belvedere.
2. **The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):**
 - (i) The decision applies to the application as outlined herein and may not be construed as authority to depart from any other legal prescriptions or requirements.
 - (ii) The second dwelling unit shall be limited to the existing building(s).
 - (iii) The development parameters of "dwelling house" and "second dwelling" of the Knysna Zoning Scheme By-law (2020) shall apply, unless otherwise permitted in terms of the provisions of the Planning By-Law.
3. **The reasons for above decision are as follows:**
 - (i) The subject property lies within the delineated urban edge in an established settlement and is thus considered suitable for soft densification as supported in terms of the Municipality's spatial planning policy. In terms of the land use context and character of the area of Belvedere, the permitting of second dwellings is considered as a suitable form of densification.
 - (ii) Furthermore, it is not anticipated that the proposed second dwelling would detract from the land use character of the area as the residential use and primary right will be maintained. Importantly, it is argued that the established character and aesthetic control as set out in the homeowners' association architectural design manual can be maintained, particularly when considering that the proposal relates to existing approved buildings.

- (iii) A second dwelling unit measuring up to 60m², is permissible as a primary right under the "Single Residential Zone I" zoning of property. The difference of 13m² is therefore considered negligible especially in light of the fact that second dwelling will not be a separate structure. As such, the second dwelling is unlikely to have a negative impact on the quality of life of all residents of the estate.
- (iv) In considering the objections lodged, it was found that it relates to the maximum permissible area for buildings on a single residential property in the estate as imposed by the design manual and not to the principle of a second dwelling, with the latter being the mandate of the Municipality in terms of the zoning scheme. Therefore, the application for consent to allow a second dwelling was considered in terms of the Municipality's Spatial Planning and Land Use Management By-law (2021) and the provisions of the Knysna Zoning Scheme By-law (2020), in terms of authority duly bestowed by the Constitution of the Republic of South Africa.
- (v) Importantly, this support for the second dwelling does not diminish the authority of the Belvedere homeowners association to enforce its constitution and architectural design manual. In fact, the conditions set out herein allows for a framework wherein the applicant and homeowners association can agree on compliance in the context of the estate's constitution and architectural design manual in relation to their plan proposal.

PART I: TYPE OF APPEAL

First Name(s)	Surname	Type of Appeal		
Paul	Dugmore	Appealing the decision	Y	N
		Appealing the failure of the decision-maker to make a decision within the period permitted	Y	N
		Appealing a condition(s) of approval	Y	N
		Appealing the process followed	Y	N
		Appealing the conclusion of the decision-maker regarding the merits of the land development application	Y	N

PART J: APPEAL(S) MOTIVATION

1. The appeal is against the whole of the decision made by the KMPT on the 24th of April 2026 and is based on conditions and on the merits. The grounds of the appeal is summarized as follows:
 - i) Procedural grounds relating to notification.
 - (ii) Procedural grounds relating to the inadequate notice of and unfair refusal to allow me an opportunity to address the KMPT.
 - (i) Objectors were not invited to attend formal site visit or notified that they could request a site visit.
- 1.1. Ground 1: The Decision is unlawful because the Tribunal failed to give proper effect to the restrictive title deed condition registered against Erf 450, which requires the BHOA's prior written approval before any building operations may be commenced, and before any additions, or alterations to approved buildings may be effected. That approval has not been granted. The Tribunal was obliged, in terms of section 65(1)(f) of the Planning By-law to have regard to this restrictive condition and could not lawfully grant approval contrary to it. The Tribunal's failure to have regard to the restrictive title deed condition further constitutes a breach of section 85(2) of the Planning By-law, which prohibits

the Municipality from acting in conflict with the provisions of the Planning By-law, including the mandatory obligation under section 65(1)(t).

- 1.2. Ground 2: The Tribunal failed to give adequate weight to the binding nature of the BHOA Constitution and the Belvidere Estate Building Design Manual, 2024 (BDM), and to the provisions of sections 29(3)(d), 29(8), and 85(2) of the Planning By-law, which recognise and protect the authority of homeowners' associations to impose more restrictive development rules than those contained in the Zoning Scheme. The Tribunal further failed to have regard to the legal status of the Appellant as a body corporate established under section 29 of the Land Use Planning Ordinance 15 of 1985 (LUPO), the statutory recognition of its Constitution and the BDM by the Municipality, and the transitional provisions of section 66(7) of the Planning By-law;
- 1.3. Ground 3: The Municipality's recommendation memorandum contains a material factual error, in that it records that there are no restrictive title conditions applicable to Erf 450, when in fact such conditions are registered against Erf 450. This error vitiated the Tribunal's assessment. It further records, and relies upon, the Applicant's submissions that the dispute is merely one of private contractual arrangements which cannot limit the Municipality's statutory decision-making powers, and appears to treat the Appellant's role as one of ordinary public participation. This approach is legally incorrect, as it fails to distinguish between participatory objections and binding legal constraints arising from title conditions and statutorily recognised homeowners' association controls.
- 1.4. Ground 4: The Tribunal accepted a disputed and incorrect building coverage calculation that excluded the veranda from the building footprint, despite three independent architects (including the Applicant's own architect and per the plans approved by BAC and submitted to the Municipality) having calculated the coverage at approximately 311m², which exceeds the 300m² threshold in section 5.1.1.2 of the BDM.
- 1.5. Ground 5: The Tribunal incorrectly conflated architectural appearance with land use, attaching undue weight to the fact that no external alterations were proposed, while failing to recognise that the creation of a second dwelling unit is a land-use and density control issue, irrespective of whether external changes are visible.
- 1.6. Ground 6: The Tribunal committed a procedural irregularity by failing to include the Appellant's supplementary legal submission dated 25 February 2026 as part of the Agenda for the hearing, despite this letter having been sent to Ms Linda Mniki on 25 February 2026 and again on 20 April 2026, both dates being well ahead of the hearing on 24 April 2026.
- 1.7. Ground 7: The Decision, if allowed to stand, has broader implications for the Belvidere Estate as a whole, in that it would effectively permit the creation of additional dwelling units within the Estate by means of internal alterations, thereby undermining the density controls contained in the BDM and creating uncertainty regarding the enforceability of the Estate's governance framework.
- 1.8. Relief Sought:

In light of the above, the Appellant respectfully requests that the Appeal Authority:

- 1.8.1 set aside the Decision of the Tribunal dated 24 April 2026 granting approval for consent use of a second dwelling greater than 60m² on Erf 450 Belvedere;
- 1.8.2 and refuse the Application (Reference 3541) on the basis that:

- i. the restrictive title deed condition on Erf 450 requires the prior written approval of the BHOA before any building operations may be commenced, and additions, or alterations may be effected, and such approval has not been granted;
- ii. the Tribunal's decision to grant consent use contrary to the restrictive title deed condition is unlawful, as confirmed by the authorities cited herein, and in particular *Van Rensburg and Another NNO v Nelson Mandela Metropolitan Municipality and Others* 2008 (2) SA 8 (SE) and *Shell South Africa (Pty) Ltd v Alexene Investments (Pty) Ltd and Others* 1980 (1) SA 683 (W);
- iii. the BHOA is a body corporate established under section 29 of LUPO, recognised under section 66(7) of the Planning By-law, whose Constitution and BDM were approved by the Municipality and are registered with the Municipality, and the BDM prohibits the creation of a second dwelling on Erf 450 because the total building coverage exceeds 300m²;
- iv. the Municipality is precluded by sections 29(8) and 85(2) of the Planning By-law from granting approval in conflict with the more restrictive development rules imposed by the BDM;
- v. the KM Report contained a material factual error in recording that no restrictive title conditions apply to Erf 450, which vitiated the Tribunal's assessment;
- vi. and the Municipality, having approved the BHOA's Constitution under section 29(2)(b)(iii) of LUPO, cannot now disregard the provisions of that Constitution, as confirmed in *Vanilla Street*.

1.9. A copy of the Appeal Application is listed under Annexure D.

PART K: COMMENT ON APPEAL

The applicant provided the following response to the appeal on 14 July 2026.

1. Ground of Appeal 1:

The essence of this ground refers to the Condition of Title, and specifically that the nature of a Title Deed Condition is a real right and cannot be overridden by a zoning scheme or by a consent use approval. It states that the title deed condition occupies a higher position in the hierarchy of land use controls than those in the zoning scheme. We agree with the above, however it is firstly essential that the Title Deed Condition is read in its entirety, and secondly, thereafter interpreted as to whether it is restrictive in the current instance. In other words, before the condition is declared restrictive, it is necessary and essential to consider the context of the application under consideration.

Title condition D (a), which reads as follows

"Every building to be erected on the said erf shall be of approved design and of sound construction.

No building operations shall be commenced on the said erf and no additions or alterations to approved buildings shall be effected until the Transferor has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house any outside buildings, and fences or walls. The Transferor however does not in any way accept or assume any legal responsibility arising directly or indirectly from any approval granted by it"

From the above full text contained in Condition D(a) the following is evident:

- i. The condition is clearly aimed at the erection of a new building ensuring an "approved design" and "sound construction".
- ii. Secondly, the condition requires approved design and construction plans, including material and colour specifications for the erection of a dwelling house, any outside buildings, and fences or walls.
- iii. From the reading of the full text of Condition D(a), it is clear that the purpose of the condition is to ensure that when a dwelling house is erected or altered, it does not conflict with applicable design guidelines for the estate and is of sound and proper construction. The condition goes so far as to stipulate consideration for building material and colour to be used in construction of a dwelling house, outside buildings, fences or walls. In the current context of a second dwelling within the existing dwelling house there are no considerations which conflict with the condition of title. Firstly, the existing house has approved building plans, and which has consequently already been scrutinised for compliance with the stipulations including design, sound construction, colours and materials used and construction plans. The second dwelling as proposed, requires no new additions and has no implications at all regarding design or appearance of the house. The second dwelling will use an existing surface within the dwelling house to add kitchen appliances, which is what constitutes a second dwelling. The surface area is less than 4m² in extent and would remain exactly the same, whether there were appliances included or not.
- iv. Considering the above and placed within the correct context and full wording of the Title Deed condition, it is clear that the proposed space within the dwelling house, does not contradict the Title Deed. The assertion that the granting of a consent use is unlawful due to disregard for a condition of title is therefore misguided and incorrect.
- v. The appellant indicates in paragraph 3.1.3 what the Tribunals obligations are when considering an application. It is stated that the Tribunal is bound by Section 65(t) to have regard for restrictive conditions of Title. Accordingly, the appellant suggests that this provision imposes a mandatory obligation to give effect to any restrictive condition. The above suggestion does not however remove the obligation of the Municipal Planning Tribunal and the Planning Department, from applying their respective minds in consideration of what constitutes a restriction and what doesn't. Proper consideration as has been done, confirms that the condition of title is not subverted in any manner.
- vi.

2. Ground of Appeal 2:

Paragraph 3.2.4 of the appellant's submission makes an incorrect statement that at the Tribunal hearing, the applicant submitted that the BDM is not registered with the municipality and does not function as an overlay to municipal planning controls. The same point is made under Ground 3 paragraph 3.3.2. This is factually incorrect and was not presented as such to the Tribunal. The correct version as presented, stated that the BDM is a "guideline". Guidelines are defined in any accepted dictionary as a general rule, principle or piece of advice. They are suggestive not mandatory, and have flexibility so that they can adapt to specific circumstances.

An "Overlay Zone" is not a guideline and is indeed created in terms of the provisions of Sections 15 and 16 of the Knysna Zoning Scheme By-Law 2020. In order to create an overlay zone requires a formal process as contemplated in Sections 12 and 13 of the Municipal Systems Act, read with Section 25 of the Land Use Planning Act. Section 15(2) of the Knysna Zoning Scheme determines that the municipality must determine development parameters for each overlay zone. This is what was stated to the Tribunal, to confirm that the BDM controls are not a formal overlay zone, and therefore retain the status of a guideline. the responsibility of adopting an overlay zone applicable to any existing Zoning Scheme, rests with the Municipality. The overlay zone essentially becomes an "amendment scheme" adopted as part of the applicable Zoning Scheme By-Law. This has not been undertaken in Belvidere.

3. Ground of Appeal 3:

On the first point, it is presented in the department's report under paragraph 5.3.1 in summarising the applicant's reply, that the issue of title restrictions was dealt with by the applicant, and from the sentiment in this paragraph, the department is in agreement with the applicant's assessment of the title deed, not being restrictive in this instance. On the second point, the reason for the subject being "not applicable" is because the application for consent use did not include any suggestion of removing any title deed conditions. The statement of this being "not applicable", is therefore correct.

4. Grounds of Appeal 4

It is claimed that the building coverage calculations are incorrect, and that the limit of 300m² for allowing a second dwelling is exceeded by 11m². The definition of coverage refers to the area covered by a roof or projection, expressed as a percentage of the site area.

The Belvidere Design Guidelines requires that sites larger than 1500m² are allowed a coverage of 30% which in the case of this site would translate to a permissible coverage of 453m². The Knysna Zoning Scheme 2020 allows for a coverage of 50 % which would permit a coverage of 755m² on this site. The stipulation in the BDM however limits second dwellings to a house with a coverage of only 300m².

The architect made the following calculation expressed in the sketch below, excluding the pergola from coverage. This calculation has the coverage without the pergola as 289m². The second dwelling applied for is not a physical addition to the house and therefore the over-emphasis on coverage is unwarranted and is indeed inconsequential as far as impacts are concerned. The Knysna zoning scheme and the general parameters of the BDM both permit coverages in excess of the 300m², these being 453m² and 755m² respectively in this instance. The suggestion in the BHOA objection for the owner to demolish 11m² of the house in order to accommodate a 4m² existing surface to accommodate small appliances is absurd.

5. Ground of Appeal 5:

The Belvidere BDM requirements for allowing a second dwelling are shown in the table below. The BDM guidelines are in the left column and the level of our compliance in the right column:

DESIGN GUIDELINE REQUIREMENTS SECOND DWELLINGS	COMPLIANCE
Coverage of the main house and outbuildings does not exceed 300m ²	COMPLIES ON OUR CALCULATION
The bulk of the proposed second dwelling does not exceed 100m ²	COMPLIES
The second dwelling must be the same design style as the main house	NO CHANGES TO BUILDINGS
One small kitchen is permitted	COMPLIES
Special application to the Architecture Committee to be made	CONCLUDED (No consensus)
No third dwelling is permissible	NOT APPLICABLE
Special application can be submitted for accommodation for live-in caregivers	NOT APPLICABLE
Knysna Municipal approval. Consent Use application	APPLICATION NOW SUBMITTED

6. Ground of Appeal 6:

The submission claims procedural irregularities by failing to include the appellant's supplementary submission. The supplementary submission contains largely repetitive issues already raised by the appellant in his original objection. These relate primarily to matters regarding title deed restrictions, which have been addressed.

7. Ground of Appeal 7:

Broader Implications for Belvidere Estate are stated as allowing additional dwelling units within Belvidere which would fundamentally undermine the density controls contained in the BDM and create uncertainty regarding estate governance. This presumption is absurd and altogether flawed. The second dwelling allowance of the BDM permits second dwellings of up to 100m², whereas the one we propose is only 74m². The larger the permitted size, the more inclined owners will be to make two-bedroom units, thus increasing the density. There has been no attempt by the BDM or the BHOA to justify and motivate the selection of 300m² as a threshold size.

Rather than to criticise the applicant's proposal, the Planning Department's assessment report and the decision of the Municipal Planning Tribunal, the appellant, (ie the BHOA and the Architectural Committee) , should consider revising the Design Guidelines and bring them in line with the municipal planning stipulations. Alternatively, they should entrench revised zoning parameters by way of a formal overlay zoning application, undertaken through the prescribed channels and controlling legislation, as described earlier.

The Municipal Systems Act and the Spatial Planning and Land Use Management Act (SPLUMA), also confer authority on the municipality as the decision maker in all land use matters. There is no provision in any law which allows for the delegation of decision making to an external party, including a HOA. Executive authority to decide on land use planning matters rests with the Municipality.

The appellant suggests that if the BHOA requirements and by implication the BDM is undermined by decisions such as this, it also undermines the instruments it has put in place to protect the community from such precedents. This would only be true if there was a significant opposition to an application such as this, however in this instance all surrounding owners bar one, consented to the second dwelling and there were no other objections from the wider community.

8. Relief Sought by the appellant:

The relief sought is to set aside the decision of the MPT, and to refuse the application on the basis of the grounds detailed in the submission.

Reference to Sections 29(8) and 85(2) require explanation. While a homeowner's association may introduce more restrictive rules than the zoning scheme it does not imply that the municipality must act in an irrational manner when considering any application. Whatever rules are compiled by the homeowner's association, the municipality must always consider every item on its individual merits. Section 65 of the Planning By-Law sets out comprehensive criteria for decision making on land use applications, none of which reference any stipulations by a Homeowners Association.

The municipality must decide in a rational and impartial manner after due consideration of all relevant matters pertaining to the application. This was done and therefore the relief sought by the appellant is to be dismissed.

9. Conclusion

- i. The appellant has attempted to convey a proposition that the Knysna Municipality erred in deciding on this matter, and has ignored both the Home Owners Association's status as a governing association, and the conditions of Title which restricts certain aspects in terms of the Belvidere Design Manual (BDM).
- ii. As we have addressed in this reply, the appellant has misunderstood the status of the BDM being an alternative to the Knysna Zoning Scheme, imposing its own, more restrictive development parameters.
- iii. The guidelines in the BDM are not alternative zoning parameters, as they have not been formalised by becoming an overlay zone.
- iv. The appellant has also misinterpreted the wording of the Title Deeds as being restrictive, which on proper and considered evaluation, is incorrect. Therefore, the Tribunal was entitled to make a considered decision in this regard, having correctly assessed the wording and context of title deed Condition D (a).
- v. The appellant has attempted to imply that the Belvidere Homeowners Association has an exclusive right to decide on matters relating to land development via the Architectural Committee. This too is incorrect, because as we have confirmed, the municipality has executive authority in municipal planning, not the Homeowners Association.

10. Recommendation:

Considering the submission and our response thereto we request that the appeal be dismissed.

11. A copy of the applicant's comment on the Appeal is under Annexure E.

PART L: PROVINCIAL MINISTER'S COMMENT ON THE APPEAL (IF REQUIRED)

Not applicable.

PART M: THE MUNICIPAL ASSESSMENT OF COMMENTS

The Author is generally concurring with the comments of the applicant in response to the Appeal Application, however, the Author has a different view on Ground 6 where the Appellant argues that Procedural Irregularity occurred by the failure to include the Appellant's supplementary submission on the KMPT agenda. The Author is of the view that ground 6 for appeal is incorrect due to the following reasons:

1. The Appellant's supplementary legal submission dated 25 February 2026 is not entirely compliant with the requirements of Section 50(5) of the Knysna Municipality: Spatial Planning & Land Use Management By-law (2021) as it falls outside the 30-day comment period that closed on 15 October 2025;
2. The application was withdrawn from the KMPT agenda in March 2026 and the Town Planner, Ms Linda Mniki has forwarded the supplementary legal submission to the applicant for a response;
3. Both the supplementary legal submission by the objector and applicant was submitted to the KMPT members by the Administrator via e-mail on 23 April 2026;
4. The supplementary legal submission did not warrant the Town Planner to amend her assessment report and addressed by her oral presentation to the KMPT at the hearing.

PART N: MUNICIPAL PLANNING EVALUATION ON APPEAL (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)

Y

N

(In)consistency with the Spatial Planning and Western Cape Land Use Management Act, 2013 (Act 16 of 2013)

The Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013) list several development principles against which a land use application needs to be considered. These are broad principles and cannot always be weighed in terms of all applications. In agreement with the applicant, however, it can be argued that the consent use to allow for a "second dwelling" would allow for optimal use of land and thus contribute to the concept of "spatial sustainability."

(In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

The assessment of the LUPA principles is similar as the SPLUMA principles.

(In)consistency with the IDP/Various levels of SDF's/Applicable policies

The Knysna Municipal Spatial Development Framework (2020) ("SDF") supports the consolidation of our existing urban settlements as opposed to the lateral expansion of our urban areas. Densification (including second dwellings) is considered a means of achieving this objective of the SDF as it allows the use of existing infrastructure capacity. In broad and strategic terms, the second dwelling unit proposal on the subject erf is considered consistent with municipal spatial planning policy.

(In)consistency with guidelines prepared by the Provincial Minister

Not applicable.

Impact on Municipal engineering services

The subject erf is sufficiently serviced with municipal services. Furthermore, the Infrastructure Services directorate lodged no objections against the second dwelling proposal.

Outcomes of investigations/applications i.t.o other laws

Not applicable.

Existing and proposed zoning comparisons and considerations

The subject property is zoned "Single Residential Zone I" in terms of the Knysna Zoning Scheme By-law (2020) and no change in the primary use rights to the erf is proposed.

The desirability of the proposal
Refer to Part G.

PART O: ADDITIONAL PLANNING EVALUATION RESTRICTIVE CONDITIONS

The financial or other value of the rights

Not applicable as title deed Condition D (a) needs to be interpreted in context.

The personal benefits which will accrue to the holder of rights and/or to the person seeking the proposed development

Not applicable.

The social benefit of the restrictive condition remaining in place, and/or being removed/amended

Not applicable.

Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights

Not applicable

PART P: SUMMARY OF EVALUATION

1. Appeal Ground 1:

The author regards the argument of the appellant that the KMPT decision is unlawful because the Tribunal failed to give proper effect to the restrictive title deed condition as incorrect. Title Deed Condition D(a) needs to be interpreted in context and Knysna Municipality is authority for planning and building plans in terms of the Constitution of South Africa.

2. Appeal Ground 2:

The appellant's argument is incorrect that the Tribunal failed to give adequate weight to the binding nature of the BHOA Constitution and the Belvidere Estate Building Design Manual, 2024 (BDM), and to the provisions of sections 29(3)(d), 29(8), and 85(2) of the Planning By-law. Section 65 (General criteria for consideration of applications) of the Knysna Municipality: Spatial Planning & Land Use Management By-law (2021) is applicable and no overlay zone for Belvedere is in place.

3. Appeal Ground 3:

The appellant's view that the Municipal Planner's Assessment Report contains a material factual error is incorrect as Title Deed Condition D(a) must be read in context is therefore not applicable. Title Deed Condition D (a), which reads as follows

"Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no additions or alterations to approved buildings shall be effected until the Transferor has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house any outside buildings, and fences or walls. The Transferor however does not in any way accept or assume any legal responsibility arising directly or indirectly from any approval granted by it"

Title Deed Condition D (a) is not applicable due to the following reasons:

- i. The condition is clearly aimed at the erection of a new building;
- ii. The purpose of the condition is to ensure that when a dwelling house is erected or altered, it does not conflict with applicable design guidelines;
- iii. In the current context of a second dwelling within the existing dwelling house there are no considerations which conflict with the condition of title;
- iv. The Municipal Planning Tribunal and the Planning Department have applied their respective minds in consideration of what constitutes a restriction or not and found that Title Deed Condition D(a) not to be applicable.

4. Appeal Ground 4:

The argument that the building coverage calculations are incorrect, and that the limit of 300m² for allowing a second dwelling is exceeded by 11m² is incorrect. The development proposal is compliant as demonstrated by the applicant in his comments on the Appeal Application.

5. Appeal Ground 5:

The matter of conflation of Architectural Appearance with Land Use is interpreted incorrectly as second dwellings are permitted on all properties in Knysna with a Single Residential zoning. Again, it must be noted that the applicant demonstrated compliance with the Belvedere BDM in his comment on the Appeal Application.

6. Appeal Ground 6:

The claim of a procedural irregularity by failing to include the Appellant's supplementary legal submission dated 25 February 2026 as part of the Agenda for the hearing is incorrect due to the following reasons:

- i. The Appellant's supplementary legal submission dated 25 February 2026 is not entirely compliant with the requirements of Section 50(5) of the Knysna Municipality: Spatial Planning & Land Use Management By-law (2021) as it falls outside the 30-day comment period that closed on 15 October 2025;
- ii. The application was withdrawn from the KMPT agenda in March 2026 and the Town Planner, Ms Linda Mniki has forwarded the supplementary legal submission to the applicant for a response;
- iii. Both the supplementary legal submission by the objector and applicant was submitted to the KMPT members by the Administrator via e-mail on 23 April 2026;
- iv. The supplementary legal submission did not warrant the Town Planner to amend her assessment report and addressed by her oral presentation to the KMPT at the hearing.

7. Appeal Ground 7:

The argument that the implications of the Decision extend beyond Erf 450, Belvedere, is incorrect as each application is evaluated on its own merit and context. The application is complying the Belvedere BDM requirements and the Knysna Zoning Scheme Requirements. It must be noted that Knysna Municipality is the Planning Authority in terms of South Africa's Constitution, not the BHOA. The decision-making criteria in Section 65 of the Knysna Municipality: Spatial Planning & Land Use Management By-law (2021) is applicable and was duly considered by the KMPT.

PART Q: RECOMMENDATION

1. That, in accordance with Section 81(7)(f) of the Knysna Municipality By-Law on Spatial Planning and Land Use management (2021), it **BE DECIDED** that the subject appeal against the approval of the application for the Consent Use of Erf 450, Belvedere "to allow for a second dwelling unit, as decided on 24 April 2026 falls within the jurisdiction of the Knysna Municipality Appeal Authority.
2. That, in accordance with Section 81(1)(b) and (2) of the Knysna Municipality By-Law on Spatial Planning and Land Use management (2021), it **BE DECIDED** that the subject report and supporting documents on the appeal against the decision to approve of the application the consent use of erf 450, Belvedere, to allow for a second dwelling unit, are considered to be adequate to determine the subject appeal in the absence of a public hearing.

3. That the appeal submitted against the approval of the application (the consent use of erf 450, Belvedere, to allow for a second dwelling unit, **BE DISMISSED** and the subject decision to approval the application by the Knysna Municipal Planning Tribunal, **BE CONFIRMED** in terms of Section 81(9)(b) of the Knysna Municipality By-Law on Spatial Planning and Land Use management (2021).

PART R: REASONS FOR RECOMMENDATION

1. Title Deed Condition D(a) is not applicable within the context that it is a proposed second dwelling within an existing dwelling unit on Erf 450, Belvedere.
2. Knysna Municipality is the planning authority in terms of Sections 156(1) and (2) read with Part B of Schedule 4 of the Republic of South Africa Constitution.
3. The grounds of appeal arguing a procedural irregularity by failing to include the Appellant's supplementary legal submission dated 25 February 2026 as part of the Agenda for the hearing is incorrect as no new information may be submitted to the decision maker other than more clarity on the objection submitted.
4. The proposed second dwelling does not diminish the authority of the Belvedere homeowners' association to enforce its constitution and architectural design manual. In fact, the conditions set out herein allows for a framework wherein the applicant and homeowners association can agree on compliance in the context of the estate's constitution and architectural design manual in relation to their plan proposal.

PART S: ANNEXURES

Annexure A	Conditions of approval
Annexure B	Locality plan
Annexure C	Copy of Title deed
Annexure D	Appeal Application
Annexure E	Comment on Appeal Application
Annexure F	Copy of Notice and circulation list
Annexure G	Planners Evaluation Report
Annexure H	E-mail from Administrator to tribunal members on 23 April 2026.

PART T: SIGNATURES

Registered planner name: Hennie Smit

SACPLAN registration number: A/1167/2000

Date:

15/10/2026

Registered Planner Signature:

A handwritten signature in black ink, appearing to be 'Hennie Smit', written over a horizontal line.

Collab. Ref.: 2968650
File Ref.: 450 Bel
Application No.:
JH Smit
Tel: 044-302 6318



Via Electronic Mail

2026-06-17

Mr. Servaas van Breda Lombard
PO Box 413710
Craighall
JOHANNESBURGA
2024
Email: breda@bredalombard.co.za

Dear Sir/Madam,

DECISION: CONSENT USE: ERF 450 BELVEDERE

Your comment in the above regard dated 14 October 2025, refers.

Please be advised that the Knysna Municipality Planning Tribunal at a meeting held on 24 April 2026, unanimously resolved the following:

1. That, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) for the Consent Use of a “second dwelling” measuring greater than 60m² as contemplated under “Single Residential Zone I” of the Knysna Zoning Scheme By-Law (2020), in respect of Erf 450, Belvedere.
2. **The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):**
 - (i) The decision applies to the application as outlined herein and may not be construed as authority to depart from any other legal prescriptions or requirements.
 - (ii) The second dwelling unit shall be limited to the existing building(s).
 - (iii) The development parameters of “dwelling house” and “second dwelling” of the Knysna Zoning Scheme By-law (2020) shall apply, unless otherwise permitted in terms of the provisions of the Planning By-Law.

3. The reasons for above recommendations are as follows:

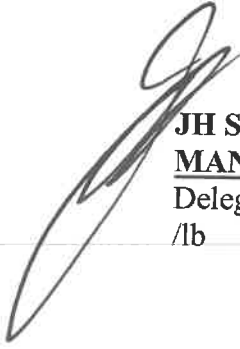
- (i) The subject property lies within the delineated urban edge in an established settlement and is thus considered suitable for soft densification as supported in terms of the Municipality's spatial planning policy. In terms of the land use context and character of the area of Belvedere, the permitting of second dwellings is considered as a suitable form of densification.
- (ii) Furthermore, it is not anticipated that the proposed second dwelling would detract from the land use character of the area as the residential use and primary right will be maintained. Importantly, it is argued that the established character and aesthetic control as set out in the homeowners' association architectural design manual can be maintained, particularly when considering that the proposal relates to existing approved buildings.
- (iii) A second dwelling unit measuring up to 60m², is permissible as a primary right under the "Single Residential Zone I" zoning of property. The difference of 13m² is therefore considered negligible especially in light of the fact that second dwelling will not be a separate structure. As such, the second dwelling is unlikely to have a negative impact on the quality of life of all residents of the estate.
- (iv) In considering the objections lodged, it was found that it relates to the maximum permissible area for buildings on a single residential property in the estate as imposed by the design manual and not to the principle of a second dwelling, with the latter being the mandate of the Municipality in terms of the zoning scheme. Therefore, the application for consent to allow a second dwelling was considered in terms of the Municipality's Spatial Planning and Land Use Management By-law (2021) and the provisions of the Knysna Zoning Scheme By-law (2020), in terms of authority duly bestowed by the Constitution of the Republic of South Africa.
- (v) Importantly, this support for the second dwelling does not diminish the authority of the Belvedere homeowners association to enforce its constitution and architectural design manual. In fact, the conditions set out herein allows for a framework wherein the applicant and homeowners association can agree on compliance in the context of the estate's constitution and architectural design manual in relation to their plan proposal.

You are hereby informed of your right to appeal to the Appeal Authority in terms of Section 79(2) of the said legislation.

The attached appeal form must be completed and should be directed to the Appeal Authority and received by the Acting Municipal Manager, P.O Box 21, Knysna or via email to knysna@knysna.gov.za within 21 days of notification of this decision together with proof of payment of the appeal fee.

Should you have any further enquiries, please contact Ms. Linda Mniki telephone number: 044-302 6383 or via e-mail address: lmniki@knysna.gov.za.

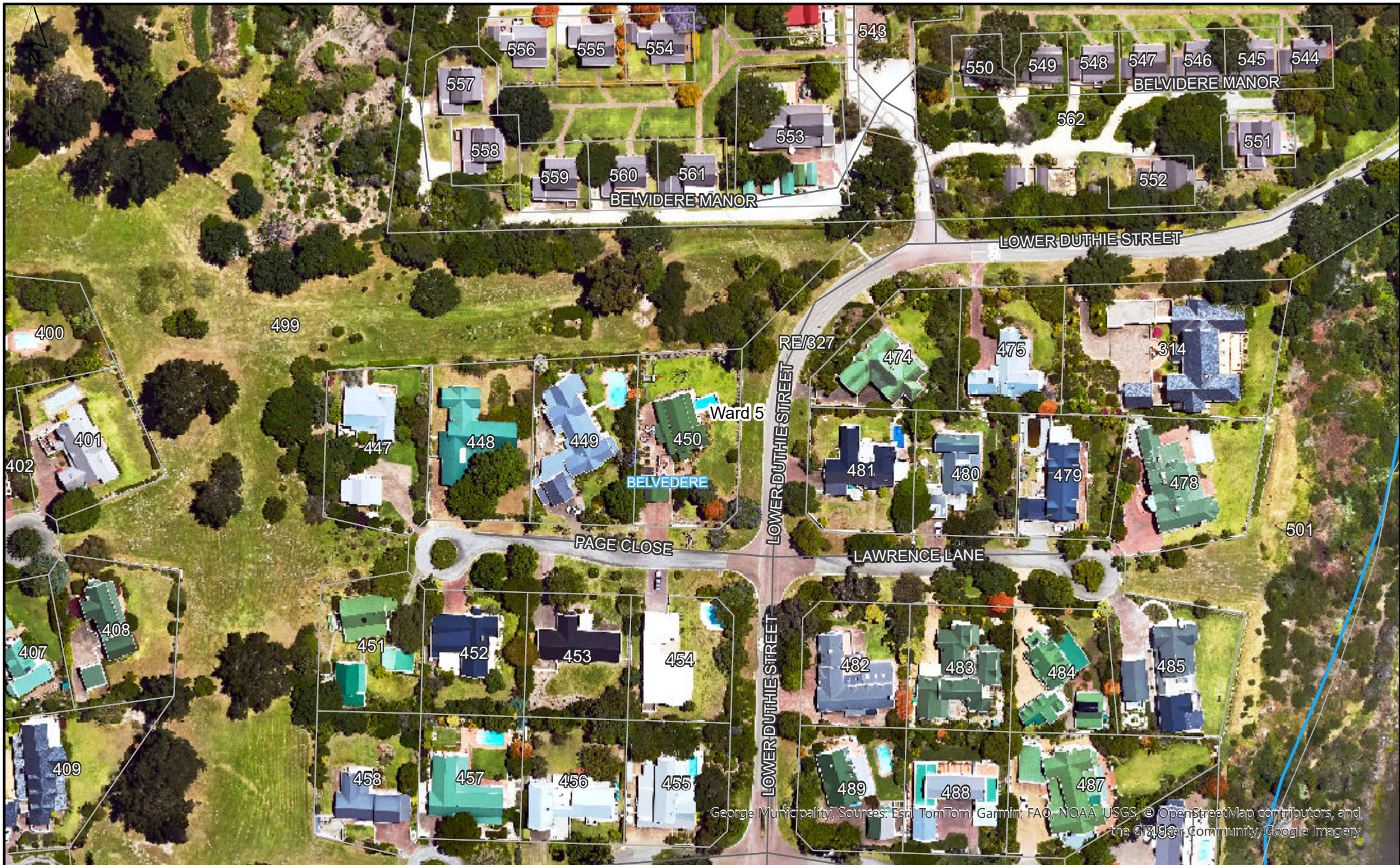
Yours faithfully,



JH SMIT
MANAGER: LAND USE MANAGEMENT
Delegations: P.78
/lb



Annexure B Locality plan



George Municipality, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community, Google Imagery

Disclaimer
Knysna Municipality makes no warranties as to the correctness of the information supplied.
Persons relying on this information do so entirely at their own risk.

Knysna Municipality will not be liable for any claims whatsoever, whether for damages or otherwise, which may arise as a result of inaccuracies in the information supplied.



**MESSRS STANDARD BANK
DOCEX 100
JOHANNESBURG OPERATIONS SHARED SERVICES**

Our Ref.
P MARTIN/eIWV1156

Your Ref.
HOME LOANS SECURITIES

Date:
11 April 2017

Dear Sirs

**PRINCIPAL BOND HOLDER NAME: R S VADAS
ACCOUNT NO. 530103605
PROPERTY DETAILS: ERF 450 BELVEDERE**

We enclose herewith the following documents for your safekeeping:

1. Mortgage Bond No. B26211/2016;
2. Deed of Transfer No. T60657/2016; and
3. Deeds Office search

We trust that all your requirements have been met and thank you for instructing us herein.

Kindly acknowledge receipt hereof on the duplicate of this letter. We should be grateful if you could kindly ensure that we receive notification of receipt from you, within seven (7) days of receiving the original Title Deed and Mortgage Bond.

Should we not, we will enquire once more, and should we then still not receive confirmation, we shall assume that you have received the original, and not accept any responsibility for any claims, for lost Title Deeds.

Yours faithfully

LOGAN - MARTIN INC.

per: **P MARTIN**

Logan - Martin Inc • Reg No 95/01331/07
20 Woodmill Lane Centre, 6571
Main Street Knysna 6571
P.O. Box 6 Knysna 6570
Docex 4 Knysna

Tel: +27 (0)44 382 1115
Fax: +27 (0)44 382 5582
E-Mail: peter@loganmartin.co.za

Directors:

Peter Martin BA LLB (Appraiser) ♦ Gerald Logan B Juris LLB ♦ Delon Barnard B Comm LLB
♦ Jacques de Villiers B Proc (Dip. Auctioneering) ♦ Office Manager: Annette Smit

JAMES KING & BADENHORST
144 ST JOHN STREET
OUDTSHOORN
6625

Prepared by me

To be endorsed by:	
Amount	
Purchase price/Value	R 3 000 000,00 / 2 000,00
Mortgage Capital Amount	R
Reason for exemption	Exempt from
Ext.	section

CONVEYANCER
JOHN WEST HENDRIKS

VERBIND	MORTGAGED
VIR FOR R 2 400 000,00	
B 800026211 / 2016	
04 OCT 2016	REGISTRAR OF DEEDS

T 000060657 / 2016

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

John Henry Richard Havemann

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at OUDTSHOORN on 21 JUNE 2016 granted to him by

FORESITE PROPERTIES CC
Registration Number 2008/082265/23

And the appearer declared that his said principal had, on 17 May 2016, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

ROBERT STANLEY VADAS
Identity Number 790320 5129 08 1
Married out of community of property

his Heirs, Executors, Administrators or Assigns, in full and free property

ERF 450 BELVEDERE, IN THE MUNICIPALITY AND DIVISION OF KNYSNA,
PROVINCE OF THE WESTERN CAPE

IN EXTENT 1510 (ONE THOUSAND FIVE HUNDRED AND TEN) Square
metres

FIRST TRANSFERRED by Deed of Transfer Number T10793/1989 with
General Plan Number 12063 relating thereto and held by Deed of Transfer
Number T70881/2011

- A. SUBJECT to such conditions as are referred to in Certificate of Registered Title Number T71936/1988.
- B. NOT ENTITLED to the benefit of the respective special conditions relating to a reservation of rights to water contained in Deeds of Transfers Numbers 80/1947, 81/1947, 82/1947, 12535/1947, 13088/1950, 13089/1950, 9919/1958 and 16512/1959, whereby Portions 14, 15, 16, 17, 18, 19, 24, 23, 28 and 36 (all portions of Portion 13) of the farm Uitzigt, respectively were conveyed, which conditions are to the effect that such proceres were sold and transferred without any of the water rights referred to in condition (3) of component part Number (1) contained in the said Certificate of Consolidated Title Number T12326/1944, by reason of the endorsement dated 8th February 1965 on the said Certificate of Consolidated Title Number T12326/1944, referred to in condition (C) hereunder.
- C. NOT ENTITLED to the conditions contained in the Notarial Deed of Servitude dated 14th October 1936 annexed to Deed of Transfer Number T5951/1934 and referred to in the endorsement thereon, dated 15th October 1936, relating to certain water rights to a spring called the "Silver Spring" and the water rights arising therefrom, and is further not entitled to the benefits of the aforesaid conditions by reason of the endorsement dated 8th February 1965 on the said Certificate of Consolidated Title Number T12326/1944, which reads as follows:-

"REMAINDER

By Deeds of Transfer Number 13089/1950 and 13090/1950, the following properties conveyed thereby namely Portion 20 measuring 7,2700 morgen (para 2 Transfer 13089/1950) and Portion 21 measuring 7,8016 morgen (transfer 13090/1950) have been made entitled in equal shares, to the benefits and obligations under Condition 1(3) herein, as will more fully appear from the aforesaid Deeds of Transfer."

D. AND SUBJECT FURTHER to the following special conditions imposed in Deed of Transfer Number T101574/2000 by and in favour of Belvidere Estate (Proprietary) Limited (Company Number 87/04474/07) (hereinafter referred to as the Transferor) as binding upon the said Transferee and his Successors-in-Title :-

- (a) Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no additions or alternations to approved buildings shall be effected until the Transferor has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house, any outside buildings and fences or walls. The Transferor, however, does not in any way whatsoever accept or assume any legal responsibility arising directly or indirectly from any approval granted by it.
- (b)
- (c)
- (d) The Transferor reserves the right to waive compliance with any one or more of the conditions imposed in (a), (b) and (c). Such waiver shall only be valid in writing and signed by the Transferor.

E. SUBJECT FURTHER to the following conditions imposed by the said Belvidere Estate (Proprietary) Limited and which condition is binding on the Transferee and his Successors-in-Title as created in Deed of Transfer Number T101574/2000, namely :-

The erf shall not be transferred without the written consent of Belvidere Homeowners Association of which the Transferee and his Successors-in-Title shall be a member.



WHEREFORE the said Appearer, renouncing all right and title which the said

FORESITE PROPERTIES CC
Registration Number 2008/082265/23

heretofore had to the premises, did in consequence also acknowledge it to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

ROBERT STANLEY VADAS, Married as aforesaid

his Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R3 000 000,00 (THREE MILLION RAND) .

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 4 October 2016

In my presence

REGISTRAR OF DEEDS

q.q.



APPEAL APPLICATION FORM

in terms of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021)

This form must be appended to the letter of appeal or memorandum which must be in accordance with Section 80 of the Planning By-law

PART A: APPEAL

Are you appealing against the decision made by the Authorised Employee or Municipal Planning Tribunal? If yes, indicate in Part E or attached memorandum if the appeal is lodged against the whole decision or part thereof. If the latter applies provide a description of the part.

Are you appealing in respect of the failure of the Authorised Employee or Municipal Planning Tribunal to make a decision within the period contemplated in Section 57(1) and (2) of the By-law? If yes, provide facts that prove the failure in Part E.

Are you appealing against the condition(s) of approval imposed by the Authorised Employee or Municipal Planning Tribunal? If yes, list relevant condition(s) and provide a description in Part E.

Is your appeal based on and primarily concerned with the process followed prior to the Authorised Employee or Municipal Planning Tribunal? If yes, specify in Part E.

Is your appeal based on and primarily concerned with the merits of the land development or land use application on which it is believed that the Authorised Employee or Municipal Planning Tribunal erred in coming to a conclusion? If yes, specify in Part E.

X	N
Y	X
X	N
Y	X
X	N

Date of Decision: Date of receiving notice of decision:

Who took the original decision?: (please select)

Municipal Planning Tribunal	X	Authorised Employee	☐
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PART B: APPELLANT DETAILS

First Name(s): Surname:

South African Council of Planners (SACPLAN) Registration number: Company Name : (if applicable)

Postal Address: Postal Code:

E-mail:

Telephone Number: Cell phone number:

PART C: APPELLANT PROPERTY DETAILS

For property that is affected by the proposed development

Property Description:	Belvidere Estate
Physical Address:	Lower Duthie Drive
Town/Area:	Knysna

PART D: PROPERTY DESCRIPTION OF PROPOSED LAND DEVELOPMENT

Property Description:	Erf 450, Belvedere, Knysna		
Physical Address:	Cnr Page Close & Lower Duthie Avenue		
Town/Area:	Knysna	Current Zoning:	Single Residential Zone I
Property Extent:	1510 square metres	Current Land Use:	Dwelling House

PART E: APPEAL MOTIVATION AND REASONS:

Brief description of appeal (please attach motivating memorandum with detailed reasons/grounds for appeal):

The appeal is directed against the whole decision (including all conditions of approval) to approve a Consent Use Application for a second dwelling exceeding 60m² on Erf 450, Belvedere. The Appellant, the Belvidere Homeowners Association (BHOA), participated in the application as an objector. The approval was granted in conflict with binding legal constraints, including the restrictive title deed condition and the BHOA Constitution and Building Design Manual (BDM), which require prior approval from the BHOA Architectural Committee. The Tribunal's decision is unlawful in that it failed to give proper effect to the restrictive title deed condition requiring prior written approval. It incorrectly treated the BHOA Constitution and BDM as non-binding, despite their recognised legal status. The Tribunal further relied on a material factual error in recording that no restrictive title conditions applied, and accepted an incorrect building coverage calculation. The Applicant's submission also mischaracterised the BHOA's role as that of a mere public participant, rather than recognising it as the holder of enforceable legal rights. In addition, the Tribunal misconceived the nature of the application by treating it as one of architectural appearance, rather than a land use and density issue arising from the creation of a second dwelling. The decision is also procedurally irregular, as the Tribunal failed to consider the BHOA's supplementary submission, which was submitted well in advance of the hearing. Finally, the decision has broader implications, as it undermines the Estate's density controls and creates uncertainty regarding the enforceability of the BDM and the BHOA governance by permitting additional dwelling units through internal alterations.

A comprehensive letter of appeal, together with supporting annexures, is attached, and the Appellant respectfully requests that these documents, and the legal arguments contained therein, be considered by the Appeal Authority in its entirety.

PART F: ATTACHMENTS AND SUPPORTING DOCUMENTS

Information and documentation required in terms of Section 38(1) of the Planning By-law

Complete the below checklist and attach all documents relevant to the application. Failure to submit all information and/or documents will result in the application being deemed incomplete. The application will not be considered complete until all required information and documents have been submitted.

Proof of payment of appeal fees (applicant)	X	N	N/A
Proof of serving of notice of appeal (applicant)	X	N	N/A

Copy of decision and proof of notification

X	N	N/A
X	N	N/A
X	N	N/A
X	N	N/A

Copy of conditions of approval

Motivation and reasons for appeal

Other (specify)

Additional Annexures attached to the Letter of Appeal.

PART G: DECLARATION:

I hereby wish to confirm the following:

1. That the information contained in this appeal and accompanying documentation is complete and correct.
2. I'm aware that it is an offense in terms of section 86(1) to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.

Appellant's Signature:



Date:

12/06/2026

Appellant Name:

Belvidere Homeowners Association

FOR OFFICE USE ONLY:

Date received:

Received by:

12 June 2026

Jacques Marais
Phone: +27 11 586 6026
Fax: +27 11 586 6026
jmarais@fasken.com

The Appeal Authority
Knysna Local Municipality
P.O. Box 21
Knysna
6570

By Email: knysna@knysna.gov.za
For Attention: Acting Municipal Manager

Our ref: Jacques Marais/334944.00002

Your ref: Collab Reference: 2942161 / File Ref 450 Bel / Application No. 3541

Appeal in terms of Section 79 of the Knysna Municipality Spatial Planning & Land Use Management By-Law, 2021: Consent Use – Erf 450 Belvedere – Application No. 3541

Dear Sir/Madam

1. Introduction

- 1.1 We act on behalf of the Belvedere Homeowners Association (**Appellant** or **BHOA**).
- 1.2 We hereby submit this appeal on behalf of the Appellant to the Appeal Authority in terms of section 79 of the Knysna Municipality: Spatial Planning & Land Use Management By-law, 2021 (**Planning By-law**) against the entire decision (including the conditions) of the Knysna Municipality Planning Tribunal (**Tribunal**) taken on 24 April 2026 (**Decision**), in terms of which the Tribunal granted approval, in terms of section 60 of the Planning By-law, for the consent use of a "second dwelling" measuring greater than 60m² as contemplated under "Single Residential Zone I" of the Knysna Zoning Scheme By-law, 2020 (**Zoning Scheme**), in respect of Erf 450 Belvedere (**Erf 450**).
- 1.3 The Appellant received notice of the Decision, via email, on **22 May 2026**. A copy of the email correspondence notifying the Appellant of the Decision and the Decision are attached to this appeal marked as **BHOA 1A** and **BHOA 1B** respectively. This appeal is accordingly lodged within the 21-day period prescribed by section 79(5) of the Planning By-law.
- 1.4 The Appellant participated as an objector (as contemplated in section 79(5)(e) of the Planning By-law) in respect of the application for consent use in terms of

section 15(2)(o) of the Planning By-law submitted by Robert Stanley Vadas c/o VBGD Town Planners (**Applicant**), to permit a second dwelling greater than 60m² on Erf 450, located at the corner of Page Close and Lower Duthie Avenue (**Application**). The Application reference number is **3541**.

- 1.5 The Appellant submitted a detailed objection dated 14 October 2025 and a supplementary legal submission dated 25 February 2026 in respect of the Application. Copies of both submissions are attached to this appeal marked as **BHOA 2** and **BHOA 3**, respectively.
- 1.6 The Appellant respectfully requests that the Appeal Authority set aside the Decision and refuse the Application, for the grounds set out below.
- 1.7 The Knysna Municipality is referred to in the appeal as the **Municipality**.

2. Overview of Grounds of Appeal

- 2.1 The Appellant's grounds of appeal may be summarised as follows:

- 2.1.1 **Ground 1:** The Decision is unlawful because the Tribunal failed to give proper effect to the restrictive title deed condition registered against Erf 450, which requires the BHOA's prior written approval before any building operations may be commenced, and before any additions, or alterations to approved buildings may be effected. That approval has not been granted. The Tribunal was obliged, in terms of section 65(1)(t) of the Planning By-law to have regard to this restrictive condition and could not lawfully grant approval contrary to it. The Tribunal's failure to have regard to the restrictive title deed condition further constitutes a breach of section 85(2) of the Planning By-law, which prohibits the Municipality from acting in conflict with the provisions of the Planning By-law, including the mandatory obligation under section 65(1)(t).
- 2.1.2 **Ground 2:** The Tribunal failed to give adequate weight to the binding nature of the BHOA Constitution and the Belvidere Estate Building Design Manual, 2024 (**BDM**), and to the provisions of sections 29(3)(d), 29(8), and 85(2) of the Planning By-law, which recognise and protect the authority of homeowners' associations to impose more restrictive development rules than those contained in the Zoning Scheme. The Tribunal further failed to have regard to the legal status of the Appellant as a body corporate established under section 29 of the Land Use Planning Ordinance 15 of 1985 (**LUPO**), the statutory recognition of its Constitution and the BDM by the Municipality, and the transitional provisions of section 66(7) of the Planning By-law;
- 2.1.3 **Ground 3:** The Municipality's recommendation memorandum contains a material factual error, in that it records that there are no restrictive title conditions applicable to Erf 450, when in fact such conditions are registered against Erf 450. This error vitiated the Tribunal's assessment. It further records, and relies upon, the Applicant's submissions that the dispute is merely one of private contractual arrangements which cannot limit the Municipality's statutory decision-making powers, and appears to treat the Appellant's role as one of ordinary public participation. This approach is legally incorrect, as it fails to distinguish between participatory objections

and binding legal constraints arising from title conditions and statutorily recognised homeowners' association controls.

- 2.1.4 **Ground 4:** The Tribunal accepted a disputed and incorrect building coverage calculation that excluded the veranda from the building footprint, despite three independent architects (including the Applicant's own architect and per the plans approved by BAC and submitted to the Municipality) having calculated the coverage at approximately 311m², which exceeds the 300m² threshold in section 5.1.1.2 of the BDM.
- 2.1.5 **Ground 5:** The Tribunal incorrectly conflated architectural appearance with land use, attaching undue weight to the fact that no external alterations were proposed, while failing to recognise that the creation of a second dwelling unit is a land-use and density control issue, irrespective of whether external changes are visible.
- 2.1.6 **Ground 6:** The Tribunal committed a procedural irregularity by failing to include the Appellant's supplementary legal submission dated 25 February 2026 as part of the Agenda for the hearing, despite this letter having been sent to Ms Linda Mniki on 25 February 2026 and again on 20 April 2026, both dates being well ahead of the hearing on 24 April 2026.
- 2.1.7 **Ground 7:** The Decision, if allowed to stand, has broader implications for the Belvidere Estate as a whole, in that it would effectively permit the creation of additional dwelling units within the Estate by means of internal alterations, thereby undermining the density controls contained in the BDM and creating uncertainty regarding the enforceability of the Estate's governance framework.

2.2 Each ground is elaborated upon below.

3. Grounds of Appeal

3.1 **Ground 1: The Decision is Unlawful – Failure to observe the restrictive title deed condition**

3.1.1 The Title Deed condition

- 3.1.1.1 The title deed of Erf 450 incorporates a special condition of title which binds successors in title. The condition provides, in material part, that:

"No building operations shall be commenced on the said erf and no additions or alterations to approved buildings shall be effected until the Transferor has in writing approved the design and construction plans including material and colour specifications."

- 3.1.1.2 The "*Transferor*" in the condition refers to Belvidere Estate (Pty) Limited (**Development Company**). By virtue of a Memorandum of Agreement concluded between the Development Company and the BHOA on 17 December 1997 (**Assignment Agreement**), the rights of the Development Company under the title conditions (including the right to approve or withhold approval for building operations) were assigned to the BHOA. A copy of the Assignment Agreement is attached to this appeal marked as **BHOA 4**.

- 3.1.1.3 The BHOA's Constitution confirms this assignment. The definition of "*Development Company*" in the Constitution states that:

"Development Company means the original developer of Belvidere Estate, Belvidere Estate (Pty) Ltd, all of whose rights and obligations in respect of the development and/or management of Association have been assigned to the Association by written agreement on or about 17 December 1997."

- 3.1.1.4 Accordingly, the BHOA is the entity entitled to exercise the rights conferred by the restrictive title deed condition on Erf 450. The BHOA has not granted its written approval for the proposed second dwelling. The title condition therefore remains operative and unfulfilled.

3.1.2 Nature of a Restrictive Title Deed Condition

- 3.1.2.1 Before turning to the Tribunal's obligations in respect of the title condition, it is necessary to set out the legal nature of a restrictive title deed condition and why it occupies a position of primacy in the hierarchy of land-use controls.

- 3.1.2.2 A restrictive title deed condition is a condition registered against the title deed of immovable property in the Deeds Registry. It restricts the rights of the owner, and all successors in title, in relation to the use, development, or enjoyment of the property. By virtue of its registration in the Deeds Registry, a restrictive title condition operates as a real right, it runs with the land, and binds not merely the original owner, but every person who subsequently acquires ownership of the property.

- 3.1.2.3 Where, as in the present case, restrictive title conditions are imposed in favour of all other properties in a particular township or estate, they have the same status and legal effect as praedial servitudes. This was confirmed by the court in **Camps Bay Ratepayers and Residents Association and Others v Minister of Planning, Culture and Administration, Western Cape, and Others** 2001 (4) SA 294 (C) at 324H–325B, where the court held that:

"Where restrictive title conditions are registered in favour of all other properties in a particular township...they have the same status and legal effect as praedial servitudes..."

- 3.1.2.4 It follows that the restrictive title condition on Erf 450 is not a mere contractual stipulation that the parties may waive at will. It is a registered real right, enforceable by the BHOA as the successor to the Development Company, against all present and future owners of Erf 450. The condition imposes a positive obligation on the owner to obtain the BHOA's prior written approval before commencing any building operations, and before affecting any additions, or alterations to approved buildings, and, conversely, confers on the BHOA a corresponding real right to withhold such approval.

- 3.1.2.5 Critically, a restrictive title deed condition cannot be overridden by a zoning scheme or by a consent use approval granted by a municipality. The relationship between restrictive title conditions and zoning schemes has been authoritatively addressed in the following decisions:

- 3.1.2.5.1 In **Kleyn v Theron** 1966 (3) SA 264 (T) at 270H–272C, the court held that a local authority is bound to observe title deed conditions and that a subsequent town planning scheme does not override a title condition imposed on an erf where there is a conflict between the two.

- 3.1.2.5.2 In *Shell South Africa (Pty) Ltd v Alexene Investments (Pty) Ltd and Others* 1980 (1) SA 683 (W) at 689H, the court approved and applied the principle in *Kleyn v Theron*, confirming that a local authority is bound to observe every condition relating to an erf in a township and is compelled to refuse to approve any building plan in conflict with such condition. This case confirms the principles in *Kleyn v Theron* that a local authority cannot act in disregard of registered restrictive conditions.
- 3.1.2.5.3 In *Malan and Another v Ardconnel Investments (Pty) Ltd* 1988 (2) SA 12 (A) at 40E–F, the Appellate Division held that a town planning scheme does not overrule registered restrictive conditions in title deeds. Moreover, a consent by a local authority in terms of a town planning scheme does not, in itself, authorise the use of an erf contrary to its registered restrictive title conditions.
- 3.1.2.5.4 In *Camps Bay Ratepayers* (referred to above), at 324H–325B, the court confirmed the *Malan* principle and further held that where there is a conflict between the zoning scheme and the title conditions, the latter must enjoy precedence.
- 3.1.2.5.5 In *Van Rensburg and Another NNO v Nelson Mandela Metropolitan Municipality and Others* 2008 (2) SA 8 (SE) at 10I–11C, the court confirmed that restrictive title deed conditions take precedence over the municipality's zoning and planning schemes, and **consequently any possible permission by the municipality to build or use buildings contrary to the conditions cannot be lawful** (emphasis added).
- 3.1.2.6 The effect of these authorities, taken together, is clear. The restrictive title deed condition on Erf 450 occupies a higher position in the hierarchy of land-use controls than the Zoning Scheme or any consent use approval that the Tribunal may grant. The condition is a real right that runs with the land. It cannot be overridden, varied, or rendered nugatory by a municipal planning approval. Any approval granted contrary to the condition is, as a matter of law, unlawful.
- 3.1.3 The Tribunal's Obligation under Section 65(1)(t)
- 3.1.3.1 Section 65(1)(t) of the Planning By-law provides that when the Municipality considers an application, it **must** have regard to, *inter alia*, any restrictive condition applicable to the land concerned (emphasis added).
- 3.1.3.2 This provision imposes a mandatory obligation on the Tribunal to consider and give effect to the restrictive title deed condition on Erf 450. The Tribunal could not simply note the condition's existence and then proceed to approve the Application regardless. To do so is (i) to render section 65(1)(t) meaningless and (ii) in breach of section 85(2).
- 3.1.4 The Approval is Contrary to Law
- 3.1.4.1 Having regard to the authorities set out in paragraphs 3.1.2.5.1 to 3.1.2.5.5 above, it is submitted that the Tribunal's Decision to grant consent use

approval in the face of an operative and unfulfilled restrictive title condition is unlawful.

- 3.1.4.2 The Tribunal itself acknowledged this principle. Paragraph (v) of the reasons for the Decision states:

"Importantly, this support for the second dwelling does not diminish the authority of the Belvedere homeowners association to enforce its constitution and architectural design manual."

- 3.1.4.3 With respect, having acknowledged this principle, the Tribunal nonetheless proceeded to approve the Application. This is internally contradictory and constitutes an error in law. The Tribunal cannot on the one hand recognise that the BHOA's authority is not diminished, and on the other hand grant an approval that the Applicant cannot lawfully give effect to, because the prerequisite approval from the BHOA (as required by the title deed) has not been obtained.

- 3.1.4.4 As confirmed in *Van Rensburg*, any permission granted by the municipality to build or use buildings contrary to the restrictive title deed condition cannot be lawful. Furthermore, by failing to have regard to the restrictive title deed condition as required by section 65(1)(t), the Tribunal acted in conflict with the provisions of the Planning By-law, in breach of the prohibition in section 85(2). The Decision is therefore unlawful and must be set aside.

3.2 **Ground 2: Failure to give effect to the BHOA Constitution, the BDM, and Sections 29 and 85 of the Planning By-law**

3.2.1 Legal Status of the Appellant

- 3.2.1.1 The Appellant is a body corporate with perpetual succession and its own rights and liabilities, duly established in terms of section 29 of the Land Use Planning Ordinance 15 of 1985 (**LUPO**).

- 3.2.1.2 Section 29 falls within the chapter of LUPO dealing with the subdivision of land. It provides that either the Administrator or the council concerned may impose conditions under section 42 on the granting of an application for subdivision in terms of section 25(1), relating to the compulsory establishment by the applicant for subdivision of a homeowners' association. The Appellant was established pursuant to such a condition.

- 3.2.1.3 Section 29(2) of LUPO provides that:

"A home owners' association coming into being by virtue of the provisions of subsection (1) -

(a) shall be a body corporate;

(b) shall have a constitution which -

(i) has as its object the control over and the maintenance of buildings, services and amenities arising from the subdivision concerned;

(ii) provides for the implementation of the provisions of paragraph (c); and

(iii) has been approved by the council concerned in order to ensure that the provisions of subparagraphs (i) and (ii) are being complied with, and

(c) shall have as its members the owners of land units arising from the subdivision concerned, who shall be jointly liable for expenditure in connection with the association."

- 3.2.1.4 As confirmed by Bozalek J in ***Vanilla Street Home Owners Association v Ismail and Another*** (A345/2013) [2014] ZAWCHC 25 (5 March 2014) at paragraph 20, the scheme surrounding, and the wording employed in, section 29 contemplates the homeowners' association having reasonably wide powers, certainly wide enough that ownership or occupation of the properties forming part of the development might involve a derogation from the land use rights otherwise accruing to those properties in terms of the zoning or zoning scheme regulations.
- 3.2.1.5 It was also confirmed in *Vanilla Street* (at paragraph 20) that the Administrator or the council concerned enjoys the ultimate power to approve the provisions of a homeowners' association's constitution in order to ensure that it gives effect to the objects set out above.
- 3.2.1.6 Had the Municipality been of the view that the relevant provisions of the Constitution, including the requirement that an owner may not commence building operations, or make additions or alterations to approved buildings, without the Appellant's approval, were unlawful, nothing prevented it from withholding its approval of the Constitution. It evidently did not do so. The Municipality cannot now disregard provisions of a constitution that it was empowered to scrutinise and approve, and which it did approve.
- 3.2.2 Transitional Recognition under the Planning By-law
- 3.2.2.1 This position is carried through into the Planning By-law. Section 66(7) of the Planning By-law provides that an owners' association or homeowners' association that came into being by virtue of a condition imposed under LUPO, and that exists immediately before the commencement of the Planning By-law, is regarded as an owners' association that came into being by virtue of a condition imposed by the Municipality in accordance with the Planning By-law.
- 3.2.2.2 The Appellant is accordingly recognised, for all purposes under the Planning By-law, as an owners' association whose Constitution and design guidelines (including the BDM) enjoy the statutory recognition and protection described above. The transitional provision in section 66(7) ensures that the Appellant's status, powers, and governance instruments, all of which were established and approved under LUPO, continue in full force and effect under the current legislative framework.
- 3.2.3 Binding Nature of the BHOA Constitution and BDM
- 3.2.3.1 The BHOA is governed by its Constitution, which, together with any regulations adopted in terms thereof, is binding on all members of the BHOA, including the Applicant.
- 3.2.3.2 All functions of the BHOA vest in the Executive Committee, which has the powers conferred on it under the Constitution. These powers include the power to appoint an Architecture Committee to, *inter alia*:

- 3.2.3.2.1 ensure that all plans are considered in terms of the BDM;
- 3.2.3.2.2 take all decisions as may be necessary and within the Architecture Committee's powers to ensure the maintenance of the original Development Concept as interpreted by the Architecture Committee; and
- 3.2.3.2.3 propose regulations governing the maintenance of the Development Concept.
- 3.2.4 The BDM has been formulated to preserve the Belvidere Estate architectural concept (the **Development Concept**) and to give effect to the mandate of the Development Company (now succeeded by the BHOA) imposed as a condition on the title deeds of the properties in the Estate. The BDM therefore constitutes regulations adopted in terms of the Constitution and is binding on every member, including the Applicant. The BDM is registered and filed with the Municipality. The submission made on behalf of the Applicant during the Tribunal proceedings, that the BDM is not registered with the Municipality and does not function as an overlay to municipal planning controls, is factually incorrect.
- 3.2.5 In numerous court judgments, it is confirmed that this binding effect arises from the principles of contract law: when the Applicant purchased and took transfer of Erf 450, he agreed and undertook in favour of the BHOA to be bound by the Constitution, its rules, and its regulations.
- 3.2.6 Furthermore, in terms of section 85(1)(c) of the Planning By-law, the Municipality must comply and enforce compliance with the conditions imposed in terms of the Planning By-law, which, as established above, includes the recognition of the BHOA as a homeowners association established under LUPO and its constitution.
- 3.2.7 Non-Compliance with the BDM
- 3.2.7.1 Section 5.1.1.2 of the BDM sets out the conditions under which a second dwelling (granny flat/guest cottage) may be approved on a single residential erf. Among those conditions is the requirement that:
 - "The coverage of the main house and outbuildings does not exceed 300 square metres."
- 3.2.7.2 As detailed further under **Ground 4** below, the total building coverage of Erf 450 is approximately 311m², which exceeds the 300m² threshold. The Architecture Committee has accordingly considered and rejected the Applicant's request for approval on this basis. The Applicant has not complied with section 5.1.1.2 of the BDM.
- 3.2.8 Statutory Recognition of the BHOA Authority
- 3.2.8.1 The Planning By-law itself recognises and protects the authority of homeowners' associations:
- 3.2.8.2 Section 29(3)(d) of the Planning By-law provides that the constitution of an owners' association must be approved by the municipality and must make provision for control over the design guidelines of the buildings and erven arising from the subdivision.

- 3.2.8.3 Section 29(8) of the Planning By-law provides that the design guidelines contemplated in subsection (3)(d) may introduce more restrictive development rules than the rules provided for in the Zoning Scheme.
- 3.2.8.4 Section 85(2) of the Planning By-law prohibits the municipality from acting in conflict with the provisions of the Planning By-law. This includes those provisions recognising the authority of the BHOA as a homeowners' association and the right of such association to impose more restrictive development rules.
- 3.2.8.5 The principle set out in section 29(8) of the Planning By-law is a confirmation and codification of the legal principle laid out by the full bench of the High Court in *Vanilla Street*. In that case, the full bench held that an owners' association's constitution providing more restrictive land use rights prevailed over the relevant zoning scheme.
- 3.2.8.6 To summarise the combined effect of the statutory framework and the case law:
- 3.2.8.6.1 The Appellant is a body corporate established under section 29 of LUPO, with a Constitution approved by the Municipality, the object of which is to exercise control over buildings arising from the subdivision of Belvidere Estate.
- 3.2.8.6.2 The Constitution and the BDM, which is registered with the Municipality, impose more restrictive development rules than the Zoning Scheme, as expressly permitted by section 29(8) of the Planning By-law.
- 3.2.8.6.3 The Municipality approved the Constitution. Having done so, it cannot now disregard them. As *Vanilla Street* makes clear, the Municipality's power to approve the Constitution was the appropriate occasion to scrutinise its provisions; having approved them, the Municipality is bound to respect them.
- 3.2.8.6.4 The Appellant's status under LUPO is preserved and recognised under the Planning By-law by virtue of section 66(7), ensuring continuity of its governance instruments.
- 3.2.9 The Tribunal's Decision, in granting the Application despite the BHOA's refusal, is inconsistent with sections 29(3)(d), 29(8), and 85(2) of the Planning By-law, the transitional provisions of section 66(7), and the principles confirmed in *Vanilla Street*. By granting a consent use that conflicts with the BDM, which introduces more restrictive development rules than the Zoning Scheme, as expressly permitted by section 29(8), the Tribunal has acted in conflict with its own By-law, contrary to the prohibition in section 85(2).
- 3.3 **Ground 3: Material Factual Error in the Recommendation Memorandum**
- 3.3.1 Failure to Identify Restrictive Title Conditions
- 3.3.1.1 The Municipality's Land Use Planning Report (**KM Report**), prepared by Ms Linda Mniki and dated 16 April 2026, which served as the basis for the Tribunal's Decision, contains a material factual error that goes to the

heart of the assessment. A copy of the report is attached to this appeal marked as **BHOA 5**.

3.3.1.2 Under "*Part C: Property Details*" of the KM Report, the following is recorded:

"Any restrictive title conditions applicable? | None"

"Any third party conditions applicable? | None"

3.3.1.3 This is factually incorrect. As set out under **Ground 1** above, the title deed of Erf 450 contains a registered restrictive condition requiring the prior written approval of the Transferor (now the BHOA) before any building operations may commence or any additions or alterations to approved buildings may be effected. This condition was drawn to the Municipality's attention in the Appellant's objection of 14 October 2025 and again in the supplementary submission of 25 February 2026.

3.3.1.4 The recording of "*None*" against restrictive title conditions and third party conditions is a fundamental error. It meant that the KM Report's assessment under section 6.8 ("*Considerations to the Removal of Restrictive Title Conditions*") was recorded as "*Not applicable*", when in fact this was one of the most critical considerations in the Application.

3.3.1.5 This error vitiated the Tribunal's assessment. Had the KM Report correctly identified and addressed the restrictive title deed condition, the Tribunal would have been compelled to consider whether it could lawfully grant an approval that the Applicant could not give effect to without the BHOA's consent - consent that has been withheld. **The failure to do so constitutes a material error of fact and law that renders the Decision reviewable.**

3.3.2 Incorrect Statement Regarding the Status of the BDM

3.3.2.1 We are instructed that during the proceedings, it was submitted on behalf of the Applicant that the BDM is not registered with the Municipality and does not function as an overlay to municipal planning controls.

3.3.2.2 This submission is incorrect. The BHOA's Constitution and BDM form part of the Estate's governance framework and are registered and filed with the Municipality. These documents are applied in conjunction with municipal planning requirements. As set out under **Ground 2** above, the Municipality itself approved the BHOA's Constitution, which includes and gives rise to the BDM, pursuant to section 29(2)(b)(iii) of LUPO. It is accordingly untenable for the Municipality to accept a submission that a document it was obliged to, and did, approve and register is somehow unregistered or of no regulatory effect.

3.3.2.3 The Tribunal appears to have attached insufficient weight to the status and enforceability of the BDM, in part because of this incorrect factual premise. This constitutes a further material error that vitiates the Decision.

3.3.3 Misplaced Reliance on Municipal Authority and Public Participation Principles

3.3.3.1 As recorded in paragraph 5.3.5 of the KM Report, the Applicant sought to rely on the Municipality's statutory authority by citing the Constitution of

the Republic of South Africa, the Municipal Systems Act, 2000, and SPLUMA, and contended that the Municipality cannot allow a private contractual arrangement between members of a homeowners' association to override its statutory duty to determine land use applications.

3.3.3.2 In this context, reliance was placed, expressly or implicitly, on principles analogous to those embodied in section 16 of the Municipal Systems Act, which governs public participation. The thrust of that reliance is to suggest that the Appellant's role is no more than that of an objector in a public participation process, and that it may not impede or influence the Municipality's decision by withholding approval.

3.3.3.3 That reliance is misplaced.

3.3.3.4 Section 16 regulates the participatory role of the public in municipal decision-making. It applies where members of the public submit objections, comments or representations for consideration by the decision-maker. Its purpose is to ensure inclusive governance while preserving the Municipality's ultimate decision-making authority.

3.3.3.5 The Appellant's position in this matter is fundamentally different. The Appellant is not invoking a participatory right to influence the exercise of municipal discretion. It is asserting the existence and legal effect of binding legal constraints arising from:

3.3.3.5.1 the restrictive title deed condition;

3.3.3.5.2 the Appellant's Constitution (approved in terms of LUPO); and

3.3.3.5.3 the BDM, which forms part of that governance framework and is registered with the Municipality.

3.3.3.6 These instruments are not merely private arrangements. They attach to the property as a matter of law, limit the owner's rights, and must be taken into account by the Municipality in terms of section 65(1)(t) of the Planning By-law.

3.3.3.7 The Municipality retains full decision-making power, but it must exercise that power lawfully and within existing legal constraints. Recognising the existence and effect of a binding title condition and enforceable estate controls is not a delegation or abdication of municipal authority, it is an integral part of the lawful exercise of that authority.

3.3.3.8 The Tribunal's approach, as reflected in the KM Report, effectively treats compliance with the title deed condition, the Constitution, and the BDM as a matter that can be deferred to a later stage or resolved between the parties after approval. That approach is incorrect.

3.3.3.9 A decision must be lawful at the time it is made. The Tribunal cannot approve a land use that is incapable of lawful implementation at the date of approval, and then defer compliance with binding legal constraints to a future stage. To do so is to approve an inherently unlawful state of affairs, contrary to the principles confirmed in *Van Rensburg* and the authorities cited in **Ground 1** above.

3.4 **Ground 4: Incorrect Building Coverage Calculation**

- 3.4.1 The approved plans submitted for Erf 450 reflect a total building coverage of approximately 311m². This figure was not determined by the BHOA's Architecture Committee (**BAC**) alone.
- 3.4.2 Following queries regarding the calculation, the BAC requested independent verification of the building coverage. Three architects, including the Applicant's own architect, reviewed the plans and all arrived at substantially the same calculation, namely approximately 311m².
- 3.4.3 The alternative calculation presented during the Tribunal proceedings excluded the veranda from the coverage calculation and resulted in a reduced figure below the 300m² threshold. Critically, this alternative and creative calculation was not prepared by an architect but by the Applicant's town planner.
- 3.4.4 The Tribunal appears to have accepted this alternative methodology without adequately considering that:
 - 3.4.4.1 the approved plans reflect the veranda as part of the building footprint;
 - 3.4.4.2 the Applicant's own architect had previously calculated the coverage at approximately 311m²; and
 - 3.4.4.3 multiple architects independently arrived at the same conclusion.
- 3.4.5 The KM Report itself, at paragraph 6.9.2, acknowledges that *"the dispute between the applicant and the objectors revolves around the coverage calculation which is around 320m² exceeding the design manual's 300m²."* The KM Report further concedes that *"this assessment considers that the existence of [the] building may not in itself be sufficient reason to grant approval for the second dwelling."*
- 3.4.6 Despite this acknowledgment, the Tribunal proceeded to grant approval. The exclusion of the veranda from the coverage calculation was central to the outcome and constitutes a material factual issue that must be reconsidered by the Appeal Authority.
- 3.5 **Ground 5: Incorrect conflation of Architectural Appearance with Land Use**
- 3.5.1 A significant portion of the Tribunal's reasoning, and the discussion during the proceedings, focused on the fact that the creation of the second dwelling involved no external alterations to the existing building. The KM Report, at paragraphs 6.7.2 and 9.2, emphasises that the proposal relates to *"existing approved buildings"* and that *"the aesthetic appearance would be in keeping with the development concept."*
- 3.5.2 With respect, this approach conflates architectural appearance with land use.
- 3.5.3 Planning controls frequently regulate the use of buildings irrespective of whether external alterations are visible. A building approved for one use cannot automatically be converted to another use simply because no external changes are made. Similarly, the fact that a dwelling was approved as a single residence does not automatically permit the creation of a second dwelling unit internally where the applicable development controls expressly prohibit it.

- 3.5.4 It is important to distinguish between the approved dwelling and the subsequent creation of a second dwelling unit. The BAC approved the dwelling as a single residential dwelling with a total coverage of approximately 311m². The size of the approved dwelling is not in dispute. The dispute arose when a second kitchen was installed, creating a second dwelling unit on a property that exceeds the maximum coverage threshold permitted for second dwellings under the BDM.
- 3.5.5 The BDM's restriction on second dwellings (section 5.1.1.2) is a land-use and density control, not merely an architectural control. The question is not whether the building looks the same from outside, but whether a second dwelling may be created on a property that exceeds the maximum size permitted by the BDM. The Tribunal erred in failing to appreciate this distinction.
- 3.6 **Ground 6: Procedural Irregularity - Failure to include the Appellant's supplementary submission**
- 3.6.1 The Appellant's supplementary legal submission dated 25 February 2026 was sent to Ms Linda Mniki (the report author and contact person for the Application) on 25 February 2026 and was resent on 20 April 2026, both dates being well ahead of the Tribunal hearing on 24 April 2026.
- 3.6.2 Despite this, the letter dated 25 February 2026 was not included as part of the Agenda for the Tribunal hearing. There is no reference to this letter in the KM Report, which lists only the objection dated 14 October 2025 under the public participation section.
- 3.6.3 The 25 February 2026 letter addressed a critical legal issue, namely the legal effect of the restrictive title deed condition on Erf 450 and the implications of the Rebel Email from the Western Cape Government (which email did form part of the Agenda for the Tribunal hearing as Annexure F on pages 196 and 197). It set out in detail the governing legal authorities, including *Shell SA v Alexene*, *Malan v Ardconnel*, *Camps Bay Ratepayers*, *Willow Waters v Koka*, and *Van Rensburg*, demonstrating that the Municipality cannot lawfully authorise development in conflict with an operative restrictive title condition.
- 3.6.4 The failure to place this submission before the Tribunal constitutes a procedural irregularity that materially prejudiced the Appellant. The Tribunal was denied the benefit of the Appellant's most detailed legal argument on the very issue that lies at the heart of this appeal. Had the Tribunal considered the 25 February 2026 letter, it is submitted that it could not reasonably have arrived at the same Decision.
- 3.6.5 In terms of section 79(8) of the Planning By-law, the Appeal Authority must consider the provisions of section 65(1), which includes the restrictive title deed condition. We respectfully request that the Appeal Authority consider the 25 February 2026 letter, attached hereto, as part of the record before it.
- 3.7 **Ground 7: Broader Implications for Belvidere Estate**
- 3.7.1 The implications of the Decision extend beyond Erf 450.
- 3.7.2 If the Tribunal's interpretation is allowed to stand, it may effectively permit the creation of additional dwelling units within Belvidere Estate, provided no

significant external changes are made. This would fundamentally undermine the density controls contained in the BDM and create uncertainty regarding the enforceability of the Estate's governance framework as a whole.

- 3.7.3 The BDM was formulated to preserve the Development Concept of the Estate. The 300m² coverage threshold in section 5.1.1.2 is not an arbitrary stipulation, it is a carefully calibrated density control designed to ensure that second dwelling units are only created on properties of a scale that can accommodate them without eroding the Estate's character.
- 3.7.4 If the BHOA is unable to enforce section 5.1.1.2 of the BDM because the Municipality grants consent use approvals regardless of the BDM's provisions, then it will become difficult for the BHOA to maintain consistency in future decision-making. The development concept of the Estate would, over time, be eroded, and the Architecture Committee would fail in its fiduciary duties to the Members of the Estate.
- 3.7.5 Moreover, the Municipality itself has a statutory interest in the integrity of the BHOA's governance instruments. The Municipality approved the BHOA's Constitution under section 29(2)(b)(iii) of LUPO, and the Planning By-law continues to recognise and protect the BHOA's authority under sections 29(3)(d), 29(8), and 66(7). If the Municipality, through its Tribunal, undermines the very instruments it approved and is obliged to protect, it acts contrary to its own legislative framework and creates a paradox in which the governance structures it helped establish are rendered unenforceable.
- 3.7.6 It is accordingly submitted that the Appeal Authority should consider the precedential effect of the Decision and the importance of upholding the integrity of the Estate's governance framework.

4. Additional Observations on the KM Report

- 4.1 The KM Report, at paragraph 6.9.3, states that "*in agreement with the applicant, the judgement in the Vanilla Street Homeowners' Association v Ismail and Another (2014) did not absolve the Municipality from carrying out its function in terms of municipal land use planning.*" The Appellant does not dispute that the Municipality has a statutory function to consider land use applications. However, the exercise of that function is circumscribed by law, including by the obligation under section 65(1)(t) to have regard to restrictive title conditions, by the prohibition in section 85(2) against acting in conflict with the Planning By-law, and by the principle confirmed in *Vanilla Street* that the Municipality, having approved the BHOA's Constitution, cannot now disregard its provisions.
- 4.2 The KM Report, at paragraph 9.3, characterises the difference between 60m² (the primary right threshold) and 73m² (the proposed second dwelling) as "*negligible*". This reasoning misses the point. The issue is not the marginal size difference under the Zoning Scheme; it is that the total building coverage of Erf 450 exceeds 300m², which is the threshold under section 5.1.1.2 of the BDM below which a second dwelling may be considered. The "*negligible*" characterisation fails to engage with the substantive objection.
- 4.3 The KM Report, at paragraph 6.1, records that the Tribunal previously determined an administrative penalty for the dwelling house on Erf 450 for exceeding the maximum permissible height under the Zoning Scheme. This

prior non-compliance is relevant context - it demonstrates a pattern of departure from development controls on this property.

5. Relief Sought

- 5.1 In light of the above, the Appellant respectfully requests that the Appeal Authority:
 - 5.1.1 set aside the Decision of the Tribunal dated 24 April 2026 granting approval for consent use of a second dwelling greater than 60m² on Erf 450 Belvedere; and
 - 5.1.2 refuse the Application (Reference 3541) on the basis that:
 - 5.1.2.1 the restrictive title deed condition on Erf 450 requires the prior written approval of the BHOA before any building operations may be commenced, and additions, or alterations may be effected, and such approval has not been granted;
 - 5.1.2.2 the Tribunal's decision to grant consent use contrary to the restrictive title deed condition is unlawful, as confirmed by the authorities cited herein, and in particular ***Van Rensburg and Another NNO v Nelson Mandela Metropolitan Municipality and Others*** 2008 (2) SA 8 (SE) and ***Shell South Africa (Pty) Ltd v Alexene Investments (Pty) Ltd and Others*** 1980 (1) SA 683 (W);
 - 5.1.2.3 the BHOA is a body corporate established under section 29 of LUPO, recognised under section 66(7) of the Planning By-law, whose Constitution and BDM were approved by the Municipality and are registered with the Municipality, and the BDM prohibits the creation of a second dwelling on Erf 450 because the total building coverage exceeds 300m²;
 - 5.1.2.4 the Municipality is precluded by sections 29(8) and 85(2) of the Planning By-law from granting approval in conflict with the more restrictive development rules imposed by the BDM;
 - 5.1.2.5 the KM Report contained a material factual error in recording that no restrictive title conditions apply to Erf 450, which vitiated the Tribunal's assessment; and
 - 5.1.2.6 the Municipality, having approved the BHOA's Constitution under section 29(2)(b)(iii) of LUPO, cannot now disregard the provisions of that Constitution, as confirmed in *Vanilla Street*.

6. List of Annexures

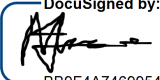
- 6.1 The following documents are attached in support of this appeal:
 - 6.1.1 **Annexure BHOA 1A** – Email Notification of Decision, dated 22 May 2026.
 - 6.1.2 **Annexure BHOA 1B** - Decision of the Knysna Municipality Planning Tribunal dated 24 April 2026 (notice dated 21 May 2026).
 - 6.1.3 **Annexure BHOA 2** - Appellant's objection dated 14 October 2025.
 - 6.1.4 **Annexure BHOA 3** - Appellant's supplementary submission dated 25 February 2026.

- 6.1.5 **Annexure BHOA 4** - Memorandum of Agreement between Belvidere Estate (Pty) Ltd and the BHOA dated 17 December 1997 (Assignment Agreement).
- 6.1.6 **Annexure BHOA 5** - KM Report – Land Use Planning Report: Consent Use: Erf 450 Belvedere (Extract).
- 6.1.7 **Annexure BHOA 6** – Proof of Payment.

7. Conclusion

- 7.1 The Appellant reserves all rights, including the right to make further submissions and to supplement these grounds of appeal should additional information become available.
- 7.2 All notices and further proceedings related to this appeal must be directed to the undersigned.

Yours sincerely

DocuSigned by:

BB9F4A746995458...
Jacques Marais
Fasken

From: [planning](#)
To: [Jacques Marais](#)
Subject: [EXT] Decision: Erf 450 Belvedere
Date: Friday, May 22, 2026 1:05:55 PM
Attachments: [0.png](#)
[Erf 450 Bel \(Objector\).pdf](#)
[LUM Appeal Application Form.pdf](#)

{CAUTION: This email originated from outside of Fasken. Exercise care before clicking links or opening attachments.}

Good day,

Kindly find attached hereto decision for your attention and records.

Kind regards,

Land Use Management

P O Box 21. Knysna. 6570. Western Cape. South Africa

Tel +27 (0)44 302 6300 (switchboard) or 302 6318 (direct)

E-mail planning@knysna.gov.za



Collab. Ref.: 2942161
 File Ref.: 450 Bel
 Application No.:
 JH Smit
 Tel: 044-302 6318



Via Electronic Mail

2026-05-21

J Marais (Fasken Attorneys)
 Obo Belvidere HOA
 PO Box 652057
BENMORE
 2010
 Email: jmarais@fasken.com

Dear Sir/Madam,

DECISION: CONSENT USE: ERF 450 BELVEDER

Your comment in the above regard dated 14 October 2024, refers.

Please be advised that the Knysna Municipality Planning Tribunal at a meeting held on 24 April 2026, unanimously resolved the following:

1. That, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) for the Consent Use of a “second dwelling” measuring greater than 60m² as contemplated under “Single Residential Zone I” of the Knysna Zoning Scheme By-Law (2020), in respect of Erf 450, Belvedere.
2. **The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):**
 - (i) The decision applies to the application as outlined herein and may not be construed as authority to depart from any other legal prescriptions or requirements.
 - (ii) The second dwelling unit shall be limited to the existing building(s).
 - (iii) The development parameters of “dwelling house” and “second dwelling” of the Knysna Zoning Scheme By-law (2020) shall apply, unless otherwise permitted in terms of the provisions of the Planning By-Law.

3. The reasons for above recommendations are as follows:

- (i) The subject property lies within the delineated urban edge in an established settlement and is thus considered suitable for soft densification as supported in terms of the Municipality's spatial planning policy. In terms of the land use context and character of the area of Belvedere, the permitting of second dwellings is considered as a suitable form of densification.
- (ii) Furthermore, it is not anticipated that the proposed second dwelling would detract from the land use character of the area as the residential use and primary right will be maintained. Importantly, it is argued that the established character and aesthetic control as set out in the homeowners' association architectural design manual can be maintained, particularly when considering that the proposal relates to existing approved buildings.
- (iii) A second dwelling unit measuring up to 60m², is permissible as a primary right under the "Single Residential Zone I" zoning of property. The difference of 13m² is therefore considered negligible especially in light of the fact that second dwelling will not be a separate structure. As such, the second dwelling is unlikely to have a negative impact on the quality of life of all residents of the estate.
- (iv) In considering the objections lodged, it was found that it relates to the maximum permissible area for buildings on a single residential property in the estate as imposed by the design manual and not to the principle of a second dwelling, with the latter being the mandate of the Municipality in terms of the zoning scheme. Therefore, the application for consent to allow a second dwelling was considered in terms of the Municipality's Spatial Planning and Land Use Management By-law (2021) and the provisions of the Knysna Zoning Scheme By-law (2020), in terms of authority duly bestowed by the Constitution of the Republic of South Africa.
- (v) Importantly, this support for the second dwelling does not diminish the authority of the Belvedere homeowners association to enforce its constitution and architectural design manual. In fact, the conditions set out herein allows for a framework wherein the applicant and homeowners association can agree on compliance in the context of the estate's constitution and architectural design manual in relation to their plan proposal.

You are hereby informed of your right to appeal to the Appeal Authority in terms of Section 79(2) of the said legislation.

The attached appeal form must be completed and should be directed to the Appeal Authority and received by the Acting Municipal Manager, P.O Box 21, Knysna or via email to knysna@knysna.gov.za within 21 days of notification of this decision together with proof of payment of the appeal fee.

Should you have any further enquiries, please contact Ms. Linda Mniki telephone number: 044-302 6383 or via e-mail address: lmniki@knysna.gov.za.

Yours faithfully,



JH SMIT
MANAGER: LAND USE MANAGEMENT
Delegations: P.78
/lb

14 October 2025

Jacques Marais

Phone: +27 11 586 6026

Fax: +27 11 586 6026

jmarais@fasken.com

The Municipal Manager
Knysna Local Municipality
Knysna
6570**FOR ATTENTION: Linda Mniki**Per Email: lmniki@knysna.gov.za /
knysna@knysna.gov.za

Our ref: Jacques Marais

Your ref: Collab Reference 2663406

Erf 450 Belvedere: Application for Consent Use in terms of Section 15(2)(o) of the Knysna Municipality Spatial Planning & Land Use Management By-Law, 2021

Dear Sir/Madam

1. Introduction

- 1.1 We act for the Belvedere Homeowners Association (**BHOA**).
- 1.2 We refer to the –
 - 1.2.1 application for a consent use in terms of Section 15(2)(o) of the Knysna Municipality Spatial Planning & Land Use Management By-Law, 2021 (**By-Law**) submitted by Robert Stanley Vadas c/o VBGD Town Planners (**Applicant**), to permit a second dwelling greater than 60m² of 73,6m² on Erf 450 Belvedere (**Erf 450**), located at the Corner of Page Close & Lower Duthie Avenue (the **Application**). The Application reference number is **3541**; and
 - 1.2.2 memorandum, dated July 2025, in support of an application for consent use for a second dwelling on Erf 450, prepared by VBGD Town Planners (**Memorandum**); and
- 1.3 Erf 450 falls under the jurisdiction, management and administration of the BHOA.
- 1.4 On behalf of the BHOA, we hereby submit formal objections to the Application in accordance with Section 50 of the By-Law. We have been instructed to specifically address the Applicant's assertions regarding the role and authority of the BHOA and the binding nature of the Belvedere Estate Building Design Manual, 2024 (**BDM**).

- 1.5 While this letter does not address every contention made in the Application or Memorandum, the BHOA reserves the right to respond to any additional points at the appropriate time and forum, should the need arise.

2. **Binding Nature of the BHOA Constitution and BDM**

- 2.1 The BHOA is governed by the constitution of the BHOA (**Constitution**), which, together with any regulations adopted in terms of its Constitution, is binding on all the Members of the BHOA, including the Applicant.
- 2.2 All functions of the BHOA vests in the Executive Committee, which has the powers conferred on it under clause 12 of the Constitution.
- 2.3 The powers conferred on the Executive Committee include the power to –
- 2.3.1 appoint an Architecture Committee to *inter alia* -
- 2.3.1.1 ensure that all plans are considered in terms of the BDM;
- 2.3.1.2 take all decisions as may be necessary and within the Architecture Committee's powers to ensure the maintenance of the original Development Concept as interpreted by the Architecture Committee; and
- 2.3.1.3 propose regulations governing the maintenance of the Development Concept.
- 2.4 Having regard to the first paragraph under Section 3 of the BDM, the BDM has been formulated to –
- 2.4.1 preserve the Belvidere Estate architectural concept [sic] (which presumably implies the Development Concept); and
- 2.4.2 give effect to the mandate of the Development Company (which has been succeeded by the BHOA) imposed as a condition on the title deeds of the properties in the Estate, which states that:
- Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no additions or alterations to approved buildings shall be effected until the Transferor (now the BHOA) has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house, any outside buildings and fences or walls...*
- 2.5 The BDM, therefore, represents the regulations that must be observed and complied with by each Member of the BHOA, and enforced by the Architecture Committee, to ensure that the Development Concept is maintained and preserved.
- 2.6 Having regard to the above, we submit that the BDM constitutes regulations adopted in terms of the Constitution and is binding on every Member, including the Applicant. In numerous court judgements, it is confirmed that this binding effect arises from the principles of contract law, on the basis that the Applicant, when he bought and took transfer of his property (Erf 450), agreed, and undertook in favour of the BHOA, to be bound by the Constitution, its rules and regulations.
- 2.7 Against this background, every Member –
- 2.7.1 undertakes in favour of the BHOA that he shall comply with the provisions of the Constitution and any regulations adopted in terms of the Constitution;

- 2.7.2 shall observe all regulations made by the BHOA; and
- 2.7.3 shall comply with the decisions of the Architecture Committee on interpreting the BDM.
- 2.8 Contrary to the Applicant's suggestion that the BHOA and the BDM are merely advisory, we are instructed to submit that:
 - 2.8.1 the BHOA is governed by its Constitution that is **binding on all Members**, including the Applicant;
 - 2.8.2 the BDM constitutes **regulations adopted in terms of the Constitution**, and its provisions are enforceable by the Architecture Committee appointed by the BHOA;
 - 2.8.3 the title deeds of properties within Belvidere Estate explicitly require **written approval from the BHOA** for any building operations, additions, or alterations; and
 - 2.8.4 the Applicant, by accepting transfer of Erf 450, **contractually undertook** to comply with the Constitution, BDM, and decisions of the Architecture Committee.

3. Legal Framework Supporting BHOA Authority

- 3.1 It is common cause that the BHOA's Architecture Committee has rejected the Applicant's request for approval of a second dwelling on Erf 450 for non-compliance with Section 5.1.1.2 of the BDM.
- 3.2 Section 5.1.1.2 of the BDM provides as follows:
 - 5.1.1.2 SECOND DWELLING UNITS (*Granny Flat/Guest Cottage*)
A second dwelling shall only be approved on a single residential erf if all the following conditions are met:
 - **The coverage of the main house and outbuildings does not exceed 300 square metres.**
 - *The bulk of the proposed second dwelling does not exceed 100 square metres.*
 - *The second dwelling must be of the same design style as the main house specifically in materials, colour, doors and windows.*
 - *One small kitchen is permitted.*
 - *Special application to the Architecture Committee must be made and approval will only be granted at their discretion.*
 - *No third dwelling unit is permissible.*
 - *Special application can be submitted for accommodation units for live-in caregivers.*
 - *Knysna Municipal approval – Town Planning Department application – Consent Use for 2nd Dwelling.*
- 3.3 The Applicant contends that the Application should be approved by the Knysna Municipality regardless of the BHOA's (and by extension, the Architecture Committee's) position.
- 3.4 Based on the reasons and legal principles set out in the paragraphs below, we are instructed that the Knysna Municipality does not have jurisdiction or the

legal competence to override the BDM or condone permanent departures from the development parameters contained in the BDM.

- 3.5 The By-Law affirms the authority of homeowners' associations to impose more restrictive development rules than the rules provided for in the zoning scheme. In this regard, -
 - 3.5.1 Section 29(8) of the By-Law permits a homeowners' association's design guidelines to introduce more restrictive development rules than those contained in the zoning scheme; and
 - 3.5.2 Section 85(2) of the By-Law prohibits the Knysna Municipality from acting in conflict with its own By-Law, including those recognizing the authority of the BHOA as a homeowners' association and the rights of such homeowners' association to impose more restrictive development rules in its constitution than those contained in the zoning scheme.
- 3.6 Accordingly, on the basis of Section 85(2) of the By-Law read with Section 29(8) of the By-Law, the Knysna Municipality may not grant a departure from the development parameters which (i) is in conflict with the BDM and (ii) fails to uphold the 300m² floor area restriction contained in section 5.1.1.2 of the BDM, as any such approval will be in conflict with the Knysna Municipality's mandate not to act in conflict with the By-Law.
- 3.7 Moreover –
 - 3.7.1 Section 29(3)(d) of the By-Law provides that the constitution of an owners' association must be approved by the municipality and must make provision for control over the design guidelines of the buildings and erven arising from the subdivision;
 - 3.7.2 Section 29(8) of the By-Law provides that the design guidelines contemplated in paragraph 3.7.1 above **may introduce more restrictive development rules than the rules provided for in the zoning scheme** (own emphasis);
 - 3.7.3 The principle set out in section 29(8) of the By-Law is a confirmation and codification of the legal principle laid out by the full bench of the High Court of South Africa, Western Cape Division, Cape Town in *Vanilla Street Home Owners Association v Ismail and another* (A345/2013) [2014] ZAWCGC 25 (5 March 2014)(**Vanilla Street-case**) - In summary, in the Vanilla Street-case, the full bench disagreed with the court a quo's conclusion that the Land Use Planning Ordinance 15 of 1985 (**LUPO**) (the ordinance that applied to the Vanilla Street Home Owners Association at that time and which is the ordinance under which the BHOA was established) did not grant the appellant, or other associations like it, the right to limit or restrict the use rights determined by a zoning scheme by way of a provision in its constitution or conduct rules.
 - 3.7.4 **The Court in the Vanilla Street-case found in favour of the homeowners association, having the effect that the constitution providing more restrictive land use rights, prevailed over the relevant zoning scheme.**

4. **Non-Compliance with the BDM**

The proposed second dwelling of 73,6m² exceeds the 300m² coverage limit stipulated in Section 5.1.1.2 of the BDM. The Architecture Committee has already declined approval based on this non-compliance. The Applicant's attempt to reframe the coverage calculation is not supported by the BDM's definitions or the Architecture Committee's interpretation of the BDM.

5. **Municipal Jurisdiction and Ultra Vires Risk**

The Knysna Municipality does not have jurisdiction to override the BDM or condone permanent departures from its parameters. Any approval granted in conflict with the BDM would be ultra vires and subject to legal challenge.

6. **Conclusion**

6.1 For the reasons set out above, it is evident that:

6.1.1 the BHOA has the power to introduce more restrictive development rules than the rules provided for in the zoning scheme (which the BDM in its current form seeks to achieve), and has indeed done so;

6.1.2 the Applicant must comply with the decisions of the Architecture Committee on interpreting the BDM, in respect of which the Architecture Committee has declined approval based on non-compliance with Section 5.1.1.2 of the BDM;

6.1.3 the Knysna Municipality lacks the jurisdiction and legal competence to grant the departure and that any positive determination in respect of the Application will be *ultra vires*;

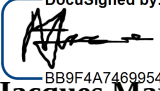
6.1.4 if the Applicant does not agree with the Architecture Committee's decision, then a dispute should have been declared, and the dispute must be dealt with in accordance with the dispute resolution procedures outlined in the BDM and Constitution;

6.1.5 regardless of the manner of breach of the BHOA Constitution or BDM, the BHOA (through the Executive and Architecture Committee) is well within its rights to preserve the architectural concept of the Estate and were it to attempt to condone the breach of Section 5.1.1.2 of the BDM in this case, then not only will the committee act contrary to their powers and duties under the Constitution, but it would be difficult for the committee to object at a later stage to any other transgression of the BDM, which will result in the failure to preserve and maintain the Development Concept of the Estate. This will amount to a failure of its fiduciary duties to the Members in the Estate; and

6.1.6 the Applicant remains bound by the BHOA Constitution and BDM. The Architecture Committee's decision is valid and enforceable. The Knysna Municipality must respect the binding nature of these instruments and refrain from approving any application that contravenes them.

6.2 The BHOA reserves all rights to make further submissions and to participate in any proceedings related to this Application. All notices and further proceedings related to the Application must be sent to writer hereof at the addresses reflected in this letter.

Yours sincerely


DocuSigned by:
BB9F4A746995458
Jacques Marais
Fasken

25 February 2026

Jacques Marais
Phone: +27 11 586 6026
Fax: +27 11 586 6026
jmarais@fasken.com

The Municipal Manager
Knysna Local Municipality
For Attention: Ms Linda Miniki / Mr Hennie
Smit

lmniki@knysna.gov.za /
knysna@knysna.gov.za /
hsmit@knysna.gov.za
Our ref: Jacques Marais/334944.00002

Your ref: Collab Reference 2663406 / Consent Use Reference 3541 (Erf 450 Belvedere)

**Response to Western Cape Government (Mr T Rebel) - Belvidere HOA / Erf 450
Belvedere - Consent Use Application for Second Dwelling**

Dear Sir/madam

Introduction and Background

1. We act for the Belvidere Home Owners Association (**BHOA**).
2. We are instructed to address the email dated 18 June 2025 from Mr Theo Rebel, Chief Town and Regional Planner at the Western Cape Government (the **Rebel Email**), which was circulated to the Municipality regarding the role of the BHOA in land use applications. A copy of the email is enclosed with this letter.
3. The Rebel Email was tabled in the context of the application for consent use (Reference 3541) for a second dwelling on Erf 450 Belvedere (**Erf 450**). We refer to our client's detailed objection dated 14 October 2025, which is already on your file.
4. The purpose of this letter is to correct a key legal misapprehension conveyed to the Municipality in the Rebel Email.
5. It is a well-established principle in South African law that registered restrictive title deed conditions prevail over permissive zoning or land-use scheme rights. Where a title condition requires prior HOA approval for building work and such approval has been refused, the Municipality cannot lawfully authorise development contrary to that condition unless and until the condition is lawfully removed or amended.

The Restrictive Title Condition on Erf 450

6. The title deed of Erf 450 incorporates special conditions which bind successors in title. In particular, title deed condition D(a) provides that:

“...No building operations shall be commenced on the said erf and no additions or alterations to approved buildings shall be effected until the Transferor has in writing approved the design and construction plans including material and colour specifications...”

7. In **Willow Waters Homeowners Association (Pty) Ltd v Koka NO and Others** 2015 (5) SA 304 (SCA), the Supreme Court of Appeal (SCA) confirmed that two requirements must be met for a title condition to constitute a real right:¹
 - 7.1 The SCA held that the intention of the person who creates the right must be to bind not only the present owner of the land, but also successors in title. In the present case, the title deed condition on Erf 450 expressly binds successors in title, satisfying this requirement.
 - 7.2 The SCA held that for a condition to be capable of valid registration as a real right, it must carve out a portion of, or take away something from, the dominium. This principle is embodied in section 63(1) of the Deeds Registries Act 47 of 1937, which provides that no condition which does not restrict the exercise of any right of ownership in respect of immovable property shall be capable of registration.²
8. As to the second requirement, the SCA confirmed that ownership comprises a bundle of rights or competencies, which include the right to use the property, to exclude others from it, and to give others rights in respect thereof. One of these competencies is the *ius disponendi*, being the right to freely dispose of the property. Critically, if that right is limited in the sense that the owner is precluded from obtaining the full fruits of the disposition, one of his rights of ownership is restricted.³
9. In the context of Erf 450, the title condition requiring the BHOA's prior written approval before building operations commence restricts the owner's ability to freely develop and use the property. This constitutes a subtraction from dominium, satisfying the second requirement.
10. It remains operative unless it is removed or varied through the applicable statutory mechanism. A municipal consent or approval cannot override it.

Governing legal principles and authorities

11. In **Shell South Africa (Pty) Ltd v Alexene Investments (Pty) Ltd**⁴ the court held (approving **Kleyn v Theron** 1966 (3) SA 264 (T) at 270H - 272C) that a local authority is bound to observe title deed conditions and that a subsequent town planning scheme does not override the title condition imposed on an erf where there is a conflict between the two.
12. In **Malan and Another v Ardconnel Investments (Pty) Ltd**⁵ the court held (also referring to **Kleyn v Theron** 1966 (3) SA 264 (T) at 272) that a town planning scheme does not overrule registered restrictive conditions in title deeds. Moreover, a consent by a local authority in terms of a town planning scheme does not, of itself, authorise the use of an erf contrary to its registered restrictive title conditions.

¹ *Willow Waters Homeowners Association (Pty) Ltd v Koka NO and Others* 2015 (5) SA 304 (SCA) at par 16.

² *Ibid* at par 21.

³ *Ibid* at par 22.

⁴ 1980 (1) SA 683 (W) at 689H.

⁵ 1988 (2) SA 12 (A) at 40E-F.

13. In *Camps Bay Ratepayers and Residents Association and Others v Minister of Planning, Culture and Administration, Western Cape, and Others*⁶ the court –
 - 13.1 confirmed the principle in the *Malan-case* (refer to paragraph 12 above) that the zoning scheme does not override title deed restrictions;
 - 13.2 held that where restrictive title conditions are registered in favour of all other properties in a particular township, as in this case, they have the same status and legal effect as praedial servitudes, which can be enforced by an owner of property in that township against the owner who may be acting in breach of those conditions; and
 - 13.3 further held that where there is a conflict between the zoning scheme and the title conditions, the latter must clearly enjoy precedence.
14. In *Van Rensburg and Another NNO v Nelson Mandela Metropolitan Municipality and Others*⁷ the court confirmed that restrictive title deed conditions take precedence over the municipality's zoning and planning schemes, and consequently any possible permission by the municipality to build or use buildings contrary to the conditions cannot be lawful.
15. It follows from the above authorities that a municipal consent or approval cannot authorise development in conflict with an operative title condition. If such consent were to be granted regardless, it would be ineffectual and at risk of being declared unlawful to the extent that it purports to sanction a contravention of the title condition.
16. Furthermore, a decision by the Municipality to grant consent use in circumstances where such consent cannot lawfully be given effect to would constitute administrative action that is, at minimum, unlawful for the purposes of the Promotion of Administrative Justice Act 3 of 2000. Such a decision would be susceptible to review and setting aside by a court, with an appropriate costs order.

Application to Erf 450 and Rebel Email

17. The BHOA's approval has been refused, and the title condition remains operative. The BHOA's Architecture Committee has refused the applicant's proposal on the ground that it does not comply with Section 5.1.1.2 of the Belvidere Estate Building Design Manual, 2024, including the 300 m² coverage threshold and the applicable style controls. That refusal constitutes the exercise of the title condition approval power recorded in the title deed of Erf 450. In the absence of the BHOA's approval, no building operations may lawfully commence.
18. The key propositions advanced in the Rebel Email are rebutted as follows:
 - 18.1 *Municipal planning competence versus real rights*: While land use decision-making falls within the competence of the Municipality, that competence does not extend to the negation of a registered real right. The Municipality's planning authority is circumscribed by the existence of the operative title condition.
 - 18.2 *HOA rules versus title conditions*: With reference to paragraph 2.6 of our client's objection of 14 October 2025, we accept that the BHOA's constitution, regulations and rules are binding on and enforceable against its members based on the principles of contract law (that is through private mechanisms). However, in this instance, the title deed itself requires prior BHOA approval. This is a

⁶ 2001 (4) SA 294 (C) at 324E – G; 324H- 325B.

⁷ 2008 (2) SA 8 (SE) at 10I - 11B.

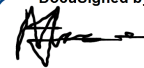
registered restriction that prevails over the zoning and planning schemes of the Municipality.

- 18.3 *Deciding without HOA consent or comment:* The granting of the consent use by the Municipality cannot legalise a development that contravenes a registered restriction. Any such approval would be incapable of implementation and legally vulnerable to challenge.
19. We point out that granting consent use in the present circumstances would serve no practical purpose. Even if the Municipality were to approve the application, the applicant would remain unable to commence building operations in the absence of the BHOA's written approval as required by the title deed. The granting of consent would accordingly be an exercise in futility and a waste of the Municipality's administrative resources.

Conclusion

20. We submit that the Municipality cannot process the consent use application on the basis that it cannot be given effect to in the presence of the operative restrictive title condition and the BHOA's refusal of written approval, and should the Municipality process the application, which it should not, the application must be refused.
21. All our client's rights are expressly and fully reserved.

Yours sincerely

DocuSigned by:

BB9F4A746995458...
Jacques Marais
Fasken

MEMORANDUM OF AGREEMENT

concluded between

BELVIDERE ESTATE (PROPRIETARY) LIMITED

and

BELVIDERE HOME OWNERS ASSOCIATION

1. DEFINITIONS

In this memorandum, except to the extent that the context may indicate a contrary intention: -

- 1.1 **"Architecture Committee"** means the Architecture Committee constituted as such pursuant to the provisions of Clause 3.1 of this memorandum.
- 1.2 **"BHOA"** means the Belvidere Home Owners Association.
- 1.3 **"Building restrictions"** means the Title Conditions restricting building operations on the erven in Belvidere Estate.
- 1.4 **"Development Company"** means Belvidere Estate (Proprietary) Limited (Company No 87/04474/07) referred to in the Title Deeds specified below as the Transferor.
- 1.5 **"Executive Committee"** means the Executive Committee of the **BHOA** elected in terms of the **BHOA** Constitution of 1993 as amended from time to time.
- 1.6 **"Manual"** means the Belvidere Estate Building Design Manual, 1998, of which a copy is annexed hereto, and as it may hereafter be amended from time to time in accordance with the provisions of Clause 3.4.
- 1.7 **"Member"** means a Member of the **BHOA**.
- 1.8 **"Title Conditions"** means the conditions of title recorded in the title deeds of the owners and their successors in title of Belvidere Estate, restricting the disposal of the erf in Belvidere Estate concerned and /or restricting building operations without the consent of the **Development Company** or the **BHOA** as specified in Deeds of Transfer Nos. T 15866/1989 and T65038/1990 as specified in Annexures 1 and 2 attached.

2. AUTHORISATION ASSIGNED BY DEVELOPMENT COMPANY

The Development Company hereby authorises the **Executive Committee** to set up an **Architecture Committee** as specified in Clause 3.1 to ensure compliance of owners of property within Belvidere Estate with the **Title Conditions** relating to buildings and building operations created in the Deeds of transfer Nos. T 15866/1989 and T65038/1990.

3. OBLIGATIONS OF THE EXECUTIVE COMMITTEE

3.1 The **Executive Committee** shall appoint a sub committee which shall be known as the **Architecture Committee**, and shall have the right to fill vacancies in such **Architecture Committee** from time to time and to re-appoint the **Architecture Committee** or otherwise on an annual basis. The **Architecture Committee** shall consist of a minimum of four persons, one of such persons being nominated by the **Executive Committee** to serve as Chairman, and shall pursue the following purposes:

- 3.1.1 to consider and approve all proposed building plans in respect of any new development and in respect of any improvement or alteration or addition to land or buildings within Belvidere Estate;
- 3.1.2 to ensure that every building and/or structure erected on Belvidere Estate shall be of approved design and sound construction;
- 3.1.3 to ensure that all plans are considered in terms of the **Manual** which specify standards and colours for inter alia dwellings, carports, walls, fences, any alterations and/or additions including swimming pools;
- 3.1.4 to take all such decisions as may be necessary and within the **Architecture Committee's** powers either in terms of the **BHOA** constitution or the **Title Conditions** in order to implement the architectural requirements detailed in the **Manual**;
- 3.1.5 to obtain professional advice from an independent architect approved by the **Development Company** in cases which in the **Architecture Committee's** sole discretion are difficult or where the **Architecture Committee** cannot reach agreement or in cases where there is dispute, and to do so at the cost of the applicant;
- 3.1.6 to withhold permission to proceed with construction should the **Architecture Committee** decide the architectural requirements detailed in the **Manual** are not being fulfilled.

3.2 In the event of any dispute arising between the **Architecture Committee** and a **Member**, which may result in legal action in terms of the **BHOA** constitution, the **Executive Committee** shall consult the **Development Company** and obtain the **Development Company's** agreement to any action prior to that action being commenced. The **Development Company** will in no way be liable for any costs arising out of or incidental to the aforesaid legal action.

- 3.3 Should a dispute arise as defined in Annexure 2 (b) the portion of costs specified to be borne by the **Development Company** shall be for the account of the **BHOA**.
- 3.4 **The Executive Committee** shall review the work of the **Architecture Committee** on a regular basis.
- 3.5 **The Executive Committee** shall ensure that no alteration is made to the **Manual** without the written agreement of the **Development Company**, the **Architecture Committee** and the **BHOA** in terms of the **BHOA** constitution.
- 3.6 **BHOA** shall meet the annual costs directly associated with the continued registration of Belvidere Estate (Proprietary) Limited but limited to an annual amount of R1500,00 (fifteen hundred rand), which amount shall be subject to an annual review between the two parties.

4. REVIEW

The Agreement will be subject to an annual review between the two parties.

5. TERMINATION

The Agreement will be subject to termination between the parties, on the basis of three months prior written notification. Should either party elect to terminate the agreement as aforesaid, it shall not be required to provide reasons for its decision.

6. DISPUTE RESOLUTION

Each party to this agreement consents to the referral to arbitration in terms of the Arbitration Act No. 42 of 1965 of any dispute relating to the interpretation or performance of this agreement. The arbitrator shall be a senior counsel agreed to by both parties who has practised as such at the Cape Town bar for not less than five years.

7. COMPANY DEREGISTRATION

Should both parties decide that it was no longer beneficial / financially viable to retain Belvidere Estate (Proprietary) Limited then;

- 7.1 the company will be deregistered.
- 7.2 all remaining rights and beneficial rights under Deeds of Transfer Nos. T15866/1989 and T65038/1990 would be deemed to have been ceded to BHOA by the DEVELOPMENT COMPANY.
- 7.3 The chairperson of BHOA will have the authority to act on behalf of both parties.

SIGNED AT KNYSNA

THIS 17th DAY OF DECEMBER, 1997

AS WITNESSES:

For and on behalf of
BELVIDERE ESTATE (PROPRIETARY) LIMITED

1.

V. Maun

2.

[Signature]

RGR

SIGNED AT KNYSNA

THIS DAY OF DECEMBER, 1997

AS WITNESSES:

For and on behalf of
BELVIDERE HOME OWNERS ASSOCIATION

1.

X

2.

V. Maun

[Signature]

ANNEXURE 1:
TO AGREEMENT BETWEEN BELVIDERE ESTATE (PTY) LTD
AND BELVIDERE HOME OWNERS ASSOCIATION

TITLE DEED CONDITIONS PERTAINING TO "FIRST" PHASE TRANSFER
(Stands 1 to 167)

- D. AND SUBJECT to the following special conditions contained in Deed of Transfer No. T 15866/1989 imposed by and in favour of Belvidere Estate (Proprietary) Limited (Company No. 87/04474/07) (hereinafter referred to as The Transferor) as binding upon the said Transferee and his Successors in Title:-
- (a) Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no alterations to approved buildings shall be effected until the Transferor has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house, any outside buildings and fences or walls. The Transferor shall be the sole judge as to the suitability of the design and/or construction method, material or colours and its decision shall be final. The Transferor, however, does not in any way whatsoever accept or assume any legal responsibility arising directly or indirectly from any approval granted by it.

ANNEXURE 2:

**TO AGREEMENT BETWEEN BELVIDERE ESTATE (PTY) LTD
AND BELVIDERE HOME OWNERS ASSOCIATION**

**TITLE DEED CONDITIONS PERTAINING TO PROPERTIES TRANSFERRED FROM BELVIDERE
VENTURE TRUST**

- E. AND SUBJECT to the following special conditions contained in Deed of Transfer No. T 65038/1990 imposed by and in favour of BELVIDERE ESTATE (PROPRIETARY) LIMITED (Company No. 87/04474/07) (hereinafter referred to as The TRANSFEROR) and its Successors in Title as binding upon the said Transferee and its Successors in Title:-
- (a) The erf shall not be transferred without the written consent of Belvidere Home Owners Association of which the Transferee and his Successors in Title shall be a member.
 - (b) Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no alterations to approved buildings shall be effected until the Transferor has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house, any outside buildings and fences or walls. The Transferor, however, does not in any way whatsoever accept or assume any legal responsibility arising directly or indirectly from any approval granted by it. In the event of a disagreement between the Seller and the Purchaser of the subdivided erf in regard to any aspect of the said plans and specifications referred to above, the parties agree that the dispute shall be referred to a nominee of the President for the time being of the Institute of South African Architects acting as an expert whose decision on the dispute shall be final and binding on both parties. The costs payable to the said nominee shall be shared equally between the said Belvidere Estate (Proprietary) Limited and the Purchasers of the subdivided erf.
 - (c) The Transferor reserves the right, in its sole discretion, to waive compliance by the Transferee or his Successors in Title, with condition (b). Such waiver shall be valid only if embodied in writing and signed by the Transferor.



Knysna

Municipality Munisipaliteit uMasipala
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ITEM TO:

Municipal Planning Tribunal

APPLICATION NO.	3541
REPORT AUTHOR	Linda Mniki
JOB TITLE	Town Planner
SACPLAN REG. NO.	
TELEPHONE NO.	044-302-6383
APPLICATION DATE:	19 August 2025

LAND USE PLANNING REPORT CONSENT USE: ERF 450 BELVEDERE

PART B: APPLICANT DETAILS

Name & Surname	Lloyd Druce
Company name	VBGD Town Planners
SACPLAN registration number	A/543/1987
Registered owner(s)	Robert Stanley Vadas

PART C: PROPERTY DETAILS

Property description	Erf 450 Belvedere, in the Municipality of Knysna, Province of the Western Cape
Property Extent (m²)	1,510
Physical address	C/o Page Close & Lower Duthie Avenue
Area/Town	Belvedere
Current zoning	Single Residential Zone I
Applicable zoning scheme	Knysna Zoning Scheme By-law (2020)
Current land use	Dwelling house
Are there existing buildings on the property?	Yes
Title Deed number & date	T60657/2016 dated 21 June 2016
Any restrictive title conditions applicable?	None
Any third party conditions applicable?	None
Any unauthorised land use/building work	None
Pre-Application Consultation	Yes

1. APPLICATION DESCRIPTION

The application is for consent use in terms of Section 15(2)(o) of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021) for a "second dwelling" measuring greater than 60m² as contemplated under "Single Residential Zone I" of the Knysna Zoning Scheme By-law (2020), in respect of Erf 450, Belvedere.

2. BACKGROUND

2.1. Erf 450, Belvedere is located at the corner of Page Close and Lower Duthie Avenue and is zoned "Single Residential Zone I" in terms of the Knysna Zoning Scheme By-law (2020). The subject site has an existing approved dwelling house.

2.2. The landowner wishes to construct a second dwelling on the subject property in terms of the existing footprint as shown on the approved building plan. The floor area of the second dwelling exceeds 60m² and, therefore, a consent use application may be considered as contemplated under "Single Residential Zone I" of the Knysna Zoning Scheme By-law (2020).

3. PRE-APPLICATION CONSULTATION MEETING

A pre-application consultation meeting was not held in terms of this application.

4. SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation can be summarised as follows:

- 4.1. The applicant's memorandum concludes that the application is straightforward and has merit from a town planning perspective. In their memorandum, the applicant highlights a dispute with the Belvedere Homeowners' Association ("BHOA") in relation to the permissible extent of coverage according to the design guidelines of the association.
- 4.2. The proposal for a second dwelling would not add additional floor space, with no visual changes, meets all zoning scheme criteria for a second dwelling, and is the form of land use commonly approved across the Knysna area.
- 4.3. The applicant does not expect the BHOA to change its stance, but submit that regardless of that stance, the Municipality is both empowered and obliged to evaluate and decide the application on its merit in terms of Section 65 of the Planning By-law – and that on those merits, a favourable consideration may be rendered.
- 4.4. The complete motivating memorandum of the applicant with arguments in favour of the application is attached to this assessment report as an annexure.

5. PUBLIC PARTICIPATION

Method of Advertising				Date Published	Closing Date		
	Yes	No	N/A				
Press	☐	☐	☒				
Gazette	☐	☐	☒				
Notices	☒	☐	☐	11 September 2025			11 October 2025
Ward Councillor	☒	☐	☐	11 September 2025			19 October 2025
Site Notice	☐	☒	☐				
Community Organisations	☐	☒	☐				
Public Meeting	☐	☐	☒				
Third Parties	☐	☒	☐				
Total Valid Comments	Two (2)			Total comments and petitions refused	0		
Valid Petitions	Y ☐	N ☒		No of signatures	Not Applicable		
Community organisation(s) response	Y ☐	N ☐	N/A ☒	Ward Councillor response	Y ☐	N ☐	N/A ☒
Public participation was undertaken in accordance with sections 45-49 of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021)						Y ☒	N ☐

5.1. Summary of Comments Received during Public Participation

Public comment and objections were received from the following persons represented by an agent:

Erf No.	Objector	Agent	Date Received
Erf 452 and Erf 453, Belvedere	Mr. Servaas van Breda Lombard	Mr. Jacques Marais (Fasken incorporated under Bill Dewar)	14 October 2025
None	Belvedere Homeowners' Association		

The objection(s) can be summarised as follows:

- 5.1.1. The objections highlight the legal standing of BHOA and the "Belvedere Estate Building Design Manual" (2024). The BHOA is governed by a constitution and is contractually binding on all members, including the applicant. It is stated that when the applicant/landowner took transfer of Erf 450, he contractually undertook – as all purchasers within the estate do – to comply with the conditions of title, the BHOA constitution, its regulations, and the decisions of the Architectural Committee.
- 5.1.2. The decisions made by BHOA's architectural committee on plans are binding and do not serve as 'merely advisory guidance' as suggested by the applicant. The objector, therefore,

emphasises their point that the said powers are maintained in case law and are reflected in contractual law.

- 5.1.3. With these powers, the owners' association undertook to render a decision to reject the proposal of a second dwelling as it did not meet the criterion in section 5.1.1.2 of the BDM which sets out the conditions under which a second dwelling (granny flat or guest cottage) may be approved on a single residential erf. Among those conditions is the requirement that the combined coverage of the main house and outbuildings must not exceed 300m². The proposed second dwelling of 73.6m² causes the total coverage of Erf 450 to exceed this 300m². The Architecture Committee has already considered and rejected the applicant's request for approval on precisely this basis.
- 5.1.4. The objector rejects the applicant's attempt to reframe or reinterpret the coverage calculation to make the numbers appear compliant, but this reframing is not supported by the BDM's definitions, nor by the Architecture Committee's authoritative interpretation of the design manual – an interpretation that members are contractually bound to accept.
- 5.1.5. In light of the aforementioned, the objection vehemently expresses the reasons why the Municipality is not permitted to render a decision which is in conflict with the design manual. According to Section 29(8) of the Planning By-law, the design guidelines contemplated in subsection (3)(d) may introduce more restrictive conditions than the rules provided for in the zoning scheme, which in this instance applies.
- 5.1.6. Furthermore, Section 85(2) of the Planning By-law states that the Municipality must comply with and enforce compliance with the provisions of the Planning and Zoning Scheme By-laws. This is to say that it cannot lawfully approve plans that contradicts a framework that the Municipality itself, is required to recognise. The objection highlights Section 29(3) of the Planning By-law which requires the constitution of an owners' association, once approved by the Municipality, must include provision for control over design guidelines.
- 5.1.7. In reiterating the sentiments above, the objector makes example of the precedent set in the case of *Vanilla Street Homeowners' Association v Ismail and Another* (2014) at the Western Cape High Court where the court held that an owners' association constitution imposing more restrictive land use rights than the zoning scheme, prevailed over the zoning scheme.
- 5.1.8. The objection concludes that on the aforementioned basis that any approval granted by the Municipality that conflicts with the estate's design guidelines would be *ultra vires*, meaning acting beyond its legal powers, and would thus be susceptible to legal challenge.
- 5.1.9. The objector also notes that the applicant failed to follow the dispute resolution procedures as set out in the estate's design manual and constitution, by going directly to the Municipality. Should the Architectural Committee have granted condonation for the maximum permissible

floor area, it would be difficult for the owners' association to maintain consistency in future decision-making – the implications thereof are that overtime, the "development concept of the estate would be eroded" and it would constitute a failure of the Committee's fiduciary duties to all members of the estate.

5.2. Summary of Comments from Departments/Organs of State

Name	Date Received	Summary of Comments	Recommendation
Infrastructure Services	30 September 2025	No objection.	Positive
Building Control	06 October 2025	Recommend for approval.	Positive

5.3. Summary of Applicant's Reply to comments

The applicant responded to the objections as follows:

- 5.3.1. The applicant notes that the objector relies on the title deed condition that requires BHOA approval before any building additions or alterations may proceed. The applicant argues that the condition is to ensure approved design and sound construction, i.e. materials, colours, and the physical design of a dwelling. As such, the said function has been fulfilled as the existing buildings have already received approval from the owners' association. The proposed second dwelling involves no additions whatsoever to the building fabric as the space in question is not visible from outside the property and no new buildings or structures are proposed.
- 5.3.2. Further to this point, the applicant quoted the mandate of the owners' association's Architectural Committee which is to exercise control to ensure the original development concept is maintained and, where possible, reclaimed, and to regulate the visual and aesthetic character of the estate.
- 5.3.3. On the matter of coverage, the applicant makes two arguments; firstly, it is argued that the 300m² threshold of the design manual is met and thus the BHOA's coverage calculation is in dispute. Secondly, the applicant characterises the 300m² area as an arbitrary stipulation which lacks consideration of the implications of the second dwelling unit and not only whether a numerical threshold is exceeded. This would represent a failure of reasoned decision-making. The applicant further notes that that even if the Architectural Committee's coverage calculation was accepted, the existing building coverage is fully compliant with the Knysna Zoning Scheme By-law, meaning that the proposal is lawful under the municipal planning framework regardless of the internal homeowners' association dispute.

- 5.3.4. In protest of the statements by the objector which caution the Municipality from considering or making a decision that is in conflict with the stance of BHOA, the applicant argues that in spite of the provisions of Section 29(8) of the Planning By-law, it does not remove the Municipality from the process.
- 5.3.5. The Municipality is required to evaluate each land use application in terms of the criteria set out in Section 65 of the Planning By-law. The Municipality's obligation cannot be displaced by a private association's internal guidelines. The applicant thus draws on the Municipality's authority by citing the Constitution of South Africa, the Municipal Systems Act, 2000 (Act No. 32 of 2000), and SPLUMA, 2013 (Act No. 16 of 2013), all of which entrench land use decision-making as an exclusive municipal competency. It is stated that a municipality cannot allow a private contractual arrangement between owners' association members to override its statutory duty to consider applications.
- 5.3.6. Failure of the Municipality to carry out its functions would be reviewable under the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000). This sentiment is further reiterated in the advising correspondence from the Western Cape's Department of Environmental Affairs and Development Planning which confirm that the adverse comments from the owners' association does not conclude the matter and that the Municipality should apply its own mind to all informants and interests in an application.
- 5.3.7. In respect of the case law cited by the objector, the applicant believes that the objectors conflated the matter by focusing on the contractual enforceability of the owners' association rules between residents whereas they did not highlight that the judgement does not remove or diminish the Municipality's statutory decision-making powers in terms of land use applications.

6. PROPOSAL ASSESSMENT

6.1. Application History

The Municipal Planning Tribunal determined an administrative penalty for the height of the dwelling house which exceeded the maximum permissible height as specified in the zoning scheme in 2023. It is unknown whether the penalty was paid; however, a plan approval was issued by the Municipality in October 2023 which implies that compliance with the zoning scheme was achieved.

6.2. Considerations in terms of SPLUMA

The Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013) list several development principles against which a land use application needs to be considered. These are broad principles and cannot always be weighed in terms of all applications. In agreement with the applicant, however, it can be argued that the consent use to allow for a "second dwelling" would allow for optimal use of land and thus contribute to the concept of "spatial sustainability."

6.3. Consistency with SDF, IDP and applicable Policies

The Knysna Municipal Spatial Development Framework (2020) ("SDF") supports the consolidation of our existing urban settlements as opposed to the lateral expansion of our urban areas. Densification (including second dwellings) is considered a means of achieving this objective of the SDF as it allows the use of existing infrastructure capacity. In broad and strategic terms, the second dwelling unit proposal on the subject erf is considered consistent with municipal spatial planning policy.

6.4. Impact on Municipal Engineering Services

The subject erf is sufficiently serviced with municipal services. Furthermore, the Infrastructure Services directorate lodged no objections against the second dwelling proposal.

6.5. Outcomes of Investigations/Applications i.t.o. other Legislation

Not applicable.

6.6. Zoning Considerations

The subject property is zoned "Single Residential Zone I" in terms of the Knysna Zoning Scheme By-law (2020) and no change in the primary use rights to the erf is proposed.

6.7. Desirability of Proposal

The desirability of the application was considered in terms of the following factors:

Assessment Criteria	Y	N	N/A
Has the motivation of the applicant been considered in the assessment of the application?	☒	☐	☐
Will the proposal have a negative impact on the character of the surrounding area in terms of form, density, and aesthetics?	☐	☒	☐
Does the proposal affect the residential amenity of the adjacent landowners negatively in terms of sunlight, privacy, views, and general enjoyment?	☐	☒	☐
Will the intended building proposal affect the adjacent land uses negatively?	☐	☒	☐
Will the proposal and/or building work have a negative effect on the architectural character of the streetscape?	☐	☒	☐
Will the proposal and/or building work have an impact on the municipal bulk services network?	☐	☒	☐
Does the proposal cause a negative impact on vehicular and pedestrian movement on the public street(s), including vehicle sight distances?	☐	☒	☐
Are there adequate on-site parking (including loading bays, where applicable) in accordance with the provisions of the Zoning Scheme By-law?	☒	☐	☐
Does the property have adequate and suitable vehicle access and egress in accordance with the provisions of the Zoning Scheme By-law?	☒	☐	☐
Will the proposal affect the natural and/or open space system negatively, including resulting in the removal of indigenous/protected trees on the site and/or road reserve?	☐	☒	☐

Assessment Criteria	Y	N	N/A
Does the proposal have any negative impact on heritage resources?	☐	☐	☒

6.7.1. The Knysna Zoning Scheme By-law (2020) allows a second dwelling unit of less than 60m² in area as of right while a second dwelling unit in greater area (and up to 150m²) is a secondary use with the consent of the Municipality. Therefore, the current proposal of 73m² in area is considered negligible.

6.7.2. The proposed second dwelling is not a separate structure as it is contained in the same building, and the aesthetic appearance would be in keeping with the development concept set out in the design manual of the estate. Furthermore, there is sufficient parking on the premises, and the consent use is unlikely to generate nuisance as it is in keeping with the residential zoning of the property. In light of the aforementioned, the proposal is in keeping with the character of the area and deemed to meet the criteria of desirability.

6.8. Considerations to the Removal of Restrictive Title Conditions

Not applicable.

6.9. Assessment of Comments

6.9.1. The objection and comments received from the homeowners' association and Mr. Lombard do not seem to contest the principle of a second dwelling as is reflected in the criteria set out in the design manual. The application seemingly falls short of complying with the maximum permissible extent of 300m² for all buildings when a second dwelling unit is to be considered by the owners' association architectural committee.

6.9.2. The dispute between the applicant and the objectors revolves around the coverage calculation which is around 320m² exceeding the design manual's 300m². Although this may seem inconsequential, this assessment considers that the existence of building may not in itself be sufficient reason to grant approval for the second dwelling.

6.9.3. In agreement with the applicant, the judgement in the *Vanilla Street Homeowners' Association v Ismail and Another* (2014) did not absolve the Municipality from carrying out its function in terms of municipal land use planning. With that said, it is the considered opinion that the principle of a "second dwelling unit" in respect of Erf 450, Belvedere, can be considered favourably. It is, however, suggested that the second dwelling be limited to the existing building and not necessarily in its current form which appears to be central to the dispute with the owners' association. Importantly, the recommendation supporting the second dwelling does not diminish the right of the owners' association to consider any building work in accordance with their approved design manual.

6.9.4. Lastly, it is noted that four (4) comments from neighbouring property owners were received that expressed no concern regarding the proposed second dwelling on Erf 450, Belvedere.

7. RECOMMENDATION

It is recommended that, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021), for the consent use of a "second dwelling" measuring greater than 60m² as contemplated under "Single Residential Zone I" of the Knysna Zoning Scheme By-law (2020), in respect of Erf 450, Belvedere.

8. CONDITIONS OF APPROVAL IN TERMS OF THE PLANNING BY-LAW

The above approval(s) are subject to the following conditions imposed in terms of Section 66 of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021):

- 8.1. The decision applies to the application as outlined herein and may not be construed as authority to depart from any other legal prescriptions or requirements.
- 8.2. The second dwelling unit shall be limited to the existing building(s).
- 8.3. The development parameters of "dwelling house" and "second dwelling" of the Knysna Zoning Scheme By-law (2020) shall apply, unless otherwise permitted in terms of the provisions of the Planning By-law.

9. REASONS FOR RECOMMENDATION

The reasons for the above recommendation are as follows:

- 9.1. The subject property lies within the delineated urban edge in an established settlement and is thus considered suitable for soft densification as supported in terms of the Municipality's spatial planning policy. In terms of the land use context and character of the area of Belvedere, the permitting of second dwellings is considered as a suitable form of densification.
- 9.2. Furthermore, it is not anticipated that the proposed second dwelling would detract from the land use character of the area as the residential use and primary right will be maintained. Importantly, it is argued that the established character and aesthetic control as set out in the homeowners' association architectural design manual can be maintained, particularly when considering that the proposal relates to existing approved buildings.
- 9.3. A second dwelling unit measuring upto 60m², is permissible as a primary right under the "Single Residential Zone I" zoning of property. The difference of 13m² is therefore considered negligible especially in light of the fact that second dwelling will not be a separate structure. As such, the second dwelling is unlikely to have a negative impact on the quality of life of all residents of the estate.
- 9.4. In considering the objections lodged, it was found that it relates to the maximum permissible area for buildings on a single residential property in the estate as imposed by the design manual and not

to the principle of a second dwelling, with the latter being the mandate of the Municipality in terms of the zoning scheme. Therefore, the application for consent to allow a second dwelling was considered in terms of the Municipality's Spatial Planning and Land Use Management By-law (2021) and the provisions of the Knysna Zoning Scheme By-law (2020), in terms of authority duly bestowed by the Constitution of the Republic of South Africa.

9.5. Importantly, this support for the second dwelling does not diminish the authority of the Belvedere homeowners' association to enforce its constitution and architectural design manual. In fact, the conditions set out herein allows for a framework wherein the applicant and homeowners association can agree on compliance in the context of the estate's constitution and architectural design manual in relation to their plan proposal.

10. SUPPORTING APPLICATION DOCUMENTS

ANNEXURE A – Proposed site and building plan(s)

ANNEXURE B – Motivating Memorandum

ANNEXURE C – Power of Attorney

ANNEXURE D – Copy of the Title Deed

ANNEXURE E – Bondholder's Consent

ANNEXURE F – Previously approved building plans

ANNEXURE G – Copy of notice and mailing list

ANNEXURE H – Comments and Objections

ANNEXURE I – Applicant's response to comments/objections

ANNEXURE J – Additional Information

ANNEXURE K – Affidavit from the landowner

ANNEXURE L – Correspondence from the Provincial department

ANNEXURE M – Zoning Map and SG Diagram

CONSENT USE: ERF 450, BELVEDERE APPLICATION NO.: 3541			
Author Name: LV Mniki Date: 16-04-2026		Author Signature: 	
Registered planner name: Shaun Madumbo SACPLAN registration number: A/1510/2012 Date: 16/04/2026		Registered Planner Signature: 	
Decision Maker: Municipal Planning Tribunal			
APPROVED	APPROVED CONDITIONALLY	APPROVED IN PART	REFUSED



NOTIFICATION OF PAYMENT

To Whom It May Concern:

First National Bank hereby confirms that the following payment instruction has been received:

Date Actioned	: 2026/06/09
Time Actioned	: 13:21:01
Trace ID	: BQBCH4FQ

Payer Details

Payment From	: BHOA Chq
Cur/Amount	: 3,080.06

Payee Details

Recipient/Account No	: . . 265043
Name	: Knysna Municipality
Bank	: Standard Bank
Branch Code	: 051001
Reference	: 400331000124

END OF NOTIFICATION

To authenticate this Payment Notification, please visit the First National Bank website at fnb.co.za, select the "Verify Payments" link and follow the on-screen instructions.

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VBGD Town Planners

Town Planners and Development Consultants

JOHANNESBURG: Tel : 27 011 706 2761 or KNYSNA 079 158 6699

Email : druce@mweb.co.za website: <https://vbgdtownplanners.co.za/>

POSTAL ADDRESS: P.O.Box 3506 Knysna 6570

PHYSICAL ADDRESS: 154 Watsonia Avenue Brenton WC

Celebrating 35 Years service to our clients (1985 to 2020)



Date: 14 July 2026

Reference:

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

Dear Sir,

APPLICATION ERF 450 BELVIDERE: RESPONSE TO APPEAL BY FASKEN ATTYTORNEYS ON BEHALF OF BELVIDERE HOA:

I refer to the appeal submitted by the abovementioned attorneys which raises 7 grounds of appeal as detailed in the submission, to which we respond to as follows:

1. Ground of Appeal 1:

1.1 The essence of this ground refers to the Condition of Title, and specifically that the nature of a Title Deed Condition is a real right and cannot be overridden by a zoning scheme or by a consent use approval. It states that the title deed condition occupies a higher position in the hierarchy of land use controls than those in the zoning scheme.

We agree with the above, however it is firstly essential that the Title Deed Condition is read in its entirety, and secondly, thereafter interpreted as to whether it is restrictive in the current instance. In other words, before the condition is declared restrictive, it is necessary and essential to consider the context of the application under consideration.

1.2 The submission by Fasken Attorneys quotes the condition of Title as being the following:

"No building operations shall be commenced on the said erf and no additions or alterations to approved buildings shall be effected until the Transferor has in writing approved the design and construction plans including material and colour specifications"

The above is however not a complete representation of the title condition D (a), which reads as follows

"Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no additions or alterations to approved buildings shall be effected until the Transferor has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house"

any outside buildings, and fences or walls. The Transferor however does not in any way accept or assume any legal responsibility arising directly or indirectly from any approval granted by it"

From the above full text contained in Condition D(a) the following is evident:

1. The condition is clearly aimed at the erection of **a new building** ensuring an **"approved design"** and **"sound construction"**.
2. Secondly, the condition requires approved design and construction plans, **including material and colour specifications for the erection of a dwelling house, any outside buildings, and fences or walls.** (My underlining)
3. From the reading of the full text of Condition D(a), it is clear that the purpose of the condition is to ensure that when **a dwelling house is erected or altered**, it does not conflict with applicable design guidelines for the estate and is of sound and proper construction. The condition goes so far as to stipulate consideration for building material and colour to be used in construction of a dwelling house, outside buildings, fences or walls.

Context :

- 1.3 In the current context of a second dwelling within the existing dwelling house there are no considerations which conflict with the condition of title. Firstly, the existing house has approved building plans, and which has consequently already been scrutinised for compliance with the stipulations including design, sound construction, colours and materials used and construction plans. The second dwelling as proposed, requires no new additions and has no implications at all regarding design or appearance of the house. The second dwelling will use an existing surface within the dwelling house to add kitchen appliances, which is what constitutes a second dwelling. The surface area is less than 4m² in extent and would remain exactly the same, whether there were appliances included or not. The surface area or "kitchenette" is shown below:



- 1.4 Considering the above and placed within the correct context and full wording of the Title Deed condition, it is clear that the proposed space within the dwelling house, does not contradict the Title Deed.

The assertion that the granting of a consent use is unlawful due to disregard for a condition of title is therefore misguided and incorrect. When evaluating any application where there are conditions of Title to consider, it is incumbent on the municipality to apply its mind in a diligent manner and importantly, in the correct context. This is what the Municipal Planning Tribunal, and the Knysna Planning Department have done in considering and granting the consent use. The Knysna municipal Planning Department is well versed in the need to respect title deed conditions as they always do, however the context and wording matters.

- 1.5 The appellant indicates in paragraph 3.1.3 what the Tribunal's obligations are when considering an application. It is stated that the Tribunal is bound by Section 65(t) to have regard for restrictive conditions of Title. Accordingly, the appellant suggests that this provision imposes a mandatory obligation to give effect to any restrictive condition.

The above suggestion does not however remove the obligation of the Municipal Planning Tribunal and the Planning Department, from applying their respective minds in consideration of what constitutes a restriction and what doesn't. Proper consideration as has been done, confirms that the condition of title is not subverted in any manner. The Tribunal has therefore not acted unlawfully as is suggested, but rather after due and proper consideration of the matter, and in the correct context.

2. **Ground of Appeal 2:**

- 2.1 The ground of Appeal states that there was a failure to give effect to the BHOA Constitution and Belvidere Design Manual (BDM) and Sections 29 and 85 of the Knysna Planning By-Law. The appellant quotes various sections of LUPO (Ordinance 15 of 1985) establishing the status of the homeowner's association as a body corporate. It also states that the Homeowners Association has a constitution which binds all landowners, and to create a Building Design Manual (BDM) which is utilised by the Architecture Committee to evaluate plans.
- 2.2 The appellant submits that the BDM has been formulated to preserve the Belvidere Estate architectural concept, i.e. the "Development Concept", and to ensure that this concept is maintained. It also submits that this may have more restrictive controls than contained in the zoning scheme.
- 2.3 Paragraph 3.2.4 of the appellant's submission makes an incorrect statement that at the Tribunal hearing, the applicant submitted that the BDM is not registered with the municipality and does not function as an overlay to municipal planning controls. The same point is made under Ground 3 paragraph 3.3.2. This is factually incorrect and was not presented as such to the Tribunal. The correct version as presented, stated that the BDM is a "guideline". Guidelines are defined in any accepted dictionary as a general rule, principle or piece of advice. They are suggestive not mandatory, and have flexibility so that they can adapt to specific circumstances.
- 2.4 An "**Overlay Zone**" is not a guideline and is indeed created in terms of the provisions of Sections 15 and 16 of the Knysna Zoning Scheme By-Law 2020. In order to create an overlay zone requires a

formal process as contemplated in Sections 12 and 13 of the Municipal Systems Act, read with Section 25 of the Land Use Planning Act. Section 15(2) of the Knysna Zoning Scheme determines that the **municipality must determine development parameters** for each overlay zone. This is what was stated to the Tribunal, to confirm that the BDM controls are not a formal overlay zone, and therefore retain the status of a guideline.

2.5 Section 25 of the Land Use Planning Act, which enables promulgation of an overlay zone, reads as follows:

Compilation or amendment of zoning schemes

35

25. A municipality must compile or amend its zoning scheme by—

- (a) establishing an intergovernmental steering committee to compile a draft zoning scheme or a draft amendment of a zoning scheme; or**
- (b) following the procedure set out in section 27.**

Section 27 in turn reads as follows:

27. (1) If an intergovernmental steering committee contemplated in section 26 is not established, the municipality—

- (a) must submit a draft zoning scheme or draft amendment of a zoning scheme, excluding the register and zoning map, to the Provincial Minister for written comment; and**

The above provisions clearly confirm that the responsibility of adopting an overlay zone applicable to any existing Zoning Scheme, **rests with the Municipality**.

In addition, Sections 12 and 13 of the Municipal Systems Act are provisions to allow full participation and eventually formalising any amendment to a By-Law, by publication in the Provincial Gazette. This has not been undertaken in the case of Belvidere Design Manual Guideline, unlike other areas in Knysna which have formalised overlay zoning.

The **overlay zone essentially becomes an “amendment scheme”** adopted as part of the applicable Zoning Scheme By-Law. This **has not** been undertaken in Belvidere.

3 Ground of Appeal 3:

- 3.1 This ground for appeal claims a material error in the recommendation memorandum prepared by planner Linda Mniki in that the report did not recognise any restrictive conditions of Title. It furthermore complains that under paragraph 6.8 of the department report it notes “**not applicable**” under the heading of “**Removal of Restrictive Conditions**”
- 3.2 On the first point, it is presented in the department's report under paragraph 5.3.1 in summarising the applicant's reply, that the issue of title restrictions was dealt with by the applicant, and from the sentiment in this paragraph, the department is in agreement with the applicant's assessment of the title deed, not being restrictive in this instance.

4.5.2 The Knysna zoning scheme and the general parameters of the BDM both permit coverages in excess of the 300m², these being 453m² and 755m² respectively in this instance. The BDM and the Architects Committee should consider this, and especially where there are no changes to the current structure of the house. The suggestion in the BHOA objection for the owner to demolish 11m² of the house in order to accommodate a 4m² existing surface to accommodate small appliances is absurd.

5 Ground of Appeal 5:

- 5.1 The suggestion is that there is conflation of Architectural Appearance with Land Use. It is suggested that even though the second dwelling is within an existing house it conflates appearance with use, and that a building approved for one use cannot automatically be converted to another use. It is further intimated that the restriction on second dwellings is a land use and density control, not an architectural consideration.
- 5.2 With the greatest of respect, this is entirely incorrect. Firstly, second dwellings are permitted **on all properties in Knysna** with a Single Residential zoning. Therefore, both land use and density are accepted outcomes for any landowner who wishes to make use of this standard provision in the zoning scheme. The Knysna Zoning Scheme allows for a second dwelling of 60m² without seeking permission other than building plans, and which can be increased in size with the submission of a consent use, as is the case with this application.
- 5.3 The Belvidere BDM requirements for allowing a second dwelling are shown in the table below. The BDM guidelines are in the left column and the level of our compliance in the right column:.

DESIGN GUIDELINE REQUIREMENTS SECOND DWELLINGS	COMPLIANCE
Coverage of the main house and outbuildings does not exceed 300m ²	COMPLIES ON OUR CALCULATION
The bulk of the proposed second dwelling does not exceed 100m ²	COMPLIES
The second dwelling must be the same design style as the main house	NO CHANGES TO BUILDINGS
One small kitchen is permitted	COMPLIES
Special application to the Architecture Committee to be made	CONCLUDED (No consensus)
No third dwelling is permissible	NOT APPLICABLE
Special application can be submitted for accommodation for live-in caregivers	NOT APPLICABLE
Knysna Municipal approval. Consent Use application	APPLICATION NOW SUBMITTED

The above shows very clearly that the principle of a second dwelling in the Belvidere Estate is an accepted land use, limited only by the requirements listed. It is important to note that with the exception of the 300m² coverage requirement, we are fully compliant. It is our view that this should in any event be seen as a guide not a prescription, for the reasons we have submitted. This reasoning is rational and was accepted by the Municipal Planning Tribunal.

6. Ground of Appeal 6:

- 6.1 The submission claims procedural irregularities by failing to include the appellants supplementary submission. The supplementary submission contains largely repetitive issues already raised by the appellant in his original objection. These relate primarily to matters regarding title deed restrictions, which have been addressed.
- 6.2 The department should answer this aspect themselves, however in our opinion the issues raised were already on the record for consideration and did not need to be repeated. It can also be noted that we did not see this supplementary submission from Fasken Attorneys.
- 6.3 Regarding the so-called Rebel email from Western Cape officials, it is important to consider what was stated in that email, which has important considerations in support of our submissions.
- 6.4 Extracts from the Chief Town and Regional Planner, Western Cape Government state, inter alia the following:
 - If the comment of the HOA is negative or non-supportive then that is what the municipality must consider in the determination of the application. A municipality may refuse a land use application that is not supported by an HOA but a municipality it is not compelled to either not accept or refuse a land use application if an HOA is not in support of it. A municipality needs to consider all inputs and comments and make an informed decision on the land use application. By not accepting an application without the consent of an HOA, neither the applicant nor HOA will even have the opportunity to appeal the initial decision.

The document is attached as an annexure. (See ANNEXURE F)

7. Ground of Appeal 7:

- 7.1 Broader Implications for Belvidere Estate are stated as allowing additional dwelling units within Belvidere which would fundamentally undermine the density controls contained in the BDM and create uncertainty regarding estate governance. It is submitted by the appellant that the 300m² coverage limit is a carefully calculated density control to ensure second dwellings are only created on properties of a scale which can accommodate them, without exceeding the estates character.
- 7.2 This presumption is absurd and altogether flawed. The second dwelling allowance of the BDM permits second dwellings of up to 100m², whereas the one we propose is only 74m². The larger the permitted size, the more inclined owners will be to make two-bedroom units, thus increasing the density. There has been no attempt by the BDM or the BHOA to justify and motivate the selection of 300m² as a threshold size. The calculation is not referenced at all in the BDM, which should have

been done if it is so important. It is therefore an arbitrary size and in reality, unrelated to density. Furthermore, if the BDM are prepared to allow units up to 100m² on sites with a coverage of 300m² it means that the second dwelling will tend to dominate the character of the site and not the other way around.

- 7.3 Rather than to criticise the applicant's proposal, the Planning Department's assessment report and the decision of the Municipal Planning Tribunal, the appellant, (ie the BHOA and the Architectural Committee) , should consider revising the Design Guidelines and bring them in line with the municipal planning stipulations. Alternatively, they should entrench revised zoning parameters by way of a formal overlay zoning application, undertaken through the prescribed channels and controlling legislation, as described earlier.
- 7.4 The appellant's submission suggests that the Municipality has a statutory interest in the integrity of the BHOA governance instruments. This is correct, however, it also has a statutory obligation vested in it by Sections 156(1) and (2) read with Part B of Schedule 4 of the Republic of South Africa Constitution. These sections secure the executive authority to the Municipality, and a right to make decisions and administer all land use planning matters.
- 7.5 The Municipal Systems Act and the Spatial Planning and Land Use Management Act (SPLUMA), also confer authority on the municipality as the decision maker in all land use matters. There is no provision in any law which allows for the delegation of decision making to an external party, including a HOA. Executive authority to decide on land use planning matters rests with the Municipality.
- 7.6 The appellant suggests that if the BHOA requirements and by implication the BDM is undermined by decisions such as this, it also undermines the instruments it has put in place to protect the community from such precedents. This would only be true if there was a significant opposition to an application such as this, however in this instance all surrounding owners bar one, consented to the second dwelling and there were no other objections from the wider community. The one objection was from a certain Mr Breda Lombard who at the time had links with the BHOA and is a serial objector in Belvidere.
- 7.7 The reality is that the BHOA acts in its own interests in opposing innocuous applications such as this and not in a considered and reasonable manner when confronted with an application of this nature.

8 **Additional Observations by the appellant:**

- 8.1 The appellant makes some additional observations, which have essentially been addressed in our response. One point which needs to be corrected is contained in paragraph 4.3, regarding a previous penalty for exceeding permissible height. This does not indicate a pattern of departure from development controls. The matter was a technical issue relating to roof design, which was corrected by the owner at significant cost. It has nothing at all to do with the matter under consideration .

9 Relief Sought by the appellant:

- 9.1 The relief sought is to set aside the decision of the MPT, and to refuse the application on the basis of the grounds detailed in the submission.
- 9.2 Reference to Sections 29(8) and 85(2) require explanation. While a homeowner's association may introduce more restrictive rules than the zoning scheme it does not imply that the municipality must act in an irrational manner when considering any application. Whatever rules are compiled by the homeowner's association, the municipality must always consider every item on its individual merits. Section 65 of the Planning By-Law sets out comprehensive criteria for decision making on land use applications, none of which reference any stipulations by a Homeowners Association.
- 9.3 The municipality must decide in a rational and impartial manner after due consideration of all relevant matters pertaining to the application. This was done and therefore the relief sought by the appellant is to be dismissed.

10 Case Law:

- 10.1 The appellant quotes a number of case law extracts throughout the submission, these largely associated with court rulings where it was confirmed that Title Deed Conditions take precedence over the municipality's zoning scheme. There is also reference to restrictive title conditions binding a municipality not to disregard such conditions, and that a town planning scheme does not override title conditions.
- 10.2 The appellant also asserts that in terms of Section 65(1)(t) of the Planning By-Law the Municipality must have regard to, inter alia, any restrictive conditions of Title.
- 10.3 Regarding these quotations we are in agreement with the statements and rulings with regard to title deed restrictions, and that a zoning scheme does not nullify such conditions. However, as we have stated in paragraph 1 of this submission, case law and rulings made need to be read and interpreted in the context of the case at hand. Without context, it is easy to misinterpret rulings, which cannot be applied universally and without careful scrutiny and evaluation.
- 10.4 Of interest to note is the absence in the appeal submission of significant case law relating to the status which the South African Constitution confers on a Municipality to decide on matters relating to land use planning, **including** matters relating to Title Deeds. In a landmark decision by the Constitutional Court in 2010, ***City of Johannesburg Metropolitan Municipality v Gauteng Development Tribunal and Others (Case 2010ZACC 11)*** the court ruled that the RSA Constitution gives local municipalities the exclusive authority in decisions relating to land-use planning, including township establishment, rezoning and any other land use related matters. This ruling confirmed that municipalities are empowered by **Sections 156(1) and (2)** read with **Part B of Schedule 4** giving executive authority to prepare and adopt land use planning By-

Laws so as to administer municipal planning. The definition of municipally planning includes the compilation of Planning By-Laws, which in turn prescribe statutory provisions in considering land use applications. The Planning Department and the Municipal Planning Tribunal are empowered by these By-Laws, and have acted in accordance therewith.

- 10.5 Therefore, while case law relating to title deed conditions and the status of a Home Owners Association is not irrelevant, it is important to accept that the municipality is the authority who is tasked with evaluating and deciding on all matters relating to land use, and specifically land use applications.

11 CONCLUSION:

- 11.1 The appellant has attempted to convey a proposition that the Knysna Municipality erred in deciding on this matter, and has ignored both the Home Owners Association's status as a governing association, and the conditions of Title which restricts certain aspects in terms of the Belvidere Design Manual (BDM).
- 11.2 As we have addressed in this reply, the appellant has misunderstood the status of the BDM being an alternative to the Knysna Zoning Scheme, imposing its own, more restrictive development parameters. While the BDM can advance additional and/or alternative development controls, such controls remain guidelines, and which must by definition, be reasonable and also flexible, to enable applicability in varying circumstances.
- 11.3 The guidelines in the BDM **are not** alternative zoning parameters, as they have not been formalised by becoming an overlay zone. As detailed herein, overlay zones require a formal process in terms of the Knysna Zoning Scheme, the Municipal Systems Act and the Western Cape Land Use Planning Act. If not formalised as required in the above legislation, they remain development guidelines to be considered by the municipality when taking a decision.
- 11.4 The appellant has also misinterpreted the wording of the Title Deeds as being restrictive, which on proper and considered evaluation, is incorrect. It has been shown both in the submission to the municipality and herein that, what is proposed and now granted in the approval of the consent use, is not in conflict with the stipulation in the title deed. Therefore, the Tribunal was entitled to make a considered decision in this regard, having correctly assessed the wording and context of title deed Condition D (a).
- 11.5 The appellant has attempted to imply that the Belvidere Homeowners Association has an exclusive right to decide on matters relating to land development via the Architectural Committee. This too is incorrect, because as we have confirmed, the municipality has executive authority in municipal planning, not the Homeowners Association. The Municipality has an obligation in terms of its Planning By-law and other governing legislation such as the Municipal Systems Act to act in a considered, rational and fair manner with due consideration for all inputs, including Design Guidelines. In the end, however, a rational decision on matters such as this is a requirement of municipal planning decisions.

11.6 Considering all of the above it can be concluded that the Municipal Planning Tribunal and the Knysna Planning Department have applied their minds in a proper manner in arriving at the outcome of these proceedings.

12 RECOMMENDATION:

12.1 **Considering the submission and our response thereto we request that the appeal be dismissed.**

Yours sincerely, .

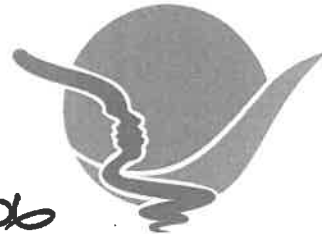


L D Druce (PrPlnA/543/1987)

VBGD Town Planners

MAILING LIST FOR ERF 450 BELVEDERE

449	GREENWOOD PG & JJM 100 PAGE CLOSE BELVEDERE KNYSNA 6570	grahamjoycesa@gmail.com
453	LAMBORD SERVAAS VAN BRED Po box 413710 CRAIGHALL JOHANNESBURG 2024	breda@bredalombard.co.za
499	BELVEDERE ESTATE LOCAL COUNCIL PO BOX 21 KNYSNA 6570	NO EMAIL ADDRESS
454	ATKINSON HE PO BOX 768 RIVER CLUB JOHANNESBURG 2149	albana@ince.co.za
481	TOPPER CLIFFORD N & GAIL M PO BOX 760 HONEYDEW 2024	cliff@liquidmovers.co.za
482	HOWIE PENELOPE 52 LOWER DUTHIE DRIVE BELVEDERE ESTATE KNYSNA 6570	penelopeh@discovery.co.za
474	AMBER SUNRISE PROP (PTY)LTD 43 SUNNYSIDE AVENUE WESTDEME BENONI 1501	letisia@mweb.co.za



Collab. Ref. **2663406**

File Ref.:

JH Smit

Tel: 044-302 6318

Knysna

Municipality Munisipaliteit uMasipala
inclusive • innovative • inspired

Via Electronic Mail

2025-09-15

Penelope Howie
52 Lower Duthie Drive
Belvedere Estate
KNYSNA
6570
Email: penelopeh@discovery.co.za

Dear Sir/Madam,

PROPOSED CONSENT USE: ERF 450, BELVEDERE, KNYSNA

Notice is hereby given in terms of Section 35 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) that the abovementioned application has been received from:

Applicant's Name:	Robert Stanley Vadas
Contact Person:	c/o VBGD Town Planners
Email:	lloydruce@mweb.co.za
Reference number:	Application number 3541
Property Description:	Erf 450, Belvedere, Knysna
Physical Address:	Cnr Page Close & Lower Duthie Avenue
Nature of application:	

- i) Application for a **Consent Use** in terms of **Section 15(2)(o)** of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) to allow a second dwelling greater than 60m² of 73m².

A full copy of the application is available for inspection on the municipal website:
<https://www.knysna.gov.za/do-business/planning-development/current-land-use-applications/>

Members of the public are invited to submit written comments, together with the reasons therefore in terms of Section 50 of the Knysna Spatial Planning and Land Use Management By-Law (2021). Comments must be addressed to the Municipal Manager and submitted via email at knysna@knysna.gov.za and lmniki@knysna.gov.za on or before **15 October 2025**, quoting your name, address, electronic contact details and telephone number, interest in the application and reasons for comment. The municipality may refuse to accept comments received after the closing date. Persons who cannot write may contact the Town Planning Office during office hours, where the responsible official will assist you in putting your comments in writing.

ITEM TO:

Municipal Planning Tribunal

**Knysna**Municipality Munisipaliteit uMasipala
inclusive • innovative • inspired

APPLICATION NO.	3541
REPORT AUTHOR	Linda Mniki
JOB TITLE	Town Planner
SACPLAN REG. NO.	
TELEPHONE NO.	044-302-6383
APPLICATION DATE:	19 August 2025

LAND USE PLANNING REPORT
CONSENT USE: ERF 450 BELVEDERE

PART B: APPLICANT DETAILS

Name & Surname	Lloyd Druce
Company name	VBGD Town Planners
SACPLAN registration number	A/543/1987
Registered owner(s)	Robert Stanley Vadas

PART C: PROPERTY DETAILS

Property description	Erf 450 Belvedere, in the Municipality of Knysna, Province of the Western Cape
Property Extent (m ²)	1,510
Physical address	C/o Page Close & Lower Duthie Avenue
Area/Town	Belvedere
Current zoning	Single Residential Zone I
Applicable zoning scheme	Knysna Zoning Scheme By-law (2020)
Current land use	Dwelling house
Are there existing buildings on the property?	Yes
Title Deed number & date	T60657/2016 dated 21 June 2016
Any restrictive title conditions applicable?	None
Any third party conditions applicable?	None
Any unauthorised land use/building work	None
Pre-Application Consultation	Yes

Please address all correspondence to the Municipal Manager and quote the above reference
P O Box 21 • Knysna • 6570 • Tell: 044 302 6300 • Fax: 044 302 6333 • E-mail: knysna@knysna.gov.za

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1. APPLICATION DESCRIPTION

The application is for consent use in terms of Section 15(2)(o) of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021) for a "second dwelling" measuring greater than 60m² as contemplated under "Single Residential Zone I" of the Knysna Zoning Scheme By-law (2020), in respect of Erf 450, Belvedere.

2. BACKGROUND

- 2.1. Erf 450, Belvedere is located at the corner of Page Close and Lower Duthie Avenue and is zoned "Single Residential Zone I" in terms of the Knysna Zoning Scheme By-law (2020). The subject site has an existing approved dwelling house.
- 2.2. The landowner wishes to construct a second dwelling on the subject property in terms of the existing footprint as shown on the approved building plan. The floor area of the second dwelling exceeds 60m² and, therefore, a consent use application may be considered as contemplated under "Single Residential Zone I" of the Knysna Zoning Scheme By-law (2020).

3. PRE-APPLICATION CONSULTATION MEETING

A pre-application consultation meeting was not held in terms of this application.

4. SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation can be summarised as follows:

- 4.1. The applicant's memorandum concludes that the application is straightforward and has merit from a town planning perspective. In their memorandum, the applicant highlights a dispute with the Belvedere Homeowners' Association ("BHOA") in relation to the permissible extent of coverage according to the design guidelines of the association.
- 4.2. The proposal for a second dwelling would not add additional floor space, with no visual changes, meets all zoning scheme criteria for a second dwelling, and is the form of land use commonly approved across the Knysna area.
- 4.3. The applicant does not expect the BHOA to change its stance, but submit that regardless of that stance, the Municipality is both empowered and obliged to evaluate and decide the application on its merit in terms of Section 65 of the Planning By-law – and that on those merits, a favourable consideration may be rendered.
- 4.4. The complete motivating memorandum of the applicant with arguments in favour of the application is attached to this assessment report as an annexure.

5. PUBLIC PARTICIPATION

Method of Advertising				Date Published	Closing Date
	Yes	No	N/A		
Press	☐	☐	☒		
Gazette	☐	☐	☒		
Notices	☒	☐	☐	11 September 2025	11 October 2025
Ward Councillor	☒	☐	☐	11 September 2025	19 October 2025
Site Notice	☐	☒	☐		
Community Organisations	☐	☒	☐		
Public Meeting	☐	☐	☒		
Third Parties	☐	☒	☐		
Total Valid Comments	Two (2)			Total comments and petitions refused	0
Valid Petitions	Y ☐	N ☒	No of signatures		Not Applicable
Community organisation(s) response	Y ☐	N ☐	N/A ☒	Ward Councillor response	Y ☐ N ☐ N/A ☒
Public participation was undertaken in accordance with sections 45-49 of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021)					Y ☒ N ☐

5.1. Summary of Comments Received during Public Participation

Public comment and objections were received from the following persons represented by an agent:

Erf No.	Objector	Agent	Date Received
Erf 452 and Erf 453, Belvedere	Mr. Servaas van Breda Lombard	Mr. Jacques Marais (Fasken incorporated under Bill Dewar)	14 October 2025
None	Belvedere Homeowners' Association		

The objection(s) can be summarised as follows:

5.1.1. The objections highlight the legal standing of BHOA and the "Belvedere Estate Building Design Manual" (2024). The BHOA is governed by a constitution and is contractually binding on all members, including the applicant. It is stated that when the applicant/landowner took transfer of Erf 450, he contractually undertook – as all purchasers within the estate do – to comply with the conditions of title, the BHOA constitution, its regulations, and the decisions of the Architectural Committee.

5.1.2. The decisions made by BHOA's architectural committee on plans are binding and do not serve as 'merely advisory guidance' as suggested by the applicant. The objector, therefore,

emphasises their point that the said powers are maintained in case law and are reflected in contractual law.

- 5.1.3. With these powers, the owners' association undertook to render a decision to reject the proposal of a second dwelling as it did not meet the criterion in section 5.1.1.2 of the BDM which sets out the conditions under which a second dwelling (granny flat or guest cottage) may be approved on a single residential erf. Among those conditions is the requirement that the combined coverage of the main house and outbuildings must not exceed 300m². The proposed second dwelling of 73.6m² causes the total coverage of Erf 450 to exceed this 300m². The Architecture Committee has already considered and rejected the applicant's request for approval on precisely this basis.
- 5.1.4. The objector rejects the applicant's attempt to reframe or reinterpret the coverage calculation to make the numbers appear compliant, but this reframing is not supported by the BDM's definitions, nor by the Architecture Committee's authoritative interpretation of the design manual – an interpretation that members are contractually bound to accept.
- 5.1.5. In light of the aforementioned, the objection vehemently expresses the reasons why the Municipality is not permitted to render a decision which is in conflict with the design manual. According to Section 29(8) of the Planning By-law, the design guidelines contemplated in subsection (3)(d) may introduce more restrictive conditions than the rules provided for in the zoning scheme, which in this instance applies.
- 5.1.6. Furthermore, Section 85(2) of the Planning By-law states that the Municipality must comply with and enforce compliance with the provisions of the Planning and Zoning Scheme By-laws. This is to say that it cannot lawfully approve plans that contradicts a framework that the Municipality itself, is required to recognise. The objection highlights Section 29(3) of the Planning By-law which requires the constitution of an owners' association, once approved by the Municipality, must include provision for control over design guidelines.
- 5.1.7. In reiterating the sentiments above, the objector makes example of the precedent set in the case of *Vanilla Street Homeowners' Association v Ismail and Another* (2014) at the Western Cape High Court where the court held that an owners' association constitution imposing more restrictive land use rights than the zoning scheme, prevailed over the zoning scheme.
- 5.1.8. The objection concludes that on the aforementioned basis that any approval granted by the Municipality that conflicts with the estate's design guidelines would be *ultra vires*, meaning acting beyond its legal powers, and would thus be susceptible to legal challenge.
- 5.1.9. The objector also notes that the applicant failed to follow the dispute resolution procedures as set out in the estate's design manual and constitution, by going directly to the Municipality. Should the Architectural Committee have granted condonation for the maximum permissible

floor area, it would be difficult for the owners' association to maintain consistency in future decision-making – the implications thereof are that overtime, the "development concept of the estate would be eroded" and it would constitute a failure of the Committee's fiduciary duties to all members of the estate.

5.2. Summary of Comments from Departments/Organs of State

Name	Date Received	Summary of Comments	Recommendation
Infrastructure Services	30 September 2025	No objection.	Positive
Building Control	06 October 2025	Recommend for approval.	Positive

5.3. Summary of Applicant's Reply to comments

The applicant responded to the objections as follows:

5.3.1. The applicant notes that the objector relies on the title deed condition that requires BHOA approval before any building additions or alterations may proceed. The applicant argues that the condition is to ensure approved design and sound construction, i.e. materials, colours, and the physical design of a dwelling. As such, the said function has been fulfilled as the existing buildings have already received approval from the owners' association. The proposed second dwelling involves no additions whatsoever to the building fabric as the space in question is not visible from outside the property and no new buildings or structures are proposed.

5.3.2. Further to this point, the applicant quoted the mandate of the owners' association's Architectural Committee which is to exercise control to ensure the original development concept is maintained and, where possible, reclaimed, and to regulate the visual and aesthetic character of the estate.

5.3.3. On the matter of coverage, the applicant makes two arguments; firstly, it is argued that the 300m² threshold of the design manual is met and thus the BHOA's coverage calculation is in dispute. Secondly, the applicant characterises the 300m² area as an arbitrary stipulation which lacks consideration of the implications of the second dwelling unit and not only whether a numerical threshold is exceeded. This would represent a failure of reasoned decision-making. The applicant further notes that that even if the Architectural Committee's coverage calculation was accepted, the existing building coverage is fully compliant with the Knysna Zoning Scheme By-law, meaning that the proposal is lawful under the municipal planning framework regardless of the internal homeowners' association dispute.

- 5.3.4. In protest of the statements by the objector which caution the Municipality from considering or making a decision that is in conflict with the stance of BHOA, the applicant argues that in spite of the provisions of Section 29(8) of the Planning By-law, it does not remove the Municipality from the process.
- 5.3.5. The Municipality is required to evaluate each land use application in terms of the criteria set out in Section 65 of the Planning By-law. The Municipality's obligation cannot be displaced by a private association's internal guidelines. The applicant thus draws on the Municipality's authority by citing the Constitution of South Africa, the Municipal Systems Act, 2000 (Act No. 32 of 2000), and SPLUMA, 2013 (Act No. 16 of 2013), all of which entrench land use decision-making as an exclusive municipal competency. It is stated that a municipality cannot allow a private contractual arrangement between owners' association members to override its statutory duty to consider applications.
- 5.3.6. Failure of the Municipality to carry out its functions would be reviewable under the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000). This sentiment is further reiterated in the advising correspondence from the Western Cape's Department of Environmental Affairs and Development Planning which confirm that the adverse comments from the owners' association does not conclude the matter and that the Municipality should apply its own mind to all informants and interests in an application.
- 5.3.7. In respect of the case law cited by the objector, the applicant believes that the objectors conflated the matter by focusing on the contractual enforceability of the owners' association rules between residents whereas they did not highlight that the judgement does not remove or diminish the Municipality's statutory decision-making powers in terms of land use applications.

6. PROPOSAL ASSESSMENT

6.1. Application History

The Municipal Planning Tribunal determined an administrative penalty for the height of the dwelling house which exceeded the maximum permissible height as specified in the zoning scheme in 2023. It is unknown whether the penalty was paid; however, a plan approval was issued by the Municipality in October 2023 which implies that compliance with the zoning scheme was achieved.

6.2. Considerations in terms of SPLUMA

The Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013) list several development principles against which a land use application needs to be considered. These are broad principles and cannot always be weighed in terms of all applications. In agreement with the applicant, however, it can be argued that the consent use to allow for a "second dwelling" would allow for optimal use of land and thus contribute to the concept of "spatial sustainability."

6.3. Consistency with SDF, IDP and applicable Policies

The Knysna Municipal Spatial Development Framework (2020) ("SDF") supports the consolidation of our existing urban settlements as opposed to the lateral expansion of our urban areas. Densification (including second dwellings) is considered a means of achieving this objective of the SDF as it allows the use of existing infrastructure capacity. In broad and strategic terms, the second dwelling unit proposal on the subject erf is considered consistent with municipal spatial planning policy.

6.4. Impact on Municipal Engineering Services

The subject erf is sufficiently serviced with municipal services. Furthermore, the Infrastructure Services directorate lodged no objections against the second dwelling proposal.

6.5. Outcomes of Investigations/Applications i.t.o. other Legislation

Not applicable.

6.6. Zoning Considerations

The subject property is zoned "Single Residential Zone I" in terms of the Knysna Zoning Scheme By-law (2020) and no change in the primary use rights to the erf is proposed.

6.7. Desirability of Proposal

The desirability of the application was considered in terms of the following factors:

Assessment Criteria	Y	N	N/A
Has the motivation of the applicant been considered in the assessment of the application?	☒	☐	☐
Will the proposal have a negative impact on the character of the surrounding area in terms of form, density, and aesthetics?	☐	☒	☐
Does the proposal affect the residential amenity of the adjacent landowners negatively in terms of sunlight, privacy, views, and general enjoyment?	☐	☒	☐
Will the intended building proposal affect the adjacent land uses negatively?	☐	☒	☐
Will the proposal and/or building work have a negative effect on the architectural character of the streetscape?	☐	☒	☐
Will the proposal and/or building work have an impact on the municipal bulk services network?	☐	☒	☐
Does the proposal cause a negative impact on vehicular and pedestrian movement on the public street(s), including vehicle sight distances?	☐	☒	☐
Are there adequate on-site parking (including loading bays, where applicable) in accordance with the provisions of the Zoning Scheme By-law?	☒	☐	☐
Does the property have adequate and suitable vehicle access and egress in accordance with the provisions of the Zoning Scheme By-law?	☒	☐	☐
Will the proposal affect the natural and/or open space system negatively, including resulting in the removal of indigenous/protected trees on the site and/or road reserve?	☐	☒	☐

Assessment Criteria	Y	N	N/A
Does the proposal have any negative impact on heritage resources?	☐	☐	☒

6.7.1. The Knysna Zoning Scheme By-law (2020) allows a second dwelling unit of less than 60m² in area as of right while a second dwelling unit in greater area (and up to 150m²) is a secondary use with the consent of the Municipality. Therefore, the current proposal of 73m² in area is considered negligible.

6.7.2. The proposed second dwelling is not a separate structure as it is contained in the same building, and the aesthetic appearance would be in keeping with the development concept set out in the design manual of the estate. Furthermore, there is sufficient parking on the premises, and the consent use is unlikely to generate nuisance as it is in keeping with the residential zoning of the property. In light of the aforementioned, the proposal is in keeping with the character of the area and deemed to meet the criteria of desirability.

6.8. Considerations to the Removal of Restrictive Title Conditions

Not applicable.

6.9. Assessment of Comments

6.9.1. The objection and comments received from the homeowners' association and Mr. Lombard do not seem to contest the principle of a second dwelling as is reflected in the criteria set out in the design manual. The application seemingly falls short of complying with the maximum permissible extent of 300m² for all buildings when a second dwelling unit is to be considered by the owners' association architectural committee.

6.9.2. The dispute between the applicant and the objectors revolves around the coverage calculation which is around 320m² exceeding the design manual's 300m². Although this may seem inconsequential, this assessment considers that the existence of building may not in itself be sufficient reason to grant approval for the second dwelling.

6.9.3. In agreement with the applicant, the judgement in the *Vanilla Street Homeowners' Association v Ismail and Another* (2014) did not absolve the Municipality from carrying out its function in terms of municipal land use planning. With that said, it is the considered opinion that the principle of a "second dwelling unit" in respect of Erf 450, Belvedere, can be considered favourably. It is, however, suggested that the second dwelling be limited to the existing building and not necessarily in its current form which appears to be central to the dispute with the owners' association. Importantly, the recommendation supporting the second dwelling does not diminish the right of the owners' association to consider any building work in accordance with their approved design manual.

- 6.9.4. Lastly, it is noted that four (4) comments from neighbouring property owners were received that expressed no concern regarding the proposed second dwelling on Erf 450, Belvedere.

7. RECOMMENDATION

It is recommended that, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021), for the consent use of a "second dwelling" measuring greater than 60m² as contemplated under "Single Residential Zone I" of the Knysna Zoning Scheme By-law (2020), in respect of Erf 450, Belvedere.

8. CONDITIONS OF APPROVAL IN TERMS OF THE PLANNING BY-LAW

The above approval(s) are subject to the following conditions imposed in terms of Section 66 of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021):

- 8.1. The decision applies to the application as outlined herein and may not be construed as authority to depart from any other legal prescriptions or requirements.
- 8.2. The second dwelling unit shall be limited to the existing building(s).
- 8.3. The development parameters of "dwelling house" and "second dwelling" of the Knysna Zoning Scheme By-law (2020) shall apply, unless otherwise permitted in terms of the provisions of the Planning By-law.

9. REASONS FOR RECOMMENDATION

The reasons for the above recommendation are as follows:

- 9.1. The subject property lies within the delineated urban edge in an established settlement and is thus considered suitable for soft densification as supported in terms of the Municipality's spatial planning policy. In terms of the land use context and character of the area of Belvedere, the permitting of second dwellings is considered as a suitable form of densification.
- 9.2. Furthermore, it is not anticipated that the proposed second dwelling would detract from the land use character of the area as the residential use and primary right will be maintained. Importantly, it is argued that the established character and aesthetic control as set out in the homeowners' association architectural design manual can be maintained, particularly when considering that the proposal relates to existing approved buildings.
- 9.3. A second dwelling unit measuring upto 60m², is permissible as a primary right under the "Single Residential Zone I" zoning of property. The difference of 13m² is therefore considered negligible especially in light of the fact that second dwelling will not be a separate structure. As such, the second dwelling is unlikely to have a negative impact on the quality of life of all residents of the estate.
- 9.4. In considering the objections lodged, it was found that it relates to the maximum permissible area for buildings on a single residential property in the estate as imposed by the design manual and not

to the principle of a second dwelling, with the latter being the mandate of the Municipality in terms of the zoning scheme. Therefore, the application for consent to allow a second dwelling was considered in terms of the Municipality's Spatial Planning and Land Use Management By-law (2021) and the provisions of the Knysna Zoning Scheme By-law (2020), in terms of authority duly bestowed by the Constitution of the Republic of South Africa.

- 9.5. Importantly, this support for the second dwelling does not diminish the authority of the Belvedere homeowners' association to enforce its constitution and architectural design manual. In fact, the conditions set out herein allows for a framework wherein the applicant and homeowners association can agree on compliance in the context of the estate's constitution and architectural design manual in relation to their plan proposal.

10. SUPPORTING APPLICATION DOCUMENTS

ANNEXURE A – Proposed site and building plan(s)

ANNEXURE B – Motivating Memorandum

ANNEXURE C – Power of Attorney

ANNEXURE D – Copy of the Title Deed

ANNEXURE E – Bondholder's Consent

ANNEXURE F – Previously approved building plans

ANNEXURE G – Copy of notice and mailing list

ANNEXURE H – Comments and Objections

ANNEXURE I – Applicant's response to comments/objections

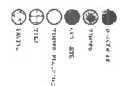
ANNEXURE J – Additional Information

ANNEXURE K – Affidavit from the landowner

ANNEXURE L – Correspondence from the Provincial department

ANNEXURE M – Zoning Map and SG Diagram

CONSENT USE: ERF 450, BELVEDERE APPLICATION NO.: 3541			
Author Name: LV Mniki Date: 16-04-2026		Author Signature: 	
Registered planner name: Shaun Madumbo SACPLAN registration number: A/1510/2012 Date: 16/04/2026		Registered Planner Signature: 	
Decision Maker: Municipal Planning Tribunal			
APPROVED	APPROVED CONDITIONALLY	APPROVED IN PART	REFUSED



SUBMISSION
ADDITIONS + ATTRIBUTIONS
03 Apr 2025 revision: 2

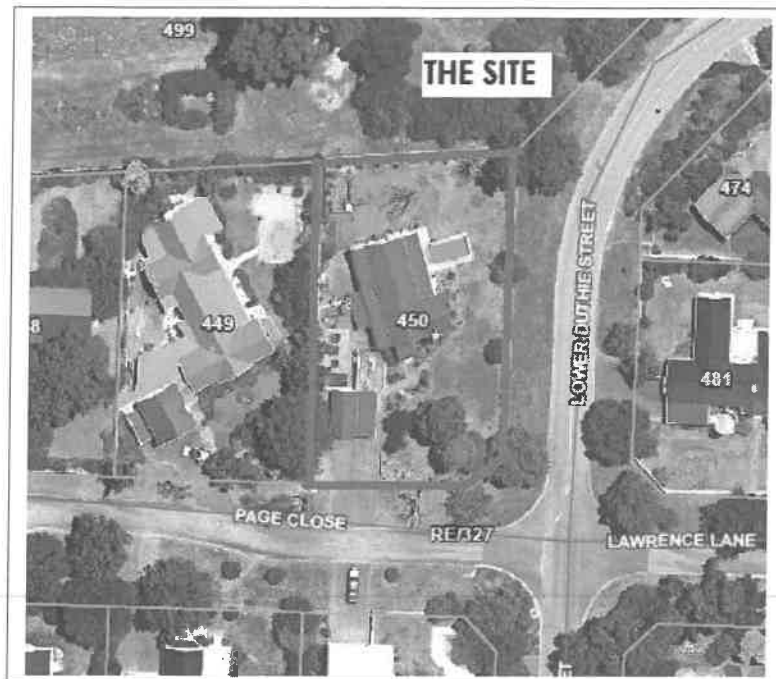
diag: **P3**
 of 450
 pelvidere
 estate

REVISION 2: 2025 04 03

1. Prepared a new building & relocated to new location
2. Available information related to the building



**MEMORANDUM IN SUPPORT OF AN APPLICATION
FOR CONSENT USE FOR A SECOND DWELLING: ERF 450
BELVEDERE**



Prepared by: VBGD Town Planners

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KNYSNA

6571

Telephone: 0791586699

Email : lloydruce@mweb.co.za

July

2025



SUMMARY OF APPLICATION:

1. The application is to apply for consent use for a second dwelling in existing structures by the addition of a kitchenette as described herein.

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ANNEXURES

ANNEXURE A	Title Deeds
ANNEXURE B	Power of Attorney
ANNEXURE C	Bond Holders Consent
ANNEXURE D	Draft Building Plans
ANNEXURE E	Affidavit
ANNEXURE F	Extract Communication with Province

PLANS:

Previously Approved Plans

1. BACKGROUND INFORMATION

1.1 Pre- Application Consultation

No pre-Application consultation was held with the Planning Department however two consultations were held with the Belvedere Homeowners Association.

1.2 Application details:

Location: The site is located in the Belvedere residential precinct on the corner of Page Close and Lower Duthie Avenue as shown below:



The Application: The application is for **a consent use** in terms of the Knysna Zoning Scheme 2020, for a second dwelling larger than 60m², and as described and motivated in this application.

In terms of the Knysna Spatial Planning and Land Use Management By-Laws 2021 the intended use requires the following application:

- A **Consent Use** in terms of Section 15(2)(o) to permit a second dwelling of 73,6m² as permitted in the Knysna Zoning Scheme.

1.3 **Property Details and Ownership:**

The site is owned by ROBERT STANLEY VADAS by virtue of the attached Deeds of Transfer T 60657/2016 and is 1510m² in extent.

1.4 **Legal Matters:**

1.4.1 Conditions of Title: There are no restrictive Conditions of Title limiting the proposed use.

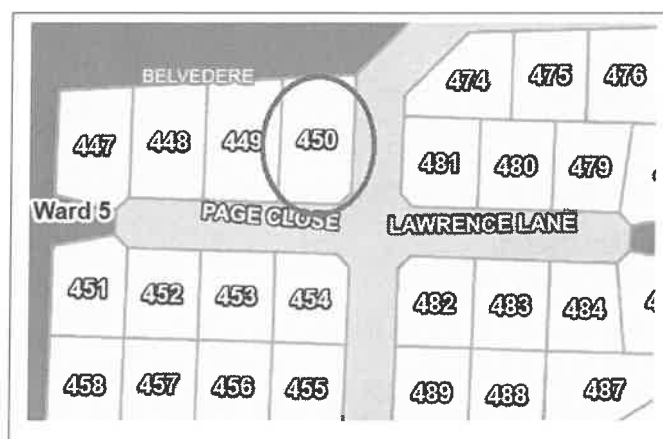
1.4.2 **Bond holders' consent:**

Bondholders consent has been obtained and is attached as Annexure C.

1.4.3 **Legal Jurisdiction and zoning:**

The property falls within the Knysna area and is zoned "**SINGLE RESIDENTIAL I**" in terms of the Knysna Municipality Zoning Scheme By-Law 2020. See Zoning Plan below:

Zoning: Single Residential Zone 1



In terms of this zoning and the definition of a dwelling house, the land use of a second dwelling is a permitted primary use, with the following proviso's in (b) below.

"dwelling house"

Land use description: "dwelling house" means a building containing only one dwelling unit, together with such outbuildings as are ordinarily used with a dwelling house, including:

- (a) a storeroom and garaging;
- (b) 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;

Belvedere 450

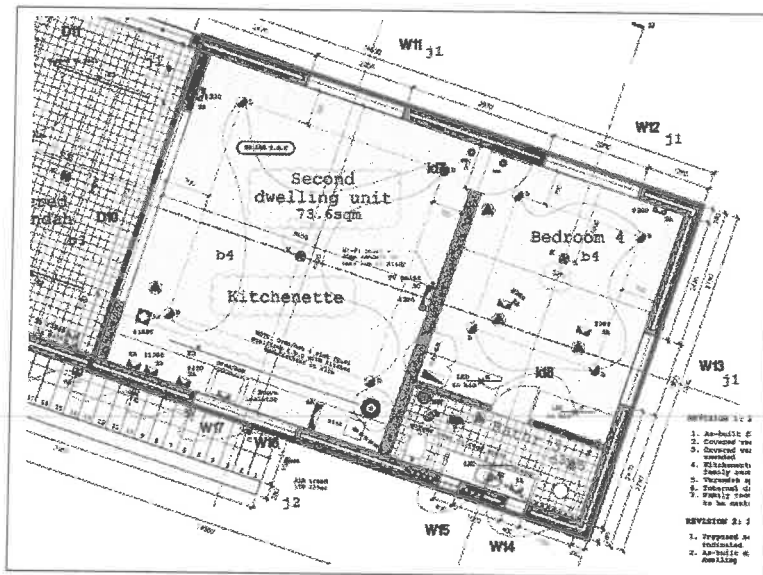
2. APPLICATION AND DEVELOPMENT PROPOSALS

2.1 Requirements of the Application

2.1.1 Consent Use Second dwelling:

The above definition of a dwelling unit allows for a second dwelling exceeding 60m² provided a consent use is submitted. The proposed second dwelling which is in existing structures above the garage is 73,6m² as proposed in the diagram below.

Second dwelling unit in current guest suite:



The above configuration, which is currently a guest suite comprising of a lounge, bedroom and bathroom, to be utilised for the second dwelling.

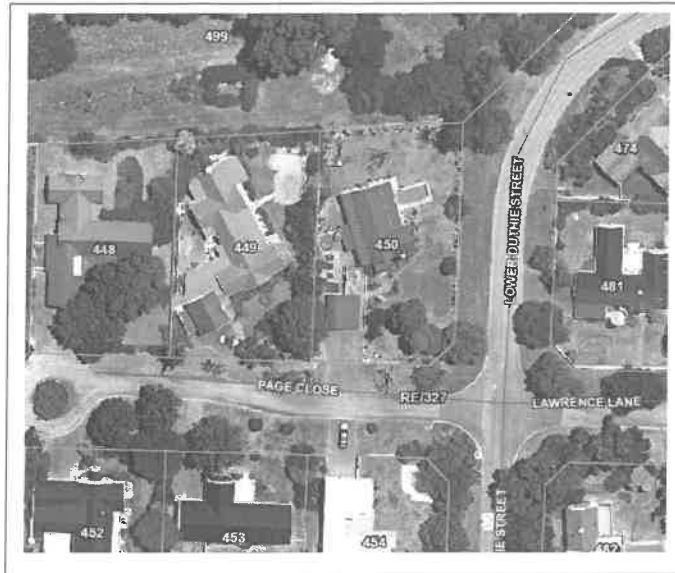
The above requires an **application in terms of Section 15 (2) (o)** of the Knysna Spatial Planning and Land Use Management By-Law 2021.

3. SITE CONTEXT

3.1 Location and surrounding uses:

In terms of site considerations, it can be noted that the site is located on the corner of two residential streets within the Belvedere residential estate as shown overleaf. The site contains an existing house on a corner property, with a park erf on its northern boundary. The property therefore only has one direct neighbour while the other houses are separated by the existing roads.

Site Context:



It is important to note that the structures are all existing, and the proposed conversion of the guest suite will not add anything to the structure, apart from a 2,5m² surface within the guest suite to accommodate some appliances for the kitchenette. No visible changes will be made to the house.

The proposed second dwelling will be in the existing guest suite above the existing garage as shown below:

Location of Second dwelling:



The descriptions of the second dwelling will be fully discussed in a later paragraph, however from the above, the contextual position of the proposed second dwelling is shown to be as part of the existing house, in the guest suite above the garage.

4. PROCEDURAL ASPECTS IN BELVEDERE

4.1 Belvedere Homeowners Association

The Belvedere Estate is a high quality and well run estate and which is administered by a Home Owners Association (BHOA), for all residents in this precinct.

There are provisions entrenched in the Title Deeds of all properties which refer to the "transferor" this being the Belvedere Estate (PTY) LTD, and which determine as follows:

Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no additions or alternations to approved buildings shall be effected until the Transferor has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house any outside buildings and fences or walls. The Transferor, however does not in any way whatsoever accept or assume any legal responsibility arising directly or indirectly from any approval granted by it.

The above extract clearly has as its intention to ensure that the buildings are properly constructed and compatible with the environment in which they are positioned.

4.2. Belvedere Building Design Manual 2024

As part of the BHOA, a subcommittee is in existence, known as the Architecture Committee, to monitor and assess the construction processes for buildings, again with a view to ensure compatibility, and to maintain the high standards of the estate in general. An extract from Design Manual states the following:

THE AUTHORITY OF THE ARCHITECTURE COMMITTEE

In order to preserve the Belvedere Estate architectural concept, the authority of Belvedere Home Owners Association), as endowed upon it by the original Development Company, has established an Architecture Committee, being a sub-committee of the BHOA, to carry out the mandate of the Development Company (2001) as empowered in terms of the various Title Deed conditions.

The BHOA Executive Committee has in turn authorised the Architecture Committee: -

"... to exercise every possible control to ensure that the original Development Concept of the entire Estate is maintained and, where this has not been the case that it be re-claimed, where feasible / rationally achievable.

The above measures are commonplace in estates such as Belvedere and serve to ensure that the desired environment and quality of the estate are maintained by not allowing indiscriminate and inappropriate development.

4.3. Procedural Requirements:

When new plans are intended, whether they be for new houses or additions to structures, the BHOA has established procedures whereby the proposed plans be submitted to the Architectural Committee for consideration.

Where necessary, provision is made for presentation and discussion of the proposed plans.

5. DECISION MAKING AND THE PLANNING BY-LAWS

5.1 General Land Use Management authority:

Regarding the details above detailing the existence of a Homeowners Association and a Design Manual administered by a subcommittee of the association, it is important to note that the decision-making processes are vested firmly in the relevant Planning By-Laws which in the case of Knysna, is the **Knysna Spatial Planning and Land Use Management By-Law 2021**. The decision-making processes are clearly articulated in the above by-law, detailing each and every step in the procedure, including how an application must be submitted, which documentation must accompany an application, the administrative procedures, as well as the terms by which applications are considered, evaluated, and approved or refused.

These stipulations **and prescriptions are found in Chapters III, IV, V and VII** of the By-Law, and fully set out how all land use management processes are to be adhered to, both by the applicant in a land use application, and the municipality as far as processing and deciding on any application is concerned.

While one of the considerations by the municipality will be any submissions by a homeowner's association, the prerogative in deciding on a matter rest solely with the municipality, not the applicable homeowner's association.

5.2 Supporting Legislation:

The abovementioned municipal authority is supported in a wide range of supporting legislation which confirms the legitimate authority is vested in and designated as a local authority function.

There is sufficient supporting evidence which ensures that municipal functions include processing and considerations of matters relating to land use planning and planning applications.

Firstly, the Constitution of South Africa has determined that competencies lie at local or municipal level and it confirms that deciding on planning related matters is a local authority function.

Secondly, Section 5(1)(c) of the **Spatial Planning and Land Use Management Act (Act 13 of 2013)** or "**SPLUMA**" in describing the functions of Municipal planning the following:

(c) the control and regulation of the use of land within the municipal area where the nature, scale and intensity of the land use do not affect the provincial planning mandate of provincial government or the national interest.

This is repeated in **Chapter 5 of "SPLUMA"**, which determines who must undertake Land Use Management. Section 23(1) of the Act determines that the municipality is the executive authority and Section 33(1) in determining the responsibility for Municipal Land Use Planning, it is confirmed further that the municipality is the authority of first instance. It is stated:

33. (1) Except as provided in this Act, all land development applications must be submitted to a municipality as the authority of first instance.

Thirdly, the Municipal Systems Act (Act 32 of 2000) is also clear who has authority in decision making, and this act makes provision for and encourages community participation. However, Section 16 (2) of the Act states that public participation "**must not be interpreted as permitting interference with municipal council's right to govern and to exercise its legislative authority**". The Act also requires all participation by the public to be consistent and compliant with the By-Laws.

It is to be noted that none of the above legislation makes provision anywhere for decision making authority to be delegated to external bodies such as a committee or a Homeowners Association.

5.3 Legislation vs Homeowners Associations:

Committees such as the one established for Belvedere, as well as any subcommittee to evaluate plans, are useful in monitoring the design manuals and ensuring that there are compatible building practices, however, they have no authority to replace the municipalities decision making powers. If that were permitted, it would lead to dual channels of decision making and undermine the authority of the municipality, which has a constitutional and mandated right to decide on local planning matters as detailed above.

The reasons for raising these issues in this chapter will become evident in the later motivation of our application and the position taken by the Belvedere Architecture Committee.

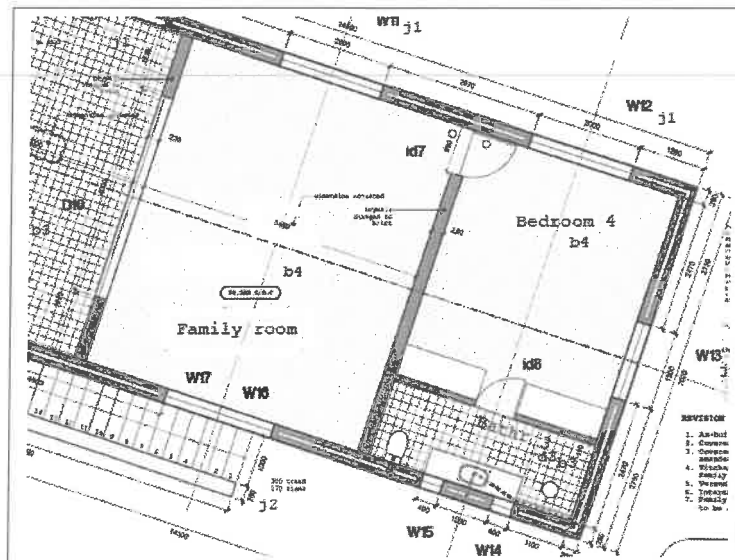
6. THE MERITS OF THE APPLICATION

6.1 The Existing Buildings:

The existing house on the property is of a very high quality and comprises a two-storey home which has the following floor areas:

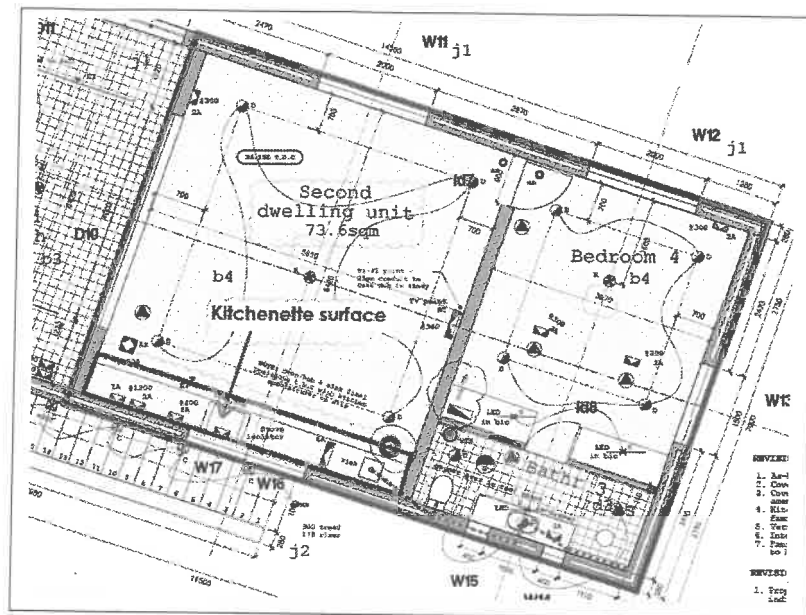
- Site Area 1510m²
- House and outbuildings 549m²
- The development parameters in terms of the zoning scheme for the house as a whole, are all within the required stipulations.

The part of the house to be used as a second dwelling is above the garage as shown in the earlier diagrams. This space is currently a guest suite comprising of a 4th bedroom, lounge and bathroom. The existing approved configuration is as shown below:



The intended second dwelling will not change any structural part of the building or add any new structures and will simply be a narrow surface along the one wall to accommodate some appliances and a basin. In doing so, the space constitutes a "kitchenette" albeit no more than 3.0m² in extent, The addition of the surface is shown on the diagram overleaf:

Surface area becomes a "kitchenette": (Blue area)



A photograph of how the "kitchenette" functions is shown below:



IMPORTANT NOTE: The surface and appliances shown above were installed due to the convenience of doing so when the cupboards were installed. However, the space is NOT USED as a second dwelling, and an affidavit is attached to confirm this. It will only be used for family purposes until such time as the consent use is granted.

6.2 Second Dwelling considerations:

The standard provisions of the Knysna Zoning Scheme 2020 allows a second dwelling of 60m² or less as a primary use, however in excess of this area a consent use is required.

In this instance, the area to become a second dwelling is 73,6m², however it does not constitute any new floor space to be constructed in order to accommodate the "kitchenette" as described above.

In terms of a definition of a second dwelling in the Knysna Zoning scheme, the following extract is applicable:

Development parameters:

The development parameters applicable to "dwelling house" apply, together with the following additional parameters:

- (a) the total floor space of a second dwelling may not exceed 150 m² including the floor space of all ancillary buildings;
- (b) a second dwelling must be constructed in a style that is similar to the architecture of the main dwelling house;
- (c) a second dwelling that is a separate structure to a dwelling house may not exceed a height of 6,5 metres;
- (d) a second dwelling that is contained within the same building as a dwelling house must be designed so that the building appears to be a single dwelling house;
- (e) both units may have a ground floor, or one unit may be on the ground floor and the other unit above;

It can be confirmed that all of the above parameters are complied with, as the second dwelling is less than 150m², makes no design adjustments which affect any appearances and is within the existing buildings, and therefore within all of the parameters for a dwelling house. Regarding parking which requires 1 bay, there are already three bays available on site.

6.3 Concluding Remarks:

The proposed second dwelling is entirely consistent with many other similar second dwellings throughout the Knysna area, including Belvedere and is therefore a use which is entirely accepted as part of the normal fabric of a residential neighbourhood.

7. POLICY FRAMEWORKS

7.1 Spatial Development Frameworks, SPLUMA and IDP's

The activity anticipated for the site for a second dwelling is typical for a residential precinct and similar to many others throughout the Knysna area. The nature of the application is to accommodate a small second dwelling unit as is envisaged as a suitable use for all Single Residential 1 zone properties. Therefore, being a primary permitted use, a second dwelling per se has no implications as far as policy pronouncements are concerned.

In the case of SPLUMA, there are overall guiding principles contained in Chapter 2 of the Act, such as spatial sustainability and spatial efficiency, however the use is in terms of an existing zoning and therefore not in conflict with these principles. Similarly, there are no conflicts with

policy pronouncements such as the Spatial Development Frameworks for the area, which do not pronounce on matters of such fine detail.

8. ENGAGEMENT WITH BELVEDERE HOMEOWNERS ASSOCIATION

8.1 Submission of proposals to BHOA:

As per the designated approach for plan requests a submission was made to the BHOA indicating the intended inclusion of the second dwelling as discussed in this memorandum. The submission was sent to the Architects Committee, who were not prepared to approve the submission due to their determination that the maximum coverage of a house with a second dwelling is 300m², and the calculations by the architects indicated that the existing house is 311m². We indicated that we were not changing the coverage and that the "kitchenette" was simply a counter with appliances within the same space as the guest suite, and that no changes or additions were to be made at all. The response we received was as follows:

"The request **cannot be approved** and for the following reasons:

"The total coverage of the existing dwelling (including outbuildings) is 311.4m², which exceeds the 300m² maximum allowed under the Belvedere Design Manual when applying for a second dwelling.

Your options are:

- 1. Reduce the total building coverage to 300m², (eg by removing 11m²) , and reapply or***
- 2. Withdraw the second dwelling proposal and retain the current structure as part of the main house (which includes removing the second kitchen)"***

8.2 Response to first submission:

We understand that the Belvedere Homeowners Association have Building Guidelines in terms of their Design Manual, however the response above is completely unreasonable.

First, it would be impossible to reduce the coverage of an existing structure by 11m² simply to condone a kitchenette of 3m² which does not add any space. The existing house is over 500m² and cannot simply be altered to lose 11m². In any event, what purpose would that serve, simply to permit a 3m² kitchenette surface?

Having received the above, we requested a discussion with the Belvedere Architects Committee (BAC), which took place on the 12 June. This meeting was requested because in our opinion, the determination of the coverage was not correct, in that the

patio area as shown below was open, and the supporting columns and existing braai should not be regarded as coverage in terms of the definition contained in the **Building Guidelines of the BAC**. It is worth noting that the definition relevant to Belvedere, refers specifically to coverage as the area **"under roof"**. See Definition below:

5.3.1 DEFINITIONS

"Coverage" means the total percentage area of a site that may be covered by buildings that are covered by a roof or projection, as measured over the exterior walls thereof; provided that the area covered by the first metre (as measured from the outside of the exterior wall concerned) of an eave or other projection shall not be included in the calculation of the permissible coverage. (LUPO - Section 8 Scheme Regulations 1988)

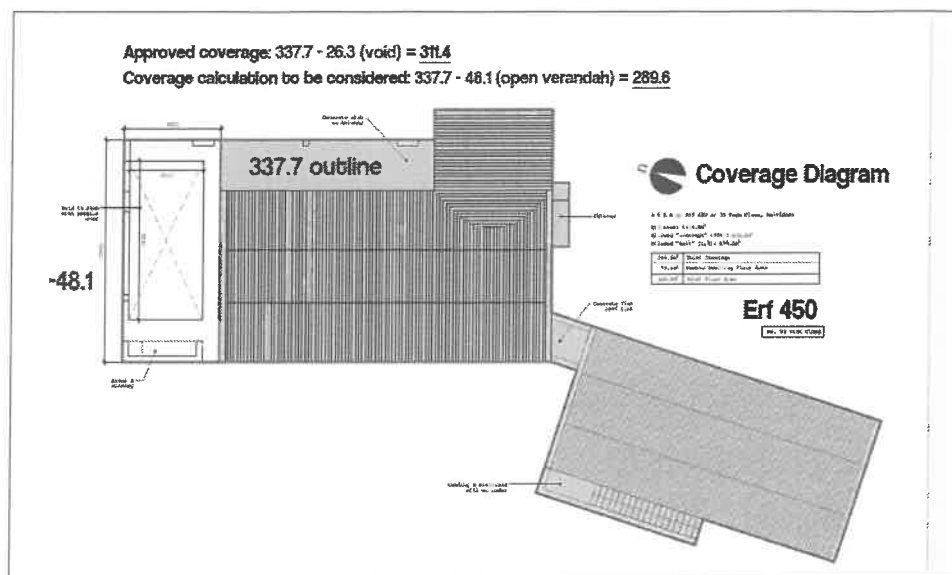
Patio and Braai area:



The architects for the house produced the coverage diagram overleaf, and on the exclusion of the patio area, the coverage is shown to be significantly less than the 300m² requirement. This shows an area covered by roof as 289,6m².

Nevertheless, the BAC were not prepared to support the second dwelling as their "hands were tied" by the Belvedere Building Manual.

Coverage Determination:



The minutes of the above meeting with the BAC are the following:

Erf 450 House Vadas- Second dwelling

VBGD Town Planners

- The authorised agent and applicant attended the meeting to discuss the second dwelling and coverage restrictions. The authorised agent submitted a motivation report for consideration.
- The house in its current form was previously approved by BAC as a single residential property without a second dwelling and with a coverage of 311m^2 .
- The coverage exceeds 300m^2 and in terms of the BDM, the second dwelling can therefore, not be considered.
- The coverage was recalculated by the professionals serving on BAC and confirmed as exceeding the allowable 300m^2 .
- The method of measuring was confirmed with other professional architects and the method is deemed correct.
- Solutions offered by BAC were not accepted by the applicant.
- The applicant indicated that they will follow due process for a second dwelling. All affected parties to be given the opportunity to comment. BAC will not support the application as it is contrary to the BDM and outside the mandate of the committee to approve it.
- Alternative options to be investigated by the applicant to resolve either the coverage or to change the second dwelling into normal internal area.

8.3 Compliance with the criteria for a second dwelling (Building Manual)

The Table overleaf is an extract from the Belvedere Building Manual in addressing the criteria for second dwellings within the Belvedere Estate.

The column on the right indicates the level of compliance of our proposals:

DESIGN GUIDELINE REQUIREMENTS SECOND DWELLINGS	COMPLIANCE
Coverage of the main house and outbuildings does not exceed 300m ²	COMPLIES ON OUR CALCULATION
The bulk of the proposed second dwelling does not exceed 100m ²	COMPLIES
The second dwelling must be the same design style as the main house	NO CHANGES TO BUILDINGS
One small kitchen is permitted	COMPLIES
Special application to the Architecture Committee to be made	CONCLUDED (No consensus)
No third dwelling is permissible	NOT APPLICABLE
Special application can be submitted for accommodation for live-in caregivers	NOT APPLICABLE BUT IS RELEVANT FOR CLIENT'S PARENT
Knysna Municipal approval. Consent Use application	APPLICATION NOW SUBMITTED

Apart from the lack of consensus regarding coverage, the proposal as we have submitted herein, is in compliance with the overall criteria for a second dwelling.

9. ASSESSMENT AND THE WAY FORWARD

9.1 Overall merits of the second dwelling:

In the context of assessing the merits for a second dwelling on the site, there can be no doubt that the application would be accepted and approved anywhere else within the Knysna area, and indeed the Western Cape.

The zoning scheme parameters are clear with regard to the criteria for second dwellings, and this proposal meets all of them. Therefore, were this site to be located at a position outside the Belvedere Estate, there would be no concerning issues to consider.

9.2 Homeowners Association and their authority on land use matters:

As we have already addressed in Chapter 5, the authority for decisions on land use matters lies exclusively with the municipality, as enabled by the prevailing legislation from National level, to the local legislation contained in the Spatial Planning By-Laws.

We understand that the Belvedere Homeowners Association have Building Guidelines in terms of their Design Manual, however the response they have adopted in this evaluation is completely unreasonable and irrational. Firstly, as previously stated, it would be impossible to reduce the coverage of an existing structure by 11m² simply to condone a kitchenette, and it immediately raises the question as to what purpose that would serve, simply to permit a 3m² kitchenette surface? This is especially concerning, as the addition of the surface area for a "kitchenette" in fact reduces the size of the guest suite, and has no impact at all on the house, or its impact on the adjoining area.

The responses expressed by the Architectural Committee are absurd, and in our opinion cannot simply be accepted without some sensible assessment of what is proposed for the second dwelling. We are concerned that the Committee seems to believe they have the last say, when it is the municipality who is, and should be, the adjudicator of land use decisions such as this. Design manuals are guidelines, not prescriptions as per the Zoning Scheme, and it cannot be accepted that a committee of a Homeowners Association can usurp the function of the Planning Department of a municipality.

There cannot be a predicament where an application which any reasonable assessment from a town planning point of view would conclude is meritorious, being disqualified by a technicality as trivial as in this instance.

It is a basic assessment criterion that in considering any application, those assigned to make the assessment, apply their minds in a professional manner. Where there are detail considerations which contradict the parameters of the Design Manual, they must be assessed in terms of how they impact on the manual, to evaluate if they can be accommodated, or not. Where the proposal is reasonable and will have no detrimental impact on the overall sentiments of the Design Manual, then exceptions must be accommodated. If it is viewed that the design guidelines are "cast in stone", and thus tying the hands of the committee it is a principle which does not belong in consideration of planning matters, where there are always exceptions to the rule.

In the context of the Knysna (and other) zoning schemes this is the reason why zoning schemes make provision for "departures" as a standard procedure, where proposals are made outside the general parameters. The same needs to apply where design Guidelines exist as there always needs to be a degree of flexibility, as part of the assessment process. Where proposals are extreme and will have a negative impact on the area and undermine the Design Manual, then such proposals should not be allowed. However, where the opposite is true, flexibility is an essential element of any design guideline, which is there to assist in arriving at a sensible decision.

9.3 Guideline Design Manuals vs Overlay Zones

Design Manuals are created in order to ensure consistency of buildings, with the view to creating a uniform visual and functional environment for the estate or area where applicable. The manual directs architects as far as style, colours, roof and other building materials, and impact on streetscape and overall appearances in the applicable area. However, they remain guidelines.

Where alternative zoning parameters are required, which vary from the general provisions of the Zoning Scheme, then it can only be achieved by the creation of a formal overlay zone. An overlay zone replaces the general zoning parameters of the Zoning Scheme, with specific parameters to match the desired outcome for the overall area where the overlay zone prevails.

It is important to note that there is no overlay zone applicable to Belvedere Estate, and also important to note that even in the case of overlay zones, flexibility is always a component where variations need to be considered.

9.4 Directives from higher authority

With a view to obtaining clarity as to the validity of Homeowners Association decisions vs the authority of the municipality the matter was addressed with the **Directorate Development Management Department of Environmental Affairs of the Western Cape Provincial Government**.

The full communication is attached as an annexure E, however the most relevant extracts are the following:

Extract from correspondence with the Provincial Department:

Your enquiry below re. HOA approvals refer.

1. In terms of the Constitution and various Constitutional Court Judgements, land use planning decision making is an exclusive municipal competence.
2. A municipality cannot be dictated to by an HOA whether to approve or refuse a legitimate land use application.
3. A municipal decision to approve or refuse a land use application based on a decision by an HOA will certainly be subject to a judicial review in terms of PAJA.
4. With the above in mind we have in the past advised another municipality in the Western Cape where there were similar challenges with an applicant, an HOA and HOA constitution:

If the comment of the HOA is negative or non-supportive then that is what the municipality must consider in the determination of the application. A municipality may refuse a land use application that is not supported by an HOA but a municipality it is not compelled to either not accept or refuse a land use application if an HOA is not in support of it. A municipality needs to consider all inputs and comments and make an informed decision on the land use application. By not accepting an application without the consent of an HOA, neither the applicant nor HOA will even have the opportunity to appeal the initial decision.

9.5 The Way forward:

As is evident in this memorandum, the motivation has gone way beyond the normal evaluation and motivation for a simple second dwelling. This has been necessary, knowing the position adopted by the Belvedere Homeowners Association regarding our application. We do not believe the BHOA will change their approach, and therefore we have addressed the merits of the consent use for a second dwelling, but also in the context of the Belvedere Homeowners attitude towards the matter.

It is interesting to note that the BHOA Building Manual mandate includes the following statement:

"... to exercise every possible control to ensure that the original Development Concept of the entire Estate is maintained and, where this has not been the case that it be re-claimed, where feasible / rationally achievable.

This could and should be interpreted as having rational and feasible considerations when evaluating proposals and providing the necessary flexibility we have addressed.

If the BHOA do change their position it would be welcomed, however, if not then the normal course of an application **in terms of Section 15(2)(o)** of the Knysna Spatial Planning and Land Use Management By-Law, will prevail.

10. SUMMARY AND CONCLUSIONS

- 10.1** In summary it is to be noted that the application is essentially for the addition of a surface area to an existing guest suite which will contain kitchen appliances and therefore constitutes a second dwelling. The application is to permit a second dwelling as permitted in the Knysna Zoning Scheme 2020, which is 73,6m² in extent
- 10.2** The conversion to a second dwelling as described, will add no new floor space to the existing building and will not change anything at all from a visual perspective.
- 10.3** From a normal perspective of evaluation, the proposal is entirely consistent with considerations for allowing a second dwelling larger than 60m² at any location within the Knysna area.
- 10.4** The inclusion of addressing the issues raised by the Belvedere Homeowners Association, is done as a consequence of having attempted to obtain support from the BHOA Architecture committee, but which to date has not succeeded.
- 10.5** In conclusion, whatever the position taken by the BHOA may be, the merits from a town planning perspective are sound and there should be no reason not to support the application.
- 10.6** The application is in line with the provisions of Section 65 of the Knysna Spatial Planning By-Law and consistent with the criteria for consideration of applications.

SPECIAL POWER OF ATTORNEY

I, THE UNDERSIGNED

ROBERTY STANLEY VADAS

DO HEREBY NOMINATE, CONSTITUTE AND APPOINT
Lloyd Druce and/or Jeanette Erasmus of the firm

VBGD TOWN PLANNERS

with power of Substitution, to be my/our lawful Attorney(s) and
Agent(s) in my/our name, place and stead,

**THE SUBMISSION OF AN APPLICATION FOR CONSENT USE
FOR A SECOND DWELLING ON ERF 450 BELVEDERE
DISTRICT KNYSNA**

and generally for effecting the purposes aforesaid, to do or cause to
be done whatsoever shall be requisite, as fully and effectively, for all
intents and purposes, as I/we might or could do if personally
present and acting herein, hereby ratifying, allowing and confirming
and promising and agreeing to ratify, allow and confirm all and
whatsoever my/our said Attorney(s) and Agent(s) shall lawfully do,
or cause to be done, by virtue of these present.

Signed at Belvidere this 10th day of
February 2024.

In the presence of the undersigned witnesses:

AS WITNESSES:

Kauso

R S VADAS



2 [Signature]

JAMES KING & BADENHORST
144 ST JOHN STREET
OUDTSHOORN
6625

Prepared by me

1. Purchase price/Value	
R 2000 000,00 / 2 000,00	
2. Mortgage capital amount	
R	
3. Person for exemption	
4. Exemption	5. Section

CONVEYANCER
JOHN WEST HENDRIKS

VERBIND MORTGAGED	
VIA FOR R 2 400 000,00	
3 000026211 / 2016	
04 OCT 2016	
REGISTRAR/REGISTRAR	

T 000060657 / 2016

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

John Henry Richard Havemann

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at OUDTSHOORN on 21 JUNE 2016 granted to him by

FORESITE PROPERTIES CC
Registration Number 2008/082265/23

GhostConvey 15.8.11.14

And the appearer declared that his said principal had, on 17 May 2016, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

ROBERT STANLEY VADAS

Identity Number [REDACTED]

Married out of community of property

his Heirs, Executors, Administrators or Assigns, in full and free property

ERF 450 BELVEDERE, IN THE MUNICIPALITY AND DIVISION OF KNYSNA, PROVINCE OF THE WESTERN CAPE

IN EXTENT 1510 (ONE THOUSAND FIVE HUNDRED AND TEN) Square metres

FIRST TRANSFERRED by Deed of Transfer Number T10793/1989 with General Plan Number 12063 relating thereto and held by Deed of Transfer Number T70881/2011

- A. **SUBJECT to such conditions as are referred to in Certificate of Registered Title Number T71936/1988.**
- B. **NOT ENTITLED to the benefit of the respective special conditions relating to a reservation of rights to water contained in Deeds of Transfers Numbers 80/1947, 81/1947, 82/1947, 12535/1947, 13088/1950, 13089/1950, 9919/1958 and 16512/1959, whereby Portions 14, 15, 16, 17, 18, 19, 24, 23, 28 and 36 (all portions of Portion 13) of the farm Uitzigt, respectively were conveyed, which conditions are to the effect that such properties were sold and transferred without any of the water rights referred to in condition (3) of component part Number (1) contained in the said Certificate of Consolidated Title Number T12326/1944, by reason of the endorsement dated 8th February 1965 on the said Certificate of Consolidated Title Number T12326/1944, referred to in condition (C) hereunder.**
- C. **NOT ENTITLED to the conditions contained in the Notarial Deed of Servitude dated 14th October 1936 annexed to Deed of Transfer Number T5951/1934 and referred to in the endorsement thereon, dated 15th October 1936, relating to certain water rights to a spring called the "Silver Spring" and the water rights arising therefrom, and is further not entitled to the benefits of the aforesaid conditions by reason of the endorsement dated 8th February 1965 on the said Certificate of Consolidated Title Number T12326/1944, which reads as follows:-**

"REMAINDER

By Deeds of Transfer Number 13089/1950 and 13090/1950, the following properties conveyed thereby namely Portion 20 measuring 7,2700 morgen (para 2 Transfer 13089/1950) and Portion 21 measuring 7,8016 morgen (transfer 13090/1950) have been made entitled in equal shares, to the benefits and obligations under Condition 1(3) herein, as will more fully appear from the aforesaid Deeds of Transfer."

D. AND SUBJECT FURTHER to the following special conditions imposed in Deed of Transfer Number T101574/2000 by and in favour of Belvidere Estate (Proprietary) Limited (Company Number 57/C4474/07) (hereinafter referred to as the Transferor) as binding upon the said Transferee and his Successors-in-Title :-

(a) Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no additions or alterations to approved buildings shall be effected until the Transferor has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house any outside buildings and fences or walls. The Transferor, however, does not in any way whatsoever accept or assume any legal responsibility arising directly or indirectly from any approval granted by it.

(b)

(c)

(d) The Transferor reserves the right to waive compliance with any one or more of the conditions imposed in (a), (b) and (c). Such waiver shall only be valid in writing and signed by the Transferor.

E. SUBJECT FURTHER to the following conditions imposed by the said Belvidere Estate (Proprietary) Limited and which condition is binding on the Transferee and his Successors-in-Title as created in Deed of Transfer Number T101574/2000, namely :-

The erf shall not be transferred without the written consent of Belvidere Homeowners Association of which the Transferee and his Successors-in-Title shall be a member.

WHEREFORE the said Appearer. renouncing all right and title which the said

FORESITE PROPERTIES CC
Registration Number 2008/082265/23

heretofore had to the premises. did in consequence also acknowledge it to be entirely dispossessed of, and disentitled to the same. and that by virtue of these presents. the said

ROBERT STANLEY VADAS, Married as aforesaid

his Heirs, Executors, Administrators or Assigns. now is and henceforth shall be entitled thereto, conformably to local custom. the State. however reserving its rights, and finally acknowledging the purchase price to be the sum of R3 000 000,00 (THREE MILLION RAND) .

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer. have subscribed to these presents. and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 4 October 2016

In my presence

REGISTRAR OF DEEDS

GhostConvey 15.8.11.14



MESSRS STANDARD BANK
DOCEX 100
JOHANNESBURG OPERATIONS SHARED SERVICES

Our Ref
P MARTIN/elWV1156

Your Ref
HOME LOANS SECURITIES

Date:
11 April 2017

Dear Sirs

PRINCIPAL BOND HOLDER NAME: R S VADAS
ACCOUNT NO. 530103605
PROPERTY DETAILS: ERF 450 BELVEDERE

We enclose herewith the following documents for your safekeeping:

1. Mortgage Bond No. B26211/2016;
2. Deed of Transfer No. T60657/2016; and
3. Deeds Office search

We trust that all your requirements have been met and thank you for instructing us herein.

Kindly acknowledge receipt hereof on the duplicate of this letter. We should be grateful if you could kindly ensure that we receive notification of receipt from you, within seven (7) days of receiving the original Title Deed and Mortgage Bond.

Should we not, we will enquire once more, and should we then still not receive confirmation, we shall assume that you have received the original, and not accept any responsibility for any claims, for lost Title Deeds.

Yours faithfully

LOGAN - MARTIN INC.

per: **P MARTIN**

Logan - Martin Inc • Reg No 95/01331/07
20 Woodmill Lane Centre, 6571
Main Street Knysna 6571
P.O. Box 6 Knysna 8570
Docex 4 Knysna

Tel: +27 (0)44 382 1115
Fax: +27 (0)44 382 5582
E-Mail: peter@loganmartin.co.za

Directors:

Peter Martin BA LLB (Appraiser) ♦ Gerald Logan B Juris LLB ♦ Delon Barnard B Comm LLB
♦ Jacques de Villiers B Proc (Dip.Auctioneering) ♦ Office Manager: Annette Smit

JAMES KING & BADENHORST
144 ST JOHN STREET
OUDTSHOORN
6625

Prepared by me

Use endorsement	
Amount	
Purchase price/Value	R 3000 000,00 / 2 000,00
Mortgage Capital Amount	R
Person for exemption	Exempt from
City	Section

CONVEYANCER
JOHN WEST HENDRIKS

VERBIND	MORTGAGED
VIR FOR R 2 400 000,00	
B 800026211 / 2016	
04 OCT 2016	REGISTRAR/REGISTRAR

T 000060657 / 2016

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FORESITE PROPERTIES CC
Registration Number 2008/082265/23

GhostConvey 15.8.11.14

And the appearer declared that his said principal had, on 17 May 2016, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

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his Heirs, Executors, Administrators or Assigns, in full and free property

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PROVINCE OF THE WESTERN CAPE

IN EXTENT 1510 (ONE THOUSAND FIVE HUNDRED AND TEN) Square
metres

FIRST TRANSFERRED by Deed of Transfer Number T10793/1989 with
General Plan Number 12063 relating thereto and held by Deed of Transfer
Number T70881/2011

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- B. NOT ENTITLED to the benefit of the respective special conditions relating to a reservation of rights to water contained in Deeds of Transfers Numbers 80/1947, 81/1947, 82/1947, 12535/1947, 13088/1950, 13089/1950, 9919/1958 and 16512/1959, whereby Portions 14, 15, 16, 17, 18, 19, 24, 23, 28 and 36 (all portions of Portion 13) of the farm: Uitzigt, respectively were conveyed, which conditions are to the effect that such properties were sold and transferred without any of the water rights referred to in condition (3) of component part Number (1) contained in the said Certificate of Consolidated Title Number T12326/1944, by reason of the endorsement dated 8th February 1965 on the said Certificate of Consolidated Title Number T12326/1944, referred to in condition (C) hereunder.
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D. AND SUBJECT FURTHER to the following special conditions imposed in Deed of Transfer Number T101574/2000 by and in favour of Belvidere Estate (Proprietary) Limited (Company Number 87/C4474/07) (hereinafter referred to as the Transferor) as binding upon the said Transferee and his Successors-in-Title :-

- (a) Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no additions or alternations to approved buildings shall be effected until the Transferor has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house any outside buildings and fences or walls. The Transferor, however, does not in any way whatsoever accept or assume any legal responsibility arising directly or indirectly from any approval granted by it.
- (b)
- (c)
- (d) The Transferor reserves the right to waive compliance with any one or more of the conditions imposed in (a), (b) and (c). Such waiver shall only be valid in writing and signed by the Transferor.

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GhostConvey 15.8.11.14

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FORESITE PROPERTIES CC
Registration Number 2008/082265/23

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ROBERT STANLEY VADAS, Married as aforesaid

his Heirs. Executors. Administrators or Assigns. now is and henceforth shall be entitled thereto, conformably to local custom, the State. however reserving its rights, and finally acknowledging the purchase price to be the sum of R3 000 000,00 (THREE MILLION RAND) .

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THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 4 October 2016

q.q.

In my presence

REGISTRAR OF DEEDS

GhostConvey 15.8.11.14



Standard Bank

Personal and Private Banking

MR RS VADAS
99 PAGE CL
BELVEDERE ESTATES
6571

Additions and Alterations Consent

19 June 2025

Dear Sir / Madam

Subject: Request for the approval of building a second dwelling.

Account number: 530103605
In the name of: Mr RS Vadas
Property description: Erf 450 Belvedere

We are pleased to advise that Standard Bank has no objection to your request, subject to our rights being protected and on the following conditions:

- Local authority approval.
- All municipal by laws must be adhered to.
- No buildings to be demolished without the Bank's consent.
- The Bank is not committing to finance new development.
- The building must comply with SBISA minimum specifications, should there be any further development.
- The correct insurance must be applied.
- Residential component not to be compromised.
- Client must advise bank when building works are done so that we can revalue/reinsure.
- Please note that the bank holds the right to withdraw or amend the given consent.

Should you have any queries, please do not hesitate to contact us at CSAdm@nhi.jhb@standardbank.co.za

Yours sincerely

Malebo Sebotso
Customer Service Consultant

Standard Bank Centre 1st Floor 5 Symonds Street Johannesburg 2001 PO Box 61690 Marshalltown 2107 South Africa
Tel: Switchboard: +27 (0)11 636 9112 www.standardbank.co.za

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Company Secretary: K Fomman - 2025/5458

*Executive Director: 1 Nigerian, 2 Chinese, 3 Kenyan

Krassa Municipality

KRASSIA MUNICIPALITY PLAN No. 00000000

GEORGESEU/APPROVED

Vadans die NBR, WET No. 103 van 1977 soos gewysig
According to NBR, ACT No. 103 of 1977 as amended

SIGNED:  DATE: 2023/06/07

499

Pool

Erf 450

449

Site Plan
1:1100

Architect signature:

owner signature:

vadas

SUBMISSION

APPROVALS / APPROVALS

30 NOV 2022

2023/06/07

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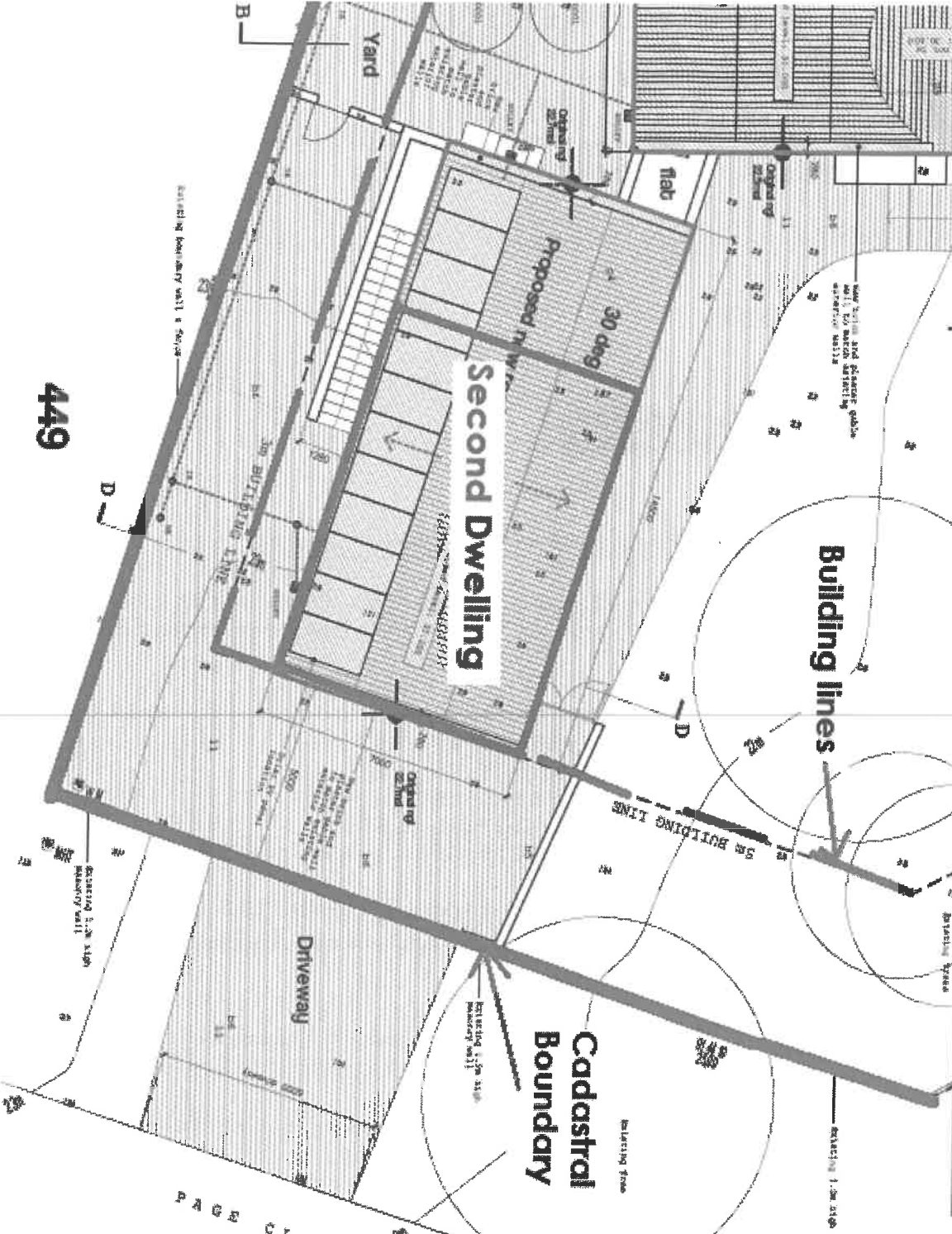
2023/06/07

2023/06/07

2023/06/07

2023/06/07

EXTRACT FROM APPROVED BUILDING PLAN: SECOND DWELLING POSITION ABOVE THE EXISTING GARAGE





Collab. Ref. **2663406**

File Ref.:

JH Smit

Tel: 044-302 6318

Knysna

Municipality Munisipaliteit uMasipala
inclusive • innovative • inspired

Via Electronic Mail

2025-09-15

Penelope Howie
52 Lower Duthie Drive
Belvedere Estate
KNYSNA
6570
Email: [REDACTED]

Dear Sir/Madam,

PROPOSED CONSENT USE: ERF 450, BELVEDERE, KNYSNA

Notice is hereby given in terms of Section 35 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) that the abovementioned application has been received from:

Applicant's Name: Robert Stanley Vadas
Contact Person: c/o VBGD Town Planners
Email: lloydruce@mweb.co.za
Reference number: Application number 3541
Property Description: Erf 450, Belvedere, Knysna
Physical Address: Cnr Page Close & Lower Duthie Avenue
Nature of application:

- i) Application for a Consent Use in terms of Section 15(2)(o) of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) to allow a second dwelling greater than 60m² of 73m².

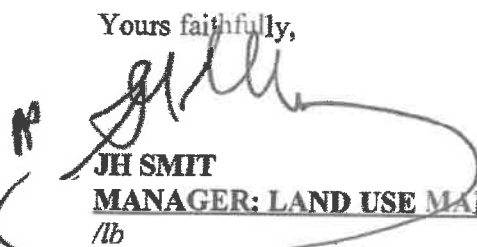
A full copy of the application is available for inspection on the municipal website:

<https://www.knysna.gov.za/do-business/planning-development/current-land-use-applications/>

Members of the public are invited to submit written comments, together with the reasons therefore in terms of Section 50 of the Knysna Spatial Planning and Land Use Management By-Law (2021). Comments must be addressed to the Municipal Manager and submitted via email at knysna@knysna.gov.za and lmniki@knysna.gov.za on or before **15 October 2025**, quoting your name, address, electronic contact details and telephone number, interest in the application and reasons for comment. The municipality may refuse to accept comments received after the closing date. Persons who cannot write may contact the Town Planning Office during office hours, where the responsible official will assist you in putting your comments in writing.

Telephonic enquiries may be made during office hours to Ms. Linda Mniki at 044-302 6383
or via email lmniki@knvsna.gov.za.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'JH Smit', is written over the typed name. The signature is fluid and cursive. To the left of the signature, there is a small, dark, handwritten mark that looks like a stylized 'R' or 'P'.

JH SMIT

MANAGER: LAND USE MANAGEMENT

/lb

MAILING LIST FOR ERF 450 BELVEDERE

449	GREENWOOD PG & JJM	Via electronic mail
453	LAMBORD SERVAAS VAN BRED A	Via electronic mail
499	BELVEDERE ESTATE LOCAL COUNCIL	NO EMAIL ADDRESS
454	ATKINSON HE	Via electronic mail
481	TOPPER CLIFFORD N & GAIL M	Via electronic mail
482	HOWIE PENELOPE	Via electronic mail
474	AMBER SUNRISE PROP (PTY)LTD	Via electronic mail

14 October 2025

Jacques Marais
Phone: +27 11 586 6026
Fax: +27 11 586 6026
jmarais@fasken.com

The Municipal Manager
Knysna Local Municipality
Knysna
6570

FOR ATTENTION: Linda Mniki

Per Email: lmniki@knysna.gov.za /
knysna@knysna.gov.za
Our ref: Jacques Marais

Your ref: Collab Reference 2663406

Erf 450 Belvedere: Application for Consent Use in terms of Section 15(2)(o) of the Knysna Municipality Spatial Planning & Land Use Management By-Law, 2021

Dear Sir/Madam

1. Introduction

- 1.1 We act for the Belvidere Homeowners Association (**BHOA**).
- 1.2 We refer to the –
 - 1.2.1 application for a consent use in terms of Section 15(2)(o) of the Knysna Municipality Spatial Planning & Land Use Management By-Law, 2021 (**By-Law**) submitted by Robert Stanley Vadas c/o VBGD Town Planners (**Applicant**), to permit a second dwelling greater than 60m² of 73,6m² on Erf 450 Belvedere (**Erf 450**), located at the Corner of Page Close & Lower Duthie Avenue (the **Application**). The Application reference number is **3541**; and
 - 1.2.2 memorandum, dated July 2025, in support of an application for consent use for a second dwelling on Erf 450, prepared by VBGD Town Planners (**Memorandum**); and
- 1.3 Erf 450 falls under the jurisdiction, management and administration of the BHOA.
- 1.4 On behalf of the BHOA, we hereby submit formal objections to the Application in accordance with Section 50 of the By-Law. We have been instructed to specifically address the Applicant's assertions regarding the role and authority of the BHOA and the binding nature of the Belvidere Estate Building Design Manual, 2024 (**BDM**).

- 1.5 While this letter does not address every contention made in the Application or Memorandum, the BHOA reserves the right to respond to any additional points at the appropriate time and forum, should the need arise.

2. **Binding Nature of the BHOA Constitution and BDM**

- 2.1 The BHOA is governed by the constitution of the BHOA (**Constitution**), which, together with any regulations adopted in terms of its Constitution, is binding on all the Members of the BHOA, including the Applicant.
- 2.2 All functions of the BHOA vests in the Executive Committee, which has the powers conferred on it under clause 12 of the Constitution.
- 2.3 The powers conferred on the Executive Committee include the power to –
- 2.3.1 appoint an Architecture Committee to *inter alia* –
- 2.3.1.1 ensure that all plans are considered in terms of the BDM;
- 2.3.1.2 take all decisions as may be necessary and within the Architecture Committee's powers to ensure the maintenance of the original Development Concept as interpreted by the Architecture Committee; and
- 2.3.1.3 propose regulations governing the maintenance of the Development Concept.
- 2.4 Having regard to the first paragraph under Section 3 of the BDM, the BDM has been formulated to –
- 2.4.1 preserve the Belvidere Estate architectural concept [sic] (which presumably implies the Development Concept); and
- 2.4.2 give effect to the mandate of the Development Company (which has been succeeded by the BHOA) imposed as a condition on the title deeds of the properties in the Estate, which states that:
- Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no additions or alterations to approved buildings shall be effected until the Transferor (now the BHOA) has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house, any outside buildings and fences or walls...*
- 2.5 The BDM, therefore, represents the regulations that must be observed and complied with by each Member of the BHOA, and enforced by the Architecture Committee, to ensure that the Development Concept is maintained and preserved.
- 2.6 Having regard to the above, we submit that the BDM constitutes regulations adopted in terms of the Constitution and is binding on every Member, including the Applicant. In numerous court judgements, it is confirmed that this binding effect arises from the principles of contract law, on the basis that the Applicant, when he bought and took transfer of his property (Erf 450), agreed, and undertook in favour of the BHOA, to be bound by the Constitution, its rules and regulations.
- 2.7 Against this background, every Member –
- 2.7.1 undertakes in favour of the BHOA that he shall comply with the provisions of the Constitution and any regulations adopted in terms of the Constitution;

- 2.7.2 shall observe all regulations made by the BHOA; and
- 2.7.3 shall comply with the decisions of the Architecture Committee on interpreting the BDM.
- 2.8 Contrary to the Applicant's suggestion that the BHOA and the BDM are merely advisory, we are instructed to submit that:
 - 2.8.1 the BHOA is governed by its Constitution that is **binding on all Members**, including the Applicant;
 - 2.8.2 the BDM constitutes **regulations adopted in terms of the Constitution**, and its provisions are enforceable by the Architecture Committee appointed by the BHOA;
 - 2.8.3 the title deeds of properties within Belvidere Estate explicitly require **written approval from the BHOA** for any building operations, additions, or alterations; and
 - 2.8.4 the Applicant, by accepting transfer of Erf 450, **contractually undertook** to comply with the Constitution, BDM, and decisions of the Architecture Committee.

3. Legal Framework Supporting BHOA Authority

- 3.1 It is common cause that the BHOA's Architecture Committee has rejected the Applicant's request for approval of a second dwelling on Erf 450 for non-compliance with Section 5.1.1.2 of the BDM.
- 3.2 Section 5.1.1.2 of the BDM provides as follows:
 - 5.1.1.2 *SECOND DWELLING UNITS (Granny Flat/Guest Cottage)*
A second dwelling shall only be approved on a single residential erf if all the following conditions are met:
 - ***The coverage of the main house and outbuildings does not exceed 300 square metres.***
 - *The bulk of the proposed second dwelling does not exceed 100 square metres.*
 - *The second dwelling must be of the same design style as the main house specifically in materials, colour, doors and windows.*
 - *One small kitchen is permitted.*
 - *Special application to the Architecture Committee must be made and approval will only be granted at their discretion.*
 - *No third dwelling unit is permissible.*
 - *Special application can be submitted for accommodation units for live-in caregivers.*
 - *Knysna Municipal approval – Town Planning Department application – Consent Use for 2nd Dwelling.*
- 3.3 The Applicant contends that the Application should be approved by the Knysna Municipality regardless of the BHOA's (and by extension, the Architecture Committee's) position.
- 3.4 Based on the reasons and legal principles set out in the paragraphs below, we are instructed that the Knysna Municipality does not have jurisdiction or the

legal competence to override the BDM or condone permanent departures from the development parameters contained in the BDM.

- 3.5 The By-Law affirms the authority of homeowners' associations to impose more restrictive development rules than the rules provided for in the zoning scheme. In this regard, -
 - 3.5.1 Section 29(8) of the By-Law permits a homeowners' association's design guidelines to introduce more restrictive development rules than those contained in the zoning scheme; and
 - 3.5.2 Section 85(2) of the By-Law prohibits the Knysna Municipality from acting in conflict with its own By-Law, including those recognizing the authority of the BHOA as a homeowners' association and the rights of such homeowners' association to impose more restrictive development rules in its constitution than those contained in the zoning scheme.
- 3.6 Accordingly, on the basis of Section 85(2) of the By-Law read with Section 29(8) of the By-Law, the Knysna Municipality may not grant a departure from the development parameters which (i) is in conflict with the BDM and (ii) fails to uphold the 300m² floor area restriction contained in section 5.1.1.2 of the BDM, as any such approval will be in conflict with the Knysna Municipality's mandate not to act in conflict with the By-Law.
- 3.7 Moreover –
 - 3.7.1 Section 29(3)(d) of the By-Law provides that the constitution of an owners' association must be approved by the municipality and must make provision for control over the design guidelines of the buildings and erven arising from the subdivision;
 - 3.7.2 Section 29(8) of the By-Law provides that the design guidelines contemplated in paragraph 3.7.1 above **may introduce more restrictive development rules than the rules provided for in the zoning scheme** (own emphasis);
 - 3.7.3 The principle set out in section 29(8) of the By-Law is a confirmation and codification of the legal principle laid out by the full bench of the High Court of South Africa, Western Cape Division, Cape Town in *Vanilla Street Home Owners Association v Ismail and another* (A345/2013) [2014] ZAWCGC 25 (5 March 2014)(**Vanilla Street-case**) - In summary, in the Vanilla Street-case, the full bench disagreed with the court a quo's conclusion that the Land Use Planning Ordinance 15 of 1985 (**LUPO**) (the ordinance that applied to the Vanilla Street Home Owners Association at that time and which is the ordinance under which the BHOA was established) did not grant the appellant, or other associations like it, the right to limit or restrict the use rights determined by a zoning scheme by way of a provision in its constitution or conduct rules.
 - 3.7.4 **The Court in the Vanilla Street-case found in favour of the homeowners association, having the effect that the constitution providing more restrictive land use rights, prevailed over the relevant zoning scheme.**

4. **Non-Compliance with the BDM**

The proposed second dwelling of 73,6m² exceeds the 300m² coverage limit stipulated in Section 5.1.1.2 of the BDM. The Architecture Committee has already declined approval based on this non-compliance. The Applicant's attempt to reframe the coverage calculation is not supported by the BDM's definitions or the Architecture Committee's interpretation of the BDM.

5. **Municipal Jurisdiction and Ultra Vires Risk**

The Knysna Municipality does not have jurisdiction to override the BDM or condone permanent departures from its parameters. Any approval granted in conflict with the BDM would be ultra vires and subject to legal challenge.

6. **Conclusion**

6.1 For the reasons set out above, it is evident that:

6.1.1 the BHOA has the power to introduce more restrictive development rules than the rules provided for in the zoning scheme (which the BDM in its current form seeks to achieve), and has indeed done so;

6.1.2 the Applicant must comply with the decisions of the Architecture Committee on interpreting the BDM, in respect of which the Architecture Committee has declined approval based on non-compliance with Section 5.1.1.2 of the BDM;

6.1.3 the Knysna Municipality lacks the jurisdiction and legal competence to grant the departure and that any positive determination in respect of the Application will be *ultra vires*;

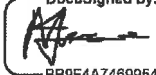
6.1.4 if the Applicant does not agree with the Architecture Committee's decision, then a dispute should have been declared, and the dispute must be dealt with in accordance with the dispute resolution procedures outlined in the BDM and Constitution;

6.1.5 regardless of the manner of breach of the BHOA Constitution or BDM, the BHOA (through the Executive and Architecture Committee) is well within its rights to preserve the architectural concept of the Estate and were it to attempt to condone the breach of Section 5.1.1.2 of the BDM in this case, then not only will the committee act contrary to their powers and duties under the Constitution, but it would be difficult for the committee to object at a later stage to any other transgression of the BDM, which will result in the failure to preserve and maintain the Development Concept of the Estate. This will amount to a failure of its fiduciary duties to the Members in the Estate; and

6.1.6 the Applicant remains bound by the BHOA Constitution and BDM. The Architecture Committee's decision is valid and enforceable. The Knysna Municipality must respect the binding nature of these instruments and refrain from approving any application that contravenes them.

6.2 The BHOA reserves all rights to make further submissions and to participate in any proceedings related to this Application. All notices and further proceedings related to the Application must be sent to writer hereof at the addresses reflected in this letter.

Yours sincerely

DocuSigned by:

BB9F4A746995458.
Jacques Marais
Fasken

14 October 2025

Jacques Marais

Phone: +27 11 586 6026

Fax: +27 11 586 6026

jmarais@fasken.com

The Municipal Manager
Knysna Local Municipality
Knysna
6570

FOR ATTENTION: Linda Mniki

Per Email: lmniki@knysna.gov.za /
knysna@knysna.gov.za

Our ref: Jacques Marais

Your ref: Collab. Reference 2663406

Erf 450 Belvedere: Application for Consent Use in terms of Section 15(2)(o) of the Knysna Municipality Spatial Planning & Land Use Management By-Law, 2021

Dear Sir/Madam

1. Introduction

- 1.1 We act for Mr Servaas van Breda Lombard, the registered owner of Erven 452 and 453 Belvedere (**Client**).
- 1.2 We refer to the –
 - 1.2.1 application for a consent use in terms of Section 15(2)(o) of the Knysna Municipality Spatial Planning & Land Use Management By-Law, 2021 (**By-Law**) submitted by Robert Stanley Vadas c/o VBGD Town Planners (**Applicant**), to permit a second dwelling greater than 60m² of 73,6m² on Erf 450 Belvedere (**Erf 450**), located at the Corner of Page Close & Lower Duthie Avenue (the **Application**). The Application reference number is **3541**;
 - 1.2.2 memorandum, dated July 2025, in support of an application for consent use for a second dwelling on Erf 450, prepared by VBGD Town Planners (**Memorandum**); and
 - 1.2.3 written notice, dated 15 September 2025, issued by the Knysna Municipality in terms of Section 35 of the By-Law (under Collab. Ref. 2663406) –
 - 1.2.3.1 notifying our Client of the Application; and
 - 1.2.3.2 inviting our Client to submit written comments to the Application in terms of Section 50 of the By-Law, on or before 15 October 2025.

- 1.3 On behalf of our Client, we hereby submit formal objections to the Application in accordance with Section 50 of the By-Law. We have been instructed to specifically address the Applicant's assertions regarding the role and authority of the Belvidere Homeowners Association (**BHOA**) and the binding nature of the Belvidere Estate Building Design Manual, 2024 (**BDM**).
- 1.4 While this letter does not address every contention made in the Application or Memorandum, our Client reserves the right to respond to any additional points at the appropriate time and forum, should the need arise.

2. **Binding Nature of the BHOA Constitution and BDM**

- 2.1 The BHOA is governed by the constitution of the BHOA (**Constitution**), which, together with any regulations adopted in terms of its Constitution, is binding on all the Members of the BHOA, including the Applicant.
- 2.2 All functions of the BHOA vests in the Executive Committee, which has the powers conferred on it under clause 12 of the Constitution.
- 2.3 The powers conferred on the Executive Committee include the power to –
 - 2.3.1 appoint an Architecture Committee to *inter alia* -
 - 2.3.1.1 ensure that all plans are considered in terms of the BDM;
 - 2.3.1.2 take all decisions as may be necessary and within the Architecture Committee's powers to ensure the maintenance of the original Development Concept as interpreted by the Architecture Committee; and
 - 2.3.1.3 propose regulations governing the maintenance of the Development Concept.
- 2.4 Having regard to the first paragraph under Section 3 of the BDM, the BDM has been formulated to –
 - 2.4.1 preserve the Belvidere Estate architectural concept [sic] (which presumably implies the Development Concept); and
 - 2.4.2 give effect to the mandate of the Development Company (which has been succeeded by the BHOA) imposed as a condition on the title deeds of the properties in the Estate, which states that:

Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no additions or alterations to approved buildings shall be effected until the Transferor (now the BHOA) has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house, any outside buildings and fences or walls...

- 2.5 The BDM, therefore, represents the regulations that must be observed and complied with by each Member of the BHOA, and enforced by the Architecture Committee, to ensure that the Development Concept is maintained and preserved.
- 2.6 Having regard to the above, we submit that the BDM constitutes regulations adopted in terms of the Constitution and is binding on every Member, including the Applicant. In numerous court judgements, it is confirmed that this binding effect arises from the principles of contract law, on the basis that the Applicant, when he bought and took transfer of his property (Erf 450), agreed, and

undertook in favour of the BHOA, to be bound by the Constitution, its rules and regulations.

- 2.7 Against this background, every Member –
- 2.7.1 undertakes in favour of the BHOA that he shall comply with the provisions of the Constitution and any regulations adopted in terms of the Constitution;
- 2.7.2 shall observe all regulations made by the BHOA; and
- 2.7.3 shall comply with the decisions of the Architecture Committee on interpreting the BDM.
- 2.8 Contrary to the Applicant's suggestion that the BHOA and the BDM are merely advisory, we are instructed to submit that:
- 2.8.1 the BHOA is governed by its Constitution that is **binding on all Members**, including the Applicant;
- 2.8.2 the BDM constitutes **regulations adopted in terms of the Constitution**, and its provisions are enforceable by the Architecture Committee appointed by the BHOA;
- 2.8.3 the title deeds of properties within Belvidere Estate explicitly require **written approval from the BHOA** for any building operations, additions, or alterations; and
- 2.8.4 the Applicant, by accepting transfer of Erf 450, **contractually undertook** to comply with the Constitution, BDM, and decisions of the Architecture Committee.

3. Legal Framework Supporting BHOA Authority

- 3.1 It is common cause that the BHOA's Architecture Committee has rejected the Applicant's request for approval of a second dwelling on Erf 450 for non-compliance with Section 5.1.1.2 of the BDM.

- 3.2 Section 5.1.1.2 of the BDM provides as follows:

5.1.1.2 SECOND DWELLING UNITS (Granny Flat/Guest Cottage)

A second dwelling shall only be approved on a single residential erf if all the following conditions are met:

- *The coverage of the main house and outbuildings does not exceed 300 square metres.*
- *The bulk of the proposed second dwelling does not exceed 100 square metres.*
- *The second dwelling must be of the same design style as the main house specifically in materials, colour, doors and windows.*
- *One small kitchen is permitted.*
- *Special application to the Architecture Committee must be made and approval will only be granted at their discretion.*
- *No third dwelling unit is permissible.*
- *Special application can be submitted for accommodation units for live-in caregivers.*
- *Knysna Municipal approval – Town Planning Department application – Consent Use for 2nd Dwelling.*

- 3.3 The Applicant contends that the Application should be approved by the Knysna Municipality regardless of the BHOA's (and by extension, the Architecture Committee's) position.
- 3.4 Based on the reasons and legal principles set out in the paragraphs below, our Client has instructed us that the Knysna Municipality does not have jurisdiction or the legal competence to override the BDM or condone permanent departures from the development parameters contained in the BDM.
- 3.5 The By-Law affirms the authority of homeowners' associations to impose more restrictive development rules than the rules provided for in the zoning scheme. In this regard, -
 - 3.5.1 Section 29(8) of the By-Law permits a homeowners' association's design guidelines to introduce more restrictive development rules than those contained in the zoning scheme; and
 - 3.5.2 Section 85(2) of the By-Law prohibits the Knysna Municipality from acting in conflict with its own By-Law, including those recognizing the authority of the BHOA as a homeowners' association and the rights of such homeowners' association to impose more restrictive development rules in its constitution than those contained in the zoning scheme.
- 3.6 Accordingly, on the basis of Section 85(2) of the By-Law read with Section 29(8) of the By-Law, the Knysna Municipality may not grant a departure from the development parameters which (i) is in conflict with the BDM and (ii) fails to uphold the 300m² floor area restriction contained in section 5.1.1.2 of the BDM, as any such approval will be in conflict with the Knysna Municipality's mandate not to act in conflict with the By-Law.
- 3.7 Moreover –
 - 3.7.1 Section 29(3)(d) of the By-Law provides that the constitution of an owners' association must be approved by the municipality and must make provision for control over the design guidelines of the buildings and erven arising from the subdivision;
 - 3.7.2 Section 29(8) of the By-Law provides that the design guidelines contemplated in paragraph 3.7.1 above **may introduce more restrictive development rules than the rules provided for in the zoning scheme** (own emphasis);
 - 3.7.3 The principle set out in section 29(8) of the By-Law is a confirmation and codification of the legal principle laid out by the full bench of the High Court of South Africa, Western Cape Division, Cape Town in *Vanilla Street Home Owners Association v Ismail and another* (A345/2013) [2014] ZAWCGC 25 (5 March 2014)(**Vanilla Street-case**) - In summary, in the Vanilla Street-case, the full bench disagreed with the court a quo's conclusion that the Land Use Planning Ordinance 15 of 1985 (**LUPO**) (the ordinance that applied to the Vanilla Street Home Owners Association at that time and which is the ordinance under which the BHOA was established) did not grant the appellant, or other associations like it, the right to limit or restrict the use rights determined by a zoning scheme by way of a provision in its constitution or conduct rules.

- 3.7.4 **The Court in the Vanilla Street-case found in favour of the homeowners association, having the effect that the constitution providing more restrictive land use rights, prevailed over the relevant zoning scheme.**

4. **Non-Compliance with the BDM**

The proposed second dwelling of 73,6m² exceeds the 300m² coverage limit stipulated in Section 5.1.1.2 of the BDM. The Architecture Committee has already declined approval based on this non-compliance. The Applicant's attempt to reframe the coverage calculation is not supported by the BDM's definitions or the Architecture Committee's interpretation of the BDM.

5. **Municipal Jurisdiction and Ultra Vires Risk**

The Knysna Municipality does not have jurisdiction to override the BDM or condone permanent departures from its parameters. Any approval granted in conflict with the BDM would be ultra vires and subject to legal challenge.

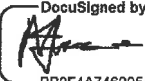
6. **Conclusion**

6.1 For the reasons set out above, it is evident that:

- 6.1.1 the BHOA has the power to introduce more restrictive development rules than the rules provided for in the zoning scheme (which the BDM in its current form seeks to achieve), and has indeed done so;
 - 6.1.2 the Applicant must comply with the decisions of the Architecture Committee on interpreting the BDM, in respect of which the Architecture Committee has declined approval based on non-compliance with Section 5.1.1.2 of the BDM;
 - 6.1.3 the Knysna Municipality lacks the jurisdiction and legal competence to grant the departure and that any positive determination in respect of the Application will be *ultra vires*;
 - 6.1.4 if the Applicant does not agree with the Architecture Committee's decision, then a dispute should have been declared, and the dispute must be dealt with in accordance with the dispute resolution procedures outlined in the BDM and Constitution;
 - 6.1.5 regardless of the manner of breach of the BHOA Constitution or BDM, the BHOA (through the Executive and Architecture Committee) is well within its rights to preserve the architectural concept of the Estate and were it to attempt to condone the breach of Section 5.1.1.2 of the BDM in this case, then not only will the committee act contrary to their powers and duties under the Constitution, but it would be difficult for the committee to object at a later stage to any other transgression of the BDM, which will result in the failure to preserve and maintain the Development Concept of the Estate. This will amount to a failure of its fiduciary duties to the Members in the Estate; and
 - 6.1.6 the Applicant remains bound by the BHOA Constitution and BDM. The Architecture Committee's decision is valid and enforceable. The Knysna Municipality must respect the binding nature of these instruments and refrain from approving any application that contravenes them.
- 6.2 Our Client reserves all rights to make further submissions and to participate in any proceedings related to this Application. All notices and further proceedings

related to the Application must be sent to writer hereof at the addresses reflected in this letter.

Yours sincerely

DocuSigned by:

BB9F4A7469854584
Jacques Marais
Fasken



KNYSNA
Municipality
Munisipaliteit
uMasipala

LAND USE APPLICATION DEPARTMENT COMMENTS

Erf Number: 400450000
Application Type: Consent Use
Application Number: 3541
Application Date: 2025-08-19

Department	Comment Requested (T=Yes / F=No)	Comment Received
Corporate Services	F	
Legal Services	F	
Financial Services	F	
Community Services	F	
Fire Services	F	
Traffic	F	
Waste Removal	F	
Infrastructure Services	T	--oOo-- Tue Sep 30 2025 11:08:41 GMT+0200 (South Africa Standard Time) Comment by JOYAN: No objection
Infrastructure Services Roads	F	
Infrastructure Services Sewer	F	
Electro Technical	F	
Housing	F	
Environmental Services	F	
Building Control	T	--oOo-- Mon Oct 06 2025 08:45:11 GMT+0200 (South Africa Standard Time) Comment by WILLIAMSZ: Recommend for approval.
Aesthetics Committee	F	
Street Naming Committee	F	

VBGD Town Planners

Town Planners and Development Consultants

JOHANNESBURG: Tel : 27 011 706 2761 or KNYSNA 079 158 6699

Email : druce@mweb.co.za website: <https://vbgdtownplanners.co.za/>

POSTAL ADDRESS: P.O.Box 3506 Knysna 6570

PHYSICAL ADDRESS: 154 Watsonia Avenue Brenton WC

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Date: 27 November 2025

Reference:

The Municipal Manager
Planning and Development Department
Knysna Municipality
P. O Box 21
KNYSNA
6570

Attention: Hennie Smit: Manager: Land Use Management

Linda Mninki : Town Planner Case officer

Reference Number: 3541

Dear Sir,

APPLICATION ERF 450 BELVEDERE: RESPONSE TO COMMENTS:

I refer to the above application, and to your email dated 3 November 2025 to which we have the following comments:

1. We note that there were **no internal comments or objections** which require our response, these being from:

Department	Comment
Building Control	Recommended for approval;
Infrastructure services Water and Sanitation	No Objection
Infrastructure Public Works	No Objection
Director Infrastructure	Supported

2. The following comments were received **from external parties**.

Name	Comments/Objections
PG Greenwood Owner Erf 449	Being the only direct adjoining owner, I confirm I have no objections to the application. The recently completed new property already incorporates the area in question without any exterior alterations newly completed
S E Stegmann Owner Erf 474	No Objection to the second dwelling above the garage
P Howie Owner Erf 482	No Objection to the second dwelling above the garage
H Atkinson Owner Erf 454	No Objection to the second dwelling above the garage

Breda Lombard Owner Erf 452	Objection by Fasken Attorneys
Belvidere Home Owners Association (BHOA)	Objection by Fasken Attorneys

3. With the exception of the owner of Erf 452, which is a property diagonally across from the site, the neighbouring properties have no objection to the application.
4. Regarding the identical objections lodged by Fasken Attorneys on behalf of the BHOA and Mr Breda Lombard the following:
 - 4.1. The references in the letter are directed at the stipulations of the Title Deeds which read as follows:

Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no additions or alterations to approved buildings shall be effected until the Transferor (now the BHOA) has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house, any outside buildings and fences or walls...

The above stipulation is clearly aimed at ensuring approved design and sound construction, including inter alia approved design, construction materials and colour specifications of a dwelling house. In this instance, the existing house has already been subjected to this scrutiny and has fully approved building plans confirmed by the BHOA.

- 4.2. It is to be noted that there are **no additions at all** to the buildings, and the space where the second dwelling is proposed is not visible and cannot be distinguished from any external evaluation.

Internally, the only component being used is **an existing surface** to install small appliances as shown below. It would be entirely inappropriate to disqualify the proposed use on the basis of the above insertion in the Title Deed, which is **aimed at new buildings or additions**.



- 4.3. The Building Design Manual (BDM) has as its primary function to establish a consistent theme for the Belvidere Estate, and which is described in the design concept as follows:

"The Belvidere area has a strong English country village flavour with its famous tiny Norman-style church, oaks and historic houses. The DEVELOPMENT CONCEPT is to preserve this feel by grouping the stands in cul-de-sacs with stretches of open fields and copses of trees between them. ...Roads have been kept to the perimeter of the Estate and designed to reduce vehicle speed."

"The architectural style and quality of all buildings is controlled. The basic design concept is for new buildings to harmonise with the 19th century Eastern Cape architecture of the existing historic Belvidere buildings. The aim is not to exactly reproduce a Georgian or Victorian village, but rather to create a variety of aesthetically pleasing homes well suited to modern living, that reflect our traditional Eastern Cape Colonial Georgian and simple Victorian architecture."

- 4.4. The Belvidere Architect Committee (BAC), was established with the view to ensure compliance with the above concept, which is highlighted in the opening paragraphs as follows:

The BHOA Executive Committee has in turn authorised the Architecture Committee: -

"... to exercise every possible control to ensure that the original Development Concept of the entire Estate is maintained and, where this has not been the case that it be re-claimed, where feasible / rationally achievable.

While there are finer details in the Design Guidelines, the overriding essence of the powers of the BAC are as follows:

- 1.3. to ensure that all plans are considered in terms of the Building Design Manual which specifies standards and colours for inter alia dwellings, carports, walls, fences, any alterations and/or additions including swimming pools;
- 1.4. to take all such decisions as may be necessary and within the Architecture Committee's powers to ensure the maintenance of the original Development Concept as interpreted by the Architecture Committee;

- 4.5. Considering the above, it is stretching the point beyond reasonable and rational evaluation, to disqualify the proposal for the second dwelling, on any of the aspects the BAC are tasked with evaluating. It is again reiterated that the house has approved building plans, which conform with all prescriptions relating to the Design Concept. There are no additions, either external or internal which can have any discernible impact on the desired design concept. Consequently, the consideration of the structure in the context of the Design Guidelines, has already been done, with the approval of the house building plans. Any other position taken in relation to the design manual from a visual perspective, would be absurd, as the added kitchenette is not visible and is only 3m² in extent.
- 4.6. We furthermore find no reference in the Title Deeds for Erf 450, which contractually binds the owner, other than when transfer of a property is required, to comply with the BDM. This is

particularly relevant when there are no additions or structural alterations required to accommodate the proposal.

- 4.7. Regarding the legal framework for supporting the BHOA authority, it is submitted that the BAC has erred and have not applied their minds, as any decision-making body is required to do. The only grounds for not approving the second dwelling are the BAC's requirement regarding the coverage of the house having to be 300m² or less. While this coverage is stated in the guidelines for second dwellings, it is incumbent on the BAC to consider the plans in the context of the existing approved house, and whether by rejecting the proposal, it prevents any negative impacts on the overall design concept. It has been shown as per the table below that, with the exception of the coverage provision, the second dwelling is fully compliant. We do not in any event agree with the manner in which the coverage is applied by the BAC and furthermore, 300m² is an arbitrary stipulation.

DESIGN GUIDELINE REQUIREMENTS SECOND DWELLINGS	COMPLIANCE
Coverage of the main house and outbuildings does not exceed 300m ²	COMPLIES ON OUR CALCULATION
The bulk of the proposed second dwelling does not exceed 100m ²	COMPLIES
The second dwelling must be the same design style as the main house	NO CHANGES TO BUILDINGS
One small kitchen is permitted	COMPLIES
Special application to the Architecture Committee to be made	CONCLUDED (No consensus)
No third dwelling is permissible	NOT APPLICABLE
Special application can be submitted for accommodation for live-in caregivers	NOT APPLICABLE BUT IS RELEVANT FOR CLIENT'S PARENT
Knysna Municipal approval. Consent Use application	APPLICATION in Progress

- 4.8 As stated above, we do not agree with the BAC calculation of the coverage if done by their definition, however, it is equally important to note that the coverage of the existing buildings is fully within the parameters of the Knysna Zoning Scheme By-Law.

Again, as with the interpretation of the design concept for Belvidere, the BAC have failed to apply their minds in a rational and reasonable manner.

- 4.9 Regarding interpretation of the Knysna Spatial Planning and Land Use Management By-Law (2021), the following is important to note:

- 4.9.1 Section 29(8) of the above By-Law acknowledges that a homeowner's association through its design guidelines, may suggest more restrictive development parameters than those in the zoning scheme, however in the final analysis, the municipality must evaluate any land

use matter in terms of Section 65 of the Bylaw, which stipulates criteria for the consideration of applications.

- 4.9.2 The recognition of Design Guidelines of a Homeowners Association cannot subvert the requirements of the municipality in taking decisions on land use matters. There is a raft of applicable legislation, including the RSA Constitution, the Municipal Systems Act and others, which direct the municipality to make decisions on the basis of, inter alia, compliance with prevailing national, provincial and municipal legislation, the Knysna Spatial Planning and Land Use Management By-Law, the Knysna Zoning Scheme, current municipal policy, impacts on other persons, need, desirability and then, after due consideration of all of these, arrive at a considered decision.
- 4.9.3 The municipality cannot be removed from the decision-making process by virtue of the existence of a Homeowners Association. Neither can a municipality delegate its responsibility to an external body, as decisions on land use matters is entrenched as an exclusive municipal competency, in terms of the SA Constitution, and other legislation such as the Municipal Systems Act and SPLUMA.
- 4.9.4 It is to be noted that the stipulations in a homeowner's design guideline amounts to a contractual arrangement with the members of the association, but the municipality cannot allow its statutory responsibility to consider land use matters in a comprehensive manner, to be overridden by a private arrangement with members in an association. If so, it could lead to a biased decision, favouring only the HOA without consideration for the other important criteria which a municipality is obliged to consider. This is exactly the situation we are presented with in our application, if the objector is the sole adjudicator of the matter.
- 4.9.5 In posing the same question to the Western Cape Provincial Administration, the advice given was that the comments from a Homeowners Association (HOA) is a significant input to any land use application, however, where the comment from a HOA is negative or non-supportive, the municipality must apply its mind and consider all inputs before making an informed decision. It was noted that the refusal of an application by the municipality, solely on the basis of a HOA's decision would be reviewable in terms of PAJA.
- 4.9.6 Regarding the case law quoted, we are advised that the case of **Vanilla Street Home Owners Association v Ismail and another**, dealt with contractual enforceability between the residents in an estate and did not remove the municipalities statutory decision-making powers.
- 4.9.7 We disagree with the assertion that the municipality does not have jurisdiction to override the BDM, making such decision *ultra vires*. The municipality is the mandated authority to decide on land use applications in terms of controlling legislation, which grants the municipality the right to make an informed decision, even in the instance of conflict with a HOA Design manual or HOA. Therefore, provided the municipality makes a decision, and in this case a consent use application, in accordance with the provisions of its By-Laws, it cannot be deemed to be *ultra vires*.

- 5 The letter from Fasken Attorneys raises a range of issues , however, these do not negate the requirements for the municipality to apply its mind in a rational and reasoned manner in arriving at an informed decision.
- 6 The objectors have a right to be heard at a Tribunal, or ultimately on appeal, but they cannot usurp the responsibility of the municipality, who are entrusted with making rational and reasoned decisions.

Yours Sincerely,



L D Druce (PrPlnA/543/1987)

VBGD Town Planners

VBGD Town Planners

Town Planners and Development Consultants

JOHANNESBURG: Tel : 27 011 706 2761 or KNYSNA 079 158 6699

Email : druce@mweb.co.za website: <https://vbgtownplanners.co.za/>

POSTAL ADDRESS: P.O.Box 3506 Knysna 6570

PHYSICAL ADDRESS: 154 Watsonia Avenue Brenton WC

Celebrating 35 Years service to our clients (1985 to 2020)



Date: 29 July 2025

Reference:

The Municipal Manager
Planning and Development Department
Knysna Municipality
P. O Box 21
KNYSNA
6570

Attention: Manager: Land Use Management

Dear Sir,

APPLICATION ERF 450 BELVEDERE: RESPONSE TO COMMENTS:

I refer to our application submitted and to your email dated 29 July 2025 which had the following comments:

- (i) It is advised that the proposed plan of the second dwelling be placed in the context of the cadastral boundaries to the erf.
- (ii) Kindly include a copy of the Surveyor-General diagram for the subject property.

Kindly note the following:

1. There are no additional buildings or alterations to the existing buildings apart from an internal fitting to the guest suite above the garage. Therefore the best plan to show the second dwelling in relation to cadastral boundaries is the existing site plan.
2. There is no individual SG diagram for the property and therefore the General Plan is used
Please find the following in response to your comments:
3. An extract from the approved Site Plan showing the second dwelling and cadastral boundaries.
4. Copies of the General Plan and an extract for ease of reference.

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

L D Druce (PrPlnA/543/1987)

VBGD Town Planners

Director: L.D.Druce B Sc TRP PrPln (A543/1987) Prog Law (UNISA)

Assisted by : J. Erasmus BA (Hons)PrPln



AFFIDAVIT: ERF 450 BELVEDERE KNYSNA

I, **ROBERTY STANLEY VADAS** hereby confirm that I intend applying for a second dwelling on the abovementioned property.

The second dwelling will be within an existing part of the house and will be approximately 71m². This part of the house already contains cabinetry for a kitchenette, however, we hereby confirm that the space will not be utilised as a second dwelling until the consent use has been granted by the Knysna Municipality.

Signed:.....
Dated:.....06 June 2025.....

R S VADAS



IVAN STEWART KIDSON
COMMISSIONER OF OATHS
8/1/8/2 EAST LONDON 2000-07-11
Quarry View, Lufkin Road, East London
6/6/2025

Signed: Commissioner of Oaths:
.....

Dated

From: Theo Rebel <Theo.Rebel@westerncape.gov.za>

Sent: Wednesday, 18 June 2025 12:35

To: Hennie Smit <hsmit@knysna.gov.za>

Cc: Riaan Thomson <Riaan.Thomson@westerncape.gov.za>

Subject: BELVEDERE HOME OWNERS ASSOCIATION MATTER

ANNEXURE F: EMAIL WESTERN CAPE GOVERNMENT

Good day Hennie,

Your enquiry below re. HOA approvals refers.

1. In terms of the Constitution and various Constitutional Court Judgements, land use planning decision making is an exclusive municipal competence.
2. A municipality cannot be dictated to by an HOA whether to approve or refuse a legitimate land use application.
3. A municipal decision to approve or refuse a land use application based on a decision by an HOA will certainly be subject to a judicial review in terms of PAJA.
4. With the above in mind we have in the past advised another municipality in the Western Cape where there were similar challenges with an applicant, an HOA and HOA constitution:
 - A municipality is well within its rights to, at a pre-application meeting or later in the application process, require that the input from an HOA needs to be submitted. They may require it to be submitted with the submission of the application but may also agree to receive it during the public consultation process of the application.
 - It would be irregular to insist that a written support of the HOA needs to be submitted with the application. This would equate to the municipality who is legally the competent decision maker to, via this procedure, abdicate its decision-making mandate to an HOA.
 - It is comprehensible that an HOA may not support a land use application in certain instances, but then it should be in writing and submitted either with the application or as part of the public consultation. A municipality is well within its rights to insist on submission of the comments of a HOA to make an informed decision on a land use application.

- If the comment of the HOA is negative or non-supportive then that is what the municipality must consider in the determination of the application. A municipality may refuse a land use application that is not supported by an HOA but a municipality it is not compelled to either not accept or refuse a land use application if an HOA is not in support of it. A municipality needs to consider all inputs and comments and make an informed decision on the land use application. By not accepting an application without the consent of an HOA, neither the applicant nor HOA will even have the opportunity to appeal the initial decision.
 - Most municipal land use planning by-laws provide that if an applicant fails to provide the additional information or documents within the contemplated period, the municipality must consider the application without the information or documents and notify the applicant accordingly. In such an instance the absence of the information may be to the disadvantage of the applicant. The municipality is not bound by the decision of the HOA, and it also has the power to decide an application without the consent or comment from the HOA.
5. Although the municipality may have approved an HOA's constitution it is not legally bound to its contents. HOA rules etc. are to be enforced by an HOA as it represents an agreement between a home owner and an HOA. It is possible that a municipality may approve of an application contrary to an HOA comment or rule and it is then for the HOA to enforce its rules and agreements on and with the home owner – it is not for the municipality to enforce such rules.
 6. The applicant should have a pre-application with the municipality and submit the necessary land use application and due process and consultation (as discussed above) should follow.

We trust that the above will be of assistance.

Kind regards,

Theo Rebel Pr. Pln (A1056/1998)
Chief Town & Regional Planner
 Directorate Development Management Region 2
 Department of Environmental Affairs and Development Planning
 Western Cape Government

2nd Floor Utilitas Building, 1 Dorp Street, Cape Town 8000

Tel: +27 (0)21 483 8375
 Cell: +27 (0)83 468 7216
 Fax: +27 (0)21 483 3633
 Email: theo.rebel@westerncape.gov.za
 Website: www.westerncape.gov.za/eadp

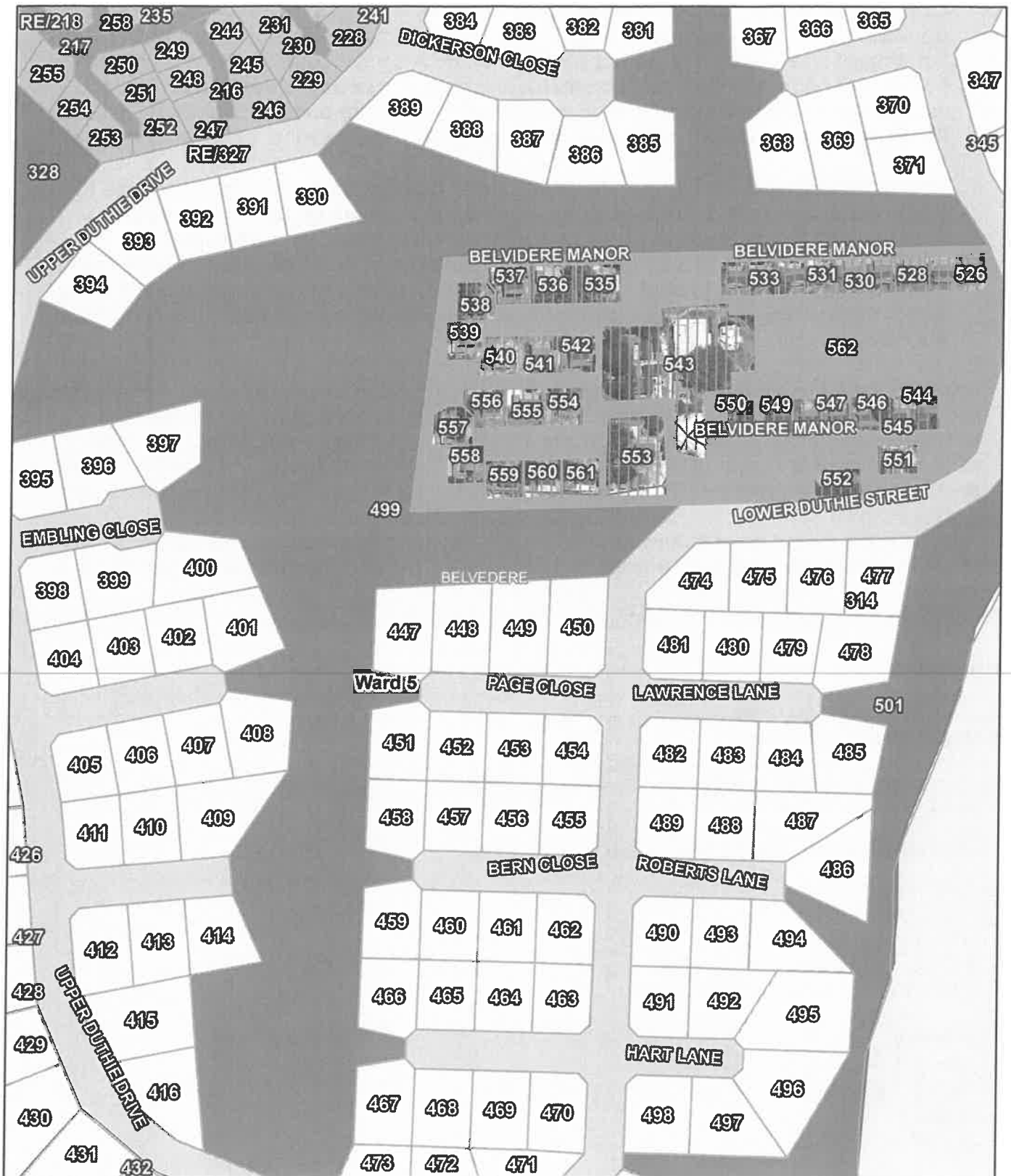


**Western Cape
Government**

YOU

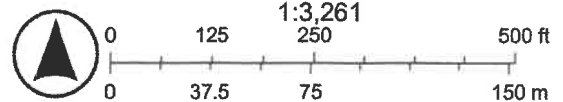
Should you not be able to contact the numbers above, please call +27 (0)21 483 4091 between 07:30-16:00.

Zoning erf 450 belvedere



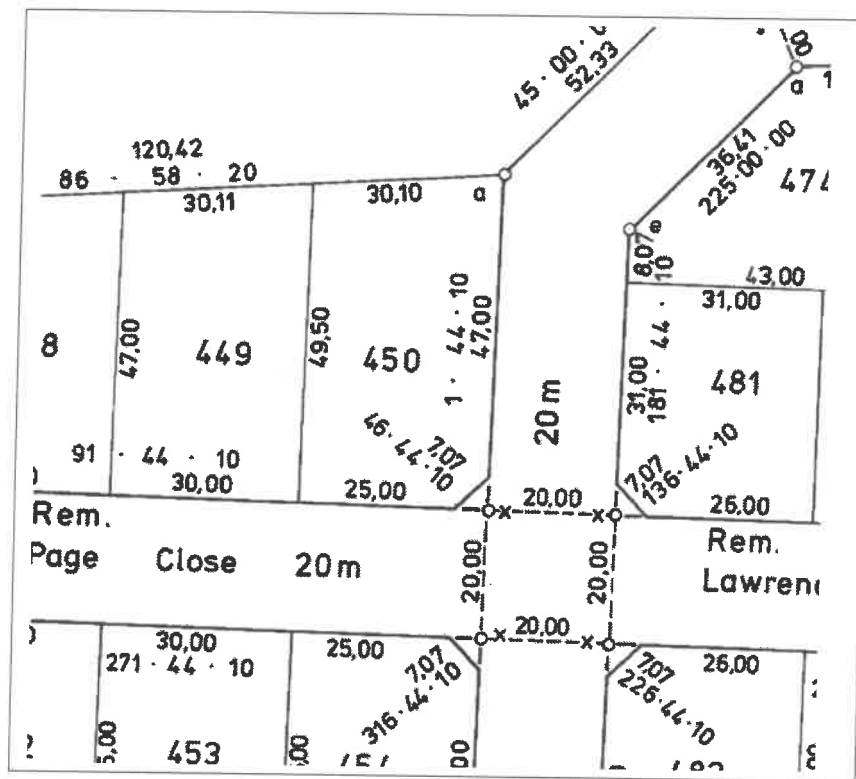
15/04/2025, 11:15:18

- | | |
|--------------------------------------|------------------------------|
| Registered Properties (Deeds Office) | Below High Water Level |
| Zoning | Suburbs |
| General Residential Zone I | Streets |
| General Residential Zone V | Wards (2020) |
| Open Space Zone I | World Imagery |
| Open Space Zone II | Low Resolution 15m Imagery |
| Single Residential Zone I | High Resolution 60cm Imagery |
| Transport Zone II | Citations |
| Transport Zone III | 60cm Resolution Metadata |



George Municipality, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

ERF 450 BELVEDERE: EXTRACT FROM GENERAL PLAN



DETAILS ERF 450 BELVEDERE GENERAL PLAN:

Erf Number:		Size(m ²)	
376	1085	447	1372
377	1129	448	1372
378	1043	449	1447
379	1065	450	1510
380	1222	451	1155
381	1272	452	1080

COORDINATES:

450 a	+	191, 00	+	8 686, 00
450 x	+	192, 58	+	8 737, 98

Hennie Smit

From: Linda Mniki
Sent: Wednesday, 14 October 2026 09:22
To: Hennie Smit
Subject: FW: [EXT] RE: KMPT MEETING AGENDA>>31 MARCH 2026 / Collab Reference 2663406 and 2859132 / Consent Use Reference 3541 (Erf 450 Belvedere) / Erf 450 Belvedere: Application for Consent Use in terms of Section 15(2)(o) of the K... [FMD-SOUTHAFRICA.FID502844]

From: Liesl Bailey <lbailey@knysna.gov.za>
Sent: 24 March 2026 1:56 PM
To: Jacques Marais <jmarais@fasken.com>
Cc: Linda Mniki <lmniki@knysna.gov.za>; Randolph Daames <rdaames@knysna.gov.za>; Mpumelelo Nzuzo <mnzuzo@knysna.gov.za>; Mulalo Musekene <mmusekene@knysna.gov.za>; Lungiswa Goya <lgoya@knysna.gov.za>; Hennie Smit <hsmit@knysna.gov.za>; Director Planning <directorplanning@knysna.gov.za>; Lou du Plessis <lmduplessis@maisels.co.za>
Subject: RE: [EXT] RE: KMPT MEETING AGENDA>>31 MARCH 2026 / Collab Reference 2663406 and 2859132 / Consent Use Reference 3541 (Erf 450 Belvedere) / Erf 450 Belvedere: Application for Consent Use in terms of Section 15(2)(o) of the K... [FMD-SOUTHAFRICA.FID502844]

Good day,

Kindly note that the item 6.3: Erf 450 Belvidere, is hereby withdrawn from the agenda.

Kind regards,

Liesl Bailey Chief Clerk: Land Use Management

P O Box 21. Knysna. 6570. Western Cape. South Africa

Tel +27 (0)44 302 6300 (switchboard) or 302 6589 (direct)

E-mail lbailey@knysna.gov.za

From: Jacques Marais <jmarais@fasken.com>
Sent: Tuesday, March 24, 2026 1:53 PM
To: Liesl Bailey <lbailey@knysna.gov.za>
Cc: Linda Mniki <lmniki@knysna.gov.za>; Randolph Daames <rdaames@knysna.gov.za>; Mpumelelo Nzuzo <mnzuzo@knysna.gov.za>; Mulalo Musekene

<mmusekene@knysna.gov.za>; Lungiswa Goya <lgoya@knysna.gov.za>; Hennie Smit <hsmit@knysna.gov.za>; Director Planning <directorplanning@knysna.gov.za>; Lou du Plessis <imduplessis@maisels.co.za>

Subject: RE: [EXT] RE: KMPT MEETING AGENDA>>31 MARCH 2026 / Collab Reference 2663406 and 2859132 / Consent Use Reference 3541 (Erf 450 Belvedere) / Erf 450 Belvedere: Application for Consent Use in terms of Section 15(2)(o) of the K... [FMD-SOUTHAFRICA.FID502844]

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Dear Liesl,

We are following up regarding the below. Please confirm whether Item 6.3 has been removed from the Agenda.

Regards,

Jacques Marais

Partner

T +27 11 586 6026 | M +27 83 458 5976 | jmarais@fasken.com

Bell Dewar Inc.

From: Liesl Bailey <lbailey@knysna.gov.za>

Sent: Monday, 23 March 2026 14:50

To: Jacques Marais <jmarais@fasken.com>

Cc: Linda Mniki <lmniki@knysna.gov.za>; Randolph Daames <rdaames@knysna.gov.za>; Mpumelelo Nzuzo <mnzuzo@knysna.gov.za>; Mulalo Musekene <mmusekene@knysna.gov.za>; Lungiswa Goya <lgoya@knysna.gov.za>; Hennie Smit <hsmit@knysna.gov.za>; Director Planning <directorplanning@knysna.gov.za>; Lou du Plessis <imduplessis@maisels.co.za>

Subject: [EXT] RE: KMPT MEETING AGENDA>>31 MARCH 2026 / Collab Reference 2663406 and 2859132 / Consent Use Reference 3541 (Erf 450 Belvedere) / Erf 450 Belvedere: Application for Consent Use in terms of Section 15(2)(o) of the Knysna Municipa... [FMD-SOUTHAFRIC...]

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Good day Mr. Marais,

I hereby acknowledge receipt of your correspondence.

Please note that your request have been sent to the Chairperson of the Tribunal. I will respond once I received a response.

Kind regards,

Liesl Bailey Chief Clerk: Land Use Management

P O Box 21. Knysna. 6570. Western Cape. South Africa
Tel +27 (0)44 302 6300 (switchboard) or 302 6589 (direct)
E-mail lbailey@knysna.gov.za

From: Jacques Marais <jmarais@fasken.com>
Sent: Monday, March 23, 2026 2:19 PM
To: Liesl Bailey <lbailey@knysna.gov.za>
Cc: Linda Mniki <lmniki@knysna.gov.za>; Randolph Daames <rdaames@knysna.gov.za>; Mpumelelo Nzuzo <mnzuzo@knysna.gov.za>; Mulalo Musekene <mmusekene@knysna.gov.za>; Lungiswa Goya <lgoya@knysna.gov.za>; Hennie Smit <hsmit@knysna.gov.za>; Director Planning <directorplanning@knysna.gov.za>; Lou du Plessis <imduplessis@maisels.co.za>
Subject: KMPT MEETING AGENDA>>31 MARCH 2026 / Collab Reference 2663406 and 2859132 / Consent Use Reference 3541 (Erf 450 Belvedere) / Erf 450 Belvedere: Application for Consent Use in terms of Section 15(2)(o) of the Knysna Municipa... [FMD-SOUTHAFRICA.FID502844]
Importance: High

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Sir/Madam,

We attach correspondence for your **URGENT ATTENTION**.

Kindly acknowledge receipt.

Kind Regards

Jacques Marais

Partner

T +27 11 586 6026 | **M** +27 83 458 5976 | jmarais@fasken.com

Bell Dewar Inc.

-----Original Appointment-----

From: Liesl Bailey <lbailey@knysna.gov.za>

Sent: Thursday, 19 March 2026 09:07

To: Kirsty Hofhuis; Lundi; joan@paradisefound.co.za; NCOA Committee Members; municipal@noetzie.co.za; julie@actionads.co.za; lloyddruce@mweb.co.za; Jacques Marais; Nel & De Kock; Delarey Viljoen; marike@vreen.co.za; info.thinkurban2018@gmail.com; Aa Camille; seretsem@gmail.com; Reginald Smit; Johan Grobler; zvrtown@mweb.co.za; Jacqui Samson; Neale Perring; Linda Mniki; Randolph Daames; Mpumelelo Nzuzo; Mulalo Musekene; Lungiswa Goya; Sihle

Phungula; Sinovuyo Sitinga; Hennie Smit; Director Planning; Shaun Madumbo

Subject: [EXT] KMPT MEETING AGENDA>>31 MARCH 2026

When: Tuesday, 31 March 2026 09:00-13:00 (UTC+02:00) Harare, Pretoria.

Where: COUNCIL CHAMBERS, 5 CLYDE STREET, KNYSNA

{CAUTION: This email originated from outside of Fasken. Exercise care before clicking links or opening attachments.}

Dear Sir/Madam

1. You are hereby informed of a Knysna Municipality Planning Tribunal meeting that will take place on **Tuesday, 31 March 2026** at 09:00 in the Council Chambers, 5 Clyde Street, Knysna, to consider the items as set out in the attached agenda.
2. The full agenda of the meeting will be available from Tuesday, 24 March 2026 on the municipal website at:
<https://www.knysna.gov.za/government/council/knysna-municipal-planning-tribunal/>
3. Kindly direct queries on the meeting and proceedings of the Municipal Planning Tribunal to the Administrator for consideration.

Kind regards,

Microsoft Teams meeting

Join: <https://teams.microsoft.com/meet/39829747286027?p=KwuQYP4IRymFxbPWgq>

Meeting ID: 398 297 472 860 27

Passcode: gV2u7Kz7

[Need help?](#) | [System reference](#)

For organizers: [Meeting options](#)



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ITEM TO:
Appeal Authority

APPEAL REFERENCE	
REPORT DATE	18 September 2026
APPLICATION NO.	3532
REPORT AUTHOR	H Smit
JOB TITLE	Manager: Land Use Management
SACPLAN REG. NO.	A/1167/2000
TELEPHONE NO.	044-302-6319
APPLICATION DATE	12 August 2025
DECISION DATE	24 April 2026

APPEAL REPORT

AMENDMENT OF THE CONDITIONS OF APPROVAL, DEPARTURE AND SITE DEVELOPMENT PLAN: ERF 13760 KNYSNA

Was the original application processed correctly (if no, elaborate below):

Y

N

Not applicable

PART A: AUTHOR DETAILS

First name(s)	Hennie
Surname	Smit
Job title	Manager: Land Use Management
SACPLAN registration number	A/1167/2000
Directorate/Department	Land Use Management
Contact details	044-3026319

PART B: APPLICANT DETAILS

Name & Surname	Marike Vreken				
Company name	Marike Vreken Town Planners				
SACPLAN registration number					
Registered owner(s)	Pearl Star Investments 77 CC				
Is the applicant the appellant?	Y	N	Is the appeal valid	Y	N

PART C: APPELLANT(S) DETAILS (IF NOT THE APPLICANT)

First Name(s)	Surname	Property Description	Physical Address	Valid/invalid
Paul	Dugmore		12 Circular drive	Valid

Total Valid Appeals	-
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PART D: APPLICATION PROPERTY DETAILS

Property description (in accordance with Title Deed)	Erf 13760 Knysna			
Property Extent (m²)	3549m²			
Physical address	17 Circular Drive			
Area/Town	Paradise, Knysna			
Current zoning	General Residential Zone I			
Applicable zoning scheme	Knysna Zoning Scheme By-Law (2020)			
Current land use	Vacant			
Are there existing buildings on the property?	Yes			
Title Deed number & date	T17701/2023			
Any unauthorised land use/building work	Y	N	If Yes, explain	N/A

PART E: SUMMARY OF PUBLIC PARTICIPATION

Total valid comments	4				Total valid comments and petitions				0	
Valid petitions	Y	N	If yes, number of signatures			None				
Community organisation(s) response	Y	N	N/A	Ward Councillor Response			Y	N	N/A	
Total letters of support	None									
Was public participation undertaken in accordance with section 45 -49 of the By-law on Municipal Land Use Planning								Y	N	
If the Provincial Minister commented on the application, was he/she afforded the opportunity to comment on the appeal?								Y	N	
If the proposal triggered an application for land development in terms of Section 10 of the Western Cape Land Use Planning Regulations, 2015, was the Provincial Minister afforded the opportunity to comment on the appeal?								Y	N	

PART F: SUMMARY OF COMMENTS DURING PUBLIC PARTICIPATION

Comments and objections to the application were from the following:

No.	OBJECTOR	DATE
01	Jan Venter & Albert Van Zyl (Parkes Manor ,SA Travel Inbound Pty Ltd.)	26 September 2025
02	Earl Durant	30 September 2025
03	Paul Dugmore	30 September 2025

The following is a summary of the comments and objections received:

The application has attracted objections from four residents of Paradise, who submitted identical representations, as well as from a neighbouring property owner, Parkes Manor.

1. The Paradise residents strongly oppose the application on the basis that it is mischaracterised as a minor amendment, whereas in their view it constitutes a substantially different development. They contend that the proposal departs from the originally approved concept of freestanding units and instead introduces a higher-density scheme comprising more compact, semi-detached structures with limited private open space. Concerns are also raised regarding the conduct of the developer, including an alleged lack of progress on site, dumping of rubble, and a perceived disregard for the surrounding neighbourhood.
2. The objectors dispute the applicant's justification that a lower-density development is not financially viable, suggesting that similar developments have proven feasible elsewhere and that the proposal is primarily profit-driven. They further argue that the development is incompatible with the established low-density, green character of the Paradise area and does not align with the prevailing built form. Additional concerns relate to insufficient provision for visitor parking, which they believe will result in spillover parking onto narrow streets and adjacent properties, as well as the removal of trees and associated loss of vegetation, potentially impacting the environmental quality of the area. Certain aspects of the applicant's motivation are also regarded as irrelevant or unsubstantiated. The residents ultimately request that the Municipality refuse the application in its current form.
3. In addition, the objection submitted by Parkes Manor, representing a neighbouring guesthouse, raises procedural and operational concerns. The objector highlights that no formal notification of the application was received. While acknowledging that the proposed increase in density and relaxation of building lines may be consistent with planning policy and unlikely to result in direct physical impacts, the objection emphasises the potential effect of construction-related activities on the guesthouse's operations. In particular, concerns are raised regarding noise, disturbance, and the potential impact on guest experience and the business's reputation. The objector accordingly requests that, should the application be approved, strict conditions be imposed to regulate construction activities.
4. Furthermore, the objector notes the presence of existing maintenance buildings and staff quarters along the shared boundary and requests that future occupants of the proposed development be made aware of these uses to avoid potential land use conflicts. While not opposing the development outright, the objection seeks to safeguard the continued operation and amenity of the neighbouring guesthouse through appropriate conditions of approval.
5. Summary of Comments from Departments/Organs of State:

Name	Date Received	Summary of Comments	Recommendation
Infrastructure Services		Conditions of Approval: Manager Roads and Stormwater:	

	25 September 2025	The 2x visitors bays adjacent to UNIT TYPE A' must be moved forward to create an isle width, thus forward by at least 2,5m (Block 3). Alternatively, all kerbs must be mountable or sunken kerbs. Manager water and Sanitation: Augmentation Fee will be payable on water & sewer as per condition (vii) of the appeal outcome.	Comment
Environmental Services	18 September 2025	Supported	Positive
Waste Removal	11 September 2025	How many refuse bins will the refuse accommodate and please submit an IWMP to explain and discuss how the waste will be handled.	Comment
Fire Services	08 September 2025	Please provide details on emergency vehicle access and hydrant placements.	Comment
Aesthetics Committee	05 September 2025	No objection to the proposed amendment to the conditions of approval departure. The site Erf 13760 is inside the urban conservation area and contextually bounded by heritage resources, the property on Erf 18, Parkes Manor, which is graded III A Edwardian architecture, and Erf 4079, grade 111 B with Victorian style. An application for aesthetics in accordance with urban conservation guidelines is required before building plan submission.	Comment

PART G: SUMMARY OF MUNICIPAL EVALUATION ON ORIGINAL APPLICATION

1. The property was previously approved for consolidation and rezoning to "General Residential Zone I" for group housing purposes, thereby establishing the applicable land use rights. This approval included a Site Development Plan (SDP) and conditions of approval, notably limiting the development to a maximum of eight (8) dwelling units.
2. The decision was subsequently upheld on appeal, confirming the appropriateness of the rezoning and the principle of residential densification on the property, subject to compliance with the imposed conditions.
3. The proposed amendment of conditions to allow an increased residential density on Erf 13760 represents a more efficient utilisation of land that is already zoned for General Residential purposes (Group Housing). By optimising the development potential of the property within an established urban area, the proposal supports infill development and reduces the need for outward urban expansion. This contributes to a more compact urban form and promotes the efficient use of existing infrastructure and services.
4. The application further aligns with the principle of "Spatial Efficiency", as it makes better use of well-located land by accommodating additional residential units without requiring significant new bulk infrastructure investment. The proposal ensures compliance with key development parameters such as parking and open space, thereby maintaining functionality while increasing yield.
5. In terms of "Spatial Sustainability", the development promotes a balance between environmental, social, and economic considerations. The provision of adequate open space and landscaping opportunities, together with the managed approach to construction and service provision, supports long-term sustainability. Furthermore, the utilisation of land within an already developed and serviced area reduces pressure on environmentally sensitive or peripheral areas.
6. The proposal also advances "Spatial Justice" by contributing to a broader range of housing opportunities within a well-located area, potentially improving access to urban amenities and services. Additionally, the application process has allowed for public participation, ensuring that affected parties had the opportunity to raise concerns, which were duly considered and addressed.
7. The Spatial Development Framework (SDF) identifies the Paradise area as an established residential suburb within the urban edge of Knysna, characterised by a mix of single residential dwellings and guesthouse accommodation. While the SDF seeks to protect neighbourhood character, it also supports context-sensitive densification and infill development within well-located urban areas. The proposal does not introduce a new land use or expand the urban footprint, but rather seeks to optimise an already approved group housing development through an amendment of conditions. As such, the application is not inconsistent with the spatial structuring objectives of the SDF.
8. The Knysna Integrated Development Plan (IDP) promotes sustainable human settlements, efficient land use management, and the optimal utilisation of existing infrastructure and services. By increasing the residential yield on a property that is already appropriately zoned and serviced, the proposal supports these objectives. It enables more efficient use of infrastructure without necessitating significant additional investment in bulk services, thereby aligning with the IDP's focus on resource efficiency and urban consolidation.
9. Given that the proposal entails an increase in residential density on Erf 13760, which is already zoned and serviced for group housing, the anticipated impact on municipal services is considered minimal. The existing water, sewer,

stormwater, and road infrastructure within the area was designed to accommodate the full development potential of the property and is therefore capable of supporting the proposed use. Internal municipal departments, including Infrastructure Services, Waste Management, and Fire Services, have reviewed the proposal and raised no objections, with only minor technical been connected to the estate's internal engineering services networks, and all future development will be required to comply with Knysna Municipality's service connection standards and technical requirements, ensuring the continued efficient operation and management of municipal services.

10. From a zoning perspective, the proposal involves an amendment of conditions to allow increased residential density within Erf 13760, which is already zoned "General Residential Zone I" (Group Housing). The surrounding properties comprise a mix of single residential units and guest accommodation, making the proposed group housing use compatible with the prevailing land use character of the area.
11. By optimising the site's development potential, the proposal addresses the underutilisation of the property while maintaining alignment with the development's overall zoning and development framework. The requested minor departures, including building line relaxations for pergolas, are limited in scope and do not compromise the overall zoning intent, making the proposal appropriate and consistent with the established residential context.
12. The subject property, Erf 1 3760, is located within the established residential suburb of Paradise in Knysna and is already approved for General Residential Zone I (Group Housing). The current proposal seeks to amend the conditions of approval to allow for an increase in density and a revised site layout. The property has remained undeveloped under the existing approval due to feasibility constraints, resulting in the site being underutilised. The proposal, therefore, aims to unlock the development potential of the property in a manner that is both practical
13. From a spatial perspective, the proposal does not introduce a new or incompatible land use. The surrounding area comprises a mix of single residential dwellings and guesthouse accommodation, and the proposed development is considered to be compatible with this mixed residential character. The scale, height, and layout of the development are designed to integrate with the surrounding environment.
14. The proposal promotes the efficient utilisation of land within an established development by converting an underutilised site into a functional residential property. This contributes to the long-term sustainability and financial viability of the development while reducing the maintenance burden associated with unused communal infrastructure.
15. The proposal promotes the efficient utilisation of land within an established urban area by increasing the residential yield on a suitably zoned and serviced property. This supports principles of urban consolidation and reduces the need for expansion into undeveloped or environmentally sensitive areas. Furthermore, increasing the density improves the financial viability of the development, ensuring that the property can be developed rather than remaining vacant.
16. The proposal has demonstrated compliance with the majority of zoning scheme requirements, including parking provision, open space, and service capacity, with only minor departures requested. Internal municipal departments have raised no objections, confirming that the development is technically feasible and supportable.
17. Potential impacts on neighbouring properties, particularly during construction, have been acknowledged. The applicant has committed to implementing appropriate mitigation measures, including responsible construction management and adherence to standard working hours. These impacts are temporary in nature and can be effectively managed through conditions of approval.

PART H: DECISION ON APPLICATION

1. At a Knysna Municipality Planning Tribunal meeting held on 24 April 2026, unanimously resolved the following:
 - 1.1 That, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) for the amendment of condition I.4(i) in the notice of decision dated 01 March 2023 in terms of Section 15(2)(h) of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) in respect of Erf 13760, Knysna.
 - 1.2 That, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) for the following permanent departures on Erf 13760, Knysna as shown on plan numbered "2313-08-A1-000" dated 27 June 2025:
 - (i) the relaxation Of the eastern lateral building line from 2m to 1.51 m to allow for pergolas;
 - (ii) the relaxation of the western street building line from 4.5m to 2.9m to allow for allow for pergolas;
 - (iii) the relaxation of the north and north-western street building line from 4.5m to 0.42m and 1.1m to allow for allow for the retaining wall; and
 - (iv) the relaxation of the eastern lateral building line from 3m to 0m to allow for the retaining wall.
 - 1.3 That, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) for the Site Development Plan numbered "2313-08-A1-000" dated 27 June 2025, in respect of Erf 13760, Knysna.
- 2 The above decision is subject to the following **condition(s)** imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):
 - (i) The development parameters of 'group housing' of the Knysna Zoning Scheme By-Law (2020) shall apply, unless otherwise permitted in terms of the provisions of the Planning By-law.
 - (ii) The landowner/developer shall pay augmentation levies in accordance with Council's approved tariffs, to the satisfaction of the Director: Infrastructure Services, prior to or at the submission of building plans.
 - (iii) The landowner/developer shall submit an integrated Waste management plan detailing refuse storage and collection arrangements, to the Municipality, prior to the submission of building plans.
 - (iv) The landowner/developer shall submit a detailed stormwater management plan to the satisfaction of the Director. Infrastructure Services prior to or at the submission of building plans.
 - (v) The landowner/developer shall submit a fire and emergency vehicle access plan to the satisfaction of the Chief Fire Officer, prior to or at the submission of building plans.
 - (vi) The landowner/developer shall lodge architectural design plans for consideration to the Aesthetics Committee prior to the submission of building plans.
 - (vii) The conditions of approvals as specified in the notice of decision dated 01 March 2023 shall remain insofar as they apply and applicable to the development.

3. The **reasons** for above recommendations are as follows:

- (i) The application is for the amendment of conditions of approval relating to Erf 13760, which is already zoned General Residential Zone I (Group Housing), to allow for an increase in the approved density. The proposal does not introduce a new land use but rather refines existing development rights to enable a more feasible and implementable development.
- (ii) The proposed increase in density is considered appropriate within the context of the site and its surroundings, as the area accommodates a mix of residential and guesthouse uses, and the development remains compatible with of scale, form, and land use character.
- (iii) The proposal is consistent with the Spatial Development Framework and Integrated Development Plan, as it promotes infill development and the optimisation of land within the urban edge, without expanding the development footprint or placing pressure on environmentally sensitive areas.
- (iv) The development has been assessed against the Knysna Zoning Scheme parameters, and it has been demonstrated that the proposal complies with key requirements, with only minor departures that do not materially affect the amenity of the area.
- (v) All relevant internal municipal departments have considered the application and raised no objections, confirming that the proposal is acceptable from an engineering, environmental, and service delivery perspective.
- (vi) The concerns raised through public participation have been duly considered; however, these do not outweigh the planning merits of the proposal, particularly where compliance with applicable policies and regulations has been demonstrated.
- (vii) The proposal supports the efficient utilisation of a well-located and serviced property, contributing to a more compact and sustainable urban form in line with broader spatial planning principles.

4. **Matters for Noting:**

- (i) This approval applies to the application(s) as outlined above and may not be construed as authority to depart from any other legal prescriptions.
- (ii) Building plans shall be submitted in terms of the requirements of the National Building Regulations and Building Standards Act, 1977 (Act no. 103 of 1977) to the Municipality for approval prior to any building work being undertaken.

PART I: TYPE OF APPEAL

First Name(s)	Surname	Type of Appeal		
Paul	Dugmore	Appealing the decision	Y	N
		Appealing the failure of the decision-maker to make a decision within the period permitted	Y	N

		Appealing a condition(s) of approval	Y	N
		Appealing the process followed	Y	N
		Appealing the conclusion of the decision-maker regarding the merits of the land development application	Y	N

PART J: APPEAL(S) MOTIVATION

1. The appeal is against the whole of the decision made by the KMPT on the 24th of April 2026 and is based on procedural grounds and on the merits.

1.1. Procedural grounds:

- (i) Procedural grounds relating to notification.
- (ii) Procedural grounds relating to the inadequate notice of and unfair refusal to allow me an opportunity to address the KMPT.
- (iii) Objectors were not invited to attend formal site visit or notified that they could request a site visit.

1.2. Merits

- (i) The Planner's report gave almost no weight to the objections and the concerns of the objectors relating to the negative impact on the character of the area, hopelessly inadequate visitor's parking, no real open space, impact on traffic, sewer and other services.
- (ii) The objections are mentioned in the report, but none of the substance of the objections as discussed and evaluated in the report.
- (iii) The motivation of the applicant's planner, Marike Vreken, is repeated uncritically in the report, and essentially repeated in the recommendations and reasons for the recommendations.
- (iv) The concerns of the neighbours, regarding the impact this high-density development will have on their area, are completely disregarded. The precedent that this development will set in this low density leafy suburb is ignored.
- (v) By contrast the developers financial interest and the achievement of "a more feasible and implementable development" is included in paragraph (i) of the reasons for the recommendation to approve the application. No regard is paid to the objector's comments that a feasible development can be achieved within the existing rights.
- (vi) There is no attempt to balance the rights of the applicant and to achieve a balanced outcome that will not negatively affect the character of the area.
- (vii) The statement in paragraph (ii) of the proposed reasons that, "the increase in density is considered appropriate within the context of the site and its surroundings, as the area accommodates a mix of residential and guesthouse uses, and the development remains compatible with the scale, form and land use character. ", is totally divorced from reality. Nothing could be further from the truth. The adjoining property, Parkes Manor, which is operated as a guest house, is

on one of the largest residential stands in Knysna. The property opposite the proposed development is also much larger than the average stand. The area is characterised by large residential stands with large trees and many of the homes in the area are historic homes.

- (viii) The density and proposed architecture are completely out of place in this part of Paradise and belong in, or adjacent to, the CBD. It will set a precedent that will have a negative impact on the sense of place of the area and Knysna.
- (ix) The reasons advanced in paragraph (iii) relating to optimising land within the urban edge are also not in line with policy. The proposed and now approved, density belongs in the CBD, or directly adjacent to the CBD and not in this part of the suburb.
- (x) In paragraph (iv) of the reasons it is stated that the departures are minor and "do not materially affect the amenity" on the area. Again, this is completely wrong as the density is already much too high for the area and the departures allow this development to be built up to the boundary. The impact relating to noise and privacy it will have on the quiet guesthouse next door and the surrounding neighbours, is completely disregarded.
- (xi) The reasons advanced in paragraph (vi) are both telling and disconcerting. The objector's concerns are dismissed as follows: "these do not outweigh the planning merits of the proposal." This is the clearest proof that the developer's interests are placed above those of the residents of the suburb.
- (xii) The last reason advanced in paragraph (vii) is virtually a "copy and paste" from Marike Vreken's report.
- (xiii) What is telling is that the Tribunal adopted the recommendations and reasons from the planner's report verbatim. There is no indication that the Tribunal members applied their minds independently as the decision, conditions and recommendation are exactly the same as the planner's recommendations.
- (xiv) The Appellant therefore request the Appeal Authority to uphold the appeal, set aside the approval and rule that the application be re-advertised and that the public notice be published on the website and that all previous objectors and all adjoining landowners be personally notified.
- (xv) **A copy of the Appeal Application is listed under Annexure D.**

PART K: COMMENT ON APPEAL

The applicant provided the following response to the appeal on 17 July 2026.

1. Appellant: The Appellant appeals on procedural grounds, and alleges that certain neighbours were not formally notified by Knysna Municipality of the application. The Appellant consulted with Councillor S Campbell and alleges that the application did not comply with the requirements of Section 45(2) of the Knysna Planning Bylaw.

Response: This statement regarding the requirements of Section 45(2) of the bylaw is incorrect. An application for the approval of a SDP and an amendment of a condition of approval, and a building line relaxation for departures and retaining walls, are not one of the applications that are listed in Section 45(1) of the Knysna Municipal Planning Bylaw, that must be published in the press. According to Section 46(2) of the Municipal Planning Bylaw. This statement of the Appellant regarding inadequate public notice is therefore incorrect.

2. Appellant: The Appellant alleges that he was denied the opportunity to address the Tribunal, and therefore it was an unfair procedure.

Response: The Appellant acknowledges that he was assisted by Councillor Susan Campbell. According to our knowledge, Councillor Susan Campbell attended the Tribunal Hearing, and attempted to address the Tribunal. She did not state in what capacity she was acting. Councillor Susan Campbell is a learned person, and knows the Municipal Planning Bylaw very well. Section 78(2) of the Knysna Planning Bylaw, clearly states that a person that wishes to address the Tribunal "...must submit a written request to the Administrator, including a brief summary of the oral representation that they intend to make, at least 7 days before that meeting..." therefore, the Tribunal acted in accordance with the requirements of

the Knysna Municipal Planning Bylaw, and it is the considered opinion that the Tribunal did not err in refusing Councilor Campbell to address the Tribunal. **It should be noted that the writer did lodge a written complaint to the Municipal Manager in Councillor Campbell's interference with the Tribunal hearing (copy attached for ease of reference), and until date, no response was received on this complaint from the Knysna Municipality.**

3. Appellant: The Appellant's grounds of appeal includes that he was not invited to a site visit with the Municipal Planning Tribunal, when the site visit took place.

Response: The applicant also did not attend the site visit. There is no requirement that the applicant or the objectors MUST attend a site visit, should the members of the Tribunal decide that they have to familiarise themselves with the application area. This is therefore not valid grounds for appeal.

4. Appellant: No regard is paid to the objector's comments that a feasible development can be achieved within the existing rights.

Response: The original application that was lodged on the application area was for a block of flats. The applicant acknowledged that the development of a block of flats is out of character of the area, and therefore amended the application to group housing which is more in keeping with the character of the area. The only reason why the density was limited to the number of group housing units, is because the former Knysna Zoning Scheme Bylaw limited the density to 20 units/ha. The proposed amendment is in accordance with the density for group housing that is allowed for in the 2020 Knysna Zoning scheme bylaw. Par 8 of the application / motivation provided a sound motivation for the increased density from 8 units to 12x units. The Appellant's statement that the proposed development is feasible at a density of 8 units, and that the architecture is inappropriate, is unsubstantiated and unfounded. These are not valid reasons to uphold the appeal.

5. Appeal: High density belongs in the CBD, and directly adjacent to the CBD, and not in this neighbourhood.
Response: Par 3.1.1.1. of the new 2025 Knysna SDF promotes densification inside the urban edge and recommends different housing typologies. The SDF also recommends densification just north of the N2 National Road. The Appellant's statement is subjective, unfounded, and not consistent with the Knysna SDF.

6. Appeal: The last reason advanced in paragraph (vii) is virtually a "copy & paste" from Marike Vreken's report. What is telling is that the Tribunal adopted the recommendations and reasons from the planner's report verbatim. There is not indication that the Tribunal members applied their minds independently as the decision, conditions and recommendation are exactly the same as the planner's recommendations.
Response: Again, this is an unfounded statement. There is no statement that refers to "efficient utilisation" or "more compact" in the applicant's report / motivation. Hence, this statement is incorrect. The Tribunal members could have concurred with the Planner's recommendation and accepted the recommendation. Again, this is an unfounded and unsubstantiated statement from the Appellant. Such statements can only be made, if the Appellant applied for a copy of the recording of the Tribunal hearing in terms of PAIA, and listened to the recording. These are not valid reasons to uphold the appeal, and it should be disregarded.

7. Conclusion
We conclude that:
 - i. The Appellant's statements and allegations regarding the procedural errors, are unfounded, out of context and incorrect. It should be disregarded and the appeal be dismissed.
 - ii. We note that Councillor Susan Campbell attempted to interfere with the decision making process. A complaint was lodged, and no response was received.
 - iii. The Appellant's statements and allegations regarding the merit of the application, are unsubstantiated, and should be disregarded.

See attached copy of the comment on the Appeal Application under Annexure E.

PART L: PROVINCIAL MINISTER'S COMMENT ON THE APPEAL (IF REQUIRED)

Not applicable.

PART M: THE MUNICIPAL ASSESSMENT OF COMMENTS

The municipal assessment of the comments of the applicant is outlined in the table below:

Comment	Assessment
<p>This statement regarding the requirements of Section 45(2) Of the bylaw is incorrect. An application for the approval of a SDP and an amendment of a condition of approval, and a building line relaxation for departures and retaining walls, are not one of the applications that are listed in Section 45(1) of the Knysna Municipal Planning By-law that must be published in the press. According to Section 46(2) of the Municipal Planning Bylaw. This statement of the Appellant regarding inadequate public notice is therefore incorrect.</p>	<p>The applicant is correct in stating that an application for the approval of a SDP and an amendment of a condition of approval, and a building line relaxation for departures and retaining walls, are not one of the applications that are listed in Section 45(1) of the Knysna Municipal Planning By-law.</p>
<p>The Appellant acknowledges that he was assisted by Councillor Susan Campbell. According to our knowledge, Councillor Susan Campbell attended the Tribunal Hearing, and attempted to address the Tribunal. She did not state in what capacity she was acting. Councillor Susan Campbell is a learned person, and knows the Municipal Planning Bylaw very well. Section 78(2) of the Knysna Planning Bylaw, clearly states that a person that wishes to address the Tribunal "must submit a written request to the Administrator, including a brief summary of the oral representation that they intend to make, at least 7 days before that meeting, therefore, the Tribunal acted in accordance with the requirements of the Knysna Municipal Planning Bylaw, and it is the considered opinion that the Tribunal did not err in refusing Councilor Campbell to address the Tribunal. It should be noted that the writer did lodge a written complaint to the Municipal Manager in Councilor Campbell's interference with the Tribunal hearing (copy attached for ease of reference), and until date, no response was received on this complaint from the Knysna Municipality.</p>	<p>The applicant is correct in stating that Section 78(2) of the Knysna Planning Bylaw, clearly states that a person that wishes to address the Tribunal "must submit a written request to the Administrator, including a brief summary of the oral representation that they intend to make, at least 7 days before that hearing. It must further be noted that ignorance of the law is not an excuse.</p>
<p>The applicant also did not attend the site visit. There is no requirement that the applicant or the objectors MUST attend a site visit, should the members Of the Tribunal decide that</p>	<p>The applicant is correct as the purpose of site visits if the KMPT members to familiarize themselves with the application site. The Rules of Proceedings of the KMPT does not allow for deliberations during site meetings.</p>

they have to familiarise themselves with the application area. This is therefore not valid grounds for appeal.	
<p>The original application that was lodged on the application area for a block of flats. The applicant acknowledged that the development of a block of flats is out of character of the area, and therefore amended the application to group housing which is more in keeping with the character of the area. The only reason why the density was limited to the number of group housing units, is because the former Knysna Zoning -Scheme Bylaw limited the density to 20 units/ha. The proposed amendment is in accordance with the density for group housing that is allowed for in the 2020 Knysna Zoning scheme bylaw. Par 8 of the application / motivation provided a sound motivation for the increased density from 8 units to 12x units.</p> <p>The Appellant's statement that the proposed development is feasible at a density of 8 units, and that the architecture is inappropriate, is unsubstantiated and unfounded. These are not valid reasons to uphold the appeal.</p>	The proposed amendments is indeed in line with the development parameters of Group Housing in terms of the Knysna Zoning Scheme By-law (2020).
Par 31.1.1. of the new 2025 Knysna SDF promotes densification inside the urban edge and recommends different housing typologies. The SDF also recommends densification just north of the N2 National Road. The Appellant's statement is subjective, unfounded, and not consistent with the Knysna SDF.	The amended Knysna MSDF (2025) indeed promotes densification within the Urban Edge
Again, this is an unfounded statement. There is no statement that refers to "efficient utilisation" or "more compact" in the applicant's report / motivation. Hence, this statement is incorrect. The Tribunal members could have concurred with the Planner's recommendation and accepted the recommendation. Again, this is an unfounded and unsubstantiated statement from the Appellant. Such statements can only be made, if the Appellant applied for a copy of the recording of the Tribunal hearing in terms of PAIA, and listened to the recording. These are not valid reasons to uphold the appeal, and It should be disregarded.	The applicant is correct in stating that the KMPT has the right to resolve as the Planner has recommended.

PART N: MUNICIPAL PLANNING EVALUATION ON APPEAL (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)

Y

N

(In)consistency with the Spatial Planning and Western Cape Land Use Management Act, 2013 (Act 16 of 2013)

1. The proposed amendment of conditions to allow an increased residential density on Erf 13760 represents a more efficient utilisation of land that is already zoned for General Residential purposes (Group Housing). By optimising the development potential of the property within an established urban area, the proposal supports infill development and reduces the need for outward urban expansion. This contributes to a more compact urban form and promotes the efficient use of existing infrastructure and services.
2. The application further aligns with the principle of "Spatial Efficiency", as it makes better use of well-located land by accommodating additional residential units without requiring significant new bulk infrastructure investment. The proposal ensures compliance with key development parameters such as parking and open space, thereby maintaining functionality while increasing yield.
3. In terms of "Spatial Sustainability", the development promotes a balance between environmental, social, and economic considerations. The provision of adequate open space and landscaping opportunities, together with the managed approach to construction and service provision, supports long-term sustainability. Furthermore, the utilisation of land within an already developed and serviced area reduces pressure on environmentally sensitive or peripheral areas.
4. The proposal also advances "Spatial Justice" by contributing to a broader range of housing opportunities within a well-located area, potentially improving access to urban amenities and services. Additionally, the application process has allowed for public participation, ensuring that affected parties had the opportunity to raise concerns, which were duly considered and addressed.

(In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

The proposal is also similarly consistent with the LUPA principles as outlined above for the SPLUMA principles.

(In)consistency with the IDP/Various levels of SDF's/Applicable policies

1. The Spatial Development Framework (SDF) identifies the Paradise area as an established residential suburb within the urban edge of Knysna, characterised by a mix of single residential dwellings and guesthouse accommodation. While the SDF seeks to protect neighbourhood character, it also supports context-sensitive densification and infill development within welllocated urban areas. The proposal does not introduce a new land use or expand the urban

footprint, but rather seeks to optimise an already approved group housing development through an amendment of conditions. As such, the application is not inconsistent with the spatial structuring objectives of the SDF.

2. The Knysna Integrated Development Plan (IDP) promotes sustainable human settlements, efficient land use management, and the optimal utilisation of existing infrastructure and services. By increasing the residential yield on a property that is already appropriately zoned and serviced, the proposal supports these objectives. It enables more efficient use of infrastructure without necessitating significant additional investment in bulk services, thereby aligning with the IDP's focus on resource efficiency and urban consolidation.
3. The application is therefore considered to be generally consistent with the spatial and developmental objectives of both the SDF and the IDP, as it promotes the efficient use of land within the existing urban footprint without resulting in the expansion of the development or additional pressure on environmentally sensitive areas.
4. Furthermore, the proposal supports broader policy principles that encourage infill development, densification in appropriate locations, and the accommodation of a range of housing typologies within established urban areas. The development responds to current market and spatial planning trends by making more efficient use of land within the existing urban fabric.

(In)consistency with guidelines prepared by the Provincial Minister

Not applicable.

Impact on Municipal engineering services

1. Given that the proposal entails an increase in residential density on Erf 13760, which is already zoned and serviced for group housing, the anticipated impact on municipal services is considered minimal. The existing water, sewer, stormwater, and road infrastructure within the area was designed to accommodate the full development potential of the property and is therefore capable of supporting the proposed use. Internal municipal departments, including Infrastructure Services, Waste Management, and Fire Services, have reviewed the proposal and raised no objections, with only minor technical been connected to the estate's internal engineering services networks, and all future development will be required to comply with Knysna Municipality's service connection standards and technical requirements, ensuring the continued efficient operation and management of municipal services.

Outcomes of investigations/applications i.t.o other laws

1. There are no other investigations and applications in terms of other legislation that may have a bearing on the application at hand.

Existing and proposed zoning comparisons and considerations

1. From a zoning perspective, the proposal involves an amendment of conditions to allow increased residential density within Erf 13760, which is already zoned "General Residential Zone I" (Group Housing). The surrounding properties comprise a mix of single residential units and guest accommodation, making the proposed group housing use compatible with the prevailing land use character of the area.
2. 6.6.2. By optimising the site's development potential, the proposal addresses the underutilisation of the property while maintaining alignment with the development's overall zoning and development framework. The requested minor departures, including building line relaxations for pergolas, are limited in scope and do not compromise the overall zoning intent, making the proposal appropriate and consistent with the established residential context.

The desirability of the proposal

1. The subject property, Erf 1 3760, is located within the established residential suburb of Paradise in Knysna and is already approved for General Residential Zone I (Group Housing). The current proposal seeks to amend the conditions of approval to allow for an increase in density and a revised site layout. The property has remained undeveloped under the existing approval due to feasibility constraints, resulting in the site being underutilised. The proposal, therefore, aims to unlock the development potential of the property in a manner that is both practical
2. From a spatial perspective, the proposal does not introduce a new or incompatible land use. The surrounding area comprises a mix of single residential dwellings and guesthouse accommodation, and the proposed development is considered to be compatible with this mixed residential character. The scale, height, and layout of the development are designed to integrate with the surrounding environment.
3. The proposal promotes the efficient utilisation of land within an established development by converting an underutilised site into a functional residential property. This contributes to the long-term sustainability and financial viability of the development while reducing the maintenance burden associated with unused communal infrastructure.
4. The proposal promotes the efficient utilisation of land within an established urban area by increasing the residential yield on a suitably zoned and serviced property. This supports principles of urban consolidation and reduces the need for expansion into undeveloped or environmentally sensitive areas. Furthermore, increasing the density improves the financial viability of the development, ensuring that the property can be developed rather than remaining vacant.
5. The proposal has demonstrated compliance with the majority of zoning scheme requirements, including parking provision, open space, and service capacity, with only minor departures requested. Internal municipal departments have raised no objections, confirming that the development is technically feasible and supportable.
6. Potential impacts on neighbouring properties, particularly during construction, have been acknowledged. The applicant has committed to implementing appropriate mitigation measures, including responsible construction management and adherence to standard working hours. These impacts are temporary in nature and can be effectively managed through conditions of approval.

PART O: ADDITIONAL PLANNING EVALUATION RESTRICTIVE CONDITIONS

The financial or other value of the rights

Not applicable.

The personal benefits which will accrue to the holder of rights and/or to the person seeking the proposed development

Not applicable.

The social benefit of the restrictive condition remaining in place, and/or being removed/amended

Not applicable.

Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights

Not applicable.

PART P: SUMMARY OF EVALUATION

The evaluation of the Appeal Application is summarised as follows:

1. Procedural Grounds.

1.1 Procedural Grounds in terms of notification.

The Appellant is incorrect in stating that he was the only adjacent property who was informed about the application. All the adjacent property owners were informed as required by Section 46(2)(d) of the Knysna Municipality: Spatial Planning & Land Use Management By-law (2021). **Refer to the Locality Plan / Public Participation Map under Annexure B.**

The Appellant is incorrect in stating that that the notification of the application, including the date by which comments have to be submitted, and the persons to whom comments have to be submitted, has to be published on the website. The Appellant is incorrectly referring Section 45(2)(a) of the By-law that is not

applicable in this instance as the current applications are for a SDP, an amendment of a condition of approval, and a building line relaxation for departures and retaining walls approval.

The Appellant is incorrect in stating that the information contained in the notice is not complying with Section 47 of the By-law. **Refer to a copy of the notice under Annexure F that illustrates that the contents comply with Section 47.**

- 1.2 Procedural grounds relating to the inadequate notice of and unfair refusal to allow me an opportunity to address the KMPT.

The Appellant argues that the process was procedurally unfair, as he was refused an opportunity to address the KMPT due to the fact that his request to address the tribunal was not received 7 days before the meeting. He states that he therefore was not allowed an opportunity to state his case to the tribunal and/or to respond to submissions on behalf of the applicant. He states that the refusal of his request was unfair and unreasonable. This argument is incorrect as Section 78(2) of the Knysna Planning Bylaw, clearly states that a person that wishes to address the Tribunal "must submit a written request to the Administrator, including a brief summary of the oral representation that they intend to make, at least 7 days before that hearing. It must further be noted that ignorance of the law is not an excuse. It must also be noted that the KMPT did not grant Cllr Campbell an opportunity to conduct an oral presentation at the hearing as it is also in conflict with Section 78(2) of the Knysna Planning Bylaw.

The Appellant states that objectors were not invited to attend formal site visit or notified that they could request a site visit. The Appellants argument that this is a procedural irregularity is incorrect as the purpose of site visits is for KMPT members to familiarise themselves with the site application. The KMPT Rules of Proceeding does not allow for deliberation during site meetings.

2. Merits

The Appellant argues that The Planner's report gave almost no weight to the objections and the concerns of the objectors relating to the negative impact on the character of the area, hopelessly inadequate visitor's parking, no real open space, impact on traffic, sewer and other services. This argument is incorrect as the Planner addresses the objections adequately in paragraph 6.8.2 of his report by stating the following:

"While the concerns raised by objectors are understandable, many are subjective in nature and not supported by substantive planning or technical evidence. Greater emphasis on measurable impacts, such as traffic generation, infrastructure capacity, or visual impact assessments, would have strengthened the objections. Furthermore, several concerns, particularly those relating to parking and open space, are addressed through compliance with the provisions of the zoning scheme, thereby limiting the weight that can be attributed to these objections."

It must further be noted that Section 50(4) of the Knysna Municipality: Spatial Planning & Land Use Management By-law place a responsibility on objectors to inter alia indicate the facts and circumstances, demonstrate the undesirable effect the application and demonstrate any aspect of the application that is not considered consistent with applicable policy. The objectors failed to provide supporting facts in support of their objections.

The Appellant incorrectly states that the motivation of the applicant's planner, Marike Vreken, is repeated uncritically in the report, and essentially repeated in the recommendations and reasons for the recommendations. The structure / format of the Planners Assessment Report covers all aspect in critically evaluating the applications. The structure and content of the Planners Evaluation Report ensures compliance with Section 65 (General criteria for consideration of applications) of the Knysna Municipality: Spatial Planning & Land Use Management By-law.

The Appellant incorrectly refers to the development proposal as high-density development as it is not a block of flats but rather a group housing development.

The Appellant's statement that there is no attempt to balance the rights of the applicant and to achieve a balanced outcome that will not negatively affect the character of the area is false. The Planner in his recommendations addressed the concerns of the objectors under the conditions of approval (e.g. architectural design plans must be submitted for consideration to the Aesthetics Committee). **Refer to a copy of the Planners Assessment Report under Annexure G.**

The Appellant attacks the proposed reasons provided by the Planners Evaluation Report by stating that the statement in paragraph (ii) that, "the increase in density is considered appropriate within the context of the site and its surroundings, as the area accommodates a mix of residential and guesthouse uses, and the development remains compatible with the scale, form and land use character. ", is totally divorced from reality. This argument of the Appellant is false as some surrounding properties are zoned "General Residential Zone V" for Hotel purposes (e.g. Erf 4647 and Erf 7293 and Erf 13, Knysna). Remainder of Erf 12 is zoned "General Residential Zone IV" for Guest lodge purposes. Furthermore, the character of the surrounding is misrepresented by referring to only one surrounding property, being Parkes Manor.

The statement of the Appellant that the reasons advanced in paragraph (iii) relating to optimising land within the urban edge are also not in line with policy is false. Paragraph 31.1.1. of the Amended 2025 Knysna MSDF promotes densification inside the urban edge and recommends different housing typologies.

The statement by the Appellant that the density is already much too high for the area and the departures allow this development to be built up to the boundary is subjective and not supported by any scientific evidence.

The Appellant's criticism that the KMPT adopted the Planners recommendations and reasons verbatim is incorrect as the KMPT has the right to resolve as the Planner has recommended.

PART Q: RECOMMENDATION

RECOMMENDATION

1. That, in accordance with Section 81(7)(f) of the Knysna Municipality By-Law on Spatial Planning and Land Use management (2021), it **BE DECIDED** that the subject appeal against the approval of the applications for the for the amendment of condition 1.4(i), Departures and Site Development Plan in respect of Erf 13760, Knysna, as decided on 24 April 2026 falls within the jurisdiction of the Knysna Municipality Appeal Authority.
2. That, in accordance with Section 81(1)(b) and (2) of the Knysna Municipality By-Law on Spatial Planning and Land Use management (2021), it **BE DECIDED** that the subject report and supporting documents on the appeal against the decision to approve of the applications for the for the amendment of condition 1.4(i), Departures and Site Development Plan in respect of Erf 13760, Knysna, are considered to be adequate to determine the subject appeal in the absence of a public hearing.
3. That the appeal submitted against the approval of the applications for the for the amendment of condition 1.4(i), Departures and Site Development Plan in respect of Erf 13760, Knysna, **BE DISMISSED** and the subject decision to approval the application by the Knysna Municipal Planning Tribunal, **BE CONFIRMED** in terms of Section 81(9)(b) of the Knysna Municipality By-Law on Spatial Planning and Land Use management (2021).

REASONS:

1. The Appellant failed to provide evidence in support of the merits of the Appeal application.
2. The Appellant incorrectly makes reference to Section 45 of the Knysna Municipality: Spatial Planning & Land Use Management By-law (2021).
3. The public participation during the application process adheres to both notification requirements set out in Section 46(2) and 47 of the Knysna Municipality: Spatial Planning & Land Use Management By-law (2021).
4. The Appellant's argument that the Planners Assessment Report is incorrect as the structure and content of the Report adheres to the requirements set out in Section 65 (General criteria for consideration of applications) of the Knysna Municipality By-Law on Spatial Planning and Land Use management (2021).
5. The objectors failed to adhere to the requirements of Section 50(4) of the Knysna Municipality: Spatial Planning & Land Use Management By- to inter alia indicate the facts and circumstances, demonstrate the undesirable effect of the application and demonstrate any aspect of the application that is not considered consistent with applicable policy.

MATTERS FOR NOTING

1. The complaint by the applicant against Cllr Susan Campbell of alleged misconduct must follow the internal process of Knysna Municipality as governed by the Code of Conduct for Councillors (Schedule 1 of the Municipal Systems Act, as amended by Act 3 of 2021).

PART R: REASONS FOR RECOMMENDATION

1. The application is for the amendment of conditions of approval relating to Erf 13760, which is already zoned General Residential Zone I (Group Housing), to allow for an increase in the approved density. The proposal does not introduce a new land use but rather refines existing development rights to enable a more feasible and implementable development.
2. The proposed increase in density is considered appropriate within the context of the site and its surroundings, as the area accommodates a mix of residential and guesthouse uses, and the development remains compatible in terms of scale, form, and land use character.
3. The proposal is consistent with the Spatial Development Framework and Integrated Development Plan, as it promotes infill development and the optimisation of land within the urban edge, without expanding the development footprint or placing pressure on environmentally sensitive areas.
4. The development has been assessed against the Knysna Zoning Scheme parameters, and it has been demonstrated that the proposal complies with key requirements, with only minor departures that do not materially affect the amenity of the area.
5. All relevant internal municipal departments have considered the application and raised no objections, confirming that the proposal is acceptable from an engineering, environmental, and service delivery perspective.
6. The concerns raised through public participation have been duly considered; however, these do not outweigh the planning merits of the proposal, particularly where compliance with applicable policies and regulations has been demonstrated.
7. VI'. The proposal supports the efficient utilisation of a well-located and serviced property, contributing to a more compact and sustainable urban form in line with broader spatial planning principles.

PART S: ANNEXURES

Annexure A	Conditions of approval
Annexure B	Locality plan / Public participation map
Annexure C	Copy of Title deed
Annexure D	Appeal Application
Annexure E	Comment on Appeal Application
Annexure F	Copy of Notice and circulation list
Annexure G	Planners Evaluation Report

PART T: SIGNATURES

Registered planner name: Hennie Smit

SACPLAN registration number: A/1167/2000

Date: 15/10/2026

Registered Planner Signature:

A handwritten signature in black ink, appearing to be 'H. Smit', written over a horizontal line.

Collab. Ref.: 1431299
File Ref.: 4988 & 3529 Kny
JH Smit
Tel: 044-302 6318



Via Electronic Mail

2023-03-01

Pearl Star Investment 77 CC
c/o Marike Vreken Town Planners
PO Box 2180
KNYSNA
6570
Email: marike@vreken.co.za

Dear Sir/Madam,

**APPEAL OUTCOME: APPLICATION FOR CONSOLIDATION & DEPARTURE:
ERVEN 4988 & 3529, KNYNSNA**

The appeal application in the above regard, refers.

Please be advised that the Executive Mayor serving as Knysna Municipality Appeal Authority, on 20 February 2023, resolved the following:

1. That, the appeal submitted against the refusal of the applications for the consolidation of Remainder Erven 3529 & 4988, Knysna, the rezoning of the consolidated erf from "Single Residential Zone" to "Group Housing Zone" and the departure from the Zoning Scheme Regulations to allow for the relaxation of the boundary wall, **BE UPHOLD** and the subject decision to refuse the application by the Knysna Municipal Planning Tribunal, **BE REPLACED** in terms of Section 81(9)(b) of the Knysna Municipality By-Law on Municipal Land Use Planning (2016) by the following:
 - 1.1 That, **Approval be Granted** for the consolidation of Remainder of Erf 3529 and Erf 4988, Knysna to create consolidated property measuring approximately 3,539m² in extent.
 - 1.2 That, the **Approval Granted** for the rezoning of the consolidated property from "Single Residential Zone" to "Group Housing Zone".

- 1.3 That, Approval be Granted for the permanent departure to relax the prescribed boundary wall height of 1.5m to 1.8m on the street boundary.
- 1.4 The above approval is subject to the following conditions imposed in terms of Section 66 of the Knysna Municipality By-Law on Municipal Land Use Planning (2016):
- (i) A maximum permissible density of 8 units shall apply on the consolidated property;
 - (ii) The group housing development shall adhere to the definition of “group housing” in that it shall be planned, designed and built as a harmonious architectural entity with special attention given to aesthetics, architectural coordination, urban design and landscaping;
 - (iii) Building lines and all other parameters shall be in accordance with the “group housing” use of the Zoning Scheme;
 - (iv) A site development plan generally in accordance with the plan numbered DWG-1801-2000, dated 29 January 2020, indicating storm-water management, access, landscaping, aesthetics design and general adherence to the conditions of approval, being submitted for approval, being submitted for approval prior to the submission of building plans;
 - (v) The style and finishes to the external appearance of the building shall be in accordance with the provisions of the Urban Conservation area guidelines to the satisfaction of the Municipality and submitted to the Municipality’s Aesthetics Committee;
 - (vi) The entrance gate to the development shall be setback to allow for the stacking space for at least one vehicle entering the property;
 - (vii) Augmentation levies in respect of municipal services shall be payable on each new unit in accordance with Council’s policy prior to the submission of building plans;
 - (viii) The developer/landowner shall enter into a service level agreement with the Municipality with regard to municipal services provision;
 - (ix) The developer/landowner shall commission and submit and integrated waste management plan to the satisfaction of the Municipality, prior to the submission of building plans;

- (x) Building plans shall be submitted in terms of the requirements of the National Building Regulations and Building Standards Act No. 103 of 1977 to the Municipality, prior any building work being undertaken;
- (xi) The landowner/developer shall ensure that sight triangles are indicated on the building plans including the positioning of the refuse room and pedestrian entrance.

RATIONALE:

- The Knysna Municipal Planning Tribunal in its decision on the application for consolidation, rezoning and departures in respect of Remainder Erf 3529 and Erf 4988, Knysna, did not fully consider the implications of Section 52(1) of the Knysna Municipality By-Law on Municipal Planning 2016. This provision allows and applicant to amend their application prior to a decision being taken. Importantly, the Planning By-Law does not compel an applicant to withdraw and application should there be a material amendment to an application. Consequently, it is concluded that there is justifiable grounds for review of the decision of the Knysna Municipal Planning Tribunal in respect of the applications on Remainder Erf 3529 and Erf 4988, Knysna, based on procedural grounds.
- It was found that the adjoining landowners and interested and affected parties were offered a fair and reasonable opportunity to participate in the planning process as required in terms of the provisions of the Knysna Municipality By-Law on Municipal Land Use Planning (2016) and several opted to exercise their rights by lodging written responses to the application.
- Moreover, it was found that adjoining landowners and interested and affected parties were reasonable aware of the nature and extent to the amended application and were able to formulate their arguments to the amended application accordingly.
- The density of the proposed development in the context of the Knysna Zoning Scheme Regulations (1992) requires a density of 8 units on the consolidated site and as the Appellant did not make application for departure in terms of Section 15(2) of the Planning By-law to permit an increase to 11 units, cannot be considered in terms of this appeal.

- The application for rezoning to "Group Housing Zone" was found to be desirable as contemplated in terms of the character of the area, its impact on municipal services, the extent and nature of the development proposal, and its contribution towards achieving planning policy objectives.

Should you have any further enquiries on the above resolution by the Appeal Authority, please contact Hennie Smit on telephone number: 044-302 6318 or via e-mail address: hsmit@knysna.gov.za.

Yours faithfully,



H SMIT
MANAGER: LAND USE MANAGEMENT
Delegations: P.78
/lb



Collab. Ref.: 22100950

File Ref.: 13760 Kny

App No.: 2954

JH Smit

Tel: 044-302 6318

Knysna

Municipality Munisipaliteit uMasipala

inclusive • innovative • inspired

Via Electronic Mail

2024-09-09

Pearl Star Investments 77 CC
c/o David Sharp
26 Cove Street
KNYSNA
6570
Email: david@globalconstruction.co.za

Dear Sir/Madam,

DECISION: SITE DEVELOPMENT PLAN: ERF 13760, KNYSNA

Your application in the above regard, received on 18 September 2023 and accepted 23 October 2023, refers.

Please be advised that the Authorised Official, in terms of Council Resolution SC02/03/16 dated 31 March 2016, has made the following decision:

1. That, **Approval Be Granted**, in terms of Section 60 of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021) for permission in terms of a condition of approval in order to give effect to condition 1.4(iv) of the decision letter dated 01 March 2023, for the approval of the site development plan of a group housing development on the consolidated Erf 13760, Knysna.
2. The above approval(s) is subject to the following conditions imposed in terms of Section 66 of the Knysna Municipal By-law on Spatial Planning & Land Use Management (2021):
 - (i) This approval applies to the application as outlined above and may not be construed as authority to depart from any other legal prescriptions or requirements;

- (ii) The development of the property shall generally be in accordance with the site development plan numbered “2313-02-A1-000” dated 4 October 2023 and drawn by Starkey Architects. Any material changes to the site plan and layout may be subject to an amendment application being submitted in terms of the Municipality’s Planning By-law that is applicable at the time;
- (iii) The conditions of approval detailed in the letter that is dated 01 March 2023, shall remain applicable;
- (iv) Augmentation levies in respect of municipal services shall be payable on each new unit in accordance with Council’s policy prior to the submission of building plans;
- (v) The developer shall submit a Stormwater Management Plan to the satisfaction of the Director: Infrastructure Services together with the building plan submission;
- (vi) Building plans shall be submitted in terms of the requirements of the National Building regulations and Building Standards Act, 1977 (Act No. 103 of 1977);
- (vii) The development shall be designed in accordance with the Urban Conservation Area Guidelines (2010); and to the satisfaction of the Knysna Municipality Aesthetics Committee.

3. The reasons for above recommendation are as follows:

- (i) The subject site gains its zoning from an approved Rezoning wherein the merits of the proposed “Group Housing” development have been proven; and therefore the applicant endeavours to comply with the conditions of approval.
- (ii) There were no objections from the relevant municipal departments.
- (iii) The site development plan has provided sufficient detail which demonstrated compliance with not only the conditions of approval but the development parameters attributed to a property zoned “General Residential Zone I” in accordance with the Knysna Zoning Scheme By-law (2020) as well.
- (iv) The proposal is in-keeping with the mixed-use character of the area and will not cause adverse impacts on the surrounding area.

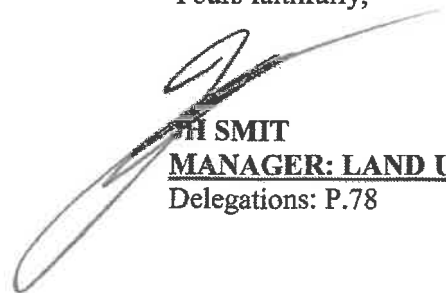
You are hereby informed of your right to appeal to the Appeal Authority in terms of Section 79(2) of the said legislation.

- 1.1 The attached appeal form must be completed and should be directed to the Appeal Authority and received by the Acting Municipal Manager, P.O Box 21, Knysna or via email to knysna@knysna.gov.za , within 21 days of notification of this decision together with proof of payment of the appeal fee.
- 1.2 You are requested to simultaneously serve notice of the appeal on any person who commented on the application and any other persons as the Municipality may determine. Proof of serving the notification must be submitted to the Municipality, within 14 days of serving the notification.
- 1.3 The notice must be served in accordance with Section 35 of the said legislation and in accordance with the additional requirements as may be determined by the Municipality. The notice must invite persons to comment on the appeal within 21 days from date of notification of the appeal.

Kindly note that this decision is not subject to a right of appeal in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000.

Should you have any further enquiries, please contact Linda Mniki telephone number: 044-302 6383 or via e-mail address: lmniki@knysna.gov.za .

Yours faithfully,



JH SMIT
MANAGER: LAND USE MANAGEMENT
Delegations: P.78

Collab. Ref.: 294 1953
File Ref.: 13760 Kny
Application No.: 3532
JH Smit
Tel: 044-302 6318



Via Electronic Mail

2026-05-21

Pearl Star Investments 77 CC
c/o Marike Vreken Town Planners
21 Trotter Street
KNYSNA
6570
Email: info@vreken.co.za / marike@vreken.co.za

Dear Sir/Madam,

DECISION: AMENDMENT OF CONDITIONS OF APPROVAL, DEPARTURE & SITE DEVELOPMENT PLAN: ERF 13760, KNYNSNA

Your application in the above regard dated 2 July 2025 and accepted 12 August 2025, refers.

Please be advised that the Knysna Municipality Planning Tribunal at a meeting held on 24 April 2026, unanimously resolved the following:

- 1.1 That, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) for the amendment of condition 1.4(i) in the notice of decision dated 01 March 2023 in terms of Section 15(2)(h) of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) in respect of Erf 13760, Knysna.
- 1.2 That, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) for the following permanent departures on Erf 13760, Knysna as shown on plan numbered "2313-08-A1-000" dated 27 June 2025:
 - 1.2.1 the relaxation of the eastern lateral building line from 2m to 1.51m to allow for pergolas;
 - 1.2.2 the relaxation of the western street building line from 4.5m to 2.9m to allow for allow for pergolas;
 - 1.2.3 the relaxation of the north and north-western street building line from 4.5m to 0.42m and 1.1m to allow for allow for the retaining wall; and

- 1.2.4 the relaxation of the eastern lateral building line from 3m to 0m to allow for the retaining wall.
- 1.3 That, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) for the Site Development Plan numbered “2313-08-A1-000” dated 27 June 2025, in respect of Erf 13760, Knysna.
2. **The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):**
- (i) The development parameters of “group housing” of the Knysna Zoning Scheme By-Law (2020) shall apply, unless otherwise permitted in terms of the provisions of the Planning By-law.
 - (ii) The landowner/developer shall pay augmentation levies in accordance with Council’s approved tariffs, to the satisfaction of the Director: Infrastructure Services, prior to or at the submission of building plans.
 - (iii) The landowner/developer shall submit an integrated waste management plan detailing refuse storage and collection arrangements, to the Municipality, prior to the submission of building plans.
 - (iv) The landowner/developer shall submit a detailed stormwater management plan to the satisfaction of the Director: Infrastructure Services prior to or at the submission of building plans.
 - (v) The landowner/developer shall submit a fire and emergency vehicle access plan to the satisfaction of the Chief Fire Officer, prior to or at the submission of building plans.
 - (vi) The landowner/developer shall lodge architectural design plans for consideration to the Aesthetics Committee prior to the submission of building plans.
 - (vii) The conditions of approvals as specified in the notice of decision dated 01 March 2023 shall remain insofar as they apply and applicable to the development.
3. **The reasons for above recommendations are as follows:**
- (i) The application is for the amendment of conditions of approval relating to Erf 13760, which is already zoned General Residential Zone I (Group Housing), to allow for an increase in the approved density. The proposal does not introduce a

new land use but rather refines existing development rights to enable a more feasible and implementable development.

- (ii) The proposed increase in density is considered appropriate within the context of the site and its surroundings, as the area accommodates a mix of residential and guesthouse uses, and the development remains compatible with of scale, form, and land use character.
- (iii) The proposal is consistent with the Spatial Development Framework and Integrated Development Plan, as it promotes infill development and the optimisation of land within the urban edge, without expanding the development footprint or placing pressure on environmentally sensitive areas.
- (iv) The development has been assessed against the Knysna Zoning Scheme parameters, and it has been demonstrated that the proposal complies with key requirements, with only minor departures that do not materially affect the amenity of the area.
- (v) All relevant internal municipal departments have considered the application and raised no objections, confirming that the proposal is acceptable from an engineering, environmental, and service delivery perspective.
- (vi) The concerns raised through public participation have been duly considered; however, these do not outweigh the planning merits of the proposal, particularly where compliance with applicable policies and regulations has been demonstrated.
- (vii) The proposal supports the efficient utilisation of a well-located and serviced property, contributing to a more compact and sustainable urban form in line with broader spatial planning principles.

4. Matters for Noting:

- (i) This approval applies to the application(s) as outlined above and may not be construed as authority to depart from any other legal prescriptions.
- (ii) Building plans shall be submitted in terms of the requirements of the National Building Regulations and Building Standards Act, 1977 (Act no. 103 of 1977) to the Municipality for approval prior to any building work being undertaken.

You are hereby informed of your right to appeal to the Appeal Authority in terms of Section 79(2) of the said legislation.

The attached appeal form must be completed and should be directed to the Appeal Authority and received by the Acting Municipal Manager, P.O Box 21, Knysna or via email to knysna@knysna.gov.za within 21 days of notification of this decision together with proof of payment of the appeal fee.

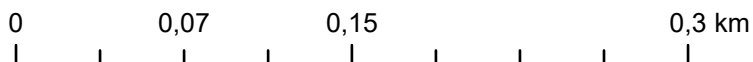
Should you have any further enquiries, please contact Mr. Shaun Madumbo telephone number: 044-302 6268 or via e-mail address: smadumbo@knysna.gov.za.

Yours faithfully,


J. H. SMIT
MANAGER: LAND USE MANAGEMENT
Delegations: P.78
/lb



Please insert Map Title



Date: 2026/10/15 09:37

Scale: 1:3 375

Source: Esri, Vantor, Earthstar Geographics, and the GIS User Community, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community, Google Imagery

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Persons relying on this information do so entirely at their own risk.

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LOGAN MARTIN INC
KNYSNA

FEE
R 419,00

Prepared by me

CONVEYANCER
FLORIS ALBERTUS HANEKOM
LPCM 90928

VERBIND MORTGAGED	
VIA FOR R 2.000.000,00	
B 000007506 / 2024	 REGISTRATEUR/REGISTRAR
2024 -03- 19	

T 000017701 / 2023

CERTIFICATE OF CONSOLIDATED TITLE

(Issued under the provisions of Section FORTY OF THE Deeds Registries Act, 1937
(No 47 of 1937))

WHEREAS

PEARL STAR INVESTMENTS 77 CC
Registration Number 2003/055015/23

DATA / VERIFY
24 -05- 2023
ATHI DAMOYI

has applied for the issue to it of a Certificate of Consolidated Title under the provisions of
Section Forty of the Deeds Registries Act, 1937; and

WHEREAS **PEARL STAR INVESTMENTS 77 CC**, Registration Number 2003/055015/23
is the registered owner of

1. **ERF 4988 KNYSNA
IN THE MUNICIPALITY AND DIVISION OF KNYSNA
PROVINCE OF THE WESTERN CAPE**

HELD BY Deed of Transfer No T21336/2018

2. **REMAINDER OF ERF 3529 KNYSNA
IN THE MUNICIPALITY AND DIVISION OF KNYSNA
PROVINCE OF THE WESTERN CAPE**

HELD BY Deed of Transfer No T21335/2018

which properties have been consolidated into the property hereinafter described

NOW THEREFORE in pursuance of the provisions of the said Act, I, the REGISTRAR OF
DEEDS at CAPE TOWN do hereby certify that the said

**PEARL STAR INVESTMENTS 77 CC
Registration Number 2003/055015/23**

its Successors in Title or Assigns are the registered owners of

**ERF 13760 KNYSNA
IN THE MUNICIPALITY AND DIVISION OF KNYSNA
PROVINCE OF THE WESTERN CAPE**

**IN EXTENT 3549 (THREE THOUSAND FIVE HUNDRED AND FORTY NINE) square
metres**

AS WILL APPEAR from Annexed Diagram SG No. 4085/2003

1. As far as the figure vwBedcba on Diagram SG No. 4085/2003 is concerned:

A. SUBJECT to the conditions referred to in Deed of Transfer Number T8900/1988.

B. SUBJECT FURTHER to the following condition mentioned in Deed of Transfer Number 2288/1931 in respect of the figures A.x.y.F.G.H. on the said Diagram Number 7231/1985 and in Deed of Transfer Number 2289/1931 in respect of the figure x.B.C.D.E.y. on the said Diagram Number 2731/1985 imposed by the Board of Trustees of the Diocese of Cape Town for their benefit and as owners of the Remainder of the farm Eastford held by Certificate of Amended Title Number 3583/1926 and which condition was imposed against the whole of each of Erven 23 and 22 Knysna respectively namely :

1. The land shall be used for residential purposes only. Neither the land nor any structures erected thereon shall be used or occupied in whole or in part, for trading or business purposes or for the purpose of the conduct of any avocation or occupation other than the usual occupations associated with the use and conduct of a usual private residence. The transferee and his successors in title shall be bound also both in the design, plan and structure of any erections contemplated to observe such conditions.

C. SUBJECT FURTHER to the following conditions contained in Deed of Transfer Number T8900/1988 imposed by the Administrator in terms of Section 9 of Ordinance 33 of 1934 namely :

- (a) The owner of this erf shall without compensation, be obliged to allow gas mains, electricity, telephone and television cables and/or wires and main and/or other waterpipes and the sewage and drainage, including stormwater of any other erf or erven to be conveyed across this erf, and surface installations such as mini-substations, meter kiosks and service pillars to be installed thereon, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purpose of constructing, altering, removing or inspecting any works connected with the above.

- (b) The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed on the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.
2. As far as the figures Awy, abcdeCDE and FGH on Diagram SG No. 4085/2003 are concerned:
- A. SUBJECT to the conditions referred to in Deed of Transfer Number T9326/1989.
- B. SUBJECT FURTHER to the following condition mentioned in Deed of Transfer Number 2288/1931 in respect of the Remainder of each of the figures f.B.j.g.e.g.h.D and g.j.C.h. on the said Diagram Number 9386/1970 and in Deed of Transfer Number 6220/1928 in respect of the Remainder of the figure A.f.g.e. on the said Diagram Number 9386/1970, imposed by the Board of Trustees of the Diocese of Cape Town for their benefit as owners of the Remainder of the farm Eastford held by Certificate of Amended Title Number 3583/1926 and which condition was imposed against the whole of each of Erven 21, 23, 24 and 22 Knysna respectively namely:
1. The land shall be used for residential purposes only. Neither the land nor any structures erected thereon shall be used or occupied in whole or in part, for trading or business purposes or for the purpose of the conduct of any avocation or occupation other than the usual occupations associated with the use and conduct of a usual private residence. The transferee and his successors in title shall be bound also both in the design, plan and structure of any erections contemplated to observe such conditions.

C. SUBJECT FURTHER to the following conditions mentioned in Deed of Transfer Number T9326/1989 imposed by the Administrator in terms of Section 9 of Ordinance 33 of 1934 namely :

- (a) The owner of this erf shall without compensation, be obliged to allow gas mains, electricity, telephone and television cables and/or wires and main and/or other waterpipes and the sewage and drainage, including stormwater of any other erf or erven to be conveyed across this erf, and surface installations such as mini-substations, meter kiosks and service pillars to be installed thereon, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purpose of constructing, altering, removing or inspecting any works connected with the above.
- (b) The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed on the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.

B
HMT

f

AND that by virtue of these presents the said

PEARL STAR INVESTMENTS 77 CC
Registration Number 2003/055015/23

its Successors in Title or Assigns, now is and henceforth shall be entitled thereto conformably to local custom, the State however, reserving its rights.

In witness whereof I, the said Registrar, have subscribed to these presents and have caused the seal of office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at
CAPE TOWN on 11 MAY 2023



REGISTRAR OF DEEDS

B

hmm

1



This report is compiled exclusively from the very latest data directly supplied to WinDeed by the Deeds Office.

Any personal information obtained from this search will only be used as per the Terms and Conditions agreed to and in accordance with applicable data protection laws including the Protection of Personal Information Act, 2013 (POPI), and shall not be used for marketing purposes.

**** ASTERISKS INDICATE THE INFORMATION IS ENRICHED FROM THE WINDEED DATABASE.**

SEARCH CRITERIA

Search Date	2025/02/12 15:42	Erf Number	13760
Reference	Pr25/07	Portion Number	-
Report Print Date	2025/02/12 15:43	Deeds Office	Cape Town
Township	KNYSNA	Search Source	Deeds Office

PROPERTY INFORMATION

Property Type	ERF	Diagram Deed Number	T17701/2023
Township	KNYSNA	Local Authority	KNYSNA MUN
Erf Number	13760	Province	WESTERN CAPE
Portion Number	0	Extent	3549.0000SQM
Registration Division	KNYSNA RD	LPI Code	C03900050001376000000
Previous Description	-	Co-ordinates (Lat/Long)**	-
Suburb / Town**	-		

OWNER INFORMATION (1)

PEARL STAR INV 77 C C

Owner 1 of 1

Company Type**	CLOSE CORPORATION	Document	T17701/2023
Registration Number	200305501523	Microfilm / Scanned Date	-
Name	PEARL STAR INV 77 C C	Purchase Price (R)	CCT
Multiple Owners**	NO	Purchase Date	-
Multiple Properties**	NO	Registration Date	2023/05/11
Share (%)	-		

ENDORSEMENTS (3)

#	Document	Institution	Amount (R)	Microfilm / Scanned Date
1	B7506/2024	INVESTEC BANK LTD	2 000 000	-
2	CONSOLIDATE FROM	TOWN KNYNSNA ,ERF 4988 ,PRTN 0	-	-
3	CONSOLIDATE FROM	TOWN KNYNSNA ,ERF 3529 ,PRTN 0	-	-

DISCLAIMER

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HISTORIC DOCUMENTS

No historic documents to display

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APPEAL APPLICATION FORM

in terms of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021)

This form must be appended to the letter of appeal or memorandum which must be in accordance with Section 80 of the Planning By-law

PART A: APPEAL

Are you appealing against the decision made by the Authorised Employee or Municipal Planning Tribunal? If yes, indicate in Part E or attached memorandum if the appeal is lodged against the whole decision or part thereof. If the latter applies provide a description of the part.

Are you appealing in respect of the failure of the Authorised Employee or Municipal Planning Tribunal to make a decision within the period contemplated in Section 57(1) and (2) of the By-law? If yes, provide facts that prove the failure in Part E.

Are you appealing against the condition(s) of approval imposed by the Authorised Employee or Municipal Planning Tribunal? If yes, list relevant condition(s) and provide a description in Part E.

Is your appeal based on and primarily concerned with the process followed prior to the Authorised Employee or Municipal Planning Tribunal? If yes, specify in Part E.

Is your appeal based on and primarily concerned with the merits of the land development or land use application on which it is believed that the Authorised Employee or Municipal Planning Tribunal erred in coming to a conclusion? If yes, specify in Part E.

X	N
Y	X
Y	N
X	N
X	N

Date of Decision: Date of receiving notice of decision:

Who took the original decision?:
(please select)

Municipal Planning Tribunal	X	Authorised Employee	
-----------------------------	---	---------------------	--

PART B: APPELLANT DETAILS

First Name(s): Surname:

South African Council of Planners (SACPLAN) Registration number (if applicable): Company Name : (if applicable)

Postal Address: Postal Code:

E-mail:

Telephone Number: Cell phone number

PART C: APPELLANT PROPERTY DETAILS

For property that is affected by the proposed development

Property Description:

Residential dwelling

Physical Address:

12 Circular drive
Paradise

Town/Area:

Knysna

PART D: PROPERTY DESCRIPTION OF PROPOSED LAND DEVELOPMENT

Property Description:

Erf 13760, Knysna

Physical Address:

Town/Area:

Knysna

Current Zoning:

Group Housing

Property
Extent:

Current Land Use:

Vacant residential

PART E: APPEAL MOTIVATION AND REASONS:

Brief description of appeal (please attach motivating memorandum with detailed reasons/grounds for appeal):

Memorandum attached.

PART F: ATTACHMENTS AND SUPPORTING DOCUMENTS**Information and documentation required in terms of Section 38(1) of the Planning By-law**

Complete the below checklist and attach all documents relevant to the application. Failure to submit all information and/or documents will result in the application being deemed incomplete. The application will not be considered complete until all required information and documents have been submitted.

Proof of payment of appeal fees (applicant)

Proof of serving of notice of appeal (applicant)

Y	N	N/A
Y	N	N/A

Copy of decision and proof of notification

Copy of conditions of approval

Motivation and reasons for appeal

Other (specify)

X	N	N/A
X	N	N/A
X	N	N/A
Y	N	N/A

PART G: DECLARATION:

I hereby wish to confirm the following:

1. That the information contained in this appeal and accompanying documentation is complete and correct.
2. I'm aware that it is an offense in terms of section 86(1) to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.

Appellant's Signature:

Sgt. PK Pugmire.
duo

Date:

12 June 2026.

Appellant Name:

Paul K Pugmire.

FOR OFFICE USE ONLY:

Date received:

Received by:

MOTIVATING MEMORANDUM LAND USE APPEAL: ERF 1370, KNYSNA

INTRODUCTION

The appeal is against the whole of the decision made by the KMPT on the 24th of April 2026 and is based on procedural grounds and on the merits.

GROUND OFS OF APPEAL

1. PROCEDURAL GROUNDS

In terms of PAJA, administrative action must be procedurally fair.

Section 3. (1)(a) of PAJA determines that administrative action which materially and adversely affects the rights or legitimate expectations of any person must be procedurally fair.

Section 3(2)(b) determines that in order to give effect to the right to procedurally fair administrative action, an administrator must give a person adequate notice of the nature and purpose of the proposed administrative action, a reasonable opportunity to make representations and a clear statement of the administrative action.

1.1 Procedural grounds relating to notification.

To the best of my knowledge, other than the Silkes, my immediate neighbours, I am the only neighbour and previous objector who was formally notified of the current application. I know that the owners of Parkes Manor, which is directly adjacent to Erf 1370, were not informed. They heard from me about the new application.

I note in the agenda that seven interested parties were informed. I was informed by the managers at Parkes Manor that the emails that were sent to SA Travel Inbound were not received, as they were sent to a previous manager who left more than ten years ago.

When the original application was advertised, more than fifty residents signed a petition against the development, yet now only seven people were notified and in two instances, the notice was sent to the wrong address.

During September 2025 I met with Susan Campbell, one of the previous objectors, and she advised me that she had also not received notification. She advised me that she would look for the application on the website, as she wanted to object.

I have since been advised by Ms. Campbell that she wrote to the Municipal Manager, Director Planning and Hennie Smit on the 28th of September 2025 to enquire as to the date that comments had to be submitted.

On the morning of 29 September 2025, the Municipal Manager responded that he would revert to her with the information. To date she has yet to receive a reply. A copy of the email correspondence is attached as Annexure "A".

I am advised that the public notification process for the new application did not comply with the bylaw or with PAJA, as it is mandatory that the notification of the application, including the date by which comments have to be submitted, and the persons to whom comments have to be submitted, has to be published on the website. This was not done in this case.

The relevant provisions of the bylaw are set out hereunder: the sections that have not been complied with are in red font.

In terms of section 45(2) of the By-laws, the public notice of an application for land development must:

- be published on the municipality's website;
- published in a local newspaper within the area concerned in at least two of the official languages most spoken in the area concerned; and

In terms of section 47 of the By-Laws, the following information must be contained in the Notice: name and contact details of Applicant;

- identification of the land to which the application relates to by provision of a property description and physical address;
- purpose and intent of application;
- state that copy of application and supporting documents will be available for viewing during hours and place mentioned in the Notice;
- name and contact information of the person to whom comments/objections must be addressed;
- invite members of the public to submit written comments together with reasons;
- state format in which comments may be submitted;
- state date by which comments must be submitted, where the date is by no later than 30 days from date on which notice was given; and

As the notice was not complied with, the application could not have been granted.

The Appeal Authority is requested to uphold the appeal. Set aside the approval of the application and to rule that the application be re-advertised and that the public notice be published on the website and that all previous objectors and all adjoining landowners be personally notified.

1.2 Procedural grounds relating to the inadequate notice of and unfair refusal to allow me an opportunity to address the KMPT.

The process was procedurally unfair, as I was refused an opportunity to address the KMPT, due to the fact that my request to address the tribunal was not received 7 days before the meeting. I therefore was not allowed an opportunity to state my case to the tribunal and/or to respond to submissions on behalf of the applicant. The refusal of my request was unfair and unreasonable for the reasons set out hereunder:

In the 10th of April 2026 I received notification per email from Liesl Bailey that the KMPT meeting will be held on the 24th of April 2026 and that the Agenda would be available on the municipal website on the 17th of April 2026. I was also informed that I could request the opportunity to make oral representations, by writing to her.

I was not informed that, if I wanted to address the Tribunal, I had to apply in writing seven days in advance. A copy of the notification is annexed as Annexure "B".

I was not certain whether I would be available in the 24th of April and I also was battling with a knee and back injury.

After the Agenda was published, I read the recommendations from the municipal planner and was concerned that the report dismissed all my and other Objector's concerns and accepted the submissions by Marike Vreken, the Applicant's Planner. The report was not objective and I believed that I should present my case to the Tribunal.

On the 23rd of April 2026, at 10:59, I send an email to Liesl Bailey requesting an opportunity to contribute verbally if I was able to attend and felt that it was warranted.

In the same day I received a reply from Ms. Bailey indicating that my request for an oral presentation should have reached the municipality at least 7 days before the meeting and that the Chairman would not allow me to speak, as it was late. I felt that it was unfair to refuse my request, considering that I had not been informed of the 7-day deadline and contacted Susan Campbell, who resides in the area and also objected to the application on 2019. I discussed the matter with her and she advised me that she was attending the meeting for another matter. I was advised by her that the 7-day deadline was determined in the By-law and the Rules of Order, but that the previous Tribunal always allowed objectors and applicants to address the tribunal, even if the request was late, as it ensured that everybody had an opportunity to state their case and that the process is fair. I am a lay person and was not aware of the time period and would have expected to be informed of the 7-day deadline on the notification email.

As I was struggling with an injury, I asked her whether she would attend on my behalf and explain to the Tribunal Chair why I had not requested an opportunity to present my case timeously and request the Chair to provide me with an opportunity to make oral representations.

She agreed and I sent her an email in which she confirmed that she would appear on my behalf.

The email is attached as Annexure "C".

After the Tribunal meeting, I was contacted by Susan Campbell, who advised me that she requested an opportunity to address the Tribunal on my behalf, but that she was informed that, as my request was received late, she would not be permitted. She advised me that she was not given an opportunity to explain why my request was late.

My right to just administrative action was infringed upon, as I was not informed in the notice, that I had to request an opportunity to make oral representations 7 days before the meeting, and I was not afforded a right to explain why my request was late and to ask for condonation.

Objectors were not invited to attend formal site visit or notified that they could request a site visit.

I have been informed that members of the KMPT visited the site the day before and that the applicant attended the site visit.

If I have been correctly informed, that would constitute another procedural irregularity. If any party is permitted to attend a formal site visit, procedural fairness would determine that all parties should be given an opportunity to attend the site visit and point out any relevant features.

I was not informed of the site visit and I was not given an opportunity to visit the site. I was not aware of the fact that I could request a site visit and only became aware of it after the Rules had been brought to my attention. Had I known, I would definitely have requested a formal site visit.

I should have been notified of my right to request a formal site visit. The failure to notify me of constituted an infringement of my right to just administrative action.

On the 22nd of May I received notification of the Tribunal decision.

2. MERITS

The Planner's report gave almost no weight to the objections and the concerns of the objectors relating to the negative impact on the character of the area, hopelessly inadequate visitor's parking, no real open space, impact on traffic, sewer and other services.

The objections are mentioned in the report, but none of the substance of the objections os discussed and evaluated in the report.

The motivation of the applicant's planner, Marike Vreken, is repeated uncritically in the report, and essentially repeated in the recommendations and reasons for the recommendations.

The concerns of the neighbours, regarding the impact this high-density development will have on their area, are completely disregarded. The precedent that this development will set in this low-density leafy suburb is ignored.

By contrast the developers financial interest and the achievement of "a more feasible and implementable development" is included in paragraph (i) of the reasons for the recommendation to approve the application. No regard is paid to the objector's comments that a feasible development can be achieved within the existing rights.

There is no attempt to balance the rights of the applicant and to achieve a balanced outcome that will not negatively affect the character of the area.

The statement in paragraph (ii) of the proposed reasons that, "the increase in density is considered appropriate within the context of the site and its surroundings, as the area accommodates a mix of residential and guesthouse uses, and the development remains compatible with the scale, form and land use character. ", is totally divorced from reality. Nothing could be further from the truth. The adjoining property, Parkes Manor, that is operated as a guest house, is on one of the largest residential stands in Knysna. The property opposite the proposed development is also much larger than the average stand. The area is characterised by large residential stands with large trees and many of the homes in the area are historic homes.

The density and proposed architecture are completely out of place in this part of Paradise and belong in, or adjacent to, the CBD. It will set a precedent that will have a negative impact on the sense of place of the area and Knysna.

The reasons advanced in paragraph (iii) relating to optimising land within the urban edge are also not in line with policy. The proposed and now approved, density belongs in the CBD, or directly adjacent to the CBD and not in this part of the suburb.

In paragraph (iv) of the reasons it is stated that the departures are minor and "do not materially affect the amenity" on the area. Again, this is completely wrong as the density is already much too high for the area and the departures allow this development to be built up to the boundary. The impact relating to noise and privacy it will have on the quiet guesthouse next door and the surrounding neighbours, is completely disregarded.

The reasons advanced in paragraph (vi) are both telling and disconcerting. The objector's concerns are dismissed as follows: "these do not outweigh the planning merits of the proposal.." This is the clearest proof that the developer's interests are placed above those of the residents of the suburb.

The last reason advanced in paragraph (vii) is virtually a "copy and paste" from Marike Vreken's report.

What is telling is that the Tribunal adopted the recommendations and reasons from the planner's report verbatim. There is no indication that the Tribunal members applied their minds independently as the decision, conditions and recommendation are exactly the same as the planner's recommendations.

I therefore request the Appeal Authority to uphold the appeal, set aside the approval and rule that the application be re-advertised and that the public notice be published on the website and that all previous objectors and all adjoining landowners be personally notified.

Susan Campbell

From: Lulamile Mapholoba <lmapholoba@knysna.gov.za>
Sent: Monday, 29 September 2025 08:02
To: sucam@mweb.co.za; Director Planning; Hennie Smit
Subject: RE: Land use application - erf 13760 Knysna

Ms Campbell

Good morning.

The above subject refers.

I will have to gather information around this and revert to you.

From: sucam@mweb.co.za <sucam@mweb.co.za>
Sent: Sunday, 28 September 2025 21:18
To: Lulamile Mapholoba <lmapholoba@knysna.gov.za>; Director Planning <directorplanning@knysna.gov.za>; Hennie Smit <hsmit@knysna.gov.za>
Subject: Land use application - erf 13760 Knysna

The Municipal Manager/Director Planning/Hennie Smit

Dear Sir

KNYSNA ERF 13760: AMENDMENT OF CONDITIONS OF APPROVAL; DEPARTURE & APPROVAL OF A SITE DEVELOPMENT PLAN

I address this correspondence to you in my personal capacity.

The above land use application was brought to my attention by a member of the public on Thursday last week.

The same member of the public has also informed me that the adjacent neighbours and all objectors in the previous application for the consolidation and rezoning of erven 3529 and 4988 (now Erf 13760) Knysna have not received notification of the application.

I was an objector in the previous application on 2019 and have not received notification.

Whereas I found the application on the municipal website, the closing date for comments is not on the website.

Kindly advise me of the closing date for comments and provide me with information about which adjoining neighbours and previous objectors have been informed.

Yours sincerely

MS Campbell

Susan Campbell

Subject: FW: KMPT MEETING AGENDA>>24 APRIL 2026
Location: COUNCIL CHAMBERS, 5 CLYDE STREET, KNYSNA

Start: Fri 2026/04/24 09:00
End: Fri 2026/04/24 13:00
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: johan@paradisefound.co.za

-----Original Appointment-----

From: Liesl Bailey <lbailey@knysna.gov.za>

Sent: Tuesday, 21 April 2026 3:51 PM

To: Liesl Bailey; lloydruce@mweb.co.za; Jacques Marais; Lundi; charlene@ascendadvertising.co.za; Jillingsfamily@gmail.com; phineas@ramaphgroup.co.za; Marike Vreken; earldurant@gmail.com; ivan@icaacc.co.za; paulkeithdugmore@gmail.com; info@parkes-manor.com; frederik@lotterhaus.co.za; claassen.liezl@gmail.com; petravdm2116@outlook.com; pieter.eksteen@psg.co.za; daneel@motherlode.co.za; nicolaas2@mac.com; heinherbst@gmail.com; erika@faurefaure.co.za; Breda Lombard; johan@paradisefound.co.za; Aa Camille; 'Camille Burger'

Cc: Shaun Madumbo; Linda Mniki; Sinovuyo Sitinga; Sihle Phungula; Reginald Smit; Johannes Grobler; Johan Grobler; Jacqui Samson; Neale Perring; zrvtown; Randolph Daames; Mulalo Musekene; Mpumelelo Nzuzo; Lungiswa Goya; Dupré Lombaard (Virdus Works); jeanne duminy; info@paradisefound.co.za

Subject: KMPT MEETING AGENDA>>24 APRIL 2026

When: Friday, 24 April 2026 9:00 AM-1:00 PM (UTC+02:00) Harare, Pretoria.

Where: COUNCIL CHAMBERS, 5 CLYDE STREET, KNYSNA

#TEAMS LINK BELOW

Dear Sir/Madam,

I trust you find this well.

You are hereby informed of the Knysna Municipal Planning Tribunal (KMPT) meeting that will be held on 24 April 2026, 09h00am in the Council Chambers, Main Building, 5 Clyde Street, Knysna.

The full agenda of the meeting will be available end of business, Friday, 17 April 2026 on the municipal website at: <https://www.knysna.gov.za/government/council/knysna-municipal-planning-tribunal/>

Please take note of the following that :

1. Should you wish to make an oral presentation at the meeting, a request may be sent to the Administrator.
2. No new information will be accepted.
3. Kindly direct queries on the meeting and proceedings of the Municipal Planning Tribunal to the Administrator for consideration.

Annexure "C"

Susan Campbell

From: Susan Campbell <sucam@mweb.co.za>
Sent: Saturday, 06 June 2026 12:17
To: Susan Campbell
Subject: FW: KMPT

From: Paul Dugmore <paulkeithdugmore@gmail.com>
Sent: Thursday, 23 April 2026 22:32
To: sucam@mweb.co.za
Subject: Fwd: KMPT

----- Forwarded message -----

From: **Liesl Bailey** <lbailey@knysna.gov.za>
Date: Thu, Apr 23, 2026 at 11:10 AM
Subject: RE: KMPT
To: Paul Dugmore <paulkeithdugmore@gmail.com>

Good day Mr. Dugmore,

Please be informed that your request for oral presentation should have reach our offices 7days before the meeting. The Chairperson will not allow you to speak without the request being made earlier.

I trust you find this in order.

Kind regards,

Liesl

From: Paul Dugmore <paulkeithdugmore@gmail.com>
Sent: Thursday, 23 April 2026 10:59
To: Liesl Bailey <lbailey@knysna.gov.za>
Subject: KMPT

Susan Campbell

From: Susan Campbell <sucam@mweb.co.za>
Sent: Saturday, 06 June 2026 12:17
To: Susan Campbell
Subject: FW: KMPT

From: Susan Campbell <sucam@mweb.co.za>
Sent: Friday, 24 April 2026 07:15
To: 'Paul Dugmore' <paulkeithdugmore@gmail.com>
Subject: RE: KMPT

Good day Paul

I am at the meeting for another matter and I shall be attending on your behalf.

Regards

Susan

From: Paul Dugmore <paulkeithdugmore@gmail.com>
Sent: Thursday, 23 April 2026 22:30
To: sucam@mweb.co.za
Subject: KMPT

Good day Susan,

I wonder if you could represent me at the KMPT meeting tomorrow as I have a sport related injury which I am still receiving medical attention for. Also it seems that I will not be allowed to speak anyway as I did not apply to do so in time so attending in person does not seem worth the discomfort.

I have re-read the notice of the pending meeting but nowhere did it state that there was a time limit to apply to have a voice. Please see the attached original email notification from Liesl Bailey as well as the one I received today informing me that I would not be given the opportunity by the chairman. This does not seem right or fair.

I also wondered whether the planning tribunal had done a site visit and if so if any of the objectors had been included or invited? As you may know the idea of high density developments in Paradise is very unpopular. If the municipality was really interested in the wishes of the residents of the whole suburb wanted they could easily have sent out an email survey. I personally have not met a single home owner in any street who wants to see this type of development. It is completely out of place.

As I have mentioned previously the property has been kept in a shocking condition, an eyesore which has been ignored by the municipality and should not be allowed. This is possibly done on purpose by the owner to make local residents think that anything will be an improvement.

Anyway Susan if you are able to put forward my feelings on the matter please do so as this does not constitute new or additional information, it is simply that there is now a new tribunal.

Thanks,

regards,

Paul Dugmore

Collab. Ref.: 2941953
File Ref.: 13760 Kny
Application No.: 3532
JH Smit
Tel: 044-302 6318



Via Electronic Mail

2026-05-21

Paul Dugmore
12 Circular Drive
Paradise
KNYSNA
6570
Email: paulkeithdugmore@gmail.com

Dear Sir/Madam,

DECISION: AMENDMENT OF CONDITIONS OF APPROVAL, DEPARTURE & SITE DEVELOPMENT PLAN: ERF 13760, KNYNSA

Your comment in the above application dated 30 September 2025, refers.

Please be advised that the Knysna Municipality Planning Tribunal at a meeting held on 24 April 2026, unanimously resolved the following:

- 1.1 That, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) for the amendment of condition 1.4(i) in the notice of decision dated 01 March 2023 in terms of Section 15(2)(h) of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) in respect of Erf 13760, Knysna.
- 1.2 That, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) for the following permanent departures on Erf 13760, Knysna as shown on plan numbered "2313-08-A1-000" dated 27 June 2025:
 - 1.2.1 the relaxation of the eastern lateral building line from 2m to 1.51m to allow for pergolas;
 - 1.2.2 the relaxation of the western street building line from 4.5m to 2.9m to allow for allow for pergolas;
 - 1.2.3 the relaxation of the north and north-western street building line from 4.5m to 0.42m and 1.1m to allow for allow for the retaining wall; and

- 1.2.4 the relaxation of the eastern lateral building line from 3m to 0m to allow for the retaining wall.
- 1.3 That, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) for the Site Development Plan numbered “2313-08-A1-000” dated 27 June 2025, in respect of Erf 13760, Knysna.
2. **The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):**
- (i) The development parameters of “group housing” of the Knysna Zoning Scheme By-Law (2020) shall apply, unless otherwise permitted in terms of the provisions of the Planning By-law.
 - (ii) The landowner/developer shall pay augmentation levies in accordance with Council’s approved tariffs, to the satisfaction of the Director: Infrastructure Services, prior to or at the submission of building plans.
 - (iii) The landowner/developer shall submit an integrated waste management plan detailing refuse storage and collection arrangements, to the Municipality, prior to the submission of building plans.
 - (iv) The landowner/developer shall submit a detailed stormwater management plan to the satisfaction of the Director: Infrastructure Services prior to or at the submission of building plans.
 - (v) The landowner/developer shall submit a fire and emergency vehicle access plan to the satisfaction of the Chief Fire Officer, prior to or at the submission of building plans.
 - (vi) The landowner/developer shall lodge architectural design plans for consideration to the Aesthetics Committee prior to the submission of building plans.
 - (vii) The conditions of approvals as specified in the notice of decision dated 01 March 2023 shall remain insofar as they apply and applicable to the development.
3. **The reasons for above recommendations are as follows:**
- (i) The application is for the amendment of conditions of approval relating to Erf 13760, which is already zoned General Residential Zone I (Group Housing), to allow for an increase in the approved density. The proposal does not introduce a

new land use but rather refines existing development rights to enable a more feasible and implementable development.

- (ii) The proposed increase in density is considered appropriate within the context of the site and its surroundings, as the area accommodates a mix of residential and guesthouse uses, and the development remains compatible with of scale, form, and land use character.
- (iii) The proposal is consistent with the Spatial Development Framework and Integrated Development Plan, as it promotes infill development and the optimisation of land within the urban edge, without expanding the development footprint or placing pressure on environmentally sensitive areas.
- (iv) The development has been assessed against the Knysna Zoning Scheme parameters, and it has been demonstrated that the proposal complies with key requirements, with only minor departures that do not materially affect the amenity of the area.
- (v) All relevant internal municipal departments have considered the application and raised no objections, confirming that the proposal is acceptable from an engineering, environmental, and service delivery perspective.
- (vi) The concerns raised through public participation have been duly considered; however, these do not outweigh the planning merits of the proposal, particularly where compliance with applicable policies and regulations has been demonstrated.
- (vii) The proposal supports the efficient utilisation of a well-located and serviced property, contributing to a more compact and sustainable urban form in line with broader spatial planning principles.

4. Matters for Noting:

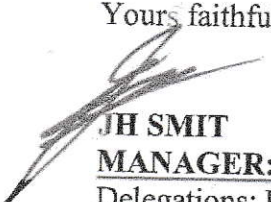
- (i) This approval applies to the application(s) as outlined above and may not be construed as authority to depart from any other legal prescriptions.
- (ii) Building plans shall be submitted in terms of the requirements of the National Building Regulations and Building Standards Act, 1977 (Act no. 103 of 1977) to the Municipality for approval prior to any building work being undertaken.

You are hereby informed of your right to appeal to the Appeal Authority in terms of Section 79(2) of the said legislation.

The attached appeal form must be completed and should be directed to the Appeal Authority and received by the Acting Municipal Manager, P.O Box 21, Knysna or via email to knysna@knysna.gov.za within 21 days of notification of this decision together with proof of payment of the appeal fee.

Should you have any further enquiries, please contact Mr. Shaun Madumbo telephone number: 044-302 6268 or via e-mail address: smadumbo@knysna.gov.za.

Yours faithfully,



JH SMIT
MANAGER: LAND USE MANAGEMENT
Delegations: P.78
/lb

Susan Campbell

From: Susan Campbell <sucam@mweb.co.za>
Sent: Saturday, 06 June 2026 12:17
To: Susan Campbell
Subject: FW: Decision: Erf 13760 Knysna
Attachments: 0.png; Erf 13760 Kny (P Dugmore).pdf; LUM_Appeal Application Form.pdf

From: Paul Dugmore <paulkeithdugmore@gmail.com>
Sent: Tuesday, 26 May 2026 07:11
To: sucam@mweb.co.za
Subject: Fwd: Decision: Erf 13760 Knysna

----- Forwarded message -----

From: **planning** <planning@knysna.gov.za>
Date: Fri, 22 May 2026, 09:31
Subject: Decision: Erf 13760 Knysna
To: paulkeithdugmore@gmail.com <paulkeithdugmore@gmail.com>

Good day,

Kindly find attached hereto the decision for your attention.

Kind regards,

Land Use Management

P O Box 21. Knysna. 6570. Western Cape. South Africa

Tel +27 (0)44 302 6300 (switchboard) or 302 6318 (direct)

E-mail planning@knysna.gov.za

Tutuzelwa Tsese

Colab No.:

From: Hennie Smit
Sent: Monday, 20 July 2026 08:13
To: Knysna Municipality
Cc: Shaun Madumbo; Liesl Bailey
Subject: FW: Pr2507 Knysna Erf 13760: Response to Appeal
Attachments: E-mail to Mun 2026-04-29 - Complaint council interference.pdf; Pr2507b13 Kny Mun - Response to appeal.pdf

File No.: Sp. Campbell

Incoming mail

Hennie Smit Manager: Land Use Management

P O Box 21, Knysna, 6570, Western Cape, South Africa

Tel +27 (0)44 302 6319 (switchboard) or +27 (0)60 998 7124 (Mobile)

e-mail hsmit@knysna.gov.za

From: Marike Vreken <marike@vreken.co.za>
Sent: Friday, 17 July 2026 18:25
To: Liesl Bailey <lbailey@knysna.gov.za>; 'Bianca Lotz' <info@vreken.co.za>
Cc: Hennie Smit <hsmit@knysna.gov.za>; dale@vreken.co.za; lourens@vreken.co.za; 'David Sharp' <david@globalconstruction.co.za>; Shaun Madumbo <smadumbo@knysna.gov.za>
Subject: Pr2507 Knysna Erf 13760: Response to Appeal

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Liesl / Shaun,

Please see attached response to the appeal received, for your further attention.

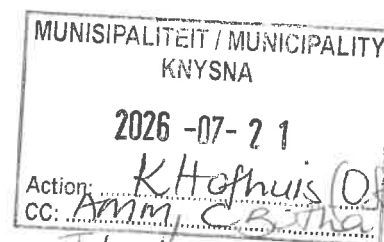
Kind regards,
Marike



Marike Vreken
Pr. Pln A/1101/1999 M SAPI 10233
 Marike Vreken Town Planners CC
 PO Box 2180, Knysna, 6570
 tel. +27 (0)44 382 0420
 fax. +27 (0)86 459 2987
 cell. +27 (0)82 927 5310
www.vreken.co.za

Stads & Omgewingsbeplanners

Urban & Environmental Planners



Action: K. Hofhuis (Office of the Speaker)
 CC: AMM, C. Strydom
 J. Lakay
 B. Mamba
 A. Strydom
 V. Klein
 Dir. P+D
 H. Smit
 S. Madumbo
 L. Bailey

From: Liesl Bailey <lbailey@knysna.gov.za>
Sent: Thursday, June 18, 2026 3:51 PM
To: 'Bianca Lotz' <info@vreken.co.za>
Subject: Erf 13760 Knysna

Good afternoon Bianca,

Find attached hereto correspondence for your attention.

Kind regards,

Liesl Bailey Chief Clerk: Land Use Management

P O Box 21, Knysna, 6570, Western Cape, South Africa

Tel +27 (0)44 302 6300 (switchboard) or 302 6589 (direct)

E-mail lbailey@knysna.gov.za



Virus-free www.avq.com

From: Marike Vreken <marike@vreken.co.za>
Sent: Wednesday, 29 April 2026 14:29
To: 'mgericke@knysna.gov.za'; 'mm@knysna.gov.za'; 'directorih@knysna.gov.za'
Cc: 'David Sharp'; 'Bianca Lotz'; 'Sihle Phungula'; 'lourens@vreken.co.za'
Subject: Pr2507 Knysna Erf 13760 - Complaint against Councillor Conduct
Attachments: G24b02 - Kny Mun Complaint.pdf

File No.:

Good Day Mr Municipal Manager, and Cllr Morton Gericke,

I would like to lodge a formal complaint against the conduct of Councillor Susan Campbell.

We are the applicants that represent the registered land owner of Knysna Erf 13760. We lodged an application for the amendment of conditions of approval and the approval of a Site Development Plan on this property.

This application went through the prescribed public participation process and objections were received. We responded to the comments received, and the Tribunal is the decision-making authority on this application.

The application was tabled to last week Thursday's (26 April) Knysna Municipal Planning Tribunal Meeting.

Councillor Susan Campbell arrived unannounced and uninvited to the Tribunal Hearing. She was not an Interested & Affected Party, and tried to abuse her power as Councillor and wanted to address the Tribunal on this application. Her conduct is against the provisions of the Knysna Land Use Planning Bylaw, as a person cannot address the tribunal, unless the person applied in writing to address the Tribunal, and received approval to address the Tribunal. She hasn't applied and is not a party to the application, nor did she apply for "Intervener Status". Fortunately the Tribunal stood strong and applied the rules, and did not grant her permission to interfere with the decision making process.

We understand that Councillors may not interfere with the administrative processes of the Municipality.

This is not an isolated case, as Councillor Campbell has in the past, also attempted to interfere with the Appeal Authority's decision. I attach a previous, similar, complaint for ease of reference. Until date, we've received no response regarding the outcome of our previous complaint.

Your urgent action and feedback in this regard will be much appreciated.

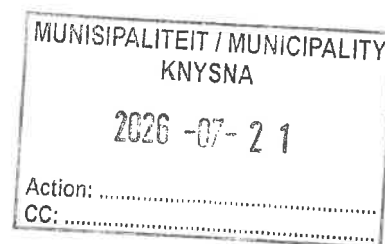
Kind regards,
Marike



Marike Vreken
Urban & Environmental Planners

Marike Vreken
Pr. Pln A/1101/1999 M SAPI 10233
Marike Vreken Town Planners CC
PO Box 2180, Knysna, 6570
tel. +27 (0)44 382 0420
fax. +27 (0)86 459 2987
cell. +27 (0)82 927 5310
www.vreken.co.za

Stads & Omgewingsbeplanners



Our Ref: Pr2507b13
Your Ref: Application No 3532

17 July 2026

By E-mail: smadumbo@knysna.gov.za
hsmmit@knysna.gov.za
sphungula@knysna.gov.za

The Manager: Land Use Management
Knysna Municipality
P.O. Box 21
Knysna
6570

FOR ATTENTION: MR. HENNIE SMIT

Dear Sir,

KNYSNA ERF 13760: AMENDMENT OF CONDITIONS OF APPROVAL; DEPARTURE & APPROVAL OF A SITE DEVELOPMENT PLAN – RESPONSE TO APPEAL

Our application of for the Amendment of Conditions of Approval of Knysna Erf 13760, dated 02 July 2025, and the appeal that was lodged by Paul Dugmore have reference. Herewith our response to the appeal received:

1. Comment: The Appellant appeals on procedural grounds, and alleges that certain neighbours were not formally notified by Knysna Municipality of the application. The Appellant consulted with Councillor S Campbell and alleges that the application did not comply with the requirements of Section 45(2) of the Knysna Planning Bylaw.

Response: This statement regarding the requirements of Section 45(2) of the bylaw is incorrect. An application for the approval of a SDP and an amendment of a condition of approval, and a building line relaxation for departures and retaining walls, are not one of the applications that are listed in Section 45(1) of the Knysna Municipal Planning Bylaw, that must be published in the press. According to Section 46(2) of the Municipal Planning Bylaw. This statement of the Appellant regarding inadequate public notice is therefore incorrect.

2. Comment: The Appellant alleges that he was denied the opportunity to address the Tribunal, and therefore it was an unfair procedure.

Response: The Appellant acknowledges that he was assisted by Councillor Susan Campbell. According to our knowledge, Councillor Susan Campbell attended the Tribunal

Hearing, and attempted to address the Tribunal. She did not state in what capacity she was acting. Councillor Susan Campbell is a learned person, and knows the Municipal Planning Bylaw very well. **Section 78(2) of the Knysna Planning Bylaw, clearly states that a person that wishes to address the Tribunal "...must submit a written request to the Administrator, including a brief summary of the oral representation that they intend to make, at least 7 days before that meeting..." therefore, the Tribunal acted in accordance with the requirements of the Knysna Municipal Planning Bylaw, and it is the considered opinion that the Tribunal did not err in refusing Councilor Campbell to address the Tribunal. It should be noted that the writer did lodge a written complaint to the Municipal Manager in Councilor Campbell's interference with the Tribunal hearing (copy attached for ease of reference), and until date, no response was received on this complaint from the Knysna Municipality.**

3. Comment: The Appellant's grounds of appeal includes that he was not invited to a site visit with the Municipal Planning Tribunal, when the site visit took place.

Response: **The applicant also did not attend the site visit. There is no requirement that the applicant or the objectors MUST attend a site visit, should the members of the Tribunal decide that they have to familiarise themselves with the application area. This is therefore not valid grounds for appeal.**

4. Comment: No regard is paid to the objector's comments that a feasible development can be achieved within the existing rights.

Response: **The original application that was lodged on the application area was for a block of flats. The applicant acknowledged that the development of a block of flats is out of character of the area, and therefore amended the application to group housing which is more in keeping with the character of the area. The only reason why the density was limited to the number of group housing units, is because the former Knysna Zoning Scheme Bylaw limited the density to 20 units/ha. The proposed amendment is in accordance with the density for group housing that is allowed for in the 2020 Knysna Zoning scheme bylaw. Par 8 of the application / motivation provided a sound motivation for the increased density from 8 units to 12x units.**

The Appellant's statement that the proposed development is feasible at a density of 8 units, and that the architecture is inappropriate, is unsubstantiated and unfounded. These are not valid reasons to uphold the appeal.

5. Comment: High density belongs in the CBD, and directly adjacent to the CBD, and not in this neighbourhood.

Response: **Par 3.1.1.1. of the new 2025 Knysna SDF promotes densification inside the urban edge and recommends different housing typologies. The SDF also recommends densification just north of the N2 National Road. The Appellant's statement is subjective, unfounded, and not consistent with the Knysna SDF.**

6. Comment: The last reason advanced in paragraph (vii) is virtually a "copy & paste" from Marike Vreken's report. What is telling is that the Tribunal adopted the recommendations and reasons from the planner's report verbatim. There is not indication that the Tribunal members applied their minds independently as the decision, conditions and recommendation are exactly the same as the planner's recommendations.

Response: Again, this is an unfounded statement. There is no statement that refers to "efficient utilisation" or "more compact" in the applicant's report / motivation. Hence, this statement is incorrect. The Tribunal members could have concurred with the Planner's recommendation and accepted the recommendation. Again, this is an unfounded and unsubstantiated statement from the Appellant. Such statements can only be made, if the Appellant applied for a copy of the recording of the Tribunal hearing in terms of PAIA, and listened to the recording. These are not valid reasons to uphold the appeal, and it should be disregarded.

7. Conclusion

We conclude that:

- 7.1. The Appellant's statements and allegations regarding the procedural errors, are unfounded, out of context and incorrect. It should be disregarded and the appeal be dismissed.
- 7.2. We note that Councillor Susan Campbell attempted to interfere with the decision making process. A complaint was lodged, and no response was received.
- 7.3. The Appellant's statements and allegations regarding the merit of the application, are unsubstantiated, and should be disregarded.

We trust that this response will enable the Appeal Authority to make an informed decision regarding this appeal. Please do not hesitate to contact the writer if you require any additional information in this regard.

Kind regards,



MARIKE VREKEN

Pr. Pln A/1101/1999 M SAPI 10233

CC: david@globalconstruction.co.za

MAILING LIST FOR ERF 13760 KNYSNA

7293	LAGOON PROPERTIES PROPRIETARY 104 MAIN STREET PARADISE KNYSNA 6571	Lagoonproperties1@gmail.com
4079	COETZEE FAMILY TRUST POSBUS 34 JOHNSON'S POST MOSELBAAI 6540	Ccoetzee56@gmail.com
3243	SILKS HI PO BOX 3393 KNYSNA 6570	merleknysna@gmail.com
8558	THE PEROSINO FAMILY TRUST 16 CIRCULAR DRIVE PARADISE KNYSNA 6571	ivan@icaac.co.za
19208	COETZEE FAMILY TRUST POSBUS 34 JOHNSON'S POST MOSELBAAI	Ccoetzee56@gmail.com
99	DUGMORE PK 12 CIRCULAR DRIVE KNYSNA 6570	paulkeithdugmore@gmail.com
19	SA TRAVEL INBOUND PTY LTD OFFICE 3,27 MULDER STR NEW HORIZON CENTRUM RIVERSDALE 6670	gillianw@mweb.co.za
20	SA TRAVEL INBOUND PTY LTD OFFICE 3,27 MULDER STR NEW HORIZON CENTRUM RIVERSDALE 6670	gillianw@mweb.co.za

Collab. Ref. 2656017
File Ref.: 533 Bre
JH Smit
Tel: 044-302 6318



Municipality Munisipaliteit uMasipala
inclusive • innovative • inspired

Via Electronic Mail

2025-08-25

A van Heerden
PO Box 95614
0145
Email: arianavanheerden@gmail.com

Dear Sir/Madam,

PROPOSED DEPARTURE: ERF 533, BRENTON ON SEA, KNYSNA

Notice is hereby given in terms of Section 35 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) that the abovementioned application has been received from:

Owners Details:	Moegamat-Zaine & Bridgit Miller
Applicants Details:	c/o ValGIS Technologies
Email:	camille@valgis.co.za
Reference number:	Application number 3538
Property Description:	Erf 533, Brenton on Sea, Knysna
Physical Address:	533 Yellowwood Crescent, Brenton on Sea, Knysna
Nature of application:	

- (i) Application for a **Departure** in terms of **Section 15(2)(b)** of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) for the following:
- a) the relaxation of the street building line from 4,5m to 0m to allow the retaining structure; and 4,5m to 3,42m in respect of the dwelling house;
 - b) the relaxation of the eastern lateral building line from 2m to 0m in respect of the retaining wall, dwelling house and proposed external staircase; and
 - c) the relaxation of the western lateral building line from 2m to 0m in respect of the dwelling house and retaining wall.

A full copy of the application is available for inspection on the municipal website:
<https://www.knysna.gov.za/do-business/planning-development/current-land-use-applications/>

Members of the public are invited to submit written comments, together with the reasons therefore in terms of Section 50 of the Knysna Spatial Planning and Land Use Management By-Law (2021). Comments must be addressed to the Municipal Manager and submitted via

A full copy of the application is available for inspection on the municipal website:
<https://www.knysna.gov.za/do-business/planning-development/current-land-use-applications/>

Members of the public are invited to submit written comments, together with the reasons therefore in terms of Section 50 of the Knysna Spatial Planning and Land Use Management By-Law (2021). Comments must be addressed to the Municipal Manager and submitted via email at knysna@knysna.gov.za and sphungula@knysna.gov.za on or before **30 September 2025**, quoting your name, address, electronic contact details and telephone number, interest in the application and reasons for comment. The municipality may refuse to accept comments received after the closing date. Persons who cannot write may contact the Town Planning Office during office hours, where the responsible official will assist you in putting your comments in writing.

Telephonic enquiries may be made during office hours to Mr. Sihle Phungula at 044-302 6339 or via email sphungula@knysna.gov.za.

Yours faithfully,



JH SMIT
MANAGER: LAND USE MANAGEMENT
/lb

ITEM TO:

Municipal Planning Tribunal

APPLICATION NO.	3532
REPORT AUTHOR	S Phungula
JOB TITLE	Town Planner
SACPLAN REG. NO.	A/3220/2022
TELEPHONE NO.	044-302-6339
APPLICATION DATE	12 August 2025

LAND USE PLANNING REPORT
AMENDMENT OF CONDITIONS OF APPROVAL, DEPARTURE & SITE DEVELOPMENT PLAN:
ERF 13760 KNYSNA

PART B: APPLICANT DETAILS

Name & Surname	Marika Vreken
Company name	Marika Vreken Town Planners
SACPLAN registration number	
Registered owner(s)	Pearl Star Investments 77 CC

PART C: PROPERTY DETAILS

Property description	Erf 13760, Knysna in the Municipality and Division of Knysna, Western Cape
Property Extent (m²)	3549m²
Physical address	17 Circular Drive
Area/Town	Knysna
Current zoning	General Residential Zone I
Applicable zoning scheme	Knysna Zoning Scheme By-law (2020)
Current land use	Vacant
Are there existing buildings on the property?	No
Title Deed number & date	T17701/2023
Any restrictive title conditions applicable?	Yes
Any third party conditions applicable?	None
Any unauthorised land use/building work	None
Bondholder's Consent	Yes

1. APPLICATION DESCRIPTION

The applications are for the following :

- 1.1. The amendment of a condition of approval in terms of Section 15(2) (h) of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021) of condition 1.4(i) as specified in the notice of decision dated 01 March 2023, in respect of Erf 13760, Knysna.
- 1.2. The permanent departures in terms of Section 15(2) (b) of the Knysna Municipality Bylaw on Spatial Planning and Land Use Management (2021) for the following on Erf 13760, Knysna:
 - 1.2.1. the relaxation of the eastern lateral building line from 3.0m to 1.51 m to allow for pergolas.
 - 1.2.2. the relaxation of the western street building line from 4.5m to 2.9m to allow for pergolas.
 - 1.2.3. the relaxation of the north and north-western street building lines from 4.5m to 0.42m and 1.1m to allow for a retaining wall.
 - 1.2.4. the relaxation of the eastern lateral building line from 3.0m to 0m to allow for a retaining wall.
- 1.3. The permission required in terms of a condition of approval in terms of Section 15(2) (l) of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021) for the consideration of a site development plan on Erf 13760, Knysna.

2. BACKGROUND

- 2.1. The application area, Erf 13760 Knysna, is located at the south-eastern corner of Albatross Street and Circular Drive in Paradise. The property was approved for consolidation and rezoning to "General Residential Zone I" for the purpose of group housing by the Knysna Municipal Appeal Authority on 01 March 2023. This approval permitted a maximum density of 8 units on the property, based on the planning policies and zoning regulations applicable at the time of the original application submitted in 2019.
- 2.2. Subsequent to the approval, the Knysna Zoning Scheme Bylaw (2020) came into effect, introducing revised development parameters, including an increased permissible density of up to 35 units per hectare for group housing developments. In terms of the size of Erf 13760 (approximately 3549m²), this equates to a maximum yield of 12 units. The applicant has indicated that the initially approved density of 8 units is no longer financially viable and does not align with the current zoning provisions and development trends encouraging densification.

2.3. In response, the applicant has submitted an application for the amendment of the original condition of approval to increase the allowable density from 8 to 12 units, together with the approval of a Site Development Plan. The proposed development consists of 12 semi-detached units arranged in 6 blocks, designed in a manner that remains compatible with the surrounding built form. The site has remained undeveloped since the initial approval, and the current proposal seeks to implement a feasible and policy-aligned residential development that optimises land use while remaining compliant with the applicable zoning scheme and service capacity constraints.

3. PRE-APPLICATION CONSULTATION

A pre-application consultation meeting was held on 06 March 2025.

4. SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation can be summarised as follows:

- 4.1. The applicant submits that the originally approved density of 8 units is no longer viable, as feasibility assessments have demonstrated that such a limited yield does not support a sustainable development. It is further noted that the approval was based on outdated planning parameters that have since been replaced.
- 4.2. The applicant argues that the proposed increase to 12 units is consistent with the current provisions of the Knysna Integrated Zoning Scheme Bylaw (2020), which permits a density of up to 35 units per hectare. The proposed development is therefore aligned with the applicable regulatory framework and does not require any departures from prescribed development parameters.
- 4.3. It is further argued that the site is well-located in proximity to the Knysna CBD, the lagoon, and higher-order roads, making it suitable for increased residential density. The proposal is supported by the Spatial Development Framework, which promotes densification in areas with good access to services, amenities, and employment opportunities.
- 4.4. In terms of development impact, the applicant contends that the proposed layout of 12 units in 6 semi-detached blocks will maintain a built form that is compatible with the surrounding area, as it will present the appearance of a limited number of structures similar in scale to the previously approved development.
- 4.5. From an engineering and services perspective, the applicant submits that the increased density will have an insignificant impact on existing municipal infrastructure, as confirmed by the civil engineering services

report. All required services, including water, sewer, stormwater, and access, can be adequately accommodated

4.6. Lastly, the applicant argues that the proposal represents an optimal and efficient use of land, aligning with the principles of the Spatial Planning and Land Use Management Act by promoting spatial efficiency, sustainability, and the effective utilisation of well-located land within the urban area.

5. PUBLIC PARTICIPATION

Method of Advertising				Date Published	Closing Date		
	Yes	No	N/A				
Press	☒	☐	☒	-	-		
Gazette	☐	☒	☐	-	-		
Notices	☒	☐	☐	26 August 2025	30 September 2025		
Ward Councillor	☒	☐	☐	28 August 2025	09 October 2025		
Site Notice	☐	☒	☐	-	-		
Community Organisations	☐	☒	☐	-	-		
Public Meeting	☐	☒	☐	-	-		
Third Parties	☐	☒	☐	-	-		
Total Valid Comments	4(Four)			Total comments and petitions refused		0	
Valid Petitions	Y ☐	N ☒	No of signatures		N/A		
Community organisation(s) response	Y ☒	N ☒	N/A ☒	Ward Councillor response	Y ☐	N ☒	N/A ☐
Was public participation undertaken in accordance with section 45- 49 of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021)						Y ☒	N ☐

5.1. Summary of Comments Received during Public Participation

Comments and objections to the application were from the following:

NO.	OBJECTOR	DATE
01	Jan Venter & Albert Van Zyl (Parkes Manor ,SA Travel Inbound Pty Ltd.)	26 September 2025
02	Earl Durant	30 September 2025
03	Paul Dugmore	30 September 2025
04	Ivan Perosino	30 September 2025

The following is a summary of the comments and objections received:

The application has attracted objections from four residents of Paradise, who submitted identical representations, as well as from a neighbouring property owner, Parkes Manor.

5.1.1.The Paradise residents strongly oppose the application on the basis that it is mischaracterised as a minor amendment, whereas in their view it constitutes a substantially different development. They contend that the proposal departs from the originally approved concept of freestanding units and instead introduces a higher-density scheme comprising more compact, semi-detached structures with limited private open space. Concerns are also raised regarding the conduct of the developer, including an alleged lack of progress on site, dumping of rubble, and a perceived disregard for the surrounding neighbourhood.

5.1.2.The objectors dispute the applicant's justification that a lower-density development is not financially viable, suggesting that similar developments have proven feasible elsewhere and that the proposal is primarily profit-driven. They further argue that the development is incompatible with the established low-density, green character of the Paradise area and does not align with the prevailing built form. Additional concerns relate to insufficient provision for visitor parking, which they believe will result in spillover parking onto narrow streets and adjacent properties, as well as the removal of trees and associated loss of vegetation, potentially impacting the environmental quality of the area. Certain aspects of the applicant's motivation are also regarded as irrelevant or unsubstantiated. The residents ultimately request that the Municipality refuse the application in its current form.

5.1.3.In addition, the objection submitted by Parkes Manor, representing a neighbouring guesthouse, raises procedural and operational concerns. The objector highlights that no formal notification of the application was received. While acknowledging that the proposed increase in density and relaxation of building lines may be consistent with planning policy and unlikely to result in direct physical impacts, the objection emphasises the potential effect of construction-related activities on

the guesthouse's operations. In particular, concerns are raised regarding noise, disturbance, and the potential impact on guest experience and the business's reputation. The objector accordingly requests that, should the application be approved, strict conditions be imposed to regulate construction activities.

5.1.4. Furthermore, the objector notes the presence of existing maintenance buildings and staff quarters along the shared boundary and requests that future occupants of the proposed development be made aware of these uses to avoid potential land use conflicts. While not opposing the development outright, the objection seeks to safeguard the continued operation and amenity of the neighbouring guesthouse through appropriate conditions of approval.

5.2. Summary of Comments from Departments/Organs of State

Name	Date Received	Summary of Comments	Recommendation
		Conditions of Approval:	
		Manager Roads and Stormwater:	
Infrastructure Services	25 September 2025	The 2x visitors bays adjacent to 'UNIT TYPE A' must be moved forward to create an isle width, thus forward by at least 2,5m (Block 3). Alternatively, all kerbs must be mountable or sunken kerbs.	Comment
		Manager water and Sanitation:	
		Augmentation Fee will be payable on water & sewer as per condition (vii) of the appeal outcome.	
Environmental Services	18 September 2025	Supported	Positive
Waste Removal	11 September 2025	How many refuse bins will the refuse accommodate and please submit an IWMP to explain and discuss how the waste will be handled.	Comment
Fire Services	08 September 2025	Please provide details on emergency vehicle access and hydrant placements.	Comment
Aesthetics Committee	05 September 2025	No objection to the proposed amendment to the conditions of approval departure. The site Erf 13760 is inside the urban conservation area and contextually bounded by heritage resources, the property on Erf 18, Parkes	Comment

Name	Date Received	Summary of Comments	Recommendation
		<p>Manor, which is graded III A Edwardian architecture, and Erf 4079, grade IIIB with Victorian style.</p> <p>An application for aesthetics in accordance with urban conservation guidelines is required before building plan submission.</p>	

5.3. Summary of Applicant's Reply to Comments

The applicant's reply to public comments can be summarised as follows:

5.3.1. The applicant maintains that the application has been correctly submitted as an amendment of conditions of approval in terms of the applicable by-law, as the original density restriction forms part of a condition of approval rather than the underlying zoning. Objections suggesting that the proposal represents a substantially different development or is driven by "greed" are rejected as unsubstantiated. The applicant submits that the proposed increase in density is necessary to ensure the financial feasibility and long-term sustainability of the development.

5.3.2. Concerns relating to neighbourhood character are disputed. The applicant notes that the surrounding area already accommodates a mix of residential and guesthouse uses, and that only three identical objections were received, which are not considered to reflect broader community sentiment. In response to the objection from Parkes Manor, it is acknowledged that the concerns raised are primarily aimed at protecting the ongoing operation of the neighbouring guesthouse rather than opposing the development in principle.

5.3.3. The applicant further confirms that the proposal complies with key zoning scheme requirements, particularly in respect of:

- The provision of open space, which exceeds minimum requirements; and
- Parking, where the full number of required bays is provided.

5.3.4. Concerns regarding tree removal are addressed by noting that certain trees were removed due to fire risk considerations raised by residents, and that adequate space remains within the development for landscaping.

5.3.5. With specific reference to the Parkes Manor objection, the applicant notes that procedural matters relating to public notification fall within the responsibility of the Municipality. Notwithstanding this, the applicant has undertaken to manage construction activities responsibly to minimise disturbance,

including limiting working hours, and to remain cognisant of the operational context of adjacent properties. Certain technical observations, such as those relating to building lines, have also been acknowledged.

5.3.6. Response to Internal Municipal Comments

The applicant has responded positively to the internal municipal comments and, where required, amended the proposal accordingly. Engineering layout plans were submitted to address Fire Services requirements, demonstrating adequate emergency access and hydrant positioning. In respect of Waste Management, the applicant confirmed sufficient refuse storage capacity and committed to submitting an Integrated Waste Management Plan with the building plans. Comments from Roads and Stormwater were accepted, with the layout revised to address parking and kerb arrangements, as reflected in an updated Site Development Plan. The requirement for water and sanitation augmentation fees was acknowledged and accepted without objection. Environmental Services' support of the proposal was noted, and the applicant further acknowledged the need to obtain separate aesthetic approval prior to the submission of building plans.

6. PROPOSAL ASSESSMENT

6.1. Application History

- 6.1.1. The property was previously approved for consolidation and rezoning to "General Residential Zone I" for group housing purposes, thereby establishing the applicable land use rights. This approval included a Site Development Plan (SDP) and conditions of approval, notably limiting the development to a maximum of eight (8) dwelling units.
- 6.1.2. The decision was subsequently upheld on appeal, confirming the appropriateness of the rezoning and the principle of residential densification on the property, subject to compliance with the imposed conditions.

6.2. Considerations in terms of SPLUMA

- 6.2.1. The proposed amendment of conditions to allow an increased residential density on Erf 13760 represents a more efficient utilisation of land that is already zoned for General Residential purposes (Group Housing). By optimising the development potential of the property within an established urban area, the proposal supports infill development and reduces the need for outward urban expansion. This contributes to a more compact urban form and promotes the efficient use of existing infrastructure and services.

- 6.2.2. The application further aligns with the principle of "Spatial Efficiency", as it makes better use of well-located land by accommodating additional residential units without requiring significant new bulk infrastructure investment. The proposal ensures compliance with key development parameters such as parking and open space, thereby maintaining functionality while increasing yield.
- 6.2.3. In terms of "Spatial Sustainability", the development promotes a balance between environmental, social, and economic considerations. The provision of adequate open space and landscaping opportunities, together with the managed approach to construction and service provision, supports long-term sustainability. Furthermore, the utilisation of land within an already developed and serviced area reduces pressure on environmentally sensitive or peripheral areas.
- 6.2.4. The proposal also advances "Spatial Justice" by contributing to a broader range of housing opportunities within a well-located area, potentially improving access to urban amenities and services. Additionally, the application process has allowed for public participation, ensuring that affected parties had the opportunity to raise concerns, which were duly considered and addressed.

6.3. Consistency with SDF, IDP and applicable Policies

- 6.3.1. The Spatial Development Framework (SDF) identifies the Paradise area as an established residential suburb within the urban edge of Knysna, characterised by a mix of single residential dwellings and guesthouse accommodation. While the SDF seeks to protect neighbourhood character, it also supports context-sensitive densification and infill development within well-located urban areas. The proposal does not introduce a new land use or expand the urban footprint, but rather seeks to optimise an already approved group housing development through an amendment of conditions. As such, the application is not inconsistent with the spatial structuring objectives of the SDF.
- 6.3.2. The Knysna Integrated Development Plan (IDP) promotes sustainable human settlements, efficient land use management, and the optimal utilisation of existing infrastructure and services. By increasing the residential yield on a property that is already appropriately zoned and serviced, the proposal supports these objectives. It enables more efficient use of infrastructure without necessitating significant additional investment in bulk services, thereby aligning with the IDP's focus on resource efficiency and urban consolidation.

6.3.3. The application is therefore considered to be generally consistent with the spatial and developmental objectives of both the SDF and the IDP, as it promotes the efficient use of land within the existing urban footprint without resulting in the expansion of the development or additional pressure on environmentally sensitive areas.

6.3.4. Furthermore, the proposal supports broader policy principles that encourage infill development, densification in appropriate locations, and the accommodation of a range of housing typologies within established urban areas. The development responds to current market and spatial planning trends by making more efficient use of land within the existing urban fabric.

6.4. Impact on Municipal Engineering Services

Given that the proposal entails an increase in residential density on Erf 13760, which is already zoned and serviced for group housing, the anticipated impact on municipal services is considered minimal. The existing water, sewer, stormwater, and road infrastructure within the area was designed to accommodate the full development potential of the property and is therefore capable of supporting the proposed use. Internal municipal departments, including Infrastructure Services, Waste Management, and Fire Services, have reviewed the proposal and raised no objections, with only minor technical requirements to be addressed. The site has historically been connected to the estate's internal engineering services networks, and all future development will be required to comply with Knysna Municipality's service connection standards and technical requirements, ensuring the continued efficient operation and management of municipal services.

6.5. Outcomes of Investigations/Applications i.t.o. other Legislation

There are no other investigations and applications in terms of other legislation that may have a bearing on the application at hand.

6.6. Zoning Considerations

6.6.1. From a zoning perspective, the proposal involves an amendment of conditions to allow increased residential density within Erf 13760, which is already zoned "General Residential Zone I" (Group Housing). The surrounding properties comprise a mix of single residential units and guest accommodation, making the proposed group housing use compatible with the prevailing land use character of the area.

6.6.2. By optimising the site's development potential, the proposal addresses the underutilisation of the property while maintaining alignment with the development's overall zoning and development

framework. The requested minor departures, including building line relaxations for pergolas, are limited in scope and do not compromise the overall zoning intent, making the proposal appropriate and consistent with the established residential context.

6.7. Desirability of the Proposal

- 6.7.1 The subject property, Erf 13760, is located within the established residential suburb of Paradise in Knysna and is already approved for General Residential Zone I (Group Housing). The current proposal seeks to amend the conditions of approval to allow for an increase in density and a revised site layout. The property has remained undeveloped under the existing approval due to feasibility constraints, resulting in the site being underutilised. The proposal, therefore, aims to unlock the development potential of the property in a manner that is both practical and implementable.
- 6.7.2 From a spatial perspective, the proposal does not introduce a new or incompatible land use. The surrounding area comprises a mix of single residential dwellings and guesthouse accommodation, and the proposed development is considered to be compatible with this mixed residential character. The scale, height, and layout of the development are designed to integrate with the surrounding environment.
- 6.7.3 The proposal promotes the efficient utilisation of land within an established development by converting an underutilised site into a functional residential property. This contributes to the long-term sustainability and financial viability of the development while reducing the maintenance burden associated with unused communal infrastructure.
- 6.7.4 The proposal promotes the efficient utilisation of land within an established urban area by increasing the residential yield on a suitably zoned and serviced property. This supports principles of urban consolidation and reduces the need for expansion into undeveloped or environmentally sensitive areas. Furthermore, increasing the density improves the financial viability of the development, ensuring that the property can be developed rather than remaining vacant.
- 6.7.5 The proposal has demonstrated compliance with the majority of zoning scheme requirements, including parking provision, open space, and service capacity, with only minor departures requested. Internal municipal departments have raised no objections, confirming that the development is technically feasible and supportable.
- 6.7.6 Potential impacts on neighbouring properties, particularly during construction, have been acknowledged. The applicant has committed to implementing appropriate mitigation measures,

including responsible construction management and adherence to standard working hours. These impacts are temporary in nature and can be effectively managed through conditions of approval.

6.8. Assessment of Comments

- 6.8.1. The objections received primarily relate to concerns regarding the increase in density, the perceived change in character of the area, insufficient parking provision, loss of trees and landscaping, and the potential impact of construction activities on neighbouring properties. Additional concerns were raised by a neighbouring guesthouse regarding operational impacts, particularly during the construction phase, as well as issues relating to notification and heritage context.
- 6.8.2. While the concerns raised by objectors are understandable, many are subjective in nature and not supported by substantive planning or technical evidence. Greater emphasis on measurable impacts, such as traffic generation, infrastructure capacity, or visual impact assessments, would have strengthened the objections. Furthermore, several concerns, particularly those relating to parking and open space, are addressed through compliance with the provisions of the zoning scheme, thereby limiting the weight that can be attributed to these objections.
- 6.8.3. The applicant has adequately addressed the majority of concerns raised. The increase in density is justified within the framework of the existing zoning rights, and it is demonstrated that the proposal complies with key development parameters, including parking and open space requirements. Concerns regarding neighbourhood character have been addressed by illustrating the mixed-use nature of the surrounding area, while tree removal has been justified on the basis of fire risk mitigation, with provision made for adequate landscaping. In addition, the applicant has committed to responsible construction practices to minimise disruption to adjacent properties.
- 6.8.4. With regard to the neighbouring guesthouse (Parkes Manor), the concerns raised are operational rather than fundamental planning objections. The applicant has acknowledged these concerns and committed to implementing appropriate mitigation measures, including limiting construction activities to standard working hours and ensuring efficient project management to reduce disturbances. These concerns can be further addressed through conditions of approval, ensuring that the rights and operations of the neighbouring property are safeguarded.
- 6.8.5. The applicant has responded positively to the internal municipal comments by accepting all applicable conditions and financial contributions, such as augmentation fees. Importantly, no municipal department has raised an objection to the proposal.

6.8.6. Overall, the applicant has demonstrated a willingness to address concerns and incorporate mitigation measures, and the proposal is considered to be technically compliant and planning appropriate. The issues raised through objections and departmental comments do not reveal any fatal flaws and can be adequately mitigated through conditions of approval and further detailed design at the building plan stage.

7. RECOMMENDATION

7.1. It is recommended that, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021) for the amendment of condition 1.4(i) in the notice of decision dated 01 March 2023 in terms of Section 15(2)(h) of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021).

7.2. It is recommended that, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021) for the following permanent departures on Erf 13760, Knysna as shown on plan numbered "2313-08-A1-000" dated 27 June 2025 :

7.2.1. the relaxation of the eastern lateral building line from 3m to 1.51m to allow for pergolas.

7.2.2. the relaxation of the western street building line from 4.5 m to 2.9m to allow for allow for pergolas.

7.2.3. the relaxation of the north and north-western street building line from 4.5 m to 0.42m and 1.1m to allow for allow for the retaining wall.

7.2.4. The relaxation of the eastern lateral building line from 3m to 0m to allow for the retaining wall.

7.3. It is recommended that, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021) for the Site Development Plan numbered "2313-08-A1-000" dated 27 June 2025, in respect of Erf 13760, Knysna.

8. CONDITIONS OF APPROVAL IMPOSED IN TERMS OF THE PLANNING BY-LAW

The above approval (s) is subject to the following conditions imposed in terms of Section 66 of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021):

8.1. The development parameters of "group housing" of the Knysna Zoning Scheme Bylaw (2020) shall apply, unless otherwise permitted in terms of the provisions of the Planning By-law.

8.2. The landowner/developer shall pay augmentation levies in accordance with Council's approved tariffs, to the satisfaction of the Director: Infrastructure Services, prior to or at the submission of building plans.

- 8.3. The landowner/developer shall submit an integrated waste management plan detailing refuse storage and collection arrangements, to the Municipality, prior to the submission of building plans.
- 8.4. The landowner/developer shall submit a detailed stormwater management plan to the satisfaction of the Director: Infrastructure Services prior to or at the submission of building plans.
- 8.5. The landowner/developer shall submit a fire and emergency vehicle access plan to the satisfaction of the Chief Fire Officer, prior to or at the submission of building plans.
- 8.6. The landowner/developer shall lodge architectural design plans for consideration to the Aesthetics Committee prior to the submission of building plans.
- 8.7. The conditions of approvals as specified in the notice of decision dated 01 March 2023 shall remain insofar as they apply and applicable to the development.

9. REASONS FOR RECOMMENDATION

The reason(s) for the above recommendation is as follows:

- I. The application is for the amendment of conditions of approval relating to Erf 13760, which is already zoned General Residential Zone I (Group Housing), to allow for an increase in the approved density. The proposal does not introduce a new land use but rather refines existing development rights to enable a more feasible and implementable development.
- II. The proposed increase in density is considered appropriate within the context of the site and its surroundings, as the area accommodates a mix of residential and guesthouse uses, and the development remains compatible in terms of scale, form, and land use character.
- III. The proposal is consistent with the Spatial Development Framework and Integrated Development Plan, as it promotes infill development and the optimisation of land within the urban edge, without expanding the development footprint or placing pressure on environmentally sensitive areas.
- IV. The development has been assessed against the Knysna Zoning Scheme parameters, and it has been demonstrated that the proposal complies with key requirements, with only minor departures that do not materially affect the amenity of the area.
- V. All relevant internal municipal departments have considered the application and raised no objections, confirming that the proposal is acceptable from an engineering, environmental, and service delivery perspective.

- VI. The concerns raised through public participation have been duly considered; however, these do not outweigh the planning merits of the proposal, particularly where compliance with applicable policies and regulations has been demonstrated.
- VII. The proposal supports the efficient utilisation of a well-located and serviced property, contributing to a more compact and sustainable urban form in line with broader spatial planning principles.

10. MATTERS FOR NOTING:

The applicant is advised and informed of the following:

- 10.1. This approval applies to the application(s) as outlined above and may not be construed as authority to depart from any other legal prescriptions.
- 10.2. Building plans shall be submitted in terms of the requirements of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) to the Municipality for approval prior to any building work being undertaken.

11. SUPPORTING APPLICATION DOCUMENTS

ANNEXURE A – Applicant Motivating Memorandum

ANNEXURE B – Power of attorney & company resolution

ANNEXURE C – Title Deed

ANNEXURE D – Bond Holder's Consent

ANNEXURE E – Site Development Plan

ANNEXURE F – Previous Planning Approvals

ANNEXURE G – Services Report

ANNEXURE H – Public Notice and Mailing List

ANNEXURE I – Public Comments & Objections

ANNEXURE J – Departmental Comment

ANNEXURE K – Applicant's Response to comments

AMENDMENT OF CONDITIONS OF APPROVAL, DEPARTURE & SITE DEVELOPMENT PLAN: ERF 13760 KNYSNA			
Author Name: Sihle Phungula Date: 16/04/2026		Author Signature: 	
Registered planner name: Shaun Madumbo SACPLAN registration number: A/570/2017 Date: 16/04/2024		Registered Planner Signature: 	
Decision Maker: Municipal Planning Tribunal			
APPROVED	APPROVED CONDITIONALLY	APPROVED IN PART	REFUSED

Our Ref: Pr25/07b05

15 May 2025

Your Ref:

BY EMAIL: hsmit@knysna.gov.za

The Manager: Land Use Management
Knysna Municipality
P.O. Box 21
Knysna
65

FOR ATTENTION: MR. HENNIE SMIT

Dear Sir,

**KNYSNA ERF 13760: AMENDMENT OF CONDITIONS OF APPROVAL & APPROVAL OF A
SITE DEVELOPMENT PLAN**

1. BackgroundAnne

- 1.1. Knysna Erf 13760 (hereafter known as 'the application area') is located on the south-eastern corner of Albatross Street and Circular Drive, Paradise.
- 1.2. Knysna Municipality's appeal authority has, on 01 March 2023, approved the consolidation and rezoning of Knysna Erf 13760 to "General Residential Zone I" for group housing. A copy of the letter of approval is attached as **Annexure A**. The land development application that was submitted at the time (May 2019) was submitted and assessed when the former 1992 Knysna Zoning Scheme Regulations were still in effect. The new Knysna Integrated Zoning Scheme Bylaw came into effect during 2020.
- 1.3. The approval as granted by the Knysna Appeal Authority granted a maximum density of 8 units in Condition 1.4(i). After thorough feasibility studies, it was determined that the development of only 8 group housing units on Erf 13760 is not feasible, and the applicant wishes to develop 12 group housing units, in order to have a feasible development. To obtain rights to develop 12 group housing units on Erf 13760, an application for the amendment of conditions and approval of a site development plan is required.
- 1.4. The Pre-Application Consultation Minutes of 06 March 2025 is attached as **Error! Reference source not found.** During the Pre-Application Consultation process, it was stated that the increased density means greater demand for municipal services, and that the services capacity for the proposed increased density (8 units to 12 units) must be addressed. **POISE STRUCTURAL & CIVIL ENGINEERING DESIGN CONSULTANTS** were appointed to investigate the services provision and capacity of the proposed development and a copy of the Civil Services Report is attached as **Annexure GG**.

2. The Application

Marika Vreken Urban and Environmental Planners have been appointed by **PEARL STAR INVESTMENTS 77 CC** to prepare and submit the required application documentation (refer to **Annexure B** for the signed Company Resolution and Power of Attorney and **Annexure D**: Completed Application Form) for:

- (i) The amendment of Condition (1.4(i)) in the approval dated 01 March 2023, in terms of Section 15(2)(h) of the Knysna Spatial Planning and Land Use Management Bylaw (2021).
- (ii) Approval of a Site Development Plan on Knysna Erf 13760 in terms of Section 15(2)(l) of the Knysna Spatial Planning and Land Use Management Bylaw (2021).

3. Property Description, Size and Ownership

A copy of the Title Deed that includes the information outlined below is contained in **Annexure E**.

Property Description:	Erf 13760 Knysna
Property Size:	3549m ²
Registered Owner:	Pearl Star Investments 77 CC
Title Deed No:	T17701/2023
Title Deed Restrictions:	No restrictive conditions.
Servitudes:	There are no servitudes over the property.
Bonds:	A bond is registered in favour of Investec. A copy of the Bondholders' consent is attached as Annexure FF

4. Development Description

4.1. The proposed development consists of the following:

- (i) 12x semi-detached, Sectional Title Group Housing Units.
- (ii) The proposed Group Housing units are designed as 6x blocks, containing two units each.
- (iii) Access to the proposed development will be from Albatross Street, that directly connects to the N2 National Road into Knysna.
- (iv) Access / entrance gate setback by 5m from the street boundary.

4.2. The figure below is an aerial view and Architect's impression of the proposed development.



FIGURE 1: 3D ARCHITECTURAL PROPOSAL

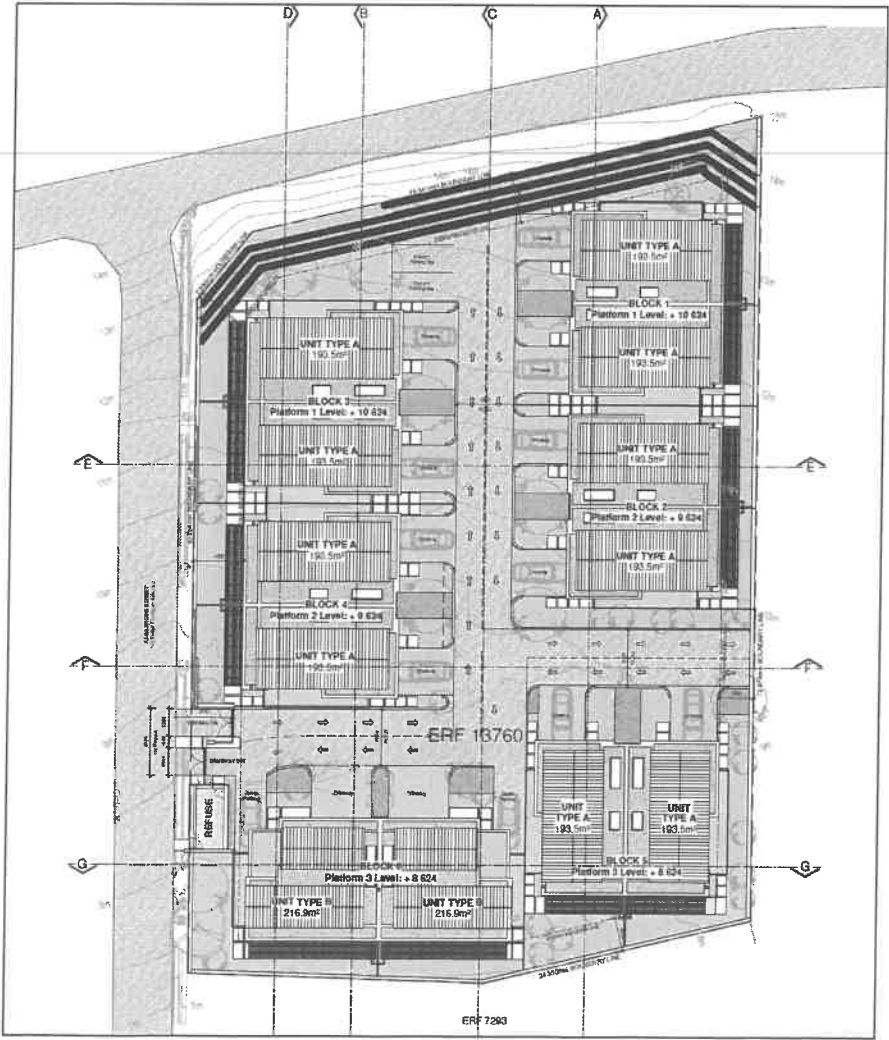


FIGURE 2: PROPOSED SIDE DEVELOPMENT PLAN

5. Knysna Integrated Zoning Scheme Bylaw (2020)

- 5.1. A copy of the Site Development Plan of the proposed development on the application area is attached as Error! Reference source not found.H. A summary of the prescribed development parameters for "General Residential Zone (GRI) ("group housing") and a comparison of the proposed development's parameters are shown in the table below. From this table, it is clear that the proposed development complies with all prescribed parameters, and that no departure applications are required.

Development Parameter	Prescribed	Erf 13760 Applicability	Comments
Density	35 units / ha (i.e. 12 units)	12 units	Comply
Open Space Provision	50m ² per unit (i.e. 600m ²)	TBC	
Outer Street Building Line	4.5m	4.5m	Comply
Perimeter Building Line	3m	3m	Comply
Height:	at <i>most 8.5 metres</i> above natural ground level directly below a given point of the building.	Double Storey	Comply
Parking Provision	2,25 bays per unit (i.e. 27 byas)	27 bays	Comply
Refuse Area	To be Provided	Provided	Comply

6. Civil Services Provision

6.1. Water Reticulation

The water connection for the development will be off the existing 75mm water main on the northern side of the site in Paradise Circle Drive. The current water supply to Knysna Erf 13760 **will be insignificant** (refer to par. 5 of the attached service report).

6.2. Sewer Reticulation

The sewer connection for the development will be to the existing sewer connection. Referring to par. 6 of the attached service report, the impact of the proposed development will be of **negligible significance**.

6.3. Access

The site access will be off Albatross Street and will comprise an incoming and exit lane. Internal roads will be private roads and will not be taken over by the Council. The access will comprise an incoming and exit lane each of width 3.0 meters. The access bellmouth radii will be 5.0 meters.

6.4. Stormwater Management

In the post-development condition, approximately 75% of the site will be covered by impermeable area. Stormwater runoff from roofs will be partially discharged to road surfaces and partially to landscaped garden areas. The discharge to the road surfaces will discharge to a number of grid inlets, which will be piped to an attenuation pond to be constructed at the south west lowest corner of the site. Attenuated discharge from the attenuation pond will be connected to the existing 440 wide x 750 deep channel, which runs in Albatross Street, at the south western corner of the site (refer to par. 8).

The attenuation pond will have sufficient capacity to detain discharge so that the post-development discharge does not exceed the pre-development discharge for the 1 in 10 and 1 in 50-year storm intervals.

7. **Motivation for Increase in Density**

The following points have to be taken into consideration when the proposed increase in density is considered:

- 7.1. The previous land development application was to allow for 10 group housing units, that calculated to a density of 28 units per ha. The Knysna Zoning Scheme Regulations, at the time, had a density requirement of "...at most 30 units per gross hectare or a ratio of 4:1 in relation to the surrounding single residential density, whichever is the lower..." The appeal authority at the time evaluated the density on the basis of the 4:1 requirement, hence the prescribed maximum of 8 units.
- 7.2. When the new Knysna Zoning Scheme Bylaw came into effect, the maximum allowed density for group housing developments was increased to a density of 35 units/ha, without any other limitations. Hence on the application area that is 3549m² in extent, a maximum of 12 units can be allowed.
- 7.3. Since the 2019 application, the new Knysna SDF came into effect, and the new Knysna SDF also recommends and promotes densification along activity corridors and higher order roads, and near places of employment. The application area is within walking distance of the Knysna CBD, and the Knysna lagoon, and therefore suitable for, and consistent with the character of the area.
- 7.4. It is important to note that the proposal to increase the maximum permitted density from the approved 8 units to the proposed 12 units adheres to all the prescribed development parameters for Group Housing in terms of the current, applicable Knysna Zoning Scheme Bylaw.
- 7.5. The proposal of 6x semi-detached units, will still appear like only 6 houses (consistent with the approved 8), but will allow for 12x units.
- 7.6. The Civil services Report confirmed that the proposed increased development density will have an insignificant impact on the services capacity for the proposed development.

8. The Site Development Plan

- 8.1. The proposed Site Development Plan complies with all conditions of approval (except for the density condition which is the subject of this application), and all prescribed development parameters.

9. Conclusion

From the above, it can be concluded that:

- 9.1. The condition to restrict the density of the development to 8 units only is not feasible, and outdated development / density parameter that is not consistent with the new Knysna Zoning Scheme Bylaw.
- 9.2. The Site Development Plan as submitted complies with the prescribed development parameters of the Knysna Zoning Scheme Bylaw (refer par 5 above).
- 9.3. It is recommended that the proposal to amend the conditions of approval be approved.

The following Annexures are attached to this application:

- | | |
|--------------------|--|
| Annexure A. | Letter of approval dated 01 March 2023 |
| Annexure B. | Pre-Application Meeting Minutes dated 06 March 2025 |
| Annexure C. | Signed Power of Attorney & Company Resolution |
| Annexure D. | Completed Application Form |
| Annexure E. | Copy of Title Deed |
| Annexure F. | Bondholder's Consent |
| Annexure G. | Civil Engineering Infrastructure Report dated April 2025 |
| Annexure H. | Site Development Plan and 3D Renderings |
| Annexure I. | Proof of payment of the application fee |

We trust the above is in order and that this application will be expeditiously processed and approved by Knysna Municipality. Please do not hesitate to contact the writer if you require any additional information.

Kind regards,



MARIKE VREKEN

Pr. Pln A/1101/1999 M SAPI 10233

SPECIAL POWER OF ATTORNEY

I/We DAVID SHARP

_____ the undersigned,

do hereby nominate, constitute and appoint
THE AUTHORISED AGENTS OF MARIKE VREKEN TOWN & REGIONAL PLANNERS CC and duly
authorised employees of Marike Vreken Town Planners CC
with power of Substitution to be *my/our lawful representatives in *my/our application for:

AMENDMENT OF CONDITIONS OF APPROVAL & SITE DEVELOPMENT PLAN SUBMISSION

on

KNYSNA ERF 13760

In addition to apply for such amendments of any zoning schemes / structure plans / Removal of Title Deed Restrictions as may be deemed necessary and to make other necessary application and further to represent *me/us at any inquiry in relation to the abovementioned matters and generally do whatever may be necessary or desirable to procure the approval of the application, by virtue of those present and whatever our said representative have to date done herein.

Signed at KNYSNA on this 14 day of FEBRUARY 2025

SIGNED: 

SIGNED: _____

SIGNED: _____

In the presence of the undersigned witnesses:

AS WITNESSES:

1.  _____

2. _____

PEARL STAR INVESTMENTS 77 CC

(Name of Company, Partnership, Trust or Close Corporation)

RESOLUTION

Resolution passed at the meeting of the Shareholders/ Partners/ Trustees/ Members held in KNYSNA on the 14 day of FEBRUARY 2025.

Resolved that DAVID SHARP in his capacity as MEMBER, be and is hereby authorized to do whatever may be necessary to give effect to this resolution and to enter into and to sign such documents necessary to proceed with the applications as specified hereunder on behalf of the Company/ Partnership/ Trust/ Close Corporation with such modification as he/ she in his/ her sole discretion shall deem fit, his/ her signature to be conclusive proof that the documents which bear it are authorised in terms hereof.

DESCRIPTION OF PROPERTY:

KNYSNA ERF 13760

NATURE OF APPLICATION:

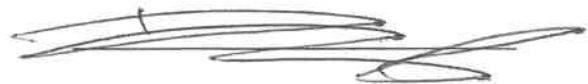
**AMENDMENT OF CONDITIONS OF APPROVAL & SITE DEVELOPMENT PLAN
SUBMISSION**

SIGNATURE OF SHAREHOLDERS/ PARTNERS/ TRUSTEES/ MEMBERS:

NAME:

DAVID SHARP

SIGNATURE:



LOGAN MARTIN INC
KNYSNA

FEE
R 419,00

Prepared by me

CONVEYANCER
FLORIS ALBERTUS HANEKOM
LPCM 90928

VERBIND MORTGAGED	
VIA FOR R 2.000.000,00	
B 000007506 / 2024	 REGISTRAR/REGISTRAR
2024 -03- 19	

T 000017701 / 2023

CERTIFICATE OF CONSOLIDATED TITLE

(Issued under the provisions of Section FORTY OF THE Deeds Registries Act, 1937
(No 47 of 1937))

WHEREAS

PEARL STAR INVESTMENTS 77 CC
Registration Number 2003/055015/23

DATA / VERIFY
24 -05- 2023
ATHI DAMOYI

has applied for the issue to it of a Certificate of Consolidated Title under the provisions of
Section Forty of the Deeds Registries Act, 1937; and

WHEREAS PEARL STAR INVESTMENTS 77 CC, Registration Number 2003/055015/23
is the registered owner of

1. **ERF 4988 KNYSNA
IN THE MUNICIPALITY AND DIVISION OF KNYSNA
PROVINCE OF THE WESTERN CAPE**

HELD BY Deed of Transfer No T21336/2018

2. **REMAINDER OF ERF 3529 KNYSNA
IN THE MUNICIPALITY AND DIVISION OF KNYSNA
PROVINCE OF THE WESTERN CAPE**

HELD BY Deed of Transfer No T21335/2018

which properties have been consolidated into the property hereinafter described

NOW THEREFORE in pursuance of the provisions of the said Act, I, the REGISTRAR OF
DEEDS at CAPE TOWN do hereby certify that the said

**PEARL STAR INVESTMENTS 77 CC
Registration Number 2003/055015/23**

its Successors in Title or Assigns are the registered owners of

**ERF 13760 KNYSNA
IN THE MUNICIPALITY AND DIVISION OF KNYSNA
PROVINCE OF THE WESTERN CAPE**

**IN EXTENT 3549 (THREE THOUSAND FIVE HUNDRED AND FORTY NINE) square
metres**

AS WILL APPEAR from Annexed Diagram SG No. 4085/2003

1. As far as the figure vwBedcba on Diagram SG No. 4085/2003 is concerned:

A. SUBJECT to the conditions referred to in Deed of Transfer Number T8900/1988.

B. SUBJECT FURTHER to the following condition mentioned in Deed of Transfer Number 2288/1931 in respect of the figures A.x.y.F.G.H. on the said Diagram Number 7231/1985 and in Deed of Transfer Number 2289/1931 in respect of the figure x.B.C.D.E.y. on the said Diagram Number 2731/1985 imposed by the Board of Trustees of the Diocese of Cape Town for their benefit and as owners of the Remainder of the farm Eastford held by Certificate of Amended Title Number 3583/1926 and which condition was imposed against the whole of each of Erven 23 and 22 Knysna respectively namely :

1. The land shall be used for residential purposes only. Neither the land nor any structures erected thereon shall be used or occupied in whole or in part, for trading or business purposes or for the purpose of the conduct of any avocation or occupation other than the usual occupations associated with the use and conduct of a usual private residence. The transferee and his successors in title shall be bound also both in the design, plan and structure of any erections contemplated to observe such conditions.

C. SUBJECT FURTHER to the following conditions contained in Deed of Transfer Number T8900/1988 imposed by the Administrator in terms of Section 9 of Ordinance 33 of 1934 namely :

- (a) The owner of this erf shall without compensation, be obliged to allow gas mains, electricity, telephone and television cables and/or wires and main and/or other waterpipes and the sewage and drainage, including stormwater of any other erf or erven to be conveyed across this erf, and surface installations such as mini-substations, meter kiosks and service pillars to be installed thereon, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purpose of constructing, altering, removing or inspecting any works connected with the above.

- (b) The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed on the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.

2. As far as the figures Awv, abcdeCDE and FGH on Diagram SG No. 4085/2003 are concerned:

A. SUBJECT to the conditions referred to in Deed of Transfer Number T9326/1989.

B. SUBJECT FURTHER to the following condition mentioned in Deed of Transfer Number 2288/1931 in respect of the Remainder of each of the figures f.B.j.g.e.g.h.D and g.j.C.h. on the said Diagram Number 9386/1970 and in Deed of Transfer Number 6220/1928 in respect of the Remainder of the figure A.f.g.e. on the said Diagram Number 9386/1970, imposed by the Board of Trustees of the Diocese of Cape Town for their benefit as owners of the Remainder of the farm Eastford held by Certificate of Amended Title Number 3583/1926 and which condition was imposed against the whole of each of Erven 21, 23, 24 and 22 Knysna respectively namely:

1. The land shall be used for residential purposes only. Neither the land nor any structures erected thereon shall be used or occupied in whole or in part, for trading or business purposes or for the purpose of the conduct of any avocation or occupation other than the usual occupations associated with the use and conduct of a usual private residence. The transferee and his successors in title shall be bound also both in the design, plan and structure of any erections contemplated to observe such conditions.

C. SUBJECT FURTHER to the following conditions mentioned in Deed of Transfer Number T9326/1989 imposed by the Administrator in terms of Section 9 of Ordinance 33 of 1934 namely :

- (a) The owner of this erf shall without compensation, be obliged to allow gas mains, electricity, telephone and television cables and/or wires and main and/or other waterpipes and the sewage and drainage, including stormwater of any other erf or erven to be conveyed across this erf, and surface installations such as mini-substations, meter kiosks and service pillars to be installed thereon, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purpose of constructing, altering, removing or inspecting any works connected with the above.
- (b) The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed on the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.

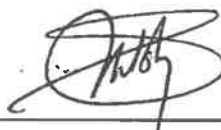
AND that by virtue of these presents the said

PEARL STAR INVESTMENTS 77 CC
Registration Number 2003/055015/23

its Successors in Title or Assigns, now is and henceforth shall be entitled thereto conformably to local custom, the State however, reserving its rights.

In witness whereof I, the said Registrar, have subscribed to these presents and have caused the seal of office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at
CAPE TOWN on 11 MAY 2023



REGISTRAR OF DEEDS

Deeds Office Property

KNYSNA, 13760, 0, CAPE TOWN

Lexis® WinDeed



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SEARCH CRITERIA

Search Date	2025/02/12 15:42	Erf Number	13760
Reference	Pr25/07	Portion Number	-
Report Print Date	2025/02/12 15:43	Deeds Office	Cape Town
Township	KNYSNA	Search Source	Deeds Office

PROPERTY INFORMATION

Property Type	ERF	Diagram Deed Number	T17701/2023
Township	KNYSNA	Local Authority	KNYSNA MUN
Erf Number	13760	Province	WESTERN CAPE
Portion Number	0	Extent	3549.0000SQM
Registration Division	KNYSNA RD	LPI Code	C03900050001376000000
Previous Description	-	Co-ordinates (Lat/Long)**	-
Suburb / Town**	-		

OWNER INFORMATION (1)

PEARL STAR INV 77 C C		Owner 1 of 1	
Company Type**	CLOSE CORPORATION	Document	T17701/2023
Registration Number	200305501523	Microfilm / Scanned Date	-
Name	PEARL STAR INV 77 C C	Purchase Price (R)	CCT
Multiple Owners**	NO	Purchase Date	-
Multiple Properties**	NO	Registration Date	2023/05/11
Share (%)	-		

ENDORSEMENTS (3)

#	Document	Institution	Amount (R)	Microfilm / Scanned Date
1	B7506/2024	INVESTEC BANK LTD	2 000 000	-
2	CONSOLIDATE FROM	TOWN KNYRNA ,ERF 4988 ,PRTN 0	-	-
3	CONSOLIDATE FROM	TOWN KNYRNA ,ERF 3529 ,PRTN 0	-	-

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HISTORIC DOCUMENTS

No historic documents to display

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05 March 2025

Marike Vreken Town Planners CC

Attn: Bianca Lotz

Via email: info@vreken.co.za

Our ref: Maggie

Client Name: PEARL STAR INV 77 C C
Client Number: 218394/004
Property: ERF 13760 KNYSNA

Bondholders Consent

Investec Bank Limited, in its capacity as the holder of a mortgage bond registered over the aforementioned property, consents to the proposed applications for the amendment of a condition of approval to increase the density from 8 units to 12 units and for an approval in terms of a condition of approval to approve a Site Development Plan.

The views expressed in this letter are expressed in good faith, based solely on information available to Investec as at the date of this letter. Investec does not accept responsibility for any loss or damage that you or any third party may suffer as a result of this letter being issued.

This letter is to be treated in the strictest of confidence and may only be used in the context in which it is given. Furthermore, the information provided in no way constitutes a guarantee on the part of Investec or its holding companies, subsidiaries or any affiliated companies or divisions.

Contact Trudy Francis at 021- 8090715 for any queries.

Yours Faithfully

Investec Bank Limited



Authorised Signatory



Authorised Signatory

AREA SCHEDULE

UNIT TYPE A - 10 UNITS TOTAL

3 BED 1 BATH SINGLE GARAGE

GROUND FLOOR	74m²
1ST FLOOR	25.3m²
2ND FLOOR	28.3m²
3RD FLOOR	2.4m²
TOTAL GROUND FLOOR	129.7m²
1ST FLOOR	82.4m²
2ND FLOOR	11.7m²
3RD FLOOR	97.8m²
TOTAL BUILDING AREA	315.8m²

UNIT TYPE B - 2 UNITS TOTAL

3 BED 1 BATH DOUBLE GARAGE

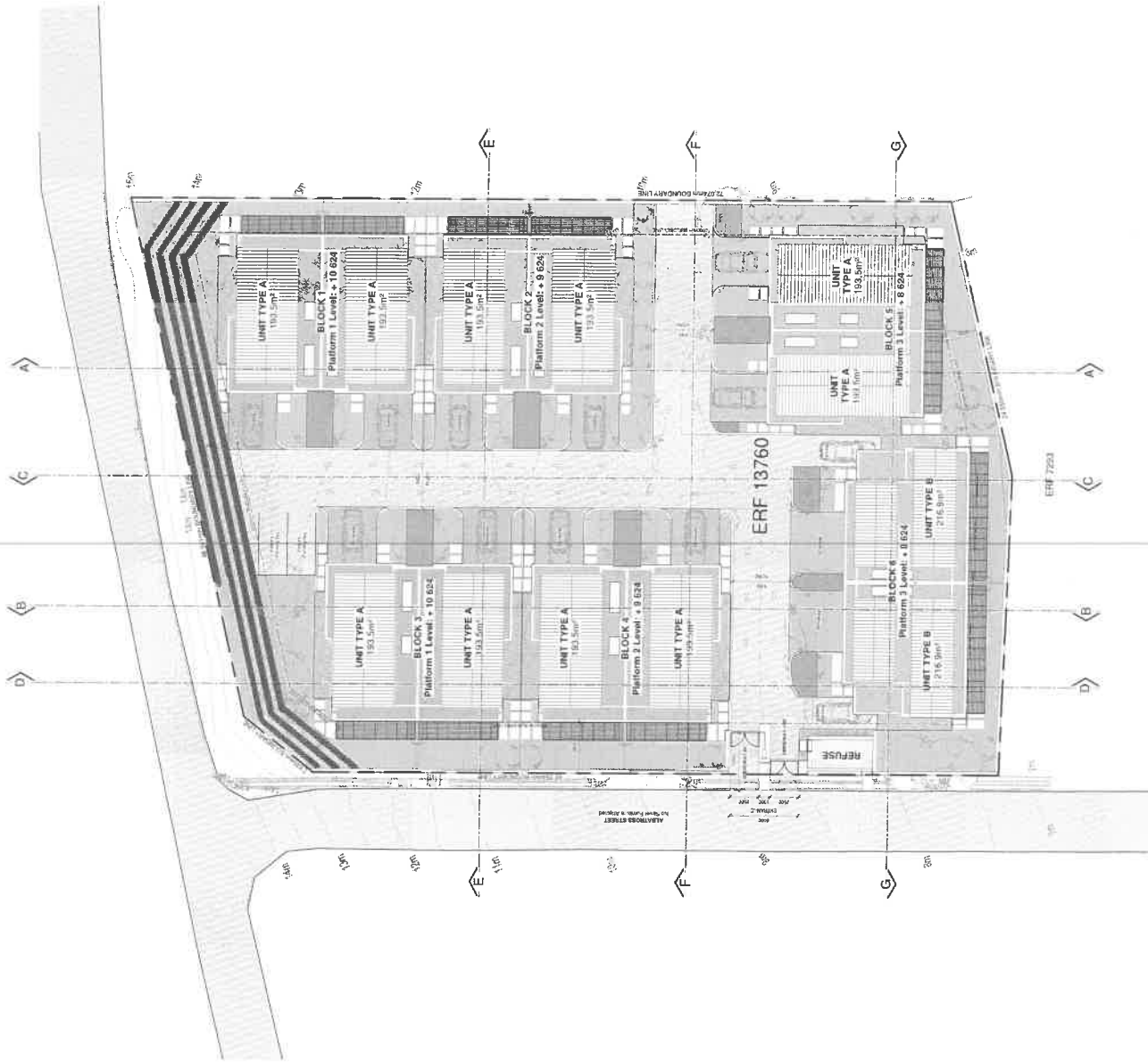
GROUND FLOOR	42.3m²
1ST FLOOR	38.3m²
2ND FLOOR	1.7m²
TOTAL GROUND FLOOR	82.3m²
1ST FLOOR	88.2m²
2ND FLOOR	11.7m²
3RD FLOOR	97.8m²
TOTAL BUILDING AREA	214.8m²

SITE & ROOF AREAS

BLAT	212.3m²
PERIMETER	738.3m²
TOTAL ROOF AREA	188.7m²
TOTAL ROOF TO TOTAL ROOF AREA	28.4%
SITE	352.0m²
FOOTPRINT	148.2m²
COVERAGE	42.3%

PRIVATE OPEN SPACE

12 UNITS @ 60m² PER UNIT	720m²
AREA PROVIDED	834.4m²



NOTE

DRAWING REMAINS THE PROPERTY OF THE ARCHITECT. ALL RIGHTS TO REPRODUCE OR TRANSMIT IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT ARE HEREBY FORFEITED. ALL DIMENSIONS TO BE CHECKED ON SITE.

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2. FLOOR PLANS
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10. REFERENCES
11. BIBLIOGRAPHY
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REVISIONS

SITE DEVELOPMENT PLAN

PROPOSED GROUP HOUSING
ERF 13760 | PARADISE, NINYRIA
SUBDIVISION STREET DEVELOPMENT
DRAWN: 2313-07-A1-000
SCALE: As indicated
DATE: 13th February 2025
DRAWN: S.N.I.M.N.

STARKEY | ARCHITECTS

SITE DEVELOPMENT PLAN

1 : 200

NOTES:
DRAWING NOT TO BE USED FOR
CONSTRUCTION OR FOR ANY OTHER
PURPOSES WITHOUT THE WRITTEN
CONSENT OF THE ARCHITECT.

GENERAL NOTES:
1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE CALIFORNIA BUILDING CODE (CBC).
2. ALL MATERIALS AND METHODS OF CONSTRUCTION SHALL BE APPROVED BY THE ARCHITECT.
3. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE STANDARD SPECIFICATIONS FOR THE CONSTRUCTION OF BUILDINGS.
4. ALL UTILITIES SHALL BE LOCATED AND DEPT. BEFORE CONSTRUCTION.
5. ALL FOUNDATIONS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE FOUNDATION DESIGN AND CONSTRUCTION HANDBOOK.
6. ALL ROOFING SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE ROOFING HANDBOOK.
7. ALL INTERIORS SHALL BE FINISHED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERIOR FINISHES HANDBOOK.
8. ALL EXTERIORS SHALL BE FINISHED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE EXTERIOR FINISHES HANDBOOK.
9. ALL MECHANICAL, ELECTRICAL, AND PLUMBING (MEP) SYSTEMS SHALL BE DESIGNED AND INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE MECHANICAL, ELECTRICAL, AND PLUMBING HANDBOOK.
10. ALL SAFETY AND HEALTH MEASURES SHALL BE TAKEN TO PROTECT THE WORKERS AND THE PUBLIC DURING CONSTRUCTION.

REVISIONS:

PROPOSED GROUP HOUSING
1000 WEST 10TH AVENUE
ALBANY, NY 12206
DWG. NO. 2319-07-A1-52
SCALE: 1" = 20'
DATE: 10th February 2025
DRAWN: S.N.I.N.N.

STARKEY | ARCHITECTS

ARCHITECTS | PLANNING | INTERIORS
800 West 10th Avenue | Suite 100 | Albany, NY 12206
518.263.1234 | www.starkeyarchitects.com



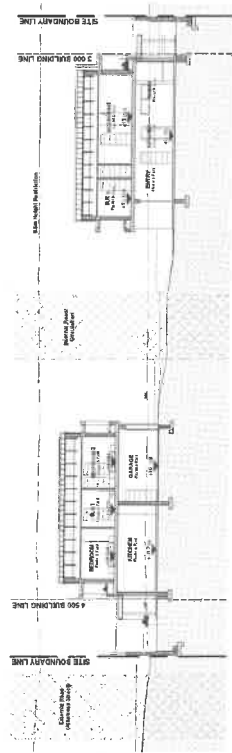
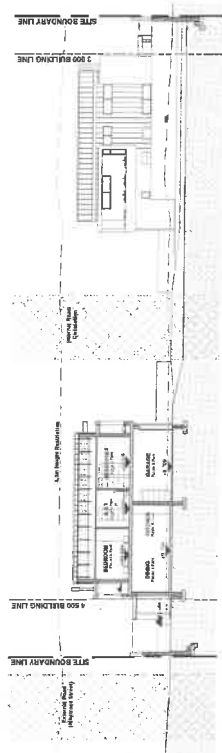
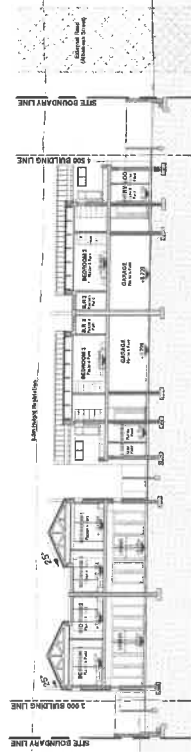
SITE SECTION E-E
1:200



SITE SECTION F-F
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SITE SECTION G-G
1:200



AREA SCHEDULE

UNIT TYPE A - 10 UNITS TOTAL

3 BED 1 BATH (SINGLE GARAGE)

AREA	AREA
GROUND FLOOR	43.3m ²
1ST FLOOR	25.3m ²
2ND FLOOR	2.8m ²
TOTAL GROUND FLOOR	108.1m ²
1ST FLOOR	82.8m ²
2ND FLOOR	9.3m ²
TOTAL 1ST FLOOR	92.1m ²
TOTAL BUILDING AREA	198.2m ²

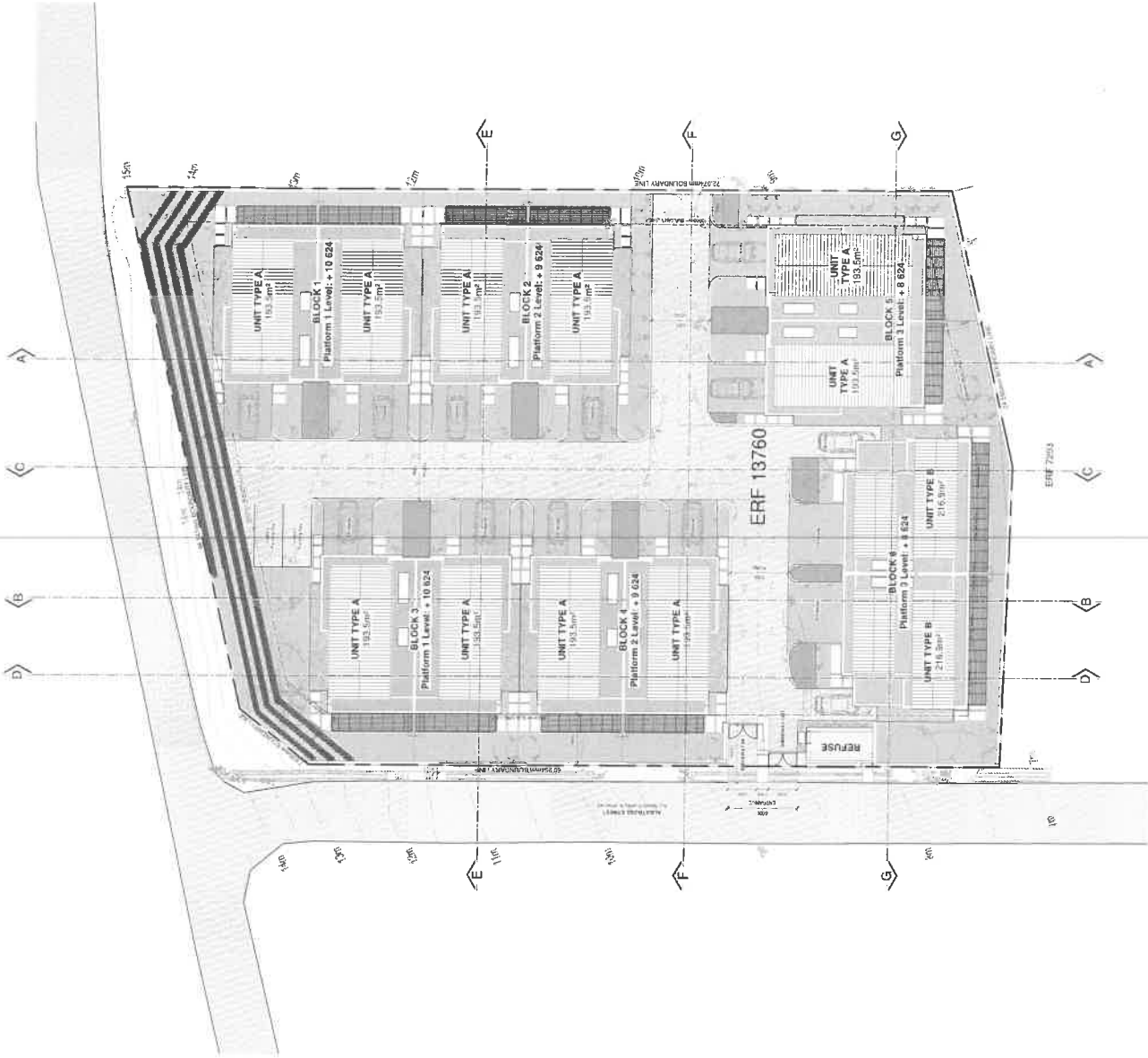
SITE & ROOF AREAS

ROOF CALCULATIONS	
PLANT	312.9m ²
ROOFED	788.3m ²
PLANTED	110.1m ²
TOTAL ROOF AREA	1191.3m ²
TOTAL ROOF TO TOTAL ROOF AREA	24.8%
SITE	3200m ²
COVERAGE	148.3m ²
	42.8%

UNIT TYPE B - 2 UNITS TOTAL

3 BED 1 BATH (DOUBLE GARAGE)

AREA	AREA
GROUND FLOOR	43.3m ²
1ST FLOOR	25.3m ²
2ND FLOOR	2.8m ²
TOTAL GROUND FLOOR	108.1m ²
1ST FLOOR	82.8m ²
2ND FLOOR	9.3m ²
TOTAL 1ST FLOOR	92.1m ²
TOTAL BUILDING AREA	216.7m ²



SITE DEVELOPMENT PLAN

1 : 200

NOTE: THE ARCHITECT'S RESPONSIBILITY IS TO PROVIDE A SITE DEVELOPMENT PLAN THAT COMPLIES WITH THE REQUIREMENTS OF THE ARCHITECTURAL ACT AND THE BUILDING REGULATIONS AND TO PROVIDE A SITE DEVELOPMENT PLAN THAT COMPLIES WITH THE REQUIREMENTS OF THE ARCHITECTURAL ACT AND THE BUILDING REGULATIONS. ALL DIMENSIONS TO BE CHECKED ON SITE.

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100. SITE DEVELOPMENT PLAN

REVISIONS:

DRAWING:

SITE DEVELOPMENT PLAN

PROPOSED GROUP INCLUDING
ERF 13760 (PARADISE INNVA)
ALBATROSS STREET DEVELOPMENT
DWG NO. 2319-07-A1-000
SCALE: As indicated
DATE: 10th February 2025
DRAWN: SNIMAN

STARKEY | ARCHITECTS

PROPOSED GROUP INCLUDING
ERF 13760 (PARADISE INNVA)
ALBATROSS STREET DEVELOPMENT
DWG NO. 2319-07-A1-000
SCALE: As indicated
DATE: 10th February 2025
DRAWN: SNIMAN

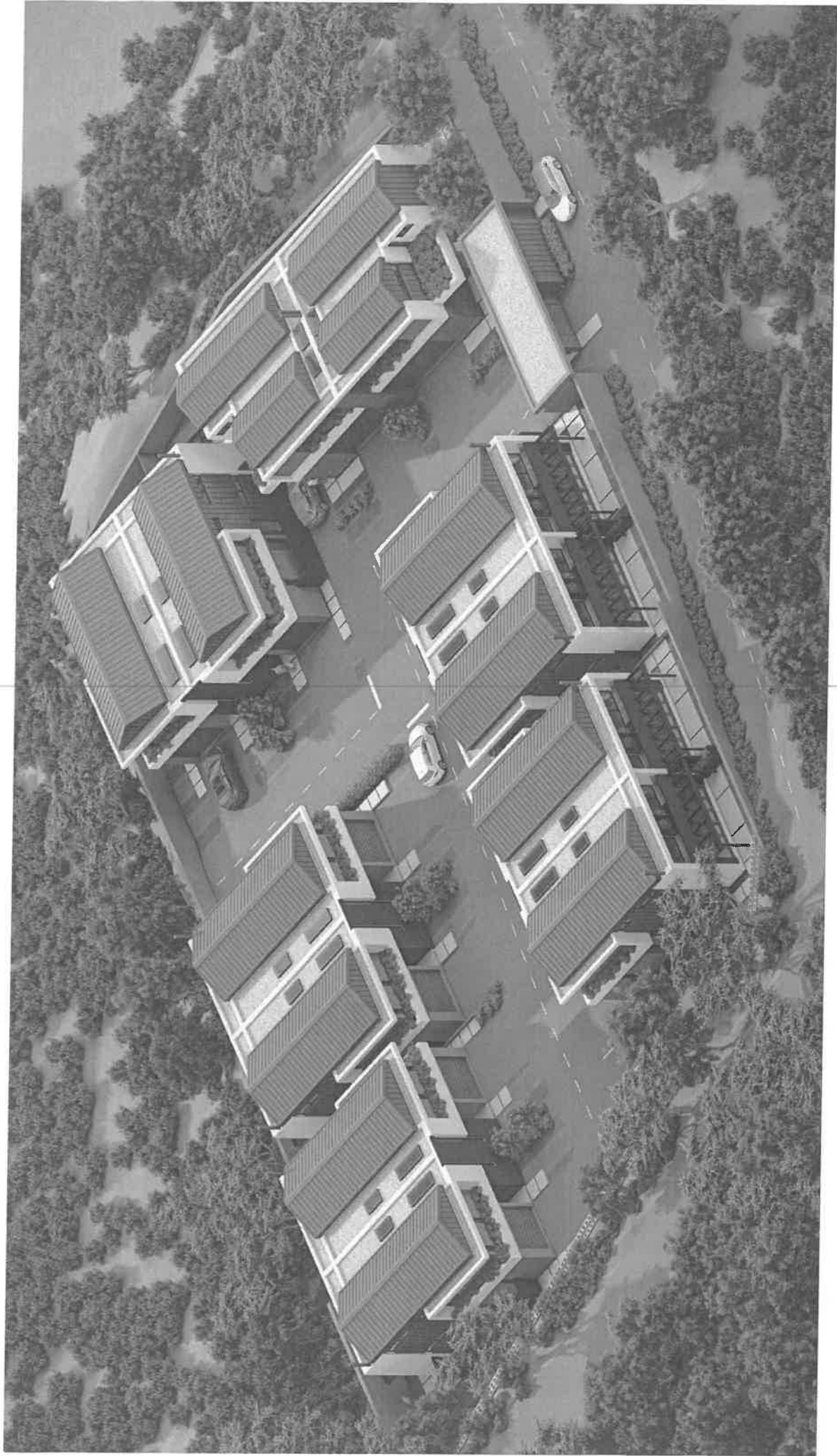
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ALBATROSS DEVELOPMENT

ERF 13760 | ALBATROSS STREET | KNYSNA

STARKEY | ARCHITECTS

319

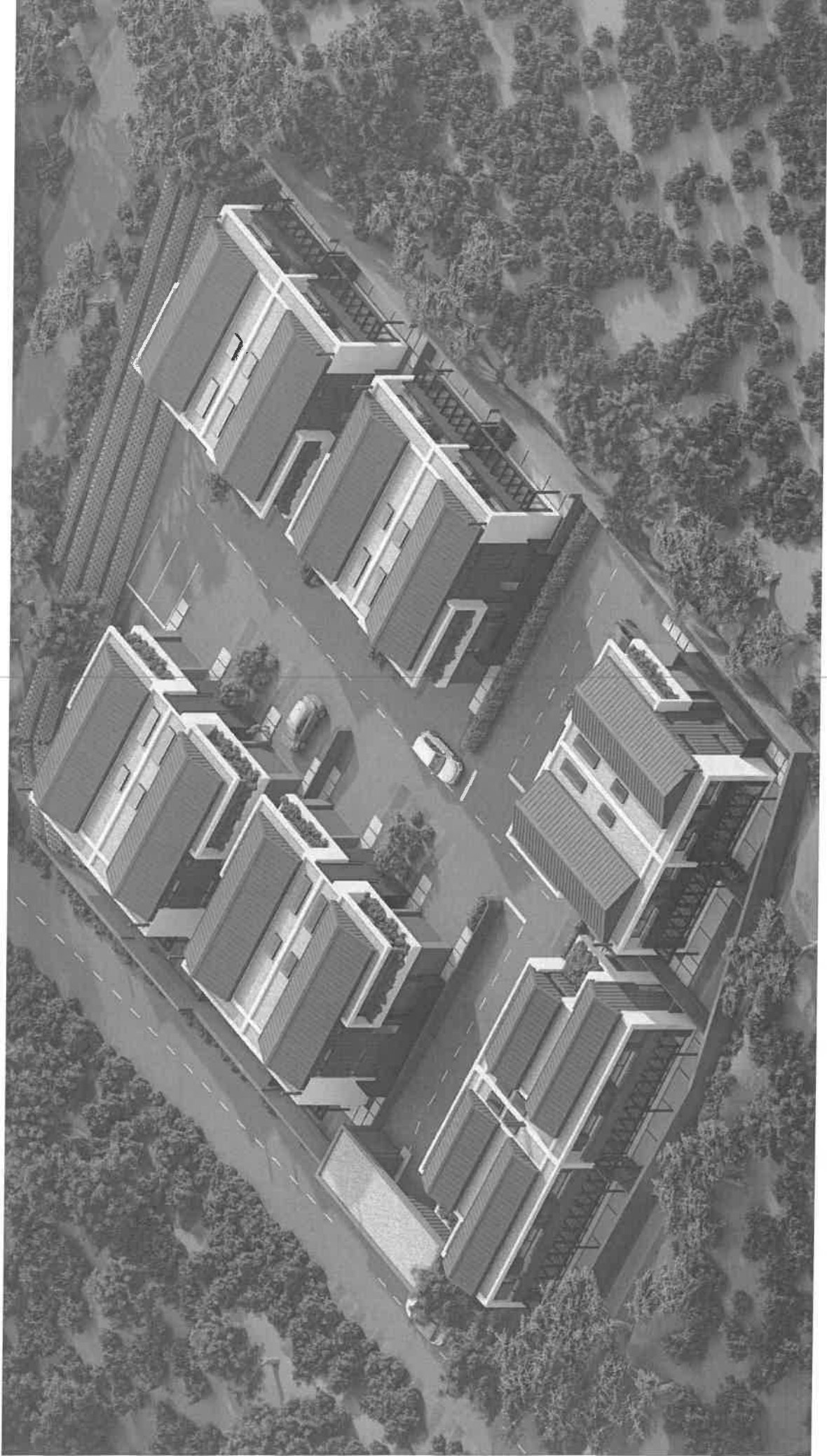


ALBATROSS DEVELOPMENT

ERF 13760 | ALBATROSS STREET | KNYSNA

320

04



ALBATROSS DEVELOPMENT

ERF 13760 | ALBATROSS STREET | KNYSNA

321

04



ALBATROSS DEVELOPMENT

ERF 13760 | ALBATROSS STREET | KNYSNA



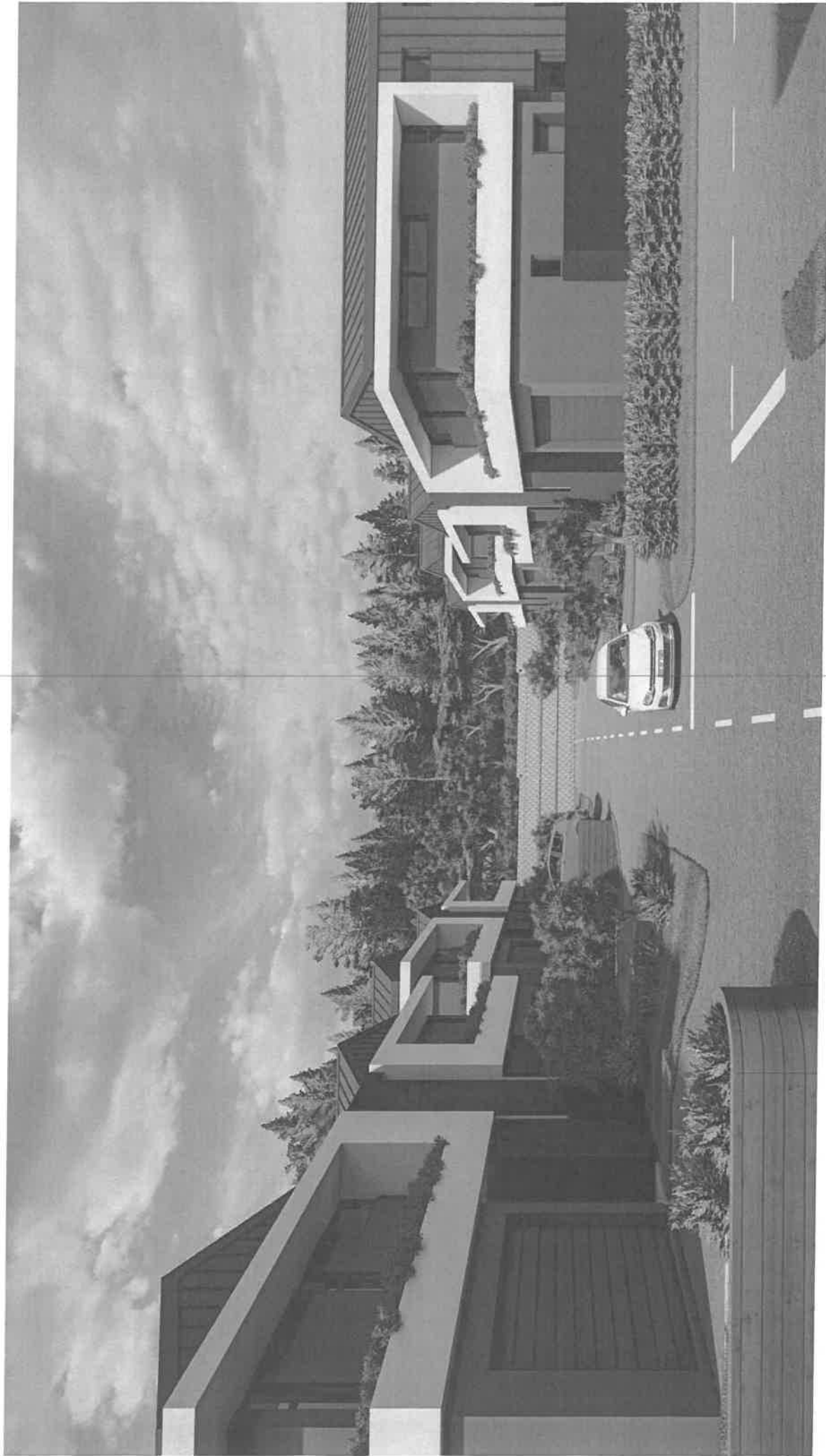
ALBATROSS DEVELOPMENT

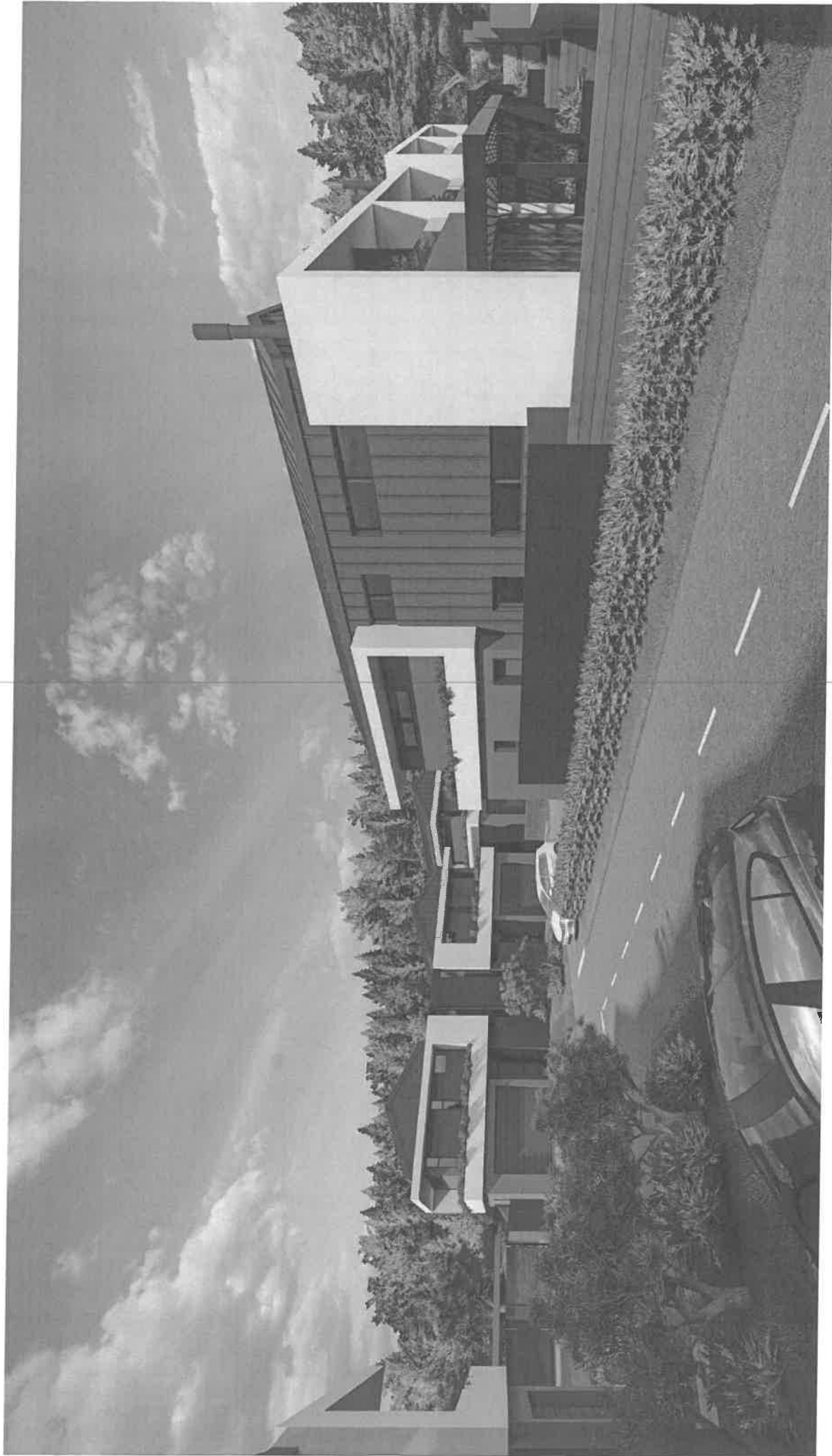
ERF 13760 | ALBATROSS STREET | KNYSNA



ALBATROSS DEVELOPMENT

ERF 13760 | ALBATROSS STREET | KNYSNA



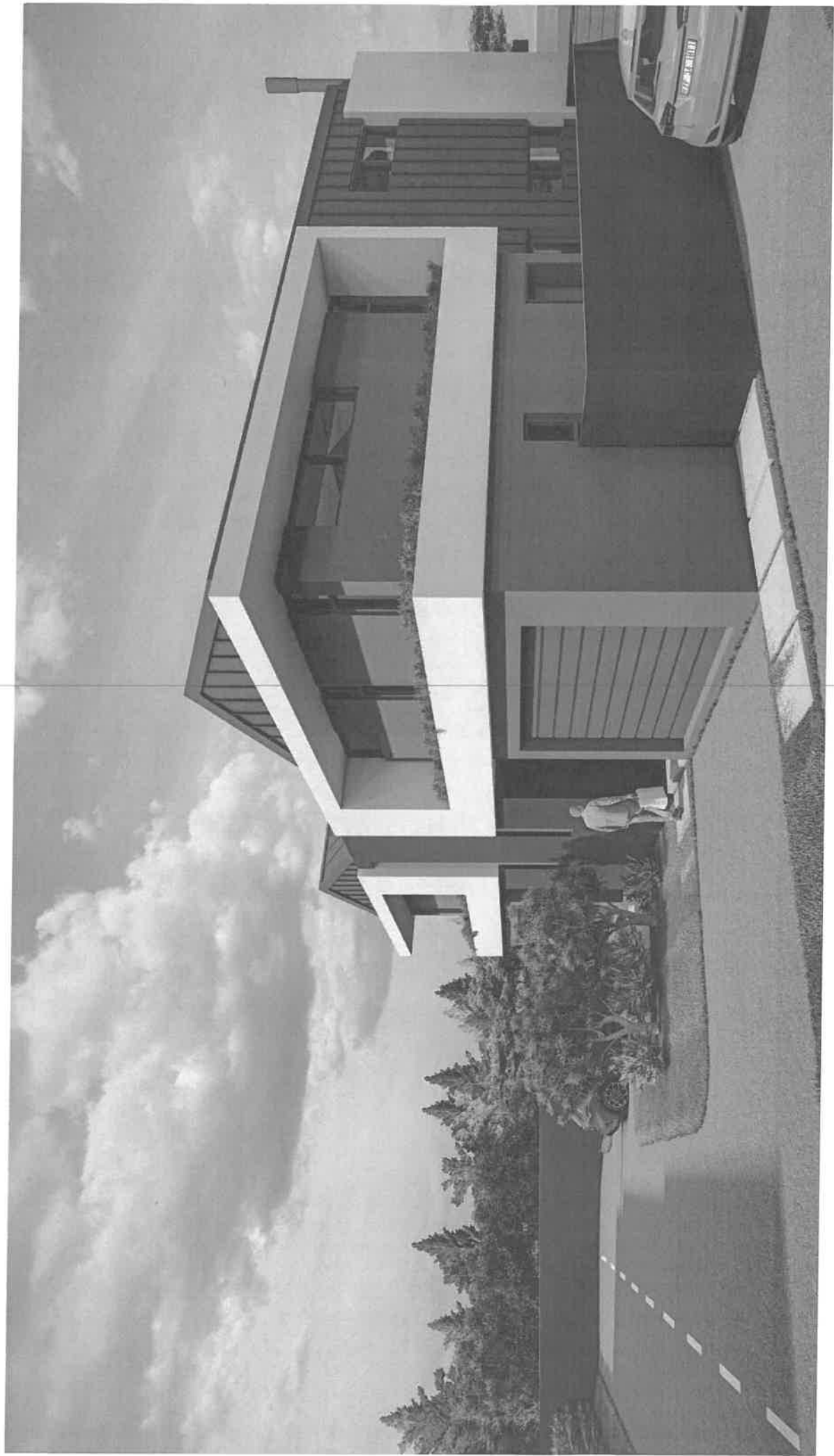


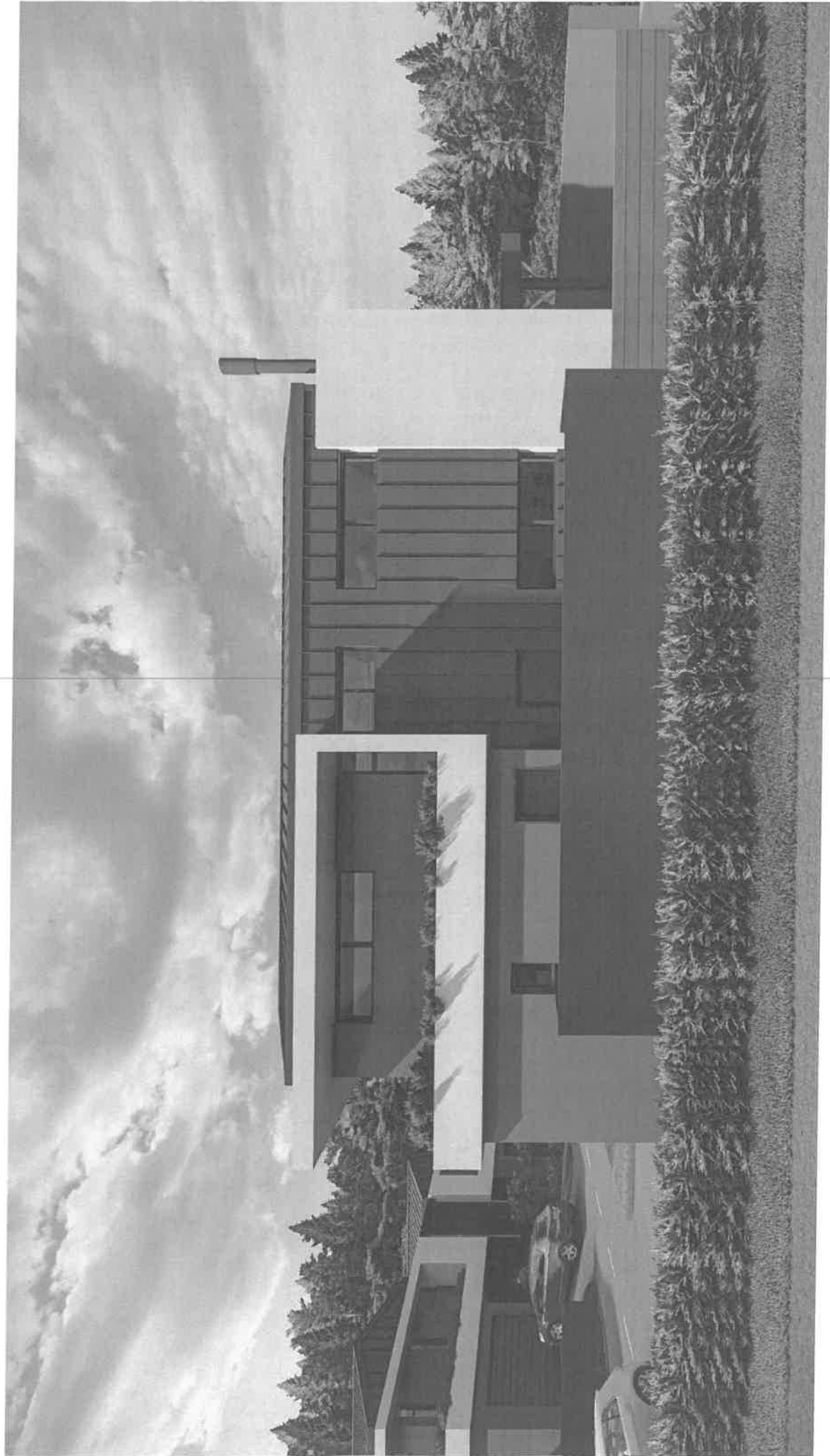


UNIT TYPE A

3 BEDROOM | 3 BATHROOM | SINGLE GARAGE
AREA | 193.5m² | PER UNIT





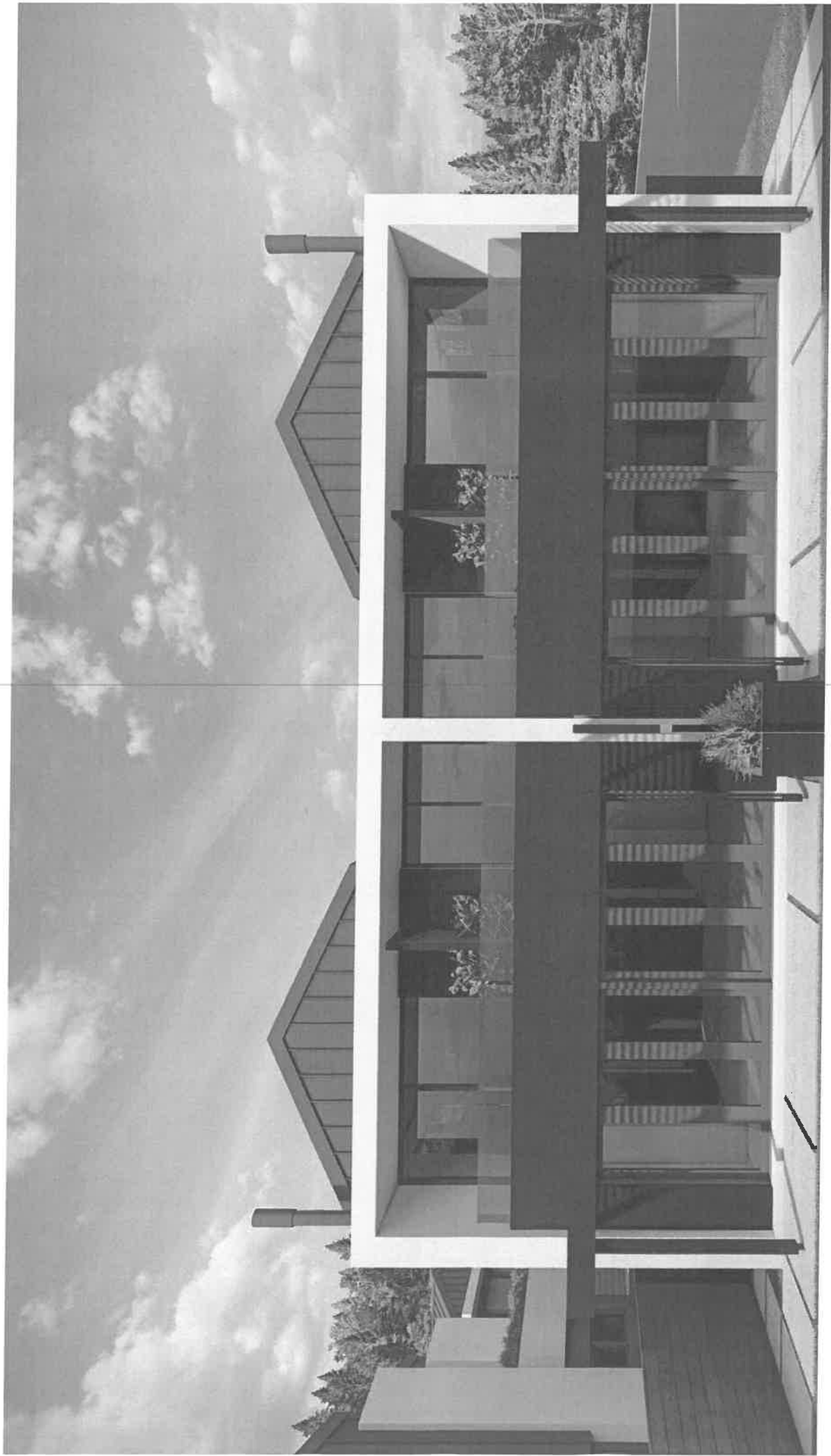


ALBATROSS DEVELOPMENT

ERF 13760 | ALBATROSS STREET | KNYSNA

331

04



ALBATROSS DEVELOPMENT

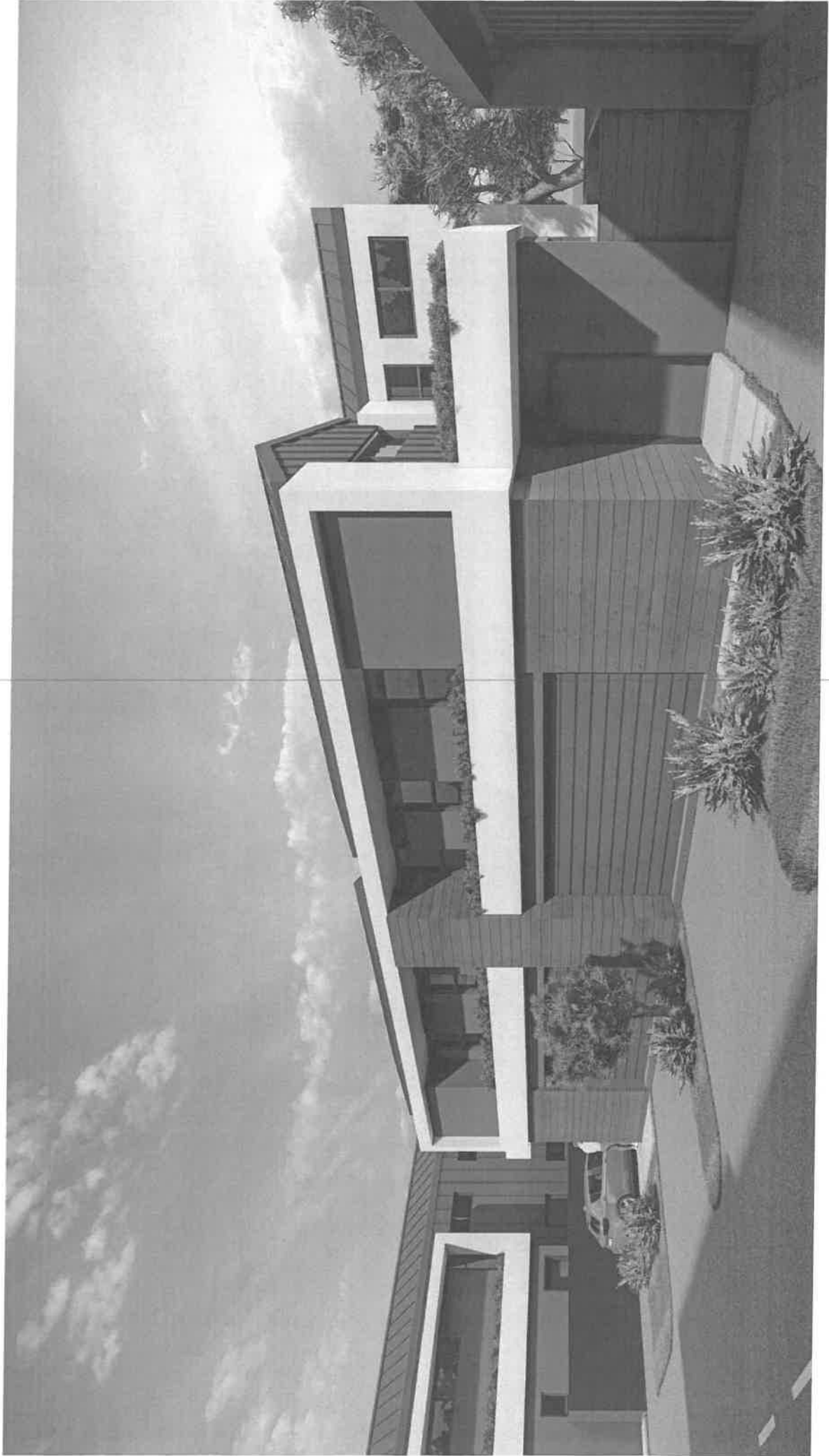
ERF 13760 | ALBATROSS STREET | KNYSNA

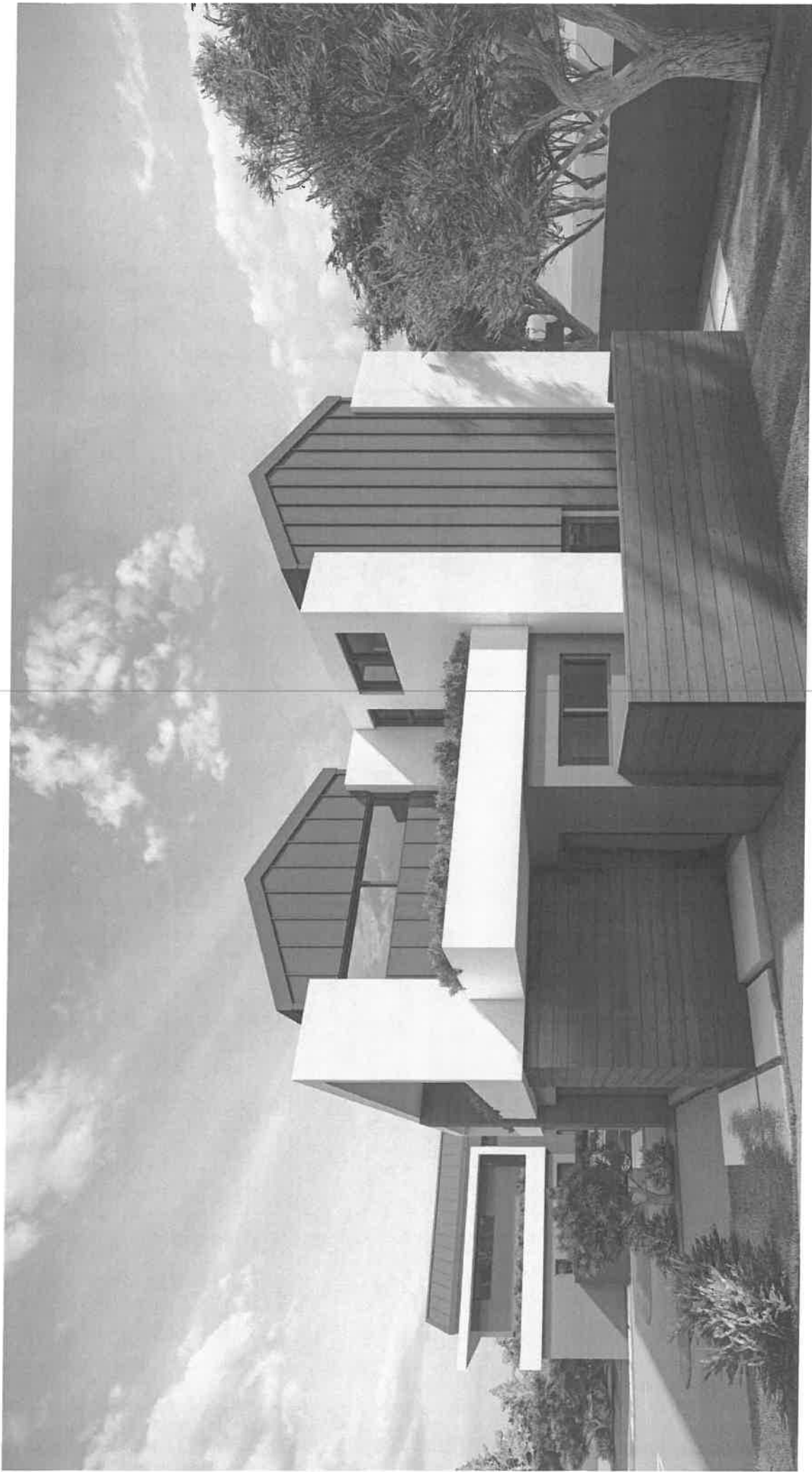
UNIT TYPE B

3 BEDROOM | 3 BATHROOM | DOUBLE GARAGE

AREA | 216,9m² | PER UNIT







ALBATROSS DEVELOPMENT

ERF 13760 | ALBATROSS STREET | KNYSNA

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04



ALBATROSS DEVELOPMENT

ERF 13760 | ALBATROSS STREET | KNYSNA



Collab. Ref.: 1431299
File Ref.: 4988 & 3529 Kny
JH Smit
Tel: 044-302 6318



Via Electronic Mail

2023-03-01

Pearl Star Investment 77 CC
c/o Marike Vreken Town Planners
PO Box 2180
KNYSNA
6570
Email: marike@vreken.co.za

Dear Sir/Madam,

**APPEAL OUTCOME: APPLICATION FOR CONSOLIDATION & DEPARTURE:
ERVEN 4988 & 3529, KNYNSNA**

The appeal application in the above regard, refers.

Please be advised that the Executive Mayor serving as Knysna Municipality Appeal Authority, on 20 February 2023, resolved the following:

1. That, the appeal submitted against the refusal of the applications for the consolidation of Remainder Erven 3529 & 4988, Knysna, the rezoning of the consolidated erf from "Single Residential Zone" to "Group Housing Zone" and the departure from the Zoning Scheme Regulations to allow for the relaxation of the boundary wall, **BE UPHELD** and the subject decision to refuse the application by the Knysna Municipal Planning Tribunal, **BE REPLACED** in terms of Section 81(9)(b) of the Knysna Municipality By-Law on Municipal Land Use Planning (2016) by the following:
 - 1.1 That, **Approval be Granted** for the consolidation of Remainder of Erf 3529 and Erf 4988, Knysna to create consolidated property measuring approximately 3,539m² in extent.
 - 1.2 That, the **Approval Granted** for the rezoning of the consolidated property from "Single Residential Zone" to "Group Housing Zone".

- 1.3 That, Approval be Granted for the permanent departure to relax the prescribed boundary wall height of 1.5m to 1.8m on the street boundary.
- 1.4 The above approval is subject to the following conditions imposed in terms of Section 66 of the Knysna Municipality By-Law on Municipal Land Use Planning (2016):
- (i) A maximum permissible density of 8 units shall apply on the consolidated property;
 - (ii) The group housing development shall adhere to the definition of “group housing” in that it shall be planned, designed and built as a harmonious architectural entity with special attention given to aesthetics, architectural coordination, urban design and landscaping;
 - (iii) Building lines and all other parameters shall be in accordance with the “group housing” use of the Zoning Scheme;
 - (iv) A site development plan generally in accordance with the plan numbered DWG-1801-2000, dated 29 January 2020, indicating storm-water management, access, landscaping, aesthetics design and general adherence to the conditions of approval, being submitted for approval, being submitted for approval prior to the submission of building plans;
 - (v) The style and finishes to the external appearance of the building shall be in accordance with the provisions of the Urban Conservation area guidelines to the satisfaction of the Municipality and submitted to the Municipality’s Aesthetics Committee;
 - (vi) The entrance gate to the development shall be setback to allow for the stacking space for at least one vehicle entering the property;
 - (vii) Augmentation levies in respect of municipal services shall be payable on each new unit in accordance with Council’s policy prior to the submission of building plans;
 - (viii) The developer/landowner shall enter into a service level agreement with the Municipality with regard to municipal services provision;
 - (ix) The developer/landowner shall commission and submit and integrated waste management plan to the satisfaction of the Municipality, prior to the submission of building plans;

- (x) Building plans shall be submitted in terms of the requirements of the National Building Regulations and Building Standards Act No. 103 of 1977 to the Municipality, prior any building work being undertaken;
- (xi) The landowner/developer shall ensure that sight triangles are indicated on the building plans including the positioning of the refuse room and pedestrian entrance.

RATIONALE:

- The Knysna Municipal Planning Tribunal in its decision on the application for consolidation, rezoning and departures in respect of Remainder Erf 3529 and Erf 4988, Knysna, did not fully consider the implications of Section 52(1) of the Knysna Municipality By-Law on Municipal Planning 2016. This provision allows and applicant to amend their application prior to a decision being taken. Importantly, the Planning By-Law does not compel an applicant to withdraw and application should there be a material amendment to an application. Consequently, it is concluded that there is justifiable grounds for review of the decision of the Knysna Municipal Planning Tribunal in respect of the applications on Remainder Erf 3529 and Erf 4988, Knysna, based on procedural grounds.
- It was found that the adjoining landowners and interested and affected parties were offered a fair and reasonable opportunity to participate in the planning process as required in terms of the provisions of the Knysna Municipality By-Law on Municipal Land Use Planning (2016) and several opted to exercise their rights by lodging written responses to the application.
- Moreover, it was found that adjoining landowners and interested and affected parties were reasonable aware of the nature and extent to the amended application and were able to formulate their arguments to the amended application accordingly.
- The density of the proposed development in the context of the Knysna Zoning Scheme Regulations (1992) requires a density of 8 units on the consolidated site and as the Appellant did not make application for departure in terms of Section 15(2) of the Planning By-law to permit an increase to 11 units, cannot be considered in terms of this appeal.

- The application for rezoning to "Group Housing Zone" was found to be desirable as contemplated in terms of the character of the area, its impact on municipal services, the extent and nature of the development proposal, and its contribution towards achieving planning policy objectives.

Should you have any further enquiries on the above resolution by the Appeal Authority, please contact Hennie Smit on telephone number: 044-302 6318 or via e-mail address: hsmit@knysna.gov.za.

Yours faithfully,



H SMIT

MANAGER: LAND USE MANAGEMENT

Delegations: P.78

/lb



STRUCTURAL & CIVIL ENGINEERING DESIGN CONSULTANTS

PROPOSED NEW SECTIONAL TITLE DEVELOPMENT: ERF 4988 and Rem 3529 KNYSNA

CIVIL ENGINEERING INFRASTRUCTURE REPORT

Project No 23G210

Version 1
April 2025

CONSULTING ENGINEER:
Poise Consulting Engineers
12 Boston Light Drive
Plettenberg Bay
6600

• CAPE TOWN
103 ROODEBLOEM ROAD
WOODSTOCK
CAPE TOWN
T: 021 422 0822

W: WWW.POISE.CO.ZA

• GARDEN ROUTE
12 BOSTON LIGHT DRIVE
PLETTENBERG BAY
T: 044 533 9087

PROPOSED NEW SECTIONAL TITLE DEVELOPMENT ERF 4988 and Rem 3529 KNYSNA

1. INTRODUCTION

Erven 4988 and Rem 3529 Knysna are to consolidated and redeveloped for Group Housing.

The total area of the site is approximately 0.352 hectares. The development will comprise 12 Residential Units of average size 197 square meters.

The Developer has appointed Poise Consulting Engineers to attend to the design of the civil engineering services for the development.

This report addresses the sewer and water connection requirements and capacities for the new development and summarizes the proposed road access and stormwater management principals to be adopted.

2 SITE DESCRIPTION

The site is situated on the south eastern corner of Albatross Street and Paradise Circle Drive.

Access will be off Albatross Street approximately 75m from the intersection with the N2.

The approximate coordinate of the centre of the site is 34° 02' 10.46" S and 23° 12' 11.17" E.

The site slopes from north to south at an average gradient of approximately 8,5%.

4. DESIGN STANDARDS

The following design standards will be applicable:

- Guidelines for Human Settlement Planning and Design, compiled for the Department of housing by the CSIR (Red Book)
- SANRAL Drainage Manual
- Relevant specific specifications of the Knysna Engineering Services Department

5. WATER RETICULATION

Water Connection

The water connection for the development will be off the existing 75mm watermain on the northern side of the site in Paradise Circle Drive.

Water Demand

The water demand is based on average daily demand of 600 litres per housing unit and 12 units.

Average Daily Demand : 7,2 kl

Based on a peak factor of 4 the maximum peak flow demand will be 0.33 litres per second.

The fire flow criteria is Moderate Risk which requires provision for a fire flow 25 litres per second with a minimum residual head 15 meters.

The access to the site is situated approximately 45 meters from the nearest municipal fire hydrant.

Impact on Capacity

The GLS 2016 Water Masterplan for Knysna indicates that the static and minimum residual pressure in the vicinity of the proposed connection are 90m and 60m respectively.

The predevelopment site consisted of a general residential housing unit of approximately 470m²

Assuming a pre-development demand of 1000 litres per day the increase in demand will be 6,2kilolitres and the increase in peak flow will be 0,29 litres per second. The impact on velocity of flow in a 75mm diameter pipe is 0,07 meters per second. With consideration to the static head of 90m, the impact on the pipe capacity and residual head will be insignificant.

Internal Reticulation

The internal water pipes will remain the property of the development and will not be taken over by Knysna Municipality. The domestic internal water reticulation system will be of Class 12 UPVC pipes of up to 90mm diameter. Minimum cover to watermains will be 800mm.

Fire Hydrants will be provided at maximum 180m intervals

The reticulation system will be designed to provide for a minimum residual head of 24m under peak domestic flow conditions, and 15m under peak domestic plus fire flow conditions.

Construction of all watermains and connections will be in accordance with Knysna Municipality and SABS 1200 specifications.

6. SEWER RETICULATION

Sewer Connection

The sewer connection for the Development will be to the existing sewer connection off the existing 160mm reticulation pipe situated in Albatross Street.

Sewerage Discharge

The sewerage discharge demand is based on average daily discharge of 480 litres per unit and 12 erven

Average Daily Discharge: 5.76 kl

Based on a peak factor of 2.5 the maximum peak discharge impact will be 0,17 litres per second.

Impact on Capacity

The impact of 0,17 litres per second on the capacity of a 160mm sewer is of absolutely negligible significance.

Internal Reticulation

The internal sewer pipes will be the property of the development and will not be taken over by Knysna Municipality.

The internal sewer reticulation system will be of 160mm Class 400 UPVC sewer pipes. Manholes will be of precast concrete ring structures, in accordance with SABS 1200D standards. Manholes will be provided at a maximum of 80 meter intervals.

Minimum cover to sewers will be 1000mm under roadways and 700mm elsewhere.

Construction of all sewers, connections and manholes will be in accordance with SABS 1200 specifications

7. ACCESS

Access

The site access will be off Albatross Street

The access will comprise an incoming and exit lane each of width 3,0meters.

The access bellmouth radii will be 5.0 meters.

Internal Roads

Internal roads will be private roads and will not be taken over by Council

Pavement and Geometric Standards

The development internal roads which will be classed as follows:

Description	Width	Category/Class
Internal Access Roads	5.0/6.0m	UC/ES0,3

The following pavement structure will be utilised for internal roads:

80mm Interlocking Block paving on 20mm sand bedding

125mm C4 Subbase compacted to 95% Mod AASHTO

150mm Imported G7 upper subgrade compacted 93% Mod AASHTO

150mm Insitu treatment compacted to 90% Mod AASHTO

Kerbs

The internal roads will have standard SABS figure 3 pre-cast concrete barrier kerb with a Figure 3 kerb and channel on the low side of the crossfall.

8. STORMWATER MANAGEMENT

Approximately 17% of the site is covered by impermeable areas in the pre-development condition.

In the post-development condition approximately 75% of the site will be covered by impermeable area. Stormwater runoff from roofs will be partially discharged to road surfaces and partially to landscaped garden areas.

The discharge to the road surfaces will discharge to a number of grid inlets which will be piped to an attenuation pond to be constructed at the south west lowest corner of the site.

Attenuated discharge from the attenuation pond will be connected to the existing 440 wide x 750 deep channel which runs in Albatross Street, at the south western corner of the site.

Sustainable Drainage Systems (SUDS)

The City of Cape Town norms for SUDS are adopted for projects located in the Western Cape:

The attenuation criteria is that stormwater be attenuated to reduce the post-development runoff rates to not exceed the pre-development rates for the 1 in 10 year and 1 in 50 year return storm intervals.

The target reductions of total suspended solids (TSS) and total phosphates (TP) are 80% and 45% respectively.

This Development falls under the category of Brownfields Sites of less than 4000 square meters for which the requirements are scheduled as follows:

Stormwater Attenuation: **Not required:** but encouraged

Quality Improvement: **Not required:** but encouraged

The SUDS standards will not be addressed for the roof and surface runoff which discharges to landscaped areas. However it must be noted that by virtue of landscaping characteristics of surface flow retardation, and natural pollutant reduction, SUDS targets will largely be met for these areas.

The SUDS standards will however be addressed for the catchment areas of roads and roofs which discharge onto road surfaces.

Stormwater Modelling

For the catchment areas of roads and roofs which discharge onto road surfaces the runoff and retention calculations have been done utilising the CBA Hydrograph Generation Reservoir Routing program of Chris Brooker and Associates.

The average annual precipitation is 600mm.

The Pre development time of concentration T_c is calculated using the Kirby Formula for overland flow as follows:

Hydraulic Length of Runoff	96m
Average Slope	1,5%
Roughness Coefficient	0.4
T_c	21 minutes

In calculating the run-off coefficient C the following factors were used:

- Slope C_s 0.08
- Permeability C_p 0.16
- Vegetation C_v 0.11

Using adjustment factors of 0.73 and 0.89 for the 10 year and 50 year storms respectively the following run-off coefficients were obtained:

- 1:10RI 0.26
- 1:50RI 0.31

Adjusting for the pre and post development impermeability ratios of 17% and 75% respectively, the coefficients adopted are:

	Pre- Development	Post-Development
• 1:10RI	0.39	0.82
• 1:50RI	0.43	0.83

Rainfall Volumes and Retention Data

The attached Stormwater Management Data Table indicates the catchment area, pond area, the 24 hour runoff volumes and the maximum stored volumes, for the 1 in 10 and 1 in 50 year return interval storms.

The data indicates that the attenuation pond will have sufficient capacity to detain discharge so that the post development discharge does not exceed the pre- development discharge for the 1 in 10 and 1 in 50 year storm intervals.

Quality Improvement

Average TSS and TP mitigation reduction factors for attenuation ponds are 67.5% and 45% respectively

However the mitigation factors will be enhanced through construction of the pond surface as follows:

100mm clean topsoil, planted to the Environmental Consultant recommendation

100mm layer of 38mm crushed stone bidum lined top and bottom

150mm perforated sub surface drain beneath which will convey the discharge to pond outlet control.

The filtration substructure can be expected to substantially reduce the TSS and TP levels.

9. STORMWATER MANAGEMENT DURING CONSTRUCTION

On commencement of construction, a stormwater containment berm, grass lined, will be constructed along the southern boundary of the site. This berm will contain all concentrated and silt contaminated stormwater flow from running off to the underlying property during the construction period.

The desilting maintenance of this berm will be undertaken on a regular basis.

10. ATTACHMENTS

DWG No: 23G136 SW01 Rev B

General Layout: Roads, Stormwater, Sewer and Water Connections

Table 1: Catchment Area, Pre-Dev, Post-Dev Flows, Attenuation Data

Prepared By:

Date: 14 April 2024

D Botes Pr.T Eng.

Collab. Ref.
File Ref.: 13760 Kny
JH Smit
Tel: 044-302 6318



Via Electronic Mail

2025-08-26

Lagoon Properties (Pty) Ltd
104 Main Street
Paradise
KNYSNA
6570
Email: [REDACTED]

Dear Sir/Madam,

PROPOSED AMENDMENT OF CONDITIONS OF APPROVAL DEPARTURE & APPROVAL OF A SITE DEVELOPMENT: ERF 13760, KNYSNA

Notice is hereby given in terms of Section 35 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) that the abovementioned application has been received from:

Owners Details:	Pearl Star Investments 77 CC
Applicants Details:	c/o Marike Vreken Town Planners
Email:	info@vreken.co.za / marike@vreken.co.za
Reference number:	Application number 3532
Property Description:	Erf 13760, Knysna
Physical Address:	cnr Albatross Street & Circular Drive, Knysna
Nature of application:	

- (i) Application for an **Amendment of Condition 1.4(i)** in the approval dated 01 March 2023, in terms of **Section 15(2)(h)** of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021);
- (ii) Approval of a **Site Development Plan** on Erf 13760, Knysna in terms of **Section 15(2)(l)** of the Knysna Spatial Planning & Land Use Management By-law (2021); and
- (iii) Application for a **Departure** in terms of **Section 15(2)(b)** of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) to relax the prescribed building lines:
 - a) The eastern lateral from 3m to 1.51m to allow for the pergolas of blocks 1 & 2;
 - b) The western street from 4.5m to 2.9m to allow for the pergolas of blocks 3 & 4;
 - c) The southern lateral from 3m to 1.54m & 1.435m to allow for the pergola of block 5 & 6;
 - d) The north-western street building line from 4.5m to 0.42m & 1.1m to allow for the retaining wall; and
 - e) The eastern building line from 3m to 0m to allow for the retaining wall.

A full copy of the application is available for inspection on the municipal website:
<https://www.knysna.gov.za/do-business/planning-development/current-land-use-applications/>

Members of the public are invited to submit written comments, together with the reasons therefore in terms of Section 50 of the Knysna Spatial Planning and Land Use Management By-Law (2021). Comments must be addressed to the Municipal Manager and submitted via email at knysna@knysna.gov.za and sphungula@knysna.gov.za on or before **30 September 2025**, quoting your name, address, electronic contact details and telephone number, interest in the application and reasons for comment. The municipality may refuse to accept comments received after the closing date. Persons who cannot write may contact the Town Planning Office during office hours, where the responsible official will assist you in putting your comments in writing.

Telephonic enquiries may be made during office hours to Mr. Sihle Phungula at 044-302 6339 or via email sphungula@knysna.gov.za .

Yours faithfully,



JH SMIT
MANAGER: LAND USE MANAGEMENT
/lb

MAILING LIST FOR ERF 13760 KNYSNA

7293	LAGOON PROPERTIES PROPRIETARY	Via electronic mail
4079	COETZEE FAMILY TRUST	Via electronic mail
3243	SILKS HI	Via electronic mail
8558	THE PEROSINO FAMILY TRUST	Via electronic mail
19208	COETZEE FAMILY TRUST	Via electronic mail
99	DUGMORE PK	Via electronic mail
19	SA TRAVEL INBOUND PTY LTD	Via electronic mail
20	SA TRAVEL INBOUND PTY LTD	Via electronic mail

Parkes Manor
1 Azalea Street
Paradise
Knysna
6571
Tel [REDACTED]

Parkes Manor

TST 1927 - KNYNSA - SOUTH AFRICA

Date: 26 September 2025

RE: Erf 13760 Objection - Application to Amend Approval from 8 Units to 12 Units and Building Line Relaxation (from 3m to 1.5m)

Dear Sir/Madam,

First, we wish to place on record our concern that we were not formally notified of this application and only became aware of it through a neighbour. As a directly affected adjoining property owner, this omission is unacceptable. Nevertheless, having now obtained the information, we hereby wish to lodge our objection.

We acknowledge that the proposed increase in density appears consistent with the prevailing policy framework for the area and that, on its own, the relaxation of the lateral building line to 1.5m to permit a covered stoep is unlikely to materially impact our property. However, given the specific circumstances of our client's operations, there are several issues that require consideration:

1. Heritage and Tourism Value

Parkes Manor is a heritage building and a long-standing, popular guesthouse that contributes to the tourism economy of the town. Any nearby construction activity has the potential to negatively affect guests' experience, which in turn impacts the guesthouse's reputation and financial viability.

2. Construction Management

We therefore request that, should approval be granted, conditions be imposed to ensure that the construction process is managed in a way that keeps any interference with our guesthouse operation at an absolute minimum. This includes but is not limited to construction noises especially in the mornings.

3. Awareness of Existing Uses

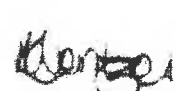
Along the boundary where the new units are proposed, our client operates a maintenance building and staff quarters that are integral to the running of the guesthouse. We request that prospective purchasers of the new units be made aware of this existing use to avoid future complaints or disputes regarding existing guesthouse operations.

4. Deviation from the SDP We need to state that the building line relaxation of the common boundary is only to accommodate the pergola on ground floor level, and that the actual building will observe the 3m building line as shown on the SDP.

In light of the above, our objection is not intended to prevent development, but rather to safeguard the interests of an established neighbouring business and heritage resource. We trust that the municipality will take these matters into account and, should the application be approved, will attach suitable conditions to address our client's concerns.

Yours faithfully,


General Manager
J.H. Venter


Chief Executive Officer
Karen Wentzel

Colab No.:

Tutuzelwa Tsese

From: Ivan Perosino
Sent: Tuesday, 30 September 2025 11:03 AM
To: Knysna Municipality
Subject: FW: Objection to proposed amendments, departures and approvals Erf 13760

File No.: 15/5/1

The Municipal Manager,
Knysna.
30th September 2025

Dear Sir/Madam,

The letter below is prepared by a neighbour. I include this as these sentiments echo our feeling as well.

Our main concerns with the development are:

- Lack of provision for guest parking
- The removal of greenery from the plot
- The terrible state of Albatross Road which will be main access to the development and will surely deteriorate even more under the additional traffic

We thus object to the proposal of 12 units.

LETTER FROM P DUGMORE:

"Dear Sir/Madam,

On behalf of a number of residents of Paradise who will submit the same letter I hereby object to all of the above and cannot believe that this has been put forward as a mere amendment, when in fact it is a completely different development altogether in terms of both architecture and density. It also no longer comprises freestanding single units and has the barest minimum of open space.

If the developer was unhappy with the ruling of the tribunal he should have gone to the Supreme Court. Other than an attempt to sell the units off-plan at an unrealistic price of over R6,000,000 each, no activity at all has taken place other than the dumping of building rubble and rubbish from their other building sites leaving the property in a disgraceful mess. This sums up the developer's regard for the neighbourhood and its residents.

The reason given for this "amendment" is the non feasibility of building only eight units. This is questionable. All over Knysna and in fact the country, single homes and low density developments are being built. Do none of these builders make a fair profit? This seems like pure greed.

We revert back to our previous objections to high density development in Paradise when there were approximately fifty co-objectors. Clearly nobody in the area wants it. Paradise is one of the most attractive and greenest suburbs in Knysna and erf 13760 is surrounded by single residences on large and leafy properties. How Marike Vreken can say that the planned buildings are "consistent with the character of the area" is amazing and untrue. The semi-detached blocks are so close to each other that seen from certain angles they would appear as single units with no space at all between them.

The three visitor parking bays are hopelessly inadequate. Will the inhabitants take turns to have visitors or will they be parking in the narrow streets or on neighbours verges? All the owners will probably have at least two cars, and more in the holiday season, resulting in no spare parking being available on their own property.

The developer has already cut down all the trees in the centre of the erf but no doubt this will be the fate of the remaining ones too as there will literally be no space for them. How is this consistent with the character of the suburb? Most of Point 9 dealing with 'motivation for departures' is simply nonsense. Whether a future owner will enjoy an enhanced quality of life under a pergola is hardly relevant!

We therefore ask that the Municipality reject this application in its present form.

Yours faithfully,

Colab No.:

From: Earl Durant [REDACTED]
Sent: Tuesday, 30 September 2025 9:51 AM
To: Knysna Municipality
Subject: Objection erf 13760

File No.: 15/51

**The Municipal Manager,
Knysna.
28th September 2025**

Dear Sir/Madam,

On behalf of a number of residents of Paradise who will submit the same letter I hereby object to all of the above and cannot believe that this has been put forward as a mere amendment, when in fact it is a completely different development altogether in terms of both architecture and density. It also no longer comprises freestanding single units and has the barest minimum of open space.

If the developer was unhappy with the ruling of the tribunal he should have gone to the Supreme Court. Other than an attempt to sell the units off-plan at an unrealistic price of over R6,000,000 each, no activity at all has taken place other than the dumping of building rubble and rubbish from their other building sites leaving the property in a disgraceful mess. This sums up the developer's regard for the neighbourhood and its residents.

The reason given for this "amendment" is the non feasibility of building only eight units. This is questionable. All over Knysna and in fact the country, single homes and low density developments are being built. Do none of these builders make a fair profit? This seems like pure greed.

We revert back to our previous objections to high density development in Paradise when there were approximately fifty co-objectors. Clearly nobody in the area wants it. Paradise is one of the most attractive and greenest suburbs in Knysna and erf 13760 is surrounded by single residences on large and leafy properties. How Marika Vreken can say that the planned buildings are "consistent with the character of the area" is amazing and untrue. The semi-detached blocks are so close to each other that seen from certain angles they would appear as single units with no space at all between them.

The three visitor parking bays are hopelessly inadequate. Will the inhabitants take turns to have visitors or will they be parking in the narrow streets or on neighbours verges? All the owners will probably have at least two cars, and more in season, resulting in no spare parking being available on their own property.

The developer has already cut down all the trees in the centre of the erf but no doubt this will be the fate of the remaining one too as there will literally be no space for them. How is this consistent with the character of the suburb? Most of Point 9 dealing with 'motivation for departures' is simply nonsense. Whether a future owner will enjoy an enhanced quality of life under a pergola is hardly relevant!

We therefore ask that the Municipality reject this application in its present form.

Yours faithfully,

Paul Dugmore.

12 Circular Drive, Paradise, Krystna

Co- objector
Earl Durant

KNYSNA
2025-09-30
Action: S. Phumula
CC: D. G. Red, S. M. Kalumba
H. Smit
L. Bailey
N. Vanya
A. De Jongh



KNYSNA
Municipality
Munisipaliteit
uMasipala

LAND USE APPLICATION DEPARTMENT COMMENTS

Erf Number: 13760
Application Type: Amendment of Conditions of Approval;Departure
Application Number: 3532
Application Date: 2025-08-12

Department	Comment Requested (T=Yes / F=No)	Comment Received
Corporate Services	F	
Legal Services	F	
Financial Services	F	
Community Services	F	
Fire Services	T	--oOo-- Mon Sep 08 2025 08:31:52 GMT+0200 (South Africa Standard Time) Comment by SPIESM: Please provide details on emergency vehicle access and hydrant placements.
Traffic	T	
Waste Removal	T	--oOo-- Thu Sep 11 2025 10:46:18 GMT+0200 (South Africa Standard Time) Comment by SALMONSN: How many refuse bins will the refuse accommodate? and please submit an IWMP to explain and discuss how the waste will be handled.
Infrastructure Services	T	--oOo-- Thu Sep 25 2025 11:32:07 GMT+0200 (South Africa Standard Time) Comment by JOYAN: Conditions of Approval: Manager Roads and Stormwater: The 2x visitors bays adjacent to 'UNIT TYPE A' must be moved forward to create isle width, thus forward by at least 2,5m (Block 3). Alternatively all kerbs must be monitable or sunken kerbs. Manager water and Sanitation: Augmentations Fee will be payable on water & sewer as per condition (vii) of the appeal outcome.
Infrastructure Services Roads	F	
Infrastructure Services Sewer	F	
Electro Technical	F	
Housing	F	
Environmental Services	T	--oOo-- Thu Sep 18 2025 14:09:16 GMT+0200 (South Africa Standard Time) Comment by MUSEKENEM: Supported
Building Control	F	



KNYSNA
Municipality
Munisipaliteit
uMasipala

Department	Comment Requested (T=Yes / F=No)	Comment Received
Aesthetics Committee	T	<p>--oOo--</p> <p>Fri Sep 05 2025 19:45:59 GMT+0200 (South Africa Standard Time)</p> <p>Comment by NKOANEN:</p> <p>No objection for the proposed amendment conditions of approval departure. The site Erf 13760 is inside the urban conservation area and contextually bounded by heritage resources, the property on Erf 18, Parkes Manor which is graded III A Edwardian architecture and Erf 4079 grade IIIB with Victorian style.</p> <p>An application for aesthetics in accordance with urban conservation guidelines is required before building plan submission.</p>
Street Naming Committee	F	

Our Ref: Pr2507b10
Your Ref: Application No 3532

23 October 2025

By E-mail: smadumbo@knysna.gov.za
hsmiit@knysna.gov.za
sphungula@knysna.gov.za

The Manager: Land Use Management
Knysna Municipality
P.O. Box 21
Knysna
6570

FOR ATTENTION: MR. HENNIE SMIT

Dear Sir,

KNYSNA ERF 13760: AMENDMENT OF CONDITIONS OF APPROVAL; DEPARTURE & APPROVAL OF A SITE DEVELOPMENT PLAN

Our application of for the Amendment of Conditions of Approval of Knysna Erf 13760, dated 02 July 2025, has reference. Herewith our response to the comments and objections received:

1. Identical Letters from Earl Durant, Paul Dugmore & Ivan Perosino, dated 30 September 2025

- 1.1. Comment: I hereby object to all of the above and cannot believe that this has been put forward as a mere amendment, when in fact it is a completely different development altogether in terms of both architecture and density. It also no longer comprises freestanding single units and has the barest minimum of open space.

Response: The Knysna Spatial Planning and Land Use Management Bylaw (2021) makes provision for an application to amend conditions of approval. As the maximum density of 8 units was imposed as a condition (Condition 1.4(i)) of approval, an application for the amendment of conditions of approval in terms of Section 15(2)(h) of the Knysna Spatial Planning and Land use Management Bylaw (2021) is applicable. The Knysna Municipality's appeal authority has approved the consolidation and rezoning of Knysna Erf 13760 to "General Residential Zone I" for "Group Housing" (as indicated in the background section of this 2025 application), and the Site Development Plan as submitted complies with the

definition of group housing. The objection is therefore irrelevant and should be disregarded.

- 1.2. Comment: The reason given for this "amendment" is the non-feasibility of building only eight units. This is questionable. All over Knysna and in fact the country, single homes and low-density developments are being built. Do none of these builders make a fair profit? This seems like pure greed.

Response: The comment is unsubstantiated and based on speculation. The objector has not provided any factual or financial evidence to support the claim that developing only eight units would be feasible. The applicant, as the property owner and developer, is in the best position to determine the financial viability of the proposed development, taking into account factors such as land cost, infrastructure and services provision, building costs, professional fees, and municipal augmentation fees. The application to amend conditions of approval to allow a higher density, is therefore based on practical and economic considerations necessary to ensure the feasibility and sustainability of the project, rather than only profit-driven motives as suggested by the objector.

- 1.3. Comment: Clearly nobody in the area wants it. Paradise is one of the most attractive and greenest suburbs in Knysna and erf 13760 is surrounded by single residences on large and leafy properties. How Marike Vreken can say that the planned buildings are "consistent with the character of the area" is amazing and untrue. The semi-detached blocks are so close to each other that seen from certain angles they would appear as single units with no space at all between them.

Response: The assertion that "nobody in the area wants it" is factually incorrect and unsupported. The applicant has been contacted by a number of neighbours who have expressed a desire to see the development completed rather than leaving the site vacant. By contrast, only three objections were lodged, each containing the same wording. Three identical letters cannot reasonably be taken as evidence of unanimous neighbourhood opposition.

As indicated on the attached Land Use Plan, the surrounding area is not exclusively characterised by single residential properties. Over the years, several guest accommodation establishments have been established in the area, and as a result, the character of the area has evolved into one that accommodates a mix of single residential and guest accommodation land uses.

The proposed development is therefore consistent with this existing mixed character and maintains compatibility in terms of scale, height, and visual appearance with surrounding buildings. Furthermore, the development fully complies with the open space requirements of the Knysna Zoning Scheme, which prescribes 50 m² of private open space per unit. For 12 units, this would require a total of 600 m²; however, the proposal provides 836.4 m² of open space, significantly exceeding the requirement. This demonstrates that sufficient space has been provided between buildings to maintain a sense of openness and to ensure that the development integrates appropriately with its surroundings.

- 1.4. Comment: The three visitor parking bays are hopelessly inadequate. Will the inhabitants take turns to have visitors, or will they be parking in the narrow streets or on neighbours' verges? All the owners will probably have at least two cars, and more in the holiday season, resulting in no spare parking being available on their own property.

Response: This sarcastic comment has no relevance on the application. The visitors parking adheres to the zoning scheme parameters with regards to visitor parking. The prescribed parking requirement of the Knysna Zoning Scheme Bylaw is as follows: 2 bays per dwelling and 0.25 bays per dwelling for visitors. Therefore, 27 parking bays are required, and 27x parking bays are provided on the SDP. The proposal is therefore compliant with the prescribed parking requirement. This comment should therefore be disregarded.

AS further indicated on the SDP, the Type B houses have driveways which can accommodate 2 additional cars each and have additional space for cars to park.

- 1.5. Comment: The developer has already cut down all the trees in the centre of the erf but no doubt this will be the fate of the remaining ones too as there will literally be no space for them. How is this consistent with the character of the suburb? Most of Point 9 dealing with motivation for departures' is simply nonsense. Whether a future owner will enjoy an enhanced quality of life under a pergola is hardly relevant!

Response: The removal of certain trees was undertaken at the request of Ms. Susan Campbell, who indicated that residents were concerned about the potential fire hazard posed by the vegetation. As indicated in point 1.3 of the response to comments above, the proposed development provides more open space than what is required in terms of the Knysna Municipality Zoning Scheme Bylaw, ensuring that adequate space remains for trees and landscaping. The consistency of the proposal with the surrounding character has also been addressed in the response under Par 1.3. above.

The proposed pergolas will contribute to shading, privacy, and an enhanced quality of life for future residents. It is noted that one of the objectors' concerns relates to the impact of the development on the surrounding area's character, which is specifically to show the impact on the perceived effect on residents' quality of life. It is therefore inconsistent to dismiss the inclusion of the motivation for the departures to allow the pergolas, which directly improve privacy and living conditions, as irrelevant, as it partially contributes to portions of their objections. Overall, the objection appears to be based on subjective perceptions rather than substantiated or fact-based planning considerations. This objection should therefore be disregarded.

2. Letter from Parkes Manor, dated 26 September 2025

- 2.1. Comment: On behalf of SA Travel Inbound (Pty)Ltd, the owner of Parkes Manor situated on the adjacent ERF 13, directly east of the subject property, and would like to

register an objection to the application for amendment submitted on ERF 13760, File Ref: 13760 Knysna. First, we wish to place on record our concern that we were not formally notified of this application and only became aware of it through a neighbour. As a directly affected adjoining property owner, this omission is unacceptable. Nevertheless, having now obtained the information, we hereby wish to lodge our objection,

Response: The concern is noted. The advertising of this application to the neighbouring properties was conducted by the municipality, meaning they were in charge of notifying the owners of Perks Manor. The Applicant is not in a position to comment on the Municipality's Public Participation process.

- 2.2. Comment: We acknowledge that the proposed increase in density appears consistent with the prevailing policy framework for the area and that, on its own, the relaxation of the lateral building line to 1.5m to permit a covered stoep is unlikely to materially impact our property. However, given the specific circumstances of our client's operations, there are several issues that require consideration.

Response: We note that the objector stated that the relaxation will not impact their property, and that Parkes Manor wishes only to note issues that they would like to be considered.

- 2.3. Comment: Heritage and Tourism Value: Parkes Manor is a heritage building and a long-standing, popular guesthouse that contributes to the tourism economy of the town. Any nearby construction activity has the potential to negatively affect guests' experience, which in turn impacts the guesthouse's reputation and financial viability.

Response: The construction will be carried out by a competent and experienced contractor, ensuring that all activities are managed in accordance with best practice standards. Measures will be taken to minimise any impact on surrounding properties, including careful scheduling of work to ensure efficiency and timely completion of the development. Construction activities will be limited to standard working hours, when guests are less likely to be affected, thereby reducing potential disruption to the operations, reputation, and visitor experience of Parkes Manor.

- 2.4. Comment: Construction Management: We therefore request that, should approval be granted, conditions be imposed to ensure that the construction process is managed in a way that keeps any interference with our guesthouse operation at an absolute minimum. This includes but is not limited to construction noises, especially in the mornings.

Response: Noted and Accepted.

- 2.5. Comment: Awareness of Existing Uses: Along the boundary where the new units are proposed, our client operates a maintenance building and staff quarters that are integral to the running of the guesthouse. We request that prospective purchasers

of the new units be made aware of this existing use to avoid future complaints or disputes regarding existing guesthouse operations.

Response: Comment is noted.

- 2.6. Comment: Deviation from the SDP: We need to state that the building line relaxation of the common boundary is only to accommodate the pergola on ground floor level, and that the actual building will observe the 3m building line as shown on the SDP.

Response: Noted – This observation is correct.

- 2.7. Comment: In light of the above, our objection is not intended to prevent development, but rather to safeguard the interests of an established neighbouring business and heritage resource, We trust that the municipality will take these matters into account and, should the application be approved, will attach suitable conditions to address our client's concerns.

Response: It is noted that the objection is made not to prevent the application, only to ensure Parkes Manor's rights are protected.

3. Internal Comment from Fire Services, dated 08 September 2025

- 3.1. Comment: Please provide details on emergency vehicle access and hydrant placements.

*Response: Please see attached Road and Stormwater Layout and Details Sewer and Water Connections Plan (**Annexure A**), indicating emergency vehicle access and hydrant placements.*

4. Internal Comment from Waste Removal, dated 11 September 2025

- 4.1. Comment: How many Refuse bins will the refuse accommodate? And please submit an IWMP to explain and discuss how the waste will be handled.

*Response: According to the Road and Stormwater Layout and Details Sewer and Water Connections Plan (**Annexure A**), 12 bins can be accommodated in the refuse collection area. An IWMP will be submitted with the building plan application.*

5. Internal Comment from Infrastructure Services, dated 11 September 2025

- 5.1. Comment: Manager Roads & Stormwater: The 2x visitors bays adjacent to "Unit Type A" must be moved forward to create isle width, thus forward by at least 2.5m (Block 3). Alternatively, all kerbs must be mountable or sunken kerbs.

*Response: Noted and Accepted. See attached **Annexure B**: Revised Site development plan.*

- 5.2. Comment: Manager Water & Sanitation: Augmentation Fees will be payable on water & Sewer as per condition vii of the appeal outcome.

Response: Noted and Accepted

6. Internal Comment from Environmental Services, dated 18 September 2025

- 6.1. Comment: Supported.

Response: Support for the application noted.

7. Internal Comment from Aesthetics Committee, dated 05 September 2025

- 7.1. Comment: No objection for the proposed amendment conditions of approval departure. The site Erf 13760 is inside the urban conservation area and contextually bounded by heritage resources, the property on Erf 18, Parkes Manor which is graded III A Edwardian architecture and Erf 4079 grade IIIB with Victorian style. An application for aesthetics in accordance with urban conservation guidelines is required before building plan submission.

Response: No objection noted.

8. Conclusion

- 8.1. The main concerns were regarding density, character of the area, the open space provided, and the operation of the construction team when constructing the buildings and further information required from the external departments.
- 8.2. The proposed development complies with the prescribed development parameters for group housing (except for the building line relaxation for the pergolas), and therefore the objections regarding parking provision and open space provision bear no relevance, and it should be disregarded.
- 8.3. The removal of trees as highlighted by the objectors, were on request, due to the risk of fire. The open space remains adequate for the remaining trees or landscaping reasons.
- 8.4. The construction process will be professionally managed to minimise disruption to neighbouring properties.
- 8.5. The comments received from internal comment do not object to the proposed development, and only request additional amendments or information. The aesthetics committee do not object to the application and environmental services support the proposal. The attached amended SDP shows the revised parking layout where the visitors' bays were moved as per the request of the Manager Roads & Stormwater.
- 8.6. The following Annexures are attached to this response:

Annexure A *Road and Stormwater Layout and Details Sewer and Water Connections Plan*

Annexure B *Revised Site Development Plan*

We trust that this response will enable you to make an informed recommendation to the delegated Authorised Official / Tribunal for a decision. Please do not hesitate to contact the writer if you require any additional information in this regard.

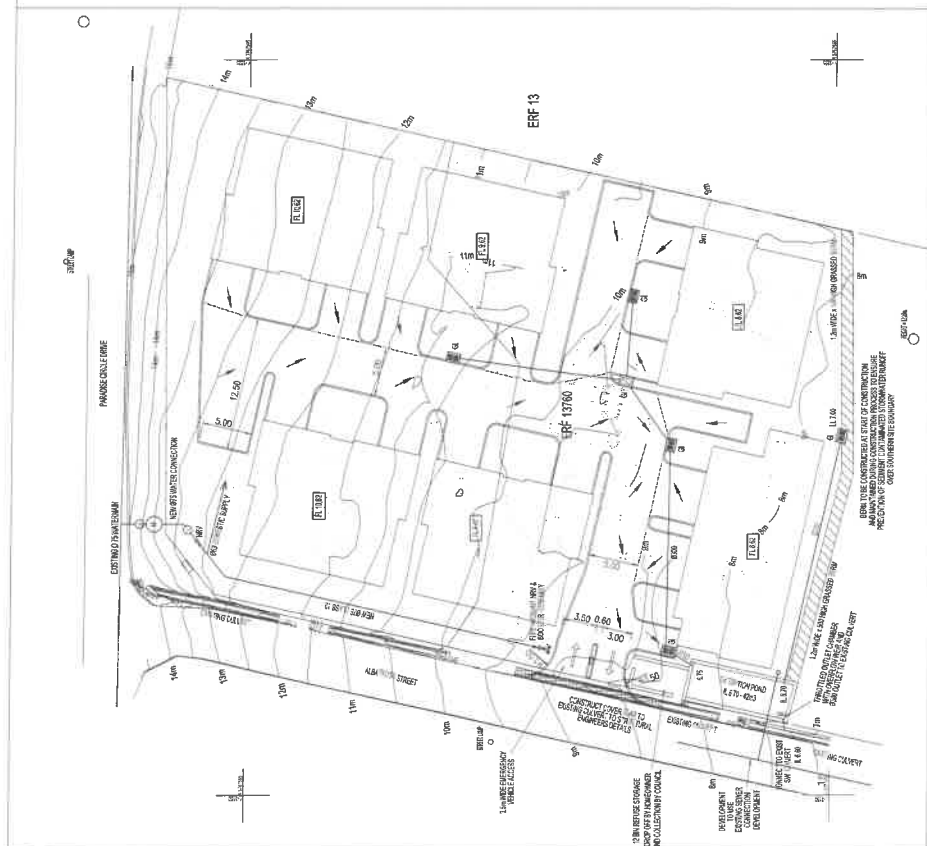
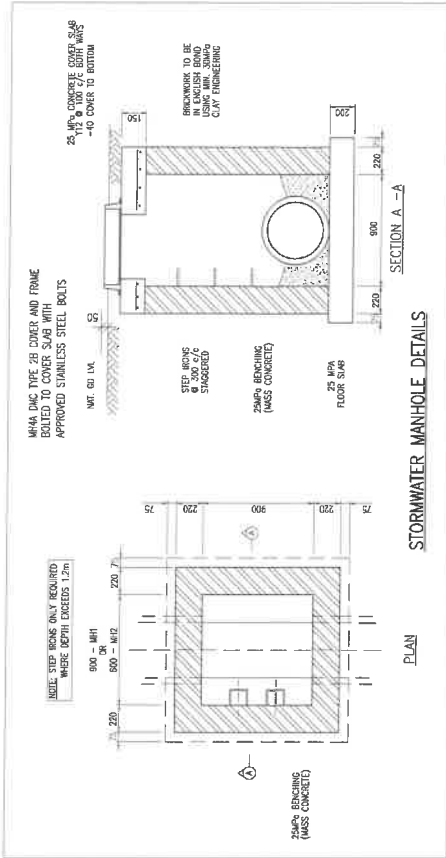
Kind regards,



MARIKE VREKEN

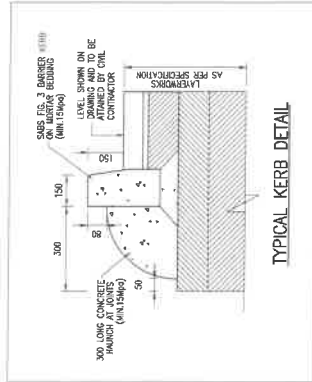
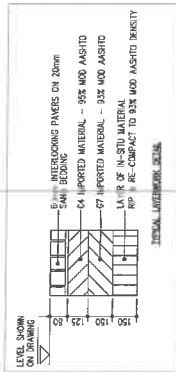
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CC: david@globalconstruction.co.za



LEGEND:

- SABS FIG 3 KERB
- RIDGE/VALET DRAINAGE LINE
- DRAINAGE PATH
- PROPOSED STORMWATER PIPES
- STORMWATER MANHOLE WH
- GRID INLET OR
- WATER METER
- GATE VALVE
- NON RETURN VALVE
- FIRE HYDRANT AND BOOSTER ASSEMBLY



DAVID SHARP
PROJECT
ERF 13760, KNSNA

**ROAD AND STORMWATER
SEWER AND WATER CONNECTIONS**

1. 1:1000 SCALE PLAN, ELEVATION, SECTION, AND DETAIL DRAWINGS	2. 1:1000 SCALE PLAN, ELEVATION, SECTION, AND DETAIL DRAWINGS
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NOTES - ROADS

1. ROAD SETTING OUT TO BE IN ACCORDANCE WITH THE DIMENSIONS AND COORDINATES INDICATED ON DRAWING.
2. ALL IMPORTED MATERIAL TO BE TO SPECIFICATION.
3. ALL IMPORTED MATERIAL TO BE TO SPECIFICATION.
4. ALL ROAD LEVELS INDICATED LOCAL FINISHED ROAD SURFACE LEVELS.
5. ALL ROAD LEVELS INDICATED LOCAL FINISHED ROAD SURFACE LEVELS.

FIELD DENSITY TESTING

1. TEST FOR EVERY 150M³ FOR EACH LAYER A MINIMUM OF 3 TESTS SHALL BE TAKEN PER LOT ON ROAD'S WORK.
2. ALL TESTS SHALL BE TAKEN PER LOT ON ROAD'S WORK.
3. ALL TESTS SHALL BE TAKEN PER LOT ON ROAD'S WORK.
4. ALL TESTS SHALL BE TAKEN PER LOT ON ROAD'S WORK.
5. ALL TESTS SHALL BE TAKEN PER LOT ON ROAD'S WORK.

ADDITIONAL DENSITY:

1. TEST FOR EVERY 500 CUBIC METERS OF SIMILAR MATERIAL.
2. TEST FOR EVERY 500 CUBIC METERS OF SIMILAR MATERIAL.
3. TEST FOR EVERY 500 CUBIC METERS OF SIMILAR MATERIAL.
4. TEST FOR EVERY 500 CUBIC METERS OF SIMILAR MATERIAL.
5. TEST FOR EVERY 500 CUBIC METERS OF SIMILAR MATERIAL.

NOTES - STORMWATER

1. ALL CONSTRUCTION AND MATERIALS TO BE IN ACCORDANCE WITH SABS 1200 SPECIFICATIONS.
2. ALL CONSTRUCTION AND MATERIALS TO BE IN ACCORDANCE WITH SABS 1200 SPECIFICATIONS.
3. ALL CONSTRUCTION AND MATERIALS TO BE IN ACCORDANCE WITH SABS 1200 SPECIFICATIONS.
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5. ALL CONSTRUCTION AND MATERIALS TO BE IN ACCORDANCE WITH SABS 1200 SPECIFICATIONS.

