# ERF 5305
# SEDGEFIELD

# DEPARTURE, REMOVAL AND AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS




Planning Space

Town and Regional Planners

**REV 2**

www.planningspace.co.za

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# 1. INTRODUCTION

**Strandloper Proprietary Limited**, the owner of Erf 5305 Sedgefield (see Power of Attorney and Company Resolution attached as Annexure A), has appointed Planning Space Pty Ltd to prepare and submit the following applications in terms of Section 15 (2) and Chapter IV of the Knysna Spatial Planning and Land Use Management By-Law 2021:

i. Section 15 (2) (b): Application for a departure from the provisions of the Knysna Zoning Scheme By-Law for:

   (a) A lateral building line relaxation along the northern boundary from 2m to 0m in order to allow the planned deck (higher than 500mm), as illustrated on Site Plan No. .-1.100 attached as Diagram 4.

   (b) A lateral building line relaxation along the northern boundary from 2m to 0m in order to permit the proposed retaining wall, as indicated on Site Plan No. .-3.102 attached as Diagram 4.

ii. Section 15 (2) (f): Application for the removal of Restrictive Title Deed Condition I (g), which relates to building lines, in order to permit the proposed carport, outbuilding, deck and retaining structure that will encroach over the eastern and northern lateral building lines.

iii. Section 15 (2) (f): Application for the amendment of Restrictive Title Deed Condition I (h), which limits development on the property to a single dwelling unit, in order to permit the proposed second dwelling unit.

# 2. BACKGROUND

The subject property, Erf 5305 Sedgefield, is a portion of the former Erf 5190. Erf 5190 was created in 2019 through the consolidation of Erf 956 and Erf 5189 (refer to Annexure F2: Subdivision and Consolidation Approval).

In 2022, an application was submitted to the Knysna Municipality for the subdivision of Erf 5190 into two portions. This application was subsequently approved in 2024 (see Annexure F1). Following the approval and registration of the subdivision, Erf 5303 and the Remainder of Erf 5190 were created, as shown on the Surveyor-General Diagram attached as Annexure C.

The site in question currently contains a dwelling house that was constructed in accordance with approved Building Plans (see Annexure E). The owner intends to construct a second dwelling unit, carport, outbuilding, deck and a retaining wall on the property. Some of the proposed new structures will encroach over the eastern and northern lateral building lines. The Title Deed contains restrictive conditions which relate to building lines and limit

development to only one dwelling unit on the property. These restrictions prevent the proposed additional dwelling, carport, outbuilding, deck and retaining wall from being constructed.

To facilitate the proposed development, it is necessary to remove and amend the relevant restrictive Title Deed conditions and to obtain a relaxation of the northern lateral building line.

The primary objective of this application is to initiate the statutory process required to lawfully enable the construction of the second dwelling, carport, outbuilding, deck and retaining wall. A detailed description of the specific authorisations requested from the Council is provided in Paragraph 4 of this Motivational Memorandum.

# 3. PROPERTY INFORMATION

## 3.1 LOCALITY

Erf 5305 is situated on the eastern shore of the Sedgefield River mouth. Access to the property is obtained via Tern Crescent, which connects to Kingfisher Road (see Locality Plan attached as Diagram 1).

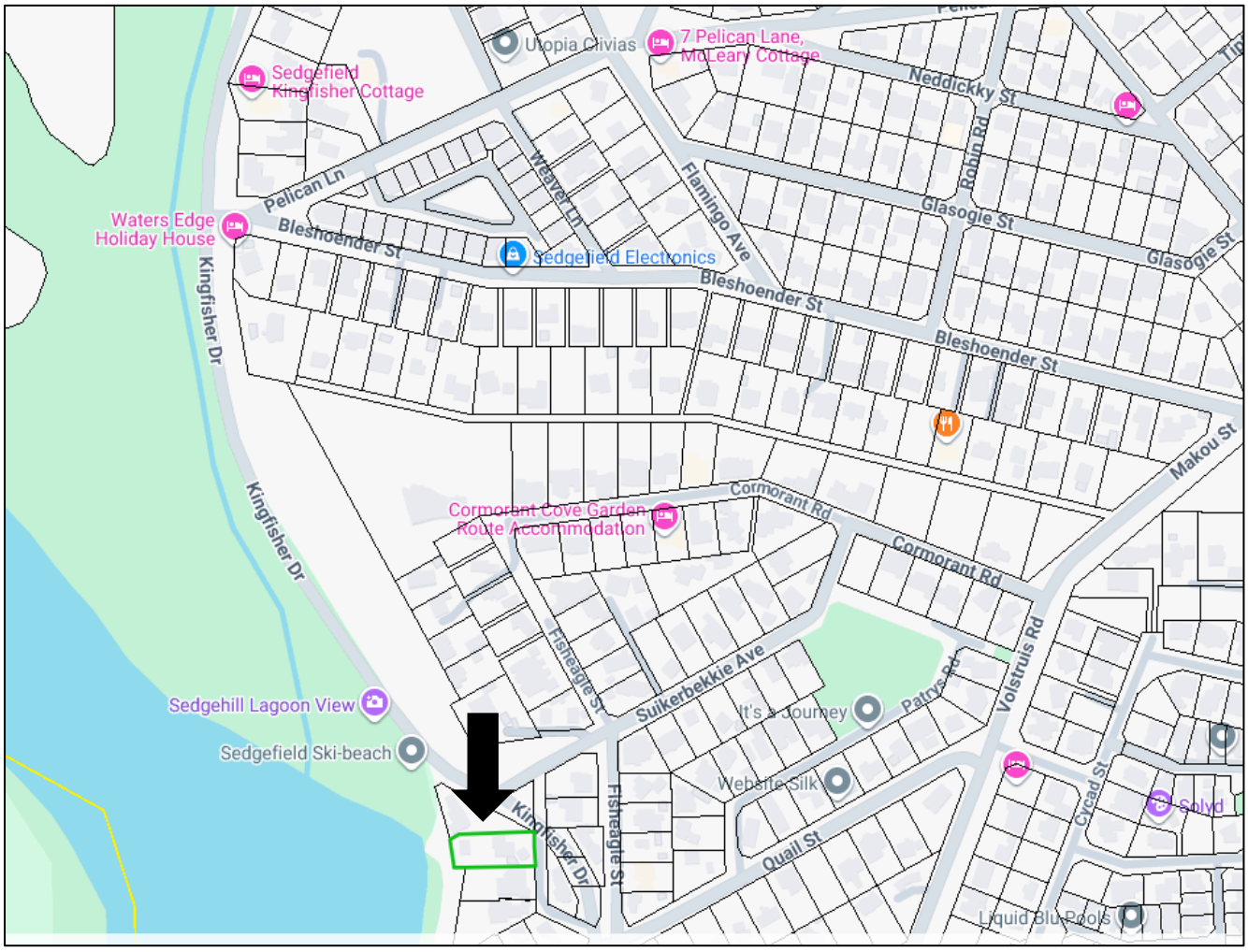



**Figure 1: Extract indicating the locality of the subject property.**

### 3.2 PROPERTY DETAILS

| | |
|---|---|
| Title Deed Description | Erf 5305 Sedgefield, in the Municipality & Division of Knysna, Western Cape. |
| 21 Digit code | C03900100000530500000 |
| Title Deed Number | T19620/2025 |
| S.G./GP Diagram Nr | SG No. 867/2024 (attached as **Annexure C**) |
| Title Deed Restrictions | Conditions I (g) and I (h) |
| Property Size | 772m$^2$ |
| Property Owner | Strandloper Proprietary Limited |
| Bonds | None |
| Land Use | Residential |
| Zoning | Single Residential Zone I |

# 4. PROPOSAL

The property owner intends to extend the existing dwelling house and construct a second dwelling unit, together with a carport, outbuilding, deck and retaining wall on the property.

The proposed development is intended to improve the functionality of the property and make more efficient use of the land while maintaining its residential character. The development remains compatible with the surrounding single-residential neighbourhood and is consistent with the primary land use rights associated with the property's zoning.

In order to facilitate the proposed development, authorisation is required for the removal and amendment of certain restrictive Title Deed conditions, as well as departures from the prescribed northern lateral building line applicable to the proposed deck and retaining wall.

### 4.1 DWELLING HOUSE EXTENSION

The existing dwelling house on the property was constructed in accordance with the approved Building Plans (see Annexure E). The current structure complies with the applicable building lines, as it does not encroach into any prescribed building line areas. The proposed extension to the existing dwelling will also comply with all applicable building line requirements in terms of the Knysna Zoning Scheme By-Law.

## 4.2 CARPORT AND OUTBUILDING

A carport and outbuilding are proposed to be constructed within the eastern lateral building line, as illustrated on the Site Development Plan attached as Diagram 4.

In terms of Section 21 (2) of the Knysna Zoning Scheme By-Law, certain structures, including garages, **carports** and **outbuildings**, may be erected within side and rear building line areas, provided that they comply with the prescribed development parameters. These parameters require that such structures:

- do not exceed a height of 3.5 metres measured to the highest point of the roof;
- do not contain more than a double garage façade;
- do not exceed a width of 6.5 metres; and
- do not contain doors or windows facing the side or rear boundary concerned.

The proposed carport and outbuilding have been designed in accordance with the above provisions and comply with all applicable requirements of the Knysna Zoning Scheme By-Law and therefore do not require a departure application. However, they will transgress the lateral building line that is stipulated in the Title Deed. Therefore, a removal of the restrictive Title Deed condition is necessary (refer to paragraph 4.5.1).

## 4.3 SECOND DWELLING

Erf 5305 Sedgefield is zoned Single Residential Zone I and currently accommodates a single dwelling house. The owner proposes the construction of a second dwelling unit with a floor area of 39.48 m².

In terms of the Knysna Zoning Scheme By-Law, a second dwelling unit is a primary land use right within the Single Residential Zone I. The By-Law defines a "second dwelling" as an additional dwelling that may be erected on a land unit where a dwelling house is permitted. A second dwelling may comprise a separate structure, be attached to an outbuilding, or be contained within the same building as the principal dwelling house.

The proposed second dwelling unit falls well below the maximum permissible floor area of 60m² and therefore complies with the applicable size restriction prescribed by the Zoning Scheme.

In addition to the general development parameters applicable to a dwelling house, the Zoning Scheme provides that a second dwelling unit must:

- be designed in a style that is compatible with and complementary to the architectural character of the main dwelling house;

- not exceed a height of 6.5 metres where it is proposed as a separate structure;
- be designed to appear as a single dwelling house where it is incorporated within the same building as the principal dwelling; and
- be accommodated either at ground-floor level or in a two-storey configuration where one unit is situated above the other.

The proposed second dwelling will be developed as a separate building on the property and has been designed to comply fully with the applicable development parameters. The structure will not exceed the maximum permissible height of 6.5m and will be constructed using architectural elements, materials and finishes that are consistent with the existing dwelling and the surrounding residential environment. As such, the proposed development will maintain the visual character of the property and will integrate appropriately with the established residential character of the area.



**Figure 2: Architectural aesthetic.**

Although the proposed second dwelling unit is permitted as a primary right in terms of the Zoning Scheme By-Law on the subject property, Title Deed Condition I (h) restricts development to a single dwelling unit. Accordingly, an amendment of this restrictive condition is required before the second dwelling may be constructed and the necessary application forms part of this submission (refer to paragraph 4.5.2).

A new set of Building Plans, reflecting the proposed extension and additional structures, will be submitted to the Municipality for approval once the necessary authorisations have been granted.

## 4.4 DEPARTURE (DECK AND RETAINING WALL)

Erf 5305 Sedgefield is zoned Single Residential Zone I and measures 772m² in extent. Development parameters are prescribed in the mentioned By-Law and Title Deed for the property. The applicable development parameters are stipulated below.

| PARAMETER | BY-LAW | | TITLE DEED | COMPLIANCE |
|---|---|---|---|---|
| **BUILDING LINES** | Street | 4.5m | 4.5m | The proposal complies with both the Zoning Scheme By-Law and the Title Deed street building line requirements. |
| | Lateral | 2m | 1.5m | The proposal does not comply.<br><br>Portions of the proposed deck and retaining wall will encroach over the northern lateral building line and are proposed to extend up to the northern boundary. |
| | Rear | 2m | 3m | All existing and proposed structures comply with the prescribed rear building line requirements. |
| **COVERAGE** | 50% | | Not specified | The proposed development will result in a coverage of approximately 24.4%, which is substantially below the maximum permissible coverage of 50%. The proposal therefore fully complies. |
| **HEIGHT** | Dwelling house-8.5m<br><br>Second dwelling unit-6.5m | | Not specified | The existing dwelling, proposed extension and second dwelling unit comply with the maximum height restrictions of 8.5m and 6.5m. |

Section 21 of the Knysna Zoning Scheme By-Law stipulates that notwithstanding the building line requirements set out in this By-Law, open decks that are less than 500 millimetres in height above the natural level of the ground may be erected within the prescribed building lines, provided they do not extend beyond the boundaries of a land unit and do not constitute an unreasonable nuisance to the neighbouring property owners.

The proposed deck will be situated at second-floor level and will be approximately 2.46m above natural ground level. As a result, the structure does not qualify for the exemption contemplated in Section 21 and is therefore subject to the normal building line requirements applicable to the property.

Section 26 of the Knysna Zoning Scheme By-Law further regulates retaining structures and provides that no retaining wall exceeding 2m in height above natural ground level may be constructed without the prior approval of the Municipality.

The proposal includes construction of a deck and retaining wall along the northern portion of the property. The deck will provide a maneuvering space for cars coming out of the carport so that they do not need to reverse up the panhandle, while the retaining wall is required to accommodate the site's sloping topography and create a stable and usable platform for the driveway.

Due to the physical characteristics of the site and the location of the proposed development, portions of both the deck and retaining wall will extend into the prescribed northern lateral building line area. The retaining wall is an integral component of the proposal, as the deck cannot be practically or safely constructed without the necessary retaining structure to stabilise the affected area and manage level differences on the property.

Accordingly, an application is made for the relaxation of the northern lateral building line from 2m to 0m to permit the proposed deck and retaining wall.

In addition, another retaining wall is proposed along the eastern lateral boundary. This structure will function primarily as a boundary wall and will not exceed 2m in height above natural ground level. Therefore, no departure application is required in respect of this structure.

## 4.5 RELAXATION AND AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS

Certain additional building restrictions apply to Erf 5305, Sedgefield, as a result of conditions incorporated into the relevant Title Deed. These Title Deed restrictive conditions can be **removed**, suspended, **amended,** or relaxed.

### 4.5.1 Condition I (g)

Condition I (g) requires buildings to be situated 1.5m from adjoining properties and 4.5m from the street boundary.

The existing dwelling house and proposed second dwelling unit comply with these restrictions. However, the proposed carport, outbuilding, deck, and retaining wall will encroach over the eastern and northern building lines regulated by this condition.

The purpose of the original building line restrictions was to regulate the form and intensity of development within the township. Since the establishment of the township, these controls have effectively been superseded by the comprehensive development parameters contained in the Knysna Zoning Scheme By-Law, which now serves as the primary regulatory mechanism governing land use and built form within the municipal area.

Condition I (g) further provides that not more than two-thirds of the property may be built upon. This provision is similarly redundant, as coverage is regulated by the Knysna Zoning Scheme By-Law. The applicable zoning permits a maximum coverage of 50%, and the proposed development complies with this requirement.

The continued application of Condition I (g) therefore serves no meaningful planning purpose and unnecessarily duplicates development controls already imposed through the Zoning Scheme By-Law.

It is accordingly requested that Condition I (g) be removed in its entirety and that future development on the property be regulated solely by the provisions of the Knysna Zoning Scheme By-Law.

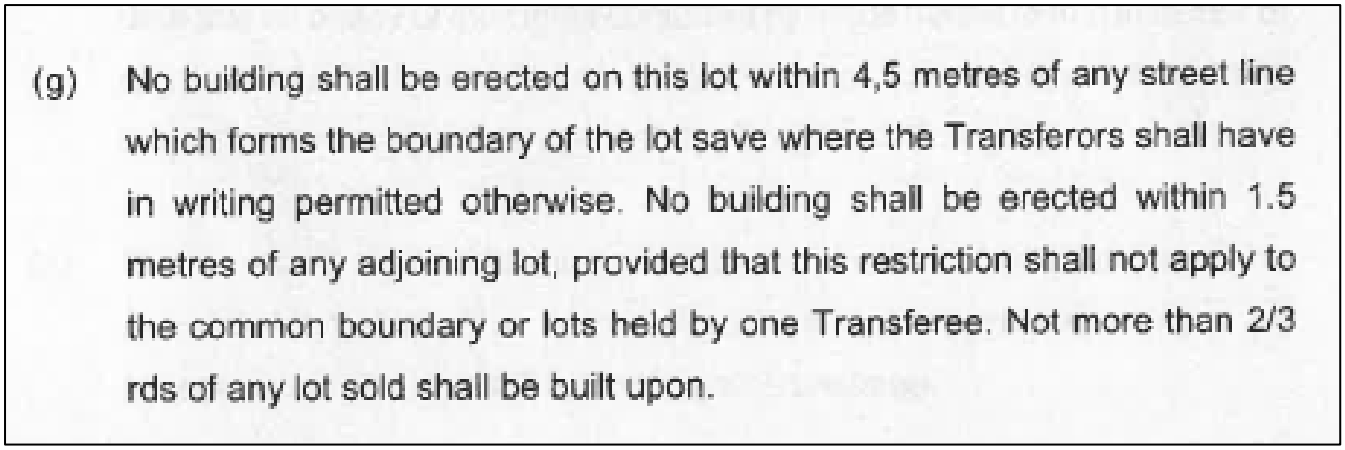

(g) No building shall be erected on this lot within 4,5 metres of any street line which forms the boundary of the lot save where the Transferors shall have in writing permitted otherwise. No building shall be erected within 1.5 metres of any adjoining lot, provided that this restriction shall not apply to the common boundary or lots held by one Transferee. Not more than 2/3 rds of any lot sold shall be built upon.

**Figure 3: Restrictive Condition I (g).**

### 4.5.2 Condition I (h)

Condition I (h) limits the development of the property to only one dwelling unit. Therefore, the proposed second dwelling is in conflict with the Title Deed. In order to permit the development of the second dwelling, it is therefore necessary to amend this restrictive Title Deed condition.

It is accordingly requested that Condition I (h) be amended to read as follows:

***"No flats or tenement houses shall be erected on any erf."***

(h) Not more than one dwelling house, together with the necessary outbuildings and appurtenances may be erected on any plot in the Township. No flats or tenement houses may be erected on any lot.

**Figure 4: Restrictive Condition I (h).**

#### 4.5.3 Consent from Benefiting Party

Condition I was originally imposed for the benefit of Sedgefield Holdings (Pty) Ltd and its successors in title, being the registered owners of the remaining extent of the Sedgefield Township. Sedgefield Holdings (Pty) Ltd is no longer the registered owner of the remaining extent of Sedgefield (Remainder of Erf 1692). The property is currently owned by Erf 1692 Sedgefield (Pty) Ltd, which has succeeded to the rights and benefits associated with the said condition.

Written consent from Erf 1692 Sedgefield (Pty) Ltd has been duly obtained in support of the proposed development. A copy of the consent is attached hereto as Annexure D.

# 5. FACTORS TO CONSIDER

## 5.1 COMPLIANCE WITH SECTION 21 (2) OF THE ZONING SCHEME BY-LAW

Section 21 (2) (a) of the Knysna Zoning Scheme By-Law provides that garages, carports, and outbuildings may be erected within the lateral and rear building lines, subject to compliance with specific development parameters.

The proposed carport and outbuilding will be located within the eastern lateral building line of the property. The structures will be designed in accordance with the provisions of Section 21 (2) and will comply with all relevant requirements contained in the Zoning Scheme By-Law.

Accordingly, the proposed carport and outbuilding do not require a departure application in terms of the Zoning Scheme By-Law. However, due to the presence of a restrictive Title Deed condition regulating building lines, the removal of the Title Deed condition remains necessary in order to allow the structures to be constructed.

## 5.2 ANTICIPATED IMPACTS

The proposed development is expected to have minimal impact on surrounding properties and the established character of the area.

The property is located within a well-established residential neighbourhood where development is predominantly single residential in nature. The proposed second dwelling will function as ancillary residential accommodation and will remain subordinate to the main dwelling on the property. Being a panhandle property, the additional structures will not be visible from the street and will therefore have no impact on the streetscape. Furthermore, the slope of the land will allow the house on Erf 5190 to completely overlook the planned carport and second dwelling.

The proposed second dwelling will measure 39.48m², which is significantly below the maximum permitted size of 60m² for second dwellings in terms of the Knysna Zoning Scheme By-Law, and will essentially serve as one additional bedroom to the modest main house.

The development will comply with the applicable development parameters of Single Residential Zone I, including height restrictions and coverage limitations.

The proposed departures relate only to the deck and retaining wall, which will encroach into the northern lateral building line area. These structures are ancillary to the residential use of the property and do not constitute additional habitable floor area.

The proposed encroaching deck will provide a functional maneuvering space for vehicles reversing out of the carport, while the retaining wall is required to address the site's topographical conditions and create a stable platform for the proposed development. The retaining wall is therefore primarily an engineering and site-stabilisation measure.

The encroachment of the deck and retaining wall will occur along the northern boundary where it will not adversely affect neighbouring properties. Given the nature of the structures, the departures will not result in significant overlooking, overshadowing, privacy impacts, or loss of amenity to the neighbouring property.

In addition, the architectural style, materials, and overall design of the proposed improvements will be compatible with the existing dwelling and surrounding residential development, thereby maintaining the visual character of the neighbourhood.

Similarly, the proposed deck and retaining wall are site-specific improvements that respond to the natural topography of the property and are not expected to detract from the visual quality or character of the area.

The proposal will not introduce any incompatible land uses, and the addition of a second dwelling unit will improve the utilisation of the property while potentially enhancing its overall value, without having any negative impact on surrounding landowners.

## 5.3 COMPLIANCE WITH SECTION 33 (4) OF THE MUNICIPAL BY-LAW

Section 33 (4) of the Knysna Spatial Planning and Land Use Management By-Law lays down the following criteria that must be considered when the municipality removes, suspends, or amends a restrictive condition:

**(a) The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vested in the person as the owner of a dominant tenement**:

The restrictive conditions relating to building lines and the limitation of development to a single dwelling do not provide any direct financial or measurable value to the beneficiary of the condition.

**(b) The personal benefits which accrue to the holder of the rights in terms of the restrictive condition:**

The restrictive conditions were imposed for the benefit of Sedgefield Holdings (Pty) Ltd, as the owner of the remainder of the Sedgefield Township at the time, together with its successors in title. Sedgefield Holdings (Pty) Ltd is no longer the registered owner of the Remainder of Erf 1692, Sedgefield.

Erf 1692 Sedgefield (Pty) Ltd is the current registered owner of the property and, as successor in title, is vested with the rights and benefits arising from the restrictive conditions.

Written consent from Erf 1692 Sedgefield (Pty) Ltd has been obtained in support of the proposed development (see Annexure D), which indicates that the beneficiary of the restriction does not object to the proposed amendment and removal of the restrictive Title Deed conditions.

**(c) The personal benefits that will accrue to the person seeking the removal, suspension, or amendment of the restrictive condition, if it is amended, suspended, or removed:**

The removal and amendment of the restrictive Title Deed conditions will allow the owner to exercise a land use right that is already permitted in terms of the Zoning Scheme By-Law. This will provide functional and economic benefits to the property owner, including the potential use of the second dwelling for family accommodation, rental purposes, staff accommodation, or retirement housing.

**(d) The social benefits of the restrictive conditions remaining in place in their existing form:**

There are no significant social benefits associated with maintaining the restrictive conditions in their current form. The amendment and removal of Conditions I (g) and I (h) will simply enable development rights that are already permitted on other Single Residential Zone I properties within the municipal area.

The proposed second dwelling will provide additional accommodation opportunities without altering the residential nature of the property or the surrounding area.

**(e) Whether the removal, suspension, or alteration of the restrictive will completely remove all rights enjoyed by the beneficiary or only some of those rights:**

The relaxation and amendment of the restrictive Title Deed conditions will not remove all the rights enjoyed by the Sedgefield property owners, including the neighbouring property owners. The property will still be restricted in terms of the other conditions contained in the Title Deed, as well as the provisions of the Knysna Zoning Scheme By-Law.

**(f) Whether the removal, suspension, or alteration of the restrictive conditions will be in the public interest:**

Many older residential properties remain subject to historic Title Deed restrictions that were originally imposed during township establishment processes.

In many cases, these restrictions conflict with modern land use management frameworks. For example, the Zoning Scheme permits second dwellings while the Title Deed prohibits them. Such inconsistencies create unnecessary administrative burdens and confusion for both property owners and the Municipality.

The removal or amendment of outdated Title Deed conditions is therefore considered to be in the public interest, as it aligns historic Title Deeds with the current regulatory framework governing land use and development.

## 5.4 INFRASTRUCTURE AND SERVICES

The proposed development will utilise the existing municipal services and infrastructure already available to the property. The site is currently connected to the municipal water supply, electricity network, and municipal road infrastructure. With regard to sanitation, the property is served by an existing on-site septic tank system.

The proposed second dwelling is relatively small in scale and will therefore not place a significant additional burden on existing municipal services. The development will remain consistent with the level of infrastructure typically associated with single residential properties within the area.

As such, the proposal is considered compatible with the existing service capacity available within the Sedgefield urban area.

## 5.5 TRAFFIC AND ACCESS

Access to the property is obtained via a panhandle from Tern Crescent, which connects to Kingfisher Road, forming part of the local road network serving the surrounding residential area.

The addition of a small second dwelling unit is not expected to generate significant additional traffic or negatively impact the functioning of the local road network. The proposal will remain consistent with typical traffic levels associated with single residential properties.
Adequate on-site parking will be provided through the proposed carport and existing parking areas, ensuring that the development does not create parking pressure on surrounding streets.

## 5.6 PATTERN AND CONSISTENCY

Second dwellings are widely permitted within areas zoned Single Residential Zone I in terms of the Knysna Zoning Scheme By-Law. The proposed amendment to the restrictive Title Deed condition will therefore not create an undesirable planning precedent.

Likewise, building line departures for ancillary structures such as decks and retaining walls are regularly considered by the municipality where site-specific circumstances justify such relaxation and where no adverse impacts arise.

The proposed departures are limited to non-habitable structures that are directly associated with the residential use of the property and are necessitated by the site's layout and topographical characteristics.

The amendment and removal of the restrictive conditions, together with the requested departures, will therefore not create an undesirable precedent but will instead constitute a site-specific response to the circumstances of the property.

## 5.7 COMPATIBILITY WITH KNYSNA SPATIAL DEVELOPMENT FRAMEWORK (SDF)

The property is situated within the designated urban area of Sedgefield.

The Spatial Development Framework promotes the efficient use of land within existing urban areas and supports appropriately scaled infill development and residential densification where adequate infrastructure is available.

The proposed second dwelling gives effect to these objectives by providing additional residential accommodation within an established neighbourhood without requiring the expansion of the urban edge or additional municipal infrastructure investment.

The proposed deck and retaining wall are ancillary residential structures required to facilitate the practical and safe development of the property. These improvements do not alter the land use of the site, increase residential density, or conflict with any spatial planning objectives contained in the SDF.

Accordingly, the proposal as a whole is consistent with the objectives and spatial vision of the Knysna Spatial Development Framework.

### 5.8 COMPATIBILITY WITH SPLUMA DEVELOPMENT PRINCIPLES

The proposal supports spatial efficiency and spatial sustainability by promoting the more effective use of land within an already established urban area that is serviced by existing infrastructure.

The proposed departures relating to the deck and retaining wall represent a context-sensitive response to the physical characteristics of the site and facilitate a more efficient and functional use of the property without compromising neighbouring properties or the public interest.

Furthermore, the amendment and removal of the restrictive Title Deed conditions promote good administration, as it removes an outdated regulatory conflict between the Title Deed and the Zoning Scheme By-Law.

In addition, the proposal supports incremental densification within an established residential area without introducing incompatible land uses or negatively affecting the surrounding environment.

It can therefore be concluded that the proposal, including the requested departures and the amendment and removal of the restrictive Title Deed conditions, does not conflict with the development principles contained in SPLUMA or LUPA.

# 6. SUMMARY OF APPLICATION

Council is respectfully requested to consider the proposed departure, removal and amendment of Title Deed Restrictive Conditions I (g) and I (h) in order to permit the development of a second dwelling unit, carport, outbuilding, deck and retaining wall on Erf 5305 Sedgefield.

The reasons for approving the proposal are summarised as follows:

- The proposal will allow the development of a one- bedroom second dwelling unit measuring 39.48m², which is a primary right in the Single Residential I zone, and well within the maximum permitted size of 60m² in terms of the Knysna Zoning Scheme By-Law.
- The removal and amendment of restrictive conditions will align the Title Deed restriction with the current Zoning Scheme By-Law provisions, thereby removing an outdated regulatory conflict.
- The proposed carport and outbuilding comply with the development parameters of Section 21 (2) of the Knysna Zoning Scheme By-Law, which permits carports and outbuildings within lateral building lines subject to certain conditions.
- The proposed deck and retaining wall are ancillary residential structures required to provide functional outdoor living space and address the site's topographical constraints.
- The proposed carport and outbuilding encroachment will occur along the eastern lateral boundary, will not be visible from the street, and will therefore not negatively impact the streetscape or the visual character of the area.
- The height of the new buildings and the slope of the land will allow the property to the east to overlook the site.
- The requested departures are limited to non-habitable structures and will not adversely affect neighbouring properties, privacy, access to light, or the character of the area.
- The proposed retaining walls will contribute to site stability and facilitate the safe development and use of the property.
- The proposed carport, outbuilding, deck and retaining wall will improve the functionality and usability of the property without changing its residential character.
- The development will have minimal impact on neighbouring properties.
- Written consent from Erf 1692 Sedgefield (Pty) Ltd, the benefiting party to the Title Deed restrictive conditions, has been obtained in support of the proposal.
- The proposal is consistent with the objectives of the Knysna Spatial Development Framework, particularly with regard to soft residential densification.
- The application complies with the development principles of SPLUMA and LUPA.