ERF 1701 KNYSNA



Application for:

Permanent departure

Removal of Restrictive Conditions

Prepared by:

Daimcon Personnel CC

On behalf of: **Proteus Consultancy Proprietary Limited (The property owner)**

Date: **July 2026**

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1 BACKGROUND

1.1 APPLICATION OBJECTIVE

This application relates to Erf 1701 KNYSNA which is located at No. 21 15 George Leisure Isle, Knysna. **Figure 1** below is a representation of the site locality and the locality map is attached as **Annexure A**.

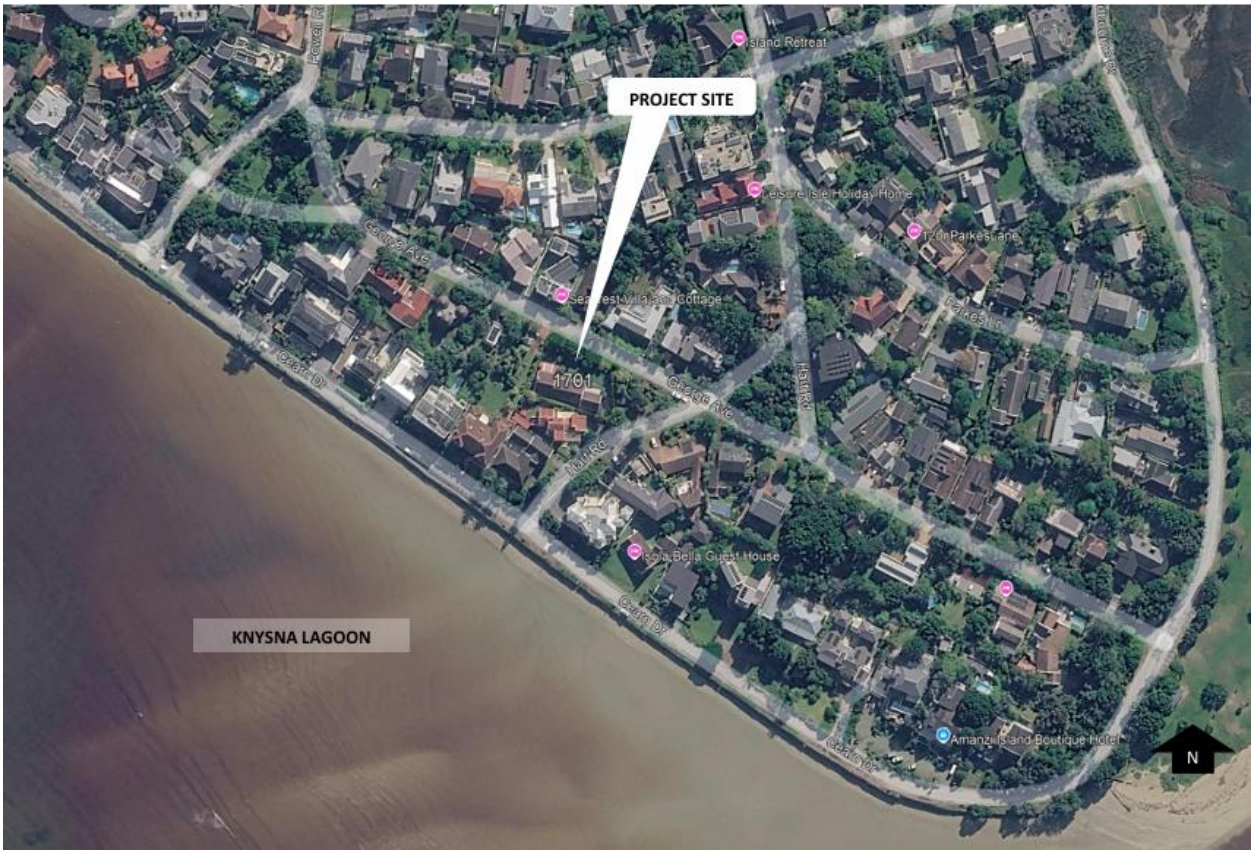


Figure 1: Locality Map

The objective of the application is to obtain approval for a new double garage. The position of the garage is in variance with the building line parameters contemplated in the zoning scheme by-law and title deed. The structure in question is an addition to the main dwelling on site and is indicated accordingly on the proposed drawings attached as **Annexure B**.

Figure 2 below is a perfect representation of the shape and position of the proposed garage in relation to the applicable building lines.

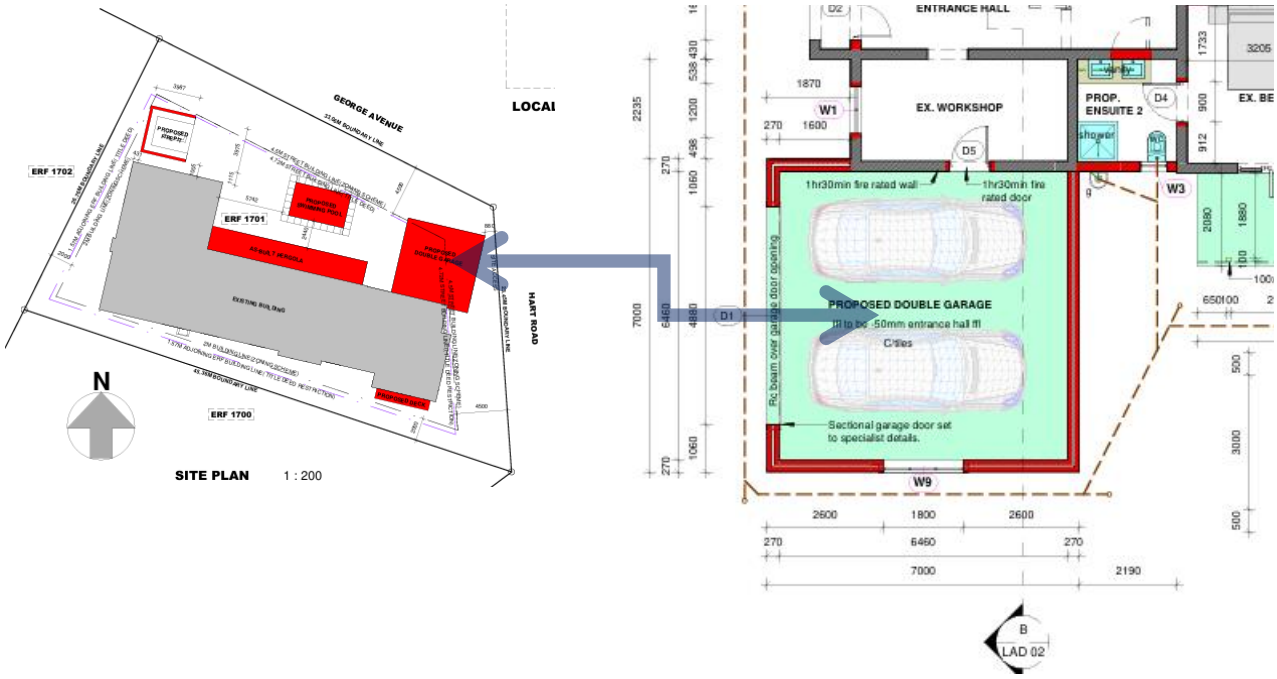


Figure 2: Proposed double garage

1.2 APPLICATION HISTORY

1.2.1 Site Establishment

According to the attached General Plan S. G. No. 2395/1936 (**Annexure C – General Plan**) the site was established in 1936.

1.2.2 Building Control Approvals

To date, the Knysna municipality has approved a series of building plans of the Erf. These approvals which are indicated on **Annexure D – Approved Building Plans for Single Storey** are as follows:

- Approval of the first building plan on 11 August 1978 for a rectangular double storey dwelling and separate garage. This building plan was never implemented.
- The approval of second set of building plans on 9 October 1981 for a four-bedroom elongated single storey building with an attached double garage. This time around the building plan was implemented.
- On the 27th July 1990 the Knysna Municipality approved another building plan for a swimming pool and a boundary wall. The swimming pool was, yet again, not implemented.
- Again, in September of 1990 the Knysna Municipality approval another set of building plans for, notably, an addition of second storey above the existing double-garage portion of the main dwelling. These additions are depicted on **Annexure E – Approved Building Plans for Second Storey**.

September 1990 was the last date on which the Knysna Municipality approved building plans on site.

1.2.3 Land use management

The Knysna Municipality never granted land use management approvals on site. The current proposal is the first ever land use management application to be considered.

1.3 THE APPLICANT

The application is submitted by Seretse Mthembu of Daimcon Personnel CC on behalf of Proteus Consultancy Proprietary Limited as per company resolution and power of attorney attached as **Annexure F – Company Resolution** and **Power of Attorney**.

2 THE SITE

2.1 PROPERTY PARTICULARS

A summary of property particulars is captured on the table below.

PROPERTY PARTICULAR	DESCRIPTION
Cadastral Description	ERF 1701 KNYSNA, IN THE MUNICIPALITY AND DIVISION OF KNYSNA, PROVINCE OF THE WESTERN CAPE
Location	No. 15 George Avenue, Leisure Isle, Knysna (**Annexure A – Locality Map**)
Vehicular & pedestrian access	George Avenue
Property size	935 m²
Ownership	Proteus Consultancy Proprietary Limited
Title deed number	Deed of Transfer No. T6648/2025 (**Annexure G**)
Title deed restrictions	Condition B(ii)(f) in as far as it governs the distance within which buildings can be allowed from boundary lines on site.
Bondholder	The property is not bonded
General Plan No.	General Plan S. G. No. 2395/1936 (**Annexure C**)
S. G. Diagram No.	Not available
Servitudes	None
Current Zoning	Single Residential Zone I
Predominant zoning	Residential – living accommodation for the Klopper family
Current land use	Single family residence
Predominant land use	Free-standing detached residential buildings on single residential stands
Existing development	Double storey dwelling house with attached double garage (**Annexure D and E – Approved Building Plans for Single and Double storey portions**).

Table 1: Property Particulars

2.2 MUNICIPAL SERVICES

The property is sufficiently supplied with electricity and water services. These services are supplied by the Knysna Municipality. Sewage disposal is by means of an on-site conservancy tank system.

2.3 PARKING

On-site parking is available in the form of the existing double garage.

2.4 ECOLOGICAL AND HERITAGE STATUS

The site is already heavily disturbed and as such has no remaining plant or animal species of conservation value. There are also no existing buildings or artefacts of conservation or heritage value.

The building, having been built post 1981, has not been around enough to be considered a heritage building.

3 THE PROPOSAL

The property owner recently acquired the property in February 2026 and they are keen to implement some improvements in order to make it comfortable for future use as their main residence. Part of their vision is to convert the existing garage into a staff quarters, and related circulation spaces (see **Annexure B**). The applicant's rationale for the closure of the garage is due to its entrance height. The height of the entrance is too low for the property owner's vehicles. The height cannot be increased since there is another storey above its roof.

The proposal is therefore to build a new garage which compliance with the property owner's specifications in relation to height clearance. Due to the limitations bought about by the existing access, the position of the main dwelling and the shape of the property, the proposed garage slightly offends the street building line parameters. The proposal is therefore made amidst these key considerations.

3.1 THE APPLICATION

In light of the proposed specifications of the proposed garage represented in **Annexure B**, the following applications are made:

1) Application is made on Erf 1701 Knysna in terms of Section 15(2)(b) of the Knysna Municipality Spatial Planning and Land Use Management By-law, 2021, for *Permanent Departure* for the relaxation of building lines applicable to dwelling houses under Single Residential Zone I for the relaxation of the 4,5m street building line adjacent to George Avenue to minimum **0,880m** for a portion of a new double garage.

2) Application is made on Erf 1701 Knysna in terms of Section 15(2)(f) of the Knysna Municipality Spatial Planning and Land Use Management By-law, 2021, for the removal of Condition B(ii)(f) framed in Deed of Transfer No. T6648/2025 in order to permit a double garage:

   Clause D(ii)(f) cited above reads as follows:

   B. SUBJECT to the conditions referred to in the said Deed of Transfer No. T2619/1948:

   …

   "(ii) Imposed by the Administrator under the Townships Ordinance No 13 of 1927, as being in favour of the registered owner of any erf in the Township.

   …

   (d) That no building shall be erected within 4.72 metres of any street line that forms a boundary of the erf. No buildings shall be situated within 1,57 metres of any adjoining erf, provided that this restriction shall not apply to the common boundary of erven held as one erf under consolidated title.

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

4 DEVELOPMENT PARAMETERS

The proposed garage in relation to the general development parameters contemplated in the zoning scheme is as per the following table:

Zoning Scheme By-law:

ZONING CATEGORY: SINGLE RESIDENTIAL ZONE I				
Parameter	**Maximum limit**	**Proposed**	**Status (complies / does not comply)**	**Required actions**
Height	N/A (*zoning scheme*)	3,6m (maximum)	N/A	None
Building lines	Street (zoning scheme): 4,5m	0,808m	Non-compliant	Apply for building line relaxation
	Street (*title deed*): 4,72	0,808m	Non-compliant	Apply for Removal of Restrictions
	Side (*zoning scheme*): 2m	N/A	N/A	None
	Side (*title deed*): 1,57m	N/A	N/A	None
	Rear (*zoning scheme*): 2m	N/A	N/A	None
	Rear (*title deed*): 3.05m	N/A	N/A	None
Coverage	50%	36,6%	Compliant	None
Parking bays	2 bays per single residential dwelling	2 parking spaces in the double garage	Compliant	None
Loading bay	N/A	N/A	Compliant	None
Refuse room	N/A	N/A	Compliant	None

Table 2: Compliance Table

5 MOTIVATION

5.1 NEED FOR RETAINING STRUCTURES

The proposed double garage is required for vehicles that are higher than what the existing garage permits. The property owner would like to use the garage for, *inter alia*, the housing of a caravan and or RV. The garaging a caravan requires a slightly higher garage door and this can only be achieved through the establishment of a new garage. The existing second storey above the garage makes it impossible to achieve this end.

5.2 COMPLIANCE THE CHAPTER 2 PRINCIPLES OF SPLUMA (Spatial Planning and Land Use Management Act, No.16 of 2013)

The principles referred to in this paragraph are Spatial Justice, Spatial Sustainability, Efficiency, Spatial Resilience and Good Governance.

According to SPLUMA, actions that relate to, inter alia, the compilation, implementation and administration of any land-use scheme or other regulatory mechanism for the management of the use of land must be governed by a set of principles. These principles apply to spatial planning, land-use management and land development.

The application of the above broad principles on small scale residential proposals is not a simple and straightforward task. This being the case, it is regarded to be extremely important that these principles are applied, challenging as the task may be, to comply

with the application requirements governed by the current planning regulatory framework. Our assessment of the current situation on site in relation to the proposed garage leads to the conclusion that the most important principle which is more relevant to the current proposal is that of 'spatial efficiency.' Without denigrating the importance of the rest of the principles it is our view that the principle of efficiency has a direct bearing on the subject proposal e.g. the proposal allows the property owner to utilise the existing space to its full potential thus improving its value and contributing positively to the sustainability of the residential markets.

Our overall view therefore is that the proposal is aligned with the SPLUMA principles and should thus be supported.

5.3 COMPLIANCE WITH THE KNYSNA SPATIAL DEVELOPMENT FRAMEWORK, 2020

The purpose of the Knysna Municipal Spatial Development Framework (MSDF) is to, inter alia, interpret and represent the spatial development vision of the municipality – informed by a long term spatial development vision statement and plan.

SPLUMA makes it mandatory that future development within, for example, the Knysna Municipal area be consistent with the Knysna Spatial Development Framework (2020) and be, by extension, aligned with its policy guidelines.

The scale of the current proposal poses a challenge in relation to pin-pointing the exact areas where the needs of the property owner and the broader policy proposals of the spatial development framework intersect.

However, with the broader objective of the SDF being the improvement of the general quality life within and beyond the boundaries of the Knysna Municipality it could be concluded that the current proposal and the objectives of the SDF are in alignment.

5.4 IMPLICATIONS OF SECTION 33(4) OF THE KNYSNA PLANNING BY-LAW

According the planning by-law, when the municipality considers the removal, suspension or amendment of a restrictive condition, the municipality must have regard to the following:

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 vests in the person as the owner of a dominant tenement.**

It is recognised that the restriction for which the removal is required, being in favour of all property owners in Leisure Isle, is regarded as *praedial*. It is also recognised that the title deed restrictions relating to building lines constitute limited real rights. These are regarded as property hence their removal is regarded as a deprivation of property.

The removal of the title deed restriction under consideration does not lead to deprivation of property. In other words no limited real rights are likely to be negatively affected by its removal.

There are, furthermore, neither additional real nor personal rights conferred on any surrounding property owner or members of the public which stand to be affected if the

restriction in question is removed. In other words, the subject property is not subservient to any other hence the absence of a dominant tenement.

Therefore, demonstrably, there exists no financial or other value right in favour of a third party which stands to be affected by the removal of the title deed restriction. Furthermore, the proposal for which the removal is required is indicated clearly on the proposed building plans (**Annexure B**). No further development affecting the building lines is required and even if there was, there are still zoning scheme building line restrictions that act as a safeguard toward potential illicit development.

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

There are no personal benefits that the members of the public are likely to be deprived of as a result of the removal of the condition under consideration. The restriction confers s no direct right that is currently being enjoyed by the surrounding property owner which stands to be affected directly or otherwise. The restriction for which the removal is requested applies to street and lateral building lines which fall within the boundaries of the subject property.

To the extent that the proposed garage serves the interest of the subject property without any potential negative externalities on the part of surrounding property owners, it is common course that such proposal passes the desirability test.

Therefore, there are neither real nor personal rights that are negatively affected nor none of the adjoining property owners stand to forfeit any benefits due to the removal of the condition in question.

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

Apart from the effect of the removal of the condition relating to the building lines in question - being the establishment of the garage over the building lines, there are no other rights which will accrue to the owner (being the party seeking the relaxation of the condition in question).

d) The social benefit of the restrictive condition remaining in place in its existing form

As indicated in the preceding paragraphs, the condition for which removal is required governs the distance within which buildings or structures can be erected from the street and lateral boundaries. Whilst there may be some social benefits that may be derived from keeping buildings within a certain distance from the street or lateral boundaries, in this case there is none.

For example, the portion of land between the existing building and the street maybe used for the installation of services in instances where outline infrastructure services do not exist – and need to be retrofitted. The space may sometimes be used for the

widening of a road in instances where such requirement is deemed inevitable due to an upward change in the existing class of road. In this particular case, however, engineering services are already in place and there seems to be no indication that the class or road will change in the foreseeable future. No information could be found to that effect. In other words, the prospects of the strip of land between the main dwelling and George Avenue being subject to expropriation in the foreseeable future remain grim.

The same applies to the lateral building lines. There are no services that run parallel to these and, since there are no habitable structures that are to be erected adjacent to the affected boundaries, no neighbouring property owner is likely to be affected.

e) The social benefit of the removal, suspension or amendment of the restrictive condition

There is no social benefit that will be realised due to the rationale advanced in paragraph (e) above. The removal of the building lines in question stands to benefit only the property owner as the only party whose real rights are affected by the condition.

f) Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights

In the absence of any beneficiary who would derive direct benefits to the condition being kept in its original form, our position is that the relaxation will have no impact on any other potential holder of rights in the surrounding area.

Therefore, the relaxation will have no impact with regard to the observation of the above statement.

g) Whether the removal would be in the public interest

Given that the condition in question does not demonstrably have a direct impact on what might be considered public interest, our view is that its relaxation will invariably have no impact on the public's enjoyment of their respective properties or the surrounding area in general. This is due to the fact that the condition only affects the property owner in as far as it restricts the positioning of the garage closer to the street boundary. For this reason the removal has no impact on the adjoining property owner, for example.

We are therefore confident that the proposed garage, when assessed in terms of the above guidelines, does not lack desirability and can therefore be viewed favourably.

6 CONCLUSION

This report brings to the attention of the public and the local authority the following factors which render the subject property suitable for and enhance the development potential of same for the proposed garage.

The proposal is considered to be a logical reaction to a challenge posed by the inability of the existing garage to accommodate some of the special vehicles of the property owner;

The proposed garage is a non-habitable structure and therefore has minimal impact on an operational point of view. This also makes it non-intrusive from a visual perspective;

Given that no additional physical development or density is increased by the current proposal, no additional strain on the carrying capacity of existing services is foreseen;

Both the local IDP and SDFs support the prioritisation of basic development needs of the community in support of future actions aimed towards the attraction of economic activity and private sector and household investment;

The subject property poses qualities that enhances leisure Isle's position as one of the sought after coastal settlements with its unique status as an island;

George Avenue is a quiet Level 5 street and the fact that the subject property obtains access from this road means that no potential traffic hazard is foreseen resulting from the proposed garage.

In view of the statements in the preceding paragraphs it should be fairly clear that the current proposal addresses the need for the proposed garage on Erf 1701 KNYSNA. It addresses all factors relating to desirability and public interest, principles, norms and standards. It is, in our view, beyond dispute that the proposed development is warranted and its approval should not be delayed. The spatial efficiency to be attained in allowing a new garage on the property will play a substantial role in improving the operational aspects of the site and greatly improve the enjoyment and beneficial use by its occupants.