URBAN & REGIONAL PLANNING
PROPERTY DEVELOPMENT SPECIALISTS

MOTIVATIONAL MEMORANDUM:

Removal of title restrictions

for

Erf 182 BLAIRGOWRIE

on behalf of

Mr NH Smit and Mrs EC Ackroyd-Smit

Date	13 October 2026	
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INTRODUCTION

The purpose of this memorandum is to introduce, elaborate upon and motivate the application for the removal of title restrictions in respect of Erf 182 Blairgowrie.

The full extent of the application is set out in this memorandum, which comprises of the following:

- Chapter 1: General Information
- Chapter 2: The Application
- Chapter 3: Policy Environment
- Chapter 4: Motivation
- Chapter 5: Conclusion

1. GENERAL INFORMATION

KiPD (Pty) Ltd, the authorised agent, has been appointed by the registered owners of the property to lodge an application for the removal of title restrictions with respect to Erf 182 Blairgowrie. Application is to remove title restrictions, including a building line restriction, to allow for additions to be constructed on the property.

The property will be referred to as "the site", "the subject properties" and/or "the proposed development" in this memorandum.

1.1. THE APPLICATION

Application is hereby made in terms of Section 41 of the City of Johannesburg Municipal Planning By-Law, 2016, hereinafter referred to as the "By-Law", read together with the provisions of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA), for the removal of the title restrictions.

1.2. AGENT

The authorised town planning agent acting on behalf of the client is:

Name	KiPD (Pty) Ltd
Responsible Persons	Saskia Cole
Postal Address	44A Third Street, Linden, 2195
Contact Number	011 888 8685 / 082 574 9318
Email	saskia@kipd.co.za

1.3. LOCALITY

Blairgowrie is located in the north western suburbs of Johannesburg, south of Ferndale, north of Linden and west of Craighall.

The property is located at no 7 Loots Road, Blairgowrie.

1.4. LEGAL ASPECTS

1.4.1 Ownership

The property is owned Norman Hein Smit and Elizabeth Catharina Ackroyd-Smit in terms of Deed of Transfer T55772/2017.

Erf 182 Blairgowrie measures 1 106 m².

1.4.2 Power of Attorney

The owners have provided a signed power of attorney to enable KiPD to submit a formal application as per the requirements of the City of Johannesburg Municipal Planning By-Law, 2016.

1.4.3 Registered Mortgage Bonds

There is a bond registered against the property with First National Bank. The consent is attached.

1.5. EXISTING LAND USE

There is a residential dwelling house with outbuildings on the property.

1.6. SURROUNDING LAND USE

The property is surrounded by single residential properties with dwelling houses.

1.7. EXISTING ZONING AND DEVELOPMENT CONTROLS

In terms of the City of Johannesburg Land Use Scheme, 2018, the property is currently zoned as follows:

Zoning	Residential 1
Primary Rights	Dwelling unit
Height	3 storeys
Floor Area Ratio	1.2
Coverage	50% (1-2 storeys) 40% (3 storeys)
Density	1 dwelling unit per 150om²
Building lines	3m from street boundary

1.8. SURROUNDING ZONING

In terms of the City of Johannesburg Land Use Scheme, 2018, most of the surrounding properties are also zoned Residential 1.

2. THE APPLICATION

Application is hereby made to remove (a) up to and including (m) from the title deed T55772/2017. The conditions need not be included in the title deed as they are now enforced by other laws detailed below:

	Condition in the title deed	Motivation for Removal
(a)	No conditions of title other than those specified herein may be imposed except with the approval of the Administrator, provided that the Administrator shall not approve any condition which conflicts with any conditions under which permission for the establishment of the Township is granted, or with any approved town planning scheme.	The imposition of land-use and development conditions is now regulated through SPLUMA, the City of Johannesburg Municipal Planning By-Law and the Johannesburg Land Use Scheme, 2018. The Administrator's historical approval role has been replaced by the applicable statutory municipal planning procedures. The condition is therefore redundant.
(b)	Should the Company cease to be the "Township Owner" or should it notify the Administrator or the local authority that it is no longer prepared to exercise the powers conferred upon it by any conditions of title or should it at any time neglect or omit to enforce the same when required so to do, the Administrator or the local authority as the case may be, shall have the right to exercise all such powers in its stead.	Enforcement of land-use and development controls is a statutory municipal function under SPLUMA, the Municipal Planning By-Law and the Land Use Scheme. The condition refers to the original township owner's enforcement powers and an outdated administrative arrangement. Its removal will not affect the City's statutory enforcement powers.
(c)	The erf shall not be subdivided except in special circumstances and then only with the consent in writing of the Administrator or anybody or person designated by him for the purpose.	Subdivision is regulated by the City of Johannesburg Municipal Planning By-Law, read with SPLUMA. Any proposed subdivision remains subject to the applicable municipal application and approval procedures. The additional historical requirement for the Administrator's consent is therefore unnecessary.

(d)	Subject to any municipal by-laws and regulations plans and specifications of all buildings and of all alterations or additions thereto shall be submitted to the Company for its approval.	Building plans and specifications are regulated by the National Building Regulations and Building Standards Act 103 of 1977, the National Building Regulations and the applicable municipal requirements. Approval by the original township company is a separate historical requirement that duplicates the present building control process.
(e)	No wood and/or iron buildings shall be erected on the erf.	The construction of buildings and the suitability of building materials are regulated by the National Building Regulations and Building Standards Act 103 of 1977 and the applicable SANS 10400 standards. The blanket prohibition on wood and/or iron buildings is an outdated material restriction. Removal will not exempt buildings from applicable building regulations.
(f)	The owner shall not have the right to make or cause to be made upon the erf for any purposes whatsoever any bricks, tiles or earthenware pipes or other articles of such nature. He shall not have the right, save and except to prepare the erf for building purposes, to excavate therefrom any material without the written consent of the Administrator.	Clause 14(1)(a) and (c) of the City of Johannesburg Land Use Scheme, 2018, regulates the excavation of materials from an erf and the manufacture of tiles, earthenware pipes and similar articles. These provisions substantially duplicate the restrictions contained in the title deed condition. The condition is therefore superfluous and can be removed, as the relevant restrictions remain enforceable through the Land Use Scheme.
(g)	Pending the establishment of a local authority the Company shall have the right to erect wires and cables for the transmission of electric current for power of lighting purposes on any portion of the erf and the right of free access to such wires and cables to alter or repair same subject to payment of compensation for any damage or injury thereby caused to buildings.	The condition was imposed as an interim arrangement pending the establishment of a local authority, allowing the original township owner to install, maintain and access electricity infrastructure. Blairgowrie is an established township under the jurisdiction of the City of Johannesburg Metropolitan Municipality, with municipal electricity services and infrastructure subject to the applicable statutory framework. The interim arrangement contemplated by the condition is no longer applicable, and the condition has become obsolete and superfluous.

(h)	Pending the establishment of a local authority the Company shall have the right to lay or place and to renew and repair iron or other pipes on or under any portion of the erf for the purpose of conveying water or gas, provided, however, that such pipes may not pass under any building.	The condition was imposed as an interim arrangement pending the establishment of a local authority, allowing the original township owner to install, maintain and access water and gas pipelines. Blairgowrie is an established township under the jurisdiction of the City of Johannesburg Metropolitan Municipality, and municipal water services are administered through the applicable statutory and municipal framework. The interim arrangement contemplated by the condition is no longer applicable, and the condition has become obsolete and superfluous.
(i)	The erf shall be used for residential purposes only and no shop, factory, industry or place of business whatsoever shall be erected on the erf and no business shall be conducted thereon.	Permissible land uses are determined by the property's zoning under the City of Johannesburg Land Use Scheme, 2018. Residential, commercial, industrial and other uses are regulated by the applicable zoning provisions and consent-use requirements. The historical restriction to residential purposes duplicates the land-use control function of the Scheme and may conflict with rights lawfully granted through rezoning.
(j)	(i) Not more than one dwelling-house with the necessary outbuildings shall be erected on the erf except in special circumstances and then only with the consent in writing of the Administrator or body or person designated by him for the purpose in consultation with the Company. No semi-detached house or flats shall be erected on the erf. (ii) The buildings together with the necessary outbuildings to be erected on the erf shall cost not less than R2 000,00.	The number and type of dwelling units permitted on a property are regulated by the Land Use Scheme, including the applicable zoning, density and development controls. Any additional dwelling units, semi-detached dwellings or flats require the relevant land-use rights. The historical limitation to one dwelling-house is therefore an unnecessary additional restriction. The minimum construction value of R2 000 is an obsolete monetary restriction that no longer serves a meaningful planning or building-control purpose. Building standards are regulated by the National Building Regulations and Building Standards Act. The historical minimum value requirement is therefore redundant.

	(iii) Outbuildings shall be built simultaneously with the dwelling-house which latter shall be a complete house and not one partly built and intended for completion at a later date.	Clause 14(10) of the City of Johannesburg Land Use Scheme, 2018, contains substantially identical provisions requiring the main building to be completed and erected simultaneously with or before the outbuildings. The title deed condition is therefore a direct duplication of the Land Use Scheme and is superfluous. Its removal will not affect the continued application and enforcement of this requirement under the Land Use Scheme.
(k)	Buildings erected on erven abutting Jan Smuts Avenue shall be located not less than 7,62 Metres from the street boundary. Pending the establishment of a local authority, buildings erected on other erven shall be located not less than 6,10 Metres from the street boundary. All buildings shall be erected in such manner as shall be agreed upon by the Company pending the establishment of a local authority. No outbuildings may be erected on any street front.	Building lines and the positioning of buildings are regulated by the applicable provisions of the City of Johannesburg Land Use Scheme, including Clause 34, and any other applicable development controls. The historical 7.62 m and 6.10 m building lines are additional restrictions. The references to approval by the original township company are obsolete. Removal will leave the statutory building lines applicable to the property in force
(l)	Pending the establishment of a local authority the erf shall be fenced to the satisfaction of the Company. The fence shall be kept in repair by the owner	Clause 14(6) of the City of Johannesburg Land Use Scheme, 2018, regulates the erection and maintenance of fencing to the satisfaction of the Council. The title deed condition is therefore duplicated by the provisions of the Land Use Scheme. Furthermore, the reference to the original township company is obsolete, as the condition was imposed pending the establishment of a local authority. The condition is accordingly superfluous and can be removed without affecting the continued application of the Land Use Scheme.

(m)	In the foregoing conditions of title, the following terms shall have the meanings assigned to them: (i) "Company" shall mean the BLAIRGOWRIE ESTATES LIMITED and its successors in township title, and (ii) "Dwelling" shall mean a house designed for use as a dwelling for a single family together with such outbuildings as are ordinarily required to be used therewith.	The definition of the original township company is no longer necessary for the administration of municipal land-use controls. The Land Use Scheme contains applicable definitions of dwelling-related land uses. The historical definitions are therefore redundant following removal of the associated restrictive conditions.

3. DEVELOPMENT INTENT

The owners of the property intend to extend the house closer to the street.

The building line in terms of the City of Johannesburg Land Use Scheme, 2018 is 3m from the street boundary whereas the title deed restricts it 6,10m. The main aim of the application is to remove the building line restriction from the title deed.

Application is made to remove most of the other restrictive title conditions as well in order to eliminate duplication with the Land Use Scheme and to ensure a single, clear regulatory framework. This approach prevents future conflict between the title deed and municipal planning controls, streamlining any future land use or building applications.

4. SPATIAL PLANNING ENVIRONMENT

In terms of Section 5(2) of the City of Johannesburg Municipal Planning By-Law, 2016 – "any land development application in terms of said By-Law shall be guided and informed by the City's Integrated Development Plan and Municipal Spatial Development Framework as adopted and approved in terms of Section 20 of SPLUMA and Section 10 of said By-Law."

This section therefore reviews all relevant spatial planning documents and plans, to determine the suitability and compliance to the spatial plans of the City.

The following spatial planning documents have been reviewed:

- City of Johannesburg Spatial Development Plan, 2040 (2016); and
- Nodal Review Policy 2020

3.1 SPATIAL DEVELOPMENT FRAMEWORK 2040

The Spatial Development Framework 2040 (SDF) is a citywide spatial policy document that identifies the main challenges and opportunities for the City, sets a spatial vision for the future city and outlines a set of strategies to achieve that vision.

The application for the removal of restrictive title conditions is consistent with the vision and objectives of the City of Johannesburg Spatial Development Framework 2040 (SDF 2040), which seeks to create a more compact, sustainable, and equitable city.

While the restrictions in question—such as limitations on land use, density, and building placement—are still reflected in the Land Use Scheme and remain legally enforceable, their presence in both the title deed and the scheme results in an unnecessarily rigid and duplicative regulatory framework.

The SDF 2040 promotes the rationalisation and simplification of land use controls to enable managed transformation, especially in areas with existing infrastructure and proximity to economic opportunities. Removing these conditions from the title deed does not override municipal regulation, but rather eliminates an overlapping layer of private-law restriction that complicates lawful development already controlled under the Land Use Scheme.

This streamlining supports the SDF's goals of improving administrative efficiency, supporting inclusive growth, and allowing appropriate development to occur in line with strategic municipal planning policies. The application therefore contributes to a more coherent and responsive land governance environment, as envisaged by the SDF 2040.

3.2 NODAL REVIEW POLICY, 2020

The subject property is situated within the General Urban Zone, as identified in the City of Johannesburg Nodal Review (2020). The General Urban Zone recognises established urban areas where opportunities exist for development, redevelopment and the more efficient utilisation of land and existing infrastructure, subject to appropriate development controls and consideration of the surrounding urban context.

The removal of the restrictive conditions of title is consistent with the objectives of the Nodal Review, as it will eliminate historical restrictions that may unnecessarily constrain the development potential of the property. Many of these conditions were imposed at the time of township establishment and reflect outdated development requirements, administrative arrangements and limitations on land use that are no longer appropriate within the contemporary municipal planning framework.

The General Urban Zone specifically encourages the gradual transformation of predominantly low-density suburban areas into more compact, mixed-use urban environments. In terms of Table 4 of the Nodal Review, the zone supports a variety of compatible land uses, including residential, offices, retail, community services and other local economic activities, with a minimum guideline residential density of 60 dwelling units per hectare and buildings generally ranging from three to five storeys, subject to contextual considerations.

The existing title deed conditions, particularly those restricting the property to residential purposes, limiting development to a single dwelling-house and imposing historical building lines, are inconsistent with the broader development opportunities envisaged for the General Urban Zone. Their removal will enable the property to respond more appropriately to the development objectives of the Nodal Review, while remaining subject to the applicable zoning, development controls and municipal approval procedures.

The proposed removal of restrictive title deed conditions is therefore supported in principle by the Nodal Review, as it facilitates the more flexible and efficient use of well-located urban land and removes unnecessary historical impediments to development, without automatically conferring additional land-use rights.

4 SPLUMA DEVELOPMENT PRINCIPLES

In terms of the Spatial Planning and Land Use Management Act (Act 16 of 2013) (SPLUMA), the following principles apply to spatial planning, land development and land use management and are hereby applied to this application:

SPLUMA Referral		**Proposed Development Compliance**
7 (a)	Spatial Justice	The existing conditions reflect a planning legacy that restricted land development to a narrow set of uses, typically in favour of low-density, single-dwelling residential patterns. Their continued enforcement prevents more inclusive, flexible, and affordable development forms. Removing these conditions promotes spatial justice by broadening opportunities for occupation, ownership, and development, particularly for previously excluded or disadvantaged groups.
7 (b)	Spatial Sustainability	The restrictive conditions discourage densification and limit the optimal use of urban land and infrastructure. This is contrary to the principles of sustainable development that promote compact urban form and efficient resource use. Removing the conditions allows for land development that better supports environmental responsibility, infrastructure efficiency, and integration with surrounding urban areas.
7 (c)	Efficiency	The duplication of controls between the title deed conditions and the Land Use Scheme creates regulatory inefficiencies. Applicants are required to navigate both systems, even where compliance with the Land Use Scheme alone would suffice. Removing the conditions streamlines the approval process and reduces unnecessary administrative and legal burdens, which aligns with SPLUMA's aim of efficient land development regulation.
7 (d)	Spatial Resilience	The rigid nature of the conditions makes it difficult for the property to adapt to changing social, economic, and

		environmental needs. They limit the flexibility required to accommodate emerging land use trends, including multi-generational living, energy-efficient buildings, and home-based enterprises. Removing the conditions will enhance the property's ability to respond resiliently to long-term challenges and opportunities.
7 (e)	Good Administration	Legal clarity and consistency are essential to sound land use management. The retention of outdated deed conditions creates conflict and uncertainty when their provisions differ from the applicable planning scheme. Removing the conditions aligns the title deed with the City of Johannesburg Land Use Scheme, 2018, and contributes to fair, transparent, and consistent administration by the municipal planning authority.
7(f)	Spatial Integration	The process of removing restrictive title conditions is subject to public notice and comment in terms of the applicable legislation, including the Municipal Planning By-law and the Gauteng Removal of Restrictions Act. This ensures that affected parties, including neighbours and interested stakeholders, are informed and given an opportunity to participate. The application will follow a transparent, participatory process, which ensures that the public interest is taken into account before any final decision is made.

5 RECOMMENDATION

In conclusion, the removal of the restrictive building line condition, along with the remaining title deed restrictions, will align the property's legal framework with the City of Johannesburg Land Use Scheme, 2018. This will facilitate appropriate development, reduce regulatory duplication, and support efficient, policy-aligned land use in accordance with SPLUMA and municipal planning objectives.

We recommend that the application be approved.