

**IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN**

Case No.: 12994/2021

In the matter between:

OBSERVATORY CIVIC ASSOCIATION

First Applicant

**GORINGHAICONA KHOI KHOIN INDIGENOUS
TRADITIONAL COUNCIL**

Second Applicant

and

**TRUSTEES FOR THE TIME BEING OF
LIESBEEK LEISURE PROPERTIES TRUST**

First Respondent

HERITAGE WESTERN CAPE

Second Respondent

CITY OF CAPE TOWN

Third Respondent

**THE DIRECTOR: DEVELOPMENT MANAGEMENT
(REGION 1), LOCAL GOVERNMENT, ENVIRONMENTAL
AFFAIRS & DEVELOPMENT PLANNING, WESTERN
CAPE PROVINCIAL GOVERNMENT**

Fourth Respondent

**THE MINISTER FOR LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS & DEVELOPMENT &
PLANNING, WESTERN CAPE PROVINCIAL
GOVERNMENT**



Fifth Respondent

**CHAIRPERSON OF THE MUNICIPAL PLANNING
TRIBUNAL OF THE CITY OF CAPE TOWN**

Sixth Respondent

EXECUTIVE MAYOR, CITY OF CAPE TOWN

Seventh Respondent

WESTERN CAPE FIRST NATIONS COLLECTIVE

Eight Respondent

NOTICE TO OPPOSE

PLEASE TAKE NOTICE THAT the Eight Respondent herewith file their Notice of Opposition to the Applicants application in this matter under the same case number.

PLEASE TAKE NOTICE FURTHER THAT the Founding Affidavit of **CHARLES JACKSON** (*aka* CHIEF !GARU ZENZILE KHOISAN), which is attached to this Notice, will be used in support of this application.

PLEASE TAKE NOTICE FURTHER THAT the Eight Respondent has appointed the offices of **BASSON AND PETERSEN ATTORNEYS INC.**, at the below mentioned address, as the place where the Eight Respondent will receive all notice, service, correspondence in these proceedings.

Dated at **CAPE TOWN** on this the day of **AUGUST 2021**.



Legal Representative for the Applicant

BASSON & PETERSEN ATTORNEYS INC.

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De Lange Street, BELLVILLE, Bpinc.law@gmail.com

C/O: SEBOGODI ATTORNEYS

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CAPE TOWN

8001

TO : THE REGISTRAR
HIGH COURT: CAPE TOWN

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FOUNDING AFFIDAVIT

I, the undersigned

CHARLES JACKSON
(aka CHIEF !GARU ZENZILE KHOISAN)

do hereby make oath and say that,

1. The facts set out herein are within my personal knowledge, unless otherwise stated or appears from the context, and to the best of my belief true and correct.
2. Where I refer to information conveyed to me by others, I believe such information to be correct.
3. All submissions containing legal advice are made on the strength of information imparted to me by my legal representatives which I verily believe to be correct.
4. I am the Chairperson of the Western Cape First Nations Collective (herein after referred to as **"the FNC"**) which consist of a broad based significant and prominent representative groups of the Khoi and San descendants and hold a mandate to depose of this affidavit on behalf of **"the FNC"**. See Annexures, amongst others -
 - 4.1. **"ZK1"** – Letter from the Griqua Royal House;
 - 4.2. **"ZK2"** – Letter from the Congress of Traditional Leaders of South Africa;
 - 4.3. **"ZK3"** – Letter from the Cochoqua Tribal Council;
 - 4.4. **"ZK4"** – Letter from the Foundation Nation Restoration;



4.5. “**ZK5**” – Letter from the combined National Khoi and San Council and the Katz Korana Royal House.

5. *In amplification*, I am also the Head of and Chief Representative of the Western Cape Gorinhaiqua Cultural Council.

6. The First Nation Collective is supportive of the application to oppose.

7. **PARTIES**

7.1. The Parties are cited in convention.

7.2. The First Nations Collective is a voluntary association of first nation structures and organisations including leaders under ancient Khoi and San cultural protocol.

7.3. The Eight Respondent has been joined to these proceedings as a Party having direct and substantial interest in the outcome of these proceedings. See Annexure “**ZK6**” – Court Order.

7.4. The First Nations Collective is a conglomerate of Khoi and San indigenous people represented by the following Councils, i.e.

- Gorinhaiqua
- Gorachouqua
- Cochoqua
- The Korana
- The Griqua Royal Houses
- San Royal House of N!l!n#e; and other San structures under leadership of Oom Petrus Vaalbooi and other leaders who have a long working history with us.



- All other indigenous structures that support the Western Cape First Nation Collective, under full cultural protocol.

7.5. Included in these structures are the following:

7.5.1. First Nations cultural institutions, houses and association, even those specifically described as cultural councils and tribal houses that form part of the National Khoi-San Council; and

7.5.2. All First Nations cultural institutions, houses and associations, even those specifically described as cultural councils and tribal houses that form part of the Khoi Cultural Heritage Development Council; and

7.5.3. All First Nations cultural institutions, houses and associations, even those specifically described as cultural councils and tribal houses that form part of the Institute for the Restoration of Aboriginal South Africans; and

7.5.4. The Foundation Nation Restoration; and

7.5.5. The Cape Khoi San Labour Forum.

7.6. The Eight Respondents answering affidavit will in the first instance primarily deal with the Applicants' application in **Part A** - for an interdictory relief and such answering affidavit will be duly supplemented by dealing with issues raised in **Part B** - for the review of the granting of a development permit on the River Club site. Such supplementary affidavit to be served and filed in terms of the time-table as agreed between the Parties.

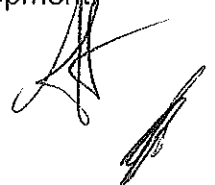
8. THE RIVER CLUB DEVELOPMENT

8.1. From the outset, the Eight Respondent place it on record that the Eight Respondent supports the First Respondent in the First Respondents opposition of the application. The Eight Respondent was part and parcel of the consultation process with all the relevant stakeholders and effected groups and



have made meaningful contributions in the process to bring this River Club Development to reality.

- 8.2. Crucial to the support in opposition to the application, is the fact that this River Club Development present the First Nations Collective and all Khoi and San descendants the right of return to their ancestral land. Through this River Club Development, the history of the Khoi and the San will be told and celebrated and through this River Club Development, the heritage of the Khoi and the San will be preserved. Furthermore, this River Club Development presents an enormous opportunity for the protection and advancement of the socio-economic rights, benefits and interest of the Khoi and the San into perpetuity.
- 8.3. It is this process of the Right of Return to their ancestral land that the First Nation Collective has advanced through the consultation processes with all the stakeholders for and in the development of the ancestral land in the area known as the Two Rivers Urban Park. This particular area is of great significance to the First Nation Collective in that it marks the first area of dispossession of the Khoi and San in South Africa. It is of particular significance to the Gorinhaiqua and other significant Khoi and San clans in the Peninsula as it is historically recorded as the area associated with the battle of Gorinhaiqua in 1510 and also the first Khoi Dutch war during 1659 to 1660 in which the Gorinhaiqua played the most significant role.
- 8.4. What comes across clearly through this application is that the Applicants are hell-bent on sabotaging the First Nations Collective's Right of Return to the original Gorinhaiqua lands and to create a permanent heritage enclave on the site, which has been secured after an intense struggle over almost three decades.
- 8.5. Over a period of thirty years, the First Nations Collective, led by the Gorinhaiqua Council under the leadership of Chief !Garu Zenzili Khiosan engaged all the stakeholders including the developer about the advancement and protection of the socio-economic rights and interest of the First Nations Collective in the development. That dream, and struggle has now been recognized by the memorialization of the Khoi and the San nation in the River Club development.



- 8.6. It is the First Nations Collective submission that there is full compliance in the design and layout of the River Club Development to address the concerns raised in the environmental impact assessment studies for the said development to incorporate the historical, cultural and heritage identity if the previous dispossessed groups.
- 8.7. It is the First Nations Collective's further submission that it is satisfied that the consultation with and input made by the First Nations Collective have been incorporated into the final approved plans for the development.
- 8.8. A very brief outline of the key developments or milestones in the River Park development is hereunder provided. A detailed historical background as to where and how this River Park development fits into the greater development of the Two Rivers Park Development is provided later on in this affidavit.
- 8.9. Following a Local Spatial Development Framework process in terms of Sections 12 to 14 read with Section 11 of the Cape Town Municipal Planning By-law (Part 3), 2015 as amended in 2016; which facilitates the identification of precincts that can later be investigated in separate Heritage Impact Assessment's depending on whether these precincts form the basis of applications for rezoning and/or other related land use applications.
- 8.10. Three areas (or precincts) have already been identified in the terms of reference as potential areas where Heritage Impact Assessments are to be conducted.

These include:

- The Ndabeni Triangle between Alexandra Road and Berkley Road (various erven).
- The Alexandra Institute, Alexandra Road RE 24290.
- The Oude Molen Precinct off Alexandra Road RE 2639.
- The Liesbeek and Black River Corridors (various erven) (i.e. The River Club) is the fourth green corridor Precinct identified in the terms.



- 8.11. A Heritage Impact Assessment is required in terms of Section 38(1) and 38(8) of the National Heritage Resources Act and is intended to fulfil the requirements as laid out in section 38(3) National Heritage Resources Act and issues in the Heritage Western Cape RoD in response to the Notice of Intention to Develop.
- 8.12. Section 38(8) applies because a Basic Assessment Report (BAR) is triggered in terms of the National Environmental Management Act (NEMA). The commenting heritage body is Heritage Western Cape and the authorising agency in this instance is the Department of Environmental; Affairs and Development Planning.
- 8.13. In addition, as The Observatory Hill area and related structures has been graded a Grade 1 site (or a site of national heritage significance). As a result, South African Heritage Resources Authority is also regarded as a commenting authority in this project.
- 8.14. A Notification of Intent to Develop (NID) was submitted in terms of section 38(1) and section 38(8) of the National Heritage Resources Act 25 of 1999 on or around 2015.
- 8.15. In terms of section 38(8) of the National Heritage Resources Act, the responsible authority in the case of the Two Rivers Urban-Park is the Provincial Government of the Western Cape: The Department of Environmental Affairs and Development Planning.
- 8.16. On or around the 13th September 2019, Heritage Western Cape submitted its interim comments in terms of section 38(8) of the National Heritage Resources Act in response to the proposed development on Erf. 151832, corner Liesbeek Parkway and Observatory Road, i.e. The River Club, Observatory. (*This report is already part of the bundle and will not herein be included.*)
- 8.17. In essence, the Heritage Western Cape was not satisfied with the heritage impact assessment so compiled by the First Respondent.
- 8.18. The Heritage Western Cape recommended that the Two Rivers Urban-Park, which will include The River Club, must be provisionally protected under section



29(1)(a) of the National Heritage Resources Act. This effectively meant that there would be an interim protection of the River Club development site for a period of two (2) years from this date of the 14th March 2018, which will in effect expire on the 13th March 2020, and which has indeed expired. A notice to that effect was published in the Provincial Government Gazette: Western Cape on or around the 20th April 1918.

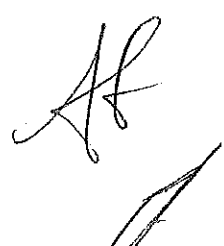
- 8.19. On or around the 13th February 2020, the Heritage Western Cape submitted its final comments in terms of section 38(8) of the National Heritage Resources Act in response to the proposed development on Erf. 151832, corner Liesbeek Parkway and Observatory Road, i.e. The River Club, Observatory after a hearing and presentation of Impact Assessment Reports. *(This report is already part of the bundle and will not herein be included.)*
- 8.20. The Heritage Western Cape found that none of the concerns raised in their interim report was addressed and thus the requirements of section 38(3) of the National Heritage Resources Act has not been met.
- 8.21. In terms of the National Environmental Management Act 107 of 1998 and Environment Impact Assessment Regulations 2014 (as amended), on or around the 20th August 2020, environmental authorisation was granted for the development of the River Club by the Department of Environmental Affairs and Development Planning.
- 8.22. This was followed by an Appeal by the Heritage Western Cape and 20 Other interested Parties on or around the 10th September 2020 in terms of section 43(2) of the National Environmental Management Act 107 of 1998 and Regulation 7(3) of the 2014 National Appeal Regulations, against the environmental authorisation granted for the proposed development of the River Club for mixed use development and associated infrastructure on the remainder of Erf. No. 15326. *(This report is already part of the bundle and will not herein be included.)*

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- 8.23. This Appeal was dismissed by the Independent Appeals Tribunal on or around the 22nd February 2021 in terms of section 43(6) of the National Environmental Management Act.
- 8.24. It is now this decision, dismissal of the Appeal, that the Applicants intend to take on Review.
- 8.25. At this juncture, it is evident that the Applicants application does not provide new or different insights into the issue(s) for Review. The application is based on previous submissions but more importantly the application is based on the stance taken by the Heritage Western Cape in their interim and final report in opposing the granting of environmental authorisation as reasons for bringing this application.
- 8.26. Key amongst the reasons is the fact the Heritage Western Cape believed that it is the authoritative body to grant the approval for the development of the River Park development, amongst others.
- 8.27. This point is part of the subject of **PART B: The Review** application to be dealt with in the Eight Respondents supplementary affidavit, which from the outset the Eight Respondent submits was lawful, reasonable and procedurally fair.

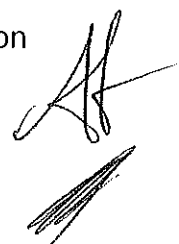
9. **PART A – APPLICATION FOR AN INTERIM INTERDICT**

- 9.1. The primary objective of interdictory relief is to prevent or prohibit future unlawful conduct.
- 9.2. The requirements for an interim interdict are well established in South African law. They include the following:
- (a) a prima facie right;
 - (b) a well-grounded apprehension of irreparable harm should the interim relief not be granted and the ultimate relief eventually be granted;
 - (c) a balance of convenience in favour of the granting of the interim relief;
- and



(d) the absence of any other satisfactory remedy.

- 9.3. The Eight Respondent submits that the establishment of a prima facie right should be relatively straightforward in the context in which no authorisation has been obtained for the construction works in question. However, there is an added dimension of complexity in applications, like the current one, in which construction have been approved by the relevant authorities and the interdictory relief sought is inextricably intertwined with anticipated review proceedings.
- 9.4. It is the Eight Respondents further submission that in situations in which the interdict sought is directly linked with a pending review of administrative action, the assessment of the relative strengths and weaknesses of the applicant's case in the interdict application must entail a consideration of the merits and prospects of success of the contemplated review proceedings. The two proceedings are inextricably intertwined.
- 9.5. It is the Eight Respondents further submission that the decision to grant the First Respondent environmental authorisation approval, in terms of the such decisions, remain valid administrative acts until set aside on review. The implications of this are that the court in the interdict application must determine whether the consequence of that approval must be fully enforced until set aside, in which case, there could be no basis for granting the relief sought.
- 9.6. In this instance, the legality of the construction works must be weight up against the efficacy of an interdict. The Eight Respondent submits that in this instance, the legality aspect trumps the efficacy of an interdict and such an interdict should be refused.
- 9.7. Furthermore, as outlined earlier, the Applicants reasons and motivation for the Review application is entirely centred around the Heritage Western Cape's arguments at the internal appeals Tribunal. Core is the argument that the incorrect state organ / person have taken the administrative decision and / or a mandatory and material procedure or condition prescribed by an empowering provision was not complied with and lastly is the rationality of the decision

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making process. On all the above accounts, and especially and the empowering legislation, the heritage Western Cape is not the responsible to grant environmental approval of the project. On this basis alone, the Applicants application for Review is progressively weak. Heritage Western Cape authoritative framework is determined by the National Heritage Act and not by the National Environment Management Act..

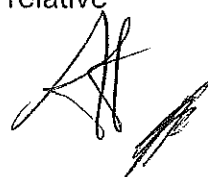
9.8. This the Eight Respondent will further pursue in argument.

9.9. Apprehension of irreparable harm

- (a) A critical issue facing the Applicants in connection with the allegedly unlawful environmental construction approval is that, regardless of the strength of the merits of a review application, there is a grave danger that by not allowing the First Respondent to continue to build, the First Respondent will suffer irreparable harm. This irreparable harm directly affects the First Respondent financially and is also extended to all investors in the development project that want certainty that the project can continue and be delivered within the time frames in order to realise their investment.
- (b) This irreparable harm is also true for the Eight Respondent who has worked tirelessly to make this project a reality and have pinned the hopes and aspirations of the First Nations Collective in finally securing the historical and heritage recognition of the Khoi and the San people. It is a further delay in frustrating the aspirations of old, frail and tired Khoi and San descendants who would still want to be alive to experience the return to their ancestral land as this development project grants them the space and opportunity to celebrate their heritage and culture.

9.10. Balance of convenience

- (a) The "balance of convenience" requirement for interim interdicts essentially relates to the exercise of judicial discretion in terms of which the court must consider the requirements for interdictory relief in conjunction with one another. The court must also weigh the relative



prejudice to the applicant and the respondent, respectively, in the alternate situations in which the relief sought is granted or not granted, as the case may be.

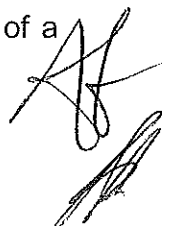
- (b) It is Eight Respondents submission that the potential prejudice for the First Respondent is self-evident. It relates principally to the potential to incur significant financial loss in so far as the respondent is prohibited from completing the construction work until the legal proceedings in question have been resolved, There is also the frustration and lack of certainty associated with proceeding with ongoing building works on the basis of an administrative decision that might subsequently be set aside on judicial review.
- (c) It is Eight Respondents further submission that this financial loss and lack certainty associated with the proceedings tips the balance in favour of not granting the interim interdict.

9.11. Alternative remedies

- (a) An applicant for interdictory relief must also demonstrate that no suitable alternative remedy is available in order to remedy the conduct giving rise to the harm. The conduct to continue with the development is lawful conduct and should be continued until set aside on review.

9.12. Other practical considerations: Urgency and delay

- (a) The failure to bring an application in terms of Part A is not clearly explained by the Applicants. One, might consider the fact that on Part B, the Review application, that the Applicants intended to brief suitable Counsel, but the Applicants knew already in February 2021 that the internal Tribunal Appeal was dismissed and that the construction work could and did proceed. There was nothing prohibiting the Applicants to bring an application on Part A timeously.
- (b) In assessing whether there had been an unreasonable delay in instituting the proceedings, the court must take notice of the lack of a



detailed explanations of the applicants as to the enquiries and investigations that had preceded the institution of proceedings.

- (c) For this reason, the unreasonable and unexplained delay by the Applicants in moving the Part A application must fail.

10. HISTORICAL BACKGROUND

- 10.1. The Provincial Government of the Western Cape and the City of Cape Town are undertaking a joint planning and development proposal for the area known as the Two Rivers Urban Park. The proposal is to undertake the preparation of a Local Area Development Framework in terms of Sections 12 to 14 (read with Section 11) of the Cape Town Municipal Planning By-law (Part 3), 2015, as amended in 2016. The aim of the project is to unlock the development potential of the area for the future growth of Cape Town by linking and developing areas of Cape Town formerly divided by apartheid planning.
- 10.2. The Two Rivers Urban Park (TRU-Park) consists of 297 ha of land situated in the Municipal District of Cape Town. It is located approximately 5km from the Cape Town Central Business District, at the intersection of the N2, M5 and N1 freeways, and at the confluence of the Black and Liesbeek Rivers.
- 10.3. It includes but is not limited to, the following erven:
- Oude Molen Erf 26439 RE, Alexandra Erf 24290 RE, Valkenburg Erf 26439 RE, erven 118877,160695, The Observatory erf 26423-0-1, River Club erf 151832, Ndabeni Erf 103659-0-2 RE.
- 10.4. The ownership of sites within the TRU-Park rests with State, Provincial Government and Local Government entities as well as privately owned and leased sites.
- 10.5. Around 2017, a study was conducted to place the heritage component within the planning framework and to fulfil the requirements of Heritage Western Cape in terms of section 38(1) and section 38(3) of the National Heritage Act.



- 10.6. The statutory heritage related requirements were identified in a response to the Notification of Intent to Develop submitted to Heritage Western Cape on 18th July 2016, followed by a meeting between the consultants and Heritage Western Cape on 19th July at which a proposed approach was agreed upon.
- 10.7. A broad overarching Baseline Study would therefore be the first and most useful step to initiate the heritage process. It is intended to place the site in its social, heritage, physical and planning contexts; to identify, map and assess sites of cultural significance; and to provide heritage related design informants at a broad level. It also introduces the full consultation and stakeholder feedback process to date. Such a Baseline Study was done in 2016 and updated in 2017.
- 10.8. Several significant heritage related studies have been undertaken in the TRUP area. These include Heritage Impact Assessments, Heritage Studies, Heritage Screening Reports and Archaeological Investigations as well as heritage components and guidelines contained within urban design documents.
- 10.9. The Two Rivers Urban Park is significant from a heritage perspective, comprising a unique series of sites and structures associated with the agricultural, scientific, institutional, industrial and residential growth of the City of Cape Town. In addition, because of its strategic position in relation to the river systems and the historic pastoral routes to the north and south, it has a significant role in pre-colonial history in terms of the history of transhumance and the indigenous residents of the Cape and their struggles to retain their land. As a result, it plays an important role in the cultural identity of the First Nation.
- 10.10. The site is recognised by stakeholders for the wealth and value and information it contains about past histories and narratives extending back to precolonial times. The cultural heritage and natural landscapes of the TRU-Park are closely linked with the cultural landscape have evolved from the constraints and opportunities presented by the topography and the riverine systems. The use of the site has produced overlapping patterns of use and significance including the following:



- The use of the site for summer grazing by transhumant pastoralists, largely the Gorinhauqua and Goriachoqua (under the custodial agreement of the Gorinhauqua) during the pre-colonial period.
- The placement of barriers and the development of frontiers by the Dutch East India Company (VOC) to limited access to fertile land and water systems.
- The sites of the granting of the first lands under individual tenure; and the introduction of private property ownership and use in the early Dutch Colonial Period.
- Early industrial use and the development of windmills to support agriculture in the area. These include the Oude Molen, and the Nieuwe Molen which remains.
- The presence of early homesteads and werfs which faced the Liesbeek River and used the riverine system for the purposes of irrigation using channels, weirs and dams.
- The use of the site for scientific institutional purposes i.e. at the Astronomical Observatory.
- The use of the site for medical purposes which required societal distance and separation i.e. the Valkenburg Mental Hospital and the Alexandra Institute.
- The use of the site for racially based segregation in terms of medical institutions i.e. the Valkenburg East Mental Hospital.
- The use of the site for segregated formal housing systems i.e. at Maitland Garden Village.
- The development of high density housing on the periphery of the TRU-Park in Observatory and Salt River.
- The growth of the railway transportation links, the development of rail lines across the mouth of the isthmus and the estuary
- The loss of the historic werfs to development i.e. at Malta Farm and Vaarschedrift.
- The use of the areas prone to flooding and unsuitable for housing for recreation purposes i.e. Hartleyvale and the sport fields along the Liesbeek Parkway.



10.11. In addition to sites of intangible heritage, there are several sites formally protected in terms of section 27 of the National Heritage Resources Act. These include:

- The Valkenburg Hospital, forecourt, courtyards and related supplementary structures;
- The Valkenburg Manor House and related structures;
- The Alexandra Mill at the Alexandra Institute;
- The Oude Molen while a heritage resource of outstanding historical significance is not a PHS and has not been formally protected in terms of section 27 (NHRA).

10.12. There are PHS sites within the suburbs adjacent to the TRU-PARK including Observatory and Mowbray including:

- Wensch House, Wensch Road Observatory
- The Dovecote at Coornhoop Dixon Road Mowbray
- Molenvliet, Mowbray.

There are also PHS's within the suburb of Pinelands including houses and open space at The Meadway Road, Pinelands.

10.13. TRU-Park Heritage parameters in terms of the National Heritage Resources Act (Act 25 of 1999).

10.13.1. The National Heritage Resources Act (Act 25 of 1999) and Sections of the Act, apply in the case of the TRU-Park. The site contains a significant number of sites of significance, graded sites and formally declared sites (PHS's) as well as sites of memory and living culture.

10.13.2. A Heritage Impact Assessment is required in terms of Section 38(1) and 38(8) of the National Heritage Resources Act and is intended to fulfil the requirements as laid out in section 38(3) NHRA and issues in the HWC RoD in response to the NID.

10.14. TRU-Park Heritage Requirements in terms of the National Environmental Management Act (NEMA) (Act 107 of 1998) as amended.

10.14.1. In terms of section 38(8) of the National Heritage Resources Act, the responsible authority in the case of the TRU-Park is the Provincial Government of the Western Cape: The Department of Environmental Affairs and Development Planning.

10.14.2. Several other environmental statutory requirements have relevance in relation to the TRU-Park. They include the following:

- The National Environmental Management (NEM) Waste Act (Act 59 of 2008);
- The NEM Biodiversity Act (Act 10 of 2004). This related to specifically critically endangered species and degraded ecological systems, both which are present in the TRU-PARK;
- The National Water Act (Act 36 of 1998).

10.15. Consultation with registered heritage conservation bodies and interest and affected parties. (I&AP's).

10.15.1. Planning for the TRUP site has had a strong consultation component since the initial processes as early as 1998.

10.15.2. Notably a significant part of this process was the setting up of a “social contract” of 1999 which comprised a set of principles to adjudicate future proposals for the area and the setting up of the TRUP Association. The TRUP Association was set up as a vehicle for ongoing public involvement of interested and affected parties. It had a constitution on which the Association conducted its mandate. At that stage, this organisation did not include the Khoi and San structures as primary parties.

10.15.3. The current process of consultation was established in 2015 by the setting up of a specialist team consisting of SUN (Sustainable Urban Neighbourhood Development) to undertake the necessary consultation arising out of the Provincial and City initiative for the TRU-Park.

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10.15.4. A requirement of Heritage Western Cape is that stakeholders and registered heritage conservation bodies are consulted during the development of the Heritage Impact Assessment.

10.15.5. There has been a planning consultation process and a heritage consultation with registered heritage bodies and heritage commenting authorities. The First Peoples Museum (Mr R Martin) was consulted in terms of the heritage process. Both processes have intersected when the heritage study was presented to the stakeholder group on 14th November 2016 and comments sought. The First Peoples Museum is part of the now First Nations Collective.

10.15.6. The Planning participation process has included different levels of public engagement, namely government, directly affected, and interested parties. Firstly, the engagement at the government level includes the following stakeholders:

- (a) Sub-council's wards City of Cape Town, representatives and Provincial Government departmental representatives.
- (b) A second level layer directly affected parties including Associations and Forums including TRUP Association, The Oude Molen Forum, Western Cape Diverse Traditional Leaders Forum, and the First Nation groups.
- (c) Landowners, and Private businesses. The last stakeholder group is formed by the interested and affected stakeholders, including surrounding businesses, research institutions, environmental initiatives and individuals including the University of Cape Town, Friends of the Liesbeek, Friends of the Black, River.
- (d) Registered heritage conservation bodies. These do not form a separate group but are included in the second level of stakeholders. They include the following: The Observatory Civic Association; The Pinelands Ratepayers Association; The Rosebank and Mowbray Association.




EIGHT RESPONDANT NOW DEALS AD SERIATUM WITH ALL OF SECOND APPLICANT'S AVERMENTS

Introduction

From the outset, an important observation of the Second Applicants affidavit is that the affidavit is a narration of the deponents' "achievements" and listing of the numerous organisations that he belongs to and the articles that he has published. In a nutshell, a self- glorification exercise. Furthermore, the deponents' individuality dwarfs the importance of the Gorinhaicona Chief and the Garinhaicona tribe at minimum or at best the Khoi and San nation. The voice of the Gorinhaicona Chief is drowned out by this individuality. It really backs the question as to which and who's interest is served by the deponent deposing of such an affidavit. It surely does not reflect that the interest that is served is that of the Khoi and San nation.

11. AD PARAGRAPHS 1 AND 2 THEREOF:

11.1. The contents thereof are noted.

11.2. To the extent that the Second Respondent refers to himself as the Supreme High Commissioner, which description is akin to that of an authoritarian leader. A trait not recognized in our free Democratic South Africa and a trait not recognized and not part of the Khoi or the San culture and their indigenous protocol.

11.3. The Khoi and San culture is that of an egalitarian system with a respect for human dignity and humility and does not elevate any one person to be the supreme above any other person.

11.4. The Khoi and San leadership construct is not a vertical leadership construct but a circular leadership construct where every voice is heard and every person's participation is valued in decision making.

A handwritten signature in black ink, consisting of stylized, overlapping letters, likely 'A' and 'H', followed by a flourish.

- 11.5. Such title as the Supreme High Commissioner has never existed in any of the Khoi and San leadership construct.
- 11.6. Inside the Khoi and San culture, one has to go through a !Nau ceremony. This ceremony is part of the recognized rituals and traditions handed down from generation through time immemorial. The principle of the !Nau ceremony, as practiced by most tribal or traditional Councils, require first recognition of indigenous heritage and indigenous descent. Following this, adherence of the principles of the !Nau tradition, through a process of recognition within a Council or structure, usually occurring after several years, will be accorded titles such as Headman/women; Chief, Paramount Chief, Commissioner and after one has proven oneself, High Commissioner. The accordance of title as is tradition of all these titles, only follows after recognized service is rendered. In the case of the Second Applicant, there is no evidence that the Second Applicant was inducted through the !Nau ceremony, at the time of receiving the title of Supreme High Commissioner. It is astounding that one can enter a group and be accorded a title higher than anyone else that has had long service.

12. AD PARAGRAPH 3 THEREOF:

- 12.1. The contents thereof are noted.

13. AD PARAGRAPH 4 THEREOF:

- 13.1. The contents thereof are denied.
- 13.2. To the extent that the averments so made by the Second Applicant, as will be pointed hereinunder, are not true and correct and are in fact disputed.

14. AD PARAGRAPH 5, 6 AND 7 THEREOF:

- 14.1. The contents thereof are denied.

A handwritten signature in black ink, consisting of stylized, overlapping letters, possibly 'AH' or 'AF', with a long horizontal stroke extending to the right.

- 14.2. *To the extent* that the Second Applicants' qualification does not qualify him to be a specialist on the Khoi and San culture as the Second Applicant fails to indicate with particularity that his studies revolve around the Khoi and San history.
- 14.3. *To the further extent* that the Second Applicants' role and position within the AIXARRA Restorative Justice Forum does not qualify the Second Applicant to speak for and on behalf of the Khoi and San Community and groups.
- 14.4. *To the further extent* that the Second Applicant was never nominated and appointed as a Community Engagement Strategist by and for the Khoi and San people by the recognized Khoi and San leadership and groups. Such appointed was and is a creature of the University and does not represent the desires of the Khoi and San Community and groups for the Second Applicant to represent them.
- 14.5. *To the further extent* that the Eight Respondent does not fully deal with the averments so made in the Founding Affidavit of Professor Lesley London, such averments are disputed.
- 14.6. *To the further extent* that the Eight Respondent, as Representative of the First Nations and representing the majority of the Khoi and San Community and groups, take issue with the fact that individuals within the minority group of the Goringoicona put themselves out as the *de facto* representative of the Khoi and San. Such assertion is totally rejected with the contempt that it deserves.
- 14.7. *Furthermore*, the Goringoicona people, historically, never traversed or are any recorded as having a "*kraal*" at the Liesbeek River Park and are known to have been an outcast of the Gorinhaiqua people and have been "*strandlopers*".
- 14.8. The First Nations Collective and the Gorinhaiqua perspective, the Heritage Impact Assessment Report did adequately take account of the intangible heritage associated with the site.



15. AD PARAGRAPH 8 AND 9 THEREOF:

15.1. The contents thereof are noted.

15.2. To the extent that the Second Applicant does not represent the views and aspirations of the First Nations Collective in respect of the development of the Liesbeek River Park site. Any assertion to the contrary is rejected and a total misrepresentation of the true state of affairs.

16. AD PARAGRAPH 10 AND 11 THEREOF:

16.1. The contents thereof are noted.

16.2. To the extent that the Second Applicant uses the word our, which he now infers himself into a Khoi and San group to which he does not belong. The Second Applicant is not a Khoi descendant.

17. AD PARAGRAPH 12, 13, 14, 15 AND 16 THEREOF:

17.1. The contents thereof are noted.

17.2. The battle of 1510 against Admiral Francisco DelMida was a battle fought by the Gorinhaiqua and not Gorinhaicon.

17.3. 1659 and 1660 battle was dispossession by Van Riebeeck of the Gorinhaiqua and not Gorinhaicon.

17.4. The Second Applicant is attempting to rewrite if not falsify the history in order to make the Gorinhaicon, a marginal group, into a central role.

17.5. The most established urban house in the TRUP was the Gorinhaiqua and not the Gorinhaicon.

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18. AD PARAGRAPH 17 AND 18 THEREOF:

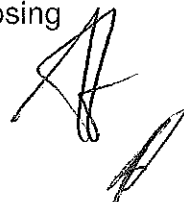
- 18.1. The Gorinhacona Chief, should be ashamed whilst their king proclaimed that Mandela died in prison and that the Nelson Mandela who was released from prison was an imposter.
- 18.2. This could have set another conflict between the Khoi and San and the Abatembu Royal house.
- 18.3. The Gorinhaiqua house made a public statement and urged that such statement be retracted.

19. AD PARAGRAPH 19 THEREOF:

- 19.1. The contents thereof are noted.
- 19.2. The leader of IRASA is part of First Nations and does not support the stance so taken by the Second Applicant.
- 19.3. Camissa Museum founder, Patric Mellet in his book, The Lie of 1652, proclaimed that Gorinhacona is not a tribe.
- 19.4. First Nations Museum supports the Eight Respondents and have never endorsed the application of the Second Applicant.

20. AD PARAGRAPH 20 THEREOF:

- 20.1. The contents thereof are noted.
- 20.2. FINSA, DFIA supports the Second Applicant. Part of consultation process WCHC and Public Works consultation process.
- 20.3. The Second Applicant stance during consultation, was very confused and had a blanket opposition to development but could not present coherent opposing



plan to the development. Evidenced by submission at Heritage Western Cape, could not give clear answer. The Second Applicant have and had no coherent plan for the memorialization of Khoi and San clans in the development.

- 20.4. WCKLC – disintegrated organization and not functional organization and exist in name only. Any reference to such an organization is a deliberate misrepresentation.
- 20.5. KKAAP and New Nations Movement are recently formed groups with marginal traction in the Khoi and San resurgence.
- 20.6. Very concerning, that a non-South African born person and non-Khoi and non-San descendant can position himself as the authoritative voice and representative of the Khoi and the San.

21. AD PARAGRAPH 21 TO 24 THEREOF:

- 21.1. The contents thereof is noted.
- 21.2. To the extent that the Second Applicants' representative refers to we as associating himself as a Khoi or San. He is not.

22. AD PARAGRAPH 25 THEREOF:

- 22.1. The contents thereof are noted.
- 22.2. Restitution of claims had an arbitrary date of 1913. Therefore, the Khoi and the San cannot reclaim their ancestral land. Therefore, can have representation, recognition and presence together with the socio-economic development of the Khoi and San on the River Club development.
- 22.3. Gorinhaicona had a proposal to develop same for the exclusive benefit of the Gorinhaicona.

A handwritten signature in black ink, consisting of stylized, overlapping letters, likely 'AA' or 'A.A.', with a flourish underneath.

23. AD PARAGRAPH 26 AND 27 THEREOF:

23.1. The contents thereof are noted.

24. AD PARAGRAPH 28 TO 51 THEREOF:

24.1. The contents thereof are noted.

25. AD PARAGRAPH 52 TO 53 THEREOF:

25.1. The contents thereof are noted.

25.2. To the extent that the First Nations is an organization which is a collective of all significant and representative groups that have a vested interest in the subject matter and the development at the River Club at minimum and of the entire Two River Urban Park Development at best.

25.3. To the further extent that the Second Applicants as an insignificant group cannot hold the entire First Nations collective hostage and cannot hold the entire project hostage for their own ends.

26. AD PARAGRAPH 54 AND 55 THEREOF:

26.1. The contents thereof are noted.

27. AD PARAGRAPH 56 TO 63 THEREOF:

27.1. The contents thereof are noted.

27.2. To the extent that consultation with First Nations Collective has taken place and was adequate to meet the expectation of the Heritage Western Cape. This is born out of the AFMAS report which forms part of the application.

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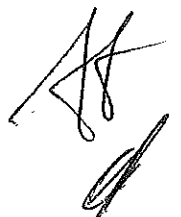
- 27.3. Consultation was extensive, informative, comprehensive and present critical perspectives of the history of the two rivers park and represent the authentic views of the leadership which was engaged.
- 27.4. Views incorporated into report are historical facts and are in no way presented to delegitimize the Gorinhaicona.
- 27.5. AFMAS cannot assign legitimacy and importance to the Gorinhaicona. Patrick Mallet give accurate history of Gorinhaicona in his book the The Lie of 1652.
- 27.6. The recorded authentic historical fact is that the Gorinhaiqua is the only one to have a kraal in Two Rivers Urban Park.
- 27.7. To the further extent that the Protection Order is the subject of an Appeal.

28. AD PARAGRAPH 64 AND 68 THEREOF:

- 28.1. The contents thereof are noted.

29. AD PARAGRAPH 69 AND 71 THEREOF:

- 29.1. The contents thereof are noted.
- 29.2. *To the extent* that the historical fact of the position of the Gorinhaiqua is highlighted in an attempt to truly reflect the historical fact.
- 29.3. *To the further extent* and without detracting from the importance and existence of the Gorinhaicona tribe - that the Gorinhaicona elevates themselves as the warriors, which is blatant falsehood, occupiers of the land, which is a blatant falsehood as the Gorinhaicona had no kraal along the Two River Urban Park.
- 29.4. *To the further extent*, that entire affidavit in itself marginalize the other Khoi and San groups which represent a significant majority of the Khoi and San peoples as represented by the First Nations Collective.



29.5. Resolute resistant to development does not make their stance correct, does not give authoritative voice, nor reflective of the views of the peoples as a whole. Only dissatisfaction is founded on self-interest.

30. AD PARAGRAPH 72 TO 77 THEREOF:

30.1. The contents thereof are noted.

31. AD PARAGRAPH 78 THEREOF:

31.1. The contents thereof are denied.

31.2. The Second Applicant is put to the proof thereof.

32. AD PARAGRAPH 79 THEREOF:

32.1. The contents thereof are denied.

32.2. The Second Respondent does not take Honourable Court into confidence.

32.3. The averment made therein is intended to deliberate and intentionally mislead the Honourable court.

32.4. This is atypical example of self-created urgency.

33. AD PARAGRAPH 80 THEREOF:

33.1. The contents thereof are noted.

33.2. Never opposed the provisional protection

33.3. Participated in the Tribunal process.



33.4. Finding of Tribunal, concern as to consultation process all inclusive. Position was self-exile if not participate.

34. AD PARAGRAPH 81 TO 85 THEREOF:

34.1. The contents thereof are noted.

THEREFORE

35. The Eight Respondent moves for the dismissal of the application in terms of PART A – Interim Interdict

36. Costs of suite

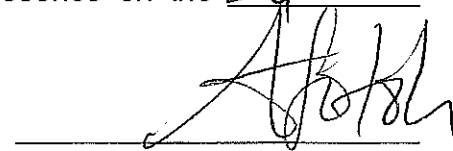
37. Further and / or alternative relief.



DEPONENT

I certify that:

- I. The Deponent acknowledged to me that:
 - A. Deponent knows and understands the contents of this declaration;
 - B. Deponent has no objection to taking the prescribed oath; and
 - C. Deponent considers the prescribed oath to be binding on his conscience.
- II. The Deponent thereafter uttered the words, "I swear that the contents of this declaration are true, so help me God."
- III. The Deponent signed this declaration in my presence on the 26 day August of 2021.

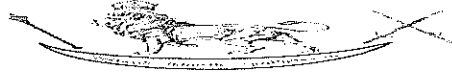


COMMISSIONER OF OATHS

ALEXANDER A FOTOH
 Ex-Officio Commissioner of Oaths - Practising Attorney
 A. FOTOH AND ASSOCIATES
 ATTORNEYS INC
 13B DERNA ROAD, KENWYN
 REPUBLIC OF SOUTH AFRICA

"ZK1"

THE GRIQUA ROYAL HOUSE
THE GORINGHAICONA KHOIN-KHOIN-TRUIS



NPC 2014/052716/08

PBO. 9363970170

7th AUGUST 2021

Attention :- Chief !Garu Zenzile Khoisan
Chairperson of the Western Cape First Nations Collective
Head of the Gorin Haiqua Cultural Council

Dear Chief !Garu Zenzile Khoisan

LIESBEEK RIVER PARK DEVELOPMENT

Chief, I write to you in my capacity as the High Commissioner and head of administration of the United Griqua Royal House which is fully associated with the Western Cape First Nations Collective, which has been at the very forefront of the fight for the restoration, restitution and restoration of our heritage and all our socio-economic rights in the River Club Redevelopment in Observatory, Cape Town.

We note with sadness the opposition to the abovementioned development by the relegated group who identified themselves as the Goringhaicona Khoi Khoi Indigenous Traditional Council.

Please note that we, the United Griqua Royal House support the Gorin Haiqua Cultural Council and the Western Cape First Nations Collective in the strive to return to the Two Rivers Urban Park and the development at the River Club in the Two Rivers Heritage precinct as part of their return to our ancestral land, where we have custody.

We recognize that this River Club development project will, for the first time after many decades of disenfranchisement, once again bring world-wide recognition to the First Nation Heritage and Cultural significance as this development is sensitive to and incorporates the symbols, sacred grounds of the First Nations and the preservation thereof.

We recognize that this development project will furthermore advance and secure the socio-economic rights and interest of the First Nations in perpetuity.

We therefore support you in your endeavours to advance this development project forward as we in the same breath condemn any opposition thereto.

Yours truly,

Aaron Martin William Messelaar
Griqua Royal House
Head of Administration
Mobile 078 992 2722 /
Email. griquacommissariate@gmail.com

T.C

"2K2"

CONGRESS OF TRADITIONAL LEADERS OF SOUTH AFRICA



OFFICE OF THE DEPUTY SECRETARY GENERAL

7th AUGUST 2021

Attention :- Chief !Garu Zenzile Khoisan
Chairperson of the Western Cape First Nations Collective
Head of the Gorin Haiqua Cultural Council

Dear Chief !Garu Zenzile Khoisan

LIESBEEK RIVER PARK DEVELOPMENT

Chief, I write to you in my capacity as the Deputy Secretary General of the Congress of Traditional Leaders of South Africa (CONTRALESAS) which fully supports the Western Cape First Nations Collective, which has been at the very forefront of the fight for the restoration, restitution and restoration of our heritage and all our socio-economic rights in the River Club Redevelopment in Observatory, Cape Town.

We note with sadness the opposition to the abovementioned development by the relegated group who identified themselves as the Goringhaicona Khoi Khoen Indigenous Traditional Council.

Please note that CONTRALESAS fully support the Gorin Haiqua Cultural Council and the Western Cape First Nations Collective in the strive to return to the Two Rivers Urban Park and the development at the River Club in the Two Rivers Heritage precinct as part of their return to our ancestral land, where we have custody.

We recognize that this River Club development project will, for the first time after many decades of disenfranchisement, once again bring world-wide recognition to the First Nation Heritage and Cultural significance as this development is sensitive to and incorporates the symbols, sacred grounds of the First Nations and the preservation thereof.

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Yours truly,

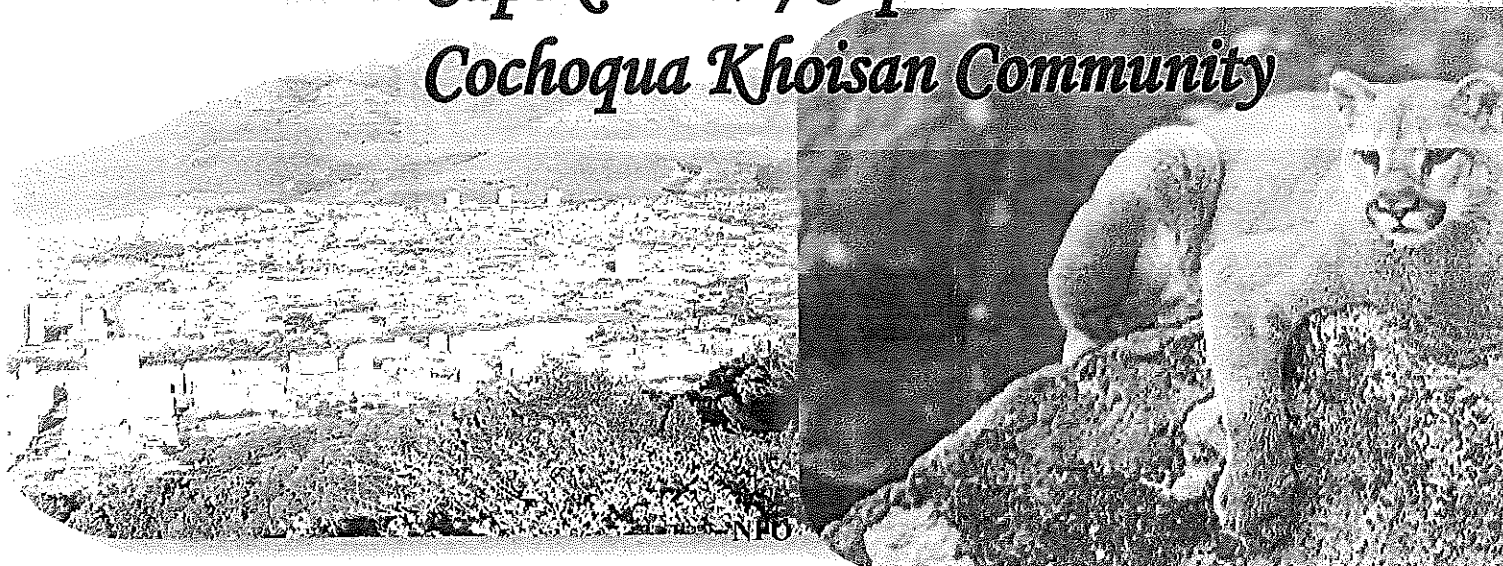
Aaron William Messelaar
High Commissioner
Deputy Secretary General –
Congress of Traditional Leaders of South Africa

President: Kgosi Mathupa Mokoena * Deputy President: Kgosi Nyalala Pilane * General Secretary: HRH Zolani Mkiva
Deputy Secretary-General: !Goab Aaron Messelaar * Treasurer: Makgoshi Clara Dikgale * National Organiser: Kgosatsana Felleng Mota
Mobile 0789922722, Email.contralesapec@gmail.com

"2K3"

NPO 182-077

Capekxhoi W /Cape Cochoqua Khoisan Community



Chairperson John Jansen, Deputy Chairperson Mary Jansen, Secretary Shirley Marinos Dep Secretary Basil Andrews, Treasurer Esht
Padyachy, Dep Treasurer Joan Campbell,

07th AUGUST 2021

Attention: Chief !Garu Zenzile Khoisan

Chairperson of the Western Cape First Nations Collective

Head of the Gorinhaiqua Cultural Council

Dear Chief !Garu Zenzile Khoisan

RE: LIESBEECK RIVER PARK DEVELOPMENT

Chief, I write to you in my capacity as the leader of the Cochoqua Tribal Council, which is fully associated with the Western Cape First Nations Collective, which has been at the very forefront of the fight for the restoration and restitution of our heritage and all our socio-economic rights in the River Club Redevelopment in Observatory, Cape Town.

T.C

We note with sadness the opposition to the abovementioned development by the relegated group who identified themselves as the Goringhaicona Khoi Khoen Indigenous Traditional Council.

Please note that we, the Cochoqua Tribal Council, support the Goringhaicona Cultural Council and the Western Cape First Nations Collective in the strive to return to the Two Rivers Urban Park and the development at the River Club in the Two Rivers Heritage precinct as part of their return to our ancestral land, where we have custody.

We recognize that this River Club development project will, for the first time after many decades of disenfranchisement, once again bring world-wide recognition to the First Nation Heritage and Cultural significance as this development is sensitive to and incorporates the symbols, sacred grounds of the First Nations and the preservation thereof.

We recognize that this development project will furthermore advance and secure the socio-economic rights and interest of the First Nations in perpetuity.

We therefore support you in your endeavors to advance this development project forward as we in the same breath condemn any opposition thereto.

Yours truly,



Chief John Jansen

Head – Cochoqua Tribal Council

T.C.



"ZK4"

Foundation Nation Restoration

Biblically Restoring Southern Africa's Foundation Nation



7th August 2021

Attention :- Chief !Garu Zenzile Khoisan
Chairperson of the Western Cape First Nations Collective
Head of the Gorinhaiqua Cultural Council

Dear Chief !Garu Zenzile Khoisan

RE : LIESBEEK RIVER PARK DEVELOPMENT

Chief, I write to you in my capacity as the co-founder (with my husband, Clive Solomon) of the Foundation Nation Restoration [FNR] which is fully associated with the Western Cape First Nations Collective, which has been at the very forefront of the fight for the recognition, restitution and restoration of our heritage and all our socio-economic rights in the River Club Redevelopment in Observatory, Cape Town.

We note with sadness the opposition to the above-mentioned development by the relegated group who identified themselves as the Goringhaicona Khoi Khoi Indigenous Traditional Council.

Please note that we, the Foundation Nation Restoration support the Gorinhaiqua Cultural Council and the Western Cape First Nations Collective in the strive to return to the Two Rivers Urban Park and the development at the River Club in the Two Rivers Heritage precinct as part of their return to our ancestral land, where we have custody.

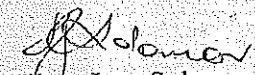
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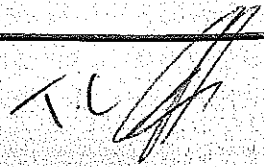
Yours truly,


Clive Solomon


Hilary Jane Solomon

Co Founders- Foundation Nation Restoration

- A network for spiritual, social and economic collaborative initiatives of the Foundation Nation of Southern Africa •
- Cape Town • • South Africa
- Telephone (+27) 71 720 3354 • Fax 086 548 8487 •
- web: www.fnr.org.za • email: officeadmin@fnr.org.za •
- Foundation Nation Restoration – a Non-Profit Enterprise •





"ZKS"

Josiah Katz Korana Royal House

www.koranasa.org.za email: info@koranasa.org.za

07th AUGUST 2021

Attention :- Chief IGaru Zenzile Khoisan

Chairperson of the Western Cape First Nations Collective

Head of the Gorinhaiqua Cultural Council

Dear Chief IGaru Zenzile Khoisan

LIESBEEK RIVER PARK DEVELOPMENT

Chief, I write to you in my capacity as the Western Cape representative on the National Khoi and San Council and also in my capacity as a representative of the Katz Korana Royal House, which is fully associated with the Western Cape First Nations Collective, which has been at the very forefront of the fight for the restoration, restitution and restoration of our heritage and all our socio-economic rights in the River Club Redevelopment in Observatory, Cape Town.

We note with sadness the opposition to the abovementioned development by the relegated group who identified themselves as the Goringhalcona Khoi Khoi Indigenous Traditional Council.

Please note that we, the Katz Korana Royal House and also as the representative from the Western Cape on the National Khoi and San Council, support the Gorinhaiqua Cultural Council and the Western Cape First Nations Collective in the strive to return to the Two Rivers Urban

TL

IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

Case No.: 12994/2021

10.08.2021

Before : The Honourable Justice Le Roux AJ
Dated : Tuesday, 10th August 2021, at Cape Town

In the matter between:

OBSERVATORY CIVIC ASSOCIATION

First Applicant

**GORINGHAICONA KHOI KHOIN INDIGENOUS
TRADITIONAL COUNCIL**

Second Applicant

and

**TRUSTEES FOR THE TIME BEING OF
LIEBEEK LEISURE PROPERTIES TRUST**

First Respondent

HERITAGE WESTERN CAPE

Second Respondent

CITY OF CAPE TOWN

Third Respondent

**THE DIRECTOR: DEVELOPMENT MANAGEMENT
(REGION 1), LOCAL GOVERNMENT, ENVIRONMENTAL
AFFAIRS & DEVELOPMENT PLANNING, WESTERN
CAPE PROVINCIAL GOVERNMENT**

Fourth Respondent

**THE MINISTER FOR LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS & DEVELOPMENT &
PLANNING, WESTERN CAPE PROVINCIAL
GOVERNMENT**

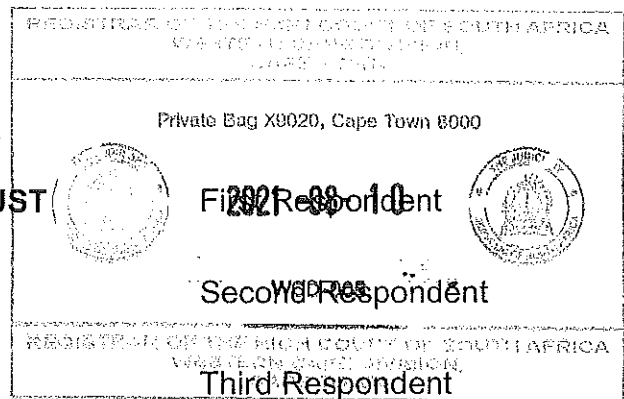
Fifth Respondent

**CHAIRPERSON OF THE MUNICIPAL PLANNING
TRIBUNAL OF THE CITY OF CAPE TOWN**

Sixth Respondent

EXECUTIVE MAYOR, CITY OF CAPE TOWN

Seventh Respondent

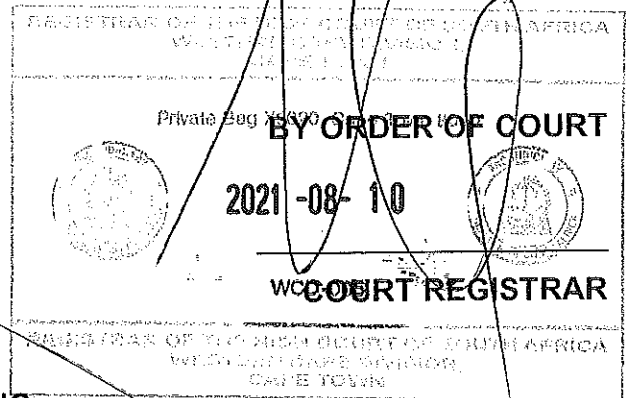


WESTERN CAPE FIRST NATIONS COLLECTIVE Eight Respondent

[DRAFT ORDER]

Having read the papers of record and having heard Counsel for the Eight Respondent,
It is Ordered that:-

1. That the joinder application is one of urgency.
2. That the Western Cape First Nations Collective be joined as the Eight Respondent in the main application as a Party with a direct and substantial interest in the outcome of this matter.
3. This Order to be served on all the Parties by no later than 11th August 2021.
3. There shall be no order as to costs.



Legal Representative for the Applicant

BASSON & PETERSEN ATTORNEYS INC.

Suite No. 6A, Bellpark Building

De Lange Street, BELLVILLE, Bpinc.law@gmail.com