

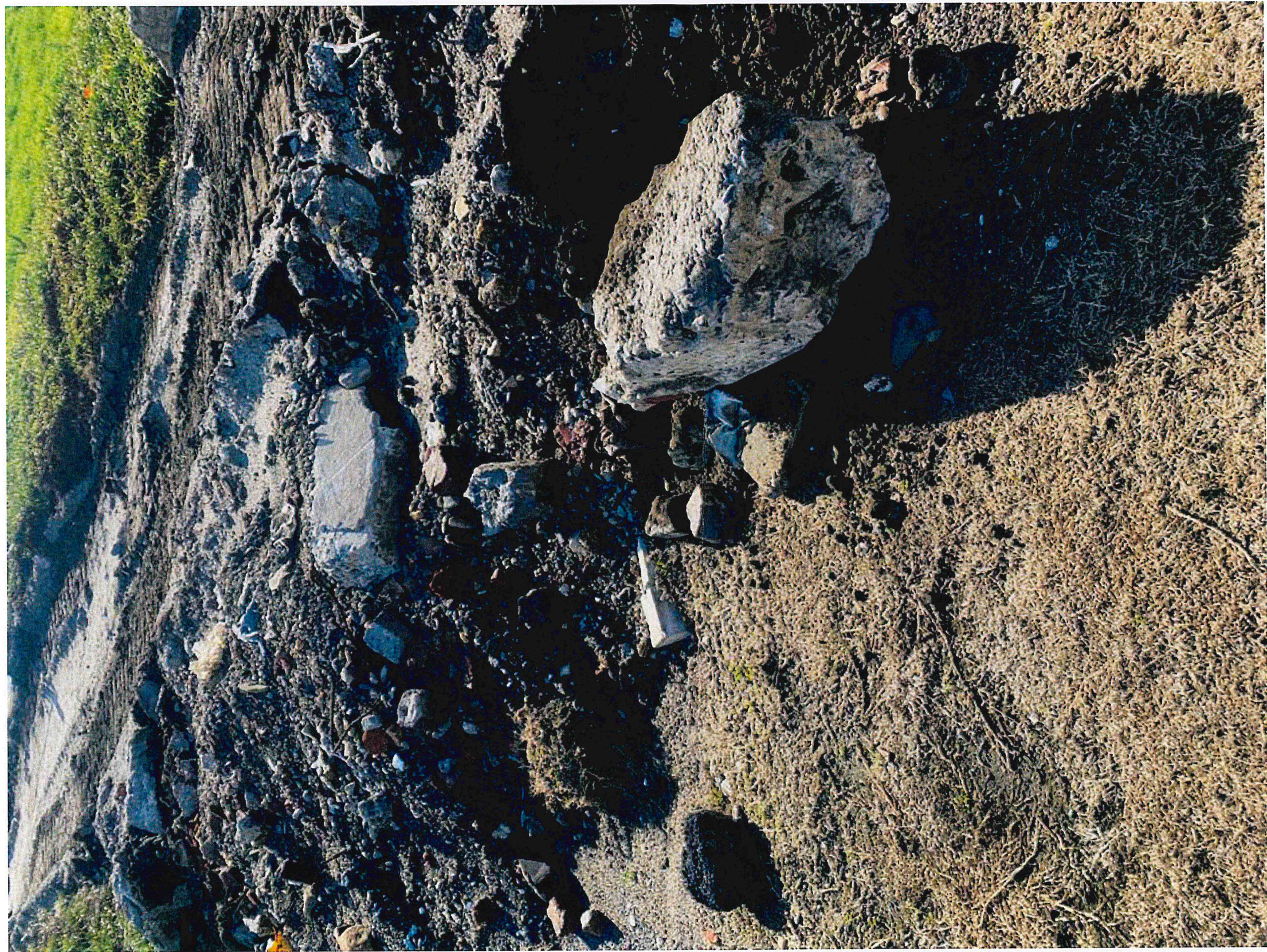
"JA10.1"



10/10/10



"JA10.2"



JA



"JV410.3"



Handwritten signature or initials.





Figure 3: Preferred Development Layout



"JA12"



13





13/11





13



"JA13"



13





Handwritten signature or initials.





13/2/21





13



"JA14"

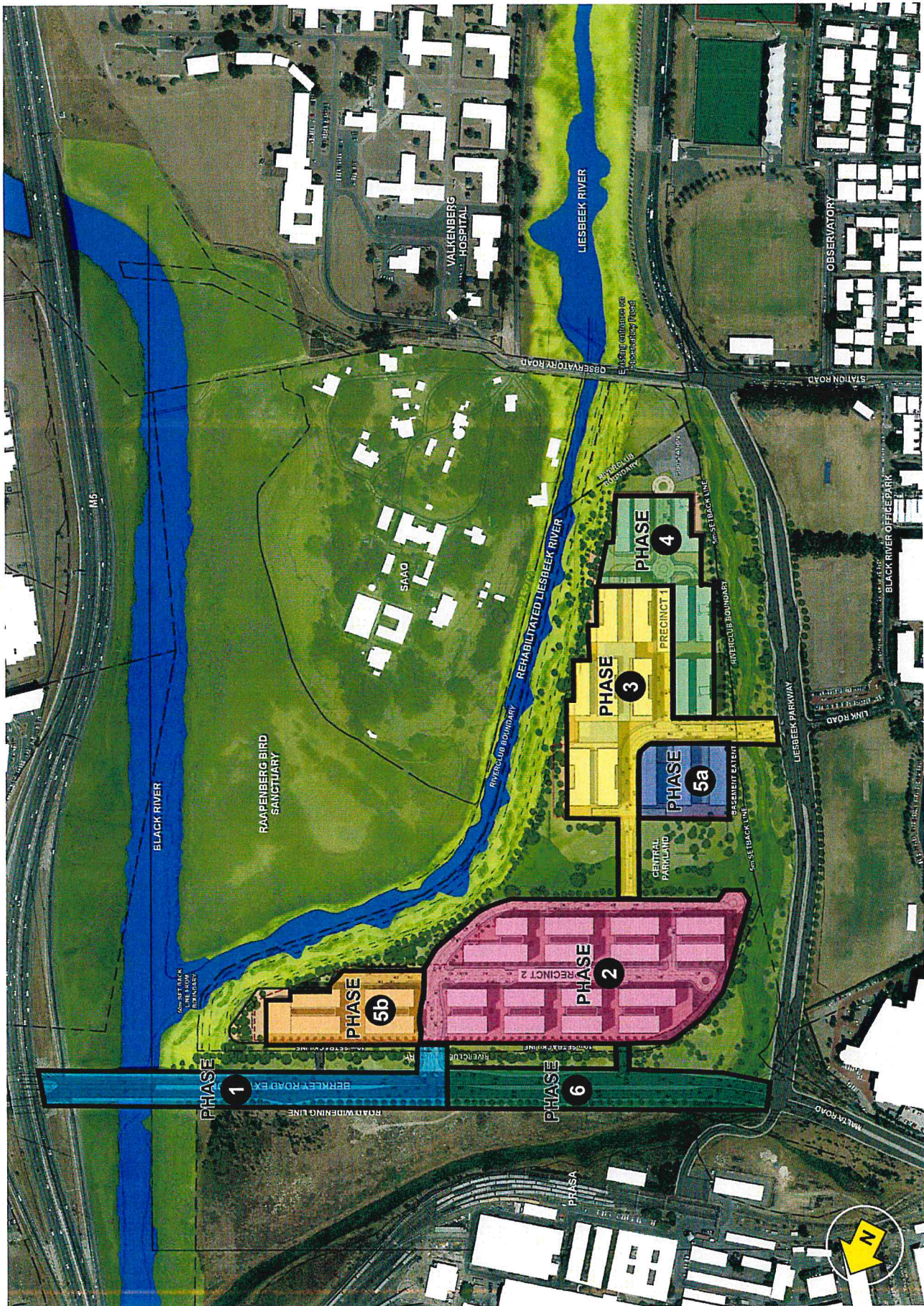


Figure 8: Development Phases

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31 March 2020

Matthew Law  
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Dear Mr Law,

**Specialist Response to HWC's Final Comment on the HIA for the River Club**

We address you as the EAP responsible for the BAR currently being submitted to the provincial Department of Environment Affairs and Development Planning.

Given the letter (of 17 February 2020) from the Director: Development Management: Region 1, of the Department of Environment Affairs and Development Planning commenting on the draft BAR referring to the Final Comment of Heritage Western Cape (of 13 February 2020), this note is intended to outline in brief our corrections of and responses to HWC's Final Comment:

First, however, given the omissions, errors, vagueness and incompleteness of HWC's Final Comment and the consequential questions raised in your letter, we point out that the following steps have been taken in an endeavour (or series of endeavours) to seek clarification from HWC:

- a very detailed matrix (of 43 pages) was produced by the LLPT consultants listing each issue raised or point argued by HWC in its Interim Comment and/or in the Final Comment and our response showing that many of their claims are unfounded; and a briefer summary (of six pages) was produced which focused directly on the arguments raised in the Interim and Final Comments in as much as it was argued that the HIA of 2 July 2019 and its supplementary documentation (the Supplement of 4 December 2019 and the River Club First Nations Report of November 2019) did not, in HWC's view, adequately comply with the requirements of subsection (a) to (g) of section 38(3) of the National Heritage Resources Act (both of these documents are attached hereto);
- these two documents were sent to HWC a week prior to a workshop on 4 March 2020 in the offices of HWC which had been agreed to include both HWC's senior officials and the committee responsible for the Final Comment (its Impact Assessment Committee), officials of DT&PW and DEA&DP, and the LLPT team at which it was intended to develop clarity regarding HWC's arguments that the HIA and its supplementary documentation did not

adequately comply with the requirements of subsection (a) to (g) of section 38(3) of the National Heritage Resources Act;

- however, the authors of the HWC Final Comment, HWC's Impact Assessment Committee, belatedly declined (despite the initial agreement of their chairman) to attend the meeting which, as a consequence, although attended by HWC, DT&PW and DEA&DP officials, was inconclusive resulting in the HWC CEO inviting one of the heritage practitioners and the EAP to meet the following week first with the HWC officials and then with the authors of the Final Comment (HWC's IA Comm) at its regular monthly meeting;<sup>1</sup>
- as a consequence, on 10 March 2020 the heritage practitioner and the EAP met with the HWC officials and fruitfully discussed the way forward and where clarity was required; and
- however, on the day, 11 March 2020, the HWC committee again refused to meet the LLPT consultants (45 minutes after the scheduled time of the meeting).

Given the iterative refusal of the authors of the HWC Final Comment to discuss and clarify its views that the HIA and its supplementary documentation (and the Visual Impact Assessment- VIA) did not adequately comply with the requirements of subsection (a) to (g) of section 38(3) of the National Heritage Resources Act and given that in the view of Liesbeek Leisure Properties Trust (LLPT) and its several expert consultants of various disciplines, the applicant, LLPT, is now confronted with a conundrum: should it proceed blindly, without input from HWC, to try yet again to satisfy the authors of the Final Comment (which, in our view, is not rationally derived from the information presented in the HIA, VIA and the supplementary documentation) and submit yet further documentation, or should it proceed directly to the decision-maker with a submission demonstrating the satisfaction of or compliance with the requirements of the NHRA.

In the circumstances, Liesbeek Leisure Properties Trust has resolved to proceed directly to the decision-maker, the DEA&DP.

The heritage practitioners have iteratively argued that much of the Liesbeek Riverine corridor has considerable politically-charged historical significance; that the Two Rivers-area<sup>2</sup> is a significant part of the corridor; and that the River Club site is an important, if small part, of the Two Rivers-area and of the Liesbeek River corridor as a whole. They have also argued that most of the corridor has been transformed and, as such, is a cultural landscape much broken into components/areas of very different character with other layered and different significances; for example, the neighbouring SAAO and Valkenberg sites are large components of the TR-area with their own considerable separate site-based historical, scientific, and architectural and/or aesthetic significances which have significantly changed their place-making characteristics.

<sup>1</sup> We note that the workshop was chaired by an independent facilitator engaged by the Premier's Western Cape Economic War Room who drafted agreed 'action points'.

<sup>2</sup> Previously known as the 'Two Rivers Urban Park' or TRUP.



The River Club site's own history and usages most closely parallels the parts of the corridor adapted and used by different sporting codes; but, unlike most of those pieces of land, it was not a part of an early agricultural land-holdings (probably because it was too low-lying and too subject to flooding). Certainly, neither the River Club site nor the wider TR-area could be meaningfully or persuasively presented or curated as a battle site as suggested by HWC; and it is wrong to claim the River Club site was the site of a battle like the examples that HWC refers to.

We do, however, agree that the River Club site is a remnant, if much spoiled, of the Liesbeek riverine corridor/cultural landscape and, if this short section of the riverine corridor could be recovered, it could be meaningfully experienced as such (for its signal historical-political significance); and, if so, this section of the corridor could (perhaps with other sections of the two rivers) be declared as a provincial or national heritage site (but this is outside of this process). Indeed, we think that the development of the River Club site creates a real and immediate opportunity which could trigger the meaningful planning of a much larger heritage site. In our view, the scrutiny low-intensity usages currently occupying the River Club site do not signal heritage or cultural significance of any sort (but we acknowledge that the visual openness is valued by many stakeholders, including HWC).

Furthermore, the proposed development and the recovered riverine corridor and the renaming and integration of a First Nation-narrative as proposed by the First Nations Collective<sup>3</sup> will change the viewer's experience of the place- very much for the better. The recovery of historical significance through the recovery of the riverine corridor (and ecological functionality) will, we argue, add to and make apparent the significance of the River Club site, or at least the Liesbeek River component of the Two Rivers-area, and of the Liesbeek River as a whole. Such recovery is of considerable political, cultural and ecological significance and meaning to both the First Nations groupings and to a wider range of publics.

We note that the First Nations Collective concurs with this view; and we note with dismay (and surprise) that HWC has ignored the findings of the extensive engagement with the First Nation groups and that community's views of the significance of the River Club site as reported in both the First Nation TR-area Report and the First Nations River Club Report which were reported on in the Supplement to the HIA and which have also been taken into account in revisions of the development proposal.

In both its Interim Comment of September 2019 and its Final Comment of 13 February 2020 HWC has referred iteratively to the statement of significance that it used in April 2018 to justify its provisional protection of the River Club Site. Our view of that statement is as follows:

- Importantly, throughout its administration of submissions made in connection with the Two Rivers-area and the River Club site, HWC has elided and confused the two places and their significances: the TR-area, is an arbitrarily defined area made up of many disparate pieces of land, much of it well

<sup>3</sup> See section (s) below.

developed and used for a wide range of activities and owned by a wide range of public and private bodies with mutually excluding interests. Indeed, it is difficult to see how many of these pieces with their uses, ownerships and differing security regimes could be meaningfully included in an 'urban park'. [The very history of the endeavours to establish the 'urban park' should indicate this to all but the most myopic observer: that so much time, now more than twenty two years, and effort has been committed to this idea must come as a shock to any disinterested observer. We note also that the authorities and their land-use planners have recognised this and, first, will henceforth refer to the area as the Two-Rivers Area and, second, that the vision of the "park" as "a New York style Urban Park... with a green/park core and high rise buildings on the edges... does not deal with the reality on the ground".<sup>4</sup>]

- With this in the background, the HWC's explanation of its provisional protection of the River Club site (much of it taken directly and indiscriminately from the NHRA) about the significance of the TR-area is empty of enough detail to know what is meant. Certainly, it requires a great deal of good will to guess what is being referred to both with respect to the TR-area and, in particular, with respect to the River Club site; and we point out that this description could be applied to many pieces of land in the Western Cape and in South Africa more generally. If the references to Valkenberg Hospital and to the SAO were omitted, this description could be used for a description of innumerable sites in the country.
- In other words, the 'reasons' for the provisional protection are couched in language so general as to be meaningless in an argument about even the TR-area, let alone the River Club site.
- This lack of specificity applies also to the rhetoric about HWC's responsibilities and claimed mandate. Frankly, there is no reason in these 'reasons' that can be linked in a meaningful way to the River Club as a place; and there is no link to any of the requirements of the provision protection section of the Act: certainly, there is no reference to any threat or to any idea/intention of negotiation to alleviate such threat; and there is no mention of any clear or even outlined intention to investigate the significance of the River Club or its protection (or of the TR-area).
- Bluntly, HWC's reference in the Final Comment to the 2018 provisional protection is, at best, lazy and, at worst, illustrative of the inadequacy of its thinking; and any disinterested observer must be surprised by it. We are also surprised by this because various expert consultants have given considerable time and effort in articulating the River Club site's significance and its relationship to the TR-area and to the Liesbeek River as a whole.

Indeed, it seems that HWC has misread or misunderstood our argument: we recognise that the River Club has high historical significance but also that this

<sup>4</sup> Two Rivers (LSDP) Local Spatial Development Framework (Draft October 2019), draft for public circulation, p8.



significance is not visible or apparent. The recovery of the Liesbeek riverine corridor could restore visible and apparent meaning and political-historical significance to the place even if, as a consequence of development, there is a reduction of a "sense of openness". Indeed, in our view, this is the ordinary process of city-making: all living cities grow and change with ever-increasing densifications and transformations:

"(T)he one reliable characteristic of urban behaviour through history is its unpredictability. Whatever the perfection of its initial form, a city will follow its own rules or rejoice in its lawlessness. Those who see themselves in charge will legislate a built order, turning upon this wilful artefact with stern cures. But always the city has its own mind: it may refuse to go along with what has been prescribed, or find its own mode of obedience that leaves it free to metamorphose without losing track of its idiosyncratic habits".<sup>5</sup>

The life-blood of living cities and the driver of this apparently wilful lawlessness is the economy; and the task of land-use planning, environmental management and heritage management is to guide investment as best it can ensuring that development responds to and adapts the landscape and/or townscape and enabling greater efficiencies and creating greater amenity and value for the city as a whole and as an organism. In our own more local circumstances, such guidance/governance must, at the same time, also endeavour to satisfy political policy goals of restorative justice.

With this view of city-making and of the role of governance underpinning the stance of the LLPT consultant team and of the authors of the HIA and its supplementary documentation, we have responded, first, in considerable detail to the contentions of the HWC Final Comment in the two documents referred to above, that is, the very detailed matrix (of 43 pages) and the briefer summary (of six pages). Here we summarise our comments regarding the claimed inadequacies in respect of the subsections of section 38(3) and, therefore, of 38(8) of the NHRA as follows:

**(a) That "(t)he identification and mapping of all heritage resources in the area affected" "has only been partially complied with".<sup>6</sup>**

Heritage resources have been identified, mapped and discussed at great length in numerous sections of the HIA (dated 2 July 2019) and of the Supplement (dated 4 December 2019). These sections include Sections 6 and 10.8 of the HIA and Sections 4 and 5 of the Supplement. Furthermore, as a consequence of this claim in the Interim Comment, the Supplement (in Section 4) additionally includes the maps of three separate mapping exercises, the grading map of the City Council, the "composite diagram of heritage areas, potentially sensitive sites and heritage resources" of Attwell/Jacobs,<sup>7</sup> and the composite diagram of "tangible and some

intangible heritage resources" of Postlethwayt,<sup>8</sup> and some discussion of these exercises.

Given this, it is difficult to concede that the NHRA requirement to identify and map heritage resources has been "only partially complied with" even if HWC disagrees with that description. Indeed, given the exhaustive discussion of heritage resources in the HIA and Supplement and HWC's refusal to clarify its views, it is the inescapable conclusion that HWC makes this claim only (and cynically) to avoid concluding its responsibilities under section 38(8) of the NHRA.

**(b) That the "(a)ssessment of the significance of such resources" "is inadequate".<sup>9</sup>**

This section of the Final Comment (paras 55 to 69) is muddled and deals with rather more than the assessment of significance:

First, discussion, articulation and assessment of the significances of a place and its surrounds must *precede* the identification of that place and its parts as heritage and/or as heritage resources. HWC argues that the reverse is the case and that, because (in their opinion) the identification and mapping is incomplete, "the grading of these resources will also be flawed"<sup>10</sup> and/or "wrong".<sup>11</sup> This is irrational. Also, we contend that "assessment of significance" is not equivalent (as iteratively presumed by HWC) to "grading": grading is a separate exercise and even if commonly used as a "shortcut" for the extent or degree of significance, it discourages a proper assessment of the significances in places with complex histories and significances with over-lapping significances; and, given that grading assigns management responsibility to different tiers/spheres of government, we have, as has HWC, referred to low, medium and high significance when referring to extent or degree of significance (as a self-evident proxy for Grade I, II or III).

Second, it seems that the authors of the Final Comment have not read the HIA or Supplement or the First Nations Report very carefully, if, in certain respects, at all: for example, the HIA does not "reduce(d) the identification of heritage resources, and subsequently significance to tangibly based ecological values rather than cultural heritage values";<sup>12</sup> the HIA and Supplement iteratively refer to the high political-historical significance of the entire Liesbeek River corridor from mountain to sea;<sup>13</sup> and certainly the Supplement and First Nations Report give detailed discussion of the significance of the Liesbeek River and its environs to "a broad community".<sup>14</sup> Indeed, given these same comments of HWC in the Interim Comment, the Supplement was at pains to articulate an argument about the various significances of the site and its surrounds:<sup>15</sup> this is ignored in the Final Comment.

<sup>8</sup> Postlethwayt, Cindy, September 2019, *Draft Two Rivers Heritage Impact Assessment for the Site 'Two Rivers' (formerly TRUP)*, a report prepared for the Provincial Government of the Western Cape (Transport and Public Works), Fig. 28, p36.

<sup>9</sup> HWC, 13 Feb 2020, para. 55.

<sup>10</sup> Ibid., para. 56.

<sup>11</sup> Ibid., para. 57.

<sup>12</sup> Ibid., para. 59.

<sup>13</sup> Ibid., *contra* para. 63.

<sup>14</sup> Ibid., *contra* para. 60.

<sup>15</sup> Supplement, pp15-20.

<sup>5</sup> Kostof, Spiro, 1992, p298. *The City Assembled: The Elements of Urban Form Through History*. Thames and Hudson; see also Kostof, Spiro, 1991, *The City Shaped: Urban Patterns and Meanings Through History*. Thames and Hudson.

<sup>6</sup> HWC, 13 February 2020, Final Comment, para.43.

<sup>7</sup> Attwell, Melanie and Graham Jacobs, October 2016, *Two Rivers Urban Park, Cape Town: Baseline Heritage Study*, a study commissioned by Western Cape Provincial Government, Diagram 05, p103.



Third, in the Final Comment, despite a succinct explanation (and rebuttal) in the Supplement,<sup>16</sup> HWC repeats its erroneous contention that “The concept of significance is broadly underpinned by authenticity”; it then makes muddled references to stakeholder opinions; and it concludes that “This is a methodological problem that the HIA does not address.”<sup>17</sup> Indeed, it is clear that the authors of the Final Comment have not read the Supplement.

Fourth, much of this section of the Final Comment is opinion regarding the consequences of these mistaken interpretations argued by HWC; and we deal with these under the relevant headings below.

Given this, it is difficult to concede that the requirement for an assessment of the significance of heritage resources in the area affected “is inadequate” even if HWC disagrees with the assessment. Indeed, given the iterative discussion and argument about significance in the HIA and Supplement, this conclusion is irrational (HWC could rationally disagree with the assessment; but it is irrational to judge it “inadequate”); and, given the exhaustive and iterative discussion of significance in the HIA and Supplement and HWC’s refusal to clarify its views, it is the inescapable conclusion that HWC makes this claim only (and cynically) to avoid concluding its responsibilities under section 38(8) of the NHRA.

**(c) That “(t)he assessment of the impact of the development on such heritage resources” is “flawed”.**<sup>18</sup>

This section of the Final Comment (para.s 70-83) is itself fatally flawed in that HWC relies on an irrational and simplistic argument rather than evidence:

The rationality of this argument was questioned in the Supplement (section 8, pp28-9) but, like other issues responded to in either the Supplement and/or First Nations Report, the authors of the Final Comment seem not to have read these reports carefully enough. HWC’s argument is: “given that the heritage resources themselves have not been fully identified or mapped, and that the assessment, or grading, of the heritage resources is flawed, then it follows that any assessment of the impact of the development must also be flawed”.<sup>19</sup> This argument fails both because of the inadequacy of simple linear equations of this sort in circumstances like these (as discussed in the Supplement) and on two further grounds:

First, the heritage resources on and surrounding the site are more than adequately identified and mapped (as demonstrated above) and assessments of significance are clearly articulated (as demonstrated above) and impacts are described at length. HWC may disagree with the assessment of the impacts; but this is not because their argument is correct or rational; and, second, even if the heritage resources were “only partially identified” and even if the significances were “inadequately” assessed, the impacts of the development could still be assessed and rationally found to be acceptable or otherwise. In other words, HWC’s differences regarding the identification of heritage resources and/or the assessment of the significances do not

<sup>16</sup> Ibid. pp15-16.

<sup>17</sup> HWC, 13 Feb 2020, para. 61.

<sup>18</sup> Ibid. para.s 70 and 83.

<sup>19</sup> Ibid. para.70.

prevent them from assessing the impacts of the proposed development on the heritage resources they identify or the significance they assess.

We note also that there is no legislated requirement for the development of “indicators”: “indicators”, whether they are called design indicators, heritage indicators or spatialised indicators, may assist designers, their clients, interested parties, and the authorities in their various roles, but are most useful as criteria for decision-making. As a consequence, they are most useful when framed in general terms rather than as pre-emptive instructions to designers limiting both invention and non-heritage factors or criteria. Indeed, it seems that the root of HWC’s critique of the HIA and its documentation is its differences regarding this non-statutory ‘requirement’, the heritage-related design indicators or criteria for decision-making discussed in Section 8 of the HIA (pp85-89); and we note that, while these indicators/criteria are framed in general terms, HWC did ask<sup>20</sup> for an “urban design framework” which was attached<sup>21</sup> to the HIA and the HIA incorporates its urban-design-related design indicators (pp89-96).

That said, it seems that HWC’s greatest concern is regarding “the impact of the development” on “the most important heritage resource: the site’s open, green qualities as a remnant of landscape that has considerable intangible historic and cultural heritage significance”.<sup>22</sup> However, a quality (like openness or greenness) is not a heritage resource; a quality may give significance to a place; and the HIA and Supplement do not argue that the qualities of ‘openness’ and ‘greenness’ are not significant qualities of this part of the Liesbeek River and of what will have been low-lying wetlands. However, these qualities, while interrupted by the proposed development (and assessed in the VIA to be a significant visual impact in the VIA), will not disappear: the proposal is to transform them, providing better greenness and greater ecological functionality and a clearer more distinctly recognisable riverine corridor. The ‘openness’ is a quality that will be interrupted; but the topography will still exist; but, like the surrounding components of the environs, will be transformed into a more useful and integral part of the urban environment.”

Again, HWC may have different perceptions of the environs and of the significances and it may differ with respect to the recovery of significance, but this does not make the assessment of impacts “flawed” in law.

Given this, it is difficult to concede that the requirement for an assessment of the impact of the development on such heritage resources “is flawed” even if HWC disagrees with the assessment. Indeed, given the lengthy accounts of the development and its impacts in the HIA and Supplement, this conclusion is irrational (HWC could rationally disagree with the assessment; but it is irrational to judge it “flawed”); and, given the exhaustive and iterative articulation of the impacts (both positive and negative) in the HIA and Supplement and HWC’s refusal to clarify its views, it is the inescapable conclusion that HWC makes this claim only (and cynically) to avoid concluding its responsibilities under section 38(8) of the NHRA.

<sup>20</sup> HWC, Response to NID, Letter, 7 January 2016.

<sup>21</sup> Urban Concepts. December 2017. *The River Club. Urban Design Framework.*

<sup>22</sup> HWC, 13 Feb 2020, para.77.



**(d) That the "(e)valuation of the impact of the development on heritage resources relative to the sustainable social and economic benefits to be derived" "does not comply with the NHRA".<sup>23</sup>**  
This section of the Final Comment (para.s 84-95) is flawed in that HWC apparently

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Given this, it is difficult to concede that the requirement for an "evaluation of the impact of the development on such heritage resources relative to the sustainable social and economic benefits to be derived" "does not comply with the NHRA", even if HWC disagrees with the assessment in the HIA and Supplement. Indeed, given the accounts of impacts in the HIA and Supplement which are reliant on the appropriate expertise, this conclusion is irrational (HWC could rationally disagree with the assessment; but it is irrational to contend that it "does not comply with the NHRA"); and, given the articulation of the social and economic impacts in the HIA and Supplement and HWC's refusal to clarify its views, it is the inescapable conclusion that HWC makes this claim only (and cynically) to avoid concluding its responsibilities under section 38(8) of the NHRA.

**(e) That the "(r)esults of consultation with communities affected by the proposed development and other interested parties" "still does not comply" with the NHRA.<sup>24</sup>**

In its Interim Comment, HWC stated clearly that the "formal notice and commenting procedure" had been "complied with"; but that there had not been a "meaningful consultation with First Nations Groups".<sup>25</sup> While considerable effort had been made both to engage with First Nations groupings and to find a willing and capable expert to assist in this regard, this criticism was accepted; and, finally, an appropriate expert was found and engaged, Rudewaan Arendse of AFMAS Solutions, who had been engaged by DT&PW to draw up a report on First Nations interests in the TR-area.

As a consequence, Arendse was engaged by LLPT to interact with the First Nations groupings in respect of the rather smaller River Club site; and the Supplement includes an account of the interactions with and views of the First Nations Collective, an assembly of five groupings (pp4-9).

All the First Nation groups who are regarded amongst the First Nations groups as the historical custodians and who are the contemporary claimants and custodial owners of the indigenous heritage narrative of the site and of the broader Two Rivers-area and who are the authentic First Nations Voice are part of the First Nations Collective. This includes the Gorinaiqua, Cochoqua, Gorachouqua and the San First Nation groups who in pre-colonial times used the River Club site and the wider Two Rivers-area.

Despite every effort to reach consensus with other First Nations groupings who were not historically located at the River Club and TR-area, the other groups elected not to engage with LLPT (but expressed this choice through written submissions as I&APs in the BAR/HIA process; these issues and comments are addressed in the detailed

<sup>23</sup> Ibid. para. 95.

<sup>24</sup> Ibid. para. 100.

<sup>25</sup> HWC, *Interim Comment*, 13 September 2019, p9.

Issues and Responses report prepared by SRK). The First Nations Collective attributed the withdrawal to a variety of possible reasons including potential conflict of interests or representing Nguni groups or groups from outside South Africa or individuals and groups with no historical, ethnic, geographic, cultural or heritage linkages to the River Club land or the Two Rivers landscape as a whole. The requirement of the applicable legislation (NHRA) in this instance is to "consult with communities affected by the proposed development and other interested parties"; it does not require consensus.

Notwithstanding the criticisms of HWC of the HIA and the call for engagement with First Nations groupings in the Interim Comment, HWC has in the Final Comment sought (extraordinarily), without any evidence whatsoever (or, frankly, expertise), to dismiss Arendse's report and the engagement with the First Nations Collective (and the attempts to engage with other groupings) stating that the "engagement... still does not comply with... the NHRA".<sup>26</sup>

The methodology followed accepted oral history interviewing protocols; and parties who participated in and signed-off individually and collectively on the TR-area First Nations Report, had no concerns with methodology in that instance. Informed consent around purpose and use of information was obtained from all participants, in both the TR-area and River Club First Nations Reports. Generally accepted ethical protocols for such cases were followed; and in some instances the anonymity of participants were protected in order to prevent harassment and threats (as detailed in 43 page matrix referred to above and attached).

Also, it is difficult to see "confusion between this report [the River Club First Nation Report] and the DT&PW-commissioned report [the so-called TRUP First Nations Report]. The TRUP First Nation Report was completed and submitted in September 2019; and the River Club First Nations Report was commissioned in October 2019; while the River Club is a part of the TR-area, the participants in the two cases are similar, if with the omissions explained; and the objectives of the participants in the two instances are clearly aligned.

Our understanding is that there is no confusion; and there are no ethical issues.

Our view is that several First Nations groupings and the First Nations Collective led by the Gorinaiqua Cultural Council explicitly and clearly support the development proposal which is evidenced by the First Nations Report in respect of the TR-area, the First Nation's Report in respect of the River Club site, and letters from several First Nations leaders. While there may be some First Nations groupings who do not share this view, the First Nations Collective is authoritative; and Arendse's report is persuasive in its method, its argument and in its conclusions. See attached a comment from Chief Zenzile (Cape Argus, 26 February 2020) voicing the disappointment of the First Nations Collective in HWC's remarks in this regard.

**(f) That "the consideration of alternatives" "still does not comply with... the NHRA".<sup>27</sup>**

<sup>26</sup> HWC, 13 Feb 2020, para. 100.

<sup>27</sup> Ibid. para. 106.



This section of the Final Comment is fairly brief and simply repeats word-for-word what appeared in the Interim Comment and goes on to add, without any reason, that "(i)t is unfortunate that the engagement with First Nations groupings did not materially change the design approach which is reflective of the intangible heritage significances identified".<sup>28</sup>

Indeed, this seems to us to be a conclusive demonstration of HWC's intransigence (and their dismissal of the views of the owner-claimants of an intangible heritage how that intangible heritage should best be given acknowledgment, respect and manifestation in the physical world).

Given this, it is difficult to concede that the requirement for the consideration of alternatives "still does not comply with... the NHRA", even if HWC disagrees with the explanations and assessment in the HIA and Supplement. Indeed, given the consideration of alternatives in the HIA and Supplement which are reliant on the appropriate expertise, this conclusion is irrational (HWC could rationally disagree with the assessment; but it is irrational to contend that it "still does not comply with the NHRA"); and, given their dismissal of the First Nations views and HWC's refusal to clarify its own views, it is the inescapable conclusion that HWC makes this claim only (and cynically) to avoid concluding its responsibilities under section 38(8) of the NHRA.

**(g) That the "(p)lans for the mitigation of any adverse impacts during and after the completion of the proposed development" which should be included in the HIA "still does not comply with... the NHRA".<sup>29</sup>**

This section of the Final Comment is very short, comprising just two paragraphs which reiterate the Interim Comment without referring to the explanations and account of continual mitigation throughout the four year process of analysis of the context and iterative amendments to the design iteratively adapting the proposal so as to mitigate the impacts. Also, HWC avoids the essential argument about off-sets: yes, the current "openness" of the site will be changed, even transformed (by any form of development), and, yes, this will constitute a loss of a quality currently deemed to be significant by many stakeholders (and confirmed by the VIA); but this change, at least from a heritage perspective, will be off-set by the positive transformation of the current Liesbeek canal into a restored riverine corridor which, in the words of a contributor to the River Club First Nations Report:

"The reason this development is good for us, is that the developer has taken the concern of rehabilitating the rivers. When you purify the water, you open up the way through which life can regenerate. When you purify water, you purvey the sense that life can regenerate where death has come. Regenerate at so many levels. At individual level, as a collective, and the environment."

"We bless this development by ensuring that the wells that were poisoned, the waters that were poisoned, once again regenerate life and reflect as close as possible as we can come to what gave life to that sweet water."<sup>30</sup>

<sup>28</sup> Ibid. para. 105

<sup>29</sup> Ibid. para.108.

<sup>30</sup> AFMAS Solutions, November 2019, *River Club First Nations Report*, a report commissioned by LLPT, p50.

Given this, it is difficult to concede that plans for the mitigation of any adverse impacts during and after the completion of the proposed development which should be included in the HIA have not been included and accounted for in the HIA which, in the view of HWC, "still does not comply with... the NHRA", even if HWC disagrees with the explanations in the HIA and Supplement. Indeed, given the inclusion of mitigations in the HIA and Supplement and, given HWC's refusal to clarify its own views, it is the inescapable conclusion that HWC makes this claim only (and cynically) to avoid concluding its responsibilities under section 38(8) of the NHRA.

#### **Conclusions:**

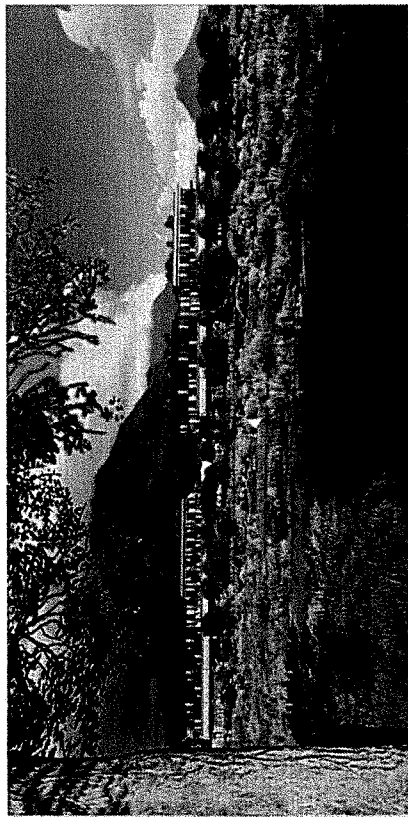
Given these rebuttals of the various claims by Heritage Western Cape in its Final Comment of 13 February 2020, we hope that this puts aside the claims that the HIA, the Supplement and accompanying documentation (including, in particular, the River Club First Nations Report) are inadequate or do not comply with the requirements of the National Heritage Resources Act. We emphasize too that Heritage Western Cape has, both in describing its last comment as "final" and, in its refusal to clarify its views, explicitly and implicitly declined to interact further with LLPT.

Yours faithfully,



**Dr Stephen S Townsend  
Timothy JG Hart**





THE First Nations Collective, comprising the majority of Khoi and San leaders in the Cape Peninsula, says Heritage Western Cape is not listening to it regarding the proposed redevelopment of the River Club in Observatory, the writer says.

■ MARGINALISED

# First Nations 'bludgeoned'

*Khoi, San leaders dejected after Heritage Western Cape rejects their River Club proposals*

CHIEF SAMU FENDE KHOSAN

THE First Nations Collective, comprising the majority of Khoi and San leaders in the Cape Peninsula, is extremely disappointed that Heritage Western Cape (HWC) on the proposed redevelopment of the River Club in Observatory.

HWC appears to have completely ignored the collective's concerns and demands to serve and celebrate the relevant First Nations heritage, rehabilitate and indigenous the local ecology, while providing thousands of jobs to youth and women, and to ensure that the descendants who have been marginalised by discriminatory labour practices, and suffering, recent media reports suggest, from the COVID-19 pandemic, are not left behind. The collective has stated that any development of property in the Two Rivers area "is in danger of being compromised" unless the First Nations are consulted and incorporated into the development process. The collective has also stated that the significance of the site into the Two Rivers area is well known, as the heritage official is well known, and that what has happened over the past few months after the collective's concerns were applied to the site is a complete failure. Leaders of the First Nations Collective, which represents structures and leaders who have been at the forefront of the fight for recognition and restoration of the site, have expressed their disappointment and dejection.

Heritage, held numerous meaningful meetings with the collective, and the River Club owners on how to sensitively and respectfully memorialise the historical significance of the area. The collective has also expressed its concerns about the proposed redevelopment of the River Club, which has been the subject of intense engagement between ourselves and numerous senior state officials.

The collective includes Western Cape premiers, various MECs, mayors of Cape Town, the Chief Land Claims Commissioner, several ministers of the national government and even the President of the Republic of South Africa. All our efforts in this regard have failed on deal one have been subjected to a series of delays and setbacks. The collective has expressed its disappointment and dejection at the current state of affairs, which is a complete failure to listen to the collective's concerns and demands.

Even as this response is being written, numerous indigenous leaders and community members are being evicted from their ancestral lands, and the collective is fighting to stop this. The collective has also expressed its concerns about the proposed redevelopment of the River Club, which has been the subject of intense engagement between ourselves and numerous senior state officials. The collective has also expressed its concerns about the proposed redevelopment of the River Club, which has been the subject of intense engagement between ourselves and numerous senior state officials.

Yes, despite representatives of the collective being present at the meeting, the collective's concerns and demands were not taken into account. The collective has expressed its disappointment and dejection at the current state of affairs, which is a complete failure to listen to the collective's concerns and demands.

As with this developer, unlike any other government, corporate or social entities with which we have engaged, has made a firm commitment to ensure that the footprint of the River Club is not lost in the process of modern-day resurgence is incorporated into the development plan.

The developer has committed to allocate an area in the centre of the site to be used for the development of a Heritage Centre, a functional indigenous garden and cultural plaza site, to be used for the development of a Media and Communication Centre.

The developer has also committed to cleaning up and indigenous the site, and to ensure that the spiritual and cultural symbols of the Khoi and the San find resonance within the proposed development plan.

We are aware that there will be detractors, including those who believe that indigenous people stand diametrically opposed to development. But we know that indigenous people are not the enemy of development, and that the development of the River Club is a project that will benefit the community and the nation as a whole.

On the contrary, it is our view that the development of the River Club is a project that will benefit the community and the nation as a whole. We believe that the developer has grasped the intense pain that has been associated with the bludgeoning of our narrative.

Chief Zuzile Khosani is a *Peninsula*, poet and cultural activist



"JA16"

**Timothy JG Hart**

MA, Cape Town

Archaeologist

**Stephen S Townsend**

B Arch, Cape Town; Dipl in the Study and Restoration of Monuments, Rome; PhD, Cape Town

Architect, Statutory Planner, Conservationist

22 September 2020

Michelle Couzyn-Rademeyer  
Liesbeek Leisure Properties Trust

Dear Ms Couzyn-Rademeyer,

**Specialist Response to HWC's Final Comment on the HIA for the River Club**

This is, as requested, to address certain appeals submitted *contra* the Department's *Environmental Authorisation* dated 20 August 2020. You have asked us to address, in particular, the appeals from the Cape Institute for Architecture (ClfA) and from the local provincial heritage resources authority, Heritage Western Cape (HWC), both dated 10 September 2020.

**1 Appeal from the Cape Institute for Architecture:**

The ClfA's appeal relies on three grounds:

**1.1 Requirements of the Heritage Resources Authority:**

ClfA *implies*, given that "the consenting authority must ensure that the evaluation fulfils the requirements of the relevant heritage resources authority..." (Section 38(8), NHRA) and given that "DEADP's authorisation has been made on an HIA which HWC has deemed to be incomplete, and which HWC clearly stated did not fulfil the requirements", that the authorisation was wrongly given. The ClfA do not interrogate the question (or the adequacy or otherwise of the submissions) and rely on the bald wording of Section 38(8).

In response, we note that subsequent to HWC's comment dated 13 September 2019 (which contended that certain specified aspects of the *Final HIA* dated 2 July 2020 were inadequate) a *Report dealing with First Nations views and aspirations* for the site by AFMAS Solutions dated Nov 2019, our *Supplement to the HIA* dated 4 December 2019 which, together, included additional research and analysis and a revised development proposal responding closely to HWC's claims were submitted to HWC and circulated to stakeholders. This new work with the already exhaustive *Final HIA* was then deemed by HWC in its *Final Comment* dated 13 February 2020 to be still inadequate. As a consequence, despite meeting with HWC officials, reaching agreement with them, and then being refused entry to a meeting pre-arranged with HWC's responsible committee to discuss any inadequacies, a detailed 43-page report analysing and addressing all comments/objections to date attached as Appendix G5c to the final BAR Report addressed the arguments made in HWC's *Final Comment* (and all other submissions received) was submitted with the BAR to DEADP.



Furthermore, DEADP's *Environmental Authorisation* of 20 August 2020 gives a complete account of the steps taken to satisfy HWC's *Final Comment*, and why, in DEADP's view, the concerns raised by HWC had been adequately addressed (see pages 19 and 20 of the *Authorisation*).

It seems that the ClfA did not read the circulated additional work nor the submissions appended to the final BAR or the *Authorisation* itself; and, in our view, this ground is not sustained by evidence or rational argument.

We note too that HWC did insist that their *Final Comment* 13 February 2020 is final; and their refusal to comment or engage further confirmed this. It should be clear that HWC's insistence that their stated view is a final one cannot rationally be a reasonable and/or procedurally fair device to prevent another decision-maker from satisfying its Constitutional responsibilities.

### 1.2 *Comments and Recommendations of HWC:*

ClfA claims that "there is no evidence that they [HWC's comments and recommendations] were considered in the decision-making process, as they are not referred to in the *Environmental Authorisation*", implying that, as a consequence, the *Authorisation* was wrongly given.

In response, we note simply that the extensive additional work done and submitted in the *Supplement*, the *Report on First Nations' Views* and the detailed 43-page report analysing and addressing all comments/objections to date attached as Appendix G5c to the final BAR Report had responded iteratively to HWC's "comments and recommendations" in considerable detail; and this is given more than adequate attention in the *Authorisation* (see pages 18-20).

It seems that the ClfA has not read any the submissions appended to the final BAR or the *Authorisation* itself; and, in our view, this ground is not sustained by evidence or rational argument.

### 1.3 *Significance of the Site and Lack of Alternatives:*

ClfA states that the site is of exceptional heritage significance (with which we concur) and that, "Given the outstanding heritage value of the site, it is concerning that neither the 'no development' option, nor other options for development were sufficiently interrogated". ClfA does not give any opinion or explanation as to what a "sufficient interrogation" might be.

*The HIA, the Supplement* and the *Report on First Nations' Views* all deal in some detail with alternatives in some detail including design development of certain aspects of the development proposed; and the *Authorisation* gives considerable attention to alternatives both in an eponymous section and in detailed discussion of different aspects of the development and its implications.

It seems that the ClfA has not read either the submissions appended to the final BAR or the *Authorisation* itself; and, in our view, this ground is not sustained by evidence or rational argument.





Indeed, the iteratively articulated conclusion we have drawn above, that is, that it seems that the ClfA has not read either the circulated additional *Supplement* and *First Nations Report* or the submissions appended to the final BAR or the *Authorisation* itself, is confirmed in the conclusion of ClfA's *Appeal* referring to their comment of March 2018, apparently, ignoring the *Final HIA*, the *Supplement*, the *Report on the First Nations' Views*, the detailed 43-page report analysing and addressing all comments/objections, and the numerous components of the BAR.

## **2 Appeal from Heritage Western Cape:**

HWC's Appeal relies on two grounds:

### **2.1 Failure to Comply with Provisions of the NHRA:**

HWC relies on the same argument as that made by ClfA regarding the requirement of Section 38(8) in respect of an "evaluation [that] fulfils the requirements of the relevant heritage authority" and contends that the *Authorisation* is "unlawful as it is clear that S38(8) requires the endorsement of the HIA as complying with its requirements to be made by HWC". HWC does, however, contend that each of the subsequent submissions, that is, the *Report on the First Nations' Views* of November 2019, the *Supplement* of December 2019 (which incorporated the findings and conclusions of the First Nations report), the detailed 43-page report analysing and addressing all comments/objections, and the numerous components of the BAR itself (like the *Visual Impact Assessment*, the ecologists report on the benefits of the re-establishing of the Liesbeek riverine corridor and the improvements to the long-abandoned ancient course of the Liesbeek, etc), "merely re-stated the initial findings of the initial HIA" and "as such HWC could see no purpose in having further meetings with the applicant and the applicant's representatives".

These bald statements are unsustainable by any illustration or demonstration. Nor does the HWC appeal deal with the detailed reasons given in the *Authorisation* for the decision.

In our view, this ground is not sustained by evidence or rational argument; and, indeed, it demonstrates HWC's failure to satisfy the guidance of the Constitution regarding fair administrative justice and its intransigence is demonstrated by its refusal to accept its role in the pertinent legislative regime.

## **2 Emphasis on Recent History and Tangible Remains:**

HWC argues variously that an inappropriate emphasis has been given "to recent history and tangible remnants to which value may be attributed", that DEADP "is ignoring the large body of information which was put before it as to the intangible significance of the site", and that "It is not necessary for intangible heritage resources to be expressed in tangible traces in order for them to be considered to be of heritage significance".

First, the sentence "on page 22 of the reasons" given in the *Environmental Authorisation* quoted by HWC (actually on page 19), "the site has its origins in the 1920s", which is cited as "evidence of the erroneous emphasis placed by the HIA and the consenting authority on recent history and tangible remnants to which value may be attributed" is not evidence of anything. Indeed, given the extensive early colonial history of the site described in the HIA by itself gives lie to this contention.





Though, we must insist that the history of the site and its surrounds since 1920 cannot be ignored or downplayed because it explains the current state of the environs more generally (as well as that of the site, of course).

Second, HWC's claims about intangible heritage are, at best, muddled: the implied argument does not distinguish between historical narratives, underpinning values, and intangible heritage; nor does HWC state what the "intangible heritage resources" referred to are; and its reference to "intangible significance" is simply nonsensical (because all significance is intangible).

Bluntly, the difficulty that HWC has is the generally recognised difficulty with most arguments about intangible heritage (as different from associations and significance) is in describing such intangible heritage and then making a rational argument connecting such intangible heritage to a place. Indeed, this is particularly the case in this instance where historical events associated with the wider environs are claimed, demonstrably wrongly, to have taken place on this particular site (which was a wetland until reclaimed in the 1920s and 30s).

The Liesbeek River (as a whole) is historically important for many reasons and the River Club site shares that history and the associated significances; and a careful reading of the *Report on the First Nations' Views* of November 2019, the *Supplement* of December 2019 (which incorporated the findings and conclusions of the First Nations report), the detailed 43-page report analysing and addressing all comments/objections to date attached as Appendix G5c to the final BAR Report addressed the arguments made in HWC's *Final Comment* (and all other submissions received), and the numerous components of the BAR itself (like the *Visual Impact Assessment*, the ecologists report on the benefits of the re-establishing of the Liesbeek riverine corridor and the improvements to the long-abandoned ancient course of the Liesbeek, etc) will demonstrate the wrongness of HWC's argument regarding emphases. Given this, HWC's contention that "the large body of information which was put before it as to the intangible significance of the site" was ignored in the decision-making, is, in our view, nonsensical.

Bluntly, in our view, this ground (or argument) is not sustained by evidence or rational argument.

### **3 Conclusion:**

Given these appeals and our rebuttals above, we re-state our primary underpinning argument:

We recognise that the characteristic of the sense of place that relies on its 'topographic flatness and openness' is important from a 'heritage point of view' and will be radically changed by the proposal, but we emphasize that the characteristic of the sense of place established by the presence of the Liesbeek River (and the associated histories) is by far the most important characteristic. This primary significance-bearing characteristic is determined by the presence of both the concrete canal carrying the actual water of the river (which, in our view, makes it the actual functional authentic Liesbeek River) and the old pre-1950s much adjusted/re-aligned channel (much-dredged and, since the mid-1950s, carrying only stormwater and back-flow from below the confluence).






However, from a heritage point of view, this primary characteristic is currently much diminished by the fact (a) that the stormwater channel does not carry moving water, (b) that the actual river-course is canalized, and (c) that the current uses/activities occupying this particular site are at odds with its meaning and value as a heritage resource; but this characteristic and its significance will be radically improved in numerous senses by the proposal.

These improvements to the site and its sense of place as a heritage resource include (a) the re-established and clear identity of the Liesbeek River and its riverine corridor at this site, (b) a re-integration of the identity of the Liesbeek River as a river from mountain to its confluence with the Black River and to the sea, (c) a significant improvement to the ecological functioning of the Liesbeek as riverine corridor and of the stormwater channel/ditch, (d) the establishing of guaranteed access to and 'ownership' (through formal agreements) of the place by descendants of pre-colonial people, and (e) radically improved access to and use of the river banks and site by the wider public for walking, running, cycling and closer access to the riverine corridor ecology and the bird sanctuary across the Liesbeek from the site.

We regard these improvements to be enhancements of the site as a meaningful, recognisable and celebrated heritage site; and the appeals discussed here are reliant on arguments that are not sustained by evidence or rationality; and nor do they take into account the very considerable recovery of heritage significance to the site and to the Liesbeek as a whole.

Yours faithfully,

TJG Hart. 

**Dr Stephen S Townsend**  
**Timothy JG Hart**



"JA17"



Figure 66: Proposed land uses at the site

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# RIVER CLUB, CAPE TOWN OVERALL PLANNING PROGRAMME

ID	Task Name	Duration	Start	Finish	2021	2022	2023
1	<b>RIVER CLUB, CAPE TOWN</b>	958 days	Mon 03 02 20	Mon 01 01 24	Jul/Aug/Sep/Oct/Nov/Dec/Jan/Feb/Mar/Apr/May/Jun/Jul/Aug/Sep/Oct/Nov/Dec	Jan/Feb/Mar/Apr/May/Jun/Jul/Aug/Sep/Oct/Nov/Dec	Jan/Feb/Mar/Apr/May/Jun/Jul/Aug/Sep/Oct/Nov/Dec
2	<b>NEMA &amp; LUMS APPROVAL</b>	371 days	Mon 03 02 20	Tue 17 08 21			
3	<b>COUNCIL LUMS / BDM SUBMISSIONS</b>	371 days	Mon 03 02 20	Tue 17 08 21			
12	<b>PROPERTY ISSUES</b>	120 days	Mon 01 02 21	Fri 23 07 21			
17	<b>CONSTRUCTION PHASE</b>	958 days	Mon 03 02 20	Mon 01 01 24			
18	<b>INFRASTRUCTURE CONSTRUCTION</b>	740 days	Mon 03 02 20	Fri 17 02 23			
19	<b>ECO ZONES CONSTRUCTION</b>	337 days	Fri 01 10 21	Fri 17 02 23			
20	ECO ZONE 1 CONSTRUCTION (NEW LIESBEEK CANAL)	100 days	Fri 01 10 21	Mon 14 03 22			
21	ECO ZONE 2 CONSTRUCTION (ECO CORRIDOR)	100 days	Mon 03 10 22	Fri 17 02 23			
22	ECO ZONE 3 CONSTRUCTION (OLD LIESBEEK))	100 days	Fri 01 10 21	Mon 14 03 22			
23	ECO ZONE 4 CONSTRUCTION (ZONE ALONG BERKLEY ROAD)	100 days	Mon 03 10 22	Fri 17 02 23			
24	ECO ZONE 5 CONSTRUCTION (ZONE ALONG PRASA LAND)	100 days	Mon 03 10 22	Fri 17 02 23			
25	<b>BERKLEY ROAD CONSTRUCTION</b>	273 days	Wed 11 08 21	Fri 30 08 22			
26	BLACK RIVER BRIDGE CONSTRUCTION	180 days	Wed 11 08 21	Fri 20 06 22			

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"JA18"



ID	Task Name	Duration	Start	Finish	2022	2023
27	BERKLEY ROAD CONSTRUCTION (UP TO SUB-BASE LAYER)	120 days	Wed 11 08 21	Fri 18 02 22	Jul	Aug
28	BERKLEY ROAD ROAD CONSTRUCTION (FINAL LAYER, KERBS, SURFACING ETC)	60 days	Fri 08 07 22	Fri 30 09 22		
29	LIESBEEK PARKWAY UPGRADE	200 days	Wed 11 08 21	Mon 20 06 22		
32	CIVIL SERVICES INFRASTRUCTURE	150 days	Wed 11 08 21	Mon 04 04 22		
36	ELECTRICAL INFRASTRUCTURE	537 days	Mon 03 02 20	Fri 06 06 22		
67	ROAD LINK ACROSS PRECINCT 1 UP TO PRECINCT 2A	265 days	Wed 11 08 21	Tue 20 09 22		
70	ZOLA PHASE 1 CONSTRUCTION - PRECINCT 2A	313 days	Fri 11 06 21	Fri 30 09 22		
71	APPROVAL TO PROCEED WITH EARTHWORKS ON ZOLA	0 days	Fri 11 06 21	Fri 11 06 21	11 06	
72	APPROVAL TO PROCEED WITH PILING & BUILDING CONSTRUCTION ON ZOLA	0 days	Mon 05 07 21	Mon 05 07 21	05 07	
73	EARTHWORKS / LATERAL SUPPORT / PILING - PRECINCT 2A	70 days	Mon 14 06 21	Tue 21 06 21		
76	MAIN CONTRACT	272 days	Wed 11 08 21	Thu 20 09 22		
77	BASEMENT PRECINCT 2A	260 days	Wed 11 08 21	Tue 13 09 22		

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# RIVER CLUB, CAPE TOWN OVERALL PLANNING PROGRAMME

ID	Task Name	Duration	Start	Finish	2021	2022	2023
96	PODIUM BUILDINGS	192 days	Thu 02 12 21	Thu 29 09 22	Jul/Aug/Sep/Oct/Nov/Dec	Jan/Feb/Mar/Apr/May/Jun/Jul/Aug/Sep/Oct/Nov/Dec	Jan/Feb/Mar/Apr/May/Jun/Jul/Aug/Sep/Oct/Nov/Dec
97	PHASE 1 - OFFICE BUILDING - AWS CENTRAL	192 days	Thu 02 12 21	Thu 29 09 22			
177	PHASE 1 - OFFICE BUILDING - AWS SOUTH	168 days	Thu 02 12 21	Fri 12 08 22			
238	PHASE 1 - CUSTOMER SUPPORT - WEST	160 days	Thu 02 12 21	Tue 16 08 22			
287	PERIPHERAL WORK	96 days	Tue 17 05 22	Thu 29 09 22			
291	BENEFICIAL OCCUPATION	1 day	Fri 30 09 22	Fri 30 09 22			
295	ZOLA TENANT FIT OUT	317 days	Fri 30 09 22	Fri 29 12 23			
337	ZOLA LEASE COMMENCEMENT	1 day	Mon 01 01 24	Mon 01 01 24			
338	PRECINCT 1A CONSTRUCTION	385 days	Mon 17 01 22	Wed 26 07 23			
670	PRECINCT 1B CONSTRUCTION	241 days	Tue 12 07 22	Thu 22 06 23			
819	PRECINCT 1C CONSTRUCTION	264 days	Tue 12 07 22	Tue 25 07 23			
986	PRECINCT 2B CONSTRUCTION	264 days	Tue 12 07 22	Tue 25 07 23			



"JA/9"

**Nick Smith**

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**From:** Cormac Cullinan <Cormac@greencounsel.co.za>  
**Sent:** 02 August 2021 04:05 PM  
**To:** Nick Smith; Hercules Wessels; 'Jody Aufrichtig'; Letitia.Ohlson-Isaacs@capetown.gov.za; joy.sangiorgio@capetown.gov.za; Keagan-Leigh.Adriaanse@westerncape.gov.za; 'Zaahir Toefy'; DEADP.Appeals@westerncape.gov.za; 'Penelope E Meyer'; 'Ceoheritage' <Penelope.Meyer@westerncape.gov.za>; 'Michelle Couzyn-Rademeyer' <michelle@zenprop.co.za>; Info <info@greencounsel.co.za>; cttp@srk.co.za; MLaw@srk.co.za  
**Cc:**  
**Subject:** RE: OBSERVATORY CIVIC ASSOCIATION & GKKTIC // LIESBEEK LEISURE PROPERTY TRUST & OTHERS [CASE NO. ]  
**Attachments:** Issued NOM.pdf

Dear Nick

Hercules is out of office at the moment, but I attach the notice of motion which should have been sent with the affidavits.

Regards,

Cormac

**Cormac Cullinan** BA (Hons), LLB (Natal), LLM (London)  
Director

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**From:** Nick Smith <nicks@nsmithlaw.co.za>  
**Sent:** Monday, 02 August 2021 16:01  
**To:** Hercules Wessels <Hercules@greencounsel.co.za>; 'Jody Aufrichtig' <jody@orangestreet.co.za>; Letitia.Ohlson-Isaacs@capetown.gov.za; joy.sangiorgio@capetown.gov.za; Keagan-Leigh.Adriaanse@westerncape.gov.za; 'Zaahir Toefy' <Zaahir.Toefy@westerncape.gov.za>; DEADP.Appeals@westerncape.gov.za; 'Penelope E Meyer' <Penelope.Meyer@westerncape.gov.za>; 'Ceoheritage' <Ceoheritage@westerncape.gov.za>  
**Cc:** 'Michelle Couzyn-Rademeyer' <michelle@zenprop.co.za>; Info <info@greencounsel.co.za>; cttp@srk.co.za; MLaw@srk.co.za  
**Subject:** RE: OBSERVATORY CIVIC ASSOCIATION & GKKTIC // LIESBEEK LEISURE PROPERTY TRUST & OTHERS [CASE NO. ]

Dear Mr. Wessels



I acknowledge receipt of your client's founding affidavit (with annexures) in what is referred to in that affidavit as case no. 12994/2021 in the Western Cape Division of the High Court.

Please advise as to the whereabouts of your client's notice of motion, in the absence of which it is impossible to establish the timelines for the litigation and in particular, the date for the delivery of my client's answering affidavits in Part A (your client's urgent application for an interim interdict).

Yours faithfully

Nicholas Smith



## NICHOLAS SMITH | ATTORNEY

BA (Hons) LLB ADL LLM (Marine & Environmental Law)

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nicks@nsmithlaw.co.za | www.nsmithlaw.co.za | 2nd Floor, 114 Bree  
Street, Cape Town.

---

**From:** Hercules Wessels [mailto:Hercules@greencounsel.co.za]

**Sent:** 02 August 2021 02:44 PM

**To:** Nick Smith <nicks@nsmithlaw.co.za>; Jody Aufrichtig <jody@orangestreet.co.za>; Letitia Ohlson-Isaacs <capetown.gov.za>; Joy Sangiorgio <capetown.gov.za>; Keagan-Leigh Adriaanse <westerncape.gov.za>; Zaahir Toefy <Zaahir.Toefy@westerncape.gov.za>; DEADP.Appeals@westerncape.gov.za; Penelope E Meyer <Penelope.Meyer@westerncape.gov.za>; Ceoheritage <Ceoheritage@westerncape.gov.za>

**Cc:** Michelle Couzyn-Rademeyer <michelle@zenprop.co.za>; Info <info@greencounsel.co.za>; ctp@srk.co.za; MLaw@srk.co.za

**Subject:** RE: OBSERVATORY CIVIC ASSOCIATION & GKKTIC // LIESBEEK LEISURE PROPERTY TRUST & OTHERS [CASE NO. ]

**Importance:** High

Dear Sirs,

With reference to the above matter.

Please download a copy of our clients' urgent court application at the following link <https://we.tl/t-qgjZzgG8pm>. For the sake of convenience, I have annexed a copy of the papers, as well, but this version is of lower quality (as opposed to the version which can be downloaded by following the link provided).

Note that should you oppose part A of the application, please file your notice of opposition on or before 3 August 2021 (tomorrow). We consent to electronic service of all further pleadings or notices regarding this matter.

A copy of the papers will be served on the respective Respondents, by the Sheriff, in due course.

Please confirm receipt hereof.

Kind regards,

Hercules Wessels BA (Law) & LLB  
Senior Associate



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A

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A handwritten signature or set of initials, possibly 'LS' or '20', written in dark ink. The strokes are fluid and somewhat abstract, typical of a quick signature.



"JAZO"



**water & sanitation**

Department:  
Water and Sanitation  
REPUBLIC OF SOUTH AFRICA

Private Bag X 313, Pretoria 0001 / Sedibeng Building, 185 Francis Baard Street, Pretoria  
Tel: 012 336 7500 Fax: 012 323 4470 or 012 326 2715

Enquiries: Telephone: Email:

**Mr/ Ms N. Smith**  
**Nicholas Smith Attorneys**  
**2<sup>nd</sup> Floor, 114 Bree Street**  
**Cape Town**  
**8000**

By Email: [nicks@nsmithlaw.co.za](mailto:nicks@nsmithlaw.co.za)

Attention: ND Smith

**RE: IN THE APPEAL BETWEEN OBSERVATORY CIVIC ASSOCIATION // DIRECTOR  
GENERAL OF THE DEPARTMENT OF WATER AND SANITATION AND OTHERS  
(APPEAL NO: WT01/21/WC)**

The above matter refers.

Kindly note that I have considered your request for upliftment in terms of section 148 (2) of the National Water Act, 1998 (Act No. 36 of 1998) and have decided to approve for the reasons stated in your letter dated the 28 June 2021.

Yours faithfully

**L N SISULU, MP**  
**MINISTER OF HUMAN SETTLEMENTS, WATER AND SANITATION**

DATE: 21/07/2021



"JA21"



**water & sanitation**

Department:  
Water and Sanitation  
REPUBLIC OF SOUTH AFRICA

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**18A Ascot Rd**  
**Kenilworth**  
**7708**  
**Cape Town**

By Email: [hercules@greencounsel.co.za](mailto:hercules@greencounsel.co.za)

Attention: Hercules Wessels

**RE: IN THE APPEAL BETWEEN OBSERVATORY CIVIC ASSOCIATION // DIRECTOR  
GENERAL OF THE DEPARTMENT OF WATER AND SANITATION AND OTHERS  
(APPEAL NO: WT01/21/WC)**

The above matter refers.

Kindly note that I have received and considered inputs received from your letter dated 14 July 2021.

However, I have taken into account a number of factors, including but not limited to, the local economic development of Cape Town. Therefore, rejecting the application to uplift the water use license of Liesbeek Leisure Properties will not be in the best interest of the people of Cape Town and the economy of the county.

As a result, I have decided to approve the upliftment in terms of the relevant provisions of the National Water Act.

Yours faithfully

**L N SISULU, MP**  
**MINISTER OF HUMAN SETTLEMENTS, WATER AND SANITATION**

DATE: 21/07/2021



"JH22"

**Nick Smith**

---

**From:** Nick Smith <nicks@nsmithlaw.co.za>  
**Sent:** 26 July 2021 12:06 PM  
**To:** 'Hercules Wessels'; 'Jody Aufrichtig'  
**Cc:** 'Michelle Couzyn-Rademeyer'  
**Subject:** RE: OCA & GKKITC // RIVER CLUB DEVELOPMENT  
**Attachments:** Letter\_Cullinans\_26072021\_.pdf

Dear Mr. Wessels

Please see the attached and slightly updated version of my letter sent to you at noon today. I point out that the only change in the attached copy is to the last sentence in paragraph 3, in order to give it (and the contents of that paragraph generally) the necessary context *qua* your client's assertions, as those are described in the preceding paragraph of our letter.

Yours faithfully

Nicholas Smith

---

**From:** Nick Smith [mailto:nicks@nsmithlaw.co.za]  
**Sent:** 26 July 2021 12:00 PM  
**To:** 'Hercules Wessels' <Hercules@greencounsel.co.za>; 'Jody Aufrichtig' <jody@orangestreet.co.za>  
**Cc:** 'Michelle Couzyn-Rademeyer' <michelle@zenprop.co.za>  
**Subject:** RE: OCA & GKKITC // RIVER CLUB DEVELOPMENT

Dear Mr. Wessels

Please see the attached response to your letter of 21 July 2021.

Yours faithfully

Nicholas Smith

---

**From:** Hercules Wessels [mailto:Hercules@greencounsel.co.za]  
**Sent:** 21 July 2021 03:29 PM  
**To:** Jody Aufrichtig <jody@orangestreet.co.za>  
**Cc:** Michelle Couzyn-Rademeyer <michelle@zenprop.co.za>; Nick Smith <nicks@nsmithlaw.co.za>  
**Subject:** RE: OCA & GKKITC // RIVER CLUB DEVELOPMENT

Dear Sir,

With reference to the above matter and the attached correspondence for your attention.

Please confirm receipt hereof and provide a response by no later than noon on Monday, 26 July 2021.

Regards,

Hercules Wessels BA (Law) & LLB  
Senior Associate





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A handwritten signature or set of initials in black ink, located in the bottom right corner of the page. It appears to be a stylized representation of a name, possibly "HJ" or similar.





**NICHOLAS SMITH ATTORNEYS**  
ENVIRONMENTAL LAW SPECIALISTS

Cullinan & Associates Incorporated  
Attention: Mr. Hercules Wessels  
By e-mail: [hercules@greencounsel.co.za](mailto:hercules@greencounsel.co.za)

Our ref: NDS/sg/L38-0011  
Your ref: Mr. H. Wessels

**Copies to:**

The Trustees of the Liesbeek Leisure Properties Trust  
Care of: Mr. Jody Aufrichtig  
By email: [jody@orangestreet.co.za](mailto:jody@orangestreet.co.za)

Zenprop Property Holdings  
Michelle Couzyn-Rademeyer  
By email: [michelle@zenprop.co.za](mailto:michelle@zenprop.co.za)

26 July 2021

Dear Mr. Wessels

**RE: YOUR "REQUEST FOR UNDERTAKING TO DELAY ALTERATION OF RIVER CLUB SITE" DATED 21 JULY 2021**

1. We have been asked to provide a response (as may be strictly necessary at this juncture) to your letter of the 21<sup>st</sup> instant, received under cover of your e-mail of the same date. We do so before the deadline you set by you in your letter under reply.
2. Our client disputes your client's view that undertaking the activities for which our client has received environmental authorisation ("EA"); land use approval; and more recently; a water use licence, will "... cause irreparable harm to the environment and the significant heritage value of the site ...", as your client asserts or at all. All the evidence in this matter, and the decisions taken to date by the various responsible authorities, suggest that the development is ecologically, economically and socially sustainable.
3. The decisions taken respectively by the Western Cape Department of Environmental Affairs and Development Planning's Director: Development Management on 20 August 2020 to grant the EA, which was confirmed on appeal by the MEC for Local Government, Environmental Affairs and Development Planning in the MEC's record of decision in the appeal EA of 22 February 2021; and by the City of Cape Town's

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Nicholas Smith - BA (Hons) LLB ADL LLM (Marine & Environmental Law)

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[nicks@nsmithlaw.co.za](mailto:nicks@nsmithlaw.co.za) | [www.nsmithlaw.co.za](http://www.nsmithlaw.co.za) | 2nd Floor, 114 Bree Street, Cape Town.





Municipal Planning Tribunal on 30 September 2020 in respect of my client's land use planning applications, which decision was confirmed on appeal by the City's Executive Mayor on 19 April 2021; as well as the record of decision of the water use licence granted to my client on 8 June 2021 and the *Record of recommendations* bearing the same date and pertaining to the water use licence as signed by the Acting Regional Head: Western Cape in the national Department of Water and Sanitation) all also clearly suggest that your client's assertions are without merit.

4. Regarding the commencement of authorised activities, it is not correct that our client had commenced with the development by the date of your letter (21 July 2021). My instructions are that my client's contractors commenced this morning with the development-related activities authorised in the approvals described in this letter. This activity follows on Minister Sisulu's decision of Thursday last week to lift the suspension occasioned by the delivery of your client's appeal on 21 June 2021; and also upon our client's receipt of written confirmation last week from DWS's Acting Head: Western Cape that the necessary pre-commencement requirements set out in the water use licence have been met by my client.
5. As you are no doubt aware, other organisations have now purported to deliver appeals. None of those three parties is, to the best of our knowledge, represented by you but it is clear that at least one of those parties has communicated with you in respect of its so-called "appeal". We hold instructions to deliver responses to those documents, which we will do shortly. Suffice to say for present purposes that it appears that none of the latter organisations has the requisite standing to deliver an appeal. Even if they do have standing (which is disputed by my client), their purported appeals are in any event entirely devoid of any grounds of appeal. As such, they are entirely without merit and consequently, without any prospect of success.
6. We note your threat to approach the High Court for interim relief pending the determination of the review proceedings you also threaten. To the extent that you institute High Court proceedings on your clients' instructions, our client confirms that the addresses set out in your letter under reply are the respective trustees' addresses at which those individuals will accept service.
7. In the interim, we reserve our client's rights to respond more fully to each assertion made in your letter under reply in due course and should that be necessary.

Yours faithfully,

**NICHOLAS SMITH ATTORNEYS**

Per:

**NICHOLAS SMITH**



**MAIN ENVIRONMENTAL CONSULTANT "JA23"**  
SRK Consulting

**CLIENT:**  
Liesbeek Leisure Properties Trust

---

**Proposed redevelopment of the River Club, Observatory:**



**Assessment of potential biodiversity impacts -  
Incorporating the findings of the aquatic ecosystems (rivers  
and wetlands), botanical, faunal, avifaunal and groundwater  
specialists**

---

**December 2019**



**Prepared by**

Liz Day (PhD; Pr Nat Sci)

Freshwater Consulting cc

[liz@freshwaterconsulting.co.za](mailto:liz@freshwaterconsulting.co.za)

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## EXECUTIVE SUMMARY

### E1 Introduction

This report summarises the findings of the specialist biodiversity assessment of the environmental impacts likely to be associated with the proposed re-development of the River Club, Observatory, by Liesbeek Leisure Properties Trust. The report has been compiled by Freshwater Consulting cc, and integrates the findings of a number of specialists, who provided input into the baseline studies and (where relevant) into the Environmental Impact Assessment component of the study as well. The full specialist reports are provided in appendices to this report, noting that the specialist aquatic ecology report is provided as the main body of the report, into which additional biodiversity components relating to fauna, flora and geohydrology has been inserted. The following specialists provided input into this document:

- Dr Liz Day (freshwater ecologist – rivers and wetlands (Freshwater Consulting cc);
- Mr Marius Burger (faunal specialist);
- Mr Barrie Low (botanical specialist - COASTEC);
- Dr Tony Williams (avifaunal specialist);
- Mr Leon Groenewald (groundwater specialist - SRK).

### E2 Important assumptions

The findings of this study are based on a number of important assumptions that, if unfounded, would require substantial components of these findings to be reconsidered. Key assumptions include:

- The City of Cape Town would be amenable to the changes proposed to the function and management of the natural channel of the Liesbeek River on City land, as part of Alternative 2. The natural channel abuts the River Club site boundary but does not in fact lie within the site;
- The findings of the hydrological study, particularly with regard to the impact of the proposed infill on flooding of the adjacent Raapenberg wetlands, are accurate;
- The development of either alternative, if approved, would be in accordance with the full detailed description of the development as outlined in this report, unless altered by explicit biodiversity mitigation. No items would be excluded from the development, without confirmation from the biodiversity team that they were immaterial to the development outcomes / impacts;
- The additional recommendations included in the report, and intended to improve certainty that the proposed development would be able to achieve its intended ecological benefits, would also be conditions of Authorisation.

### E3 Affected natural systems

#### E3.1 Overview

The River Club site lies in the Salt River catchment (quaternary catchment G22C). The site is highly disturbed, and the botanical specialist noted that it includes no indigenous terrestrial vegetation. It is edged along its eastern and south eastern boundary by the **Liesbeek Canal**, which lies between the River Club and South African Astronomical Observatory (SAAO) sites, and separates the site along its south eastern boundary from the **Raapenberg Wetlands** – an important wetland conservation area. The site is bounded to the south by a relatively small parcel of land that is intended in the future to accommodate administrative buildings for the Square Kilometre Array (SKA) programme; to the west by an earth-lined channel referred to in this report as the **natural channel of the Liesbeek River**, which lies on land owned by the City of Cape Town, between Liesbeek Parkway and the River Club boundary, and to the north by the road reserve for the planned Berkley Road extension, which lies between the River Club boundary and an area of open space extending as far as the lower reaches of the natural Liesbeek River channel. The **Black River** forms the southern boundary of the site, between the confluence of the Liesbeek Canal and the natural channel of the Liesbeek River (Figure E1).





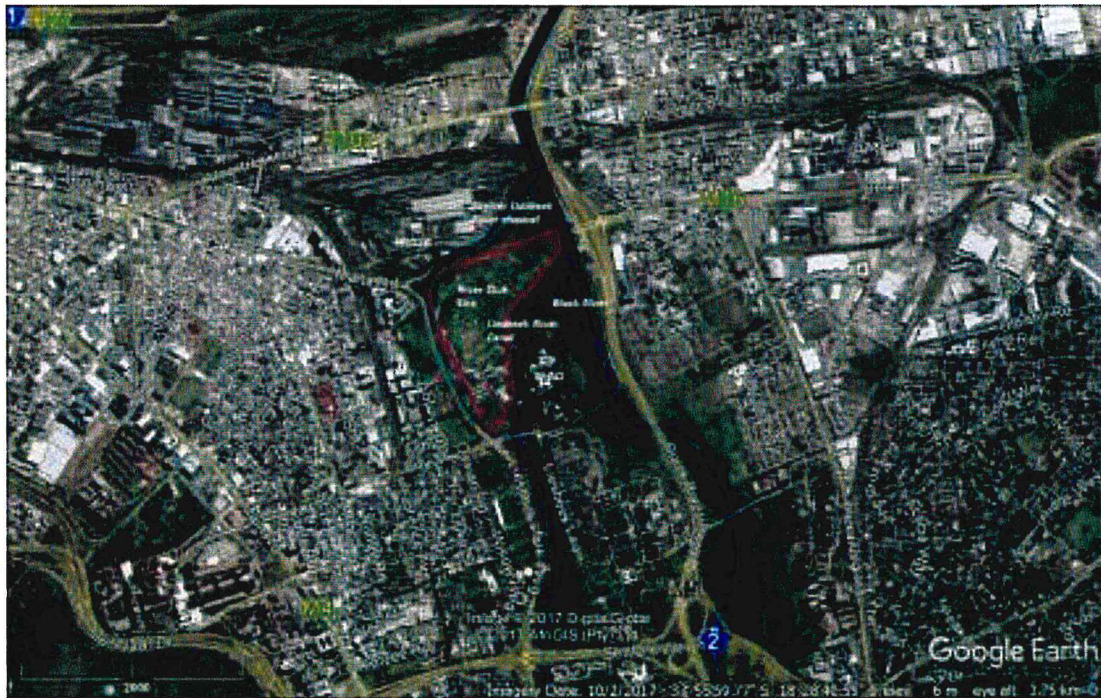


Figure E1

Location of The River Club, Observatory. Site

### E3.2 Aquatic ecosystems on and near the site

#### Condition

All of the rivers and their associated riparian wetlands that pass along the site boundaries were assessed as highly transformed from their natural condition, and associated with the following Present Ecological State (PES) (or condition) ratings:

- **The Black River:** PES Category F, indicative of a system that has undergone Extreme changes from its natural condition, being affected by (amongst others) channelization, long-term inflows of treated and (at times untreated) sewage effluent, major changes in flow regime from a seasonal to a perennial system, nutrient enrichment, largescale loss of indigenous vegetation and invasion by alien aquatic plants;
- **The Liesbeek River:**
  - The western channel (**natural Liesbeek channel**): PES Category E, indicative of a system that has undergone a Serious change from its natural conditions, with changes in natural river morphology being major contributors to this poor condition rating, along with water quality impacts from urban and suburban landuse, changes in natural flow regime (upstream river flows have been largely diverted away), extensive loss of indigenous vegetation and invasion of the river channel by alien plants. The channel and its vegetated margins are however used by several species of waterfowl, while Giant Kingfishers nest in sections where the bank is vertical. Endemic Cape Galaxias fish occur in the river upstream and may possibly also occur in these reaches;
  - The eastern (concrete lined) current channel of the Liesbeek River (**Liesbeek canal**): PES Category F, indicative of a canalised system that has lost almost all natural stream function;



- **The Raapenberg wetlands:**

- These include seasonal clay flats renosterveld wetland, with nine endemic or near-endemic wetland plant species being associated with them within the adjacent SAAO site alone.
- Water quality assessments and mapping of wetland vegetation indicated that these wetlands are at times highly saline and comprise a mosaic of wetland plant communities, the distribution of which is driven by subtle changes in water depth as well as by salinity.
- The Raapenberg wetlands have also been rated as of importance from an avifaunal perspective, supporting mainly waterfowl and have been identified as providing breeding habitat to endangered Western Leopard Toads;
- PES: Category C;

- **Artificial golf course ponds**

A number of seasonally to perennially inundated ponds have been created on the golf course. These artificial water features may provide suitable breeding sites for western Leopard Toads and other amphibians, but are easily replaceable habitats, and of low current habitat quality.

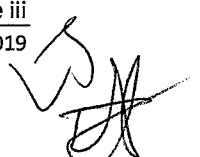
#### Sensitivity

The key biodiversity sensitivities of the River Club and its immediate natural surroundings can be summarised as:

- The Raapenberg wetlands – these wetlands include important remnant seasonal clay flats renosterveld wetland, of high conservation importance, which would be particularly vulnerable to impacts such as increased hydroperiod / prolonged or more frequent wetting;
- The SAAO site includes important Threatened terrestrial renosterveld vegetation (Peninsula Shale Renosterveld) including several endemic and/or red data species;
- The wetlands also support numerous birds as well as amphibians such as endangered western leopard toads – maintenance of habitat quality for indigenous fauna requires maintenance of seasonal flow regimes and inundation patterns, which in turn affect salinity and other water quality issues. The wetlands are thus highly sensitive to:
  - Increased flood velocity, frequency, duration, or magnitude (depth);
  - Channelisation / drainage of water from the wetlands;
  - Diversion of (particularly fresh) water into the wetlands;
  - Removal of existing berms / other structures that have “accidentally” protected the wetlands from hydrological and/or water quality impacts associated with the changed hydrology, hydraulics, position and water quality of the Black River
- The Liesbeek Canal is not sensitive as a riverine habitat in its current form;
- The natural channel of the Liesbeek River is disconnected from the Liesbeek River and now functions as a backwater wetland – it does however provide habitat to important bird species and may provide breeding areas to western leopard toads;
- Connectivity across the site, especially from the Raapenberg wetlands across to the natural channel and east-west across the site is important for wetland fauna – in particular western leopard toads;
- Provision of adequate safe, vegetated terrestrial habitat for western leopard toads during their non-breeding season is critically important for the sustainability of this species on and near the site.

#### **E3.3 Integrated botanical and faunal (including avifauna) specialist findings**

The terrestrial areas of the site were described as highly disturbed by all specialists, and rated as of no importance from a botanical or avifaunal perspective, although the botanical study indicated that there was a possibility that they could contribute to renosterveld conservation if they were

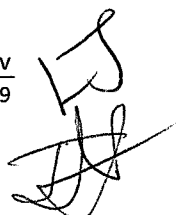




rehabilitated by bringing fill of a shale nature onto the site, with local quarry areas being suggested as possible suitable donor areas.

With regard to non-avian fauna, the faunal study found:

- 29 indigenous mammal species might occur on the site – their conservation status ranks are all listed as being of Least Concern (LC), with only one species (African Clawless Otter) with a global (IUCN) and regional listing of Near Threatened (NT);
- A total of 32 indigenous reptile species may occur on the River Club grounds – again, the conservation status of these reptiles are almost all listed as being of LC, except for the Cape Dwarf Chameleon which currently is listed as Vulnerable (VU). The latter has been recorded on the grounds of the adjacent South African Astronomical Observatory, and might possibly also occur within the River Club grounds;
- A total of eight indigenous amphibian species may potentially occur on the River Club grounds and immediate surroundings. The conservation status of these amphibians are almost all listed as being of LC, with the notable exception of the Western Leopard Toad (WLT) which is Endangered (EN). The faunal specialist noted that although the presence of an endangered species on the site does not trigger a fatal flaw response in respect of the development intentions, the prevalence of WLTs in this area does call for special considerations to adequately accommodate this species here. **The WLT represents the most significant faunal concern in respect of the proposed River Club development intentions. Of relevance to this study is the following:**
  - The only known WLT breeding sites in the region of the River Club are the wetlands of the Raapenberg Bird Sanctuary / Raapenberg Wetlands and about 1.5 km south-east in the Oude Molen area;
  - The WLT population of this specific area appears to be somewhat disjunct and seemingly completely separated from breeding populations further south on the Cape Peninsula;
  - The following four components are critical for the viability of any WLT population:
    - i. Availability of suitable **breeding habitat**: In this case, the conservation and management of the Raapenberg Wetlands are of outmost importance;
    - ii. Availability of habitat to provide **shelter and food (forage)**: Enough natural or semi-natural habitat must be available within at least a 2 km radius of breeding habitats to sustain WLT individuals for the non-breeding period (i.e. about 10 months of the year). Such sectors must provide the adequate shelter and foraging requirements to sustain the WLTs until the next breeding season. Thus substantial green belts must remain undeveloped, especially in the areas near to the Raapenberg Wetlands and along the rivers and also within an dispersal corridors;
    - iii. Availability of **dispersal corridors**: Multiple dispersal options between breeding habitat and year-round occupancy habitat must be maintained, i.e. barriers must be limited. Connectivity must be maintained between the Raapenberg Wetlands and the river regions to the west, including the area of the former Liesbeek flow, which must either be rehabilitated as an accessible high quality wetland habitat or converted into high quality terrestrial habitat with some pools/ponds that would retain water into the summer and could be used as WLT breeding grounds. One broad (>65 m wide) east/west belt must be established in the northern reaches of the property, and additional minor (>10m wide) east/west corridors must also be created along the northern and southern site boundaries.
    - iv. Limiting the extent of **hazardous features** and **high-risk areas**: Toad exclusion barriers must be erected to prevent/limit toad access to high-risk zones such as roads, large unvegetated areas and various pitfall structures.





- Mitigation measures implemented for WLTs will by default also serve to mitigate for the other faunal assemblages that are not of significant conservation concern.

#### **E4 The proposed development**

Two development alternatives plus the no-development alternative were assessed. The full details of these developments should be accessed in the main biodiversity report, but they both allow for infilling of the existing 1:100 year Liesbeek and Black River floodlines, to create a building platform. The development alternatives comprise:

- Alternative 1 (preferred alternative): This entails rehabilitation of the canal into a more natural, un-lined channel, and the infilling of the natural channel to create a landscaped open space and stormwater swale system;
- Alternative 2: This allows for retention of the canal, with minor landscaping and softening of its edges, and the protection and rehabilitation of the natural channel into an (albeit disconnected and rendered unnatural but still functional) wetland.

The key features of both alternatives that are of importance from a biodiversity perspective (and which were designed largely in discussion with the biodiversity team) comprise inclusion of:

- Ecological corridors, including:
  - A wide (ranging from 65 m at its narrowest to 100m wide at its widest point east-west ecological corridor, connecting the Liesbeek Canal / rehabilitated riverine corridor (to the east) and the natural Liesbeek channel / stormwater swale (to the west). This corridor has been designed in terms of both development alternatives for faunal movement through the site – in particular, movement and the provision of high quality terrestrial habitat during non-breeding periods for the western leopard toad. The open space of the ecological corridor would also allow for flood attenuation during periods of high rainfall, as well as perform the function of a landscaped public space on the site
  - A minimum 10m wide corridor along the southern (SKA) boundary of the site;
  - With the exception of one building on the western corner of the development, a minimum 10m wide corridor between the toe of Berkley Road extension and the building edge – access to the site would be from this new road;
  - Provision for at least two culverts under Berkley Road extension to allow for faunal passage into the presently undeveloped open space to the north, between the natural Liesbeek channel and Berkley Road;
  - A corridor along the western edge of the site – this area, which presently includes the natural Liesbeek channel, is however treated differently in the two alternatives;
- Various roads and bridges – these were designed to minimise ecological fragmentation, and all roads abutting ecological corridors / rehabilitated areas were designed actively to prevent accessibility by WLTs;
- The development platform – this was designed also to minimise accessibility by small fauna and WLTs in particular;
- A stormwater system, that allows for the creation of WLT breeding ponds;
- Infrastructure such as sewers and water lines.

#### **E5 Key hydrological and geohydrological findings**

Crucial findings of other specialist studies that informed the present assessment included:

- The fact that, despite their close proximity to the Liesbeek canal and the Black River, the geohydrological study found that the Raapenberg Wetlands are mainly groundwater-fed, with flow from the two rivers towards the wetlands being minor (and likely to be confined to flood events). The study also noted that the Raapenberg wetlands lie up-gradient of the River Club,





and are separated from these wetlands by the Liesbeek Canal, which acts as an hydraulic “buffer” between the River Club and the Raapenberg wetlands. There thus appears to be no connection between shallow groundwater on the River Club site and that on the Raapenberg wetland site appears to exist today, although the systems would have been connected under natural circumstances;

- The specialist hydrological study (Aurecon 2017) findings that:
  - Alternative 1: For the 0.5-year and 1-year recurrence interval storm events, only slight increases (1 to 2cm) if any, and in some cases decreases (1 to 2 cm) in water level in the Black and Liesbeek Rivers would occur, with decreases in flood level as a result of increased capacity in the rehabilitated Liesbeek canal. These findings are important, because (at least prior to the ill-considered opening up of a connecting channel into the wetland from the Liesbeek Canal, the wetland is assumed to be hydrologically connected to the Liesbeek Canal at a surface elevation of 2.5m amsl, equating to a recurrence interval of between 0.5 and 1 year. The infilling of the River Club site would thus exert a negligible effect on the hydrological regime of the Raapenberg wetlands, and is not considered a threat in this regard. This compares with the 125mm lowering of the level of inflows and outflows into the wetland as a result of the linking channel, which is likely to exert a significant negative effect on wetland function;
  - Alternative 2: Flood changes would also be negligible, although the decrease in flood level resulting from changes in canal capacity would not apply.

## E6 Impact assessment findings

### Important Note:

During the course of FCG’s involvement in this project, the proposed development footprint and the layouts of both development alternatives underwent a number of changes, largely as a result of extensive, iterative feedback into the project, by biodiversity specialists and other members of the design team. This process resulted in issues such as the avoidance of (ecologically) sensitive areas, the incorporation of ecological setback areas and faunal movement corridors in accordance with biodiversity specialist requirements and the strategic selection of opportunities that would enhance ecosystem function, quality or sustainability, while affording various development opportunities. To some extent, then, the development alternatives considered in this study already include a substantial level of mitigation, and the significance of the impacts considered in this section tend to be positive, or low to medium even without mitigation, despite the scale of development proposed.

**Table E1** summarises the assessment of biodiversity impacts associated with the proposed development.

Positive impacts would be associated with improved connectivity between the Raapenberg Wetlands and the site (e.g. as a result of canal rehabilitation) as well as the active establishment of large areas of indigenously vegetated open space corridors and riverine buffer areas.

The only impacts that were considered High (negative) were those associated with potential fatalities to WLTs. Prior to additional mitigation, both Alternatives carried risk in this regard – in the case of Alternative 1 this revolved around increased access by toads to Liesbeek Parkway, while Alternative 2 does not include barriers to toad movements onto the development platform from ecological corridors and open space areas. These potential impacts are however readily mitigable to Low, through design interventions.



**Table E1**

**Significance of impacts to natural ecosystems and biodiversity as a result of the proposed development.**  
**See main body of report for detailed impact descriptions**

Nature of impact	Consequence	Probability	Signif.	Confid.
IMPACTS FROM DESIGN AND LAYOUT				
1. Changes in the habitat quality and ecological functioning of the Liesbeek Canal				
ALT 1 Without Mitigation	High	Probable	High (Pos.)	Medium
ALT 2 Without Mitigation	Low	Possible	Very Low (Pos.)	High
2. Loss of extent of terrestrial habitat for indigenous fauna				
Both alternatives Without Mitigation	Low	Definite	Low (Neg.)	Medium
With mitigation	None recommended			
3. Loss / degradation of indigenous floral communities / important floral populations				
Both alternatives Without Mitigation	Negligible impact			
Both alternatives With Mitigation	Medium	Possible	Medium (Pos.)	Medium
4. Changes in faunal connectivity				
ALT 1 Without Mitigation	Medium	Possible	Low (Neg.)	Medium
ALT 2 Without Mitigation	Medium	Probable	High (Neg.)	Medium
ALT 1 With Mitigation	Medium	Possible	Low (Pos.)	High
ALT 2 With Mitigation	Medium	Possible	Low (Neg.)	Medium
5. Increased western leopard toad mortalities				
ALT 1 Without Mitigation	High	Probable	High (Neg.)	Medium
ALT 2 Without Mitigation	High	Probable	High (Neg.)	Medium
ALT 1 With Mitigation	Medium	Possible	Low (Neg.)	Medium
ALT 2 With Mitigation	Medium	Possible	Low (Neg.)	Medium
6. Changes in flow regime into the Raapenberg wetlands				
ALT 1 and 2	Very Low to Low	Improbable	Insignificant to very low	Medium



**Proposed redevelopment of the River Club, Observatory:**  
**Specialist Environmental Impact Assessment Report: Biodiversity – aquatic ecosystems, flora and fauna**

Nature of impact	Consequence	Probability	Signif.	Confid.
Without Mitigation			(Neg.)	
<b>7. Loss and degradation of riverine wetlands along the Black River margins</b>				
ALT 1 and 2 Without Mitigation	Medium	Definite	Medium (Neg.)	Medium
ALT 1 and 2 With mitigation	Very Low	Probable	Very Low (Neg.)	Medium
<b>8. Loss and/or changes in wetland habitat quality and availability in the areas of the natural Liesbeek River channel</b>				
ALT 1 Without Mitigation	Medium	Definite	Medium (Neg.)	High
ALT 2 Without Mitigation	Low	Probable	Low (Pos.)	High
ALT 1 With Mitigation	Low	Probable	Low (Neg.)	Medium
ALT 2 With Mitigation	Low	Probable	Low (Pos.)	Medium
<b>CONSTRUCTION PHASE</b>				
<b>9. Faunal fatalities (particularly western leopard toads) as a result of construction activities</b>				
ALT 1 Without Mitigation	Medium	Probable	Medium (Neg.)	Medium
ALT 2 Without Mitigation	Medium	Probable	Medium (Neg.)	Medium
ALT 1 With Mitigation	Low	Probable	Low (Neg.)	Medium
ALT 2 With Mitigation	Low	Probable	Low (Neg.)	Medium
<b>10. Water quality and habitat deterioration as a result of diversion of river (Black River and Liesbeek Canal) and wetland (natural Liesbeek channel) flows during construction</b>				
ALT 1 Without Mitigation	Very low	Probable	Very low (Neg.)	Medium
ALT 2 Without Mitigation	Very low	Probable	Very low (Neg.)	Medium
ALT 1 With Mitigation	Very low	Probable	Very low (Neg.)	High
ALT 2 With Mitigation	Very low	Probable	Very low (Neg.)	High
<b>11. Degradation of downstream habitat in the Liesbeek Canal, lower natural Liesbeek channel and Black River resulting from activities other than flow diversion</b>				
Both Alternatives Without Mitigation	Medium	Probable	Medium (Neg.)	Medium



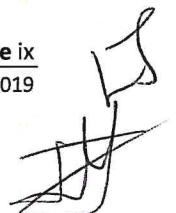
Nature of impact	Consequence	Probability	Signif.	Confid.
Both Alternatives With Mitigation	Very Low	Probable	Very Low (Neg.)	Medium
<b>12. Disturbance of watercourse bed and banks during infrastructure installation</b>				
Both Alternatives Without Mitigation	Low	Probable	Very Low (Neg.)	Medium
Both Alternatives With Mitigation	Very Low	Probable	Very Low (Neg.)	Medium
<b>OPERATIONAL PHASE</b>				
<b>13. Degradation of habitat quality or failure to realise opportunities for improved habitat quality and biodiversity conservation / improvement as a result of inadequate or ill-advised channel and open space maintenance activities</b>				
Both Alternatives Without Mitigation	Medium	Probable	Medium (Neg.)	Medium
Both Alternatives With Mitigation	Low to Very Low	Possible	Insignificant to Very low (Neg.)	Medium
<b>14. Contribution to deterioration of water quality in the Liesbeek and Black Rivers</b>				
Both Alternatives Without Mitigation	Medium	Probable	Medium (Neg.)	Medium
Both Alternatives With Mitigation	Low	Probable	Low (Neg.)	Medium

Table E2 summarises changes in the ecological condition of the aquatic ecosystems on and abutting the site, these being the only natural habitats identified of any ecological significance. The table assumes full implementation of the stated designs and their required mitigation measures, as well as implementation of additional requirements listed in the report that are intended to improve confidence that the development alternatives would in practice achieve their anticipated outcomes.

**Table E2**

**Summary of anticipated changes in aquatic ecosystem condition assuming full implementation of mitigation measures**

System	Condition		
	Alternative 1	Alternative 2	Current state / No development alternative
Liesbeek River Canal	C	F	F
Natural channel of the Liesbeek River	Non-existent	D	E
Raapenberg wetland	C	C	C





## **E5 Cumulative development impacts**

The following impacts were identified as of concern:

- Increasing development in the broader TRUP area resulting in loss of open space areas, and thus affecting mainly non-breeding habitat availability for WLTs;
- Increased traffic in the vicinity of the site, resulting in increased WLT mortalities (e.g. at the Observatory Road crossing to Liesbeek Lake from the site).

## **E7 Impacts associated with the no-development alternative**

If neither development alternative was approved and the *status quo* remained:

- The Liesbeek Canal would remain *in situ* – but would be likely to require repair in the near future;
  - The (natural) Liesbeek channel would remain *in situ*, and would continue to convey stormwater into the Black River. Ongoing removal of alien vegetation (e.g. water hyacinth) would be required, but the channel might provide breeding habitat to western leopard toads;
  - The terrestrial open spaces of the River Club would remain undeveloped and potentially available as non-breeding habitat for western leopard toads – however, ongoing activities associated with the driving range would continue to hamper the ecological wellbeing of this species as would physical barriers to migration such as the Liesbeek Canal.
- The main negative impact associated with the no-development alternative would be the lost opportunity to rehabilitate the Liesbeek Canal. Without development funding, it is extremely unlikely that this bold approach would ever be affordable.

## **E8 Summary and Conclusions**

### **E8.1 Discussion of alternatives**

In the case of the River Club, both terrestrial and natural ecosystems are considered degraded, having suffered a long history of manipulation, including (in the case of aquatic ecosystems) variously, diversion, channelization, fragmentation and canalisation. Terrestrial ecosystems have been assessed by the faunal, avifaunal and botanical specialists as highly altered and affording very low levels of habitat quality. No indigenous flora of any concern was found on the site, although important renosterveld communities including red data species did occur on the adjacent SAAO site and Raapenberg wetlands. These communities were not however considered likely to be affected by development of the River Club site.

Despite the level of infilling that would be associated with development of the site, the adjacent Raapenberg wetlands were shown by the hydrological assessment of Aurecon (2017a) to be unlikely to be impacted by changes in flood height, frequency or duration.

Of the two development alternatives assessed in this study, both would be acceptable from an ecological perspective, and preferable to the no-development alternative, since they both address the key concerns potentially associated with development of the River Club site, namely:

- The potential risks of development to the resilience of important indigenous fauna – in this case, populations of endangered western leopard toads occurring on and adjacent to the site, and requiring safe migration routes through the site as well as access to both breeding and non-breeding habitats;
- The likelihood of impacting negatively on adjacent watercourses and/or wetlands;
- The need to improve ecosystem resilience through rehabilitation and /or remediation activities aimed at improving terrestrial and aquatic (river and wetland) habitat quality.





Both development alternatives have furthermore addressed, through a long period of iterative design by the project team as a whole, issues such as ecological connectivity through the site, and both provide terrestrial habitat for western leopard toads, while including structural devices (toad barriers, culverts, landscaped refugia and connecting corridors) to reduce mortalities for this flagship species as well as other fauna on the site, which would be expected in theory to be positively affected by the proposed landscape rehabilitation and remediation activities.

Of the two alternatives, from an ecological perspective, there would however be a very clear preference for selection of **Alternative 1**. This alternative hinges on the rehabilitation of the currently canalised reaches of the lower Liesbeek River, and the planned creation of an unlined vegetated channel, that has sufficient space to function as a natural river within a broad connecting riverine corridor, to establish adequate longitudinal and lateral linkages into natural areas of the site and the adjacent Raapenberg wetlands, and which would significantly improve faunal connectivity and toad migration routes across the site. Implementation of this alternative would, from a biodiversity and general aquatic ecosystems perspective, be a positive impact, and its implementation is recommended.

This positive outcome has not however been rated as of high significance – this reflects the acknowledged risks of implementation, as well as the impacts to any sensitive natural ecosystems that would be associated with a development of the scale of the proposed River Club development. Against rehabilitation of the canal is also set the infilling and landscaping of the remnant (but historically fragmented and highly altered / diverted) “natural” channel of the Liesbeek River. This loss is considered ecologically acceptable in the context of substantial river rehabilitation, and the proposed development of vegetated swales in landscaped terrestrial areas suitable for colonisation by western leopard toads in their non-breeding season is considered an acceptable use of this space without significant negative biodiversity or other ecological costs.

Alternative 2 would nevertheless provide adequate mitigation against development-associated threats, and would improve the existing (degraded and fragmented) aquatic habitat on the site. Selection of this alternative would however, in this author’s opinion, result in a significant biodiversity opportunity cost that could not be realised in the future once development had occurred. A similar opportunity cost applies to the No Development alternative - without significant development funding, it is extremely unlikely that rehabilitation of the canal would ever be feasible.

## **E8.2 Approach to increasing certainty of anticipated outcomes**

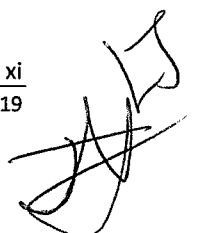
One of the problems in compiling this assessment was, ironically, the degree to which the development layouts had already considered ecological impacts, and addressed and incorporated these in layout and design. While the resultant layouts are thus largely acceptable in their current form, two problems are presented with this approach:

1. Without medium or high negative significance being attached to particular layouts, it is difficult to motivate for the essential inclusion of additional subtle mitigation measures that would improve the final outcomes – this weakens the mitigation requirements;
2. If a layout is approved, there is a risk that some of the essential original mitigation thinking and approaches could be “lost”, as it is not explicitly listed as mitigation.

In this report, these two issues have been addressed by:

- Including requirements for additional control measures (provided in the main body of the report) and aimed at improving uncertainty over the projected outcomes measures to be included in a potential development authorisation;
- Including requirements for the development descriptions included in this report to be considered part of the approved design; and

Including requirements for the authorised (if any) layout to be worked up as a detailed, annotated plan with written dimensions and ecological specifications, to be used as an auditable document going forward.







# The Freshwater Consulting Group

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12 November 2017

## DECLARATION OF INDEPENDENCE AND EXPERTISE IN THE FIELD OF STUDY

I, Elizabeth (Liz) Day as a partner of Freshwater Consulting cc (t/a The Freshwater Consulting Group / FCG), hereby confirm my independence as a specialist and declare that I do not have any interest, be it business, financial, personal or other, in any proposed activity, application or appeal in respect of which SRK was appointed as environmental assessment practitioner in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998), other than fair remuneration for work performed, specifically in connection with the Environmental Impact Assessment for the proposed development of the River Club site, Observatory, Cape Town.

---

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**Qualification(s):** BA, BSc, BSc Hons, PhD

**Experience:** Over 22 years in freshwater ecosystems, specialising in urban wetlands and watercourses, particularly in the City of Cape Town.

Liz has worked on both the Liesbeek and Black Rivers, has carried out numerous environmental impact assessments of rivers and wetlands in the City, and has been involved in several river rehabilitation projects, including the design of the Sir Lowry's Pass channel re-alignment, rehabilitation of the Pagasvlei stream (Constantia) and rehabilitation of the Langvlei Canal (Retreat). Liz was also the project leader and lead author on the (2016) Water Research Commission's publication of The Technical Manual for the Rehabilitation of South African Rivers, including technical guidelines and case studies. Liz has experience in wetland delineation and assessment and in integrating biodiversity specialist reports and concerns.

**Registration(s):** Member of IAIA; Member of SAIEES; Registered Professional Natural Scientist by SACNASP (Reg No 400270/08) for fields of Biological Science, Ecological Science and Zoological Science



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#### 3.1.4. Overview of historical changes in river function and alignment

Historically, the Black River and its tributaries other than the Liesbeek River were probably seasonal, draining into the former mudflats and wetlands of the Black River estuary at Paarden Eiland (Day 1997) and linking to the estuarine wetlands and coastal marshes of the Diep and Salt Rivers. These are described in Brown and Magoba (2009), who also describe the natural course of the lower Liesbeek River as splitting into two “arms” or channels, one of which flowed directly into the Black River and the other into the Salt River Lagoon, some distance downstream. The Diep, Salt and Black Rivers appear to have flowed at least at times into this lagoon as well.

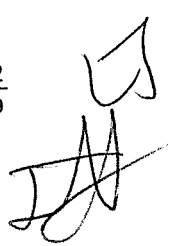
Extensive urbanization of the catchment, canalisation, wetland drainage and industrial development of Paarden Eiland have effectively led to the complete separation of the Diep River from the Salt River system and canalisation of the latter effectively constrains any natural tidal flushing of the river bed and severely alters the ecological functioning of the river;

The **Black River** itself has also undergone significant changes from its natural function and alignment. Brown and Magoba (2009) describe it as a seasonal system that rose in the sand dunes of the Cape Flats. It was associated with extensive wetlands in the area just east of the Observatory – remnants of these include the Raapenberg wetlands (see Section 3.1.8 (D)) as well as the Vincent Palotti and Valkenberg wetlands (Turpie 1994). However, construction of Settlers Way and its intersection with the Black River Parkway required the natural course of the river to be shifted some 100m west, and the wetlands on the eastern side to be infilled (Brown and Magoba 2009). Work by FCG along the Black River in the broad vicinity of the present study area has highlighted the presence of deep organic soils in some of the M5 road reserves and highway off-ramp clover-leaf areas. The presence of these organic soils, beneath layers of rubble and other fill, supports the idea that the river in these reaches once comprised broad wetland flats.

The Black River has also undergone substantial changes in flow regime, and it is now a perennial system, owing much of its volume to effluent from the Athlone and Borchard’s Quarry Waste Water Treatment Works (WWTWs) as well as stormwater inflows. In summer, virtually all of the flows in the river now comprise sewage effluent and stormwater runoff from the surrounding areas, including runoff from poorly serviced informal and backyard settlements north of the N2.

Not surprisingly, the high levels of nutrient enrichment in the Black River, coupled with permanent, slow flowing, deep water have resulted in a proliferation of various exotic aquatic plants in the river. These include parrot’s feather (*Myriophyllum aquaticum*) and water hyacinth (*Eichhornia crassipes*), although patches of indigenous pondweed (*Potamogeton pectinatus*) also occur in places in the river channel. Annual mechanical removal of litter and aquatic plants by the City of Cape Town, mainly to reduce the risk of flooding in the wet season, perpetuates the steep river banks within these reaches (Day 2013). Large-scale efforts to remove water hyacinth using manual and mechanical labour have taken past over the past few years, and the lower reaches of the Black River have been relatively uninfested over the past two years.

The **Liesbeek River** is one of the major tributaries of the Black River. It rises as a number of seasonal to perennial mountain streams on the eastern slopes of Table Mountain, between Kirstenbosch Botanical Gardens and Rhodes Memorial. As the streams flatten out into their foothill reaches, they flow through progressively more urbanized areas. Most of the lower reaches of the river downstream of Kirstenbosch are channelized and/or canalised (i.e. a mixture of concrete and earth





canals), at least as far as the N2 crossing, just upstream of the present site. Between the N2 and the Observatory Road river crossing (just upstream of the River Club), the Liesbeek River flows within an unlined channel, but is diverted again into a concrete canal immediately downstream of Observatory Road, and flows along the River Club boundary.

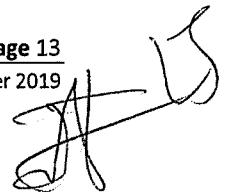
Aurecon (2017a) provides a series of historical photographs detailing changes in river course in the lower Liesbeek River since the turn of the 20<sup>th</sup> Century, and make the point that the present river channel and canal have both undergone changes from their natural alignment / linkages. Drawing from information contained in Brown and Magoba (2017), the following changes are most pertinent to this study:

- Extensive canalisation of the Liesbeek River itself took place between 1942 and 1962, largely as a response to flooding of rapidly urbanising areas, which encroached into the river floodplains;
- The “Liesbeek Lake” area of the river (just upstream of Observatory Road and the current site – **Figure 3.1**) was created in 1943, as part of a (never-realised) scheme to construct a boating lake in the river channel, which saw the river diverted into a series of borrow pits along its margins, to widen it, and the infilling of riparian wetland areas with spoil;
- The channelized (but not canalised) western arm of the Liesbeek River is likely to follow at least in part the original course of the “arm” of the Liesbeek River that once flowed directly into the Salt River Lagoon – the channel has however now been diverted sharply into the Black River – this re-alignment occurred circa 1942;
- The above westerly channel (termed the “natural channel of the Liesbeek River” in this report) remains a feature between Liesbeek Parkway and the River Club, but is now physically cut off from the main river channel upstream by Observatory Road. Although a pipeline under Observatory Road is understood to provide a limited level of connection with water impounded in a weir upstream of the road, this pipeline appears by all accounts to have been blocked for several years, and it is assumed that most of the flows in the channel now comprise stormwater runoff and intercepted subsurface seepage, while the main river flows pass along the canalised eastern portion.

#### **3.1.5. Overview of water quality**

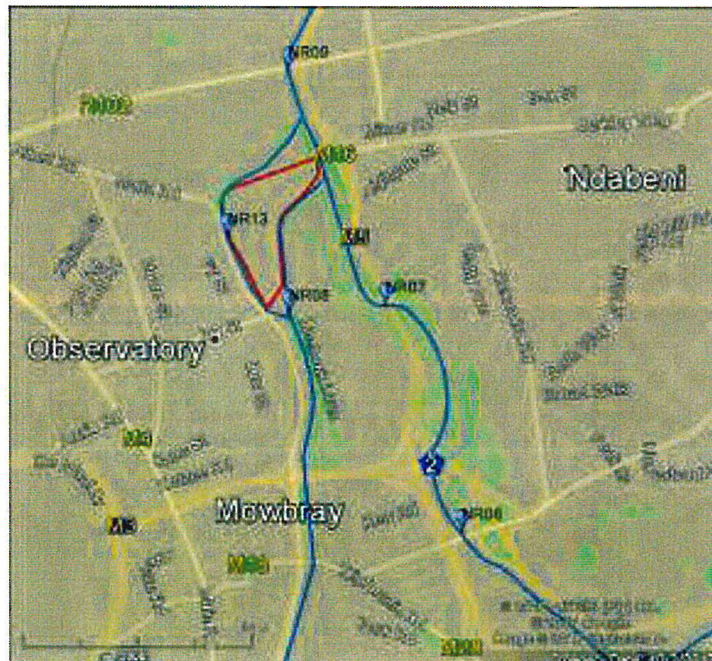
Poor water quality in the Black River is generally considered to be the most significant problem affecting the river in these reaches from an ecological perspective. A study by the City of Cape Town (Day and Clark 2012) showed that water quality in the Black River downstream of the N2 bridge was consistently in a Category F+ (or “Z” Category) – the most impacted category to which river water quality can be assigned in these river health assessments. High concentrations of orthophosphate and total ammonia, and low oxygen concentrations were found to be the main contributors to poor water quality. Blue Science (2016) corroborated these findings.

Water quality in the Liesbeek River, by contrast, tends to be considerably less impacted than in the Black River, receiving runoff from a catchment dominated by well-serviced residential and commercial areas, with no sewage works feeding into the system. The river is thus polluted to a much lesser extent, with the main contaminants being runoff from parking areas and nutrients seeped from gardens in residential areas. The river was rated in the above study as a Category D in



its reaches just upstream of the Black River (as measured at the Observatory Road crossing at the River Club entrance), and thus acts to dilute poor water quality in the Black River, at least downstream of its confluence. Low concentrations of dissolved oxygen primarily drove the Category D rating with respect to water quality, although orthophosphate concentrations have also been elevated historically in these reaches (Day and Clark 2012).

**Figure 3.3** shows the location of the City of Cape Town's water quality sampling sites in the Black and Liesbeek Rivers in the vicinity of the River Club.



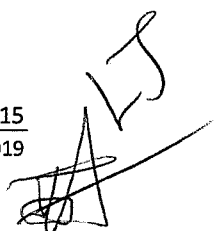
**Figure 3.3**  
Water quality sites (prefixed NR) on the Black and Liesbeek Rivers for which microbacteriological data were sourced from the City's Scientific Services Department, Athlone. Site boundary shown in red polygon. Note data not available for NR13.

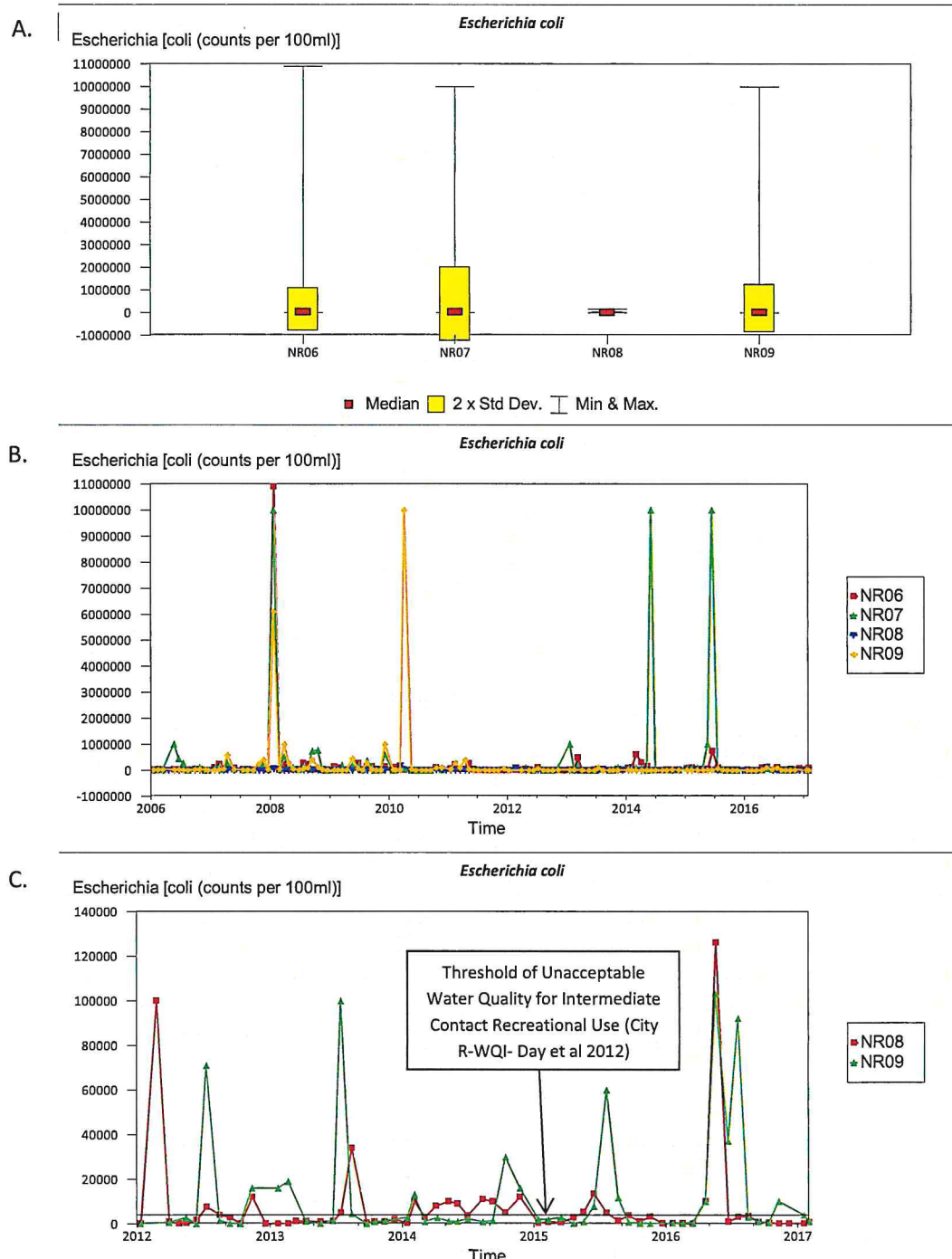
*Escherichia coli* bacteriological data were sourced from the City of Cape Town by FCG for sites NR06 and NR07 (upstream of the Liesbeek River and downstream of the Elsieskraal Canal, the Vygekraal Canal and the Athlone WWTW inflows), NR08 on the Liesbeek Canal and NR09 on the Back River downstream of all of the above inflows. These data have been summarised in Figures 3.3 A-C and indicate that:

- Bacteriological (specifically *E. coli*) contamination of the Black River is generally far worse than in the Liesbeek River (site NR08) which had generally low levels, as shown by the low median and short range between minimum and maximum readings (Figure 3.4A);
- Up until late 2010, bacterial contamination in the Black River was characterised by multiple "spikes" showing high bacterial concentrations along the watercourse, with some reflecting contamination from large spills / loads moving from upstream, and others reflecting localised point source inflows – spikes at NR07 that do not echo upstream spikes are likely to reflect contaminated point source inflows – a stormwater pipeline opens into the river just upstream of this site, discharging stormwater from the Maitland area (Ms Candice Haskins, City of Cape town, pers. comm. to Liz Day);



- Since 2010, bacterial contamination has reduced substantially in the Black River, attributed both to the refurbishment of the Athlone WWTW and to the more recent and ongoing construction of formal, well-serviced housing, without backyard dwellers, in the catchment in the Langa area;
- Periodic spikes in contamination did however continue in the vicinity of reaches represented by NR07, and appear to indicate recurrent sewage overflows / leaks in the Maitland catchment;
- NR09 downstream of the Liesbeek River confluence also showed periodic spikes – again assumed to reflect point-source inputs in the river reaches upstream of the monitoring point, and most likely sewer overflows or pump station failures. It is however assumed that inflows of cleaner water from the Liesbeek River to some extent diluted such bacterial contamination;
- Despite improved water quality post 2010, *Escherichia coli* data remained at high levels in the Black River – and several orders of magnitude above the threshold maximum concentration of 4 000 counts per 100ml considered “Unacceptable” for intermediate contact recreation purposes, as cited by Day and Clark (2012);
- Even in the Liesbeek River, although bacterial contamination was well below that in the Black River, bacterial levels in the dataset shown in Figure 3.4C were frequently higher than the maximum thresholds for intermediate recreation. Elevated bacterial counts occurred mainly during the winter months, and are assumed to reflect both periodic sewage leaks or overflows as well as surface wash-off of terrestrial areas contaminated with dog and/or human faeces and relatively large numbers of homeless people inhabiting and using the river corridor upstream of the site;
- With the exception of the isolated pointy-source “peaks” described above, some improvement in bacterial contamination generally occurred in any one monitoring period with distance downstream of the Raapenberg Bridge, as far as the Salt River Bridge (monitoring point NR09) immediately downstream of the River Club site. This is attributed to two factors, namely:
  - natural recovery in water quality with distance downstream of a source of contamination – *E. coli* bacteria, for example, die off rapidly when exposed to sunlight; and
  - the dilution effect of inflows from the Liesbeek River, which enters the Black River between NR07 and NR09;

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**Figure 3.4**  
**Escherichia coli data for three City of Cape Town monitoring sites in the Black / Liesbeek Rivers (see Figure 3.3 for locations) between 2006 and 2017. A: All data combined. B: All four sites over the full period. C: Only sites NR08 and NR09 post 2012**



### 3.1.6. Aquatic ecosystems condition

Day (2013) provided an update of the Southern Waters (2001) assessment of condition or Present Ecological State (PES) of both the Liesbeek and the Black Rivers in their reaches in the vicinity of the River Club, using the approach described in Section 1.9. The following PES categories were accorded to the rivers:

- The Black River: PES Category F, indicative of a system that has undergone Extreme changes from its natural condition;
- The Liesbeek River:
  - Western channel past the site (natural Liesbeek channel): PES Category E, indicative of a system that has undergone a Serious change from its natural conditions, with changes in natural river morphology being major contributors to this poor condition rating, along with water quality, changes in natural flow regime, extensive loss of indigenous vegetation and invasion of the river channel by alien plants, including invasive Purple Loosestrife (*Lythrum salicaria*);
  - <sup>3</sup>Eastern (lined) current channel of the Liesbeek River past the River Club (Liesbeek canal): PES Category F, indicative of a canalised system that has lost almost all natural stream function.

These categories are still applicable at the time of this report.

Blue Science (2016) assessed Instream and Riparian Habitat Integrity (another measure of condition), with compatible results, showing Instream Habitat in the Black and Liesbeek Rivers (natural channel) to be in a Category D/E and E respectively, but with Riparian Habitat Integrity in a Category F for both systems, indicating a near complete loss / alteration in indigenous riparian vegetation. River and wetland importance

#### **The Black River**

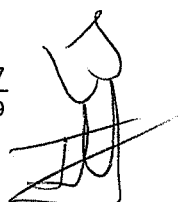
The Black River has importance as one of the largest and most visible rivers of Cape Town. Its ecological importance is currently low, given the extent of its degradation, but its rehabilitation potential is high – if water quality issues were addressed through better servicing and management of upstream developments, water quality would probably improve rapidly, and in this context, rehabilitation of the steep-sided river banks and sedimented beds would be readily achievable, albeit not to natural conditions. Its current importance rests however on its role in stormwater and effluent conveyance, and its provision of habitat to some birds.

#### **The Liesbeek River**

Despite the significant levels of change from its natural condition, and the plethora of management problems (alien invasives, litter, water quality, abstraction of flows, canalisation) that afflict the Liesbeek River just upstream of the present study area, in the context of other urban rivers in Cape Town, the river is considered relatively unimpacted and it has a high rehabilitation potential, at least in its uncanalised reaches and, downstream of the N2 crossing, in its reaches where riverine wetlands remain, including the Raapenberg wetlands.

---

<sup>3</sup> Note that this assessment was not included in Day (2013) and was made instead in the current study



### **The Raapenberg wetlands**

These remnant riverine wetlands are considered of high importance in an urban context, where many of the floodplain and riparian wetlands once associated with foothill and lowland rivers have been lost to urbanisation, and the Raapenberg wetlands in particular are recognised as an important breeding site for many duck species. Using the criteria outlined in Table 2.3, the Raapenberg Wetlands would be rated as of High conservation importance, on the basis that the wetlands:

- Support a high diversity of indigenous wetland species, and
- Support red data species; support relatively undisturbed wetland communities, and
- Form an integral part of the habitat mosaic within a landscape, and
- Are representative of a regionally threatened / restricted habitat type, and
- Are of a significant size (for an urban environment) (and therefore provide significant wetland habitat, albeit degraded or of low diversity).

The above wetlands are described in more detail in Section 3.1.8 (D).
---

#### **3.1.7. Ecological importance and sensitivity**

Using the methodology outlined in Appendix E, which can be applied to both rivers and wetlands,

- The (lower) Black River has been assigned an Ecological Importance and Sensitivity (EIS) rating of Low to Moderate;
- The lower (natural) channel of the Liesbeek River has an EIS rating of Moderate to High;
- The Liesbeek Canal has an EIS of Low;
- The Raapenberg wetlands have an EIS of High.

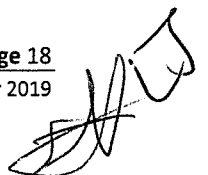
It should be noted that the above EIS ratings have been somewhat artificially applied to the lower reaches of the Liesbeek River likely to be affected by the proposed development. Blue Science (2016) assessed an extended section of the lower Liesbeek River including both canalised and uncanalised reaches and accorded the river as a whole an EIS of Moderate to High and the Black River an EIS of Moderate to Low.

#### **3.1.8. Existing rehabilitation activities along the Black and Liesbeek Rivers**

Consideration of the implications of the proposed River Club upgrade need to take into account existing rehabilitation and management initiatives along the rivers and wetlands in these areas.

The following initiatives / interventions are understood to focus at least in part on the Black and Liesbeek Rivers and their associated wetlands:

- The City of Cape Town's alien clearing teams, who remove litter and alien aquatic vegetation (mainly water hyacinth – *Eichhornia crassipes*) from the Black River, using an integrated approach of mechanical and manual labour;
- The Friends of the Liesbeek River, who participate (and largely drive) litter removal and alien clearing along both rivers, and particularly the Liesbeek River – removal of the alien weed Purple loose-strife (*Lythrum salicaria*) is particularly challenging (Box 3.1 provides background information and clearing recommendations for this species);
- The Friends of the Liesbeek River who intervened in the channelized Liesbeek River just downstream of the N2 bridge by breaching the berm and allowing peak flood flows to





dissipate into the adjacent floodplains immediately downstream of the N2 (in the vicinity of Valkenberg Manor House) and further downstream, into the Raapenberg Wetlands [Note that the ecological implications of the latter are discussed in Section 3.1.8 *D: Raapenberg Wetlands*].

In addition, the Raapenberg Bird Sanctuary forms part of the Two Rivers Urban Park (TRUP). This wetland is located between the Liesbeek Canal and the Black River, and lies immediately south east of the River Club.

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Photo A

Western channel of the Liesbeek River, showing steep rose-side banks and disturbed banks on the River Club grounds (foreground)



Photo B

Liesbeek River (western channel) – slow flows result in dense invasion by Compositum benghalensis and other weedy aquatic and semi-aquatic plants across the channel



Photo C

Western channel along PRASA boundary, showing reared lining the channel stepping up to kudu grass invaded, infilled channel and former wetland floodplain on the River Club site



Photo D

Scrap banks, extensive alien vegetation in the western channel and the creation of berms along the river edge, where it is assumed degraded vegetation has been dumped in the past





Photo E

Alien vegetation (in this case *Sesuvium portulacastrum* and *Marrubium*) provide roosting / perching habitat and shelter for birds along the PWSA boundary – see Night Heron in photo (arrowed)

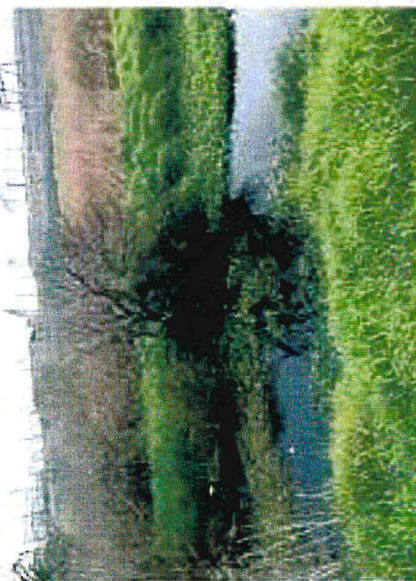


Photo G

*Phragmites australis* / *Typha capensis* reedbed wetlands on opposite side of the western channel, at the confluence with the Black River



Photo F

Infiltrated floodplain wetlands in the northern and north western portions of the site, along the western channel (PWSA boundary side) and the Black River



Photo H

Railway line bridge immediately downstream of the site, on the Black River – this bridge acts as a bottleneck on the passage of flows downstream



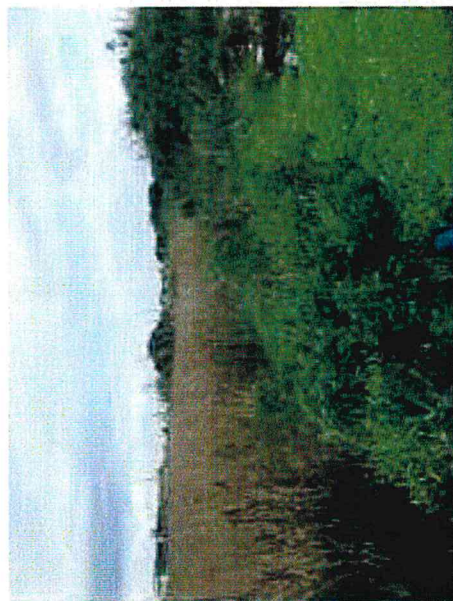


Photo I  
Left hand bank of the Black River, just upstream of confluence with the western channel of the Liesbeeck River, showing infill and alien invasion



Photo J  
Kikuyu lined river bank (Black River), looking upstream towards the bird hide (arrowed), immediately downstream of the eastern channel of the Liesbeeck River

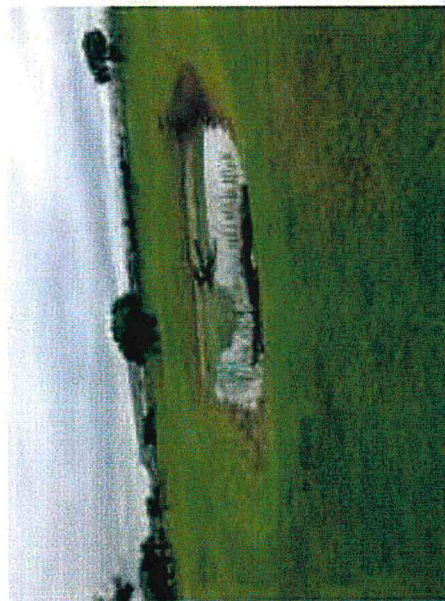


Photo K  
Artificial pond on the River Club showing sterile marginal areas and (assumed) nutrient enriched water



Photo L  
Eastern channel of the Liesbeeck River, looking upstream from the Black River confluence, showing the start of channel lining



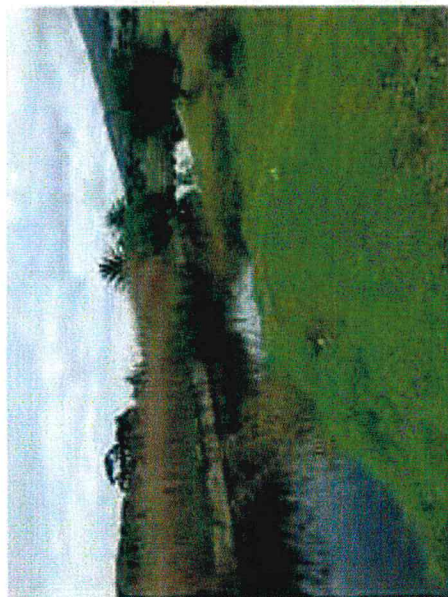


Photo M  
Canalised section of the eastern channel of the Liesbeek River



Photo N  
Creation of berms along the eastern channel of the Liesbeek River, to reduce flooding



Photo O  
Rasperberg wetlands, south of the eastern channel of the Liesbeek River

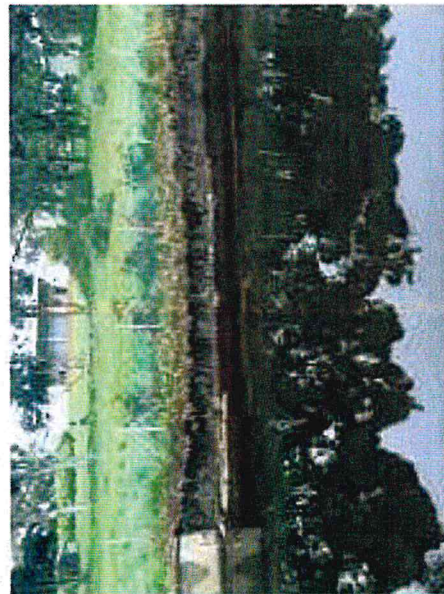


Photo P  
Broken section of the canalised eastern channel of the Liesbeek, showing collapsed canal lines on the right hand river bank

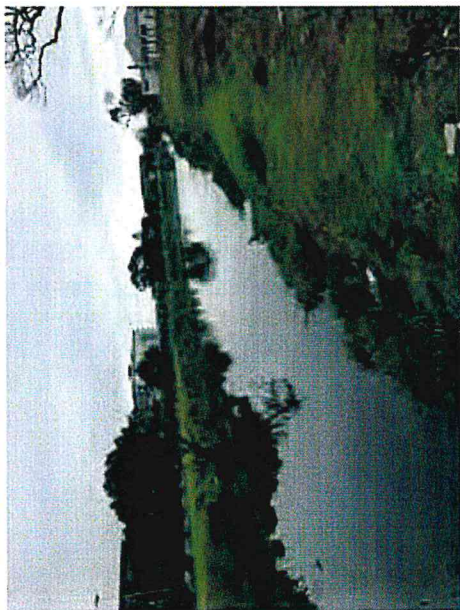


Photo Q

Bermed river bank on the western channel of the Liesbeek River, in the reach parallel with Liesbeek Parkway, showing building within the recommended buffer / ecological setback area



Photo R

Flood protection berm along the eastern Liesbeek River canal, looking upstream towards the weir

LS  
[Signature]



### 3.1.9. Detailed description of aquatic ecosystems on and associated with the River Club site

#### Site overview

The River Club site itself is a highly disturbed environment, with most of the aquatic ecosystems assumed to have been associated with this area under natural conditions (i.e. extensive floodplain wetlands set around and within the broad lowland river channels of the Black and Liesbeek Rivers) having been diverted, re-aligned, canalised, infilled or drained. Outside of the three channel systems described in Section 3.2 (the Black, the western (natural) Liesbeek channel and the mainly canalised, eastern Liesbeek River canal, and the (artificial, isolated) golf course ponds, no wetland ecosystems remain on the site today.

#### Hydrology

Berms along the western and eastern channels of the Liesbeek River cut off at least low level floods from what would have been their natural floodplains – these floodplains have however been largely infilled on the site itself, although wetland areas do still exist in places along the <sup>5</sup>left hand river bank of the natural river channel. **Figure 3.5** shows the extent of inundation of the site and its surrounds in different flood conditions, illustrating that the only portions of the site that lie above the 1:50 year floodline are the infilled north eastern portion of the site, and various artificial berms. Large portions of the site lie within the 1:5 and even 1:2 year floodplains.



**Figure 3.5**

**Existing floodlines of the Black and Liesbeek Rivers in the vicinity of the River Club.**

**1: 2 year Return Interval (RI) floodlines in blue, 1: 5 RI in yellow; 1:50 year RI shown in red.**

**Data provided by SRK Consulting. Berms along the Liesbeek Canal and natural channel not shown – they were constructed after this survey was completed (L. Fisher-Jeffes, Aurecon, pers. comm. to Liz Day).**

<sup>5</sup> By convention, left hand as seen when facing downstream

#### 4.2.1. Development alternative 1

This is the developer's preferred alternative, developed as an iterative process between the engineering, landscape architect and biodiversity specialists. The treatment of the canal and natural Liesbeek channel, shown in cross-section in **Figures 4.2** and **4.3** can be summarised as follows:

##### The Liesbeek Canal

The design intention of this measure would be to create a largely unlined (except for the right hand river bank) river channel that mimics natural lowland river function and has sufficient space to allow for flooding and channel migration processes that do not result in channel incision or significant erosion of the riverine corridor or development platform. It is understood on the basis of conversations with the design engineers for this approach that the space allocation for the rehabilitated river is sufficient to address these concerns.

The design allows for:

- Removal of the existing left hand wall of the Liesbeek canal and its floor (barring a short section on the right hand abutting the canal wall;
- Use of stepped gabion baskets to stabilise the right hand canal wall, which abuts the steep hillslope of the SAAO;
- Provision of sufficient space to allow for the river low flow channel to meander across a relatively flat, reed-lined bed – it is assumed that the river would form its own channel – a width of some 10m is assumed for the summer base flows with the Aurecon hydrological specialists modelling the height of wet season base flows and with an allowance of an additional 15.2m lateral space to accommodate the estimated height of the 1:1 year return interval flood, as illustrated in **Figure 4.2**, and allowing for a slight, low bank, shaped roughly to a slope of 1:4 to create a slightly elevated floodplain to accommodate within-year floods;
- At the narrowest point in the corridor (circled in **Figure 4.2**) at the upstream extent of the site, an ecological buffer area of at least 15m has been allowed upslope from the 1:1 year floodline, and the landscape intention is to vegetate this with appropriate low-growing vegetation for the first 7.5m and thereafter to allow for the establishment of vegetation including riparian trees within the next 7.5m of ecological buffer / corridor;
- A 1m high gabion wall then steps up to a cyclist / pedestrian pathway – the gabion wall is intended to restrict the passage of fauna such as western leopard toads out of the ecological corridor and into the development area;
- Upslope from the pedestrian pathway is a further buffer area some 11.5m wide – the landscape intention here is that the area would be lawned and would permit social uses such as playing, picnicking, but it would also serve as an additional buffer area;
- The 'recreational' buffer area would be edged by a second pedestrian pathway / cycle lane, abutting the roadway – this path would also be edged on its riverine side by a raised gabion wall, again intended to discourage access by western leopard toads;
- The above is the narrowest point in the river corridor – **Figure 4.1** shows that where there is more space, both the lower river corridor and the upper recreational corridor vary and widen as space permits.



### **The natural channel of the Liesbeek River**

In this alternative, the ecological focus is on rehabilitating the canal to more natural riverine function. Rehabilitation of the natural channel to riverine function was not deemed feasible, given the extent of development in the area, which precludes the necessary channel re-alignment to accommodate more concentrated flows than would have been the case in the past. Connecting the channel with the channel upstream of Observatory Road was also considered problematic. In this scenario, then, the following concept would apply (see **Figure 4.3**):

- Infilling of the channel to create a wide vegetated open space area, with both amenity and stormwater polishing function, as well as the provision of terrestrial and possibly breeding season habitat for western leopard toads;
- Stormwater from the site would be piped to the swale, and daylight as open channel vegetated bioretention swales;
- Allowance has been made for the creation of a few seasonally inundated areas within the swale, by the placement of low weirs at intervals, behind which water can back up;
- Stormwaterflows that currently enter the channel at a low level from the urban development to the west of Liesbeek Parkway would be piped under the infilled swale;
- The development side of the swale would step up steeply using gabions, to discourage western leopard toad passage into the development, and toad barriers would be used as described for the pathways edging the rehabilitated canal;
- The Liesbeek Parkway side of the swale would slope gently up to a walkway, potentially to be created along the edge of the road;
- A minimum setback of 10m from the swale was agreed on by the development team – where the swale is located further from the edge of the site, development could in theory extend to the edge of the site. This principal was agreed on with the development team, in order to create additional space along the riverine corridor. The two swale concepts shown in **Figure 4.3** illustrate this idea.

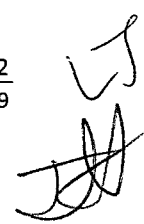
#### **4.2.2. Development alternative 2**

This alternative (shown in layout form in **Figure 4.4**) allows for the following treatment of the canal and natural channel:

### **The natural channel of the Liesbeek River**

This system forms the ecological focus of this alternative, the layout and landscape design of which allow for improvement of wetland function in this system, by flattening of banks, replanting and the creation of broad seasonally inundated fringing wetlands and ecological buffers with some amenity value. The alternative, shown in **Figure 4.5**, would allow for:

- Grading of the existing right hand channel bank at a grade of 1:5 or flatter, over a width of about 7.5m, followed by an area of some 7m planted with locally indigenous vegetation with the emphasis on habitat creation;
- The remainder of the low-lying corridor is shown as an area of about 20m width in which footpaths / cycle tracks and stormwater detention and treatment can take place;



- The low-lying area is stepped steeply up to the development platform with gabion baskets.

### The Liesbeek Canal

This system is not the focus of ecological improvement in this alternative and the landscape intention is to provide aesthetic improvement to the canal but not to attempt to improve habitat diversity or river function. The canal (shown in **Figure 4.6**) would be treated in this alternative as follows:

- It would be edged by a minimum buffer of 20m between the top of the canal and the hardened development edge – this area would include paths and cycle tracks and would be planted with locally indigenous plants;
- The existing gum trees along the canal would be felled and replaced with locally indigenous plantings including trees;
- A low weir could be introduced to allow for a spread of water across the canal to facilitate water sports such as canoeing;
- The top of the left hand canal could be pulled back to create planting areas along the top of the bank.

### 4.3. Common development aspects

- Raising of the development platform: A large portion of the site is currently likely to be flooded by storm events with an approximate return interval (RI) of two years (Aurecon 2017a). Development of the site would require raising of the built environment to levels above the 1:100 year RI. Aurecon (2017b) notes that this would be achieved by imports of substantial fill material (approximately 220 000m<sup>3</sup>) that would be placed on the built perimeter of the site, while the central part of the site would be raised with basement structures. The conservation areas, ecological corridors, Liesbeek canal and natural channel of the Liesbeek River / open space swales would not be filled but would remain at natural ground level, unless otherwise required as part of the respective rehabilitation and landscaping programmes for these areas.
- Construction processes: Due to the shallow groundwater table and poor founding conditions on the site, deep excavations will be avoided where the underlying bedrock is deep below the existing ground level and the water table. Where the bedrock is at relatively shallow depth (on the southern portion of the site) it may be feasible to excavate down to the bedrock and install one basement level below the existing ground level. Therefore, where the rock is deep, basement structures would be constructed on grade with fill placed around them. Bulk excavation would be limited in most cases to the excavation of 300 to 500 mm of loose topsoil and rubble to be replaced with a 300 mm thick end tipped crushed rock pioneer to create a stable working platform for construction. Where the rock is shallower (at the southern end of the site) consideration will be given to constructing one of the basements level below the existing ground level. This would entail taking foundations and perimeter walls down to the underlying rock levels. Alternatively, the same procedure can be followed as for basements where the underlying bedrock is deep. [This information courtesy of Zenprop]
- Construction phasing: **Figure 4.7** shows the conceptual phasing of construction activities on the site, with the Berkley Road Bridge over the Black River and onto the site being proposed as the first construction activity. Activities such as the treatment of the natural river channel and Liesbeek canal are not shown in this phasing programme. Note however that subsequent





Figure 4.13

Locations of the four proposed bridges / culverts over the Black River, open space corridor and Liesbeek Channel (two over the Liesbeek channel, comprising Berkley Road extension (Culvert 1) and the Liesbeek Parkway crossing (Culvert 2). Figure supplied by Aurecon . Note that the swale where the existing Liesbeek channel is now applies to Alternative 1 only and would in fact extend all the way to Observatory Road

*[Handwritten signature]*



<p>will reduce access up this bank by western leopard toads, while retaining the earth bank, valued as a bird nesting area;</p> <p>ii. Toad barriers must be installed on the development side of the Liesbeek Parkway walking / cycling trail, to reduce toad access over the road but allow access from the road side into the site;</p> <p>iii. Where the walking trail transitions from its position above the vertical earth bank to its position at the top of the gently sloping banks down to the swale (i.e. the landscape shown in Figure 4.3), the pathway must remain edged with a toad barrier – Appendix 2 of the faunal report (see Appendix B of this report) provides illustrated options for creating such barriers;</p> <p>vii. <u>Alternative 2:</u></p> <p>a. Pathways / walkways along the canal area should be re-designed so as to prevent, as far as possible, the passage of western leopard toads into the main development area;</p> <p>b. The toad barriers along the Liesbeek Parkway pedestrian walkways (Figures 4.16 and 4.17) must be included.</p>							
<b>ALT 1 With Mitigation</b>	2 Regional	1.5 Low	3 Long term Irreversible	6.5 Medium	Possible	Low (Neg.)	Medium
<b>ALT 2 With Mitigation</b>	2 Regional	1 Low	3 Long term Irreversible	6 Medium	Possible	Low (Neg.)	Medium

#### 5.1.6. Changes in flow regime into the Raapenberg wetlands

##### Impact description

The aquatic specialist Scoping Report for this project (Day 2016) raised concerns that if infilling of the River Club site as proposed resulted in even slight increases in the height, frequency or duration of floods passing into the Raapenberg wetlands, there might be significant ecological effects. The information presented in this report (see section 3.1.8 Aquatic ecosystems: Raapenberg Wetlands) confirmed the likely high sensitivity of these systems to changes in flow, particularly if coupled with increases in low salinity water (e.g. from the Liesbeek River). The likely effects of such changes would include expansion of low-importance *Phragmites australis* and even *Typha capensis* wetland at the expense of what are assumed to be more natural remnants of past seasonal Renosterveld wetlands, which have ironically been protected from changes in flow in the Black River through the construction of berms between it and the adjacent rivers.

While the above issues would be cause for serious concern, the hydrological study of Aurecon (2017a) found that:

- For <sup>12</sup>Alternative 1:
  - For the 0.5-year and 1-year recurrence interval storm events, only slight increases (1 to 2cm) if any, and in some cases decreases (1 to 2 cm) in water level in the Black and Liesbeek Rivers would occur, with decreases in flood level as a result of increased capacity in the rehabilitated Liesbeek canal. These findings are important, because (at least prior to opening up of a connecting channel into the wetland by the Friends of the Liesbeek River (see Section 3.1.8: Raapenberg Wetlands) the wetland was assumed to be hydrologically connected to the Liesbeek Canal at a surface elevation of 2.5m amsl, equating to a recurrence interval of between 0.5 and 1 year. The infilling of the River Club

<sup>12</sup> Note that the hydrological study focused only on Alternative 1 and did not model changes associated with Alternative 2



site would thus exert a negligible effect on the hydrological regime of the Raapenberg wetlands, and is not considered a threat in this regard. This compares with the 125mm lowering of the level of inflows and outflows into the wetland as a result of the linking channel, which is likely to exert a significant negative effect on wetland function.

- Alternative 2:
  - It is assumed that flood changes would also be negligible, although the decrease in flood level would not occur.

#### Essential mitigation measures

No mitigation measures are applicable.

Infilling of the recently constructed linking channel between the Liesbeek Canal and the wetland would however be strongly recommended.

Table 5.6 provides a more formal assessment of the impacts described above.

Table 5.6  
Significance of changes in flow regime into the Raapenberg wetlands

Nature of impact	Extent of impact	Intensity	Duration of impact	Consequence	Probability of occurrence	Signif.	Confid.
ALT 1 and 2 Without Mitigation	1 Local	0.5 Very low	3 Long term	4.5 Very low to Low	Improbable	Insignificant to very low (Neg.)	Medium
Mitigation: Not applicable							

#### **5.1.7. Loss and degradation of riverine wetlands along the Black River margins**

The proposed Berkley Road Extension bridge over the Black River would result in the definite loss of a section of fringing *Phragmites australis* wetlands along the river bank, as a result of the planned road that would be infilled to the bottom of the river bank (see Figures 4.13 and 5.2). This structure would result in the following kinds of wetland loss and degradation, namely:

- Loss of marginal wetland
- Disruption of longitudinal connectivity for terrestrial and semi-aquatic faunal along the river bank and margins (this impact has been dealt with already in Section 5.1.4);
- Disturbance to birds utilising the “palm island” habitat described by the avifaunal specialist as of particular habitat significance because of the roosting habitat it affords to birds, despite the alien nature of the palm itself (Appendix D). The specialist noted however that birds are likely to become rapidly accustomed to increased traffic on roads associated with the development, provided that they themselves were not targeted by any aspects of the development.

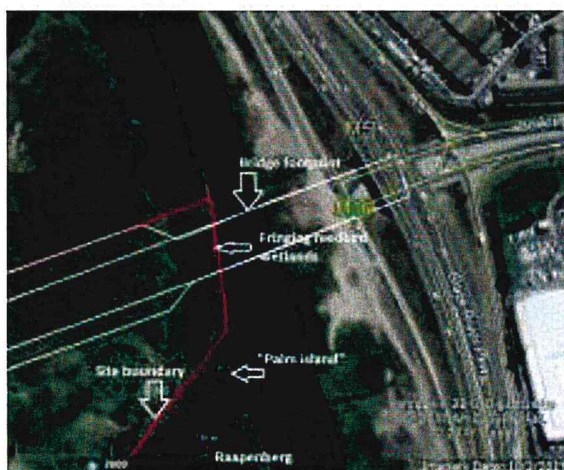


Figure 5.2  
Encroachment of proposed bridge over riverine wetlands

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The above impacts are considered of medium negative significance, largely as a result of the impacts to connectivity, which would affect ecological processes beyond the extent of the footprint of the bridge. The actual sensitivity of the affected wetlands is low.

Essential mitigation measures

The following mitigation measures must be implemented:

- i. The extent of the fill platform must be pulled back, so that the bridge spans the full width of the recommended ecological buffer / setback of 20m, measured from the top of the bank (this measure has also been recommended for Impact 5.1.4) – note that it is assumed that piers, located outside of sensitive areas, and not on the bankS, may be required from an engineering perspective;
- ii. Marginal wetlands disturbed during construction must be re-instated by regrading the disturbed bank to a slope of 1:4 or flatter and replanting it with appropriate indigenous wetland and riverine vegetation;
- iii. Indigenous riverine / wetland trees should be planted at intervals along the river corridor to create roosting / nesting habitat for birds – species to consider could include Milkwoods, indigenous willows (*Salix capensis* and *Salix mucronata*) and other species as recommended by a botanical specialist.

Table 5.7 provides a more formal assessment of the impacts described above, with and without mitigation.

**Table 5.7**  
**Significance of loss and degradation of riverine wetlands along the Black River margins**

<i>Nature of impact</i>	<i>Extent of impact</i>	<i>Intensity</i>	<i>Duration of impact</i>	<i>Consequence</i>	<i>Probability of occurrence</i>	<i>Signif.</i>	<i>Confid.</i>
<b>ALT 1 and 2 Without Mitigation</b>	1 Local	2 Medium	3 Long term	6 Medium	Definite	Medium (Neg.)	Medium
<u>Essential mitigation measures</u> <ol style="list-style-type: none"> <li>i. The extent of the fill platform must be pulled back, so that the bridge spans the full width of the recommended ecological buffer / setback of 20m, measured from the top of the bank (this measure has also been recommended for Impact 5.1.4);</li> <li>ii. Marginal wetlands disturbed during construction must be re-instated by regrading the disturbed bank to a slope of 1:4 or flatter and replanting it with appropriate indigenous wetland and riverine vegetation;</li> <li>iii. Indigenous riverine / wetland trees should be planted at intervals along the river corridor to create roosting / nesting habitat for birds – species to consider could include Milkwoods, indigenous willows (<i>Salix capensis</i> and <i>Salix mucronata</i>) and other species as recommended by a botanical specialist.</li> </ol>							
<b>ALT 1 and 2 With mitigation</b>	1 Local	1 Low	2 Medium term	4 Very Low	Probable	Very Low (Neg.)	Medium



**5.1.8. Loss and/or changes in wetland habitat quality and availability in the areas of the natural Liesbeek River channel**

Impact description

- **Alternative 1:**

The Liesbeek River channel would be filled in in this alternative, resulting in the following changes in wetland and terrestrial habitat quality and availability:

- Loss of permanent standing water wetland habitat (some 623 m of channel length) associated with the current function of the natural Liesbeek River channel – this habitat may presently be used as a breeding area by western leopard toads and its loss without replacement is assessed as a significant impact;
- The natural channel of the Liesbeek River might also support Cape Galaxias fish, and this alternative would entail some loss of this habitat – however, rehabilitation of the main canal would in turn provide the vegetated margins required by this species, and loss of some habitat is not considered a severe impact;
- Loss of steep earth river banks potentially used as bird nesting sites (e.g. kingfishers) on the left hand (Liesbeek Parkway side) river bank;
- Loss of wetland amelioration function for stormwater currently discharged into the channel in its upper reaches, to be piped into the lower reaches in this option;
- The creation of shallow swale wetlands (assumed to be <300mm deep) on the infilled area, with the swale discharging into the extant remaining channel downstream of the site. These wetlands would be likely to be seasonally inundated for short periods of time only, so allowance has been made for the creation of occasional weirs in the swales to allow longer term ponding of water to create western leopard toad breeding areas. This would also create improved wetland habitat for aquatic insects and other fauna compared to the swales without shallow weirs;

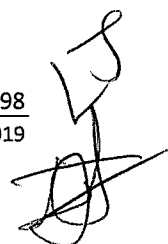
- **Alternative 2:**

In this alternative, the physical habitat quality and diversity of the channel would be improved substantially, by reshaping the channel banks and planting them as wide, indigenous vegetated wetland margins, with improved faunal accessibility in and out of the wetlands. The generous buffer area (see **Figures 4.4 and 4.6**) could provide terrestrial areas for Western Leopard toads outside of their breeding season – there would be less of such areas in this Alternative than in Alternative 1.

Essential mitigation measures

- **Alternative 1:**

- i. Additional artificial wetland ponds, suitable for breeding in by western leopard toads should be created – at least two such ponds are recommended, roughly sized with diameters of around 10m. They should be excavated to lie within the summer water table level or alternatively be lined to retain water, and should be landscaped with gently sloped sides (1:5 or less steep) and planted with indigenous wetland vegetation that is connected via planted landscaped swathes to the main east-west faunal corridors, with plants utilised being indigenous species with a range of textures, height and densities that can both provide cover and safe movement corridors. Note that these ponds might alternatively be adapted to tie in with the proposed stormwater attenuation ponds (**Figure 4.17**);



**"JA24"**

## **TWO RIVERS URBAN PARK, CAPE TOWN**

### **SUPPLEMENTARY REPORT**

**Including 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**

**Case number 16071903**

**Submitted to Heritage Western Cape in terms of the  
additional requirements of the Interim Comment  
dated 3 May 2017 and in terms of Section 38(8) of the  
National Heritage Resources Act**

October 2017

Prepared by Melanie Attwell and Associates and ARCON Heritage and Design for: Heritage  
Western Cape on behalf of:

Provincial Government of the Western Cape (Department of Transport and Public Works) in  
partnership with the City of Cape Town.

Two Rivers Urban Park Heritage Impact Assessment Baseline Study (Supplementary Report) prepared for Heritage Western  
Cape, the Provincial Government of the Western Cape in partnership with the City of Cape Town

A handwritten signature in black ink, consisting of a stylized 'M' followed by a large, sweeping flourish.





Fig 20. Women working at the Liesbeek River. Source: Water Research Commission 2009.

### **Section Three: Background analysis into the site of the death of Portuguese Viceroy Dom Francisco d'Almeida and his men at the Cape, March 1510 in relation to the Two Rivers Urban Park, and examination in terms of living memory.**

#### **3.1. Introduction: The revival of the d'Almeida narrative.**

David Johnson notes that the d'Almeida defeat at the Cape has till recently been remembered "only sporadically"<sup>41</sup> in South African history despite the detailed Portuguese accounts from the sixteenth centuries; and despite the fact that d'Almeida's "humiliating defeat" changed the future direction of Portugal's imperial conquests and changed the face of South Africa in terms of colonial conquest.

President Thabo Mbeki placed the d'Almeida attack and defeat squarely once in the public domain in a landmark Parliamentary speech on March 26<sup>th</sup>, 1999. He stated, "in the darkness of our night, the victory of the Khoikhoi in 1510 here in Table Bay when they defeated and killed the belligerent Portuguese admiral and aristocrat Dom Francisco de Almeida, the first Portuguese viceroy in India, has lit our skies forever." The narrative has been further revived by local historians and Khoi identity activists, building on an increased awareness of the event and its significance. It has served as a rallying call for a revived Khoi identity, based on a sense of pride at the defeat of an enemy, and altering the face of South African history. The d'Almeida battle is therefore highly

<sup>41</sup> He refers to Portuguese accounts of the 16<sup>th</sup> century, the British accounts of 1770-1830 and accounts in 19<sup>th</sup> century writings at the Cape including John Philips 'Researches in South Africa. (David Johnson, 2012 "Imagining the Cape Colony: History, Literature and the South African Nation. The narrative has also been the subject of a novel entitled "Knot of Stone (N Vergunst)" which is referred to elsewhere in this report.

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significant in terms of the growth and realisation of contemporary Khoi identity as well as being significant in the national history of the country.<sup>42</sup>

Questions remain as to the site of the d'Almeida massacre which followed. No burial or battle site has been conclusively identified through archaeological evidence. Accounts differ as to the site, which is still currently unknown. The Department of Arts and Culture places the site potentially (without clear evidence) at the confluence of the Black and Liesbeek Rivers, for example. It is suggested elsewhere in this report that until the bodies are found there is no clear evidence about the site of the battle. This however, does not minimise the outstanding significance of the event and its consequences.

### **3.2. The European bias of pre-conquest and early Colonial Cape history in relation to the case of d'Almeida.**

There are currently multiple accounts and interpretations of the events of 1<sup>st</sup> March 1510, many contested interpretations about what took place and why, particularly in relation to the motivation for the attack on the Gorinhauqua villages and the site of the D'Almeida massacre. There is however no doubt that the attack on the village "behind Saldanha" was belligerent, aggressive and intended to do harm. The intention was clear – to steal cattle and to kidnap people.

The South African historian and social activist Patric Tariq Mellet decries the persistence of a European dominated narrative and writes that it is imperative that descendants of the Koina ensure that history is produced from the viewpoint of the descendants of the indigenous peoples themselves. His is the most notable and ground-breaking of the Koina histories, the methodologies used and outcomes analysed. It should be noted that they too are dependent on the historical chronicles that have emerged from the 16<sup>th</sup> to the 18<sup>th</sup> centuries. The difference is one of **viewpoint** – to review the narrative supplied critically in light of the socio-political context and from the point of view of the Koina.

### **3.3. Background: The site of the death and burial of d'Almeida and his men.**

#### **3.3.1. Can we use oral history to determine the site of the d'Almeida battle?**

Oral history is defined as "a historical method using oral testimony as historical evidence". Oral history is also known as oral reminiscence and refers to the memories of living people collected in an interview of experiences generally experienced first-hand or through oral tradition. "Oral testimony refers to an informant's recollection of an event that they have experienced in their lifetime".<sup>43</sup>

The study of the event of the death of d'Almeida therefore falls outside the potential of oral evidence in terms of this definition. The only potential for recording evidence of what transcribed comes from the Portuguese survivors of the massacre, who may or may not have been interviewed on their return to Portugal and whose evidence may

<sup>42</sup> This does not however mean it can automatically be linked to the TRUP site.

<sup>43</sup> [http://www.archivalplatform.org/blog/entry/oral\\_histories/](http://www.archivalplatform.org/blog/entry/oral_histories/)

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(or may not) form the basis for the accounts collected by the chroniclers Damiao de Gois, Fernao Lopes de Castanheda and Joao de Barros. All information of the events is in fact owed to these chroniclers, even by Khoi historians (who have rightly been sensitive to the nature of the bias in the Chronicles). There is no oral testimony from the Khoi (Koina) themselves<sup>44</sup>. Currently local historians are examining the material in the Chronicles in a variety of ways and subject to the interpretation from different perspectives, including the perspective of the Khoi. Much more work in this field needs to be done particularly by First Nation historians themselves in order to advance the perspective of the Khoi.

### 3.4. What the sources reveal

#### 3.4.1. Background to the battle

Portuguese historical chroniclers including Damiao de Gois (1501-1573), Fernao Lopes de Castanheda (1501-1559) and Joao de Barros (1496-1570) recorded the events at the area later known as the Cape. These events led to the defense by the Koina and the subsequent death of d'Almeida and his men in early 1510. The Chronicles were recorded some years after the event and there is no way of knowing whether those interviewed were present at the attack or not. None of the chroniclers themselves<sup>45</sup> were present at the event and the chronicles, were published decades later. Whether interviewees were survivors of the events which occurred is not known but they show a degree of conformity which may provide a measure of confidence in their authenticity. There is no finality however, as the diary of the expedition has been lost and no bodies have been found, contrary to media reports (See **Annexure 2**).

#### 3.4.2. The Koina as military strategists

There were no local eyewitness accounts. The Koina or KhoeKhoe<sup>46</sup> had no recorded history of the event but their actions as recorded by the early chroniclers provide a glimpse of how they conducted battles, what weapons were used and how they used their knowledge of the terrain in warfare. The accounts of the events which took place in March 1510 provide a glimpse into the specialist nature of cattle pastoralism and the use of trained cattle as an aid in warfare. It has been noted that this battle shows that the cattle were controlled with whistles and words and could be trained to gore the enemy (Fauvelle-Aymar 2004: 4). Steenkamp further elaborates, writing, that the Portuguese "were hit by a phalanx of oxen, the Koina spearmen running behind and between them, effectively protected by the animals from any crossbow bolts that might be fired before they could close into stabbing range" (Steenkamp 2012:3-4).

<sup>44</sup> It is recognised that the nomenclature Khoi, Koina and Khoi Khoi or Khoen Khoen are contested. The Legacy Project refers to the Khoisan as well.

<sup>45</sup> D'Almeida records and diaries have been lost.

<sup>46</sup> The use of the word "Koina" or KhoeKhoe is disputed in quarters. Use of the term or any terminology relating to the First Nation implies no value judgment on the part of the author. In this instance, the "Koina" refer to the Gorinhauqua who travelled seasonally with vast herds between their ancestral lands at Saldanha Bay area and the Cape Peninsula.

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The chronicles therefore provide a unique glimpse of the employment of a clear military strategy employed by the Koina in the battle against the Portuguese intruders. They drew the Portuguese into a terrain they were familiar with, where they could claim military advantage and where they could control the outcomes of the battles (Steenkamp 2012:4).

### 3.5. Summary of events

#### 3.5.1. Limitations:

This summary is drawn from the Portuguese chronicles referred to and which were compiled years after the event. There are no contemporary images, the earliest being drawn some two centuries later and which appear to be completely incorrect.<sup>47</sup> Matters were further complicated by myths of mystical connections, largely Euro-centric which have recently emerged and been criticised by Tariq Mellet.<sup>48</sup>

Early maps of coastline in the Southern Cape too, were notoriously inaccurate. The events narrated by the Portuguese contain no geographical references apart from a few notable exceptions. These still raise questions about the location of the event as they may refer to a series of places where there were perennial streams in bays including Hout Bay and even False Bay, where there is a stream at Muizenberg.

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<sup>47</sup> They show Spanish rather than Portuguese ships and the Koina using bows and arrows which they did not. It suggests they were drawn without knowledge of the event and may even refer to another event.

<sup>48</sup> This has been explored in the novel *Knot of Stone* by Nikolas Vergunst.



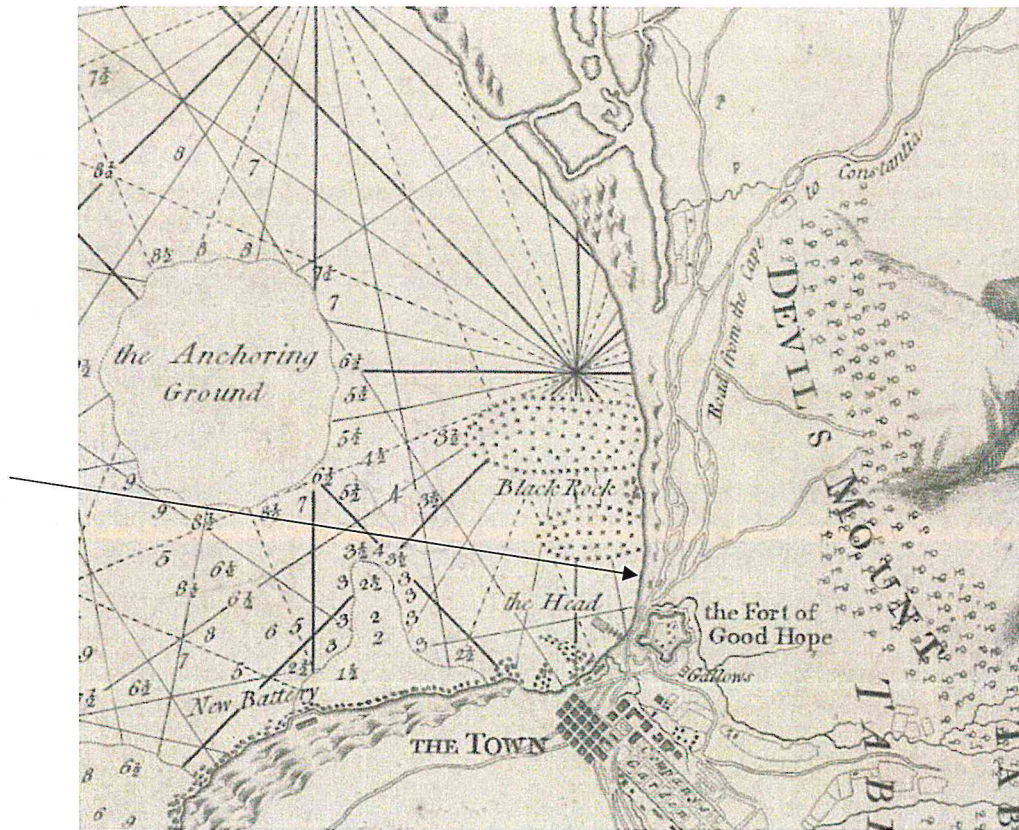


Fig 21. Plan of Table Bay with the Road of the Cape of Good Hope, from the Dutch Survey Johannes van Kuilen 1794, University of Cape Town. This map is not accurate in terms of the river systems or even routes, but is useful because it shows the extensive series of sand-dunes extending along to coast towards the north and well as routes towards the north and south. It shows the Salt River as feeding into the estuarine system. The sand dunes that extended from the Castle to the Salt River Mouth along the Woodstock beach are referred to in accounts of the d'Almeida massacre. The chronicles are clear that the massacre took place near dune systems on the beach near the "watering place" or the Camissa River. This places the site of the massacre closer to the area that later become the Castle and the Imhoff Battery.

15





**Fig 22. Massacre of Francisco d'Almeida at the Cape of Good Hope, 1510. Pieter van der Aa's 'Nauwkeurige versameling der gedenkwaardigste zee- en landreysen naar Oost- en West-Indië...', Leiden, 1707.**

This etching which was created 200 years after the event remains faithful to the narratives. They include the massacre of the beach, the river at the "watering place" and the mountain. The geography is somewhat scrambled and there are several tell-tale inaccuracies – the ships are Spanish rather than Portuguese, the palm trees are problematic and the pyramid shaped rooflines suggest a degree of artistic license. The illustration was undertaken 200 years after the event and suggest that the engraver had read at least one of the chronicles of the event but was unaware of the geography of the area. I suggest that an uninformed reading of this illustration more than any other has added to the assumption that the site is near the Liesbeek River. The chronicles are clear that the River was the Camissa and not the Salt River or Liesbeek River.

### 3.5.2. The narratives of the battle as drawn from the Chronicles.

The narratives are from the Portuguese perspective show degrees of similarity – for example, the departure from Cochin in November 1509, the arrival at the Cape somewhere along the coastline in February 1510 to collect water, the initial cordial reception on the part of the Koina at some distance from the ships, the initial barter exchanges for cattle, an expedition by about 12 men inland and the abduction of one or more young Koina, followed by the attack and massacre the following day. They are powerfully Eurocentric.

They begin to differ slightly with what follows, but all including Barros, who was the most condemnatory towards the Koina, acknowledge that the Portuguese were to blame. A further subject of debate is how much d'Almeida was to blame for the events which followed.



The following is drawn chiefly from Fernao Lopes de Castanheda (MacLennan 2003: 5-6) and Barros' *Decadas de Asia* (1552-1563), (Raven-Hart:1967:9-11).

Castanheda claims that there were 12 Portuguese men in a first sortie after an initial cordial reception on the part of the Gorinhauqua. In addition to theft, they tried to abduct a person, possibly a child, and were attacked in retaliation. Barros is not specific, referring to an altercation of sorts. Returning to the ships, the men misrepresented the cause of the attack to d'Almeida, placing the blame of the Koina rather than themselves and thus encouraged him into an aggressive retaliatory action. This event took place the next day on March 1<sup>st</sup>, 1510.

The attack consisted of a force of about 150 Portuguese men. Some sources say they were highly armed with lances and swords, other sources such as Castanheda say that some were so confident that they had not bothered to arm themselves at all (MacLennan: 2003:4).

In attacking the villages (reference is made to villages in the plural suggesting they i.e. the villages) may have been spread out; they abducted children and stole cattle grazing "behind the villages" (MacLennan: 2003:4). The Koina retaliated, ambushing them, using the cattle as a moving shield (see above). Castaneda noted how the soldiers controlled the cattle which the Portuguese were attempting to drive away (steal), stating "the "negroes" (sic) ran very lightly straight among the cattle, and they made them stand still by speaking to them, and they killed the three men (Portuguese men) who were driving them". There is thus evidence that the Portuguese were stealing cattle and that this was an effective counter-attack.

The Portuguese were routed. As they retreated, the Gorinhauqua spread out and attacked forcibly. Castanheda stated, "By this time they had overtaken the viceroy"<sup>49</sup> (who had been out in front to avoid the dust, i.e. from the cattle) and who continued to retreat. The Koina followed the raiding party in their retreat *to the beach*<sup>50</sup>, harrying them and attacking them with determination and ferocity, to the extent that the Portuguese were forced to draw together in a band, which had the effect of creating a greater target. Castanheda wrote, "As our men were in a band, they never missed them, and so many were wounded that they began to fall, especially those who had no servants to help them along, and those who fell were trodden underfoot by the others and suffocated, for they could not assist them having no weapons of defence" (MacLennan 2003: 5). The long boats which would have taken them to the safety of the ships had left the shoreline and had moored elsewhere closer the "watering place" or the freshwater stream. This would have placed the boats closer to the shoreline near to the (later) Grand Parade.

The death of d'Almeida occurred near a freshwater stream.<sup>51</sup> Castanheda states, "And *near the watering place* (writer italics) there was thrown from amongst them (i.e., the

<sup>49</sup> i.e. d'Almeida.

<sup>50</sup> The records are clear they were killed at the beach.

<sup>51</sup> Probably the Camissa which would place the death on or near the Grand Parade or Imhoff's Battery.

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Gorinhauqua) a headless lance, which pierced the throat of the viceroy, who wore no gorget, and he fell upon his knees with his hands upon the lance, and feeling he was choking, he took his hands from the lance .... and thus, fell dead". After his death, the Gorinhauqua launched a strong attack on the remaining men, pursuing them to the "watering place" so closely that they were obliged to enter the water to get closer to the boats. Castanheda estimated 65 dead including 11 captains and the viceroy, other put the losses higher. The following day the survivors returned from the boats to the shoreline to bury the dead (MacLennan 2003:5).

### 3.6. The site of the battle and the death of d'Almeida

A question has arisen about where the battle took place, where d'Almeida was killed, and where he was buried by his men on 2 March 1510. The accounts summarised above provide only few clues as to where the landings took place, even whether they were in what is now known as Cape Town, Hout Bay or Saldanha Bay. Raven-Hart refers to the expedition to the villages being "behind Saldanha". The most popular explanation of "behind Saldanha" was the area where the Koina were settled for the summer; possibly as Tariq Mellet has identified, around Mowbray/Rondebosch.

As the ship landings took place near the Camissa watering place they would have taken place near the Cape Town Castle/Woodstock Beach area (Woodstock also possessed another small stream). The longboats which took them nearer to the Koina settlement would have potentially been on Woodstock Beach and before the first sandbank near where Craig's Battery was later constructed. However, in the absence of any geographical and archaeological evidence we are unable to provide definitive proof at all about location of the landing.

With regards to the attack on the villages, Barros identifies the villages as being one league distant. A league is approximately 6.2 kilometres but it is not clear whether the attackers west or south-east. Had they marched to the South east "behind Saldanha" they may have reached the area of Mowbray which would conform with the historical account given by Patric Tariq Mellet.<sup>52</sup> What is recorded according to the Chroniclers, is that the retreat of the Portuguese took place on "a narrow path across a hill" where they were harried by the Gorinhauqua soldiers. This could be the rump of Devil's Peak (although it is difficult to see how the wide lower slopes would contain a "narrow path"). The Portuguese retreated towards the shore "over the sands"<sup>53</sup> where they gathered and were killed. Barros notes that the sand dunes were an impediment to movement for the Portuguese stating, "And when they began to reach the sands of the shore they became altogether unable to make a step whereas the Blacks (sic) went over the sand so lightly" He noted that the "common folk" had run on ahead – presumably towards the relative safety of the "watering place" and near where the ships were moored. Fauvelle-Aymar too, notes how the Gorinhauqua drew the invaders

<sup>52</sup> This account is dependent on the ships anchoring in what was later know as Table Bay, rather than False or Hout Bay.

<sup>53</sup> Likely to be the sand dunes of Woodstock beach, or the sand dunes of Muizenberg, although this is less likely.

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away from the villages and towards terrain where they could dominate the outcome, with the final assault being launched on the soft sands of the shoreline. (Fauvelle-Aymar 2006:255). However, in the absence of any evidence care should be taken to avoid an assertion about the site of the final massacre.

### 3.6.1. Site descriptions in the sources

The summary below is based purely on a cautious reading of the archival sources such as they are available, and it should be noted that there is **absolutely no scientific or archaeological material to support this summary**. No bodies have been found and no archaeological material which could be associated with such a battle either has been recovered, despite a pervasive myth that it had.

Matters have been complicated by literary interpretations including a "Knot of Stone", a novel combining clairvoyance, detection and a search for historical origins. It has been a positive force in bringing the d'Almeida narrative to the forefront. It is a work of fiction however, and should only be mined for historical facts with extreme caution and scepticism. The confusion between fact and fiction remains problematic in this matter. In February 2016 for example, the Weekend Argus, published an article stating that a mass grave had been "recently" discovered, leading "experts to reconstruct the scene" and to subsequently identify the remains as those of d'Almeida and his men. (Cape Weekend Argus 27<sup>th</sup> Feb 2016). No finds were made that the archaeological community were aware of, and no heritage authority has any knowledge of such finds.<sup>54</sup> It is unclear where the information came from, suggesting that Vergunst's novel was been mined for information - literally confusing fact and fiction. The identification of the site of the shunting yard in Salt River mentioned in the Argus account is a similar site referred to the *Knot of Stone*. Social activist and historian Patric Tariq Mellet expressed concerns that in terms of the novel, the d'Almeida narrative remains deeply Eurocentric.<sup>55</sup>

Professor Alan Morris, a respected archaeological pathologist, while commenting on the significance of the d'Almeida massacre; has described the Argus account by Mr Zenzile Khoisan as containing a jarring historical error", noting very clearly, that "the remains of D'Almeida and his crew **have never been found**".<sup>56</sup> He surmises that the newspaper report identifying the D'Almeida burial site was confused with a known site, near the railway shunting yard, which was excavated in 1953 (not "several years ago" as reported in the Argus), and found to contain the identified remains of the sailors and slaves of the Portuguese brig the *Paquet Real* which was wrecked in Table Bay in 1818.<sup>57</sup> The human remains found were therefore **not the remains of the D'Almeida crew or d'Almeida himself**. For a copy of the article by Zenzile Khoisan (which is now also found on "History Online") as well as its refutation by Professor Alan Morris see **Annexure 2**).

<sup>54</sup> Tim Hart, ACO, A Morris and C Powrie 15<sup>th</sup> July 2016 pers comm.

<sup>55</sup> Patric Tariq Mellet describes the book as, "an elaborate plot, complete with pre-modernist intrigues and esoteric themes embracing the real and spirit worlds and secret societies."

<sup>56</sup> Alan Morris Emeritus Professor, Letter to the Editor Weekened Argus 5<sup>th</sup> March 2016.

<sup>57</sup> Alan Morris *ibid*.

It is possible that this archaeological find, incorrectly attributed, together with the "findings" of the Vergunst novel have led to the growth of a narrative of sorts of a known site containing the remains of d'Almeida and his men. But it is one which has no grounds in empirical and archaeological evidence.

Equally, the reference to the d'Almeida battle occurring at the confluence of the Liesbeek and Black Rivers, i.e. near the Observatory Hill as identified by the Khoisan Legacy Project is problematic, considering the nature of the terrain<sup>58</sup> and because it does not fit the geographical information that is available. The Khoi would have been unlikely to have led their cattle at the forefront of the battle into a wetland or even a dry reeded area. D'Almeida is said to have been killed near the "watering place" and it is known he moved ahead of his men because of the dust as they retreated and were attacked.

The chronicles reference to a "path" and "dust" confirms that the area was slightly higher than the wetlands. The reference to deaths near the "watering place" and on the shoreline near the dunes would place the massacre considerably further to the north-west of the TRUP site.

### 3.7. Summary and findings

#### 3.7.1. A summary of geographical references

Geographical references contained in the account are vague. In summary, the geographical references in the archival accounts note - villages about 6.2. km away (one league); a watering place where there was fresh, non-saline water<sup>59</sup>, a retreat over a shallow hill; a narrow pathway, and massacre on the sand-dunes not far away from the watering place. What is not mentioned, and it is a significant omission considering the presence of cattle, is **the crossing of a river or estuary**.

The raiding parties would have been **unlikely** to seek out fresh water in an estuarine environment i.e. at the mouth of the Liesbeek and Black Rivers when there was a good perennial stream nearby and one which was known to mariners. This suggests that should the "watering place" be in the vicinity of where Cape Town<sup>60</sup> is today<sup>61</sup>, and should the villages 6.2. kilometres away be in the vicinity of the south west or flowing from the lower slopes of the Southern Peninsula, then the route to the villages may have been along the Lower slopes of Mowbray or Rondebosch (Behind Table Mountain) and the massacre may have been just north east of the Grand Parade in the vicinity of the

<sup>58</sup> It is extremely unlikely that the Gorinhauqua, skilled as they were in the use of cattle in warfare would drive their cattle into swampy terrain.

<sup>59</sup> This excludes the Liesbeeck and Black River Mouth near Paarden Island especially in the later summer months when the events took place.

<sup>60</sup> The perennial Capelsloot would have existed at the shoreline near the present-day Grand Parade

<sup>61</sup> Near the Grand Parade or near Fort Knokke.



Woodstock Beach probably somewhere near the later Castle, the Imhoff Battery Craig's Tower.<sup>62</sup>

The chronicles refer to a place of the villages" behind Saldanha". In the 16<sup>th</sup> century Saldanha referred to Cape Town. This is known because an earlier description of the voyage of Antonia de Saldanha in 1503, referred to the watering place at Table Bay saying, "And it was his fate to carry a pilot...who took him into this side of the Cape of Good Hope, asserting that they had doubted it. And by that reason he took in water there, this place is today called the *Aguada de Saldanha*<sup>63</sup> – a very celebrated name among us.... because of the many noblemen that died there at the hands of the natives of that land as shall be seen in its place." "Because he did not know where he was...he climbed a mountain, very flat and level on the top which we now know they call the Table of the Cape of Good Hope, from whence he saw the end of the Cape (i.e. Cape Point) and the sea that was beyond it to the east".<sup>64</sup>

This suggests that the watering place which he called *Aguada de Saldanha* and which the indigenous people called *Camissa* was known to early mariners and sought out for fresh water. The stream lead down the mountain to the sea. "Behind Saldanha" therefore referred to a place behind the watering place or a distance of 6.2 kilometres away from the watering place.<sup>65</sup>

### 3.8. How does this information relate to the Two Rivers Urban Park?

The lack of reference to the fording of rivers (which with cattle would have been a major event) suggests that the skirmishes, attacks and final massacres are likely not to have occurred in an area where it was necessary to cross rivers, or in an estuarine environment which even in summer was reeded and damp. Thus, as the site of the Two Rivers Urban Park which is a riverine landscape is unlikely as the place of the battle and it would be misleading, in the absence of any evidence to propose that it was.

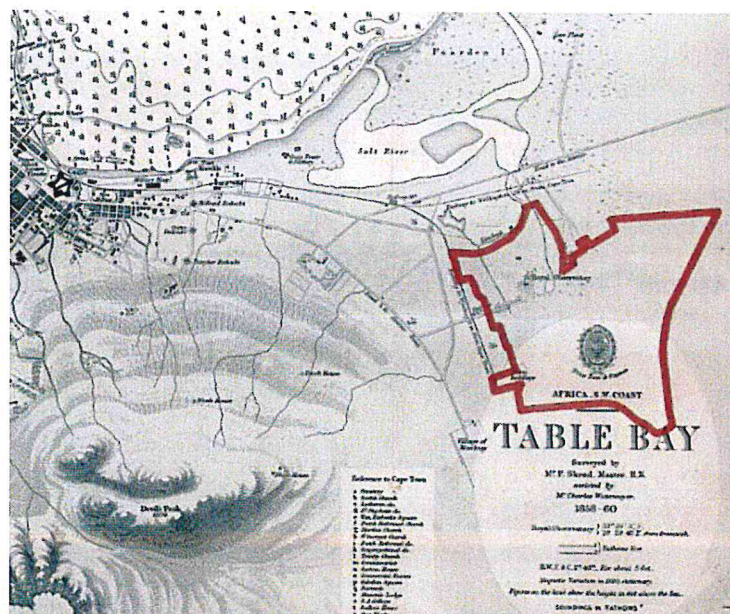
Therefore, in the absence of any firm evidence either in terms of material culture, archaeology or a clear geographical description we will need to state that, **we cannot say exactly where the battle took place. We also cannot say it took place within the boundaries of the Two Rivers Urban Park.** We know it was a running battle along a dusty path and that the massacre occurred on the beach, near the watering place. This does not fit the description of the TRUP site. Should the geographical references in the chronicles have some degree of credibility, we can surmise that the graves occur somewhere between the "watering place" at Cape Town and the early beaches of Woodstock and Salt River.

<sup>62</sup> I have no empirical proof for this other than a creative interpretation of the geographical references contained in the Chronicles. We also have no indication as to whether the Chronicles were based on survivors' reports. An archaeological excavation revealed bodies of ship survivors near Fort Knokke in 1953

<sup>63</sup> Water of Saldanha or the watering place. This suggests that Saldanha was first named after the watering place not the bay.

<sup>64</sup> Barros (1/7/2) in Raven Hart.

<sup>65</sup> This may equally may apply to Hout Bay.



**Fig 23. Portion of Skead's Nautical Chart showing the natural coastline in 1858 in relation to the approximate position of the TRUP site. Attackers and defenders clearly would have had to cross substantial areas of wetland to reach as coastline unless they took a route north to north-west of the TRUP site.**

### **3.9. The significance of the event in terms of living heritage.**

Whatever perspectives are highlighted, and whether the site of the graves is found, the massacre of d'Almeida and his men was a highly significant event in the history of South Africa. This was because the Portuguese subsequently avoided the Cape as dangerous. They considered it inhabited by people who fiercely defended their rights. There was no appetite for Portuguese conquest and settlement at the Cape after the d'Almeida event. Despite ships calling to collect water (and potentially to leave messages) there was no colonial monopolistic mercantile and settlement interest until the Dutch East India Company's refreshment station some 150 years later.

In the present time of the resurgence of Khoisan or Koina identity<sup>66</sup> and culture, the battle and victory over d'Almeida is a rallying point for Koina resurgence and a source of pride. Despite its significance it is only now being investigated from the Koina or Khoisan point of view.<sup>67</sup>

It must therefore rightly be memorialised and interpreted, whether on the TRUP site or not. The ideal site would be on a site where in the future the bodies were found.

<sup>66</sup> The term Koina is used in this report. However, it is accepted that the terms Khoen Khoen, Koina and the collective Khoisan are contested terminologies.

<sup>67</sup> A Morris, Emeritus Professor letter to Cape Argus 5 March 2016.

Handwritten signature or initials.



### 3.10. Conclusions

Despite the enormous cultural and historical significance of this event, particularly in terms of the living heritage of the First Nation, we have no evidence for the site of the running battle and the massacre and burial of D'Almeida and his men. Geographical references are vague and until any archaeological evidence is uncovered, no claims can be made with any degree of confidence. The situation of the villages 6.2 km "behind Saldanha" is less in doubt. It should be emphasised that it would be a disservice to so significant an event if an assumption (possibly an incorrect assumption) was to be made about the site based on incorrect information, or in this case, no substantive evidence.

This does not alter the significance of the event and there is a strong need for it to be memorialised and interpreted from the position of the First Nation rather than the biased perspective of a strongly Euro-centric nature.

In terms of living heritage, the TRUP site is strongly linked to perceptions of contemporary First Nation identity. It is suggested that mechanisms should be explored for the story to be told on the site but with the focus being on the narrative rather than the identification of site to avoid inaccuracies. Any attempt to "claim" that the TRUP site was the site of the battle and the massacre should be resisted at all costs as there is no proof that it was. In fact, all the evidence points against it, particularly in terms of the massacre. The presence of "villages" behind the Freshwater Stream (Camissa) suggests that memorialisation of the settlement forming the focus of the Portuguese attack is both possible and desirable.



## Amazon's Liesbeek development: Preserving 'the Place of the Stars' from corporate plunder

By Pregs Govender • 5 August 2021



📷 'Igamirodi !khaes' means the place of the stars. The indigenous people of the Cape recognised the land of the two rivers as a sacred space to gather under the stars and the moon. (Illustration by Tehatsistahawi Kennedy/[two.org/Wikipedia](https://two.org/Wikipedia))

**This week the Goringhaicona Khoi Khoi Traditional Indigenous Council and Observatory Civic Association went to court to prevent the destruction of the intangible heritage of the Liesbeek Riverine Valley and the environmental harms inherent in this development. They have 56,000 supporters on their petition website, more than 60 organisations backing Heritage Grading for the Two Rivers Urban Park, and support from multiple professionals who argue the development is contrary to all planning, environmental and heritage considerations.**

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*Pregs Govender (<https://www.pregsgovender.com/about>) is the holder of the current [Sonke Gender Justice Fellowship: Transformative Feminist Leadership](https://genderjustice.org.za/news-item/pregs-govender-joins-sonke-as-a-senior-fellow/) and a former SA Human Rights Commission (SAHRC) Commissioner and Deputy Chair (2009-2015); she was an MP between 1994 and 2002.*

The council and civic association worked hard for a fair and impartial administrative process, but failed. The objections, supported by well-reasoned evidence, have been discarded in the rush to allow Amazon to set up headquarters on the Liesbeek – in a sacred floodplain that should be a heritage precinct. The notice

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is for an urgent interdict to halt construction, and alongside the interdict is a notice for a high court review of the decisions to approve the development taken by the City of Cape Town and the provincial department of environmental affairs and development planning.

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# HUMAN RIGHTS IN THE RESPONSE TO COVID 19

## ARE WE GETTING IT RIGHT?



Maverick Citizen Editor **MARK HEYWOOD**  
speaks to **PROF SALIM ABDOL KARIM**,  
Director of CAPRISA, and **JUSTICE**  
**EDWIN CAMERON**, Inspecting Judge for  
Correctional Services.

**TUES 24 AUG | 18H00 SAST**

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This article is an edited version of a letter I wrote in support of the affidavit.

*Igamirodi !khaes* means the place of the stars. The indigenous people of the Cape recognised the land of the two rivers as a sacred space to gather under the stars and the moon. As Tauriq Jenkins, high commissioner of the council, shares in his affidavit: “*Igamirodi !khaes* has an uninterrupted view of a particular aspect of Table Mountain (Devil’s Peak), and importantly, it is the only place where, from the confluence of the river, during the equinox (when days and nights are equal in length), you can see the sun sitting right on top of the Lion’s Head.”

This knowledge of the cosmos, reflected in the name and purpose of *Igamirodi !khaes*, was recognised by scientists who chose this specific site as the location for the South African Astronomical Observatory.

The Goringhaicona Khoi Khoi Traditional Indigenous Council (<https://obs.org.za/cms/wp-content/uploads/2020/03/Comment-by-Goringhaicona-Traditional-Council.pdf>) applied for this site to be classified as a National Heritage Resource and in 2020 President Cyril Ramaphosa signed off on the Resistance and Liberation Heritage Route, a national memory project which includes Khoi resistance within the area.

Cape indigenous heritage artist Ernestine Deane reminds us that this “precious ecosystem of the wetlands” is also “the land-site of the battle of Salt River, the first recorded and successful black revolt against colonialism, where the Khoekhoe victory held Portuguese colonialism at bay for 150 years (from 1510). 350 years later, the British held Zulu King Cetshwayo captive at the adjacent Oude Moulén prison.”

This is the land chosen by corporate developers aiming to make their billions.

Why would the province and the City of Cape Town enable these corporate developers to undermine the dignity of indigenous people and their land? The 2015 secretive sale of public land, behind closed doors, to private developers for R12-million, was well below market value. The deal with Amazon is R4-billion. Who is benefiting from this deal? In the *Cape Argus*, corporate developer Jody Aufrichtig makes the cynical claim that their development will “address the injustices of apartheid spatial planning”.

Organic farmer and feminist Dr Yvette Abrahams (who holds a PhD in Indigenous Knowledge Systems), points out: “We are in the middle of a recession and there is plenty of vacant office space in Cape Town. What we need is housing for the poor, urban agriculture and city green lungs. The DA should disclose which developers have contributed to party coffers... they need to open their books to public inspection. I totally oppose the River Club development.”

Amazon can use other available land and office space in Cape Town and still create the jobs it promises (hopefully not as precarious as many of the jobs it creates).

The government cannot collude with development corporations who deploy divide-and-rule tactics to manipulate real needs, including desperate levels of unemployment and homelessness it is elected to address. Members of more than 60 Khoi groups, civics and NGOs who oppose the development (on a sensitive environmental precinct including a threatened wetland and biodiversity hotspot) have been threatened, defamed and excluded as “outcasts” and “drifters”. Deirdre Prins-Solani, consultant to Unesco’s 2003 Convention for the Safeguarding of the Intangible Cultural Heritage

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(<https://ich.unesco.org/en/convention>), alerts us to the “reverberations of the structural brutalities of colonisation and apartheid into present-day City of Cape Town’s planning and thought... and the way the fissures and fractures between indigenous peoples continue to be exploited to divide and rule”.

The City undermined public processes in approving the rezoning and development of the site and sacrificed procedural justice. In allowing the conversion of public land, including the river, in the interests of a transnational corporation and a small group of financiers and property developers, the City has ignored the deep connections between the land, the rivers and the history of indigenous people contained in more than 56,000 objections. It has also ignored the warnings of scientists, including its own, contained in heritage impact and environmental impact assessments.

Amid the global climate crisis exacerbated by the Covid-19 pandemic, the implications for the land and for people’s lives are enormous. The designated area encompasses the Black and Liesbeek rivers and the land lies in a floodplain. It will require massive engineering work to elevate a dense development out of the floodline. It will place 18 buildings on a 14ha site, ranging from 20m to 44m high, and a total floor space of 150,000m<sup>2</sup>.

This development would “radically alter the riverine valley and require infill of the course of the Liesbeek River”.

In its argument in court against Ndifuna Ukwazi (<https://www.facebook.com/NdifunaUkwazi/>)’s attempt to secure public land at one of the City’s many golf courses, for low-cost public housing, the City argued that it could not be done because the area was in a floodplain. The City cannot continue to subsidise millionaires and billionaires. It has done it in this case and in the 24 golf courses and driving ranges and 26 bowling greens that it leases for about R1,000 a year. It is time for the City to put its money where its mouth is and prioritise the lives of people, not the obscene profits of billionaires.

The first founding value of South Africa’s Constitution (<https://www.justice.gov.za/legislation/constitution/pdf.html>) recognises inherent dignity as our birthright. Dignity and equality are non-negotiable, substantive rights that underpin every socioeconomic, civil, political and cultural right, which are indivisible and interdependent. All spheres of government are obliged to use public resources to transform South Africa’s deeply entrenched colonial-apartheid spatial geography that traps generations in poverty and inequality. The government has to ensure its decision-making processes are transparent and that it enables meaningful public participation (designed to prevent government corruption by powerful corporations and their states, as happened in the Arms Deal).

Ernestine Deane asserts: “The City of Cape Town should be working alongside us to protect not only corporate development on this land [which] brings further injury to our unwitnessed, unacknowledged trauma. Let us commemorate the site with more than just a token plaque, but protect and celebrate it as a part of our living heritage.”

International human rights principles and commitments oblige the government to protect and uphold the rights of people in corporate-led developments. The International Labour Organization’s Indigenous and Tribal Peoples Convention ([https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C169](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169)) states: “Governments shall ensure that appropriate studies are carried out, in cooperation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities; and that governments shall take measures... to protect and preserve the environment of the territories they inhabit.”

The current draft of the Transnational Corporate Accountability and Human Rights Treaty (<https://www.corporateaccountability.org/water/global-treaty-human-rights-corporate-abuse/>) asserts: “State parties must ensure that they integrate a gender perspective, in consultation with potentially impacted women and women’s organisations; conduct meaningful consultations with individuals or communities whose human rights can potentially be affected by business activities, and with other relevant stakeholders, while giving special attention to those facing heightened risks of business-related human rights abuses... such as women and indigenous peoples, and that consultations with indigenous peoples are undertaken in accordance with the internationally agreed standards of free, prior and informed consent.”





South Africa's democracy is obliged to undo the destruction of the rights of South Africans by apartheid, declared a crime against humanity by the United Nations. Those silenced and made invisible by the architects and beneficiaries of this crime are claiming constitutional rights and speaking out against unsustainable, violent processes of patriarchal development.

In 2020, Fikile Ntshangase (<https://www.dailymaverick.co.za/article/2020-10-29-murdered-kzn-anti-mining-activist-fikile-ntshangase-to-be-buried-friday-as-dispute-rages/>) was assassinated in the struggle against the transnational coal mine PetminUSA, at Somkhele in KwaZulu-Natal, and Nonhle Mbuthuma (<https://www.frontlinedefenders.org/en/profile/nonhle-mbuthuma>), from Xolobeni in the Eastern Cape, is one of the Amadiba Crisis Committee (ACC) leaders who fears for her life after their chairperson was assassinated in the struggle against Transworld Energy and Mineral Resources, an Australian mining company. Despite assassinations and death threats, the ACC won a groundbreaking court case in Xolobeni for themselves and other communities, "demonstrating that Free, Prior and Informed Consent is integral to ensuring equity, fairness and development for all; fulfilling environmental rights; meeting Indigenous and community rights".

The judge concurred with the community that projects similar to the Xolobeni mine disproportionately affect local and indigenous communities and have a recorded history of harming multiple aspects of their lives. Mbuthuma says: "We've set a precedent for all other communities facing this situation... We need to speak up and say, government, put our lives first."

In representing the interests of all South Africa's people, all spheres of government need to move beyond colluding with or being corrupted by neoliberal or colonial-apartheid paradigms and priorities. It is time to see what my late father, Ronnie Govender (<https://mg.co.za/friday/2021-05-28-ronnie-govender-unbowed-unbroken-i-am-of-africa/>), called the "cunning on which empires are built", that endlessly pits us against each other as we destroy our humanity and the earth that holds us.

In *Rethinking Africa: Indigenous Women Re-interpret Southern Africa's Pasts* (edited by Bernadette Muthien and June Bam) Sarah Malotane Henkeman writes: "We cannot recreate the world of our ancestors, but we can learn from a worldview in which our lives are not atomised, but one in which we are interdependent and where being humane and respectful of the earth, benefits us all". **DM/MC**

Pregs Govender (<https://www.pregsgovender.com/about>) is the holder of the current Sonke Gender Justice Fellowship: Transformative Feminist Leadership (<https://genderjustice.org.za/news-item/pregs-govender-joins-sonke-as-a-senior-fellow/>) and a former SA Human Rights Commission (SAHRC) Commissioner and Deputy Chair (2009-2015); she was an MP between 1994 and 2002.

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## RIVER CLUB: HERITAGE IMPACT PHASE ONE: HERITAGE INDEPENDENT REVIEW.

### THE NATURE OF THE BRIEF AND METHODOLOGICAL APPROACH

This submission is in response to the request from the Environmental Consultants, SRK Consultants, to provide an independent review of the Phase One Heritage Impact Assessment Report (hereafter referred to as the Report) compiled by the heritage consultant, Bridget O' Donoghue, dated 14 June 2016.

The terms of reference for the review are contained in an email to me dated 25 January 2016.

They include:

1. To critically review documents produced for the HIA, including:
  - 1.1 Heritage indicators and design parameters.
  - 1.2 Heritage Impact Assessment (including VIA).
2. To consider and respond to comments and queries made by the project team on the heritage assessment.

In terms of a methodological approach a process of iteration has been adopted with a series of meetings with the heritage consultant, representatives of the client, the professional team and the urban design consultant, Marise Potgieter from Urban Concepts.

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The intention has been to forge a degree of consensus on the appropriate response to the heritage significance of the site.

The focus of this review is thus on the statement of heritage significance contained in Section 4 of the document and the formulation of heritage indicators, Section 5, compiled by the heritage consultants.

The following issues are excluded from this review:

- Issues related to the pre-colonial, predominantly intangible heritage significance of the site and its broader significance. This intangible significance is regarded as having high heritage significance and has to be factored into the future role of the site. The determination of the values attached to this significance, and the means to ascribe such significance and to give it expression is regarded as falling beyond the scope of this review.

It is understood that it is being addressed in a different forum.

- Issues related to the flood plain and the different degrees of disturbance to the natural river flow.

The designers have acknowledged that the entire site falls below the 100 year flood plain. The assurances provided that the proposed development can be accommodated by lifting the ground level is taken as a given.

The extent to which ecological processes related to river flow and the more landscaped ornamental treatment of green spaces which interface with the riverine system will to a large extent determine the

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character of the development and is addressed to some extent below.

As a general comment the Phase One Report is considered to be well balanced and comprehensive in terms of the analysis of the historical evolution of the site and the relevant legal and policy context. No comment is provided in these respects, as it is understood that the focus should be in the draft heritage indicators provided.

The planning, context, and the determination of the future role of the site within the broader planning TRUP context does, however, have to be addressed. The long term planning of the broader area is being undertaken by the PGWC. While the planning approach to the River Club should preferably flow from this process, it is acknowledged that the developers and owners of the River Club site have the right to proceed with an application. It is understood that the preliminary proposals have been workshoped by representatives of the CoCT, PGWC and the professional team and that broad agreement has been reached on the question of development bulk that could be achieved on the site. This has been factored into the review process.

The analysis provided is thus regarded as a good basis for future debate and decision-making. It is emphasized that the comments made below relate primarily to issues of tone and emphasis and hierarchies of significance rather than detailed comment on the analytical component of the Phasing One report. My comments on the nature of heritage significance and the identification of heritage indicators are as follows:

## 1. THE NATURE OF HERITAGE SIGNIFICANCE

1.1 Section 4 provides an analysis of the heritage resources at the context and site specific scale. Heritage resources are determined in terms of the criteria contained in the National Heritage Resources Act (NHRA).

The identification and categorization of heritage resources at the different scales is supported.

1.2 At issue is the hierarchical nature of heritage significance, and its spatial expression. It is evident that there are variances in significance across the site particularly related to the nature of the interface with the riverine and institutional and urban contexts. These different interfaces present different heritage issues, vulnerabilities and opportunities.

1.3 The extent to which the heritage resources related to TRUP as a whole can be extrapolated across the River Club site is thus queried. It is held that TRUP cannot be regarded as a homogenous entity but is highly fragmented in nature, with a high degree of variation in terms of heritage significance and discontinuities in terms of open space and public access.

1.4 As indicated in the Report, the TRUP is considered to be an amalgamation of a number of nodes, including heritage precincts. The primary heritage precinct in the immediate vicinity of the River Club is the SAOA site which is considered to have national heritage significance. The River Club is not identified as a node or a heritage precinct.

1.5 It is suggested that this variation in heritage should inform the future role of the River Club site. More specifically, it is suggested that the primary heritage role of the River Club site should be regarded as a buffer to the SAOA site, rather than as an entity encapsulating the heritage qualities of TRUP as a whole. Thus the River Club is regarded as having few intrinsic heritage qualities, but that the main significance is the role of the site as a visual spatial buffer zone to the adjacent SAOA site and the related Raapenberg bird sanctuary, and the extent to which the riverine system and the particular nature of the confluence of the two major river systems can be used to enhance the continuity of the public open space system which terminates at present at the juncture of Station Road and the Liesbeek River.

## 2. HERITAGE DESIGN INDICATORS

Section 5 provides a list of heritage design indicators categorized as follows:

- Site and TRUP landmark qualities.
- Vistas.
- Natural environment.
- Public realms.
- Land use.
- Spatial ordering of development.
- Roads, access and parking.
- Buildings.
- Response to heritage sites abutting the site.
- Ground levels.
- Open space and public realms.
- Rivers.
- Road infrastructure.
- Archaeology.
- Development of site to its cultural potential.

This review is structured accordingly.

## 2.1 Site and TRUP landmark qualities

The identification of the site as having landmark qualities due to the expanse of open space, the surrounding rivers and the uninterrupted views towards and through the site is queried. As suggested above, the open space quality is fragmented and discontinuous with a very limited degree of public access. The primary quality is regarded as its role in providing a visual setting to the adjacent SAAO, and the opportunities provided by the riverine interfaces and the unique nature of the confluence of the two rivers at the Raapenberg bird sanctuary. The four indicators are supported.

## 2.2 Vistas

It is agreed that the primary view corridor is the link between the Raapenberg Bird Sanctuary and Devil's Peak. The latter is the dominant mountain element in the context, establishing a strong and distinctive visual link between the mountain peak and the confluence of the Liesbeek and Black rivers. The central tower of Groote Schuur Hospital reinforces this vista and provides a visual catch point within it.

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The historic view connection between the SAAO and Signal Hill, while significant, is regarded as tenuous. Existing developments, and the exploitation of future zoning rights, are likely to further compromise this visual link.

With the provisos referred to above the six indicators are supported.

## 2.3 Natural environment

The environmental setback established by the fresh water specialists (30m) and the maximum/gradients are primary determining factors in terms of the constraints related to the site. They also provide a range of opportunities related to these interfaces as indicated in the Report.

The need for active edges to the public space system is also regarded as an essential design element to ensure an effective public realm. The lifting of natural ground levels, active edges and a cohesive integrated public open space system are regarded as particular design challenges.

The four indicators are supported.

## 2.4 Public realms

The site is regarded as being predominantly private rather than wholly public. The public amenities are extremely limited, fragmented and are not integrated into the recreational spine located along the Liesbeek River to the south.

The statement that the site is as publically accessible as other tourist destinations such as the V&A Waterfront is not supported.

The extension of the public realm related to the Liesbeek River into the River Club site thus provides a major public benefit that could offset many potential negative heritage impacts.

With the proviso relating to the existing predominantly private/semi-private nature of the site, the four indicators are supported.



surrounding built urban context rather than responding and being integrated into it. An integrated form of development is regarded as a preferable alternative to the distinctive, isolated model being proposed.

## 2.5 Land use

The promotion of mixed use, integrated land uses is supported. An isolated office park form of development, isolated from its context and with limited public access is not supported.

## 2.6 Spatial ordering of development

The purpose of identifying a number of conceptual organizational models of forms and related spaces is not clear. The imposition of any form of spatial construct is not regarded as appropriate. Rather the spatial morphology needs to be determined by the particular environmental constraints and opportunities which are particular to the site.

The principle of clustering development onto portions of land which are considered to have a degree of absorptive capacity in order to retain and enhance ecological and heritage attributes is supported.

As previously suggested there is a large degree of variation in terms of heritage significance across the site, and consequently a range of development opportunities related to specific site conditions. It was suggested in previous sections of this review that the extrapolation of TRUP wide environmental and heritage constraints across the site was questionable. Rather the role of particularly the eastern portion of the site, as the visual setting for the adjacent SAAO site was regarded as an alternative conceptual model.

The first indicator that the development should respond primarily to the inner core TRUP precinct, as opposed to the non TRUP urban development on the inner core TRUP boundaries is thus questioned. The nature of these edges, Black River Urban Park to the west and the PRASA development to the north are a reality and it is suggested that the development footprint to be developed for the site should respond accordingly.

Related to the above the third heritage design indicator is queried. It is not evident why future development should be distinguished from the

## 2.7 Roads, access and parking

The four indicators are supported. Of relevance to access and gateway opportunities and the evolving character of the site and its future role is the location of the SAAO property at the existing point of entry onto the site from the south. A substantial 7000m<sup>2</sup>, 7 storey building to accommodate SKA is proposed on this visually strategic gateway site which will impact strongly on existing sense of place issues and the quality of openness as viewed from the Liesbeek Parkway to the south.

## 2.8 Buildings

The indicator to design buildings to differ from the surrounding urban context in materials, organization and groupings in order to maintain the differentiated cultural landscapes of the site and the broader TRUP inner core is queried. It is not clear what the differential cultural landscapes of the site refers to. As stated above, the different edges of the site reveal different opportunities and constraints and have different absorptive capacities. The edge facing onto the PRASA development and the edge facing onto the Black River are regarded as having a greater capacity to absorb development than the eastern interface with the SAAO property. It is thus suggested that buildings facing onto the Liesbeek River could be in the height range of buildings along Liesbeek River Park but should not exceed these heights.

The other indicators, relating primarily to the need for fragmentation of building forms and relatively tight building blocks and the retention of vistas are supported.

With regard to the indicators relating to heights in the last bullet point, it is agreed that the highest buildings of up to 5 storeys above finished ground level could be accommodated along the edge facing onto the proposed Barclay Road extension. The same height parameters should apply to the sites opposite the Liesbeek River Park.

Buildings in close proximity to the SAAO should be lower in height in order to retain the SAAO setting. It is thus suggested that a height limit of three storeys above finished ground level be established.

## 2.9 Response to heritage sites abutting the site

The indicators identified are broadly supported. As indicated above new building interventions adjacent to the SAAO site should be lower and set at a maximum of three storeys above the finished ground level.

## 2.10 Ground levels

The design indicators are supported.

## 2.11 Open space

The design indicators are supported, in particular the proposal for a substantial public space within the site that connects to the surrounding TRUP undeveloped green areas. This public space should give access to both rivers and allow views through the site to Devil's Peak to the west and to the Raapenberg bird sanctuary to the east. It should be of a substantial scale, approximately 75m to 100m in width and should preferably accommodate a public site-related land use, such as an Environment and Heritage Centre.

## 2.12 Rivers

The design indicators are supported.

## 2.13 Road infrastructure

The design indicators are supported.

## 2.14 Archaeology

The comments and proposals are supported.

## 2.15 Development of site to its cultural potential

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The design indicators are supported.

## 3. CONCLUSIONS AND RECOMMENDATIONS

The Conclusion, Section 6, refers to the current TRUP studies by NM and Associates which suggests a possibly new development vision which may include more development on the site and within TRUP. It is understood that a working group comprising City and WCG officials, and the professional team have agreed on a figure of approximately 137000m<sup>2</sup> for the River Club site. The issue then becomes how this bulk could be distributed across the site.

The statement that the site is positively assessed for potential development which addresses its position within TRUP and addresses the historic, aesthetic and social significances identified is supported.

The recommendations that the heritage design indicators should guide future development on the site is supported, with the provisos mentioned above. These relate largely to the proposal to retain the island character of the site (point 5). An alternative conceptualization would be to integrate the site into the surrounding context where possible, largely by responding to the opportunities and constraints established by existing development on the periphery, most notably PRASA and the Liesbeek River Park development. This would not preclude the need for a strong green edge to the site, and the use of new building forms to improve public access and the amenity value of the river banks and visual access to the Raapenberg bird sanctuary.

In addition to the guiding principles identified in this section, the following broad principles are regarded as being applicable.

- A balance between the natural environment and the built form. Coverage not to exceed approx. 15% of the site area.
- The retention and enhancement and integration of the green context into the built form (a "web" of green as a structuring element of the village).
- A positive response to variations across the site, particularly the edges



(no-go, "tread lightly" and areas considered to be appropriate for some form of development).

- Respect for the setting of the site in terms of the views and vistas identified.
- Appropriate set backs for the built form response to the riverine corridor.
- A network of open spaces creating a continuous system of hard and soft spaces, functional continuity and visual legibility.
- A legible public structure with a hierarchy of public and social spaces corresponding to different levels of public access.
- Ground level non-residential activities to activate street edges and to define street spaces. An urban village, not an office park.
- A permeable system of street blocks which enhance access to the riverine corridors.
- Higher order public institutions and facilities to reinforce public access to higher order public spaces.
- Multi-functional street spaces, not only to accommodate movement, but also to facilitate a high degree of pedestrian dominance and social activity.

#### 4. SUMMARY

The Report is comprehensive and provides a good platform for decision making. Issues identified relate primarily to tone and emphasis and the extent to which the site is regarded as an "island" site as opposed to a different approach which integrates it into the broader context, albeit with strong green edges.

As indicated previously, the pre-colonial and early contact period is considered to be of considerable heritage significance. Appropriate, effective means of identifying the values associated with this primarily intangible heritage will have to be formulated and factored into an integrated vision of the future role of the site. The role of water and the role of the rivers as both boundary and crossing point are likely to be a factor in the spatial expression of this intangible heritage.

Nicolas Baumann 3 July 2016

BRIDGET O'DONOGHUE ARCHITECT HERITAGE SPECIALIST ENVIRONMENT

## INTRODUCTION

The author's response to Nicolas Bauman peer review was informed by discussions with Peter Buttgens, Architect and Heritage Practitioner.

## RESPONSE TO THE PEER REVIEW (JULY 2016)

The Baumann review was requested to provide an overview of the HIA Phase One for the site. The review focuses mainly on the heritage significances and the heritage indicators identified in the HIA. In its conclusion the review expands on the proposed indicators with more nuance.

The review report was generally supportive of the HIA findings and suggests that differences are mainly in tone and emphasis and seems based on what it describes as hierarchies of heritage significances. The purpose of this response is to address the main points of the Baumann review and not all items raised.

### Heritage Significance of the Site

The Baumann review queries that the HIA overlays the broader TRUP planning context onto the River Club site as TRUP is not homogenous but fragmented with high degrees of variation in terms of heritage significances and discontinuities in terms of open space and public access.

It further argues that the site has variances in significances across it, especially related to the nature of the interface with the riverine edges, institutional (SAAO, Valkenberg) and urban contexts, and that these different interfaces present different heritage issues, vulnerabilities and opportunities.

In response, the HIA has identified the heritage significances of the TRUP area and proposes a range of significances of various sites – these range from sites of national importance (SAAO), provincial heritage importance and sites of local significance. Also, the HIA has at a more detailed level,

graded the areas around the site but not on the site itself. The River Club site is graded IIIB. This grading recognizes that the site has historic, and intrinsic natural and landscape qualities and has been supported.

The HIA does tabulate the different heritage significances of subject site (refer Section 4.3). In response to this review comment, an additional map is included identify the different precincts of the River Club site, i.e. riverine edges, treed edge toward SAAO, golf course area etc.

The site is not graded into various precincts as this is considered an inappropriate response to the site as it's grading is recommended for the whole site although there are varying site considerations and characteristics. Cultural significance grading is a rough tool and not an end in itself – what is required is to establish significances.

The HIA report demonstrates that the site as a whole meets the criteria as being an important heritage site and that the significances are based on its historic and unique landscape qualities at the confluence of the two rivers and that it is part of a broader natural context. The heritage significance is therefore not how the site is perceived but is at a deeper historic, landscape and contextual level.

The Baumann review's suggestion, that the site has no heritage significance and only offers some visual significance as a buffer to SAAO is highly queried as it ignores the intrinsic character of the site.

### Heritage Indicators

#### Spatial Ordering of Development

The Baumann review regards understanding conceptual organizational development models as inappropriate. It is suggested that these remarks misunderstood the intention of spatial precedent studies in the HIA. There is no proposed imposition of any outside spatial model in the HIA, but rather to understand how island sites have been inhabited. In fact, the Baumann review proposes and has a very strong view on the spatial organization of the site.

Both the HIA and the review supports the HIA assessment that the River Club site has heritage values and that these are based on its historic



the confluence with the farms along these rivers, its unique location close to the character of the Black and Liesbeek Rivers and riverine and green N2 highway to PRASA and between Observatory and Maitland has a special and evident riverine quality, which is very different than the urban landscapes to the east and west and that the area is not overtly fragmented and discontinuous as assessed by the Baumann review.

It follows that the heritage design indicators for the site should recognize these contextual significances and differences, that it is an island located between two rivers and a canal and that the spatial ordering of such a unique site should be informed by recognizing these attributes.

Observatory's urbanized eastern boundary edge is clearly defined by the sport/playing/green fields that stretch for much of this section of Liesbeek River. This acknowledges (in very practical terms) the natural seasonal fluctuations of the river and the need for flood plains *and* also creates an obvious edge or limit of the urban typology. The extension of this urban typology across the site would be inappropriate at any level. To the east of the site, the M5 highway and Maitland's urban development is the spatial site edge.

The Baumann review is of the opinion that the city grid and the large-scale recent development toward the west (all of which are setback and have a large green flood plain area between them and the river) should inform the spatial organizing pattern for the River Club.

This is seen as blurring or not understanding the edges of urban townscape nor recognizing the different character of the site to the urban typology to the west and east. By imposing the urban form on a natural riverine context, future development on the site will perpetuate the loss of the natural elements within the city (Paarden Island and the Salt River historic lagoons and vleis are good examples that are situated in close proximity to the site). This approach could undermine the aims of TRUP as well as impact on national and provincial heritage sites in the immediate context. The suggested urbanization of the site using the urban typology across the Liesbeek River is fundamentally flawed, inappropriate and damaging to heritage resources, and that softening the urban grid for visual sensitive sites with some trees is an inadequate response.

BRIDGET O'DONOGHUE ARCHITECT HERITAGE SPECIALIST ENVIRONMENT

### Short responses to some aspects of the Baumann review

The Baumann review queries the HIA design indicators that views across and onto the site are not landmark qualities as the site is viewed as being fragmented and discontinuous, but does conclude and supports the design indicators. This opinion is not shared as the visual qualities of the site within this unique riverine context are assessed as being a continuous undulating green low-lying riverine environment and are more significant than just providing a green visual setting for the SAAO. The site has intrinsic qualities consistent with flood-prone environments including marshes, brush and treed edges, etc. which create a very distinct environment and that this quality of view has significance within the broader townscape.

### Vistas

The Baumann review states that the historic view connection across the site between the SAAO and Signal Hill is significant "...but tenuous". This is viewed as problematic. The view corridor has been specifically flagged by historians as of high significance and must be retained. The purpose of the HIA is to identify these types of historic links across the site and propose mechanisms to maintain them. These metropolitan links will possibly also be addressed by the TRUP frameworks to ensure they do not become tenuous or lost. The indicators have to acknowledge this.

### Public Realm

The review did not support the observation that the site was as accessible as the V&A Waterfront. This statement at first seems overstated – however, the HIA's observation is that the site is surrounded by highways and is very accessible to vehicular and public bus transport as well as being close to two suburban train lines. Its more central, and accessible, location within the metropolitan area is certainly more accessible than the V & A Waterfront located on the extreme western edge of the city and which is primarily served by roads and bus routes.

The heritage significance of the site is greater than the sum of the present landscape. The site at present is much altered with little "found" heritage resources. The significances are its intrinsic low-lying green riverine character as part of a larger, if fragmented natural system.



"JA27"

**Observatory Civic Association - Architecture and Heritage.**  
C/o 34 Nutfall Road, Observatory. 7925. Cape Town, South Africa.

10 February 2017

**Mathew Law, Senior Environmental Consultant**  
**Amy Hill, SRK Consulting (SA) Pty Ltd.**

**RE: Revised Draft Scoping Report on Proposed Redevelopment of the River Club site, Observatory C.T.**

Dear Amy Hill, Mathew Law, Bridget O'Donogue and HWC

While we thank you for including our response to the first Draft Scoping Report in the Revised Draft along with many other interesting responses, unfortunately nothing has been revised sufficiently for us to regard the proposal as being any better than before.

The proposed development remains highly problematic on a range of points and we regard the lack of response to our points of criticism as unfortunate. We only have two options left to contribute. We prefer to see the Two Rivers Urban Park attain its broader vision, become a world class people's park with appropriate development that respects its character and potential. If Liesbeek Leisure (pty) LTD has nothing better to contribute to achieving real benefit to the park and to boost the area, then it has misguided intentions that are unfortunately totally misplaced.

The options we have are:

a. To propose an appropriate vision for the River Club land that recognises its existing status as part of the Two Rivers Urban Park, its entrenched zoning as Open Space, that may have some limited potential for appropriate development to fit in with the existing sustainable environmental constraints of TRUPA. Serious consideration needs to be given to the site's particular heritage significance dating from before 360 years ago when the first colonialist farmers evicted the first people from their ancestral land. The site, bounded by the two rivers and their confluence which has special significance historically and environmentally has an underrated Grade 2 status and it also borders on the Grade 1, SAAO hill that is very sensitive to disrespectful development around it that will severely disrupt its context! (The River Club submission prepared by SRK, offers very little in the way of comparing the existing environment with the inappropriate development proposal. We expect the truth will out when it is appropriately examined in an EIA process!)

or

b. The "NO GO" option!

It appears clear that the "Liesbeek Leisure applicant is pushing its illegitimate expectation to develop the River Club land's way beyond what could be regarded as a worthy project. Not only is it non-compliant with planning policy and the open space zoning but its scope and design is strongly not in the public interest and generates numerous negative impacts that are severely detrimental to the Two Rivers Urban Park and the 'Heart of the City' area as a whole.

The proposed development generates unacceptable negative impact and is non-compliant.

There are a huge range of points that disqualify this project from being supported by us and we reject it as it since the negative impacts are too ghastly to contemplate!

The existing building has qualities and value worth maintaining yet the proposal insists it be demolished!

The open space that has very high heritage significance dating back to precolonial times would have its sense of space and heritage memory qualities totally destroyed!



## 1. Planning Policy guidelines that need to deliver a good quality environment

The Spatial Planning and Land Use Management Act (SPLUMA) lists key principles which should guide all development, including spatial justice, spatial sustainability, efficiency and spatial resilience. We believe that the Revised Scoping Report has failed miserably to locate the proposed development within these principles.

- The land is well established as a part of a very significant Park (Two Rivers Urban Park) and it is protected and preserved in the TRUP Local Management Plan, The Local and District Plan and is zoned as **Open space** for public or community use (*mainly sport, recreation, conferencing and hospitality*) .
- SPUMLA clarifies and defines beyond doubt: "OPEN SPACE, in relation to a land area, means land set aside for use, by a community as a recreation area, *IRRESPECTIVE OF THE OWNERSHIP* of such land".
- The fact that it was sold for a song under questionable circumstances does not change its prevailing use by the public who should not have their rights to enter limited. (There are acceptable temporary safety/ security reasons that may be seen as reasonable cause, if proposed by management and accepted by the mandated authority on the Park which in this case is the TRUP Association, who represents all stakeholders and sets the rules for the park). We also assume that business rights apply in specific buildings with limited conditions, and there is no automatic right to demolish or add new buildings into the park (even when the land is privately owned).
- Any proposed change to the park should adequately address questions of spatial justice!
- The project does not address spatial sustainability and resilience in a reliable and responsible way.

## 2. Unique environment and very significant heritage under threat

We note that the River Club site is zoned 'Open Space', with community facilities. Consideration must surely be given to the site's role in the larger open space and river systems. The need for quality open spaces is expected to increase as the area's population increases.

We agree with the fact that: *"The proposed site forms a significant part of the open space system within the metropole and is highly accessible. The various spatial policy documents acknowledge the value and role this property can play with regards to open air recreation and activities. The consideration of what is required for TRUP must be incorporated as desirable into the proposed development"*

- The lack of respect for the sensitive environment is outrageous. Disruption to the ecology and heritage as proposed raises grave concerns and this has been poorly addressed. It is sorely lacking.
- Substantial well documented information is presented regarding very significant heritage issues of the site yet this is wished away or largely ignored in the practical planning proposals. We are not convinced by arguments about required profits that result in our park being destroyed. This can't be justified even by land owners. We regard the proposal as destructive, disrespectful to the precious environment. The unique heritage dates back thousands of years. Its 360 years ago that the site was the 'First Frontier' and it had huge impact on the nature of our country and the Legacy of Colonialism

## 3. Public Participation Process has been flawed

- Failure to advertise broadly and effectively
- Stating the same things without considering alternatives that may have less negative impact is not consultation. Its blind propaganda.
- The River Club should not be dealt with in isolation from the TRUP consultations
- Misrepresenting the TRUP process so as to appear that there are already decisions made on TRUP which determine how the River Club should be considered



- Consultants involved in both TRUP and the River Club coming to their own conclusions about what is perceived as good for the developments while neglecting stakeholder comments.

### **3. Inclusivity is sorely lacking**

- There is very limited prospect in this development for housing lower to middle income groups, yet redressing victims of apartheid, is claimed as a superficial promise. There appears to be no social housing, so the claim to justify taking this land away from the people for their benefit is false!
- The priority is clearly set for profit, while multi-cultural, racially mixed inclusivity and potential also for a broad income mix in the proposal, as a redeeming feature appears totally absent.
- The focus is clearly on returns to cover unjustified high costs needed to transform a park to an office park rather than locate this in an existing serviced environment. There is absolutely no justification for this negative destructive impact that undermines potential for the whole area to being appropriately developed, while the park remains available to add the "play" to balance the "live and work" in future near to compact, well located, affordable units that would be stimulated if the park is not destroyed.

### **4. An EIA process needs well considered alternatives to validate a supported option.**

- The Revised Scoping Report lacks any meaningful consideration for proposed alternatives.
- Failure to follow guidelines and to provide alternatives shows lack of professional integrity on the part of consultants. Profitability is, not a base for recommendation for approval required by law.
- Alternatives need proper evaluation also taking into account the result of destroying the Two Rivers Urban Park, the local unique environment and the sensitive heritage preserved in the footprints and shadows of the place as it is when the character of the space and place is preserved.

### **5. The Economic Desirability needs to extend into the broad impact over time and on the broad context.**

An Economic Desirability Study needs to compare a range of alternatives rather than disregarding them. An independent development and environmental economist should consider all factors that determine economic desirability as it affects everyone, including stakeholders.

- It should take account of the obvious costs and of opportunity costs for what is being lost to the environment, to the heritage, to tourism, to stimulate other development, to others who use the park, to the City who will have to find other property to substitute for the lost park to provide recreation and other facilities to new high density development nearby.
- descendants of the indigenous culture, who have the limited symbols of memory and retain the wounds of the past are to be stripped of what remains of the context that gave rise to its traditions?

### **6. Flooding**

Development is not permitted to in a flood plain and proposed in-filling of the expansive area as proposed is clearly not wise. It is not logical either since it will simply cause more flooding to happen much more often. It is totally undesirable for the park with its natural habitat and ecology. Facilities will be inaccessible, more often. The neighbouring residential, sport and office parks will be submerged more often as will the transport routes.

We who live in the area witness regular flooding of roads and rail lines that cause a shut-down every year. It gets much worse in the 50 or 100 year floods. Infilling will result in this higher degree of flooding, that will happen far more often. There is no sense in the 'false science' evidence presented that the 100 year flood levels will not be any higher or worse! This report does not concern itself with actual future disaster that will be experienced once the developer's advisors have got away (with the loot). It is the City authorities who will be blamed and by that time they will have been replaced so why should they be concerned either?





The stakeholders will still be present and it is ample reason why we refuse this totally misguided proposal.

The development is not immune to floods nor fools who implement these birdbrain ideas! We will not permit our area to be destroyed by poorly conceived proposals that will have far too much negative impact.

There is no sound reason to exempt this project on so many week points when there are positive alternatives for good quality development that are sorely needed and where precious environment will not be destroyed.

We would not support a massive development in Kirstenbosch nor would we support one on Clifton beach! Clearly the down side and loss would be too destructive. It is the same with the River Club but the River Club Land is much more sensitive and heritage precious than those other two examples. We cannot accept appointed technical consultants submissions on the pay roll of the developer providing selective information while they reject our concerns as trivial.

The truth is they have given insufficient diligence to their tasks and negligent in the extensive negative impact.

**The existing river system frames the site as a flood plain.**

It should be cleaned up and rehabilitated, including reducing some of the previously filled areas so that some wetland can be rehabilitated, yet the intention is the opposite, to fill the majority of the site by over 3 meters of fill! This is totally unacceptable environmentally and it is being justified by false science that does not examine or present the full truth of the consequences of this insane proposal!

It is easy to accept the insignificant fact that '100 year flood levels will not rise higher as a result (since at that level additional water flushes over the constraining level railway tracks and bridges that act as a dam wall), It skirts the fact that these high level floods will occur much more frequently than every 100 years since even an ordinary amount of rain will reach that level! (We have no doubt that the truth will be exposed during the EIA!)

There is legislation that prevents filling in the flood plain and building in the flood plain and while some limited exceptions may be worthy in some limited cases, this proposed development is anything but limited or worthy!

**The River Club is a part of the Two Rivers Urban Park** and should be compliant with its guidelines to protect the environment and limit development, particularly in the flood plain and the land should remain open space as part of the park. The consultation process for TRUP is on- going at present and River Club should be evaluated within that process where a large "Stakeholder Group" is assisting in determining the future of the park environment, under the guidance of Provincial Environmental Authorities and the Province appointed design team with City planners and stakeholder participation.

**The Consultation process has shown that stakeholders have been solidly involved in this process.** For over a year and more, we have strongly supported the "preserved park" concept as reflected in Scenario 'C' that is strongly supportive of intensified higher density development in the 'Heart of the City' area, where this does not have negative impact on heritage resources or sensitive environments.

**The River Club's development proposal is totally non-conforming to the values and vision of the TRU Park.**

It will be destructive and very disruptive to the future of the park and will have a very negative impact on the environment while the loss of heritage quality will be huge!

Rather than filling the flood plain, and building huge blocks in the park, we have stated that the owners should be expected to clean the area of dumping and pollutants (dumped by the previous owner PRASA) and to rehabilitate the natural environment. The current owner has a responsibility to return some areas to wetland and to continue to upgrade facilities to keep the existing commercial rights viable and suitable for popular community use. Types of sport and recreation, conferencing and entertainment do change and they should be encouraged to keep them and the existing buildings well managed in the existing buildings. There is also potential to substantially improve on this primary use. If one looks at Kirstenbosch Gardens and the Green Point Urban Park as example, there is ample example of what is possible and desirable in this much more accessible and high potential park.



**TRUP Stakeholders have shown strong support for an alternative vision of TRUP that includes the River Club.** It proposes a well located modest sized Hotel next to the existing conference facility that would add to its potential and add extra support to the other recreation facilities. We have proposed a Gym, a 'Green Learning Centre', play areas and multiple paths, over time and opportunities for contained urban agriculture. There is a huge need for Heritage and Memory spaces that can open up the special significance of the site and open links to the Raapenberg Bird Sanctuary, SAAO and the rest of TRUP.

We have encouraging support for the concept of an alternative siting of the new S K A headquarters, so that it does not have a destructive presence in the flood plain, blocking the south –north flow of space in the park.

Probably the biggest 'Game Changer' idea is to be found in the north where a proposed alternative route of the problematic 'Malta to Berkley Road' that unfortunately has not been well considered. It never went through any EIA process even though this poorly conceived proposal is hugely disruptive to the River Club environment that has significant heritage context and character, with the flood plain in close proximity to the SAAO hill.

**This alternative development concept should be included in the EIA process** regardless of stated intentions by the applicant who offers only a 'NO GO' option as an alternative to destroying the T R U Park environment and its heritage. How can this be supported by some in the City for seemingly short sighted benefits to pet projects? This 'NO GO' option is a sign of a lack of imagination to make a positive contribution that is more worthy.

What we propose as a preferable option to the stakeholders has a good balanced approach that would be beneficial to the Park, the 'Heart of the City' and even to Liesbeek Leisure, if they were to take on this option rather than be the ones proposed to destroy the park or have their project stopped!

*We propose shifting* the Liesbeek River ditch on the north of River Club that once 'flowed' *west to east*. We propose moving the Malta –Berkley road reserve so the road would be positioned north of the river and the future flowing river would be south of that. We would then retain the vast majority the existing open space that makes the River Club as it is. It is essential that the land should be cleaned up and rehabilitated, with dumping removed. It can't be ignored!

With an appropriate Malta-Berkley Road planned on the north of the repositioned river,(within TRUP appropriate landscaping could also increase wetland and create additional habitat. The road is proposed to have 'mixed use' blocks on both sides of the road (mainly outside of the future park space but inside the existing TRUP boundary). See drawings. It would have a range of types of apartments that includes some affordable and some penthouse types.

On the south of the repositioned river there is room for a few freestanding group housing buildings that would be set at an appropriate scale to screen the open space of the park from the larger buildings outside the park.

PRASA would also be encouraged to also benefit by rerouting the southern line to provide a continuous loop that is connected to Salt River transport interchange and it would run directly to Pinelands and continue to the east line past Langa and further.

This would free up the very underutilised site south of the PRASA barns for Mixed use office park developments opportunities, far in excess of what is being proposed on this ill-advised River Club proposal.

It would be far more preferable and better linked, not impact the park negatively and retain the heritage determinants and the rivers retain the flood plain!

In addition to the more appropriate more affordable development plan in terms of construction costs, it also enables the existing park to be preserved as a major asset that will stimulate additional high value and mixed use and affordable development that supports live- work balance located closer to existing activity corridors. The existing public transport along underutilised brown field land north of PRASA is better located than River Club to link existing transport.





Those underutilised land have as far greater potential as a development opportunity due to the multiple directional growth in all directions and the nett gain with less downside than overloading the heritage and environmentally sensitive green field lands.

The plan includes additional mixed use or office accommodation that can be added also to the west of the fields on the west of Liesbeek parkway and some smaller special scaled buildings that line the inside of the river on the inner ring of the river that creates an edge and screening to traffic and larger buildings outside. A picture is like a thousand words and **the Updated Scenario 'C' concept** will be shared in the T R U Park workshop next week that we hope will reinforce a consolidated option for TRUP, including The River Club and the Future of the Heart of the City as a whole.

**The EIA** considering the River Club proposal with all its problematic impacts and illegitimate expectations to change planning policy and the character of the park, should not be supported and certainly not considered outside of all the valuable broader contextual studies that are being looked at the context of TRUP in the greater Heart of the City context and that is on a path of achieving a fresh valid well-supported LSDF that also will guide the hugely significant part of TRUP that is River Club.

The Park and the people who it belongs to should not be sold down the river!

**We want balance of Development and Conservation.**

We need to see heritage being taken care of as something uniquely precious! This is particularly important for the hugely significant River Club land, where there is such an essential trace record of what happened in the Cape with its "good hope and some storms"!

We should learn from history and recall what happened 360 years ago when the first farms intruded onto Ancestral Land that was precious to the first people for thousands of years and recognising the 'First Frontier' is a potential opportunity to rise to a new level with fresh vision of great hope, or be trapped in a protracted "Final Frontier" where we sink into conflict between self- interest and what is greater good for the community.

We have a **well-supported alternative** that simply needs to be considered and evaluated objectively by independent specialists to score the pro-s and cons in a professional way according to the values we see in SPUMLA and the IDP.

The goals of the park, the people and the planet rather than short term profit needs to come first!

Any development should bring a good nett benefit in the long term and if it has little benefit on the sustainability of the environment or lacks spatial justice and ruins memory attached to the site, we have to reject it!.

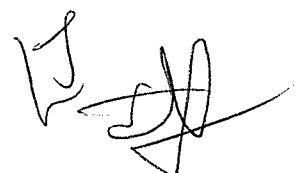
**The problems of the proposal as contained in the Revised Scoping Report is :**

1. There is only one basic idea being proposed and considered (even if there are a few minor variations in layout). *They are a little like rearranging the same deckchairs on the same ship deck that does not consider a changed course with less icebergs!*

2. The secret purchase of the site that is designated as an essential part of TRUP as was consulted with our community for years, back in 1998 and was designated and declared an Urban Metropolitan Park with great significance in terms of environmental sensitivities and very significant historical heritage in 2003 and been under TRUP Association mandate since then. It is zoned open space with various existing recreation facilities together with the range of other precincts that make up the Park.

SPUMLA in "Introductory Provisions" defines 'open space', in relation to a land area, means land set aside for use by a community as a recreation area, **IRRESPECTIVE OF THE OWNERSHIP OF SUCH LAND**". Clearly this is not the way the owner of the River Club and their advisors look at it since they falsely thing owning the land (however questionable that process was secretly achieved and unacceptably achieved), to them implies that they can do whatever they chose with it. We reject that!

3. This site has been very significant contended territory, after thousands of years of treasured use by Khoisan First People were intruded on by Colonial first settler farmers that became the 'First Frontier' which quickly



ended in disaster. The vanquishing of the first people after ploughing up their ancestral grazing land and the eviction that led to a yearlong war.

This appears irrelevant to the applicants regardless of the clear research presented in heritage reports that recognise significant Grade One and Grade Two Heritage ratings to the River Club context. There are numerous heritage specialist statements impressing the special sensitivities of the site, where design guidelines are largely ignored! The proposed design appears to have proceeded with increased vigour, without having learnt the lessons of history, now 360 years after Mostert, the River Club land that became his stolen private farm after thousands of years that it was previously used as 'common tribe ancestral land' under the authority of the Khoisan king.

4. The Open Space designated for community use in 'Zoning' still stands, regardless of ownership and the vision for the future stands clearly in the Local and District plans. We do not see a contradiction in the SDF which placed the area as suitable for development since this is not actually interpreted correctly!

5. The purchaser bought the property knowing full well that there is no right to build on this open space without going through substantial planning application processes.

6. The River Club is part of TRUP and proposals regarding TRUP should follow TRUP Associations, guide- lines, particularly when this proposal flagrantly ignores TRUP Association's rulings and guidelines. TRUP Association supports good development appropriate to its location. What we see proposed is not good for the park!

7. The size, intensity, use and planning of locating and defining scale on River Club land at best, simply do not add to the experience of the park. At worse it is very destructive!

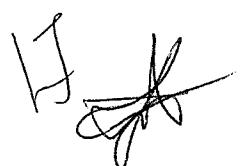
8. We find the Flood studies totally unconvincing in terms of being a claimed game changer to be able to build in the flood plain when there is a lack of evidence to regard this as valid. It is particularly unsatisfactory to propose the huge filling in of the ground levels to be clear of the 100 year flood levels, without showing reliable scientific evidence that looks at the full range of data including intermediate levels to explore the impact on frequency of substantial flooding. We are not prepared to destabilise the TRUP environment with such undesirable risks and negative potential impact.

9. We are very surprised at the unsatisfactory process underway where the river Club is proceeding with its attempted approval for a development that is totally out of keeping with TRUP Association policy. It is out of 'sink' with prevailing Planning Policy and should not be supported.

10. It is essential to insist that the proposed application for new development on the River Club property should be in line with TRUP guidelines as a whole and also take cognisance of the Stakeholders Manifesto for TRU-Park plus the strong support for the 'Preserved Park' vision of the park that aims to balance increased development appropriate to the park with appropriate conservation of the natural and heritage of the park so this is preserved, while promoting substantial increased high density development outside of the park, to benefit the city as a whole.

The purchase of the River Club property did not come with any development rights and it would be an illegitimate expectation on the part of the owners that new development rights be granted, particularly when the proposal is not in line with the vision for TRUP in the Planning policy, TRUP Association's founding documents nor the strong positions expressed by stakeholders as seen in supporting Scenario 'C' and the wording of our manifesto.

"Architecture & Heritage sub group of OCA submitted a response to the first Scoping report and submit the above as an update. Nothing we submitted previously is lost its relevance.

A handwritten signature in black ink, consisting of stylized, overlapping loops and lines, located in the bottom right corner of the page.



### Process and background detail:

OCA had a number of public meetings consulting our community on the issues involved. We have been active for many years relating to the Two Rivers Urban Park since it was researched as the Black River Urban Park Spatial Development Framework around 1998 and through the various Local and District Plans, the formation of the TRUP Association and the recent intense consultation regarding 'T R U Park', with Ndabeni industrial area added.

We have expressed strong opinions about the River Club site. A good quality preserved T R U Park includes River Club land. This preserved park is key to unlocking substantial increase in development in the central 'Heart of the City' area. With the park upgraded as a quality enhanced, ecologically sound area with its unique cultural and heritage features conserved, with maximum recreation opportunities for all people who use the park and participate in its rich range of community facilities. This upgraded safe, central metropolitan park will provide an integrative quality space, promoting environmental education and we are certain that the parks presence will in turn stimulate intense and successful sustainable development, throughout the central area, that we call the 'Heart of the City', around the park.

There is much underutilised 'brown field land' that is within close proximity to the park, that when developed, could enable a quality 'live-work-play' resource efficient lifestyle, that can improve the quality of our central environment, and contribute to a more efficient and sustainable city, while promoting user friendly sustainable forms of transport.

We have serious concerns about the Proposed Redevelopment of the River Club as set out in the Draft Scoping Report. Our comments also aim to reflect the range of opinion and concerns of the people of Observatory. I trust this will be seen as a work in progress and that additional comment and corrections will be permitted if these are required.

OCA involvement with TRUP Association has given us insight into the complex range of T R U Park issues:

- Protection of the unique natural environment and the riverine systems that are not functioning adequately.
- The required need for alternative systems of technology to sustain ecological integrity in the area.

Proposals for the River Club lands should be seen in context of an evolving 'T R U Park' Local Plan and District Plan where values should tie in with the updated SDF towards a fully developed Master Plan for the entire central, Heart of City areas. Decisions should be appropriately in context and should not be driven by the interest of developers without being judged based on nett gain and what contributes sustainability also for the greater good of the City as a whole.

- We see the immense value of **the Two Rivers Urban Park being preserved and upgraded as a vibrant Urban Park** providing available recreation opportunities and a range of community facilities accessible and open to all.
- We need to achieve highest standards of environmental protection, sustainability, social interaction and tourism.
- Preservation of the 'T R U Park' is key to facilitating maximum successful development all around the park, that promises to provide quality of life to all inner city communities living in greater density, with access to the park.

The Liesbeek and Black Rivers flowing into the Salt River are integral parts of "The River Club" and this is an essential part of 'THE PARK'. Historically, this is highly charged "frontier territory" with great historical and heritage significance dating back to the early pre-colonial Cape, predating the encounter of early settlers.

The Khoekhoen (Khoisan) were first people. This River Club land presents its open space 'theatre' with the rivers and natural systems almost intact and the natural wonder of Table Mountain stands as backdrop linking us to that early time.

- We acknowledge the place of first people who held these sites dear and who should be encouraged to express their cultural traditions in ancestral sacred spaces and to share their heritage links with others.
- This area at the confluence of the two rivers was sacred ceremonial space of the Khoekhoen, besides it being their ancestral grazing and hunting land.
- The River Club Land was part of the land that was first granted to Free Burgers, 360 years ago and it was specifically, the famous Wouter Cornelis Mostert who 'first' attempted to farm it in 1657 in the shelter of the hill which is now the SAAO. It was called 'Den Uitwijk'. Mostert failed to grow grain and after 4 years of trying, distracted by war fighting the evicted Khoekhoen, he then gave it up and built a mill that still stands near UCT.
- Jan Van Riebeeck, took over this (River Club) 'Den Uitwijk' farm land in 1659, according to the fascinating, recently published book "Wheatfields & Windmills". Apparently, he had the use of an available garrison, to chase the Khoekhoen out the area, arresting the leader, referred to as Harry, who was possibly the first prisoner detained on Robin island. (Is this the same as 'Doman'? ). With the use of slaves, Van Riebeeck managed to grow the first grain crop, which was a good barley harvest. See pg 6, 7, 810, 12, 13 & 15 and 64,65, 69 & 71. This is fascinating history giving special significance to the place and it explains something important about the difficult early days.



- The sketchy map, on page 22 of DSR in Section 3, Figure 10 done by Dept. of geography, University of Waterloo, shows some "Site Context" and besides being rather limited and questionable in comparison, it seems to have "Coornhoop in an unusual location and does not even include 'Den Uitwijk' (or Malta Farm as it was later known).
- It is worth noting the item 2.2.4 dealing with "International Conservation Charters" that refers to 'special landscapes, settings, past or present social or spiritual practices' etc.
- Section 4.2 mentions the confluence of the Black and Liesbeek rivers but does not mention Mostert or Van Riebeek or the evictions or the total removal of Khoekhoen people from the area or the other natural characteristics of the area, particularly not taking into account that the rivers flooded and merged differently.

This open green field River Club land being at the confluence of these two important rivers as they merge into the Salt, is a unique segment of Metropolitan Open Space System, with Table Mountain linked to us via the Liesbeek River to the wonderful Kirstenbosch Gardens at the foot of the great Table Mountain National Park. These environmentally precious natural systems are essential to balance our lives as we tend to live contained within our highly dense urban built environment as is typically required in a modern efficient inner City. A healthy life, rich in social and cultural wellbeing, requires good quality parks, within close proximity, to function optimally. If we lose the, opportunity to make the River Club as part of T R U Park, not only would this be a major loss to the potential of a great metropolitan park, offering quality of life for all communities around the park but we also stand to lose some of the great 'game changing' potential to achieve major densification in the central areas where all new development would be stimulated by the enhanced quality of life that the park provides, similar to what Central park provides to Manhattan, New York.

The various Planning Policy Documents such as the Spatial Development Framework for the City, that apply to the site, The District Plan and various Local Plans including the founding principles of The Two Rivers Urban Park, all include The River Club land, as a vital and unique 'green lung' that these policy documents state needs to be rehabilitated and preserved as part of the park!

Page 68 of DSR, Section 6.1 states "The site's unique character has been previously assessed by CCT and WCG, with 'low development potential' due to its value as an open area within TRUP." If anything this is made stronger as densification increases and the presence of this park acts as a facilitator and driver of that development potential *AROUND THE PARK*.

It is a mistake to allow the park to be destroyed by building inside it in such a way that it loses its position within TRUP and overlooks the essential importance of adapting everything to the contextual natural, heritage, social and aesthetic factors that will enhance the park. The cultural significance needs to be reinforced and its recreational function makes TRUP stimulate good quality development throughout the area, particularly in underutilised brown field land around the park and particularly in locations where public transport is most accessible, near or giving easy access work opportunities! It is highly problematic to suggest that new engineering technology makes development in green field floodplains acceptable. We do not support this flawed outlook as it's 'NO-GO for development', even if it were possible.

There is no justification to change policy to permit an 'illegitimate expectation' project that is not scoring adequately, and should be compared to more desirable, more compliant alternative options for the site.

The River Club is zoned as "Open Space 3". The policy guidelines for the area do not permit development of the kind proposed in the Scoping Report. There can be no justification to undermine the green field site and destroy the T R U Park which like Kirstenbosch, should in principle not be built on (other than providing the facilities needed to make the park function at an optimal level). We all recognise that a great metropolitan park needs to attract tourists and cater to local needs. It must be managed with integrity, take care of nature conservation and provide good quality tourist facilities. The upgrade requires variety of appropriate forms of recreation that are compatible with the nature of the park, its historical, heritage and natural features that should all be respected as set out in policy documents that apply to the site and area.

The Scoping Report should be looking to achieve this aim, of assessing what is best for the site and for the city and test whether what is being proposed matches up to its potential and identifying the needs of the site. We do not see sufficient criteria that follow existing policy, including methods for testing the broader impact on the remainder of the park and the impact on development potential of the area? If change as proposed were to be permitted, what would be the impact on the environment? What is the long term impact on quality of life in the city? The test is not only what is viable from an economic point of view, for the developer and the City to make good income in the short term.

We suggest economic benefit is not simplistically assessed only by what comes into city coffers in the next ten years. It is rather the broad long term complex ramifications, (like should have been assessed when the decision was made to





support Green Point World Cup Stadium!) Can we have answers to what it's the long term impact on the quality of environment, preservation of the enhanced heritage of the park and the long term tourism potential of the city that should also inform values that are entrenched in policy guidelines for the park, the rivers, the flood plain and more guidelines that should be strictly adhered to.

What is its long term impact on quality of life and the development potential throughout the area?

The Scoping report seems flawed in recording so many 'facts' regarding the character of the site, the context, the natural environment, the heritage, the history, the statutory framework, the nature of the proposed development without really interrogating a range of options or scenarios that should compare the scores against guidelines set in established policy. We would like to see the scoping report look at various alternative possible options for this unique site and not be bound by preconceived lines and edges that just happen to be as it is. It should be looking at what is best for our city and test how any development alternatives will impact on our people. What will achieve the best score on a range of issues?

We do not accept the notion that there is a "new vision, attributed to NM & Associates that includes much higher density development within TRUP". Our consultation processes and workshops with Stakeholders regarding T R U Park have all supported the idea of minimising of development in the 'green field' open spaces and recommended that the park be preserved as a park while high density development is restricted to around the open park space not inside it! We want to retain open areas for public recreation and retain the island character of the site and agree that no negative development impact the SAAO. Development should be contextual to associated TRUP precincts.

We think it would be a mistake to demolish the existing historic building because it defines the space and the scale is good. Access on the west side can be improved by removing poor quality buildings that have been added next to river. There is certainly good reason to enhance biodiversity and the first thing would be to clean up the site which should be treated as 'sacred space.' 'SARCC or Transnet or Propnet or PRASA' should be forced to clean up their dumping. The site and rivers should be cleaned up and protected. This confluence of two important rivers is the last open green space before entering the highly saturated grime of the city lacking greening space in Salt River to CBD.

The aim should be to provide a broader range of recreational activities rather than the dominance of golf facilities. For a start it could be made more compact giving space for rehabilitated natural vegetation and bird sanctuary space on the east areas where rivers meet, and connect this to the Raapenberg Bird Sanctuary, making the site more sustainable.

It would be a good idea to improve not only the river banks but everything about the way the rivers functions. This proposed upgrade needs to be seen as something that is achieved across a broad area by many players.

A primary focus of the endorsed "Scenario C" design for the TRUP area is to improve access round and through the different precincts, linking them all up and also linking all the surrounding suburbs so all can access the park. This includes NMT and links to public transport while also facilitating high density development around the outside of the park. We look forward to sharing many of these ideas in the HIA Phase of the process to make sure that TRUP succeeds. Looking at the 'Heritage Design Indicator Diagram' Figure 75 on pg 68 of DSR, we note emphasises 'RETAIL/COMMERCIAL' AND 'RESIDENTIAL', spread wide over the entire site with a token 'Environmental/Heritage CENTRE' and very little left over 'park' space so it appears that much of the values about the site being part of the park, above, is lost in translation.

In the Peer Review section, called Annexure 4 by Nicolas Baumann, item 3 (Conclusions), it says: "The issue then becomes how 'this bulk (137000m2) is to be distributed across the site'? We do not accept this imposed bulk onto such a site and consider it arbitrarily imposed, without appropriately recognising that the site is zoned open space with community facilities; It has unique site heritage that has always been designated as part of the TRUP Park.

Mr Baumann says "The heritage design indicators should guide future development of the site" and that "The island character of the site should be retained", yet the images show dense development where it is supposed to be open space. He then suggests something very pertinent: "An alternative conceptualisation would be to integrate the site into the surrounding context where possible, largely by responding to the opportunities and constraints established by existing development on the periphery, most notably PRASA and the Liesbeek River Office Park development."

In addition to these ideas he refers to connecting the open space to the Raapenberg Bird Sanctuary, and suggests "a balance between natural environment and the built form where the built form should be under 15% of the site area." (Is it correct to understand this to mean that the natural undeveloped space should be 85%? This seems to be contradicted in the examples we are shown!) We need to know what the existing coverage is and what is considered appropriate. The proposal shows large subdivided erven and large buildings are shown spread out over the site.

Very little remains left as open space that could be in any honesty called an Urban Park that contributes to TRUP!. He also speaks strongly against "an isolated office Park in favour of an urban village". This may be a clear improvement on the image one sees on pg 28 Figure 3-1 which has development on close to 40% of the site and close to 20% in roads and parking leaving only just over 40% as green passage between river and large blocks of buildings.

It is all very nice to talk about "factoring environmental and heritage values into the integrated vision of the future role of the site" and quite another to admit that what is being proposed is totally off track.

**There is a need to take a new honest look at this project and admit that it is not appropriate and needs a fundamental fresh start to respect its part of TRUP and the constraints building in the flood plain and to preserve open space!**

1. The design should be derived out of the updated revised local and district plan that will arise out of the T R U Park vision process and the broad vision for development in the area as guided by policy.
2. It seems unreasonable that development guidelines should be formulated by pressure from developers rather than following the guidelines of the policy and considering small adaptations where this may lead to improvements that are in the spirit of the policy, not totally contrary to it.
3. It seems unthinkable that Densification Policy could be mentioned as a justification for proposing building in green field flood plain land that is zoned as open space and is set aside to be for recreation and part of the Two Rivers Urban Park.
4. It is unthinkable that the developers are seriously proposing bringing on close to 250 000 m3 of fill to raise the flood plain up to 3 meters so they can build an office park and large inappropriate buildings in a unique heritage site at the confluence of these two rivers seems lacking in respect for nature and forcing something that is not appropriate.
5. The site remains very important as open space developed as a Urban Park so the increasing population moving into this central area will enjoy the facilities while it also develops into a special tourist orientated park together with rest of TRUP.
6. Why do we not see comment on the SDF 2002 and TRUP 2012, where The River Club main building is noted as an historic structure and the entry precinct as having contextual significance"? See pg 14 Section 2.2.3.2.
7. Mention is made of being an 'island', a 'village-like quality' with a system of public, semi-public and private open spaces'. And that the existing building provides a strong sense of order and heights of any new buildings should relate to this two storey height. Here in the report the existing building that was so lauded is simply proposed to be demolished and we reject that! These reports refer to the significant pattern of social, architectural and political history spanning the pre-colonial, the colonial and apartheid history yet all this rich tapestry is forgotten and removed quietly to be replaced by a another banal *office park* instead of a TRUPark that can provide context to this early frontier farm that had the first grain crop after first year long war to remove the first people off their sacred ancestral space and setting the pattern for apartheid methods of political problem solving.
8. We are now seeing a strong push suppressing planning policy principles shaping appropriate built environment, social, ecological and natural environment, so developers can push ahead to build an office park and apartment buildings by filling in the flood plain against policy. It is quite outrageous, in its extremism not to respond to the contextual factors.

- The fact that PRASA Rail Yards has a very negative impact on the site is very worth noting but is not dealt with satisfactorily since it is made even worse by the road which is simply accepted to be crossing the site. We reject this and suggest solutions for both. I note errors on the captions for photos Fig. 58 & 59.
- The River Club is said to be the place where the combined rivers are able to flood and the community do not believe there is justification to fill in this land, particularly not to the extent proposed if anything at all, and particularly not for unjustified reasons that have nothing to do with enabling the T R U Park to function better.
- There are two 8 storey (not 10 storeys) office blocks in office park across Liesbeek Parkway. The Premier food silos, is a lot more than this. It is worth noting how badly these 8 storey blocks impact on the feel of the River Club site and from the SAAO where they impact on what is otherwise a stunning skyline!

Comment on private sites/non-access to public in TRUP is an issue that TRUP Association is very concerned about. The high security nature of a limited number of local areas noted, we are calling for removing or withdrawing fences to open precincts to be more accessible to the public as part of T R U Park. It is somewhat misleading to refer to the upgraded of Valkenberg hospital plans as "denser development" since it is very luxurious in its spacious, mostly single storey pattern.

Angles on pg. 62, Figure 74, appear to have slid to incorrect positions or labelling has been confused? Development seems to be accepted as a forgone conclusion: Also on pg 62: "Set buildings within the open space and riverine landscape" said by the heritage specialist who is supposed to protect the open space and the unique river landscape!

**Do the owners even have a right to develop on this land that is not zoned for this kind of development?**





The Observatory and TRUP communities have shown interest in an alternative suggestion for 'development of the River Club site' as included in the "Scenario C" Preserved Park proposal. The difference starts by reconsidering proposed Malta to Berkley Road routes. This alternative was presented in general terms in "Scenario C" that scored 90% on its scored categories with the broad group of TRUP stakeholders.

This alternative viewpoint rejects the current proposed location of the road, as reflected in the Scoping Report and rather sets its proposed position on the north side of the Liesbeek River, where it flows from west to east.

This alternative route is instead of as proposed to cross the entire River Club site from west to east near the north of the site and cutting off the Liesbeek River and the confluence with the Black River as they become the Salt River, isolating it from River Club and TRUP! We think this proposed intrusion of heavy traffic across the site and the wasteful cutting of the site in two parts is a serious negative impact and this does not even seem to be questioned in the Scoping Report! The River Club owners seem to think it is good for them but it is terrible for the site and for TRUP! It will destroy the character of the land, so we have proposed a totally different idea and it has been well received by interested parties.

"Game Changer?"

To achieve this substantially improved 'game changing' option, one will need high level intervention and we are fortunate to have the Province and the City involved in the T R U Park 'co-design' process that is looking at the broad area around T R U Park and part of this was presented in the 'Scenario C' proposal that had the following to say about The River Club:

1. "River edges to be cleaned and planted appropriately. New Green learning Centre, Gym, extra parking and multi-sports field on the south side of the site".
2. "Existing River Club sports facilities with restaurants, sports bars, conference facilities".
3. "State of the art Tourist Hotel & self-catering accommodation, (appropriately scaled) and screened on east from wind. Bird Sanctuary and preserved heritage site on east".
4. "The River Club Flood Plain kept as open green space as heritage 'frontier dream space' with no road or development cutting it up."
5. "New Malta-Berkley Road link to be located on north of widened navigable river. New circular south to east rail line system" set in new position further north away from river front. (See drawing).
6. "Spiral Memorial sacred site to visit at confluence of the two rivers, recognising life origins and indigenous Khoi people".

In addition to the above that was part of the "Scenario 'C': Preserved Park", an additional proposal was recently put forward where the location of the Liesbeek River, as it runs across the north and joins the Black, is also slightly shifted south to near the allocated road reserve, giving substantial space for good quality development on either side of the new Malta-Berkley Road, which means that neither the road nor the development need enter and destroy the park! The shifted river is on the inside of it, on the existing open space which is reduced slightly but its integrity and heritage quality as open park space is kept intact, uninterrupted by any inappropriate development.

There is still some potential to introduce a few sensitively designed small appropriate buildings with trees around the edge of the space, overlooking the river on the north and west, so this can help with screening it from traffic and as a containing positive filtering village feel with life and light on the edge of the space. It would also add an element of extra safety, while substantial buildings that exist or proposed on the other side of the river, on either side of the new Malta-Berkley Road would not intrude. There is ample underutilised brown field land that can be put to better use than PRASA use it at present. It would not impact negatively and will actually help to screen some of the negative determinants of the north.

This concept enables fairly substantial commercial/mixed use buildings to be built as per our TRUP guideline, not inside the green space but **rather around the park**. Typically it would be an outer ring of office buildings and an inner ring of residential mixed use buildings, overlooking the river and the park on the inside. The new road link would be above the 100 year flood line without causing an eyesore and also enable movement under it!

We support the principle of preserving the park and having well screened development outside and around the park. It is good to keep cars out and development is as close as possible to public transport. The minimal amount of development inside the park is to mainly to enhance the functioning of the park similar to the way Kirstenbosch Gardens are not full of apartments or office parks but do have 'community facilities' and even a few 'shops'. TRUP would have its own mix with a slightly different focus including some existing institutions, conference facility and a few small hotels where appropriate.

We have also had good support for the concept of an alternative proposal regarding the siting of the new SKA building where a more appropriate site is preferable to the land that they own on the south of the River Club, at its constricted



entrance which we consider unsuitable, particularly for such a large building. It would block to the continuity of the park and the fact that this is green open space and in the flood plain makes it worse. We reject it.

We are very excited that there is a very much better site that has been suggested and this is another potential 'game changer' that needs high level negotiation by Province and the City to sort it out with Valkenberg Hospital, to make it happen, for the sake of the universe, the planet, the people who use the park and the Liesbeek Riverine good vibes!

The fact that some degradation has taken place in the past, both to the quality of the rivers, a number of substandard buildings, landscaping, disconnected road systems, inappropriate fences, lack of park facilities, the lack of clear planning vision, a poor attitude when it comes to development and the lack of consultation or open discussion about concepts to build shared values, hopes and dreams. We are here with drawn out processes of responding to Scoping Reports honestly and firmly so we can save our Metropolitan Two Rivers Urban Park and its rich heritage in the "Heart of our City". The shortfall of the past only strengthens our resolve to insist that appropriate procedures are put in place, that proposed developments are viewed not as isolated islands but as having serious impact on the future of our planet, our City and this important park that will, if attended to appropriately, make a major impact on the broader development of our area.

We need to tighten controls that need to be enforced, to conserve these ecologically sensitive areas and historically significant sites in perpetuity. The existing policy documentation was developed in close consultation with the ever involved local community and our expressed will remains that environmental upgrades should be carried out to rehabilitate elements that have suffered degradation. As recorded, we call for the park to be maintained as an exemplary, "ecologically sound sustainable green open space." Policy calls for it to be used for "a multiplicity of recreational and cultural activities that meets the needs of all existing communities" and there is great potential to attract visitors from far and wide to benefit from its qualities. The City will no doubt grow to full maturity around this achievement.

There is a need for broad inclusive administrative and institutional management systems where the Province, the City and all professional agents work together with stakeholders to direct funding and inclusive social partnership models based on cooperation so we can creatively make new planning strategies a reality so we can deliver.

We are hopeful that the current process under the joint leadership of Province and City and the consultation guided by Sun Development will continue contribute to a worthy vision of T R U Park in the context of the broader Central Area of Cape Town which we in Observatory usually refer to 'The Heart of The City.'

Yours Truly

Marc Turok.

#### Appendix A

##### **Edited Comments submitted to :**

Melanie Attwell and Associates; Arcon Heritage and Design.

Sun Development,

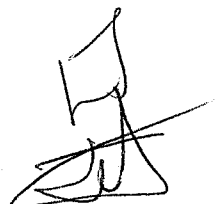
NM & Associates Planners and Designers,

##### **RE: Updated comments on M Attwell's T R U-Park BASELINE HERITAGE STUDY.**

\* Clearly the Unique Historical and Heritage significance of the Two Rivers Urban Park is present within the report in impressive form. What is not as clear is to what degree this will be recognised and protected? What is also not clear is what degree of recognition there will be for the natural environment and how this will be enforced, since we regard the need to protect and reclaim the sensitive ecological balance of the park and the rivers in particular. It is an environmental concern that goes to the broader context to be effective and this needs urgent attention to end the pattern of degradation over many years. This is essential to T R U Park

\* The preliminary statements about the Park have put TRUP under pressure.

- Preconceived notions are put forward which refer to TRUP as "A Development Opportunity".





- Urgent 'Pre-release' proposals by developers to Province and City all appear to have been accepted into a priority consideration when none appear to have any merit or reasonable consideration in terms of current policy or spatial justice when considering the nature of the park and its intended and entrenched use in relation to 'public good, the environment and significant heritage issues!

\* Our ongoing interaction with the process of consultation about the T R U Park have criticised this preliminary 'baseline' statement since we all regard Two Rivers Urban Park as a park and accept that the park should be invested in and *upgraded* but that development opportunities should be explored with appropriate intensity around the outside of the park, in Ndabeni, Maitland, Kullenborg, Salt River, Observatory, Mowbray, Rondebosch, Athlone, Langa and Pinelands, all of whom will benefit from the park being preserved, particularly if previous limited access to T R U Park is substantially upgraded.

The basic facts, in brief are that T R U P is a declared park and is dedicated to preserving it.

\* There can be no justification to change or undermine T R U P's significance of heritage, environment protection or for its recreation use and other factors as listed in the documents on the establishment in 2003 of TRUP Association.

- This was following the formal adoption of the 'Two Rivers Contextual Development Framework' and Phase One Environmental Management Plan' by the City of Cape Town for the area of TRUP (not including Ndabeni).

- The essential task of TRUP Association is to promote and fulfil the Policy Contextual Framework, rehabilitating, protecting and enhancing the biotic & ecological, cultural-historic value of the park, maximising access for all and promoting environmental education and sustainable development within the park".

The park faces challenges to ensure the long term sustainable rehabilitated of the natural open space.

- It has been under a range of threats that include encroaching threats of development, changes to recreation and institutional facilities, need for balance of environmental sustainability, heritage protection and other use.

\* The consultation workshop events held during 2016 facilitated by "SUN Development", saw strong consensus around values of *not permitting intrusion of unwanted development in the park*, preserving it as a park!

- NO GO for development in green open spaces and particularly the river basins and flood plains.

- The Precincts inside the park should be seen as sensitive zones where consultation may support minimal development in the interest of the park as may be the needs of the Precinct, in consultation with TRUPA.

- Vision Planning needs to promote the quality and interconnectedness of the park as a whole.

- Alexandra Road is seen as an 'activity street' with row development on either side and acts as a transition zone or screening buffer between what is seen as the park (inside) and what is seen as a fair development opportunity space,(outside) like in Ndabeni.

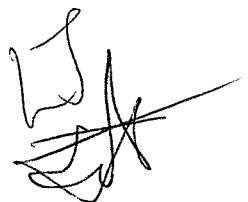
\* Ndabeni is viewed as underutilised land outside of T R U P that could provide development opportunities that link to T R U P from the outskirts of the park.

- It is also strongly argued that improved connector routes from all surrounding areas of the park that would connect Maitland, Cullemberg, Salt River, Observatory, Mowbray, Rondebosch, Athlone, Langa and Pinelands to each other and T R U Park.

- Improved connections around the site will also enable substantial increased development on well located brown field lands all around the park and provide a much more compliant model of development that would achieve the impressive goals of SPLUMA .

The Development Principles of SPUMA should be part of the Baseline Heritage Study:

1. Spatial Justice (Preserving T R U P for all as a site open to all and that provides services to all while memorialising the early historical and strain across the space from Early 'First Frontier' to liberation from Apartheid and the threats of a 'Final Frontier' in defence of the environment, the planet and the people in the face of Development pressure for profit to feed their over-the-top self-interested feeding frenzy cravings.
2. Spatial sustainability (Preserving T R U P as an essential natural habitat that is fully rehabilitated as part of the interconnected wetland and green corridor that extends from coast to coast and mountain to Sea)
3. Efficiency (Minimising drastic change in use and protecting existing heritage buildings and environment, not raising the flood plain land or intruding with major roads and bridges, while having the major spinoff to stimulate intense development around the park in existing underutilised brown field land that needs



upgrading, has all the essential services and infrastructure and with the park upgraded as a world class park, with state of the art recreational, cultural, health and heritage facilities available to all new development around the park where substantial densities can be achieved utilising existing facilities and transport routes.

4. Spatial Resilience (Achieved through healed well located live-work- play mixed use development around the park with high density due to reliance on the park for open space and other outdoor space, minimising commuting by people living near to where they work and near to public transport, providing the capacity for people to find work and reduce overhead costs. With increased density come economies of scale and better economic opportunities as long as environmental quality is not reduced. The super park takes care of that.)

5. Good administration: (To achieve a superior outcome with substantial development opportunity in the 'Heart of the City' area, Local stakeholders will need to be well consulted and active in the transformation process as active participants in local visioning facilitated by planners who work for public good in consultation, partnership with the City and Province, and a broad participation of a wide range of professional specialists.

- The planning/development team has capacity to break through limitations than normally limit transformative vision, required to transcend typical limitations as normally experienced where administration is operating in 'silo departments' that are unable to integrate their proposed plans, leading to protracted stagnation, bursting occasionally into crazy detached proposals, like positioning stadiums where they are not needed or accessible!

\* The Baseline Heritage Study needs to take a much firmer position on what is clearly an unsatisfactory inherited neglect and accumulated negative impact of pre 1994 lack of respect for the heritage, the environment and total lack of consultation with affected community or specialists when planning or executing development activity. Some similar patterns are continuing unabated.

- We witness claims of serious dumping by PRASA (or their previous name) in the flood plain of River Club Land and this needs to be cleaned up by court order ASAP!

- Roads and Transport department have indicated they seriously plan to proceed with a plan to build another major road through the middle of our historic heritage protected park across the heritage protected Liesbeek River and past the Raapenberg Bird Sanctuary, over the flood plain and dividing this special open space park, reserved as a memorial space for the community with no consultation required. This needs to be stopped and better alternatives explored, like when the plan to drive road widening through Lower Main Road heritage activity street was stopped from the brink of destruction.

- PRASA shunting and servicing yards which is a dilapidated and underutilised huge piece of land and where upgraded routes should be considered to provide substantially improved and efficient smooth running rail services that are well integrated with all other transport services, and should be upgraded with updated planning principles that add substantial modern transport interchange facilities and all the typical civic and convenience facilities in close easy access for a majority population who rely on good efficient public transport to sort typical tasks on the way home or near to work.

- When transformative development opportunities are looked at with a public good and people centred values in line with SPLUMA Development Principles instead of simply as a reactive response to prodding pushy demands from major developers only, we have a chance to find good quality planning and environmental solutions to transform our City towards a brighter future with much broader development opportunities that are far more solid and desirable than the office park in the flood plain model of development where the people are robbed of their park with most of its heritage reduced to a bench with plaque or the equivalent.

. Options need to be enabled to clean-up the park, create new more practical access routes around the park and locate new areas of mixed use development, including office parks along those routes.

- Additional development opportunities throughout the Heart of the City area would benefit hugely from T R U Park's presence in the centre of all the new development. It needs to be directly linked to those routes rather than as in the River Club by Liesbeek Leisure which is justified as being near these routes but actually diverts these routes into the wetland flood plain of the high grade and unique heritage rich declared park!

\* The park with its recognised heritage within the park also provides recreational and institutional qualities for communities all around the park, made more accessible by means of new additional NMT Linkages through the park, in carefully planned in sensitive ways, around its edges, so it becomes more unified and accessible to all.





Scenario 'C' was a planning/ environmental design proposal put forward under the name 'Preserved Park' within the consultation workshop environment and in comparison with the two other 'Scenario's 'A & B' scored a very high score of 80 to 90% in all the 10 categories as judged against the 'manifesto'. This then stands as a record of our broad combined stakeholder/ IP consensus of a well- supported vision for T R U Park and is a work in progress in collaboration with TRUPA and all stakeholders.

Scenario 'C' addresses T R U Park in a broad context of 'Planning and development opportunity throughout the Heart of the City area, from Langa to CBD and TMNP to the sea.

It reflects an alternative approach rather than a top down client driven model and as an alternative to a master plan it opens up opportunity for a tapestry package of plans quilt that makes opportunities to accommodate visions of local precinct vision to the top down "development opportunity" approach to TRUP with Ndabeni added and with River Club plus road reserve removed! Scenario A and B were a variation of alternative responses to the brief to the Design team appointed by Province and City.

'A + B' scored badly in the assessment of the wide inclusive stakeholder plenary.

'C' was very well supported as it was strongly in line with the strongly supported "Large development should not be permitted inside the preserved park" position and other set manifesto values.

Scenario 'C' is not at all anti-development and is very strongly supportive of major increases of development on the outside of the park in areas similar to Ndabeni. It is not supportive of intrusion into 'green field' natural areas or heavy intrusion into heritage protected areas.

This principle needs to be seen to be in line with existing planning policy, in support of opening up substantial development opportunity on well located public transport routes more strategically located than T R U P.

\* The Baseline Heritage Study should make clear statements that would not permit desecration and negative impact on heritage and environmental aspects of the park.

- The concern is if not firmly stated in the report the sound principles proposed may too easily be disregarded when stated in too soft a manner and with too much flexibility? If clear boundaries are set, the design team could consult when needing to depart slightly with valid reason but not without consulting?

- The advantage of having firmer, resolved principles is that they may be able to assist the Design Team to stand firm, not to be pushed further and further in a direction that a developer and City officials may insist on. The obligation to serve can be hard to hold if battle lines of defence are not bolstered to stand the test of time.

This response to the 'BHS' report is intended to emphasise our concern that Two Rivers Urban Park should be preserved and upgraded for the benefit of our City and all potential future users. People will visit it like they visit Kirstenbosch and those who live and work in the area or drive through it will greatly benefit.

\* **Two Rivers Urban Park** should be recognised fully for its significant informative and rich **historical heritage**.

- T R U P tells the storey what happened here in the Cape as an open theatre where reality can be observed.

- It is detached enough to look up at the stars and ponder the universe or examine and be taught about pre-colonial history or recent social history.

- Having been a divide between early conflicting interests and culture we can contemplate what caused it to be like it is. It is also the place designated for reflection and healing for those not too well adjusted to live a 'normal' existence within society. The mental institution gives opportunity to be healed and better adjusted.

\* From earliest time the fascinating geological and mountain formations around TRUP must have stimulated wonder and awe of the heavens and the nature of the universe. Its significance is also as a place of healing and mental health. It is suited also to preventative, refreshing spiritual relief and this unique site is very accessible to ordinary people, enhanced by the easy proximity of public transport and NMT accessibility can be enhanced.

\* This rare rural open space within an urban place so close to the City Centre remains relatively intact with its park potential as a promise waiting to be fulfilled. The thousands of years of pre-colonial history to present day it has remained open to be shared and with tourism growing in importance it can be shared with the world.



- The concept of an Urban Park was intensely consulted for many years and set out carefully in Planning Policy.
- It has been in place and achieved much even although hardly any funding followed broken commitments.

**\* T R U P has great potential to become a significant world class metropolitan urban park.** What is missing is the creative follow through process to realise this potential with a fresh but realistic planning policy and this is what we are now doing. It needs a fresh shift of perspective to view the investment into the park as a multiplier for development around this area, not as a cost that needs to have an equivalent return within the park.

\* The central treasure of preserved green space is the stimulus and catalyst that will facilitate and enable the entire central 'Heart of the City' area to be fully developed and efficiently planned.

- While the open ecology of the park is not at present in a pristine condition, it is well within our capacity to reclaim its ecological balance and upgrade the park to what it should be as a world class park!

\* The T R U Park stands as a living symbol of potential, like our country's national flag with its two rivers merging into one with increasing flow and vitality. Since earliest time this symbolism made it a sacred place for wedding ceremonies when two families join together through matrimony. Our nation, divided in our past is now united around the constitution and the flag. Previously divided communities in the central Heart of the City will soon more than before share this wonderful park that enhances the rich heritage and challenged by environmental sustainability goals that stake holders have committed as seen in SUN Dev 'manifesto' 2016 ).

\* The Liesbeek River on the west of the park and the Black on its east, flow through the green open space, and merge in the flood plain that has had a special place in history since first people first inhabited the Cape.


- The three earliest farms were sited in close proximity to the crossing point through T R U Park to where Malta Road meets Liesbeek River. This was the early route to access the peninsula via the site called 'Varsche Drift'.
- Control of cattle was a major pastime and Varsche Drift was an early gate keeping attempt to control access.
- Jan Reyniers & Hendrik Boom were granted sites by Van Riebeeck in 1657, as was Wouter Cornelis Mostert's farm, that extended east of the Liesbeek and included the current River Club and part of Valkenberg Hill.

\* The intrusion of these farms into land that for centuries was sacred to Khoi was a combination of desecration and displacement. Its common property on the banks of this life saving Liesbeek River was treasured for keeping the herds alive through the dry summer months and when farmers used Oxen to plough it up, a chain of events culminated in the year long war of 1659, that took a huge toll on local people, who were largely decimated by this destructive injustice that happened exactly 360 years ago. The early farmers had achieved little other than hardship and loss. Van Riebeeck showed some ongoing determination and resilience, being better resourced and took over these 'Den Uitwijk' farms where he used slave labour to produce the first grain crop in the Cape, after which left the Cape in 1662, after ten years eventful years that built and destroyed so much. Much of this heritage of first people, first farms, first grain crop and the windmills is part of T R U P!

**\* The 'centre piece' of T R U P site is the central SAAO hill** that has its exquisite vantage point towards the mystical Table Mountain with Wind/Devils Peak dominating the foreground, glowing in the morning light.

- 'Khoikoen' First people had a sacred connection to the site. It now has a 'Grade one' Heritage status. It would be fair to suggest that many parts of T R U P that were their ancestral hunting and grazing land on either sides of the Liesbeek are part of this site and this is where the Royal Khoikoen kraal is thought to have been, to where they returned home during the summer and autumn months to fulfil their cyclical lifestyle.
- As a linked significant area, it should be part of the Hill and its 'grade one' status, at least in terms of keeping the space interlinked and not heavily developed by buildings that do not add to the functioning of the park!
- A 'grade two' Provincial status would be a minimum to recognise this as an integrated open space where the heritage features can be experienced, maintaining a connection to the early origins and through the 'First Frontier' period. It is clear from evidence that large herds of cattle were in these rivers and the estuaries.

\* It is appreciated that the Baseline Heritage Study report noted, appropriately, that "T R U P has significant heritage quality over the entire Two Rivers Urban Park site". This is reliable fact not to be doubted.





\* The significance of the site is also aptly noted and named “The First Frontier” by ACO Associates, who give an excellent assessment of the Pre-Colonial and Proto-historical significance of T R U Park site.

- It is fascinating to be informed and engrossed as we imagine that real life theatre that played out 360 years ago after thousands of years of use as a special site of the original Khoikoen ‘first people’.

- The early Dutch settler farmers clearly had a change of plan, from setting up a halfway station to instead taking over ancestral grazing land when they settled on both sides of the Liesbeek River, causing a huge confrontation with local people. Attitudes and values were not understood. The Khoikoen held the Two Rivers Place as special significance, where the common property land was for grazing. Herds were their wealth.

The shock of the ancestral grazing lands being ploughed up is reported to be the main reason for attempts to capture the farmer’s cattle and the reaction of frontier of exclusion by farmers was to curtail this problem. This intrusion and conflict led quickly to the decimation of the first people and their life was never the same again.

\* 360 years later, we are facing a threat of another serious intrusion into this same space and the intent of ‘Liesbeek Leisure is now to raise the level of the River Club flood plain land and request permission to totally transform the site into an office park plus residential development that has 5 hectare of high rise building and more large areas for roads, parking and other intrusion into this flood plain. This is a harsh threat that some in Observatory have come to refer to as “The Last Frontier” on a collision course with the future of the T R U Park.

\* The feedback received regarding any potential land claims from first people or other indigenous groups is that there are none claiming in T R U P. None expect to be granted ownership of land, but all seemed to want right of access to sites required for specific use, such as celebrating or sharing cultural history/identity where special environments are created for that purpose. It seems preferable that rotation of use of different types of facilities may be an option to compare with separate facilities for different groups (or a combination of both?)

\* The special significance of the site is not being argued as a proposal to ‘turn back the clock’ of history. It is to regain the lost dignity, to educate and share the rich heritage and celebrate identity.

- The task of healing the past spans the full 360 years and degrees of support may be with the appropriate intent, to be able to memorialise the space, share culture, learn history, uncover and display heritage and the healing of dignity and acceptance of new identity may be experience as shared significant respectful transition. – Transformation may be to go with the flow of the river one is in, merging with relaxed intent, emerging from the unresolved painful past exclusion, to the joyous feeling of acceptance and total inclusion of being.

- By dedicating some parts of the park to focus within early history of the Cape, experiencing something of what transpired in other early ‘Frontier sites.’

- Local insight about the history of the Cape could be extended in a meaningful way to ‘colonialism’ in general.

- Early problematic patterns that became entrenched as repeat ‘frontier mentality’ patterns could also assist to understand how this all culminated in the system of apartheid, with race based segregation and oppression / persecution that caused such hardship is essential for us to understand and overcome.

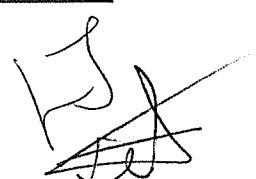
- We and visitors from around the world should be able to enter the ‘space of origins’ and learn from the past.

- We note that while we have been liberated from a system, we still need feel well adjusted as free people, enjoying ‘spatial justice’, ‘spatial sustainability’, ‘spatial resilience’ and ‘efficient, good administration’ healed of a divided and destabilised troubled place.

- The City and its ability to preserve this T R U Park is going to go a long way to assist our people turn the pain of the past into inclusive experience with insight that builds joy for all in the future.

\* **We pass our heritage on to future generations** and if instead of preserving T R U P’s heritage, in its original context, we permit unfortunate office park and other development inside the park, there will not be a ‘world class park that can achieve the potential sharing this essential Cape heritage environment, to pass on its insight

\* The part of T R U Park that is in private ownership since it was sold to PRASA Retirement Fund and then on to ‘Liesbeek Leisure’ is an essential part of T R U P called ‘River Club.’ It is zoned: ‘Open Space’ which is defined most recently in SPLUMA 2013, pg 12 as “a land area set aside (or to be set aside) for use by the community as

A handwritten signature in black ink, appearing to be 'H. J. ...', located in the bottom right corner of the page.

a recreation area, irrespective of the ownership of such land". In other words the fact that the land was sold should have no impact on its status as a land set aside for use by the community as part of the T R U Park.

**\* River Club is not zoned for private development!** It should not be considered a site where the owners may be given permission to build a development that is not to benefit T R U P for community use, approved by TRUP A. - Such development would be accurately considered as 'an illegitimate expectation', on the part of the new owner and their developer team of enthusiasts who should know better.

- The River Club land is essential heritage land that is part of the park and it is a flood plain, not suitable.

- False science is used to justify raising it on fill when the impact will clearly increase the frequency of heavy flooding. Flood level max is at 100 year levels but disruption to community and railways will clearly increase!

There no doubt that T R U Park has a major role to play in that healing of our City but this can never be interpreted as intruding with office parks and residential buildings into the park that should be open to all.

**\* The statement contained in Item 10.1.2 'Character Area': 1. Statement of Cultural significance is worthy of being repeated verbatim:** "T R U P is an outstanding example of a historically evolved landscape extending from pre-colonial times, where the links to the riverine landscape have played a significant and multivalent role in its use". This extends through into post-colonial history.

**\* The site as a whole as a whole has the potential for:** "commemoration and explanation of the role and rights of the First Nation... their history and struggle." The entire T R U P is not only of great symbolic value to the First Nation. It remains as the settler's frontier, where exclusion and the lack understanding, the incapacity to overcome difference and violent aggression teach us to understand what needs to be healed and how much there is to learn about ourselves as we also start to learn about each other's culture and values.

**\* The Early farming intrusion with a few steps too close to the river and into other people's sacred space, was something all suffered and the road to reconcile can be very long. Many of the original first people paid the ultimate price.**

**\* The important recognition of the 'SAAO hill' as a Grade one heritage site of national significance, and it would be reasonable to suggest that this should be extended to the entire riverine system within T R U Park because of its significance, historically and as context to the high grade central feature since it is the whole form of this system that is links the early time in the present into the future.**

**\* The 'Final Frontier' is to do with defending the green open space that has the required timeless space to link past and future, as we struggle as a planet to protect the balance of nature.**

- This is given expression by preserve the wetland system within our urban environment, protecting the current significant natural environments as healing places that are interconnected with extended green corridors throughout the area.

- The systems need to be enhanced to connect between TMNP, via Kirstenbosch gardens, through T R U Park into the sea. It also needs to upgrade connections via tributaries and wetland spaces, False Bay to Table Bay.

**\* T R U Park is of great significance as the last substantial open space before the corridor is breached by railways and industrial wastelands that have been built over the original estuary wetland lagoons that was reclaimed and turned into Industrial zones and totally built over as the Central City Business district finally gives way again to the historic heritage green space which remains of the original Gardens set up by the same early farmers who first settled in TRUP area of Observatory ( Boom, Reyniers etc).**

**\* The essential task of TRUP Association is to preserve the park and its biodiversity protecting the park from destructive threats and to ensure the long term sustainable rehabilitated natural open space that has been under a range of threats that include encroaching threats of development, changes to recreation and institutional facilities needing to be balanced with environmental sustainability and heritage protection.**





\* The consultation workshop events held during 2016 saw a strong consensus around the values of not permitting intrusion of unwanted development in the park.

- We summarised this by saying the green open spaces and particularly the river basins and flood plains are NO GO for development, the Precincts inside the park should be seen as sensitive zones where minimal development may be discussed according to the needs of the Precinct concerned in consultation with TRUP Association who need to watch over the quality and interconnectedness of the park as a whole.

- The Alexandra Road was seen as a transition 'activity street' between what is seen as park and what is seen as fair development opportunity space, in Ndabeni that is underutilised could provide to outskirts of the park.

\* It is strongly argued that increased development on well located brown field lands around the park that will be enabled through a clean-up process of creating new access routes and combined new areas of mixed use development around the park which would benefit hugely from T R U Park's presence in the centre of all the new development action.

- The park's heritage, recreational and institutional qualities could be made more accessible by means of new NMT Linkages through the park and around its edges. This would make it more unified and accessible to all.

\* **The catalyst impact of the park will also enable and stimulate substantial good quality affordable 'live-work- play integrated, medium to high density, well located development opportunities around the park.** This is from Langa to Athlone, Rosebank, Observatory, Salt River, Cullenberg, Brooklyn, Maitland and beyond.

\* The qualities of the park need to extend outwards into the city so that the park is substantially enriched by this accessibility and increased quality of life is upgraded and various facilities can be.

\* The previously segregated communities should also enabled to obtain easy access to each other and the park and to share the public open space for our mutual benefit and as a kind of transformative melting pot similar to what happened in the early 'Waterfront' days.

\* It is essential to insist that the needed new transport routes be directed around the park rather through the park. The majority of paths through the park should be NMT only, with a few minimal exceptions similar to the existing successful pattern of park like development at Kirstenbosch and Green Point Urban Park.

T R U P ark needs to have areas restored to pristine quality with no artificially landscaped or hard surfaces.

\* It needs to be recognised and accepted as a basic principle that the existing planning policy that protects the green open spaces and the river basins, flood- plains etc. These should not be undermined by poorly conceived notions of development inside the park and the existing precincts need to be assisted to link up well so that individual local perceived 'requirements' are not permitted to undermine the integrated nature of the park."

**We wait for a properly constituted EIA process on the River Club that clearly needs appropriate alternatives to compare it with. The revised report as submitted by the River Club applicants needs to be objectively assessed by independent professionals and the pro's and con's scored in a way that compares it to alternatives that are much less destructive!**

It should then be roundly rejected in its current form as a negative impact illegitimate expectation.

We trust that an appropriate balanced proposal will find the light and that what is currently being proposed by the applicant will be clearly rejected as unsatisfactory and full of negative impact.

Kind regards,  
Yours truly

Marc Turok

For Architectural & Heritage sub-group of Observatory Civic Association.

