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Finally, we underline our earlier acceptance of the inevitable and soon presence of the Berkley Road Extension, effectively a causeway 2m to 3m high across the northern boundary of the site.

It must also be noted that during the course of the assessment, the designs of the development alternatives that were evaluated underwent numerous changes, largely from extensive, iterative feedback into the project by us, the heritage specialists, and by other members of the design team. To a great extent, then, the preferred development alternative considered in the study already includes a substantial level of mitigation, and the significance of the impacts considered in this section reflect this (where they are not specific to either of the viable alternatives).

Given this, we assess the potential direct impacts of the two alternatives assessed, the preferred Riverine Corridor alternative and the Island Concept alternative, under the following headings:⁷⁴

H1: Potential loss or damage to palaeontological and archaeological resources.

H2: Loss of structures on the site with heritage value.

H3: Change in environmental and historical character of the site.

H4: Change in heritage value of the Liesbeek River floodplain at the site.

H5: Changes in historical setting of the SAAO.

10.1 Potential Impact H1: Potential loss or damage to archaeological and palaeontological resources:

Given the degree of surface disturbance including the introduction of considerable volumes of fill and, more pointedly, given the absence of any known archaeological resources on the site, it is not expected that any impacts on archaeological or palaeontological resources will occur.⁷⁵ This is the view of ACO Associates and is confirmed by Jonathan Kaplan in his study.⁷⁶

This applies to both the preferred Riverine Corridor alternative and to the Island Concept alternative.

However, in the case of the preferred Riverine Corridor alternative, although these parts of the site have been much disturbed, when the ground levels of the part of the site closest to and lining the present canal are lowered and the western wall of the Liesbeek Canal is removed and the new bank of the river is created in order to

⁷⁴ We note that the assessed significances here, in this draft report circulated for comment, may not match those in the BAR precisely; this is because the criteria adopted by heritage practitioners will on occasion be at variance with those adopted by environmental practitioners.

⁷⁵ We are aware that some First Peoples representatives have claimed that there are or may be burials on the site; however, these claims are not supported by any evidence. Accordingly, we must leave them aside until evidence is presented.

⁷⁶ Kaplan, Jonathan,

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'restore' the riverine corridor, monitoring will be necessary when these bulk earthworks are carried out.

In the case of the preferred Riverine Corridor alternative, this impact is assessed to be of **no** or **very low** (-ve) significance (especially with the implementation of mitigation).

10.2 Impact H2: Loss of Structures at the Site with Potential Heritage Value

Although the main River Club building and approach to it currently are prominent features in the overall setting of the site, the main building is very ordinary and has been much damaged by insensitive growth and change, and is of low heritage significance.

Buildings at the site could not be regarded to be of a grade higher than Grade IIIc, that is, buildings whose significance contribute to the character or significance of the environs that should only be protected if their presence were to contribute to the significance of the environs and that contribution were sufficient to warrant protective measures. We, the heritage consultants, do not believe that the buildings on the site warrant protective measures.

This applies to both the Riverine Corridor Alternative and the Island Concept Alternative. In other words, this impact is assessed to be of **no** or **very low** (-ve) significance.

10.3 Impact H3: Change in Environmental and Historical Character of the Site

The current sense of place at the site and along this section of the Liesbeek is that of a wide flat floodplain and open space but greatly transformed by the frequent changes in land-use: wetlands have been transformed to farmland, then to various institutional uses, to sporting facilities, to modern suburbia and to the 'railways industria'. Nevertheless, the floodplain, Liesbeek and Black Rivers, their confluence and remnants of the Salt River estuary still exist today.

The floodplain between the spine to the east of the site (the SAAO) and the foot-slopes of Devils Peak (the suburb of Observatory) can be divided into three parallel strips:

- On the west (of the site) is a strip of sports fields interrupted by roadways, major sports facilities/structures, avenues of trees and vehicular bridges;
- The Liesbeek Parkway arterial road running through the middle of the floodplain; and
- The Liesbeek River and its immediate corridor that widens and splits into a (now defunct) natural channel and an artificially canalised section to create the River Club site.

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The Liesbeek River (with the SAAO ridge) was a partially fortified early frontier and an important pre-colonial river crossing (the Vaarschedrift) was located close to or at the site; and the confluence with the Black River is thought to be a site or part of the greater site of early confrontations that led to the eventual fragmentation of the Khoekhoe nation. The floodplain was also a key site in early farming. The site and its immediate context is therefore historically significant. However, although no tangible remnants of the actual places of conflict, forts or outposts survive, the Liesbeek River and floodplain are of historical as well as of ecological importance.

People experience cultural value from the character, history, and awareness of the historical import of the site, as well as the ecology of the lower reaches of the Liesbeek River.

The site, although transformed, is one of the last relatively open if spoiled remnants of the floodplain.

The sense of place will, however, be transformed by the development proposed. As described in the SRK VIA report:

“The site itself does not necessarily have an immediately recognisable sense of place although the River Club building is a distinguishable landmark on the site. The sense of place of the study area is strongly influenced by the rivers, and an “island” of green open space in a highly developed and evolving urban environment of mixed land use. The dramatic views of Devils Peak and the dominant east-facing ridgeline also add to the sense of place of the study area.”⁷⁷

Unavoidably, the proposed development will significantly transform the site and very immediate surrounds. The visual impact may be lessened by the congruency of the proposed development with the surrounding land uses, mainly the commercial and industrial activities towards the north of the site rather than the more informal layout of the buildings to the south of the site.”⁷⁸

In many respects, the visual impact is pronounced, but not inconsistent with a cityscape. However, the sense of place impact is more significant and difficult to mitigate. Receptor perceptions are also important: for some, retention of the open space might be critical to retaining the sense of place; for others, urban development, especially if celebrated by iconic structures, may be valued. The development could both alter sense of

⁷⁷ SRK, 2017, VIA, pp17-18.

⁷⁸ Ibid. p32

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*place and, at the same time, deliver a functional development with interesting structures with their own visual appeal.*⁷⁹

In other words, the sense of place, already transformed iteratively over the past 90 years, will be radically transformed by the proposed development of either the Riverine Corridor Alternative or the Island Concept Alternative. So, while the significance of the change in sense of place is of **medium to high** (-ve) significance, given degree of transformation and degradation that has already taken place, the significance of the impact of the change in character is assessed to be **low** (-ve). But, we emphasize that this negative impact can be off-set by the recovery of the riverine corridor as in the Preferred Alternative.

10.4 Impact H4: Change in Heritage Value of the Liesbeek River Floodplain at the Site

South of the site, the Liesbeek River floodplain is relatively narrow, but has both ecological value and public amenity value as a natural and publically accessible corridor even though this stretch of the riverine corridor back to the N1 Motorway is a recovered and restored one. Immediately south of the site the river has been diverted into a visually unappealing and ecologically sterile canalised reach that flows along the eastern edge of the site. The public movement corridor along the river also terminates here. The artificially constructed channel joins with the Black River immediately northeast of the site. The original course of the river along the western boundary of the site was infilled and iteratively dredged (both from the 1930s until 1952 and *circa* 1990), and is now fed by stormwater and occasionally by backflow from the Black River; and it is ecologically degraded. The site forms an artificial island between the old and new reaches of the Liesbeek River in a transformed and degraded landscape.

The impacts of the two alternatives, the preferred Riverine Corridor Alternative and the not-preferred Island Concept Alternative, on the heritage value of the site and surrounds are very different and are, therefore, assessed separately:

10.4.1 The Riverine Corridor Alternative

By rehabilitating the canalised reach of the Liesbeek River to the east of the site, providing an ecologically viable floodplain, and extending the public movement corridor along the river and through the site, the riverine corridor as a historical, topographical and ecological determinant of the current urban townscape is extended and reinforced. Furthermore, the public amenity derived from the river is enhanced. Although the sense of place of the site will be transformed, by extending

⁷⁹ Ibid. pp36-37.

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the riverine corridor to the south of the site the heritage value of the site (and corridor itself) will be enhanced in a number of ways:

- The historical significance of the river would be restored by defining and enhancing its (albeit “new”) course;
- The ecological functioning of the river would be improved; and
- The public amenity value of the river course would be extended and enhanced, and the public would be exposed to the SAAO through the trees which screen it.

The impact is assessed to be of **high** (+ve) significance and no further mitigation is necessary.

10.4.2 The Island Concept Alternative

For the Island Concept Alternative the ecological and cultural benefits of defining and enhancing the Liesbeek River Corridor will be foregone and the development will ‘feel’ or be experienced as being much closer to the low ridge with the SAAO.

The impact is assessed to be **of medium or even high (-ve) significance**.

10.5 Impact H5: Change in Historical Setting of the SAAO Campus

The most significant heritage resource close to the site is the SAAO which has recently been declared a National Heritage Site. The SAAO is situated on a rise to the east of the site and of the Liesbeek Canal. The core historic structure at the SAAO (built 1822) is centrally situated on the site, and is surrounded by a number of structures of ages ranging from 19th century staff buildings, to telescope domes and to late 20th century structures. However, very little of this is visible from the River Club and the west because the ‘campus’ of buildings is surrounded by mature trees with a relatively dense canopy.

The SAAO was built on this raised spine of land so that it could visually signal midday to the Castle of Good Hope (where the 12 O’clock signal gun was located before 1900) and Table Bay where mariners could observe the fall of the time ball in order to set their chronometers. After 1900 when the signal gun was relocated to Signal Hill, this view-line also became functionally important. Views from the SAAO to the Castle and Table Bay, which were central to the functioning of the Observatory, are now obscured by development. Signal Hill remains visible from a limited range of vantage points at the SAAO, but this has not been of any functional importance to the operation of the SAAO since the beginning of the 20th century. The line of sight between the SAAO and Signal Hill is therefore of no current functional value, although it is historically interesting.



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Most of the structures at the SAAO are obscured from view by trees. Indeed, the old Royal Observatory itself is not visible from the River Club itself, and the best views of the SAAO complex are from across the Black River further to the east.

Indeed, as made explicit in the SAHRA declaration, it is clear that the SAAO owes its primary heritage status to its history of use (its scientific significance), and to a lesser extent to its location in the landscape and its built form. Nevertheless, it is possible that the National Research Foundation (NRF) could fell some of the trees in the future, exposing the SAAO site to the west. The boundary of the site with the SAAO is therefore sensitive to development.

The impacts of the two alternatives, the preferred Riverine Corridor Alternative and the not-preferred Island Concept Alternative, on the heritage value of the SAAO are very different and are, therefore, assessed separately:

10.5.1 The Preferred Riverine Corridor Alternative

The increased setback of the development and the restored river course from its western boundary and the SAAO was, from a heritage point-of-view, **the** key informant in the design-evolution of the Riverine Corridor Alternative. This alternative mitigates impacts on the SAAO as far as practically possible by stepping back development by 40m from the river and rehabilitating (and therefore softening) the river course and by developing the minimum amount of GLA or bulk on the nearest part of the River Club site to the SAAO (and the heights of the buildings closest to the SAAO have been reduced subsequent to the recent comments), while ensuring the financial viability of the development.

We also hope that, in the long-term, the restoration of the western bank of the Liesbeek canal (the River Club side) and the creation of the riverine corridor will create opportunities for the SAAO to rehabilitate the river course on its site consistent with what is proposed on the River Club side of the river. Nevertheless, while many commentators think that development of the River Club site will impact negatively on the SAAO, we regard the impacts of the restoration of the Liesbeek River to have a positive impact on the SAAO and the ridge or spur of trees across the river.

However, the floor of "Building 3" at the SAAO (which has a relatively low heritage value) would be inundated about once in five years to a depth of about 27 cm (about 12 cm deeper than the current depth of flooding). Although this will not affect the flood hazard rating at the SAAO, the increased depth of flooding during 1:5 year return flood events may increase the costs of occasional flood repairs. We do not regard this to affect heritage significance.



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Although it has been argued that the development proposed will have a negative impact on the historical setting of the SAAO, a site is of national significance, we assess the impact of the restored and recreated Liesbeek River riverine corridor on the SAAO site to be of **high** (+ve) significance.

10.5.2 The Island Concept Alternative

This alternative allows for the rehabilitation of the eastern bank of the pre-1952 course of the Liesbeek River, which has some inherent, although much diminished, ecological value. In order to setback from this boundary and to remain financially viable, the River Club development would encroach on the SAAO side of the site to a far greater extent than is the case for the Riverine Corridor Alternative. Furthermore, the rehabilitation of the river corridor on the SAAO boundary would not take place, the canal would remain, and this would forgo any possible future improvements to the river course and/or any ecological integration between the two sites.

Although we assess that the intensity of the impact on the historical setting of the SAAO to be medium, as the site is of national heritage significance, the impact of the Island Concept Alternative is assessed to be of **medium to high** (-ve) significance and no further mitigation is possible.

10.6 Visual impacts on the significance of other nearby heritage resources

Given the distance of other heritage resources from the site, we contend that the development proposed will not have any impact on Valkenberg Hospital or the Valkenberg Homestead; and, given the presence of the Black River Park office complex and the large sports facilities on the lowest foot-slopes of the mountain below the suburb of Observatory, we contend that the development will not impact on the residential environment in heritage terms.

Furthermore, other sites to the east across the Black River and Black River Parkway are simply too distant to be regarded as affected in any way by development on the River Club site.

10.7 Ranking of Alternatives

Alternative 1, the Riverine Corridor Alternative, although transforming the sense of place, will restore the ecological and historical significances to the Liesbeek as a heritage resource and public amenity, to its confluence with the Black River, and will contribute to the wetland environmental charm of the Raapenberg Bird Sanctuary and the well-treed Royal Observatory spur or hill.

Alternative 2, the Island Concept Alternative, transforming the sense of place but without any meaningful improvements to the Liesbeek River-canal, will make positive contributions to the old pre-1952 river course as an ecological resource, but will not

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contribute to the wetland environmental charm of the Raapenberg Bird Sanctuary and the well-treed Royal Observatory spur or hill.

The no-go or existing-Rights Alternative, is a poor option and will not make any of the necessary contributions to the city or to City Council strategies; and it will fail to articulate the historical significance of the place. It could cynically be regarded as a safe option in that the future of the site would be left open until the owners (current or future) explore alternatives.

10.8 Conclusions regarding Impacts on Significance

Given the assessments of the impacts of the preferred alternative, the Riverine Corridor Alternative, we argue that the essential significances of the River Club site and its immediately abutting surrounds, that is, the relatively low current significance of this part of the floodplain, the pre-1952 river course, the post-1952 canal, and the effects of that relatively low significance on its surrounds, would be considerably enhanced by the recovery and restoration of the riverine corridor as proposed; and, in our view, the overall significance of the Liesbeek and its surrounds will be increased.

The two diagrams below illustrate the changes to the significances of the environs as floodplains, confluence and the low ridge separating the two river courses: the first diagram of the current situation shows, diagrammatically, the River Club and sports facilities components of the Liesbeek floodplain to have low significance; the section of the recovered Liesbeek River above Station Road and the Black River above the confluence to have a high significance; and the two Liesbeek River courses, the old and new, and the treed surrounds of the SAAO to have medium significance.



Figure 31. Diagram of current significances of the riverine topography as cultural landscape

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The second diagram shows how the two development precincts on the River Club land are reduced in significance and how the significance of the Liesbeek riverine corridor is improved and, as a consequence, how the treed lower surrounds of the SAAO are also improved.



Figure 32. Diagram of future significances of the riverine topography as cultural landscape after the restoration of the Liesbeek River

This diagram suggests to us that the 40m-wide recovered riverine corridor and a deeper or wider site at the confluence could be (and, in our view, even should be) deemed to be of grade II significance. Indeed, in this circumstance (the restoration of the riverine corridor) HWC's wish to formally protect the site or, rather, the significant part of it appears to us to more meaningful **and** more likely to be achieved.

11 MITIGATIONS

In summary, the pre-colonial river crossing site and the Liesbeek riverine corridor and its sense of place apart, there are no heritage resources on the site that will require intervention. Determining the character of the site is an urban design issue; and, in this context, we argue that the role that heritage informants can play in the urban design of the site is limited due to the fact that the identified indicators are relatively weak in determining architectural and townscape character. The one heritage feature of high significance that has been identified is the Liesbeek River corridor itself and the confluence which is the singular and signal feature that runs through the project area and beyond. It is a powerful historic symbol and place-mark that refers to early landscape of pre-colonial transhumance use, colonial settlement and agriculture, and contestation.

The Liesbeek River, currently canalised, is to be enhanced, rehabilitated, even restored, and made accessible. The primary mitigations (or off-sets) for the reduction of significance of the floodplain are as follows:

- 1) The Liesbeek River: the currently canalised section of the Liesbeek bounding the site should be rehabilitated/restored so as to create a "sense of river-ness" and engender conditions favourable to creating biodiversity and engendering natural qualities. This action will result in a powerful positive contribution to the overall commemoration of this feature and enhance and celebrate its symbolic significance.
- 2) Riverine buffer zone: a riverside green strip or buffer that is pedestrian-, flora- and fauna-friendly along both the old and new river courses. The wetland specialists are best placed to indicate the size and specification of the buffer. A pedestrian walk along the buffer zone will provide enhanced views of the SAAO, the river, wetlands and bird sanctuary. Furthermore, it will enhance the quality of the development area.
- 3) Commemorative area: space could be given to establishing a green zone or open area at the northern-most corner of the site close to the confluence of the Liesbeek and Black Rivers, near to the likely historic crossing point of the Salt River (Varsche Drift), to serve as a commemorative and/or celebratory marker of the history of contestation.
- 4) Implement monitoring and chance-find procedures for archaeological and palaeontological material during excavations of the western bank of the Liesbeek Canal as it fronts the site and during excavations for the construction of the Berkley Road extension (as specified in the EMPr).

12 RECOMMENDATIONS

Given the significances articulated, the heritage-related criteria for decision-making argued, the analysis of the impacts of the preferred 'riverine corridor' alternative on the significances, and the mitigations proposed (which have been incorporated into the preferred alternative, the Riverine Corridor Alternative), we recommend, in satisfying its responsibilities under Section 38(8) of the National Heritage Resources Act, that Heritage Western Cape support the development proposed, the Riverine Corridor Alternative 1, and recommend to the NEMA decision-maker, the provincial Department of Environment and Development Planning, approve the preferred alternative.

We also, in these changed circumstances, recommend that HWC discuss the possibility of formally proclaiming the 40m-wide riverine corridor part of the site and the deeper area at the confluence as a Provincial Heritage Site with the owners and with the many interested and affected parties.

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2 July 2019

Stephen Townsend

Timothy Hart.

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Our Ref: HM/TWO RIVERS URBAN PARK/OBSERVATORY
Enquiries: Jonathan. Windvogel
E-mail: jonathan.windvogel@westerncape.gov.za
Tel: 021 483 9736
Date: 30 July 2021



Mr Tauriq Jenkins
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PROPOSED PROVINCIAL HERITAGE SITE NOMINATION FOR TWO RIVERS URBAN PARK, OBSERVATORY.

The matter above has reference.

Heritage Western Cape (HWC) is in receipt of your application for the above matter. This matter was discussed at the HWC Council meeting held on 22 July 2021.

RECORD OF DECISION

Based on discussions at various meetings and documents put forward in terms of the heritage significance for the TRUP area, and notwithstanding that an application for the proposed nomination of the site for Grade I status is also currently submitted with SAHRA. HWC is of the strong opinion that the TRUP area is worthy of being further investigated for Grade I heritage status. This does not detract from the site being of very high regional significance.

Therefore, Council resolved to approve HWC notifying SAHRA of its opinion that the TRUP area should be assessed for Grade I heritage status in terms of Section 24(1)(e) of the NHRA.

- This decision is subject to an **appeal period of 21 working days**.
- The applicant is required to inform any party who has expressed a bona fide interest in any heritage-related aspect of this record of decision. The appeal period shall be taken from the date above.
- It should be noted that for an appeal to be deemed valid it must refer to the decision, it must be submitted by the due date and it must set out the grounds of the appeal.
- Appeals must be addressed to the **Minister of Cultural Affairs and Sport** and it is the responsibility of the appellant to confirm that the appeal has been received within the appeal period.

Should you have any further queries, please contact the official above.

Yours faithfully

.....
Mr Michael Janse van Rensburg
Chief Executive Officer

Cc: marcturok@gmail.com; nicks@nsmithlaw.co.za; jody@orangestreet.co.za; adrian@orangestreet.co.za; roxaan@orangestreet.co.za; reception@orangestreet.co.za; aneesa.solomons@capetown.gov.za; nigel.tifus@capetown.gov.za; Gerhard.Gerber@westerncape.gov.za; Jacqui.Gooch@westerncape.gov.za; rwong@colorfusion.co; greg@ovp.co.za; vc@uct.ac.za; mughtar.parker@uct.ac.za; vbaduza@sahra.org.za; dsibayi@sahra.org.za; 2011891@churchofJesusChrist.org; poshouver@gmail.com; leslie.london@uct.ac.za; rodecb@icloud.com; Nigel.Haupt@uct.ac.za; ah@obs.org.za; david.gibbs@uct.ac.za; davesue@mweb.co.za; petri@saa.ac.za; epl@saa.ac.za; Mariagrazia.Galimberti@westerncape.gov.za; hweldon@sahra.org.za; greg@ovp.co.za; adrian@orangestreet.co.za; roxaan@orangestreet.co.za; nicks@nsmithlaw.co.za; ah@aharch.co.za; Tamar.Shemtov@capetown.gov.za; Demitrios.Georgeades@capetown.gov.za; aneesa.solomons@capetown.gov.za
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**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

CASE NO: 12994/21

In the matter between:

OBSERVATORY CIVIC ASSOCIATION

First Applicant

**GORINGHAICONA KHOI KHOIN
INDIGENOUS TRADITIONAL COUNCIL**

Second Applicant

and

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

First Respondent

HERITAGE WESTERN CAPE

Second Respondent

CITY OF CAPE TOWN

Third Respondent

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

Fourth Respondent

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

Fifth Respondent

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

Sixth Respondent



EXECUTIVE MAYOR, CITY OF CAPE TOWN

Seventh Respondent

WESTERN CAPE FIRST NATIONS COLLECTIVE

Eighth Respondent

FOURTH RESPONDENT'S CONFIRMATORY AFFIDAVIT

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I, the undersigned,

ZAAHIR TOEFY

do hereby make oath and say:

1. I am the Fourth Respondent, namely the Director: Development Management (Region 1) in the Department of Environmental Affairs and Development Planning (“the Department”).
2. The facts deposed to herein are to the best of my knowledge true and correct, and they fall within my personal knowledge.
3. I have read the accompanying affidavit of the Minister for Environmental Affairs and Development Planning, the Fifth Respondent in this application, and confirm the contents of such affidavit where reference is made to me.
4. I have read the criticisms of my decision set out in the founding affidavit of the Applicants in this matter. These have been dealt with in the answering affidavit of the Minister, which I confirm. I wish though to emphasise the following:
 - 132.1. In Annexure 3 *Reasons for the decision* starting at page 19 of my decision (annexure “LL24” to the Applicants’ founding affidavit), I dealt comprehensively with the heritage impacts of the proposed development.
 - 132.2. My decision to approve the environmental authorisation involved a weighing up of various facts and circumstances; the consideration of

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an extensive range of documents and specialist reports; the assessment of the significance of various impacts which will result from the development, amongst others ecological, hydrological, heritage, and socio-economic impacts; the consideration of a number of complex issues; the views and representations of various parties; the interests of the various parties involved; and the principles reflected in the central statute, namely the National Environmental Management Act, 107 of 1998 (“NEMA”), as well as in various policy and planning documents.

132.3. I considered the criticisms Heritage Western Cape (“HWC”) proffered against the HIA and the HIA Supplementary Reports but ultimately, after agreement could not be reached between HWC and the heritage specialists, came to the conclusion based on all the information before me that the heritage assessments met the requirements of section 38(3) of the National Heritage Resources Act, 25 of 1999 (“the NHRA”).

132.4. It is my respectful submission that my decision was properly, rationally, and lawfully taken with due regard to all relevant facts and circumstances, which included the comments and recommendations of HWC.

132.5. The fact that the Applicants are, to the extent raised in their challenges, in disagreement with my decision, I am advised, believe, and aver, provides no basis for the review of either decision.

133. In conclusion, I deny that there are any grounds for reviewing my decision and

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the Applicants' urgent application for interdictory relief should be dismissed.


ZAAHIR TOEFY

I certify that:

- I the deponent acknowledged to me that:
 - (a) he knows and understands the contents of this declaration;
 - (b) he has no objection to taking the prescribed oath;
 - (c) he considers the prescribed oath to be binding on his conscience;
- II the deponent thereafter uttered the words "I swear that the contents of this declaration are true, so help me God";
- III the deponent signed this declaration in my presence at the address set out hereunder on this the 23rd day of AUGUST 2021.

COMMISSIONER OF OATHS

FULL NAMES: *Thumelaphi Komphela*

CAPACITY: *w/o*

ADDRESS: *7 Wake Street Provincial Parliament
CAPE TOWN*



