

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

Case No.: 12994 / 2021

In the matter between:

OBSERVATORY CIVIC ASSOCIATION	First Applicant
GORINGHAICONA KHOI KHOIN INDIGENOUS TRADITIONAL COUNCIL	Second Applicant
and	
TRUSTEES FOR THE TIME BEING OF LIESBEEK LEISURE PROPERTIES TRUST	First Respondent
HERITAGE WESTERN CAPE	Second Respondent
CITY OF CAPE TOWN	Third Respondent
THE DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1), LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS & DEVELOPMENT PLANNING, WESTERN CAPE PROVINCIAL GOVERNMENT	Fourth Respondent
THE MINISTER FOR LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS & DEVELOPMENT PLANNING, WESTERN CAPE PROVINCIAL GOVERNMENT	Fifth Respondent
CHAIRPERSON OF THE MUNICIPAL PLANNING TRIBUNAL OF THE CITY OF CAPE TOWN	Sixth Respondent
EXECUTIVE MAYOR, CITY OF CAPE TOWN	Seventh Respondent
WESTERN CAPE FIRST NATIONS COLLECTIVE	Eight Respondent

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I, the undersigned

GAOB: MARTINUS FREDERICKS

do hereby make oath and say as follows:

1. I am an adult male, also known as Gaob: Martinus Fredericks and am the “Gaob / Supreme Leader” of the !Aman Traditional Authority RSA.

I am a direct descendant in the !Aman/ //Aes Royal family of Namibia and South Africa, I have been duly appointed by Gaob : David Fredericks in his capacity as the Supreme Leader of the !Aman // Aes within the Greater Namaqualand (now referred to as Namibia) who historically had their head office in Goudini in the Worcester Breede River valley to hold this position and to speak on behalf of the !Aman// Aes (Nama people) in South Africa (See Addendum A) .

The facts contained in this affidavit are within my personal knowledge, except where the context indicates otherwise, and are to the best of my belief both true and correct.

2. I have read the supporting and replying affidavits of Tauriq Jenkins which he deposed on 30 July 2021 and 17 September 2021 and confirm the contents thereof in so far as they relate to me, and the position I hold in !Aman // Aes and the !Aman Traditional Authority.
3. As I explain more fully below, both the “!Aman Traditional Authority” and I:


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- 3.1. are deeply concerned about the negative impacts that the development of the River Club site by the First Respondent ("the Development") will have on our intangible cultural heritage;
- 3.2. are opposed to the Development;
- 3.3. were not consulted by Mr Rudewaann Arendse in connection with the preparation of his reported titled "River Club First Nations Report" dated November 2019 ("the AFMAS Report"); and
- 3.4. are not members of the Western Cape First Nations Collective ("the FNC") which is the Eighth Respondent in this matter, and the FNC is not authorised to speak on our behalf, whether in relation to the Development or any other matters.

Consultations undertaken by Rudewaann Arendse of AFMAS

4. I understand that Mr Rudewaann Arendse was commissioned by the Western Cape Provincial Department of Transport and Public Works to prepare a report on:
 - 4.1. the significance of the Two Rivers Urban Park ("TRUP") to First Nations by identifying intangible cultural heritage ("ICH") specific to the TRUP, through Khoi and San oral history, as articulated by indigenous custodians;
 - 4.2. the collective First Nations aspirations for celebrating First Nation ICH at the TRUP; and


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- 4.3. how the indigenous narrative of the First Nation's ICH can be incorporated into the spatial governance of the TRUP, by developing heritage related design informants (as informed by the indigenous narrative).
5. This report culminated in the TRUP First Nations Report ("the TRUP Report") of 25 September 2019. [Mr Rudewaan Arendse did not consult my !Aman Traditional Authority during the preparation of that report.
6. According to his brief in the River Club First Nations Report ("the AFMAS Report"), Mr Rudewaan Arendse was subsequently commissioned by the First Respondent ("the Developer") to:

"...engage the First Nations (the Khoi and San)², interchangeably referred to as Indigenous people, or the Indigene, with regard to their intangible cultural heritage in terms of the River Club project site."

and

- "1. Understand the significance of the River Club site to the First Nations by identifying Indigenous intangible cultural heritage specific to the River Club.*
- 2. Locate the River Club site within the Indigenous narrative of the broader TRUP cultural landscape.*
- 3. Identify First Nations aspirations with regard to Indigenous cultural heritage and the River Club site.*

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4. *Implement the recommendation of the TRUP First Nations report that "acknowledging, embracing, protecting and celebrating the Indigenous narrative be a heritage related design informant that informs" planning and development of the River Club site.* (Vol: 3, R: 1079)
7. I confirm that neither I nor my !Aman Traditional Authority were notified by Mr Rudewaan Arendse or engaged with regarding our intangible cultural heritage associated with the River Club site or how the development will affect my intangible cultural heritage associated with the TRUP, and consequently neither myself nor my !Aman Traditional Authority were consulted by Mr Arendse in relation to the AFMAS Report.
8. The Developer and/or Mr Arendse / AFMAS were well aware that both I and !Aman Traditional Authority wished our view in relation to the Development and its potential negative impacts on the environment and on our cultural heritage, to be taken into consideration by the authorities responsible for deciding whether or not to authorise the Development. My reasons for saying this appear below.
- 8.1. I represented the !Aman Traditional Authority as an interested and affected party ("I&AP") during the provisional protection appeal proceedings, under case number 1511 2504 WD 1217E in which the Developer as an appellant and Mr Arendse participated. My name appears from the list of I&APs as is evident in the record.
- 8.2. My group has contact details which are easily traceable. AFMAS and Mr Arendse should have used this information to communicate with

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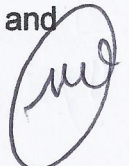
us and arranged for us to participate in the consultation which culminated in his AFMAS Report.

9. I confirm that neither I nor the !Aman Traditional Authority were consulted by Mr Arendse. Nor do we approve of or support the development by the First Respondent, nor are we represented by the Eight Respondent (the Western Cape First Nations Collective also known as the "FNC").

Cultural and heritage significance of the site and TRUP area


10. The site at which the River Club development will take place and the larger TRUP, is of significant cultural and heritage significance to my !Aman Traditional Authority. The site and the TRUP area is sacred to us and a significant part of our intangible cultural heritage is associated with the site and the TRUP, for the following reasons:

- 10.1. The area is a site of first resistance and Frontier Wars fought in 1659. It is where land was taken by the Dutch colonial authorities in 1657.
- 10.2. It is a place where Inau ceremonies, and various other traditional and sacred practices of ritual take place.
- 10.3. It forms part of National Khoi and San Liberation and Resistance that was approved by the Cabinet in 2020.
- 10.4. The 1510 Battle which we believe occurred on the precinct had a ripple effect across all the San and Khoi formations, including the Nama, because at that time there were no colonial boundaries, and

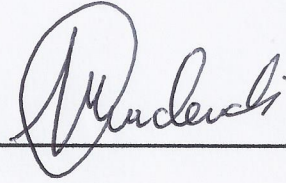
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the fact it prevented Portuguese conquest in the area had vast significance across the region.

- 10.5. In the 1600's, the Nama groups are recorded as some of the indigenous groups that visited the Castle of Good Hope on a regular basis, which re-affirms the Nama's presence in the peninsula. As such the confluence area at the Two Rivers was known as an important precinct for peninsular Khoi that the Nama significantly engaged with socially, spiritually and economically.
- 10.6. This spiritual significance and memory is a shared phenomena among people to the extent that one cannot de-link the Nama and its origins from the Western Cape, including this area.
- 10.7. The destruction of the river is a disconnect with our ancestral ties with !Tsui Goab (supreme being) whose expression in Nama cosmology is linked to the stars.
11. We do not regard any of the conditions to the respective authorisations to be sufficient for purposes of safeguarding our intangible heritage associated with the site. In our view, the aspects of the Development which the Developer claims will give expression to, and celebrate, our intangible cultural heritage (i.e. the proposed indigenous gardens, cultural and media centre, amphitheatre, and "heritage eco-trail") do no such thing.
12. Had I or my !Aman Traditional Authority been meaningfully consulted by Mr Arendse in respect of the River Club development, we would have contributed important information relevant to the decision-making process

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(including the information in this affidavit) which should have been made available to the decision-makers (whether by inclusion in the AFMAS Report or otherwise).

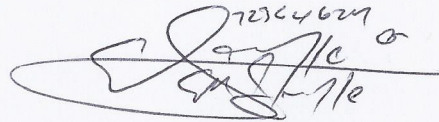


GAOB : MARTINUS FREDERICKS

I hereby certify that the deponent has acknowledged that he:

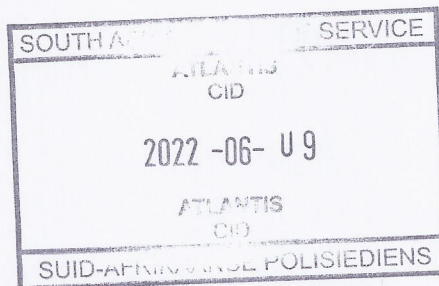
- (a) knows and understands the contents of this affidavit;
- (b) has no objection to taking the oath;
- (c) considers the oath to be binding on his conscience.

Thus signed and sworn to before me, at **ATLANTIS** on **June 2022**.



COMMISSIONER OF OATHS

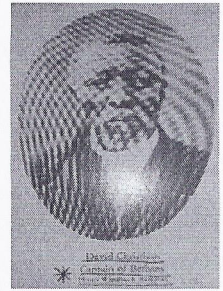
NAME: *Edwill Soutelle*
CAPACITY: *CONSTABLE*
ADDRESS: *Atlantis 8*
AREA: *SAPS*





FREDERICK ROYAL HOUSE, /HOA-/ARAN

FREDEICK ROYAL HOUSE & !AMAN PEOPLE OF /GUI-#GANDES
Bethanie, P. O. Box 123, Chief Cornelius Frederick Avenue



THE FREDERICK
KINGDOM

**GAOB JAKOBUS
FREDERICK**

**GAOB JAN
FREDERICK,**

**GAOB JOSEF
FREDERICK I,**

**GAOB DAVID
CHRISTIAN
FREDERICK,**

**GAOB JOSEF
FREDERICK II,**

**GAOB
CORNELIUS
FREDERICK**

**GAOB PAUL
FREDERICK,**

**GAOB EDWARD
FREDERICK,**

**GAOB JOSEF
FREDERICK III,**

**GAOB DAVID
FREDERICK**

**Gaob Martinus Frederick
The !Aman Traditional Authority (RSA)
31 Montague Street
Saxon Sea, Atlantis7349**

Re: Mandatory letter to formalize the !Aman Community in South Africa

Honorable Gaob,

We trust that this communique finds you in good health and welfare.

It is our distinct honor to reinforce the bonds of our people living in both Namibia and South Africa. The Royal Family wish to implore the !Aman community in the Republic South Africa to re-organize themselves and follow established Traditional Structures and take up members of the Richter's Feld in the leadership structures to ensure that this part of our !Aman People are represented in the Great !Aman Community and as such be recorded in the Royal House Book of Records.

I, Daniel Timotheus Frederick, Patriarch of the Royal Family therefore mandate Gaob Martinus Fredericks as the Official Representative and leader of the !Aman in the RSA to Lead all processes necessary as a Sister body of the Great !Aman Community in Namibia, to re-unite and rebuild the Clan that was separated as a result of colonial legislation, displacement and genocide committed against us.

I wish the !Aman Community in the RSA God's Grace, peace and prosperity in the strive to re-unite with their families in Namibia and elsewhere.

Yours Truly,

**DANIEL TIMOTHUES FREDERICK
THE PATRIARCH of FREDERICK ROYAL FAMILY
+264 81 156 3997**

