

		<ul style="list-style-type: none"> <li>• a reduction in the reliance of private motor cars will be promoted and an emphasis will be placed on public and NMT transport; and</li> <li>• the location of the development adjacent to surface water resources creates the opportunity for surface (and groundwater) abstraction.</li> </ul> <p>It is considered that the development proposal will respond well to international best practice with regards to sustainable practice.</p>
36	The CoCT Management of Stormwater Impacts Policy requires new developments above a certain size to use SUDS principles in their design to manage their stormwater run-off on-site.	SUDS principles will be incorporated in all aspects of the development's drainage system. It is envisaged that a series of swales / bio swales will treat and attenuate runoff during frequent events. The site aims to integrate the drainage within the site's open spaces and lead to a green corridor that will be formed by the rehabilitated Liesbeek River offering amenity and supporting biodiversity.
37	It should be demonstrated how stormwater will be managed to be integrated with other spatial elements such as parks, playing fields, green roofs and public open space (hard and soft) and landscaped areas (in line with current international thinking).	Refer to DRW 112405-SW contained in Annexure Q of the motivation report, which demonstrates how stormwater will be integrated into open space. Further detail will be provided once all aspects of the development are finalized.
38	How does the proposal contribute towards the development of a resilient city capable of withstanding climate change?	<p>This development will contribute to the development of a resilient city through addressing, <i>inter alia</i>, the following:</p> <ul style="list-style-type: none"> <li>• Provision of economic opportunities for a spectrum of society;</li> <li>• Provision of affordable housing;</li> <li>• Provision of accessible, attractive and safe recreational spaces; and</li> <li>• Provision and promotion of public transport facilities;</li> <li>• Rehabilitation of existing river courses and wetlands and associated improvement in ecological functioning;</li> <li>• Education of society about the environmental benefits of natural systems – including wetlands on mitigating the impact of climate change.</li> </ul> <p>With regards to flooding, all development will be raised above the 1:100-year floodline. Further, the surface water hydrology study (refer</p>




		to Annexure H of the motivation report) confirms that the proposed development would have an insignificant effect on flooding in the vicinity of the existing River Club site.
39	EMD (Environmental) requires detailed precinct plans before the submission of Site Development Plans showing the open space web and network throughout the entire site, including: <ul style="list-style-type: none"> <li>• interface with buildings;</li> <li>• circulation areas; and</li> <li>• linkages to surrounding sites.</li> </ul>	Noted. Refer to item C.30 above.
40	A detailed river corridor management plan (as per the requirements of Catchment Planning) is required.	Noted. It is not yet known what the CoCT's requirements for the river corridor management plan are. However, these requirements will be ascertained following further engagement.
41	A Landscape Masterplan and associated landscape guidelines is required.	Noted. Refer to item C.30 above.
42	A Demolition, Construction (CEMP) and Operational Environmental Management Plan (OEMP) will be required as part of the final documentation. Search and rescue for WLT's must be included in the CEMP.	Noted.  A comprehensive EMPr has been compiled for the development, including the management of aspects of construction (incorporating demolition of existing structures), and operational management and maintenance.
<b>D. City of Cape Town TDA: Urban Planning &amp; Mechanisms</b>		
<b>No.</b>	<b>Summary of Comments</b>	<b>Response</b>
1	As the River Club site is privately owned, the developer was not obliged to wait for the completion of the TRUP LSDF (March 2019).	Noted and agreed.
2	CoCT Urban Planning & Mechanism, along with Urban Design, give "in principle" support to the development proposal and regard it as the formalisation of the Western Gateway into the broader TRUP area, as well as a first phase implementation of the TRUP LSDF. The "in principle" support is given on condition that the issues relating to buildability (e.g. cultural/heritage; environment/biodiversity; fresh water/water quality; flood modelling etc.) are adequately dealt with.	Noted.

3	Support is also given to the critical and strategic importance of this project as a "catalytic and urban regeneration project within the inner-city and that has a primary role in re-configuring the Apartheid City"	Noted and agreed.
4	In principle support is given to the proposed deviation of the Table Bay District Plan. However, the proposal "has not adequately addressed these issues in the Table Bay District Plan" and it is suggested that the policy guidance should be taken into account in the design of the layout.	The current application is for rezoning and deviations from certain policy (i.e. essentially to establish the 'in principle' concept of development on this site). More detailed proposals (e.g. SDP, Precinct Plans and Landscape Masterplan) will be submitted for approval as part of subsequent MPBL applications, and these proposals will demonstrate compliance with all relevant policy.
5	The River Club proposal is not consistent with a number of principles and guidelines within the Two Rivers Park Contextual Framework Policy (2003). Notwithstanding, the TRUP LSDF (2019) will supersede the Two Rivers Park Contextual Framework Policy (2003) and therefore non-compliance with the Two Rivers Park Contextual Framework Policy (2003) should not be an issue.	It is acknowledged that the current development proposal for the River Club is not consistent with a number of the principles and guidelines outlined in the TRUPCF (2003). Nevertheless, it should be noted that the TRUP LSDF, run in tandem by the WCG and the CoCT, is currently being undertaken and will result in new development initiatives and planning guidelines for the TRUP area.
6	The River Club proposal is an excellent means of facilitating and contextualising the principles and strategies identified in the CoCT Transit Oriented Development (TOD) Strategic Framework (2016).  While the proposal does not deviate from the TOD Strategic Strategy, the proposal should still "adequately address these issues in the TOD Strategic Framework" and it is suggested that the policy guidance should be taken into account in the design of the layout when further Precinct Plans and SDPs are submitted.	Noted. Refer to item D.6 above.
7	The proposal does not currently deviate from the provisions of the Urban Design Policy (2013), however, future Precinct Plans, Character Plans and SDPs need to take this policy into account.	Noted. Refer to item D.6 above.
8	The proposal does not currently deviate from the provisions of the Safer Cities Guidelines, however, future Precinct Plans, Character Plans and SDPs need to take this policy into account.	Noted. Refer to item D.6 above.
9	The proposal does not currently deviate from the provisions of the Tall Buildings Policy (2013), however, future Precinct Plans,	Noted. Refer to item D.6 above.



	Character Plans and SDPs need to take this policy into account as it is triggered through the rezoning application. Future applications associated with the Precinct Plans, SDPs and Character Areas may need to include visual impact assessments, wind studies and shadow studies.	
10	Take cognisance of the TRUP Synthesised Technical Report (available 1 October 2018) before submitting Precinct Plans.	Noted. This document has been requested from CoCT. However, it has not yet been forthcoming (it is our understanding that this document is still being revised and is not yet available for public review).
<b>D. City of Cape Town TDA: Urban Design</b>		
<b>No.</b>	<b>Summary of Comments</b>	<b>Response</b>
11	"In principle" support is given to the development on condition that additional submission of smaller scale plans (e.g. Precinct Plans, Character Plans and SDPs) will be submitted prior to approval of construction.	Noted.
12	The following principles must be applied when compiling the smaller scale plans: <ul style="list-style-type: none"> <li>a. The bulk allocation must remain at the approximate 150 000 m<sup>2</sup>;</li> <li>b. Precinct Plans for both Precinct 1 and Precinct 2 will need to be submitted as a next step prior to SDPs or building plans;</li> <li>c. The two precincts must be further broken down into Character Areas that should indicate maximum preferred heights (to allow for transferable latent bulk if required); and</li> <li>d. The bulk allocation for Precinct 1 and Precinct 2 may not be transferred between themselves.</li> </ul>	Noted. Refer to item C.30 above.

13	<p>The Precinct Plans and Character Areas parameters must include:</p> <ul style="list-style-type: none"> <li>a. The height of buildings along Berkley Road extension (northern edge of Precinct 2) should be bulked higher than the southern edge facing the 'eco-corridor';</li> <li>b. Precinct gateways and entrances could contain more appropriately located bulk in order to emphasise hierarchy of spaces;</li> <li>c. Buildings on prominent corners and edges could contain more appropriately located bulk;</li> <li>d. The internal streets may require building bulk setbacks to facilitate natural light penetration; and</li> <li>e. Some appropriately located sites shall be designated as "foreground buildings" and may have slightly more bulk than "background buildings".</li> </ul>	Noted Refer to item C.30 above.
14	A non-negotiable condition in any TRUP related development approval should be that an agreed proportion of on-site, off-street development parking that are more than the final approved TRUP parking ratios should be designed to be "re-purposed".	It is anticipated that excess parking could ultimately be converted to other uses as public transport services improves. This will be demonstrated in the required SDP / Precinct Plans submission.
15	Parking provision at any TRUP related development must be subject to a 5-year review.	Following discussions with officials from CoCT Urban Design, it is understood that such a review (should it be made a requirement) will not require any reduction in approved parking, but would rather relate to additional parking requirements.
16	Locations for future public transport service links should be provided (these could be interim 'community services' that are later replaced by fully fledged MyCiti routes).	<p>Existing and future public transport provision is detailed in sub-section 8.6.1 of the motivation report.</p> <p>The public transport routes could initially run through the development (before extension of Berkley Road) but some will eventually extend along Berkley Road. The routes will be developed on demand and suitable boarding points will be integrated with the final design inside and adjacent to the site.</p>
17	A n NMT plan will be required with SDP submissions that detail links into the existing network (connectivity is paramount to ensure that the development links into the receiving	The linking of NMT facilities servicing the TRUP initiative with the internal NMT facilities provided at the River Club is currently being

	environment rather than remaining an isolated island). This plan must note all flood lines so as to be cognisant of sustainability.	conceptualised with the TDA for the Berkley Road extension Project Management Team.
18	The River Club should be seen as a public destination and a future "biodiversity park" should be incorporated into the open space network.	Entire open spaces at the River Club (e.g. the 'eco-corridor') will not be planted with indigenous vegetation so that areas of lawn can be included for recreational purposes. However, it is anticipated that future landscaping will include areas of indigenous vegetation as part of a balanced landscaped environment.  Refer to item C.30.
19	Where 'super-basements' are proposed, the structures should be wrapped rather than using mere landscaping for interface mitigation.	Noted. Refer to item C.30.
20	Partial flood-water storage may be proposed on site if engineering reports indicate this possible. If detention ponds are included, the following must be demonstrated: <ul style="list-style-type: none"> <li>• Where and how these ponds fit into the Landscape Masterplan; and</li> <li>• The downstream mitigation of detaining water on site.</li> </ul>	A series of stormwater swales is proposed in lieu of the existing 'old' Liesbeek River channel. These will be appropriately detailed on the Landscape Masterplan to be submitted as part of subsequent applications (refer to item C.30).  The inclusion of additional detention ponds on site may be considered. As indicated in the various studies relating to the River Club and TRUP, attenuation on the site is of little benefit downstream. Refer to the surface water hydrology report prepared by Aurecon (attached as Annexure H to the motivation report).
21	The maximisation and alignment of visual corridors must be considered, with the result that building heights may have to be lowered along these corridors.	Noted. Refer to item C.30.
22	The height and bulk of buildings needs to be carefully considered so as to avoid conditions that cause a "walled development response".	Noted. Refer to item C.30.
23	The road grids need to be explored in more detail as they may be too rigid and not informed by the natural context.	Noted. Refer to item C.30.
24	Gateway features are currently missing. The River Club development will be the gateway to the wider TRUP area and the development proposal needs to ensure that interfaces promote this.	Noted. Refer to item C.30.

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25	Berkeley Road extension should be regarded as the main through route, allowing Liesbeek Parkway to tie into it as a lower order route.	Noted. This is the current thinking, as shown in Figure 3 in the motivation report.
26	The landscaping and built form interfaces need to be expressed and shown in more detail in the Precinct Plans and other subsequent plan submissions.	Noted. Refer to item C.30.
27	Housing typologies at the River Club need to be varied in typology and nature so as to allow for choice.	Noted. Refer to item C.30.

**D. City of Cape Town IDA: Landscape Architecture**

No.	Summary of Comments	Response
28	A Landscape Masterplan and landscape guidelines must be submitted with the Precinct Plans.	Noted. Refer to item C.30.
29	<p>The Landscape Masterplan should include the following:</p> <ul style="list-style-type: none"> <li>a. Highlight public facilities and their association with the public realm;</li> <li>b. An indication of how the development edge (including both buildings and hard landscaping) relates to and respect the river (i.e. rehabilitated Liesbeek Canal);</li> <li>c. The widths of setbacks and ecological corridors (these should align with the specialist recommendations);</li> <li>d. The location of the pre-colonial memorial, what the design intent is for this memorial and how the development will respond to it;</li> <li>e. An indication of the landscaping intent for the: <ul style="list-style-type: none"> <li>- ecological corridor;</li> <li>- the rivers (i.e. rehabilitated Liesbeek Canal);</li> <li>- the bio-swale system;</li> <li>- recreational areas; and</li> <li>- hard landscaped public areas.</li> </ul> </li> <li>f. Indication of the surrounding context (i.e. abutting properties) and how these relate;</li> <li>g. Cross sections as indicated, which must include:</li> </ul>	Noted. Refer to item C.30.

	<ul style="list-style-type: none"> <li>- how planting is used to mitigate the scale of the buildings;</li> <li>- relationship between the NMT routes and the internal roads;</li> <li>- relationship between the NMT routes and the watercourses;</li> <li>- the nature of the vegetated stormwater swale;</li> <li>- a demonstration that the rehabilitated Liesbeek Canal, vegetated stormwater swale and 'eco-corridor' will match the experience of the Raapenberg Wetland &amp; Bird Sanctuary;</li> <li>- the relationship between Berkley Road / green space / buildings / internal roads / buildings / ecological corridor;</li> <li>- how the courtyards between buildings will feel (ratio between vertical and horizontal) and be treated (use of courtyards, shadows, reduction of scale etc.);</li> <li>- how level changes as a result of raising the development above the 100-year floodline will be dealt with and how pedestrian movement and accessibility will be facilitated in relation to this raising;</li> <li>- culverts and other interventions to allow for proper ecological functioning.</li> </ul>	
<b>E. City of Cape Town TDA: Stormwater and Catchment Planning</b>		
No.	Summary of Comments	Response
30	The hydrology and hydraulics for the current situation with or without a proposed River Club development have been studied in detail. It is accepted that, given the current situation, the proposed development will not significantly increase local flood risk. As such an application to deviate from the CCT Floodplain policy cannot be opposed by this office.	Noted. This is taken as the validation and endorsement of the findings, recommendations and conclusions of the surface water hydrology report prepared by Aurecon (refer to Annexure H of the motivation report).
31	The application would have to include a detailed river corridor plan. Such plan will have to be submitted and approved by this office before further applications can be supported.	Refer to item C.40 above.



32	The CCT Floodplain policy does not allow the SW branch to approve development below the 1:50 year floodline. As the proposed development is below the 1:20 year floodline, permission to develop will have to come from higher authority than this office.	Noted. It is not yet clear which CoCT official / department will provide final authorisation with respect to this requested policy deviation.
33	Deviations from the Stormwater Impacts Policy requirement to attenuate larger order storm event runoff from the site can be supported if such attenuation can be proven to be pointless given the location of the site.	When detailed modelling is undertaken as part of the Stormwater Management Plan this will be tested and demonstrated. It is requested that CoCT support such deviations if attenuation can be proven to be pointless given the location of the site.
34	Requests to deviate from water quality requirements (24h detention of 1y RP 24h event) are not supported.	This is accepted. The development will make use of swales to treated water quality to the required standard.  (Note: The applicant did not request or apply to deviate from this water quality requirement. The CoCT is simply stating that when the Stormwater Management Plan is undertaken it should not deviate from the stormwater quality requirement. This is thus akin to a condition of approval.)

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F. City of Cape Town TDA: TIA & Development Control		
No.	Summary of Comments	Response
35	<p>Transport has no objection to the proposed development subject to <i>inter alia</i> the following conditions:</p> <ul style="list-style-type: none"> <li>a. That the proposed road infrastructure &amp; intersections as recommended in the TIA is implemented and that Malta / Berkley / Liesbeeck intersection will be design option 2.</li> <li>b. That the developer is responsible for all design and construction costs to implement the road upgrades to full municipal standards which includes blacktop, kerbing sidewalks, street lighting, ducts, pedestrian crossings, stormwater infrastructure, traffic signals, lane markings and signage.</li> <li>c. Detailed civil engineering plans are provided for the road upgrades along with the associated costs.</li> <li>d. A comprehensive traffic accommodation plan for the construction phases is submitted for approval by the relevant departments within Council prior to commencement of any works and the cost of accommodating traffic is for the developer's cost.</li> <li>e. Ensure that no trapped low points are created with the geometric design of all roads, parking areas and overland escape routes.</li> </ul>	<p>The following is confirmed:</p> <ul style="list-style-type: none"> <li>a. The proposed intersection of Liesbeeck Parkway / Malta Road / Berkley Road extension will be Option 2 (as per the TIA) to accommodate access to PRASA.</li> <li>b. All upgrades on municipal roads will be to full municipal standards to extent as guided by the CoCT TDA Project Management Team.</li> <li>c. Detailed engineering detailed drawings will be prepared, and a corresponding cost estimate will be provided as part of the approval process.</li> <li>d. The traffic accommodation during construction will be part of the detailed engineering drawings submitted for approval.</li> <li>e. The escape routes are all above the 1:100-year flood line. Although "basement" parking is located below the 1:100-year flood line, the entrances to "basements" have been designed to be above the 1:100-year flood line.</li> </ul>

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G. City of Cape Town: Recreation and Parks		
No.	Summary of Comments	Response
36	<p>In principle support for the development proposal, subject to the following conditions:</p> <p>a. Future development applications should include an assessment of the existing social and sporting facilities and their capacity to accommodate the additional demand resulting from the River Club development.</p> <p>b. Detailed landscape plans must be submitted with future applications. In addition to standard requirements, the plans should clearly illustrate the functionality of the green spaces.</p> <p>c. Maintenance responsibilities of the green spaces must be clearly defined on the Landscape Masterplan and/or in the landscape guidelines.</p>	<p>a. Future development applications will provide more details on population density proposed at the River Club, which will provide an indication of the additional demand to be placed on the existing social and sporting facilities.</p> <p>b. Noted. Refer to item C 30 above.</p> <p>c. It is anticipated that all maintenance associated with the green spaces on and immediately adjacent to the site (e.g. the rehabilitated Liesbeek Canal and infilled 'old' Liesbeek River) will be undertaken by the owner / developer of the River Club. This however will be subject to further negotiations and potentially a service level agreement between the CoCT and the owner / developer of the River Club.</p>
H. City of Cape Town: Water & Sanitation		
No.	Summary of Comments	Response
37	No infrastructure under the control of CoCT's Bulk Water Branch exits in the immediate vicinity of the proposed development.	<p>We understand that this comment means that no Bulk Water pipelines are affected by the development in terms of bulk pipes that have to be relocated to facilitate development.</p> <p>(Note to reader: This comment is a favourable comment and does not imply there is not bulk water capacity but that bulk mains are not affected.)</p>
38	The nearest municipal sewer connection is the 1050 mm diameter main in Observatory Road, which is not able to accommodate the proposed development.	Noted. The owner / developer is aware of this constraint and therefore is proposing discharge at the 1050 mm main at Station Road and that such discharge will occur during off peak times (as agreed with CoCT).
39	The water network has sufficient capacity to accommodate the proposed development.	Noted.

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40	The sewer network does not have sufficient capacity upstream of the 1050 mm bulk sewer from Station Road. The development will therefore require a sewer storage facility and pump station on-site. The Athlone WWTW is at capacity but flows can be diverted to Cape Flats WWTW via Cape Flats 3 bulk sewer.	The owner / developer has already made provision for a sewer storage facility and pump station in the design concept and it is accepted that these facilities will be required as part of the development
41	The Water & Sanitation department has no objection to the proposed development provided the following conditions are adhered to:  a. A development contribution is payable; and b. The applicant is responsible for the relocating of any water and sewer infrastructure that may traverse the erf boundaries at their own cost.	The owner / developer is committed to paying the development contribution that is levied by CoCT and has already accounted for this cost in the development budget.  The applicant agrees to relocate any water and sewer infrastructure that may be discovered. The applicant has reviewed the existing services plans supplied by the CoCT and there are no services traversing the site. However should services be discovered during development that are not reflected on the as-built plans applicant agrees to relocate these at their own cost.
42	Various technical requirements are listed, relating to <i>inter alia</i> : <ul style="list-style-type: none"><li>• metered connections;</li><li>• design of the sewer storage, pump-station and rising main; and</li><li>• water and sewer infrastructure installation.</li></ul>	Noted. The owner / developer agrees to incorporate the various technical requirements stipulated by the CoCT.
<b>I. City of Cape Town: Electricity</b>		
<b>No.</b>	<b>Summary of Comments</b>	<b>Response</b>
43	The existing authorised capacity to this development area is 400 A. The estimated requirement for the River Club (Phase 1 and Phase 2) is 10 MVA. There is currently sufficient capacity to supply the anticipated load.	The 400 A capacity is based on the CoCT's existing LV network to the current River Club Building; to our mind this supply would be useful only inasmuch as it could be used for a "Builder's Supply" if needed in the short term.  The 10-MVA available on the existing Bulk MV Network will be more than sufficient for Phase 1 of the development, or a combination of Phases 1 and 2. The final rating of the Mains Supply Connection/s is dependent on a number of factors, including:

		<ul style="list-style-type: none"> <li>• overall building area; and</li> <li>• occupational usage of areas.</li> </ul> <p>The final rating will also be influenced by such factors as PV Systems which can offset the maximum demand ratings under favourable conditions.</p>
44	Due to the development utilising all spare capacity a new 132/11 kV Main Switching Station on the new development site along Observatory Road measuring 80 m x 80 m is required. This new switching station will only be operational within 3 years after the land has been subdivided and zoned and transferred to the CoCT, and development thereof will be subject to available funds.	This requirement is unreasonable. The CoCT will be using this Step-Down Sub-Station site for a very large geographic area, including the broader TRUP development (which is far larger than the River Club property). This MV Step-Down Sub-Station will comprise an Industrial Scale Switching Yard that will be highly visible and detrimental to the aesthetic of the proposed development.
45	Additional substations (besides the Main Switching Station) will be required in locations approved by this department. These properties shall be directly accessible from public road and shall not be traversed by any other services. Basement substation sites are not allowed. Sites required can take the form of a combination of the following: <ul style="list-style-type: none"> <li>• Multiple outdoor substations on 5 m x 4 m freestanding sites; and</li> <li>• Multiple outdoor substations on 20 m x 14 m freestanding sites.</li> </ul> <p>These substation sites shall be appropriately subdivided and zoned in the subdivision plan to be approved.</p>	Noted. There will be no public roads internal to the site. However, right of way servitudes in favour of the CoCT can be registered for access purposes (to be confirmed in subsequent subdivision application to be submitted). Refer also to item C.30.
46	The existing Liesbeek Park substation on Rem. Erf 26423 is to be subdivided off from the parent erf, registered and transferred to the CoCT at the applicant's cost.	It is not clear what existing substation is being referred to. Regardless, this is an unreasonable requirement as Rem. Erf 26423 belongs to a third party owner.
47	Other comments are made relating to <i>inter alia</i> the following: <ul style="list-style-type: none"> <li>• phasing plans;</li> <li>• SDPs;</li> <li>• installation of the electricity reticulation network;</li> <li>• installation of street lighting; and</li> </ul>	Noted. Refer to item C.30.

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	• solar power generation.	
<b>J. City of Cape Town: Asset Management and Maintenance</b>		
<b>No.</b>	<b>Summary of Comments</b>	<b>Response</b>
48	That the developer / owner be responsible for a payment of development contributions. The current total (based on proposed uses) is R67 197 615. However, a separate Services Agreement can be entered into with the CoCT with respect to Roads and Transport in lieu of development contributions.	Noted.
<b>K. City of Cape Town: Solid Waste Management</b>		
<b>No.</b>	<b>Summary of Comments</b>	<b>Response</b>
49	No objection to the application, subject conditions.	Noted.

4.3 The applicant provided further points of clarity, see Annexure G2 attached, in response to branch comments received. In particular, they ~~wanted to~~ demonstrate their responses to Spatial Planning, Urban Design and Landscaping. Their comment is as follows:

- The proposal is consistent with the draft TRUP LSDF.
- The draft TRUP LSDF reflects the future intended development of the area.
- Despite certain statements made about the TRUP Contextual Framework (2003), said policy does not have legal status; it merely offers guidance.
- Certain information provided will be provided at precinct plan stage.
- Further design refinement will be required.
- Various proposals are made to include the First Nations people's heritage and cultural values in the development given their connection to the site.
- The First Nations Report is therefore an important design informant to the proposal.
- Two precincts comprising 60 000m<sup>2</sup> and 90 000m<sup>2</sup> of development is proposed.
- The built form in precinct 2 will in particular be informed by client needs, in this instance.
- Sustainable green ratings will be adhered to.
- Gateway buildings will be located along Berkley Road comprising a school and offices.
- The rehabilitation of the river largely informs the landscaping philosophy of the proposal.
- A landscape master plan is provided to address landscaping across the site.
- The property will be subdivided into three portions, two portions comprising General Business zones and one comprising an Open Space zone.
- There will be a significant dependence on public transport.
- An internal road will be retained as private road albeit that a public right of way will be registered across the site.
- Open space and NMT routes on-site will connect with that external to the development.
- Various road improvements will be necessitated as a consequence of the proposal.
- The approval of the rezoning will see further submissions made to the City in pursuance to enable the development.

4.4 Further branch comments/responses to additional information furnished, see Annexure F2 attached:

4.4.1 Spatial planning and Urban Design:

- The proposal is supported.
- They believe that the ecological role of the site should be enhanced, this element must be incorporated into the redevelopment of the site.
- The open space should be open to the general public.
- Ideally a multipurpose metropolitan park should be established with high quality public open space.
- Urban design guidelines should inform the overall design of the site.
- The proposal must meet the objectives of the TOD strategy among others.
- Said department has various requirements that must be met and will be imposed as conditions.

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- 4.5.2 Asset Management and Maintenance indicated their no objection to the proposal. They indicate their requirements which will be imposed as conditions.
- 4.5.3 CSRM state the following in the response:
- Catchment Stormwater and River Management are largely satisfied with work done by the applicant's consultant team.
  - The Stormwater policy prohibits exercising development rights in a high hazard zone and 1:50 year floodline.
  - The old Liesbeek River has a polishing effect for stormwater coming from Observatory.
  - The proposal to fill in the old Liesbeek River will further degrade the river and adversely impact on the river ecology. This proposal therefore should not be supported.
  - A buffer of at least 40m should be provided from the river.
  - Further submissions will enable additional opportunities for input on the proposed development.
  - Practical interventions to prevent flooding of the SAAO and mitigation measures against other properties should be undertaken.
  - On-site attenuation will likely be counterproductive.
- 4.5.4 The Recreation and Parks department supports the proposal albeit that greater level of detail will be required. A landscape master plan must be furnished as that provided is inadequate.
- 4.5.5 TIA and Development Control indicate their no objection to the proposal stating that their previous requirements still stand.
- 4.5.6 Environment and Heritage Resources Management state:
- They oppose the application in its current form as the submission for a rezoning is considered incomplete - more detail is required.
  - They do not oppose some development on the site beyond what the OS3 zoning permits.
  - Any development must not detract from the conservation functioning of the Liesbeek River, Black River and Raapenberg Bird Sanctuary.
  - Any development must include the submission of a SDP.
  - It is premature to support the floor factor as proposed as more detailed information must be furnished.
  - The infilling of the Liesbeek River is opposed.
  - The rehabilitation of the Liesbeek canal and Lis supported.

## 5. BACKGROUND TO PROPOSAL

### Description of the area / surrounding land uses

- 5.1. The property is located within close proximity to major routes such as Main Road, the N2 and M5.

The area has diverse land uses comprising various types of

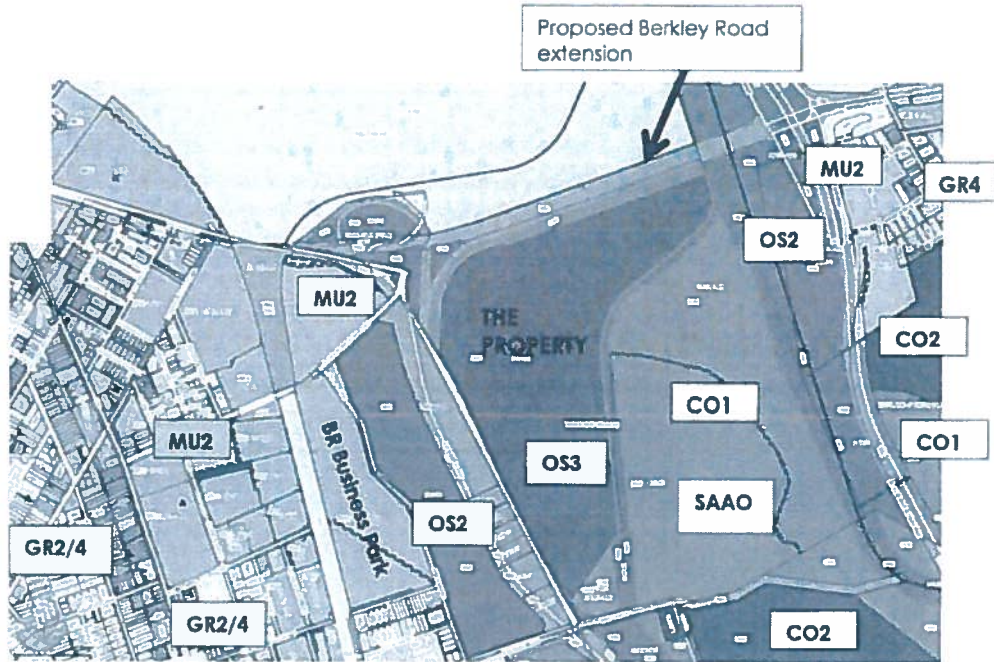
- residential accommodation comprising mainly Dwelling Houses, Flats, two storey walk-ups and row houses and also guest accommodation;







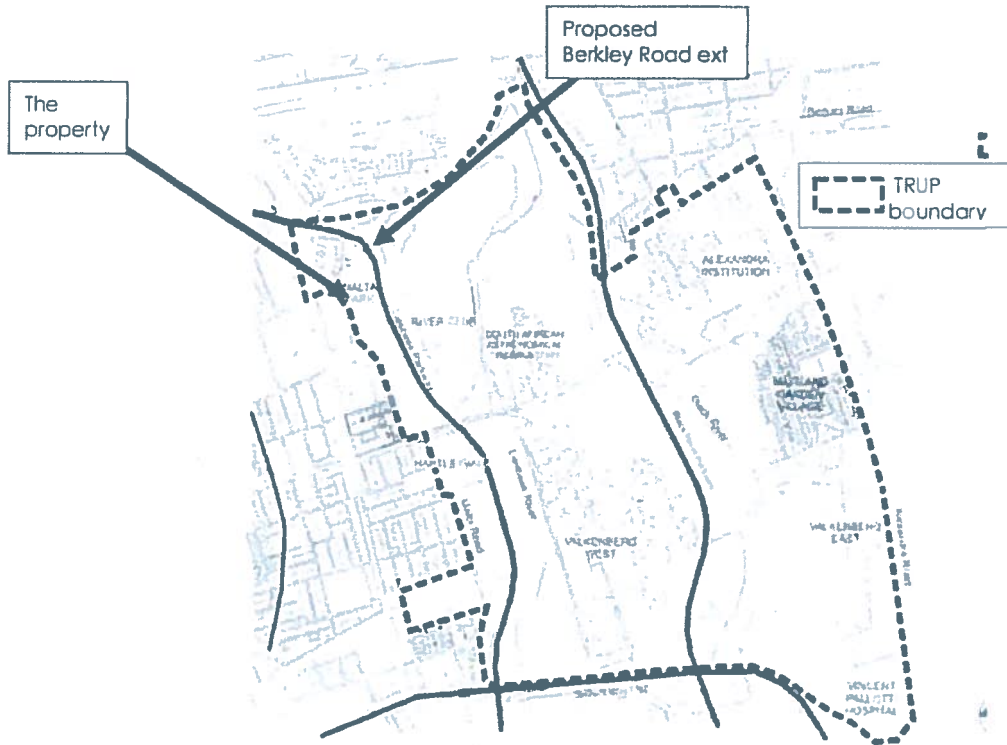
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Surrounding property zones

**Property description**

- 5.2 The property is located within the Two Rivers Urban Park (TRUP). The TRUP extends more or less to the
- North just beyond the Berkley Road extension, along the M5 to Annexure Road;
  - East along Alexandra Road and includes Vincent Pallotti hospital;
  - South along the N2/Settlers Way and
  - To the east along Willow, Ossian and Firs Roads.



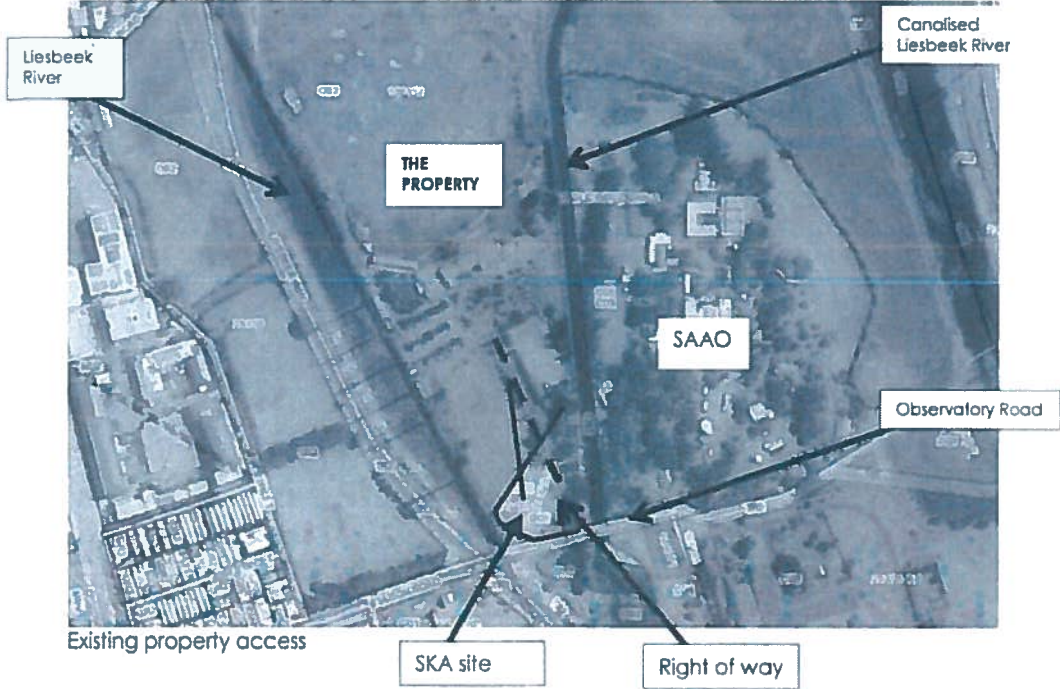
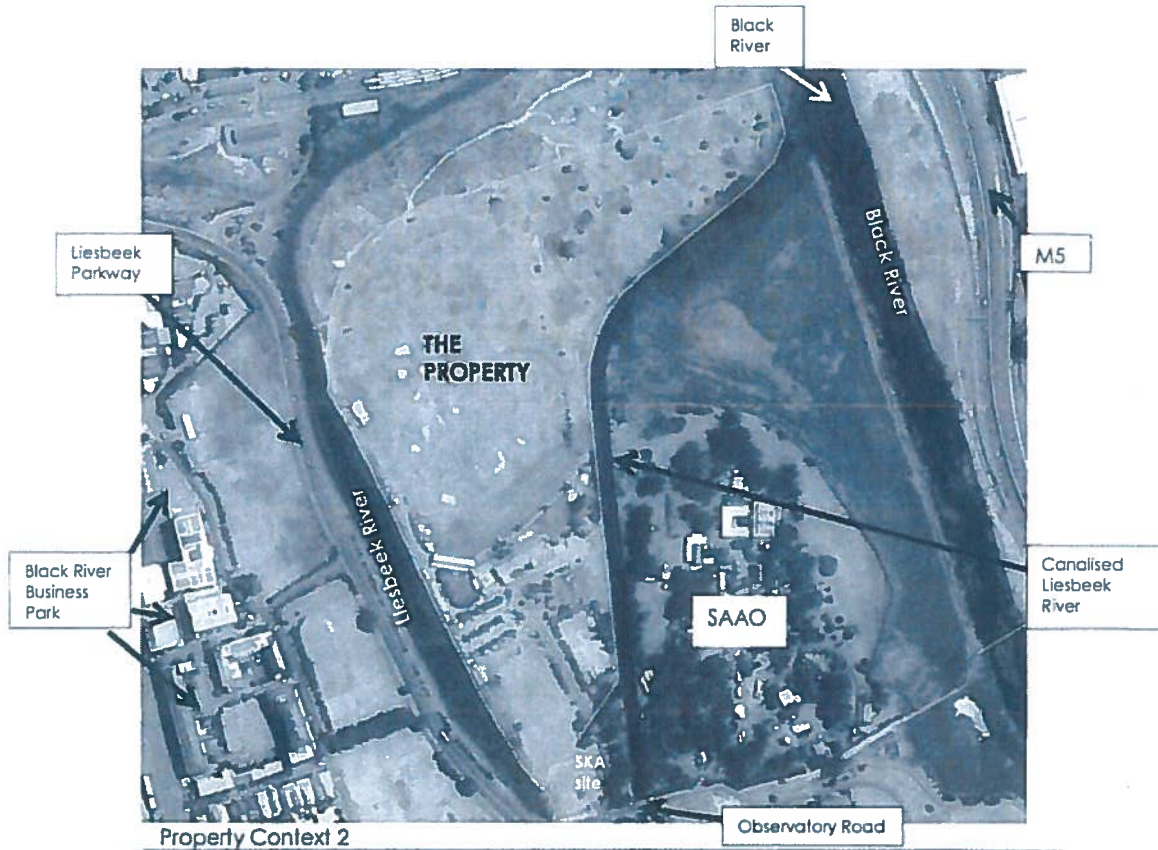
Location of property within TRUP

The property is located to the south of the proposed Berkley Road extension, at the north-west point of the TRUP.

- 5.3 The property is bounded by Liesbeek Parkway and the Liesbeek River to the west, remainder Erf 26423 and Observatory Road to the south, the Liesbeek River canal, SAAO and Black River to the east and the proposed Berkley Road extension and PRASA land to the north. The property is landlocked. A right of way is registered across remainder Erf 26423 in favour of the property for it to gain access via Observatory Road.

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Much of the property is located within a floodplain and is prone to regular flooding. [Most of the property is situated below the 1:50yr, 1:20yr and 1:10yr floodplains. A small component is located above the 1:100yr floodplain.] While the property accommodates a certain range of uses, it has an existing flood warning system to alert staff and patrons alike in the event of flooding.

A range of uses such as a golf driving range, mashie golf course and ancillary uses are accommodated on the property. It further also accommodates conferencing activities and is used to accommodate events such as music concerts, weddings, etc from time to time.

A further range of uses are accommodated on the property - the full suite of uses is described in point 2 (Background) of this report.

**Proposed development**

5.4 It is proposed to rezone the property to accommodate a mixed use development comprising 150 000m<sup>2</sup> of floor space (bulk). Shops, Restaurants, Offices, a Hotel, Place of Instruction (and associated uses), amongst others. It is also proposed to provide residential accommodation which will comprise approximately 20% of the total floor space of the proposal. A portion of the residential accommodation will be reserved for inclusionary housing. The inclusionary housing will equate to approximately 4% of the overall floor space.

Building heights will range from approximately 15m to approximately 46m (2 to 9 storeys) above base level. The proposal will entail the construction of retaining structures so that roads and habitable spaces are raised above the 1:100 year flood plain. The application includes the intention to accommodate retaining structures exceeding the permissible height of 2.0m. [While the ground floor is not being raised, earth will be positioned alongside the first and second storeys or first, second and third storeys so that habitable spaces are raised above the 1:100 year floodplain. In most, if not all instances, ground floor will be used to accommodate parking.]

The development proposed will necessitate the construction of the Berkley Road extension. The applicant will incur the cost of a portion of the construction of Berkley Road while the City will be responsible for the construction of the remainder.

It is also proposed to decanalise the Liesbeek River canal on the eastern boundary of the property to rehabilitate it into a river course. It is proposed to fill and landscape the 'old' Liesbeek River channel on the western boundary of the property for it to serve as a vegetated stormwater swale to hold flood waters.

The application is accompanied by applications to permit the

- Rezoning of the property;
- Raise the level of the ground above the 1:100 year floodplain so that development can take place and
- The deviation from the
  - Table Bay District Plan to permit development within an area demarcated as open space;
  - Floodplain and River Management Corridor and the Management of Urban Stormwater policies to permit the development in a floodplain,



to fill the Liesbeek River and decanalise the Liesbeek River canal permitting a development exceeding 50 000m<sup>2</sup> in extent.

A full list of the applications applied for is contained in Annexure A attached.

**6. PROPOSAL ASSESSMENT**

**Criteria for deciding application**

6.1. Consideration of criteria in terms of Section 99(1):

6.1.1. Compliance with the requirements of the MPBL

- Compliance with the requirements of the MPBL have been met.

The application proposes the rezoning of the property to a subdivisational area. The rezoning to subdivisational area is ordinarily accompanied by a subdivision plan illustrating each zone, sub-zone and the extent of each. This application was accompanied by a plan showing the extent of the open space and general business zones – the subzones was not denoted on the subdivision plan. The information submitted is therefore sufficient to enable consideration of this application, as advertised, even though a detailed subdivisational area plan showing the portions and their corresponding sub-zones will be submitted at the time of precinct plan submission.

The application motivation makes references to the possibility of fewer parking bays being provided than what is required given the range uses and the extent of each use in relation to parking requirements as stipulated in in terms of Item 137 of the DMS. Given the level of detail provided at this stage of the application, no application for a parking departure was submitted, and any such application will be submitted and processed accordingly should the total number of parking bays provided not meet the minimum required in terms of the DMS.

- All the applications in respect of this proposal have been processed and advertised in accordance with applicable laws.

As legally required, the application was advertised in the newspaper, by registered and additionally an on-site notice was displayed. As an additional measure, which is not a legal requirement, the application was also advertised in community newspapers. There is no legal requirement for a public meeting to be held.

The application process yielded a total of 166 letters of objections, 1 letter of no objection and 18 late objections. All the late objections, apart from one, was submitted between 16 – 18 October 2018. Given this, 17 late objections were condoned. These late objections accompanied those referred to the applicant for comment. One late objection was submitted on the 05 January 2019. This late objection was not condoned given as it was submitted in excess of two months late. Notwithstanding this, the issues raised by the late objection was

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addressed by the applicant in their response to objections as other objectors raise the same issues.

An amendment to the extent of the portions that will be reserved for General Business and Open Space 3 (OS3) has been made. The portion zoned for OS3 has been reduced by almost 1865m<sup>2</sup>. It equates to a variance of less than 1% from that originally indicated. The difference in the drop in the portion zoned for OS3 does not warrant the re-advertising of the application as the reduced extent is not considered to be significant within the context. Additionally, while the actual portion of land zoned for OS3 was finite in extent, the extent and portions of the property that will be landscaped and therefore present as being open space will be much greater than the variance mentioned above. This aspect is discussed further in point 6.3(f) below.

Objectors appear to misunderstand the process of notification. They state that

- o insufficient information has been furnished;
- o the departmental report was not attached to the letter of notification;
- o the City is proposing the deviation from City policy;
- o the application is premature as neither the HIA nor the EIA has been adjudicated;
- o because the HIA and EIA has not been adjudicated the rights of the public is compromised given the land use application now under consideration;
- o greater levels of public engagement are required for developments of this scale;
- o the submission suggests that the HIA and EIA objections were disregarded;
- o the application should be informed by the draft TRUP LSDF;
- o the application has a different closing date to the HIA process;
- o the proposal contravenes the National Water Act;
- o the proposal does not satisfy the SPLUMA principles and
- o the on-site notice did not make reference to the property.

Each of the above points are addressed in the table contained in Section 4.2 of this report.

It must be noted that the proposal required an HIA and EIA in terms of the National Heritage Resources Act and National Environmental Management Act, respectively. The HIA is included in the EIA process, HWC therefore becoming a commenting party in the EIA process to DEA&DP. Even though an Environmental Authorisation was issued on 20 August 2020, there is no requirement in law that each of these processes have to be advertised simultaneously or in one advert.

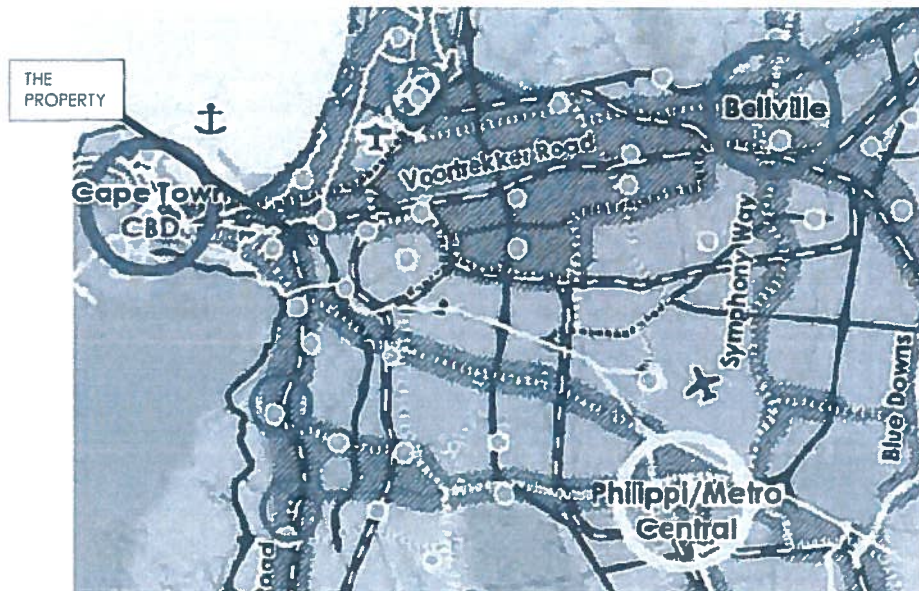
- The proposal was not the subject of an administrative penalty.

6.1.2 Compliance or consistence with the municipal spatial development framework

The site (shown by the arrow on the diagram below) is located within the "Urban Inner Core" and within an integration zone. The metro-south east integration zone is one of two integrations zones that is targeted to receive public investment to promote spatial transformation within the city. Nearby, the north-east is the Voortrekker Road corridor, the second integration zone.

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The emphasis in the MSDF is on "inward growth" within the "existing built urban footprint."

This is discussed further in point 6.2 below.

6.1.3 Consideration in terms of Section 99(3) of the desirability of the following criteria:  
The application is desirable as it facilitates

- local economic opportunities and job-creation;
- the mixed use development proposed will not be dissimilar to the range of uses found in the immediate vicinity of the property.
- A component of residential, a portion of which will comprise inclusionary house, is also proposed.
- The proposal will see a more efficient use of the city's service infrastructure.
- Heritage elements around and on the site must be acknowledged through design and as per the conditions imposed when the environmental authorisation was issued.
- The unique biophysical elements of the site will see the rehabilitation of degraded habitats and increased opportunity for the public at large to enjoy the use of the property.
- The proposal will facilitate the continuation of NMT facilities on the property and within the development.
- Conditions to mitigate the impact of the development are recommended.

6.1.4 Would approval of the application have the effect of granting the property the development rules of the next subzone within a zone?

No, as it is proposed to rezone the property to enable the development thereof.



I am satisfied that the decision making criteria in Section 99(1) have been complied with.

I am satisfied that the considerations in Section 99(3) have been assessed and that the proposed land use is desirable.

**6.2 Consideration of criteria in terms of Section 99(2):**

**6.2.1 Integrated Development Plan 2017-2022**

The IDP informs the City's key strategies being the opportunity city, safe city, caring city, inclusive city and well-run city. The inclusive city focuses on economic opportunities, safety of its citizens and integration of communities. Focusing development to attain inclusivity aids in achieving at least three of the strategic objectives. Incorporating all five objectives in a development is key.

Eleven priorities stem from the five strategic objectives of the City. These include but are not limited to, positioning Cape Town to be a globally competitive business city, economic inclusion, resource efficiency, safe communities, dense and transit oriented urban growth, efficient and integrated transport systems, building integrated communities. These priorities are elevated in significance as a transversal approach to the planning of developments of this nature and scale is required to ensure the development is sustainable. Interdependencies between disciplines highlight the importance in achieving a successful development.

The inclusive and opportunity city is achieved through economic inclusion. Job and income creation provides the opportunity for an improved quality of life which in turn once again feeds into and stimulates economic growth. The proposal provides an opportunity to simultaneously bring investment into the city and once more stimulate job creation. In the instance of this submission, inclusivity is further enhanced through the provision of a small component of inclusionary housing within the proposal. (This is expounded on further on in this report.)

The benefit of the development must also be extended to the wider Cape Town through the agglomeration of a mix of land uses, the location and level of density. These qualities contribute toward the spatial transformation of the City. The IDP encourages spatial transformation by employing the use of Transit Orient Development Strategy (TOD) principles that encourage new development to positively influence the urban form and be positioned around existing and planned public transport links. Such development must be sufficiently dense to promote the use of public transport in conjunction with reduced parking ratios.

The proposed dense mixed use development located in such a highly favourable location and between train stations, with other modes of public transport further endeavours to incorporate the principles mentioned.

**6.2.2 Economic Growth, 2013 and Social Development Strategies**

Cape Town is experiencing rapid urbanisation and increased population growth. This places significant strain on the existing service infrastructure, the economy and consequently the need for jobs.



Many of the City's citizens are separated from the city's economic hubs which are located significant distances away from places of residence. Location of new developments within established areas must therefore be encouraged as they improve access to opportunities and amenities as well as offer opportunity to contain urban sprawl. This, in turn, limits the cost associated with the provision of additional services as is usually associated with new developments on the periphery of the City.

Where existing communities are located great distances from amenities, places of employment, etc. high levels of congestion and lengthy commuting times are experienced. Expanding its BRT system and focusing on public transport will provide greater accessibility to various opportunities within the greater city area. Greater thresholds are required to justify or cover the cost of such service provision. Intensification, densification and diversification of uses become the cornerstone to this end.

Proposed road improvements arising from this development will benefit both the recipient and wider communities as it will connect the east and west. Investment such as that proposed may also, in the long term, result in investment in public transport resulting in further benefits to the recipient community and wider Cape Town.

The property is located between two train stations. Just beyond that access is offered to other modes of transport. The development therefore will have a favourable impact on the area both in the short and long term.

The site will continue to have private open space that will be maintained by the developer. Pedestrian walkways along the river's edge will continue to be provided. The elements of open space will offer the opportunity for the public to have continued access to the river's edge.

6.2.3 Integrated Human Settlement Framework (IHSF)

While the Integrated Human Settlement Framework relates to the City's provision of housing, it acknowledges the need to change the way in which housing is provided in the city by the City. One of the core programmes of the IHSF influencing is fostering partnerships as one of the key requirements to achieve the City's medium to long term goals.

The property has not been identified in the policy for housing provision or as a catalytic project. While the location of the site is strategic, the primary intention of the development is not housing provision. Notwithstanding this, it is proposed that 20% of the floor space (about 30 000m<sup>2</sup>) will be reserved for housing provision of which 20% (about 6000m<sup>2</sup>, i.e. approximately 4% of the overall floor space of development) be reserved for inclusionary housing. The City has not sought to establish a partnership with the relevant developer for the provision of housing. Neither has said developer entered into discussions with the City's housing department regarding inclusionary housing provision.

6.2.4 Transport Orientated Development Strategic Framework, 2017

TOD seeks to change, stimulate and develop the built environment in such a way that movement patterns of people and goods optimize urban efficiencies and create social equity as economic development is promoted.

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TOD principles require that

- Public transport cost to commuters and the provision thereof must be reduced;
- Development should be located strategically to make it equally accessible socially and economically;
- Level of service must be efficient to reduce trip distances and dependence on private motor vehicles;
- Land use development must be intensified and densified to achieve the desired form, and
- mix of uses in the right location to make it accessible, affordable and ensure the efficient use of public transport.

At a metropolitan level TOD should try to consolidate the relationship between land use and travel patterns across the City. It must therefore be used as a tool to inform the ideal location of new development. Various role players have a collective contribution to make to achieve the TOD vision. Additionally, it should seek to integrate different communities.

Although the current OS3 zoning generally limits development to active or passive recreation and open spaces, the proposal must be assessed against the likelihood of the status thereof changing to a developable site. The Environmental Authorisation issued permits the development of the site. To this end, consideration must be given to the context of the proposed development that presently exists in its surrounds with its associated desired development/threshold outcomes. Furthermore, the property forms of the metro south east integration zone.

It is accepted that land development attracts trips with varying characteristics depending on the location. A public transport network plan (the Integrated Public Transport Network i.e. IPTN) intended to guide public transport intervention was approved by the city. It encourages a strategic approach to public transport improvements. Development scenarios must adhere to the core principles of sustainable development that ensures that public transport movement is affordable, accessible and efficient. The IPTN therefore was devised to direct TODC principles by simultaneously promoting public transport provision with sufficient thresholds to promote the use and reduce the cost thereof to end users while also promoting intense, more sustainable levels of development.

IPTN identified locations that are under resourced in previously disadvantaged areas where public transport intervention must be made. These interventions are aimed at connecting such communities with places of opportunity. The current IPTN was approved in 2017 and is in the process of being implemented. It is however under constant review to refine the plan to improve connectivity between the disadvantaged and places of opportunity.

While the property or area in question is not amongst those identified for public transport upgrade, it is acknowledged that the development may impact future planning and highlight the need for public transport provision in this area. The fact that the property falls within an integration zone (discussed further below) may provide further impetus for Liesbeek Parkway and Berkley Road extension to be identified as suitable for road based public transport investment/intervention.

According to the TODC (Transit Oriented Development Comprehensive) when assessing the property against Transit Accessible Precincts (TAPs) criteria, the property should see no residential development while non-residential activities is encouraged to not exceed 5000m<sup>2</sup>. However, this in itself is not an end state because of the dynamic nature of cities and how they are transformed.

TAPs has regard for the location of the site given proximity to existing and proposed public transport facilities. In this instance, neither Liesbeek Parkway nor Berkley Road or any of the surrounding roads within 500m of the site, are earmarked for public transport upgrades. Having said this, and as stated above, developments of this nature generally tend to serve as catalysts and may therefore cause a re-evaluation of the IPTN, which is presently under review so that the roll-out of public transport may be re-considered within the context of the dynamic nature of the city.

The City's Transport Planning Department indicating no objection to the proposals and the TIA which addresses the matter of private and public transport and related access arrangements to the site. Therefore, the existing network and future civil engineering and infra-structure interventions would likely meet any public transport needs, especially given the proposal that at least 40% of vehicle trips to the development will be dependent on public transport. (This is discussed further in point 6.3 g) below.)

TOD comprehensive is viewed as the desired end state of urban form to address the public transport inefficiencies. New land use and transport interventions must support the desired end state notwithstanding the IPTN and TAPs. The objective of TOD comprehensive is to

- Reduce travel distances by intensifying, diversifying urban development close to public transport;
- Optimise bi-directional flows by promoting an appropriate mix of land uses and from near high order public transport corridors
- Generate a greater level of seats by promoting an appropriate mix of land uses within district and local nodes.

Notwithstanding the above, the property forms part of the metro south-east where trip attracting land uses comprising both social and economic opportunities should be located. It should ideally be dominated by residential development. The metro south-east forms part of one of two integration zones that must be prioritized based on their public transport links that must be established between existing and emerging urban nodes. Integration zones are areas identified to best transform the spatial structure of the City and therefore promote integration. These areas are earmarked to receive targeted funding where catalytic projects that will facilitate TOD opportunities must be encouraged.

The proposed density as well overall design supports the principles in the City's Transport Orientated Development Strategic Framework (TOD) as the development:

- is high density mixed use with more than double the density threshold for the provision of viable public transport system.

- is located close to existing and planned public transport stations and stops, which includes a 10 minutes or less walk/cycle to train stations and future integrated public transport network routes. (IPTN).
- has reduced parking ratios and which encourages the use of public transport.
- Is designed to discourage the use of motor vehicles in support of other modes of transport (walking, bicycles/scooters, trains, buses and trains).
- promotes walking through design that prioritizes surveillance thereby creating a safe neighborhood.
- has both trip generating and trip attracting land uses by virtue of it being mixed use-high density.
- reduces travel distances by intensifying and diversifying urban development close to public transport systems
- represents appropriate land use mix, residential development and social and economic activity at, and between, urban nodes along higher-order transport corridors
- is a departure from low density single use developments that perpetuates the legacy of the apartheid spatial planning system.
- represents a good example of compact and livable human settlement planning that meaningfully signals the City's intent to curb urban sprawl.

6.2.5 Cape Town Spatial Development Framework, 2018 (MSDF)

At the outset, the Section 9(4) of the MPBL states that,

*"The municipal spatial development framework does not confer or take away rights."*

Instead, the Section 3(3) of the MPBL explains that the purposes of the City's spatial development frameworks include –

- (a) *providing a longer-term spatial depiction of the desired form and structure of the geographic area to which it applies;*
- (b) *providing land use management guidelines regarding the appropriate nature, form, scale and location of development;*
- (c) *contributing to spatial co-ordination;*
- (d) *guiding investment and planning of municipal departments and where appropriate other spheres of government;*
- (e) *guiding investment for the private sector;*
- (f) *reflecting relevant provisions of strategies adopted by the Municipal Council; and*
- (g) *guiding decision making on applications.*

Additionally, the Section 9(5) of the MPBL states that,

*"If there is a conflict between the municipal spatial development framework and a district spatial development framework or local spatial development framework, the municipal spatial development framework prevails over other development frameworks to the extent of the conflict."*

As mentioned, the property is located in the urban inner core. The proposals are consistent with the MSDF for the following reasons:

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The MSDF identifies four Spatial Transformation Areas (STAs), the urban inner core is one of the spatial transformation areas. Here public investment and growth must be prioritised.

Spatial transformation and resource allocation should be anchored in the principles established in transit oriented development (TOD) supported by various policies and strategies which aim to intensify, densify and diversify land uses. An efficient transport system that integrates all communities is an imperative in achieving the abovementioned goals. The City's capital budget therefore must be aligned to achieve these ends.

The City is committed to spatially transform and integrate the city through targeted investment. The urban inner core is where spatial transformation must be encouraged, amongst others.

The property is located within the urban inner core though being identified as being located outside of the urban footprint. [The urban footprint in this instance is considered to be the total spatial extent of existing urban development (p.100).] The urban inner core represents the priority development and investment area of the City. It is here where infrastructure needs to be upgraded and intensification of land use should be supported.

The City must focus spatial priorities on inward growth to promote the urban economy, sustained job creation which will in turn have a knock-on effect.

Additionally, the MSDF identifies three "Integration Zones" which, amongst others, promotes both public and private investment to transform Cape Town's spatial landscape through establishing effective transport links, linking economic opportunities and settlement patterns and to invest in infrastructure and catalytic urban development projects. One of these is the Metro South-East Integration Zone - the Two Rivers Urban Park sits within the Metro South-East Integration Zone.

The objectives for the MSEIZ include -

- Compact, efficient developments that integrate the City;
- Public transport restructuring must occur in conformance with TOD principles to unlock growth and promote development in appropriate locations; TRUP is identified as one of these areas;
- Public-private sector working alongside each other to achieve investment into infrastructure, amongst others is also acknowledged as important.

The proposal will be located on Liesbeek Parkway and is positioned between Observatory, Koeberg, Salt River and Maitland train stations. Bus and taxi routes are located further afield. The intended development of the TRUP and the strategic identification of this precinct may stimulate improved and focussed public transport links into the area.

In addition to the above, the property is borders river corridors and wetlands and is located below the 1:100 year floodplain. It acknowledges the need for a balance between development and environmental protection.



Additionally, the property was protected in terms of the National Heritage Resources Act and therefore would have been considered to be amongst the critical natural assets in terms of the MSDF. That protection status however lapsed in April 2020.

The applications will ensure a development that is compatible with the wider receiving urban context given the general residential and mixed use zones located in the vicinity and the related range of uses. Some open space components will be retained as part of the proposal.

Besides the uses mentioned, the proposal includes an element of inclusionary housing. The MSDF defines affordable and inclusionary housing as a:

"Policy directive and approach that seeks to leverage the development application process for new residential or commercial developments to secure the construction and perpetual availability of affordable housing in an integrated manner."

The MSDF in turn defines affordable housing as "Traditionally affordable housing refers to housing with prices or values below the overall open market value which targets below-average incomes. In this MSDF affordable housing refers to the household income brackets of R3501-R18000 per month, and is inclusive of social, G.A.P, and inclusionary housing. It also refers to residential units valued at R500 000 or less."

The MSDF sees Spatial transformation as reversing the impact of previous apartheid spatial planning by encouraging more opportunities for people who were previously disadvantaged to be located in areas that are "highly connected" and where public sector investment will be focused.

While an inclusionary housing element will comprise a small component of development, focused public sector investment into public transport facilities could serve to widen the accessibility of the site by improving public transport connections between previously disadvantaged communities and this proposal. Additionally, the proposed development is located in close proximity to established public transport, employment and commercial development opportunities and other amenities.

6.2.6 Table Bay District Plan, 2012

The property is located within the metropolitan node in Sub-district 3 of the Table Bay District Plan. The proposal seeks to deviate from the Table Bay District Plan (TBDP) which identifies the Two Rivers Urban Park as a multipurpose metropolitan urban park. It is designated as buffer 1 and core 2. It is regarded to be a precautionary area given the location of the site within a floodplain. A precautionary area are those areas that may pose a risk or have limited capacity for development.

[Buffer 1 areas are generally farmlands and natural vegetated sites, amongst others. It could accommodate utility services. These properties usually do not form part of core areas. Core 2 areas are generally ecological areas and areas that offer ecological support. In this instance it accommodates water bodies and rivers.]

The TBDP argues that such facilities as TRUP should be rehabilitated and upgraded. It should be used for passive and active recreation based on the Open Space 3

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zoning. According to the TBDP a limited range of development could be encouraged such as residential, some institutional uses and appurtenant limited commercial development. Public access should be permitted along the edges of the site where appropriate. As far as possible mountain to sea linkages must be retained as well as maintaining access to the waters edge.

As is evidenced from the preceding comment, the district plan does not accord with the MSDF. The district plan was approved in 2012 while the MSDF was amended and approved in 2018. For this reason, district plans are presently being reviewed to ensure consistency with the MSDF. The review of district plans are still the initial stages of review.

The MSDF requires that lower order policies are consistent with the findings thereof. This principle is reiterated in the district plan. All lower level policies are informed by the higher order policies. The MSDF states that where lower order spatial plans conflict with the MSDF, the findings of the MSDF must take precedence.

When assessing deviations for the district plan regard must be had for compliance with the PSDF and the MSDF (previously the CTSDF). If the proposal conforms with these policies, then consideration must further be given to whether the proposal

- conforms with overall goals for local area policy;
- gives effect to the general compatibility or appropriateness with the surrounding urban landscape;
- impacts on safety, health and well-being of the local community;
- is likely to have unacceptable environmental impacts;
- be informed by any new information that may warrant a different development and
- is appropriately located within context at this point i.e. have regard to growth informants, for example such as bulk service infrastructure availability amongst others.

A number of these issues are pertinent to the assessment of the application and will be discussed further in the assessment of the departmental report.

6.2.7 Environmental Strategy, 2017 and Cultural Heritage Strategy

While it is acknowledged that the development will continue within an urban area the impacts on the natural environment and cultural heritage should be minimized and managed.

The Environmental Strategy (ES) argues that the natural environment is held in trust for all. Access to natural open spaces has been inequitable over the years. Developments should therefore not hamper or impede equitable access to the environment. Changes in land use in terms of potential impacts should be minimized or mitigated.

The ES argues that the City's heritage assets comprise both natural and cultural (which includes both tangible and intangible) heritage. Each of these should be recognized, protected and promoted. It contributes toward a strong sense of place. It also holds economic benefit to the City. Given the city's diverse cultures the city's heritage should be celebrated. Any changes in land use should be sensitive and as



far as possible not adversely impact on the natural/cultural heritage. Where adverse impacts cannot be avoided, interventions should be employed to minimize/reduce impacts so that positive impacts are pronounced and maximized.

The Cultural and Heritage Strategy identifies heritage resources as "any place or object of cultural significance" which can be both tangible objects but may also comprise intangible heritage such as "traditions, oral history, ritual, ceremonies, language, popular memory and indigenous knowledge systems". Both places and objects of cultural significance are considered to be important because they connect society through memory to a sense of social and individual identity. Heritage resources are important because they allow future generations to understand past struggles and developments that shaped history and society. The protection of heritage resources has the ability to play a significant role in social and economic upliftment of the people.

The property is located in a cultural environment that some may regard to be of environmental significance, yet others will argue is environmentally degraded. This is evident in comments from the applicant and objectors.

The river corridors are home to various species of fauna and flora. While some of the spaces may be degraded, it does not by implication mean that they cannot be transformed through intervention measures that restore the environments.

The proposals include the intention to develop approximately two-thirds of the site and to retain approximately one-third as open space within the larger open space. The open space will provide a public right of way for the general public to have access to the river in the form of pedestrian walkways and cycle paths.

While it is acknowledged that the property includes elements of heritage significances, these are to be incorporated into the proposal by various means, such as, memorializing the history by means of story boards that tell of past experiences and the provision of architectural elements such as an amphi-theatre in the shape of an indigenous kraal, spaces that enable, display of traditional crafts, amongst others.

6.2.8 TRUP Contextual Framework (CF), 2003

The TRUP Contextual Framework (CF) was approved in 2003. It was devised to guide development within TRUP. The CF encourages the property to be used for commercialised recreation which would include a limited extent of development that would mimic existing buildings on the property. It did not discount the likelihood of further development but acknowledges that the further development of the site should be subject to guidance offered by the Stormwater and the Catchment Management departments.

While the CF remains in force, it is presently under review. In accordance with the Section 99(5) of the MPBL consideration of the application cannot be held in abeyance while awaiting policy approval.

[It must further be noted that no reference is made to the draft policy due to its status.]

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6.2.9 Floodplain and river corridor management policy, 2009 (FRCM)

The application includes the intention to deviate from the mentioned policy. It is proposed to permit the obstruction of the free flow of water in a 1:20 year flood plain and to provide fill below the 1:50 year floodplain. This deviation is required as it is proposed to develop the property as well as to fill the Liesbeek River.

Generally, the aim of this policy is to manage the flow of water in the floodplains and river corridors and to avoid high risk floods or hazard zones. High hazard zones are areas where the ability for vehicles to wade through flood waters is impacted and where the stability of buildings/structures is compromised by flooding. It is also linked to the frequency of flood events. The policy asserts that no development should take place in high hazard zones.

Within the context of the proposals, this now includes the placement of buildings within the floodplains and river corridors and filling of the Liesbeek River. Based on this, the applicant undertook a hydrology study. The environmental authorisation process undertaken concludes that it supports development within the floodplains and river corridors and the filling of the Liesbeek River.

On the other hand, based on the guidance in the applicable policy, the custodian City department only supports development within the floodplains and river corridors while it does not support the filling of the Liesbeek River

According to the policy, areas above the 1:50 year floodplain could permit a certain very limited extent of development (development meaning any man-made change to property) – see the table below. All development should ideally be located above the 1:100 year floodplain though. In instances where development is permitted in floodplains, development methodologies must be employed to reduce flood risks to people and properties. Permitted development must therefore be designed in accordance with best practice methods and conditions as set out in the policy. Any development near to watercourses must anticipate a degree of flood risk in particular when below the 1:100 year floodplain. To this end the proposal acknowledges some flood level rise.



Table Shading Key	
Colour Coding	Description
Clear	Permitted
	Conditionally Permitted
	Not Permitted

Code	Requirement	Additional Requirement Key
R1	A registered Engineering Professional must be engaged by the developer to satisfactorily demonstrate and certify that: <ul style="list-style-type: none"> <li>The activity / development will not materially increase flood hazards for other property owners or adversely affect flood behaviour or the stability of river channels.</li> <li>Any structure can withstand the forces and effects of flowing floodwaters, including scour of foundations, debris forces and buoyancy forces.</li> </ul>	
R2	Floors above 1:100 year flood level. Basements (non-habitable purposes) to be flood-proofed to 1:50-year flood level.	
R3	Floors above 1:50 year flood level	
R4	A registered Environmental Professional (Aquatic Ecologist) must be engaged by the developer to determine the ecological buffer (if not available) and to satisfactorily demonstrate and certify that: <ul style="list-style-type: none"> <li>The activity / development will not negatively impact on the present condition of the watercourse or wetland OR</li> <li>The activity or development will improve the condition of the watercourse or wetland from its present state.</li> </ul>	

The land use / development / activity must be set back beyond the greater of the applicable floodplain zone / geomorphological or ecological buffer requirements

Land use / Development / Activity	Requirements and Conditions						Ecological Buffer (Width in meters)	Explanatory Notes
	Floodplain Zone (Flood Recurrence Interval in Years)							
Category	< 2	2-20	20-50	50-100	>100 (Note 1)	Explanatory Notes	Up to 75m (Note 2.3)	Explanatory Notes
Industrial Development								
Light, General, High Risk								
Extractive (Mining)		R1	R1					
General				R2				
Business Development								
Commercial (CBD)								
Service Stations								
Residential Development								
Formal				R2				
Informal								
Community & Public Facilities								
Hospitals, Clinics, Nursing Homes, Old Age Home								

FRCM assessment framework for proposals

Development permitted between the 1:50 year and 1:100 year flood levels is subject to certain conditions. Any habitable space must be flood proofed and certain compensatory measures must be instituted to address flooding – these measures must be undertaken by the applicant to safeguard properties impacted by flood

level rise as a consequence of the proposal (whether these properties presently experience flooding or not presently). This view is reiterated by CSRM.

Elsewhere, the policy states that habitable spaces should ideally be accommodated above the 1:100 year floodplain. The proposal intends providing all habitable space above the 1:100 year floodplain. Super box-like structures will be placed on the land to accommodate parking that will raise the levels of habitable floors above the 1:100 year floodplain.

Land use / Development / Activity		Requirements and Conditions							Ecological Buffer (Width in meters)
		Floodplain Zone (Flood Recurrence Interval in Years)							
Category	Typical Examples / Activity	< 2	2-20	20-50	50-100	>100 (Note 1)	Explanatory Notes	Up to 75m (Note 2,3)	Explanatory Notes
Resorts	Agricultural Processing / Industry				R1/R2				
	Feedlots, Piggeries and Battery Farming		R1		R1		Subject to Conservation of Agricultural Resources Act (CARA) Regulations		
Resorts	Hotels, Holiday Resorts and Bungalows				R2				
	Caravan and Camping Sites		R1	R3			All abolition facilities to be located above the 20 year floodline	RH	
Transport Systems	Roads and Railways elevated above NGL		R1	R1	R1				
	Modal Interchanges, Bus Depots, Railway Stations								
	Parking Areas				R1				
Bank Protection Works, Flow Diversion Structures, & Earthworks	Revetments, Training Walls, Levees	R1	R1	R1				RH	
	Dams, Weirs, Bridges	R1	R1	R1	R1	R1	Dam-break analysis to be performed where required in terms of National Water Act	RH	
	Filling				R1	R1	In exceptional circumstances minor "smoothing" of the 60 / 100 year floodline may be considered, provided equivalent compensatory storage volume is provided within the development precinct		

FRCM assessment for proposals

The abovementioned tables show that in addition to infrastructure, parking could be accommodated in areas between the 1:20 and 1:50 year floodplain, amongst others. The property is located within the 1:50, 1:20 and 1:10 floodplain. The super structures that will serve as the plinths on which buildings will be erected although the superstructures will comprise only parking.

Although the hydrology study suggests that the development will not cause a significant rise in flood waters, entrance levels to parking areas will be located above the 1:100 year flood plain. This may obviate the need for any flood warning system.

Watercourses/wetlands and their riparian landscapes must be buffered from impacts of development. Buffer zones for watercourses and wetlands must range between 10m and 40m, depending on their significance of the watercourse and whether they have been canalised. Buffer zones must be adjusted to accommodate wetlands. It is intended for buildings to adhere to the suggested 10 – 40m buffer zone. Of importance and what cannot be revealed at this juncture are the interface activities between watercourses and the proposal. [To this end, the Urban Design Policy guidelines must be employed.]

The policy encourages that buffer zones should be protected so that the ecology of such areas and watercourses are not compromised. Upon confirming the exact placement of buildings the appropriate buffer zones and their widths across the site could then be confirmed. However, CSRSM has yet to approve these. Where ecological buffers are accommodated on the site, servitudes may need to be registered in favour of the City.

Importantly, the hydrology study does not confirm the placement of buildings. The CSRSM has indicated that there is no reason to refute the findings of the study. However, the placement of buildings must be revealed for any concerns regarding the findings of said study to be allayed while simultaneously confirming the findings of their studies. The final determination of building placements, buffer areas and widths (comprising the watercourses with associated wetlands, ecological buffer, aesthetic treatment of any interface area and the building that will abut onto the watercourse), and the appropriateness of each of these, amongst others, is still to be confirmed. CSRSM's response to the proposed buffer zones will be confirmed at a subsequent stage of the application process. Conditions are proposed as part of the recommendation.

With regard to the filling of the Liesbeek River, CSRSM did have regard to the hydrology study which states, amongst others, that the filtration function is not significant and that filling the River will enhance its ecological effects. CSRSM holds a different opinion in that that department argues the River holds an important filtration function while filling will also adversely impact and change the existing ecology around the river. Additionally, CSRSM maintains that the River holds important historical and cultural significance. This aspect is addressed in the paragraph referring to "*Impact on Heritage*". Last, it must be noted that the Liesbeek River falls beyond the cadastral boundary of the site. CSRSM as the custodians of land on behalf of the City, is required to endorse this proposal. Therefore, filling of the River is not supported.

#### 6.2.10 Management of Urban Stormwater Impacts Policy, 2009

The application proposes the deviation from the

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- 24hr extended detention of the 1-year recurrence interval for a 24hours storm event relating to the quantity and rate of run-off;
- up to 10 year recurrence interval to be reduced to pre-development level in respect of quality, quantity and rate of run-off and
- up to 50 year recurrence interval peak flow to be reduced to existing development level in respect of quality, quantity and rate of run-off.

Generally, these three points relate to the volume of stormwater run-off and the quality of the water.

The applicant's hydrology study concludes in favour of this deviation and the environmental authorization concludes similarly.

On the other hand, the custodian CSRM department merely agrees with the deviation from attenuating water within a 24hr flood event on-site for an extended period but it does not support the aspects relating to (b) and (c) above.

The applicant argues that attenuation of stormwater adds no value as surrounding sites are flooded even during low storm events and it makes no difference given the proximity to the sea i.e. water will be released quickly into the sea. CSRM argues that releasing directly into the sea is more effective than attenuation. However, CSRM argues that properties downstream must be safeguarded from the impacts of flooding.

In addition to the above, and based on water quality considerations, the policy states that watercourses and wetlands are considered to be an integral part of the City's biodiversity network and they play an important role in recreational and economic activities. Principles guiding design of urban areas that are water sensitive to address the impacts of urban development is known as Water Sensitive Design (WSUD).

WSUD acknowledges that the primary reason for the deterioration of urban water is due to disruption of the natural water cycle which does not permit absorption and quality improvement to runoff through filtration, for example. Also the increased amount of impervious surfaces contributes toward increased runoff which is concentrated and often accelerated. The stormwater often runs into canals and drainage systems and is not absorbed through natural processes.

For these reasons, developments must employ Sustainable Urban Design Systems (SUDS). This will either maintain or mimic natural water processes to minimise the impacts of urbanization on water quality and quantity. These measures are referred to as Best Management Practices (BMPs). They comprise

- structured controls such as infiltration devices, bioretention cells, constructed wetland and detention ponds, amongst others and
- Non-structured controls which are institutional and pollution prevention practices designed to reduce or prevent pollutants from entering stormwater runoff and to reduce the volume of stormwater and management thereof.



The policy states that in many instances multiple measures could be employed to achieve water quality and quantity of an acceptable standard because these measures seek to arrest pollutants and improve the quality of natural water assets as part of the stormwater system of the City. Furthermore, measures employed must ensure that long-term impacts are averted and communities, present and future, are not adversely affected. CSRM states that the provision of stormwater master planning for developments such as that proposed is therefore important.

Given the above, the applicant states that various measures will be employed to minimize impacts of stormwater runoff and on hydrological processes. These include permeable paving, stormwater infiltration, the use of stormwater detention through the use of bioretention areas and reconstructed wetlands, source control. Accordingly, the applicant argues that deviation from policy relating the water quality and quantity requirements as listed in the table contained can be supported.



ANNEXURE: INTERIM CRITERIA FOR ACHIEVING SUSTAINABLE URBAN DRAINAGE SYSTEM OBJECTIVES IN VARIOUS DEVELOPMENT SCENARIOS

SUDS OBJECTIVES	Greenfield Developments and Existing Development Sites located in catchments of sensitive receiving water systems	Brownfield and Existing Development Sites > 50 000 m <sup>2</sup>	Brownfield and Existing Development Sites 4000 m <sup>2</sup> – 50 000 m <sup>2</sup> and Total impervious area (exist & new) > 15% of site	Brownfield and Existing Development Sites < 4000 m <sup>2</sup> and Total impervious area (exist and new) > 600m <sup>2</sup>
<p><u>IMPROVE QUALITY OF RUNOFF</u>                      Remove pollutants through combination of reducing and/or disconnecting impervious areas, and the use of BMPs which infiltrate or capture and treat stormwater runoff</p>	<p>Pollutant removal target:                      Reduction of post-development annual stormwater pollutant load discharged from dev. site:                      SS &amp; TP - reduce to undeveloped catchment levels, or                      SS - 80% reduction                      TP - 45% reduction                      whichever requires higher level of treatment</p>	<p>Pollutant removal target                      On-site reduction of post-development annual stormwater pollutant load discharged from development site:                      SS - 80% reduction                      TP - 45% reduction</p>	<p>Pollutant removal target:                      Combination of on-site and regional off-site measures to achieve target reductions:                      SS - 80% reduction                      TP - 45% reduction</p>	<p>On-site stormwater treatment not required but encouraged where practicable.                      Regional off-site treatment measures to achieve target reductions:                      SS - 80% reduction                      TP - 45% reduction</p>
<p>Design storm event for water quality treatment:                      1/2-year RI, 24 h storm</p> <p>All developments are required to trap litter, oil, grease at source</p>				

Table continued on next page.....



<p><b>SUDS OBJECTIVES</b></p>	<p><b>Greenfield Developments and Brownfield and Existing Development Sites located in catchments of sensitive receiving water systems</b></p>	<p><b>Brownfield and Existing Development Sites &gt; 50 000 m<sup>2</sup></b></p>	<p><b>Brownfield and Existing Development Sites 4000 m<sup>2</sup> – 50 000 m<sup>2</sup> and Total impervious area (exist &amp; new) &gt; 45% of site</b></p>	<p><b>Brownfield and Existing Development Sites &lt; 4000 m<sup>2</sup> and Total impervious area (exist and new) &gt; 600m<sup>2</sup></b></p>
<p>Protect the stability of downstream channels</p>	<p>24 hour extended detention of the 1-year RI, 24h storm event</p>	<p>24 hour extended detention of the 1-year RI, 24h storm event</p>		
<p>Protect downstream properties from fairly frequent nuisance floods</p>	<p>Up to 10-year RI peak flow reduced to pre-development level</p>	<p>Up to 10-year RI peak flow reduced to pre-development level</p>		<p>On-site runoff control measures not required but encouraged where practicable</p>
<p><b>CONTROL QUANTITY AND RATE OF RUNOFF</b> Protect floodplain developments and floodplains from adverse impacts of extreme floods</p>	<p>Up to 50-year RI peak flow reduced to existing development levels. Evaluate the effects of the 100-year RI storm event on the stormwater management system, adjacent property, and downstream facilities and property. Manage the impacts through detention controls and / or floodplain management</p>	<p>Up to 50-year RI peak flow reduced to existing development levels. Evaluate the effects of the 100-year RI storm event on the stormwater management system, adjacent property, and downstream facilities and property. Manage the impacts through detention controls and / or floodplain management</p>	<p>Combination of on-site and regional off-site measures to achieve requirements as for development sites &gt;50 000m<sup>2</sup></p>	<p>Regional off-site runoff control measures to be provided to achieve requirements as for development sites &gt; 50 000m<sup>2</sup></p>
<p><b>ENCOURAGE NATURAL GROUNDWATER RECHARGE</b></p>	<p>Developments adjacent to floodplains must adhere to the requirements of the Floodplain and River Corridor Management Policy</p> <p>Where appropriate, site specific requirements to be considered in consultation with Council</p>			

As already stated, the applicants are not required to have a series of detention ponds to detain water on-site. As is understood the proximity of the property to the sea means that flood water should be permitted to enter the water ways so that it reaches the ocean quickly – this has been supported by CSRSM. It is considered better for flood water to reach the ocean quickly so that the rise in flood water is as minimal as possible. Measures however must be employed to minimize the impacts of flood level rise on downstream properties. The measures employed and how it will be effected must be contained in a Stormwater Management Plan.

At the outset, development of the site must ensure, as a matter of course, that best management practice (BMP), which is an international standard, is employed with respect to water quality and reduced levels of run-off. These would need to be demonstrated and accompany said study.

However, the proposal to deviate from policy requirements in respect of water quality seeks to obviate the requirement to satisfy BMP. For this reasons, this deviation is opposed by CSRSM.

In response, the applicant acknowledges this and that water quality standards in (b) and (c) above must be adhered to. Therefore, related measures employed must be the satisfaction of the mentioned department. This will have to accompany the precinct plan submission.

The CSRSM Department has indicated that the findings of the applicant's hydrology study in respect of flood level rise as a consequence of the proposal, is accepted. The detail surrounding this will be furnished and contained in a Stormwater Management Plan. However, aspects related to water quality is not supported..

6.2.11 Tall Buildings Policy, 2013

In terms of the Tall Buildings Policy a building is considered a tall building when:

- o It is assessed in relation to its context, and is distinctly taller than surrounding buildings;
- o A tall building is considered to be taller than 35.0m and is located along a higher order street; and
- o A tall building is considered to be 1.5 times higher than the permissible height the permitted in the base zone.

According to the abovementioned criteria, some of the proposed building heights will be tall buildings given building heights in the prevailing landscape. Some buildings will conform to building heights found in the area. An agglomeration of factors will influence heights, such as

- the location of buildings in relation to the prevailing landscape,
- proximity to the river's edge,
- proximity to heritage buildings/areas,
- location in relation to the site edges

Taller buildings and the positioning will have to comply with the policy as well as the urban design policy, the MSDF, TOD strategy, amongst others. This information will need to be submitted at the time of SDP submission.

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6.2.12 Urban Design Policy, 2013

The detail of the proposal must give effect to the Urban Design Policy. The scale and level of the development proposal is such that the ability to show detail and therefore illustrate principles is restricted. More detail will be provided at the point of submission of SDPs. The application therefore will be conditioned accordingly.

Principles such as

- overlooking public spaces,
- building built closer to edges of an erf to frame public spaces
- access to amenities on-site
- intensification of the use of land,

must be employed as the detail of the overall design unfolds.

Notwithstanding the preceding point, it is proposed that the lower levels of the building will compromise parking only. In terms of developing sites, it is encouraged that levels that are at grade are in fact used as active edges to offer not only interest to the passer-by but provide eyes onto the public domain. Active edges at grade also offer passers-by an element of safety/security.

Parking of vehicles at lower levels result in sterile edges that are generally not encouraged. In the instance, the ability to respond to such design informants as recommended by the policy is hindered by the location of the property within a floodplain located below the 1:100 year floodplain. The applicant therefore has elected to introduce landscaping along the edges of buildings all of which will accommodate parking on the lower 1 to 2 levels. It is intended to introduce earth against the outer walls of parking levels to enable landscaping to be provided. This measure is intended to mitigate against the impacts that will result as a consequence of providing parking at the lower levels. (This element is discussed further in 6.3.b below.)

The policy also encourages floor-to-ceiling heights that promote later conversion of parking levels to habitable space. As public transport improvements are made it is anticipated that the demand for public transport will increase over time resulting in the decrease use of and need for the private motor vehicle. In this instance such measures will not be possible since parking levels are proposed to be positioned below the 1:100 year floodplain.

6.2.13 Densification Policy

It is proposed to develop the site with a mixed use development including residential accommodation. (The proposal will see 45du/ha being provided.) Densification of the City is vital in terms of social, economic and environmental sustainability.

Densification ensures the gradual restructuring of the City which will contribute toward a more efficient city structure and built form.

The proposal is consistent with this policy's objectives for the following reasons:

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- It ensures the optimal and efficient use of infrastructure, services, facilities and land.
- It will enhance the built environment.
- The scale of the proposal is appropriate in the immediate context.
- It provides a mix of land uses, opportunities and integrated living environments.
- It contributes to place-making and the development of attractive safe urban environment.

6.2.14 Parking Policy

The proposal must give effect to the guidance offered in the City's Parking Policy. The property is located in a standard parking area. The applicant indicated that reduced parking is intended so that a departure would be required. The applicant proposes to address this at a later stage in accordance with the level of detail that will unfold. My department agrees with this approach, noting that any such application will be processed in terms of the MPBL.

6.3 **Consideration in terms of Section 99(3) of the desirability of the following criteria**

a) Socio-economic impact

The proposal will provide investment into the area and could be catalytic and stimulate further economic opportunities. The proposal will provide employment opportunities in the short and long term and during and after construction.

On a smaller scale the proposal will also offer a limited number of residential opportunities with access to various opportunities. The proposal includes the intention to accommodate a small component of inclusionary housing that is proposed to comprise about 4% of the overall development although total residential accommodation will be about 20%. The provision of inclusionary housing will provide some previously disadvantaged people with access to opportunities in on the site and in the wider area although the provision of business uses on the site will also provide access to economic opportunities.

Employment opportunities created will have an indirect, positive social impact as a consequence of employment that will be created and the opportunity for employment that will result.

The rehabilitation and upgrade of the open space components of the development seek to broaden access, in comparison to what currently happens, to improved recreation and open space for a wider variety of people.

b) Compatibility with surrounding uses

b.1) Compatibility with surrounding land uses and zones

Various actions are required in order to implement and enable the aims of TOD to be achieved.

It is proposed to accommodate approximately 150 000m<sup>2</sup> of development. The development of the site will occur in two phases or precincts. These phases/precincts are intended to accommodate the following range of activities with associated floor space as mentioned below:

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**PRECINCT 1**  
Approximately 60 000 m<sup>2</sup> total floor space  
(Mixed Use: retail, office and residential)

**PRECINCT 2**  
Approximately 90 000 m<sup>2</sup> total floor space  
Amazon: ± 70 000 m<sup>2</sup>  
Private School: ± 10 000 m<sup>2</sup>  
Office: ± 10 000 m<sup>2</sup>

The property is located in a locale comprising properties with varying land uses and zones. As is evident from the illustration below the nearby suburbs of Observatory and Maitland comprise properties zoned for General Residential, Mixed Use, Open Space and Community Zones are located.

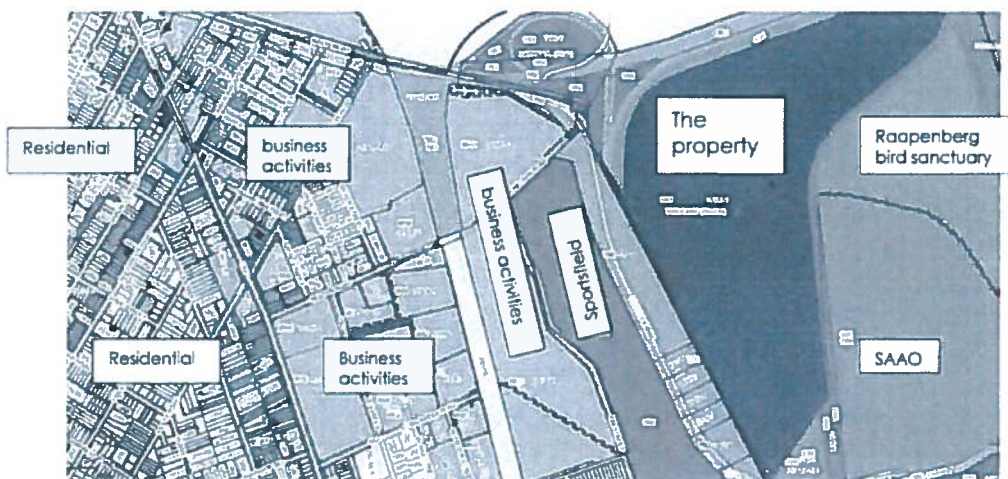


Figure relating to range of Zones found in Observatory

It is also evident that portions of Maitland comprise properties zoned for Single Residential purposes.

The range of uses located in the vicinity comprise offices, retail activities, residential accommodation, educational and recreational activities, factories, medical related uses, amongst others. Similarly, Salt River, to the north-west of the property, also comprises business activities including mainly retail activities with some offices and industry related uses.

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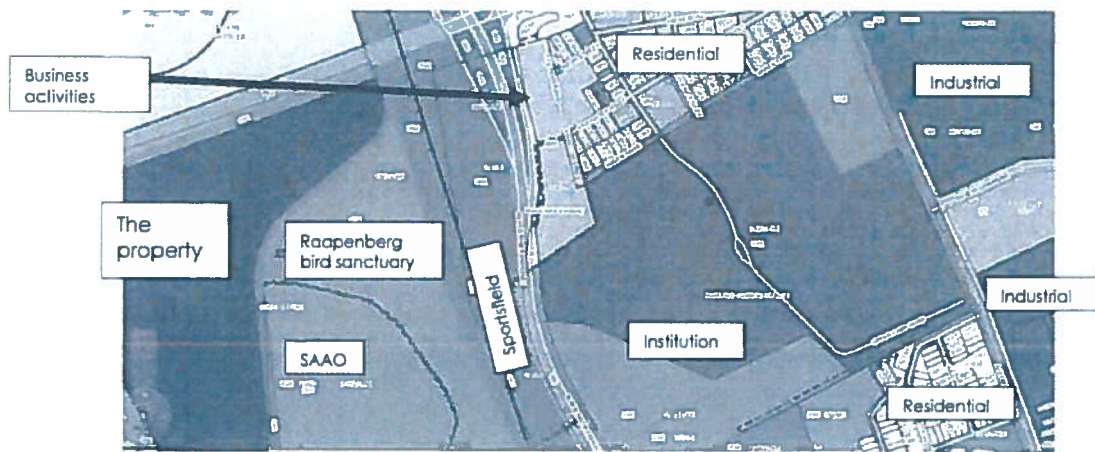


Figure relating to range of zones found in Maitland

Some recreational activities/open space also surround the property.

The range of uses proposed to be accommodated within the development will therefore compliment that found in the surrounding area.

As mentioned earlier the property is located in one of two integration zones identified where investment and development must be encouraged. (The second integration zone is the Voortrekker Road corridor.) The proposal is catalytic in nature and targets development within the metro south-east, a strategic location situated between established urban nodes.

The proposed buildings on the site will be more visible to the SAAO than that presently experienced. Of concern is the likely impact of light pollution on the SAAO being an observatory.

According to the applicant the functioning of the SAAO has changed overtime. It is presently not used for astronomical research. Part of the reason for this is the increased amount of light pollution experienced given the location within a densely populated urban setting. The proposal will therefore not alter this situation.

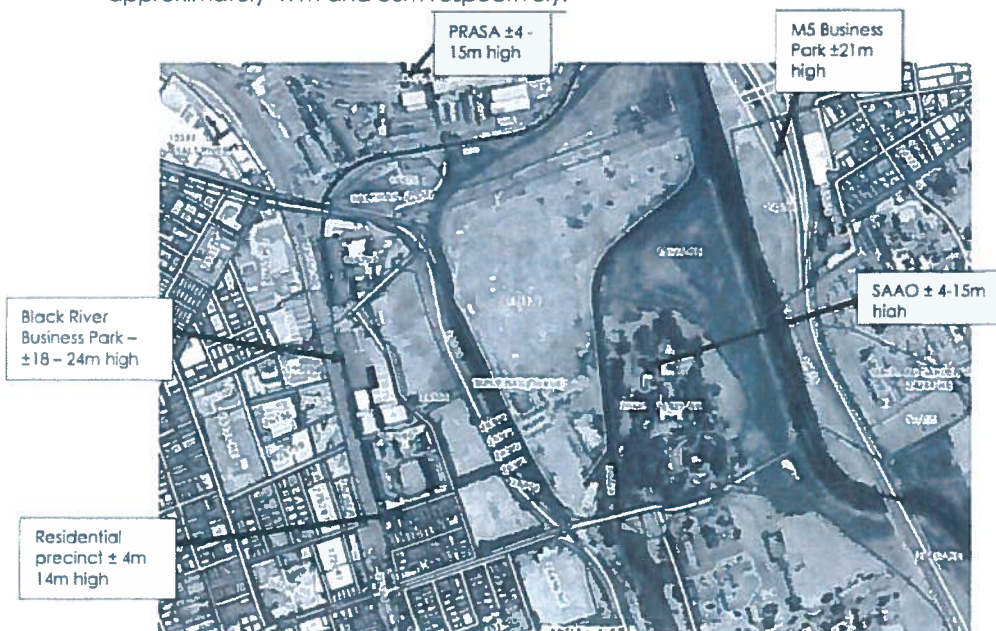
It is also intended to accommodate 6000m<sup>2</sup> or 4% of residential uses with a component of inclusionary housing. This equates to approximately 140 dwelling unit available as rental stock. Although the applicant acknowledges the strategic site location of the strategic the number/percentage of inclusionary housing stock is low when compared against overall floor space/development rights sought. Related aspects are addressed elsewhere in this report. However, the intention to provide affordable/inclusionary housing is commensurate with the spatial transformation agenda of the various city policies, strategies and similar types of recent mixed use developments approved. The application will consequently be conditioned.

b.2) Built form compatibility

Sense of place no doubt will be impacted. The existing open space landscape will be altered by the proposal although the proposal may create a new sense of place

due to the proposed built form comprising building heights, stepping of buildings, roofscape, skylines and recreation spaces.

The prevailing architectural vernacular is varied. Building heights range from single storeys of about 3.0m to multi-storeys of approximately 20m to 30m in height. Further afield in Salt River the highest buildings are generally approximately 15m in height, the only exception being Premier foods where the silo bins and abutting offices are approximately 49m and 36m respectively.



Building heights in the vicinity of the property

1308



Building heights in residential south of Black River Business Park  $\pm 4 - 14\text{m}$

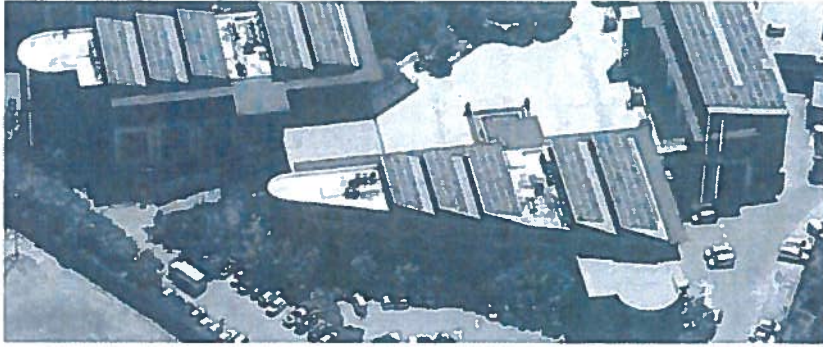


Black River Business Park buildings heights approximately 23m

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1309



Black River Business Park buildings heights approximately 18m – 21 m



Building heights on PRASA land approximately 15 - 18m



Buildings heights of building is M5 business park approximately 21m

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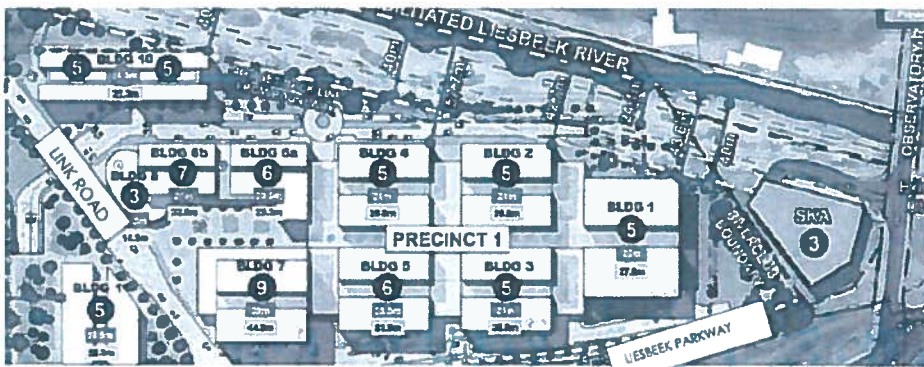
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Premier foods building heights in Salt River approximately 36m (bins about 49m)

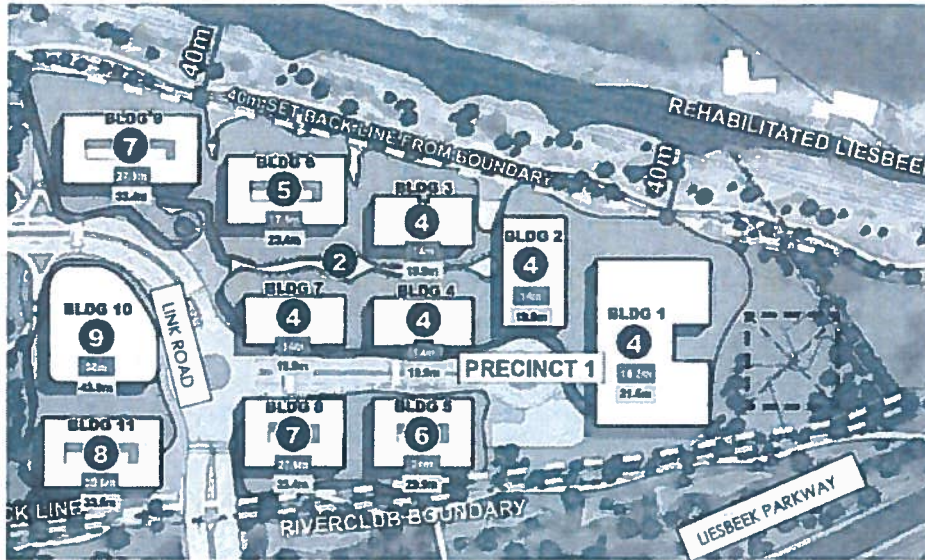
The proposal refers to accommodating buildings ranging in height from about 15m to about 46m in height above base level. Lower buildings are largely proposed to be accommodated near to the existing entrance of the property. Buildings to be located along the Liesbeek Parkway extent of the property will gradually rise as one moves toward Salt River i.e. the northern extent of the property. Buildings located along Berkley Road extension are proposed to be the highest on the site. Buildings oriented toward the SAO are proposed to range in height from about 11m to about 33m (the 33m high building being positioned closer to Berkley Road extension). These buildings will be located in Precinct 1 and will be bounded by the link road to the west, rehabilitated Liesbeek River and SAO to the north, the SKA site (Erf 26423) to the east and Liesbeek Parkway to the south.

The initial submission suggested a certain built form. After the applicant responded to branch comments received, it was suggested that the built form will largely remain the same with certain aspects that would change.



Original submission – precinct 1





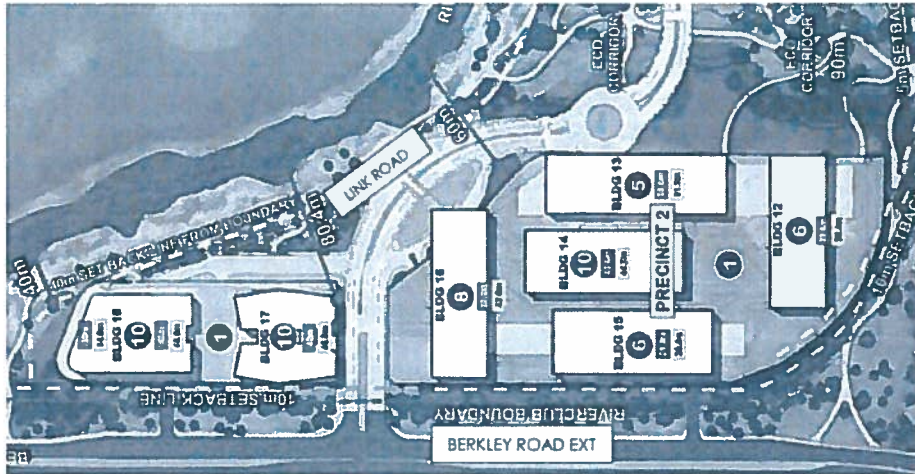
Suggested change to building form – precinct 1

Building heights toward the SAAO are also proposed to be lowered. Building heights experienced along Liesbeek Parkway are similar to that originally proposed. It will appear that buildings are disaggregated to a greater degree. Planting will be provided between buildings. As the proposal enters the final design stages it is imperative that cognisance is taken of the significance of the SAAO being a national heritage site. Some views to the SAAO may be retained even if through view corridors. These will be addressed at the Precinct Plan stage.



Original submission – precinct 2

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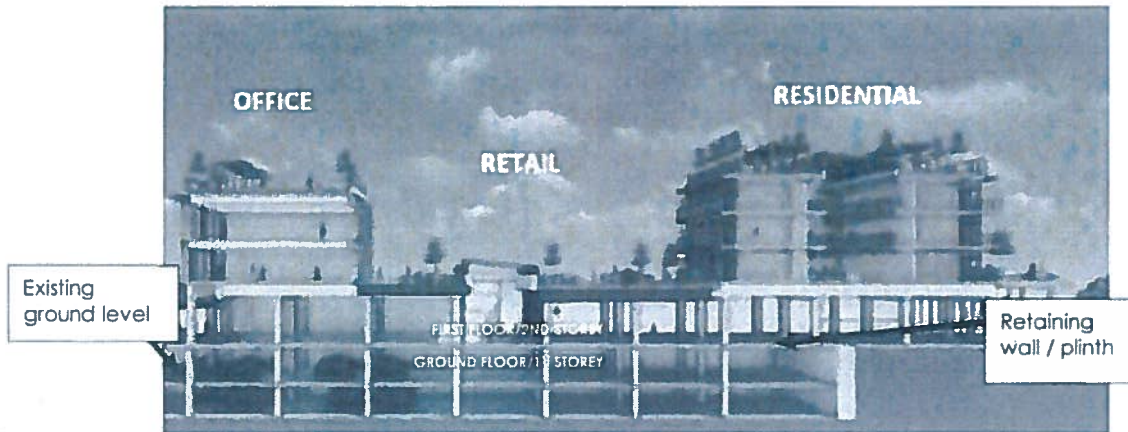
Suggested change to building form – precinct 2

As is evident from the illustrations above, the building massing for precinct 2 has changed from that originally presented. Originally buildings were markedly more disaggregated than that now presented. View lines across the site appear to be somewhat reduced from the original submission. Other design interventions may need to be employed to explore alternate types of massing and form. Whether alternate forms can be explored is uncertain as the applicant has indicated that their desired anchor tenant has largely influenced the change in building massing. While this may be the case, other design interventions could potentially be employed to ensure a better/improved built form.

Buildings along Berkley Road extension are proposed to be about 46m high in certain instances and will define the public realm/edges of the site and overlook the public domain. This may be commensurate with the future prominence of Berkley Road as a main thoroughfare.

Building heights across the site are varied which lends interest to the urban landscape. This is encouraged.

The extent to which views across the site can be preserved is debatable noting that the property is located within an urban environment. Buildings in the instance of both precincts 1 and 2 will be located on a plinth estimated at about 2 storeys high that will accommodate parking. A third plinth accommodated in precinct 2 is the smaller of the three plinths given the link road that gives access to the property Berkley Road.



The massing as depicted above will be placed on top of each plinth changing the landscape significantly from that presently experienced and the sense of place. The plinths will be masked by placing mounds of earth against retaining walls to reduce the height of structures that otherwise would be very imposing blank facades. The provision of earth mounds or berms provides the opportunity to landscape these spaces. While the landscaping will not reduce its prominence, it is an attempt to present it as more appealing aesthetically.

The Urban Design department has indicated no objection to the proposal. They indicated the need to adhere to requirements related to various city policies which will need to be demonstrated for each precinct and applied at SDP stage. The precinct plan will need to be accompanied by relevant studies.

c) Impact on the external engineering services

The application was circulated to various service branches. These departments largely have no objection subject to meeting certain requirements.

The Electricity Department has indicated that sufficient capacity exists to accommodate the proposal. However, the proposal will use all spare electricity capacity; for this reason, an electrical substation must be provided on-site.

The consequent impact of the development must not compromise electrical supply to the area. This must be considered within the context of the fact that many properties that feed off the existing supply that have as yet not fully taken up existing rights – capacity must therefore be available in the event of those rights being taken up in full. For this reason, an electrical substation must be provided on-site as is required by the Department: Utility Services (Electricity).

However, the applicant has expressed an opposition to this requirement stating that the latter department confirmed that sufficient capacity exists to accommodate the proposal. However, the proposal will take up all existing available electrical supply. Further, since the development seeks additional rights, the requirement for the provision of the electrical substation will compensate of the take-up of electrical supply attributable to that no longer available to the area.

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The electrical substation required will not come on line for a few years. In the process of planning for electrical service provision, said department must anticipate likely demand where existing rights may be taken up. This is important to ensure economic development is not scuppered due to the lack of planning. The Department: Utility Services (Electricity) requires that the electrical substation is provided on-site and that the land is ceded to the City upon the provision of said facility.

According to Bulk Services Water and Sanitation there is no City of Cape Town bulk water connection near the site. Having said this, the City has sufficient water bulk services capacity to accommodate the development. While sufficient water reticulation exists, the relevant department has indicated that the developer will need to provide additional provision for firefighting. The water supply/provision will need to be provided to said department's approval.

The sewer reticulation will see an initial connection being provided on the property that the developer will have to maintain. Sufficient storage capacity must be ensured so that discharge can be undertaken later in the day (possibly at night) when demand has dissipated. While the site should discharge to the Athlone Water Works Treatment plant, no spare capacity exists. In order to accommodate the demand generated by the proposal said department has indicated that it is possible to provisionally connect to the Cape Flats catchment area. Upon upgrading the Athlone Water Works Treatment plant the property could then be connected there. The relevant department has indicated that the developer was advised that a service level agreement is required. The services level agreement will outline the responsibilities of the developer in respect of upgrades and timing of phasing with associated connections.

The Catchment, Stormwater and River Management Department (CSRМ) has indicated that they accept the findings of the hydrology study. The study indicates that while flooding will increase, the increased flood levels are deemed not to be significant and are within acceptable levels. The deviation from the Floodplain and River Corridor Policy is not opposed. They do believe that negative impacts must be mitigated against. Notwithstanding this, the placement of buildings as well as the extent with associated degree of fill must confirm the findings of impact studies undertaken. The submission of any precinct plan must therefore reinforce the findings of the hydrology and hydraulic study undertaken.

It is believed that run-off from the site will have no impact on flood levels as small stormwater events will be attenuated in a series of swales while large stormwater events peak flows off the site approximately 1 – 3 hours before peak flows in the adjacent rivers. As is understood, the CSRМ department has indicated that it is not averse to the measures given the proximity of the property to the sea to which water will escape.

Escape routes for the development during flooding will be accommodated via Berkley Road toward the M5. An escape route over Liesbeek Parkway cannot be considered as the level of the culvert at that point is too low.

The Floodplain and River Corridor Policy however does not permit development below the 1:50 year floodplain. Said policy promote development above the 1:100 year floodplain. Various measures are proposed to safeguard buildings and life to

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ensure development can be accommodated, noting that no habitable spaces will be accommodated below the 1:100 year floodplain. This is explained in detail in preceding sections and is further supported by various studies undertaken during the environmental assessment process and the resultant ROD concludes that the development can be supported.

The development of the site and measures proposed to mitigate against flood level rise will see bio-retention areas, vegetated swales and reconstructed wetlands incorporated into the landscaping. This will ensure that holding a limited amount of run-off from the development is accommodated on-site. These measures must be incorporated into the development as landscaped elements. Buffer zones that will abut onto the rivers also present an opportunity to accommodate flood waters.

PRASA land located to the north of the property, also holds some flood waters. The applicant has indicated that these areas of detention should be retained. Land owned by another entity to assist with addressing flooding on land other than the particular development site (it was suggested that PRASA land possibly be considered to hold some flood waters) cannot be considered as a measure to address the requirements of the proposal. In fact, the Management of Stormwater Impacts Policy expressly states this. Any amelioratory measures employed by the applicant/developer (such as bioretention areas, vegetated swales and reconstructed wetlands) cannot be provided on the abutting City land without the permission of the competent department. Said permission is still to be obtained. Said permission may also include the leasing of City land to achieve measures proposed. However, this would have to be addressed at the Precinct Plan stage.

The studies undertaken suggest that the present rise in flood water is compounded by blockages that occur at the pipe to the weir at the crossing of the railway bridge along the Black River. According to the CSRSM blockages that occur are not intentional and could just as easily be unblocked. It will therefore require regular maintenance by the City to ensure that this problem does not further compound flooding.

Flooding events are likely to increase significantly in the vicinity of the property. The most significant level of flooding will impact the South African Astronomical Observatory (SAAO). The rise in flood waters will likely impact a few buildings positioned closest to that boundary with the Liesbeek River canal. While these buildings are located within a floodplain one of them have some heritage significance and should be protected. In order to compensate for the impacts of flooding it is proposed that the berm along the western boundary of the SAAO (i.e. with the Liesbeek River canal) should be raised by between 0.7m and 1.2m. The applicant states that the existing berm was constructed without the permission of the CSRSM and that the developer will not assume the responsibility for the raising of the berm. However, responsibility for raising the berm cannot be placed on that land owner to safeguard their property against the development now being proposed. The applicant has suggested that the developer will flood proof the one building that has heritage significance while the remaining two buildings should be dismantled and removed. However, contrary to the applicant's suggestion this cannot be imposed on the SAAO. Rather, should other structures require flood proofing, this will be to the account of the developer.

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The CSRSM indicates that they are not able to support the deviation from the policy relating to the filling of the old Liesbeek River to accommodate a swale on said land to compensate for flood waters stemming from the development proposed. The old Liesbeek River acts as a filtration system for stormwater coming from Observatory. Additionally, if the Liesbeek River is accommodated beyond the site boundary. Any measures proposed off-site to respond to stormwater retention as suggested will require the permission of the competent department i.e. Catchment Stormwater and River Management Department. Said department has indicated their opposition to this proposal. The applicant would have to pursue alternative measures in consultation with the relevant department.

Various requirements specified by the service departments in respect of engineering services will be imposed as conditions of this application.

d) Impact on safety, health and well-being of the surrounding community

The property is located within a floodplain as described in 5.3 above. Development within the floodplain will displace flood waters. As mentioned earlier, based on modelling the level of flood water rise as a consequence of the proposal is marginal and is therefore deemed to be within acceptable limits. This finding was accepted and confirmed by the CSRSM.

The above impact does not change the manner in which flooding is dealt with. For example, Hartleyvale will be affected by the marginal rise in flood waters. This however does not present a concern. At present in the event of flooding no sporting events take place on the property. The status quo, it is believed, will remain as the sportsfield is rendered unusable during flooding in any event. While Liesbeek Parkway may already experience flooding, the applicant has indicated that signage will need to be displayed along Liesbeek Parkway alerting motorists to possible flooding. Since minimal change will occur as a result of the proposed development, no amelioratory measures are proposed.

In other instances, the marginal rise in water may result in some action/response. During flooding, floodwater spills over onto the roadway. The rise in floodwaters as a result of the proposal will result in additional waters escaping to Liesbeek Parkway. The applicant suggests that warning signs will need to be included along the roadway to inform motorists of the likelihood of flooding during winter months. The applicant suggests that the road may need to be raised marginally as well. CSRSM have said that practical measures should be pursued to prevent flooding of Liesbeek Parkway. Amelioratory measures are proposed in consultation with the relevant department.

One residential property was identified as being affected by flooding as a consequence of the proposal. The developer has indicated that it will bear the burden of any amelioratory measures.

Other properties affected by the rise in flood waters and which already experience flooding, should not be worse off in spite of the rise in floodwater being considered acceptable. A number of properties, in the vicinity, including the subject property, were developed prior to the determination of the consequence of flooding and the City approving policies relating to stormwater and floodplains. These properties have existing rights by way of approved buildings.

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Under these circumstances, the onus cannot be placed on those properties to safeguard themselves against the rise in flood levels due to the proposal. The owner/developer acknowledged the need in one instance to intercede to mitigate against flood impacts. The developer cannot place the burden on the affected properties to safeguard themselves against the consequence of flood level rise, albeit marginal, as a consequence of the proposal. Rather the owner/developer should seek to mitigate against such impacts. This may include securing insurances in any eventuality of impacts associated with flooding.

The rise in flood water, it is argued will have the greatest impact close to the property and impact the SAAO. A portion of the SAAO site (located to the east of the property, see figure 5 above) is located below the 1:50 year floodplain. At least 3 buildings located along the edge of the site with the Liesbeek River canal will be impacted by the proposed development.



Figure showing 3 buildings positioned below the 1:50 year floodplain

Buildings 1, 2 and 3 as illustrated above, are all located within the floodplain and as a consequence will be affected by flooding. Building 3 is considered to have heritage value. Modelling undertaken indicated that flood water will rise enough to cause damage to, at the very least, building 1. However, all three buildings should be protected and flood proofed.

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In order to protect these building, it is suggested that the berm, located along the western edge of the SAAO property should be raised by 0.7m to 1.2m. The berm height could increase to as high as between 3.13m to 4.8m.

However, in order to achieve this outcome, the SAAO must consent to the raising of the berm located on the SAAO site.

The applicant has also indicated that they could flood proof one of the affected buildings while the others could be relocated.

As previously stated, the owner/developer must provide flood proofing of the buildings mentioned. The SAAO cannot be compelled to move buildings due to worsened flood levels resulting from the development. It is however unclear from the study provided what the threshold of the development must be before the impacts mentioned will be experienced. A stormwater management plan will be need to be commissioned that may elucidate this point.

The applicant has indicated that two of the three buildings on the SAAO properties are prefabricated structures. All three buildings appear to exist for longer than 30 years. Each was therefore constructed prior to the existence of current city policy relating to floodplains. The applicant has suggested that the prefabricated structures should be relocated to above the 1:100 year floodplain while the remaining heritage building could receive a floodgate to protect it against flooding. It is imperative that the applicant ensure that the affected properties consent to the measures they propose. Further should the affected property owner not agree for the two structures to move, the developer must seek alternate means to safeguard those buildings. The burden is placed on the developer as the proposal sees flood waters rising, the effect of which will be experienced on said property.

The application will be conditioned accordingly. Further, the applicant will have to incur the cost of raising the berm only after receiving the consent of the affected party or institute other flood proofing measures as agreed to by the property owner, in consultation with the Director: Catchment, Stormwater and River Management.

The development must also have regard to the impact of flooding on prospective occupants of the site. The parking levels will be positioned below the 1:100 year flood plain. The risk to cars and potentially life will be addressed by positioning the entrance to parking levels and habitable spaces above the 1:100 year flood levels. This is intended to reduce the likelihood of these levels flooding. The applicant has also stated that the basements will be designed to accommodate infiltration. Warning systems that presently exist may have to be retained to protect occupants of the site.

e) Impact on heritage

The property is located in a proposed heritage protection overlay zone. While no application is required in terms of the DMS to accommodate the proposal, an HIA was submitted to Heritage Western Cape (HWC) for consideration given the size of the property and scale of the development. A submission was also made to the Department of Environment and Development Planning (DEADP) who have adjudicated the submission.



HWC issued a protection order over the property. While it prohibited the development of the site, that protection order lapsed on the 20 April 2020.

The Liesbeek River, confluence of the Liesbeek River and Black River, is a significant of the property. The significance of the Liesbeek River dates back to pre-colonial times having been used for the Khoikhoi for cattle grazing, the confluence with the Black River. It also gave access to area beyond the Black River and the Liesbeek River and was an area of conflict after the Cape was colonised. The property therefore holds cultural significance to the Khoikhoi/First Nations people.

For reasons stated, the Liesbeek River holds cultural significance. Given this, amongst other reasons, the proposal to infill the Old Liesbeek River is not supported.

This is refuted by the applicant.

It must also be noted that the Department of Environment and Development Planning (DEA&DP) have approved this component of the application. In spite of this, the relevant city department has also opposed this component of the application for reasons stated in 6.3 d) above and 6.3 f) below.

It is proposed to decanalise the Liesbeek River canal and rehabilitate the banks to restore it as far as possible to a natural river system with associated riverine habitat. The area at the confluence of the Liesbeek and Black Rivers should be an area of open space being the point at which an informal bridge was located serving as a crossing toward the east historically. The intention therefore to decanalise the Liesbeek River canal could be incorporated into the memorializing in this vicinity of the site.

The SAAO to the immediate east of the property was declared a grade I national heritage site for its scientific significance. The manner in which the proposal interfaces with the SAAO is also important given the heritage status thereof. The positioning of generous buffer zones and planting along the eastern edges of the site could minimize the impact of the proposal on this national heritage site. As part of the response by the applicant to objections, additional information was provided to elucidate some of the intentions of the proposal. Amongst these includes an indication that an increased buffer and lower buildings along that edge will be accommodated. It is acknowledged that views across to the SAAO will be impacted. The proposed increase buffer zone and lowered building heights may serve to reduce such impacts. This sentiment, amongst others, have also been expressed in the Environmental Authorisation.

The TBDP encourages heritage resources to be incorporated into a development such as this. In instances where development is proposed, heritage resources should be optimised. It could serve as a tool to integrate communities. Where heritage resources exist, view corridors to the heritage resource should be provided. As far as possible heritage resources should be commemorated by creating places of memory. The river's edge and the manner in which the Liesbeek River will be memorialised must become a destination place to draw people to other heritage features.





The City's Environment and Heritage Resources Department indicated no objection to the redevelopment of the site although the proposal as presented is opposed. The reasons for this is that it is not considered to be consistent with, amongst others, the Heritage Strategy stating that it does not sufficiently protect and preserve the sense of place, the cultural and heritage elements of the site and its surroundings.

The applicant responded by providing more detail relating to -

- Lowered building heights fronting onto the SAAO;
- Greater buffer and therefore distance between buildings and the SAAO;
- Greater level of integration of the link road through the site;
- Incorporating various elements or ways in which the First Nation history is memorialised;
- The bulk of the site being open space to create a park-like setting;

The proposed decanalising of the Liesbeek River canal and associated landscaping should be accompanied by massing and bulk of a lesser scale than that proposed. Greater levels of openness could be encouraged to preserve the cultural history of the site. The visual impact of the development is pronounced. This is particularly so when considering the intention to raise the level of the ground by 3.0m and more to raise habitable spaces of buildings above the floodplain. The filling in of the Liesbeek River also removes an element of the cultural landscape.

It is acknowledged that the development of the site will change the landscape and therefore alter the sense of place that is experienced regardless of the scale of development, (see point b) above. Having said this, the proposal seeks to have a development form and bulk that exceeds that experienced in the surrounding area. Therefore, consideration must be given to the most appropriate built form for the site.

In this regard, the City's Environment and Heritage Resources Department's suggestion referring to exploring the no-go option or development within the permissible zoning parameters is not admissible since the submitted application has to be assessed on its merits. [Development alternatives are ordinarily considered and submitted with EIA and HIA submission so that nothing precludes the no-go option and development within permissible rights as necessary components of the NEMA and NHRA processes. This consideration is therefore beyond the ambit of this submission]

While some elements of the application furnished when responding to branch comments addressed some concerns, it is acknowledged that the detailed design such as building heights, position of higher buildings in relation to public spaces, etc. of the proposal requires further assessment. The detail is still to be submitted for consideration and consequently the applicant will be required to provide a greater level of detail at a later stage. Therefore, the manner in which the proposal responds to the cultural and heritage elements on and around the property will need to be demonstrated as these features must be celebrated and not overshadowed by the proposal. The need to raise habitable spaces above the ground and the need to mitigate the impacts of possible blank facades (the parking levels), the ability for the development not to have a looking presence over heritage site such as the SAAO, is limited. The landscaping along the common boundary with the SAAO will mitigate this concern. The EA addresses this component.



f) Impact on the biophysical environment

As explained earlier, the property abuts onto two rivers and has ostensibly been used as an open space for many decades despite its location within an urban area. It has served as attenuation during periods of flooding for some time now. In the early 1900's the property was used as a recreational club with limited development to support that function. Much of the land remains open space and has been mainly used for golfing and golfing activities.

The proposal includes the intention for a portion of the development to retain the site's OS3 zoning. The advertised application along with the accompanying subdivisional plan referred to an extent of approximately 51700m<sup>2</sup> of land that would be zoned for Open Space 3 (OS3).

The applicant, while not amending the application submission but rather responding to branch comments, indicated that this extent would in fact be smaller i.e. 49835m<sup>2</sup> – this extent relates to land that will be zoned for OS3 purposes. Elsewhere in the response to branch comments the applicant states that in fact 109 520m<sup>2</sup> will be open space. This will include land zoned for OS3 and General Business purposes.

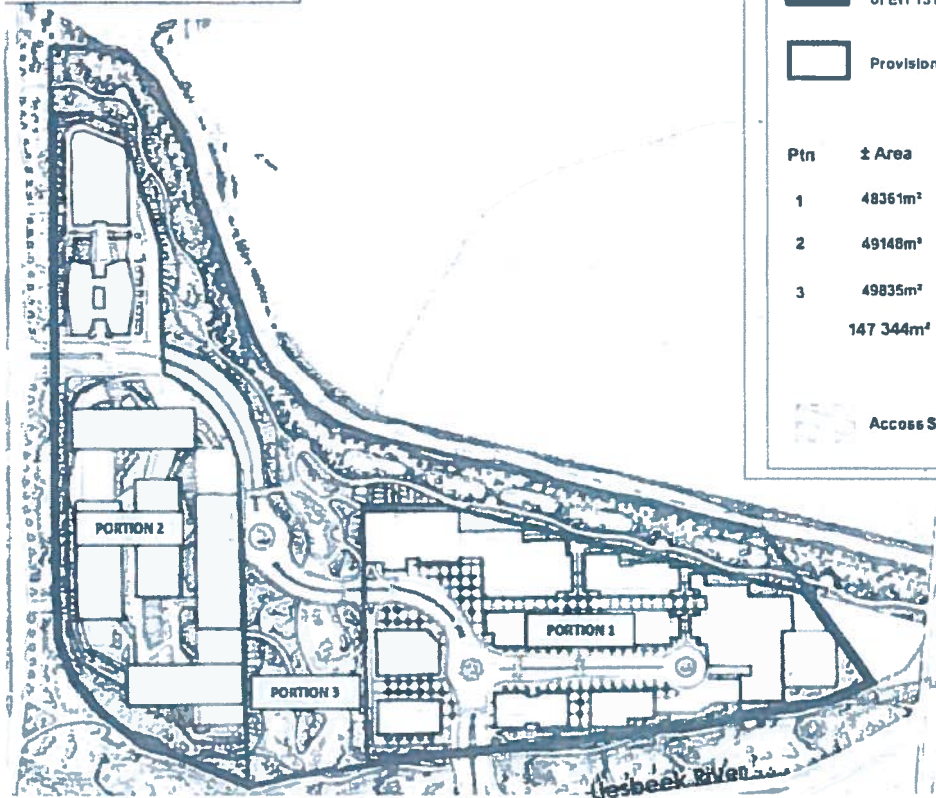
Reference is made to an extent of 109 520m<sup>2</sup> being open space. It is unclear what is being referred to in this instance. It must be noted that the EA issued incorporates components of into the development that extends beyond the property boundary. It is therefore unclear whether the additional extent referred to relates to the property and landscaping elements within the business precincts or whether the addition extent in fact includes City land.

The landscaping of the site will extend beyond those portions proposed to be zoned for OS3 purposes. Portions of the property comprising precinct 1 and 2 will also be landscaped. It is therefore conceivable that landscaping that will ultimately be undertaken will possibly see the greening of more than 5ha.

The reduction in the extent of land indicated as being zoned for public open space by almost 1865m<sup>2</sup> is not considered significant. It equates to a variance of less than 1% from that originally indicated, and mentioned previously. The application will be conditioned accordingly to limit the extent of OS3 to the minimum figure indicated above. It must be noted that since the extent of the buffer that must be provided along the old Liesbeek River must be increased, the actual extent of the portion zoned for OS3 may in fact increase.



Provisional Plan of Subdivision



	Boundary of Erf 151832, Cape Town	
	Provisional Subdivision	
<b>Ptn</b>	<b>± Area</b>	<b>Zoning</b>
1	48351m <sup>2</sup>	GB
2	49148m <sup>2</sup>	GB
3	49835m <sup>2</sup>	OSJ
	<b>147 344m<sup>2</sup></b>	
	Access Servitude	

The Recreation and Parks department indicated a no objection to the proposal having had site of the original submission and supplementary information. They require the submission of a master landscape plan – the information furnished is conceptual in nature and does not provide sufficient detail to be considered to be a master landscape plan. The application will be conditioned accordingly.

The Liesbeek River to the east of the property still exists in its natural state while to the west of the site it has been canalised. Canalising the river alters the state of the rivers' natural processes and does not allow for infiltration or riverine habitats to form. The proposal includes the intention to decanalise the river. The decanalised river will see river banks being created. A buffer zone, in accordance with City policy, will be provided along the river's edge. Buffer zones are generally provided to protect riverine habitats and as far as possible reduce the polluting and other negative effects of developments. The width of buffer zones is suggested to be between 10 – 40m depending on the significance of the river system – in this instance it is proposed to be 40m. Wetlands may result in additional buffer strips required. These widths specify the minimum – buffer zones may therefore be greater. The width of the buffer



zone will be determined by the importance or sensitivity of the river and its associated habitat.

Buffer zones protect aquatic life. The buffer zones are important as they provide corridors for fauna and flora to thrive. Buffer zones could become areas used for recreational activity. They could comprise pedestrian walkways and cycle paths. Pedestrian walkways and cycle paths will be provided – the general public will be able to access the site and enjoy the benefit of such facilities. The creation of these paths will enable a wider range of people to have access to the open space than that presently experienced. A public right of way must be registered in favour of the general public across the site to enable this to happen.

At least a 1/3 of the development will comprise open space. In addition to buffer zones, water features, as mentioned above, will also be incorporated into the development. These will be areas where flood waters can be captured during high levels of flooding though water will be directed toward the Black River to drain toward the ocean. During dry periods these spaces will continue to form part of the landscaping within the development.

Amongst the landscaped spaces within the development, open spaces must be included as places where the past is memorialised. This is particularly important to the First Nations people whose ancestors used the land for grazing, as an access point into the interior. It is also the point where skirmishes occurred. They were dispossessed of the land upon colonialization. Keeping areas around the Liesbeek River open as well as at the confluence of the Liesbeek and Black Rivers will be important as places to commemorate past events. Development of the site therefore must be sensitive to this and offer spaces of memorialisation.

New planting will have to be provided to ensure that riverbeds and riverine habitats are preserved despite the development.

Filling in of the old Liesbeek River course is opposed by the CSRM as mentioned earlier on. This will change the ecology of the landscape impacting the biota in the vicinity. In addition to the river having certain historic importance, CSRM states that the old Liesbeek River channel that abuts onto the Liesbeek Parkway is the last remains of the old Liesbeek River. They believe that any further development or proposal that will further degrade the old Liesbeek River channel should not be supported.

However, the applicant believes that the polishing effect referred to by CSRM will not be lost as the new planting will enable filtration and removal of pollutants. The applicant argues that infilling of the river will offer an opportunity for new planting and result in a rehabilitated space. Notwithstanding the applicant's comments, the proposal assumes that the infilling of the river is a fait accompli and will be supported. An alternate has not been considered but will need to be addressed at the Precinct Plan stage.

In response to this concern, the applicant indicates that if a buffer larger than 10m is required or if infilling of the river is not permitted, the rehabilitation of the canal will be lost. Alternates to that proposed must be considered and presented to the CSRM department. As state earlier said department opposes the loss of the existing Liesbeek River given its present function. Additionally, it must be noted that the

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infilled river will act as one of the swales to the development. The river however is accommodated off-site and not on the property. Notwithstanding the EA issued, the mandated department therefore would have to consent to the measures now being proposed.

The CSRSM has expressed a concern that the development will result in the loss of an opportunity to rehabilitate the open space.

The Catchment Management policies do not address the infilling of rivers outright but addresses the water quality and detention of water. A certain degree of filling is proposed to provide landscaped edges. The infilling will not raise the level. The findings of the hydrology study have been accepted by the Catchment, Stormwater and River Management department.

Buffer zones range in extent from 10 – 40m and is determined by the competent department i.e. Catchment, Stormwater and River Management. The submission of an SDP will be accompanied by information in the form of Stormwater Management Plan and Landscape plan. CSRSM will comment on said submission at that juncture.

As part of the development proposal, the wildlife on, and stemming from, the riverine habitats and river habitat is noted and therefore the process of construction must be sensitive to this. As far as possible impacts of the development during construction should be minimised – the habitat should therefore be protected. A construction phase environmental management plan (CEMP) will need to be provided which must demonstrate how habitats will be protected.

The applicant will be required to incorporate the sporting, walking, running and cycle paths into the landscaped areas and provide a landscape plan for consideration by this department. The application will be conditioned accordingly.

g) Traffic impacts, parking, access and other transport related considerations

The property is bounded by Liesbeek Parkway which provides access to -

- Malta, Albert and Voortrekker roads in a north-westerly direction;
- N2, M5 and N1 in a southerly direction and
- Station Road that in turn gives access to Nelson Mandela Boulevard and the CT city centre.

The site presently takes access from Observatory Road and gains access via a servitude right of way across remainder Erf 26423. While the servitude right of way will remain in place, it is proposed to provide access from Liesbeek Parkway.

The Department: Transport and Public Works has no objection to the proposal although various road upgrades are required, including;

- Liesbeek Parkway,
- Malta Road,
- Berkley Road,
- Black River Parkway, and
- Settlers Way (N2).

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These are all proclaimed Main Roads each of which will be impacted by the proposal. Given the status of these roads the Department: Transport and Public Works (DTPW) will need to be involved in the design of roads. Additionally, the upgrade of certain roads has not been budgeted for by the DTPW and consequently, the City has to ensure that provision is made for said road upgrades. The DTPW also has certain requirements that must be met that will be imposed as conditions to this application. The owner/developer will incur the cost of road upgrades required as a consequence of the proposal. While a development contribution (DC) has been levied for improvements to engineering services, it is anticipated that the cost to road improvements as a consequence of the proposal will likely exceed the DC levied and as a consequence the cost of road improvements may be off-set against the DC charged.

With regard to the provision of parking, the different uses may generate a need for 5849 bays. As is evident from the figures above, it is proposed to accommodate 4801 parking bays on-site.

Precinct	Land Use	GLA (m <sup>2</sup> )	Standard Area Ratio	Minimum Parking Bays Required
Precinct 1	Conferencing	1 020 (400 seats)	6 bays / 10 seats	240
	Hotel	6 970	0.75 bays / bedroom + 20	140
	Retail	13 345	6 / 100 m <sup>2</sup>	801
	Restaurant	7 620	2 / 25 m <sup>2</sup>	626
	Offices	12 635	4 / 100 m <sup>2</sup>	513
	Gym	3 485	10 / 100 m <sup>2</sup>	349
	Ancillary	1 785	n/a	0
	Pavilion	850	5 / 100 m <sup>2</sup>	43
	Residential	7 140	2 / unit	510
	<b>Total</b>	<b>55 250</b>		<b>3 221</b>
Precinct 2	Office	37 825	4 / 100 m <sup>2</sup>	1 513
	Residential	19 975	2 / unit	800
	Place of instruction	8 500	1 / classroom	60
	Retail	4 250	6 / 100 m <sup>2</sup>	255
	Ancillary	1 700	n/a	0
	<b>Total</b>	<b>72 250</b>		<b>2 628</b>
<b>Minimum Parking Bays Required for Precinct 1 &amp; Precinct 2</b>				<b>5 849</b>

The development will comprise two phases. Phase 1 will comprise approximately 1829 parking bays while phase 2 will comprise 2972 parking bays. A shortfall of 1048 parking bays will exist.



Level	Precinct 1 Parking Bays	Precinct 2 Parking Bays
Level P1	210	1 372
Level P2	210	0
Level P2-"basement" <sup>1,2</sup>	0	1 540
Level P3-"basement" <sup>1,2</sup>	1 349	0
Surface	60	60
<b>Total</b>	<b>1 829</b>	<b>2 972</b>
<b>Combined Total</b>	<b>4 801</b>	

The property is located within a standard parking area and therefore parking must be calculated based on the upper limit of parking provision. Notwithstanding the shortfall of parking, no parking departure has been applied for. A parking departure can only be applied for when the detail of parking and those aspects required to enable access to parking is provided. The detail of the parking layout, access areas and carriage-way-crossings are still to be provided. The detail of aspects of the proposal will be assessed at the time of submission which may be subject to further MPBL processes including public participation.

Various mechanisms can be employed to compensate for the shortfall of parking such as shared parking. The MPBL encourages shared parking. Since the proposal will see reduced parking ratio's, shared parking may be possible given the provision of residential accommodation on-site, other uses where the hours of operation may not overlap and the proximity and accessibility to public transport. In those instances, the opportunity for shared parking exists. That requirement must be encouraged and potentially conditioned accordingly.

[At the time of the submission the property was not located in or near to any PT zones. However, in March 2020 the area to the north of the subject property was designated a PT2 zone while the area to the west was designated a PT1 zone.]

It is also proposed that almost 40% of the proposal trip generation is ascribed to accessibility to public transport. As mentioned earlier, even though the site is located within a 500m of two train stations, the walking distance to the train stations is greater. These walking distances must respond to the need of the weakest users i.e. the elderly, disabled and children.

Liesbeek Parkway is not an IRT or BRT route, further there are no plans for it to be established as an IRT or BRT route. These routes have already been determined. The role out of the current IPTN routes is currently underway/in process. Having said this the IPTN is presently under review and consideration may be given to the benefits of developments of this nature. The location of the site within an integration zone, may also serve as impetus to focus attention on improving access of the site and its surrounds to public transport.

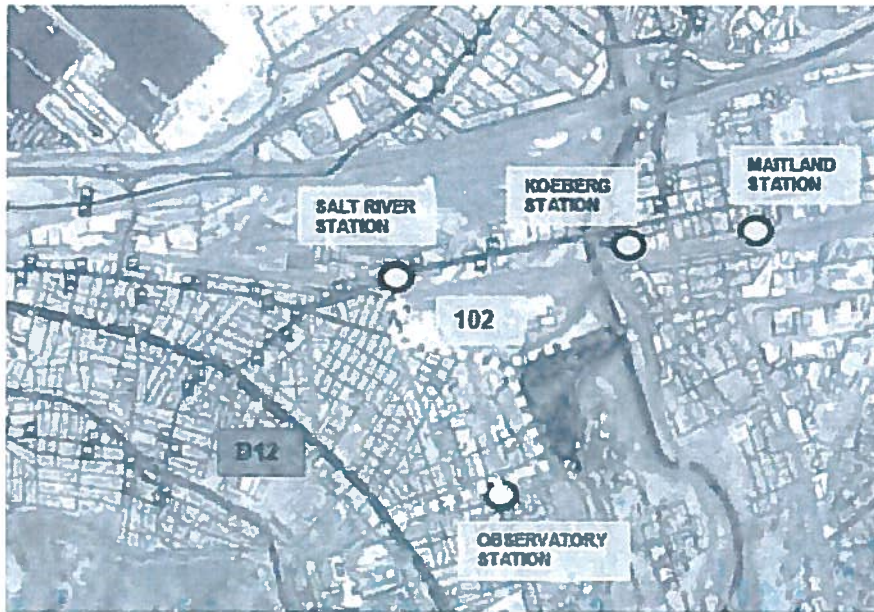
The table below indicates findings from the TIA. According to the TIA Golden Arrow Bus Services (GABS) services are situated close to the site. Upon assessing the information based on the City's viewer, GABS services are in fact located along Main Road Observatory and Station Road – no bus stops appear to be located between

Observatory Station and Liesbeek Parkway. It is therefore unclear how the proximity to GABS bus services was determined in the TIA as this service, [according to the City's information and checking on bus timetables] appears to be defunct. The location of GABS routes is therefore much further than the suggested 2 minutes. GABS routes are located along Voortrekker Road and also Canon Road in Maitland and extend along Berkley Road toward Ndabeni Circle and toward Voortrekker from Berkley Road. The shortest walking distances to bus stops are approximately 15mins from the property when heading toward Maitland.

Mode	Distance	Walking Time
GABS	±100m	±2mins
MyCiti (closest feeder stop)	>1000m	>15mins
MetroRail (Observatory)	550 – 800m	9-10 mins
MetroRail (Salt River)	>1000m	>15mins
Mini-bus taxi	±100m	±2min

The nearest MyCiti route is located in Salt River along Albert/Spencer Roads. Mini-bus taxi stops are more accessible with them having more sporadic stops.

Observatory, Salt River, Koeberg and Maitland train stations are located nearest to the site.



Proximity to train stations

Mini-bus taxi routes evolve more organically responding quickly to the needs of commuters. Presently mini-bus taxis travel along Station Road, which is located just



metres away from the property. As mini-bus taxi routes are established it may serve as a catalyst to establish a BRT or IRT route on/along Liesbeek Parkway as demand quickly rises.

Consideration may need to be given by the applicant to accommodate embayments for mini-bus taxis to permit commuters to board and disembark. It appears that no provision has been made to accommodate such a facility. The potential may exist to accommodate these on the shoulder of roadways both internal to the development as well as to be incorporated into road improvements around the site as is needed.

While the City's IPTN does not indicate the intention to accommodate a BRT along Liesbeek Parkway, the IPTN is presently under review providing the opportunity for consideration to incorporate routes along Liesbeek Parkway in future planning.

Phase 1 of the development, comprising approximately 65000m<sup>2</sup> of floor space, will require the construction of a portion of Berkley Road extension to ensure access to Maitland and onto the M5. Berkley Road extension will need to be constructed given existing capacity constraints. It is understood that the extension of Berkley Road has been anticipated for some time. Traffic generated by the proposal will further compound traffic congestion.

For this reason, the developer has acknowledged the need for the construction of Berkley Road and will incur the cost of the construction of a portion thereof so as not to compromise the development. This portion of road must be constructed prior to the completion of phase 1 of the development.

The City may align the construction of the remainder of Berkley Road simultaneous with the developer to complete the whole of the construction thereof to minimise impacts on traffic movement. Other road improvements have been outlined in the TIA which the Director: Transport Forward Planning (Transport Planning) has accepted and requires to be implemented in accordance with the TIA. The application has been conditioned accordingly.

The Link Road that will be constructed through the development between Berkley Road and Liesbeek Parkway will limit access to the development only initially. This will be done to ensure that sufficient capacity exists to accommodate the development. Access control measures will be removed later when the full extent of the Berkley Road extension is constructed. It is anticipated that traffic stemming from outside the development will mainly by-pass Link Road and use a more direct route via Malta onto Berkley to either access the M5 or Maitland. A right of way will be registered in favour of the general public to permit access across the site by the general public.

In addition to the above, surrounding intersections will also need upgrades, including

- Station Road and Liesbeek Parkway – changes to traffic signals;
- Liesbeek Parkway and Link Road – access onto the property from Liesbeek Parkway;

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## 1329

- Berkley Road and the M5 – single lane (in each direction) access from the property via Link Road onto Berkley Road and the M5. Various improvements will be required to said intersection.

In addition, Liesbeek Parkway would need to be widened to enable two lanes in both directions. This only exists for a short distance in the vicinity of the intersection of the site.

While the owner/developer will largely be responsible for incurring the cost of road improvements required as a consequence of the proposal. The extension of Berkley Road will in part be constructed and paid for by the owner/developer. The cost thereof will be off-set against the development contribution as this improvement to the road infrastructure has long since been planned by the City.

For Phase 2 further improvements will be needed to the Berkley Road extension to accommodate the additional floor space and vehicle trips. As mentioned above, while the developer will assume the cost of construction of a portion of Berkley Road, the City will be responsible for the remainder thereof. The necessary service level agreements will be entered into. Therefore, a portion of the DC may be off-set against such cost.

In the longer term other road improvements will be required in surrounding roads as well as the N2 and Station Roads.

Existing NMT facilities are provided along Liesbeek Parkway up to Observatory Road. While it is intended to provide both pedestrian routes and bicycle paths internal to the development, existing pedestrian and cycle paths external to the development should be integrated with the development. According to the proposal this is intended together with the provision of facilities where bicycles can be secured internal to the development to encourage the use of bicycles.

The application was advertised to the City Transport Planning Department and the Asset Management and Maintenance (Roads) Department. Both departments issued their no objection to the application. They each issued certain requirements to accommodate the development. These include various road improvements as mentioned in the TIA. These requirements will be imposed as conditions of approval to the application.

h) Conditions that can mitigate any adverse impacts of the proposed land uses  
Conditions will be imposed relating to, amongst others -

- Built form addressing, specifically, the interface of buildings at grade and in relation to the public realm.
- Maximum floor area with a register that accompany future submissions that keep a record of floor space development.
- The provision of a landscape master plan and landscape plan dealing with planting, hard surfacing, in relation to structuring elements like pedestrian walk ways, running and cycle tracks. The location and design details relating to public spaces and vehicular movement. The detail would need to be addressed at SDP stage.



- A transport plan showing the provision of roads, pedestrian sidewalks, cycle paths and the provision of public transport collection points internal to the development and on the perimeter of the development.
- A stormwater master plan is required to address stormwater run-off and flood management and how this will be dealt with in detail.
- Development contributions.
- Service provision prior to registering the subdivision.
- Servitudes to be registered in favour of the general public.

6.4 Impact on existing rights (other than the right to be protected against trade competition)

The application submission comprises three components i.e.

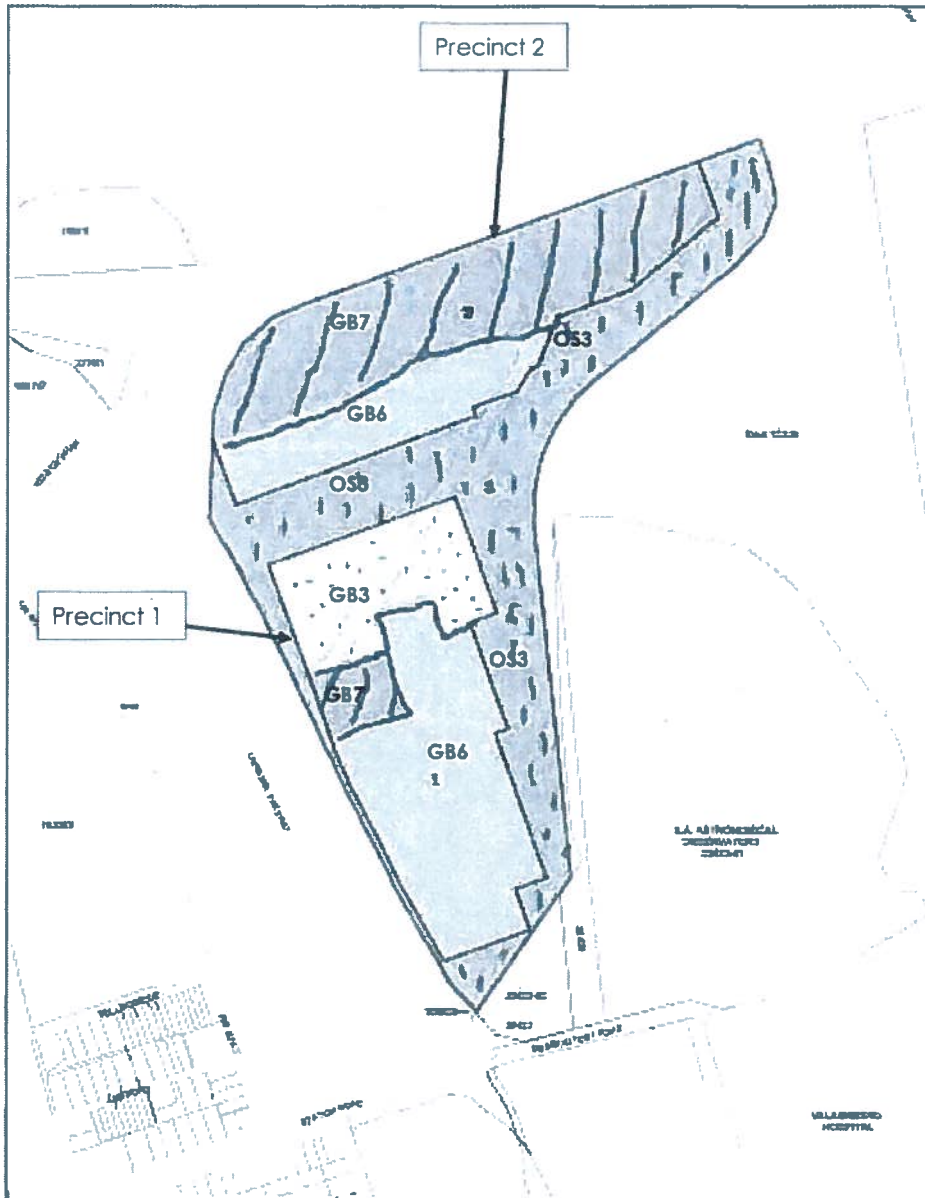
- Rezoning to Subdivision area
- Raising of the ground and
- Deviation from policy.

These will each be addressed in turn.

6.4.1 Appropriateness of the rezoning of the property to subdivisional area

The current OS3 zoning permits only open space and environmental conservation as of right. Uses such as Places of Assembly, Places of Entertainment, Place of instruction, tourist facilities, environmental facilities and plant nurseries, amongst others are permitted with Consent in the mentioned zone. As mentioned earlier the property is located within the metro-south east where mixed use intensification is encouraged. The rezoning of the property will enable the redevelopment in accordance with this demarcation in terms of the MSDF.





It is proposed to rezone much of the property to a General Business use zone. In accordance with the abovementioned illustration it is intended that approximately 98 500m<sup>2</sup> of the property is zoned for GB3, GB6, GB7 while OS3 zoning will be retained for about 49 835m<sup>2</sup> of the property.

The subdivision plan provided does not define the extent of each sub-zone, the extent for each should have been furnished with the submission. An application will

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need to accompany the precinct plan showing the relevant detail of each sub-zone as advertised and applied for.

The prevailing zonings in the area and properties in the vicinity of the subject property comprise GR2, GR4, MU2, OS2, CO1 and CO2. To the east of the M5 properties are zoned for MU1, GB1, GR4, CO1, CO2 and SR1. The development envelope for the General Residential, General Business and Mixed Use zones for each of the properties is indicated in the table below.

Table of rights for surrounding zones:

Sub-zoning	Coverage	Floor factor	Maximum height above base level to top of roof
GR2	60%	1,0	15,0 m
GR4	60%	1,5	24,0 m
GB1	100%	1,5	15,0 m
MU1	75%	1,5	15,0 m
MU2	100%	4,0	25,0 m

Sub-zoning	Street building line and common building line		
Points on a building above base level			
up to 10,0 m	over 10,0 m and up to 25,0 m	over 25,0 m and up to 38,0 m	over 38,0 m
GB1	0,0 m	4,5 m (0,0 m for common boundary)	N/a

Sub-zoning	Street building line and common building line		
Points on a building above base level			
up to 10,0m	over 10,0 m and up to 25,0 m	over 25,0 m and up to 38,0 m	
MU1	0,0 m	4,5 m	N/a
MU2	0,0 m	4,5 m	N/a

As is evident from the tables above, and when compared with the tables below, the only point of overlap or similarity exists between the MU2 and GB3 sub-zones. One could argue that the GR4 sub-zone is largely comparable given the permissible building heights, floor factor and to some extent coverage. This zone only differs from the aforementioned two zones in that it does not permit non-residential uses apart from a shop comprising a limited extent.

## 1333

Table of rights for proposed zones

Sub-zoning	Coverage	Floor factor	Maximum height above base level to top of roof
GB3	100%	2,0	25,0 m
GB6	100%	6,0	38,0 m
GB7	100%	12,0	60,0 m

Sub-zoning	Street building line and common building line			
	Points on a building above base level			
	up to 10,0 m	over 10,0 m and up to 25,0 m	over 25,0 m and up to 38,0 m	over 38,0 m
GB3	0,0 m	4,5 m (0,0 m for common boundary)	N/a	N/a
GB6	0,0 m	0,0 m	(H minus 25,0 m) divided by 2 (0,0 m for common boundary)	N/a
GB7	0,0 m	0,0 m	0,0 m	(H minus 38,0 m) divided by 2 (0,0 m for common boundary)

The GB3, GB6 and GB7 sub-zones will be unique to this property and this context. While, as stated the GB3 zone is comparable with the MU2 zone, it too will be unique to this location. Many properties in the vicinity of the subject property have not been developed to the full extent of their rights. Many buildings do not exceed a height of 15m, some extending to 18.0m while the "taller" buildings that are much lesser in number, in the vicinity are approximately 24m in height. As is evident from the table above properties in the vicinity are zoned for GB1 and MU1 and properties zoned for MU2 purposes are permitted to have 100% coverage but are not permitted to exceed a height of 15.0m and 25.0m each, respectively. The GB3 zoning is very similar is not opposed.

The proposed GB6 and GB7 zones is proposed to be accommodated in both precinct 1 and precinct 2. A third sub-zone, GB3, is proposed to be accommodated in precinct 1, see below.

Cape Town CBD could be argued to be the economic hub of Cape Town metropolitan area. This area uniquely accommodates tall buildings with greater areas of floors space and a wide range of uses. The vertical and horizontal intensification of uses and development is unique to this location when compared against the wider metropole. While other CBDs such as Claremont and Bellville experience zones of lesser intensity, and as a consequence, are not comparable to Cape Town CBD in respect of the presence or prevalence of GB6 and GB7 zones. Claremont CBD is generally characterised by GB5 and MU2 zones while Bellville CBD mainly has GB4, LB1 sub-zones. One property in Bellville CBD has a GB6 zone which exists as an anomaly amongst the latter mentioned zones. Other than this only four other instances exist in the Cape Town metropolitan area where a GB7 is located which are exceptions being:

- One appears to be a zoning conversion error;



## 1334

- One is located in an industrial area, and
- The remaining two are both located in or on the fringe of CBD areas.

The property is not located

- near or on the edge of a CBD or for that matter near to or on the edge of Cape Town CBD;
- near properties where developments with a similar built form exists, or
- in an area of transition where the stepping of buildings create a buffer between areas.

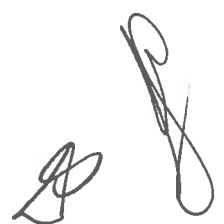
Therefore, the rezoning of the property to a GB7 zone could be argued to be undesirable. It is located on the back of Main and Lower Main Roads – each of the latter being linear corridors that should be greater levels of intensification. They are established corridors with associated support infrastructure such as established public transport routes, amongst others. The rezoning to GB7 is an anomaly with this context especially given the floor factor of 12.0 and maximum permissible height of 60.0m. While it is proposed in this instance to accommodate buildings of up to 46.0m in height above base level even said height is excessive given the prevailing landscape. Therefore, the proposed 46.0m buildings height as proposed will be peculiar to this location. Much the same can be said for the GB6 zoning proposed as well. In planning the principle generally is that existing nodes and corridors are generally reinforced through processes of intensification. This property is not located in or near a CBD that may justify the zoning proposed for reasons stated earlier. While the desire may be to accommodate signature buildings in certain instances on the site to create a renewed sense of place, this can easily be achieved with buildings not higher than 38.0m given the prevailing landscape. This may therefore justify the GB6 zoning especially since additional height above 25.0m can only be achieved through a rezoning application. It however acknowledged, as stated above, that even the GB6 sub-zone will be peculiar in this context. A precinct plan submission will be required to give effect to the built form within the context that is proposed. It will afford departments the opportunity to give further input where needed.

The location of the property on Liesbeek Parkway as the one boundary and Berkley Road as the other, will justify taller buildings along these edges. The intention to accommodate taller buildings along portions of Liesbeek Parkway and Berkley Road may be understood given the significance of these roads. Additionally, taller buildings will frame public spaces. However, having said this, other factors such as

- the historic significance of the SAAO and the need for view lines to be preserved across the site to view these buildings;
- the significance of the Liesbeek River and need to respect the heritage importance that it holds for certain cultures and communities, and
- provide views to the mountain

will influence the final form of buildings on the property.

Properties in the area are generally not developed to their maximum permissible rights. While some properties may, as a consequence of this proposal, be developed further, they will still not reach building heights, or floor factors as proposed.

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## 1335

Heights shown on illustrations further also denote height above base level. Two different heights are indicated being the height to the uppermost habitable space and height to the top of roof according to illustrations contained in the motivation, see note below.



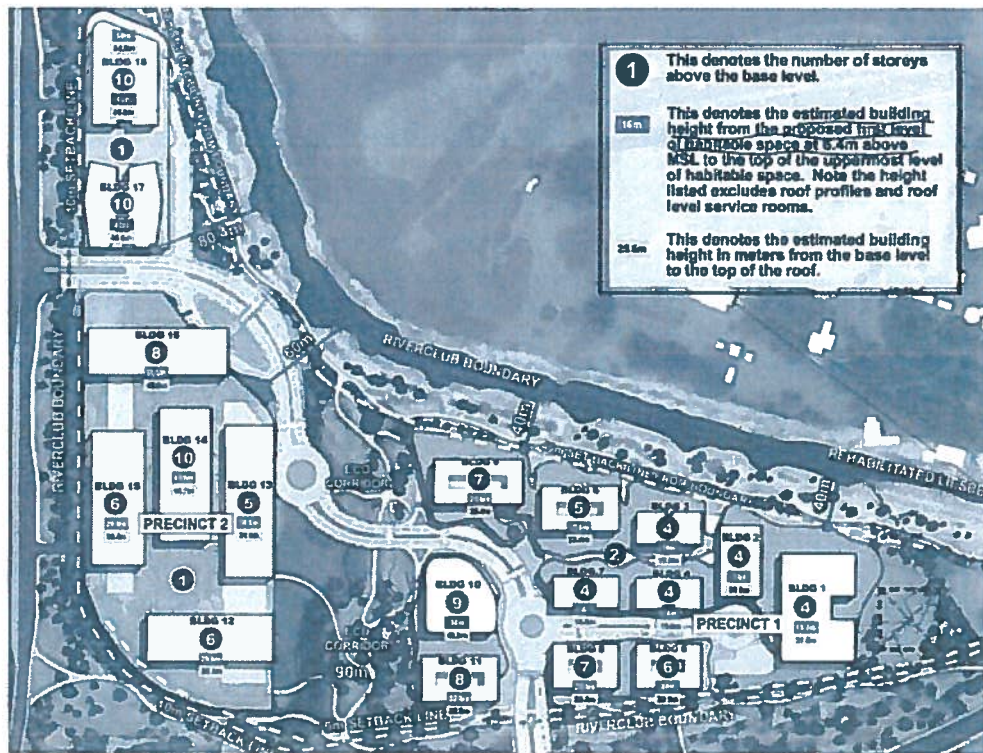
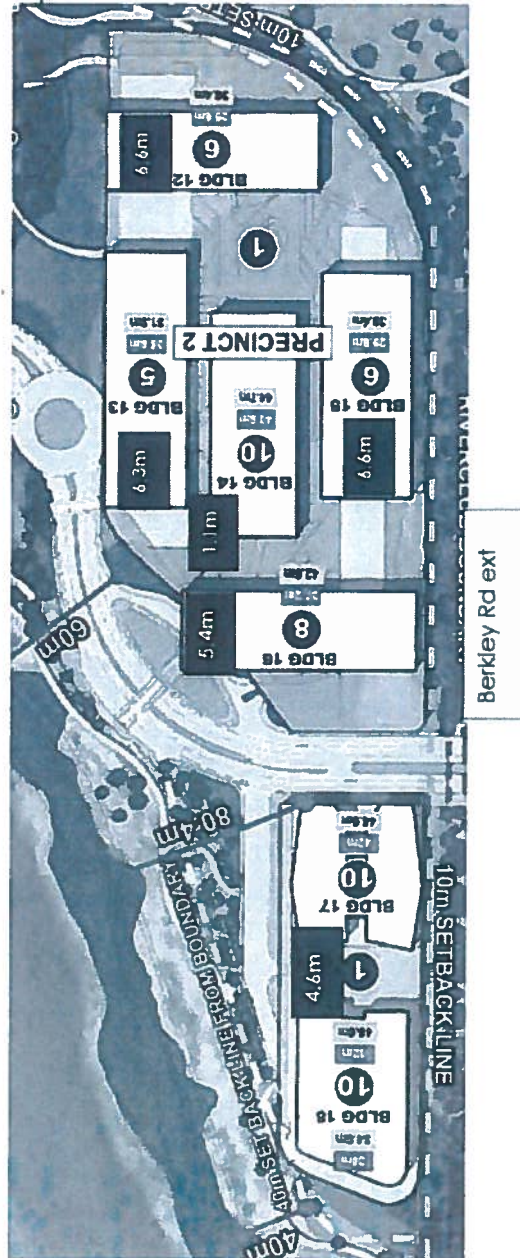


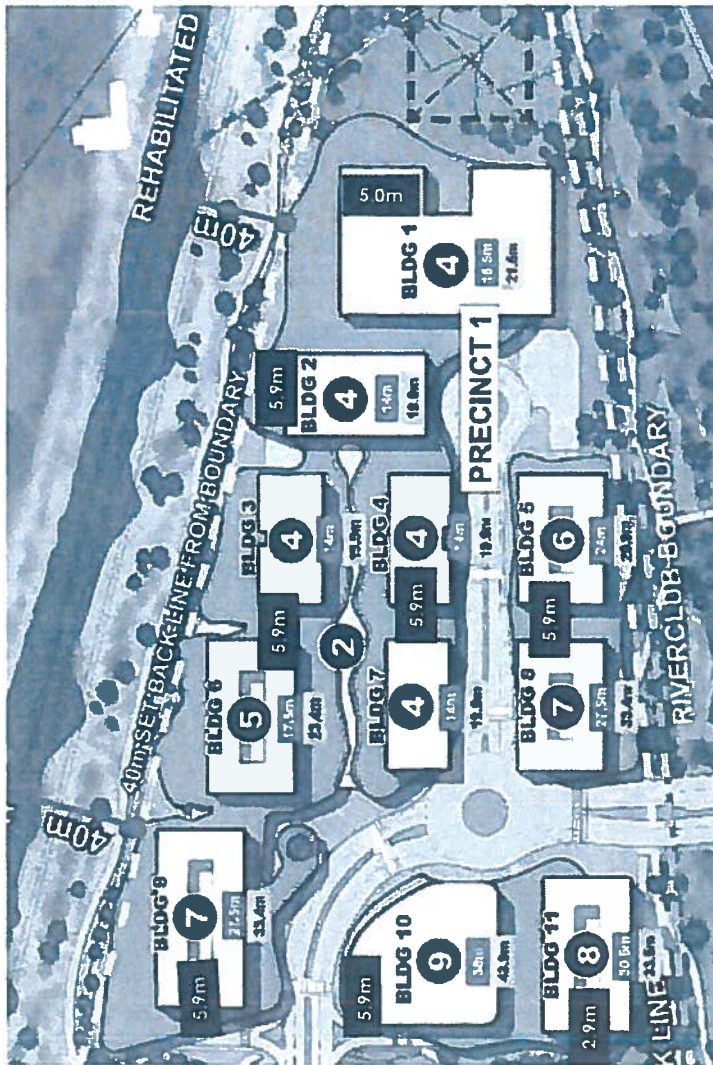
Figure denoting building height from 1<sup>st</sup> habitable floor to the top of roof

Services will be provided on top of the roof. Heights between highest habitable spaces (i.e. top floor) and roof height vary from 1.1m to 6.6m. (The figure in black illustrating the heights from top of highest habitable floor to top of roof height. Any height exceeding 2.4m enables the opportunity for additional floors to be inserted beyond that proposed.)



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It is unclear why such significant differences exist between top of habitable floor and top of roof height. In fact, such a significant difference in height further supports the argument that building heights to top of roof could be lowered. Generous roof heights as proposed supports the argument that building heights can in fact be lowered.

As described above in point b) buildings will be placed on plinths. Mounds of earth will be placed alongside what may otherwise appear to be large blank facades with heights of 5.7m and 5.9m. The mounds of earth offer the opportunity for landscaping. The earth mounds will appear to raise the level of the landscape. The openness



presently experienced, one accepts will change and therefore will no longer be experienced. The presence of the earth mounds will raise the level of the landscape. Added to this the presence of buildings taller than that presently will be significant. Providing 38m high buildings within this context will be unique to this location. As mentioned earlier building heights in the immediate context is considerably lower. A single taller building exists further field and is not experienced in the vicinity of the property. The provision of buildings at 38m in height therefore will adequately fulfil the function of enabling signature buildings on the property at a gateway point traveling along Berkley or Malta Roads. These will also serve a landmark function and therefore a renewed sense of place.

A base level certificate was furnished. Additionally, illustrations provided show base levels for each precinct. A building footprint on which the base levels were determined must be used as the basis for the building envelope in each instance. The base level certificate provided makes reference to a building envelope for the determination of height. Building heights in this instance will be determined from the calculated base level.

While precinct 1 has a superblock on which buildings will be placed and served as the basis for the determination of that base level it is unclear how this determination was made for precinct 2. Precinct 2 appears to have 2 super structures that will accommodate parking. The base level in that instance must be determined for each superstructure separately. Heights of buildings therefore can only be determined based on that. In the absence of a correct base level certificate for precinct 2 any future submission will require height to be determined based on existing ground level as is required in terms of the amended MPBL that came into effect on the 3 February 2020.

Portions of the property that will retain the OS3 zoning will be landscaped and comprise buffers to river corridors and wetlands. These spaces will need to be registered in favour of the general public to enable access to the water's edge and for people to enjoy these spaces. Given the heritage significance of the Liesbeek River, access to the river and also to the point at the confluence of the Black and Liesbeek Rivers is important in respecting the heritage value of these spaces to others. As stated previously, a right of way in favour of the public will be registered. This will enable a greater number of people to use the space than is presently experienced.

The property will be subdivided into three portions, i.e. two portions comprise mixed use activities including mainly business activity with some residential activity. The third portion will be zoned for Open Space 3 purposes.

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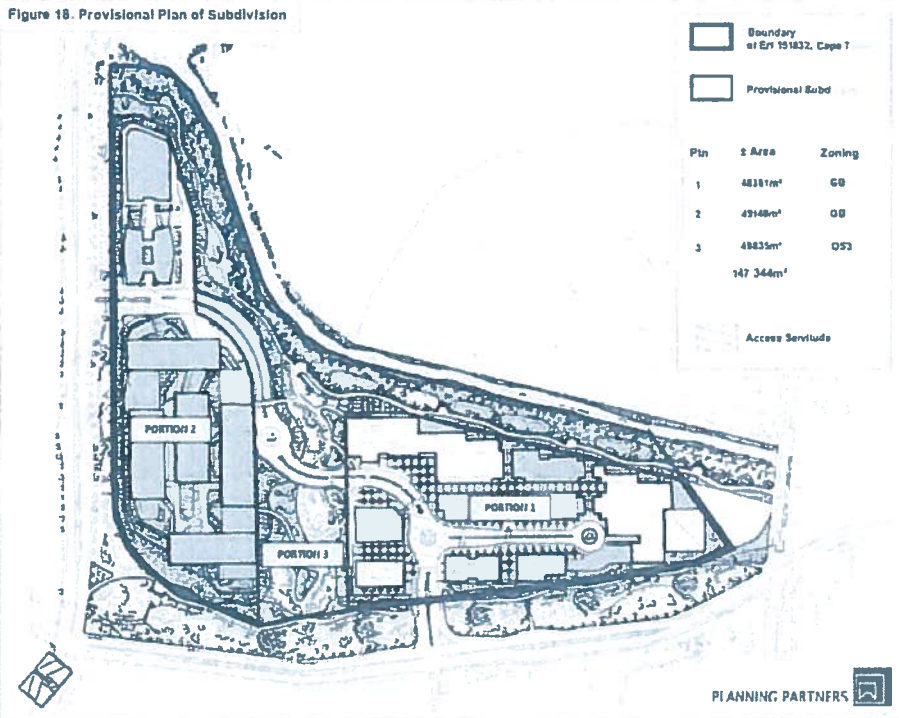


Figure illustrating Subdivision and rezoning proposed

## 1341

The portion zoned for OS3 purposes will comprise pedestrian paths, walking and cycle paths and must give access to the general public. As mentioned previously, despite the subdivision into the portions mentioned, the property will comprise a public right way that will enable vehicular access across the site between Liesbeek Parkway and Berkley Road extension in addition to given access to the public across the open space. While a 1/3 of the property will accommodate the OS3 zoning, some spaces comprising the general business zoning will comprise planting and hard and soft landscaping to give as much as is possible of this space too to greening.

A subdivision plan must be submitted illustrating the exact cadastral extent of each of the portions mentioned as well as indicating the zoning of each portion. That subdivision plan will have to be the subject of a subdivision application that will be considered at the time of submission. The application will be conditioned accordingly.

### 6.4.2 Retaining structures exceeding 2.0m above EGL

It is proposed to accommodate retaining structures above 2.0m in order to ensure that habitable spaces are positioned above the 1:100 year floodplain. For reasons mentioned in 6.2.9 above habitable spaces must be raised above the 1:100 year floodplain. For this reason, the application includes the intention to accommodate retaining structures of 5.7m and 5.9m exceeding the permissible height of retaining structures by 3.7m and 3.9m for precinct 1 and precinct 2 respectively.

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1342



Inset

Ground floor

Habitable spaces

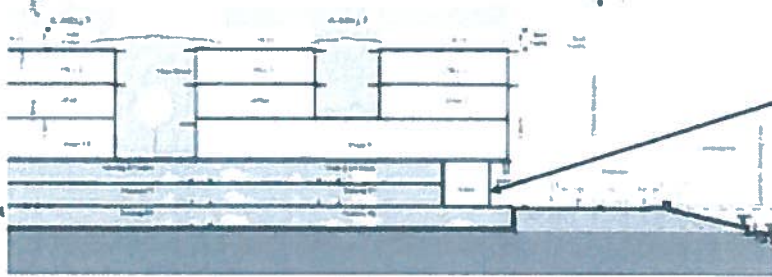


Figure showing ground floor and the point at which habitable spaces raised above 1:100 year floodplain

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Sections are provided to illustrate how the retaining structures will be positioned on a relatively flat landscape. In this instance the retaining structures will hold back earth imported onto the site from elsewhere and do not arise from excavating the site. The structures are in fact rectangular "boxes" that will be placed on the landscape to raise the level of habitable floors as mentioned above. The profile provided below illustrates this point.

6.4.3 Deviation from City Policy

The details relating to the deviation from various City policy are discussed in 6.2.9, 6.2.10, 6.3 c) and 6.3 f) above. These are supported as mentioned except where water quality is impacted that will arise as a consequence of filling the Liesbeek River for reasons stated in the latter sections of this report as well as 6.3 e) of this report.

6.5 Other considerations prescribed in relevant national or provincial legislation

The Land Use Planning Act of 2014 and the Spatial Planning and Land Use Management Act of 2013 require that land development must have regard for certain principles/guidelines when development is considered. These relate, in essence to

- Spatial justice;
- Sustainability principles;
- Efficiency;
- Spatial resilience and
- Good administration,

among others.

6.5.1 SPLUMA and LUPA principles

6.5.1.1 Spatial Justice

The proposal addresses this aspect as it provides inclusionary housing and business and economic opportunities. Spatial justice also finds expression in that development will be -

- Significantly different to that presently permitted,
- Located within an established setting,
- Located close to a wide range of opportunities, and
- Accessible to various public transport modes.

One of the reasons that SPLUMA was enacted was to give effect to the government's constitutional obligations to, amongst others, redress apartheid spatial planning through spatial transformation. In doing so, the aim is to improve equitable access to land, provide access to adequate housing (including equitable spatial patterns and sustainable human settlements), and facilitate sustainable development. As a result, the Section 7 of SPLUMA establishes five development principles related to spatial justice, spatial sustainability, efficiency, spatial resilience and good administration. The LUPA reiterates these principles.

Within the context of the City's constitutional municipal planning obligations, spatial transformation finds expression in the MSDP and subordinate policies. These are explained in preceding paragraphs. In the MSDP policy statement no. 3 a guideline





is to support inclusionary housing in well-located areas. The MSDF defines inclusionary housing and affordable housing as:

*Inclusionary housing: 'Policy directive and approach that seeks to leverage the development application process for new residential or commercial developments to secure the construction and perpetual availability of affordable housing in an integrated manner. (See also Affordable Housing)'*

*Affordable housing: 'Traditionally affordable housing refers to housing with prices or values below the overall open market value which targets below-average incomes. In this MSDF affordable housing refers to the household income brackets of R3 501 – R18 000 per month, and is inclusive of social, GAP, and inclusionary housing. It also refers to residential units valued at R500 000 or less.'*

*Changes to the National Housing Code have increased the upper limit of the Finance-Linked Individual Subsidy Programme (FLISP) to R22 000 monthly household income. The FLISP programme provides access to a subsidy for first time home buyers. Thus this guideline aligns the affordable housing income bracket with FLISP to be a monthly household income of R3 501 – R22 000.*

Other than the above, there is no current City policy to guide the provision, allocation and enforcement of inclusionary or affordable housing within private developments although the MSDF and IDP talk to its provision typically in public sector developments. In this regard, the City has in the recent past approved a number of applications within proximity to the development site containing housing including at the Salt River station, Pine Road, Brickfield Road, Observatory. Other similar types of proposals in these areas are also currently being considered.

Various recent City development approvals in relative close proximity to the development site have imposed conditions relating to the imposition of affordable / inclusionary housing on-site within private sector developments where such conditions were seen as reasonable and rational based on the Section 100(1) of the MPBL. Other than this section, the MPBL and DMS are silent on the issue of inclusionary or affordable housing.

With regard to the application in hand, significant development rights are sought while the property is suitably located accessible to public transport and economic and social opportunities to promote spatial justice. The various infra-structure upgrades will enhance this through improved access to and from areas further afield that form part of the metro-south east.

The inclusion of affordable or inclusionary housing units within the development was discussed with the applicant in early application interactions with City officials. In response, the developer proposed a limited amount of affordable housing units (4% being approximately 6000m<sup>2</sup> of the total floor space) based on economic viability of the current proposal. In spite of this department's desire to propose a condition requiring a larger percentage of affordable housing, the rationale or reasonableness cannot be clearly ascertained. Further, the imposition of such a condition could negatively impact on the financial viability of the project. As a result, the proposal is considered to be adequate and contributes to the broader spatial justice objective within this highly favourable location for reasons explained above.

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6.5.1.2 Sustainability and Efficiency

The proposal is considered to meet this principle to the extent that it is spatially compact and limits urban sprawl. The development is proposed within an existing established urban setting. The cost of the outlay of service infrastructure is reduced considerably because of the location of the site within an existing urban area. Various infra-structure upgrades are proposed to further integrate the development into the immediate and surrounding area. This will also facilitate accessibility to opportunities within the immediate and wider City.

6.5.1.3 Spatial resilience

The site is currently largely used as an open space with recreation and ecological systems. Despite the proposal to develop the site with mixed uses and multi-storey buildings it also retains and upgrades approximately 33% of the current site with open space and ecological components. In fact, various amelioratory measures will aim to assist in integrating the development into the much larger open space and ecological systems within an established urban setting. Similarly, heritage elements associated with the history of the site are proposed to be memorialised in various ways within the development.

6.5.1.4 Good administration

All required applications have been made including deviation from certain policies. These applications have followed due process and have been widely advertised as explained in preceding paragraphs.

Relevant government departments have provided the required inputs while the DEA&DP and HWC have considered applications within their competencies. The development will be subject to the related decisions and conditions imposed.

In the instance of this application, development will follow the package of plans process and it will be phased. Other applications that may be required will be administered and processed in terms of the MPBL, including possible further public participation. Justification for these deviations have been explained and are supported.

**I am satisfied that the requirements in Section 99(3) of the MPBL have been complied with.**

7 **REASONS FOR DECISION**

7.1 The reasons for the recommended decisions for approval of the applications for the rezoning from an Open Space 3 to a General Business, GB3 and GB6 and Approval of Council may be summarized as follows:

- The application complies with Sections 99(1) – (3) of the MPBL.
- The application complies with the MSDF as the property is within the urban inner core where development is encouraged. The applications will result in intensification and diversification of the land uses and densification.
- Densification and intensification of land contributes to the restructuring of the City and ensures better utilization of the service infrastructure.



- The proposals and applications will have positive economic and social impacts due to the mix of business, commercial and residential land uses.
- The applications and proposals are desirable.
- The proposals will be compatible with the surrounding area and will not significantly adversely impact on the character of the area. The mixed use development is suitably located being surrounded by residential, business and industrial uses.
- The site is appropriately located and accessible to various modes of transport, economic opportunities and social facilities and amenities.
- The proposal will not have a significant adverse impact on rights of the surrounding properties or general community.
- The applications and proposals will not adversely affect heritage resources. Heritage components will be incorporated into the development.
- Various transport, civil engineering and infra-structure improvements will be implemented in support of the re-development of the site.
- The reduced parking ratio is considered rational as the site is located within close proximity to a public transport corridor. Reduced parking provision ensures improved thresholds for public transport use.
- The proposals and applications satisfy LUPA and SPLUMA principles.

7.2 The reasons **to deviate from the following policies** –

7.2.1 the Table Bay District Plan,

7.2.2 the Floodplain and River corridor management policy, 2009 (FRCM) to permit the obstruction of the free flow of water in a 1:20 year flood plain and to provide fill below the 1:50 year floodplain in order to develop the property, and

7.2.3 the Management of Urban Stormwater Impacts Policy, 2009 to permit the 24hr extended detention of the 1-year recurrence interval for a 24hours storm event relating to the quantity and rate of run-off,

may be summarised as follows:

- The proposals comply with the MSDF which encourages development within the urban inner core.
- The proposals will result in intensification of the use of the land and densification of the land in a favourable location close to social and economic opportunities.
- The development of the land will create employment opportunities.
- Various technical studies undertaken as part of the separate environmental authorization process provide technical explanations which address the similar issues raised in the policy.

7.3 The reasons for the **refusal of the rezoning** from an Open Space 3 to a General Business, GB7 may be summarized as follows:

- The proposed General Business, GB7 rezoning will result in development which is out of context with regard to the height and floor factor.
- The increased height is not undesirable within its context.

- 7.4 The reasons for not supporting the deviation from the following policies relating to -
- 7.4.1 the Floodplain and River corridor management policy, 2009 (FRCM) to permit the filling of the Liesbeek River, and
- 7.4.2 the Management of Urban Stormwater Impacts Policy, 2009 to permit the up to 10 year recurrence interval to be reduced to pre-development level in respect of quality, quantity and rate of run-off and the up to 50 year recurrence interval peak flow to be reduced to existing development level in respect of quality, quantity and rate of run-off,

may be summarized as follows:

- The hydrology study relating to this aspect is not supported.
- Filling of the Liesbeek River will result in its filtration function being lost.
- Ecology relating to the River will be adversely affected.
- Water quality will be negatively impacted, and
- Its historical and cultural significance will be adversely impacted.

## 8 RECOMMENDATION

In view of the above, it is recommended that:

- 8.1 The application for the rezoning of the property from an Open Space 3: OS3 zone to a Subdivisional Area comprising General Business, sub-zones GB3 and GB6 and Open Space, Sub-zone OS3 in respect of **Erf 151832, 6 Liesbeek Parkway Observatory be approved** in terms of section 98(b) of the Municipal Planning By-Law subject to conditions contained in Annexure A1 and A2 attached.
- 8.2 The application for the Approval of Council to permit retaining structures to be 3.7m in precinct 1 and 3.9m in precinct 2 in lieu of 2.0m in respect of **Erf 151832, 6 Liesbeek Parkway Observatory be approved** in terms of section 98(b) of the Municipal Planning By-Law subject to conditions contained in Annexure A1 and A2 attached.
- 8.3 The deviations from -
- 8.3.1 the Table Bay District Plan,
- 8.3.2 the Floodplain and River Corridor Management Policy (2009), and
- 8.3.3 the Management of Urban Stormwater Impacts Policy (2009)
- in respect of **Erf 151832, 6 Liesbeek Parkway Observatory be supported** in terms of section 98(d) of the Municipal Planning By-Law.
- 8.4 The application for the rezoning of the property from an Open Space 3: OS3 zone to a Subdivisional Area accommodating a General Business Sub-zone GB7 in respect of **Erf 151832, 6 Liesbeek Parkway Observatory be refused** in terms of section 98(c) of the Municipal Planning By-Law.
- 8.5 The deviations from -
- 8.5.1 the Floodplain and River Corridor Management Policy (2009), and



8.5.2 the Management of Urban Stormwater Impacts Policy (2009)

in respect of **Erf 151832, 6 Liesbeek Parkway Observatory** not be supported in terms of section 98(d) of the Municipal Planning By-Law.

**ANNEXURES**

Annexure A	Application details and approval conditions to be imposed
Annexure B1	Locality plan
Annexure B2	Public participation map / Extent of advertising
Annexure C1	Motivation
Annexure C2	Urban Design Framework
Annexure C3	Environmental Authorisation
Annexure C4	Environmental impact assessment
Annexure C5	Environmental Management programme
Annexure C6	Biodiversity Impact Study
Annexure C7	Botanical Impact Study
Annexure C8a	HIA draft 2018 as advertised with LUMS application,
Annexure C8b	HIA Final July 2019
Annexure C8c	HIA Supplementary info Dec 2019
Annexure C8d	HIA final comment March 2020
Annexure C9	VIA
Annexure C10	TIA
Annexure C11	Geotechnical report
Annexure C12	Hydrology Report
Annexure C13	Stormwater Management Strategy Report
Annexure C14	Socio-economic Impact Assessment
Annexure C15	Civil Engineering report
Annexure C16	Electrical services report
Annexure C17:	Base levels
Annexure D1	Concept subdivisional area plan
Annexure D2	Conceptual landscape plan
Annexure E	Objections / comments received
Annexure F1	Internal departmental comments (Sept 2018)
Annexure F2	Internal departmental comments (December 2019)
Annexure G1	Applicant's response to objections /comments/support received
Annexure G2	Further response by the applicant to branch comments
Annexure H	Conveyancer's certificate
Annexure I	Title deed
Annexure J	List of objectors / comment parties / late objection

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Registered Planner

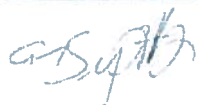
Name:

SACPLAN NO:





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Section Head

Name: Gregory September

Tel no: 021 400 6447

Date: 4 September 2020



District Manager

Name: Marx Mupariwa

Tel no: 021 400 6443

Date: 4 September



