

Template for Objections to the River Club development

Background. The River Club owners (Liesbeek Leisure Properties Trust (LLPT)) have submitted an application for a mega-development on the River Club site. SRK are the consultants who are managing the Environmental Assessment in terms of the National Environmental Management Act. Between 2016 and 2019, the regulations regarding Environmental Impact Assessments changed and, as a result, the River Club requires what is called a 'Basic Assessment' (BA) rather than a full Environmental Impact Assessment (EIA). That is what the "BAR" stands for – "Basic Assessment Report." The Public has till 16th September to comment on the report.

The Basic Assessment is one of a number of approval processes (some of which overlap) required for the development to get permission to proceed. They involve different decision-making authorities. These are described in more detail at the end of the template. Because you may have been involved in one or more of these previous processes, you might feel you have done this before. But don't get confused and, most certainly, don't sit back and do nothing because it is VERY important that the community express its views on the development!

Logistics:

1. Where to send your objection: Send it to Amy Hill of SRK at ahill@srk.co.za.
If you submit an objection, please copy ldg@obs.org.za
2. If you have any queries, SRK can be contacted at 021 659 3060.
3. When to send it: Any objection **must be received by SRK by 16th September** (technically up to 23h59 but please don't miss the deadline!)
4. How to title your objection:
 - 4.1 Title your objection: River Club Redevelopment Pre-Application BAR
 - 4.2 Cite the Erf numbers: Erf 151832, City of Cape Town, and adjacent properties (Erf 26426, ERF 108936, Erf 26427, Erf 15326 Rem, Erf 26169, Erf 26170, Erf 26171, Erf 26172, Erf 26173, Erf 26174 and Erf 26175)
 - 4.3 Refer to the following reference numbers
 - a) DEA&DP Ref. No.: 16/3/3/6/7/2/A7/17/3104/16
 - b) HWC Case No.: 15112504WD1217E
 - c) DWS Ref. No.: 16/2/7/G22/A/11 and WU9026 River Club
5. You must also give your name, contact details (specifying the preferred method of notification, e.g. e-mail), and an indication of any direct personal, business, financial or other interest which you may have in the application.

What is the document we are asked to comment on?

The Basic Assessment Report is on the SRK Website at <https://www.srk.co.za/en/za-river-club-redevelopment-pre-application-bar> .

It consists of multiple parts (in total over 1600 pages!):

File name	What is consists of	Length	Comment
478320_River Club_BAR_report_Part 1	The Main Report – first half Summarises most of the specialist reports	52 pages	Table on p 15 list heights Figures 3 and 4 are visuals of the scale of the buildings
478320_River Club_BAR_report_Part 2	The Main Report – second half Mostly deals with the receiving environment – geology, water, etc – land use, heritage, applicable legislation/policy, public participation, need and desirability, alternatives; Ranking of impacts and mitigation measures	92 pages	Hydrology and flooding dealt with on pages 9-12 (but see Annexure G3 for more detail on flooding)
Appendix A Locality Map	Map of the area	1 page	
Appendix B Site Plan	Site plan	1 page	
Appendix C Site Photos	Photographs of site as current	10 pages	The existing views are used
Appendix D Biodiversity Map	Map of current ecological and biodiversity status	1 page	
Appendix F1 IAP Database	List of name, capacity and organisation of I&APs	7 pages	
Appendix F3 Site Notices	Pictures of notices up at the River Club and at gates to advertise	4 pages	
Appendix F4 Advertisements	PDFs of various media where this BAR was advertised	5 pages	
Appendix G1 Transport IA	Detailed Traffic report	86 pages	
Appendix G2 Biodiversity IA_Part 1	First part of detailed Biodiversity Impact Assessment report	173 pages	The Western Leopard toad is mentioned 124 times in this report
Appendix G2 Biodiversity IA_Part 2	Second part of detailed Biodiversity Impact Assessment report, including sub-specialist studies: Pages 18 to 57 on the Western Leopard toad; Page 66 to 83 deal with birdlife impacts	91 pages	
Appendix G3 Surface Water IA	Specialist report on surface water and flooding	97 pages	
Appendix G4 Socio-economic IA	Specialist report on socio-economic impact	61 pages	
Appendix G5 HIA River Club_HIA ito S38(8)_HIA_Final_2 July 2019_Report	Main Heritage Impact Assessment Report	123 pages	
Appendix G5 HIA River Club_HIA ito	Compilation of all comments received from any I&APs	271 pages	

S38(8)_HIA_Final_2 July 2019 Appendices			
Appendix G6 Visual IA	Specialist report on Visual Impacts. Pages 51 to 57 contain very striking images of what the impact will be of the large buildings	62 pages	
Appendix H EMPr	Report on how Environmental Impacts will be managed for each identified scoped specialist area	61 pages	
Appendix J Impact Assessment	Summary of impacts for each specialist area assessed using standard methodologies	88 pages	
Appendix K1 River Club Planning Policy	Summary of policies and plans related to the site	53 pages	Notably, it tries to downplay the 2012 Table Bay District Plan (see 5.6) as if it superseded by the Municipal Spatial Development Framework
	You can find the Table Bay Spatial Development Plan 2012 at https://www.westerncape.gov.za/assets/departments/transport-public-works/Documents/table_bay_-_technical_report.pdf		
Appendix K2 Alternatives_Part 1	First part of a report that presents consideration of four alternatives; has an annex that starts presenting design indicators	55 pages	
Appendix K2 Alternatives_Part 2	Second part of the report completes the design indicators for alternatives and then presents a one page 'feasibility' analysis which is essentially a financial analysis	36 pages	
Appendix K3 Property Market Comment	Comment (aka opinion) on why the very dense development is preferable	2 pages	Drafted in June 2019; Should be read as an addendum to Appendix K6
Appendix K4 Engineering Services	Specialist report on Engineering issues	78 pages	
Appendix K5 Electrical Services	Specialist report on Electrical issues	6 pages	
Appendix K6 Property Market Analysis	Property market analysis	65 pages	Report from 2017
Appendix K7 Executive Summary	Summary of whole project	7 pages	
Pre-application BA Report Public Meeting Presentation	Presentation on 15 August	53 Pages	

Issues that can be raised in River Club objections (not limited to these issues):

1. Design Issues

The scale and density of the development is not appropriate to the existing zoning, nor to the surrounding environment. The SAAO have already pointed out that the huge buildings of up to 50m will be visible from the SAAO site, which is a national heritage site.

The visual impacts on people and travellers around the site will be enormous given the size and density of the development proposed. (see the images taken from Appendix G6 pages 51 to 57).

Many of the proposed benefits (e.g. better walkability, public access) could be achieved by a different kind of development.

The height and density of the buildings are grotesque. They are laid out without imagination and resemble an army barracks or lego towers.

The sparsity of housing in the development (only 20%) means that it will not be a comfortable space to live. One will have to transact one's social life in and around deserted office buildings at night. There are few social amenities, no pre-schools, no creche, etc.

2. Land Use issue

The current zoning is for Open Space with consent uses. It is a component of the Two Rivers Urban Park. Approving this development will deprive all Cape Town residents of a park space.

Undeveloped, well-located land exists outside of the park, where development could take place.

The River Club owners have no entitlement to development rights. They bought the land with the existing zoning.

The current local spatial development plan does not allow for this development. While deviations may be applied for, there has to be cogent motivation to justify such deviation. No such motivation has been provided.

For the development to go ahead, the City has to permit the developers to lease or purchase portions of land owned by the City. 11 portions of land are involved, including four portions zoned as public open space. This represents an alienation of public land to serve a private purpose.

3. Policy coherence

The contribution to affordable housing is only 4% of the development as a whole. Notably, the City has moved to ensure that all new developments of this kind will be required to provide a component of affordable housing, so this is immaterial to considering the merits of the application.

4. Hydrology and flooding

Flooding will be more frequent

The increased level of future floods of 15 cm is discounted as insignificant, whereas for those who will be affected, it will be highly significant.

We know that Climate Change will bring increasing likelihood of extreme weather events.

PRASA have submitted an application to develop on their land. If approved, this will prevent PRASA land continuing to act as a receiving site for run off of the floor waters. Where will this water go now?

5. Heritage Issues

The development will forever destroy the sense of place at the site. It will hugely alter views looking in to the site and views looking out across parts of Cape Town.

The site is of intense cultural and heritage significance for the Khoi. Memorialising by erecting a museum or cultural centre will not compensate for erecting huge buildings overlooking the confluence of the river.

The confluence of the two rivers is the epicentre of intangible heritage and is likely to house whatever memorial is established on the development. Yet the design of the development has some of its tallest buildings near this site, looming 30, 40 and 50 m over the confluence. This is insulting to the first nations and demeaning of their values.

Similarly, the Berkley Road extension will pass close by that confluence. It will be acknowledge to be noisy as a result and what is not stated, likely to generate litter and pollution. This will be visited not on the residents of the 50m apartment buildings but on the museum or cultural centre below, and on any visitors or community members performing any outdoor rituals.

Heritage WC have signalled their intent to investigate the heritage grading of the site based on preliminary heritage assessments for the wider TRUP. They have done so because of the significant intangible heritage value that has been confirmed for the site.

The commitment to establishing a museum or cultural centre appears to be an afterthought. There is no height attributed to this building (unlike the profit generating apartments and offices) and employment in this centre is not mentioned under potential benefits. It appears that this offer is a token to placate first nation groups outraged at how they are being again genocided in the name of private profits.

There are moves to declare the TRUP area a UNESCO heritage site and the Department of in 2013, DCAS earmarked the area between the Black and Liesbeek Rivers as a possible National Resistance and Liberation Heritage Route (NHLHR). This was supported by cabinet and spearheaded by Dept of Arts and Culture and in conjunction with National Heritage Council. It also received supported from the African Union, given its strategic importance for the African Continent. UNESCO may consider this a global heritage site. In light of this much wider and very high level cultural interest, it is grossly inappropriate to permit this development to go ahead, which will permanently destroy this heritage.

There are precedents where the City has recognised that cultural and heritage importance outweighs financial motivations – Maiden's Cove, Princessvlei are examples. Why should the City not take that position here?

6. Cost and Feasibility

The reason the development is so dense is because the site lies in a floodplain, resulting in the construction of any development requiring massive infill, which escalates the cost. Because the developers want a 9% return on their investment, they have to build so densely. If they accepted a small but still substantial profit margin, they could build a less dense development.

The valuation and estimation of first year profits does not take account of the land price that was paid at the time of purchase which was considerably lower than market value and considerably lower than what they have used in this estimate. Had they had included the actual price paid then their initial yields would have increased significantly.

The assumption that feasibility is simply economic feasibility is not correct. Under Section 240(1)(b)(iv) of the National Environmental Management Amendment Act, alternatives must be reasonable and feasible. However, feasibility is not just determined by financial returns. Feasibility must be demonstrated in respect of social, environmental and (socio) economic considerations which must be balanced – including the impact on heritage resources.

Moreover, the notion that a net first year return under 9% is unacceptable is questionable - there are many investors who would look at 7-8% investments if the quality is good enough.

The valuation which forms the basis of the River Club's claim that only Alternatives 1 and 2 are 'feasible' was authored by a valuator who has a major conflict of interest since she is employed predominantly by Investec who are the financiers of the project. She can hardly be independent.

7. Flora and Fauna

The Western Leopard Toad (WLT) is an endangered species and its only known breeding area is the Raapenberg wetlands. The biodiversity report states that "Significant mitigation is required to limit the impact of the proposed development, and to ensure the long-term viability of this WLT population."

An Obs resident also raised the problem of a rare plant species *Moraea aristata*, which occurs in remnant Peninsula Shale Renosterveld vegetation. The species is currently limited to a single subpopulation near the Liesbeek River in the suburb of Observatory. Despite its location within a protected area, it is on the verge of extinction (on the SANBI website at <http://pza.sanbi.org/moraea-aristata>). As far as we can tell, the specialist reports (Appendix G2 in two parts) make no mention of this plant.

If you are a flora and fauna enthusiast/expert, look up the reports on BAR website at <https://www.srk.co.za/en/za-river-club-redevelopment-pre-application-bar> (see Appendix G2 in two parts) and see if you can muster specific arguments.

Context for the current BAR process

For the River Club development to get the go-ahead, there are many processes involved. You may feel you have done this before but don't get confused and, most certainly, don't sit back and do nothing! Here is a brief overview and timeline:

- The River Club initiated an application for development at the River Club in 2016. Under the National Environmental Management Act (NEMA), an environmental impact assessment was required. The Provincial Department of Environmental Affairs and Development Planning (DEADP) will decide whether to approve the development or not as an outcome of the EIA.
- In 2016: First Draft Scoping Report released for comment. Many Obs residents attend the somewhat unsatisfactory presentation at the River Club by the consultants. Many comments and objections are made.
- A Revised Scoping Report, which should have taken account of the many comments from Interested and Affected Parties (I&APs), is released for comment in Jan 2017. Many comments and objections are made.
- As part of the NEMA process, the developers have to conduct a Heritage Impact Assessment. This HIA is first presented for comment to the OCA in Feb 2018. Many comments are made.
- A revised HIA is produced in April 2019 and released for public comment. For most I&APs, the revised HIA fails to take heritage matters into any substantive account. Many comments are made.
- The HIA is then submitted to Heritage Western Cape (HWC) for their comments in August 2019. HWC will send their comments to the DEADP for inclusion in the decision-making process. Bear in mind that if HWC turn down the HIA, the DEADP can still decide to support the development.

In parallel to the NEMA process are two other processes:

Heritage:

- Because of the high heritage value of the site, HWC decide in Feb 2018 to issue a provisional protection order for the River Club site which would prevent any development without explicit permission of HWC. They do so on the basis that initial heritage studies suggest substantial heritage resources at the site and therefore further assessment of the site is necessary to decide on a heritage grading. The provisional protection order is gazetted in April 2018.
- The order is appealed by the developers, the City of Cape Town, the DEADP and the Department of Public Works and Transport.
- A Ministerial Appeal Tribunal considers the appeals through a series of sittings and a site visit between October and December 2018. Both the appellants and other I&APs are able to make submissions to the Tribunal.
- The Tribunal's directive is issued in Feb 2019 and directs the parties to engage with each other, and for HWC to provide an opportunity for the appellants to have their appeals heard, and to return to the Tribunal if no agreement is reached.
- In May 2019, HWC reconsiders the matter of the protection order and reaffirms the need for the protection order is still valid. The matter must now return to the Tribunal for decision. A date is still awaited.

Zoning (City of Cape Town process):

- While the Appeal Tribunal is underway (Sept 2018), the applicants approach the City to have the site rezoned to permit the development.

- The rezoning is advertised for public comment and many objections are made.
- The City indicates to the OCA in June 2019 that the applicants have suspended their application for rezoning while the Heritage appeal and the Basic Assessment process are under way.