



OBSERVATORY
Civic Association

60 Trill Road
Observatory
7925
27th February 2020

Ms Amy Hill
SRK Consulting
Rondebosch
Dear Ms Hill

Further Comments on the River Club Basic Assessment Report

*DEA&DP Reference Number: 16/3/3/6/7/1/A7/17/3217/19 HWC Case Number:
15112504WD1217E DWS Reference Number: WU9026 River Club and 16/2/7/G22/A/11*

The Observatory Civic Association would like to supplement our previous comments of the 14th February with additional comments. As previously explained, we do not believe the time allocated for the comments on the revised BAR were adequate to do justice to the process of public participation. However, since you indicated that, even though an extension for comments was not possible for SRK to incorporate comments into your final report, you would forward any additional comments received after the 14th to DEADP (Annexure 3_ Stakeholder Comment Period_ BAR for the Proposed Redevelopment of the River Club in Observatory). I therefore ask you to include this communication in the material submitted to DEADP.

1. Widespread unhappiness and dissatisfaction with the application

I attach to this submission a pdf of a Change.org petition we have been running, which has garnered more than 10 000 signatures in the space of a week in support of the OCA submission (see Annexures 1, 2 and 2a). We started this petition on the 20th February to allow people who could not read the voluminous documents or felt discouraged about submitting comments given that their previous submissions were not responded to in ways they felt worthwhile. It has led to public explosion of support for the OCA's submission. We think this is significant for the decision-maker as it reflects a level of support for the OCA's objection that is widespread and deeply felt by a very large number of people.

The content for this petition is attached (Annexure 1). While we know that it does not meet the prescripts set out for official petitions, we still believe this represents an extraordinary

statement of public rejection of the proposal. Of the 10662 signatures collected as at 15h50 on the 27th Feb 2020, 6226 list themselves as from South Africa and 4076 from Cape Town (Annexure 2). The comments which petitioners noted (Annexure 2a) indicate that many South Africans have strong connections to the site for heritage and environmental reasons and believe strongly that the development should not go ahead. We believe this indicates that DEADP should include this petition as a serious consideration in evaluating the application.

2. The participation process

We do not think that the time afforded for IAPs and potential IAPs was remotely sufficient in the case of the amended BAR. As previously argued, the documentation is vast and sometimes confusing so affording IAPs only 30 days to respond is not adequate.

Many IAPs have their own jobs and participate as active citizens but are not employed to work full time on this project, so have limited time. We participate on a voluntary basis. While it is true that the documents have been marked up where there are edits, it does not mean that we do not need to read documents that have not been changed. By way of example, the latest version of the BAR introduces Amazon as a core client in precinct 2, occupying 70 000 of the 90 000 m² of floor space in the precinct. Amazon's campus will include between 1500 and 1900 parking bays, meaning a sizeable ingress and egress of vehicular traffic to the site at peak hours. This contribution to parking and traffic is not mentioned in the 2018 TIA as far as I can tell. But I have to read the entire 97-page TIA to be sure of that fact.

So, practically speaking, an IAP who wishes to make a well-considered comment would have his or her work cut out doing so without a lot of time to digest and review a lot of documents. Thirty days is just not adequate for meaningful public participation.

As we understand, the 30-day period for comments is the minimum not the maximum period for public comment and, in this circumstance, it seems evident that a longer period should have been allowed for comment as permitted under the NEMA regulations.

Furthermore, it is the case that the BAR documents were removed from SRK's website shortly after the 14th February and were only restored after OCA members queried this with SRK. This means that IAPs who wished to refer to the documents after the 14th may not have had access to the documents to prepare their comments.

We are therefore unsure of whether this BAR process has met the requirements for public participation both under NEMA and under any other relevant policies governing public participation. Active participation by citizens is prized under our Constitution and all state decision-making processes should be consistent with the constitutional imperative to ensure citizen voice is adequately fostered and has opportunity to input meaningfully to decision-making processes.

3. The recent court case decision on the Philippi Horticultural Area

It was widely reported that the judgement by Judge Savage (see attached Annexure 4) in the court challenge regarding a rezoning decision to permit development in the Philippi Horticultural Area was groundbreaking because it confirmed the principle that the state must consider climate change and the impact of the development on the aquifer in the context of climate change in its decision-making processes. We have argued that the impacts on the aquifer as contained in this proposal, were only very superficially considered (and even then only considered from the perspective of the impact of pollution), but not from the point of view that the Liesbeek River, if managed differently, could contribute to better and more sustainable recharge of the aquifer, thereby rendering Cape Town more resilient to drought. Moreover, a recent study by Aziz and Winter (2019: Discharge and water quality of the Liesbeek River and implications for stormwater harvesting. Environmental & Geographical Science and Future Water, UCT, attached here as Annexure 5) suggested that “water from the Liesbeek ... could be used to raise groundwater level though infiltration of floodplains and ultimately to recharge parts of the CFA aquifer.”

Judge Savage’s finding was made on the 17th February 2020, three days after the deadline for submissions of comment and thus could not be included in the OCA’s first set of comments. We believe that the studies for the BAR are insufficient to address the requirement set out in Judge Savage’s finding. For example, as stated previously, the hydrology report stated that “investigation of the impacts of sea level rise is beyond the scope of this study, however it would be in the City’s interest to undertake further modelling to assess how climate change and sea level rise impacts could be mitigated.” As a result, the flood modelling uses out-of-date sea level rise data from 2010. The study by Aziz and Winter cited above make it clear that this proposal has not considered how development in this area might prevent future opportunities to recharge the aquifer since this study is not included in the considerations for the hydrology report. This appears to provide prima facie evidence that the decision-maker is not in a position to comply with Judge Savage’s directive.

4. Failure to update key reports: The Traffic Impact Assessment and the Hydrology study.

As indicated above, new information was introduced in the revised BAR but its impact was not considered in the relevant reports, which were not updated for the revised BAR. The example above is of the Traffic Impact Assessment which pre-dated the confirmation that Amazon would be the core client in Precinct 2. Since the Amazon campus has a specific requirement for parking, this will affect the volume of cars entering and leaving the re-developed River Club site but it does not appear that the TIA took such volumes into account, since these volumes were only apparent long after the TIA was completed. Similarly, for the hydrology /surface water report, which was conducted in 2018, none of the queries and questions from IAPs led to any updating of the 2018 Hydrology report. The

only responses to the hydrology queries lodged were inadequate in answering concerns that were set out in response to the first report.

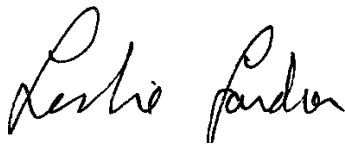
5. Heritage grading of the TRUP

We draw your attention to the fact that (a) the Heritage Impact Assessment for the Two Rivers Local Spatial Development Framework notes that the TRUP, in which the River Club is located, is mostly likely worthy of provincial if not national heritage status. Moreover, 61 First Nation Groups, Civic Associations and NGOs have nominated the TRUP area for provincial heritage resource status (see attached Annexures 6a to 6d). This means that the likely heritage grading of the site, which has been discounted in the HIA, should be kept central in mind when the Decision maker considers the application.

The Observatory Civic Association remains very strongly opposed to this development at the River Club. We do not believe the application should be approved as there are flaws in multiple key aspects of this application as outlined above and which have not been addressed in the series of iterations of this application.

We therefore submit these points as supplementary comments which we believed should be considered by the DEADP. Please confirm these will be forwarded to the relevant official at DEADP.

Yours sincerely



Leslie London
Chairperson Observatory Civic Association

Attachments

- Annexure 1_OCA_27_Feb_Petition to the Department of Environmental Affairs and Development Planning.docx
- Annexure 2_OCA_27_Feb_petition_signatures_Thurs 27 Feb 15h50.pdf
- Annexure 2a Petition Comments.docx
- Annexure 3_Stakeholder Comment Period_BAR for the Proposed Redevelopment of the River Club in Observatory.pdf
- Annexure 4 Philippi Horticultural v MEC for LG Env WC.docx
- Annexure 5 Liesbeek River Discharge and WQuality Dec 2019.pdf
- Annexure 6a Annexure 6a Section 27 Provincial Heritage Site Nomination 27 Feb.pdf
- Annexure 6b Annexure 6b - Organisations supporting the Provincial Heritage Site application.pdf
- Annexure 6c Proposed boundary for heritage protected area.pdf
- Annexure 6d Property Owners in the Two Rivers Urban Park.pdf