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## GORINGHAICONA KHOI KHOIN TRADITIONAL INDIGENOUS COUNCIL APPEAL

### Appeal Rationale

*“Did you not hear the hammerkop, when  
the star fell?*

*It came to tell us that our person is  
dead.”*

*..the hammerkop lives at the water  
which is like a pool,*

*in which we see all things;*

*the things which are in the sky*

*we see in the water while we stand on  
the water’s edge.*

*We see all things,*

Dia!kwain (1876)



## Goringhaicona Khoi Khoin Indigenous Traditional Council

*"I owe my being to the Khoi and the San whose desolate souls haunt the great expanses of the beautiful Cape - they who fell victim to the most merciless genocide our native land has ever seen, they who were the first to lose their lives in the struggle to defend our freedom and independence and they who, as a people, perished in the result.*

*Today, as a country, we keep an inaudible and audible silence about these ancestors of the generations that live, fearful to admit the horror of a former deed, seeking to obliterate from our memories a cruel occurrence which, in its remembering, should teach us not and never to be inhuman again.*

*I am formed of the migrants who left Europe to find a new home on our native land. Whatever their own actions, they remain still part of me.*

*In my veins courses the blood of the Malay slaves who came from the East. Their proud dignity informs my bearing, their culture a part of my essence. The stripes they bore on their bodies from the lash of the slave master are a reminder embossed on my consciousness of what should not be done."*

Extract from a speech by President Thabo Mbeki 'I am an African' at the launch of the South African constitution. 8th of May, 1996.

When President Mbeki on the eve of the launch of the South African constitution, spoke of our people, what was missing then is more present now. In 1996, the Khoi and San was not part of the constitution. The African Renaissance would remain in its nascent stage until the fullness of the African body was completed. This fullness lies in the recognition, and celebration of the Khoi and San. As an indelible part of who we are as South Africans, and as Africans. In 2019, President Cyril Ramaphosa signed into place the Khoi and San Traditional Leadership Act. Rhodes has fallen, Jameson renamed, and Khoekhoegowab has returned.

Today, we move closer more than ever towards rekindling our communal birth right to dignity, to a truth and reconciliation of an embodied healing from a torturous past that still lingers, in moments menacingly, into our present.

**Registered as the Goringhaicona First Nation Indigenous Trust IT 51/2017**

**Contact Person: Paramount Chief Delrique Dextery Aran (Impose Arendse)**

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## Goringhaicona Khoi Khoin Indigenous Traditional Council

The Goringhaicona owes its continued existence to its siblings the Korana, Gorachoqua, Cochoqua, Hessequa and the Goringhaiqua. We know from each other a wisdom that outstretches time, which moves us with the stars when they gather. Ours is a family relation that is dialogical, and spiritual. Time as our reliable witness will testify to the fact that we find each other through the ages, even in moments when we may understand it as being otherwise. We owe our continued existence in solidarity with those who fought with us in the 16 Frontier wars, the Khoi movement and exile akin to the Mfecane that started on these embankments. For it is in the unmistakable lines of a shared history of Resistance that we ultimately are one nation. Above all else we are African.

From the confluence of waters of Black River, and The Liesbeeck River we sustained the longest resistance against colonial oppression which fanned out across the subcontinent for 169 years. 16 Khoi wars, the last 5 of which were fought together with the AmaXhosa in the East. David Stuurman and prophet leader Makhanda fought side by side and were captured and taken to Robben Island.

Our matriarchal guide Krotoa, brought with her an umbilical connection with the Dutch. We share a history too with Portuguese, English, Irish, Scottish, German, Flemish, French, Swiss, Russian, Greek, Turkish influences. This ambiguity of identity is the living paradox of the Khoena nation. Yet, within this antithesis lies a revelation of a unique beauty, and resonance of our country's multi coloured flag. We are of the First Nation, just as we are of many nations. Every nation is from us, as we are of them. Sometimes hidden or denied, we are here. Our claim is the human claim. Ours is Khoi which means men of man. We too are of the Camissa People.

Our appeal walks in the footsteps of our ancestors who defended the sacred terrain of the Two Rivers Urban Park precinct and beyond. From the Orange River, across the Limpopo, to the desert terrain of Botswana, the dunes of Namibia, the waterfalls in Zimbabwe and to where the source of the Zambezi River begins in the uplands of Angola. We remember Doman, Autshumao, Trosoa, Odesoa, as we pay tribute to David Stuurman whose final journey from a Robben Island jail took us to a bridge in Australia. Our fight to protect this sacred landscape finds its call within indigenous communities across the globe, communities who are standing up to the illegitimate destruction of their sacred ancestral land, from the Native Hawaiians protesting the construction of a telescope on Mauna Kea, to the Māori iwi occupying the sacred land of Ihumātao to prevent a housing development, to the Canadian First Nations fighting against the construction of gas pipelines through their unceded territory

We hold the line away from museum jars and the sacred skeletal bones of our ancestors who were taken away for 'science' research in academic institutions in Europe. We, with warm embrace honour Sarah

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Baartman, whose body was cut up in the Musée de L'homme (Museum of Man) in Paris after death and whose womanhood was exhibited as an animal specimen, sexually exoticised as the Hottentot Venus. From her we learn that our heritage is not for sale. Nor is it up for callous, valorized and extortive exhibition. Our meaning is not for profit but healing. We are still living, not an extinct relic of the past. Ours is a nation that holds the depth of orality in its soul, one unbowed, unslaved, and spiritually unconquered.

We owe our existence to the diversity that stretches like the Liesbeeck itself through our veins. A unity of peoples that are of us, bound in the bones of liberation and resistance and pulsates in the marrow of multiple strands of identity. From Java, Madagascar, South East Asia, India, we have forged within ourselves bonds unbreakable and we hoist our heart as a flagship which bears the origins of earth herself. We, since the beginning have shown an immeasurable openness to neighbours and visitors from other shores. Etched in the very names of our sovereign houses depict the diversity of mixed blood. Not only did we welcome visitors we healed them with our plants from long and dangerous journeys. Today, these who were once visitors find home in the azure of our varied features. We stand as one nation under our national motto, written in the mother tongue of all languages of the soil.

We owe our essence to the Rivers, the stars, the land, and the sacred animals many of which are no longer in existence. We have lost to oblivion, the Blue Buck, Quagga, and The Cape Lion all of whom were hunted to extinction soon after access to the Liesbeeck River was denied. We always remember and miss them, and meet them in awe, and reverence in our dreams.

The Liesbeeck valley became an occupied territory in 1659. It has since gone through various political and administrative dispensations. The meme of the VOC remains, and from its recent dormancy has flared up again to haunt us. Just as in 1510 when we overcame D'Almeida, we now line by the Riverbanks once more in readiness to defend against another threat to our motherland. Another threat to our rivers and another to our sense of place. No concrete block will ever serve as our manumission. Hotels and highend apartments do not emancipate us from economic slavery but reimposes black labour stuck in an Apartheid syndrome of workmanship that serves a capricious master of luxury and holiday making.

Not here.

This is a place of deep spiritual meaning, and of revolution.

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## International, Regional, National Conventions

*This appeal notes the following international conventions and policies:*

### RIGHTS OF INDIGENOUS PEOPLES

The following articles pertain directly to the case with TRUP and the River Club in relation to the Rights of Indigenous People:

**United Nations Guidelines on Indigenous Peoples** 5.2.3 of this guideline states **respect for the principle of free, prior and informed consent, which includes access to information on proposed activities and the likely impacts in an understandable format.**

**The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:**

**Article 2:** Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

**Article 8 (1).** Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

**8. (2).** States shall provide effective mechanisms for prevention of, and redress for: (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;

**(b)** Any action which has the aim or effect of dispossessing them of their lands, territories or resources.

**e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.**

**Article 9:** Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.



## Goringhaicona Khoi Khoin Indigenous Traditional Council

**Article 12 (1):** Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains. 2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned

**Article 13 (1):** Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons. 2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

**Article 18:** Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

**Article 19:** States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

**Article 23:** Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

**Article 25:** Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

**Article 29 (1):** Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without



discrimination. 2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

**Article 31 (1):** Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional expressions, as well as the manifestations of their science, technologies and cultures, including human and genetic resources, seeds, medicine, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual performing arts. They also have the right to maintain, control and protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional culture expressions. iii.

Article 31 (2): In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

**Article 32 (1):** Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources. 2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. 3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

## TANGIBLE AND INTANGIBLE HERITAGE PROTECTION

FURTHER UNITED NATIONS REFERENCE on Tangible and Intangible Heritage Resource Protection.

- **UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)**

Article 8: Measures to Protect cultural expressions





Without prejudice to the provisions of Articles 5 and 6, a Party may determine the existence of special situations where cultural expressions on its territory are at risk of extinction, under serious threat, or otherwise in need of urgent safeguarding.

Parties may take all appropriate measures to protect and preserve cultural expressions in situations referred to in paragraph 1 in a manner consistent with the provisions of this Convention.

Parties shall report to the Intergovernmental Committee referred to in Article 23 all measures taken to meet the exigencies of the situation, and the Committee may make appropriate recommendations.

- **UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural property (1970)**
- **UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects 4.(1995)**
- **UNESCO Convention on the Protection of Underwater Cultural Heritage (2001)**
- **UNESCO Convention on the Safeguarding of Intangible Cultural Heritage (2003)**
- **UNESCO Convention on the Protection of Underwater Cultural Heritage (2001)**
- **UN Convention on biological diversity (1992)**

## PAN-AFRICAN CULTURAL CONVENTIONS

REFERENCE Regional Cultural Conventions include:

- **The African Union Agenda 2063 (2015)**
- **Charter for African Cultural Renaissance (2006)**
- **The African Union Plan of Action on Cultural and Creative Industries (2008)**





# Goringhaicona Khoi Khoin Indigenous Traditional Council

## Preface and Mandate

The Goringhaicona's appeal is made on the historical basis that this parcel of land being within its traditional jurisdictions. The Goringhaicona shares an historical lineage and narrative from the Goringhaiqua. The splintering of the groups occurred after a mixing of the bloodline by members of the Goringhaiqua over a period of time with seafarers. Suffice to say that the origin of the Goringhaicona is borne out of a distinct diversity of bloodline which austensibly situates the historicity of the group as the first 'mixed race indigenous group'. The Kai Korana, Gorachoqua, Cochoqua, Goringhaiqua, and the Goringhaicona are all descendents of the !Xam lineage, and over a thousand year period are related to each other, in one way or the other.

The Goringhaicona has figures in its lineage which include, Chief Gogosoa, Trosoa, Autshumato (Herry the Strandloper) and Krotoa-- the last figure being the first indigenous woman to be converted into the NG Church, and enshrined by the Dutch Reformed Church. Krotoa's narrative in recent times has also been misled in various forms of media where her relationship with Jan Van Riebeeck has been sanitised into a story that continues to place Van Riebeeck in a messianic light.

The interconnectivity of Khoi is illustrated with Krotoa (Kratoa):

*"Kratoa (Eva van Meerhof): While Kratoa always retained her links outside of the fort, she also assimilated into the Dutch community and was renamed Eva. She was taught Dutch and adopted the Christian faith and lived in the ways of the Dutch settlers. Kratoa came from a complex extended family of notables amongst the Khoe people. Kratoa was the niece of Autshumato who was leader of an independent Goringhaicona clan, but she also had an uncle in the Chainoqua tribe and women regarded as mothers in the Goringhaiqua and Cochoqua respectively. She was well connected through her sister who had been married first to Goeboe the Chainoqua chief and was later, in a twist of war, married to Chief Oedaso of the Cochoqua."* **Source: [www.sahistory.org.za](http://www.sahistory.org.za)**

*"The pre-colonial village of the Goringhaicona settlement on the banks of the Camissa River flowing through Cape Town, where the Khoena serviced over 1071 ships from 1600 to 1652 led by their London-trained and Jakarta-trained indigene*

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*leaders Xhore and Autshumao. The Camissa community embraced seamen from many countries, embraced slaves from Africa, India and Southeast Asia and embraced non-conformist European settlers.” Historian, Tariq Mellet.*

Below is an extract on how both the Goringhaicona (Chief Osingkhimma) and the Goringhaiqua (Chief Doman) fought against the VOC in 1658 during the First Frontiers wars fought on today's TRUP including the River Club.

*“In 1658 all civil relationships between the Dutch and Khoe had deteriorated and war broke out. Doman, previously a covert resister, now chose to play open cards, exposing his hostility to the Dutch by leading a rebellion. Doman had shed the diplomat figure to become an open advocate of resisting Dutch settlement and expansion. The war that he launched was a series of raids and small attacks on Dutch infrastructure organised by himself and his ally Osingkhimma, son of Goringhaicona Chief Gogosoa ...” Source: [www.sahistory.org.za](http://www.sahistory.org.za)*

### SUPPORT AND SOLIDARITY

This comment bears in mind the full pertinence, historical recognition, and solidarity of the following groups : the Chainouqua, the Cochoqua, the, Guriqua or Chariguriqua, the !khorallgaullaes, the Hessequa, the Attaqua, the Cauqua, the Houtunqua, the Omaqua, the Chamaqua, the Hamcumqua, the Cobuqua, the Namaqua, the Einiqua, the Damasqua, the Gamtoos, the Inqua, the Gonaqua, the Hoengeyqua as well as the Western Cape Legislative Council, the Kei !Korana Transfrontier, the Cochoqua Royal Council, Khoi and San Legal Centre, First Indigenous Nation of South Africa, Democratic Federations of Khoisan Peoples, A/XARRA Restorative Justice Forum, the !Aman Traditional Council, !khorallgaullaes Council, IKhowses Nama Traditional Council, Western Cape Khoi and San Kingdom Council, and the Southern African Khoi and San Kingdom Council.

Our fight to protect this sacred landscape finds a rallying call within indigenous communities across the globe, communities who are standing up to the illegitimate destruction of their sacred ancestral land, from the Native Hawaiians protesting the construction of a telescope on Mauna Kea, to the Māori iwi occupying the sacred land of Ihumātao to prevent a housing development, to the Canadian First Nations fighting against the construction of gas pipelines through their unceded territory. We acknowledge our

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# Goringhaicona Khoi Khoin Indigenous Traditional Council

full support and solidarity with many civics, environmental umbrella bodies, civil society, as well as our African Regional neighbours, and citizens of the world.

## CONTEXTUAL FRAMEWORK

(extracts from Camissa Embrace, Patrick Tariq Mellet)

*"The first emergence of new tribes who settled more permanently on the Cape Peninsula as a result of a split in the Cochouqua (Go//kaukhoenaprobably in the 15th century, was the Goringhaiqua (!Uri//aekhoena ). The second tribe to emerge as a split from the Goringhaiqua were the Gorachouqua (!Ora//khaukhoena), and both these groups lived and moved about in various locations of the Peninsula from the Liesbeeck to Fish Hoek to Hout Bay". Chapter - Cape Indigene, Camissa Embrace*

*"Another offshoot, the Goringhaicona (!Uri//ae/khoena) was made up of drifters and outcasts from all the aforementioned clans and as a clan of around 60, they established themselves, first on Robben Island with the assistance of the English, as a community of traders, and later, on the mainland banks of the Camissa River (/ammi ssa) in Table Bay continuing as a trading community. The Goringhaiqua established their settlement alongside the Camissa River Mouth. Here the indigenes established the foundation village and port operation that would become the City of Cape Town. The Goringhaicona themselves were dubbed 'Watermen' by the Dutch. This was about 14 years prior to the European settlement in 1652" Chapter 2*

*"By the end of the 16th Century the Goringhaiqua gave birth to the Gorachouqua and by 1630, the Goringhaicona emerged as a result of some drifting away from the Cochouqua, Goringhaiqua and Gorachouqua."*

<sup>1</sup>*"The term //ammi-i-ssa or gamis or kamis or kamma which is the root for 'Camissa' is the old indigene language of the Khoena, (or Khoi), and is the term for any fresh or sweet-water river as noted by Portuguese cartographer Lazaro Luis in 1563 on his map as – 'de Camis' alongside the name 'Aguada de Saldanha' for the same river flowing through Cape Town." Chapter 2 "With reference to the Nama dictionary when you break down the components of the name Goringhaiqua to its three parts ( !Uri – //ae – khoe ), it means*

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<sup>1</sup> Patrick Tariq Mellet, **THE CAMISSA EMBRACE: Odyssey of an Unrecognised African People, 2018**



*white – coming together – with people. The Goringhaicona means “the kin who drifted from the Goringhaiqua”. This illustrates that hidden social history clues may be discerned in clan names and by the practices that set clans and tribes apart from other indigene communities.”*

## Grounds for Appeal

### 1. Heritage: The memes of the VOC resurface to haunt

#### 1.1 THE EA, HIA, and the AFMAS FIRST NATION REPORT,

It is our opinion that the EA’s endorsement of the HIA, in which the AFMAS report is centrally located, constitutes an act of ethnocide and epistemicide. A complaint will be lodged with the South African Human Rights Commission, SAHRA, and HWC. (HWC have already rejected both the HIA and the AFMAS report on numerous grounds including inadequate ethical clearance by way of consent forms, in interviews during the AFMAS process). The spokesperson for the MEC of WC DTPW minister Bonginkosi Madikizeal, Ntomboxolo Makoba Somdaka said publicly in an article on Ground UP on February 7th, 2020 that the independent consultant Rudewaan Arendse was in a clear conflict of interest for doing a First Nations report for DTPW while also doing a report for the River Club developer.

We will summarise the key factors that compromise, without doubt, the standing of the consultative process. This puts into question the veracity of the Basic Assessment Report and the decision maker’s inadequate response to these.

The AFMAS River Club First Nations Report by independent consultant Rudewaan Arendse for the River Club echoes and reinforces the concerns of epistemological violence that we brought against the HIA by Dr Steven Townsend. The AFMAS River Club First Nations Report report fails to address the problems in the HIA. In fact, it is our submission that the report serves as a shrewd ventriloquist to justify and ventilate the rationale of the HIA and the BAR in the following ways :

The report, seemingly, strategically de-limits particular heritage resources on the River Club. The report creates a ‘Bermuda Triangle effect’ that conveniently either removes or mitigates heritage significance from the site in order to justify the retail, hotel, gym, and apartment blocks to be built.

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The report aids in the transmutation of its interviewed subjects into an all encompassing authoritative commenting body now claiming to speak on behalf of the ‘most of the Khoi and San’. This group is called the ‘Khoi and San Collective’. We challenge the establishment, constitution, authority and the functions of the First Nation Collective in so far as it has assented to the proposed heritage and cultural implements so proposed.

There are contradictions in the assertion that most of the heritage is in the River then claim that there is no heritage in places that are being argued as part of a riverine system, such as the

The compensatory elements ‘dedicated to the Khoi and San’ in order to ‘memorialise’ paradoxically include more concrete and build, not less. These large building structures include a media centre, and an amphitheatre. The report does not mitigate concrete on the flood plain but results in its increased usage.

The idea of the media centre as a compensatory element that will address the entire historical trajectory and meaning the site holds for the Khoi and San is in our view **a private and autonomously brokered package** that was never broadly consulted as an ‘aspiration’ to all Khoi and San. The centre as a concept for memory, indigeneity, and commemoration seems impoverished of any serious curatorial, archival, or historical considerations. What we know is that it will be a media centre. The specifics of much else remain unknown. The sustainability of its function is not touched upon. As an example, the training of staff, educational programming, positionality, is not alluded to. Nor is its custodianship clear. To whom does this centre belong? Controlled and run by whom? How it will be funded once built remains unanswered. A white elephant on a concrete-filled desecrated floodplain is hardly an alternative to a world heritage site that commemorates open space and the eternal.

More important is that its existence will be celebrant to the tons of toxic concrete bulk that will lie underneath it. Concrete that will desecrate this sacred earth, and the sense of space. Its aesthetic will merely form part of a colourful band aid on a seething wound against mother earth. A wound made for profit.

The EA similarly report seems also **cut off** from environmental concerns. It posits the First Nations ‘aspirations’ as either devoid of or less concerned about any serious environmental responsibility, let alone the environmental consequences of the built in proposals in question. This is an insult to the intelligence of the Khoi as well as an affront to spiritual life.



The AFMAS Solutions' River Club First Nations report does not adequately reflect the symbiotic relationship that the Khoi and San have with the cosmos, land, and water and the spiritual self but rather is a self-regulated social study akin to academic exile.

The report is partly based on problematic cultural assertions (and loose estimations) of recognition borrowed from other First Nation experiences in former colonies such as Canada, New Zealand, the United States, Australia and New Zealand. Most critically, it fails to locate their relevance in terms of the decolonial while choosing to omit the very site-specific traits that underpin the significance of their global interrelatedness. The report instead adds them cosmetically to fill the void of an under researched study that silences some vitally important elements which connect the site to a global question of decoloniality, environment, and restoration. This is a disservice to the struggles of our sisters and brothers around the world who share the plight of the Khoi and San through their similar anxieties. The report seems to suffer from the symptoms of a cultural kleptomania where pictures and objects of other indigenous groups around the globe are copied and pasted, reinforced by remote and clumsy references to various studies without providing adequate context for their specific representation. The report does not reflect adequately a rubric of grounded local research on the Khoi and San, regarding its vast interrelatedness. It pays no attention to the history of resistance in the First Frontier Wars fought on the site. Neither does it pay attention to the first Freeburgher farms that were established, the arrival of the first agricultural slaves, the emergence of the first so-called coloured groups from the intermingling of the Khoi the European Settlers, to those brought down by the VOC from the Java, India, Madagascar, and Angola or the advent of Afrikaans as a language.

The AFMAS River Club First Nations report scripts and constructs the fate of custodial management into the hands of a 'select' group. This group started as pre-selected subjects of a study, and through an almost alchemic valve, emerged as a collective called the First Nations Collective, an entity never heard of before, that speaks now as primary stakeholders, universally recognised authority, and the would-be beneficiaries of a media centre they have asked for.

The report does not address the need and responsibility of a decolonised epistemological framework which is required to navigate the high significance, and high-level debate of this Ground Zero Precinct. While it boldly announces the significance of heritage on the TRUP area, it offers insignificant change to the outcomes of the BAR, which amount to what was the proposal in the beginning, a canal walk style a shopping mall, hotel, and a gym.



What the report does do is quote the colonialist Jan Van Reebeck seemingly to write out of history the Goringhaicona.

We wish to re-state that Jan Van Riebeeck (JVR) grossly dishonored Krotoa and abused the Goringhaicona. Krotoa is a national symbol of resistance and defiance against the colonial Dutch. Krotoa was one the first political prisoners in Robben Island, the first Khoi woman to be baptised to Christianity, the first Khoi woman to be subjected to the tot system (a precursor to the dop system) while working for Van Riebeeck. This later resulted, after her husband died, in her alcoholism. She was the niece of Chief Autshumao (Harry the Strandloper called by the British) who was imprisoned on the Island. Both Krotoa and Austhumao are Goringhaicona. We will not allow the narrative of JVR to be used to humiliate our people, again. **We consider this attempt at quoting the Dutch criminal Jan Van Reebeeck to remove us from history as a heritage crime cloaked in the name of research.**

The AFMAS River Club First Nations report and its irregular processes of formulation has caused hurt, outrage, and disunity among our people. The decision maker accepting this without providing any reasons whatsoever is in our opinion, morally unconscionable, and professionally indefensible.

As mentioned in our final BAR comment, the AFMAS River Club First Nations Report it would appear that the report set out to diminish and smear the leadership of the Goringhaicona Council for purposes we believe are motivated by the fact that the Goringhaicona, unashamedly rejects the proposal. The unnecessary personal attacks on Khoi leaders featured in this report (that claims to deal with First Nations 'aspirations') puts into question the level of professional conduct as well as the intention behind the report. What has been hailed as a groundbreaking submission that endeavours to include the Khoi and San in significant ways, in fact excludes, isolates and attempts to humiliate those who see things differently. The contents of the report misleads one to think that the newly formed collective carries the endorsement of the cultural organisations they are ascribed to. Two organisations mentioned, the National Khoi and San Council as well as CONTRALESA in fact do not support this development have written no endorsements to this effect.

This sentiment is shared by the Western Cape Legislative Council, the Kai !Korana Transfrontier, the Cochoqua Royal Council, Khoi and San Legal Centre, First Indigenous Nation of South Africa, Federation of First Peoples of South Africa, A/XARRA Restorative Justice Forum, the !Aman Traditional Council, !khorallgaullaes Council, and IKhowsese Nama Traditional Council, Western Cape Khoi and San Kingdom Council, Southern African Khoi and San Kingdom Council and many thousands of others.

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## Goringhaicona Khoi Khoin Indigenous Traditional Council

The AFMAS River Club First Nations report quotes at length Tauriq Jenkins of the Goringhaicona without referencing him nor having attained his permission to do so in the first place. In fact, the interview quote, used as a key cultural informant, was unlawfully extracted from a process done with the Department of Public Works and instead placed in the River Club report.

All interviewee contributions in this report are unacknowledged, untitled, and unreferenced.

That this report is centrally located within the rationale of the HIA, and been championed by the specialists' team of the BAR as a valuable contribution to the overall assessment of the site, in our view, effectively disqualifies not only itself, the HIA, but other reports that draws its relevance and justification from the HIA.

We have a serious concern about the silence and omission of the Slave narrative in the AFMAS report as well as the HIA. It is unfortunate that the decision-maker has decided to leave this question alone. That the connection of slavery has not been included is unacceptable from both an historical and restorative justice point of view.

### Further Grounds for Appeal

The Ground Zero site is also a site of memory for sacred animals that as a result of colonial intrusion are extinct or endangered today. The proposal continues this reckless legacy and does not mitigate it.

One of the key issues underlying our heritage concern is the FAILURE TO COMPLY WITH THE PROVISIONS OF THE NATIONAL HERITAGE RESOURCES ACT, ACT 25 OF 1999, when granting environmental authorisation:

(THE NHRA) Section 38(8) of the National Heritage Resources Act, Act 25 of 1999, (the NHRA) provides that: The provisions of this section do not apply to a development as described in subsection (1) if an evaluation of the impact of such development on heritage resources is required in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989), or the integrated environmental management guidelines issued by the Department of Environment Affairs and Tourism, or the Minerals Act, 1991 (Act No. 50 of 1991), or any other legislation: Provided

**Registered as the Goringhaicona First Nation Indigenous Trust IT 51/2017**

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that the consenting authority must ensure that the evaluation fulfils the requirements of the relevant heritage resources authority in terms of subsection (3), **and any comments and recommendations of the relevant heritage resources authority with regard to such development have been taken into account prior to the granting of the consent.**

The response to HWC's concerns regarding the HIA are largely ignored. This is unlawful.

## 2. Environment: Violation of National Legislation

The proposed development is inconsistent with National legislation, Provincial and Municipal Spatial Frameworks, as well as inconsistent with legislation plans, and policy. The Liesbeek is a sacred river and one of the important fish-breeding rivers. It is a well-known Protected Area in terms of the National Environmental Management Protected Areas Act, which means it is of national conservation significance. Furthermore, the Municipal Spatial Development Framework (MSDF) which comprises a suite of 4 plans that must be considered in conjunction with each other. An injury to one is an injury to all, and this case, the approved Environmental Management Framework, approved in terms of the National Environmental Management Act, as part of the Table Bay Spatial Development Plan requires "Ensure effective implementation of the Two Rivers Urban Park Management Plans". However, The EA refers to the TRLSDF, which not only went through a unilateral name change when it removed the reference to Urban Park, which we object strongly to. What is most important here is to assert that this a draft policy, which appears out of sync with several approved City policies and spatial plans. The development has deviated considerably from the TRUP Contextual Framework (2003) which is an approved City policy.



# Goringhaicona Khoi Khoin Indigenous Traditional Council

## Conclusion

*This is a place of meaning.*

We view this unwholesome authorisation as an attempt to undermine the spiritual soul of this country, by putting a wedge between our coming to terms with our past, and by placing in jeopardy this Ground Zero site. The sacred Liesbeeck River itself will be subjected to artificial reconstruction, and dangerous infill on vital parts of the River, while at risk of compromise is a site where the First Frontier wars against the Khoi were fought, the establishment of the first Freeburgher farms, as well as the birthplace of the 'so called coloured' community in South Africa.

It forms part of a precinct where the first Muslim slaves were deployed for agricultural labour by the Dutch East India Company from the Java, Madagascar, Goa and Angola, and where Afrikaans emerged as a language. It's a site where ancestral land was stolen, fenced, and demarcated for the first time. It forms part of a larger precinct of sacred ancestral burial grounds. As a site of diversity and resistance against colonial conquest, the site holds an immensity of meaning for the living and the ancestors.

It is unfortunate to see ignored in the decision the thousands of people who objected including the discontent expressed by reputable institutions in architecture, heritage, environmental agencies, and from the Khoi and San. This DEA&DP decision is therefore both morally reprehensible as it is professionally indefensible. This authorisation without proper reasons demonstrates a disregard for Heritage Western Cape's rejections of the River Clubs's Heritage Impact Assessment.

It is our view that this presents a clear and present threat to the environmental and intensely significant historical heritage of the area. We seek to ensure the site's permanent protection from the proposed infliction of concrete bulk.

The Goringhaicona, together with sovereign and political Khoi and San groups and leadership, including our civic sisters and brothers remain clear and steadfast on this matter.

We will defend our heritage and environment.

We strongly reject the authorisation by DEA&DP.

Kai gangans

*Supreme High Commissioner: Tauriq Jenkins*

**Goringhaicona Khoi Khoin Indigenous Council, under Paramount Chief Aran**

**Registered as the Goringhaicona First Nation Indigenous Trust IT 51/2017**

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## APPENDICES: SUPPORTING DOCUMENTS

- HWC COMMENT ON RIVER CLUB
- STATEMENT ON VIRTUAL CABINET MEETING, 10 JUNE 2020
- SAHRC : NATIONAL HEARING RELATING TO THE HUMAN RIGHTS SITUATION OF THE KHOI AND SAN IN SOUTH AFRICA
- PREVIOUS GKKITC BAR COMMENT SUBMISSION

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