



OBSERVATORY
Civic Association

60 Trill Road
Observatory
7925
26th August 2020

The CEO
Heritage Western Cape
3rd floor Protea Assurance Building
142 Longmarket St
Cape Town City Centre
Cape Town, 8000

Dear Mr Dlamuka

Application for grading as a Provincial Heritage Resource: Two Rivers Urban Park

We write with reference to the joint application submitted by the Goringhaicona Council, the Observatory Civic Association and the Two Rivers Urban Park Association, to nominate the Two Rivers Urban Park as a Provincial Heritage Resource. We understand that the IGIC meeting of 7th August postponed discussion of the application pending consideration of the Heritage Impact Assessment for the Two Rivers Local Spatial Development Framework.

We are concerned that this postponement is not in the best interests of heritage protection and may result in compromise of the mandate of HWC. We believe this is the case for the following reasons:

1. HWC as a state entity has a constitutional obligation in terms of Section 7(2) of the Constitution to respect, protect, promote and fulfil the rights contained in the Bill of Rights, which include, inter alia, protection of the environment, advancing equality and human dignity and respect for the culture and history of indigenous peoples.
2. HWC has already signalled its interest in grading the TRUP through its consideration of various baseline studies of the area which led HWC to issue a notice signalling an intention to issue a provisional protection order for the TRUP in December 2017. It did so on the basis of a recognition of the potential heritage importance of the site.
3. In the end, HWC issued a provisional protection order over the River Club in April 2018 specifically because the owners had indicated they intended to proceed with a development application without waiting for any heritage grading. This reflected HWC's evident concern that the development would threaten a potentially critical heritage resource.
4. It is common knowledge that the applicant, joint by the City of Cape Town and two provincial departments appealed the protection order. They specifically argued in the Tribunal that there was no immediate threat to heritage which would be required as a trigger for a Section 29

protection. Indeed, they argued that the Section 38 process under the NHRA would adequately take account of heritage concerns. The appellants lost their appeal as summarised in the directive of the chair of the Tribunal in April 2020.

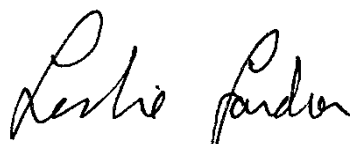
5. Nonetheless, Heritage Western Cape has not managed to grade the River Club site in the two years of the Appeal Tribunal. However, the Department of Environmental Affairs and Development Planning has now issued an environmental authorisation to the developers under NEMA. In doing so, they completely negated the comments of HWC that the developers Heritage Impact Assessment was inadequate and failed to meet the requirements of the NHRA.
6. The Department of Environmental Affairs and Development Planning have now granted an Environmental Authorisation to the owners of the River Club for their proposal to redevelop the River Club site. This occurred on August 20th. HWC should be well aware of this development.
7. What this situation implies is that the threats to heritage in the River Club site are even more extreme than were the case when HWC issued its protection order in April 2018. It appears that there is now the risk that unbridled development can proceed on a site that the HWC has repeatedly identified as being an important heritage resource. Given that Tribunal Finding that HWC were well justified to act on the basis of protecting heritage by invoking Section 29 of the NHRA, it must now be evident that the urgency of the matter is even more extreme. Once a heritage resource is destroyed, there is no going back.
8. We therefore ask HWC to reconsider the decision to pend consideration of our application given the urgency of the threat to heritage. Our application seeks to curtail the infringement and/or erosion of the heritage rights and the rights of residents and other parties to be properly consulted and informed.
9. We also ask you to confirm that you have communicated in writing with other relevant government departments and organs of state about the pending heritage application on the site.

HWC has a statutory mandate to protect and promote heritage conservation and recognition in the province.

We believe it will be possible for HWC to meet its mandate only if it gives urgent consideration to this application for provincial heritage status. We request a meeting with yourself and relevant officials to amplify our concerns and obtain clarity on HWC's position going forward.

We look forward to your reply.

Yours sincerely



Leslie London
OCA Chair

cc. Tauriq Jenkins, Goringhaicona Council
Marc Turok, Two Rivers Urban Park Association