

**APPEAL FORM**  
**In terms of the National Appeal Regulations**  
**April 2019**

**Form Number: 2019**

**Note that:**

1. This appeal must be submitted within **20 days** of being notified of the decision.
2. This form is current as of **April 2019**. It is the responsibility of the Appellant to ascertain whether subsequent versions of the form have been released by the Appeal Administrator.
3. This form must be used for appeals submitted in terms of National Appeal Regulations, 2014 in so far as it relates to decisions in terms of the:
  - a. Environment Conservation Act, 1989 (Act No. 73 of 1989);
  - b. National Environmental Management Act, 1998 (Act No. 107 of 1998);
  - c. National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);
  - d. National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004);
  - e. National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008); and subordinate legislation made in terms of these laws.
4. The required information must be inserted within the spaces provided in the form. The sizes of the spaces provided are not necessarily indicative of the amount of information to be provided. The spaces may be expanded where necessary.
5. Unless protected by law, all information contained in, and attached to this application, will become public information on receipt by the Department.
6. A digital copy of this form may be obtained from the Department's website at <http://www.capegateway.gov.za/dept/eadp>.
7. Please consult the National Appeal Regulations (dated 8 December 2014) and the Department's Circular EADP 0028/2014 on the "One Environmental Management System" and the EIA Regulations (dated 9 December 2014), and any other relevant regulations.

**A. DECISION BEING APPEALED**

1. Reference Number of the Decision being appealed: **16/3/3/1/A7/17/3001/20**
2. Type of Decision being appealed (please circle the appropriate option):

<b>Environmental Authorisation</b>	24G Administrative Fine	Amendment of Environmental Authorisation	Amendment of Environmental Management Programme	Waste Management Licence	Atmospheric Emission Licence	Exemption Notice
Permit in terms of NEM: BA	Administrative Notice/ Directive	ECA: OSCA Permit	Other			

3 Brief Description of the Decision:

**Department of Environmental Affairs and Economic Development (DEADP)'s Environmental Authorisation for the re-development of the River Club, Observatory for a Mixed Use development and associated infrastructure on the remainder of 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), Observatory.**

4. Date of the decision being appealed (i.e. date on which the decision was made):

**Decision date is stated as 20<sup>st</sup> August 2020**

**Date on which Interested and Affected Parties were informed: 21<sup>st</sup> August 2020**

## B. APPELLANT'S INFORMATION

5. Please circle the appropriate option

Applicant	State Department / Organ of State	<b>Interested and Affected Party</b>
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6. Appellant's information:

**Name: Prof Petri Vaisanen, Managing Director, South African Astronomical Observatory**

**Address: PO Box 9, Observatory, 7935 – Observatory Road, Observatory, 7925**

**Tel: (021) 447 0025**

**Cell: 072 463 3426**

**Fax: (021) 447 3639**

**Email: [petri@saa0.ac.za](mailto:petri@saa0.ac.za) & [enquiries@saa0.ac.za](mailto:enquiries@saa0.ac.za)**

## C. APPEAL INFORMATION

7. Did you lodge an Appeal submission within 20 days of the notification of the decision being sent to you?

**Yes** /  **No** (Circle the appropriate response). If "Yes", attach a copy herewith.

8. The following documents must accompany the appeal submission, kindly indicate if they have been attached to the submission:

8.1 a statement setting out the grounds of appeal?;

**Yes** /  **No** (Circle the appropriate response)

8.2 supporting documentation which is referred to in the appeal submission?

**Yes** /  **No** (Circle the appropriate response)

8.3 a statement, including supporting documentation, by the appellant that a copy of the appeal was submitted to the applicant, any registered interested and affected party and any organ of state with interest in the matter within 20 days from:

8.3.1 the date that the notification of the decision was sent to the registered interested and affected parties by the applicant.

**Yes** /  **No** (Circle the appropriate response)

Please indicate the date on which a copy of the Notice of the decision was sent:

**21<sup>th</sup> August 2020**

**OR**

8.3.2 the date that the notification of the decision was sent to the applicant by the competent authority, issuing authority or licensing authority.

**Yes** /  **No** (Circle the appropriate response).

Please indicate the date on which a copy of the Notice of the decision was sent (to Applicant). **20<sup>th</sup> August 2020.**

#### D. GROUNDS OF APPEAL

9. Set out the ground/s of your appeal: Clearly list your appeal issues and provide an explanation of why you list each issue.

**The SAAOs appeal against Department of Environmental Affairs and Economic Development (DEADP)'s Environmental Authorisation for Liesbeeck Leisure Properties Trust, (LLPT) on area of the River Club and City Land inside Two Rivers Urban Park Heritage Confluence.**

**The following annexures and request that the Points referred in them are read as part of this submission.**

- **Annexure A: Comments on the Pre-Application BAR – dated 16 September 2019.**
- **Annexure B: Comments on the Revised Heritage Impact Assessment - dated 2 May 2019**
- **Annexure C: Comments on the Heritage Impact Assessment (HIA)- 6 March 2018**

9.1 Is your appeal based on factors associated with the process that was followed by the applicant/Environmental Assessment Practitioner/Competent Authority in reaching the decision?

**Yes** /  **No** (Circle the appropriate response). Please provide details. (See attached)

**See attached details in the SAAO annexures**

9.2 Is your appeal based on factors associated with matters of unacceptable environmental impacts/extenuating circumstances not taken into account by the Competent Authority?

**Yes** /  **No** (Circle the appropriate response). Please provide details.

**See attached details in the SAAO annexures.**

9.3 Have your appeal issues been raised previously in the public participation process?

**Yes** /  **No** (Circle the appropriate response). Please provide details.

**Reference is made to our attached annexures and from the outset of the River Club proposed re-development process.**

9.4 Are you fundamentally opposed to the decision (e.g. to any development activity on the site)?

**Yes** /  **No** /  **Not applicable** (Circle the appropriate response). Please provide details.

**The SAAO is of the opinion that the above mentioned concerns raised in its submissions dated 6 March 2018, 2 May 2019 and 16 September 2019, are largely still valid. SAAO appreciates the 40m set-back for the proposed buildings in Precinct 1, partially decreased heights thereof, toning down of arguments based on the height of existing transient tree canopy, and other mitigating efforts taken in the latest revision. However, SAAO is of the opinion that mitigation of the heritage impact of the scale and form of building footprints facing onto the riverine corridor and alongside the Observatory are still insufficient. Therefore, the Environment and the Cultural Landscape is an integrated essential Cape historical landscape that must be graded and preserved.**

9.5 Are you in favour of the decision if your concerns can be remedied by rectifying the process or by mitigating or eliminating an impact/s of the activity/ies?

Yes /  No / Not applicable (Circle the appropriate response). Please provide details.

**SAAO's recommendation is for the withdrawal of the Environmental Authorisation and that the area be graded for heritage protection. Our concern is shared with the numerous local stakeholders, which include the lack of respect of the pre-colonial and even more recent history for the space of unique cultural and historical TRUP area. In addition, for the preservation of the unique local flora (*Moraea Aristata*) and fauna (*Amietophrynus Pantherinus*), allowing for a green breathing area amidst a highly populated and urban area.**

9.6 Please indicate what measures you propose to have your concerns remedied.

**The Environmental Authorisation by DEADP should be withdrawn**

9.7 Does your appeal contain any new information that was not submitted to the Environmental Assessment Practitioner (EAP) / or registered I&APs/ or the competent authority prior to the decision?

Yes /  No (Circle the appropriate response). If the answer above is "Yes" please explain what this information is and why it should be considered by the Appeal Authority and why it was not made available to the EAP/ or I&AP/ or the competent authority prior to the decision. (Please ensure that the new information is attached hereto.)

**The appeal from SAAO, supports a high-level debate on the use of the River Club area in the Two Rivers Urban Park. The area to be regraded for cultural, heritage and environmental protection and to take into account the consideration SAAO's comments detailed in our annexures to this document.**

#### E. SUBMISSION ADDRESS

**This appeal must be submitted to the Appeal Administrator at the address listed below within 20 days of being notified of the decision:**

By post: Attention: Marius Venter  
Western Cape Ministry of Local Government, Environmental Affairs &  
Development Planning  
Private Bag X9186, Cape Town, 8000; or

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021-483 3721)  
Room 809, 8<sup>th</sup> floor Utilitas Building  
1 Dorp Street, Cape Town, 8000; or

**By e-mail:** [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za)

**Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator.**

**Prof Petri Vaisanen, Managing Director, South African Astronomical Observatory**

Appellant's signature:



Date: 8 September 2020