

**Annex 3a. Detailed analysis of why Heritage impacts have not been carefully considered and why the claim that heritage components will be incorporated into the development are erroneous**

Documents drawn on:

A\_MPT Report River Club\_4\_280.pdf = Case officers report plus two of the many appendices (an MPT document)

Annexure F1\_2783\_2912 – pages 2898 to 2912.pdf = City Env Management comments Jan 23<sup>rd</sup> 2020 (an MPT document)

Annexure F1\_2913\_3049 – pages 2913 to 2944.pdf = continuation of City Env Management comments Jan 23<sup>rd</sup> 2020 (an MPT document)

Annexure C8c\_8d\_Draft HIA\_1603\_1846.pdf – pages 1667 to 1833 = AFMAS report (some quotes used) (an MPT document)

Final Comment Erf 151832 Corner Liesbeek Parkway and Observatory Road The River Club Observatory \_ HWC Feb 2020.pdf = Final Comments of HWC in the BA (DEADP)

Memorandum\_River Club Final signed.pdf = Final Comments HWC on the HIA Feb 2020

NEMA Regulations Appeal Form 2019 as completed by SAAO.pdf = the SAAO DEADP EA appeal

SAAO Response River Club 16 Sept 2019.pdf = the SAAO last DEADP EA comments

River Club Ruling 14 April 2020.pdf = Ruling of Ministerial Appeal Tribunal on the River Club Provisional Protection Order, April 2020.

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Heritage impacts have been carefully considered	It's hard to see how where the justification in the Planning Officer's report justifies that impacts have been carefully considered. The sections on pages 224 to 226 appear to be the basis for the claim by the MPT that heritage impacts were 'carefully considered.' Each point is listed separately below with a response.	There are multiple comments in the EM Dept comments of Jan 23 <sup>rd</sup> :  2.2.13: Environmental Management Department is of the belief that the visual impact of the current proposal to be highly negative due to the scale of the proposed buildings, footprint of the development and heights of the proposed buildings. 2.2.16: The impact on the level of significance of the cultural landscape will be highly negative in terms of the level of physical and visual change on the environmental/topographical/ecological and historical significance of the area and by the proposed heights, scale, and density of the current proposal. This negative impact on the

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	<p>But as general evidence for why heritage has not been considered see the EMD comments opposite from Jan 23<sup>rd</sup> 2020.</p>	<p>significance of the heritage resources will also carry over to the SAAO site for the same reasons of the suggested heights, scale and density.</p> <p>2.2.17: Infilling of the old Liesbeek River channel and remodelling of this channel into a vegetated stormwater swale will also impact negatively on the high level of significance of the cultural landscape</p> <p>2.3.1: this Department believes that the levels of significance of, in particular, the cultural landscape and the SAAO site will still be compromised or reduced by the current proposal and that, although mitigation measures have been applied in the form of the First Nations narrative, setting back proposed buildings further from the SAAO and promoting a 'park like' eco corridor, the overall impact on the heritage resources identified, sense of place and cultural landscape is still perceived to be negative</p> <p>2.3.3: The proposed development does not acknowledge the unique and symbolic "threshold role" that the site plays, both in its formal layout, scale, and in the uses that are being proposed. Having to raise the site by 3m or more to achieve an acceptable height above the flood water level further exacerbates the concern that the development would be an invasion of this significance." Cape Institute of Architects, 8 Feb 2018.</p> <p>2.3.8: The current proposed development does not conserve sufficiently the historical and cultural value and significance of the cultural landscape of the area. The importance of historic and existing spatial context is not adequately recognised in the proposed development in its current form which could be mitigated by a further reduction in bulk and heights.</p>
	<p>Low building heights fronting onto the SAAO; Greater buffer and therefore distance between buildings and the SAAO;</p>	<p>The SAAO appeals against the BAR note the following (I have asked them for their original 2018 objection to the rezoning):</p> <p>In September 2019: "SAAO appreciates the 40m set back for the proposed buildings in Precinct 1. However, 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. With reference to p. 15 of the BAR, the heights of the proposed buildings in Precinct 1 shows anticipated heights of between 26.2m and 54.2m.</p>

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		<p>Although some alteration was observed since the previous version of the Visual Impact proposal, the concerning fact remains that the vertical angle at which the closer obscuring buildings will limit the visual-spatial field currently experienced from the Observatory. The effect is compounded by the 'urban wall' created by the proposed densely packed individual buildings blocking any horizontal viewing angle between adjacent buildings from any single proximity vantage point at the Observatory. Hence, the scale and form of proposed development in Precinct 1 still presents an 'urban wall' interface with the Liesbeek Riverine Corridor and the Observatory and results in the hemming in of the landscape setting of the Observatory. It stands in dramatic contrast to the loose arrangement of Observatory buildings set within a green matrix and tree canopy well suited to the concept of a parkland setting associated with the adjacent riverine corridors." The conclude with "we are far from convinced that the concerns raised by us, and other stakeholders, are properly addressed with the new BAR dated July 2019, which continues to propose dense and high buildings in the area, in close proximity to the SAAO. This remains the main direct concern of SAAO - the drastic loss of the visual-spatial field of the Observatory, the hemming in, by means of an 'urban wall', of a National Heritage site, and a possible future global Cultural Heritage site."</p> <p>In September 2020, "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."</p>
	Greater level of integration of the link road through the site	It is unclear how this is a heritage justification

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	Incorporating various elements or ways in which the First Nation history is memorialised	<p>City's EMD comment that "Legacy Projects established in 1994 included Khoisan heritage: outcomes of the 2015 baseline study and feedback from Dept Arts Culture were that the 'unique relationship of the Khoi-San with the environment' could be presented as a park and that the intention of the Khoi-San legacy Project "is not to create a memorial comprised of buildings and/or traditional sculpture". (see 2.2.11 page 2910 of the line department responses)</p> <p>To add to this, HWC final comments noted in paragraph 105 that "It is unfortunate that the engagement with First Nations groupings did not materially change the design approach in a manner which is reflective of the intangible heritage significances identified." Source: HWC final comments paragraph 105</p>
	The bulk of the site being open space to create a park-like setting;	<p>City EMD commented "Our point of departure is that this site should be developed in a way that provides for the work, play, live concept as envisaged by the applicant while at the same time, enhances the site's opportunities that are currently underutilised for both recreational benefit alongside rivers and swales within the River Club site (rather than in the Liesbeek River itself) and to enhance the ecology of the site and adjacent rivers and canal<sup>1</sup>. Towards this goal we envisage the creation of a park-like environment with buildings in it, rather than the creation of a building complex and the provision of remaining park /open spaces around it. i.e. the creation of an urban village not an office park. Given that the entire site (apart from a small portion in the north-eastern corner) falls within a floodplain (within the High Hazard Zone and the 1:20 and 1:10year flood line), is a strategic green open space linkage and a sensitive cultural landscape with a unique sense of place, and that the existing Special Open Space zoning (OS3) only permits very limited but suitable development rights, we suggest that this point of departure be pursued as guidance for future development." Para 3.2.2</p>

<sup>1</sup> Bear in mind the Liesbeek splits in two as it approaches the River Club. That is because in 1952, an artificial canal was built to channel the Liesbeek between the SAO and the River Club. The original river still exists but is poorly maintained and ends up as backwash. It is this that is slated for infill and to be turned into a swale.

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	<p>The proposed decanalising of the Liesbeek River canal and associated landscaping should be accompanied by massing and bulk of a lesser scale than that proposed; and Therefore, consideration must be given to the most appropriate built form for the site.</p>	<p>Unclear what the case officer is doing – simply saying a future precinct plan will deal with it. It is the huge massing and bulk that is already the problem and which City EM says in 2.2.13 and 2.2.16 (above) will have huge impacts In Para 2.2.15 on page 2912, EM states “The cultural landscape, of which the pre-1952 river course is an integral part, as well as the SAAO site, are of a very high level of heritage significance and the proposed development’s heights, scale and density would certainly also impact negatively on these relative levels of heritage significance.”</p>
	<p>Greater levels of openness could be encouraged to preserve the cultural history of the site.</p>	<p>EM noted in para 2.3.2 and 2.3.3: ““the site functions as an important urban threshold, characterised by the openness of the area and the network of watercourses crossing it. This character sets it in contrast to the urban fabric that surrounds it, and makes, along with the extended context, a unique place within the city. Many of the buildings and uses that are already located “between the rivers” are located here precisely because of the threshold quality the area offers. The proposed development does not acknowledge the unique and symbolic “threshold role” that the site plays, both in its formal layout, scale, and in the uses that are being proposed. Having to raise the site by 3m or more to achieve an acceptable height above the flood water level further exacerbates the concern that the development would be an invasion of this significance.” Cape Institute of Architects, 8 Feb 2018.</p> <p>EM refers to the <b>Environmental Strategy for the City of Cape Town (Policy 46612)</b> which was approved by Council on 24 August 2017 (C05/08/17) in para 2.3.5 and goes on in para 2.36 to state: “Directive points 6.11.1 through 6.11.4 are not fully complied with by the proposal in that the full significance of the unique sense of place and cultural landscape is not acknowledged sufficiently by the current development proposal which impacts overly negatively on these values. Mitigation is by means of reconfiguring the Liesbeek Canal and landscaping green open areas but the currently suggested bulk and heights of the proposed structures and resultant built forms</p>

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		<p>should be reduced further in order to present a more sensitive alignment with the significance of the cultural landscape and sense of place.”</p> <p>Also, HWC final comments note (para 110) that “The open, largely undeveloped floodplain is a tangible reminder of intangible heritage.” And in para 49 “the HIA has still not placed the River Club site within the context of the wider TRUP and has downplayed the open, low-lying, green, riverine character of the site which contributes to the intangible heritage experience.” And in Para 77, “the HIA fails to assess the impact of the development on the most important heritage resource: The site's open, green qualities as a remnant of landscape that has considerable intangible historic and cultural heritage significance.”</p>
	<p>some elements of the application furnished when responding to branch comments addressed some concerns, it is acknowledged that the detailed design such as building heights, position of higher buildings in relation to public spaces, etc. of the proposal requires further assessment. The detail <u>is still to be submitted for consideration and consequently the applicant will be required to provide a greater level of detail at a later stage.</u></p>	<p>This seems to be a planning subterfuge which Nisa needs to answer? But I see at the end of their comments, EM state the following (4.8 to 4.10): “Floor area should only be determined following the submission of detailed spatial plans, including a Development Framework, Precinct Plans, and Site Development Plan in order to determine suitable parameters for the spatial distribution of such floor area. It is premature to award floor area of 150000m<sup>2</sup> (as a condition of rezoning to Subdivisional Area) prior to a simultaneous submission of a spatial plan indicating the location of such floor area, along with elevations and cross-sections and architectural treatment of such area. Notwithstanding information contained in the Motivation Report and Supplementary Report, it is noted that none of this material can be enforced and is purely illustrative. It is recommended that the various components of City policies, guidelines and strategies, from which the proposal deviates, be identified. This was requested by the applicant in correspondence, yet it has not yet been done comprehensively. It will require inputs from all the various departments to list the relevant sections of all the policies from which the development proposal deviates.”</p>
	<p>the ability for the development not to have a looking presence over heritage site such as</p>	<p>See the EA appeal by the SAAO (first page above)</p>

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	<p>the SAAO, is limited. The landscaping along the common boundary with the SAAO will mitigate this concern. The EA addresses this component</p>	
	<p>The LLPT application relies on an HIA, and a supplementary first nation report</p>	<p>These have been debunked by HWC comprehensively in the HIA process in their final comments and in their EA appeal</p> <p>In the final comments:  Paragraphs 107-108: “The report fails to identify heritage resources adequately, which results in an inability to adequately assess the potential impact on heritage resources. As a result, it is not possible to assess mitigation measures. Therefore, the committee is of the opinion that the reports demonstrate insufficient exploration and interrogation of a range of impacts and possible mitigation measures, thus the report still does not comply with Section 38(3) (g) of the NHRA.”</p> <p>And paragraphs 109-115: “HWC regards the wider TRUP, of which the River Club site is an integral component, as a highly significant cultural landscape in the City with a significant interplay between natural and man-made landscapes. It is this interplay that defines cultural landscapes. HWC is of the opinion that this area is of at least provincial significance, if not of national significance. It is a site which is recognized as a sacred place. The open, largely undeveloped floodplain is a tangible reminder of intangible heritage. It is recognized through historic record, as well as Cultural Memory, as being a place of conflict for over 150 years. It is recognized as the place where, in 1657, Colonial Settlement of South Africa truly took root with the establishment of the first settler farms along the Liesbeek Valley, and the place where the Cape Indigene were first truly dispossessed of, and excluded from, access to their ancestral land. It is a place where almost all of the stages of South Africa's developmental history and policies are either embedded deep within this cultural landscape, or is viewed from it. It is a place where Celshwayo and Langalibalele were</p>

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		<p>exiled to. It is a place which speaks to who we are now, and from where we have come, not just as a City, or a Province, but as a Nation.</p> <p>The HIA has unfortunately reduced this significance to a set of ecological values, provided for the most part to post-rationalize a wholly intrusive development model, rather than inform appropriate development. The Committee also noted that a 'memorial'/'museum' and recreated river courses are inadequate in commemorating the significance of the site and appear to be Designed to create meaning rather than attempt to enhance identified heritage significances. It is the opinion of the committee that the site is of sufficient significance within itself and does not need to be imbued with meaning. The bulk and mass of the development proposal does not respond to the site as a living heritage. The discussion above illustrates that the HIA still does not comply with the provisions of Section 38(3) of the NHR Act. and it is noted that until the issues as identified above are addressed, the committee is not in a position to endorse the reports or the development proposal.”</p>
	<p>As part of the BA, LLPT produced a new document (letter dated 31<sup>st</sup> March from Hart and Townsend) which was a letter addressed to the SRK consultants purporting to respond to HWC’s final comments. It was included as Annexure C8d in the MPT dossier.</p>	<p>HWC’s EA appeal points out that it is the LLPT HIA consultant who simply refuses to change his mind.</p> <p>In paragraphs 1.5 and 1.6: “The Supplementary Report to the HIA which purported to respond to HWC’s comments dated 13 September 2019 merely re-stated the initial findings of the HIA. Likewise, the response to the final comment which was prepared in response to HWC’S final comment dated 13 February 2020 was a further re-statement of the views of the applicant, with no true evaluation of HWC’s concerns.”</p> <p>In the DEADP EA, HWC Appeal, para 2.2: “ The consenting authority is ignoring the large body of information which was put before it as to the intangible significance of the site as being at the confluence of the three rivers. This confluence is of great significance to a wider representation of the first nations than just the First Nations Collective, on whose inputs the applicants most heavily rely. “</p>

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Heritage components will be incorporated into the development	Under 6.1.3, the case officer states “the application is desirable as it facilitates ... Heritage elements around and on the site must be acknowledged through Design and <u>as per the conditions imposed when the environmental authorisation was issued ...</u> “ (6.1.3 page 190)	City’s EMD comment that “this Department believes that the levels of significance of, in particular, the cultural landscape and the SAAO site will still be compromised or reduced by the current proposal and that, although mitigation measures have been applied in the form of the First Nations narrative, setting back proposed buildings further from the SAAO and promoting a ‘park like’ eco corridor, the overall impact on the heritage resources identified, sense of place and cultural landscape is still perceived to be negative...: (2.3.1 page 2912) It goes on to the next document to say “The proposed development does not acknowledge the unique and symbolic “threshold role” that the site plays, both in its formal layout, scale, and in the uses that are being proposed.” (2.3.3 page 2913) and further states “The current proposed development does not conserve sufficiently the historical and cultural value and significance of the cultural landscape of the area. The importance of historic and existing spatial context is not adequately recognised in the proposed development in its current form which could be mitigated by a further reduction in bulk and heights.” (2.3.8 page 2913) and further “The application in its current form is not supported, as it does not align with current approved City Policy and Strategies in terms of the City’s Tall Building Policy, Environmental Strategy and Cultural Heritage Strategy. (2.3.10 page 2914)
	The narrative on page 225 of the case officers report indicates that HWC opposed infilling of the Old Liesbeek River, but “this is refuted by the applicants” and the case officer goes on to note “The intention therefore to decanalise the Liesbeek River canal could be incorporated into the memorializing in this vicinity of the	City’s EM Department note: “the ‘old’ Liesbeek River Channel on the western boundary of the site will largely be filled and landscaped to accommodate a vegetated stormwater swale.” (2.1.2 p2906) They go on to note that “The cultural landscape, of which the pre-1952 river course is an integral part, as well as the SAAO site, are of a very high level of heritage significance and the proposed development’s heights, scale and density would certainly also impact negatively on these relative levels of heritage significance.” (2.2.15, page 2912)

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	<p>site.” And later “...As far as possible heritage resources should be commemorated by creating places of memory. The river’s edge and the manner in which the Liesbeek River will be memorialised must become a destination place to draw people to other heritage features.”</p> <p>Under 6.3 (e) impact on heritage, p225</p> <p>At the same time, the Case Officer states “The filling in of the Liesbeek River also removes an element of the cultural landscape”.</p>	<p>And further, “Infilling of the old Liesbeek River channel and remodelling of this channel into a vegetated stormwater swale will also impact negatively on the high level of significance of the cultural landscape. The old Liesbeek River channel forms an integral part of the environmental/ topographical/ ecological and historical significance and current status of the area which can clearly be seen from Figures 2 and 21 of EMD previous comment, as well as from the cover photograph of The River Club: Development Alternatives, prepared by Planning Partners dated November 2017. Removing the old Liesbeek River channel’s ability to be perceived as a historical watercourse and thereby severing its role in the story line of the cultural landscape will impact negatively on the significance of that resource. (paragraphs 2.2.17 and 2.2.18, page 2912)</p> <p>City’s EMD appeal on EA also notes the following: “The preamble of the NHRA aims <i>“to encourage communities to nurture and conserve their legacy so that it may be bequeathed to future generations. Our heritage is unique and precious and it cannot be renewed.”</i></p> <p>The historic Liesbeek River and floodplains were identified by First Nation communities as ‘a tangible reminder of an intangible heritage.’ Yet, this singularly important heritage resource, was not identified or mapped in the HIA, or proposed to be conserved. This natural and historic resource is authorised to be infilled and removed from the landscape, contrary to the recommendations of HWC.”</p> <p>Para 4.4 Source: River Club Appeal City of Cape Town 11 Sep 2020</p>
	<p>“While it is acknowledged that the property includes elements of heritage significances, these are to be incorporated into the proposal by various means, such as, memorializing the history by means of story boards that tell of past experiences and the provision of architectural elements such as</p>	<p>City’s EMD comment that “Legacy Projects established in 1994 included Khoisan heritage: outcomes of the 2015 baseline study and feedback from Dept Arts Culture were that the ‘unique relationship of the Khoi-San with the environment’ could be presented as a park and that the intention of the Khoi-San legacy Project “is not to create a memorial comprised of buildings and/or traditional sculpture”. (see 2.2.11 page 2910 of the line department responses)</p> <p>HWC Final comments: “The Committee also noted that a 'memorial'/ 'museum' and recreated river courses are inadequate in commemorating the significance of the site and appear to be designed to create meaning rather than attempt to enhance</p>

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	<p>an amphitheatre in the shape of an indigenous kraal, spaces that enable, display of traditional crafts, amongst others. (6.1.7 page 197)</p>	<p>identified heritage significances. It is the opinion of the committee that the site is of sufficient significance within itself and does not need to be imbued with meaning. The bulk and mass of the development proposal does not respond to the site as a living heritage.” Paragraph 114 of HWC Final Comments on the HIA (under the DEADP EA)</p> <p>There are multiple references in the AFMAS report to the importance of the River. Source 2_AFMAS_Solutions_Final_River_Club_First_Nations_Report I paste a few here:</p> <p><i>"The Khoi and the San have the most exquisite symbiotic relationship with the soil, with the river, with the stars, with [Kaggen], who's the mantis. And, when you look at the Liesbeeck River, the flow of that river and the land next to it. When I talk about a symbiotic relationship, I 'm saying that the river is flowing within; it's embodied within the consciousness of the Khoi, and so is the land. You can't separate the two. So, when you separate the Khoi from the land permanently, you separate a part of the body itself. It's disembodied the physical body; the physical manifestation that's imbibed in them. By dislocating the Khoi permanently from the land and from its proximity to the river, you're completely; you're ripping the soul out of them. It was physical, visceral dislocation, because of the understanding, the integral understanding of connectivity." (p18)</i></p> <p><i>"Places where rivers are coming together, are special places. Those rivers are connected with people and memory. Water holds memory. So, wherever rivers are coming together, at that point is a ceremonial place. So, the Two Rivers, at that point, is one of them, because of the rivers coming together there. So that space holds a huge memory." (p19)</i></p> <p><i>"The confluence of the Black River and the Liesbeeck River, that embankment area is the place where the Khoi would engage in marriage ceremonies and burial rites, cremation and these kinds of things. It's also a political hotspot, because that's where</i></p>

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	<p>“It must also be noted that the Department of Environment and Development Planning (DEA&amp;DP) have approved this component of the application. In spite of this, the relevant city department has also opposed this component of the application for reasons stated in 6.3 d) above and 6.3 f) below.”</p>	<p><i>the tribes would gather and meet... So symbolically, confluences for the Khoi, had a tremendous resonance.” (p19)</i></p> <p>Heritage Western Cape have appealed the DEADP authorisation which they have described as “unlawful.” Points 1.4 to 1.7 of their appeal read as follows: “It is contended that it is clearly unlawful for the Department of Environmental Affairs and Development Planning to issue the Environment Authorisation as it has not complied with section 38(8) of the NHRA. HWC, which is the relevant heritage resources authority, has stated that the HIA which was considered did not fulfil its requirements, and requested that further information be supplied in order for it to make final comments. The Supplementary Report to the HIA which purported to respond to HWC’s comments dated 13 September 2019 merely re-stated the initial findings of the HIA. Likewise the response to the final comment which was prepared in response to HWC’S final comment dated 13 February 2020 was a further re-statement of the views of the applicant, with no true evaluation of HWC’s concerns. As such HWC could not see the purpose in having further meetings with the applicant and the applicant’s representatives, whose views on the matter appeared to be intractable. The blanket acceptance of the responses by the consenting authority are accordingly unlawful as it is clear that S38(8) requires the endorsement of the HIA as complying with its requirements to be made by HWC and no other party.” Source: Memorandum_River Club Final signed</p> <p>Clauses 4.1 to 4.5 of the City’s EM Department appeal of the EA concur with HWC’s appeal and note that the EA is flawed for the same reasons that HWC say the EA is unlawful. (source document: River Club Appeal City of Cape Town 11 Sep 2020)</p>
Other issue – no consideration of alternatives		<p>City EMD argued that “... the No-go option and development within the parameters of the current Open Space Zone have not been explored adequately other than for reasons of economic viability to the developer. These alternatives require further investigation in order to establish if the ensuing negative impacts would be less than those perceived from the current proposal.”</p>

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		<p>P2913 para 2.3.9</p> <p>HWC also criticise the HIA for not considering alternatives such as “A "tread lightly", green-dominated, recreational or educational alternative. Without substantial filling in of the floodplain” (para 103) and note that “A discussion of alternatives should include a meaningful discussion of the no development option. Although the No Go Option is tabled in the HIA as well as the Planning Partners Report. in <i>The River Club: Overview of Development Alternatives, dated June 2019</i>, there is no consideration whatsoever, which would weigh this against the potential benefit. or otherwise, of this option to identified heritage resources.” (Source: HWC Final Comments para 103, 104)</p>
Other issues – the co-Option/divide and rule issues		<p>City EMD refers to an article quoting Commissioner Tauriq Jenkins from the Goringhaicona Khoena Council which notes the the Goringhaicona ‘do not accept this development’ which it describes as ‘an act of spiritual and heritage genocide’. EMD go on to say “this statement is of concern and raises the question of how inclusionary the process of participation with the First Nations has been.”</p> <p>Para 2.210 page 2910.</p> <p>Further, EMD notes “The social issues revolving around cultural appropriation and social impact have not been expounded on sufficiently, the First Nations narrative appears to not be totally inclusive of all relative groups.”</p> <p>Para 2.3.7 page 2913</p> <p>This is further reinforced in HWC final comments (para 97) which noted “the scope of engagement resulted in a number of groups electing lo not participate fully; the research process was contested by participants in the engagements; the impartiality of the research questions is not clear lo the committee; the methodology for the engagement does not appear to follow accepted oral history interviewing protocols (for example. no ethical clearance forms were supplied); the confusion between this report and the DT&amp;PW-commissioned report brings the ethics around the engagement into question.”</p>

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		<p>Most tellingly is the note in the EMD description of the development that “The implementation of these mechanisms is to be assured through an institutional arrangement which establishes within the Property Owners Association (or similar) an autonomous legal entity led by the Gorinhaiqua Cultural Council that will be responsible for the governance, planning, management, operations, maintenance and sustainability of the indigenous place-making mechanisms.: para 2.2. p2908.</p> <p>Paragraph 91 of the Heritage Appeal Tribunal Directive commented that “The policy of maintaining control over one's subordinates or opponents by encouraging dissent between them, thereby preventing them from uniting in opposition, is evident in this matter. Conservation efforts to preserve the heritage of the Indigenous First Nations' people and communities and protect their cultural rights, have been hamstrung by the 'politics of divide and rule'. In a divided and disparate society that can benefit from and become unified through knowledge of each other's cultures and heritage, the current situation is not a good scenario to be in and this is unfortunate.”</p>