

**River Club, Observatory Rezoning Appeal 20 October 2020 : Annexure to Appeal Form
(Submitted by RAMPAC)**

As required, the original decision letter (dated 30 September 2020) is attached as Annexure A.

1. Provide an explanation if the appeal is based on and primarily concerned with the process followed prior to the decision.

1.1 In submitting our objection to the rezoning of the site on 15 October 2018 (Annexure B), we stressed our concern that correct processes had not been followed. We referred to our 10 Feb 2017 comment addressed to the applicant's consultants (SRK) – Annexure C para 2iii which read : “. a working group comprising City and WCG officials, and the (applicant's) professional team have agreed on a figure of approximately 137 000m2 for the River Club site. The issue then becomes how this bulk could be distributed across the site.”

1.2 The above figure soon changed, firstly, to 140 000m2 then to 150 000m2 – which is the floor area now having been approved by the MPT.

1.3 We have, throughout the intervening almost four years, raised this issue as a concern in all our commenting on the numerous heritage and environmental studies undertaken.

1.4 The above ‘agreement’ between City and WCG officials and the applicant's professional team was seemingly based on the applicant's argument that any lesser footprint would not be viable. There has been a consistent refusal to consider any alternative on the grounds that it would not be viable.

1.5 The site was acquired on the understanding that it was zoned for open space and fell totally within a floodplain. The risk was self-evident and yet, despite the enormous and repeated concerns raised by I&AP's at every single juncture of the process, the clear message has been given that this development is going to take place regardless of any concerns raised.

1.6 The fact that despite the concerns raised, the MPT hearing was held while the Environmental Authorisation is still under appeal and in the knowledge that Heritage clearance is still not forthcoming, simply endorses the perception that the City and Provincial authorities are prepared to waive any semblance of fair, just and responsible decision-making with regard to the future of this site.

2. Motivate and explain if you are appealing against the decision to approve/refuse the application(s).

2.1 We are appealing against the decision taken by the MPT to approve the rezoning of the site and the specified deviations from City policies.

2.2 Our appeal is based on the grounds that it failed to take full cognisance of the repeated objections and comments made by I&AP's with regard to the heritage, environmental and spatial importance and sensitivity of the site and the highly negative impact this decision will have in accommodating the form and scale of development being proposed.

2.3 We refer to our objection dated 15 October 2018 (Annexure B) and to the two attachments which accompanied it – which, to avoid confusion, have been referred to as Annexures C and D). We draw attention to the highlighted sections in these annexures.

2.4 Our motivation for appealing is simply because the concerns we've consistently raised have been ignored by all parties – and now by the MPT.

2.5 With regard to the hearing itself, the limited time allowed for I&AP's to address the MPT meant that there was no effective opportunity to draw to the members' attention relevant information regarding issues that had arisen or come to light during the two years since the objections were lodged.

2.6 Because of the time limitation we (together with numerous other interested parties) were denied an opportunity to address the Tribunal and consequently had to rely on Prof Leslie London to include a paragraph from us in his presentation. This paragraph is included in Point 5 below.

2.7 As a result of the premature nature of the MPT hearing and the enforced limitation of time, the members of the Tribunal took decisions in the absence of extremely relevant information which would otherwise have been available to inform their decision-making.

3. In the case of multiple decisions, clearly state which decision is being appealed

Our appeal is against the decisions taken by the MPT as contained in Annexure A of the 30 Sep. letter :

- the approved rezoning of the site from OS3 to a Subdivisional Area Overlay Zone (general business)
- the approval in terms of S 98(b) of the MPB with regard to the height of retaining structures (2.1)
- support of the deviations from the City Policies in terms of S98(d) of the MPB (3.1, 3.2, 3.3)
- conditions imposed in terms of S100 of the MPB (all of 6.4 except for 6.4.27, 6.4.27.1-3, 6.4.28 and 6.4.31 which relate to improvements to the riverine environment)

4. Motivate and explain if you are satisfied with the decision(s) but appealing against specific conditions of approval imposed

We are most definitely not satisfied with the decisions taken; our appeal is against all the decisions taken. The only exceptions are those referred to above which relate to improvements to the riverine environment.

5. Motivate how your rights are affected by the decision(s) taken.

5.1 We (RAMPAC - Rosebank and Mowbray Planning and Architectural Committee) are a voluntary sub-committee of the Rosebank and Mowbray Civic Association.

5.2 As a community, Rosebank and Mowbray share the riverine environment of the Liesbeek River along which this this historic portion of Cape Town has evolved.

5.3 We feel strongly that the form and scale of the development permitted (as a result of the decisions taken) will irreparably damage the environmental and heritage importance and quality of this section of the River Valley.

5.4 As residents not only of this immediate community but as citizens of Cape Town :

- We consider it our right to expect that the intrinsic environmental and historic qualities of the Peninsula will be respected and protected. We consider it our right to expect that these assets will be responsibly managed through innovative and sensitive planning, urban design and infrastructural development.
- We consider it our right to expect that the formidable and admirable package of the City's policies, spatial plans and regulations are applied in a thoughtful and discerning manner – and not used as a rigid tool to be used as a replacement for common sense.
- We consider it our right to expect that wise, impartial decision-making takes place in an atmosphere where all processes and procedures have been correctly followed and all relevant information is readily at hand.
- Finally, we consider it our right to expect that the administration of decision-making in the City takes cognisance of the fact that Cape Town is not just an urban area but that it inhabits a geographic area which is renowned world-wide for its topographic setting and scenery, its environment and its history.

The decisions taken represent a direct threat to these rights.

6. Does your appeal contain any new information (for clarification purposes) that was not submitted prior to the decision on the application?

6.1 Level of historic importance :

6.1.1 The historic importance of the site from a First Nations point of view has been widely addressed and it is our reading of the situation that the level of its importance is such that the entire site should be seen as a commemoration of that history.

6.1.2 We agree with the perception that the proposed media centre and other forms of memorialisation represent token gestures to justify a form and scale of development which would totally overwhelm their significance and meaning and would lower the dignity of the site's historic connection.

6.1.3 An appropriate and alternative form of usage needs to be sought for the site.

6.2 Place in the landscape :

6.2.1 What has been missed or avoided by the professional teams from the outset of this proposed development process is that the historic usage/settlement of the Peninsula (from pre-colonial onwards to the current day) has been determined by the topography of the area – the mountain, the valley lines and the sea.

6.2.2 Cape Town's landscape is its most fundamental environmental and heritage asset. Consequently, while the valley line of the Liesbeek River is not dramatic, it is still readily identifiable in the topography of the area as a valley corridor with strong place-making associations.

6.2.3 The professional teams have concentrated on addressing the riverine corridor and its associated flood plain while ignoring the fact that they lie within the topographic constraints of this environmental and heritage valley 'asset' - however poorly-defined it may be on its western edge.

6.2.4 It is our conviction that the proposal to locate the scale (mass and height) of the proposed development in the middle of this valley line is totally contrary to responsible planning, environmental, heritage and urban design principles. The negative impact on the SAAO as a Grade 1 National Heritage site cannot be condoned – it would, without doubt, be massively damaged in significance and value if the development proceeds.

6.3 Visual Impact : There has been a consistent failure by the visual impact and urban design assessments to consider the highly negative impact of the proposed development as seen from the slopes of Devil's Peak as illustrated in the image below. The site is highly visible from this well-used portion of the mountain – Cape Town's (and possibly the Nation's) most renowned National Monument.



6.4 The natural Liesbeek River :

6.4.1 The importance not only of the riverine environment and its topographic setting, but also of the course of the natural Liesbeek River has been overlooked by all the environmental, heritage and planning consultants.

6.4.2 Improvements to its water quality and particularly the restoration (presumably from the Liesbeek upstream) of in-flowing water - (as addressed in 6.4.27.1 of the decision) is to be highly welcomed but we feel strongly that it should be the subject of an investigation to restore it to its rightful function as the major route of the Liesbeek River. It occupied this route as recently as 1951 – before the eastern canalised route was constructed.

6.4.3 The implications of such an investigation would, of course, have an enormous effect on the approved subdivision plan and proposed development but, even if not restored to its full riverine status, we question whether the space provided in the Provisional Plan of Subdivision (forming part of MPT's Annexure A decision package) is sufficiently wide enough to accommodate the required improvements to its habitat without involving highly undesirable and hostile flood-prevention measures along Liesbeek Road – let alone the interface with the proposed future development.

6.5 A vision for the site :

We urge that a vision be formulated at the highest level for an alternative future usage of this intrinsically-important environmental and heritage site. Aimed at serving the best interests of the City, its people and its place in the landscape, this vision should recognise the need :

- To fully commemorate the history of the site
- To respect the inherent (historical) environmental features of the site
- To ensure that it performs a meaningful role within the city
- To ensure that it displays landmark qualities of which the city can be proud

In pursuit of this vision, cognisance must be taken of both the present and future economic, social and infrastructural needs of the city.

6.6 Proposed way forward :

6.6.1 Given its acknowledged level of historic importance (First Nations and early-colonial associations), the site should be accorded National recognition.

6.6.2 The site should be re-acquired as 'public' land and an alternate usage explored through a high-level forum involving the City, the Province and representatives of civil society and relevant professional bodies.

6.6.3 The true value of the site should be determined by its location within the floodplain and its Open Space 3 zoning together with the temporary usage rights that have already been permitted.

6.6.4 Alternative, well-located sites are available within the City which could accommodate the form and scale of development being proposed and which could far more readily meet the City's need for inclusionary housing.