



## F.A.Q.

### FREQUENTLY ASKED QUESTIONS

The River Club Re-development

# STOP the River Club Destruction!

Image: Samantha Reinders for The Wall Street Journal

## What is this development?

The Liesbeek Leisure Property Trust (LLPT) are re-developing the River Club site at the confluence of the Black and Liesbeek Rivers in Observatory as a dense mixed-use commercial development that would house 18 high-rise buildings of between 20 and 44m in height on the site.

The property owned by LLPT is 14.7 ha but the full footprint of the development is 25 ha because it makes use of adjacent land that is publicly owned to build infrastructure include an extension of Berkely Road across the Black and Liesbeek Rivers to join up with Malta Road in Salt River. The site bulk will comprise 150 000 square metres of concrete of which Amazon Web Services will occupy 70 000 square metres in precinct 2. Twenty percent of the development will be apartments and of that, 20% will be in the affordable housing range, meaning 4% of the entire development will be affordable housing.<sup>1</sup>

## Where is it?

The development is located in Observatory, Cape Town.

It is located within the Two Rivers Urban Park, recognised in City Planning policies as an urban green area.<sup>2</sup> The River Club site is adjacent to the South African Astronomical Observatory, recently declared a National Heritage resource<sup>3</sup> and slated for nomination to UNESCO as a World Heritage Site.<sup>4</sup>

## How did this come about?

The River Club land used to belong to Transnet.

Liesbeek Leisure Property (Pty) Ltd (LLP) held a long-term lease on the land to run a golf course, conference centre and other minor commercial uses. The City of Cape Town had previously granted LLP consent uses for these purposes as the land was zoned as Open Space. In 2015, Transnet elected to sell the land. LLP exercised its right to first offer and bought the land but at the price for bare dominium. It is unclear why Transnet chose to sell the bare dominium to the lease holder at the time. Shortly after purchasing the land, LLP sold the land to Liesbeek Leisure Property Trust (LLPT). The Trustees of LLPT included two directors of the LLP. LLPT purchased the land at more than 8 times the original purchase price with a bond issue by Investec. LLPT then commenced the process of a development application in 2015.<sup>5</sup>

#### Sources:

<sup>1</sup> <https://www.srk.com/en/public-documents/redevelopment-of-the-river-club-in-observatory>

<sup>2</sup> [https://www.westerncape.gov.za/assets/departments/transport-public-works/Documents/table\\_bay\\_-\\_technical\\_report.pdf](https://www.westerncape.gov.za/assets/departments/transport-public-works/Documents/table_bay_-_technical_report.pdf)

<sup>3</sup> <http://www.nhc.org.za/200-year-old-sa-astronomical-observatory-officially-unveiled-as-a-national-heritage-site/>

<sup>4</sup> <https://www.saao.ac.za/2020/10/13/the-bicentenary-of-the-south-african-astronomical-observatory-saao-and-the-unveiling-of-the-saao-as-a-national-heritage-site/>

<sup>5</sup> [https://cdn-web-content.srk.com/upload/user/image/Appendix\\_G5\\_HIA\\_Part120210901132842809.pdf](https://cdn-web-content.srk.com/upload/user/image/Appendix_G5_HIA_Part120210901132842809.pdf)



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## How is Amazon associated with the project?

Amazon is the anchor tenant for the development. They wish to establish an African headquarters for Amazon Web Services (AWS).

AWS already has a presence in Cape Town but wish to consolidate their offices and expand their operations. In 2018, Amazon put out a tender for possible sites. The River Club was not amongst the 5 sites initially shortlisted. In the final shortlist of three, the River Club appeared at the top of the list. The LLPT did not indicate during the BAR that Amazon were the anchor tenant. Amazon has not publicly commented on their involvement in the development.<sup>6,7,8</sup>

## How was the development approved?

The developers, as required by the National Environmental Management Act, commenced the process of public consultation in 2016 by developing a Scoping Report put out for public comment.

Over the next four years, they commissioned various studies so as to comply with regulatory requirements. In March 2018, the developers applied for rezoning of the site to enable the development to go ahead. Despite substantial opposition, the Department of Environmental Affairs and Development Planning (DEADP) granted the Environmental Authorisation in August 2021 and City approved the rezoning at a specially constituted Municipal Planning Tribunal in September 2021. The respective appeals against rezoning and EA were dismissed by the Mayor and the Minister in April and February 2021, respectively.<sup>9,10</sup>

#### Sources:

<sup>6</sup> <https://www.businesswire.com/news/home/20200422005324/en/AWS-Launches-Region-in-South-Africa>

<sup>7</sup> Steve Kretzman at <https://www.dailymaverick.co.za/article/2020-09-22-amazon-will-be-the-anchor-tenant-in-a-controversial-development-at-cape-towns-river-club/>

<sup>8</sup> Clive Charlton: <https://www.itweb.co.za/content/KWFBbvyZ5my7mRjO>

<sup>9</sup> <https://www.srk.com/en/public-documents/redevelopment-of-the-river-club-in-observatory>

<sup>10</sup> <https://obs.org.za/cms/wp-content/uploads/2020/10/The-Ruling-by-MPT-300920.pdf>



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# What did the approval process consider?

As part of the Environmental Authorisation, the developers had to submit a Heritage Impact Assessment that complied with the requirements of the National Heritage Resources Act (NHRA).

The initial baseline HIA recommended a low-density development with heritage indicators that would preserve the Open Space characteristics of the site. However, the developers did not pursue these recommendations but commissioned a different heritage consultant who produced an HIA<sup>11</sup> that was based on the very dense footprint desired by the developers. Heritage Western Cape, the competent heritage authority for the province, deemed that the HIA submitted by the developers failed to comply with the NHRA because it failed to adequately map the heritage resources on site.<sup>12</sup>

In particular, it failed to recognise the sites “most important heritage resource: The site’s open, green qualities as a remnant of landscape that has considerable intangible historic and cultural heritage significance.” Rather, the HIA “gave the development carte blanche in terms of heights and massing” and reduced heritage 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 DEADP overrode the HWC Final Comments in approving the EA. In its appeal against the EA, HWC stated clearly that it believed the EA decision was unlawful.<sup>13</sup>

Secondly, during the course of developing the Basic Assessment Report under NEMA, no studies were conducted that specifically assessed whether the development was consistent with Climate Change policies despite concerns raised by the City’s own Environmental Management Department (EMD).<sup>14</sup> When the EA was granted, the City’s EMD raised 13 concerns in their appeal, including numerous concerns regarding flooding and climate change risk. Only after the EMD appeal did the LLPT commission a study purportedly to look at Climate Change issues. However, this study was not open to I&AP scrutiny during the public participation process and did not answer the most important question as to whether locating a mixed-use development of this density on a floodplain was good for Climate Change resilience.

#### Sources:

<sup>11</sup> <https://sahris.sahra.org.za/sites/default/files/additionaldocs/Appendix%20G5%20HIA.pdf>

<sup>12</sup> <https://obs.org.za/cms/wp-content/uploads/2020/09/Final-Comment-Erf-151832-Corner-Liesbeek-Parkway-and-Observatory-Road-The-River-Club-Observatory--HWC-Feb-2020.pdf>

<sup>13</sup> <https://obs.org.za/heritage-western-cape-appeal/>

<sup>14</sup> <https://obs.org.za/city-of-cape-town-environmental-management-dpt-appeal/>



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# How was heritage contested?

During the process, Heritage Western Cape, acting on the basis of preceding reports that proposed the Two Rivers Urban Park as having provincial if not national heritage importance, issued a Provisional Protection Order over the site.

The Protection Order was intended to enable HWC to grade the site. However, the developers, along with the City of Cape Town, the Department of Transport and Public Works and the Department of Environmental Affairs and Development Planning, appealed the protection order, claiming there was no immediate threat to heritage. The Ministerial Appeal Tribunal considered the appeals over 18 months and concluded the appeals were groundless. However, by the time the Tribunal issued its final directive rejecting the appeals, the protection order had lapsed and HWC had not graded the site.<sup>15,16</sup>

Because of the opposition to grading, the Goringhaicona Khoi Khoi Indigenous Traditional Council, the Observatory Civic Association and the Two Rivers Urban Park Association nominated the TRUP for Provincial Heritage Status in February 2020. In July 2021, HWC Council decided that TRUP should be nominated for national heritage status and referred the nomination to the South African Heritage Resources Agency (SAHRA). SAHRA is busy evaluating the site for national heritage grading and also considering issuing a provisional protection order because of the immediate threat to intangible heritage.<sup>17</sup>

# Why are we opposing it?

The River Club is private land located within the Two Rivers Urban Park. Existing planning policies do not provide for this level of dense development in a flood plain precisely because the land is intended to part of a coast to coast urban greenway and intended for use as Open Space.

The land is sacred space to the Khoi as it is the site of the first anti-colonial resistance by indigenous people to Portuguese intruders and the subsequent dispossession of the Khoi by Dutch colonialists who gifted land to Dutch freeburgers along the Liesbeek River.

“The historic landscape contained within the land between the Black and Liesbeek River marks one of the most tangible and earliest historical frontiers that were to eventually herald the fragmentation of the Khoikhoi nation.” It should be honoured as a heritage Site and not as a mixed use complex with some concessions, such as a Cultural Centre. Khoi entities opposed to the development consider it an affront that the land is being given over to a massive development and the intangible heritage of the site is being sacrificed. Heritage Western Cape declared that the developer.<sup>18,19,20</sup>

#### Sources:

<sup>15</sup> <https://obs.org.za/cms/wp-content/uploads/2020/04/River-Club-Ruling-14-April-2020.pdf>

<sup>16</sup> <https://www.groundup.org.za/article/tribunal-slams-province-and-city-over-river-club-developments/>

<sup>17</sup> <https://sahris.sahra.org.za/cases/nomination-two-rivers-urban-park> and <https://www.iol.co.za/capetimes/news/grant-two-rivers-site-heritage-status-5bb6d213-8c2b-40f4-8d18-37eb813863f1>

<sup>18</sup> <https://obs.org.za/city-of-cape-town-environmental-management-dpt-appeal/>

<sup>19</sup> [https://www.westerncape.gov.za/assets/departments/transport-public-works/Documents/annexure\\_b\\_trup\\_baseline\\_hia\\_1.pdf](https://www.westerncape.gov.za/assets/departments/transport-public-works/Documents/annexure_b_trup_baseline_hia_1.pdf)

<sup>20</sup> <http://trup.org.za/wordpress/wp-content/uploads/TRUP-Protohistorical-heritage-report.pdf>



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# Who is opposing it?

The court action is undertaken by the Goringhaicona Khoi Khoin Indigenous Traditional Council and the Observatory Civic Association.

In court, we are supported by the Hessequa Traditional Authority, four of the five Cochoqua houses in the Western Cape, the Gainouqua Traditional Authority, the Khoi and San Kingdom Council of Southern Africa, the Nama, the !Aman Traditional Council, !khorallgaulaes Council, !Khowese Nama Traditional Council, the Korana across all provinces; the National House of |Xam Bushmen Nation which encompass the following Tribes of the |Xam Nation: the Komani-san; the Khwe; the //Xegwi/ |Xam; the Guriqua; the Hawequa, the !Xau-Sakwa, the Sonqua-|Xam, the Karoo-|Xam, the Kalahari-|Xam, the !Xun and the Ubiqua; also revivalist umbrella organizations such as the First Indigenous Nation of Southern Africa (FINSa), the Democratic Federation of Indigenous People SA, the A|Xarra Restorative Justice Forum and the Western Cape Khoisan Legislative Council. Twenty five letters of support are present on our website from a range of different faith-based groups, NGOs, Civics, human rights organisations, academics and activists.<sup>21,22</sup>

The application for heritage status for the Two Rivers Urban Park, in which the River Club is located, is further supported by more than 50 Environmental NGOs, Civics and Khoi indigenous groups. Our website also indicates letters of support from Faith-based networks, human rights groups, academics, environmental NGOs and other activists.<sup>23</sup>

# Has anyone been threatened for opposing the development?

Over the past two years, opponents of the development have been subject to threats and intimidation, including anonymous smears labelling us as thieves, fakes, "gay dogs", descendants of colonialists, collaborators, perpetrators of institutional violence who will be held to account, fabricators, misfits, inkruipers, conmen, fugitives, fronts, snake oil salesmen, desperados, extortionists, scam artists, frauds, hypocrites, racists and hijackers.

We have received letters threatening to sue us for defamation when we are the ones who have been defamed and when we have never defamed any parties. A Khoi leader opposing the development had to secure a restraining order against a supporter of the development who was threatening violence. Most recently, a letter from the LLPT told us to shut up and repeated threats to sue us for spreading misinformation and defamation when we have shown how it is the LLPT that is circulating misinformation.<sup>24,25,26</sup>

#### Sources:

<sup>21</sup> [https://a833e99f-1073-43e3-b762-6a65dfb771be.usrfiles.com/ugd/57a13f\\_fa0625b4949745978a855bbc3312e276.pdf](https://a833e99f-1073-43e3-b762-6a65dfb771be.usrfiles.com/ugd/57a13f_fa0625b4949745978a855bbc3312e276.pdf)

<sup>22</sup> [https://a833e99f-1073-43e3-b762-6a65dfb771be.usrfiles.com/ugd/57a13f\\_6db3a2657c4544d6a4585cfb3c647018.pdf](https://a833e99f-1073-43e3-b762-6a65dfb771be.usrfiles.com/ugd/57a13f_6db3a2657c4544d6a4585cfb3c647018.pdf)

<sup>23</sup> <https://obs.org.za/the-trup-provincial-heritage-status-application/>

<sup>24</sup> <https://obs.org.za/the-river-club-development-what-is-really-at-stake/>

<sup>25</sup> [https://ifaaza.org/new\\_agenda/new-agenda-issue-79/](https://ifaaza.org/new_agenda/new-agenda-issue-79/)

<sup>26</sup> <https://www.dailymaverick.co.za/article/2021-06-01-uct-comes-to-defence-of-professor-accused-of-racism-in-liesbeek-and-black-river-development-spat/>