

**RE-DEVELOPMENT OF FORMER ST ANNE'S HOSPITAL TO  
NEW KZN MUSEUM AND ARCHIVES COMPLEX  
96 JABU NDLOVU ST, PIETERMARITZBURG**

NOTICE OF INTENT TO SEEK A REVIEW BY THE COUNCIL OF  
THE KZN AMAFA & RESEARCH INSTITUTE'S DECISION CIRCULATED 7TH NOVEMBER 2023

This document reflects the objections of both Robert J W Brusse and Kirk White to the Institute's Decision Notice posted on the 7<sup>th</sup> November 2023 with a request that the process is reviewed by the Council at its earliest convenience. We both wish to present our presentations in person and be available to answer questions arising from our testimonies.

**SUBMISSION A**

I, Robert J W Brusse, a qualified and registered architect who has followed the above application from inception and contributed experiential opinions at every stage of the current process, wish to present the following arguments to Council, why the decision of 7<sup>th</sup> November 2023 should totally reviewed :

My arguments are based on :

1.  
the mandate set out in the Preamble of the KwaZulu-Natal Amafa and Research Act (Act No. 05 of 2018),
2.  
failure to conduct the Public Participation Process in a meaningful and transparent manner,
3.  
the irrationality of agreeing to allowing the Appellant's latest submission in terms of a Form J without submitting a concurrent Form A application.
4.  
the failure of the Heritage Resource Agency to consider the consequential impact of the current decision on the future viability of important Heritage Resources within the Pietermaritzburg urban environment.

Therefore we assert that, for the following rational reasons, the Council rescinds the Decision Notice dated 7<sup>th</sup> November 2023 and orders a review of its processes and outcomes.

## 1.

**the mandate set out in the Preamble of the KwaZulu-Natal Amafa and Research Act  
(Act No. 05 of 2018),**

## 1.1

The the KwaZulu-Natal Amafa and Research Act (Act No. 05 of 2018), includes in the lead up to the Preamble the following aims and objective :

*.....: to identify, conserve, protect, manage and administer heritage resources and to conduct both basic and applied research to generate relevant knowledge and contribute solutions to challenges within the field of heritage in the Province; .....*

The Act goes on to develop these aims in the **PREAMBLE** a reading of which would be beneficial in understanding the following arguments. Its principle objective is aimed at administering the Provincial estate in the interest of the people of this Province and ..*'to nurture and conserve their legacy so that it may be bequeathed to future generations'*.

## 1.2

In the Decision Notice posted 7<sup>th</sup> November 2023 there is absolutely no reference to any of the objectives set out in the introduction, nor the Preamble of the Act. The very will of the people of KwaZulu Natal, as expressed by the Province's Legislature, in this Act, is conveniently 'overlooked'

## 1.3

Instead, we are informed that

*'The Committee agreed that the demolition of the structures in question as necessary in order to render the project feasible and the revised proposal was accepted'.*

This crucial phrase has no standing in terms of the Introduction or the Preamble of the Provincial Act.

## 1.4

How can the Committee come to such a conclusion purely on the basis of a presentation which, in the words of the previous paragraph of the Decision Notice states :

*'The committee noted that the s37(Form A) application for the intervention on all the structures over 60 years could not be completed at this stage as some of the details for the proposed interventions were no yet finalised'*

Whilst the Institute implies that a Form A should have been submitted, it proceeds to take decision despite the failure to to provide *'some of the details for the proposed interventions were no yet finalised'*. Without demonstrable evidence it is not rational to accept the claim that the decision *'...is necessary in order to render the project feasible...'*

## 2

**failure to conduct the Public Participation Process in a meaningful and transparent manner,**

## 2.1

Public Participation in matters of public interest has become an important social norm in South

Africa and one that the KZN Amafa & Research Institute has adopted in its regulations and often as part of a Permits requirements. It must be accepted that it is a process whereby interested and affected members of the public can be informed of, can contribute to, and can affect the decision making process of a matter of public interest. That is, presumably, the rationale for holding such a process.

## 2.2

Early in the development of this project the professional team, together with the Heritage Forum ( a body of heritage practitioners) undertook a full day workshop on site and in the current Natal Museum to provide 'interested' parties an opportunity to familiarise themselves with the importance of the Heritage Resource to be developed, understand the complexity of the Natal Museum, and make comment on the preliminary design concepts developed by the architectural team.

As a participant of that workshop I am of the opinion that it provided valuable in-put to later assessments made of submissions by the Applicant.

## 2.3

It is acknowledged that there have been several occasions which may have been intended as a Public Participation Process events, but were actually the Institute's Heritage Officers Committee (HOC) meetings to which Interested and Affected Parties were admitted. Again, valuable in-put was made by various professional architects and others.

## 2.4

On 10<sup>th</sup> May 2021 an Interim Comment was issued by the Institute, commenting on new concept proposals dated 19.4.2023, which called for the submission of a new application, and advised that *'As the proposal had changed to such an extent and the demolition of original fabric had increased, Public Consultation would need to be conducted on the revised proposal : the Institute would place an advert in the Witness newspaper and contact the previously identified interested and affected parties'*

The *'previously identified interested and affected parties'* within the heritage practitioners body were only informed two weeks after the advertisement was placed, and advised to view the documentation on the SAHRIS website. Access to the SAHRIS website proved very problematic for most persons due to technical problems on that platform.

## 2.5

As a consequence of the short notice period and the problems of accessing the SAHRIS website only two submissions were upload .

## 2.6

The *Public Consultation* duly took place in July 2023, in the format of an HOC meeting and not as an open Public Participation forum. I had uploaded a written submission setting out a comprehensive set of comments, but at the zoom meeting was only offered an opportunity to raise

a single issue - the management of the meeting would not permit the raising of the full body of my submission. The external attendees were then excluded from further participation while the members of the HOC debated the issue in conclave.

## 2.7

This exercise in *Public Consultation* in which relevant, submitted contributions are not tabled for airing by all participants, where there is no evidence of the Institute's staff's responses and where records (minutes) are not shared with participants can only be considered as flaunting the objectives as intended in an open society participating in a public debate on matters of common interest.

## 2.8

A further 'Public Participation / HOC meeting' was held a few weeks later, during which the Heritage Architect for the Applicant inquired about 'minutes' of the previous meeting. First the chair inquired whether minutes had been prepared, and then the HA of the Applicant was informed that the minutes were only for the Institute's staff, who sat on the HOC. This non-transparency flaunts the principles of an open and transparent public service and must be condemned.

## 2.9

At the start of the most recent hearing it became evident that the Applicant had submitted his latest application (Form J) a day or so before the meeting. There could be no reasonable expectation that the public who participated in this latest PPP would have known that the latest scheme had been uploaded. Consequently, it would be unreasonable to expect any public participant to have had an opportunity to familiarize themselves with the changes in the latest scheme. The very essence of the meeting had been missed.

## 2.10

Throughout this project the Public Participation Process has been managed in a manner to restrict it to mainly superficialities, devoid of public records and not holding anyone accountable.

## 3.

### **The irrationality of agreeing to allowing the Appellant's latest submission in terms of a Form J without submitting a concurrent Form A application.**

## 3.1

It must be assumed, and accepted, that the formatting of the various Application Forms by the KZN Amafa & Research Institute has a rational basis.

- Form A is for any physical interventions to a building more than 60 years old,
- Form J is '*for comment on the proposed development on a site*'.

In this application the Institute's emphasis appears to have concentrated on *cost* and *functionality*, neither of which feature prominently in the Provincial Act, nor in the National Act. What is paramount in both Acts is the obligation to manage the Provincial estate, and to nurture and

conserve the legacy of our past communities so that it may be bequeathed to future generations. A proposed development of a significant site such as this one - with so many heritage resources located on it – needs to be fully informed of the re-purposing possibilities of those heritage resources, before they are condemned to destruction.

The fact that preparing a more detailed presentation - as required by Form A - may cause additional work and costs for the client and his/her professional team, should not be a concern of the Heritage Resource Agency of this Province. Their Mandate is to 'promote good management of the Provincial estate'. To be adequately and rationally informed of the real needs of the proposals - and the real need for the demolition of buildings E,F & G - a competent and proper submission of Form A should have been submitted and assessed together with a Form J. Alternatively the demolition of those buildings must be demonstrated to be absolutely incontestable before any demolition is permitted.

### 3.2

To evaluate whether an application is rational and acceptable one needs to have access to that information and time to understand its intent, its consequences and its merits are. When that information is presented for the first time at the inception of a meeting it is not possible to undertake the necessary assessments in a professional manner within the time that was provided. Comments that were made in previous submissions could not be evaluated in terms of the new proposals; previous matters that might have been agreed upon could not be identified, and the actual time allowed participants to make submissions was curtailed by the chair.

### 3.3

I made a substantial submission regarding the inadequacy and, or in-correctness of information submitted in the HIA regarding the founders of these historic buildings and the intangible heritage that would be destroyed by disregarding the physical constructs of that community. My comments found resonance with Chair who confirmed that he found the vague comments regarding memorialising provide by the Applicant not satisfactory. A member of the HOC voiced similar concerns about the need to retain the chapel as an appropriate memorial to the Augustinian pioneers.

### 3.4

The Applicant submitted that it was necessary to demolish the chapel because the space was needed for a service road to the proposed new-build. I called for a physical demonstration that vehicular access could not rise over the existing structure and that there was no evidence that this had been investigated. There still is no hard evidence that is impossible.

### 3.5

Despite these and several other pertinent comments and suggestions, the FINAL DECISION records that

*'The KZN A&RI, therefore has no objection to the proposed development within limits of the stipulated conditions and mitigation measures as outlined in the heritage report, especially with regard to the interventions on the existing buildings and the memorialisation of the demolished buildings, particularly Block E'*

It is my contention that based on the evidence that we who took part in the various HOC meeting that were supposed to double up as Public Participation events, consider the above Final Decision to be irrational and not in conformity with the aims and objectives of Provincial and, or National Heritage Legislation.

Therefore we call upon Council to rescind this decision and open the assessment process once more in terms of the will of the people as expressed in the Legislation.

#### 4.

### **The failure of the Heritage Resource Agency to consider the consequential impact of the current decision on future viability of important Heritage Resources within the Pietermaritzburg urban environment.**

#### 4.1

We refer once again to the Introduction and the Preamble to the KZN Amafa & Research Act (Act No 05 of 2018), in which it sets out the general aims and objectives for which this legislation was enacted, for which the Institute was established, for which the Institute is given powers and authority over the Provincial estate. It is specifically stated *'to identify, conserve, protect, manage and administer heritage resources'* That places a significant onus on the Institute to not only be re-active, but also be pro-active. For to long the Institute has been re-active. It is also expected to be pro-active.

#### 4.2

This failure to be pro-active has been found problematic in two cases that I can call to mind :

- In the case of Russel High School, Pietermaritzburg, where the School Governing Body served paper on a number of statutory bodies, including Amafa aKwaZulu Natali for failing to exercise their mandate in the maintenance and renovation of a State building that was more than 60 years old.
- In the second case, the Public Protector, in her report *'Allegations of maladministration, corruption and unconscionable use of public funds by the Umzimkhulu Local Municipality, (Report 30 of 2018/19)'* was highly critical of the failure of Amafa to act in the interest of securing part of the Provincial estate.

#### 4.3

It is my contention that the body that has been statutorily established to administer the Heritage

Resources of the Province is obliged to consider the consequences of its actions.

#### 4.4

In relation to this matter the Institute is obliged to consider what will happen to the Heritage Resources that become vacant as a consequence of this development. It must consider the merits (or otherwise) of not protecting a Heritage Resource that was purpose-made and designed at a period in our history when museums were few and far between. A structure that has very fine examples of period building technology, crafts and skills, that are scarce in to-days environment. The existing Natal Museum building was specifically designed for its function, it has very little fenestration and its external envelope depends entirely on the scale and proportion of its elements. Internally it has very large spaces that origionally lit by extensive and unique skylight, but now lit by artificial spot lighting. It is not a building that can be easily re-purposed for another use, without destroying its unique character and aesthetic. To mothball this building will not protect it from decay, and Pietermaritzburg is full of derelict heritage resource already.

#### 4.5

As with everyone else in this province, the KwaZulu Natal Amafa & Research Institute, as the Heritage Resource Agency for the province of KwaZulu Natal must take responsibility for the consequences of its actions, particularly in this project where heritage resources are threatened by demolition for the sake of convenience, and others are potentially under threat from State neglect or inappropriate re-purposing.

#### 4.6

I would respectfully remind the Council that the Institute's mandate takes preference over all other consideration and that the Council must ensure that those aims and objectives are achieved. We ask that the decision of the Institute published on 7<sup>th</sup> November 2023, (Decision Date October 26<sup>th</sup> 2023) be rescinded and the whole process reviewed in conjunction with meaningful Public Participation.

Robert J W Brusse,

2023/11/21

## SUBMISSION B

I, Kirk White, Architect, have followed the above application from inception and wish to present the following arguments to Council as to why the decision of 07<sup>th</sup> November 2023 should be fully reviewed.

My submission to request a review is structured with the two following headings:

## 5.

The Public Participation Process was not conducted in a meaningful and transparent manner,

## 6.

The requirements for an Impact Assessment Report, as prescribed in the NHR Act 25 of 1999, section 38 (3) (a to g) have not been properly observed.

Therefore, for the following reasons listed below, I request the Council to order a complete Review of the Decision Notice dated 7<sup>th</sup> November 2023.

## 5.

**The Public Participation Process was not conducted in a meaningful and transparent manner.**

- chairperson's approach interventionist, not facilitative of public comments,
- hostile and judgemental interrogation of comments from public,
- time restrictions apply for public contributions,
- inappropriate coaching and soliciting of Amafa staff input,
- time restrictions not applied for Amafa staff input.

## 6.

**The requirements for an Impact Assessment Report, as prescribed in the NHR Act 25 of 1999, section 38 (3) (a to g), have not been properly observed.**

## 6.1

38 (3) a). ID of all resources (Form A).

- historical significance of chapel poorly developed, demolition not adequately motivated,
- ditto X-Ray block, ditto motivation for demolition (bus parking),
- no reason advanced for exclusion of lower portion of site in review.



## 6.2

38 (3) b). Statement of Significance of a).

- engineer's and specialist reports were superficial,
- ongoing and progressive neglect of vegetation damage to structures not highlighted by consultant

## 6.3

38 (3) c). Assess impacts of development on a) + b).

- massing of new around existing historic structures,
- demolition for bus parking not motivated,
- demolition of chapel motivated for reasons unrelated to acknowledged historical and architectural significance.

## 6.4

38 (3) d). Evaluate impacts for social and economic benefits.

- cost-benefit analysis of relocation: social, -awaiting undertaking,
  - to include loss of existing museum as an historical object with an embedded, not constructed, past,
  - to include loss of historic ambience of existing museum: teenage, asian "goth-groups" embrace of annual *Night at the Museum* event.
  - to include cultural loss of authenticity of fragile objects in relocation from existing museum.
- cost-benefit analysis of relocation: economic, -awaiting undertaking,
  - to include un-budgeted items such as insurance for exhibit removal,
  - to include boarding up of old museum and decommissioning of its obsolete service infrastructure,
  - to include perpetual water pumping of underground stream in basement to the in existing museum.

## 6.5

38 (3) e). Community consultation + I&APs response.

- privileging of economic and social benefits of the proposed development over other factors of significance,

- a-critical acceptance of claimed benefits,
- caution and criticism of motivations for proposal by I&APs dismissed with no reference in written documentation provided by Amafa,
- consultants' initial engagement with I&APs (SAIA-KZN H.Comm) was not continued and was later avoided,
- amafa's administrative notification to I&APs (SAIA-KZN H.Comm) is indicative of consultant's avoidance.

## 6.6

### 38 (3) f). Consideration of alternatives.

- alternative siting to mitigate the need for demolition was not demonstrated,
- lower half of site portion remains undeveloped, especially as a mitigatory option to reduce need for demolition,
- preference for concentration of development along Jabu Ndlovu st, along with demolition of existing structures, was not substantiated,
- significance of existing historical structures is reduced by density of new development.

## 6.7

### 38 (3) g). Mitigation of adverse impact of proposal.

- none provided, especially where demolition of significant structures is proposed.

I trust my request meets with your full consideration,  
Kirk White.