

**Approved Minutes of the Additional Meeting of the Impact Assessment Committee
(IACOM)
of Heritage Western Cape (HWC).
Held in the 3rd Floor Boardroom, Protea Assurance Building, Greenmarket Square,
Cape Town,
at 12H00 on Wednesday, 5 September 2018.**

1. Opening and Welcome

The Chairperson, Mr Chris Snelling (CSn), opened the meeting at 12H02 and welcomed everyone present.

2. Attendance

Members

Mr Chris Snelling (CSn)
Prof Lucien le Grange (LLG)
Dr Lita Webley (LW)
Mr Frik Vermeulen (FV)
Mr Siphiso Mavumengwana (SM)
Mr Dave Saunders (DS)
Ms Cecilene Muller (CM)

Staff

Ms Penelope Meyer (PM)
Ms Waseefa Dhansay (WD)
Mr Olwethu Dlova (OD)

Observers

None

Visitors

Ms Claire Abrahamse (CA)
Dr Nisa Mammon (NM)
Mr Tasyam Govender (TG)
Mr Fairoz Osman (FO)
Ms Susanne Coleman (SC)

3. Apologies

Mr Guy Thomas (GT)
Ms Colette Scheermeyer (CSc)
Mr Jonathan Windvogel (JW)

3.1. Absent

None

4. Approval of the Agenda

4.1 The Committee resolved to approve the agenda dated 5 September 2018.

5. Approval of Minutes of Previous Meeting

5.1 None

6. Disclosure of Interest

6.1 None

7. Confidential Matters

7.1 None

8. Appointments

8.1 None

9 Administrative Matters

9.1 None

10. Standing Items

10.1 None

MATTERS TO BE DISCUSSED

11 SECTION 38(2) RESPONSES TO NOTIFICATION OF INTENT TO DEVELOP

11.1 None

12 SECTION 38(1) INTERIM COMMENT

12.1 None

13 SECTION 38(4) RECORD OF DECISION

13.1 None

14 SECTION 38(8) NEMA RESPONSE TO NOTIFICATION OF INTENT TO DEVELOP

14.1 None

15 SECTION 38(8) NEMA INTERIM COMMENTS

15.1 None

16 SECTION 38(8) NEMA FINAL COMMENTS ON ENVIRONMENTAL IMPACT ASSESSMENT

16.1 Proposed Mixed Use Development, Cape Farm 767 and 738, Philippi: MA HM/ CAPE TOWN METROPOLITAN/ PHILIPPI/ CAPE FARM 767 AND 738

Case No: 17051909WD0525D

Revised Application documents and additional information were tabled.

Ms Waseefa Dhansay gave a PowerPoint presentation.

Ms Claire Abrahamse, Mr Fairoz Osman, Dr Nisa Mammon, Ms Susanne Coleman and Mr Tasyam Govender were present and took part in the discussions.

Discussion:

Amongst other things, the following was discussed:

Ms Coleman on behalf of the Philippi Horticultural Area (PHA) Food and Farming Campaign reiterated, amongst other points that:

- the destruction of the PHA cultural landscape is not mitigable,
- the PHA is replete with qualities that give it high cultural significance and that satisfy the criteria of s3(3) of the National Heritage Resources Act [NHRA] and
- the heritage significance of the PHA is inextricably linked to its agricultural function.

Ms Abrahamse sought clarification on the question of fairness, as the written comment from the PHA had been submitted after the deadline given and had not been circulated. It was explained that the Committee recognized this, and as such, had not entered the PHA Food and Farming Campaign's written comment into the record. However, as with any application, objectors are given the right to put their case at the meeting itself, and this was the case in this instance. This was accepted.

Dr Mammon, Ms Abrahamse, Mr Osman and Mr Govender all provided input into the discussion and further motivated the application. Discussion in this regard included the following:

- It was noted that the farm is a social structure that is key to the workers, and that it is in this regard they will be provided with housing units on the farm with opportunity for their own farming, and will be given title.
- It is felt that the revised proposal as tabled goes hand in hand with the remaining agricultural land, and that it does not negate the agriculture.
- It was argued that the Urban Edge, as a 'line', is beginning to fade and that the Strandfontein edge of the PHA would be taken over by development in the future. It was submitted that Option C as presented, being one of a developed edge to Strandfontein Road would set good precedent and best preserve agriculture, particularly as a better surveillance could be provided in respect of theft, which is an acknowledged problem with the PHA as a whole.

Doctor Mammon pointed out that the mandate of the Committee is restricted to the consideration of heritage related matters and not to that of planning.

The Committee's response included the following:

The Committee is well aware of HWC's mandate in terms of the NHRA, being the protection of heritage resources, not forward planning. Since the entire PHA is a heritage resource, there is however a strong overlap between heritage management and planning considerations, including the 'urban edge'. The Socio-Economic and Agricultural Plan (June 2018), commissioned by the Western Cape Department of Agriculture (DoA), clearly shows the reduction of the PHA Core owing to a sequence of planning decisions over time, and identifies the erosion of the edge as a major threat.

The DoA's study places the subject site in the 'Core Functional Horticultural Area' and concludes:

"The PHA is an urban asset that contributes to the City's resilience, food security and sustainability. It is an asset that has value for all City citizens and especially the agricultural sector and those that live, work and invest in the PHA. The failure to implement the Plan will result in the further deterioration and loss of the PHA".

The applicant's submission, in particular the planning report, relies heavily on the City of Cape Town's latest Metropolitan Spatial Development Framework (MSDF) and its alleged support for development on the subject site. The Committee pointed out that spatial frameworks do not grant or take away development rights.

Cognisance must however be taken of forward planning and it was noted that whilst the MSDF, at a broad level, indicated the subject site within 'Consolidation Areas', it also has an overlay for 'Areas of Unique Agriculture and Heritage'. The subject farms fall within such an overlay.

Furthermore, the Cape Flats District Plan, which provides more detailed guidance, earmarked this area outside the urban edge and designated this area within 'Agricultural Areas of Significant Value', which are to be protected.

While the Committee recognises that each application must be assessed on its own merits, one cannot look at the subject site in isolation. In this regard the Tribunal Ruling of 22-02-2017, regarding another application in the PHA, emphasised the irreversibility of the impacts of development on the PHA (as a whole) as a heritage resource:

"Productive farmland is a resource that, once given over to other land uses, disappears permanently - at least in relation to a human lifetime. Like other natural resources, agricultural lands are finite."

As noted previously by this Committee, the role of the PHA is of significance to all the people of Cape Town and beyond. The significance is not limited to tangible heritage resources, but includes generally its environmental heritage significance, (the aquifer is regarded as a significant heritage resource), its spatial significance, its visual (cultural landscape) significance, as well as its social significance.

As far as the site-specific considerations are concerned, the HIA highlights the transitional role of the site (between urban and rural) and claims that the change of the design (from perimeter block to fingers of development) has significantly "thinned out" the development, but the Committee is of the view that the development proposal still imposes a highly urban development typology on the rural landscape and is not transitional in nature.

Insofar as Option C is concerned, the Committee is of the opinion that other than a revised layout and scale of development, it is in essence the same urban model as Option A tabled previously, with roughly the same amount of area being taken out of agriculture.

Both the development options put forward (a) sterilize an unacceptably large area of farmland through urban development and (b) block critical views towards the PHA cultural landscape from the outside.

Furthermore, the Committee reiterates its interim comment provided on 17th April 2018, when option A was tabled: "It notes its deep concern in respect of any rezoning from Agriculture as well as the material shifting of the existing urban edge". As such, the Committee does not believe that alternatives have been adequately explored, and documented in the HIA, as is required in terms of s38(3)(f) of the NHRA.

The Committee notes the applicant's claims that the development is merely aimed at providing surveillance and an on-site presence, in response to security concerns and ongoing theft. No convincing argument has however been presented for what remains a highly urban development proposal and model, neither what impact this will have on future erosion of the PHA edge, or the PHA as a whole.

The Committee is still of the strong opinion that the urban model as proposed will negatively impact the heritage significance of not just the site, but the PHA as a whole, and that the impact of the proposed development, along its current and future implications in respect of the erosion of the PHA, on identified heritage resources cannot in this instance be mitigated by any sustainable social and economic benefits to be derived from the development. The Committee further notes the MEC's Tribunal previous decision in this regard, inter alia:

"In weighing up the socio-economic benefits of a future development against protection of the PHA as a heritage resource, it is clear at the visit on site and information gathered that it is not in the interest of the people of Cape Town to develop the PHA."

At the previous discussion of this matter, the Committee noted that whilst accepting that some limited form of development could occur on the property, such development should be related to its agricultural zoning, either visually or in terms of use. Development, if any, should be within the landscape setting and subservient to the dominant agricultural use. The current proposal in the north-western quadrant of the site does the opposite.

The Committee observed that it is perhaps an over-reliance by the applicant, on certain tangible heritage resources contained within the site, (such as the farm werf itself for e.g.), as being the primary heritage resource indicators, which has informed the model as presented. The Committee is of the opinion that it is the overall PHA which should be regarded as the primary heritage resource, and that other considerations should be secondary to this. In this regard, the Committee noted that it would favourably consider a more rural model of development that concentrated around the farm werf itself, or replicated that pattern. Above all however, any future development proposal must be rural, and not urban in nature, or alternately a meaningful transition between the two.

The applicants were commended on the inclusion of a Living Heritage Study in the updated documentation. It was noted that such studies should be integral to any assessment of the PHA.

It was finally observed that there is an overall consensus between Committee members, applicants and objectors in respect of the overall heritage significance of the PHA, and furthermore that the application is essentially being submitted in a 'planning' vacuum; awaiting results of various appeals and court decisions that may well influence future planning and heritage considerations in respect of the PHA.

In light of this, and given that the HIA had not essentially provided any alternatives, or assessment thereof, to the Urban Model as proposed, it was suggested to the applicant that this would be an ideal time in which to investigate other alternatives holistically and in relation to the broader PHA, as the Committee is unanimously resolute in its opposition to the urban typology and the detrimental impact that has on identified heritage resources. The applicants took time to consider this, and thanked the Committee for affording them the opportunity to do so. They informed that they will take this under consideration and look at other options, however they are on a deadline with the DEADP submission timelines and as such, requested the Committee to provide a Final Comment.

FINAL COMMENT

The HIA does not comply with the provisions of s38(3)(c) and (f) of the NHR Act.

For all the reasons provided in the discussion, the Committee resolved not to support the proposal, which is urban in nature, involves a rezoning from Agricultural Zone, displaces viable farmland and further erodes the identified edge of the Philippi Horticultural Area, which is a heritage resource of regional significance.

WD

17 SECTION 38(8) MPA ENVIRONMENTAL MANAGEMENT PLAN RESPONSES TO NOTIFICATION OF INTENT TO DEVELOP

17.1 None

18 SECTION 38(8) MPA ENVIRONMENTAL MANAGEMENT PLAN INTERIM COMMENT

18.1 None

19 SECTION 38(8) MPA ENVIRONMENTAL MANAGEMENT PLAN FINAL COMMENT

19.1 None

20 SECTION 38(8) OTHER LEGISLATION NOTIFICATION OF INTENT TO DEVELOP

20.1 None

21 SECTION 38(8) OTHER LEGISLATION INTERIM COMMENT

21.1 None

22 SECTION 38(8) OTHER LEGISLATION FINAL COMMENT

22.1 None

23. SECTION 27 PROVINCIAL HERITAGE SITES

23.1 None

24 SECTION 42 – HERITAGE AGREEMENT

24.1 None

25. OTHER/ ADVICE

25.1 None

26 Adoption of decisions and resolutions

26.1 The Committee agreed to adopt the decisions and resolutions.

27. CLOSURE – 14:15

28. DATE OF NEXT MEETING: 12 September 2018

CHAIRPERSON _____

DATE _____

SECRETARY _____

DATE _____