



iLifa leMveli leNtshona Koloni
Erfenis Wes-Kaap
Heritage Western Cape

PART II

POLICY AND GUIDELINES



Communication



OFFICE PROTOCOL REGARDING COMMUNICATION WITH THE MINISTER AND THE MEDIA

This protocol is intended to complement the Department of Cultural Affairs and Sport Marketing and Communication Strategy and their Policy and Guidelines dated 2003. It addresses the following issues:

- Heritage Western Cape (HWC) is a separate statutory authority and is therefore not subject to Departmental policies and guidelines unless it has been consulted.
- Decisions about HWC marketing and communication policy, including the drafting of communications to the media, must be taken by HWC Council and not by the Department.

It was therefore agreed at a meeting of HWC Council on 3 June 2015 that, in terms of Section (H) of the Public Service Regulations, 1999, regarding "Communication with the Minister and the Media", the following protocol will be applied:

- 1 The Minister is the key spokesperson for political matters relating to the establishment of HWC and its relationship to the Department and Ministry.
 - 2 The CEO of HWC is the key media liaison person on strategic matters relating to decisions taken by the Council.
 - 3 The CEO of HWC is the key media liaison person on routine matters.
 - 5 Staff may only accept written requests for information from the media.
 - 6 Copies of written communications to the media must be sent to the HOD and the Minister for their information.
 - 7 Written responses from staff must be sent for approval to either the Chairperson of Council or the CEO of HWC before being sent to the media.
- It is agreed that Communication via Social Media provides an important, informal link with the public and can play a role in improving the public perception of HWC.
- 8 HWC must therefore create and maintain a Twitter and a Facebook account. The CEO and ASD: Policy, Research and Planning will manage the information distributed via these Social Media
 - 9 The ASD: Policy, Research and Planning and the CEO will both have rights to access the Social Media Accounts of HWC
 - 10 The ASD: Policy, Research and Planning is responsible for distributing communication via Social Media regarding routine and non-controversial statements of general public interest.

11 All communication via Social Media on any controversial matter must be approved by the CEO.

12 All communication by HWC via Social Media must comply with the Western Cape Government Social Media Policy (June 2014).



Approved: 3 June 2015

Signed:

Dr E. Myburg

Interim CEO

APPROVED



Council and Committees



HERITAGE WESTERN CAPE (“HWC”)

GREEN MARKET SQUARE, PROTEA ASSURANCE BUILDING, CAPE TOWN 8001

**CODE OF CONDUCT FOR COUNCIL, COMMITTEES
AND MEMBERS OF COUNCIL AND ITS COMMITTEES**

CODE OF CONDUCT FOR COUNCIL, COMMITTEES AND MEMBERS OF COUNCIL AND ITS COMMITTEES

Adopted by Executive Committee on **17 June 2011**
Revised by the Council on **3 August 2011**

1. INTRODUCTION

1.1 General

The National Heritage Resources Act, 25 of 1999 ("the Act") and regulations under the terms of the Act, published as Provincial Notice 336 of 25 October 2002, established Heritage Western Cape ("HWC") together with its Council to co-ordinate and promote the management of heritage resources in the Western Cape Province; to set norms and maintain standards for management of heritage resources and to protect heritage resources of provincial significance; and to provide for the protection and management of the conservation-worthy places and areas by local authorities. The Council has in its turn established committees to assist it in its performance of these responsibilities.

1.2 The purpose of the Code

1.2.1 In order to give effect to the relevant Constitutional provisions as well as the National Heritage Resources Act, 25 of 1999 relating to HWC Council members and members of committees, all Council and committee members are expected to comply with the provisions of the Code of Conduct set out herein.

1.2.2 The Code should act as a guideline to the HWC Council and its committees as well as members thereof in their individual capacities as to what is expected of them from an ethical point of view, both in their individual conduct and their conduct in relationship with the Department of Cultural Affairs and Sport (DCAS), HWC Management, Staff and the Public.

1.2.3 The primary purpose of the Code is to promote exemplary conduct in order to give credence to the HWC, its Council and committees.

1.3 The object of HWC

1.3.1 The object of HWC is to be responsible for the identification and management of Grade II heritage resources and heritage resources which are deemed to be a provincial competence in terms of the Act. It also carries responsibility for Grade III heritage resources where such responsibility has not been assumed by local government.

1.4 Establishment of the HWC Council

14.1 HWC Council ("Council") is established in terms of section 23 of the National Heritage Resources Act, 25 of 1999 which provides that the affairs of HWC are governed by the HWC Council constituted as prescribed by regulations published in the *Provincial Gazette*. (See published as *Provincial Notice 336 of 25 October 2002*.)

14.2 The members of Council shall be appointed in a manner which applies the principles of transparency and representivity and takes into account special competence, experience and interest in the field of heritage resources.

1.5 Functions, Powers and duties of the HWC

1.5.1 Section 24 of the Act, which deals with the functions of Council provides as follows:

"A Provincial Heritage Authority must –

(a) Advise the MEC...

(b) Annually submit...

(c) Promote...

(d) Protect and manage...

- (e) *Notify SAHRA...*
- (f) *Maintain...*
- (g) *Establish policy...*
- (h) *Determine...*
- (i) *Co-ordinate...*
- (j) *Assist...*
- (k) *Provide for any...*

1.6 General Powers and duties of HWC

1.6.1 *The general powers and duties of HWC are set out in section 25(1) of the National Heritage Resources Act, 25 of 1999.*

2. CORE PRINCIPLES

Fiduciary duties

2.1 The most important duties of Council and committee members are that they must –

- (a) act independently at all times with unfettered discretion;
- (b) exercise independent judgment; and
- (c) take decisions according to the best interests of HWC and in accordance with the provisions of the Act and in the case of committees the delegations made to them by the Council.

Selflessness

2.2 Members must act in the best interests of the Council and/or committee and must not improperly seek or accept any financial or other advantages for themselves or people closely connected with them.

Integrity

2.3 Council and committee members must –

- 2.3.1 not allow themselves to be placed in a situation where their integrity or independence could justifiably be called into question;
- 2.3.2 promote the unity and the well-being of HWC in performing his or her functions by virtue of his or her appointment as a member of the Council or a committee;
- 2.3.3 serve the public in an unbiased and impartial manner in order to create public confidence in HWC and DCAS;
- 2.3.4 be polite and helpful when members of the public, conservation bodies, public bodies, and other persons or bodies appear before it;
- 2.3.5 not unfairly discriminate against a member of the public on account of race, gender, ethnic, political persuasion, conscience, belief, culture or language;
- 2.3.6 not abuse his or her position as a member of Council or a committee to promote or prejudice the interest of any person, body, political party or interest group;
- 2.3.7 respect and protect every person's dignity and his or her rights enshrined in the Constitution; and
- 2.3.8 execute all reasonable instructions given by Council or committee, provided that the instruction/s are not in conflict with the provisions of the Constitution, the NHRA and/or any other law;
- 2.3.9 use the appropriate channels to air his or her grievances or to direct representations to the Chairperson of Council or committee.

Accountability

- 2.4 Council and committee members are accountable for their conduct, and should be prepared to justify it at all times;

Openness

- 2.5 Council and committee members should be open about their decisions.

Honesty

- 2.6 Council and committee members must declare their relevant financial and other interests in accordance with the rules on declarations of interests set out in this Code and by DCAS.

Leadership

- 2.7 Council and committee members should promote these principles and lead by example.

Equality and diversity

- 2.8 Council and committee members must comply with best practice on equality and diversity issues and promote compliance by others. In this context, "best practice" includes, but is not limited to, relevant legislation and HWC's, in the absence thereof, DCAS's own Equality and Diversity Policy.

Respect

- 2.9 Council and committee members should follow the principles of mutual respect in all their dealings and be prepared to accept that others may have equally strong views in good faith that differ from their own.

- 2.10 Council and committee members should treat colleagues with respect and not engage in any behaviour towards other members or staff which might reasonably be interpreted as discriminatory, bullying or harassment.

3. APPLICATION OF THE PRINCIPLES

Collegiality

- 3.1 Council and committee members should recognize that decisions with which they disagree may be made by a majority of the Council. Members may dissent, but should not seek to frustrate the implementation of decisions properly reached.

Roles of members and staff

- 3.2 Council and committee members must recognize that staff are part of a line management structure responsible to the Chief Executive Officer of HWC for the implementation of decisions, and not to individual Council members.
- 3.3 Council and committee members must not place staff in any position where this principle referred to in clause 3.2 might be compromised.

Confidentiality

- 3.4 Council and committee members must take all appropriate steps to safeguard information given to them in confidence or which otherwise comes into their possession in circumstances where confidentiality arises.
- 3.5 For the avoidance of doubt, it is permissible for such information to be given to another Council or committee member (unless that member has a conflict of interest which would prevent him or her having access to the information).

- 3.6 A Council and committee member shall not release official information to the public unless he or she has the necessary authority from the Chairperson of Council, the relevant committee or the CEO as the case may be.

Meetings of Council and its Committees

- 3.7 The regulations, which deal with meetings of Council, provide that Council must meet at least four times a year.
- 3.8 In addition, the following is provided for in the Act:
- 3.8.1 A quorum for a meeting of the Council shall be a majority of its members.
- 3.8.2 Any decision of the Council or a committee shall be taken by resolution of the majority of the members present at any meeting of the Council, and, in the event of equality of votes on any matter, the person presiding at the meeting in question should have a casting vote in addition to his/ her deliberative vote as a member of the Council.
- 3.8.3 The quorum of a committee shall be determined by the Council.
- 3.8.4 If the Chairperson of the Council or a committee is absent from a meeting of the Council or not able to preside at that meeting, the members present must elect one of their number to preside at that meeting and that person may, during that meeting until the Chairperson resumes his/ her functions, perform all those functions.

Standards of debate and conduct at meetings

- 3.9 Council and Committee Members –

- 3.7.1 must uphold high standards of courtesy and respect in meeting debates.
- 3.7.2 are required to ensure that they familiarise themselves with each and every document which forms part of the discussion information pack, prior to the commencement of the meetings.
- 3.7.3 must, in order to ensure orderly discussion at meetings, ensure that all points by members are made through the Chairperson and only once the Chairperson acknowledges that the point/s may be made by the member.
- 3.7.4 must respect the Chairperson's direction in conducting of meetings.

Voting

- 3.8 Voting shall be done by show of hands unless one third of members request a secret ballot.

Regulatory matters

- 3.9 When dealing with regulatory matters, members should bear in mind the primacy of the public interest and should strive to ensure that their decisions on such matters cannot be legally challenged.

Financial matters

- 3.10 Members of Council must:
 - 3.10.1 deal responsibly and prudently with financial matters, particularly proposals for expenditure.
 - 3.10.2 on discovery of any unauthorized, irregular or fruitless and wasteful expenditure, must immediately report, in writing,

particulars of the expenditure to the relevant treasury and in the case of irregular expenditure involving the procurement of goods and services, also to the relevant tender board.

Gifts and hospitality

- 3.11 Council and committee members must not accept gifts or hospitality where this might cause their integrity or independence to be questioned.
- 3.12 Gifts and hospitality over the value of R300,00 must be reported to Chairperson of Council and shall be duly recorded in Council meetings.

Meetings : Agenda Items

- 3.13 The Council secretariat shall be responsible for communicating with Council members and HWC Management for the enrolment of Agenda Items to be placed on the Agenda;
- 3.14 Council members and HWC Management, after having being requested in writing by the Council secretariat to submit Agenda items to be enrolled on the Council Agenda, shall cause to submit for the attention of the secretariat the time stipulated in the request. Agenda items not submitted within the period referred to in this clause, shall not form part of the Agenda, save with the permission of the Chairperson only;
- 3.15 The Agenda Items submitted for enrollment by Council members or the HWC Management shall clearly reflect which items are for Council's approval or for noting. It is the responsibility of Council members and the HWC Management to indicate which items are for the Council's "approval" or for "noting".
- 3.16 The secretariat shall after receipt of the information referred to above, convey the agenda to all Council members.

3.17 The HWC Management shall be responsible for compiling and approving the agendas of committee meetings, which shall be made up of applications and associated items received since the previous meeting of the committee in question.

Meetings : Minutes of Meetings

3.18 The secretariat shall transmit via e-mail the minutes in typed form to all Council or committee Chairperson within 7 working days after of a meeting.

3.19 The Chairperson shall respond with comment and correction to the minutes within a period of no longer than seven calendar days.

3.20 The secretariat shall take these corrections into account and circulate the corrected version of the minutes to all members, for consideration at their next meeting.

Attendance at meetings

3.21 Members should commit themselves –

3.21.1 to attending Council and committee meetings, unless prevented by compelling personal or professional reasons, and should seek leave of absence only where this is absolutely necessary.

3.21.2 and ensure that they arrive sufficiently early prior to commencement of Council meetings.

3.21.3 to communicate with the Chairperson should they be unable to attend meetings and/or will be unable to attend the meetings on time.

Speaking for HWC

- 3.22 Members must not represent themselves as speaking officially for HWC when this is not the case, and should take care to avoid as far as possible being placed in a position where they might be misrepresented as speaking for HWC or DCAS.

4. COMPLAINTS AGAINST COUNCIL AND COMMITTEE MEMBERS AND BREACH OF THE CODE

Complaint

- 4.1 Any complaint against a member under this Code must be referred to a sub-committee constituted by Council for consideration.

Investigation

- 4.2 The sub-committee will investigate the complaint or breach and report to the Council, which will have the power to administer any sanction, except those sanctions which may be administered by the MEC.
- 4.3 To decide its own procedure (which may include the power for the Chair or Vice-Chair to dismiss any complaint he or she deems to be trivial or vexatious in nature).

Breach of Code

- 4.4 A member breaches this Code if the member –
- (a) contravenes or fails to comply with a provision of this Code;
 - (b) when disclosing a registrable interest, willfully provides the Registrar with incorrect or misleading details.
- 4.5 Notwithstanding the provisions contained in the Code, the MEC may consultation with the Council, remove a member of the Council from

office if in the opinion of the MEC there are sound reasons for doing so after hearing the member on those reasons.

5. CONFLICTS OF INTERESTS AND DECLARATION OF INTERESTS

5.1 General

5.1.1 There will be a standing item on the agenda of every meeting for disclosure of interests of members.

5.1.2 Members must declare all relevant interests at the time the matter concerned arises, whether or not those interests have been included in the register of members' interests. In case of doubt, an interest should always be declared.

5.1.3 If a member has an interest which could lead him or her to be influenced, or to be reasonably seen to be influenced, by the real possibility of significant personal gain (or loss) of a financial or non-financial nature, the interest will be deemed to be prejudicial and the members should not speak or vote on that matter, and must withdraw from the meeting room for the duration of the discussion of that matter.

5.1.4 If a member is the representative of a party to a matter being considered by Council or a committee the member may represent that party provided that it is declared and that s/he leaves the room at the time of decision making.

5.1.5 If a member has an interest in a matter where no significant personal gain (or loss) could arise, but has a personal connection or previous involvement in an issue, the member shall recuse him or herself from the discussion except at the discretion of the Chairperson.

5.1.6 In addition to the clause above, the member who may have an interest in a matter may not be part of the decision making process, not make any recommendations or discussions in as far as the matter is concerned. The member shall withdraw him or herself from the meeting for the duration of the matter under discussion, but must be readmitted to the meeting after the matter is dealt with as an Agenda Item.

5.1.7 A member who has identified a potential area of conflict of interest should consult the Chairperson for guidance on the way forward. If the potential area of conflict concerns the Chairperson, he or she must consult the members present at the meeting.

6.2 Register of interests

Members shall register their interests in the format and at the time determined annually by DCAS.

6.3 Failure to register Interest

6.3.1 Any member who willfully –

- (1) fails to disclose an interest in terms of this Code; or
- (2) when disclosing an interest, willfully and intentionally provides incorrect or misleading details,

and may be guilty of misconduct and/or may at the discretion of the CEO be excluded from participating in the proceedings of the Council or committee/s concerned until such matters are resolved.

7. COMMITTEES OF COUNCIL

Appointment of Committees of Council

- 7.1 The Council may establish Committees to assist it in the performance of its functions and, in addition to any members, it may appoint to such Committees persons whom Council considers competent or who possess specific skills and expertise.

8. TRAINING

Directive by Council Chairperson/Chief Executive Officer

- 8.1 If it will enhance the performance of Council work, the Chairperson or Chief Executive Officer may direct that the members be trained covering aspects which relates to the HWC's functions, eg: (1) Induction of Council members, (2) Governance Training, (3) the National Heritage Resources Act, 25 of 1999, etc.

9 RELATIONSHIP BETWEEN COUNCIL AND ITS COMMITTEES AND STAFF

The Council and committees shall –

- 9.1 foster a good working relationships with HWC Management, HWC Staff, DCAS and DCAS Staff and shall have a working relationship that will enhance service delivery and the integrity of the institution;
- 9.2 put the interest of the public first in the execution of their duties;
- 9.3 without fear or favour execute their duties as envisaged in the South African Constitution, the National Heritage Resources Act, 25 of 1999 and other applicable legislation;
- 9.4 strive to be familiar with and abides by all statutory, instructions provided by the MEC responsible for the Department Cultural Affairs

and Sport, this Code of Conduct, as well as other instructions and policies applicable to their conduct and duties; and

- 9.5 co-operate with public institutions established under legislation and the constitution in promoting the public interest.

DONE AND SIGNED ON _____ AT _____ ON

THIS _____ DAY OF _____ 2011

CHAIRPERSON on behalf of the HWC COUNCIL

RULES OF ORDER AND CONDUCT OF MEETINGS OF THE COUNCIL OF HERITAGE WESTERN CAPE AND ITS COMMITTEES

Definitions

1. In this regulation, unless inconsistent with the context–

"Act" means the National Heritage Resources Act (Act 25 of 1999);

"CEO" means the Chief Executive Officer who is the accounting authority of Heritage Western Cape appointed by the Head of the provincial department responsible for cultural affairs in terms of sub-regulation 9 of Regulation P.N. 336 dated 25 October 2002 and published in the *Provincial Gazette* No 5937 dated 25 October 2002;

"Chairperson" means the member appointed by the Provincial Minister as chairperson of the Council or any other member appointed by Council as chairperson of a committee or acting as chairperson of the Council or its committees;

"Council" means the Council of Heritage Western Cape, the provincial heritage resource management authority of the Western Cape Province as contemplated in section 23;

"Code of Conduct" means the Code of Conduct referred to in regulation 5 of this notice;

"committee" means a committee established by the Council in terms of sub-regulation 7 of Regulation P.N. 336 dated 25 October 2002 and published in the *Provincial Gazette* No 5937 dated 25 October 2002;

"meeting" means a meeting of the Council or any of its committees;

"member" means a member of the Council appointed by the Provincial Minister responsible for cultural affairs or a member of a committee appointed by the Council;

"non-member" means any person that attends a meeting of the Council with the approval of the Chairperson and who is not a member, including dedicated staff of the provincial department responsible for cultural affairs or members of the public

"Provincial Minister" means the member of the Executive Council responsible for cultural affairs in the province of the Western Cape as identified in the Act;

"rules" means the rules of order and the conduct of meetings of the Council prescribed in the Schedule to this regulation;

Rules

2. The internal arrangements, the business and proceedings of the Council and its committees and the establishment, composition, procedures, powers and functions of its committees are subject to the rules and orders prescribed in the Schedule following or in terms of delegations made by Council to committees.

Application of rules

3. (1) The rules apply to all meetings.

(2) Except where it is clearly inappropriate, a rule applying to a member in any proceedings at a meeting, also apply to a non-member who takes part in those proceedings.

(3) Except where it is clearly inappropriate, the rules apply to committees, in which case any reference to the chairperson is regarded as a reference to the chairperson of the committee or member acting as chairperson of the committee.

Duty of members and non-members

4. The members and non-members must familiarise themselves with and abide by these rules.

Code of Conduct:

5. The Council shall adopt a 'Code of Conduct for Council, Committees and Members of Council and Committees' which shall be signed by all members of the Council and its committees before they may participate in the work of Heritage Western Cape. This code shall be reviewed and revised as and when needed being signed again by members on each occasion on which changes are made to it.

Short title

6. This regulation is called the 'Rules of Order and Conduct of Meetings for Heritage Western Cape', 2011.

TABLE OF CONTENTS

CHAPTER 1

SUPPLEMENTATION OF RULES

1. Supplementation of rules

CHAPTER 2

MEETINGS

2. Commencement of meeting
3. Order of business
4. Amendment of order of business
5. Urgent matters
6. Business to be transacted
7. Meetings
8. Attendance at meetings
9. Leave of absence
10. Sanction for non-attendance
11. Minutes
12. Quorum
13. Dealing with items for which there is no quorum

CHAPTER 3

DECISION MAKING

14. Making decisions
15. Decisions by e-mail
16. Provision of services to the council

CHAPTER 4

ATTENDANCE OF THE PUBLIC

17. Admission of the public to meetings
18. Opening of meetings to the public
19. Exclusion of the public from meetings
20. Re-admission of public to meetings

CHAPTER 5

CONDUCT

21. Conduct of members and non-members of Council or committees

CHAPTER 6

RULES OF DEBATE IN MEETINGS

22. Application of the conventional rules of committee
23. Address to the chairperson
24. Address to the council
25. Address by chairperson

26. Address by the CEO and his/her staff
27. Particular responsibilities of the CEO in meetings
28. Address by non-members
29. Relevance to subject or matter
30. Voting procedure

CHAPTER 7

MISCELLANEOUS MATTERS

31. Conflicts of interest
32. Floor movement
33. Banners, signs and placards
34. Recording of Proceedings
35. Use of official languages

CHAPTER 1

SUPPLEMENTATION OF RULES

Supplementation of rules

1. (1) The chairperson may give a ruling in respect of any procedural eventuality for which these rules do not provide.

(2) The ruling of the chairperson under sub-rule (1) must be entered into the minutes.

CHAPTER 2

MEETINGS

Commencement of meeting

2. (1) The chairperson must take the chair at the time the meeting has been scheduled for and must proceed immediately with the order of business.

(2) The chairperson must make a ruling in respect of all questions in relation to priority of the order of business.

Order of Business

3. (1) The business of ordinary meetings of the Council is disposed of in terms of either conventional order, or a standard order developed for the committee in question.

(2) The order of business shall be adopted at the commencement of a meeting.

(3) The CEO must ensure that all members are notified and reasonable notice is given to the public of any amendments made on the order of business in terms of sub-rule (2).

Amendment of the order to business

(4) For any amendments in the order of the business during a meeting in session, the chairperson must seek the agreement of the Council or committee.

Urgent matters

5. The chairperson of the Council and committees may at any time and without notice introduce an urgent matter at the meeting.

Business to be transacted

6. Except as otherwise provided for in these rules, no matter not specified in the agenda of a meeting may be transacted at such meeting.

Meetings

7. (1) The Council of Heritage Western Cape must meet at least four times per year.

(2) The Council shall on an annual basis decide when and where regular meetings of the Council and committees shall take place and subject to committees that do not meet regularly determining their schedule in discussion with the CEO and in accordance with workload.

(3) If a majority of the members of the Council request the chairperson in writing to convene a meeting, the chairperson must convene a meeting at a time and place suitable to a quorum of members.

(4) The CEO must give notice of the annual schedule of meetings by circulating it to all members and using relevant mailing lists and the website to ensure public knowledge of time and place of meetings.

(5) A committee may, after discussion with the CEO and with due regard to resources required, reconvene, if it is unable to conclude the order of business and provided that there are outstanding matters that have to be dealt with in terms of timeframes set out in legislation or policy.

Attendance at Meetings

8. (1) A member attending a meeting of the Council or committee must sign his or her name in the attendance register kept for that purpose.

(2) A member must attend each meeting, except when–

(a) leave of absence is granted in terms of rule 9; or

(b) the member is required to withdraw in terms of this regulation, other laws or policies and procedures of the Council.

(3) The time when a member arrives or leaves the meeting must be recorded by the secretariat.

Leave of Absence

9. (1) Before a member absents himself or herself from a meeting, he or she must obtain leave of absence from the chairperson.

(2) The names of all members of Council or committees present at any Council or committee meeting and of all members to whom leave of absence from any such meeting has been granted must be entered into the minutes of that meeting.

(3) All applications for leave of absence from a meeting of the Council must be communicated by the chairperson at the commencement of the meeting and recorded in the minutes.

Sanction for Non-attendance

10. (1) A member who without leave absents himself or herself from a meeting or who fails to be in attendance at the start of the meeting or fails to remain in attendance at such a meeting, is in breach of the rules.

(2) A member of Council who without leave of absence is absent from three or more consecutive meetings which he or she is required to attend in terms of rule 8, is in breach of the regulations under which HWC is established and in terms of Section 2(9)(b) thereof is considered to have vacated office.

(3) Similarly a member of a committee who is absent from three consecutive meetings is also considered to have vacated his or her position.

(4) In the event that three meetings are missed without leave of absence the chairperson of Council or the relevant committee should notify the member concerned that he or she is considered to have vacated office and provide seven days for a response.

(5) If a written response is received that disputes the contention of the chairperson, it must be presented to the Council or Executive Committee together with a report. The Council or Executive Committee must then resolve the matter and if it concludes that a member of Council has vacated office should refer this to the Provincial Minister for consideration and in the case of a member of a committee must convey its decision to the individual concerned.

Minutes

11. (1) The CEO must compile the minutes of the proceedings of a Council or Executive Committee meeting and convey a draft to members within 14 days.

(2) Committees shall, in consultation with the CEO, determine their own rules for compilation and distribution of minutes.(3) The minutes of a meeting must be confirmed by the Council or committee at the next meeting and signed by the chairperson.

(4) The minutes may be taken as read, for the purpose of confirmation in sub-rule (2), if a copy thereof was sent to each member within a reasonable period before the next meeting.

(5) No motion or discussion is allowed on the minutes, except in connection with the correctness thereof.

Quorum

12. (1) A majority of the members constitutes a quorum for the Executive Committee.

(2) The quorum for a committee shall be established via a decision of the Council.

(3) If there is no quorum at the time for which the meeting is scheduled, the chairperson must take the chair as soon as a quorum is present.

(4) When there is no quorum, the start of the meeting must be delayed for no longer than 30 minutes and if at the end of that period, there is no quorum, the chairperson, or in his or her absence the deputy chairperson or CEO, in that order, must adjourn the meeting to another time, date and venue at his or her discretion and the secretariat must record the names of those members present.

(5) If the chairperson or deputy chairperson is absent and there is a quorum, the Council must elect another member to act as chairperson.

(6) If during a meeting there is no quorum, the chairperson or deputy chairperson must suspend the proceedings until a quorum is again present: Provided that if after 10 minutes or such longer time the chairperson may allow, there is still no quorum, the chairperson must adjourn the meeting.

(7) When a meeting is adjourned owing to the absence of a quorum, the time of the adjournment, as well as the names of the members present, must be recorded in the minutes.

(8) The chairperson must investigate the absence of the members or report the names of the absentee members to the Executive Committee established in terms of rule 10 for the purposes of an investigation of a breach of the rules.

Dealing with items for which there is no quorum

13. Where, due to reasons associated with recusal due to conflict of interest, there is no quorum for a particular item on the agenda of a committee, the members present and able to discuss the matter shall formulate a recommendation on which a decision according to the procedure for e-mail decision set out in Rule 15 shall be made and in the following ways:

(1) Where the lack of quorum would not have existed had all members of the committee been present at the meeting, the recommendation shall on the day following the meeting be conveyed to all members who do not have a conflict of interest.

(2) Where conflicts of interest involve sufficient members to make it impossible to obtain a quorum even when all members, both present and absent, are included, the recommendation shall on the day following the meeting be conveyed to the members of the Executive Committee, or if it too has difficulty with a quorum, the Council.

CHAPTER 3

DECISION MAKING

Making decisions

14(1) All decisions other than where these rules provide otherwise shall be decided by consensus or a majority of votes cast.

(2) Where consensus cannot be reached all members who are present at a meeting may vote on a matter, unless they have declared an interest in it.

(3) A member may vote for or against, abstain or refuse to vote, with the secretariat recording the numbers in each instance.

Decisions by e-mail

15. Where it is necessary to take decisions that are urgent or in cases where for individual items on an agenda there was no quorum and a decision is necessary for administrative justice to be served, e-mail may be used in accordance with the following procedure:

(1) A request for Council or a committee to make a decision by e-mail may be initiated by the relevant chairperson or the CEO.

(2) The CEO or relevant staff in his office shall circulate by e-mail an outline of the issue concerned and the decision required, along with relevant documentation.

(3) Depending upon the level of urgency, a minimum of two working days must be allowed for response, which timeframe must be stipulated in the e-mail message.

(4) Responses shall be made according to normal voting procedure, ie: an indication of acceptance or rejection of the proposal or indication of abstention or unwillingness to vote.

(5) If by the end of the period stipulated responses have been received from sufficient members to constitute a quorum, the CEO or staff member responsible for the circular shall tally the responses and ensure that the decision taken is acted upon.

(6) If the required number of responses is not received within the timeframe set, members who have not responded must be contacted and requested to respond

as a matter of urgency, with responses being tallied as soon as the number of responses corresponds to the required quorum.

(7) Decisions taken by e-mail must be included as an item on the next agenda of the next meeting of the Council or committee concerned and the decision taken and date on which it was taken must be minuted.

Provision of services to the Council

16. If more than a quarter of the members are against a motion to grant consent to a member to—

(1) be a party to or beneficiary under a contract for:

(a) the provision of goods or services to the Council; or

(b) the performance of any work otherwise than as a member for the Council;

(2) obtain a financial interest in any business of the Council; or

such consent may only be given to the member with the approval of the Provincial Minister.

CHAPTER 4

ATTENDANCE OF THE PUBLIC

Admission of the public to meetings

17. The chairperson must amongst other things, considering the capacity of the venue, take reasonable steps to encourage public access to, and regulate public conduct at meetings.

Opening of meetings to the public

18. In accordance with the provisions of section 10 (2) (b) of the Act, and the provisions of rules 19, 20, 21(3) & (4), 28 and 29 below, members of the public have the right to attend Council and committee meetings.

Exclusion of the public from meetings

19. The public may be excluded from a meeting where so directed by the chairperson, or when so resolved by the Council or the committee under the following conditions and circumstances:

(1) The Council and committees may have closed sessions to prepare for the matters to be discussed in the meeting and other issues which require confidentiality.

(2) Subject to section 10 (2) (b) of the Act, if the Chairperson is of the opinion that the public must be excluded from the meeting during a discussion of an item or items on the agenda or upon a motion from a member to that effect, the chairperson must —

(a) direct that all members of the public leave the venue of the meeting;
and

(b) direct the Council or the committee to consider and resolve whether it would be reasonable for any or all of the items on the agenda to be considered without the presence of the public having regard to the nature of the business being transacted and whether disclosure of proceedings is unreasonable under amongst others —

(i) disclosure of personal information or information supplied in confidence; financial, commercial, scientific or technical information; research interests; trade secrets and national security, etc. and

(ii) is likely to compromise an individual or organisation or otherwise puts them at a disadvantage that is unreasonably prejudicial to their business or other activities and which could result in legal actions.

(3) If a motion by a member to exclude the public from the meeting is seconded, the motion must be put to the vote, after discussion of the reasons but without discussion of the matter.

(4) If the motion in sub-rule (3) above is carried, the public is excluded from the meeting during a discussion of an item or items on the agenda, and the place of meeting must be cleared of all members of the public, including the media.

(5) The motivation for the exclusion of the public must be entered into the minutes.

Re-admission of the public to meetings

20. (1) If a meeting is closed for a particular discussion, the chairperson must at the conclusion thereof ensure that the public is readmitted.

(2) A member may during the course of the meeting from which the public and the media were excluded, move a motion "that the meeting again be opened" and state the reasons for the motion.

(3) If the motion under sub-rule (1) is seconded it must after discussion be put to the vote.

CHAPTER 5

CONDUCT

Conduct of members and non-members of Council or committees

21. (1) Members of Council and committees shall at all times conduct themselves in accordance with the Code of Conduct.

(2) If an individual—

(a) misconducts himself or herself;

(b) obstructs the business of a meeting;

(c) declines to withdraw any expression when required to do so by the chairperson;

(d) indulges in tedious repetition, unbecoming language or remarks which are of a defamatory nature; or

(e) commits any breach of the rules,

the chairperson must direct him or her to conduct himself or herself properly and, if speaking, to discontinue his or her speech.

(3) If a member or non-member disregards the directions of the chairperson, the chairperson may direct that person to retire from the place of meeting for a stipulated period, and, if necessary, cause that member to be removed therefrom.

(4) If the chairperson fails to act under sub-rules (1) and (2), any member may move a motion to require the chairperson to act in terms of sub-rule (2).

(5) A member may not without the consent of the chairperson leave a meeting while the meeting is in session.

CHAPTER 6

RULES OF DEBATE IN MEETINGS

Application of the conventional rules of committee

22. Meetings shall be conducted in a manner that is consistent with generally accepted conventions. Where there is a dispute as to convention the chairperson may rule on the matter provided that where this is disputed a vote on the interpretation may be called for if proposed and seconded by members.

Address to the chairperson

23. A member who speaks at a meeting must address the chairperson.

Address to the Council

24. Before a member addresses the Council or the committee, he or she must first obtain the permission of the chairperson.

Address by chairperson

25. When the chairperson addresses the meeting, all members must be silent so that the chairperson may be heard without any interruption.

Address by the CEO and his/her staff

26. The CEO and at his/her direction a member of his/her staff has a right to participate in the discussion of the Council or a committee and such rights must be reasonably afforded by the chairperson on a basis similar to that of a member.

Particular responsibilities of the CEO in meetings

27. The CEO or his/her representative at a meeting has a particular responsibility to ensure that the Council or committee is aware of the provisions of these rules, the Act and other policies rules, procedures, delegations and related documents, and precedents set by earlier decisions that pertain to the course of a debate, subject matter before the Council or committee or that govern its ability to make a decision.

Address by non-members

28. Non-members other than the CEO and his/her staff may address the Council or a committee on a matter pertaining to the business of the Council or committee and on the following basis:

(1) By prior arrangement through the CEO and with the consent of the Chairperson in which case the matter to be addressed shall be included in the order of business and a time set for the address to take place.

(2) If an individual is present at a meeting and the Chairperson or committee believes that it will assist the business being conducted if questions are put to the individual.

Relevance to subject or matter

29. (1) A member or non-member who speaks must direct his or her speech to the subject or matter under discussion or to an explanation or to a point of order.

Voting procedure

30. (1) A member may, after opportunity has been allowed for some discussion, move that the matter be put to the vote. If there is a seconder, the motion shall be voted upon.

(2) No motion put to the vote in terms of sub-rule (1) above is open to further discussion.

(3) A matter may be voted upon by secret ballot should such a request be made by a third of the members entitled to vote.

CHAPTER 7

MISCELLANEOUS MATTERS

Conflicts of Interest

31. Conflicts of interest must be dealt with in terms of a code of conduct for members of the Council and its committees adopted by the Council.

Floor movement

32. Movement during a meeting may only take place on the following basis:

(1) A Council or committee member or member of the public must remain seated during the meeting session, unless the consent of the chairperson is granted to leave the venue or to approach the chairperson to adequately explain a point.

(2) A member of the public may not interfere with the proceedings of a meeting and may not without the consent of the chairperson converse with a member or non-member during the course of a meeting.

(3) A member of the public may only enter or leave the meeting session in such a manner that his or her movement does not disturb the meeting in session.

Banners, signs and placards

33. No banner, sign or placard which is disruptive may be displayed during a meeting in session.

Recording of proceedings

34. Recording of the proceedings of Council and committee meetings is subject to the following:

(1) No communication devices, including, but not limited to cellular phones, pagers, magnetic tape or digital recording devices, cameras or video-recorders may be used during a meeting in session, except equipment used by the

secretariat to assist it with the creation of the official record of the meeting or where a request has been made and agreed to by the chairperson.

(2) A recording made by the secretariat does not constitute the official record of proceedings and must be destroyed once minutes have been adopted.

(3) Any member or the CEO may at any point in proceedings request the chairperson to instruct that recording devices be switched off for the course of any part of proceedings and unless there is good reason not to do so, the chairperson shall instruct the secretariat accordingly.

(4) If a member of the public is found to record the proceedings without the necessary approval, the chairperson has the right to request that the recording device be confiscated and placed in safe storage until such time that the meeting has been concluded and the recording has been erased from the device.

Use of official languages

35. The three official languages of the Western Cape recognised under the Western Cape Provincial Languages Act, 1998 (Act 13 of 1998), namely English, Afrikaans, and isiXhosa are used by Council and committees on the following basis:

(1) The language of record for all decisions is English.

(2) Any person who wishes to speak at a meeting may by prior arrangement use any of the other two official languages.

Adopted by the Council of Heritage Western Cape on 10 November 2011.



POLICY ON COMMITTEES OF COUNCIL

The purpose of this policy is to ensure that in the application of the National Heritage Resources Act (NHRA) and its regulations the committees of the Council of Heritage Western Cape (HWC):

- possess the expertise and professional capacity necessary to make sound decisions with regard to their areas of jurisdiction and that they are credible agents of the organisation;
- undergo a smooth transition at the time of the triennial appointment of a Council;
- have an efficient system for replacement of members who resign during the term of office of the Council; and
- adhere to the operational practices and policies of the organisation.

1. Committees of the Council:

a. The following are the standing committees of the Council:

- The Appeals Committee
- The Archaeology, Palaeontology and Meteorites Committee (APM Com)
- The Built Environment and Landscape Committee (BELCom)
- The Impact Assessment Committee (IACom)
- The Inventories, Gradings and Interpretations Committee (IGI Com)

b. The Executive Committee (ExCo).

c. Other *ad hoc* committees which may from time to time be appointed by the Council for a specific purpose and duration.

2. Membership and appointment of committees:

a. The Council shall from time to time determine the number of members of each of its committees, subject that the number of members of the Appeals Committee shall not be less than the numbers set out in paragraph 2(b)(iii).

b. Membership of committees shall be as follows:

- i. The Executive Committee shall be chaired by the chairperson of the Council and is made up of the chairpersons of the standing committees.

- ii. All committees shall where possible be chaired by a member of the Council.
- iii. All committee chairpersons shall report in writing or in person to Council and the ExCo as required.
- iv. The Appeals Committee shall consist of at least five members, including at least two members of the Council who have not previously considered the matter being brought on appeal. No member of any of the three committees which deal with applications may serve on the Appeals Committee. Those members of the Appeals Committee, who are not members of the Council, shall be members of the professions mentioned in 2 c. and d. below and shall be chosen to make up the balance of expertise that may be required to address the areas covered by those committees. It is preferable that at least one lawyer who is able to provide assistance with regard to the workings of the National Heritage Resources Act and administrative law serve on the committee.
- v. The Archaeology, Palaeontology and Meteorites Committee (APM):
Members other than the chairperson shall be respected members of the archaeological, palaeontological and geological or astronomical professions appointed with regard to the need to cover the areas of jurisdiction and subject matter of Section 35 of the National Heritage Resources Act and related provisions pertaining to archaeology, palaeontology and geology.
- vi. The Built Environment and Landscape Committee (BELCom):
Members other than the chairperson shall be respected members of the architectural, planning, urban design, history and related professions appointed with regard to the need to cover the areas of jurisdiction and subject matter of Sections 27, 29 and 34 of the National Heritage Resources Act and related provisions pertaining to the built environment and landscapes.
- vii. The Impact Assessment Committee (IACom):
Members other than the chairperson shall be respected members of the same professions as those set out in 2 c. and d. above appointed with regard to the need to cover the areas of jurisdiction and subject matter of Section 38 of the National Heritage Resources Act and related provisions pertaining to impact assessment.
- viii. The Inventories, Gradings and Interpretations Committee (IGIC):
Members other than the chairperson shall be appointed with regard to their expertise and experience in the compilation of inventories of heritage resources and the grading and interpretation thereof. With regard to professional expertise they should as a group also as far as possible cover the major subject areas dealt with by HWC in terms of its jurisdiction.
- ix. Legal professionals:
Respected members of a relevant branch of the legal profession may be appointed to any standing committee should the Council deem such expertise necessary for the smooth functioning of the committee. Persons appointed in such a capacity should

have experience in the area of legal expertise specifically needed by the committee in question.

- c. Committees shall be appointed within no longer than three months following the first meeting of the council at the commencement of each of its three year terms of office.
- d. An incoming Council should ratify the continuing existence of standing committees for a period of up to three months in order to allow itself time to appoint new committees for its term of office.
- e. The Council shall select members on the basis of nominations which may be made by Council members and the staff and which shall include the CVs of candidates.
- f. Candidates for appointment to a standing committee, both Council members and non-Council members, must be able to demonstrate that they have some exposure to and/or familiarity with the workings of those sections of the NHRA applied by the committee in question and at least 50% of the members of a standing committee must either have previously served on the committee or a committee conducting closely related work or be familiar with the workings of the committee through regular interaction with it or application of the sections of the NHRA which it applies.
- g. Chairpersons of standing committees must have a working knowledge of the area of operations of the committee in question..
- h. No individual may serve more than two consecutive three year terms on a committee, except where this is necessary to ensure continuity or where a limited field of specialists is available for election. (It is recognised that it is not always possible to ensure rotation of membership areas such as for example archaeology and palaeontology where there is a shortage of skilled and willing professionals.)
- i. There is no obligation on members of the Council to serve on committees other than in positions occupied on an *ex officio* basis.

3. Jurisdiction of Committees:

- a. The areas of jurisdiction of a standing committee other than the Appeals Committee and IGI Com shall be set out in delegations made by the Council.
- b. The IGI Com shall be an advisory committee that considers matters pertaining to and makes recommendations to the Council regarding surveys; inventories; grading of sites; declaration and other formal protection of sites, excluding provisional protections; and interpretation of sites and erection of plaques.
- c. The Appeals Committee shall deal with appeals in terms of the National Heritage Resources Act and its regulations.

- d. The Executive Committee shall deal with business requiring attention between the meetings of the Council and with other matters referred to it by the Council. It may instruct and/or provide advice to the CEO and make recommendations to the Council without derogating from its decision making powers.
- e. The jurisdictions of ad hoc committees shall be determined at the time of their establishment.
- f. The jurisdictions of all committees are governed by the relevant provision of the NHRA, its regulations, the policies of HWC and any other legislation that may apply.

4. Replacement of members of committees:

- a. A member who wishes to resign shall do so in writing to or after discussion with the chairperson of the committee.
- b. A member who, in terms of regulations, has without leave failed to attend three consecutive meetings is considered to have vacated his or her position. Such a member of a committee shall be so informed by the CEO after discussion with the chairperson of the committee in question.
- c. If a member of a committee resigns or for any other reason is no longer able to serve on a committee s/he shall be replaced by the Council or Executive Committee, whichever is the first to meet following the departure of the member.
- d. In making such appointments the Council will consider the recommendations of the committee concerned.
- e. Appointments shall be confirmed to a new member in writing by the CEO or a delegated member of staff.
- f. A new member shall only be considered to have formally taken up appointment to a committee once s/he has completed all the documentation required in terms of 5.a. below.
- g. A member who fails to adhere to the Rules of Order or otherwise demonstrates that he/she is unwilling or unable to adhere to HWC policy or otherwise behaves in a manner that may bring embarrassment or disrepute to HWC may have her/his membership terminated by the HWC Council.

5. Other matters:

- a. All committees and their members are bound by the 'Rules of Order and Conduct of Meetings of the Council of Heritage Western Cape and its Committees' and the 'Code of Conduct for Council, Committees and Members of Council and its Committees' and members are required to sign copies thereof prior to taking up positions on committees.

- b. All members of the Council and standing committees are required to sign a declaration of interest form prior to the 31 March each year, or upon first being appointed should that occur at any time other than between 1 March and 31 April.
- c. Members of *ad hoc* committees that are empowered to take decisions on matters pertaining to the application of the NHRA and who are not already members of the Council or a standing committee are required to sign declaration forms on the same basis as set out in 5.b. above.
- d. Liaison between a member of a committee and staff shall be conducted through the Chairperson and CEO.
- e. For each calendar year the dates of the meetings of all standing committees; the Council and Executive Committee shall be set by the Council by no later than the end of the preceding September and shall be published on the website of the organisation.

6. Withdrawal of previous decisions:

- a. With the approval of this policy all previous decisions specifically concerned with the appointment of committees, other than those pertaining to *ad hoc* committees in existence at the time of implementation of the policy, are withdrawn.
- b. The existing membership of committees at the time of approval of this policy is confirmed.

APPROVED BY THE COUNCIL OF HERITAGE WESTERN CAPE: 28 February 2013

**DELEGATIONS OF HERITAGE WESTERN CAPE
IN TERMS OF SECTION 11 OF THE REGULATIONS PROMULGATED IN TERMS OF
SECTION 23 OF THE NATIONAL HERITAGE RESOURCES ACT, 1999 (ACT 25 OF 1999)**

The Council of Heritage Western Cape, reviewed the delegations on, and approved the recommended amendments to the delegations.

The following committees have been established:

- Permit Committee for Built Environment and Landscapes (BELCom)
- Committee for the Impact Assessment in terms of Section 38 (IACOM)
- Permit Committee for Archaeology, Palaeontology and Meteorites (APM)
- Inventories, Grading and Interpretation Committee (IGIC)
- Appeals Committee in terms of Section 49

A quorum will be established by a simple majority of the appointed members of the respective committees.

The following instructions and delegations previously delegated are effective until such time as revoked or revised in writing by the Council:

1. Executive Committee

RELEVANT SECTION OF THE NATIONAL HERITAGE RESOURCES ACT, 1999 (ACT 25 OF 1999)	CRYPTIC DESCRIPTION OF POWER	REMARKS, LIMITATIONS OR CONDITIONS
All sections in terms of which powers are granted to a Provincial Heritage Authority except for the exclusions provided for in Section 26(3)	All powers granted to the Council in terms of the NHRA with the exception of the power to make recommendations to the minister; borrow money; acquire or dispose of real property; or assess and approve conservation management plans and statements of general policy	

2. Permit Committee for Built Environment and Landscapes (BELCom)

RELEVANT SECTION OF THE NATIONAL HERITAGE RESOURCES ACT, 1999 (ACT 25 OF 1999)	CRYPTIC DESCRIPTION OF POWER	REMARKS, LIMITATIONS OR CONDITIONS
Section 34 read with Section 48(2)	Assessment and approval or refusal of permits relating to applications to alter or demolish structures older than 60 years. Assessment and/or grading of resource in respect of which application is made.	The reason for the decision should be recorded, either for its alteration or demolition (e.g. it is not considered to be of heritage significance). Also, if an application is refused, a recommendation regarding the grading and formal protection of the

Heritage Western Cape – Delegations: 3 December 2015

		structure as required by section 34(2) should be made for the consideration of Council or EXCO.
Section 27, subsections (18) and (19)(a) and (b) Section 29(10), Section 31 read with section 48(2)	<p>Assessment and approval or refusal of permits relating to alterations or additions to, or to the subdivision and change of planning status of any provincial heritage site, provisionally protected site or heritage area excluding a provincial heritage site of archaeological or palaeontological significance or a meteorite.</p> <p>Formulate and set conditions pertaining to safeguarding provincial heritage sites from damage or destruction and regulate conditions for any development thereof which should be imposed as conditions to the permit.</p> <p>Assessment and/or grading of resource in respect of which application is made</p>	

3. Committee for the Impact Assessments received in terms of Section 38 (IACom)

RELEVANT SECTION OF THE NATIONAL HERITAGE RESOURCES ACT, 1999(ACT 25 OF 1999)	CRYPTIC DESCRIPTION OF POWER	REMARKS, LIMITATIONS OR CONDITIONS
Section 27, subsections (18) and (19)(a) and (b) Section 29(10), Section 31	<p>Assessment and approval or refusal of applications for permits relating to alterations or additions to, or the subdivision and change of planning status of any provincial heritage site, provisionally protected site or heritage area, including a provincial heritage site of archaeological or palaeontological significance or a meteorite, when these form part of a Section 38 application.</p> <p>Formulate and set conditions pertaining to safeguarding provincial heritage sites from destruction and regulate conditions for any development thereof should be considered as conditions to the permit.</p> <p>Assessment and/or grading of resource in respect of which application is made.</p>	
Section 38, subsections (2), (3),(4), (5) and (8)	Timeous consideration of impact assessment reports required by the developer in terms of section 38(2) by HWC and, after consultation with the developer and registered conservation bodies, HWC must decide –	

Heritage Western Cape – Delegations: 3 December 2015

	<p>(a) whether or not the development may proceed;</p> <p>(b) any limitations or conditions to be applied to the development;</p> <p>(c) what general protections in terms of this Act apply, and what formal protections may be applied to such heritage resources;</p> <p>(d) whether compensatory action is required in respect of any heritage resources damaged or destroyed as a result of the development; and</p> <p>(e) whether the appointment of specialists is required as a condition of approval of the proposal</p> <p>HWC shall not make any decision under subsection (4) with respect to any development which impacts on a heritage resource protected at national level unless it has consulted SAHRA.</p> <p>Timeous consideration of impact assessment reports and submission of comment thereon to the consenting authority in terms of section 38(8), after consultation with the developer and registered conservation bodies.</p> <p>Grading of any heritage resource which is the subject of an impact assessment.</p>	<p>HWC must formulate its comments and recommendations to the consenting authority with regard to the proposed development and forward it timeously within the timeframes provided for in the relevant legislation.</p>
--	---	---

4. Permit Committee for Archaeology, Palaeontology and Meteorites (APM)

RELEVANT SECTION OF THE NATIONAL HERITAGE RESOURCES ACT, 1999(ACT 25 OF 1999)	CRYPTIC DESCRIPTION OF POWER	REMARKS, LIMITATIONS OR CONDITIONS
Section 27, subsections (18) and (19)(a) and (b) Section 29(10) read with Section 48(2)	<p>Assessment and approval or refusal of applications relating to alterations to any archaeological or palaeontological provincial heritage site or a provisionally protected provincial heritage site of archaeological or palaeontological significance or a meteorite.</p> <p>Assessment and/or grading of resource in respect of which application is made.</p>	
Section 27, subsections (18) and (19)(a) and (b) Section 29(10) read with Section 48(2) (Continued)	Formulation of regulations and conditions pertaining to safeguarding archaeological and palaeontological heritage sites and provisionally protected sites from destruction and regulating conditions for any development thereof.	
Section 35 read with Section 48(2)	<p>Assessment and approval or refusal of application in terms of section 35 of the Act, and the management, assessment and protection of all sites, material or objects pertaining to section 35, with the exception of wreck as specified in section 35(1)</p> <p>Assessment and/or grading of resource in respect of which application is made.</p>	

Heritage Western Cape – Delegations: 3 December 2015

Section 36 read with Section 48(2)	<p>Assessment and approval or refusal of applications in terms of section 36 of the Act, and the management, assessment and protection of all sites, material or objects pertaining to section 36, with the exception of burial grounds which are the responsibility of SAHRA (that is excepting burials after 1500; see MOA dated June 2006)</p> <p>Assessment and/or grading of resource in respect of which application is made.</p>	
Section 38	<p>Assessment and approval of archaeological / palaeontological workplans required as a condition of a comment/decision made in terms of sections 38(4) or 38(8)</p> <p>Assessment and/or grading of resource in respect of which application is made.</p>	

5. The Appeals Committee

RELEVANT SECTION OF THE NATIONAL HERITAGE RESOURCES ACT, 1999(ACT 25 OF 1999)	CRYPTIC DESCRIPTION OF POWER	REMARKS, LIMITATIONS OR CONDITIONS
Section 49 and Regulation 12 of 25 Oct 2002.	Consideration of appeals	The committee is constituted as the committee established in terms of Regulation prescribed in Section 49 (ie: Regulation 12 of Provincial Notice 5937 of 25 October 2002) and is invested with the powers set out in that regulation

6 Inventories, Grading and Interpretation Committee in Terms of Section 7, Other Sections as set out below and Guidelines and Policy on Grading

RELEVANT SECTION OF THE NATIONAL HERITAGE RESOURCES ACT, 1999(ACT 25 OF 1999)	CRYPTIC DESCRIPTION OF POWER	REMARKS, LIMITATIONS OR CONDITIONS
Section 27	Assessment and grading of sites nominated for declaration as provincial heritage sites	Determination of the grading of such sites. (In addition the committee shall make recommendations concerning formal protection.)
Section 30	Assessment and grading of sites nominated for inclusion on the register	Determination of the grading of such sites. (In addition the committee shall make recommendations concerning formal protection.)
Section 30	Approval of surveys and inventories	Approval of inventories and the gradings applying to the sites included in them.

Heritage Western Cape – Delegations: 3 December 2015

Section 31	Approval of heritage areas	Approval of the boundaries and guidelines/rules applying to heritage areas. (In addition the committee shall when necessary make recommendations concerning formal protection.)
------------	----------------------------	---

7 Managers employed in the Heritage Resources Management Services component of the Department of Cultural Affairs and Sport

RELEVANT SECTION OF THE NATIONAL HERITAGE RESOURCES ACT, 1999(ACT 25 OF 1999)	CRYPTIC DESCRIPTION OF POWER	REMARKS, LIMITATIONS OR CONDITIONS
Section 27(18), Section 29(10) and Section 31	Power to issue a permit for the destruction, damaging, defacing, excavation, removal from its original position, subdivision or change to the planning status of a provincial heritage site.	<p>This applies to applications for subdivision of provincial heritage sites or provisionally protected heritage sites or heritage areas that are non-contentious and have the full written support of the relevant planning authority and the relevant registered conservation body/bodies, and which the Chief Executive Officer or Deputy Director: Heritage Resources Management in formally structured consultation with the relevant specialist staff consider to be cases where the works are of a minor nature that do not affect the integrity or conservation worthiness of the structure or site, or where such work is necessary to the reasonable maintenance and upkeep of the building or site.</p> <p>Where subdivision of provincial heritage sites are concerned, permits that are issued should be subject to at least the following two conditions: (i) all new structures contemplated on the proposed subdivided property to be submitted for approval to the relevant committee of Heritage Western Cape and (ii) that the subdivided property be endorsed by the Deed Office in terms of the original proclamation.</p>
Section 34	<p>Power to assess and issue permits relating to applications to alter, add to or partially demolish structure older than 60 years</p> <p>Assessment and/or grading of resource in respect of which application is made</p>	The Chief Executive Officer or Deputy Director: Heritage Resources Management in formally structured consultation with the relevant specialist staff may issue permits for non-contentious alterations to structures older than 60 years. (NOTE: Any

Heritage Western Cape – Delegations: 3 December 2015

		<p>objection does, by definition, render such matters contentious.)</p> <p>Applications for total demolition may be approved by Chief Executive Officer or Deputy Director: Heritage Resources Management in formally structured consultation with the relevant specialist staff and under the following conditions:</p> <ul style="list-style-type: none"> • that the building in question is situated outside a heritage area or HPOZ, • that the building is not conservation-worthy and has insufficient heritage significance • and that there are no objections.
Section 35	Assessment and issuing of permits relating to application for destruction	Chief Executive Officer or Deputy Director: Heritage Resources Management in formally structured consultation with the relevant specialist staff are limited to granting permits that are urgent and where the effects of the works can be, or have been, satisfactorily mitigated and /or sampled.
Section 50(1) and (10) and 35(5)(a)	<p>Power to appoint Heritage inspectors.</p> <p>Power to issue stop works orders</p>	<p>Powers are delegated to appointed heritage inspectors for the following actions:</p> <ol style="list-style-type: none"> 1) A stop works order (in writing) as signed by the Chief Executive Officer or the Deputy Director: Heritage Resources Management, can be served on the person or persons that are responsible for the alleged contravention of the Act, as the case may be. 2) The relevant staff member must inspect the site where the alleged contravention took place and must report to the Chief Executive Officer or Deputy Director on the matter. 3) The alleged contravention must be reported as soon as possible to the relevant committee, who will make a decision on the merits of the report and recommend whether or not the matter should formally be reported to the South African Police Service.
Section 38(2)	Power to assess and comment on	

Heritage Western Cape – Delegations: 3 December 2015

	<p>Notice of Intention to develop and decide on the requirement of submission of an HIA</p>	<p>Chief Executive Officer or Deputy Director: Heritage Resources Management in formally structured consultation with the relevant specialist staff are delegated to sign off notifications after considering the possible impact of the proposed development to heritage resources identified in the notification of intent to develop (section38(1))</p>
<p>Sections 38(4) and (8)</p>	<p>Power to submit comments to the consenting authority in respect of HIA's received in terms of Section 38(8)</p> <p>Power to make decisions in terms of Section 38(4)</p>	<p>Chief Executive Officer or Deputy Director: Heritage Resources Management in formally structured consultation with the relevant specialist staff are delegated to sign off records of decision and comments in instances concerning:</p> <ol style="list-style-type: none"> 1) Minor earthworks (eg: borrow pits) where assessment of impacts only on archaeology and/or palaeontology was required to be assessed and findings have revealed little or no material of significance. 2) Other instances where impacts on only archaeology and/or palaeontology were required to be assessed and findings have revealed little or no material of significance 3) Other instances where impacts have been assessed as non-existent or very minor, where there are no objections and where the recommendations in the HIA are fully agreed with. 4) Unless it fulfills the conditions 1), 2) and 3) above; where there is insufficient time to submit an HIA to IACOM and meet deadlines set by other legislation, provide interim comments on the Pre-Application Scoping Report to DEA&DP, & copied to the EAP, indicating that: <ol style="list-style-type: none"> a) the HIA TOR is not adequate & providing comment in terms of the shortcomings; or b) the HIA TOR is adequate.

Heritage Western Cape – Delegations: 3 December 2015

		Records of decisions taken and comments made at the consultation referred to above be circulated to relevant committee members.
Section 48(2)	Power to sign and issue permits	Chief Executive Officer or Deputy Director: Heritage Resources Management in formally structured consultation with the relevant specialist staff are authorized to issue permits and records of decision as approved by themselves, by the APM, the BELCom or the Appeals Committee of HWC.
Section 51(6)	Power to lay charges with the South African Police Services	Chief Executive Officer: Shall determine when charges are to be laid by Heritage Western Cape.
Chapter II Parts 1 and 2	General and Formal Protections	The Assistant Directors, Deputy Director and Chief Executive Officer are authorized to request heritage statements for applications made in terms of these parts of the Act.
General	<p>Any duties, powers and functions consistent with section 24 and 25 of the Act in order to effectively perform the general duties as outlined in the Act including matters that are not specifically dealt with in the Act.</p> <p>These powers and duties shall include:</p> <ul style="list-style-type: none"> • The authority to initiate and defend law suits in the courts • And the authority to draw up and sign affidavits in such regard <p>Final decisions and comments of the following committees of the Council: Appeals; Archaeology, Palaeontology and Meteorites; Built Environment and Landscapes; and Impact Assessment Review</p>	<p>The Assistant Directors, Deputy Director and Chief Executive Officer are authorized to deal with such matters in accordance with the principles contained in the Act.</p> <ul style="list-style-type: none"> • The Chief Executive Officer only and only with the concurrence of the Chairperson of the Executive Committee • The Chief Executive Officer, Deputy Director, Assistant Director: Professional Services and all Senior Heritage Officers. <p>The Chief Executive Officer only may sign documentation conveying such information to applicants.</p>

CHAIRPERSON: HERITAGE WESTERN CAPE

____ 20____
DATE



iLifa leMveli leNtshona Koloni
Erfenis Wes-Kaap
Heritage Western Cape

OPERATIONS MATTERS



**MEMORANDUM OF AGREEMENT
CONCLUDED BY AND BETWEEN**

**THE SOUTH AFRICAN HERITAGE
RESOURCES AGENCY**

(Herein referred to as "SAHRA")

Represented herein by Dumisani Sibayi in his duly authorised capacity as the Acting
Chief Executive Officer of SAHRA

AND

HERITAGE WESTERN CAPE

(Herein referred to as "HWC")

Represented herein by Andrew Hall in his duly authorised capacity as the Chief
Executive Officer of HWC

PREAMBLE

WHEREAS section 8 of the National Heritage Resources Act 25 of 1999 ("NHRA") sets out the responsibilities and competence of heritage resources authorities by formalizing a three-tier system for heritage resource management, in which national level functions are the responsibility of the South African Heritage Resources Agency, provincial level functions are the responsibility of provincial heritage resources authorities and local level functions are the responsibility of local authorities if they have been deemed to be competent;

AND WHEREAS in terms of section 8 (2) of the NHRA, SAHRA is responsible for the identification and management of Grade I heritage resources and heritage resources in accordance with applicable provisions of the NHRA and for the co-ordination and monitoring of the management of the national estate in the Republic of South Africa;

AND WHEREAS in terms of section 8 (3) of the NHRA, Heritage Western Cape is responsible for the identification and management of Grade II heritage resources and heritage resources which are deemed to be a provincial competence in the Western Cape in terms of the NHRA;

AND WHEREAS in terms of section 8 (4) of the NHRA, a local authority is responsible for the identification and management of Grade III heritage resources and heritage resources which are deemed to fall within their competence in terms of the NHRA;

AND WHEREAS the NHRA provides for a permit application process that governs the management of heritage resources and such permits are issued by the responsible heritage resources authority and section 8(5) of the NHRA provides that where any such application is made for a permit or other authorisation to perform any action in terms of the NHRA or provincial heritage legislation, a formal protection by a heritage resources authority at a higher level takes precedence over any formal or general protection at a local level, without prejudice to any incentives offered at any level;

AND WHEREAS both Parties have agreed to cooperate and co-ordinate their efforts in the management of Grade I heritage resources, and are desirous of delineating their respective functions and responsibilities in doing so;

AND THEREFORE, the Parties wish to implement the provisions of this Agreement in accordance with the provisions of applicable law, particularly the legislation which governs the

SAH DBS

SAH

Parties' powers and functions; namely the National Heritage Resources Act and relevant provincial heritage resources legislation.

WHEREAS THE PARTIES AGREE AS FOLLOWS:

1. THE PARTIES

1.1. The party of the one part is the South African Heritage Resources Agency, referred to as "SAHRA". SAHRA is established in terms of the National Heritage Resources Act No. 25 of 1999 and has as its object the co-ordination of the identification and management of the national estate. Its functions are, inter alia, to establish national principles, standards and policy for the identification, recording and management of the national estate;

1.2. The party of the other part is Heritage Western Cape, referred to as "HWC". HWC is established in terms of section 23 of the National Heritage Resources Act No. 25 of 1999, in terms of Provincial Notice 336 of 23 October 2002 published in the Provincial Gazette of the Province of the Western Cape by the Provincial Minister of Cultural Affairs and Sport in the Western Cape. Heritage Western Cape is responsible for the management of the relevant heritage resources within the Western Cape province.

2. INTERPRETATION AND DEFINITIONS

2.1. Headings to the clauses of this Agreement are for the purposes of convenience and reference only, and shall not be used in the interpretation of the terms of this Agreement.

2.2. Words importing:

2.2.1. any one gender include the other gender/s;

2.2.2. the singular includes the plural and vice versa; and

2.2.3. natural persons include juristic entities and vice versa.

2.3. Nothing in this Agreement shall be interpreted or construed in a manner that conflicts with the Act or any legislation of the Republic of South Africa.

2.4. Where a term is not expressly defined in this Agreement, such term shall bear the meaning as defined in the Act.

2.5. The legislation referred to in this Agreement is the National Heritage Resources Act, 1999, or sections thereof, unless otherwise indicated.

WJ PDS

WJ

2.6. The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely:

- 2.6.1. "**Act**" shall mean the National Heritage Resources Act 25 of 1999, amendments thereto and regulations promulgated in terms thereof;
- 2.6.2. "**Agreement**" means this Agreement and includes all written appendices, and any amendments to this Agreement;
- 2.6.3. "**Commencement Date**" means the date of signing of this Agreement by the last Party hereto;
- 2.6.4. "**Cultural Significance**" means aesthetic, architectural, historical, scientific, social, spiritual, linguistic or technological value or significance, as defined in the NHRA;
- 2.6.5. "**Grade I Heritage Resources**" shall mean heritage resources with qualities so exceptional that they are of special national significance, as contemplated in the Act;
- 2.6.6. "**Grade II Heritage Resources**" shall mean heritage resources which, although forming part of the national estate, can be considered to have special qualities which make them significant within the context of a province or a region, as contemplated in the Act;
- 2.6.7. "**Grade III Heritage Resources**" shall mean other heritage resources worthy of protection and shall not include Grade I and Grade II heritage resources, as contemplated in the Act;
- 2.6.8. "**Heritage Resource**" has the meaning ascribed to it in the Act namely any place or object of cultural significance as further defined in section 3 of the Act;
- 2.6.9. "**Heritage Resources Authority**" shall mean SAHRA as defined in section 1.1 hereof or, insofar as the Act is applicable in or in respect of a province, HWC;
- 2.6.10. "**Provincial Heritage Resources Authority**" shall mean HWC as defined in section 1.2 hereof;
- 2.6.11. "**Parties**" shall mean both SAHRA and HWC;
- 2.6.12. "**National Estate**" means the national estate as defined in the Act.

Handwritten initials/signature

Handwritten initials/signature

3. GENERAL RESPONSIBILITIES OF SAHRA

3.1. Within fourteen (14) days of the Commencement Date, SAHRA will provide to HWC:

3.1.1. A list of all Grade I Heritage Resources graded such by SAHRA as at the Commencement Date;

3.1.2. A map of each of the Heritage Resources identified on the list, failing which with a clear unambiguous description of the boundaries of such Heritage Resource.

3.2. Within fourteen (14) days of a decision taken by SAHRA to grade any Heritage Resource not appearing on the list contemplated in the preceding sub-paragraph, as a Grade I Heritage Resource, SAHRA shall inform HWC in writing of such decision and shall provide HWC with a map of each of each such new Grade I Heritage Resources identified, failing which with a clear unambiguous description of the boundaries of such Heritage Resource.

3.3. Within fourteen (14) days of a decision taken by SAHRA to grant provisional protection to a Heritage Resource under Section 29, SAHRA shall, in writing, inform HWC of such decision and shall provide HWC with a map of each of the Heritage Resources so protected, failing which with a clear unambiguous description of the boundaries of such Heritage Resource.

3.4. SAHRA is responsible for the processing and administration of permit applications under section 35 of the Act in all instances where the said section 35 application concerns a Grade I Heritage Resource or an area within such Heritage Resource.

3.5. SAHRA is responsible for the processing and administration of permit applications under section 36 of the Act in all instances. For the sake of clarity, the parties record that section 36 functions include the identification of the graves of victims of conflict.

4. GENERAL RESPONSIBILITIES OF HWC

In all areas in respect of which HWC has been assessed as having competency as contemplated by the Act, it shall have the following responsibilities:

4.1. Within fourteen (14) days of the Commencement Date HWC will provide a list of all Grade II Heritage Resources graded by it as such as at the Commencement Date.

4.2. Within fourteen (14) days of a decision taken by HWC to grade a Heritage Resource, not appearing on the list contemplated in the preceding paragraph, as Grade II, HWC shall inform SAHRA in writing of such decision.

- 4.3. HWC will notify SAHRA or cause SAHRA to be notified of any applications received that are made to it for section 27, 34 and 38 applications that fall within any Grade I Heritage Resource identified to HWC by SAHRA as contemplated in section 3 of this agreement before HWC considers such application.
- 4.4. HWC will notify SAHRA or cause SAHRA to be notified of any other impact assessment process under other legislation in terms of which the comment of a heritage resources authority is required and that fall within any Grade 1 Heritage Resources identified to HWC by SAHRA as contemplated in section 3 of this agreement, before HWC formulates its comments, having ensured that SAHRA had been given 31 days to formulate its comments. The comments of both SAHRA and HWC shall be forwarded to the applicant and to the deciding/ consenting authority.
- 4.5. HWC will inform all applicants that sections 35 concerning Grade I Heritage Resources identified by SAHRA as such as contemplated in clause 3 of this Agreement, fall within the jurisdiction of SAHRA and that such applications are to be submitted to SAHRA.
- 4.6. HWC will be responsible for applications under section 27, 34 or 38 concerning Heritage Resources that are situated within the areas of a Grade I Heritage Resource. In such cases SAHRA will be the commenting authority, i.e. HWC must furnish SAHRA or cause SAHRA to be served with a copy of the application before HWC considers such application and SAHRA will furnish its comments on the application within 30 days of receipt, failing which HWC will proceed to consider the applications in questions without comments from SAHRA. The comments provided by SAHRA must be considered by HWC in making its decisions. In the event that SAHRA did not comment within 30 days, HWC shall furnish its decision to SAHRA.
- 4.7. Should HWC resolve to make a decision that differs from the comments made by SAHRA in respect of an application made under section 27, 34 or 38 concerning a Heritage Resource as contemplated in the preceding sub-paragraph, HWC will convene a meeting as soon as possible, but not more than two weeks following such resolution. At such meeting the Parties will discuss the issues pertaining to the site and the application itself and endeavour to reach agreement on the way forward. The same shall apply in cases where HWC has made a decision in the absence of SAHRA's comments.
- 4.8. Should the parties be unable to resolve their differences, HWC will afford SAHRA, two weeks from the date of the last meeting held to issue a s29(4) Notice.

JA DBS

JKL

4.9. In the event that SAHRA does not provisionally proclaim the property HWC shall proceed to deal with the matter under the section 27, 34 or 38.

4.10. In the event that SAHRA does provisionally protect the site/area HWC, shall inform the applicant that SAHRA is the decision-making authority and the applicant shall be obliged to apply to under section 29.

5. TERMINATION

5.1. Should either Party breach any term and condition of this Agreement and fail to remedy such breach, (in writing by the aggrieved Party), within 30 (thirty) days of being notified in writing of the said breach, the aggrieved Party shall have the right to resort to the Dispute Resolution mechanism provided for in this Agreement.

5.2. Either Party shall be entitled to terminate this Agreement on 3 months' notice to the other Party on good cause.

5.3. The option of termination would be without prejudice to any alternative or additional right of action or remedy available to the aggrieved Party.

6. NOTICES AND DOMICILIA

6.1. The Parties choose as their *domicilium citandi et executandi* the following respective addresses for all purposes arising out of or in connection with this Agreement at which addresses all processes, notices and communications arising out of or in connection with this MOA, may validly be served upon or delivered to the Parties:

SAHRA: **111 Harrington Street**
Cape Town
8001

HWC: **3rd Floor**
Protea Insurance Building
Greenmarket Square
Cape Town

6.2. Any notice given in terms of this MOA shall be in writing and shall be delivered to the

DB

MR

addressee.

7. WARRANTIES

Neither SAHRA nor HWC, nor anyone on their behalf shall be regarded as having given any warranties, or made any representations; guarantees or undertakings giving rise to this Agreement.

8. DISPUTE RESOLUTION

- 8.1. In the event of a dispute arising between the Parties relating to any matter pertaining to this Agreement or the interpretation thereof, the following process will be followed by the Parties:
- 8.2. The Party raising the dispute must deliver to the other Party a notice within 14 days of the dispute arising, notifying the other Party of the nature of the dispute, with sufficient particularity so as to enable the other Party to meaningfully response thereto;
- 8.3. Within 14 days of receipt of the notice the CEO of SAHRA, or any acting CEO at that time, and the CEO of HWC or any acting CEO at that time, will meet to discuss the dispute, with a view to resolving the dispute/s in question, the idea being that the dispute should be resolved as speedily as reasonably practicable, and with as little formality as possible;
- 8.4. In the event of the above process, contemplated in the preceding sub-paragraph, failing to lead to an amicable resolution of the dispute, such disagreement or dispute shall be finally resolved by arbitration. An arbitrator will be appointed by agreement between the Parties within 14 days of the dispute being declared unresolved by the Parties' COE's/Acting CEO's, failing which, the Chairperson of the Cape Bar Council shall appoint the arbitrator, at the request of the Parties or any one of them;
- 8.5. The decision of such arbitrator shall be final and binding on both parties hereto, and the award or awards interim or final of such arbitrator may be made an order or orders of any competent Court in South Africa on the application of either party;
- 8.6. The parties consent to the jurisdiction of the Western Cape High Court;
- 8.7. Nothing herein shall prevent either Party from applying for interdictory relief to the High Court.

AA DBS

M

9. VALIDITY AND SEVERABILITY

If any provision or term of this Agreement found or held to be invalid or unenforceable, the validity and enforceability of all the other provisions of this Agreement will not necessarily be affected thereby and the impugned term will be severed from the remaining terms.

10. GENERAL

10.1. This Agreement does not constitute either of the Parties an agent or legal representative of the other for any purposes whatsoever and neither of the Parties shall be entitled to act on behalf of, or to represent the other unless duly authorised thereto in writing.

10.2. No alteration, variation or cancellation of this Agreement or any of the terms hereof will be of any force or effect, unless reduced to writing and signed by each of the Parties.

10.3. Each Party will bear its own costs in relation to the preparation of this Agreement.

11. WAIVER AND RELAXATION

11.1. No indulgence on the part of either Party in respect of any of its rights in terms of this agreement or the obligation of the other Party will constitute a waiver of rights.

11.2. No indulgence, leniency or extension of a right, which either of the Parties may have in terms of this Agreement, and which either Party ("the grantor") may grant or show to the other Party, shall in any way prejudice the grantor, or preclude the grantor from exercising any of the rights that it has derived from this Agreement, or be construed as a waiver by the grantor of that right.

SIGNED AT CAPE TOWN ON THIS DAY OF 25 SEPTEMBER 2012



FOR AND ON BEHALF OF SAHRA
(she/he being duly authorised)





SIGNED AT Cape Town ON THIS DAY OF 28th August 2012

C. B. Hall

FOR AND ON BEHALF OF HWC
(she/he being duly authorised)

Halley

RM

POLICY ON LEVYING OF FEES FOR APPLICATIONS

- a. Charges be levied in accordance with a schedule of fees approved by the Council and submitted for approval by other authorities as required.
- b. The schedule be reviewed annually.
- b. At the discretion of the CEO all or part of a fee may be waived for non-corporate and non-governmental organisations and real persons (ie: individuals) upon written request and on the basis of hardship or other inability to afford charges and subject to the following guidelines:
 - The cost of the fee relative to the value of the work proposed.
 - If the work proposed is being undertaken on a voluntary or charitable basis.
 - The location of the site and/or place of residence of the applicant, ie: consideration of the economic situation of the neighbourhood in which the site is located / in which the applicant resides.
 - Charitable nature of NGO/CBO applicants other than religious institutions.
 - Other evidence in the application indicating the applicant's economic status, eg: use of consultants, etc.
- c. Fees are not levied from national and provincial departments of government. (This exclusion does not apply to public entities, state corporations, educational institutions, municipalities, etc.)
- d. Fees paid due to an error on the part an applicant or its agent are not refundable.
- e. If an application is not received within 30 days of the issuing of a case number the case concerned will be closed and any fee paid forfeited to HWC.
- f. A system for the payment of fees is to be set out by the CEO and made available to clients of HWC.



HWC Reimbursement Application Form

Erf Number/Farm Name/Address of site

Reference used on incorrect deposit to be reimbursed

--

Correct HWC Reference Number

--

Name as per bank deposit

--

Contact details Phone
Email

Date of deposit to be reimbursed

	/		/	
--	---	--	---	--

(DD/MM/YYYY)

Amount to be reimbursed (R)

--

***Please ensure that the following documents are attached to this form:**

EFT credit instruction form

Proof of incorrect payment

Recommendation of Delegated Authority

Authorise refund

Do not authorise refund

Reasons: _____

Name

Signature

Designation

Date



iLifa leMveli leNtshona Koloni
Erfenis Wes-Kaap
Heritage Western Cape

POLICY ON THE APPOINTMENT AND POWERS OF HERITAGE INSPECTORS

Under the terms of Section 50 of the National Heritage Resources Act (NHRA), Act 25 of 1999, the Council of Heritage Western Cape may appoint heritage inspectors who have certain rights of access to sites and inspection of, or search for heritage resources protected in terms of the Act. They also have powers to detain individuals involved in commission of a suspected crime and to collect evidence thereof and may order the cessation of work that is believed is illegal.

The purpose of this policy is to create a framework for the appointment of heritage inspectors and to ensure, monitoring of their activities and generally to ensure that their operations are in compliance with the terms of Section 50 of the Act.

1. Legal Framework:

The contents of Section 50 of the NHRA are as follows:

Appointment and powers of heritage inspectors

50. (1) SAHRA or a provincial heritage resources authority may, in writing, appoint heritage inspectors: Provided that if a heritage inspector is a staff member of a government department or supported body, such appointment must only be made by agreement with the Minister or other person in charge of the administration of such department or body.

(2) By force of this section, each member of the South African Police Services and each customs and excise officer is deemed to be a heritage inspector.

(3) The heritage resources authority must issue to each heritage inspector, other than a person referred to in subsection (2), an identity card containing a photograph and the signature of the heritage inspector.

(4) For the purposes of this section, a reference to an identity card in relation to a person referred to in subsection (2), is a reference to written evidence of the fact that he or she is a member of the bodies referred to in subsection (2).

(5) A person who ceases to be a heritage inspector must forthwith return his or her identity card to the heritage authority concerned.

(6) A heritage inspector, other than a customs and excise officer or a member of the South African Police Services in uniform, may not exercise his or her powers in terms of this Act in relation to another person unless the heritage inspector first produces the identity card for inspection by the other person: Provided that if the production of the identity card would endanger the health or safety of the heritage inspector, he or she must produce it as soon as is practicable to do so.

(7) Subject to the provisions of any other law, a heritage inspector or any person authorised by a heritage resources authority in writing, may at all reasonable times enter upon any land or premises for the purpose of inspecting any heritage resource protected in terms of the provisions of this Act, or any other property in respect of which the heritage resources authority is exercising its functions and powers in terms of this Act, and may take photographs, make measurements and sketches and use any other means of recording information necessary for the purposes of this Act.

(8) A heritage inspector may at any time inspect work being done under a permit issued in terms of this Act and may for that purpose at all reasonable times enter any place protected in terms of this Act.

(9) Where a heritage inspector has reasonable grounds to suspect that an offence in terms of this Act has been, is being, or is about to be committed, the heritage inspector may with such assistance as he or she thinks necessary—

- (a) enter and search any place, premises, vehicle, vessel or craft, and for that purpose stop and detain any vehicle, vessel or craft, in or on which the heritage inspector believes, on reasonable grounds, there is evidence related to that offence;
- (b) confiscate and detain any heritage resource or evidence concerned with the commission of the offence pending any further order from the responsible heritage resources authority; and
- (c) take such action as is reasonably necessary to prevent the commission of an offence in terms of this Act.

(10) A heritage inspector may, if there is reason to believe that any work is being done or any action is being taken in contravention of this Act or the conditions of a permit issued in terms of this Act, order the immediate cessation of such work or action pending any further order from the responsible heritage resources authority.

(11) A heritage inspector may require any person who he or she has reason to believe has committed an offence in terms of this Act to supply his or her name and address and reasonable evidence of his or her identity, and may arrest a person who refuses to comply with those requirements.

(12) A person—

- (a) must comply with a request or requirement lawfully made in terms of this section to the extent that the person is capable of complying with it;
- (b) may not knowingly furnish information that is false or misleading; and
- (c) may not hinder or obstruct any heritage inspector in the exercise of his or her powers in terms of this section.

2. Definitions:

2.1 “CEO” means the Chief Executive Officer of HWC.

2.2 “Council” means the Council of Heritage Western Cape;

2.3 “Department” means the Western Cape Department of Cultural Affairs and Sport.

2.4 “district” means the geographical area falling under the jurisdiction of a District or Metro Municipality.

2.5 “HWC” means Heritage Western Cape, the Provincial Heritage Resources Authority of the Western Cape Province as established in terms of Section 8 of the NHRA.

2.6 “NHRA” means the National Heritage Resources Act, Act 25 of 1999 and all regulations under the act that are applicable in the Western Cape.

3. Scope of application:

3.1 This policy applies only to the operational areas and geographical jurisdiction of HWC as set out in the NHRA.

3.2 This policy is not applicable to members of the SAPS or customs and excise officers as set out in Section 50(2) of the NHRA.

4. Minimum requirements for the appointment of Heritage Inspectors:

4.1 In order to be appointed as a Heritage Inspector an individual must demonstrate a sustained interest in and in depth knowledge of the value and need for conservation of heritage resources.

4.2 A Heritage Inspector should either be a qualified and/or experienced heritage conservationist, a senior members of a Conservation Body as set out in Section 25(1)(b), and/ or a specialist in one or more of the areas set out in Section 3(2) of the National Heritage Resources Act, excluding Section 3(2)(i) ie: heritage objects which do not fall within the domain of HWC.

4.3 A Heritage Inspector must be a citizen or permanent resident of South Africa normally resident in the Western Cape Province.

4.4 In order to avoid conflict of interest a Heritage Inspector should not be a member of the Council or a committee of HWC.

4.5 Heritage Inspectors may only be appointed by decision of the Council.

4.6 All candidates who are employees of a government department or supported body shall in terms of Section 50(1) of the NHRA obtain the consent of their Minister, Head of Department, or the head of their institution in writing as part of the process of appointment.

4.7 All candidates shall complete the form attached to this policy as Annexure A as the initial step towards appointment.

5. Entrance requirements:

5.1 Unless exempted by the Council, Heritage Inspectors shall pass an examination prior to the issuing of their identity cards and shall be required to score a minimum of 80% in such examination.

- 5.2 The examination shall be set and administered by an institution recognised by the Council and according to a curriculum approved by it.
- 5.3 The examination shall assess individual knowledge of the core areas of the NHRA, the duties responsibilities and areas of functioning of Heritage Inspectors as set out in Section 50 thereof and the relevant contents of this policy.
- 5.4 Exams shall be held according to a schedule agreed by the Council and the examining institution.
- 5.5 The Council may decide upon a fee to be charged to candidates undertaking the examination and the basis on which such a fee is to be charged.

6. Categories of Heritage Inspector and conditions for appointment:

Heritage Inspectors shall be appointed in one of two categories, viz:

6.1 The CEO and staff of the Department employed in the Heritage Resources Management Sub-Directorate either as Heritage Officer or in an appropriate managerial position; and

- 6.1.1 must in the opinion of the Council be suitably qualified and have at least a year of relevant work experience in a heritage resources authority;
- 6.1.2 May only be appointed after the Council has considered a curriculum vitae and copies of relevant qualifications;
- 6.1.3 areas of operation may by decision of the Council be restricted in the same way as is the case with other Heritage Inspectors; and
- 6.1.4 can only be appointed upon obtaining the consent of the Department, as required in terms of Section 50(1) of the NHRA.

6.2 Volunteers and officials of municipalities who have one or more of the following and are appointed to operate on that basis:

- 6.2.1 a thorough knowledge of the heritage resources of a particular district or districts, or the province as a whole; or
- 6.2.2 a specialist knowledge of a particular category or categories of heritage resources as set out in Section 3(2) of the NHRA; or
- 6.2.3 a specialist knowledge of the certain categories of heritage resource only in a certain district or districts, or the province as a whole.
- 6.2.4 employed as an official responsible for aspects of heritage resources conservation at a municipality that has been devolved powers to act under the terms of the NHRA.

7. Who may apply for appointment as Heritage Inspectors:

7.1 Candidates for appointment as heritage inspectors may be identified by members of the Council of HWC, members of its committees, the staff of HWC, a municipality or may themselves express an interest.

8. Compensation of Heritage Inspectors:

8.1 Heritage Inspectors who are Public Servants working in the Heritage Resources Sub-Directorate of the Department or other branches of government do not receive additional compensation for such duties.

8.2 Heritage Inspectors who are volunteers give of their time freely in the interests of conservation and protection of the National Estate. They are not remunerated for such services other than costs of travel and sustenance and then only if funds are available and the costs are agreed to in advance and in writing by the CEO, who shall determine the maximum amount of such compensation.

9. Identification of Heritage Inspectors:

9.1 Each Heritage Inspector shall be provided with an identification card which must be worn at the time of conducting duties, or if there is good reason to believe that doing so will place the Heritage Inspector in danger, must be produced at the earliest possible time that individual safety permits.

9.2 The card must be in the format shown and contain the information set out in the example shown in Annexure 2.

9.3 The card is and remains the property of HWC and is to be returned to Heritage Western Cape immediately should a Heritage Inspector resign, leave the Western Cape or be disqualified.

9.4 Cards shall be valid for a period of three years.

9.5 Heritage Inspectors who are Public Servants employed In the Heritage Resources Management Sub-Directorate of the Department may, budget permitting, be provided with clothing and other means of identification over and above a card.

9.6 A Municipality which has been devolved power in terms of the NHRA and wishes to have certain of its employees appointed as Heritage Inspectors shall carry the costs of the production of identification cards, which in addition to the format shown in Annexure 2 shall also bear the logo of the municipality concerned.

10. Conduct of inspections:

- 10.1 Heritage Inspectors represent HWC only in so far as permitted by the NHRA and this policy sets out. Misrepresentation of the office of Heritage Inspector, the powers it confers on an individual or the relationship of Heritage Inspectors to HWC is viewed in a serious light by the Council.
- 10.2 Heritage Inspectors are required to conduct inspections in a dignified and respectful manner and
 - 10.2.1 subject to the provisions of any other law, may at all reasonable times enter upon any land or premises for the purpose of inspecting any heritage resource protected in terms of the provisions of this Act, or any other property in respect of which the heritage resources authority is exercising its functions and powers in terms of this Act, and may take photographs, make measurements and sketches and use any other means of recording information necessary for the purposes of this Act.
 - 10.2.2 must do so if requested by the CEO to conduct an inspection.
 - 10.2.3 in situations where they have grounds to believe that an offence in terms of the NHRA is being, has been or is about to be committed.
- 10.3 Without derogating from their powers under Section 50(8) of the NHRA Heritage Inspectors may be asked by HWC to conduct inspections in terms of Section 50(8) of the NHRA, ie: inspections to ascertain levels of compliance with a permit provided that they are first fully informed of the conditions of the permit concerned and at intervals and according to a schedule set up by the relevant HWC case officer.
- 10.4 The CEO may request a Heritage Inspector to conduct other inspections in order to obtain information or an opinion that is relevant to work not necessarily related to law enforcement and in such circumstances only with the agreement of the owner, tenant or person otherwise responsible for the site in question.
- 10.5 Other than in emergency situations where only immediate action will prevent damage to or destruction of a heritage resource may a Heritage Inspector act without informing the CEO, or in his absence a manager of HWC and obtaining prior approval (verbal or written) to act and clarification of the steps that seem appropriate in the circumstances so far as they are known.
- 10.6 A full report on any inspections or other actions taken by Heritage Inspectors who are not Public Servants employed in the Heritage Resources Management Sub-Directorate of the Department is to be made in writing to the CEO no more than 48 hours afterward and should include suggestions as the manner in which the situation on the ground might be managed as it develops.

- 10.7 Actions taken in an emergency and without prior clearance are to be verbally reported to HWC immediately afterward if the event takes place during working hours, otherwise immediately on the commencement of the next working day.
- 10.8 Actions that led to the stoppage of work; an arrest; confiscation; resistance, confrontation or the use of force of any sort; or the involvement of other law enforcement agencies must also be reported to HWC on the same basis as set out immediately above.
- 10.9 The provisions of 10.3-8 above shall not apply to Heritage Inspectors who are appointed by virtue of their being officials of a municipality that has devolved powers in terms of the NHRA. They perform such duties as officials of that municipality and in terms of its policies and procedures and the terms under which powers have been devolved by HWC.

11. Expiry of term of office and disqualification:

- 11.1 Heritage Inspectors shall be appointed for a period of three years following which they may request renewal, or be invited to renew their term for a further three year period.
- 11.2 After a maximum of six years after first appointment a Heritage Inspector may be invited to reapply by filling in the candidature form and, unless exempted by the Council, retaking the examination.
- 11.3 Should a Heritage Inspector fail for more than six months to request a renewal after serving a first term in office, s/he will be required reapply as a new candidate.
- 11.4 Should a Heritage Inspector in the opinion of the Council fail to perform his/her duties in the manner expected or in any way exceed or misrepresent his/her mandate as a Heritage inspector the individual concerned may be disqualified with immediate effect and if necessary an advert placed in the relevant press informing the public to this effect. This provision is subject to the right of the individual concerned to put his/her case to the Council either in person or in writing.

12. Transitional Provisions:

All previous appointments, decisions and policies pertaining to Heritage Inspectors are withdrawn from the time of adoption of this policy.

ANNEXURE 1: (Form to be supplied to applicants in digital format)

ANNEXURE 2:

Heritage Inspector Identity Card.



POLICY FOR MARKING PROTECTED SITES

Heritage Western Cape provides ceramic badges for Provincial Heritage Sites; sites that are on the Heritage Register; conservation worthy sites within Heritage Areas and other sites that contribute positively to Heritage Areas. These and other signage indicating protected places should be erected on the following basis:

Provincial heritage Sites:

1. The marking of Provincial Heritage Sites is provided for in terms of the National Heritage Resources Act and badges are provided free of charge. They must be erected on every Provincial Heritage Site unless a request to the contrary is approved by the Council of HWC or the Council resolves that it is not appropriate.
2. The badge on a Provincial Heritage Site remains the property of HWC and may not be removed without its consent. Should it be damaged, broken or otherwise lost HWC must be informed immediately and steps taken to replace it.

Heritage Register and Heritage Areas:

3. Although it is not required by the National Heritage Resources Act, it is desirable that sites on the Heritage Register and within Heritage Areas be marked so that their status is clear. Such badges are sold to owners/occupants who are encouraged to erect them on their properties.
4. Badges for Provincial Heritage Sites and sites on the Heritage Register should be placed in a prominent position on the principal building or component of the site and, where a site consists of several buildings or components, each major component should be marked.
5. Badges for Heritage Areas should be placed in a prominent position on the principal building or component of the site with one badge used per erf. Where a major feature of a Heritage Area is not situated on its own erf it may also be marked, eg: parks, public memorials, fountains, etc.
6. Where road signage regulations permit, Heritage Areas should also be marked by standard brown and cream road signs placed at points where major roads cross the boundaries of the Heritage Area. Costs of signage should be carried by the relevant municipality, but HWC may erect such signage in instances where a municipality does not wish to do so.

7. Heritage Area badges may not be placed on Provincial Heritage Sites that fall within a heritage area unless the site had a Heritage Area badge prior to becoming a Provincial Heritage Site.
8. Depending upon the stringency of rules/guidelines applying to a Heritage Area, HWC may withdraw the status of Heritage Register sites that fall within it. However, where a decision is taken that Heritage Register status will be retained within a Heritage Area, only the Heritage Register badges may be erected on such sites.

Change of Status of Sites:

9. Where an already marked site receives a new badge due to change of status or because it was marked under previous legislation, the old badge may be retained at the discretion of the owner or occupant. However, badges that do not reflect the current status of the site may not be replaced if they are lost or damaged.

Provision of Badges:

10. Badges are provided to owners or occupants on the following basis:
 - a. Upon declaration of a Provincial Heritage Site.
 - b. In all other circumstances and in order for HWC to verify that the site for which a badge is applied enjoys the relevant status, application must be made on the appropriate form and a digital photograph of the principal façade/view of the site provided.
 - c. The price of badges for Heritage Areas and the Heritage Register is calculated as the current cost of production, tile-adhesive and dispatch plus a R30 mark-up rounded up to the nearest R5.
 - d. Provincial Heritage Site badges are provided free of charge and, depending upon the circumstances, badges that have been vandalised or have broken are usually also replaced without charge. (In instances where a badge is repeatedly damaged the owner/occupant may be required to place it in a different location.)
 - e. In the case of Heritage Areas, badges may only be attached to buildings/sites that the HWC CEO together with professional staff resolves makes a positive contribution to the character of the Heritage Area and without regard to grading. Such badges may hence be attached to new structures.
 - f. Badges for Heritage Areas and the Heritage Register are supplied free of charge:
 - i. for national, provincial and municipal properties and those of public entities.
 - ii. to charitable organisations and NGOs.
 - iii. at the discretion of the CEO, to Individuals who are unable to afford the costs.

- iv. in instances where a former national monument is graded III and is placed on the Heritage Register or falls within a Heritage Area.

APPROVED BY THE COUNCIL OF HERITAGE WESTERN CAPE: 29 August 2012

DRAFT

Gradering: Doel en Bestuursimplikasies

Toestemming verkry deur die EWK Raad: 16 Maart 2016

Erfenis en Plaaslike Owerhede

Die Nasionale Erfenisbronne Akte (Akte 25 van 1999) verskaf 'n meganisme vir die bestuur van erfenisbronne wat van kulturele waarde is. Die NEBA stel 'n drievlakkige sisteembestuur van erfenisbronne, naamlik Nasionaal, Provinsiaal en Plaaslik in die vooruitsig. Hierdie dokument verskaf 'n verduideliking van die spesifieke bestuursinstrumente wat beskikbaar is vir Plaaslike Owerhede om erfenisbronne te bestuur.

Ingevolge seksie 8(4) van die Nasionale Erfenis Bronne Akte is “'n Plaaslike owerheid verantwoordelik vir die identifisering en bestuur van Graad III erfenisbronne en erfenisbronne wat na goeddunke binne hul bevoegdheid val volgens hierdie Akte.” Geregistreerde Bewaringsliggame speel 'n uiters belangrike rol in bystand wat hulle kan verleen met die identifisering van erfenisbronne wat belangrik is vir die gemeenskap en wat plaaslike kennis kan verskaf in die bepaling van hul waarde. Die voordele vir Plaaslike Owerhede in die implementering van erfenisbestuur volgens die NEBA, sluit die beskerming van plaaslike bronne in wat sekerheid gee aan plaaslike eiendomsbesitters oor wat beskerm of nie beskerm is nie en maak dit moontlik dat hul aansoeke op plaaslike vlak hanteer word.

Die spesifieke bestuursinstrumente wat deur die NEBA verskaf word en hier bespreek word, sluit in:

1. **Gradering (Afdelings 7 en 8)**
2. **Opmnames (Afdeling 30)**
3. **Efenisregisters (Afdeling 30)**
4. **Erfenisareas (Afdeling 31)**

In die verlede het EWK verskillende dokumente gepubliseer om leiding te verskaf oor Gradering en Opmnames. Hierdie dokument kombineer en vervang die gidse vir hierdie verbandhoudende prosesse binne een dokument.

1. Gradering

1.1 Hoekom Grade?

Die NEBA vereis dat alle erfenisbronne gradeer word ten einde die mees geskikte bestuursvlak (d.w.s. Plaaslik, Provinsiaal of Nasionaal) op verantwoordelike wyse toe te ken aan 'n erfenisbron en om die waarde aan te dui. Kulturele waarde is die sleutel in die assessering van gradering en is die primêre instrument in die definiëring van die bestuur van erfenisbronne.

1.2 Wat is Gradering

Gradering is 'n belangrike stap in die proses van (maar lei nie noodwendig tot) die formele bewaring van 'n erfenisbron soos die verklaring van 'n Nasionale Erfenisterrein, Provinsiale Erfenisterrein of in die geval van Graad III erfenisbronne, die plasing van 'n erfenisbron in die Erfenisregister. Dit is nie 'n doel op sigself nie, maar 'n manier om 'n geskikte bestuursvlak te bepaal om voort te gaan met toekomstige formele bewaring.

1.3 Erfenisbronne kan “Gegradeer” wees, “Nog nie gegradeer nie” of onvoldoende erfeniswaarde hê en is dus “Nie bewaringswaardig nie”

Gegradeer Die Erfenisowerheid het besluit oor ‘n gradering vir die bron of het voldoende inligting beskikbaar om die gradering volgens seksie 3(3) van die NEBA toe te pas.

NCW Nie bewaringswaardig nie. Die Erfenisowerheid het besluit dat die bron nie voldoende erfeniswaarde het om ingesluit te word in die Nasionale Eiendom nie, dit het Onvoldoende Erfeniswaarde of is “Nie gradeerbaar nie”. Hierdie kategorie is belangrik want nie alle ou plekke of strukture is van waarde volgens die NEBA nie.

Nog nie gegradeer nie Die Erfenisowerheid het nog nie besluit oor ‘n gradering vir die bron nie, of daar is nog nie voldoende inligting om die gradering te bepaal nie.

1.4 Wie gradeer?

Kragtens die NEBA mag gradering slegs uitgevoer word deur die verantwoordelike owerheid vir erfenisbronne, of in die geval van ‘n Graad III erfenisbron, deur die relevante plaaslike owerheid, indien hul bevoeg is om dit te doen ingevolge seksie 8 (6) van die NEBA. Enige persoon of party mag nietemin voorstelle maak vir gradering. Die gradering van ‘n bevoegde plaaslike owerheid kan nie verander word deur die EWK sonder ‘n ooreenkoms van die plaaslike owerheid nie.

Inventarisse van erfenisbronne behoort deur die plaaslike owerhede opgestel te word as ‘n vereiste van seksie 30(5) van die NEBA; en seksie 30(6) van die NEBA maak dit moontlik vir enigeen om ‘n inventaris saam te stel, of op te stel vir voorlegging aan EWK vir goedkeuring (sien opnames #2 en #3 hieronder). Hierdie inventarisse moet voorgestelde graderings bevat.

Die graderingsproses is ‘n herhalende prosedure en dus kan graderings verander word na gelang van nuwe inligting. Byvoorbeeld, aanvanklike graderings word gewoonlik gebaseer op ‘n relatiewe kursoriese opnameproses. Na ‘n meer gedetailleerde ondersoek, kan dit vasgestel word deur die geskikte Erfenisowerheid dat die gradering verander behoort te word in ooreenstemming met die graderingskriteria. Dus, die mees onlangse gradering deur EWK se Raad of Komitee word aanvaar as die gradering vir ‘n erfenisbron, tensy die plaaslike owerheid bevoegd gevind word om te gradeer kragtens die NEBA.

Behalwe as daar ‘n spesiale ooreenkoms tussen ‘n bevoegde plaaslike owerheid en EWK is, indien ‘n hoër owerheid ‘n plek hoër gegradeer het as ‘n laer owerheid, bly die hoër outoriteit se gradering staan – bv. indien ‘n plaaslike owerheid ‘n gebou gradeer op III maar die PEBO gradeer dit op II, dan is die gradering II.

1.5 Monumente en Gedenktekens

Kragtens seksie 37 van die NEBA moet openbare monumente en gedenktekens bewaar word op dieselfde manier as plekke wat in die Erfenisregister opgeteken is soos na verwys in seksie 30. Monumente en gedenktekens soos gedefinieer in die NEBA, moet gegradeer word ingevolge hul kulturele waarde en *moet deel vorm van die inventarisse gehou deur die Plaaslike Owerhede* om te kan bepaal watter formele bewaringsmaatreëls van toepassing sal wees. Tot tyd en wyl hulle gradeer word ingevolge seksie 3(3) van die NEBA, word openbare monumente en gedenktekens

formeel beskerm, asof hulle op die register verskyn. Sien asseblief die goedgekeurde EWK se gids vir Monumente en Gedenktekens (Augustus 2015).

1.6 Wêrelderfenisterreine in die Wes-Kaap

Verskeie terreine in die Wes-Kaap is alreeds opgeneem in UNESCO se Wêrelderfenis Lys. Dit sluit Robbeneiland in, asook sewe van die ag areas van die Kaapse Flora Bewaringsareas wat meer as 550 000ha land beslaan, die meeste geleë in die Wes-Kaap. Hierdie terreine word ook bewaar deur die Konvensie Gemoeid met die Bewaring van die Wêreld Natuurlike en Kulturele Erfenis en die Wêreld Erfenis Konvensie Akte, 1999 (Akte 49 van 1999). Wêreld Erfenisterreine behoort ingesluit te word wanneer beplanningsowerhede inventarisse van erfenisbronne in hul areas van jurisdiksie saamstel. Inskrywing in die Wêrelderfenis Lys gee nie enige addisionele wetlike beskerming buite die grense van toepaslike nasionale wetgewing nie en as sodanig vereis Wêreld Erfenisterreine formele bewaring deur die nasionale wetgewing voor inskrywing. Wêreld Erfenisterreine word dus bestuur en bewaar deur voorwaardes van die NEBA, die Nasionale Omgewingsbestuur: Bewaringsareas Akte (NOMBAA) of selfs die relevante beplanning van munisipale verordeninge.

1.7 Graad I (Nasionale Erfenisterreine) en Graad II (Provinsiale Erfenisterreine) Terreine

Suid-Afrika se nasionale erfenisterreine moet as 'n geheel die kollektiewe en gebalanseerde storie van ons Suid-Afrikaanse bewussyn verteenwoordig, soos ons dit vandag verstaan. Hulle moet die sleutelsterreine wat die gebeure die beste illustreer, die van mense en sisteme wat ons tot ons huidige staat van die nasiedom gebring het. Hulle moet die ontwikkeling verteenwoordig wat in Suid-Afrika plaasgevind het, van die vroegste geologiese formasie tot die begin van die mensdom en deur die bevolkingsaanwas – die tradisies, waardes, konflikte en prestasies illustreer wat die Suid-Afrika waarin ons vandag leef tot stand gebring het en Suid-Afrika se bydrae tot die wêreld in hierdie verband.

Graad I terreine is so besonder want hulle is van uitsonderlike waarde vir Suid-Afrika. Sulke terreine behoort aan die kriteria te voldoen soos uiteengesit in seksie 3(3) en seksie 7 van die Akte. Ons nasionale erfenisterreine behoort die storie van ons Suid-Afrikaanse nasiedom te vertel en 'n gebalanseerde erkenning van alle areas van ons erfenis te reflekteer.

Graad I terreine moet outentisiteit geniet en 'n nasionale waarde en simboliese belangrikheid dra wat die menslike begrip sal bevorder en tot nasiebou sal bydra, en hulle verlies sal gevolglik 'n drastiese vermindering van die nasionale erfenis wees. Sodra dit verklaar word, sal Graad I terreine, Nasionale Erfenisterreine word en bestuur word deur die Suid-Afrikaanse Erfenisbronne Agentskap (SAHRA).

Terreine gegradeer as Graad II terreine moet oor spesiale eienskappe beskik wat hulle belangrik maak binne die konteks van 'n provinsie of streek, terwyl dit aan die vereistes voldoen van seksie 3(3) en seksie 7 van die Akte en sy Regulasies GN R548.

Graad II terreine is so spesiaal dat hulle 'n status gegee word bo die beskerming wat verskaf word deur die inskrywing in die Erfenisregister maar is nie van besondere nasionale belang nie. Hulle mag skaars voorbeelde van hul soort wees of hoogsveteenwoordigend van 'n tipe. Hulle mag 'n noue verbintenis geniet met 'n gebeurtenis of figuur van provinsiale of streeksbelang. Graad II terreine behoort die begrip vir die kulturele, historiese, sosiale en wetenskaplike ontwikkeling van die Wes-

Kaap en van die streek waarin dit geleë is, te verryk. Die intrinsieke, komparatiewe en kontekstuele waarde van die erfenisbron moet bepaal word. Sodra dit verklaar is, word Graad II terreine, Provinsiale Erfenisterreine wat bestuur word deur EWK in die Wes-Kaap.

Graad I en II terreine mag insluit, maar is nie beperk tot plekke, geboue, strukture en onroerende toerusting van kulturele waarde nie; plekke wat verband hou met orale tradisies of wat geassosieer word met lewende erfenis; historiese nedersettings en dorpslandskappe; landskappe en natuurlike verskynsels of kulturele waarde; geologiese terreine van wetenskaplike of kulturele belang; argeologiese en paleontologiese terreine; grafte en begraafters; terreine van belang wat verband hou met die geskiedenis van slawerny in die Wes-Kaap; terreine van belang vir Khoesanerfenis in die Wes-Kaap en terreine van belang wat verband hou met die bevrydingstryd in die Wes-Kaap.

Die kulturele belang of ander spesiale waardes van 'n Graad I en II terrein mag insluit, maar is nie beperk tot sy belangrikheid in die gemeenskap of patroon van die geskiedenis van die Wes-Kaap nie; die seldsame, skaars of bedreigde aspekte wat dit mag besit wat die Wes-Kaap se natuurlike en kulturele erfenis reflekteer; die potensiaal dat die terrein inligting sal verskaf wat sal bydra tot 'n begrip van die Wes-Kaap se natuurlike of kulturele erfenis; sy belangrikheid in die demonstrering van die hoofkaraktertrekke van 'n spesifieke klas van die natuurlike of kulturele plekke of objekte van die Wes-Kaap; sy belangrikheid om spesifieke estetiese kenmerke van waarde geag deur 'n gemeenskap of kulturele groep of objekte ten toon te stel; sy belangrikheid in die demonstrering van 'n hoë graad van skeppende of tegniese prestasie op 'n spesifieke periode in die ontwikkeling of geskiedenis van die Wes-Kaap; sy sterk of spesiale assosiasie met 'n spesifieke gemeenskap of kulturele groep vir sosiale, kulturele of geestelike redes; hul sterk of spesiale assosiasie met die lewe of werk van 'n persoon, groep of organisasie van belang in die geskiedenis van die Wes-Kaap; terreine van belangrikheid wat verband hou met slawerny en terreine van belang vir die Khoesanerfenis in die Wes-Kaap.

1.8 Graad III Geboude Omgewingserfenisbronne

Hierdie gradering word toegepas op geboue en terreine wat voldoende intrinsieke belangrikheid het om as plaaslike erfenisbronne beskou te word; en waardevol genoeg is om te regverdig dat enige verandering gereguleer moet word. Sulke geboue en terreine mag verteenwoordigend en uitstekende voorbeelde van hulle soort of seldsaamheid wees. In beide gevalle behoort hulle beskerming te geniet op plaaslike vlak. Dit het praktyk geword om die Graad III kategorie van erfenisbronne in drie sub-kategorieë (IIIA, IIIB en IIIC) te verdeel om effektiewe bestuur moontlik te maak.

Tabel 1: Gids vir die gradering van geboude omgewingsbronne

Gradering	Beskrywing van Bron	Voorbeelde van Moontlike Bestuurstrategieë	Erfeniswaarde
I	Erfenisbronne met eienskappe so buitengewoon dat hulle van spesiale nasionale waarde is Huidige voorbeeld: Robbeneiland	Mag verklaar word as 'n Nasionale Erfenisterrein bestuur deur SAHRA	Hoogste waarde
II	Erfenisbronne met spesiale eienskappe wat hul waarde bepaal in die konteks van 'n provinsie of	Mag verklaar word as 'n Provinsiale Erfenisterrein bestuur deur EWK	Besonder hoë waarde

	<p>streek, maar voldoen nie aan die kriteria van Graad I status nie</p> <p>Huidige voorbeelde: St George's Katedraal, Gemeenskapshuis</p>		
III	<p>'n Bron van hierdie aard dra by tot die omgewingskwaliteit of kulturele waarde van 'n groter area en vervul een van die kriteria soos uiteengesit in seksie 3(3) van die Akte, maar voldoen nie aan die kriteria vir Graad II status nie. Graad III terreine mag formeel beskerm word deur plasing op die Erfenisregister. Hierdie bronne word tans bestuur deur EWK <i>tensy die plaaslike outoriteit bevoegd gevind word en gedelegerde outoriteit toegeken is.</i></p>		
IIIA	<p>'n Bron van hierdie aard moet 'n uitstekende voorbeeld van sy soort of voldoende seldsaam wees.</p> <p>Hierdie is erfenisbronne wat van waarde is in die konteks van 'n area.</p>	<p>Hierdie gradering word toegepas op geboue en terreine wat voldoende intrinsieke belangrikheid het om beskou te word as plaaslike erfenisbronne; en is belangrik genoeg om te regverdig dat verandering beide intern en ekstern gereguleer word. Sulke geboue en terreine mag verteenwoordigend wees, deur uitstekende voorbeelde van hulle soort of mag seldsaam te wees. In beide gevalle moet hulle maksimum beskerming op plaaslike vlak gebied word.</p>	Hoë waarde
IIIB	<p>'n Bron van hierdie aard mag soortgelyke waarde hê as die van 'n Graad IIIA bron, maar in 'n mindere mate.</p> <p>Hierdie is erfenisbronne wat van waarde is in die konteks van 'n stadsgesig, buurt, nedersetting of gemeenskap.</p>	<p>Soos Graad III geboue en terreine mag hierdie geboue en terreine verteenwoordigend wees, uitstekende voorbeelde van hulle soort of mag seldsaam maar minder as Graad IIIA voorbeelde wees. Hulle sal minder streng beskerming as Graad IIIA geboue en terreine op plaaslike vlak geniet.</p>	Medium waarde
IIIC	<p>So 'n bron is van bydraende waarde tot die omgewing.</p> <p>Hierdie is erfenisbronne wat waardevol is in die konteks van 'n straatgesig of direkte buurt.</p>	<p>Hierdie gradering word toegepas op geboue en/of terreine waarvan hul waarde kontekstueel is, d.i. grotendeels weens hul bydrae tot die karakter of belangrikheid van die omgewing. Hierdie geboue en terreine behoort gevolglik slegs gereguleer te word indien die belangrikheid van die omgewing voldoende is om bekermende maatreëls te regverdig, ongegag of die terrein binne 'n Bewarings- of Erfenisarea is. Interne veranderinge behoort nie noodwendig gereguleer te word nie.</p>	Lae waarde
NBW	<p>'n Bron wat na behoorlike ondersoek bepaal is dat dit nie genoeg erfeniswaarde het om behou te word as deel van die Nasionale Eiendom nie.</p>	<p>Geen verdere aksies onder die NEBA word vereis nie. Dit moet gemotiveer word deur die aansoeker en goedgekeur word deur die owerheid. Seksie 34 kan selfs gelig word deur EWK vir strukture in hierdie kategorie indien hulle ouer as 60 jaar is.</p>	Geen navorsingspotensiaal of ander kulturele waarde nie

1.9 Gids vir Gradering van Argeologiese en Paleontologiese Bronne

Die Kompleksiteit van Gradering van Argeologiese en Paleontologiese Bronne

In die NEBA word argeologie gedefinieer as “materiele oorblyfsels van die menslike aktiwiteite wat in ‘n toestand van onbruik is, in of op land en wat ouer as 100 jaar is, insluitend artefakte, menslike en hominiëde oorblyfsels en kunsmatige verskynsels en strukture”, asook rotskuns. Paleontologie word gedefinieer as “enige gefossileerde spoor van diere of plante wat in die geologiese verlede geleef het, anders as fossielbrandstowwe of gefossileerde rots wat bedoel is vir industriële gebruik en enige terrein wat gefossileerde oorblyfsels of spoor het.”

Argeologiese en paleontologiese terreine word dikwels begrawe of dit is ten minste nie bekend watter materie mag benede die oppervlak gevind word nie. Die assessering van die waarde van sulke terreine is afhanklik van die vermoë van ‘n praktisyn om die oppervlakleide te herken en te interpreteer, maar gradering mag dikwels tentatief bly tot tyd en wyl opgrawing, versameling, en/of datering voltooi kan word.

Opgrawings is destruktief en om hierdie rede word dit uitgevoer slegs deur professionele argeoloë en paleontoloë wat opgelei is om stratigrafiese en assosiasionele kontekste te herken en op te neem. Hoe meer navorsing daar op die terrein gedoen word; hoe meer waarskynlik word dit dat hoër waarde aan die terrein toegeken sal word. Verder verteenwoordig argeologiese en paleontologiese oorblyfsels slegs ‘n fraksie van die bewys wat eens op ‘n tyd beskikbaar was. Soveel het met verloop van tyd verlore gegaan dat seldsaamheid ‘n belangrike kriteria word in gradering. Klein en onbelangrike terreine mag hoër wetenskaplike en kulturele waarde dra. Terreine gegradeer met medium/lae plaaslike waarde, mag ontsaglik bydra tot ons insig, selfs bo die van plaaslike vlak.

Tabel 2: Gids vir die Gradering van Argeologiese en Paleontologiese Bronne

Gradering	Beskrywing van Bron	Voorbeelde van Moontlike Bestuurstrategieë	Erfeniswaarde
I	Erfenisbronne met kwaliteite so besonders dat hulle van spesiale nasionale waarde is. Huidige voorbeelde: Langebaanweg (Weskus Fossiele Park), Wieg van die Mensdom	Mag verklaar word as ‘n Nasionale Erfenisterrein bestuur deur SAHRA. Spesifieke mitigasie en wetenskaplike ondersoek kan toegelaat word onder sekere omstandighede met voldoende motivering.	Hoogste waarde
II	Erfenisbronne met spesiale kwaliteite wat hulle waardevol maak maar voldoen nie aan die kriteria vir Graad I status nie. Huidige voorbeelde: Blombos, Paternoster Midden.	Mag verklaar word as ‘n Provinsiale Erfenisterrein bestuur deur EWK. Spesifieke mitigasie en wetenskaplike ondersoek kan toegelaat word onder sekere omstandighede met voldoende motivering.	Besondere hoër waarde
III	Erfenisbronne wat bydra tot die omgewingskwaliteite of kulturele waarde van ‘n groter area en voldoen aan een van die kriteria uiteengesit in seksie 3(3) van die Akte maar dit voldoen nie aan die kriteria van Graad II status nie. Graad III terreine mag formeel beskerm word deur plasing op die Erfenisregister.		
IIIA	‘n Bron van hierdie aard moet ‘n uitstekende voorbeeld van sy soort wees of moet voldoende seldsaam wees.	Bron moet teruggehou word. Spesifieke mitigasie en wetenskaplike ondersoek kan toegelaat word onder sekere omstandighede met voldoende	Hoër waarde

	Huidige voorbeelde: Varschedrift; Peers Grot; Brobartiaweg Midden by Bettysbaai	motivering.	
IIIB	So 'n bron mag soortgelyke waarde hê as die van 'n Graad IIIA bron maar in 'n mindere graad.	Bron moet teruggehou word waar moontlik, waar nie moontlik nie moet dit ten volle ondersoek word en/of gemitigeer word.	Medium waarde
IIIC	So 'n bron is van bydraende waarde.	Bron moet bevredigend bestudeer word voor impak. Indien die opname alreeds gedoen is (soos by 'n HIA of permitaansoek) is dit nie voldoende nie, verdere opname of selfs mitigasie mag vereis word.	Lae waarde
NBW	'n Bron waar daar na geskikte ondersoek bepaal is dat dit nie genoeg erfeniswaarde het om teruggehou te word as deel van die Nasionale Eiendom nie.	Geen verdere optrede onder die NEBA word vereis nie. Dit moet gemotiveer word deur die aansoeker of die konsultant en goedgekeur word deur die owerheid.	Geen navorsingspotensiaal of ander kulturele waarde nie.

Skeepswrakke (maritime argeologie) geleë benede die hoogwatermerk (in territoriale water en die maritieme kulturele sone) val onder die jurisdiksie van SAHARA. Nietemin, dit beteken nie dat alle maritieme argeologie is van Graad I waarde nie. Maritieme argeologie moet gegeradeer word volgens die bostaande tabel.

Teraardebestelling in terme van die voorsiening van seksie 36 van die NEBA moet gegeradeer word volgens die bostaande tabel. Die bestuur van begraafplase en grafte volgens seksie 36 van die NEBA kan gedelegeer word aan beide provinsiale en plaaslike owerhede.

Alle FORMEEL BESKERMDE argeologiese, paleontologiese en meteoritiese bronne vereis dat 'n permit verkry word van die relevante Erfenisowerheid ingevolge seksie 27 van die NEBA voor enige verandering of versteuring.

Alle ALGEMEEN BESKERMDE argeologiese, paleontologiese en meteoritiese bronne vereis dat 'n permit verkry word van die relevante Erfenisowerheid ingevolge seksie 35 van die NEBA voor enige verandering of versteuring, of die ontvangs van 'n kommentaar of besluit ingevolge seksie 38 indien geraak word deur enige ontwikkeling.

2. Opnames

2.1 Wat is 'n Erfenisopname?

'n Erfenisopname is 'n opname van alle erfenisbronne insluitend, maar nie beperk tot sosiale belang, die geboude vorm, ruimtelike disposisie en gekultiveerde vegetasie nie (insluitende bome, lanings, tuine en selfs landbougrond) wat bestaan uit die opgeboude omgewing en kulturele landskap van 'n afgebakende geografiese area.

2.2 Hoekom word Erfenisopnames uitgevoer?

Hierdie opnames word uitgevoer om alle bewaringswaardige erfenisbronne te identifiseer en te kwantifiseer, en hul waarde te beskryf en die van hulle omgewings by voorbaat voor enige potensiële ontwikkeling, sodat die bestuur en administrasie van enige voorgestelde ontwikkeling duidelik, wetlik, redelik en volgens prosedure redelik is.

2.3 Wie doen Erfenisopnames?

Hierdie opnames mag uitgevoer word deur enige persoon of organisasie, maar die ideaal is en oor die algemeen word dit deur plaaslike owerhede gedoen. Inderdaad, plaaslike owerhede vereis volgens seksie 30(5) van die Nasionale Erfenisbronne Akte (NEBA) dat hierdie studies uitgevoer word ten einde inventarise van erfenisbronne binne jurisdiksie saam te stel wanneer hulle ookal hul beplanning of soneringskemas opstel of hersien.

'n Erfenisopname kan uitgevoer word in 'n Gefaseerde Projekbenadering waarin spesifieke soorte erfenisbronne geïdentifiseer en opgeneem word of slegs spesifieke areas (bv. die Hoofstraat van 'n dorp) in 'n reeks/opeenvolging van fases.

2.4 Wat is die produkte en uitkomste van Erfenisopnames?

Die hoofproduk van 'n Erfenisopname is 'n inventaris of lys van al die geboue, terreine en areas wat aanbeveel is om toegeken te word as erfenisbronne. Hierdie inventaris moet 'n voorgestelde gradering vir elkeen van hierdie erfenisbronne insluit. Aanbevelings vir gradering moet 'n intrinsieke deel van die voltooiing van so 'n inventaris vorm.

Aangesien erfenisbronne geografies geïdentifiseer word, moet die inventaris ook gekarteer word. Die kartering van erfenisbronne deur 'n Erfenisopname is in menige omstandighede die mees bruikbare produk van 'n Erfenisopname. Hierdie gekarteerde inventaris verskaf dan inligting vir die Erfenisregister (sien #3), Erfenisareas (sien #4) en die Provinsiale en Nasionale Inventarise.

3. Erfenisregisters

3.1 Wat is die Erfenisregister?

- Die EWK Erfenisregister is 'n Provinsiale Gaset wat al die Graad II of III bewaringswaardige erfenisbronne in die Wes-Kaap lys.
- Erfenisregisters word voorsien van inligting deur Erfenisinventarisse.
- 'n Erfenisbron word opgeteken in die EWK Erfenisregister deur kennisgewing in die Provinsiale Gaset.
- Die erfenisbronne wat ingesluit is in die EWK Erfenisregister moet gelys word volgens hul waarde (gradering), die relevante Plaaslike Owerheid en hul geografiese ligging.
- Eienaars van erfenisbronne moet geraadpleeg word voordat die bron ingesluit word in die register.

3.2 Wat is 'n Erfenisinventaris?

- Inventarisse word saamgestel vanaf Erfenisopnames (sien #2 hierbo).
- Inventarisse word saamgestel deur die Plaaslike Owerheid ingevolge seksie 30(5) of enige ander party ingevolge seksie 30(6) van die NEBA, en moet alle erfenisbronne opneem in 'n gedefinieerde jurisdiksie en moet waarde (gradering) voorstel.
- EWK is verantwoordelik vir die seleksie van bronne van enige goedgekeurde inventarisse vir plasing in die EWK Erfenisregister.
- Alle erfenisbronne moet opgeneem word in die Nasionale Inventaris (SAHRIS). Sien seksie 3.4.1.
- Ingevolge seksie 30(5) tydens die wysiging of samestelling van 'n dorplanskema of ruimtelike ontwikkelingsraamwerk (ROR), **moet** 'n plaaslike owerheid 'n inventaris van erfenisbronne saam stel. Hierdie inventaris moet dan voorgelê word aan EWK vir oorweging en vir bewaringwaardige erfenisbronne wat ingesluit moet word in die Erfenisregister.
- Alle goedgekeurde inventarisse is beskikbaar van EWK.

3.3 Wat is die voordele van die saamstel van 'n Erfenisinventaris?

- Sodra daar 'n Erfenisinventaris vir enige area bestaan wat deur die EWK goedgekeur is, mag EWK die Plaaslike Owerheid assesser vir sy Erfenisbevoegdheid ingevolge seksie 8(6) van die NEBA.
- 'n Erfenisinventaris identifiseer en assesser die waarde van erfenisbronne wat op sy beurt die volgende inligting gee oor:
 - o Bronne wat op die Erfenisregister geplaas gaan word
 - o Die identifisering van Erfenisareas
 - o Deursigtigheid en voorspelbaarheid van bestuursintervensies.
 - o Geïdentifiseerde en gedefinieerde areas wat voldoen aan seksie 34(3) wat deur EWK van die vereistes van seksie 34(1) vrygestel kan word.
- Laat redelike prosedure en redelike bestuur van erfenisbronne toe.
- Skep sekerheid en voorspelbaarheid vir Plaaslike Owerhede, huiseienaars en ontwikkelaars, ingevolge erfenisbestuursvereistes.

3.4 Wat moet 'n Erfenisinventaris insluit?

Alle Erfenisinventarisse moet die volgende insluit:

3.4.1 Digitale Databasis van die Erfenisinventaris

'n Erfenisinventaris is essensieel 'n databasis van al die erfenisbronne in 'n bepaalde area. Ingevolge seksie 39 van die NHRA, word dit van SAHRA vereis om 'n Nasionale Inventaris van erfenisbronne saam te stel. Hierdie Nasionale Inventaris vorm deel van die Suid-Afrikaanse Erfenisbronne Inligtingsstelsel of SAHRIS.

Alle Erfenisinventarisse moet voldoen aan die SAHRIS opnamesistelsel ingevolge seksie 30(4)b van die NEBA. Dit kan gedoen word deur een van die volgende meganismes:

- Die gebruik van die aangehegte Excel sjablone as die basis vir die Erfenisinventaris.
- Aanlyn datavaslegging deur gebruik te maak van die meganismes verskaf deur SAHRIS (www.sahra.org.za/sahris).
- Die gebruik van Geografiese Inligtingsstelsels waarin vormleer met bydra-data uitgevoer kan word na Excel (en dus SAHRIS)
- Die skep van 'n unieke digitale databasis wat gebruik kan word deur EWK en die Plaaslike Owerheid en wat voldoen aan die data wat vereis word op die aangehegte Excel sjablone (insluitende georuintelike data).

3.4.2 Erfenisinventaris Opsomming Dokument

Die opsomming van 'n Erfenisinventaris verskaf kontekstuele inligting vir die Digitale Databasis van die Erfenisinventaris. Hierdie dokument moet inligting onder die volgende hoofde insluit:

Afbakening van opname:

- Dit verskaf inligting oor die geografiese area of tipe erfenisbron gedek deur die Erfenisinventaris.
- Metodologie:
Hierdie afdeling verskaf detail oor die wyse waarop die data vasgelê is, asook die kriteria wat gebruik is vir die gradering en assessering om betekeniswaarde te bepaal.
Die graderings wat voorgestel is in die Erfenisinventaris moet voldoen aan die EWK Erfenisregister Regulasies (...) en is dus beperk tot die graderingsinligting wat verskaf word in seksies 1.8 en 1.9 van hierdie dokument.
- Besonderhede van opname-span:
Hierdie afdeling moet EWK voorsien van inligting oor die kwalifikasies en vakkundigheid van die samestellers van die Erfenisinventaris.
- Openbare Deelname:
Hierdie afdeling moet besonderhede verskaf en bewyse van alles van alle openbare, plaaslike bewaringsliggame en I&AP-konsultasie wat plaasgevind het as deel van die samestelling van die Erfenisinventaris.
- Opsommingskaarte van die area wat opgeneem is met graderingsinligting.
- 'n Aanduiding van enige voorgestelde Erfenisareas en voorgestelde riglyne vir hierdie Erfenisareas (sien #4 hieronder).

3.5 Wat gebeur sodra 'n bevredigende Erfenisinventaris voltooi is?

Enige voltooide fase van 'n Erfenisinventaris moet ingedien word aan Erfenis Wes-Kaap vir goedkeuring. EWK sal die Erfenisinventaris assessee vir akkuraatheid, volledigheid en vir die geskiktheid van die voorgestelde graderings. Dit word gedoen deur die EWK Inventarisse, Gradering en Interpretasie-komitee (IGIK).

Gebaseer op die inligting wat in die Erfenisinventaris vervat is, sal EWK se IGIK erfenisbronne voorstel vir insluiting in die Erfenisregister en Erfenisareas vir toekenning. EWK Raad, in bespreking met die relevante Plaaslike Owerheid, sal bepaal watter van die voorgestelde erfenisbronne van die Erfenisinventaris gasetteer is as deel van die Erfenisregister en watter Erfenisareas word aangewys.

Plaaslike Owerhede moet binne ses (6) maande van EWK se publiserings 'n kennisgewing in die Provinsiale Gaset vir insluiting in die Erfenisregister voorsiening maak vir die beskerming van Erfenisregisterterreine deur Munisipale regulasies of beplanningswetgewing. Die munisipale regulasieskema se klousule moet eers goedgekeur word deur EWK en die Provinsiale Departement van Omgewingsake en Ontwikkelingsbeplanning (DOSOB). Daar word voorgestel dat plaaslike owerhede die model klousules gebruik soos hieronder uiteengesit word vir sulke doeleindes.

Graad IIIA Voorgestelde Klousule in die Plaaslike Soneringskema

Geen graad IIIA gebou of struktuur wat goedgekeur is deur EWK as sodanig, sal gesloop, verander of intern of ekstern groter gemaak word nie, ewemin sal enige nuwe gebou of struktuur opgerig word op die eiendom beset deur so 'n gebou of struktuur sonder die Munisipaliteit se spesiale goedkeuring; en die Munisipaliteit sal nie sy spesiale toestemming verleen indien so 'n voorgestelde slooping, verandering, uitbreiding of nuwe gebou of struktuur tot nadeel van die karakter en/of betekeniswaarde van die gegradeerde gebou of struktuur of die omgewing of die Erfenisarea waarbinne dit geleë is nie.

Graad IIIB Voorgestelde Klousule in die Plaaslike Soneringskema

Geen graad IIIB gebou of struktuur goedgekeur deur EWK as sodanig, sal gesloop, verander of ekstern vergroot word, ewemin sal enige nuwe gebou of struktuur opgerig word op die eiendom beset deur so 'n gebou of struktuur sonder die Munisipaliteit se spesiale goedkeuring; en die Munisipaliteit sal nie spesiale toestemming verleen indien so 'n voorgestelde slooping, verandering, uitbreiding of nuwe gebou of struktuur tot nadeel van die karakter en/of betekeniswaarde van die gegradeerde gebou of struktuur of die omgewing of die Erfenisarea waarbinne dit geleë is nie.

Graad IIIC Voorgestelde Klousule in die Plaaslike Soneringskema

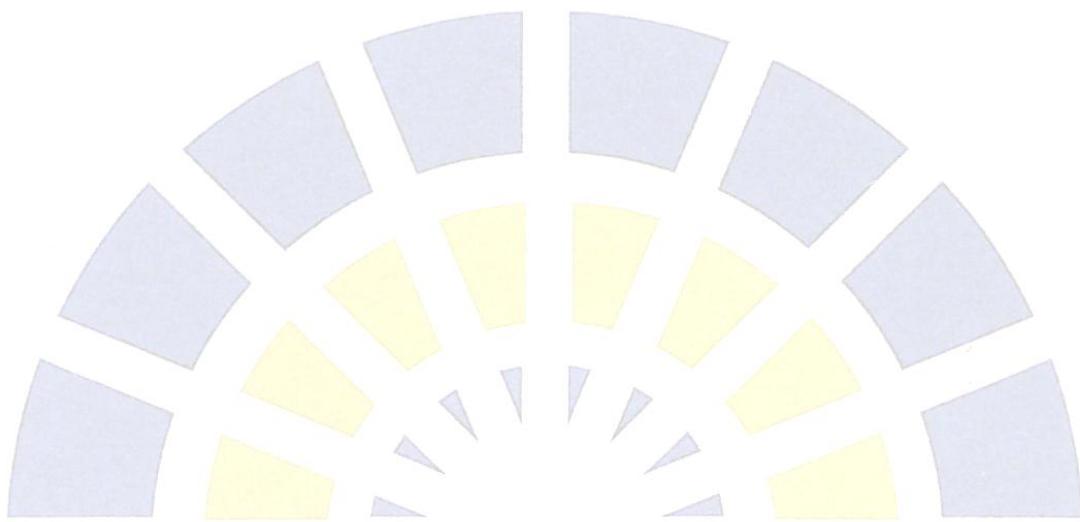
Geen gebou of struktuur wat graad IIIC is en in die Erfenisregister opgeneem is as sodanig, sal gesloop of ekstern verander of uitgebrei word, ewemin sal enige nuwe gebou of struktuur wat sigbaar is van die straat opgerig word op die eiendom wat beset word deur so 'n gebou of struktuur sonder spesiale goedkeuring van die Munisipaliteit, en die Munisipaliteit sal nie hul spesiale toestemming verleen indien so 'n slooping, verandering of uitbreiding of nuwe gebou of struktuur afbreuk doen aan die erfeniswaarde van die omgewing of Erfenisarea waarbinne so 'n gebou of struktuur geleë is nie.

3.6 Vrystellings van die vereiste om permitte ingevolge Seksie 34 (die Sestig-jaar Klousule) te verkry

Sodra 'n inventaris van erfenisbronne onderneem en goedgekeur is deur EWK en die vereiste formele beskerming geïmplementeer is, mag EWK die eiendomseienaars in die opname-areas of dele daarvan, vrystel van die vereiste om aansoek te doen vir permitte om werk op geboue en strukture meer as sestig jaar oud wat nie beskou word as bewaringswaardig nie en dus gegradeer is, NBW (seksie 34(3) van die NEBA) te onderneem.

Dit behoort genoteer te word dat behalwe die ooglopende voordele van die eenvoudige identifisering van erfenisbronne en hul relatiewe waardes aan alle partye, die vrystelling van eiendomme van onvoldoende erfeniswaarde van erfenisverbande prosedure, tot 'n beduidende voordeel van die eiendomseienaars is, asook die plaaslike owerheid en die erfenisbronne owerheid eweneens.

Dit is belangrik om te noteer dat vrystelling van die behoefte om permitte te verkry, mag slegs in plek wees nadat ander meganismes van formele bewaring vir waardevolle terriene geïmplementeer is.



iLifa leMveli leNtshona Koloni
Erfenis Wes-Kaap
Heritage Western Cape

4. Erfenisareas

4.1 Wat is 'n Erfenisarea?

'n Erfenisarea is 'n meganisme in die NEBA wat gebruik word om enige area van omgewings- of kulturele belang, of plekke te beskerm waar daar 'n teenwoordigheid van erfenisbronne is. Menige Plaaslike Owerhede het bewaringsarea-kontrolering in hulle soneringskemas vir baie dekades ingesluit. Hierdie areas van omgewings- of kulturele belang word gewoonlik geïdentifiseer deur 'n Erfenisopname en die voorlegging en goedkeuring van 'n Erfenisinventaris.

'n Erfenisarea is 'n spesifieke, afgebakende area met geïdentifiseerde grense waarbinne spesifieke ontwikkelingsriglyne toegepas word. Hierdie riglyne moet sorg dra dat die erfeniswaarde van die Erfenisarea bewaar bly.

4.2 Hoe word 'n Erfenisarea aangewys?

Erfenisareas mag geïdentifiseer word vir aanwysing op tweeërlei wyses, óf in die beplanning van die munisipale regulasies (voorheen soneringskemas) van 'n Plaaslike Owerheid, óf deur EWK, deur 'n goedgekeurde Erfenisopname en gevolglike Erfenisinventaris (sien #2 en #3 hierbo).

Waar EWK die behoefte geïdentifiseer het vir 'n Erfenisarea, moet EWK die betrokke beplanningsowerheid versoek om die aanwysing van die Erfenisarea in ooreenstemming met voorstelle verskaf deur EWK, te ondersoek. Hierdie voorstelle mag erfeniskriteria vir besluitneming en riglyne vir die bestuur van die Erfenisarea insluit, asook voorgestelde munisipale regulasies vir die bestuur van die Erfenisarea en mag geneem word vanuit die Erfenisinventaris.

Voordat 'n Erfenisarea aangewys kan word, moet die Plaaslike Owerheid beraadslaag met EWK, die eienaars en inwoners van die geaffekteerde eiendom, asook enige geaffekteerde gemeenskap.

Erfenisareas word dan aangewys deur EWK deur 'n kennisgewing in die Provinsiale Gaset te plaas, of deur die Plaaslike Owerheid, as deel van hul beplanningsregulasies. Hierdie kennisgewing moet besonderhede van die betekeniswaarde van die Erfenisarea insluit, asook duidelike afbakening van die grense van die Erfenisarea.

4.3 Wie bestuur 'n Erfenisarea?

Die Plaaslike Owerheid bestuur 'n aangewysde erfenisarea deur die voorsienings van sy beplanningskema of regulasies (wat onder die NEBA kan wees) en dit behoort goedgekeur te word deur EWK, DOSOB en die Plaaslike Owerheid. **Die spesiale toestemming van die Plaaslike Owerheid word dan vereis vir enige verandering of ontwikkeling wat 'n Erfenisarea affekteer.**

Die vestiging van 'n Erfenis Oorlegsone is een moontlike meganisme wat deur 'n Plaaslike Owerheid toegepas kan word om beskerming te bied aan 'n Erfenisarea ingevolge seksie 31(7) in hul stadsbeplanningskemas. Dit moet genoem word dat soneringskemas word gepromulgeer ingevolge die Grondgebruik Beplanningsakte 3 van 2014 (GGBA), wat 'n provinsiale ordinans is en die Ruimtelike Grondgebruikbeplanning Bestuursakte 16 van 2013 (RGA). Indien 'n Erfenisarea geproklameer word in 'n area wat binne die jurisdiksie val van 'n Plaaslike Owerheid wat nog nie gekeur is om bevoegd te wees volgens die NEBA nie, sal dit bestuur moet word deur EWK of 'n ander bevoegde Plaaslike Owerheid, ingevolge 'n agentskapsooreenkoms. Nietemin, menige Plaaslike

Owerhede het alreeds bewaringsareas verklaar wat hulle bestuur deur hulle plaaslike beplande regulasies.

Erferisarea Voorgestelde Klousule ten opsigte van Plaaslike Soneringskema

- (1) *Die volgende voorwaardes sal van toepassing wees binne 'n area wat gelys is in die tabel hieronder en voorgestel word op die Soneringskaart as 'n Erferisarea:*
- (i) *geen gebou of struktuur anders as 'n interne muur of partisie daarin, sal gesloop word, verander of opgerig word nie, tensy skriftelike aansoek gedoen is na die Munisipaliteit en die Munisipaliteit spesiale goedkeuring daarvoor verleen het;*
 - (ii) *die Munisipaliteit sal nie sy spesiale goedkeuring verleen indien so 'n sloping, verandering, uitbreiding of oprigting wat die geval ookal mag wees, nadelig is vir die beskerming en/of instandhouding en/of verheffing van die argitektoniese, estetiese en/of historiese karakter en/of waarde wat die geval ook mag wees van die area waarin so 'n sloping, verandering, uitbreiding of oprigting voorgestel is.*

Of

- (2) *Die riglyne bygevoeg as bylaag: Erferisarea en goedgekeur deur die EWK op (datum) sal van toepassing wees binne 'n area gelys in die tabel hieronder en aangewys op die Soneringskaart as 'n Erferisarea.*

Verdere voorwaardes mag bygevoeg word waar nodig deur die spesifieke karakter van 'n Erferisarea, bv. dat alle nuwe bouplanne geëvalueer behoort te word vir hul impak op die Erferisarea.

4.4 Wat van die Bewaringsareas gepromulgeer ingevolge die Plaaslike Owerheid se Soneringskemas?

Bewaringsareas wat gepromulgeer en/of beheer is deur die stadsbeplanningskema is verskillend van die Erferisarea, want die prosedure vir die verklaring van Erferisareas soos uiteengesit in seksie 31 en hierbo bespreek, vereis beide goedkeuring van en deelname deur EWK. Dit sal hiervolgens nie moontlik wees vir 'n Plaaslike Owerheid om eenvoudig 'n bewaringsarea te verander in 'n Erferisarea nie, ingevolge seksie 31 van die NEBA. Hierteenoor, word onderneem om die beheermaatreëls wat toegepas word, op so 'n manier te wysig, dat 'n bewaringsarea voldoen aan 'n Erferisarea. Dit sal beraadslaging met alle eiendomseienaars binne die area verg, aangesien hulle eiendomsregte geaffekteer mag word.

Uit 'n praktiese oogpunt, ter voorbereiding van hul ROR, mag 'n Plaaslike Owerheid 'n Erferisarea voorstel wat dieselfde is as 'n bewaringsarea. Tot tyd en wyl die Erferisarea aangewys is en die bewaringsarea geherproklameer is, sal die bewaringsarea onderworpe bly aan die oorspronklike verordeninge of dorpebeplanningskemas se klousule.

Erferis Oorlegsones, Bewaringsareas en Erferisareas behoort ingesluit te word in die sone-skema soos in seksie 22 van GGBA uiteengesit wat vereis dat elke plaaslike munisipaliteit in die Wes-Kaap, 'n enkele soneringskema vir sy hele munisipale area moet kies.

Definisies en Akronieme:

Erfenisbronne: Enige plek of objek van kulturele waarde

Owerheid vir Beplanning: 'n Kantoor van die Staat, insluitende 'n provinsie, 'n plaaslike owerheid of 'n streeksowerheid wat beskik oor 'n fisiese beplanningskapasiteit.

PEBO Provinsiale Erfenisbronne Owerheid. Erfenis Wes-Kaap in die Westelike Kaapprovinsie

DOSOB Provinsiale Departement van Omgewingsake en Ontwikkelingsbeplanning

GBA Grondgebruik Beplanningsakte

ROR Ruimtelike Ontwikkelingsraamwerk

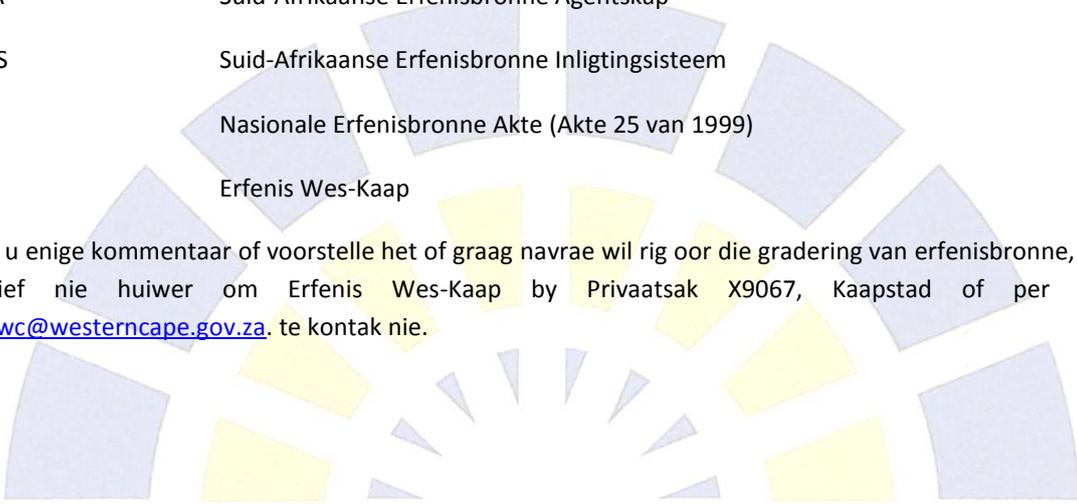
SAHRA Suid-Afrikaanse Erfenisbronne Agentskap

SAHRIS Suid-Afrikaanse Erfenisbronne Inligtingsisteem

NEBA Nasionale Erfenisbronne Akte (Akte 25 van 1999)

EWK Erfenis Wes-Kaap

Indien u enige kommentaar of voorstelle het of graag navrae wil rig oor die gradering van erfenisbronne, moet asseblief nie huiwer om Erfenis Wes-Kaap by Privaatsak X9067, Kaapstad of per e-pos hwc.hwc@westerncape.gov.za te kontak nie.



iLifa leMveli leNtshona Koloni
Erfenis Wes-Kaap
Heritage Western Cape



POLICY ON SETTING OF PROFESSIONAL STANDARDS

1. General Considerations:

- It is often crucial to the successful outcome of a heritage resources project that the necessary professional skills and experience be applied in a given circumstance.
- This policy is intended to create clarity regarding situations in which Heritage Western Cape (HWC) sets minimum standards for professional practice in situations over which it has oversight or which it otherwise has ability to control.
- These standards may be applied to an individual professional or a team of professionals.
- These standards are for use by organs of HWC in setting minimum standards for professional practice in a given circumstances and sets a framework for situations where it is considered necessary that a minimum standard be applied.

2. Areas of practice within the heritage resources sector:

Heritage resources conservation and management is an area requiring many different types of professional skill. The following is a list of major fields and skills areas, but there may from time to time be others to which this policy is applied:

- Anthropology
- Architecture
- Astronomy
- Archaeology
- Engineering
- Environmental science
- History (including oral history, art history, etc.)
- Heritage conservation
- Impact assessment
- Landscape Architecture
- Law
- Palaeontology
- Research on and assessment of heritage resources
- Town and regional planning
- Urban design

It is recognised that standards of various sort are set by a variety of professional bodies operating in the areas set out above and that in some instances these are directly relevant to the heritage resources sector. Standards are generally determined according to type and/or level of qualification, type and/or years of experience and/or a particular specialisation within a given professional field.

3. Factors to be taken into consideration when setting a minimum professional standard:

In determining when and whether to apply a particular standard for professional practice in a given situation HWC shall take into account the following:

- Formal protection in terms of the National Heritage Resources Act.
- Grading in terms of the National Heritage Resources Act.
- The scale and complexity of the proposal/project under consideration.
- The potential impact of a proposal/project.
- The area/s of professional practice needed to ensure that significance is suitably retained.
- The quality of the application/material submitted to it for consideration.
- Precedents of which it is aware concerning similar projects affecting similar aspects of the national estate.
- Familiarity with local conditions.

4. Setting a minimum professional standard:

Where it wishes HWC may require a minimum level of expertise on the part of professionals involved in the formulation of a proposal, execution of a project or other action over which it has jurisdiction. In this regard it may stipulate:

- Qualifications in a certain field.
- The level of qualification (ie: Bachelors, Masters, etc.).
- Years of experience in a field.
- The form and duration of narrower, specialist experience in a given field.
- Registration with a professional body and the level, grade or other form of that registration.

HWC reserves the right to engage with a university or other qualifications issuing authority or professional body concerning verification of the qualifications, registration and/or experience of an individual professional.

The standard of professional practice required in a given circumstance must be communicated to the applicant or other person or body concerned, in writing and as part of a decision of an organ of HWC.

HWC may require that a name or shortlist of names of professionals involved in a project/proposal be submitted to it for consideration and may reject an individual or team if it is felt that such standards are not met or on the basis of knowledge of precedents set by the professional/s concerned on projects that are comparable to the one under consideration.

5. Regulations and other policies that apply:

The provisions of this policy are to be applied in conjunction with the relevant provisions of other policies of HWC, eg:

- Regulation 12-14, 'National Heritage Resources Act, 1999 (Act 25 of 1999) Regulations made by Heritage Western Cape in Terms of Section 25(2)(h), Provincial Notice 298 of 2003', Province of the Western Cape Provincial Gazette, 29 August 2003
- Archaeology, Palaeontology and Meteorites Committee Copermit Policy.
- Draft proposed basic requirements of a Heritage Impact Assessment ito Section 38 of the National Heritage Resources Act, 1999

Adopted by the Council of Heritage Western Cape, 28 February 2013



HWC Site Inspection Guidelines

Due to the number of heritage resources in the Western Cape relative to the number of officials, the need to conduct site inspections is assessed on a case by case basis.

1. The following criteria must be considered by the ASD: Professional Services and/or the relevant committee of HWC Council when determining whether a case requires a site inspection:

1.1 Illegal action

Is a site inspection required to verify if illegal work has occurred?

Is a site inspection required to establish if a heritage resource is under threat?

1.2 Significance of resource

How significant is the resource to be inspected?

Can significance be determined by the information available to HWC?

1.3 Location of the site

How far is the site located from Head Office?

2. Once the above criteria have been assessed, the decision can be granted by the ASD: Professional Services and/or the relevant committee of HWC Council for a site inspection to be conducted.

The assessment of the above criteria must be included in the site inspection report as the motivation for conducting the site inspection.

3. No longer than 48 hours after a site inspection has been conducted, a site inspection report must be drafted by the official who participated in the site inspection. This report must then be placed on the next relevant agenda.

Approved: 3 June 2015

Signed:

Interim CEO

Dr E. Myburg

www.capegateway.gov.za/culture_sport

Street Address: Protea Assurance Building, Green Market Square, Cape Town, 8000 • Postal Address: Private Bag X9067, Cape Town, 8000
• Tel: +27 (0)21 483 5959 • E-mail: hwc.hwc@westerncape.gov.za

Straatadres: Protea Assuransie-gebou, Groentemarkplein, Kaapstad, 8000 • Posadres: Privaatsak X9067, Kaapstad, 8000
• Tel: +27 (0)21 483 5959 • E-pos: hwc.hwc@westerncape.gov.za



HERITAGE WESTERN CAPE

GUIDELINES FOR PUBLIC MONUMENTS AND MEMORIALS

Adapted from the "Public Monuments and Memorials Project by SAHRA for DAC" (2003) and amended following the public consultation meeting held at Freedom Park on 17 April 2015 on the Transformation of the Heritage Landscape in South Africa

Approved: 26 August 2015

- 1 DEFINITIONS (based on those in the National Heritage Resources Act, 1999 (Act 25 of 1999))
- 2 PRINCIPLES
- 3 IDENTIFICATION
- 4 ASSESSMENT OF CULTURAL SIGNIFICANCE
 - 4.1 Individual monuments and memorials
 - 4.1.1 Artistic value
 - 4.1.2 Historical, social and political value
 - 4.1.3 Environmental and spatial qualities
 - 4.2 Public monuments and memorials as a collection
- 5 MANAGEMENT
 - 5.1 Protection and grading
 - 5.2 Responsibility for maintenance
 - 5.3 Consultation
 - 5.4 Decision-making
 - 5.5 Presentation and promotion
- 6 REDRESSING PAST INEQUITIES
 - 6.1 Review of existing monuments and memorials
 - 6.1.1 Reinterpretation
 - 6.1.2 Relocation
 - 6.1.3 Recycle
 - 6.1.4 Reinstatement
- 7 APPLICABILITY OF THIS GUIDELINE

"Our heritage celebrates our achievements and contributes to redressing past inequities. It educates, it deepens our understanding of society and encourages us to empathise with the experience of others. It facilitates healing and material and symbolic restitution ... "

The Preamble to the National Heritage Resources Act (NHRA) (para 2) seems to have been written specially for monuments and memorials, which should demonstrate, visibly and publicly, all these qualities.

1. DEFINITIONS

"cultural significance" means aesthetic, architectural, historical, scientific, social, spiritual, linguistic or technological value or significance

"HWC" means Heritage Western Cape, the Western Cape provincial heritage resources authority established in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999)

"local authority" means means a municipality as defined in section 10B of the Local Government Transition Act, 1993 (Act No. 209 of 1993)

"planning authority" means an office of the State, including a province, a local authority or a regional authority, which is invested with a physical planning capacity

"national estate" means the heritage resources of South Africa which are of cultural significance or other special value for the present community and for future generations as set out in section 3 of the NHRA

"NHRA" means the National Heritage Resources Act, Act 1999 (Act 25 of 1999)

"public monuments and memorials" means all monuments and memorials

- (a) Erected on land belonging to any branch of central, provincial or local government, or on land belonging to any organisation funded by or established in terms of the legislation of such a branch of government, or
- (b) Which were paid for by public subscription, government, funds, or a public-spirited or military organisation, and are on land belonging to any private individual

2 PRINCIPLES

Public monuments and memorials have cultural significance or special value and are therefore considered to be part of the national estate. They are protected as heritage resources (section 27 or 37) and managed, generally, through placement on the heritage register.

This guideline recognizes the ability of public monuments and memorials to reflect the whole of South Africa's history and to express the identity of the nation which includes different cultural groups.

Public monuments and memorials have a capacity for redress of past inequities. This guideline aims to provide principles for managing existing and creating new monuments and memorials and to establish processes for identifying, assessing and managing monuments and memorials.

3 IDENTIFICATION

This guideline deals with structures, memorials, statues erected on public or privately owned space (including their plinths) and other immovable objects which commemorate a person, group, organization or event and are situated on public or private open spaces.

Monuments and memorials should be included when an inventory is compiled by the planning authority (see section 30(5) of the NHRA) or at the initiative of HWC if it is of the opinion that such a need exists, taking into account the guidelines for grading of heritage resources in HWC's *A Short Guide to Grading* to propose a grading of each monument or memorial, taking their significance into account. This inventory should be submitted to HWC, which shall list those heritage resources which fulfil the assessment criteria in the heritage register.

The grading of monuments and memorials will determine who the responsible heritage resources authority is, and in many cases this could be the local planning authorities if deemed competent.

As part of the national estate, monuments and memorials throughout the country, in urban and rural areas, are therefore to be identified and recorded.

4 ASSESSMENT OF CULTURAL SIGNIFICANCE

Monuments and memorials may have cultural significance in their own right as structures, and/or their significance may reside in the person(s) or event they commemorate. Cultural significance, as based on the NHRA and applied to monuments and memorials, includes:

- the potential to yield information that will contribute to an understanding of South Africa's cultural heritage (section 3(3)(c)).
- particular aesthetic characteristics valued by a community or cultural group (section 3(3)(d)).
- strong or special association with the life and work of a person, group or organization of importance in the history of South Africa (s 3(3)(n)).

Perhaps most important, and present in all monuments and memorials, is the intangible aspect which is the basis for the tangible - the actual monument or memorial. The artist should employ symbolism that can communicate over time and across different cultures.

4.1 Individual monuments and memorials

A checklist of information about individual monuments and memorials is necessary to establish their cultural significance. It can be used for various types of monuments and memorials, eg statues, obelisks, plaques.

Further criteria that can be applied to determine the grading of monuments and memorials and consequently protection and responsibility for their management are intrinsic, comparative and contextual significance.

4.1.1 Artistic or aesthetic value

- Artist who made/created/designed it
- Type/style/design
- Quality of materials, workmanship, technical achievement
- Visual characteristics, impact, appropriateness (abstract/representational, scale)
- Artistic symbolism that can be understood
- Ability to communicate across different cultures
- Cultural groups / part(s) of the community by whom the values are shared

4.1.2 Historical, social and political value

- History of the person, group, organization or event that is commemorated
- The message that the monument or memorial was intended to convey at the time; to what extent it succeeded (Queen Victoria = colonial domination; war memorial = honouring the dead, gratitude for *their* sacrifice for their country)
- The current knowledge/understanding/meaning of the monument or memorial; has it changed from the original. Is a different message now being conveyed
- Date when was it put up, at whose suggestion it was erected, who paid for it, unveiled by whom
- Has it been relocated at any time of its existence? Why was it relocated to the present site?
- The part of the community by which the monument or memorial is valued
- Language(s) of the inscription or dedication, and is it inclusive (eg war memorials)

4.1.3 Environmental and spatial qualities

- Relationship (or lack of) between who or what is being commemorated and the place where the monument or memorial stands
- Original site of the monument or memorial, the reasons for the placing of the monument or memorial at that site or its earlier relocation to its current site
- Any significant changes in its environment and its spatial qualities since it were erected?
- Significance or not of orientation
- Spatial or other relationship of the monument or memorial with any other or with features in its vicinity
- Appropriateness of environment/landscape

4.2 Public monuments and memorials as a collection

Taken together as a collection, monuments and memorials can be assessed in much the same way as individual ones. Connections between and repetition of commemoration of person(s) or events in different places must be established and taken into consideration (see 6.1 below). The reasons for

repetition (or duplication) or monuments or memorials should be established; it may be that the person(s) played an important part in or the event affected several parts of the country.

Representivity of monuments and memorials as a collection (locally and across the province) should be assessed and taken into consideration (see 5.1 below). War memorials, particularly for the First and Second World Wars, can be found in most towns and cities. They are memorials to those who died outside the country while fighting for it, whose bodies have not been repatriated. Some of them have rolls of honour which list the names of those who died and others have only a general dedication.

5 MANAGEMENT OF MONUMENTS AND MEMORIALS BY VARIOUS AUTHORITIES

5.1 Protection and grading

Protection of monuments and memorials as heritage resources is "in the same manner as places entered in a heritage register" (section 27 or 37), i.e. Grade II or III (see above under 4). They would therefore be managed by a HWC or the local authority which should make by-laws in terms of the national policy and the NHRA.

Monuments and memorials situated in a national heritage area or a national heritage site will be managed as part of that national area or national heritage site. A monument or memorial that complies with the criteria may be Grade I in its own right. In both cases it would be managed in terms of an agreement between Heritage Western Cape and SAHRA.

5.2 Responsibility for maintenance

The condition of the monument or memorial and the place where it stands, the landscaping, and information or interpretation provided at the monument or memorial can influence the perceptions of viewers, that is, add to or detract from their understanding and enjoyment of a monument or memorial.

Maintenance and repair of the monument or memorial and the land on which it stands are the responsibility of the owner of the monument or memorial and of the landowner respectively unless another agreement is in place. Overall management responsibility lies with the heritage resources authority or local authority, which should establish, record and keep up to date the information about ownership and responsibility.

Should a monument or memorial be defaced, or when it requires maintenance, care should be taken when it is cleaned to ensure that the correct cleaning and conservation methods are used.

The owner or, where it is any sphere of government (local, provincial or national) or public body should ensure that a conservation management plan for each monument or memorial is developed. This should include maintenance, repair, cleaning, etc. that is aimed to conserve the cultural significance of the monument or memorial for educational, aesthetic and tourism purposes.

5.3 Consultation

There is a strong requirement in the NHRA for consultation by the responsible authorities with relevant conservation bodies registered with HWC or the local planning authority. In view of the sensitivities concerning the possible removal of monuments and memorials from their current positions and the public's reaction, the widest possible consultation should be undertaken by the applicant where applications for any removal or alteration are considered. The same should apply where proposals for new monuments and memorials are to be considered.

Especially when there is conflict about a monument or memorial it is advisable that current public opinion should be widely canvassed in the media and by means of meetings, etc. Public perceptions and reasons for them, as well as any discrepancies with the cultural significance must be noted by the responsible authority. Stakeholders such as people who have contributed financially to the monument or memorial have a right to be consulted.

5.4 Decision-making

5.4.1 Local planning authorities and local authorities

According to section 30(11) of the NHRA the local authority considers applications for any alteration to a monument or memorial that does not fall within a provincial or national heritage site, and it must consult the owner(s), planning authority, the heritage resources authority and relevant conservation bodies / non-government organizations. It must also act according to this guideline, its own relevant protective provisions and the spirit of the NHRA.

Applications and proposals must be submitted in writing with the necessary information and must be properly motivated. The application should include, as far as possible, supportive research and a statement on the cultural significance of the monument or memorial as well as the outcome of any public consultation processes undertaken by the applicant. Proposals for individual monuments or memorials must be considered on their own merit and in relation to any implications for the representivity of the collection whether relevant at a local, regional or national context.

The cultural significance must be assessed (see 4 above) and must be a determining factor when alterations are being considered. It is vital that intangible values and any symbolic or other connection between the monument or memorial and its site be acknowledged. When an application or proposal is to be considered by a local authority it could consider the appointment of an advisory panel of experts, including qualified specialists from the fields of art/sculpture/public art, town planning, history (including local, social, military), and culture/heritage as well as political and religious leaders.

5.4.2 Heritage Western Cape, the Western Cape provincial heritage resources authority

HWC will consider all applications in terms of section 27(18) of the NHRA for the possible destruction, excavation, alteration or removal from its position of a monument or memorial situated on a provincial heritage site through its normal application processes. Applications will only be considered if they comply with all the HWC requirements and public consultation processes have

been concluded. Applicants must indicate what the intention is regarding the proposed future position and care of the monument or memorial should the application be for the removal from its current position and who will be responsible for the future care and maintenance of the monument or memorial.

5.5 Presentation and promotion

Heritage resources authorities and local authorities must co-ordinate the presentation and use of places of cultural significance "for public enjoyment, education, research and tourism" (s44).

Information about monuments and memorials should be available both at the site (e.g. story-boards) and at central points such as tourist information offices and libraries or posted on websites or tourism sites. Where there is a local collection of monuments and memorials they may be marketed as a route or urban trail which will take viewers through interesting parts of a town or city to see monuments or memorials which "tell" the story of the place, or are unusual examples of a theme, etc.

In the extreme case where a monument or memorial is removed from its position, a suitable plaque should be placed to mark the position and relevant information pertaining to the monument or memorials position at the site. Care should be taken to ensure that the plaque be manufactured from suitable material and that it is installed in a suitable manner to ensure longevity and prevent possible vandalism.

6 REDRESSING PAST INEQUITIES

It is clear that existing public monuments and memorials do not reflect the whole of South African history, nor do they express the identity of the nation which includes different cultural groups. To redress the balance ("to take action to restore equality in a situation") the first steps for local communities and authorities are to reconsider existing monuments and memorials and to create new ones (see 6.2 below).

6.1 Review of existing public monuments and memorials

While feelings and emotions play an important part in people's responses to monuments and memorials and must be taken into account, it is equally true that little is generally known about existing monuments and memorials, which are then judged only according to perceptions.

In reviewing monuments and memorials the responsible authorities must establish the cultural significance, consult the public and follow procedure/process (see 5.3 and 5.4 above). Hasty decisions may have far-reaching consequences and are to be avoided. The options described below should be investigated in turn to find the least intrusive and most effective way of redressing the balance. The monetary costs of alteration must be investigated and factored in to decision-making.

While each application must be assessed on its own merits, in general it is better to reinterpret than to relocate and better to relocate than recycle or destroy.

6.1.1 Reinterpretation, promotion and education

To improve or enhance understanding of monuments and memorials the first option must be to provide supplementary information about the cultural significance at the site of the monument or memorial. This is in line with presentation (see 5.5 above). Historical facts and new interpretation of the significance of the person(s) or event that is commemorated will assist viewers and visitors to understand and make their own judgement about the monument or memorial.

6.1.2 Relocation

When a monument or memorial is thought to be contentious or offensive the nature of and reason for the complaint must be stated. Any proposal that implies an alteration (such as relocation or removal) must be considered by the responsible authority (see 5.3 and 5.4 above) after consultation with the affected communities and parties and the costs associated with the relocation, together with the plinth, should also be established and budgeted for. The necessary authority (permit) should be granted by HWC or the local authority for the proposed relocation. It would be advisable to ensure that suitably qualified persons be employed to oversee the relocation of the monument or memorial.

If a monument or memorial has no inherent connection with the place where it stands or if it has previously been moved from somewhere else, or the environment in which it stands has changed, relocation may be appropriate. The place to which a monument or memorial is to be moved should have some connection with it and should provide a suitable environment for it to be viewed and enjoyed.

6.1.3 Recycle

When a monument or memorial is found to be contentious or offensive when assessing the cultural significance thereof, the nature of and reason for the complaint must be stated. Any proposal for recycling implies an alteration and must be considered by the responsible authority (see 5.3 and 5.4 above).

Only in exceptional circumstances may recycling or demolition be contemplated as a last option. At the place from which a monument or memorial has been removed the reason for the removal and at the place to which it has been relocated should be recorded. Furthermore, removal can only take place after consultation with the affected communities and/or parties have been concluded, and the costs associated with the removal, together with the plinth (where applicable), has been established and budgeted for and the necessary authority has been granted for the removal by HWC or the local authority. . It would be advisable to ensure that suitably qualified persons be employed to oversee the documentation prior to removal and the actual removal of the monument or memorial.

It may be advisable to establish a suitable, safe place(s) to which these controversial monuments or memorials may be moved and where they can be viewed by members of the public who wish to go to see them.

6.1.4 Reinstatement

Careful consideration should be given to what happens at the place from which a monument or memorial is to be (re)moved. Information about the relocation or removal from the place should be provided (e.g. story-board) and the landscaping should be adapted as appropriate. Generally replacement with another monument or memorial is not advisable as it may give offence.

7. APPLICABILITY OF THIS GUIDELINE

This guideline should apply to decisions made by HWC and should guide local planning authorities in the Western Cape in developing policies and procedures to deal with monuments and memorials at local level.

DRAFT



iLifa leMveli leNtshona Koloni
Erfenis Wes-Kaap
Heritage Western Cape

FINANCIAL POLICIES



iLifa leMveli leNishona Koloni
Erfenis Wes-Kaap
Heritage Western Cape

HERITAGE WESTERN CAPE

Remuneration of members Policy

www.capegateway.gov.za/culture_sport

Street Address: Protea Assurance Building, Green Market Square, Cape Town, 8000 • **Postal Address:** Private Bag X9067, Cape Town, 8001 • **Tel:** +27 (0)86 142 142 • **Fax:** +27 (0)21 483 9842 • **E-mail:** hwc@pgwc.gov.za

Straatadres: Protea Assuransie-gebou, Groentemarkplein, Kaapstad, 8000 • **Posadres:** Privaatsak X9067, Kaapstad, 8001 • **Tel:** +27 (0)86 142 142 • **Fax:** +27 (0)21 483 9842 • **E-pos:** hwc@pgwc.gov.za

REMUNERATION OF MEMBERS

1. OBJECTIVE

- ❖ To facilitate the payment to members of the Heritage Western Cape (Hereinafter referred to as the "Council") nominated to attend conferences, projects, meetings, workshops, site visits and reading documents.

2. SCOPE

- ❖ This policy is applicable to the members of the Heritage Western Cape appointed by the Minister of Cultural Affairs and Sport as per National Heritage Act of 1999 to advise the Minister on the implementation of this Act or relevant provisions.

3. PROCEDURE

- ❖ The Secretariat must draft number of meetings; venue, dates for the year and these dates must be tabled in the Heritage Western Cape Council meeting for approval.
- ❖ Once approval has been granted with the proposed dates and venue, the secretariat must issue dates to the council, committees and sub committees.
- ❖ It is therefore the duty of the secretariat to send invitations to members for meetings in consultation with the chairperson of the Council, chairperson of the committees and sub committees for the year.

4. ATTENDANCE BY MEMBERS

4.1 MEETINGS

- ❖ Members will be compensated for meeting allowances, based on an hourly rate in accordance with the National Treasury's Circular on Remuneration of members.
- ❖ A schedule of meetings will be forwarded by the HWC secretariat for the calendar year and a reminder will be sent on time to all relevant members.
- ❖ For this type of attendance, a member will only be compensated meeting allowance, parking, accommodation, and travelling and subsistence allowance as per GMT.

4.2 CONFERENCES, PROJECTS AND WORKSHOPS

- ❖ Approval to attend conferences, projects and workshops with a financial implication is delegated to the Accounting Authority. The invitation to attend a conference, projects and workshops must be submitted to the Council for recommendation.
- ❖ A member will be allowed to attend one (1) conference, project and workshop per calendar year and will be funded by HWC.
- ❖ Only two (2) members may represent HWC at external conferences, project and workshop and they will be funded.
- ❖ Members are all entitled to attend internal conferences, projects and workshops.
- ❖ All conferences, projects and workshops must be within the borders of the Republic of South Africa.
- ❖ The accommodation cost is limited to an amount R600.00 per day up to maximum of 5 days and the conference, projects and workshops. fee may not exceed R2500.00
- ❖ Transport costs are limited to the approved Government Transport Tariff per kilometer or economy class airplane tickets.

- ❖ Approval for attendance of ad hoc conferences, projects and workshops is subject to the availability of funds on the approved budget of Heritage Western Cape.
- ❖ Criteria will be used to judge the merits of an application from a member to attend a conference, project and workshop on behalf of the HWC, to the benefit of the Council.
- ❖ In the event that the Chairperson is invited to a conference, project and workshop and she/he cannot attend, a person must be nominated to attend the said conference, project and workshop. It is preferable that a rotation system be used to afford all members an opportunity to present the Council at these kinds of conferences, projects and workshops.
- ❖ For this type of attendance, the member will only be paid travelling and subsistence allowance that means kilometers travelled as per GMT, parking and not meeting allowance.

4.3 REMUNERATION OF MEMBERS

- ❖ An official member employed in terms of Public Service Act of 1999 may not receive meeting allowance. Subsistence and other allowances may be paid to the official member by the HWC that has employed the official as a member in accordance with the National Heritage Act of 1999
- ❖ Members must be remunerated according to scales approved by the National Treasury.
- ❖ The Heritage Western Cape members will be paid on hourly rate as per Paragraph 353 of the policy
- ❖ Should the Accounting Authority deem necessary, he or she can in consultation with the Executive Authority, determine other remuneration, provided that :
 - a) Terms of reference are properly defined in terms of time and cost and
 - b) If applicable, the remuneration is considered taking into account the tariffs as determined by the institute that regulates the profession that the members belongs to.

- ❖ These types of remuneration includes but is not limited to;
 - a) Payment of honorarium to render services in his or her private time, other than the normal preparation for meeting, as determined by the Accounting Authority.
 - b) In the event of an official, employed according to Section 30 of the PSA of 1994 that particular official will only be paid T&S for any expenditure incurred.

- ❖ The remuneration of all members of Heritage Western Cape must be disclosed as notes to the financial statements of the entity.

- ❖ Members will only be remunerated T&S for any conference, projects, site visits and workshops attended on behalf of the Heritage Western Cape.

- ❖ Only the following committees will be remunerated for time spent on documents:
 - a) Belcom – maximum of 2 hours
 - b) Appeals – maximum of 2 hours
 - c) APM – maximum of 3 hours
 - d) Survey – maximum of 3 hours
 - e) Word Interpretation – maximum of 2 hours
 - f) IARCom – maximum of 3 hours
 - g) Declaration Review Committee – maximum of 3 hours

- ❖ The following two committees will not be remunerated for time spent on documents namely Council and Exco.

5. RE-IMBURSEMENT FOR SUBSTANCE AND TRAVEL CLAIMS

A. Members are only entitled to claim for the following actual expenditure:

- ❖ Parking (slips must be submitted within ten days from the date of the meeting)
- ❖ Kilometers travelled as per tariffs for use of motor transport, including members appointed for site visit.
- ❖ Food/Meals
- ❖ Accommodation

B. Members are not entitled to claim for the following:

- ❖ Alcohol beverage or desert containing alcohol (e.g. Dom Pedro or Irish coffee)

- ❖ Telephone calls
- ❖ Tips and newspapers

- ❖ Meeting allowance for workshops, projects, site visit and conference attendant.

C. For the purpose of uniformity as far as expenses among the directorates of Heritage Western Cape are concerned and in order to manage the budget effectively and efficiently, the following substance rates are used as criteria and will be regarded as reasonable: This will be on a claim basis where actual receipts are provided and only applicable to out of town for more than (24) twenty-four hours, as per departmental finance instruction 1/2010

Breakfast	R 60.00
Lunch	R 80.00
Dinner	R 120.00

6. PAYMENT PROCEDURES

- ❖ To improve cash flow management the following timelines for the submission of claims are introduced and must be strictly adhered to:

- ❖ When a possible claim arises because of a planned or unplanned item, event or journey that causes a debit against the entities budget, the claim must be submitted within:
 - Kilometers travelled as per GMT = (10) ten days
 - T & S claims = (10) ten days
 - Parking slips =(10) ten days

- ❖ Should the original as well as the copy of an invoice/receipt be lost, the responsible member must hand in a sworn affidavit in this regard to specify the name of Hotel/Guest House, Restaurant, Shop, amount spent and also the date.

- ❖ Suitable records must be kept to prevent double payment of claims wholly or in part.

- ❖ The following documents must be attached:
 - Claim form signed by a member, chairperson and secretary with the relevant date.
 - Invitation for meeting, conference, site visit, project and workshop should be attached
 - Attendance register approved by the chairperson
 - Invoices for meals, parking and accommodation.

7. GENERAL GUIDELINES

- ❖ By the seventh of each month, all documentations for previous month must be handed over to finance department.
- ❖ Payment run will be scheduled for the 25th of each month directly to member's bank accounts.

8. APPROVAL

A.B. Hall

Accounting Authority

Mr. A.B Hall

Date: *2 Aug 13*



POLICY IN TERMS OF OTHER LEGISLATION



HERITAGE WESTERN CAPE SECTION 14 MANUAL

In fulfillment of Section 14 of the Promotion of Access to Information Act, 2000 (Act 2 of 2000)

Date of last amendment: 18 March 2015

The Promotion of Access to Information Act (Act 2 of 2000), gives effect to the public's right to information from public and private bodies provided for in Section 32 of the Constitution in order to promote transparency and accountability and to advance the development of good governance.

www.capegateway.gov.za/culture_sport

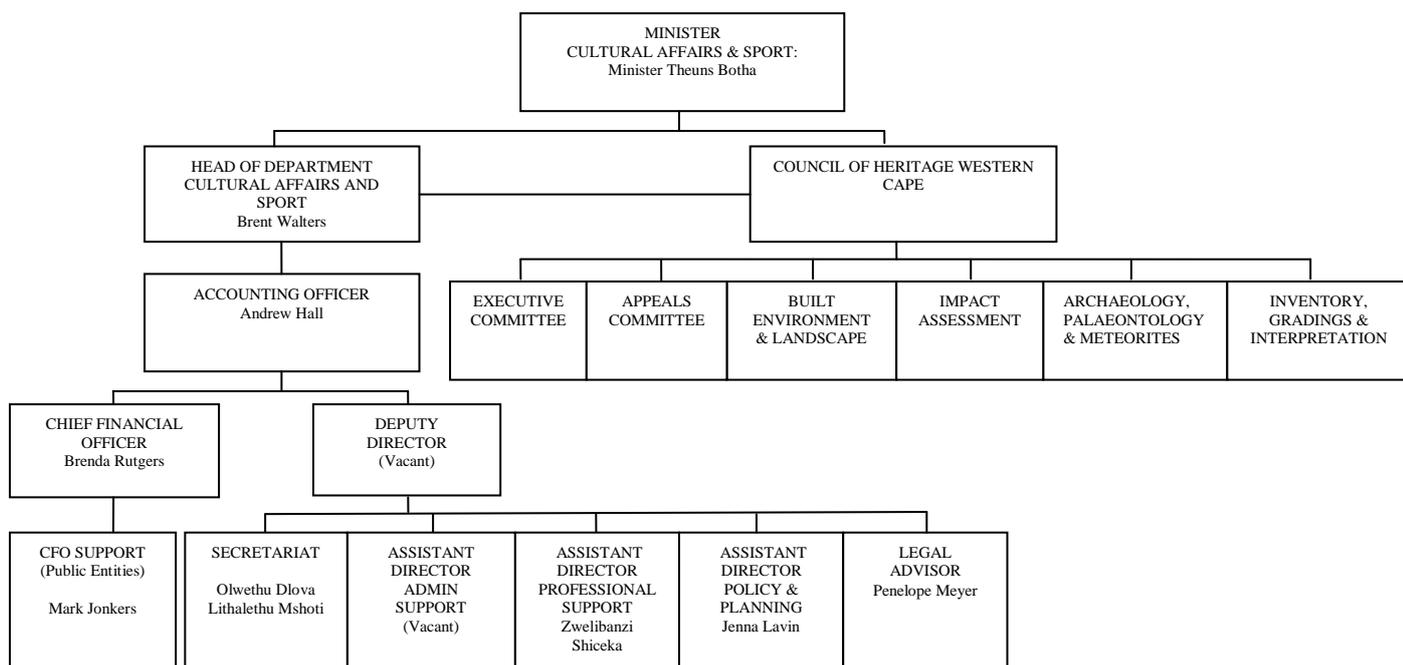
Street Address: Protea Assurance Building, Green Market Square, Cape Town, 8000 • **Postal Address:** Private Bag X9067, Cape Town, 8001
• **Fax:** +27 (0)21 483 9842 • **E-mail:** hwc@pgwc.gov.za

Straatadres: Protea Assuransie-gebou, Groentemarkplein, Kaapstad, 8000 • **Posadres:** Privaatsak X9067 Kaapstad, 8001
• **Fax:** +27 (0)21 483 9842 • **E-pos:** hwc@pgwc.gov.za

CONTENTS

- 1. Structure and Functions of HERITAGE WESTERN CAPE**
- 2. Contact details of the Information Officer**
- 3. Guide on the use of the Act from the South African Human Rights**
- 4. Records**
 - 4.1 Description of subjects of the files of the HERITAGE WESTERN CAPE**
 - 4.2 Records automatically available**
 - 4.3 Request procedures**
- 5. Services available to the public**
- 6. Arrangements allowing for public participation in policy formation and the exercising of the powers of HWC**
- 7. The remedies available if the provisions of this act are not complied with**

1. **STRUCTURE AND FUNCTIONS OF HERITAGE WESTERN CAPE**



Heritage Western Cape is the provincial heritage resources authority for the Western Cape region established by the MEC for Arts, Culture and Sport in January 2003 in terms of the National Heritage Resources Act, No 25 of 1999.

The functions of Heritage Western Cape are as follows:

- Annually submit a report to the Minister regarding its activities during that year;
- Promote the systematic identification, recording and assessment of heritage resources, which form part of the national estate in the Western Cape;
- Protect and manage heritage resources in a province, which fulfil the heritage assessment criteria prescribed under section 7(10) for Grade II status;
- Notify the South African Heritage Resources Agency of the presence of any heritage resources in the Western Cape which it considers fulfils the heritage assessment criteria prescribed under section 7(1) for Grade I status, nominate such resource for national level protection and furnish SAHRA with the information in its possession relating to such resource;
- Maintain data bases on heritage resources in accordance with national standards, and at regular intervals furnish SAHRA with such data;
- Establish policy, objectives and strategy plans for heritage resources management in the Western Cape;
- Determine competence of local authorities to manage heritage resources in accordance with the national system for the heritage grading of local authorities prescribed under section 8(6);
- Furnish information, advice and assistance to enhance public sensitivity towards and awareness of the need for management of the national estate;

- Maintain a list of conservation bodies which have, in accordance with regulations by Heritage Western Cape, registered their interest in –
 - (i) a geographical area; or
 - (ii) a category of heritage resources;
- Regularly inspect heritage resources which are formally protected by Heritage Western Cape in terms of any provisions of Part I of Chapter II of the Act;
- Endeavour to assist any community or body of persons with an established interest in any heritage resource to obtain reasonable access to such heritage resource, should they request it, and may, for the purpose –
 - (i) enter into negotiations with the owner of such resource;
 - (ii) facilitate the making of arrangements as may be required of the achievement of such access, including the execution of a heritage agreement under section 42; and
 - (iii) if such negotiations are unsuccessful, refer the matter to the MEC,
- Make arrangements to ensure the protection and management of all heritage resources and property owned or controlled by it or vested in it;
- Promote and engage in research relating to the identification, assessment and management of the national estate as necessary for the performance of its functions;
- Publish, or by any other means make available or distribute in any form, or cause to be published or distributed, any knowledge and information relating to the national estate and any of its functions or activities;
- Inspect or document any heritage resource –
 - (i) which has the potential to become protected in terms of the Act;
 - (ii) which is, or which Heritage Western Cape has reason to believe may be, so protected; or
 - (iii) which it wishes to document for research purposes, for purposes of building up a public record of heritage resources or as part of an investigation into a suspected offence in terms of the Act; and must maintain a register of such inspections;
- Whenever it is investigating the desirability of protecting any place in terms of the Act, take such steps as it considers necessary –
 - (i) for erecting beacons on the corners of and surveying and preparing a diagram or plan of such place; or
 - (ii) for determining by survey the location of such place or object in relation to the beacons and boundaries of the land on which it is situated;
- Undertake or make arrangements for the presentation of any place under its control or, after consultation with the Department concerned, any heritage site which is owned by the State;
- By agreement with the authority or body concerned, co-operate in the management of any heritage resource which is owned or controlled by the State or a supported body;
- Co-ordinate and monitor the performance of local authorities in the implementation of their responsibilities in terms of the Act and provincial heritage legislation;

- Assist local authorities to manage heritage resources in the Western Cape; and
- Provide for any areas of responsibility in terms of the Act or any provincial heritage resources legislation when a local authority does not have competence, or has insufficient capacity, to perform a function in terms of the criteria prescribed under section 8(6) of the Act.
- Lend anything under its control to a museum or public institution, subject to such conditions as it deems necessary and appropriate;
- Subject to the provisions of section 59, make and from time to time amend regulations relating to any matter which Heritage Western Cape considers to be necessary or expedient to prescribe to fulfil its functions and implement its powers and duties under the Act;
- Create and where necessary register with the relevant authorities a badge, or an emblem for the authority, any of its projects or any category of protection provided for in terms of the Act;
- Where appropriate, affix to or otherwise display at any place protected in terms of the Act a badge or other sign indicating its status;
- Produce, acquire and market products relating to the national estate, or enter into arrangements for the production, acquisition and marketing of such products;
- Recover costs incurred by it and, where appropriate, charge for the provision of services rendered in terms of the Act;
- Arrange for the provision of insurance cover for
 - (i) itself against any loss, damage, risk or liability which it may suffer or incur regarding any property under its control
 - (ii) members of the council of Heritage Western Cape, co-opted members, members of committees and members of its staff, in respect of bodily injury, illness, disablement or death incurred wholly and directly in the course of the performance of their duties on behalf of the heritage resources authority concerned;
- Enter into contracts; and
- Employ consultants to assist in the performance of its functions.

2. CONTACT DETAILS OF THE INFORMATION OFFICER

Mr Andrew Hall
Chief Executive Officer: Heritage Western Cape
3rd Floor
Protea Assurance Building
Greenmarket Square
Cape Town
8001
or
Private Bag x9067
Cape Town
8000

Tel : 021- 483 5959

Fax : 021- 483 9845

Andrew.Hall@westerncape.gov.za

3. GUIDE ON THE USE OF THE ACT FROM THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

The guide will be available from the South African Human Rights Commission during 2007 and enquiries in this regard should be addressed to:

South African Human Rights Commission
Section responsible for the Act on Promotion of Access and Information.
Research and Documentation Department

Postal Address: Private Bag 2700
HOUGHTON
2041

Tel.: (011) 484-8300

Fax: (011) 484-1360

Website: www.sahrc.org.za

E-mail: PAIA@sahrc.org.za

4. RECORDS HELD BY HERITAGE WESTERN CAPE

It should be noted immediately that Heritage Western Cape does, in fact, not hold its own records: all of the records of Heritage Western Cape are held by the Human Resources Branch of the Department of Arts, Culture and Sport, PG: WC and are held on the 4th floor of the Protea Assurance Building, that is, one floor above Heritage Western Cape's offices on the 3rd floor of the same building.

4.1 Description of the Subjects and Categories or Records

- Legislation, regulations and policies
- Financial records
- Annual Reports and strategic plans
- Minutes and agendas
- Individual property files including detailed information relating to heritage resources and applications relating to those heritage resources
- Heritage registers of provincial heritage sites and other heritage resources

4.2 Records Automatically Available

- All legislation, regulations and policies
- All annual reports and strategic plans
- All minutes and agendas, recordings and transcripts, excluding sections of meetings specifically decided to be confidential by the committee concerned
- All individual property files and applications, excluding legal opinions written for Heritage Western Cape or for any applicant or interested and affected party and excluding any document where a copyright may be infringed
- Heritage registers of provincial heritage sites and other heritage resources

Any copies requested shall be paid for by the requester at the standard rate charged by the Department of Arts, Culture and Sport for copies.

4.3 Requesting Procedures

A requester must be given access to a record of a public body if the requester complies with the following:

The requester complies with all the procedural requirements in the Act relating to the request for access to that record; and

Access to that record is not refused on any ground of refusal mentioned in the Act.

Nature/form of the request:

If the record requested is *a record automatically available* (see above) the requester must make the request using the HWC PAIA form attached to this document as Annexure A.

If the record requested is *not a record automatically available* the requester must make the request using the form that has been printed in the Government Gazette [Govt. Notice R187- 15 February 2002, Form A].

The requester must also indicate if the request is for a copy of the record and/or if the requester wants to look at the record at the offices of Heritage Western Cape.

Alternatively, if the record is not a document, the requester must indicate where it can be viewed/heard and in what form [s 29(2)].

If a person asks for access in a particular form then the requester should get access in the manner that has been requested.

This is unless doing so would interfere unreasonably with the running of the public body concerned, or damage the record, or infringe a copyright not owned by the state.

If, for practical reasons, access cannot be given in the required form but in an alternate manner, then the fee must be calculated according to the way that the requester first asked for it [s 29(3) and (4)].

If, in addition to a written reply to their request for the record, the requester wants to be told about the decision in any other way, for example, by telephone, this must be indicated [s 18(2)(e)].

If a requester is asking for the information on behalf of somebody else, the capacity in which the request is being made should be indicated [s 18(2)(f)].

If a requester is unable to read or write, or has a disability, then they can make the request for the record orally. The information officer must then fill in the form on behalf of such a requester and give them a copy [s 18(3)].

There are two types of fees required to be paid in terms of the Act, being the request fee and the access fee s22:

A requester who seeks access to a record containing personal information about that requester himself/herself is not required to pay the request fee.

Every other requester, who is not a personal requester, must pay the required request fee.

The information officer must notify the requester (other than a personal requester) by notice, requiring the requester to pay the prescribed fee (if any) before further processing the request.

The request fee payable to public bodies is R35. The requester may lodge an internal appeal, where appropriate, or an application to the court against the tender or payment of the request fee.

After the information officer has made a decision on the request the requester must be notified of such a decision in the way in which the requester wanted to be notified in.

If the request is granted then a further access fee must be paid for the search, preparation, reproduction and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure.

5. SERVICES AVAILABLE TO THE PUBLIC

Deliver services regarding the powers and duties of Heritage Werstern Cape determined by the Provincial Notice P.N. 336 dated 25 October 2002 and published in the *Provincial Gazette* No. 5937 dated 25 October 2002;

Provides information through the website of Heritage Western Cape, through the wide distribution of annual reports, brochures, and pamphlets, and when contacted through the Heritage Western Cape.

6. ARRANGEMENTS ALLOWING FOR PUBLIC INVOLVEMENT IN THE FORMULATION OF POLICY AND THE EXERCISE OF POWER OF HWC

Legislation determines that the members of Heritage Werstern Cape be nominated every three years through a public process.

When a policy is formulated by Heritage Western Cape, each step of the draft document is distributed to interested parties like local municipalities, registered heritage organisations and provincial government departments and institutions.

Individuals and/or organisations are always encouraged to forward heritage related queries and advise on improvement on service delivery to the Heritage Western Cape.

7. THE REMEDIES AVAILABLE IF THE PROVISIONS OF THIS ACT ARE NOT COMPLIED WITH ARTICLE 14(1)(h)

Relevant legislation can make provision for internal review or appeal procedures. A court can also be approached for the applicable order if required.



HWC PAIA Application Form

Erf Number/Farm Name/Address of site/Nature of information required if not related to a site

HWC File Number/Reference Number/Case Number

--

Name of Requester

--

Contact details Phone
Email

Date (DD/MM/YYYY)

	/		/	
--	---	--	---	--

Is the requested record automatically available as per Section 4.2 of the HWC PAIA Manual?

- Yes
 No

Type of file requested as per Section 4.2 of the HWC PAIA Manual

--

Recommendation of Authorised Official

- Grant access to file
- The applicant must make a formal PAIA application as the requested record is not automatically available in terms of Section 4.2 of the HWC PAIA Manual