SECTION 38 OF THE NATIONAL HERITAGE RESOURCES ACT

ILifa leMveli leNtshona Koloni
Erfenis Wes-Kaap
Heritage Western Cape

NOTIFICATION OF INTENT TO DEVELOP, HERITAGE IMPACT ASSESSMENT, (PRE-APPLICATION) BASIC ASSESSMENT REPORTS, SCOPING REPORTS AND ENVIRONMENTAL IMPACT ASSESSMENTS, GUIDELINES FOR SUBMISSION TO HERITAGE WESTERN CAPE

SECTION 38 (1) AND SECTION 38 (8)

As per Section 38 (1) (e) of the National Heritage Resources Act (NHRA), No. 25 of 1999, submission of the Notification of Intent to Develop (NID) must be initiated at the earliest stage of development. Should the development trigger any other legislation, practitioners are able to submit the NID to Heritage Western Cape (HWC) prior to formal submission to other statutory bodies in order to comply with the NHRA. The authority will determine if a heritage impact assessment (HIA) will be required.

Section 38(8) of the NHRA states that if the development activities listed in Section 38(1) must be subjected to an environmental impact assessment (EIA) in terms of NEMA, separate HIA and approval from the relevant heritage resources authority is not required, provided that the environmental authority must:

1. Ensure that if the relevant heritage resources authority requires an HIA, the application fulfils the requirements of the heritage resources authority in terms of Section 38(3) of the NHRA, and
2. The comments and recommendations of the relevant heritage resources authority have been considered prior to granting the environmental authority's consent.

MAKING AN APPLICATION

Notification of Intent to Develop

Should the development trigger the provisions of Section 38(1) and Section (8) a NID must be submitted.

The following information is to be included upon submission:

1. Proof of payment with correct reference number – reference numbers are issued by contacting hwc.hwc@westerncape.gov.za
2. Completed and signed application form
3. Power of Attorney
4. Locality Map
5. Images of the site and its context
6. Additional information pertaining to the heritage of the site

Please note, ALL APPLICATIONS are only accepted via email submission to: ceoheritage@westerncape.gov.za

Street Address: Protea Assurance Building, Green Market Square, Cape Town, 8000 • **Postal Address:** P.O. Box 1665, Cape Town, 8000 • **Tel:** +27 (0)21 483 5959 • **E-mail:** ceoheritage@westerncape.gov.za

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Heritage Impact Assessments

A Heritage Impact Assessment (HIA) must provide insight into the impact of the proposed development on heritage resources and provide mitigation measures to limit the effect of that impact. The HIA must provide the heritage authority with sufficient information to properly assess the significance of resources on and around a site and to understand the short, medium- and long-term consequences of the proposed development on heritage resources so that the heritage authority can make an informed comment or decision on the impacts of a proposed development.

At a minimum, a HIA must include the following:

1. Title page including the HWC and DEAP, DEA or DMR Reference numbers, applicable section of the NHRA, and author information;
2. Executive summary;
3. Table of contents;
4. Background information on the project;
5. If the HIA forms part of a NEMA process, a timeline of where the project is within the approval process must be provided;
6. A description of the property/affected environment;
7. A description of methodology;
8. History and evolution of the site and context;
9. The identification and assessment of the significance of all heritage resources as set out in Sections 3 (2), 3 (3) and / or prescribed under Sections 6 (2) and 7 as per the heritage assessment criteria;
10. The mapping and spatialization of these identified resources. At least two maps are required (a regional map and a more detailed map, including a project polygon indicating the boundaries of the project area);
11. An assessment of the significance of these identified resources;
12. The details and summary of findings of specialist reports requested by HWC;
13. An assessment of the impact of the development on such identified heritage resources;
14. An evaluation of the impact of the development on heritage resources relative to the sustainable social and economic benefits to be derived from the development;
15. The results of consultation with communities and state bodies (e.g. local authorities) affected by the proposed development and other interested parties regarding the impact of the development on heritage resources including unabridged copies of the comments received.

    Should the HIA be within a NEMA process, the applicant may advertise simultaneously. The advert needs to clearly indicate that the consultation includes a call for comment on the HIA which is integrated in the NEMA process;

    The comments must be tabulated in a response table and included with the submission;
16. The consideration of alternatives and any plans for mitigation of any adverse effects during and after the completion of the proposed development;
17. Conclusions;
18. An integrated set of Recommendations;
19. References;
20. Relevant appendices which must include the full reports of any specialist assessments

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Pre-Application Basic Assessment Reports, Scoping Reports and Environmental Impact Assessments

Should HWC be required to comment on any of the pre-application basic assessment reports, scoping reports and environmental impact assessments such report must be submitted via ceoheritage@westerncape.gov.za. The report must clearly indicate the HWC reference number for which the NID was applied for and a copy of the HWC NID response must be included. The prescribed payment fee will be applicable for comments at this stage of submission.

Applicants are strongly advised to familiarise themselves with the HWC committee meeting schedule. HIA's are assessed by either or both the Archaeology, Palaeontology and Meteorites Committee (APM) and the Impact Assessment Committee (IACom). The HIA must be submitted to HWC a minimum of three weeks prior to the scheduled meeting of the relevant committee.

These are guidelines as per Heritage Western Cape requirements. This does not exonerate owners and applicants from applying to their relevant municipality or any other statutory authority for necessary approvals.

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Relevant legislation, application forms, meeting schedules and other relevant documentation can be downloaded via:

www.hwc.org.za / www.westerncape.gov.za/public-entity/heritage-western-cape

For enquiries please contact the office of the CEO:

ceoheritage@westerncape.gov.za