



WEST RAND HERITAGE CONSULTANTS

The role of Municipalities in Heritage Resource Management

Local and provincial governments have a vital role to play in the management of heritage resources and have been included as major role players in the National Heritage Resources Act, Act 25 of 1999 (NHRA). The management of heritage resources is a statutory core function at local government, with duties deriving from the NHRA. Application of the NHRA applies throughout the Republic and applies to actions of the state and local authorities (Section 4(a)). A local authority means a municipality as defined in Sections of the Local Government Transition Act (Act 209 of 1993).

The NHRA provides for a three tier system for the management of heritage resources (Section 7(1)). All local authorities are responsible for the identification and management of heritage resources of local significance (Grade III). Heritage resources which are of cultural significance or have special value for the present community or for future generations are considered to be part of the national estate (Section 3 of the NHRA). The criteria for the assessment of "cultural significance" of heritage resources (national estate) are listed in Section 3(3).

The role of local authorities in the conservation of these resources became crucial and special municipal consent for alterations to and demolitions of resources protected by the NHRA in terms of the so-called 60 years clause (Section 34(1)) and sites affected by development in terms of Section 38(1) are essential for responsible management of heritage resources in Mogale City. The municipal building control and planning functions need to be coordinated with provincial functions with respect to permit applications for structures older than 60 years (Section 34(1)) and for rezoning applications, erf consolidations and subdivisions. In practice this means that the processing of municipal applications for properties in this category must be subject to the issuing first of the required heritage permit by the provincial heritage authority. The same rule should apply in terms of development as defined in Section 38(1) of the NHRA and the requirement for the conducting of heritage impact studies.

Further, a local authority may, with the agreement of the provincial heritage authority designate any site or area as a heritage area on the grounds of its cultural or environmental significance (Section 31). The local authority must make provision for the management of such areas in its town planning scheme or in by-laws (Section 28(6)). A local authority may by notice in the Provincial Gazette, provisionally protect a conservation-worthy site or heritage resource which the local authority considers to be threatened for a maximum period of three months (Section 29(2)). No person may damage, deface, excavate, alter, remove from its original position, subdivide or change the planning status of a provisionally protected place or object without a permit issued by the authority responsible for the provisional protection (Section 29(10)).

At the same time of the compilation or revision of a town or regional planning scheme or a spatial development plan, the planning authority must compile an inventory of the heritage resources which fall within its area or jurisdiction (Section 30 and 31). The provincial heritage resources authority must be notified of all the heritage resources identified and listed in the town planning scheme for listing in the official heritage register. The special consent of a local authority shall be required for any alteration to or development affecting a place listed in the heritage register (Section 30(11)(1)). A local authority may mark any place falling within its area of jurisdiction that is listed in a heritage register with a badge indicating its status (Section 30(13)). This also applies to signage to indicate the status of a heritage area (Section 31(8)).

A conservation management plan should be drafted for the protection and management of all the resources listed in the heritage register (Section 47(3)). This especially has relevance to the maintenance of municipal owned heritage resources.

The role of local authorities in the management of historical graves and burial grounds in terms of Section 36(3) of the NHRA is crucial for the protection of graves that are not in formal cemeteries administered by the municipality. No person may destroy or damage, alter, exhume, or remove from its original place or otherwise disturb a grave or burial ground older than 60 years which is situated outside a formal cemetery administered by the local authority. This includes the recovery of grave objects.

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"Your heritage our concern"

Heritage Resource Management; Section 34(1) Permit Applications; Research; Heritage and Cultural tours; Project Management

The local museum has to play a significant role in the monitoring and conservation of archaeological, paleontological and meteorite finds excavated during the course of development or agricultural activities (Section 35).

Public monuments and memorials are protected in Section 37 of NHRA. A local authority must inform the South African Heritage Resources Agency (SAHRA) of the destruction (neglect) of listed heritage resources, monuments and memorials in their area of jurisdiction (Section 39(3)).

A local authority may make by-laws in terms of Section 54 to regulate the management of heritage resources in its area of jurisdiction, including the provision of incentives for the conservation and maintenance of protected buildings, places or structures (Section 43).

The following are the minimum requirements for a Heritage Impact Assessment (HIA) that are called for under Section 38(3) of the NHRA when the potential or perceived impact of development on heritage resources is investigated:

- ☐ Section 38(4)(b): "... any limitation or conditions to be applied to the development" The limitations or conditions will depend on the quality of the report and the recommendations made in the report.
- ☐ Section 38(4)(c): "... what general protections in terms of this Act apply, and what formal protections may be applied, to such heritage resources ..." .This would depend on the contents of the report. What will be essential are clear statements regarding the significance and the potential impact of a development on a heritage resource/s that may warrant formal protection.
- ☐ Section 38(4)(d): "... whether compensatory action is required in respect of any heritage resource damaged or destroyed as a result of the development ..." . No example of this type of action has been recorded since the inception of the NHRA.
- ☐ Section 38(4)(e): "... whether the appointment of specialists is required as a condition of approval of the proposal" . This would depend on the contents of the report.

Another significant part of the NHRA relevant to the HIA is Section 18(3) (a,b,c,d,e,f,g):

- ☐ "The identification and mapping of all heritage resources in the area affected" It should be read and understood against the background of the NHRA's mission as the custodian of the national estate: to inter alia nurture a holistic celebration of our history ... cover both the tangibles and the intangibles ... cover not only what there is but also memory ... cover also the meaning attached by an effected community to a place.
- ☐ "An assessment of the significance of such resources in terms of the heritage assessment criteria set out in section 6(2) or prescribed under section 7" In the absence of regulations under the NHRA the guidelines of the Burra Charter (The Australian ICOMOS Charter for Places of Cultural Significance) is used in the meantime.
- ☐ "An assessment of the impact of the development on such heritage resources". The developer or project leader must appoint a consultant or expert of own choice for this task. Cultural historians who do fieldwork have the best opportunity to become knowledgeable about a particular region and the people of the area. They are trained to study history, focusing on documents as their main sources of information and are experienced in interviewing people and to work with communities during an impact assessment. Archaeologists tend to have a keen sense for the landscape and settlement patterns. They also have the necessary field experience to identify artifacts and structures that may be impacted upon by a development.
- ☐ "an evaluation of the impact of the development on heritage resources relative to the sustainable economic benefits to be derived from the development" This asks for expertise in comparing "significance" with "value" in terms of "use" and "sustainable use".
- ☐ "the results of consultation with the communities affected by the proposed development and other interested parties regarding the impact of the development on heritage resources" This is a critical requirement as it ties-up with the Preamble of the NHRA '... To enable and encourage communities to nurture and conserve their legacy so that it may be bequeathed to future generations ...'. Heritage resources form part of the history and beliefs of communities and must be managed in a way that acknowledges the right of affected communities to be consulted and to participate in their management.



☒ “if heritage resources will be adversely affected by the proposed development the consideration of alternatives” An expert cultural historian will be knowledgeable to advice on the sustainable use and/or alternative use of affected heritage resources.

☒ “plans for mitigation of any adverse affects during and after the completion of the proposed development”.

Apart from the NHRA, various international acknowledged charters exist as standard and guideline for the conservation and management of heritage resources, i.e.

- ☒ ICOMOS Burra Charter (1979 as revised in 1999)
- ☒ ICOMOS Charter for the conservation of historic towns and urban areas (1987)
- ☒ Charter for architectural heritage (1975)
- ☒ Charter for the built vernacular heritage (1999)
- ☒ Charter for international cultural tourism (1999)
- ☒ Charter for the conservation and restoration of monuments (1964)
- ☒ Charter for heritage value (1992)
- ☒ Professional standards for museums and cultural institutions (2005)

Although the White Paper on Arts, Culture and Heritage (1996) is a working document, its guidelines are still relevant today in the management of arts, culture and heritage in South Africa. The White Paper states inter alia that it is the policy of the Ministry to provide opportunities for equitable development of heritage programmes and institutions through redress and measures and democratisation.

The ministry and the National Heritage Council established a national initiative to facilitate and empower the development of living heritage projects in provinces and local communities. The recognition and promotion of living heritage is one of the most vital aspects of the Ministry's arts, culture and heritage policy. The aim is to suffuse institutions responsible for the promotion and conservation of our cultural heritage with the full range and wealth of South African customs. The strategy will be to facilitate the development of a structure and environment in which projects can be initiated by communities themselves. Resources will be sought out to:

- ☒ Record living heritage practices;
- ☒ Develop an inventory of living heritage resources;
- ☒ Encourage awareness programmes amongst communities where heritage has been neglected and marginalised; and
- ☒ Encourage museums to conserve living heritage through audio-visual media.

The White Paper also provides for public institutions such as museums which previously had focused their attention almost exclusively on a narrow definition of visual arts to take cognisance of our craft and design heritage and acknowledge this in their acquisition and education policies. In support hereto the Department Arts, Culture, Science and Technology developed a Strategy for the development of cultural industries in South Africa (1998). The strategy makes inter alia provision for the development of the skills and expertise of arts and culture practitioners. This is supported by the Gauteng Creative Industries Development Framework (2006) which aims at the development of creative industries and to maximise their contribution towards economic growth.

The White Paper also acknowledges the importance of arts, culture and heritage education in both formal and community based structures. Both sectors contribute to arts education in different and mutually complementary ways. Arts educators and planners should be encouraged to build on the different opportunities offered by the two sectors. The Culture Promotion Act, Act 35 of 1983 provide for the preservation, development, fostering and extension of culture in the Republic by planning, organizing, coordinating and providing facilities for the utilization of leisure and for non-formal education; for the development and promotion of cultural relations with other countries; [and for the establishment of regional councils for cultural affairs] to confer certain powers upon Ministers in order to achieve those objects; and to provide for matters connected therewith.



The National Art Council Act, Act 56 of 1997 ensures the promotion and coordination of arts and culture, as well as stakeholder participation. This legislation is supported by the Gauteng Arts and Culture Council Act, Act 11 of 1998.

The South African Geographical Names Council Act, Act 118 of 1998 establish a permanent advisory body known as the South African Geographical Names Council to advise the Minister responsible for arts and culture on the transformation and standardization of geographical names in South Africa for official purposes; to determine its objects, functions and methods of work; to establish provincial geographical names committees to advise the relevant MEC's in the province and to provide for matters connected therewith. In relation herewith the Gauteng legislature promulgated the Gauteng Language Policy Framework to promote multi-lingualism in the province.

Guidelines for the development of cultural tourism in areas of municipal jurisdiction can be find in the Development and promotion of tourism in South Africa White Paper (1996) and in the Domestic tourism growth strategy 2004-2007 (2004).

Section 5 of the NHRA summarise the principles for the management of heritage resources as follow:

1. All authorities, bodies and persons performing functions and exercising powers in terms of the Act for the management of heritage resources must recognise the following principles:

a. Heritage resources have lasting value in their own right and provide evidence of the origins of South African society and as they are valuable, finite non-renewable and irreplaceable they must be carefully managed to ensure their survival;

b. every generation has a moral responsibility to act as trustee of the national heritage for succeeding generations and the State has an obligation to manage heritage resources in the interest of all South Africans;

c. heritage resources have the capacity to promote reconciliation, understanding and respect, and contribute to the development of a unifying South African identity;

d. heritage resources management must guard against the use of heritage for sectarian purposes or political gain.

2. To ensure that heritage resources are effectively managed –

a. the skills and capacities of persons and communities involved in heritage resources management must be developed; and

b. provision must be made for the ongoing education and training of existing and new heritage resources management workers.

3. Laws, procedures and administrative practices must –

a. be clear and generally available to those affected thereby;

b. in addition to serving as regulatory measures, also provide guidance and information to those affected thereby; and

c. give further content to the fundamental rights set out in the Constitution.

4. Heritage resources form an important part of the history and believe of the communities to be consulted and participate in their management.

5. Heritage resources contribute significantly to research, education and tourism and they must be developed and presented for these purposes in a way that ensures dignity and respect for cultural values.

6. Policy, administrative practice and legislation must promote the integration of heritage resources conservation in urban and rural planning and social and economic development.

7. The identification, assessment and management of the heritage resources of South Africa must –

a. take account of all relevant cultural values and indigenous knowledge systems;

b. take account of material of cultural heritage value and involve the least possible alteration or loss of it;



- c. promote the use and enjoyment of and access to heritage resources, in a way consistent with their cultural significance and conservation needs;
- d. contribute to social and economic development;
- e. safeguard the options of present and future generations; and
- f. be fully researched, documented and recorded.

West Rand Heritage Consultants specialises in the conducting of Heritage Impact Assessments, Heritage Scoping Reports and the listing of heritage resources in terms of Section 38 of the National Heritage Resources Act, as well as permit applications in terms of Section 34(1) of the Act.



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