

Grading: Purpose and Management Implications

Approved by HWC Council: 16 March 2016

Heritage and Local Authorities

The National Heritage Resources Act (Act 25 of 1999) provides a mechanism for the management of heritage resources of cultural significance. The NHRA envisages a three tier system of management of heritage resources, namely National, Provincial and Local. This document provides an explanation of the specific management tools available to Local Authorities for heritage resource management.

In terms of section 8(4) of the National Heritage Resources Act, "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 this Act". Registered Conservation Bodies play an extremely important role in assisting with the identification of heritage resources which are important to the community, and can provide local knowledge in determining their significance. The benefits to Local Authorities in implementing heritage management in terms of the NHRA include the protection of local resources, giving certainty to local property owners as to what is and is not protected, and enabling them to have their applications dealt with at a local level.

The specific management tools provided for in the NHRA and discussed here include:

1. **Grading (Sections 7 and 8)**
2. **Surveys (Section 30)**
3. **Heritage Registers (Section 30)**
4. **Heritage Areas (Section 31)**

In the past, HWC has published different documents to provide guidance on Grading and Surveys. This document combines and supersedes the guides for these related processes into one document.

1. Grading

1.1 Why Grade?

The NHRA requires that all heritage resources be graded in order to assign the appropriate level of management responsibility (i.e. Local, Provincial or National spheres of governance) to a heritage resource and to indicate its significance. Significance is key to assessing grading and is the primary tool in defining heritage management.

1.2 What is Grading?

Grading is an important step in the process towards (but not necessarily leading to) the formal protection of a heritage resource, such as declaration as a National Heritage Site, Provincial Heritage Site, or, in the case of Grade III heritage resources, the placing of a heritage resource on the Heritage Register. It is not an end in itself, but a means of establishing an appropriate level of management to proceed with future formal protection.

1.3 Heritage resources can be “Graded”, “Not yet graded” or have insufficient heritage significance and are therefore “Not Conservation-worthy”

Graded The Heritage Authority has applied its mind in order to determine a grading for the resource or sufficient information is available to determine the grading in terms of section 3(3) of the NHRA.

NCW Not conservation-worthy. The Heritage Authority has applied its mind and the resource does not have enough heritage significance to be included in the National Estate. I.e. Insufficient Heritage Significance or “Ungradeable”. This category is important as not all old places or structures are significant in terms of the NHRA.

Not yet graded The Heritage Authority has not yet applied its mind in order to determine a grading for the resource or there is not, yet, sufficient information to determine the grading.

1.4 Who Grades?

In terms of the NHRA grading may only be carried out by the responsible heritage resources authority, or, in the case of a Grade III heritage resource, by the relevant local authority, if it is competent to do so in terms of section 8(6) of the NHRA. Any person or party may however make recommendations for grading. The grading of a competent local authority cannot be changed by HWC without agreement from the local authority.

Inventories of heritage resources should be drawn up by local authorities as a requirement of section 30(5) of the NHRA, and Section 30(6) of the NHRA enables anyone to compile or draw up an inventory for submission to HWC for approval (See Surveys #2 and #3 below). These inventories must contain proposed gradings.

The grading process is an iterative one and as such, gradings can change based on new information. For example, initial gradings are often based on a relatively cursory survey process. Upon a more detailed investigation, it may be determined by the appropriate Heritage Authority that the grading should change in accordance with the grading criteria. Therefore, the most recent grading by HWC’s Council or Committee is accepted as the grading for a heritage resource unless the local authority is found competent to grade in terms of the NHRA.

Unless there is a special agreement between a competent local authority and HWC, if a higher authority has graded a site at a higher grade than a lower authority, the grade of the higher authority prevails – e.g. if a Local Authority grades a building at III but the PHRA grades it at II, then the grade is II.

1.5 Monuments and Memorials

In terms of Section 37 of the NHRA, public monuments and memorials must be protected in the same manner as places which are entered in a Heritage Register referred to in section 30. Monuments and Memorials, as defined in the NHRA, must be graded in terms of their cultural significance and *must form part of the inventories conducted by Local Authorities* in order to determine which of the formal protection measures may apply. Until such time as they have been graded in terms of section 3(3) of the NHRA, public monuments and memorials are formally

protected as if they appeared on the register. Please see the approved HWC Guide to Monuments and Memorials (August 2015).

1.6 World Heritage Sites in the Western Cape

Several sites in the Western Cape have already been inscribed on UNESCO's World Heritage List. These include Robben Island as well as seven of the eight areas of the Cape Floristic Protected Areas, consisting of more than 550,000ha of land, most of it situated in the Western Cape. These sites are also protected by the Convention Concerning the Protection of the World Natural and Cultural Heritage and the World Heritage Convention Act, 1999 (Act 49 of 1999). World Heritage Sites should also be included when planning authorities compile inventories of heritage resources in their areas of jurisdiction. Inscription in the World Heritage List does not give any additional legal protection outside of the ambit of applicable national legislation and as such, World Heritage Sites require formal protection through the national legislation before inscription. WHS's are therefore managed and protected through provisions of the NHRA, the National Environmental Management: Protected Areas Act (NEMPAA) or even the relevant planning by-laws.

1.7 Grade I (National Heritage Sites) and Grade II (Provincial Heritage Sites) Sites

South Africa's national heritage sites must as a whole represent the collective and balanced story of our South African consciousness as we understand it today. They must be the key sites which best illustrate the events, peoples and systems which have brought us to our current state of nationhood. They must represent development which occurred in South Africa, from its earliest geological formation, to the beginnings of humanity, and through its peopling - illustrating the traditions, values, conflicts and achievements which formed the South Africa we live in today, and the contributions of South Africa to the world in this regard.

Grade I sites are so exceptional because they are of outstanding significance to South Africa. Such sites should satisfy the criteria set out in Section 3(3) and Section 7 of the Act. Our national heritage sites should tell the story of our South African nationhood and reflect a balanced recognition of all areas of our heritage.

Grade I sites must enjoy authenticity and carry a national value and symbolic importance that promotes human understanding and contributes to nation building, and their loss would significantly diminish the national heritage. Once declared, Grade I sites become National Heritage Sites and are managed by the South African Heritage Resources Agency (SAHRA).

Sites graded as Grade II sites must have special qualities which make them significant within the context of a Province or region, while satisfying the requirements of Section 3(3) and Section 7 of the Act, and its Regulation GN R548.

Grade II sites are so special that they need to be given a status beyond the protection provided by being entered in the Heritage Register, but are not of outstanding national significance. They may be rare examples of their kind, or otherwise be highly representative of a type. They may connect closely to an event or figure of provincial/regional significance. Grade II sites should enrich the understanding of the cultural, historical, social and scientific development of the Western Cape and of the region in which they are situated. The intrinsic, comparative and contextual significance of

the heritage resource must be determined. Once declared, Grade II sites become Provincial Heritage Sites and are managed by HWC in the Western Cape.

Grade I and II sites may include, but are not limited to places, buildings, structures and immovable equipment of cultural significance; places to which oral traditions are attached or which are associated with living heritage; historical settlements and townscapes; landscapes and natural features of cultural significance; geological sites of scientific or cultural importance; archaeological and palaeontological sites; graves and burial grounds; sites of significance relating to the history of slavery in the Western Cape; sites of significance to Khoesan heritage in the Western Cape and sites of significance relating to the liberation struggle in the Western Cape.

The cultural significance or other special values of a Grade I and II site may include, but are not limited to its importance in the community or pattern of the history of the Western Cape; the uncommon, rare or endangered aspects that it possess reflecting the Western Cape's natural or cultural heritage; the potential that the site may yield information that will contribute to an understanding of the Western Cape's natural or cultural heritage; its importance in demonstrating the principal characteristics of a particular class of the Western Cape's natural or cultural places or objects; its importance in exhibiting particular aesthetic characteristics valued by a community or cultural group in the Western Cape; its importance in demonstrating a high degree of creative or technical achievement at a particular period in the development or history of the Western Cape; its strong or special association with a particular community or cultural group for social, cultural or spiritual reasons; its strong or special association with the life or work of a person, group or organization of importance in the history of the Western Cape; sites of significance relating to the history of slavery and sites of significance to Khoesan heritage in the Western Cape.

1.8 Grade III Built Environment Heritage Resources

This grading is applied to buildings and sites that have sufficient intrinsic significance to be regarded as local heritage resources; and are significant enough to warrant that any alteration is regulated. Such buildings and sites may be representative, being excellent examples of their kind, or may be rare. In either case, they should receive protection at local level. It has become practice to separate the Grade III category of heritage resources into three sub-categories (IIIA, IIIB and IIIC) to enable effective management.

Table 1: Guide to Grading of Built Environment Resources

Grading	Description of Resource	Examples of Possible Management Strategies	Heritage Significance
I	Heritage resources with qualities so exceptional that they are of special national significance. Current examples: Robben Island	May be declared as a National Heritage Site managed by SAHRA.	Highest Significance
II	Heritage resources with special qualities which make them significant in the context of a province or region, but do not fulfil the criteria for Grade I status. Current examples: St George's	May be declared as a Provincial Heritage Site managed by HWC.	Exceptionally High Significance

	Cathedral, Community House		
III	Such a resource contributes to the environmental quality or cultural significance of a larger area and fulfils one of the criteria set out in section 3(3) of the Act but that does not fulfill the criteria for Grade II status. Grade III sites may be formally protected by placement on the Heritage Register. These resources are currently managed by HWC <i>unless the local authority has been found competent and has been granted delegated authority.</i>		
IIIA	Such a resource must be an excellent example of its kind or must be sufficiently rare. These are heritage resources which are significant in the context of an area .	This grading is applied to buildings and sites that have sufficient intrinsic significance to be regarded as local heritage resources; and are significant enough to warrant that any alteration, both internal and external, is regulated. Such buildings and sites may be representative, being excellent examples of their kind, or may be rare. In either case, they should receive maximum protection at local level.	High Significance
IIIB	Such a resource might have similar significances to those of a Grade III A resource, but to a lesser degree. These are heritage resources which are significant in the context of a townscape , neighbourhood, settlement or community.	Like Grade IIIA buildings and sites, such buildings and sites may be representative, being excellent examples of their kind, or may be rare, but less so than Grade IIIA examples. They would receive less stringent protection than Grade IIIA buildings and sites at local level.	Medium Significance
IIIC	Such a resource is of contributing significance to the environs These are heritage resources which are significant in the context of a streetscape or direct neighbourhood .	This grading is applied to buildings and/or sites whose significance is contextual, i.e. in large part due to its contribution to the character or significance of the environs. These buildings and sites should, as a consequence, only be regulated if the significance of the environs is sufficient to warrant protective measures, regardless of whether the site falls within a Conservation or Heritage Area. Internal alterations should not necessarily be regulated.	Low Significance
NCW	A resource that, after appropriate investigation, has been determined to not have enough heritage significance to be retained as part of the National Estate.	No further actions under the NHRA are required. This must be motivated by the applicant and approved by the authority. Section 34 can even be lifted by HWC for structures in this category if they are older than 60 years.	No research potential or other cultural significance

1.9 Guide to Grading for Archaeological and Palaeontological Resources

The Complexity of Grading Archaeological and Palaeontological Resources

In the NHRA, archaeology is defined as “material remains resulting from human activity which are in a state of disuse and are in or on land and which are older than 100 years, including artefacts, human and hominid remains and artificial features and structures”, as well as rock art.

Palaeontology is defined as “any fossilised remains or fossil trace of animals or plants which lived in the geological past, other than fossil fuels or fossiliferous rock intended for industrial use, and any site which contains such fossilised remains or trace”.

Archaeological and Palaeontological sites are most often buried or, at least, it is not known what material may be found below the surface. The assessment of the significance of such sites is dependent upon the ability of a practitioner to recognise and interpret the surface clues but grading may often remain tentative until such time as excavation, collection, analysis and/or dating can be completed.

Excavation is destructive and, for that reason, is carried out only by professional archaeologists and palaeontologists trained to recognise and record stratigraphic and associational context. The more research that is conducted on a site; the more likely it becomes that higher significance will be assigned to the site. Furthermore, archaeological and palaeontological residues represent only a fraction of the evidence that was once available. So much is lost over time that rarity becomes a significant criterion in grading. Small and insignificant sites may carry high scientific and cultural significance. Sites graded as having Medium/Low ‘Local’ Significance may contribute immensely to our understanding even beyond the local level.

Table 2: Guide to Grading of Archaeological and Palaeontological Resources

Grading	Description of Resource	Examples of Possible Management Strategies	Heritage Significance
I	Heritage resources with qualities so exceptional that they are of special national significance. Current examples: Langebaanweg (West Coast Fossil Park), Cradle of Humankind	May be declared as a National Heritage Site managed by SAHRA. Specific mitigation and scientific investigation can be permitted in certain circumstances with sufficient motivation.	Highest Significance
II	Heritage resources with special qualities which make them significant, but do not fulfil the criteria for Grade I status. Current examples: Blombos, Paternoster Midden.	May be declared as a Provincial Heritage Site managed by HWC. Specific mitigation and scientific investigation can be permitted in certain circumstances with sufficient motivation.	Exceptionally High Significance
III	Heritage resources that contribute to the environmental quality or cultural significance of a larger area and fulfils one of the criteria set out in section 3(3) of the Act but that does not fulfill the criteria for Grade II status. Grade III sites may be formally protected by placement on the Heritage Register.		
IIIA	Such a resource must be an excellent example of its kind or must be sufficiently rare. Current examples: Varschedrift; Peers Cave; Brobartia Road Midden at Bettys Bay	Resource must be retained. Specific mitigation and scientific investigation can be permitted in certain circumstances with sufficient motivation.	High Significance
IIIB	Such a resource might have similar significances to those of a Grade III A resource, but to a lesser degree.	Resource must be retained where possible where not possible it must be fully investigated and/or mitigated.	Medium Significance
IIIC	Such a resource is of contributing significance.	Resource must be satisfactorily studied before impact. If the recording already	Low Significance

		done (such as in an HIA or permit application) is not sufficient, further recording or even mitigation may be required.	
NCW	A resource that, after appropriate investigation, has been determined to not have enough heritage significance to be retained as part of the National Estate.	No further actions under the NHRA are required. This must be motivated by the applicant or the consultant and approved by the authority.	No research potential or other cultural significance

Shipwrecks (maritime archaeology) located below the high water mark (in territorial waters and the maritime cultural zone) fall under the jurisdiction of SAHRA. However, this does not mean that all maritime archaeology is of Grade I significance. Maritime archaeology must be graded as per the above table.

Burials in terms of the provisions of section 36 of the NHRA must be graded according to the above table. The management of burial grounds and graves in terms of section 36 of the NHRA can be delegated to both provincial and local authorities.

All FORMALLY PROTECTED archaeological, palaeontological and meteorite resources require that a permit is obtained from the relevant Heritage Authority in terms of Section 27 of the NHRA before any alteration or disturbance.

All GENERALLY PROTECTED archaeological, palaeontological and meteorite resources require that a permit is obtained from the relevant Heritage Authority in terms of Section 35 of the NHRA before any alteration or disturbance, or receive a comment or decision in terms of Section 38 if impacted by any development.

2. Surveys

2.1 What is a Heritage Survey?

A heritage survey is a survey of all heritage resources including, but not limited to, social significance, the built-form, spatial disposition and cultivated vegetation (including trees, avenues, gardens and even agricultural lands) that comprise the 'built environment' and 'cultural landscape' of a demarcated geographical area.

2.2 Why are Heritage Surveys conducted?

These surveys are conducted so as to identify all conservation-worthy heritage resources and to quantify and describe their significance and that of their environs in advance of any potential development so that the management and administration of any proposed development is clear, lawful, reasonable and procedurally fair.

2.3 Who conducts Heritage Surveys?

These surveys may be conducted by any person or organization but, ideally and most commonly, by local authorities. Indeed, local authorities are required under Section 30(5) of the National Heritage Resources Act (NHRA) to conduct these studies in order to compile inventories of heritage resources within their jurisdiction whenever they draw-up or revise their planning or zoning schemes.

A heritage survey can be conducted in a Phased Project approach in which specific kinds of heritage resources are identified and surveyed or only specific areas are surveyed (eg. the Main Road of a town) in a sequence of phases.

2.4 What are the products and outcomes of Heritage Surveys?

The main product of a Heritage Survey is an inventory or list of all of the buildings, sites and areas which are recommended to be designated as heritage resources. This inventory must include a proposed grading for each of these heritage resources. Recommendations for grading must form an intrinsic part of the completion of such an inventory.

As heritage resources are identified geographically, the inventory must also be mapped. The mapping of heritage resources through a Heritage Survey is, in many circumstances, the most useful product of a Heritage Survey. This mapped inventory then informs the Heritage Register (see #3), Heritage Areas (see #4) and the Provincial and National Inventories.

3. Heritage Registers

3.1 What is the Heritage Register?

- The HWC Heritage Register is a Provincial Gazette which lists all of the Grade II or III conservation-worthy heritage resources in the Western Cape.
- Heritage Registers are informed by Heritage Inventories.
- A heritage resource is entered into the HWC Heritage Register by notice in the Provincial Gazette.
- The heritage resources included on the HWC Heritage Register must be listed by their significance (grading), the relevant Local Authority and their geographical location.
- Owners of heritage resources must be consulted prior to that resource being included in the register.

3.2 What is a Heritage Inventory?

- Inventories are compiled from Heritage Surveys (see #2 above).
- Inventories are compiled by the Local Authority in terms of Section 30(5) or any other party in terms of Section 30(6) of the NHRA and must record all heritage resources in a defined jurisdiction and must propose significance (grading).
- HWC is responsible for the selection of resources from any approved inventories for placement on the HWC Heritage Register.
- All heritage resources must be recorded in the National Inventory (SAHRIS). See section 3.4.1.
- In terms of section 30(5), at the time of amending or compiling a town planning scheme or spatial development framework (SDF) a local authority **must** compile an inventory of heritage resources. This inventory must then be submitted to HWC for consideration and for conservation-worthy heritage resources to be included on the Heritage Register.
- All approved inventories are available from HWC.

3.3 What are the benefits of compiling a Heritage Inventory?

- Once there is a Heritage Inventory for an area that has been approved by HWC, HWC may assess the Local Authority for its Heritage Competence in terms of Section 8(6) of the NHRA
- A Heritage Inventory identifies and assesses the significance of heritage resources which in turn informs:
 - o Resources to be placed on the Heritage Register.
 - o The identification of Heritage Areas.
 - o Transparency and predictability of management interventions.
 - o Identified and defined areas that satisfy Section 34(3) can be exempted by HWC from the requirements of Section 34(1).
- Allows procedurally fair and reasonable management of heritage resources.
- Creates certainty and predictability for Local Authorities, homeowners and developers in terms of heritage management requirements.

3.4 What must a Heritage Inventory include?

All Heritage Inventories must include the following:

3.4.1 Digital Database of Heritage Inventory

A Heritage Inventory is essentially a database of all the heritage resources in a defined area. In terms of section 39 of the NHRA, SAHRA is required to compile a National Inventory of heritage resources. This National Inventory forms part of the South African Heritage Resources Information System or SAHRIS.

All Heritage Inventories must comply with the SAHRIS recording system in terms of section 30(4)b of the NHRA. This can be done through one of the following mechanisms:

- The use of the attached Excel templates as the basis for the Heritage Inventory.
- Online data capture using the mechanisms provided in SAHRIS (www.sahra.org.za/sahris).
- The use of Geographic Information Systems in which shapefiles with attribute data can be exported into Excel (and therefore SAHRIS).
- The creation of a unique digital database that can be used by HWC and the Local Authority, and that complies with the data required on the attached Excel templates (including geospatial data).

3.4.2 Heritage Inventory Summary Document

The Summary of a Heritage Inventory provides contextual information for the Digital Database of the Heritage Inventory. This document must include information under the following headings:

- Demarcation of survey:
This provides information on the geographical area or type of heritage resource covered by the Heritage Inventory.
- Methodology:
This section provides detail on the way in which the data was captured as well as the criteria used for grading and assessing significance.
The Gradings proposed in the Heritage Inventory must comply with the HWC Heritage Register Regulations (...) and are therefore limited to the grading guides provided in sections 1.8 and 1.9 of this document
- Details of survey team:
This section must provide HWC with information on the qualifications and expertise of the compilers of the Heritage Inventory.
- Public Participation:
This section must provide details and evidence of all public, local conservation bodies and I&AP consultation that took place as part of the compilation of the Heritage Inventory.
- Summary maps of the areas surveyed with grading information.
- An indication of any proposed Heritage Areas and proposed guidelines for these Heritage Areas (see #4 below).

3.5 What happens once a satisfactory Heritage Inventory has been completed?

Any completed phase of a Heritage Inventory must be submitted to Heritage Western Cape for approval. HWC will assess the Heritage Inventory for accuracy, completeness and for the appropriateness of the proposed gradings. This is done by the HWC Inventories, Grading and Interpretations Committee (IGIC).

Based on the information contained in the Heritage Inventory, HWC's IGIC will recommend heritage resources for inclusion on the Heritage Register, and Heritage Areas for designation. HWC Council, in discussion with the relevant Local Authority, will determine which of the recommended heritage resources from the Heritage Inventory are gazetted as part of the Heritage Register, and which Heritage Areas become designated.

Local Authorities must, within six (6) months of HWC publishing a notice in the Provincial Gazette for inclusion on the Heritage Register, make provision for the protection of Heritage Register sites through Municipal by-laws or planning legislation. The by-law or town planning scheme clause must first be approved by HWC and the Provincial Department of Environmental Affairs and Development Planning (DEADP). It is suggested that local authorities use the model clauses outlined below for such purposes.

Grade IIIA Proposed Clause in Local Zoning Scheme

No grade IIIA building or structure approved by HWC as such shall be demolished, altered or extended internally or externally, nor shall any new building or structure be erected on the property occupied by such building or structure without the Municipality's special consent; and the Municipality shall not grant its special consent if such proposed demolition, alteration, extension or new building or structure will be detrimental to the character and/or significance of the graded building or structure or the environment or the Heritage Area in which it is located.

Grade IIIB Proposed Clause in Local Zoning Scheme

No grade IIIB building or structure approved by HWC as such shall be demolished, altered or extended externally, nor shall any new building or structure be erected on the property occupied by such building or structure without the Municipality's special consent; and the Municipality shall not grant its special consent if such proposed demolition, alteration, extension or new building or structure will be detrimental to the character and/or significance of the graded building or structure or the environment or the Heritage Area in which it is located.

Grade III C Proposed Clause in Local Zoning Scheme

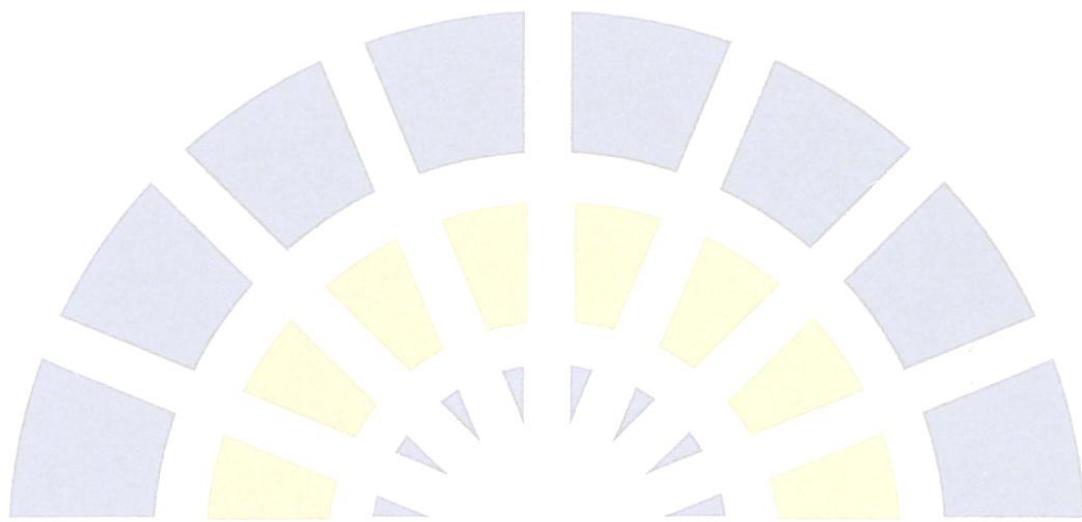
No building or structure which is graded IIIC and entered on the Heritage Register as such shall be demolished or externally altered or extended, nor shall any new building or structure which is visible from the street be erected on the property occupied by such building or structure without the special consent of the Municipality, and the Municipality shall not grant its special consent if such demolition, alteration or extension or new building or structure will detract from the heritage significance of the environment or Heritage Area in which such building or structure is located.

3.6 Exemptions from the need to Obtain Permits in terms of Section 34 (the Sixty-Year Clause)

Once an inventory of heritage resources has been undertaken and approved by HWC, and the required formal protections have been implemented, HWC may exempt the property owners in the surveyed area, or parts of it, from the need to make applications for permits to undertake works on buildings and structures more than sixty years old which are deemed to be not conservation worthy and therefore graded NCW (Section 34(3) of the NHRA).

It should be noted that, apart from the obvious advantages of the simple identification of heritage resources and their relative significances to all parties, the exemption of properties of insufficient heritage significance from heritage-related procedures is a considerable benefit to property owners, to the local authority and to the heritage resources authority alike.

It is important to note that exemption from the need to obtain permits may only be put in place after other mechanisms of formal protection for significant sites have been implemented.



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4. Heritage Areas

4.1 What is a Heritage Area?

A Heritage Area is a mechanism in the NHRA used to protect any area of environmental or cultural interest or places where there is a presence of heritage resources. Many Local Authorities have included 'conservation area' controls in their zoning schemes for many decades. These areas of environmental or cultural interest are usually identified through a Heritage Survey and the submission and approval of a Heritage Inventory.

A Heritage Area is a specifically demarcated area with identified boundaries within which specific development guidelines apply. These guidelines must ensure that the heritage significance of the Heritage Area is conserved.

4.2 How is a Heritage Area designated?

Heritage Areas may be identified for designation in two ways, either in the planning by-laws (previously zoning schemes) of a Local Authority, or by HWC, through an approved Heritage Survey and resulting Heritage Inventory (see #2 and #3 above).

Where HWC has identified the need for a Heritage Area, HWC must request the relevant planning authority to investigate the designation of the Heritage Area in accordance with proposals provided by HWC. These proposals may include heritage criteria for decision-making and guidelines for the management of the Heritage Area as well as proposed by-laws for the management of the Heritage Area, and may be taken from the Heritage Inventory.

Before a Heritage Area can be designated, the Local Authority must consult with HWC, the owners and occupiers of the affected properties as well as any affected community.

Heritage Areas are then designated either by HWC by notice in the Provincial Gazette or by the local authority as part of its planning by-law. This notice must include details of the significance of the Heritage Area as well as clear demarcation of the boundaries of the Heritage Area.

4.3 Who Manages a Heritage Area?

The Local Authority manages a designated Heritage Area through the provisions of its planning scheme or by-laws (which can be under the NHRA), and this should be approved by HWC, DEADP and the Local Authority. **The special consent of the Local Authority is then required for any alteration or development affecting a Heritage Area.**

The establishment of a Heritage Overlay Zone is one possible mechanism that can be employed by a Local Authority to provide protection to a Heritage Area in terms of Section 31(7) in their town planning schemes. It should be noted that zoning schemes are promulgated in terms of the Land Use Planning Act 3 of 2014 (LUPA), which is a provincial ordinance, and the Spatial Planning Land Use Management Act 16 of 2013 (SPLUMA). Should a Heritage Area be proclaimed in an area falling within the jurisdiction of a Local Authority which has not been judged to be competent in terms of the NHRA, it would have to be managed by HWC or another competent Local Authority in terms of an agency agreement. However, many Local Authorities have already declared 'conservation areas' which they manage through their local planning by-laws.

Heritage Area Proposed Clause in Local Zoning Scheme

- (1) *The following provisions shall apply within an area listed in the Table hereunder and depicted on the Zoning Map as being a Heritage Area:*
- (i) *no building or structure other than an internal wall or partition therein shall be demolished, altered or erected unless written application has been made to the Municipality and the Municipality has granted its special consent thereto;*
 - (ii) *the Municipality shall not give its special consent if such demolition, alteration, extension or erection, as the case may be, will be detrimental to the protection and/or maintenance and/or enhancement of the architectural, aesthetic and/or historical character and/or significance, as the case may be, of the area in which such demolition, alteration, extension or erection is proposed.*

Or

- (2) *The Guidelines appended hereto as Appendix: Heritage Area and approved by HWC on (date) shall apply within an area listed in the Table hereunder and depicted on the Zoning Map as being a Heritage Area.*

Further conditions may be added where required by the particular nature of a Heritage Area, eg that all new buildings plans need to be evaluated for their impact on the Heritage Area

4.4 What about Conservation Areas promulgated in terms of Local Authority zoning schemes?

Conservation Areas that were promulgated and/or controlled by means of the town planning scheme are different to Heritage Areas because the procedures for the declaration of Heritage Areas set out in Section 31 and discussed above, require both the approval of and participation by HWC. It will accordingly not be possible for a Local Authority to simply convert a 'conservation area' to a Heritage Area in terms of Section 31 of the NHRA. On the contrary, it is intended to amend the controls applicable to a Conservation Area in such a way that a Conservation Area conforms with a Heritage Area. This would require consultation with all the property owners within that area, as their property rights may be affected.

Practically speaking, in preparing their SDF, a Local Authority may propose a Heritage Area, which may be the same as a 'conservation area'. Until such time as the Heritage Area is designated and the 'conservation area' de-proclaimed, the 'conservation area' would remain subject to the original by-laws or town planning scheme clauses.

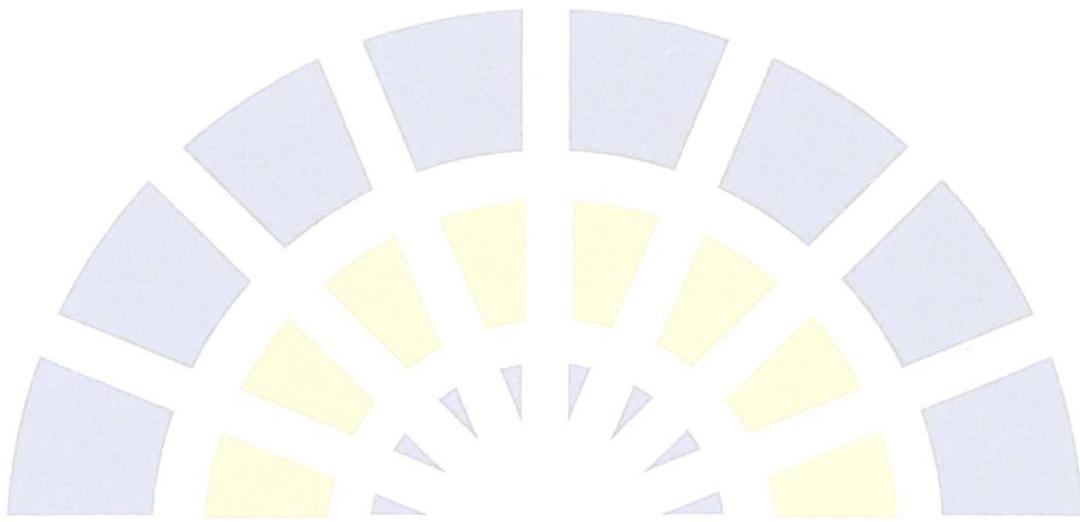
Heritage Overlay Zones, Conservation Areas and Heritage Areas should be incorporated into the zoning scheme as per section 22 of LUPA which requires that every local municipality in the Western Cape must adopt a single zoning scheme for its whole municipal area.

Definitions and Acronyms:

Heritage Resources:	Any place or object of cultural significance
Planning Authority:	An office of the State, including a province, a local authority or a regional authority, which is invested with a physical planning capacity
PHRA	Provincial Heritage Resources Authority. Heritage Western Cape in the Western Cape Province
DEADP	Provincial Department of Environmental Affairs and Development Planning

LUPA	Land Use Planning Act
SDF	Spatial Development Framework
SAHRA	South African Heritage Resources Agency
SAHRIS	South African Heritage Resources Information System
NHRA	National Heritage Resources Act (Act 25 of 1999)
HWC	Heritage Western Cape

Should you have comments or suggestions or wish to make enquiries regarding the grading of heritage resources, please do not hesitate to contact Heritage Western Cape at Private Bag X9067, Cape Town or by e-mail to hwc.hwc@westerncape.gov.za.



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