



# EASTERN CAPE PROVINCIAL HERITAGE RESOURCES AUTHORITY (ECPHRA)

NATIONAL HERITAGE RESOURCES ACT NO. 25 of 1999 (NHRA 1999)

## NOTICE OF INTENT TO DEVELOP (NID): DEVELOPMENT APPLICATION PROCESS IN THE EASTERN CAPE PROVINCE

The National Heritage Resources Act No. 25 of 1999 (NHRA 1999) mandates the South African Heritage Resources Agency (SAHRA) and the Provincial Heritage Resources Authorities (PHRAs) – in this case the Eastern Cape Provincial Heritage Resources Authority (ECPHRA) in the Eastern Cape Province – to manage, research, conserve and promote the heritage of South Africa on national and provincial levels.

1. The ECPHRA Archaeology, Palaeontology and Meteorites (APM) Unit is tasked with heritage resources management in a development context – including the development application process – for all development projects situated in the Eastern Cape Province or the Eastern Cape components of trans-provincial projects. Heritage is managed according to a three-tiered Phase 1–3 process that corresponds roughly with the three main phases of development: 1) planning, 2) construction and 3) implementation, as outlined in the NHRA 1999 Section 38.

**Table 1: The three main phases of development and the Phase 1–3 heritage resources management process.**

DEVELOPMENT AND HERITAGE RESOURCES MANAGEMENT		
	DEVELOPMENT PHASE	HERITAGE RESOURCES MANAGEMENT PHASE
1.	Planning	Phase 1 – Heritage Impact Assessment (HIA)
2.	Construction	Phase 2 – Pre/construction phase heritage management
3.	Implementation	Phase 3 – Permanent site conservation/management

2. The development application process starts with the submission of a Notice of Intent to Develop (NID) by the project proponent/developer (or their representative) to ECPHRA, and where “development” is defined in the NHRA 1999 Section 2(viii).

**Table 2: NHRA 1999 Section 2(viii) definition of “development”.**

NATIONAL HERITAGE RESOURCES ACT NO. 25 OF 1999 (NHRA 1999)	
SECTION 2 – DEFINITIONS	
viii	<p>“Development” means any physical intervention, excavation, or action, other than those caused by natural forces, which may in the opinion of the heritage authority in any way result in a change to the nature, appearance or physical nature of a place, or influence its stability and future well-being, including—</p> <ul style="list-style-type: none"> <li>(a) Construction, alteration, demolition, removal or change of use of a place or a structure at a place.</li> <li>(b) Carrying out any works on or over or under a place.</li> <li>(c) Subdivision and consolidation of land comprising, a place, including the structures or airspace of a place.</li> <li>(d) Construction or putting up for display signs and hoardings.</li> <li>(e) Any change to the natural or existing condition or topography of land, and</li> <li>(f) Any removal or destruction of trees, or removal of vegetation or topsoil.</li> </ul>

3. Upon receipt of the completed NID, ECPHRA will respond to the development application via the *ECPHRA NID Comment* indicating whether heritage must be considered during the planning phase of the project and if so, the level of Phase 1 Heritage Impact Assessment (HIA) required.
4. The NID (and Phase 1 HIA) submission process is charged for according to the NHRA 1999 Provincial Gazette Notice No. 591 of 2023 *Fees Schedule*, summarised as:
  - NID submissions: R500.00/NID
  - If requested, Phase 1 HIA evaluation: R1,500.00/HIA

NID (and Phase 1 HIA evaluation) fees must be settled directly with ECPHRA. The ECPHRA NID fee must be paid at the same time as the NID submission. ECPHRA will not consider a NID application without PoP.

**Table 3: ECPHRA bank details.**

ECPHRA BANK DETAILS	
Bank name	First National Bank (FNB)
Account name	Eastern Cape Provincial Heritage Resources Authority
Account type	Public Sector Business Account
Account number	62705406248
Reference	NID–development/project name/SAHRIS Case ID

5. The completed NID, PoP and additional information must be uploaded onto SAHRIS and emailed to ECPHRA to [lungiswam@ecphra.org.za](mailto:lungiswam@ecphra.org.za) (Subject: NID–development/project name/SAHRIS Case ID). Additional information must be attached to the email. Project proponents/developers are reminded that comprehensive and as detailed as possible additional information greatly assists in the decision making by the committee.

Additional NID information:

- A .kml/.kmz (Google Earth) file of the study site/general development co-ordinate/s. The file name should include the project name.
- An extensive/thorough development description to motivate the NID application and including study site size in hectares (ha) surface area and/or line routes in kilometres (km).

- (Draft) map/s, layout, and sketch plan/s with captions to motivate and further describe the NID application in PDF format.
- Photographs, with captions, of the study site (if a site visit has been conducted).
- All files uploaded must be labelled with the project and subject name.

6. Queries regarding development applications and the NID process should be directed to Lungiswa Mzazi, ECPHRA.

Tel: +27 (0)43 492 1942/+27 (0)81 434 3544

Email: [lungiswam@ecphra.org.za](mailto:lungiswam@ecphra.org.za).

#### IMPORTANT NOTES:

- Non-submission of a NID for a development project is considered non-compliance by ECPHRA.
- Non-transparent development project information – including in the case of NHRA 1999 Section 38(8) applications the description of development aspects exempted from environmental assessment requirements – is considered non-compliance by ECPHRA.
- ECPHRA distinguishes between three (3) basic types of development applications:
  - 1) NHRA 1999 Section 38(1) development applications, where no Environmental Impact Assessment (EIA)/environmental study is required for the development.
  - 2) NHRA 1999 Section 38(8) development applications, where an EIA/environmental study is required for the development.
  - 3) Combined NHRA 1999 Section 38(1) and 38(8) development applications, where some development aspects are subject to an EIA/environmental study, but other aspects are exempted from an environmental process.
- **ECPHRA does not consider links to information as submitted information.**

**Table 4: Applicant's NID Checklist**

APPLICANT'S NID CHECKLIST		
	Item required	Tick (if submitted)
1.	Completed Notice of Intent to Develop (NID) form	
2.	Extensive development description	
3.	Google Earth file (.kml/.kmz)	
4.	Map/s, layout and sketch plan/s	
5.	Site photographs	
6.	Proof of Payment (PoP)	

**Form 1: ECPHRA NID form.**

ECPHRA NOTICE OF INTENT TO DEVELOP (NID) FORM				
<b>1.</b>	<b>DATE OF NID APPLICATION</b>			
	Application date [Format: DD / MM / CCYY]			
<b>2.</b>	<b>DEVELOPMENT/PROJECT DETAILS</b>			
	Development/project name			
	Project description [Attach an extensive/thorough description of the project]			
	Project co-ordinate/s [Attach a .kml/.kmz file]			
	Project location [Erf number and street name/farm name and number; rural region; (nearest) city/town/large village]			
	Municipal district [Local/District/Metropolitan Municipality]			
<b>3.</b>	<b>NID NOTIFIER DETAILS</b>			
	Contact person [Name and surname]			
	Company name/government department name			
	Tel/Mobile			
	Email			
	Address			
<b>4.</b>	<b>DEVELOPER DETAILS</b>			
	Contact person [Name and surname]			
	Company name/government department name			
	Tel/Mobile			
	Email			
	Address			
<b>5.</b>	<b>DEVELOPMENT/PROJECT HERITAGE DETAILS</b>			
5.1	Are there any known heritage resources/sites situated on the property/study site? [Format: <b>Bold</b> the applicable answer or mark with an X] <i>If yes, please describe below.</i>	Yes	No	Unknown
5.2	Are any known tangible and/or intangible historical or culturally significant events, beliefs and customs associated with the property/study site? [Format: <b>Bold</b> the applicable answer or mark with an X] <i>If yes, please describe below.</i>	Yes	No	Unknown
5.3	Has a heritage permit ever been issued for a heritage resource/site situated on the property/study site or is any heritage research ongoing at the property/study site? [Format: <b>Bold</b> the applicable answer or mark with an X]	Yes	No	Unknown

	<i>If yes, please describe below and provide permit number/s if applicable.</i>			
5.4	Has an HIA ever been conducted in whole or part on the property/study site? [Format: <b>Bold</b> the applicable answer or mark with an X]	Yes	No	Unknown
	<i>If yes, please list the HIA specialist reports and attach copies thereof to the NID application. [List format: Author/s surname and initial; Company name; Date; Report title]</i>			

**Table 5: NHRA 1999 Section 38.**

NATIONAL HERITAGE RESOURCES ACT NO. 25 OF 1999 (NHRA 1999)	
SECTION 38 – HERITAGE RESOURCES MANAGEMENT	
1	<p>Subject to the provisions of subsections (7), (8) and (9), any person who intends to undertake a development categorised as—</p> <ul style="list-style-type: none"> <li>(a) The construction of a road, wall, powerline, pipeline, canal or other similar form of linear development or barrier exceeding 300m in length.</li> <li>(b) The construction of a bridge or similar structure exceeding 50m in length.</li> <li>(c) Any development or other activity which will change the character of a site— <ul style="list-style-type: none"> <li>(i) Exceeding 5,000m<sup>2</sup> in extent, or</li> <li>(ii) Involving three or more existing erven or subdivisions thereof, or</li> <li>(iii) Involving three or more erven or subdivisions thereof which have been consolidated within the past five years, or</li> <li>(iv) The costs of which will exceed a sum set in terms of regulations by SAHRA or a provincial heritage resources authority.</li> </ul> </li> <li>(d) The re-zoning of a site exceeding 10,000m<sup>2</sup> in extent, or</li> <li>(e) Any other category of development provided for in regulations by SAHRA or a provincial heritage resources authority,</li> </ul> <p>must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.</p>
2	<p>The responsible heritage resources authority must, within 14 days of receipt of a notification in terms of subsection (1)—</p> <ul style="list-style-type: none"> <li>(a) If there is reason to believe that heritage resources will be affected by such development, notify the person who intends to undertake the development to submit an impact assessment report. Such report must be compiled at the cost of the person proposing the development, by a person or persons approved by the responsible heritage resources authority with relevant qualifications and experience and professional standing in heritage resources management, or</li> <li>(b) Notify the person concerned that this section does not apply.</li> </ul>
3	<p>The responsible heritage resources authority must specify the information to be provided in a report required in terms of subsection (2)(a): Provided that the following must be included:</p> <ul style="list-style-type: none"> <li>(a) The identification and mapping of all heritage resources in the area affected.</li> <li>(b) 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.</li> <li>(c) An assessment of the impact of the development on heritage resources relative to the sustainable social and economic benefits to be derived from the development.</li> <li>(d) 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.</li> <li>(e) The results of consultation with communities affected by the proposed development and other interested parties regarding the impact of the development on heritage resources.</li> <li>(f) If heritage resources will be adversely affected by the proposed development, the consideration of alternatives, and</li> <li>(g) Plans for mitigation of any adverse effects during and after the completion of the proposed development.</li> </ul>
4	<p>The report must be considered timeously by the responsible heritage resources authority which must, after consultation with the person proposing the development, decide—</p> <ul style="list-style-type: none"> <li>(a) Whether or not the development may proceed;</li> <li>(b) Any limitations or conditions to be applied to the development;</li> <li>(c) What general protections in terms of this Act apply, and what formal protections may be applied, to such heritage resources;</li> <li>(d) Whether compensatory action is required in respect of any heritage resources damaged or destroyed as a result of the development; and</li> <li>(e) Whether the appointment of specialists is required as a condition of approval of the proposal.</li> </ul>

5	A provincial heritage resources authority 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.
6	The applicant may appeal against the decision of the provincial heritage resources authority to the MEC, who— (a) Must consider the views of both parties, and (b) May at his or her discretion— (i) Appoint a committee to undertake an independent review of the impact assessment report and the decision of the responsible heritage authority, and (ii) Consult SAHRA, and (c) Must uphold, amend or overturn such decision.
7	The provisions of this section do not apply to a development described in subsection (1) affecting any heritage resource formally protected by SAHRA unless the authority concerned decides otherwise.
8	The provisions of this section do not apply to a development as described in subsection (1) if an evaluation of the impact of such development on heritage resources is required in terms of the Environmental Conservation Act, 1989 (Act No. 73 of 1989), or the integrated environmental management guidelines issued by the Department of Environment Affairs and Tourism, or the Minerals Act, 1991 (Act No. 50 of 1991), or any other legislation: Provided that the consenting authority must ensure that the evaluation fulfils the requirements of the relevant heritage resources authority in terms of subsection (3), and any comments and recommendations of the relevant heritage resources authority with regard to such a development have been taken into account prior to the granting of consent.
9	The provincial heritage resources authority, with the approval of the MEC, may, by notice in the <i>Provincial Gazette</i> , exempt from the requirements of this section any place specified in the notice.
10	Any person who has complied with the decision of a provincial heritage resources authority in subsection (4) or of the MEC in terms of subsection (6) or other requirements referred to in subsection (8), must be exempted from compliance with all other protections in terms of this Part, but any existing heritage agreements made in terms of subsection 42 must continue to apply.

[END OF DOCUMENT].