



EASTERN CAPE
PROVINCIAL HERITAGE
RESOURCES AUTHORITY

SOUTH AFRICA

EASTERN CAPE PROVINCIAL HERITAGE RESOURCES AUTHORITY (ECPHRA)

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

THE HERITAGE IMPACT ASSESSMENT (HIA) AND HERITAGE MANAGEMENT PROCESS FOR DEVELOPMENT PROJECTS IN THE EASTERN CAPE PROVINCE

The South African Heritage Resources Agency (SAHRA) is mandated with the management of all South Africa's heritage resources, as described in and protected by the National Heritage Resources Act, Act No. 25 of 1999 (NHRA 1999). The Eastern Cape Provincial Heritage Resources Authority (ECPHRA) is established in terms of the NHRA 1999, Section 23 and is responsible for the management of the heritage resources of the Eastern Cape Province. The ECPHRA Archaeology, Palaeontology and Meteorites (APM) Unit manages the NHRA 1999, Section 38 heritage management process for planned developments located in (or aspects of developments located in) the province, either as consenting authority (where no environmental process is required), or as commenting agent to the consenting authority (where an environmental process is required).

This document aims to describe the NHRA 1999, Section 38 process according to the following outline:

- General information on the heritage management process for developers and development planners.
- Development application and the Notice of Intent to Develop (NID).
- The Heritage Impact Assessment (HIA) process, including the:
 - Archaeological and Cultural Heritage Impact Assessment (AIA).
 - Palaeontological Impact Assessment (PIA).
 - Additional requested specialist heritage assessments/studies.
- Heritage management during the construction and operational or use phases of development.

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1) ACRONYMS AND ABBREVIATIONS

ACRONYM / ABBREVIATION	MEANING
AIA	Archaeological and Cultural Heritage Impact Assessment
APM (Unit)	Archaeology, Palaeontology and Meteorites (Unit)
BAR	Basic Assessment Report
BE (Unit)	Built Environment (Unit)
BGG (Unit)	Burial Grounds and Graves (Unit)
BID	Basic Information Document
CMP	Conservation Management Plan
EA	Environmental Authorisation
ECPHRA	Eastern Cape Provincial Heritage Resources Authority
ECO	Environmental Control Officer
EIA	Environmental Impact Assessment
EMPr	Environmental Management Plan/Programme (report)
Ha	Hectare(s)
HIA	Heritage Impact Assessment
HMP	Heritage Management Plan/Programme
Km	Kilometre(s)
LHS	Local Heritage Site
LoR	Letter of Recommendation
NHRA 1999	National Heritage Resources Act, Act No. 25 of 1999
NID	Notification of Intent to Develop
NMA 1969	National Monuments Act, Act No. 28 of 1969
PHS	Provincial Heritage Site
PIA	Palaeontological Impact Assessment
PPP	Public Participation Process
R	Rand
RoD	Record of Decision
SAHRA	South African Heritage Resources Agency
SAHRIS	South African Heritage Resources Information System
SIA	Social Impact Assessment
SSV	Site Sensitivity Verification
S&EIA	Scoping and Environmental Impact Assessment
VIA	Visual Impact Assessment

2) GENERAL INFORMATION: THE HERITAGE MANAGEMENT PROCESS FOR DEVELOPERS AND DEVELOPMENT PLANNERS

1. The Eastern Cape Provincial Heritage Resources Authority (ECPHRA) Archaeology, Palaeontology and Meteorites (APM) Unit manages the National Heritage Resources Act, Act No. 25 of 1999 (NHRA 1999), Section 38 development application and heritage compliance process for developments located in (or aspects of developments located in) the Eastern Cape Province.

The ECPHRA APM Unit is responsible for the management of all heritage resource/site types as defined and protected by the NHRA 1999 within a proposed development framework, be the resource(s)/site(s) directly or indirectly affected by the development. The NHRA 1999 defines a greater breadth of heritage resource/site types, many of which received little or no recognition or protection under the previous National Monuments Act, Act No. 28 of 1969 (NMA 1969). To bring these resource/site types in line with current heritage protocols, management, and legislative standards, ECPHRA heritage compliance requirements will, in cases, deviate from the development's study site specific Heritage Impact Assessment (HIA) recommendations.

2. The ECPHRA APM Unit manages heritage according to the following key documents:
 - National Heritage Resources Act, Act No. 25 of 1999 (NHRA 1999).
 - NHRA 1999, Regulations 2000 No. 21239 (permitting process).
 - SAHRA. 2007. Minimum standards: archaeological and paleontological components of impact assessments reports. (SAHRA [2007] which describes the three-tiered Phase 1–3 heritage management process).
 - NHRA 1999, Provincial Gazette Notice No. 591 of 2023 (ECPHRA fees schedule).
3. The development application or Notice of Intent to Development (NID) form is downloadable from the ECPHRA website (<https://www.ecphra.org.za/>). South African Heritage Resources Information System (SAHRIS) cases must be registered on SAHRIS (<https://sahris.sahra.org.za/about/sahris>).

Payments must be made to:

Bank name:	First National Bank (FNB).
Account name:	Eastern Cape Provincial Heritage Resources Authority.
Account type:	Public Sector Business Account.
Account number:	62705406248.
Branch code:	211021.
Reference:	NID–development/project name; or ECPHRA CaseID number–development/project name; or SAHRIS CaseID number–development/project name.

4. The NID must be completed as thoroughly as possible, including the submission of maps and photographs of the study site: information provided in the NID is central to decision making in the application.

For large development applications, where sections of the development will be commissioned to various consultants/contractors, it is recommended that the overarching development be applied for in the NID with the specifics of the component parts clearly described therein. Upon request—and with specification of the

development's component parts—ECPHRA will structure their *NID Comment* to facilitate the HIA process according to the components of the overarching development.

Proof of payment of the R500.00 NID fee must be emailed to accounts@ecphra.org.za (subject: NID–development/project name). The NID and NID proof of payment must be emailed to info@ecphra.org.za (subject: NID–development/project name), together with the following attachments: 1) .kml / .kmz (Google Earth) file of the study site; 2) Map(s), layout(s), sketch plan(s), etc.; 3) Photographs (if a site visit has been conducted); and 4) An extended site or development/project description to further motivate the NID application.

5. Should the development be exempted from the HIA process (with conditions), the ECPHRA APM Unit will assign an ECPHRA CaseID number to the development/project. All communication on the development/project must be emailed to info@ecphra.org.za (subject: ECPHRA CaseID number–development/project name).

Development applications exempted from the HIA process (with conditions) requires a basic reporting process, including:

- Notice of commencement of development.
 - Registration of person responsible for the *chance finds procedure*, be it the Environmental Control Officer (ECO) or another, and reporting on the procedure according to an approved *schedule*.
 - Submission of construction phase/final heritage compliance closure statement.
6. Should the development be subject to the HIA process, a SAHRIS case must be registered for the development/project:
 - Proof of payment of the R1,500.00 HIA management fee must be emailed to accounts@ecphra.org.za and info@ecphra.org.za (subject: SAHRIS CaseID number–development/project name). Proof of the NID and HIA management fee must be uploaded on the SAHRIS case under the *Additional Documents* section.
 - All communication on the development/project, including updates to the SAHRIS case must be emailed to info@ecphra.org.za (subject: SAHRIS CaseID number–development/project name).
 7. A Phase 1 HIA comprises of two components:
 - Archaeological and Cultural Heritage Impact Assessment (AIA).
 - Palaeontological Impact Assessment (PIA).

Notes:

- Phase 1 HIA specialist studies must be conducted on the same study site. The HIA specialist studies may not be phased across various portions or parts of a study site.
- ECPHRA only accepts desktop HIA studies motivated by the HIA (AIA/PIA) specialist. ECPHRA retains the right to request a Phase 1 HIA study should the specialist's motivation for a desktop study not meet requirements.
- ECPHRA does not accept HIA studies older than 5 years (excluding projects where the authorisation process exceeds 5 years).

- ECPHRA will consider Letters of Recommendation (LoR) where the development application type changes at a study site assessed within the past 5 years, provided that the LoR address(es) identified resource(s)/site(s) adequately with reference to the new proposed development.

ECPHRA, for reasons explained in section 1, may request additional heritage specialist studies, i.e. community consultation; Oral History and Living Heritage Assessment; Built Environment Assessment; Rock Art Assessment; Marine Archaeological Assessment; Cumulative Heritage Impact Assessment; and Cultural Landscape Assessment (note: a Cultural Landscape Assessment is different from a Visual Impact Assessment (VIA). Although a Cultural Landscape Assessment does contain aspects of visual impacts, its focus is vested in tangible heritage resource(s)/site(s), cultural/heritage observations, and intangible cultural/heritage aspects). Other heritage assessments/studies may also be requested.

The need for additional heritage specialist studies may be identified during the heritage Site Sensitivity Verification (SSV) and Phase 1 HIA; the Public Participation Process (PPP) or Social Impact Assessment (SIA) of the development's Environmental Impact Assessment (EIA) process; it may be requested in terms of the NHRA 1999, Section 38(3)(d)/(e); or it may be directly identified by ECPHRA.

For developments with small or smaller study sites/footprints, additional heritage assessments will be limited to the necessary for decision-making purposes to facilitate development.

8. The Phase 1 HIA (AIA, PIA, as well as the additional requested heritage specialist assessment studies) must be uploaded on the SAHRIS case under the *Heritage Reports* section. A request for a *HIA Comment* (interim/final comment) must be sent to lungiswam@ecphra.org.za (subject: SAHRIS CaseID–development/project name):

- ECPHRA will only issue an *HIA Comment* if the relevant HIA reports are uploaded on the SAHRIS case. (HIA reports may, in addition, be attached in the email).
- ECPHRA will not issue an *HIA Comment* on links to websites/project environmental reports.

EIA process and development/project related documentation, i.e., Basic Information Document (BID); Basic Assessment Report (BAR)/EIA/Scoping and Environmental Impact Assessment (S&EIA); Environmental Management Plan/Programme (EMPr); development/project map(s), layout(s), sketch plan(s), etc., must be uploaded on the SAHRIS case under the *Additional Documents* section. It is recommended that these documents are uploaded as they are completed. All relevant *Additional Documents* must be uploaded on the SAHRIS case before the pre-construction phase starts.

Note: ECPHRA issues *HIA Comments* on HIA reports, not on EIA process reports. *Additional Information*—EIA process reports, map(s), layout(s), sketch plan(s), etc.,- is, however, central to the decision-making process.

9. A heritage SSV study must include, at minimum, a basic literature overview of the study site and its surrounds, as well as a 1–3-day site visit. The aim of a heritage SSV is to introduce heritage aspects pertinent to medium and large study sites, obvious *Fatal Flaws* or cautionary concerns, and to identify the need for additional specialist heritage assessments/studies that may be applicable to the study site and its surrounds.

A SSV AIA study must include a section, or a statement on the cultural landscape to verify if a specialist Cultural Landscape Assessment would be necessary, or if information contained in the SSV AIA sufficiently addresses cultural landscape concerns for the development/project.

10. A Heritage Management Plan/Programme (HMP) must include a summary of all identified heritage resource(s)/site(s) and cultural/heritage aspects relevant to the development/project proposal, as well as applicable heritage management compliance measures that will be effected during the pre-construction, construction, and operational/use phases of the development/project. The HMP must include a section, or statement on the cumulative heritage impact of the development/project.

11. A heritage Conservation Management Plan (CMP), where formal conservation or development of a resource/site is requisite within the development framework must include, at minimum, a description of the resource/site; its recommended South African Heritage Resources Agency (SAHRA) site significance and field rating; a basic recording (sketch plan); a history of work—including a summary of research, where applicable—conducted at the site; and recommended management measures. The ECPHRA APM Unit engages directly with the party responsible for implementation of the CMP (or its specialist representative) in the management of the resource/site.

Heritage site grading, be it as a Local Heritage Site (LHS) or a Provincial Heritage Site (PHS), is considered based on the CMP, the local/provincial heritage significance of the resource/site, and the management history/standard maintained at the resource/site.

12. Where heritage management of identified resource(s)/site(s) would require permits from the ECPHRA Built Environment (BE) Unit or the ECPHRA Burial Grounds and Graves (BGG) Unit, the permit application(s) must be submitted on the development's registered SAHRIS case. Permit applications for development cases will be forwarded by the ECPHRA APM Unit to the BE Unit/BGG Unit for evaluation, based on merit of the specific application and within its development application/framework context. Archaeological, palaeontological, and meteorites permits are currently issued directly by the ECPHRA APM Unit. Heritage permits are charged for per permit, as per the ECPHRA fees schedule (2023), and permit fees should be settled, and proof of payment communicated as described in section 3.

13. Repair costs to a parallel process, compromise, or violation of the NHRA 1999, Section 38 process will be charged by the ECPHRA APM Unit to the project proponent, development/project applicant, or identified third party, as may apply (see ECPHRA fees schedule).

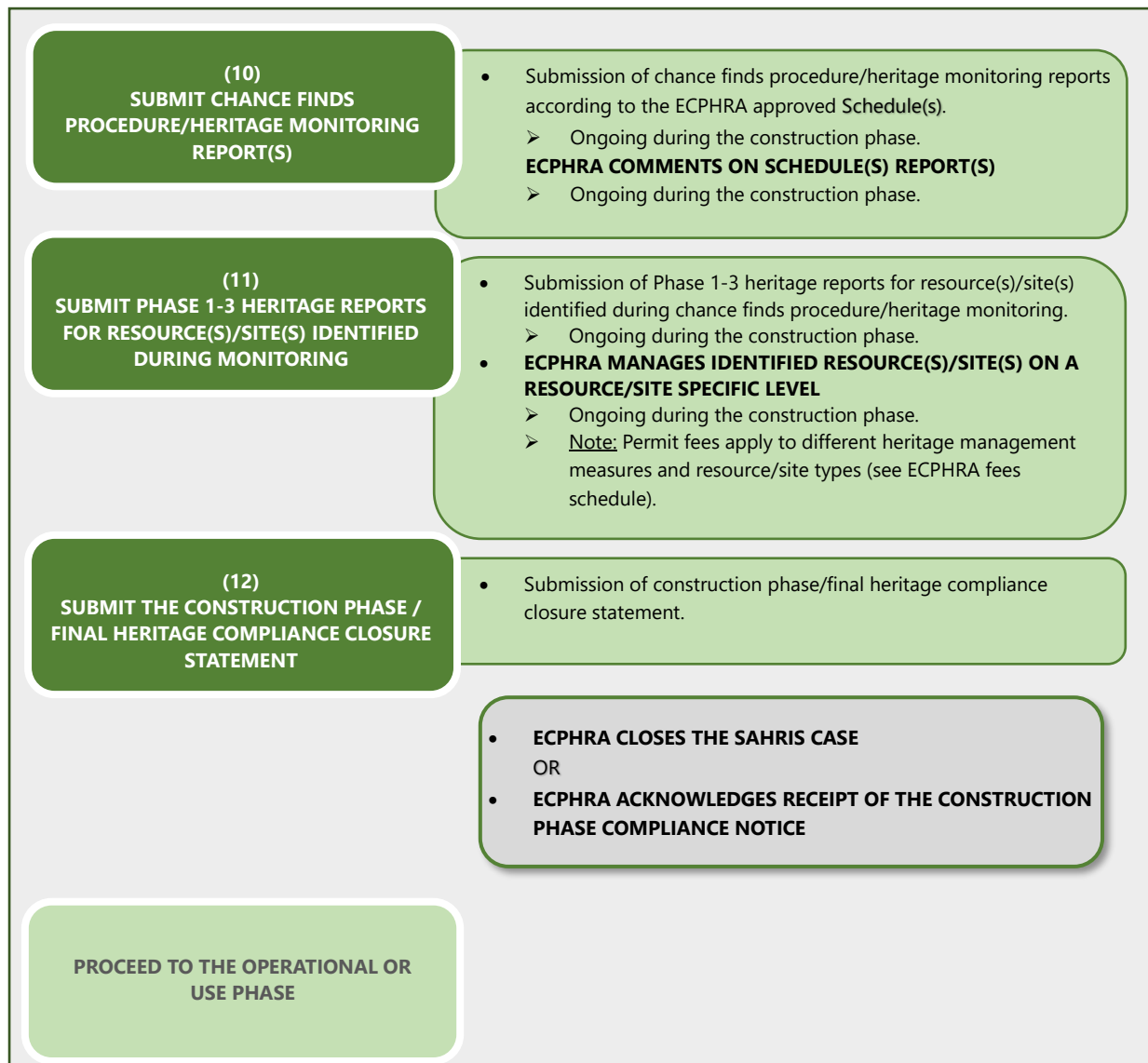
3) DEVELOPMENT APPLICATION AND THE HERITAGE IMPACT ASSESSMENT (HIA) PHASE



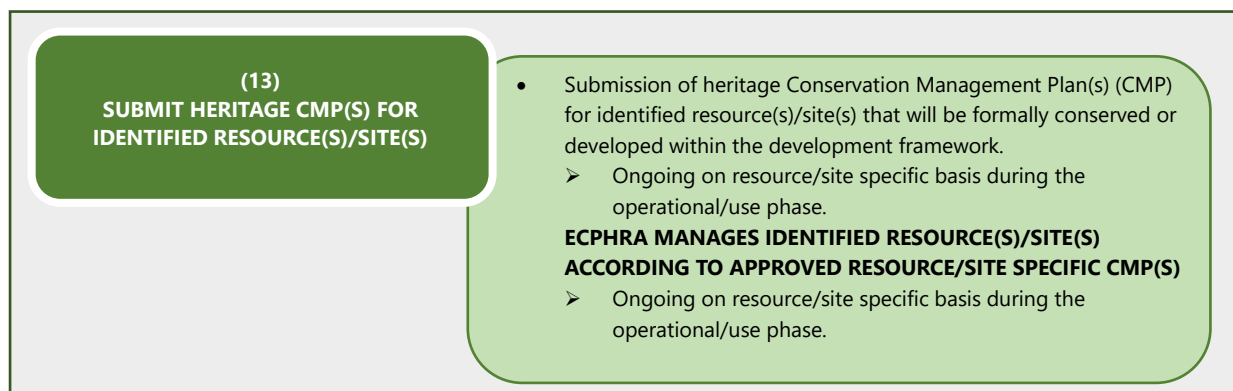
4) PRE-CONSTRUCTION PHASE HERITAGE MANAGEMENT



5) CONSTRUCTION PHASE HERITAGE MANAGEMENT



6) OPERATIONAL OR USE PHASE HERITAGE MANAGEMENT



APPENDIX 1:

EXTRACTS FROM THE NATIONAL HERITAGE RESOURCES ACT, ACT NO. 25 of 1999 (NHRA 1999)

SECTION 5 – GENERAL PRINCIPLES FOR HERITAGE RESOURCES MANAGEMENT

- (1) All authorities, bodies and persons performing functions and exercising powers in terms of this 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; and
 - (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 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.
- (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 or 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.

SECTION 11 – ESTABLISHMENT OF SOUTH AFRICAN HERITAGE RESOURCES AGENCY

There is hereby established an organisation to be known as the South African Heritage Resources Agency (SAHRA) which shall be a body corporate capable of suing and being sued in its corporate name and which shall be governed by a Council established in terms of section 14.

SECTION 12 – OBJECT OF SAHRA

The object of SAHRA is to co-ordinate the identification and management of the national estate.

SECTION 23 – ESTABLISHMENT OF PROVINCIAL HERITAGE RESOURCES AUTHORITIES

An MEC may establish a provincial heritage resources authority which shall be responsible for the management of the relevant heritage resources within the province, which shall be a body corporate capable of suing and being sued in its corporate name and which shall be governed by a Council constituted as prescribed by regulations published in the Provincial Gazette: Provided that the members of the 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.

SECTION 24 – FUNCTIONS, POWERS AND DUTIES OF PROVINCIAL HERITAGE RESOURCES AUTHORITY

- (1) A provincial heritage authority must—
- (a) Advise the MEC on the implementation of this Act or relevant provincial or municipal legislation;
 - (b) Annually submit a report to the MEC regarding its activities during that year;
 - (c) Promote the systematic identification, recording and assessment of heritage resources and heritage objects which form part of the national estate in a province;
 - (d) Protect and manage heritage resources in a province which fulfil the heritage assessment criteria prescribed under section 7(1) for Grade II status;
 - (e) Notify SAHRA of the presence of any heritage resource in the province 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;
 - (f) Maintain data bases on heritage resources in accordance with national standards, and at regular intervals furnish SAHRA with such data;
 - (g) Establish policy, objectives and strategy plans for heritage resources management in the province;
 - (h) Determine the 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);
 - (i) Co-ordinate and monitor the performance of local authorities in the implementation of their responsibilities in terms of this Act and provincial heritage legislation;
 - (j) Assist local authorities to manage heritage resources in their areas of jurisdiction; and
 - (k) Provide for any areas of responsibility in terms of this 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).

[END OF DOCUMENT].