

Western Cape, South Africa

National Heritage Resources Act, 1999

Regulations Relating to the Consultation Process for Listing Heritage Resources in the Heritage Register and the Designation of Heritage Areas by Heritage Western Cape, 2022

Provincial Notice 145 of 2022

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and the Designation of Heritage Areas by Heritage Western Cape, 2022
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Heritage Western Cape, under section 25(2)(h) of the National Heritage Resources Act, 1999 ([Act 25 of 1999](#)), has made the regulations set out in the Schedule.

1. Definitions

In these regulations a word or expression to which a meaning has been assigned in the National Heritage Resources Act, 1999 ([Act 25 of 1999](#)), bears the same meaning and, unless the context indicates otherwise —

"**conservation body**" means an organisation registered as a conservation body in terms of the regulations made by Heritage Western Cape under [Provincial Notice 298/2003](#), dated 29 August 2003;

"**heritage area**" means an area or land contemplated in section 31 of the Act;

"**Heritage Western Cape**" means the provincial heritage resources authority established by the Provincial Minister under section 23 of the Act by [Provincial Notice 336/2002](#), dated 25 October 2002;

"**Province**" means the Province of the Western Cape;

"**Provincial Minister**" means the MEC as defined in the Act;

"**the Act**" means the National Heritage Resources Act, 1999 ([Act 25 of 1999](#)).

2. Consultation with affected communities regarding listing of heritage resources in heritage register by Heritage Western Cape

- (1) If Heritage Western Cape intends to list a heritage resource in the heritage register of the Province, it must consult any affected community by publishing a notice in—

- (a) the *Provincial Gazette*; and
- (b) at least one other newspaper in general circulation in the Province or, if the heritage resource proposed for listing in the heritage register affects only a specific area, in at least one newspaper distributed in that area,

regarding the proposed listing of the heritage resource in the heritage register and the details of any proposed provision for the protection of the heritage resource as contemplated in section 30(11) of the Act.

- (2) The notice contemplated in subregulation (1) must request comments in writing regarding the proposed listing of the heritage resource in the heritage register and the proposed provision for the protection of the heritage resource as contemplated in section 30(11) of the Act, by a date indicated in the notice.
- (3) In addition to a notice contemplated in subregulation (1), Heritage Western Cape may publish the notice in any other media it regards necessary.
- (4) A notice contemplated in subregulation (1) must—
 - (a) be published in all three official languages of the Province;
 - (b) include the name and contact details of the person to whom the comments must be submitted and to whom any queries may be directed; and
 - (c) specify that the details of the heritage resource proposed for listing in the heritage register are available for inspection—
 - (i) on the official website of Heritage Western Cape;
 - (ii) at the offices of Heritage Western Cape; and
 - (iii) at any other place that Heritage Western Cape specifies in the notice.
- (5) Heritage Western Cape must ensure that the details of the heritage resource as contemplated in subregulation (4)(c) and the details of any proposed provision for the protection of the heritage resource as contemplated in section 30(11) of the Act are made available for inspection.
- (6) If Heritage Western Cape intends to amend or delete an entry in the heritage register, the process contemplated in subregulations (1), (2), (3), (4) and (5), with the necessary changes, must be followed.

3. Consultation regarding designation of heritage area by Heritage Western Cape

- (1) If Heritage Western Cape intends to designate a heritage area, it must consult—
 - (a) any affected community by publishing a notice in—
 - (i) the *Provincial Gazette*; and
 - (ii) at least one other newspaper in general circulation in the Province or, if the proposed heritage area affects only a specific area, in at least one newspaper distributed in that area; and
 - (b) the owners of property in the proposed heritage area by notifying them in writing by—
 - (i) registered post to the postal address of the owners;
 - (ii) electronic mail to the electronic mail address of the owners, where available;
 - (iii) physical hand-delivery to the owners, where practicable; or
 - (iv) any other manner it regards appropriate,

regarding the proposed designation of the heritage area and the details of any proposed provision for the protection of the heritage area as contemplated in section 31(7) of the Act.
- (2) The notice contemplated in subregulation (1)(a) must request comments in writing regarding the proposed designation of the heritage area and the proposed provision for the protection of the heritage area as contemplated in section 31(7) of the Act, by a date indicated in the notice.
- (3) The written notification contemplated in subregulation (1)(b) must request comments in writing regarding the proposed designation of the heritage area and the proposed provision for the

protection of the heritage area as contemplated in section 31(7) of the Act, by a date indicated in the notification.

- (4) In addition to a notice contemplated in subregulation (1)(a), Heritage Western Cape may publish the notice in any other media it regards necessary.
- (5) A notice contemplated in subregulation (1)(a) and a written notification contemplated in subregulation (1)(b) must—
 - (a) be in all three official languages of the Province;
 - (b) include the name and contact details of the person to whom the comments must be submitted and to whom any queries may be directed; and
 - (c) specify that the details of the proposed heritage area are available for inspection—
 - (i) on the official website of Heritage Western Cape;
 - (ii) at the offices of Heritage Western Cape; and
 - (iii) at any other place that Heritage Western Cape specifies in the notice.
- (6) Heritage Western Cape must ensure that the details of the proposed heritage area as contemplated in subregulation (5)(c) and the details of any proposed provision for the protection of the heritage area as contemplated in section 31(7) of the Act are made available for inspection.
- (7) If Heritage Western Cape intends to amend or withdraw the designation of a heritage area, the process contemplated in subregulations (1), (2), (3), (4), (5) and (6), with the necessary changes, must be followed.
- (8) A local authority must provide to Heritage Western Cape all reasonable assistance and information required to enable Heritage Western Cape to fulfil its duties in terms of this regulation.

4. Assistance with transcribing comments

Any person who cannot write may, during office hours and before the date contemplated in regulations 2(2) and 3(2) and (3), request an employee at the offices of Heritage Western Cape to provide reasonable assistance to that person by transcribing that person's comments.

5. Consultation with local authority and Provincial Minister

Before Heritage Western Cape consults with any affected community as contemplated in regulation 2 or consults with any affected community and owners as contemplated in regulation 3, it must consult the relevant local authority and the Provincial Minister responsible for provincial planning matters to consider the details of any proposed provision for the protection of—

- (a) the heritage resource proposed for listing in the heritage register, as contemplated in section 30(11) of the Act; or
- (b) the heritage area proposed for designation, as contemplated in section 31(7) of the Act,

with due regard to section 24(3) of the Local Government: Municipal Systems Act, 2000 ([Act 32 of 2000](#)).

6. Consultation

When Heritage Western Cape is required to consult any person as contemplated in regulation 2 or 3, such consultation is regarded as having been satisfied if the written notification contemplated in the relevant regulation has been given to that person, whether or not a response was received by the date specified in the notification.

7. Notice to conservation bodies

When Heritage Western Cape consults with any affected community as contemplated in regulation 2 or consults with any affected community and owners as contemplated in regulation 3, it must notify any affected conservation body by sending a notice by—

- (a) registered post to the postal address of the conservation body; and
 - (b) electronic mail to the electronic mail address of the conservation body, where available,
- of the availability for inspection and comment of the details of—
- (i) the heritage resource proposed for listing in the heritage register, as contemplated in regulation 2; or
 - (ii) the proposed heritage area, as contemplated in regulation 3.

8. Consideration of comments

When Heritage Western Cape consults with any affected community as contemplated in regulation 2 or consults with any affected community and owners as contemplated in regulation 3, it must—

- (a) give due consideration to all comments, representations or objections received before it—
 - (i) lists a heritage resource in the heritage register; or
 - (ii) designates a heritage area; and
- (b) keep a written record of the decision taken and the reasons for the decision, which record must be made available to interested and affected parties on request.

9. Appeal

A person wishing to appeal against—

- (a) the listing of a heritage resource by Heritage Western Cape in the heritage register; or
- (b) the designation by Heritage Western Cape of a heritage area,

must lodge the appeal in terms of section 49 of the Act.

10. Short title

These regulations are called the Regulations Relating to the Consultation Process for Listing Heritage Resources in the Heritage Register and the Designation of Heritage Areas by Heritage Western Cape, 2022.