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SAHRA CASE ID 11095

ARNISTON HARBOUR: PROPOSED ROCK REVETMENT FOR PROTECTING THE EMBANKMENT AND ADJACENT INFRASTRUCTURE.

MOTIVATION TO THE SA HERITAGE RESOURCES AGENCY (SAHRA) THAT NO HERITAGE IMPACT ASSESSMENT BE REQUIRED

Re: SAHRA Interim Comment dated 27 July 2017 (Briege Williams).

DECLARATION OF EXPERTISE AND INDEPENDENCE

Graham Jacobs has over 30 years of experience as an architect and heritage specialist, originally with the Cape Town City Council's City Planner's Department where he became head of its Urban Conservation Unit before going into private practice in 1999. He has a Bachelor's Degree in Architecture from the University of Cape Town (1979), and a Master's Degree in Conservation Studies (Built Environment) from the Institute of Advanced Architectural Studies, University of York, UK (1986). Graham is a part time lecturer in UCT's MPhil in Conservation (built environment) program and has worked extensively in the Western Cape and beyond on numerous heritage projects. He is a serving Council member at Heritage Western Cape (HWC) and is a member of its Built Environment and Landscape Committee (BELCom).

This is to confirm that Graham Jacobs is an independent practitioner with no financial interest in the subject development proposal whatsoever, other than being remunerated for his professional services in preparing this motivation.

This submission argues that no HIA is necessary for the proposed new works as requested by SAHRA in its abovementioned Interim Comment, and in terms of the National Heritage Resources Act (NHRA) Section 38(1)c.

1. MOTIVATION

SAHRA's abovementioned Interim Comment (hereafter 'SAHRA's Comment') states that the proposed rock revetment in the Preferred Alternative (hereafter 'the subject works') triggers NHRA Section 38(1)c, and that therefore an HIA is to be submitted as part of the EIA Basic Assessment Report in terms of NHRA Section 38(8) read with NHRA Section 38(3).

The triggers for requiring a HIA in terms of NHRA Section 38(3)c are as follows:

"...any development or activity which will change the character of a site –

- i) Exceeding 5 000 square metres in extent; or
- ii) Involving three or more existing erven or subdivisions thereof; or
- iii) Involving three or more erven or subdivisions thereof which have been consolidated within the past five years; or
- iv) The costs of which will exceed a sum set in terms of regulations by SAHRA or a provincial heritage resources authority;.....

Given that the site of the subject works does not involve three or more subdivisions either in terms of ii) or iii) above, nor involve costs in terms of iv) above been regulated, it stands to reason that the trigger being applied in terms of NHRA Section 38(8)c can in fact only be Section 38(3)(c)i, viz. relating to a change of character from a development or activity affecting a site exceeding 5 000 square metres in extent.

For the sake of this motivation, NHRA Section 38(3)(c)i is hereafter referred to as the '5 000 sq m clause'.

1.1. Interpretation of the 5 000 sq m Clause

- i) The definition of the site as one that exceeds 5 000sq m in terms of the 5 000 sq m clause, simply because that exceeds the extent of the overall waterfront/beach area as a cadastral entity, is strongly questioned. Given the actual low visual profile, sympathetic use of materials in the Preferred Alternative, and the limited length of the subject works (these are after all 2 embankments with a combined length of 95m, and not higher than the upper shoreline level), it is therefore argued that the subject site is much more limited: in fact, the site of the proposed alterations and their immediate vicinity, *and nothing broader*.
- ii) Given the sympathetic nature of the subject works, the character of the site would in any case not be changed by the proposed alterations, i.e. even if the site were understood to be an area exceeding 5 000 sq m. Indeed, if there were to be a change in character at all, this would be for the better, as the current erosion along this portion of the shoreline has resulted in negative visual, not to mention detrimental structural, impacts.

1.2. Understanding the Subject Site in terms of the NHR Act

- i) The National Heritage Resources Act 25:1999 (hereafter NHRA) defines a site as: "...any area of land, including land covered by water, and including any structures or objects thereon".
- ii) In determining whether the character of a site would be changed in terms of the NHRA, it is a *sine qua non* that heritage resources would need to be directly (negatively) impacted, given that the underlying purpose of the NHRA is to protect heritage resources. In this case, the heritage resource is presumably the Kassiesbaai harbour apron and slipway. This amounts to an area notably less than 5 000 sq m even if the cadastral area in which it falls is larger.
- iii) According to the definition of 'site' in the NHRA, a site can be '...any area of land...' (as in i) above. Given the limited area of the subject works, i.e. 1 000 sq m

along a combined length 95m length of shoreline, it would be nonsensical to regard the affected site as being an area in excess of 5 000sq m when the proposed work will occur in a more tightly defined space with no negative visual impacts on any heritage resources beyond. In fact, the harbour apron and slipway, arguably being the main heritage resources in question, will undoubtedly benefit from the protection afforded by the proposed revetments.

1.3. Impacts on Character and Heritage Resources

- i) It is emphasised in 1.2i) that impacts on character must relate to heritage resources, those resources most directly being the Kassiesbaai harbour apron and slipway. This is self-evident. It does not require an HIA to determine this. Given the visually sympathetic nature of the subject works as proposed in preferred Alternative 1, there will clearly be no negative impacts on heritage resources beyond this harbour apron and slipway.
- ii) The rock face and gabions proposed in the subject works has been designed to create as little visual disturbance as possible to the current shoreline along the harbour apron and slipway. It is for this reason that the Preferred Alternative employs natural rock revetments and gabions as opposed to geotextile sandbags or concrete which would have negative visual impacts. Furthermore, the limited lengths of the subject works and the fact that there would be no elements projecting above the upper shoreline level mean that the subject works will have a low visual profile. Given these factors, it is argued that although the proposals will amount to physical changes to the embankment adjacent to the harbour apron and slipway, they will not impact on its character.
- iii) The purpose of the subject works is to stabilize the severely eroded embankment along the edge of a heritage resource. This is work that needs to be implemented urgently to avoid further damage from tidal activity. If allowed to continue, this will ultimately result in severely negative physical impacts, not only to existing buildings and infrastructure, but also to the historic harbour apron and slipway themselves.

2. CONCLUSIONS AND RECOMMENDATIONS

- i) The documentation provided in the PBPS report dated June 2017 provides sufficient information to demonstrate that the subjects works will not change the character of a site exceeding 5 000 sq m.
- ii) The proposals will not only be sympathetic in relation to their context, but will not change the character of a site less than 5 000 sq m.
- iii) For these reasons, the subject works should not be subject to NHRA Section 38(1)(c)i and therefore not require an HIA. To insist on an HIA would place unnecessary delays on the program, thereby threatening heritage resources that the NHRA has been promulgated to protect.

GRAHAM JACOBS
20 August 2017.