



PROCEDURE FOR APPEAL AGAINST A DECISION OF HERITAGE WESTERN CAPE IN TERMS OF THE NATIONAL HERITAGE RESOURCES ACT 25 OF 1999 – JUNE 2023

SECTION 49 OF THE NATIONAL HERITAGE RESOURCES ACT 25 OF 1999 (NHRA), READ WITH THE PROVINCIAL GAZETTE NOTICE 5936 OF 25 OCTOBER 2002, EMPOWERS ANY INTERESTED AND AFFECTED PARTY TO APPEAL A DECISION MADE BY HERITAGE WESTERN CAPE (HWC):

*Regulation 12(1): Persons and bodies with a bona fide interest in, or are affected by, a **decision** of a committee or other delegated representative of Heritage Western Cape to grant or refuse a permit, consent or authority, may lodge an appeal...against such decision.*

APPEALS MUST BE LODGED IN ACCORDANCE WITH THE PROCEDURE PROVIDED BELOW:

1. The Appellant must complete **prescribed appeals** form obtainable from the HWC website - <https://hwc.org.za/node/99>
2. The completed form must be accompanied by:
 - A detailed statement setting out the **grounds of appeal** in full;
 - Supporting documentation which is referred to in the appeal submission; and
 - Proof of **payment** of the amount of R 200.00 to the designated HWC banking details
3. The form must be submitted by the Applicant to HWC and to all the Interested and Affected Parties within **14 working days** of the date on which the decision was made known in writing by HWC.
4. The Applicant must provide a **statement of proof** (eg. Copy of email circulation) to HWC that the form was duly submitted to all the Interested and Affected Parties on the same date of which the completed form was submitted.
5. **The completed form and supporting documentation must be submitted to hwc.appeals@westerncape.gov.za**
6. Should the appeal be lodged after the prescribed period, the Appellant must submit an application for condonation along with the completed appeal application form. The application for condonation must state reasons for which HWC should hear the appeal in full.

KINDLY NOTE THAT ONLY DECISIONS MADE AND COMMUNICATED BY HWC CAN BE APPEALED. COMMENTS PROVIDED OR FURTHER REQUIREMENTS REQUIRED BY ANY OF THE COMMITTEES OF HWC CANNOT BE APPEALED.

UPON RECEIPT OF THE LODGING OF APPEAL, THE FOLLOWING PROCEDURE SHALL BE FOLLOWED:

1. The HWC shall communicate to the Appellant that the appeal was duly received by HWC.
2. The HWC Legal shall send a Notice of Receipt of Appeal within **5 working days** of receipt of the appeal to all the Interested and Affected Parties, informing them of the date upon which the appeal shall be heard by the HWC Appeals Committee.
3. The Notice of Receipt of Appeal will provide any Respondent/s with the opportunity to submit responding statements within **5 working days** of receipt of the notice. The responding statements must be submitted by the Respondent/s to HWC and the Interested and Affected Parties, the contact details of whom will be provided in the Notice of Receipt of Appeal.
4. The Interested and Affected Parties shall be invited to the Appeals meeting at which the appeal shall be heard. Should the meeting be held online, it shall be via Microsoft Teams, an invitation link to which will be sent to the Parties before the meeting. Meeting venues and dates may be subject to change – such changes will be communicated to all parties.

5. Any **decision** made by the HWC Appeals Committee shall be communicated to all the Parties in writing within **5 working days** after the decision was taken.
6. Any Party to the matter may request Reasons for the Decision, which shall then be provided by HWC within **10 working days** after such request was received.

APPEALING A DECISION OF THE HWC APPEALS COMMITTEE OR THE HWC COUNCIL TO THE MEC TRIBUNAL

An appeal against a decision of the HWC Appeals Committee or Council, or an appeal in terms of S38(6) of the NHRA, stating the grounds of appeal may be lodged with the Ministry of Cultural Affairs and Sport, or the Secretariat responsible for Appeals lodged with Minister of Cultural Affairs and Sport. The appeal must be submitted in writing within **30 days** of the date upon which the decision of the Committee was made known in writing to the Appellant, and **must be addressed to the MEC**, and sent to Michael.Petersen@westerncape.gov.za. The MEC shall then appoint an independent tribunal to consider the appeal.

Tribunal Appeals must not be lodged at the offices of HWC; any appeals so lodged shall be returned to sender along with a copy of the Appeals Procedure document. HWC cannot be held responsible for the Appellant's failure to observe the rules and time-frames required by the procedure for appeals lodged with the MEC. For all intents and purposes, once an appeal against the decision of the HWC Appeals Committee is lodged with the MEC, **HWC shall no longer be responsible for any communication regarding such an appeal.**