

APPROVED MINUTES OF THE MEETING OF THE HERITAGE WESTERN CAPE APPEALS COMMITTEE

HELD ON WEDNESDAY, 9 SEPTEMBER 2026, ON MICROSOFT TEAMS, SCHEDULED FOR 08:30

1. Opening and Welcome

The Chairperson, Mr Gregory Ontong, opened the meeting at 08:30 and welcomed everyone present.

The Chairperson introduced Mr Shawn Johnston and Dr Lita Webley as co-opted specialist assistants for Erf 33030, Cressy Road (archaeological and community-consultation aspects).

The Chairperson introduced Adv. Michael Petersen, who has been moved to HWC in an acting capacity until a legal advisor is appointed. Ms Colette Scheermeyer confirmed the acting appointment.

2. Attendance

Committee Members

Mr Gregory Ontong (GO), Chairperson
Ms Corlie Smart (CS)
Dr André van Graan (AvG)
Mr Peter Büttgens (PB)
Mr Mike Scurr (MSc)

Co-opted Specialist Assistants (Item 10.1)

Mr Shawn Johnston (SJ) (left 13:30)
Dr Lita Webley (LW) (left 13:30)

Acting Legal Advisor

Adv. Michael Petersen (MP)

Members of Staff

Ms Nosiphiwo Tafeni (NT)
Ms Waseefa Dhansay (WD)
Ms Corné Alexander (CA)
Mr Olwethu Dlova (OD)
Mr Ruan Brand (RB)
Ms Chiara Singh (CSI)
Mr Yunus Ogier (YO)
Mr Francois Bosman (FB)
Ms Chloe Petrus (CP)
Ms Jwalane Lekama (JL)
Ms Xola Mlwandle (XM)
Ms Colette Scheermeyer (CSc)

Visitors

Ms Carol Whyte
Dr Coen Nienaber
Ms Saaliegah Zardad
Mr Ron Martin
Mr Tauriq Jenkins
Mr Zenzile Khoisan
Mr Shilo Hope
Mr Shiraatz Mohammed
Mr Marlon De Wee
Ms Tamsin Van Vlaanderen
Mr Nick Smith
Dr. Kuni Nabaru
Mr Tyrone Middendorp

Mr Chris Snelling
Mr Oyleng Majiet
Ms Marilu Joubert
Mr Patrick Dunn
Ms Sarah Golding
Ms Carol Jamaal
Ms Victoria de la Cour
Ms Vivienne McDonald
Mr Tom Gerhardt
Ms Helen Counihan-Greene
Ms Kate Foss
Mr Faren Tino

3. Apologies

3.1 Ms Stephanie Barnardt.

4. Declaration by Members Re-affirming their Commitment to the Code of Conduct

- 4.1 Each member, Adv. Petersen, Dr Webley and Mr Johnston declared no conflict of interest and re-affirmed their commitment to the Code of Conduct.
- 4.2 It was noted that Advocate Michael Petersen, the DCAS Tribunal Secretariat, was present solely to provide temporary procedural support pending the appointment of an HWC legal advisor and took no part in deliberations, evaluation of merits or decision-making on any matter on this agenda.

5. Approval of Agenda dated 9 September 2026

- 5.1 The Chairperson noted that the Agenda had been amended so that Item 10.1 (Erf 33030, Cressy Road) was heard first.
- 5.2 The Committee resolved to approve the Agenda dated 9 September 2026. Moved: CS. Seconded: AvG.

6. Disclosure and Conflicts of Interest

- 6.1 None.
- 6.2 No recusals. HOMS representatives were to recuse themselves when the Committee deliberated on Items 10.2 and 10.3. A case officer's presentation was a courtesy to the Committee and does not constitute a conflict.

7. Approval of Previous Minutes dated 12 August 2026

- 7.1 Members had not had sufficient time to review the Minutes, which were received on 25 August 2026.
- 7.2 The Committee resolved that the Minutes be circulated to members for further corrections (round robin) and tabled for approval at the next meeting on 14 October 2026, after which they will be signed.

8. Confidential Matters

- 8.1 None.

9. Administrative Matters

9.1 Outcome of the Tribunal and Recent Court Decisions

- 9.1.1 Adv. Petersen reported that:
 - (a) The La Boutique Hotel matter has been finalised and the ruling received;
 - (b) The 15 Le Croix Avenue, Claremont, matter was awaiting a ruling; and
 - (c) The Oude Molen Eco Village matter was still before the Minister.

9.2 Report back from HWC Council

- 9.2.1 The Chairperson undertook to circulate a brief written report on Council to the Committee and the Secretariat within two to three days. There was no objection.

9.3 Site Visits Undertaken / Site Inspection Reports

- 9.3.1 None.

9.4 Potential Site Visits

- 9.4.1 The Committee resolved to undertake site inspections on Tuesday, 6 October 2026:
 - (a) Erf 100, 11 Mutley Road, Three Anchor Bay, at 08:30. Attendees: MSc, AvG, GO and Adv. MP. PB is recused, having assisted with the design.
 - (b) Erf 258, 4 Avenue de Longueville, Fresnaye, at approximately 09:30 Attendees: MSc, AvG, PB, GO and Adv. MP.
- 9.4.2 The inspections will follow after completion of the appeal packs, which were expected by Friday, 18 September 2026. Adv. Petersen advised that inspections should follow at the close of pleadings.
- 9.4.3 The Secretariat is to remind applicants and interested and affected parties that only Committee members may attend the site inspections. Case officers were to arrange internal access.

9.5 Attendance at Upcoming Tribunal Meetings

- 9.5.1 Adv. Petersen will assume the functions previously performed by Ms Penelope Meyer in arguing matters on behalf of the Appeals Committee before the Tribunal, assisted by case officers.
- 9.5.2 Adv. Petersen advised that he cannot represent the Committee in the Oude Molen matter, as he compiled the information before the Tribunal, which may create a perception of institutional bias. He recommended that the case officers appear and undertook to investigate it further. The Committee's representative for that hearing was not yet determined.

9.6 Discussion of the Agenda

- 9.6.1 None.

9.7 Appointments

- 9.7.1 None.

MATTERS TO BE DISCUSSED

10. Matters Arising

10.1 Erf 33030, Cressy Road, Garlandale, Athlone

HM / CAPE METROPOLITAN / ATHLONE / ERF 33030

Case No: HWC24101108XM0304

Appeal against the decision of the Impact Assessment Committee (IACom) of 17 June 2026.

The Chairperson read the rules of engagement and the Code of Conduct to all parties, referred to Adv. Petersen's role (see 4.2) and introduced the specialist assistants. Parties were to speak through the Chairperson, remain on topic and refrain from cross-examination.

Ms Waseefa Dhansay introduced the item on behalf of Ms Stephanie Barnardt:

- The appeal was against IACom's decision not to approve the HIA for a rezoning from Community Zone 1 to General Residential 2, for a residential estate of about 60 apartments and duplex units. The HIA provided no alternatives.
- The site was a former Anglican church cemetery. Burials date from 1867, the last recorded burial was in 1951, and exhumations were carried out under a SAHRA permit after the cemetery closed in 2017.
- IACom's grounds were that:
 - (i) the further requirements had not been met, specifically Recommendation 3 of the PGS Heritage report of November 2025;
 - (ii) the individuals interred were not identified, with no associated social-historical research; and
 - (iii) community engagement was inadequate.
- The Appellant's supplementary reasons and the interested and affected parties' (I&APs') responses were summarised.

The appellant represented by, Mr Ron Martin submitted that:

- The numerical discrepancy in human remains was explained in the HIA and two specialist reports (the Archaeological Impact Assessment by Ms Louisa Hutton and the PGS review): remains were fragmented, many burials were of infants and children, and the site is close to a river.
- Recommendation 3 was imposed as a pre-approval requirement. In his view, mitigation belongs in a heritage agreement, as IACom's archaeologists recommended on 17 June 2026.
- The site is owned by the appellant, Ezra Property Developers (Pty.) Ltd, not the Anglican Church.
- The 2017 grave relocation was concluded under a SAHRA permit. The owner will accept archaeological monitoring and stop works on any finds.
- Names of those interred are recorded on the columbarium wall at St Mark's Church, Athlone. A burial register was obtained from the Anglican Church. However the appellant submitted that personal information of the deceased is protected under POPIA.

- Public participation was extensive. Responses were consolidated in the HIA, and memorialisation and mediation was offered from the outset.
- The appellant submitted that the Committee is to uphold the appeal, and find that Section 38(3) of the NHRA was met, and impose the following conditions: archaeological monitoring at the developer's cost; a portion of the site earmarked for memorialisation; and a Section 42 heritage agreement is to be entered into.

Black River Interest Group represented by Ms Carol Jamal:

- The I&AP, questioned whether records existed for each set of remains (exhumation, transfer to the crematorium, cremation, urn placement and re-interment in the columbarium) and who holds them. Ms Jamal stated that these had been requested for nine years.
- The appellant responded that the 2017 process was separate and under a previous SAHRA permit. The records are not available to the appellants, and the crematorium restricted access to the immediate family. Dr Mary Patrick's reports recorded that all remains were interred in the columbarium.
- The I&AP found the response unsatisfactory and stated that the 2017 SAHRA process was flawed. It further stated that a 2017 appeal (over 60 signatures) and a petition (about 2 000 names) were rejected, and that fewer than 12 people were consulted.

Mr Mogamat Shiraatz Mohammed, representing the Indigenous Traditional Council.

- Linked the cemetery to a wider Indigenous Cultural landscape (Oude Molen and the Two Rivers Urban Park), supported by oral history, and opposed any suggestion that those buried were not Indigenous.
- Made allegations against HWC and the Western Cape Government and objected to development on ancestral burial grounds.
- Stated that he was prepared to pursue legal action.

The Chairperson reminded him that the Committee was assessing whether the HIA and related reports meet heritage requirements, whether due diligence and public participation were adequate, and whether the archaeological process was properly conducted. The meeting was not a political forum. After repeated interruptions, the Chairperson ended his speaking time.

Adv. Michael Petersen reminded the parties that the parties should adhere to the code of conduct, avoid introducing political issues into the proceedings, and focus on the heritage merits of the appeal. He also cautioned and warned that defamatory allegations could have legal consequences if the matter proceeded to further appeal or judicial review. He emphasized that the Appeals Committee's role was to assess the Heritage Impact Assessment and its compliance with heritage requirements, rather than broader political issues.

Ms Smart confirmed that decision-making rests with the Committee members, who are independent of HWC staff and the legal advisor.

Ms Dhansay reminded attendees that the Code of Conduct binds all participants.

Mr Zenzile Khoisan noted:

- Mr Martin had integrated the respondents' perspectives into his response.
- The appeal should be assessed within the legal framework. Contested issues such as PAIA and the regulatory processes in heritage agencies need not prevent progress.
- Appropriate memorialisation was the way forward, and the Committee should test the applicant's willingness to commit to it.

Mr Tauriq Jenkins noted:

- The five-working-day extension was granted in good faith. The Appellant's submission was late, evasive and did not engage with the grounds of refusal, and it shortened the I&APs' five-day comment period. The stated reason for the delay (a request to record the previous meeting) was not reflected in the submission.
- The burial register and PAIA process were being used to buy time while the Committee was pressed to decide quickly.
- A change of ownership does not extinguish heritage significance or NHRA obligations.
- Photographs of the columbarium and register do not resolve the discrepancy in records of the remains.
- Denying the ancestral presence of the Khoi and San at the cemetery was inconsistent with UNDRIP (Articles 11 and 31) and Article 27 of the ICCPR.
- Community engagement was flawed: the I&AP list compiled by HWC (River Club matter) was not used; notice and time were inadequate; and stakeholders and the spiritual and cultural dimensions were not engaged.
- Memorialisation was inadequate while the fate of the remains was unaccounted for.
- The appeal should be dismissed as procedurally flawed and without merit and IACom's decision should be upheld. The Appellant should be directed to: conduct proper public participation; account for the missing remains and develop a repatriation mechanism; and formally repudiate the denial of Khoi and San ancestral presence.

Dr Coen Nienaber indicated for the record that the document which IACom described as an Archaeological Impact Assessment was a PGS review of Dr Patrick's grave relocation report and is not a separate AIA. The impact assessment was authored by Ms Hutton.

Response by the appellant:

- HIA chapters 9 to 11 address the Indigenous and social history of the site, including a four-and-a-half-page contextualisation of the Khoi and the ownership chronology.
- Change of ownership does not extinguish heritage value
- The Dr Patrick report informed Ms Huttons' assessment, and the PGS report was requested by HWC to explain the discrepancy.
- The supplementary document summarised the record already uploaded to SAHRIS.
- The requirements of Section 38(3) were satisfied.

Mr Jenkins replied that he disputed that Khoi and San belonging had been addressed, queried when the appeal document was uploaded to SAHRIS, and repeated that the public participation and archaeological points remained unanswered.

Descendant statement ("Tino").

Spoke as a descendant of those buried at the site, rejected the development and described his family's experience of the process.

The Committee posed the following questions:

Dr Webley asked Dr Nienaber about the GPR modelling in Recommendation 3. He replied that it relied on data in the Dr Patrick's report, with no new primary research, and agreed that further analysis would not guarantee additional remains.

IN CAMERA DISCUSSION

The committee noted that:

- The matter was previously heard on 12 August 2026, when the Committee resolved that:

- The Appellant's application for a postponement was not granted;
- Additional members with archaeological and socio-historical expertise would be co-opted;
- The matter was postponed to 9 September 2026;
- The Appellant may supplement his reasons within five working days and circulate them to all I&APs;
- I&APs may respond within five days of receipt; and
- Written submissions outside these periods would not be considered.

Regarding Public Participation and Stakeholder Engagement:

The Committee:

- Expressed concern that the stakeholder engagement process appeared to have focused on meeting the minimum requirements of HWC's guidelines rather than facilitating meaningful and comprehensive participation. The engagement had not adequately addressed the historical, social, cultural and emotional significance of the site, including its relationship with the Two Rivers Urban Park, the Oude Molen Eco Village, associated riparian corridors, burial grounds and the role of the Anglican Church in previous processes.
- Noted shortcomings in the supporting documentation, including the absence of a comprehensive stakeholder database, detailed attendance registers, records of stakeholder submissions and responses to questions, and evidence of how concerns raised during consultation had been considered and addressed. The unclear chronology of events further hindered an assessment of the effectiveness of the process.
- The committee considered that a more proactive stakeholder identification and outreach would be required to ensure that meaningful participation by affected communities, descendants and other interested parties.
- Noted the concerns regarding the Archaeological Impact Assessment (Dr Patrick) and the perceived independence of the heritage impact assessment practitioner.
- Referred to similar challenges in other heritage applications involving historical cemeteries and burial grounds affected by development.
- Heritage significance was understood to extend beyond the graves themselves to include the wider historical, cultural and social connections associated with a site. Fencing off a burial ground or meeting minimum consultation requirements may therefore be insufficient to protect its broader significance and address the concerns of affected communities.
- Considered whether more comprehensive stakeholder engagement requirements could be specified in the decision where a process was found to be inadequate, potentially providing guidance for similar applications in future.
- Was of the opinion even though the applicant maintained that the applicable HWC guidelines had been followed, these were regarded as minimum requirements that may not adequately address the complexities of sensitive heritage sites.
- Considered the significance of the shortcomings identified in the stakeholder engagement process and supporting documentation in the context of the IACom decision to reject the application or relevant heritage approval request.
- Inadequate engagement was recognised as potentially contributing to public dissatisfaction, mistrust and resentment towards HWC and other authorities.
- Expressed concern that the public participation process failed to provide the various stakeholders and groups with the needed restorative justice and closure on the many questions they have relating to the exhumation and memorialisation of the remains of family members. No finality had been reached on the many question relating to exhumation and the memorialisation of remains.
- Emphasised that stakeholder engagement guidelines should not be treated as a ceiling on consultation and that additional engagement was necessary where circumstances warranted it.

- Was of the opinion that applicants should proactively identify and engage relevant stakeholders, adequately document the process, and demonstrate how concerns raised had been considered and addressed.
- Recognised that a comprehensive and sensitive approach to engagement was essential to protecting heritage significance, ensuring meaningful participation by affected communities and descendants, and supporting the acknowledgement of and healing in relation to difficult historical experiences.

Regarding the Archaeological Assessment and Monitoring

- Considered the historical permit report prepared by Dr Mary Patrick for the SAHRA application in connection with the exhumation. Although the report indicated that the exhumation was considered complete, concern remained regarding the discrepancy between the estimated 2,300 graves and the 1,342 sets of human remains recovered.
- While recognising that archaeological methodology was not an exact science and that various factors may account for the discrepancy, the Committee noted that the absence of a clear explanation remained a significant source of concern within the community.
- Noted that Dr Mary Patrick's report recorded poor preservation of the human remains, with only 12% of the skeletal remains being complete and many represented only by skull fragments and jawbones.
- The report also recorded the demographic distribution of the human remains, including adults, babies and juveniles.
- The age of some burials, the possible deterioration of remains over approximately 150 years, and the fact that some individuals had not been buried in coffins were identified as factors that might help explain the discrepancy.
- It was noted that the demographic data indicated that babies were underrepresented in the human remains recovered, which, given the fragility and poor preservation of infant bones, may account for part of the discrepancy, and that the full estimated number of human remains may therefore never be recovered. It was noted that this had not been stated explicitly in any of the reports.
- Concern was expressed that the subsequent Archaeological Impact Assessment prepared by Ms Louisa Hutten had not adequately extracted and communicated this information to the public.
- Noted that IACom had identified shortcomings in the archaeological assessment and requested a review by PGS.
- The GPR modelling undertaken by PGS, using the available data, indicated that a greater number of infants may have been expected in the findings, leading to a recommendation for further scientific investigation. However, the value of this additional work was questioned, as the modelling would only indicate areas where remains might have occurred rather than locate them, and it was considered unlikely to resolve the fundamental uncertainty regarding whether human remains remained on the site.
- Although incorporating the death register into the GPR data analysis could strengthen the assessment, concerns remained regarding the availability of data during the initial analysis and the extent to which further modelling could provide a conclusive answer.
- Other concerns included the failure to adequately communicate the findings of the original SAHRA permit report.
- Considered community concerns regarding the relatively small number of urns, estimated at between 200 and 300, in relation to the much larger number of human remains recovered.
- Discussed whether the proposed additional investigation would address the concerns regarding the graveyard.
- It was acknowledged that, even with the inclusion of death register information and GPR data, the investigation was unlikely to establish conclusively whether human remains remained on the site.
- The possibility that human remains had been missed during the original clearance could not be excluded, and archaeological monitoring during future development might not identify all remaining material.

- Considered the appropriateness of the original permit authorising the clearance of the graveyard, with concern expressed that the objective of clearing the entire site might itself have been inappropriate given the uncertainties involved.
- Discussed whether archaeological monitoring during future construction and excavation would provide adequate protection for the site's heritage significance.
- The Committee considered that archaeological monitoring could potentially be imposed as a requirement should a future application to develop the site be submitted. However, the imposition of such a requirement would be a matter for the relevant authority to consider when an application was before it, should a future committee be minded to approve development of the site.
- In light of the above the committee considered the IACom decision to be correct and the further requirements previously raised by IACom to be appropriate. Accordingly, the Committee resolved that the appeal should be dismissed.

DECISION

The appeal is dismissed.

SB

10.2 Erf 96982, 10 Dumbarton Road, Rondebosch

HM / CAPE TOWN METROPOLITAN / RONDEBOSCH / ERF 96982

Case No: 27636XM0304

Appeal against a decision taken at the HOMS meeting.

Ms Xola Mlwandle introduced the item and read the Committee's further requirements of 12 August 2026.

Ms Sarah Golding (owner) presented the status quo report however the Committee requested that Ms Kate Foss be present, so the item was stood down and heard after Item 10.3.

In her opening, Ms Golding stated that:

- The west (north-west) chimney was demolished after HWC's approval of 4 June 2026 but within the 14-day appeal period.
- The owners were unaware of the appeal period, as the permit was not provided to them by their consultant. She acknowledged this as a mistake.
- The photographs were taken between 12 and 21 August 2026 and no further work had taken place since.

Presentation by Ms Kate Foss (plans colour-coded: black or grey for existing fabric; red for work under the approved section 34 application; blue for deviations; green for outstanding work):

- Ground floor: the chimney was removed, following removal of the supporting wall between the former dining room and kitchen. The base of the street-facing chimney was shown on the Section 34 plans.
- Deviations (blue): two front columns altered; a timber sash window at the front and a timber window at the rear removed and infilled; a small nib wall; and a small window added beside the pantry.
- Roof: a timber balustrade was removed and the roofs to the new extensions were incomplete.
- Status: brickwork and new floors were complete. The en-suite extension is unfinished, and the roofs, weatherproofing and approved extensions remain outstanding.

In response to a question by the committee, Ms Foss and Ms Golding confirmed that the existing storage structure was not part of this application. The initial red highlight related to a garage extension that was not pursued, and no work had been done there.

In response to a question by the committee, Ms Foss confirmed that, in her opinion, the significance of the property will remain unaltered on completion despite the unauthorised works and deviations.

Ms Vivienne McDonald (neighbour) submitted that:

- The plans of 1 June 2026 differ materially from the substituted plans of 8 June 2026, which were meant only to correct a boundary line. The removal of the chimney was not shown on the elevations, so significant alterations were not subject to transparent public participation.
- The demolition began during the appeal period and before the municipal plans were approved on 13 July 2026. She questioned how the municipality could approve plans while a heritage appeal was pending.
- The status quo drawings omit a carport that encroaches on her boundary, and the boundary was drawn incorrectly. The carport also contravenes a 1.57 m title deed building line.
- Contrary to the owners' statement, construction continued after 12 August 2026. Ms McDonald sent video evidence to Ms Mlwandle on 13 August 2026.

Ms Foss responded that the boundary dispute concerns a structure to the south on which no work was proposed under this application. The carport was a newer structure not shown on the plans, as the heritage assessment focused on the original dwelling.

Ms Sarah Golding responded that:

- The appeal concerns the chimney and the heritage approval, not the boundary, the storage structure or the carport.
- An application to regularise the carport had been submitted to the municipality.
- The allegation of continued construction was incorrect. Builders attended the site the morning after the appeal hearing solely to secure the site and collect equipment, and once more for waterproofing. Ms Mlwandle and Ms Meyer were informed.

Ms Viv McDonald replied that:

- There was no boundary dispute, as a survey was on the approved plan and disputed that there are inaccuracies with the drawings.
- Municipal regularisation does not override title deed restrictions.
- She asked the Committee to compare the 1 June 2026 and 8 June 2026 plans and to explain how a materially different plan was introduced within a week.

The parties were excused. HOMS representatives recused themselves and the Committee deliberated in camera.

DISCUSSION

Amongst other things, the following was discussed:

- The appeal was previously on the Agenda of 15 July 2026. The Committee resolved to undertake a site inspection on 4 August 2026, and the matter was heard on 12 August 2026.
- The Committee required a status quo report comprising:
 - Building plans by an architect showing all work that had taken place;
 - Annotated photographs of that work; and
 - A written description of deviations from the approved drawings.
- A stop-work order was issued and no work, structural or otherwise, may take place.
- The revised drawings were submitted and noted for the record by Ms Kate Foss.
- The building remains a Grade IIIB heritage resource, and the unauthorised works have not reduced its grading.
- The principal concern was the specific unauthorised alterations, particularly the demolished chimney and other deviations from the approved plans.

- Clarification is to be given to the parties that the deviations have not been and cannot be approved. The Heritage Agreement was to remedy them.

DECISION

The Heritage Western Cape Appeals Committee cannot condone unauthorised work or work that deviates from approved and permitted work.

1. The applicant must enter into a Heritage Agreement with HWC in terms of section 42(1).
2. The HWC Stop Works Order dated 5 August 2026 remains in place until the Heritage Agreement is in place.
3. The Heritage Agreement is to remedy all unauthorised work not permitted by HWC under the permit and stamped plans dated 4 June 2026.
4. The interventions are to be depicted on a building plan submitted to HWC as forming the subject of the agreement.
5. The heritage practitioner, Ms Kate Foss, is to monitor the work and provide a close-out report to HWC on completion, as per the Heritage Agreement.
6. If the Heritage Agreement is not entered into within three months of the date of this decision, the existing HWC permit will be withdrawn.

XM

10.3 Erf 2067, 75 Kloof Street, Fresnaye

HM / CAPE TOWN METROPOLITAN / FRESNAYE / ERF 2067

Case No: 27072SB0116

Appeal against the HOMS Committee decision. This item was heard before Item 10.2.

Mr Ruan Brand introduced the item on behalf of Ms Stephanie Barnardt.

- The property is a Grade IIIB structure outside any HPOZ.
- The proposal is a double-storey rear addition and internal alterations, retaining the historic street façade.
- The appeal was lodged by Mr Tyrone Middendorp on behalf of the neighbours.
- The owners were represented by Ms Marilu Joubert (architect) and Mr Nick Smith.
- The Sea Point, Fresnaye and Bantry Bay Ratepayers and Residents Association (SFBRA) sent apologies and its comments were read into the record. It considers the revised roof weak, recommends a gable at each end to align with the existing gables, and supports the neighbours' concerns.

Ms Marilu Joubert (architect for the owners) noted that:

- The plans were unchanged apart from the response to the further requirements.
- The roofscape was reduced to a 20-degree hipped roof (tile finish), cutting the height from 7.8m to 6.1m.
- Glazing was increased so that the addition reads as secondary, and screening was added at the upper levels.

In response to the committee, Ms Joubert confirmed the roof material and that the building envelope was otherwise as previously submitted, save for larger window openings and the new roof.

Mr Nick Smith (for the I&APs) noted that the appeal was upheld, the owners were not re-arguing it, and the revised design achieves what the Committee required.

Mr Tyrone Middendorp (for the appellant) submitted that:

- Procedure was irregular: I&APs and registered heritage bodies had no opportunity to comment on the amended drawings, and the owners' heritage practitioner gave no supporting opinion.
- The 30-day appeal period against the 12 August 2026 decision ends the following week, so deciding it then would be premature and would deprive his client of the right to appeal.
- The Committee was functus officio: having upheld the appeal, it cannot require revised plans. He relied on Regulation 7(5) of the 2000 NHRA regulations, section 48(2)(c) of the NHRA and Regulation 3(1) of the 2003 HWC regulations, arguing that conditions apply only where a permit had been issued.
- The roofscape was accepted, but the scale and massing were unchanged, so the addition still does not read as secondary.
- The heritage practitioner's reliance on screening falls away, as the mature pine tree and front shrubbery were to be removed.

Mr Smith responded that:

- This was a wide appeal, so there was no procedural irregularity. The revised plans were circulated, and no further heritage opinion was required.
- The Committee was still exercising its functions and no final decision had yet been made and published, so no further appeal period was running and functus officio does not apply.
- The permit was not refused. The appeal succeeded on a narrow ground (the addition's overbearing nature) and the Committee may impose conditions.
- The Committee should approve the revised plans and issue the permit conditional on them.

The parties were excused, HOMS representatives recused themselves and the Committee deliberated in camera. The parties were then recalled and the decision was read.

DISCUSSION

Amongst other things, the following was discussed:

- The appeal was previously on the agenda of 15 July 2026. The Committee resolved to undertake a site inspection on 4 August 2026, and the matter was heard again on 12 August 2026.
- The Committee's decision of 12 August 2026 was: the appeal was upheld; the proposed extension has a negative impact on the Grade IIIB heritage resource; and the rear extension was broadly acceptable, but a revised design was required which provides:
 - a less dominant roofscape responding sympathetically to the original house and its hipped roof form, rather than continuing the 1970s and 1980s forms;
 - an addition that reads as secondary and not as an equivalent element to the existing building and its rear extension; and
 - submission of the revised design to the Committee for approval.
- The further requirements were submitted.
- Clarification is to be given to the parties: no section 34 permit will be issued, as this would restart a 14-day appeal period. The decision will be stamped with the building plans and constitutes approval for municipal purposes.

DECISION

The Committee resolved to approve the revised plans prepared by Marilu Joubert Architects, dated 20 August 2026, Revision D, drawing numbers 202508-200, 202508-201, 202508-202 and 202508-203.

SB

11. New Matters

11.1 None.

12. Other Matters: For Noting

12.1 Erf 100, 11 Mutley Road, Three Anchor Bay

HM / CAPE TOWN METROPOLITAN / THREE ANCHOR BAY / ERF 100
Case No: 29211SB0722

The Committee resolved to undertake a site inspection.

SB

12.2 Erf 258, 4 Avenue de Longueville, Fresnaye

HM / CAPE TOWN METROPOLITAN / FRESNAYE / ERF 258
Case No: 27944SVB0324

The Committee resolved to undertake a site inspection.

SVB

13. Next Meeting

13.1 The next meeting will be held online on 14 October 2026.

14. Adoption of Decisions and Resolutions

14.1 The Committee adopted the decisions and resolutions. CSc moved and AvG seconded:

Closure: The meeting was adjourned at 16:20.

MINUTES APPROVED AND SIGNED BY:

CHAIRPERSON: _____



DATE: __23 October 2026



SECRETARY: _____

DATE: __23 October 2026_ 2026