

**Approved Minutes of the Meeting of the Impact Assessment Committee (IACOM)
of Heritage Western Cape (HWC) held at 1st Floor Boardroom, Green Market Square,
Cape Town
at 09H00 on Wednesday, 15 February 2023**



1. Opening and Welcome

The Chair, Mr David Gibbs, officially opened the meeting at 09:15 and welcomed everyone present.

2. Attendance

Members

Mr David Gibbs (DG) (Chair)
Mr Dave Saunders (DS)
Ms Sarah Winter (SW)
Ms Katie Smuts (KS)
Ms Samantha Lee (SL)
Mr Chefferino Fortuin

Staff

Ms Waseefa Dhansay (WD)
Mr Olwethu Dlova (OD)
Ms Stephanie Barnardt (SB)
Ms Muneerah Solomon (MSo)
Ms Sneha Jhupsee (SJh)
Ms Colette Scheermeyer (CSc)
Ms Aneeqah Brown (AB)
Ms Penelope Meyer (PM)
Ms Zikhona Sigonya-Ndongeni (ZSN)
Ms Ayanda Mdludlu (AM)
Ms Chane Herman (CH)
Mr Robin George (RG)
Ms Corne Nortje (CN)

Observers

None

Visitors

Mr James Hallinan
Dr Nicolas Baumann
Mr Mark Noble
Ms Cindy Postlethwayt
Mr David Wooly
Mr Wovler Fourie

Mr Tony Wise
Mr Neil Schwartz
Ms Kirsten Goosen
Dr Henri Comrie
Mr Peter Stokes
Mr Ron Martin

3. Apologies

Mr Cedric Daniels (Deputy Chair) – joining the Committee from June 2023

3.1. Absent

None

4. Approval of the Agenda

4.1 Agenda dated 15 February 2023

The Committee resolved to approve the agenda dated 15 February 2023 with minor changes.

5. Approval of Minutes of Previous Meeting

5.1 Minutes dated 18 January 2023

The Committee reviewed the minutes dated 18 January 2023 and resolved to approve them as circulated without amendments.

6. Disclosure of Interest

- SW: item 26.1
- KS: item 26.1

7. Confidential Matters

None

8. Appointments

None

9 Administrative Matters

9.1 Outcome of the Appeals and Tribunal Committees

PM reported back on the following appeals matters:

- Proposed Additions and Alterations on Boschendal cellar building, off R310, Dwars River Valley, Farm 10, 167 Stellenbosch
- Proposed Partial Demolition, Additions and Alterations on Erf 3035, 51 Bryant Street, Bo-Kaap
- Proposed Redevelopment of Erven 3080 & 3081, 220-222 Upper Buitengracht Street, Bo-Kaap
- To proceed with the 60 days public participation process in terms of S 27(8)(a)(b) and (c) of the NHRA: Re 32564 Athlone Power Station
- Proposed Cultivation of Agricultural Crops and Associated Infrastructure, 300mm high polytunnels, 1.8m high permeable perimeter fence, CCTV perimeter and PTZ security cameras and the construction of underground irrigation systems, stormwater system and pump house on Potion 10 and 129 of Farm Welmoed Estate 468, Stellenbosch

10. Standing Items

10.1 Site Inspections/Virtual Assessments undertaken:

Nothing to report.

10.2 Report back from Council and other Committees

WD reported back on the outcomes of the Council meeting.

10.3 Discussion of the Agenda

For discussion.

10.4 Potential/proposed Site Inspections

- Proposed Subdivision of Erf 5022, St Simon and Jude Catholic Church, 174 St George's Street, Simonstown
- Conservation Management Plan for Boschendal Historic Core Precinct

MATTERS DISCUSSED

11. SECTION 38(2) RESPONSES TO NOTIFICATION OF INTENT TO DEVELOP (NID)

11.1 None

12. SECTION 38(1): INTERIM COMMENT

12.1 None

13. SECTION 38(4) RECORD OF DECISION (ROD)

13.1 Proposed Subdivision of Erf 5022, St Simon and Jude Catholic Church, 174 St George's Street, Simonstown: NM HM/ CAPE TOWN METROPOLITAN/ SIMONSTOWN/ ERF 5022

Case No: 21121308RG0201E

Application documents were tabled.

Mr Robin George introduced the case.

Mr James Hallinan (heritage consultant) and Mr Tony Wise (project manager) were present and took part in the discussion.

DISCUSSION:

Amongst other things, the following was discussed:

- The townscape analysis and mapping of heritage resources within the broader context is lacking and needs to be produced including a set of heritage related design indicators informing the urban design and architectural proposals.
- Appendix 10 of the HIA report provides a useful basis for the development of heritage related design indicators, however this urban design report needs to be more adequately interrogated and integrated into the HIA report.
- Scenic drive qualities related to St George's Street and the implications for visual impact of the development of these qualities need to be addressed.
- The significance of heritage context which includes the scenic drive and adjacent sites (magistrate, police station, religious, social etc.) and the role of the site as part of a civic node needs to be more adequately addressed in the HIA report.
- The history of forced removals mentioned in the documentation but not expanded upon in terms of heritage indicators needs to be fully addressed.
- The termination of the "steps" with a new building and the need for a north-south green corridor connecting coastline and mountain backdrop is a concern.
- Subdivision and development of subdivided portion is certainly possible however, design indicators are required in order to manage development of the sub portions.

FURTHER REQUIREMENTS:

The Committee resolved to undertake the site inspection on 10 March 2023 (DG, DS, CF, SL and CD) once the revised report addressing the concerns raised by IACOM has been submitted.

While the principle of development can be supported, the requirements of Section 38 (3) have not been adequately addressed with respect to the following items:

1. Townscape analysis including the identification and mapping of heritage resources at various scales
2. The formulation of heritage indicators at various scales to be fully integrated into the HIA report and an assessment of how the proposal complies with these indicators.
3. History of forced removals and how this has informed the heritage indicators.

RG

13.2 Proposed Redevelopment of Unregistered Erf 17363(A Consolidation of Erven 282, 283, 284, 285, 286, 287, 288, 289, 295 & 299) Alexander And Du Toit Streets, Stellenbosch: NM HM/CAPE WINELANDS/STELLENBOSCH/ ERF 17363

Case No: 21061804SB0621E

Heritage Impact Assessment prepared by Cindy Postlethwayt was tabled.

Ms Stephanie Barnardt introduced the case.

Ms Cindy Postlethwayt (heritage consultant), Dr Henri Comrie (URBA), Mr David Wooly (ADC), Mr Wovler Fourie (PGS) and Mr Peter Stokes (DHK) were present and took part in the discussion.

DISCUSSION:

Amongst other things, the following was discussed:

- None of the existing buildings is considered conservation worthy or worthy of formal protection, despite the HIA having graded one of the buildings as Grade IIIC.
- Site is on the periphery of the historic core of Stellenbosch and while included within extended area of local heritage protection, the development site is located within a resilient heritage context to enable the proposed development to be accommodated.
- Strategic location with respect to the intersection of the Adam Tas Corridor and entrance route to the historic core.
- Positive heritage related urban design and architectural responses, possibility of extending urban design pattern should additional properties become available.

RECORD OF DECISION:

The Committee endorses the heritage impact assessment prepared by Cindy Postlethwayt and dated January 2023 as meeting the requirement of S.38(3) of the NHRA and further supports the recommendations of the HIA as follows:

1. In terms of Section 38(4) of the NHRA approves the proposed demolitions of all structures older than 60 years on Unregistered Erf 17363 (a consolidation of Erven 282, 283, 284, 285, 286, 287, 288, 289, 295 and 299) in Stellenbosch;
2. In terms of Section 38(4) of the NHRA approves the proposed consolidation, rezoning and development of Unregistered Erf 17363 (a consolidation of Erven 282, 283, 284, 285, 286, 287, 288, 289, 295 and 299) in Stellenbosch, provided it is generally in accordance (in all heritage related matters) with the Plans and associated Urban Design and Landscaping Guidelines appended to this report as Annexure D2.

The development may proceed.

SB

13.3 Proposed Addition of 3 Dwellings on Ptn 43 of Farm 159, Meerendal Farm, Durbanville: NM HM/CAPE METROPOLITANDURBANVILLE/MEERENDAL FARM/ PTN 43 OF FARM 159

Case No: 21092212AM1018

Application documentation was tabled.

Ms Ayanda Mdludlu introduced the case.

DISCUSSION:

Amongst other things, the following was discussed:

- Heritage impacts are low.
- DHS comments about geometries have been addressed.
- Proposal is congruent with rural pattern of development.

RECORD OF DECISION:

The Committee endorses the heritage impact assessment prepared by Aikman Associates dated November 2022 as meeting the requirements of S.38(3) of the NHRA. The Committee further supports the recommendations of the HIA as follows:

1. As has been shown the three proposed additional dwellings would have a low visual impact and the archaeological impact assessment found that there was no objection on archaeological grounds for the building of additional dwellings. The DHS supports the proposed development and their concerns have been taken into consideration. It is accordingly recommended that HWC supports the proposed siting and form of the additional dwellings.

The development proposal may proceed.

AM

14 SECTION 38(8) NEMA RESPONSES TO NOTIFICATION OF INTENT TO DEVELOP

14.1 Proposed Housing Development on Erf 1306, Cummings Street, Wellington: NM HM/ CAPE WINELANDS/ DRAKENSTEIN/ WELLINGTON/ ERF 1306

Case No: HWC23012607RG

Application documents were tabled.

Mr Robin George introduced the case.

DISCUSSION:

Amongst other things, the following was discussed:

- The Bovlei Mission Church (in close proximity of the site) is a PHS.

- The site is situated within the proposed Bovlei Heritage Protection Overlay Zone.
- The site appears to have urban edge conditions (at the interface between urban and rural landscapes). Given this, if planning for development is to proceed, careful consideration should be given to heritage related design indicators.

RESPONSE TO NID:

Heritage Impact Assessment is required given that there is reason to believe that heritage resources will be impacted. The HIA must comply with S.38(3) and include a cultural landscape study and visual statement.

RG

15 SECTION 38(8) NEMA INTERIM COMMENTS

15.1 None

16 SECTION 38(8) NEMA FINAL COMMENTS ON ENVIRONMENTAL IMPACT ASSESSMENT

16.1 Proposed Rezoning for a Single Residential Development of 77 Group Housing Units on Erf 19374, Off Plantation Road, Heather Park, George: NM HM / EDEN / GEORGE / GEORGE / ERF 19374

Case No: 22060806NK0623E

Heritage Impact Assessment and Archaeological Impact Assessment were tabled.

Ms Corne Nortje introduced the case.

Mr Ron Martin (heritage consultant) was present and took part in the discussion.

DISCUSSION:

Amongst other things, the following was discussed:

- The Committee was unable to determine the location or extent of the burial ground in relation to the northern portion of the site due to the absence of relevant mapping.
- Given this, it was determined that an archaeologist must be present during any earth moving activities within 100m of the northern boundary of the property adjacent to N9.
- Mr Martin clarified the position and the extent of the marked grave sites with are in excess of 500m distance for the northern boundary of the site.
- Given the above, archaeological monitoring is not required.
- Community engagement meetings noted.

FINAL COMMENT:

The Committee endorses the heritage impact assessment prepared by Ron Martin Heritage Consultancy dated November 2022 as meeting the requirements of the S.38(3) of the NHRA. The Committee further supports the recommendations of the HIA as follows:

1. Endorse this report as having complied with the provisions of Section 38(3) of the Act.
2. Recommend to the Department of Environmental Affairs & Development Planning (DEA&DP) that the proposed rezoning of Erf 19374, George, be approved, and

3. That the proposed layout plan for the new development, be approved.
4. The only condition should be that a tangible representation of the memory associated with Preto be incorporated, through a naming exercise, either of the streets or the development itself, to be initiated. This could be done in collaboration with the George Museum or the George Heritage Trust, in consultation with the community.

CN

16.2 Proposed Powerline and Grid Connection Associated with Emoyeni WEF, Beaufort West: NM HM/CENTRAL KAROO/ BEAUFORT WEST/ VARIOUS FARM

Case No: 22092204AM0928E

Heritage Impact Assessment and associated documents were tabled.

Ms Ayanda Mdludlu introduced the case.

Mr Wouter Fourie (heritage consultant) was present and took part in the discussion.

DISCUSSION:

Amongst other things, the following was discussed:

- Sites are within REDZ (Renewable Energy Development Zones). Given this, no further cultural landscape assessment was required within the context of this HIA.
- The Committee noted that the existing homestead and graves have grade IIIA heritage significance and are valuable heritage resources.
- Careful consideration should therefore be given for the precise placing of the pylons in relation to the homestead to minimise negative impact.

FINAL COMMENT:

The Committee endorses the heritage impact assessment prepared by PGS Heritage dated January 2023 as meeting the requirements of the S.38(3) of NHRA and the Committee further endorses the recommendation of the HIA as follows:

1. The calculated impact as summarized in Section 8 of this report confirms the impact of the new 132kV grid connection and associated infrastructure for the authorized Emoyeni Wind Energy Facilities will be reduced with the implementation of the mitigation measures. This finding in addition to the implementation of a chance finds procedure, as part of the EMPr, will mitigate possible impacts on unidentified heritage resources.
2. General project area: Implement a chance to find procedures in case where possible heritage finds are uncovered.
3. If development occurs in the 'extended corridor area', then the ECO for this project must monitor construction activities in this area. In addition, a training program related to archaeology and palaeontology must be implemented for the ECO and supervisors. Evidence of training (a report) will also need to be submitted to HWC.
4. The ECO should implement cultural awareness talks before construction activities commence to induct personnel in:

- a. The types of cultural heritage sites that exist within the disturbance areas that trigger the implementation of the Chance Finds Procedure, which includes measures for dealing with archaeological finds, palaeontological resources and burial ground and graves.
 - b. Locations of known cultural heritage sites and requirements to avoid all sites, as they are No-Go-Zones.
5. Rock art site (PL_11) of high heritage significance: \$As the site is located more than 2km outside of the proposed development area, no mitigation is required Historical farmstead (PL_06) of high heritage significance: It is recommended that the respective no-go-buffer-zones are kept to the closest proposed powerline infrastructure:
 - a. -The burial grounds and informal graves should be demarcated with a 50-meter buffer zone and should be avoided and left in situ.
 - b. -Implement a 30-meter buffer around the midden.
 - c. -Implement a 30-meterbuffer around the surface scatter.
 - d. -Implement a 30-meterbuffer around all structures (incl. the original farmhouse and kraals).
6. In terms of general conservation of the historical farmstead, the placement of pylon infrastructure in the above-mentioned buffers should be avoided (to the extent technically feasible) or minimized.
7. If development occurs within any of the recommended buffers for structures at PL_06, the site will need to be satisfactorily studied and recorded before impact occurs. Recording of the structure i.e. (a) map indicating the position and footprint of the structure (b) photographic recording of the structure (c) measured drawings of the floor plans of the structure.
8. If the site is going to be impacted directly and the graves need to be removed a grave relocation process for these sites is recommended as a mitigation and management measure. This will involve the necessary social consultation and public participation process before grave relocation permits can be applied for with the HWC under the NHRA and National Health Act regulations.
9. Rock engraving sites (K002, K003) of medium-low heritage significance: The sites should be demarcated with a 30-meter buffer and should be avoided if any construction is to happen close to it.
10. If the engravings cannot be avoided, then they should be photographed and traced as necessary to produce a clear record.
11. Structures (PL_02, PL_05, PL_08, PL_10) that are of low/ no heritage significance: \$No mitigation required.
12. Stone tool surface scatters (PL_01, PL_03, PL_04, PL_07, PL_09) that are of low heritage significance: No mitigation required.
13. Small stone packed feature (PL_12) of low heritage significance: No mitigation required.
14. Palaeontological finds: The ECO for this project must be informed that sediments of the Adelaide Subgroup (Beaufort Group, Karoo Supergroup) have a Very High Palaeontological Sensitivity: Training of accountable supervisory personnel by a qualified palaeontologist in the recognition of fossil heritage is very important and necessary.
15. If Palaeontological Heritage is uncovered during surface clearing and excavations the Chance find Protocol attached should be implemented immediately. Fossil discoveries ought to be protected and the ECO/site manager must report to South African Heritage Resources Agency (SAHRA) (Contact details: SAHRA, 111 Harrington Street, Cape Town. PO Box 4637, Cape Town 8000, South Africa. Tel: 021 462 4502. Fax: +27(0)21 462 4509. Web: www.sahra.org.za) so that mitigation (recording and collection) can be carried out.

16. Before any fossil material can be collected from the development site the specialist involved would need to apply for a collection permit from SAHRA. Fossil material must be housed in an official collection (museum or university), while all reports and fieldwork should meet the minimum standards for palaeontological impact studies proposed by SAHRA (2012).
17. These recommendations should be incorporated into the Environmental Management Plan for the proposed development.
18. Cultural Landscape: It is recommended that the respective no-go-buffer-zones are kept to the closest proposed powerline infrastructure:
 - a. The burial grounds and informal graves should be demarcated with a 50-meter buffer zone and should be avoided and left in situ. The graves should be fenced during construction if construction activities happen within 50m from a site.
 - b. Implement a 30-meter buffer around the midden. The sites should be fenced during construction if construction activities happen within 30m from a site.
 - c. Implement a 30-meter buffer around the surface scatter. The sites should be fenced during construction if construction activities happen within 30m from a site.
 - d. Implement a 30-meter buffer around all structures (incl. the original farmhouse and kraals). The sites should be fenced during construction if construction activities happen within 30m from a site.
19. In terms of general conservation of the historical farmstead, the placement of pylon infrastructure in the above-mentioned buffers should be avoided (to the extent technically feasible) or minimized.

Alternative routing 2 is preferred by the committee as the option with the least impact upon heritage resources.

AM

16.3 Proposed Residential Development on Erf 3122 (Hartenbos), Mossel Bay: NM HM/EDEN/ MOSSEL BAY/ ERF 3122

Case No: 21042001SB0421E

Heritage Impact Assessment prepared by Stefan De Kock was tabled.

Ms Stephanie Barnardt introduced the case.

DISCUSSION:

Amongst other things, the following was discussed:

- Prominent site with high visual exposure however, no impact on heritage resources.
- Within the urban edge and correct zone.
- Archaeological and Palaeontological Impact Assessments reviewed.
- The planning concerns related to low density urban sprawl noted.

FINAL COMMENT:

The Committee endorse the heritage impact assessment prepared by Perception Planning dated November 2022 as meeting the requirements of S.38(3) of the NHRA. The Committee supports the recommendations of the HIA as follows:

Archaeology:

If an Environmental Management Program (EMPr) is applicable to the project, then it should make provision for the following (Nilssen, 2022:43,44):

1. "Because the Early and Middle Stone Age artefact scatters at waypoints 127 and 34 are considered to be of medium significance at the local level (Grade IIIB), their extents - including 5 m buffers – were mapped (via GPS) and these are No-Go areas that are already incorporated into the revised development layout.
2. Waypoint 127 should be enclosed with a temporary boundary fence prior to the construction phase and under an archaeologist's supervision to ensure that this No-Go area is avoided during the construction phase of development.
3. Waypoint 34 falls within a conservation area and outside the development footprint, but the installation of a perimeter fence and construction of the service road should be monitored by a suitably qualified and informed archaeologist to avoid or minimize the disturbance or destruction of artefacts.
4. If any human remains or significant archaeological materials are exposed during development activities, then the find should be protected from further disturbance and work in the immediate area should be halted and Heritage Western Cape must be notified immediately. These heritage resources are protected by Section 36(3)(a) and Section 35(4) of the NHRA (Act 25 of 1999) respectively and may not be damaged or disturbed in any way without a work plan and permit from the heritage authorities.
5. Any work in mitigation, if deemed appropriate, should be commissioned and completed before construction continues in the affected area and will be at the expense of the developer.
6. If an EMPr is not developed for the project, then the above recommendations must be implemented by the applicant or developer."

Palaeontology:

1. A practical monitoring and mitigation programme must be implemented during the Construction Phases of the proposed housing development. The following measures apply to all earthworks affecting all four formations listed above:
 - a. The field supervisor/foreman and workers involved in digging excavations must be informed of the need to watch for fossils and buried potential archaeological material. Section 8.2 of the PIA provides measures for inclusion in the Construction Phase EMP and the Fossil Finds Procedure included as Appendix 3 of the PIA provides guidelines to be followed in the event of fossil finds.
 - b. It is also recommended that fresh exposures of the marine beds that may be created during construction, such as along the perimeter road, are recorded and sampled by a palaeontologist. To this end the ECO must liaise with the contracted palaeontologist as to the progress of road construction earthworks.
 - c. It is proposed that exposures of the De Hoopvlei Formation Miocene beds and the overlying Wankoe Formation that may be created along the perimeter road are highlighted by explanatory signage.
 - d. Should the fossil content indeed indicate a mid-Miocene age for the De Hoopvlei Formation this site will be an important, new stratotype locality. This would represent a positive outcome of regional to national consequence."

Visual:

1. Buildings on Slopes

- a. Where a building is supported on columns on the downslope of the erf, the area underneath will need to be stabilised with a stone pitching. Low shrubs should be planted on the edge of the area to afford some screening of the void.
- b. Erven on the top edge of the steep slopes e.g., the drainage line and the plateau, should accommodate single storey buildings only. The row behind can accommodate double storey units. Refer to proposed erven below.
- c. The design of buildings on steeper slopes should be shown in sections in the Architectural Guidelines. This will ensure that only one storey and not two storey structures are constructed above the road level on the down-slope side of the road.
- d. All cut and fill soil surfaces should be adequately protected from erosion either by vegetation or a combination of block retaining walls and vegetation or rock cladding.

2. Colours for Roofs and Buildings

- a. Avoid bright reflective or contrasting colours for roofs and buildings.
- b. Tones and tints of selected complementary colours that fit the setting and vegetation should be considered.
- c. Subdued and complimentary natural shades and tints blend easily into a landscape setting.

3. Roads and Pathways

- a. Roads and pathways should be paved with a durable brick of brown/sand colour. The light brown colour is similar to the exposed earth in the area. The light colour will also not generate high surface temperatures as an asphalt or dark surface would.
- b. The cut and fill slopes should not be steeper than 1:2.5 vertical to horizontal as this allows vegetation to establish more easily. This will reduce erosion of the soil.

4. Lighting

- a. Avoid bright reflective or contrasting colours for roofs and buildings.
- b. External lights will increase the visual impact of the project at night therefore attention should be given to their selection for the specific function.
- c. All lighting therefore should be carefully considered with regard to the extent of illumination, the intensity and colour of lights and the luminaire.
- d. It is recommended that lighting is designed by a lighting engineer in collaboration with the landscape architect for the project. The aspects of the lighting solution should include the following:
 - Light fittings should have shields to eliminate sight of the light source. Down lighting of areas is preferred to up lighting.
 - Any perimeter lights are to be directed downwards and inwards to the development.
 - Emitted light colour should be a softer light than sodium (yellow) or mercury halide (blue-white). The light colour should also be chosen with knowledge of what colour will attract insects. It is important that a colour type and spread of light will not cause insects to be attracted to it and in so doing deplete the insect diversity of the region. For this purpose, an entomologist familiar with the effect of light frequencies on insects should be consulted.
 - The use of flood lights to illuminate structures, large areas or features should not be considered. Rather incorporate concealed lights to shine downwards. Darker areas on the building elevations will provide a less visually noticeable structure.
 - No light fittings should spill light upwards or be directed upwards from a distance towards the area or building to be illuminated.

- The lighting plan should strive to maximise the light energy use. This should include a hierarchy of light function. The function will determine the best light type to use. Some may be switched on only when needed by motion sensors.
- Security lights should not flood the area with light continuously but should be activated by a motion sensor.
- It is now accepted practice that lighting of new projects should be subdued and energy efficient.

If any human remains or significant archaeological materials are exposed during development activities, then the find should be protected from further disturbance and work in the immediate area should be halted and Heritage Western Cape must be notified immediately. These heritage resources are protected by Section 36(3)(a) and Section 35(4) of the NHRA (Act 25 of 1999) respectively and may not be damaged or disturbed in any way without a permit from the heritage authorities. Any work in mitigation, if deemed appropriate, should be commissioned and completed before construction continues in the affected area and will be at the expense of the developer. The above recommendations should be included in the Environmental Management Program (EMPr) for the proposed residential development.

The HWC Chance Fossil Finds Protocol to be implemented and included in the Environmental Management Programme Report.

SB

17	SECTION 38(8) MPA ENVIRONMENTAL MANAGEMENT PLAN RESPONSES TO NOTIFICATION OF INTENT TO DEVELOP
17.1	None
18	SECTION 38(8) MPA ENVIRONMENTAL MANAGEMENT PLAN INTERIM COMMENT
18.1	None
19	SECTION 38(8) MPA ENVIRONMENTAL MANAGEMENT PLAN FINAL COMMENT
19.1	None
20	SECTION 38(8) OTHER LEGISLATION NOTIFICATION OF INTENT TO DEVELOP
20.1	None
21	SECTION 38(8) OTHER LEGISLATION INTERIM COMMENT
21.1	None
22	SECTION 38(8) OTHER LEGISLATION FINAL COMMENT
22.1	None
23.	SECTION 27 PROVINCIAL HERITAGE SITES
23.1	None

24. ADVICE

**24.1 Proposed Amendment on Erf 149294-Re, Quay 7, East Pier Precinct, V&A Waterfront, Cape Town: MA
HM / CAPE TOWN METROPOLITAN / WATERFRONT / ERF 149294-RE**

Case No: None

Application documents were tabled.

Ms Sneha Jhupsee introduced the case.

Dr Nicolas Baumann (heritage consultant), Mr Mark Noble (V&A Waterfront), Ms Kirsten Goosen (V&A Waterfront) and Mr Neil Schwartz (Waterfront Planning Manager) were present and took part in the discussion.

DISCUSSION:

Amongst other things, the following was discussed:

- The committee noted the legal opinion provided by the applicant and the following response of the Deputy Director: Legal Support.
- PM advised that HWC is *functus officio* in respect of the condition in the original approval in terms of Section 38(4) of the NHRA which limited the height of the building to 24 metres.
- The references to case law dealt with the interpretation of regulations in order to achieve a “sensible and businesslike” result.
- The present situation is distinguishable in that the condition forms a part of the decision of HWC, there is no interpretation of legislation involved.
- The *functus officio* rule exists to allow certainty in decision making. It would subvert the aims for the NHRA to allow for applicants to come back for multiple “bites at the cherry”.
- It is accordingly considered that the submission of a new application needs to be made i.t.o S38(1) of the NHRA.

COMMENT / ADVICE:

The applicant is advised to either submit a revised design proposal which complies with the original decision of HWC’s Appeals committee which limited the height of the proposed replacement building to 24 m at the apex of the roof or alternatively to submit a new application in terms of S38 of the NHRA.

SJ

25 SECTION 42 HERITAGE AGREEMENTS

25.1 None

26. OTHER

**26.1 Conservation Management Plan for Boschendal Historic Core Precinct: NM
HM/CAPE WINELANDS/STELLENBOSCH/ BOSCHENDAL**

Case No: None

Conservation Management Plan prepared by Rennie Scurr Adendorff and Sarah Winter was tabled.

FURTHER REQUIREMENTS:

The Committee resolved to undertake the site inspection on 10 March 2023 (DG, DS, CF, SL and CD).

SB

27 Adoption of decisions and resolutions

The Committee agreed to adopt the decisions and resolutions as recorded above.

28. CLOSURE:

The meeting adjourned at 12:50

29. DATE OF NEXT MEETING:

15 March 2023

MINUTES APPROVED AND SIGNED BY:

CHAIR:



DATE: 15 March 2023

SECRETARY:



DATE: 15 March 2023