

**DELEGATIONS OF HERITAGE WESTERN CAPE  
IN TERMS OF SECTION 26 OF THE NATIONAL HERITAGE RESOURCES ACT, 1999 (ACT  
25 of 1999) READ WITH REGULATION 11 OF THE REGULATIONS PROMULGATED IN  
TERMS OF THE ACT ON 25 OCTOBER 2002, PN336)**

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The Council of Heritage Western Cape, reviewed the delegations on 3 December 2016, and approved the recommended amendments to the delegations.

The following committees have been established:

- Permit Committee for Built Environment and Landscapes (BELCom)
- Committee for the Impact Assessment in terms of Section 38 (IACOM)
- Permit Committee for Archaeology, Palaeontology and Meteorites (APM)
- Inventories, Grading and Interpretation Committee (IGIC)
- Appeals Committee in terms of Section 49

A quorum will be established by a simple majority of the appointed members of the respective committees.

The following instructions and delegations previously delegated are effective until such time as revoked or revised in writing by the Council:

## 1. Executive Committee

<b>RELEVANT SECTION OF THE NATIONAL HERITAGE RESOURCES ACT, 1999 (ACT 25 OF 1999)</b>	<b>CRYPTIC DESCRIPTION OF POWER</b>	<b>REMARKS, LIMITATIONS ( CONDITIONS</b>
All sections in terms of which powers are granted to a Provincial Heritage Authority except for the exclusions provided for in Section 26(3)	All powers granted to the Council in terms of the NHRA with the exception of the power to make recommendations to the minister or assessment and approval of conservation management plans and statements of general policy.	

## 2. Permit Committee for Built Environment and Landscapes (BELCom)

<b>RELEVANT SECTION OF THE NATIONAL HERITAGE RESOURCES ACT, 1999 (ACT 25 OF 1999)</b>	<b>CRYPTIC DESCRIPTION OF POWER</b>	<b>REMARKS, LIMITATIONS OR CONDITIONS</b>
Section 34 read with Section 48(2)	Assessment and approval or refusal of permits relating to applications to alter or demolish structures older than 60 years. Assessment and/or grading of resource in respect of which application is made, unless the resource has been graded by a competent Local Authority.	The reason for the decision should be recorded, either for its alteration or demolition (e.g. it is not considered to be of heritage significance). Also, if an application is refused, a recommendation regarding the grading and formal protection of the structure as required by section 34(2) should be made for the consideration of Council or EXCO.
Section 27, subsections (18)	Assessment and approval or refusal of	

<p>and (19)(a) and (b) Section 29(10), Section 31 read with section 48(2)</p>	<p>permits relating to alterations or additions to, or to the subdivision and change of planning status of any provincial heritage site, provisionally protected site or heritage area excluding a provincial heritage site of archaeological or palaeontological significance or a meteorite.</p> <p>Formulate and set conditions pertaining to safeguarding provincial heritage sites from damage or destruction and regulate conditions for any development thereof which should be imposed as conditions to the permit.</p> <p>Assessment and/or grading of resource in respect of which application is made</p>	

### 3. Committee for the Impact Assessments received in terms of Section 38 (IACom)

<b>RELEVANT SECTION OF THE NATIONAL HERITAGE RESOURCES ACT, 1999(ACT 25 OF 1999)</b>	<b>CRYPTIC DESCRIPTION OF POWER</b>	<b>REMARKS, LIMITATIONS OR CONDITIONS</b>
<p>Section 27, subsections (18) and (19)(a) and (b) Section 29(10), Section 31</p>	<p>Assessment and approval or refusal of applications for permits relating to alterations or additions to, or the subdivision and change of planning status of any provincial heritage site, provisionally protected site or heritage area, including a provincial heritage site of archaeological or palaeontological significance or a meteorite, <b>when these form part of a Section 38 application.</b></p> <p>Formulate and set conditions pertaining to safeguarding provincial heritage sites from destruction and regulate conditions for any development thereof should be considered as conditions to the permit.</p> <p>Assessment and/or grading of resource in respect of which application is made.</p>	
<p>Section 38, subsections (2), (3),(4), (5) and (8)</p>	<p>Timeous consideration of impact assessment reports required by the developer in terms of section 38(2) by HWC and, after consultation with the developer and registered conservation bodies, HWC must decide –</p> <ul style="list-style-type: none"> <li>(a) whether or not the development may proceed;</li> <li>(b) any limitations or conditions to be applied to the development;</li> <li>(c) what general protections in terms of this Act apply, and what formal protections may be applied to such heritage resources;</li> <li>(d) whether compensatory action is required in respect of any heritage resources damaged or</li> </ul>	<p>HWC must formulate its comments and recommendations to the consenting authority with regard to the proposed development and forward it timeously within the timeframes provided for in the relevant legislation.</p>

**Heritage Western Cape – Delegations: 3 December 2016**

	<p>destroyed as a result of the development; and (e) whether the appointment of specialists is required as a condition of approval of the proposal</p> <p>HWC shall not make any decision under subsection (4) with respect to any development which impacts on a heritage resource protected at national level unless it has consulted SAHRA.</p> <p>Timeous consideration of impact assessment reports and submission of comment thereon to the consenting authority in terms of section 38(8), after consultation with the developer and registered conservation bodies.</p> <p>Grading of any heritage resource which is the subject of an impact assessment, unless the resource has been graded by a competent Local Authority.</p>	
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**4. Permit Committee for Archaeology, Palaeontology and Meteorites (APM)**

<b>RELEVANT SECTION OF THE NATIONAL HERITAGE RESOURCES ACT, 1999(ACT 25 OF 1999)</b>	<b>CRYPTIC DESCRIPTION OF POWER</b>	<b>REMARKS, LIMITATIONS OR CONDITIONS</b>
Section 27, subsections (18) and (19)(a) and (b) Section 29(10) read with Section 48(2)	<p>Assessment and approval or refusal of applications relating to alterations to any archaeological or palaeontological provincial heritage site or a provisionally protected provincial heritage site of archaeological or palaeontological significance or a meteorite.</p> <p>Assessment and/or grading of resource in respect of which application is made,</p>	
Section 27, subsections (18) and (19)(a) and (b) Section 29(10) read with Section 48(2)  (Continued)	Formulation of regulations and conditions pertaining to safeguarding archaeological and palaeontological heritage sites and provisionally protected sites from destruction and regulating conditions for any development thereof.	
Section 35 read with Section 48(2)	<p>Assessment and approval or refusal of application in terms of section 35 of the Act, and the management, assessment and protection of all sites, material or objects pertaining to section 35, with the exception of wreck as specified in section 35(1)</p> <p>Assessment and/or grading of resource in respect of which application is made.</p>	
Section 36 read with Section 48(2)	<p>Assessment and approval or refusal of applications in terms of section 36 of the Act, and the management, assessment and protection of all sites, material or objects pertaining to section 36, with the exception of burial grounds which are the responsibility of SAHRA (that is excepting burials after 1500; see MOA dated June 2006)</p> <p>Assessment and/or grading of resource in respect of which application is made.</p>	

Section 38	Assessment and approval of archaeological / palaeontological workplans required as a condition of a comment/decision made in terms of sections 38(4) or 38(8)  Assessment and/or grading of resource in respect of which application is made.	
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## 5. The Appeals Committee

RELEVANT SECTION OF THE NATIONAL HERITAGE RESOURCES ACT, 1999(ACT 25 OF 1999)	CRYPTIC DESCRIPTION OF POWER	REMARKS, LIMITATIONS OR CONDITIONS
Section 49 and Regulation 12 of 25 Oct 2002.	Consideration of appeals	The committee is constituted as the committee established in terms of Regulation prescribed in Section 49 (ie: Regulation 12 of Provincial Notice 5937 of 25 October 2002) and is invested with the powers set out in that regulation

## 6 Inventories, Grading and Interpretation Committee in terms of Section 7, Other Sections as set out below and Guidelines and Policy on Grading

RELEVANT SECTION OF THE NATIONAL HERITAGE RESOURCES ACT, 1999(ACT 25 OF 1999)	CRYPTIC DESCRIPTION OF POWER	REMARKS, LIMITATIONS OR CONDITIONS
Section 27	Assessment and grading of sites nominated for declaration as provincial heritage sites	Determination of the grading of such sites. (In addition the committee shall make recommendations concerning formal protection.)
Section 30	Assessment and grading of sites nominated for inclusion on the register where the Local Authority is not competent to do so Consideration of objections and representations received after publication of the register for comment	Determination of the grading of such sites. Provision of reasons for retention or deletion of sites on the register
Section 30	Approval of surveys and inventories	Approval of inventories and the gradings applying to the sites included in them.
Section 31	Approval of heritage areas where Local Authority not competent or unwilling to establish heritage area Consideration of objections and representations received after publication of the proposed heritage area for comment	Approval of the boundaries and guidelines/rules applying to heritage areas. (In addition the committee shall when necessary make recommendations concerning formal protection.)
Section 31	Approval of by-law or town planning condition to be imposed	in conjunction with DEAD&P and Local Authority

**7 Managers employed in the Heritage Resources Management Services component of the Department of Cultural Affairs and Sport**

RELEVANT SECTION OF THE NATIONAL HERITAGE RESOURCES ACT, 1999(ACT 25 OF 1999)	CRYPTIC DESCRIPTION OF POWER	REMARKS, LIMITATIONS OR CONDITIONS
Section 27(18), Section 29(10) and Section 31	Power to issue a permit for the destruction, damaging, defacing, excavation, removal from its original position, subdivision or change to the planning status of a provincial heritage site.	<p>This applies to applications for subdivision of provincial heritage sites or provisionally protected heritage sites or heritage areas that are non-contentious and have the full written support of the relevant planning authority and the relevant registered conservation body/bodies, and which the Chief Executive Officer, Deputy Director: Heritage Resources Management, or Assistant Directors in formally structured consultation with the relevant specialist staff consider to be cases where the works are of a minor nature that do not affect the integrity or conservation worthiness of the structure or site, or where such work is necessary to the reasonable maintenance and upkeep of the building or site.</p> <p>Where subdivision of provincial heritage sites are concerned, permits that are issued should be subject to at least the following two conditions: (i) all new structures contemplated on the proposed subdivided property to be submitted for approval to the relevant committee of Heritage Western Cape and (ii) that the subdivided property be endorsed by the Deed Office in terms of the original proclamation.</p>
Section 34	<p>Power to assess and issue permits relating to applications to alter, add to or partially demolish structure older than 60 years</p> <p>Assessment and/or grading of resource in respect of which application is made</p>	<p>The Chief Executive Officer, Deputy Director: Heritage Resources Management or Assistant Directors in formally structured consultation with the relevant specialist staff may issue permits for non-contentious alterations to structures older than 60 years. (</p> <p>Applications for total demolition may be approved by Chief Executive Officer, Deputy Director: Heritage Resources Management or Assistant Directors in formally structured consultation with the relevant specialist staff and under the following conditions:</p>

		<ul style="list-style-type: none"> <li>• that the building in question is situated outside a heritage area or HPOZ,</li> <li>• that the building is not conservation-worthy and has insufficient heritage significance</li> <li>• and that there are no objections.</li> </ul>
Section 35	Assessment and issuing of permits relating to application for destruction	Chief Executive Officer, Deputy Director: Heritage Resources Management or Assistant Directors in formally structured consultation with the relevant specialist staff are limited to granting permits that are urgent and where the effects of the works can be, or have been, satisfactorily mitigated and /or sampled.
Section 50(1) and (10) and 35(5)(a)	Power to appoint Heritage inspectors. Power to issue stop works orders	<p>Chief Executive Officer or Deputy Director: Heritage Resources Management</p> <p>1) The relevant staff member must inspect the site where the alleged contravention took place and must report to the Chief Executive Officer of Deputy Director on the matter.</p> <p>The alleged contravention must be reported as soon as possible to the relevant committee, who will make a decision on the merits of the report and recommend whether or not the matter should formally be reported to the South African Police Service.</p>
Section 38(2)	Power to assess and comment on Notice of Intention to develop and decide on the requirement of submission of an HIA	Chief Executive Officer or Deputy Director: Heritage Resources Management, or Assistant Directors in formally structured consultation with the relevant specialist staff are delegated to sign off notifications after considering the possible impact of the proposed development to heritage resources identified in the notification of intent to develop (section 38(1))
Sections 38(4) and (8)	Power to submit comments to the consenting authority in respect of HIA's received in terms of Section 38(8)  Power to make decisions in terms of Section 38(4)	<p>Chief Executive Officer, Deputy Director: Heritage Resources Management and Assistant Directors in formally structured consultation with the relevant specialist staff are delegated to sign off records of decision and comments in instances concerning:</p> <p>1) Minor earthworks (eg: borrow pits) where assessment of impacts</p>

**Heritage Western Cape – Delegations: 3 December 2016**

		<p>only on archaeology and/or palaeontology was required to be assessed and findings have revealed little or no material of significance.</p> <p>2) Other instances where impacts on only archaeology and/or palaeontology were required to be assessed and findings have revealed little or no material of significance</p> <p>3) Other instances where impacts have been assessed as non-existent or very minor, where there are no objections and where the recommendations in the HIA are fully agreed with.</p> <p>4) Unless it fulfills the conditions 1), 2) and 3) above; where there is insufficient time to submit an HIA to IACOM and meet deadlines set by other legislation, provide interim comments on the Pre-Application Scoping Report to DEA&amp;DP, &amp; copied to the EAP, indicating that:</p> <ul style="list-style-type: none"> <li>a) the HIA TOR is not adequate &amp; providing comment in terms of the shortcomings; or</li> <li>b) the HIA TOR is adequate.</li> </ul> <p>Records of decisions taken and comments made at the consultation referred to above be circulated to relevant committee members.</p>
Section 48(2)	Power to sign and issue permits	Chief Executive Officer or Deputy Director: Heritage Resources Management in formally structured consultation with the relevant specialist staff are authorized to issue permits and records of decision as approved by themselves, by the APM, the BELCom, IACOM or the Appeals Committee of HWC.
Section 51(6)	Power to lay charges with the South African Police Services	Chief Executive Officer: Shall determine when charges are to be laid by Heritage Western Cape.
Chapter II Parts 1 and 2	General and Formal Protections	The Assistant Directors, Deputy Director and Chief Executive Officer are authorized to request heritage statements for applications made in terms of these parts of the Act.
General	Any duties, powers and functions consistent with section 24 and 25 of the Act in order to effectively perform the general duties as outlined in the Act including matters that are not	The Assistant Directors, Deputy Director and Chief Executive Officer are authorized to deal with such matters in accordance with the principles contained in the Act.

	<p>specifically dealt with in the Act.</p> <p>These powers and duties shall include:</p> <ul style="list-style-type: none"> <li>• The authority to initiate and defend legal action in the courts</li> <li>• And the authority to draw up and sign affidavits in such regard</li> </ul> <p>Final decisions and comments of the following committees of the Council: Appeals; Archaeology, Palaeontology and Meteorites; Built Environment and Landscapes; and Impact Assessment Review</p>	<ul style="list-style-type: none"> <li>• The Chief Executive Officer only and only with the concurrence of the Chairperson of the Executive Committee</li> <li>• The Chief Executive Officer, Deputy Director, Assistant Director: Professional Services, the Legal Advisor and all Senior Heritage Officers.</li> </ul> <p>The Chief Executive Officer only may sign documentation conveying such information to applicants.</p>
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**CHAIRPERSON: HERITAGE WESTERN CAPE**

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**DATE**