

**APPROVED MINUTES THE MEETING OF HERITAGE WESTERN CAPE, APPEALS
COMMITTEE
HELD ON WEDNESDAY, 12th AUGUST 2026, MICROSOFT TEAMS, SCHEDULED FOR 08:30**

1. Opening and Welcome

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

2. Attendance

Committee Members:

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

Members of Staff:

Ms Nosiphiwo Tafeni (NT)
Ms Penelope Meyer (PM)
Ms Corne Alexander (CA)
Mr Olwethu Dlova (OD)
Ms Chiara Singh (CSI)
Mr Yunus Ogier (YO)
Ms Stephanie Barnardt (SB)
Mr Ruan Brand (RB)

Visitors:

Mr Amaal Schroeder
Dr Gregg Fick
Ms Chad Cupido
Mr Tyrone Middendorp
Mr Shilo Hope
Ms Sarah Golding
Ms Aborina Taras
Mr Jarryd Segal
Mr Lana Iffley
Mr Tom Gerhardt
Mr Ron Martin

Ms Dona Adriaanse
Mr Marilu Joubert
Mr Nick Smith
Mr Chris Snelling
Mr Piet Steyn
Chief Aborina Taras
Mr Farentino Koks
Chief Ninak
Ms Viv McDonald
Mr Clifford Marks
Mr Lunga Gedeon Nofemele

3. Apologies

4. Declaration for members to reaffirm their commitment to the Code of Conduct

Members reaffirmed their commitment to the Code of Conduct.

5. Approval of Agenda dated 12th August 2026.

- 5.1** The Committee resolved to approve the agenda dated 12th August 2026. CSm moved to adopt the approval of the agenda, and it was seconded by AvG.

6. Disclosure and Conflicts of Interest

- 6.1** None

7. Approval of previous Minutes dated 15th July 2026.

7.1 The Committee resolved to approve the Minutes dated 15th July 2026. CSm moved to adopt the Minutes, and PB seconded.

8. Confidential Matters

8.1 None

9. Administrative Matters

9.1 Outcome of the Tribunal and Recent Court Decisions

PM

9.2 Report back from HWC Council

None.

9.3 Site Visits undertaken/Site Inspection Report(s)

9.3.1 Erf: 2067, 75 Kloof Street, Fresnaye

9.3.2 Erf 96982, 10 Dumbarton Road, Rondebosch

9.4 Potential Site Visit

9.4.1 None

9.5 Discussion of attendance at any upcoming Tribunal meetings

9.5.1 None

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 None

11 New Matters

11.1 Erf: 2067, 75 Kloof Street, Fresnaye

HM / CAPE TOWN METROPOLITAN/ FRESNAYE / ERF 2067
Case No: 27072SB0116

Appeal against HOMS decision.

Stephanie Barnardt provided the introductory background to the appeal before consideration of the site visit report.

Mr Mike Scurr read the site visit report.

Postponement Application by the Appellant

Mr Mittendorp on behalf of the Appellant:

Appellant's representative applied for a postponement of the appeal hearing.

- Mr Mittendorp argued that a recording of the HOMS meeting was requested but had still not been provided. He referred to an email indicating that outstanding documents and prior application issues needed to be resolved before the appeal could proceed.
- He stated that both parties had expected the recording to be provided before the hearing continued. The recording was described as containing important submissions and

discussions relevant to the appeal and any potential review process. He further noted that the HOMS recording was very important to the case and that proceeding without the recording could prejudice his client's ability to present its appeal fully, and noted that the Defendant had previously agreed to a postponement until the recording was provided.

Chairperson requested clarity on:

- Why the recording was considered critical and which aspects of the recording were relevant to the appeal.
- The appellant noted that one key issue concerned discussions around whether his client had received supporting documents submitted by the applicant, and that the recording could reveal important procedural and substantive matters. Access to the recording would enable all parties to make meaningful presentations.

On behalf of the Applicant, Mr Nick Smith objected to the postponement, noting that:

- The applicant could identify only one specific issue requiring the recording, that the issue had already been fully addressed in the Appeal documents and also that the appellant's representative had attended the HOMS meeting and could have made his own notes if he considered it necessary. Furthermore, the recording had become a red herring distracting from the real issue. He noted that he had prepared both for a postponement application and for argument on the merits and was ready to proceed with the appeal hearing that day.

The Committee deliberated on the postponement of the application and noted that:

- Both parties were present in the HOMS meeting where the discussion took place.
- The Committee believed that the appellant already had access to the information necessary to prepare and present the Appeal.
- That the matter was held over due to a site inspection to be undertaken by the Committee.

The Committee refused the request for the postponement of the Appeal hearing. The hearing proceeded on its merits.

Mr Tyrone Mittendorf on behalf of the Appellant:

The appellant submitted that:

- The original application received was incomplete.
- A later Heritage Report by Johan Cornelius and a response by Tommy Brümmer Town Planners were not circulated directly to the appellant before the HOMS hearing.
- The appellant only became aware of these documents shortly before the hearing.
- HOMS proceeded without giving the appellant a reasonable opportunity to consider and respond to those documents.
- The permit decision was also not communicated to the appellant despite the appellant having participated as an Interested and Affected Party.
- The application related to a double-storey addition at the rear of an existing structure.
- The proposed addition was located at the rear of the building and was not expected to be visible from the street.
- The property was graded as a Grade IIIB heritage resource and is located outside a Heritage Protection Overlay (HPO) area.
- The Appeal was against a HOMS decision of the 18th of May 2026 to approve the application.

- Key reasons for approval included:
 - The existing heritage resource would retain its legibility and heritage character.
 - The proposed new bulk/addition was considered appropriately located at the rear of the property.
 - The impact on the significance of the heritage resource was considered acceptable.

Mr. Nick Smith, on behalf of the applicant, submitted that:

That the appellant's claim of procedural unfairness had no merit because:

- The heritage report and supporting documentation were uploaded to the SAHRIS system before the HOMS meeting.
- Mr Middendorp had access to the same portal and did not establish that he was prevented from accessing those documents.
- Mr Middendorp attended the HOMS meeting and actively participated in the proceedings.
- The approved HOMS Minutes reflected that the appellant's objections were fully recorded and considered.
- Even if there had been a procedural defect before HOMS, the Appeals Committee was conducting a de novo appeal and therefore was considering the application afresh on its merits. Any earlier procedural unfairness was effectively remedied by the Appeals process itself.
- The applicant disputed the appellant's view that the surrounding area constituted a substantial heritage precinct.
- Most surrounding buildings were modern residences, apartments, guest houses and hotels.
- The appellant exaggerated the extent of nearby heritage resources by referring to a "plethora" of heritage buildings.
- The immediate context did not possess the degree of heritage cohesion alleged by the appellant.
- The appellant relied heavily on the heritage consultant's assessment and HOMS findings that:
 - The addition was placed to the rear of the historic building.
 - The historic house remained legible and retained its significance.
 - The additions did not negatively impact on the surrounding heritage resources or the streetscape.
- The surveyor's report dealt with planning issues such as height and bulk rather than heritage significance.
- The Norfolk Pine and other vegetation were not heritage resources relevant to a Section 34 decision.
- The appellant overstated the significance of the tree in the heritage assessment.
- The appellant repeatedly pointed to the HOMS record and reasons for the decision, noting that HOMS had already concluded that:
 - The proposal retained the significance of the historic building.
 - The scale, location and setback of the additions would not negatively affect heritage resources, streetscape character or scenic routes.
 - The overall spatial character of the historic structure would remain intact.
- The applicant requested that the appeal be dismissed.
- The Section 34 permit issued by HOMS should remain in force.
- The heritage consultant's report, HOMS minutes, HOMS reasons and his written response collectively demonstrate that the appeal lacked merit.
- The applicants perspective was that no material procedural unfairness existed, the appeal was being heard afresh, the proposed rear addition would not harm the heritage significance of the Grade IIIB building, and therefore the appeal should be dismissed, and the HOMS approval upheld.

DISCUSSION

Amongst other things, the committee considered and discussed the following:

- Appeal against the HOMS decision of 18 May 2026, which approved the application.
- Appeal lodged by Mr Mittendorf on behalf of residents at 3 Alexandra Road.
- Responses to the appeal were submitted by: Nick Smith and Sea Point Fresnaye Bantry Bay Ratepayers Association.
- The appeal was previously heard at the Appeals meeting held on the 15th of July 2026.
- The matter was held over, and the Committee resolved to undertake a site inspection.
- The site visit was undertaken on the 4th of August 2026, by Mr Mike Scurr and Dr André van Graan.
- Discussed the design, scale and architecture of the proposed addition and whether it would negatively impact on the Grade IIIB heritage resource.
- Noted that heritage assessment should not be limited only to views from the street.
- Queried whether the proposal could diminish the heritage significance of the building through its architectural expression, its scale and bulk and its relationship to the original structure.
- The Committee noted the existing condition of the heritage resource and described the original front portion of the house as a strong and significant heritage resource.
- An excellent example of a historic building responding to the corner site and steep slope.
- Noted that previous rear additions dating from the 1970s and 1980s were already clumsy and poorly resolved and had compromised the clarity and legibility of the original building.
- The Committee noted that the proposed extension continued development in the rear portion of the property and was located in the least intrusive position from a heritage perspective and was sufficiently setback from both the road and the historic structure; it was considered unlikely to be highly visible from the public realm, even if some vegetation were removed.
- The pitched roof profile of the new addition followed the form of the previous additions. It was considered that the gable end was intrusive and that a hipped roof profile at the north end would be preferable, in order to mitigate the impact of the addition.

DECISION

The appeal is upheld. The current proposed extension has a negative impact on the IIIB heritage resource. The extension to the rear of the site in this location is broadly acceptable; however, a revised design which deals with the following elements is required:

- A revised roofscape which is less dominant and responds more sympathetically to the original house and its hipped roof form, rather than continuing the 1970s and 80s forms.
- The new addition should read as secondary and not as an equivalent element to the existing building and its rear extension as per the current design.
- The revised design must be submitted to this Committee for approval.

SB

11.2 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.

Dr André van Graan presented the site inspection report.

Ms Viv McDonald presented on behalf of the Appellant:

The neighbouring property owner at 12 Dumbarton Road opposed the approved works at 10 Dumbarton Road and asked the Appeals Committee to uphold the appeal. The main arguments were:

- 10 Dumbarton Road was, in her view, the original 1889 Sunnybrae farmstead and a key heritage resource in the area.
- The historic double chimneys were described as an important architectural feature and part of Sunnybrae's identity.
- The appellant argued that demolishing one of the chimneys damaged the historic character of the property and the wider neighbourhood.
- The appellant disputed the applicants' claim that neighbours and the Greater Lynfrae Civic Association (GLCA) supported the proposal.
- The appellant stated that the GLCA reviewed earlier plans which did not indicate the chimney's demolition and therefore never specifically supported its removal.
- The appellant argued that the demolition was not clearly highlighted in consultation material and was only referenced indirectly in later drawings.
- The appellant indicated that they attended the 1 June 2026 HOMS meeting only to discuss a boundary issue and did not understand that chimney demolition formed part of the proposal.
- The appellant stated that other neighbours were similarly unaware and referred to a petition submitted by affected neighbours.
- The appellant alleged that work commenced before the permit was issued.
- Submitted that Stop Works notices were ignored and that construction continued despite those notices.
- The appellant put forward that some work observed during the site inspection was not reflected on approved plans, including the removal of a staircase.

The appellant requested the Appeals Committee to:

- Uphold the appeal.
- Revoke the Section 34 permit.
- Refuse retrospective approval of the works.
- Require reconstruction of the demolished chimney.

Mr. Tom Gerhardt and Mrs Sarah Golding, as the owners, applicants, indicated that:

- All work was undertaken in good faith.
- The applicant believed they had acted within the permissions granted by HWC and the City.
- The applicant acknowledged that the commencement of the demolition work within the 14-day appeal period because they were unaware of that procedural requirement.
- Once informed of the issue, the applicant stopped work and sought guidance from the relevant authorities.
- The applicant purchased the property because of its heritage value.
- The applicant's intention was to restore and enhance heritage features, not destroy them.
- Significant work was being done to restore timber floors, original sash windows and other historic fabric.
- The removal of the chimney was shown on the approved plans.
- The approved HWC plans and City-approved plans matched.
- The chimney was not a prominent streetscape feature because it was located on the western side of the building and largely hidden from public view.
- The applicants submitted that the demolition of the chimney had been properly considered during the HWC process.

Committee members raised the following with the applicant and appellant:

- On plan drawings: the chimney appeared to be demolished.
- On elevations and sections: the chimney appeared to remain.
- This created a contradiction within the approved drawing set.
- Important heritage work appeared to be omitted from some drawings, making it difficult for HOMS to properly understand exactly what was proposed.

- Concern was raised that there might not be full disclosure:
- Two sets of drawings existed.
- Different information appeared on different drawings.
- This may have complicated HOMS decision-making process.

The Applicant in response indicated that

They accepted:

- The omission on some elevations was an oversight.
- The chimney removal should have been represented more clearly.

The committee raised further concerns regarding the stop works order and enquired:

- Whether work stopped when the City issued its *stop-works order*.
- Whether work stopped when HWC notified them of the appeal.
- Whether work stopped after HWC issued a *stop-works order*.

The applicant stated:

- They complied with the City's stop-works instruction.
- They only continued work after receiving direction from City officials.
- Once the appeal was lodged, they continued only with work they believed was unrelated to the chimney.
- Following the later HWC stop-work instruction, they limited activities to non-structural tasks such as window repairs, joinery and maintenance.

Case Officer Xola Mlwandle, however, stated that:

- HWC instructed the owners to stop work.
- HWC officers repeatedly informed them that work could not continue.
- Notifications and photographs were received indicating work continued after the stop-works instruction.

HOMS recused themselves for the deliberation and discussion and left the meeting.

DISCUSSION

Amongst other things, the following was discussed:

- The appeal was previously on the Appeals Agenda of the 15th of July 2026.
- The matter was held over, and the Committee resolved to undertake a site inspection
- The site visit was undertaken on the 4th of August 2026 by Mr Mike Scurr and Dr André van Graan.
- There appeared to be several discrepancies between the approved plans and the work observed on site.
- The issue may not have been limited to the chimney.
- Other alterations appeared to exist that were not clearly represented on the approved drawings.

FURTHER REQUIREMENTS

The Committee requires the applicant to submit a status quo report regarding building work that has taken place and work to be still to be done on site, including:

- Building plans drawn up by an architect indicating all building work that has taken place.
- Annotated photographs of building work that has taken place.
- Written description of work indicating deviations from the previously approved drawings.
- A stop-work order has been issued and no work, whether structural or not, may take place.

XM

11.3 Erf 33030, Cressy Road, Athlone

HM / CAPE METROPOLITAN/ ATHLONE / ERF 33030

Case No: HWC24101108XM0304

Appeal against IACom's Committee decision.

Case-officer Ms Stephanie Barnardt.

Mr. Ron Martin on behalf of the appellant:

- Applied for the postponement of the Appeal hearing.
- Stated that a PAIA request to HWC had been submitted in July 2026 for the following information:
 - Recordings/transcripts of the IACOM meeting(s) where the matter was considered.
 - The HOMS meeting of 8 June 2026 where the matter was discussed.
- The appellant confirmed that:
 - IACom's meeting recordings were only received the day before the hearing.
 - HOMS recordings had still not been provided.
- The appellant submitted that the recordings and transcripts were essential for preparing the appeal properly.
- The appellant submitted that the Minutes alone were insufficient and that the actual discussions and deliberations were important.
- The appellant submitted that the recordings contained information directly relevant to the appeal grounds.
- The appellant stated that one of the issues in the Record of Decision related to public consultation.
- Emphasized that the matter was discussed in meetings attended by affected parties and members of the public.
- The appellant submitted that the information is important to be considered by the Appeals Committee:
 - Clear,
 - Accurate,
 - Complete, and
 - Unambiguous.
- The appellant submitted that proceeding without the outstanding recordings would prejudice the applicant.
- Noted that although they attended some meetings, he was not present at the particular HOMS meeting where the matter was discussed.
- They argued that access to the full recordings is therefore necessary for a fair appeal process.
- The appellant requested that the appeal hearing be postponed until:

HWC Appeals Committee 12th August 2026

- All requested recordings and transcripts have been provided, and
- The applicant has had a reasonable opportunity to consider them and prepare the appeal.

Opposition to Postponement on behalf of Interested Parties

Mr. Tauriq Jenkins:

- Opposed Mr. Ron Martin's request for a postponement.
- Argued that the appellant:
 - Was present at the relevant meeting.
 - Participated in the proceedings.
 - Was aware of the discussions and decision-making process.
- Submitted that there was nothing in the meeting recordings that would materially alter the issues already before the committee.
- Submitted that:
 - The key issues have already been raised, debated and considered.
 - The committee's decision-making framework and concerns were already reflected in the available record.
- Stated that HWC had already identified fundamental concerns relating to:
 - Public participation.
 - The handling of sacred human remains.
 - The treatment of unregistered burials and ancestral remains.
- Was of the opinion that these concerns were already documented and did not require further recording to understand.
- Described the appeal as lacking substantive grounds.
- Was of the opinion that:
 - The appeal contained little or no detailed reasoning explaining why the original decision should be overturned.
 - No clear evidence had been presented showing that the decision was incorrect.
- Objected to further delaying of the process.
- Noted that:
 - Interested and affected parties had been waiting since early in the day to participate.
 - The matter was of significant importance to descendants and community stakeholders.
 - Further postponement would unnecessarily prolong proceedings.
- Submitted that:
 - The application for a postponement be refused.
 - The appeal should proceed on the information already available.
 - The committee should hear any remaining submissions and then determine the appeal on its merits.
- Suggested that consideration be given to addressing delays caused by appeals that were not properly substantiated, given the impact on:
 - Community members.
 - Interested and affected parties.
 - The efficiency of the heritage appeal process.

DISCUSSION

Amongst other things, the following was discussed:

Committee Deliberation on Postponement Request

- Committee members discussed the merits of Mr. Ron Martin's request to postpone the appeal.
- The request itself did not provide sufficient grounds to justify a postponement.
- The absence of the requested recordings did not, on its own, warrant the granting of the postpone-ment application.
- Co-opt members with additional expertise that the committee did not have.
- Obtain specialist assistance in areas where further expertise was considered necessary.
- Ensure that the Appeals Committee was properly assisted before reaching a final decision on the ap-peal.
- The committee emphasized the importance of distinguishing between:
 - Refusing of the appellants postponement application, and
 - The committee's own decision to defer the matter for a different reason.
- The concern was that parties should not leave with the impression that the postponement resulted from the appellants request.
- The committee was of the opinion that:
 - The appellants postponement application should not be granted.
 - However, the committee should nonetheless postpone (hold over) the matter on its own initi-ative due to factors set out below.

DECISION

The appellant's application for a postponement is not granted.

The Committee, however, intends to co-opt additional members with archaeological and socio-historical expertise to assist the Committee. The matter is postponed to the next Appeals meeting, dated 9th of September 2026. In light of the postponement, the appellant will be allowed to supplement his reasons for appeal, if needed, within 5 working days of this decision, and circulated to all the I&AP's within this period.

The I&AP's will be afforded the opportunity to submit their response to the appellant's reasons within 5 days of receipt of the reasons for appeal, and circulated to all the parties within this period. Written submissions by any party outside the afforded time period will not be considered by the Committee.

SB

12. Other Matters: For Noting

12.1 None

13. Proposed next date of the meeting to be held online: 9th September 2026.

14. Adoption of decisions and resolutions

The Committee unanimously adopted the decisions and resolutions, with. CSm proposing and P.B seconding the proposal.

Closure: The meeting was adjourned at 16:35

MINUTES APPROVED AND SIGNED BY:

CHAIRPERSON



DATE 23 October 2026

SECRETARY



DATE 23 October 2026