



NOTICE

HERITAGE WESTERN CAPE

ISSUING OF LETTERS IN RESPECT OF WORK UNDERTAKEN PRIOR TO APPLICATION BEING MADE TO HWC

Heritage Western Cape (HWC) has in the past issued letters where work has been started or completed prior to making application to HWC for the necessary authorisation which state that no further action in terms of the NHRA is required and the applicant may proceed with obtaining other necessary authorisations (the so-called section 51 letter).

This was necessitated by the fact that the National Heritage Resources Act, 1999 (Act 25 of 1999, “the NHRA”) does not make provision for the condonation of such work. The letters were issued to allow certain applicants to proceed to obtain authorisations from other authorities in order to legalise their properties. However, it was always done at the sole discretion of HWC where it was considered that circumstances warranted it, e.g. where there was no impact on heritage resources.

It has now become evident that the practise has arisen amongst certain applicants and heritage practitioners to rely upon the issuance of these letters and to assume that work can be undertaken prior to application being made and that a letter will be issued. In some cases it was found that clients are either advised to continue with unauthorised work or a blind eye was turned. This is a cause for great concern at HWC as it is certainly unethical if not illegal.

It has accordingly become necessary for HWC to advise that going forward, section 51 letters may NOT be issued in the following instances:

- Where there is a negative impact on heritage resources
- Where there a section 51 letter was issued in the past to the same person

It is further re-iterated that the issuing of these letters is completely at the discretion of HWC and there is no obligation on HWC to do so.