

In re: Appeal on behalf of Sydney International Holdings (Pty) Limited against the decision of BelCom at a meeting held on 15 September 2011 and as notified in a letter from Heritage Western Cape on 20 September 2011

1. In an application dated 7 September 2011 Sydney International Holdings (Pty) Limited ("the appellant") applied to the BelCom of Heritage Western Cape (HWC) for permission under section 34 of the NHRA 25 of 1999 (the Act) to totally demolish the structures at Erf 145 57 Hoofstraat Keurboomstrand.
2. BelCom considered the request at a meeting held on 15 September 2011. HWC communicated the decision of BelCom to the appellant's representative in a letter of 20 September 2011 as follows:

"Upon assessment of the documentation presented the Committee resolved as follows:

To uphold its previous decision that the building and its relationship with its setting has intrinsic and contextual heritage value and is worthy of formal protection as a Grade II heritage resource.

The site can accommodate sensitive development to the north of the site with retention of the existing building.

The Committee resolved not to approve the application for total demolition.

The Committee recommended that the site be placed on the heritage register."

3. The appellant appealed against that decision to the Appeals Committee of HWC on 22 November 2011. The appeal was dismissed, whereupon the appellant approached the Ministerial Tribunal in terms of section 49 (2) and (3) of the Act. The appellant had certain concerns around the procedural validity of the appeal proceedings before the Appeals Committee. By agreement between HWC and the appellant, the Tribunal set aside the decision of the Appeals Committee and referred the matter back to the council of Heritage Western Cape and in particular those members of the council who had not previously been involved with this matter.
4. At the hearing on 7 May 2013, Adv Knoetze on behalf of the appellant and Mr Hall on behalf of HWC specifically confirmed that:

- 4.1. This appeal is validly before us, the Appeals Tribunal having set aside the decision of the Appeals Committee on 22 November 2011;
- 4.2. Both parties accept the constitution of the council hearing the appeal as consisting of the four members of the council of HWC being present, namely Mrs Mary Leslie; Mr Magnus Steenkamp, Mr Floris Brown and Adv R M Robinson (chairperson).
5. Having considered the appeal and the evidence (both in writing and orally) placed before the members of the council presiding, the decision is as follows:
 - 5.1. The decision of the BelCom of 15 September 2011 is set aside and replaced with the following decision: "*Sydney International Holdings (Pty) Ltd is granted permission under section 34 to demolish totally all structures on the site at Erf 145 57 Hoofstraat Keurboomstrand.*"
6. It is recorded that Mr Brown dissents from this decision by upholding the previous decision of BelCom that the building and its relationship with its settings has intrinsic and contextual heritage value and is worthy of formal protection as a grade III heritage resource and should not be demolished due to the following reasons:
 - 6.1. It has historical value, being representative of cottages being built at beaches during the early half of the twentieth century.
 - 6.2. The KPOA's letter which is supportive of demolition represents only one sector of the public of Keurboomstrand.

Adv R M Robinson (Chairperson)

M Leslie

F Brown

M Steenkamp

7 May 2013 Cape Town