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10 January 2021

Mr. Pieter N. Meyer

Attorney at Law

Per Email: pm@lawdva.com

Cc: mdv@lawdva.com

Dear Mr. Meyer,

DONATION OF THE HISTORICAL JAGERSFONTEIN OLD PIT ("JAGERSFONTEIN PIT" OR "PIT") TO THE SOUTH AFRICAN HERITAGE RESOURCE AGENCY ("SAHRA").

1. The above matter and your letter of 20 July 2021, on behalf of your client, Jagersfontein Developments (Pty) Ltd ("JD"), refers.
2. By way of brief background, we confirm that this correspondence concerns your client's proposal to donate the Jagersfontein Pit, currently owned by your client, in line with S21(5)(b) of the NHRA, which states that SAHRA's Council may approve the acquisition of any immovable property including, by implication, via deed of donation. It must be noted, that in terms of the Public Finance Management Act, No. 1 of 1999 ("PFMA"), SAHRA is also obligated to obtain the relevant treasury's approval before accepting any donation of immovable property
3. We have considered your proposal and researched, in detail, the legal framework and risks around said proposal. As such, we would like to respond as follows:

3.1 In terms of the Mineral and Petroleum Resources Development Act, No. 28 of 2002 ("MPRDA") and its Regulations, should SAHRA be donated/take over ownership of the Jagersfontein Pit, which is essentially a mine, the mining rights owned by your client will not automatically be transferred to SAHRA and SAHRA will have to apply for these rights in order to action anything within the mine, assuming that the mine has not yet been officially closed.

3.2 The application for the relevant mining rights would require a prescribed non-refundable financial outlay in the form of an application fee and financial cover to the Minister that can be used to manage or rehabilitate the negative environmental impact of the mine, the quantum of this being affected by the amount of degradation already in place which, in this instance, appears to be a considerable amount. On top of this, various reports, plans, assessments and maintenance need to, as stipulated in the legislation, be put in place and effected in order to mitigate the various risks. All of this would clearly result in SAHRA having to incur a considerable financial and resource burden should it take donation of the pit.





- 3.3 In looking at the specific facts of this case, in accepting donation of the pit, SAHRA would be taking on further risk in the form of potential damages to the neighbouring community should the break-backing of the pit result in property damage or even physical human injury.
- 3.4 Further financial burden could be incurred should SAHRA have to re-house residents in the zone of influence, as has been suggested by your client. Further to this, SAHRA risks significant litigation costs should the community, as they have already threatened and actioned, continue to oppose the backfilling of the pit.
4. In light of what has been discussed above, SAHRA has taken the decision that it would be too much of a liability for the organisation to accept such a donation.
5. We do advise however advise, as was pondered in your letter of 20 July 2021, that your client does apply to SAHRA for the requisite permit to backfill the pit. It is, further, SAHRA's advice that your client curates/documents the historical significance of the pit by producing booklets that could benefit the tourism in the area and raise awareness in the community.

Yours Faithfully,

Adv. Lungisa Malgas

CHIEF EXECUTIVE OFFICER

