

# SOCIAL CONSULTATION REPORT FOR THE PROPOSED EXHUMATION AND RELOCATION OF GRAVES AT LEEUEW PAN COAL MINE

**Leeuwpán Coal Mine**  
Prepared for: Exxaro (Pty) Ltd

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## EXECUTIVE SUMMARY

Exxaro Coal (Pty) Ltd (Exxaro) operates the Leeuwpan Coal Mine (Leeuwpan), located approximately 10 km south-east (SE) of the town of Delmas in the Victor Khanye Local Municipality (VKLM) of Mpumalanga Province, South Africa. Leeuwpan's mining right is located on various portions of the farms Leeuwpan 246 IR, Moabsvelden 248 IR, Rietkuil 249 IR, Kenbar 257 IR, Goedgedacht 228 IR and Wolvenfontein 244 IR. As part of the mine's development plans, Exxaro proposes to exhume and relocate graves that are located on Portion 1 of Farm Rietkuil 249 IR and Portion 1 of the Farm Kenbar 257. Prior to the exhumation and relocation of the aforementioned graves, Exxaro needs to obtain the necessary permits from the various government departments. Exxaro intends to apply for grave exhumation and relocation permits in terms of the following legislation:

- National Heritage Resources Act (Act 25 of 1999) (NHRA)
- Removal of Graves and Dead Bodies Ordinance (Ordinance no. 7 of 1925) (RGDBO)
- The Exhumations Ordinance (Ordinance no. 12 of 1980) (TEO)
- The National Health Act, 61 of 2003 (NHA)
- Human Tissue Act 65 of 1983 (HTA)
- Mpumalanga Cemeteries, Crematoria and Exhumation of Bodies Act (No 8 of 2005) (MCCEBA)
- Victor Khanye Local Municipality (VKLM): Cemeteries and Crematoria By-Laws GN 2307
- National Environmental Management Act 107 of 1998 (NEMA).

A heritage impact assessment (HIA) study was undertaken by Apelser Archaeological Consulting (APAC) during November 2018. The results of the study identified five grave sites with a total of approximately 100 graves within the mine's development area. These graves will be impacted on by expanding mining operations at Leeuwpan and therefore, have to be exhumed and relocated to different area(s) in accordance with the requirements of next of kin and in terms of the above-mentioned legislation.

The social consultation process for the proposed project was undertaken by APAC and Synergistics Environmental Services (Pty) Ltd (Synergistics), part of SLR Group (SLR), in terms of Section 36 (5) of the NHRA. The consultation process was carried out over a period of 30 days (14 November to 14 December 2018). The goal of the consultation process was to identify the next of kin of persons buried or any other person or community interested in such graves.

Synergistics will continue to identify with potential next of kin. Should additional next of kin be identified, the above-mentioned consultation process would be undertaken and the related information forwarded to the competent government organs to form part of the decision making process. There will be on-going communication between the next of kin and Synergistics until the proposed project is completed.

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## ACRONYMS AND ABBREVIATIONS

Acronym / Abbreviation	Definition
APAC	Apelser Archaeological Consulting
HIA	Heritage Impact Assessment
HTA	Human Tissue Act
I&APs	Interested and/ or Affected Parties
MCCEBA	Mpumalanga Cemeteries, Crematoria And Exhumation of Bodies Act
NDH	National Department of Health
NDM	Nkangala District Municipality
NEMA	National Environmental Management Act
NHA	National Health Act
NHRA	National Heritage Resources Act
PDH	Provincial Department of Health
PPO	Provincial Premier's Office
RGDBO	Removal of Graves And Dead Bodies Ordinance
SAHRA	South African Heritage Resources Agency
SAPS	South African Police Services
TEO	The Exhumations Ordinance
TLB	Tractor-Loader-Backhoe
VKLM	Victor Khanye Local Municipality

## 1. INTRODUCTION AND BACKGROUND

### 1.1 INTRODUCTION

Exxaro Coal (Pty) Ltd (Exxaro) operates the Leeuwpan Coal Mine (Leeuwpan) located approximately 10 km south-east of Delmas in the Victor Khanye Local Municipality and Nkangala District Municipality (NDM) of Mpumalanga Province, South Africa (see Figure 1). Leeuwpan's mining right extends over various portions of the farms Leeuwpan 246 IR, Moabsvelden 248 IR, Rietkuil 249 IR, Kenbar 257 IR, Goedgedacht 226 IR and Wolvenfontein 244 IR. There is evidence of graves on certain of the farms within the Leeuwpan mining right area that are proposed for development. A heritage impact assessment has been undertaken which identified the graves. Exxaro is proposing the exhumation and relocation of all graves located on Portion 1 of the Farm Rietkuil 249 IR and Portion 1 of the Farm Kenbar 257 IR (see Figure 2). Prior to the exhumation and relocation of the aforementioned graves, Exxaro needs to obtain the necessary permits from various government departments.

Synergistics Environmental Services (Pty) Ltd (Synergistics), part of SLR Group (SLR), has been appointed by Exxaro to undertake social consultation process as part of the above-mentioned graves exhumation and relocation permitting process.

The purpose of this report is to present the activities undertaken as part of the consultation process and to present the results of the process to date.

### 1.2 BACKGROUND

A heritage impact assessment (HIA) study was undertaken by Apelser Archaeological Consulting (APAC) during November 2018 as part of Leeuwpan's development planning. The results of the HIA identified four grave sites. Three of these are located in the Rietkuil Village on Rietkuil 249 farm, while the fourth is located on Kenbar 257 farm (known as OI West). A total of around 100 graves are represented by these sites, a summary of which is outlined in the sections below (see Appendix B for details). All the sites would be impacted on by expanding mining operations at Leeuwpan and therefore, the graves have to be exhumed and relocated to different area(s) in accordance with the requirements of the next of kin and the regulatory framework.

#### 1.2.1 Grave site 1 (Site number B2G1 on Rietkuil Farm)

This site contains the grave of Baby Jeremiah Shabangu. According to family members he was around 2 weeks of age when he passed away in approximately 1998/1999. The grave is located inside the family homestead. Grave numbered as LM01.

#### 1.2.2 Grave site 2 (Site number B4G11 on Rietkuil Farm)

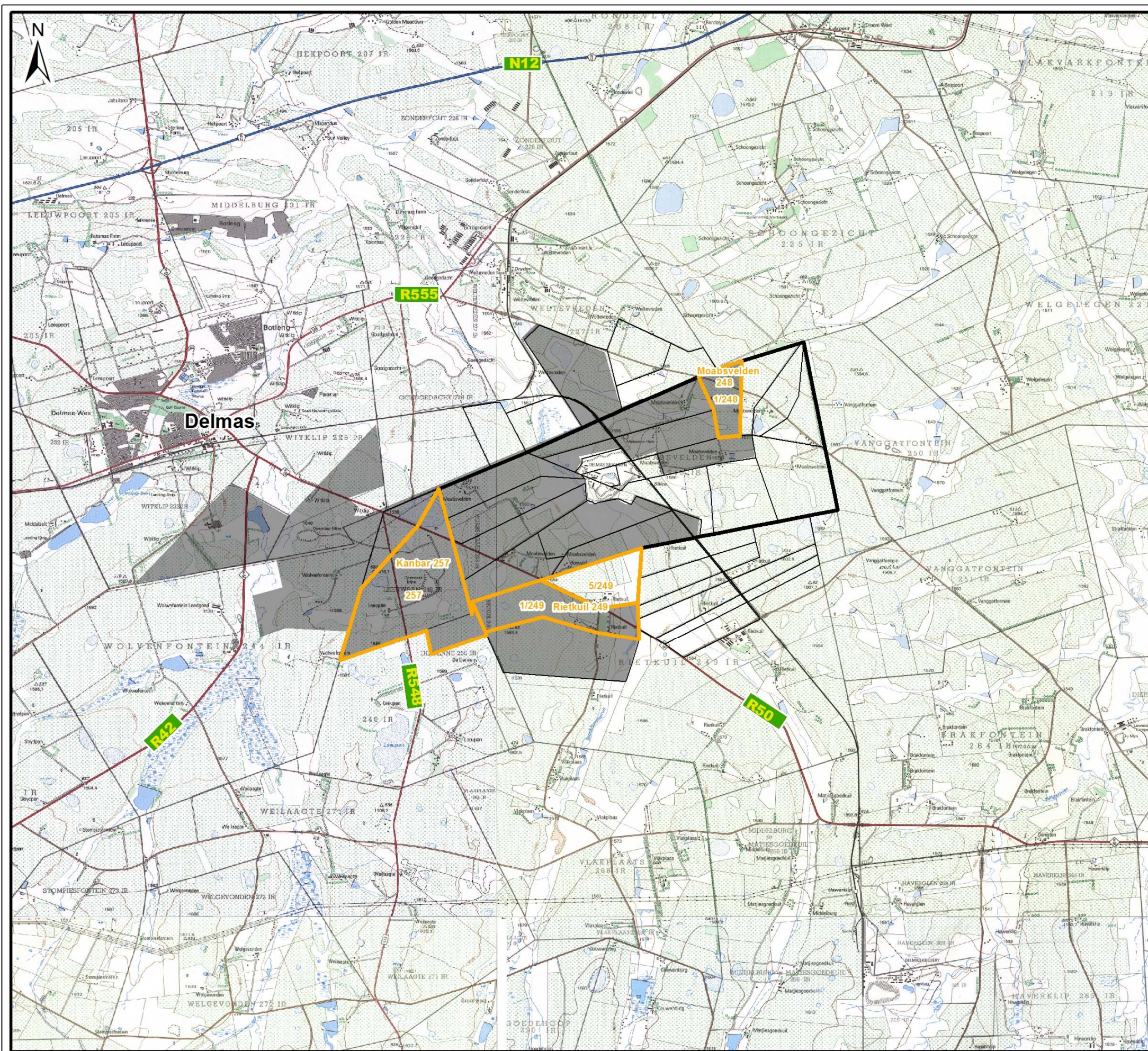
This site contains 2 graves of an infant boy and girl. Both were still-born in around 1993/1994. The family could not provide names and they are both known as Baby Mbonani. The graves were numbered as LM03 and LM04. The graves are located in the family homestead.

### 1.2.3 Grave site 3 (Site number A4G on Rietkuil Farm)

The site is located close to, but outside a homestead, contains the single grave of an infant called Johanna Songo. Her age at death was not known, but she passed away in approximately 1997. The grave was numbered LM02.

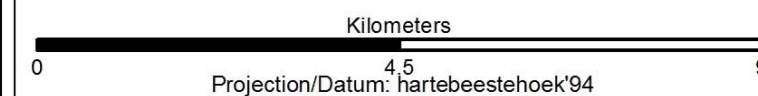
### 1.2.4 Grave site 4 (Ol West on Kenbar Farm)

This site is the **old Site 12** mentioned earlier in the 2014 report. It contains approximately 93 graves, although there is a possibility of more. The exact number of graves can only be determined once site clearance has been done as the vegetation was very dense during the site assessment. Although most of the graves are at this stage unidentified and stone-packed without formal headstones, some graves have more formal headstones and legible inscriptions. The following families are represented: Mgidi, Radinne, Motsogi, Ngoma, Mahlangu, Sekgothe, Ngwenya and Ndlovu. The dates of death noted on the graves range between 1936 and the late 1970's.



**Legend**

- National Route
- Main Road
- Secondary Road
- Railway
- Mine Plan Authorization Area
- Property Boundaries
- Relocation Properties



**LEEUWPAN MINE GRAVE RELOCATION**

**Figure 1**

**Regional Setting**

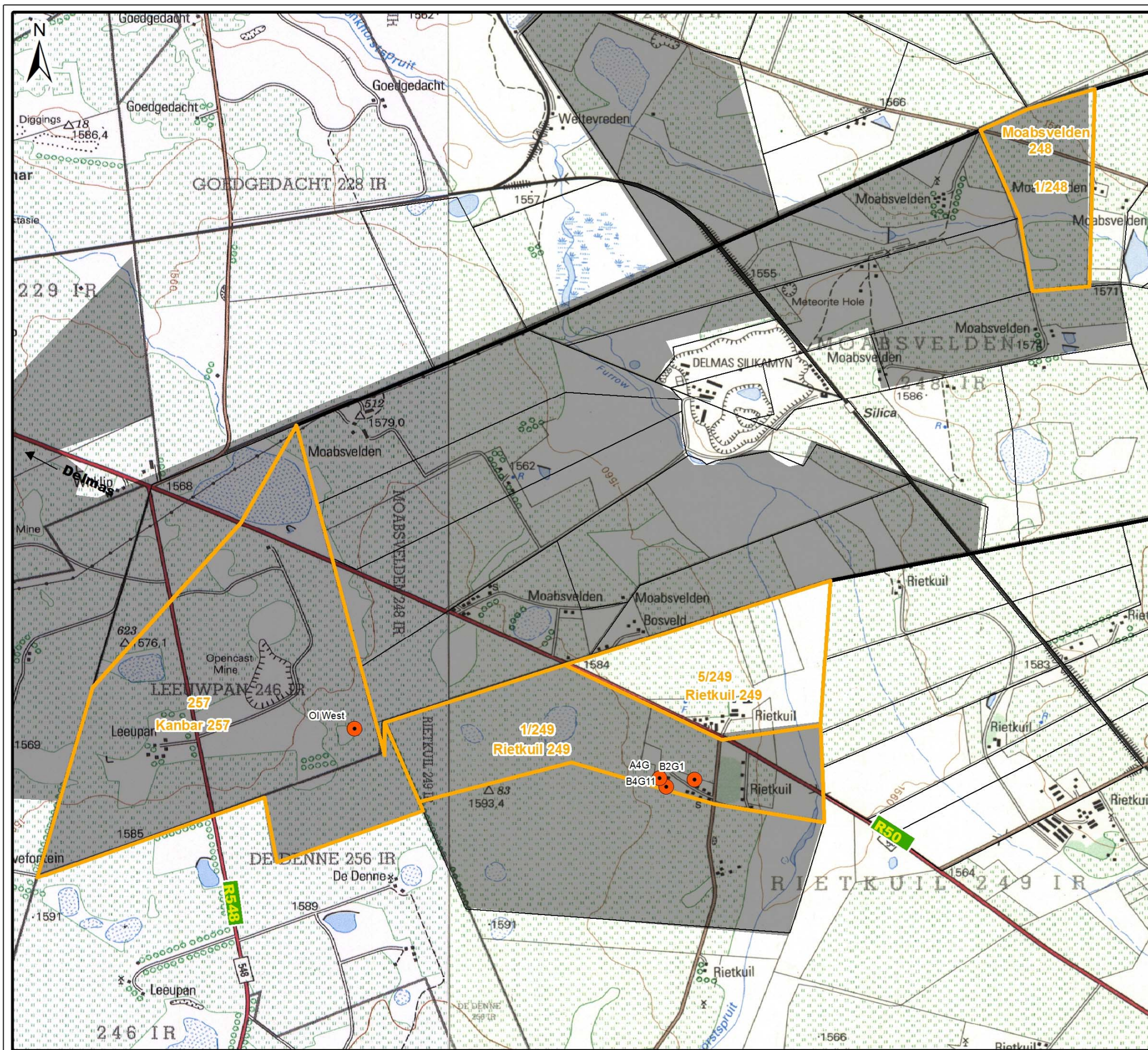


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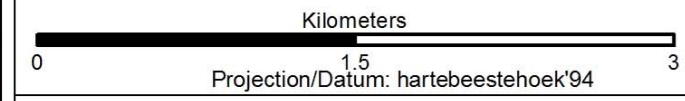
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- ### Legend
- Location of Graves
  - Mine Plan Authorization Area
  - Relocation Properties
  - Property Boundaries



## LEEUWPAN MINE GRAVE RELOCATION

Figure 2:

### Location of Graves

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## 2. LEGAL FRAMEWORK CONSIDERED FOR THE PROPOSED PROJECT

### 2.1 LEGAL REQUIREMENTS FOR THE PROPOSED PROJECT

Exxaro and AVBOB intend applying for permits for the exhumation and relocation of these graves in terms of the following legislation:

- Section 35 and 36 (5) of the National Heritage Resources Act (Act 25 of 1999);
- Section 2 (1) of the Removal of Graves and Dead Bodies Ordinance (Ordinance 7 of 1925);
- The Exhumations Ordinance (Ordinance 12 of 1980);
- The National Health Act (Act 61 of 2003), Regulation 363 of 22 May 2013;
- Mpumalanga Cemeteries, Crematoria and Exhumation of Bodies Act (Act 8 of 2005); and
- Victor Khanye Local Municipality: Cemeteries and Crematoria By-Laws PG 2307 of 2014.

The required permit applications will be submitted to the South African Heritage Resources Agency (SAHRA) or their legislated provincial agency, Provincial Health Department and Provincial Premier's Office, Victor Khanye Local Municipality as well as the local municipality in which the graves will be relocated to. Mr Anton Pelsler (Archaeologist) and Nantie Croucamp of AVBOB will be responsible for the permit application process.

The age of a grave is important because it determines the legal permitting process that needs to be followed prior to the exhumation and relocation of such a grave. The following grave age groups and their related legal requirements were taken into consideration in this process.

#### 2.1.1 Graves under 60 years

These graves fall under Section 2(1) of the RGDBO as well as the HTA. These graves fall under the jurisdiction of the National Department of Health (NDH) and the relevant Provincial Department of Health (PDH) and the application for relocation must be submitted for final approval to the Office of the relevant Provincial Premier's Office (PPO). Authorisation for exhumation and re-interment must also be obtained from the relevant local or regional council where the grave is situated, as well as the relevant local or regional council to where the grave is being relocated. All local and regional provisions, laws and by-laws must also be adhered to.

#### 2.1.2 Graves older than 60 years but younger than 100 years

These graves fall under the jurisdiction of two Acts, namely the NHR as well as the HTA. Should graves older than 60 years, or if the age of the grave cannot be ascertained either by a grave marking or through a social consultation process, be located outside a formal cemetery, the Procedure for Consulting Regarding Burial Grounds and Graves (Section 36(5) of the NHRA is applicable. However, graves older than 60 years but younger than 100 years, which are located within a formal cemetery administered by a local authority will also require the same authorisation as set out for graves younger than 60 years over and above South African Heritage Resources Agency (SAHRA) authorisation. If the grave is not located within a formal cemetery, but is to be relocated to one, permission must also be acquired from the local authority and all regulations, laws and by-laws set by the cemetery authority must be adhered to.

#### 2.1.3 Graves older than 100 years

Graves older than 100 years are classified as archaeological, and are protected in terms of Section 35 of the NHRA. Authorisation from SAHRA is required for these graves.

The required permit applications for the proposed project will be lodged with the SAHRA or their legislated provincial agency, PDH and PPO and the VKLM as well as the local municipality in which the graves will be relocated to. A qualified archaeologist accredited by SAHRA will supervise the proposed exhumation and relocation of graves. The institution undertaking the relocation part will be authorised under Section 24 of the HTA to handle and transport human remains.

### 3. SOCIAL CONSULTATION PROCESS

#### 3.1 OBJECTIVES

The social consultation process for the proposed project is being undertaken in terms of Section 36 (5) of the NHRA. The goal of the consultation process is to identify the next of kin of persons buried or any other person or community by tradition concerned with such graves and to keep records of the identified parties and their responses.

With the abovementioned goals in mind, the objectives of the social consultation process are as follows:

- To provide the next of kin an opportunity to identify their graves;
- To provide the next of kin an opportunity to raise issues of concern and ask questions;
- Provide Exxaro with information pertaining to the next of kin's requirements for exhumation and relocation of the graves, including their traditions and customs; and
- Have formal agreements between the next of kin and Exxaro regarding the exhumation and relocation of the graves.

#### 3.2 METHODOLOGY

The methodology being followed for the social consultation for the proposed project is taking into consideration the legislative requirements set out in Section 2 and 3.1 of the report. The process followed is described below.

##### 3.2.1 Identification of interested and affected parties

Potential interested and/or affected parties (I&APs) were identified as follows:

- Archival and documentary research regarding the origin of the grave or burial ground - done by APAC (see Appendix B);
- Direct consultation with local community members - done by APAC whilst investigating graves (see Appendix B);
- Site notices were placed in key positions for at least 60 days (see Appendix A); and
- Advertising in the local press (see Appendix A).

The details pertaining to the media advertisements and site notices are outlined below.

### 3.2.2 Media advertisements

Press advertisements were placed in the newspapers as follows:

- Daily Sun in English on 14 November 2018; and
- Streeknuus in English on 16 November 2018.

Copies of the advertisement are included in Appendix A.

### 3.2.3 Site notices

Site notices (A1) were placed on 9 November 2018 at the following areas in English:

- Centre of the Rietkuil community;
- Entrance to the Rietkuil community; and
- Entrance to the Kanbar farm gravesite.

A copy of the site notice, including photographs of their locations, is included in Appendix A.

### 3.2.4 Consultation with next of kin

To date no next of kin have been identified during the site visits. Upon identification, the potential next of kin would be taken to the grave sites to confirm their graves. To date, no site meetings were held as next of kin has not been identified.

#### Consultation Meetings with the Next of Kin

Upon identification of the next of kin, an information sharing meeting would be scheduled with the next of kin where require. The purpose of such meeting would be to introduce the project to the next of kin as well as to advise them of the process that is currently being undertaken by Synergistics. The meeting would also provide the next of kin with an opportunity to raise any issues of concern regarding the proposed project as well as to outline the family's tradition and customs requirements for the exhumation and relocation process.

A summary of the information sharing meeting with the next of kin will be provided, including minutes, in an updated version of this report once such meetings have been held.

#### Collation of issues of concern by the next of kin

To date no issues of concern have been received from next of kin or stakeholders.

The issues of concern raised by the next of kin together with the related responses will be included in an updated version of this report once raised.

### 3.2.5 Agreements between the next of kin and Exxaro

A summary of any formal agreements between the next of kin and Exxaro will be presented and the related affidavits will be included in an updated version of this report once in place.

## 4. WAY FORWARD

Synergistics will communicate on an ongoing basis with the next of kin upon identification. The next of kin will also be informed of the outcome of the permit applications and will be informed of the planned exhumation, relocation and re-burial plans in advance so that all the requirements including notification of the deceased to relocate them can be undertaken (where required).

Due to the lack of correspondence received from interested and affected parties and in particular next of kin during the social consultation period, it is requested that the competent authority provide recommendations and suggestions on the way forward in terms of additional social consultation required.

Issues raised in this period will be recorded and forwarded to Exxaro for their attention and response. All the records of communication will be kept and updated where required.

## 5. CONCLUSION

Synergistics and APAC undertook a social consultation process in terms of the requirements of Section 39 of the HIA Regulations to identify the next of kin with respect to graves at Leeuwpan. The closing date for the consultation period was on 14 December 2018. To date no potential next of kin have come forward to identify their respective grave sites.

Upon identification of the next of kin, the above-mentioned consultation process will be undertaken and the related information will be forwarded to the competent government organs to form part of the decision making process.

*Unsigned Electronic Copy for Security Purposes*

**Edwynn Louw**  
(Report Author)

**Marline Medallie**  
(Project Manager)

**Matthew Hemming**  
(Reviewer)

## REFERENCES

Apelser Archaeological Consulting (APAC) November 2018: An Amended Phase 1 HIA Report for the Leeuwpan Colliery near Delmas & the Recording and Documentation of Graves and Grave sites that will be impacted by Expanding Mining Operations at Leeuwpan

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