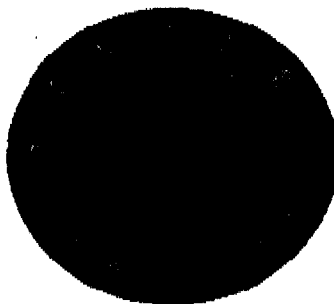


APPNDG: PHILIP HINE
~ ~ ~ ~ ~

CHRISTA CASS

TEL 0825743445

**SOUTH AFRICAN HERITAGE RESOURCES AGENCY**

18 PILGRIM STREET, BARBERTON, 1300 P. O. BOX 1 1004, BARBERTON, 1300

TEL: (013) 712 3050 FAX: (013) 712 6508

OUR REF:

9/2742/25

YOUR REF:

Mr F Erasmus

ENQUIRIES:

12 February 2004

NAME:

Mrs Christa Cass
P O Box 31
ARNOT
1051

Dear Christa

Historic farm dwelling: Modfontein, Middelburg District

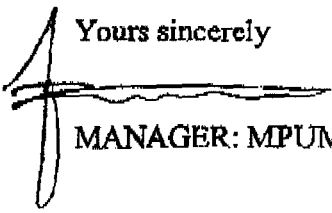
Our site meeting on 2 February 2004 refers. Herewith written confirmation of matters discussed:

1. The sandstone structures on the farm complex are of exceptional quality and in a fine state of preservation. It appears that the oldest structures date from ca 1900 to 1930, which automatically protects them under the "60 years clause", Section 34 of Act 25 of 1999, also known as the Heritage Act.
2. This office is led to believe that a coal mining company has bought the mineral rights and proposes to mine in the area. We accordingly wish to inform you that Section 38 of the above-mentioned Act, concerning heritage resources management does apply in this instance. Enclosed please find a copy of this section for your information and further reference.
3. Kindly NOTE that this Agency strives for holistic conservation of our shared heritage. Features such as the traditional Ndzundza Ndebele dwellings, the historic "oukclip" and sandstone farm dwelling to the northeast of your house and the quarry where the sandstone for your house and perhaps others in the area was quarried, archaeological sites and graves also need to be considered when a Heritage Impact Assessment (HIA) is compiled for the area.
4. Kindly NOTE that the developer has to finance the HIA and that only professionals recognised by SAHRA may perform an HIA. Two people whom we may RECOMMEND are Dr Gerhardt de Jongh and Mr Karel Bakker of Cultmatrix. Their numbers are respectively 0825774741 and (012) 4202550.

5. Please ensure that the developer is made aware of the stipulations in the above Act as it is the SAHRA's informed opinion that heritage resources will be affected by the proposed mining activity.

We trust that the above information will assist you in the optimal conservation of our shared heritage.

Yours sincerely

A handwritten signature in black ink, appearing to be a stylized 'A' or similar character, written over a horizontal line.

MANAGER: MPUMALANGA

(and in accordance with any regulations made by the responsible heritage resources authority.

(5) SAHRA or a provincial heritage resources authority may not issue a permit for any activity under subsection (3)(b) unless it is satisfied that the applicant has, in accordance with regulations made by the responsible heritage resources authority—

- (a) made a concerted effort to contact and consult communities and individuals who by tradition have an interest in such grave or burial ground; and
- (b) reached agreements with such communities and individuals regarding the future of such grave or burial ground.

(6) Subject to the provision of any other law, any person who in the course of development or any other activity discovers the location of a grave, the existence of which was previously unknown, must immediately cease such activity and report the discovery to the responsible heritage resources authority which must, in co-operation with the South African Police Service and in accordance with regulations of the responsible heritage resources authority—

- (a) carry out an investigation for the purpose of obtaining information on whether or not such grave is protected in terms of this Act or is of significance to any community; and
- (b) if such grave is protected or is of significance, assist any person who or community which is a direct descendant to make arrangements for the exhumation and re-interment of the contents of such grave or, in the absence of such person or community, make any such arrangements as it deems fit.

(7) (a) SAHRA must, over a period of five years from the commencement of this Act, submit to the Minister for his or her approval lists of graves and burial grounds of persons connected with the liberation struggle and who died in exile or as a result of the action of State security forces or *agents provocateurs*; and which, after a process of public consultation, it believes should be included among those protected under this section.

(b) The Minister must publish such lists as he or she approves in the *Gazette*.

(8) Subject to section 56(2), SAHRA has the power, with respect to the graves of victims of conflict outside the Republic, to perform any function of a provincial heritage resources authority in terms of this section.

(9) SAHRA must assist other State Departments in identifying graves in a foreign country of victims of conflict connected with the liberation struggle and, following negotiations with the next of kin, or relevant authorities, it may re-inter the remains of that person in a prominent place in the capital of the Republic.

Public monuments and memorials

37. Public monuments and memorials must, without the need to publish a notice to this effect, be protected in the same manner as places which are entered in a heritage register referred to in section 30.

Heritage resources management

38. (1) Subject to the provisions of subsections (7), (8) and (9), any person who intends to undertake a development categorised as—

- (a) the construction of a road, wall, powerline, pipeline, canal or other similar form of linear development or barrier exceeding 300m in length;
- (b) the construction of a bridge or similar structure exceeding 50 m in length;
- (c) any development or other activity which will change the character of a site—
 - (i) exceeding 5 000 m² in extent; or
 - (ii) involving three or more existing erven or subdivisions thereof; or
 - (iii) involving three or more erven or divisions thereof which have been consolidated within the past five years; or
 - (iv) the costs of which will exceed a sum set in terms of regulations by SAHRA or a provincial heritage resources authority;
- (d) the re-zoning of a site exceeding 10 000 m² in extent; or
- (e) any other category of development provided for in regulations by SAHRA or a provincial heritage resources authority,

must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.

(2) The responsible heritage resources authority must, within 14 days of receipt of a notification in terms of subsection (1)—

- (a) if there is reason to believe that heritage resources will be affected by such development, notify the person who intends to undertake the development to submit an impact assessment report. Such report must be compiled at the cost of the person proposing the development, by a person or persons approved by the responsible heritage resources authority with relevant qualifications and experience and professional standing in heritage resources management; or
- (b) notify the person concerned that this section does not apply.

(3) The responsible heritage resources authority must specify the information to be provided in a report required in terms of subsection (2)(a). Provided that the following must be included:

- (a) The identification and mapping of all heritage resources in the area affected;
- (b) an assessment of the significance of such resources in terms of the heritage assessment criteria set out in section 6(2) or prescribed under section 7;
- (c) an assessment of the impact of the development on such heritage resources;
- (d) an evaluation of the impact of the development on heritage resources relative to the sustainable social and economic benefits to be derived from the development;
- (e) the results of consultation with communities affected by the proposed development and other interested parties regarding the impact of the development on heritage resources;
- (f) if heritage resources will be adversely affected by the proposed development, the consideration of alternatives; and
- (g) plans for mitigation of any adverse effects during and after the completion of the proposed development.

(4) The report must be considered timeously by the responsible heritage resources authority which must, after consultation with the person proposing the development, decide—

- (a) whether or not the development may proceed;
- (b) any limitations or conditions to be applied to the development;
- (c) what general protections in terms of this Act apply, and what formal protections may be applied, to such heritage resources;
- (d) whether compensatory action is required in respect of any heritage resources damaged or destroyed as a result of the development; and
- (e) whether the appointment of specialists is required as a condition of approval of the proposal.

(5) A provincial heritage resources authority shall not make any decision under subsection (4) with respect to any development which impacts on a heritage resource protected at national level unless it has consulted SAHRA.

(6) The applicant may appeal against the decision of the provincial heritage resources authority to the MEC, who—

- (a) must consider the views of both parties; and
- (b) may at his or her discretion—
 - (i) appoint a committee to undertake an independent review of the impact assessment report and the decision of the responsible heritage authority; and
 - (ii) consult SAHRA; and
- (c) must uphold, amend or overturn such decision.

(7) The provisions of this section do not apply to a development described in subsection (1) affecting any heritage resource formally protected by SAHRA unless the authority concerned decides otherwise.