



## **Final Decision**

### **In terms of Section 38(4) of the National Heritage Resources Act (Act 25 of 1999)**

Attention: Mr Tom Pillay  
Samy's Wholesalers  
78/84 Transvaal Road  
Kimberley North  
8300

**The Samy's Wholesalers Extension development comprises the construction of a warehouse facility on Erf 44500, Kimberley North, Sol Plaatje Municipality, Northern Cape. The development is situated at general development co-ordinate S28°43'53.0"; E24°45'57.8" with the study site measuring 0.164ha in extent.**

*Van Ryneveld, February 2015. Archaeological and Cultural Heritage Impact Assessment – Samy's Wholesalers Extension, Erf 44500, Kimberley, Sol Plaatje Municipality, Northern Cape*

*Terra Scan, February 2015. Ground Penetrating Radar survey of Erf 44500 Corner of Quinn and Lawrence Streets Kimberley Undertaken on behalf of P&V Pillay Family Trust*

Thank you for submitting the above mentioned reports to SAHRA for review and commenting.

P&V Family Trust proposes the Samy's Wholesalers extension development comprising the construction of a warehouse facility on Erf 44500, Kimberley North, Sol Plaatje Municipality. SAHRA did not consider the previous Heritage Impact Assessment (HIA) report by Gaigher & Associates (November 2014) to meet SAHRA Minimum Standards for impact assessments and therefore requested a new HIA and social consultation process. SAHRA did not request a Ground Penetrating Radar (GPR) Survey, although such a study is recommended in the previous HIA report by Gaigher & Associates.

It is important to note that Heritage Resources are non-renewable and that early assessment and mitigation minimizes the negative impacts of development and often saves the developer considerable delays and related costs. The purpose of an HIA is to make provision for the protection of heritage resources and if this is not possible how best to mitigate negative impacts arising from development. In this regard SAHRA acknowledges the report submitted by ArchaeoMaps and notes its concern that the report in instances does not deal with the heritage matters directly, but concentrates on allegations against SAHRA staff with regards to the management of these processes. These allegations are taken seriously and will be addressed separately.

SAHRA views the purpose of this document to have addressed the heritage concerns related to the likelihood of burials being uncovered on-site and how best to mitigate such an occurrence. The discovery of human remains within the urban environment is not uncommon in South Africa. Human remains of what is believed to be remnants of a historic migrant labourer cemetery have been uncovered within the immediate surrounds of



Erf 44500 in 2004 and 2011. It is common knowledge that SAHRA issued permits in 2004 (Permit 80/04/04/005/51) for the rescue of human remains for the parking lot for Samy's Wholesalers along 78 Transvaal road, now Phakamile Mabija Street, and in 2012 (Permit 12/02/002/86) for the salvage of human remains adjacent 78 Transvaal Road, along Wells and Matthews Streets and a cluster of graves on the corner of Lawrence Road and Quinn Street, Kimberley. The results presented in the permit report that was submitted to SAHRA with regard to 2004 salvage work suggested a larger burial than the four graves exhumed. This includes burial orientation of east-west and burials in rows. A draft report for Permit 12/02/002/86 has since been submitted to SAHRA which corroborates the findings of the previous permit report. According to the draft permit report at least three burials have been left *in situ* on the western portion of Erf 44500 on the corner of Lawrence Road and Quinn Street. At least three graves are therefore known to occur on the property where the proposed development is to take place as presented by the 2014 report. These graves, reported to be present, were not identified during the Ground Penetrating Radar Survey.

The heritage assessment by Gaigher & Associates postulated the likely presence of graves on the property. However, the report is ambiguous as to the nature of these graves and indicated that they could possibly be related to a 'Black Residential Area'. No historical and archival evidence is provided for this assumption. This point is further explored by the second heritage assessment and much effort has gone in arguing that the likely location for this residential area would have been around the current location. Various maps have been provided in support of this scenario, however, some maps are not legible, Maps 4, 5, 9 and Table 3. The author argues that the likely position of the 'Black Migrant Cemetery' would have been Lot 88-104, which is just north of the Pioneer Cemetery and just south of Samy's Wholesalers Extension project.

The author argues that the past graves found in an around Phakamile Mabija Street and Lawrence Road encountered to date *"conform to widely practiced Later Iron Age (LIA) burial custom of burial at a homestead with specific cognizance to Kimberley's 1889 recorded layout; with graves encountered identified on the rough perimeters of former lot stands. In accordance it can reasonably be inferred that more graves will be present in the area, expected to be fairly strategically placed towards the outer perimeters of early stands and varying in number per stand"*(page 38). The author further argues that many villages are characterised by a cemetery alongside burials at homestead yards-with burial guided by choice, and that Late Iron Age burials are by nature shallower and that small rows of graves are not inconsistent with homestead burial practices. The likelihood that the proposed cemetery at Lot 88-104 could have extended further northwards is not considered to be a possibility. The results of the GPR survey are used to support the hypothesis presented in the HIA report.

It should be noted that SAHRA did not request a Ground Penetrating Radar Survey. It is possible that similar



methods may have been used successfully within a modern forensic setting in South Africa but no information substantiating this has been provided. There is no information on whether similar studies have been successful in identifying graves either in South Africa or internationally and what the limitations of the methods are. Further to this, the report notes that "*GPR and geophysical investigations and the interpretation of data from these investigations are inherently ambiguous*". According to the Interim Permit Report (Morris 2014) submitted to SAHRA recently, at least three graves have been left *in situ* and SAHRA has to consider that these were not identified in the GRP survey.

With regard to the information provided to SAHRA the following applies:

1. A number of graves have so far been discovered during the course of previous developments, between 2004 and 2011. The rescue and exhumation of these remains have been permitted by SAHRA.
2. All graves have been found within the immediate vicinity of Samy's Wholesalers Extension.
3. Evidence provided to SAHRA in the form of two heritage impact assessments, and two permit reports indicates the possibility of the disturbance of further human remains, irrespective of cultural affinity and provenance.
4. The presence of at least three graves is known to occur within the western portion of the Erf 44500 that have been left *in situ* during the 2012 rescue excavation.

#### Decision:

1. SAHRA requests test excavations within the western portion of the Erf 44500 as this area is mostly likely to retain *in situ* graves. This should be done by a suitably qualified professional archaeologist with experience in graves excavations. Test excavations must be permitted in terms of S36 of the National Heritage Resources Act.
2. Any graves uncovered during the test excavations should be reported to SAHRA. The section 36 permit will make allowance for excavations to continue once SAHRA has been notified. Prior to excavation of any burials uncovered, suitable arrangements must be made for the reburial of such remains of which SAHRA must be notified.
2. The Cease Works Order will be lifted once the results of the test excavations have been communicated to SAHRA and burial concerns have been addressed.
3. Construction activities on the remainder of the Erf 44500 will only be able to commence based on the results of the test excavations.
4. Earth moving activities must be monitored by an experienced archaeologist. If any graves are uncovered during monitoring, SAHRA should be notified and activities on-site should be halted to allow for the exhumation of discovered skeletal remains. Such excavation will be allowed to proceed under the test excavation permit provided SAHRA is notified of such discovery prior to removal of the burials.





Should you have any further queries, please contact the designated official using the case number quoted above in the case header.

Yours faithfully

Phillip Hine  
Heritage Officer  
South African Heritage Resources Agency

Colette Scheermeyer  
SAHRA Head Archaeologist  
South African Heritage Resources Agency

**ADMIN:**

Direct URL to case: <http://www.sahra.org.za/node/183625>

**Terms & Conditions:**

1. This approval does not exonerate the applicant from obtaining local authority approval or any other necessary approval for proposed work.
2. If any heritage resources, including graves or human remains, are encountered they must be reported to SAHRA immediately.
3. SAHRA reserves the right to request additional information as required.

