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CaseID: 15304

Date: Friday October 30, 2020

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## **Final Comment**

### **In terms of Section 38(8), 38(4) of the National Heritage Resources Act (Act 25 of 1999)**

Attention: Louis Walters

Louis Walters Trust

### **Propose clearance of approximately 18 hectares of vegetation for agricultural purposes, on portion 35 of the farm Karino Farm 134-JU, near Mbombela, City of Mbombela, Mpumalanga Province**

Louis Walters Trust is proposing to clear 18 hectares of natural vegetation on the farm Karina 134 JU, City of Mbombela Local Municipality of Mpumalanga Province. They propose to establish a macadamia orchard in the cleared area.

They have appointed Core Environmental (Pty) Ltd to undertake a Basic Assessment (BAR) application process in support of an Environmental Authorisation application in terms of the National Environmental Management Act, 1998 (NEMA), as amended for listed activities in the NEMA EIA Regulations 2014, as amended.

A Basic Assessment Report was been submitted to SAHRA in terms of section 38(8) of the National Heritage Resources Act, 25 of 1999 for commenting. The heritage sections of the BAR state that the NHRA stipulates that an HIA is only required for a development more than 5 hectares of land, when in fact the NHRA, section 38(1) states that SAHRA must be notified of a development that is 5000m<sup>2</sup>(0.5 hectares) and more. However, this stipulation for section 38(1) is for developments that do not trigger the NEMA EIA Regulations, 2014, as amended. Developments that trigger the NEMA EIA Regulations, also trigger section 38(8) of the NHRA, which states that heritage must be considered in terms of section 38(3). Section 38(3) of the NHRA determines that a Heritage Impact Assessment must be undertaken.

As such, this Basic Assessment application has not considered heritage in terms of section 38(8) of the NHRA, and has incorrectly applied section 38 of the NHRA.

SAHRA issued an Interim Comment dated 23/09/2020 requesting an assessment of heritage resources. A HIA exemption letter was submitted 28/09/2020.

Van Wyk Rowe, C. August 2020. Letter of Recommendation for the Exemption From a Phase 1 Archaeological and Heritage Investigation For The Clearance of 3ha Vegetation for Agricultural Purposes on

# Proposed clearance of vegetation for agricultural purposes, farm Karino 134-JU, near Mbombela, Mpumalanga Province

Our Ref: 15304



an agency of the  
Department of Arts and Culture

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Portion 35 of the Farm Karino 134 JU, Nelspruit Mpumalanga Province.

The author assessed the proposed development area by undertaking a desktop analysis of the available literature and found no evidence of heritage resources occurring on the proposed development site. The closest known heritage sites are located outside the Nelspruit area, close to White River. As such, the likely impact to heritage resources is low.

## Final Comment

The South African Heritage Resources Agency (SAHRA) Archaeology, Palaeontology and Meteorites (APM) Unit accepts the HIA exemption letter submitted to the case for commenting, and has no objection to the development going ahead on the following conditions.

The area proposed for vegetation clearance is located in palaeontological insignificant zone; therefore, there is no need for a palaeontological impact assessment.

The following standard conditions must be included in the EMPr.

In the unlikely event that fossils are uncovered during construction then construction must cease within the immediate vicinity, a buffer of 30 m must be established, and a palaeontologist called in to inspect the finds. The palaeontologist must obtain a section 35(4) permit in terms of NHRA and Chapter IV NHRA Regulations, before any fossils are collected.

If there are any new heritages resources are discovered during construction and operation phases of the proposed development, then a professional archaeologist or palaeontologist, depending on the nature of the finds, must be contracted as soon as possible to inspect the findings at the expense of the developer.

If the newly discovered heritage resources prove to be of archaeological or palaeontological significance, a Phase 2 rescue operation may be required at the expense of the developer. Mitigation will only be carried out after the archaeologist or palaeontologist obtains a permit in terms of section 35 of the NHRA (Act 25 of 1999). You may contact SAHRA APM Unit for further details: (Nokukhanya Khumalo/Phillip Hine 021 202 8654).

If any unmarked human burials are uncovered and the archaeologist called in to inspect the finds and/or the police find them to be heritage graves, then mitigation may be necessary and the SAHRA Burial Grounds and Graves (BGG) Unit must be contacted for processes to follow (Thingahangwi Tshivase/Mimi Seetelo 072 802

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1251).

The Final Bar and its appendices must be submitted to the case and once a Record of Decision from the competent authority is issued, it must also be submitted to the case.

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

Yours faithfully

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Nokukhanya Khumalo  
Heritage Officer  
South African Heritage Resources Agency

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Phillip Hine  
Manager: Archaeology, Palaeontology and Meteorites Unit  
South African Heritage Resources Agency

**ADMIN:**

Direct URL to case: <http://www.sahra.org.za/node/538268>

(DARDLEA, Ref: )

**Terms & Conditions:**

1. This approval does not exonerate the applicant from obtaining local authority approval or any other necessary approval for proposed work.

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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.