

Unlawful Construction and Infilling of a Watercourse on the Remainder of Portion 274 of the Farm Tiegerpoort 371-JR

Our Ref: 20801



an agency of the
Department of Arts and Culture

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CaseID: 20801

Date: Tuesday May 09, 2023

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Final Comment

In terms of Section 38(8) of the National Heritage Resources Act (Act 25 of 1999)

Attention: Ms Agnes Busisiwe Sethole

In June 2021, Ms Sethole commenced with activities listed in terms of the National Environmental Management Act (Act No. 107 of 1998) (NEMA) Environmental Impact Assessment (EIA) Regulations 2014 (as amended) and National Environmental Management Waste Act (Act No. 59 of 2008) (NEM:WA), GNR 921 of 2013 within a watercourse without obtaining Environmental Authorisation (EA) from the relevant Competent Authority, the Gauteng Department of Agriculture and Rural Development (GDARD). Realising the contravention, Ms Sethole has voluntarily decided to undertake a Section 24G application process and construction activities on site have ceased. A Directive in terms of Section 24G (1) of the NEMA, as amended, was issued to Ms Sethole by the Gauteng Department of Agriculture and Rural Development (GDARD) on 13 October 2022, Ref.S24G/03/22-23/0577 for the following unlawful activities: • The unlawful construction of a culvert within a watercourse, • The widening of an existing access road, deposition and infilling with inert rubble and excavations within a watercourse, • The disposal of inert waste on land (building rubble).

The application relates to a S24G Application Process for the unlawful construction and infilling of a watercourse on the Remainder of Portion 274 of the Farm Tiegerpoort 371-JR, City of Tshwane, Gauteng Province. The application is made in terms of the National Environmental Management Act, Act no 107 of 1998 (NEMA) as amended, for activities that trigger the NEMA Environmental Impact Assessment (EIA) 2014 Regulations, as amended.

A Palaeontological Desktop Assessment report by Banzai Environmental (Pty) Ltd has been submitted to SAHRA for commenting in terms of section 38 of the National Heritage Resources Act, no. 25 of 1999 (NHRA).

Butler, E. 2022. Palaeontological Desktop Assessment S24G Process: Construction And Infilling Of Watercourse On Tiegerpoort Farm, Gauteng

he palaeontological assessment revealed that the study area is underlain by intrusive diabase rocks as well as the Silverton and Daspoort Formations of the Pretoria Group (Transvaal Supergroup). According to the PalaeoMap of the South African Heritage Resources Information System (SAHRIS) the Palaeontological

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Sensitivity of the intrusive metamorphic diabase rocks is Zero while that of the Silverton and Daspoort Formations is High. The Updated Geology compiled by the Council for Geosciences (Pretoria) indicates that the S24G application is entirely underlain by the Daspoort Formation of the Pretoria Group (Transvaal Supergroup). The Pretoria Group sedimentary rocks in and near the study area are extensively intruded, and locally metamorphosed by the intrusion of diabase. These rocks would have had a thermal metamorphic effect on the nearby sediments of the Pretoria Group that would in turn decrease the chance of fossil preservation. It is therefore considered that the proposed development will not lead to damaging impacts on the palaeontological resources of the area and that the S24G Application be granted from a Palaeontological view. However, if fossil remains are discovered during any phase of construction, either on the surface or exposed by excavations the Chance Find Protocol must be implemented by the site manager in charge of these developments.

The SAHRA issued an Interim Comment dated 27/03/2023 requesting the submission of an archaeological impact assessment is required in terms of section 38(8) of the NHRA. The report by was submitted to the case on 24/04/2023.

Van Schalkwyk, J. April 2023. Phase 1 Cultural Heritage Impact Assessment: SECTION 24G PROCESS: UNLAWFUL CONSTRUCTION AND INFILLING OF A WATERCOURSE ON THE REMAINDER OF PORTION 274 OF THE FARM TIEGERPOORT 371JR, CITY OF TSHWANE METROPOLITAN MUNICIPALITY, GAUTENG PROVINCE.

The author undertook a field survey of the proposed construction area's available literature and did not identify any heritage resources. The author recommends the chance finds procedures included under section 5 of the report.

Final Comment

The SAHRA Development Applications Unit (DAU) notes and accepts the submission of the Final BAR, and HIA reports. SAHRA has no objections to the proposed development on the following conditions:

38(4)a – The SAHRA Development Applications Unit (DAU) and the Burial Grounds and Graves (BGG) Unit has no objections to the proposed development;

38(4)b – The recommendations provided by the heritage specialists are supported and must be adhered to. No

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further additional comments apply;

38(4)c(i) – If any evidence of archaeological sites or remains (e.g. remnants of stone-made structures, indigenous ceramics, bones, stone artefacts, ostrich eggshell fragments, charcoal and ash concentrations), fossils or other categories of heritage resources are found during the proposed development, SAHRA DAU (Nokukhanya Khumalo/Natasha Higgitt 021 202 8660) must be alerted as per section 35(3) of the NHRA. Non-compliance with section of the NHRA is an offence in terms of section 51(1)e of the NHRA and item 5 of the Schedule;

38(4)c(ii) – If unmarked human burials are uncovered, the SAHRA Burial Grounds and Graves (BGG) Unit (Thingahangwi Tshivhase/Ngqalabutho Madida 012 320 8490), must be alerted immediately as per section 36(6) of the NHRA. Non-compliance with section of the NHRA is an offence in terms of section 51(1)e of the NHRA and item 5 of the Schedule;

38(4)d – See section 51(1) of the NHRA;

38(4)e – The following conditions apply with regards to the appointment of specialists:

i) If heritage resources are uncovered during the course of the development, a professional archaeologist or palaeontologist, depending on the nature of the finds, must be contracted as soon as possible to inspect the heritage resource. If the newly discovered heritage resources prove to be of archaeological or palaeontological significance, a Phase 2 rescue operation may be required subject to permits issued by SAHRA;

The decision regarding the EA Application must be communicated to SAHRA and uploaded to the SAHRIS Case application.

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

Yours faithfully

Nokukhanya Khumalo

Heritage Officer

South African Heritage Resources Agency

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Natasha Higgitt

Manager: Development Applications Unit
South African Heritage Resources Agency

ADMIN:

Direct URL to case: <https://sahris.sahra.org.za/node/614735>
(GDARD, Ref: S24G/03/22-23/0577)

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.