



Letter

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

Attention: Kathu Property Developers
Care of: Mr Marius Vivier
PO Box 3349, Tyger Valley
7536

Residential development on Remainder, and Portion 3 of Farm Bestwood 459 near the town of Kathu, Northern Cape.

Dear Mr de Bruyn and Mr Vivier,

In recent discussions with Jeffares and Green, who has been appointed to project manage the Bestwood Estates development, SAHRA was informed about the commencement of development on the Remainder and Portion 3 of the farm Bestwood 459 RD, Gamagara Municipality, Kathu, Northern Cape. It is understood that the development is divided into two phases, Phase 1 and Phase 2, with earthworks and concomitant services already installed for both phases of the development. It is further noted that 280 residential units out of the 3 300 units have already been constructed for Phase 1, with top structures still to be erected on Erf 8438 and 8439. According to the information provided the Phase 1 area has been completely transformed whilst pockets of undisturbed land still occur on the area earmarked for Phase 2 of the development.

During previous communications with Kathu Property Developers and Rock Environmental (2/10/2008, 19/11/2008 and 9/12/2008), SAHRA requested a Phase 1 Archaeological Impact Assessment and a Desktop Palaeontological Impact Assessment that would fully comply with section 38 of the National Heritage Resources Act (Act No. 25 of 1999). To this date SAHRA has not received the studies requested.

SAHRA would also like to draw your attention to Condition 11 of the Environmental Authorisation, issued by the Department of Tourism, Environment and Conservation on 13 November 2008, which states that *"the activity may not commence without the necessary permits / licenses / approvals and/or service agreements, where it is relevant, from or with the relevant regulatory authorities"*. SAHRA re-iterates that the statutory requirement is compliance with section 38 of the NHRA. SAHRA therefore requires the following:

1. The Phase 1 Archaeological Impact Assessment and Palaeontological Desktop Assessment must be undertaken and submitted to SAHRA for review before 31 January 2014.
2. No development may proceed on the area demarcated as Phase 2 until such time that SAHRA has had time to review and provide its comment and recommendations on the specialist studies.
3. Development may continue in the area demarcated as Phase 1 with provision that the archaeologist visits the area.
4. The EMP should be revised to include SAHRA's recommendations. The current EMP refers to the National Monuments Act (Act No. 28 of 1969) which was repealed by the National Heritage Resources Act (Act No. 25 of 1999) and does not mention any of the previous requirements by SAHRA.
5. SAHRA notes that the area immediately east of Erf 8440, which falls outside the footprint of Phase 1



**RESIDENTIAL TOWNSHIP DEVELOPMENT ON THE FARM BESTWOOD RD 459
IN KATHU**

Our Ref: 9/2/055/0002



Enquiries: Phillip Hine
Tel: 021 462 4502
Email: phine@sahra.org.za
CaseID: 4460

Date: Thursday January 09, 2014

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and Phase 2, has been disturbed by what appears to be a construction site or a stockpile area. SAHRA seeks clarity on whether this activity was authorized.

6. We draw your attention to section 35 (4) (a) of the National Heritage Resources Act, which states that *"No person may, without a permit issued by the responsible heritage resources authority – destroy, damage, excavate, alter, deface or otherwise disturb any archaeological or palaeontological site or any meteorite"*. Further section 51 of the National Heritage Resources Act prescribes penalties which include imprisonment or a fine, should any person contravene section 35 (4) of the National Heritage Resources Act.

Kindly comply with the aforementioned requirements, failing which further legal action will ensue.

Please be aware that a copy of this letter will be forwarded to Mr Thato Molefe of the Northern Cape Department of Environment and Nature Conservation.

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

Colette Scheermeyer
SAHRA Head Archaeologist
South African Heritage Resources Agency

ADMIN:

Direct URL to case: <http://www.sahra.org.za/node/152180>



The South African Heritage Resources Agency

Street Address: 111 Harrington Street, Cape Town 8000 * Postal Address: PO Box 4637, Cape Town 8000
* Tel: +27 21 462 4502 * Fax: +27 21 462 4509 * Web: <http://www.sahra.org.za>

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