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LETTER OF EXEMPTION OF HERITAGE IMPACT ASSESSMENT FOR THE PROPOSED PINQUER PIGGERY HOUSES AND ASSOCIATED INFRASTRUCTURE

Tsimba Archaeological Footprints (Pty) Ltd was requested by Environmental Agency to evaluate the need for a Heritage Impact Assessment (HIA) as envisaged in the National Heritage Resources Act (NHRA) of 1999 and the KwaZulu-Natal Amafa and Research Institute Act, 2018 (Act No 5 of 2018).

1. PROJECT BACKGROUND

Pinquer Pty Ltd proposes to construct a Pinquer Piggery Houses and Associated Infrastructure in Emnambithi, Ladysmith in the Kwa-Zulu Natal province. The appointment of Tsimba Archaeological Footprints (Pty) Ltd is in terms of the National Heritage Resources Act (NHRA), No. 25 of 1999. The proposed development is classified as an Agriculture forestry fisheries animal production project.

2. ENVIRONMENTAL AUTHORISATION PROCESS

Prior to the commencement of the proposed project, the independent Environmental Assessment Practitioner (EAP) to undertake the process required to apply for Environmental Authorisation from the Kwa-Zulu Natal Department of Agriculture, Rural Development, Land and Environmental Affairs (KZN DARDLEA). This report focuses on the survey results from a cultural heritage survey as requested by Environmental Agency (Pty) Ltd. The survey forms part of an Environmental Impact Assessment (EIA) and Environmental Management Plan (EMP) for Environmental Authorisation for the proposed project

3. HERITAGE LEGISLATION

This HIA study is informed and conducted to fulfil the requirements of the National Heritage Resources Act (No 25 of 1999) and the KwaZulu-Natal Amafa and Research Institute Act, 2018 (Act No 5 of 2018).

The development also triggered the regulations applicable under the National Environmental Management Act 107 of 1998. As such, the EIA study includes a Heritage Impact Assessment specialist study; recommendations from the AIA/HIA report require the KwaZulu-Natal Amafa and Research Institute review and comments to be incorporated into the final EIA Record of Decision. This particular Development triggered the following Sections of the Heritage Legislation;

Section 38 (1) of the National Heritage Resources Act requires that where relevant, an Impact Assessment is undertaken in case where a listed activity is triggered. Such activities include:

- (a) the construction of a road, wall, power line, 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; and
- (c) any development or other activity which will change the character of an area of land, or water -
 - (i) exceeding 5 000 m² in extent;
 - (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. Excluding those that are public records as defined in section 1 of the National Archives of South Africa Act, 1996 (Act No. 43 of 1996)

Regarding this project, the HIA for the project should be undertaken as a component of the Environmental Impact Assessment for the project. However a provision is made for an exemption in terms of Section 38(8) of the NHRA, which states that: "The provisions of this section do not apply to a development as described in subsection (1) if an evaluation of the impact of such development on heritage resources is required in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989), or the integrated environmental management guidelines issued by the Department of Environment Affairs and Tourism, or the Minerals Act, 1991 (Act No. 50 of 1991), or any other legislation: Provided that the consenting authority must ensure that the evaluation fulfils the requirements of the relevant heritage resources authority in terms of subsection (3), and any comments

and recommendations of the relevant heritage resources authority with regard to such development have been taken into account prior to the granting of the consent”

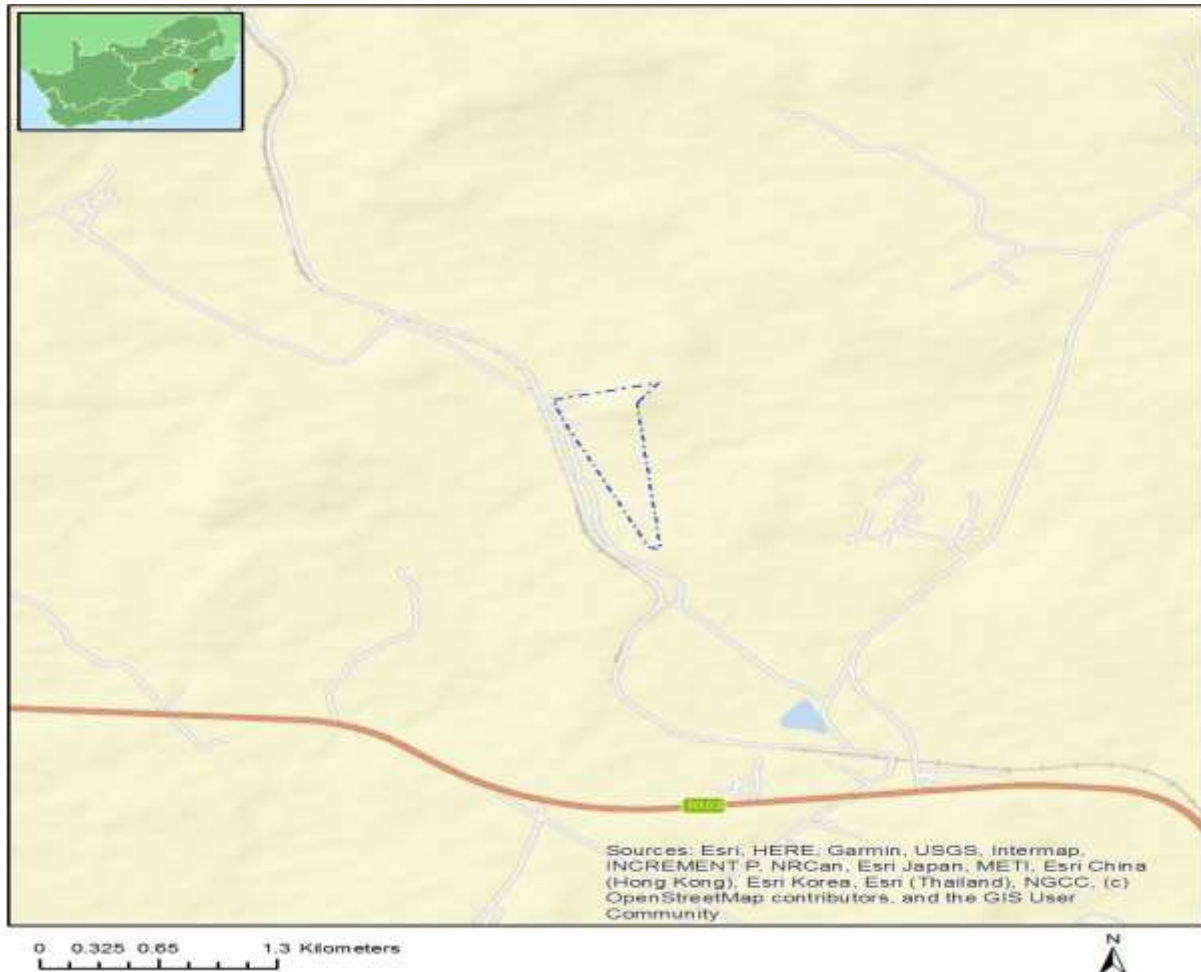


Figure 1: Locality Map of the proposed development site (Environmental Agency).

4. EVALUATION OF THE PROPOSED PROJECT

Tsimba Archaeological Footprints evaluated the proposed project and its surroundings, and the following findings pertain:

- ❖ The project footprint is situated within a developed farm and as such is located in an already disturbed area.
- ❖ This area was bought by the Boers in 1847 from the Zulu king Mpande, a number of Boers settled in the area and called it the Republic of Klip River with Andries Spies as their commandant.

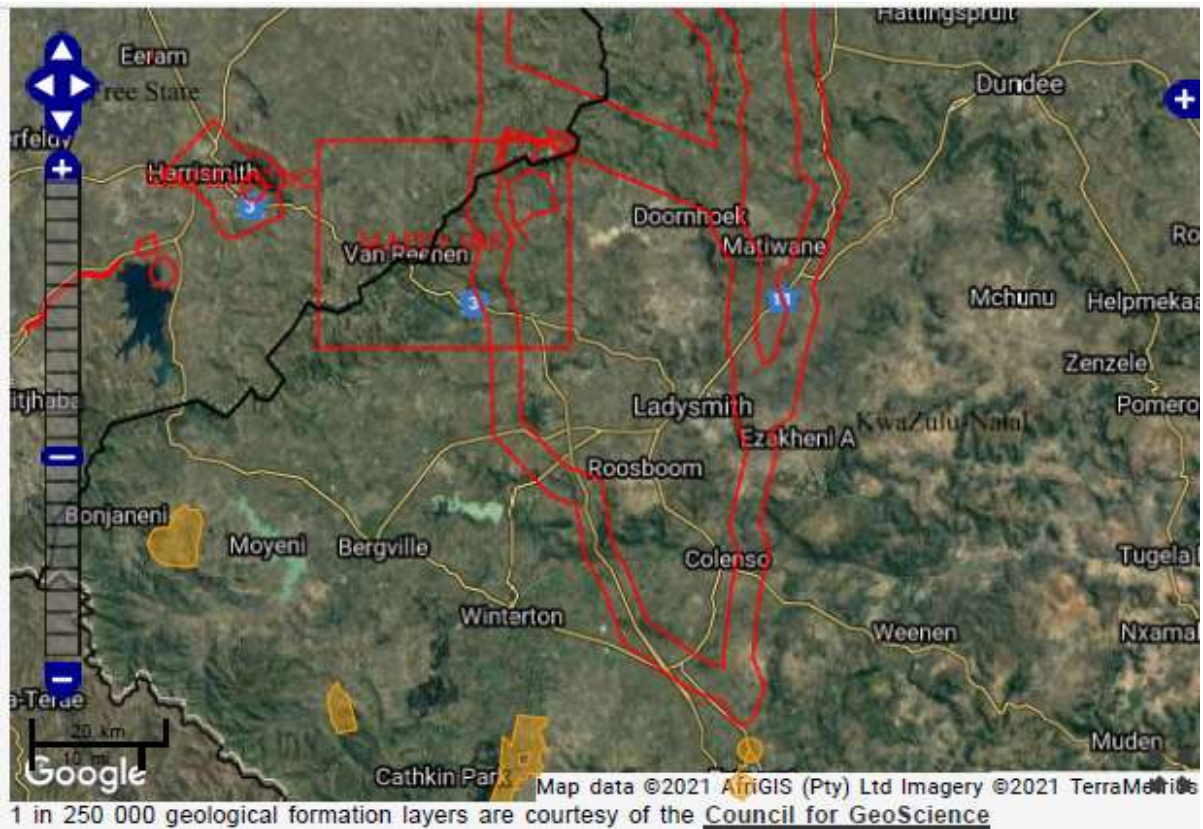


Figure 2: Some of the heritage cases submitted to SAHRA around the proposed development site

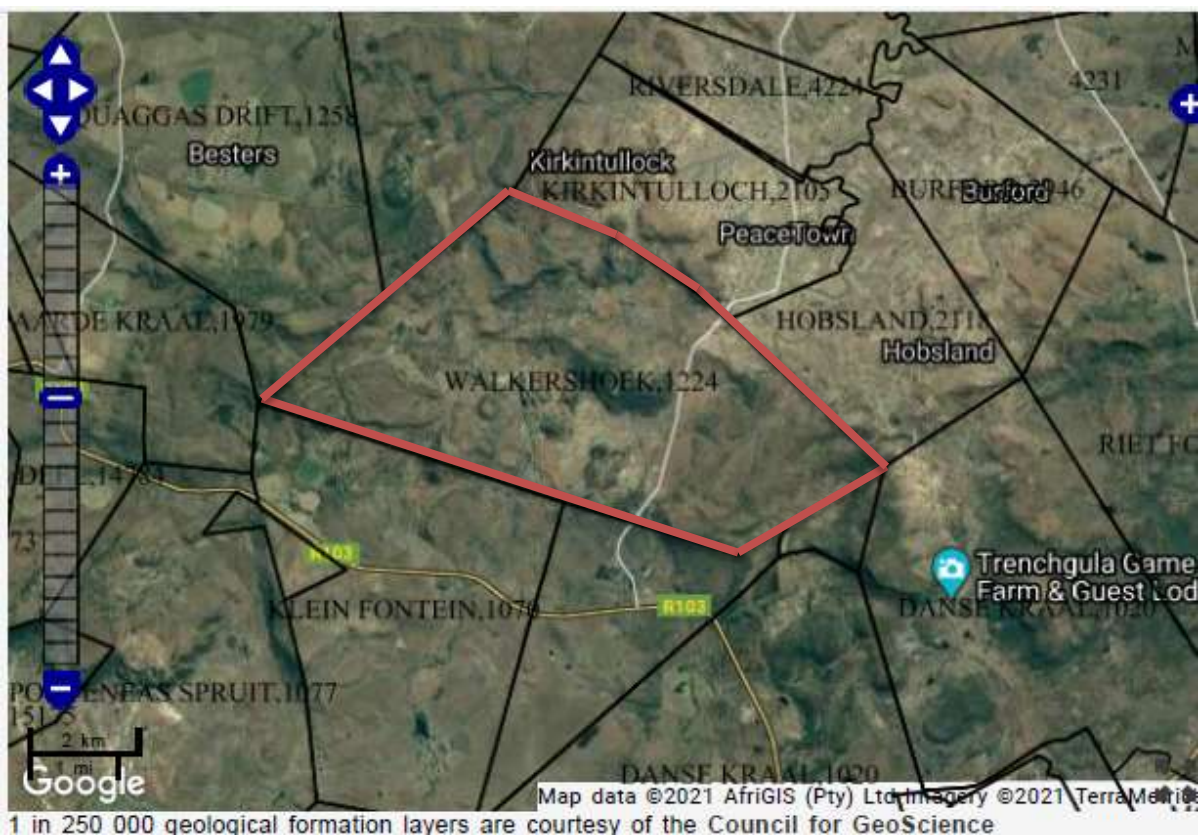


Figure 3: A Cadastral map showing the proposed development site falling within Walkershoek, 1224



Figure 4: View of a kopje close to the proposed development footprint



Figure 5: View of the vegetation cover around the proposed development footprint



Figure 6: View of a part where ground visibility is fairly good within the proposed development footprint



Figure 7: View of the developed farm portions from the proposed development site

5. OBSERVATIONS

Tsimba Archaeological footprints can note the following observations about the proposed development site:

❖ Built Environment

Section 34(1) of National Heritage Resources Act of 1999 protects these structures against any altering.

- ➡ No standing structures older than 60 years occur in the study area.

❖ Archaeological Resources

Section 35 (4) No person may, without a permit issued by the responsible heritage resources authority

- ➡ It is highly unlikely that heritage resources will be present in the project footprint.

❖ Palaeontological Resources

Section 3((i) (i) objects recovered from the soil or waters of South Africa, including archaeological and palaeontological objects and material, meteorites and rare geological specimens

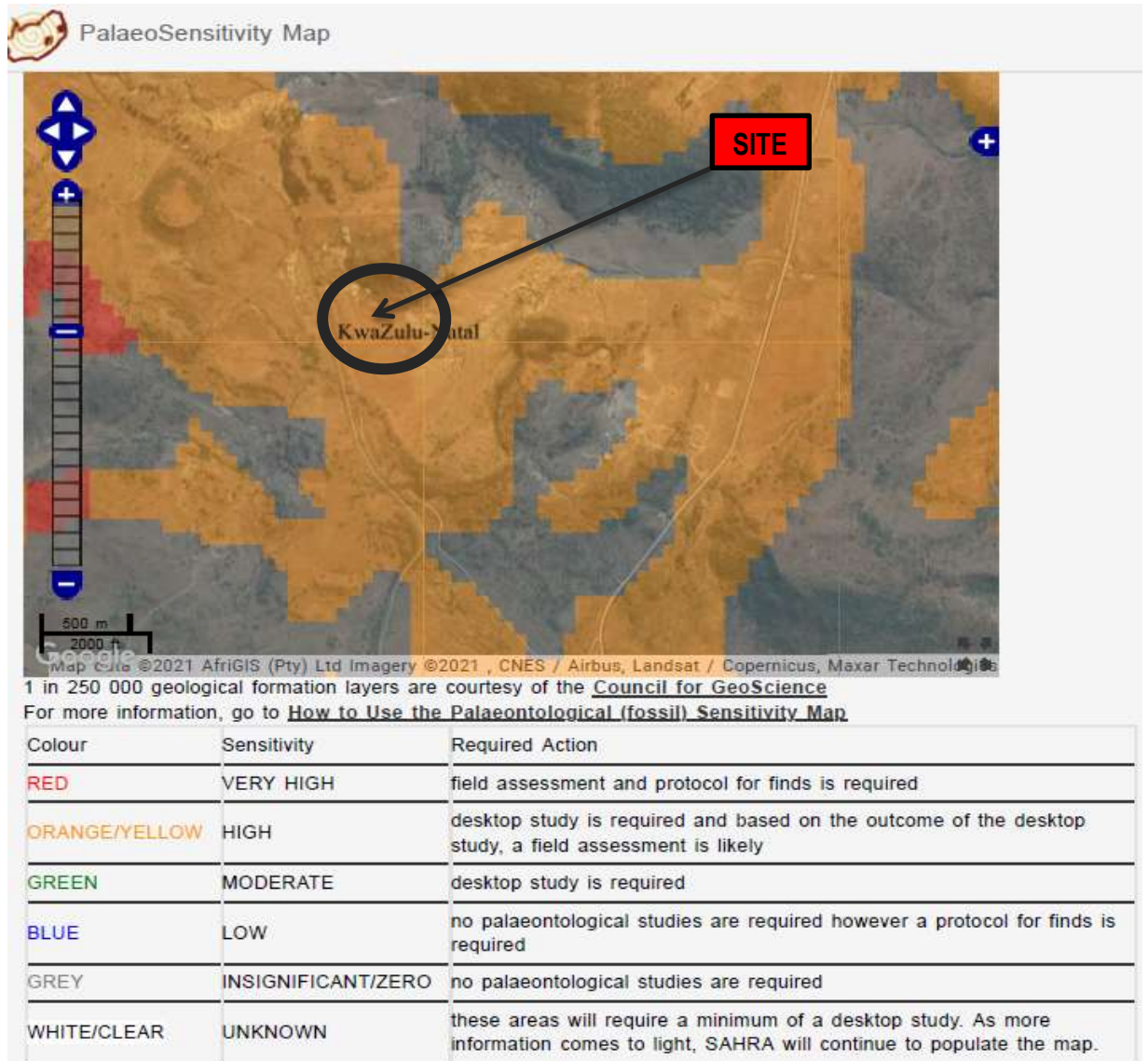


Figure 8: Paleontological sensitivity pam given in accordance with the South African Heritage Resources Authority's (SAHRA) field rating of 2005.

➡ The above map shows that the proposed development area is marked as a **HIGH** paleontological sensitivity area therefore a desktop Paleontological assessment is required.

❖ **Cultural Landscapes, Intangible and Living Heritage.**

[Section 3 \(3\) of the National Heritage Resources Act, No. 25 of 1999 makes provisions of such places of spiritual significance to individuals](#)

➡ Long term impact on the cultural landscape is considered to be negligible as the surrounding area consists of a farms and cultivated lands. Visual impacts to scenic routes and sense of

place are also considered to be low due to the previous developments in the area and the lack of significant sites, only power lines may be affected by this development.

❖ **Burial Grounds and Graves**

Section 36(3) No person may, without a permit issued by SAHRA or a provincial heritage resources authority

➡ No graves or burial grounds are known within the proposed development area.

❖ **Public monuments and memorials**

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.

➡ There are no public monuments and memorials known in the study area.

❖ **Potential Impacts during Pre-Construction phase**

Some of the areas within the development area the already been disturbed. The preconstruction phase which usually involves the removal of topsoil and vegetation as well as the establishment of infrastructure needed for the construction phase will less likely yield any archaeological artefacts.

➡ **Potential Impacts during Construction Phase**

There is a possibility of direct impacts during the construction phase. The impacts would however be of very low significance. During this phase, the graves, and other heritage resources may be discovered. These activities can have a negative and irreversible impact on heritage sites. Impacts include destruction or partial destruction of non-renewable heritage resources.

6. CONCLUSION

Tsimba Archaeological Footprints' evaluation of the site and impacts are based on the information and site photos supplied by Environmental Agency. The subterranean nature of some archaeological sites does not exclude the presence of such features from the area. As such, should any heritage features and/or objects not included in the present inventory be located or observed the following should be observed.

- i. A heritage specialist must immediately be contacted.
- ii. Such observed or located heritage features and/or objects may not be disturbed or removed in any way until such time that the heritage specialist has been able to make an assessment as to the significance of the site (or material) in question.
- iii. This applies to graves and cemeteries as well. In the event that any graves or burial places are located during the project implementation, the procedures and requirements pertaining to graves and burials will apply as set in by the Kwa-Zulu Natal Amafa Research and Institute.

We support the submission of Environmental Agency in accordance with Section 38 (2) of the NHRA the need for an HIA for the project is exempted and so be considered.



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