

In re: NATIONAL HERITAGE RESOURCES ACT (No. 25 of 1999) (the "Act") and the Regulations

In the matter of:

The SAHRA *ad hoc* Permit Committee Meeting : 15 September 2006

BOSCHENDAL INTERIM FORUM

Applicant

**SUBMISSIONS OF
BOSCHENDAL TREASURY TRUST
BOSCHENDAL INTERIM FORUM**

WHEREAS

- (1) the SAHRA *ad hoc* Permit Committee (the "Committee") on 16 March 2006 issued an in-principle approval to the Applicant in terms of the Act for the subdivision of the founder's estates at Boschendal in the Dwars River Valley;
- (2) the in-principle approval was taken on appeal;
- (3) the SAHRA Appeals Committee on 16 August 2006 remitted the matter to the Permit Committee to conclude its work and issue a final decision as soon as possible; and
- (4) the Committee has invited the Boschendal Treasury Trust (the "BTT") and the Boschendal Interim Forum (the "BIF") to address the above Committee Meeting on both the outstanding matters that required investigation and the conditions of the in-principle approval.

THE BTT AND THE BIF RESPONDENTS SUBMIT AS FOLLOWS:**A. "CONDITIONS OF IN-PRINCIPLE APPROVAL" (SECTION V)****1. "SAHRA'S REPRESENTATION ON THE HERITAGE TRUST" (CONDITION A.6.)**

- 1.1 The Dwars River Heritage and Conservation Trust (the "DRH&CT") is a Trust to be formed that is a subsidiary of the BTT. Its object is to preserve the conservation status and safeguard the cultural heritage of the Dwars River Valley and its residents.
- 1.2 In terms of the provisions of the Trust Deed of the BTT, 15% of the distributable income to be distributed amongst the beneficiaries of the BTT will be distributed to the DRH&CT.
- 1.3 Neither the BTT nor the BIF object to the imposition of a condition that makes provision for SAHRA'S representation on the DRH&CT, although this will require a resolution by the trustees of the BTT in order to amend its Trust Deed.
- 1.4 However, both the BTT and BIF object to the requirement that the SAHRA representative shall have "the right to approve/disapprove projects and spending of the DRH&CT. The objection is based on the following grounds:
 - (a) any development projects undertaken by the DRH&CT to which the Act applies would be subject to statutory approval in any event by SAHRA;
 - (b) guarantees which SAHRA seeks for the preservation of the cultural heritage of the Dwars River Valley in respect of projects to be undertaken by the DRH&CT would also

be governed by the provisions of a Heritage Management Agreement to which the DRH&CT ought to be a party;

- (c) accordingly adequate statutory and other safeguards exist for the safeguards that SAHRA seeks to guarantee; and
- (d) it is intended that funds to be distributed to the DRH&CT for the development of conservation and heritage projects be implemented by the beneficiaries, the stakeholders and their representatives in the communities within the Dwars River Valley. Accordingly, the BTT and BIF submit that it is inappropriate for SAHRA to demand "the right to approve/disapprove projects and spending of Heritage funds" when the provisions of the BTT and DRH&CT direct that these powers shall lie with the representatives of the communities in the Dwars River Valley.

**B. OTHER "CONDITIONS OF THE IN-PRINCIPLE APPROVAL"
(SECTION V)**

- 2.1 The BTT and BIF support the remaining conditions of the in-principle approval.
- 2.2 The BTT and BIF understand from their consultations with the Applicant that it likewise supports the other conditions of the in-principle approval and is prepared to ensure that these conditions are safeguarded in the most appropriate manner permissible by law which shall include, if legally possible, the registration of the conditions as restrictive conditions of title, and where not legally possible, by the inclusion of these conditions as terms of a Heritage Management Agreement, a Property Owners Association Agreement and related agreements.

C. ALLEGED OPPOSING COMMUNITY VIEWS (SECTION II, "PERMIT COMMITTEE CONCERNS, pg 3)

- 3.1 A document - "A Chronology of Work in the Boschendal Interim Forum: August 2004 - August 2006" - that sets out the extent of public participation involving, and consultation with the local communities in the Dwars River Valley has been compiled by the BIF and handed to the *ad hoc* Committee.
- 3.2 This document addresses the alleged opposing views of "other organisations in the Dwars River Valley ..." that allegedly oppose the application. This allegation will be addressed at the above meeting by the chairperson of the BIF.
- 3.3 It is submitted that, at the conclusion of the address by the chairperson of the BIF, the Committee will be satisfied that the local communities of the Dwars River Valley have been properly consulted regarding the application, that the structures created to represent the communities on legitimate and truly representative, and that any allegedly "opposing views" that have been articulated have been done by unnamed individuals that do not represent a constituency, on grounds that are not substantiated.

D. FURTHER CONDITIONS SOUGHT BY THE BTT AND BIF

- 4.1 The 35 hectare conservation lands to be donated by the Applicant to the BTT in terms of the Sustainable Development Initiative ("SDI") is situate adjacent to the proposed Simonsberg Nature Reserve to be established by the Applicant.
- 4.2 The conservation land to be donated to the BTT is heavily infested with alien vegetation.

4.3 The BTT and BIF require the following conditions to be imposed by SAHRA for the management of the conservation of not only the 35 hectares to be transferred to the BTT in terms of the SDI, but also for the conservation of the Simonsberg Nature Reserve:

- (a) The Simonsberg Nature Reserve 35 hectare conservation land must be managed jointly by the Applicant and the DRH&CT as a single unit.
- (b) The residents of the Dwars River Valley shall have access to both the 35 hectare conservation land and Simonsberg Nature Reserve.
- (c) The Applicant shall be responsible for the clearing of alien vegetation infesting the 35 hectare conservation land; and
- (d) the Applicant and the BTT shall devise a job creation project for the removal of the alien vegetation on the 35 hectare conservation land which will employ previously disadvantaged residents of the Dwars River Valley.

DATED at STELLENBOSCH this 14th day of SEPTEMBER 2006

CHENNELLS ALBERTYN

per: G E Williams

Attorneys for the BTT & BIF