

For Attention: Ms Natasha Higgitt  
South African Heritage Resources Agency  
111 Harrington Street  
Cape Town

**Date: 2 July 2021**

Dear Ms Higgitt

**CASE ID 16396: HERITAGE IMPACT ASSESSMENT (HIA) FOR DEPLOYMENT OF A FIBRE NETWORK WITHIN THE SOL PLAATJE MUNICIPAL AREA BY FROGFOOT NETWORKS**

**COMMENTS AND RESPONSE REPORT: RESPONSE TO SAHRA INTERIM COMMENT**

1. I refer to an interim comment received on 23 June 2021. This response was discussed with our client Frogfoot Networks as well as officials from other heritage authorities and other experienced heritage consultants and we would like to respond as follows:
2. We are of the opinion that the requirements in this response are unreasonable for the following reasons:
  - 2.1 It is considered unreasonable to expect a private developer to do a heritage audit for about half of the area of the Sol Plaatje Municipal Area. As you are aware a full heritage audit of this nature for an area of this extent is a process which takes years and is normally done by a large team of consultants

appointed and funded by the relevant heritage authorities. It is an extremely costly process due to the time and resources required.

Since the previous audit done by the former National Monuments Council for the former Kimberly Municipality in 1986, absolutely no further heritage audits have been done by the responsible heritage authorities, namely both the Northern Cape Heritage Authority and the Sol Plaatje Municipality.

We are of the opinion that we have identified and described the heritage significance of the primary heritage resources (be it individual structures, streetscapes, curb stones and trees), to be impacted on by both conventional trenching and aerial fibre in both our Visual Impact Assessment and the Urban Landscape Analysis.

Very detailed mitigating measures and protocols have been proposed to address the impact of both manners of fibre depletion on these heritage resources. The HIA is also very clear what type of deployment is considered desirable in the different areas and where specific heritage resources have been identified. There is thus no uncertainty with regard to the manner of fibre deployment proposed in all the areas as well as where individual heritage resources have been identified. Where aerial fibre has not been considered desirable, e.g. in front of certain identified heritage resources, the only other manner of deployment available would be trenching (as described in the HIA) with very specific mitigation measures proposed.

- 2.2** It should be noted that all deployment, trenching and aerial fibre would only be within the municipal sidewalk verges as per the wayleave approvals Frogfoot obtained from the municipality. There have been in the past and currently extensive trenching within these sidewalk verges throughout the city by the municipality deploying, accessing and repairing their municipal services, Telkom deploying their services as well as various other fibre network providers. It is thus considered excessive and unreasonable to expect from Frogfoot to be the only company to do these extensive heritage audits and additional archaeological and palaeontological studies.

As indicated above, similar studies and analyses have not been required from any other service provider or the municipality in these areas and it is also not the case in any of the other towns and cities where Frogfoot has deployed and am busy deploying fibre. These include specific areas with similar or higher heritage significance in cities like Cape Town, Pretoria and Johannesburg.

The only requirement in for example the City of Cape Town would be an application for a Section 34 permit where a historical curb stone would be removed. As indicated in the HIA none of the historical curb stones (older than 60 years) will be removed during the conventional trenching activities. Where road cuts are done, the contractors will tunnel/trench underneath these curb stones.

- 2.3** Frogfoot has formally appointed Dr David Morris a local archaeologist as the project archaeologist and his inputs and recommendations have been received and have been incorporated in the NID and HIA. Dr Morris is also member of the only local heritage group and involved with the McGregor Museum. The HIA was referred to him, as representative of the local heritage group and being involved with the museum, for comment and further inputs. Despite several requests for comment we did not receive any response. It should also be noted that it has been extremely difficult to obtain any information or feedback from either the Northern Cape Heritage Authority or local municipality as nobody in general respond to any of our requests for additional information, to meet with them and officials were mostly not available or the facilities were closed for extensive periods.
- 2.4** It was a conscious decision to not provide a very detailed historical background section in the report due to the scope and nature of the project. The historical information provided is similar to that and in general more than being provided for all recent HIA's submitted within the Sol Plaatje Municipal Area.

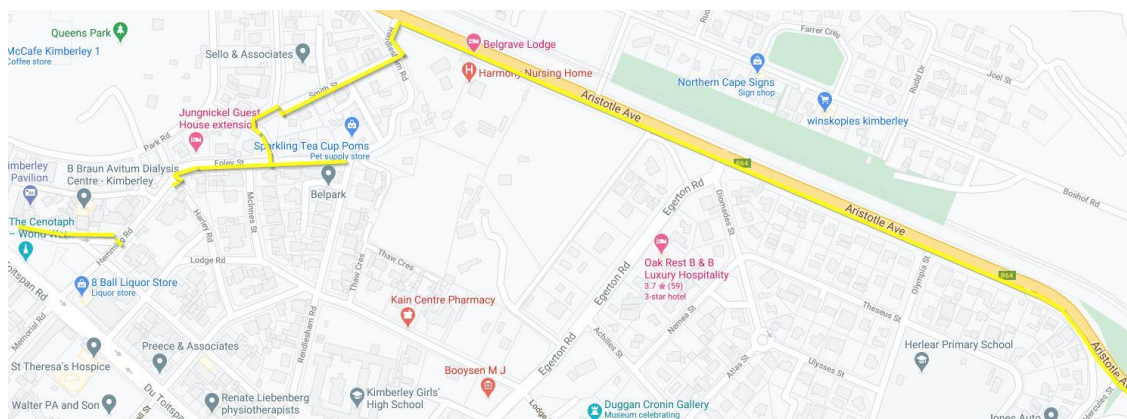
- 2.5** Frogfoot has indicated that they are not aware of damage to any of the historical curb stones. Proof of this has been requested from the objectors, but none has been provided. As indicated above, there are very clear mitigating measures proposed to prevent damage to the curb stones and where road cuts are done, the contractors will tunnel/trench underneath these curb stones.

As explained in the response to the four objections, received during the HIA public participation process, Frogfoot was not allowed to prune any trees and they were required by the Municipality, in terms of their wayleave approval, to only use their tree contractors. Frogfoot, however, has a tree protocol and a tree protocol by landscape architects with much experience in heritage projects and heritage management plans forms part of the HIA. Since initial complaints with regard to manner in which these contractors did the tree pruning, Frogfoot has monitored their activities in accordance with their protocols. Out of a total City only four objections were received with regard to tree pruning.

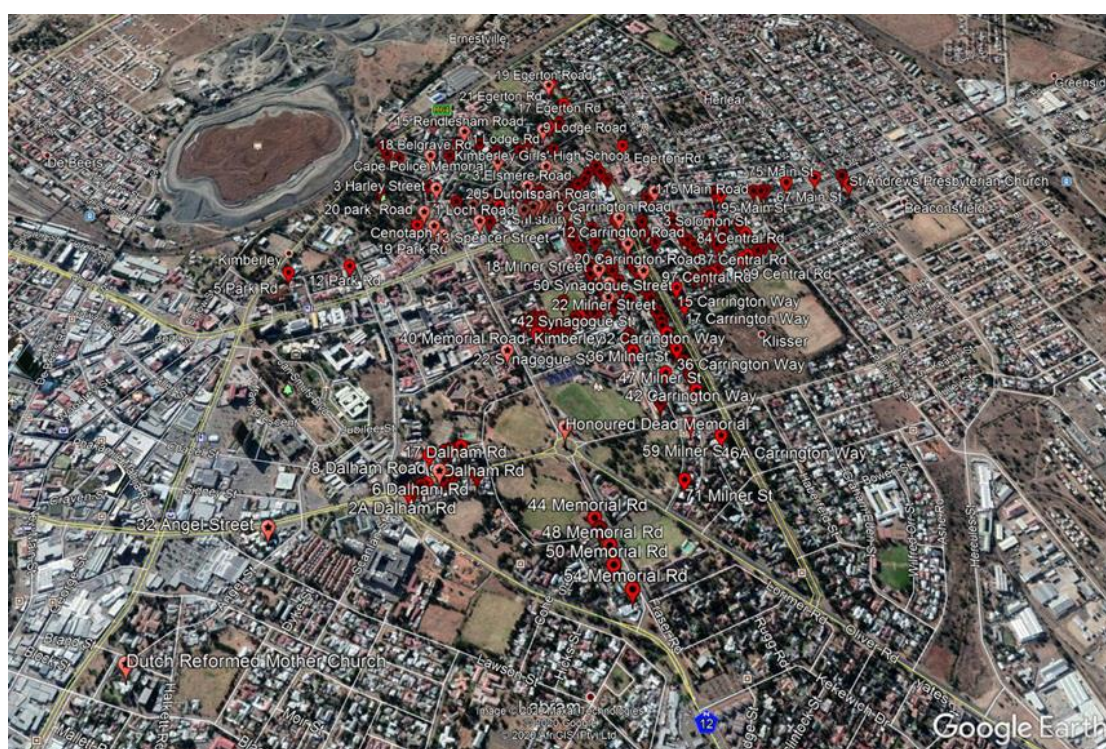
- 3.** As a result of the interim comments received on the HIA and the excessive nature of the additional requirements, Frogfoot has decided to withdraw their further fibre deployment from the Sol Plaatje Municipal Area.

Frogfoot only intend to do finalise one fibre lane on the boundary of Sectors 7 and 9 (Klisser/Belgravia areas) as indicated underneath in **Figure 1** as they have certain commits with the residents in this area where everybody want a fibre connection and none of the objectors reside in this area. It is thus requested that the HIA study area and Record of Decision then only apply to this area. A detailed historical background of this area has been provided. All heritage resources in this area have been mapped and described in the report. **Figure 2** is an extract from the plan on which the heritage resources have been mapped and the kmz file submitted with the application. The possible impact on these heritage resources has been addressed extensively in the HIA and there are adequate mitigating measures proposed. This is also

not an area with high archaeological or palaeontological significance within the City.



**Figure 1:** Area for deployment of fibre by means of conventional trenching in Sectors 7 and 9 (yellow lines)



**Figure 2:** Map showing the individual heritage resources within this area (extract from a map submitted with the NID and HIA submissions)

Only conventional trenching would be done in accordance with the mitigating measures proposed in the HIA and subject to archaeological monitoring by a local archaeologist, Dr David Morris, as stated in the HIA.

6. In conclusion we want to state that an extensive HIA was done despite little assistance from the local heritage authorities. The additional studies required and the time and cost associated with such studies do not make it financially viable for Frogfoot to continue with this project within the Sol Plaatje Municipal area.

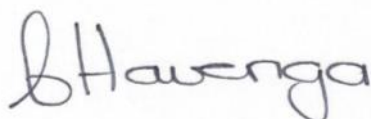
No such requirements apply to any other companies and the municipality deploying services and other infrastructure within the Sol Plaatje Municipality or for this matter elsewhere in the country. Out of a whole City, only four objections were received.

It is thus considered to be extremely disappointing that a project of this nature needs to be cancelled as it would have had many socio-economic advantages for residents of the Sol Plaatje Municipal Area, especially during this period when people work from home and students and scholars are dependent on reliable internet networks for online learning.

We also want to state that although Section 38 does not prescribe timelines for considering a HIA, the Administrative Justice Act, 2000 does require fair administrative actions which we are of the opinion has not been the case with this application.

7. The relevant committee of SAHRA is hereby requested to consider this amended HIA study area for approval (**Figure 1**) and to inform the Northern Cape Heritage Authority in this regard so that they can also issue the necessary Section 34 permits.

Kind regards

A handwritten signature in black ink that reads "CHavenga". The signature is written in a cursive style with a large initial 'C'.

**Christine Havenga**

**CHRISTINE HAVENGA & ASSOCIATES**





## **Annexure A**

### **E-MAIL CORRESPONDENCE WITH SAHRA**

**From:** Natasha Higgitt [mailto:nhiggitt@sahra.org.za]  
**Sent:** 17 March 2021 10:41 AM  
**To:** Christine Havenga  
**Cc:** Phillip Hine; Simphiwe Mome  
**Subject:** RE: HIA's in the Northern Cape and Eastern Cape  
**Importance:** Low

Good morning,

Yes, however the NCPHRA would still need to be satisfied with the assessment of section 34 structures and the recommended mitigation measures in the HIA. Should we approve of the development and permits in terms of section 34 are required for mitigation measures, the permits would be processed by the NCPHRA.

Kind regards,

**Natasha Higgitt**

Heritage Officer: Archaeology, Palaeontology and Meteorites Unit

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**From:** Christine Havenga <Christine.Havenga@absamail.co.za>  
**Sent:** 16 March 2021 16:35  
**To:** Natasha Higgitt <nhiggitt@sahra.org.za>  
**Cc:** Phillip Hine <phine@sahra.org.za>; Simphiwe Mome <smome@sahra.org.za>  
**Subject:** RE: HIA's in the Northern Cape and Eastern Cape

Hallo Natasha

Thank you for your trouble and assistance in this regard. We will do so.

Can I then just confirm – would SAHRA the approve the HIA and the Northern Cape Heritage Authority the Section 34 application?

Kind regards

Christine

 <p><b>CHRISTINE HAVENGA &amp; ASSOCIATES</b> Town Planning   Property Investigations   Heritage Studies</p>	<p><b>Christine Havenga</b> Professional Planner and Heritage Practitioner <small>Prof Reg no: A/945/1997</small></p> <p><b>Cell:</b> 073 195 1040 <b>Tel:</b> (021) 975 6266 <b>Fax:</b> (021) 957 1247 <b>Email:</b> christine.havenga@absamail.co.za</p>
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**From:** Natasha Higgitt [<mailto:nhiggitt@sahra.org.za>]  
**Sent:** 16 March 2021 04:12 PM  
**To:** Christine Havenga  
**Cc:** Phillip Hine; Simphiwe Mome  
**Subject:** RE: HIA's in the Northern Cape and Eastern Cape  
**Importance:** Low

Good afternoon,

Thank you for the information. I have spoken with my legal advisor and the following advice for your application has reference:

- Once the Public Participation Process (PPP) has been completed, please upload all documents regarding the application to SAHRA via SAHRIS including a Comments and Response Report with the results of the PPP;
- SAHRA will provide comments on the application and co-ordinate comments from the NCPHRA regarding the assessment of the significance and impact assessment to section 34 resources, including the recommended mitigation measures for these heritage resources;
- An Integrated comment from SAHRA and NCPHRA will be issued for the development.

We will inform the PHRA of the way forward for this application.

**Natasha Higgitt**

Heritage Officer: Archaeology, Palaeontology and Meteorites Unit

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**From:** Christine Havenga <[Christine.Havenga@absamail.co.za](mailto:Christine.Havenga@absamail.co.za)>  
**Sent:** 16 March 2021 15:50  
**To:** Natasha Higgitt <[nhiggitt@sahra.org.za](mailto:nhiggitt@sahra.org.za)>  
**Subject:** RE: HIA's in the Northern Cape and Eastern Cape

Hallo Natasha

Yes it has been completed in accordance with the requirements of the two NID responses received from the Northern Cape Heritage Authority and it is currently in the process of public participation.

Kind regards

Christine

**From:** Natasha Higgitt [<mailto:nhiggitt@sahra.org.za>]  
**Sent:** 16 March 2021 03:38 PM  
**To:** Christine Havenga  
**Subject:** RE: HIA's in the Northern Cape and Eastern Cape  
**Importance:** Low

Good afternoon,

Please indicate whether an HIA has been completed for the application. I am currently meeting with my legal advisor.

**Natasha Higgitt**

Heritage Officer: Archaeology, Palaeontology and Meteorites Unit

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**From:** Christine Havenga <[Christine.Havenga@absamail.co.za](mailto:Christine.Havenga@absamail.co.za)>  
**Sent:** 15 March 2021 15:10  
**To:** Natasha Higgitt <[nhiggitt@sahra.org.za](mailto:nhiggitt@sahra.org.za)>  
**Subject:** RE: HIA's in the Northern Cape and Eastern Cape

Hi Natasha

Thank you for coming back. The wayleaves for the majority of the study area expire the end of March. There is also a section for which they at a later stage applied for wayleaves and there the municipality indicated that the HIA first need to go through the public participation process before they would consider this wayleave application.

Thank you very much for your trouble.

Kind regards

Christine



**Christine Havenga**

Professional Planner and Heritage Practitioner

Prof Reg no: A/945/1997

**Cell:** 073 195 1040

**Tel:** (021) 975 6266

**Fax:** (021) 957 1247

**Email:** christine.havenga@absamail.co.za

**From:** Natasha Higgitt [<mailto:nhiggitt@sahra.org.za>]  
**Sent:** 15 March 2021 02:40 PM  
**To:** Christine Havenga  
**Cc:** Phillip Hine; Leomile Mofutsanyana  
**Subject:** RE: HIA's in the Northern Cape and Eastern Cape  
**Importance:** Low

Good afternoon,

My apologies. Our legal advisor is quite preoccupied with the end-of-financial year process. I am pressing for a meeting as soon as possible.

Please indicate when the way leave expires.

Additionally, please contact Leomile Mofutsanyana regarding any SAHRIS issues.

## Natasha Higgitt

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**From:** Christine Havenga <[Christine.Havenga@absamail.co.za](mailto:Christine.Havenga@absamail.co.za)>

**Sent:** 15 March 2021 09:45

**To:** Natasha Higgitt <[nhiggitt@sahra.org.za](mailto:nhiggitt@sahra.org.za)>

**Subject:** RE: HIA's in the Northern Cape and Eastern Cape

Good morning Natasha

Apologies for being a nuisance. Have you perhaps got an opportunity to speak to your legal advisor?

I am very concerned about this HIA. As indicated it is in the public participation process and Frogfoot have been waiting for nearly 6 months to obtain responses from the Northern Cape Heritage Authority and their wayleaves at the municipality will soon expire.

I am also struggling to register on SAHRIS to upload the document. The admin section is not giving me the clearance for registering and uploading. I did follow up with them.

Kind regards

Christine



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**Email:** [christine.havenga@absamail.co.za](mailto:christine.havenga@absamail.co.za)

**From:** Natasha Higgitt [<mailto:nhiggitt@sahra.org.za>]

**Sent:** 09 March 2021 03:46 PM

**To:** Christine Havenga

**Subject:** RE: HIA's in the Northern Cape and Eastern Cape

Good afternoon,

I will meet with our legal advisor as soon as possible to understand the way forward. In the meantime, please confirm whether the Fibre development is undergoing a NEMA application? If not, under which other legislation is the application being undertaken in terms of?

Kind regards,

## Natasha Higgitt

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**From:** Christine Havenga <[Christine.Havenga@absamail.co.za](mailto:Christine.Havenga@absamail.co.za)>

**Sent:** 09 March 2021 15:26

**To:** Natasha Higgitt <[nhiggitt@sahra.org.za](mailto:nhiggitt@sahra.org.za)>

**Subject:** RE: HIA's in the Northern Cape and Eastern Cape

Hi Natasha

Thank you very much for coming back.

I am now really concerned about the Northern Cape issue. We had several meetings and discussions with them and they indicated that we need to submit the NID's to them. The NID's were triggered by the deployment of a fibre network (trenching as well as aerial fibre by means of poles and cables) by Frogfoot Networks within the Sol Plaatje Municipal Area. It was confirmed with them that a NID in terms of Section 38 should be submitted to them due to the fact that:

Section 38(1)(a):           The construction of a road, wall, powerline, pipeline, canal or other similar form of linear development or barrier exceeding 300 m in length;

Section 38(1)(c):           Any development or other activity which will change the character of a site—

- (i)           exceeding 5 000 m<sup>2</sup> in extent.

They also requested a Section 34 application as some of the sidewalks where the trenching would take place are older than 60 years.

We in fact submitted two NID's as Frogfoot later decided to also include an additional area.

Please see the attached two NID ROD's we received from the Northern Cape Heritage Authority on their letterhead requesting a full HIA with a lot of requirements. We completed the HIA and it is currently in the advertising process in line with what we confirmed with them. I tried to determine if SAHRA would be a commenting party, but for the last month or so it is impossible to get hold of Ratha Andrew Timothy there as they do not answer the telephones or e-mails and since about two weeks ago all the e-mails are just bouncing back.

So if you can please confirm what we need to do now. I can submit the HIA through SAHRA, but it seems if you were not involved with the NID process. It has serious implications for my client as their Wayleave approvals (which also took them nearly a year to obtain from the municipality will soon expire) and it took about two months to get a response for each NID submission.

If possible can I perhaps please give you a call to discuss this.

Kind regards

Christine



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**Email:** christine.havenga@absamail.co.za

**From:** Natasha Higgitt [<mailto:nhiggitt@sahra.org.za>]  
**Sent:** 09 March 2021 09:05 AM  
**To:** Christine Havenga  
**Subject:** RE: HIA's in the Northern Cape and Eastern Cape  
**Importance:** Low

Good morning,

Please note that all section 38 development applications in the Northern Cape are under the jurisdiction of SAHRA, not the Northern Cape Provincial Authority. They are not competent to perform those functions. Please provide the NID ROD mentioned below so that I may examine it and follow up.

Please follow the normal submission procedure on SAHRIS for development applications. The NC PHRA only has the jurisdiction to process section 34 permit applications.



The ECPHRA is competent to process section 38 applications. Please contact Sello Mokhanya (081 551 0969) [selmok1@gmail.com](mailto:selmok1@gmail.com) for information in this regard.

## Natasha Higgitt

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**From:** Christine Havenga <[Christine.Havenga@absamail.co.za](mailto:Christine.Havenga@absamail.co.za)>

**Sent:** 08 March 2021 22:15

**To:** Natasha Higgitt <[nhiggitt@sahra.org.za](mailto:nhiggitt@sahra.org.za)>

**Subject:** HIA's in the Northern Cape and Eastern Cape

Dear Natasha

I got your name from Waseefa Dhansay at HWC.

If you can please just give me some guidance with regard to the following issues I would really appreciate it.

1. We have done a HIA in the Sol Plaatje Municipal area (formerly Kimberley) and the process was through the Northern Cape Heritage Authority, but we have a lot of trouble to get hold of somebody there or them responding to our e-mails. I assume they themselves would approved the HIA as they issued the NID ROD. Do we also need to send the HIA to SAHRA for comment?
2. We will now also be involved with a possible HIA in Grahamstown, but Waseefa indicated that the Eastern Cape Heritage Authority is not active – although I see they have a website, but it seems if they are only a commenting party. How does it work in this case. Would a NID be submitted to SAHRA directly as well as a possible HIA and the Northern Cape Heritage Authority only comments?

We have not done work before in these Provinces and your guidance in this regard would be greatly appreciated.

Kind regards

Christine



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