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MEDUPI POWER STATION DEVELOPMENT PHASE II HERITAGE IMPACT ASSESSMENT MAIN REPORT

PUBLIC PARTICIPATION FOR THE VERIFICATION AND MANAGEMENT OF GRAVES FOUND IN THE DEVELOPMENT AREA AND REMEDIAL PLAN FOR GRAVES WHICH MAY HAVE BEEN ACCIDENTALLY DESTROYED OR DESECRATED

FINAL REPORT

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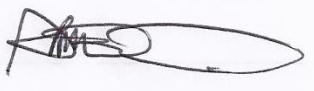
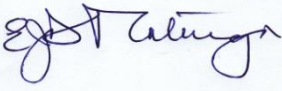

REPORT DETAILS

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ABBREVIATIONS

CRM	Cultural Resources Management
CMP	Conservation Management Plan
CRL	Cultural, Religious and Linguistic Rights Commission
DEDET	Department of Economic Development, Environment and Tourism
DEA	Department of Environmental Affairs
EA	Environmental Authorization
EIA	Environmental Impact Assessment
EMC	Environmental Management Committee
EMP	Environmental Management Plan
HIA	Heritage Impact Assessment
HMP	Heritage Management Plan
LIA	Later Iron Age
LIHRA	Limpopo Heritage Resources Authority
PHRA	Provincial Heritage Resources Authority
PPP	Public Participation Process
MCPM	Mbofho Consulting and Project Managers
MK	uMkhonto weSizwe
NAGPRA	Native American Graves Protection and Repatriation Act (1990)
NHRA	National Heritage Resources Act
NEMA	National Environmental Management Act
SAHRA	South African Heritage Resources Agency
TM	Task Team
WAC	The World Archaeological Congress

DOCUMENT CONTROL

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REVISION AND AMENDMENTS

DATE	No.	DESCRIPTION OF REVISION OR AMENDMENT
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2015/06/23	2	Second Draft Report
2015/07/08	3	Final Draft
2015/08/03	4	Final Report

DECLARATION OF INDEPENDENCE

Mbofho Consulting and Project Managers cc is an independent consultant and hereby declare that we have no interest, be it business, financial, personal or other vested interest in the undertaking of the proposed activity, other than fair remuneration for work performed, in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999).



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EXECUTIVE SUMMARY

The Medupi Graves Task Team commissioned Phase II Heritage Impact Assessment (HIA) for the Medupi Power Station development in November 2014. This report is culmination of a comprehensive public participation process which underpinned the approach to information gathering, and the outcomes have been duly taken into account in making decisions here presented on the protection of heritage resources in the Medupi Power Station precinct.

As immediate background to this research, there had been reports of disturbance and desecration of graves located in the construction zone of the Medupi Power Station Project. Miscommunication perhaps describes the root of the problems and the resultant resentment and suspicion on the part of some members of the local community.

The HIA report fulfills statutory requirements for a developer to listen to the views of those affected by a development project and employs those views to shape policy on future corporate and people relationships on heritage issues. Using heritage management tools the research tries to mediate a positive relationship between the developer (Eskom) and local people.

Significantly, the findings of the study suggest strategies by which the local community can make a meaningful contribution in the protection of heritage resources at Medupi. The people have articulated their values on the treatment of graves and human remains, and their views have been heard and respected through this research. The ultimate recognition for the need to conduct a deep search into feelings and concerns of local people is regarded as a restoration of their dignity and an immensely empowering event. The research is assurance that Eskom and all interested institutional stakeholders respect people's sensibilities about social justice.

- **International Best Practices on the Treatment of Human Remains**

The treatment of human remains has been in political and academic discourse for the past two centuries. In the Western scientific tradition, there is nothing wrong in

digging up bones to advance education and scholarship and to hand them over to museums as curiosities. Native people in the New World have viewed this practice as an assault on their dignity and human rights. Demand for rights to the remains of ancestors sparked a moral crisis and there was mounting international advocacy in the 20th century with a number of repatriations effected from Britain to Australia. In the United State the Native American Graves Protection and Repatriation Act (NAGPRA) (1990) was landmark legislation vesting custody of human remains and associated funerary objects in the lineal descendants of Native Americans.¹ In 2007 the return to Mapungubwe (here in South Africa) and reintering of human bones obtained in excavations in the 1930s and shared between the Universities of Pretoria and Witwatersrand was moral victory for local communities and evidence of the retreat of the “science ethic”.

We need here to underline that the views and moral positions of the scientific community as reflected in the examples cited above is in sharp contrast with those of all parties to the Medupi graves issue. All stakeholders in the Medupi case uphold the principle of respect for the dead and protection of graves, and the damage or destruction suffered was accidental.

International policy position favours a cautious approach when dealing with graves and human remains. Consultation with communities is urged, who by association might have strong feelings for protection *in situ*, and may argue that a development project is better moved to an alternative site. The World Archaeological Congress (WAC) has set international ethical standards for the treatment of human remains. The **Vermillion Accord on Human Remains** adopted in 1989 at the WAC Inter-Congress in South Dakota (USA) urges respect for graves and the mortal remains of the dead irrespective of origin, race, religion, nationality, custom and tradition.

¹ Greenfield, J. 2007. *The Return of Cultural Property*. Cambridge: Cambridge University Press. See Sections: “Australia: Aboriginal Skulls, Bones and Artefacts” (p.300), and “North America: American and Canadian Indian Bones and Artefacts” (pp. 312-342).

APPROACH TO RESEARCH AND METHODOLOGY

Several streams of work were undertaken to initiate Phase 2, beginning with a review of the Phase 1 Heritage Impact Assessment process and reporting as part of a desk study vital to ascertain compliance with the heritage act during the early stages of the project.

- **Review of Phase I Heritage Impact Assessment Reports**

The outcome of Phase 1 is contained in five (5) documents as follows:

- (i) **Schalkwyk, J.** 2005. Archaeological and Heritage Resources 258 18/11/2005: In Environmental Scoping Report for the proposed establishment of a New Coal-Fired Power Station in the Lephalale Area, Limpopo Province:
- (ii) **Schalkwyk, J.** 2008. Heritage Survey Report for the Development of a Water Reservoir and Pipelines for the New Medupi Coal-Fired Power Station in the Lephalale Area, Limpopo Province
- (iii) **Prins, F.** 2009. Cultural Heritage Screening of the Extended Medupi Landfill Site
- (iv) **Schalkwyk, J.** 2010. Heritage Impact Assessment for the Proposed Medupi Power Station Conveyor Route, Lephalale Region, Limpopo Province. Report 2010/JvS/024 Prepared for SAVANNAH Environmental (Pty) Ltd. Available online.
- (v) **Eskom.** 2008. Environmental Management Plan for the Medupi Coal-fired Power Station in the Lephalale Area, Limpopo Province

The first four documents are Heritage Impact Assessment Reports. The integrity of the four Heritage Impact Assessment reports is beyond question. In both approach

and methodology, and resultant depth of research, the reports are sound and they addressed the given terms of reference. However, more information, particularly regarding the location of graves, could have been collected at an early stage through broader consultation with local communities. Apparently heritage experts had not been involved in a parallel public participation programme conducted within the ambit of the Environmental Impact Assessment (EIA). We need however to underline that this apparent disconnect in processes which can be synchronized is a matter beyond the control of Eskom. This requires a review of cooperation protocols on the matter by the departments concerned, i.e. Arts and Culture; Environment, etc.

The Environmental Management Plan (EMP) (the 5th document) was a precaution should heritage resources be discovered, as often happens, during the development phase, when a heritage expert would be called in and appropriate mitigation measures taken.

In conclusion, the surveys adhered to professional standards and procedures for carrying out archaeological and heritage impact surveys within the scope of a Phase I baseline study, and a future plan to secure the heritage resources was prepared.

- **Community Involvement**

A key success factor for Phase II HIA was to record testimonies from members of the local community, analyzing them critically, using them to identify heritage resources including graves, understanding the nature of the grievance and discussing solutions. This job demanded effective communication and listening skills. Radio broadcasts were made and a public notice calling for public participation appeared in a local monthly paper to achieve wide penetration of the message. Aggrieved families appointed two family members per grave to give testimonies bringing the total numbers of testifiers to twelve (12). In addition fifteen (15) other members of the community were interviewed providing a wide range of information they deemed of important public concern. Interviews were audiotaped using a digital recorder.

- **Documentation Tools**

The importance of documentation in a project of this nature does not need emphasis. All primary records have been properly curated in Templates and Spreadsheet Tables which are appended as key structural elements of the Report. The **Site Catalogue** captures the site name, site number, GPS coordinates, site description, heritage significance, and proposed remedial / protection measures. Photographs were taken using a high resolution 20 megapixels camera. Coordinates were recorded using GPS instrument. Site data is summarized in a spreadsheet featuring Site No, GPS Coordinates, Site Description and Proposed Remedial Action. A colour-coded ranking system is used in both the Site Catalogue and Spread-sheet table to indicate risks based on concerns articulated by local community members. The **Claimant Submission Form** captures the complainant's bio-data, bust photo, summary of submission in English and Northern Sesotho and proposed remedial actions.

- **Extending the Brief for Broader Public Participation**

The extension of the Brief in May 2015 was necessary after realising that making conclusions based entirely on testimonies received from members of the local community was fundamentally flawed. Such structural bias was likely to be carried through to findings and conclusions. It was therefore necessary to conduct interviews with site administration staff at the time to understand social engagements and interface between Eskom officials and the community. A more holistic approach required multiple perspectives to inform the study, which necessitated reaching out to contracted independent monitors and experts in the field of heritage. Two Eskom project Managers stationed at Medupi in 2007 provided testimonies. An Environmental Control Officer, Archaeologist and the funeral service contracted to move the grave from the construction site were contacted. Their testimonies as independent witnesses were considered critical. Heritage practitioners working in a wide range of situations in the sector with known and demonstrable understanding of heritage management were consulted. Their backgrounds were quite varied in terms

of institutional affiliation including statutory bodies, heritage authorities, universities and a world heritage site.

FIELD CHALLENGES

In all claim cases under consideration no Birth or Death Certificates were available since they were not being issued at the time. To our knowledge Births and Death Certificates became compulsory documentation for the Black population after the passing of the Births and Deaths Registration Act (No 51 of 1992). Under the circumstances “burden of proof” as verification procedure was not applicable. As a precaution in case the matter was brought before the courts, claimants prepared and signed affidavits under oath.

Poor memory of dates in respect of births and deaths or when certain events happened corresponded with a low level of literacy among claimants.

The area where the burials were said to be located has undergone fundamental physical changes over the last seven years. It lies close to the Power Plant on its western foot where a new ground level has been created through excavation and fill. Further west topsoil discard buries the original ground surface. There are several new low buildings and a conveyor belt. In archaeological terms the previous cultural layers have been disturbed or destroyed, which further constrained memory and gives way to conjecture.

However in heritage management theory, the creation of heritage is based on narratives. While this canon might not stand valid in other truth-seeking scientific disciplines, in heritage we cannot wish away a narrative or suppress it. In this paradigm we recorded heritage sites, including graves, as they were pointed to us by members of the local community. It obviously lowers the threshold definition of a heritage site when the only material evidence at hand is that a member(s) of the local community has pointed out a place. But we accepted such testimonies as “valid” under the circumstances.

COMPONENT FEATURES OF THE REPORT

The key components of the Report are:

- (i) A **Register of Heritage Sites** (including graves) which were identified by the local community and priority ranking of those sites
- (ii) Observations on claimant submissions in respect of disturbed/desecrated graves and unethical exhumation procedure
- (iii) Recommendations on remedial actions and protection of heritage resources

The *primary data* upon which the Report has been prepared and conclusions thereof have been obtained from the people. The primary sources are verifiable as preserved in Annexures appended to this Report and some sections in this document itself:

- i. Templates with a photographs, GPS reference and description of each **Heritage Site** (including graves) among other fields.
- ii. Spreadsheet Table of all Heritage Sites (including graves).
- iii. Templates carrying each Claimant Submission with bust photo and bio-data of complaint as well as summary description of complaint in English and Northern Sotho.
- iv. Affidavits in respect of complainant submissions.
- v. List of other members of the local community who provided testimonies.

Register of Heritage Sites

Members of the local community provided all baseline data drawn from their knowledge of the area for the identification of heritage sites including graves. The research employed archaeological methods and applied heritage management theory to isolate heritage sites and document them. A colour-coded ranking system in the table below defines priorities in the treatment of sites based on concerns which were articulated by local community members:

	Ranking	Explanation	No of Sites²
1	Very High	Burial sites which have been disturbed or are the subject of a grievance to be resolved	7
2	High	Graves and burials (Section 36 of NHRA) which require management in consultation with stakeholders. But they are not subject of a grievance	7
3	Medium	Sacred pools, old settlements worth to be preserved	5
4	Low	Heritage sites deemed of less importance. The minimum requirement is to record them.	1
		TOTAL	20

² The new grave site of Jankie Mokawe in Marapong cemetery is not included in this count.

SITE	AREA	LATITUDE	LONGITUDE	TPOLOGY	DESCRIPTION	PERIOD	REMEDIAL ACTION
1	Kuipersbult	S23° 32' 51"	E027° 33' 34"	Burial ground	4 graves, 1 concrete headstone, 3 with stones. Steel palisade: Leola Maapi, Jan Rasekgwari Maapi, Daniel Maropola	20th C	Protection, Management Plan
1b	Kuipersbult	S23° 32' 51"	E027° 33' 34"	Burial ground	Possible burial ca7m northeast of Site 1, not previously known.	20th C	Clear site, extend palisade to protect the grave, Management Plan
2	Kuipersbult	S23° 42' 52"	E027° 33' 34"	Burial ground	Village meeting place under a large Marula tree. Graves of Frans Mogwai & Frans Motebele marked by stones	20th C	Protection, Management Plan
3	Kuipersbult	S23° 42' 54"	E027° 33' 40"	Burial ground	Isolated grave situated near ruins of a farm workers settlement	20th C	Protection, Management Plan
4	Medupi Plant	S23° 42' 39.4"	E027° 30' 12.4"	Burial ground	Molisiwa's grave surrounded by topsoil stockpile, possibly several graves at the site	20th C	Protection, Management Plan
5	Medupi Plant	S23° 42' 39.6"	E027° 33' 09.8"	Burial ground	2 infants buried under the floor of house: Johannes Tibanyane, died 1980; Sophia Moatshe (date unknown)	20th C	Consultation with family, Ceremony, Management Plan
6	Medupi Plant	S23° 42' 26.8"	E027° 32' 49.5"	Burial ground	Possible single grave near old Mogwai homestead	19-20th C	Protection, Management Plan
7	Medupi Plant	S23° 39' 22.6"	E027° 37' 44.3"	Burial ground	Jankie Mokawe exhumed, baby Johannes Magwai, Shangani man	20th C	Consultation with family, Ceremony, Management Plan
8	Medupi Plant	S23°42'44.92"	E 27°33'49.74"	Sacred Pool	Sacred pool		Management Plan
9	Medupi Plant	S23° 42' 28.3"	E027° 32' 51.3"	Settlement	Old Mogwai homestead	19-20th C	None
10	Medupi Plant	S23° 42' 29.8"	E027° 33' 39.8"	Burial ground	Graves of 4 MK soldiers, 5th burial of Shangani man, Galeboe, baby of Martha Magwai	20th C	Consultation with family, Ceremony, Management Plan
11	Medupi Plant	S23° 42' 40.2"	E0 27° 33' 16.4"	Building	Old farmhouse	20th C	Protection, Management Plan
12	Medupi Plant	S23° 42' 42.5"	E027° 33' 24.5"	Burial ground	4 infant burials, all members of the Mogotsi family	20th C	Consultation with Family, Ceremony, Management Plan
13	Medupi Plant	S23° 42' 41.1"	E027° 33' 31.5"	Sacred Pool	Sacred pool		Protection, Management Plan
14	Medupi Plant	S23° 42' 35.0"	E027° 33' 14.9"	Burial ground	Burial site of Shangani man, Radithini	20th C	Ceremony, Management

							Plan
15	Medupi Plant	S23° 42' 36.6"	E027° 33' 33.9"	Burial ground	Burial site of 3 Tswana men	20th C	Ceremony, Management Plan
16	Medupi Plant	S23° 42' 13.2"	E027° 33' 31.0"	Burial ground	Burial site of 4 Zimbabweans	20th C	Ceremony, Management Plan
17	Kuipersbult	S 23° 43' 05.1"	E 027° 33' 17.6"	Settlement	2 circular setting of stones may indicate foundations of a round houses. 5 stumps long of timber, low straight wall	19-20th C	Protection, Management Plan
18	Kuipersbult	S 23° 43' 04.5"	S 027° 33' 17.5"	Burial ground	Possible single grave under route of pylons	19-20th C	Protection, Management Plan
19	Stockpile Area	S 23° 42' 39.4"	E 027° 30' 12.7"	Settlement	3 stumps of timber propped in the ground & scatter of stones might be the remains of a structure.	19-20th C	Protection, Management Plan
20	Kuipersbult	S 23° 43' 08.03"	E 27° 33' 35.53"	Burial ground	Grave of Sarah Moloantoa, born 25/05/1848, died 24/12/1953. Located on Farm Kuipersbult 511 LQ		Protection, Management Plan
21	Marapong	S23° 39' 39.6"	E027° 37' 50.9"	Burial ground	New grave of Jankie Mokawe in Marapong cemetery	2008	Protection, Management Plan

The following table is a summary of heritage site entries in the table above:

HERITAGE TYPOLOGY	Quantity
Preserved burial sites	5 ³
Disturbed burial sites	7
Unconfirmed burial sites	2
Settlements/Buildings	4
Sacred pools	2
Reburial site (Jankie Mokawe) at Marapong Cemetery	1
TOTAL	21

Observations on Claimant Submissions

A critical presentation of key issues raised by members of the local community is vital before we unveil a mitigation plan.

(i) The Public Participation Process

The discovery of Jankie Mokawe's grave in the construction zone had opened a flurry of claims about the occurrence of other graves in the area. The local municipality had presided over meetings between Eskom Officials and the community to look into the claims. With hindsight the efficacy of this approach is questionable. In modern development theory, public participation is a formalised process with a checklist of procedures which must be followed. It is common practice to engage experts in the field to run such programmes rather than outsource to non-experts on an ad-hoc basis. At the time (in 2007) when public sentiment was at high pitch to engage, an opportunity was lost to commission full public publication. This notwithstanding, there is no doubt about Eskom's good intentions.

Failure to employ effective communication tools through a public participation process can explain much of the fallout which ensued. We note for instance the

³ One possible grave at one of the sites, Site No 1, has not been confirmed.

infectious impact of rumours that human skeletons had been secretively removed from the site and interred at Marapong cemetery; unfounded allegations, since all bones were examined by an archaeological expert, but one of cumulative factors which heightened the sense of mistrust.

(ii) Submissions on Graves that were Disturbed / Destroyed / Desecrated

All submissions in respect of graves in the construction area which cannot be accounted for have been accepted and recorded without applying “burden of proof” as screening procedure because of limitations in the physical evidence. They were considered valid claims on the basis of testimonies made and subject to claimants signing affidavits as a legal precaution. A total of nine (9) graves/deceased persons are the subject of claims of disturbance / destruction/ desecration. In all cases Claimants are seeking financial compensation for physical damage to the graves which had resulted in loss or a sense of loss.

No	CLAIMANT	DECEASED	Dob/D	No	DETAILS
1	Mogotsi Sinah	(i) Harry Mogotsi (ii) Bake Mogotsi (iii) Sarah Mogotsi (v) Sinah Mogotsi	b1965? b1967? All died 1968?	4	Graves disturbed / unaccounted for
2	Mogwai Martha	Baby Galaboe Mogwai	b1980-03-7 d1981-06-17	1	Graves disturbed / unaccounted for Grave buried under topsoil stockpile
3	Magwai Norah	(i) Baby Johannes Mogwai (ii) Baby Sophia Moatshe	d1962	2	Grave disturbed/ unaccounted for Grave buried under topsoil stockpile
4	Mokawe Francinah	Jankie Mokawe	b1968-04-07 d1974-03-15	1	Improper exhumation and reburial
5	Kekana Rueben	Jankie Mokawe		*	Forced exhumation
6	Tibanyane Richard	Baby Johannes Tibanyane	b1980-06-27 d1980	1	Buried under topsoil discard
	6 Claimants			9	Deceased

(iii) Demand for Reparations for Missing Graves

The issue of reparations is outside the competency of this study, in spite of the fact that complainants have concentrated their claim on financial compensation. They are demanding that Eskom pays financial reparations for the desecration and missing graves. Heritage experts from a wide range of practice have provided guidance expressing strong reservation on cash payment as compensation for loss or sense of loss as a result of the disturbance / destruction or desecration of graves. The view is predicated on the nature of cultural significance of graves. Graves are cultural property which cannot be subjected to valuation in money terms as other cultural assets. Claiming compensation for injury by association to a grave is not in accordance with any customary practices in South Africa and in the sub-region. Paying reparations for graves will open floodgates for claims in the future. In professional wisdom, creating such precedence will breed a culture of commercialisation of graves located on development sites. There is no obligation in law to pay reparations for disturbed graves. This notwithstanding, the heritage profession strongly defends the right to decent burial and condemns any treatment of human remains which offends public decency.

(iv) Exhumation of Jankie Mokawe

We observe that initially Mr Johan Kruger had probably exerted unbearable psychological pressure on the Mokawe family. But Eskom had retracted from a confrontational stance, recusing Mr Kruger of the responsibility to engage with the local community, particularly on the issue of the Mokawe grave. However, whether the Mokawe family had agreed to dig the grave or acted under duress is beside the point. Of greater significance is the fact that family members had performed exhumation. In the absence of specific law at the time regulating practice on exhumations of graves younger than 60 years, it would have been prudent to employ professional curators / forensic experts rather than delegate to untrained people.

- (v) Members of the community with claims to burials both those affected / now missing and those unaffected by the development request Eskom to grant

unlimited access to grave sites whether it is for reflection visits or performance of rites.

Recommendations on Remedial Actions and Protection of Heritage Resources

Recommendations and remedial measures here presented are the outcome of much wider consultation and debate with inputs from experts in the field of heritage management. Recognizing that heritage management is an evolving discipline, we draw from international best practices without losing sight of the wisdom of traditional cultures in South Africa.

- (i) Undisturbed graves which lie outside the construction zone are considered out of risk. Claims only pertain to cases of loss or sense of loss or injury in respect of graves or remains of the deceased destroyed / disturbed in the construction area. Sustainable management of both disturbed and undisturbed graves as sacred heritage is proposed as part of a future **Heritage Management Plan**.
- (ii) Heritage management and cultural practice does not support the principle of compensation for loss of graves. It does not resonate with cultural norms. It is unthinkable to value graves as may be done with other cultural assets such as works of art or buildings. Professional opinion is in favour of social benefit programmes other than cash payments.
- (iii) Eskom should open discussions with Mrs Francinah Mokawe and Mr Rueben Kekana to arrive at a mutual settlement regarding their part in the exhumation and the consequences they have suffered, although unintended. Drawing on the professional judgement of experts, financial compensation alone cannot adequately deal with emotional issues and belief system. It may be considered alongside a package of other measures including good communication, education and healing programmes for trauma.

- (iv) This research emphasises good communication. Eskom needs to articulate its broad vision and the values that govern its public mandate. Mediation should be preferred and protracted disputes avoided.

General Recommendations

(i) Social Benefits of Association

Through Eskom's Development Foundation activities and the Medupi project developments, local people with historical associations with Medupi through graves should be provided an opportunity to apply for employment vacancies when they arise.

(ii) Educational Bursaries

Through Eskom's bursaries and in-service training opportunities, provide the opportunity for local people with historical associations with Medupi through graves to apply for these and in particular for students from Marapong schools.

(iii) Protection and Maintenance of Graves in situ

Graves must be protected *in situ*, i.e. in the areas in which they are located:

- Fencing off all the graves and clearing grass.
- Moving back the stockpile at Grave Site No 4 (Molisiwa), alternatively moving the grave to Site No 1.

(iv) Sacred Pools

The two sacred pools should be protected.

(v) Memorialization

Eskom should establish an arena with a commemorative plaque/plinth in memory of those buried inside and outside the Construction Area. The plaque will carry names of the deceased who have not been accounted for. This site will be venue (shrine) for annual ceremonies. The landscape design has to incorporate local people's cultural sensibilities on sacred landscapes and indigenous knowledge systems.

The creation of memorials for the “missing” is not an entirely modern phenomenon in Southern African societies. If a person is swept away by a river or taken by a crocodile and his/her remains not recovered, a traditional doctor presides over a ceremony starting at or near the scene of the tragedy to repatriate the soul of the deceased. Back home a goat / sheep is slaughtered, the meat eaten by attendants; but the head and bones will be wrapped in the fresh skin of the animal and buried in a grave. That will be the symbolic grave of the deceased.

(vi) Holding and Cleansing / Appeasement Ceremony.

In accordance with the wishes of the local community in general and the affected families in particular, a cleansing ceremony should be held at Medupi in respect of the graves that were disturbed / destroyed / desecrated. Planning of the ceremony is the responsibility of the local communities in accordance with their cultural mores. Eskom would provide logistical support.

(vii) Traditional Ceremonies

Local Communities must be allowed to organise rituals at the graves and proposed shrine. Reasonable access should be granted to the graves and the proposed shrine.

(viii) Relocation of all Graves to a Single Site

Relocation of all the graves to one area, ideally Site No 1, is recommended to free land for future development. It is necessary to build consensus on the issue through consultations with the families concerned and other government and civic institutions.

(ix) Monitoring and Evaluation through a Heritage Management Plan

In the short term it is necessary to establish an independent monitoring mechanism for the implementation of recommendations in this report.

Proposed remedial actions should form part of **Heritage Management Planning (HMP)** as a long-term strategy for sustainable management of the heritage. The aim of an HMP is to organise long term future protection of Heritage Resources. The

keywords are “sustainable conservation” to meet the needs of both present and future generations.

SECTION I: HERITAGE IMPACT ASSESSMENT PROCESS

1. BACKGROUND

1.1. Call for Phase II Heritage Impact Assessment

A Phase II Heritage Impact Assessment was requested in terms of Section 38 of the National Heritage Resources Act (No 25 of 1999) in respect of the construction of the Eskom Medupi Power Station near Lephalale, Limpopo Province. The Terms of References were outlined as follows:

- (i) Review previous Heritage Impact Assessment Reports compiled as part of the Environmental Impact Assessment and reports compiled subsequent to the commencement of construction covering the identification and validation heritage resources (graves) within the Eskom Medupi Power Station site*
- (ii) Conduct Oral interviews with 14 family representatives*
- (iii) Heritage Impact Assessments on the Eskom-owned land linked to the Medupi Power Station Project. The purpose of Phase II HIA is to validate submissions made to banks regarding the management of Medupi graves.*

The HIA has the following streams of work:

- (a) Conduct oral interviews with 14 aggrieved families, establish the bona fide status of each claimant and the person(s) alleged to be buried through kinship or descent*
- (b) Search for local records related to the death and burial of family members*
- (c) Search for publications on local historical, anthropological and cultural studies relating to the burials*
- (d) Search for other unpublished papers, records, archival and historical documents through public libraries, archives and tertiary institutions and*
- (e) Search for cartographic and pictorial documents connected with the area*

(f) Provide a report detailing the outcome of the validation process. In the event of any claims and part of claim being validated, recommendation(s) as to the process to be undertaken to appease the family (ies) concerned.

To provide background, as required in terms of the law Phase I was carried out between 2005 and 2008 before commencement of construction during which a few heritage sites were found. As part of a situation analysis and in accordance with the Brief, we undertook an appraisal of the Phase 1 HIA reports to ascertain whether Eskom had complied with heritage regulations. In the findings of the scoping surveys there were prospects of finding more heritage sites in the site preparation phase (site clearance and foundation digging). Precautions had been taken including an Environmental Management Plan (EMP) stating technical procedures to secure heritage resources if they were found. Furthermore we observe that Phase 1 was an initial scoping survey to probe heritage sensitivity of the area, and not in-depth research. Our conclusion is that the researchers' findings are consistent with the methodological tools employed in accordance with the given Brief. In the same vein the South African Heritage Resources Agency (SAHRA) had issued authorisation for Eskom to proceed with the project.

As it turned out a grave was found in the construction zone as civil works started followed by reports of more graves hitherto unrecorded. Slight delays were experienced in putting together a coherent plan to deal with the situation. We note that in spite of these delays Eskom cherishes a "people ethic" in its Corporate Social Investment (CSI) policy. This encompasses community-oriented programmes to improve livelihoods of people living around a project area, and desisting from actions that are likely to cause social instability. Eskom has kept its doors open to the public. The cornerstone of Phase II is a Public Participation Process (PPP) to find common approaches for the management of graves in the development area including those that were accidentally disturbed. The underlying message is that Medupi is not just about resource exploitation for corporate gain; Eskom is building social relationships along the way, hence the open dialogue on the issues of the

graves. Phase II sets out a framework for Eskom to address the spiritual needs of local communities.

1.2. Handling Community Grievances

At the time of implementation of Phase II, construction of the Medupi Power Plant was underway, while the discovery of more graves/burial grounds at and around the construction site and allegations that some of the graves had been destroyed or desecrated during site preparation required carefully calculated interventions on the part of Eskom to deal with public reaction to these developments. Indeed growing public concern was not surprising considering that most communities treat graves and burial grounds as sacred.

In a dramatic turn of events, fourteen (14) members of the community went on to approach the World Bank and African Development Bank in their capacity as the funders of the power station project. The complainants claimed to have knowledge of and association with graves which had been affected by the power station development. While the exact details of their submissions have not been made public, there was dangerous prospect of the whole affair attracting media attention and bringing into question the moral integrity of these international financial institutions in what was now portrayed as “funding” the destruction of graves. These developments influenced the scope of Phase II; one of the principal aims of Phase II impact assessment is to manage the potential public fallout.

2. TERMS OF REFERENCE

The Terms of Reference for Phase II HIA were outlined as follows:

- (a) Review of previous Heritage Impact Assessment reports;
- (b) Validate the claims submitted to the banks regarding Medupi graves;
- (c) Conduct oral interviews with the 14 aggrieved family members;
- (d) Validate the relationship with the deceased through kingship and descent history;

- (e) Provide a report detailing outcomes of validation process and recommendations.

3. APPROACH AND METHODOLOGY

Three streams of work ran concurrently, viz. desktop review of previous HIA reports, Public Participation Process (PPP) and fieldwork to identify heritage sites.

3.1. Review of Previous HIA Reports

As mentioned earlier, the initial task to review previous HIA reports was to ascertain whether Eskom had complied with regulations on the protection of heritage resources in accordance with Section 38 of the National Heritage Resources Act (No 25 of 1999). The principal document was a Phase I HIA report on the first scoping work carried out in 2005. Three more HIA reports were minor work focussing on specific areas proposed for installation of mining infrastructure. The four HIA reports were titled:

- (i) Phase I Heritage Impact Assessment as Part of the Environmental Scoping Report for the Proposed Establishment of the Medupi Power station (2005)
- (ii) Heritage Survey Report for the Development of a Water Reservoir (2008)
- (iii) Heritage Impact Assessment for the proposed Medupi Conveyor Route, 2010
- (iv) Cultural Heritage Screening of the Extended Medupi Landfill Site (2009)
- (v) Environmental Management Plan for the Construction Phase of the Medupi Power Station (2008).

All reports were at scoping level, and outcomes consistent with the approach and field tools guided by the Briefs. One grave was found in the development area. Poor ground exposure during the first fieldwork in 2005 and minimal contact with the community narrowed the chances of locating more graves.

3.2. Public Consultation

The principal task in Phase II was to engage local communities with the aim to collect information on graves and other heritage resources in the development area. Since the start of construction some members of local community had expressed concern about the fate of graves that they knew were in the development area. While on the basis of such public information one grave had been exhumed and relocated in 2008, apparently a coherent plan had not been put in place to manage possible disturbance of other graves in the area.

Public Participation Processes (PPPs) are cherished in modern development planning, and it has become common cause to engage especially with people who are affected by a development. In the case in point, people who lived on the farm where the Power Plant was being constructed had relocated in nearby Marapong. Marapong is a modern residential settlement planned in the 1980s in the wake of the construction of Matimba Power Station.

The fate of graves at Medupi gained centrality in public consciousness. Broad-based public participation was a response to growing public disaffection. The primary aim was to identify specific affected families or individuals and other stakeholders, record their grievance and understand their values in order to mitigate damage, and avoid further impacts and controversy. Further to that the aims were much broader to find common ground for future peaceful co-existence between the power project and the local community:

- Collecting a wide range of data on the management of heritage resources in and around the Medupi Power Station development area including the village of Marapong.
- Asking members of the community to point to the location of graves and other heritage resources in the development area.
- Identifying and documenting community concerns about the project. Through such outreach the community was given an opportunity to help restructure project's social goals.
- Respecting basic democratic principles by allowing people to have opportunities to debate issues of common concern, frame alternative

solutions, and affect final decisions. This is a grassroots process in which all residents are invited to give testimonies/narratives on a voluntary basis and without any restrictions.

- Prioritizing proposed interventions and improvements as identified by communities, interested and affected parties.

The PPP covered both general community issues pertaining to the project and affected heritage resources, and investigated grievances made before the financial institutions. The first issue was dealt with in an open public meeting and broad consultations. To deal with the second issue criteria were drawn to identify and engage those with specific grievances and to validate those grievances.

3.2.1. Public Participation Meetings

On 19 November 2014 Mr Emile Marell convened an inception meeting during which the roles of various parties in the Phase II HIA process were laid down. The Task Team had already been set up to broker dialogue between Eskom and the Community. The Task Team had a mixed composition drawing from legal and environmental experts and including aggrieved parties from the community to ensure sound, impartial judgement on various matters surrounding the case.

Two public meetings were organised by Eskom to which the Consultant was invited to attend as part of evidence gathering and to build rapport with the community. A meeting of the Task Team was held at Marapong Community Library on 25 November 2014. The meeting was amongst others attended by:

- Two officers from the National Department of Environmental Affairs
- Appointed independent environmental services (ECO) - NCC Environmental Services
- Independent moderator from Group One Advocate Chambers
- Members of Eskom's Environmental Management Unit
- Members of the aggrieved families in the Task Team
- Traditional Healer
- Interested members of the Public

Mr Emile Marell, resident Environmental Manager at Medupi, gave an outline of the development of Medupi Power Project stating that one of the preconditions for authorisation of the project was an Environmental Impact Assessment in which the protection of Heritage resources was a part. Eskom had received Environmental Authorisation (EA) for the project to proceed. Graves had been the subject of on-going dialogue and negotiations with the local community. The meeting agreed to call a public meeting which was scheduled 8-9 December 2014. The Heritage Consultant would report the findings through the Task Team.

3.2.2. Public meeting held on 8 and 9th December 2014

The invitation was open to all members of the public in Marapong and the surrounding residential areas including the town Lephalale. In order to reach a wider audience the meeting was announced on the local radio station and notices placed in public places in Marapong. Public response and attendance was quite good.

Mr Dovhani Mudzielwana from Eskom gave a synopsis of key issues, the central points being addressing the grievances which were then being handled by the Task Team and the future management of graves.

3.3. Fieldwork for the Identification and Confirmation of Graves

Conventional field approaches to finding sites were varied in view of the unfolding public issues concerning graves and other sites of potential heritage value. Rather than go into the field alone and conduct independent investigations, members of the community were invited from the beginning to provide guidance, point out the location of graves and other relics. This was an important ritual act of recognition of the voices of the community and placing responsibility on them to decide on “heritage value”. Since 2007 communities had made several approaches requesting direct participation in such a process and the general feeling was that until now the space for public activity had been very narrow.

3.4. Documentation of Graves, Burial Grounds and other Heritage Sites

3.4.1. Site Recording Template

A Heritage Site Recording Template with data fields was used as a framework for recording sites that were discovered (**Annexure I-A**). Where fields are left blank in a report it means that information was not available. The use of a Template to record heritage sites is standard practice. A template is a checklist with key attributes by which data is collected in the field and recorded. The catalogue of sites becomes a public document which can be sent to SAHRA archives.

There are several critical fields in the template which include PHOTOGRAPHS and GPS coordinates in degrees, minutes and seconds, the latter allows future use of the record in Earth-Google or on national and/or local GIS platforms. DESCRIPTION of the site (setting, cultural attributes), HERITAGE SIGNIFICANCE and STATE OF CONSERVATION are also prioritised.

All site entries are summarised in a Spread-sheet Table (**Annexure I-B**).

3.4.2. Priority Ranking

The ranking was in respect of perceived impacts on heritage (graves) sites of the on-going infrastructure development and resultant new landscape. The sites were not being ranked *per se* as provided under Section 7 of NHRA as this was outside the scope of this work. This was only a risk ranking in which four categories used to determine the nature of intervention and mitigation. A colour scheme was used to show the risk categories (see **Annexure II**).

	Ranking	Explanation	
1	Very High	The site is the subject of a grievance to be resolved	Red
2	High	Graves and burials (Section 36 of NHRA) which require management in consultation with stakeholders. But they are not subject of a grievance.	Amber
3	Medium	Possible burials which have not been confirmed. Other sites worthy of preservation.	Yellow
4	Low	Heritage sites deemed of less importance. The minimum requirement is that the sites have been recorded. Decisions on mitigation to be made by a heritage expert including the option of destruction with or without salvage.	Grey

3.4.3. Spread-sheet Table of Heritage Sites

As summarised, site catalogue was created in MS Excel spread-sheet with each row representing a heritage site and key attributes in columns. For easy cross-referencing the colour scheme was also used for priority ranking.

3.5. Procedures of Carrying out Heritage Impact Assessments

The procedures of carrying out an Impact Assessment in Section 3(3) of the NHRA are an important checklist for sound **HIA** Reporting:

(3) The responsible heritage resources authority must specify the information to be provided in a report required in terms of subsection (2)(a): Provided that the following must be included:

- (a) The identification and mapping of all heritage resources in the area affected;*
- (b) an assessment of the significance of such resources in terms of the heritage assessment criteria set out in section 6(2) or prescribed under section 7;*
- (c) an assessment of the impact of the development on such heritage resources;*
- (d) an evaluation of the impact of the development on heritage resources relative to the sustainable social and economic benefits to be derived from the development;*
- (e) the results of consultation with communities affected by the proposed development and other interested parties regarding the impact of the development on heritage resources;*
- (f) if heritage resources will be adversely affected by the proposed development, the consideration of alternatives; and*
- (g) plans for mitigation of any adverse effects during and after the completion of the proposed development.*

3.6. Project Milestones

19 Nov 2014	PROJECT INCEPTION A project inception meeting was convened by Mr Emile Marell held on
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	19 Nov 2014 at Medupi Construction site; the consultant team comprising Mr Matodzi Silidi and Dr Edward Matenga attended. Mr Dovhani Mudzielwana of the Eskom Environmental Unit also attended the meeting. A schedule of task was drawn for implementation Phase II Heritage Impact Assessment and the way forward mapped to address grievances of those who claimed to have graves of the relatives destroyed or desecrated.
25 Nov 2014	FIRST MEETING Introductory meeting with the Task Team held on 25 Nov 2014 at Marapong Library. First meeting with some of the aggrieved family members
8 Dec 2014	GRAVES IDENTIFICATION Visit to burial sites in the development area guided by members of the community including affected families
9 Dec 2014	PUBLIC ENGAGEMENT MEETING Meeting of stakeholders at Dithekhu Primary School, Marapong, which was attended by representatives from National Department of Environmental Affairs NCC Environmental Services Group One Advocate Chambers (Independent Moderators) Eskom Environmental Service Unit Members of the aggrieved families Interested members of the Public Presentation of policy position by Eskom Presentation of approach and methodology for graves identification and resolution of grievances by the heritage consultant
9-10 Dec 2014	GRIEVANCE MANAGEMENT Submissions received from the aggrieved families at Dithekhu Primary School
11 Dec 2014	GRAVES IDENTIFICATION Site visit. Families pointed out positions of graves in the development area. Heritage Consultants recorded the sites and created a catalogue

	of sites
Nov 2014 to Jan 2015	<p>HIA REVIEW REPORT</p> <p>Review of HIA documents and graves report as provided by the Client. 4 Reports have been reviewed and an Environmental Management Plan. Draft Reported titled: REVIEW OF PREVIOUS HERITAGE ASSESSMENT REPORTS INCLUDING ACTION ON GRAVES FOUND AT THE SITE has been submitted to Mr Emile Marell for comments before a 2nd draft is put before the Task Committee public stakeholders and the affected families.</p>
16 Jan 2015	<p>A PUBLIC NOTICE appeared a local newspaper inviting members of the public to provide information on burials and other cultural relics existing or which might have been overlooked in the Medupi Development area. This was building on the outreach that had been started through the local radio station.</p>
28 Jan 2015	<p>VERIFICATION OF REPORTS OF A GRAVE (hitherto unknown)</p> <p>Heritage Consultants were invited to give an opinion on a possible grave discovered during physical works for the erection of high voltage pylons. Foundation stones of 2 circular houses confirmed and the stone cairn is a possible burial. The whole site to be protected.</p> <p>FURTHER PUBLIC CONSULTATIONS</p> <p>Heritage Consultants met aggrieved parties at the Library in Marapong to verify summaries submissions, and translations into Northern Sesotho, and fill in some information gaps.</p> <p>Reports of another grave site received from Ms Catherine Maropola, to be verified on next visit.</p>
6 Feb 2015	<p>VERIFICATION OF SUBMISSION BY SINAH MOGOTSI – CLAIM NO 5</p> <p>Meeting at Marapong Community Library attended by Dovhani Mudzielwana. Sine Mogotsi, Lucas Mogotsi, Rueben Keanu</p>
10 March 2015	<p>FINALISATION OF CLAIMS</p> <p>Signing of Affidavits at Marapong</p>

March 2015	SUBMISSION FINAL PHASE I HIA REVIEW REPORT
March 2015	TABLING OF PHASE I HIA REVIEW REPORT BEFORE TASK TEAM
March 2015	SUBMISSION OF HIA PHASE II PRELIMINARY REPORT TO TASK TEAM
April 2015	Feedback on HIA Phase I HIA Review Report
May 2015	EXTENSION OF BRIEF TO ALLOW BROADER PUBLIC PARTICIPATION
14 May 2015	PRELIMINARY REPORT before the African Development Bank Independent Review Mechanism
27 June 2015	PRELIMINARY REPORT before the Medupi Graves Task Team in Sandton, Johannesburg
30 June 2015	REPORT BACK to the affected families at Lephalale
9 July 2015	SUBMISSION OF FINAL REPORTS TO TASK TEAM

4. LEGAL APPLICATION

In accordance with the Brief, the scope of work for Phase II Heritage Impact Assessment was much wider to protect all forms of heritage resources in the area of development. Below we cite the relevant legal sections in the NHRA.

4.1. Protection of Buildings

Section 34 provides for the protection of buildings and structures more than 60 years old:

(1) No person may alter or demolish any structure or part of a structure which is older than 60 years without a permit issued by the relevant provincial heritage resources authority.

4.2. Protection of Archaeological Sites

Section 35 (4) of the NHRA prohibits the destruction of archaeological, palaeontological and meteorite sites:

No person may, without a permit issued by the responsible heritage resources authority—

(a) destroy, damage, excavate, alter, deface or otherwise disturb any archaeological or palaeontological site or any meteorite;

(b) destroy, damage, excavate, remove from its original position, collect or own any archaeological or palaeontological material or object or any meteorite;

(c) trade in, sell for private gain, export or attempt to export from the Republic any category of archaeological or palaeontological material or object, or any meteorite; or

(d) bring onto or use at an archaeological or palaeontological site any excavation equipment or any equipment which assist in the detection or recovery of metals or archaeological and palaeontological material or objects, or use such equipment for the recovery of meteorites.

4.3. Graves and Burial Grounds

Section 36 of the NHRA gives priority to the protection of Graves and Burial Grounds of victims of conflict, and graves and burial grounds more than 60 years old. Within

this frame cautious approaches are considered including managed exhumations and re-interment to pave way for development:

(1) Where it is not the responsibility of any other authority, SAHRA must conserve and generally care for burial grounds and graves protected in terms of this section, and it may make such arrangements for their conservation as it sees fit.

(2) SAHRA must identify and record the graves of victims of conflict and any other graves which it deems to be of cultural significance and may erect memorials associated with the grave referred to in subsection (1), and must maintain such memorials.

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

(a) destroy, damage, alter, exhume or remove from its original position or otherwise disturb the grave of a victim of conflict, or any burial ground or part thereof which contains such graves;

(b) destroy, damage, alter, exhume, remove from its original position or otherwise disturb any grave or burial ground older than 60 years which is situated outside a formal cemetery administered by a local authority; or

(c) bring onto or use at a burial ground or grave referred to in paragraph (a) or (b) any excavation equipment, or any equipment which assists in the detection or recovery of metals.

(4) SAHRA or a provincial heritage resources authority may not issue a permit for the destruction or damage of any burial ground or grave referred to in subsection (3)(a) unless it is satisfied that the applicant has made satisfactory arrangements for the exhumation and re-interment of the contents of such graves, at the cost of the applicant and in accordance with any regulations made by the responsible heritage resources authority.

Section 36(6) implies that all kinds of graves found during the course of development must be reported and investigated:

(6) Subject to the provision of any other law, any person who in the course of development or any other activity discovers the location of a grave, the existence of

which was previously unknown, must immediately cease such activity and report the discovery to the responsible heritage resources authority which must, in co-operation with the South African Police Service and in accordance with regulations of the responsible heritage resources authority—

(a) carry out an investigation for the purpose of obtaining information on whether or not such grave is protected in terms of this Act or is of significance to any community; and

(b) if such grave is protected or is of significance, assist any person who or community which is a direct descendant to make arrangements for the exhumation and re-interment of the contents of such grave or, in the absence of such person or community, make any such arrangements as it deems fit.

A predevelopment Heritage Impact Assessment is predicated on Subsection 6 which requires a developer to halt operations if graves are discovered, even as Section 36 does not specify what course of action to take in respect of graves other than those of victims of conflict or more than 60 years old found at a development site.

4.4. International Ethics on the Treatment of Burials

The treatment of human remains has been in political and academic debate for the past two centuries. In the western scientific tradition there is nothing wrong in digging up bones to advance education and scholarship and to hand them over to museums as curiosities. There was moral conflict in that these scientists, who enjoyed protection under the new political order, were not opening graves of their own ancestors but those of “native” people in new found lands in America and Australia. Native people took this to be an assault on their dignity. They demanded rights to the remains of their ancestors. There has been mounting advocacy for the repatriation of ancestral bones from British Museums back to Australia and success achieved. In the United State the Native American Graves Protection and Repatriation Act (NAGPRA) (1990) is landmark legislation vesting custody of human remains and associated funerary objects in the lineal descendants of Native Americans. In 2007 the return to and reinterment at Mapungubwe of human bones obtained from excavations in the 1930s and shared between the Universities of Pretoria and

Witwatersrand was seen as moral victory for the local communities and demonstration of the retreat of the “science ethic”.⁴

Views and moral positions of the scientific community as reflected by the examples cited above are completely different from those of all parties to the Medupi graves issue. In the latter case all stakeholders uphold the principle of respect for the dead and protection of graves, and the damage or destruction suffered was accidental.

The international policy position favours a cautious approach when dealing with graves and human remains. Consultation with communities is urged, who by association might have strong feelings for protection *in situ*, and may argue that a development project is better moved to an alternative site. The World Archaeological Congress (WAC) has set international ethical standards for the treatment of human remains. The **Vermillion Accord on Human Remains** was adopted in 1989 at the WAC Inter-Congress in South Dakota (USA) urging:

- (i) *Respect for the mortal remains of the dead shall be accorded to all, irrespective of origin, race, religion, nationality, custom and tradition.*
- (ii) *Respect for the wishes of the dead concerning disposition shall be accorded whenever possible, reasonable and lawful, when they are known or can be reasonably inferred.*
- (iii) *Respect for the wishes of the local community and of relatives or guardians of the dead shall be accorded whenever possible, reasonable and lawful.*
- (iv) *Respect for the scientific research value of skeletal, mummified and other human remains (including fossil hominids) shall be accorded when such value is demonstrated to exist.*

⁴ Pikirayi, I. 2011. *Traditional Archaeological Heritage Protection and Communities in the Limpopo Province of South Africa*. Addis Ababa: Organisation of Social Science Research in Eastern and Southern Africa.

- (v) *Agreement on the disposition of fossil, skeletal, mummified and other remains shall be reached by negotiation on the basis of mutual respect for the legitimate concerns of communities for the proper disposition of their ancestors, as well as the legitimate concerns of science and education.*

- (vi) *The express recognition that the concerns of various ethnic groups, as well as those of science are legitimate and to be respected, will permit acceptable agreements to be reached and honoured.*

5. DOCUMENTATION OF GRAVES AND OTHER HERITAGE SITES

5.1. Ethno-historical Context

The Broad cultural sequence has been provided in the earlier HIA Reports (Schalkwyk 2005) and elsewhere (Phillipson 2005, Huffman 2007), and we need not go into details here. The following is a reconstruction of ethno-history of the area in the last 130 years. Before the introduction of commercial farming the area was occupied by African communities of northern Sotho stock. The Ga-Seleka Traditional Authority in Ga-Seleka, 60km to the northeast of Medupi is extant political entity associated with the area and with roots in the pre-colonial past. The area was divided up into farms in the 19th and 20th centuries. Under the new political circumstances some of the families moved elsewhere outside the farms, while those that remained were bound by a new farm labour tenancy system.

The following were some of the core families which lived on the Farm, Naawontkomen 509 LQ and Kuipersbult 511LQ.

FAMILY NAME	PRESENT LOCATION
Mogwai	Marapong
Mogotsi	Marapong/ Steilloop
Maropola	Marapong
Moloantoa	Marapong/Hammanskraal
Tibanyane	Marapong
Motologelwa	Marapong
Molisiwa	Marapong
Serumula	Marapong

The spatial organisation of settlement at Naawontkomen appears to have been typical of commercial farming settlement in having a main farmstead with a brick building being the residence of the farm owner (Fig 1) (Site No 11, Annexure 1). Surviving as reminder of the settlement are two raised water tanks which supplied domestic water and a shed for commercial chickens. To the east and west of the farmstead there were workers' houses which do not exist anymore. So is a school for

farm workers' children which was built and opened in ca1942. It was located on the western foot of the plant.



Fig 1. Remains of the Farmhouse on Naawontkomen Farm.

There were two natural lakes which appear to hold water only in the rain season and not for long into the dry season (Fig 2). In semi-dry environments, water is a precious resource and the centre of rituals marking the cycle of life and seasons. The pools were thus sacred areas; even as African residents adopted Christianity, baptism sessions were also held at the pools.



Fig 2. One of the pools at Naawontkomen Farm

Migration from the farm appears to have been a gradual process beginning around the time of the establishment of Marapong in the 1980s. Marapong was part of the Matimba Power station project, and this together with the nearby Exxaro Mine (the source of the coal) began to employ large numbers of people and providing stimulus for semi-urban development.

At the time of Phase I heritage impact assessment there were people living on the farms, but after authorisation for the Power Plant, movement out of the farms was completed.

5.2. Phase II Heritage Survey

While Phase I relied on conventional field methods of finding heritage resources, Phase II was a community-driven process and to that extent a slight departure from traditional archaeological practice. All sites were pointed out by members of the community. As discussed earlier this pragmatic approach was preferred in order to dispel growing public mistrust that researchers may want to hide some evidence.

Twenty-one (21) heritage sites were recorded, a majority of which are graves/burial grounds (Figs 3-6).

5.2.1. Summary Data on Heritage Resources

The findings are summarized in the Table below:

HERITAGE TYPOLOGY	Quantity
Preserved burial sites	5 ⁵
Disturbed burial sites	7
Unconfirmed burial sites	2
Settlements/Buildings	4
Sacred pools	2

⁵ One possible grave at one of the sites, Site No 1, has not been confirmed.

Reburial site (Jankie Mokawe) at Marapong Cemetery	1
TOTAL	21

5.3. Heritage Sites Priority Ranking

As stated earlier, a ranking system has been used to isolate sites that will need to be considered in respect of the grievances. Four risk categories are used to indicate the nature of intervention and mitigation. The colour scheme shows a priority ranking based on cultural significance and risk (i.e. threats which have occurred or are anticipated).

Items	Ranking	Explanation	No of Sites ⁶
1	Very High	Burial sites which have been disturbed or are the subject of a grievance to be resolved	7
2	High	Graves and burials (Section 36 of NHRA) which require management in consultation with stakeholder. But they are not subject of a grievance	7
2	Medium	Sacred pools, old settlements worth to be preserved	5
4	Low	Heritage sites deemed of less importance. They are disposable and the minimum requirement is to record them.	1
		TOTAL	20

⁶ The new grave of Jankie Mokawe in Marapong Cemetery is not included in this count.

List of graves and sites of heritage significance

SITE	AREA	LATITUDE	LONGITUDE	TPOLOGY	DESCRIPTION	PERIOD	REMEDIAL ACTION
1	Kuipersbult	S23° 32' 51"	E027° 33' 34"	Burial ground	4 graves, 1 concrete headstone, 3 with stones. Steel palisade: Leola Maapi, Jan Rasekgwari Maapi, Daniel Maropola	20th C	Protection, Management Plan
1b	Kuipersbult	S23° 32' 51"	E027° 33' 34"	Burial ground	Possible burial ca 7m northeast of Site 1, not previously known.	20th C	Clear site, extend palisade to protect the grave, Management Plan
2	Kuipersbult	S23° 42' 52"	E027° 33' 34"	Burial ground	Village meeting place under a large Marula tree. Graves of Frans Mogwai & Frans Motebele marked by stones	20th C	Protection, Management Plan
3	Kuipersbult	S23° 42' 54"	E027° 33' 40"	Burial ground	Isolated grave situated near ruins of a farm workers settlement	20th C	Protection, Management Plan
4	Medupi Plant	S23° 42' 39.4"	E027° 30' 12.4"	Burial ground	Molisiwa's grave surrounded by topsoil stockpile, possibly several graves at the site	20th C	Protection, Management Plan
5	Medupi Plant	S23° 42' 39.6"	E027° 33' 09.8"	Burial ground	2 infants buried under the floor of house: Johannes Tibanyane, died 1980; Sophia Moatshe (date unknown)	20th C	Consultation with family, Ceremony, Management Plan
6	Medupi Plant	S23° 42' 26.8"	E027° 32' 49.5"	Burial ground	Possible single grave near old Magwai homestead	20th C	Protection, Management Plan
7	Medupi Plant	S23° 39' 22.6"	E027° 37' 44.3"	Burial ground	Jankie Mokawe exhumed, baby Johannes Magwai, Shangani man	20th C	Consultation with family, Ceremony, Management Plan
8	Medupi Plant	S23°42'44.92"	E 27°33'49.74"	Sacred Pool	Sacred pool		Management Plan
9	Medupi Plant	S23° 42' 28.3"	E027° 32' 51.3"	Settlement	Old Mogwai homestead	19-20th C	None
10	Medupi Plant	S23° 42' 29.8"	E027° 33' 39.8"	Burial ground	Graves of 4 MK soldiers, 5th burial of Shangani man, Galeboe baby of Martha Magwai	20th C	Consultation with family, Ceremony, Management Plan
11	Medupi Plant	S23° 42' 40.2"	E0 27° 33' 16.4"	Building	Old farmhouse	20th C	Protection, Management Plan
12	Medupi Plant	S23° 42' 42.5"	E027° 33' 24.5"	Burial ground	4 infant burials, all members of the Mogotsi family	20th C	Consultation with Family, Ceremony, Management Plan
13	Medupi Plant	S23° 42' 41.1"	E027° 33' 31.5"	Sacred Pool	Sacred pool		Protection, Management

							Plan
14	Medupi Plant	S23° 42' 35.0"	E027° 33' 14.9"	Burial ground	Burial site of Shangani man, Radithini	20th C	Ceremony, Management Plan
15	Medupi Plant	S23° 42' 36.6"	E027° 33' 33.9"	Burial ground	Burial site of 3 Tswana men	20th C	Ceremony, Management Plan
16	Medupi Plant	S23° 42' 13.2"	E027° 33' 31.0"	Burial ground	Burial site of 4 Zimbabweans	20th C	Ceremony, Management Plan
17	Kuipersbult	S 23° 43' 05.1"	E 027° 33' 17.6"	Settlement	2 circular setting of stones may indicate foundations of a round houses. 5 stumps long of timber, low straight wall	19-20th C	Protection, Management Plan
18	Kuipersbult	S 23° 43' 04.5"	S 027° 33' 17.5"	Burial ground	Possible single grave under route of pylons	19-20th C	Protection, Management Plan
19		S 23° 42' 39.4"	E 027° 30' 12.7"	Settlement	3 stumps of timber propped in the ground & scatter of stones might be the remains of a structure.	19-20th C	Protection, Management Plan
20	Kuipersbult	S 23° 43' 08.03"	E 27° 33' 35.53"	Burial ground	Grave of Sarah Moloantoa, born 25/05/1848, died 24/12/1953. Located on Farm Kuipersbult 511 LQ		Protection, Management Plan
21	Marapong	S23° 39' 39.6"	E027° 37' 50.9"	Burial ground	New grave of Jankie Mokawe in Marapong cemetery	2008	Protection, Management Plan

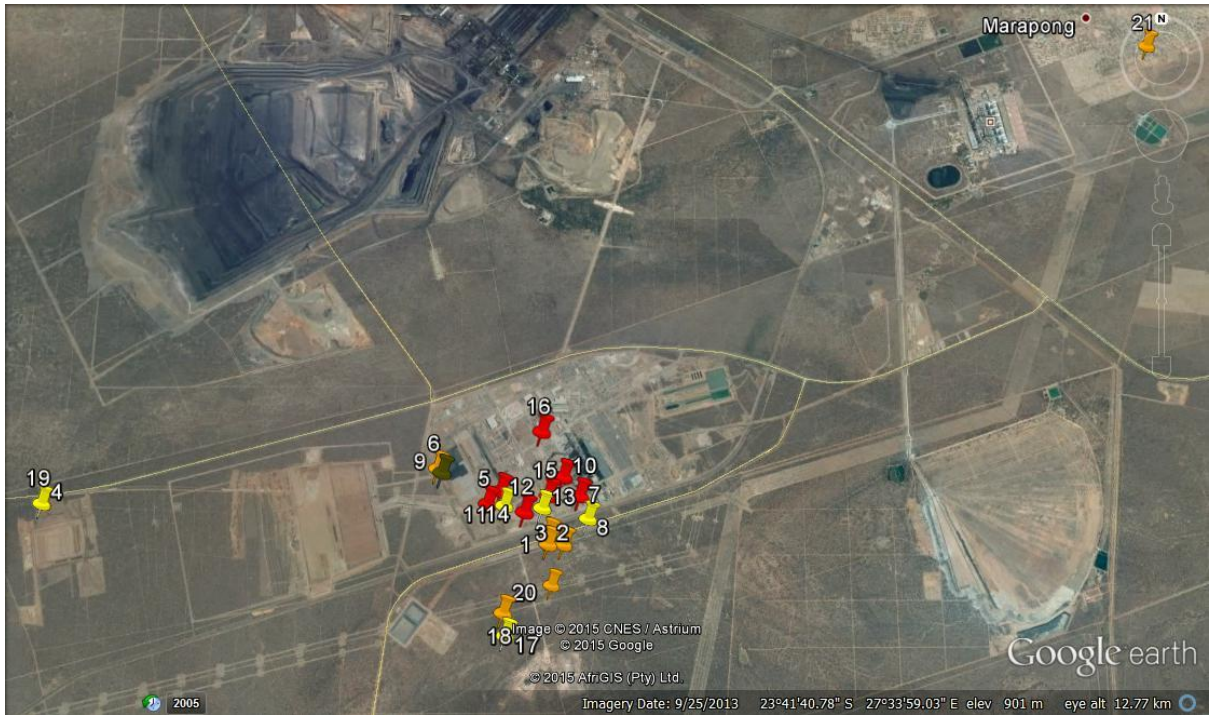


Fig 3. Google map shows the location of all heritage sites and their risk ranking.

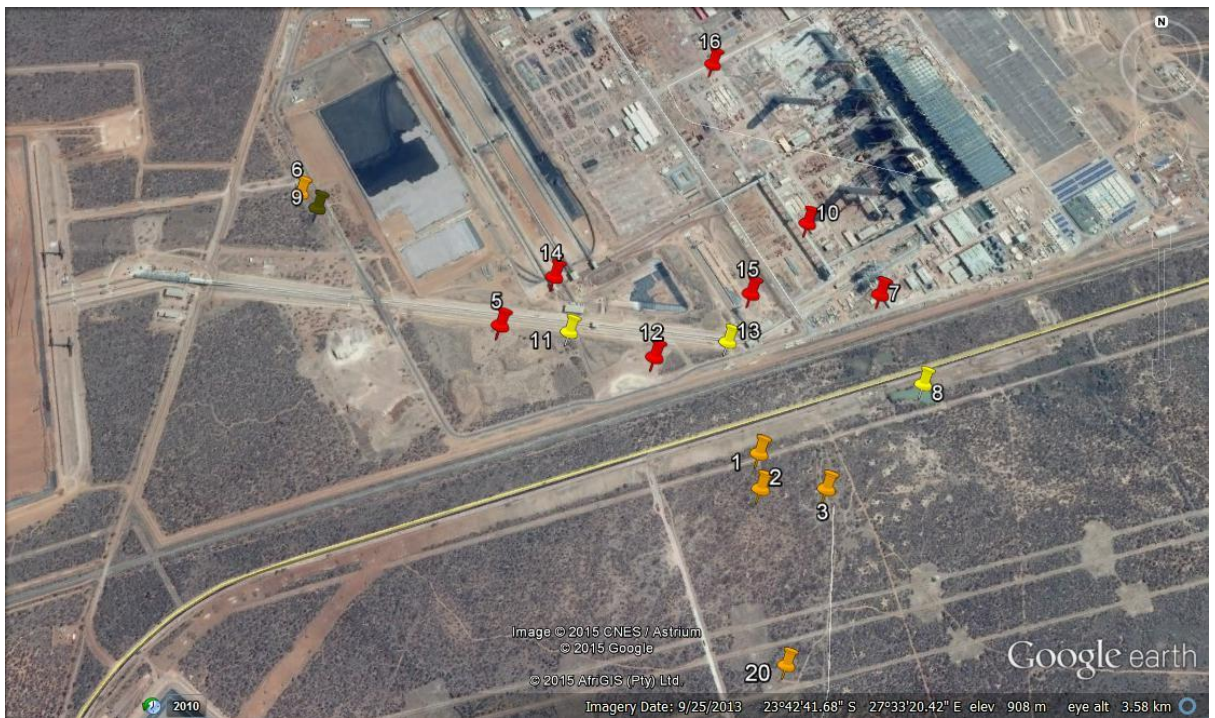


Fig. 4. Close view of sites in the central area near the power plant



Fig 5. Google map shows location of site south of the power plant and railway line.



Fig 6. Google map shows new resting place of Jankie Mokawe at Marapong Cemetery.

5.4. Determining Impacts in Terms of Section 38 (3) of NHRA

To close this chapter we demonstrated that the study has attempted to fulfill the requirements of Section 38(3) of the National Heritage Resources Act. Section 38(3) requires that:

(3) The responsible heritage resources authority must specify the information to be provided in a report required in terms of subsection (2)(a): Provided that the following must be included:

(a) The identification and mapping of all heritage resources in the area affected

As outlined in Section 5.3, fifteen (15) grave sites have been identified and recorded. Three (3) graves have not been confirmed; but these does not imply whatsoever that they are doubtful cases, but there is no sufficient information to be absolutely certain. Six (6) grave sites were disturbed or destroyed during construction. One site is buried under landfill.

(b) an assessment of the significance of such resources in terms of the heritage assessment criteria set out in section 6(2) or prescribed under section 7

At the present time all sites are provisionally ranked Grade 3 sites in terms of the National Heritage Resources Act. In this report the sites have been ranked according to the risk posed by the development. Three (3) risk categories were used on the basis of importance to local communities, real or perceived threats. Burial sites are sacred grounds which must be protected. Grave sites that were disturbed are the subject of a grievance which will be submitted to the Graves Task Team (See Section 7).

(c) an assessment of the impact of the development on such heritage resources

Physical damage to burials is not reversible. Alternative means of mitigating loss have been explored in consultation with the affected families. They have proposed that Eskom should erect a memorial tombstone with names of all deceased whose

graves have been destroyed/disturbed or unaccounted for. The area becomes a shrine for future ritual performances.

(d) an evaluation of the impact of the development on heritage resources relative to the sustainable social and economic benefits to be derived from the development

A plan is in place to protect graves which were not affected by the development. Grievance management is a short term measure to appease aggrieved families. **A HERITAGE MANAGEMENT PLAN** is recommended for formal long-term management of heritage resources in collaboration with local communities. The benefits of developing a new power plant is beyond question both at the local and national level. The on-going nationwide rationing of electricity to avoid overload of the national grid shows that power generation is a critical success factor in a developing economy.

(e) the results of consultation with communities affected by the proposed development and other interested parties regarding the impact of the development on heritage resources

Public consultation was one of the main streams of work in Phase II. As will be demonstrated in Section 7, it has paid off at least in the short term to encourage community buy-in, particularly to find alternative ways of appeasement of aggrieved families. In the long term, graves and other heritage resources will continue to be managed as a community-driven project.

(f) if heritage resources will be adversely affected by the proposed development, the consideration of alternatives

At the present time the understanding is that the project will go ahead while grievances of the community will be resolved.

(g) plans for mitigation of any adverse effects during and after the completion

of the proposed development

Community participation in the management of heritage resources in and around Medupi Power Plant is critical to ensure that past mistakes are avoided. Constant public engagement will avoid civic actions and decisions on heritage issues will be reached by consensus.

SECTION II: DOCUMENTATION OF GRIEVANCES

6. THE PUBLIC PARTICIPATION PROCESS AND CLAIMANT SUBMISSIONS

6.1. Background

From 2007 members of the local community had been trying to communicate with Eskom on the subject of graves/burial grounds at and around the construction site for the Medupi Power Station. The community seemed to have only known about the threat to their burial grounds during clearing and grubbing of the site, particularly after the discovery of Jankie Mokawe's grave. In the event only one individual was exhumed and re-interred at nearby Marapong cemetery.

Growing public displeasure generated controversy for the project. Subsequently in 2012 fourteen (14) members of the community approached the World Bank and African Development Bank in their capacity as financiers of the project. The exact details of their submissions have not been made public, but it appears that public fallout with Eskom was developing and bringing into spotlight the reputation of the international financial institutions.

The success of Phase II HIA was thus predicated on conducting a comprehensive Public Participation Process to understand the nature of the grievance and to find solutions.

6.2. Criteria for Identification and Validation of Grievances

- (i) It was noted that among the community members who had submitted grievances, two had been co-opted into the Task Team which was set to deal with the matter. Mr Lazarus Seadisa, a traditional doctor, was playing a critical leadership role in handling the grievance and brokering talks between the local community and Eskom. Recognising his tactful diplomacy he had been elected into the Task Team. These three members of the Task Team were included in the team to deal with the grievances.

- (ii) It was suggested that two (2) persons are selected to represent a single known deceased/grave. The representatives were to be selected by the families concerned. Where two or more deceased belonged to a single family or were related, the choice was open for the appointed two persons to represent all graves (upon consultation with other family members), or for other pairs to be appointed to represent each of the deceased/grave.
- (iii) No representatives were to be appointed for anonymous or archaeological graves. It was proposed that issues concerning such graves were to be handled by the three members of the community in the Task Team (which included the Traditional Doctor, Mr Seadisa).

6.3. Documentation

6.3.1. Grievance Investigation and Recording

Hearing of grievances commenced on Tuesday 9th December 2014 (after the public workshop) and continued through Thursday 11 December 2014. Interview sessions were held at Dithekhu Primary School. They were open inquiries in which the two family representatives were interviewed at the same time in order to stimulate collective memory. In some cases three members were involved. The testimonies were audiotaped. Bust photographs of interviewees were taken and inserted in each grievance form.

6.3.2. Grievance Recording Template

To standardise the collection of information a grievance recording Template was prepared (Annexure II). The critical fields in the Template are:

- Personal identification details of claims (Name, Dates of Birth, ID, Photo).
- Relationship to deceased.
- Identification details of deceased (Name, Dates of Birth/Death, Sex).

- Grave ID – linked the grave to the Catalogue of Graves and other Heritage Sites (Annexures IA & IB).
- Claimant Statement (English and Northern Sotho Translation).
- Proposed Remedial Action.
- Signature of Claimant.
- Signature of Commissioner of Oaths.

Key security features of the document included signatures of the claimants which bound them to the submitted statements. The document is an affidavit since it has been signed before a Commissioner of Oaths, who puts his seal. Copies of identity documents of the Claimants are attached to the Claim Form.

6.4. Field Challenges

6.4.1. Births and Death Certificates

In all cases under consideration no Birth or Death Certificates were available. Claimants said that these were not being issued at the time. A human rights website seems to corroborate these statements: "... pre-democracy, not all black people in South Africa were able to register their births nor was there any expectation for them to do so".⁷ To our knowledge issuing of Births and Death Certificates for the Black segment of the South African population became compulsory after the passing of the Births and Deaths Registration Act (No 51 of 1992). In the circumstance placing "burden of proof" on claimants as verification procedure was unworkable. As a precaution in case the matter was brought before the courts, claimants prepared and signed affidavits before a Police Officer, essentially making the submissions sworn statements for which they would held accountable.

6.4.2. Remembering Dates and Sequence of Events

Most informants could not remember specific dates in respect of birth and death or when certain events happened. In one instance, it was difficult to reconstruct the

⁷ <http://www.lhr.org.za/blog/2014/6/dream-common-identity-statelessness-and-nationality-africa>

birth sequence of four siblings. Three members of the family including the father were questioned and the results at best were only a tentative reconstruction.

6.4.3. Disturbed Provenances

The area where the burials were located, as pointed out by the informants, has undergone considerable physical change over the last seven years. It lies on the western foot of the Power Plant where a new ground level has been created through excavation, landfill and topsoil discard. There are several new low buildings and a conveyor belt in the area. In archaeological terms, whatever cultural layers existed and the contents therein have been disturbed or destroyed (Figs 7-8)). The changes in the landscape obviously would constrain memory and give way to conjecture. Using a sketch map which the informants drew on the ground to show the relative location of various features at the settlement we attempted a reconstruction of previous landscape (Figs 9-10).



Fig 7. The new landscape, view from the southwest of the power plant.



Fig 8. Topsoil discard west of the power plant in the area were 2 infants are reported to have been buried (Site No 5).

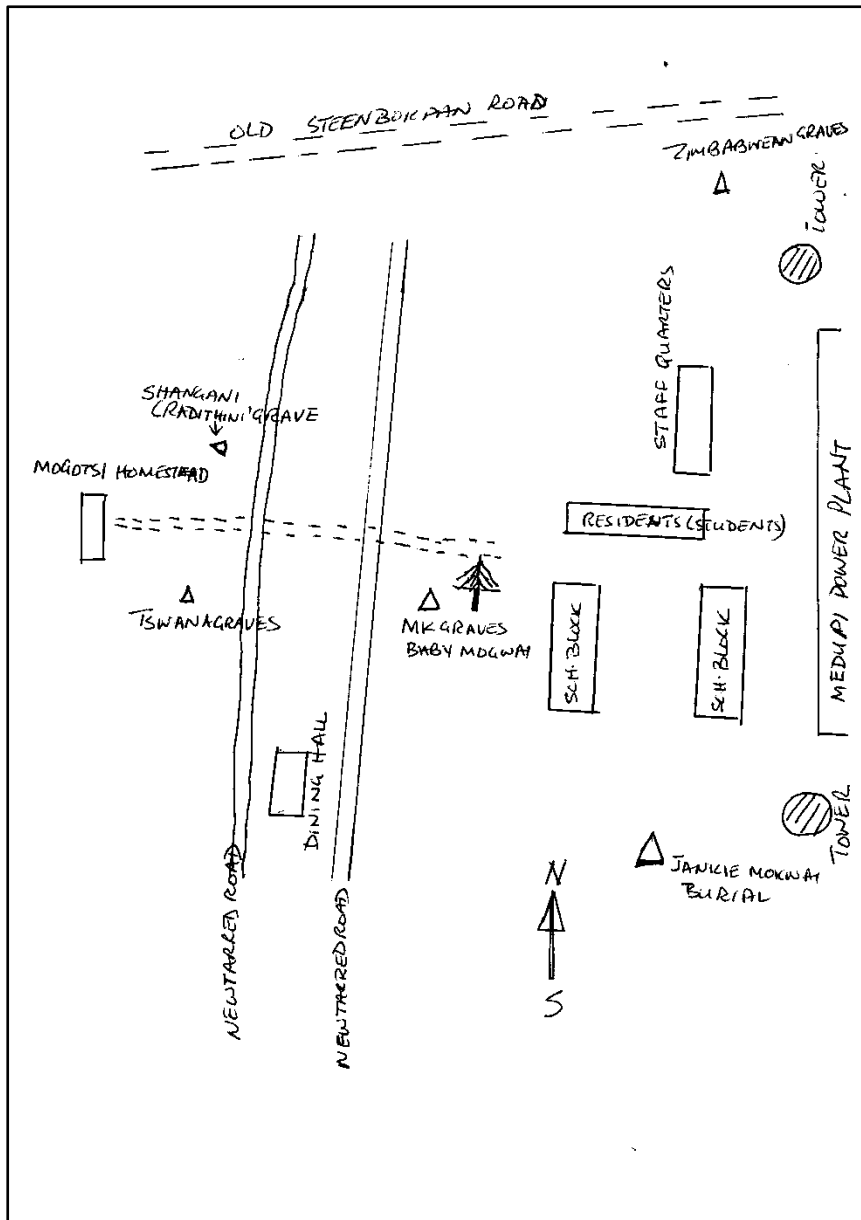


Fig 9. Reconstruction of the relative position of graves and buildings in relation to the current landscape (sketch map not drawn to scale).



Fig 10. Ground sketch plan: 1. Mogotsi Homestead; 2. Shangani's (Radithini) grave (Site No 14⁸); 3. Tswana burials (Site No 15); 4. Farmhouse (Site No 11); 5. Mogotsi burials (Site No 12); 6. Jankie's / Shangani burials (Site No 7); 7. MK burials / Baby Galaboe Mogwai burial (Site No 10); 8. Zimbabwean burials (Site No 16); 9. School buildings.

7. FINDINGS OF THE INVESTIGATIONS

A priority evaluation of submissions was made and sites divided into two groups:

Priority 1 concerned graves located west of the power plant which had been disturbed, destroyed or buried under stockpile.

Priority 2 concerned graves which had not been disturbed and were not threatened by development. These appeared to be straightforward cases and not burdened with controversy, and better we discuss these first. There was a common concern that the graves must be protected. Eskom was requested to grant access to the sites for descendants and next of kin of the deceased and other members of the public who

⁸ This refers to the Site No in the Site Inventory spread-sheet.

might be interested in the heritage or want to conduct ritual performances. These demands appear to be straightforward and will be dealt with later under Proposed Remedial Actions.

7.1. Priority 1 Submissions

7.1.1. The Exhumation of Jankie Mokawe

In her submission, Jankie's mother, Mrs Francinah Mokawe said that no proper rites had been followed. The impropriety in the whole operation was blamed on the urgency created by an Eskom Manager, Mr Johan Kruger. Mrs Mokawe said that she was experiencing persistent stress disorders considering the indecent exhumation.

On the other hand, Mr Rueben Kekana found himself in a difficult situation in which he had to exhume Jankie's remains without actually having consented to do so. In his submission this had caused deep psychological trauma. This is rooted in the African belief that it is a taboo to tamper with graves. In other ramifications, Mr Kekana believes that this indecent act had cast a bad spell and affected his social and family life. He strongly believes his part in the movement of the grave is one reason why he had not been able to find employment since then.

The two reported that at about the same time the exhumation was carried out, there were reports that some bones had been unearthed during the site preparation. They claimed that Mr Kruger and the Local municipality's former mayor had hastily arrived at the conclusion that they were bones of a donkey without scientific determination having been done. The two also reported a Shangani man buried in the same area as Jankie, whose remains were not accounted for.

Mr Kruger's cavalier approach to a very sensitive issue is deplored in both submissions. The general view is that he wielded a lot of influence outside the limits of his appointment with Eskom. They think that Mr Kruger might have misled Eskom management since there was no timeous response or decision made on grievances.

At the time Mr Kruger had been reported to have passed on, which turned out not to be the case. No firm conclusion could be made about these allegations.

7.1.2. Infant burials

It would have been very difficult even for the most practiced archaeologist to locate infant burials without the help of informants with knowledge about them. Further research was done to understand this burial practices. In South Africa while infant mortuary practices vary from area to area, some common traits can be seen. Infant graves did not have grave markers. Infants were not given a full funeral ceremony and information about bereavements was often shared with a limited number of very close relatives. Infants have no social circles of their own and their parents often want to keep information about bereavement within narrow circles of very close relatives. Burial was also done with a limited number of attendants. Among the Northern Sotho infants were buried under the floor of the main living hut. This rite seems to symbolise the recycling of a young soul which had hardly started life.

Among the Venda infants were buried in pots outside the village or on the edge of streams (among their Shona neighbours to the north). In a recurrence of the recycling theme the pot represents the mother's womb.

In four of six infant burials at Medupi the individuals had not been given names. There were no graves markers. All these factors add to constrain memory and beyond a generation most such burials are forgotten. An archaeologist should be absolved for failing to find them, barring public consultation. What level of significance should be accorded to infant burials; whether they are as important as adult burials? This matter is not for the heritage experts to decide. This is culturally determined, and we duly respect the views of the community that infant burials are as significant as adult burials, and they need to be given the same level of respect and protection.

The emerging theory is that it is difficult to find a threshold definition of grave / burial on the basis of material evidence. Thus in the cases in point we had to relax rules and accept a site pointed out by a claimant as valid "material" evidence.

7.1.3. Adult burials which have not been accounted for

In their submission, Ms Martha Mogwai and Mr Richard Tibanyane alleged that human remains were found during the foundation preparation phase and secretly buried at Marapong cemetery. They alleged collusion between Mr Johan Kruger and officials in the Local Municipality to keep this matter away from public attention.

- (i) In their submission within 150m west of the Power Plant there was a large *Sclerocarya birrea* (Marula tree) underneath which there were graves of 3 uMkontho weSizwe (MK) soldiers killed by security forces in the 1980s. The operatives were engaged in an underground campaign to win support for the ANC and the struggle. Ms Mogwai and Mr Tibanyane could not remember the names of the MK operatives (Site No 10, Fig 11).



Fig 11. Approximate position of graves of MK operatives

- (ii) About 400m west of the Power Plant there was an isolated grave of a Shangani man. There were reported sightings of the man's ghost near the farm village beating a tin and making a metallic sound which earned the ghost the name Radithini (he who beats the tin) (Site No 14) (Fig12).



Fig 12. Approx. position of a Shangani man (Radithini's grave) Site No 14.

- (iii) About 300m west of the Power Plant there were graves of three (3) Tswana men from Botswana who lived on the farm.
- (iv) Within 100m of the northwest foot of the Plant, three (3) Zimbabweans killed by Security forces in the 1980s were buried there. They were in transit to the mines in Thabazimbi and mistaken for anti-government guerrilla infiltrators.

We note in all these submissions the lack of any person who could be designated as next of kin or trustee.

7.2. Consolidated Summary of Claimant Submissions

It is necessary to consolidate the main points in the submissions from local community members who were interviewed. Three points in the submissions may be summarized as follows:

- (i) *Presence of Graves and other Heritage Sites in the Construction Area*

Since 2007 the local communities repeatedly approached Eskom in respect of their concern about graves and other important sites deserving to be protected as construction had started. Members of the local community were frustrated that Eskom officials had either been slow or reluctant to address the issue. In one instance the local community had suspected collusion between Eskom and officials from the Local Municipality to conceal evidence. This refers to reports that human bones had been discovered during preparation of the site and secretly transferred to Marapong Cemetery.

(ii) Exhumation of Jankie Mokawe

In the view of the family, Eskom Officials exerted undue pressure for the removal of Jankie's grave from the site. The action was tantamount to duress and forced labour. The family, including Mr Rueben Kekana, had succumbed to duress and therefore did not excavate the grave because they wanted or volunteered to do so. This experience triggers feelings of guilt, causing trauma and persistent stress disorders. In Mr. Kekana's case, such feeling entangled with belief that such an action brings with it a spell of bad luck, which explains why he has not been employed since then.

(iii) Demand for Financial Compensation for Missing Graves

In all cases of alleged destruction / violation of graves family members of the deceased demanded financial compensation.

(iv) Public Access to Graves and Sites of Cultural Value

Eskom was requested to grant interested and affected members of the local community unlimited access to graves and other sites of cultural value

(v) Reservation of an Arena for Ceremonies

Eskom must reserve a place for members of local community to hold ceremonies in accordance with their traditions and to commemorate those buried / whose graves were destroyed in the development area.

(vi) Holding of Cleansing Ceremony

A cleansing ceremony was necessary to atone for the destruction of graves and uncustomary procedures followed in the exhumation of Jankie Mokawe.

(vii) Employment of People from Families Affected by the Development

Eskom must reserve a quota in the low skills category for employment of some members of the aggrieved families.

7.3. Preliminary Conclusions on Testimonies of Members of the Local Community

The above submissions comprised packages of grievances and solutions. Allegations of negligent conduct and wrong doing were leveled against Eskom officials. Further consultations were necessary to probe these allegations. Even more critical to the study, arriving at definitive remedial solutions on a matter so complex as the destruction / desecration of graves required more than just recording views and sentiments of the aggrieved parties. Review of approach to collecting data was therefore necessary to bring in much broader experience and expertise.

8. EXTENDED CONSULTATIONS

8.1. Background and Terms of Reference

While the community engagement seemed to provide many critical leads to the study, it also prompted many questions which could not be answered within the scope of the original Brief. For instance, little information had been obtained about site administrative arrangements at the time of commencement of construction. It was therefore necessary to conduct interviews with members of the site administration in order to understand social engagements between local community and Eskom. Relying solely on information tendered by the local community to form a picture of the interface between the two sides would obviously have been flawed. On a more elementary level reconstructing chronological development of the Medupi Project was obviously an important control; the timeline as obtained from testimonies by local community members required confirmation.

It also emerged from the submissions that the exhumation of Jankie Mokawe and transfer to a new resting place in Marapong, despite good intentions and adherence to ritual practice, had not brought closure. The community had given their side of the story; Eskom officials who presided over the project, independent monitors and the funeral service provider, for instance, had not been consulted to provide verification of events leading up to exhumation and reburial.

Equally important, we realised the need to explore multiple perspectives to inform the study, which necessitated much broader participation reaching out to contracted independent monitors and experts in the field of heritage. Within this scope is a second component of the extended Brief to seek views of heritage practitioners working in a wide range of situations, but with a known and demonstrable understanding of heritage management, in particular handling of community issues. In cases of demand for reparations or redress it has been found that contestations are not a question of law, but social and ethical justice. In social justice, there is emotion, and the law might not adequately deal with emotional issues. Heritage management here needs to outsource from Psychology and Sociology.

8.2. Consulting those who had been Involved onsite at Medupi

8.2.1. Mr Ntshavheni Phidza

Mr Phidza was a Project Manager (Eskom) for civil works and he was appointed at the site in June 2007 during the clearing and grubbing phase. All in all he was assigned to Medupi from 2007 to 2011. However in 2009/10 he was working for Roshcon Division of Eskom making periodic monitoring visits to the site.

In his testimony he said clearing and grubbing started in March/May 2007 after which the main plant terrace was prepared. Before effective his appointment in June Mr Phidza had been paying inspection visits to the site from time to time during clearance. The ground upon which the terrace was laid was a low convex mound with rock outcrops making a pronounced slope to the north. This area had to be cut and levelled to create an artificial terrace for the plant.

At the time of appointment, Mr Phidza was neither aware nor heard of the presence of graves to the west of the terrace. There was however mention of 2 baobabs which needed to be relocated.

Mr Phidza said, as clearance continued, a grave was discovered to the west of the terrace. Expectedly, Mr Johan Kruger, who was resident Site Manager, initiated steps for identification of the deceased and next of kin. Mr Kruger's overtures seem to have failed to bring about positive engagements, this despite his fluency in Northern Sotho. Eskom fearing fallout with the community recused Mr Kruger from communicating with the family. Mr Phidza and Ms Jainthree Sankar were brought in to broker a settlement and diffuse the tension. Mr Phidza had observed that the local community thought Mr Kruger was aggressive and disrespectful of cultural sensitivities surrounding graves.

In the package of demands the family had made two important conditions:

- (i) The family would be responsible for exhumation. This was a voluntary option since Eskom had offered to provide professional experts to do the job.

- (ii) Movement of the grave would be done with ceremony in which Eskom provides catering including beer and a cow to be slaughtered at the site. Eskom ruled that this was not possible under its occupational regulations.

In the event

- (i) The family conducted a ceremony with water in a plastic bottle before exhumation.
- (ii) Members of the South African Police Services attended.
- (iii) Family members dug the grave. As precaution Eskom conducted an induction of the diggers. The cement slab was removed and rectangular trench was sunk. No material was retrieved from the chamber except some plastic and darkish soils indicating that Jankie's remains had decomposed completely. These were put in the casket for reburial at Marapong Cemetery.
- (iv) There were reports at the time that there were other people buried alongside Jankie, which prompted excavation of trenches on either side of Jankie's chamber. Nothing was found.
- (v) The remains were handed over to Martin Funerals Services who were in attendance, to conduct the reburial.
- (vi) There was food catering for attendants at the home of Jankie's mother in Marapong.
- (vii) A member of the Local Municipality delivered a speech on behalf of the Mayor

In conclusion Mr Phidza said that the family elected to do the exhumation itself. He observed during the occasion that the family appeared satisfied about the procedure. There was no pressure brought to bear on whoever participated in the act since Eskom had offered to hire experts instead. He said between the discovery of Jankie Mokawe's grave and exhumation on 24 November 2007 there was a reasonable window period during which members of the local community could have reported the presence of other graves.

On one occasion an old man (name not given) was brought to the site accompanied by some members of the community who took them to the graves south of the railway line (Site No 1 in the heritage register).

Mr Phidza then tendered names of other people engaged at Medupi at the time worth approaching to record their own accounts on this phase of the Medupi Project:

- (i) Ms Jainthree Sankar
- (ii) Mr Johan Kruger

8.2.2. Ms Jainthree Sankar

Ms Sankar was the Project Deputy Director (Eskom) from 5 June 2007 until 21 January 2013. While her official appointment was effective from June 2007, she had been working at the site since February 2007 in the same capacity, thus she was on site when clearing and grubbing started in May 2007. In this position she superintended over community and stakeholder engagement, safety and environmental issues. At the time she was aware that there were graves located outside the construction area, but Jankie Mokawe's grave had not been discovered.

She said in the particular case of Jankie's exhumation they had established contact with the family who presented a package of demands. Her liaison representatives included communicating the processes of movement of the grave, timelines and seeking written permission from the family to move the grave. She said initially there were other families claiming the graves and verification of the claims was done.

Although she was not present during the exhumation, she was aware that the family had volunteered to carry out the exhumation itself. The family asked for compensation for relocation of the grave. Eskom officials maintained that they were only responsible for the costs of relocation including, food catering for people present during the exhumation. The remains were handed over to Martin Funeral Services for reburial at Marapong.

At the same time reports of additional graves were received. There was quite a lot of public discussion around graves and ground surveys done with some local people.

No one could pinpoint the location of the rumoured graves. Contact was made with the principal of the school. While she noted that no open public participation processes were made, feedback sessions were brokered by the Local Municipality. Community lobbies were led by Stephen Tibanyane and Koos Motsholakhetshe. There was another man called Henry. The meetings were emotionally charged. The issue of financial compensation had been raised then.

The discovery of bones generated intense public excitement and cranked the rumour mill about the occurrence of human bones. All bones found were recorded and in all cases they were animal bones.

In conclusion, Ms Sankar said she was satisfied that Eskom had handled the graves issue professionally. She however noted that treatment of graves was an emotional issue with potential to destroy relationship between Eskom and the local community. The fact that the matter has tendency to close and resurface is a vexing puzzle. With hindsight, Eskom needs to improve its public communication skills, sharing its vision and building mutual trust.

8.2.3. Mr Philip Dukas

Mr Philip Dukas was employed by NCC - Environmental services as an Environmental Control Officer. He was posted to Medupi in April 2007 and thus arrived at the site a month before the start of clearing and grubbing in May 2007. NCC – Environmental Services was an independent entity contracted to monitor compliance in terms of the National Environmental Management Act 108 of 1998 and the Environmental Authorisation (EA). In his role Mr Dukas prepared monthly reports for the site Environmental Management Committee.

Mr Dukas was not aware of any graves apart from those which were mentioned in the Heritage scoping report. At the time clearing and grubbing started in May, grass cover which had been invigorated by the summer rains was withering out and ground visibility improving. Jankie Mokawe grave was found in the course of clearance and operation in that area suspended.

During the exhumation and relocation of Jankie's grave, his role was to ensure that correct procedures were followed in the interest of compliance. An archaeologist, Mr Frank Teichert was hired from Pretoria. SAHRA was notified and they sent an officer to witness the exhumation. Also in attendance were a Member of SAPS, Health Safety Officer, and Martin Funerals.

He recalled that the family performed some rites with water and some recitations done. Although he could not specifically remember who dug the grave, additional excavations had been conducted on either side of Jankie's grave in view of the claims that there were more burials at the site. No bones had been found in Jankie's chamber. Instead Martin Funeral Services had curated a portion of the soil deposit from the chamber for reburial at Marapong.

Mr Dukas recalls that there was an activist, Koos Mosholakhetsa, who was not a member of the Mokawe family but claimed that there were a number of graves in the construction area. An old man pointed out the cemetery south of the Railway line [Site No 1]. Mr Philip Dukas said apart from Koos's claims no other reports were received at the time. Mr Dukas said Koos incited activism on the graves issue. He approached the Mayor's Offices and subsequently made death threats against him through telephone messages.

Mr Dukas went on to say that he had been accused of having colluded to secretly move some human bones from the site. He confirmed that bones had been found from time to time. All bones had been examined by the archaeologist, Mr Frank Teichert, and found to be animal bones.

Mr Philip Dukas made a photo record which has proved to be very helpful in the reconstruction of events in the period leading up to the exhumation of Jankie, including involvement of the previous owner of the farm and the school teacher (Figs 13 -19).

Mr Dukas recommended further consultations with

- (i) Ms Jainthree Sankar – Deputy Project Manager, Eskom

- (ii) Johan Kruger - Site Manager, Eskom
- (iii) Dan Erasmus - Roshcon
- (iv) Frank Teichert - Archaeologist
- (v) Mayor of Marapong
- (vi) Previous owner of the Farm
- (vii) Teacher at the Farm School

In concluding remarks Mr Dukas said that he was not sure about appropriate remedial actions since the matter of graves appeared to close and open again taking new dimensions. In his view Eskom and the Contractor had handled the matter professionally.



Fig 13. Previous owner of Farm and Headmaster in front of Jankie Mokawe's grave [Photo: Philip Dukas).



Fig 14. Signing permit to move Jankie Mokawe's remains [Photo: Philip Dukas].



Fig 15. Family members at Jankie Mokawe's grave on the day of exhumation [Photo: Philip Dukas].



Fig 16. Family at Jankie Mokawe's grave performing rituals [Photo: Philip Dukas].



Fig 17. Family members digging up Jankie's remains [Photo: Philip Dukas].



Fig 18. Mr Rueben Kekana in the foreground [Photo: Philip Dukas].



Fig 19. Soil placed in the coffin for reburial [Photo: Philip Dukas]

8.2.4. Mr Frank Teichert

Mr Frank Teichert is an archaeologist at the National Cultural History Museum. He was present at the exhumation of Jankie Mokawe. Once he had accompanied Archaeologist, Johnny Schalkwyk to investigate reports of a grave. It had turned not to be a grave. On a second visit he had been involved in negotiations with the family of Jankie Mokawe a meeting which was arranged by Martin Funeral Services (Fig

20). He said he recalls that emotions were running high. By then it had been confirmed that the grave in question was younger than 60 years and would be treated in terms of the Human Tissue Act. Subsequently, he then attended the exhumation on 24 November 2007, invited to give advice if it was needed. In the event he was only an observer, and did not take part in the digging, since the family had elected to dig up the grave itself and also the fact that the grave was not a heritage grave in terms of Section 36 of the NHRA. He said three different locations were probed and no human remains were obtained. By three different locations he is obviously referring to the Jankie's chamber and the trenches dug on either side. No human remains were found in all three trenches, hence the decision to take soil samples from these locations and place them in the coffin for reburial.

Mr Teichert said that the family spokesperson, who was a local member of the Local Council, was making extra demands [this refers to Koos Mosholakhsetse].



Fig 20. Archaeologist Frank Teichert at Jankie Mokawe's grave [Photo: Philip Dukas]

8.2.5. Statement from Martin Funerals

A written statement was obtained from Ms Anne Marie Ludik of Martin Funerals in respect of their role in the exhumation of Jankie Mokawe.⁹ This was followed up with telephone discussions in which the service provider further clarified some key issues. In their statement four places had been probed and none had yielded human remains, despite claims that there were several graves in the area. Mr Peter De Villiers had supervised the digging. She said generally the family had been uncooperative throughout several key stages in the project. For health and safety reasons the initial plan had been for the funeral staff to perform the task. Frank Teichert had been invited to provide archaeological expertise. There was risk of exposure to tetanus and Hepatitis B virus against which diggers had to be immunised. Mr Peter De Villiers had planned to superintend the dig in accordance with these standard precautions. The family members objected insisting they would do digging themselves with the blessing of a traditional doctor. In their submission, the family was allowed to dig up to 50cm after which Mr De Villiers instructed that the archaeologist took over.¹⁰ The probe was extended to 2.6m with no human remains found. Three other areas nearby were probed yielding no human remains. The disagreement with family members continued at the funeral ceremony where a portion of food provisions purchased for the funeral attendants, they allege, was not accounted for.

9. OBSERVATIONS ON OFFICIAL SUBMISSIONS

We observe that all official narratives follow the same track and no variations are considered of significance. It is therefore necessary to give a reconstruction of events.

⁹ Martin Funerals now trades as African Grave Relocation Specialists.

¹⁰ This is not confirmed by the other narratives. Thus we take it that the family was entirely responsible for the digging.

9.1. Eskom's Engagement with the Family and Local Community after the Discovery of Jankie Mokawe's Grave

Jankie Mokawe's grave, sealed under a cement slab and with headstone was discovered in 2007 during site clearance. The discovery had opened a flurry of claims about the occurrence of other graves in the area. The local municipality, through the office of the Mayor, had presided over meetings between Eskom Officials and the community to look into the claims. In the ensuing engagements and until the exhumation of Jankie in November 2007, no one from Marapong community had come forward with specific claims or pinpointed the location of other graves in the construction zone. Instead an elderly man (name not given) had pointed out the cemetery (Site No 1) south of the railway line and outside the construction zone. Construction at the plant therefore continued. Thus Eskom was under the impression that the matter of graves had been closed.

9.2. Exhumation of Jankie Mokawe

There is no significant variation in the accounts of members of the family on one hand and that of Eskom Officials, independent monitor and archaeologist on the other from the point that as a historical fact the family of the deceased that the digging of the grave had been done by family members. A ceremony had been performed and provisions for the occasion provided by Eskom as demanded by the family. As precaution an induction had been done for the diggers. Reservations about slaughtering a cow and consuming alcohol on site had been upheld as unbendable occupational safety regulations.

The point of difference is that the Family deny that they had agreed to dig the grave or had acted out of free will. In their account they had been pressured to do so.

10. BROAD DISCUSSIONS

10.1. Eskom Approach to Public Involvement

The local municipality brokered Eskom's public outreach programme, and the efficacy of this approach needs to be scrutinised. In modern development theory, public participation is a formalised process with a checklist of procedures such as formal notification with timeframes using a wide range of media to ensure high level penetration of message, eliciting high volumes of attendance, freedom of participation and expression. It is common practice to invite experts in the field to run such programmes rather than make ad hoc arrangements. This is not to underplay the crucial liaison role of the Local Municipality, but we note their lack of expertise in the field.

At the time (in 2007) when the public seemed to be in high pitch to engage, an opportunity was therefore lost to commission full public publication. While there is no doubt that Eskom was acting in good faith, it failed then to act decisively to address the public grievances around the graves thereby allowing the problem to drift.

10.2. Legal and Ethical Considerations on the Exhumation of Jankie Mokawe

We note that initially Mr Johan Kruger had probably exerted unbearable psychological pressure on the family. But understandably as a site Manager he was concerned about lost production time. We also note that to defuse cultural tensions, by the time of exhumation, Mr Kruger had long been recused of that responsibility. On a balance of probability the official accounts are close to our conclusion that during negotiations leading up to the exhumation the family had elected to carry out the actual digging up of the remains. With the movement of the grave done, a false impression had been created, at least on the side of Eskom, of peaceful settlement and closure. In our view whether the family had agreed to dig up the grave, acted under duress or it is matter of belief that they had been coerced to do so, is probably beside the point. Of greater significance to the issues at stake is the fact that the family members performed the exhumation. The archaeologist's judgement was

correct that a grave less than 60 years old was outside the application of Section 36 of the National Heritage Resources Act (No 25 of 1999).

This leaves us to consider means by which the graves could have been moved other than delegating responsibility to the family, whether there was free will or duress.

In 2007 there were two pieces of legislation which are of relevant application to this matter, i.e. the Human Tissue Act (No 65 of 1983) and the National Health Act (No 61 of 2003). Both Acts provide broad guidance on the treatment of human remains, but without specific provisions on exhumations and reburial. Section 90 (1a) of the National Health gives the Minister of Health powers to pass Regulations “*on anything which may or must be prescribed in terms of the Act.*”

It was only in May 2013 that **Regulations Relating to the Management of Human Remains** were gazetted. It is necessary to read in full the relevant provision in Chapter 9 of the Regulations titled “**Exhumation and Reburial of Human Remains**” Section 26(4) stipulates that:

The local government shall grant a permit for exhumation of human remains on condition that the exhumation of human remains shall only be done by a registered undertaker, such undertaker shall be based in the jurisdiction of the local government issuing the exhumation permit referred to in the regulation.

Despite its great significance, laws and regulations are not applied in retrospect. What would have a reasonable person done in view of the absence of law or regulation? We can draw from archaeological practice that exhumations are better handled by professional curators rather than delegated to the competency of untrained people. Good intention on the part of the funeral curator and Eskom officials on this matter is beyond question; it was necessary to accommodate the wishes of family members and to win their cooperation. Decisions were made on the spur of the moment. But exhumations particularly when assigned to those related to the deceased instead of bringing about appeasement have the potential to cause emotional trauma and stress disorders. The professional judgement of archaeologists is that family members should not have been allowed to dig the grave themselves. We therefore note oversight but not malicious intent.

Our judgement emphasises good communication to avoid a protracted dispute. Eskom should open discussions with Mrs Francinah Mokawe and Mr Rueben Kekana to arrive at a mutually amicable settlement. Financial compensation alone cannot adequately deal with the emotive issues in this matter. It must be considered alongside a package of other measures such as communication, education and trauma therapy.

10.3. Demand for Financial Compensation for Graves that have been disturbed or destroyed

While this matter is outside the competency of this study, it stands out as a common element in all claimant submissions. In order to provide guidance within the ambit of a heritage impact assessment, we consulted experts in a wide range of practices and employment situations in the heritage sector in South Africa including universities, statutory bodies, and world heritage sites.

The term “reparations” is brought into this discussion in order to understand dimensions of proposals by claimants that Eskom should pay financial compensation. The Oxford Advanced Dictionary defines Reparations as: *The action of making amends for a wrong one has done, by providing payment or other assistance to those who have been wronged.*¹¹ The meaning of reparations has evolved over the years, gaining currency after World War II when conditions of peace were that Germany should pay for war damages / plunder caused to its opponents. Today the word is used in Transitional Justice which refers to cases of gross human rights violations which are often brought before the International Criminal Court (ICC). It is important to qualify that in the case of Medupi, there is nothing to suggest Eskom’s actions amount to wanton or malicious conduct. It was accidental and with the benefit of field experience we know that the nature of archaeological and historical sites are such that it is possible that hidden or subterranean sites could be overlooked during a study and development works.

¹¹ Advanced Learner’s Dictionary

All heritage experts were strongly opposed to cash payment as compensation for loss or sense of loss as result of the disturbance / destruction or desecration of graves. This view is predicated on the nature of cultural significance of graves. While graves fall within the definition of cultural property, they must be distinguished from other forms of cultural property such as works of art or buildings. They cannot be subjected to valuation in money terms or liquidated as other cultural assets. What is the price of grave? It cannot be sold. There is no right of property in a deceased himself/herself. The right of property to a deceased's grave and remains therein in customary law is claimed by those who are related to the deceased by association. Claiming compensation for injury is not in accordance with any customary practices in South Africa. Furthermore financial reparations for disturbed graves will open floodgates for claims in the future. In professional wisdom, creating such precedence will breed a culture of commercialisation of graves located in areas earmarked for development, and this should be avoided.

In Zimbabwe a mobile phone network service provider disturbed some chiefly graves while constructing a base station in 2010. The matter was significant in that those buried there are associated with custodianship of Great Zimbabwe, 5km distance and inter-visible with the graves site, now a premier national monument and World Heritage Site. While local chiefs had given green light to the base station project, no heritage impact assessment had been conducted in accordance with the law. The responsible heritage authority retrospectively commissioned a heritage impact assessment which had confirmed damage to the graves and mortuary goods. Meanwhile the local chiefs requested that the network provider appear before a traditional court with a fine of 2000 (two thousand) head of cattle, or USD2 million, in addition to holding an appeasement ceremony. The matter spilled into media arena. The network company spurned the demand, while high value of the fine required the matter to be heard in the High Court anyway. The matter was dismissed with costs on grounds that the chiefs had been aware of the presence of important graves likely to be disturbed by the proposed development. Meanwhile the heritage authority in its findings advised the network provider to comply with the chiefs' request to hold an appeasement ceremony, but declined to comment on the demand for financial compensation.

This case study might provide comparative insight on the issue of destruction of graves and possible public fallout. However we are not competent to advise on possible ramifications if the Medupi graves become a subject of litigation. We are not aware of similar cases brought before the courts in South Africa, nor have we researched case law on the matter.

SECTION III: PROPOSED REMEDIAL ACTIONS

11. PROPOSED REMEDIAL ACTIONS AND RECOMMENDATIONS

Recommendations and remedial measures here presented are drawn from much wider consultation and debate with inputs from experts in the field of heritage management. Mindful that Heritage Management is an evolving discipline, we thus draw from international best practices without losing sight of the wisdom of traditional cultures in South Africa.

A distinction is made between graves that are located outside the development area and those in the area where the Power Plant has been constructed, which have been accidentally disturbed or destroyed, or have been relocated. In mitigation we consider both applicable physical and non-physical measures.

11.1. Proposed Remedial Actions for Undisturbed Graves

These refer to graves which lie outside the construction and dump areas, including those that have not been confirmed and have not been disturbed. Hence they are considered to be not at risk. One site with 4 graves (Site No 1, Annexures 1A & 1B) is properly maintained with regular vegetation control and is enclosed in a rectangular palisade of steel (Fig 21). The other grave sites have not been cleared but nonetheless are considered out of danger of disturbance (Sites No 2, 3, and 4) (Fig 22).



Fig 21. The main burial site has four graves (Site No 1).



Fig 22. Site No 2. Burial under a large *Sclerocarya birrea* (Marula tree)

Sustainable management of the graves (or burial ground) as sacred heritage is proposed as a part of a future **Heritage Management Plan** for Medupi Power Station.

11.2. Disturbed Graves

All graves that have been disturbed are the subject of a public investigation as part of Phase II Impact Assessment. One burial, that of Jankie Mokawe, was exhumed and the remains re-interred at Marapong Cemetery (Sites 7 & 20, Figs 23-24, Annexures IA & B). The rest of the graves, it appears, have either been disturbed beyond the point of retrieval or they are buried under stockpile (Site No 5, Fig 25). Attempting to recover them is like the proverbial searching for a needle in a haystack. The field of search would be wide with difficult variables – either they are still there somewhere *in situ* or they were moved during clearing and grubbing with topsoil and spoilt material.



Fig 23. Approx. location of Jankie's grave, about where people are sheltering.



Fig 24. Jankie's new grave at Marapong cemetery.



Fig 25. Site of Johannes Tibanyane and Sophia Moatshe's graves now buried under topsoil stockpile (Site No 5).

In the short term appeasement of aggrieved families is recommended. A plaque with names of the all deceased whose graves have been lost will be unveiled. Sustainable management of both undisturbed and disturbed graves requires a **Heritage Management Plan**. Chapter 10 deals with complainant submissions on disturbed / desecrated graves. Long-term plan for sustainable management of relationships between Eskom and those claiming to members of the families buried there is recommended.

11.3. Management of Claims of Destruction / Desecration of Graves

For purposes of administration we divided the proposals into Claims for Compensation and General Proposals.

11.4. Claims for Compensation

These claims pertain to cases of loss or sense of loss or injury as a result of the manner in which graves or remains of the deceased were treated. The proof furnished on the part of the Claimants is association with the deceased by kinship or descent. Loss or injury refers to disturbance or improper treatment of a deceased or grave. Using these criteria it is our view that no claims can be entertained for graves which have been violated but for which there are no known kin or descendants (examples are the Tswana, Shangani, MK and Zimbabwean graves).

- (i) Heritage practice does not support the principle of compensation for loss of graves. It does not resonate with cultural norms. It is unthinkable to value graves. Professional opinion is in favour of community programmes, other than cash payments, which can bring about appeasement and closures.
- (ii) Eskom should open discussions with Mrs Francinah Mokawe and Mr Rueben Kekana to arrive at a mutually amicable settlement regarding their part in the exhumation and the consequences they have suffered, although unintended. Again drawing on the professional judgements of experts, financial compensation alone cannot adequately deal with the emotive issues and

belief system. It may be considered alongside a package of other measures including good communication, education and trauma healing.

(iii) This research emphasises good communication. Eskom needs to articulate its broad vision and the values that govern its public mandate.

(iv) A total of nine (9) graves/deceased persons are the subject of specific claims:

No	CLAIMANT	DECEASED	Dob/D	No	DETAILS
1	Mogotsi Sinah	(i) Harry Mogotsi (ii) Bake Mogotsi (iii) Sarah Mogotsi (v) Sinah Mogotsi	b1965? b1967? All died 1968?	4	Graves disturbed / unaccounted for
2	Martha Mogwai	Baby Galaboe Mogwai	b1980-03-7 d1981-06-17	1	Graves disturbed / unaccounted for Grave buried under topsoil stockpile
3	Magwai Norah	(i) Baby Johannes Mogwai (ii) Baby Sophia Moatshe	d1962	2	Grave disturbed/ unaccounted for Grave buried under topsoil stockpile
4	Mokawe Francinah	Jankie Mokawe	b1968-04-07 d1974-03-15	1	Improper exhumation and reburial
5	Keanu Rueben	Jankie Mokawe		*	Forced exhumation
6	Tibanyane Richard	Baby Johannes Tibanyane	b1980-06-27 d1980	1	Buried under topsoil discard
	6 Claimants				9 Deceased

11.5. General Recommendations

The second set of proposals sets out a framework for long term management of graves and strategies to build partnerships between Eskom and local communities under its Corporate Social Investment Programme:

(i) *Social Benefits of Association*

Through Eskom's Development Foundation activities and the Medupi project developments, local people with historical associations with Medupi through graves should be provided an opportunity to apply for employment vacancies when they arise.

(ii) *Educational Bursaries*

Through Eskom's bursaries and in-service training opportunities, provide the opportunity for local people with historical associations with Medupi through graves to apply for these and in particular for students from Marapong schools.

(iii) *Protection and Maintenance of Graves in situ*

A majority of interviewees expressed the desire to have the graves protected *in situ*, i.e. in the areas in which they are located:

- Fencing off all the graves and clearing grass.
- Moving back the stockpile at Grave Site No 4 (Molisiwa); alternatively movement of the grave to Site No 1 is recommended.

(iv) *Sacred Pools*

The two sacred pools would be protected.

(v) *Memorialization*

Eskom must establish an arena with a commemorative plaque/plinth in memory of those buried inside and outside the Construction Area. The plaque will bear names of the deceased not accounted for. This site will be venue (shrine) for annual ceremonies which residents used to hold in honour of the dead and to seek rain.

In designing the sacred landscape planting a **Baobab tree** had been proposed. The Baobab is a special tree, protected since it is universally respected on the African continent with associated cosmological beliefs. Cosmology in the anthropological sense refers to knowledge and belief systems and interpretations and practices of society about their place and existence in the world. Old Baobab trees particularly those with cavities in their trunk would have served as burial sites, rainmaking shrines or temporary or permanent homes. The Order of the Baobab is one of the three highest National Honours conferred by the State President on the occasion of Freedom Day to citizens who have distinguished themselves in the field of business, the Economy, Science, Medicine, Technology and Community service.

Marula trees can also be planted in the proposed Park. Large Marula trees (*Sclerocarya birrea*), which have since died, grew at Sites 5 and 10. The species occurs in abundance in the area and very productive trees were seen at Medupi and Marapong. The prevalence of Marula trees (*Sclerocarya birrea*, subspecies *affray*) in the loved ecosystem is well known. Its association with people in Southern Africa as a non-timber forest product (NTFP) dates back many thousands of years. Marula seeds appears in archaeological deposits dating back 10 000 BC, with 24 million seeds having been recovered from Pomongwe Cave in the Matobo Hills.¹² The fruit produces white or grey nuts which are rich in minerals and vitamins. The tree has multiple uses - the wood (carving), bark, leaves (medicinal), fruit, nut and kernel (food). The fruit is treasured for the acid juice which can be taken raw, or is fermented into a wine – *Mukumbi* - widely consumed in South Africa. A Marula festival takes place during September in Phalaborwa, Limpopo.

The fruit is much favoured by elephants which are known to move from one tree to the next when it is in season. Domestic animals such as cattle, sheep and goats also

¹² http://www.krugerpark.co.za/africa_marula.html

eat the fruit. Large Saturniid caterpillars are gathered from the Marula tree in the wet season.

Tambooti trees (*Spirostachys Africana*) feature in connection with one of the pools where a number of individuals grew close together. It is a protected tree species in South Africa. The tree has a wide geographic distribution from South Africa to Tanzania. It is a cultural tree used a furniture wood. The heartwood constitutes 80% of the trunk and makes good furniture. The latex is poisonous and is used as an ant-repellent in granaries and for trapping fish. The seeds are not easy to grow but assistance can be sought from botanists.¹³

The creation of memorials for the “missing” is not an entirely modern phenomenon in Southern African societies. Suppose a person is swept away by a flooded river or taken by a crocodile and his/her remains not recovered, a traditional doctor is hired to preside over a ceremony starting at or near the scene of the tragedy to repatriate the soul of the deceased. Back home a goat / sheep would be slaughtered, the meat eaten by attendants; but the bones are wrapped in the fresh skin of the animal and buried in a grave. That will be the symbolic grave of the deceased.

(vi) *Holding and Cleansing / Appeasement ceremony.*

In accordance with the wishes of the local community a cleansing ceremony should be held at Medupi in respect of the graves that were disturbed or destroyed. Planning of the ceremony is the responsibility of the local communities in accordance with their cultural mores.

(vii) *Traditional Ceremonies*

Local Communities must be allowed to organise rituals at the graves and proposed shrine. Reasonable access will be granted to the graves and the proposed shrine.

(viii) *Relocation of all Graves to a Single Site*

¹³<http://www.plantzafrica.com/plantqrs/spirostachafri.htm>

Eskom might want to consider the relocation of all the graves to one area. Site No 1 is ideal for expansion into the proposed single cemetery. The advantage of the plan is that it frees land for future development. However it is necessary to build consensus on the issue through consultations with the families concerned and other government and civic institutions. This issue can be addressed in the proposed Heritage Management Plan.

(ix) Monitoring and Evaluation through a Heritage Management Plan

Monitoring and evaluation of efficacy of proposed remedies is necessary. The monitoring period can range from 24 to 36 months. In the short term, therefore, an independent monitoring mechanism is recommended. During the same period a Heritage Management Plan can be prepared and put into implementation.

All proposals discussed above form part of **Heritage Management Planning (HMP)** as a long-term strategy for sustainable management of the heritage. The aim of an HMP is to organise long term future protection of Heritage Resources. While this is outside the current scope of work, it is necessary to point out the benefits of a Heritage Management Plan.

The aim of a Heritage Management Plan is to organise long term future protection of Heritage Resources. The keywords are “sustainable conservation” to meets the needs of both present and future generations. An HMP will set out priorities for sustainable conservation and development of heritage resources. It will encourage future research to shed more light on the history of the resources as well as the best means of preserving them. In a HMP educational and cultural programmes are critical to create an appreciation among the public of the value of the heritage resources. A HMP is a tool for collaboration with stakeholders such as local communities. A HMP will develop a coherent narrative and interpretation for the heritage Resources within the context of the landscape.

12. CONCLUSIONS

The settlement of specific claims is an important part of the strategy to normalise relationships with the local community. This research however prioritises communication and the employment of a package of other measures with a holistic approach. A single remedy does not work, and general recommendations stated above reflect the same multi-pronged approach with medium to long term goals including elements such as:

- (i) Introducing social benefits of proximity and association
- (ii) Memorialization
- (iii) Educational bursaries
- (iv) Protection and maintenance of graves *in situ*
- (v) Traditional ceremonies
- (vi) Monitoring and Evaluation
- (vii) Heritage Management Plan

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<http://www.plantzafrica.com/plantqrs/spirostachafri.htm>

14. ACKNOWLEDGEMENTS

14.1. Members of the Local Community

- Mr Lazarus Seadisa, Traditional Doctor, Community Leader
- Claimants/Members of families of the deceased
- Other informants as listed in Annexure II

14.2. Stakeholders

- Medupi Graves Task Team
- Mr Wiseman Rikhotso: Department of Environmental Affairs (DEA)
- Mr Donald Lithole: LIHRA/SAHRA Board Member
- Ms Portia Ramalamula: LIHRA
- Commissioner Kgositsoi Sedupane: Cultural, Religious and Linguistic Rights Commission (CRL)
- Commissioner Richard Botha: CRL Right Commission

14.3. Independent Monitors/Others involved

- Mr Philip Dukas: NCC Group
- Adv. Tanya Venter: Chair of Madupi Graves Task Team

- Lizl Koekemoer: NCC Group
- Susan Slubert: NCC Group
- Ms Anne Marie Ludik: Martin Funerals
- Mr Peter De Villiers: Martin Funerals
- Mr Frank Teichert: Archaeologist

14.4. Eskom Officials Operations at Medupi the Beginning of Construction (2007)

- Mr Ntshavheni Phidza: Project Manager
- Ms Jainthree Sankar: Project Deputy Director

14.5. Eskom Officials, Facilitators for Phase II HIA (2014-5)

- Mr Dave Lucas: Corporate Environmental Management Specialist, Eskom
- Mr Emile Marell: Environmental Manager / Emergency Response Team Logistics Coordinator, Medupi Power Station
- Mr Dovhani Mudzielwana: Senior Environmental Advisor, Medupi Power Station

14.6. Heritage Experts

- Ms Itumeleng Masiteng: Manager, SAHRA Burials Unit
- Mr Dumisani Sibayi: COO, SAHRA
- Prof. Innocent Pikirayi: Head, Archaeology & Anthropology, University of Pretoria
- Mr Tshimangadzo Nemaheni: Heritage Manager Freedom Park
- Dr Tlou Setumu: Historian, Robben Island Museum
- Associate Prof. Shadreck Chirikure: Archaeology, University of Cape Town
- Dr Webber Ndoro: Executive Director, Africa World Heritage Fund
- Mr Elton Sagiya: Curator, Great Zimbabwe World Heritage Site
- Mr Isaac Monthla: Curator, Polokwane Museum
- Mr Kgomotso Mokhethi: Deputy Director, Heritage Services, Mpumalanga Department of Sports, Arts and Culture