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### Archaeological Impact Assessment recommendations for the proposed construction of low-cost housing in the Eastern Cape Province

The proposed project in the Eastern Cape deals with the replacement of existing informal housing with low-cost housing in 8 different villages: Dungu, Marubeni, Zinkumbini, Mbombeleni, Mcwili, Mdina, Mhlanga, Mphangana.

#### Project

The study area is located within the Nyandeni Local Municipality in the OR Tambo District in the Eastern Cape. The closest town is Libode and is located roughly 5 km to the south of the eight villages (see Figure 1). The planned development will not include new construction in terms of services such as roads, electricity, water and sewage. Existing housing units to the amount of 1500, however, will be replaced by low-cost housing. Because no listed environmental activities are triggered, the environmental consultancy responsible for the phase 1 ecological and legal assessments (Envass) motivate that a formal NEMA process not be followed.

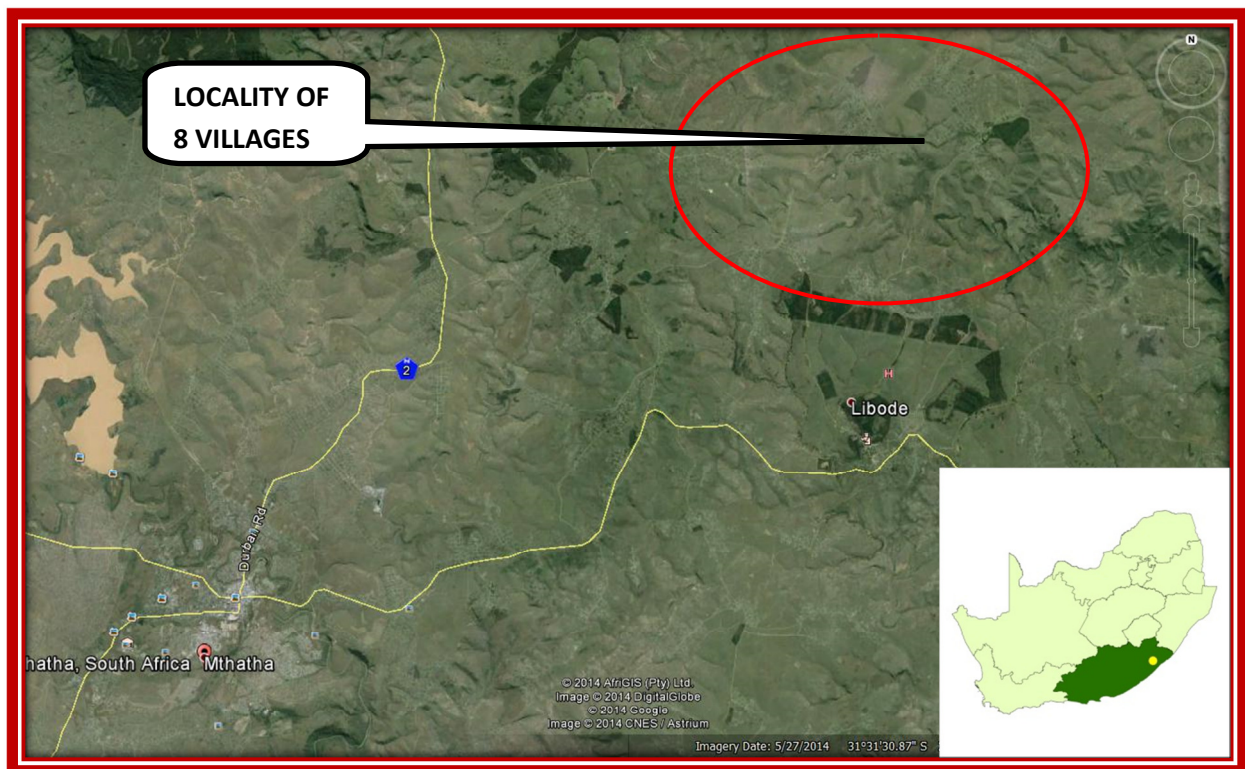


Figure 1: Location of study area

During the site visit by Environmental Assurance, however, a number of active graveyards associated with certain stands were observed (see Screening Report). It should also be kept in mind that the

Eastern Cape coastal and inland landscapes are rich in heritage resources and that the possibility exists that previously undetected heritage resources might be impacted on by the proposed development. Appendix A refers to applicable heritage legislation (National Heritage Resource Act No.25 of April 1999)

### **Recommendations**

The following recommendation regarding the Low-Cost Housing Project from a heritage perspective are therefore made:

- A qualified archaeologist must visit the site of the proposed development in order to determine whether heritage resources will be impacted on by the proposed development
- Recommendations regarding the preservation of graves must be made
- The study area must be archaeologically and historically contextualised and the significance determined
- Based on the findings a full Phase 1 Archaeological Impact Assessment might be recommended



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## Appendix A: Heritage Legislation

The following legislation in terms of heritage resources apply:

### *National Heritage Resource Act No.25 of April 1999*

Buildings are among the most enduring features of human occupation, and this definition therefore includes all buildings older than 60 years, modern architecture as well as ruins, fortifications and Farming Community settlements. The Act identifies heritage objects as:

- objects recovered from the soil or waters of South Africa, including archaeological and palaeontological objects, meteorites and rare geological specimens;
- visual art objects;
- military objects;
- numismatic objects;
- objects of cultural and historical significance;
- objects to which oral traditions are attached and which are associated with living heritage;
- objects of scientific or technological interest;
- books, records, documents, photographic positives and negatives, graphic material, film or video or sound recordings, excluding those that are public records as defined in section 1(xiv) of the National Archives of South Africa Act, 1996 (Act No. 43 of 1996), or in a provincial law pertaining to records or archives;
- any other prescribed category.

With regards to activities and work on archaeological and heritage sites this Act states that:

*“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.” (34. [1] 1999:58)*

and

*“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.”(35. [4] 1999:58)*

and

*“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;*
- (c) *bring onto or use at a burial ground or grave referred to in paragraph (a) or (b) and excavation equipment, or any equipment which assists in the detection or recovery of metals.” (36. [3] 1999:60)*

On the development of any area the gazette states that:

*“...any person who intends to undertake a development categorised as:*

- (a) *the construction of a road, wall, power line, pipeline, canal or other similar form of linear development or barrier exceeding 300m in length;*
- (b) *the construction of a bridge or similar structure exceeding 50m in length;*
- (c) *any development or other activity which will change the character of a site-*
  - i. *exceeding 5000m<sup>2</sup> in extent; or*
  - ii. *involving three or more existing erven or subdivisions thereof; or*
  - iii. *involving three or more erven or divisions thereof which have been consolidated within the past five years; or*
  - iv. *the costs of which will exceed a sum set in terms of regulations by SAHRA or a provincial heritage resources authority;*
- (d) *the re-zoning of a site exceeding 10000m<sup>2</sup> in extent; or*
- (e) *any other category of development provided for in regulations by SAHRA or a provincial heritage resources authority, must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.” (38. [1] 1999:62-64)*

and

*“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.” (38. [3] 1999:64)*

#### *Human Tissue Act and Ordinance 7 of 1925*

The Human Tissues Act (65 of 1983) and Ordinance on the Removal of Graves and Dead Bodies (Ordinance 7 of 1925) protects graves younger than 60 years. These fall under the jurisdiction of the National Department of Health and the Provincial Health Departments. Approval for the exhumation and re-burial must be obtained from the relevant Provincial MEC as well as the relevant Local Authorities. Graves 60 years or older fall under the jurisdiction of the National Heritage Resources Act as well as the Human Tissues Act, 1983.