



**PHASE 1 HERITAGE IMPACT ASSESSMENT FOR THE PROPOSED
TOWNSHIP ESTABLISHMENT DEVELOPMENT OF THE ARTS AND
CULTURE HUB AT BAKONE MALAPA CULTURAL VILLAGE IN
POLOKWANE, LIMPOPO PROVINCE**



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Archaeology and Heritage Services

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DECLARATION OF INDEPENDENCE

This report has been compiled by Makhosazana Mngomezulu, principal archaeologist and heritage consultant. The views expressed in this report are independent of the author and no other interest was displayed during the decision-making process of the proposed township establishment development of the Arts and Culture hub at Bakone Malapa Cultural Village.

SIGNATURE:

A handwritten signature in black ink, appearing to read "M. Mngomezulu", is written over a horizontal line.

TERMINOLOGY

BP	Before Present
EIA	Early Iron Age
MIA	Middle Iron Age
LIA	Late Iron Age
ESA	Early Stone Age
MSA	Middle Stone Age
LSA	Late Stone Age
ya	years ago
Ibid	<i>Ibidem</i> , Latin word meaning same as the previous source
HIA	Heritage Impact Assessment
LPHRA	Limpopo Provincial Heritage Resources Authority
SAHRA	South African National Resources Agency
SAHRIS	South African Heritage Resources Information System
NHRA	National Heritage Resources Act
SAPS	South African Police Services

DEFINITIONS

ESA dates between 2 million ya to 2 00 000 BP. Industries associated with this time period includes Oldowan, Acheulean and Fauresmith. ESA stone tools include hammer stones, flakes, cores, handaxes and cleavers (Pelser 2009).

MSA dates between 2 00 000 and 25 000 to 20 000 BP, this varies with location. Industries associated with this time period includes the Howieson's Poort. The stone tools which characterise this period include scrapers, blades, points and flake.

LSA which dates between 25 000 and 20 000 to 2 000 BP. Stone tools of this period are characterised by their small size; this includes backed knives and borers (Pelser 2009).

EIA dates to AD 200 – 900 (Huffman 2007).

MIA dates to AD 900 – 1300 (ibid).

LIA dates to AD 1300 – 1840 (ibid).

EXECUTIVE SUMMARY

Maya Group appointed Precious Environment Consultants to undertake an environmental impact assessment for the proposed township establishment development of the Arts and Culture hub at Bakone Malapa Cultural Village. The site is within the Bakone Malapa Northern Sotho Open Air Museum under Polokwane Local Municipality. The extent of the site is 105Ha. Vungandze Projects has been appointed to undertake a Phase 1 Heritage Impact Assessment in terms of the heritage significance on the proposed site.

During the physical survey conducted on 20 January 2021, heritage resources were found within and outside the proposed site; that is within 100m radius. As such, the proposed site is viable for the proposed project from a heritage provided mitigation measures and recommendations proposed are adhered to.

The report will be submitted on through SAHRIS (South African Resources Information System) for comments and for a decision as per the National Heritage Resources Act (Act No 25 of 1999). The proposed project can proceed from a heritage perspective provided proposed mitigation measures and recommendations are adhered to and pending a decision from SAHRA.

Project Structure

Introduction	<ul style="list-style-type: none">• Report background• Methodology• Assumptions & limitations
Project locality	<ul style="list-style-type: none">• Location (include mapping)• Heritage Background
Findings	<ul style="list-style-type: none">• Types of findings• Mapping of findings• Assessment of findings• Level of significance• Possible impacts
Discussion	<ul style="list-style-type: none">• Evaluation of findings in relation of the historical background of the study area
Recommendations & conclusion	<ul style="list-style-type: none">• Mitigation measures
Additional Information	<ul style="list-style-type: none">• Applicable Legislation

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1. INTRODUCTION

Vungandze Projects was appointed by Precious Environment Consultants to conduct a phase 1 heritage impact study for the proposed township establishment development of the Arts and Culture hub at Bakone Malapa Cultural Village. The site is within the Bakone Malapa Northern Sotho Open Air Museum under Polokwane Local Municipality. The extent of the site is 105Ha. The proposed development includes a theatre development and operation that will introduce a modern interpretation of local vernacular architectural traditions and a boutique hotel with spa and wellness centre, restaurant and bar, conferencing facilities.

According to the National Heritage Resources Act (Act 25 of 1999), any person who intends to undertake a development must conduct a Heritage Impact Assessment to determine if there are any heritage resources along and within the proposed project and if any resources are found, mitigation measures and recommendations for the protection of such resources need to be adhered to. Below is the heritage act with reference to the proposed project and why a heritage impact assessment should be conducted:

Based on Section 35 under Archaeology, palaeontology and meteorites of the National Heritage Act 25 of 1999 the heritage resources in South Africa should be managed in the following:

“(4) 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”;

Based on Section 38 under Heritage Resources Management of the National Heritage Act 25 of 1999 the heritage resources in South Africa should be managed in the following:

“(1) Subject to the provisions of subsections (7), (8) and (9), any person who intends to undertake a development categorised as—

(c) any development or other activity which will change the character of a site—

(i) exceeding 5 000 m² in extent” (see appendix A for the Heritage Act).

The aim of this report is to outline anticipated impacts of the Bakone Malapa Township Establishment Development on the heritage resources that were found during the site survey; and provide recommendations/mitigation measures as a way forward.

2. TERMS OF REFERENCE (TOR)

The approach used for this report was:

- Undertake a Phase 1 HIA in accordance with the NHRA;
- Identify and map all heritage resources in the proposed area and its surroundings, as defined in Section 3 of the NHRA, including archaeological sites on or close (within a 100m boundary of the site) to the proposed area;
- Assess the significance of any identified resources in terms of the heritage assessment criteria as set out in the South African Heritage Resources Agency (SAHRA) regulations;
- Provide mitigation measures to safeguard heritage resources identified on study area; and
- Comply with specific requirements and guidelines of LPHRA and SAHRA;
- Submit final report to SAHRIS for comments and decision making.

3. METHODOLOGY

The physical survey was conducted and completed on 20 January 2021. This report is prepared according to the NHRA. Background research of the study area was conducted using literature such as books, journals, previously conducted HIA's on the study area and the internet before and after the site visit. The purpose of the research prior to the physical survey was to acquire information as to what to expect in the study area, the site visit was completed to identify heritage resources that may be impacted due to the proposed Bakone Malapa Township Establishment Development.

A heritage resource means any place or object of cultural significance [NHRA1999 (Act No. 25 of 1999)]. The NHRA was used as a source of reference to identify what is known as a heritage resource (see Appendix A Section 3 for list of heritage resources).

The survey was conducted on foot and by car in order to record and locate any heritage resources within the study areas. The survey was conducted with the assistance of Ms Liesl Stegmann the

Bakone Malapa Open-Air Museum curator. The table from SAHRA Regulations will be used to grade the significance and evaluate the level of impact on the heritage resources identified.

Table 1: Site significance rating according to SAHRA.

FIELD RATING	GRADE	SIGNIFICANCE	RECOMMENDED MITIGATION
National Significance (NS)	Grade 1	High Significance	Conservation; National Site nomination
Provincial Significance (PS)	Grade 2	High Significance	Conservation; Provincial Site nomination
Local Significance (LS)	Grade 3A	High Significance	Conservation; Mitigation not advised
Local Significance (LS)	Grade 3B	High Significance	Mitigation (Part of site should be retained)
Generally Protected A (GP.A)	-	High / Medium Significance	Mitigation before destruction
Generally Protected B (GP.B)	-	Medium Significance	Recording before destruction
Generally Protected C (GP.A)	-	Low Significance	Destruction

The determination of the effects of environmental impact on an environmental parameter is determined through a systematic analysis of the various components of the impact. This is undertaken using information that is available from the Environmental Assessment Practitioner (EAP) through the process of the Environmental Impact Assessment (EIA). The impact evaluation of predicted impacts was undertaken through an assessment of the significance of the impacts. This is in line with specialist requirements as required by the client. For example, the request that:

The impact methodology (should) concentrate on addressing key issues. The methodology employed in the report thus allows for the evaluation of the efficiency of the process itself.

The following Assessment Criteria is used for Impact Assessment

Impacts can be defined as any change in the physical-chemical, biological, cultural and or socio-economic environmental system that can be attributed to humans. The significance of the aspects/impacts of the process will be rated by using a matrix derived from Plomp (2004) and adapted to some extent to fit this process. These matrixes use the consequence and the likelihood of the different aspects and associated impacts to determine the significance of the impacts.

The significance of the impacts will be determined through a synthesis of the criteria below:

Probability: describes the likelihood of the impact actually occurring

- **Improbable:** the possibility of the impact occurring is very low, due to the circumstances, design or experience.
- **Probable:** there is a probability that the impact will occur to the extent that provision must be made therefore.
- **Highly probable:** it is most likely that the impact will occur at some stage of the development.
- **Definite:** the impact will take place regardless of any prevention plans and there can only be relied on mitigation measures or contingency plans to contain the effect.

Duration: the lifetime of the impact

- **Short Term:** the impact will either disappear with mitigation or will be mitigated through natural processes in a time span shorter than any of the phases.
- **Medium Term:** the impact will last up to the end of the phases, where after it will be negated.
- **Long Term:** the impact will last for the entire operational phase of the project but will be mitigated by direct human action or by natural processes thereafter.
- **Permanent:** the impact is non-transitory. Mitigation either by man or natural processes will not occur in such a way or in such a time span that the impact can be considered transient.

Scale: the physical and spatial size of the impact

- **Local:** the impacted area extends only as far as the activity, e.g. footprint

- **Site:** the impact could affect the whole or measurable portion of the abovementioned property.
- **Regional:** the impact could affect the area including the neighbouring residential areas.

Magnitude/Severity: Does the impact destroy the environment, or alter its function

- **Low:** the impact alters the affected environment in such a way that natural processes are not affected.
- **Medium:** the affected environment is altered, but functions and processes continue in a modified way.
- **High:** function or process of the affected environment is disturbed to the extent where it temporarily or permanently ceases.

Significance: This is an indication of the importance of the impact in terms of both physical extent and time scale, and therefore indicates the level of mitigation required.

- **Negligible:** the impact is non-existent or unsubstantial and is of no or little importance to any stakeholder and can be ignored.
- **Low:** the impact is limited in extent, has low to medium intensity; whatever its probability of occurrence is, the impact will not have a material effect on the decision and is likely to require management intervention with increased costs.
- **Moderate:** the impact is of importance to one or more stakeholders, and its intensity will be medium or high; therefore, the impact may materially affect the decision, and management intervention will be required.
- **High:** The impact could render development options controversial or the project unacceptable if it cannot be reduced to acceptable levels; and/or the cost of management intervention will be a significant factor in mitigation.

The significance is calculated by combining the criteria in the following formula:

Sum (Duration, Scale, Magnitude) x Probability (*Table -2*)

S = Significance weighting; Sc = Scale; D = Duration; M = Magnitude; P = Probability

Table 2: The significance weighing for each potential impact are as follows:

Aspect	Description	Weight
--------	-------------	--------

Probability	Improbable	1
	Probable	2
	Highly Probable	4
	Definite	5
Duration	Short term	1
	Medium term	3
	Long term	4
	Permanent	5
Scale	Local	1
	Site	2
	Regional	3
Magnitude/Severity	Low	2
	Medium	6
	High	8
Significance	Sum (Duration, Scale, Magnitude) x Probability	
	Negligible	≤20
	Low	>20≤40
	Moderate	>40≤60
	High	>60

3.1 Assumptions

It was assumed based on the literature review that the study area may yield heritage resources such as unknown burial grounds and graves apart from the obvious stonewalling. During the physical survey Ms Stegmann did confirm that there is a high possibility that there are graves within the proposed site not yet discovered.

3.2 Limitations

There were no restrictions experienced on site in terms of accessibility; especially with Ms Stegmann as our tour guide.

4. LOCALITY AREA

The proposed project is to be located south of Polokwane town along the R37. The site is within the Bakone Malapa Open-Air Museum which is located north of the proposed site extending southward, under the Polokwane Local Municipality (figure 1-2).

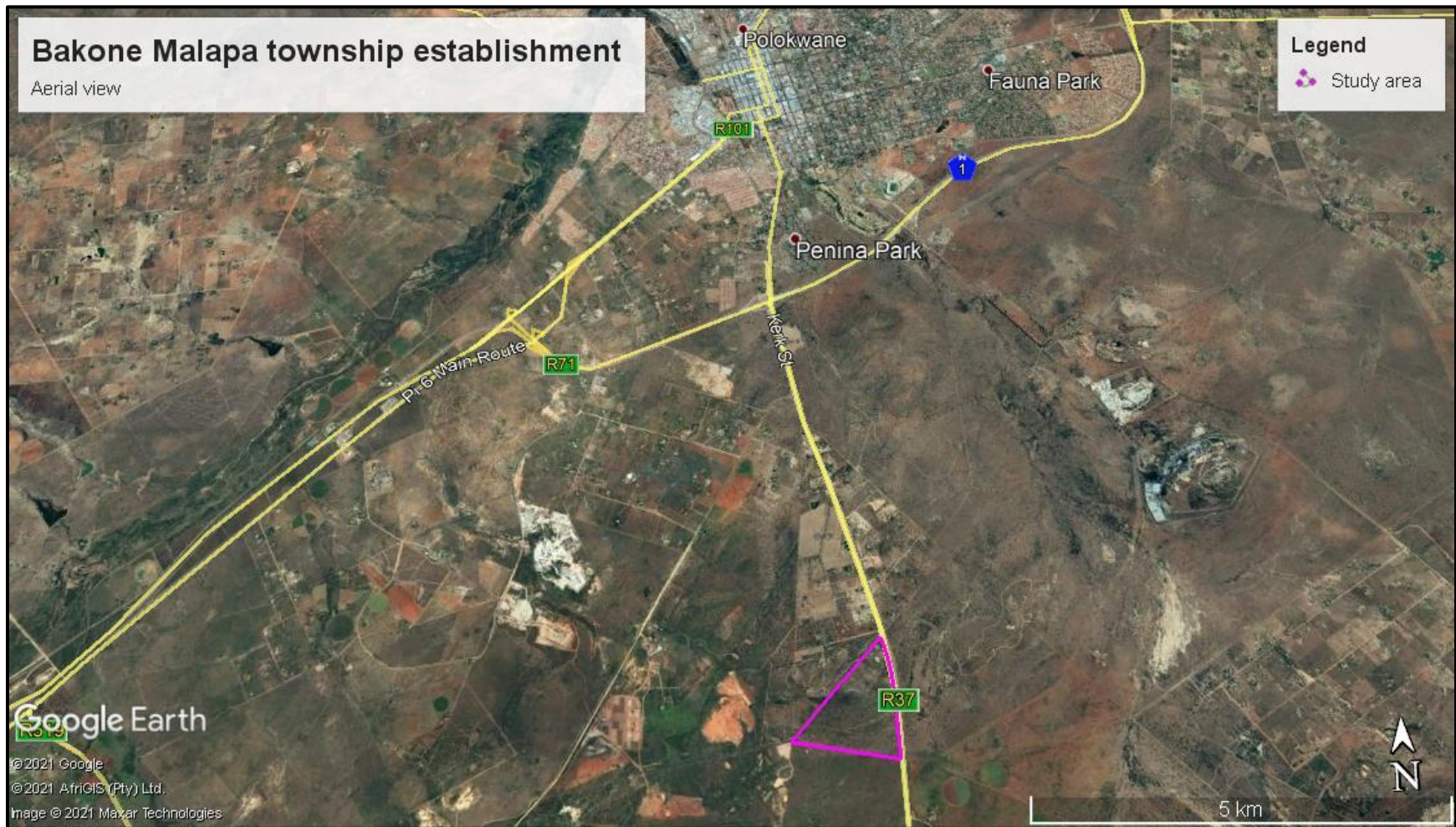


Figure 1: Locality map of the study area – Aerial view



Figure 2: Close view of locality map.

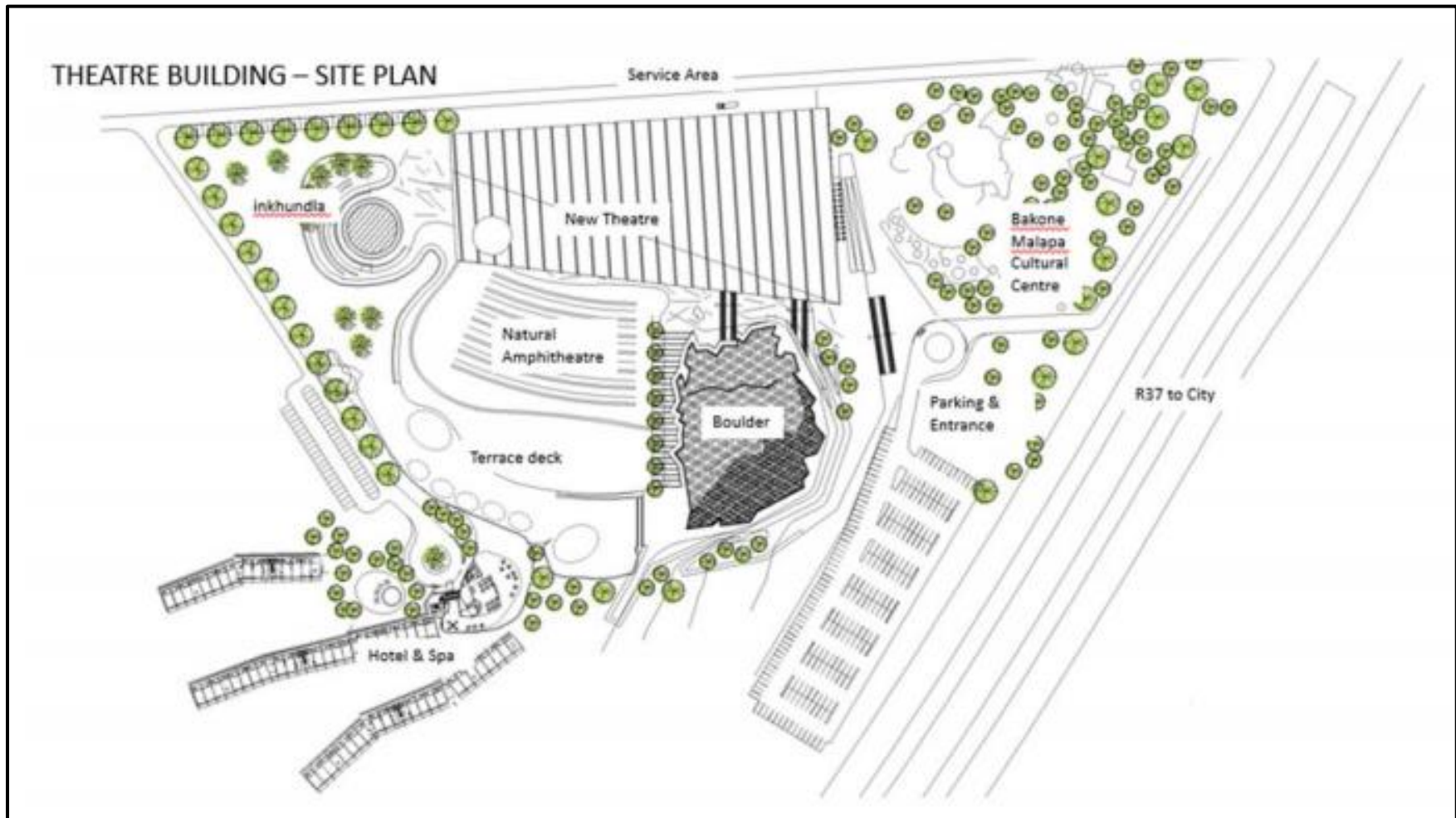


Figure 3: Site Plan.

5. HISTORICAL BACKGROUND OF THE STUDY AREA

History of human activity in South Africa, as in all parts of the world, dates back to millions of years. It is important to elaborate as far back in time to enable the reader to understand what is meant by archaeological material and why is it declared a heritage resource. Archaeological materials are divided into two periods, the Stone Age and the Iron Age. Late Iron Age marks the transition between prehistory and history, a period of colonial era until recent.

5.1 Stone Age Archaeology:

The Stone Age is a time period that dates between 2 million years ago (ya) to 2000 ya. Due to the vast character found within stone tools of this period, it was then divided into three phases; Early Stone Age (ESA), Middle Stone Age (MSA) and the Late Stone Age (LSA). ESA dates between 2 million ya and 200 000 Before Present (BP). Industries associated with this time period includes Oldowan, Acheulean and Fauresmith. ESA stone tools include hammer stones, flakes, cores, hand axes and cleavers (Pelser 2009). The more refined stone tools appeared during the MSA. MSA dates between 200 000 and 25 000 to 20 000 BP, this varies with location. Industries associated with this time period includes the Howieson's Poort. The stone tools which characterise this period include scrapers, blades, points and flake. Lastly is the LSA which dates between 25 000 and 20 000 to 2 000 BP. Stone tools of this period are characterised by their small size; this includes backed knives and borers (Pelser 2009).

Loubster (1994) excavated three portions of the study area, namely 2329 CD 9A, 2329 CD 9B and 2329 CD 9C (see figure 6). MSA artifacts such as quartz and bladelet were amongst the materials found during an excavation at the proposed site; though the latter also occurs in the LSA.

5.2 Iron Age Archaeology

According to Huffman (2007) Iron Age marks the early evidence of farming community in Southern Africa. Animal husbandry, crop farming, pottery and metal working were introduced which in due time liberated hunter gatherers to change their way of life which is less mobile (Carruthers 1990). Due to vast technological discrepancies and settlement pattern within this period, it was divided into three. The Early Iron Age (EIA) dates to AD 200 – 900, Middle Iron Age (MIA) dates to AD 900 – 1300, and the Late Iron Age (LIA) dates to AD 1300 – 1840 (Huffman 2007).

2329 CD 9A is located at the hill top of Bambo hill, west of the rainmaking hill. 2329 CD 9B is located in the middle of the big central circle of the stonewalling inside the Museum. 2329 CD 9C is located on the southern Bambo hill towards the R37. The group that is known to have occupied this area is the Koni, meaning Nguni in the Sotho-Tswana language. Based on oral traditions, the Koni first occupied the Mpumalanga area before the Pedi. They built stonewalled structures which characterises the Central Cattle Pattern (CCP). CCP is a type of settlement layout whereby “the animal enclosures form a circle around a central open space, or cattle are kept in a single central kraal. Adult cattle stayed in large enclosures and calves in smaller kraals” (Huffman 2007:33). Later, similar stonewalled structures were built by Ledwaba Ndebele around Polokwane, and a good example of that is what was found within the Bakoni Malapa Museum (See figure 4). This is evidence of early occupation in the study area and that the existing stonewall structure found is the original and not constructed.



Figure 4: Settlement layout at the Museum.

During an excavation by Loubster (1994) when combining all three sites, among other things found was terraced walls built of roughly equal sized granite block; human burials; remains of hut floors; grindstones which were also found during the site survey; platforms that were possibly grain bin supporters; corroded iron; animal bones and pottery. According to Huffman (2007) and the distribution of pottery in southern Africa, four types of pottery are found to have reached or been used in the Polokwane; Doornkop facies, Eiland facies, Icon facies, and Letaba facies.

Doornkop facies most likely range from AD 750 – AD 1000. It is characterized by multiple herringbone bands in the neck. Eiland facies most likely range from AD 1000 – AD 13000. It is characterized by fine herringbone with ladder stamping. Icon facies most likely range from AD 1300 – AD 1500. It is characterized by multiple incised bands separated by colour and lip decoration on bowls. Lastly, Letaba facies most likely range from AD 1600 – AD 1840. It is characterized by hatched bands on shoulder, below black and red triangles (Huffman 2007).

6. FINDINGS

During the physical survey, heritage resources were found within the boundary of the proposed site. This includes the Bakone Malapa Museum and all archaeological material associated with it such as stonewalling, rock art sites and the rainmaking hill (Bambo hill) outside the Museum. In addition, structures outside the museum were found but were not older than 60 years. Ms Stegmann provided us with the No-Go boundary map which has already been established (see figure 5-11 and Appendix B).



Figure 5: Map of heritage resources found within the proposed site.

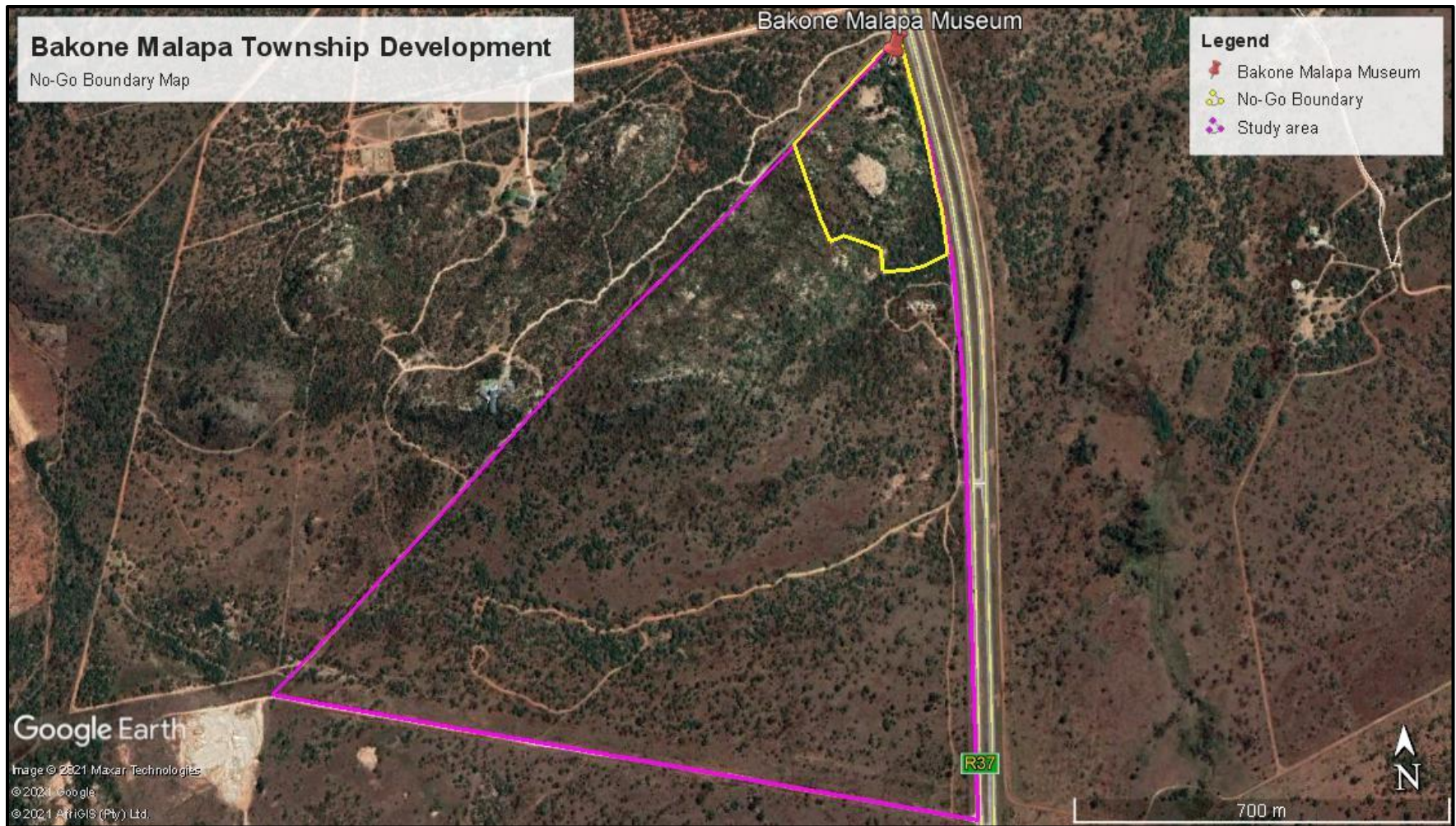


Figure 6: No-Go boundary map.

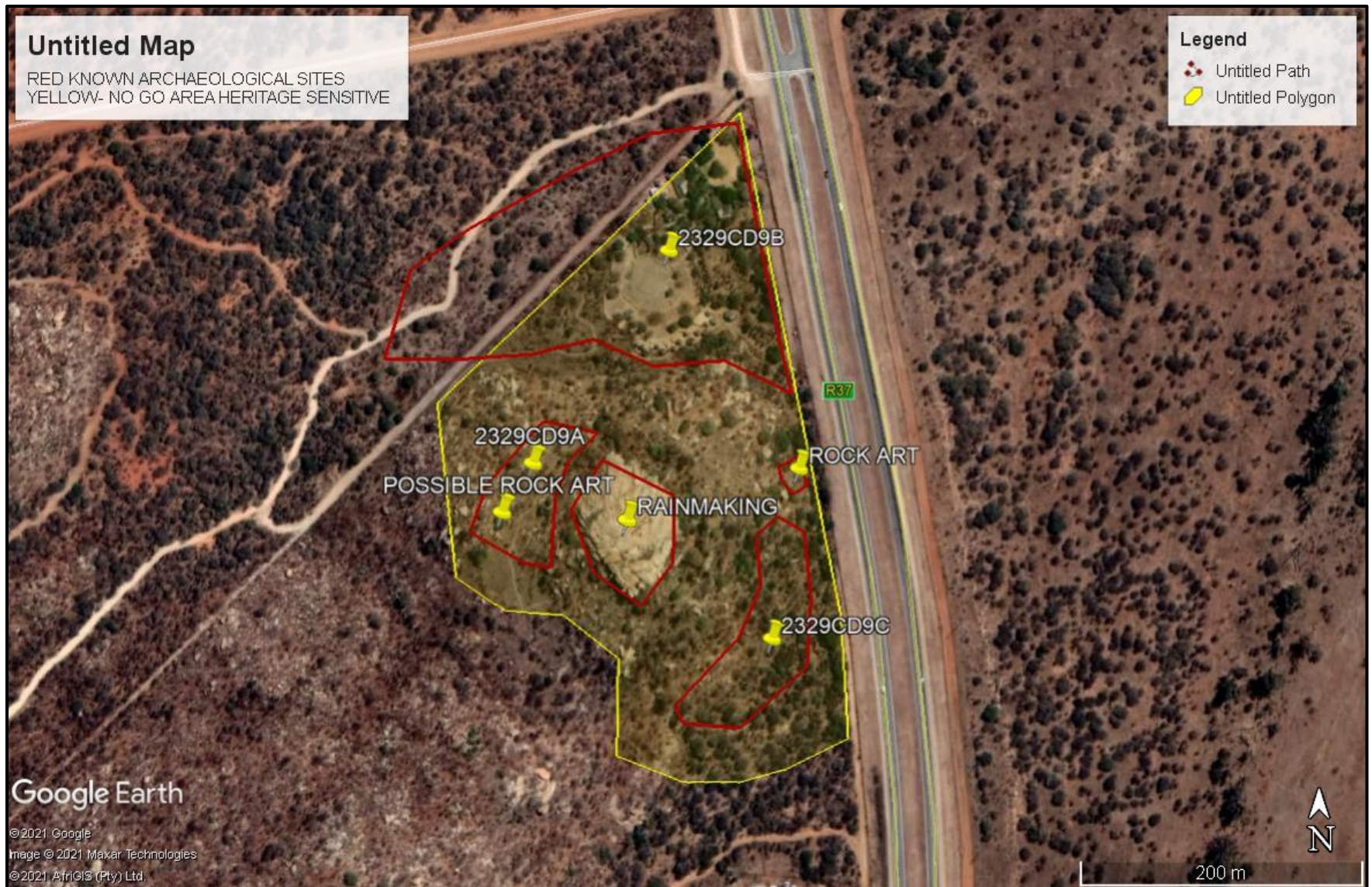


Figure 7: No-Go boundary map provided by Liesel Stegmann.



Figure 8: Inside the Museum.



Figure 9: One of the structures inside the Museum.



Figure 10: Fading rock art outside the Museum.



Figure 11: Grinding stone next to rock art site.

7. IMPACT ASSESSMENT

The proposed township establishment development of the Arts and Culture hub at Bakone Malapa Cultural Village has a high chance of impacting the heritage resources found on the proposed site, especially those on the northern portion close to the proposed irrigation dam. This section evaluates the extent of the impact WITH and WITHOUT mitigation measures in relation to the project under study.

Using table 1 from the methodology which is now labelled table 3, the heritage resources identified on site can be rated as follows:

Table 3: Rating of the heritage resource found on study area.

Heritage Resource Identified	Field Rating & Grading	Significance	Recommended Mitigation	Coordinates
Museum which contains stonewalling	Provincial Significance (PS)	High Significance	Conservation; Provincial Site nomination	27°51'18.43"S 29°51'0.40"E
Rock Art (more Rock Art sites on Appendix B)	Provincial Significance (PS)	High Significance	Conservation; Provincial Site nomination	23°59'20.99"S 29°27'33.61"E
Rainmaking Hill	Provincial Significance (PS)	High Significance	Conservation; Provincial Site nomination	23°59'22.22"S 29°27'29.62"E

Table 4: Evaluation of the impacts of the project on the heritage resource **WITHOUT** mitigation measures.

Aspect	Description	Weight
Probability	Improbable	1
	Probable	2
	Highly Probable	4
	Definite	5

Duration	Short term	1
	Medium term	3
	Long term	4
	Permanent	5
Scale	Local	1
	Site	2
	Regional	3
Magnitude/Severity	Low	2
	Medium	6
	High	8
Significance	Sum (Duration, Scale, Magnitude) x Probability	
	Negligible	≤20
	Low	>20≤40
	Moderate	>40≤60
	High	>60

Results: $5+3+8 \times 5 = 80$ i.e >60

This means without mitigation measures, the heritage resources such as those found on the southwest of the site will be impacted and its impact may render the project unacceptable.

Table 5: Evaluation of the impacts of project on the structures WITH mitigation measures.

Aspect	Description	Weight
Probability	Improbable	1
	Probable	2
	Highly Probable	4
	Definite	5

Duration	Short term	1
	Medium term	3
	Long term	4
	Permanent	5
Scale	Local	1
	Site	2
	Regional	3
Magnitude/Severity	Low	2
	Medium	6
	High	8
Significance	Sum (Duration, Scale, Magnitude) x Probability	
	Negligible	≤20
	Low	>20≤40
	Moderate	>40≤60
	High	>60

Results: $4+1+6 \times 2 = 22$ i.e. $>20 \leq 40$

The impact is limited in extent, has low to medium intensity; whatever its probability of occurrence is, the impact will not have a material effect on the decision and is likely to require management intervention with increased costs.

7.1 Site Significance

The level of significance of the site and the cultural resources varies between social, historical, spiritual, scientific and aesthetic value.

Social value is when a place has become a focus of spiritual, political, national, or other cultural sentiments to a majority or minority group. This may be because the site is accessible and well

known, rather than particularly well preserved or scientifically important (SAHRA Regulations). The proposed site has social value.

Historical value refers to areas where historical events took place, and such events have high significance either locally, regionally, provincially or nationally. The proposed site is an area with historical value

Scientific value refers to the importance of the study area for research purposes. The proposed site has scientific value from an archaeological perspective.

Aesthetic value refers to the unique beauty of the site. The stonewalling on site depicts aesthetic value of the proposed site.

Based on the level of significance, the proposed area is highly significant from a heritage perspective.

8. RECOMMENDATIONS AND CHANGE FINDINGS

- The museum and its immediate surrounding are a No-Go area for the proposed project. See figure 5 and 6 for the No-Go boundary which means no construction should take place within the boundary to protect the known heritage resources found on site. A temporary fence will have to be erected which will still allow access to the area in order to ensure no construction takes place beyond the point of the fence.
- During the construction phase, the contractor should keep within the proposed parameters of the site to avoid impacting on any heritage resources that may be found outside of the proposed project site, this may include unknown burial grounds and graves, archaeological artifacts and even structures.
- The contractor should induct all employees on the importance of heritage sites and resources that they should not be impacted in any way. This is to ensure that even if any heritage resources are found during the construction phase or exposed due to construction activities, should by no means be impacted or destroyed.
- The proposed project should incorporate the Museum and its surrounding (No-Go area) as the site plan indicates (see figure 3). Should the developer want to alter the Museum

in a manner that will not compromise the character of the place, the following is recommended:

- Interested & Affected parties should be notified and given the opportunity to make comments.
- A permit application must be applied for to SAHRA by a professional archaeologist; of which no construction will take place pending a response from SAHRA.
- Should any other heritage resources be found on site during the construction phase apart from the ones already found; be it archaeological artefacts such as stone tools and pottery; burial grounds and graves and structures; the contractor should cease construction immediately and contact the client and the Museum. A heritage expert should be called to site to assess the significance of the archaeological artefacts and the impacts of the proposed activities on such artefacts, and then provide mitigation measures.
- The possibility of uncovering unearthed human remains or graves that are of archaeological significance is high. Should potential human remains be found on site, the contractor should cease construction immediately and the South African Police Service; the client; and the Museum should also be contacted. Should the remains be below 60 years old since time of death, it is considered a forensic case and further investigations will be conducted by the police and should the remains be above 60 years old since time of death (which might be the case here), it becomes a South African Heritage Resources Agency case. This means an archaeologist should be called on site for assessment and propose mitigation measures. It should be noted that all costs will be on the client.

9. CONCLUSION

In conclusion, based on the findings of the survey the proposed site is highly significant from a heritage perspective. No heritage resources should be damaged, damaged or altered, especially during the construction phase. The contractor must take note that the area is a heritage site and therefore extra precaution should be taken at all times. Chances of finding other burial grounds and graves on the proposed site are high given that the area was previously occupied during the period of Iron Age and archaeological graves have been previously found.

The proposed project may proceed provided mitigation measures and recommendations provided are adhered to and implemented. Should the developer not do as such, the project will be deemed unacceptable and in contravention of the National Heritage Resources Act 25 of 1999.

The final report will be submitted on SAHRIS for review and decision. Furthermore, subject to approval from SAHRA, the proposed township establishment development of the Arts and Culture hub at Bakone Malapa Cultural Village may proceed in terms of the NHRA.

10. REFERENCES

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11. PHOTOGRAPHS OF THE STUDY AREA



Figure 12: Signs at the entrance of the Museum.



Figure 13: Entrance to the Museum.



Figure 14: One of the structures found at the Museum.



Figure 15: Decorated flooring.



Figure 16: Some of the cultural material found on site - pottery.



Figure 17: Structures found within the structures but outside the Museum.



Figure 18: Type of environment and vegetation found on site.

12. APPENDIX A: LEGISLATION

National Heritage Resources Act 25 of 1999

12.1 Section 3 of the NHRA 25 of 1999

According to Section 3 under **National Estate** of the National Heritage Act 25 of 1999 the heritage resources in South Africa includes the following:

“(1) For the purposes of this Act, those heritage resources of South Africa which are of cultural significance or other special value for the present community and for future generations must be considered part of the national estate and fall within the sphere of operations of heritage resources authorities.

(2) Without limiting the generality of subsection (1), the national estate may include –

(a) places, buildings, structures and equipment of cultural significance;

(b) places to which oral traditions are attached or which are associated with living heritage; (c) historical settlements and townscapes;

(d) landscapes and natural features of cultural significance;

(e) geological sites of scientific or cultural importance;

(f) archaeological and paleontological sites;

(g) graves and burial grounds, including—

(i) ancestral graves;

(ii) royal graves and graves of traditional leaders;

(iii) graves of victims of conflict;

(iv) graves of individuals designated by the Minister by notice in the Gazette;

(v) historical graves and cemeteries; and

(vi) other human remains which are not covered in terms of the Human Tissue Act, 1983 (Act No. 65 of 1983);

(h) sites of significance relating to the history of slavery in South Africa;

(i) movable objects, including:

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

(ii) objects to which oral traditions are attached or which are associated with living heritage;

(iii) ethnographic art and objects;

(iv) military objects;

(v) objects of decorative or fine art;

(vi) objects of scientific or technological interest; and

(vii) books, records, documents, photographic positives and negatives, graphic, film or video material 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).

(3) Without limiting the generality of subsections (1) and (2), a place or object is to be considered part of the national estate if it has cultural significance or other special value because of –

(a) its importance in the community, or pattern of South Africa's history;

(b) its possession of uncommon, rare or endangered aspects of South Africa's natural or cultural heritage;

(c) its potential to yield information that will contribute to an understanding of South Africa's natural or cultural heritage;

(d) its importance in demonstrating the principal characteristics of a particular class of South Africa's natural or cultural places or objects;

(e) its importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;

- (f) its importance in demonstrating a high degree of creative or technical achievement at a particular period;
- (g) its strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;
- (h) its strong or special association with the life or work of a person, group or organisation of importance in the history of South Africa; and
- (i) sites of significance relating to the history of slavery in South Africa”.

12.2 Section 35 of the NHRA 25 of 1999

According to Section 35 under **Archaeology, palaeontology and meteorites** of the National Heritage Act 25 of 1999 the heritage resources in South Africa includes the following:

(1) Subject to the provisions of section 8, the protection of archaeological and palaeontological sites and material and meteorites is the responsibility of a provincial heritage resources authority: Provided that the protection of any wreck in the territorial waters and the maritime cultural zone shall be the responsibility of SAHRA.

(2) Subject to the provisions of subsection (8)(a), all archaeological objects, palaeontological material and meteorites are the property of the State. The responsible heritage authority must, on behalf of the State, at its discretion ensure that such objects are lodged with a museum or other public institution that has a collection policy acceptable to the heritage resources authority and may in so doing establish such terms and conditions as it sees fit for the conservation of such objects.

(3) Any person who discovers archaeological or palaeontological objects or material or a meteorite in the course of development or agricultural activity must immediately report the find to the responsible heritage resources authority, or to the nearest local authority offices or museum, which must immediately notify such heritage resources authority.

(4) 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.

(5) When the responsible heritage resources authority has reasonable cause to believe that any activity or development which will destroy, damage or alter any archaeological or palaeontological site is under way, and where no application for a permit has been submitted and no heritage resources management procedure in terms of section 38 has been followed, it may—

(a) serve on the owner or occupier of the site or on the person undertaking such development an order for the development to cease immediately for such period as is specified in the order;

(b) carry out an investigation for the purpose of obtaining information on whether or not an archaeological or palaeontological site exists and whether mitigation is necessary;

(c) if mitigation is deemed by the heritage resources authority to be necessary, assist the person on whom the order has been served under paragraph (a) to apply for a permit as required in subsection (4); and

(d) recover the costs of such investigation from the owner or occupier of the land on which it is believed an archaeological or palaeontological site is located or from the person proposing to undertake the development if no application for a permit is received within two weeks of the order being served.

(6) The responsible heritage resources authority may, after consultation with the owner of the land on which an archaeological or palaeontological site or a meteorite is situated, serve a notice on the owner or any other controlling authority, to prevent activities within a specified distance from such site or meteorite.

(7) (a) Within a period of two years from the commencement of this Act, any person in possession of any archaeological or palaeontological material or object or any meteorite which

was acquired other than in terms of a permit issued in terms of this Act, equivalent provincial legislation or the National Monuments Act, 1969 (Act No. 28 of 1969), must lodge with the responsible heritage resources authority lists of such objects and other information prescribed by that authority. Any such object which is not listed within the prescribed period shall be deemed to have been recovered after the date on which this Act came into effect.

(b) Paragraph (a) does not apply to any public museum or university.

(c) The responsible authority may at its discretion, by notice in the Gazette or the Provincial Gazette, as the case may be, exempt any institution from the requirements of paragraph (a) subject to such conditions as may be specified in the notice, and may by similar notice withdraw or amend such exemption.

(8) An object or collection listed under subsection (7)—

(a) remains in the ownership of the possessor for the duration of his or her lifetime, and SAHRA must be notified who the successor is; and

(b) must be regularly monitored in accordance with regulations by the responsible heritage authority

12.3 Section 36 of NHRA 25 of 1999

According to Section 36 under **Burial grounds and graves** of the National Heritage Act 25 of 1999 the graves in South Africa are protected as follows:

(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.
- (5) SAHRA or a provincial heritage resources authority may not issue a permit for any activity under subsection (3)(b) unless it is satisfied that the applicant has, in accordance with regulations made by the responsible heritage resources authority—
 - (a) made a concerted effort to contact and consult communities and individuals who by tradition have an interest in such grave or burial ground; and
 - (b) reached agreements with such communities and individuals regarding the future of such grave or burial ground.
- (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.
- (7)(a) SAHRA must, over a period of five years from the commencement of this Act, submit to the Minister for his or her approval lists of graves and burial grounds of persons connected with the liberation struggle and who died in exile or as a result of the action of State security forces or agents provocateur and which, after a process of public consultation, it believes should be included among those protected under this section.
- (b) The Minister must publish such lists as he or she approves in the Gazette.
- (8) Subject to section 56(2), SAHRA has the power, with respect to the graves of victims of conflict outside the Republic, to perform any function of a provincial heritage resources authority in terms of this section.
- (9) SAHRA must assist other State Departments in identifying graves in a foreign country of victims of conflict connected with the liberation struggle and, following negotiations with the next of kin, or relevant authorities, it may re-inter the remains of that person in a prominent place in the capital of the Republic.

12.4 Section 38 of NHRA 25 of 1999

According to Section 38 under Heritage resources management of the National Heritage Act 25 of 1999 the heritage resources in South Africa should be managed in the following:

“(1) Subject to the provisions of subsections (7), (8) and (9), any person who intends to undertake a development categorised as—

- (a) the construction of a road, wall, powerline, pipeline, canal or other similar form of linear development or barrier exceeding 300m in length;
- (b) the construction of a bridge or similar structure exceeding 50 m in length;
- (c) any development or other activity which will change the character of a site—
 - (i) exceeding 5 000 m² 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 10 000 m² in extent; or

(e) any other category of development provided for in regulations by SAHRA or a provincial heritage resources authority, must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.

(2) The responsible heritage resources authority must, within 14 days of receipt of a notification in terms of subsection (1)—

(a) if there is reason to believe that heritage resources will be affected by such development, notify the person who intends to undertake the development to submit an impact assessment report. Such report must be compiled at the cost of the person proposing the development, by a person or persons approved by the responsible heritage resources authority with relevant qualifications and experience and professional standing in heritage resources management; or

(b) notify the person concerned that this section does not apply.

(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.

(4) The report must be considered timeously by the responsible heritage resources authority which must, after consultation with the person proposing the development, decide—

- (a) whether or not the development may proceed;
- (b) any limitations or conditions to be applied to the development;
- (c) what general protections in terms of this Act apply, and what formal protections may be applied, to such heritage resources;
- (d) whether compensatory action is required in respect of any heritage resources damaged or destroyed as a result of the development; and
- (e) whether the appointment of specialists is required as a condition of approval of the proposal.

(5) A provincial heritage resources authority shall not make any decision under subsection (4) with respect to any development which impacts on a heritage resource protected at national level unless it has consulted SAHRA.

(6) The applicant may appeal against the decision of the provincial heritage resources authority to the MEC, who—

- (a) must consider the views of both parties; and
- (b) may at his or her discretion—
 - (i) appoint a committee to undertake an independent review of the impact assessment report and the decision of the responsible heritage authority; and
 - (ii) consult SAHRA; and
- (c) must uphold, amend or overturn such decision.

(7) The provisions of this section do not apply to a development described in subsection (1) affecting any heritage resource formally protected by SAHRA unless the authority concerned decides otherwise.

(8) The provisions of this section do not apply to a development as described in subsection (1) if an evaluation of the impact of such development on heritage resources is required in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989), or the integrated environmental management guidelines issued by the Department of Environment Affairs and Tourism, or the Minerals Act, 1991 (Act No. 50 of 1991), or any other legislation: Provided that the consenting authority must ensure that the evaluation fulfils the requirements of the relevant heritage resources authority in terms of subsection (3), and any comments and recommendations of the relevant heritage resources authority with regard to such development have been taken into account prior to the granting of the consent.

(9) The provincial heritage resources authority, with the approval of the MEC, may, by notice in the Provincial Gazette, exempt from the requirements of this section any place specified in the notice.

(10) Any person who has complied with the decision of a provincial heritage resources authority in subsection (4) or of the MEC in terms of subsection (6) or other requirements referred to in subsection (8), must be exempted from compliance with all other protections in terms of this Part, but any existing heritage agreements made in terms of section 42 must continue to apply.

13. APPENDIX B: Old Rock Art Sites found within Bakone Malapa

OLD ROCK ART SITES FOUND WITHIN BAKONE MALAPA MUSEUM		
1.	23°59'25.97"S	29°27'29.09"E
2.	23°59'25.72"S	29°27'28.14"E
3.	23°59'25.50"S	29°27'28.95"E
4.	23°59'25.28"S	29°27'28.25"E
5.	23°59'25.63"S	29°27'26.95"E
6.	23°59'24.76"S	29°27'28.92"E
7.	23°59'24.74"S	29°27'28.34"E
8.	23°59'24.87"S	29°27'27.83"E
9.	23°59'24.50"S	29°27'27.52"E
10.	23°59'24.09"S	29°27'27.41"E
11.	23°59'23.87"S	29°27'27.32"E
12.	23°59'24.13"S	29°27'27.97"E
13.	23°59'23.87"S	29°27'28.63"E
14.	23°59'24.15"S	29°27'29.00"E
15.	23°59'23.28"S	29°27'28.58"E
16.	23°59'22.98"S	29°27'28.11"E
17.	23°59'23.40"S	29°27'27.86"E
18.	23°59'23.51"S	29°27'27.36"E
19.	23°59'23.27"S	29°27'27.11"E
20.	23°59'23.99"S	29°27'26.65"E
21.	23°59'23.68"S	29°27'26.33"E
22.	23°59'23.08"S	29°27'26.14"E

23.	23°59'22.54"S	29°27'26.12"E
24.	23°59'22.22"S	29°27'26.64"E
25.	23°59'22.19"S	29°27'27.17"E
26.	23°59'22.54"S	29°27'27.06"E
27.	23°59'22.79"S	29°27'27.18"E
28.	23°59'22.45"S	29°27'27.63"E
29.	23°59'21.35"S	29°27'27.47"E
30.	23°59'17.80"S	29°27'27.22"E
31.	23°59'17.84"S	29°27'27.94"E
32.	23°59'17.55"S	29°27'27.74"E
33.	23°59'17.40"S	29°27'27.29"E
34.	23°59'17.53"S	29°27'26.93"E
35.	23°59'17.14"S	29°27'27.69"E
36.	23°59'16.87"S	29°27'28.09"E
37.	23°59'16.43"S	29°27'28.28"E
38.	23°59'16.63"S	29°27'28.07"E
39.	23°59'17.89"S	29°27'28.39"E
40.	23°59'18.20"S	29°27'28.36"E
41.	23°59'18.25"S	29°27'28.00"E