

**PROPOSED MIXED DEVELOPMENT AT EZAKHENI D,  
ALFRED DUMA LOCAL MUNICIPALITY, KWAZULU-  
NATAL**

**Phase 1 Heritage Assessment**

**11 September 2017**

**Client: SPHE Consulting Services  
Att: Sipehelele Dlamini**

**Author: Jean Beater  
JLB Consulting**

## EXECUTIVE SUMMARY

### Introduction

The Department of Human Settlements and Development Planning of the Alfred Duma Local Municipality is planning a mixed development at Ezakheni D which is situated approximately 20 km east of Ladysmith in KwaZulu-Natal. This report serves as the Phase 1 heritage impact assessment (HIA) for the proposed development.

The extent of the site is 26.9 Ha (269000 m<sup>2</sup>) thereby triggering section 38(1) (c) (i) of the National Heritage Resources Act, 1999 (Act No 25 of 1999) that refers to any development or other activity which will change the character of a site— exceeding 5 000 m<sup>2</sup> in extent. In addition, the project may impact on graves, structures, archaeological and palaeontological resources that are protected in terms of sections of both the KwaZulu-Natal Heritage Act (No. 4 of 2008) and the National Heritage Resources Act (NHRA).

The proposed site is located to the east and north-east of the Shoprite Checkers centre (Ezakheni Plaza) and is situated between Nkonjane Road and Nkentshaka Drive. The approximate mid-point of the development is at 28°36'42.02''S; 29°55'59.99''E. A site inspection was undertaken on 6 September 2017. Visibility was good and the specialist also spoke to residents regarding heritage resources in the proposed development area.

### Results of site inspection

Two grave sites were found in the north-eastern section of the proposed project area. The first group of graves appear to be surrounded by a very low stone wall in a state of disrepair in the shape of a half-moon. There are 3 large square graves made from and covered with stone that are situated next to each. The graves are approximately 3 m x 2 m in size with no headstones. It is unclear if there is one or more people buried in each of the graves. A local resident, Mr Anton Mvelase, indicated that to his knowledge the graves were those of farm-workers who worked on the farm where the proposed development is to take place.

The second site (site 2) is situated approx. 50 m south east of the first site. There are two stone squares similar to those at the first site. There is no wall around these graves and they are also unmarked. The one grave is clearly visible whilst the second is more disturbed by the passage of time and less distinctive.

As there are no headstones or markers of any kind, the age of the graves could not be ascertained but they are protected by section 35 (1) of the KZN Heritage Act and by section 36 (1) (b) of the NHRA.

The remains of structures making up a farm complex / farmstead situated close to Nkonjane Road were inspected. Only the floors of most of the structures remain. From the remains, there appears to have been many structures making up the farmstead or complex. A row of structures or one long structure are situated next to the gum trees and a dilapidated water reservoir and other structures are situated closer to Nkonjane Road. The age of the structures is unknown. So little remains of the structures that made up the complex that the site is considered to be of low heritage significance.

It is unclear if the erf / plot of land on which much of the farm complex is located will be developed as part of the proposed mixed development. If the complex (or part thereof) is to be impacted by the proposed development, then written application must be made to Amafa for the destruction of the affected remains of the complex.

The South African fossil sensitivity map indicates that the project area falls within an area of high sensitivity. An area that falls into an area of high fossil sensitivity requires a desktop palaeontological assessment to determine if fossils will be impacted by the proposed activity.

### Recommendations

- During the site inspection, two grave sites (site 1 and site 2) were found. It is strongly recommended that the graves are not moved. Graves are highly significant to many people and there are many traditional, cultural and personal sensitivities concerning the removal of graves. It is recommended that the graves should be fenced off with a 5 m buffer and left *in situ* as part of a 'green area' / park within the development. If the graves are to be moved, then section 3 of the KZN Heritage Regulations must be strictly adhered to.
- In terms of the remains of the farm complex, it is recommended that if the proposed project impacts on it, then an application must be made to Amafa for permission to destroy the remains as they could be older than 60 years.
- It is also recommended that a desktop palaeontological assessment is undertaken due to the high fossil sensitivity of the project area as the proposed development may impact on sensitive fossil finds.

### Conclusion

The proposed mixed use development may proceed as long as the recommendations and mitigation measures provided in this report and those of the desktop palaeontological assessment are implemented and adhered to where necessary.

## TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY</b>	<b>ii</b>
<b>TABLE OF CONTENTS</b>	<b>iv</b>
<b>AUTHOR DETAILS</b>	<b>v</b>
<b>1. INTRODUCTION</b>	<b>6</b>
<b>2. LEGISLATIVE BACKGROUND</b>	<b>6</b>
<b>3. LOCATION</b>	<b>7</b>
<b>4. TERMS OF REFERENCE</b>	<b>7</b>
<b>5. METHODOLOGY</b>	<b>10</b>
<b>6. HISTORICAL INFORMATION REGARDING STUDY AREA</b>	<b>10</b>
<b>7. RESULTS OF SITE INSPECTION</b>	<b>11</b>
<b>8. RECOMMENDATIONS</b>	<b>18</b>
<b>9. CONCLUSION</b>	<b>19</b>
<b>10. MITIGATION MEASURES</b>	<b>19</b>
<b>11. REFERENCES</b>	<b>21</b>

## FIGURES

Figure 1: Location of mixed development outlined in orange.....	8
Figure 2: Layout of proposed development.....	9
Figure 3: View of section of project area looking south towards plaza .....	12
Figure 4: Graves surrounded by low stone wall.....	12
Figure 5: Two of three graves at site 1.....	13
Figure 6: Close-up of one grave with stone wall in background .....	13
Figure 7: Graves at site 2.....	14
Figure 8: Remains of structure/s.....	15
Figure 9: Floor of structure, reservoir and other remains .....	16
Figure 10: Google Earth image showing heritage sites.....	16
Figure 11: Fossil sensitivity of project area indicated by green circle.....	17

**AUTHOR DETAILS**

<b>Name</b>	<b>Qualifications</b>	<b>Professional Registration</b>
Jean Beater	MA (Heritage Studies) MSc (Environmental Management)	Member of Association of South African Professional Archaeologists (No. 349) Member of IAIAAsa (No. 1538)

## 1. INTRODUCTION

The Department of Human Settlements and Development Planning of the Alfred Duma Local Municipality is planning a mixed development at Ezakheni D which is situated approximately 20 km east of Ladysmith in KwaZulu-Natal.

This report serves as the Phase 1 heritage impact assessment (HIA) for the proposed mixed development.

## 2. LEGISLATIVE BACKGROUND

The extent of the site is 26.9 Ha (269000 m<sup>2</sup>) thereby triggering section 38(1) (c) (i) of the National Heritage Resources Act, 1999 (Act No 25 of 1999) that refers to—

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

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

In addition, the project may impact on graves, structures, archaeological and palaeontological resources that are protected in terms of sections 33, 34, 35, and 36 of the KwaZulu-Natal Heritage Act (No. 4 of 2008) as well as sections 34, 35, and 36 of the National Heritage Resources Act (NHRA).

In terms of Section 3 of the NHRA, heritage resources are described as follows:

- (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 palaeontological 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).

This Phase1 HIA is undertaken to assess whether any heritage resources will be impacted by the proposed mixed development.

### 3. LOCATION

The proposed site is on the east and north-east of the Shoprite Checkers centre (Ezakheni Plaza) and is situated between Nkonjane Road and Nkentshaka Drive (see **Figure 1** below). The approximate mid-point of the development is at 28°36'42.02"S; 29°55'59.99"E.

The layout of the proposed development is provided in **Figure 2**.

### 4. TERMS OF REFERENCE

Undertake a Phase 1 Heritage Impact Assessment in order to determine the possible existence of heritage resources, as listed above, in the project area that could be impacted by the proposed mixed use development. Provide mitigation measures to limit or avoid the impact of the construction of the project on heritage resources (if any).

Submit the HIA report to the provincial heritage resources authority, Amafa aKwaZulu-Natali (Amafa), for their assessment and comment.



**Figure 1: Location of mixed development outlined in orange**





Figure 2: Layout of proposed development

## 5. METHODOLOGY

A survey of literature, including other HIA reports completed in the area and captured on the SAHRIS database was undertaken in order to be aware of any heritage resources that may have been identified in such reports.

A site inspection was undertaken on 6 September 2017. Visibility was good. The specialist also spoke to residents of the area regarding the presence of heritage resources that may be affected by the proposed development.

## 6. HISTORICAL INFORMATION REGARDING STUDY AREA

According to Prins (2015: 4), portions of the greater Ladysmith area have been systematically surveyed for archaeological heritage sites in the past. These were largely conducted by archaeologists attached to the KwaZulu-Natal Museum and by Amafa staff members. Sixty one sites are recorded in the database of the KwaZulu-Natal Museum. These include Early Stone Age sites, Middle Stone Age sites, Later Stone Age sites, rock art sites, and Later Iron Age sites and historical period Nguni homesteads. The majority of the Later Iron Age and historical period Nguni homesteads are demarcated by characteristic stone walling. Stone walling and graves related to the Anglo-Boer War period of 1899-1901 are also abundant in the larger Ladysmith area. It appears as if the the project area has not been systematically surveyed in the past.

Around 800 years ago, if not earlier, Bantu-speaking farmers also settled in the greater Ladysmith area. Although some of the sites constructed by these African farmers consisted of stone walling not all of them were made from stone. Sites located elsewhere in the KwaZulu-Natal Midlands show that many settlements just consisted of wattle and daub structures. These Later Iron Age sites were most probably inhabited by Nguni-speaking groups such as the amaBhele and others. However, by 1820 the original African farmers were dispersed from this area due to the expansionistic policies of the Zulu Kingdom of King Shaka (Prins 2015:6).

In 1847, Voortrekkers proclaimed the independent Klip River Republic. The Republic only survived for a few months before British authority was proclaimed over the area. The British planned the town as an administrative centre for the Klip River District proclaiming it on 20 June 1850 (Bulpin 186:489).

Ladysmith became world famous during the Anglo-Boer War (1899-1902) when it was besieged by Boer forces from 2 November 1899 – 28 February 1900 (Bulpin 1986:489). Ladysmith was located on the junction of rail and road routes to the then Orange Free State and northern Natal hence its strategic importance during the war (Jones and Jones 1999:131). Several of the most well-known battles of the war were fought around the town including Wagon Hill and Pieter's Hill.

Ezakheni was established in 1972 and its population at the time was in the region of 50 000. The township was built in two parts, a formal section with rented housing and a site and service section where people could build their own houses. The area was built on Trust Land acquired by the South African Development Trust in the early 1960s. African families from Ladysmith townships and surrounding 'black spots' were moved into Ezakheni in successive batches during the apartheid era. The removals to Ezakheni occurred in 1972, and continued throughout the 1970s. Areas from which residents were evicted included Umbulwane, Rietkuil, Roosboom and Steadville (SA History Online 2013:1).

## **7. RESULTS OF SITE INSPECTION**

Most of the site was inspected on foot. The northern-eastern section of the site is rocky whilst the section east of the Ezakheni Plaza has some grass cover. The area to be developed is used for grazing for cattle and goats and local residents cross it to get to various sections of the township. The area is used to dump rubbish. There are informal roads crossing the area as well as a soccer field immediately east of the residential area (Ezakheni A) which is situated on the proposed development's western boundary.

Two grave sites were found in the north-eastern section of the proposed project area. The first group of graves (site 1) is situated at 28°36'31.2''S; 29°56'02.3''E. The graves appear to have been originally surrounded by a very low stone wall which is now in a state of disrepair. Only half of the stone wall remains. Within the wall, there are 3 large square graves made from and covered with stone that are situated next to each. The graves are approximately 3m x 2m in size with no headstones. It is unclear if there is one or more people buried in each of the graves.



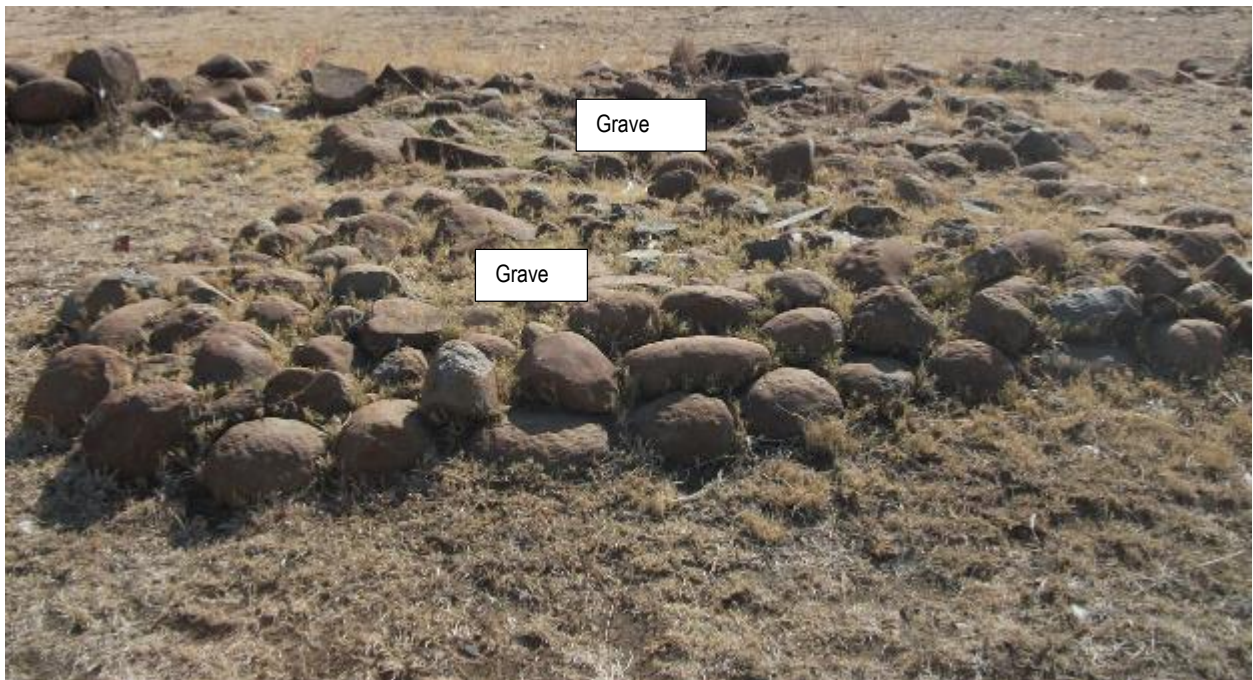


**Figure 3: View of section of project area looking south towards plaza**



**Figure 4: Graves surrounded by low stone wall**





**Figure 5: Two of three graves at site 1**

A local resident, Mr Anton Mvelase, indicated that to his knowledge the graves were those of farm-workers who worked on the farm when the Ezakheni area was still being farmed. He indicated that the remains of the farm house and buildings were situated alongside Nkonjane Road close to and east of the Ezakheni Plaza.



**Figure 6: Close-up of one grave with stone wall in background**



As there are no headstones or markers of any kind, the age of the graves could not be ascertained. The graves are protected by section 35 (1) of the KZN Heritage Act that states that no grave –

(a) not otherwise protected by this Act; and

(b) not located in a formal cemetery managed or administered by a local authority,

may be damaged, altered, exhumed, removed from its original position, or otherwise disturbed without the prior written approval of the (Amafa) Council having been obtained on written application to the Council.

In addition, if the graves are older than 60 years, they are protected by section 36 (1) (b) of the NHRA that states that no-one may 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.

The second site (site 2) is situated approx. 50 m south east of the first site. There are two stone squares similar to those at the first site. There is no wall around these graves. The graves are also unmarked and are located at 28°36'32.1"S; 29°56'03.9"E. The one grave is clearly visible whilst the second is more disturbed by the passage of time. Site 2 is also protected by section 35 (1) (a) (b) of the KZN Heritage Act as well as section 36 (1) (b) of the NHRA (if older than 60 years).



**Figure 7: Graves at site 2**

Little surface evidence of archaeological sites or artefacts was found during the inspection. That which was found was ephemeral scatter whose integrity and context had been reduced to low / negligible significance through the transformation and disturbance of the project area.

The remains of structures making up a farm complex / farmstead situated close to Nkonjane Road were inspected. Only the floors of most of the structures remain. From the remains, there appears to have been many structures making up the farmstead or complex.

A row of structures or one long structure are situated next to the gum trees (see **Figure 8** below) and a dilapidated water reservoir and other structures are situated close to Nkonjane Road (see **Figure 9** below). The age of the structures is unknown. So little remains of the structures that made up the complex that the site is considered to be of low heritage significance.

The mid-point of the farm complex is 28°36'56.12"S 29°55'50.48"E. It is unclear if the erf / plot of land on which much of the farm complex is located will be developed as part of the proposed mixed development. If the complex (or part thereof) is to be impacted by the proposed development, then written application must be made to Amafa for the destruction of the affected remains of the complex because of the uncertainty regarding the age of the structures. Section 33 (1) (a) of the KZN Heritage Act states that no structure which is, or which may reasonably be expected to be older than 60 years, may be demolished, altered or added to without the prior written approval of the Council having been obtained on written application to the Council.



**Figure 8: Remains of structure/s**





**Figure 9: Floor of structure, reservoir and other remains**

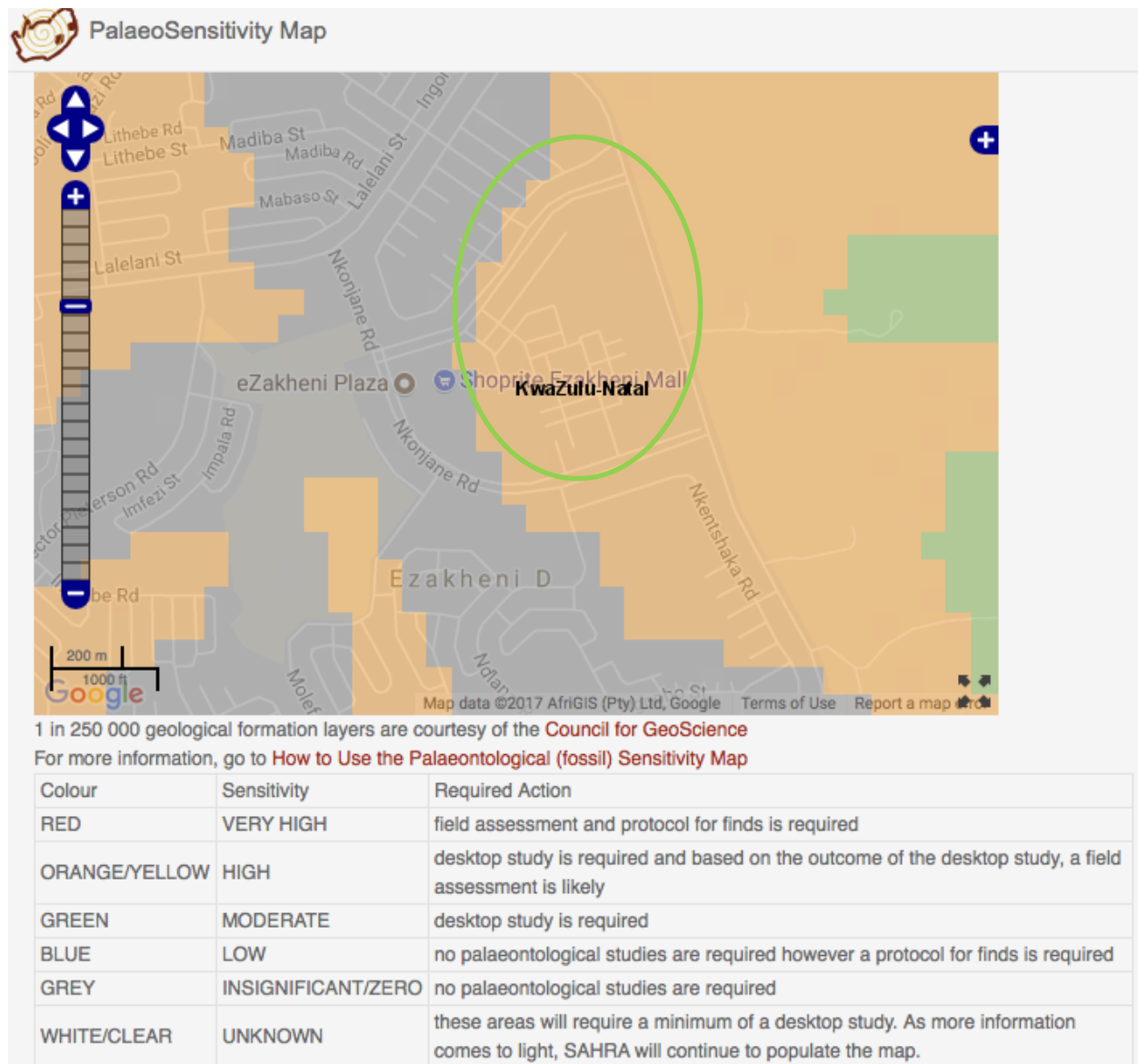
The Google Earth image below depicts the heritage resources within the project area that were found during the site inspection.



**Figure 10: Google Earth image showing heritage sites**



The South African fossil sensitivity map indicates that the project area falls within an area of high sensitivity as indicated by the orange colour on **Figure 11** below. As can be seen in the legend, an area that falls into a high fossil sensitivity ranking requires a desktop palaeontological assessment to determine if fossils will be impacted by the proposed development. It is therefore recommended that a desktop palaeontological assessment is undertaken to determine the risk to fossils. It should be noted that if the desktop assessment indicates the presence of sensitive fossils that will be impacted by the proposed activity, then a field / site assessment will need to be undertaken.



**Figure 11: Fossil sensitivity of project area indicated by green circle**

## 8. RECOMMENDATIONS

During the site inspection, two grave sites (site 1 and site 2) were found. These graves fall within the proposed mixed use development. It is strongly recommended that the graves are not moved. Graves are highly significant to many people and there are many traditional, cultural and personal sensitivities concerning the removal of graves. It is recommended that the graves should be fenced off with a 5 m buffer and left *in situ* as part of a 'green area' / park within the development. The buffer is recommended to prevent further damage to the graves during the construction phase and into the future.

If it is decided that the graves are to be moved, the following should be noted: graves are well protected by South African heritage legislation. According to section 35 of the KZN Heritage Act, which refers to general protection of traditional graves, the following is stated:

(1) No grave –

(a) not otherwise protected by this Act; and

(b) not located in a formal cemetery managed or administered by a local authority, may be damaged, altered, exhumed, removed from its original position, or otherwise disturbed without the prior written approval of the Amafa Council having been obtained on written application to the Council; and that

(2) The Council may only issue written approval once the Council is satisfied that –

(a) the applicant has made a concerted effort to consult with communities and individuals who by tradition may have an interest in the grave; and

(b) the applicant and the relevant communities or individuals have reached agreement regarding the grave.

According to section 3 of the KwaZulu-Natal Heritage Regulations of 2012 (GNR 40 of 2012), which refers to the damage, alteration, exhumation, or removal of graves, an application has to be made to the Amafa Council prior to the above actions taking place. The written application must contain the following information according to subsection (2):

(a) the names and qualifications of the applicant;

(b) the identification of the grave or cemetery to be damaged, altered, exhumed, or removed from its original position; .

(c) the purpose of such damage, alteration, exhumation or removal from its original position;

(d) the location of such grave or cemetery;

(e) the municipal area within which the location of such grave or cemetery is situated; and

(f) particulars of bodies or interest groups consulted by the applicant.

In terms of subsection (5) (1) of regulation 3, the Council must ensure that the applicant has instituted a process of consultation with the relevant community or municipality; and in terms of sub-section (6), if the Council decides to grant the approval, notice of approval must be made in the Gazette. It should be noted that the gazetting of the notice is at the cost of the Applicant.

In terms of subsection (13), approval may only be granted -

- (a) where the work to be carried out is to be done under the supervision of a qualified archaeologist or person approved by the Council;
- (b) with due respect for any human remains and the customs and beliefs of any person or community concerned with such grave or burial ground; and
- (c) after arrangements have been made for the re-interment, if necessary, of any human remains and the re-interment or curation of any other contents of such grave or burial ground, to the satisfaction of the Council and the community involved.

In terms of the remains of the farm complex identified, it is recommended that if the proposed project impacts on any of the remains of the complex, then an application is made to Amafa for permission to destroy the remains.

It is also recommended that a desktop palaeontological assessment is undertaken due to the high fossil sensitivity of the project area as the proposed development may impact on sensitive fossil finds. The findings of the assessment must be taken into consideration and all recommendations must be adhered to and implemented.

## **9. CONCLUSION**

The proposed mixed use development may proceed as long as the recommendations and mitigation measures provided in this report and those of the desktop palaeontological assessment are implemented and adhered to.

## **10. MITIGATION MEASURES**

- For any chance finds of any type of heritage resource, all work must cease in the area affected and the Contractor must immediately inform the Project Manager. A registered heritage specialist must be called to site for inspection. The relevant heritage resource agency (Amafa) must also be informed about the finding.

- The heritage specialist will assess the significance of the resource and provide guidance on the way forward.
- Permits must be obtained from Amafa if heritage resources are to be removed, destroyed or altered.
- All heritage resources found in close proximity to the construction area are to be protected by a 5 m buffer in which no construction can take place. The buffer material (danger tape, fencing, etc.) must be highly visible to construction crews.
- Under no circumstances may any heritage \*material be destroyed or removed from site unless under direction of a heritage specialist.
- Should any remains be found on site that is potentially human remains, the South African Police Service (SAPS) should also be contacted. No SAPS official may remove remains (recent or not) until the correct permit/s have been obtained.
- If there are chance finds of fossils during construction, a palaeontologist must be called to the site in order to assess the fossils and rescue them if necessary (with an Amafa permit). The fossils must then be housed in a suitable, recognized institute.

## 11. REFERENCES

Bulpin, T.V. 1986. *Discovering Southern Africa*. Treasury of Travel, Muizenberg

Extraordinary Provincial Government Gazette of KwaZulu-Natal. 2012. *KwaZulu-Natal Heritage Regulations 2012*. No. 40, 2 April 2012.

Jones, H.M. and Jones, M.G.M. 1999. *A Gazetteer of the Second Anglo-Boer War 1899-1902*. The Military Press, Milton Keynes

Prins, F. 2015. *Cultural Heritage Impact Assessment of the Proposed Msizi Family Trust Property at Ezakheni D, Erf 1923, near Ladysmith KwaZulu-Natal*. Unpublished report

SA History Online. 2013. *Ezakheni*. ([www.sahistory.org.za/places/ezakheni](http://www.sahistory.org.za/places/ezakheni))