

# PHASE 1 HERITAGE IMPACT ASSESSMENT FOR THE PROPOSED FURTHER EDUCATION TRAINING (FET) COLLEGE IN MSINGA, KWAZULU NATAL PROVINCE.



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Prepared For:



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## EXECUTIVE SUMMARY

Masetloaka Scott Wilson (MSW) Engineers, on behalf of the Department of Higher Education and Training (DHET) has appointed Nema Consulting to conduct an Environmental Assessment for the proposed Further Education and Training (FET) Colleges. The proposed Msinga Campus is amongst other Colleges to be built in other areas of KwaZulu Natal, KwaZulu Natal (Amafa) and the Eastern Cape.

Part of the environmental assessment includes Phase 1 of Heritage Impact Assessment (HIA), which serves to identify any cultural heritage resources occurring on sites which may be impacted upon by the proposed construction. If any resources are found, mitigation measures and recommendations for the protection of such resources will be provided. The report will be submitted to the Provincial Heritage Resources Authority of KwaZulu Natal (Amafa) for comment as per the National Heritage Resources Act (Act No 25 of 1999).

Informal graves were found scattered within the proposed site, however they are situated outside the restricted boundary of the proposed college. It is therefore recommended that based on the findings of the survey the construction may proceed provided mitigation measures to protect the graves are taken into consideration prior to commencement of the construction. Graves may either be relocated; this process includes social consultation of the affected relatives or, a 10m buffer fence should be placed around the graves to protect them during the construction phase. It should be noted that no construction is allowed beyond the allocated buffer. Alternatively, consider looking for a new site.

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## TERMINOLOGY

<b>BP</b>	<b>Before Present</b>
<b>EIA</b>	<b>Early Iron Age</b>
<b>MIA</b>	<b>Middle Iron Age</b>
<b>LIA</b>	<b>Late Iron Age</b>
<b>ESA</b>	<b>Early Stone Age</b>
<b>FET</b>	<b>Further Education Training</b>
<b>M</b>	<b>Metre</b>
<b>MSA</b>	<b>Middle Stone Age</b>
<b>LSA</b>	<b>Late Stone Age</b>
<b>SAHRA</b>	<b>South African National Resources Agency</b>
<b>NHRA</b>	<b>National Heritage Resources Act</b>
<b>SAPS</b>	<b>South African Police Services</b>
<b>ya</b>	<b>years ago</b>

**VERIFICATION OF QUALIFICATIONS**

<b>Verification</b>	<b>Name</b>	<b>Qualification</b>	<b>Professional Registration</b>
Author	Ms Makhosazana Mngomezulu	BSc (Hons) Archaeology  BSc (Hons) Physical Anthropology	Member of Association of South African Professional Archaeologists  Member of Cultural Resources Management

## 1. BACKGROUND INFORMATION OF THE PROJECT

Masetloaka Scott Wilson (MSW) Engineers, on behalf of the Department of Higher Education and Training (DHET) has appointed Nema Consulting to conduct an Environmental Assessment for the proposed Further Education and Training (FET) Colleges. The proposed Msinga Campus is amongst other Colleges to be built in other areas of KwaZulu Natal, KwaZulu Natal (Amafa) and the Eastern Cape.

The objective of the study was to identify any cultural heritage resources occurring on sites which may be impacted upon by the proposed construction. If any resources are found, mitigation measures and recommendations for the protection of such resources will be provided. This report was prepared according to the National Heritage Resources Act 1999 (Act No. 25 of 1999) (Appendix A).

## TERMS OF REFERENCE (ToR)

The approach utilised for this report were:

- To undertake a Phase 1 HIA in accordance with the National Heritage Resources Act, 1999 (Act no. 25 of 1999);
- To identify and map all heritage resources in the area affected, as defined in Section 3 of the National Heritage Resources Act (Act No. 25 of 1999), including archaeological and palaeontological sites on or close (within 100m) of the proposed sites;
- To assess the significance of such resources in terms of the heritage assessment criteria as set out in the SAHRA regulations;
- To evaluate the impacts of the construction on heritage resources relative to the sustainable social and economic benefits to be derived from the construction;
- To provide mitigation measures to safeguard heritage resources; and
- To comply with specific requirements and guidelines of the Provincial Heritage Resources Authority – KwaZulu Natal (Amafa).

## LEGISLATIVE REQUIREMENTS

- National Heritage Resources Act (Act No. 25 of 1999);
- KwaZulu Natal Heritage Act (Act No.4 of 2008)
  - Section 3
  - Section 36
  - Section 38

## 2. LOCATION AND DESCRIPTION OF THE STUDY AREA

The site is located in the uMzinyathi District Municipality of the KwaZulu-Natal Province. The proposed Msinga campus site is on the eastern side of the R33. The site does not occur near any towns. The Cwaka River occurs just north of the site and the Nyandu River occurs south of the site. The total area of the land that is usable for the school development is 15 hectares (ha) but the development footprint is only approximately 10 ha in size.

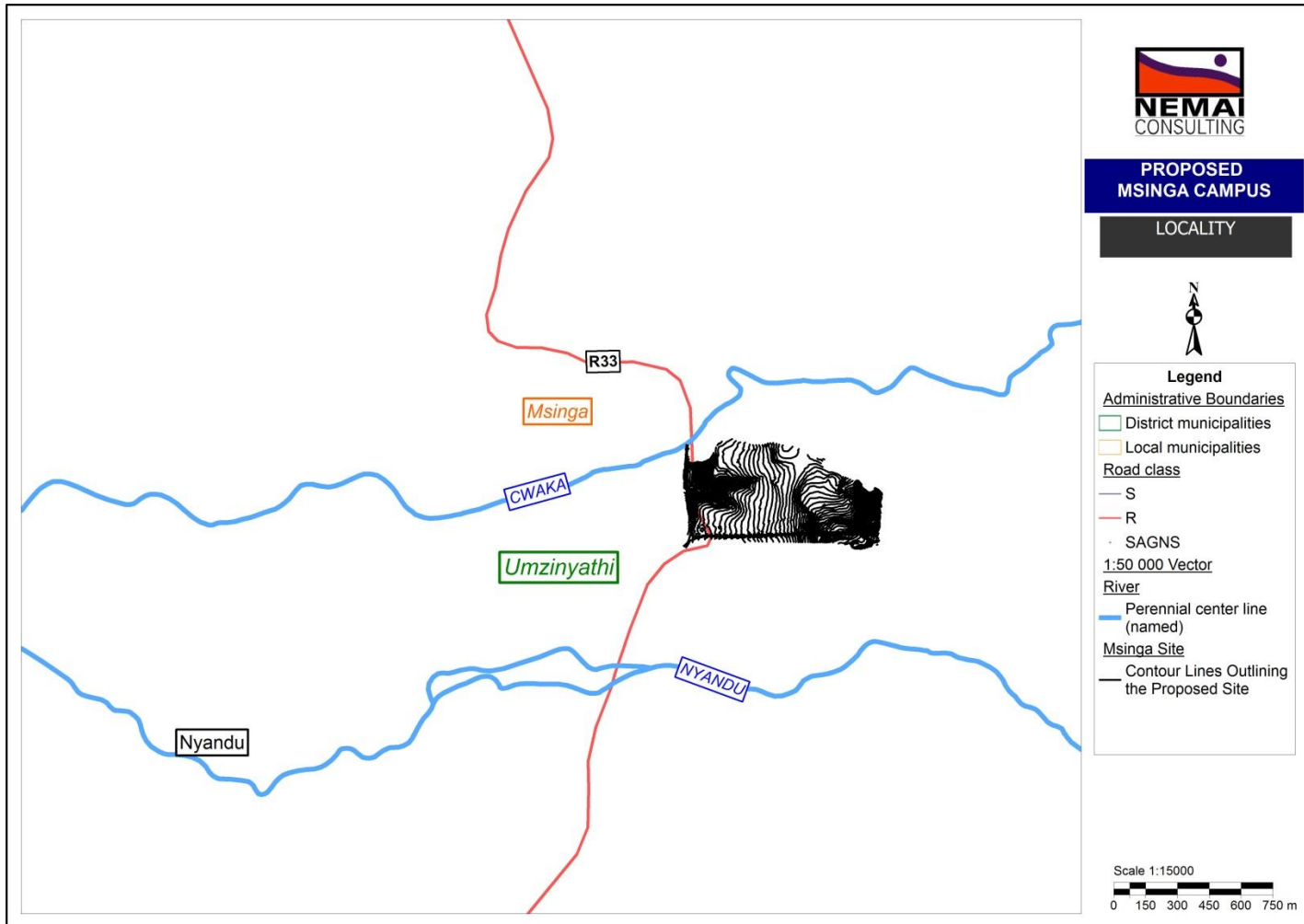


Figure 1: Locality Map of the study area.



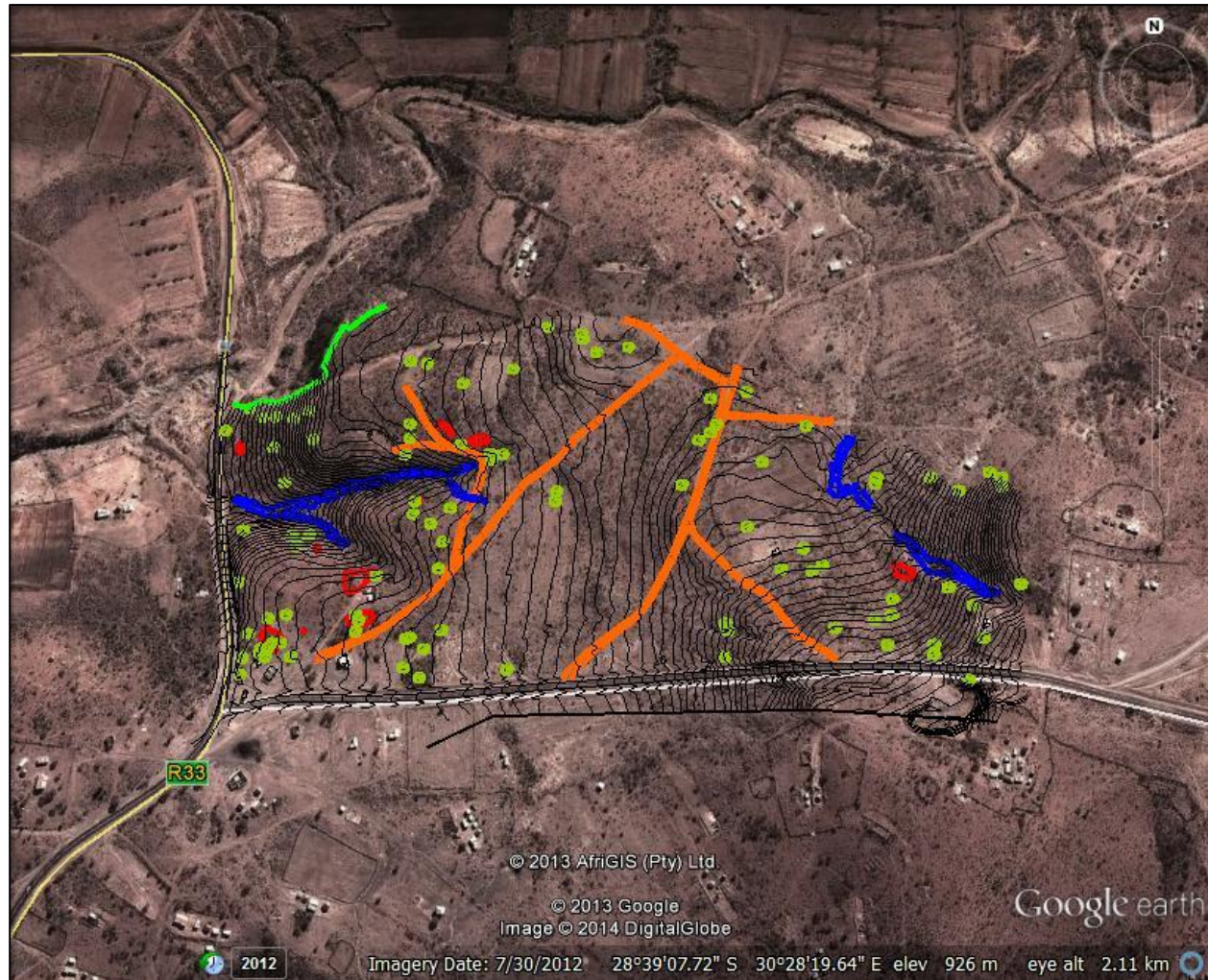


Figure 2: Aerial View of the study area.

### 3. HISTORICAL BACKGROUND OF THE STUDY AREA

The relevance of providing historical background on human history is to allow the reader to have a better understanding of what is meant by archaeological and cultural/historical features of the proposed area irrespective of whether or not such heritage resources are found.

#### 3.1 Archaeological

##### Stone Age

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 2 00 000 Before Present (BP). Industries associated with this time period includes Oldowan, Acheulean and Fauresmith. ESA stone tools include hammer stones, flakes, cores, handaxes and cleavers (Pelsler 2009). The more refined stone tools appeared during the MSA. 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. 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 (Pelsler 2009).

##### Iron Age

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).

## 3.2 Historical

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The history of Msinga is well known for its inter-tribal feud that broke out in the 19<sup>th</sup> Century. The name Msinga according to Mthembu (1994) refers to the Mpofana-Thukela-Mzinyathi Valley. It is named after a mountain which lies between the Thukela and Mzinyathi (Buffalo) River. It means a place of clearness.

In 1846 Natal was divided by the Commission into eight Magisterial Districts by a system known as Native Reserves; and Msinga became one of the demarcated Native Reserves. This division was formally established in 1849 from what was initially known as Mzinyathi and Mpofana Rural Locations (Mthembu 1994; Clegg 1979).

Prior to Colonial Government the residents of the valley lived peacefully amongst each other. It remained so until the introduction of land division and force removal of people from different corners of Natal that broke the feud of Msinga. People were forcefully removed by the Colonial Government to enable space for white colonists to settle (Mthembu 1994).

As some of the tribes from different areas of Natal moved to Msinga to resettle the land became restricted. It was a case of high population and against a small land. What made matters worse is that the Msinga landscape is not agriculturally friendly due to its nature of aridity, hilly and rocky. The pressure that came from shortage of food and land exacerbated tension amongst tribes (Mthembu 1994; Clegg 1979).

Amongst the oldest tribes of the Msinga area are the Sithole, aBathembu and amaChunu. When new tribes resettled tension started between the aBathembu and aMabaso when the later had grievances settling in a land completely surrounded by aBathembu. The two tribes tried to push each other out of the reserve, and others realised that this is a problem facing all of them, and eventually all joined in (Mthembu 1994). As pressure intensified, it was no more feud between new settlers and the old, but also, amongst old residents as well. Wars broke between 1922 and 1944 between the aBathembu tribe and that of amaChunu.

As a result, the social structure of the area became heavily affected with the young generation growing up with the mentality that violence is a solution to survival. Msinga still remains today as one of the areas in KwaZulu Natal that is under developed or very much rural.

## 4. METHODOLOGY

Background research of the study area was conducted prior to the site visit. The purpose of the research was to acquire information as to what to expect in the study area. A site visit was conducted on 16 October 2013. This was to identify heritage resources that may be impacted on due to the proposed construction.

Heritage resource means any place or object of cultural significance (NHRA No. 25 of 1999). National Heritage Resources Act 1999 (Act No. 25 of 1999) was utilised as a source of reference to identify what is known as a heritage resource.

The survey was conducted on foot in order to locate any heritage resources within the proposed sites. A Garmin Global Positioning System (GPS) was in place to record coordinates of any findings, and a digital camera to take photographs.

## 5. RESULTS AND DISCUSSION

### 5.1 Site survey

#### Archaeological

No archaeological materials found within the proposed site.

#### Historical

No historical remains of significance were found on site. However, informal graves were found scattered within the proposed site and were all situated under the trees (see figure 4). **One** was located S28°39'11.7" E30°28'09.5"; **Eight** were located S28°39'10.7" E30°28'05.5"; Three were located S28°39'10.3" E30°28'09.4"; **One** was located in S28°39'10.7" E30°28'10.1"; another **One** was located S28°39'12.3" E30°28'08.3"; and **Two** were located S28°39'12.7" E30°28'08.3". They were approximately 16 graves found on site and out of all, only 1 had a headstone which was not marked and the rest were unmarked graves.

All graves are protected by the National Heritage Resources Act (Act 25 of 1999); refer to appendix A Section 36 for the legislation that governs the graves. It is not known whether the graves are older than 60 years. The one grave with the headstone had the year 19/10/02 (see figure 5) which clearly states the age of the grave; however, it cannot be concluded based on these findings that all the graves within the sites are less than 60 years of age.

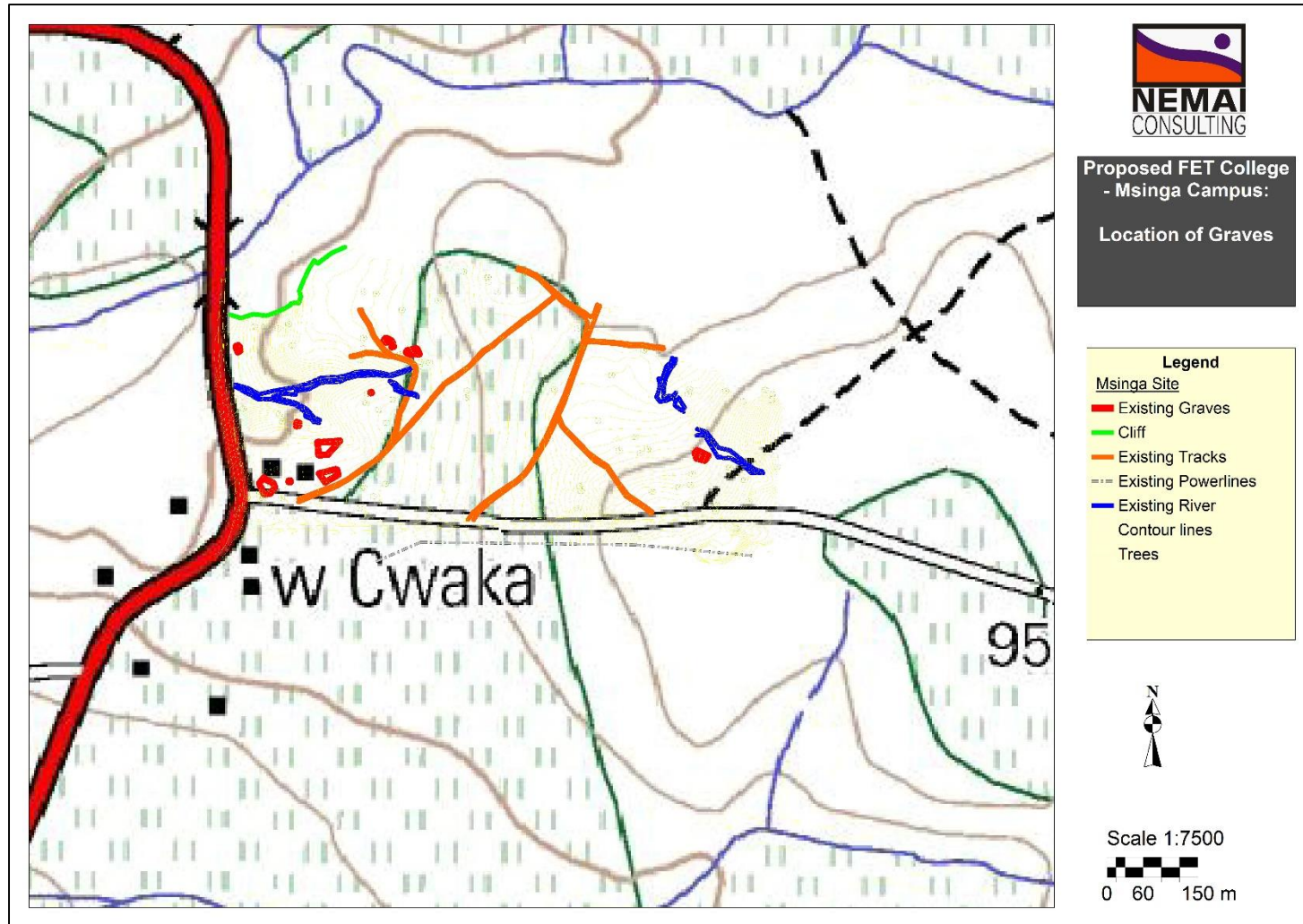


Figure 3: location of graves within the proposed site.



**Figure 4: Grave with headstone.**



**Figure 5: Eight graves located close to each other.**



**Figure 6: The One of the graves found within the site.**





**Figure 7: The Two graves found within the sites.**



**Figure 8: The Three found within the site.**

## 5.2 Potential for further findings

It is possible, based on the surface survey, that further unearthed graves may be discovered during the construction process.

If this does occur, construction in the area where the material is found should cease immediately and the finds should be reported to the relevant heritage authority and the services of a qualified heritage consultant should be obtained to assess the significance of the finds. The consultant should advise on suitable measures to be taken to address the finds that could include:

- a. further excavation and investigation by relevant specialist
- b. no further excavation and continuance of work
- c. avoidance of site and sanitisation of site from work area

## 6. LEVEL OF SIGNIFICANCE

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

Social value embraces the qualities for which 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); for instance community halls and parks. There appears not to be social value attached to the study area. The study area has no social value.

The proposed site also appeared not have historical significance. There was also no physical evidence of religious activities such as well-used areas where people worship; white-washed stones that designate areas of worship, *etc.* However, the fact that there are graves, it makes the site spiritually significant to those related to the graves in terms of ancestral believes.

Scientific value refers to research purposes. The study area has no scientific value.

Aesthetic value refers to the unique beauty of the site. No aesthetic value identified on the study area.

## 7. IMPACT ASSESSMENT

### 7.1 Impacts

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This section of the report is to identify the impact(s) that the construction may have on the heritage resources found.

The proposed construction has a negative impact on the graves.

### 7.2 Mitigation measures

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- There are three options when dealing with graves. The first option is that the graves should be exhumed and skeletal remains to be reburied. This is an extensive process involving social consultation and permitting from SAHRA;
- The second option is to place a 10m buffer around the graves and note that no work is allowed beyond the allocated buffer; or
- Alternatively, consider looking for another site away from the graves.
- All staff involved in the construction phase should be advised to report any heritage resources found.
- For any chance finds, all work will cease in the area affected and the Contractor will immediately inform the Project Manager. A registered heritage specialist must be called to site for inspection.
- The Provincial Heritage Resources Authority-KwaZulu Natal (Amafa) must be informed about the finding. Such heritage resources will have to be recorded and removed by a qualified heritage practitioner/archaeologist or incorporated into the project.
- Permits to be obtained from the Provincial Heritage Resources Authority-KwaZulu Natal (Amafa) if heritage resources are to be impacted upon.

- Under no circumstances may any heritage material be destroyed or removed from site.
- Should any remains be found on site that is potentially human remains, the South African Police Service should also be contacted.

## 8. RECOMMENDATION AND CONCLUSION

It is therefore recommended that in this particular case, either option two or three be considered. The second option is appropriate given the fact that though the graves are within the proposed area as shown in the design drawing (see attached), they still outside the demarcated portion of the proposed college. The design drawing indicate that construction will be restricted in the middle of the proposed area, whilst eastern remain agricultural zone, and the western section is where graves are located. The buffer zone will protect the graves from any destruction during the process of the construction. It should be noted that construction be restricted on the proposed area as indicated. Alternatively, a new site be considered.

This report must be submitted to the Provincial Heritage Resources Authority-KwaZulu Natal (Amafa) for comment as per the National Heritage Resources Act (Act No. 25 of 1999).

In conclusion, the construction may proceed from a heritage perspective. The contractor should ensure that the mitigation measures provided to protect the graves are taken into consideration prior to commencement of the construction. If any other heritage related resources are to be found within the proposed area during the construction phase, mitigation measures as recommended above must be taken.

## 9. REFERENCES

Carruthers, V 1990. The Magaliesberg. Southern Book Publishers. Johannesburg.

Clegg, J 1979. Ukubuyisa isidumdu – Bringing Back the body: An Examination into the ideology of vengeance in the Msinga and Mpofana Rural Location (1882 – 1944). African Studies Institute: University of the Witwatersrand. African Studies Seminar Paper No. 078.

Huffman, T. N 2007. Handbook to the Iron Age. The archaeology of Pre-Colonial farming societies in southern Africa. University of KwaZulu Natal Press. South Africa.

Mthembu, B. I 1994. Faction fighting in Msinga District from 1874 to 1906. Masters of Arts Dissertation: University of Zululand.

National Heritage Resources Act 25 Of 1999

Pelser, A. 2009. Travelling through Time: Archaeology and the Vredefort Dome. In: Reimold, U. & Gibson, R. (eds) Meteorite Impact! The Danger from Space and South Africa's Mega-Impact, the Vredefort Structure (Third Edition): 164-178. Johannesburg: Springer.

[www.sahra.org.za](http://www.sahra.org.za). Site management plan: Guidelines for the development of plans for the management of heritage sites or places.

## **APPENDIX A – LIST OF LEGISLATION APPLICABLE TO THE SITE**

## 10. LEGISLATION

### National Heritage Resources Act 25 of 1999

#### 10.1 Section 3 of 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 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).

(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".

## 10.2 Section 36 of NHRA 25 of 1999

According to **Section 36** under **Burial grounds and graves** of the National Heritage Act 25 of 1999 specific procedures need to be followed when graves are identified in the 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 permission 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 or 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 into 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 a location 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.

### 10.3 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 m<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 10 000 m<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.
- (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.

