

Figure 52. Site ORW 20.



Figure 53. Artefacts at site ORW 20.





## 5.16.Site ORW 24 ORWRDP Phase 2F

### 6.16.1 Location of site

S24 25 24.2 E30 03 58.3 – Refer Figure 54 for locality map, and Appendix 2 for survey transect logs.

Figure 54. Locality map: Site ORW 23 and 24.



### 6.16.2 Description of site

#### 6.16.2.1 Type of site

- Potshard scatter.

#### 6.16.2.2 Site category

- Late Iron Age.

#### 6.16.2.3 Context

- Primary – disturbed by ploughing.

#### **6.16.2.4 Cultural affinities, approximate age and significant features of the site**

#### **6.16.2.5 Extent**

- Low density scatter over an area of approximately 30m in diameter.

#### **6.16.2.6 Depth and stratification of the site**

- Surface indications only, no indications of deposits of any depth.

#### **6.16.2.7 Possible sources of information about past environments**

- None.

#### **6.16.2.8 Photographs and diagrams**

- Refer Figure 55 for a general view of the site.

### **6.16.3 Threats or sources of risk and their impact on the heritage resources**

- Construction activities.

### **6.16.4 Description of the Artefacts, Faunal, Botanical or Other Finds and Features associated with the site**

- Non-diagnostic ceramics (Fig. 56). Three of the potsherds identified were coloured/decorated with ochre and/or graphite and two more had decorations just underneath the lip of the vessel (Marateng – open bowls).

### **6.16.5 Statement of Significance (Heritage Value)**

- Due to disturbed context and non-diagnostic ceramics the site has no heritage value.

### **6.16.6 Field Rating (Recommended grading or field significance) of the site:**

While formal grading is the responsibility of the heritage resources authorities, this report includes Field Ratings for sites, to comply with section 38 of the national legislation.

- Generally Protected C (Field Rating IV C): this site has been sufficiently recorded (in the Phase 1). It requires no further recording before destruction (generally Low significance).

### **6.16.7 Recommendations**

#### **6.16.7.1 Assessment of the potential impact of the development on the site, relative to sustainable social and economic benefits**

- No possible benefit to be derived from the mitigation or conservation of this site.

#### **6.16.7.2 Proposals for protection or mitigation**

- None.

#### **6.16.7.3 Action/s required at the site**

- None



Figure 55. Site ORW 24.



Figure 56. Artefacts at site ORW 24.



## 5.17.Site ORW 26 ORWRDP Phase 2F

### 6.17.1 Location of site

S24 18 06.1 E29 49 28.8 – Refer Figure 57 for locality map, and Appendix 2 for survey transect logs.

Figure 57. Locality map: Site ORW 25, 26 and 27.



### 6.17.2 Description of site

#### 6.17.2.1 Type of site

- Potshard scatter.

#### 6.17.2.2 Site category

- Late Iron Age.

#### 6.17.2.3 Context

- Primary

#### **6.17.2.4 Cultural affinities, approximate age and significant features of the site**

#### **6.17.2.5 Extent**

- Low density scatter over an area of approximately 30m in diameter. Most of the site was open and cleared and the site was situated approximately 40m from the grave identified at site ORW 25. The site was also situated at the foot of the small hill.

#### **6.17.2.6 Depth and stratification of the site**

- Surface indications only, no indications of deposits of any depth.

#### **6.17.2.7 Possible sources of information about past environments**

- None.

#### **6.17.2.8 Photographs and diagrams**

- Refer Figure 58 for a general view of the site.

#### **6.17.3 Threats or sources of risk and their impact on the heritage resources**

- Construction activities.

#### **6.17.4 Description of the Artefacts, Faunal, Botanical or Other Finds and Features associated with the site**

**6.17.5** Non-diagnostic ceramics (Fig. 59). Two of the potsherds identified were coloured/decorated with ochre (Marateng).

#### **6.17.6 Statement of Significance (Heritage Value)**

- Due to disturbed context and non-diagnostic ceramics the site has no heritage value; the association with the grave at Site ORW 25 should be integrated in the mitigation on the site.

### **6.17.7 Field Rating (Recommended grading or field significance) of the site:**

While formal grading is the responsibility of the heritage resources authorities, this report includes Field Ratings for sites, to comply with section 38 of the national legislation.

- Generally Protected C (Field Rating IV C): this site has been sufficiently recorded (in the Phase 1). It requires no further recording before destruction (generally Low significance).

### **6.17.8 Recommendations**

#### **6.17.8.1 Assessment of the potential impact of the development on the site, relative to sustainable social and economic benefits**

- No possible benefit to be derived from the mitigation or conservation of this site.

#### **6.17.8.2 Proposals for protection or mitigation**

- In conjunction with the mitigation of grave Site ORW 25.

#### **6.17.8.3 Action/s required at the site**

- In conjunction with the actions at grave Site ORW 25.



Figure 58. Site ORW 26.



Figure 59. Artefacts at site ORW 26.



## **5.18.Site ORW 27 ORWRDP Phase 2F**

### **6.18.1 Location of site**

S24 18 07.3 E29 49 26.3 – Refer Figure 57 for locality map, and Appendix 2 for survey transect logs.

### **6.18.2 Description of site**

#### **6.18.2.1 Type of site**

The remains and the foundations of a dilapidated structure were identified at this location. The remains consisted basically of collapsed and weathered mud-bricks of a hut structure on top of a hut floor. The hut structure was circular in shape and measured approximately 3m across. Other, more dilapidated, structures were also identified in this area. These structures served as home or as a homestead for their previous occupants. A few metal artefacts such as wire and cans were observed amongst the remains of the structures.

#### **6.18.2.2 Site category**

- Recent modern.

#### **6.18.2.3 Context**

- Primary.

#### **6.18.2.4 Cultural affinities, approximate age and significant features of the site**

#### **6.18.2.5 Extent**

- In total an area of approximately 50 m in diameter is covered by the ruined homestead.

#### **6.18.2.6 Depth and stratification of the site**

- Single phase habitation with very sub-surface features.

#### **6.18.2.7 Photographs and diagrams**

- Refer Fig. 60 for site photograph.

### **6.18.3 Threats or sources of risk and their impact on the heritage resources**

- Damage through proposed construction.

### **6.18.4 Statement of Significance (Heritage Value)**

Through experience of similar sites and a knowledge of cultural customs and traditions it is known that stillborn babies and deceased infants occasionally were being buried within the occupational settlement. These children were sometimes buried underneath the floors and walls of houses and huts. These burials were not marked, but were known to the immediate family.

Customs and traditions like these were common in the rural African communities even up to the later parts of the 20<sup>th</sup> century. It is therefore not only possible, but rather likely that some of these structures may be on top of some of these infant remains.

Significance: Moderate significance. The structures themselves have little or no heritage value or significance due to their relevant recent origins from within the last 60 years. The structures, however should be avoided, but if this deems not to be possible, a watching brief is recommended due to the possibility of infant human remains underneath the remains of the structures.

### **6.18.5 Field Rating (Recommended grading or field significance) of the site:**

While formal grading is the responsibility of the heritage resources authorities, this report includes Field Ratings for sites, to comply with section 38 of the national legislation.



- Generally Protected A (Field Rating IV A): this site should be mitigated before destruction (generally High/Medium significance);

### **6.18.6 Recommendations**

#### **6.18.6.1 Proposals for protection or mitigation**

- If the structures can not be avoided during construction a suitably accredited archaeologist should be present when they are destroyed to ensure that no human remains are inadvertently discovered.
- If human remains are uncovered during the course of archaeological work this usually entails that excavations affecting the burial must be stopped. SAHRA should then be consulted and depending on the situation, the remains are either covered and left *in situ*, exposed (but not removed) and studied *in situ*, or fully excavated and studied with the consent and participation of the interested parties. It is, therefore, advisable that if it is foreseen that any archaeological research will uncover human remains an agreement with the interested parties and a permit for burials be obtained beforehand.
- For human remains inadvertently discovered in other situations, the legal requirement is that all activities affecting the burial must be stopped and that the discovery must be reported to the SAPS and SAHRA. The status of the remains is then ascertained. If it is found to be forensic in nature (nominally younger than 60 years and perceived to be the victim of crime or a person that have died of unnatural causes) recovery by the Provincial Forensic Pathology Services in conjunction with the SAPS is mandated. If the remains are of cultural, historical or archaeological origin recovery is usually facilitated by SAHRA by means of a Rescue Permit.

#### **6.18.6.2 Action/s required at the site**

- Appoint a suitably accredited archaeologist on a watching brief to monitor construction activities.

Figure 60. General photograph of Site ORW 27.



## 5.19.Site ORW 28 ORWRDP Phase 2F

### 6.19.1 Location of site

S24 18 29.7 E29 48 35.6 – Refer Figure 61 for locality map, and Appendix 2 for survey transect logs.

Figure 61. Locality map for Site ORW 28.



### 6.19.2 Description of site

#### 6.19.2.1 Type of site

The remains of the foundations of a small dilapidated structure were identified at this location. The site was situated right next to a ploughed field. The remains of the structure consisted basically of packed lines of rocks which were used in the foundations of these presumably temporary structures. Some of these rocks were removed and in other areas the foundations were damaged. The structure was square in shape and measured approximately 5m x 5m. It was most probably that this structure was only used as a



temporary base during agricultural activities (ploughing, planting & harvesting) due to the minimal materials left on the site and its close proximity to the ploughed field

#### **6.19.2.2 Site category**

- Recent modern.

#### **6.19.2.3 Context**

- Primary - disturbed.

#### **6.19.2.4 Cultural affinities, approximate age and significant features of the site**

#### **6.19.2.5 Extent**

- Single structure 5X5m in extent.

#### **6.19.2.6 Depth and stratification of the site**

- Single phase habitation with very sub-surface features.

#### **6.19.2.7 Photographs and diagrams**

- Refer Fig. 62 for site photograph.

#### **6.19.3 Threats or sources of risk and their impact on the heritage resources**

- Damage through proposed construction.

#### **6.19.4 Statement of Significance (Heritage Value)**

Through experience of similar sites and a knowledge of cultural customs and traditions it is known that stillborn babies and deceased infants occasionally were being buried within the occupational settlement. These children were sometimes buried underneath the floors and walls of houses and huts. These burials were not marked, but were known to the immediate family.

Customs and traditions like these were common in the rural African communities even up to the later parts of the 20<sup>th</sup> century. It is therefore not only possible, but rather likely that some of these structures may be on top of some of these infant remains.

Significance: Moderate significance. The structures themselves have little or no heritage value or significance due to their relevant recent origins from within the last 60 years. The structures, however should be avoided, but if this deems not to be possible, a watching brief is recommended due to the possibility of infant human remains underneath the remains of the structures.

#### **6.19.5 Field Rating (Recommended grading or field significance) of the site:**

While formal grading is the responsibility of the heritage resources authorities, this report includes Field Ratings for sites, to comply with section 38 of the national legislation.

- Generally Protected A (Field Rating IV A): this site should be mitigated before destruction (generally High/Medium significance);

#### **6.19.6 Recommendations**

##### **6.19.6.1 Proposals for protection or mitigation**

- If the structures can not be avoided during construction a suitably accredited archaeologist should be present when they are destroyed to ensure that no human remains are inadvertently discovered.
- If human remains are uncovered during the course of archaeological work this usually entails that excavations affecting the burial must be stopped. SAHRA should then be consulted and depending on the situation, the remains are either covered and left *in situ*, exposed (but not removed) and studied *in situ*, or fully excavated and studied with the consent and participation of the interested parties. It is,

therefore, advisable that if it is foreseen that any archaeological research will uncover human remains an agreement with the interested parties and a permit for burials be obtained beforehand.

- For human remains inadvertently discovered in other situations, the legal requirement is that all activities affecting the burial must be stopped and that the discovery must be reported to the SAPS and SAHRA. The status of the remains is then ascertained. If it is found to be forensic in nature (nominally younger than 60 years and perceived to be the victim of crime or a person that have died of unnatural causes) recovery by the Provincial Forensic Pathology Services in conjunction with the SAPS is mandated. If the remains are of cultural, historical or archaeological origin recovery is usually facilitated by SAHRA by means of a Rescue Permit.

#### **6.19.6.2 Action/s required at the site**

- Appoint a suitably accredited archaeologist on a watching brief to monitor construction activities.



Figure 62. General photograph of Site ORW 28.



## 5.20.Site ORW 29 ORWRDP Phase 2F

### 6.20.1 Location of site

S24 19 51.5 E29 46 20.5 – Refer Figure 63 for locality map, and Appendix 2 for survey transect logs.

Figure 63. Locality map for Site ORW 29 and 30.



### 6.20.2 Description of site

The remains and the foundations of a cluster of dilapidated structures were identified at this location. The remains of these structures were situated approximately 15m from the gravel road. The remains consisted basically of packed lines of rocks which were used in the foundations of these structures on which mud-brick walls were built. These structures consisted of one or more rooms which were predominantly square or rectangular in shape and the rooms measured approximately 5m x 5m. These structures served as home or as a homestead for their previous occupants. A few metal artefacts such as wire and cans were observed amongst the remains of the structures.

#### **6.20.2.1 Type of site**

#### **6.20.2.2 Site category**

- Recent modern.

#### **6.20.2.3 Context**

- Primary - disturbed.

#### **6.20.2.4 Cultural affinities, approximate age and significant features of the site**

#### **6.20.2.5 Extent**

- Approximately 30m in diameter.

#### **6.20.2.6 Depth and stratification of the site**

- Single phase habitation with very sub-surface features.

#### **6.20.2.7 Photographs and diagrams**

- Refer Fig. 64 for site photograph.

#### **6.20.3 Threats or sources of risk and their impact on the heritage resources**

- Damage through proposed construction.

#### **6.20.4 Statement of Significance (Heritage Value)**

Through experience of similar sites and a knowledge of cultural customs and traditions it is known that stillborn babies and deceased infants occasionally were being buried within the occupational settlement. These children were sometimes buried underneath the floors and walls of houses and huts. These burials were not marked, but were known to the immediate family.

Customs and traditions like these were common in the rural African communities even up to the later parts of the 20<sup>th</sup> century. It is therefore not only possible, but rather likely that some of these structures may be on top of some of these infant remains.

Significance: Moderate significance. The structures themselves have little or no heritage value or significance due to their relevant recent origins from within the last 60 years. The structures, however should be avoided, but if this deems not to be possible, a watching brief is recommended due to the possibility of infant human remains underneath the remains of the structures.

#### **6.20.5 Field Rating (Recommended grading or field significance) of the site:**

While formal grading is the responsibility of the heritage resources authorities, this report includes Field Ratings for sites, to comply with section 38 of the national legislation.

- Generally Protected A (Field Rating IV A): this site should be mitigated before destruction (generally High/Medium significance);

#### **6.20.6 Recommendations**

##### **6.20.6.1 Proposals for protection or mitigation**

- If the structures can not be avoided during construction a suitably accredited archaeologist should be present when they are destroyed to ensure that no human remains are inadvertently discovered.
- If human remains are uncovered during the course of archaeological work this usually entails that excavations affecting the burial must be stopped. SAHRA should then be consulted and depending on the situation, the remains are either covered and left *in situ*, exposed (but not removed) and studied *in*



*situ*, or fully excavated and studied with the consent and participation of the interested parties. It is, therefore, advisable that if it is foreseen that any archaeological research will uncover human remains an agreement with the interested parties and a permit for burials be obtained beforehand.

- For human remains inadvertently discovered in other situations, the legal requirement is that all activities affecting the burial must be stopped and that the discovery must be reported to the SAPS and SAHRA. The status of the remains is then ascertained. If it is found to be forensic in nature (nominally younger than 60 years and perceived to be the victim of crime or a person that have died of unnatural causes) recovery by the Provincial Forensic Pathology Services in conjunction with the SAPS is mandated. If the remains are of cultural, historical or archaeological origin recovery is usually facilitated by SAHRA by means of a Rescue Permit.

#### **6.20.6.2 Action/s required at the site**

- Appoint a suitably accredited archaeologist on a watching brief to monitor construction activities.

Figure 64. General photograph of Site ORW 29.



## **5.21.Site ORW 30 ORWRDP Phase 2F**

### **6.21.1 Location of site**

S24 19 53.2 E29 46 17.8 – Refer Figure 63 for locality map, and Appendix 2 for survey transect logs.

### **6.21.2 Description of site**

The remains and the foundations of a cluster of dilapidated structures were identified at this location. The remains of these structures were situated approximately 20m from the gravel road. The remains consisted basically of packed lines of rocks which were used in the foundations of these structures on which mud-brick walls were built. These structures consisted of one or more rooms which were predominantly square or rectangular in shape and the rooms measured approximately 5m x 5m. These structures served as home or as a homestead for their previous occupants. A few metal artefacts such as wire and cans were observed amongst the remains of the structures.

#### **6.21.2.1 Type of site**

#### **6.21.2.2 Site category**

- Recent modern.

#### **6.21.2.3 Context**

- Primary - disturbed.

#### **6.21.2.4 Cultural affinities, approximate age and significant features of the site**

#### **6.21.2.5 Extent**

- Approximately 50m in diameter.

#### **6.21.2.6 Depth and stratification of the site**

- Single phase habitation with very sub-surface features.

#### **6.21.2.7 Photographs and diagrams**

- Refer Fig. 65 for site photograph.

#### **6.21.3 Threats or sources of risk and their impact on the heritage resources**

- Damage through proposed construction.

#### **6.21.4 Statement of Significance (Heritage Value)**

Through experience of similar sites and a knowledge of cultural customs and traditions it is known that stillborn babies and deceased infants occasionally were being buried within the occupational settlement. These children were sometimes buried underneath the floors and walls of houses and huts. These burials were not marked, but were known to the immediate family.

Customs and traditions like these were common in the rural African communities even up to the later parts of the 20<sup>th</sup> century. It is therefore not only possible, but rather likely that some of these structures may be on top of some of these infant remains.

Significance: Moderate significance. The structures themselves have little or no heritage value or significance due to their relevant recent origins from within the last 60 years. The structures, however should be avoided, but if this deem not to be possible, a watching brief is recommended due to the possibility of infant human remains underneath the remains of the structures.



### **6.21.5 Field Rating (Recommended grading or field significance) of the site:**

While formal grading is the responsibility of the heritage resources authorities, this report includes Field Ratings for sites, to comply with section 38 of the national legislation.

- Generally Protected A (Field Rating IV A): this site should be mitigated before destruction (generally High/Medium significance);

### **6.21.6 Recommendations**

#### **6.21.6.1 Proposals for protection or mitigation**

- If the structures can not be avoided during construction a suitably accredited archaeologist should be present when they are destroyed to ensure that no human remains are inadvertently discovered.
- If human remains are uncovered during the course of archaeological work this usually entails that excavations affecting the burial must be stopped. SAHRA should then be consulted and depending on the situation, the remains are either covered and left *in situ*, exposed (but not removed) and studied *in situ*, or fully excavated and studied with the consent and participation of the interested parties. It is, therefore, advisable that if it is foreseen that any archaeological research will uncover human remains an agreement with the interested parties and a permit for burials be obtained beforehand.
- For human remains inadvertently discovered in other situations, the legal requirement is that all activities affecting the burial must be stopped and that the discovery must be reported to the SAPS and SAHRA. The status of the remains is then ascertained. If it is found to be forensic in nature (nominally younger than 60 years and perceived to be the victim of crime or a person that have died of unnatural causes) recovery by the Provincial Forensic Pathology Services in conjunction with the SAPS is mandated. If the remains are of cultural, historical or archaeological origin recovery is usually facilitated by SAHRA by means of a Rescue Permit.

### 6.21.6.2 Action/s required at the site

- Appoint a suitably accredited archaeologist on a watching brief to monitor construction activities.

Figure 65. General photograph of Site ORW 30.



## **6. BURIAL GROUNDS AND GRAVES**

### **6.1. Site ORW 3 ORWRDP (Not directly on current proposed alignment)**

#### **7.1.1 Location of burial grounds and graves**

S24 53 19.1 E29 59 55.8 – Refer Figure 28 for locality map, and Appendix 2 for survey transect logs.

These graves were identified during field surveys, but were subsequently assessed to be outside of the affected alignment and will therefore not be impacted on by the proposed project.

### **6.2. Site ORW 9 ORWRDP Phase 2C**

#### **7.2.1 Location of burial grounds and graves**

S24 45 08.1 E30 10 21.2 – Refer Figure 38 for locality map, and Appendix 2 for survey transect logs.

#### **7.2.2 Description of burial grounds and graves**

A cluster of three graves was identified here. The graves were approximately 20 meters from the tar road and were situated right next to the existing Lebalelo pipeline. The graves were placed next to each other and they were orientated from west to east. Two of the graves had cement slabs as dressings and cemented headstones placed at the western ends of the grave. The headstone of the one grave was partially damaged. The headstones and dressings had no inscriptions. The third grave had an informal mound of packed rock and soil as dressing. All three graves were in a neglected state and were damaged to some extent. No other structures or features were associated with these graves (Fig. 66).

### 7.2.3 Legal implications of graves

The NHRA identifies the following categories of human remains whether as incidentally discovered remains, or in burial grounds and graves:

- Human remains older than 100 years, which are defined as archaeological.
- “Victims of Conflict” that include:
  - Persons who died in the present territory of the Republic of South Africa as a direct result of any war or conflict (the act requires regulations to list these but none has been published to date) excluding those covered by the Commonwealth War Graves Act (Act 8 of 1992) (effectively persons who were citizens of Commonwealth Countries other than South Africa who died in South Africa after 4 August 1914).
  - Members of the forces of Great Britain and the former British Empire who died on active duty in the present territory of the Republic of South Africa before 4 August 1914.
  - Persons that were exiled from the present territory of the Republic of South Africa and died outside of South Africa during the Anglo-Boer War (1899-1902).
  - Certain persons who died in the “liberation struggle” (the act requires regulations to list such persons but none have been published to date) in the present territory of the Republic of South Africa and outside South Africa.
- Ancestral graves.
- Persons of royal descent and traditional leaders.
- Individuals indicated by the Minister of Arts and Culture in notices in the Government Gazette.
- Historical graves and burial grounds.

Graves are defined as the place of burial as well as the contents, headstone or any other marker and any other structure on, or associated with such a place.



Under the provisions of the NHRA a SAHRA permit is therefore required for any action affecting a burial ground or grave or human remains (including the handling and housing thereof) older than 100 years; that of a victim of conflict, a person of royal descent or a traditional leader and those from historical and ancestral graves as well as any grave or burial ground older than 60 years which is situated outside a formal cemetery administered by a recognized local authority. In addition to the normal requirements for an archaeological excavation permit, the following requirements must be met in applications involving any of the above:

- The applicant must illustrate a concerted effort to trace and identify any person or community with an interest in the grave, burial ground or remains. This should be done by means of documentary and archival research, a process of public participation and social consultation and the placing of site and newspaper notices.
- If any interested parties are identified their permission for the exhumation of the remains or any action affecting the graves must be obtained and an agreement as to the requirements for exhumation, the research on and the re-internment of, or any other arrangement for the long term storage of the remains must be met.

If the grave or burial ground in question is that of a member of the military forces of a Commonwealth Country other than South Africa, permission must be obtained from the Commonwealth War Graves Commission.

The handling, storage and transport of human remains, whether they be of archaeological or recent origin, is further regulated by the Graves and Dead Bodies Ordinance (Ord 7 of 1925 (re-instituted by Proclamation 109 of 17 June 1994), the Exhumations Ordinance (Ord 12 of 1980) as well as either the

Human Tissues Act (Act 65 of 1983 as Amended) or the National Health Act (Act 61 of 2003). With the promulgation of the Health Act not all of the sections of the Human Tissues Act were repealed, and since this process is ongoing these acts must be used in conjunction with each other. In addition, graves and human remains in municipal cemeteries are regulated by the applicable Municipal By-Laws.

For practical purposes the following is required to legally excavate and handle human remains:

- Notices advertising the proposed exhumation of graves must be placed in a local newspaper in English and one of the common additional official languages of the area. These notices must invite possible objections to the proposed exhumation. A period of two weeks must be allowed for comments.
- Site notices similar in content to the newspaper notices must be placed at the site and should remain in place for a period of 60 days.
- A concerted effort to identify and contact persons or groups with an interest in the graves must be undertaken through documentary and archival research, public participation and social consultation. The process must be documented and this record must accompany the application.
- If any interested parties are identified, their permission for the proposed action must be obtained in an agreement that states the preferred place of reburial or mode of long term retention of the remains and the cultural and/or religious requirements that must be met. The applicant must assist the group in question to meet the agreed requirements.
- If the grave is located in a National Park the requirements of the SANParks policy must be met.
- The permission of the Premier of the Province, or the delegated official, must be obtained.
- A permit from the Provincial Department of Health must be obtained.
- Permission of the Municipality from where the remains are exhumed and where it will be reburied must be obtained. The second is usually included in the process of obtaining new burial plots for re-internment. If the graves in question are not located in the jurisdiction of a

Municipality but in an area under a Traditional Authority, permission from said authority is required.

- The permission of the landowner where the remains are to be exhumed as well as where the remains will be buried is required.
- If the agreement allows for the remains to be placed in a collection, the permission of the head of the institution that houses the collection must be obtained. If the agreement with the interested parties allows for the study of the remains before re-internment, this implies temporary storage which also requires the permission of the head of the institution involved.
- A SAHRA permit must be obtained for graves and remains listed above, in short for graves older than 100 years, older than 60 years if located outside the jurisdiction of a municipality and for other graves of cultural significance irrelevant of their age (Note that this may vary between provinces).
- Permission from the Commonwealth War Graves Commission must be obtained for any graves under their administration.
- The local South African Police Services must be notified of the exhumation seven days prior to the action.
- Only a certified funeral undertaker, or an institution with a similar legal status and facilities, is legally allowed to handle, transport and store human remains. South African medical schools legally have this status.

#### **7.2.4 Threats or sources of risk and their impact on the burial grounds and graves**

- The graves will be affected by the construction activities on the proposed alignment.

### **7.2.5 Description of the Artefacts, Faunal, Botanical or Other Finds and Features associated with the burial grounds and graves**

- No cultural material (“burial objects”) was observed in association with these graves.

### **7.2.6 Statement of Significance (Heritage Value)**

- Although the graves might fall under any legislation that specifically indicates them as culturally significant, they remain graves and will have significance on local and family level.
- All graves are protected by legislation whether it is archaeological, heritage, or recent modern, and no actions affecting the graves may be undertaken without legislated permission.

### **7.2.7 Field Rating (Recommended grading or field significance) of the site:**

While formal grading is the responsibility of the heritage resources authorities, this report includes Field Ratings for sites, to comply with section 38 of the national legislation.

- Generally Protected A (Field Rating IV A): this site should be mitigated before destruction (generally High/Medium significance);

### **7.2.8 Recommendations**

#### **7.2.8.1 Assessment of the potential impact of the development on these sites, relative to sustainable social and economic benefits.**

- It is recognised that the need for water distribution in the area is high and this is considered relative to well established practice of grave relocation to recognised Municipal and other cemeteries.

#### **7.2.8.2 Proposals for protection or mitigation**

- The possibility of changing the alignment of the proposed pipeline should be considered as the most suitable measure.

- If an impact on the graves is unavoidable the full NHRA Sec 36 will come to bear. This is an extensive and expensive process and should only be considered as a last resort.
- Other cases of proposed grave relocation in this region have met with serious social, political and cultural objections.

#### **7.2.9 Action/s required at the site**

- At the onset of construction all graves that might be affected should be clearly demarcated and if possible fenced off to protect them from any accidental damage, whether they are earmarked for relocation, or not.
- Should the decision be taken to propose the relocation of the affected graves, a suitably accredited and experienced service provider must be appointed to undertake the relocation. Please note that grave relocation is dependent on permission for the action by the close relatives and interested and affected parties from the community, and the requirement is that the developer must assist this community to fulfil their cultural and religious requirement during the process.



Figure 66. Graves at Site ORW 9.







## **6.3. Site ORW 13 ORWRDP Phase 2D**

### **7.3.1 Location of burial grounds and graves**

S24 37 59.7 E30 10 39.2 – Refer Figure 44 for locality map, and Appendix 2 for survey transect logs.

### **7.3.2 Description of burial grounds and graves**

A cluster of five graves was identified here. Three of the graves were placed in a line next to each other and the other two graves were placed in another line next to each other in front of the first three graves. All of the graves were orientated from west to east. The first three graves had rectangular shaped brick and cement outlines which were filled with gravel and soil as grave dressings. Inscribed granite headstones were placed at the western ends of these graves. These graves were also crudely fenced in. One of the graves in the second line had a formal granite dressing with an inscribed granite headstone placed at the western end of the grave. The second grave had an informal mound of packed rocks and soil as dressing. The graves were well maintained and some grave goods (such as cups and pots) were present on the graves (Fig. 67).

### **7.3.3 Legal implications of graves**

The NHRA identifies the following categories of human remains whether as incidentally discovered remains, or in burial grounds and graves:

- Human remains older than 100 years, which are defined as archaeological.
- “Victims of Conflict” that include:
  - Persons who died in the present territory of the Republic of South Africa as a direct result of any war or conflict (the act requires regulations to list these but none has been published to date) excluding those covered by the Commonwealth War Graves Act (Act 8

of 1992) (effectively persons who were citizens of Commonwealth Countries other than South Africa who died in South Africa after 4 August 1914).

- Members of the forces of Great Britain and the former British Empire who died on active duty in the present territory of the Republic of South Africa before 4 August 1914.
  - Persons that were exiled from the present territory of the Republic of South Africa and died outside of South Africa during the Anglo-Boer War (1899-1902).
  - Certain persons who died in the “liberation struggle” (the act requires regulations to list such persons but none have been published to date) in the present territory of the Republic of South Africa and outside South Africa.
- Ancestral graves.
  - Persons of royal descent and traditional leaders.
  - Individuals indicated by the Minister of Arts and Culture in notices in the Government Gazette.
  - Historical graves and burial grounds.

Graves are defined as the place of burial as well as the contents, headstone or any other marker and any other structure on, or associated with such a place.

Under the provisions of the NHRA a SAHRA permit is therefore required for any action affecting a burial ground or grave or human remains (including the handling and housing thereof) older than 100 years; that of a victim of conflict, a person of royal descent or a traditional leader and those from historical and ancestral graves as well as any grave or burial ground older than 60 years which is situated outside a formal cemetery administered by a recognized local authority. In addition to the normal requirements for an archaeological excavation permit, the following requirements must be met in applications involving any of the above:

- The applicant must illustrate a concerted effort to trace and identify any person or community with an interest in the grave, burial ground or remains. This should be done by means of documentary and archival research, a process of public participation and social consultation and the placing of site and newspaper notices.
- If any interested parties are identified their permission for the exhumation of the remains or any action affecting the graves must be obtained and an agreement as to the requirements for exhumation, the research on and the re-internment of, or any other arrangement for the long term storage of the remains must be met.

If the grave or burial ground in question is that of a member of the military forces of a Commonwealth Country other than South Africa, permission must be obtained from the Commonwealth War Graves Commission.

The handling, storage and transport of human remains, whether they be of archaeological or recent origin, is further regulated by the Graves and Dead Bodies Ordinance (Ord 7 of 1925 (re-instituted by Proclamation 109 of 17 June 1994), the Exhumations Ordinance (Ord 12 of 1980) as well as either the Human Tissues Act (Act 65 of 1983 as Amended) or the National Health Act (Act 61 of 2003). With the promulgation of the Health Act not all of the sections of the Human Tissues Act were repealed, and since this process is ongoing these acts must be used in conjunction with each other. In addition, graves and human remains in municipal cemeteries are regulated by the applicable Municipal By-Laws.

For practical purposes the following is required to legally excavate and handle human remains:

- Notices advertising the proposed exhumation of graves must be placed in a local newspaper in English and one of the common additional official languages of the area. These notices must



invite possible objections to the proposed exhumation. A period of two weeks must be allowed for comments.

- Site notices similar in content to the newspaper notices must be placed at the site and should remain in place for a period of 60 days.
- A concerted effort to identify and contact persons or groups with an interest in the graves must be undertaken through documentary and archival research, public participation and social consultation. The process must be documented and this record must accompany the application.
- If any interested parties are identified, their permission for the proposed action must be obtained in an agreement that states the preferred place of reburial or mode of long term retention of the remains and the cultural and/or religious requirements that must be met. The applicant must assist the group in question to meet the agreed requirements.
- If the grave is located in a National Park the requirements of the SANParks policy must be met.
- The permission of the Premier of the Province, or the delegated official, must be obtained.
- A permit from the Provincial Department of Health must be obtained.
- Permission of the Municipality from where the remains are exhumed and where it will be reburied must be obtained. The second is usually included in the process of obtaining new burial plots for re-internment. If the graves in question are not located in the jurisdiction of a Municipality but in an area under a Traditional Authority, permission from said authority is required.
- The permission of the landowner where the remains are to be exhumed as well as where the remains will be buried is required.
- If the agreement allows for the remains to be placed in a collection, the permission of the head of the institution that houses the collection must be obtained. If the agreement with the interested parties allows for the study of the remains before re-internment, this implies temporary storage which also requires the permission of the head of the institution involved.

- A SAHRA permit must be obtained for graves and remains listed above, in short for graves older than 100 years, older than 60 years if located outside the jurisdiction of a municipality and for other graves of cultural significance irrelevant of their age (Note that this may vary between provinces).
- Permission from the Commonwealth War Graves Commission must be obtained for any graves under their administration.
- The local South African Police Services must be notified of the exhumation seven days prior to the action.
- Only a certified funeral undertaker, or an institution with a similar legal status and facilities, is legally allowed to handle, transport and store human remains. South African medical schools legally have this status.

#### **7.3.4 Threats or sources of risk and their impact on the burial grounds and graves**

- The graves will be affected by the construction activities on the proposed alignment.

#### **7.3.5 Description of the Artefacts, Faunal, Botanical or Other Finds and Features associated with the burial grounds and graves**

- Some object of personal use, such as cups and pots (“burial objects”) were observed in association with these graves.

#### **7.3.6 Statement of Significance (Heritage Value)**

- Although the graves might fall under any legislation that specifically indicates them as culturally significant, they remains graves and will have significance on local and family level.
- All graves are protected by legislation whether it is archaeological, heritage, or recent modern, and no actions affecting the graves may be undertaken without legislated permission.

#### **7.3.7 Field Rating (Recommended grading or field significance) of the site:**

While formal grading is the responsibility of the heritage resources authorities, this report includes Field Ratings for sites, to comply with section 38 of the national legislation.

- Generally Protected A (Field Rating IV A): this site should be mitigated before destruction (generally High/Medium significance);

### **7.3.8 Recommendations**

#### **7.3.8.1 Assessment of the potential impact of the development on these sites, relative to sustainable social and economic benefits.**

- It is recognised that the need for water distribution in the area is high and this is considered relative to well established practice of grave relocation to recognised Municipal and other cemeteries.

#### **7.3.8.2 Proposals for protection or mitigation**

- The possibility of changing the alignment of the proposed pipeline should be considered as the most suitable measure.
- If an impact on the graves is unavoidable the full NHRA Sec 36 will come to bear. This is an extensive and expensive process and should only be considered as a last resort.
- Other cases of proposed grave relocation in this region have met with serious social, political and cultural objections.

### **7.3.9 Action/s required at the site**

- At the onset of construction all graves that might be affected should be clearly demarcated and if possible fenced off to protect them from any accidental damage, whether they are earmarked for relocation, or not.
- Should the decision be taken to propose the relocation of the affected graves, a suitably accredited and experienced service provider must be appointed to undertake the relocation.

Please note that grave relocation is dependent on permission for the action by the close relatives and interested and affected parties from the community, and the requirement is that the developer must assist this community to fulfil their cultural and religious requirement during the process.



Figure 67. Graves at Site ORW 13.













## 6.4. Site ORW 16 ORWRDP Phase 2D

### 7.4.1 Location of burial grounds and graves

S24 33 59.9 E30 09 25.0 – Refer Figure 68 for locality map, and Appendix 2 for survey transect logs.

Figure 68. Locality map for Site ORW 16.



### 7.4.2 Description of burial grounds and graves

A large cemetery with over 100 graves was identified at this location. A large area was fenced to serve as official graveyard for the surrounding communities. This fenced area extended right across the proposed route of the pipeline. This cemetery is still in an early stage of being utilized, with large areas still to be filled. Due to the inherent inaccuracy of GPS readings and large scale and relatively poor print quality of the printed maps it was difficult to say if the proposed pipeline missed all of the graves or

could possibly pass over some of them. It seemed however, that the proposed route of the pipeline passed over an area of the cemetery which was already filled with graves (Fig. 69).

### **7.4.3 Legal implications of graves**

The NHRA identifies the following categories of human remains whether as incidentally discovered remains, or in burial grounds and graves:

- Human remains older than 100 years, which are defined as archaeological.
- “Victims of Conflict” that include:
  - Persons who died in the present territory of the Republic of South Africa as a direct result of any war or conflict (the act requires regulations to list these but none has been published to date) excluding those covered by the Commonwealth War Graves Act (Act 8 of 1992) (effectively persons who were citizens of Commonwealth Countries other than South Africa who died in South Africa after 4 August 1914).
  - Members of the forces of Great Britain and the former British Empire who died on active duty in the present territory of the Republic of South Africa before 4 August 1914.
  - Persons that were exiled from the present territory of the Republic of South Africa and died outside of South Africa during the Anglo-Boer War (1899-1902).
  - Certain persons who died in the “liberation struggle” (the act requires regulations to list such persons but none have been published to date) in the present territory of the Republic of South Africa and outside South Africa.
- Ancestral graves.
- Persons of royal descent and traditional leaders.
- Individuals indicated by the Minister of Arts and Culture in notices in the Government Gazette.
- Historical graves and burial grounds.

Graves are defined as the place of burial as well as the contents, headstone or any other marker and any other structure on, or associated with such a place.

Under the provisions of the NHRA a SAHRA permit is therefore required for any action affecting a burial ground or grave or human remains (including the handling and housing thereof) older than 100 years; that of a victim of conflict, a person of royal descent or a traditional leader and those from historical and ancestral graves as well as any grave or burial ground older than 60 years which is situated outside a formal cemetery administered by a recognized local authority. In addition to the normal requirements for an archaeological excavation permit, the following requirements must be met in applications involving any of the above:

- The applicant must illustrate a concerted effort to trace and identify any person or community with an interest in the grave, burial ground or remains. This should be done by means of documentary and archival research, a process of public participation and social consultation and the placing of site and newspaper notices.
- If any interested parties are identified their permission for the exhumation of the remains or any action affecting the graves must be obtained and an agreement as to the requirements for exhumation, the research on and the re-internment of, or any other arrangement for the long term storage of the remains must be met.

If the grave or burial ground in question is that of a member of the military forces of a Commonwealth Country other than South Africa, permission must be obtained from the Commonwealth War Graves Commission.



The handling, storage and transport of human remains, whether they be of archaeological or recent origin, is further regulated by the Graves and Dead Bodies Ordinance (Ord 7 of 1925 (re-instituted by Proclamation 109 of 17 June 1994), the Exhumations Ordinance (Ord 12 of 1980) as well as either the Human Tissues Act (Act 65 of 1983 as Amended) or the National Health Act (Act 61 of 2003). With the promulgation of the Health Act not all of the sections of the Human Tissues Act were repealed, and since this process is ongoing these acts must be used in conjunction with each other. In addition, graves and human remains in municipal cemeteries are regulated by the applicable Municipal By-Laws.

For practical purposes the following is required to legally excavate and handle human remains:

- Notices advertising the proposed exhumation of graves must be placed in a local newspaper in English and one of the common additional official languages of the area. These notices must invite possible objections to the proposed exhumation. A period of two weeks must be allowed for comments.
- Site notices similar in content to the newspaper notices must be placed at the site and should remain in place for a period of 60 days.
- A concerted effort to identify and contact persons or groups with an interest in the graves must be undertaken through documentary and archival research, public participation and social consultation. The process must be documented and this record must accompany the application.
- If any interested parties are identified, their permission for the proposed action must be obtained in an agreement that states the preferred place of reburial or mode of long term retention of the remains and the cultural and/or religious requirements that must be met. The applicant must assist the group in question to meet the agreed requirements.
- If the grave is located in a National Park the requirements of the SANParks policy must be met.
- The permission of the Premier of the Province, or the delegated official, must be obtained.
- A permit from the Provincial Department of Health must be obtained.