

MATAKOMA & CRM AFRICA

A Professional Association between Matakoma & CRM Africa

PHASE 1 ARCHAEOLOGICAL SURVEY OF THE IMPUNZI DIVISION OF DUIKER MINING – WITBANK/OGIES AREA



CRM AFRICA

ARCHAEOLOGICAL CONSULTING

P O Box 14706
Hatfield
0028
South Africa

Cell: 082 375 7622 (Henk Steyn)
082 717 6661 (Polke Birkholtz)
082 972 3093 (Andrew Salomon)

Fax: 012 333 7717

E-mail: stonetool@mweb.co.za



MATAKOMA

**Environmental & Archaeological
Management Consultants**

PO Box 976
Randfontein
1760
South Africa

Phone: (011) 411 – 2287

Cell: 083 489 0773

Fax: (011) 411 – 2281

E-mail: woufourie@mweb.co.za

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1. Executive summary

As we know from legislation the surveying, capturing and management of heritage resources is an integral part of the greater management plan laid down for any major development or historic existing operation. With the proclamation of the National Heritage Resources Act, 1999 (Act 25 of 1999) this process has been laid down in no uncertain terms. This legislation aims to underpin the existing legislation, that only addresses this issue at a glance, and give guidance to developers and existing industries to the management of their Heritage Resources.

Mining is known to have a major impact on the environment. This environment consists of the natural, water/air/soil, and the social aspect that includes the human sphere of culture, religion and values. During management of any project the major aim is to mitigate any impacts on the natural environment as this will in turn address the human side of existence. However, it is evident that the human side is sometimes neglected. Archaeological and cultural remains and existing areas of importance is ignored because of the problems associated with working with people and their emotions linked to these subjects.

The discovering of an archaeological site of gravesite can halt operations during construction for months. It then makes sense to address these subjects before development takes place as to streamline the whole development process.

The iMpunzi Division is developing a new Environment Management Program of which the Archaeological Assessment is one section. Areas identified during this assessment can thus be addressed before development takes place. Twenty-three sites of cultural and archaeological significance were discovered during the survey. Of these seven is outside any development area and must be left intact until any possible development in those areas. The remaining sixteen sites consist of approximately 380 graves that will have to be relocated at some stage, depending on the development time frame set by the mining company.

Some of these sites carry religious significance to the families of the deceased buried in the grave sites, as is evident from the amount of grave goods found and the signs of ceremonial acts in these grave sites. From this it is evident that it is imperative to follow the guidelines explained in this report as to accommodate all the parties affected by possible development and the relocation of graves.

The importance of working with and following the guidelines laid down by the South African Heritage Resources Agency cannot be stressed enough.

2. Introduction

Matakoma/CRM Africa was contacted to do an archaeological assessment for the purposes of inclusion into the Environmental Management Program that is prepared for the iMpunzi Division of Duiker Mining by Digby Wells & Associates.

The iMpunzi division is an existing mining concern for the past 15 years or more and impacts an area of roughly 1700 hectares. The area is characterised by mining (opencast) and farming (crops) activities and has been disturbed by these activities since the turn of the century. It is from this reference point that the archaeological survey was conducted from the 25th to the 28th of July of 2000.

During consultations with Digby Wells & Associates, it was decided that the areas that will be surveyed would be those identified by iMpunzi as proposed mining areas. Because of the character of opencast mining, area mined before is considered as inert and already disturbed. During the survey it was evident that one of the identified areas was inaccessible and we were so advised by Mr. Piet Wessels, our contact at iMpunzi. This area is being developed at the moment and mining will be commencing in a short time from this date.

The report outlines the approach and methodology used before and during the survey. Which roughly consists of map and aerial photography studies and subsequent field surveying by foot. During the survey, sites of archaeological and cultural significance were identified. These sites were then recorded and sited by GPS and on maps available. Possible impacts were identified and mitigating measures are proposed in the report that follows.

It is important to realise that the graves identified and listed further in the report is protected under legislation and any impact on these graves warrants mitigation measures consisting of exhumation and internment to another site approved by the relevant authorities.

This report will also be submitted to the South African Heritage Resources Agency who will keep a copy as data reference for the Witbank/ Bethal area.

3. Approach and methodology

Aerial photographs and 1:50 000 maps of the area were consulted and literature of previous research concerning the history and pre-history of the area was studied before undertaking the survey. The purpose of this was to identify topographical area of possible historic and pre-historic activity. The proposed development area was surveyed over a period of four days, by means of vehicle and extensive surveys on foot by four field surveyors. All sites discovered both inside and bordering the proposed development area were plotted on 1:50 000 maps and their GPS coordinates noted. 35 mm photographs

on ISO 100 color transparency film were taken at all sites and site sketches made. All site information was documented on site recording forms.

4. Sites of archaeological and cultural significance

23 sites of archaeological and cultural significance in the area were found. These sites include Iron Age as well as Stone Age sites and seventeen gravesites.

Of these sites, except for TAV1 and TAV3 -6, are located within the proposed development area. The other sites are located within, or close to the boundaries of proposed mining areas. The proximity of some of these sites to the boundary place them in the impact zones for the placement of overburden and other mining activities outside of the physical opencast mining.

4.1. TAV 1

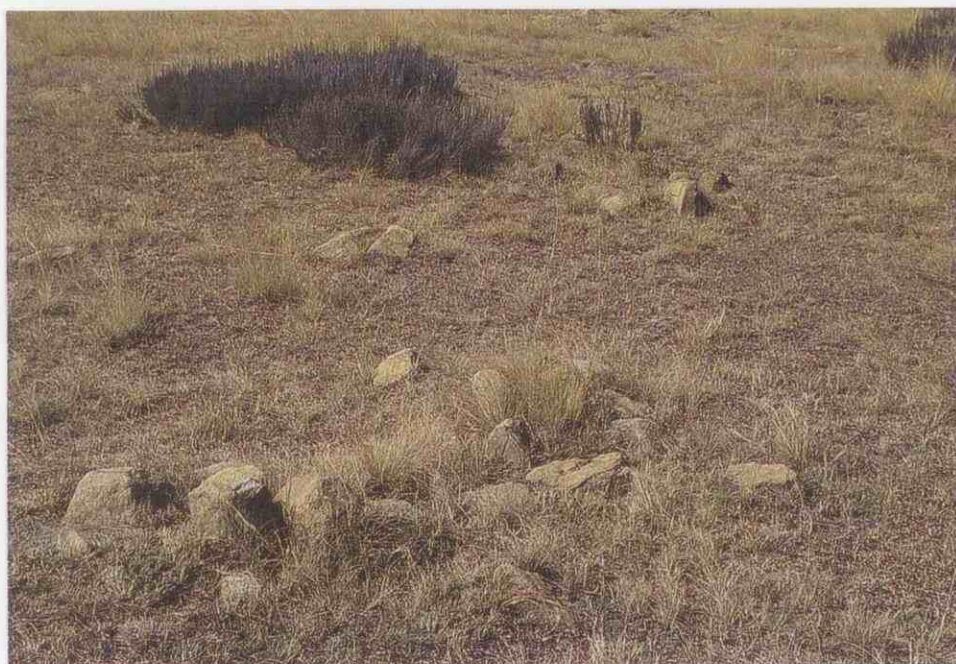
Coordinates: 26°07'47" S

29°15'48" E

Stone walling which resembles Late Iron Age sites were seen on an aerial photograph of the area. No manifestations of such Iron Age occupation could conclusively be found on the surface. The reasons for this could be that such a settlement was not present to begin with or that Iron Age walling and objects have been covered by vegetation and soil or have been removed for contemporary building purposes. Historical objects found were bone, iron pot fragments (Photograph 1), glass, stone circles and bricks (Photograph 2).

Disturbances encountered are power lines running through the site as well as a settlement nearby.

Outside the proposed mining areas no foreseen impact.

**Photo 1****Photo 2**

4.2. TAV 2

Coordinates: 26°06'19" S
29°09'03" E

This site comprises mounds (Photograph 3) situated approximately 100m from the Noupoot stream in open grasslands. There are some remnants of a historic dwelling situated next to a cemetery. No visible features are present on the surface; the mounds could indicate stone walls or foundations. Iron cooking pot fragments were found.

Impacted by mining, see Section 7 for further mitigating measures.



Photo 3

4.3. TAV 3

Coordinates: 26°03'46" S
29°14'54" E

An Early Middle Stone Age site of approximately five metres square, comprising a substantial surface concentration of stone tools including utilised flakes and cores manufactured from sedimentary stone (Photographs 4 and 5). There are sandstone outcrops and water present in the near vicinity to the site. Disturbance of the site is represented by a dirt road running near and possibly through the site. Further deposits are possible. **No impacts by mining foreseen.**



Photo 4

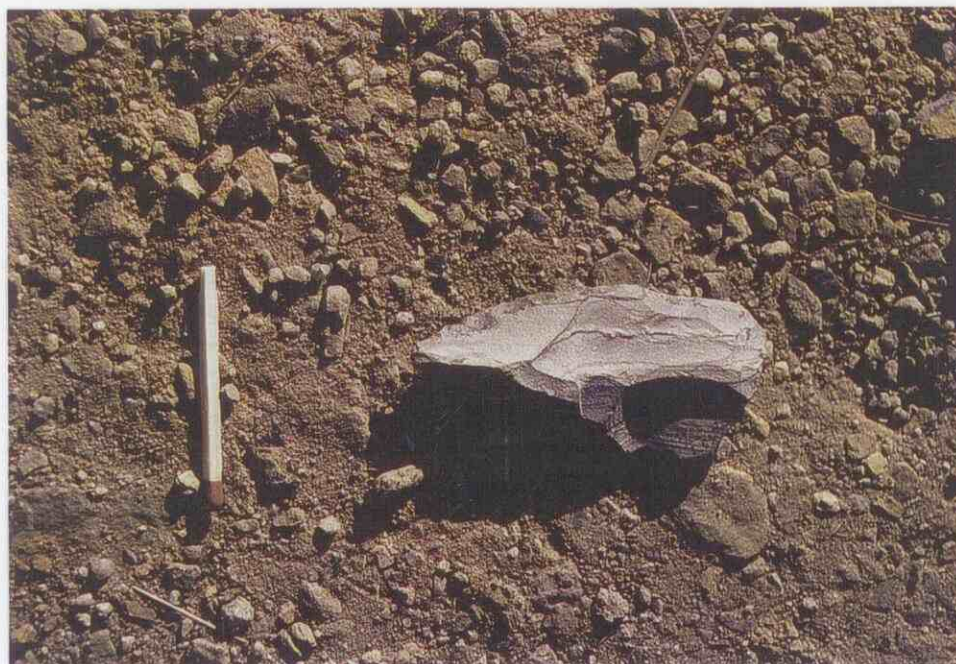


Photo 5

4.4. TAV 4

Coordinates: 26°03'39" S

29°14'59" E

A Late Iron Age site situated on a plateau overlooking a river comprising circular stone walls and enclosures approximately 30cm in height and 50cm wide (Photographs 6 and 7). Two enclosures are situated next to each other, both measuring approximately 2m in diameter. A possible bilobial structure is present, the larger enclosure having a diameter of approximately 10m by 6m and the smaller a diameter of approximately 5m by 2m. Further stone structures are present, but greatly overgrown and obscured by flora. Artifacts of pottery, bone, metal, glass and what appears to be a grindstone are present.

No foreseen impacts by mining.

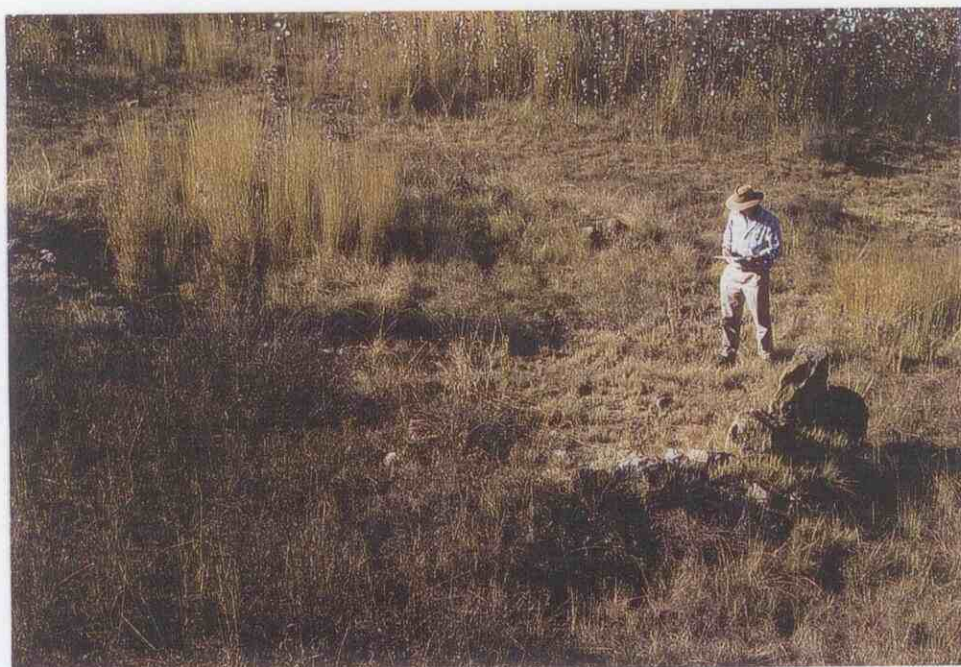


Photo 6

Cans — 2 dae.
Wishes — labors
LAB — 2 dae.

ARM

- graves



Photo 7

4.5. TAV 5

Coordinates: 26°03'44" S

29°14'54" E

MSA .
- Cars 2dae.
- Weibes 2dae.
- LAB. 2dae.

A Middle Stone Age site, comprising of surface collections of stone tools including utilised flakes and cores manufactured from sedimentary stone. (Photograph 8). There are sandstone outcrops and water present in the near vicinity to the site. Disturbance of the site is represented by a dirt road running near and possibly through the site. Further deposits are possible. **No foreseen impacts by mining.**

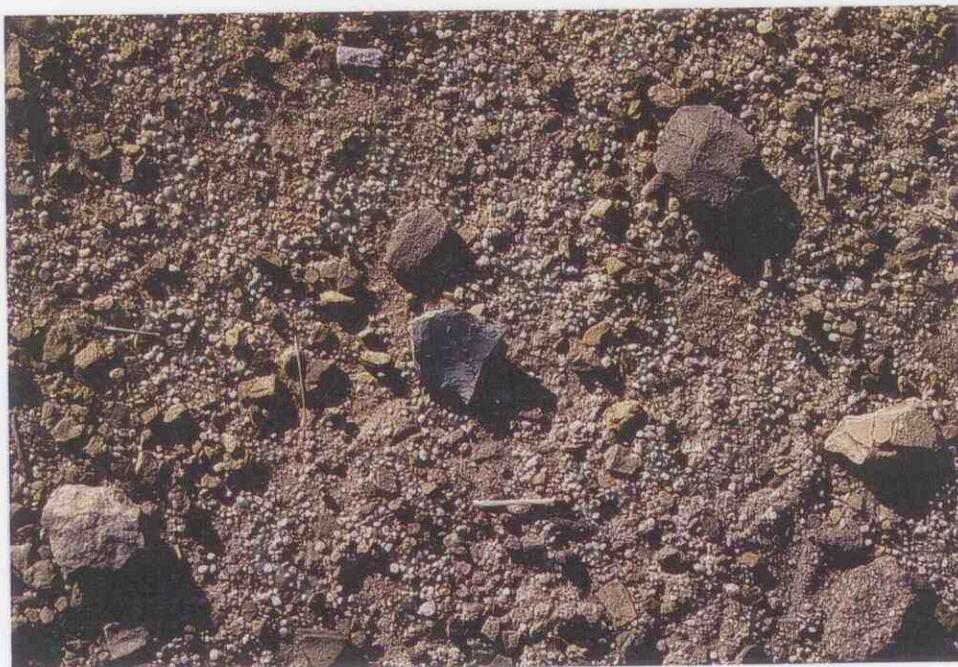


Photo 8

4.6. TAV 6

Coordinates: 26°03'47" S
29°14'55" E

*2 dae - Cars
- Workers.
- Remits.
LAB - 3 dae.*

This site comprises a natural sandstone shelter, situated close to a riverbank, with Late Stone Age tools present. The site is disturbed by what appears to be sporadic contemporary occupation. **No foreseen impacts by mining.**

4.7. TAV 7

Coordinates: 26°07'08" S
29°07'55" E

An historic cemetery comprising of approximately 125 graves (Photograph 9). The oldest headstone inscription found was 1956. Objects found on and around the graves include glass, ceramics and a miner's hat. **No foreseen impacts by mining.**

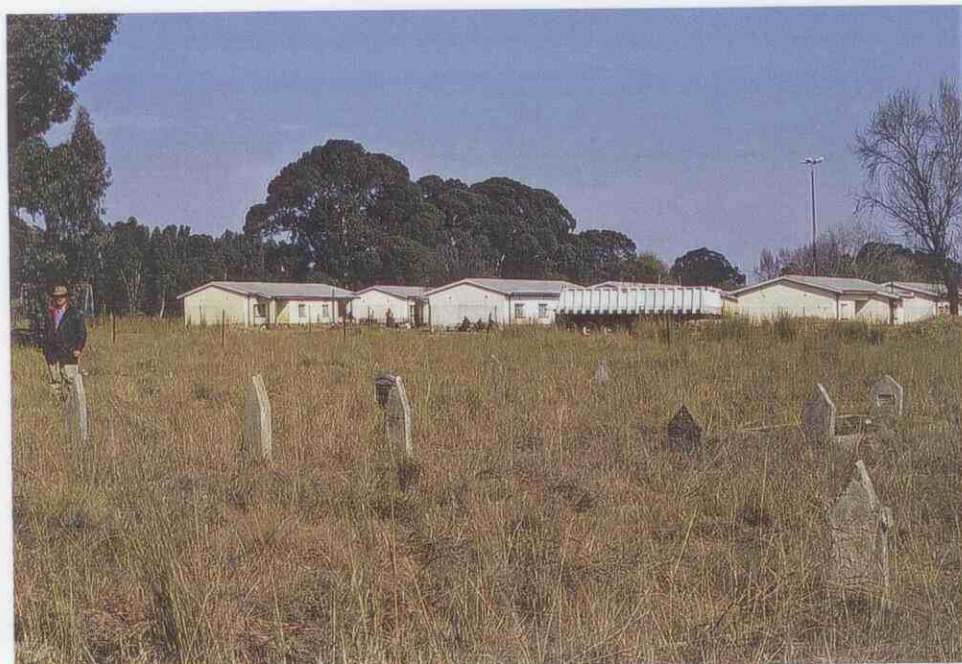


Photo 9

4.8. TAV 8

Coordinates: 26°07'00" S
29°09'57" E

A cemetery of three graves with inscribed headstones, aligned east to west (Photograph 10), situated in open grassland, the area has recently been burned. The oldest inscription dates to 1924. **Within mining area, see Section 7 for mitigating measures.**

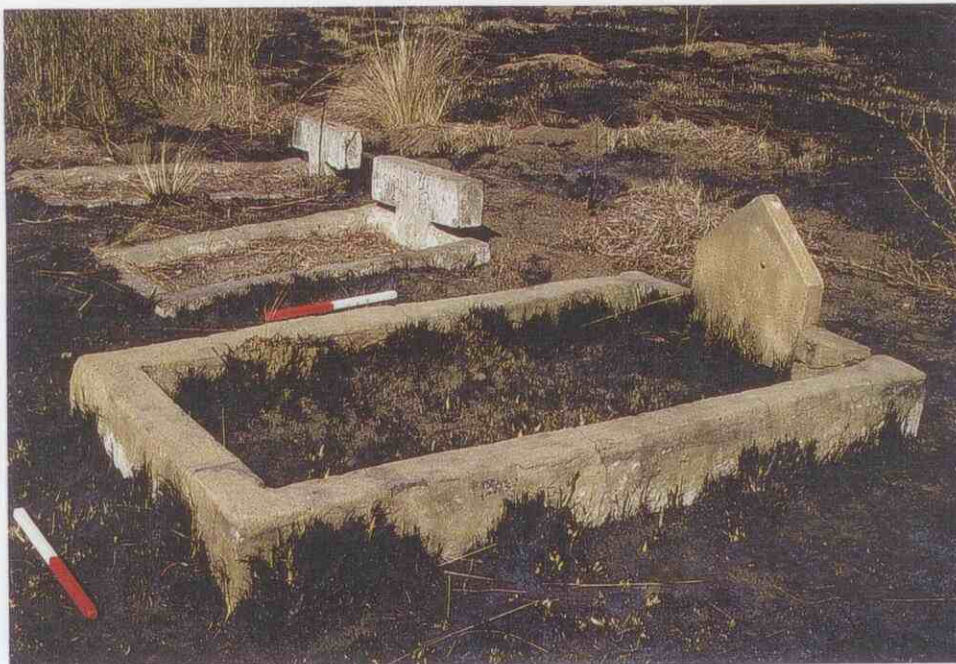


Photo 10

4.8. TAV 9

Coordinates: 26°08'35" S

29°09'43" E

A cemetery comprising approximately 45 historic graves (Photograph 11) with glass and porcelain cups and vessels present on and around the graves. The oldest inscription found dates to 1965, the cemetery has been fenced, but the fence has fallen into disrepair. **Outside mining area but possibly impacted because of proximity to area, see Section 7 for mitigating measures.**



Photo 11

4.9. TAV 10

Coordinates: 26°06'19" S

29°09'03" E

A cemetery of approximately 21 historic graves (Photograph 12), a single inscribed headstone is present although the date is unclear. **Within mining area, see Section 7 for mitigating measures.**

**Photo 12****4.10. TAV 11**

Coordinates: 26°06'19" S

29°10'13" E

A cemetery of approximately 50 graves (Photograph 13), the oldest inscription dating to 1927. The cemetery is fenced, but overgrown with flora to a large degree. **Outside mining area but possibly impacted because of proximity to area, see Section 7 for mitigating measures.**



Photo 13

4.11. TAV 12

Coordinates: 26°06'16" S

29°10'40" E

A cemetery of approximately 18 historic graves, five aligned north to south, the remaining graves aligned east to west. The oldest discernible date found is 1951. The cemetery is in an open area, by two large Blue Gum trees and overgrown with grass and other flora (Photograph 14). **Outside mining area but possibly impacted because of proximity to area, see Section 7 for mitigating measures.**



Photo 14

4.12. TAV 13

Coordinates: 26°06'49" S

29°10'32" E

A cemetery on open plain of approximately eight graves, no inscriptions are visible. The cemetery was fenced at one time but this has fallen into total disrepair (Photograph 15). **In mining area, see Section 7 for mitigating measures.**

**Photo 15****4.13. TAV 14**

Coordinates: 26°07'21" S

29°11'29" E

A cemetery on open plain of approximately 50 graves, aligned east to west (Photograph 16). The oldest inscription dates to 1949. Objects on and around the graves include glass, a bicycle tyre, one grave is covered by a metal bed-frame. There is a fence in evidence, but some of the graves fall outside of it.

Inside mining area, see Section 7 for mitigating measures.

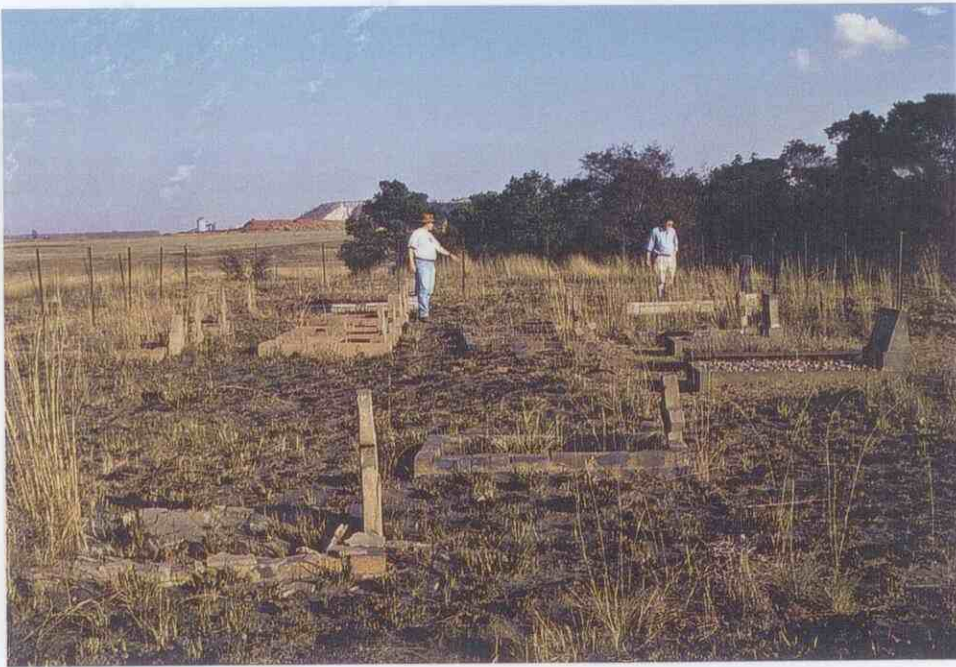


Photo 16

4.14. TAV 15

Coordinates: 26°04'45" S

29°13'55" E

A single grave on open plain grassland with sandstone outline, according to a Ms Du Toit on whose land this grave is situated, it is the grave of a young white girl who drowned, no headstone is in evidence (Photograph 17). **Outside mining area but possibly impacted because of proximity to area, see Section 7 for mitigating measures.**



Photo 17

4.15. TAV 16

Coordinates: 26°04'44" S

29°13'50" E

A single grave on open plain, according to Ms Du Toit it is the grave of an African man, no headstone present (Photograph 18). **Outside mining area but possibly impacted because of proximity to area, see Section 7 for mitigating measures.**



Photo 18

4.16. TAV 17

Coordinates: 26°04'21" S
29°14'03" E

A cemetery on open plain of approximately 55 graves. A fence bisects the cemetery, the oldest inscription dates to 1960 (Photographs 19 and 20). In mining area, see **Section 7** for mitigating measures.

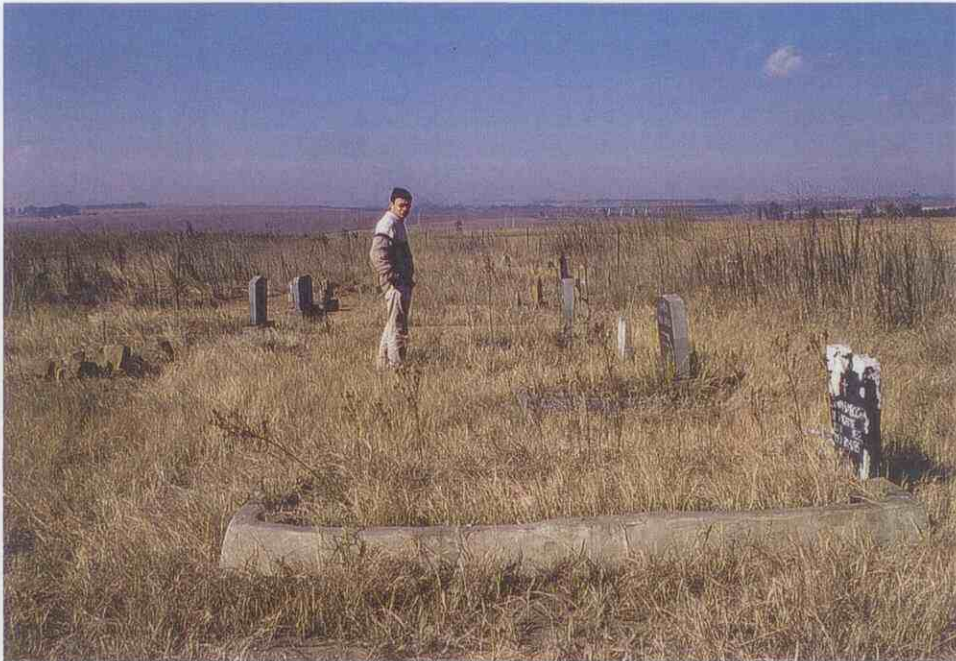


Photo 19



Photo 20

4.17. TAV 18

Coordinates: 26°04'01" S
29°14'39" E

A cemetery on open plain of approximately 200 graves, the majority of graves have headstones, the oldest inscription dates to 1942 (Photographs 21 and 22). **Outside mining area, no impacts by mining.**



Photo 21

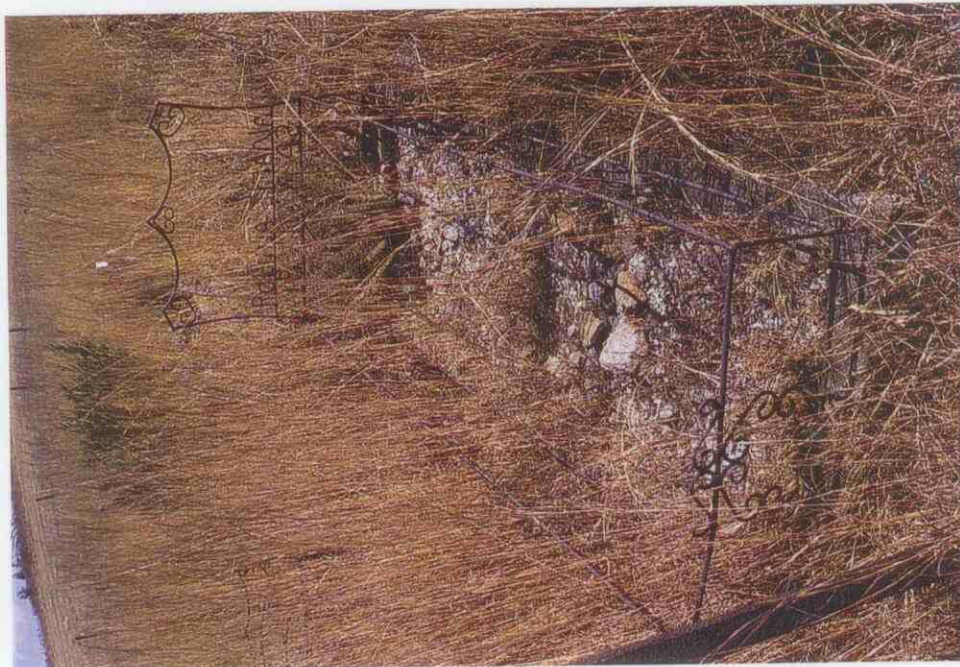


Photo 22

4.18. TAV 19

Coordinates: 26°03'43" S

29°14'40" E

A cemetery on open plain of 28 graves of the Meyer and Du Toit families (Photograph 23). The oldest inscription dates to 1877. Some of the graves are characterised by narrow, pointed obelisks (Photograph 24), objects placed on the graves include glass bowls. One headstone is that of Izak Johannes Meyer, described as a "LID VAN DIE TWEDE VOLKSRAAD Z.A.R." (Photograph 25). A sturdy concrete wall surrounds the site. **Outside mining area but possibly impacted because of proximity to area, see Section 7 for mitigating measures.**

**Photo 23****Photo 24**



Photo 25

4.19. TAV 20

Coordinates: 26°03'16" S

29°13'21" E

A cemetery situated next to a mining road of approximately 45 graves (Photograph 26), the oldest inscription dates to 1947. Approximately 25 graves are situated between a fallen down fence and the road, the remaining graves fall outside the fence. Various objects are found on the graves, including glass, ceramics and a sewing machine. There are signs of recent visits to these graves evidenced by modern ceramic bowls that may play a religious role. **Outside mining area but possibly impacted because of proximity to area, see Section 7 for mitigating measures.**



Photo 26

4.20. TAV 21

Coordinates: 26°03'30" S

29°13'02" E

A cemetery on open plain of approximately 18 graves, all aligned east to west, large Blue gum trees surround the site. A large grave of the De Villiers family is in evidence (Photograph 27) as well as a Scottish grave (Photograph 28). The De Villiers gravesite is fenced, the oldest inscription at this site dates to 1886. **Outside mining area but possibly impacted because of proximity to area, see Section 7 for mitigating measures.**

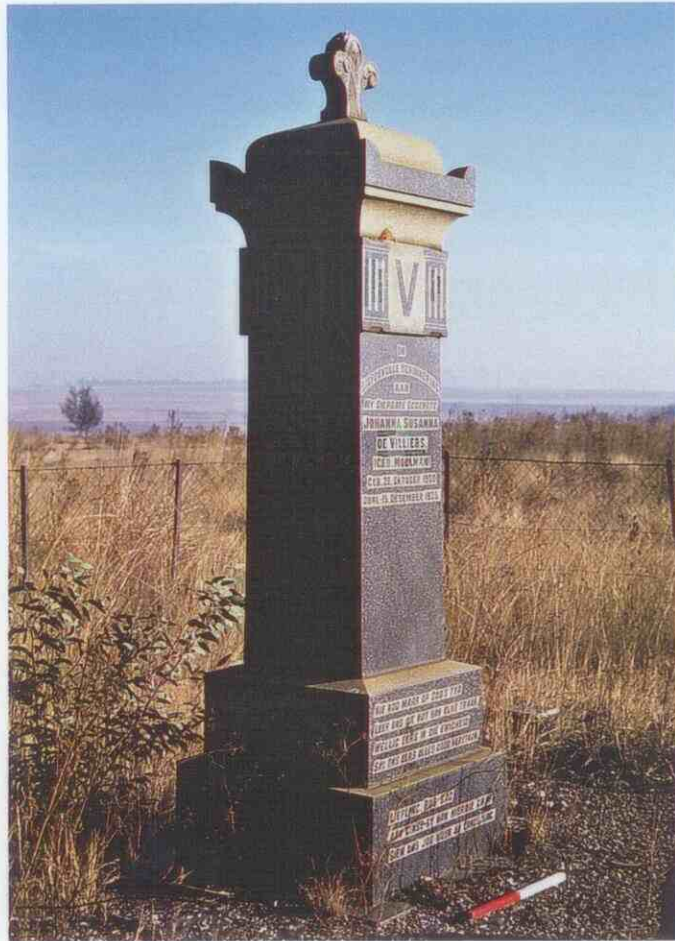


Photo 27

4.21. TAV 22

Coordinates: 26°06'05" S

29°09'12" E

An historic cemetery on open plain of approximately 18 graves (Photograph 29), the oldest inscription appears to be 1976. **Outside mining area but possibly impacted because of proximity to area, see Section 7 for mitigating measures.**



Photo 28



Photo 29

4.22. TAV 23

Coordinates: 26°06'06" S
29°09'20" E

A cemetery situated in mealie fields of approximately 17 graves, the oldest inscription dates to 1938. The site is fenced, but this has fallen into disrepair, some graves are disturbed by the activities of burrowing animals (Photograph 30). **Outside mining area but possibly impacted because of proximity to area, see Section 7 for mitigating measures.**



Photo 30

5. Assumptions and limitations

Due to the nature of cultural remains which occur, in the majority of cases, below the ground surface, the possibility remains that some cultural remains may not have been discovered during this survey. It is incumbent upon the developer to inform the relevant heritage agencies should further cultural remains be unearthed or laid open during the process of development.

6. Legal and policy requirements

Under the new National Heritage Resources Act (Act No. 25 of 1999), provisions are made that deal with, and offer protection, to all historic and pre-historic cultural remains, including graves and human remains.

If the remains are less than 60 years old, they may be subject to provisions of the Human Tissue Act and to local, regional or municipal regulations, which vary from place to place. The finding of such remains must be reported to the police but are not protected by the National Heritage Resources Act.

If the grave is of a victim of conflict, it is protected by the National Heritage Resources Act (Section 36(3a)). (Relevant extracts from the Act and Regulations are included in Appendices 1 and 2.)

If a grave or burial ground is older than 60 years which is situated outside a formal cemetery administered by a local authority, it is protected by the National Heritage Resources Act (Section 36(3b)).

If the human or hominid remains are older than 100 years, they are protected by the National Heritage Resources Act (Section 35(4)).

A. Human remains that are NOT protected in terms of the National Heritage Resources Act (i.e. less than 60 years old and not a grave of a victim of conflict or of cultural significance) are subject to provisions of the Human Tissue Act and to local and regional regulations.

All finds of human remains must be reported to the nearest police station to ascertain whether or not a crime has been committed.

If there is no evidence for a crime having been committed, and if the person cannot be identified so that their relatives can be contacted, the remains may be kept in an institution where certain conditions are fulfilled. These conditions are laid down in the Human Tissue Act (Act No. 65 of 1983).

In the event that a graveyard is to be moved or developed for another purpose, it is incumbent on the local authority to publish a list of the names of all the persons buried in the graveyard if there are gravestones, or simply a notification that graves in the relevant graveyard are to be disturbed. Such a list would have to be compiled from the names on the gravestones or from parish or other records. The published list would call on the relatives of the deceased to react within a certain period to claim the remains for reinterment. If the relatives do not react to the advertisement, the remains may be reinterred at the discretion of the local authority.

It is illegal in terms of the Human Tissue Act for individuals to keep human remains, even if they have a permit, and even if the material was found on their own land.

Provincial Ordinances (for example the Cape Provincial Exhumations

Ordinances (Ordinance No. 12 of 1980) are also relevant. The purpose of

the latter is 'To prohibit the desecration, destruction and damaging of graves in

cemeteries and receptacles containing bodies; to regulate the exhumation, disturbance, removal and re-interment of bodies, and to provide for matters incidental thereto".

A "Cemetery" is defined as any land, whether public or private, containing one or more graves

A "grave" includes "(a) any place, whether wholly or partly above or below the level of the ground and whether public or private, in which a body is permanently interred or intended to be permanently interred, whether in a coffin or other receptacle or not, and (b) any monument, tombstone, cross, inscription, rail, fence, chain, erection or other structure of whatsoever nature forming part of or appurtenant to a grave. "

No person shall desecrate, destroy or damage any grave in a cemetery, or any coffin or urn without written approval of the Administrator

No person shall exhume, disturb, remove or re-inter any body in a cemetery without prior written approval of the Administrator Application must be made for such approval in writing, together with:

- a statement of where the body is to be re-interred
- why it is to be exhumed
- the methods proposed for exhumation
- written permission from local authorities, nearest available relatives and the religious body owning or managing the cemetery, and where all such permission cannot be obtained, the application must give reasons why not.

The Administrator has the power to vary any conditions and to impose additional conditions.

Anyone found guilty and convicted is liable for a maximum fine of R200 and maximum prison sentence of six months.

B. Human remains from the graves of victims of conflict, or any burial ground or part thereof which contains such graves and any other graves that are deemed to be of cultural significance may not be destroyed, damaged, altered, exhumed or removed from their original positions without a permit from the National Heritage Resources Agency. The Graves of Conflict Division administers them at the SAHRA offices in Johannesburg.

'Victims of conflict' are:

- those who died in this country as a result of any war or conflict but excluding those covered by the Commonwealth War Graves Act, 1992 (Act No. 8 of 1992),
- members of the forces of Great Britain and the former British Empire who died in active service before 4 August 1914, those who, during the Anglo Boer War (1899-1902) were removed from South Africa as prisoners and died outside South Africa, and, those people, as defined in the regulations, who died in the 'liberation struggle' both within and outside South Africa.

C. Any burial that is older than 60 years, which is outside a formal cemetery administered by a local authority, is protected in terms of Section 36(3b) of the National Heritage Resources Act. No person shall destroy, damage, alter, exhume or remove from its original position remove from its original site or export from the Republic any such grave without a permit from the SAHRA.

There are some important new considerations applicable to B & C (above). SAHRA may issue a permit to disturb a burial that is known to be a grave of conflict or older than 60 years, or to use, at a burial ground, equipment for excavation or the detection or recovery of metals.

(Permit applications must be made on the official form *Application for permit: Burial Grounds and Graves* available from SAHRA or provincial heritage resources authorities.) Before doing so, however, SAHRA must be satisfied that the applicant:

- has made satisfactory arrangements for the exhumation and re-interment of the contents of such a grave at the cost of the applicant,
- has made a concerted effort to contact and consult communities and individuals who by tradition have an interest in such a grave and,
- has reached an agreement with these communities and individuals regarding the future of such a grave or burial ground.

Procedure for consultation

The regulations in the schedule describe the procedure of consultation regarding known burial grounds and graves. These apply to any one who intends to apply for a permit to destroy, damage, alter, remove from its original position or otherwise disturb any grave or burial ground older than 60 years that is situated outside a formal cemetery administered by a local authority. The applicant must make a concerted effort to identify the descendants and family members of the persons buried in and/or any other person or community by tradition concerned with such grave or burial ground by:

- archival and documentary research regarding the origin of the grave or burial ground;
- direct consultation with local community organisations and/or members;
- the erection for at least 60 days of a notice at the grave or burial ground, displaying, in all the official languages of the province concerned, information about the proposals affecting the site, the telephone number and address at which the applicant can be contacted by any interested person and the date by which contact must be made, which must be at least 7 days after the end of the period of erection of the notice. And advertising in the local press.

The applicant must keep records of the actions undertaken, including the names and contact details of all persons and organisations contacted and their response, and a copy of such records must be submitted to the provincial heritage resources authority with the application.

Unless otherwise agreed by the interested parties, the applicant is responsible for the cost of any remedial action required.

If the consultation fails to result in agreement, the applicant must submit records of the consultation and the comments of all interested parties as part of the application to the provincial heritage resources authority.

In the case of a burial discovered by accident, the regulations state that when a grave is discovered accidentally in the course of development or other activity:

SAHRA or the provincial heritage resources authority (or delegated representative) must, in co-operation with the Police, inspect the grave and decide whether it is likely to

be older than 60 years or otherwise protected in terms of the Act; and whether any further graves exist in the vicinity.

if the grave is Rely to be so protected, no activity may be resumed in the immediate vicinity of the grave, without due investigation approved by SAHRA, or the provincial heritage resources authority; and

SAHRA or the provincial heritage resources authority may at its discretion modify these provisions in order to expedite the satisfactory resolution of the matter.

Archaeological material, which includes human and hominid remains that are older than 100 years (see definition in section 2 of the Act), is protected by the National Heritage Resources Act (Section 35(4)), which states that no person may, without a permit issued by the responsible heritage resources authority - destroy, damage, excavate, alter or remove from its original site any archaeological or palaeontological material.

The implications are that anyone who has removed human remains of this description from the original site must have a permit to do so. If they do not have a permit, and if they are convicted of an offence in terms of the National Heritage Resources Act as a result, they may be liable to a maximum fine of R100 000, or five years' imprisonment, or both

Every attempt should be made to conserve graves *in situ*. Graves should not be moved unless this is the only means of ensuring their conservation.

The removal of any grave or graveyard or the exhumation of any remains should be preceded by an historical and archaeological report and a complete recording of original location, layout, appearance and inscriptions by means of measured drawings and photographs. The report and recording should be placed in a permanent archive.

Where the site is to be re-used, it is essential that all human and other remains be properly exhumed and the site left completely clear.

Exhumations should be done under the supervision of an archaeologist, who would assist with the identification, classification, recording and preservation of the remains,

No buried artefacts should be removed from any protected grave or graveyard without the prior approval of SAHRA. All artefacts should be re-buried with the remains with which they are associated. If this is not possible, proper arrangements should be made for the storage of such relics with the approval of SAHRA.

The remains from each grave should be placed in individual caskets or other suitable containers, permanently marked for identification.

The site, layout and design of the area for reinterment should take into account the history and culture associated with, and the design of, the original grave or graveyard.

Re-burials in mass graves and the use of common vaults are not recommended. Remains from each grave should be re-buried individually and marked with the original grave markers and surrounds. Grouping of graves, e.g. in families, should be retained in the new layout. Material from the original grave or graveyard such as chains, kerbstones, railing and should be re-used at the new site wherever possible. A plaque recording the origin of the graves should be erected at the site of re-burial.

Individuals or groups related to the deceased who claim the return of human remains in museums and other institutions should be assisted to obtain documentary proof of their ancestry.

7. Assessment and recommendations

The sites that are not located within the proposed development area: TAV 1, TAV 3 –TAV 7, and TAV 18, should be left undisturbed, if future development should impact on these sites, mitigation preceding development will be necessary.

The sites outside the development area, that might be impacted by associated mining activities and possible stockpiling of overburden: TAV 9, TAV 11, TAV 12 and TAV 19 – TAV 23, warrant mitigation measures preceding any form of development.

The sites that are located within the proposed development area: TAV 2, TAV 8, TAV 10, and TAV 13 – TAV 17, warrant mitigation measures preceding any form of development:

TAV 2 should be subjected to test excavations and the collection of cultural material that may occur. This can only be done once the South African Heritage Resources Agency, which will also specify the institution where the cultural material is to be stored, has issued the necessary permit to the archaeologists.

The remaining sites within the proposed development area: TAV 8, TAV 9, TAV 10 – TAV 17, and TAV 19 - TAV 23, are all cemeteries. These sites are, as mentioned above, protected by the National Heritage Resources Act (Act No. 25 of 1999) and the Human Tissue Act (Act No. 65 of 1983) and will have to be removed and relocated in accordance with this legislation. These tasks can be performed by the archaeologists after the necessary permits to do so have been issued by the South African Heritage Resources Agency.

The purpose behind these mitigation measures is to ensure that cultural material is not lost and can be consulted at a later date for record and research purposes.

8. List of preparers

Matakoma - Env & Arch: W. Fourie – B.A. (HONS) Archaeology/Environmental Management U.P

CRM Africa: H.S. Steyn - B.A. (HONS) Archaeology U.P.

P.D. Birkholtz - B.A. (HONS) Archaeology U.P.

A.P.R. Salomon - B.A. (HONS) Archaeology U.P.

9. Personal communications

Mr. Piet Wessels, iMpunzi Division, Duiker Mining.

Various farmers associated with Tavlands.

An Ms Du Toit directed the archaeologists to TAV 15 and TAV 16.

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11. Appendices

APPENDIX 1: Extract from the National Heritage Resources Act (Act No. 25 of 1999), section 35.

APPENDIX 2: Extracts from the Regulations Applicable to the National Heritage Resources Act (Act No. 25 of 1999).

APPENDIX 3: Map indicating sites.

APPENDIX 4: Co-ordinates of sites

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APPENDIX 1:

Extract from the National Heritage Resources Act (Act No. 25 of 1999), section 35.

APPENDIX 1

Extract from the National Heritage Resources Act (Act No.25 of 1999), Section 35

Archaeology, palaeontology and meteorites

35. (1) Subject to the provisions of section 8, the protection of archaeological and palaeontological sites and material and meteorites is the responsibility of a provincial heritage resources authority: Provided that the protection of any wreck in the territorial waters and the maritime cultural zone shall be the responsibility of SAHRA.
- (2) Subject to the provisions of subsection (8)(a), all archaeological objects, palaeontological material and meteorites are the property of the State. The responsible heritage authority must, on behalf of the State, at its discretion ensure that such objects are lodged with a museum or other public institution that has a collection policy acceptable to the heritage resources authority and may in so doing establish such terms and conditions as it sees fit for the conservation of such objects.
- (3) Any person who discovers archaeological or palaeontological objects or material or a meteorite in the course of development or agricultural activity must immediately report the find to the responsible heritage resources authority, or to the nearest local authority offices or museum, which must immediately notify such heritage resources authority.
- (4) No person may, without a permit issued by the responsible heritage resources authority-
- (a) destroy, damage, excavate, alter, deface or otherwise disturb any archaeological or palaeontological site or any meteorite;
 - (b) destroy, damage, excavate, remove from its original position, collect or own any archaeological or palaeontological material or object or any meteorite;
 - (c) trade in, sell for private gain, export or attempt to export from the Republic any category of archaeological or palaeontological material or object, or any meteorite; or
 - (d) bring onto or use at an archaeological or palaeontological site any excavation equipment or any equipment which assists in the detection or recovery of metals or archaeological and palaeontological material or objects, or use such equipment for the recovery of meteorites.
- (5) When the responsible heritage resources authority has reasonable cause to believe that any activity or development which will destroy, damage or alter any archaeological or palaeontological site is under way, and where no application for a permit has been submitted and no heritage resources management procedure in terms of section 38 has been followed, it may-
- (a) serve on the owner or occupier of the site or on the person undertaking such development an order for the development to cease immediately for such period as is specified in the order;
 - (b) carry out an investigation for the purpose of obtaining information on whether or not an archaeological or palaeontological site exists and whether mitigation is necessary;
 - (c) if mitigation is deemed by the heritage resources authority to be necessary, assist the person on whom the order has been served under paragraph (a) to apply for a permit as required in subsection (4); and
 - (d) recover the costs of such investigation from the owner or occupier of the land on which it is believed an archaeological or palaeontological site is located or from the person proposing to undertake the development if no application for a permit is received within two weeks of the order being served.
- (6) The responsible heritage resources authority may, after consultation with the owner of the land on which an archaeological or palaeontological site or a meteorite is situated, serve a notice on the owner or any other controlling authority, to prevent activities within a specified distance from such site or meteorite.
- (7)
- (a) Within a period of two years from the commencement of this Act, any person in possession of any archaeological or palaeontological material or object or any meteorite which was acquired other than in terms of a permit issued in terms of this Act, equivalent provincial legislation or the National Monuments Act, 1969 (Act No. 28 of 1969), must lodge with the responsible heritage resources authority lists of such objects and other information prescribed by that authority. Any such object which is not listed within the prescribed period shall be deemed to have been recovered after the date on which this Act came into effect.
 - (b) Paragraph (a) does not apply to any public museum or university.
 - (c) The responsible authority may at its discretion, by notice in the Gazette or the Provincial Gazette, as the case may be, exempt any institution from the requirements of paragraph (a) subject to such conditions as may be specified in the notice, and may by similar notice withdraw or amend such exemption.
- (8) An object or collection listed under subsection (7)-
- (a) remains in the ownership of the possessor for the duration of his or her lifetime, and SAHRA must be notified who the successor is; and
 - (b) must be regularly monitored in accordance with regulations by the responsible heritage authority.

Burial grounds and graves

36.(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) No person may, without a permit issued by SAHRA or a provincial heritage resources authority-

(a) destroy, damage, alter, exhume or remove from its original position or otherwise disturb the grave of a victim of conflict, or any burial ground or part thereof which contains such graves;

(b) destroy, damage, alter, exhume, remove from its original position or otherwise disturb any grave or burial ground older than 60 years which is situated outside a formal cemetery administered by a local authority; or

(c) bring onto or use at a burial ground or grave referred to in paragraph (a) or (b) any excavation equipment, or any equipment which assists in the detection or recovery of metals.

(4) SAHRA or a provincial heritage resources authority may not issue a permit for the destruction or damage of any burial ground or grave referred to in subsection (3)(a) unless it is satisfied that the applicant has made satisfactory arrangements for the exhumation and re-interment of the contents of such graves, at the cost of the applicant and in accordance with any regulations made by the responsible heritage resources authority.

(5) SAHRA or a provincial heritage resources authority may not issue a permit for any activity under subsection (3)(b) unless it is satisfied that the applicant has, in accordance with regulations made by the responsible heritage resources authority-

(a) made a concerted effort to contact and consult communities and individuals who by tradition have an interest in such grave or burial ground; and (b) reached agreements with such communities and individuals regarding the future of such grave or burial ground.

(6) Subject to the provision of any other law, any person who in the course of development or any other activity discovers the location of a grave, the existence of which was previously unknown, must immediately cease such activity and report the discovery to the responsible heritage resources authority which must, in co-operation with the South African Police Service and in accordance with regulations of the responsible heritage resources authority-

(a) carry out an investigation for the purpose of obtaining information on whether or not such grave is protected in terms of this Act or is of significance to any community; and

(b) if such grave is protected or is of significance, assist any person who or community which is a direct descendant to make arrangements for the exhumation and re-interment of the contents of such grave or, in the absence of such person or community, make any such arrangements as it deems fit.

(7) (a) SAHRA must, over a period of five years from the commencement of this Act, submit to the Minister for his or her approval lists of graves and burial grounds of persons connected with the liberation struggle and who died in exile or as a result of the action of State security forces or agents provocateur and which, after a process of public consultation, it believes should be included among those protected under this section.

(b) The Minister must publish such lists as he or she approves in the Gazette.

(8) Subject to section 56(2), SAHRA has the power, with respect to the graves of victims of conflict outside the Republic, to perform any function of a provincial heritage resources authority in terms of this section.

(9) SAHRA must assist other State Departments in identifying graves in a foreign country of victims of conflict connected with the liberation struggle and, following negotiations with the next of kin, or relevant authorities, it may re-inter the remains of that person in a prominent place in the capital of the Republic.

APPENDIX 2:

**Extracts from the Regulations Applicable to the National Heritage
Resources Act (Act No. 25 of 1999).**

APPENDIX 2

Extracts From the Regulations Applicable to the National Heritage Resources Act (Act No.25 of 1999).

Schedule B, Chapter IX : Application for Permit: Burial Grounds and Graves (Regulations for Section 36 (3))

Applicability

33. These regulations apply to any person applying for a permit to—

- (a) destroy, damage, alter, exhume or remove from its original position or otherwise disturb a 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;
- (c) bring into 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;

Application requirements and procedure

34. (1) Permit applications must be made on the official form *Application for permit: Burial Grounds and Graves*, available from SAHRA or any provincial heritage resources authority.

(2) Permit applications must be submitted to the relevant provincial heritage resources authority.¹

(3) The following must be supplied with the application—

- (a) name and address, erf/stand/ farm number or geographical co-ordinates of the grave or burial ground and magisterial district;
- (b) name, address, telephone and/or fax numbers of the planning authority for the place;
- (c) details of the action/s for which application is made, in accordance with Guidelines;
- (d) motivation for the proposed action/s, including supporting documentation and research, in accordance with Guidelines;
- (e) details of the cost of the action/s;
- (f) name, identity number, address, telephone and/or fax number, qualifications, relevant experience and signature of the person who will be responsible for the action/s;
- (g) name, identity number, address, telephone and/or fax number and signature of the owner of the land on which the grave or burial ground is situated;
- (h) in the case of the exhumation or removal of a grave, the name, identity number, address, telephone and/or fax number, qualifications, relevant experience and signature of the archaeologist who will supervise the work;
- (i) in the case of destruction or damage of any burial ground or grave referred to in section 2 (a) of these regulations, details of arrangements for the exhumation and reinterment of the contents of such graves;
- (j) in the case of any activity under section 2 (b) of these regulations,
 - (i) details of efforts made to contact and consult communities and individuals who by tradition have an interest in such grave or burial ground; and
 - (ii) copies of agreements reached with such communities or individuals regarding the future of such grave or burial ground;
- (k) name, identity number, address, telephone and/or fax number and signature of the applicant, if the owner is not the applicant;
- (l) any other relevant information required by the provincial heritage resources authority.

(4) The provincial heritage resources authority may at its discretion refer an application to SAHRA or to experts in the field for comment and advice on any conditions that should be imposed in the permit.

Minimum qualifications and standards of practice

35. A permit will only be issued for exhumation or removal which is to be done—

- (a) under the supervision of a qualified archaeologist;
- (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, when requested, in the presence of such person or community representative;
- (c) after arrangements have been made for the re-interment of any human remains and the re-interment or curation of any other contents of such grave or burial ground, to the satisfaction of SAHRA;
- (d) in accordance with any Guidelines.

¹ Section 36 is ambiguous about whether the responsibility for permits vests with SAHRA or provincial heritage authorities. The original intention in the draft legislation was for this to be a provincial competence, in accordance with the principle that powers be devolved to the lowest competent level of government.

Schedule A, Chapter IX: Discovery of Previously Unknown Grave (Regulations for Section 36(6))

Applicability

7. (1) These regulations apply when a grave, the existence of which was previously unknown, is discovered in the course of development or any other activity.
- (2) Such grave must not be disturbed in any way after it is discovered except under authority of the provincial heritage resources authority.²

Investigation

8. (1) As soon as possible after notification of the discovery of the grave, the provincial heritage resources authority or its delegated representative must, in co-operation with the South African Police Service, inspect such grave and decide whether or not there is reason to believe—
- (a) that the grave is likely to be older than 60 years or otherwise protected in terms of the Act; and
- (b) that any further graves exist in the vicinity.
- (2) If it is decided that the grave is likely to be so protected, no activity referred to in regulation 7 (1) may be resumed in the immediate vicinity of such grave or in the area in which additional graves are likely to be found, unless an investigation is undertaken by a person and in a manner approved by the provincial heritage resources authority to establish the facts of the matter.³
- (3) If the investigation in regulation 8 (2) confirms that any grave is protected, the Act and the provisions in regulations 4, 5 and 6 shall apply in respect of any person who intends to disturb such grave; provided that the provincial heritage resources authority may at its discretion modify such provisions in order to expedite the satisfactory resolution of the matter.

Schedule A, Chapter VIII: Procedure for Consultation Regarding Burial Grounds and Graves (Regulations for Section 36 (5))

Applicability

4. (1) These regulations apply to any person with the intention to apply for a permit to destroy, damage, alter, 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.
- (2) The person in regulation 4(1) is hereafter referred to as the applicant.

Identification procedure

5. (1) The applicant must make a concerted effort to identify the descendants and family members of the persons buried in and/or any other person or community by tradition concerned with such grave or burial ground by—
- (a) archival and documentary research regarding the origin of the grave or burial ground;
- (b) direct consultation with local community organisations and/or members;
- (c) the erection for at least 60 days of a notice at the grave or burial ground, displaying, in all the official languages of the province concerned, information about the proposals affecting the site, the telephone number and address at which the applicant can be contacted by any interested person and the date by which contact must be made, which must be at least 7 days after the end of the period of erection of the notice; and
- (d) advertising in the local press.
- (2) The applicant must keep records of the actions undertaken under regulations 5(1), including the names and contact details of all persons and organisations contacted and their response, and a copy of such records must be submitted to the provincial heritage resources authority with the application.

Consultation and agreement

6. (1) The applicant must consult any interested parties identified through the process in regulation 5 regarding the effect of the proposals on the grave or burial ground, with the aim of reaching agreement about the future of such grave or burial ground.
- (2) Unless otherwise agreed by the interested parties, the applicant is responsible for the cost of any remedial action required in terms of an agreement under regulation 6 (1), whether modification of any proposals to retain the grave or burial ground, or excavation and re-interment of any grave, or any other reasonable action required by the interested parties.
- (3) If the consultation under regulation 6 (1) fails to result in agreement, the applicant must submit records of the consultation and the comments of all interested parties as part of the application to the provincial heritage resources authority.

² The intention is that the provincial heritage resources authority may thus authorise some form of minimal disturbance for the purposes of the investigation under 8 (2), without going through a whole permit application procedure.

³ Note that in the wording of Ss 36 (6)(b) of the Act there is an unfortunate assumption that discovery leads to removal, which is not necessarily the case. There is an option here to leave the grave undisturbed, in which case further investigation will not be required. This could be useful if the "activity" is easily modified, e.g. ploughing a field. It also limits the onus on the authority to investigating the "reasonable likelihood" of the grave being significant, without shifting an unfair burden onto the discoverer - who may just have been going about his/her daily business and have neither the desire nor the means to go through an onerous procedure as a result.

APPENDIX 3:
Map indicating sites.

APPENDIX 4:
Co-ordinates of sites

Co-ordinates for sites surveyed at iMpunzi Division

IDNT	LATITUDE	LONGITUDE	Y	X	DESCRIPTION
TAV1	S260747.000	E0291548.000	-26336.108	2890997.794	STONE WALLING HISTORICAL
TAV2	S260619.000	E0290903.000	-15088.039	2888271.847	POSSIBLE HISTORICAL DWELLING
TAV3	S260346.000	E0291454.000	-24599.914	2883578.036	EARLY MIDDEL STONE AGE
TAV4	S260339.000	E0291459.000	-24989.479	2883363.364	LATE IRON AGE SITE
TAV5	S260344.000	E0291454.000	-24850.201	2883516.964	MIDDLE STONE AGE SITE
TAV6	S260347.000	E0291455.000	-24877.821	2883609.336	SHELTER - LATE STONE AGE
TAV7	S260708.000	E0290754.999	-13169.247	2889777.650	CEMETRY 125 GRAVES - 1956
TAV8	S260660.000	E0290957.000	-16586.902	2889535.370	CEMETRY 3 GRAVES - 1924
TAV9	S260835.000	E0290942.999	-16166.512	2892458.301	CEMETRY 45 GRAVES - 1965
TAV10	S260619.000	E0290903.000	-15088.039	2888271.847	CEMETRY 21 GRAVES - NO HEDSTONES
TAV11	S260619.000	E0291013.000	-17033.093	2888274.246	CEMETRY 50 GRAVES - 1927
TAV12	S260616.000	E0291039.999	-17755.668	2888182.891	CEMETRY 18 GRAVES - 1951
TAV13	S260649.000	E0291032.000	-17559.792	2889198.141	CEMETRY 8 GRAVES - NO INSCRIPTION
TAV14	S260721.000	E0291129.000	-19142.063	2890185.115	CEMETRY 50 GRAVES - 1949
TAV15	S260445.000	E0291355.000	-23206.853	2885391.099	SINGLE GRAVE
TAV16	S260444.000	E0291350.000	-23067.944	2885360.080	SINGLE GRAVE
TAV17	S260421.000	E0291403.000	-23430.522	2884652.943	CEMETRY 55 GRAVES - 1960
TAV18	S260401.000	E0291439.000	-24432.270	2884039.318	CEMETRY 200 GRAVES - 1942
TAV19	S260343.000	E0291440.000	-24461.104	2883485.456	CEMETRY - 28 GRAVES MEYERDUTOIT - 1877
TAV20	S260316.000	E0291321.000	-22266.574	2882650.654	CEMETRY - 45 GRAVES -1947
TAV21	S260330.000	E0291302.000	-21737.684	2883080.585	CEMETRY - 18 GRAVES DEVILLIERS - 1886
TAV22	S260605.000	E0290912.000	-15338.624	2887841.316	CEMETRY - 18 GRAVES -1976
TAV23	S260606.000	E0290920.000	-15560.887	2887872.353	CEMETRY - 17 GRAVES- 1938

Conversion from longitude and latitude was done by geocntr program. Central meridian used Lo29.