

**STATUS QUO REPORT FOR GRAVES
IDENTIFIED ON THE FARM TWEEFONTEIN
328 JS, KLIPSPRUIT COLLIERY WITHIN
WITBANK, EMALAHLENI LOCAL
MUNICIPALITY, MPUMALANGA PROVINCE
OF SOUTH AFRICA**

05 September 2020

1. Document Information

Item	Description
Proposed development and location	Mining activity on on the farm Tweefontein 328 JS, Klipspruit Colliery within Witbank, eMalahleni Local Municipality, Mpumalanga Province of South Africa.
Purpose of the study	To verify the status of the burial site and to propose feasible mitigation measures
Coordinates for burial site	S25° 51' 20.88" E029° 47' 23.60"
Municipality	eMalahleni Local Municipality
Predominant land use of surrounding area	Mining, powerlines, road, and transport.
Heritage Consultant	Mafu's Funeral Home Stand Number 11/280 4 Rhodes Street, eMalahleni 1035 Mpumalanga Tel: 0729107017 Email: wonderful@mafusfuneralhomes.co.za
Developer/Applicant	South 32 SA Coal Holdings
Date of Report	04 September 2020

MANAGEMENT SUMMARY

BACKGROUND

South 32 SA Coal Holdings commissioned this study. The study focuses on graves and burial grounds identified during Phase 1 Heritage Impact Assessment specialists study for farm Tweefontein 328 JS, Klipspruit Colliery in Steve eMalahleni Local Municipality of in Mpumalanga Province. Mafu's Funeral Home, in collaboration with Sativa Travel and Environmental Consultants, was retained by South 32 SA Coal Holdings to conduct Phase 2 heritage mitigation study for the burial grounds and graves recorded within the footprint of the on going mining expansion. Sativa archaeologists and physical cultural property specialists conducted field survey of the site for the proposed coal mining development.

Summary Results

Sativa heritage specialist team surveyed the proposed coal mining site within the project area to confirm the location and distribution of burial ground and grave sites and verified their condition and status of the affected graves. A total of 8 graves were identified on one burial site. The Burial site is located farm Tweefontein 328 JS, Klipspruit Colliery in eMalahleni Local Municipality of in Mpumalanga Province. The graves are assumed to be belonging to one family. The burial site is located on the foot print of the mining area.

Observations

- 8 graves were identified within the mining footprint.
- The survey confirmed that the affected landscape has a long history of human occupation making it an active cultural landscape where there is a possibility of encountering previously unknown graves in the project area during subsurface construction work.
- No custodians of the affected graves and burial grounds have been identified or engaged thus far. Therefore, the development proponent (SA Coal Holdings) should commission a social and ethnological consultation exercise to identify the potential claimants or custodians of the burials sites before they are placed under a relocation program. Such public consultation process is a legal requirement under sections of the National Heritage Resources act, Act 25 of 1999.
- In the likely event that no custodians will come forward or will be identified, the graves will be treated as unknown graves and as such they fall within the jurisdiction of the National Heritage Resources Act (NHRA) 25 of 1999 under the assumption and observation that some of the graves have been confirmed to be older than 60 years.
- The proposed mining will certainly destroy all identified burial grounds. As such these graves should be relocated to safe sites. Before any interference with the burial grounds and graves, an urgent permit application should be lodged with South African Heritage Resources Agency

(SAHRA) Burial Grounds and Graves Unit to secure the relevant permission for urgent intervention to rescue, salvage and relocate the burials to a safe and formal burial ground.

- The mining development will traverse through historic and active cultural landscape with historic and contemporary human settlements. This provides for a high probability of encountering chance finds and previously unknown graves during sub-surface construction work. Portions of the mine site is within historic homestead remains where there are high possibilities of encountering unmarked burials for infants that are traditionally buried in homesteads as opposed to being buried in cemeteries. As such, it is recommended that heritage-monitoring program be developed for implementation during the construction period.

NATIONAL LEGISLATION AND REGULATIONS GOVERNING THIS REPORT

This is a specialist report' and is compiled in terms of the National Heritage Resources Act 25 of 1999 and National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended, and the Environmental Impact Assessment Regulations, 2014.

DECLARATION OF INDEPENDENCE

In terms of Chapter 5 of the National Environmental Management Act of 1998 specialists involved in Impact Assessment processes must declare their independence.

I, Trust Mlilo, do hereby declare that I am financially and otherwise independent of the client and their consultants, and that all opinions expressed in this document are substantially my own, notwithstanding the fact that I have received fair remuneration from the client for preparation of this report.

Expertise:

Trust Mlilo, MA. (Archaeology), BA Hons, PDGE and BA General & (Univ. of Pretoria) ASAPA (affiliation member) and more than 15 years of experience in archaeological and heritage impact assessment and management. Mlilo is an accredited member of the Association for Southern African Professional Archaeologists (ASAPA), Amafa akwaZulu Natali and Eastern Cape Heritage Resources Agency (ECPHRA). He has conducted more than hundred AIA/HIA Studies, heritage mitigation work and heritage development projects over the past 15 years of service. The completed projects vary from Phase 1 and Phase 2 as well as heritage nominations, heritage management work for government, municipalities (Ekurhuleni) parastatals (Eskom) and several private companies such as BHP Billiton, Rhino Minerals now South 32.

Independence

The views expressed in this document are the objective, independent views of Mr Trust Mlilo and the survey was carried out under South32. Mafu's funeral home (Pty) Ltd has no any business, personal, financial or other interest in the on going development apart from fair remuneration for the work performed.

Conditions relating to this report

The content of this report is based on the author's best scientific and professional knowledge as well as available information. Mafu's Funeral Home (Pty) Ltd reserves the right to modify the report in any way deemed fit should new, relevant or previously unavailable or undisclosed information become known to the author from on-going research or further work in this field, or pertaining to this investigation. This report must not be altered or added to without the prior written consent of the author and South 32 Mine. This also refers to electronic copies of the report which are supplied for the purposes of inclusion as part of other reports, including main reports. Similarly, any recommendations, statements or conclusions

drawn from or based on this report must make reference to this report. If these form part of a main report relating to this investigation or report, this report must be included in its entirety as an appendix or separate section to the main report.

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Geographic Co-ordinate Information: Geographic co-ordinates in this report were obtained using a hand-held Garmin Global Positioning System device. The manufacturer states that these devices are accurate to within +/- 5 m.

Maps: Maps included in this report use data extracted from the NTS Map and Google Earth Pro.

Disclaimer: The Author is not responsible for omissions and inconsistencies that may result from information not available at the time this report was prepared.

Signed by



04 September 2020

2. Acknowledgements

The author acknowledges South 32 SA Coal Holdings project managers for the information regarding the burial site in question.

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3. Executive Brief

Mafu's Funeral Home was commissioned by South 32 SA Coal Holdings to conduct Phase 2 Heritage Mitigation for burial grounds and graves relocation from the proposed mining development site (see figure:1). Mafu's Funeral Home is working with Sativa Travel and Environmental Consultants (Pty) Ltd as the archaeologists and heritage specialists for the project. The latter's archaeologists and heritage specialists team conducted a field and site condition survey of the mining footprint. The survey identified a total of 8 graves located at one site. The identified burial grounds are on the direct mine footprint.

This report provides the results of the field study conducted to confirm the status quo of the affected burial grounds within the project area. The study was conducted within the framework of the legislations including the Section 36 of the National Heritage Resources Act (Act No 25 of 1999) and will soon apply the Human Tissue Act (1983) (also see Appendix 1-4).

4. ABBREVIATIONS

AIA	Archaeological Impact Assessment
C	Contractor
CECO	Construction Environmental Conservation Officer
EAP	Environmental Assessment Practitioner
ECO	Environmental Conservation Officer
EIA	Environmental Impact Assessment
EM	Environmental Manager
EMP	Environmental Management Plan
HIA	Heritage Impact Assessment
LIA	Late Iron Age
NHRA	Nation Heritage Resources Act, Act 25 of 1999
PM	Project Manager
SM	Site Manager
SAHRA	South African Heritage Resources Agency

5. Definitions

The following terms used in this Archaeological /Heritage Impact Assessment are defined in the National Heritage Resources Act [NHRA], Act Nr. 25 of 1999, South African Heritage Resources Agency [SAHRA] Policies as well as the Australia ICOMOS Charter (*Burra Charter*):

Chance Finds means Archaeological artefacts, features, structures or historical cultural remains such as human burials that are found accidentally in context previously not identified during cultural heritage scoping, screening and assessment studies. Such finds are usually found during earth moving activities such as powerline pole position excavations.

Compatible use means a use, which respects the cultural significance of a place. Such a use involves no, or minimal, impact on cultural significance.

Conservation means all the processes of looking after a place so as to retain its cultural significance.

Cultural Heritage Resources Same as **Heritage Resources** as defined and used in the National Heritage Resources Act (*Act No. 25 of 1999*). Refer to physical cultural properties such as archaeological and palaeontological sites; historic and prehistoric places, buildings, structures and material remains; cultural sites such as places of ritual or religious importance and their associated materials; burial sites or graves and their associated materials; geological or natural features of cultural importance or scientific significance. **Cultural Heritage Resources** also include **intangible resources** such as religion practices, ritual ceremonies, oral histories, memories and indigenous knowledge.

Cultural significance means aesthetic, historic, scientific, social or spiritual value for past, present or future generations.

Cultural Significance also encompasses the complexities of what makes a place, materials or intangible resources of value to society or part of, customarily assessed in terms of aesthetic, historical, scientific/research and social values.

Environmental impact assessment An Environmental Impact Assessment (EIA) refers to the process of identifying, predicting and assessing the potential positive and negative social, economic and biophysical impacts of any proposed project, plan, programme or policy which requires authorisation of permission by law and which may significantly affect the environment. The EIA includes an evaluation of alternatives. As well as recommendations for appropriate mitigation measures for minimising or avoiding negative impacts, measures enhancing the positive aspects of the proposal and environmental management and monitoring measures.

Expansion means the modification, extension, alteration or upgrading of a facility, structure or infrastructure at which an activity takes place in such a manner that the capacity of the facility or the footprint of the activity is increased;

Fabric means all the physical material of the place including components, fixtures, contents and objects.

Grave A place of interment (*variably referred to as burial*), including the contents, headstone or other marker of such a place, and any other structure on or associated with such place. A grave may occur in isolation or in association with others where upon it is referred to as being situated in a cemetery (*contemporary*) or **Burial Ground** (*historic*).

Heritage impact assessment (HIA) refers to the process of identifying, predicting and assessing the potential positive and negative cultural, social, economic and biophysical impacts of any proposed project, plan, programme or policy which requires authorisation of permission by law and which may significantly affect the cultural and natural heritage resources. The HIA includes recommendations for appropriate mitigation measures for minimising or avoiding negative impacts, measures enhancing the positive aspects of the proposal and heritage management and monitoring measures.

Historic Material remains resulting from human activities, which are younger than 100 years, but no longer in use, including artefacts, human remains and artificial features and structures.

Impact The positive or negative effects on human well-being and / or on the environment.

In Situ material Material culture and surrounding deposits in their original location and context, for example an archaeological site that has not been disturbed by farming.

Interested and affected parties Individuals, communities or groups, other than the proponent or the authorities, whose interests may be positively or negatively affected by the proposal or activity and/ or who are concerned with a proposal or activity and its consequences.

Interpretation means all the ways of presenting the cultural significance of a place.

Material culture means buildings, structure, features, tools and other artefacts that constitute the remains from past societies.

Mitigate The implementation of practical measures to reduce adverse impacts or enhance beneficial impacts of an action.

Place means site, area, land, landscape, building or other work, group of buildings or other works, and may include components, contents, spaces and views.

Public participation process A process of involving the public in order to identify issues and concerns, and obtain feedback on options and impacts associated with a proposed project, programme or development. Public Participation Process in terms of NEMA refers to: a process in which potential interested and affected parties are given an opportunity to comment on, or raise issues relevant to specific matters

Setting means the area around a place, which may include the visual catchment.

Significance can be differentiated into impact magnitude and impact significance. Impact magnitude is the measurable change (*i.e. intensity, duration and likelihood*). Impact significance is the value placed on the change by different affected parties (*i.e. level of significance and acceptability*). It is an anthropocentric concept, which makes use of value judgments and science-based criteria (*i.e. biophysical, physical cultural, social and economic*).

Site A distinct spatial cluster of artefacts, structures, organic and environmental remains, as residues of past human activity.

Use means the functions of a place, as well as the activities and practices that may occur at the place.

6. INTRODUCTION

BRIEF BACKGROUND

South Africa has a long history of migrations, wars, mining and infrastructure development as well as forced removals of black populations during colonial and apartheid eras. These activities left a trail of abandoned burial sites which are sometimes not properly marked. These burial sites are commonly found close to archaeological sites, abandoned farmsteads and abandoned settlements. The graves may be found in abandoned and forgotten burial sites which occur sporadically anywhere as a result of prehistoric activity that may include conflicts and sometimes as a result of criminal activity. It is often difficult to detect the presence of archaeological human remains on the landscape as these burials, in most cases, are not marked at the surface. Human burials and human remains are usually identified when they are exposed through erosion, earth moving activities and construction. In some instances, packed stones or bricks may indicate the presence of informal burials. If any human bones are found during the course of mining activities, then they should be reported to an archaeologist and work in the immediate vicinity should cease until the appropriate actions have been carried out by the archaeologist. Where human remains are part of a burial, they would need to be exhumed under a permit from either SAHRA (for pre-colonial burials as well as burials later than about AD 1500) or Department of Health for graves younger than 60 years. However, in the case of this burial site in question, the graves are marked by tomb stones with inscribed headstones. They belonged to farmers in the Phola area of eMalahleni Local Municipality, Mpumalanga Province. Tracing and tracking the affected families is likely to be easier because the history of rapid coal mining which displaced the farmers in the area is well known.

7. AIMS OF THE INVESTIGATION

The study was commissioned as part of a Phase 2 Heritage Mitigation exercise for South 32 SA Coal Holdings mining development. The study is part of the proposed grave relocation mitigation process aimed at relocating identified graves from the mining development to safer locations. In addition, the study sought to:

- Confirm the existence of the burial grounds and graves situated within the proposed mining development site.
- Conduct site condition survey of all recorded burial grounds and gravesite in the project's primary and secondary footprint impact zone. The primary impact zone being the direct path of the mining development and the secondary impact zone being in the buffer zone where the recorded graves

may be affected by auxiliary developments such as construction of access or construction roads, construction camps or material storage sites.

- Make further recommendations on mitigation measures with the view to reduce specific adverse impacts and enhance specific positive impacts on the affected burial sites.
- Identify and discuss with local communities (where applicable) on potential impacts of the mining site and make the necessary recommendations on how to handle the matter.
- Take responsibility for communicating with SAHRA and other related authorities in order to obtain the relevant burial relocation permits and authorization.
- To investigate the nature of the site, the age, types of burials in order to determine their protection level i.e. older than 60 years are protected by the NHRA and graves younger than 60 years are protect by the Human Tissue Act.
- To establish the status of the graves in question
- To assess the condition of the site
- To identify interested and affected parties related to the site in question.
- To investigate heritage mitigation options to deal with the burial site in question.

The inspection process at the affected site was necessitated by the need protect/ relocate the burial site.

8. DESCRIPTION AND LOCATION OF THE BURIAL SITE AND ACCESS ROAD

The inspection identified eight (8) graves located in one cluster. All the graves are marked by tombstones and inscribed headstones. The preliminary inspection noted that four graves are older than 60 years and fall under the jurisdiction of SAHRA and two were confirmed to be younger than 60 years and the two graves with collapsed headstones could not be confirmed. The site looks like it has been neglected for some time but however one of the graves had recently placed coins which shows someone is visiting the site to conduct rituals. This means that descendant families are likely to be traceable and assumed to be residing Orgies, Witbank and Middleburgh or as far wide as Delmas and the neighbouring farms.

It should be borne in mind that burial ground and gravesites are accorded the highest social significance threshold (see Appendix 3). They have both historical and social significance and are considered sacred. Burial sites have spiritual and cultural significance. Culture and religion play an important role in human

burials. As such graves retain the highest significance threshold and they must not be tempered with. In African culture death is interpreted to mean a transition from a physical world to the spiritual world or a lifeafter of the ancestors (Mhlongo 2017). As such a burial facilitates the deceased's connection with the living world and the afterlife (Miller and Rivera 2006, Ngubane 2004). In addition, burial sites function as long-term memorials and final resting places for the deceased. They also provide a platform for families to visit and communicate with the dead (Ngcongco 2005).

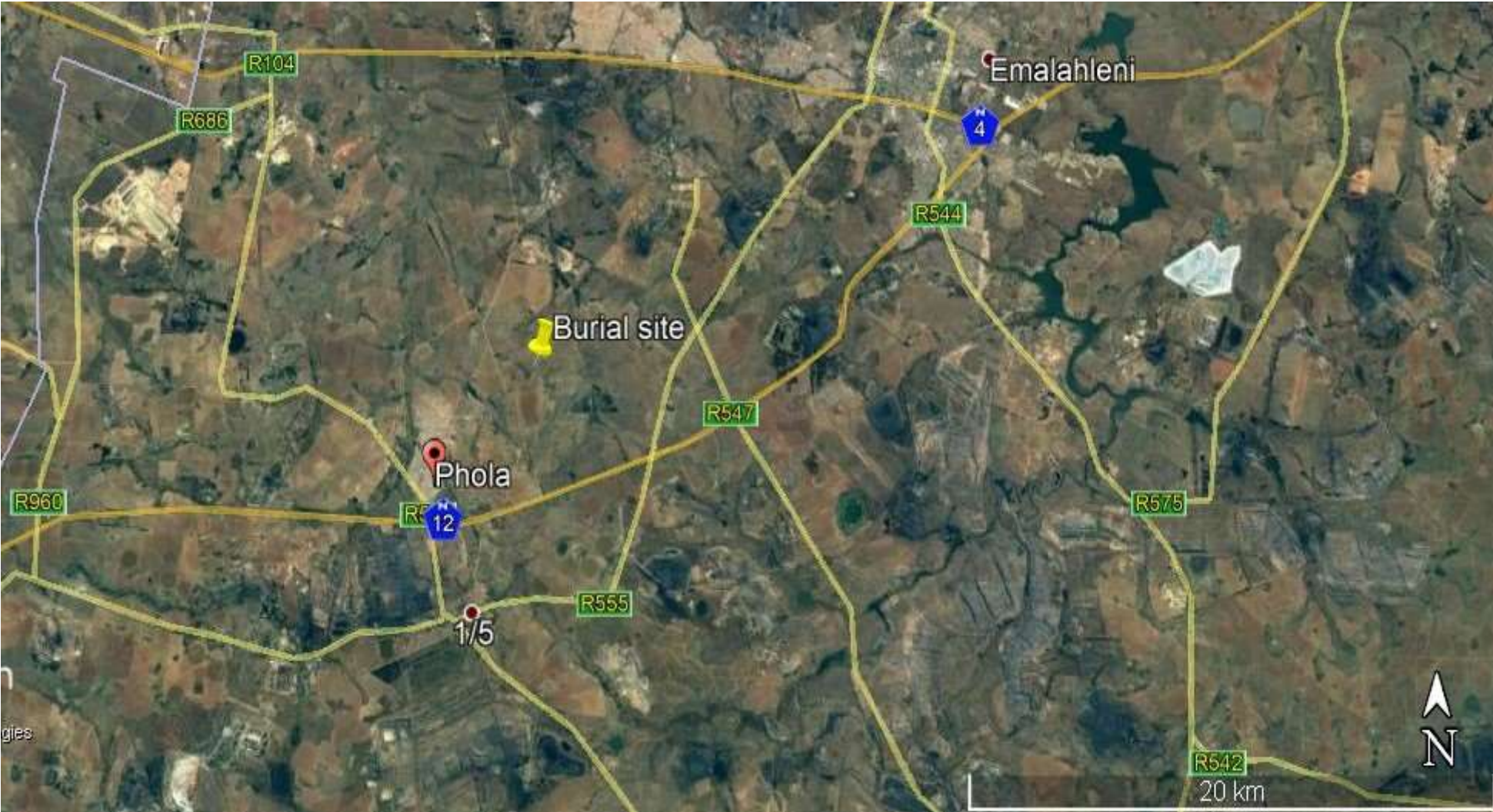


Figure 1: Position of the burial site in question (Author 2021)

9. METHODOLOGY

This document falls under Phase 2 heritage mitigation and therefore aims at providing an informed heritage-related opinion about the status of the site in question and the subsequent mitigation measures. This is usually achieved through a combination of a review of any existing literature and a basic site inspection. As part of the desktop study, published literature and cartographic data, as well as archival data on history of the cemetery were consulted. The desktop study was followed by field investigation conducted on the 27th of August 2020. The field assessment was conducted according to generally accepted HIA practices and aimed at assessing the condition of the site. We conducted a random transect walk across the site to establish the extent of the site. The site was geo-referenced with a hand held Global Positioning System (GPS) for recording the location/position of the site in relation to access road construction. Each grave was inspected to check if it has not been tampered with. Detailed photographic recording of the graves was also undertaken where relevant. The findings were then analysed in relation to the proposed relocation. The result of this investigation is a report indicating the the relocation process to be followed.

The methods in this study followed an HIA process that consisted of three steps:

Step I – Literature Review: The background information to the field survey leans greatly on the Heritage Impact Assessment Report completed for South32 EIA Study for the expansion Project.

Step II – Physical Survey: A physical survey was conducted on foot through the proposed mine expansion project area by qualified archaeologists (27th of August 2020), aimed at locating and documenting graves and burial ground sites falling within and adjacent to the proposed mining development footprint.

Step III – The final step involved the recording and documentation of relevant burial grounds and grave sites, as well as the assessment of sites in terms of the heritage impact assessment criteria and report writing, as well as mapping and constructive recommendations on rescue, salvage and relocation of the burial grounds and grave sites as well as protecting those sites that will not be directly destroyed by the development but are in close proximity of the development where there is a possibility that they may be affected from secondary impacts.

SITE SIGNIFICANCE

All the burial grounds and gravesite covered by this report fall under the Generally Project category and they all retain a High and Medium Significance. Therefore, all the sites that are on the direct path of the development should be protected *in situ* or mitigated before destruction. These sites that are not on direct path of destruction but within close proximity of the development should be mapped, highly visibly marked and protected from any interference during the proposed development.

9.1 METHODOLOGY FOR IMPACT ASSESSMENT

IMPACT RATING

The impact of the planed mining on the site is considered **Very High** from both a heritage and developmental perspectives. These impacts would be considered by society as constituting a major and usually permanent change to the (natural and/or socio-cultural) environment, and usually result in severe or very severe effects, or beneficial or very beneficial effects.

Example: The permanent loss of physical cultural properties or cultural landscape would be viewed by informed society as being of **Very High** significance.

Example: The establishment of open cast mining infrastructure in a farming area, which previously had very few services or high earning farming activities, would be regarded by the affected parties as resulting in benefits with **Very High** significance.

CERTAINTY

Definite: More than 90% sure of a particular fact. Substantial supportive data exists to verify the assessment.

Probable: Over 70% certainty of a particular fact, or of the likelihood of an impact occurring.

Possible: Only over 40% certainty of a particular fact or of the likelihood of an impact occurring.

Unsure: Less than 40% certainty of a particular fact or likelihood of an impact occurring.

Mining development impacts are considered certain on any graves or burial ground on its direct path. The grave and burial grounds sites within 100m of the mining site fall within the probable and possible impact region given the fact observation that the mining development will be associated with auxiliary developments such as canals and access roads, servitude demarcation fence lines and boundaries as well as potential temporary construction camps and material storage sites during the proposed development.

DURATION

Short Term: 0 to 5 years

Medium: 6 to 20 years

Long Term: more than 20 years

Permanent: site will be demolished or is already demolished

The mine expansion development project falls under the Long Term and Permanent category. The grave and burial grounds on the direct path of the mining development will permanently be affected or destroyed if mitigation is not implemented prior to the development commencing.

9.2 ASSUMPTIONS AND LIMITATIONS

Regardless of the comprehensiveness of the fieldwork undertaken, it is necessary to realise that the heritage resources located during the fieldwork were limited to graves and burial grounds starting with the sites that were already recorded within the mine plan map. As such the sites do not necessarily represent all the possible heritage resources present within the area. Other classes of heritage resources in the area were covered under the Phase 1 HIA study. This study was restricted to physically identifiable burial grounds and graves. This means superficially unidentifiable graves and burial grounds, for example those covered by dense grass or have no visible signature are not accounted for herein. As such, should any burial/grave site (or any protected heritage features and/or objects for that matter) not included in the present inventory be located or observed, a heritage specialist must immediately be contacted. Such observed or located heritage features and/or objects may not be disturbed or removed in any way until such time that the heritage specialist had been able to make an assessment as to the significance of the site (or material) in question. This applies to graves and cemeteries as well. In the event that any graves or burial places are located during the development the procedures and requirements pertaining to graves and burials will apply as set out below.

10. LEGAL CONTEXT

This present study is equally covered under the following sections in each Act which refer directly to the identification, evaluation and assessment of cultural heritage resources.

1. National Environmental Management Act (NEMA) Act 107 of 1998
 - a) Basic Environmental Assessment (BEA) – Section (23)(2)(d)
 - b) Environmental Scoping Report (ESR) – Section (29)(1)(d)
 - c) Environmental Impacts Assessment (EIA) – Section (32)(2)(d)
 - d) EMP (EMP) – Section (34)(b)
2. National Heritage Resources Act (NHRA) Act 25 of 1999
 - a) Protection of Heritage resources – Sections 34 to 36; and
 - b) Heritage Resources Management – Section 38

3. Minerals and Petroleum Resources Development Act (MPRDA) Act 28 of 2002

a. Section 39(3)

4. Development Facilitation Act (DFA) Act 67 of 1995

a) The GNR.1 of 7 January 2000: Regulations and rules in terms of the Development Facilitation Act, 1995. Section 31.

In terms of Section 36(3) of the National Heritage Resources Act, no person may, without a permit issued by the relevant heritage resources authority:

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

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

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

Human remains that are less than 60 years old are subject to provisions of the Human Tissue Act (Act 65 of 1983) and to local regulations. Exhumation of graves must conform to the standards set out in the Ordinance on Excavations (Ordinance no. 12 of 1980) (replacing the old Transvaal Ordinance no. 7 of 1925). Permission must also be gained from the descendants (where known), the National Department of Health, Provincial Department of Health, Premier of the Province and local police. Furthermore, permission must also be gained from the various landowners (i.e. where the graves are located and where they are to be relocated to) before exhumation can take place. Human remains can only be handled by a registered undertaker, or an institution declared under the Human Tissues Act (Act 65 of 1983 as amended).

The NHRA classify Graves and burial grounds into the following categories

- ❖ ancestral graves
- ❖ royal graves and graves of traditional leaders
- ❖ graves of victims of conflict
- ❖ graves designated by the Minister
- ❖ historical graves and cemeteries

❖ human remains

(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.

10.1 GRAVE OUTSIDE NHRA PROTECTION

Graves younger than 60 years fall under Section 2(1) of the Removal of Graves and Dead Bodies Ordinance (Ordinance no. 7 of 1925) as well as the Human Tissues Act (Act 65 of 1983) and are the jurisdiction of the National Department of Health and the relevant Provincial Department of Health and must be submitted for final approval to the Office of the relevant Provincial Premier. This function is

usually delegated to the Provincial MEC for Local Government and Planning or in some cases the MEC for Housing and Welfare. Authorisation for exhumation and reinterment must also be obtained from the relevant local or regional council where the grave is situated, as well as the relevant local or regional council to where the grave is being relocated. All local and regional provisions, laws and by-laws must also be adhered to. In order to handle and transport human remains the institution conducting the relocation should be authorised under Section 24 of Act 65 of 1983 (Human Tissues Act).

Graves older than 60 years, but younger than 100 years fall under Section 36 of Act 25 of 1999 (National Heritage Resources Act) as well as the Human Tissues Act (Act 65 of 1983) and are the jurisdiction of the South African Heritage Resource Agency (SAHRA).

The procedure for Consultation Regarding Burial Grounds and Graves (Section 36(5) of Act 25 of 1999) is applicable to graves older than 60 years that are situated outside a formal cemetery administered by a local authority. Graves in the category located inside a formal cemetery administered by a local authority will also require the same authorisation as set out for graves younger than 60 years over and above SAHRA authorisation. If the grave is not situated inside a formal cemetery but is to be relocated to one, permission from the local authority is required and all regulations, laws and by-laws set by the cemetery authority must be adhered to.

PREVIOUSLY UNIDENTIFIED BURIAL SITES/GRAVES

The proposed mining development is situated in an historic and contemporary cultural landscape with prehistoric, historic and contemporary human settlements and homestead remains. Given the history of human occupation of the affected area, there is a possibility that previously unknown burials may be discovered during subsurface construction work. Should burial sites be accidentally found, they must be reported to the nearest police station to ascertain whether or not a crime has been committed and a heritage expert should be called in to establish whether the burial is covered the NHRA. 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 must 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 contexts where the local traditional authorities give their consent to the unknown remains to be re-buried in their area, such re-interment may be conducted under the same regulations as would apply for known human remains.

11. PUBLIC CONSULTATIONS

Mafu's Funeral Home in collaboration with the heritage team conducted the public consultation. The team tracked the Swanepoel, Marais and Pretorius families within Middelburg, Witbank, Delmas and the Phola

area. The team has not yet positively identified families that have links to the burial site. The consultations are still on-going, and we hope to track down all the descendants of the affected graves. Full social and ethnological consultation will commence in due course in line with the requirements of the National Heritage Resources Act to ensure that the potential custodians are identified and consulted about the proposed relocation of the affected graves.

Mafu's Funeral Home advertised in the Middelburg Observer and Witbank News on the 12th of March 2021. The adverts were both in Afrikaans and English. In addition, Mafu's Funeral home advertised on the Radio Kragbron (Afrikaans) in order to reach out to potential custodians of the graves. On the other hand, Mafu's Funeral submitted an application letter to SAPS Phola on the 25 February 2021 and obtain authorisation on the 7th of May 2021. Mafu's Funeral Home obtained authorisation from eMalahleni Local municipality (ENV17/4/1) on the 8TH of May 2021.

12. RESULTS OF THE SITE INVESTIGATION

The author inspected and assessed the affected burial site, and the family had agreed to relocation of the affected graves., it is technically prudent to proceed with the plan to relocate the graves. The field survey identified one burial site located between within the mining area. As highlighted in previous sections, burial grounds and gravesites are accorded the highest social significance threshold (see Appendix 3). They have both historical and social significance and are considered sacred. Wherever they exist they may not be tempered with or interfered with during any proposed development. It is important to note that the possibility of encountering human remains during subsurface earth moving works anywhere on the landscape is ever present.

Description of the Burial site

The inspection identified eight (8) graves located in one cluster. All the graves are marked by tombstones and inscribed headstones. The preliminary inspection noted that four graves are older than 60 years and fall under the jurisdiction of SAHRA and two were confirmed to be younger than 60 years and the two graves with collapsed headstones could not be confirmed. The site looks like it has been neglected for some time but however one of the graves had recently placed coins which shows someone is visiting the site to conduct rituals. This means that descendant families are likely to be traceable and assumed to be residing Orgies, Witbank and Middleburgh or as far wide as Delmas and the neighbouring farms.

The graves belong to the Swanepoel, Cronje and Pretorius families who owned the farm before their properties were bought for coal mining (see Photos below). The graves information was obtained from the

inscriptions on the tombstones. The graves are marked by tombstones and inscribed headstones. The burial ground is not maintained in any way and is covered by overgrown grass. This suggests that the custodians of the graves no longer access the site regularly and they may no longer be residing in the local area.

Significance valuation for Burial Ground, Historic Cemeteries, and Individual Graves

The significance of burial grounds and gravesites is closely tied to their age and historical, cultural, and social context. Nonetheless, every burial site should be considered as of high socio-cultural significance protected by practices, a series of legislations, and municipal ordinances.



Plate 1: Showing the graves located with the mining area



Plate 2: Showing some of the collapsed tombstones at the burial site.



Plate 3: Showing graves located within the mining area



Plate 4: Showig some of the inscribed tombstones.

13. MITIGATION MEASURES

The investigation confirmed that the burial site falls within the mining right area and therefore must be relocated to the nearest municipal cemetery (Phola/ Kroomdraai) as will be agreed between the affected families and the mine represented by Mafu's Funeral Home.

13.1 ACCIDENTAL DISCOVERIES/DISTURBANCE OF GRAVES

This being a case of mining activities in the vicinity of a "burial site" the regulations state that when a grave is damaged accidentally in the course of development or other activity: a). SAHRA or the provincial heritage resources authority (or delegated representative) must, in co-operation with the Police, inspect the site 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. b). If the suspected burial is likely to be so protected, no activity may be resumed in the immediate vicinity of the suspected grave, without due investigation approved by SAHRA or the provincial heritage resources authority). 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 materials, which include human, and hominid remains that are older than 100 years (see definition in section 2 of the Act), are 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.

14. RECOMENDATIONS

Based on the assessment conducted by Mafu's Funeral Home Heritage Specialists, the following recommendations must be adhered to.

- Miners at the mine must be inducted about potential impacts of mining activities on the identified burial site and how these impacts can be minimised without compromising the project schedule.
- The site must be protected while consultations and applications for burial permits are underway.
- Exhumation and relocation of the affected graves must not take place without a permit from the Department of Health Mpumalanga Province.
- The actual relocation of the graves must be monitored and documented by a professional archaeologist who will at the end of the exercise compile a heritage mitigation report
- No stone robbing or removal of any material is allowed. Any disturbance or alteration on this graveyard would be illegal and punishable by law, under section 36 (3) of the National Heritage Resources Act NHRA of 1999 (Act 25 of 1999).

- No dumping allowed within the burial site and no un-monitored alteration or excavation within the burial site.
- Noteworthy that any measures to cover up any accidental damage of graves or to collect any grave goods is illegal and punishable by law. In the same manner, no person may exhume or collect such remains, whether of recent origin or not, without the endorsement by relevant authority.

15. CONCLUDING REMARKS

Mafu's Funeral Home was requested by South 32 SA Coal Holdings to investigate the status of the burial site earmarked for relocation. The site must be protected while the heritage team is processing relocating permits. This report concludes that mining may not resume pending the relocation of the affected graves. The measures are informed by the results of the study and principles of heritage management enshrined in the NHRA, Act 25 of 1999.

16. BIBLIOGRAPHY

Australia Icomos. 1999. The Burra Charter: The Australia ICOMOS charter for places of cultural significance. Burwood.

Bickford, A and Sullivan, S. 1977. "Assessing the research significance of historic sites" in S Sullivan and s. Bowdler (eds), *Site Surveys and Significance assessment in Australian Archaeology*. Canberra: ANU.

Brothwell, D.R. 1981. *Digging up Bones: The excavation, treatment, and study of human skeletal remains*. UK: OUP.

Burke, H. And Smith, C. 2004. *The archaeologist's field handbook*. Allen and Unwin. Australia.

Hammond-Tooke, D.1993. *The roots of Black South Africa*. Johannesburg: Jonathan Ball Publishers.

Human Tissue Act, 1983 (Act No.65 of 1983)

Miller, D., and Rivera, J. 2006. Hallowed ground, place, and culture: The cemetery and the creation of place. *Space and Culture*, 9(4), pp.334-350.

Mhlongo, M. 2017. An exploration of alternative burial methods and options: the challenges of identifying new cemetery land in Richards Bay. PhD Thesis. University of KwaZulu-Natal.

Moreosele, N. Hlatshwayo, R., Majavu, A., Masuku, S. Seleka, N. 2011. Looking for new ways to bury the dead: South Africa's nine provinces are running out of burial land. *Sowetan Live*, [Online] pp.1-3 Available at: <https://www.sowetanlive.co.za/news/2011-02-28-looking-for-new-ways-to-bury-the-dead/> [Accessed: 6 October 2020].

Murray, L. 2003. Modern innovations? Ideal vs. reality in colonial cemeteries of nineteenth-century New South Wales. *Mortality*, 8(2), pp.129-143.

Murimbika M. & Huffman, TN. 2003 (December Issue). *Shona ethnography and Late Iron Age Burials* *Journal of African Studies*, Vol.1 (2): 237-246.

National Heritage Resources Act (No. 25 of 1999).

National Heritage Resources Act (No 25 of 1999). 2002. Regulations.

Ngcongco, N. 2005. *Cemeteries Crisis, Burial Alternatives and African Urban Communities: A Case Study of eThekweni Unicity*. Master's Thesis. University of KwaZulu-Natal.

Ngubane, S. 2004. Traditional practices on burial systems with special reference to the Zulu people of South Africa. *Indilinga African Journal of Indigenous Knowledge Systems*, 3(2), pp.171-177.

Pistorius, J C C. 2013. A Phase 1 Heritage Impact Assessment (HIA) Study for Eskom's proposed Dam Switching Station project near the Vaalkop Dam in the Rustenburg and Madibeng Local Municipalities in the North West Province of South Africa

SAHRA. 2002. General Introduction to surveys, impact assessments and management plans.

SAHRA. 2002. General guidelines to Archaeological Permitting Policy.

SAHRA, Burial sites, [Http://www.sahra.org.za/burial.htm](http://www.sahra.org.za/burial.htm), Accessed, 07 October 2020

SAHRA. What to do when Graves are uncovered accidentally.

17. APPENDICES

APPENDIX1: Adverts and public notices



23 February 2020

Mrs, Wonderful Mafu
Mafu's Funeral Home
04 Rhodes Street
Witbank
1035

South32 SA Coal Holdings Proprietary Limited
39 Melrose Boulevard
Melrose Arch
Johannesburg, 2076 South Africa
P O Box 61820
Marshalltown, 2107
South Africa
T +27 11 378 2000
south32.net

Per-email: wonderful1@live.co.za

Dear Mrs. Mafu

**Letter of Appointment – Relocation of graves at Farm Tweefontein
328 JS of Klipspruit Colliery**

The above matter bears reference.

South32 SA Coal Holdings is pleased to inform you that Mafu's Funeral Home is awarded the contract for the relocation of graves situated at Farm **Tweefontein 328 JS**, Klipspruit Colliery, Witbank, Emalahleni Local Municipality in Mpumalanga Province. The contract is summarised as follows:

- Archeological investigation, identification of graves, marking of identified graves, social consultation, applications for permission to resettle the graves and resettlement of graves on the portion of land described above.

Please contact Mzwakhe Skosana at 082 417 7143 or by e-mail at mzwakhe.skosana@satcc.co.za should you have any queries on the contents of this correspondence.

Yours sincerely

Mzwakhe Skosana
Lead: Socio-Economic Development

Directors: MJ Fraser (Chairman), PK Masia, HT Hristad, A Jeevan, XH Mkhwanazi, M Steyn, CWN Mokopi (Independent)
Company Secretary: S Naidoo

Registered Office: 39 Melrose Boulevard, Melrose Arch, Johannesburg, 2076, South Africa
Baa No: 1963/000572/07

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

Privaatsak/Private Bag
Posbus/Post Office Box 11

Verwysing Reference	
Navrae Enquiries	Capt Kamfer
Telefoon Telephone	(013) 643 8603
Email Address	Phola.support@saps.gov.za

THE STATION COMMANDER
SOUTH AFRICAN POLICE SERVICE
PHOLA
2230

2021-05-06

Mafu's Funeral Home
04 Rhodes street
Emalahleni
1035

ATT: TW MAFU

RE: APPLICATION TO EXHUME GRAVES FROM TWEEFONTEIN FARM 328JS OF
KLIPSPRUIT COLLIERY

1. Your letter dated 25/02/25 refers.
2. This office doesn't have any objection for the graves to be exhumed.
3. Kindly furnish this office with the proposed dates of the exhumation.
4. Hope you find this in order.

..... CAPT
VISPOL COMMANDER : PHOLA SAPS
KAMFER

SUID AFRIKAANSE POLISIEDIENS
FINANCE
2021 -05- 07
PHOLA
SOUTH AFRICAN POLICE SERVICES



EMALAHLENI Local Municipality

P.O. BOX 3,
WITBANK,
MPUMALANGA
1035

TEL.: 013 690 6911
FAX: 013 690 6207

www.emalahleni.gov.za

emalahleni, Mandela Street
Tel.: 013 690 6911

Ga-Nala, Quintin Street
Tel.: 017 648 2241

Ogies, Hoofweg
Tel.: 013 643 1027

Telephone no.: 013 692
4020/1/2
Email:
mthombenine@emalahle
ni.gov.za
Refer to: N.E Makua
Reference no.:
ENV17/1/4/1

21 MAY 2021

**Mrs T.W Mafu
MAFU'S FUNERAL HOME
STD No: 11/280, 4 Rhodes Street
EMALAHLENI
1035**

**RE: APPLICATION FOR EXHUMATION AND RELOCATION OF 8 HUMAN
REMAINS FROM TWEEFONTEIN FARM 328JS OF KLIPSPRUIT COLLIERY TO
DONA CEMETERY EMALAHLENI LOCAL MUNICIPALITY, PHOLA.**

Dear Madam

The Emalahleni Local Municipality acknowledges receipt of your application to Exhume 8 mortal remains from Tweefontein 328 JS Klipspruit Colliery and to reinter 8 mortal remains at Dona Cemetery, Emalahleni Local Municipality (EML), Phola. Please take note that the municipality will only allocate graves once the following requirements are adhered to and supporting documents are submitted to the Parks, Cemeteries and Public Open Spaces office:

1. All the required documentation from Competent Authorities (CA), including the approval letter from the Provincial Department of Health and Social Services as well as the permit from the South African Heritage Resources Agency (SAHRA) for graves older than 60 years as indicated in your application letter.
2. The applicant complies with all conditions outlined in the Authorisations or Permits issued by the CA.

3. The applicant informs the Parks, Cemeteries and Public Open Spaces department at least ten (10) working days of the date and time of the reburial.
4. That an Environmental Health Practitioner and SAPS are present during the exhumation process.
5. That an amount of R6432.19 VAT included per mortal remain is paid at ELM pay points or deposited into the Municipality's bank account. Kindly take note that this amount is applicable for the financial year 2020/2021 which ends in June 2021.
6. No graves will be allocated to the applicant without proof of full payment.

Bank: ABSA Bank
Branch: eMalahleni
Account No.: 136 00000 91
Reference: 147

For bookings or any enquiry please contact the Parks, Cemeteries and POS office at (013) 692 4021/2

Yours sincerely,


H.S. MAYISELA
MUNICIPAL MANAGER


DATE





RADIO KRAGBRON

KENNISGEWING: Versagting van aangetaste menslike oorskot in grafte

Hiermee word kennis gegee dat:

Mafu's begrafnisonderneming, namens South32 SA Coal Holdings Proprietary Limited se Klipspruit Colliery is van voorneme om aansoek te doen ingevolge Artikel 35 en 36 van die Wet op Nasionale Erfenishulpbronne (Wet 25 van 1999); asook die Nasionale Gesondheidswet (81 van 2003), artikel 2 (1) van die Ordonnansie op Grafte en Dooie Liggame 1925 (Ordonnansie nr. 7 van 1925) asook die toepaslike plaaslike regulasies vir die

Mpumalanga Provinsiale Regering, die Suid-Afrikaanse Agentskap vir Erfenishulpbronne (SAHRA) of hul wetgewende provinsiale agentskap en die eMalaheni Plaaslike Munisipaliteit

vir goedkeuring om opgrawe en weer in 'n plaaslike begraafplaas op te grawe, of om die oorblyfsels van grafte wat begrawe is op ander wyse te versag:

Plaas: Tweefontein 328 JS van Klipspruit Colliery

Die menslike oorskot sal opgegrawe word uit hul huidige plek van begrafnis en op 'n nuwe plek begrawe word volgens die versoek van die oorledenes se families. Mafu's begrafnisonderneming is dringend op soek na die eienaars van die grafte langs Dawo Lodge in Ogies.

Die volgende name is op die grafte geïdentifiseer:

- Abraham Petrus Marais
- Pestrus Johannes Swanepoel
- Theron
- Catharina Maria Cronje

As u enige van die bogenoemde name ken of familielede ken, kontak Wonderful Mafu by

082 856 7854

Tel: 013 007 021

E-pos: wonderful1@live.co.za

Newspaper

4 | Middelburg Observer > News

Friday 12 March 2021

Ck No: 2003/034594/23
 VAT No: 4520216575
 C: 082 856 7854
 E-mail:
 wonderful@mafusfuneralhome.co.za



F: 086 439 0615
 T: 013 007 0215
 T: 015 004 1179

NOTICE: MITIGATION OF AFFECTED HUMAN REMAINS IN GRAVES

Notice is hereby given that:

Mafu's funeral home, on behalf of South32 SA Coal Holdings Proprietary Limited's Klipspruit Colliery intend applying in terms of Section 35 and 36 of the National Heritage Resources Act (Act 25 of 1999); as well as the National Health Act (61 of 2003), section 2(1) of the Graves and Dead Bodies Ordinance 1925 (Ordinance no 7 of 1925) as well as the relevant local regulations to the:

Mpumalanga Provincial Government, the South African Heritage Resources Agency (SAHRA) or their legislated provincial agency and the eMalahleni Local Municipality for approval to exhume and re-inter in a local cemetery, or to mitigate by other means, the remains of graves buried at: Farm: Tweefontein 328 JS of Klipspruit Colliery

The human remains will be exhumed from their current place of burial and reburied in a new location as per the request of the deceased's families. Mafu's funeral home is urgently looking for the owners of the graves next to Dawo Lodge in Ogies.

The following names were identified on the graves:

- Abraham Petrus Marais
- Pestrus Johannes Swanepoel
- Theron
- Catharina Maria Cronje

If you know any of the above mentioned names or know the relatives, please contact Wonderful Mafu on 082 856 7854
 Tel: 013 007 021
 E-mail: wonderful1@live.co.za

w\12mrt\Mafu notice 12x3vms

Ck No: 2003/034594/23
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 wonderful@mafusfuneralhome.co.za



F: 086 439 0615
 T: 013 007 0215
 T: 015 004 1179

KENNISGEWING: VERSKUIWING VAN GRAFTE EN MENSLIKE OORSKOT

Hiermee word kennis gegee dat:

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Plaas: Tweefontein 328 JS van Klipspruit Colliery

Die menslike oorskot sal opgegrawe word uit hul huidige plek van begrafnis en op 'n nuwe plek begrawe word volgens die versoek van die oorledenes se families. Mafu's begrafnisondernehmung is dringend op soek na die eienaars van die grafte langs Dawo Lodge in Ogies.

Die volgende name is op die grafte geïdentifiseer:

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As u enige van die bogenoemde name ken of familieledede ken, kontak Wonderful Mafu by 082 856 7854 Tel: 013 007 021
 E-mail: wonderful1@live.co.za

w\12mrt\Mafu kennisgewing 12x3vms

Witbank News & Nuus, Friday 12 March 2021

Ck No: 2003/034594/23

VAT No: 4520216575

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- Pestrus Johannes Swanepoel
- Theron
- Catharina Maria Cronje

If you know any of the above mentioned names or know the relatives, please contact

Wonderful Mafu on 082 856 7854

Tel: 013 007 021

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w/12mrtMafu notice 12x3vms

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Plaas: Tweefontein 328 JS van Klipspruit Colliery

Die menslike oorskot sal opgegrawe word uit hul huidige plek van begrafnis en op 'n nuwe plek begrawe word volgens die versoek van die oorledenes se families. Mafu's begrafnisonderneming is dringend op soek na die eenaars van die grafte langs Dawo Lodge in Ogles.

Die volgende name is op die grafte geïdentifiseer:

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- Pestrus Joliannes Swanepoel
- Theron
- Catharina Maria Cronje

As u enige van die bogenoemde name ken of familieledede ken, kontak Wonderful Mafu by 082 856 7854 Tel: 013 007 021

E-pos: wonderful1@live.co.za

w/12mrtMafu kennisgewing 12x3vms

APPENDIX 2: BURIAL RELOCATION PROJECT METHOD STATEMENT

. DISCOVERY AND NOTIFICATION

If human burial remains are accidentally discovered during development at the construction site, the following guidelines apply:

- a) The finder will immediately cease any further activity at the site and report the site to the Project ECO. The ECO will notify the heritage expert (Archaeologist) and authorities.

SITE PROTECTION AND IDENTIFICATION

- a) The ECO and the Archaeologist and the permitting authority shall take reasonable measures to protect the site from environmental factors and any form of unauthorized interference or disturbance.
- b) Based on the evidence reported at the scene, the Archaeologist will investigate the site and make a preliminary determination as to the nature of the remains.
- c) Existing site inventories, land use records, and community, and authorities, should be consulted as soon as possible about possible identification of the remains. Some examination of the site/remains may be required to determine its cultural affiliation and age, and whether or not the site is modern or historic.
- d) The Archaeologist shall apply and acquire the relevant exhumation and rescue Permit from SAHRA Graves and Burial Unit.

. INVESTIGATION AND REPORTING

- a) The ECO will direct the Archaeologist to carry out an investigation under any required permits, in consultation with the affected custodians (if available) and other affected parties, to make an initial report citing, if possible, the cultural affiliation of the human remains.
- b) Within a reasonable time to be specified by the EO, and the affected parties, the Archaeologist shall deliver a written report and any notification not yet made to:
 - the ECO, and the affected custodians if appropriate;
 - the SAHRA;
 - the permitting authority of SAHRA Graves and Burials Unit
 - any other representative of the interred, if known.
- c) The written report shall attempt to identify:
 - the representative group of the interred;
 - the geographic boundaries of the site;
 - the grave offerings or other heritage resources that may be associated with the remains or the site.

d) The Archaeologist may, with the agreement of the proper authority and the representative of the interred, if known, remove all or part of the human remains for temporary custody where the remains may otherwise be at risk prior to their re-burial at a safe site.

REPORTING

a) If the site is determined to be a contemporary burial site, the appropriate representative will be contacted in writing to provide further direction on the disposition of the remains.

b) Project contractors carrying out authorized activity where a historic or archaeological burial site is discovered can continue that activity with the consent of the EO, where appropriate. The activity must stay 150 meters away from the grave while further arrangements are made by the Archaeologist to rescue and relocate the remains to a safe cemetery.

d) The Archaeologist may publish notice of the discovery in a newspaper or other public notice seeking information on the remains and alerting members of the public about the impending relocation of the remains to a predetermined formal cemetery or burial ground.

SITE DISPOSITION AGREEMENT (MANAGEMENT PLAN)

4.1 When the site or remains are identified

a) The site shall not be disturbed and the EO, if on direct path of Project development work, shall initiate discussions towards entering into a site disposition agreement with the representative of the interred where applicable.

b) If the site is a historic or archaeological burial site, there must be joint approval of the site management plan on reburial as stated in the scope of services in terms of contract between Project proponents and ISS.

c) Decisions regarding reburial, relocation or other disposition should be determined on a case-by-case basis in consultation with those concerned and in a timely manner.

Site disposition agreements shall determine such things as:

1. the interim care of the human remains;
2. the scope and extent of analysis to be performed on the human remains, if any;
3. the exact location of the place where the human remains are to remain or to be interred;
4. the style and manner of disinterment, if applicable;
5. the style and manner of reinterment, if applicable;
6. the time period in which disinterment and reinterment is to take place;
7. the procedures relating to, and the final disposition of any grave offerings discovered with the human remains and any additional analysis of them;

8. the provision for future maintenance of the cemetery or site where the human remains are to be located;
9. access to the site and ways to prevent disturbance;
10. any other issue agreed upon.

4.2 When no representative is identified, or no disposition is specified:

If disposition is not specified by a representative, or the remains are not claimed or no affiliation is established within a reasonable time, the Archaeologist shall with the necessary SAHRA permits and approvals provide for the following disposition:

- a) cover and leave the remains where they were found and have the site recorded as a burial site/heritage site, if on land suitable for a burial site; or
- b) have the remains disinterred and reinterred in the nearest appropriate cemetery; or
- c) remove the remains from the site for analysis and may have them reinterred in a recognized cemetery or;
- d) may act as the temporary repository of the remains until they are re-located for reburial at designated cemetery.

(Where the remains were found on Construction Site but are not historic or archaeological remains, the Archaeologist may remove the remains in consultation with the Project EO and the affected parties.)

ARBITRATION

- a) If no disposition or reburial agreement or management plan is reached within a reasonable time the matter may be referred to arbitration for settlement.

. RECORDS

- a) A record of the site and a report of the discovery and disposition plan shall be kept by the Archaeologist, for future reference to protect the site or identify the re-burial site.
- b) Access to information about discovered sites will be addressed in any site management plan developed under these guidelines and will be protected under the Access to Information and Protection of Privacy legislations, and the NHRA.

BURIAL RELOCATION & REBURIAL

- Burial Relocation involves the identification of each grave and the manual excavation of the interred remains. Human remains, coffin features, and grave goods are exposed, their positions in the grave are carefully recorded, and maps and photographs of each grave are made following standard archaeological recovery techniques.

- Once excavation and examination are completed, the interred along with their grave goods are inventoried and carefully wrapped in acid-free tissue. Human remains are arranged anatomically, and all materials are placed in specially designed containers, specified by the laws and regulations governed by the state where the re-interment location has been determined. The goal of re-interment is to restore as much of the original mortuary meaning as possible.
- Burial relocation is extremely culturally sensitive, and Project and contractors/service provider staff understands that the utmost respect must be shown to the interred, as well as the descendant communities. We advocate respectful involvement of descendent communities in the relocation process, whenever possible, and have an excellent reputation for communicating with descendant groups.
- Mafu's Funeral Home (Pty) Ltd has extensive experience conducting cemetery relocations for government agencies, other cultural resource firms, developers and private citizens in South Africa. We assure our clients as well as the descendent communities that the greatest amount of respect and care is taken when excavating and relocating these cemeteries.

. Risks

1. Legal Risks

Project is exposed to a myriad of legal requirements on the local and national level when having to relocate burials. Burial relocation can infringe a number of human rights enshrined in the Constitution and legislations such the NHRA. If not carried out properly, grave relocation can impact the right to burial and dignity. Community opposition may result in protests and delays on development.

Mitigation

When human remains are identified during the development, all measures must be taken to ensure the law applicable regulations are enforced including mandatory public notifications.

Reputational risk

Relocation of human burials in particular also brings with it high risks for the Project's reputation which is exacerbated by the instantaneous spread of news across the world via the internet. Lack of proper planning and management may lead to negative consequences, which in turn may affect the Project's reputation.

Mitigation

Human remains identified in development contexts should be handled with utter most care to ensure the exhumation and relocation takes place in accordance with the law.

Operational risks

Legal action arising from the inadequate planning and implementation of burial relocation may result in Project's permission to work on the mining site being revoked via preliminary injunctions.

Operational risks may also arise from community protests directly. Cases of community opposition and protests, has previously disrupted work for days and weeks, involving, for example, the blockage of construction sites and vital roads and infrastructure. Construction may be delayed or disrupted.

Protests may be violent and impact on the health and safety of Project staff perpetuating work delays in construction and operations. Project facilities, machinery, housing and other assets may be damaged and rendered unusable.

Mitigation

The security trench servitude should have adequate security. All burial related matters should be held by the professional heritage team and reburial specialists. Human remains discovered during development should be reported to the ECO urgently and the Archaeologist notified in time to avoid any delays with the remains exposed on site. All exhumations and reburial exercises should be handled or schedule in a manner that does not require the remains to be held elsewhere temporarily.

Financial risks

Legal, reputational and operational risks may also lead other financial costs to the project. Moreover, costs may arise from legal action or disruptions in operations and work delays. Additional costs may be incurred when public protests require work to stop on site as a result of human remains discovery on site.

Human Remains Handling Risks

Exhumation, handling, transportation and reburial of human remains also pose a threat to public health if not handled to strict protocols. This risk is particularly highest in contemporary burials.

18. APPENDIX 3: GENERAL PRECAUTIONS

The following precautionary measures can help employers and employees remain safe and healthy whilst handling human remains. The transportation, handling and storage of human remains must also be carried out in a manner that preserves public safety and maintains the dignity of the deceased person.

PERSONAL PROTECTIVE EQUIPMENT

Hand Protection:

When handling potentially infectious materials, use appropriate barrier protection including latex and nitrile gloves (powder-free latex gloves with reduced latex protein content can help avoid reaction to latex allergies). These gloves can be worn under heavy-duty gloves which will, in turn, protect the wearer from cuts, puncture wounds, or other injuries that break the skin (caused by sharp environmental debris or bone fragments). A combination of a cut-proof inner layer glove and a latex or similar outer layer is preferable.

Foot Protection:

Footwear should similarly protect against sharp debris.

Hygiene:

- Wash your hands with soap and water or with an alcohol-based hand cleaner immediately after you remove your gloves.
- Give prompt care to any wounds sustained during work with human remains, including immediate cleansing with soap and clean water. Workers should also be vaccinated against hepatitis B and get a tetanus booster if indicated.
- Ensure disinfection of vehicles and equipment.

SUMMARY

- In general, personnel involved in the recovery and handling of human remains from a burial site can limit risk from potential exposure by following the guidelines below.
- Vinyl or Latex gloves should be worn.
- Masks and protective eyewear or face shields should be worn during procedures that are likely to generate fluids to prevent exposure of mucous membranes of the mouth, nose, and eyes.
- Gowns or aprons should be worn during procedures that are likely to generate splashes of blood or other body fluids.
- Hands and other skin surfaces should be washed immediately and thoroughly if contaminated with blood or other body fluids. Hands should be washed immediately after gloves are removed.

- Ensure universal precautions for blood and body fluids.
- Ensure use of body bags.
- Ensure disinfection of vehicles and equipment.
- Bodies do not need to be disinfected before disposal (except in case of cholera).
- Vaccinate workers against hepatitis B.

19. APPENDIX 4: HUMAN REMAINS AND BURIALS IN DEVELOPMENT

Developers, land use planners and professional specialist service providers often encounter difficult situations with regards to burial grounds, cemeteries and graves that may be encountered in development contexts. This may be before or during a development project. There are different procedures that need to be followed when a development is considered on an area that will impact upon or destroy existing burial grounds, cemeteries or individual graves. In contexts where human remains are accidentally found during development work such as road construction or building construction, there are different sets of intervention regulations that should be instigated. This brief is an attempt to highlight the relevant regulations with emphasis on procedures to be followed when burial grounds, cemeteries and graves are found in development planning and development work contexts. The applicable regulations operate within the national heritage and local government legislations and ordinances passed in this regard. These guidelines assist you to follow the legal pathway.

1. First, establish the context of the burial:

A. Are the remains less than 60 years old? If so, they may be subject to provisions of the Human Tissue Act, Cemeteries Ordinance(s) 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 automatically protected by the National Heritage Resources Act (Act 25 of 1999).

B. Is this the grave of a victim of conflict? If so, it is protected by the National Heritage Resources Act (Section 36(3a)). (Relevant extracts from the Act and Regulations are included below).

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

D. Are the human or hominid remains older than 100 years? If so, they are protected by the National Heritage Resources Act (Section 35(4), see also definition of "archaeological" in Section 2).

2. Second, refer to the terms of the National Heritage Resources Act most appropriate to the situation, or to other Acts and Ordinances:

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, for example Cemeteries Ordinances applicable in different Provincial and local Authorities.

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

C). 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 contexts where the local traditional authorities given their consent to the unknown remains to be re-buried in their area, such re-interment may be conducted under the same regulations as would apply for known human remains.

3. 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 re-interment. If the relatives do not react to the advertisement, the remains may be re-interred at the discretion of the local authority.

A. However, it is the responsibility of the developer to ensure that none of the affected graves within the cemetery are burials of victims of conflict. The applicant is also required in line with the heritage legislation to verify that the graves have no social significance to the local communities.

B. 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.

4. The Exhumations Ordinance (Ordinance No. 12 of 1980 and as amended) is also relevant. Its purpose 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". This ordinance is supplemented and support by local authorities regulations, municipality by-laws and ordinances.

DEFINITIONS AND APPLICABLE REGULATIONS

- 1). A "Cemetery" is defined as any land, whether public or private, containing one or more graves.
- 2). A "grave" includes "(a) any place, whether wholly or partly above or below the level of 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.
- 3). No person shall desecrate, destroy or damage any grave in a cemetery, or any coffin or urn without written approval of the Administrator.
- 4). No person shall exhume, disturb, remove or re-inter anybody in a cemetery, or any coffin or urn without written approval of the Administrator.
- 5). Application must be made for such approval in writing, together with:
 - a). A statement of where the body is to be re-interred.
 - b). Why it is to be exhumed.
 - c). The methods proposed for exhumation.
 - d). Written permission from local authorities, nearest available relatives and their religious body owning or managing the cemetery, and where all such permission cannot be obtained, the application must give reasons why not.
- 6). The Administrator has the power to vary any conditions and to impose additional conditions.
- 7). Anyone found guilty and convicted is liable for a maximum fine of R200 and maximum prison sentence of six months.
5. 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. They are administered by the Graves of Conflict Division at the SAHRA offices in Johannesburg.
"Victims of Conflict" are:
 - a). 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).
 - b). Members of the forces of Great Britain and the former British Empire who died in active service before 4 August 1914.

c). Those who, during the Anglo Boer War (1899-1902) were removed from South Africa as prisoners and died outside South Africa, and,

d). Those people, as defined in the regulations, who died in the "liberation struggle" both within and outside South Africa.

6. 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, for various reasons, issue a permit to disturb a burial that is known to be a grave of conflict or older than 65 years, or to use, at a burial ground, equipment for excavation or the detection or the 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:

- a). Has made satisfactory arrangements for the exhumation and re- interment of the contents of such a grave at the cost of the applicant.
- b). Has made a concerted effort to contact and consult communities and individuals who by tradition have an interest in such a grave and,
- c). 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 the burial grounds and graves. These apply to anyone 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:

- 1). Archival and documentary research regarding the origin of the grave or burial ground;
- 2). Direct consultation with local community organizations and/or members;

- 3). 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
- 4). Advertising in the local press.

The applicant must keep records of the actions undertaken, including the names and contact details of all persons and organizations 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 reach an 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:

a). 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.

b). If the grave is likely 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

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

d). 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 must be liable to a maximum fine of R100 000 or five years imprisonment, or both.

TREAT HUMAN REMAINS WITH RESPECT

a). 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.

b). 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.

c). 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.

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

e). No buried artifacts should be removed from any protected grave or graveyard without the prior approval of SAHRA. All artifacts 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.

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

g). The site, layout and design of the area for re-interment should take into account the history and culture associated with, and the design of, the original grave or graveyard.

h). Re-burials in mass graves and the use of common vaults are not recommended.

i). Remains from each grave should be re-buried individually and marked with the original grave markers and surrounds.

j). Grouping of graves, e.g. in families, should be retained in the new layout.

k). Material from the original grave or graveyard such as chains, kerbstones, railing and should be re-used at the new site wherever possible.

l). A plaque recording the origin of the graves should be erected at the site of re-burial.

m). 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

20. APPENDIX 5: LEGAL BACKGROUND AND PRINCIPLES OF HERITAGE RESOURCES MANAGEMENT IN SOUTH AFRICA

Extracts relevant to this report from the National Heritage Resources Act No. 25 of 1999, (Sections 5, 36 and 47):

General principles for heritage resources management

5. (1) All authorities, bodies and persons performing functions and exercising powers in terms of this Act for the management of heritage resources must recognise the following principles:

(a) Heritage resources have lasting value in their own right and provide evidence of the origins of South African society and as they are valuable, finite, non-renewable and irreplaceable they must be carefully managed to ensure their survival;

(b) every generation has a moral responsibility to act as trustee of the national heritage for succeeding generations and the State has an obligation to manage heritage resources in the interests of all South Africans;

(c) heritage resources have the capacity to promote reconciliation, understanding and respect, and contribute to the development of a unifying South African identity; and

(d) heritage resources management must guard against the use of heritage for sectarian purposes or political gain.

(2) To ensure that heritage resources are effectively managed—

(a) the skills and capacities of persons and communities involved in heritage resources management must be developed; and

(b) provision must be made for the ongoing education and training of existing and new heritage resources management workers.

(3) Laws, procedures and administrative practices must—

(a) be clear and generally available to those affected thereby;

(b) in addition to serving as regulatory measures, also provide guidance and information to those affected thereby; and

(c) give further content to the fundamental rights set out in the Constitution.

(4) Heritage resources form an important part of the history and beliefs of communities and must be managed in a way that acknowledges the right of affected communities to be consulted and to participate in their management.

(5) Heritage resources contribute significantly to research, education and tourism and they must be developed and presented for these purposes in a way that ensures dignity and respect for cultural values.

(6) Policy, administrative practice and legislation must promote the integration of heritage resources

conservation in urban and rural planning and social and economic development.

(7) The identification, assessment, and management of the heritage resources of South Africa must—

- (a) take account of all relevant cultural values and indigenous knowledge systems;
- (b) take account of material or cultural heritage value and involve the least possible alteration or loss of it;
- (c) promote the use and enjoyment of and access to heritage resources, in a way consistent with their cultural significance and conservation needs;
- (d) contribute to social and economic development;
- (e) safeguard the options of present and future generations; and
- (f) be fully researched, documented and recorded.

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

- (a) destroy, damage, alter, exhume or remove from its original position or otherwise disturb the grave of a victim of conflict, or any burial ground or part thereof which contains such graves;
- (b) destroy, damage, alter, exhume, remove from its original position or otherwise disturb any grave or burial ground older than 60 years which is situated outside a formal cemetery administered by a local authority; or
- (c) bring onto or use at a burial ground or grave referred to in paragraph (a) or (b) any excavation equipment, or any equipment which assists in the detection or recovery of metals.

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

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

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

ground.

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

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

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

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

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

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

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

General policy

47. (1) SAHRA and a provincial heritage resources authority—

(a) must, within three years after the commencement of this Act, adopt statements of general policy for the management of all heritage resources owned or controlled by it or vested in it; and

(b) may from time to time amend such statements so that they are adapted to changing circumstances or in accordance with increased knowledge; and

(c) must review any such statement within 10 years after its adoption.

(2) Each heritage resources authority must adopt for any place which is protected in terms of this Act and is owned or controlled by it or vested in it, a plan for the management of such place in accordance with the best environmental, heritage conservation, scientific and educational principles that can reasonably be applied taking into account the location, size and nature of the place and the resources of the authority concerned, and may

from time to time review any such plan.

(3) A conservation management plan may at the discretion of the heritage resources authority concerned and for a period not exceeding 10 years, be operated either solely by the heritage resources authority or in conjunction with an environmental or tourism authority or under contractual arrangements, on such terms and conditions as the heritage resources authority may determine.

(4) Regulations by the heritage resources authority concerned must provide for a process whereby, prior to the adoption or amendment of any statement of general policy or any conservation management plan, the public and interested organisations are notified of the availability of a draft statement or plan for inspection, and comment is invited and considered by the heritage resources authority concerned.

(5) A heritage resources authority may not act in any manner inconsistent with any statement of general policy or conservation management plan.

(6) All current statements of general policy and conservation management plans adopted by a heritage resources authority must be available for public inspection on request.