INCORPORATING INDIGENOUS MANAGEMENT IN ROCK ART SITES IN KWAZULU-NATAL

A thesis submitted in fulfilment of the requirements for the Degree of

MASTERS OF ARTS

OF

RHODES UNIVERSITY

By:

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January 2005
Declaration

I declare that this thesis has not been submitted before, either by myself or any other individual at any South African University.

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Ndukuyakhe Ndlovu
Abstract

The majestic mountains of the uKhahlamba Drakensberg, formed many millennia ago were home to the Bushmen or San people. They lived at these mountains for thousands of years before they were colonised by the Bantu speakers and the Europeans. Academic writings for many years have perpetuated the thinking that Bushman people were largely extinct. The dominance of this view in the academic writings was encouraged by historical evidence that Europeans and Bantu speakers hunted and killed Bushmen over the last several centuries. Researchers argue that the extermination of the Bushmen was because they were less human in the eyes of the foreigners, due to cattle raiding. There is still some element of this thinking amongst today’s academics, although research in the last decade is questioning this thinking.

The question of whether descendants do exist is relevant to issues of rights of access to ancestral sacred sites, in particular rock art sites. At present, access to rock art sites is granted on qualification as an authentic fee-paying tourist (or affordability) rather than on group rights to a cultural heritage resource (cultural rights). Based on this, I argue that access to rock art sites is based on qualification rather than by right. This is largely driven by an approach that emphasises the physical conservation and financial sustainability of a site, rather than its spiritual maintenance. It has become clear that the interests in rock art by tourists and Bushman descendants are distinct from each other. Tourists have an aesthetic significance for rock art while Bushmen descendants have a spiritual significance for the paintings. Beyond any doubt, the physically based and financially driven approach has brought new challenges to today’s Bushmen descendants, whom in reaffirming their identities now have a new challenge to overcome. Not only are the rock art sites physically threatened but also they have lost much of their spiritual powers. Their fate lies in the hands of heritage officers who must determine access rights to the painted shelters.

Both the National Heritage Resources Act and the KwaZulu-Natal Heritage Act acknowledge living heritage. However, the existence of this heritage is judged against the physical approach to rock art management. If the practises of descendants are perceived to be a threat to the rock art, they will not

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1 There is no general consensus over which term is appropriate. Both terms are considered by some academics to be derogatory or pejorative (Chennels 2003). San means vagabond and was given to the Bushmen by Khoi-Khoi people, because they considered themselves of a better social class, as they had domesticated animals and were more sedentary than Bushmen. However, according to WIMSA (Thoma 2003) the word San is derived from the Hai||om language meaning “people who gather”. It is normally written Saan but it has been accepted to write San. In 1993 the San requested to be called San when referred to as an entire group. If one refers to individual people/groups they like to be called by their language and cultural name i.e. Khwe, !Kung, !Xun, Jul’hoansi, ‡Khomani, Niu, !Auni, Hai||om, etc In this thesis, Bushmen is a preferred term, because it is a better-known term among the people who are central to this study. It is used without any insulting connotations attached to the term.
be approved. The case of the Duma is a classic example. Prior to the ritual ceremony at Game Pass Shelter, Kamberg, they were informed of the minimum standards for opening a rock art site to public and rules of how people should behave while visiting painted shelters.

While it was evident that there are problems with the two approaches, the spiritual and physical approach, discussed in the thesis, it is important that solutions are identified. I do not believe that one approach on its own will be good enough, for reasons discussed in the thesis. Instead, the two approaches should be implemented together to compliment each other by identifying common grounds. I provide strategies as to how I believe that such a common ground can be reached. In addition, I provide my own analytical thinking as to how these strategies can be achieved.
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<td>Action Group on Rock Art</td>
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<td>AAA</td>
<td>American Anthropological Association</td>
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<tr>
<td>ASA</td>
<td>Anthropology Southern Africa</td>
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<td>DEAT</td>
<td>Department of Environmental Affairs and Tourism</td>
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<tr>
<td>DNC</td>
<td>Department of Nature Conservation</td>
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<td>EIA</td>
<td>Environmental Impact Assessments</td>
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<td>EKZNW</td>
<td>Ezemvelo KwaZulu-Natal Wildlife</td>
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<td>IKS</td>
<td>Indigenous Knowledge Systems</td>
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<td>KMC</td>
<td>KwaZulu Monuments Council</td>
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<td>KZN</td>
<td>KwaZulu-Natal</td>
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<tr>
<td>MSA</td>
<td>Middle Stone Age</td>
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<tr>
<td>NBRI</td>
<td>National Building Research Institute</td>
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<tr>
<td>NHRA</td>
<td>National Heritage Resources Act, no. 25 of 1999</td>
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<tr>
<td>NGO</td>
<td>Non-Government Organization</td>
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<td>NPB</td>
<td>Natal Parks Board</td>
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<td>OIC</td>
<td>Officer in Charge</td>
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<td>RARI</td>
<td>Rock Art Research Institute</td>
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<td>RARARU</td>
<td>Rock Art Recording and Research Unit</td>
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<tr>
<td>RARMG</td>
<td>Rock Art Recording and Monitoring Group</td>
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<td>RADs</td>
<td>Remote Area Dwellers</td>
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<td>SAHRA</td>
<td>South African Heritage Resources Agency</td>
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<td>UNESCO</td>
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<td>WESSA</td>
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<td>Working Group of Indigenous Minorities in Southern Africa</td>
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Glossary

San
According to WIMSA (Thoma 2003) the word San is derived from the Hai||om language meaning “people who gather”. It is normally written as Saan but it has been accepted to write San. In 1993 the San requested to be called San when referred to as an entire group. If one refers to individual people/groups they like to be called by their language and cultural name i.e. Khwe, !Kung, !Xun, Jul’hoansi, Ḳhomanı, Nlu, l’Auni, Haiłom, etc. in contrast to this definition, academics consider the Nama word to be inappropriate, meaning ‘vagabond’. They argue that the Hottentots or Khoi-Khoi gave this Nama word to the Bushmen because they believed that they held a higher status over Bushmen in that they domesticated animals, had ownership of land, etc. In this thesis, Bushmen, also considered derogatory, is a preferred term, because it is a better-known term among the people who are central to this study. It is used without any insulting connotations attached to the term. We refer to Bushmen as aBathwa in Zulu.

Indiki
It is a custom of cutting off the top joint of the small finger, initially practiced by the Bushmen.

Mfecane
Origins of the word are a matter of debate. According to Sycholt (2002), the term means the wars of annihilation between the tribes.

uKhahlamba
It is a Zulu word for the Drakensberg Mountains. The Zulu people felt that when they looked at the mountains, they were seeing the barrier of spears.

Sangoma
A Sangoma is an individual who has ancestral powers. He/she uses such powers to go to trance and provide a healing service to the sick people. They also help to solve mysteries.

Ukuchela
It is a process of sprinkling water. This can either be clear water that has been prayed for or it can be water mixed with herbs. It is used for protection from the evil spirits.

Insizi yaBathwa
It is a powder collected from scratching rock art. Bantu speaking people apply it onto the cuts they make on the different body joints to protect them from evil spirits. Heritage managers have used this argument to argue that traditional healers do not support rock art conservation.

Induna
An Induna is a local representative of the chief. The chief passes his messages to the masses through him.

Umsamo
It is a particular corner in the great grandmother’s house where the elders communicate with the ancestors. This is done by burning impepho.

Impepho
It is a herb collected from the wild that is burnt to bring the spirits together when ancestors want to speak with them.

Tsotsi Taal
It is a language that is used by youngsters in the location. It happens to be the mixture of Zulu and mostly Afrikaans.

Incwala
It is a ritual of the tasting of first fruits.
Acknowledgements

In memory of my late father, Eliam Themba (Kembe) Ndlovu who frequently made the following statements in our different conversations:

- “Ukungafundi kwami kakusho ukuthi ngingakufundisi, angiyanga esikoleni ngoba ngangelusa izinkomo zikaMkhulu wakho, ngingena nepulazi. Kepha ngifuna ufunde uze ugodwe, inqobo nje uma nxisaphila.”
- “The fact that I did not go to school does not mean I should not educate you. I did not get such opportunity because I had to work at the farm for our family to stay within the farm. I also had to herd your grandfathers cattle. As long as I live, I will do my best to provide you with the best education I can possibly afford”.

And

- “Ungabokwehlulwa into engakhulumi”
- “Never allow something that cannot talk to overcome you”.

Through your encouraging words of wisdom you left behind, you will indeed always be with me. Paul McCartney says it all in his song titled: “You may be gone, but you will never be forgotten”. You made a lasting impression on me in the twenty years of my life I spent with you.

Writing this thesis has been a long road for me. A lot of people, at different times of the process, contributed significantly. Without such contribution, I will indeed not have successfully achieved finishing the process, from when I started my research to the writing of the thesis. My career took a turn for worse. I lost my pride and confidence. I am deeply grateful to all of them, in particular my wife, Lebohang and Penny Bernard who both gave me the psychological support when I was down and out. Penny provided the much needed financial support towards this thesis. Lebohang and Penny were always there when I needed their support, providing a pillar of strength. My two expert supervisors, Professor Robin Palmer and Professor Michael Whisson played a great part. With my archaeological background, they had to take me under their wings, help me crawl as I was coming to grips with the anthropological background that I needed to successfully finish this thesis. Thank you for your patience. I am grateful to both of you. Discussion with Frans Prins also proved valuable. It was comforting to discuss the direction of my thesis with someone who thought more like I did.
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Introduction

The uKhahlamba Drakensberg\textsuperscript{2} mountains were declared a World Heritage Site on 29 November 2000 (Derwent \textit{et al} 2001; \url{www.montusi.za.net/content/aboutkzn.htm})\textsuperscript{3}. It was declared worthy of World Heritage status both for its cultural importance and natural importance. Its cultural significance is rock art and the natural significance fauna and flora. The declaration of the uKhahlamba Drakensberg Park means that it does not conform to national management guidelines only, but also international guidelines like the World Heritage Convention. The relevance of the World Heritage Site Status to luring tourism which has been increasing since 1994, has increased the relevance of the area for the local communities, and hence their claims and contestation with management. The 1996 White Paper on tourism provided eighteen reasons why tourism has been identified as the engine of growth, capable of dynamising and rejuvenating other sectors of the economy (DEAT 1996) to improve the lives of South Africans, many of whom still live in poverty. It is further stated that cultural resources should be managed to the negotiated benefit of all interested parties within the communities (DEAT 1996). The Managers of the park, the Duma clan, and people from Mnweni and oKhombe have reacted differently to the declaration of the uKhahlamba Drakensberg Park for reasons to be discussed later.

According to the shamanistic approach to rock art interpretation, Bushmen painted rock art because it was part of their religious beliefs, rather than a means of decoration or of creating hunting magic (Lewis-Williams 1990). However, those who claim to be their descendants are not allowed access to such sites to perform religious ceremonies. Even the declaration of the uKhahlamba Drakensberg as a World Heritage Site, which meant that a sound management approach had to be implemented, has not encouraged heritage managers to include indigenous communities\textsuperscript{4} in the management of such cultural resources.

The question of whether everyone in the new South Africa is ready for the World Heritage Site status of the uKhahlamba Drakensberg and/or for a new South Africa in a sense of ecotourism resources becomes an important one. This question represents the main research problem of the thesis. In response to the question, I argue that this is not the case. If they were, there would be a clear shift

\textsuperscript{2} This is the preferred name of the mountain, as both terms are used today to refer to the mountain range. In Zulu, uKhahlamba means “barrier of spears”. The Dutch settlers named the mountains “Drakensberg”, meaning “Mountain of Dragons” (Liebenberg 1972; Dodds 1975; Derwent \textit{et al} 2001; Sycholt 2002).

\textsuperscript{3} There are five other World Heritage Sites in South Africa: Sterkfontein Cradle of Humankind, Robben Island, Mapungubwe Cultural Landscape, the Greater St. Lucia Wetland Park and the Cape Floral Region.

\textsuperscript{4} In this context the term ‘indigenous communities’ is only used to refer to the descendants of the Khoi Khoi and Bushmen people. Today, they are collectively referred to as the KhoiSan, a term invented by Schapera (1930). However, WIMSA does not prefer its representatives to be called KhoiSan. I also have a problem with the term, as I believe that its use is limited. It does not take into account, for example, intermarriages between the Bushmen/San and Zulu, Xhosa and Sotho speaking peoples around the uKhahlamba Drakensberg (see appendix 4). I also use the term ‘indigenous communities’ because many other people and communities, such as the Zulus and Afrikaners, claim to be indigenous on the basis that they were born in the place, even though they have other prehistoric homelands from which they trace their ancestry.
from the different legacies and approaches to rock art management used in the past. In addition, the constitution of the new South Africa determines that people have a right to practise their religion. Obstacles on the ground are to do with the approaches. The problems within this bigger problem are the legacy of preservationism on one side and the legitimacy of the Bushmen descendants claim on the other.

**The research problem**

The preservationist approach in rock art management, which focuses on the Western idea of the physical management of rock art sites has not produced tenable results. It has been in existence since the need of managing rock art was first recognised. Although this approach has failed repeatedly, it has not been superseded by a more participatory approach, as has been the case in other countries, like Australia, Canada, and the United States of America where indigenous communities have played a major role in the management of their cultural resources since the 1970s (Worboys et al 2001).

The Bushmen descendants who attach a spiritual significance\(^5\) to rock art sites have no legal permission to perform rituals while visiting these sites. Heritage managers deem these practices as inappropriate and a threat to the physical appearance of rock art. In one incident, discussed in detail in chapter 5, the Bushmen descendants of the Duma clan were allowed access to a site to perform a ritual ceremony. However, this had to be done under supervision. As an additional problem to not having access to rock art sites on their own terms, Bushmen descendants are prevented from performing rituals as rituals; instead the ritual becomes a public performance attended by outsiders to the clan. It is not clear what such a performance is supposed to achieve and for whose benefit. The ideology of managing rock art by excluding the indigenous people is similar to the fortress conservation ideology that was dominant in the past in nature conservation.

The ideology of exclusion can be attributed mainly to the incorrect notion spread by many academics, including archaeologists and historians, that Bushmen have been extinct in the uKhahlamba Drakensberg since the early 1870s. This assumption was based on the fact that the last officially recorded stock raiding by Bushmen was in 1872 (see Vinnicombe 1976). However, the end of stock raiding was simply an indicator that the barrier locations had been successful in curbing cattle raiding.

The discovery in 1926 of a Bushman hunting kit in Eland Cave, to the east of Didima Gorge by Mr J.S. Lombard, a local farmer, contradicts the assumption that the Bushmen became extinct in the

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\(^5\) Spiritual approach places emphasis on the spiritual power that the site has. This is in contrasts to the physical management of the site, which emphasises the aesthetic value of the paintings.
uKhahlamba Drakensberg in the 1870s. The hunting kit consisted of a bow, bow case, quiver, 19 arrows, a spatula, a metal blade in a hide sheath and a small leather pouch. All items were wrapped in a baboon skin, the inside of which was coated with a resinous substance. Near this cache was a ‘bed’ of dry grass. On examination of these findings, Mr. W. C. Robinson, another local farmer, concluded that the findings were so well preserved that they could not have been there since the 1870s. According to Mr. Robinson, Bushmen must have either remained hidden for a long time or returned periodically from Lesotho (Lewis-Williams & Dowson 1992).

![Cave Hunting Kit discovered in 1926 by Mr. J. S. Lombard.](image)

This unsubstantiated argument illustrates my own argument that archaeologists assumed the roles they still currently play: firstly, the role of speaking on behalf of the extinct society that was allegedly wiped out by ‘genocide’ carried out against them in the nineteenth century; and secondly, the role of managing rock art sites as a heritage for all South Africans. Due to such misconceptions, rock art management strategies work to the disadvantage of the excluded descendants who still live today. Evidence has shown that people like the Duma at Kamberg still attach spiritual significance to rock art sites. Part of the problem is that people involved in the implementation of the management strategies either have a European background or have education qualifications informed by Eurocentric principles. This acknowledgement of cultural divide between the heritage managers and indigenous, local people is important in understanding the challenges faced by the indigenous people in their struggle to have access to rock art sites, which they consider sacred.
The current approach to rock art management is very ‘top-down’ and preservationist. In most cases, experiences have shown us that what is perceived as ‘management’ in a Western sense is not really management in an African sense. The paradigms are based on fundamental differences, with different priorities, that may lead to serious clashes. The authorities’ approach to a particular area is to impose control over the management of the sites and the people, in order to prevent what they see as vandalism. Indigenous people and Bantu speaking people relate to the sites differently, because they consider them to be significant. The priority of heritage management according to the Western approach is to keep things as they are, without making any changes that are going to alter them. The main priority is therefore to preserve items and places as original artworks to be admired by all. According to the African approach, management would not just be interested in keeping the rock art as an original artwork to be admired (as in the case of the Sitholes, see Prins 1997), but in the spiritual management of the site as well. According to the proponents of this management practice, people should feel the spiritual power when visiting a particular rock art site considered sacred to them, and for this to happen, ritual activities need to take place and, in some cases, offerings need to be made. These activities, in some instances, can be ‘harmful’ to the paintings themselves, but unlike the Western understanding of rock art management, the focus would be more on spiritual management. There are certain taboos associated with sacred sites (i.e. rock art sites), and one of these is that only certain individuals or groups should approach sacred sites, e.g. healers and clan descendants.

Currently, rock art managers are interested in managing what they can see, instead of what they cannot see. This is what I call physical management of the site. As it is, rock art managers are taught what rock art management is from a Western perspective, that is, to manage “what we see”. When one sees a red eland, from the Western understanding of rock art management, one’s responsibilities as a Heritage Manager will be to try and keep “what we see” as untouched as possible. In the light of increased pressure for ‘participatory’ development and ‘bottom-up’ management strategies, the challenge for contemporary heritage managers will be to marry Western knowledge systems with indigenous knowledge systems (IKS), both of which are biased in different ways, and to move beyond both paradigms in the formulation of new and more realistic heritage management principles.

There have already been tensions in other parts of the world between what I term “physical management” and the “spiritual management” of a rock art site. In Australia, the repainting of rock art sites in 1987, the *Wandjinjas*, became a highly controversial issue (Vinnicombe 2002). Before this time, the Aboriginals had had ways of maintaining *Wandjinjas*. They repainted *Wandjinjas* during the wet season. According to their belief, the paintings needed to be kept fresh, otherwise the *Wandjinjas* would get sad that no one was cared for them. In 1987, an attempt was made to repaint *Wandjinjas*
using a Community Employment Program grant managed by the Wanang Ngani Resource Centre (Mowaljarlai & Peck 1987, Mowaljarlai & Watchman 1989). According to the formal physical management of a site, they should not have repainted the site, because this was seen as an act of interference with the heritage of Australia and of the world at large. When attention was drawn to what was happening in the remote region of Kimberly, there was an outcry from academics and government officials, including some archaeologists and anthropologists (Vinnicombe 2002). However, an analogy would be for repairs, incense, organ music and rituals (services) to be banned from a Christian Cathedral, such as Westminster Abbey, to ‘protect the integrity’ of a site of historic value.

The other example of a contested site is provided by the Ayers rock. To non-indigenous people, Ayers Rock is a natural tourist attraction or recreation area, where visitors either climb or walk around the rock, but it is an important and a sacred site to the Aboriginals (Digancea 2003; www.atn.com.au). This is a classical example of sites where the interest of traditional owners who have a spiritual interest may be subordinated to the needs of mass tourist who appreciate the leisure the area provides, hence resulting in contest over the usage and/or access to the site (Digancea 2003). Visiting a sacred site should be an essentially spiritual experience, uncontaminated by technical and commercial realities (Carr 2004).

Fig. 2: Ayer’s Rock (uLuru) in Australia

Heritage Tourism
The Ayers rock example is typical of the effect that heritage tourism has in the management of sacred sites. In most countries, tourism developments were undertaken without assessment or consideration

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6 Digancea (2003) defines contested sites as those locations where there is contest over access and usage by a number of groups or individuals who have an interest in being able to freely enter and move around the site. Such conflicts can also be between those who manage it and those who have a spiritual interest in it.

7 Also known by its Aboriginal name uLuru. Ayer’s rock is considered to be the world’s largest monolith and is Australia’s most famous natural landmark (www.atn.com.au).
of potential impacts except for anticipated economic benefits. It has become clear that unless impact assessments are mandatory under legislation, they likely to be avoided (Butler 1993). Tourism brings much needed benefits to many poor countries (Britton 1979: 11-38); however, it also brings inequalities, economic problems and social tensions (Britton 1996).

The definition of heritage tourism has been intensely debated (see Poria *et al* 2000; Garrod & Fyall 2000, 2001). Swarbrooke (1994) and Palmer (1998) define heritage tourism as that form motivated by the heritage characteristics of a site. According to Yale (1991:21), heritage tourism is centred on what we have inherited, which can mean anything from historic buildings, art works, to beautiful scenery. This form of tourism can prove to be unsustainable in cities (Russo 2002).

The declaration of the uKhahlamba Drakensberg as a World Heritage Site is relevant here. In a desperate need to promote tourism, many business establishments are using the declaration to attract visitors to their establishments. This business overflows to the cultural sites that are found in the study area. The impact of tourism on sacred sites cannot be neglected. Tourism has been identified as the largest growth sector in the economy (DEAT 1996). It has created many jobs (Reid 1999) and still does even today. Tourism has in some instances been identified as the only industry the world over that allows for a net “North-South” flow of wealth from the developed to the developing countries (Koch 1997: 218). However, tourism, no matter how good it can be, has its own problems. These range from cultural to environmental degradation (Brandon 1993: 3 & 31).

**Choosing the survey areas**

I compared the management strategies of the areas under tribal authorities (Mnweni and oKhombe area) with those of areas managed by recognised conservation bodies (the rest of the Drakensberg in KwaZulu-Natal, e.g. Kamberg Nature Reserve and Game Pass Shelter, is managed by Ezemvelo KwaZulu-Natal Wildlife). The reasons I chose the Mnweni and oKhombe areas is because they provided examples of communities that have lived in the landscape for a relatively long period of time. This continuity provided some insights into the fundamental nature of more traditional systems of management. In contrast, Kamberg was important for two reasons: firstly, it provided an example of an area where people have been relocated in the last two decades and secondly; there is a strict implementation of formal heritage management laws at Kamberg. The Bushmen descendants, the Duma clan, who live adjacent to the reserve, in the location called Mpofana were relocated in 1990, when the then Natal Parks Board expropriated the Game Pass farm from Mr. Green, a private landowner. The Duma descendants have expressed interest in having access to Game Pass, a rock art site inside the reserve, in order to perform ritual ceremonies to appease their ancestors.
Fig. 3: General location of study sites within the uKhahlamba Drakensberg World Heritage Site, KwaZulu-Natal, South Africa.
Aims of the study

The anthropological, comparative study of rock art management presented in this thesis had two main objectives and four aims.

Objectives:
1. To see how policy and administration meets the needs of the study area especially now that it is a World Heritage Site.
2. To see whether local peoples aspirations are being satisfied or not in the new World Heritage Site Status. To determine as to what extent their rights are respected, and whether they are taking advantages of the new status.

Aims:
1. To identify whether rock art sites at Kamberg and in the Mnweni and oKhombe tribal authority areas are still regarded as sacred sites by the people.
2. To find out what the current status of such sites is, in terms of being accessed for spiritual purposes.
3. To explore how the rock art management systems differ in these two areas.
4. To assess the prospects of a policy shift to better management (preservation) of rock art.

Research methodology

Researcher's role

“In qualitative research the role of the researcher as the primary data collection instrument necessitates the identification of personal values, assumptions and biases at the outset of the study” (Creswell 1994: 163).

“To be reflexive, in terms of a work of anthropology, is to insist that anthropologists systematically and rigorously reveal their methodology and themselves as the instrument of data generation” (Ruby 1980: 153).

My perceptions of the involvement of indigenous people in rock art management have been shaped by my personal experiences. From December 2001 to March 2003 I worked as the Cultural Officer: Rock Art for Amafa aKwaZulu-Natali in the Archaeology Department. Amafa aKwaZulu-Natali is a provincial heritage body responsible for heritage management, be it cultural, architectural or historical, in the province. I was responsible for rock art conservation in KwaZulu-Natal Province. My
duties involved, among others: enforcing the current legislation, the KwaZulu-Natal Heritage Act (no. 10 of 1997) and the South African Heritage Resources Act (no. 25 of 1999); and incorporating the UNESCO requirements into our management of uKhahlamba Drakensberg as a World Heritage Site by drawing up the incorporated management plan. During the time I spent with the organisation, I encountered difficulties in the way it was carrying out its responsibilities in the province, with reference to rock art management. My ideology and approach was in many ways different to that of the organisation.

I believed that as an enforcing and policing organisation, Amafa was not achieving its objective of pro-active cultural management of heritage resources. Our main point of divergence was whether management of rock art sites is based on physical or spiritual significance. An official of the organisation made it clear to me that Amafa aKwaZulu-Natali exists to manage the physical appearance of rock art sites by enforcing the KwaZulu-Natal Heritage Act (no. 10 of 1997). That is what lead me to think very strongly about my role in the organisation and thus I decided to research this topic further. The organisation’s approach towards the painted shelters was therefore to view them as ‘museums’ in the uKhahlamba Drakensberg.

My perceptions of the involvement of indigenous people in rock art management have also been shaped by my personal experiences. I believe that without the involvement of indigenous, local and business people, the organisation cannot be effective as these people live and work in close proximity to the shelters and are in the vicinity much more often than any of the heritage authorities. Thus, their involvement is, in my opinion, of unquestionable importance. However, when I expressed an interest in undertaking research into the incorporation of indigenous people in rock art management, I was told that my ideas are unfounded and I should consult with my supervisors to help me think properly. I believed that this was out of step with global developments, which are encouraging a more participatory approach in the management of either cultural or natural resources. My research was also not supported by Amafa because it did not meet the mission and vision of the organisation. The differences I had with the authorities finally led to my resignation. Therefore, my experiences and my personal ideology have shaped my interpretation of this study. However, I believe that working in the heritage management field has given me knowledge on the subject being researched, the sensitivities involved and so on. Due to these experiences at Amafa aKwaZulu-Natali, I bring a certain bias to this study. Every effort will be made to ensure objectivity; however, this bias may shape the way I analyse and understand the data collected.
The fact that my research was conducted amongst people with whom I shared the same language (with very minor regional differences) and the same cultural identity needs to be taken into consideration. The idea of ‘doing anthropology at home’ is not a new one, and has been discussed by many anthropologists since the 1930s (see Malinowski 1938). It is necessary that before I discuss my experiences in doing anthropology research at home I discuss the background to the debate of ‘doing anthropology at home’.

**Background to the ‘anthropology at home debate’**

Since the early days of the foundation of anthropology, the discipline has largely consisted of Western anthropologists studying non-Western cultures. As a result, there was little anthropological research on European societies before the 1950s. Another explanation for the lack of anthropological work within Europe is that anthropologists studying anthropology in foreign nations regarded the research by anthropologists within Europe as inferior. The lack of anthropological research in Europe could also be explained by the ideology that “anthropology is only anthropology if it is done very much abroad, in unpleasant conditions, in societies which are very different from the ethnographer’s native habitat, very different from the sort of place where he might go on holiday” (Davis 1977: 7; see also Munthali 2002; Diedrich 1993: 28). The Western countries did not provide for such characteristics, hence the interest in colonial countries (Munthali 2002). It is this ideology that led to anthropology being linked to the expansion of colonialism onto the African continent (Levi-Strauss 1966: 125).

According to Levi-Strauss (1966: 126), allowing the natives to study themselves was not anthropology; instead, it was considered history or philology, because anthropology is the science of culture as seen from the outside, both geographically and epistemologically. However, not all anthropologists shared such views and there are instances of African anthropologists studying their own people (see Kenyatta 1938).

Interest in carrying out anthropology at home started after the Second World War. The practice of anthropology at home in Europe and North America started growing considerably in the 1960s (van Ginkel 1998). Different reasons have been given for the increase in the interest shown by Western anthropologists to study anthropology at home (for detailed reasons see Fahim & Hermer 1980; Messerschmidt 1981; Mewett 1989; Jackson 1987: 8; Lewis 1973; Levi-Strauss 1966: 125; Jackson 1987: 8-9; Diedrich 1993: 37; also see Cole 1977: 356; Munthali 2002). Some groups have chosen not to be studied by Western anthropologists, preferring to be studied by their own intellectuals (Cassel 1977). Other anthropologists preferred to study their own communities because of a threat to their culture by powerful forces emanating from an alien centre (Diedrich 1993: 8).

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In this context, the statement means studying people with whom you share similarities, be it in language, cultural identity, etc.
However, doing anthropology at home has some difficulties. Greenhouse (1985: 261) argued that when doing research at home the difficulty is that “at home we struggle to see through the ordinary to the extraordinary, whereas elsewhere, we struggle to achieve the ordinary”. In addition, conducting research at home means that you are a member of the society being investigated and you have national citizenship of your own country. African anthropologists have attracted a number of criticisms for doing research in their own cultures, for example, the lack of objectivity in their work. In addition, African anthropologists were criticised for not mentioning the problems of doing anthropology at home (see also Fahim and Hermer 1980; Munthali 2002: 42). Below, I discuss the problems I experienced while conducting fieldwork for this research.

**Personal experiences of doing anthropology at home**

“A person studying their own culture can be likened to a fish trying to describe the water” (Just & Monaghan 2000: 30).

I grew up at oSizweni township in Newcastle, which is in northern KwaZulu-Natal, and is located more than 180kms from my survey areas. Although I grew up in a different setting to the rural setting of my study area, I felt connected to my informants, mainly because of our shared language and cultural identity, as we were all Zulu. It is important also to highlight that I am a very traditional person, who feels strongly about the Zulu belief system. This is another reason, beyond being Zulu, for my feeling connected to the rural people who are still traditional in their approach to life.

I spent my formative years in a society that was struggling to shed the oppression of cultural imperialism, political domination and land dispossession. The ruling powers held little respect for indigenous ways of knowing and doing. The structure within the organisation I worked for reflected a similar mind set and approach when it came to the management of rock art. Although I was an affirmative employee, I was expected to follow procedure and keep the essential structures intact. Any challenges to the fundamental ideas of power and control over resources were not well received, as the organisation was extremely bureaucratic and upheld a rigid system of thought.

**Advantages of doing anthropology at home**

**Language**

It is one of valuable assets for a researcher to speak the same language as his/her informants while conducting fieldwork. According to Van Ginkel (1998: 255), language “…facilitates communication,  

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9 The amaZizi, amaNgwane and the Duma clan consider themselves as Zulu.
saves time and enables avoiding distortion by interpreters”. I fully agree with Munthali (2002: 52) that speaking a similar language to one’s informants is the major advantage of doing anthropology at home. The ability to speak Zulu, which is my mother tongue, enabled me to conduct interviews in my informants’ first language. I believed that this made my informants comfortable when having conversations with me.

**Empathy**

Because of my language, cultural identity and my traditional beliefs, my informants felt that I identified with them, rather than being an outsider. I felt that they were being open because they believed that they were communicating their problems to an ear that would listen and represent them.

**Disadvantages of doing anthropology at home**

**Gender**

Similar to the experiences that other social anthropologists have had regarding gender asymmetry (Hann 2000\(^{10}\)), I was always conscious of gender throughout my research. The Zulu people, like other Nguni groups, are a patriarchal society. It was much easier for me to deal with male informants. If my informants were female, I preferred them to be much older than I was. In some instances where I engaged with young female informants, I felt uncomfortable that I might be labelled as someone primarily interested in females, especially considering the status\(^{11}\) I had amongst the people of the area. Thus, I was sensitive towards interviewing females, but because I wanted to compare the perspectives of both male and female informants, I did interview female informants. Even on occasions where I did interview them, I felt comfortable when the interview took place in close proximity to other people, even if they took no part in the interview session. It was therefore much easier for me to approach male informants for an interview. There were instances, though, where I felt gender did not play a role in approaching an informant. These were instances where I would be introduced to a female informant by another informant, it did not matter whether it was male or female,. In this instance, I did not require other people in close proximity, as I felt more comfortable.

**Barrier of the respect I held by being an urban individual (rural vs. urban)**

The only way in which I felt an outsider was in the respectful way people often treated me. If I did not know rural areas better, I would have said they were giving me such treatment because of my academic education. However, having visited rural areas in other places many times to visit my relatives, I knew that the reason was that people in rural areas are very respectful. I felt highly

\(^{10}\) This article is also published in [www.era.anthropology.ac.uk/teach-yourself](http://www.era.anthropology.ac.uk/teach-yourself)

\(^{11}\) Being an educated outsider gave me a lot of respect from the people.
respected by young and old, male and female, something I do not experience any longer in my area of origin. Nowadays, the respect that we used to give to our seniors has eroded greatly, especially in the last ten years or so. In this new political era of individual human rights, we are all equal in the eyes of justice. The way young urban boys greet generally is completely different and disrespectful, compared to rural boys. It has become socially acceptable and we have got used to it. It no longer surprises me when a young boy greets me, saying, amongst other things, ‘Heita’, or ‘Wola’ in tsotsi taal\textsuperscript{12}. I was well looked after by my newly acquired ‘families’ each time I went into the field. On the opposite end, the unfamiliar position of being highly respected helped to remind me of the need to view the study objectively. It remained difficult to achieve this, however.

\textit{Cultural identity}

Sharing a similar cultural identity made it difficult for me to acquire an objective stance. I always identified with the people studied and took part in their daily lives. For example, when I discussed sensitive issues relating to rituals, such as when people expressed their dissatisfaction about the ritual ceremony at Kamberg, I would share their emotions and empathise with them. I felt that Amafa was depriving them of the opportunity to practise their rituals the way they were intended to, without any outside influence. I was, however, always conscious that I was a researcher and I should remain so at all times. Thus, being Zulu, and studying a Zulu community proved to be a problem. I did not have many problems at Mnweni and oKhombe because there were no serious conflicts between what the people wanted and what the officials were saying, at least practically speaking\textsuperscript{13}. It was easier to take the stance of a researcher, without being challenged to take a particular stance.

\textit{Professional status}

I was often expected to help in matters other than those related to my research. When I went by invitation to the Swazi people currently living in the Loskop area, a community guide, Steven Mabaso with whom I had previously interacted during my official days at Amafa introduced me to the community. In his introduction, he mentioned that I was working for Amafa, although I had told him on countless occasions that I was no longer employed by the organisation. I explained to the people gathered that I was an ex-employee of Amafa and that my status was that of a registered student with Rhodes University. I was asked to help in investigating what had happened to the body of one of the former chiefs of this community. According to the current chief, Chief Shabalala, people from an unknown university to them, had removed the body of the former chief from the original burial site.

\textsuperscript{12} It is a language spoken in townships. It is a mixture of mainly Zulu and Afrikaans languages. \textit{Heita} and \textit{Wola} simply mean ‘hello’.

\textsuperscript{13} The legislation that apply at Kamberg is similar to that of Mnweni and oKhombe, only that it is easier to enforce at Kamberg that at Mnweni and oKhombe.
They came to know about this when an article about it was published in a provincial newspaper in 1982 (they could not remember the name) and were greatly offended. They asked for my professional advice on what they could do to obtain the bones of their ancestor. They were also concerned about the state of the graves of the Swazi people in the area, and asked how I could help them. My responses were always diplomatic in order not to raise their hopes, but I did agree to help locate the newspaper with the information they were looking for, something I failed to achieve. I got the impression that because of my skin colour and status I was trusted to do something positive.

**Academic background**

There were advantages and disadvantages with my academic background. I was privileged to do fieldwork for long period of time, and speaking the same language as most of my informants. I was also in an advantageous position having worked for a heritage organisation. I have a clear understanding of the policies and the history of rock art conservation in South Africa. I was disadvantaged, however, by the lack of an anthropological background. My academic background is archaeology. My interest in pursuing studies in the field of anthropology arose out of my realisation that the archaeological approach was too scientific and lacked a human interactive element. I felt that to have a complete understanding of the people’s interactions with rock art and what it meant to them, an anthropological study would be more relevant than an archaeological approach. Other than that, my decision was also informed by my interaction with different archaeologists. I had discussed my ideas regarding the management of rock art in South Africa, and most of my colleagues gave me the impression that I was distancing myself from the archaeological, scientific principles. It was also interesting to note that those who felt there was substance in my arguments had an anthropological background, and made me feel I could gain a lot undertaking my research in the field of anthropology.

**Anthropological advocacy**

The field of anthropology has been criticised for both advocacy and the lack of it (see Paine 1985; Grillo 1990; Mathiesen 1990; Paine 1990). Advocacy is defined as promoting one interest over another or other interests within the context, in contrast to anthropology, which is concerned with context rather than interest (see Hastrup and Elsass 1990: 307). This is mainly because anthropologists study communities that are power minorities. According to Hastrup and Elsass (1990: 301), “anthropology seeks to comprehend the context of local interests, while advocacy implies the pursuit of one particular interest”. They further argue that anthropology can provide an important background for engaging in advocacy. In addition, they argue that no cause can be legitimated in anthropological terms (Hastrup and Elsass 1990) and anthropologists have to maintain their ‘professional’ integrity. However, they argue further that anthropologists have moral responsibilities and thus may be obliged
to become advocates. In addition, Just and Monaghan (2000), mentioned that ethnographers have often felt compelled to become the advocates for the people they study. Cohen makes the following comment:

“I am always a little ambivalent about advocacy. I always want to advocate, but I also always think that they (the people I’ve studied) could speak better for themselves than I could for them. And, further, to make myself an advocate would provide the other side - government, officials, etc.- with an excuse for not talking to the people themselves… I have to distinguish between the local community’s need for my advocacy and my emotional and intellectual need/inclination to sympathise with them. I decoded long ago that my advocacy - such as it is - had to lie in my ethnography: in presenting them and the complexity of their lives in a way that they would feel did them justice” (Cohen 1985 in Hastrup & Elsass 1990: 301).

Taking into account my experiences of doing anthropology at home discussed earlier, as well as my arguments for a more participatory approach in rock art management, it is only natural that I advocate a particular stand in this thesis. However, I am using advocacy through research and publication. I firmly believe that without the involvement of such people who have either economic or spiritual interest in rock art, rock art management would not be as successful.

**Ethical considerations**

Although I am an advocate of a participatory approach, I attempted to maintain an objective and distanced stance in the research process. To do so, I adhered to the Code of Ethics provided by Anthropology Southern Africa (ASA) and the Association for Southern African Professional Archaeologists (ASAPA). I also ensured that all those who helped me gather the data conducted themselves likewise. Such consideration of the Code of Ethics ensured the ‘safety’ of my participants. The ethnographic approach I employed invaded the life of the informant (Spradley 1980) and they frequently revealed sensitive information (Creswell 1994). In research, the anthropologist’s paramount responsibility is to those they study (AAA 1971:1). I used the principle of informed consent in this research, although it has been criticised by other researchers (Barnes 1979; Fluehr-Lobban 1994). I still used the principle because, although it has limitations, it is part of any organisation’s ethics to have some form of consent from the people studied. This principle proved vital during fieldwork, because I felt that it gave people a right to discontinue their participation in the research if they felt it was invading their rights. I obtained permission from all the interviewees before I undertook the interview. In adhering to the ethical considerations, I gave the informants the option to decline further participation in the research.

**Data collection strategies**

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14 Previously called the Southern African Association of Archaeologists (SA3).
“What the blood of the martyrs was to the Early Church, Fieldwork was to anthropology”

According to Just and Monoghan (2000: 23), the interview is by far the most important technique to elicit and record data. However, I sometimes felt that my presence during the interviews might have encouraged people to say what they thought I wanted to hear. Language became an important issue during my research, as most of my informants could speak only Zulu. I conducted most of the interviews in Zulu, so that the informants could express themselves in their mother tongue, while English was used for the first language English speakers. This helped considerably, because I was able to understand my informants in their own language, rather than having to use an interpreter, interpreting from one language to another, and running the possibility of losing information in the process. During the interviews, I engaged in open discussions with the interviewees and tried to maintain an egalitarian role (passive and stimulating, but not dominant). I tried to maintain a professional approach in my discussions with the informants. During all the interviews, I followed general principles of interviewing (see Frankfort-Nachmias & Nachmias 1996). I asked closed and open-ended questions. The open-ended, non-directive interviews were mainly unstructured and un-standardised, therefore allowing the interviewee a high degree of freedom, as they were not limited to one-word answers. In addition to the freedom they give to the informants, ‘open’ ended, non-directive interviews contain a minimum of control and are ‘open’ to changes, i.e. new questions and a change in order of questions (Creswell 1984; Bernard 1995; Frankfort-Nachmias & Nachmias 1996; Sarantakos 1998). Unstructured interviews are used in instances where the researcher has a lot of time, and can still continue interviews at a later stage with the informants (Bernard 1995). I used closed questions when I wanted to know basic general information, e.g. how many wards there are in the area, biographical information about the interviewee, etc.

“A tape recorder allows the interviewer to capture so much more than he or she could, relying on memory” (Taylor & Bogdan 1984: 103). Permission was requested from the informants to use a dictaphone in order to record the interviews. Written notes were taken down, in case technical difficulties affected my research. Only in one instance was permission not granted. This was during the interview I had with one of the traditional healers at oKhombe. I did not question why permission was denied, as I thought this would be inappropriate, and would show disrespect to my elderly informant.

However, although it is useful, a tape recorder has shortcomings. During one of the interviews in September 2003, the tape recorder did not work properly, leading to a lot of information being lost. However, I identified this problem shortly before the interview finished. Fortunately, I had written
down the important points as we discussed them. I then asked my interviewee if it were possible to redo the interview, highlighting the important issues we had already discussed. The disadvantage of taking notes while conducting interviews was that I could not maintain eye contact with the informant/s during the interviews (see Bogdan 1972: 41, Bernard 1995). This point is also illustrated elsewhere. According to Owen (2000:78), “It was hard to maintain the semblance of a conversion with her as I was often scribbling away, unable to maintain long periods of eye contact”. But although I felt that taking notes during the interview was disruptive, I also felt that it encouraged a serious attitude to the interview.

**Participant observation**

“Obtaining the indigenous people’s knowledge requires a participatory methodology that allows the researcher to learn from, and with indigenous people” Prof. Opuku (quoted in Garibaldi 1995)

For research to be considered anthropological, it must have an element of participant observation in it. However, participant observation is not easy to achieve. As Taylor and Bogdan (1984: 39) state: “The participant observer walks a thin line between [being an] active participant… ‘participant as observer’…and passive observer…‘observer as participant’…There are clearly times in which it is best not to be accepted as a genuine member of the setting or group” (Owen 2000: 79). Walking this thin line was indeed particularly difficult. There were times when I felt that I was becoming an active participant, and this was encouraged mainly by the cultural identity I shared with most of my informants and by their expectations. I had a dual persona amongst all the people I worked with in this research: I was one of them (brown and Zulu), and I was also a researcher amongst them for a particular purpose. I was called on to help with providing manpower when the Duma were preparing for a public event at the picnic site at Kamberg Nature Reserve. As one of the male figures, I was expected to help. At oKhombe, I was often called on to help with interpretation at meetings. In both instances I took an active role in the proceedings and I questioned my active participant stance as an anthropologist in the research. However, I could easily distance myself, taking a passive role at other times. This was especially so when I attended the ritual ceremony at Game Pass Shelter, Kamberg, and in instances where I interviewed more than two people at a time. During the research, I was aware of the periodic shift between these two roles.

Participant observation appears to be the most effective way of understanding in depth the ways in which other people see the world and interact with it. Furthermore, it provides a check on other preconceptions and beliefs. The ability to observe unusual, unique events is one of the principal
advantages of the ethnographic method. A classic example of the successful use of the ethnographic method is provided by the work of Malinowski (1922) while another good example comes from Peter Just’s work amongst the Dou Donggo in Indonesia (Just & Mangham 2000: 15-19). Although the ethnographic approach in the discipline of anthropology is important, it has been criticised for a number of reasons (Just & Monaghan 2000).

Although I conducted fieldwork formally for a period of about seven months (March to September 2003), my association with the people at Kamberg, Mnweni and oKhombe began much earlier, in December 2001. This was when I started working for Amafa aKwaZulu-Natali. During the sixteen months that I worked at Amafa aKwaZulu-Natali, I came to know the people in these three areas well. I made regular trips to different areas in the uKhahlamba Drakensberg. In some instances, these were one-day trips, and I had to make appointments to see some members of the community. They were often committed, however, making it difficult to see them.

My fieldwork coincided with stressful times. I arranged to have a formal meeting with the clan, because I believed that for my research to be successful I needed the support of the whole clan, and not just the individuals I had come to know while working for Amafa. The meeting took place on 9 April 2003, when I outlined my proposal to work with the clan in conducting my research. In addition, I made it clear that I approached them as a student of Rhodes University engaged in his Masters research, and not as an Amafa aKwaZulu-Natali employee that they had come to know. I mentioned that I had also left the organisation.

Stating my affiliation to Rhodes instead of Amafa was important because at the time there was a lot of dissatisfaction with Amafa aKwaZulu-Natali. The reasons for dissatisfaction are discussed in detail in Chapter 5. At the meeting, the Duma clan members showed interest in the research I planned to conduct amongst the clan members, and I was asked a lot of questions by the members at the meeting. I thought this was a good indication that my research was going to get the support of all clan members. However, as there was some suspicion about the validity of my claim, one clan member approached one of my former colleagues, with the intention of confirming all that I had said during the meeting. The clan member wished to confirm that I was a registered student at Rhodes University and that indeed I had left Amafa, thus indicating their distrust of the organisation. At the end of the meeting, the clan members asked me to give them two weeks, so that they could brief of the others who were not able to attend the meetings for various reasons. After two weeks, I had heard nothing from the Duma representatives. Because of the Good Friday holidays, I thought I would extend the period for another week or so. After three weeks, I still had not heard anything.
Although they approved of my research, this was a difficult time for the clan, as different researchers were researching them simultaneously. A few days after my meeting with the clan, students from the Media Department at Natal University (Durban campus) visited Kamberg to meet the Duma clan members. They had an interest to conduct research amongst the Duma. Significantly, some of the members felt that they would not benefit from participating in all this research. It was also suspected that some of the clan members were benefiting financially, while others were not. As a result of these problems, I was only able to get information from those members of the clan who made themselves available to me. Those who cooperated were the Duma representatives in the meetings as well other Duma clan members I came to know as I conducted my research. I also collected a lot of information from participants at the ritual ceremony\footnote[I used the Dictaphone. I did not interview anyone on the day of the ritual ceremony.]. I felt that the informants who provided information for this study were not as representative of everyone in the clan as I would have liked. The implication of this understandable reluctance towards my research was that I could not interview each and every individual who might have been useful for the research. At times, I felt that although I had the support of some members, it would have strengthened my research to have the support of everyone. I felt that broader community support would have enabled me to gather more information, especially on genealogy.

**Data analysis procedures**

Both the taped interviews and the researchers notes were used for the analysis of the data collected during the research. I transcribed each taped interview as soon as possible after the actual interview, when the discussions were still fresh in my mind. Merriam (1988), Marshall & Rossman (1989), Frankfort-Nachmias & Nachmias (1996) and Sarantakos (1998: 315) contend that data collection and data analysis must be simultaneous processes in qualitative research (see also Miles & Huberman 1984). Following this suggestion, throughout the research I analysed data by categorising the information received. The data categorised was used as a springboard for further data collection. Categories included, amongst others, access to rock art sites for ritual ceremonies, legislation, and people’s perceptions of rock art management.

**Methods for verification**

Determining the accuracy of the findings, the generalisation of such findings, and advancing the possibilities of replicating the study are considered very important in any study (see Creswell 1984). This study employs validity and reliability to achieve these three aims. Validity “refers to the accuracy and trustworthiness of instrumentals, data, and findings in research” (Bernard 1995: 38). According to
Bernard (1995), nothing in research is more important than the concept of validity. Two validations will be addressed in the study. These are internal and external validations (see Akeyoyd 1984: 138, 150; Clammer 1984; Holy 1994). Internal validation refers to validation or accuracy of the information provided by the informant while external validation refers to the limited generalisation of findings from the study (Creswell 1984). Reliability refers to whether the results of the study can be reached in the research undertaken elsewhere for comparative purposes (Creswell 1984; Bernard 1995).

**Brief outline of the chapters**

I divided the thesis into two parts, Part I and II. Part 1 focuses on the archival study that yields the three kinds of essential background material that is covered in the three chapters. This background material provides a foundation for the arguments that I raise in the thesis. Chapter 1 describes the physical background (geology, climate, fauna and flora) of the uKhahlamba Drakensberg. In addition, I explore the different groups of people who came to live in the uKhahlamba Drakensberg and the relationships they had with each other. In Chapter 2 I outline the background to the policy and legislation that has affected rock art management in the area. The policy background discussed in this chapter acquaints the reader with the colonial legislative background that underpinned the Western-type physical management regime as against the African spiritual approach to a rock art site. I note the continuance of this tradition in the current legislation. In chapter 3, I introduce the reader to the roles played by institutions and private companies in managing rock art in South Africa. Their contributions were heavily determined by the biased colonial policies that have been enforced. The aim of this chapter is to acquaint the reader with the history and the challenges of managing rock art and also to show the background of the people who have participated in rock art management efforts in South Africa. In this context too the influence of Eurocentric policies is demonstrated.

In Part II I present and analyse the findings of my empirical research. Survey 1 (Chapter 4) concerns Mnweni and oKhombe and Survey 2 (Chapter 5) concerns Kamberg. The two surveys are compared and analysed in Chapter 6. In the conclusion I revisit the literature in the light of these findings and recommend changes in South African policy and praxis towards heritage sites such as the uKhahlamba Drakensberg.
Part I

This part of the thesis is dedicated to background. The three chapters of Part 1 contain information that I believe is fundamental to an understanding of the two case studies in Part II by any reader of this thesis. This literature review provides the reader with detailed physical information on my research area. In Chapter 1, I focus on the origins of the uKhahlamba Drakensberg, the geology and geomorphology of the mountain range, its climate, flora and fauna, and the occupation of the area by different societies. I argue that the relationships that have existed amongst the people who lived in the uKhahlamba Drakensberg determine the perceptions of people towards rock art management today. I develop this idea in greater detail in the case studies in Part II.

Rock art legislation plays a key role in understanding the challenges faced by those involved in rock art management. In Chapter 2, I discuss the legislation that has been passed in South Africa and debate whether it has been successful as a tool to achieve effective rock art management. I make comparisons with other countries, and argue that a participatory approach would be more successful than the preservationist approach. The latter is deeply rooted in colonial ideologies.

It is important that readers understand the contribution made by conservationist institutions and different groups interested in rock art management. Chapter 3 focuses on the European background and Western training of these people and groups, and how this background has had an impact on the policies that have been passed and the approach that has until now been regarded as appropriate in the management of the fragile rock art.
Chapter one -

Setting the scene: Physical Background

At once stage, Africa and all the other continents were connected. This ancestral super continent was called Gondwanaland\(^\text{16}\) (Du Toit 1954; Dodds 1975; King 1944; 1972; 1982; Willcox 1976: 34; Sycholt 2002; Flett et al 2002). The tearing apart of Gondwanaland about 200 million years ago (Sycholt 2002) created the Natal Monocline\(^\text{17}\) (King 1972; 1982) (fig. 2, 21). From the new shoreline formed by the tearing apart of Gondwanaland, denudation worked inland up the rivers, thus producing broad, flat-floored valleys 300m and 500m deep below the Gondwana landscapes. The detritus from this denudation was shed into the sea via rivers. A proto-Drakensberg scarp face of about 500m formed under erosion. Then, the interior of Natal was uplifted by approximately 1 200m and the sea floor was depressed. Towards the coast the uplift was zero (King 1982; http://www.armeisenbaer.de/drakensberg-geology.htm).

The renewed denudation carved new landforms upon the eastward-tilted land. During this denudation, most of Natal was reduced to a plain. The main Drakensberg scarp face had developed to a height of 1 200m – 1 500m (King 1982). Under the prolonged attack of scarp erosion, the scarp face retreated across most of Natal from an original position near the coast to its present position at the western boundary of the province (King 1948; Pager 1971: 6). A gentle uplift amounting to only a few hundred metres occurred over the Natal region. There was another elevation of about 1 900m along the northern Drakensberg and adjacent highveld, thus increasing the previous lift (King 1982). Even today, one can still see that the northern ‘Berg is higher that the southern ‘Berg.

The uKhahlamba Drakensberg is located between latitude 20° 30” S and 30° 30” S, and longitude 28° 30” E and 29° 30” E (Tyson et al 1976). This mountain is situated between 100km and 150km from the Indian Ocean (Tyson et al 1976), and is the highest mountain range of the ‘Great Escarpment’ in Southern Africa, rising to about 3 000 metres or more in places (Dodds 1975; Sycholt 2002). At 3 482 metres, the highest peak in the region is Thabana Ntlenyana in neighbouring Lesotho.

These majestic mountains are characterised by two distinct regions, namely, the ‘High ’Berg’ and the ‘Little ’Berg’. The two regions differ greatly in height, structure (the ‘Little Berg’ is formed from sandstone while the main escarpment or ‘High Berg’ is formed from a basalt layer) and appearance.

\(^{16}\) Gondwanaland is the former super continent, which broke up about 100 million years ago. The fragments are now the continents of the Southern hemisphere. 

\(^{17}\) Monocline refers to the tilting of strata, or of the earth’s surface, in one direction.
The two regions support their own distinct plant and animal life. The ‘High Berg’ influences the climate of the ‘Little Berg’, because of the physical obstacle it presents (Pager 1971).

The erosion of horizontal bands of sandstone rock below the basalt of the High ‘Berg created the formation of shelters. It is in these shelters that rock art sites are found, at altitudes between 1000 and 2000 metres. The geological processes that created shelters in the first place are the same processes that cause weathering and rock falls in these shelters.

**Geology and Geomorphology of the uKhahlamba Drakensberg**

The geological formations of the Drakensberg belong to two series of the Karoo System18 (Pager 1971; Liebenberg 1972; Mazel 1981; King 1982; Flett et al 2002), namely, Stormberg and Beaufort Series (Lewis-Williams & Dowson 1992). The Karoo System covers about two-thirds of Southern Africa (Flett et al 2002). The names are derived from localities where each typically occurs. The strata or layers are horizontal and are distinguishable from each other (King 1982), as is the case with some rock shelters (Flett et al 2002). The Dwyka and Ecca Series (both found lower than the Stormberg and Beaufort Series) are the other two types of Karoo Series.

![Fig. 4: Lateral view of the uKhahlamba Drakensberg showing the geological formations (After Pager 1971: 5)](image)

**Climate**

The written history of the interior of South Africa dates back more than 383 years. The comparisons made by Rogers (1922: 19, 20) indicate that the present climate has not changed much in that time.
The mesoscale climate of the uKhahlamba Drakensberg Mountain is controlled by the effect of slope and valley geometry upon incoming and outgoing radiation and the consequent generation of local topographically induced wind systems (Tyson et al. 1976; Mazel 1981). In this mountain range, valleys are commonly steep-sided, narrow and deep, affecting the airflow. Up-slope anabatic movement of warm air by day and down-slope katabatic movement of cold air by night characterises this mountain range (Tyson 1968; Tyson et al. 1976; Mazel 1981; Tyson & Preston-Whyte 2000). The uKhahlamba Drakensberg occupies one of the best-watered, least drought prone areas of South Africa. Summer thunderstorms provide the major source of rainfall. Precipitation varies from area to area within the 'Berg, and this variation is a direct function of relief (Tyson et al. 1976).

**Flora**

The uKhahlamba Drakensberg can be divided into three botanical divisions, with different vegetation growing in each area. These are the Alpine belt on the escarpment (2860-3350m) composed of dwarf alpine fynbos, the Sub-Alpine belt (1830-2860m) of high-altitude grassland from the sand cliffs to the escarpment, and the Montane belt (1250-1830m) from the sandstone cliffs downwards on the slopes of the Little Berg. The Montane belt is composed of Afro-montane grassland, and is often invaded by Ouhout and Sage wood (Mazel 1981; Sycholt 2002).

<table>
<thead>
<tr>
<th>Vegetation Belt</th>
<th>Altitude</th>
<th>Terrace</th>
<th>Climax Community</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alpine Belt</td>
<td>2,860 m - 3,350 m</td>
<td>Summit area of the High Berg</td>
<td>Erica-Helichrysum Heath</td>
</tr>
<tr>
<td>Sub-Alpine Belt</td>
<td>1,830 m - 2,860 m</td>
<td>Top of the Little Berg</td>
<td>Paspalina-Philippia-Widdingtonia Fynbos</td>
</tr>
<tr>
<td>Montane Belt</td>
<td>1,250 m - 1,830 m</td>
<td>River Valleys</td>
<td>Podocarpus latifolius Forest</td>
</tr>
</tbody>
</table>

**Fig. 5: Vegetation belts of the uKhahlamba Drakensberg (After Pager 1971: 9)**
There are some distinctive plants and trees that originated in the secluded valleys of the uKahlamba Drakensberg. Among these are proteas, cycads, tree ferns, cabbage trees and occasional giants such as yellow woods. Common flowers include lilies, lion's tail, agapanthus, red hot poker, watsonia, helicrysum, and erica (www.montusi.za.net/content/aboutkzn). The beauty and variety of these plants is impressive, and they are now grown in gardens around Europe. For centuries traditional healers have also explored for a number of plants indigenous to the uKhahlamba Drakensberg for medicinal uses (Flett et al 2002).

**Fauna**

The uKhahlamba Drakensberg supports many indigenous animal species, ranging from the eland, the largest of all antelope, to micro-mammals not more than a couple of grams in weight (Mazel 1981; Flett et al 2002: 49). Although the uKhahlamba Drakensberg is not a Big Five area, there is still a great variety of animals. The very elusive leopard is amongst them. The large fauna have been drastically reduced in numbers since the settlement of white people in the mountains, as they hunted the animals. There are other factors responsible for this scenario. Amongst these are farming, settlement and the loss of natural habitat. Eland and other antelopes followed a migratory pattern, spending spring and summer in the highlands and the remainder of the year in the lower lying regions of the midlands (Vinnicombe 1976: 5; Mazel 1981; Flett et al 2002). In winter, herds disperse into smaller groups, with the bulls remaining by themselves and the cows and yearlings likewise. They unite again at the beginning of summer (Mazel 1981). The only reptiles found in the uKhahlamba Drakensberg are snakes and lizards, probably because of low temperatures in winter (Flett et al 2002).
Significance of the uKhahlamba Drakensberg

It is not just its rock art and its declaration as a World Heritage Site that makes this mountain range significant. The uKhahlamba Drakensberg is Southern Africa’s most important and vital watershed. Stream catchment areas in the mountains yield high quality water for the benefit of large areas of the country. Conserving these water reserves may prove to be even more challenging than conservation of the uKhahlamba Drakensberg’s ecosystems, its landscape and its wilderness character (Sycholt 2002). Great rivers such as the Orange River and the Thukela start their long and important journeys in these mountains to supply over 25% of KwaZulu-Natal’s water, and over one-third of South Africa’s water. The area supplies Rand Water in Johannesburg with water for consumption

Fig. 8: uThukela River has its source up at the uKhahlamba Drakensberg.

Over time, people started settling the uKhahlamba Drakensberg as a home. The unique environment of the uKhahlamba Drakensberg provided refuge, first to the Bushmen and later to the Bantu groups and Zulus who were fleeing from Zululand during the *Mfecane* (see Pearse 1989:33; Snyman 2002).

Generally speaking, mountainous areas do not provide a great habitat, as the growing season is short, lack of flat environment, too many people, etc. In this unique environment, people still needed to compete over resources under conditions of increasing hardship, leading to raiding and ultimately cannibalism. However, forced together, there was assimilation (producing the Duma) as well as genocide.

Understanding the history of the people currently living in the study area and the interactions they had with the Bushmen people in the past will inform the interpretation of my

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19 Part of the reason why Rand Water funded the Trust formed at Mnweni to run the Amangwane Tourism Cultural Centre. This is discussed in details in chapter 4.

20 Origins of the word are a matter of debate. According to Sycholt (2002), the term means the wars of annihilation between the tribes. It is used to refer to the wars that broke out when Shaka attacked other kingdoms to expand the then smaller Zulu kingdom. It is as the result of his success in conquering other kingdoms that he is often referred to as the father of the Zulu nation.

21 There were a number of conflicts between the different Bantu groups that lived in the uKhahlamba Drakensberg after fleeing from Zululand. Kraals were raided and farms looted (Van Warmelo 1938).

22 Bushmen raided the cattle of both the white settlers and Bantu-speaking farmers risking the attack from the groups.
research results. I believe that the historical interaction between the Bushmen and the local black communities strongly influences how people view rock art today.

The Nguni tribes that occupied the uKhahlamba, and still occupy it today will also be discussed, i.e. the amaNgwane, amaNgwe and the amaHlubi people. In addition, the two survey areas, Kamberg, and the Mnweni and oKhombe, will be discussed. The amaNgwane and amaZizi people currently live in the Mnweni and oKhombe areas respectively, while Kamberg is populated by Zulu speaking people and by the Duma clan, Bushmen descendants who also refer to themselves as Zulu at times.

**The history of the Eastern Bushmen**

The Eastern Bushmen were the first people to settle in South Africa\(^{23}\) (Stow 1905; Willcox 1975; Willcox 1984; Pearse 1989; Anderson & Wahl 1998; [www.battlefield.co.za/history](http://www.battlefield.co.za/history); [www.san.org.za](http://www.san.org.za)), millennia before the pastoralist, agriculturalist Iron Age people arrived in the country from the north. In this regard, they are classified as the first people, or rather indigenous people. Their occupation of the uKhahlamba Drakensberg before the arrival of any other human group is fully supported by the archaeological excavations carried out by Mazel in the 1980s (see Fuze 1979; Mazel 1981, 1982, 1996; Sycholt 2002).

![Fig. 9: On a move: a general view of some of the marching figures on iKanti shelter. All the figures walk in one direction, towards the escarpment. The scene possibly represents a seasonal migration.](image)

The struggles of Bushmen are not only limited to struggles over land, resources, recognition and sovereignty, but also the fragile issue of defining the term ‘indigenous’. There is no clear definition of the term ‘indigenous’ (Niezen 2003: 18). The lack of precise definition poses a great challenge to academics. However, in his discussion on who are ‘indigenous’, Niezen (2003: 18-23) argued that the

\(^{23}\) Because of their nomadic life (Pearse 1989), they were never regarded as the owners of the land they occupied for 20 000 years (Deacon & Deacon 1999, [www.battlefield.co.za/history](http://www.battlefield.co.za/history)) before the arrival of Bantu speakers about 2000 years ago.
lack of a precise definition is in some ways a preferable option, because a precise definition would be premature and futile. Where it is defined, however, attempts are made to follow the elements of cultural distinctiveness, the experience of colonialism, discrimination, or marginalisation, and the desire of indigenous people to continue their cultural integrity into the future (ILO 1957; Cobo 1987: 48; Anaya 1996; Battiste & Henderson 2000; Niezen 2003; Chennels 2003).

The Bushmen were hunter-gatherers\textsuperscript{24}, recognised for being the first conservationists. Where they lived, “nature was not destroyed, injured [or] warped by their proximity” (Battis n. d.: 10). Men performed hunting duties using bows and arrows while women were food gatherers using digging sticks (Lewis-Williams 1971, 1974; Moses \textit{et al} 1998; Deacon & Deacon 1999; Lewis-Williams & Dowson 2000: 11; \url{www.battlefield.co.za/history}). They lived in areas that provided them with plentiful game and gathered food. One might argue that women must have contributed much more than men did to the diet of the family, as women were much more likely to be successful in their gathering of food. There is evidence that Bushmen also fished in the rivers of the uKhahlamba Drakensberg (Fig. 10).

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{fish.png}
\caption{This scene shows men spearing fish from small boats or floats. The species, probably a barbell and yellow-fish are indigenous to the rivers of KwaZulu-Natal.}
\end{figure}

\textbf{Rock paintings of the uKhahlamba Drakensberg}

The art was not the mere daubing of figures for idle pastime (but) an attempt, however imperfect, at a truly artistic conception of the ideas which most deeply moved the Bushmen mind, and filled it with religious feelings (Bleek 1874: 13).

It is the last testament of the southern San and probably the most detailed and complex shamanistic rock art in the world (Lewis-Williams 1986: 10-11).

This chapter is about the environment and the population of it. The subject of rock art is part of nature on one hand and on the other it is a cultural artefact. This ambiguity is a running theme of the thesis. I

\textsuperscript{24} Although they lived by hunting and gathering means, there is evidence that they also fished in the rivers of the uKhahlamba Drakensberg. About three fishing scenes have been identified before. However, other interpretations of fishing scenes argues that these were religious depictions of animals that could leave in both worlds (this world and the spirit world), much like shamans, who could access the spirit world from time to time.
opted to discuss rock art in the people section. The rock art of the uKhahlamba Drakensberg is amongst the finest prehistoric rock art in the world (Pearse 1989). In addition, the uKhahlamba Drakensberg is also one of the areas with the highest density of prehistoric rock art in the world. It is estimated that there are about 600 sites with more than 40 000 rock art paintings in them (Derwent et al 2001).

When the first rock art researchers discovered rock paintings, they did not give authorship of the rock art to Bushmen. This was because they were perceived to be primitive, had no religious and social structure, and no ability to paint art of that standard (Lewis-Williams 1990). However, recently, the rock paintings of the uKhahlamba Drakensberg and elsewhere in Southern Africa are generally referred to as ‘Bushmen paintings’. This presupposes that the painters were the hunter-gathers who lived throughout the sub-continent (see Parkington 2003: 47). However, Bushmen are not the authors of all rock paintings and engravings found in South Africa. There are many sites with ‘finger paintings’ or ‘late white’ style, as well as engravings that depict subjects25 different from those of the Bushmen. Researchers argue that these sites were painted by the agriculturalists Xhosa, Zulu, Venda, Shona, Sotho and Tswana speaking people and their ancestors within the last 2000 years (Deacon & Deacon 1999: 163). There is also the art of the Khoi Khoi.

The fine line images of humans and animals do not mean that these paintings were made to decorate the walls of the shelters. Earlier interpretation of rock art described the rock paintings as decorative, following three different approaches, the aesthetic, narrative and interpretive (Lewis-Williams 1983; 1990; Deacon & Deacon 1999: 166-67). However, since the 1970s, interpretation of rock paintings has stressed a spiritual, symbolic or religious significance of the paintings (Vinnicombe 1976; Lewis-Williams 1981). The rock was used as the ‘canvas’, as it was seen as a ‘veil’ between the artist and the spirit world (Lewis-Williams & Dowson 1990; Deacon & Deacon 1999). Using the ethnography of hunter-gathers accumulated by Bleek and Lloyd as supporting documents, Lewis-Williams has been the main proponent of this shamanistic interpretation of rock art.

Dating in rock art has not been that easy. This is mainly due to the lack of carbon in the paintings. None of the ethnographically recorded Bushmen of the twentieth century were still making paintings (Parkington 2003: 24). However, a new study using accelerator mass spectrometry (AMR) by Aron Mazel and Alan Watchman estimates that the paintings in the uKhahlamba Drakensberg are 3000 years old, three times older than previously thought (www.sundaytimes.co.za; www.sundaytribune.co.za; www.news24.co.za; www.witness.co.za; Lovell 2004; Mazel & Watchman

25 These subjects include images of crocodiles, cattle. Engravings often includes huts and villages
Although the issue of dating in rock art is still under discussion, it is without doubt that Bushmen painted until the contact period. Evidence from the Southern uKhahlamba Drakensberg shows rock paintings depicting men on horseback, and scenes of cattle raiding (Fig. 11).

The reason why the Drakensberg Park was chosen as the research area was the richness of the paintings. One of the stipulations of the United Nations when it awarded the World Heritage status to the Drakensberg was that sound management systems should be in place and that local communities should be consulted and incorporated in any resource management programmes and tourism initiatives.

**Social relations between Bushmen and Bantu farmers**

Although there may have been hostilities between the two groups (Evans 1911: 42, 43; Willcox 1984: 5), one hunter-gatherer and mobile and the other farming and sedentary (Vinnicombe 1976), there is strong evidence that there were harmonious times as well. They traded (Willcox 1984; Wilmsem 1989, Wilmsem & Denbow 1990, Gordon 1992; Battiss, n. d.; Hall 1994; Anderson & Wahl 1998; Smith *et al* 2000: 19), intermarried (Stow 1905: 190, 229; Ellenberger 1912:12; Bryant 1929: 22, 1964; Walton 1956a: 26-32, 1956b; How 1962:13; Willcox 1975; Vinnicombe 1976; Willcox 1984) and shared spiritual powers (Willcox 1975; Peires 1981; Prins & Lewis 1992; Jolly 1994; Dowson 1994, 1995; Mazel 1998; Anderson & Wahl 1998). The evidence of closer relationship is supported by the archaeological excavations conducted by Mazel in the Thukela Basin (Mazel 1986, 1989, 1998).
and rock art paintings. Iron knives and iron tipped arrows were found with a Bushman hunting outfit discovered in Eland cave in the uMhlwazini Valley (Willcox 1975). Skeletal remains excavated in the uKhahlamba Drakensberg area reveal some genetic contact (Willcox 1975; Mazel 1982). In addition, it is also known that Bantu people and other groups all turned to Bushmen for rainmaking and medical advice.

The arrival of Voortrekkers and English people in Natal

Bushmen had already had to deal with the arrival of the Bantu-speaking farmers to the land they had occupied in peace for many centuries. The number of ‘foreign’ people entering the land of the Bushmen increased even further when the Voortrekkers arrived in Natal in December 1837 (Pager 1971; Liebenberg 1972; Willcox 1976; Guest 1978; Willcox 1984: 9; Pearse 1989; Anderson & Wahl 1998) led by their leader Piet Retief (Liebenberg 1972; Wright & Manson 1983: 29), and the English arrived eight years later (Vinnicombe 1976).

Researchers have argued for many years that the Bushmen people’s means of survival suffered a huge blow (Wright 1968: 50; Pager 1971) with the arrival of all these social groups. They argue that game was killed and driven away. This saw the beginning of cattle and horse raiding conducted by the Bushmen in order to survive (Liebenberg 1972: 16; Willcox 1976; Willcox 1984; Willcox 1988: 121; Anderson & Wahl 1998; Spencer 1999; Speirs 1999). The raiding worsened between 1840 and 1872 (Ergates 1905; Wright 1971; Vinnicombe 1976; Dowson 1995). During this period, there were three periods of raids: 1845-1852, 1856-1860, and 1868-1872 (Wright 1971; Mazel 1981).

With the perceptions they had in mind regarding Bushmen (Lewis-Williams & Dowson 1992; Tindal 1856:26 in Dowson 1995), the government decided to build four military posts to contain the Bushmen (Wright 1971; Liebenberg 1972; Vinnicombe 1976; Pearse 1989). The military posts were not successful in stopping the raiding (Fig. 12). There were three factors responsible for the failure of the military posts. Firstly, negotiations with Bushmen proved to be difficult to facilitate, as they were living in small bands and nomadic, thus a deal with one band did not ensure a deal with the whole Bushmen society (Wright 1971, Pearse 1989). Secondly, local knowledge of the area was important for the Bushmen as opposed to their counterparts who did not know the uKhahlamba Drakensberg like they did. In addition, lack of money counted against the government’s efforts.

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26 Some paintings depict raiding of cattle perceived to be Nguni cattle.
27 They had lived in the area for decades. uKhahlamba Drakensberg is a very difficult terrain, one gets lost easily unless one knows the area very well. If not, it is essential to carry a good map is essential to carry. However, it still needs to be interpreted with accuracy.
New strategies had to be devised to contain the Bushmen and put an end to cattle raiding. The suggestion was to create barrier locations along the foothills of the ‘Little Berg’ to encourage the raiding of the Bantu farmers instead. The Bantu tribes were able to put together commandos to pursue the raiders, and were more successful than the settlers, especially Zikhali in the north. In contrast, there were delays in raising a commando experienced by the white settlers (Pearse 1989: 50). These barrier locations are still evident even today when one explores the foothills of the uKhahlamba Drakensberg.28

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28 Further away from uKhahlamba Drakensberg are small towns. Around these towns are privately owned areas. As one travels towards the mountains, one encounters Bantu-speaking people’s settlements.
Fig. 13: Barrier Locations or Bantu reserves (After Vinnicombe 1976).

The Natal Administration established three barrier locations with some difficulty in 1848 (Dreyer 1947; Wright 1971; Willcox 1976; Webb & Wright 1976; Vinnicombe 1976; Guest 1978; Wright & Manson 1983). These were:

1. Upper Thukela Location: located south of the main Thukela River, occupied by the amaNgwane under Chief Zikhali, the heir of Matiwane.

2. Drakensberg Location no. 1: located at the source of the Bloukrans, Mooi and Bushman rivers, and settled by the amaHlubi under Chief Langalibalele.

3. Drakensberg Location no. 2: located in the upper reaches of the Little Thukela River, and settled by the amaNgwe under Chief Phuthini.

The reported theft of cattle belonging to the Bantu-speaking people by Bushmen was on a relatively petty scale. However, the buffer locations resulted in increasing hostility between the Bantu-speaking people and the Bushmen (Mazel 1996). By this time, they did not distinguish between the herds of the
Europeans and those of the Bantu-speaking people. The Bushmen told a community of the Bantu-speaking people that “they did not wish to molest them, but that they were in the way, and until they went out of it, their cattle would be taken” (Vinnicombe 1976: 51).

From 1851 onwards, there was a sharp decrease in raiding carried out by the Bushmen. This saw the first period of raiding (1845-1852) coming to an end (Wright 1971; Liebenberg 1972; Mazel 1981, 1996). It is suggested by Wright (1971) and Mazel (1981; 1996) that the second (1856-1860) and third periods (1868-1872) of raiding were the results of the improved Bushmen and Bantu-speaking relationships. In 1859, a fourth location at the sources of the uMngeni and uMkhomazi Rivers was established and occupied by the Maguswana tribe.

The government settled Chief Lugaju and his people at Impendle to act as a screen against the Bushmen who had shifted their attention from the north to the farms along the uMngeni (Wright 1971; Liebenberg 1972; Vinnicombe 1976; Pearse 1989). The continuation of cattle raiding after the relocation meant that the locations were not entirely successful, mainly due to collaboration between Bushmen and Bantu-speakers (Liebenberg 1972). What then happened to the Bushmen is a relevant question, as the locations were meant to bring conflict and eventually lead to the extermination of the Bushmen.

**Where are the Eastern Bushmen today?**

Dornan (1925: 199) made assumptions about Bushmen as a dwindling society and predicted that in a short space of time, they would have ceased to exist. At the beginning of the twentieth century, the practice of talking about the Bushmen in the past tense, as a vanishing or extinct people, gained ground (Sollas 1924: 489-490; Dornan 1925: 199; Willcox 1975; Jolly 1986; Pearse 1989; Lewis-Williams 1990: 82-94; Dowson & Lewis-Williams 1993: 56; Blundell 1996: 136, Skotness 1996a: 17, Prins 1996a; Prins 1996b: 2001: 3; Solomon 1997: 8; Tobias 1974: 22-23). The cultural resources of this ‘extinct’ society have been seen as a unifying factor in South Africa as “no-one can claim direct descendance [descent] from the painters and engravers” (Jeursen 1995: 127).

Schapera (1930: 40), working with Bushmen in a different area, gives an accurate view of today’s Bushmen, when he argues that after having survived persecution, they were already being absorbed by their neighbours. This is a plausible scenario in KwaZulu-Natal province, and more specifically, Kamberg, the case study in this research. Bushmen descendants with the clan name of Duma have been living here for at least eighty years. They originated from the Underberg area. Although the
descendants have been absorbed into the Zulu nation, they still hold on to their Bushmen culture in some ways (Mazel 1996, Prins 1996a).

It is important that I define my use of the term Bushmen against previous definitions of the term. The academic definition refers to Bushmen as ‘a group of yellow skinned people’ (Battis n. d.; Malherbe 1983) dressed in skins, short in stature (Battis n. d.; Tobias 1998), with ‘peppercorn’, not wool hair on the heads (Battiss n. d.; Willcox 1976), hunter-gathers (Deacon & Deacon 1999; Lewis-Williams & Dowson 2000: 11), the first archaeological people in Southern Africa (Stow 1905; Willcox 1975; Pearse 1989; Anderson & Wahl 1998; Deacon & Deacon 1999; www.battlefield.co.za), the last representatives of the Stone Age (Deacon & Deacon 1999), and as speaking a click language (Battis n. d.; Greenberg 1966). It is important that I re-emphasise that I am referring to the eastern Bushmen. This definition explains the misconception among many academics that Bushmen are extinct. As the researchers failed to identify people who fitted the descriptions given above, the cultural heritage of these people was appropriated by the state, and it is now perceived to belong to all South Africans.

The uKhahlamba Drakensberg Bushmen consisted of composite bands and hordes, often incorporating people of different genetic and cultural descent although all took a Bushmen identity (Prins, pers. comm.). The Dumas at Kamberg are a classical example of this. They are generally tall, brown skinned instead of yellow; speak no Bushmen language, practice a pastoralist rather than a hunter-gathering, fishing lifestyle, and dress in Western clothing rather than skins. This description would make them no Bushmen to some researchers. In Chapter 5, I discuss the reasons behind the Duma calling themselves Bushmen.

I am a Zulu speaking person. However, I am different in many ways from my ancestors, mainly because of the different experiences and challenges I am have. I do not wear skins, my language, although Zulu, is different from theirs, my culture has been modernised, and as so on. I believe that this does not make me less Zulu, and no one denies me the privilege of being a Zulu. The same notion applies to African-Americans. They cannot speak any African language and have less trace, if at all, of African culture, but no one denies them the label ‘African-American’ (Barnard 1998: 57), based primarily on skin colour and descent.

**Issues of descent and identity**

Since 1994, a lot of people are emphasising their Khoi and San ancestry. For example, during the colonial and apartheid years, the Coloured people preferred to trace their descent from their other bloodlines that would have given them a higher status. Only now when there are benefits accruing, such as land and public status, do they claim their long hidden identities. The work by Prins and Jolly
has revealed many Bushmen descendants living within the Zulu and Xhosa speaking nations (Jolly 1986; Prins 1996). Prins has referred to such individuals as the ‘secret San’, as they had hidden their identity for fear of persecution by their neighbours (Prins 1996; 2001). However, not all Bushmen descendants had a hidden identity during the segregation, and the Duma clan is one example of such a group of people. This clan will be discussed in greater detail in chapter 5.

The problem of identification is important in understanding the Eurocentric approach to rock art management. The lack of a participatory approach in rock art management can be blamed on the definition of the term “Bushmen” that did not evolve with time. The definition did not take into consideration all the historical experiences of the Bushmen, such as inter-marriages with Bantu.

**oKhombe: the amaZizi people**

The amaZizi, led by Chief Langa, were the first Bantu people to arrive in the uKhahlamba Drakensberg around 1650. They lived side-by-side with the Bushmen (Bryant 1929: 353; Pager 1971: 22; Liebenberg 1972; Willcox 1975: 21; Pearse 1989: 26). They live in six wards in the northern uKhahlamba Drakensberg. These are oKhombe, oBanjaneni, eNkonyeni, eBusingatha, uMagaba and Newstand. Only one ward, oKhombe, was selected for the purposes of the research. oKhombe ward consists of six sub-wards or villages: iNgubhela, Mahlabathini, Mpameni, Enhlanokhombe, oQolweni and Sigodiphola. They were pastoralists and agriculturalists, in contrast to the hunter-gatherers who had never tilled the soil or domesticated cattle. Due to different interests and means of survival, there was tolerance between the Bushmen and the amaZizi (see Bryant 1929: 335; Ellenberger 1912; Pearse, 1989: 15; www.wildnetafrica.com; www.kznwildlife.com; www.kznncs.org/mountains/history).

**Social relations with the Bushmen**

Due to the interactions between the two societies, some amaZizi people were ‘Bushmanised’ (Pager 1971: 22). They practiced the *iNdiki* custom. The practice of this custom was so deeply entrenched in the society that even newly arriving Bantu tribes were being taught it. Ellenberger (1912: 24) argued that other amaZizi learned the use of bows and arrows, which were carried in addition to their traditional oval shields, assegais and battle-axes (Willcox 1975; Pearse 1989). Other informants did not mention the use of bows and arrows as their weapons. (Wells 1933: 123).

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29 The use of this term has been highly contested by others (Vusimuzi per. comm.), who say they are not ‘secret’, and are proud of their identity. Thus, they refuse to be called ‘secret’.

30 They acquired the traditions of the Bushmen society they lived alongside.

31 Bows and arrows are still made today by the amaZizi people for selling to tourists.
The Zululand upheavals and the amaZizi

Due to the upheavals in the 1800s in Zululand, the amaZizi engaged in wars with the amaNgwane and they sought refuge in the mountains, which were occupied by the Bushmen people. The amaZizi and the Bushmen clashed, probably over cattle (Pearse 1989:33; Snyman 2002). Some of the amaZizi people left for the Cape Province (Bryant 1929: 139-140; Pearse 1989), which explains why there are amaZizi people at Peddie, between King Williams Town and Grahamstown, in the Eastern Cape. The amaZizi people as a tribe were one of the groups that were relocated to form barrier locations in 1850 (Wright 1971; Vinnicombe 1976; Webb & Wright, 1976).

Cannibalism and the amaZizi

The amaZizi people were called Zimuzimu [cannibals] by the amaNgwane people as they are believed to have practiced cannibalism, which occurred as a result of the upheavals cause by Shaka during the Mfecane period (Pager 1971; Willcox 1975; Hayes 2000: 10 and 11; www.battlefield.co.za/history/cannibals. Cannibalism is the normally considered the last resort for all societies (see Hogg 1958), and the amaZizi are perceived to have resorted to cannibalism because of their cattle having been taken by the amaNgwane. In the northern uKahlamba Drakensberg, the Cavern Hotel is named after a large cave, Cannibal Cave, where a local Chief, Sidinane, and his people were driven by starvation to become cannibals (Webb & Wright 1979: 3, 81, 201; Pearse 1989: 36, 135; Hayes 2000: 10, 11; KZN Tourist 2001, Flett et al 2002).

AmaHlubi and amaNgwe people

The recorded oral history of the amaHlubi dates back to when their ancestral chiefs lived in the Lubombo Mountains, which lie along the eastern border of present-day Swaziland. The amaHlubi society migrated from South-eastern Africa, some time before the 18th century. They moved to the area around the sources of the White and Black Mfolozi Rivers, which at the time was a politically sensitive area, due to the growing domination of the Mthethwa and Ndwandwe kingdoms (Wright & Manson 1983).

The attacks on the amaHlubi and their emigration from Zululand

On two occasions in twenty-nine years, the Hlubi fled from their territory on the upper Mzinyathi, escaping from an enemy who threatened them with total destruction. On the first occasion, the amaNgwane, led by Matiwane, attacked in 1819. On the second occasion in 1848, the Hlubi came under attack by the Zulu kingdom, then led by Mpande, who like Shaka before him, wanted to expand the Zulu kingdom (Wright & Manson 1983).
While living on the upper Mnambithi River, the amaHlubi were also joined by the amaNgwe under the leadership of Phuthini, uncle to Langalibalele of the Hlubi (Webb & Wright 1976: 87). The amaNgwe had originated from the area near the Engcaka, a hill beyond Vryheid and near the Pongola (Webb & Wright, 1979). When they got to the Upper Mnambithi River area, they found the amaZizi already in occupation (Pearse 1989).

**Barrier Locations and the raiding of the amaHlubi cattle**

Langalibalele, a renowned rain maker (Liebenberg 1972), and his people, together with other chiefs, were to be moved to a new location between the upper Mtshezi (Bushman’s River) and Msuluzi (Bloukrans) to act as a barrier location to the cattle raiding that was being carried out by the Bushmen (Webb & Wright 1976: 267; Wright 1971; Vinnicombe 1976; Guest 1978: 25; Wright & Manson 1983). Langalibalele resisted. However, the chiefs of the Sithole, Thembu, Mchunu and amaNgwane ensured that the amaHlubi were defeated and moved to the designated location (Wright 1971; Vinnicombe 1976; Guest 1978; Wright & Manson 1983).

About five years after having been moved to the new location, the amaHlubi were raided. Bushmen raided Langalibalele and his people in February 1856 and November 1863. Stolen stock was recovered by swift pursuit (Guest 1978), in contrast to raiding of the white settlers in which cattle was not always recovered.

**Langalibalele’s rebellion and the authorities**

In March 1873, relations between the amaHlubi and the authorities turned sour. Langalibalele, on the instruction of John Macfarlane, the magistrate at Estcourt, was forced to implement the Registration of Firearms Act of 1859 against his people, who had received guns from the mines 32 (Liebenberg 1972; Guest 1978: 31; Wright & Manson 1983). Langalibalele failed to fulfil the instruction. The government summoned him to Pietermaritzburg repeatedly, but Langalibalele ignored the summons and offered various excuses, leading to conflict between him and the authorities (Guest 1978; Wright & Manson 1983). On 11 November 1873, Lieutenant-General Pine “declared martial law, and issued a proclamation outlawing Langalibalele and those with him, deposing him from his chiefship, and dispossessing his people of their land” (Wright & Manson 1983: 67). Officially, the amaHlubi chiefdom had ceased to exist. It was not only the amaHlubi who suffered, but the amaNgwe people as well, because they were accused of having provided shelter for Hlubi cattle (Wright & Manson 1983).

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32 These could have been the Kimberley mine, Reef mines, etc. Miners might have bought guns with their earnings on the mines or diamond diggings before effective government by those managing mines.
Langalibalele was later caught in Lesotho and taken to Pietermaritzburg where he was tried together with many other Hlubi people. They were sentenced to life imprisonment outside the Natal colony and sent to Robben Island, where they were kept until 1875 (Guest 1978; Wright & Manson 1983). On his return in 1887, he was not allowed to exercise power as a chief (Liebenberg 1972). He was required to live in Swartkop location outside Pietermaritzburg under the eye of Chief Tetelegu kaNobanda. On his death two years later, his people buried him in the hills of his old location, known today as Giant’s Castle, where the amaHlubi continue to live. The grave was kept a secret until 1950 (Guest 1978).

**Mnweni: the amaNgwane people**

Mnweni, the place of the fingers, is one of the most impressive areas of the uKhahlamba Drakensberg, offering unspoilt wilderness in its higher reaches, as well as hikes to the source of the Orange (Gariep) River (Liebenberg 1972; Sycholt 2002). Mnweni was formerly known as the Upper Thukela Location. It is currently occupied by the amaNgwane people and is part of the Upper Thukela catchment area. Mnweni consists of communal land flanked by the Royal Natal National Park to the north, and the Cathedral Peak State Forest to the south, both of which are protected areas and are part of the uKhahlamba Drakensberg Park.

The Mnweni area includes three sub-wards of the amaNgwane customary tenure area - Khokhwana or Isandlwana, Mabhulesini and Manzana. The Mnweni triangle, referring to the three sub-wards, is about 30 km long and 10 km wide at places, making it the largest peace of tribal land in the uKhahlamba Drakensberg region. Ifidi Buttress (3218m), Mpojwana (2117m), Mnweni Pinnacles (3100m) and the Saddle (3153m) provide backdrops of the amaNgwane tribal area (Sycholt 2002). Dagga (cannabis) has become an important crop and an increasingly important source of income. To avoid conviction, growers plant their crops in remote areas, sometimes on the steep slopes right under the giants of the High ‘Berg.

**Origins of the amaNgwane**

The amaNgwane people originated from Northern KwaZulu-Natal, along the White uMfolozi (Van Warmelo 1938; Peires 1991). Due to attacks by the Zulu King, Shaka, in 1818, they were forced to move southwards. This period of massive upheaval, which led to dislocation and destruction, has been called the *Mfecane* (for more discussion on the *Mfecane* see Theal, 1964; Omer-Cooper, 1966; Pager 1971: 23; Cobbling, 1988; Hartley 1992; Hamilton, 1995). Under the leadership of Chief Matiwane, the son of Masumpa, the amaNgwane people fled to the Tugela River under the uKhahlamba Drakensberg. They settled at Ntenjwa, a hill east of Bergville (Van Warmelo 1938; Wright & Mason 1983). The area is called the Mnweni triangle because it has three sub wards.
1983), the original home of the amaHlubi, amaZizi (Peires 1991: 9) and the Bhele people (Wright & Mason 1983; [www.kznwildlife.com](http://www.kznwildlife.com)). All three tribes fled, fearing the amaNgwane (Pager 1971). Matiwane is regarded as one of the central figures in the history of the southern highveld in the 1820s (Wright 1995:114), just like Shaka was in the northern highveld.

**Matiwane in the uKhahlamba Drakensberg (1818 – 1828)**

Matiwane, “the gwalagwala bird with the red knees and the red eyes”, attacked the amaHlubi (Willcox 1976; Van Warmelo 1938; Sanders 1975), the Tlokwa and the Bakoena. For many years, Chief Moshoeshoe of the Bakoena was forced to be under his leadership (Van Warmelo 1938; Sanders 1975; Peires 1991: 10). Matiwane became a force to be reckoned with in the uKhahlamba Drakensberg, as he had defeated everyone in his way. Due to the upheavals he caused, some people blame him, instead of Shaka, for the cannibalism in the area (Snyman 2002). The relationship between Matiwane and Moshoeshoe soured, and this led to a war in which Matiwane ‘fought against’ his people (Van Warmelo 1938; Peires 1991).

In 1828, after the defeat by Moshoeshoe, with whom he continued to feud for a long time, Matiwane unilaterally decided to move southwards to Mbholombo with the amaNgwane people. All those who were against his decision were killed. Among them were his brothers, Hawana and Madilika (Peires 1991: 15). When Chief Matiwane got there, he was not well received by the local chiefs (Van Warmelo 1938). The local chiefs, under the leadership of Ngcubengcuka, the Thembu King, sought help from the British in the Cape Colony (Wright 1995).

**Matiwane is involved in yet another war at Mbolopho**

On 27 August 1828, the amaNgwane were involved in yet another battle against the combined forces of the Thembu, Xhosa and the Mpondo kings, backed by the British army and Boer commandos (Willcox 1976; Wright & Mason 1983; Peires 1991; Wright 1995; Peires 1995). The amaNgwane people lost the battle, and as a result they were scattered (Peires 1991). With a much smaller force, Matiwane decided to go back to Zululand, the area of origin of the amaNgwane people, via Moshoeshoe and give himself to Shaka (Van Warmelo 1938).

When Matiwane reached Zululand, King Shaka was no longer in power. Dingane and Nhlangano, brothers of King Shaka, had assassinated him (Van Warmelo 1938; Liebenberg 1972; Wright & Manson 1983) and Dingane had assumed power. King Dingane killed Matiwane (Van Warmelo 1938; Willcox 1976; Webb & Wright 1976). Msebenzi (in Van Warmelo, 1938) and Webb & Wright (1976)

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34 He advised Moshoeshoe that the amaNgwane were intending to attack him and thus should prepare his army.
argues that on the advice of the amaNgwane people, Zikhali, the son of Chief Matiwane, left Zululand in 1840 with nine men to seek refuge in Swaziland, then ruled by King Sobhuza. After the overthrow of Dingane, Zikhali returned to Natal (Liebenberg 1972; Webb & Wright, 1979).

The amaNgwane and the Bushmen

It was during the reign of Chief Zikhali that the amaNgwane came across the Bushmen. Chief Zikhali, one of the loyal chiefs to the Natal government throughout the relocation troubles in the late 1840s, was amongst the first to suffer from cattle raiding carried out by the Bushmen. In most cases, the amaNgwane people were successful in recovering their cattle, because after each raid they would vigorously pursue the raiders. The knowledge of the area in which they had lived for years was to their benefit. This prevented the Bushmen from carrying out more raids.

As a result of the failed attempts to bring cattle raiding to an end, Chief Zikhali was supplied with “ten stand of government arms and sixty rounds of ball cartridge for each musket, and was promised a reward of many cattle for any authentic information he could obtain on the haunts of the Bushmen” (Vinnicombe 1976: 51). This ensured that there were hostile relationships between the Bushmen and the amaNgwane. The importance of this incident in history is that it might affect how the amaNgwane people react to rock art painted in their area.

Discussion

The detailed historical background discussed in this chapter aims to provide the reader with a greater understanding of the relationship between different social groups who came to occupy the uKhahlamba Drakensberg. Some authors (Wright 1971; Dowson 1995; Anderson & Wahl 1998) have argued that Bushmen were forced to withdraw to the mountains as Bantu speaking people settled in the lowlands. These mountains became a crucial ‘hiding’ location for the social groups who fled Zululand during the Mfecane. In other words, the physical aspects of the uKhahlamba Drakensberg proved to be important for protection. Although it might have provided protection, mountainous areas are not known for providing good agricultural opportunities, which was of little interest to Bushmen. This protective character of the mountains might be the one responsible for the spate of conflicts that took place, involving the raiding of cattle amongst the Bantu groups. Besides this protection and reason for conflicts, the rocks of the different shelters, mostly found in the ‘Little Berg’, provided a ‘canvas’ for the Bushmen painters, who produced their religious rock art.

The information presented in this chapter is important in order to understand the later chapters. I stated earlier that I believe that the interaction that existed between the Bushmen and Bantu speaking people determines how the Bantu people react towards rock art today. This is very important for management purposes. It is agreed that the relationship between the first Bantu people in the uKhahlamba Drakensberg (the amaZizi) and the Bushmen must have been smooth at first, mainly because their way of life was different, therefore supporting more tolerance between the groups. Things changed later on with the arrival of other social groups. Bushmen were, as other researchers argue, forced to raid cattle as their hunting ground diminished day by day. However, although the Bushmen were brought into conflict with the social groups that had taken over ‘their land’, there is evidence that there were times of trading and intermarriage. As a result, the theory that Bushmen are extinct has been challenged. It is now generally agreed that there are still Bushmen descendants living in some areas of the uKhahlamba Drakensberg. Based on the discussion of the historical interaction between different social groups in the uKhahlamba Drakensberg, the next chapter discusses rock art policy in both the historical and comparative perspective.
Chapter two

Background: Rock Art Policy in historical and comparative perspective

Legislation aimed at ensuring the preservation of rock art exists in many countries. The main objective of such legislation is to protect the heritage resource from any unwarranted destruction. Many archaeological sites have been vandalised (Strecker & Taboada 1999) proving that cultural legislation on its own does not ensure the protection of rock art. Legislation has not only failed in South Africa, but in other countries as well (Clarke et al 1976; Odak 1991; Strecker & Taboada 1999:37). The case of Kenya and South Africa illustrate that even if legislation exists on paper, its implementation can be ineffective, either due to staff shortages or lack of funding (Odak 1991; Rudner 1989; Clarke et al 1976). The failure of the legislation to pro-actively protect the cultural heritage has led to an argument that it is not stricter laws that are more effective, but rather the understanding and support of the general public (Mazel 1981; Lippe 1977: 22; Flood 1979: 63). In this chapter, I argue, in support of Mazel and Lippe, that if legislation were effective, there would not be many sites vandalised today.

The dates written on the sites when they were vandalised give a clear indication as to when that act was conducted. Although some graffiti dates back to the 1800s, other graffiti dates back 50 years ago while some is quite recent (2002, 2003). The content of the graffiti also gives an indication as to who was responsible for it. Indications are that tourists are mostly responsible; however, involvement of local people in such practise has also been noticed. For example, sites with cattle kraals might have graffiti replicas of rock art originally painted by Bushmen, made by shepherds using charcoal.

Legislation protects rock art from human threats. However, rock art is not protected against deterioration that occurs as a result of natural causes, i.e. weathering, exfoliation, rock falls, etc. Although the legislation aims to protect rock art against human threats, i.e. such as vandalism by ‘ill-informed’ people, this has not been achieved in the ninety-one years that we have had legislation. There are two challenges that have negatively affected the implementation of cultural legislation the world over. These are community involvement and the enforcement of the law. These challenges have been synonymous with the legislation for many years. However, amendments made to legislation have not addressed these challenges and not much has been done to overcome them.

Legislation needs to change over time (Odak 1981). According to my own assessment of the effectiveness of legislation, it is still embedded in colonial times, when the authorities saw no role for indigenous people. This ‘fortress’, top down approach, has not provided a reasonable success for cultural heritage managers. Although the role of indigenous people has been recognised in the National Heritage Act, the challenge faced by heritage managers of failing to proactively protect rock
art is still the same today. In contrast to my viewpoint that people need to be involved in rock art management, most heritage managers still see legislation as the most effective\(^{36}\) way to manage cultural resources.

In this chapter, I start by discussing a brief historical background of the rock art policy in South Africa, following three political periods, namely, union, apartheid and democratic. This lays a background to the discussion on the community interest in rock art, which I discuss looking at three main issues, these being the economic, spiritual and cultural identity. I then assess whether the rock art policy is effective or not, having given its background, and discussed the community interest. Community involvement of any kind is encouraged in many sectors, which is why it becomes important to look at the community involvement in the management of rock art. For a comparative analysis, I use the case study of community involvement in nature conservation in South Africa. I end the chapter by discussing the global interest in rock art by looking at the community interest and involvement of indigenous people in rock art management internationally, cultural heritage policies and their effectiveness.

**Brief history of rock art policy and implementation in South Africa**

While nature conservation management has taken a great leap forward; the same cannot be said of cultural heritage managers and the rock art policies, as shall be demonstrated in this section. This section is divided into three political periods, namely, Union\(^{37}\) (1910-1948), Apartheid\(^{38}\) (1948-1990) and Democratic\(^{39}\) (1994-present). The significance of such divisions lies in the understanding of the political environment South Africa has witnessed in her past, and how this affected the different rock art policies passed.

**Union (1910-1948)**

Although South Africa was colonised from 1652, with the final conquest in 1879, it was not until 1911 that a policy to manage rock art was formulated. It was at the insistence of the South African National Society (SANS) that this legislation was formulated. Its loopholes were identified later. The Bushmen Relics Protection Act (no. 22 of 1911) made no provision for any other type of heritage site. The main aim of the act was to control the export of original rock paintings and engravings, which at the time posed a serious threat to South African rock art (Woodhouse 1988; Rudner 1989; Deacon 1993a). Twelve years later, still not satisfied, the SANS continued exerting pressure on the government. This

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\(^{36}\) In some instances the only tool available at their disposal.  
\(^{37}\) South Africa received independence from her coloniser, Britain, in 1910, and became the Union of South Africa.  
\(^{38}\) Under the Nationalists government, racially motivated laws were passed, which prescribed the rights of social groups, based on their skin colour.  
\(^{39}\) South Africa had first democratically held elections in 1994, offering transition to democracy.
pressure led to the proclamation of the Natural, Historical and Monuments Act in 1923 (no. 6 of 1923), which operated alongside the Bushmen Relics Protection Act (Rudner 1989; Deacon 1991; Whitelaw n. d.).

The two acts together provided legal protection for archaeological sites and their contents, with a distinct bias towards ‘extinct’ hunter-gatherers (Bushmen), as this was the time when archaeologists were concerned primarily with the hunter-gatherer (Whitelaw n. d). The 1923 act made provision for the appointment of a Commission for the Protection of Natural and Historical Monuments of the Union of South Africa. This body was tasked with, among other things, compiling a register of monuments that in its opinion ought to be preserved. In contrast to Bushmen Relics Protection Act (no. 22 of 1911), this act was responsible for a wide range of sites, not only those credited to the Bushmen (Rudner 1989; Deacon 1991).

The name of the Commission for the Protection of Natural and Historical Monuments of the Union of South Africa was changed to the Commission for the Protection of Natural and Historical Monument, Relics and Antiques by Act no. 4 of 1934. This act replaced both earlier pieces of legislation and catered for an even greater diversity of sites than Act no. 6 of 1923. It also made it possible for the very first time to declare particular sites national monuments. The act provided no protection whatsoever to any site or object not proclaimed a monument, relic or antique. This flaw was quickly recognised and this led to its amendment four years later, in 1937 (Act no. 9 of 1937).

Apartheid (1948-1994)

The South African situation is complicated by our past. We have emerged from an era when one race dominated the other for centuries. This apartheid era worsened the relationship between different racial groups in the country. Compared to the Union years, the Nationalist government made a lot of changes, reinforcing racial policies. While changes were evident in most legislation, the general trend of not involving indigenous people in rock art management continued. This is not surprising considering the oppressive nature of policies passed during this period. During this period, the 1937 act was again amended in by act no. 13 of 1967 (Rudner 1989; Deacon 1991; Whitelaw n. d.).

Under the 1934 act and the amendment that followed in 1937 and 1967, only seven rock art sites were declared national monuments. The declaration of rock art sites as national monuments was faced with many challenges. These sites got vandalised, as many more people\(^4\) knew them. The policies of the then Commission for the Protection of Natural and Historical Monuments, Relics and Antiques

\(^4\)The famous fishing scene painted at Siphongweni shelter at Cobham Nature Reserve was vandalised because of the site being declared a national monument.
changed, as rock art sites already had protection in terms of the act, and therefore there was no need to declare them national monuments as well (Deacon 1991; Deacon & Pistorius 1996).

Act no. 13 of 1967 was finally replaced by the National Monuments Act (Act no. 28 of 1969), which was also amended in 1986 (Rudner 1989: 3; Deacon 1991: 230). The 1969 National Monuments Act legally protected rock art sites in two ways: the act made it illegal to “destroy, damage, excavate, alter, remove from it original site or export from the Republic” the art without a permit, and it declared certain sites national monuments (Deacon 1991; Blundell 1996), like the 1934 Act. In addition to these two protections, the Environmental Conservation Act of 1989 protected rock art sites in more general ways (Deacon 1991). This was in the form of a permit system (still in place even today) which is controlled either by SAHRA or Amafa aKwaZulu-Natali and the declaration of sites as national monuments.

Democratic (1994-present)

As mentioned earlier, the political atmosphere in South Africa changed considerably in 1994, with the first democratically contested elections being held. Within this atmosphere, the need for participatory approaches that respect the rights of all individuals was highlighted. Archaeologists theoretically bought into the idea and started acknowledging the interest of indigenous people in rock art. This element can be seen in the National Heritage Resources Act (no. 25 of 1999) passed in 1999 to replace the National Monuments Act. The act came into existence when the old National Monuments Council made way for the South African Heritage Resource Agency41 (SAHRA) in 2000. The National Heritage Resources Act (see appendix 2) promotes the management of cultural resources at local level, i.e. municipalities, where capacity exists, as they are the closest government level to the communities (Deacon 1997: 3; Deacon & Deacon 1999; Kotze & van Rensburg 2002; www.sahra.org.za). Where there is no capacity, the management should be left to the provincial authorities, viz. Amafa aKwaZulu-Natal in KwaZulu-Natal. Furthermore this act promotes research into ‘living heritage’, such as oral tradition, ritual and indigenous knowledge.

The local capacity of the municipalities to manage cultural resources does not exist in any province, and KwaZulu-Natal was the first province in South Africa to have its own provincial authority responsible for the management of the provincial heritage resources. Eastern Cape and Gauteng are other provinces that now have their own provincial heritage authorities that work in close liaison with the provincial SAHRA offices. It rests to be seen what is going to be the relationship between these agencies and SAHRA. What is disappointing is that there have not been any initiatives to develop this capacity at the local level of government. However, even if this capacity were to be acquired, the

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41 SAHRA is a statutory organisation responsible for the national administration of the protection of South Africa’s cultural heritage.
management of resources deemed to be of provincial and national significance by professionals will not be their responsibility.

Section 6.2 and 6.5 of the South African Constitution acknowledges the cultural rights of the indigenous people (South Africa 1996; Prins 2000). In 1998, the government officially launched the KhoiSan Legacy Project as the result of the United Nations affirmation of special rights of indigenous minorities (United Nations 1997). However, this has not materialised at a practical level. The uKhahlamba Drakensberg rock art from Lotheni was used for the logo of the South African Olympic Team, without consultation with the indigenous people. Yet there are Southern Bushmen who still regard rock art as having spiritual and psychological value to their daily lives (Prins 2000; 2001).

**Community interest in rock art**

People generally have an interest in something because of particular reasons. These reasons can range from economic and spiritual to issues of cultural identity. As mentioned before, Lewis-Williams (1990) argued that Bushmen painted rock art for religious reasons. It is based on such reasoning that most indigenous people who are of Bushmen descent mainly attach the spiritual significance to rock art. In addition, partly because of the democracy achieved in 1994, most Bushmen descendants are becoming vocal about their true identity, emerging from their hidden identity. It is also such pride that makes them appreciate all that is Bushmen in origin.

In chapter one I discussed the different social groups who came to live in the uKhahlamba Drakensberg and the surrounding area. In some instances, these groups have no social relationship to the Bushmen. However, some of these people have taken ‘ownership’ of rock art sites. They argue that these are found within their own land, and thus they are the ones who have to benefit from the exploitation of the paintings. The two survey areas discussed later in both chapters 5 and 6 provide examples for all the three kinds of interests discussed here.

**Is the rock art policy effective?**

‘More stringent laws are not the answer’ (Flood 1979: 63).

In the introduction to his book, Roman Tomasic (1980: 9) states that, “legislation is being increasingly

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42 Some Bushmen descendants have been vocal about their cultural identity for years, even before South Africa got democracy. Frans Prins, an anthropologist researching Bushmen groups, has referred to those who concealed their identity during the apartheid era, and some still do, as ‘Secret San’.

43 This may both be public and private land. Rock art centres to be visited by tourists are built. In some instances, tourists are guided at a fee to rock art sites found locally.
relied upon as a response to social problems as society becomes more complex”. This gives an insight into why we need laws in our daily lives. However, it does not give any indication as to the effectiveness of legislation in our society today or in the past to solve the social problems necessitating legislation. In most cases, attempts to solve social problems create new problems (Rose 1968: 33; Schwartz 1978:584). This is especially so when the legislation is created to solve a social problem without addressing the consequences of such legislation for the rest of the society. Such problems are evident in rock art legislation. Legislation is enacted to prevent the social problem of the vandalism of rock art. The current enforcement of the legislation promotes the physical management of a site as opposed to the spiritual management. The creators or enforcers of rock art legislation have ignored the significance of rock art sites to indigenous people or those who identify with the site.

Ignoring the spiritual significance of rock art sites to indigenous people has created a new problem. Traditional leaders and indigenous people have been ‘prevented’ from accessing ‘their’ sacred sites. The sites are therefore losing their spirituality and significance to the people, because anybody, in any condition or state, of any gender or age, can access the site. According to the beliefs of most Bantu speaking people, entrance to some sites, generally speaking, is gender specific, therefore access by the other gender is deemed inappropriate and leads to the site losing its spiritual significance. The new social problem results in the lack of spiritual management of the sacred sites. The performance of rituals in such sacred sites does not achieve its objectives, as the spiritual significance has been eroded.

Colombotos (1975:358) has identified three main factors leading to the failure of legislation. These are, firstly, the degree of compatibility of the law with existing laws, secondly, the enforceability of the law, and thirdly, the clarity of public policy and the diligence of enforcement. Considering the South African situation, it has been clearly evident over many years that the enforceability of the act is questionable and highly critical.

The other challenge in the implementation of legislation is that it is difficult to enforce (Rocustos 2001: 15), mainly because of the difficulty in identifying and apprehending offenders (Deacon 1991). According to Deacon (1993b: 7), since 1934, there have been only three court cases against people

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44 Physical management focuses on attempts to prevent the natural (weathering, exfoliation) and human (vandalism, rock art removal) threats to rock art sites. In this way rock art sites are managed as museums in the shelters of the mountains.

45 Management of rock art sites by local people by restricting access and performing ritual practises at the sacred sites. Following up on discussion in chapter one, I argue that the physical management does not complement this act of management.

46 Some taboos determine that access be gender based, or by people who do not have unresolved issues and are thus angry, not women experiencing their menstrual cycles, etc.

47 The objective of visiting a spiritual site is to feel spiritually empowered. This is not achieved in a ‘dirty’ site that has lost its spiritual power.
who have damaged rock art sites, with only one conviction. A case of vandalism at Game Pass on the 3\textsuperscript{rd} January 1980 (Clarke \textit{et al} 1976) involved names and surnames (i.e. Patrick S. Buthelezi and Cutis-Cokes Mvelase) being written in large letters above a painted panel. Due to the lack of evidence and the failure of the Natal Parks Board to trace the names of the owners in the community, no one was charged with defacing rock art (Clarke \textit{et al} 1976; Daily News 1980).

There were two rock art vandalism cases in 2002\textsuperscript{48}, one for illegally removing graffiti in the Bergville District and the other for painting blue blobs on the way to and at a rock art site in the Southern uKhahlamba Drakensberg. While the graffiti removal case was settled out of court by asking the culprits to plead guilty, the case of the paintings of blue blobs fell apart, as the culprits were not prosecuted (Natal Witness 2002: 6). Police officers have difficulties with dealing with cases of this nature, as they are not familiar with the act, and thus they lack interest in the cases as well as the capability to investigate the cases. The current approach does not acknowledge the involvement of communities or the problems associated with the enforcement of the act. This is not only a problem for the physical management, but also for spiritual management.

\textbf{Community involvement in rock art management}

As I have mentioned in the introduction to the chapter, fortress conservation may be a thing of the past in other countries and indeed nature conservation in South Africa, but certainly not the case in the cultural heritage management. As the result of the assumption held by most archaeologists that Bushmen are extinct, the National Heritage Resources Act and the acts before it emphasise the importance of the physical preservation of the material culture of these extinct peoples. The state and the archaeological researchers took it upon themselves to manage what they perceived as an abandoned historical legacy and saw no need to consult the local communities regarding its significance and management. I further argue that the archaeologists and heritage managers and the institutions they represent benefit in this regard. They do not need to ask anyone for access to these sites (except their internal authorities via the permit system) or for advice on how they should be managed, and this allows them to act as the voice of the ‘dead or extinct’ nation (see Prins 1996). In contrast to the \textit{bona fide} researchers who have access to archaeological artefacts for academic research, indigenous communities are not guaranteed such access.

The lack of community involvement impacts negatively on legislation. The assumption I am making is that if the legislation had the support of local communities, then we would not have so much

\textsuperscript{48} I was personally involved in the opening of these cases at the Bergville and Himeville police stations. I was the plaintiff in the first case.
vandalism of rock paintings in South Africa and elsewhere. People would feel ownership of the sites. In my experience, people perceive the creators and enforcers of legislation, i.e. heritage managers, as standing on the opposite bank of the river from them, with the river full of running water. The minute you inform people that you are from a heritage organisation, they perceive you as a policeman who is out there to catch them for something they might have done wrong. When we can erase this picture in the minds of most people, by improving the way heritage bodies deal with people, I believe we will start to see the benefits of the existence of heritage authorities. This exclusion of communities in rock art management makes it difficult to enforce the legislation. Authorities cannot always be at the ground, like the communities. It thus makes sense to work with them and have mutual understanding.

The top-down approach in nature conservation led to ‘military conservation’ or ‘fortress conservation’ (Hill 1996; Pimbert & Pretty 1997; Barrow & Murphree 1998: 23; Adams & Hulme 1998; Nepal 2000). Fortress conservation did not support employment of the local people (Ashley & Roe 1998); instead, many indigenous and Bantu speaking people were displaced, military style, from their original lands. One reason was to make way for conservation areas, and as a result, there was much anger and a justifiable feeling that animals were thought to be more important than people (Ntsala 1995; Handley 1996: 137; Koch 1997; Naguran 1999; Carruthers undated a, b). Reserve managers believed that game and the natives could not exist together (Archer & Fig 1992: 6; Milton 2002). This displacement and resettlement happened without the local people’s participation in the decision-making process (Fabricous & de Wet 2002). However, I am not implying that ‘fortress conservation’ is wholly wrong and community conservation is always right and without problems. It will be wrong to make that assertion. Community conservation, defined by defined by Adams & Hulme (2001: 13) as “those principles and practises that argue that conservation goal should be pursued by strategies that emphasises the role of local residents in decision-making about natural resources”, has also been criticised on the grounds that it is costly and time consuming. A solution is to find common ground between the two approaches. The same applies to the preservation of rock art. I am not suggesting that because the current approach does not involve participation by people of indigenous origins, it cannot work. Instead, I am suggesting that common ground needs to be found between the two approaches so that they can complement each other.

The roots of the lack of indigenous people’s involvement in rock art management
In KwaZulu-Natal, and South Africa at large, conservation has not been undertaken by the descendants of the artists, but by people of European origin, in contrast to Australia where the Aborigines have played a prominent role in rock art conservation (Deacon 1993: 7). This has continued to happen in the uKhahlamba Drakensberg, a World Heritage Site, even though the United
Nations Education, Scientific and Cultural Organization (UNESCO) stipulates that local communities should be consulted and incorporated in any resource management programmes and tourism initiatives. The community involvement that has been witnessed so far is not convincing\(^{49}\) (Natal Mercury 2003).

According to Deacon & Deacon (1999: 196), the lack of indigenous participation can be traced back to nineteenth-century legislation and practice. When the legislation was adopted in the colonies, it failed to make provisions for local indigenous people to make their contributions to heritage management. As such, we have adopted a ‘one size fits all’ legislation concept. This concept makes us all equally responsible for our own heritage and that of everyone else. The descendants of the indigenous people therefore have no legal claim to heritage sites and have equal status regarding the protection of this heritage with any other interested party (Deacon & Deacon 1999; Prins 2000). Bushmen descendants are today fighting for their rights and for the recognition of their history and their land (Smith et al 2000).

**Comparative analysis of indigenous people in Africa and around the world**

The case for ‘indigenousness’ is clear in Australia and the United States of America where the indigenous people occupied the land prior to colonisation by Europe (see Fitzpatrick 1986; Creamer 1986; Prins 2000). According to Prins (2000) and Maybury-Lewis (1997), people of African origin were indigenous during the colonial era, when they were subject to western domination. This definition differs to most definitions defining indigenous in that it only relies on colonialism for a definition. This definition serves well for most African governments as it means that all Bantu speaking people would be indigenous in the land they occupy. It also provides one with a reason why some indigenous delegates at international conferences have refused a precise definition, citing that such a definition would be controlled by the very same government that they see as the principal source of their exploitation, marginalisation and suffering (Niezen 2003:18-19).

Unlike other indigenous peoples around the world, black people are in political power today in most African countries. Non-Governmental Organization’s around the world have used such terms as ‘First Peoples’, ‘First Nations’, ‘First Indigenous Peoples’ and/or indigenous minorities to distinguish between these people and the majority population. These distinctions are however, not endorsed by

\(^{49}\) Bushmen descendants were only involved at a late stage in the construction of the Didima Interpretation Centre. This was after there were strong challenges by different people against construction that had already taken place, such as ‘soul places’ and interior decoration without prior consultation with groups representing the interests of the Bushmen. ‘Soul places’ were changed and called educational centres with each one of the 10 such places discussing a particular topic relevant to the Bushmen, e.g. hunting techniques, how the art was painted, and so on.
most African governments. This is especially evident in Botswana where the Bushmen population have officially been called ‘Remote Area Dwellers’ (RADs) since 1977. In support of this stance, African governments argue that they do not want to divide people according to ethnicity (Hitchcock 1998). This tactic used to be used by the colonisers to instil their dominance by ensuring divisions amongst the people they colonised.

**Global interest in rock art**

There has been a rising interest in rock art globally, by researchers, tourists and indigenous communities. These three sectors represent different kinds of interests. Researchers attempt to understand why the indigenous people painted rock art in the different shelters. Tourists wish to visit these areas of interest and learn about the findings of the researchers. Indigenous people have different interests. In some instances, their interests have to do with the spiritual and cultural identity interests. Some might be interested in the economic benefits brought about by their ancestors’ artwork. These different interests shown by researchers, tourists and indigenous people have consequences. These can be seen as both negative and positive. In the section below, I critically discuss international legislation and community involvement encouraged by the change in the thinking approach of governments towards the involvement of indigenous people in the management of cultural resources.

**Legislation and community involvement**

It was a general trend to exclude indigenous people in rock art management. This was manifested in the legislation of many countries around the world, which had an interest in managing this fragile, irreplaceable heritage. I argue that the exclusion was due to the fact that more emphasis was placed on the aesthetic and economic significance of the paintings. This one sided approach to rock art management did not achieve the desired result of proactively managing rock art, and protecting it against defacement.

The early forms of cultural legislation in Australia and other countries were intended to protect ‘cultural relics’. This legislation was criticised on the grounds that, by implication, the indigenous people were denied their rights to their cultural heritage, as the value of such sites was conceived of in national and historical terms, without acknowledging contemporary Aboriginal interest (Langford 1983). The original constitution of Australia did not give any right to the Commonwealth government to make special laws for people of Aboriginal race. Under Section 51 (xxvi), the Commonwealth had powers to make laws with respect “the people of any race, other than the Aboriginal race in any State, for whom it is deemed necessary to make special laws”. The amendment was made in 1967 when the
words “other than the Aboriginal race in any State” were removed, allowing the Commonwealth government to take responsibility for Aboriginal matters, especially in heritage matters (Galvin 1988).

This change of thinking in Australia and indeed other countries in the 1970s and 1980s, led to a move towards more participatory approaches in the management of cultural resources. Cultural legislation acknowledging the spiritual significance of rock art sites to the Aboriginals, the American Indians, etc. (Dean pers. comm.) was declared. Australian examples are provided by legislation from South Australian (Aboriginal Heritage Act no. 12 of 1988), Western Australia (Aboriginal Heritage Act 1972) and Northern Territory Governments and Commonwealth’s Aboriginal and Torres Strait Islander Heritage Protection Act, 1984. Legislation motivated by a more participatory approach has enhanced the community involvement of different indigenous groups in the management of their cultural resources (Lilley 2000; Prins 2000; Gail 2001). Such legislation meant that indigenous people had a legal standing when they felt that their views were not properly addressed.

**Discussion**

South Africa’s legislation needs to keep pace with the political and social changes currently taking place in South Africa, and indeed globally, but it has not. Much of the legislation remains substantially unaltered. In recent years, claims by indigenous minorities around the world (Price 1989) and in South Africa have increased. These claims pose a challenge, as some of these indigenous people still have spiritual links with the protected rock art sites and are still proud of their cultural identity, while others might be claiming it for political or economic gain. Thus, as I have shown, legislation on its own will not be effective in the preservation of rock art sites. Much more is needed.

Human activities and actions account for more rock art deterioration than all other agencies collectively (Willcox 1956; Rudner & Rudner 1970). This simply means that our approach to rock art management has to concentrate on dealing with people, not only the tourists, but the indigenous people as well. People contravening the act are not easily identified, and in most cases the damage is only realised months if not years later, when no one can be held responsible. Some other countries have acknowledged the success of a more participatory approach as opposed to an exclusively preservationist approach. In Australia, where the indigenous Aboriginal people have been involved in management and decision-making with regard to rock art sites, there has been a major step forward in the management of cultural resources. People have taken ownership of the rock art and have made it their duty to protect it.
Within the different legislation passed in South Africa over the years, a number of companies and private individuals have shown a great interest in the management of rock art. However, as mentioned earlier, one thing common amongst all of them is the fact that they have a European background. This means that the paintings are only being recognised for their aesthetic significance, with an acknowledgement that the paintings were painted for religious purposes. Chapter 3 discusses rock art management in South Africa, with a section on KwaZulu-Natal
Rock art is an irreplaceable heritage resource, and the need to preserve it has been acknowledged for many years. It has been vandalised, both intentionally and otherwise. Once vandalised, rock art cannot be replaced, as the practice of repainting rock art sites is currently not allowed in South Africa. The argument behind this is partly that the skill displayed on the rock face does not exist anymore and that the artists are extinct. Many attempts have been made to better preserve rock art, from removing art panels to museums around the country (a practice that is not promoted today, although it does happen under extreme circumstances), to removing graffiti painted by uninformed individuals. Heritage managers have used legislation as part of the attempt to preserve rock art. There are various problems with the legislation, as has been discussed in detail in the previous chapter.

In this chapter I shall briefly discuss the history of rock art conservation in South Africa by examining the efforts made in the last two centuries to protect rock art as a fragile heritage. Efforts have been made by individuals, private companies, organisations dedicated to the management of rock art, and so on. The discussion will focus specifically on my study area, the uKhahlamba Drakensberg in KwaZulu-Natal.

Attitudes to rock art
South Africa has more rock art paintings than anywhere else in the world (Rudner 1989: 1). However, until the nineteenth century, rock art did not attract a lot of attention, although some early settlers took notice of it. In the early days of rock art management, various kinds of people were involved. Some got involved with the sole interest of managing rock art; these were usually people who attached some value to the paintings. Others were destructive rather than constructive. These two kinds of people are referred to as vandals and conservationists. Vandalism implies a deliberate attempt to destroy something, for example, removal of paintings and petroglyphs to be sold and farmers using painted rock art sites as cattle kraals, with the animals smearing and obliterating the art (see Squire 1905 in Rudner 1989; Vinnicombe 1966; Rudner and Rudner 1970: 261; Clarke et al 1976; Rudner 1989; Woodhouse 1991). In contrast to vandalism, being a conservationist means that one plays a meaningful role in rock art conservation following agreed principles (see Deacon 1983a; Woodhouse 1988; Rudner 1989; Loubser 1991; Deacon 1993a). Conservationists removed painted panels to museums (see Woodhouse 1991), e.g. Linton panel, which was used in the design of the new coat of arms. Removal remains an option today, but only when the rock art is in danger of being destroyed by a building of a dam or other construction work (Loubser 1991; Deacon 1993a). While the
conservationist approach endorses the physical management of a site, it has a negative impact on the spiritual management of a site. The same categories of people exist today, with the heritage managers who are trying hard to enforce the legislation acting as conservationists.

**Conservationist institutions**

As a result of the ineffective legislation, J. C. Smuts created the Bureau of Archaeology, which was under the administration of the Department of the Interior. C. van Riet Lowe (a civil engineer turned archaeologist) chaired the Bureau. During its existence, it produced a map and index of rock art sites in South Africa in 1941 and a more comprehensive list in 1952 (van Riet Lowe 1941; 1952). Problems similar to those of today’s heritage managers were experienced. The survey was understaffed and under-financed and thus its effectiveness in protecting and conserving rock art was difficult. In addition, Van Riet Lowe was secretary of the commission for the Preservation of Natural and Historical Monuments, and spent much time on the conservation of buildings (Rudner 1989). However, three suggestions were made to preserve rock art. The first was that important rock paintings should be relocated; the second was that all faded paintings should be re-painted, and third was that chemicals should be applied to the paintings (Rudner 1989; Deacon 1993a). In what can be seen as a great support to the understaffed and underfinanced survey, a group of people interested in archaeology, led by Goodwin, formed the Cape Archaeological Society in 1944 and was supported by Smuts (Rudner 1989). A year later, the Society became national and became known as the South African Archaeological Society (Rudner 1989), a name still used today. Its membership is comprised of people from different professions, interested in archaeology and rock art.

The mid-twentieth century saw a rapid increase in the interest shown in rock art. This is evidenced by a number of publications, among others those of Alex Willcox (1956, 1963 and 1984), Neil Lee and H. C. Woodhouse (1970), Patricia Vinnicombe (1976), Harald Pager (1971 and 1975) and Lewis-Williams (1981; 1983). With a lot of work produced, a need for the establishment of a central body became necessary. The proposed purpose of this central body was to co-ordinate fieldwork, offer advice and supply data to students and other researchers, employ other means to conserve rock art, for example, giving lectures to schools and interested bodies, and to publish articles in the press. (Rudner 1989: 5).

After a number of meetings, such a body was formed in 1968 and became known as the Rock Art Recording Centre (Clarke *et al* 1970; Rudner 1989). In 1970, a decision to record all archaeological sites, including those with rock art, was taken. Thus the name changed to the Archaeological Data Recording Centre (Summers 1975: 223; Rudner 1989). In recent years, students and researchers have used the centre as an information office, rather than according to its original intention to play a role in
recording, researching and conserving rock art (Rudner 1989).

**NMC’s responsibilities in the preservation of rock art**

The National Monuments Council (NMC) came under fire on many occasions regarding the conservation of rock art (Schoonraad 1971). The NMC’s responsibility included not only rock art conservation, but also the control of both archaeological and palaeontological sites, old buildings and other national monuments. In addition to such responsibilities, most of the people employed by the NMC had architectural qualifications and their interest in rock art conservation was minimal. This can be seen in the number of buildings proclaimed as national monuments against rock art sites proclaimed as such (Whitelaw n. d.).

The NMC was both understaffed and under-financed. Thus, the only possible method of conservation was to ask the cartographers not to indicate rock art sites on maps in order to prevent vandalism (minutes NMC I August 1972). This method is still used today. In KwaZulu-Natal, only three rock art sites can be indicated on maps, they are Battle Cave (Injisuthi); Main Caves (Giants Castle) and Game Pass (Kamberg).

**The NMC and the National Building Research Institute (NBRI)**

The NMC and the NBRI formed a steering committee that continued to support the conservationist approach, focused on physical management. It comprised the NMC, NBRI representatives and rock art experts. The terms of reference were to advise and assist in the execution of research aimed at managing rock art and in the implementation of the results (min. 6th meeting 1 August 1978; Deacon 1993a). In the seven years of its existence, the research team produced nine reports, which were discussed at the Steering Committee meetings (NBRI 1981, 1983; Rudner 1989). Not one refers to any rights and responsibility which local communities or Bushmen descendants might have in the maintenance, conservation or management of the sites.

**Groups involved in rock art conservation nationally**

Mid last century, different individuals around the country formed groups in order to play a prominent role in the preservation of rock art. Among others was the short-lived Action Group on Rock Art (AGORA). AGORA was short-lived due to poor support from the government. Government’s attitude had clearly changed since the time of Smuts, who had had a personal interest in the preservation of rock art in South Africa (Rudner 1989). Other groups included: the Rocustos Friends of Rock Art, the Soutpansberg Rock Art Group (Gauteng Province), and the Philosophical Society of Natal begun...
in 1910 (Rudner 1989: 2); the Kearsney College Archaeological Society in 1976 (Clarke et al 1976); Bergwatch in the mid 1990s and the Rock Art Recording and Monitoring Group (RARMG) in the late 1990s in KwaZulu-Natal.

Professional archaeologists advocated the formation of the South African Rock Art Foundation. Its main objectives were to raise funds from the private sector, to record and preserve rock art, to undertake research and to educate the general public. Like many other efforts by people interested in the conservation of rock art, the scheme was shelved due to a lack of funds and the lack of time which committee members had to devote to the project (Rudner 1989).

One of the professional archaeologists, J. D. Lewis-Williams suggested the formation of a National Museum of Rock Art (memorandum to NMC August 1985). Its function was to be two-fold: to remove well-preserved paintings at selected sites, and to trace, photograph and construct exact replicas of entire sites that could not be removed. He did not approve of the removal of individual paintings to museums. This proposal never came to fruition. However, many years after it was first suggested, the dream of having such a museum is finally coming to reality. Plans are already underway and the museum will be built at the University of the Witwatersrand.

**The role of private companies in the preservation of rock art**

Private companies have also played a meaningful role in the efforts to manage rock art in South Africa by removing rock paintings where it was necessary (Roberts Construction Company 1973; Woodhouse 1973; Rudner 1989: 5; Loubser 1990). An example of assistance provided by a private company was the installation and costs of an artificial drip-line of stainless steel in the roof of the Beersheba Shelter in East Griqualand (Roberts Construction Company 1977).

The following year, the Chairman of the Murray and Roberts Group, J. D. Roberts (in his private capacity) bought the Pager collections of copies of the Ndedema rock paintings. He placed them under the curatorship of H. C. Woodhouse. The company then sponsored the exhibition of these paintings in a series of countrywide tours (Murray & Roberts 1981; Rudner 1989). On Roberts’s death, the collection was permanently loaned to the University of the Witwatersrand. It is currently housed in the Pager Room.

Today, private companies are still very much part of the cultural heritage community. Companies like Mondi Forests, Anglo-American, AngloGold, De Beers and others have funded or still continue to fund the Rock Art Research Institute (RARI) at the University of the Witwatersrand and other rock art
related projects. In KwaZulu-Natal, Lotto approved funding in 2003 for the Rock Art Research and Recording Unit (RARARU) and the Rock Art Mapping Project. Both projects attempted to record most rock art sites that were either not fully recorded, or have never been recorded before, and to discover new sites.

**Rock art conservation in KwaZulu-Natal**

The recording of rock art in the uKhahlamba Drakensberg dates back to the late nineteenth century. The first known recording was made by Col. A. Moncrieff in 1869. A number of other families became synonymous with rock art recording. Amongst these were the Hutchinsons, the Taylors, the Borthers, the Ottos and the Mabys (Mazel 1981). After a period of inactivity, which continued well into the late 1920s, the interest in recording rock art was generated again. In 1928, Prof. Leo Frobenius and a team from Germany visited the uKhahlamba Drakensberg to copy and photograph rock paintings. In 1931, Prof. Wells and his team recorded sites in the Cathedral Peak and Cathkin Peak areas. From the early 1950s, paintings continued to be recorded, with a strong focus on the southern half of the Drakensberg.

A more scientific approach to rock art recording began in the 1950s. Publications resulting from this approach included Willcox (1956) and Vinnicombe (1976). The early 1960s saw Knuffel and Hughes searching and recording sites in the Cathedral Peak and Bushmen's Nek areas, and Giants Castle Game Reserve respectively (Knuffel 1962). In the late 1960s, Pager and his co-workers recorded 180 painted and archaeological sites in the Cathedral Peak area (Pager 1971). During the same period and in the early 1970s, Lewis-Williams fully recorded 20 sites in the Southern Giants Castle Game Reserve (Lewis-Williams 1977; 1981).

**The establishment of the Advisory Committee**

After a report by Pager (1973), it became evident that paintings were not protected (see also Bainbridge 1975). He reported that some of the paintings had been completely lost while others had been damaged as a result of human interference. Thus in 1975 Bainbridge recommended various conservation measures (Bainbridge 1975). Some of the suggestions included a guard force to protect the paintings and control entry to the wilderness areas. Other advice came from the NBRI.

The establishment of the Archaeology Department at the Natal Museum in the early 1970s played a significant role (Rudner 1989). The Advisory Committee that was set up in 1975 was under the supervision of the Natal Museum and held its first meeting on 20 August 1975. The committee concluded that there was insufficient data with which to formulate a conservation plan for rock art in
the uKhahlamba (Mazel 1981; Rudner 1989). The Advisory Committee suggested a comprehensive rock art recording project in the Natal Drakensberg on which to base the conservation programme (Mazel 1982; 1984; 1985). The recording project was divided into two phases. It is because of this recording project that the Natal Museum has an extensive database of rock art sites in the uKhahlamba Drakensberg. However, the rock art records currently held at the Natal Museum are outdated, dating back to the late 70s and early 80s.

The Advisory Committee suggested a comprehensive rock art recording project in the Natal Drakensberg on which to base the conservation programme (Mazel 1982; 1984). The recording project was divided into two phases. V. Ward undertook phase one in 1978 (Ward 1979). A. D. Mazel (1981) produced phase two report after almost three years of intensive fieldwork. This report made recommendations to the Department of Water Affairs, Forestry and Environmental Conservation. However, due to lack of funds, Mazel’s recommendations have not been implemented. The lack of funding has not deterred many individuals from playing a meaningful role in the conservation of rock art. The establishment of the RARAMG is evidence of this.

Groups involved in the rock art conservation in KwaZulu-Natal

Individual efforts to protect rock art date back to the early nineteenth century (see Clarke et al 1976; Rudner 1989) and still exist in KwaZulu-Natal. Since 1998, the Rock Art Research and Recording Unit, RARARU (formerly the Rock Art Recording and Monitoring Group) under the guidance of A. Solomon (now) has been working closely with AmafakwaZulu-Natali, the Natal Museum, Ezemvelo KwaZulu-Natal Wildlife and private farm owners. Its membership is voluntary, and membership is very strictly limited to ensure the privacy of information produced. After relying financially on members’ contributions, the group received funding from Lotto for the year 2002-3.

Bergwatch, an NGO operating as a project of the Wildlife and Environment Society of South Africa (WESSA), is another organisation that is playing a significant role in the management of rock art in the province. The organisation is mainly interested in rock art found in community areas. Through Ms. Meridy Pfotenhauer, the Secretary and Coordinator of organisation, Bergwatch has played an active role in sensitising rural people in the northern uKhahlamba Drakensberg regarding the significance of rock art. Other than rock art management, Bergwatch works with communities in the two tribal areas of Mnweni and oKhombe to sensitise community members about the importance of biodiversity and cultural management awareness.

In most cases, these are the areas that are avoided by heritage managers, as they are considered unsafe areas to work in.
The administration of cultural resources in KwaZulu-Natal

The amalgamation of the Regional Office of the National Monuments Council (NMC) and the KwaZulu Monuments Council (KMC) led to the establishment on 1 June 1998 of Amafa aKwaZulu-Natali. The NMC had extensive experience in heritage conservation of urban areas, while the KMC had a good track record in the conservation of sites related to indigenous culture. Amafa aKwaZulu-Natali is the statutory body responsible for the protection and conservation of the province’s cultural, architectural and historical heritage. It operates on an agency basis for SAHRA in terms of a memorandum of understanding. This understanding is extended to the administration of immovable properties in the province owned by SAHRA (Annual Report 1998/99; 2000/2001).

In terms of the KwaZulu-Natal Heritage Act (Act no. 10 of 1997), Amafa was established as the first provincial heritage agency in South Africa and it remained the only provincial heritage agency for some time. Recently, SAHRA has approved the establishments of Provincial Heritage Resources Agencies (PHRA) in Western Cape, Gauteng and Eastern Cape. The KwaZulu-Natal Heritage Act (see appendix 1) replaced the National Monuments Act (Act no. 28 of 1969) in the province. The aims of the act had not changed from the initial aim to preserve rock art and all other types of heritage resources. The KwaZulu-Natal Heritage Act (Act no. 10 of 1997) was used as the blueprint for the drafting of the new national heritage legislation (Annual Report 1998/99; 2000/2001).

Amafa aKwaZulu-Natali works closely with Ezemvelo KwaZulu-Natal Wildlife (EKZNW). As part of their management responsibilities, the two organisations produced a Cultural Resource Management Plan Document (see appendix 4) in 1998 (Wahl et al 1998a, b). In the document, provisions were made to consult with traditional healers, and establish a role that they could play in rock art management. This was the first time that local spiritual interest was being recognised in any way. However, the document was not implemented, as the structure suggested for its implementation (a Cultural Advisory Committee) was not put into place (Wahl et al 1998a, b).

However, in 2002, the idea of a Cultural Advisory Committee was revived. Terms of reference were drawn up. Members of Amafa aKwaZulu-Natali and Ezemvelo KZN Wildlife, San Foundation South Africa (SFSA) and Dr. E. Ndlovu, make up the committee. It is still in its infant stage and not much has happened. The problem, however, is that it is currently not clear whom the SFSA and Dr. Ndlovu are representing, and to whom they report back. In other words, their function on the committee is unclear. In 2003, EKZNW stepped up its role in the management of cultural resources within their reserves by advertising the post of a Cultural Resources Co-ordinator, which after almost two years, has not been filled, apparently because of restructuring in the organisation. These recent steps indicate
a trend towards an awareness of the need for community participation and consultation. The problems probably lie in the incompatibility between present rigid structures and hierarchies, and the more flexible structures required for community participation.

Discussion

Legislation and the goodwill of various benign interest groups have not been adequate to protect the sites in the absence of sustained political will throughout the twentieth century. Furthermore, there has not been adequate material, human resources, or an educated communal support system, which recognises the importance of the local community in management along lines which make sense to the community in terms of its own values. Today, the roles played by individuals and parastatal institutions are disjointed. There is no communication between the authorities in coming up with new approaches to rock art management, approaches that are going to support the legislation and the role of private companies and individuals in rock art management. The past efforts to manage rock art were made by non-indigenous, hierarchically powerful individuals or organisations. At no point has there been an involvement of local communities, and the recent rhetoric has still not translated into action.
Part II

Part II is the ethnographic part of the thesis that shows the findings of my empirical study conducted in two different settings. The first case study looked at people who have no known cultural links to Bushmen. In the second case study, I worked with people who argue that they are Bushmen descendants, thus claiming a Bushmen identity. Both the case studies were conducted amongst people who are poor, all subjected to the same policies, but responding differently. In addition to looking at legislation in both the areas, I compared the attitudes to rock art by these people, as well as their access to rock art sites.

The major differences between the case studies are that the Mnweni and oKhombe communities have lived in their tribal areas for generations, while the Mpofana community was relocated from Kamberg Nature Reserve in 1990. In addition, access to rock art sites at Mnweni and oKhombe does not follow the strict formal regulations set up at the Kamberg Nature Reserve, as Kamberg is a protected area within the World Heritage Site. The Mnweni and oKhombe areas do not fall under any conservation body, and thus are not declared World Heritage Sites. Amongst the people currently living at the Mpofana location are the Duma clan\textsuperscript{52} members. They have argued that they are Bushmen descendants, and have spiritual attachments to Game Pass Shelter, a rock art site found within the protected area.

Chapter six discusses my findings in greater detail. I also outline the importance of my findings in formulating policies that would accommodate all stakeholders involved in rock art, and would create a participatory environment under which rock art would be managed.

-Chapter four-

Survey 1: Mnweni and oKhombe

uKahlamba Drakensberg is divided into three regions, northern, central and southern regions. Mnweni and oKhombe are in the northern regions of the mountain range and Kamberg, my other case study, is located in the southern region. In this chapter, I highlight Mnweni and oKhombe and compare them. As discussed in chapter 1, Mnweni is an amaNgwane area, while amaZizi live at oKhombe.

\textsuperscript{52} Clan refers to lineages sharing a common ancestry and name, even if precise links are not known. They are more than one family and cannot trace their descent back to one male ancestor.
Compared to many other parts of the country, the amaZizi and amaNgwane still live a traditional and very rural way of life, with tribal areas ruled by chiefs. Both communities are descendents of Nguni tribes that fled from Shaka Zulu’s terror in the early nineteenth century and both acknowledge traditional leadership. Chief Miya is the chief of the amaZizi. After a long dispute as to who should be the Chief of the amaNgwane people due to a family feud, a new heir to the throne has been appointed. Although local people still hold onto the traditions, Western values are becoming more prevalent. The acquisition of Western values in some ways undermines the traditional systems, which are breaking down as a result. The role played by older people, *sangomas* and traditional leaders is diminishing.

**Mnweni**

Cattle determine wealth and status, but many of the men migrate to the big cities to find work. Mnweni is a relatively peaceful but very poor area, while in oKhombe there is some communal fighting, mostly over cattle. It was not comfortable to spend nights in oKhombe, as one would wake in the morning to hear that someone had been shot dead during the night. The situation at oKhombe can still not be compared to urban life, which can be much more dangerous depending on the particular neighbourhood. Subsistence farming and tourism are the only major sources of income. The two areas are usually only visited by hikers, because they are inaccessible by car. In presenting the findings, the two areas will be discussed separately.

Mnweni is one of a number of amaNgwane wards located right at the foothills of the majestic uKhahlamba Drakensberg under the oKhahlamba Municipality. It was formerly known as the Upper Tugela Location. As stated in chapter 1, the area includes three sub-wards of the amaNgwane customary tenure area - Khokhwana or Isandlwana, Mabhulesini and Manzana. The whole of the amaNgwane area is about 30 km long and 10 km wide at places, making it the largest tribal land in the uKhahlamba Drakensberg region (Sycholt 2002).

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53 Chief Tshani was sent into exile and stripped of his power by the apartheid government. The younger brother, Chief MaSwazi took over. On his return from exile, Chief Tshani demanded his chieftainship from his brother, who was not willing to give up the position he had held while his brother was away. Chief Tshani passed away and Chief MaSwazi relinquished his power. According to the amaNgwane people, the eldest son of Chief Tshani, is serving a life sentence for rape, and thus cannot assume his reign. An argument in the family also involves rumours that the current leaders stole the chieftainship. The few old family members still alive, who have a wealth of historical knowledge, do not want to contribute what they know, because of fears that their lives might be at risk.

54 Mnweni means the ‘place of the fingers’ (Sycholt 2002). Sycholt describes the area as one of the most impressive areas of the uKhahlamba Drakensberg, offering unspoilt wilderness in its higher reaches, as well as hikes to the source of the Orange (Garrip) River.

55 There are dirt roads, but are not well maintained, and are often in poor condition. I have been involved in an accident in the Mnweni area due to the state of the roads.
According to Ms. Meridy Pfotenhauer⁵⁶, Bergwatch was initially approached by members of the amaNgwane Tribal Council (ATC) to work with mountain communities in the amaNgwane traditional authority area of the Northern Drakensberg. The main reason for approaching Bergwatch was that ATC wanted to bring community development to the area. The organisation works proactively with mountain communities, as is the case at Mnweni, adopting a practical hands-on and participatory approach to projects. Its main functions and objectives include environmental, ecological, cultural, archaeological, legislative and administrative education (www.wildlifesociety.org.za).

Until relatively recently, Mnweni was an archaeological void, as no archaeological surveys had been done before (Wahl 1998; Pfotenhauer pers. comm.). On learning that Bergwatch was working in the area, the Natal Museum and the former KwaZulu-Natal (KZN) Department of Nature Conservation (DNC) suggested that the NGO co-ordinate a rock art research project. Because funding was limited, the objectives of the project were simply to locate previously unrecorded rock art sites known to the community, and to photograph and map the sites, thus providing a basic database for further professional research to take place.

With the help of the local communities, we visited, mapped and photographed 85 rock art sites over a period of three years. This information was given to the Natal Museum and Amafa aKwaZulu-Natali. Bergwatch also sponsored a trip for community members who had participated in the rock art project to visit the Natal Museum to see how records of the trips were stored, said Pfotenhauer, pers. comm.

Meanwhile Bergwatch, together with community development committees conceptualised a package of projects designed to assist the community with projects to improve both their quality of life and the environment (Wahl 1998). Amongst these projects was an Environmental Trust, a Visitor and Cultural Centre, the training of mountain and cultural guides from the community as well donga reclamation. All these projects have since been implemented with funding from a number of sponsors, such as Rand Water, the KwaZulu-Natal Tourism Board, and the Department of Environmental Affairs and Tourism. The Rand Water Mnweni Trust was launched in 1998. A centre was built at the maBlesini ward and formally opened on 20 of September 2002. Guides from three community wards were trained over a period of two years in rock art, mountain and cultural guiding.

**Access to rock art sites**

Unlike in the protected areas, where access is strictly regulated, access to Mnweni is unregulated. People visit the mountains as they wish for different purposes. Families have ‘ownership’ of shelters.

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⁵⁶ Ms. Pfotenhauer has asked that it be noted that any comments or ideas expressed by herself during the interview do not necessarily reflect the views or policy of Bergwatch or the Wildlife and Environment Society of South Africa.
around Mnweni, which are used by shepherds in the summer time. Most of these shelters are painted. Having been to a lot of rock art sites, I believe that Bushmen, among other reasons, chose sites that provided great shelter from natural elements, and were near water sources. These painted shelters are also preferred shelters by the shepherds for similar reasons. They are not chosen for spiritual reasons, but because of the protection they offer from natural threats like rain and lightning. Other unpainted shelters that provide security from the threats mentioned above are also occupied. The use of these shelters, especially by shepherds provides a management challenge. While occupying the shelters, shepherds make fires for cooking and keeping warm. They also write on the rock face with charcoal from the fire, either copying the paintings found in the shelter or writing their own names. These acts have consequences for the paintings.

**Legislation**

In the Mnweni valley and surrounding area many shelters are utilised on a seasonal basis by families who have built huts into the shelters. This has been so for many years and, over time, a sense of ownership of the shelters has developed. Legislation needs to take this, and other issues and sensitivities, into account. In contrast, the KwaZulu-Natal Heritage Act (no. 10 of 1997) stipulates that these are national heritage sites and thus protected by law. According to this act, Section 26 (6) (c) aims to “…prevent what it considers to be inappropriate activities within 50m of sites which contain rock art”. Certainly, when considering the etiquette to be followed while in a rock art site, the activities by the Mnweni residents at shelters would be considered illegal and thus liable for prosecution. According to the etiquette, one cannot make fire, because it deposits soot over the paintings, and one cannot create dust or throw water over the art, as both these practices cause paintings to fade.

The implementation of legislation has been very weak for many years, mainly due to the heritage authorities’ lack of interest in the two tribal areas of the northern uKhahlamba Drakensberg and to the challenges of effectively implementing the legislation. Authorities have been very active and vocal when it comes to rock art management within protected areas. Suggestions from the authorities have ranged from putting up fences around shelters to having shepherds build their huts outside the shelters. But the main questions are how to monitor the implementation of the rock art legislation and what to do if it does not achieve its objectives.

Ms. Pfotenhauer, who has worked with rural communities for eight years, commented that, given the social dynamics of the area, the KwaZulu-Natal Heritage Act could be difficult to implement and that a more “community friendly” approach merits investigation. She commented:
We need a proactive, lateral-thinking type of approach, to facilitate a process aimed at the preservation and conservation of the art by the community. The process needs to be simple, practical and implementable by the very communities who are in contact with the shelters on a daily basis. I believe that when talking to communities, what needs to be emphasised, more than the law itself, is the concept of community management of heritage resources. Unique solutions need to be sought for unique situations, and Mnweni is unique, with its combination of unrivalled natural beauty, spectacular rock paintings, and the rich vibrant culture of the communities who live there. It is recognised by the international community as having global significance and is a potential future World Heritage Site.

From my experience with people, I have realised that they are co-operative when approached politely. For example, the ‘owner’ of a rock art site with a large hut built into the shelter had piled up a supply of firewood against a panel of paintings. I approached him politely, acknowledging his ‘ownership’ of the shelter, and suggested that it might be a good idea to store the wood where it was less likely to damage the art. Three months later when I re-visited the shelter, not only had the wood been moved, but goats that had been penned directly in front of the art, had also been moved to another part of the shelter.

Local people through interaction with the Bergwatch staff have realised the importance of rock art, not only as a cultural heritage resource but also as a tourist attraction the area. As a result, they would like to protect rock art from vandalism. According to Mr. Ndaba, grandson to a local prophet who lived in the mountains and prophesised the construction of the Woodstock Dam, even though they realise that rock art is important for the tourism potential of the area, they would resist demands made by any outsider who comes to the area and orders people around. This statement makes one realise that diplomacy should be used in dealing with rural communities. He provided an example of a white man whom he could only remember as ‘Skhonkwana’. Skhonkwana approached the Mnweni people about a government proposal to move them further down from the mountains to create wilderness areas. Skhonkwana wanted to introduce nature conservation by force. In response to his request, he was told, “the land belongs to us, and our ancestors fought for it, thus cannot be given away”. Acknowledging his failure, Skhonkwana advised the community to resist any plans by any outsider to force them to move anywhere else for conservation purposes.

As Bergwatch we had hoped that by having the authorities involved, rock art appreciation courses would be given and that rock art sites would be visited for further research. This could facilitate a process of ‘debate’ between communities and authorities to develop a common vision and find a way forward for the conservation of the art. Thus far, however, very little interest has been shown on the part of the authorities in working further in the area. Shelters that were flagged in reports as sensitive or under potential threat have not been researched any further. However, we continue to pursue proposals for three projects directly aimed at conserving the rock paintings of Mnweni. These are:

57 Prophet Ndebele lived at Ntabakunetha, eTafuleni, oPhondweni (Manzana), Qhozo, KwaNdala (Khokhwana). He would spend more than six months away from home.
1. Rock art appreciation courses for the wider Mnweni communities.
2. Further investigation and research of rock art sites by suitably qualified people.

NGO’s committed to a combination of natural and cultural resource conservation could make a constructive contribution to the long-term conservation of these resources. Generally speaking, NGO’s operate somewhat differently from many government or parastatal organisations, institutions and departments. Being less career-orientated, members tend to remain within an NGO much longer, and leave less frequently, for reasons of transfer, promotion or a salary upgrade elsewhere. This continuity is often a distinct asset when dealing with communities (Ms. Pfotenhauer, per. comm.).

It can take a long time, sometimes years, to develop a relationship of trust. “We see you for the first year, and then we begin to hear you”, was the way a resident of Mnweni described this issue. In contrast, the employees of heritage organisations are more interested in their careers and thus either get promoted or leave the organisation. I am one example of this situation. Bergwatch has been in the area for years through their coordinator and is trusted by the local Mnweni community. It would then be crucial to involve them in all initiatives for the protection of rock art.

People’s perceptions of rock art management

Paintings have always been known in the area. However, for many years the local people who knew of the existence of rock paintings in the surrounding shelters did not attach any importance to the rock art. To them they were just paintings found in the shelters that had previously been occupied by the Bushmen people who once roamed the area. According to local guides at the Amangwane Tourism Centre, the shelters are used for the protection of both the shepherds and the livestock. Kraals and huts built in the shelters are used seasonally during the summer periods. In winter, the livestock is moved down to the low-lying areas, due to harsh winter conditions at the higher altitudes. Recent paintings have been painted at shelters used by herders. These are mainly in the form of black crosses, used to protect the shepherds from being struck by lightning, for example, in uBhebhe shelter and Chibini shelter.

The human occupation of these shelters has caused damage to rock art, as animals rub against the rock face and shepherds make graffiti, trying to imitate the art made by the Bushmen (e.g. KwaMfazi 1 and 2 shelters; KwaMdatsheni; KwaThenda, etc). This problem is still an issue today. When I visited

58 In conjunction with Amafa aKwaZulu-Natali, Natal Museum and the Maloti-Drakensberg Transfrontier Project, Bergwatch has provided the local community guides an opportunity to receive further rock art training.
59 It is not clear whether the use of the black crosses is traditional or a Christian inspiration. In the book of Exodus, the Israelites marked their doors with blood of sacrifice to protect their sons from the Angel of Death. Making a cross wards off evil. The use of the black crosses has been associated with the Nguni speaking people for a very long time.
KwaThenda with Mr. Nkosi, he was shocked to realise that the shelter had evidence of recent occupation:

I think it is due to the stock theft in the area, committed mainly by people from neighbouring Lesotho working in collaboration with some local people that the shelters found in the higher areas (e.g. KwaThenda) are no longer preferred for herding during summer periods. Instead, shelters in the low-lying areas are preferred (e.g. KwaMdatsheni), resulting in the occupation of shelters that were not previously occupied. There are tensions amongst local people over the employment of Lesotho nationals as shepherds as they are accused of stock theft. The people employing them are also accused to be part of the ploy (Mr. Nkosi, per. comm.).

However, not everyone uses the shelters for protection, as kraals or storage. The late Mr. Ntwana Nhlangothi lived in a hut built inside a shelter, with a painted eland inside the hut, and it was never defaced. His reason for living in the hut was due to the aesthetic of the paintings and had nothing to do with the spiritual significance of the paintings.

It is probable that it was the presence of Bergwatch that changed people’s perceptions of rock art. Bergwatch facilitated workshops run by two archaeologists, which local people were invited to attend. The “objectives were to sensitisie people to the importance of rock art”, said Ms. Meridy Pfotenhauer. Most of those who attended were old people, and very few youth attended. However this changed over time and young people started attending workshops. I feel that this was in a hope of finding jobs. Community guides were selected from the three wards of Mnweni and were given intensive training. According to the local community guides, school-going children lack the knowledge that has been acquired by the guides and other old people of the area. Guides are worried about this scenario, as in some instances; the school children continue to vandalise the art. Local school children have been to Little Ntonyelana, where therianthropes were defaced. Schoolteachers have asked for rock art appreciation courses to be offered so that they can raise awareness amongst the youth about the importance of rock art.

The workshops, the construction of the Amangwane Cultural Tourism Centre, and the subsequent intensive two-year training of the guides in rock art, and natural and cultural heritage have had a considerable effect on the people, especially the youth. They are now taking rock art matters much more seriously than they did before. Now that their peers are involved in the centre as tour guides, they see rock art as a resource that creates employment. The local guides, who were intensively trained for two years, were selected from the three sub-wards of Mnweni, namely, Khokhwana/Sandlwana, Manzana and maBlesini. During my interview with Thandi, a guide at the Amangwane Cultural Tourism Centre, she said:
I have been approached by a number of young people who want to visit rock art sites and get informed about the importance of rock art. But the stumbling block has been affordability. As local guides, we charge a fee R40.00 for three or more people and R100.00 for less than three.

Thus the interest in rock art is based on financial opportunities rather than spiritual interest in the paintings. It meant nothing to the youth in the past, except that the Bushmen people made the paintings. Now that they see their age mates having jobs, their attitude towards the paintings is changing.

Although the workshops might have failed in luring the youth to attend because they could not see how they would benefit from them, those old people who attended changed their perceptions of rock art.

Some old people had kraals in the shelters for their animals and shepherds. However, this is changing. As community guides, we see this as a positive step; according to us, it shows that if people are approached diplomatically, they will be willing to change their perceptions and behaviours. Mr. Shelembe, a local sangoma and a community guide, is an example of someone who has since removed his kraal from a shelter that had paintings (Sibusiso and Sipho).

Generally speaking, there are three broad categories of rock art sites in the Mnweni valley. These are:

1. Shelters near schools: These have tended to be defaced by school children. An example of such a shelter is Little Ntonyelana, where therianthropes were defaced.

2. Shelters known to some older people or izangoma: These have been better preserved because of the respect shown by these people to rock art sites. I believed that these sites were not better preserved because of their spiritual significance to the old people, but because of respect that was shown to the paintings known to have been painted by the Bushmen. For example:
   i. Mr. Shelembe, a local sangoma and a guide, asks permission of the Bushmen ancestors to enter a rock art site and/or makes a small offering to the shelter. I was not convinced by his argument that he acknowledges the spiritual significance of the paintings. As mentioned by the community guides above, Mr. Shelembe’s family is one of many families that used painted shelters as kraals. He moved his kraal after having been introduced to Bergwatch. In addition, there is no evidence that he chose painted sites because of their spiritual power.
   ii. Mr. Ntwana Nhlangothi (Mr. Nhlangothi has since died) lived in a hut constructed around a panel of rock art that was not defaced or damaged. His reason for building the
hut inside the rock art shelter was aesthetic, i.e. he said he liked looking at the art. As previously mentioned, his occupation of the shelter had nothing to do with the spiritual significance of the paintings.

3. Sites damaged by the BaSotho and other groups who use rock art sites to store cannabis: However, according to Ms. Pfotenhauer, it appears that sites used for cannabis storage by local, such as sites in the Nolepo Valley, have less damage than sites used for the same purpose by the BaSotho. Most damage is done during harvesting time, when many people are employed to work on the dagga fields.

I was interested in interviewing the people who store dagga in painted shelters. Cannabis use may produce altered states and visions. I thought that there might be a belief that rock art sites, as places of spiritual power, would ensure the effective safe keeping of dagga. It was, however, a difficult task to undertake. The use of dagga is still illegal in South Africa. Therefore, people do not openly discuss their involvement in dagga trading with strangers.

**oKhombe**

Generally a poor area characterised by cattle raiding and instability\(^60\), oKhombe is home to the amaZizi people. It is one of the six amaZizi wards in the northern uKhahlamba Drakensberg. oKhombe ward consists of six sub-wards, namely, iNgubhela, Mahlabathini, Mpameni, Enhlanokhombe, oQolweni and Sigodiphola.

Unlike Mnweni, which has many known rock art sites, there are only five rock art sites currently known by the local people at oKhombe. These are Nyosi shelter, at Ngubhela; Nomdumo shelter, at Qolweni; and Mnguni, Ndanyana (Empofini\(^61\)), and eMdlankomo shelters at Enhlanokhombe. Bergwatch, together with the Farmer Support Group (FSG) of the University of Natal, Pietermaritzburg, has become involved in work similar to that which it did at Mnweni, in oKhombe, oBanjaneni and eBusingatha (all in the amaZizi area, Northern Drakensberg). The NGO also continues to liaise closely with heritage institutions of the province.

**Access to rock art sites**

Similarly to Mnweni, access to rock art sites at oKhombe is ‘open’ to all. Shelters, whether painted or not, are used for sheltering the livestock and shepherds in summer against harsh weather conditions.

\(^{60}\) The problem of cattle raiding has led to a number of killings.

\(^{61}\) *Impofu* is a Zulu word that means an eland. It was named as such because there are a lot of eland painted in the shelter.
Mnguni shelter has a kraal inside that is used by the shepherds of the area. Evidence for this is the painting of black crosses used for protection. Nyosi and Nomdumo shelters do not seem to be preferred for livestock. This might be because they are within the community area, as compared to Mguni which is a two-hour hike. Of the five known rock art shelters, Mnguni shelter is the only one that seemingly is currently accessed for religious purposes.

Of interest are the recent\textsuperscript{62} paintings of Christian crosses, lines (horizontal and vertical) and stars (red and black) and small crosses in black. According to Mr. Masengemvu and Mr. Kubheka, there are two explanations for the existence of such paintings.

Firstly, they are as the result of the site being used by a local traditional healer. Secondly black crosses in the shelters are an indication that they are or have been used by shepherds (as previously mentioned in the Mnweni discussion). They are painted to provide protection against evil spirits and bad weather while herding in the mountains. These black crosses are not limited to painted shelters, they can also be found in unpainted shelters (giving rise to an argument that paintings were not of any significance but the physical protection provided by the shelter to the shepherds).

\textit{“New age” rock art}

These paintings comprised crosses, parallel lines (horizontal and vertical), a moon and stars. When I investigated the origins of the paintings and to find out who the artist was, I was led to Mrs. Mgabadeli, a traditional healer of EnhlanoKhombe. From my interviews with some local people, she was labelled as being responsible for the paintings, as she is the only one known locally to spend days in the mountains praying. It was very difficult to meet Mrs. Mgabadeli who was often away. When I eventually got hold of her, she showed a lot of interest in what I was doing and was willing to help me in whatever way possible. Below is an extract from my interview with Mrs. Mgabadeli, discussing her background and how she became a \textit{sangoma}:

\textbf{I learnt the art of being a traditional healer, not from anyone, but as a God given talent. I do not believe in taking money to train anyone to become a traditional healer. While still young, we were accompanying a cousin with a relative, when we had to cross a river. While crossing, I saw a big, scary animal that I could not identify biologically. Again, when we were crossing back, I met up the same animal. My cousin managed to escape and run away to report to the family back at home that an animal in the river had caught me and I needed some help. The animal released me before my family could reach the river. My father took the matter seriously. He consulted a traditional healer, who advised him to perform a cleansing ritual for me in the river where I met up with the animal. My father was informed that if he did not perform such a ritual, I would be engulfed with problems and would never be married. My father performed the ritual, and within a short while, I got married. In my dreams, I started learning about traditional medicine.}

\textsuperscript{62} Recent in that they do not date to the same time as the Bushmen paintings.
I spend days in the mountains (as it had been mentioned to me by my informants). I get shown the different locations I should visit to pray in dreams. All the locations I have visited so far have not had Bushmen paintings. I have been shown rock art paintings together with Bushmen people in a dream once before; however; I have not seen any paintings or met any Bushmen. Before I leave for the destination, I need to be mentally and psychologically prepared and this I achieve by fasting for a number of days. I have been to a number of mountain peaks in the surrounding areas for prayer.

The reason why I was shown Bushmen and their rock art in my dream was because there was a particular sick individual who was to be sent to me for healing. I needed to find any place that had been inhabited by Bushmen in the past and contained rock art. A bone of a dead Bushmen was required to mix the medicine. However, when shown these paintings in my dream, I had not seen any rock art being shown these paintings in my dream because I grew up at Ngoba (an area around Emmaus some 30km away from the uKhahlamba Mountains). The sick person that had been shown to me during the dream did arrive, and unfortunately I turned him down. I never heard what eventually happened to him, but considering how sick he was, he probably died. I could not help him, and thus had to turn him away. The reason was because when he came, I had not successfully located the paintings. I did not want to lie and say I could cure him when I knew that I would not.

This response, however, did not convince me. I believe that any traditional healer who has the best interests of his/her patients at heart would go to great lengths to ensure the patient is healed. Mrs. Mgabadeli goes out of her way to find other locations shown to her in her dreams, other than the rock art site that she needs to visit for praying. I had a strong feeling that she wanted to conceal the fact that she had painted the recent paintings at Mnguni shelter. I further believe that she did not feel comfortable with admitting to having been to Mnguni rock art shelter at any stage, even though I had mentioned that I was only a student conducting research.

Mrs. Mgabadeli denied any knowledge of the paintings at the rock art site. As previously mentioned, Mrs. Mgabadeli mentioned that she had never seen any paintings in her lifetime. However, she admitted that she had been shown paintings in her dreams before, and had to draw those paintings. She decided to draw the paintings onto a blue fabric and had hung them in one of the houses located in the yard. She asked me to look at the drawings, and they were exactly the same images as the ones that had recently been painted at uMnguni. These paintings comprised of crosses, stars, and a moon, which Mrs. Mgabadeli described as following:

The star stands for life; the moon has to do with praying to God Almighty while crosses stand for oath.

63 She asked me if I had met any Bushmen, and whether they were still living in the uKhahlamba Drakensberg.
Based on the conversation I had with Mrs. Mgabadeli, I concluded that she has an interest in rock art and sees making paintings on canvas very important. She has spiritual interest in these paintings.

Fig. 14: “New age” rock art from Mnguni shelter. Upper: Left-Black crosses used for protection against bad weather, Right-crosses of oath, stars and horizontal lines. Lower: Horizontal and parallel lines painted in different colours.

Legislation

In contrast to Mnweni, where most painted shelters with paintings are ‘owned’ by families, only one of the three rock art shelters at oKhombe is ‘owned’ by a particular family, namely Mnguni shelter, although the identity of the family is not known to me. This is from the evidence provided in the shelter. There is a kraal built on the left hand side of the shelter, looking inwards. The lack of ownership of the other two painted shelters has a direct impact on the management of rock art sites. In terms of the status of preservation of the three sites, only Nyosi shelter in Ngubhela has been vandalised. The damage to rock paintings at Nomdumo shelter is natural, and is due to rock exfoliation. The introduction of new paintings to Mnguni shelter is interesting from a legislative point of view. These paintings are found on the right hand side of the shelter, looking inwards. Re-painting of shelters is not allowed in terms of the legislation. The definition of rock art only refers to paintings older than 100 years (KZN Heritage Act 1997). At the time of writing this dissertation, the heritage authorities do not yet know about these paintings. Even if they knew, implementation of the legislation is a big challenge. Police are not trained in cultural legislation and are not interested in arresting people because they have defaced rock art.
This issue of new paintings introduces all sorts of interesting critiques against current notions of heritage, authenticity and representation. Implicit in all the legislation is the idea that rock art’s cultural value is based on products from ancient past. The age of an artwork is what gives it value. Contemporary artwork is seen as, at best, contrived and of no significance, and at worst, vandalism.

People’s perceptions of rock art management

Of the three rock art sites known at oKhombe, Nyosi shelter is the only one that has graffiti. On my inspection of the shelter in May 2002, while working for Amafa aKwaZulu-Natali, I found out that the graffiti had been made by local school children after a visit to the shelter the previous December, when they were accompanied by their schoolteachers from Ngubhela. In my attempts to get to the bottom of the reasons why these graffiti was made, I was told by a local tourism official, Mr. Kubheka that:

We were informed that the scholars who had been to Nyosi shelter the past December with their teachers had revisited the shelter on their own and made some graffiti on the rock face. The aim of the visit was to show the children the rock art found nearby made by Bushmen and relate this to the classroom discussions they had at school. The shelter is close to the community area, and the graffiti took the form of names written either near or over the paintings. People have not damaged Nomdumo shelter, located just above the Nomdumo River, yet they pass the shelter on a daily basis, as they use the path crossing the river near the site. The arrival of Bergwatch in the area has made a big difference in the level of knowledge of rock art. Mr. Hlatshwayo, the local iNduna, always raises discussions on the importance of rock art during community meetings. This has had a considerable effect on people’s perceptions towards rock art and has created an interest amongst people at large. In addition, we have plans to create programmes to inform the whole community about rock art management and its benefits to them. These plans are still being developed.

Similarly to Mnweni before the intervention of Bergwatch, local people lacked knowledge of the importance of rock art. However, unlike Mnweni, the damage to the five rock art sites has been minimal. The appreciation of rock art is enhanced by the knowledge that they can make a living from rock art, thus their interest is economic rather than spiritual, although that that may not be the case for the traditional healer interviewed.

Discussion

Access to rock art sites is unrestricted to any outsider. Shelters, either painted or unpainted, are ‘owned’ by particular families who have unlimited access to them. I believe that the main reason for such ‘open’ access is provided by the fact that authority lies with the traditional leaders in both these

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64 The teachers had little background in rock art, and no great knowledge on the importance of rock art. Local teachers have since asked to be provided with more information regarding the significance of rock art and the need to manage it, so that they can pass this information to the school going children.
areas. These traditional leaders have had no laws restricting people from accessing the shelters, because they also had no knowledge regarding the significance of rock art.

The implementation of legislation in both these areas has been poor. This is because heritage managers have often focused on formally protected areas, and both Mnweni and oKhombe are not formally protected areas. Both areas were neglected until the involvement of Bergwatch. It is such involvement that has been changing the people’s perceptions towards rock art. The paintings have now been accorded economic significance, in that they can provide jobs for community guides. The construction of the centre at Mnweni has seen this dream being realised. A similar centre will be constructed at oKhombe in the near future, and the same impact is envisaged.

Although the economic emphasis on rock art by the people of Mnweni and oKhombe can be seen as a weakness in my general argument that the current legislation prevents people access to rock art sites for spiritual purposes, however, it can also be interpreted as an indication of the relationship that existed between Bushmen and the amaNgwane and amaZizi communities. In Chapter 2, I argued that the kind of interaction that existed between Bushmen and local Bantu speaking communities would determine how people view rock art today. The main significance of the paintings seems to be an economic one. Even though the general public does not attach any spiritual significance to the rock art, there is one exception at oKhombe, where religious images have been painted. The case of Mrs. Mgabadeli is an interesting one but on its own does not qualify that people in this area are interested in the spiritual significance of the Bushmen paintings. In evaluating the denial by Mrs. Mgabadeli as the artist behind the recent paintings at Mnguni shelter, one might argue that maybe Mrs. Mgabadeli is not interested in Bushmen paintings at all, but only those which are more recent and of “Nguni” origin if not actually her own work.
Outside Kamberg Nature Reserve is Mpofana\textsuperscript{65} location. The people who live in the location were removed in 1990 when the then Natal Parks Board expropriated the Game Pass farm that was owned by a private landowner. People were promised compensation\textsuperscript{66} for the land that was eventually proclaimed a protected area. Although the people living at Mpofana live in the same general area as the ones at Mnweni and oKhombe, there are some differences. Amongst the people living in the Mpofana location today is the Duma clan. This group of people refers to themselves as Bushmen descendants. This cultural identity is indicative of a completely different relationship to rock art compared to the people in the previous case study. I discuss in greater details the oral story they tell as evidence that they were born of a Bushmen paternal ancestor. These descendants have expressed interest in having access to Game Pass, a rock art site inside the reserve, in order to perform ritual ceremonies to appease their ancestors.

Some researchers have disputed what they call “claims” by some people to be Bushmen descendants. The main reason given for disputing such “claims” is that people are after economic benefits in the new democratic South Africa. Indeed there has been an upsurge in the number of people coming out and referring to themselves as descendants of the first people now that South Africa is a free country. There has definitely been a change in attitude towards indigenous rights and dignity in the country since 1994. However, as it shall be demonstrated later in the chapter, the economic argument does not always hold water.

An example of these “claims” as referred to by some researchers was witnessed in South Africa, in 2002 when the remains of Sarah Baartman were returned to the country to be buried at Gamtoos\textsuperscript{67} River Valley in the Eastern Cape Province. There were a number of people who claimed that they were descendants of Sarah Baartman. It was argued at the time that these people did so because of the status they would have been accorded. Sarah Baartman, born in 1789, was a Khoi-Khoi – a people who were known derogatively as ‘Hottentots’. From the Cape Flats where she lived, she was taken away in 1810 as the ‘property’ of a British ship’s doctor, William Dunlop, who was fascinated by what

\textsuperscript{65}Origins of the name are unknown. But I suspect that it might have originated from the word eland, which is impofu in isiZulu.

\textsuperscript{66}They were compensated with housing. A two-roomed house was built per family. The Duma clan members were among the last people to leave Game Pass farm.

\textsuperscript{67}Where she was actually born is somewhat conjectural, but she was recruited from the Cape flats. The choice of the burial site was more aesthetic and symbolic than historically based. There have been complaints in the newspaper articles that the burial site proclaimed a national monument resembles now a rubbish area (Daily Dispatch 2002).
seemed to him to be her “unusual shape” (www.nisaonline.com/sara; www.cooper.edu; www.carlagirl.net/words/venbib; www.tonguesmagazine.org; see also Skotnes 1996b; Yvette 1998) and exhibited in European Freak Shows (Whisson, personal communication).

The Duma


Synonymous to the struggle by Sarah Baartman, the Bushmen descendants of the Duma clan are also struggling to achieve their spiritual intentions. The Duma clan originates from the Underberg District in the southern uKhahlamba Drakensberg. They speak Zulu today and no Bushmen language69 and their approach to ritual ceremonies is the same as that practiced by the Zulu people.

When one moves from one area to the other, she/he changes in some ways and adapts to the new area. In the process, she/he acquires the customs practised in the new area. If I were to leave Kamberg and live in town, I would change some aspects of my life, which would be contrary to the rural environment I was brought up in. Due to centuries that have passed since our ancestor’s assimilation into the Zulu people, we have lost the knowledge of our Bushmen ancestors’ way of life. However, when the anthropologists tell us how things were done in the past, from their work carried out elsewhere, we try to do those things. In addition to the knowledge communicated to us by anthropologists and other people working with us, we gain further knowledge about our ancestors by reading academic books and interacting with other Bushmen descendants we have come to know during meetings70, said Mbongiseni.

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68 These are the Duma clan praises. In brief, the praise describes the clan by making it similar to the ocean that can only be crossed by swallows because they fly. It goes further by saying that the Duma people were cooked in one pot with a stone, and the stone finished cooking before the Duma were cooked. I think this description explains just how strong the Duma people are.

69 It is often argued that there is not even one group of people who can still speak the click language of the Bushmen who once roamed the uKhahlamba Drakensberg. However, there has been a study carried out by Trail (unpublished report 2003) on the Nxenxe language that apparently can only be spoken by few people today.

70 There were many such meetings after the involvement and representation of Bushmen groups, mainly from Namibia, where WIMSA is based, on the steering committee that was responsible for the displays created at the Didima San Rock Art centre. A setback to the Duma’s attempts to gain more knowledge on their Bushmen ancestors is that they lack economic ‘muscle’, and as such cannot afford to visit other Bushmen who still live a traditional way of life and still speak Bushman languages to learn from them. But there is a definite effort to reclaim their Bushman identity.
The Bushmen identity of the Duma clan

While still young, we used to be told by our parents and grand parents that we are Bushmen. However, at that early age, it did not mean much, and we never bothered to find out why was that the case, said Bongane.

We were once asked at school what tribe we came from. I was puzzled by this kind of a question. Some of our classmates easily referred to themselves as Hlubi, amaNgwane, Zulu, etc. Some of us were not too sure. The teacher asked all those who were not so sure to consult with their parents. I went to ask my parents, and grand parents, and I was told we are Bushmen. I did not necessarily understand what that statement meant. I guess I was just too young. When I said I was a Bushmen to my class the next day, everyone broke in laughter. Again, it did not mean much to me, said Jabulile.

Local neighbours used to call us by all kind of names such as Khoi Khoi, Bushmen, etc. They would call these names loud, shouting towards us, thinking we would feel insulted. However, in contrast, we would show that we as the Duma clan take pride in our cultural identity, said Jabulile.

I have a friend and a colleague from the Duma clan who always takes pride in referring to himself as a Bushmen. I sometimes visit him, and find that he is mixing his traditional medicine and he may then make a joke and say “Sebungivukile uButhwa” (I am now returning to my Bushmen roots). Jabulile mentioned that her peers, mostly male, still call her clan relatives as either Khoi-Khoi or Bushmen. She mentioned that she had had some bad experiences after having worked at the Didima San Rock Art Centre. Jabulile was one of a group of five members of Bushmen descendants who played a role in the construction of the San Art Centre. From this experience, she was determined to put the skills she had acquired to good use. When she communicated her interest in furthering the construction work she did at Cathedral Peak, rude comments used to be directed at her by her peers. In my opinion this highlights the importance of identity and belonging even if is in negative terms. Below is one such rude comment uttered at Jabulile:

Yes, there is every opportunity for you to succeed. All you need is to show your buttocks to the white people, and they would attest to you being a Bushman.

This is what she said in her vernacular:
Ya vele wena angeke uhlale ungaphumeleli, ngoba uzoqhansula izinqa ebelungwini kubonakale ukuthi unguMuthwa.

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71 Not everyone can make a distinction between the pastoralists, Khoi-Khoi and the hunter-gathers, Bushmen. That is why at times the two terms are used interchangeably.

72 Didima San Art Centre is a centre run by Ezemvelo KZN Wildlife at Cathedral Peak Nature Reserve. It was built to commemorate the Bushmen of the uKhahlamba Drakensberg.
Cynics might ask whether this assertion of Bushmen identity by the Duma is an attempt to take advantage of and cash in on the demolition of apartheid structures and the subsequent focus on the ‘first people’. However, oral tradition and academic research has it that the Duma people are Bushmen descendants and their origins have been long known. There are three explanations discussed below for the Bushmen identity of the Duma clan. The first is the oral folklore explained to me by about three individuals I interviewed separately, the second and the third are two versions of academic research.

As I was growing up, I wanted to know why we were called Bushmen. In response to this interest, I was told that there was a Chief73 by the name Chief Dumisa of the Dumisa clan. One day, a group of people amongst his subjects went hunting. Within the group, I cannot remember his name, I would find it out for you74, was a man who was part of a hunting expedition. During their hunt, he got hurt and lost touch with the others. The rest of the hunting expedition did not realise his ill fortune. The assumption was that he was following them; however, this was not so. Days and weeks passed by, and they did not see a trace of him. The Bushmen, who were skilled in medicinal and tracking, found him while still injured. They adopted him and had him healed. They lived with him at the caves, until he learned the Bushmen language. One day he decided to go home to his family and amongst his people. When he got home he explained the whole story with regards to what had happened to him. The Bushmen became his friends and he met up with them whenever he was out hunting.

According to the second interpretation, as the results of the conflicts discussed in chapter 1, the settlers approached Chief Dumisa with the intention of having him paying a role in the eradication of Bushmen. Although he had agreed to the proposal he went against the promises that he had made to the white settlers. Instead, he secretly invited the Bushmen to join his Zulu-speaking Dumisa clan. This was to give them protection against the colonial authorities. The Bushmen agreed to the proposal and became assimilated into the Dumisa clan and adopted the Zulu way of life. In the process they took on the clan-name of their Zulu protector.

Slightly different to the two above stories is Vinnicombe’s perspective on history in her book People of the Eland. According to Vinnicombe (1976: 12, 79, 104), Chief Dumisa, who was dispossessed during the Mfecane by Shaka, attached himself to a group of wandering Bushmen, and from them learned the art of hunting elephants with poisoned assegais (also see Gardiner 1836: 313; Isaacs 1836: 185, 197). He fed his people elephant meat (Mackeurten 1930: 157-8; Bulpin 1953: 45-46, Vinnicombe 1976: 12; Wright 1999). Chief Dumisa was not a hereditary chief but gained the position because of his hunting skills, physical strength and endurance. Dumisa’s descendants are now located

73 There is no evidence that the hunter-gathering communities had Chiefs-though it seems they emerged in response to Nguni intrusion into their areas. Leaders became leaders by achievement not inheritance. The Dutch used the word “kaptyn” to describe such men, and the same word for hereditary Xhosa Chiefs or Kings.

74 He has not remembered the name even today.
in the Muguswana Reserve on the Mqatsheni river (Vinnicombe 1976: 104). Dumisa once pretended to be dead and was picked up by Bushmen, who taught him many things. However, he did not feel any loyalty towards the Bushmen who had helped him. His people were located between Nzinga and the Ndawana rivers in order to clear the area of Bushmen and wild animals as part of barrier locations in the Southern uKhahlamba Drakensberg. He is said to have fulfilled this task with great efficiency (District Record Book, Underberg Magistracy). Vinnicombe (1976: 106) maintains that Dumisa is said to have had no Bushmen wives, as they were considered animals, but admits that some of his men did take Bushmen wives (Vinnicombe 1976: 106).

Although slightly different, there are general similarities between the three stories. The general difference lies in the contradictory role played by Chief Dumisa in eradicating the Bushmen. There is general agreement between the first and the third story in that the two groups, Dumisa clan and a Bushmen group met as the result of hunting. In is also clearly stated as well that there were intermarriages that took place between Dumisa’s people and the Bushmen people. In my evaluation of the three interpretations, I am in agreement with all of them. My supporting reasons are that it sounds logical that the surname Duma was taken from the name Dumisa. Surely had Dumisa carried out the instructions as determined by the white settlers, he would not have been held highly by the Bushmen. They would not have seen a need of acquiring some form of identity from him. It is also interesting that most Duma people have their origins in the area around Underberg. Even those who now live in other areas still speak of their families who are still living in their area of origin. Most families with the Duma surname are located at the uKhahlamba Drakensberg although there are some found further into the interior. The Duma clan members have, with the assistance of a guide who used to be based at Didima Camp, located about ten Duma families at the Cathedral Peak area.  

We consider ourselves to be true descendants of the Bushmen people, as do our neighbours whom we have lived with for generations. We also consider rock art to be part of our cultural heritage. Thus, we would very much like to be part of rock art conservation initiatives. Even the constitution allows rights to perform our private ritual performances by accessing rock art sites, especially Game Pass, said Bheki.

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75 I met about two of these families for interviews. They were not very successful, as all they could tell me was that they were always told they were Bushmen, but never understood how. The other difficulty was that I could only interview females that have been married into the Duma clan, and thus were not born as Duma. Their husbands who used to call themselves Bushmen have passed away.

76 It is stated in the constitution (1996), Section 2 (31) (1) (a) that ‘persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community to enjoy their culture, practice their religion and use their language and’; (b) ‘to form and maintain cultural, religious and linguistic associations and other organs of civil society’.

Mr. Thabo Mbeki, South Africa’s second democratically elected President, has a keen interest in rock art\textsuperscript{77}. After visiting a number of shelters in the uKhahlamba Drakensberg, notably Game Pass (Kamberg) while he was on a Christmas holiday in December 1999 and Main Caves (Giants Castle), he promised that his government would set aside money to see into it that rock art centres were built around the country to brand South Africa as a rock art tourism destination, another economic exploitation. The Rock Art Research Institute (RARI) at the University of the Witwatersrand was approached by the then Minister of Environmental Affairs and tourism, Mr. Valli Moosa, for suggestions and for the implementation of such a goal by the government (Carnie 2002). The final agreement was that only two centres could be built taking into consideration the funding made available from the government. These were to be at Kamberg and Wildebeestkuil, outside Kimberley. A painted shelter and an engraved site were chosen. Game Pass was chosen, amongst other reasons, for being the first South African rock art site that was formally published in an international journal in 1915\textsuperscript{78} and for having the “Rosetta stone” (Fig. 15), that David Lewis-Williams used as a key to uncover the meaning behind the paintings. A steering committee comprising of Amifa aKwaZulu-Natali, Ezemvelo KwaZulu-Natal Wildlife, Natal Museum and Secret San Foundation\textsuperscript{79} was established. At the end of the construction, the opening ceremony was delayed by the unavailability of the President to grace the ceremony. A later decision was taken that the Premier would cut the ribbon symbolising the official opening of the centre, together with a child chosen after a school competition amongst the local scholars.

\textsuperscript{77} I once received a handwritten letter from the President encouraging me “not to be discouraged” in furthering my studies as “we work to recover our history and identity”.

\textsuperscript{78} Scientific American.

\textsuperscript{79} The foundation was later forced to change its name to South African San Foundation by pressure exerted by some Bushmen descendants who were argued that they cannot be called Secret San when they proudly talk about their cultural identity.
During the opening of the Kamberg Rock Art Interpretation Centre on 4 of June 2002, the Duma clan was invited to attend on the basis of their Bushmen identity. On the day, Bheki, a clan representative mentioned how grateful he was that the Bushmen rock art was being appreciated and used as a method to generate financial income for the local community. He mentioned the following in his address:

It is wonderful to be here today, even our ancestors who are with us at this present moment are happy. It makes us the Duma feel proud that the cultural heritage of our ancestors is getting the recognition it does today with the opening of this centre. However, on behalf of the Duma clan members, I would like to make a request that we privately hold another function where the Duma clan people from Mpofana and other areas could have access to Game Pass Shelter to perform rituals in order to pay respects to all our Bushmen ancestors who had lived in the uKhahlamba Drakensberg (Carnie 2002; Bishop 2002). We are proposing that there be two functions, one private and the other public. The private function will be attended only by the Duma people, while the public function is to take place a day later, and be attended variety of people from invited politicians to the Zulu community living at the Mpofana location.

The proposal to perform ritual practices to appease or acknowledge the ancestors could be seen as a form of indigenous management of a site. The KwaZulu-Natal Premier, the Provincial Minister of Environmental Affairs and Tourism and the CEO of EKZNW responded positively to the request and pledged their willingness to fund the ritual. In his speech, the Premier, who was very excited to be in an opening ceremony attended by Bushmen descendants, said “today, we are witnessing a landmark occasion where we put behind the legacies of the past – and through the establishments of the rock art

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80 Wildebeestkuil Rock Art Centre was officially opened in December 6, 2002.
81 It is significant to note that Bushmen did not greatly revere their ancestors. The current belief in ancestors by Bushmen descendants is again another testimony of the influence on Bushmen by Nguni speaking people.
centre and the upgrading of tourism facilities at Kamberg – make this site accessible to all, as a world
class experience” (Carnie 2002). He further said, “the ritual should take place in September of this
year, as this is the month that commemorates the country’s heritage and culture”.

Out of interest, I asked some clan members and Robert who was involved in helping to organise the
ritual ceremony where the interest in performing a ritual ceremony came from. I was also interested in
finding out whether we were witnessing the invention of a new tradition. Interviewed separately, both
the Duma and official confirmed that the idea to perform the ceremony was initiated by clan members,
not outsiders.

I still remember that while growing up, my grandfathers used to go to Game Pass Shelter with
traditional beer and communicate with the ancestors, said Bongane.

I was informed that when the clan representative publicly asked that a private and public ceremony be
allowed for the Duma to pay homage to their ancestors, he had already approached the Premier about
such a request earlier on the day. This gave me an impression that their request for such a ritual was
the continuation of an age-old ritual ceremony, which could not be undertaken beyond 1990, when the
Duma clan and other community members were relocated. It is important to note that the name of the
mountain where Game Pass Shelter is located is also called KwaBathwa\(^{82}\) (the place of the Bushmen).
Robert had the following to say regarding the ritual ceremony:

I continuously encourage the Duma to re-enact ancient ceremonies, even if some ‘invention of
tradition’ was also entailed.

To fulfil the intentions of the Duma, I called the first meeting between Amafa aKwaZulu-Natali,
Ezemvelo KwaZulu-Natal Wildlife (EKZNW) and the Natal Museum\(^{83}\). After this meeting, a series of
meetings were then held between the Duma, official representatives from Amafa aKwaZulu-Natali,
the Natal Museum and EKZNW. There were two purposes for the meetings. Firstly, to find out what
kind of assistance the family would require, in order to proceed with the ritual and secondly, to
understand exactly how a ritual would be performed, in order to make sure that the heritage legislation
was adhered to. In the initial meetings, the Duma had requested that two elands be made available to
them to consume at a meal that was to follow the ritual at the shelter, as well as during the following
day. These elands were to be killed traditionally.

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\(^{82}\) A term used by Bantu-speaking people to refer to Bushmen people in Southern Africa. The forest hunters in the Great
Lakes are also called BaTwa by their Bantu-speaking neighbours.

\(^{83}\) I was still an Amafa employee at the time. The representative from the Natal Museum sent an apology. The purpose of
such a meeting was to develop the role that would be played by the three organisations towards the success of the ritual
ceremony.
The traditional hunting of the eland means hunting with a pack of dogs and spears. A pack of dogs easily intimidate the eland and it just stands still when approached by dogs, enabling hunters to stab it.

According to the reserve conservation manager, the hunting of the eland was not an option, because there were not enough eland left in the reserve after the capture of the animals for the annual auction. Furthermore, they needed to maintain a certain number of eland on the reserve. As mentioned above, hunting with dogs in a protected area is not allowed, and thus that option was not available. The option that was offered to the Duma clan was the shooting of the eland by the Officer in Charge (OIC) at the reserve.

![Image](image.png)

**Fig. 16:** Parts of the eland used during the ritual ceremony laid down at the Duma homestead.

Mbongiseni said:

However, we were promised one eland from the neighbouring Highmoor Nature Reserve, although we had asked for two. It did not make much difference that we were to get only one eland, as the purpose of having two elands was so that we could have more meat for the people attending the ‘public’ ceremony. We then asked to have the eland shot on the same day as the event, so that all the animal parts would still be fresh for use at the ritual ceremony. Unfortunately, the OIC said he would not be able to do so, as he could not guarantee finding an eland to kill on the day. He suggested that we should find someone who could be assured of finding an eland on the day. We decided to approach a private farmer (who has a farm next to Mpofana location) to get us an eland. His son shot the eland a day before the private ritual (Thursday) and hanged it on a tree outside his house for the night. Before we left the farm, the son of the farmer asked for a share of the meat. We granted the permission. It later

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84 It is referred to as traditional hunting in the sense that the technique has been used for generations. Bushmen originally had no dogs, however, in adapting to many different environments, they started acquiring them through trade with the Nguni and Khoi-Khoi. Hunting with dogs represents yet another Nguni influence on these Bushmen descendants. This practice of hunting is not allowed in protected areas (Hall, pers. comm.).

85 It is a norm to provide those who helped with the slaughtering with meat together with traditionally brewed beer. This is normally consumed at the same place where slaughtering took place.
transpired that there was some unhappiness amongst the Duma members, who felt that the eland should have been killed in the traditional way and that no one should have helped themselves to the eland before it was formally offered to the ancestors. We took some parts of the eland meat, which we needed at the shelter the next day. The eland (in my presence) was transported on the third day (Saturday morning) to the picnic site\textsuperscript{86} at the entrance to Kamberg Nature Reserve, where a communal gathering was to be held.

Other than an eland, the Duma clan asked for financial assistance to fund the public event that was to take place the day after the ‘private’ ritual. According to some of the Duma members, in order for the ritual to succeed, they needed the blessings of the ancestors. Thus they requested they be allowed to visit their ancestors’ graves. The graves are located inside the Kamberg Nature Reserve.

Although it was significant that we visit the graves to communicate with the ancestors, we did not include an official visit to the graves in our preparations, said Bheki.

In all the meetings I attended as an Amafa official, I was expected to inform the Duma representatives of the legal requirements to be respected when visiting a rock art site. Among these requirements was the fact that people are not supposed to make fires because they deposit soot over the paintings. They must not wet or touch the paintings as paintings fade over time and they must not scratch the art. The numbers of people accessing the shelter at any particular stage of the ritual was to be limited in order to prevent dust in the shelter. It was made clear that the ritual would have to conform to these requirements.

Prior to any agreements reached, Amafa aKwaZulu-Natali asked the Duma members to formally submit a proposal, requesting permission to perform the ritual. In order to do this, the Duma had to acquire the assistance of the archaeologists/anthropologists from the Natal Museum in order to write a proposal that could be sent to the council members of Amafa aKwaZulu-Natali, for permission to perform a ritual function at Game Pass Shelter, Kamberg. One thing was evident in all the meetings, and that was the unequal power\textsuperscript{87} relationships. Power is very important, because if one has it, one can determine what may and may not be done. That power lay with the provincial heritage body, who determined what was to take place at the shelter. They never asked the Duma how they felt about their presence; instead they acted as if they owned the caves. When the permission was granted, conditions were attached and preparations for the ritual began. We set the date, initially for 27 September 2003.

\textsuperscript{86} In other words, the animal was never at the main house.

\textsuperscript{87} The officials had power because as law enforcers, law is on their side. However, in addition to this legal support, officials had a language power over the Duma. In many instances during the meetings, I observed that language was a big problem. I then decided to act as an interpreter for the clan. This was very difficult, as I always felt that my interpretations were not considered to be coming from the Duma themselves, I could be making things up. My employer felt that I shared the same cultural identity as the Duma, and thus felt sympathetic towards them.
However, for political reasons, the ceremony was postponed at the last minute\textsuperscript{88}. The eland had been shot, food had been purchased and all the other agreed arrangements had been made. The ritual did not take place until about nine months later, on 13-14 June 2003.

We were very frustrated by the events. We ended up not knowing who to trust, because some people kept coming to have separate meetings with us, promising that all was still in order. However, we were hearing nothing about the date, and so on (Mbongiseni, per. comm.).

**The Game Pass ritual ceremony**

Robert, previously of the Natal Museum, bought clothing for the ritual ceremony and had it delivered. However, there was not enough clothing and he promised to bring some more. Those who did not get the clothing felt alienated and complained.

According to Mbongiseni: those who could not be provided with clothing felt that this had happened because of divisions within the Duma clan prior to the ritual. They did not really believe that it was because there was not enough clothing. No additional clothing was ever bought, and we were advised to share what we had provided to ensure that most people had some clothing for the ritual.

However, Robert tells a different story. According to him:

Bheki approached me, requesting that they be provided with Bushmen clothing. We approached EKZNW for animal’s skins. These could not be provided because the available skins had been taken for auction, but also because of policies regarding the distribution of animal skins\textsuperscript{89}. Cecilia, an EKZNW employee, suggested Deurkertjie, however, this proved to be too expensive. Providing an alternative, Dorothy suggested that brown cloth be bought for the family. A shop in Pietermaritzburg was visited. However, there was no brown cloth, the only cloth available was blue, which was eventually bought. The cloth was provided to the Duma to make clothing for the ritual ceremony. This was a typical invention of tradition. On the day of the event, I only saw three people wearing it, without any shoes.

On the day before the ritual (12 June 2003), some family representatives and officials from AmakwaZulu-Natali, Robert and EKZNW visited the Game Pass Shelter and the Game Pass graves (Fig. 17), which are inside the Kamberg reserve. There are conflicting opinions regarding the visit to the graves. As mentioned earlier, some argue that when this group left, they thought that they were only going to Game Pass Shelter\textsuperscript{90} to sprinkle water in the shelter, a practice called *ukuchela*\textsuperscript{91} and burn *impepho*\textsuperscript{92}.

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\textsuperscript{88} The Premier argued that he wanted the President to attend the function, and it was not possible to invite him within the specified time frame, making it necessary to postpone the date.

\textsuperscript{89} The organisation also felt that it would not be a good precedent to provide the Duma with such skins, as it would encourage other people to approach the organisation, asking for animal skins.

\textsuperscript{90} A visit to the graveyard was never mentioned at the meetings. However, the disgruntled Duma clan members challenge this. It is a common practise that graves are visited to inform ancestors of upcoming rituals or when good luck is sought. The same can also be achieved by speaking with them collectively at the *umsamo*, a corner in a designated room where it
I wanted to show the authorities accompanying the Duma to Game Pass Shelter the state of the graves. The purpose was to ask them for assistance in keeping the graves clean. The other reason was to look into how the graves could be protected from fire, and to investigate ways in which the graves could be made accessible to the Duma clan members for future visits. In addition, the intention of going to the graveyard was so that a route to be used the next day, passing by the graves, could be worked out. We only went to a few, because of the reasoning behind the visit and the shortage of time (Bheki).

“I do not believe that”, said one very unhappy man (Mr. Mthombeni) at the entrance to Game Pass shelter on the day of the ritual ceremony. “There is a conspiracy behind this all. Why then did they not visit my father’s grave? This was a planned visit without our knowledge; nobody should tell me that they were just passing by. How can I be joyous when my own late father is not part of this ritual ceremony? All that is happening here is not right. This ritual would not succeed. No body told me they were going to pass via the gravesite. Had I been told, although I have a problem with my leg which is painful, I would have driven my car to the grave site, as there is a road passing by”.

In his own words, Mr. Mthombeni said:
“Ngingabajula kanjani uma uBaba ongizalayo engekho lapha? Ayikho yonke lento eyenzeka lapha. Angitshelwanga ukuthi kuzoyiwa emathuneni. Ukuba bengitsheliwe, ingabe ngitotobile ngemoto yami, ngoba kuyahambeka, yize nje umlenze wami ubuhlungu”.

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*Fig. 17: Duma clan members on route to Game Pass Shelter a day before the ritual ceremony, via a graveyard within Kamberg Nature Reserve.*

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is believed all the ancestors are residing. When ancestors have not been told, it is generally believed that the ritual would not be successful, as they would not have been invited.

91 The practice of *ukuchela* is carried out to prevent the evil spirits from affecting the people. This is a familiar practice amongst many people and is carried out mostly at night, just before people go to sleep.

92 *Impepho* is burnt to connect the living with the ancestors. One has to burn it every time one communicates with the ancestors.

93 The need to use a different route was because the path used by tourists to Game Pass shelter is considered highly polluted, thus a pure route was envisaged. On the day of the ritual, no graves were visited, instead the participants just passed by. It was also only a few Duma clan members who used the designed route; most used the tourists’ route.

94 During this gravesite visit, not all the graves were visited and this caused great unhappiness amongst some families whose graves were not visited. Bheki did not communicate with the ancestors at all the graves that were visited.
During the conversation at the shelter, the disgruntled clan members asked questions as to why not all the graves were visited. The wife of Mr. Mthombeni, Mrs. Hlongwane, responded by saying:

When I expressed my unhappiness about the situation that some graves were not visited, I was told I am a woman (revealing gender discriminatory attitude). The official who had accompanied us went further and said it was getting too late. What could we have done? The meetings were a waste of time. All that we agreed on was never done. Subsequently, the plans were altered.

One of the legal requirements made clear to the clan was that during the phase of the ritual that was to take place at the shelter itself, only ten clan members, as well as one official each from Amafa aKwaZulu-Natali, the Natal Museum, and EKZNW were to attend. As previously mentioned, the idea of dividing the clan members into groups of ten was meant to minimise the amount of dust in the shelter. Students from the Natal University and myself, who were invited to the event, were not allowed to go beyond the locked gate at any point during the ritual. The gate is about 100m below the shelter. The Duma clan had invited me because of my interest in working with them. Dorothy, the Amafa aKwaZulu-Natali official present at the ceremony, mentioned that as this was the first time an event like this was taking place, it was important that the Duma do as stipulated in the agreement, and abide by the rules in order to enhance the possibility of holding the same ritual again in future. However, according to Mbongiseni, a clan member, the dust argument is unfounded.

"There is nothing like that. We could have fitted even fifty people at once inside Game Pass Shelter without any damage. These paintings are our heritage and we would not intentionally damage them. This was just a plot to prevent us access."

In his own words, Mbongiseni said:
Ayikho leyonto. Sasingangena size sibe ngamashumi amahlanu lapha ngaphakathi. Kwakuyindlela esasivinjwa ngayo nje le. Lemidwebo iyigugu nakithina, pho singayimosha kanjani?

During the drawing up of the agreement the clan was also persuaded to allow the ritual to be filmed by the television crew. The tape was to be broadcast on national television on the “50/50” programme at a later stage. The documentary was eventually broadcast on Sunday 7 September 2003\(^{95}\). It was claimed by the officials that the filming of the ritual would be of benefit for future generations of the clan.

However, questions were raised regarding the financial benefits accrued from the documentary.

\(^{95}\) During the conversation I had with the filmmaker present at the ritual ceremony in July 2004, he informed me that he kept the best footage from the ceremony for the upcoming film on Mr. Kerrick Thusi.
It was our thinking that SABC would buy the rights of televising the documentary. Where is that money? We never got anything. People are just come here to make money, and abusing us at the same time. This causes divisions within our clan, as some people believe that some of us must be getting paid.

**Concerns about the ritual ceremony**

In contrast to the general thinking among the officials that the presence of the cameraman and film crew at the ceremony would be appreciated by the Duma, the clan did not appreciate their intrusiveness, as according to them it devalued the spiritual importance of their ritual ceremony and provided no secrecy. However, they had to agree to all these requirements, as this was the only way in which they could get permission to hold the ceremony.

At the initial stages, no Duma representatives attended the meetings because of transport problems. It was agreed that EKZNW would provide transport for the Duma representatives to attend meetings, which were all held in Pietermaritzburg. During their absence from meetings, Robert spoke on the Duma’s behalf.

According to Mbongiseni:

It seemed that some meetings were held behind closed doors and we were only told of the decisions taken. Some officials came to us before meetings, asking what we would like to be raised at the meeting, without us attending in person. Thus when questions were asked in meetings, there would be no direct answers provided from our point of view, because of our absence. We only attended a few meetings in Pietermaritzburg. Even when the ritual was about to take place, we were just asked to fax the list of all the things we required to the head office of EKZNW. Even after faxing the list, we were not provided with what we needed in time. Even the traditional beer was not brewed on time.

According to Jabulile, on Robert’s advice, some clan members were washed in eland blood a day before the ritual ceremony, while they visited Game Pass Shelter. This practice annoyed some members of the clan, which was not surprising as it came from an outsider. This also demonstrates the issue of power. Questions were raised as to why those washed in blood allowed the practice. This criticism was due to the sensitive issue of the race of the official whom they felt did not have the right to tell them how to conduct their ritual. The argument was that they allowed a white man to advise them on the bureaucratic processes only, not on the cultural practises of the Duma clan. These concerned members did not even ask as to what the practise was for. This indicated that they might have been fed up not only because they were told what to do by an outsider, but also by a white man.

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96 Robert argued that making documentaries is very costly, and people involved in this business run it at a loss. The filmmaker did get paid, but it was not enough to pay anything back to the Duma clan. Such concerns of Bushmen exploitation exist elsewhere, which is why WIMSA has a media and research contract to protect Bushmen communities. It is hoped that at some stage, the documentary would be shown to the Duma.

97 They were held either at the Head Office of Ezemvelo KwaZulu-Natal Wildlife or at Amafa’s offices.
During a heated debate between some of the clan members who attended the ritual at the main entrance to Game Pass Shelter, one man was heard saying:

“Nikuthathephi lokho, nikutshele nguMlungu?” (Where do you take that, did the white man tell you?). He was referring to the washing of some clan members in the eland blood.

However, according to Robert, he knew nothing about some members going to be washed in blood. It is a practice that surprised him as well when he witnessed it. He has never came across Bushmen descendants who believe in washing with the blood. However, Robert assumed that because the Duma had spent a week prior to the ceremony with Kerick Thusi, he might have advised some members of the clan to wash in blood, as he is a great believer that blood induces the ancestors, ensuring their help with and presence at the ritual ceremony. Kerick believes that fresh eland blood, less than a day old, helps bring the Bushmen ancestors out and has a life giving force.

Gall bladder and blood from the slaughtered eland was also sprinkled on rocks, far from any paintings. In addition, an *impepho* was burnt to speak with the ancestors. While the *impepho* was burning and the ceremony going on (Fig. 18), Dorothy pointed to some graffiti on the rocks and said to one clan member: “This should not happen again”. This, I believe, was out of line, and did not show respect for the procedures that were taking place then. Some clan members together with Robert supported my opinion. A small fire was made and some eland liver was grilled on it; this liver was only eaten by the Duma. Another area of conflict arose around the fact that meat around the bullet with which the animal was killed was taken away by one of the officials present. This caused a major feud between the Duma clan members. Apparently the reason given was that the Bushmen used this meat in the past (I am not clear for what purposes). In his own words talking about the meat taken, one of the clan members said the following when I interviewed him:

Okunye okwenzeka nesingakuthandanga ukuthi…la okwangena khona inhlamvu, ngaphansi kwesiphanga, abelungu bayithatha leyonyama. Iyonake eyasusa umsindo, yenza abantu bakwaDuma bangaba sesimweni okwakumele babekusona.

What also happened to our dissatisfaction was that the meat around where the bullet hit the eland, was taken by the white people. This is the meat that caused much arguing and caused the Duma people to be divided.

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98 Kerrick is believed to be the last surviving Bushmen descendant in the uKahhlamba Drakensberg who was born and raised in the cave and can still remember witnessing people painting rock art shelters. When shown the hunting kit found at Eland Cave some four years ago, he argued that he can still remember the owner of the kit. His age has been the topic of speculation, but is assumed to be about 100 years old.

99 It is a Nguni belief that ancestors reside within the gall bladder. If one works with the spirits of the dead, one should work with them while cool because they are dangerous while hot. Gall bladder is associated with coolness.
Many clan members were fearful of the consequences of what might happen as a result of the missing meat. The concerned group approached their representatives on the committee that had arranged for the ritual to take place to ask for the meat to be returned.

We were not met with a great response. The response we got was how can a white person bewitch you? (“uMlungu angathakatha na?”). We were then asked what we would have done with the meat had it been returned. Our representatives were not very interested in pursuing the issue of the meat. Even today, what happened to the meat is still unclear (Jabulile).

As the ritual was taking place at the Game Pass Shelter, a fire was lit on an open area below it (Fig. 19). The fire had two aims. Firstly, smoke could rise towards the shelter, which Robert said was very important\textsuperscript{100} and secondly, the fire could used to prepare the eland meat that had been taken up the mountain for all the people who attended the ritual. According to participants and the members of the clan who attended the ritual at the shelter, the Duma clan made a request to Dorothy to give the clan members a chance to practise a private ritual that would only be witnessed by those who were part of the clan. The request was declined and this official reminded the clan of the agreements that were reached during the preparation stages. Dorothy mentioned that private time in the shelter had never been agreed to. It apparently never appeared in the minutes either\textsuperscript{101}, which were consulted days after the ritual. She would not leave the shelter, instead, she was prepared to stand back a few metres, where she would still be able see clearly what was happening at the site, so that she could step in and

\textsuperscript{100} Apparently, the rise of the smoke towards the shelter was considered to mean that the ancestors accept the ritual and that they are remembered.  
\textsuperscript{101} Robert confirmed this.
stop proceedings if she felt necessary. The problem that the Duma had was not necessarily her gender, although it may have been an issue, but her manner and her deliberate obstruction of what they wanted to do in private.

Fig. 19: Singing, drinking of home brewed, traditional beer by the fireside below Game Pass.

The lack of interest shown by the Duma representatives who represented the interest of the clan during the series of meetings might have deeper repercussions for the clan. The next ritual ceremony, which the clan plans to have annually, might not be well supported because of clan divisions.

Due to disagreements we had with Dorothy at the Game Pass Shelter on the evening of the ritual, arguing over the agreements that had been reached prior to the ritual, we had to leave the site. Besides not reaching an agreement with the official concerned, we started arguing amongst ourselves, as some were saying we should still go ahead in the presence of the official delegated to oversee. I made it clear that I was not interested anymore. I told them that of they do intend to continue, they would be doing so without my participation. I left the shelter, and they all followed me one by one. The presence of the official meant that the Duma we did not have enough time and privacy at the shelter to do all we had wanted to do in private. We had a performance, not a ritual. There were people with photographic and video cameras who were invading our privacy. You also know yourself that I cannot come to the Ndlovu household and determine how you should carry yourself out, how you should talk to your ancestors, etc (Mbongiseni).

Minutes after the incident at the shelter, the officials discussed it amongst themselves and the agreement, in retrospect, was that the Duma should have been allowed the private time. They were given such an opportunity. However, the opportunity was turned down because the Duma had become so angry in the shelter that they must have chased the ancestors away, and they therefore agreed amongst themselves that there would be no sense in continuing with the ceremony. As a result, the
Duma clan never achieved what they had set out to do, that is, to communicate with the ancestors in a religious setting. The dissatisfied and angry party departed from the shelter to the area below where fire had been made (Fig. 19). Eland meat and traditional beer were served to all in attendance. It was far from a joyous celebration of cultural revival and cohesion, although one clan member offered a vote of thanks.

On the next day, there was a ‘public event’ open to all the community members to attend. The aim of this public event was for the Duma to connect with other community members of the Mpofana community so that the other community members did not feel excluded. Others saw the event as a big social statement made by the Duma clan members, who do not enjoy great social status amongst the Zulu-speaking people. It was held at a picnic site located at the entrance to the reserve. When I asked the clan members why this function had to take place at the picnic site, the response was that this was a clan decision. Two reasons were given.

We were very sensitive, and thus needed to choose an area that was seen to be neutral to everyone, instead of favouring sides (Table 1). If the event were to take place at any of the Duma homesteads, there were going to be tensions among the clan members. The other reason given was that the picnic area was seen as central to all the Duma clan members in terms of accessibility (Mbongiseni).

Although a burial is not a private practise as such, there are moments where the bereaved family practice their rituals. The recent example of the cultural event ‘hijacked’ by outsiders is provided by Sarah Baartman’s burial on the women’s day, 9 August 2002. Although she was a Khoi Khoi, the event was largely political, with ANC led government making a huge statement that it respects cultural rights of all the people of South Africa. The whole proceedings of the funeral were televised on the national public broadcaster. I believe that the ‘hijacking’ of such a funeral benefited the South African government. If the list of countries respecting cultural dignity of the indigenous people were to be drawn up, South Africa would appear on the list. The Botswana government is currently

102 However, there were also statements made by other informants that they believed there is a better alternative to the picnic site, and an area that would, according to them, not have caused any problems. They argued that the main household should have been chosen.

103 These differ from clan to clan, even amongst the clan of the same language group.

104 Sarah Baartman was born in 1789, and was a Khoi-Khoi – a people who were derogatorily known as ‘Hottentots’. She was taken away in 1810 as the ‘property’ of a British ship's doctor, William Dunlop, who noticed what seemed to him, her “unusual shape” (www.nisaonline.com/sara; www.cooper.edu; www.carlagirl.net/words/venbib; www.tonguesmagazine.org; see also Skotnes 1996; Yvette 1998). On her death in 1815 a plaster cast of her corpse was made - her brains and genitalia were pickled in laboratory bottles and put on display along with her skeleton. After the end of apartheid, South Africa began to campaign for the return of her remains. The remains of the woman were returned in 2002, 187 years after she left the Cape. This came after long negotiations with the French government. On her return she was given a national funeral - a symbolic gesture to right a historical wrong and return the dignity she was denied all her life. Her burial site was also declared a national monument site.

105 Other than the burial of Sarah Baartman, the South African government has approved the use of rock art as part of the coat of arms, Olympic logo, etc. President Mbeki’s parliamentary speeches have also been very supportive of the
(2004) embroiled in a legal battle with the Bushmen people who are fighting against the government for what they call forced eviction from the Central Kalahari Game Reserve. According to this group, the government is evicting them for economic reasons, to allow De Beers and BHP Billiton to mine diamonds in the area (www.emediawire.com; www.abc.net.au; www.politinfo.com).

The ritual ceremony at Game Pass Shelter provides an interesting parallel to the above two examples. The presence of people ‘foreign’ to the Duma clan during the ritual ceremony defeats the aims of the ceremony, especially when they are controlling the event. Issues of power were clearly manifested on the day. The statement made by the officials through their bureaucratic rules were that if you have power, you can do as you please. There must be a clear difference between a performance for an audience and a ritual ceremony. Due to the control by outside agencies, who displayed an appalling lack of understanding of African rituals, the ritual ceased to be a sacred ceremony and became a rather reluctant performance for an audience that was resented. Ultimately, all the regulations that were applied served the heritage managers well, as they portrayed themselves as sensitive to the people’s needs, and they ‘allowed’ the community to perform their ‘sacred’ ritual. However, the wider public was unaware of all the restrictions on and interference with the ritual process that this permission entailed. The Duma clan was left feeling frustrated and angry that they were not allowed to perform their ritual in peace, in the way that they were supposed to according to tradition, and this even led to friction and conflict between the family members. Some members thought that some of those who were part of the organising committee must have been bribed to agree to all these strict regulations.

The experiences of the Duma family during the ritual serve to highlight the crucial point that unlike the challenges faced by their ancestors in the past, today’s Bushmen descendants have a new challenge to overcome. The authorities disapprove of their inherited spirituality and their attachments

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indigenous people’s rights. There are some arguments that President Mbeki has a soft spot for Bushmen people or indigenous people in general. This is manifested in him having a keen interest in their cultural heritage, his speeches, etc. He is the President who unveiled the new coat of arms in April 27, 2000. In his speech at the unveiling of the new coat of arms, Mbeki said “through this new coat of arms, we pay homage to our past. The two human figures are depicted in an attitude of greeting; demonstrating the transformation of the individual into a social being who belongs to a collective and interdependent humanity” (www.info.gov.za). Although this might sound great, other might criticise it in the grounds that the South African government did it for political reasons.

106 The government is quoted as saying it wants people ‘out of the stone age’. The government also argues that it is too expensive to continue providing services to the dwindling number of Bushmen still hunting in the Central Kalahari. In response, the Bushmen argue that this is a governments ploy to have them living on government handouts, ensuring they are dependent, rather than independent, like many Bushmen in Southern Africa.

107 This is not to say that an ‘audience’ is not welcomed at any ritual ceremony. This is dependent on the aim of the ritual ceremony. Many public rituals welcome an ‘audience’. For example, the annual Reeds dance of the Zulu people, etc.

108 For the Duma, the aim of the ritual was to pay respects to all their Bushmen ancestors who had lived in the uKhahlamba Drakensberg.
to rock art sites\textsuperscript{109}. This is because it goes against the Western, physical approach to rock art management. The ritual at Kamberg was evidence of this. If the authorities truly approved, they would allow people to practise their rituals without any external influence or interference. For the indigenous people to have access to the painted shelters for rituals, the heritage officers must determine access rights.

We then had a general discussion amongst ourselves, differences put aside, where it was suggested that we should approach the authorities about a proposal of having permission to use Game Pass Shelter on an annual basis for ritual ceremonies. However, someone preempted us and approached the EKZNW CEO on our behalf. We were then informed that the CEO has agreed in principle (Mbongiseni).

After the fiasco with the Kamberg ceremony, the San Foundation has had various discussions with Duma family members in order to find a lasting solution. Another site was suggested. At this site, the Duma would paint their own paintings on the rocks. The San Foundation then approached the management of Mondi Forests to request permission to find a suitable site on its property, which could be used by the Duma people without any interference from Amafa aKwaZulu-Natali and other outsiders. This had to be a non-archaeological site, as heritage legislation would still apply even if on Mondi property. The clan members were granted permission to find a suitable site on the Mondi property, Mount Lebanon. A shelter with no archaeological deposits, and no signs of any Bushman rock art was found. It was decided that they would paint their own paintings. The two clan members who searched for the site liked it, but had to go back to the other clan members to inform them about the area and to arrange for a larger group of Dumas to visit the site in order to assess it. The San Foundation also had a meeting with the CEO of EKZNW who indicated that EKZNW might grant the Duma permission to find a new sacred site on their property, but the site would need to go through an Environmental Impact Assessment (EIA) first. The Duma did not like the ‘newly discovered site’. Lately, clan members have tried to look for a shelter with no historic paintings in it that is close to the grave site of the Duma but within a visible distance of Game Pass shelter. I have been informed that there is a cave that is potentially suitable.

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<tr>
<th>The Duma clan and the ritual ceremony at Game Pass Shelter</th>
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<tbody>
<tr>
<td>Dissatisfied clan members</td>
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<tr>
<td>Visit to graves were planned, and they were not informed properly.</td>
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</tbody>
</table>

\textsuperscript{109} As mentioned earlier, the Game Pass ritual was not the first. The Duma elders visited the shelter in the past, prior to their relocation in 1990, carrying traditional beer to communicate with the ancestors. As mentioned elsewhere in this thesis, there is a great Nguni influence on the Duma clan. Bushmen tended to be shamanic and spirit possessed, not so much orientated to ancestors.
Meat that was taken by officials and the farmers’ son without approval.

“**A white man would not bewitch you.**”

Washing of the clan members with blood.

Advised by professionals to do so.

Denied clothes for the ritual, these were provided to only a few.

There were not enough clothes. They were promised that some more clothing would be bought, but this did not happen.

<table>
<thead>
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<th>Common concerns amongst the Duma</th>
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<tr>
<td>They felt neglected at times, as they were not always called to meetings.</td>
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<tr>
<td>The dates kept changing, until they lost hope of the event ever becoming a reality.</td>
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</tbody>
</table>

### Table 1: Differences and common concerns within the Duma clan regarding the ritual ceremony.

**Traditional healers and the spiritual power of rock art**

Like Mrs. Mgabadeli in the previous chapter, some traditional healers see rock art as having spiritual powers. It is not only the Bushmen descendants who attach spiritual importance to rock art sites within the Kamberg Nature Reserve. Some Zulu traditional healers also consider rock art sites to be areas imbued with spiritual power. This is not surprising if the argument by Tobias (1974: 33) is anything to go by. He argued that most Bantu speaking people have genes and bodily features characteristic to those of KhoiSan\(^{110}\) people because of the contact that would have taken place between the two groups. It is known that it was not only the physical appearance that Bantu speaking people acquired, however, it was also the cultural beliefs and the language of the Bushmen people\(^ {111}\).

I interviewed a traditional healer from Kamberg, and this is what he said:

I am the first person in my family to be a traditional healer, after acquiring the power of the spirits from my late aunt who had the powers, but did not become a *sangoma*. I came to know of the power possessed by the Bushmen through dreams and discussions with other traditional healers and my uncle who lived at Highmoor while I was growing up. The Duma clan has good traditional healers. We have always known them to be Bushmen. The Bushmen and Zulu people lived side by side for years and thus acquired each other’s cultures. The settlers made some of them enemies. Before farms in the area were taken over by the then Natal Parks Board, it was much easier to access sites with rock art. However, there are now major problems with regards to accessing painted shelters. There are double standards used by the officials. I am allowed access to spiritual sites within the reserve, but no one else enjoys the same privileges as I do. Generally speaking access restrictions leads to more problems than

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\(^{110}\) For reasons mentioned in the introduction, the KhoiSan terminology is not favoured in this thesis. However, it might be the term most applicable to social interactions that would have taken place further south, considering the interaction between Bantu speaking people, Bushmen and Khoi-Khoi.

\(^{111}\) Some Nguni words, which include click sounds, are assumed to have began as loan words or concepts from the click speakers to the intrusive Bantu speakers. The Xhosa people, ‘the leading’ Nguni group to colonise the click speakers’ territories, have even more clicks than the Zulu people.
solutions. Sacred sites are under a serious threat of losing the spiritual powers they once had; some have completely lost it already. This is because there were taboos in the past, restricting access to some sites. For instance, there is evidence that some sites were used for female initiations while others were used for male initiations. These taboos have been eroded, and nowadays access is determined by affordability. Access was not only based on the taboos, however. People had to be in a particular spiritual or psychological state when they approach sacred areas. Sites such as Howick Falls, Game Pass and a hot spring site at Kranskop used to be powerful but have since lost the power they once possessed. People used to frequent the hot spring site at Kranskop to drink the water and be healed. It is now useless visiting these sites. Anyone has access and the sites are ‘dirty’ as a result. The performance of rituals in such sites would achieve nothing. In addition to the above sites, there used to be wetlands in Kamberg, which have since disappeared, as they have lost the powers they had.

Likewise, rock art sites, which are like umsamo\textsuperscript{112}, are highly respected areas. However, the sites have become business areas, with no objection as to who has access and who does not. As a solution to this problem, Mr. Ndlangamandla and some Duma clan members believe that it is possible to restore the spiritual powers that the site once had. They suggest that sites in the Kamberg Nature Reserve that are either not frequently visited or not visited at all, be closed off from tourists. Access to these sites should be granted only to people with a spiritual purpose in visiting them. Such a proposal would mean that some sites would be more sacred than others\textsuperscript{113}.

According to Mr. Ndlangamandla:

The blame should be placed on the government. When the new government took over in 1994, it should have changed the colonial legislation to suit us as well. Traditional healers need to be involved in the drafting of new legislation, as equal partners, which would be more practicable. However, I concede that there is a problem with the traditional healers as well in the province of KwaZulu-Natal. We are not united because of internal politics. Government asked the different associations to unite and form a National Traditional Healers Council. In addition to access rights to rock art sites at Kamberg, we are subjected to the laws and regulations regarding the collection of medicinal plants. We cannot dig up indigenous plants for medicinal purposes in the reserves. Instead, we are encouraged to buy medicinal plants from nurseries (Mr. Ndlangamandla runs one such nursery himself). The medicinal plants found in the mountains are more powerful than those grown at nurseries\textsuperscript{114}; simply because everyone walks past the nurseries in whatever state. For instance a menstruating woman is considered dirty. (In my general discussion I had with other traditional healers in the northern uKhahlamba Drakensberg, they confirmed this point of concern).

\textsuperscript{112} It is a particular corner in the great grandmothers house where the elders communicate with the ancestors, a practise done by burning impepho.

\textsuperscript{113} There would not be a gatekeeper as such for these sacred sites, however, the authorities would have to take them off tourists’ maps, and relay the spirituality importance of these sites to the guests who know their locations already. There does not need to be formal procedures regarding access to the sites, as this is another western thinking, instead local people with spiritual interest to visit the sites would, unofficially so, be the gate keepers.

\textsuperscript{114} It is important to note also that when people discard things like bad luck and any evil spirits, they do so in secluded, remote areas. Some might interpret this as meaning that the medicine found in mountainous areas could be filled up with bad fortunes of some people. However, it is more complex than this. Some healers argue that although perceptions are that medicine collected from secluded areas are more powerful, these are the medicine from areas where people discard their bad lucks. However, in other instances healers are shown in their dreams the location of a particular medicine and are told at what time they should collect it (see Hirst 1991).
Discussion

While the Duma clan and traditional healers claim the spiritual importance of the rock art sites, local people’s interest in rock art is primarily economic. It is interesting that Zulu traditional healers recognise rock art sites as areas imbued with spiritual powers. This raises the question of who has more say regarding access to rock art sites between the traditional healers and the Bushman descendants, acknowledging the overlap between these groups as the result of marriages between them. This question is not only limited to Kamberg, however. There are other rock art sites in South Africa that are regarded as important by both Bushmen descendants and Bantu speaking people, for example, Thombo la Ndou in Venda, Mooderpoort in Free State and Domoshawa in Zimbabwe.

Rock art management strategies at Kamberg are an example of the more formal and official style of management. Access to the reserve follows formal procedures. The tourists who come to the reserve to tap into the facilities that the reserve offers only qualify by being able to afford the services provided. In contrast, the local Bushmen descendants and local traditional healers do not have unrestricted access. What was also evident at the ritual were the contradictions between the Western elements and what the Duma clan members originally intended to do. The ritual ceremony exposed the differences between the Western, physical approach and the African, spiritual approach. The role and importance of rituals is taken further in Chapter 6.
-Chapter six-

Analysis

Revisiting the discussion in Chapter 4, Mnweni and oKhombe are both communal areas with traditional leadership still playing a significant role. Although still respected, the values of these traditional structures amongst the rural communities are eroding\textsuperscript{115}. This is as the result of modernisation and the political environment. Elected councillors are also playing a significant role in the daily lives of people. They seem to have an advantage at times over the chiefs because they are perceived as elected representatives. In general, the role played by older people is also diminishing.

As stated elsewhere in this thesis, the majority of cultural heritage managers have Western origins. Therefore, based on safety and cultural fears and language barriers, researchers and heritage managers avoid working in communal areas. That is why tribal areas were mostly an archaeological void, as was the case at Mnweni and oKhombe, until the involvement of Bergwatch. In total, about 90 rock art sites in both Mnweni and oKhombe have been located, with a significant portion of these located in Mnweni. These sites, where possible, are used by particular families as cattle kraals and by guides for economic reasons, e.g. guiding. There was one case at Mnweni where a local \textit{sangoma} argued that he attached spiritual significance to rock art sites, and made offerings every time he approached any such site. He is Mr. Shelembe, a local \textit{sangoma} who once had a cattle kraal that was located within a painted shelter. Mr. Shelembe is also one of the community guides who are working from the amaNgwane (Mnweni) Tourism Centre. It was after the involvement of Bergwatch in the area that he and some people started moving cattle kraals out of painted shelters. There is only one case at oKhombe of a possibility that a rock art site is spiritually significant. The shelter displays ‘recently’ made paintings of crosses, lines, stars, etc. Although Mrs. Mgabadeli is perceived by most of my informants to be the one responsible for the new paintings found at Mnguni shelter, she denies authorship of the paintings\textsuperscript{116}.

The black crosses that are painted in some rock art sites at Mnweni and oKhombe have nothing to do with the spiritual power of the place, as might be thought. They are painted to invoke spiritual protection, whether it was present in the past or not, from otherwise uncontrollable nature. They are not painted only in rock art sites because such sites are assumed to be spiritually powerful, as they can be found at unpainted sites. Sites for cattle kraals are located in such areas where greatest protection of

\textsuperscript{115} This is not the case only at Mnweni and oKhombe, however, the same can be witnessed in most rural communities.

\textsuperscript{116} One might argue that her denial demonstrates the issue of power. Although I suspected that she did not know that I am a former employee of a heritage body, she might have found it difficult to open up to a ‘stranger’.
both the animal and the shepherd is guaranteed. When one looks at the doors and windows of those people who are still traditional\textsuperscript{117}, paintings of black crosses can also be found.

Based on the above findings, I then concluded that people of Mnweni and oKhombe attach an economic interest in rock art. They have been made to believe that they do not need to manage cultural resources only because our national and provincial legislation says so, but because they can also make a living from these resources. They can work as community guides and hike with people to visit painted shelters, whereas this would not be possible if they were to vandalise rock art sites.

In contrast to the above, Kamberg is a protected area under the authority of EKZNW. Language barriers, safety and cultural fears are not dominant in these areas. Usually, researchers and heritage managers deal directly with the conservation manager who would be able to communicate in English and provide cultural comfort and safety where deemed necessary. There are no known rock art sites located within the Mpofana location; however, all known rock art sites in the area are located within the reserve. While spiritual claims to rock art were not clearly evident at Mnweni and oKhombe, the Duma clan\textsuperscript{118} attach spiritual interest to the Game Pass shelter.

When access to Game Pass Shelter was granted for a ritual ceremony, people attending the ritual had to be monitored, as it was an unusual request. No other visitors to the park are monitored while within the boundaries to ensure that while hiking, they do not leave any litter behind, pick up beautiful plants for their gardens, etc. Rituals are discussed in detail later on in the chapter. The experiences of the Duma regarding the ritual ceremony were not surprising to me as the conservation principles implemented at Kamberg are biased towards biodiversity and thus are insensitive to the needs of the people who have spiritual connections to some particular sites. Support for an unrestricted access to Game Pass Shelter should have came from heritage managers who are supposed to be culturally sensitive to living heritage. However that support did not come. Cultural heritage managers wanted to protect the ‘physical significance’ of the site, which meant that in the process, all that was deemed harmful would be prevented, even if it were important to the success of the ritual ceremony.

With reference to the Wandjin\textsuperscript{a}s (Mowaljarlai & Peck 1987, Mowaljarlai & Watchman 1989; Vinnicombe 2002) and the Ayer’s rock (Digancea 2003) examples I provided in Chapter 1, the experiences and the frustrations of the Duma clan as the result of the colonial cultural legislation\textsuperscript{119}

\textsuperscript{117} She still holds on to the practices that are not influenced by Western religion and beliefs. The origins of these crosses are not very clear, whether they are of Christian (colonial) origin or not.

\textsuperscript{118} Their Bushmen identity was discussed in great detail in the previous chapter. They argue that they are Bushmen descendants as the results of intermarriages between the Dumisa people and the Bushmen group.

\textsuperscript{119} As discussed in Chapter 2.
serves to show the tensions between what I term “physical management” and the “spiritual management” of a rock art site. The western orientated heritage managers are only interested in “the what we see” as opposed to “the what we feel” management approach. The former is a more formal, up-down approach that lacks participation of the indigenous people whereas the latter is traditional approach to management of rock art sites. I believe that the heritage managers contradict themselves with the cultural legislation they pass. It is argued by the archaeologists that rock art was painted mostly for religious practises. However, indigenous people with interest in such sites are denied the right to access them for spiritual purposes. In the case of the Game Pass ritual, what people were denied was privacy which was pivotal to the success of the ritual ceremony.

The Duma are interesting in that, unlike most people living in the study area today, they still affirm their Bushmen identity\textsuperscript{120}. The case of the Duma serves to illustrate the challenges faced by Bushmen in general. In some African countries they are still treated as ‘outsiders’ by the national governments. Botswana has attracted much negative publicity over its treatment of Bushmen. It is, however, surprising to realise that the cultural heritage of the Bushmen to which they are denied unrestricted access, is of international significance. There are three World Heritage Sites in Southern Africa that were declared either because of rock art only or mainly for rock art related reasons\textsuperscript{121}. These sites are destinations for thousands of local and international tourists. The benefits are for people who in most cases have no genetic or cultural relationship with the Bushmen.

The differences outlined above confirm the historical background discussed in Chapter 1. My hypothesis was that there would not be many people who attach any spiritual significance to rock art sites in the north of the study area. This premise was based on the understanding that although there is a considerable amount of evidence that Bushmen and both the amaZizi and amaNgwane had an amicable relationships and traded with each other over a long period (Willcox 1963: 20; Willcox 1975; Dowson 1995; Mazel 1998; Anderson & Wahl 1998), the two communities were made enemies by the English government of the Natal Colony with the formation of barrier locations in 1850 (Willcox 1976; Webb & Wright 1976; Wright 1971; Vinnicombe 1976; Guest 1978; Wright & Manson 1983). Furthermore, I hypothesised that when one goes further down to the south of the uKhahlamba Drakensberg, this scenario would change.

Historically, as the result of the barrier locations, Bushmen migrated to the southern uKhahlamba Drakensberg for protection from the government and the Bantu-speaking people in the locations. I

\textsuperscript{120} This Bushmen identity is, as stated earlier, very much informed by the Zulu culture.

\textsuperscript{121} These are the uKhahlamba Drakensberg, Tsodilo hills in Botswana and Brandberg in Namibia.
argue that when the Bushmen migrated, there had not been much cultural interaction\textsuperscript{122} between the Bantu-speaking people and Bushmen in the northern parts of the uKhahlamba Drakensberg to generate a high level of cultural integration. The fact that there is a great possibility that there is only one painter, and only one person who attaches spiritual significance to rock art sites at oKhombe and she is of dubious relevance to Bushmen paintings, means to me that the spiritual attachment to rock art sites in the north is not so strong. I further argue that the southwards travels of the Bushmen groups meant that there was a greater level of integration between Bushmen groups and Zulu and Xhosa speaking people in south. The Duma clan originates from the southern end of the study area, although they can now be found further to the north. They attach spiritual significance to rock art sites, albeit re-interpreted to be consistent with Nguni (Zulu) spirituality rather than that generally associated with Bushmen.

According to Tobias (1974: 34-35), people of KhoiSan origin and the Bantu speaking people had common origins. They experienced a genetic divergence, only to come into contact again. There was a great flow of genes from KhoiSan to Bantu speaking people. This is apparent when one considers the skin colour of many Bantu speaking people, cranial form and many other somatic features. The Xhosa language and the skin colour of most Xhosa speaking individuals tempts me to argue that this is because of the level of social interaction that existed between the two groups. Although I am no language expert, as a Zulu-speaker, I believe that there are more clicks in Xhosa than there are in Zulu. Linguistically, the clicks in Zulu and Xhosa languages are because of the Bushmen influence. It would be wrong of me to neglect the influence of Khoi-Khoi\textsuperscript{123} people over the Xhosa speaking people, who also had a click language and were lighter in skin colour. Acknowledging Tobias’s (1974: 33) argument that genes and bodily features distinctive to the Bushmen people also occur among Bantu speaking people, I have noted that most Xhosa speaking individuals have lighter skin colours compared to other Bantu-speaking groups.

The findings from the two case studies have implications for heritage managers. It implies that heritage management approaches in the two case study areas would have to be different, taking into consideration the significance of rock art to local people. According to Ms. Meridy Pfotenhauer,

\textsuperscript{122} Although they interacted for many centuries before the colonial intrusion as they lived side by side to each other, I argue, generally speaking, that Zulu speaking people find it difficult to marry outside their language boundaries as opposed to Xhosa speaking people. Thus there was not much intermarriage in the north as opposed to the south. Most of the interaction was mainly limited to trading with each other. This is in contrast to the thinking that the patriarchal and patrilineal Zulu speaking people, through bride wealth, would have easily acquired Bushwomen, thus absorbing many of the Bushmen into their culture and structures. Indeed, the amaZizi and amaNgwane communities in the north did acquire a Bushmen influence, i.e. amaZizi hunting by bow and arrow.

\textsuperscript{123} Khoi-Khoi were a hunting people who acquired cattle and sheep from about 2000 years ago, probably from the Bantu speaking people who were invading their land (\url{www.infoplease.com}; \url{www.historyforkids.org}). Archaeologists have found sheep bones at sites occupied by them, and they also began to show sheep in their paintings. They had a large body size compared to Bushmen, probably because of the availability of milk (Deacon & Deacon 1999).
“Unique solutions need to be sought for unique situations”. Understanding the uniqueness of the area in how people relate to rock art sites is important because any lack of this understanding could prove detrimental to the art\textsuperscript{124}.

In the context of rock art sites being sacred areas to both the Bushmen and Bantu-speaking people, below is a general discussion on rituals: what happens prior, during and after a ritual ceremony. I use this discussion to argue that what we witnessed at Kamberg was not a ritual in the true sense of the word, but more like a performance.

**Rituals**

Theodorson and Theodorson (1970: 351) defined ritual as a “culturally standardized set of actions with symbolic significance performed on occasions prescribed by the tradition” (see also Alexander 1997: 139). Ritual is as old as humanity (Grimes 1982) and has many functions, both at the level of the individual and for group and societies (Bowie 2000). In many cultures, ritual is transmitted from one generation to the next by imitation and osmosis (Grimes 1982). Ritual specialists such as Shamans or Izangoma, pass their knowledge on to successors by way of apprenticeship. There are important aspects to be considered before and during the performance of a ritual, and more importantly, tradition determines, either by age or gender, who may perform a ritual, etc. (Theodorson and Theodorson 1970). Rituals are fundamental to human structure (Bowie 2000). The most general claims for rituals are that they are practised to bring cohesion to the group (Turner 1957: 316; Gluckman 1963: 18; Grimes 1982; Bowie 2000), to create a more communitarian order amongst the people (Guenter 1997), to heal, and to maintain contact with the sacred (Grimes 1982; Bowie 2000).

There are three main aspects of ritual that will be discussed here. These are ritual space, ritual time and the role of the ancestors. The ritual space is determined by whether the ritual takes place outdoors or indoors, whether the space is constructed, (and if constructed, by what or whom), by the guidelines and traditions that were followed, and according to whether the selected place was once part of another ritual system. Some rituals take place at particular times - at night, dawn, dusk, midday, during a particular season, or on a specific date - and the duration of the ritual is also important. In some rituals, the presence of the ancestors is important. Without them, the ritual is deemed to have been a failure. An example of a ritual following all the three aspects is the Swazi royal ritual of *Incwala*\textsuperscript{125}. The timing of the ritual is based on lunar and solar co-ordinates, and cosmic considerations underlie its division into two phases, the ‘little’ and the ‘big’ *Incwala*. Respectively,

\textsuperscript{124} If the management plans do not have the support of people living nearby rock art sites, they cannot be successfully implemented. Such management plans need to be community friendly.

\textsuperscript{125} *Incwala* is a ritual of the tasting of first fruits.
these two phases represent the old year and the past, and the new year and the future. The ancestors are considered to be present at every stage of the ritual, and their praises are cited throughout (Guenther 1997: 163, see also Bell 1997: 83-88).

Now that I have discussed briefly what ritual is, and what happens prior to the performance of a ritual, it is important to turn our discussion back to the events as they occurred at Kamberg. The choice of Game Pass as the place where the ritual was to take place was partially based on the history of the shelter. The Bushmen have occupied the shelter in the past, as indicated by the paintings on the rock face, showing that the shelter might have been a place where ritual activities took place some time ago. But also it was because the Duma elders, being Bushmen, used to visit the shelter to make offerings to their ancestors.

The success of the event depended on the presence of the ancestors’ spirits during the ritual. The absence of the ancestors during the ritual, as shown by the problems that took place the day before, when some Game Pass clan graves were visited while others were not, was an indication that the initial objectives of the ritual were not achieved. There was unhappiness amongst the clan members, who felt that the agreements reached during the meetings had not been implemented. They were not happy to take part in the ritual, as some of their ancestors had not been called.

This was blamed on the interference of non-clan members; coming in as officials. The officials stipulated what could and could not be done at the shelter by the clan members who were to participate in the ritual. They determined how many people could get in at any particular time during the ritual. As an example of a normal ritual, when the eldest male figure of the clan communicates with the ancestors during the ritual, people of the clan carrying out the ritual all need to participate. There are no instances when divisions are made between clan members. However, this was not adhered to at the Game Pass ritual. The colonial KwaZulu-Natal Heritage Act supported interference by the authorities. In chapter 3, where the history of legislation was discussed in great detail, it became evident that the legislation in South Africa is still based in the past. It has not evolved with the times. In addition, the legislation in South Africa is contradictory in that it protects the cultural heritage against destruction but also seeks to promote the living heritage. In the Game Pass ritual, the living heritage was considered a threat to rock art and thus the interference in the ritual.

As mentioned in the introduction, in the light of increased pressure for ‘participatory’ development and ‘bottom-up’ management strategies, the challenge for contemporary Heritage Managers will be to

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126 It is argued by others that the visit to the graves was never discussed, and it does not appear in the minutes.
127 Part of the practices by the indigenous people at rock art sites can be classified as detrimental to the paintings, e.g. dancing causes dust.
marry Western knowledge systems with indigenous knowledge systems (IKS), both of which are biased but in different ways, and move beyond both paradigms in the formulation of new and more realistic heritage management principles.

The spiritual significance of rock art to Bantu speaking people is not only limited to the Duma clan and traditional healers in the uKhahlamba Drakensberg. However, there are other Bantu-speaking people in Southern Africa who consider rock art sites sacred to them as well. Jews, Christians and Muslims all consider Jerusalem to be a city sacred to them – the place remains sacred, regardless of the faith and ethnicity of the occupants, rulers or worshippers. Three such sites are discussed below: these are Tombo-La-Ndou in Venda, Limpompo Province; Modderpoort in Free State and Domboshava in Zimbabwe.

**Tombo-La-Ndou in Venda**

During the 18th century, a group of people belonging to the Karanga-Rozvi tribe in present-day Zimbabwe migrated south, crossing the Limpopo River. They settled at the foot of the mysterious Soutpansberg Mountain Range in the Northern Province. They promptly named the mountain range Venda, which means a pleasant place. The Venda people are generally regarded as one of the last groups of Bantu speaking people to have entered the area south of the Limpopo River. The only other inhabitants of this paradise were the Bushmen who were soon driven out. However, they left behind the spirits of their dead who, according to Venda legend, roam freely in the forests and wait for weary travellers in the shadows of trees that stand alone, inviting the unsuspecting traveller to rest in its shade (www.krugernationalpark.co.za).

The Bushmen probably executed the paintings at Tombo-La-Ndou, as they are similar to others painted and engraved by these artists all over South Africa (Johnson and Maggs 1979; Loubser & Dowson 1987). The elephant paintings in the shelter are also trance related (see Maggs & Sealy 1983). Tombo-La-Ndou is today a sacred area to the local Venda people and their view of the art excludes the Bushmen. However, in contrast to the historical background given above, Loubser and Dowson (1987) have argued that there are no known historical records of the interaction between the Venda people and the Bushmen. They further argue that in contrast to the perception that the Bushmen people must have made the paintings, the Venda people argue that the paintings were not painted. According to this notion, the paintings are pictures which were ‘part of the rock’ or ‘inside the rock’

128 The BaVenda established their rule over the indigenous Sotho speakers for the most part. As elsewhere in Southern Africa, the Bushmen tended to retreat to areas not occupied by the dominant mixed farmers, so they could well have been present, in body or at least in memory, when the Venda conquered.
and therefore were not automatically visible. Venda people also do not refer to the paintings as made by the Bushmen, but instead by the midzimu\textsuperscript{129} (Loubser & Dowson 1987).

There are similarities between the two arguments in that they both acknowledge the spirits of the dead. In the former argument, Bushmen who occupied the area left spirits of the dead. In the latter argument by Loubser and Dowson, paintings are referred to as midzimu, defined by the Venda people as the ancestral spirits. I tend to differ with the latter argument in that there is much historical evidence regarding the interaction between Bushmen and the Venda people. However, their argument falls short when they argue that the Venda people view the art as a reminder of the past inhabitants who influence present circumstances (Loubser & Dowson 1987) in contrast to the paintings having just appeared from the rock.

While visiting the site, Tombo-La-Ndou, people offer gifts. This ranges from hair cuttings, pieces of clothing, buttons, old coins and copper bangles worn by women (Willcox 1963: 20; Loubser & Dowson 1987). Those who did not offer a gift during their visit incurred the wrath of the midzimu who could send a supernatural snake (Van Warmelo 1932: 184). The reason for the offering of the gifts is explained by the fact that among the stratified Venda people, the dead are superior to the living and deserve respect through gifts.

**Mooderpoort**

Mooderpoort farm is located between Ladybrand and Clocolan, in the Free State Province of South Africa. Also known by its Sesotho name as *Lekhalong La Bo Tau* – The Pass of the Lions, Mooderpoort is a unique and magical home to four sacred sites. These are the Bushmen paintings, Cave Church, Christian church and cemetery, and Mantsopa’s grave (Ouzman 1999)

**Sacred site 1: Bushmen paintings:**

The rock art site found at the farm is one of South Africa’s 12 rock art national monuments\textsuperscript{130} and has been considered as a candidate for UNESCO World Heritage Site status in the past. The stone tools and the Bushmen paintings found at the shelter indicate that it was both a physical and a spiritual

\textsuperscript{129} *Midzimu* means ancestor spirits.

\textsuperscript{130} It was declared in 1936 (Deacon 1991: 231; Ouzman 1999: 12). Others are: Bosworth Farm in North-West Province, Driekopsieland and Nooitgedacht in Northern Cape, Kalkoenkraal in the Eastern Cape, Mooderpoort, Schiapplaats, Tandjesberg, Stowlands, Ventshoek in Free State, Mponwini in KwaZulu-Natal Drakensberg, Elands Bay Cave and Rhynsdorp in Western Cape.
home to *Makhomokholo*\textsuperscript{131}. The images at Modderpoort include paintings of zig-zag figures, birds, a cattle raid, eland and human figures (Fig. 20).

![Fig. 20: Modderpoort rock art paintings (from Ouzman 1999)](image)

**Sacred site 2: The cave church**
Also known as the Rose Chapel, the cave church was possibly initially occupied and painted by the Bushmen. This cave provided the missionaries with shelter and a place of worship between 1869 and 1871 until the building of the priory and the sandstone church. However, the members of Zionist Christian Church (ZCC) began using the cave church in the 1970s as an important pilgrimage site. The cave church is considered to be a place where the ancestors have a strong presence. Many offerings such as betting tokens, crockery, food, money, scratch-'n-win cards, snuff and written appeals are placed here. Candles are burnt constantly during ceremonies (Ouzman 1999). I found a lot of offerings when I visited the shelter in 1998.

**Sacred site 3: The Christian church and cemetery**
Christian missionaries were attracted to the area in 1869 when Bishop Twells bought the farm for the Society of Saint Augustine. In 1871 the priory was built and the sandstone church was completed in 1902. Nearby the church are the graves of the Brothers of the Society of Saint Augustine and of the Society of the Sacred Mission who, like the Bushmen, attached great significance to birds. The dove was the Society of Saint Augustine’s emblem and was the symbol of the Holy Spirit and means by which people could be redeemed and ascend to heaven. Carvings of doves can be seen on their grave stones (Ouzman 1999).

**Sacred site 4: Mantsopa’s grave**
This grave of the renowned Basotho prophetess, Mantsopa Makhetha (c. 1793 – 1904) is located in the ‘white’ part of the cemetery. She originally came from Lesotho, where King Moshoeshoe, who feared that her influence was becoming too great sent her into exile at Modderpoort. She became Christian, but combined Christianity with ancestor worship. This grave continues to be venerated and

\textsuperscript{131} *Makhomokholo* means the people great at cattle. Cattle raiding scenes are painted at the Modderpoort shelter.
offerings are placed on her grave and the spring where she bathed. Visitors consider it a great show of respect to place a stone either on or near the grave.

Domboshava in Zimbabwe

The Domboshava site is located about 32 km from Harare, within the Chinamora communal area, in Southern Zimbabwe (Burkitt 1928; www.zimheritage.co.zw). According to Rasmusen and Rubert (2001), the name Domboshava derives from the Chishona words dombo (large stone or rock) and shava (red). Domboshava site is facing east, just above a valley (Burkitt 1928). Domboshava was proclaimed a national monument in 1936, covering only one acre. The physical boundary of the site was extended in 1996 to cover 300 hectares, which now encloses the rock paintings132, Late Iron Age deposits, a geological tunnel (which is culturally significant), sacred forest, spectacular granite formations (Fig. 21) and a buffer zone for management purposes (www.international.icomos.org; see also Taruvinga 1995).

At the site is a scene of human beings apparently pouring out rain, depicted by a number of dashes, over what must have been meant to represent a tree. This scene might be an indication of the importance of the site as a sacred spot connected with rain production from very ancient times. This sacredness continued even through the change of the dominant culture in the neighbourhood (Burkitt 1928: 119-121).

132 The site has more than 146 individual rock paintings.
A tradition exists among the local Bantu-speaking people who access the site for rainmaking in times of drought to obtain rain. The procedure is to offer gifts at the cave and wait there for some time until there is a sign that the offerings had been accepted and rain would appear. The sign took the form of smoke, issuing from the top of the great round granite dome of the hill itself, in the side of which the rock-shelter opens through the fissure which continues through the rock right to the top of the hill, forming a chimney. Incidentally, this smoke was thought to be clouds. However, climatic conditions on the day played a big part. This would only take place when the wind was blowing from the east where rain would normally come (Burkitt 1928; Willcox 1963: 20-21; Rudner & Rudner 1970).

Similar rituals have been reported elsewhere, for example in Transkei and Pondoland. This is, however, not surprising, when one considers the relationship that existed between the Mpondomise tribe late into the nineteenth century (Macquarrie 1962; Willcox 1963: 20; Prins 1996) and the Bushmen. According to Stow (1905), in the valley of the Tsomo in the Transkei and in the Stormberg ranges near Jamestown there are paintings that support statements of close cooperation between the Bushmen and the Mpondomise. These are paintings of tall natives and dwarf Bushmen out hunting together.\footnote{Jamestown is closer to Tembu country and there was much inter-marriage between KhoiSan and Tembu (especially Tembu men taking KhoiSan wives – Tembu could pay bride wealth but San could not). The ‘women music’ around Lady Frere is of San origin, passed down from mother to daughter, and unique to that area (Whisson personal communication).}

**Discussion**

The above three examples and the two surveys used in the thesis illustrate the precise concerns that I have with South African rock art legislation. The current heritage legislation in South Africa follows the preservationist approach that acknowledges directly or indirectly no involvement by local indigenous people and focuses only on the physical management. This approach has clearly failed. Legislation dates back to 1911, and yet after about 94 years, rock art sites are still under threat of
being vandalised\textsuperscript{134}. Nature conservation discarded this ‘military’ approach after realising that for conservation managers to succeed within protected areas, they needed the involvement of the people living in and near to the reserves. I therefore argue that cultural heritage managers have to adopt the same approach, and acknowledge the spiritual significance of rock art sites to other people. After all, when we talk about the management of rock art sites, it should not only focus on the physical aspects, but also the spiritual significance. This can only be understood by applying a participatory approach. Countries like Australia, Canada and the United States of America have already adopted this approach, acknowledging that indigenous groups in the different countries have the right to be involved in decision-making regarding rock art management, even after centuries of marginalisation and dispossession.

The history of the lack of participation by indigenous people is to be found in the cultural legislation South Africa has had since 1911. In the new democratic transition, where cultural rights of indigenous people are acknowledged, it is important that legislation changes with the times. However, although one might argue this is the case with the current national and provincial cultural legislation with the acknowledgement of the living heritage, this is only on paper.

During the undertaking of the research, it became clear to me that some people were attaching a spiritual interest to rock art sites. These were not only those who call themselves Bushmen descendants but traditional healers as well. However, access to rock art sites is a contentious issue. This is because of the perceived ideology that those who ‘claim’ spiritual attachments to a site might simply be doing so to advance claims of ownership and access to new resources of income and recognition. The critical analysis of the data collected suggests that there is a valid ‘claim’ to spiritual attachments, especially by the Duma clan members. Because of this suspicion by the heritage managers and their interest to protect rock art, the Duma could not have a ritual ceremony carried out as they desired. Instead, what was to be a peaceful ritual ceremony ended up in arguments either amongst different clan members or with the heritage officials who were present at the ceremony. Thus, I argue, that the ritual ceremony was merely a performance for photographers to record for the broader nation. Other international countries like Australia, Canada and the United State of America have offered a lot more legal protection to the indigenous people, which enable them to practise their cultural rights without any outside influence. However, that said, it is also true that the heritage manager’s responsibilities are to enforce the legislation, which then leads me to the point which I have made earlier that until heritage legislation conforms to reality and be inclusive, we still have a long

\textsuperscript{134} Vandalism is used to describe damage to rock art that takes place as the result of people writing either over rock art paintings or next to rock art paintings, for no religious reasons.
way to go. Other than a spiritual interest, some people either attach an economic interest or just ignore rock art.
Conclusion

Therefore, the management of the cultural site, as well as any restoration or conservation work, should respect the values placed on the site. Otherwise it becomes a mis-management or ‘mis-restoration’ of values, which could lead to the desecration of the authenticity or the totality of [a cultural site] (www.international.icomos.org).

The dominant theme of this dissertation has been the problems caused by ideological differences between the physical and the spiritual approach to rock art management. The physical approach, being academic, scientific and essentially Western has tended to predominate. Bushmen descendants and Bantu speakers who place a spiritual value on rock art have been excluded because their approach is considered destructive. The other reason their interest in rock art is not acknowledged is because they have been presumed to be extinct. More specifically, this study of rock art management had two main objectives and four aims, which will be revisited in the light of my findings.

Objective 1:

*To see how policy and administration meets the needs of the study area especially now that it is a World Heritage Site.*

Although the uKhahlamba Drakensberg Park was declared a World Heritage Site in 2000, the requirements have not all been met. Prime among these, for present purposes, is the requirement that the biodiversity and cultural management plans for the study area should complement each other. The process of incorporating the documents has been a slow one. While the role of indigenous communities has been fully acknowledged by EKZNW, the organisation is still not sufficiently sensitive when it comes to cultural issues. This is not surprising, considering the fact that most officers are nature conservators and hospitality management specialists without special training or experience in anthropology. The management of the study area is thus biased towards nature conservation, a main mandate for EKZNW.

Objective 2:

*To see whether local people’s aspirations are being satisfied in the new World Heritage Site status. To determine as to what extent are their rights are respected, and whether they are taking advantages of the new status.*

In fact, the right of indigenous people to practise their culture is being violated in the area, against the constitution of the country. Until such time that the conservation body responsible for managing a great part of the study area employs people who are culturally sensitive, the status quo
will likely persist. Even the declaration of the mountain range as a World Heritage Site has not encouraged heritage management officials in the province to respect the position of the Bushmen descendants. Although people from the foothills of the uKhahlamba Drakensberg are now employed in the hotels and lodges and are benefitting economically as a result of the declaration, recognition of their cultural rites, as stipulated in the declaration, has not ensued.

**Aim 1:**

*To identify whether rock art sites at Kamberg and the Mnweni and oKhombe tribal authority areas are still regarded as sacred sites to the people.*

Game Pass Shelter at Kamberg is still regarded as a sacred site by the Duma clan. However, it is acknowledged that the shelter has over many years lost the spiritual power it once had because tourists are now visiting the site. One of my informants, a Zulu traditional healer, Ndlangamandla said: “it is possible to reinstate spiritual power back to any shelter”. In contrast, people further to the north of uKhahlamba Drakensberg do not seem to have the same appreciation for rock art. To most people, rock art has no spiritual value or, indeed, any other value. Painted shelters also provide the best shelter for shepherds. It is only recently, through the involvement of Bergwatch, that locals are beginning to appreciate the fact that, through rock art, they can make a livelihood. Mnguni shelter at oKhombe was the only painted shelter considered spiritually significant, even though the alleged decorator, Mrs. Mgabadeli, denies any involvement in the ‘new age’ paintings there.

**Aim 2:**

*To find out what the current status of such sites is, in terms of being accessed for spiritual purposes.*

What transpired at the ritual ceremony shows that access to rock art sites for spiritual purposes is still highly contested, unless one is a paying tourist. This has led me to ask whether access to rock art sites is by right or qualification (Ndlovu 2003). My account of the ceremony revealed the conflict between the spiritual and physical approach to rock art management. Because the heritage management of KZN was concerned that the clan’s actions at Game Pass, if unsupervised, would cause damage, the Duma participants were supervised throughout the ceremony. Access to Mnweni and oKhombe sites is much more relaxed, being a communally owned area under the leadership of the local Chiefs.
Aim 3:

*To explore how the rock art management systems differ in these two areas.*

The two areas surveyed are different from each other. Kamberg Nature Reserve, where Game Pass Shelter is located has the status of a World Heritage Site, with all that that entails, while oKhombe and Mnweni are simply communal areas with no conservation authority. The strict, formal conservation principles that apply to the former, at least in theory, do not apply to the latter, even in theory.

Aim 4:

*Assessment of the prospects of a policy shift to better management (preservation) of rock art.*

The preservationist approach in rock art management, which focuses on the Western idea of physical management of rock art sites has not produced tenable results. As I have shown, this approach has been in existence since the need of managing rock art was first recognised. Although it has failed repeatedly, it has not been superseded by a more participatory approach, as has been the case in other countries, like Australia, Canada, and the United States of America where indigenous communities have played a major role in the management of their cultural resources since the 1970s (Worboys *et al* 2001). The lack of a participatory approach locally has led to the failure of heritage management to successfully protect rock art from human threats. However, with the South African government making continued efforts towards raising issues of cultural heritage, there is hope for the future.

**Methodological considerations**

My cultural identity, which made it difficult for me at times to take a neutral stand during my research, my professional status that was perceived to be an answer to all community problems, my being an outsider in a rural area having grown up in an urban setting and even my gender all contributed to the difficulties I experienced with this project. At times I felt like the typical anthropologist confronting the other; but mainly I was doing 'anthrology at home’, with all that that entails. Then there was the advocacy dimension: Cohen sums up my views on anthropological advocacy when he writes:

“I am always a little ambivalent about advocacy. I always want to advocate, but I also always think that they (the people I’ve studied) could speak better for themselves than I could for them. And, further, to make myself an advocate would provide the other side - government,
officials, etc.- with an excuse for not talking to the people themselves… I have to distinguish between the local community’s need for my advocacy and my emotional and intellectual need/inclination to sympathise with them. I decoded long ago that my advocacy - such as it is - had to lie in my ethnography: in presenting them and the complexity of their lives in a way that they would feel did them justice” (Cohen 1985 in Hastrup & Elsass 1990: 301).

As an indigenous person myself, I could identify with those who would like to have unrestricted access to rock art sites for spiritual purposes, but as a professional I was also aware of the complexities of the situation and of the need to allow my informants to speak for themselves. These were the reasons why I presented a detailed background to rock art policy, in both historical and comparative perspective (Chapter 2) with a view to demonstrating their ineffectiveness and linking it to the lack of community involvement in rock art management; and why community ‘voices’ are so prominent in the two survey chapters. In short, as with Cohen, my advocacy lies in my ethnography.

**The way forward**

The coming of democracy has brought about a philosophical shift towards a more participatory approach, bringing financial benefits to those neighbouring the protected areas. Participation can involve those who attach spiritual significance to rock art or those who have a financial interest in the paintings, or preferably both parties. I concur with Loubser (1991) when he argues that proactive management plans drawn in close liaison with all the stakeholders are vital before rock art sites are open for public visitation. A new approach is needed to address the shortcomings of the current top-down and very bureaucratic approach in rock art management, which, I argue, supports the access to rock art sites based on affordability. In this endeavour, cultural resource specialists can learn a lot from nature conservation, which has been moving away rapidly from the military, fortress approach to nature conservation in recent years (Sinclair & Fryxell 1985; World Bank 1995; Brockington & Homewood 1996: 104; Adam & Hulme 1998; Barrow & Murphree 1998: 23; Naguran 1999; also see Nepal 2000; Barrow & Murphree 2001; Adams & Hulme 2001; Mohammed n. d).

**Recommendations**

While the major breakdown in rock art management was found to lie in the lack of participation by indigenous or Bantu speaking people with a spiritual interest in rock art, simply assuming that with the participation of the different stakeholders encouraged, all problems will be solved would be naïve. Participation raises problems of its own. To minimise these, I suggest two strategies:
1. Encourage ‘ownership’ through existing or even novel beliefs and practices relating to the sites. There is an historical resource in the shamanistic Bushmen practices and in the Nguni veneration for the ancestors who used and maybe painted the rock shelters. (This approach can lead to contestation between conflicting ritual specialists who seek control over the sites and produce spiritual justification, so it has to be negotiated carefully.)

2. Secondly, by encouraging ‘ownership’ through knowledge of the sites, expertise and material advantage is gained for those trained and paid as guides and custodians. By being in a position to impart their knowledge, the participants also enrich the experience for the tourists.

These strategies will only work if:

A. Heritage officials conduct themselves in a manner that respects the cultures of all concerned. I demonstrated at length in chapter 5 just how the presence of officials hampered the outcome of the ritual. This was mainly because of the official’s lack of understanding of what constituted the ritual ceremony, and how to conduct themselves during the proceedings of the ceremony. Until such time that heritage managers appreciate ‘living heritage’ in practice as opposed to on paper, problems synonymous with those seen at Kamberg will persist.

B. Local people come into the picture and play their role in the management of cultural resources. This includes protecting the rock art from any act, deliberate or otherwise, that might damage this resource, whether the perpetrators are from their own communities or outsiders. For the economic benefits from rock art tourism that are already flowing will only continue if the sites are everything the visitors expect them to be, i.e., full of typical ‘Bushmen’ images that are largely as they were when originally painted.
Appendix 1

KWAZULU-NATAL PROVINCIAL HERITAGE ACT
Act No. 10 of 1997

To provide for the establishment of a statutory body to administer heritage conservation on behalf of the provincial government of KwaZulu-Natal, in particular the care for, maintenance, repair and management of historically important sites; architecturally important buildings; public monuments and memorials; military cemeteries and other important graves; traditional burial places; archaeological and palaeontological sites and artefacts; rock art; meteorites; historical shipwrecks, important cultural objects and trade therein, and the traditional building techniques of the people of the Province, by way of providing protections relevant to the type of site or artefact, and its relative significance; integration of protective measures into planning, development and local government systems and by providing for the establishment of educational, training, interpretive and tourism-related projects; and to provide for matters incidental hereto.

BE IT ENACTED by the Provincial Parliament of the province of KwaZulu-Natal, as follows:

Definitions
1. In this Act, unless the context requires otherwise -
"Amafa aKwaZulu-Natali" means the body established in terms of this Act;
"alter" means any action affecting the structure, appearance or physical properties of a place or object whether by way of structural or other works, by painting, plastering or other decoration or any other means;
"archaeological" means -
(a) material remains resulting from human activity which are in a state of disuse and are in or on land and are older than 100 years, including artefacts, human and hominid remains and artificial features and structures;
(b) rock art, being a form of painting, engraving or other graphic representation on a fixed rock surface or loose rock or stone, which was executed by human agency and is older than 100 years including any area within 10 m of such representation; and
(c) wrecks, being any vessel or aircraft, or any part thereof, which was wrecked in South Africa, whether on land or in the maritime cultural zone referred to in section 5 of the Maritime Zones Act 1994 (Act 15 of 1994), and any cargo, debris or artefacts found or associated therewith, which are older than 60 years or which in terms of national legislation are considered to be worthy of conservation;
(d) features, structures and artefacts associated with military history which are older than 75 years and the sites on which they are found;

"cultural significance" means of aesthetic, architectural, historical, scientific, social, spiritual or technological value or significance;

"conservation", in relation to heritage resources, includes protection, maintenance, preservation and sustainable use of places or objects so as to safeguard their cultural significance.

"council" means the Council of Amafa aKwaZulu-Natali as established in terms of section 5;

"development" means any physical intervention, excavation or action, other than those caused by natural forces, which may in any way result in a change to the nature, appearance or physical nature of a place or influence its stability and future wellbeing, including -

(a) construction, alteration, demolition, removal or change of use of a place or a structure on the place;
(b) carrying out any works on or over or under the place;
(c) subdivision or consolidation of land comprising a place, including the structures or airspace;
(d) construction or putting up for display signs or boardings;
(e) any change to the natural or existing condition or topography of land;
(f) any removal or destruction of trees or removal of vegetation or topsoil;

"export" has the meaning in the Customs and Excise Act, 1964 (Act No.91 of 1964);

"expropriate" means the process as determined by the terms of and according to procedures prescribed in the Expropriations Act, 1975 (Act No.63 of 1975 as amended);

"grave" means a place of interment and includes the contents, headstone or other marker of and any other structures on or associated with such place;

"heritage conservancy" means a declared area of land surrounding a heritage resource or resources to reasonably ensure the protection or reasonable enjoyment of the resource, or the protection of the view of or from the resource;

"heritage resource" means any place or object of cultural significance including –

(a) places, buildings, structures and equipment;
(b) places to which oral traditions are attached or which are associated with living heritage;
(c) historical settlements and townscapes;
(d) landscapes and natural features;
(e) geological sites of scientific or cultural importance;
(f) archaeological and palaeontological sites;
(g) graves and burial grounds, including -
   (i) ancestral graves,
   (ii) royal graves and graves of traditional leaders,
   (iii) graves of victims of conflict,
(iv) graves of important individuals,
(v) historical graves and cemeteries older than 60 years, and
(vi) other human remains which are not covered under the Human Tissues Act, 1983 (Act No.65 of 1983 as amended);

(h) movable objects, including -
(i) objects recovered from the soil or waters of South Africa including archaeological and palaeontological objects and material, meteorites and rare geological specimens;
(ii) ethnographic art and objects;
(iii) military objects;
(iv) objects of decorative art;
(v) objects of fine art;
(vi) objects of scientific or technological interest;
(vii) books, records, documents, photographic positives and negatives, graphic, film or video material or sound recordings; and
(viii) any other prescribed categories, but excluding any object made by a living person;
i. battlefields;
j. traditional building techniques;
"heritage site" means any place protected under this Act;
"improvement" in relation to heritage resources, includes the repair, restoration and rehabilitation of places protected under this Act;
"land" includes land covered by water and the airspace above land;
"local authority" means -
(a) a regional council established in terms of Proclamation 54 of 1996 as amended by Proclamation 73 of 1996; or
(b) any local government body as defined in section 1(1)(v) of the Local Government Transition Act, 1993 (Act No. 209 of 1993); or
(c) a municipality as provided for in Chapter 7 of the Constitution of South Africa Act, 1996 (Act No. 108 of 1996); or
(d) a tribal authority, community authority and/or a regional authority established in terms of section 5 of the KwaZulu Amakhosi and Iziphakhanyiswa Act, 1990 (Act No. 9 of 1990);
"management" in relation to heritage resources, includes the conservation, presentation and improvement of places protected under this Act;
"meteorite" means any naturally occurring object of extraterrestrial origin;
"Minister" means the provincial MEC responsible for Education and Culture;
"Monarch" means a Monarch as referred to in section 13 of the KwaZulu Amakhosi and Iziphakanyiswa Act, 1990 (Act No. 9 of 1990).

"object" means any movable property of cultural significance which may be protected in terms of any provisions of this Act, including -
(a) any archaeological artefact;
(b) palaeontological and rare geological specimens;
(c) meteorites;
(d) other objects referred to in definition (h) under heritage resources;

"owner" includes the owner's authorised agent and any person with a real interest in the property and,
(a) in the case of a place owned by the State or a supported body, the Minister or any other person or body of persons responsible for the care, management or control of that place;
(b) in the case of tribal land, the recognised traditional authority;

"palaeontological" means any fossilised remains or fossil trace of animals or plants which lived in the geological past, other than fossil fuels or fossiliferous rock intended for industrial use, and any site which contains such fossilised remains or trace;

"place" includes
(a) a site, area or region;
(b) a building or other structure (which may include equipment, furniture, fittings and articles associated with or connected with such building or other structure);
(c) a group of buildings or other structures (which may include equipment, furniture, fittings and articles associated with or connected with such group of buildings or other structures); and
(d) an open space, including a public square, street or park; and in relation to the management of a place, includes the immediate surroundings of a place;

"plan" means any plan envisaged by the Physical Planning Act, 1991 (Act No. 125 of 1991) or any other town and land use planning legislation applicable to the Province;

"planning" means urban and regional planning as covered by the Development Facilitation Act, 1995 (Act No. 67 of 1995) or any other town and land use planning legislation applicable to the Province;

"planning authority" means an office of the State, including a province or a local authority which is legally invested with a physical planning capacity;

"prescribe" means prescribe by regulation;

"presentation" includes -
(a) the exhibition or display of;
(b) the provision of access and guidance to; and
(c) the provision, publication or display of information in relation to, heritage resources protected under this Act;

"public monuments and memorials" means all monuments and memorials -
(a) erected on land belonging to any branch of central, provincial or local government, or on land belonging to any organisation funded by or established in terms of the legislation of such a branch of government, or
(b) which were paid for by public subscription government funds, or a public spirited or military organisation and are on land belonging to any private individual;

"regulations" unless otherwise stated means regulations published in terms of this Act by the Minister;
"Royal Family" means all Zulu monarchs from the time of Nkosinkulu onwards and their consorts;
"site" means any area of land including land covered by water, and including any structures or objects thereon;
"small-scale agriculture" means any farming activity undertaken by a single farmer and his family working without labour employed from outside and on a total area of land not exceeding ten hectares;
"structures" means any building, works, device, or other facility made by people and which is fixed to land and any fixtures, fittings and equipment associated therewith older than 60 years;
"supported body" means a body funded by or established in terms of the legislation of any branch of government, and includes State-owned enterprises;
"this Act" includes the regulations;
"victims of conflict" means -
(a) certain persons who died in any area now included in the Province as a direct result of any war or conflict, excluding the periods covered by the Commonwealth War Graves Act, 1992 (Act No.8 of 1992) as prescribed in regulations;
(b) members of the forces of Great Britain and former British Empire who died on active service in any area now included in the Republic prior to 4 August 1914;
(c) certain categories of persons who died in the civil and political strife known as the "liberation struggle", as prescribed in regulations, including –
(i) members of the forces of the liberation movements;
(ii) members of the State military and police forces for the area presently included in the Republic who were on active service;
(d) other persons and unknown victims of the liberation struggle as prescribed in regulations;
"wreck" has the meaning given under the definition of "archaeology" in this section.

Establishment of Amafa aKwaZulu-Natali
2. (1) There is hereby established a Council known as Amafa AKwaZulu-Natali, established in terms of this Act, the English and Afrikaans names of which shall have the meaning 'Heritage KwaZulu-Natal' and 'Erfenis KwaZulu-Natal' respectively.

(2) Amafa aKwaZulu-Natali shall be a body corporate, capable of suing and being sued in its own name and of performing, subject to the provisions of this Act, all such actions necessary for, or incidental to, the exercise of such powers.

**Object of Amafa aKwaZulu-Natali**

3. The object of Amafa aKwaZulu-Natali shall be the conservation, protection and administration of the heritage resources of the Province within the terms of this Act and to generally promote and coordinate heritage conservation for the benefit of present and future generations.

**Heritage Resources**

4. Heritage Resources within the Province shall, subject to the provisions of this Act, fall under the protection of Amafa aKwaZulu-Natali.

**Constitution of the Council**

5. (1) The Council shall consist of not less than six and not more than twelve members and a chairperson, appointed by the Minister, who, in the opinion of the Minister reflect a fair balance between sectoral interests, the geographic regions of the Province and the expertise and contacts necessary for the effective functioning of Amafa aKwaZulu-Natali;

(2) Prior to the appointment of a person to the Council as contemplated in subsection (1) the Minister shall -

   (a) by means of a notice published in the Provincial Gazette and newspapers circulating widely in the Province call for nominations for such appointments;

   (b) by means of a notice published in the Provincial Gazette and newspapers circulating widely in the Province make known the intention to appoint such persons; and

   (c) take into account any comment or objection in respect of such proposed appointment, which might have been received from any person or body; provided that where there is no such nomination or insufficient nominations, the Minister may nominate such person or persons who have the necessary qualifications for appointment.

**Establishment of Committees**

6. The Council may establish committees to assist it in the exercise of its functions and the performance of its duties. Where necessary such committees may be made up of persons whom the Council considers competent or who possess specific skills and expertise, but who are not members of the Council.
Powers, Functions, Rights and Duties of the Council

7. The Council shall, subject to the provisions of this Act, have power, in addition to any other power conferred on it by this Act -

(1) to make such recommendations in order to enable the Minister to exercise her or his powers under this Act;

(2) to advise the Minister regarding -

(a) the withdrawal of Heritage Landmark, Provincial Landmark and Heritage Object status,
(b) the withdrawal of other notices published in the Provincial Gazette in terms of the provisions of subsection 42(1); and
(c) regulations to be made by her or him in terms of this Act;

(3) by notice in the Provincial Gazette to -

(a) designate any heritage resource as protected in terms of the provisions of sections 19 to 25, and
(b) where it has such powers, withdraw notices in the Provincial Gazette;

(4) to annually submit to the Minister a draft budget and to present to her or him an independent auditor's report on the use of funds during the previous year;

(5) to investigate any matter pertaining to heritage resources at the request of the Minister;

(6) to perform such functions relating to the conservation of any artefact or site together with anything thereon or therein as the Minister may from time to time determine;

(7) to collaborate with and enter into agreements with other branches of government and other organisations with a view to fulfilling its obligations in terms of this Act;

(8) to cause to have drawn up, approve and establish policy and standards in terms of which the organisation and other relevant bodies and authorities will function with respect to the heritage of the Province, as prescribed by regulations;

(9) to issue or cause to be issued permits and notices as required in terms of this Act and set conditions in such permits concerning amongst other things the -

(a) deposition of recovered materials in the storage facilities of Amafa aKwaZulu-Natali, or another appropriate institution, or
(b) erection of plaques recognising the importance of a heritage resource which is under threat of destruction;

(10) to establish projects and research programmes aimed at documenting the heritage resources of the Province with a view to facilitating their conservation and increasing knowledge and understanding thereof;

(11) to submit annually to the Provincial Legislature a report on the activities and concerns of the organisation, together with recommendations and suggestions for legislative amendment and enactment, if any;
(12) to purchase or otherwise acquire, hold, let, hire, receive in trust, make over to any person to hold in trust, or sell, exchange or otherwise alienate, or hypothecate, burden with a servitude or otherwise confer any real right in any property movable or immovable, subject to the consent of the Minister being required to alienate fixed property;

(13) to lend any heritage objects and material in its custody to a museum or public institution, subject to the proviso that such objects and materials are managed in accordance with standards prescribed for institutions affiliated to the provincial authority responsible for museums and which it may consider necessary and appropriate;

(14) by agreement with the owner of any land, to acquire or construct and maintain an access road over such land to any monument, or to construct upon such land fences, wall or gates upon, across or next to such road;

(15) to preserve, repair, restore or provide security for any immovable or movable property owned or otherwise controlled by Amafa aKwaZulu-Natali;

(16) to make recommendations to the Minister regarding the expropriation of property in terms of subsection 26(10);

(17) to raise funds and gain independent income for use in performing the functions of the organisation by way of inter alia the following methods -

(a) charging for services and other functions rendered in terms of this Act;

(b) use of commercial opportunities associated with the field of operations of Amafa aKwaZulu-Natali; and

(c) receipt of donations of property, materials or money;

(18) to establish and administer trust funds for use in performing the functions of the organisation;

(19) to invest, lend or borrow money;

(20) to spend the proceeds of fund-raising, investments, trust funds and other independent income on any activity covered by this Act and within the limitations prescribed by a donor or the terms of reference of a trust fund;

(21) to assess applications for and, where resources permit, grant -

(a) subsidies; and

(b) subject to adequate security, low-interest, or interest-free loans, in respect of the purchase, restoration or maintenance of any site or artefact protected in terms of sections 19 to 25 and to, wherever appropriate, institute a covenant in terms of subsection 26(9) as a condition of such a subsidy or loan;

(22) to create and where necessary register with the relevant authorities a logo, or logos, for the organisation, its projects and other areas of responsibility and the categories of protection provided for in the Act;
(23) where possible and appropriate, to affix to any site protected in terms of this Act a badge, or otherwise mark an area, indicating its status of protection in terms of this Act; (24) to publish or by other means make available or distribute, or cause to be published and distributed, any knowledge and information associated with the heritage resources of the Province, subject to withholding information in instances where it considers that revelation may impact negatively on the economic interests of owners or potential investors, or on the future conservation of a heritage resource; (25) to encourage and promote heritage conservation through the medium of the media, educational programmes and involvement with other conservation bodies, tourism initiatives and other similar activities; (26) to wherever appropriate interpret the heritage resources of the Province via -

(a) erection of explanatory plaques;
(b) mounting of exhibitions;
(c) creation of interpretive centres;
(d) erection of public memorials; or
(e) creation of other tourist facilities necessary for effective interpretation of the heritage of the Province;
(27) to wherever interpretation of the heritage takes place on sites owned by the Province, or other provincially supported bodies, be the provincial authority responsible for such activity and the provision of necessary facilities;
(28) to hold and curate collections of artefacts and other material -

(a) necessary for the educational, interpretive and research functions and duties of the organisation; or
(b) recovered in terms of permits issued under this Act and which in terms of a condition of such permits must be deposited with Amafa aKwaZulu-Natali,subject to the proviso that such collections are managed in accordance with standards prescribed for institutions affiliated to the provincial authority responsible for museums;
(29) for as long as it desires to continue such a task, to run a formal cultural history museum at oNdini, subject to the proviso that the museum is managed in accordance with the norms and standards prescribed for institutions affiliated to the provincial authority responsible for museums and subject to the consent of the Minister and the manner in which this should occur, divest itself of this responsibility;
(30) to maintain a store of historic building and other relevant materials for use in the conservation of structures protected in terms of this Act, such facility to be known as the 'KwaZulu-Natal Conservation Materials Bank';
(31) where it is not the responsibility of another authority, to repair, restore, maintain and generally care for burial grounds and graves referred to in subsection 26(2) and subsection 26(3);
(32) where such sites are threatened by what it considers to be unavoidable and/or necessary development, and subject to the provisions of any other law and at cost to the developer, to exhume and re-inter graves of victims of conflict;
(33) to endeavour to have repatriated to the Province artefacts removed there from and which it considers to be an important part of the provincial heritage and identity.

**Inspection and Documentation**

8. Council shall -

(1) on a regular basis, inspect those heritage resources protected in terms of sections 19 to 26, and maintain a register of such inspections;
(2) inspect or document any aspect of the heritage of the Province which has the potential to become protected by the Act; for which the possible need for protection is being investigated; which is, or which it has reason to believe may be protected by the Act; which it wishes to document for research purposes or for purposes of building up a public record of heritage resources; or as part of an investigation into a suspected offence in terms of the Act.

**Admission of Guilt**

9. Council may delegate to its staff and other responsible bodies powers to levy admission of guilt fines for contraventions of the provisions of this Act as prescribed in regulations.

**Maintenance of registers**

10. The Council shall maintain registers of all heritage conservation bodies operating in the Province; all sites and objects protected by this Act; all known royal graves, graves of victims of conflict, public memorials and battlefields, as prescribed by regulations.

**Identification and documentation of heritage resources**

11. The Council shall identify and document the heritage resources of the Province through procedures as prescribed in regulations.

**Assistance to individuals and communities**

12. Council shall endeavour to assist communities and individuals to conserve their heritage through procedures as prescribed in regulations.

**Appointment of staff and conditions of service**

13. The Council shall appoint from time to time to such posts and on such conditions and at such remuneration as may be approved by the Minister in consultation with the Minister of Finance such officers or employees as may be required for the performance of the functions and duties of Amafa aKwaZulu-Natali and subject to the following:
(a) Such officers or employees being subject to the provisions of the Basic Conditions of Service Act, 1983 (Act No. 3 of 1983, as amended) and of the Labour Relations Act, 1995 (Act No. 66 of 1995, as amended).
(b) One of the officers so appointed shall be called the Director, being designated as the Chief Executive official of Amafa aKwaZulu-Natali to perform those activities and duties assigned to him from time to time by the Council.

**Employment of consultants**

14. The Council may, where it deems it necessary, employ consultants to assist in the performance of the functions of Amafa aKwaZulu-Natali.

**Provision of insurance**

**15. The Council shall provide insurance cover for -**

(a) any property under its control or insure itself against any risk arising out of the exercise of its powers or the performance of its duties; and

(b) the members of the Council and members of any committee established in terms of sections 5 and 6 or employee of Amafa aKwaZulu-Natali in respect of bodily injury, disablement or death incurred wholly within the course and scope of the performance of their duties on behalf of Amafa aKwaZulu-Natali.

**Delegation of powers**

16. The Council shall have a right to delegate its powers, functions and duties under the Act -

(a) to its staff, committees it may establish, committee members, volunteers and other representatives of the organisation,

(b) to honorary heritage inspectors appointed for their expertise in a field covered by any provision of this Act; and

(c) to such bodies that show competence to perform such functions subject to a due process of consultation and agreement with the affected body or bodies, and the Council retaining the right to withdraw such delegated powers, functions and duties.

**Rights and duties of other authorities and individuals**

17. (1) In order to facilitate liaison between provincial departments regarding heritage conservation matters and to facilitate the duties of departments other than Amafa aKwaZulu-Natal in this regard, there shall be established 'the Provincial Heritage Liaison Committee' which shall meet at least three times per year and shall consist of:

(a) a senior official of the Director-General's office who shall chair the meeting;

(b) the Chief Executive official and relevant senior staff of Amafa aKwaZulu-Natali;

(c) senior officials of all provincial departments and provincially supported bodies which have some or other duty concerning or impacting upon heritage matters; whose attendance shall be determined by regulations;

(d) other government-sponsored institutions with duties similar to those mentioned in subsection 17(1)(c) and which it is felt may on a voluntary basis wish to contribute to inter-departmental liaison;
(e) a nominated member of the House of Traditional Leaders; and
(f) a secretary provided by Amafa aKwaZulu-Natali;

(2) All departments of the Provincial Administration and provincially supported bodies shall, free from charge, make available to Amafa aKwaZulu-Natali for its use and incorporation into its databases any information which they have on record or collect pertaining to the heritage of the Province;

(3) A competent local authority shall be obliged to -
(a) ascertain that the terms of this Act, where applicable, have been complied with, prior to it granting authority in accordance with its jurisdictional powers to any development which will impact upon a site;
(b) inform Amafa aKwaZulu-Natali of any change in the planning status and zoning determination of any site protected in terms of sections 19 to 26;
(c) subject to minimum standards set in terms of regulations, maintain the graves of victims of conflict which fall within its area of jurisdiction if it is a local authority responsible for an urban area;
(d) at the time of the revision of any plan, or on any other suitable occasion, and in consultation with and to the satisfaction of Amafa aKwaZulu-Natali, make provision for the identification and protection of the heritage resources of the area under its jurisdiction through use of the appropriate provisions of this Act;
(e) implement the minimum incentives for conservation, as determined in this Act;
(f) administer heritage resources in accordance with what Amafa aKwaZulu-Natali regards as its level of competence and according to powers delegated in terms of provisions of this Act; and
(g) inform Amafa aKwaZulu-Natali of its intention to dispose of any architectural or technical drawings in any manner other than to a provincial archive and shall, free of charge, make them available to Amafa aKwaZulu-Natali should it wish to add them to its collections.

(4) Where any site protected in terms of this Act is to be interpreted, the person wishing to undertake such interpretation shall, at least sixty days prior to the institution of interpretive measures or manufacture of associated material, consult with Amafa aKwaZulu-Natali regarding the contents of interpretive material or programmes and shall obtain a permit from Amafa aKwaZulu-Natali for the erection, in the vicinity of the site, of any plaque or other structure associated with such interpretation.

Applicability of national legislation and relations with other heritage bodies

18. (1) Amafa aKwaZulu-Natali may enter into agreements with national heritage bodies regarding the performance of functions in terms of national legislation on behalf of such a national body.

(2) Amafa aKwaZulu-Natali may assist and cooperate with other heritage bodies, both within and outside of South Africa, provided that this does not involve the transfer of funds to such a body and
with due regard to the impact this will have upon its own resources or effectiveness and the financial and public relations benefits to be derived from such an arrangement.

Formal protections

19. The Council shall wherever it deems it necessary and subject to the provisions of this section introduce the following protections by way of publication in the Provincial Gazette.

(1) Heritage Landmark status shall be conferred upon sites which constitute, in the opinion of the Council, important elements of the heritage of the Province, but which are not the property of the Province, a provincially supported body, a local authority or body which is supported by a local authority.

(2) No person shall damage, alter, redecorate, remove from its original position, subdivide or amend any plan thereof except under the authority of a permit issued by Amafa aKwaZulu-Natali.

(3) Amafa aKwaZulu-Natali shall designate a site as a Heritage Landmark subject to –

(a) the owner being given 90 days from the date of the Council's decision in which to object, or suggest reasonable conditions under which Heritage Landmark status is acceptable; and

(b) where an objection is not received or conditions are not considered reasonable, the site shall automatically be included on the Heritage List.

(4) Any Heritage Landmark shall automatically enjoy any incentives afforded sites on the Heritage List.

(5) Subject to any successful objection in terms of subsection 19(3), sites which the Council has resolved to protect as Heritage Landmarks shall be deemed to be protected as such for six months from the date of serving of notice of the Council's intention on the owner.

(6) Amafa aKwaZulu-Natali shall inform the local authority within whose area of authority a Heritage Landmark falls within two months of the designation thereof.

(7) Except in cases where the Council considers it inappropriate, all Heritage Landmarks shall be marked with a badge indicating their status.

(8) Where they exist, the title deeds and survey diagrams of all Heritage Landmarks shall be endorsed concerning their status.

(9) No Heritage Landmark may be demolished until such time as such status has been withdrawn by the Minister.

(10) Any Heritage Landmark which becomes the property of the Province, a provincially supported body, or a local authority or local authority supported body shall, upon date of registration of transfer, automatically become a Provincial Landmark.

(11) Regulations shall make provision for a process of consultation and arbitration between Amafa aKwaZulu-Natali, a relevant local authority, an appropriate community structure and/or any person/s in the declaration of a Heritage Landmark.
20. (1) Provincial Landmark status shall be applicable to sites considered to be important elements of the heritage and which are the property of the Province, a provincially supported body, or a local authority or body supported by a local authority.

(2) No person shall damage, alter, redecorate, remove from its original position, subdivide or amend any plan relating to the status of a Provincial Landmark except under the authority of a permit issued by Amafa aKwaZulu-Natali.

(3) Objection to the designation of a site as a Provincial Landmark shall be subject to regulations according to the appeal procedure governing the circumstances under which any person may object to such designation.

(4) The occupier of a Provincial Landmark shall be obliged to maintain a Provincial Landmark to a minimum standard and according to a procedure determined in regulations published by the Minister after consultation with the provincial Departments of Works, Local Government and Traditional Affairs.

(5) Provincial Landmarks shall automatically enjoy any incentives afforded sites on the Heritage List.

(6) Subject to any successful objection in terms of subsection 20(3), sites which the Council has resolved to protect as Provincial Landmarks shall be deemed to be protected as such for six months from the date of serving of notice of the Council's intention on the owner.

(7) Except in cases where the Council considers it inappropriate, all Provincial Landmarks shall be marked with a badge indicating their status.

(8) Where they exist, the title deeds and survey diagrams of all Provincial Landmarks shall be endorsed concerning their status.

(9) No Provincial Landmark may be demolished until such time as such status has been withdrawn by the Minister.

(10) Any Provincial Landmark which is no longer the property of the Province, a provincially supported body, or a local authority or body supported by a local authority, shall upon date of registration of title automatically become a Heritage Landmark.

21. (1) Heritage Object status shall be applicable to artefacts, or collections thereof, which are of substantial aesthetic, historic, scientific, or technological importance, or which have a significant connection to a site protected under this Act, and which shall be the subject of regulations.

(2) No person shall destroy, damage, alter, restore, or remove such an object from its place of storage except under the authority of a permit issued by Amafa aKwaZulu-Natali.

(3) Any designation of an object as a Heritage Object shall, other than in instances where it is the property of the Province, a provincially supported body, or a local authority or body supported by a local authority, be subject to the owner being given 90 days in which to object or to suggest reasonable conditions under which Heritage Object status is acceptable.
(4) Subject to any successful objection in terms of subsection 21(3), artefacts which the Council has resolved to protect as Heritage Objects shall be deemed to be protected as such for six months from the date of serving of notice of the Council's intention on the owner.

(5) All Heritage Objects shall be marked physically in accordance with recognised curation norms, or by way of the display of appropriate marking in their vicinity.

(6) No Heritage Object may be destroyed or permanently removed from the Province until such time as its status has been withdrawn by the Minister.

(7) Regulations shall make provision for a process of consultation between Amafa aKwaZulu-Natali, a relevant local authority, appropriate community structures and/or any person/s in the declaration of Heritage Objects.

22. (1) Amafa aKwaZulu-Natali shall by way of notice in the Provincial Gazette compile a Heritage Register of sites which it considers to be worthy of conservation and whose listing shall be the subject of regulations.

(2) Regulations shall make provision for a process of consultation between Amafa aKwaZulu-Natali, a relevant local authority, appropriate community structures and/or any person/s wishing to list or remove sites on or from the Heritage Register;

(3) Listed sites shall be protected in the following manner -

(a) except in cases where the Council considers it inappropriate, all Listed Sites shall be marked with a badge indicating their status;

(b) where they exist, the title deeds and survey diagrams of all Listed Sites shall be endorsed concerning their status;

(c) regulations jointly published by the Minister, the Minister of Local Government, and the Minister of Traditional Affairs shall provide for minimum incentives to be made available by local authorities for the conservation of Listed Sites;

(d) where a local authority so wishes it may in any plan, or by other means, provide incentives which are additional to those provided in terms of subsection 22(3)(c).

(4) Inclusion of a site in the Heritage Register shall not exempt persons from complying with those terms of this Act which apply to the destruction, excavation, alteration, or other disturbance of archaeological and palaeontological sites and artefacts, or meteorites.

(5) Regulations shall make provision for a process of consultation and arbitration between Amafa aKwaZulu-Natali, the relevant local authority, appropriate community structures and any person/s wishing to damage, alter, redecorate, remove from its original position, subdivide or amend any plan relating to a Listed Site.

(6) Regulations shall establish guidelines for the circumstances under which work on a listed building may be prevented by means of the provisional protection afforded in terms of section 24.
23. (1) Heritage Conservancies shall be protected in terms of relevant plans or where there are no such plans, regulations made by the Minister.

(2) This provision shall be subject to the following -

(a) a local authorities shall, when amending any relevant plan, or at the instance of Amafa aKwaZulu-Natali, investigate the establishment of heritage conservancies and consult with Amafa aKwaZulu-Natali in this regard;

(b) regulations shall provide for a process of consultation with property owners and the communities affected by the provisions governing a heritage conservancy prior to the introduction of such measures;

(c) each conservancy shall be suitably signposted;

(d) where they exist, the title deeds and survey diagrams of all properties within a heritage conservancy shall be endorsed concerning their status;

(e) particular sites within a heritage conservancy may, in addition to the general provisions governing the conservancy, be afforded further protection in accordance with the other provisions of this section, or section 26;

(f) the provisions of any plans or regulations governing a heritage conservancy shall specifically state which general protections in terms of section 26 and aspects of protection in terms of this section will be excluded from application.

24. (1) Provisional Protection shall be applicable to any important heritage resource which is not protected as a Heritage Landmark, Provincial Landmark, or Heritage Object which the Council considers to be or is potentially under a threat with respect to its future conservation and which threat it believes may be alleviated through the provision of a period for reconsideration and negotiation.

(2) No person may damage, alter, redecorate, remove from its original position, restore, subdivide or amend any plan relating to a provisionally protected heritage resource except under the authority of a permit issued by Amafa aKwaZulu-Natali.

(3) At the discretion of the Council, Provisional Protection may apply for a period up to a maximum of two years, which period is to be stated in the notice instituting such protection.

(4) Heritage resources which the Council has resolved to provisionally protect shall be deemed to be protected as such from the time of the serving of a notice to this effect on the owner or his agent and provided that a notice is published in the Provincial Gazette within 30 days of serving such notice.

(5) Where they exist, the title deeds and survey diagrams of all sites which are provisionally protected for a period of more than six months shall be endorsed concerning their status and the date of expiry thereof.

(6) Amafa aKwaZulu-Natali shall inform the local authority within whose area of authority a provisionally protected site falls within two months of service of notice on the owner thereof.
(7) The Council may at its own discretion, or shall following a successful appeal against its decision, withdraw Provisional Protection via notice in the Provincial Gazette and the serving of such notice on the owner.

25. (1) The Council may protect the immediate environs of Heritage Landmarks and Provincial Landmarks by designating a suitable buffer area as a Sensitive Site.

(2) Such buffers shall be protected in that -

(a) no person shall damage, alter, subdivide or in any other way develop such a site without consulting Amafa aKwaZulu-Natali, such process of consultation being provided for in regulations to be jointly published by the Minister, the Minster of Local Government and the Minister of Traditional Affairs, and which shall provide for consultation to commence at least 60 days prior to the initiation of such changes to such sites;

(b) where they exist, the title deeds and survey diagrams of all sensitive sites shall be endorsed concerning their status;

(c) regulations jointly published by the Minister, the Minister of Local Government and the Minister of Traditional Affairs shall provide for minimum incentives to be made available by local authorities for the proper treatment of sensitive sites;

(d) where a local authority so wishes it may in any relevant plan, or by other means, provide incentives which are additional to those provided for in subsection 25(2)(c).

General protections

26. (1) Structures:

Any proposed demolition, addition or alteration of structures or parts thereof which are older than 60 years shall be subject to the following -

(a) thirty days prior to the commencement of such a proposed demolition a permit shall be applied for from Amafa aKwaZulu-Natali;

(b) the Council may at its own discretion and through publication of a notice in the Provincial Gazette lift this provision within a defined geographical area, or for certain defined categories of sites within a defined geographical area, when it is satisfied that heritage resources falling into the defined geographical area or category have been identified and are adequately provided for in terms of sections 19 to 25;

(c) should the Council believe it to be necessary it may, following a three-month notice period which will be published in the Provincial Gazette, withdraw or amend a notice which has previously lifted this provision;

(d) conditions stipulated in terms of permits issued under this provision shall be of such a nature so as to facilitate the recycling of historical building materials and the revision of design proposals;
(e) where a permit is refused, the Council shall within a three-month period give consideration to the protection of the site in terms of one of the formal classifications provided for in sections 19 to 25.

(2) **Graves of the Royal Family shall** -
(a) without the need for publication of a notice in the Provincial Gazette, enjoy protection equivalent to that of Heritage Landmark or Provincial Landmark provided for in terms of sections 19 and 20;
(b) be subject to the proviso that no permit shall be issued by Amafa aKwaZulu-Natali without prior knowledge of the reigning monarch and his advisors, and in terms of regulations prescribed in this Act.

(3) **Graves of Victims of Conflict**
No person shall damage, alter, exhume, or remove from its original position the grave of a victim of conflict, cemetery made up of such graves, or that part of a cemetery which contains such graves except after consultation with Amafa aKwaZulu-Natali, and in terms of regulations prescribed in this Act.

(4) **Traditional Burial Places**
(a) All other graves not otherwise protected by this Act and not located in formal cemeteries administered by local authorities, shall not be damaged, altered, exhumed, removed from their original positions, or otherwise disturbed except under the authority of a permit issued after consultation with Amafa aKwaZulu-Natali, and in terms of regulations prescribed in this Act.
(b) The Council shall only recommend that such a permit be issued once it has been satisfied that the applicant has made a concerted effort to contact and consult communities and individuals who by tradition have an interest in the graves and have reached agreements regarding the future thereof;
(c) Regulations shall provide a time period and minimum requirements for such consultation.

(5) **Battlefields and public monuments and memorials** shall without the need to publish a government notice to this effect, be protected in the same manner as sites which are on the heritage register as established in section 22.

(6) **Archaeology, rock art, palaeontology, battlefields and meteorite sites**
(a) No person may destroy, damage, excavate, alter, write or draw upon, or otherwise disturb any archaeological, rock art, palaeontological, battlefield or meteorite site except under the authority of a permit issued by Amafa aKwaZulu-Natali, provided that Amafa aKwaZulu-Natali may, regarding archaeological sites, take account of existing smallscale agricultural activities.
(b) Upon discovery of archaeological or palaeontological material or a meteorite, a person engaged in small-scale agriculture shall immediately cease operations in the vicinity of such material and report their presence to Amafa aKwaZulu-Natali.
(c) After consultation with the owner, the Council may, by way of serving of notice to that effect on an owner or other controlling authority, prevent what it considers to be inappropriate activities within 50 m of sites which contain rock art.

(d) No person may exhume, remove from its original position, otherwise disturb, damage, destroy, own or collect any archaeological or palaeontological object or material; or objects which the Council deems to be associated with a battlefield; or meteorite, except under the authority of a permit issued by Amafa aKwaZulu-Natali.

(e) No person may bring any equipment which assists in the detection of metals and archaeological and palaeontological objects and material, or excavation equipment onto an archaeological or palaeontological site or a battlefield, or use similar detection or excavation equipment for the recovery of meteorites, except under the authority of a permit issued by Amafa aKwaZulu-Natali.

(7) Objects

(a) All archaeological objects and palaeontological material, objects on battlefields, and meteorites shall at the time of discovery become the property of the Province as represented by Amafa aKwaZulu-Natali.

(b) Amafa aKwaZulu-Natali may at its own discretion dispose of such objects and material to relevant and responsible institutions subject to it complying with the standards and procedures of disposal as prescribed by the provincial authority responsible for museums.

(c) No person may trade in, export or attempt to export from the Province any category of archaeological object or palaeontological material, or objects which the Council deems to have been recovered from a battlefield, or meteorite, other than those categories of objects or material which may by regulations be excluded from such provisions.

(d) Regulations shall prescribe how persons or institutions in possession of archaeological objects and palaeontological materials, or objects which could reasonably be expected to have been recovered from battlefields, shall lodge lists of such objects and material, and other required information, for auditing with Amafa aKwaZulu-Natali.

(e) Subject to regulations, objects and materials listed in subsection 26(7) shall remain in the ownership of the person lodging the list.

(f) Regulations shall provide a system whereby Amafa aKwaZulu-Natali regularly monitors such objects and materials.

(g) All other such objects and materials not listed within the prescribed period shall be deemed to have been recovered after the date on which this Act came into effect.
Regulations may prescribe the manner in which a moratorium may be instituted on the declaration and possession of such material and objects.

Regulations may prescribe the manner in which objects of any form, material, or manufacture which have, in the opinion of Amafa aKwaZulu-Natali been in the Province for longer than 60 years, be protected in that they may not be removed from the Province and/or alienated or disposed of except under the authority of a permit issued by Amafa aKwaZulu-Natali.

(8) Standards and Conditions
The setting of standards and conditions regarding curation and excavation of material covered in this section and the conditions pertaining to their temporary or otherwise export, the lodging of a financial deposit which will be held in trust to establish bona fides before a permit is issued, conditions of forfeiture of deposit, the submission of reports on research, shall be the subject of regulations promulgated by the Minister.

(9) Covenants
Amafa aKwaZulu-Natali shall where it is in the interests of the conservation of heritage resources and by mutual agreement enter into a covenant with a local authority, community, person or persons regarding any arrangement whereby a certain clearly defined heritage resource, or a resource which it has facilitated, regardless of, and in addition to, any other provisions provided for in this Act, for any aspect of the conservation of that resource. Such a covenant may incorporate in its terms a provision for financial, or other assistance from Amafa aKwaZulu-Natali and shall be in the form of a binding contract.

(10) Expropriation
The Minister may, on the recommendation of the Council, under the following circumstances expropriate property protected in terms of sections 19 to 25 when -
(a) in her or his opinion a site or artefact is neglected to the extent that it will lose its potential for conservation; and
(b) following negotiation with and thereafter the serving of a notice of intention to expropriate on the owner;
(c) if within at least sixty days from the date of serving such notice the Minister is of the opinion that no satisfactory steps have been taken to rectify the conservation problems; and
(d) a site registered in terms of section 22 is threatened with demolition or alterations, or other actions, which will in her or his opinion severely compromise its value as a heritage resource and if the period of negotiations provided for has not resolved the matter to the satisfaction of the Minister.
Heritage resources management

27. (1) Any person wishing to undertake a project described in terms of the following categories:
   (a) construction of a road, wall, powerline, pipeline, canal or other similar form of linear development
   or barrier exceeding 300 m in length;
   (b) construction of a bridge or similar structure exceeding 50 m in length; and
   (c) any development, or other activity which will change the character of an area of land, or water -
      (i) exceeding 10 000 m² in extent;
      (ii) involving three or more existing erven or subdivisions thereof; or
      (iii) involving three or more erven, or subdivisions thereof, which have been consolidated within the
           past five years; or
      (iv) the costs of which will exceed a sum set in terms of regulations; or
      (v) any other category of development provided for in regulations, shall at her/his own initiative and at
          the very earliest stages of initiating such a development, notify the Council and furnish it with details
          regarding the location, nature and extent of the proposed development.

   (2) Within 14 days of receipt of a notification under subsection 27(1) the Council shall -
      (a) if there is reason to believe that heritage resources will be affected by such development, notify the
          person who intends to undertake the development that it requires the submission to it of an impact
          assessment report compiled at the cost of the person proposing the development, by a person or
          persons approved by the Council with relevant qualifications and experience in heritage resource
          management; or
      (b) notify the person concerned that the provisions of this section shall not apply.

   (3) Regulations shall specify the information to be provided in a report required under subsection
       27(2)(a) provided that the following shall be included -
       (a) the identification and mapping of all heritage resources in the area affected;
       (b) an assessment of the significance of such resources in terms of the heritage assessment criteria set
           out in regulations;
       (c) an assessment of the impact development on such heritage resources;
       (d) an evaluation of the impact of the development on heritage resources relative to the sustainable
           social and economic benefits to be derived from the development;
       (e) the results of consultation with communities affected by the proposed development and other
           interested parties regarding the impact of the development on heritage resources;
       (f) if heritage resources will be adversely affected by the proposed development, the consideration of
           alternatives; and
       (g) plans for mitigation of any adverse effects during and after completion of the proposed
           development.
(4) The report shall be considered timeously by the Council which shall, after consultation with the person proposing the development, decide -
(a) whether or not the development may proceed;
(b) any limitations or conditions are to be applied to the development;
(c) what general protections in terms of this Act apply, and what formal protections may be applied to such heritage resources;
(d) whether compensatory action shall be required in respect of any heritage resources damaged or destroyed as a result of the development; and
(e) whether the appointment of specialists is required as a condition of approval of the proposal.
(5) The Council shall not make any decision under subsection 27(4) above with respect to any development which impacts on a heritage resource protected at national level unless it has first consulted the national heritage conservation agency.
(6) The applicant may appeal against the decision of the Council to the Minister who -
(a) shall consider the views of both parties; and
(b) may at her or his discretion -
(i) appoint a committee to undertake an independent review of the impact assessment report and the decision of the provincial heritage authority;
(ii) consult the national heritage conservation agency; or
(iii) consult the provincial Cabinet regarding the appeal; and
(c) shall uphold, amend or overturn such decision.
(7) The provisions of this section shall not apply to a development described in subsection 27(1) affecting any heritage resource formally protected by the Act or national heritage legislation unless the relevant authority concerned decides otherwise.
(8) The provisions of this section shall not apply to a development as described in subsection 27(1) if an evaluation of the impact of such development on heritage resources is required in terms of national legislation, inter alia the integrated environmental management (IEM) guidelines issued by the Department of Environment Affairs and Tourism, the Environment Conservation Act (Act No. 73 of 1989, as amended), the Minerals Act, 1991 (Act No. 50 of 1991, as amended) or other planning and development legislation applicable to the Province, provided that the Council shall ensure that the evaluation fulfils the requirements of the Act in terms of subsection 27(3) and any comments and recommendations of the Council with regard to such development have been taken into account prior to the granting of any consent.
(9) the Minister may, on the recommendation of the Council, and by notice in the Provincial Gazette, exempt from the requirements of this section, any place specified in the notice.
(10) Any person who has complied with the decision of the Council in subsection
27(4) or of the Minister in subsection 27(6) or other requirements referred to in subsection 27(8) shall be exempt from compliance with all other protections in terms of this section, but any existing heritage covenants made in terms of subsection 26(9) shall continue to apply.

Permits

28. (1) Regulations shall prescribe the manner in which an application shall be made to the Council for any permit under this Act and other requirements for permit applications, including -

(a) any particulars or information to be furnished in the application and any documents, drawings, plans, photographs and fees which should accompany the application;

(b) minimum qualifications and standards of practice required of persons making application for a permit to perform specified actions in relation to particular categories of protected heritage resources;

(c) standards and conditions for the excavation and curation of archaeological and palaeontological objects and material and meteorites recovered under authority of a permit;

(d) the conditions under which, before a permit is issued, a financial deposit must be lodged and held in trust for the duration of the permit or such period as the regulations may specify, and conditions of forfeiture of such deposit;

(e) conditions for the temporary export and return of objects protected under section 21 or subsection 26(7);

(f) the submission of reports on work done under authority of a permit; and (g) the responsibilities of the Council regarding monitoring of work done under authority of a permit.

(2) On application by any person in the manner prescribed under subsection 28(1), the Council may in its discretion issue to such person a permit to perform such actions at such time and subject to such terms, conditions and restrictions or directions as may be specified in the permit, including a condition -

(a) that the applicant give security in such form and such amount determined by the Council, having regard to the nature and extent of the work referred to in the permit, to ensure the satisfactory completion of such work, or the curation of objects and material recovered during the course of the work; or

(b) providing for the recycling or deposit in the Conservation Materials Bank referred to in subsection 7(30); or

(c) stipulating that design proposals be revised; or

(d) regarding the qualifications and expertise required to perform the actions for which the permit is issued.

(3) Notwithstanding (1) and (2) above no person shall, by obtaining any permit, permission or authority under this Act, be absolved from the duty to comply with the provisions of any other law.
Exemptions

29. The Minister may, on the recommendation of the Council, at her or his discretion, in respect of any heritage resource protected under this Act, by notice in the Provincial Gazette, grant an exemption from the requirement to obtain a permit from it for such activities or class of activities by such persons or class of persons in such circumstances as are specified in the notice.

Appeals

30. (1) Regulations shall provide for a system of appeal to the Council against the decision of a committee or other delegated representative of the Council and to the Minister against the decision of the Council.

(2) In considering an appeal referred to in subsection 30(1) the Minister shall have due regard to -

(a) the advice of at least two independent assessors appointed by the Minister to assist in the matter by virtue of their expertise with regard to the matter;

(b) the cultural significance of the heritage resource in question;

(c) heritage conservation principles; and

(d) any other relevant factors which are brought to her or his attention by the appellant or the heritage authority.

(3) Should the Minister find in favour of the appellant, she or he may require that appropriate compensation for the loss of heritage resources be made to the Council or another appropriate body for use in ensuring the continued conservation of other heritage resources;

(4) An appeal against the decision of a local authority regarding an application for special consent for a listing or removal of sites from the Heritage Register and matters connected therewith and protection of heritage conservancies and matters connected therewith shall, subject to the protective provisions referred to in section 22 and section 23 respectively, be made to the applicable planning appeal body in accordance with the planning appeal procedures applicable in the Province:

Provided that -

(a) the local authority shall inform the Council on the institution of an appeal; and

(b) in considering such appeal the planning appeal body shall have due regard to the cultural significance of the place in question, heritage conservation principles and any other relevant factors which are brought to its attention by the appellant, the local authority or the Council.

Appointments and powers of heritage inspectors

31. (1) The Council may appoint heritage inspectors, whose terms of appointment and reference shall be the subject of regulations, provided that if a heritage inspector is a staff member of a government department or a supported body such appointment shall only be made by agreement with the Minister or other person in charge of the administration of such department or body.
(2) By force of this section, each member of the South African Police Services and each Customs and Excise Officer is deemed to be a heritage inspector.

**Offences and penalties**

32. Any person who contravenes a provision of this Act shall be guilty of a criminal offence and shall on conviction be liable to a fine or to a term of imprisonment determined by regulations.

**Admission of guilt and penalties for contravention of permits**

33. (1) The Minister may make regulations in terms of which the Council may -

(a) levy admission of guilt fines up to an amount determined by such regulations, for infringement of the terms of this Act; and

(b) serve a notice upon a person who is contravening a specified provision of the Act or has not complied with the terms of a permit issued by the Council, imposing a daily penalty for the duration of the contravention, subject to a maximum period of 365 days;

(c) confiscate any vehicle, craft, equipment or other contraption utilised by any person who contravenes a specified provision of the Act.

**Offences**

34. Any person who -

(1) whether or not on the request of the Council, fails to provide any information that is required to be given under this Act or the regulations;

(2) for the purpose of obtaining, whether for herself or himself or for any other person, any permit, consent or authority under this Act, makes any statement or representation knowing it to be false or not knowing or believing it to be true;

(3) fails to comply with or performs any act contrary to the terms, conditions, restrictions or directions subject to which any permit, consent or authority has been issued to her or him under this Act;

(4) obstructs the holder of a permit under this Act in exercising a right granted to her or him by means of such permit;

(5) damages, takes or removes, or causes to damaged, taken or removed from a place protected in terms of the provisions of this Act any badge or sign or any interpretive display or any other property or object erected by the national heritage agency, the Council, or a competent local authority,

(6) received any badge or any other property or object unlawfully taken or removed from a place protected in terms of the provisions of this Act;

(7) within the terms of this Act commits or attempts to commit any other unlawful act, violates any prohibition or fails to perform any obligation imposed upon her or him by its terms, or who counsels, procures, solicits or employs any other person to do so, shall be guilty of an offence.
Laying of charges

35. Any person who believes that there has been an infringement of any provision of this Act may lay a charge with the South African Police Services or any other competent authority.

Jurisdiction of the magistrates court

36. A magistrate's court shall, notwithstanding the provisions of any other law, be competent to impose any penalty under this Act.

Orders to make good

37. Whenever any person has been convicted of any contravention of this Act which has resulted in damage to or alteration of a protected heritage resource the Court shall-

(1) order such person to put right the result of the act of which he was found guilty, in the manner so specified and within such period as may be so specified, and upon failure of such person to comply with the terms of such order, order such person to pay to the Council a sum equivalent to the cost of making good; or

(2) when it is of the opinion that such person is not in a position to make good damage done to a heritage resource by virtue of the offender not being the owner or occupier of a heritage resource or for any other reason, or when it is advised by the Council that it is unrealistic or undesirable to require that the results of the act be made good, order such person to pay to the Council a sum equivalent to the cost of making good.

No-development orders

38. (1) In addition to other penalties, if the owner of a place has been convicted of an offence against this Act involving the destruction of, or damage to, the place, the Minister on the advice of the Council, may serve on the owner an order that no development of such place may be undertaken (except making good the damage and maintaining the cultural value of the place) for a period not exceeding 5 years and that such be recorded against the title deeds of the property concerned.

(2) Before making the order, the local authority and any person with a registered interest in the land must be given a reasonable period to make submissions on whether the order should be made and for how long.

(3) A no-development order under subsection 38(1) attaches to the land and is binding not only on the owner as at the date of the order, but also on any person who becomes an owner of the place while the order remains in force.

(4) The Minister on the advice of the Council may reconsider a no-development order and may in writing amend or repeal such an order.
Community service
39. In any case involving vandalism, and whenever a Court deems it appropriate, community service involving conservation of heritage resources may be substituted for, or instituted in addition to a fine or imprisonment.

Forfeiture
40. (1) Where a court convicts a person of an offence against this Act, it may order the forfeiture to the Council of a vehicle, craft, equipment or any other contraption used or otherwise involved in the commission of the offence.
(2) A vehicle, craft, equipment or other contraption confiscated in terms of section 33(1)(c) may be sold or otherwise disposed of as the Council thinks fit.

Exemption from duties, taxes and fees
41. Notwithstanding anything to the contrary contained in any other law, no duty, tax or fees (other than duty, tax or fees under the laws relating to customs and excise and to the survey of land) shall be payable to the Province by the Council in respect of anything done or any transaction under this Act, or in respect of any document required in connection with anything so done or any such transaction.

Notices in the Provincial Gazette
42. (1) The Minister may, by publication of a further notice, amend or withdraw any notice in the Provincial Gazette which she or he has caused to have published;
(2) The Minister may prescribe the manner in which legally enforceable property descriptions may be published in notices in the Provincial Gazette in terms of the provisions of the Act including -
(a) methods of technology permissible in measuring areas; and
(b) methods to be used in compensating for margins of error in measurement.

Delegation of powers by the Minister
43. The Minister may delegate any power, duty or function conferred or imposed upon her or him under this Act to the Deputy Minister or the incumbent of a designated post in the Department of Education and Culture.

Bylaws by local authorities
44. A local authority wishing to publish bylaws pertaining to heritage management should do so in consultation with Amafa aKwaZulu-Natali.

Limitations of liability
45. No person shall be liable in respect of anything done under this Act in good faith and without negligence
Legal succession

46. (1) Amafa aKwaZulu-Natali shall be the legal successor in all respects, including liabilities, assets, contractual arrangements, staff, policy and other decisions of respective governing bodies, fixed and moveable property and personnel, to –

(a) both the National Monuments Council in the Province of KwaZulu-Natal and the KwaZulu Monuments Council in the former homeland of KwaZulu;
(b) the KwaZulu-Natal Provincial Administration and the KwaZulu-Natal Provincial Museum Services with regard to the Umgungundlovu archaeological site, Piet Retief's Grave and the Rorke's Drift/Shiyane Battlefield; and
(c) the Voortrekker Museum with regard to the Majuba and Blood River/Ncome Battlefields and the Saailaer homestead, and subject to -

(d) all staff currently employed by the National Monuments Council and KwaZulu Monuments Council in the area now under the authority of the Province and staff employed by the Natal Provincial Museums Services and the Voortrekker Museum on the sites mentioned in subsections 46(1)(b) and 46(1)(c) automatically enjoying uninterrupted continuation of service at a level and system of determination of remuneration and benefits equivalent to that prior to the creation of Amafa aKwaZulu- Natali and in terms of conditions of service no less favourable to them than those under which they were previously employed.

(2) Sites within KwaZulu-Natal which prior to the coming into effect of this Act were already protected in terms of the KwaZulu Monuments Act, 1980 (Act No. 19 of 1980) and in terms of section 18 (2) of the KwaZulu Monuments Act, 1980 (Act No. 19 of 1980) and the town planning schemes of the former Durban and Pietermaritzburg Municipalities, will continue to be protected in terms of the following categories under this Act:

(a) Heritage Landmarks:
Monuments in terms of section 10.1 of the KwaZulu Monuments Act, 1980, which are not the property of a provincial or local authority or a body or corporation owned by or set up in terms of legislation promulgated by the Province or a local authority.

(b) Provincial Landmarks:
Monuments in terms of section 10.1 of the KwaZulu Monuments Act, 1980 (Act No. 19 of 1980), which are the property of a provincial or local authority or a body or corporation owned by or set up in terms of legislation promulgated by the Province or a local authority.

(c) Heritage Register:
(i) sites mentioned in Appendix 7 of the town planning scheme of the former Durban Corporation;
(ii) sites mentioned in Annexure 7.2 of the town planning scheme of the former Pietermaritzburg Corporation, and subject to the continuation of existing conservation incentives provided for in terms
of the two town planning schemes until such time as they are revised in terms of provisions of this Act.

(d) Heritage Conservancies:
(i) Special Zone 51: Greyville Village, as established through Appendix 2 of the town planning scheme of the former Durban Municipality;
(ii) The City Centre Zone, established in terms of sections 1.3.9 and 1.3.10 of the town planning scheme of the former Pietermaritzburg Municipality.

(e) Provisional Protection:
Provisionally declared properties in terms of section 5.1(c) of the KwaZulu Monuments Act, 1980 (Act No. 19 of 1980).

(3) The provisions of this Act shall also be of application to any trusts created in terms of prior legislation, the main trust object of which is concerned with conservation.

Repeal of law

47. The KwaZulu Monuments Act, 1980 (Act No.19 of 1980) is hereby repealed.
Provided that anything done in terms of that law shall be deemed to have been done in terms of this Act.

Short title and commencement

This Act shall be called the KwaZulu-Natal Heritage Act, 1997, and shall come into operation on a date to be fixed by the Premier by notice in the Provincial Gazette.
Appendix 2

REPUBLIC OF SOUTH AFRICA NATIONAL HERITAGE RESOURCES ACT, No. 25 of 1999

To introduce an integrated and interactive system for the management of the national heritage resources; to promote good government at all levels, and empower civil society to nurture and conserve their heritage resources so that they may be bequeathed to future generations; to lay down general principles for governing heritage resources management throughout the Republic; to introduce an integrated system for the identification, assessment and management of the heritage resources of South Africa; to establish the South African Heritage Resources Agency together with its Council to co-ordinate and promote the management of heritage resources at national level; to set norms and maintain essential national standards for the management of heritage resources in the Republic and to protect heritage resources of national significance; to control the export of nationally significant heritage objects and the import into the Republic of cultural property illegally exported from foreign countries; to enable the provinces to establish heritage authorities which must adopt powers to protect and manage certain categories of heritage resources; to provide for the protection and management of conservation-worthy places and areas by local authorities; and to provide for matters connected therewith.

PREAMBLE
This legislation aims to promote good management of the national estate, and to enable and encourage communities to nurture and conserve their legacy so that it may be bequeathed to future generations. Our heritage is unique and precious and it cannot be renewed. It helps us to define our cultural identity and therefore lies at the heart of our spiritual well-being and has the power to build our nation. It has the potential to affirm our diverse cultures, and in so doing shape our national character. Our heritage celebrates our achievements and contributes to redressing past inequities. It educates, it deepens our understanding of society and encourages us to empathise with the experience of others. It facilitates healing and material and symbolic restitution and it promotes new and previously neglected research into our rich oral traditions and customs.

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SCHEDULE

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Application and interpretation

1. This Act binds the State.

Definitions

2. In this Act, unless the context requires otherwise—
   (i) “alter” means any action affecting the structure, appearance or physical properties of a place or object, whether by way of structural or other works, by painting, plastering or other decoration or any other means;
   (ii) “archaeological” means—
      (a) material remains resulting from human activity which are in a state of disuse and are in or on land and which are older than 100 years, including artefacts, human and hominid remains and artificial features and structures;
      (b) rock art, being any form of painting, engraving or other graphic representation on a fixed rock surface or loose rock or stone, which was executed by human agency and which is older than 100 years, including any area within 10m of such representation;
      (c) wrecks, being any vessel or aircraft, or any part thereof, which was wrecked in South Africa, whether on land, in the internal waters, the territorial waters or in the maritime culture zone of the Republic, as defined respectively in sections 3, 4 and 6 of the Maritime Zones Act, 1994 (Act No. 15 of 1994), and any cargo, debris or artefacts found or associated therewith, which is older than 60 years or which SAHRA considers to be worthy of conservation; and
      (d) features, structures and artefacts associated with military history which are older than 75 years and the sites on which they are found.
   (iii) “conservation”, in relation to heritage resources, includes protection, maintenance, preservation and sustainable use of places or objects so as to safeguard their cultural significance;
   (iv) “Council” means the Council of the South African Heritage Resources Agency established in terms of section 14;
   (v) “cultural property agreement” in relation to a foreign state, means an agreement between South Africa and a foreign state or an international agreement to which South Africa and a foreign state are both parties, relating to the prevention of illicit international traffic in cultural property;
   (vi) “cultural significance” means aesthetic, architectural, historical, scientific, social, spiritual, linguistic or technological value or significance;
(vii) “Department” means the national department responsible for arts and culture and heritage;
(viii) “development” means any physical intervention, excavation, or action, other than those caused by natural forces, which may in the opinion of a heritage authority in any way result in a change to the nature, appearance or physical nature of a place, or influence its stability and future well-being, including—
(a) construction, alteration, demolition, removal or change of use of a place or a structure at a place;
(b) carrying out any works on or over or under a place;
(c) subdivision or consolidation of land comprising, a place, including the structures or airspace of a place;
(d) constructing or putting up for display signs or hoardings;
(e) any change to the natural or existing condition or topography of land; and
(f) any removal or destruction of trees, or removal of vegetation or topsoil;
(ix) “Director-General” means the Director-General of the Department;
(x) “expropriate” means the process as determined by the terms of and according to procedures prescribed in the Expropriation Act, 1975 (Act No. 63 of 1975);
(xi) “foreign cultural property”, in relation to a reciprocating state, means any object that is specifically designated by that state as being of importance for archaeology, history, literature, art or science;
(xii) “Gazette” means the Government Gazette;
(xiii) “grave” means a place of interment and includes the contents, headstone or other marker of such a place, and any other structure on or associated with such place;
(xiv) “heritage agreement” means an agreement referred to in section 42;
(xv) “heritage register” means a list of heritage resources in a province;
(xvi) “heritage resource” means any place or object of cultural significance;
(xvii) “heritage resources authority” means the South African Heritage Resources Agency, established in terms of section 11, or, insofar as this Act is applicable in or in respect of a province, a provincial heritage resources authority;
(xviii) “heritage site” means a place declared to be a national heritage site by SAHRA or a place declared to be a provincial heritage site by a provincial heritage resources authority;
(xix) “improvement”, in relation to heritage resources, includes the repair, restoration and rehabilitation of a place protected in terms of this Act;
(xx) “land” includes land covered by water and the airspace above the land;
(xxii) “living heritage” means the intangible aspects of inherited culture, and may include—
(a) cultural tradition;
(b) oral history;
(c) performance;
(d) ritual;
(e) popular memory;
(f) skills and techniques;
(g) indigenous knowledge systems; and
(h) the holistic approach to nature, society and social relationships;

(xxii) “local authority” means a municipality as defined in section 10B of the Local Government Transition Act, 1993 (Act No. 209 of 1993); (xxxii)

(xxiii) “management”, in relation to heritage resources, includes the conservation, presentation and improvement of a place protected in terms of this Act; (v)

(xxiv) “MEC”, unless otherwise stated and insofar as a provision of this Act is applicable in or in respect of a province, means the member of the executive council of a province responsible for cultural matters;

(xxv) “meteorite” means any naturally-occurring object of extraterrestrial origin;

(xxvi) “Minister” means the Minister responsible for arts and culture;

(xxvii) “national estate” means the national estate as defined in section 3;

(xxviii) “national symbols” means any heraldic representation so determined under section 5 of the Heraldry Act, 1963 (Act No. 18 of 1963); (xxvi)

(xxix) “object” means any movable property of cultural significance which may be protected in terms of any provisions of this Act, including—

(a) any archaeological artefact;
(b) palaeontological and rare geological specimens;
(c) meteorites; and

(d) other objects referred to in section 3; (xvii)

(xxx) “owner” includes the owner’s authorised agent and any person with a real interest in the property and—

(a) in the case of a place owned by the State or State-aided institutions, the Minister or any other person or body of persons responsible for the care, management or control of that place;
(b) in the case of tribal trust land, the recognised traditional authority;

( xxxi) “palaeontological” means any fossilised remains or fossil trace of animals or plants which lived in the geological past, other than fossil fuels or fossiliferous rock intended for industrial use, and any site which contains such fossilized remains or trance;

( xxxii) “place” includes—
(a) a site, area or region;
(b) a building or other structure which may include equipment, furniture, fittings and articles associated with or connected with such building or other structure;
(c) a group of buildings or other structures which may include equipment, furniture, fittings and articles associated with or connected with such group of buildings or other structures;
(d) an open space, including a public square, street or park; and
(e) in relation to the management of a place, includes the immediate surroundings of a place;

(xxxiii) “planning” means urban and regional planning, as contemplated in the Physical Planning Act, 1991 (Act No. 125 of 1991), and provincial town planning and land use planning legislation;
(xxxiv) “planning authority” means an office of the State, including a province, a local authority or a regional authority, which is invested with a physical planning capacity;
(xxxv) “prescribe” means prescribed by regulation;
(xxxvi) “presentation” includes—
(a) the exhibition or display of;
(b) the provision of access and guidance to;
(c) the provision, publication or display of information in relation to; and
(d) performances or oral presentations related to, heritage resources protected in terms of this Act;

(xxxxvii) “provincial heritage resources authority”, insofar as this Act is applicable in a province, means an authority established by the MEC under section 23;

(xxxxviii) “public monuments and memorials” means all monuments and memorials—
(a) erected on land belonging to any branch of central, provincial or local government, or on land belonging to any organisation funded by or established in terms of the legislation of such a branch of government; or
(b) which were paid for by public subscription, government funds, or a public-spirited or military organisation, and are on land belonging to any private individual;

(xxxxix) “reciprocating state” means a foreign state that is party to a cultural property agreement;

(xl) “regulations” means regulations made under this Act;

(xil) “SAHRA” means the South African Heritage Resources Agency, established in terms of section 11;

(xiil) “site” means any area of land, including land covered by water, and including any structures or objects thereon;

(xiiiil) “State” includes a province;

(xivl) “structure” means any building, works, device or other facility made by people and which is fixed to land, and includes any fixtures, fittings and equipment associated therewith;

(xvii) “supported body” means a body funded or financially supported by the State, and includes State-owned enterprises;
(xvil) ‘‘this Act’’ includes the regulations;
(xviii) ‘‘victims of conflict’’ means—
(a) certain persons who died in any area now included in the Republic as a direct result of any war or conflict as specified in the regulations, but excluding victims of conflict 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 in any area now included in the Republic prior to 4 August 1914;
(c) persons who, during the Anglo-Boer War (1899-1902) were removed as prisoners of war from any place now included in the Republic to any place outside South Africa and who died there; and
(d) certain categories of persons who died in the ‘‘liberation struggle’’ as defined in the regulations, and in areas included in the Republic as well as outside the Republic;
(xviii) ‘‘wreck’’ has the meaning given under the definition of ‘‘archaeological’’ in this section.

CHAPTER I
SYSTEM FOR MANAGEMENT OF NATIONAL HERITAGE RESOURCES

Part 1: General Principles

National estate

3. (1) For the purposes of this Act, those heritage resources of South Africa which are of cultural significance or other special value for the present community and for future generations must be considered part of the national estate and fall within the sphere of operations of heritage resources authorities.

(2) Without limiting the generality of subsection (1), the national estate may include—
(a) places, buildings, structures and equipment of cultural significance;
(b) places to which oral traditions are attached or which are associated with living heritage;
(c) historical settlements and townscape;
(d) landscapes and natural features of cultural significance;
(e) geological sites of scientific or cultural importance;
(f) archaeological and palaeontological sites;
(g) graves and burial grounds, including—
(i) ancestral graves;
(ii) royal graves and graves of traditional leaders;
(iii) graves of victims of conflict;
(iv) graves of individuals designated by the Minister by notice in the Gazette;
(v) historical graves and cemeteries; and
(vi) other human remains which are not covered in terms of the Human Tissue Act, 1983 (Act No. 65 of 1983);

(h) sites of significance relating to the history of slavery in South Africa;

(i) movable objects, including—

(i) objects recovered from the soil or waters of South Africa, including archaeological and palaeontological objects and material, meteorites and rare geological specimens;

(ii) objects to which oral traditions are attached or which are associated with living heritage;

(iii) ethnographic art and objects;

(iv) military objects;

(v) objects of decorative or fine art;

(vi) objects of scientific or technological interest; and

(vii) books, records, documents, photographic positives and negatives, graphic, film or video material or sound recordings, excluding those that are public records as defined in section 1(xiv) of the National Archives of South Africa Act, 1996 (Act No. 43 of 1996).

(3) Without limiting the generality of subsections (1) and (2), a place or object is to be considered part of the national estate if it has cultural significance or other special value because of—

(a) its importance in the community, or pattern of South Africa’s history;

(b) its possession of uncommon, rare or endangered aspects of South Africa’s natural or cultural heritage;

(c) its potential to yield information that will contribute to an understanding of South Africa’s natural or cultural heritage;

(d) its importance in demonstrating the principal characteristics of a particular class of South Africa’s natural or cultural places or objects;

(e) its importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;

(f) its importance in demonstrating a high degree of creative or technical achievement at a particular period;

(g) its strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;

(h) its strong or special association with the life or work of a person, group or organisation of importance in the history of South Africa; and

(i) sites of significance relating to the history of slavery in South Africa.
4. This Chapter establishes the national system for the management of heritage resources which it applies throughout the Republic and—
   (a) also applies to the actions of the State and a local authority;
   (b) serves as guidelines by reference to which any heritage resources authority, whether established in terms of this Act or any other law, and any other competent authority must exercise any discretion or take any decision in terms of this Act or any other law dealing with heritage resources management;
   (c) serves as the general framework with which—
   (i) any heritage resources authority must perform its functions and make recommendations; and
   (ii) those recommendations must be considered by any competent authority in terms of this Act or any other law dealing with heritage resources management; and
   (d) establishes the South African Heritage Resources Agency to manage the national estate and makes provision for the establishment of provincial heritage resources authorities to manage provincial and local heritage resources.

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.

**Principles for management of heritage resources**

**6.** (1) SAHRA, after consultation with the Minister, may by notice in the *Gazette*—

(a) prescribe any principle for heritage resources management in addition to, but not inconsistent with, the principles set out in section 5;

(b) prescribe any principle as set out in section 5 in greater detail, but not inconsistent therewith;

(c) publish for general information national policy relating to heritage resources management or any aspect thereof which is consistent with the principles set out in section 5 or prescribed under paragraphs (a) and (b), whereupon such principle or policy must apply throughout the Republic.

(2) A provincial heritage resources authority may, by notice in the *Provincial Gazette*—

(a) prescribe any principles for heritage resources management in addition to, but not inconsistent with, the principles set out in section 5 or prescribed by SAHRA under subsection (1);

(b) prescribe any principle as set out in section 5 or prescribed by SAHRA under subsection (1) in greater detail, but not inconsistent therewith; and
(c) publish for general information provincial policy relating to heritage resources management or any aspect thereof which is consistent with the principles set out in section 5 or prescribed under subsection (1) or paragraphs
(a) and (b) of this subsection, whereupon such principle or policy shall apply in the province on the basis set out in section 5.

(3) A heritage resources authority must, before prescribing any principle or general policy under subsection (1) or (2)—
(i) make a draft of such principle or policy available to the public; and
(ii) consider any comment on such draft received from any person during a reasonable period after such publication.

Heritage assessment criteria and grading

7. (1) SAHRA, in consultation with the Minister and the MEC of every province, must by regulation establish a system of grading of places and objects which form part of the national estate, and which distinguishes between at least the categories—
(a) Grade I: Heritage resources with qualities so exceptional that they are of special national significance;
(b) Grade II: Heritage resources which, although forming part of the national estate, can be considered to have special qualities which make them significant within the context of a province or a region; and
(c) Grade III: Other heritage resources worthy of conservation, and which prescribes heritage resources assessment criteria, consistent with the criteria set out in section 3(3), which must be used by a heritage resources authority or a local authority to assess the intrinsic, comparative and contextual significance of a heritage resource and the relative benefits and costs of its protection, so that the appropriate level of grading of the resource and the consequent responsibility for its management may be allocated in terms of section 8.

(2) A heritage resources authority may prescribe detailed heritage assessment criteria, consistent with the criteria set out in section 3(3), for the assessment of Grade II and Grade III heritage resources in a province.

Responsibilities and competence of heritage resources authorities and local authorities for identification and management of national estate

8. (1) There is a three-tier system for heritage resources management, in which national level functions are the responsibility of SAHRA, provincial level functions are the responsibility of provincial heritage resources authorities and local level functions are the responsibility of local
authorities. Heritage resources authorities and local authorities are accountable for their actions and decisions and the performance of functions under this system.

(2) SAHRA is responsible for the identification and management of Grade I heritage resources and heritage resources in accordance with the applicable provisions of this Act, and shall co-ordinate and monitor the management of the national estate in the Republic.

(3) A provincial heritage resources authority is responsible for the identification and management of Grade II heritage resources and heritage resources which are deemed to be a provincial competence in terms of this Act.

(4) A local authority is responsible for the identification and management of Grade III heritage resources and heritage resources which are deemed to fall within their competence in terms of this Act.

(5) For the purpose of any application for a permit or other authorisation to perform any action which is controlled in terms of this Act or provincial heritage legislation, a formal protection by a heritage resources authority at a higher level takes precedence over any formal or general protection at a local level, without prejudice to any incentives offered at any level.

(6) (a) A provincial heritage resources authority or a local authority shall not perform any function in terms of this Act or any other law for the management of heritage resources unless it is competent to do so. The capacity of a provincial heritage resources authority or local authority shall be assessed in terms of criteria prescribed by the Minister, including the availability of adequate staff, expertise, experience and administrative systems, to be applied—

(i) by SAHRA, in the assessment of the capacity of provincial authorities to perform specific functions in relation to prescribed categories of heritage resources; and

(ii) by provincial heritage resources authorities, to establish the capacity of local authorities to perform any function under this Act:

Provided that, in the event of a dispute, the matter shall be submitted to arbitration.

(b) If an authority at provincial or local level does not have the capacity or is not competent to perform a specific function for which it is responsible under this section, that function shall be performed on an agency basis by an authority at a higher level or a competent authority on the same level.

(c) A provincial heritage resources authority or a local authority shall apply to the relevant authority for the assessment of its competence under paragraph (a) in the manner prescribed by the assessing authority, and may apply for reassessment within the period and on the conditions prescribed by the assessing authority.

(d) The assessing authority may at any time, and shall at least every two years, reassess the competence of a subordinate authority and review the assumption of functions and powers under this Act.
Rights, duties and exemptions of State and supported bodies

9. (1) All branches of the State and supported bodies must give heritage resources authorities such assistance in the performance of their functions as is reasonably practicable.

(2) All branches of the State and supported bodies must, on the request of a heritage resources authority, make available for its use and incorporation into its data base any information which it has on record on heritage resources under its control: Provided that the body supplying such information may set out conditions regarding the disclosure and distribution of such information by the heritage resources authority.

(3) Each State department and supported body must—

(a) maintain and conserve the heritage resources under its control in accordance with standards and procedures set out in regulations by SAHRA in consultation with the Department of Public Works;

(b) submit annually to SAHRA a report on the maintenance and development of such resources;

(c) in accordance with regulations, on the request of the Minister, or within 10 years from the commencement of this Act, compile and submit to SAHRA, information on and an inventory of such heritage resources;

(d) on the request of the Minister and in accordance with regulations, prepare management plans for specified heritage resources;

(e) not take any action that adversely affects such a resource unless the authority concerned is satisfied that there is no feasible and prudent alternative to the taking of that action and that all measures that can reasonably be taken to minimise the adverse effect will be taken;

(f) at the initiation of the planning process of the project, or at least 90 days before taking any action that could adversely affect such heritage resource, whichever is the greater, inform SAHRA of the proposed action and give them a reasonable opportunity to consider and comment on it; and

(g) where the destruction of such heritage resources is permitted in terms of this Act, record such resources in accordance with standards set by SAHRA and undertake any other mitigating actions which may be required by SAHRA.

(4) Where SAHRA has been informed of a proposed action by a State Department or supported body, it must, as soon as practicable, submit its comments to the Department or supported body.

(5) An action for the purpose of this section shall be deemed to include the making of a recommendation which, if adopted, would affect a heritage resource, the making of a decision, the approval of a programme, the issue of a licence or the granting of a permission.

(6) Compliance with subsection (3) does not exempt a State Department or supported body from complying with requirements in terms of this Act, regarding any heritage resource in its ownership which is protected in terms of this Act or equivalent provincial legislation.

(7) The head of a government body at the national level of government must—
(a) inform SAHRA of his or her intention to destroy or delete any architectural or technical drawings in whatever medium, as may be defined in the regulations published by SAHRA in consultation with the National Archivist; and

(b) make such drawings available to SAHRA free of charge if requested by SAHRA.

(8) The head of a government body at the provincial or local level of government must—

(a) inform the provincial heritage resources authority of his or her intention to destroy or delete any architectural or technical drawings in whatever medium; and

(b) make such drawings available to a heritage resources authority free of charge.

(9) The Registrar of Deeds must inform SAHRA or the relevant heritage resources authority, in a notice as prescribed, of the particulars of the registration of transfer or subdivision of any place which is formally protected by such heritage resources authority in terms of Part 1 of Chapter 2 of this Act, within 14 days of such registration.

(10) When—

(a) a place has been declared a national heritage site or a provincial heritage site under section 27;

(b) a place has been designated a protected area under section 28;

(c) a place has been provisionally protected for a period longer than six months under section 29;

(d) a place has been entered in a heritage register under section 30;

(e) a place has been included in a heritage area under section 31;

(f) a heritage agreement has been entered into in respect of a place for a period exceeding six months under section 42;

(g) an order of no development under section 51(8) has been made in respect of a place, the heritage resources authority concerned must furnish the Surveyor-General and the Registrar of Deeds in whose deeds registry the land in question is registered with—

(i) a copy of the notice in the Gazette or the Provincial Gazette;

(ii) the particulars of the protection;

(iii) a copy of any survey, including any diagram or plan, made under section 25(2)(d); and

(iv) a copy of the relevant order of no development or of a heritage agreement.

(11) The Registrar of Deeds must—

(a) endorse the title deed of the place in question filed in the deeds office;

(b) make an entry in the appropriate registers and upon the owner’s title deed as soon as it is lodged in the deeds office, relating to the particulars furnished in terms of subsection (10);

(c) identify the area of the protected place; and

(d) clearly state the particulars of the protection order or heritage agreement.

(12) The Surveyor-General must—
(a) endorse upon the relevant records filed in his or her office an entry referring to the notice furnished in terms of subsection (10); and
(b) state the particulars of the protection order or heritage agreement in broad terms.

(13) (a) When—
(i) any notice is amended or withdrawn under section 27(7);
(ii) the designation of a protected area is withdrawn under section 28(1) or (2);
(iii) a provisional protection for a period longer than six months is withdrawn under section 29(1)(b) or (2)(b);
(iv) an entry in a heritage register is amended or deleted;
(v) a place is excluded from a heritage area; or
(vi) an order of no development is amended or repealed under section 51(11), the heritage resources authority concerned must furnish a copy of the notice or order to the Registrar of Deeds and the Surveyor-General.

(b) The Registrar of Deeds must make the necessary endorsement upon the relevant title deeds and in the appropriate registers.

(c) The Surveyor-General must make the necessary endorsement upon the relevant records filed in his or her office.

General principles of procedure

10. (1) The general principles of procedure set out in subsection (2) apply to any decision regarding the administration and management of the national estate by an authority to which a responsibility has been assigned in terms of section 7 and any other competent authority to which functions and powers for the administration and management of the national estate have been assigned or delegated, including any decision—
(a) to formally protect a heritage resource by notice in the Gazette or Provincial Gazette;
(b) to issue or not to issue a permit; and
(c) taken by any person or authority to whom an appeal is made.

(2) The decisions contemplated in subsection (1) must be taken in accordance with the following general principles:
(a) The decisions must be consistent with the principles or policy set out in section 5 or prescribed under section 6;
(b) a meeting at which decisions are taken, must be open to the public and the agenda and minutes must be available for public scrutiny: Provided that when there is good reason to do so, a matter may, by decision of the majority of members present, be declared confidential and the discussion and minutes may be excepted from public scrutiny;
(c) a person who may be affected by a decision has the right of appearance at such meeting; and
(d) written reasons must be given for any decision upon request.

**Part 2: Constitution, function, powers and duties of heritage resources authorities**

**Establishment of South African Heritage Resources Agency**

11. There is hereby established an organisation to be known as the South African Heritage Resources Agency (SAHRA) which shall be a body corporate capable of suing and being sued in its corporate name and which shall be governed by a Council established in terms of section 14.

**Object of SAHRA**

12. The object of SAHRA is to co-ordinate the identification and management of the national estate.

**Functions, powers and duties of SAHRA**

13. (1) The general functions of SAHRA are to—

(a) establish national principles, standards and policy for the identification, recording and management of the national estate in terms of which heritage resources authorities and other relevant bodies must function with respect to South African heritage resources;

(b) co-ordinate the management of the national estate by all agencies of the State and other bodies and monitor their activities to ensure that they comply with national principles, standards and policy for heritage resources management;

(c) identify, record and manage nationally significant heritage resources and keep permanent records of such work;

(d) advise, assist and provide professional expertise to any authority responsible for the management of the national estate at provincial or local level, and assist any other body concerned with heritage resources management;

(e) promote and encourage public understanding and enjoyment of the national estate and public interest and involvement in the identification, assessment, recording and management of heritage resources;

(f) promote education and training in fields related to the management of the national estate; and

(g) perform any other functions assigned to it by this Act or as directed by the Minister.

(2) Without limiting the generality of subsection (1) and in addition to the general powers and duties conferred in terms of section 25, SAHRA—

(a) must investigate and advise the Council on—

(i) the state of South Africa’s heritage resources and any steps necessary to protect and conserve them;

(ii) national policy for the management of the national estate;

(iii) legislative amendment and enactment for the management of the national estate;

(iv) the repatriation of heritage resources which have been removed from South Africa and which SAHRA considers to be significant as part of the national estate;
(v) the role of the national estate in the development and promotion of a cultural profile for South Africa;
(vi) action and expenditure by the State for the identification and management of heritage resources, including financial incentives and concessions for heritage resources management;
(vii) education and training at all levels to promote the effective identification and management of the national estate;
(viii) any matter related to the operation of this Act; and
(ix) any other matter pertaining to the national estate or its management;

(b) must establish and maintain, for its own use and for the use of all heritage authorities and bodies and the public, the national heritage resources library, including documentary and other records relating to the national estate;

(c) must promote the systematic identification and recording of the national estate by—
(i) the development of a national strategy for the identification and assessment of heritage resources;
(ii) the establishment and funding of a standing South African Heritage Resources Survey which is tasked with annual projects aimed at identifying, assessing and documenting heritage resources;
(iii) the co-ordination and support of initiatives by provincial heritage resources authorities, any other bodies and persons to survey and record heritage resources;
(iv) the administration, co-ordination and funding of projects and research programmes aimed at the creation of graphic and other records of heritage resources;
(v) training programmes and other relevant activities aimed at conserving and documenting traditional South African building techniques and structural forms;
(vi) promoting the identification and recording of aspects of living heritage associated with heritage resources; and
(vii) projects aimed at increasing the volume and detail of information held in the inventory of the national estate referred to in section 39; and

(d) must prescribe national norms and standards for the recording of information about heritage resources in data bases maintained by itself and by provincial heritage resources authorities.

Establishment and constitution of SAHRA Council

14. (1) The affairs of SAHRA are under the control, management and direction of a Council consisting of—

(a) at least nine but not more than 15 members appointed by the Minister in the prescribed manner, of which nine members must respectively represent each of the provinces of South Africa; and
(b) the chief executive officer of SAHRA.
(2) The members of the Council contemplated in subsection (1)(a) must be appointed in accordance with the principles of transparency and representivity and their appointment must take into account the desirability that the members—

(a) have among them qualifications or special experience or interest in fields relevant to heritage resources, and the financial knowledge needed for the efficient functioning of SAHRA; and

(b) be representative of the relevant sectoral interests and the cultural and demographic characteristics of the population of the Republic.

(3) A member of the Council must vacate the office if the member—

(a) resigns in writing;

(b) has been absent from three consecutive meetings of the Council without the leave of the Council;

(c) is an unrehabilitated insolvent;

(d) is found to be of unsound mind by a competent court; or

(e) is convicted of an offence involving dishonesty or bodily harm and is sentenced to imprisonment without the option of a fine.

(4) The Minister may, after consultation with the Council, remove a member of the Council from office if in the opinion of the Minister there are sound reasons for doing so after hearing the member on those reasons.

(5) A member of the Council holds office for a period not exceeding three years, and may be reappointed.

(6) No member may serve more than two consecutive terms.

(7) If a member of the Council dies or vacates the office before the expiration of the period for which the member has been appointed, another person may be appointed to fill the vacancy for the unexpired portion of the period for which the member was appointed.

Chairperson of Council

15. (1) The chairperson of the Council is elected from the appointed members of the Council and holds office for the period or the unexpired portion of the period for which he or she has been appointed as member of the Council, unless the Council otherwise determines.

(2) If the chairperson of the Council vacates the office as chairperson before the expiration of the period for which he or she was appointed, another member of the Council must, subject to subsection (1), be elected as a chairperson of the Council from the appointed members of the Council.

(3) If the chairperson of the Council is absent from a meeting of the Council or not able to preside at that meeting, the members present must elect one of their number to preside at that meeting and that person may, during that meeting and until the chairperson resumes his or her functions, perform all those functions.
Functions of Council

16. The functions of the Council are to—

(a) advise the Minister on matters concerning heritage resources management;

(b) be responsible and accountable for the implementation of the functions, powers and duties of SAHRA;

(c) advise and assist SAHRA in the performance of its functions, powers and duties;

(d) promote the co-ordination of policy formulation and planning for the management of the national estate at national and provincial levels; and

(e) furnish the Minister with such information as the Minister may require.

Meetings of Council

17. (1) The Council may meet as often as necessary, but at least twice a year.

(2) A quorum for a meeting of the Council shall be a majority of its members.

(3) Any decision of the Council shall be taken by resolution of the majority of the members present at any meeting of the Council, and, in the event of an equality of votes on any matter, the person presiding at the meeting in question shall have a casting vote in addition to his or her deliberative vote as a member of the Council.

Committees of Council

18. The Council may establish committees to assist it in the performance of its functions and, in addition to any members, it may appoint to such committees persons whom the Council considers competent or who possess specific skills and expertise.

Reimbursement of expenses incurred by members of Council and committees

19. The Minister may, with the concurrence of the Minister of Finance, determine the reimbursement of expenses incurred by members of the Council and any committees it may establish who are not in the full-time employ of the State.

Employees of Council

20. (1) The Council must appoint a senior member of staff as chief executive officer, who must—

(a) be responsible for the management of the affairs of SAHRA and who must report on those affairs to the Council as the Council may require;

(b) be the accounting officer charged with the responsibility of accounting for all the money received and the utilisation thereof and be responsible for the property of SAHRA;

(c) furnish the Council with an annual report on the financial affairs of SAHRA;

(d) be responsible for the appointment and management of the staff in accordance with the staffing policy in terms of subsection (2); and

(e) perform any other activities and duties assigned to the chief executive officer from time to time by the Council.
(2) The Council must, in consultation with the chief executive officer, determine the staff needs and staffing policies of SAHRA and the posts, conditions of service, remuneration, allowances, subsidies and other benefits of the staff in accordance with a system approved by the Minister with the concurrence of the Minister of Finance.

(3) The Council must designate one of the staff of SAHRA as acting chief executive officer when the office of chief executive officer is vacant or when the chief executive officer is absent.

Finances and property

21. (1) The funds of SAHRA consists of—
   (a) moneys appropriated by Parliament to enable it to perform its functions and exercise its powers;
   (b) fees and fines received under the regulations;
   (c) fees received in payment of services;
   (d) funds raised by and donations and contributions to it;
   (e) trust funds vested in it;
   (f) interest derived from investments; and
   (g) moneys received from any other source.

(2) Subject to this section, SAHRA must use its funds to defray expenditure in connection with the performance of its functions.

(3) The Council may invest any money not required for immediate use or as a reasonable operating balance in accordance with the directions determined by the Minister in consultation with the Minister of Finance.

(4) The Council may establish and operate a reserve fund and may deposit therein such amounts as become available from time to time.

(5) SAHRA, with the approval of the Council—
   (a) may not lend or borrow any money without the consent of the Minister given with the concurrence of the Minister of Finance;
   (b) may purchase or otherwise acquire, hold, let, hire or receive in trust any real right in any immovable or movable property; and
   (c) may not make over to any person to hold in trust or sell, exchange or otherwise alienate, or hypothecate, burden with a servitude or otherwise confer any real right in immovable property, without the approval of the Minister given with the concurrence of the Minister of Finance.

(6) Once during every financial year, at a time determined by the Minister, SAHRA must submit a statement of its estimated income and expenditure for the following financial year to the Minister for approval, granted with the concurrence of the Minister of Finance.
(7) SAHRA may during the course of a financial year submit supplementary estimates of its expenditure for that financial year to the Minister for approval, granted with the concurrence of the Minister of Finance.

(8) SAHRA must not incur any expenditure except in accordance with an estimate of expenditure approved under subsections (6) and (7).

(9) SAHRA must—

(a) keep full and correct accounts and records of all its financial transactions and affairs, including all its transactions in its capacity of trustee of any trust fund, and all properties under its control, and must ensure that all payments out of its funds are correctly made and properly authorised and that adequate control is maintained over its assets, or those in its custody, and the incurring of liabilities; and

(b) as soon as possible after the end of the financial year, draw up annual financial statements which must show money received and expenditure incurred and its assets and liabilities at the end of the financial year concerned.

(10) The financial year of SAHRA ends on 31 March each year.

(11) The accounts and annual financial statements referred to in subsection (9)(b) must be audited by the Auditor-General.

(12) The accounts and annual financial statements referred to in subsection (9)(b) must be available for public inspection.

Reports

22. (1) As soon as practicable after the end of the financial year, SAHRA must compile and submit to the Minister a report on all its activities during that financial year, including a balance sheet and statements of income and expenditure certified by the Auditor-General.

(2) The report referred to in subsection (1) must include a description of the condition of the national estate during the period to which the report relates, including destruction and other losses incurred, threats to specific heritage resources or categories of heritage resources, and an account of offences and prosecutions and the results thereof.

(3) The Minister must table the report referred to in subsection (1) in Parliament within 14 days after receipt thereof if Parliament is in ordinary session or, if Parliament is not in ordinary session, within 14 days after the commencement of its next ordinary session.

Establishment of provincial heritage resources authorities

23. An MEC may establish a provincial heritage resources authority which shall be responsible for the management of the relevant heritage resources within the province, which shall be a body corporate capable of suing and being sued in its corporate name and which shall be governed by a Council constituted as prescribed by regulations published in the Provincial Gazette: Provided that the
members of the Council shall be appointed in a manner which applies the principles of transparency and representivity and takes into account special competence, experience and interest in the field of heritage resources.

Functions, powers and duties of provincial heritage resources authority

24. (1) A provincial heritage authority must—

(a) advise the MEC on the implementation of this Act or relevant provincial or municipal legislation;
(b) annually submit a report to the MEC regarding its activities during that year;
(c) promote the systematic identification, recording and assessment of heritage resources and heritage objects which form part of the national estate in a province;
(d) protect and manage heritage resources in a province which fulfil the heritage assessment criteria prescribed under section 7(1) for Grade II status;
(e) notify SAHRA of the presence of any heritage resource in the province which it considers fulfils the heritage assessment criteria prescribed under section 7(1) for Grade I status, nominate such resource for national level protection and furnish SAHRA with the information in its possession relating to such resource;
(f) maintain data bases on heritage resources in accordance with national standards, and at regular intervals furnish SAHRA with such data;
(g) establish policy, objectives and strategy plans for heritage resources management in the province;
(h) determine the competence of local authorities to manage heritage resources in accordance with the national system for the heritage grading of local authorities prescribed under section 8(6);
(i) co-ordinate and monitor the performance of local authorities in the implementation of their responsibilities in terms of this Act and provincial heritage legislation;
(j) assist local authorities to manage heritage resources in their areas of jurisdiction; and
(k) provide for any areas of responsibility in terms of this Act or any provincial heritage resources legislation when a local authority does not have competence, or has insufficient capacity, to perform a function in terms of the criteria prescribed under section 8(6).

General powers and duties of heritage resources authorities

25. (1) A heritage resources authority must—

(a) furnish information, advice and assistance to enhance public sensitivity towards and awareness of the need for management of the national estate;
(b) maintain a list of conservation bodies which have, in accordance with regulations by the heritage resources authority concerned, registered their interest in—
(i) a geographical area; or
(ii) a category of heritage resources;
(c) regularly inspect heritage resources which are formally protected by the heritage resources authority concerned in terms of any provision of Part 1 of Chapter II;

(d) endeavour to assist any community or body of persons with an established interest in any heritage resource to obtain reasonable access to such heritage resource, should they request it, and may for this purpose—

(i) enter into negotiations with the owner of such resource;

(ii) facilitate the making of arrangements as may be required for the achievement of such access, including the execution of a heritage agreement under section 42; and

(iii) if such negotiations are unsuccessful, refer the matter to the Minister or MEC, as the case may be; and

(e) make arrangements to ensure the protection and management of all heritage resources and property owned or controlled by it or vested in it.

(2) A heritage resources authority may—

(a) promote and engage in research relating to the identification, assessment and management of the national estate as necessary for the performance of its functions;

(b) publish, or by any other means make available or distribute in any form, or cause to be published or distributed, any knowledge and information relating to the national estate and any of its functions or activities;

(c) inspect or document any heritage resource—

(i) which has the potential to become protected in terms of this Act;

(ii) which is, or which the heritage authority has reason to believe may be, so protected; or

(iii) which it wishes to document for research purposes, for purposes of building up a public record of heritage resources or as part of an investigation into a suspected offence in terms of this Act, and must maintain a register of such inspections;

(d) whenever it is investigating the desirability of protecting any place in terms of this Act, take such steps as it considers necessary—

(i) for erecting beacons on the corners of and surveying and preparing a diagram or plan of such place; or

(ii) for determining by survey the location of such place or object in relation to the beacons and boundaries of the land on which it is situated;

(e) undertake or make arrangements for the presentation of any place under its control or, after consultation with the Department concerned, any heritage site which is owned by the State;

(f) by agreement with the authority or body concerned, co-operate in the management of any heritage resource which is owned or controlled by the State or a supported body;
(g) lend anything under its control to a museum or public institution, subject to such conditions as it deems necessary and appropriate;

(h) subject to the provisions of section 59, make and from time to time amend regulations relating to any matter which the heritage authority concerned considers to be necessary or expedient to prescribe to fulfil its functions and implement its powers and duties under this Act, including—

(i) the standards of practice and qualifications required of individuals, institutions or other bodies for the performance of work on heritage resources protected in terms of, and in the various fields covered by, this Act; and

(ii) the monitoring of activities at protected sites;

(i) create and where necessary register with the relevant authorities a badge, or an emblem for the authority, any of its projects or any category of protection provided for in terms of this Act;

(j) where appropriate, affix to or otherwise display at any place protected in terms of this Act a badge or other sign indicating its status;

(k) produce, acquire and market products relating to the national estate, or enter into arrangements for the production, acquisition and marketing of such products;

(l) recover costs incurred by it and, where appropriate, charge for the provision of services rendered in terms of this Act, including but not limited to the—

(i) processing of applications received;

(ii) carrying out of investigations;

(iii) production, acquisition and marketing of products; and

(iv) provision of information;

(m) arrange for the provision of insurance cover for—

(i) itself against any loss, damage, risk or liability which it may suffer or incur regarding any property under its control;

(ii) members of the council of a heritage resources authority, co-opted members, members of committees and members of its staff, in respect of bodily injury, illness, disablement or death incurred wholly and directly in the course of the performance of their duties on behalf of the heritage resources authority concerned;

(n) enter into contracts; and

(o) employ consultants to assist in the performance of its functions.

Delegation of functions or powers of heritage resources authorities

26. (1) Subject to subsection (3), the Minister or MEC, as the case may be, may make regulations to enable a heritage resources authority to delegate in writing any of its functions or powers under this Act to all or any of the following:
(a) In the case of SAHRA, any member of the Council;
(b) in the case of a provincial heritage resources authority, any member of its council;
(c) a committee or any member of a committee;
(d) any employee, heritage inspector, volunteer or other representative of the authority concerned;
(e) specified office bearers or members of a conservation body registered with it in terms of section 25(1)(b);
(f) in the case of SAHRA, a provincial heritage resources authority, provincial government, local authority, and any other authority which shows competence to perform such functions, by agreement with such authority;
(g) in the case of a provincial heritage resources authority, a local authority or any other body which is competent to perform such functions, by agreement with such authority or body.

(2) A power delegated under subsection (1), when exercised by the delegate, shall for the purposes of this Act be deemed to be exercised by the heritage resources authority concerned: Provided that a delegate shall be held accountable to the heritage resources authority for all actions performed by him, her or it during the period of delegation.

(3) A heritage resources authority may not delegate power to do any of the following:
(a) Delegate any of its functions or powers under this section;
(b) make a recommendation to the Minister or MEC in terms of this Act;
(c) borrow money under section 21(5)(a);
(d) acquire or dispose of real property under section 21(5)(b) or (c); or
(e) adopt any statement of general policy or conservation management plan under section 47.

(4) A delegation under this section shall be revocable at will and no such delegation shall prevent the exercise of any power by the heritage resources authority: Provided that the delegation of any power to a provincial heritage resources authority in terms of an agreement under subsection (1)
(f) shall only be revoked by SAHRA with the consent of the Minister, after SAHRA has consulted such provincial heritage resources authority.

CHAPTER II
PROTECTION AND MANAGEMENT OF HERITAGE RESOURCES
Part 1: Formal protections
National heritage sites and provincial heritage sites
27. (1) SAHRA must identify those places with qualities so exceptional that they are of special national significance in terms of the heritage assessment criteria set out in section 3(2) and prescribed under section 6(1) and (2), and must investigate the desirability of their declaration as national heritage sites.
(2) A provincial heritage resources authority must identify those places which have special qualities which make them significant in the context of the province or a region in terms of the heritage assessment criteria set out in section 3(2) and prescribed under section 6(1) and (2) and must investigate the desirability of their declaration as provincial heritage sites.

(3) Any person may submit a nomination to SAHRA for a place to be declared a national heritage site or to the provincial heritage resources authority for a place to be declared a provincial heritage site. The heritage resources authority concerned may prescribe the format and procedures for such nominations.

(4) A written motivation for the declaration of a place as a heritage site must be prepared and kept on record by the heritage resources authority.

(5) SAHRA may, by notice in the Gazette, declare any place referred to in subsection (1) to be a national heritage site.

(6) A provincial heritage resources authority may, by notice in the Provincial Gazette, declare any place referred to in subsection (2) and described in the notice to be a provincial heritage site.

(7) The heritage resources authority concerned may, by similar notice—
   (a) amend any notice published under subsection (5) or (6); or
   (b) withdraw any notice published under subsection (5) or (6) or paragraph (a) of this subsection.

(8) Before declaration of a place as a heritage site, or amendment or withdrawal of a notice under subsection (7), the heritage resources authority—
   (a) must notify the owner;
   (b) must notify the mortgage holder, the occupier and any other person with a registered interest in the property;
   (c) must notify all conservation bodies which have, in terms of section 25(1)(b), registered their interest in the geographical area in which the proposed heritage site is situated, and give them at least 60 days to make submissions regarding the proposed declaration, amendment or withdrawal, and in the case of the owner, to propose conditions under which the action will be acceptable.

   All submissions must be considered by the heritage resources authority before a final decision is made; and

   (d) before notifying the owner as provided in paragraph (a), must give to the owner reasonable opportunity for representations or submissions to be made in regard to the proposed notification.

(9) A heritage resources authority may at any time withdraw a notice which it has served in terms of subsection (8)(a).

(10) For the purposes of subsections (15) to (22), a place shall be deemed to be protected as a heritage site for six months from the date of service of a notice under subsection (8)(a) or until the notice is withdrawn or the place is declared to be a heritage site, whichever is the shorter period.
(11) Subject to subsection (12), if the owner objects to the proposed declaration of a place or proposes conditions which the heritage resources authority reasonably considers to be unacceptable, the heritage resources authority may, prior to the expiry of the notice in terms of subsection (10), renew a notice under subsection (8)(a), whereupon the protection under subsection (10) shall be extended for a further six months. If during this time consultation between the heritage resources authority and the owner fails to lead to the withdrawal of the owner’s objection or the proposal of acceptable conditions, the heritage resources authority may declare the place to be a heritage site.

(12) The Minister, on the advice of SAHRA, must prescribe circumstances in which the State, a local authority or a supported body may object to the declaration as a heritage site of a place which it owns or controls.

(13) SAHRA must inform the provincial heritage resources authority, the provincial planning authority and the local authority within whose area of jurisdiction a national heritage site falls, within 30 days of its declaration.

(14) A provincial heritage resources authority must inform SAHRA, the provincial planning authority and the local authority within whose area of jurisdiction a provincial heritage site falls, within 30 days of its declaration.

(15) SAHRA is responsible for the protection of national heritage sites in accordance with the provisions of this section.

(16) A provincial heritage resources authority is responsible for the protection of provincial heritage sites in accordance with the provisions of this section.

(17) Except in cases where the heritage resources authority considers it inappropriate, all heritage sites must be marked with a badge indicating their status.

(18) No person may destroy, damage, deface, excavate, alter, remove from its original position, subdivide or change the planning status of any heritage site without a permit issued by the heritage resources authority responsible for the protection of such site.

(19) The responsible heritage resources authority may make regulations pertaining to heritage sites under its control, or to any other heritage site with the consent of the owner of that site—

(a) safeguarding heritage sites from destruction, damage, disfigurement, excavation or alteration;

(b) regulating the conditions of use of any heritage site or the conditions for any development thereof;

(c) regulating the admission of members of the public to a heritage site, and the fees payable for such admission.

(20) Any branch of the State or supported body which is the owner of a heritage site must maintain such site according to a minimum standard and according to a procedure prescribed by the responsible heritage resources authority after consultation with the relevant Departments of Works.
(21) The responsible heritage resources authority may, by agreement with the owner of a heritage site—
(a) conserve or improve any heritage site;
(b) construct fences, walls or gates around or on a heritage site;
(c) acquire or construct and maintain an access road to a heritage site over any land, and construct upon such land fences, walls or gates; or
(d) erect signs on or near a heritage site.

(22) No person may damage any fence, wall or gate constructed or sign erected by a heritage resources authority in terms of subsection (21).

(23) (a) All reproduction rights either in two or three dimensions in respect of a heritage site, subject to any existing rights and the agreement of the owner of such site, belong to the State and vest in the heritage resources authority responsible for the protection of such site or, by agreement, with the authority or public institution responsible for the management of such site.

(b) Subject to the provisions of paragraph (a), no person other than the owner of the site may make such reproduction for profit without a permit issued by SAHRA or a provincial heritage resources authority, as the case may be, which may prescribe the fees payable in respect of such reproduction and must deposit such fees in a trust fund dedicated to the conservation of such site or of heritage resources in general.

Protected areas

28. (1) SAHRA may, with the consent of the owner of an area, by notice in the Gazette designate as a protected area—
(a) such area of land surrounding a national heritage site as is reasonably necessary to ensure the protection and reasonable enjoyment of such site, or to protect the view of and from such site; or
(b) such area of land surrounding any wreck as is reasonably necessary to ensure its protection; or
(c) such area of land covered by a mine dump.

(2) A provincial heritage resources authority may, with the consent of the owner of an area, by notice in the Provincial Gazette designate as a protected area—
(a) such area of land surrounding a provincial heritage site as is reasonably necessary to ensure the protection and reasonable enjoyment of such site, or to protect the view of and from such site; or
(b) such area of land surrounding any archaeological or palaeontological site or meteorite as is reasonably necessary to ensure its protection.

(3) No person may damage, disfigure, alter, subdivide or in any other way develop any part of a protected area unless, at least 60 days prior to the initiation of such changes, he or she has consulted the heritage resources authority which designated such area in accordance with a procedure prescribed by that authority.
(4) With regard to an area of land covered by a mine dump referred to in subsection (1)(c) SAHRA must make regulations providing for the protection of such areas as are seen to be of national importance in consultation with the owner, the Minister of Minerals and Energy and interested and affected parties within the mining community.

(5) A heritage resources authority may make regulations providing for specific protections for any protected area which it has designated, including the prohibition or control of specified activities by any person in the designated area.

(6) A local authority may, with the agreement of the heritage resources authority which designated a protected area, make provision in its town planning scheme or in by-laws for the management of such area.

**Provisional protection**

29. (1) SAHRA, or a provincial heritage resources authority, may, subject to subsection (4), by notice in the *Gazette* or the *Provincial Gazette*, as the case may be—

(a) provisionally protect for a maximum period of two years any—

(i) protected area;

(ii) heritage resource, the conservation of which it considers to be threatened and which threat it believes can be alleviated by negotiation and consultation; or

(iii) heritage resource, the protection of which SAHRA or the provincial heritage resources authority wishes to investigate in terms of this Act; and

(b) withdraw any notice published under paragraph (a).

(2) A local authority may, subject to subsection (4), by notice in the *Provincial Gazette*—

(a) provisionally protect for a maximum period of three months any place which it considers to be conservation-worthy, the conservation of which the local authority considers to be threatened and which threat it believes can be alleviated by negotiation and consultation; and

(b) withdraw any notice published under paragraph (a):

Provided that it notifies the provincial heritage resources authority within seven days of such provisional protection.

(3) A provincial heritage resources authority may, by notice in the *Provincial Gazette*, revoke a provisional protection by a local authority under subsection (2) or provisionally protect a place concerned in accordance with subsection (1).

(4) A heritage resources authority or a local authority may not provisionally protect any heritage resource unless it has notified the owner of the resource in writing of the proposed provisional protection.
(5) A heritage resource shall be deemed to be provisionally protected for 30 days from the date of service of a notice under subsection (4) or until the notice is withdrawn or the resource is provisionally protected by notice in the *Gazette* or the *Provincial Gazette*, whichever is the shorter period.

(6) A heritage authority or a local authority may at any time withdraw a notice which it has issued under subsection (4).

(7) SAHRA shall inform the relevant provincial heritage authority and local authority within 30 days of the publication or withdrawal of a notice under subsection (1).

(8) A provincial heritage resources authority shall inform the relevant local authority within 30 days of the publication or withdrawal of a notice under subsection (1).

(9) A local authority shall inform the provincial heritage authority of the withdrawal of a notice under subsection (2)(b).

(10) No person may damage, deface, excavate, alter, remove from its original position, subdivide or change the planning status of a provisionally protected place or object without a permit issued by a heritage resources authority or local authority responsible for the provisional protection.

**Heritage Registers**

30. (1) A provincial heritage resources authority must compile and maintain a heritage register listing the heritage resources in the province which it considers to be conservation-worthy in terms of the heritage assessment criteria set out in section 3(3) and prescribed under section 7.

(2) Subject to subsection (7), a provincial heritage resources authority may, by notice in the *Provincial Gazette*, list a heritage resource or amend or delete an entry in a heritage register.

(3) Heritage resources must be listed in accordance with—

(a) the sub-categories of Grade II and Grade III heritage resources prescribed under section 7, if any;

(b) the areas of jurisdiction of local authorities; and

(c) any additional categories prescribed by the provincial heritage resources authority in consultation with SAHRA.

(4) A provincial heritage resources authority must prescribe the procedure and information required for—

(a) the nomination of a resource for listing in a heritage register; and

(b) the compilation of an inventory of heritage resources referred to in subsection (5), which shall require at least compliance with such minimum standards as may be prescribed by SAHRA for the recording of information under section 39.

(5) At the time of the compilation or revision of a town or regional planning scheme or a spatial development plan, or at any other time of its choosing, or at the initiative of a provincial heritage resources authority where in the opinion of a provincial heritage resources authority the need exists, a planning authority shall compile an inventory of the heritage resources which fall within its area of
jurisdiction and submit such inventory to the relevant provincial heritage resources authority, which shall list in the heritage register those heritage resources which fulfil the assessment criteria under subsection (1).

(6) A provincial heritage resources authority may approve an inventory of heritage resources submitted to it by any person for listing in the heritage register.

(7) A provincial heritage resources authority shall not list a place in a heritage register without having consulted the owner of such place regarding inter alia the provisions to be established under subsection (11) for the protection of the place.

(8) The MEC may, after consultation with the MEC for local government, prescribe the process of consultation referred to in subsection (7).

(9) On publication of a notice in the Provincial Gazette concerning the listing in the heritage register of a place within its area of jurisdiction, or the amendment or deletion of an entry for such place, a local authority must notify the owner of such place.

(10) A local authority shall notify SAHRA and the provincial heritage resources authority when a place within its area of jurisdiction which is listed in the heritage register is destroyed, whereupon the provincial heritage resources authority shall record the destruction of the place against the entry in the heritage register for that place, and SAHRA shall record such destruction in the inventory of the national estate.

(11) Within six months of the publication of a notice in the Provincial Gazette concerning the inclusion in the heritage register of a place falling within its area of jurisdiction, every local authority must make provision for the protection of such place through the provisions of its planning scheme or by-laws under this Act: Provided that any such protective provisions shall be jointly approved by the provincial heritage resources authority, the relevant local authority and the provincial planning authority, and provided further that—

(a) the special consent of the local authority shall be required for any alteration to or development affecting a place listed in the heritage register;

(b) the local authority must, prior to the consideration of an application under paragraph (a), notify any conservation bodies which have, in terms of section 25(1)(b), registered their interest in the geographical area or type of property concerned and give them a reasonable period in which to register an objection or make other representations with respect to the application;

(c) in assessing an application under paragraph (a), the local authority shall consider—

(i) the cultural significance of the place and how this could be affected by the proposed alteration or development; and

(ii) any objection or representations under paragraph (b);
(d) where the local authority resolves to approve an application under paragraph 
(a) which would materially affect the cultural significance of the place and an objection to such 
approval has been registered under paragraph (b), unless the conservation body concerned withdraws 
such objection, the objection shall be deemed to be an appeal in terms of section 49 and the local 
authority shall submit the application and all relevant information to the relevant appeal body; and 
(e) in the event of any alteration or development of a place listed in a heritage register being 
undertaken without the consent of the local authority, the local authority may require the owner to stop 
such work instantly and restore the site to its previous condition within a specified period. If the owner 
fails to comply with the local authority’s requirements the local authority shall have the right to carry 
out such restoration work itself and recover the cost thereof from the owner.

(12) A provincial heritage resources authority or a local authority within whose area of jurisdiction 
such site is located may provisionally protect any place in an inventory referred to in subsections (5) 
and (6): Provided that such provisional protection shall be withdrawn when the place is listed in the 
heritage register.

(13) A local authority may mark any place falling within its area of jurisdiction listed in a heritage 
register with a badge indicating its status.

(14) Inclusion of a place in a heritage register shall not exempt any person from complying with the 
provisions of sections 35 and 36.

**Heritage areas**

31. (1) A planning authority must at the time of revision of a town or regional planning scheme, or the 
compilation or revision of a spatial plan, or at the initiative of the provincial heritage resources 
authority where in the opinion of the provincial heritage resources authority the need exists, 
investigate the need for the designation of heritage areas to protect any place of environmental or 
cultural interest.

(2) Where the provincial heritage resources authority is of the opinion that the need exists to protect a 
place of environmental or cultural interest as a heritage area, it may request a planning authority to 
investigate its designation in accordance with proposals submitted by the provincial heritage resources 
authority with its request. The planning authority must inform the provincial heritage resources 
authority within 60 days of receipt of such a request whether it is willing or able to comply with the 
request.

(3) Where the planning authority informs the provincial heritage resources authority that it is willing 
and able, the provincial heritage resources authority must assist the planning authority to investigate 
the designation of the place as a heritage area.

(4) Where the planning authority does not so inform the provincial heritage resources authority, or 
informs the provincial heritage resources authority that it is not so willing and able, the provincial
heritage resources authority may investigate the designation of the place as a heritage area and, with the approval of the MEC, designate such place to be a heritage area by notice in the *Provincial Gazette*.

(5) A local authority may, by notice in the *Provincial Gazette*, designate any area or land to be a heritage area on the grounds of its environmental or cultural interest or the presence of heritage resources, provided that prior to such designation it shall consult—

(a) the provincial heritage resources authority; and

(b) owners of property in the area and any affected community, regarding *inter alia* the provisions to be established under subsection (7) for the protection of the area.

(6) The MEC may, after consultation with the MEC responsible for local government, publish regulations setting out the process of consultation referred to in subsection (5).

(7) A local authority must provide for the protection of a heritage area through the provisions of its planning scheme or by-laws under this Act, provided that any such protective provisions shall be jointly approved by the provincial heritage resources authority, the provincial planning authority and the local authority, and provided further that—

(a) the special consent of the local authority shall be required for any alteration or development affecting a heritage area;

(b) in assessing an application under paragraph (a) the local authority must consider the significance of the area and how this could be affected by the proposed alteration or development; and

(c) in the event of any alteration or development being undertaken in a heritage area without the consent of the local authority, it shall have the power to require the owner to stop such work instantly and restore the site to its previous condition within a specified period. If the owner fails to comply with the requirements of the local authority, the local authority shall have the right to carry out such restoration work itself and recover the cost thereof from the owner.

(8) A local authority may erect signage indicating its status at or near a heritage area.

(9) Particular places within a heritage area may, in addition to the general provisions governing the area, be afforded further protection in terms of this Act or other heritage legislation.

**Heritage objects**

32. (1) An object or collection of objects, or a type of object or list of objects, whether specific or generic, that is part of the national estate and the export of which SAHRA deems it necessary to control, may be declared a heritage object, including—

(a) objects recovered from the soil or waters of South Africa, including archaeological and palaeontological objects, meteorites and rare geological specimens;

(b) visual art objects;

(c) military objects;
(d) numismatic objects;
(e) objects of cultural and historical significance;
(f) objects to which oral traditions are attached and which are associated with living heritage;
(g) objects of scientific or technological interest;
(h) books, records, documents, photographic positives and negatives, graphic material, film or video or sound recordings, excluding those that are public records as defined in section 1(xiv) of the National Archives of South Africa Act, 1996 (Act No. 43 of 1996), or in a provincial law pertaining to records or archives; and
(i) any other prescribed category.

(2) For the purposes of this section, an object within a type of objects declared to be a heritage object is deemed to be a heritage object.

(3) Before declaring any object contemplated in subsection (1) as a heritage object, SAHRA may give to the owner such prior opportunity for representations or submissions to be made in regard to the proposed declaration as may be practicable in the circumstances and in such manner as may be prescribed. Nothing herein contained shall oblige SAHRA to give such prior opportunity if the circumstances militate against this.

(4) SAHRA with the approval of the Minister may, by notice in the Gazette—
(a) declare an object, or a collection thereof, or a type of object or list of objects, whether specific or generic, to be a heritage object;
(b) amend any notice published under paragraph (a); or
(c) withdraw any notice published under paragraph (a) or amended under paragraph (b).

(5) SAHRA may not exercise its power under subsection (4) unless—
(a) in the case of a specific object or collection, it has served on the owner a notice of its intention and has given him or her at least 60 days to lodge an objection or suggest reasonable conditions regarding the care and custody of such object under which such declaration is acceptable; or
(b) in the case of a type of objects, it has—
(i) published a notice of provisional declaration in the Gazette;
(ii) by public advertisement and any other means it considers appropriate, made known publicly the effect of the declaration and its purpose; and (iii) invited any interested person who might be adversely affected to make submissions to or lodge objections with SAHRA within 60 days from the date of the notice, and has considered all such submissions and objections.

(6) An object or collection shall be deemed to be protected as a heritage object for six months from the date of service or publication of a notice under subsection (5)(a) or (5)(b)(i), or until such notice is withdrawn or the object or collection or type of objects is declared to be a heritage object, whichever is the shorter period.
(7) SAHRA must maintain a register of heritage objects in which all objects, collections of objects and types of objects which have been declared heritage objects must be listed.

(a) The register shall be in two parts:

(i) Part I: Heritage objects listed by type.

(ii) Part II A: Specific heritage objects as listed in the inventory of a public museum in South Africa or otherwise displayed or kept in secure conditions.

(iii) Part II B: Other specific heritage objects.

(b) SAHRA may prescribe the further division of the parts of the register into categories or other subdivisions.

(8) SAHRA must make available to the public, subject to subsection (9), a summary of information contained in the register.

(9) Where it is necessary to ensure the proper protection of a heritage object which is entered in the register, no information which may identify the location of the object must be accessible to any person except with the express consent of SAHRA, for so long as SAHRA may determine.

(10) SAHRA may designate any person or any institution in South Africa as an expert examiner for the purposes of this section, on the basis of his, her or its special knowledge.

(11) SAHRA may provide to the owner or custodian of a heritage object listed in Part II of the register of heritage objects a certificate or badge indicating its status.

(12) The owner of a heritage object listed in Part II of the register of heritage objects must notify SAHRA of the name and address of the new owner when such object is sold or otherwise alienated and must provide the new owner or custodian with any certificate or badge under subsection (11) relating to such a heritage object.

(13) No person may destroy, damage, disfigure or alter any heritage object, or disperse any collection which is listed in Part II of the register, without a permit issued by SAHRA.

(14) SAHRA may make regulations relating to the registration of dealers in heritage objects and the control of trade in heritage objects.

(15) It is the responsibility of the owner or custodian of a heritage object listed in Part II of the register of heritage objects, to keep the heritage object in good condition and in a secure place.

(16) The owner or custodian of a heritage object, listed in Part II of the register of heritage objects, must immediately report to SAHRA any loss of or damage to such a heritage object or any part thereof upon discovery of such loss or damage.

(17) No person may carry out any work of restoration or repair of a heritage object, listed in Part II of the register of heritage objects, without a permit issued by a duly authorised representative of SAHRA.
(18) On application by the owner or custodian of a heritage object listed in Part II of the register of heritage objects, SAHRA may at its discretion assist in funding any restoration or repair work undertaken by a restoration or repair craftsperson approved by SAHRA.

(19) No person may export or attempt to export from South Africa any heritage object without a permit issued by SAHRA.

(20) No heritage object may be removed from South Africa other than through a customs port of entry, and the relevant export permit issued under subsection (19) or certificate of exemption issued under subsection (32) must be produced to a custom officer before removal from South Africa is effectuated or allowed.

(21) An application for such an export permit must be made in the manner and contain such information as prescribed by SAHRA.

(22) On receipt of an application to export a heritage object SAHRA may refer it to one or more expert examiners, who must submit to SAHRA a written report on the application.

(23) SAHRA must consider the report and—

(a) issue a permit to export the object concerned, subject to such conditions, if any, as SAHRA considers necessary; or

(b) refuse to issue a permit.

(24) In considering an application to export any object of a type listed in Part I of the register of heritage objects permanently, an expert examiner and SAHRA must consider whether the object—

(a) is of outstanding significance by reason of its close association with South African history or culture, its aesthetic qualities, or its value in the study of the arts or sciences; and

(b) is of such a degree of national importance that its loss to South Africa would significantly diminish the national heritage, and if satisfied that the object fulfills both these criteria, may not recommend the issue of a permit, or issue a permit, as the case may be, to export the object permanently.

(25) In the event of SAHRA refusing to issue an export permit the applicant may, within 30 days after such refusal, by written notice require the compulsory purchase of the heritage object to which such refusal relates.

(26) On receipt of a notification under subsection (25) SAHRA must—

(a) if it is of the opinion that a fair offer to purchase the object concerned might be made by a person or public authority in South Africa within the following six months, establish a delay period of not less than two months and not more than six months during which an export permit may not be issued in respect of such object; or

(b) on its own behalf or on behalf of a public institution or authority in South Africa or a person who will undertake to keep the object in the country, offer to purchase the object either by an immediate
cash payment or by payment of compensation in such manner as the Minister in consultation with the Minister of Finance may determine; or

(c) in any other case, issue a permit to export the object concerned.

(27) Where SAHRA establishes a delay period under subsection (26)(a) in respect of a heritage object, it—

(a) must give written notice of the delay period to the applicant, and the Minister;
(b) must advise such institutions and public authorities in South Africa as it sees fit of the delay period and of the object in respect of which such delay period was established;
(c) may by public advertisement or any other means it deems appropriate make known the delay period and the object in respect of which it was established; and
(d) may stipulate that the heritage object concerned is deposited on temporary loan with a specified South African museum or public authority for the duration of the delay period.

(28) SAHRA, in consultation with the Minister, may extend a delay period established under subsection (26)(a) for a maximum period of two years.

(29) In the event that—

(a) during a delay period established under subsection (26)(a), an offer to purchase the heritage object concerned is made and the applicant and a public authority or person making such offer cannot agree as to the amount of a fair cash offer; or

(b) SAHRA and the applicant cannot agree as to the amount of a fair offer or compensation under subsection (26)(b), such dispute must be arbitrated by a panel appointed by the Minister, consisting of equal representatives of dealers in heritage objects, museums and collectors of heritage objects, which must determine the amount of a fair cash offer to purchase such heritage object and must notify the parties concerned and SAHRA thereof.

(30) Where a delay period established under subsection (26)(a) expires without a fair offer being made to purchase the heritage object concerned, SAHRA must forthwith on the request of the applicant issue a permit to export such heritage object.

(31) Where a delay period established under subsection (26)(a) expires and SAHRA is satisfied that a fair offer to purchase the heritage object concerned has been made, SAHRA may not issue a permit to export such heritage object.

(32) A person who intends to import an object which is of a type listed in Part I of the register of heritage objects, for temporary purposes or in circumstances in which the person may subsequently wish to export the object, may apply to SAHRA for a certificate of exemption authorising the export of the object concerned for the period specified in the certificate.
**Part 2: General protections**

**Import of objects protected in terms of laws of foreign states**

**33.** (1) No person may import into South Africa any foreign cultural property other than through a customs port of entry, and the export permit or other permission issued in the country of origin of such object must be produced to a customs officer before import to South Africa is effected or allowed.

(2) After a cultural property agreement between South Africa and a reciprocating state comes into force, no person may import into South Africa any foreign cultural property that has been illegally exported from a reciprocating state.

(3) A customs officer who has reason to believe that a person is attempting to import an object in contravention of subsection (1) or (2), may withhold the object concerned and such object must be kept in the custody of SAHRA until such time, not exceeding six months, as an investigation into the provenance of such object is completed.

(4) SAHRA may, with the consent of the Minister and the Minister of Foreign Affairs, liaise and co-operate with the authority responsible for the protection of cultural property in any reciprocating state and may enter into agreements with any such authority with regard to the return to the country of origin of any heritage object or cultural property which is illegally imported into South Africa or the reciprocating state, whether specifically or in general.

**Structures**

**34.** (1) No person may alter or demolish any structure or part of a structure which is older than 60 years without a permit issued by the relevant provincial heritage resources authority.

(2) Within three months of the refusal of the provincial heritage resources authority to issue a permit, consideration must be given to the protection of the place concerned in terms of one of the formal designations provided for in Part 1 of this Chapter.

(3) The provincial heritage resources authority may at its discretion, by notice in the *Provincial Gazette*, make an exemption from the requirements of subsection (1) within a defined geographical area, or for certain defined categories of site within a defined geographical area, provided that it is satisfied that heritage resources falling into the defined area or category have been identified and are adequately provided for in terms of the provisions of Part 1 of this Chapter.

(4) Should the provincial heritage resources authority believe it to be necessary it may, following a three-month notice period published in the *Provincial Gazette*, withdraw or amend a notice under subsection (3).
Archaeology, palaeontology and meteorites

35. (1) Subject to the provisions of section 8, the protection of archaeological and palaeontological sites and material and meteorites is the responsibility of a provincial heritage resources authority: Provided that the protection of any wreck in the territorial waters and the maritime cultural zone shall be the responsibility of SAHRA.

(2) Subject to the provisions of subsection (8)(a), all archaeological objects, palaeontological material and meteorites are the property of the State. The responsible heritage authority must, on behalf of the State, at its discretion ensure that such objects are lodged with a museum or other public institution that has a collection policy acceptable to the heritage resources authority and may in so doing establish such terms and conditions as it sees fit for the conservation of such objects.

(3) Any person who discovers archaeological or palaeontological objects or material or a meteorite in the course of development or agricultural activity must immediately report the find to the responsible heritage resources authority, or to the nearest local authority offices or museum, which must immediately notify such heritage resources authority.

(4) No person may, without a permit issued by the responsible heritage resources authority—

(a) destroy, damage, excavate, alter, deface or otherwise disturb any archaeological or palaeontological site or any meteorite;

(b) destroy, damage, excavate, remove from its original position, collect or own any archaeological or palaeontological material or object or any meteorite;

(c) trade in, sell for private gain, export or attempt to export from the Republic any category of archaeological or palaeontological material or object, or any meteorite; or

(d) bring onto or use at an archaeological or palaeontological site any excavation equipment or any equipment which assist in the detection or recovery of metals or archaeological and palaeontological material or objects, or use such equipment for the recovery of meteorites.

(5) When the responsible heritage resources authority has reasonable cause to believe that any activity or development which will destroy, damage or alter any archaeological or palaeontological site is under way, and where no application for a permit has been submitted and no heritage resources management procedure in terms of section 38 has been followed, it may—

(a) serve on the owner or occupier of the site or on the person undertaking such development an order for the development to cease immediately for such period as is specified in the order;

(b) carry out an investigation for the purpose of obtaining information on whether or not an archaeological or palaeontological site exists and whether mitigation is necessary;

(c) if mitigation is deemed by the heritage resources authority to be necessary, assist the person on whom the order has been served under paragraph (a) to apply for a permit as required in subsection
(4); and (d) recover the costs of such investigation from the owner or occupier of the land on which it is believed an archaeological or palaeontological site is located or from the person proposing to undertake the development if no application for a permit is received within two weeks of the order being served.

(6) The responsible heritage resources authority may, after consultation with the owner of the land on which an archaeological or palaeontological site or a meteorite is situated, serve a notice on the owner or any other controlling authority, to prevent activities within a specified distance from such site or meteorite.

(7) (a) Within a period of two years from the commencement of this Act, any person in possession of any archaeological or palaeontological material or object or any meteorite which was acquired other than in terms of a permit issued in terms of this Act, equivalent provincial legislation or the National Monuments Act, 1969 (Act No. 28 of 1969), must lodge with the responsible heritage resources authority lists of such objects and other information prescribed by that authority. Any such object which is not listed within the prescribed period shall be deemed to have been recovered after the date on which this Act came into effect.

(b) Paragraph (a) does not apply to any public museum or university.

(c) The responsible authority may at its discretion, by notice in the Gazette or the Provincial Gazette, as the case may be, exempt any institution from the requirements of paragraph (a) subject to such conditions as may be specified in the notice, and may by similar notice withdraw or amend such exemption.

(8) An object or collection listed under subsection (7)—

(a) remains in the ownership of the possessor for the duration of his or her lifetime, and SAHRA must be notified who the successor is; and

(b) must be regularly monitored in accordance with regulations by the responsible heritage authority.

**Burial grounds and graves**

36. (1) Where it is not the responsibility of any other authority, SAHRA must conserve and generally care for burial grounds and graves protected in terms of this section, and it may make such arrangements for their conservation as it sees fit.

(2) SAHRA must identify and record the graves of victims of conflict and any other graves which it deems to be of cultural significance and may erect memorials associated with the grave referred to in subsection (1), and must maintain such memorials.

(3) (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.

**Public monuments and memorials**

37. Public monuments and memorials must, without the need to publish a notice to this effect, be protected in the same manner as places which are entered in a heritage register referred to in section 30.

**Heritage resources management**

38. (1) Subject to the provisions of subsections (7), (8) and (9), any person who intends to undertake a development categorised as—

(a) the construction of a road, wall, powerline, pipeline, canal or other similar form of linear development or barrier exceeding 300m in length;

(b) the construction of a bridge or similar structure exceeding 50 m in length;

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

(i) exceeding 5 000 m2 in extent; or

(ii) involving three or more existing erven or subdivisions thereof; or

(iii) involving three or more erven or divisions thereof which have been consolidated within the past five years; or

(iv) the costs of which will exceed a sum set in terms of regulations by SAHRA or a provincial heritage resources authority;

(d) the re-zoning of a site exceeding 10 000 m2 in extent; or

(e) any other category of development provided for in regulations by SAHRA or a provincial heritage resources authority, must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.

(2) The responsible heritage resources authority must, within 14 days of receipt of a notification in terms of subsection (1)—

(a) if there is reason to believe that heritage resources will be affected by such development, notify the person who intends to undertake the development to submit an impact assessment report. Such report must be compiled at the cost of the person proposing the development, by a person or persons
approved by the responsible heritage resources authority with relevant qualifications and experience
and professional standing in heritage resources management; or

(b) notify the person concerned that this section does not apply.

(3) The responsible heritage resources authority must specify the information to be provided in a
report required in terms of subsection (2)(a): Provided that the following must be included:

(a) The identification and mapping of all heritage resources in the area affected;

(b) an assessment of the significance of such resources in terms of the heritage assessment criteria set
out in section 6(2) or prescribed under section 7;

(c) an assessment of the impact of the development on such heritage resources;

(d) an evaluation of the impact of the development on heritage resources relative to the sustainable
social and economic benefits to be derived from the development;

(e) the results of consultation with communities affected by the proposed development and other
interested parties regarding the impact of the development on heritage resources;

(f) if heritage resources will be adversely affected by the proposed development, the consideration of
alternatives; and

(g) plans for mitigation of any adverse effects during and after the completion of the proposed
development.

(4) The report must be considered timeously by the responsible heritage resources authority which
must, after consultation with the person proposing the development, decide—

(a) whether or not the development may proceed;

(b) any limitations or conditions to be applied to the development;

(c) what general protections in terms of this Act apply, and what formal protections may be applied, to
such heritage resources;

(d) whether compensatory action is required in respect of any heritage resources damaged or
destroyed as a result of the development; and

(e) whether the appointment of specialists is required as a condition of approval of the proposal.

(5) A provincial heritage resources authority shall not make any decision under subsection (4) with
respect to any development which impacts on a heritage resource protected at national level unless it
has consulted SAHRA.

(6) The applicant may appeal against the decision of the provincial heritage resources authority to the
MEC, who—

(a) must consider the views of both parties; and

(b) may at his or her discretion—

(i) appoint a committee to undertake an independent review of the impact assessment report and the
decision of the responsible heritage authority; and
(ii) consult SAHRA; and
(c) must uphold, amend or overturn such decision.

(7) The provisions of this section do not apply to a development described in subsection (1) affecting any heritage resource formally protected by SAHRA unless the authority concerned decides otherwise.

(8) The provisions of this section do not apply to a development as described in subsection (1) if an evaluation of the impact of such development on heritage resources is required in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989), or the integrated environmental management guidelines issued by the Department of Environment Affairs and Tourism, or the Minerals Act, 1991 (Act No. 50 of 1991), or any other legislation: Provided that the consenting authority must ensure that the evaluation fulfils the requirements of the relevant heritage resources authority in terms of subsection (3), and any comments and recommendations of the relevant heritage resources authority with regard to such development have been taken into account prior to the granting of the consent.

(9) The provincial heritage resources authority, with the approval of the MEC, may, by notice in the Provincial Gazette, exempt from the requirements of this section any place specified in the notice.

(10) Any person who has complied with the decision of a provincial heritage resources authority in subsection (4) or of the MEC in terms of subsection (6) or other requirements referred to in subsection (8), must be exempted from compliance with all other protections in terms of this Part, but any existing heritage agreements made in terms of section 42 must continue to apply.

**Part 3: Management**

**Inventory of national estate**

39. (1) For the purposes of the consolidation and co-ordination of information on heritage resources, SAHRA must compile and maintain an inventory of the national estate, which must be in the form of a data base of information on heritage resources which it considers to be worthy of conservation, including—

(a) all places and objects with which it and its predecessors have been involved;

(b) all places and objects protected through the publication of notices in the Gazette or Provincial Gazette, whether in terms of this Act or provincial legislation;

(c) places and objects subject to general protections in terms of this Act or provincial legislation for the management of heritage resources; and

(d) any other place and object which it considers to be of interest, and for this purpose it must co-ordinate, and may prescribe, national standards for the recording of information by provincial heritage authorities.
(2) Heritage resources must be listed in the inventory in the format and under the categories prescribed by SAHRA.

(3) SAHRA may from time to time, after consultation with the relevant provincial heritage resources authority and the local authority concerned, make, amend or delete entries in the inventory: Provided that—
(a) all places listed in any heritage register must be entered in the inventory;
(b) a local authority must inform SAHRA on the destruction of a place listed in a heritage register, whereupon SAHRA must record such destruction in the inventory.

(4) A provincial heritage resources authority must, within 30 days of the listing of a heritage resource in a heritage register or the amendment or deletion of an entry, notify SAHRA and provide details of the listing, amendment or deletion.

(5) A provincial heritage resources authority must, at regular intervals in the manner prescribed by SAHRA, provide SAHRA with any information about heritage resources in the province which would increase the volume and detail of information held in the inventory.

(6) Any person has access to the inventory at the offices of SAHRA: Provided that information may be withheld if its disclosure may impact negatively on the privacy or economic interests of the owner or any person with an interest in a property, or a potential investor, or on the continued conservation of a heritage resource.

(7) SAHRA must at regular intervals, publish a summary and analysis of the inventory of the national estate.

**National heritage resources assistance programme**

40. (1) Subject to section 21, SAHRA may provide financial assistance in the form of a grant or a loan to an approved body or an individual for any project which contributes to the purpose, and is in accordance with the principles as prescribed.

(2) SAHRA must prescribe the procedures for applications for approval and granting of financial assistance and the criteria for the assessment of projects.

(3) A loan may be approved in such amount and subject to such terms and conditions as SAHRA determines: Provided that a loan must be—
(a) at the rate of interest for the time being fixed by the Minister, in consultation with the Minister of Finance; or
(b) if the Minister, in consultation with the Minister of Finance, so approves—
(i) at the rate of interest fixed by the Minister in respect of that loan; or
(ii) without interest.

(4) Any financial assistance in terms of this section is to be provided out of a fund reserved by SAHRA for this purpose, which shall be called the National Heritage Resources Fund.
Restitution of heritage objects

41. (1) When a community or body with a bona fide interest makes a claim for the restitution of a movable heritage resource which is part of the national estate and is held by or curated in a publicly funded institution, the institution concerned must enter into a process of negotiation with the claimants regarding the future of the resource.

(2) The Minister may make regulations regarding the establishment of bona fide interest in terms of subsection (1) and the conditions under which such claims may be made.

(3) In the absence of an agreement on a heritage resource which is the subject of negotiations in terms of subsection (1), the claimants or the institution concerned may appeal to the Minister, who must, with due regard to subsection 5(4) and in a spirit of compromise—

(a) mediate between the parties concerned with the aim of finding a mutually satisfactory solution; and

(b) in the absence of agreement between the parties concerned, make a final decision on the future of the resource, including any conditions necessary to ensure its safety, the conditions of access of the claimants or the institution or any other interested party to the resource, or any other appropriate conditions.

Heritage agreements

42. (1) (a) SAHRA, or a provincial heritage resources authority may negotiate and agree with a provincial authority, local authority, conservation body, person, or community for the execution of a heritage agreement to provide for the conservation, improvement or presentation of a clearly defined heritage resource: Provided that the consent of the owner of such resource must be given.

(b) Such a heritage agreement must be in the form of a binding contract.

(2) A heritage agreement may include such terms and conditions as the parties think fit, including provision for public access, and provision for financial or other assistance from the heritage authority concerned.

(3) Without limiting subsection (2), a heritage agreement may be expressed to have effect in perpetuity or for any specified term, or to terminate upon the happening of a specific event.

(4) A heritage agreement may, with the consent of the owner of the resource concerned, be varied or cancelled by agreement between the parties.

(5) The consent of the owner of the resource concerned to the heritage agreement or any variation of the heritage agreement may be given, subject to the inclusion in the heritage agreement of any additional provisions or modified provisions, or to the deletion of such provisions, as the owner giving the consent considers necessary.

(6) Nothing in this Act requires a heritage resources authority to negotiate or agree with any person or authority to enter into or execute any heritage agreement.
(7) A heritage agreement in respect of a place attached to the land is binding on the owner of the place, as at the date of execution of the agreement while the agreement remains in force.

(8) The owner of a national heritage site, a provincial heritage site or a place listed in a heritage register may, by a heritage agreement entered into with the heritage resources authority or local authority responsible for the protection of such place, or any person or body approved by such authority, appoint the heritage resources authority or the local authority or the person or body concerned, the guardian of the place.

(9) The heritage agreement referred to in subsection (7) or (8) may provide for—

(a) the maintenance and management of the place;

(b) the custody of the place and the duties of any person who may be employed in connection therewith;

(c) the occupation or use of the place by the owner or otherwise;

(d) the restriction of the right of the owner or occupier to do certain acts or things on or near the place;

(e) the facilities of access to be permitted to the public and to persons deputed by the guardian to inspect or maintain the place;

(f) the presentation of the place;

(g) the notice to be given to the guardian in case the owner intends to offer the land on which the place is situated for sale, lease or other disposal, and the right to be reserved to the guardian to have first refusal of such sale, lease or other disposal;

(h) the payment of any expenses incurred by the owner or by the guardian in connection with the maintenance of the place;

(i) any other matter connected with the protection or management of the place which is agreed to by the owner and the guardian;

(j) the duration of the agreement, with provision for the earlier termination thereof by any party thereto; and

(k) the procedure for the resolution of any dispute arising out of the agreement.

(10) The owner of a place which is under guardianship shall, except as expressly provided by this Act, continue to have the same estate, right, title and interest in and to the place as before.

(11) Every heritage agreement has effect according to its tenor but subject to the provisions of this Act: Provided that—

(a) the execution of a heritage resources agreement in respect of a heritage resource must not prevent the heritage authority responsible for its protection from exercising any powers in this Act in relation to that resources; and

(b) nothing in terms of any heritage agreement shall permit or allow any person to carry out any act contrary to this Act.
Incentives

43. (1) On advice from SAHRA the Minister, in concurrence with the Minister of Finance, may publish regulations on financial incentives for the conservation of heritage resources which form part of the national estate, or otherwise promote the purpose of this Act.

(2) An MEC or a local authority may in planning schemes or in by-laws under this Act or by any other means provide incentives for the conservation of heritage resources as provided for in subsection (1).

Presentation of protected resources

44. (1) Heritage resources authorities and local authorities must, wherever appropriate, co-ordinate and promote the presentation and use of places of cultural significance and heritage resources which form part of the national estate and for which they are responsible in terms of section 5 for public enjoyment, education, research and tourism, including—

(a) the erection of explanatory plaques and interpretive facilities, including interpretive centres and visitor facilities;
(b) the training and provision of guides;
(c) the mounting of exhibitions;
(d) the erection of memorials; and
(e) any other means necessary for the effective presentation of the national estate.

(2) Where a heritage resource which is formally protected in terms of Part 1 of this Chapter is to be presented, the person wishing to undertake such presentation must, at least 60 days prior to the institution of interpretive measures or manufacture of associated material, consult with the heritage resources authority which is responsible for the protection of such heritage resource regarding the contents of interpretive material or programmes.

(3) A person may only erect a plaque or other permanent display or structure associated with such presentation in the vicinity of a place protected in terms of this Act in consultation with the heritage resources authority responsible for the protection of the place.

Compulsory repair order

45. (1) When the heritage resources authority responsible for the protection of a heritage site considers that such site—

(a) has been allowed to fall into disrepair for the purpose of—

(i) effecting or enabling its destruction or demolition;
(ii) enabling the development of the designated land; or
(iii) enabling the development of any land adjoining the designated land; or

(b) is neglected to such an extent that it will lose its potential for conservation, the heritage resources authority may serve on the owner an order to repair or maintain such site, to the satisfaction of the heritage resources authority, within a reasonable period of time as specified in the order: Provided that
the heritage resources authority must specify only such work as, in its opinion, is necessary to prevent any further deterioration in the condition of the place.

(2) Subject to subsection (3), upon failure of the owner to comply with the terms of an order under subsection (1) within the specified time, the authority which served the order may itself take such steps as may be necessary for the repair or maintenance thereof and recover the costs from the owner.

(3) If the owner can show good cause, he or she may, within 21 days of the service of a repair order under subsection (1)—

(a) apply to the heritage resources authority which served the repair order for the extension of the time specified in the order; or
(b) appeal to the Minister, in the manner prescribed under section 49.

**Expropriation**

46. (1) The Minister may, on the advice of SAHRA and after consultation with the Minister of Finance, purchase or, subject to compensation, expropriate any property for conservation or any other purpose under this Act if that purpose is a public purpose or is in the public interest.

(2) The Expropriation Act, 1975 (Act No. 63 of 1975), applies to all expropriations under this Act, and any reference to the Minister of Public Works in that Act must be read as a reference to the Minister for the purposes of such expropriation.

(3) Notwithstanding the provisions of subsection (2), the amount of compensation and the time and manner of payment must be determined in accordance with section 25(3) of the Constitution, and the owner of the property in question must be given a hearing before any property is expropriated.

**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.

CHAPTER III
GENERAL PROVISIONS

Part 1: Enforcement, appeals, offences and penalties

Permits

48. (1) A heritage resources authority may prescribe the manner in which an application is made to it for any permit in terms of this Act and other requirements for permit applications, including—

(a) any particulars or information to be furnished in the application and any documents, drawings, plans, photographs and fees which should accompany the application;

(b) minimum qualifications and standards of practice required of persons making application for a permit to perform specified actions in relation to particular categories of protected heritage resources;

(c) standards and conditions for the excavation and curation of archaeological and palaeontological objects and material and meteorites recovered by authority of a permit;

(d) the conditions under which, before a permit is issued, a financial deposit must be lodged and held in trust for the duration of the permit or such period as the heritage resources authority may specify, and conditions of forfeiture of such deposit;

(e) conditions for the temporary export and return of objects protected under section 32 or section 35;

(f) the submission of reports on work done under authority of a permit; and

(g) the responsibilities of the heritage resources authority regarding monitoring of work done under authority of a permit.

(2) On application by any person in the manner prescribed under subsection (1), a heritage resources authority may in its discretion issue to such person a permit to perform such actions at such time and subject to such terms, conditions and restrictions or directions as may be specified in the permit, including a condition—
(a) that the applicant give security in such form and such amount determined by the heritage resources authority concerned, having regard to the nature and extent of the work referred to in the permit, to ensure the satisfactory completion of such work or the curation of objects and material recovered during the course of the work; or
(b) providing for the recycling or deposit in a materials bank of historical building materials; or
(c) stipulating that design proposals be revised; or
(d) regarding the qualifications and expertise required to perform the actions for which the permit is issued.

(3) A heritage resources authority may at its discretion, in respect of any heritage resource protected by it in terms of the provisions of Chapter II, by notice in the Gazette or the Provincial Gazette, as the case may be, grant an exemption from the requirement to obtain a permit from it for such activities or class of activities by such persons or class of persons in such circumstances as are specified in the notice.

Appeals

49. (1) Regulations by the Minister and the MEC must provide for a system of appeal to the SAHRA Council or a provincial heritage resources council against a decision of a committee or other delegated representative of SAHRA or a provincial heritage resources authority.

(2) Anybody wishing to appeal against a decision of the SAHRA Council or the council of a provincial heritage resources authority must notify the Minister or MEC in writing within 30 days. The Minister or MEC shall then appoint an independent tribunal, consisting of three experts, having expertise regarding the matter.

(3) The tribunal contemplated in subsection (2), in considering the appeal referred to it by the Minister or the MEC, must have due regard to—

(a) the cultural significance of the heritage resources in question;
(b) heritage conservation principles; and
(c) any other relevant factor which is brought to its attention by the appellant or the heritage resources authority.

Appointment and powers of heritage inspectors

50. (1) SAHRA or a provincial heritage resources authority may, in writing, appoint heritage inspectors: Provided that if a heritage inspector is a staff member of a government department or supported body, such appointment must only be made by agreement with the Minister or other person in charge of the administration of such department or body.

(2) By force of this section, each member of the South African Police Services and each customs and excise officer is deemed to be a heritage inspector.
(3) The heritage resources authority must issue to each heritage inspector, other than a person referred to in subsection (2), an identity card containing a photograph and the signature of the heritage inspector.

(4) For the purposes of this section, a reference to an identity card in relation to a person referred to in subsection (2), is a reference to written evidence of the fact that he or she is a member of the bodies referred to in subsection (2).

(5) A person who ceases to be a heritage inspector must forthwith return his or her identity card to the heritage authority concerned.

(6) A heritage inspector, other than a customs and excise officer or a member of the South African Police Services in uniform, may not exercise his or her powers in terms of this Act in relation to another person unless the heritage inspector first produces the identity card for inspection by the other person: Provided that if the production of the identity card would endanger the health or safety of the heritage inspector, he or she must produce it as soon as is practicable to do so.

(7) Subject to the provisions of any other law, a heritage inspector or any person authorised by a heritage resources authority in writing, may at all reasonable times enter upon any land or premises for the purpose of inspecting any heritage resource protected in terms of the provisions of this Act, or any other property in respect of which the heritage resources authority is exercising its functions and powers in terms of this Act, and may take photographs, make measurements and sketches and use any other means of recording information necessary for the purposes of this Act.

(8) A heritage inspector may at any time inspect work being done under a permit issued in terms of this Act and may for that purpose at all reasonable times enter any place protected in terms of this Act.

(9) Where a heritage inspector has reasonable grounds to suspect that an offence in terms of this Act has been, is being, or is about to be committed, the heritage inspector may with such assistance as he or she thinks necessary—

(a) enter and search any place, premises, vehicle, vessel or craft, and for that purpose stop and detain any vehicle, vessel or craft, in or on which the heritage inspector believes, on reasonable grounds, there is evidence related to that offence;

(b) confiscate and detain any heritage resource or evidence concerned with the commission of the offence pending any further order from the responsible heritage resources authority; and

(c) take such action as is reasonably necessary to prevent the commission of an offence in terms of this Act.

(10) A heritage inspector may, if there is reason to believe that any work is being done or any action is being taken in contravention of this Act or the conditions of a permit issued in terms of this Act, order the immediate cessation of such work or action pending any further order from the responsible heritage resources authority.
A heritage inspector may require any person who he or she has reason to believe has committed an offence in terms of this Act to supply his or her name and address and reasonable evidence of his or her identity, and may arrest a person who refuses to comply with those requirements.

(12) A person—
(a) must comply with a request or requirement lawfully made in terms of this section to the extent that the person is capable of complying with it;
(b) may not knowingly furnish information that is false or misleading; and
(c) may not hinder or obstruct any heritage inspector in the exercise of his or her powers in terms of this section.

**Offences and penalties**

51. (1) Notwithstanding the provisions of any other law, any person who contravenes—
(a) sections 27(18), 29(10), 32(13) or 32(19) is guilty of an offence and liable to a fine or imprisonment or both such fine and imprisonment as set out in item 1 of the Schedule;
(b) sections 33(2), 35(4) or 36(3) is guilty of an offence and liable to a fine or imprisonment or both such fine and imprisonment as set out in item 2 of the Schedule;
(c) sections 28(3) or 34(1) is guilty of an offence and liable to a fine or imprisonment or both such fine and imprisonment as set out in item 3 of the Schedule;
(d) sections 27(22), 32(15), 33(1), 35(6) or 44(3) is guilty of an offence and liable to a fine or imprisonment or both such fine and imprisonment as set out in item 4 of the Schedule;
(e) sections 27(23)(b), 32(17), 35(3), 36(3) or 51(8) is guilty of an offence and liable to a fine or imprisonment or both such fine and imprisonment as set out in item 5 of the Schedule;
(f) sections 32(13), 32(16), 32(20), 35(7)(a), 44(2), 50(5) or 50(12) is guilty of an offence and liable to a fine or imprisonment or both such fine and imprisonment as set out in item 6 of the Schedule.

(2) The Minister, with the concurrence of the relevant MEC, may prescribe a penalty of a fine or of imprisonment for a period not exceeding six months for any contravention or failure to comply with regulations by heritage resources authorities or by-laws by local authorities.

(3) The Minister or the MEC, as the case may be, may make regulations in terms of which the magistrate of the district concerned may—
(a) levy admission of guilt fines up to a maximum amount of R10 000 for infringement of the terms of this Act for which such heritage resources authority is responsible; and
(b) serve a notice upon a person who is contravening a specified provision of this Act or has not complied with the terms of a permit issued by such authority, imposing a daily fine of R50 for the duration of the contravention, subject to a maximum period of 365 days.

(4) The Minister may from time to time by regulation adjust the amounts referred to in subsection (3) in order to account for the effect of inflation.
(5) Any person who—

(a) fails to provide any information that is required to be given, whether or not on the request of a heritage resources authority, in terms of this Act;

(b) for the purpose of obtaining, whether for himself or herself or for any other person, any permit, consent or authority in terms of this Act, makes any statement or representation knowing it to be false or not knowing or believing it to be true;

(c) fails to comply with or performs any act contrary to the terms, conditions, restrictions or directions subject to which any permit, consent or authority has been issued to him or her in terms of this Act;

(d) obstructs the holder of a permit in terms of this Act in exercising a right granted to him or her by means of such a permit;

(e) damages, takes or removes, or causes to be damaged, taken or removed from a place protected in terms of this Act any badge or sign erected by a heritage authority or a local authority under section 25(2)(j) or section 27(17), any interpretive display or any other property or thing;

(f) receives any badge, emblem or any other property or thing unlawfully taken or removed from a place protected in terms of this Act; and

(g) within the terms of this Act, commits or attempts to commit any other unlawful act, violates any prohibition or fails to perform any obligation imposed upon him or her by its terms, or who counsels, procures, solicits or employs any other person to do so, shall be guilty of an offence and upon conviction shall be liable to such maximum penalties, in the form of a fine or imprisonment or both such fine and such imprisonment, as shall be specified in the regulations under subsection (3).

(6) Any person who believes that there has been an infringement of any provision of this Act, may lay a charge with the South African Police Services or notify a heritage resources authority.

(7) A magistrate’s court shall, notwithstanding the provisions of any other law, be competent to impose any penalty under this Act.

(8) When any person has been convicted of any contravention of this Act which has resulted in damage to or alteration of a protected heritage resource the court may—

(a) order such person to put right the result of the act of which he or she was found guilty, in the manner so specified and within such period as may be so specified, and upon failure of such person to comply with the terms of such order, order such person to pay to the heritage resources authority responsible for the protection of such resource a sum equivalent to the cost of making good; or

(b) when it is of the opinion that such person is not in a position to make good damage done to a heritage resource by virtue of the offender not being the owner or occupier of a heritage resource or for any other reason, or when it is advised by the heritage resources authority responsible for the protection of such resource that it is unrealistic or undesirable to require that the results of the act be
made good, order such person to pay to the heritage resources authority a sum equivalent to the cost of making good.

(9) In addition to other penalties, if the owner of a place has been convicted of an offence in terms of this Act involving the destruction of, or damage to, the place, the Minister on the advice of SAHRA or the MEC on the advice of a provincial heritage resources authority, may serve on the owner an order that no development of such place may be undertaken, except making good the damage and maintaining the cultural value of the place, for a period not exceeding 10 years specified in the order.

(10) Before making the order, the local authority and any person with a registered interest in the land must be given a reasonable period to make submissions on whether the order should be made and for how long.

(11) An order of no development under subsection (9) attaches to the land and is binding not only on the owner as at the date of the order, but also on any person who becomes an owner of the place while the order remains in force.

(12) The Minister on the advice of SAHRA, may reconsider an order of no development and may in writing amend or repeal such order.

(13) In any case involving vandalism, and whenever else a court deems it appropriate, community service involving conservation of heritage resources may be substituted for, or instituted in addition to, a fine or imprisonment.

(14) Where a court convicts a person of an offence in terms of this Act, it may order the forfeiture to SAHRA or the provincial heritage resources authority concerned, as the case may be, of a vehicle, craft, equipment or any other thing used or otherwise involved in the committing of the offence.

(15) A vehicle, craft, equipment or other thing forfeited under subsection (14) may be sold or otherwise disposed of as the heritage resources authority concerned deems fit.

Part 2: Miscellaneous

Notices

52. (1) SAHRA may, by publication of a further notice, amend or withdraw any notice which it has published in the Gazette.

(2) A provincial heritage resources authority may by publication of a further notice amend or withdraw any notice which it has published in the Provincial Gazette.

(3) SAHRA or a provincial heritage resources authority may prescribe the manner in which legally enforceable property descriptions may be published in notices in the Gazette or in the Provincial Gazette, as the case may be, in terms of the provisions of this Act including—

(a) methods of technology permissible in measuring areas; and

(b) methods to be used in compensating for margins of error in measurement.
Delegation of powers by Minister or MEC

53. (1) The Minister may delegate any power, duty or function conferred or imposed upon him or her under this Act to the Deputy Minister or the incumbent of a designated post in the Department.

(2) The Minister may delegate any power, duty or function conferred or imposed upon him or her under this Act to the incumbent of a designated post in the provincial department responsible for culture.

By-laws by local authorities

54. (1) A local authority may, with the approval of the provincial heritage resources authority, make by-laws—

(a) regulating the admission of the public to any place protected under this Act to which the public is allowed access and which is under its control, and the fees payable for such admission;

(b) regulating the conditions of use of any place protected under this Act which is under its control;

(c) for the protection and management of a protected area;

(d) for the protection and management of places in a heritage register;

(e) for the protection and management of heritage areas; and

(f) providing incentives for the conservation of any place protected under this Act within its area of jurisdiction.

(2) Any by-laws made under this section may prescribe fines for contravention thereof or failure to comply therewith, not exceeding an amount prescribed by the Minister under section 51(2).

Limitation of liability

55. No person is liable in respect of anything done in terms of this Act in good faith and without negligence.

Exercise of powers outside Republic

56. (1) A heritage resources authority may assist and co-operate with heritage bodies outside the Republic.

(2) If agreed upon between the Government of South Africa and the government of any other state, SAHRA has power, with the concurrence of the Minister, to perform in that state any functions which a heritage resources authority would be capable of performing in South Africa in terms of this Act.

(3) The Minister may make regulations concerning the application of any international convention, treaty or agreement relating to the protection of heritage resources which, in accordance with sections 231 to 233 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), forms part of the law of the Republic.

Applicability of provincial legislation

57. Without prejudice to the provisions of this Act, in any province which has enacted legislation for the establishment of a provincial heritage resources authority and the management of heritage
resources at provincial level, the provisions of such legislation must, as far as they relate to provincial areas of competence, take precedence over the equivalent provisions of this Act.

 Transitional provisions and consequential amendments

58. (1) For the purposes of this section, “the previous Act” means the National Monuments Act, 1969 (Act No. 28 of 1969).

(2) The National Monuments Council established by section 2 of the previous Act is hereby abolished and all its assets, rights, liabilities and obligations shall devolve upon SAHRA without formal transfer and without payment of any duties, taxes, fees or other charges. The officer in charge of registration of deeds registry must, on submission of the title deed and on application by the authority concerned, endorse such a title deed with regard to such development.

(3) Any person who was in the employment of the Council referred to in subsection (2), is regarded to have been appointed under this Act.

(4) The remuneration and other conditions of service of an employee contemplated in subsection (3) may not be less favourable than the remuneration and other conditions of service to which that employee was entitled to before.

(5) If a person appointed under subsection (3) or a person regarded to be so appointed, is dismissed, that person may within 14 days after the date of notification of the dismissal, appeal in writing against the dismissal to the Minister, who may confirm, vary or set aside the dismissal.

(6) The National Monuments Council library shall become part of the national heritage resources library established under section 13(2)(b).

(7) The committees established by section 3A of the previous Act are hereby abolished and all their assets, rights, liabilities and obligations shall devolve upon SAHRA without formal transfer and without payment of any duties, taxes, fees or other charges.

(8) Unless it would in any particular case obviously be inappropriate, any reference in any law, document or register, to the National Monuments Council must be construed as a reference to SAHRA and any such reference to an officer or employee of the National Monuments Council must be construed as a reference to an employee of SAHRA performing functions or exercising powers similar to those of the first-mentioned officer or employee.

(9) All trust funds for which the National Monuments Council acted as trustee, including the War Graves Trust Fund referred to in section 9A of the previous Act, shall on the date of commencement of this Act become vested in SAHRA as part of the National Heritage Resources Fund referred to in section 40, and SAHRA must act as trustee on the same terms and conditions as existed prior to the commencement of this Act.
(10) On the establishment of a provincial heritage resources authority, arrangements must be made for the transfer of such assets, rights, liabilities and obligations of SAHRA in that province to the provincial heritage resources authority as the Minister and the MEC deem fit.

(11) Sites and objects which prior to the commencement of this Act were protected by notices in the Gazette in terms of the previous Act, shall, subject to the provisions of any provincial legislation for heritage resources conservation and any agreement in that regard, and without the need for the publication of notices in the Gazette, continue to be protected in terms of the following provisions of this Act:

(a) Immovable national monuments in terms of section 10 of the previous Act shall be provincial heritage resources sites: Provided that within five years of the commencement of this Act, the provincial heritage resources authorities in consultation with SAHRA, must assess the significance of such sites in accordance with the heritage assessment criteria set out in section 3(3) and prescribed under section 7(1) and SAHRA must declare any place which fulfils the criteria for Grade I status a national heritage site;

(b) immovable properties entered in the register in terms of section 5(1) of the previous Act must be entered in the heritage register for the province in which they are situated and in the inventory of the national estate;

(c) conservation areas in terms of section 5(9) of the previous Act shall be heritage areas: Provided that where no provision has been made for the protection of such areas in by-laws under the previous Act or in a town or regional planning scheme—

(i) sections 31(7)(a), (b) and (c) of this Act automatically apply to such heritage areas; and

(ii) the local or other planning authority concerned must provide for the protection of such area in accordance with the provisions of section 31 within three years of the commencement of this Act;

(d) provisionally declared immovable properties in terms of section 5(1)(c) of the previous Act are provisionally protected for such remaining period as specified in the notice of provisional declaration;

(e) national gardens of remembrance in terms of section 9C of the previous Act are provincial heritage sites;

(f) cultural treasures in terms of section 5(c) and movable national monuments in terms of section 10 of the previous Act are heritage objects.

(12) A notice under section 10(3)(a) or 5(5)(b) of the previous Act which was served within six months prior to the commencement of this Act shall be deemed to be a notice served by a provincial heritage resources authority in terms of section 27(8) or section 29(1) and (2) of this Act, as the case may be.

(13) A permit issued under the previous Act shall be deemed to be a permit issued by the responsible heritage authority under the relevant section of this Act.
Regulations

59. The Minister may, by notice in the Gazette make regulations regarding—

(a) any matter which may or shall be prescribed in terms of this Act;
(b) any other matter which may be necessary or expedient in order to achieve the objects of this Act.

Repeal

60. The National Monuments Act, 1969 (Act No. 28 of 1969), and section 41(2) of the Environment Conservation Act, 1989 (Act No. 73 of 1989), are hereby repealed.

Short title and commencement

61. This Act shall be called the National Heritage Resources Act, 1999, and shall come into operation on a date to be fixed by the President by proclamation in the Gazette.

SCHEDULE

PENALTIES FOR NATIONAL HERITAGE ACT

(Section 51)

1. A fine or imprisonment for a period not exceeding five years or to both such fine and imprisonment.
2. A fine or imprisonment for a period not exceeding three years or to both such fine and imprisonment.
3. A fine or imprisonment for a period not exceeding two years or to both such fine and imprisonment.
4. A fine or imprisonment for a period not exceeding one year or to both such fine and imprisonment.
5. A fine or imprisonment for a period not exceeding six months or to both such fine and imprisonment.
6. A fine or imprisonment for a period not exceeding three months or to both such fine and imprisonment.
Appendix 3

THE PENDUKA DECLARATION ON THE STANDARDISATION OF JU AND KHOE LANGUAGES

Penduka Training Centre, Windhoek, Namibia
20-22 April 2001

Twenty-six San language, oral history and education specialists from three countries came together under the auspices of the Working Group of Indigenous Minorities in Southern Africa (WIMSA) to study the issue of alphabet standardisation in certain Ju and Khoe languages.

The conference delegates studied the issues related to the standardisation of two languages, namely !Xun, a member of the Ju language family, and Khwedam, a member of the Khoe language family. Both languages are spoken in Botswana, Namibia, Angola and South Africa. Khwedam is also spoken in Zambia. Working with skilled language specialists from other Ju and Khoe language groups, the delegates made a series of decisions on the standardisation of their languages and how their ethnic names are to be written.

Main Recommendations:

- The !Xun people adopt the existing Ju'hoansi alphabet used in Namibia. The !Xun language has not previously been written. Henceforth the !Xun people will spell their name according to the correct orthography, i.e. !Xun and not !Xû, !Kung, or Kung. The alphabet is now called the Ju alphabet, used for both the !Xun and Ju'hoansi languages. The delegates emphasised that though they have two languages, the !Xun and the Ju'hoansi are brothers and sisters.

- Speakers of Khwedam, including both standard Khwe and ||Anikhwe, have modified their working alphabet that was developed with the assistance of researchers from the University of Cologne. The new orthography does away with unnecessarily complicated letters and creates nasalisation in the same manner as Khoekhoegowab, i.e. â, ê, etc. Henceforth, the language will be known as Khwedam and the people are known as Khwe. Work on the Khwedam language will respect the diversity of the language and the identity of the people, giving particular recognition to the ||Anikhwe language variety. NB. The old spelling Kxoe and Kxoedam is inappropriate and does not represent the new integrated spelling system.

WIMSA is a council of San leadership in Southern Africa and a support network for San community organisations.
Conference Summary

The Penduka Conference was a major historic event for the San peoples of Southern Africa. This is the first conference where those San peoples with existing standardised alphabets worked together with those communities whose languages are not written to make informed decisions on new orthographies. Historically, San peoples have been dependant on outsiders to standardise their languages.

The Conference drew delegates from San communities in Namibia, Botswana and South Africa speaking Ju’hoansi, !Xun, Khwedam, Khoekhoegowab and Naro. Each delegate comes from a community-based organisation working for the equality and dignity of indigenous peoples. Delegates included members of the WIMSA San Regional Education and Language Committee and the South African National Khoe and San Languages Body.

The Conference included training in the principles of phonetics and orthography, and a review of the historical influences that have shaped the spelling of Ju, Khoe, Taa and !Ui languages spoken by the various San peoples. The South African San Institute (SASI), a non-government organisation serving the needs of WIMSA and San community organisations in Southern Africa, facilitated the Conference. San activists from different organisations provided training on orthography, mapping place names, and genealogies as well as facilitation of policy decision-making.

Observations and Recommendations

The Penduka Conference delegates made the following observations and recommendations:

It is an error to refer to the languages of the San peoples as Khoisan. In the 1930s European researchers made the mistake of thinking that all click languages came from one source. Previous and subsequent research shows that there are at least four entirely separate language families. These are the Ju, Khoe, !Ui and Taa language families. Each language family has different and unrelated grammar, word order and vocabulary. There are various San peoples who speak Khoe languages, and there are non-San peoples who speak Khoe languages, including the Nama and the Damara.

The difference between Khwedam (a Khoe language) and !Xun (a Ju language) is greater than the difference between Otjiherero and isiZulu, both of which are Bantu languages. The difference between Naro (a Khoe language) and Nlu (a !Ui language) is greater than between English and Hindi (the dominant language of India), both of which are Indo-European languages.
Governments, the media and the public should have greater awareness and respect for San peoples’ languages and cultures. The media should stop projecting stereotypes of San peoples, portraying us as speaking one language and living in a stereotyped manner.

The San peoples reaffirm our distinct heritages and identities and reject being placed under the label Khoisan along with people who do not speak our languages or share our traditions and customs. The media should be more responsible when reporting about San peoples and speak to our representative organisations and spokespersons. (see Appendix 3)

Delegates are distressed by the UNESCO research that shows that 50% of the world's languages will die out in the next generation or two. Many of these threatened languages are spoken by indigenous peoples, and the languages of displaced hunter-gatherers are particularly vulnerable.

Delegates recognise that writing a language does not automatically protect it from dying out. However, improving the status of the language, introducing into schools, restoring place names, recognising correct personal names, recording traditional knowledge and history all contribute to the survival of Ju and Khoe languages and the identities and intangible heritage of San peoples.

Delegates recognise that there are still many languages and varieties that need to be recognised, standardised and introduced into schools. These include: N|u, the only surviving !Ui language, !Xõó (!Xon) the last Taa language, the recognition of the Haiïïom variety of Khoekhoegowab, the other Khoe languages of Eastern Botswana and Western Zimbabwe, other Ju languages of southern Angola, and Kihadza of Tanzania.

See Recommendations on Orthography and the way forward by the Khwe working group and the Ju Working group.

New orthographies attached as appendices.

**Appendix 1: Delegate list**

<table>
<thead>
<tr>
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Appendix 2: Why we want to write

Part of the workshop included analysing the needs and expectations of the participants with regard to alphabet development and writing. The facilitator emphasised that there is not a direct relationship between writing and the management of intangible heritage and traditional knowledge systems.

Delegates expressed their concern that many San languages, particularly !Ui and Taa languages in the south have died out in the last century. The facilitator reminded delegates that the Ju and Khoe languages have existed for millennia and pre-date the spread of Bantu and Indo-European languages. The reason the languages of hunter-gatherer societies are dying out is related to land loss, displacement and poverty. It is possible to use writing, a tangible cultural practice, to help sustain intangible heritage and knowledge, however this requires a very clear plan by those developing the orthographies and educational materials and cannot be separated from other processes of re-empowerment.

The facilitator asked the delegates to discuss what they think writing will achieve for them. The delegates broke into language-specific working groups to answer three questions on this theme. The following are a synthesis of the report backs.

**Why do we want to write our languages?**

- To keep our language alive, including maintaining our history, culture and traditions.
- To unite the people by standardising an orthography that includes the different varieties we have in our languages.
- To empower our people to compete in all levels of development.
- To promote use of our language and empower its speakers with skills.
- To conduct research (e.g. conservation and environmental information) in our own language.
- To research and document our own language.
- To read the Bible in our own language.
- To learn in schools in our language.

**What is the target group for learning to read and write? (Who should learn?)**

- A core group of young trainers.
- Parents and children together.
- Young people.
- Elders, so that they can check our recording of history.
• Non-speakers (second language learners), teachers, doctors and police who work in our communities and cannot pronounce our names or provide reasonable services.

In the report back there was a lively discussion about how to put priority on teaching the new alphabets. It was agreed that there needs to be a core group of skilled people. These people must work closely with the elders to make sure they use the language properly. These skilled trainers then help teachers and adult literacy teachers learn the system. It is good for children if their parents are also learning to read and write. It is good if some old people chose to learn as they can check on the work of younger people.

What do we want write?

• Our history, folktales, traditional stories, traditional religious material and songs.
• The Bible, newspapers, magazines, pamphlets, poetry and novels.
• People’s names, this is very important in schools.
• School materials, teacher training materials, second language learning materials.
• All types of traditional knowledge, names of places, hunting methods, names of animals, medicinal plants, natural resources information, etc.

It was noted that place name mapping is important. It helps support land claims and demonstrate the indigenous identity of San peoples. It was agreed that language recording should have a useful function, such as teaching new skills, securing rights, and promoting self respect.
Appendix 3:
Statement on the use of the term ‘Khoisan’ and the creation of the Khoisan National Council in South Africa

Mr Tomsen Nore addressed the Conference on the topic of the resolutions of the recent Khoisan National Consultative Conference in Oudtshoorn, South Africa. The resolutions of the Conference called for, amongst other things, the unity of all groups claiming indigenous identity in South Africa, that indigenous peoples in South Africa will henceforth be known as Khoisan, and that a Khoisan National Council will speak on behalf of indigenous peoples both when dealing with government and the media.

Mr Nore expressed his concern that the San peoples are being marginalised through this process, when they already have WIMSA that unites the various San peoples. He said there is concern among San and Nama people in South Africa that the Khoisan movement is dominated by people who speak Afrikaans and English and who live in urban areas. The indigenous peoples of Southern Africa speak their own languages and live in rural areas.

The Conference debated the subject and came up with the following statements.

- The use of the word Khoisan suppresses the right to self-determination of San peoples. It was noted that the use of a small ‘s’ shows that San peoples are junior partners in this relationship.
- The San peoples have an identity. There are many San peoples; each one has its language and identity like the Naro people of Botswana. The Naro delegates say there is nothing like Khoisan in their country. San groups must remain united.
- The Khoekhoe people have their own identity. The San are not rejecting Khoe people.
- South African San groups have already resolved to create a National San Council, they do not need to be in the Khoisan Council.
- WIMSA unites the San peoples already; the Khoisan National Council is not necessary.
- WIMSA, Kuru Development Trust and TOCADI all unite the San peoples, SASI is a service organisation for the San.
- Though some San leaders have been involved in the Khoisan National Council, their communities are not fully informed. The delegates call on the leaders to make sure that the communities understand what is happening before any San people go further with the Council
- The election process of the Khoisan National Council is not legitimate or transparent. There must be a transparent process at grassroots level before any election can be accepted.
• Governments and media must be educated not to believe all of these things said by universities. They must recognise the different indigenous peoples. The communities must speak for themselves.
Cultural resource management plan
for the uKhahlamba Drakensberg Park,
Kwazulu-Natal, South Africa

1 April 2000
Mission

The mission of the cultural resource management plan is to promote the conservation and public appreciation of cultural resources in the uKhahlamba Drakensberg Park, in accordance with conservation, tourism and wilderness management aims.

Objectives

- identify the cultural resources present and examine their value in terms of the overall mission and purpose of the Park
- ensure the legal protection of sites
- determine management needs and problems and rank them in importance
- propose specific actions for dealing with needs and problems
- develop a programme to achieve measurable progress in accomplishing proposed actions
- encourage an interdisciplinary approach to cultural resource management in the Park
- promote sustainable tourism to sites.

Strategy

A. Conservation measures to curb site deterioration

B. Promotion of cultural resource appreciation

C. Promotion and development of research opportunities, site recording, and databases
SECTION A

INTRODUCTION

1. Introduction

Cultural resources, both archaeological and historical, occur in every section of the uKhahlamba Drakensberg Park (uDP). Cultural resources are those natural and modified features of the landscape associated with human activity, both past and present. These include archaeological sites and artefacts, structures and buildings, rock paintings and engravings, ancestral graves and sites to which oral histories are attached. These resources are critical to understanding and interpreting southern African colonial and pre-colonial history. They are fragile and may be destroyed easily unless properly managed. The material evidence of past human activities is both finite and non-renewable and once lost, these resources cannot be recovered.

The cultural resources of the uDP are many and varied and include archaeological remains that may be more than 100 000 years old. Rock paintings constitute the most ubiquitous and visible cultural resource of the uKhahlamba (Drakensberg); the uDP alone contains 550 known painted sites, with at least 40 000 individual images. These paintings are a unique record of the history of southern Africa's hunter-gatherers (also called Bushmen or San), yet their enormous potential value for education and tourism remains virtually unexploited.

Rock paintings are a legacy left by the hunter-gatherers who lived in the uKhahlamba from about 10 000 years ago to the late nineteenth century and were created primarily for religious and ritual purposes. Tragically, these traditions were lost in the process of colonisation.

Unique Features

The uKhahlamba is possibly the richest rock painting region in Africa, due to a unique combination of an important set of features:

- it is one of the most densely painted, significantly large areas on the African continent;
- a wide range of images is depicted;
- the paintings are preserved not only in their natural setting, but also in their cultural context. The floors of painted shelters are often strewn with artefacts made and used by the hunter-gatherers;
- the rock paintings of the whole region uniquely represent a coherent artistic tradition. Accordingly, they embody the beliefs and cosmology of the hunter-gatherers of this part of southern Africa, their contacts with other people and their changed circumstances through time;
- its rock paintings are in many instances better preserved than in any other region, certainly south of the Sahara;
Painted sites have particularly urgent management requirements, due to their non-renewable nature and fragility. Rock paintings are thus a priority in terms of cultural resource management in the uDP. The rewards are that well managed rock painting sites can play a major role in understanding the history of people on the subcontinent and in attracting tourism.

2. Intention

The intention of this management plan is to produce a coherent, accountable and holistic policy for the management of cultural resources in the uDP. This document focuses upon rock paintings but its scope will be expanded in due course to include the other cultural resources of the uDP.

3. Legislation

3.1 Mandate

The management of cultural resources in the uDP is currently mandated by the KwaZulu-Natal Nature Conservation Management Act, 1997 (Act No. 9 of 1997) as follows:

Powers, Duties and Functions of the KwaZulu-Natal Nature Conservation Board

"The Board must ensure the protection and management of heritage resources within the protected areas, according to the principles of the KwaZulu-Natal Heritage Act, 1997" (Chapter 3, part 5(3)(c)).

Powers, Duties and Functions of Local Protected Area Boards

"Subject to the provisions of any law and the policy issued by the Board, the objects of local boards are to promote local decision making regarding the management of nature conservation and heritage resources within protected areas as well as to promote the integration of activities of the protected area into that of the surrounding area." (Chapter 5, part 27(1)).

3.2 The KwaZulu-Natal Heritage Act

The KwaZulu-Natal Heritage Act, 1997 (Act No. 10 of 1997) protects all provincial cultural heritage sites (as defined in the Act), through the establishment of a Council known as Amafa aKwaZulu-Natali (Heritage / Erfenis KwaZulu-Natal).
Object of *Amafa aKwaZulu-Natali*

“The object of Amafa aKwaZulu-Natali shall be the conservation, protection and administration of the heritage resources of the Province within the terms of this Act and to generally promote and coordinate heritage conservation for the benefit of present and future generations” (Section 3).

### 3.3 Permit Requirements

According to the KwaZulu-Natal Heritage Act, 1997 (Act No. 10 of 1997):

26. (1) Structures:

   Any proposed demolition, addition or alteration of structures or parts thereof which are older than 60 years shall be subject to the following -

   (a) thirty days prior to the commencement of such a proposed demolition a permit shall be applied for from Amafa;

   (b) Archaeology, rock art, palaeontology, battlefields and meteorite sites

   (a) No person may destroy, damage, excavate, alter, write or draw upon, or otherwise disturb any archaeological, rock art, palaeontological, battlefield or meteorite site except under the authority of a permit issued by Amafa aKwaZulu-Natali, provided that Amafa aKwaZulu-Natali may, regarding archaeological sites, take account of existing small-scale agricultural activities.

### 4. Memorandum of Understanding between Amafa aKwaZulu-Natali and the KwaZulu-Natal Nature Conservation Service (NCS) to facilitate co-ordination of management

Province in terms of a Memorandum of Understanding (Appendix A). Staff members of Amafa will attend annual management and goal-setting meetings for the various protected areas and provide NCS staff members with specialist cultural resource management advice. Policies and strategies for all protected areas will be discussed and formulated at joint meetings held thrice annually.

### 5. Guiding Principles for the Conservation of Cultural Resources

(For definitions of italicised terms, refer to Appendix B)

The NCS acknowledges that the following principles must be adhered to in the conservation of cultural resources in the uDP:

- The aim of conservation is to retain the cultural significance of a site and must include provision for its security, its maintenance and its future.
- Conservation is based on a respect for the essential fabric and should involve the least possible physical intervention. It should not distort the evidence provided by the fabric.
- Conservation should make use of all the disciplines that can contribute to the study and safeguarding of a site. Techniques employed should be appropriate.
- Conservation of a site should take into consideration all aspects of its cultural significance without unwarranted emphasis on any one aspect at the expense of others.
- The conservation policy appropriate to a site must first be determined by an understanding of its cultural significance.
- The conservation policy will determine which uses are compatible.
- Conservation requires the maintenance of an appropriate visual setting, for example form, scale, colour, texture and materials. No new construction, demolition or modification that would adversely affect the setting should be allowed. Environmental intrusions that adversely affect appreciation or enjoyment of the site should be excluded.
- A building or work should remain in its historical location. The moving of all or part of a building or work is unacceptable unless this is the sole means of ensuring its survival.
- The removal of contents that form part of the cultural significance of the site is unacceptable unless it is the sole means of ensuring their security and preservation. Such contents must be returned should changed circumstances make this practicable.
- Cultural resource management strategies should be reviewed and upgraded continually on the basis of revised information.

** Conservation in this context refers to the conservation of cultural resources and it includes protection, preservation and sustainable use of places or objects so as to safeguard their cultural significance.
SECTION B

STRATEGY FOR THE uKHAHLAMBA DRAKENSBERG PARK

COMPONENT A: CONSERVATION MEASURES TO CURB SITE DETERIORATION

1. SITE MONITORING
Cultural resource sites within the uDP should be monitored regularly in order to assess their condition and management requirements.

1.1 Objective

To monitor cultural resource sites within the uDP according to a set annual frequency, and to take appropriate action thereafter.

1.2 Current Management Actions

a) Each station has been issued with a set of site record forms pertaining to the known sites under its administration, along with a map giving the exact location of each site. Each site has a number that indicates its management status, corresponding to the frequency with which the site should be patrolled.

<table>
<thead>
<tr>
<th>Management Status</th>
<th>Patrol Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>unknown; urgent assessment required</td>
</tr>
<tr>
<td>1</td>
<td>at least once a month; preferably twice</td>
</tr>
<tr>
<td>2</td>
<td>every three months</td>
</tr>
<tr>
<td>3</td>
<td>every six months</td>
</tr>
<tr>
<td>4</td>
<td>once a year</td>
</tr>
</tbody>
</table>

Table A1: minimum patrolling requirements for sites in the uDP
b) The following guidelines apply:

i) Officers-in-charge should develop an annual plan to ensure that sites are monitored as required. This should be presented at the annual management meeting as a series of goals. Achievements regarding goals set and other actions undertaken should be recorded in the station's annual report and tabled at the annual management meeting;

ii) Officers, field rangers and/or honorary officers should be the designated site monitors;

iii) Site monitors may not interfere with cultural resources in any way;

iv) Monitors should complete a cave checklist card (Appendix C);

v) Officers-in-charge should debrief monitors and take appropriate action in consultation with Amafa staff, as indicated by the guidelines in this document;

vi) Completed cards should be given to the relevant officer-in-charge, who will enter relevant information on a site monitoring sheet;

vii) Blank copies of cards should be ordered from the Administrative Officer (Drakensberg);

viii) Photographs of site contents should be taken whenever possible and kept in an inventory on-station.

1.3 Future Priorities

The present system will be refined and evaluated regularly.

2. SITE VEGETATION

Vegetation surrounding sites, including those that are managed for the public, should be retained whenever possible, due to its value:

- as a shield to reduce the impact of direct sunlight on paintings;
- for site microclimate control;
- to buffer daily extremes in temperature and humidity;
- for the consolidation of shelter deposits and soils in the vicinity of sites, for assistance in the suppression of airborne dusts, etc.

However, vegetation has the potential to cause:

- direct abrasion damage to painted surfaces by the rubbing contact of adjacent vegetation;
- damage to the paintings from direct and indirect heat from fire and carbon over the paintings.
Where necessary, site microclimates may be modified and excessive sunlight reduced by encouraging conditions conducive to the natural germination of seedling trees, ground covering creepers and grasses.

2.1 Objective

To assess periodically the impact of vegetation on specific cultural resources and to take appropriate action in consultation with Amafa.

2.2 Current Management Actions

a) Vegetation is managed when and where necessary;
b) Where there is doubt as to the impact of the removal of vegetation, a staff member of Amafa is consulted prior to any action being taken.

2.3 Future Priorities

The present system will be refined and evaluated regularly.

3. FIRE MANAGEMENT
Vegetation surrounding cultural resource sites should always be protected from both scheduled and unscheduled burns.

3.1 Objective

To prevent fire damage to cultural resource sites.

3.2 Current Management Actions

The following guidelines apply:

a) When doing a pre-burn assessment of sensitive features, officers-in-charge should take steps to eliminate fire damage, for example by burning a firebreak around the site;
   b) In the case of unscheduled burns, officers-in-charge should identify fire-sensitive sites and take immediate steps to avoid potential damage;
   c) Where there is doubt as to the impact of the removal of vegetation, a staff member of Amafa should be consulted prior to any action being taken.
3.3 Future Priorities

Long term strategies for the protection of cultural resource sites from fire damage should be developed for every station due to the current frequency of uncontrolled unscheduled fires.

This strategy should include placing cultural resource sites identified as vulnerable to fire damage on the list of sensitive features for all management blocks.

4. SITE INTERVENTIONS

Various forms of intervention are appropriate and may be necessary for cultural resource sites in the uDP, and include:

- removal of graffiti and other signs of vandalism;
- removal of bird and insect nests and excreta;
- removal of vegetation to reduce risk of fire damage;
- vegetation planting to reduce impact of weather extremes and to reduce dust;
- prevention of water flow over paintings.

Managers should be aware that no intervention at a cultural resource site is allowed without authorisation of a permit from or consultation with Amafa.

4.1 Objective

*To identify sites requiring intervention and to decide on appropriate actions in consultation with Amafa.*

4.2 Current Management Actions

Wherever site interventions are required, officers-in-charge consult Amafa.

4.3 Future Priorities

The present system will be refined and evaluated, and new guidelines developed when necessary.

5. ANIMALS IN SHELTERS

Rock paintings and archaeological deposits are damaged easily by animals rubbing against the rock and trampling shelter floors.
5.1 **Objective**

*To identify sites being damaged by animals and to take the necessary remedial actions.*

5.2 **Current Management Actions**

a) The presence of animals in shelters is identified by site monitors and is managed when and where necessary;
b) Any remedies that may affect the microclimate of the cave, the rock surface or the cave floor are referred to Amafa.

5.3 **Future Priorities**

The present system will be refined and evaluated regularly.

6. **GENERAL VISITOR MANAGEMENT**

Uncontrolled use of cultural resource sites is undesirable as it often results in unnecessary and often irreversible deterioration of such sites.

6.1 **Objective**

*To manage the visitation of cultural resource sites.*

6.2 **Current Management Actions**

a) At cultural resource sites not managed for public visitation, the impact of human visitation is monitored and regulated as follows:

i) No camping is allowed in cultural resource sites unless approved by both the NCS Board and the Amafa Council;

ii) Regular, ongoing monitoring patrols occur to all sites within the uDP. Honorary officers are used to supplement the patrols in key areas during peak periods;

iii) Paths to unmanaged sites are allowed to overgrow and are not maintained;

iv) Unmanaged sites are not recorded on hikers’ maps, or on any literature or displays;

v) Sites in the Didima Special Conservation Area are also not marked on maps, literature or displays;

vi) Site information is kept confidential and is not made available to the public, including honorary officers (also see section 10).
b) Cultural resource sites managed for the public are discussed specifically in Section C.

c) Every uDP camp office has a sign showing the caves that are available for overnight camping and which caves have been booked for the night.

### 6.3 Future Priorities

a) Paths leading to or past sensitive sites should be closed or re-routed;

b) Environmental impact assessments should include cultural resources;

c) Accurate visitor statistics and other information pertaining to sites visited by the public should be kept to facilitate pre-active site management and conservation. Information useful in the development of visitor profiles includes details of group size and composition (including nationality); repeat visitation details; seasonal patterns and peak periods of visitor activity; prime interest in visiting the region and the uDP; satisfaction level and suggestions for enhancement of visitor experiences;

d) The use of visitor books pertaining to sites visited frequently is recommended. These will enable park managers to respond to complaints and suggestions and to obtain some of the above information. Visitor books in good condition are also valuable in reducing the incidence of graffiti and other vandalism;

e) Each station should have prominent signs informing visitors that cultural resource sites may not be used for overnighting.

<table>
<thead>
<tr>
<th>The KwaZulu-Natal Nature Conservation Service undertakes to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Ensure that all cultural resource sites are maintained appropriately since a poorly maintained site encourages vandalism;</td>
</tr>
<tr>
<td>b) Ensure that the movement of visitors at managed cultural resource sites is monitored and regulated. This will be achieved through strategies such as:</td>
</tr>
<tr>
<td>- monitoring the effectiveness of existing natural barriers in restraining visitors from closer inspection;</td>
</tr>
<tr>
<td>- the delineation of narrow walkways, for example by the use of barrier fences and rubber matting;</td>
</tr>
<tr>
<td>- the construction of a raised viewing platform;</td>
</tr>
<tr>
<td>- the placement of a low, free-standing barrier to limit visitor proximity to artefacts and/or painted surfaces.</td>
</tr>
</tbody>
</table>
### c) Visitor Management Structures

Ensure that visitor management structures, including viewing platforms:

- are reversible in construction and cause, where possible and acceptable, no permanent impact to the fabric of the site;
- are designed to take into account optimal viewing and photographic opportunities, consistent with site protection objectives;
- are consistent within the guidelines recommended by the South African Heritage Resources Agency (see Appendix D) and Amafa;
- conform to the principles of archaeological conservation (Appendix B);
- are conceived, designed, built and managed in consultation with Amafa.

### 7. THE USE OF CULTURAL RESOURCE SITES BY HOTELS AND OTHER INSTITUTIONS

Hotel guests should be able to visit significant examples of cultural heritage sites within the uDP since the presence of these sites is a strong drawcard for visitors to the uKhahlamba.

However, it is important to manage visitors to cultural sites in order to prevent unnecessary and often irreversible deterioration of such sites. The guests of certain hotels adjacent to the uDP currently visit sites in an uncontrolled and unsupervised manner. As managers of cultural resources in the uDP, the NCS and Amafa cannot allow such unmanaged visitation to continue.

#### 7.1 Objective

*To manage the use of cultural resource sites by hotels and other institutions to prevent unnecessary deterioration of such sites.*

#### 7.2 Current Management Actions

Proposals have been developed for discussion with the uKhahlamba hotel industry.

**Proposals for the Management of Hotel Guests Visiting Cultural**
Resource Sites

a) The NCS and Amafa are responsible for the management of cultural resource sites within the uDP that are utilized by hotel visitors and other user-groups;

b) Cultural resource sites utilized by hotels and other institutions should be identified as a matter of urgency;

c) The approximate monthly number of visitors to individual sites should be established;

d) All sites should be restored to and maintained in an appropriate condition, through the removal of graffiti, bedding, signposts and litter, with the assistance of Amafa;

e) A permit system for all visitors to the uDP, including hotel guests, should be introduced. A permit would list the cultural resource sites that they intend visiting, as well as guidelines for their behaviour. Visitors found contravening their permit regulations will be subject to the relevant compliance procedures and penalties;

f) As many hotel guests as possible should be directed to designated managed sites;

g) Visits to unmanaged sites should be discouraged by not marking these sites on maps and by withholding directions to these sites;

h) Hotel guests wishing to visit sites should be accompanied by an accredited guide (eg. one who has received training in rock painting appreciation);

i) NCS personnel will monitor high visitation sites at least monthly to ensure the efficacy of management measures. If sites continue to sustain vandalism or other inappropriate use, more extreme measures will have to be considered;

j) Hotels should contribute financially, or otherwise, to the upkeep of sites and paths used primarily by their guests.

7.3 Future Priorities

a) A management system for hotel guests is required;

b) Visitor use of sites outside the uDP should be investigated.
8. **CONSUMPTIVE UTILIZATION OF ROCK PAINTINGS**

Some traditional healers perceive the paint to be imbued with strong powers and use it in the production of traditional medicines. Whilst this practice is in contravention of heritage legislation, it is difficult to prevent. It will thus be necessary to consult traditional healer forums to find mutually acceptable solutions.

8.1 **Objective**

To engage with traditional healer forums to find practical solutions to the consumptive utilization of rock art.

8.2 **Current Management Actions**

This issue has been discussed at the NCS Traditional Healers Liaison meeting.

8.3 **Future Priorities**

To interact with the appropriate people and organizations to discuss the removal of paint and to investigate solutions.

9. **SPECIFIC SITE VISIT REQUESTS**

Visitors frequently request directions from field staff to specific painted sites.

9.1 **Objective**

To regulate visitation to unmanaged cultural resource sites.

9.2 **Current Management Actions**

The following guidelines apply:

a) Staff should use their discretion when people request to visit unmanaged sites;

b) Requests from the general public:
   i) Field staff retain the right to refuse to supply directions to unmanaged sites;
   ii) Site visits should take place by prior arrangement;
   iii) Visitors should be accompanied by a guide who will also record the condition of the site on a cave checklist card (see Point 3 above);
iv) A detailed record of visitors to unmanaged sites should be kept. Details on numbers of visitors to specific sites, ages, and nationality and on how they came to know of the site(s) are required;

v) Visitors should be requested to sign a site visit permit;

vi) Field staff should meet visitors prior to their site visit;

vii) The usual NCS guidelines apply to visitors who wish to visit cultural resource sites for commercial gain, such as filming.

c) Requests from researchers:

i) All guidelines pertaining to the general public also apply to requests from researchers;

ii) Researchers should provide details of their institutional affiliation. Where necessary, an NCS or Amafa permit should be obtained;

iii) Researchers should be required to complete a cave checklist card for each site they visit;

iv) Bona fide researchers may visit sites unaccompanied.

d) Requests from traditional healers:

i) All guidelines pertaining to the general public also apply to requests from traditional healers;

ii) Traditional healers should be accompanied to sites by NCS staff.

9.3 Future Priorities

These will be determined when specific issues are identified.

10. TOUR GUIDES AND GUIDED SITE VISITS

Guides in the uDP, whether they are hiking club leaders, commercial tourist guides, hotel guides or community tourist guides, represent an opportunity to improve the control of visitors to, and enhance their experience of, cultural resources. Guides should be familiar with and able to enforce appropriate conduct at cultural resource sites. The biological and cultural resource information provided by guides should be of an acceptable standard.

10.1 Objective

To ensure that all guides within the uDP are trained in rock painting appreciation and the appropriate conduct at cultural resource sites.

10.2 Current Management Actions

A community tour guide policy has been approved by the Board.
10.3 Future Priorities

a) All commercial guides should be accredited to a relevant standards authority;
b) All guides and trail leaders should undergo a rock painting appreciation course.

11. DEVELOPMENT PROJECT PLANS
The standard NCS planning process should be followed when embarking on an action that may affect a cultural resource site.

11.1 Objective

To ensure that the official planning procedure is followed and to ensure that Integrated Environmental Management (IEM) principles guide all development projects.

11.2 Current Management Actions

All developments in the udp are subject to IEM and to clearance from the Conservation Branch meeting and Project Planning Committee of the NCS via the relevant line management structures.

11.3 Future Priorities

Proposals should be referred to Amafa.

COMPONENT B: PROMOTING AN APPRECIATION OF CULTURAL RESOURCES

1. CULTURAL RESOURCE INTERPRETATION

Awareness regarding the significance, meaning and conservation of cultural resources in the udp is an essential component of their effective management.

The NCS cannot by itself provide an adequate cultural resource education programme for visitors to the udp. However, effective programmes can be offered through the creation of partnerships with cultural resource authorities and institutions.

Furthermore, the promotion of an awareness of the cultural resources of the udp among neighbouring communities should be incorporated into the Drakensberg Community Conservation programme.
Such initiatives should be based on an integrated strategy for the uDP as a whole, with different emphases in the northern, central and southern regions, and with site-specific plans for each station.

1.1 Objective

To provide an interpretive programme for visitors and neighbouring communities that serves to create an awareness of the significance, meaning, conservation and management of the cultural resources of the uDP.

Interpretive Mix

An interpretive programme for visitors should offer a range of alternatives according to the degree of visitation, visitor requirements and the interpretive goal of the uDP section concerned. Specific station strategies are contained in Section C.

Visitor Facilities

The provision of visitor facilities at certain cultural resource sites should ensure that visitors have a quality experience, with the objective of preventing damage to sites. Facilities and management structures should be designed to encourage an appreciation of the meaning and significance of promoted sites and their value in terms of a national heritage. Simultaneously, monitoring and management is necessary to ensure that there is minimal visitor impact at managed sites.

1.2 Current Management Actions

a) A pamphlet entitled Rock Art in the Drakensberg has been produced by the NCS and the Natal Museum and is available at every uDP station (see Appendix E);

b) Pamphlets about rock paintings from the National Monuments Council are available at every uDP station;

c) Sites currently managed for visitors are Main Caves, Giant’s Castle; Battle Cave, Injasuti and Game Pass Shelter, Kamberg;

d) Postcards and books about rock paintings are available in the curio outlets at the camps in the uDP.
1.3 Future Priorities
   a) The facilities at managed sites are being upgraded (see section C);
   b) Interpretive facilities are required in the southern and northern areas of the uDP (see section C);
   c) A display on the rock paintings of the uKhahlamba is required for every uDP section;
   d) Training tourist guides from local communities should be investigated further;
   e) Appropriate literature should be developed.

2. NCS STAFF EDUCATION
   All staff should be trained appropriately regarding cultural heritage legislation and management in the uDP. Such training may be provided by Amafa and should be repeated as frequently as resources permit.

2.1 Objective

   To ensure that all staff undergo appropriate training so that an appreciation of the significance, meaning and conservation of cultural resources in the uDP is acquired.

2.2 Current Management Actions
   a) Most junior staff members have completed a rock painting appreciation course
   b) Presentations on rock paintings and archaeology were held at the 1996 uDP officers-in-charge meeting;
   c) Most officers-in-charge have been involved in workshops to discuss the development of this document;
   d) Natal Museum and Amafa staff have visited sites with NCS staff;
   e) CCA R. Molefe has been trained to run rock painting appreciation courses;
   f) An officers-in-charge rock painting appreciation and management course was held in October 1997.

2.3 Future Priorities

   In-service cultural resource training should be provided for new staff members.
3. **FORMAL EDUCATION**

The cultural resources of the uDP, specifically the rock paintings, represent a special opportunity for visiting educational groups to understand South Africa's cultural heritage.

3.1 **Objective**

*To support cultural heritage education initiatives and to include cultural considerations in community conservation programmes.*

3.2 **Current Management Actions**

a) Main Caves at Giant’s Castle is used regularly by educational groups;
b) Educational groups qualify for a concession when entering the uDP.

3.3 **Future Priorities**

a) Schools should be made aware of managed cultural resource sites;
b) Educational resource materials should be developed in conjunction with Amafa and other appropriate partners;
c) Cultural resource information should be provided at uDP education centres.

4. **NEIGHBOUR CONSULTATION**

The uDP is part of a larger cultural environment and cultural resources in adjacent areas are as important as those within the park. Social, economic and political trends outside the park have a significant effect on the NCS and Amafa's abilities to conserve the natural and cultural resources within it. Neighbouring communities should therefore be made aware of cultural resource management initiatives within the uDP and should be encouraged to participate in the management and conservation of sites on their landholdings.

4.1 **Objective**

*To inform communities neighbouring the uDP about the management of the cultural resources of the uDP, in consultation with Amafa.*

4.2 **Current Management Actions**

a) The Casual-Natal Nature Conservation Management Act, 1997 provides for the establishment of local boards for protected areas that will have strong representation from neighbouring communities. These boards are required "to promote local decision-making regarding the management of
nature conservation and heritage resources within protected areas as well as to promote the integration of the activities of the protected area into that of the surrounding area” (part 27(1));

b) Local community leaders are invited to participate in annual management meetings of the sections of the uDP;

c) Local community leaders are invited to an annual open day to enable their participation in the management of the uDP section concerned;

d) Representatives of iNkosi Hadebe of the amaHlubi meet regularly with the management of Witteberg section to discuss the management of the grave of iNkosi Langalibalele.

4.3 Future Priorities

Neighbouring communities should be consulted extensively in the development of future versions of this document.

5. NEIGHBOUR EDUCATION

An appreciation of cultural resources in the uDP should be encouraged among the park’s neighbouring communities because this national heritage presents potential educational and tourism benefits. The NCS should support cultural resource education initiatives by including cultural resource issues in the community conservation programmes.

5.1 Objective

To support cultural resource education initiatives in neighbouring communities and to include cultural resources in community conservation programmes.

5.2 Current Management Actions

a) Teachers neighbouring Witteberg and Royal Natal have undergone a rock painting appreciation course;

b) Community leaders from the amaHlubi and Ntabamhlophe areas have visited Main Caves with an NCS guide.

5.3 Future Priorities

a) Amafa could facilitate cultural resource appreciation programmes in communities adjacent to the uDP. The feasibility of such programmes being run in partnership with the NCS Conservation Education Programme should be investigated;
b) Cultural resource information should be included in open day activities, in community conservation activities, and in education centres throughout the uDP;

c) District Conservation Officers should be encouraged to promote cultural resource appreciation programmes in local communities.

6. MARKETING
The cultural resources of the uDP represent a unique marketing opportunity.

6.1 Objective

To market managed sites in the uDP as destinations of international significance.

6.2 Current Management Actions

a) Rock paintings are used as a backdrop on the uDP colour marketing brochure;
b) Various hotels advertise the presence of rock paintings in the uDP;
c) Rock painting memorabilia is sold in uDP curio shops.

6.3 Future Priorities

a) A definitive cultural heritage marketing plan should be developed in conjunction with all the relevant stakeholders;
b) Managed cultural heritage sites should be promoted in all uDP marketing literature. The location and identity of unmanaged sites should not be provided;
c) Quality thematic souvenirs should be available in all uDP curio outlets;
d) Managed sites should be publicized as much as possible in the mass media;
e) Tour packages of a high standard should be developed and marketed.

COMPONENT C: PROMOTION AND DEVELOPMENT OF RESEARCH OPPORTUNITIES, SITE RECORDING AND DATABASES

Cultural heritage research in the uDP is necessary to support the management, conservation, understanding and interpretation of cultural resources. Sound planning for the conservation and management of cultural resources within the uDP is dependent upon:

- the evaluation of management processes;
the research results and recommendations stemming from investigation of specific deterioration problems;
the results of trial conservation measures conducted as pilot projects by heritage specialists;
research to determine visitor needs and solutions to problems caused by visitation.

1. DATABASES

The conservation and management of cultural resources within the uDP depends on the compilation and frequent updating of a detailed inventory of cultural resources, including their content and significance.

1.1 Objective

To compile and maintain a detailed database of cultural resources within the uDP.

1.2 Current Management Actions

a) All known archaeological sites within the uDP are recorded on the Drakensberg Geographic Information System (GIS) at Queen Elizabeth Park. These details were obtained from the Natal Museum Archaeological Data Recording Centre.
b) Hard copies of the information contained on the GIS have been issued to each station in the uDP as site record forms. An example of a site record form is attached as Appendix F.
c) Archaeological site locations are recorded on on-station 1:50 000 maps.
d) Every station is required to send details of all new sites discovered to Amafa by 1 June every year for inclusion in the provincial database.

1.3 Future Priorities

a) Site names should be standardised to conform to the national site name;
b) The site management rankings for all known sites should be re-investigated;
c) Each station should have copies of the Natal Museum database of photographs identifying site locations, to facilitate the location of sites;
d) Each officer-in-charge should take photographs to show the location of sites in his/her area, where photographs of site locations are not available from the Natal Museum;
e) Site locations should be re-recorded using a Global Positioning System (GPS);
f) Unsurveyed areas should be surveyed;
2. REQUIREMENTS FOR RESEARCH PROJECTS
It is necessary to monitor cultural resource research in the uDP for purposes of management and access.

2.1 Objective

To promote and monitor cultural resource research conducted in the uDP.

2.2 Current Management Actions

a) All researchers are required to submit a research proposal for consideration by the NCS in a prescribed format (see Appendix H);

b) Researchers are required to apply for relevant permits from Amafa, where necessary;

c) See Point 11. Specific Site Visit Requests.

3. POSSIBLE RESEARCH PROJECTS
Although a large body of cultural resource data exists pertaining to the uDP, further research regarding the meaning, utilisation and management of these resources is required.

3.1 Objective

To promote and support cultural resource research within the uDP.

3.2 Current Management Actions

a) Several research projects are currently underway. Progress is reported at joint NCS / Amafa policy meetings;

b) Several possible research projects have been identified:

- description of sites including geophysical analysis; site vegetation; determination of baseline dust levels; specific conservation problems;
- correlation of excavated deposits and paintings;
- monitoring of site microclimates and vegetation;
- the impact of fire on rock paintings;
3. rock weathering rates;
2. reconstruction mapping of truncated rocks/boulders/slabs;
3. photo-monitoring of exfoliating "surface skins" and granular disintegration;
4. use of cultural resource sites by visitors.

3.3 Future Priorities

Research concerning visitor use of sites and interpretive materials is required urgently.
SECTION C

STRATEGY FOR uKHAHLAMBA DRAKENSBERG PARK SECTIONS

1. CULTURAL RESOURCE MANAGEMENT IN THE NORTHERN uKHAHLAMBA DRAKENSBERG PARK

This region of the uDP consists of the Rugged Glen and Royal Natal National Park sections in the north, Cathedral Peak and Culfargie in the centre and Monks Cowl in the south.

Component A: Conservation Measures to Curb Site Deterioration

a) General Visitor Management
Visitor usage of the northern uDP mostly affects the cultural resources of Cathedral Peak. Accordingly, the following strategies will ensure that these resources are adequately protected, while simultaneously providing a quality experience for visitors.

Cathedral Peak: The Premier Rock Painting Destination in South Africa
The Didima Special Conservation Area (SCA) at Cathedral Peak is being developed as South Africa’s premier rock painting destination. This follows the principle of offering high quality sites for visitation in conjunction with specific management controls.

<table>
<thead>
<tr>
<th>Management Strategy for the Didima Special Conservation Area (SCA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) The SCA has been demarcated on the official NCS map. The boundaries of the SCA may be demarcated on the ground by means of beacons. The confluence of the Mhlwazini and Didima rivers is not included in the SCA. Painted sites in the SCA should not be marked on hikers’ maps.</td>
</tr>
<tr>
<td>b) The contour path forms part of the SCA boundary and is the passage through the SCA for hikers who do not wish to overnight or visit painted sites in the SCA.</td>
</tr>
<tr>
<td>c) Access to the SCA is only granted to groups or individuals accompanied by trained guides accredited by the NCS.</td>
</tr>
<tr>
<td>d) Two categories of accredited guides currently receive training:</td>
</tr>
</tbody>
</table>
i) Community guides and porters are members of the local neighbouring community who have received training and support from the NCS and Amafa. Visitors reimburse guides and porters for their services.

ii) Individual guides are people who wish to access the SCA with a group. They receive accreditation once they have passed a course on appropriate conduct in painted sites. These courses have been offered by Amafa from the beginning of 1999.

e) An overnight booking system is enforced. Overnighting is allowed only in the company of an accredited guide and is encouraged at unpainted shelters in the gorge and at the junction of the Mhlwazini and Didima rivers.

f) Leopard Cave remains open for overnight use. Damage alleviation measures will be implemented on the advice of Amafa. Access to the rock paintings in the vicinity of the shelter will be restricted through the implementation of appropriate management measures. The access path requires appropriate management and rerouting may be investigated.

g) Poacher's Shelter remains open for overnight use. The site has been divided into use zones on the advice of Amafa in order to protect the remaining rock paintings. An interpretive zone is included.

h) Rigorous monitoring of the two painted shelters that are used for overnight purposes is required. At times, over-utilised shelters may be closed in order to allow them to recover. Should damage to the rock paintings and/or deposits occur, the matter of the use of that shelter will require renegotiation with all interested and affected parties.

i) Guides and NCS honorary officers are used to supplement NCS patrols in the valley to ensure compliance with this set of guidelines.

**Tourist Guides and Guided Site Visits**

Trained community guides take visitors to Esikolweni Shelter, Brotherton Rock, Procession Shelter and Lower Mushroom Shelter at Cathedral Peak, as well as to various sites in the Didima Special Conservation Area. A site assessment form for regularly visited sites has been developed and is used to determine the management needs of the SCA sites.

NCS staff or community guides accompany visitors to utilise Sigubudu Shelter at Royal Natal National Park and are discouraged from unaccompanied access to the site by a gate and sign at the beginning of the path.

**Component B: Promoting an Appreciation of Cultural Resources**

a) **Interpretation**

i) The Cathedral Peak Cultural Resource Interpretive Centre is envisaged as part of the proposed Didima Hutted Camp at Cathedral Peak. The centre will be accessible to both day visitors and residents of the hutted camp and will serve as the focal rock painting experience for the majority of visitors to Cathedral Peak;
ii) Cultural heritage resources should be part of the displays at the Royal Natal Education Centre.

b) Marketing

Cathedral Peak should be marketed as the premier rock painting destination in South Africa. Package tours using local community tour guides and accommodation at the hotel and the Didima Hatted Camp camp should be developed and marketed extensively.

Consideration should be given to the use of a rock painting icon as the Cathedral Peak logo. Thematic quality souvenirs should also be sold in the NCS curio outlet.

Component C: The Promotion and Development of Research Opportunities, Site Recording and Databases

a) Possible Research Projects

Possible research projects include:

i) An assessment of visitor use of and attitudes towards cultural resources in the SCA;
ii) Specialized conservation needs, for example the impact of fire at Botha's Shelter.

b) Databases

The cultural resource inventory for the northern uDP is satisfactory, but requires updating.

Table C1: Numbers of known archaeological sites in northern uDP sections

<table>
<thead>
<tr>
<th>Site</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Royal Natal National Park</td>
<td>35</td>
</tr>
<tr>
<td>Rugged Glen</td>
<td>0</td>
</tr>
<tr>
<td>Cathedral Peak</td>
<td>144</td>
</tr>
<tr>
<td>Monks Cowl (incl. Culfargie)</td>
<td>16</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>195</strong></td>
</tr>
</tbody>
</table>
2. CULTURAL RESOURCE MANAGEMENT IN THE CENTRAL uKHAHLAMBA DRAKENSBERG PARK

The central uDP comprises the Giant's Castle complex (Injasuti, Hillside and Witteberg) in the north and Mkhomazi in the south. The Kamberg and Highmoor sections are situated in the area between Giant's Castle and Mkhomazi.

Component A: Conservation Measures to Curb Site Deterioration

a) General Visitor Management

Most visitors are routed to Main Caves at Giant's Castle (see below), while Battle Cave and Game Pass Shelter are maintained as secondary visitor facilities. Amafa is compiling pamphlets for visitors to these sites (the use of a cassette recording at Battle Cave may be discontinued) and training of the NCS guides was repeated in 1999. Visitor numbers to these facilities are being monitored and remedial action, if necessary, will be considered at management meetings.

Battle Cave, Injasuti

Battle Cave is located in the wilderness of the uDP and this precludes its development as a visitor facility such as that at Main Caves. Currently groups visit the site in the company of a guide and have to book in advance. Increased site entrance fees have resulted in fewer people visiting the facility, which is desirable given the lack of development at the site and the vulnerability of the paintings to dust. The fence around the site is maintained and detailed visitor records are kept.

Game Pass Shelter, Kamberg

This is a fenced, undeveloped visitor facility situated above the Kamberg camp. Access is only allowed with a trained community guide. Visitors to Game Pass Shelter walk through Waterfall Shelter on their way to the site but assessment by Amafa has concluded that the paintings at the latter site are not being affected adversely. Both sites are monitored regularly.

Main Caves, Giant’s Castle

Main Caves has been upgraded to cater adequately for general visitors and educational groups.

Concept Plan for Main Caves

i) The entrance gate is located at the southern side of the site (the forest end) and the path through the forest has been upgraded. A
waiting facility for tour groups is located approximately 70 m before the entrance gate, with seating and a welcoming display. A short path leads to the entrance gate. Visitors enter Main Caves South first via a boardwalk from the entrance gate.

ii) Visitor facilities at Main Caves South focus on the interpretation of hunter-gatherer history in the uKhahlamba. The hunter-gatherer display has been upgraded and a deposit profile has been integrated into the retaining wall. New interpretive displays are sited adjacent to the display.

iii) After their visit to Main Caves South, groups proceed to Main Caves North along the existing path. Visitor facilities at the latter cave focus on the interpretation of rock paintings. A timber deck and boardwalk with viewing platforms maximize photographic and viewing opportunities and minimize dust. Interpretive panels are positioned adjacent to the deck. Amafa has compiled a booklet about the site that will be printed during 2000. Seating, a visitor book and litter bins have been installed.

iv) Visitors exit through the northern gate.

v) The role of the site custodian has not yet been finalised. However, Amafa will ensure that he receives adequate training, particularly with regard to visitor control.

vi) The Mtshezi (Bushman’s River) Trail is being revised to incorporate aspects of hunter-gatherer life and rock paintings.

c) Specific Site Visit Requests

The number of requests to visit unmanaged rock art sites at Kamberg and Witteberg is increasing dramatically. The guidelines in this document are being adhered to strictly and the numbers of visitors to the sites are recorded and monitored.

d) Animals in Shelters

Animals have damaged the paintings at Blesbok Paddock in the past. Regular monitoring of the art is required to determine whether remedial action is necessary.
Component B: Promoting an Appreciation of Cultural Resources

a) Interpretation

Since three rock art sites are currently managed for public access, most interpretation in the central NDP will remain on-site. A biodiversity education centre is planned for Witteberg that will address the biophysical and cultural aspects of Witteberg and the NDP. Therefore at present, no dedicated cultural resource interpretive centre is required to service the central NDP.

Provision should be made for disabled visitors to the central NDP to view rock paintings. Various sites in close proximity to the offices at Witteberg could be used for this purpose. Initial assessments of Barnes’ and Camp Shelters indicate that the latter site is better suited to this purpose, although extensive path construction would be required.

b) Marketing

Main Caves should be marketed extensively to potential visitors and educational groups. This marketing drive should be supplemented by the availability of suitable thematic souvenirs in the NCS curio outlet.

Component C: The Promotion and Development of Research Opportunities, Site Recording and Databases

a) Possible research projects

Research projects completed or underway include those of Dr Ian Meiklejohn, Dr Aron Mazel, Ms Thembi Russell and Mrs Val Ward, regarding weathering, dating and sequencing of the paintings.

Possible research projects include:

i) assessment of visitor use of and attitudes towards the rock paintings at Main Caves, Battle Cave and Game Pass Shelter, and at specific sites requested for viewing;

ii) analysis of cave checklist cards;

iii) excavation of painted shelters to develop a better understanding of hunter-gatherer history

iv) investigation of dust levels at Main Caves.

b) Databases
The cultural resource inventory for the central uDP is incomplete. Although Injasuti has been surveyed well, more work needs to be done in the rest of Giant's Castle. Surveys by cadets over the last four years have identified more than fifty previously unrecorded sites and have been valuable in re-assessing known sites. Inventories for Highmoor, Kamberg and Mkhomazi are relatively complete.

| Table C2: Numbers of known archaeological sites in central uDP sections |
|--------------------------------|------|
| Giant’s Castle                     | 126  |
| Highmoor                          | 24   |
| Kamberg                           | 13   |
| Mkhomazi                          | 12   |
| **TOTAL**                         | 175  |

3. CULTURAL RESOURCE MANAGEMENT IN THE SOUTHERN uKHAHLAMBA DRAKENSBERG PARK

The southern region of the uDP stretches from Loteni in the north to Garden Castle in the south, with the Vergelegen and Cobham sections situated in-between.

Component A: Conservation Measures to Curb Site Deterioration

a) Site Vegetation

Painters' Cave (Bushman's Nek) and Ikanti 1 (Cobham) have excessive vegetation that is abrading the paintings.

b) Fire Management

Painters' Cave (Bushman's Nek) has excessive vegetation that poses a fire hazard to the art.

c) Visitor Management

Future development nodes in the southern uDP are Drakensberg Gardens and Bushman's Nek. As there are many colonial era rock paintings in the area, they should form the focus of the southern uDP sub-region's interpretation programme.

d) Specific Site Visit Requests
Directions to a number of unmanaged sites are requested frequently. The recommendations contained in section B of this document should be followed. Visits to Mpongweni may have to be restricted to allow rehabilitation of the site.

### Visitor Management Proposals For The Southern uKhahlamba-Drakensberg Park

#### i)

Good Hope 1 and 2 have been assessed by Amafa and the NCS for their potential as interpretive sites. Our proposals follow:

- No steps should be taken until the NCS has reached agreement with the Sani Pass Hotel and other establishments in the area regarding the utilisation of cultural heritage sites within the uDP;
- Signage adjacent to the road, indicating the start of the trail, should be removed;
- Interpretation at Good Hope 1 should be in keeping with the unspoilt natural setting of the site. Interpretive options include:
  - a. removing all graffiti except for that covering the main panel copied by Patricia Vinnicombe (measuring approximately 2 m x 0.75 m);
  - b. reproducing this panel on an artificial surface mounted in front of the original panel;
  - c. providing information about the deterioration of the paintings, and the history of site occupation (the site has been excavated), on one or more artificial rock surfaces;
  - d. training guides and developing a pamphlet to provide further interpretation;
- The path to Good Hope 2 should not be obvious to visitors to the first site. This would help eliminate casual visitors to the second site, whereas trained guides could lead their groups there;
- Interpretation at Good Hope 2 should be limited to that provided by guides and interpretive pamphlets, i.e. no on-site interpretation should be developed;
- Graffiti and dust over the paintings at Good Hope 2 should be removed;
- Guides would be trained according to the requirements of the NCS and Amafa, and would act as additional site monitors;
- The interpretation at the Good Hope sites should be seen in the context of heritage management and interpretation throughout the uDP, and in the southern uDP in particular. The proposed trail at Bushman’s Nek will guide visitors to paintings of exceptional quality, as part of an easy day walk. We propose that a cultural heritage centre is developed in Underberg or Himeville for visitors who are unable to access painted sites. Funding for such a centre could be sought from local businesses and organisations, and the regional council.

These proposals could be discussed at two levels:

- Amafa and NCS staff members should reach agreement regarding their organisational objectives, capabilities and constraints. This meeting should occur as soon as possible;
- Interested and affected parties could be invited to participate in the formulation and implementation of heritage interpretation options at the Good Hope sites, and the development of a cultural heritage centre.

#### ii)

Ikanti 1 should be managed and developed by the NCS, possibly in conjunction with the Sani Pass Hotel. Crisis management of this site is not desirable and interventions will depend on the
implementation of the proposed site access permit system, and satisfactory negotiations with the hotel;

iii) Amafa has investigated various sites in the Bushman’s Nek area regarding their inclusion on a guided trail. A suitable pamphlet will be developed in 1999 to provide information for visitors. Detailed records of visitors to these sites will be required;

iv) Mpongweni Shelter remains available for guided visits on request. Dust control measures and the provision of a site-specific interpretive pamphlet may be required in future. Graffiti removal is being investigated at present.

Component B: Promoting an Appreciation of Cultural Resources

Interpretation

There are no interpretive facilities available in the southern uDP. It is thus proposed that:

i) cultural resources form part of the interpretive centre planned for Bushman's Nek;

ii) trained community members provide guided tours as outlined above. Guides could perform an interpretive and regulatory function, as part of a low-level management strategy.

Component C: The Promotion and Development of Research Opportunities, Site Recording and Databases

a) Possible Research Projects

Possible research projects include:

i) assessment of hotel visitor use and attitudes towards the rock paintings;

ii) analysis of cave checklist cards.

b) Databases

The southern uDP is generally well surveyed but the inventory should be updated through ongoing surveys.

Table C3: Numbers of known archaeological sites per southern uDP stations

<table>
<thead>
<tr>
<th>Station</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loteni</td>
<td>29</td>
</tr>
<tr>
<td>Cobham (including Vergelegen)</td>
<td>71</td>
</tr>
<tr>
<td>Garden Castle</td>
<td>80</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>80</strong></td>
</tr>
</tbody>
</table>
SECTION D

APPENDICES

APPENDIX A   MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING

between the

KWAZULU-NATAL NATURE CONSERVATION SERVICE (hereinafter referred to as “the Service”), duly represented by JABULANI ALEXANDER THEMBELA and GUGU JEANETTE MKHIZE (in their respective capacities as Chairman and Acting Secretary of the Board),

and

AMAFA AKWAZULU-NATALI (hereinafter referred to as “Amafa”), duly represented by BARRY MARSHALL and LEONARD VAN SCHALKWYK (in their respective capacities as Director and Assistant Director of Amafa)

PREAMBLE

i) The Service and Amafa, having a common commitment to cultural resource conservation, and
ii) given the requirements of the KwaZulu-Natal Nature Conservation Management Act, 1997 (Act No. 9 of 1997) and the KwaZulu-Natal Heritage Act, 1997 (Act No. 10 of 1997) regarding cultural resource management, and

iii) recognizing that the protected areas of KwaZulu-Natal include a wealth of cultural resources;

agree that

i) collaboration in cultural resource management is desirable to achieve the requirements of the abovementioned Acts, and

ii) they will regulate their working relationship through a Memorandum of Understanding and agree to abide to the terms and undertakings set out hereunder, whilst realizing that this agreement is not intended to have the force of the law, but rather to assist in implementing the law.

1. MUTUAL SUPPORT

1.1 The parties undertake to support each other as far as possible with regard to the conservation of cultural resources in the protected areas managed by the Service. It is recognized that a full disclosure of the needs of either party should be conveyed to the other party in good time in order for such support to be given.

2. ADVISORY SERVICE

2.1 The parties agree that a cultural heritage management specialist from Amafa will attend the annual management meetings of protected areas controlled by the Service to provide a cultural resource advisory service to the management team for each protected area. Further meetings may occur between members of both parties from time to time, in order to implement the annual cultural resource management goals of each protected area;

2.2 General matters regarding cultural resources will be addressed at annual Cultural Resource Advisory Committee (CRAC) meetings;
2.3 The parties agree that decisions taken at annual management meetings, CRAC meetings and *ad hoc* meetings between the parties are binding upon the management of that protected area, conditional upon approval from the appropriate level of management of both parties.

3. **COMMUNICATION**

3.1 The parties agree that it is necessary to keep the channels of communication open between them on all aspects of their work and agree to endeavour to inform and communicate with each other on all aspects of the work conducted on, related to or that could have consequences for cultural resource conservation in the protected areas managed by the Service.

4. **LIAISON WITH OTHER INTERESTED PARTIES**

4.1 Whilst recognizing the legal responsibilities of both parties regarding the conservation of cultural resources in KwaZulu-Natal, the parties recognize that it may be necessary to obtain the assistance and participation of other interested parties. The parties recognize the rights of each other to form appropriate liaisons, and agree to inform each other of such liaisons.

5. **MUTUAL RESPECT AND CONSIDERATION**

5.1 Both parties agree to respect the needs of each other and to adhere to decisions approved at the appropriate level of management of both parties.

6. **DISPUTE RESOLUTION**

6.1 Where either party feels aggrieved by the actions of the other party, the parties agree to communicate such concern to the other party through appropriate channels of communication. Grievances shall be made known to the other party as soon as possible and both parties will endeavour to resolve any such grievances at an appropriate level.
7. SPIRIT OF UNDERSTANDING

7.1 The parties agree that, in order to implement the requirements of the abovementioned Acts regarding cultural resource management in protected areas through the mechanism of this Memorandum of Understanding, the spirit be upheld and adhered to at all times.

DATED at PIETERMARITZBURG on this day of 1998.

AS WITNESSES

1. ___________________________________ ______________________________
   PROF. J. A. THEMBELA
   (CHAIRMAN - KZNNCS BOARD)

2. ____________________________________ ______________________________
   G. J. MKHIZE
   (ACTING SECRETARY - KZNNCS BOARD)

DATED at PIETERMARITZBURG on this day of 1998.

AS WITNESSES

1. ___________________________________ ______________________________
   B. MARSHALL
   (DIRECTOR - AMAFA AKWAZULU-NATALI)

2. ___________________________________ ______________________________
   L. VAN SCHALKWYK
   (ASSISTANT DIRECTOR - AMAFA AKWAZULU-NATALI)
APPENDIX B  PRINCIPLES OF ARCHAEOLOGICAL CONSERVATION

Definitions:

**Adaptation** modifying a *site* to suit proposed compatible uses.

**Compatible use** a use that involves no change to the culturally significant *fabric*, changes that are substantially reversible, or changes that require a minimal impact.

**Cultural significance** of aesthetic, architectural, historical, scientific, social, spiritual or technological value or significance.

**Fabric** all the physical material associated with the *site*.

**Maintenance** the continuous protective care of the *fabric*, contents and setting of a *site*, as distinct from repair. Repair involves *restoration* or *reconstruction* and it should be treated accordingly.

**Preservation** maintaining the *fabric* of a *site* in its existing state and retarding deterioration.

**Restoration** returning the EXISTING *fabric* of a *site* to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material.

**Reconstruction** returning a *site* as nearly as possible to a known earlier state and is distinguished by the introduction of materials (new or old) into the fabric. This is not to be confused with either recreation or conjectural reconstruction that are outside the scope of these principles.

**Site** place of past human activity, and in respect of a rock art site, any area within 10 m of such site.
### Site:

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are there any signs of people using the site since the last inspection?</td>
<td>(candle wax, grass bedding, camp fire, toilet paper, litter)</td>
</tr>
<tr>
<td>Was the vegetation near to any paintings burnt?</td>
<td></td>
</tr>
<tr>
<td>Is there vegetation against paintings?</td>
<td></td>
</tr>
<tr>
<td>Are there signs of animals interfering with the paintings?</td>
<td></td>
</tr>
<tr>
<td>Is there any new graffiti?</td>
<td></td>
</tr>
<tr>
<td>Are there signs of people trying to remove or damage the paintings (not graffiti)?</td>
<td></td>
</tr>
<tr>
<td>Are there signs of water damage to the paintings?</td>
<td></td>
</tr>
<tr>
<td>Anything else / comments?</td>
<td></td>
</tr>
</tbody>
</table>

### Keywords:

- Izimpawu: signs of people using the site
- Izimila: signs of animals interfering with the paintings
- Isigqhubhane: new graffiti
- Iziminjalo: water damage

### Actions:

- Kukhona okwakumile eduze kwemidwebo okwasha?
- Zikhona izimila ezincikene nemidwebo?
- Kukhona okusha okubhalwe phezu kwemidwebo?
- Ngakubhala okwaba akunye

### Details:

- Indawo ihlolwe u:
- Usuku:
- Isiginisha ye OiC:
APPENDIX D  MINIMUM STANDARDS FOR ARCHAEOLOGICAL
SITE MUSEUMS AND ROCK ART SITES OPEN TO
THE PUBLIC (NATIONAL MONUMENTS COUNCIL)

Archaeological sites, including those with rock paintings or rock engravings, are especially vulnerable to damage caused unwittingly by visitors. Anyone making a site available to the public, either as a formal site museum or simply as a place of interest, should therefore take basic precautions to ensure the safety of the site and its contents. Expert advice should be sought from the National Monuments Council and/or from one of the museums or university departments listed below. No site should be opened to the public without a professional investigation that includes complete documentation in case of damage. Liaison with the local publicity office and regional services council is recommended. The following minimum standards are suggested:

1.  APPROACH TO THE SITE

Arrangements for Visiting:

a) If the site is open at all times, there should be adequate signposting;
b) if the site is kept locked, there should be clear arrangements for the collection and return of a key;
c) if it is open only by appointment, there should be someone to guide people to the site and that this person has had clear instructions on what to do and say.

Provision for Vehicles:

a) There should be an adequate and well-maintained road with off-road parking;
b) the parking should not encroach on the site - vehicles should not park closer than about 100 m from the edge of the site;
c) the parking area should be marked by a barrier between it and the start of the path.

Facilities:

a) There should be a litter bin at the parking lot and it should be emptied regularly;
b) consider the need for toilets and the supply of refreshments and other facilities such as a shop, public telephone, rest room, etc., depending on the number of visitors expected;
c) consider the need to establish an interpretive centre separate from the site, where people can see the excavated artefacts in a museum-type situation and where you may be able to store material, provide accommodation, etc.
Design of the Path:

a) Make sure that the path to the site is distinct;
b) the path should follow the contours to avoid unnecessary erosion of the hill slope;
c) make sure there are discreet signs to indicate direction where the path crosses a rocky area;
d) the path should not enter the site at a position where the deposits or the rock art can be damaged;
e) the introductory notice board should be displayed at the end of the path and the beginning of the site, where it will not interfere with good photographic views.

2. PROTECTION OF THE SITE

The principles for protecting archaeological deposits and sites are that the methods used should be effective, reversible and recognizable yet harmonious. It is important that visitors get the impression that the site is being well looked after, so it should be clean and as "natural" as possible.

If you take, or expect to take more than 50 people a year to the site, there should be:

a) Provision of Information:
   i) At least an introductory notice board explaining that the site is protected by law;
   ii) where appropriate, a display with more detailed information on what can be seen at the site and what it means;
   iii) a visitors' book in a container to protect it from the weather, or at the farmhouse or other convenient place;
   iv) an explanatory leaflet or pamphlet that is specific to the site.

b) Protection of the Art:

   i) A psychological or a physical barrier could be set up between the visitor and the rock art or display area in the form of anything from a low wooden railing to a fence that encloses the entire site, depending on the vulnerability of the site or precautions necessary for the safety of the visitor;

   ii) every effort should be made to remove graffiti from the site as it attracts more graffiti. A permit from the National Monuments
Council is required to remove graffiti at a rock art site. [In KwaZulu-Natal a permit is applied for from Amafa aKwaZulu-Natali].

c) Protection of the Surface and Deposits:

i) An effective cover should be put on the floor of the site to prevent dust being kicked up and damaging rock art and to stop people picking up material on the surface. Cover can be provided by a board walk, geotextile, commercially crushed stone (the layer should be at least 30 mm thick) or medium to large slabs of natural rock from the surrounds of the site. Plastic sheeting can be used to seal off the natural surface from the covering stone or rock but must be completely covered or it will degrade. Do not cover the original surface with soil from the surrounding area as it will not be possible to distinguish this from the natural deposit at a later date;

ii) there should be effective shoring up of excavated sections to prevent the sections from collapsing and to prevent people from entering the excavated area. This should be done in consultation with the National Monuments Council. [In KwaZulu-Natal a permit is applied for from Amafa aKwaZulu-Natali].

d) Regular Maintenance:

i) Provision should be made for regular visits to the site by the manager or the property owner to check on litter, damage, graffiti, etc.;

ii) there should be regular monitoring of vegetation around the site so that, if necessary:
- measures can be taken to protect it against trampling,
- potentially dangerous plants such as those with thorns can be controlled,
- dead wood should be removed so that damage by veld fires can be avoided.

e) Avoid Having:

i) A litter bin on site unless very large groups are catered for;

ii) braai or picnic places on the site or right next to it;

iii) camping places within 500 m (or preferably 1 km) of an archaeological site;

iv) plastic sheeting or plastic bags exposed to view unless there is no other option;

v) concrete barriers or surfaces;
vi) metal poles or wire in contact with rock shelter or cave walls as they rust and stain the rock;
vii) a sandy surface on the outer side of a fence as this will be eroded by people walking there and the fence will be undercut.
APPENDIX E PAMPHLET
APPENDIX F  EXAMPLE OF A SITE RECORD FORM
APPENDIX H KZNNCS RESEARCH PROJECT PLAN FORMAT

1. This FORMAT should be followed when drafting the project plan.
2. To be sent for consideration to: Head Scientific Services, KwaZulu-Natal Nature Conservation Service, P O Box 662, Pietermaritzburg, 3200. (Tel 0331 - 471961). (Fax 0331 473278). (e-mail: mbrooks@npb.co.za - queries only)
3. Once approved, the following conditions (amongst others) apply:
   a) The project details may not change except by negotiation with the Board.
   b) Any capture or collection of specimens must be covered by an appropriate permit.
   c) Annual progress reports must be submitted.
      The KZNNCS reserves the right to claim copies of the raw or worked data if project completion is delayed.
   d) Two copies of the final report, thesis and/or paper(s) must be sent to the KZNNCS co-ordinator.
4. The boxes are for office use only. However, when drafting the Plan, please include the headings and text that appear in the boxes to facilitate our processing the document. Allow two lines for each “approval” box shown under the heading “KZNNCS ASSISTANCE”.

---

PROJECT TITLE

RESEARCHER: Title: ........Name: .......................................................
Postal address: ........................................................................
Tel: (........) .................... e-mail: ............................................
Fax: (........) .................... Organisation: .....................................

SUPERVISOR: Title: ........Name: ................................................
Organisation: ........................................................................

CO-WORKERS: Title: ........Name: ................................................
Organisation: ........................................................................

---

KZNNCS CO-ORDINATOR

PROJECT LEVEL: (Hons, MSc, etc.) ........................................................

OBJECTIVES: (State succinctly in point form)
.....................................................................................
.....................................................................................
.....................................................................................

RATIONALE: (Brief background to project. State the management problem or information deficit. How will the project help solve the problem, and how will results be applied. Indicate the extent to which the subject has already been researched.)

STUDY AREA: (Indicate the geographical extent of the study area: specify any reserves that are included.)

TIMING: Proposed commencement: .............................................
Proposed completion: ..............................................................
STUDY PROCEDURE: Briefly describe the methods to be employed. Will there be any environmental impact, e.g. destructive sampling? A permit application must be submitted if animals are to be captured or specimens collected.

KZNCS ASSISTANCE: A detailed budget must be given on an attached sheet using the itemised format as set out in the Annexure. Highlight/asterisk the items and amounts, if any, requested from the KZNCS.

Funding: Funds provided by: .................................................................
Funds requested from KZNCS: R ......................................................

| APPROVED: ........................................ | AMOUNT: ...................... |

Accommodation: Specify accom. type: .................................................................
Normal charge: .................................................................
Discount recommended: .................................................................
Requested dates: .................................................................

| APPROVED: ........................................ | CHARGE: ...................... |

Manpower: Requested: .................................................................

| APPROVED: ........................................ |

Equipment use: Requested: .................................................................

| APPROVED: ........................................ |

For office use only.

Project Plan has been accepted by the KZNCS, and the study may now commence.

Supported: Chief Conservator .......... Date: ..........
SS Divisional Head .......... Date: ..........

Approved: Head Scientific Services .......... Date: ..........
Registration Number: ........................................

ANNEXURE TO PROJECT PLAN
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**Newspaper publications**


**Primary references**

**The interviewees (in no particular order)**

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<td>Ndlangamandla</td>
<td>Mr. Mthombeni</td>
<td>Meridy Pfotenhauer</td>
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Personal communication:
Claire Dean
Patricia Vinnicombe
Frans Prins
Vusimuzi
Hall Sian
Axel Thoma

Written responses:
Thoma, A. 2003. Response to the questionnaire. Mr. Thoma is the Co-ordinator of WIMSA and one of the founding members of the organisation.

Prins, F. Response to the questionnaire. Prins, F. is currently the Cultural Resource Specialist of Maluti-Drakensberg Transfronteir Project.

Chennels, R.: Response to the questionnaire. Mr. R. Chennels is currently the Legal Adviser for SASI.

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