

*Presented at the FIG Working Week 2016,
May 2-6, 2016 in Christchurch, New Zealand*

A brief History of Land Rights in KwaZulu-Natal

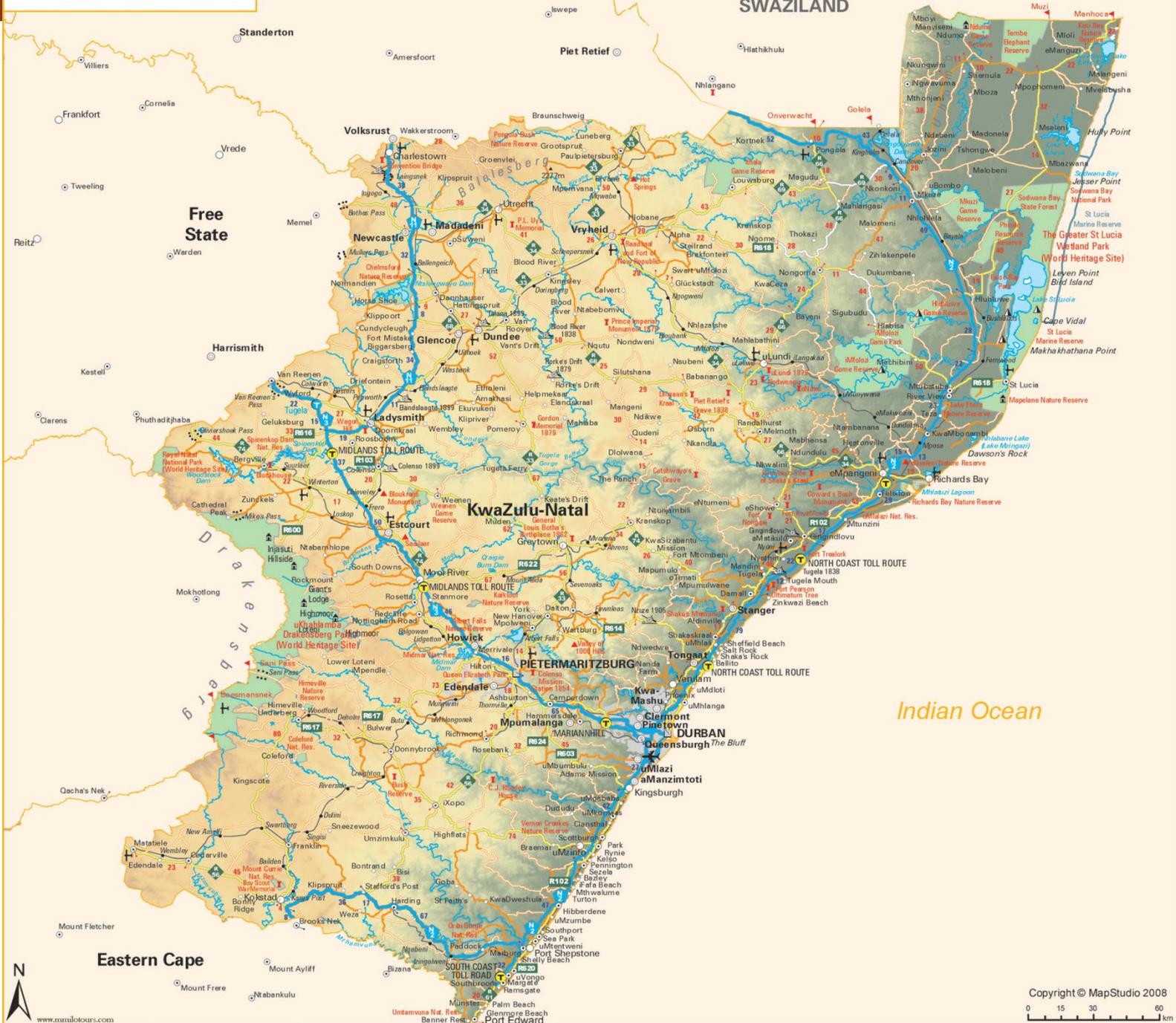
Chris Williams-Wynn
Surveyor-General: Eastern Cape

East London
Republic of South Africa
May 2016





KWAZULU-NATAL



350 years ago...

- Europe and the East
 - Great libraries and formal land records
 - Naval fleets, cavalry, military superiority
 - Gunpowder, rifles, pistols and cannons
- KwaZulu-Natal
 - Hunter-gatherers
 - Huge herds of game, elephants
 - Burial grounds, waste middens, rock art
 - Not even the most primitive of writing

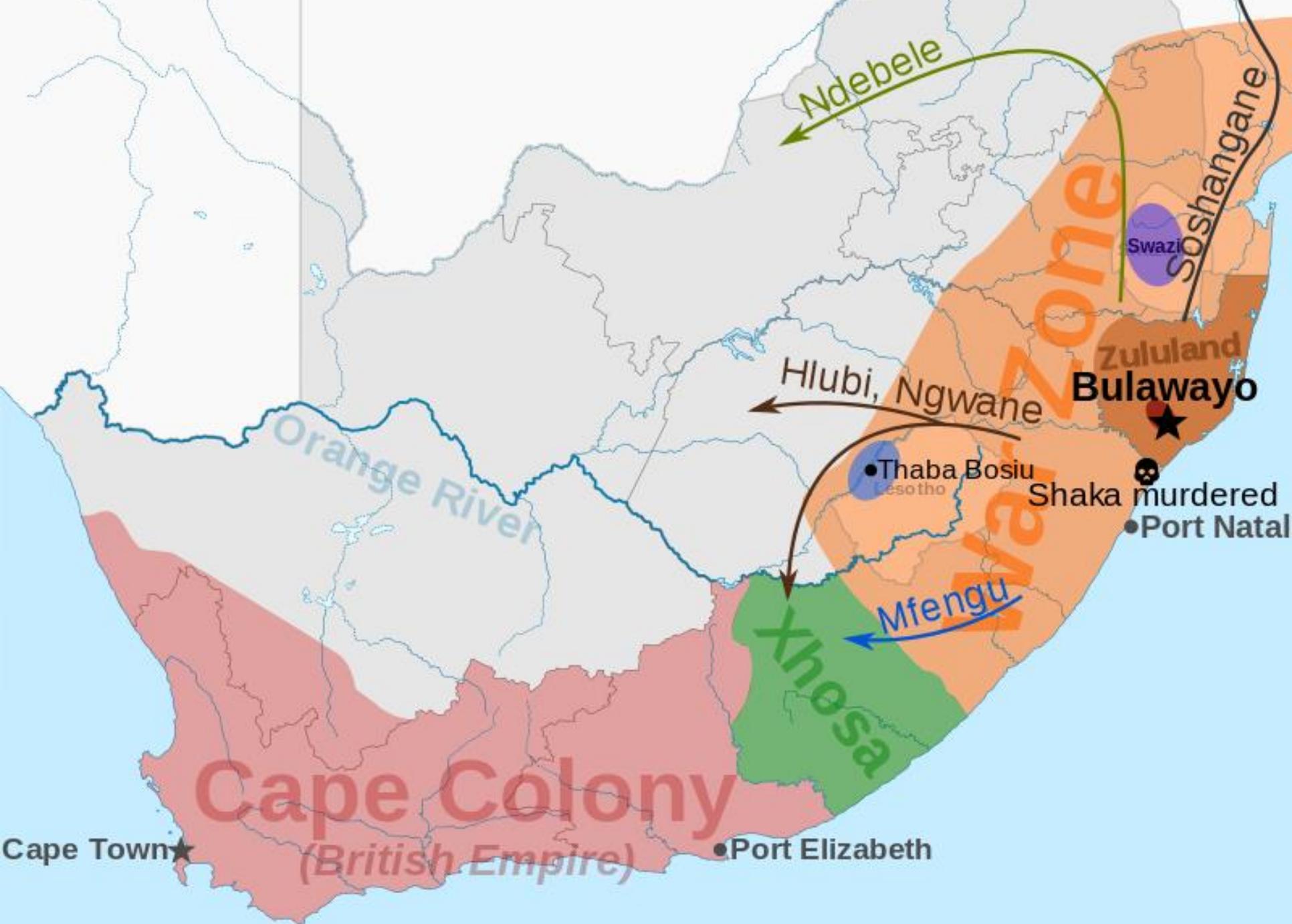




18th Century...

- Herders and Tillers: Nguni Clans
 - Migrated south – in search of water and grazing for their increasing herds
 - Displaced or assimilated earlier peoples
 - Primarily herders – strong culture:
 - Law of persons
 - Socially well-organised
 - Wealth was cattle
 - Tilling the soil was women's work
 - No written documents





200 years ago...

- King Shaka and successor Dingane
 - Conquered Nguni clans
 - *amaThuli, amaCele, amaDebe*
 - Most fled south – to be known as the *amaMfengu*
 - Allegedly left an almost uninhabited area between the Tugela and uMzimkulu Rivers
 - Allocated land at the Bay to Europeans:
 - “Frontier Ruffians” (traders and adventurers) and the odd missionary at *siBubulungu*
- Rise of the Zulu Kingdom

The Bay of Natal – 1851 – by JB West

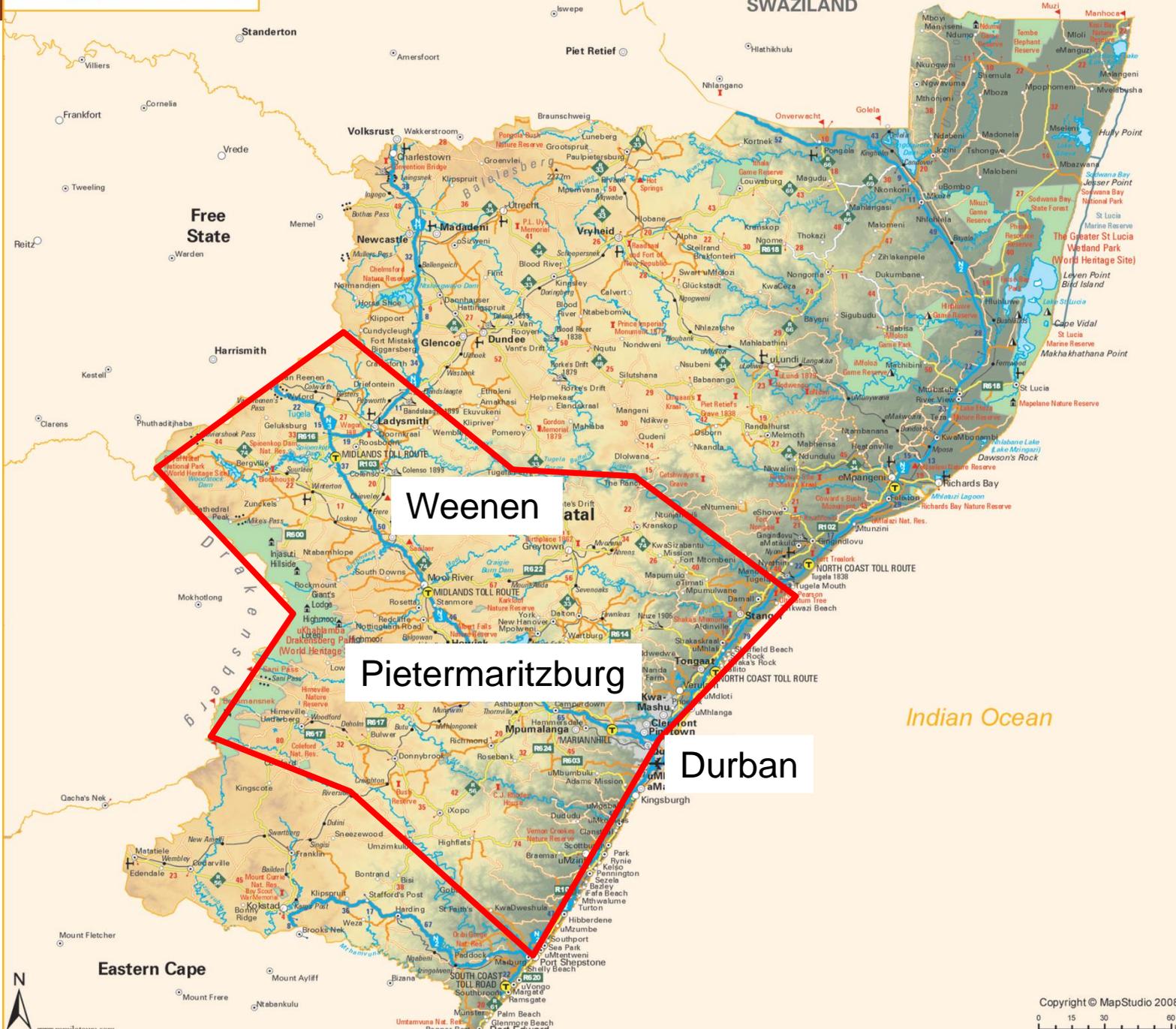


Durban – on the Bay of Natal today



Boer Republic – 1838 - 1843

- “*Trekboer*” = “Pioneer farmer”
- Mixed breed, predominantly of Dutch origin
- Strongly religious
 - Looking for their “promised land”
- Wealth was based on land ownership
- Unilaterally issued title deeds on conquered land
- “Natives” could not own land



Weenen

Pietermaritzburg

Durban

“Trekboers” by Surveyor-General C. Bell



Boer "Eigendoms Grondbrief"

- "De Buffels Kop" farm
- On the "Zout Revier" (Salt River)
- District of Port Natal
- No. 7, dated 1st March 1842
- In favour of Salomon Maritz
- 300 Morgen in size

96

DE EDELE ACHTBARE VOLKS RAAD, als de hoogste GEZAG en REGEERING van de Republiek der Hollandsche Zuid Afrikaansche Ervgranten, in het Land van NATAL, en aangrenzende Streken, zo verre als de grenschidingen daarvan reeds zijn bepaald, of hierna nog mogen worden bepaald, verklaard mits dezen in hunne voormelde betrekking, en in naam der gemelde Republiek, in vollen en vryen eigendom te hebben geschenken en afgestaan aan

Salomon Maritz Pieter

ofte *zijn* Erven of Rechtverkrygende voor altoos, Zekere Plaats of Stuk grond, met al hetgeen op en aan dezelve is hechtende, genaamd *De Buffels Kop* gelegen aan

de *Zout Revier* in het Distrikt van *Port Natal* groot ongeveer *300 morgen meer of meer (Bekende)*.

L. N. van G. Kemp;
App. van J. van Ginder
N. O. van Wed. van G. van G.
Stuif van J. van G.

alhetwek breeder is omschreeven in het Rapport van Commissarissen van Landeryen van dato den *1st Maart 1842* pag. 4. No. 7 onder conditien en voorwaarden, dat

alsmede dat den eigenaar nu, of in der tyd, van gemelde Plaats of stuk Land, het recht hebben zal in der tyd door een bekwaam en goedgekeurd Landmeter te doen opmeten, en de Kaart daarvan op Wetig Gezag geapprobeerd, dezen te annexeren, en voorts verder onder conditien en voorwaarden, dat de Eigenaar of Eigenaars van het gemelde Land, nu of hierna in der tyd, onderworpen gehouden en verbonden zal of zullen zyn en blyven, aan de bepalingen en voorzieningen van zekere Wet, door onze Raad bepaald en vastgesteld, getituleerd, "Eene Wet tot het bepalen van het Burger Recht, en bezitting van Landeryen, of vaste Eigendommen in de Republiek van Natal," en vast geseld in vergadering van den 14den April, 1841.

ALDUS GEDAAN en VERLEEND aan PIETER MAURITZBURG, in de Republiek van NATAL, op den *15^{en}* dag der maand *April* in het Jaar onzes Heeren Een Duizend Acht Honderd *veertien* en Veertig.

Op Speciaal Last van den Volks Raad voornield, blykens Notulen van den *12^{den} Maart 1842*.

J. W. Bruijver
J. W. Bruijver

Gecommitteerde
Leden van
den Raad.

Salomon Maritz

British Colony of Natal: 1843 - 1910

- Declared the Boers to be misguided British subjects
- Recognised Boer land occupation
- Ignored their title deeds
 - No diagram
 - Many “owned” multiple farms
- Instituted new land grants based on diagrams
 - Demanded a purchase price
 - Annual tax

By His Honor MARTIN THOMAS WEST, Esquire, Lieutenant-Governor of the District of Natal, within the Settlement of the Cape of Good Hope, &c., &c., &c.

In the Name and on behalf of Her Majesty VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

I do hereby Grant, on Perpetual Quitrent, unto

Andries Marthinus Laas

a Piece of Land, containing Five Thousand Nine Hundred and Sixty Seven Acres of ground situated in the District of Natal and named Salt River, Extending Northward to Buffels Kop, Southward to the Klaarwater and G. P. Kemp, Westward to Tafel Berg and Eastward to Rose Fountain and Wandsbeck.

as will further appear by the Diagram framed by the Surveyor,—on condition, that all Roads and Thoroughfares running over this Land, shall remain free and uninterrupted; that said Land shall be liable (without compensation to its Proprietor), to have any Road made over any part of it, for the public good, by order of Government, except those parts on which buildings may actually be erected at the time when such road is required to be made, subject also to the general right of Transvaal to cut open upon the Land in suitable situations for not more than 24 Hours (unless longer determined by just cause) and to such other arrangements relative to outspans as the Government may hereafter deem necessary for the interest of the Public

that he shall punctually pay, or cause to be paid, at the Expiration of every twelfth month, from the date of these presents, unto the Treasurer General of the District, the Sum of

Five Pounds Sterling.

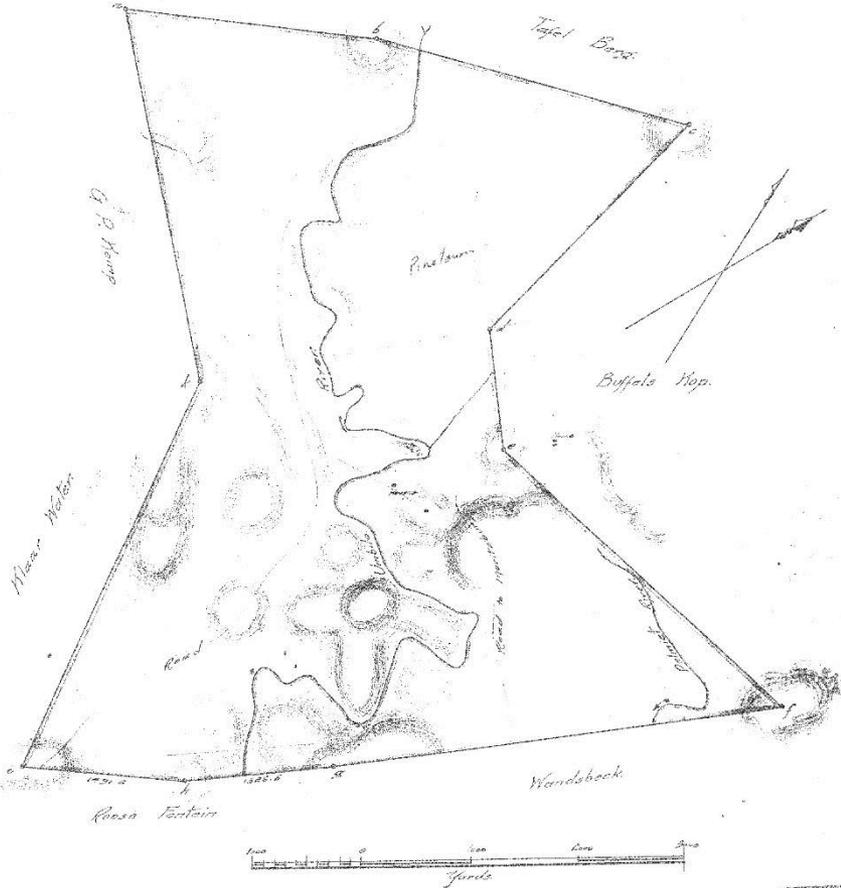
and he bound (according to the existing Laws of the District to have the Boundaries properly traced out, and the Land brought into such a state of cultivation as it is capable of; the Land thus granted being further subject to all such Duties and Regulations as either are already, or shall in future be established respecting Lands granted under similar Tenure.

Public Seal of the District

Given under my hand and Seal, at Pietermaritzburg this First day of October One Thousand Eight Hundred & Forty Seven

By His Honor's Command,
Wm. Panger
Surveyor-General.

M. West.



OFFICE OF THE SURVEYOR GENERAL

NOW THE FARM SALT RIVER NO. 815

The above Diagram and K represents 5967 Acres of Land situate in the District of Natal being the Extent of the Farm

SALT RIVER PORT NO 815

Extending Northward to Buffels Kop Southward to the Klaarwater and G. P. Kemp - Westward to Tafel Berg, and Eastward to Rose Fountain and Wandsbeck

Surveyed 3 August 1847.
Sd. Thomas West
Govt. Surveyor

435
1850
W. Panger

Mission and Native Reserves

- Khoi and San clans
 - Displaced by / assimilated into Nguni clans
- Nguni clans conquered by Shaka
- Attempted to re-occupy their old lands
 - After Dingane was defeated
- Relocated into Native reserves, or accepted onto Mission Reserves
- Source of labour outside the Reserves
 - On farms, mines, cities, railways

History of Land Rights

- Law of persons, wealth in cattle – temporal
- Unwritten – at Shaka / Dingane's pleasure
- First written documents not understood
 - Written by "Frontier Ruffians" for themselves!
- Boer Republic
 - Freehold Title, but no diagrams
- British Colony
 - Crown issued Deeds of Grants with diagram
 - Reserves for the native population

Conclusion

- Diagrams and Title Deeds created by British colonial administration are still in place today!
 - A source of value to those who own them
- “Native and Mission Reserves”
 - became referred to as “Communal Land” in “KwaZulu Homeland”
 - 2.8 million hectares (or $\frac{1}{3}$ of KwaZulu-Natal)
 - 26th April 1994 transferred to Ingonyama Trust
 - King Zweletini as sole trustee
 - To this day, very few land rights have been issued
 - They remain overcrowded and underdeveloped,
 - Land with little value!

The “Trust Lands” of KwaZulu-Natal

