

PROJECT INCEPTION REPORT

**HERITAGE IMPACT ASSESSMENT PHASE 1
STUDY FOR SIMMER AND JACK EKURHULENI
MUNICIPALITY.**

JULY 2016

Project Inception Mitigation Report

HERITAGE IMPACT ASSESSMENT PHASE 1
FOR SIMMER AND JACK LANDFILL
EKURHULENI MUNICIPALITY GAUTENG
PROVINCE.

JULY 2016

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*For and on behalf of
Siyathembana Trading 293*

Approved by: Dr. McEdward Murimbika

Signed:

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Date: July 2016

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1. EXECUTIVE STATEMENT

This project inception report details the activities and status quo of the HIA Phase 1 and proposed Burial Ground and Graves relocation exercise for SIMMER AND JACK LANDFILL SITE EXPANSION by the City of Ekurhuleni. A Project initiation meeting was held on the 1st of July 2016 with Ekurhuleni Municipality Project Manager and Heritage Specialist team from Siyathembana Trading 293 Pty Ltd. (hereafter Siyathembana).

A preliminary site visit and Reconnaissance Survey was conducted by Siyathembana Principle Investigator (Dr. M. Murimbika) and Heritage Stakeholder Specialist (Ms. H Mlotshwa) on the 13th of July 2016. The site visit confirmed that the burial ground and grave site and buildings and structure are more than 60 years. The heritage team also established that the burial ground dates to pre-1941 (date of earliest grave with markings) and as such the National Heritage Resources Act 25 of 1999 automatically protect it. Any interference with this site the South African Heritage Resources Agency (SAHRA) would be illegal until such time that relevant permits and authorisations are issued.

2. ABBREVIATIONS

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

3. DEFINITIONS

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

Archaeological Material remains resulting from human activities, which are in a state of disuse and are in, or on, land and which are older than 100 years, including artifacts, human and hominid remains, and artificial features and structures.

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

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

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

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

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

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

Environment The surroundings within which humans exist and that are made up of: i. the land, water and atmosphere of the earth;

ii. micro-organisms, plant and animal life;

iii. any part or combination of (i) and (ii) and the interrelationships among and between them;
and,

iv. the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being. This includes the economic, social, cultural, historical and political circumstances, conditions and objects that affect the existence and development of an individual, organism or group.

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

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

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

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

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

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

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

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

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

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

Late Iron Age this period is associated with the development of complex societies and state systems in southern Africa.

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

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

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

Protected area means those protected areas contemplated in section 9 of the NEMPAA and the core area of a biosphere reserve and shall include their buffers;

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

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

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

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

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

4. INTRODUCTION

The purpose of this report is to provide CoE, (client) and stakeholders with a sufficient background and overview of the Phase 1 Heritage Impact Assessment for Simmer and Jack Land Fill Grave Site and Old Buildings in Germiston, Ekurhuleni Municipality. The report details the Site Condition.

5. PROJECT BACKGROUND

Simmer and Jack Landfill site is an Ekurhuleni owned solid waste disposal site situated on the corner of Johan and Rissik and Meade Crescent in Germiston, east of the N3 highway on portion 2 of the Elandsfontein 90IR in Primrose, Germiston. The site services the southern and parts of Northern areas, notably Germiston, Bedfordview and Edenvale. The landfill is located next to the disused Simmer and Jack gold mine that was closed in 1969. Currently the landfill has limited airspace left of use leaving the Waste Management Services Department of CoE with problems regarding solid waste disposal processing and management for the affected service areas. It is in this context that the CoE has proposed to extend the current landfill by building an additional receiving area. However, the proposed extension will flow into an existing historic burial ground and graves site dating back to per-1941 period. The graves on this site are associated with the active days of Simmer and Jack Mine operational period dating back to the early 1990s until 1969 when the mine closed.

The stated aims of the project are:

- Provision of Heritage Services – Phase 1 Mapping, Reporting and Destruction Permit Application
- Grave Survey, Verification and relocation permit application



Figure 1: Location of Simmer and Jack land fill project area.

6. PROJECT TERMS OF REFERENCE

The terms of reference for the project identified the need to conduct Phase 1 HERITAGE IMPACT ASSESSMENT for Simmer and Jack Landfill client Ekurhuleni Metropolitan Municipality with the specific objectives being:

- 1. Siyathembana Project Team meets the Client Management Team to develop final project terms.
- 2. Consultations with the affected parties & Desktop study
- 3. Site Investigation and assessment/Field Survey.
- 4. Permit Applications
- 5. Compilation of Final Report for submission to the client and relevant departments.

Some expected outcomes of the project are:

- Survey of the affected grave sites/ cemetery.
- Survey affected project area for any heritage sites
- Rescue archaeological sites identified during phase 1 HIA study
- Record and document all graves according to set out format
- Where available, Produce database of legal custodians of graves
- Where applicable, Secure consent for exhumation, relocation and re-interment from burial custodians

- Collate data from study and final processes.
- Secure relevant permits and document affected and protected heritage sites
- Production of Final report, Submission of Report & Sign-off; Project Closure

7. PROJECT OVERSIGHT

The overall Simmer and Jack landfill site is an Ekurhuleni owned solid waste disposal site situated on the corner of Johan Rissik Road and Meade Crescent in Germiston, east of the N3 highway on Portion 2 of the farm Elandsfontein 90IR in Primrose, Germiston. The site services the Southern and parts of Northern areas, notably Germiston, Bedford view, Primrose and Edenvale.

Simmer and Jack has limited airspace in which Ekurhuleni cannot afford to lose. In order to ensure that the Ekurhuleni Metropolitan Municipality is now left in a situation where waste from the communities cannot be handled

8. REPRESENTATION ON THE PROJECT

- Ekurhuleni Metropolitan Municipality
- GDARD
- SAHRA
- PHRAG
- SAPS
- DEPARTMENT OF HEALTH

9. ROLE OF EKURHULENI METROPOLITAN MUNICIPALITY DESIGNATED PROJECT MANAGER

- Monitor the implementation of the project, ensure that the work plan is adhered to;
- Provide comments and inputs on the deliverables as set out on the TOR;
- Avail all information that will assist the service provider (Siyathembana) to execute the project;
- When required, Attend the stakeholder engagement; and
- Recommend for approval of the deliverables;

10. PROJECT INCEPTION MEETING

A project inception meeting for the project was held on 1st of July 2016 at Simmer and Jack Landfill boardroom, Primrose, Gauteng. The intention of the project meeting was, among other things, to:

- To officially introduce the project team to the project managers at Ekurhuleni Municipality;
- To provide project background;
- To discuss the Project Implementation Plan.

The deliberations of the project inception meeting are captured in the minutes attached hereto as Appendix 1. A follow up on-site meeting was held on the 13th of July 2016 at Simmer and Jack Landfill site. The Siyathembana team met with Johan Van Wyngaardt of Ekurhuleni Metropolitan Municipality. Reconnaissance survey was conducted by Dr. M Murimbika (Principle Investigator) and H. Mlotshwa (Heritage Stakeholder Specialist) of Siyathembana during this site visit.



Figure 2: Location of Burial Ground and Graves Site located within the Simmer & Jack landfill site.

11. PROJECT IMPLEMENTATION PLAN

The project implementation plan or work plan gives an indication of the intended programme for the HIA Phase 1 activities. See appendix attached.

12. APPROACH TO HIA EXECUTION

This section explains the project process and its specific objectives. It highlights the project methodology, which will explain the process of the HIA Phase 1 consisting of the phases. Details are presented in the Matrix below.

Table 1: HIA Phase 2 Project Matrix

Objective	Activities	Status Review	Team members responsible
1. Siyathembana Project Team meets the Client Management Team to develop final project terms.	<ol style="list-style-type: none"> 1. Team Management Meetings and arrangement for sites visit. 2. Finalise the budget and payment schedule 3. Develop communication and reporting structure 4. Signing of contract 	<p>Tasks Completed</p> <ul style="list-style-type: none"> • Inception Meeting conducted with Ekurhuleni – 1 July 2016 • Reconnaissance Site Visit conducted with – 13 July 2016 • Project Inception report. 	<ol style="list-style-type: none"> 1. Chief Archaeologist/Project Manager (Dr. M. Murimbika) 2. Project Admin. (Ms. H. Mlotshwa)
2. Consultations with the affected parties & Desktop study	<ol style="list-style-type: none"> 1. Register the project with SAHRA 2. Stakeholder engagement 3. Facilitation of public participation process and consultation. 4. Compile the integration report for the identified grave sites, and buildings. 	Public Participation Survey records	<ol style="list-style-type: none"> 1. Principle Investigator/Project Manager 2. Social Facilitator 3. Field Archaeologist
3. Site Investigation and assessment/Field Survey.	<ol style="list-style-type: none"> 1. Compile all data on individual/ or a collective identified grave sites. 2. Survey of the affected grave sites/ cemetery. 3. Record and document all graves according to set out format 4. Produce preliminary report. 	<ol style="list-style-type: none"> 1. Evaluate available materials, specialist report and interest groups inventories 2. Field primary data 3. Accurate GPS location 4. Photographic record 5. Field records and notes 6 Site Test Excavations 	<ol style="list-style-type: none"> 1. Social Facilitator 2. Principle Investigator 3. Field Archaeologist 4. Field Survey 5. Excavation Assistants
4. Permit Applications	<ol style="list-style-type: none"> 1. Produce database of legal custodians of each grave 	<ol style="list-style-type: none"> 1. Heritage Impact Assessment Reports 2. Consent forms/letters from affected families 	<ol style="list-style-type: none"> 1. Social Facilitator 2. Principle Investigator 3. Field Archaeologist

Objective	Activities	Status Review	Team members responsible
	2. Place legally mandated adverts and notices Apply for applicable burial and graves permits, e.g. in line with the NHRA.	3. Heritage permits applications – Historic building destruction permit and Burial Ground and Grave Relocation Permit	
5. Compilation of Final Report for submission to the client and relevant departments.	1. Collect data from study and final processes. 2. Production of Final report, Submission of Report & Sign-off; Project Closure	1. Desktop & Field data 2. Progress reports 3. Final Project Report Heritage Permits	1. Chief Archaeologist 2. Field Archaeologist

13. SIMMER AND JACK SITE HERITAGE STATUS QUO

The site condition survey conducted in July 2016 identified remains of the old Simmer and Jack Mine Village historic buildings in varying degrees of preservation and use. On the edge of the active landfill is the historic burial ground with an unknown number of graves dating to pre-1941 (date of the oldest grave with marked headstone). Both the historic village building and the grave yard require Heritage Impact Assessment Phase1 prior to application for the proposed burial ground relocation.



Figure 3: Remains of bunt-down building at Simmer and Jack site affected by proposed extension of the land fill (Source: Ekurhuleni).

14. HERITAGE LEGISLATION

All burial grounds and individual graves are protected by law irrespective of their age or location within the Republic of South Africa. Furthermore, there are regulations which control handling and management of human remains and grave goods. In terms of the NHRA, Act 25 of 1999:

Section 34. General protection: Graves of victims of conflict — No person may damage, alter, exhume, or remove from its original position—

- (a) the grave of a victim of conflict;*
- (b) a cemetery made up of such graves; or*
- (c) any part of a cemetery containing such graves, without the prior written approval of the Council having been obtained on written application to the Council.*

Section 35. General protection: Traditional burial places.—(1) No grave—

- (a) not otherwise protected by this Act; and*
 - (b) not located in a formal cemetery managed or administered by a local authority, may be damaged, altered, exhumed, removed from its original position, or otherwise disturbed without the prior written approval of the Council having been obtained on written application to the Council.*
- (2) The Council may only issue written approval once the Council is satisfied that— (a) the applicant has made a concerted effort to consult with communities and individuals who by tradition may have an interest in the grave; and*
- (b) the applicant and the relevant communities or individuals have reached agreement regarding the grave.*

In addition to the provincial legislation, all burial grounds and classified heritage resources are protect by the NHRA.

In terms of the Section 36 (3) of the National Heritage Resources Act, 1999 (Act No. 25 of 1999) no person may, without a permit issued by the relevant heritage resources authority:

- (a) destroy, damage, alter, exhume or remove from its original position or otherwise disturb the grave of a victim of conflict, or any burial ground or part thereof which contains such graves;*
- (b) destroy, damage, alter, exhume or remove from its original position or otherwise disturb any grave or burial ground older than 60 years which is situated outside a formal cemetery administered by a local authority; or*

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

Therefore, in addition to the formal protection of culturally significance graves, all graves which are older than 60 years and which are not already located in a cemetery (such as ancestral graves in rural areas), are protected. Communities, which have an interest in the graves, must be consulted before any disturbance can take place. The graves of victims of conflict and those associated with the liberation struggle will have to be included, cared for, protected and memorials erected in their honour where practical. Regarding graves and burial grounds, the NHRA distinguishes between the following:

- Ancestral graves
- Royal graves and graves of traditional leaders
- Graves of victims of conflict
- Graves of individuals designated by the Minister by notice in the Gazette
- Historical graves and cemeteries
- Other human remains, which are not covered in terms of the Human Tissue Act, 1983 (Act No.65 of 1983).

Furthermore, all human remains are also protected under the Human Tissue Act, 1983 (Act No.65 of 1983). In addition, Municipal Ordinances provide additional protection for both burial grounds/cemetery and gravesites within certain localities under their jurisdiction (Appendix 3).

4. Previously Unidentified Burial Sites/Graves

Several legal tools (particularly Sec. 36 of NHRA) protect graves that are discovered accidentally during construction work. The SAHRA regulations of graves also indicates that should such graves be disturbed in the course of development work, the affected area should be sealed off while the heritage authorities issue instructions on the way forward.

As such, should burial sites within or outside the NHRA be accidentally found, they must be reported SAHRA Graves and Burial Grounds Office or to the nearest police station. The heritage authority or the police will help ascertain whether the discovered burial is recent or is under the NHRA.

If the grave falls outside the NHRA, the police may want to establish whether a crime has been committed or the burial is in its original primary position. If there is no evidence for a crime having been committed, and if the person cannot be identified so that their relatives can be contacted, the remains may be relocated to a safer site in consultation with the other A&IPs or be kept in an institution where certain conditions are fulfilled according to the Human Tissue Act or the NHRA. These conditions are laid down in the Human Tissue Act (Act No. 65 of 1983). In contexts where the local traditional authorities give their consent to the unknown remains to be re-buried in their area, such re-interment may be conducted under the same regulations as would apply for known human remains.

15. RESULTS OF RECONNAISSANCE SITE VISIT

Siyathembana Principle Investigator (Dr. M. Murimbika) and Assistant Specialist (Ms. H. Mlotshwa) conducted a preliminary field site visit and conducted a reconnaissance survey on the project area. The following was established during the site visit:



Figure 4: Remains of historical building at Simmer and Jack. The building was destroyed by fire.

- Historical Buildings – Portion of the Hostel at the Simmer and Jack Landfill some of the sections have been burnt.



Figure 5: Remainder of verandah of historical building that was destroyed by fire.

- Burial Grounds – stone marks and tomb stones of graves located within a Cemetery are still there.



Figure 6: Burial ground at Simmer and Jack currently covered by grass. A few graves are marked with headstones.



Figure 7: The original Office Building at Simmer and Jack. The building is disused and currently labelled as a hazard due to lack of maintenance.



Figure 8: Front end of the original Office Building at Simmer and Jack.



Figure 9: The original Office Building at Simmer and Jack. The building is disused and currently in poor state of preservation. The CoE has proposed to have the building demolished.



Figure 10: Section of the original Office Building at Simmer and Jack which is in poor and hazardous state earmarked for demolition.



Figure 11: The original community hall of the Simmer and Jack Village later turned into a Museum. The building is in good state but currently disused and in danger of further deterioration. This building is not threatened by the proposed development.

- Grave Site recorded in report – These graves would require full survey and mapping. The site is over-grown with grass. Most graves are not marked while others only have the traditional oval stone cairn to demarcate them. There are several other graves in their hundreds that were not marked in any significant demarcation. Detailed survey is required to confirm the status of the sites. This may require pre-survey site clearance.
- The building identified in this Report is portion of it is burnt and the other portions are intact but in poor state of preservation.
- The Heritage Permits from SAHRA are required for:
 - Burial Ground and Graves Rescue excavation and Relocation permit;
 - Destruction Permit for some historic building at Simmer and Jack Landfill site.



Figure 12: One of the few marked graves in the historic Simmer and Jack cemetery.

16. LEGAL AUTHORISATION

The landfill site has historic buildings, structures, features and burial ground situated within the landfill expansion site. Any structure older than 60 years falls under automatic protection from the SAHRA and the NHRA Act 25 of 1999. The burial ground dates to 1900, making it more than a 60 years old and it requires a legal permit from SAHRA for inter interference or destruction. The graveyard may not be interfered with in any manner without a permit issued by the heritage authorities.

Demolition of any building, structure or walls that are more than 60 years old at Simmer and Jack Landfill would also be in violation of both the SAHRA regulations and the National Heritage Resources Act, Act 25 of 1999.



Figure 13: Photographs of sections of the Simmer and Jack historic burial grounds with a mixture of marked, traditional and potentially mass burial graves dating to the early years for the mine operation.

17. RECOMMENDATIONS FOR URGENT ACTION

- Conduct full survey of the Burial Ground and Graves Site including mapping and quantifying the burials
- Conduct stakeholder consultation and research to identify the graves custodians
- Conduct full site condition survey of the historic buildings that remains within the Simmer and Jack Village site located within the Landfill property.
- Cessation of all demolition works and destruction of sites, features and burials at Simmer and Jack landfill at the grave site and on buildings older than 60 years until such time that relevant permits are issued by the PHRA-G and the SAHRA.

- Submit relevant heritage permit applications for the historic buildings and the The municipality should provide the Heritage Specialists with all photographic records of the original state of the grave site, buildings, walls, and features prior to their landfill. The following records are required to complete this exercise:
 - The Municipality should provide the Heritage Specialists with all documentation and records of the Landfill, buildings, walls, and features prior to their expansion of the landfill.
 - The Project managers should provide the Heritage Specialists with all documentation and records of the planned conversion of the Simmer and Jack grave site for the expansion of the landfill.
- No demolition of building, structure or feature older than 60 years or removal of graves at Simmer and Jack and affected project areas may be conducted without a permit from the Heritage Authority.

18. PROJECT SCHEDULE

As highlighted in the original project proposal from which this project emanates, it was highlighted that project schedules for grave relocation processes are governed by pre-determined time frames for example the law require 60 days to advertise, mandatory response period for affected parties, and mandatory waiting period for permit issuance by the SAHRA and DoH as well as notifications of the SAPS.

In addition tracking, identification and verification of custodians for this project will be a tedious exercise given the fact that the affected graves date back to a period when the mine was operational (pre-1969 and the earliest marked grave dates to 1941) and most of the mineworkers would have been migrant laborers from within and outside South Africa.

As such, we realistically estimate that this social consultations, advertising and follow-ups will requires a substantial time and also depends on a number of factors such as availability of custodian and stakeholder information, access and location of affected families. Taking all these factors into consideration, Siyathembana team is satisfied that the assignment would be completed within 4 months' time frame (see attached Schedule in Appendix).

19. APPENDICES

20. APPENDIX 1: MINUTES OF MEETING - NO.1

Job title	Heritage, Impact assessments on buildings and a grave site at simmer and Jack Land fill	Job number	002/2016
Meeting Name & Number	Inception Meeting Meeting Number 01	5. File reference	002 / 06 / 2016
Location	Simmer and jack land fill board room	6. Time & date	14:00 1 July 2016
Purpose of meeting	01 - Inception Meeting 02 – Introduction of Professional Team to Heads of Departments Collaborating the Programme 03 – Discussion of the Terms of the Service Level Agreement		
Present	Mr Fumani G. Shirilele– Ekurhuleni Metropolitan Municipality Project Manager Dr M Murimbika – Siyathembana Trading 293 : Project Director & Heritage Specialist Ms H Mlotshwa – Siyathembana Trading 293: stakeholder management Specialist		
Apologies	Nil		
Circulation	Those present		
<i>Prepared by</i>	Siyathembana Trading 293		
<i>Date of circulation</i>	6 July. 2016		
<i>Date of next meeting</i>	To Be Advised		

01 Opening and welcome

Mr Shirilele opened the meeting and welcomed everyone. He introduced himself as the project manager.

02 Introductions

Dr M Murimbika introduced the professional team members Siyathembana Trading who will be working on the project and their respective roles as outlined on the “Present List”.

03 Purpose of the Meeting

The purpose of the meeting was to:

- Introduce the Professional Team to the Municipality Collaborating the programme.
- Discuss the Terms of Reference of the appointment Agreement.

04 Project Brief / Terms of Reference

Mr Shirelele lead the meeting through the terms of reference and scope of work as presented in the returnable tender document. He highlighted the urgency of the project however, noting that the current cells are getting full and hence the need for the expansion of the landfill, also noting the comments from GDARD which is the compliance agent and they were signed off in 2013.

05 Approach to the Project and Project Execution Plan

Mr Shirilele, highlighted that a Project Execution Plan must be submitted to his office and it should clearly outline how Siyathembana Trading 293 intendeds to execute the project.

SH

To this, Siyathembana Trading 293 responded by elaborating that they will come up with a detailed project execution plan which details, scope and status of each specific phase. The programme will also serve to highlight how much time is required for mobilisation, coming up with a status quo report and scoping of given project. MS Project Programms will specify activity schedules, milestones and timeframes.

06 Consultancy team

Dr Murimbika took the meeting through and he highlighted that:

He will ensure that the project gets through the typical project roll out process which is as follows:

MM

- Project initiation
- Site Visit
- Stakeholder Engagement
- Report Writing
- Submission to the compliance authorities
- Contract close out.

07 Site Inspection / Site Visits

FS

Mr Shirilele pointed that site visits and site inspections were going to come with the project prioritization and the site visit should first be consulted with Johan Wyngaardt who is based at the site.

08 Any Other Business

There was no "Any Other Business" discussed.

ALL

09 Date of Next Meeting

It was agreed the date of the next meeting would be in August 2016 the actual date will be communicated.

10 Close

ALL

There being no other business the meeting closed at 15:00pm.

Signed: _____

Siyathembana Trading: Dr M Murimbika _____

Scribe: Hellen Mlotshwa

21. APPENDIX 2: BURIAL GROUNDS AND GRAVE SITES IN DEVELOPMENT CONTEXT

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

1. First, establish the context of the burial:

A. Are the remains less than 60 years old? If so, they may be subject to provisions of the Human Tissue Act, Cemeteries Ordinance(s) and to local, regional, or municipal regulations, which vary from place to place. The finding of such remains must be reported to the police but are not automatically protected by the National Heritage Resources Act (Act 25 of 1999).

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

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

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

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

A. Human remains that are NOT protected in terms of the National Heritage Resources Act (i.e. less than 60 years old and not a grave of a victim

of conflict or of cultural significance) are subject to provisions of the Human Tissue Act and to local and regional regulations, for example Cemeteries Ordinances applicable in different Provincial and local Authorities.

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

C). If there is no evidence for a crime having been committed, and if the person cannot be identified so that their relatives can be contacted, the remains may be kept in an institution where certain conditions are fulfilled. These conditions are laid down in the Human Tissue Act (Act No. 65 of 1983). In contexts where the local traditional authorities given their consent to the unknown remains to be re-buried in their area, such re-interment may be conducted under the same regulations as would apply for known human remains.

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

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

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

4. The Exhumations Ordinance (Ordinance No. 12 of 1980 and as amended) is also relevant. Its purpose is "To prohibit the desecration, destruction and damaging of graves in cemeteries and receptacles containing bodies; to regulate the exhumation, disturbance, removal and re-interment of bodies, and to provide for matters incidental thereto". This ordinance is supplemented and supported by local authorities regulations, municipality by-laws and ordinances.

DEFINITIONS AND APPLICABLE REGULATIONS

- 1). A "Cemetery" is defined as any land, whether public or private, containing one or more graves.
- 2). A "grave" includes "(a) any place, whether wholly or partly above or below the level of ground and whether public or private, in which a body is permanently interred or intended to be permanently interred, whether in a coffin or other receptacle or not, and (b) any monument, tombstone, cross, inscription, rail, fence, chain, erection or other structure of whatsoever nature forming part of or appurtenant to a grave.
- 3). No person shall desecrate, destroy or damage any grave in a cemetery, or any coffin or urn without written approval of the Administrator.
- 4). No person shall exhume, disturb, remove or re-inter anybody in a cemetery, or any coffin or urn without written approval of the Administrator.
- 5). Application must be made for such approval in writing, together with:
 - a). A statement of where the body is to be re-interred.
 - b). Why it is to be exhumed.
 - c). The methods proposed for exhumation.
 - d). Written permission from local authorities, nearest available relatives and their religious body owning or managing the cemetery, and where all such permission cannot be obtained, the application must give reasons why not.
- 6). The Administrator has the power to vary any conditions and to impose additional conditions.
- 7). Anyone found guilty and convicted is liable for a maximum fine of R200 and maximum prison sentence of six months.
5. Human remains from the graves of victims of conflict, or any burial ground or part thereof which contains such graves and any other graves that are deemed to be of cultural significance may not be destroyed, damaged, altered, exhumed or removed from their original positions without a permit from the National Heritage Resources Agency. They are administered by the Graves of Conflict Division at the SAHRA offices in Johannesburg.

"Victims of Conflict" are:

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

- d). Those people, as defined in the regulations, who died in the "liberation struggle" both within and outside South Africa.
6. Any burial that is older than 60 years, which is outside a formal cemetery administered by a local authority, is protected in terms of Section 36(3b) of the National Heritage Resources Act. No person shall destroy damage, alter, exhume or remove from its original position, remove from its original site or export from the Republic any such grave without a permit from the SAHRA.

There are some important new considerations applicable to B & C (above). SAHRA may, for various reasons, issue a permit to disturb a burial that is known to be a grave of conflict or older than 65 years, or to use, at a burial ground, equipment for excavation or the detection or the recovery of metals. (Permit applications must be made on the official form Application for Permit: Burial Grounds and Graves available from SAHRA or provincial heritage resources authorities.) Before doing so, however, SAHRA must be satisfied that the applicant:

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

PROCEDURE FOR CONSULTATION

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

- 1). Archival and documentary research regarding the origin of the grave or burial ground;
- 2). Direct consultation with local community organizations and/or members;
- 3). The erection for at least 60 days of a notice at the grave or burial ground, displaying in all the official languages of the province concerned, information about the proposals affecting the site, the telephone number and address at which the applicant can be contacted by any interested person and the date by which contact must be

made, which must be at least 7 days after the end of the period of erection of the notice; and

4). Advertising in the local press.

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

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

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

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

a). SAHRA or the provincial heritage resources authority (or delegated representative) must, in co-operation with the Police, inspect the grave and decide whether it is likely to be older than 60 years or otherwise protected in terms of the Act; and whether any further graves exist in the vicinity.

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

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

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

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

TREAT HUMAN REMAINS WITH RESPECT

a). Every attempt should be made to conserve graves in situ. Graves should not be moved

unless this is the only means of ensuring their conservation.

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

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

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

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

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

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

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

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

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

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

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

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

22. APPENDIX 3: BURIAL RELOCATION PROJECT METHOD STATEMENT

1. DISCOVERY AND NOTIFICATION

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

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

2. SITE PROTECTION AND IDENTIFICATION

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

3. INVESTIGATION AND REPORTING

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

- the representative group of the interred;
- the geographic boundaries of the site;
- the grave offerings or other heritage resources that may be associated with the remains or the site.

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

3.1 REPORTING

- a) If the site is determined to be a contemporary burial site, the appropriate representative will be contacted in writing to provide further direction on the disposition of the remains.
- b) Project contractors carrying out authorized activity where a historic or archaeological burial site is discovered can continue that activity with the consent of the EO, where appropriate. The activity must stay 150 meters away from the grave while further arrangements are made by the Archaeologist to rescue and relocate the remains to a safe cemetery.
- d) The Archaeologist may publish notice of the discovery in a newspaper or other public notice seeking information on the remains and alerting members of the public about the impending relocation of the remains to a predetermined formal cemetery or burial ground.

4. SITE DISPOSITION AGREEMENT (MANAGEMENT PLAN)

4.1 When the site or remains are identified

- a) The site shall not be disturbed and the EO, if on direct path of Project development work, shall initiate discussions towards entering into a site disposition agreement with the representative of the interred where applicable.
- b) If the site is a historic or archaeological burial site, there must be joint approval of the site management plan on reburial as stated in the scope of services in terms of contract.
- c) Decisions regarding reburial, relocation or other disposition should be determined on a case by case basis in consultation with those concerned and in a timely manner.

Site disposition agreements shall determine such things as:

1. the interim care of the human remains;
2. the scope and extent of analysis to be performed on the human remains, if any;

3. the exact location of the place where the human remains are to remain or to be interred;
4. the style and manner of disinterment, if applicable;
5. the style and manner of reinterment, if applicable;
6. the time period in which disinterment and reinterment is to take place;
7. the procedures relating to, and the final disposition of any grave offerings discovered with the human remains and any additional analysis of them;
8. the provision for future maintenance of the cemetery or site where the human remains are to be located;
9. access to the site and ways to prevent disturbance;
10. any other issue agreed upon.

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

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

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

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

5. ARBITRATION

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

6. RECORDS

- a) A record of the site and a report of the discovery and disposition plan shall be kept by

the Archaeologist, for future reference to protect the site or identify the re-burial site.

- b) Access to information about discovered sites will be addressed in any site management plan developed under these guidelines, and will be protected under the Access to Information and Protection of Privacy legislations, and the NHRA.

7. BURIAL RELOCATION & REBURIAL

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

8. RISKS

1. Legal Risks

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

Mitigation

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

2. Reputational risk

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

Mitigation

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

3. Operational risks

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

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

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

Mitigation

Mine Station site should have adequate security. All burial related matters should be held by the professional heritage team and reburial specialists. Human remains discovered during

development should be reported to the ECO urgently and the Archaeologist notified in time to avoid any delays with the remains exposed on site. All exhumations and reburial exercises should be handled or schedule in a manner that does not require the remains to be held elsewhere temporarily.

4. Financial risks

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

5. Human Remains Handling Risks

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

23. APPENDIX 4: GENERAL PRECAUTIONS

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

PERSONAL PROTECTIVE EQUIPMENT

Hand Protection:

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

Foot Protection:

Footwear should similarly protect against sharp debris.

Hygiene:

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

SUMMARY

- In general, personnel involved in the recovery and handling of human remains from a burial site can limit risk from potential exposure by following the guidelines below.
- Vinyl or Latex gloves should be worn.
- Masks and protective eyewear or face shields should be worn during procedures that are likely to generate fluids to prevent exposure of mucous membranes of the mouth, nose, and eyes.

- Gowns or aprons should be worn during procedures that are likely to generate splashes of blood or other body fluids.
- Hands and other skin surfaces should be washed immediately and thoroughly if contaminated with blood or other body fluids. Hands should be washed immediately after gloves are removed.
- Ensure universal precautions for blood and body fluids.
- Ensure use of body bags.
- Ensure disinfection of vehicles and equipment.
- Bodies do not need to be disinfected before disposal (except in case of cholera).
- Vaccinate workers against hepatitis B.

24. APPENDIX 5: LEGAL BACK GROUND AND PRINCIPLES OF HERITAGE RESOURCES MANAGEMENT IN SOUTH AFRICA

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

General principles for heritage resources management

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

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

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

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

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

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

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

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

(3) Laws, procedures and administrative practices must—

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

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

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

(4) Heritage resources form an important part of the history and beliefs of communities and must be managed in a way that acknowledges the

right of affected communities to be consulted and to participate in their management.

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

(6) Policy, administrative practice and legislation must promote the integration of heritage resources conservation in urban and rural planning and social and economic development.

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

(a) take account of all relevant cultural values and indigenous knowledge systems;

(b) take account of material or cultural heritage value and involve the least possible alteration or loss of it;

(c) promote the use and enjoyment of and access to heritage resources, in a way consistent with their cultural significance and conservation needs;

(d) contribute to social and economic development;

(e) safeguard the options of present and future generations; and

(f) be fully researched, documented and recorded.

Burial grounds and graves

36. (1) Where it is not the responsibility of any other authority, SAHRA must conserve and generally care for burial grounds and graves protected in terms of this section, and it may make such arrangements for their conservation as it sees fit.

(2) SAHRA must identify and record the graves of victims of conflict and any other graves which it deems to be of cultural significance and may erect memorials associated with the grave referred to in subsection (1), and must maintain such memorials.

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

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

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

(c) bring onto or use at a burial ground or grave

referred to in paragraph (a) or (b) any excavation equipment, or any equipment which assists in the detection or recovery of metals.

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

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

(a) made a concerted effort to contact and consult communities and individuals who by tradition have an interest in such grave or burial ground; and

(b) reached agreements with such communities and individuals regarding the future of such grave or burial ground.

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

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

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

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

section.

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

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

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

General policy

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

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

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

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

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

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

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

availability of a draft statement or plan for inspection, and comment is invited and considered by the heritage resources authority concerned.

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

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

25. PROJECT SCHEDULE