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Phase 1 Archaeological Impact Assessment -

**PORTION OF THE FARM CNYDAS EAST 439,  
UPINGTON DISTRICT, NORTHERN CAPE,  
SOUTH AFRICA**

DATE: 2007-03-19

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**REPORT TO -**

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## 1) PROJECT BRIEF

ArchaeoMaps was contracted to conduct a Phase 1 Archaeological Impact Assessment (AIA) for the proposed copper prospecting and mining development to be situated on a portion of the farm Cnydas East 439, Upington district, Northern Cape. The assessment was requested in compliance with the Mineral and Petroleum Resources Development Act, No 28 of 2002, represented by the Department of Minerals and Energy (DME), in accordance with referenced natural and cultural environmental requirements as prescribed in the National Environmental Management Act, No 107 of 1998, represented by the Department of Environmental Affairs and Tourism (DEAT) and the National Heritage Resources Act, No 25 of 1999, represented by the South African Heritage Resources Agency (SAHRA).

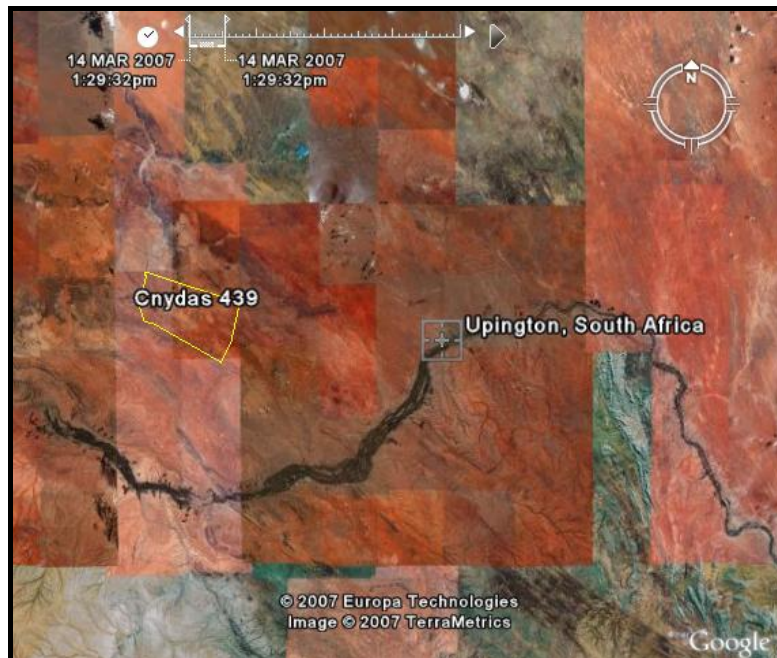
This document reports on the findings of the Phase 1 AIA.

### 1.1) PROPERTY DESCRIPTION

The proposed copper prospecting and mining development will be situated on an approximate 100ha portion of the 26,000ha farm Cnydas East 439, Upington district, Northern Cape (1:50,000 map reference 2820BC).



**MAP 1:** Upington, Northern Cape, South Africa



**MAP 2:** The property Cnydas East 439, situated approximately 70kms east of Upington along the N10

## 1.2) DEVELOPMENT IMPACT

Proposed copper prospecting and mining will be restricted to an approximate 100ha portion of the 26,000ha Cnydas East 439 property. Core prospecting will result in limited impact to existing cultural heritage resources. Mining will negatively impact on cultural heritage resources and will result in the total loss thereof.



**IMAGE 1:** General view of the approximate 100ha development area, Cnydas East 439

## 2) THE PHASE 1 ARHAEOLOGICAL IMPACT ASSESSMENT

### 2.1) METHODOLOGY

The one day assessment (2007-03-7) was conducted by one archaeologist. The assessment was done by foot and off-road vehicle (200cc quad) and limited to a Phase 1 surface survey; no excavation or sub-surface testing was done since a permit from SAHRA is required to do so. GPS co-ordinates were taken with a Garmin e-Trex Vista GPS (3-8m error margin). Photographic documentation was done with a Casio X-S2 Exilim camera. A combination of Garmap and Google Earth software was used in the display of spatial information.

FIELD RATING	GRADE	SITE SIGNIFICANCE	RECOMMENDED MITIGATION
National Significance	Grade 1	High Significance	Site conservation / Site development
Provincial Significance	Grade 2	High Significance	Site conservation / Site development
Local significance	Grade 3A	High Significance	Site preservation or extensive mitigation before development destruction
Local significance	Grade 3B	High Significance	Site preservation or extensive mitigation before development destruction
Generally Protected A	-	High / Medium Significance	Site preservation or mitigation before development destruction
Generally Protected B	-	Medium Significance	Site preservation or mitigation / test excavation / systematic sampling before development destruction
Generally Protected C	-	Low Significance	No archaeological mitigation required – Site destruction

**TABLE 1:** Archaeological and cultural heritage site significance and mitigation recommendations

Archaeological and cultural heritage site significance assessment and associated mitigation recommendations were done according to the system prescribed by SAHRA (2005).

## 2.2) COVERAGE AND GAP ANALYSIS

The Phase 1 AIA covered:

- i. The approximate 100ha prospecting and mining area; and
- ii. Relevant access road.

## 2.3) PHASE 1 AIA FINDINGS

Assessment of the approximate 100ha proposed development area resulted in the identification of three important cultural heritage resources as defined and protected by the NHRA (1999):



**MAP 3:** The proposed approximate 100ha copper prospecting and mining development area situated on Cnydas East 439



**MAP 4:** Close-up of the proposed Cnydas East 439 development area

### 2.3.1) HISTORICAL CULTURAL LANDSCAPE AND RELATED STRUCTURES

The historical cultural complex (CD1 - S28.37746°; E20.67489°) comprise of two historical structures, a kraal, wind pump, dam and associated 'workers' unit' (CD3 – S28.37442°; E20.67139°).

At the historical complex the two structures and the kraal pre-date 60 years and are thus by implication protected by the NHRA (1999). The two historical structures most probably represent early farming occupation and activity at Cnydas East 439. Neither of the structures has been used in recent years. The general area was devoid of associated historical artefacts. The associated stone kraal is still in use. The origin of the complex pre-date ownership by the current owner, Jacob Casper Kriger de Witt, who only acquired the property approximately 30 years ago. The historical complex CD1 is ascribed a Generally Protected B Field Rating and is of Medium Significance: Site preservation or mitigation / test excavation / systematic sampling before development destruction.

The wind pump and dam, situated in close proximity to the two historical structures, are of more recent origin and associated with earlier prospecting activities on the property, post-dating 60 years of age and by implication not protected by the NHRA (1999).



**IMAGE 2:** General view of the CD1 historical complex



**IMAGE 3:** CD1 historical complex structure 1



**IMAGE 4:** CD1 historical complex structure 2



**IMAGE 5:** The dam situated in the immediate vicinity of CD1 but associated with later prospecting activities at Cnydas East

The 'workers' unit' (CD3) comprise of a single small structure. A number of historical artefacts, including metal, porcelain and glass were found in the immediate vicinity of the structure. The structure and associated artefacts pre-date 60 years, thus by implication protected by the NHRA (1999). The 'workers' unit' and associated historical artefacts situated at locality CD3 is ascribed a Generally Protected B-C Field Rating and is of Medium-Low Significance: Site preservation or mitigation / test excavation / systematic sampling before development destruction / site destruction under a permit issued by SAHRA.



**IMAGE 6:** The CD3 'workers' unit' historical structure



**IMAGE 7:** A collection of historical artefacts from the CD3 site

### **2.3.2) MIDDLE STONE AGE SITE**

The total of the assessed 100ha proposed development area comprised of a mosaic of varying densities of Middle Stone Age (MSA) lithic artefacts. Recorded artefact ratios (artefacts: m<sup>2</sup>) ranged from 1:49 to 8:1, with some of the highest ratios having been present in the vicinity of CD2 (S28.37246°; E20.67557°). Artefacts were primarily produced from white quartz. Other raw materials used included fine grained dolorite and jasperlite. The most prominent artefact type was irregular scrapers. The site is intersected with low rising (Ventersdorp lava) dolorite outcrops. Limited stratigraphic depth is expected; surface calcrete and quartz geological layers, the local raw material source, were often visible on the surface.

Surface Stone Age artefacts extended well beyond the borders of the 100ha proposed development area and is expected to continue in typical varying densities towards the hills situated north north west (NNW) of the development area.

No MSA quartz Stone Age sites have been recorded or excavated in the general area (McGregor Museum, Kimberley – archaeology database). Quartz dominated Stone Age presence is however evidenced from the Biesjeeperoort African Neolithic / pastoralist site situated on the farm Biesjeeperoort, immediately south of Cnydas East. The Biesjeeperoort site was first excavated by Peter Beaumont in the 1980's. Early 2000 Isabelle Parsons continued excavation at Biesjeeperoort as part of a series of African Neolithic / pastoralist sites for the purposes of a PhD, Cambridge University, United Kingdom (Pers comm: Parsons). The presence of quartz dominated Stone Age collections from the general area have thus been well established, emphasizing the pre-historic importance of the general area. The recorded MSA surface collection at

Cnydas East will however temporally pre-date the Biesjeeper site, making it the earliest recorded Stone Age site situated in the general area.

Based on the size of the site, high artefact densities, expected limited sub-surface deposits and the expected age of the deposits (pre-dating those of Biesjeeper), the Cnydas East 439 MSA site is ascribed a Generally Protected B Field Rating and a Medium Significance: Site preservation or mitigation / test excavation / systematic sampling before development destruction.



**IMAGE 8:** Cnydas East surface MSA quartz artefacts



**IMAGE 9:** General view of the Cnydas East MSA site



**IMAGE 10:** Low rising dolomite hills intersecting the Cnydas East MSA surface occurrence



**IMAGE 11 & 12:** Selected artefacts from the Cnydas East MSA site



DEVELOPMENT AREA	ARCHAEOLOGICAL SITES, FIND PLACES AND FEATURES	IMAGE NR	CO-ORDINATES	
			SOUTH	EAST
100ha Copper Prospecting and Mining Development on Cnydas East 439				
Development Area				
A	-	Image 1	S28.36971°	E20.67808°
B	-		S28.37002°	E20.67405°
C	-		S28.37208°	E20.67124°
D	-		S28.37514°	E20.67012°
E	-		S28.37842°	E20.67052°
F	-		S28.38076°	E20.67394°
G	-		S28.38053°	E20.67839°
H	-		S28.37721°	E20.68196°
I	-		S28.37245°	E20.68176°
	CD1	Image 2-4	S28.37746°	E20.67489°
	CD2	Image 8-12	S28.37246°	E20.67557°
	CD3	Image 6-7	S28.37442°	E20.67139°

**TABLE 2:** GPS co-ordinates of the proposed development area, identified and associated sites and features

## 2.4) EXPECTED PROSPECTING AND MINING IMPACT ON IDENTIFIED CULTURAL HERITAGE RESOURCES

Core prospecting impact on the identified Cnydas East MSA site and historical archaeological deposits in the vicinity of the 'workers' unit' (CD3) will be limited to the drill holes and immediately related debris deposits. Considering the size of the MSA and historical archaeological deposits, prospecting impact will not radically affect these sites. Prospecting will not impact on existing cultural heritage structures (structure 1 & 2 and the kraal of the historical complex CD1 and the 'workers' unit' CD3) since the developer is planning, should prospecting results prove further development at Cnydas East to be financially viable, to use these structures as on-site offices.

Envisioned future mining will negatively impact on the Cnydas East MSA site and the historical archaeological deposits in the vicinity of the 'workers' unit' (CD3) and will result in the total loss of these cultural heritage resources.

Mining will also negatively impact on the existing cultural heritage structures at CD1 and CD3. Should prospecting results prove mining to be financially viable, the developer is planning to use these structures as on-site offices. These structures, older than 60 years and thus protected by the NHRA (1999), will thus be altered / destroyed.

## 3) CONCLUSION AND RECOMMENDATIONS

Three cultural heritage resources, inclusive of palaeontological and archaeological deposits, built structures older than 60 years, sites of cultural significance associated with oral histories, burial grounds and graves, graves of victims of conflict and cultural landscapes or viewsapes, as defined and protected by the NHRA (1999) were identified during assessment of the approximate 100ha portion of the 26,000ha farm Cnydas East 439, Upington District, Northern Cape. Identified sites are representative of cultural overlay and can briefly be described as:

**1) Historical structure complex (CD1) - S28.37746°; E20.67489°**

The complex comprises of 2 structures and a kraal predating 60 years and thus protected by the NHRA (1999). No significant related historical artefacts were found in association with the protected buildings. Rusted metal artefacts in the vicinity is expected to date to the construction of the wind pump and dam, associated with earlier prospecting activities (within the last 40 years) and the discovery of copper deposits at Cnydas East 439. The wind pump, dam and associated metal artefacts are thus not protected by the NHRA (1999).

The CD1 historical structures; structure 1, 2 and the kraal, are ascribed a Generally Protected B Field Rating and a Medium Significance.

Prospecting activities will not negatively impact on the CD1 historical complex structures. Should prospecting results prove mining to be financially viable, the developer is planning to change existing structures to serve as on-site offices, alternatively they may need to be destroyed.

Recommendations:

- i. It is recommended that prospecting proceeds as applied for.
- ii. It is recommended that the developer apply to SAHRA Northern Cape Office, Built Environment, for alteration / destruction permits for formally protected buildings (structures older than 60 years, protected by the NHRA 1999) at CD1; structure 1, 2 and the kraal, prior to any mining activities at Cnydas East 439.

**2) Middle Stone Age site (CD2) - S28.37246°; E20.67557°**

The Cnydas East Middle Stone Age (MSA) site comprises the total of the 100ha proposed prospecting and mining development area and extends beyond the borders thereof. Varying densities of MSA tools are scattered across the area with some of the highest densities recorded at locality CD2 (S28.37246°; E20.67557). Artefacts were primarily produced from white quartz with the most dominant artefact type being irregular scrapings. Calcrete and quartz basal layers often intersect surface deposits; the sub-surface component of the deposit is thus expected to be relatively limited. The site predates the recorded Biesjepoort African Neolithic / pastoralist deposits situated on the farm Biesjepoort, immediately south of Cnydas East.

The Cnydas East MSA site is ascribed a Generally Protected B Field Rating and is of Medium Significance.

Prospecting impact on the MSA deposits will be limited to the immediate locations of drill holes and associated debris. Mining will however result in the total loss of the MSA deposit and related archaeological context.

Recommendations:

- i. It is recommended that prospecting proceeds as applied for.

- ii. It is recommended that Phase 2 archaeological mitigation precede mining activities in the area. Recommended Phase 2 archaeological mitigation should comprise of a minimum of a 15x15m excavation, down to archaeological sterile depth, including related section recordings and necessary test-pit excavations. The Phase 2 mitigation project should further aim to record actual site extent.
  - In accordance with the MPRDA (2002), the NEMA (1998) and the NHRA (1999) Phase 2 archaeological excavations are an environmental related responsibility of the developer.
  - Phase 2 archaeological excavations may only be done by an ASAPA accredited CRM archaeologist, under a permit issued by SAHRA to the appointed archaeologist.

### **3) Historical 'workers' unit' and related historical artefacts (CD3) - S28.37442°; E20.67139°**

The site comprises of a single 'workers' unit', the structure predates 60 years of age and is thus protected by the NHRA (1999). The structure is ascribed a Generally Protected B Field Rating and is of Medium Significance. In direct association with the historical structure is a low density scatter of historical artefacts consisting of metal, porcelain and glass objects. The low density scatter is ascribed a Generally Protected C Field Rating and is of Low Significance.

Core prospecting will not impact on the historical 'workers' unit' structure. Prospecting impact on the associated low density historical artefact scatter would further be restricted to the immediate vicinity of drill holes and related debris. Should prospecting results prove mining to be financially viable the developer is intending to change the historical 'workers' unit' structure into a site-office. Alternatively the structure may need to be destroyed. Mining will however negatively impact on the associated low density historical artefact scatter, resulting in the total loss of artefacts and related archaeological context.

#### Recommendations:

- i. It is recommended that prospecting proceeds as applied for.
- ii. It is recommended that the developer apply to SAHRA Northern Cape Office, Built Environment, for an alteration / destruction permit for the formally protected 'workers' unit' structure (structure older than 60 years, protected by the NHRA 1999) at CD3 prior to any mining activities at Cnydas East 439.
- iii. It is recommended that the developer apply to SAHRA Head Office, Cape Town, Archaeology Unit, for a site destruction permit for low density historical site at CD3, associated with the CD3 structure, prior to any mining activities at Cnydas East 439.

### **3.1) SUMMARISED RECOMMENDATIONS**

It is recommended that core prospecting at Cnydas East 439 proceed as applied for.

It is recommended that mining at Cnydas East 439 proceed as applied for provided the developer comply with the following requirements:

- i. Alteration or destruction of historical structures older than 60 years and formally protected by the NHRA (1999) be done under a permit issued by SAHRA. Structures under question include the CD1 historical complex structures (structure 1, 2 and the kraal) and the CD3 structure ('workers' unit'). The developer should make the application on a formal application form obtainable from the SAHRA Northern Cape Office, Built Environment.
- ii. The developer apply for a Site Destruction Permit from SAHRA Head Office, Cape Town, Archaeology Unit for destruction of the CD3 low density historical site prior to commencement of mining at the development area.
- iii. The developer ensures recommended Phase 2 archaeological mitigation of the Cnydas East MSA site prior to commencement of mining at the development area. Under the MPRDA (2002), the NEMA (1998) and the NHRA (1999) Phase 2 archaeological excavations are an environmental related responsibility of the developer. Excavations may only be done by an ASAPA accredited CRM archaeologist under a permit issued by SAHRA to the appointed archaeologist.

#### **IMPORTANT CONTACT DETAILS**

SAHRA Northern Cape Office, Built Environment –

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Postal Address: P.O. Box 1930, Kimberley, 8300

SAHRA Head Office, Cape Town, Archaeology Unit –

Tel: 021 462 4502

Fax: 021 462 4509

Postal Address: P.O. Box 4637, Cape Town, 8000

#### **NOTE**

Should the developer, Amber Mountain Investments, at any point in time sell or lease the mining right / permission to another developer / sub-contractor, it will remain the responsibility of Amber Mountain Investments to communicate cultural compliance issues and legislative requirements to the new developer.

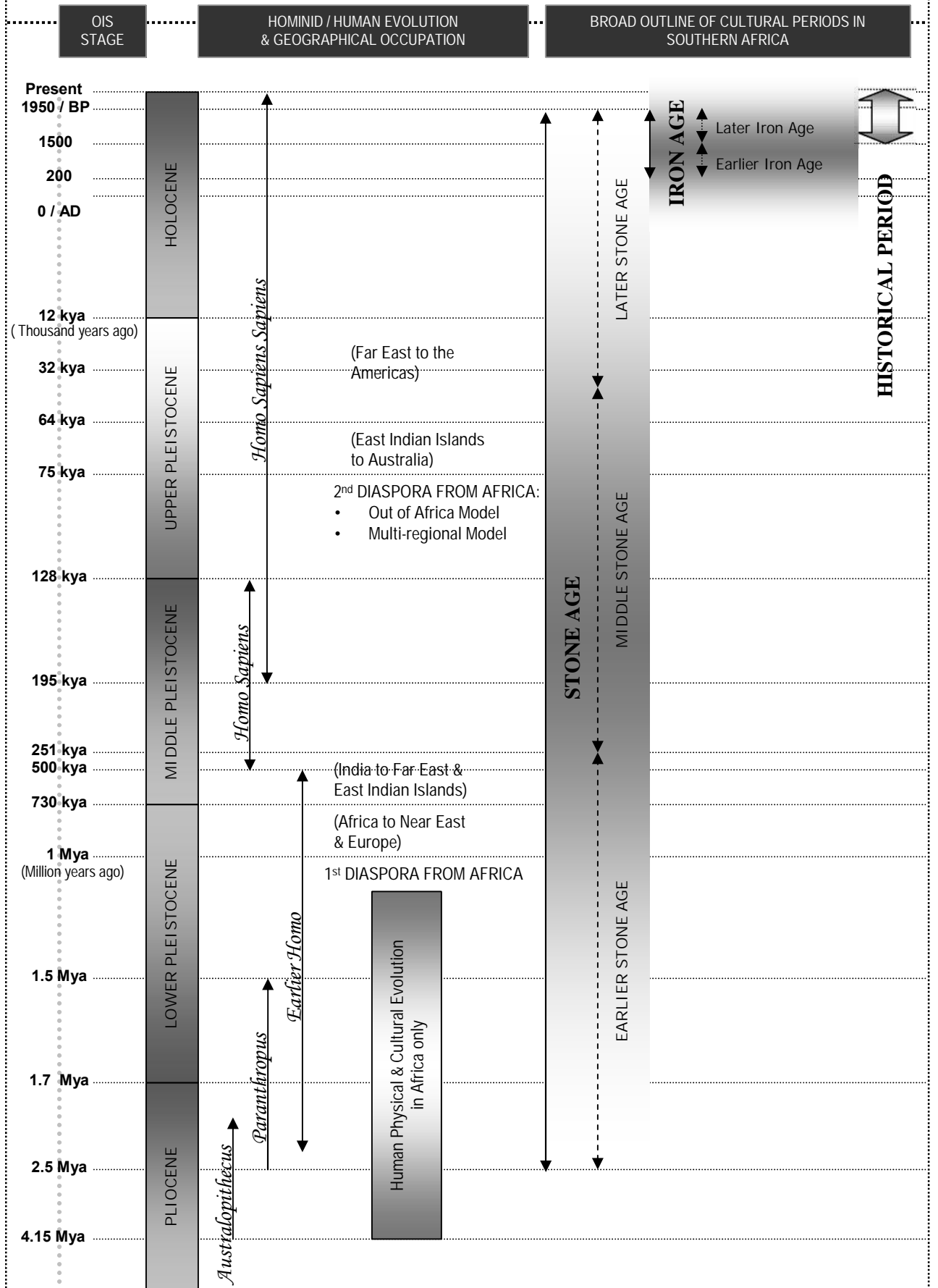
#### **4) ACKNOWLEDGEMENTS**

I would like to thank J. P. van Niekerk (Amber Mountain Investments) for accompanying me to the site and providing on site and development information. I would further like to thank the landowner Jacob Casper Kriger de Witt for permission of access to the property.

## **5) REFERENCES CITED**

- i. South African Government. (No 107) of 1998. National Environmental Management Act.
- ii. South African Government. (No 25) of 1999. National Heritage Resources Act.
- iii. South African Government. (No 28) of 2002. Mineral and Petroleum Resources Development Act.
- iv. South African Heritage Resources Agency. 2005. Minimum standards for the archaeological and heritage components of impact assessments. Unpublished guidelines.

# Schematic Outline of the Pre-historic and Historic Periods



Extracts from the  
**NATIONAL HERITAGE RESOURCES ACT (NO 25 OF 1999)**

## **DEFINITIONS**

### **Section 2**

In this Act, unless the context requires otherwise:

- 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 10 m 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, ... 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.
- 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 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;
- 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;
- xxi. "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.
- 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 fossilised remains or trace;
- xli. "Site" means any area of land, including land covered by water, and including any structures or objects thereon;
- xliv. "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;

## **NATIONAL ESTATE**

### **Section 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 townscapes;
  - 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).

## STRUCTURES

### Section 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.

## ARCHAEOLOGY, PALAEOLOGY AND METEORITES

### Section 35

- 3) Any person who discovers archaeological or palaeontological objects or material or a meteorite in the course of development or agricultural activity must immediately report the find to the responsible heritage resources authority, or to the nearest local authority offices or museum, which must immediately notify such heritage resources authority.
- 4) No person may, without a permit issued by the responsible heritage resources authority –
  - a) destroy, damage, excavate, alter, deface or otherwise disturb any archaeological or palaeontological site or any meteorite;
  - b) destroy, damage, excavate, remove from its original position, collect or own any archaeological or palaeontological material or object or any meteorite;
  - c) trade in, sell for private gain, export or attempt to export from the Republic any category of archaeological or palaeontological material or object, or any meteorite; or
  - d) bring onto or use at an archaeological or palaeontological site any excavation equipment or any equipment which assists in the detection or recovery of metals or archaeological and palaeontological material or objects, or use such equipment for the recovery of meteorites.
- 5) When the responsible heritage resources authority has reasonable cause to believe that any activity or development which will destroy, damage or alter any archaeological or palaeontological site is under way, and where no application for a permit has been submitted and no heritage resources management procedure in terms of section 38 has been followed, it may –
  - a) serve on the owner or occupier of the site or on the person undertaking such development an order for the development to cease immediately for such period as is specified in the order;
  - b) carry out an investigation for the purpose of obtaining information on whether or not an archaeological or palaeontological site exists and whether mitigation is necessary;
  - c) if mitigation is deemed by the heritage resources authority to be necessary, assist the person on whom the order has been served under paragraph a) to apply for a permit as required in subsection 4); and
  - d) recover the costs of such investigation from the owner or occupier of the land on which it is believed an archaeological or palaeontological site is located or from the person proposing to undertake the development if no application for a permit is received within two weeks of the order being served.
- 6) The responsible heritage resources authority may, after consultation with the owner of the land on which an archaeological or palaeontological site or 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.

## BURIAL GROUNDS AND GRAVES

### Section 36

- 3) No person may, without a permit issued by SAHRA or a provincial heritage resources authority –
  - a) destroy, damage, alter, exhume or remove from its original position or otherwise disturb the grave of a victim of conflict, or any burial ground or part thereof which contains such graves;
  - b) destroy, damage, alter, exhume, remove from its original position or otherwise disturb any grave or burial ground older than 60 years which is situated outside a formal cemetery administered by a local authority; or
  - c) bring onto or use at a burial ground or grave referred to in paragraph a) or b) any excavation equipment, or any equipment which assists in the detection or recovery of metals.
- 4) SAHRA or a provincial heritage resources authority may not issue a permit for the destruction of any burial ground or grave referred to in subsection 3a) 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 3b) 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.



## HERITAGE RESOURCES MANAGEMENT

### Section 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 300 m 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 m<sup>2</sup> in extent; or
    - 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 which will exceed a sum set in terms of regulations by SAHRA or a provincial heritage resources authority;
  - d) the rezoning of a site exceeding 10 000 m<sup>2</sup> 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 2a) ...
- 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.

## APPOINTMENT AND POWERS OF HERITAGE INSPECTORS

### Section 50

- 7) Subject to the provision of any other law, a heritage inspector or any other 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