

**Phase 1 Archaeological Impact Assessment
for De Beers Consolidated Mines Ltd
(Contract 0616-AC-244-05)
to evaluate heritage resources on properties as indicated.**

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Introduction

This report presents findings based on a survey of mining areas at De Beers Consolidated Mines Ltd: Kimberley Mines. Some of the areas in question had been examined previously (Morris 1992, 1999, 2000a, 2000b [see appendix]; Brann *et al.* 1993). The earlier archaeological assessments were made of areas to be impacted by the CTP Plant and associated haul roads, including the old De Beers, Bultfontein and Dutoitspan floors. The assessment by Brann *et al.* focused on the built environment. The present report focuses primarily on archaeological traces and concentrates on areas not examined previously.

No major precolonial traces were noted during the present survey, mainly on account of the fact that most areas examined were covered over by debris dumps or slimes dams. Those that had been cleared and scraped down to the pre-dump zone revealed no major concentrations of artefacts.

Important known heritage resources include the Dutoitspan Cemetery (fenced off) and traces of the old Dutoitspan village. Ash/bottle middens are rumoured to have been found in some of the debris dumps and some were identified during the present survey. Some sensitivity potentially surrounds these.

Recommendations are given that include the need for phase 2 sampling of historical rubbish middens at Dutoitspan village and in the debris dumps.

Background

The archaeology of the Northern Cape is rich and varied, covering long spans of human history (see Figure 1). Concerning Stone Age sites here, C.G. Sampson has observed: "It is a great and spectacular history when compared to any other place in the world" (Sampson 1985). Some areas are richer than others, and not all sites are equally significant. (In the present case, Stone Age traces of any significance were noted only on Dorstfontein/Rietpan, as reported by Morris 1992).

The principal importance of the areas examined is in relation to the history of Kimberley over the past 135 years. The mine is itself a heritage feature. To this extent, ironically, environmental legislation conflicts with heritage legislation, since rehabilitation tends to destroy

dumps (a part of the Kimberley skyline, some might even say part of the Kimberley aesthetic), industrial archaeological/historical sites, structures, and so on. Certain features, such as ash/bottle middens, may be explicitly protected by the Act, and could be highly instructive in an archaeological sense on aspects of Kimberley's past.

Heritage impact assessments are a means to facilitate development (and in this case rehabilitation) while ensuring that what should be conserved is saved from destruction, or adequately mitigated and/or managed (see Appendix 1 for criteria for evaluating heritage value for archaeological sites; and Appendix 2 for extracts from the National Heritage Resources Act). It is noted that certain mine debris heaps in the vicinity of Kimberley Mine (Big Hole) have been set aside for preservation: these are beyond the scope of the present report.

Terms of reference

It was proposed to carry out a survey of the properties indicated by De Beers; to be supplemented by way of an archival examination of maps and plans. Where applicable there was to be an assessment of the 1993 survey by Brann *et al*, although this survey focuses mainly on archaeological aspects and on different geographical terrain.

Legislation

The National Heritage Resources Act (No 25 of 1999) (NHRA) provides protection for archaeological resources (see Appendix 2).

It is an offence to destroy, damage, excavate, alter, or remove from its original position, or collect, any archaeological material or object (defined in the Act), without a permit issued by the South African Heritage Resources Agency (SAHRA).

Section 35 of the Act protects all archaeological and palaeontological sites and requires that anyone wishing to disturb a site must have a permit from the relevant heritage resources authority. Section 36 protects human remains older than 60 years. In order for the authority to assess whether approval may be given for any form of disturbance, a specialist report is required. No mining, prospecting or development may take place without heritage assessment and approval.

The Provincial Heritage Resources Agency (PHRA) in the Northern Cape has, for the time being, requested SAHRA at national level to act on an agency basis where archaeological sites are concerned. Permit applications must be made to the SAHRA office in Cape Town.

Methods and limitations

Areas indicated by De Beers were visited in the course of the survey. By far the greater part of the landscape in question consists of existing

debris dumps and slimes dams, some of them inaccessible, and all in security areas. Most of them could only be visited in De Beers vehicles and/or with De Beers personnel. In some cases where we could not gain access, details of debris dumps were given as personal communications by staff familiar with them. As indicated below, it is possible, and in some cases predicted as likely, that important heritage resources may exist within or beneath dumps which accumulated in the last 135 years: in the event that such resources or features are found they should be reported immediately to an archaeologist.

These possible resources/features include:

- middens within the mine dumps;
- human remains (it is known that victims of the 1918 influenza epidemic were buried within mining property, although the exact locality has not been determined. A comparable instance of debris dump burials is known in Koffiefontein).

Limitations include:

- The highly localised nature of some sites: it is possible that 'hot spots' could be missed.
- The possibility that sites occur subsurface.
- Access could not be gained to some areas.
- This is merely a Phase 1 survey: sites that were identified are characterised without detailed qualitative/quantitative sampling and only limited photography.

Sedimentation processes (particularly in the case of active mine dump accumulations) have meant that subsurface traces and features will occur. In the event that any major feature is encountered, for example a burial or a major midden accumulation with bottle glass/porcelain/metal/bone/etc, then work should be halted and a professional archaeologist consulted.

Appendix 1 indicates criteria adapted for the Northern Cape for archaeological significance assessment.

Observations

For convenience/access the areas were divided during the survey into the following components:

1. Benaudheidfontein/Dutoitspan south of Wesselton Mine and east of the ODTP Dump 6 and Reservoir Dump 7.
2. Benaudheidfontein/Alexandersfontein/Bultfontein west of the ODTP Dump 6 and south and west of Bultfontein Mine.
3. The area between Bultfontein and Dutoitspan Mines including the remnants of Dutoitpan village.

4. Bultfontein/Dorstfontein, north of Dutoitspan Mine surrounding Greenside, south of Cassandra and bounded by Eskom, CTP and the Current Dump 29 (and including Dutoitspan Cemetery).
5. Dorstfontein/Rietpan area of the CTP Plant and adjacent historical floors area north east of the Current Dump 29 and Wesselton Mine.
6. The dumps north of Ernestville.
7. Dorstfontein/Kenilworth Estate old floors and Boshof Road dumps east of the railway.
8. Vooruitzigt/Kenilworth Estate Stadium Dump area west of the railway.
9. Kenilworth Dump on Kenilworth Estate.
10. The Colville Dumps on Vooruitzigt.

1. Benaudheidfontein/Dutoitspan south of Wesselton Mine and east of the ODTP Dump 6 and Reservoir Dump 7.

The whole of this area has been disturbed by mining activity and the likelihood of any pre-mining archaeological traces being visible at the surface are remote. By far the greater part of the area is covered currently by slimes dams, old floors and the dynamite magazines. We examined the area and found no heritage resources of note, either pre-mining or from the mining era. Structures at Wesselton Mine were not examined as they had been surveyed in 1993 by Brann *et al.* The area is already heavily disturbed. If/When dumps/slimes are cleared in the future, there is a possibility of heritage resources occurring below the present dump/slimes surfaces.

2. Benaudheidfontein/Alexandersfontein/Bultfontein west of the ODTP Dump 6 and south and west of Bultfontein Mine.

As in the case of survey area 1, above, the whole of this area has been disturbed by mining/debris depositing activity and the chances of locating pre-mining archaeological traces at the surface are remote. By far the greater part of the area is covered currently by dumps, dump remnants, slimes dams, and old floors. We examined the area and found no heritage resources of note. An isolated old glass bottle was seen, but no extensive midden was found. A claim made by Greenpoint residents that graves existed adjacent to a shanty town extension of the township on former De Beers property west of this survey area 2 had been found to be probably baseless: heaps of stone related to surface cleaning. As a whole, the area is heavily disturbed. If/When dumps/slimes are cleared in the future, there is a possibility of heritage resources occurring below the present dump/slimes surfaces.

3. The area between Bultfontein and Dutoitspan Mines including the remnants of Dutoitpan village.

As in the case of survey area 1, above, the whole of this area has been disturbed by mining/debris depositing activity and the chances of

locating pre-mining archaeological traces at the surface are remote. Not all of the area in question was accessible and much of it is dangerous.

Of great heritage importance are traces here of the historic Dutoitspan village, the original residential area from which the Borough of Beaconsfield later (by 1883) developed.

Stone walled features and many traces of ash heap middens were located reflecting occupation of the village, part of which originally extended over what is now the open hole of Dutoitspan Mine. The remnants of this town survive from the earliest years of mining and settlement in Kimberley. The sites noted here are of high heritage significance.

Property	Lat-Long	Description	Significance
Dorstfontein Part of original Dutoitspan village	Within a rectangular area defined as follows: 28°45.837' 24°47.766' 28°45.817' 24°48.143' 28°45.860' 24°47.891' 28°45.864' 24°47.861'	Stone walled features with some brick, with associated middens that contain glass, porcelain, bone, metal. It is possible that the site is more extensive than the co-ordinates suggest.	High [see discussion in Appendix 1]

Beyond the above features, however, most of the area is covered currently by dumps, dump remnants, and mining infrastructure, and is heavily disturbed.

If/When any further mining debris in the vicinity is cleared in the future, there is a strong probability that heritage resources would occur below the present surfaces. The area is of high heritage significance and SAHRA permits would be required for any further active mining/dump clearance in this area. It is recommended that a Phase 2 archaeological investigation be carried out to assess the nature and extent of the remains, and Phase 2 mitigation is recommended ahead of any possible mining/clearance.

4. Bultfontein/Dorstfontein, north of Dutoitspan Mine surrounding Greenside, south of Cassandra and bounded by Eskom, CTP and the Current Dump 29 (and including Dutoitspan Cemetery).

The whole of this area is substantially disturbed, and either covered by dumps or subsequently cleared of dumps. Except for the historic Dutoitspan Cemetery, no heritage resources of particular note, either pre-mining or from the mining era, were located. A few hornfels flakes similar to those found in survey area 5 (CTP Plant area) were noted on the cleared former dump area north of Greenside. An area that produced a quantity of horse bones was reported from one of the now cleared dumps west of the cemetery (Morris 2000b, Appendix 6). The Cemetery has been fenced off adequately, although in places the fence runs very close to the outer line of graves. Any digging near to the cemetery must be carried out with great care since it is known that unmarked graves may sometimes be found at and beyond the periphery of cemeteries (as is the case with both the Gladstone and Pioneers' cemeteries in Kimberley). It is not known exactly where the graves are of migrant worker victims of the 1918 influenza epidemic. On the whole, the area is heavily disturbed. If/When further dumps/slimes are cleared in the future, there is a possibility of heritage resources occurring below the present dump/slimes surfaces. Large ash heaps associated with the Blanckenberg Vlei power station may contain cultural material, although none was seen in the exposed sections on the occasion of our visit.

5. Dorstfontein/Rietpan area of the CTP Plant and adjacent historical floors area north east of the Current Dump 29 and Wesselton Mine.

This area of historical floors (Bultfontein and Dutoitspan Mines) was subject of a detailed survey in 1992-2000 in connection with the development of the CTP plant and haulage roads (Morris 1992, 1999, 2000a), and was not re-examined during the present survey. A representative sample of surface of Fauresmith stone artefacts was recovered previously. See Appendices 3-5.

Of significance on the eastern edge of this area, and not as yet re-located, would be the remains of the settlement known as Freetown, situated on the Free State boundary. This would be on part of the property currently not likely to be negatively impacted by mining activity. In addition, there are several heritage features on the adjoining Rooifontein reserve, including two large ash middens, and rail embankments.

6. The dumps north of Ernestville.

This area is dominated by the large Dumps 7 and 8b/c, with surrounding disturbance and mining infrastructure. Historic mining

buildings and features in the vicinity of De Beers Mine are described in the report by Brann *et al.* Beyond this, the area is covered mostly by debris/disturbances, not examined in detail in the present survey. As dumps are cleared, and when further clearances are planned in the future, there is a possibility of heritage resources occurring below the present dump surfaces.

7. Dorstfontein/Kenilworth Estate old floors and Boshof Road dumps east of the railway.

Areas not covered here currently by dumps and dump remnants consist of old floors, including rail haulage lines. It was inspected in some detail in connection with the development of the CTP haulage roads (Morris 1999, 2000a), and was not re-examined during the present survey. See Appendices 4-5. The remains of the Stable Compound (Morris 2000a) and associated features should be documented in the event that they might be impacted. A representative sample of surface of Fauresmith stone artefacts was recovered previously. As dumps are cleared, there is a possibility of heritage resources occurring below the present dump surfaces.

8. Vooruitzigt/Kenilworth Estate Stadium Dump area west of the railway.

Virtually the entire area consists of the substantial stadium dump between the De Beers Stadium and Gladstone on the west and the railway on the east. At its western side large quantities of the dump have already been removed; and near its base, close to the Gladstone Cemetery, a significant ash midden has been exposed that contains glass, porcelain, bone and metal, probably of the order of a century old at least. A similar midden occurs higher in the dump on its eastern side. Both these middens would need to be sampled by way of Phase 2 mitigation.

Property	Lat-Long	Description	Significance
Vooruitzigt-81	28°43.395' 24°46.753'	Historic refuse midden near base of partially cleared dump, with glass, porcelain, metal, bone and other materials, near to Gladstone Cemetery. Probably at least a century old.	Medium to High [see discussion in Appendix 1]
Kenilworth Estate	28°43.540' 24°47.288'	Refuse midden on east side of the stadium dump with glass, porcelain, bone and other materials	Medium [see discussion in Appendix 1]

The eastern edge of Gladstone Cemetery runs just inside the De Beers fence on the western side of this dump (as was determined during salvage of unmarked graves outside the demarcated graveyard in 2003). The original landscape is almost completely obscured and no pre-mining archaeological traces were expected to be visible. As dumps are cleared in the future, there is a possibility of further heritage resources occurring below the present dump surfaces.

9. Kenilworth Dump on Kenilworth Estate.

The area comprises, almost entirely, the Kenilworth Dump. We examined the area and found no heritage resources of note either pre-mining or from the mining era. Some isolated industrial material (iron/steel parts of mining equipment) were noted, but these did not appear to be significant. As the dump is cleared, there is a possibility of heritage resources occurring below the present dump surfaces.

10. The Colville Dumps on Vooruitzicht.

A suite of large debris dumps dominate this area. We examined the peripheral areas around the dump where remnants of pre-mining landscape are exposed, but were unable to gain access to the dump area because of security/safety measures. The dumps were associated with the old Kimberley Mine Floors, some having been retreated. They are presently being actively recycled. As the dump is cleared, there is a possibility of heritage resources occurring below the present dump surfaces. A claim has been made that early trash middens have been located in this dump. Should such a find be made it needs to be assessed with a view to mitigation.

Summary

Stone Age sites on the properties in question were noted in areas previously surveyed in relation to the CTP plant and haulage roads. See Appendices 3-6.

Heritage resources noted during the present survey included remains of the historic Dutoitspan village on the edge of Dutoitspan Mine, with associated middens/ash heaps. Two further middens were located in the Stadium Dump.

It is noted that middens may occur in other dumps and are heritage resources for which permits are required if they are to be disturbed or destroyed by dump clearance.

Mitigation work has been carried out in the case of the CTP area (recovery of representative sample of Fauresmith artefacts from the surface of the old floors). Further mitigation is recommended below.

Recommendations

SAHRA permits will be required in the case of disturbance of any pre-mining or mining era heritage resources which include rubbish middens such as those described above.

Phase 2 mitigation work is recommended where middens have been found in the course of dump clearances, two such instances being in the Stadium Dump. Representative samples of these middens should be recovered before they are disturbed further.

Further investigation is recommended on the nature and extent of traces of the old Dutoitspan village. Permits should be sought from SAHRA in the event of any planned disturbance/clearance/development in that area.

Heritage resources may well come to light in other dump clearance operations on the properties in question. In the event of any being found, an archaeologist should be consulted. Follow-up visits by heritage authorities are recommended to monitor dump clearances.

Acknowledgements

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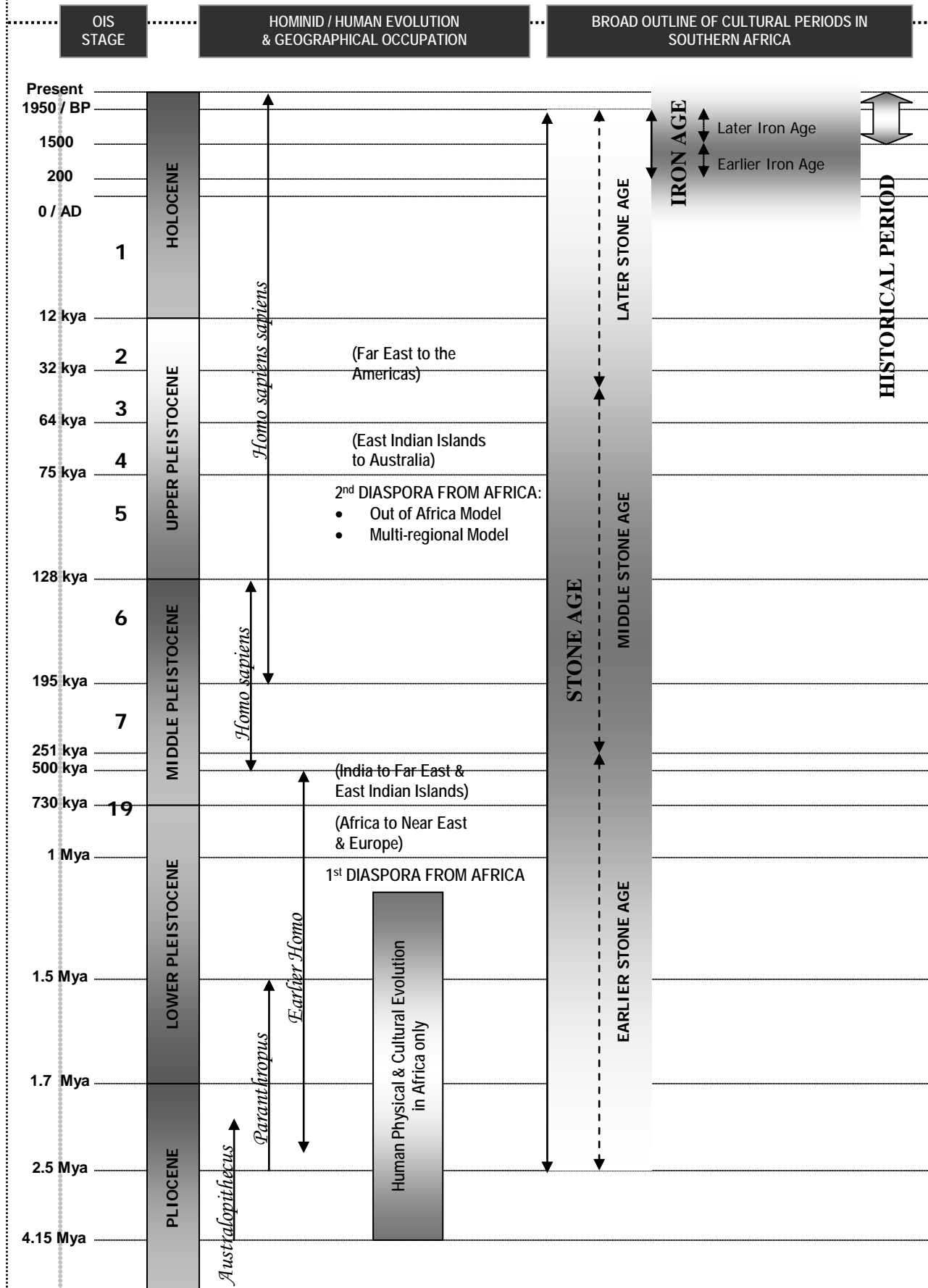
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Figure 1. Schematic Human Physical and Cultural Evolution in Africa



Appendix 1 : Criteria to be used for archaeological significance assessment

In addition to guidelines provided by the Act, archaeological criteria for use in assessing relative significance of archaeological resources have been developed and found to be suitable in Northern Cape settings (Morris 2000c).

Estimating site potential

Table 1 is a classification of landforms and visible archaeological traces for estimating the potential for archaeological sites (after J. Deacon nd, National Monuments Council). Type 3 sites tend to be those with higher archaeological potential. There are notable exceptions, such as the renowned rock art site Driekopseiland, near Kimberley, which is on landform L1 Type 1. Generally, moreover, the older a site the poorer the preservation. Estimation of potential, in the light of such variables, thus requires some interpretation.

Assessing site value by attribute

The second matrix (Table 2) is adapted from Whitelaw (1997), who developed an approach for selecting sites meriting heritage recognition status in KwaZulu-Natal. It is a means of judging a site's archaeological value by ranking the relative strengths of a range of attributes. While aspects of this matrix remain qualitative, attribute assessment is a good indicator of the general archaeological significance of a site, with Type 3 attributes being those of highest significance.

Table 1. Classification of landforms and visible archaeological traces for estimating the potential for archaeological sites (after J. Deacon, National Monuments Council).

Class	Landform	Type 1	Type 2	Type 3
L1	Rocky surface	Bedrock exposed	Some soil patches	Sandy/grassy patches
L2	Ploughed land	Far from water	In floodplain	On old river terrace
L3	Sandy ground, inland	Far from water	In floodplain or near feature such as hill	On old river terrace
L4	Sandy ground, coastal	>1 km from sea	Inland of dune cordon	Near rocky shore
L5	Water-logged deposit	Heavily vegetated	Running water	Sedimentary basin
L6	Developed urban	Heavily built-up with no known record of early settlement	Known early settlement, but buildings have basements	Buildings without extensive basements over known historical sites
L7	Lime/dolomite	>5 myrs	<5000 yrs	Between 5000 yrs and 5 myrs
L8	Rock shelter	Rocky floor	Sloping floor or small area	Flat floor, high ceiling
Class	Archaeo-logical traces	Type 1	Type 2	Type 3
A1	Area previously excavated	Little deposit remaining	More than half deposit remaining	High profile site
A2	Shell or bones	Dispersed scatter	Deposit <0.5 m thick	Deposit >0.5 m thick;

Class	Landform	Type 1	Type 2	Type 3
	visible			shell and bone dense
A3	Stone artefacts or stone walling or other feature visible	Dispersed scatter	Deposit <0.5 m thick	Deposit >0.5 m thick

Table 2. Site attributes and value assessment (adapted from Whitelaw 1997)

Class	Attribute	Type 1	Type 2	Type 3
1	Length of sequence/context	No sequence Poor context Dispersed distribution	Limited sequence	Long sequence Favourable context High density of arte/ecofacts
2	Presence of exceptional items (incl regional rarity)	Absent	Present	Major element
3	Organic preservation	Absent	Present	Major element
4	Potential for future archaeological investigation	Low	Medium	High
5	Potential for public display	Low	Medium	High
6	Aesthetic appeal	Low	Medium	High
7	Potential for implementation of a long-term management plan	Low	Medium	High

Discussion : criteria applicable in this assessment

These criteria are biased towards precolonial archaeology, but the middens and Dutoitspan village remains mentioned above fall within what one might classify as landform L6 Type 3, archaeological trace class A3 Type 2 or 3, with site attributes Class 1 Type 2, Class 2 Type 2, Class 3 Type 2, Class 4 Type 3. In these terms they are of at least medium to high significance.

Appendix 2

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 m² 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 m² in extent; or
 - e) any other category of development provided for in regulations by SAHRA or a provincial heritage resources authority,
- must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.
- 2) The responsible heritage resources authority must, within 14 days of receipt of a notification in terms of subsection 1) –
 - a) if there is reason to believe that heritage resources will be affected by such development, notify the person who intends to undertake the development to submit an impact assessment report. Such report must be compiled at the cost of the person proposing the development, by a person or persons approved by the responsible heritage resources authority with relevant qualifications and experience and professional standing in heritage resources management; or
 - b) notify the person concerned that this section does not apply.
 - 3) The responsible heritage resources authority must specify the information to be provided in a report required in terms of subsection 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.

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.