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Cultural Heritage Assessment

S.A.H.R.A
2002-07-15
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Appendices

Appendix 1 – Map of study area

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Appendix 3 – Table of Sites and status

Archival research

Utilising data stored in the National as well as Transvaal Archives for information gathering. The aim with this is to compile a data list of archaeological sites, historical sites, graves, architecture, oral history and ethnographical information on the inhabitants of the area.

Information Collection

Data was further gathered from the following sources to provide an account of the history of the area.

- Local Authorities
- South African Heritage Resources Agency (National and Provincial)
- Other Data repositories

Public Consultation

Consultation was also done in certain instances with the local inhabitants of the area to gather information on the area that was not available through written sources.

During the survey consultations was held with the owners of the portions on Volspruit. It was evident during these discussions that the owners were hesitant to disclose information on their properties. A further problem was that they were not readily contactable that made arranging discussions with workers on their farms near impossible.

The main cause of this attitude from the farms was the conduct of the exploration crews and the damage done by the exploration on their properties. This issue seriously hampered any other studies done, after the commencement of exploration.

Aerial Photographical Survey

Aerial photographs was utilised to identify possible sites on the study area. Experience has shown this to be a useful tool during surveys of this type.

2.2 Physical Surveying

Due to the nature of cultural remains, the majority which occur below surface, a physical walk through of the study area was conducted.

- **Ficus Cave and Iron Age Site**

This cave and surrounding area is rich in Iron Age sites, dating from Early Iron Age (550 AD) and 870 Ad to Kate Iron Age (1560 AD). The slopes around the cave are covered by built terraces, which are rich in Iron Age artefacts.

- **The Cave of Peppercorn**

This cave produced Iron Age as well as more recent finds.

- **Rainbow Cave**

The cave is characterised by numerous hearths and human remains dating between 100 000 to 50 000 years ago.

- **The Makapansgat Cave**

The cave shows remains of the Iron Age and Difaqane history. This cave was the seen of the confrontation between the Langa and Kekana people and a Boer Commando, after the massacre of Boer people at Moorddrift, Mapela and Pruissen. The cave was declared a National Monument in 1936.

Ndebele History

Description of the research area.

Ndebele country, or Tebelene, roughly coincides with the catchment area of the Sterk River and part of the catchment of the Sand River. This area represents only a small portion of the Potgietersrus Plateau but shows signs of the most intensive human habitation in the whole district. The area is generally more than 1400m above sea level.

Isolated granite outcrops and quartzite ridges interrupt the general rolling country. The highest hills in the area are situated closer to Pietersburg, but form part of the later development of human activity in this area.

Rainfall and temperature show marked seasonal variation. Most rainfall occur in the summer months between November and April. Mean annual rainfall for the area is 500mm per year. Mean monthly temperatures range from 10° to 29° C. Frost is present in valley bottoms on cold winter mornings.

There were some indications that trouble was brewing between the Boers and Kekana for some time.

Twenty-eight members of the Boers under Hermanus Potgieter, including men, women and children where massacred in late September of 1854. Fourteen of them by the Kekana of chief Mokopane, twelve at Moorddrift on the Nyl river and two at Mokopane's capital on the farm Pruissen. The Langa of Mokopane at the hill Fothane, now known as Moord koppie, massacred the remaining fourteen.

Second Anglo Boer War

Some time in 1901 General Beyers who was situated in Waterberg at the time received word of a tragedy that unfolded in the Soutpansberg. He later suggested that if he had only returned sooner the tragedy could have been stopped. In his absence his whole party had been murdered.

Accompanied by 240 other party members they moved over the railway line between Naboomspruit and Potgietersrus on the night of 20 September 1901. Although there was numerous gunfire directed at them no casualties occurred.

On 1 October 1901 they invaded the English camp on the farm Pruizen south of Potgietersrus. Here they defeated the English. They took the English prisoners and all there livestock, but had to let the livestock go, as they were affected with some disease.

Possible ancestral shrine

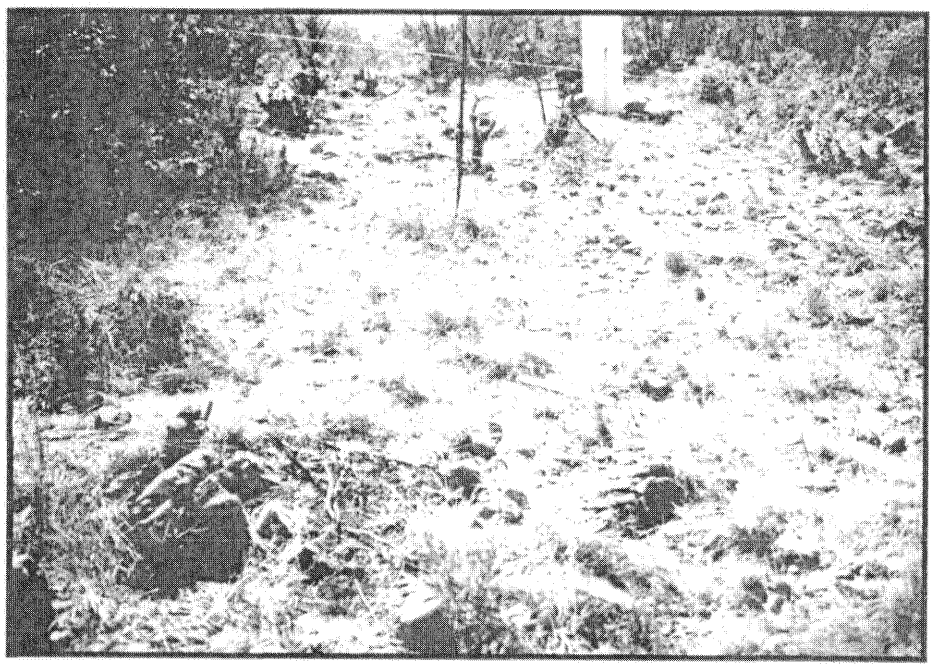
5. Sites of Archaeological Significance

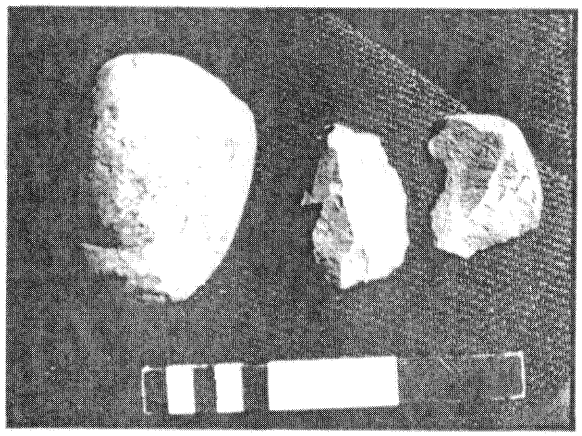
5.1 V1

Co-ordinates: 24°20'18.4" S

28°56'57.2" E

Open-air site on top of koppie close to trig beacon 63. Numerous Middle to Late Stone Age Tools scattered on surface.



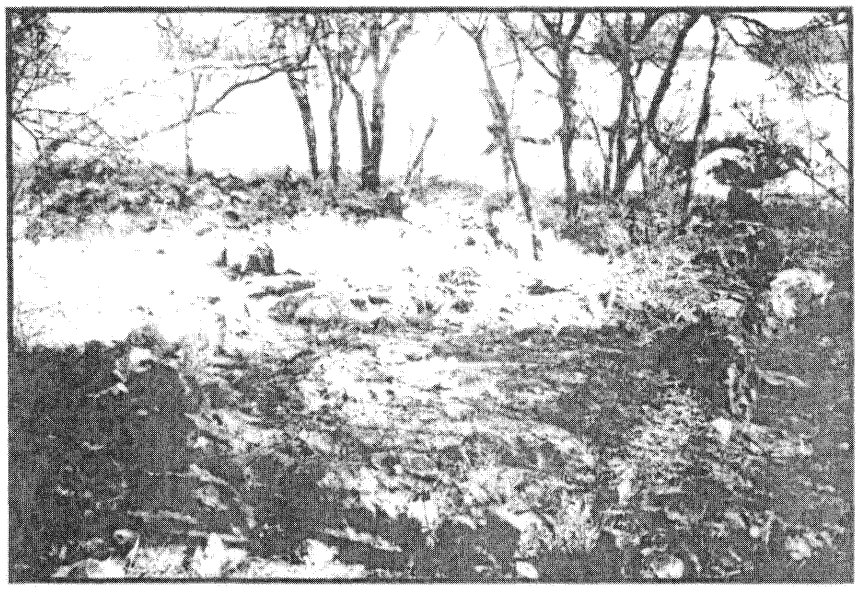


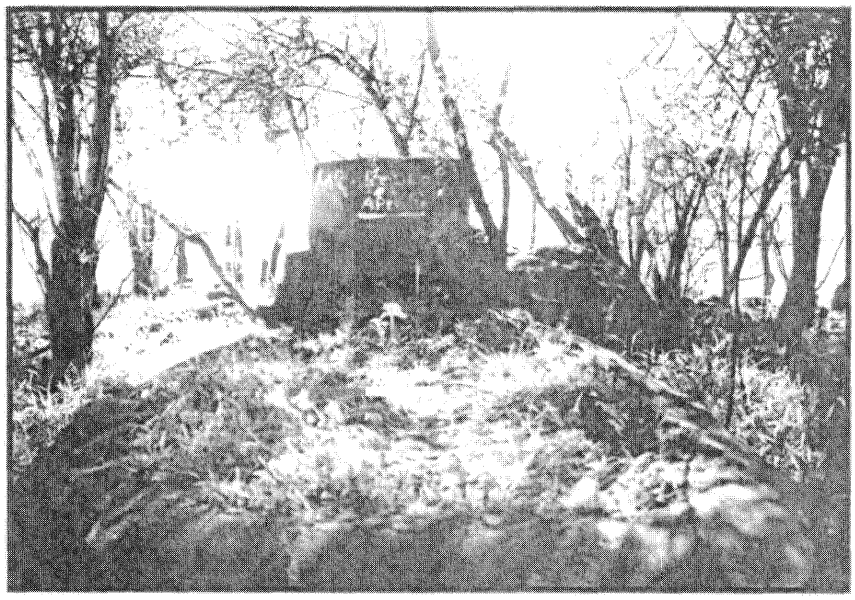
5.3 V3

Co-ordinates: 24 21' 13.4" S

28 56'54.1" E

Historic/Recent cemetery on an open plane, under tree cover, consisting of approximately 20 graves. The majority of these are stone packed. Names were visible on some of the graves, but could not be clearly read. No dates were found.





5.6 V9

Co-ordinates: 24 21'55.1" S

28 58'09.3" E

Middle Stone Age Tools found scattered at open-air site.

5.7 V10

Co-ordinates: 24 22'16.4" S

28 58'38.4" E

Round stone packed structure.

5.8 V11

Co-ordinates: 24 22'21.3" S

28 58'28.4" E

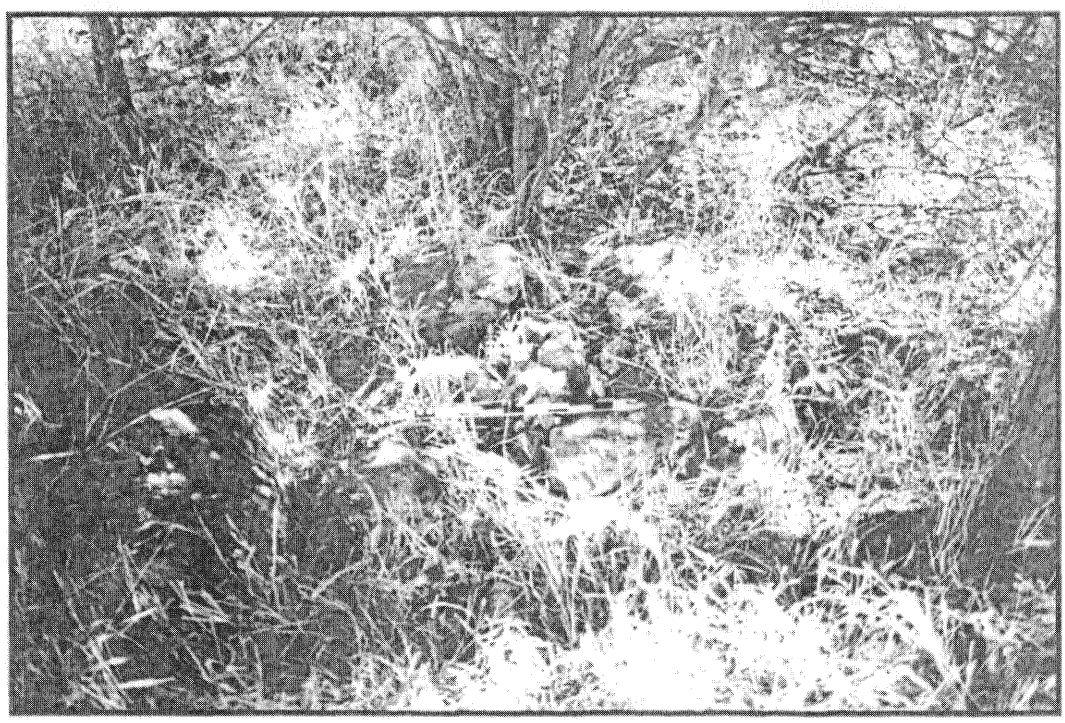
De Beer family graves just off the proposed property. Entrance to graves on other property. Two graves are visable.

5.9 V12

Co-ordinates: 24 22'10.0" S

28 57'47.8" E

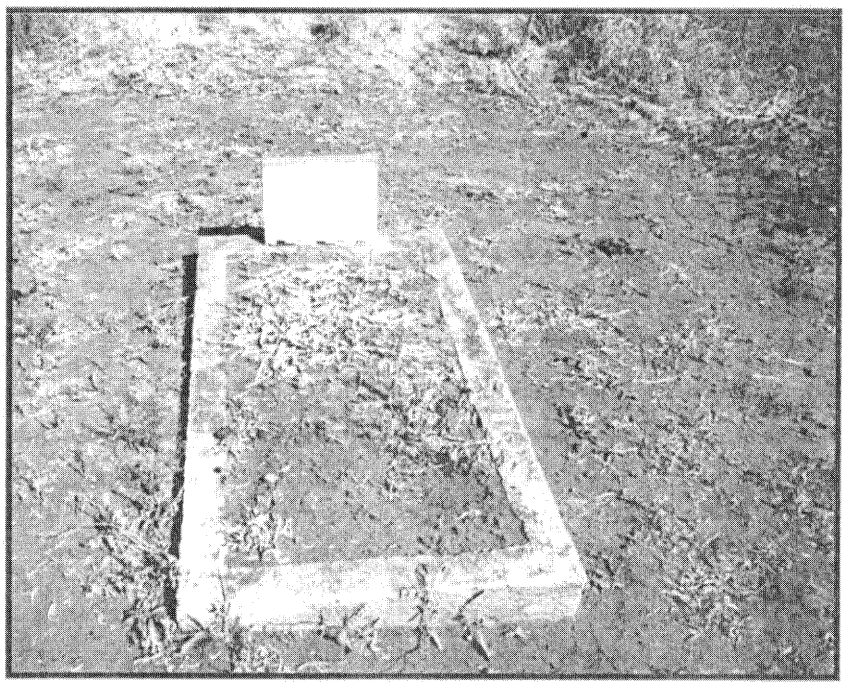
Possible graves.



5.12 V15

Co-ordinates: 24 22'22.5" S, 28 57'25.1" E

Two graves. Were covered in rock piles, now possibly removed and now graves are cement lined with cement grave dressing and tomb stone. East-West alignment Fence has been destroyed to clean graves, they are well kept. One snuff box lid was found at the site.

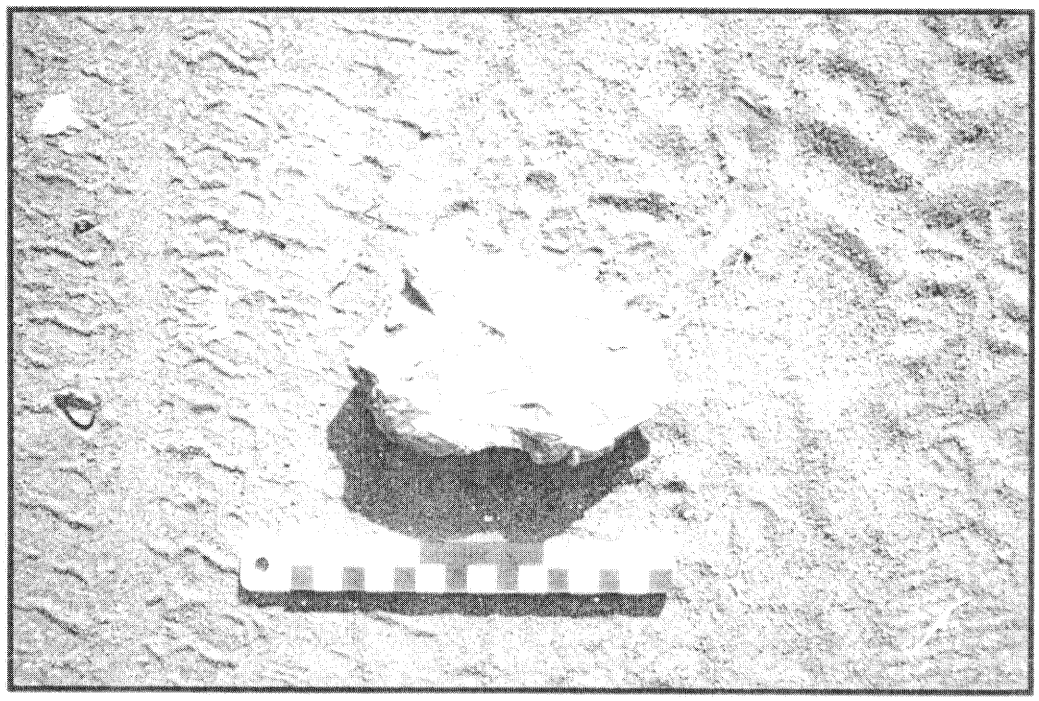


5.16 V19

Co-ordinates: 24 21'55.8" S

28 57'37.5" E

Scattered Stone Tools, one large core possible ESA. Associated with worked stone pieces.



5.17 V20

Co-ordinates: 24 21'14.2" S

28 57'32.8" E

Scattered Stone Tools (MSA/LSA). Associated with worked stone pieces.

5.18 V21

Co-ordinates: 24 22'19.1" S

28 57'21.3" E

Scattered Stone Tools (MSA/LSA). Associated with worked stone pieces.

5.22 V25

Co-ordinates: 24 22'07.1" S

28 57'12.0" E

Scattered Stone Tools (MSA/LSA)

5.23 V26

Co-ordinates: 24 22'04.4" S

28 57'07.9" E

Scattered Stone Tools (MSA/LSA)

5.25 V28

Co-ordinates: 24 21'52.5" S

28 56'49.2" E

Scattered Stone Tools (MSA/LSA)

5.26 V29

Co-ordinates: 24 21'43.6" S

28 56'44.9" E

Scattered Stone Tools (MSA/LSA)

5.27 V30

Co-ordinates: 24 21'42.9" S

28 56'45.4" E

Scattered Stone Tools (MSA/LSA). Associated with worked stone pieces

5.28 V31

Co-ordinates: 24 21'35.6" S

28 56'46.7" E

Scattered Stone Tools (MSA/LSA). Associated with worked stone pieces

5.29 V32

Co-ordinates: 24 21'11.2" S

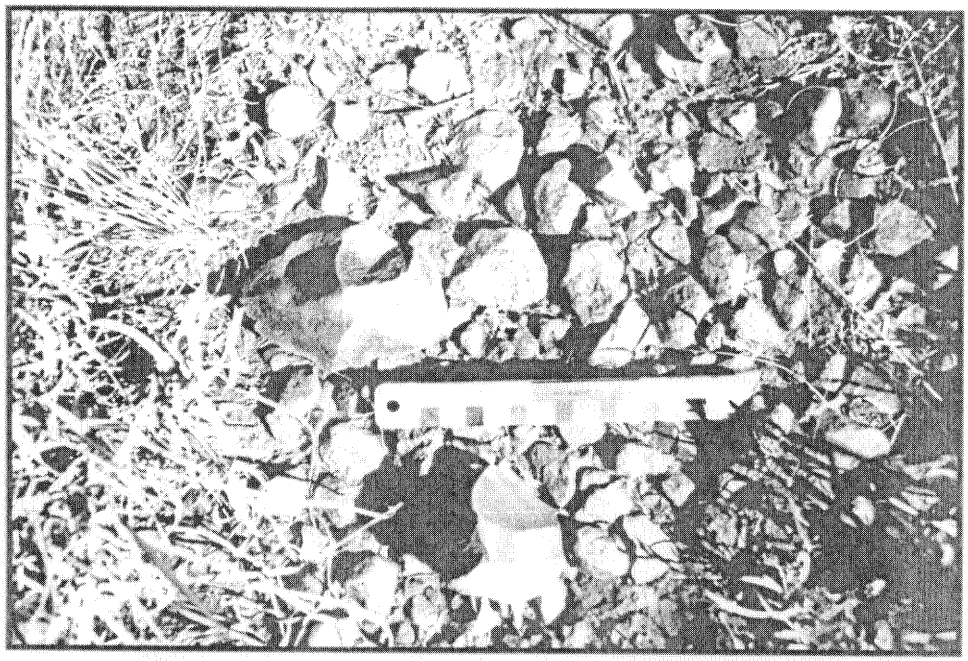
28 56'47.5" E

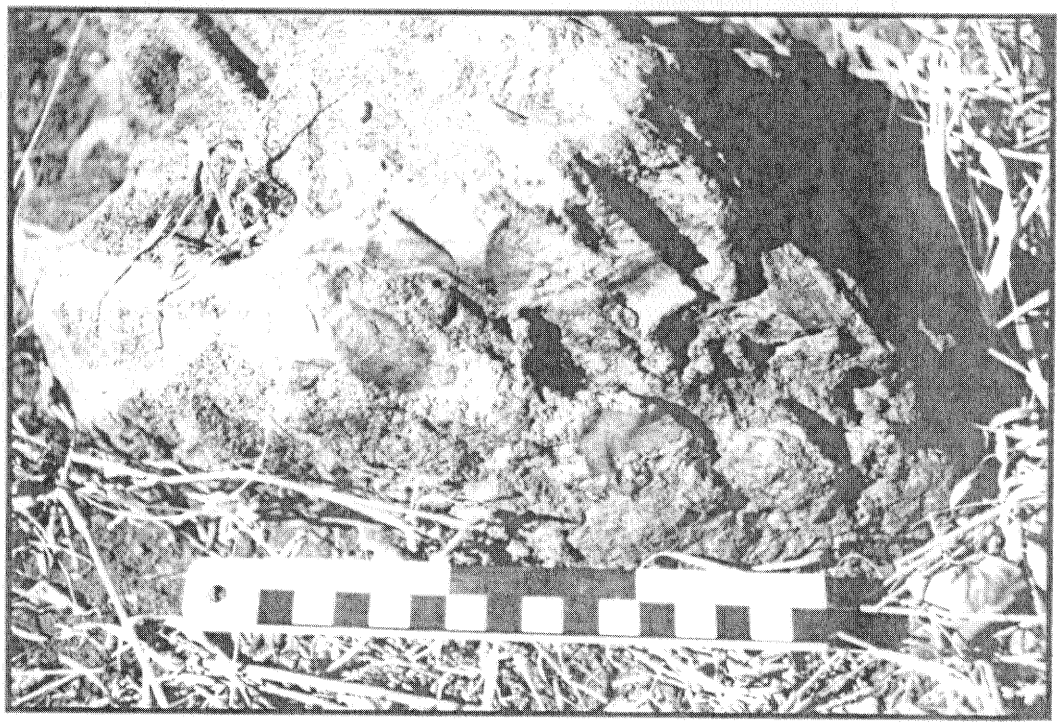
Scattered Stone Tools (MSA/LSA)

5.31 V34

Co-ordinates: 24 21'19.8" S, 28 56'40.0" E

MSA and LSA cores. Various LSA flakes and blades also found in this area. Possible LSA site.



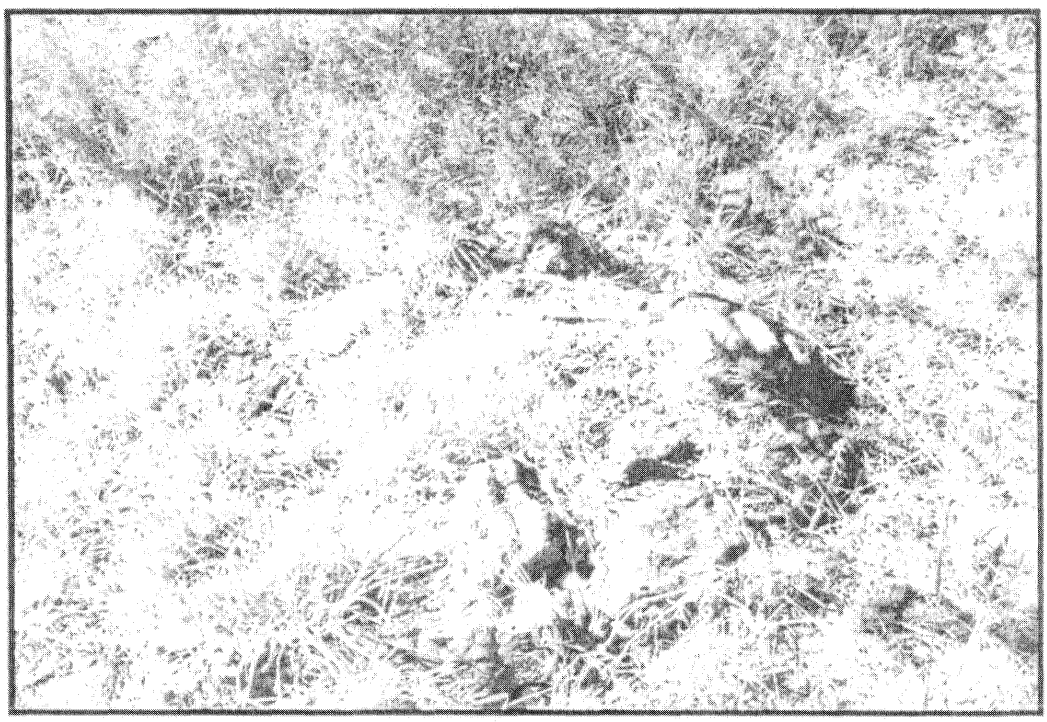


5.34 V37

Co-ordinates: 24 21'32.9" S

28 57'04.9" E

Two smaller stone structures, possible graves.



5.36 V39

Co-ordinates: 24 21'30.2" S

28 57'02.3" E

Vague indication of stone walling, but stones definitely packed.

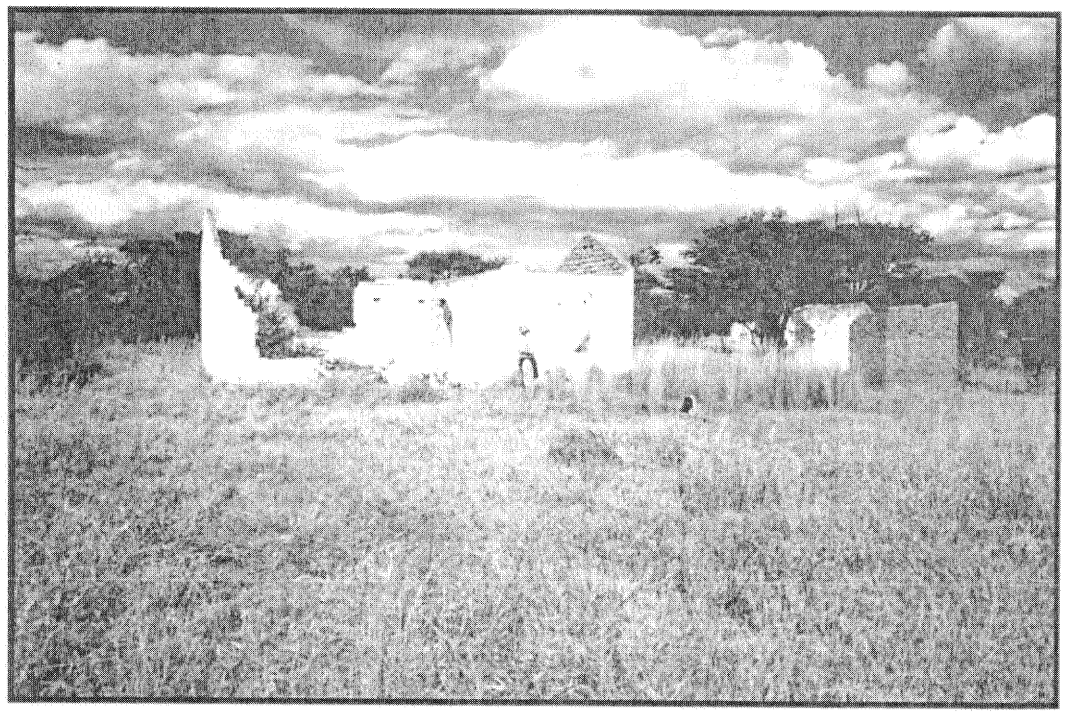
6. Architectural Structures

6.1 V6

Co-ordinates: 24 21'01.5" S

28 57'34.4" E

Recent ruins consisting of: 4 brick structures, 1 corrugated iron dam, 3 small structure.

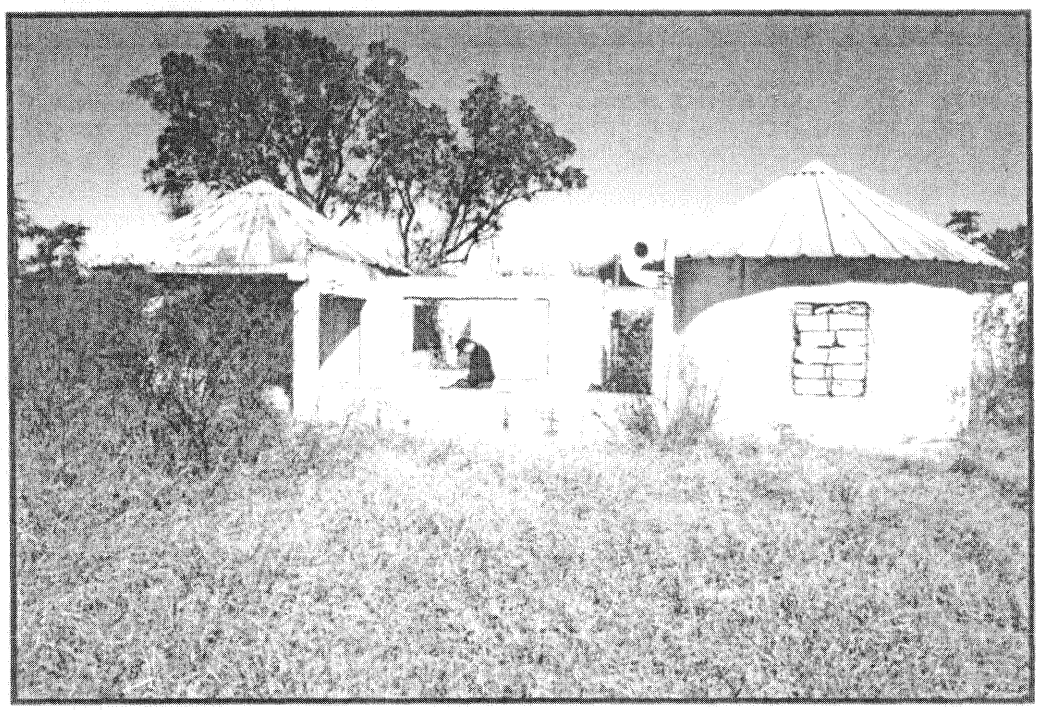


6.3 V43

Co-ordinates: 24 21'59.6" S

28 57'09.7" E

Old farm house.



7. Assumptions and Limitations

Due to the nature of cultural remains that occur, in most cases, below surface, the possibility remains that some cultural remains may not have been discovered during the survey. Although Matakoma Consultants surveyed the area as thorough as possible, it is incumbent upon the developer to inform the relevant heritage agency should further cultural remains be unearthed or laid open during the process of development.

f) objects to which oral traditions are attached and which are associated with living heritage;
g) objects of scientific or technological interest;
h) books, records, documents, photographic positives and negatives, graphic material, film or video or sound recordings, excluding those that are public records as defined in section 1 (xiv) of the National Archives of South Africa Act, 1996 (Act No. 43 of 1996), or in a provincial law pertaining to records or archives; and
i) any other prescribed category.

If it is necessary to refer to any of the above-mentioned objects, the National Heritage Act (Act 25 of 1999 Sections 31-38) are included in Appendix 2.

Under the new National Heritage Resources Act (Act No. 25 of 1999), provisions are made that deal with, and offer protection, to all historic and pre-historic cultural remains, including graves and human remains.

Graves younger than 60 years fall under Section 2(1) of the Removal of Graves and Dead Bodies Ordinance (Ordinance no. 7 of 1925) as well as the Human Tissues Act (Act 65 of 1983) and are the jurisdiction of the National Department of Health and the relevant Provincial Department of Health and must be submitted for final approval to the Office of the relevant Provincial Premier. This function is usually delegated to the Provincial MEC for Local Government and Planning, or in some cases the MEC for Housing and Welfare. Authorisation for exhumation and reinterment must also be obtained from the relevant local or regional council where the grave is situated, as well as the relevant local or regional council to where the grave is being relocated. All local and regional provisions, laws and by-laws must also be adhered to. In order to handle and transport human remains the institution conducting the relocation should be authorised under Section 24 of Act 65 of 1983 (Human Tissues Act).

Graves older than 60 years, but younger than 100 years fall under Section 36 of Act 25 of 1999 (National Heritage Resources Act) as well as the Human Tissues Act (Act 65 of 1983) and are the jurisdiction of the South African Heritage Resource Agency (SAHRA). The procedure for Consultation Regarding Burial Grounds and Graves (Section 36(5) of Act 25 of 1999) is applicable to graves older than 60 years that are situated outside a formal cemetery administrated by a local authority. Graves in the category located inside a formal cemetery administrated by a local authority will also require the same authorisation as set out for graves younger than 60 years over and above SAHRA authorisation. If the grave is not situated inside a formal cemetery but is to be relocated to one, permission from the local authority is required and all regulations, laws and by-laws set by the cemetery authority must be adhered to.

Sites V20 – 35, 38 and **41** are all situated on Mr Wagner's property. It is recommended that this property be set aside for a detailed survey concentrating on Stone Age technology. The richness in stone tool finds makes it an important area for research, as little research has been done on open air find spots pertaining to Stone Age sites.

If any development takes place in the area of the following sites, **V 7,10,12,36,37,39 and 40** it is recommended that an excavation be done to determine the extent of these sites.

Due to the limitation discussed earlier pertaining to communication with the landowners and workers the following final recommendations are made on further work to be done if and when any further development is considered in the study area.

- Discussion with workers needs to be done with regards to their homesteads, specifically aimed at possible graves in the wall of houses, initiation schools and religious practices pertaining to their forefather worship.

- The following areas identified on aerial photographs need to be assessed if any development takes places in this area:

    - The most southeastern corner of Mr De Beer's property adjacent to the entrance route to Bokpoort farm. The coordinates are:

        - Site A - 24 22' 42.28" S, 28 57' 15.88"E

        - Site B – 24 22' 47.97"S, 28 57 12.5"E

- Mr Wagner should also be consulted on weather any known graves occur on his property. None have been found at present.

If during exploration any possible finds are made, the operations must be stopped and a qualified archaeologist be contacted for an assessment of the find.

A heritage resources management plan must also be drawn up for managing the resources during construction and operation of any new development in the area. This must include basic training for construction staff on possible finds, action steps for mitigation measures, surface collections, excavations and communication routes to follow in the case of a discovery. During the operational phase a management plan for these sites must be put in place including conservation through excavation and research. Matakoma Consultants can be contacted on the way forward in this regard.

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Matakoma Consultants

/olspruit Heritage Assessment
June 2002

APPENDIX 2

LEGISLATION

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 reinterment. If the relatives do not react to the advertisement, the remains may be reinterred at the discretion of the local authority.

A(ii) 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.

A(iii) Provincial Ordinances (for example the Cape Provincial Exhumations Ordinance (Ordinance No. 12 of 1980) are also relevant. The purpose of the latter 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".

* A "Cemetery" is defined as any land, whether public or private, containing one or more graves
* A "grave" includes "(a) any place, whether wholly or partly above or below the level of the 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."
* No person shall desecrate, destroy or damage any grave in a cemetery, or any coffin or urn without written approval of the Administrator
* No person shall exhume, disturb, remove or re-inter any body in a cemetery without prior written approval of the Administrator
* Application must be made for such approval in writing, together with:
  - a statement of where the body is to be re-interred
  - why it is to be exhumed
  - the methods proposed for exhumation
  - written permission from local authorities, nearest available relatives and the religious body owning or managing the cemetery, and where all such permission cannot be obtained, the application must give reasons why not
* The Administrator has the power to vary any conditions and to impose additional conditions
* Anyone found guilty and convicted is liable for a maximum fine of R200 and maximum prison sentence of six months

with such grave or burial ground by—

* archival and documentary research regarding the origin of the grave or burial ground;
* direct consultation with local community organisations and/or members;
* 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
* advertising in the local press.

The applicant must keep records of the actions undertaken, including the names and contact details of all persons and organisations 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 result in 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:

* 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.
* 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
* 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

(7) A provincial heritage resources authority shall not list a place in a heritage register without having consulted the owner of such place regarding *inter alia* the provisions to be established under subsection (11) for the protection of the place.

(8) The MEC may, after consultation with the MEC for local government, prescribe the process of consultation referred to in subsection (7).

(9) On publication of a notice in the *Provincial Gazette* concerning the listing in the heritage register of a place within its area of jurisdiction, or the amendment or deletion of an entry for such place, a local authority must notify the owner of such place.

(10) A local authority shall notify SAHRA and the provincial heritage resources authority when a place within its area of jurisdiction which is listed in the heritage register is destroyed, whereupon the provincial heritage resources authority shall record the destruction of the place against the entry in the heritage register for that place, and SAHRA shall record such destruction in the inventory of the national estate.

(11) Within six months of the publication of a notice in the *Provincial Gazette* concerning the inclusion in the heritage register of a place falling within its area of jurisdiction, every local authority must make provision for the protection of such place through the provisions of its planning scheme or by-laws under this Act: Provided that any such protective provisions shall be jointly approved by the provincial heritage resources authority, the relevant local authority and the provincial planning authority, and provided further that—

(a) the special consent of the local authority shall be required for any alteration to or development affecting a place listed in the heritage register;

(b) the local authority must, prior to the consideration of an application under paragraph *(a)*, notify any conservation bodies which have, in terms of section 25(1)*(b)*, registered their interest in the geographical area or type of property concerned and give them a reasonable period in which to register an objection or make other representations with respect to the application;

(c) in assessing an application under paragraph *(a)*, the local authority shall consider—

(i) the cultural significance of the place and how this could be affected by the proposed alteration or development; and

(ii) any objection or representations under paragraph *(b)*;

(d) where the local authority resolves to approve an application under paragraph *(a)* which would materially affect the cultural significance of the place and an objection to such approval has been registered under paragraph *(b)*, unless the conservation body concerned withdraws such objection, the objection shall be deemed to be an appeal in terms of section 49 and the local authority shall submit the application and all relevant information to the relevant appeal body; and

(e) in the event of any alteration or development of a place listed in a heritage register being undertaken without the consent of the local authority, the local authority may require the owner to stop such work instantly and restore the site to its previous condition within a specified period. If the owner fails to comply with the local authority's requirements the local authority shall have the right to carry out such restoration work itself and recover the cost thereof from the owner.

(12) A provincial heritage resources authority or a local authority within whose area of jurisdiction such site is located may provisionally protect any place in an inventory referred to in subsections (5) and (6): Provided that such provisional protection shall be withdrawn when the place is listed in the heritage register.

(13) A local authority may mark any place falling within its area of jurisdiction listed in a heritage register with a badge indicating its status.

(14) Inclusion of a place in a heritage register shall not exempt any person from complying with the provisions of sections 35 and 36.

Heritage areas

31. (1) A planning authority must at the time of revision of a town or regional planning scheme, or the compilation or revision of a spatial plan, or at the initiative of the provincial heritage resources authority where in the opinion of the provincial heritage

(e) objects of cultural and historical significance;
(f) objects to which oral traditions are attached and which are associated with living heritage;
(g) objects of scientific or technological interest;
(h) books, records, documents, photographic positives and negatives, graphic material, film or video or sound recordings, excluding those that are public records as defined in section 1(xiv) of the National Archives of South Africa Act, 1996 (Act No. 43 of 1996), or in a provincial law pertaining to records or archives; and
(i) any other prescribed category.

(2) For the purposes of this section, an object within a type of objects declared to be a heritage object is deemed to be a heritage object.

(3) Before declaring any object contemplated in subsection (1) as a heritage object, SAHRA may give to the owner such prior opportunity for representations or submissions to be made in regard to the proposed declaration as may be practicable in the circumstances and in such manner as may be prescribed. Nothing herein contained shall oblige SAHRA to give such prior opportunity if the circumstances militate against this.

(4) SAHRA with the approval of the Minister may, by notice in the *Gazette*—
(a) declare an object, or a collection thereof, or a type of object or list of objects, whether specific or generic, to be a heritage object;
(b) amend any notice published under paragraph *(a)*; or
(c) withdraw any notice published under paragraph *(a)* or amended under paragraph *(b)*.

(5) SAHRA may not exercise its power under subsection (4) unless—
(a) in the case of a specific object or collection, it has served on the owner a notice of its intention and has given him or her at least 60 days to lodge an objection or suggest reasonable conditions regarding the care and custody of such object under which such declaration is acceptable; or
(b) in the case of a type of objects, it has—
(i) published a notice of provisional declaration in the *Gazette*;
(ii) by public advertisement and any other means it considers appropriate, made known publicly the effect of the declaration and its purpose; and
(iii) invited any interested person who might be adversely affected to make submissions to or lodge objections with SAHRA within 60 days from the date of the notice,
and has considered all such submissions and objections.

(6) An object or collection shall be deemed to be protected as a heritage object for six months from the date of service or publication of a notice under subsection (5)*(a)* or (5)*(b)*(i), or until such notice is withdrawn or the object or collection or type of objects is declared to be a heritage object, whichever is the shorter period.

(7) SAHRA must maintain a register of heritage objects in which all objects, collections of objects and types of objects which have been declared heritage objects must be listed.
(a) The register shall be in two parts:
(i) Part I: Heritage objects listed by type.
(ii) Part II A: Specific heritage objects as listed in the inventory of a public museum in South Africa or otherwise displayed or kept in secure conditions.
(iii) Part II B: Other specific heritage objects.
(b) SAHRA may prescribe the further division of the parts of the register into categories or other subdivisions.

(8) SAHRA must make available to the public, subject to subsection (9), a summary of information contained in the register.

(9) Where it is necessary to ensure the proper protection of a heritage object which is entered in the register, no information which may identify the location of the object must be accessible to any person except with the express consent of SAHRA, for so long as SAHRA may determine.

than six months during which an export permit may not be issued in respect of such object; or

(b) on its own behalf or on behalf of a public institution or authority in South Africa or a person who will undertake to keep the object in the country, offer to purchase the object either by an immediate cash payment or by payment of compensation in such manner as the Minister in consultation with the Minister of Finance may determine; or

(c) in any other case, issue a permit to export the object concerned.

(27) Where SAHRA establishes a delay period under subsection (26)*(a)* in respect of a heritage object, it—

(a) must give written notice of the delay period to the applicant, and the Minister;

(b) must advise such institutions and public authorities in South Africa as it sees fit of the delay period and of the object in respect of which such delay period was established;

(c) may by public advertisement or any other means it deems appropriate make known the delay period and the object in respect of which it was established; and

(d) may stipulate that the heritage object concerned is deposited on temporary loan with a specified South African museum or public authority for the duration of the delay period.

(28) SAHRA, in consultation with the Minister, may extend a delay period established under subsection (26)*(a)* for a maximum period of two years.

(29) In the event that—

(a) during a delay period established under subsection (26)*(a)*, an offer to purchase the heritage object concerned is made and the applicant and a public authority or person making such offer cannot agree as to the amount of a fair cash offer; or

(b) SAHRA and the applicant cannot agree as to the amount of a fair offer or compensation under subsection (26)*(b)*,

such dispute must be arbitrated by a panel appointed by the Minister, consisting of equal representatives of dealers in heritage objects, museums and collectors of heritage objects, which must determine the amount of a fair cash offer to purchase such heritage object and must notify the parties concerned and SAHRA thereof.

(30) Where a delay period established under subsection (26)*(a)* expires without a fair offer being made to purchase the heritage object concerned, SAHRA must forthwith on the request of the applicant issue a permit to export such heritage object.

(31) Where a delay period established under subsection (26)*(a)* expires and SAHRA is satisfied that a fair offer to purchase the heritage object concerned has been made, SAHRA may not issue a permit to export such heritage object.

(32) A person who intends to import an object which is of a type listed in Part I of the register of heritage objects, for temporary purposes or in circumstances in which the person may subsequently wish to export the object, may apply to SAHRA for a certificate of exemption authorising the export of the object concerned for the period specified in the certificate.

Part 2: General protections

Import of objects protected in terms of laws of foreign states

33. (1) No person may import into South Africa any foreign cultural property other than through a customs port of entry, and the export permit or other permission issued in the country of origin of such object must be produced to a customs officer before import to South Africa is effected or allowed.

(2) After a cultural property agreement between South Africa and a reciprocating state comes into force, no person may import into South Africa any foreign cultural property that has been illegally exported from a reciprocating state.

(3) A customs officer who has reason to believe that a person is attempting to import an object in contravention of subsection (1) or (2), may withhold the object concerned and such object must be kept in the custody of SAHRA until such time, not exceeding six months, as an investigation into the provenance of such object is completed.

(a) serve on the owner or occupier of the site or on the person undertaking such development an order for the development to cease immediately for such period as is specified in the order;

(b) carry out an investigation for the purpose of obtaining information on whether or not an archaeological or palaeontological site exists and whether mitigation is necessary;

(c) if mitigation is deemed by the heritage resources authority to be necessary, assist the person on whom the order has been served under paragraph *(a)* to apply for a permit as required in subsection (4); and

(d) recover the costs of such investigation from the owner or occupier of the land on which it is believed an archaeological or palaeontological site is located or from the person proposing to undertake the development if no application for a permit is received within two weeks of the order being served.

(6) The responsible heritage resources authority may, after consultation with the owner of the land on which an archaeological or palaeontological site or a meteorite is situated, serve a notice on the owner or any other controlling authority, to prevent activities within a specified distance from such site or meteorite.

(7) *(a)* Within a period of two years from the commencement of this Act, any person in possession of any archaeological or palaeontological material or object or any meteorite which was acquired other than in terms of a permit issued in terms of this Act, equivalent provincial legislation or the National Monuments Act, 1969 (Act No. 28 of 1969), must lodge with the responsible heritage resources authority lists of such objects and other information prescribed by that authority. Any such object which is not listed within the prescribed period shall be deemed to have been recovered after the date on which this Act came into effect.

(b) Paragraph *(a)* does not apply to any public museum or university.

(c) The responsible authority may at its discretion, by notice in the *Gazette* or the *Provincial Gazette*, as the case may be, exempt any institution from the requirements of paragraph *(a)* subject to such conditions as may be specified in the notice, and may by similar notice withdraw or amend such exemption.

(8) An object or collection listed under subsection (7)—

(a) remains in the ownership of the possessor for the duration of his or her lifetime, and SAHRA must be notified who the successor is; and

(b) must be regularly monitored in accordance with regulations by the responsible heritage authority.

Burial grounds and graves

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

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

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

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

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

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

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

must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.

(2) The responsible heritage resources authority must, within 14 days of receipt of a notification in terms of subsection (1)—

(a) if there is reason to believe that heritage resources will be affected by such development, notify the person who intends to undertake the development to submit an impact assessment report. Such report must be compiled at the cost of the person proposing the development, by a person or persons approved by the responsible heritage resources authority with relevant qualifications and experience and professional standing in heritage resources management; or

(b) notify the person concerned that this section does not apply.

(3) The responsible heritage resources authority must specify the information to be provided in a report required in terms of subsection (2)*(a)*: Provided that the following must be included:

(a) The identification and mapping of all heritage resources in the area affected;

(b) an assessment of the significance of such resources in terms of the heritage assessment criteria set out in section 6(2) or prescribed under section 7;

(c) an assessment of the impact of the development on such heritage resources;

(d) an evaluation of the impact of the development on heritage resources relative to the sustainable social and economic benefits to be derived from the development;

(e) the results of consultation with communities affected by the proposed development and other interested parties regarding the impact of the development on heritage resources;

(f) if heritage resources will be adversely affected by the proposed development, the consideration of alternatives; and

(g) plans for mitigation of any adverse effects during and after the completion of the proposed development.

(4) The report must be considered timeously by the responsible heritage resources authority which must, after consultation with the person proposing the development, decide—

(a) whether or not the development may proceed;

(b) any limitations or conditions to be applied to the development;

(c) what general protections in terms of this Act apply, and what formal protections may be applied, to such heritage resources;

(d) whether compensatory action is required in respect of any heritage resources damaged or destroyed as a result of the development; and

(e) whether the appointment of specialists is required as a condition of approval of the proposal.

(5) A provincial heritage resources authority shall not make any decision under subsection (4) with respect to any development which impacts on a heritage resource protected at national level unless it has consulted SAHRA.

(6) The applicant may appeal against the decision of the provincial heritage resources authority to the MEC, who—

(a) must consider the views of both parties; and

(b) may at his or her discretion—

(i) appoint a committee to undertake an independent review of the impact assessment report and the decision of the responsible heritage authority; and

(ii) consult SAHRA; and

(c) must uphold, amend or overturn such decision.

(7) The provisions of this section do not apply to a development described in subsection (1) affecting any heritage resource formally protected by SAHRA unless the authority concerned decides otherwise.

APPENDIX 3

TABLE WITH SITE DESCRIPTION AND STATUS