
PHASE 1 ARCHAEOLOGICAL IMPACT ASSESSMENT

**EXTENSION 9 OF THE MANYATSENG TOWNSHIP,
LADYBRAND, FREE STATE, SOUTH AFRICA**

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CONTENTS

1) TERMS OF REFERENCE.....	4
1.1) DEVELOPMENT LOCATION AND IMPACT.....	4
2) THE PHASE 1 ARCHAEOLOGICAL IMPACT ASSESSMENT	8
2.1) ARCHAEOLOGICAL LEGISLATIVE COMPLIANCE	8
2.2) COVERAGE AND GAP ANALYSIS	8
2.3) METHODOLOGY.....	8
2.4) PHASE 1 AIA ASSESSMENT FINDINGS.....	9
2.4.1) SITE DESCRIPTIONS.....	13
2.4.1.1) SITE 1 (S1) – HISTORIC FARMSTEAD	13
2.4.1.2) SITE 2 (S2) – CONTEMPORARY ENCLOSURE.....	16
2.4.1.3) SITE 3 (G1 & G2) – CONTEMPORARY GRAVEYARD.....	18
2.4.2) CONCLUSION.....	20
3) RECOMMENDATIONS	21
4) REFERENCES CITED.....	22
APPENDIX A: SCHEMATIC OUTLINE OF THE PRE-HISTORIC AND HISTORIC PERIODS.....	23
APPENDIX B: EXTRACTS FROM THE NATIONAL HERITAGE RESOURCES ACT (NO 25 OF 1999).....	24

LIST OF TABLES

Table 1: Summary of the proposed development area, identified and associated cultural heritage resources and relevant recommendations	4
Table 2: Cultural heritage site significance assessment and mitigation recommendations	9

LIST OF FIGURES

Figure 1: Ladybrand, Free State, South Africa	5
Figure 2: The Manyatseng AIA area, incorporating the proposed Extension to the Manyatseng Township development area, Ladybrand, Free State	5
Figure 3: Close-up of the proposed Extension to the Manyatseng Township AIA area, Ladybrand	6
Figure 4: Spatial display of AIA findings - Extension to the Manyatseng Township assessment area	6
Figure 5: The Mantsopa Municipality’s spatial development framework for the greater Ladybrand area (Courtesy Phethogo Consulting).....	7
Figure 6: General view of the eastern part of the AIA assessed area towards Manyatseng Township	10
Figure 7: Current access road impact restricted to the eastern part of the AIA assessed area	10
Figure 8: Existing access road impact sections, reaching in places to approximately 1.5m, proved to be anthropically sterile throughout the eastern part of the AIA assessed area	10
Figure 9: Contemporary graffiti on a builder located in the eastern part of the AIA assessed area does not comprise of a cultural heritage resource as defined and protected by the NHRA 1999	11
Figure 10: Anthropically sterile stratigraphic sections in the eastern part of the AIA assessed area. (Note the relatively shallow geological basal layer)	11
Figure 11: Natural erosion in the north-eastern part of the AIA assessed area yielding anthropic sterile stratigraphic sections to an approximate 30cm level below the present day surface	11
Figure 12: General view of the western part of the AIA assessed area towards Manyatseng Township	12
Figure 13: Eroded stream sections in the western corner of the AIA assessed area proved to be anthropically sterile to an approximate 1.5m level below the present day surface.....	12
Figure 14: The Site 1 Historic Period sandstone residence with more recent alterations dating to the 1980’s	14
Figure 15: An in-use sandstone outbuilding contained in the yard of the historic residence	14

Figure 16: The complex of 4 outbuildings, in varying stages of decay, related temporally to both the origin (sandstone foundations and mounds) and alteration (ruined brick and cement walling) of Site 1	14
Figure 17: General view of the complex of outbuildings related to Site 1	15
Figure 18: Remains of the sandstone wall; part of one of the original outbuildings located immediately west of Site 1	15
Figure 19: General view of Site 2, a contemporary enclosure inferred to be used for livestock keeping.....	17
Figure 20: View of Site 2 from the north with the monolithic sandstone in the foreground	17
Figure 21: General view of Site 2 with rectangular foundation remains of the historic livestock enclosure in the foreground....	17
Figure 22: General view of the Site 3 graveyard, with 2 areas currently in use – area G1 in the foreground and area G2 at the foot of the hill in the background	19
Figure 23: General view of area G1 in the contemporary Site 3 graveyard	19
Figure 24: General view of area G2 in the contemporary Site 3 graveyard	19

1) TERMS OF REFERENCE

The Municipality of Mantsopa is in need of approximately 1,700 residential erven in the greater Ladybrand, Free State, area. In order to make provision for part of the requirements the Municipality appointed Phethogo Consulting to do the planning and surveying of 390 erven for Extension 9 of the Manyatseng Township, Ladybrand. The proposed township will be located on land owned by the Municipality, with funds allocated to the Municipality by the Department of Local Government and Housing. The proposal takes up the last portion of the area that is available in this vicinity for township establishment purposes (Phethogo Consulting 2007).

The layout of Extension 9 of the Manyatseng Township makes provision for 390 erven to be accommodated on the portion of land, of which 383 erven are allocated for residential purposes, on average 400m² in size with a few larger erven on block corners. Additional erven will include at least 4 park erven, 1 business erf, 1 school / crèche erf and 1 church erf. The development will include relevant access roads to the development area and associated linear development (Phethogo Consulting 2007).

1.1) DEVELOPMENT LOCATION AND IMPACT

The Extension 9 of the Manyatseng Township development, to be located on the Remainder of the Farm Dorp Gronden of Ladybrand No 451 and a Portion of the Remainder of the Farm Brightside No 388, Ladybrand, Free State, South Africa, will be situated north of Manyatseng and directly east and adjacent to Extension 8, which was approved recently (1:50,000 map ref. – 2927AD).

Development impact on the development area will be total; resulting in the loss of all surface and sub-surface heritage sites / features that may be present within the proposed development area.

MAP CODE	SITE	TYPE	DESCRIPTION	CO-ORDINATES	RECOMMENDATIONS
EXTENSION TO THE MANYATSENG TOWNSHIP, LADYBRAND, FREE STATE					
1	-	-	-	S29°09'40.1"; E27°26'42.0"	-
2	-	-	-	S29°09'55.7"; E27°27'04.9"	-
3	-	-	-	S29°09'36.9"; E27°27'38.2"	-
4	-	-	-	S29°09'36.5"; E27°27'58.7"	-
5	-	-	-	S29°09'47.4"; E27°27'59.3"	-
6	-	-	-	S29°09'48.8"; E27°28'18.2"	-
7	-	-	-	S29°10'21.1"; E27°28'40.1"	-
8	-	-	-	S29°09'51.2"; E27°28'43.3"	-
9	-	-	-	S29°09'17.5"; E27°28'32.3"	-
10	-	-	-	S29°09'10.1"; E27°27'48.6"	-
S1	Site 1	Historic	Farmstead	S29°09'22.9"; E27°28'05.8"	Destruction – FSHRA Permit / Conservation
S2	Site 2	Contemporary	Enclosure	S29°09'17.4"; E27°27'55.2"	Destruction / Conservation
G1	Site 3	Contemporary	Graveyard	S29°10'27.2"; E27°28'42.5"	N/A
G2	Site 3	Contemporary	Graveyard	S29°10'17.9"; E27°28'43.4"	N/A

* Extension to the Manyatseng Township AIA area (1-2-3-4-5-6-7-8-9-10)

* 3 Cultural heritage resources as defined and protected by the NHRA 1999 are situated in close proximity to the development area / may be impacted on by the development

Table 1: Summary of the proposed development area, identified and associated cultural heritage resources and relevant recommendations



Figure 1: Ladybrand, Free State, South Africa



Figure 2: The Manyatseng AIA area, incorporating the proposed Extension to the Manyatseng Township development area, Ladybrand, Free State

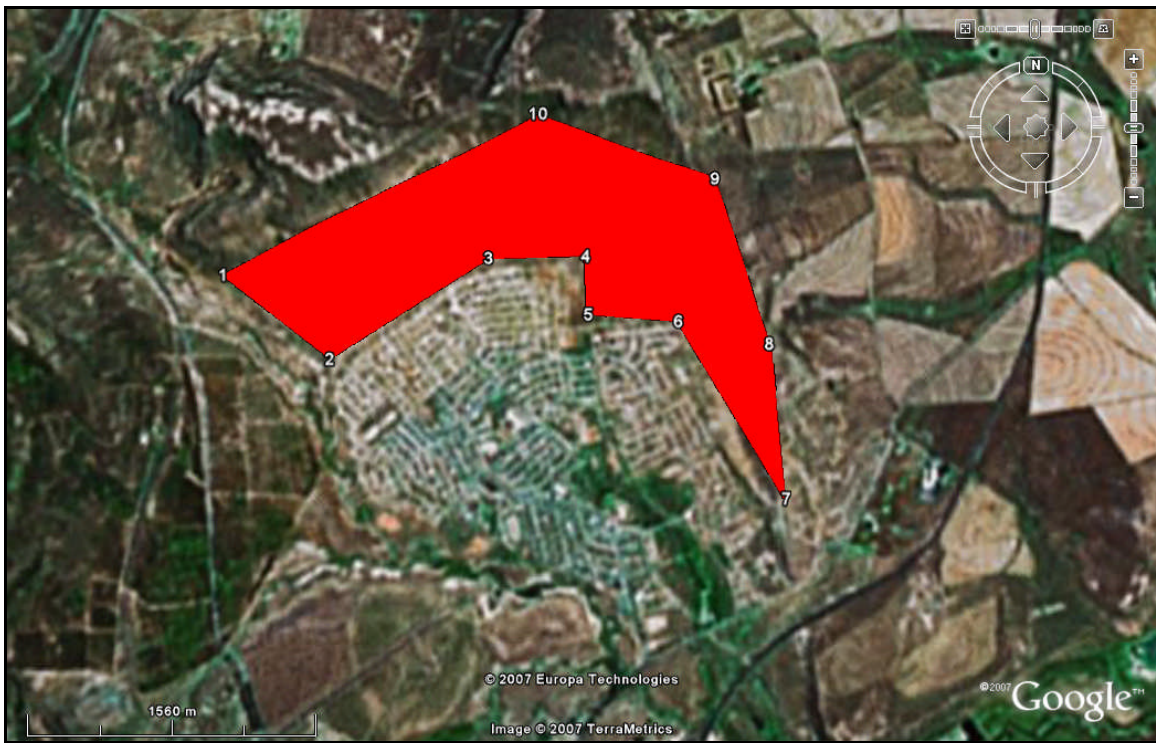


Figure 3: Close-up of the proposed Extension to the Manyatseng Township AIA area, Ladybrand



Figure 4: Spatial display of AIA findings - Extension to the Manyatseng Township assessment area

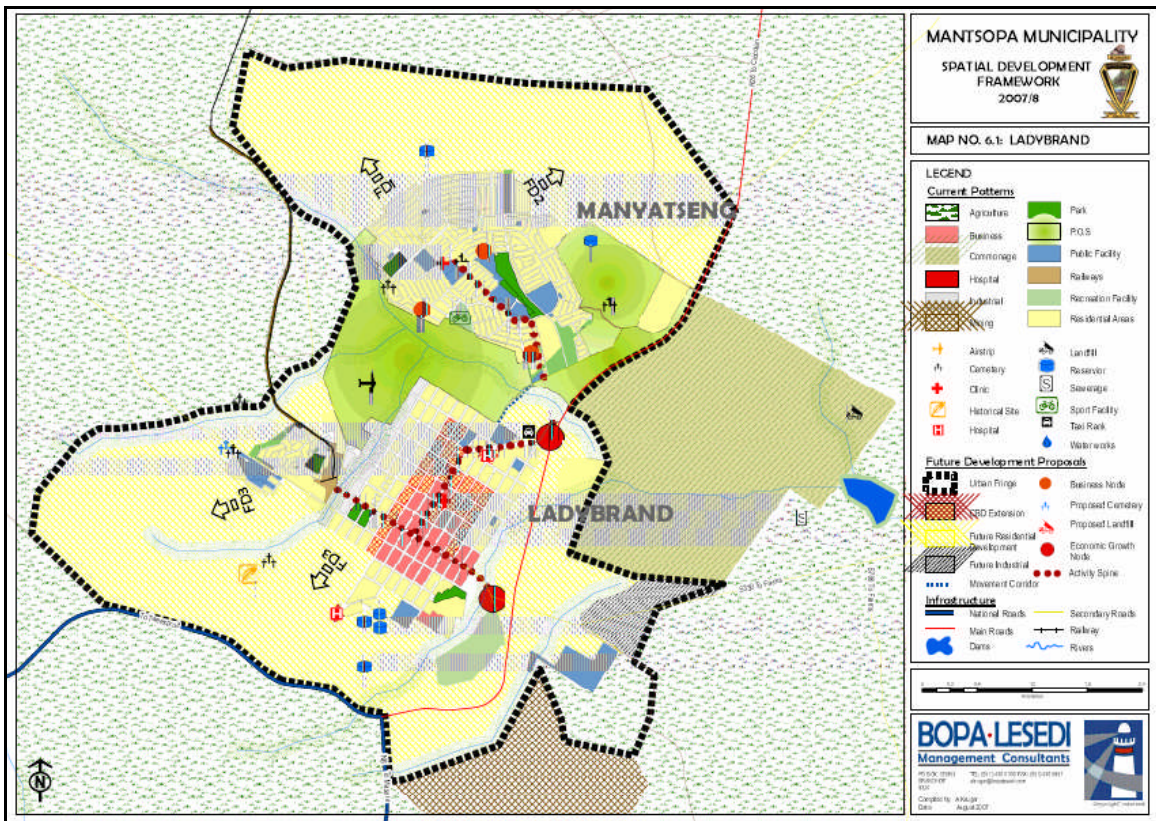


Figure 5: The Mantsopa Municipality’s spatial development framework for the greater Ladybrand area (Courtesy Phethogo Consulting)

2) THE PHASE 1 ARCHAEOLOGICAL IMPACT ASSESSMENT

2.1) ARCHAEOLOGICAL LEGISLATIVE COMPLIANCE

The Phase 1 Archaeological Impact Assessment (AIA) was requested by the South African Heritage Resources Agency (SAHRA) mandatory responsible for the National Heritage Resources Act, Act No 25 of 1999 (NHRA 1999).

The Phase 1 AIA was requested as specialist sub-section to the Environmental Impact Assessment (EIA) in compliance with requirements of the National Environmental Management Act, No 107 of 1998 (NEMA 1998) and associated regulations (2006), and the NHRA 1999 and associated regulations (2000).

The Phase 1 AIA aimed to locate, identify and assess the significance of cultural heritage resources, inclusive of archaeological deposits / sites, 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, that may be affected by the proposed development. Palaeontological deposits / sites as defined and protected by the NHRA 1999 are not included as subject to this report.

2.2) COVERAGE AND GAP ANALYSIS

The Phase 1 AIA covered an approximate 180ha area. The assessment was however focused on the eastern approximate 90ha area on which the Extension 9 of the Manyatseng Township development will directly impact. The assessment area included access roads to the development area.

2.3) METHODOLOGY

The Phase 1 AIA was conducted on 2007-11-16 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. Visibility across the development area was good. Sub-surface interpretations were based on existing road sections and other sub-surface exposures.

GPS co-ordinates were taken with a Garmin e-Trex Vista GPS (Datum: WGS84). 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

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

SITE SIGNIFICANCE	FIELD RATING	GRADE	RECOMMENDED MITIGATION
High Significance	National Significance	Grade 1	Site conservation / Site development
High Significance	Provincial Significance	Grade 2	Site conservation / Site development
High Significance	Local Significance	Grade 3A / 3B	Site conservation or extensive mitigation prior to development / destruction
High / Medium Significance	Generally Protected A	-	Site conservation or mitigation prior to development / destruction
Medium Significance	Generally Protected B	-	Site conservation or mitigation / test excavation / systematic sampling / monitoring prior to or during development / destruction
Low Significance	Generally Protected C	-	On-site sampling, monitoring or no archaeological mitigation required prior to or during development / destruction

Table 2: Cultural heritage site significance assessment and mitigation recommendations

2.4) PHASE 1 AIA ASSESSMENT FINDINGS

Three archaeological and cultural heritage resources (Sites 1-3) as defined and protected by the NHRA 1999 were identified within the approximate 180ha Extension 9 of the Manyatseng Township AIA assessed area. None of the identified sites is located within the approximate 90ha eastern area earmarked for development impact. Development is expected to be concentrated east of Sites 1 and 2, implying formal conservation of the sites. Formal conservation and continued use of Site 3 forms part of current development plans.

1. Site 1 comprise of a historic farmstead and related outbuildings. The historic residence pre-dates 60 years of age and is by implication protected by the NHRA 1999. The residence has in the interim been altered and is currently occupied. One of the historic outbuildings is still in use. The remainder of the outbuildings, in varying stages of decay, is located west of the historic residence. Development may well be concentrated east of the site and may thus not impact on the site.
2. Site 2 comprise of a contemporary enclosure constructed from sandstone obtained from a historic structure originally located immediately south of the site. The historic site is identified by portions of foundations in association with a low rising earth mound. Development is expected to be concentrated east of the site and may thus not impact on the site.
3. Site 3 represents a contemporary formal graveyard. The graveyard is situated immediately adjacent to the development area. Development will not impact on the site. The site will not only be conserved, but continued formal use thereof as one of the Manyatseng cemeteries forms part of current development plans.

Development impact on the area was visible at the time of assessment. Impact was limited to a number of access road scrapings revealing up to approximate 1.5m stratigraphic sections. In addition erosion and limited stream sections assisted in sub-surface interpretations. In all cases inspection of exposed sub-surface stratigraphic sections proved to be anthropically sterile.



Figure 6: General view of the eastern part of the AIA assessed area towards Manyatseng Township



Figure 7: Current access road impact restricted to the eastern part of the AIA assessed area



Figure 8: Existing access road impact sections, reaching in places to approximately 1.5m, proved to be anthropically sterile throughout the eastern part of the AIA assessed area



Figure 9: Contemporary graffiti on a boulder located in the eastern part of the AIA assessed area does not comprise of a cultural heritage resource as defined and protected by the NHRA 1999



Figure 10: Anthropically sterile stratigraphic sections in the eastern part of the AIA assessed area. (Note the relatively shallow geological basal layer)



Figure 11: Natural erosion in the north-eastern part of the AIA assessed area yielding anthropic sterile stratigraphic sections to an approximate 30cm level below the present day surface



Figure 12: General view of the western part of the AIA assessed area towards Manyatseng Township



Figure 13: Eroded stream sections in the western corner of the AIA assessed area proved to be anthropically sterile to an approximate 1.5m level below the present day surface

2.4.1) SITE DESCRIPTIONS

2.4.1.1) SITE 1 (S1) – HISTORIC FARMSTEAD

S29°09'22.9"; E27°28'05.8"

Site 1 comprise of a historic farmstead and related outbuildings. The historic residence pre-dates 60 years of age and is by implication protected by the NHRA 1999. The sandstone residence, inferred to date to the late 1800's / early 1900's has in the interim been altered. Brick and cement alterations may well date to the 1980's. Contained in the residence's yard is an in use period style sandstone outbuilding. The remains of at least 4 related outbuildings are situated immediately west of the residence. The 4 outbuildings, in varying stages of decay, comprise of one ruined brick and cement structure, inferred to date to the 1980's alterations. The remaining 3 outbuildings are characterized mostly by only sandstone foundations and related structure mounds. A portion of an original sandstone wall still remains. No associated middens were identified in the vicinity of the historic outbuildings. Related middens may well be expected in closer proximity to the residence; gardening and general yard activities may well have obscured surface traces thereof.

The residence is owned by Cecilia Tsoene. Development is expected to be concentrated east of the site and is thus not expected to impact on the site.

✿ *Site Significance & Recommendations:*

1. The contemporary component of Site 1, the residence of Cecilia Tsoene and her family, does not comprise of a cultural heritage resource as defined and protected by the NHRA 1999. It is recommended that recommendations as per the Social Impact Assessment (SIA) / Public Consultation Process be complied with.
2. The historic component of Site 1, the historic farmstead and related outbuildings, is not of National or Provincial Significance; the site is however of Local Significance. On a Local scale the site is assigned a *Medium Significance* and a *Generally Protected B* field rating: The site should be conserved, alternatively development should be preceded by Phase 2 mitigation.

Development is however expected to be concentrated east of the site and will by implication not impact on the site. The site will thus be conserved. However, should development plans be altered or development require any physical impact on the site or immediate surrounds it is recommended that the developer applies for a *Site Destruction Permit* from the FSHRA prior to impact.



Figure 14: The Site 1 Historic Period sandstone residence with more recent alterations dating to the 1980's



Figure 15: An in-use sandstone outbuilding contained in the yard of the historic residence



Figure 16: The complex of 4 outbuildings, in varying stages of decay, related temporally to both the origin (sandstone foundations and mounds) and alteration (ruined brick and cement walling) of Site 1



Figure 17: General view of the complex of outbuildings related to Site 1



Figure 18: Remains of the sandstone wall; part of one of the original outbuildings located immediately west of Site 1

Site 2 comprise of a contemporary enclosure constructed from sandstone obtained from a historic structure originally located immediately south of the site. The contemporary site is characterized by randomly stacked stones, without formal layout plan. The enclosure is inferred to be used for livestock keeping by Manyatseng residents. The north of the site is typified by a relatively large monolithic sandstone piece, of no obvious functional purpose and may well be indicative of 1 of 2 of an original farm entrance demarcation, whether in its original position however remains elusive. To the south of the site a portion of a historic sandstone structure foundation is present. Building material for the contemporary enclosure is inferred to have been obtained from the historic structure. The historic foundations are currently only demarcated by one corner of an inferred rectangular structure (and associated structure mound remains), size estimations are thus impossible. No associated midden material was identified. The historic structure foundations most possibly represent a historic livestock enclosure.

Development is expected to be concentrated east of the site and is thus not expected to impact on the site.

☞ ***Site Significance & Recommendations:***

1. The contemporary component of Site 2, the livestock enclosure, does not comprise of a cultural heritage resource as defined and protected by the NHRA 1999.
2. The historic component of Site 2, foundation remains of a portion of a historic livestock enclosure, is on a Local scale of *Low Significance* and a *Generally Protected C* field rating: The site may be destroyed during the course of development without the developer having to comply with further archaeological mitigation requirements.

Development is however expected to be concentrated east of the site and will by implication not impact on the site. However, should development plans be altered or development require any physical impact on the site or immediate surrounds it is recommended that the site be destroyed without the developer having to comply with further archaeological mitigation requirements.



Figure 19: General view of Site 2, a contemporary enclosure inferred to be used for livestock keeping



Figure 20: View of Site 2 from the north with the monolithic sandstone in the foreground

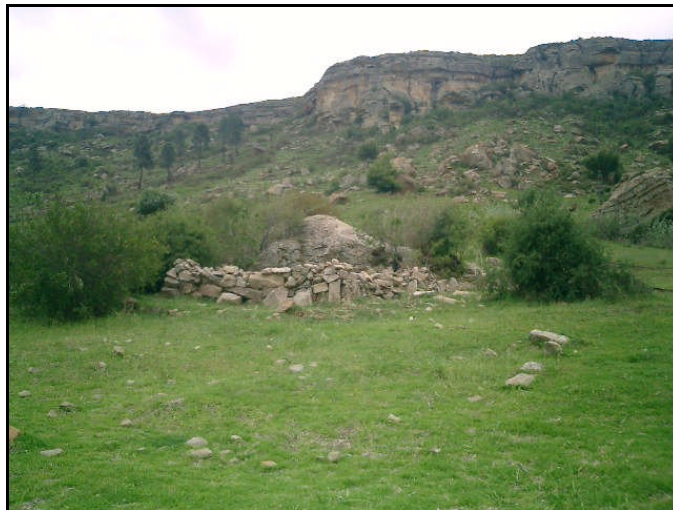


Figure 21: General view of Site 2 with rectangular foundation remains of the historic livestock enclosure in the foreground

2.4.1.3) SITE 3 (G1 & G2) – CONTEMPORARY GRAVEYARD

**S29°10'27.2"; E27°28'42.5"
S29°10'17.9"; E27°28'43.4"**

Site 3 represents a contemporary formal graveyard, containing in large graves post-dating 60 years of age. Two portions of the site (G1 and G2) are currently used. The graveyard is situated immediately adjacent to the proposed Extension 9 of the Manyatseng Township development impact area. The site is at present not fenced, with open access from all sides.

Development will not impact on the site. The site is not only earmarked for formal conservation, but continued use thereof as one of the Manyatseng cemeteries forms part of current development plans.

☞ *Site Significance & Recommendations:*

1. Site 3, the contemporary graveyard, does not comprise of a cultural heritage resource as defined and protected by the NHRA 1999. Development will not impact on the site; the site is earmarked for formal conservation and continued use. The site is culturally sensitive and the integrity thereof should be conserved at all cost during the construction phase of the development.



Figure 22: General view of the Site 3 graveyard, with 2 areas currently in use – area G1 in the foreground and area G2 at the foot of the hill in the background



Figure 23: General view of area G1 in the contemporary Site 3 graveyard



Figure 24: General view of area G2 in the contemporary Site 3 graveyard

2.4.2) CONCLUSION

Assessment of the roughly 180ha AIA assessed area focused on the approximate 90ha eastern portion on which the proposed Extension 9 of the Manyatseng Township development, Ladybrand, Free State, will directly impact. Three cultural heritage resources (Sites 1-3), inclusive of archaeological deposits / sites, 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 viewscapes as defined and protected by the NHRA 1999 were identified within the approximate 180ha AIA assessed area and immediate surrounds.

Site 1 (a historic farmstead and related outbuildings, currently occupied by Cecilia Tsoene and her family) and Site 2 (a contemporary enclosure and historic livestock enclosure foundations) are located within the 180ha AIA assessed area. Both sites are situated west of inferred direct impact by the proposed development.

Site 3 (a contemporary graveyard) is located immediately adjacent to the area earmarked for direct development impact. Formal conservation and continued use of the site is included as part of current development plans.

3) RECOMMENDATIONS

The proposed Extension 9 of the Manyatseng Township development, Ladybrand, Free State, will not directly impact on any cultural heritage resources as defined and protected by the NHRA 1999. Three cultural heritage resources (Sites 1-3) are however located in close proximity to the development area.

☞ **Recommendations:** It is recommended that, with reference to cultural heritage compliance as per the requirements of the NHRA 1999, the Extension 9 of the Manyatseng Township development proceeds as applied for provided the developer complies with the following requirements with regards to identified cultural heritage resources located in close proximity to the development area.

Site 1 – Historic Farmstead:

1. The contemporary component of Site 1 as residence of Cecilia Tsoene and her family; It is recommended that recommendations as per the Social Impact Assessment (SIA) / Public Consultation Process be complied with.
2. The historic component of Site 1, the historic farmstead and related outbuildings; Development is expected to be concentrated east of the site, implying conservation of the site. However, should development plans be altered or development require any physical impact on the site or immediate surrounds it is recommended that the developer applies for a *Site Destruction Permit* from the FSHRA prior to impact.

Site 2 – Contemporary Enclosure:

1. The historic component of Site 2, foundation remains of a portion of a historic livestock enclosure; Development is expected to be concentrated east of the site, implying conservation of the site. However, should development plans be altered or development require any physical impact on the site or immediate surrounds it is recommended that the site be destroyed without the developer having to comply with further archaeological mitigation requirements.

Site 3 – Contemporary Graveyard:

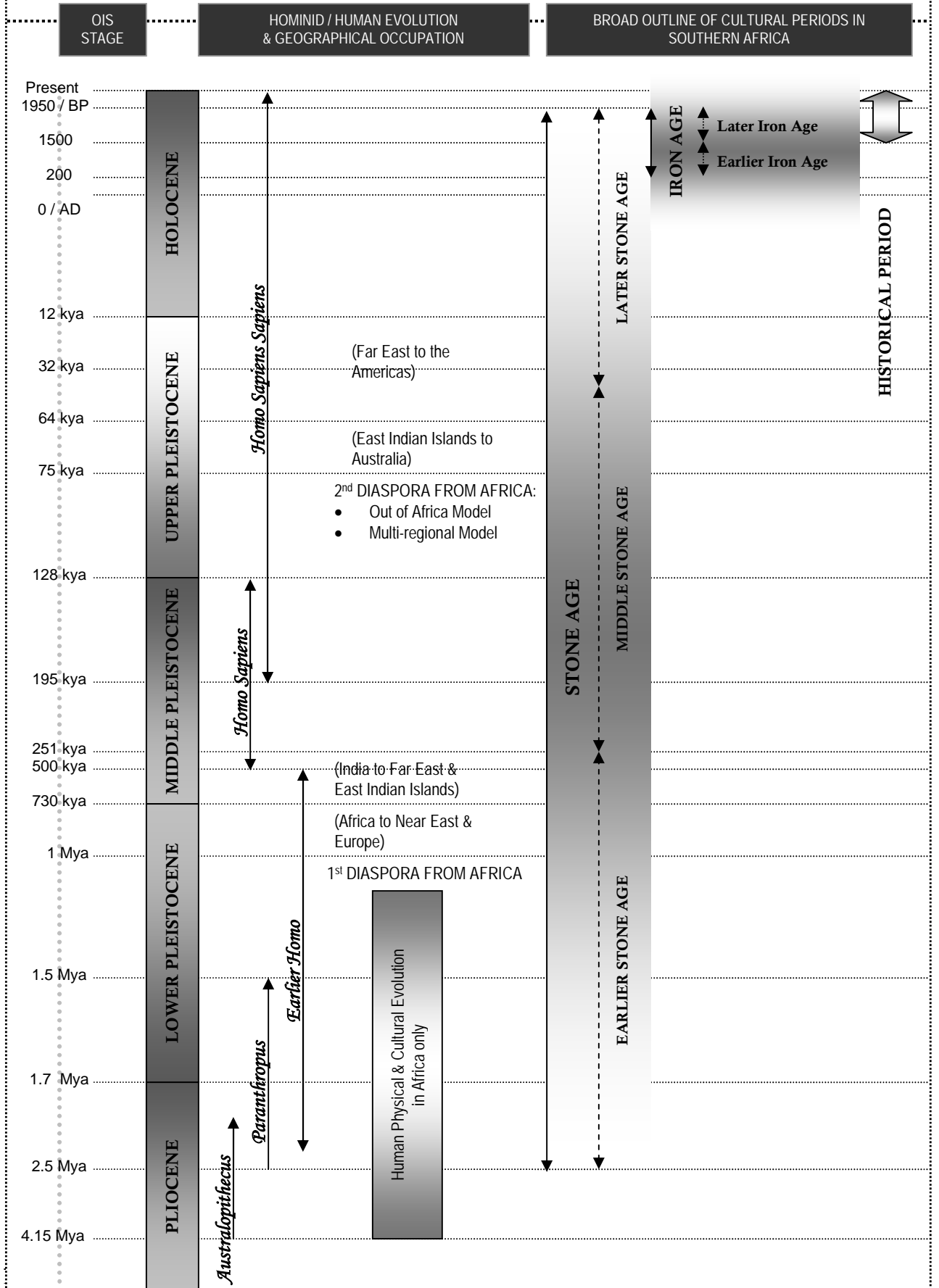
1. Conservation and continued use of the contemporary graveyard forms part of the current development plans. The integrity of the site should be conserved at all cost during the construction phase of the development.

(Should any sub-surface cultural heritage resources be encountered during the course of development the developer should immediately cease operation in the immediate vicinity and report the find to SAHRA / CRM archaeologist.)

4) REFERENCES CITED

1. Phethogo Consulting. 2007. *Proposed establishment of a new extension 9 in Manyatseng, Ladybrand*. Unpublished report.
2. South African Government. (No. 107) of 1998. *National Environmental Management Act*.
3. South African Government. (No. 25) of 1999. *National Heritage Resource Act*.
4. 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 (Southern Africa)



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.
- 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.