

# McGregor Museum Department of Archaeology



Heritage Impact Assessment of an area of  
proposed housing development and  
associated infrastructure in  
Kuruman, Northern Cape.

David Morris, McGregor Museum  
October 2010

# **Heritage Impact Assessment of an area of proposed housing development and associated infrastructure in Kuruman, Northern Cape.**

David Morris  
McGregor Museum, Kimberley  
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## **Introduction**

The McGregor Museum was contacted Bigen Africa Services and Envirobalance Solutions (through Shantel Pecku Tel: +27 (0)12 842 8732 Fax: +27 (0)12 843 9000/1 Mobile: +27 (0)83 289 7763 E-mail: shantel.pecku@bigenafrica.com) to carry out a phase 1 Heritage Impact Assessment at the site of proposed housing development with associated infrastructure in Kuruman, Northern Cape.

The site was visited on 4 August 2010. Observations made in the field, together with a review of relevant historical information, are presented, with recommendations, in this report.

Fieldnotes and photographs are lodged with the McGregor Museum, Kimberley.

## **The author of this report**

The author of this report is a professional archaeologist (MA, PhD candidate, University of the Western Cape) accredited as a Principal Investigator by the Association of Southern African Professional Archaeologists. He has worked as a museum archaeologist in the Northern Cape since 1985 and has been responsible for numerous scientific reports and published works on cultural resources management and research in the region. In addition, the author has a comprehensive knowledge of the province's history and built environment, and received recent UCT-accredited training at a workshop on Architectural and Urban Conservation: researching and assessing local (built) environments (S. Townsend, UCT). He is also Chairman of the Historical Society of Kimberley and the Northern Cape.

The author is independent of the organization commissioning this specialist input, and provides this heritage assessment (archaeology and colonial history) within the framework of the National Heritage Resources Act (No 25 of 1999).

The National Heritage Resources Act no. 25 of 1999 (NHRA) protects heritage resources which include archaeological and palaeontological objects/sites older than 100 years, graves older than 60 years, structures older than 60 years, as well as intangible values attached to places. The Act requires that anyone intending to disturb, destroy or damage such sites/places, objects and/or structures may not do so without a permit from the relevant heritage resources authority. This means that a Heritage Impact Assessment should be performed, resulting in a specialist report as required by the relevant heritage resources authority/ies to assess whether authorisation may be granted for the disturbance or alteration, or destruction of heritage resources.

Where archaeological sites and palaeontological remains are concerned, SAHRA at national level acts on an agency basis for the Provincial Heritage Resources Agency (PHRA) in the Northern Cape. Ngwao Bošwa ya Kapa Bokone (the PHRA in the Northern Cape) is responsible for the built environment and other colonial era heritage and contemporary cultural values.

## **DESCRIPTION OF THE AFFECTED ENVIRONMENT**

The environment to be developed is a buffer zone that resulted from socio-political imperatives in the twentieth century and hence is an artefact of South Africa's political geography. The most striking feature of it from a heritage perspective is the existence of a relatively 'forgotten' burial ground, and the traces of two generations of 'locations', the second of which preceded the removal of people to Mothibistad and (to a lesser extent) to the nearby Wrenchville.

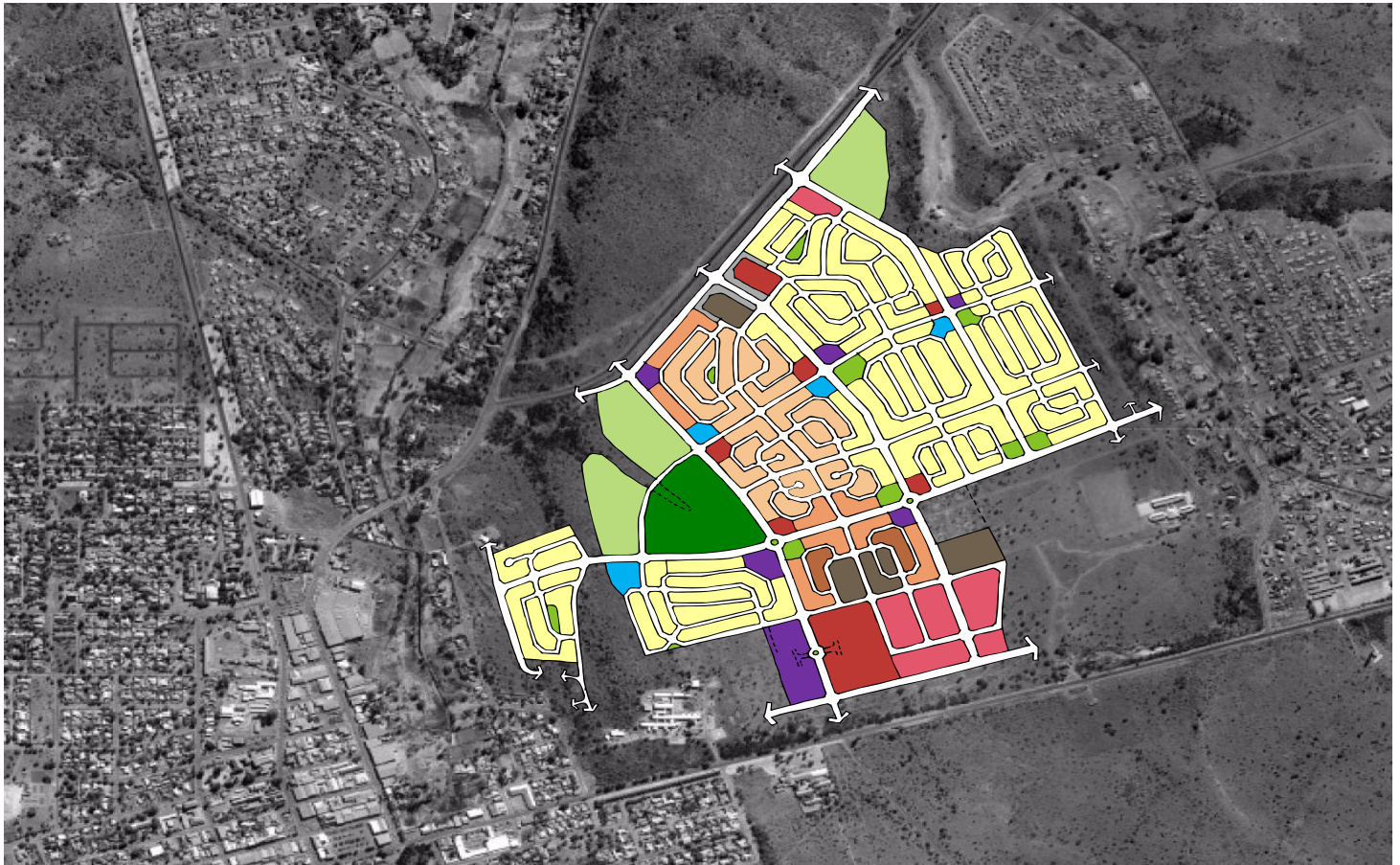
### **Description of heritage features of the region**

The Northern Cape has a wealth of precolonial archaeological sites (Beaumont & Morris 1990; Morris & Beaumont 2004). Archaeological sites in the region include the world renowned long-sequence Wonderwerk Cave and the major Tswana town and precolonial stone-walled settlements at Dithakong. More locally, the two shelters on the northern and southern faces of GaMohaana (in the Kuruman Hills north west of the town) contain Later Stone Age remains and rock paintings.

Historically, Kuruman boasts one of the longest trajectories of African-colonial interaction centred on the nearly two-century old Moffat Mission – what Comaroff and Comaroff characterize as a "long conversation". Locally, the 'Eye' and the water course

springing from it have been a focus of utilization and settlement and it was in its immediate vicinity that Kuruman, as town, evolved from the late nineteenth century.

The buffer zone which is the focus of the intended development (shown in the following map) is a product of the history of Kuruman, reviewed below.



### **Environmental issues and potential impacts**

Heritage resources including archaeological sites and colonial era features are in each instance unique and non-renewable resources. Area and linear developments such as those envisaged can have a permanent destructive impact on these resources. The objective of this assessment is to evaluate the sensitivity of such resources where present, to assess the significance of potential impacts on these resources and, if and where appropriate, to recommend no-go areas and measures to mitigate or manage said impacts.

The destructive impacts that are possible in terms of heritage resources would tend to be direct, once-off events occurring during the project construction phase. In the longer

term secondary impacts may occur as a result of expansion of any development, particularly in an urban context.

## **METHODOLOGY**

Key areas of the proposed development were inspected on foot. Observations of heritage traces are characterised below and evaluated relative to the recorded history of the area.

### **Assumptions and limitations**

It was assumed that, by and large in this landscape, with its moderately sparse vegetation and shallow soil profiles, some sense of the archaeological traces to be found in the area of proposed housing development would be readily apparent from surface observations. It was not considered necessary to conduct excavations as part of the assessment to establish the potential of sub-surface archaeology.

A proviso is routinely given that, should sites or features of significance be encountered during construction (this could include an unmarked burial or a high density of stone tools, for instance), specified steps are necessary (cease work, report immediately to relevant heritage authority).

The geology locally is Pre-Cambrian and lacking in features such as secondary travertine deposits and hence it is unlikely that palaeontological heritage (fossils) would occur or be impacted by the proposed activity.

### **Potentially significant impacts to be assessed**

Any area or linear, primary and secondary, disturbance of surfaces in the proposed housing development could have a destructive impact on heritage resources, where present. Where found, such resources may be so significant or so sensitive that no development (or development that leads to their preservation) should occur in the places where they occur. In other instances it may be possible to mitigate their disturbance or destruction by way of documentation and/or salvage following approval and permitting by the South African Heritage Resources Agency or, in the case of any built environment features, by Ngwao Bošwa ya Kapa Bokone (the Northern Cape Heritage Authority).

Disturbance of surfaces includes any construction: of a building, a road, erection of a power line, or any other *clearance* of, or *excavation* into, a land surface. In the event of archaeological or other heritage materials being present such activity would alter or destroy their context (even if the artefacts themselves are not destroyed, which is also obviously possible). Without context, archaeological and heritage traces are of much reduced significance. It is the contexts as much as the individual items that are protected by the heritage legislation.

A number of broad expectations/concerns were expressed for assessment. It was predicted that:

- Based on previous experience in the area, the gently undulating terrain away from features such as rock shelters and water sources is likely to include a generally low density and possibly widespread occurrence of 'off-site' Stone Age material.
- Traces of earlier episodes of Kuruman's urban development would be found.
- A burial ground was known to exist near the western edge of the area.
- Significant intangible heritage values may be attached to remaining traces of former 'location' spaces.
- The envisaged housing development could incorporate and enhance 'memory spaces' in this landscape.

### **Determining archaeological significance**

In addition to guidelines provided by the National Heritage Resources Act (Act No. 25 of 1999), a set of criteria based on Deacon (nd) and Whitelaw (1997) for assessing archaeological significance has been developed for Northern Cape settings (Morris 2000a). These criteria include estimation of landform potential (in terms of its capacity to contain archaeological traces) and assessing the value of any archaeological traces (in terms of their attributes or their capacity to be construed as evidence, given that evidence is not given but constructed by the investigator). These significance assessment criteria are appended in table form at the conclusion of this report. These criteria suggest generally low significance for precolonial archaeology in the area in question.



## OBSERVATIONS

The proposed housing development area was visited in August 2010. Historical records (e.g. Snyman 1992) provide important background relating to the evolution of the town of Kuruman, a history which gave rise to the buffer zone which is now to be incorporated (for some parts incorporated *again*) as urban space. In summary, observations can be reported in relation to predictions made prior to fieldwork (see above):

***A generally low density and possibly widespread occurrence of 'off-site' Stone Age material:*** Very few stone artefacts were noted. A previous survey immediately east of this site revealed even sparser traces of Stone Age material.



Artefacts found at 27°27'10.4" S 23° 26'22.8" E. Stone Age material occurs in extremely low density, much less than 1 per 10x10 m.

***A burial ground known to exist near the western edge of the area:*** During a site visit with the project team, Ms Angie Fotheringham guided us to the vicinity of the burial ground, in a wooded depression running more or less north-south near the western edge of the development area. The graveyard was found to extend over an area roughly between 27°27'11.8" S 23° 26'22.2" E and 27°27'19.2" S 23° 26'24.2" E. It consists of mainly unmarked graves, judged to be a few hundred in number, that were estimated to be at least half a century and up to a century old. The form of the graves is typical for African Christian interments in the region and of this era, namely plain cairns or more

simply a head stone and foot stone, or merely a head stone, sometimes with an oval ring of stones linking the head and foot of the grave as surface marker. In a small minority of cases, head stones are inscribed. Cement head stones are preserved in a few cases and one instance bears the traces of its manufacture in which cardboard was evidently used as part of the mould. In the few instances where there are inscriptions there are both Afrikaans (Coloured) and Tswana names, and dates include 1958 and 1964. It is possible that this was the burial ground originated to serve the community that originally dwelt at Gasegonyane (immediately west and east of the Eye prior to the establishment of the 'New Location' of 1916), or that it was begun to serve the said 'New Location' (1916). These are matters for conjecture at this point, but it is certain, from the dates inscribed on graves, that it was in use at the time of the post-1938 'New Location' (about 500 m to the east of what in due course was described as the 'Old Location'). The 'New Location' was abandoned at the time of the move to Mothibistad in 1963 and the last of the dated graves noted is inscribed '1964'.

This burial ground lies about 500 m north of the old Gasegonyane settlement near the Eye, about 500 m north west north of the 'Old Location' and about 900-1000 m north west of the 'New Location' which includes the ruins of a church.



Burial cairn





Child's grave with head stone and oval outline



Inscribed (broken) headstone





Burial date: 1964 – possibly the most recent of the interments here.



Cement headstone showing evidence of manufacture method.

**Traces of earlier episodes of Kuruman's urban development:** These are clearly visible in Google Earth images of the area under consideration.

Two former 'Locations' have left a footprint in the landscape which depict the twentieth century history of Kuruman and the workings of segregationist and, later, Apartheid trajectories (as well as social imperatives within Coloured and African communities of the day, as Snyman points out – 1992:107) which led, locally, to the development of racially separated urban areas including Vaaldraai (later Wrenchville) and Mothibistad, and ultimately the political entity known as Bophuthatswana. What remained here as part of this process, under the Group Areas Act, was a buffer zone immediately east of the white town. It is this buffer zone that is to be developed and within it lie the traces of two former 'Locations' as well as the burial ground referred to.





The Location traces to the west, partially built-over at the hospital, are what came to be referred to as the 'Old Location' which was established about 1916. The traces to the east are of what became known as the 'New Location' which resulted from a move from the 'Old Location' in 1938. The relevant history is set out in Snyman's (1992) *Kuruman: verloë pad na Afrika*.

In 1916 the Old Location was established for the African inhabitants of the Gasegonyane settlement near the Eye. The move was completed by 1918 (other Africans had moved from Gasegonyane to Mamoratwe). At the same time a Coloured



elite, assisted by the lawyer Henry Wrench, sought to establish a separate settlement further out (the name Wrenchville was attached to it in the 1960s – it was previously simply referred to as the Coloured Settlement or Vaaldraai or, to Tswana people, Ga-Selepe). A sum of £400 was given to African and Coloured households as compensation for the move to the 'Old Location'.

The 'New Location' was established in 1938. The population here nearly tripled in the 1950s. Service provision was poor and the municipality was reluctant to improve services when the option of moving the community to a projected new town of Mothibistad arose which would also establish the desired buffer zone of 1.6 km between Kuruman and trust ground. A decision in favour of the move was taken in consultation with the Department of Native Affairs in 1958. In the absence of unions and political organization at the time, comments Snyman (1992:198), community leadership acquiesced, in part in response to a promise of £4 000 compensation for households and in anticipation of possibly better living conditions in the new settlement. The Group Areas Act of 1952 was implemented in Kuruman by 1964 after the inhabitants of the 'New Location' had been moved.

What remains of these two townships are the ruins of flattened houses and other structures, with the only standing ruin that remains, in the former 'New Location', being the shell of a church.



Foundation of dwelling, northern end of 'New Location'





Shell of church – exterior and church bell (above), altar (below)



***Significant intangible heritage values may be attached to remaining traces of former 'location' spaces:*** It is not clear to what extent this is the case. To a large degree the burial ground may have come to be forgotten. Contemporary users of the



place use it in ways that are less than sensitive and respectful, as illustrated by the following photograph.



Nearby, the wooded area is a congregation point for socialising (K. Msawula posed for the photograph).





It might be expected that the remains of the church would be regarded with some respect but there is clearly a subset of the community who treat its walls with some contempt.

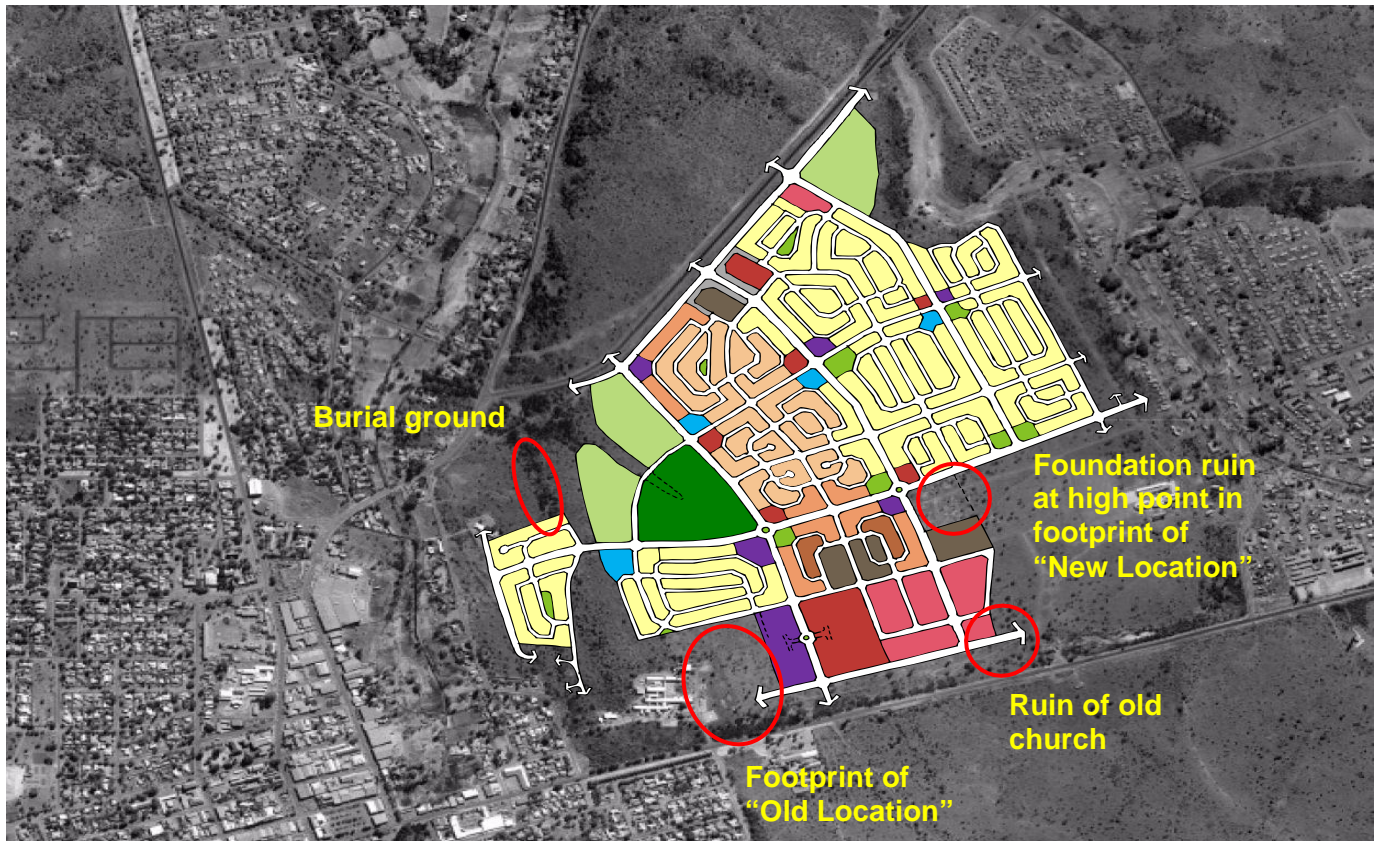


***The envisaged housing development could incorporate and enhance ‘memory spaces’ in this landscape:*** The challenge for the new housing development project is to determine if there are ways to incorporate parts of what remains of the older episodes in Kuruman’s lower income urban geography, perhaps in the form of memory spaces or park areas.

1. The burial ground may well be the easiest instance and the recommendation is that this be marked off and improved appropriately.
2. It is noted that parts of the Old and New Locations fall outside of the proposed footprint of the new housing development and in the case of the New Location portion it includes one of the better examples of a foundation ruin, situated on high ground. It is possible that a community-based archaeological project could be carried out here to recover artefacts and provide illustrated open-air museum-like information panels that would have an educational function for future generations in Kuruman.

The shell of the church may likewise be an opportunity for creative architectural transformation, perhaps in the form of a memorial, but this would be subject to the feasibility of preserving the remains of an already badly damaged ruin which is exposed to the elements.

It is recommended that the developer should look into the possibility of incorporating these elements from the 'New Location' as public spaces that encapsulate this part of the history of Kuruman.



### Summing up – recommendations

Extremely limited Stone Age material was found in the area surveyed, comparable to findings in an adjacent area examined previously (Morris & Msawula 2010). From an archaeological perspective the significance of Stone Age occurrences is low.

The burial ground which is located in a wooded depression on the western side of the site is of high significance and sensitivity. It would be possible, through a costly public process and with all necessary permissions, to have these graves moved but the recommendation is that it is preferable to preserve them *in situ*, undisturbed, but cleaned up. It is suggested that this area may be enhanced as a park-like feature and valued heritage space for this part of Kuruman.

Two former 'Locations' have left a footprint in the landscape which depict the twentieth century history of Kuruman and the workings of segregationist and, later, Apartheid policies and the way these were expressed geographically. It is recommended that ways be investigated to incorporate elements of these remaining traces as public memory spaces for Kuruman. Two features that might be considered for imaginative inclusion are one of the dwelling ruins (at 27°27'09.5" S 23° 26'50.9" E) and the ruin of the church (at 27°27'28" S 23° 27'00" E) which was not completely demolished at the time and still stands as a tangible reminder of the settlement at the southern end of the proposed development area.

Subsurface finds of significance may be made during housing construction – these could include unmarked graves or features connected with the former 'locations'. In the event that any archaeological or heritage sites/traces/features of note should be found either at the surface or sub-surface in the course of housing development, work should halt and SAHRA and/or Ngwao Bošwa ya Kapa Bokone be contacted so that, inter alia, an archaeologist and/or heritage specialist is consulted to recommend any necessary mitigation measures.

## **Acknowledgements**

Koot Msawula assisted with fieldwork. Angie Fotheringham Shantel Pecku. Delays with compilation of this report resulted from illness as well as strike action having temporary shut down of the museum at the time that project work was scheduled in August and September.

## **References**

Beaumont, P.B. & Morris, D. 1990. *Guide to archaeological sites in the Northern Cape*. Kimberley: McGregor Museum.

Morris, D. & Beaumont, P. 2004. *Archaeology in the Northern Cape: some key sites*. Kimberley: McGregor Museum.

Snyman, P.H.R. 1992. *Kuruman: verloë pad na Afrika*. Pretoria: HSRC.



## **APPENDIX 1: Tables for determining archaeological significance**

In addition to guidelines provided by the National Heritage Resources Act (Act No. 25 of 1999), a set of criteria based on Deacon (nd) and Whitelaw (1997) for assessing archaeological significance has been developed for Northern Cape settings (Morris 2000a). These criteria include estimation of landform potential (in terms of its capacity to contain archaeological traces) and assessing the value of any archaeological traces (in terms of their attributes or their capacity to be construed as evidence, given that evidence is not given but constructed by the investigator).

### ***Estimating site potential***

Table 1 (below) is a classification of landforms and visible archaeological traces used for estimating the potential of archaeological sites (after J. Deacon nd, National Monuments Council). Type 3 sites tend to be those with higher archaeological potential, but there are notable exceptions to this rule, for example the renowned rock engravings site Driekopseiland near Kimberley which is on landform L1 Type 1 – normally a setting of lowest expected potential. It should also be noted that, generally, the older a site the poorer the preservation, so that sometimes *any* trace, even of only Type 1 quality, can be of exceptional significance. In light of this, estimation of potential will always be a matter for archaeological observation and interpretation.

### ***Assessing site value by attribute***

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 (given in the second column of the table). 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.

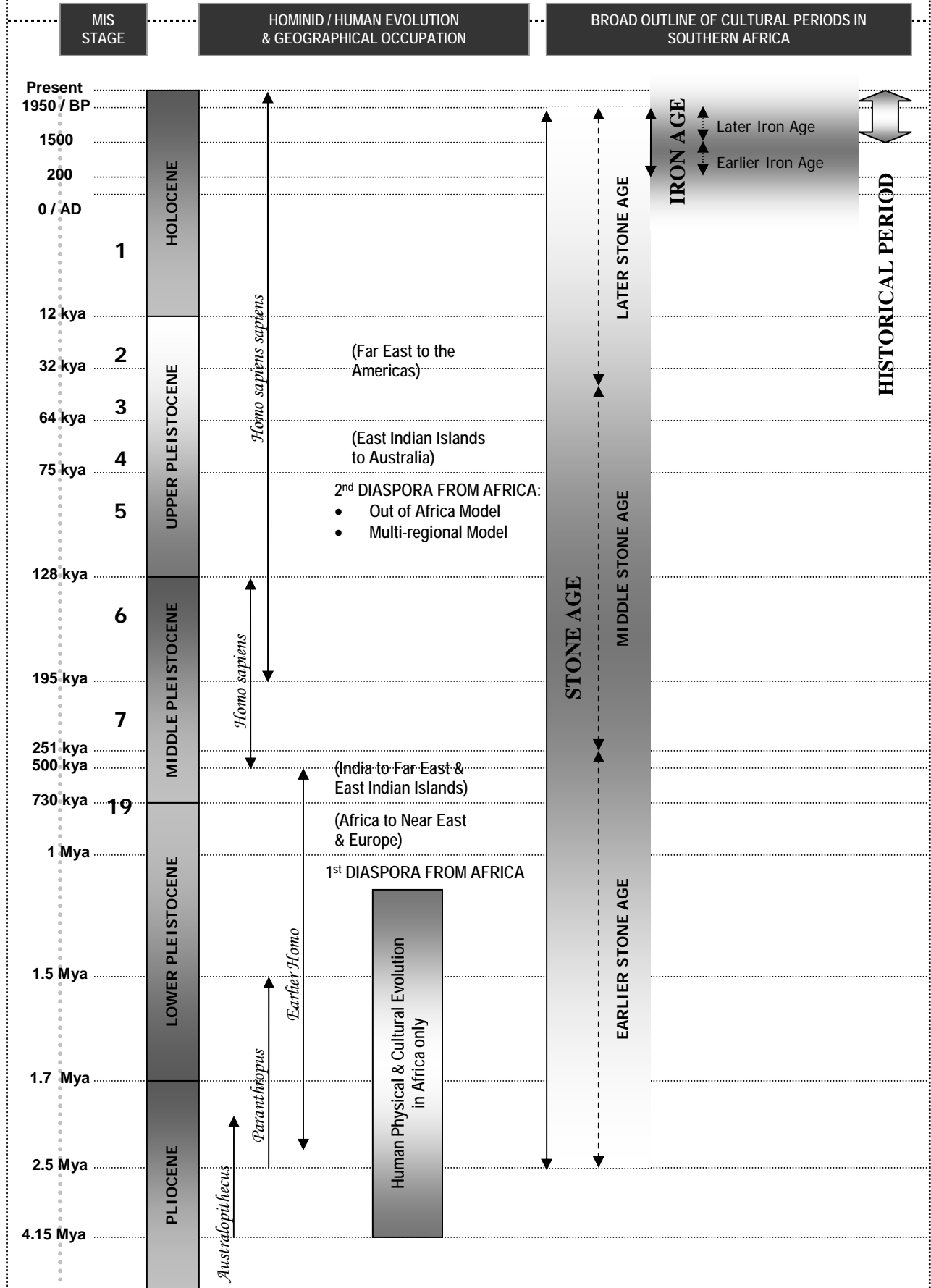
Table 1. Classification of landforms and visible archaeological traces for estimating the potential for archaeological sites (after J. Deacon, National Monuments Council).

<b>Class</b>	<b>Landform</b>	<b>Type 1</b>	<b>Type 2</b>	<b>Type 3</b>
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
<b>Class</b>	<b>Archaeological traces</b>	<b>Type 1</b>	<b>Type 2</b>	<b>Type 3</b>
A1	Area previously excavated	Little deposit remaining	More than half deposit remaining	High profile site
A2	Shell or bones visible	Dispersed scatter	Deposit <0.5 m thick	Deposit >0.5 m thick; 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)

<b>Class</b>	<b>Attribute</b>	<b>Type 1</b>	<b>Type 2</b>	<b>Type 3</b>
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

# Schematic Human Physical and Cultural Evolution in 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 m<sup>2</sup> in extent; or
    - ii. involving three or more existing erven or subdivisions thereof; or
    - iii. involving three or more erven or subdivisions thereof which have been consolidated within the past five years; or
    - iv. the costs which will exceed a sum set in terms of regulations by SAHRA or a provincial heritage resources authority;
  - d) the rezoning of a site exceeding 10 000 m<sup>2</sup> in extent; or
  - e) any other category of development provided for in regulations by SAHRA or a provincial heritage resources authority,
- must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.
- 2) The responsible heritage resources authority must, within 14 days of receipt of a notification in terms of subsection 1) –
- a) if there is reason to believe that heritage resources will be affected by such development, notify the person who intends to undertake the development to submit an impact assessment report. Such report must be compiled at the cost of the person proposing the development, by a person or persons approved by the responsible heritage resources authority with relevant qualifications and experience and professional standing in heritage resources management; or
  - b) notify the person concerned that this section does not apply.
- 3) The responsible heritage resources authority must specify the information to be provided in a report required in terms of subsection 2a) ...
- 4) The report must be considered timeously by the responsible heritage resources authority which must, after consultation with the person proposing the development decide –
- a) whether or not the development may proceed;
  - b) any limitations or conditions to be applied to the development;

- c) what general protections in terms of this Act apply, and what formal protections may be applied, to such heritage resources;
- d) whether compensatory action is required in respect of any heritage resources damaged or destroyed as a result of the development; and
- e) whether the appointment of specialists is required as a condition of approval of the proposal.

## **APPOINTMENT AND POWERS OF HERITAGE INSPECTORS**

### **Section 50**

- 7) Subject to the provision of any other law, a heritage inspector or any other person authorised by a heritage resources authority in writing, may at all reasonable times enter upon any land or premises for the purpose of inspecting any heritage resource protected in terms of the provisions of this Act, or any other property in respect of which the heritage resources authority is exercising its functions and powers in terms of this Act, and may take photographs, make measurements and sketches and use any other means of recording information necessary for the purposes of this Act.
- 8) A heritage inspector may at any time inspect work being done under a permit issued in terms of this Act and may for that purpose at all reasonable times enter any place protected in terms of this Act.
- 9) Where a heritage inspector has reasonable grounds to suspect that an offence in terms of this Act has been, is being, or is about to be committed, the heritage inspector may with such assistance as he or she thinks necessary –
  - a) enter and search any place, premises, vehicle, vessel or craft, and for that purpose stop and detain any vehicle, vessel or craft, in or on which the heritage inspector believes, on reasonable grounds, there is evidence related to that offence;
  - b) confiscate and detain any heritage resource or evidence concerned with the commission of the offence pending any further order from the responsible heritage resources authority; and
  - c) take such action as is reasonably necessary to prevent the commission of an offence in terms of this Act.

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.