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PHASE 1 ARCHAEOLOGICAL IMPACT ASSESSMENT

**DEVELOPMENT OF THE KOEDOESKLOOF LANDFILL SITE,  
UITENHAGE, EASTERN CAPE, SOUTH AFRICA**

DATE: 2010-12-02

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## 1) TERMS OF REFERENCE

FieldWork and Terrceo Consulting have been appointed by Jaffares and Green Consulting Engineers on behalf of the project proponent, the Nelson Mandela Bay Municipality (NMBM), to undertake the license application and the Environmental Impact Assessment (EIA) process for the proposed *Development of the Koedoeskloof Landfill Site* between Despatch and Uitenhage in the Eastern Cape. ArchaeoMaps Archaeological Consultancy has been appointed by FieldWork and Terreco Consulting to conduct the Phase 1 Archaeological Impact Assessment (AIA) as specialist sub-section to the EIA.

### 1.1) *Development Location, Details & Impact*

**PROJECT LOCALITY:** The proposed *Development of the Koedoeskloof Landfill Site* project affects 2 parcels of land namely Erven 320/1 and 320/2, Uitenhage. Erf 320/1 is municipally owned while Erf 320/2 is in private ownership; negotiations for municipal acquisition are currently underway. The Koedoeskloof landfill study site (Erf 320/1 and 320/2, Uitenhage) is located roughly 4km east of Uitenhage and 3km north of Despatch in the Nelson Mandela Bay Municipal Area, Eastern Cape. The site is accessible via the MR461 that turns off the R333 linking Uitenhage and Despatch [1:50,000 map reference – 3325DD] (FieldWork & Terreco 2010).

**PURPOSE OF THE DEVELOPMENT:** The Koedoeskloof landfill site comprises one of two large general landfill sites in the NMBM. The site received waste from domestic, commercial and industrial sources including general solid wastes as well as oil-based liquid wastes which are disposed of in a separate liquid cell. The site is permitted to operate as a Class 1 and Class 2 Waste Disposal Site in terms of Section 20 of the Environmental Conservation Act, Act No 73 of 1989 (ECA 1989). The approximate 50ha site however only provides sufficient capacity for solid waste until 2015. The current proposal, the *Development of the Koedoeskloof Landfill Site* aims to address projected volumes of solid waste until 2055 by extending the existing 50ha site to an approximate 257ha area, accommodating operational capacity until 2055. An 800m buffer zone will be maintained around the expanded site and stormwater channels will be constructed to divert stormwater around the site, replacing the central drainage area. Alternatively a drainage culvert will be constructed down the centre of the existing site to create an additional waste cell on top of the culvert, which will extend use of the site at least until 2034.

**DEVELOPMENT IMPACT:** Development impact can be described as localized but total; implying the loss of all surface and sub-surface heritage resources situated within the approximate 275ha area comprising the proposed *Development of the Koedoeskloof Landfill Site*, Erven 320/1 and 320/2, Uitenhage.



Figure 1: Uitenhage and Despatch, Eastern Cape

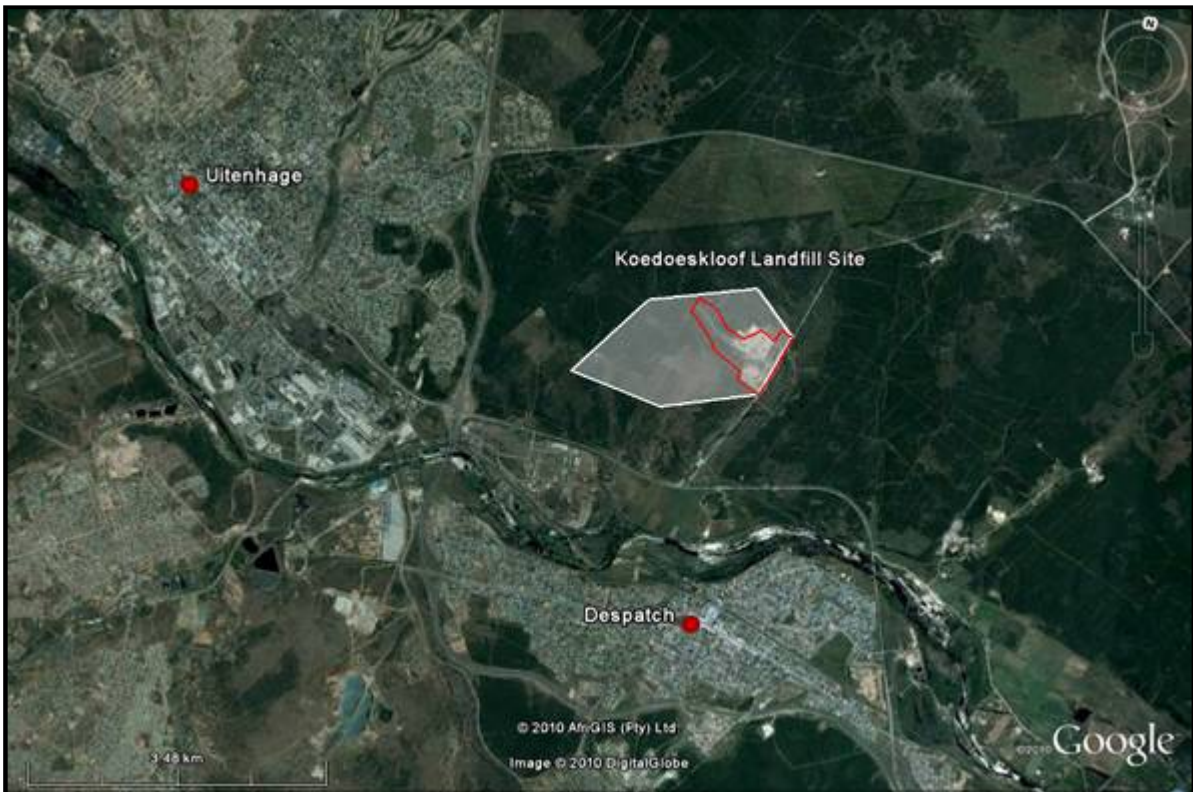


Figure 2: General locality of the Koedoeskloof Landfill Site (current boundary – red; proposed boundary – white) in relation to Uitenhage and Despatch.



Figure 3: Close-up of the proposed Development of the Koedoeskloof Landfill Site study area

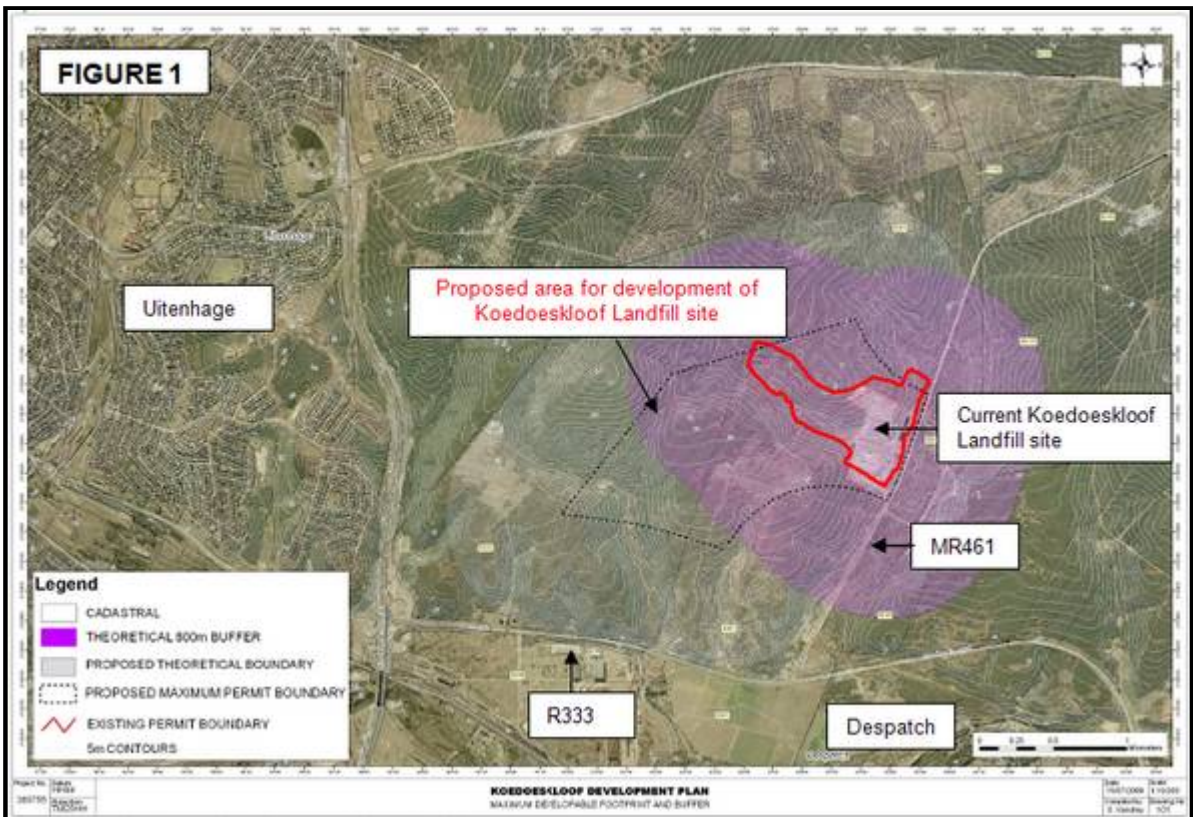


Figure 4: Development of the Koedoeskloof Landfill Site (FieldWork & Terreco 2010)

## 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 comprises one of three parts of the Heritage Impact Assessment (HIA) for purposes of development compliance to requirements set out in the NHRA 1999, being:

- 1) The Palaeontological Impact Assessment (PIA);
- 2) The Archaeological Impact Assessment (AIA); and
- 3) The Socio-cultural Impact Assessment (SCIA).

The Phase 1 AIA was requested as specialist sub-section to the HIA for the developments' Environmental Impact Assessment (EIA) and Environmental Management Plan (EMP) in compliance with requirements of the National Environmental Management Act, No 107 of 1998 (NEMA 1998), the NEMA 2<sup>nd</sup> Amendment Act, No 62 of 2008 (NEMA 2008) and the NEMA Regulations (2006 & 2010), and the NHRA 1999 and NHRA Regulations (2000 & 2002).

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, 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.
- No socio-cultural consultation was conducted with the aim to identify intangible heritage resources or sites of cultural significance associated with oral histories. Comments on potential socio-cultural aspects are included in the AIA section of the report.

### 2.2) *Methodology & Assessor Accreditation*

The Phase 1 AIA was conducted over a 2 day period (2010-11-26 to 27) by one archaeologist and assisted by local resident Anthony Sokwe. The assessment was done by foot and limited to a Phase 1 surface survey; no excavation or sub-surface testing was done. GPS co-ordinates were taken with a Garmin GPSmap 60CSx GPS (Datum: WGS84). Photographic documentation was done with a Pentax K20D camera. A combination of Garmap and Google Earth software was used in the display of spatial information.

The assessment was done by Karen van Ryneveld (ArchaeoMaps):

- Qualification: MSc Archaeology (2003) WITS University.
- Accreditation:
  1. 2004 – Association of Southern African Professional Archaeologists (ASAPA) – Professional Member.
  2. 2005 – ASAPA CRM Section: Accreditation – Field Director (Stone Age, Iron Age, Colonial Period).
  3. 2010 – ASAPA CRM Section: Accreditation – Principle Investigator (Stone Age).

Karen van Ryneveld is a SAHRA listed CRM archaeologist.

Archaeological and cultural heritage site significance assessment and associated mitigation recommendations were done according to the system prescribed by SAHRA (2007).

SAHRA ARCHAEOLOGICAL AND CULTURAL HERITAGE SITE SIGNIFICANCE ASSESSMENT			
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 1:** SAHRA archaeological and cultural heritage site significance assessment

### 2.3) Coverage and Gap Analysis

The Phase 1 AIA focused on the approximate 257ha area comprising the *Development of the Koedoeskloof Landfill Site* study area. Assessment was however extended slightly north and south of the proposed development demarcation for purposes of interpretation.

Visibility across the assessment area did vary, but was in general characterized by thick Sundays Valley Thicket, often forcing assessment to be limited to existing gravel roads and tracks. Dense vegetation were in places intersected by more open areas and towards the north of the Koedoeskloof study site former agricultural practices provided for a more open landscape for purposes of a general interpretation.

### 2.4) Phase 1 AIA Assessment Findings

The Phase 1 AIA covered an approximate 800ha area including the proposed 257ha *Development of the Koedoeskloof Landfill Site* study area. Four (4) classes of cultural heritage resources were identified, not all of which are formally protected under the NHRA 1999 and including:

1. **Contemporary Resources:** A low density of contemporary resources, residential and business, characterize the general assessment area, primarily centered along the road network but including farmsteads situated towards the interior. Identified contemporary resources (none of which are associated with oral histories or intangible heritage sites), are not formally protected under the NHRA 1999. A single identified contemporary resource situated within the proposed *Development of the Koedoeskloof Landfill Site* study area, Site C1, is reported on primarily for purposes of clarity regarding exemption from heritage compliance requirements.
2. **Graves / Cemeteries:** No graves or cemeteries were identified during the Phase 1 AIA. Local residents however reported on graves or an informal cemetery located towards the north-east of the assessment area (Area G1), more than 1km north of the extended landfill site boundary. Locality of the site could not be pointed out by residents and the site could not be located during the Phase 1 AIA. The possibility of graves being situated within the general area does call for caution. Should



any graves or human remains be encountered during the course of development the developer should immediately alert both the police and SAHRA / an ASAPA accredited CRM archaeologist. The process associated with identification of human remains post-dating 60 years of age are managed by the police while the process associated with human remains pre-dating 60 years of age are managed by SAHRA under the NHRA 1999 and in accordance with requirements of the Human Tissues Act, Act No 65 of 1983 (HTA 1983) and the Human Tissues Amendment Act, Act No 51 of 1989 (HTAA 1989).

3. **Colonial Period Resources:** Two (2) Colonial Period sites (Sites BS1 & BS2) identified to the south of the proposed *Development of the Koedoeskloof Landfill Site* are testimony to early colonial occupation of the area. Both sites comprise of Built Structures pre-dating 60 years of age and are formally protected under the NHRA 1999. Neither of the sites will be impacted on by the development; both will thus be conserved. Both sites are formally fenced with access gates, thus complying with SAHRA *Minimum Site Conservation Standards*; and
4. **Stone Age Resources:** A low density of Middle Stone Age (MSA) artefacts were identified amongst raw material outcrops characterizing the southern portion of the Koedoeskloof study site and the assessment area immediately south thereof. A preliminary general date of approximately 250kya can be assigned to the deposits. Particularly low quantities of artefacts together with poor typology and technology does not warrant further investigation (Phase 2 archaeological mitigation) prior to development. The presence of artefacts does however indicate pre-colonial occupation of the greater Uitenhage / Despatch area.

**GENERAL OBSERVATIONS:** Thick Sundays Valley Thicket characterized the majority of the assessment area, greatly hampering visibility, across large portions of the assessment area restricted to cleared paths and tracks. The variety of resources identified across the general area is however interpreted as a fair representation of past successive cultural activities across the terrain ranging from the Stone Age to contemporary times.



**Figure 5:** The Phase 1 AIA assessment area (white outline) in relation to the proposed Koedoeskloof extension area (white fill) and the current Koedoeskloof landfill site (red outline)



**Figure 6:** Phase 1 AIA assessment findings



**Figure 7:** The Koedoeskloof landfill site



**Figure 8:** View of the Koedoeskloof landfill site towards the north-west



**Figure 9:** General view over the western part of the assessment area



**Figure 10:** Assessment were in large concentrated along cleared tracks due to thick vegetation



**Figure 11:** Cleared vegetation towards the north of the Koedoeskloof study site provided for better visibility and general interpretation



**Figure 12:** General view of the northern part of the assessed area with a contemporary residential ruin and informal residence visible

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#### 2.4.1) Site C1 – Contemporary (Homestead) – S33°46'26.0"; E25°27'45.8"

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Site C1, situated at S33°46'26.0; E25°27'45.8", does not comprise of an archaeological and cultural heritage resource as defined and protected under the NHRA 1999. The site is reported on here due to its locality within the proposed *Development of the Koedoeskloof Landfill Site* study area. Ruined structural remains, livestock camps and other farming infrastructure post-dates 60 years of age; application to or approval from SAHRA is not necessary prior to destruction of the site in lieu of the development. Extension of the Koedoeskloof landfill site will require destruction of Site C1.

**RECOMMENDATIONS:** Site C1 constitutes a contemporary cultural heritage resource post-dating 60 years of age and by implication not formally protected under the NHRA 1999. A SAHRA site significance rating is not applicable to the site. Extension of the Koedoeskloof landfill site will require destruction of the site; destruction is not subject to SAHRA application or approval.



**Figure 13:** General view of the C1 area



**Figure 14:** Contemporary cultural remains at C1 are not protected under the NHRA 1999

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#### 2.4.2) Area G1 – Contemporary / Colonial Period (Graves) – North-eastern part of AIA assessment area

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It is believed by residents of the northern part of the assessment area, north of the *Development of the Koedoeskloof Landfill Site* study area, that graves or an informal cemetery is located towards the north-east of the property. However, residents could not point out the locality of the graves and no graves were located during assessment of the area. The general area should be designated as ‘sensitive’ – but with the extended landfill boundary being more than a kilometer south of the ‘sensitive’ area the possibility of graves will not affect the proposed development.

**RECOMMENDATIONS:** Graves / informal cemetery may well be present in Area G1. The area should be demarcated as ‘sensitive’. (A SAHRA Site Significance Rating would only be applicable upon location of the site). *Development of the Koedoeskloof Landfill Site*, situated more than a kilometer south will not impact on the ‘sensitive’ area.



**Figure 15:** General view of the north-eastern part of the AIA assessment area where graves may well be present – 1



**Figure 16:** General view of the north-eastern part of the AIA assessment area where graves may well be present - 2

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#### 2.4.3) Site BS1 – Colonial Period (Homestead) – S33°46'54.8"; E25°26'28.9"

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Site BS1, the Hopgoode Homestead situated at S33°46'54.8"; E25°26'28.9", comprises of a Built Structure pre-dating 60 years of age and by implication formally protected under the NHRA 1999. The main farmhouse, related farming infrastructure and a number of outbuildings including workers residences located slightly east and west of the homestead proper are still in use, with component parts thereof particularly well maintained. The site is situated approximately 900m south-west of the proposed landfill extension boundary and will not be impacted on by development. Landowners were not available for consultation during the time of the assessment. No additional information could be obtained regarding the resource.

**RECOMMENDATIONS:** Site BS1 comprises of a Built Structure pre-dating 60 years of age, thus formally protected under the NHRA 1999. The site is ascribed a SAHRA *Medium Significance* and a *Generally Protected B* field rating. The site, being situated more than 900m south-west of the proposed landfill extension boundary will not be impacted on by development; the site will formally conserved. Current conservation measures (formal fence with access gate) comply with SAHRA *Minimum Site Conservation Standards*.



**Figure 17:** General view of the Site BS1 farmhouse



**Figure 18:** Outbuildings and related farming infrastructure at Site BS1

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#### 2.4.4) Site BS2 – Colonial Period (Workers’ Village) – S33°47’02.3”; E25°27’10.8”

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Site BS2, inferred to represent the original Hopgoode Worker’s Village, is situated at S33°47’02.3”; E25°27’10.8” on a municipal owned portion of the study site, currently leased to William Sokwe. The site, comprising of 7 workers residences, all in a fair state of decay, pre-dates 60 years of age and is by implication formally protected under the NHRA 1999. No associated Colonial Period middens or cemeteries were found in association with the general site terrain. The site is situated approximately 700m south of the proposed landfill extension boundary and will not be impacted on by development. Mr. Sokwe could not assist with additional information regarding the origin or history of the site.

**RECOMMENDATIONS:** Site BS2 comprises of Built Structures pre-dating 60 years of age. The site is by implication formally protected under the NHRA 1999. The site is ascribed a SAHRA *Medium Significance* and a *Generally Protected B* field rating. The site is situated approximately 700m south of the proposed landfill extension boundary will not be impacted on by development; the site will formally conserved. Current conservation measures (formal fence with access gate) comply with SAHRA *Minimum Site Conservation Standards*.



**Figure 19:** One of the workers village residences from Site BS2



**Figure 20:** General view of the Site BS2 workers village



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#### 2.4.5) Area S1 – Stone Age (Middle Stone Age) – Southern part of study site and AIA assessment area

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The southern part of the proposed *Development of the Koedoeskloof Landfill Site* study area and the extended assessment area towards the south thereof, generally characterized by fairly hilly terrain and thick vegetation, is typified by a particularly low density of Middle Stone Age (MSA) artefacts identified primarily within cleared, scraped access roads. Artefacts were identified amongst, in places, high concentrations of raw material. Artefact quantities were particularly low with approximate ratios (artefacts: m<sup>2</sup>) of 1:25 being the highest recorded. Typical MSA flakes and cores were typologically and technologically of an inferior quality.

**RECOMMENDATIONS:** Area S1 comprises of an archaeological Stone Age site, as defined and protected under the NHRA 1999. Particularly low artefact ratios together with inferior typology and technology designate the site a *SAHRA Low Significance* and a *Generally Protected C* field rating. It is recommended that the site be destroyed in lieu of the development without the developer having to apply for a SAHRA Site Destruction Permit.



**Figure 21:** MSA artefacts were identified amongst raw material in scraped road across the southern part of the study site and extended assessment area



**Figure 22:** MSA artefacts from Area S1

### 3) CONCLUSION AND RECOMMENDATIONS

It is recommended that, with reference to cultural heritage compliance requirements as per the NHRA 1999, the proposed *Development of the Koedoeskloof Landfill Site* to be situated on an approximate 257ha area comprising portions of Erven 320/1 and 320/2, Uitenhage, Eastern Cape, proceeds as applied for provided the developer complies with the following requirements:

Two (2) identified cultural resources will directly be impacted on by the Koedoeskloof development:

1. One (1) archaeological or cultural heritage resource, as defined and protected under the NHRA 1999, was identified situated within the *Development of the Koedoeskloof Landfill Site* study area. The site (Area S1) constitutes a low density MSA archaeological site. The site is assigned a SAHRA *Low Significance* and *Generally Protected C* field rating. It is recommended that the site be destroyed in lieu of the development without the developer having to apply for a SAHRA *Site Destruction Permit*.
2. A contemporary homestead (Site C1) is situated within the proposed extended landfill site boundary. The site is reported on here for purposes of clarity regarding heritage compliance requirements. The site post-dates 60 years of age and is not formally protected under the NHRA 1999. Destruction of the site is not subject to application or approval from SAHRA.

Three (3) cultural resources (Sites BS1, BS2 and Area G1) were located in proximity to the proposed *Development of the Koedoeskloof Landfill Site* study area:

1. Sites BS1 and BS2 both constitute Built Structures pre-dating 60 years of age: Both sites are formally protected under the NHRA 1999. The sites are situated between 700-900m from the Koedoeskloof study site and will not be impacted on by development. Both sites are at present fenced, complying with SAHRA *Minimum Site Conservation Standards*.
2. Graves are believed by local residents to be present in the vicinity of Area G1. However, the locality of the site could not be pointed out, neither could it be located during field assessment. Area G1 is situated more than 1km north of the proposed Koedoeskloof study site – Area G1 will not be impacted on by the development. It is recommended that Area G1 be demarcated as a 'sensitive' area for planning and management purposes.

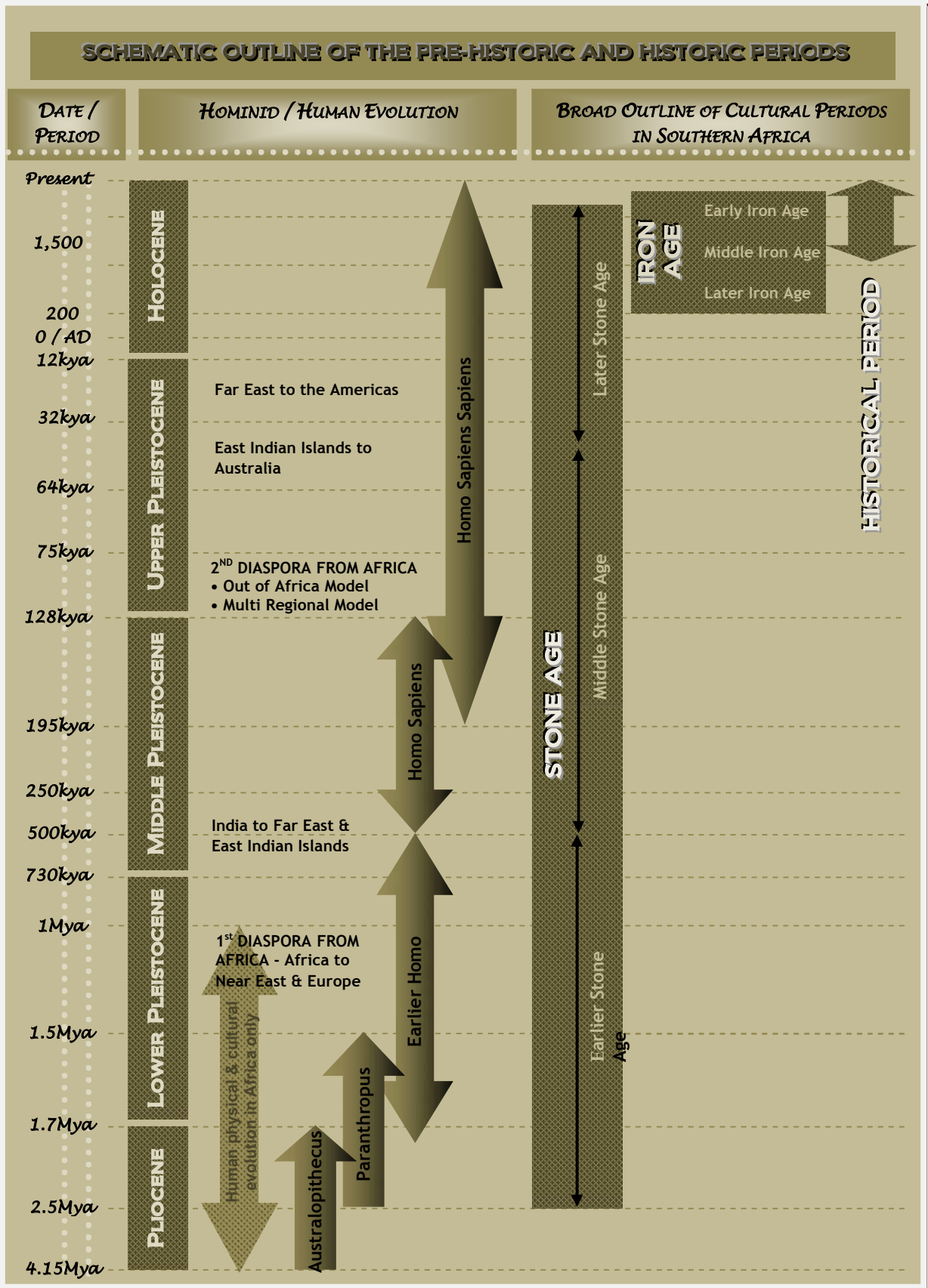
**NOTE:** Should any archaeological or cultural heritage resources as defined and protected by the NHRA 1999 and not reported on in this report be identified during the course of development the developer should immediately cease operation in the vicinity of the find and report the site to SAHRA / ASAPA accredited CRM archaeologist.

DEVELOPMENT OF THE KOEDOESKLOOF LANDFILL SITE					
ERVEN 320/1 AND 320/2, UITENHAGE, EASTERN CAPE					
MAP SITE CODE	SITE	TYPE / PERIOD	DESCRIPTION	CO-ORDINATES	PRELIMINARY RECOMMENDATIONS
<b>ASSESSMENT AREA</b>					
1	-	-	-	S33°47'08.7"; E25°27'45.1"	N/A
2	-	-	-	S33°47'01.7"; E25°27'09.0"	N/A
3	-	-	-	S33°46'30.9"; E25°27'22.0"	N/A
4	-	-	-	S33°46'29.3"; E25°27'03.3"	N/A
5	-	-	-	S33°46'25.5"; E25°26'57.1"	N/A
6	-	-	-	S33°45'35.0"; E25°27'13.2"	N/A
7	-	-	-	S33°45'38.8"; E25°26'55.9"	N/A
8	-	-	-	S33°44'56.2"; E25°27'27.8"	N/A
9	-	-	-	S33°44'58.7"; E25°29'44.6"	N/A
10	-	-	-	S33°45'31.7"; E25°28'36.5"	N/A
<b>DEVELOPMENT OF THE KOEDOESKLOOF LANDFILL SITE STUDY AREA</b>					
KA	-	-	-	S33°46'40.4"; E25°27'28.1"	N/A
KB	-	-	-	S33°46'32.8"; E25°26'44.9"	N/A
KC	-	-	-	S33°46'01.7"; E25°27'14.2"	N/A
KD	-	-	-	S33°45'49.5"; E25°28'03.0"	N/A
KE	-	-	-	S33°46'06.0"; E25°28'21.9"	N/A
KF	-	-	-	S33°46'29.4"; E25°28'11.3"	N/A
<b>ARCHAEOLOGICAL AND CULTURAL HERITAGE SITES</b>					
C1	Site C1	Contemporary	Farmstead	S33°46'26.0"; E25°27'45.8"	N/A
G1	Area G1	Contemporary / Colonial ?	Graves ?	North-eastern part of assessment area	No Impact - Demarcation as 'sensitive' area
BS1	Site BS1	Colonial Period	Farmstead	S33°46'54.8"; E25°26'28.9"	No impact – Conservation measures in place
BS2	Site BS2	Colonial Period	Workers village	S33°47'02.3"; E25°27'10.8"	No impact – Conservation measures in place
S1	Area S1	Stone Age (MSA)	Knapping	Southern part of Koedoeskloof study site and assessment area	Site destruction without a SAHRA Site Destruction Permit

**Table 2:** Development co-ordinates and Phase 1 AIA assessment findings

#### 4) REFERENCES CITED

1. FieldWork & Terreco. 2010. *Proposed Upgrade of Koedoeskloof Landfill Site near Uitenhage. Background Information Document*. Unpublished document.
2. South African Government. (No. 65) of 1983. *Human Tissues Act*.
3. South African Government. (No. 51) of 1989. *Human Tissues Amendment Act*.
4. South African Government. (No. 107) of 1998. *National Environmental Management Act*.
5. South African Government. (No. 25) of 1999. *National Heritage Resources Act*.
6. South African Heritage Resources Agency. 2007. *Minimum standards for the archaeological and heritage components of impact assessments*. Unpublished guidelines.
7. South African Government. (No. 62) of 2008. *National Environmental Management Second Amendment Act*.



*EXTRACTS FROM THE*  
**NATIONAL HERITAGE RESOURCES ACT (No 25 OF 1999)**

**DEFINITIONS***Section 2*

In this Act, unless the context requires otherwise:

- ii. *"Archaeological"* means –
  - a) material remains resulting from human activity which are in a state of disuse and are in or on land and which are older than 100 years, including artefacts, human and hominid remains and artificial features and structures;
  - b) rock art, being any form of painting, engraving or other graphic representation on a fixed rock surface or loose rock or stone, which was executed by human agency and which is older than 100 years, including any area within 10 m of such representation;
  - c) wrecks, being any vessel or aircraft, or any part thereof, which was wrecked in South Africa, whether on land, in the internal waters, the territorial waters or in the maritime culture zone of the Republic,... and any cargo, debris, or artefacts found or associated therewith, which is older than 60 years or which SAHRA considers to be worthy of conservation.
- viii. *"Development"* means any physical intervention, excavation or action, other than those caused by natural forces, which may in the opinion of a heritage authority in any way result in a change to the nature, appearance or physical nature of a place, or influence its stability and future well-being, including –
  - a) construction, alteration, demolition, removal or change of use of a place or structure at a place;
  - b) carrying out any works on or over or under a place;
  - c) subdivision or consolidation of land comprising, a place, including the structures or airspace of a place;
  - d) constructing or putting up for display signs or hoardings;
  - e) any change to the natural or existing condition or topography of land; and
  - f) any removal or destruction of trees, or removal of vegetation or topsoil;
- xiii. *"Grave"* means a place of interment and includes the contents, headstone or other marker of such a place, and any other structure on or associated with such place;
- xxi. *"Living heritage"* means the intangible aspects of inherited culture, and may include –
  - a) cultural tradition;
  - b) oral history;
  - c) performance;
  - d) ritual;
  - e) popular memory;
  - f) skills and techniques;
  - g) indigenous knowledge systems; and
  - h) the holistic approach to nature, society and social relationships.
- xxxi. *"Palaeontological"* means any fossilised remains or fossil trace of animals or plants which lived in the geological past, other than fossil fuels or fossiliferous rock intended for industrial use, and any site which contains such fossilised remains or trace;
- xli. *"Site"* means any area of land, including land covered by water, and including any structures or objects thereon;
- xliv. *"Structure"* means any building, works, device or other facility made by people and which is fixed to land, and includes any fixtures, fittings and equipment associated therewith;

**NATIONAL ESTATE***Section 3*

- 1) For the purposes of this Act, those heritage resources of South Africa which are of cultural significance or other special value for the present community and for future generations must be considered part of the national estate and fall within the sphere of operations of heritage resources authorities.
- 2) Without limiting the generality of subsection 1), the national estate may include –
  - a) places, buildings, structures and equipment of cultural significance;
  - b) places to which oral traditions are attached or which are associated with living heritage;
  - c) historical settlements and townscapes;
  - d) landscapes and natural features of cultural significance;
  - e) geological sites of scientific or cultural importance
  - f) archaeological and palaeontological sites;
  - g) graves and burial grounds, including –
    - i. ancestral graves;
    - ii. royal graves and graves of traditional leaders;
    - iii. graves of victims of conflict
    - iv. graves of individuals designated by the Minister by notice in the Gazette;
    - v. historical graves and cemeteries; and
    - vi. other human remains which are not covered in terms of the Human Tissue Act, 1983 (Act No 65 of 1983)
  - h) sites of significance relating to the history of slavery in South Africa;
  - i) movable objects, including –
    - i. objects recovered from the soil or waters of South Africa, including archaeological and palaeontological objects and material, meteorites and rare geological specimens;
    - ii. objects to which oral traditions are attached or which are associated with living heritage;
    - iii. ethnographic art and objects;
    - iv. military objects;
    - v. objects of decorative or fine art;
    - vi. objects of scientific or technological interest; and
    - vii. books, records, documents, photographic positives and negatives, graphic, film or video material or sound recordings, excluding those that are public records as defined in section 1 xiv) of the National Archives of South Africa Act, 1996 (Act No 43 of 1996).

## **STRUCTURES**

### ***Section 34***

- 1) No person may alter or demolish any structure or part of a structure which is older than 60 years without a permit issued by the relevant provincial heritage resources authority.

## **ARCHAEOLOGY, PALAEOLOGY AND METEORITES**

### ***Section 35***

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

## **BURIAL GROUNDS AND GRAVES**

### ***Section 36***

- 3) No person may, without a permit issued by SAHRA or a provincial heritage resources authority –
  - a) destroy, damage, alter, exhume or remove from its original position or otherwise disturb the grave of a victim of conflict, or any burial ground or part thereof which contains such graves;
  - b) destroy, damage, alter, exhume, remove from its original position or otherwise disturb any grave or burial ground older than 60 years which is situated outside a formal cemetery administered by a local authority; or
  - c) bring onto or use at a burial ground or grave referred to in paragraph a) or b) any excavation equipment, or any equipment which assists in the detection or recovery of metals.
- 4) SAHRA or a provincial heritage resources authority may not issue a permit for the destruction of any burial ground or grave referred to in subsection 3a) unless it is satisfied that the applicant has made satisfactory arrangements for the exhumation and re-interment of the contents of such graves, at the cost of the applicant and in accordance with any regulations made by the responsible heritage resources authority.
- 5) SAHRA or a provincial heritage resources authority may not issue a permit for any activity under subsection 3b) unless it is satisfied that the applicant has, in accordance with regulations made by the responsible heritage resources authority –
  - a) made a concerted effort to contact and consult communities and individuals who by tradition have an interest in such grave or burial ground; and
  - b) reached agreements with such communities and individuals regarding the future of such grave or burial ground.
- 6) Subject to the provision of any other law, any person who in the course of development or any other activity discovers the location of a grave, the existence of which was previously unknown, must immediately cease such activity and report the discovery to the responsible heritage resources authority which must, in co-operation with the South African Police Service and in accordance with regulations of the responsible heritage resources authority –
  - a) carry out an investigation for the purpose of obtaining information on whether or not such grave is protected in terms of this Act or is of significance to any community; and
  - b) if such grave is protected or is of significance, assist any person who or community which is a direct descendant to make arrangements for the exhumation and re-interment of the contents of such grave or, in the absence of such person or community, make any such arrangements as it deems fit.

## HERITAGE RESOURCES MANAGEMENT

### *Section 38*

- 1) Subject to the provisions of subsections 7), 8) and 9), any person who intends to undertake a development categorised as –
  - a) the construction of a road, wall, powerline, pipeline, canal or other similar form of linear development or barrier exceeding 300 m in length;
  - b) the construction of a bridge or similar structure exceeding 50 m in length;
  - c) any development or other activity which will change the character of a site –
    - i. exceeding 5 000 m<sup>2</sup> in extent; or
    - ii. involving three or more existing erven or subdivisions thereof; or
    - iii. involving three or more erven or subdivisions thereof which have been consolidated within the past five years; or
    - iv. the costs which will exceed a sum set in terms of regulations by SAHRA or a provincial heritage resources authority;
  - d) the rezoning of a site exceeding 10 000 m<sup>2</sup> in extent; or
  - e) any other category of development provided for in regulations by SAHRA or a provincial heritage resources authority,
 must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.
- 2) The responsible heritage resources authority must, within 14 days of receipt of a notification in terms of subsection 1) –
  - a) if there is reason to believe that heritage resources will be affected by such development, notify the person who intends to undertake the development to submit an impact assessment report. Such report must be compiled at the cost of the person proposing the development, by a person or persons approved by the responsible heritage resources authority with relevant qualifications and experience and professional standing in heritage resources management; or
  - b) notify the person concerned that this section does not apply.
- 3) The responsible heritage resources authority must specify the information to be provided in a report required in terms of subsection 2a) ...
- 4) The report must be considered timeously by the responsible heritage resources authority which must, after consultation with the person proposing the development decide –
  - a) whether or not the development may proceed;
  - b) any limitations or conditions to be applied to the development;
  - c) what general protections in terms of this Act apply, and what formal protections may be applied, to such heritage resources;
  - d) whether compensatory action is required in respect of any heritage resources damaged or destroyed as a result of the development; and
  - e) whether the appointment of specialists is required as a condition of approval of the proposal.

## APPOINTMENT AND POWERS OF HERITAGE INSPECTORS

### *Section 50*

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