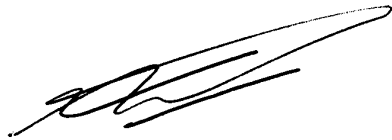


**HERITAGE SCOPING ASSESSMENT FOR THE TOP STAR DUMP MINING PROJECT – CROWN  
GOLD RECOVERIES**



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## **EXECUTIVE SUMMARY**

As we know from legislation, the National Heritage Resources Act 1999 (Act 25 of 1999), the surveying, capturing and management of heritage resources is an integral part of the greater management plan laid down for any major development or historic existing operation. This legislation aims to underpin the existing legislation, which only addresses this issue at a glance, and gives guidance to developers and existing industries to the management of their Heritage Resources.

The Top Star Dump is known by a large number of South Africans not for its mining origin but for the Drive-in theatre that came into existence in the early 1960's. Evaluation of the significance was done on different scales to address the possible unique character of the structure.

- **Industrial Site**

The archival research has indicated that the Top Star Dump, known before the establishment of the Top Star Drive-Inn as the Ferreira Dump, was started in the later part of the 19<sup>th</sup> century. This makes the parts of the dump older than a hundred years and is classified as archaeological, Section 2.2 (a) of the NHRA.

Through the years development in the Johannesburg area encroached many of the infrastructure created in the heydays of gold mining on the Witwatersrand. The first to be demolished was buildings and ancillary structures with the last standing man made structure solitary headgear, slimes dams and sand dumps.

These remaining large manmade structures have given Johannesburg its character and familiar skyline.

The past twenty years have seen a reworking and mining of the old slimes dams and sand dumps situated to the south of the CBD. This resulted in a major change to the cultural landscape and skyline of Johannesburg and surrounding areas. Very few of the historical mining structures have been preserved or documented in the past and a rich history has been destroyed.

Evaluation of the dumps significance brings the following to light:

- **Age:** The Top Star Dump has been existence since the early years of Johannesburg and is probably barring 10 years one of the oldest manmade feature in Johannesburg.
- **Uniqueness:** Although the Top Star dump probably had other contemporary sand dumps, its uniqueness lies in the fact that it is one of the last surviving intact sand dumps in Johannesburg.
- **Visibility:** The Top Star dump is a land mark of Johannesburg linked largely to the drive-inn theatre, but also as a relic of a mining area gone by.
- **Survivability:** A large amount of early mining artefacts/structures has been destroyed over the past decades without documentation. Accordingly, the few surviving structures will have high significance.

- **Social / Cultural Site**

As stated earlier the Top Star Dump is better known as the Top Star Drive-in. Although the drive-in and infrastructure is not older than 60 years it presents a unique social phenomenon. Drive-in theatres played a large part in the social activities of the 1960's to 1980's. The Top Star Drive-in is still utilised on the social calendar as drive-in, city tour stop-over as well as for media launches and concerts.

It presents an opportunity for the documentation of a history that is largely oral by nature and transcends the boundaries of the drive-inn infrastructure of screens, buildings and tarmac.

Social consultation with regard to the significance and views of the public towards the dump as a cultural entity will have to be conducted.

The only alternative to mining of the dumps is the preservation of the dump in situ.

The removal of the dump will change the cultural fabric of Johannesburg and remove a well know landmark.

It is our opinion that the dump is a unique feature in the Johannesburg landscape and current pollution from the dump must be quantified to back the pollution claims, for its removal. If the pollution from the dump present a major impact on the environment and outweighs the conservation value of the dump, the destruction of the dump must supersede the conservation of the structure.

In the event that the dump is to be mined the following must be adhered to:

- The dump is older than 60 years in totality and thus protected by the NHRA. Section 34 of the Act requires the developer to apply for a destruction permit before such as site may be destroyed.
- The following is recommended before application for a destruction permit:
  - Physical documentation of the structure and associated structure to develop a contextual framework for the dump; and
  - Memorialisation of the dump after destruction.
- The following might be required by the South African Heritage Resources Agency:
  - Further historical research; and
  - Oral history research.
  -

***The above does not however guarantee that the South African Heritage Resources Agency will grant a permit for destruction of the dump.***

If any archaeological sites are discovered, they might necessitate further investigation and possible mitigation in the case of development in their vicinity.

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## **1. INTRODUCTION**

Matakoma Heritage Consultants (Pty) Ltd was contracted by Digby Wells & Associates to conduct a Heritage Assessment for the proposed Top Star Dump Mining Project, district Johannesburg.

Crown Gold Recoveries (Crown) is currently assessing the possibility of the reclamation of the Top Star Dump situated near Selby, south of the Johannesburg CBD. John Street runs to the south of the dump, Richard Street to the west, Loveday Street to the east, and Webber Street to the north. The area is highly urbanised and is characterised by industrial buildings. The dump is currently being utilised by Ster Kinekor as a drive-in cinema. Crown will be applying for a mining authorisation from the Department of Minerals and Energy (DME) to reclaim the dump. Crown has been responsible for the reclamation of 23 mine dumps, most of which have been situated parallel to the Main Reef outcrop in close proximity to the Johannesburg CBD.

The aim of the study is to identify all heritage sites, document, and assess their importance within Local, Provincial and national context. From this we aim to assist the developer in managing the discovered heritage resources in a responsible manner, in order to protect, preserve, and develop them within the framework provided by the National Heritage Resources Act of 1999 (Act 25 of 1999).

The report outlines the approach and methodology utilised before and during the survey, which includes in Phase 1: Archival research, information collection from various sources and public consultations; Phase 2: Physical surveying of the area by air on foot and vehicle; and Phase 3: Reporting the outcome of the study.

During the survey, sites of cultural significance were identified. These sites were recorded by means of photos, GPS location, and description. Possible impacts were identified and mitigation measures are proposed in the following report.

This report must also be submitted to SAHRA's provincial office for scrutiny.

## **2. APPROACH AND METHODOLOGY**

The aim of the study is to extensively cover all data available to compile a background history of the study area; this was accomplished by means of the following phases.

## **2.1. Archival research**

The methodology consisted of the study of published and unpublished literature, archival records, as well as maps to compile the available information needed to address the project aims.

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

As heritage surveys deal with the locating of heritage resource in a prescribed cartographic landscape, the study of archival and historical data, and especially cartographic material, can represent a very valuable supporting tool in finding and identifying such heritage resources.

Sources from the following institutions were consulted:

- National Archives, Pretoria
- UNISA Library, Pretoria
- Directorate Surveys and Mapping, Cape Town

## **2.2 Physical Surveying**

Due to the nature of cultural remains, the majority that occur below surface, a physical walk through of the study area was conducted. Matakoma Heritage Consultants were appointed to conduct a survey of 960 hectares for the project.

Aerial photographs and 1:50 000 maps of the area were consulted and literature of the area were studied before undertaking the survey. The purpose of this was to identify topographical areas of possible historic and pre-historic activity. The study area was surveyed over one day, by means of vehicle and extensive surveys on foot by Matakoma Heritage Consultants. All sites discovered both inside and bordering the proposed development area was plotted on 1:50 000 maps and their GPS co-ordinates noted. 35mm photographs on digital film were taken at all the sites.

### 3. WORKING WITH LEGISLATION

It is very important that cultural resources be evaluated according to the National Heritage Recourse Act. In accordance with the Act, we have found the following:

- These sites are classified as important based on evaluation of the National Heritage Recourses Act 1999 (Act No 25 of 1999) section 3 (3).

A place or object is to be considered part of the national estate if it has cultural significance or other special value because of-

- (a) its importance in the community, or pattern of South Africa's history;
  - (b) its possession of uncommon, rare or endangered aspects of South Africa's natural or cultural heritage;
  - (c) its potential to yield information that will contribute to an understanding of South Africa's natural or cultural heritage;
  - (d) its importance in demonstrating the principal characteristics of a particular class of South Africa's natural or cultural places or objects;
  - (e) its importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;
  - (f) its importance in demonstrating a high degree of creative or technical achievement at a particular period;
  - (g) its strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;
  - (h) its strong or special association with the life or work of a person, group or organisation of importance in the history of South Africa; and
- (Refer to Section 9 of this document for assessment)
  - This site should be managed through using the National Heritage Recourses Act 1999 (Act No 25 of 1999) sections 4,5 and 6 and sections 39-47.
  - Please refer to Section 9 for Management Guidelines.

### 4. ASSESSMENT CRITERIA

This chapter describes the evaluation criteria used for the sites listed below.

The significance of archaeological sites was based on four main criteria:

- **site integrity** (i.e. primary vs. secondary context),
- **amount of deposit, range of features** (e.g., stonewalling, stone tools and enclosures),



- **uniqueness** and
- **potential** to answer present research questions.

Management actions and recommended mitigation, which will result in a reduction in the impact on the sites, will be expressed as follows:

A - No further action necessary;

B - Mapping of the site and controlled sampling required;

C - Preserve site, or extensive data collection and mapping of the site; and

D - Preserve site

Impacts on these sites by the development will be evaluated as follows

#### **4.1 Impact**

The potential impacts that may result from the mining activity.

##### **4.1.1 Nature and existing mitigation**

Natural conditions and conditions inherent in the project design that alleviate (control, moderate, curb) impacts. All management actions, which are presently implemented, are considered part of the project design and therefore mitigate against impacts.

#### **4.2 Evaluation**

##### **4.2.1 Significance**

The significance rating scale is as follows:

*HIGH*: Site must not be disturbed at all.

*MEDIUM*: The site will require mitigation before development proceeds.

*LOW*: The site might require mitigation before development commence.

*VERY LOW*: The site does not require mitigation and development can proceed with out any further action.

#### **4.2.2 Certainty**

*DEFINITE:* More than 90% sure of a particular fact. Substantial supportive data exist to verify the assessment.

*PROBABLE:* Over 70% sure of a particular fact, or of the likelihood of impact occurring.

*POSSIBLE:* Only over 40% sure of a particular fact or of the likelihood of an impact occurring.

*UNSURE:* Less than 40% sure of a particular fact or likelihood of an impact occurring.

#### **4.2.3 Duration**

*SHORT TERM:* 0 to 5 years

*MEDIUM:* 6 to 20 years

*LONG TERM:* more than 20 years

*DEMOLISHED:* site will be demolished or is already demolished

Example

*Evaluation*

Impact	Significance	Certainty	Duration	Mitigation
Negative	high negative	> 90% sure	long: > 20 years	A

## 5. ARCHIVAL RESEARCH FINDINGS

*Archaeology Africa* was appointed by *Matakoma Heritage Consultants* to undertake a historical and archival study of the Top Star Mine Dump, situated on Stand 1 of the Park Central Township, Johannesburg. The study forms part of the overall Heritage Impact Assessment undertaken for the proposed development of the said portion.

### 5.1. Cartographic Material

#### **5.1.1 Major Jackson Series Sheet “Johannesburg-Heidelberg”, Revised Edition 1902**

**Figure 1** depicts an enlarged section of a map which forms part of the Major Jackson Series. This specific sheet is named “*Johannesburg-Heidelberg*”, while the sheet number is 13. It was compiled and drawn in the Surveyor-General's office in Pretoria. The sheet is the third revised edition of the map and is dated to June 1902. The date of the map indicates that this revised edition was made just after the end of the Anglo Boer War, which lasted from October 1899 to May 1902.

As can be seen from the depiction below, no evidence for any mining activities or a dump is shown.

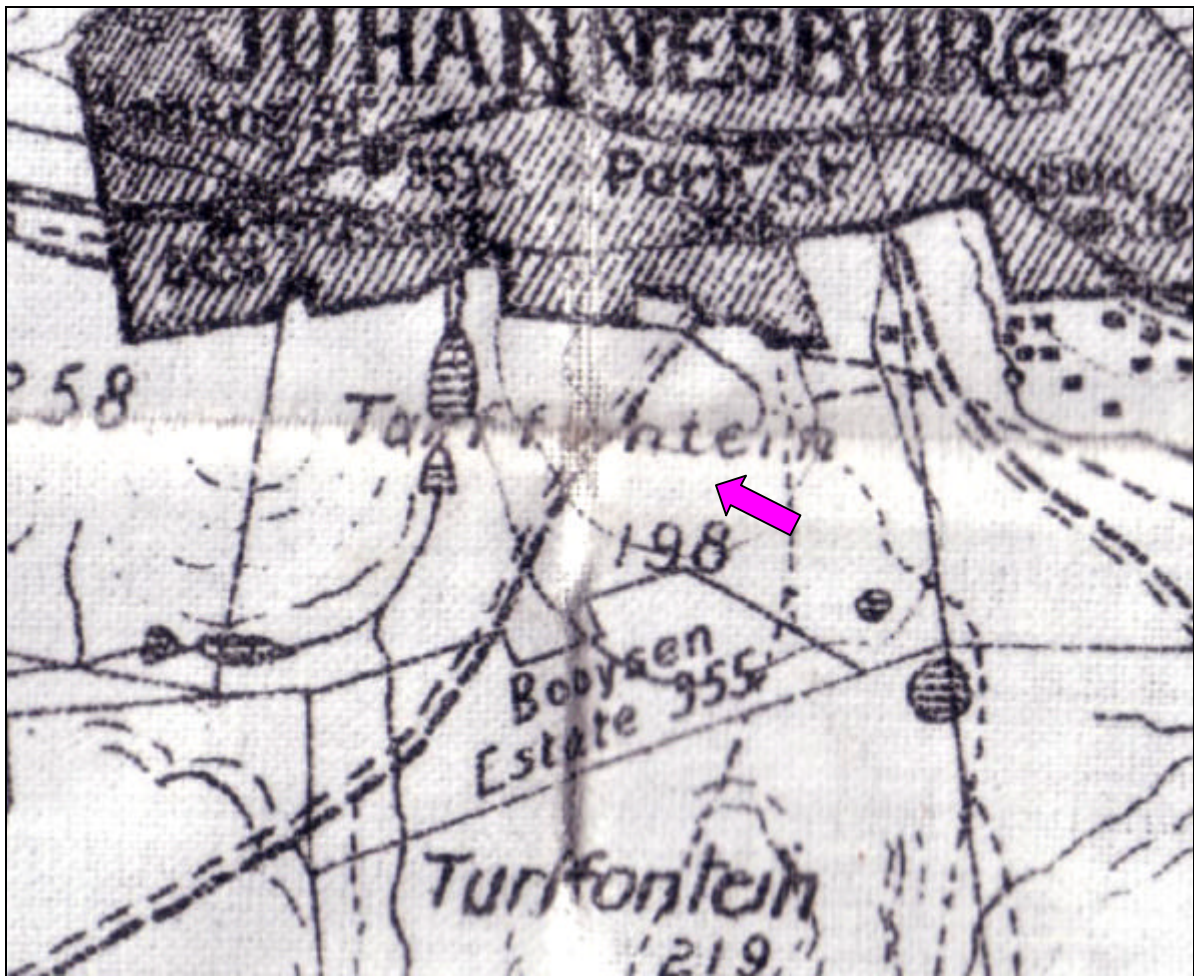


Figure 1 Enlarged section of Sheet 13 of the Major Jackson Series (National Archives, Maps, 3/1986). The arrow indicates the approximate position of the dump.

### 5.1.2 2628AA "JOHANNESBURG" Topographical Sheet, dated 1945

The map depicted in **Figure 2** is an enlarged section of the 2628AA 1:50 000 Topographical Sheet. It was surveyed in 1939 and drawn in 1945 by the Trigonometrical Survey Office. The map was printed by the Government Printing Works in 1945.

The map shows that the dump already existed at the time when the survey for the map was undertaken in 1939. Furthermore, it does not appear to have changed considerably since then. A mining railway line is shown surrounding the dump. The word "Ferreira" indicates the name of the mine in the area. A symbol for a goldmine can also be seen directly to the south-west.

No structures, features or roads are shown within the dump area itself.

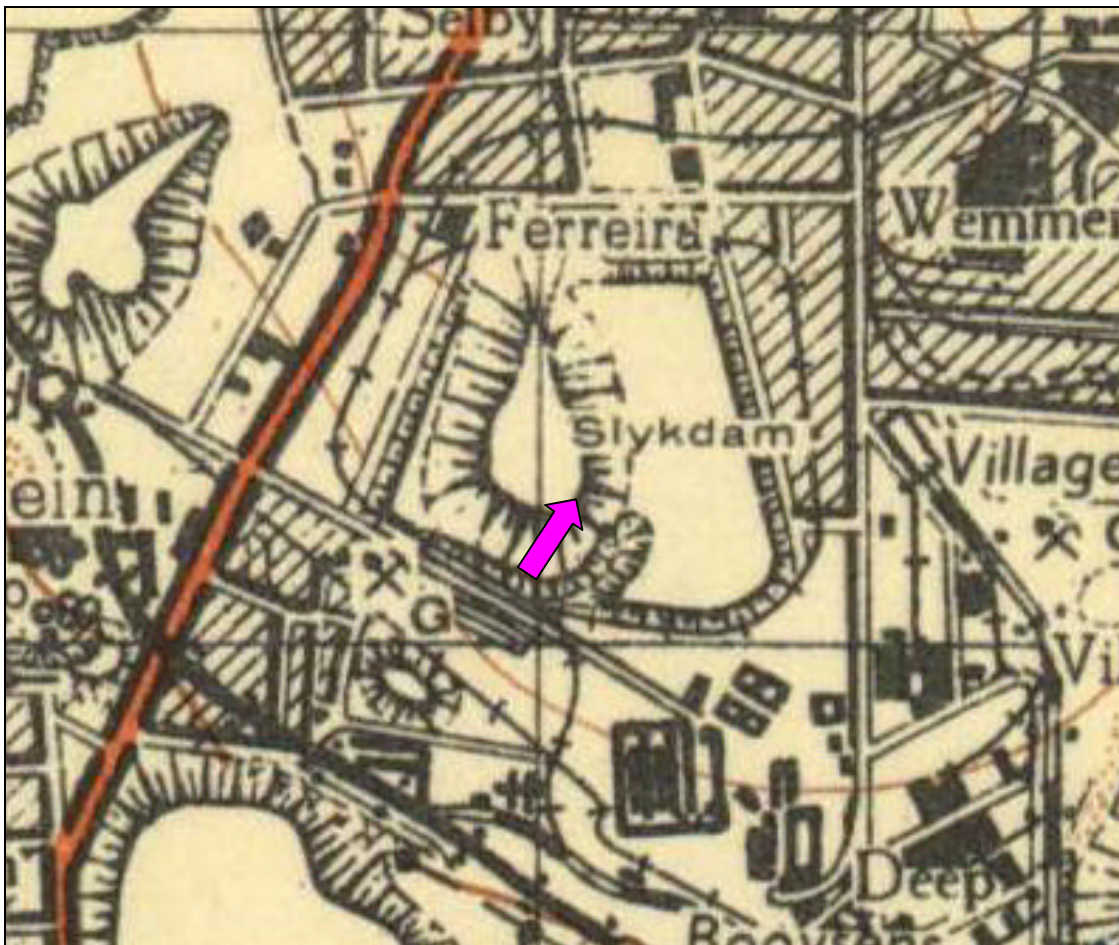


Figure 2 2628AA Topographical Sheet, dated 1945. The Top Star Dump is marked.

### 5.1.3 2628AA "JOHANNESBURG" Topographical Sheet, dated 1956

The map depicted in **Figure 3** is an enlarged section of the 2628AA 1:50 000 Topographical Sheet. The map made use of Aerial Photographs that were taken in 1952. It was surveyed in 1954 and drawn in 1956 by the Trigonometrical Survey Office. The sheet was printed by the Government Printer in 1956.

The most prominent difference between the depictions of the dump on this map compared to the map of 1945 is the appearance of roads and a structure (marked in red). The surrounding roads also show some alterations. Note for example the road directly north of the dump, and compare

it with the depiction of the same road on the 1945 map. The railway line surrounding the site is now indicated as a non-electrified single track railway line.

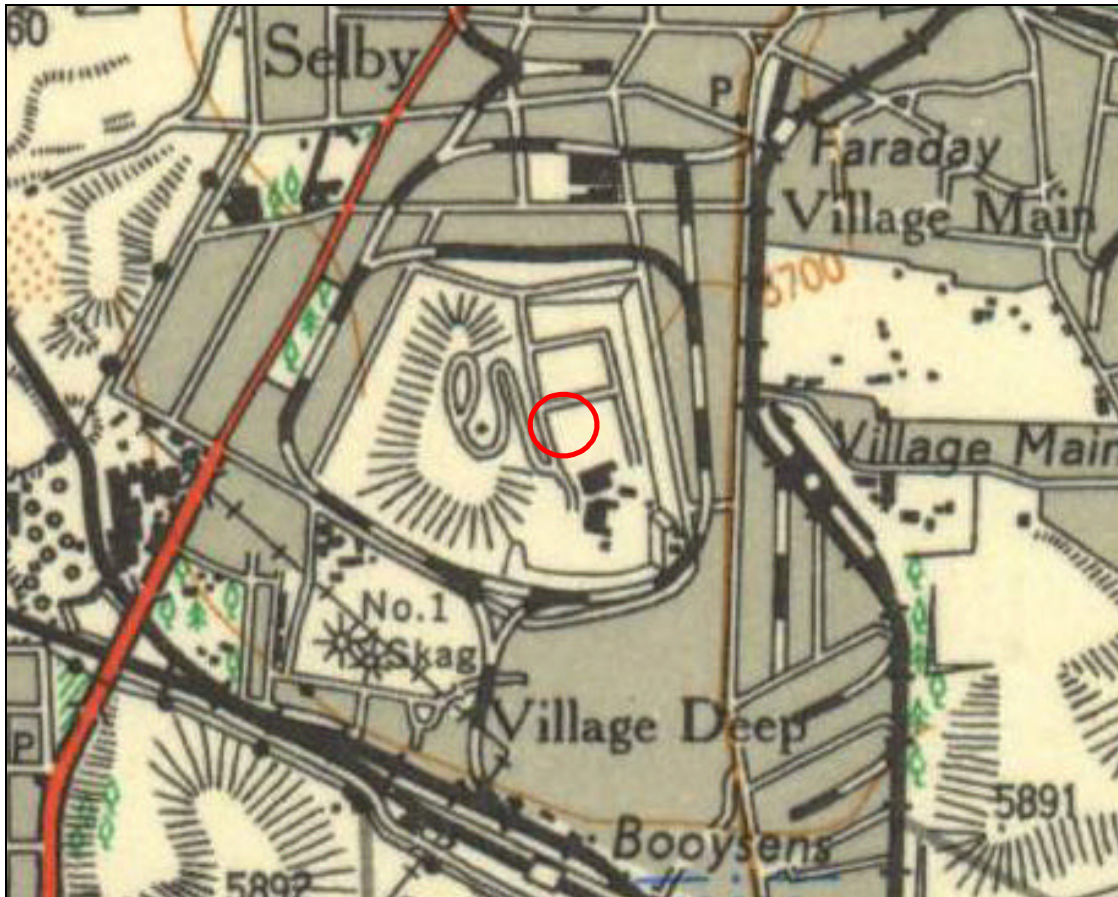


Figure 3 2628AA Topographical Sheet, dated 1956. A structure located on the dump is marked in red.

#### **5.1.4 2628AA "JOHANNESBURG" Topographical Sheet, dated 1975**

For comparison purposes, a more recent topographical sheet is also included. The map depicted in **Figure 4** is an enlarged section of the 2628AA 1:50 000 Topographical Sheet. The map dates from 1975 and was remapped by the Director-General of surveys. The specific sheet shown was reprinted by the Government Printer in 1980.

A drive-in theatre is shown to be located on the dump. The shape and layout of the roads on the dump correspond to the drive-in theatre usage. The structure that was shown in the 1956 map, is not indicated anymore.



Figure 4 2628AA Topographical Sheet, dated 1975. Note the layout of the roads on top of the dump, as well as the indication of a drive-in theatre.

## 5.2. FARM OWNERSHIP HISTORY

The only known property description for the study area that also appears on the archival record of the farm ownership history (RAK, 2869), is Portion W of Portion B. This portion was established through the consolidation of six different properties. As a result, the farm ownership history provided below has followed the history of ownership for these portions back in time to provide and outline. It must be noted that as it is not presently known which of these six portions in fact had the mine dump, the ownership history for all six will be given.

The farm Turffontein (first Heidelberg District Number 198, then Witwatersrand District Number 137 before forming part of the Johannesburg District, with Number 21) was first inspected during November 1857 by J.G. Marais.

The early ownership history for the farm, starting with its first transfer from the Government to Abraham Smit on 21 January 1859, is outlined below.

Date of Transfer	Transfer No.	From	To	Property Description
21 January 1859	-	Government Transfer	Abraham Smit	Farm Turffontein
4 April 1865	-	A. Smit	Barend C. Viljoen	Ptn "B" of farm Turffontein
4 April 1865	-	B. C. Viljoen (Estate)	Frederik Jacobus Bezuidenhout	Ptn "B" of farm Turffontein
19 January 1876	495/1876	F.J. Bezuidenhout	F. J. Bezuidenhout and Son	Ptn "B" of farm Turffontein
8 March 1905	1727/1905	F.J. Bezuidenhout	Central Rand Freehold (Pty) Ltd	Ptn of Ptn B

The Portion of Portion B received by Central Rand Freehold on 8 March 1905, was divided into various other portions. In terms of the present study, Portions F, J and K are important. In the ownership histories of the portions below, the section of these histories for the period 1905-1906 up to a property's transfer as part of a Certificate of Consolidated Title will be provided.

The property of relevance for the study in terms of Portion F started out as the entire Portion F and at the time of consolidation consisted of only a Remaining Extent of Portion F.



Date of Transfer	Transfer No.	From	To	Property Description
1906	5302/1906	Central Rand Freehold (Pty) Ltd	Ferreira Deep Ltd	Ptn "F" of Ptn. of Ptn B
31 October 1929	13151/1929	Ferreira Deep Ltd	Certificate of Cons. Title	Rem Ext of Ptn "F" of Ptn of Ptn B

The next portion to be outlined is Portion J. The property of relevance for the study in terms of Portion J started out as the entire portion, while at the time of Certificate of Consolidation two different properties derived from Portion J formed part of the consolidation. The first of these is Portion A of Portion 1 of Portion J, while the second property is the Remaining Extent of Portion J. However, as the ownership histories for both these properties within Portion J start the same, this will first be outlined.

Date	Transfer No.	From	To	Property Description
1906	864/1906	Central Rand Freehold (Pty) Ltd	Ferreira Gold Mining Co. Ltd	Ptn "J" of Ptn of Ptn B
21 June 1912	5338/1912	Ferreira Gold Mining Co. Ltd (In Liquidation)	Ferreira Deep Ltd	Ptn "J" of Ptn of Ptn B

After the transfer of 21 June 1912, Portion J was subdivided. As mentioned, two of these subdivisions eventually formed part of the consolidation. Portion 1 of Portion J will be discussed first. As can be seen from the table below, this portion was again subdivided, with Portion A of Portion 1 being the important property for this study.

Date	Transfer No.	From	To	Property Description
30 October 1925	10611/1925	Ferreira Deep Ltd	Ussher Inventions Ltd	Ptn 1 of Ptn "J" of Ptn of Ptn B
10 August 1927	9094/1927	Ussher Inventions Ltd	Ferreira Deep Ltd	Ptn "A" of Ptn 1 of Ptn "J" of Ptn of Ptn B
31 October 1929	13151/1929	Ferreira Deep Ltd	Certificate of Cons. Title	Ptn "A" of Ptn 1 of Ptn "J" of Ptn of Ptn B

The Remaining Extent of Portion J had only transfer, and that is the one representing the consolidation.

Date	Transfer No.	From	To	Property Description
31 October 1929	13151/1929	Ferreira Deep Ltd	Certificate of Cons. Title	Rem Ext of Ptn "J" of Ptn of Ptn B

The second Portion of Portion B to be discussed, is Portion K. Although it started out as one Portion, it was subdivided. In then end, three different portions of Portion K became part of the consolidated title.

As the first transfer for all three these eventual properties are the same, it will be outlined below,

Date	Transfer No.	From	To	Property Description
1906	3790/1906	Central Rand Freehold (Pty) Ltd	Village Main Reef Gold Mining Co. Ltd	Ptn "K" of Ptn of Ptn B

Two portions from the subdivision of Portion K eventually became the three portions forming part of the consolidation. These two original portions are Portion 12 of Portion K and Portion 13 of Portion K. Portion 12's ownership history before its further subdivision is outlined below,

Date	Transfer No.	From	To	Property Description
2 June 1923	5021/1923	Village Main Reef Gold Mining Co. Ltd	Ferreira Deep Ltd	Ptn 12 of Ptn "K" of Ptn of Ptn B

After the transfer of 2 June 1923, the portion appears to have been subdivided again. Two of these subdivided portions eventually became part of the consolidation namely Portion 12 of Portion K and the North West Portion of Portion K.

Portion 12 of Portion K's transfer to Certificate of Consolidation is provided below, followed by the one from the North West Portion of Portion K.

Date	Transfer No.	From	To	Property Description
31 October 1929	13151/1929	Ferreira Deep Ltd	Certificate of Consolidated Title	Ptn 12 of Ptn "K" of Ptn of Ptn B

Date	Transfer No.	From	To	Property Description
31 October 1929	13151/1929	Ferreira Deep Ltd	Certificate of Consolidated Title	N.W. Ptn of Ptn "K" of Ptn of Ptn B

The subsequent ownership history of that portion of Portion A of Portion 13 of Portion K which eventually became consolidated with the others, continues from transfer no. 2790/1906 (see above). In a subsequent division, Portion 13 of Portion K was transferred to the Government of the Union of South Africa, and the portion included in the consolidation was a further subdivision namely Portion A of Portion 13.

Date	Transfer No.	From	To	Property Description
30 Nov 1923	11308/1923	Village Main Reef (In Liquidation)	Gov. of the Union of S.A.	Ptn 13 of Ptn "K" of Ptn of Ptn B
15 Apr 1931	3362/1931	Government of the Union of S.A.	Certificate of Cons. Title	Ptn "A" of Ptn "13" of Ptn "K" of Ptn of Ptn B

As indicated in the ownership histories outlined above, the following properties were eventually all consolidated as a single property namely Portion W of Portion B. These properties are:

- Remaining Extent of Portion F of Portion of Portion B
- Portion A of Portion 1 of Portion J of Portion of Portion B
- Remaining Extent of Portion J of Portion of Portion B
- Portion 12 of Portion K of Portion of Portion B
- North West Portion of Portion K of Portion of Portion B
- Portion A of Portion 13 of Portion K of Portion of Portion B

After the consolidation of these properties, the resulting Portion W of Portion B was transferred to the *Ferreira Estate Company Limited*. It is worth noting that the later application for the township was undertaken by the next owner of Portion W of Portion B, namely the *Ruargh Hill Development Corporation Limited*. According to available data they acquired Portion W during the early 1950s.

### 5.3. HISTORICAL OVERVIEW OF THE SITE

#### 5.3.1 The Top Star Dump

There are two main interrelated elements with regards to the dump that would assist in reconstructing something of its history. The first of these is the age of the dump, while the second feature is the particular gold mine with which the dump can be associated.

##### 5.3.1.1 Associated Gold Mine

On 27 September 1886 the farm Turffontein was proclaimed as a public diggings. According to Liebenberg (1995), numerous gold mines operated on the farm Turffontein. These were Robinson, Bonanza, Ferreira Deep, Ferreira, Village Main Reef, Worcester Exploration and Wemmer.

The best of way of identifying which of these gold mines can in fact be associated with the dump, is to study historical and archival maps to see in which historical gold mine's area the dump was located.

The map depicted in **Figure 5**, dates from 1902 and was published with a report of the Transvaal Chamber of Mines titled "*A Descriptive and Statistical Statement of the Gold Mining Industry of the Witwatersrand*". Comparing the mine boundaries with the 2628BB Topographical Sheet from 1956 (refer **Figure 2**), it is possible to indicate that the mine dump was located within the property of the Ferreira Deep Mine.

As mine properties can change over time, a map dating from 1927 was also assessed. This map, which is depicted in **Figure 6**, is titled "*Witwatersrand Gold Fields*". A comparison of the boundaries depicted on this map with the 1956 topographical sheet, also indicate that the dump fell within the boundaries of the Ferreira Deep Mine.

Support for the association of the dump with the Ferreira Deep Mine, was found in a newspaper article as well as township application correspondence.

In the article that was published in the Rand Daily Mail on 29 August 1951, the mine dump is referred to as the "*old Ferreira mine dump*".

All correspondence relating to the Park Central township establishment (see **Section 6.2**), furthermore refers to the feature as the Ferreira dump.

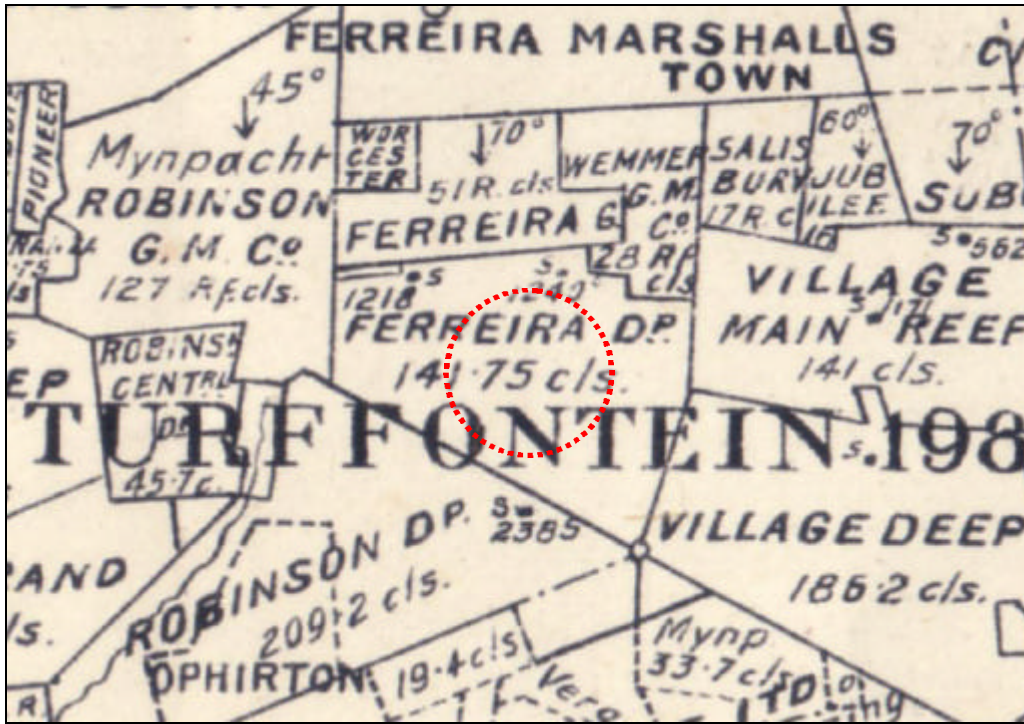


Figure 5 Enlarged section of a map titled "Witwatersrand Gold Fields". The map is dated 1902. The approximate position of the dump is marked in red.

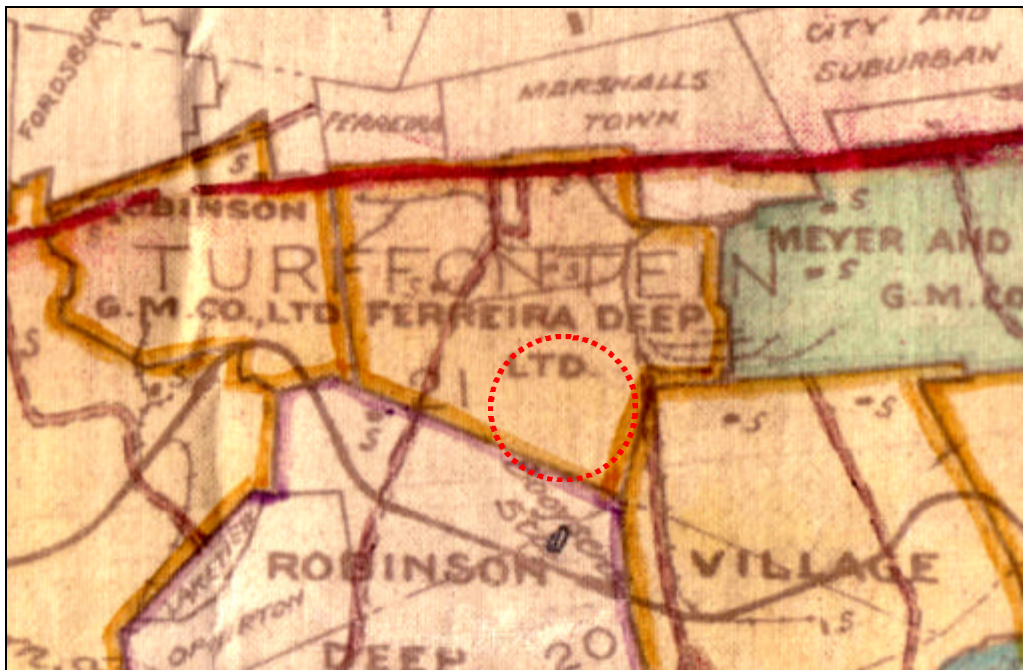


Figure 6 Enlarged section of a map titled “General Plan of the Witwatersrand”. The map is dated 1927. The approximate position of the dump is marked in red.

### 5.3.1.2 The Ferreira Deep Mine

After the discovery of the Main Reef at Witwatersrand in 1886, various mines were established. The mining method during these early years was labour intensive, while only the surface areas of the gold-bearing reefs were exploited. Lionel Phillips was one of the first mine magnates to realise the potential of deep-level mining. As part of the company of Hermann Eckstein, Phillips managed to acquire large numbers of claims which were considered of low value as they were located some distance away from the Main Reef. As a result he bought these claims for very reasonable prices, and started implementing the concept of deep level mining on some of these claims.

These steps resulted in the proclamation of various deep-level mines, including Nourse Deep, Jumpers Deep, Glen Deep, Crown Deep, Rose Deep, Village Deep, Geldenhuis Deep as well as Ferreira Deep. In 1893 the company of H. Eckstein formed the company Rand Mines Ltd, which took over the administration of these and other mines (Cartwright, 1965). Russell (n.d.) indicates that Rand Mines was established with start-up capital of £400,000, and was one of the earliest companies formed specifically for mining deep levels. The company quickly acquired 1,729 deep level claims. Lionel Phillips’ foresightedness earned him the respect of his peers, as

well as the position of chairman for Rand Mines, a company that soon became the "...biggest mining finance company in the world." (Cartwright, 1965).

Although the exact date for the establishment of the Ferreira Deep Mine is not presently known, Mendelsohn and Potgieter (1986) indicate that the excavation of both its vertical shafts was only started on 7 March 1897.

During the early part of the Anglo-Boer War, the Ferreira Deep mine was placed under the management of the *Zuid-Afrikaansche Republiek* Government.

The Ferreira Gold Mine, located to the north of Ferreira Deep, was formed during the late 1880s, and in 1912 these two mines were amalgamated.

The Ferreira Deep mine was liquidated in 1929.

### 5.3.1.3 Age of Dump

No cartographic material earlier than 1945 could be located on which mine features such as the dump is shown. During a meeting held on 23 November 1950 as part of the Park Central township development, it was indicated that the dump was established during the period 1899 to 1939 (CDB, 2791, PB4/2/2/1002, Part 1). Additional information which appears to support this relatively old date for the dump was located in the reports that were written by the government appointed mine manager during the Anglo-Boer War. For example, in the monthly reports dated January and February 1900, the existence of a tailings dam and dump is alluded to at Ferreira Deep.

Another possible indication of the age of the dump is shown by the Ferreira Deep mine plan as depicted in **Figure 7**. While the mine's No. 2 Shaft is shown to the west of Booyens Road, a large and elongated waste dump is shown to the east of the road, and to the south-east of the shaft (GNLB, 229, 592/15). According to Mendelsohn and Potgieter (1986), the Ferreira Deep mine's No. 2 shaft is presently located on Trump Street in Selby. Comparing this data with the relative positions of the large waste dump and shaft on the mine plan, the dump seems to extend too much to the north to be an exact match for the Top Star mine dump. However, the position of the southern sections of the depicted waste dump in fact appears to correlate with the position of the Top Star Mine Dump. Should this possible correlation be taken as truth, it means that the

mine dump was definitely in existence during the time when this plan was produced, namely 10 February 1916.

Of interest is the indication of mine buildings and railway lines within the area in which the present Top Star mine dumps seems to extend to. It is likely that with the expansion of the dump over time, these buildings and railways were either covered by the dump, or alternatively relocated.

#### **5.3.1.4 Summary of Data in terms of the Top Star Dump**

The Top Star Dump can be associated with the Ferreira Deep Gold Mine, which was possibly established during 1890s, and certainly before 7 March 1897. The Ferreira Deep formed part of the mines administered by *Rand Mines Ltd*, and was amalgamated with the Ferreira Gold Mine in 1912.

Available information indicates that the dump was started in 1899, while work on it ceased during 1939. Supporting information show the existence of a tailings dam and dump at Ferreira Deep at least during the beginning of 1900.

The Ferreira Deep was liquidated in 1929, a date which may also give an indication of the cessation of activities on site.



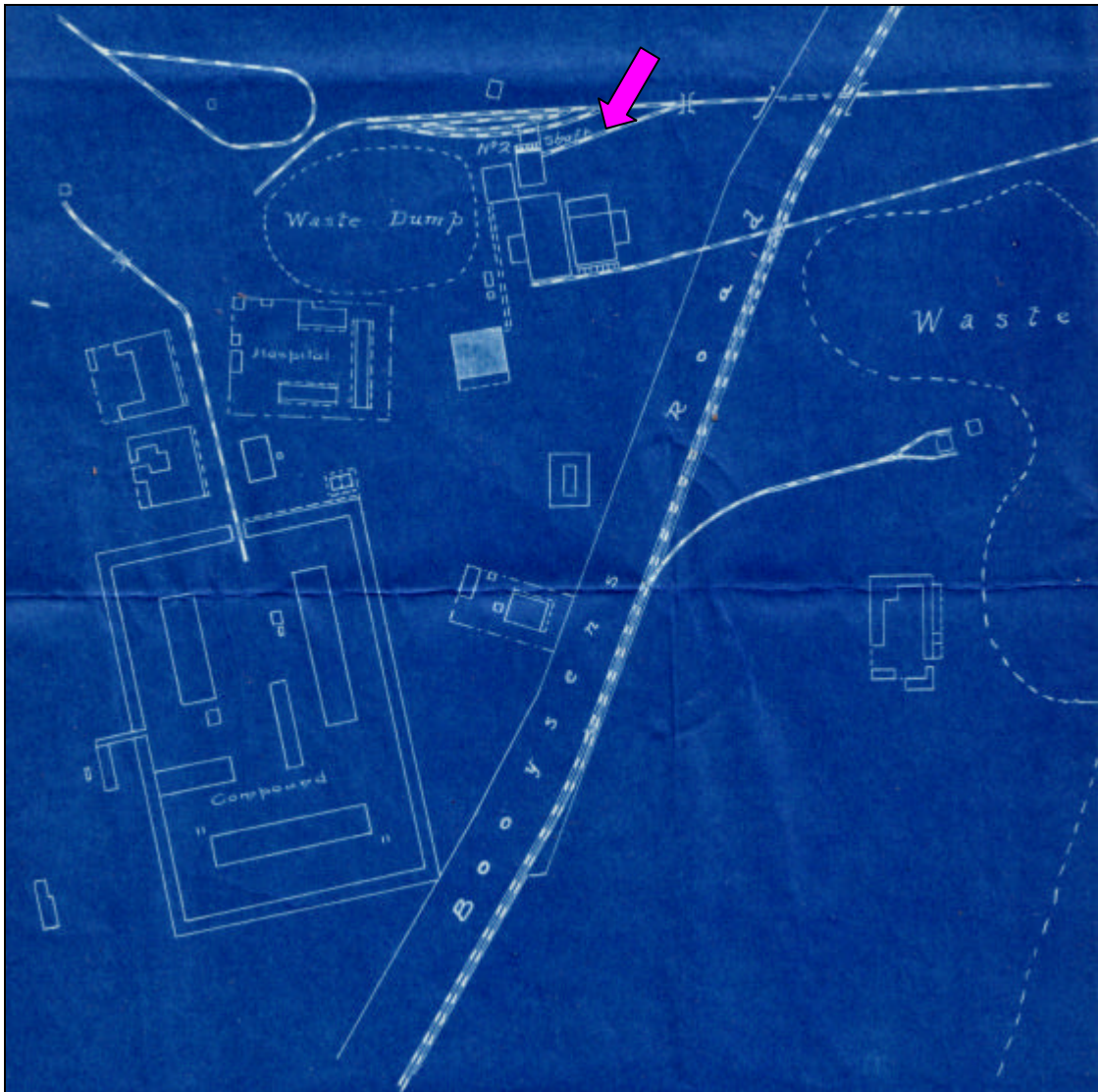


Figure 7 This diagram shows the position of a proposed "Tropical Changing House" at Ferreira Deep Mine. The position of the mine's No. 2 Shaft is marked by the arrow.



Figure 8 An aerial view of the Top Star Dump in the background, with the tailings dam in front. The photograph appeared in a Rand Daily Mail article of 29 August 1951. The factories that were built on the tailings dam during the 1940s can be seen in the foreground. Note the winding road and single building on the mine dump in the background. The features shown on this photograph correlates with those on the 2628AA topographical sheet for 1956.

### 5.3.2 Park Central Township

Various attempts were made during the 1940s by the the *Ferreira Estates Company Limited* as owners of the property containing the slimes dam and dump, to establish some form of development there. In 1946, for example, an application was made to reserve that section containing the slimes dump for township development (CDB, 2791, PB4/2/2/1002, Part 1).

During approximately 1948, the area in which the slimes dam is situated was given an Industrial Stand Permit, numbered 219. According to this permit almost any kind of industrial development were allowed to take place on the slimes dam. In accordance with this permit, heavy industry and factories were constructed during the period 1947-1948 (CDB, 2791, PB4/2/2/1002, Part 2). These factories appear on the photograph depicted under **Figure 8**.

Due to changes in the economic character of the neighbouring Selby areas from industrial to general business and office usage, the decision was made to change to original "industrial"

zoning of Park Central to one of "general business". It is also stated that the decision to change the zoning status of the township was made in support of the Johannesburg Town Council's programme during this time for southward development of the Johannesburg's business area. Another reason for this change was that it was thought that an industrial development would require large numbers of black workers, whereas the "general business" zoning would require much less black labour. The figures mentioned at the time indicate that while industrial usage would have required "...many thousands...", only between 200 and 300 individuals would have been required should the site be used for general business (CDB, 2791, PB4/2/2/1002, Part 2).

During the early part of 1950, the property was transferred from the *Ferreira Estates Company Limited* to the *Ruargh Hill Development Corporation Limited*.

In November 1950 the *Ruargh Hill Development Corporation Limited* as registered owner of Portion 316 of the farm Turffontein No. 21, made an application to the Township Board for the establishment of a township on that portion. The application was undertaken in terms of the Township and Town Planning Ordinance of 1931. Although township developments were quite common during this period of Johannesburg's history, the site in question had a peculiar physical characteristic in that the area applied for consisted of a disused slimes dam and mine dump.

Although the Townships Board supported the proposal in principal, the Johannesburg Town Council strongly opposed it (CDB, 2791, PB4/2/2/1002, Part 1). According to an article which appeared in the Rand Daily Mail on 29 August 1951, the proposal was strongly opposed by Mr. James Gray M.P.C. and Mr. R.N.B. Smith as leader of the Labour Party. Mr. Gray voiced his opposition to the proposed township as follows: "*I think a commission should be appointed to investigate the whole matter of building on old mine dumps, and the present proposal should be referred back for further committee discussion.*"

A number of discussions, meetings and correspondence followed. The main concern for those opposing the proposed township development, was the envisaged danger of building on a tailings dam and mine dump, as well as the possibility that the Town Council would be held responsible should any damages take place.

After a number of years, the approval of the proposed Park Central township development was finally given and published in the Government Gazette of 12 May 1955. The approval was given based on a number of conditions, which includes an indemnity which reads: "*The applicant shall indemnify the local authority against any claims for compensation which may arise from any*

damage or nuisance that may be caused by the leakage of any water pipe, sewer or stormwater drain, the accumulation of any rainwater which may percolate into any street in the township, the settlement of the foundations or the collapse of any culverts or bridges **due to the subsidence caving or sliding of the slimes, sand, rubble or debris covering the land**, whether as the result of natural causes, mining operations, past or future, or any other cause whatsoever." The applicant is given as the *Ruargh Findlay Development Corporation Limited*.

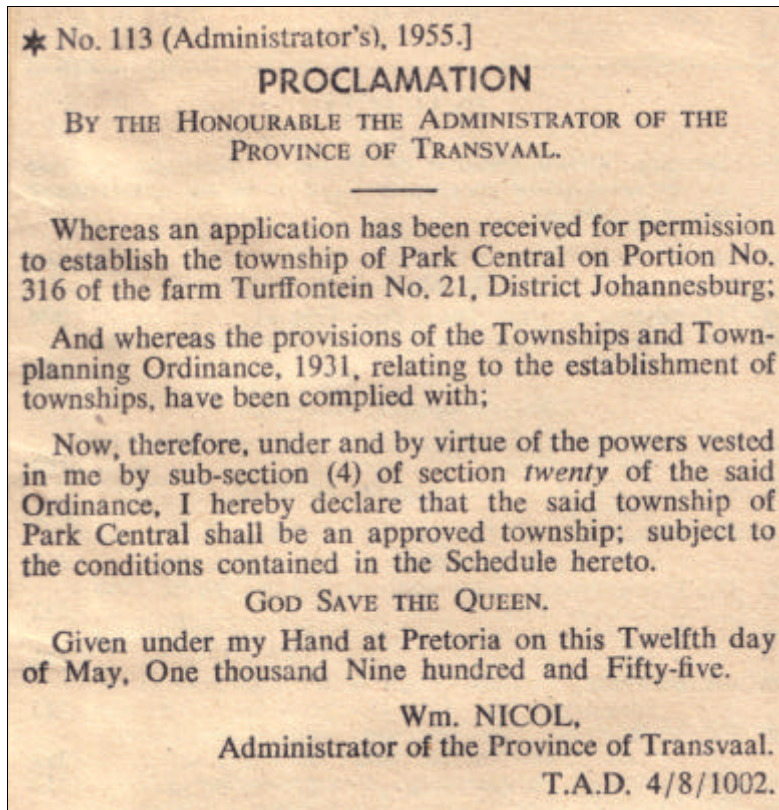


Figure 9 Copy of the Proclamation Notice published in the Rand Daily Mail of 12 August 1955.

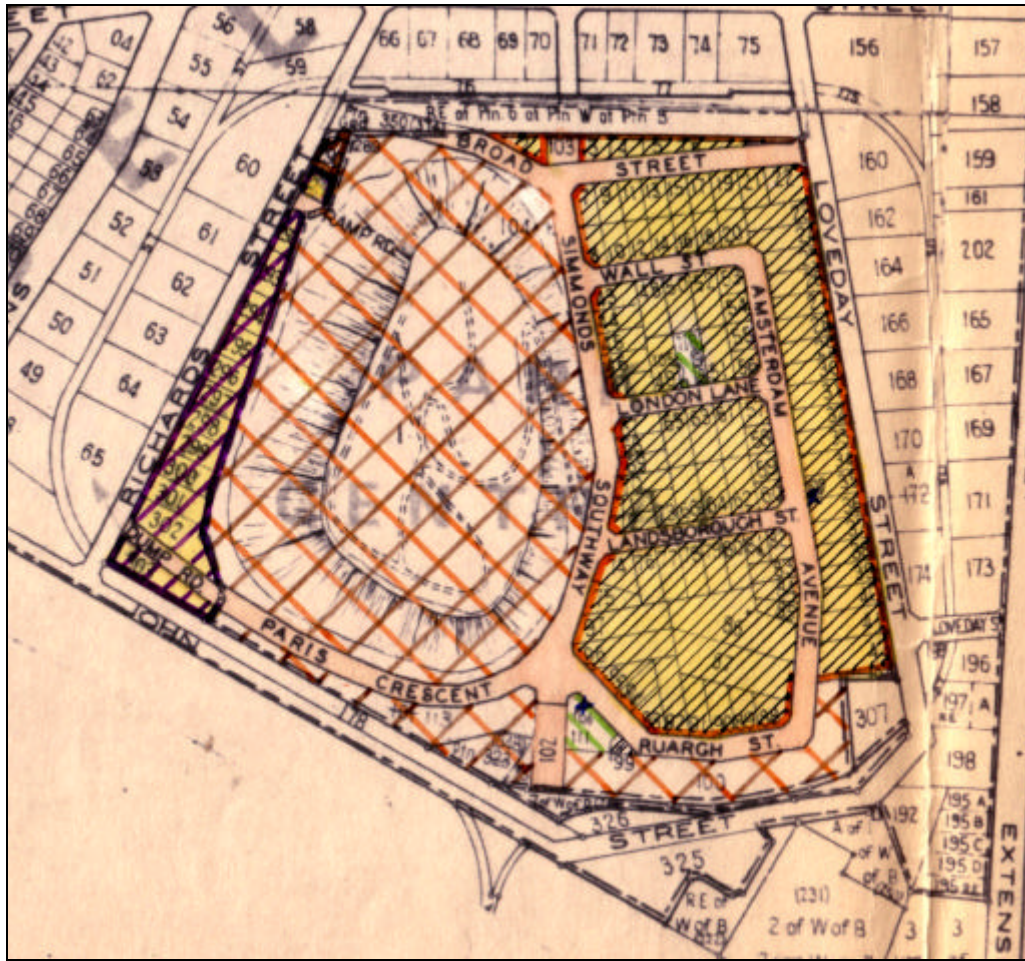


Figure 10 An undated diagram showing Park Central. The dump is visible on the left.

### 5.3.3 Top Star Drive-In Theatre

Refer **Annexure C** for the **Drive-In Theatre Layout Plan**, dated March 1959.

The earliest correspondence with regards to the construction of a drive-in theatre on top of the disused mine dump is represented by a letter written by the City of Johannesburg Licensing Department and dated 29 October 1958. The letter, which was addressed to “The Directors, *Inrybelange Edms. Bpk.*”, indicates that the application for a “Bioscope (European)” has been approved on a number of conditions. A set of 13 site-specific conditions are listed which focuses primarily on traffic safety. The letter also requires the applicants to undertake these conditions in terms of site construction before or on 30 April 1959, by which time a site inspection could be organised to see whether these conditions were met. The letter also requires written approval

from the Administrator as well as the provision of a Public Building Certificate. The final condition stated in the letter is that no daylight shows would be allowed (CDB, 1295, TAD19/19).

In a letter dated 4 September 1959, L.I Coertze as Chairman of the *Top Star Drive-In Cinema (Pty) Ltd*, indicated that apart from the drive-in theatre the company intended to construct a hotel as well. Furthermore, the company also planned to offer the angled sides of the dump to clients for general advertising purposes, consisting of ten illuminated advertising boards comprised of moving coloured lights. The proposed advertising boards were indicated to be 60 by 60 (or 60 by 40) feet each (CDB, 1295, TAD19/19).

The written approval for the drive-in theatre to be constructed was received from the Administrator in a letter dated 2 October 1959. A number of conditions are again stipulated, which again mostly has to do traffic and visitor safety.

In a letter dated 4 February 1960 and written by the Director of Local Government, it is indicated that the Administrator will allow the illuminated advertising to take place, on the condition that only 10 advertisements are to be used, and that their size, description, siting and number be first approved by the City Engineer and Chief Traffic Officer.

## 6. SITES OF SIGNIFICANCE

The following section outlines the sites identified in the development area, and evaluates them according to the evaluation criteria of the National Heritage Resources Act.

### 6.1 Top Star Dump

#### 6.1.1 *The identification and mapping of all heritage resources in the affected area*



Figure 11 Drive-in theatre view from the south on dump. Notice Johannesburg skyline in background



Figure 12 Entrance of drive-in



Figure 13 Buildings on dump



**6.1.2 An assessment of the significance of such resources in terms of the heritage assessment criteria set out in section 3(3) of the National Heritage Recourses Act 1999 (Act No 25 of 1999).**

The Top Star Dump is known by a large number of South Africans not for its mining origin but for the Drive-in theatre that came into existence in the early 1960's. Evaluation of the significance must be done on different scales to address the possible unique character of the structure.

- **Industrial Site**

The archival research has indicated that the Top Star Dump, known before the establishment of the Top Star Drive-Inn as the Ferreira Dump, was started in the later part of the 19<sup>th</sup> century. This makes the parts of the dump older than a hundred years and is classified as archaeological, Section 2.2 (a) of the NHRA.

Johannesburg was started due to the discovery of gold and has for the larger part of the 20<sup>th</sup> century been developed on the backbone of gold mining. The early years of mining saw primitive mining methods with shallow mining (Figure x) occurring along the Main Reef outcrop. This mining was loosely situated in the area of the current M2 highway running east-west along the south of central Johannesburg. The development of better mining methods saw the start of deep mining by means of vertical shafts to access the deeper Main Reef seam dipping to the south. The advent of deep mining saw the development of larger mine infrastructure such as stores, living quarters, crushers and metallurgical plants. This led to the increase of production and thus an increase in waste production.

Through the years development in the Johannesburg area encroached many of the infrastructure created in the heydays of gold mining on the Witwatersrand. The first to be demolished was buildings and ancillary structures with the last standing man made structure solitary headgear, slimes dams and sand dumps.

These remaining large manmade structures have given Johannesburg its character and familiar skyline. The aerial photo in Figure x indicates the extent of the mining activities and its relics during the early part of the 1940's.

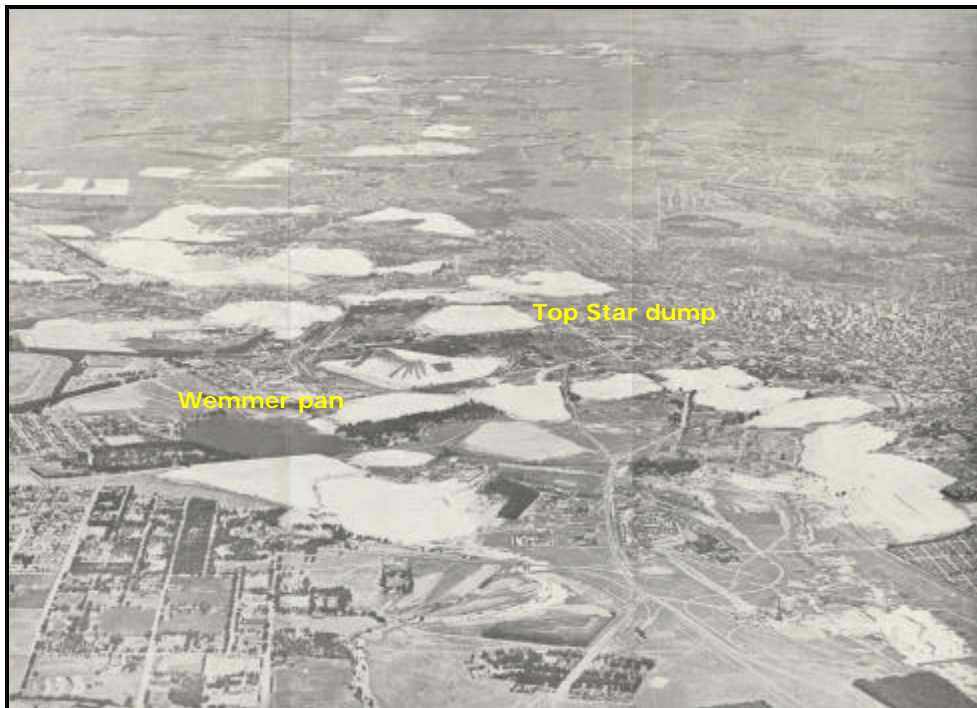


Figure 13 – Photo of the central and western goldfields (Jeppe, 1946)

The past twenty years have seen a reworking and mining of the old slimes dams and sand dumps situated to the south of the CBD. This resulted in a major change to the cultural landscape and skyline of Johannesburg and surrounding areas. Very few of the historical mining structures have been preserved or documented in the past and a rich history has been destroyed.

Evaluation of the dumps significance brings the following to light:

- **Age:** The Top Star Dump has been existence since the early years of Johannesburg and is probably barring 10 years one of the oldest manmade feature in Johannesburg.
- **Uniqueness:** Although the Top Star dump probably had other contemporary sand dumps, its uniqueness lies in the fact that it is one of the last surviving intact sand dumps in Johannesburg.
- **Visibility:** The Top Star dump is a land mark of Johannesburg linked largely to the drive-inn theatre, but also as a relic of a mining area gone by.

- **Survivability:** A large amount of early mining artefacts/structures has been destroyed over the past decades without documentation. Accordingly, the few surviving structures will have high significance.

- **Social / Cultural Site**

As stated earlier the Top Star Dump is better known as the Top Star Drive-in. Although the drive-in and infrastructure is not older than 60 years it presents a unique social phenomenon. Drive-in theatres played a large part in the social activities of the 1960's to 1980's. The Top Star Drive-in is still utilised on the social calendar as drive-in, city tour stop-over as well as for media launches and concerts.

It presents an opportunity for the documentation of a history that is largely oral by nature and transcends the boundaries of the drive-in infrastructure of screens, buildings and tarmac.

The site is of significance and is classified as important based on evaluation of the the National Heritage Recourses Act 1999 (Act No 25 of 1999) section 3 (3).

A place or object is to be considered part of the national estate if it has cultural significance or other special value because of-

- (a) its importance in the community, or pattern of South Africa's history;
- (b) its possession of uncommon, rare or endangered aspects of South Africa's natural or cultural heritage;
- (d) its importance in demonstrating the principal characteristics of a particular class of South Africa's natural or cultural places or objects;
- (e) its importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;
- (f) its importance in demonstrating a high degree of creative or technical achievement at a particular period;
- (g) its strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;
- (h) its strong or special association with the life or work of a person, group or organisation of importance in the history of South Africa; and

**6.1.3 An assessment of the impact of the development on such heritage recourses and an evaluation of the impact of the development on heritage resources relative to the sustainable social and economic benefits to be derived from the development.**

**Impact Evaluation of development on heritage resource**

Impact	Significance	Certainty	Duration	Mitigation
Negative	High	Possible	Long Term	C

Benefits envisaged by the mining company:

- The reclamation activities will contribute to the continued viability of Crown’s operations within the City of Johannesburg. This in turn will contribute towards the continued employment of approximately 937 people at Crown.

**Response**

*The dump at present is generating income for its owners and other entities utilising it as drive-in or function venue. It is unsure if the mining of the dump will be necessary for the continued existence of Crown.*

- The current visual impact of the Dump will be removed once reclamation activities are completed.

**Response**

*The dump is part of the cultural and visual characteristic skyline of Johannesburg and cannot be seen as a negative impact currently. The Top Star dump is mentioned in numerous publications and websites as part of Johannesburg.*

- The Top Star Dump Reclamation project will ensure the removal of a source of pollution in terms of surface water contamination and air pollution from dust.
- Key urban land, which is located proximally to the CBD, will be unlocked for future development, i.e. for industrial or residential use.
- The reclamation of the Dump will return the area to its original surface level, and rehabilitated to appropriate environmental standards.

**6.1.4 The results of consultation with communities affected by the proposed development and other interested parties regarding the impact of the development on heritage resources**

Social consultation with regard to the significance and views of the public towards the dump as a cultural entity will have to be conducted.

**6.1.5 If heritage resources will be affected by the proposed development, the consideration of alternatives**

The only alternative to mining of the dumps is the preservation of the dump in situ.

The removal of the dump will change the cultural fabric of Johannesburg and remove a well know landmark.

It is our opinion that the dump is a unique feature in the Johannesburg landscape and current pollution from the dump must be quantified to back the pollution claims, for its removal. If the pollution from the dump present a major impact on the environment and outweighs the conservation value of the dump, the destruction of the dump must supersede the conservation of the structure.

**6.1.6 Plans for mitigation of any adverse effects during and after the completion of the proposed development**

In the event that the dump is to be mined the following must be adhered to:

- The dump is older than 60 years in totality and thus protected by the NHRA. Section 34 of the Act requires the developer to apply for a destruction permit before such as site may be destroyed.
- The following is recommended before application for a destruction permit:
  - Physical documentation of the structure and associated structure to develop a contextual framework for the dump; and
  - Memorialisation of the dump after destruction.
- The following might be required by the South African Heritage Resources Agency:
  - Further historical research; and
  - Oral history research.

***The above does not however guarantee that the South African Heritage Resources Agency will grant a permit for destruction of the dump.***

## **7. ASSUMPTIONS AND LIMITATIONS**

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

Vegetation height and density during the survey also influenced the visibility of cultural material and features, especially in the orchards.

Accessibility to the Hall's property was largely restricted and extracting information from the company employees became increasingly difficult. This made the verification of historic sites identified during the archival research extremely difficult.

## **8. LEGAL AND POLICY REQUIREMENTS**

Section 38(3) of the National Heritage Resources Act (NHRA) mandates the assessment of heritage resources as part of the pre-design process for proposed development of a particular size and scale.

The NHRA makes provision in the Act under the following sections:

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.
- (2) Within three months of the refusal of the provincial heritage resources authority to issue a permit, consideration must be given to the protection of the place concerned in terms of one of the formal designations provided for in Part 1 of this Chapter.

**This making provision for a structure to be declared as a Provincial Heritage Site.**

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, power line, pipeline, canal or other similar form of linear development or barrier exceeding 300m in length;
- (b) the construction of a bridge or similar structure exceeding 50m in length;
- (c) any development or other activity which will change the character of a site-
  - (i) exceeding 5 000m<sup>2</sup> in extent; or
  - (ii) involving three or more existing erven or subdivisions thereof; or
  - (iii) involving three or more erven or divisions thereof which have been consolidated within the past five years; or
  - (iv) the costs of which will exceed a sum set in terms of regulations by SAHRA or a provincial heritage resources authority;
- (d) the re-zoning of a site exceeding 10 000m<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 (2) (a): Provided that the following must be included:

- (a) The identification and mapping of all heritage resources in the area affected;
- (b) an assessment of the significance of such resources in terms of the heritage assessment criteria set out in section 6 (2) or prescribed under section 7;
- (c) an assessment of the impact of the development on such heritage resources;

- (d) an evaluation of the impact of the development on heritage resources relative to the sustainable social and economic benefits to be derived from the development;
- (e) the results of consultation with communities affected by the proposed development and other interested parties regarding the impact of the development on heritage resources;
- (f) if heritage resources will be adversely affected by the proposed development, the consideration of alternatives; and
- (g) plans for mitigation of any adverse effects during and after the completion of the proposed development.

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

- (a) whether or not the development may proceed;
- (b) any limitations or conditions to be applied to the development;
- (c) what general protections in terms of this Act apply, and what formal protections may be applied, to such heritage resources;
- (d) whether compensatory action is required in respect of any heritage resources damaged or destroyed as a result of the development; and
- (e) whether the appointment of specialists is required as a condition of approval of the proposal.

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

## **9. LIST OF PREPARES**

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CDB, 2791, PB4/2/2/1002, Part 3

CDB, 2791, PB4/2/2/1002, Part 4

RAK, 2869

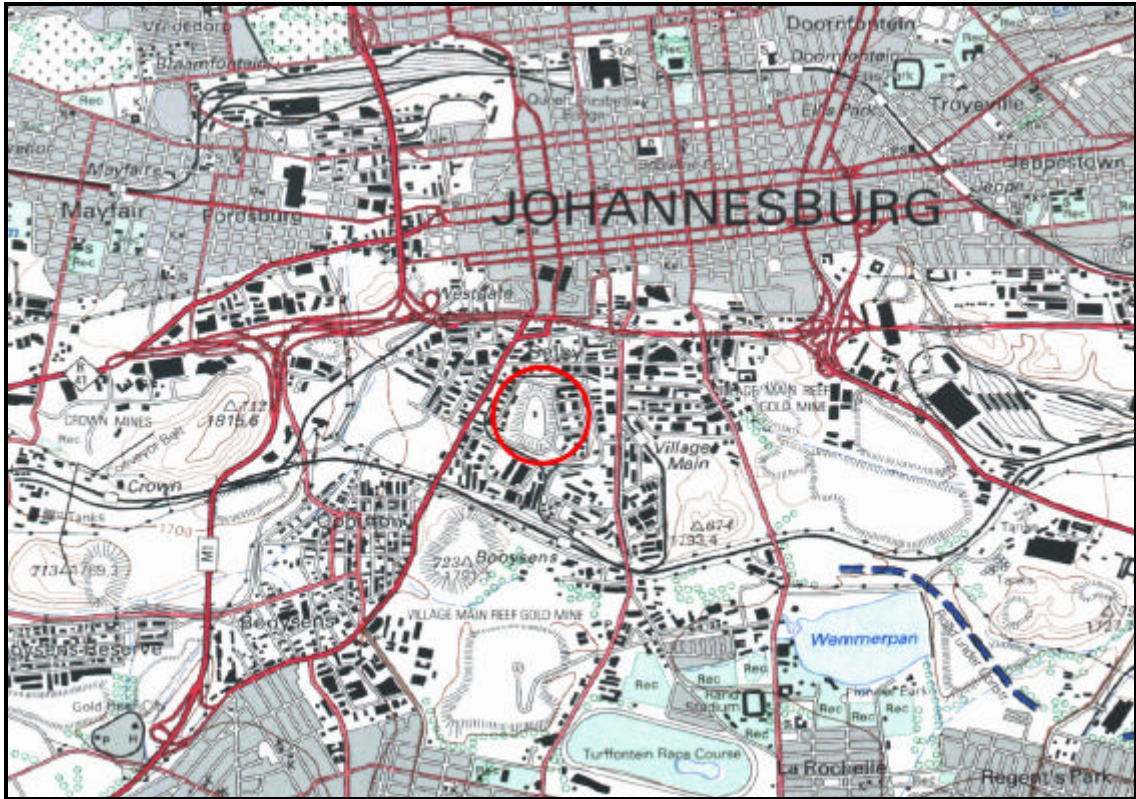
**Archival Maps**

National Archives, Maps, 1/91

National Archives, Maps, 3/1896

**ANNEXURE A**

Locality Map



**Aerial Photo**



**ANNEXURE B**

Legislation extracts

[36]36 Burial grounds and graves

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

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

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

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

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

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

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

(7) (a) SAHRA must, over a period of five years from the commencement of this Act, submit to the Minister for his or her approval lists of graves and burial grounds of persons connected with the liberation struggle and who died in exile or as a result of the action of State security forces or agents provocateur and which, after a process of public consultation, it believes should be included among those protected under this section.

(b) The Minister must publish such lists as he or she approves in the Gazette.

(8) Subject to section 56 (2), SAHRA has the power, with respect to the graves of victims of conflict outside the Republic, to perform any function of a provincial heritage resources authority in terms of this section.

(9) SAHRA must assist other State Departments in identifying graves in a foreign country of victims of conflict connected with the liberation struggle and, following negotiations with the next of kin, or relevant authorities, it may re-inter the remains of that person in a prominent place in the capital of the Republic.

[37]37 Public monuments and memorials

Public monuments and memorials must, without the need to publish a notice to this effect, be protected in the same manner as places which are entered in a heritage register referred to in section 30.

[38]38 Heritage resources management

(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 300m in length;
- (b) the construction of a bridge or similar structure exceeding 50m in length;
- (c) any development or other activity which will change the character of a site-
  - (i) exceeding 5 000m<sup>2</sup> in extent; or
  - (ii) involving three or more existing erven or subdivisions thereof; or
  - (iii) involving three or more erven or divisions thereof which have been consolidated within the past five years; or
  - (iv) the costs of which will exceed a sum set in terms of regulations by SAHRA or a provincial heritage resources authority;
- (d) the re-zoning of a site exceeding 10 000m<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 (2) (a): Provided that the following must be included:

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

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

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

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

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

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

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

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

(a) whether or not the development may proceed;

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

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

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

- (a) must consider the views of both parties; and
- (b) may at his or her discretion-
  - (i) appoint a committee to undertake an independent review of the impact assessment report and the decision of the responsible heritage authority; and
  - (ii) consult SAHRA; and
- (c) must uphold, amend or overturn such decision.

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

(8) The provisions of this section do not apply to a development as described in subsection (1) if an evaluation of the impact of such development on heritage resources is required in terms of the Environment Conservation Act, 1989 (Act 73 of 1989), or the integrated environmental

management guidelines issued by the Department of Environment Affairs and Tourism, or the Minerals Act, 1991 (Act 50 of 1991), or any other legislation: Provided that the consenting authority must ensure that the evaluation fulfils the requirements of the relevant heritage resources authority in terms of subsection (3), and any comments and recommendations of the relevant heritage resources authority with regard to such development have been taken into account prior to the granting of the consent.

(9) The provincial heritage resources authority, with the approval of the MEC, may, by notice in the Provincial Gazette, exempt from the requirements of this section any place specified in the notice.

(10) Any person who has complied with the decision of a provincial heritage resources authority in subsection (4) or of the MEC in terms of subsection (6) or other requirements referred to in subsection (8), must be exempted from compliance with all other protections in terms of this Part, but any existing heritage agreements made in terms of section 42 must continue to apply

