

# **McGregor Museum Department of Archaeology**



## **Heritage Impact Assessment (Archaeology) for the proposed Gateway Fuel Station and Convenience Centre, Jan Kempdorp, Northern Cape**

David Morris and Jani Louw  
April-May 2019

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## **Executive Summary**

A Phase 1 Heritage Impact Assessment (Archaeology) is presented.

The site of the proposed Gateway Fuel Station and Convenience Centre, Jan Kempdorp, Northern Cape consists of an existing, non-operational fuel station on Erf 767 along National Route 18 (N18) in Jan Kempdorp, Phokwane Municipality, Northern Cape. The proposed Gateway project includes converting existing infrastructure into a modern fuel station with Convenience Centre and related infrastructure.

During a site visit it was found that the entire extent of land to be developed into the new Gateway Fuel Station and associated features was previously developed and/or disturbed, and no heritage features of any significance were observed.

Significance of impact on archaeological and cultural heritage features is thus demonstrated to be low and no mitigation measures are regarded as necessary. It remains possible (but unlikely) that some material of significance may occur subsurface which, if encountered, should be brought to the attention of heritage authorities for further assessment and mitigation if necessary.

In terms of this report, the recommendation is made that development be allowed to proceed as planned, with no mitigation required.

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## **1. INTRODUCTION**

The McGregor Museum archaeology department was requested to carry out a Phase 1 Heritage Impact Assessment with focus on archaeology at the site of the proposed Gateway Fuel Station and Convenience Centre, Jan Kempdorp, Northern Cape. Onyxia Environmental Management (OEM) was appointed through Fox Corporate Services (FCS) on behalf of HHH General Trading (Pty) Ltd to undertake the necessary environmental processes for the proposed project. (Contact: Ms Anèl Dannhauser, Cell: 084 955 7080; Fax: 086 471 4954).

The site consists of an existing, non-operational fuel station on Erf 767 along National Route 18 (N18) in Jan Kempdorp, Phokwane Municipality, Northern Cape. The proposed Gateway project involves converting existing infrastructure into a modern fuel station with Convenience Centre and related infrastructure.

During a site visit on 5 April 2019 it was found that the entire extent of land to be developed into the new Gateway Fuel Station and associated features was previously developed and/or disturbed, and no heritage features of any significance were observed. The relevant observations are indicated in this report.

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

### **1.1. Focus and Content of Specialist Report: Heritage**

This archaeology and heritage specialist study is focused on the site of the proposed development.

This study outlines:

- Introduction, explaining the focus of the report (1.1) and introducing the authors in terms of qualifications, accreditation and experience to undertake the study (1.2)
- Description of the affected environment (2) providing background to the development and its infrastructural components (2.1); background to the heritage features of the area (2.2); and defining environmental issues and potential impacts (2.3)
- Methodology (3) including an assessment of limitations (3.1).
- Observations and assessment of impacts (4); Specific observations (4.1); characterizing archaeological significance (4.2); and Summary of significance of impacts (4.3).

- Measures for inclusion in a draft Environmental Management Plan for the development are set out in tabular form (5).
- Conclusions (6).

## **1.2. Authors of this Report**

The authors (both on staff of the McGregor Museum) are independent of the organization commissioning this specialist input, and provide this heritage assessment (archaeology and colonial history but not palaeontology) within the framework of the National Heritage Resources Act (No 25 of 1999).

The senior author is a professional archaeologist (PhD) accredited as a Principal Investigator by the Association of Southern African Professional Archaeologists. He has worked as a museum archaeologist and has carried out specialist research and surveys in the Northern Cape and western Free State since 1985. In addition, he has a comprehensive knowledge of Northern Cape history and built environment, and received UCT-accredited training at a workshop on Architectural and Urban Conservation: researching and assessing local (built) environments (S. Townsend, UCT). He is also Chairman of the Historical Society of Kimberley and the Northern Cape.

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

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

## **2. DESCRIPTION OF THE AFFECTED ENVIRONMENT**

Jan Kempdorp is situated in the north-eastern part of the Northern Cape north of Kimberley, within the Vaal-Harts irrigation scheme, alongside the N18 national road from Warrenton to Vryburg.

The landscape surface is considerably modified as a result of the Vaal-Harts Irrigation Scheme which dates from the 1930s. Pre-Karoo Ventersdorp basalt/andesite is overlain by deep Hutton soils in the broad valley of the Harts River to the east of the Ghaap Escarpment. Basin.

The immediate environment is far from pristine, however, being much modified within the extent of the Vaal-Harts Irrigation Scheme and as an abandoned fuel station. The present surface, where not obscured by buildings and cement aprons, may itself be a recent artificial/landscaped surface.



**Figure 1:** Position of proposed Gateway Fuel Station, Erf 767, relative to Jan Kempdorp.



**Figure 2:** Google Earth image and plan of the Gateway Fuel Station development site (Erf 767)

## **2.1. Project components**

As indicated above, the proposed Gateway project would involve converting existing infrastructure into a modern fuel station with Convenience Centre and related infrastructure.

## **2.2 Background to the heritage features of the area**

The Northern Cape is characterized by a wealth archaeological landscapes reflecting Stone Age to Colonial histories. Known sites in the Jan Kempdorp area testify to a cultural succession through the Earlier, Middle and Later Stone Age as well as Iron Age (Helgren 1978; Beaumont & Morris 1990; Morris & Beaumont 2004; Morris & Seliane 2008; Gibbon *et al* 2009). Later Stone Age rock art sites are also found in the wider landscape, including rock engraving locales in the vicinity of Taung (Morris 1988; Fock & Fock 1989; Morris & Mngqolo 1995). The nearby Ghaap Escarpment contains shelters rich in archaeological traces (Humphreys & Thackeray 1984) but is perhaps most notable for its fossil sites such as that at which the Taung Skull was found, at Buxton (Beaumont & Morris 1990). Historical events relating to the conquest of the Southern Tswana, e.g. at Phokwane (Shillington 1985), left traces now part of the heritage of the area, as did the subsequent settlement of the valley. Jan Kempdorp straddled the historical border between the former Transvaal and Cape Provinces.



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

Heritage resources including archaeological sites are in each instance unique and non-renewable resources. Any area or linear, primary and secondary, disturbance of surfaces in the development locales could have a destructive impact on heritage resources, where present. In the event that such resources are found, they are likely to be of a nature that potential impacts could be mitigated by documentation and/or salvage following approval and permitting by the South African Heritage Resources Agency and, in the case of any built environment features, by the Northern Cape Heritage Authority (previously called Ngwao Bošwa jwa Kapa Bokone). Although unlikely, there may be some that could require preservation in situ and hence modification of intended placement of development features.

The expected impact in this instance would be an area disturbance, noting however that the entire extent of the development site is in fact already disturbed.

Destructive impacts that are possible in terms of heritage resources would tend to be direct, once-off events occurring during construction. In the long term, the proximity of operations in a given area could result in secondary indirect impacts resulting from the movement of people or vehicles in the immediate or surrounding vicinity. Once again, however, it is to be noted that the site is surrounded completely by existing considerable disturbance in the form of built structures, agricultural development, and the N18 national road.

## **3. METHODOLOGY**

The area proposed for development was inspected on foot on 5 April 2019. An assessment was made of the presence/absence of heritage traces.

### **3.1 Assumptions and Limitations**

It was anticipated that limited indications of the erstwhile archaeology of the site would be visible given the state of disturbance and the extent of existing building and paving across the site. It is possible that archaeological material may occur sub-surface but even this may be disturbed, this being a former fuel station at which existing infrastructure would include sub-surface storage tanks.

This report does not address palaeontology: see the separate report by Dr John Almond.

## **4. OBSERVATIONS AND ASSESSMENT OF IMPACTS**

Inspection of the site indicated three zones of relevance in terms of heritage visibility:

- A. Existing buildings comprising the former fuel station, including a paved/cemented front apron/forecourt with access roads off the N18, and a complex of buildings/workshop and traces of a landscaped garden with presumed recreation

area of ponds and a wooden bridge at the back. The existing buildings are not older than sixty years and have no significant heritage features.

- B. Between the former fuel station and the N18 national road there is a landscaped area which appears to be artificial and unlikely to contain any in situ heritage traces, except perhaps at depth.
- C. Undeveloped but surface-disturbed areas immediately north and south of the above two zones.



**Figure 3:** Zones as characterised in this report.

#### **4.1 Specific observations per zone**

Specific observations per zone are summed up as follows:

Zone A completely obscures any potential archaeological traces and would include subterranean fuel tanks that would have disturbed/destroyed any underlying archaeological features if present. As noted already, the existing buildings are less than sixty years old and have no heritage features of significance.

Zone B, having the appearance of having been at least partially landscaped (possibly including ground excavated to make way for subterranean fuel tanks), probably also obscures and/or disturbs the underlying surfaces.



Zone C is potentially the only one having any remaining integrity of interest from an archaeological perspective. Particular attention was focussed on these areas north and south of the built infrastructure. It appears that both areas have also been previously disturbed, especially the southern part which has a trench dug through it. The trench was of interest in that it afforded an opportunity to note evidence of possible sub-surface middens and child burials such as those noted at Rooiwal near Taung (Morris & Seliane 2008). No such evidence was found, however, later twentieth century rubbish was recorded.



**Figures 4&5:** Zone A. Existing garage forecourt.







**Figures 6&7:** Zone A. Back of building – workshops, recreation feature.







**Figures 8&9:** Zone B. Modified landscape between fuel station and N18 national road.







**Figures 10&11:** Zone C South. Less disturbed portions of the property.







**Figures 12&13:** Zone C North. Less disturbed portions of the property. Both C North and C South have later twentieth century rubbish.





## 4.2 Characterizing the overall significance of impacts

The criteria on which significance of impacts is based include **nature**, **extent**, **duration**, **magnitude** and **probability of occurrence**, with quantification of significance being grounded and calculated as follows:

- The **nature**, namely a description of what causes the effect, what will be affected, and how it will be affected.
- The **extent**, indicating the geographic distribution of the impact:
  - local extending only as far as the development site area – assigned a score of 1;
  - limited to the site and its immediate surroundings (up to 10 km) – assigned a score of 2;
  - impact is regional – assigned a score of 3;
  - impact is national – assigned a score of 4; or
  - impact across international borders – assigned a score of 5.
- The **duration**, measuring the lifetime of the impact:
  - very short duration (0–1 years) – assigned a score of 1;
  - short duration (2-5 years) - assigned a score of 2;
  - medium-term (5–15 years) – assigned a score of 3;
  - long term (> 15 years) - assigned a score of 4;
  - or permanent - assigned a score of 5.
- The **magnitude**, quantified on a scale from 0-10:
  - 0 is small and will have no effect on the environment;
  - 2 is minor and will not result in an impact on environmental processes;
  - 4 is low and will cause a slight impact on environmental processes;
  - 6 is moderate and will result in environmental processes continuing but in a modified way;
  - 8 is high (environmental processes are altered to the extent that they temporarily cease); and
  - 10 is very high and results in complete destruction of patterns and permanent cessation of environmental processes.
- The **probability of occurrence**, indicating the likelihood of the impact actually occurring (scale of 1-5)
  - 1 is highly improbable (probably will not happen);
  - 2 is improbable (some possibility, but low likelihood);
  - 3 is probable (distinct possibility);
  - 4 is highly probable (most likely); and
  - 5 is definite (impact will occur regardless of any prevention measures).
- The **significance**, determined by a synthesis of the characteristics described above and expressed as low, medium or high. Significance is determined by the following formula:



S= (E+D+M) P; where S = Significance weighting; E = Extent; D = Duration; M = Magnitude; P = Probability.

- The **status**, either positive, negative or neutral, reflecting:
  - the degree to which the impact can be reversed.
  - the degree to which the impact may cause irreplaceable loss of resources.
  - the degree to which the impact can be mitigated.
  
- **The significance weightings for each potential impact are as follows:**
  - < 30 points: Low (i.e. where this impact would not have a direct influence on the decision to develop in the area),
  - 30-60 points: Medium (i.e. where the impact could influence the decision to develop in the area unless it is effectively mitigated),
  - > 60 points: High (i.e. where the impact must have an influence on the decision process to develop in the area).

#### 4.3 SUMMARY OF THE SIGNIFICANCE OF IMPACTS

**Significance of Impacts, with and without mitigation – based on the worst case scenario – for all areas investigated.**

<b>Nature:</b> Acts or activities resulting in disturbance of surfaces and/or sub-surfaces containing artefacts (causes) resulting in the destruction, damage, excavation, alteration, removal or collection from its original position (consequences), of any archaeological or other heritage material or object (what affected). The following assessment refers to impact on physical archaeological/heritage traces.		
	<b>Without mitigation</b>	<b>With mitigation</b>
<b>Extent</b>	1	Not needed
<b>Duration</b>	5	Not needed
<b>Magnitude</b>	0	Not needed
<b>Probability</b>	1	Not needed
<b>Significance</b>	<b>6</b>	
<b>Status (positive or negative)</b>	VERY WEAKLY NEGATIVE	
<b>Reversibility</b>	No	
<b>Irreplaceable loss of resources?</b>	None noted	n/a
<b>Can impacts be mitigated?</b>	Not needed	Not needed
<b>Mitigation:</b> Not needed.		

**Cumulative impacts:** Cumulative Impacts: where any archaeological contexts occur, direct impacts are once-off permanent destructive events. Secondary cumulative impacts may occur with the increase in development and operational activity associated with the life of the proposed project – but surrounding properties are already heavily developed (hotel/other development, agriculture, national road).

**Residual Impacts:** -

## 5. MEASURES FOR INCLUSION IN THE DRAFT ENVIRONMENTAL MANAGEMENT PLAN

### The objective

Archaeological or other heritage materials that may be encountered during any sub-surface disturbance associated with any aspect of the proposed development or maintenance thereof may be subject to destruction, damage, excavation, alteration, or removal. The objective is to limit such possible impacts.

<b>Project component/s</b>	Any infrastructure construction potentially impacting unanticipated below-surface heritage traces.
<b>Potential Impact</b>	The potential impact if this objective is not met is that possible but unanticipated heritage traces may be subject to destruction, damage, excavation, alteration or removal.
<b>Activity/risk source</b>	Activities which could impact on achieving this objective include deviation from any planned development without taking heritage impacts into consideration.
<b>Mitigation: Target/Objective</b>	An environmental management plan that takes cognizance of the potential for unanticipated heritage resources occurring sub-surface. Mitigation (based on present observations and project proposal) is not considered to be necessary.

<b>Mitigation: Action/control</b>	<b>Responsibility</b>	<b>Timeframe</b>
Provision for on-going heritage monitoring in an environmental management plan which also provides guidelines on what to do in the event of any major heritage feature being encountered during any phase of construction/maintenance.	Environmental management provider with on-going monitoring role for the construction phase and for any instance of periodic or on-going land surface modification thereafter.	Environmental management plan to be in place before commencement of construction.

Should unexpected finds be made (e.g. precolonial burials; ostrich eggshell container cache; or localised Stone Age sites with stone tools, pottery, ash midden with bone/pottery; military remains), the relevant Heritage Authority should be contacted.	Environmental Control Officer should report to the Heritage Authority as needed (see next column).	In the event of finding any of the features mentioned in column 1, reporting by the developer to relevant heritage authority should be immediate. Contact: SAHRA Ms N. Higgins 021-4624502 or NC Heritage Resources Authority Mr Andrew Timothy 0790369294.
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<b>Performance Indicator</b>	Inclusion of further heritage impact consideration in construction and future phases of the development.
<b>Monitoring</b>	Officials from relevant heritage authorities (National, Provincial or Local) to be permitted to inspect the site at any time in relation to the heritage component of the management plan.

## 6. CONCLUSIONS AND RECOMMENDATIONS

Significance of impact on archaeological and cultural heritage features is demonstrated to be low and no mitigation measures are regarded as necessary. It remains possible (but unlikely) that some material of significance and with contextual integrity may occur subsurface which, if encountered, should be brought to the attention of heritage authorities for further assessment and mitigation if necessary.

In terms of this report, the recommendation is made that development be allowed to proceed as planned, with no mitigation required.

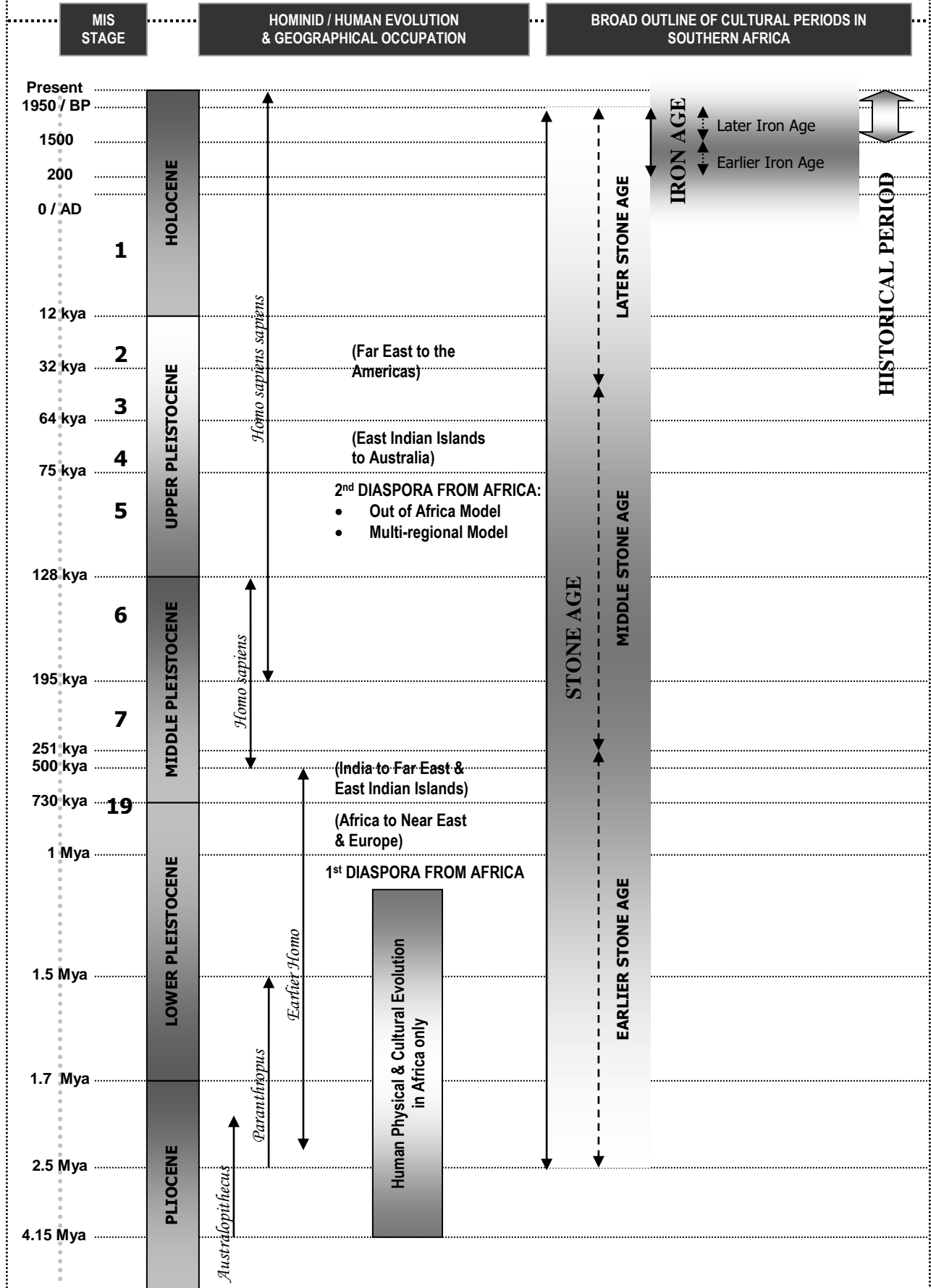
### Acknowledgements

We thank Ms Anèl Dannhauser and Ms Angie Fotheringham who provided input necessary to the report.

## References

- Beaumont, P.B. & Morris, D. 1990. *Guide to archaeological sites in the Northern Cape*. Kimberley: McGregor Museum.
- Fock, G.J. & Fock, D.M.L. 1989. *Felsbilder in Südafrika: Teil III Vaal-Oranje Becken*. Köln: Böhlau Verlag.
- Gibbon, R.J., Granger, D.E., Kuman, K. & Partridge, T.C. 2009. Early Acheulean technology in the Rietputs Formation, South Africa, dated with cosmogenic nuclides. *Journal of Human Evolution* 56:152-160.
- Helgren, D.M. 1978. Acheulian settlement along the lower Vaal River, South Africa. *Journal of Archaeological Science* 5: 39 – 60.
- Humphreys, A.J.B. & Thackeray, A. 1984. *Ghaap and Gariep*. Cape Town: South African Archaeological Society.
- Morris, D. 1988. Engraved in place and time: a review of variability in the rock art of the Northern Cape and Karoo. *South African Archaeological Bulletin* 43:109-121.
- Morris, D. & Beaumont, P. 2004. *Archaeology in the Northern Cape: some key sites*. Kimberley: McGregor Museum.
- Morris, D. & Mngqolo, S. 1995. Dismantling a powerful place: the salvage of rock engravings near Warrenton, Northern Cape. *South African Field Archeology* 4: 58-63.
- Morris, D. & Seliane, M. 2008. A report on human remains and archaeological traces at Marope School, Rooiwal, Taung.
- Sampson, C. G. 1974. *The Stone Age archaeology of South Africa*. New York: Academic Press.
- Shillington, K. 1985. *The colonization of the Southern Tswana*. Johannesburg: Ravan Press.

# Schematic Human Physical and Cultural Evolution in Africa



## Extracts from the

### National Heritage Resources Act (No 25 of 1999)

#### DEFINITIONS

##### Section 2

In this Act, unless the context requires otherwise:

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

#### NATIONAL ESTATE

##### Section 3

- 1) For the purposes of this Act, those heritage resources of South Africa which are of cultural significance or other special value for the present community and for future generations must be considered part of the national estate and fall within the sphere of operations of heritage resources authorities.
- 2) Without limiting the generality of subsection 1), the national estate may include –
  - a) places, buildings, structures and equipment of cultural significance;
  - b) places to which oral traditions are attached or which are associated with living heritage;
  - c) historical settlements and townscapes;
  - d) landscapes and natural features of cultural significance;
  - e) geological sites of scientific or cultural importance;
  - f) archaeological and palaeontological sites;
  - g) graves and burial grounds, including –
    - i. ancestral graves;
    - ii. royal graves and graves of traditional leaders;
    - iii. graves of victims of conflict



- iv. graves of individuals designated by the Minister by notice in the Gazette;
  - v. historical graves and cemeteries; and
  - vi. other human remains which are not covered in terms of the Human Tissue Act, 1983 (Act No 65 of 1983)
- h) sites of significance relating to the history of slavery in South Africa;
- i) movable objects, including –
- i. objects recovered from the soil or waters of South Africa, including archaeological and palaeontological objects and material, meteorites and rare geological specimens;
  - ii. objects to which oral traditions are attached or which are associated with living heritage;
  - iii. ethnographic art and objects;
  - iv. military objects;
  - v. objects of decorative or fine art;
  - vi. objects of scientific or technological interest; and
  - vii. books, records, documents, photographic positives and negatives, graphic, film or video material or sound recordings, excluding those that are public records as defined in section 1 xiv) of the National Archives of South Africa Act, 1996 (Act No 43 of 1996).

## **STRUCTURES**

### **Section 34**

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

## **ARCHAEOLOGY, PALAEOLOGY AND METEORITES**

### **Section 35**

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

## **BURIAL GROUNDS AND GRAVES**

### **Section 36**

- 3) No person may, without a permit issued by SAHRA or a provincial heritage resources authority –
- a) destroy, damage, alter, exhume or remove from its original position or otherwise disturb the grave of a victim of conflict, or any burial ground or part thereof which contains such graves;

- b) destroy, damage, alter, exhume, remove from its original position or otherwise disturb any grave or burial ground older than 60 years which is situated outside a formal cemetery administered by a local authority; or
  - c) bring onto or use at a burial ground or grave referred to in paragraph a) or b) any excavation equipment, or any equipment which assists in the detection or recovery of metals.
- 4) SAHRA or a provincial heritage resources authority may not issue a permit for the destruction of any burial ground or grave referred to in subsection 3a) unless it is satisfied that the applicant has made satisfactory arrangements for the exhumation and re-interment of the contents of such graves, at the cost of the applicant and in accordance with any regulations made by the responsible heritage resources authority.
- 5) SAHRA or a provincial heritage resources authority may not issue a permit for any activity under subsection 3b) unless it is satisfied that the applicant has, in accordance with regulations made by the responsible heritage resources authority –
- a) made a concerted effort to contact and consult communities and individuals who by tradition have an interest in such grave or burial ground; and
  - b) reached agreements with such communities and individuals regarding the future of such grave or burial ground.
- 6) Subject to the provision of any other law, any person who in the course of development or any other activity discovers the location of a grave, the existence of which was previously unknown, must immediately cease such activity and report the discovery to the responsible heritage resources authority which must, in co-operation with the South African Police Service and in accordance with regulations of the responsible heritage resources authority –
- a) carry out an investigation for the purpose of obtaining information on whether or not such grave is protected in terms of this Act or is of significance to any community; and
  - b) if such grave is protected or is of significance, assist any person who or community which is a direct descendant to make arrangements for the exhumation and re-interment of the contents of such grave or, in the absence of such person or community, make any such arrangements as it deems fit.

## **HERITAGE RESOURCES MANAGEMENT**

### **Section 38**

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

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

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

### **Section 50**

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

A heritage inspector may, if there is reason to believe that any work is being done or any action is being taken in contravention of this Act or the conditions of a permit issued in terms of this Act, order the immediate cessation of such work or action pending any further order from the responsible heritage resources authority.