

10.1.6 Mitigation

The following mitigation measures are required:

- Social consultation process to identify the family (or families) associated with the site.
- Once identified, the associated families will be requested to indicate the exact position of the graves, the number of graves located there as well as the details of the deceased.
- With the position of the site confirmed it can be assessed whether further mitigation measures would be required. This may include changing the edge of the development slightly to allow for the preservation of the site, or alternatively the relocation of the affected graves.



Plate 5 The western end of the plantation where Rood 1 is indicated to be located.

11. COMPARISON OF SOCIO-ECONOMIC BENEFITS AND THE HERITAGE IMPACT

While it is unlikely that any new job opportunities would be created during the operational phase due to the fact that employees working currently at the existing ash dam complex would only move to the new facility, the decommissioning of the Kriel Power Station due to insufficient ash storage capacity would result in the loss of jobs.

A comparison between this and the overall mitigated impact of the proposed development on the heritage fabric of the study area indicates that the socio-economic benefits of the proposed development would overshadow the mitigated impact of the development on the heritage resources of the study area.

12. CONCLUSIONS AND GENERAL RECOMMENDATIONS

PGS Heritage and Grave Relocation Consultants were appointed by Aurecon to undertake a Phase 1 Heritage Impact Assessment for the proposed Kriel Ash Dam Facility in the vicinity of Kriel (Ga-Nala), Mpumalanga Province. The proponent is Eskom.

An archival and historical study was undertaken which has revealed various aspects of the area's history. It also showed a number of possible heritage features (i.e. structures) though the fieldwork indicated that no such features are located within the study area. The desktop study also revealed the existence of a grave site as well as huts within the proposed conveyor and pipeline footprints in one of the two areas which could not be surveyed due to access limitations.

A field survey of the study area identified one site (Rood 1) located on the north-western edge of Site 16N. The fieldwork team was made aware of the existence of a grave (or graves) by the landowner of that portion of land, Mr. Dawid de Wet. Mr. De Wet could not identify the exact position of the cemetery, while the dense vegetation associated with the indicated area made it impossible to survey that section of land in detail. As a result the exact position of the cemetery is not presently known, and an area of roughly 100m x 100m was indicated by Mr. De Wet as the area within which the grave is located.

The following mitigation measures are required for Rood 1:

- Social consultation process to identify the family (-ies) associated with the grave.

- Once identified, the associated families will be requested to indicate the exact position of the graves, the number of graves located there as well as the details of the deceased.
- With the position of the grave confirmed it can be assessed whether further mitigation measures would be required. This may include changing the edge of the development slightly to allow for the preservation of the grave, or alternatively the relocation of the affected graves.

The following general recommendations are required:

- The two areas of the conveyor and pipeline footprints which could not be surveyed due to access limitations (refer Section 4.4.2) must be surveyed and the results of those surveys included in the heritage assessment report. This includes the grave site located within one of these areas which was identified during the desktop study.
- Any changes to the existing layout of any of the proposed development footprints (i.e. study area boundaries and/or footprint areas of the conveyor belt or pipeline) will have to be surveyed by a suitably qualified heritage specialist.

It is the opinion of the author of this report that in terms of the heritage aspects addressed as part of the defined scope of work of this study (see Section 3), and on the condition that the required mitigation measures and recommendations made in this report are undertaken before any development takes place, the development may be allowed to continue.

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ANNEXURE A
GOOGLE EARTH IMAGE OF STUDY
AREA SHOWING LOCATED SITE (ROOD 1)



ANNEXURE B
LEGISLATIVE FRAMEWORK

LEGISLATIVE FRAMEWORK

South Africa has a number of legislative measures in place aimed at protecting its heritage resources. Of these the most important is the National Heritage Resources Act 25 of 1999.

1. National Heritage Resources Act 25 of 1999

The promulgation of the National Heritage Resources Act 25 of 1999 brings the conservation and management of heritage resources in South Africa on par with international trends and standards.

Section 38 (3) of the act provides an outline of ideally what should be included in a heritage report. The act states:

"(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."*

Replacing the old National Monuments Act 28 of 1969, the Heritage Resources Act offers general protection for a number of heritage related features and objects (see below).

Structures are defined by the Heritage Resources Act as *"...any building, works, device or other facility made by people and which is fixed to land, and includes any fixtures, fittings and equipment associated with it."* In section 34 of the Act the general protection for structures is stipulated. It is important to note that only structures older than 60 years are protected. Section 34(1) of the National Heritage Resources Act reads as follows: *"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."

The second general protection offered by the Heritage Resources Act which is of relevance for this project, is the protection of **archaeological sites and objects (as well as paleontological sites and meteorites)**. Section 35(4) of the National Heritage Resources Act states that:

"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 assist in the detection or recovery of metals or archaeological and palaeontological material or objects, or use such equipment for the recovery of meteorites."*

In order to understand exactly what is protected, it is important to look at the definition of the concept "**archaeological**" set out in section 2(ii) of the Heritage Act:

- "(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 10m 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, as defined respectively in sections 3, 4 and 6 of the Maritime Zones Act, 1994 (Act No. 15 of 1994), 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; and*
- (d) features, structures and artefacts associated with military history which are older than 75 years and the sites on which they are found;..."*

The third important general protection offered by the Heritage Resources Act that is of importance here, is the protection of **graves and burial grounds**. Section 36(3) of the National Heritage Resources Act states that:

"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."*

Of importance as well is section 36 (5), which relates to the conditions under which permits will be issued by the relevant heritage authority should any action described in section 36 (3), be taken. Section 36(5) reads that:

"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."*

This section of the Act refers to graves and burial grounds which are older than 60 years and situated outside of a formal cemetery administered by a local authority.

Section 36 (6) of the act refers to instances where previously unknown graves are uncovered during development and other activities.

"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 a grave is protected in terms of the Act or is of significance to any community; and*
- b) if such a grave is protected or is of significance, assist any person who or community which is a direct descendant to make arrangement for the exhumation and re-interment of the contents of such grave or, in the absence of such person or community, make any arrangements as it deems fit."*

2. Other Legislation

In terms of graves, other legislative measures which may be of relevance include the Removal of Graves and Dead Bodies Ordinance (Ordinance no. 7 of 1925), the Human Tissues Act 65 of 1983, the Ordinance on Excavations (Ordinance no. 12 of 1980) as well as any local and regional provisions, laws and by-laws that may be in place.