

**A PHASE 1 ARCHAEOLOGICAL IMPACT ASSESSMENT (AIA) FOR THE PROPOSED CONSTRUCTION OF MPUME TO GATE ACCESS ROAD (2.3 KM), WARD 29, MBASHE LOCAL MUNICIPALITY, AMATHOLE DISTRICT MUNICIPALITY, EASTERN CAPE PROVINCE.**

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## **A PHASE 1 ARCHAEOLOGICAL IMPACT ASSESSMENT (AIA) FOR THE PROPOSED CONSTRUCTION OF MPUME TO GATE ACCESS ROAD (2.3 KM), WARD 29, MBASHE LOCAL MUNICIPALITY, AMATHOLE DISTRICT MUNICIPALITY, EASTERN CAPE PROVINCE.**

**NOTE:** The phase 1 archaeological impact assessment was conducted as a requirement of the National Heritage Resources Act 25 of 1999, Section 38 (1)(c)

38. (1) Subject to the provisions of subsections (7), (8) and (9), any person who intends to undertake a development categorized as –

(c) any development or other activity which will change the character of the site –

(i) exceeding 5 000 m<sup>2</sup> in extent

This report follows the minimum standard guidelines required by the South African Heritage Resources Agency (SAHRA) and the Eastern Cape Provincial Heritage Resources Agency (ECPHRA) for compiling a full Phase 1 Archaeological Impact Assessment (AIA). The phase 1 AIA has been compiled as part of the Environmental Impact Assessment process for the proposed development.

### **1. EXECUTIVE SUMMARY**

#### **1.1. Purpose of the Study**

The purpose of the study was to conduct and compile a phase 1 archaeological impact assessment (AIA) for the proposed construction of Mpume to Gate Access Road (2.3 km), Ward 29, Mbashe Local Municipality, Amathole District Municipality, Eastern Cape Province, as a recommendation of the archaeological desktop assessment.

The survey was conducted to establish the range and importance of the exposed and *in situ* archaeological heritage material remains, sites and features; to establish the potential impact of the development; and to make recommendations to minimize possible damage to the archaeological heritage.

#### **1.2. Brief Summary of Findings**

The proposed development area is situated within 3 km of the generally regarded 5 km archaeologically sensitive coastal zone. It is, therefore, expected that archaeological heritage resources would be encountered within the proposed project area during the development activities.

Although no archaeological heritage resources have been identified in Cultural Resource Management (CRM) archaeological and heritage impact assessments and during research expeditions, it is possible that coastal shell midden occupation sites may be uncovered during the development. Coastal shell middens are known to occur along the coastline and

river mouths. Occupation sites are also common along rivers. Booth (2010; 2012) identified fragments of marine shell within the internal gravel road and holes dug out by burrowing animals as well as marine shells and occasional quartz stone artefacts within churned up mole hills. Stone artefacts or other material culture such as pottery may also occur within the surface disturbed tracks and gravel roadway.

The area has also not been researched extensively and few CRM archaeological and heritage impact assessments have been conducted with significant archaeological findings to determine the full extent of possible the archaeological record within the area.

No graves or archaeological and historical heritage remains, sites, or features were identified within the area surveyed for the proposed construction of the access road. Consultation within some local community members noted that older settlements did occur within the surrounding area, outside of the proposed development area.

### **1.3. Recommendations**

The area is considered as having a *low archaeological heritage significance*. The following recommendations must be as part of the environmental management plan for the project:

1. If concentrations of pre-colonial archaeological heritage material and/or human remains (including graves and burials) are uncovered during construction, all work must cease immediately and be reported to the Albany Museum (046 622 2312) and/or the Eastern Cape Provincial Heritage Resources Agency (ECPHRA) (043 745 0888) so that systematic and professional investigation/excavation can be undertaken. Phase 2 mitigation in the form of test-pitting/sampling or systematic excavations and collections of the findings will then be conducted to establish the contextual status of the sites and remove the archaeological deposit before development activities continue.
2. Construction managers/foremen and/or the Environmental Control Officer (ECO) should be informed before construction starts on the possible types of heritage sites and cultural material they may encounter and the procedures to follow when they find sites.

## **2. DECLARATION OF INDEPENDENCE**

This section confirms a declaration of independence that archaeological heritage specialist, Ms Celeste Booth, has no financial or any other personal interests in the project for the proposed office development.

Ms Celeste Booth was appointed on a strictly professional basis to conduct a Phase 1 Archaeological Impact Assessment in line with the South African national heritage legislation, the National Heritage Resources Act 25 of 1999 (NHRA 25 of 1999) and in response to the recommendations provided by the Department of Environmental Affairs and according to the environmental impact assessment regulations.

### **3. SUMMARY OF SPECIALIST EXPERTISE**

Ms Celeste Booth (BSc Honours: Archaeology) is an archaeologist who has had twelve (12) years of full-time experience in Cultural Resource Management in the Eastern Cape and sections of the Northern Cape and Western Cape. Ms Booth has conducted several Archaeological Desktop Studies and Phase 1 Archaeological Impact Assessments within the Eastern Cape and in the Karoo region across the Eastern Cape, Northern Cape and Western Cape.

### **4. INTRODUCTION**

#### **4.1. BACKGROUND INFORMATION**

##### **4.1.1. Type of Development (Extract from the Background Information Document)**

Mpume to Gate Access Road (2.3km) is located in ward 29 of Mbhashe Local Municipality. Mpume to Gate Access Road will be part of the MIG funded municipal projects earmarked for financial year 2021/2022. The project can be accessed through Dwesa gravel road from Willowvale branching left at about 41km from Willowvale.

Part of the road is in built up areas and part of it is along the former plantation fence which was removed and the road proceed to a defunct gate. The whole road is existing as earth tracks already used by vehicles and in some areas only off-road vehicles can pass but not when there are wet conditions' the road will lead to the proposed community lodge and a short cut to the beach.

After the initial assessment, the activity was found not to cross any stream but minor drainage lines, passes adjacent to an indigenous forest and stops at the gate the goes through Dwesa Nature Reserve to the beach. Currently people walk on foot. Although the project is towards the coast (about 2.8km from the sea), its alignment has with very minimal environmental impacts but can be regarded as above threshold for EIA purposes triggering EIA 2017 amendments Notice 3, activity 4(a)(1) unless if the road will be reduced from 5 to 4m.

#### **4.2. Applicant**

Mbhashe Local Municipality

#### **4.3 Environmental Assessment Practitioner (EAP)**

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## **5. SCOPE OF WORK AND TERMS OF REFERENCE**

The purpose of the study was to conduct and compile a phase 1 archaeological impact assessment (AIA) for the proposed construction of Mpume to Gate Access Road (2.3 Km), Mbashe Local Municipality, Amathole District Municipality, Eastern Cape Province.

The survey was conducted to:

- Make a basic surface assessment of the study site (including a desktop study or brief background assessment of the area) to identify, describe, record the localities;
- Assign a heritage site significance rating to heritage resources protected by law; and
- Make recommendations to the relevant Provincial Heritage Resources Authority (PHRA) regarding the conservation or mitigation thereof for purposes of development.

Archaeological and historical material remains, features, and sites were evaluated and assessed based on the following points:

- Type of site;
- Location and environmental surrounds;
- Site category;
- Context and condition;
- Estimated size and depth of deposit;
- Cultural affinities;
- Record site content;
- Record basic information of finds;
- Estimate relative age of sites from cultural material and other information;
- Record and describe graves, graveyards, and informal burials;
- Assess the importance and significance of material remains, features, and sites; and;
- Significance ratings based on local to international.

## **6. LEGISLATIVE AND POLICY FRAMEWORK**

An archaeological impact assessment is required as a requisite of the National Heritage Resources Act 25 of 1999, Section 38 (a):

38. (1) Subject to the provisions of subsections (7), (8) and (9), any person who intends to undertake a development categorized as –
- (c) any development or other activity which will change the character of the site –
- (i) exceeding 5 000 m<sup>2</sup> in extent

This report follows the minimum standard guidelines required by the South African Heritage Resources Agency (SAHRA) and the Eastern Cape Provincial Heritage Resources Agency (ECPHRA) for compiling a Phase 1 Archaeological Impact Assessment. The phase 1 AIA has been compiled as part of the Scoping & Environmental Assessment Report (S&EIR) process for the proposed development.

## **7. ARCHAEOLOGICAL BACKGROUND**

A detailed archaeological desktop assessment was compiled for the project (Booth 2021); therefore, this section provides a summary of the desktop assessment.

Little systematic archaeological research has been conducted within the immediate area of the proposed development. A few Cultural Resource Management (CRM) archaeological and heritage impact assessments have recently been conducted within the region. Magoma (2012) conducted a heritage assessment in the Dwesa-Cweba Nature Reserve, situated to the east of the current proposed road upgrade development towards the coast; Van Ryneveld (2013) conducted a phase 1 archaeological impact assessment for borrow pits between Willowvale and Dwesa, west and north-west of the current proposed road upgrade project; and Booth (2021) recently conducted a phase 1 archaeological impact assessment for a road upgrade between Ebika and Willowvale, no archaeological heritage remains were recorded during these surveys, however, solitary graves situated within homesteads, ruins of a homestead, the ruins of a trading station, and a cemetery was encountered during the latter road upgrade assessment (Booth 2021).

Other CRM archaeological and heritage impact assessments between Butterworth and Dutywa (Fourie & Groenewald 2012; Kruger 2018; Van Ryneveld 2010, 2016) have mostly recorded no archaeological heritage remains, but have encountered either historical period structures such as trading stations, Later Iron Age (LLIA) and colonial period and recent ruins of homesteads, and most significantly, graves occurring within individual homesteads and along the roads.

Early research recorded in Derricourt (1977) notes that one coastal excavation was carried out at Umgazana Cave in Pondoland (Chubb, King & Mogg 1933, 1934; Schofield 1938) and inland excavations were carried out by Laidler in two rock shelters at Nqamakwe (Laidler 1933) and one at Ngcisininde (Laidler 1937).

### **7.1. Early Stone Age (ESA) - 1.5 million to 250 000 years ago**

The Early Stone Age from between 1.5 million and 250 000 years ago refers to the earliest that *Homo sapiens sapiens* predecessors began making stone tools. The location of Early Stone Age sites is biased by several factors, the change in land surface, so that the evidence of coastal exploitation is absent, the survival of Early Stone Age material either *in situ* or sealed within Pleistocene deposits is limited by soil and water activities and numerous processes in environmental change over time and research interests of professional archaeologists. Early Stone Age materials are the earliest evidence for human ancestors occupying the Transkei and Ciskei regions and typically occur on floodplains of perennial rivers and along drainage lines and water courses.

Museum collections have handaxes mixed collections and other collections attributed to the Early Stone Age. Sites of convincing Early Stone Age date are indicated in most areas of the Ciskei and are present in the Transkei districts of Kentani, Butterworth, Nqamakwe, St. Mark's, Engcobo, Matatiele, Mount Frere, Mount Ayliff, Bizana, Idutywa, Lusikisiki, Mount Currie and Umtata (Derricourt 1977).

Derricourt (1977) notes that ESA and MSA coastal find are frequently isolated and are hard to attribute satisfactorily to a cultural complex. A widely exposed and eroding donga area of early dunes inland from Nxaxo Mouth, Kentani, as well as a site near Nxaxo Mouth identified by Dr B. Lock contained assemblages of mixed ESA and MSA and included utilised and irregular flakes, a rough handaxe and an unfinished handaxe.

### **7.2. Middle Stone Age (MSA) – 250 000 – 30 000 years ago**

The Middle Stone Age spans a period from 250 000 - 30 000 years ago and focuses on the emergence of modern humans through the change in technology, behaviour, physical appearance, art and symbolism. Various stone artefact industries occur during this time period, although less is known about the time prior to 120 000 years ago, extensive systemic archaeological research is being conducted on sites across southern Africa dating within the last 120 000 years (Thompson & Marean 2008). The large handaxes and cleavers were replaced by smaller stone artefacts called the Middle Stone Age flake and blade industries. Surface scatters of these flake and blade industries occur widespread across southern Africa although rarely with any associated botanical and faunal remains. It is also common for these stone artefacts to be found between the surface and approximately 50-80 cm below ground. Fossil bone may in rare cases be associated with Middle Stone Age occurrences (Gess 1969). These stone artefacts, like the Earlier Stone Age handaxes are usually observed in secondary context with no other associated archaeological material.

Several archaeological research projects are currently ongoing within the wider former Transkei and north-eastern Cape / southern Drakensburg region. In 2011, the Pondoland Paleoenvironment, Paleoclimate, Paleoecology, and Paleoanthropology Project (P5) began

a search for new research areas along South Africa's coast (the eastern seaboard and Pondoland) where long-term and continuous records of modern human evolution and coastal foraging may be found (Fischer *et al.* 2013). In the Stormberg Mountains near Dordrecht, renewed excavations and investigation into Grassridge site, with particular interest in the Middle Stone Age sequence, are currently ongoing. An underlying Middle Stone Age (MSA, ~300-30 ka) sequence containing abundant typologically MSA lithic material, well-preserved faunal remains, and charcoal was identified during the 1979 excavations which focused primarily on the Later Stone Age sequence (Collins & Ames 2015).

Scatters of Middle Stone Age stone artefacts are also known to occur within the surrounding area where these have been recorded in archaeological and heritage impact assessments within the region.

Derricourt (1977) notes that MSA artefacts were reported by Laidler (1935) at a site between Jujuga and Ngadla Rivers in Willowvale.

### **7.3. Later Stone Age (LSA) – 30 000 years ago – recent (100 years ago)**

The Later Stone Age (LSA) spans the period from about 20 000 years ago until the colonial era, although some communities continue making stone tools today. The period between 30 000 and 20 000 years ago is referred to as the transition from the Middle Stone Age to Later Stone Age; generally, there is a lack of crucial sites and evidence that represent this change, however, several sites to the west of the proposed development in the eastern Cape Highlands, north in eastern Lesotho and the Drakensburg in KwaZulu Natal have been dated to this time period. By the time of the Later Stone Age the genus *Homo*, in southern Africa, had developed into *Homo sapiens*, and in Europe, had already replaced *Homo neanderthalensis*.

The Later Stone Age is marked by a series of technological innovations, new tools and artefacts, the development of economic, political and social systems, and core symbolic beliefs and rituals. The stone toolkits changed over time according to time-specific needs and raw material availability, from smaller microlithic Robberg (20/18 000-14 000 ya), Wilton (8 000-the last 500 years) Industries and in between, the larger Albany/Oakhurst (14 000-8 000ya) and the Kabeljous (4 500-the last 500 years) Industries. Bored stones were used as part of digging sticks, grooved stones for sharpening and grinding, and stone tools fixed to handles with mastic also become more common. Fishing equipment such as hooks, gorges and sinkers also appear within archaeological excavations. Polished bone tools such as eyed needles, awls, linkshafts and arrowheads also become a more common occurrence. Most importantly bows and arrows revolutionized the hunting economy. It was only within the last 2 000 years that earthenware pottery was introduced, before then tortoiseshell bowls were used for cooking and ostrich eggshell (OES) flasks were used for storing water. Decorative items like ostrich eggshell and marine/fresh water shell beads and pendants were made.

According to Derricourt (1977) open Later Stone Age sites in the Transkei and Ciskei are mostly located close to water regardless of whether it may be seasonal or perennial and water courses and notes that lydianite (indurated shale / hornfels) is predominant as a raw material. He also notes that it is possible that Later Stone Age open sites may be distinguished by those containing pottery and those without.

Early Later Stone Age excavations carried out within the wider region include Blythswood Cave situated about Blythswood Mission near Nqamakwe. A few stone artefacts, a glass, bead and bottle fragments, ostrich eggshell fragments, a bone tool fragments and a fine fabric potsherd were uncovered. Blythswood B contained crude paintings in a poor condition. Other excavated sites near Nqamakwe include Ngcisininde and Rwantsana, Izolo. Excavations were carried out Ngcisininde, also referred to as Ezibugwini by Laidler (1937) which contains both LSA and later rock art styles. Two shelters were excavated by Laidler (1933) at Nqamakwe and included Later Stone Age Artefacts and some pottery. McLoughlin excavated material from Rwantsana Cave, Izolo and includes thin potsherds without temper, bone and ostrich eggshell fragments, and stone artefacts.

#### **7.4. Last 2 000 years – Khoekhoen Pastoralism**

Until 2 000 years ago, hunter-gatherer communities traded, exchanged goods, encountered and interacted with other hunter-gatherer communities. From about 2 000 years ago the social dynamics of the southern African landscape started changing with the immigration of two 'other' groups of people, different in physique, political, economic and social systems, beliefs and rituals. One of these groups, the Khoekhoen pastoralists or herders entered southern Africa with domestic animals, namely fat-tailed sheep and goats, travelling through the south towards the coast. Khoekhoen pastoralist sites are often found close to the banks of large streams and rivers. They also introduced thin-walled pottery common in the interior and along the coastal regions of southern Africa. Their economic systems were directed by the accumulation of wealth in domestic stock numbers and their political make-up was more hierarchical than that of the hunter-gatherers.

Pre-agriculturalist pottery have been documented at some of the sites mentioned above. Pottery from Swaziland to the north-eastern Cape, dates between 2 100 and 2 200 years and could possibly be earlier, predating the arrival of the of the agriculturalists by 400 years. No sheep remains have been found in association with the pottery which is stylistically different from those of the later agriculturalists (Iron Age populations) and a mean thickness of 7-8 mm pottery has been documented at Driel Shelter, Clarke's Shelter and Mhlwazini Cave in the northern Drakensberg with dates ranging between of  $2\ 160 \pm 50\text{BP}$  and  $1\ 775 \pm 40\text{BP}$ ; at Collingham Shelter and Good Hope Shelter with dates ranging between  $2\ 160\ \text{BP}$  and  $1\ 770\ \text{BP}$ ; and at Moshebi's Shelter in eastern Lesotho with a date of  $2\ 180 \pm 45\text{BP}$ . To the west of the proposed development area in the Barkley East district the dates for the pottery documented at Colwinton Shelter and Bonawe Shelter in the

north-eastern Cape, Barkley East District, range between 2 250 ±80BP and 920 ±50BP (Mazel 1992).

### **7.5. Last 2 000 Years - The Iron Age**

The Nguni-speaking agropastoralists or 'first-farming communities' or Iron Age communities entered southern Africa along the east coast within the last 2 000 years. They owned domestic stock, namely goats, sheep and cattle. Their pottery was different to that of the Khoekhoe, in the shape, thickness, heavy decoration and variety of the vessels. First farming communities lived a relatively sedentary way of life, they planted sorghum and millet, and were therefore limited to settle in the summer rainfall areas. In addition, first farming communities possessed the skill of metal working, having the ability to mine and work iron, copper, tin and even gold. Their economic systems were also based on the accumulation of wealth through ownership and their political organization was slightly more hierarchical than that of the Khoekhoen.

In comparison to other areas containing Iron Age sites only a small amount of Iron Age research has been conducted in the Eastern Cape thus far. Earlier investigations into the Early Iron Age in the Transkei and Ciskei includes work at Buffalo River Mouth (Wells 1934; Laidler 1935), at Chalumna River Mouth (Derricourt 1977) and additional research by Feely (1987) and Prins (1989). Early Iron Age Sites (EIA) sites also include Kulubele situated in the Great Kei River Valley near Khomga (Binneman 1996), Ntsitsana situated in the interior Transkei, 70 km west of the coast, along the Mzimvubu River (Prins & Granger 1993), and Canasta Place situated on the west bank of the Buffalo (Qonce) River (Nogwaza 1994). Along the coast, near Coffee Bay, Early Iron Age sites have been dated from AD 670 and includes the sites of Mpame and Mqanduli. Early Iron Age pottery scatters have been documented along several area of the Wild Coast coastline including Zig-Zag Cave near Port St Johns (Derricourt 1977).

Hilltop settlement is mainly associated with Later Iron Age (LIA) settlement patterns that occurred during the second millennium AD. The Later Iron Age communities later moved from settlement in river valleys to the hilltops. Later Iron Age settlements have been formally recorded by the Albany Museum. With the exception of the Tembu, stone buildings which characterizes the Iron Age sites of Sotho areas, is absent in the Transkei and Ciskei, and a pattern of some mobility without, it is presumed, a stone working technology of significance, makes the allocation of sites a major problem (Derricourt 1973).

Huffman's (2004) ceramic sequence among the Nguni groups contains three facies:

- Blackburn (AD 1 050 – 1 300): along north and south coasts of KwaZulu Natal;
- Moor Park (AD 1 300 – 1 700): first recorded in Estcourt Midlands then along Transkei coast where it was called Umgazana Ware. Appears south of the Mtamvuma River and it is suggested that it was the beginning of the division between southern and northern Nguni people and probably continued into the nineteenth century;

- Nqabeni (AD 1 700 – 1 850): style centres on KwaZulu Natal;

Iron Age sites have been recorded as far south as Port Alfred (Albany Museum Archaeological database).

### **7.5. Unmarked Burials and Exposed Human Remains**

It is difficult to detect the presence of archaeological human remains on the landscape as these burials, in most cases, are not marked at the surface. Human remains are usually observed when they are exposed through erosion or construction activities for development. Several human remains have been rescued eroding out of the dunes along this coastline. In some instances, packed stones or rocks may indicate the presence of informal pre-colonial burials.

The Albany Museum Database holds records of human remains that have been exposed and collected for conservation and curation within the wider region especially along the coastal areas. Cultural Resource Management practitioners whilst conducting archaeological heritage impact assessments have also recorded formal historical and contemporary cemeteries and informal burials within the wider region.

### **7.6. Rock Art (Paintings and Engravings)**

Rock art is generally associated with the Later Stone Age period mostly dating from the last 5 000 years to the historical period. It is difficult to accurately date the rock art without destructive practices. The southern African landscape is exceptionally rich in the distribution of rock art which is determined between paintings and engravings. Rock paintings occur on the walls of caves and rock shelters across southern Africa and are prolific in the Southern Drakensberg, north-eastern Cape extending the entire Drakensberg range into KwaZulu-Natal and Lesotho. Rock engravings are limited to the Karoo and Northern Cape Regions and do not generally occur within the north-eastern Cape region and Transkei region.

Rock art research within the Southern Drakensberg has been conducted by several researchers and students from the Rock Art Research Institute, University of the Witwatersrand, over a period of 25 years, with a well-established database of site from Maclear, Tsolo, Barkly East, Ugie, Dordrecht and the wider region and extent of the Drakensberg range and Maluti Mountains. The South African Rock Art Database established by the Rock Art Research Institute is a useful source for rock art site information across southern Africa.

Derricourt (1977) notes that the distribution of rock is mostly absent from the coastward side of the Amathole Mountain Range and is mostly distributed in the 'midlands' zone inland of the Amatholes and along the Kei River. But also notes that rare exceptions are the extensions into the Tsolo and Umtata Districts. Early recordings of painted sites within

the wider region include Blythswood B, near Nqamakwe, Kambi, near Mthatha painting sites.

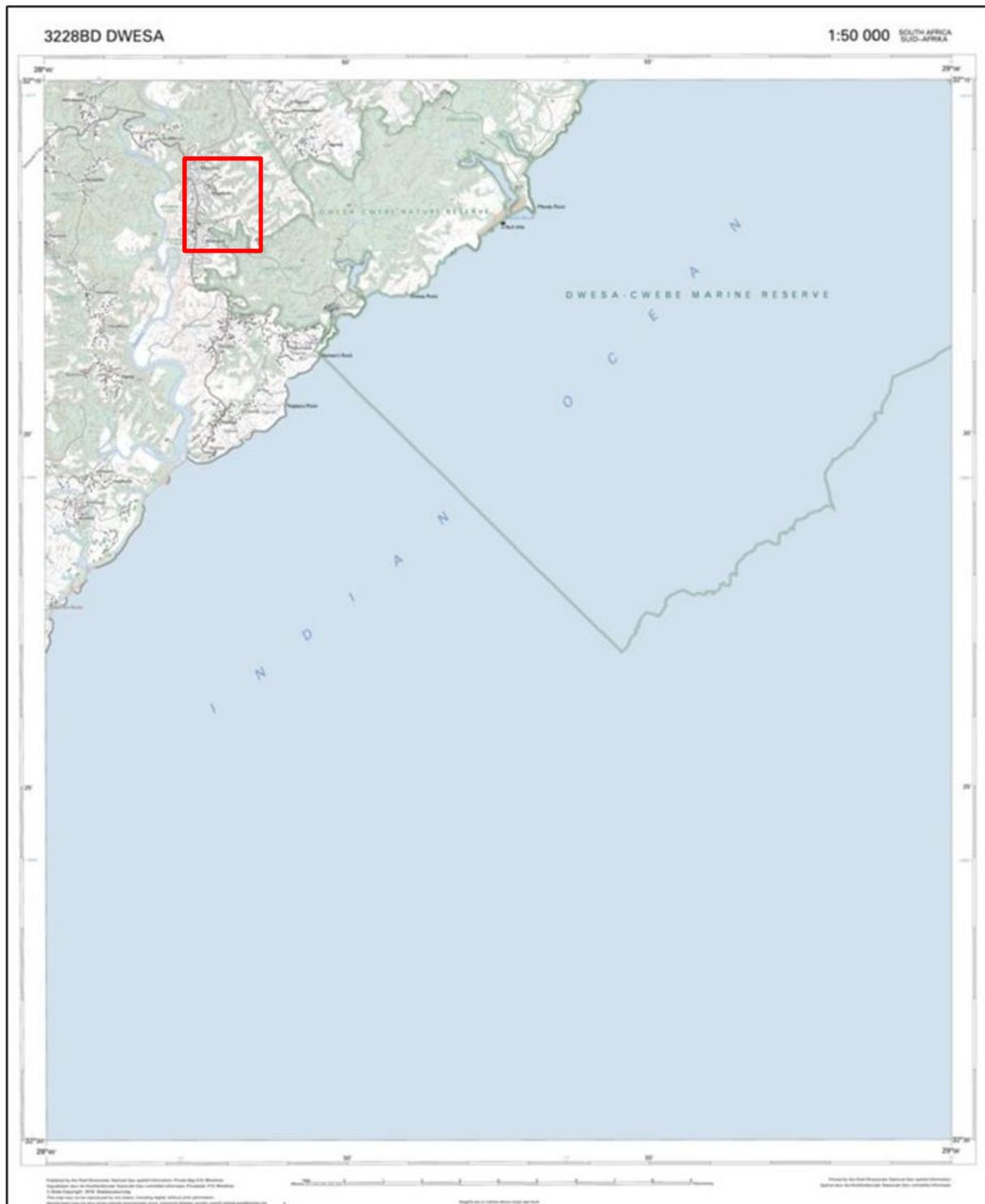
## **8. DESCRIPTION OF THE PROPERTY**

### **8.1. Location data**

The proposed development area is situated within 3 km of the generally regarded 5 km archaeologically sensitive coastal zone. The site is located within the Mbashe Local Municipality in the Amathole District Municipality. The site is situated south of Magebula Village and be accessed via Willowvale from the N2 national route along the Dwesa gravel road.

### **8.2. Map**

1:50 000 Topographic Map: 3228BD DWESA (Figure 1)



**Figure 1. 1:50 000 topographic map 3228BD DWESA showing the location of the proposed Mpume-Gate Access Road, Mbashe Local Municipality, Amathole District Municipality, Eastern Cape Province.**



**Figure 2. Google Earth generated map of the location of the proposed Mpume-Gate Access Road, Mbashe Local Municipality, Amathole District Municipality, Eastern Cape Province.**



**Figure 3. View of the location of the proposed Mpume-Gate Access Road, showing the neighbouring villages and proximity to the nearest coastline and rivers.**



**Figure 4. Close-up view of the location of the proposed Mpume-Gate Access Road, Mbasha Local Municipality, Amathole District Municipality, Eastern Cape Province.**

## **9. ARCHAEOLOGICAL INVESTIGATION**

### **9.1 Methodology**

A detailed desktop assessment was conducted for the proposed (Booth 2021). The archaeological desktop assessment was found to be limited to archaeological heritage data that is known and has been recorded over time. These references included mostly academic and popular publications and Cultural Resource Management archaeological and heritage impact assessments that are digitally accessible. The state of archaeological remains can only be determined by surface observation which in itself is limited and does not expose the true state of archaeological evidence. There it was recommended that a phase 1 archaeological impact assessment be conducted for the proposed project.

The survey was conducted on foot. GPS co-ordinates and photographs were taken using a Garmin Oregon 650 GPS unit.

### **9.2 Results of the Archaeological Investigation**

The proposed development area is situated within 3 km of the generally regarded 5 km archaeologically sensitive coastal zone. It was, therefore, expected that archaeological heritage resources would be encountered within the proposed project area. Although no archaeological heritage resources have been identified in Cultural Resource Management (CRM) archaeological and heritage impact assessments and during research expeditions, it is possible that coastal shell midden occupation sites may be uncovered during the development. Coastal shell middens are known to occur along the coastline and river mouths. Occupation sites are also common along rivers. Booth (2010; 2012) identified fragments of marine shell within the internal gravel road and holes dug out by burrowing animals as well as marine shells and occasional quartz stone artefacts within churned up mole hills. Stone artefacts or other material culture such as pottery may also occur within the surface disturbed tracks and gravel roadway.

Archaeological visibility over most of the area was obscured by dense grass vegetation cover (Figures 5 – 10), although recent burning of the vegetation did allow a walk-through of the area. Exposed surface areas, which mostly included the existing gravel road, cattle paths and surface exposed areas within the dense vegetation cover were investigated for possible archaeological heritage cultural remains (Figures 11 – 16).

Surface disturbed areas, such previous earth moving activities for the construction of the existing road, borehole excavation and the establishment of powerlines were also investigated (Figures 17 – 21).

No graves or archaeological and historical heritage remains, sites, or features were identified within the area surveyed for the proposed construction of the access road. Consultation within some local community members noted that older settlements did occur

within the surrounding area, outside of the proposed development area. However, it is possible that stone artefacts and marine shell middens may occur between the surface and 50-80 cm below ground and likely, taking into consideration the site's close proximity to the nearest coastline and possibly less disturbed or undisturbed area currently under the dense vegetation cover, that archaeological resources and sites may occur during the course of development.



**Figure 5. View of the general landscape of the proposed area for the access road.**



**Figure 6. View of the general landscape of the proposed area for the access road.**



**Figure 7. View of the general landscape of the proposed area for the access road.**



**Figure 8. View of the general landscape of the proposed area for the access road.**



**Figure 9. View of the general landscape of the proposed area for the access road.**



**Figure 10. View of the general landscape of the proposed area for the access road.**



**Figure 11. View of surface exposed areas investigated for the possibility of identifying archaeological cultural heritage.**



**Figure 12. View of surface exposed areas investigated for the possibility of identifying archaeological cultural heritage.**



**Figure 13. View of surface exposed areas investigated for the possibility of identifying archaeological cultural heritage.**



**Figure 14. View of surface exposed areas investigated for the possibility of identifying archaeological cultural heritage.**



**Figure 15. View of surface exposed areas investigated for the possibility of identifying archaeological cultural heritage.**



**Figure 16. View of surface exposed areas investigated for the possibility of identifying archaeological cultural heritage.**



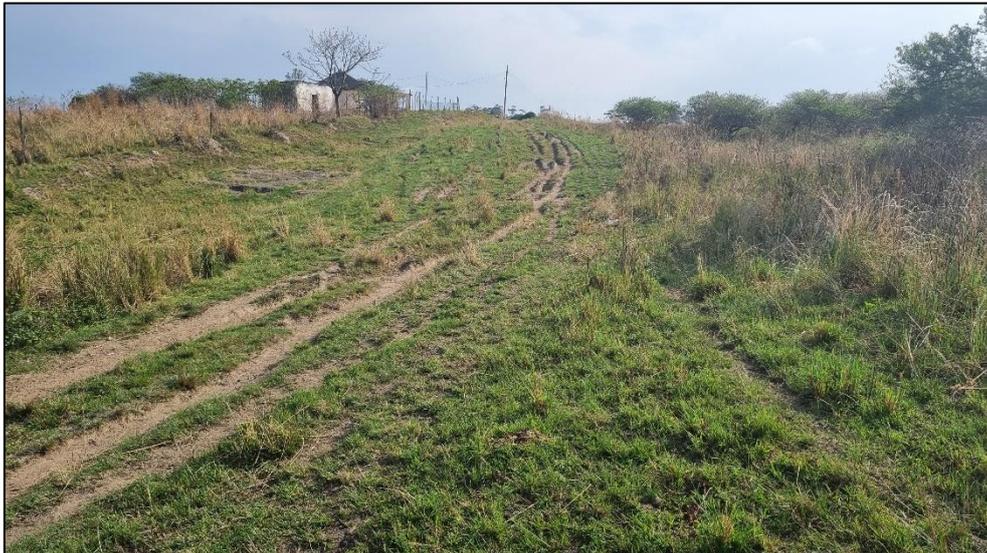
**Figure 17. View of surface disturbed areas, earthmoving from the old road construction and a borehole in the forefront, also investigated for possible archaeological cultural heritage remains.**



**Figure 19. View of surface disturbed areas, earthmoving from the old road construction also investigated for possible archaeological cultural heritage remains.**



**Figure 19. View of surface disturbed areas, earthmoving from the old road construction electricity poles, also investigated for possible archaeological cultural heritage remains.**



**Figure 20. View of existing road from the southern extent of the residential area.**



**Figure 21. View of existing road from the northern extent of the residential area and starting point of the proposed road upgrade project.**

## 10. CO-ORDINATES AND SITES FOR THE PROPOSED CONSTRUCTION OF MPUME TO GATE ACCESS ROAD (2.3 KM), WARD 29, MBASHE LOCAL MUNICIPALITY, AMATHOLE DISTRICT MUNICIPALITY, EASTERN CAPE PROVINCE.

**Table 1. Co-ordinates and sites for the proposed construction of Mpume to Gate Access Road (2.3 km), Ward 29, Mbashe Local Municipality, Amathole District Municipality, Eastern Cape Province.**

REFERENCE	DESCRIPTION	CO-ORDINATES	HERITAGE GRADING
Start	Start of the Mpume-Gate Road Upgrade	32°16'55.55"S;28° 47'31.26"E	N/A
End	End of the Mpume-Gate Road Upgrade	32°17'24.15"S;28° 48'22.97"E	N/A

## 11. CULTURAL LANDSCAPE

Cultural landscapes are increasingly becoming a significant considering factor when conducting various archaeological and heritage impact assessments for proposed developments. The area investigated for the proposed access road construction is considered as having *low cultural heritage significance* despite the area being situated within 3 km of the nearest coastline, which is generally regarded as archaeologically sensitive to coastal and near coastal precolonial occupation.

This section gives a brief introduction to the concept of cultural landscape and its relation to various aspects of the dynamic interaction of humans as cultural agents and the landscape as a medium. A description of the interwoven relationships of humans with the landscape over time will be given including the archaeological, historical, and contemporary connections. Lastly, the living heritage makes up a small part of the study undertaken, its significance will be highlighted in relation to the communities who still identify with the area and retain a sense of identity to the landscape.

### 11.1. Concept of Cultural Landscape

Cultural landscapes can be interpreted as complex and rich extended historical records conceptualised as organisations of space, time, meaning, and communication moulded through cultural process. The connections between landscape and identity and, hence, memory is fundamental to the understanding of landscape and human sense of place. Cultural landscapes are the interface of culture and nature, tangible and intangible heritage, and biological and cultural diversity. They represent a closely woven net of relationships, the essence of culture and people's identity. They are symbol of the growing recognition of the fundamental links between local communities and their heritage, human kind, and its natural environment. In contemporary society, particular landscapes

can be understood by taking into consideration the way in which they have been settled and modified including overall spatial organisation, settlement patterns, land uses, circulation networks, field layout, fencing, buildings, topography, vegetation, and structures. The dynamics and complex nature of cultural landscapes can be regarded as text, written and read by individuals and groups for very different purposes and with very many interpretations. The messages embedded in the landscape can be read as signs about values, beliefs, and practices from various perspectives. Most cultural landscapes are living landscapes where changes over time result in a montage effect or series of layers, each layer able to tell the human story and relationships between people and the natural processes.

The impact of human action of the landscape occurs over time so that a cultural landscape is the result of a complex history and creates the significance of place in shaping historical identities by examining a community's presence or sense of place. The deeply social nature of relationships to place has always mediated people's understanding of their environment and their movements within it, and is a process which continues to inform the construction of people's social identity today. Social and spatial relationships are dialectically interactive and interdependent. Cultural landscape reflects social relations and institutions and they shape subsequent social relations.

Cultural landscapes tell the story of people, events, and places through time, offering a sense of continuity, a sense of the stream of time. Landscapes reflect human activity and are imbued with cultural values. They combine elements of space and time, and represent political as well as social and cultural constructs. Culture shapes the landscape through day-to-day routine and these practices become traditions incorporated with a collective memory the ultimate embodiments of memorial consciousness', examples such as monuments, annual events and, archives. As they have evolved over time, and as human activity has changed, they have acquired many layers of meaning that can be analysed through archaeological, historical, geographical, and sociological study.

Indigenous people, European explorers, missionaries, pastoralists, international and domestic travellers all looked or look at similar landscapes and experience different versions of reality. Regardless of the power of different cultural groups, however, all groups create cultural landscape and interpret them from their own perspectives. This gives rise to tensions and contradictions between groups, invariably expressed in landscape forms as well.

The dynamics and complex nature of cultural landscapes can be regarded as text, written and read by individuals and groups for very different purposes and with very many interpretations. The messages embedded in the landscape can be read as signs about values, beliefs, and practices from various perspectives.

Most cultural landscapes are living landscapes where changes over time result in a montage effect or series of layers, each layer able to tell the human story and relationships between people and the natural processes. A common theme underpinning the concept of ideology of landscape itself is the setting for everything we do is that of the landscape as a repository of intangible values and human meaning that nurture our very existence. Intangible elements are the foundation of the existence of cultural landscapes, and that are still occupied by contemporary communities, Landscape, culture and collective memory of a social group are intertwined and that this binds the individuals to their community. Culture shapes their everyday life, the values bind gradually, change slowly, and transfer from generation to generation – culture is a form of memory. We see landscapes as a result of our shared system of beliefs and ideologies. In this way landscape is a cultural construct, a mirror of our memories and myths encoded with meanings which can be read and interpreted. Pivotal to the significance of cultural landscapes and the ideas of the ordinarily sacred is the realisation that it is the places, traditions, and activities of ordinary people that create a rich cultural tapestry of life, particularly through our recognition of the values people attach to their everyday places and concomitant sense of place and identity.

Living heritage means cultural expressions and practices that form a body of knowledge and provide for continuity, dynamism, and meaning of social life to generations of people as individuals, social groups, and communities. It also allows for identity and sense of belonging for people as well as an accumulation of intellectual capital current and future generation in the context of mutual respect for human, social and cultural rights.

Protection of these cultural landscapes involves some management issues such as successful conservation is based on the continuing vital link between people and their landscapes. This link can be disrupted or affected by for instance economic reasons. Other threats can also be attributed to urban expansion and development, tourism, war and looting and something beyond our human intervention: natural disasters and climate change. Cultural landscape management and conservation processes bring people together in caring for their collective identity and heritage, and provide a shared local vision within a global context. Local communities need, therefore, to be involved in every aspect of identification, planning and management of the areas as they are the most effective guardians of landscape heritage.

Most elements of living heritage are under threat of extinction due to neglect, modernisation, urbanisation, globalisation, and environmental degradation. Living heritage is at the centre of people's culture and identity, it is important to provide space for its continued existence. Living heritage must not be seen as merely safeguarding the past, but it must be seen as safeguarding the logic of continuity of what all communities or social groups regard as their valuable heritage, shared or exclusive.

In some instances, villages may capitalise on local landscape assets in order to promote tourism. Travel and tourism activities are built around the quest for experience, and the experience of place and landscape is a core element of that quest. It is a constant desire for new experiences that drives tourism, rather than a quest for authenticity. It is, therefore, important to engage actively with the tourism industry so that aspects of life and landscape important to cultural identity, including connection with place are maintained.

### **11.2. Archaeological Landscape**

The area was once part of an ancient landscape inhabited by various families of the genus *Homo*. Various studies recording archaeological sites and occurrences within the wider region stretching from the surrounding coastal areas have reported on the evidence of the presence of *Homo erectus* (Early Stone Age), *Homo sapiens* (Middle Stone Age), and *Homo sapiens sapiens* (Later Stone Age). The only remains dating to the Early and Middle Stone Ages are stone artefacts as the organic evidence and sites have not been preserved. The influence of climatic conditions and the rising and falling of the sea levels may also attribute to much archaeological site information being lost.

Pre-colonial human remains are mostly unmarked and invisible on the landscape, however, in some instances, they may be marked by organised piles of stones.

### **11.3. Historical and Contemporary Landscape**

The archaeological interpretation of the cultural landscape relies solely on the presence and surface visibility of artefacts left behind on the landscape by the populations who occupied and migrated through the proposed development area. A more comprehensive historical layer is able to be fitted onto the cultural landscape owing to the availability of written documents and the continuing existence of the traces left behind by European Settlers and the moulding of these traces used to shape the contemporary communities that occupies and regards itself attached to its present cultural landscape.

The contemporary cultural landscape is the product of centuries of human interaction, more so when the European Settlers entered the area. Remnants of these cultural interactions remain on the landscape, such as the built environment, features, artefacts, and marked and unmarked graves / burials with only oral histories and stories handed down from one generation to the next to remain in the collective memory of the community/ies living on the landscape.

## **12. ASSESSMENT OF IMPACTS ON THE ARCHAEOLOGICAL HERITAGE RESOURCES**

The phase 1 archaeological survey is limited to surface and exposed observations of archaeological and historical heritage resources that are identified and recorded. Heritage resources that may have been surface covered or exposed over time and those occurring below the surface may also be negatively impacted during the proposed development. Most importantly, archaeological and heritage resources are a non-renewable resource that cannot be replaced once lost or destroyed, therefore, every effort should be taken to preserve or conserve the most significant of heritage resources.

Mitigation measures have been recommended by the author that should be respected and implemented prior to and during the duration of the development's lifespan.

## **13. RECOMMENDATIONS**

The area is considered as having a *low archaeological heritage significance*. The following recommendations must be as part of the environmental management plan for the project:

1. If concentrations of pre-colonial archaeological heritage material and/or human remains (including graves and burials) are uncovered during construction, all work must cease immediately and be reported to the Albany Museum (046 622 2312) and/or the Eastern Cape Provincial Heritage Resources Agency (ECPHRA) (043 745 0888) so that systematic and professional investigation/excavation can be undertaken. Phase 2 mitigation in the form of test-pitting/sampling or systematic excavations and collections of the findings will then be conducted to establish the contextual status of the sites and remove the archaeological deposit before development activities continue.
2. Construction managers/foremen and/or the Environmental Control Officer (ECO) should be informed before construction starts on the possible types of heritage sites and cultural material they may encounter and the procedures to follow when they find sites.

## **14. CONCLUSION**

The proposed development area is situated within 3 km of the generally regarded 5 km archaeologically sensitive coastal zone. It is, therefore, expected that archaeological heritage resources would be encountered within the proposed project area during the development activities. Although no archaeological heritage resources have been identified in Cultural Resource Management (CRM) archaeological and heritage impact assessments and during research expeditions, it is possible that coastal shell midden occupation sites may be uncovered during the development. The area has also not been researched extensively and few CRM archaeological and heritage impact assessments have been conducted with significant archaeological findings to determine the full extent of possible the archaeological record within the area.

It is important to note that archaeological and heritage resources are a non-renewable resource that cannot be replaced once lost or destroyed, therefore, every effort should be taken to preserve or conserve the most significant of heritage resources.

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## **16. RELEVANT ARCHAEOLOGICAL AND HERITAGE IMPACT ASSESSMENTS**

Very little systematic archaeological research has been conducted within the immediate and surrounding areas for the proposed project, therefore, Cultural Resource Management (CRM) Reports, such as archaeological and heritage impact assessments, assist in attempting to predict the archaeological and heritage resources that may be found within the proposed development areas. The following reports are considered relevant to the current project:

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## **17. GENERAL REMARKS AND CONDITIONS**

**NOTE:** This report is a phase 1 archaeological impact assessment (AIA) only and does not include or exempt other required specialist assessments as part of the heritage impact assessments (HIAs).

The National Heritage Resources Act (Act No. 25 of 1999, Section 35 [Brief Legislative Requirements]) requires a full Heritage Impact Assessment (HIA) in order that all heritage resources including all places or objects of aesthetics, architectural, historic, scientific, social, spiritual, linguistic, or technological value or significance are protected. Thus, any assessment should make provision for the protection of all these heritage components including archaeology, shipwrecks, battlefields, graves, and structures older than 60 years, living heritage, historical settlements, landscapes, geological sites, palaeontological sites and objects.

It must be emphasized that the conclusions and recommendations expressed in this phase 1 archaeological impact assessment (AIA) are based on the visibility of archaeological remains, features and, sites and may not reflect the true state of affairs. Many archaeological remains, features and, sites may be covered by soil and vegetation and will only be located once this has been removed. In the event of such archaeological heritage being uncovered (such as during any phase of construction activities), archaeologists or the relevant heritage authority must be informed immediately so that they can investigate the importance of the sites and excavate or collect material before it is destroyed. The onus is on the developer to ensure that this agreement is honoured in accordance with the National Heritage Resources Act No. 25 of 1999 (NHRA 25 of 1999).

Archaeological Specialist Reports (desktops and AIA's) will be assessed by the relative heritage resources authority. The final decision rests with the heritage resources authority that may confirm the recommendations in the archaeological specialist report and grant a permit or a formal letter of permission for the destruction of any cultural sites.

## APPENDIX A: HERITAGE LEGISLATIVE REQUIREMENTS

Sections 3, 34, 35, 36, 38, 48, 49 and 51 of the National Heritage Resources Act 25 of 1999 apply:

### **S3. National estate**

(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 and 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 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 (Act No. 43 of 1996).

(3) Without limiting the generality of subsections (1) and (2), a place or object is to be considered part of 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 the life or work of a person, group or organisation of importance in the history of South Africa; and
- (i) sites of significance relating to the history of slavery in South Africa.

**S34. Structures**

- (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.
- (3) The provincial heritage resources authority may at its discretion, by notice in the Provincial Gazette, make an exemption from the requirements of subsection (1) within a defined geographical area, provided that it is satisfied that heritage resources falling into the defined area or category have been identified and adequately provided for in terms of the provisions of Part 1 of this Chapter.
- (4) Should the provincial heritage resources authority believe it to be necessary if by, following a three-month notice period published in the Provincial Gazette, withdraw or amend a notice under subsection (3).

**S35. Archaeology, palaeontology and meteorites**

- (1) Subject to the provisions of section 8, the protection of archaeological and palaeontological sites and material and meteorites is the responsibility of a provincial heritage resources authority: Provided that the protection of any wreck in the territorial waters and maritime cultural zone shall be the responsibility of SAHRA.
- (2) Subject to the provisions of subsection (8)(a), all archaeological objects, palaeontological material and meteorites are the property of the State. The responsible heritage authority must, on behalf of the State, at its discretion ensure that such objects are lodged with a museum or other public institution that has a collation policy acceptable to the heritage resources authority and may in doing so establish such terms and conditions as it sees fit for the conservation of such objects.
- (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 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 assist 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 not 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.

- (5) The responsible heritage resources authority may, after consultation with the owner of the land on which archaeological or palaeontological site or a 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.
- (6)(a) Within a period of two years from the commencement of this Act, any person in possession of any archaeological or palaeontological material or object or any meteorite which was acquired other than in terms of a permit issued in terms of this Act, equivalent provincial legislation or the National Monuments Act, 1969 (Act No. 28 of 1969), must lodge with the responsible heritage resources authority lists of such objects and other information prescribed period shall be deemed to have been recovered after the date on which this Act came into effect.
  - (b) Paragraph (a) does not apply to any public museum or university.
  - (c) The responsible authority may at its discretion, by notice in the Gazette or the Provincial Gazette, as the case may be, exempt any institution from the requirements of paragraph (a) subject to such conditions as may be specified in the notice, and may by similar notice withdraw or amend such exemption.
- (8) and object or collection listed under subsection (7) –
  - (a) remains in the ownership of the possessor for the duration of his or her lifetime, and SAHRA must be notified who the successor is; and
- (9) must be regularly monitored in accordance with regulations by the responsible heritage authority.

### **S36. 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.
- (3) SAHRA or 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.
- (4) 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.
- (5) 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 the 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.
- (6)(a) SAHRA must, over a period of five years from the commencement of this Act, submit to 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.
- (c) The Minister must publish such lists as he or she approved in the Gazette.
- (6) 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.
- (7) 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 reinter the remains of that person in a prominent place in the capital of the Republic.

### **S.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.

### **S38. Heritage resources management**

- (1) Subject to the provisions of subsections (7), (8) and (9), any person who intends to undertake a development categorized as –
  - (a) the construction of a road, wall, power line, 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 the site –
    - (i) exceeding 5 000 m<sup>2</sup> in extent, or
    - (ii) involving three or more 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 resources authority;
  - (d) the re-zoning 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 as 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 a 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 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 alternative; 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 the 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 development; and
  - (e) whether the appointment of specialists is required as a condition of approval of the proposal.
- (5) A provincial heritage resources authority may not make any decision under subsection (4) with respect to any development with 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 resources 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 No. 73 of 1989), or the integrated environmental management guidelines issued by the Department of Environmental Affairs and Tourism, or the Mineral Act, 1991 (Act No. 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 regards 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 the 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 continue to apply.

#### **S48. Permits**

- (1) A heritage resources authority may prescribe the manner in which an application is made to it for any permit in terms of this Act and other requirements for permit applications, including –
- (a) any particulars or information to be furnished in the application and any documents, drawings, plans, photographs and fees which should accompany the application;

- (b) minimum qualifications and standards of practice required of persons making application for a permit to perform specified actions in relation to particular categories of protected heritage resources;
  - (c) standards and conditions for the excavation and curation of archaeological and palaeontological objects and material and meteorites recovered by authority of a permit;
  - (d) the conditions under which, bore a permit is issued, a financial deposit must be lodged and held in trust for the duration of the permit or such period as the heritage resources authority may specify, and conditions of forfeiture of such deposit;
  - (e) conditions for the temporary export and return of objects under section 32 or section 35;
  - (f) the submission of reports on work done under authority of a permit; and
  - (g) the responsibilities of the heritage resources authority regarding monitoring of work done under authority of a permit.
- (2) On application by any person in the manner prescribed under subsection (1), a heritage resources authority may in its discretion issue to such person a permit to perform such actions at such time and subject to such terms, conditions and restrictions or directions as may be specified in the permit, including a condition –
- (a) that the applicant give security in such form and such amount determined by the heritage resources authority concerned, having regard to the nature and extent of the work referred to in the permit, to ensure the satisfactory completion of such work or the curation of objects and material recovered during the course of the work; or
  - (b) providing for the recycling or deposit in a materials bank of historical building materials; or
  - (c) stipulating that design proposals be revised; or
  - (d) regarding the qualifications and expertise required to perform those actions for which the permit is issued.
- (3) A heritage resources authority may at its discretion, in respect of any heritage resource protected by it in terms of the provisions of Chapter II, by notice in the Gazette or the Provincial Gazette, as the case may be, grant an exemption from the requirement to obtain a permit from it for such activities or class of activities by such persons or class of persons in such circumstances as are specified in the notice.

#### **S49. Appeals**

- (1) Regulations by the Minister and the MEC must provide for a system of appeal to the SAHRA Council for a provincial heritage resources council against a decision of a committee or other delegated representative of SAHRA or a provincial heritage resources body authority.
- (2) Anybody wishing to appeal against a decision of the SAHRA Council or the council of a provincial heritage resources authority must notify the Minister or MEC in writing within 30 days. The Minister or MEC, must have due regards to –
- (a) the cultural significance of the heritage resources in question;
  - (b) heritage conservation principles; and
  - (c) any other relevant factor which is brought to its attention by the appellant or the heritage resources authority.

#### **S51. Offences and penalties**

- (1) Notwithstanding the provisions of any other law, any person who contravenes –
- (a) sections 27(18), 29(10), 32(13) OR 32(19) is guilty of an offence and liable to a fine or imprisonment or both such fine and imprisonment as set out in item 1 of the Schedule;
  - (b) sections 33(2), 35(4) is guilty of an offence and liable to a fine or imprisonment or both such fine and imprisonment as set out in item 2 of the Schedule;
  - (c) sections 28(3) or 34(1) is guilty of an offence and liable to a fine or imprisonment or both such fine and imprisonment as set out in item 3 of the Schedule;
  - (d) sections 27(22), 32(15), 35(6), or 44(3) is guilty of an offence and liable to a fine or imprisonment or both such fine and imprisonment as set out in item 4 of the Schedule;
  - (e) sections 27(23)(b), 32(17), 35(3) or 51(8) is guilty of an offence and liable to a fine or imprisonment or both such fine and imprisonment as set out in item 5 of the Schedule;
  - (f) sections 32(13), 32(16), 32(20), 35(7)(a), 44(2), 50(5) or 50(12) is guilty of an offence and liable to a fine or imprisonment or both such fine and imprisonment as set out in item 6 of the Schedule.

(2) The Minister, with the concurrence of the relevant MEC, may prescribe a penalty of a fine or of imprisonment for a period not exceeding six months for any contravention or failure to comply with regulations by heritage resources authorities or by-laws by local authorities.

(3) The Minister or the MEC, as the case may be, may make regulations in terms of which the magistrate of the district concerned may –

- (a) levy admission of guild fines up to a maximum amount of R10 000 for infringement of the terms of this Act for which such heritage resources authority is responsible; and
- (b) serve a notice upon a person who is contravening a specified provision of this Act or has not complied with the terms of a permit issued by such authority, imposing a daily fine of R50 for the duration of the contravention, subject to a maximum period of 365 days.

(4) The Minister may from time to time by regulation adjust the amounts referred to in subsection (3) in order to account for the effect of inflation.

(5) Any person who-

- (a) fails to provide any information that is required to be given, whether or not on the request of a heritage resources authority, in terms of this Act;
- (b) for the purpose of obtaining, whether for himself or herself or for any other person, any permit, consent or authority in terms of this Act, makes any statement or representation knowing it to be false or not knowing or believing it to be true;
- (c) fails to comply with or perform any act contrary to the terms, conditions, restrictions or directions subject to which any permit, consent or authority has been issued to him or her in terms of this Act;
- (d) obstructs the holder of a permit in terms of this Act in exercising a right granted to him or her by means of such a permit;
- (e) damages, takes, or removes, or causes to be damaged, taken or removed from a place protected in terms of this Act any badge or sign erected by a heritage authority or a local authority under section 25(2)(j) or section 27(17), any interpretive display or any other property or thing.
- (f) receives any badge, emblem or any other property or thing unlawfully taken or removed from a place protected in terms of this Act; and
- (g) within the terms of this Act, commits or attempts to commit any other unlawful act, violates any prohibition or fails to perform any obligation imposed upon him or by its terms, or who counsels, procures, solicits or employs any other person to do so.

shall be guilty of an offence and upon conviction shall be liable to such maximum penalties, in the form of a fine or imprisonment or both such fine and such imprisonment, as shall be specified in the regulations under subsection (3).

(6) Any person who believes that there has been an infringement of any provision of this Act, may lay a charge with the South African Police Service or notify a heritage resources authority.

(7) A magistrate's court shall, notwithstanding the provisions of any other law, be competent to impose any penalty under this Act.

(8) When any person has been convicted of any contravention of this Act which has resulted in damage or to alteration of a protected heritage resource the court may –

- (a) order such person to put right the result of the act of which he or she was guilty, in the manner so specified and within such period as may be so specified, and upon failure of such person to comply with the terms of such order, order such person to pay to the heritage resources authority responsible for the protection of such resource a sum equivalent to the cost of making good; or
- (b) when it is of the opinion that such a person is not in a position to make good damage done to a heritage resources by virtue of the offender not being the owner or occupier of a heritage resources or for any other reason, or when it is advised by the heritage resources authority responsible for the protection of such resource that it is unrealistic or undesirable to require that the results of the act be made good, order such person to pay the heritage resources authority a sum equivalent to the cost of making good.

(9) In addition to other penalties, if the owner of a place has been convicted of an offence in terms of this Act involving the destruction of, or damage to, the place, the Minister on the advice of SAHRA or the MEC on the advice of a provincial heritage resources authority, may serve on the owner an order that no development of such place may be undertaken, except when making good the damage and maintaining the cultural value of the place, or for a period not exceeding 10 years specified in the order.

(10) Before making the order, the local authority and any person with a registered interest in the land must be given a reasonable period to make submissions on whether the order should be made and for how long.

(11) An order of no development under subsection (9) attaches to the land and is binding not only on the owner as at the date of the order, but also on any person who becomes an owner of the place while the order remains in force.

(12) The Minister on the advice of SAHRA, may reconsider an order of no development and may in writing amend or repeal such order.

(13) In any case involving vandalism, and whenever else a court deems it appropriate, community service involving conservation of heritage resources may be substituted for, or instituted in addition to, a fine or imprisonment.

(14) Where a court convicts a person of an offence in terms of this Act, it may order for forfeiture to SAHRA or the provincial heritage resources authority concerned, as the case may be, of a vehicle, craft, equipment or any other thing used or otherwise involved in the committing of the offence.

(15) A vehicle, craft, equipment or other thing forfeited under subsection (14) may be sold or otherwise disposed of as the heritage resources authority concerned deems fit.

## **APPENDIX B: GRADING SYSTEM**

The National Heritage Resources Act 25 of 1999 stipulates the assessment criteria and grading of archaeological sites. The following categories are distinguished in Section 7 of the Act and the South African Heritage Resources Agency:

- National: This site is suggested to be considered of Grade 1 significance and should be nominated as such. Heritage resources with qualities so exceptional that they are of special national significance.
- Provincial: This site is suggested to be considered of Grade II significance and should be nominated as such. Heritage resources which, although forming part of the national estate, can be considered to have special qualities which make them significant within the context of a province or a region
- Local: This site is suggested to be Grade IIIA significance. This site should be retained as a heritage register site (High significance) and so mitigation as part of the development process is not advised.
- Local: This site is suggested to be Grade IIIB significance. It could be mitigated and (part) retained as a heritage register site (High significance).
- 'General' Protection A (Field Rating IV A): This site should be mitigated before destruction (usually High/Medium significance).
- 'General' Protection B (Field Rating IV B): This site should be recorded before destruction (usually Medium significance).
- 'General' Protection C (Field Rating IV C): This site has been sufficiently recorded (in the Phase 1). It requires no further recording before destruction (usually Low significance).

## APPENDIX C: IDENTIFICATION OF ARCHAEOLOGICAL FEATURES AND MATERIAL FROM COASTAL AND INLAND AREAS: guidelines and procedures for developers

### 1. Stone artefacts

Stone artefacts are the most common and identifiable precolonial artefacts occurring on the South Africa landscape. Early Stone Age, Middle Stone Age and Later Stone Age stone artefacts occur in various concentrations on the South Africa landscape. Stone artefacts are very commonly found occurring on flat floodplains in a mostly secondary or disturbed context. However, they can be also be found in an *in situ* or undisturbed context in areas where little human or animal impact happens such as open sites mostly near rocky outcrops, amongst boulders and caves.

These may be difficult for the layman to identify. However, large accumulations of flaked stones which do not appear to have been distributed naturally should be reported. If the stone tools are associated with bone remains, development should be halted immediately and archaeologists notified.



Early Stone Age (ESA) stone artefact  
(1.5 million years ago – 250 000 years ago)



Middle Stone Age stone artefacts  
(250 000 – 30 000 years ago)



Later Stone Age stone artefacts  
(30 000 years ago – historical times)

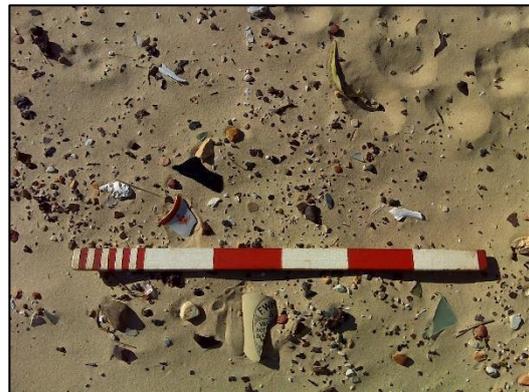
### 2. Pottery scatters

Pottery scatters can be associated with either Khoekhoen pastoralists, the Nguni first farming communities (referred to as the South African Iron Age) or colonial settlement and can be dated to within the last 2 000 years which occur both at the coast and inland. Pottery associated with Bushmen / hunter-gatherers is generally thought to occur in the Karoo region. The most obvious difference between Khoekhoen and Nguni pottery are the decorations, shapes, sizes and wall thickness. Khoekhoen pottery is generally thinner than the thicker walled and robust Nguni pottery. Colonial ceramics ranges from earthenware, stoneware, porcelain and European glazed and unglazed ceramics.

Precolonial pottery and Colonial ceramics are more easily identifiable by the layman and should be reported.



**Khoekhoen earthenware pottery  
(last 2 000 years)**



**Iron Age earthenware pottery  
(last 2 000 years)**



**Examples of 19<sup>th</sup> century European ceramics**

These are easy to identify and include colonial artefacts (such as ceramics, glass, metal, etc.), foundations of buildings or other construction features and items from domestic and military activities associated with early travellers' encounters on the landscape and European settlement.



**Example of a Fortified Structure  
(Fort Double Drift)**



**Ruin of stone packed dwelling**



**Glass artefacts**

#### 4. Shell middens (marine and freshwater)

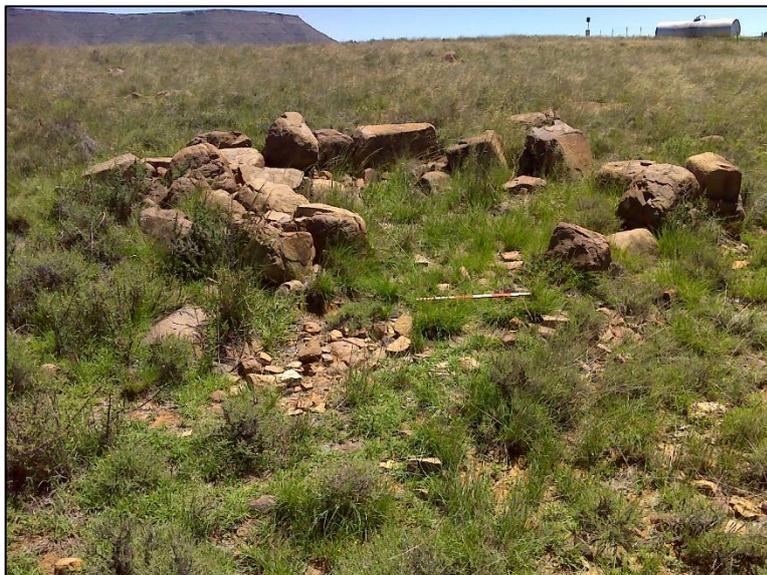
Shell middens can be defined as an accumulation of marine or freshwater shell deposited by past human populations rather than the result of natural or animal activity. Marine shell middens occur all along the coast and may extend within 5 km of the coastline. This area is generally regarded as being archaeologically sensitive. The shells are concentrated in a specific locality above the high-water mark and frequently contain various edible and sometimes inedible marine shells, stone tools, pottery, bone (fish and animal) and occasionally also human remains. Shell middens may be of various sizes and depths, but an accumulation which exceeds 1 m<sup>2</sup> in extent, should be reported to an archaeologist. Freshwater shell middens occur along river banks and comprise freshwater shell, fish and animal bone, stone tools, pottery, and sometimes human remains.



Examples of the occurrence of coastal shell middens

## 5. Large stone features

They come in different forms and sizes, but are easy to identify. The most common are roughly circular stone walls (mostly collapsed) and may represent stock enclosures, remains of wind breaks or cooking shelters. Others consist of large piles of stones of different sizes and heights and are known as *isisivane*. They are usually near river and mountain crossings. Their purpose and meaning are not fully understood; however, some are thought to represent burial cairns while others may have symbolic value.



**Examples of stone packed features**

6. Graves, Burials and Human Skeletal material

Formal historical graves are easily identifiable as they are in most cases fenced off or marked with engraved headstones. Informal stone packed graves in several instances also occur within these fenced off areas.

It is difficult to detect the presence of archaeological human remains on the landscape as these burials, in most cases, are not marked at the surface. Human remains are usually observed when they are exposed through erosion or construction activities for development. Several human remains have been rescued eroding out of the dunes along this coastline and dongas in inland areas. In some instances, packed stones or rocks may indicate the presence of informal pre-colonial burials.

Human remains, whether the complete remains of an individual buried during the past, or scattered human remains resulting from disturbance of the grave, should be reported. In general, the remains are buried in a flexed position on their sides, but are also found buried in a sitting position with a flat stone capping and developers are requested to be on the alert for this.



**Exposed human remains eroding out a coastal shell midden.**



**Exposed human remains eroding out an inland donga**