

REPORT ON THE SITE VISIT AND ASSESSMENT OF A STONE PACKED FEATURE IDENTIFIED DURING THE CONSTRUCTION OF THE POWERLINE FOR THE SOETWATER WIND ENERGY FACILITY, NEAR SUTHERLANDS, KAROO HOOGLAND MUNICIPALITY, NORTHERN CAPE PROVINCE.

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Date: August 2020

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1. Background Information

The Soetwater and Karusa Wind Energy Facilities were part of a larger environmental impact assessment conducted in 2011 and 2012 referred to as the Hidden Valley Wind Energy Facility. The archaeological desktop assessment was conducted in 2011 and the phase 1 archaeological impact assessment was conducted in 2012 (Booth 2011, Booth 2012). The archaeological walk-through for the Soetwater and Karusa Wind Energy Facilities and associated powerlines were completed in 2015 (Booth 2015a-c). In 2017 archaeological desktop assessments were conducted to affirm that changes in wind turbine locations and specifications and the reduction in the number of turbines would not negatively impact on the heritage resources recorded during the previous assessments (Booth 2017a-b).

The South African Heritage Resources Authority (SAHRA) provided comments on all stages of the assessments conducted between 2012 and 2017 including acknowledgement of the environmental impact assessment in 2018 (File No. 9/2/091/0004; Case No. 218 and 8657). The Soetwater and Karusa Wind Energy Facilities are currently under construction. The stone packed feature was not identified during the walk-through assessment of the original powerline alignment assessed in 2015 (Figure 4). The potential heritage stone packed feature was identified by the environmental officers during the walk-through of the current powerline alignment.

2. Purpose of the Site Visit and Heritage Assessment

The purpose of the study was to conduct a site visit and assessment of the potential heritage feature identified and provide recommendation to mitigate any negative impact where necessary.

3. Summary of Findings

The site visit was conducted on 20 July 2020 accompanied by Ms Busisiwe Hadebe, the independent environmental control officer (ECO) representing Environmental Impact Management Services (EIMS), and Mr Thomas Raswiswi, environmental officer (EO) representing Nsovo Environmental Consulting.

The identified feature is located at 32°48'16.20"S; 20°37'45.05"E on the Farm De Hoop 202, about 3m west of an internal farm road leading to a farm dam (Figures 1-2). The feature was not identified during the previous heritage assessment in 2015 of the powerline alignment (Authorised Soetwater SPD 2014).

The feature is a single-layer stone packed rectangular feature resembling a possible grave (Figures 15-17). The feature is located within 45 m of a watercourse / stream located to the north. A foot survey, approximately 200 m – 300 m in diameter of the surrounding area was conducted to possibly identify any similar stone packed features within the area (Figures 11-14). No other similar features were identified. The environmental officer also mentioned that no other similar features were identified during their walk-through of the powerline alignment. In discussion with the landowner, it was noted that himself nor the farm staff noticed the feature over the last 30 years. It was also pointed out that the Farm De Hoop 202 does have an established historical farm cemetery. The cemetery is located within the vicinity of the farmstead which was not included within the footprint of the wind energy facility and powerline alignments. Previous landowners and farm staff are buried within the farm cemetery.

The location of the stone packed feature, if considered a grave, is unusual considering that there is an established farm cemetery. The feature may be older than 30 years as the current landowner and staff are unaware of its existence and origin. The packing of the stones associated with identified feature does present as more recent. Figure 16 shows a close up of the eastern side of the stone feature, very little soil deposition is evident both on the outside and within the stone packing. Figure 17 shows a close-up view of the western side of the stone feature which shows some soil deposition which may have been deposited by the recent heavy rainfalls received within the area. The extent of the heavy rains received managed to wash away a portion of the entry access road into the construction site and site offices.

The stone packed feature will not be directly impacted during the construction of pylon No. 5 for the 132kV powerline (Figures 3-5). However, the feature is situated within close proximity, about 2 m, to the pylon position. Worst case scenario would require that the extent of the excavations for the pylon disturb an area of 3 m x 3 m. Soil analysis has however predicted that the soil type is rocky / soft rock and the worst-case scenario of the excavation volume and dimension would be 2.230m³ and 3 m deep (Figures 6-10).

In consultation with the environmental practitioner (EIMS), the contractor (Conco), and the Applicant (Enel Green Power), it was recommended that Pylon No. 5 be moved 15m south of its current location to comply with the initial recommendation made by SAHRA regarding the extent of the buffer around graves and burials identified during the impact assessment and development process. SAHRA's previous recommendations (26 May 2014) stipulate that the fence be placed 5 meters away from the perimeter of the graves and that no development is allowed within 30 meters of the fence line surrounding the graves.

Mr Shaun Taylor on behalf Enel and the contractor noted certain limiting factors in complying with the SAHRA's recommendation (by email Wednesday 19 August 2020):

- Ecological - In consideration of the construction footprint required around the tower location for erection and the vehicles necessary for line tensioning during stringing etc., high sensitivity vegetation limits movement of the tower to the north and south along the same alignment;

- Technical limitations – The powerline alignment cannot be changed due to tension and spanning restrictions, coupled with already established tower positions. However, the tower can be moved north or south of the current position by approx. 15m;
- Topography – moving northwards would situate the pylon in an erosion channel and would be in a lower part of the landscape which would require a larger tower to support the powerlines and required tension. Moving the tower position southwards places the tower higher in the landscape and does not require any tower modification in terms of height and tension strength.

Therefore, it has been suggested that the tower position be moved 15m south allowing a buffer of 5 m to erect the fence and a 10 m buffer between the fence and tower.

4. Recommendations and Mitigation

The stone packed feature cannot be confirmed as being a grave unless systematic excavations are conducted to establish whether the area contains a burial. This method of mitigation is however the least preferred. The stone packed feature may be established as being older than 30 years owing the landowner and farm staff being unaware of its origin or existence, or older than the establishment of colonial settlements and farming activities within the area. However, the more recent-looking packing of the stones may not confirm that the feature is older than 100 years. The feature can be considered as an unknown stone packed feature and to avoid negative impact the following recommendations must be considered, and the preferred mitigation measures implemented.

1. The stone packed feature should be fenced with an entry gate and clearly demarcated prior to the construction activities for the establishment of pylon No. 5. SAHRA's previous recommendations (26 May 2014) stipulate that the fence be placed 5 meters away from the perimeter of the graves and that no development is allowed within 30 meters of the fence line surrounding the graves. However, it is acceptable that the relocation of Pylon No. 5 be shifted 15 m south to allow for a 5 m buffer between the stone packed feature and the fence and therefore allow a 10 m buffer between the fence and tower, taking into consideration the limiting factors mentioned above.
2. General fencing materials may be used, mesh fencing approximately 1.2 m in height, and treated wooden droppers as the corner posts, approximately 5 cm in width, or similar alternative materials.
3. The environmental control officers (ECOs) must liaise with the archaeologist regarding the fencing materials being used for the erection of the fence, the planned area for the establishment of the fence, during the erection and completion of the fence, as well as during the construction of the tower.

4. At this point it is not necessary for the archaeologist to be on-site during the construction of the fence and pylon if the ECO keeps in contact with the archaeologist, as in recommendation 3.
5. 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 archaeologist and/or the South African Heritage Resources Authority (SAHRA) (021 462 4502) for Northern Cape findings and Heritage Western Cape (HWC) (021 483 5959) 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 pre-colonial shell middens and associated artefacts may then be conducted to establish the contextual status of the sites and possibly remove the archaeological deposit before development activities continue.

5. 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 other than fair remuneration for specialist services rendered.

Ms Celeste Booth was appointed on a strictly professional basis to conduct the 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 South African Heritage Resources Agency (SAHRA).

6. Summary of Specialist Expertise

Ms Celeste Booth (BSc Honours: Archaeology) is an archaeologist who has had eleven 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.

Ms Booth has conducted the desktop and phase 1 archaeological impact assessment for the Hidden Valley Wind Energy development and the associated powerlines as well as conducted walk-throughs and commented on the Soetwater and Karusa Wind Energy Facilities.

7. Legislative and Policy Framework

SAHRA recommendations (1 March 2016) indicated that A Chance Finds Procedures and Fossil Finds Procedure must be developed for the project to ensure that standard protocols and steps are followed should any heritage and/or fossil resources be uncovered during excavations. These procedures should outline the steps and reporting structure to be followed in the instance that heritage resources are found. All workers on site including the ECO and construction manager/foreman's must be trained and instructed as to the procedures and how they should be followed. This has been compiled accordingly for both Karusa and Soetwater wind farm projects (Appendix D).

8. GPS Coordinates of Sites

Reference	Description	Coordinates
Soetwater Heritage Feature	Stone packed feature	32°48'16.20"S; 20°37'45.05"E
Current Position of Pylon #5	Current position of Pylon No. 5 Soetwater	32°48'16.35"S; 20°37'45.16"E
Relocation of Pylon #5 +-15m South	Area proposed for the relocation of Pylon No. 5	32°48'16.75"S; 20°37'44.84"E

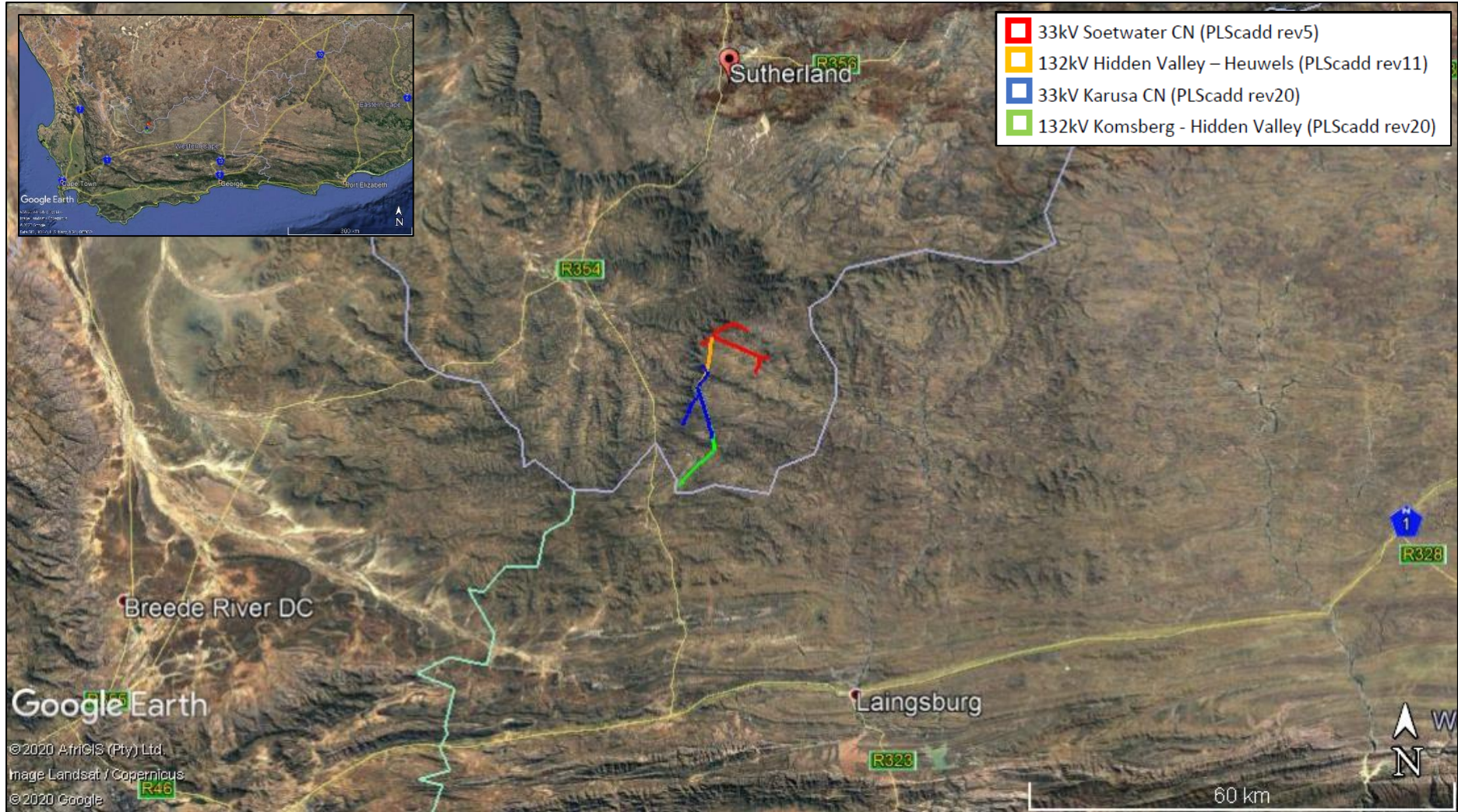


Figure 1. Google Earth generated map of the location of the alignment of powerlines for the Soetwater and Karusa Wind Energy Facilities.

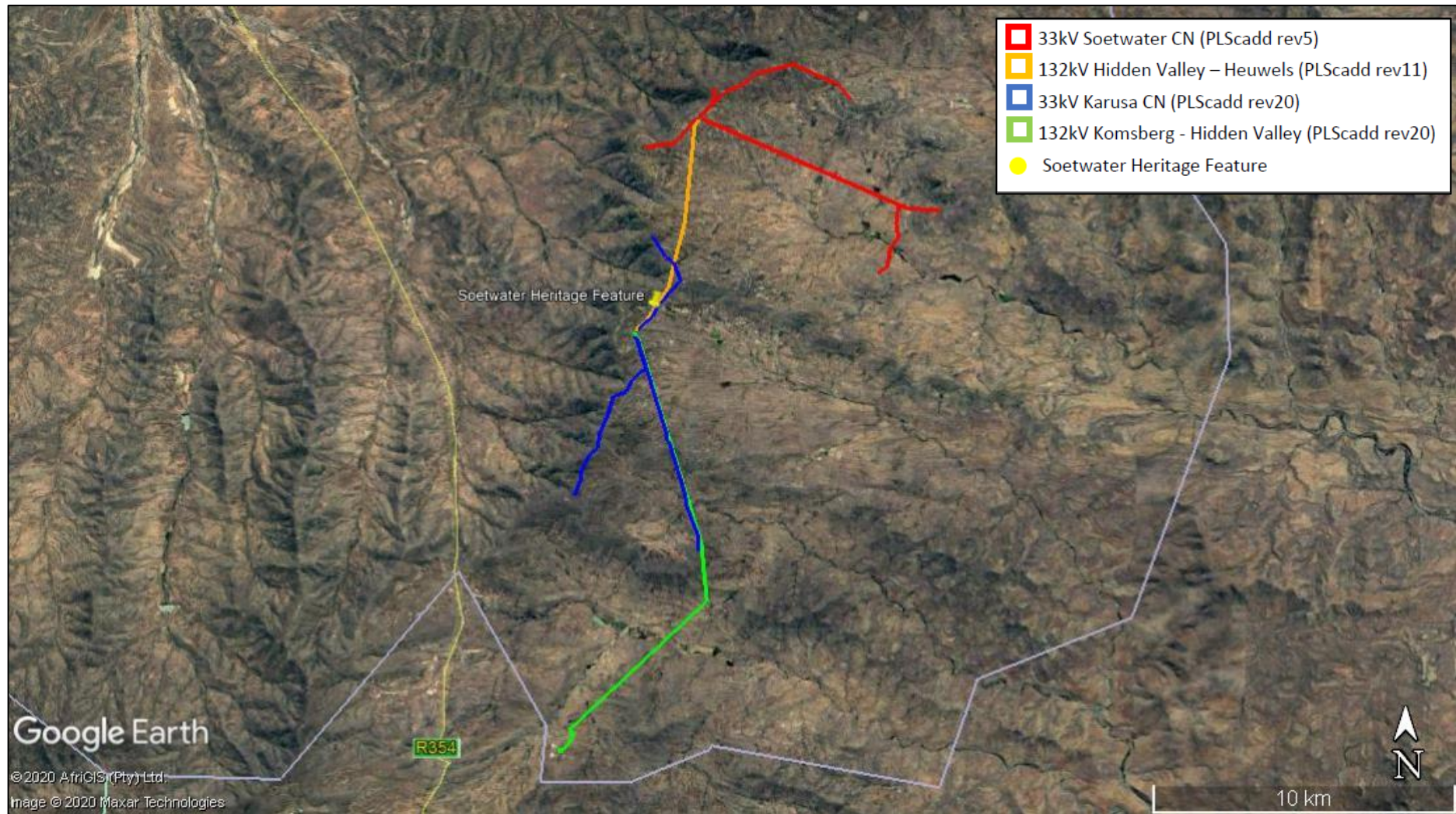


Figure 2. Google Earth generated map showing the location of the heritage feature identified during the walk-through of the alignment of powerlines for the Soetwater and Karusa Wind Energy Facilities.



Figure 3. Close-up Google Earth generated map showing the location of the heritage feature identified during the walk-through of the alignment of powerlines for the Soetwater and Karusa Wind Energy Facilities.

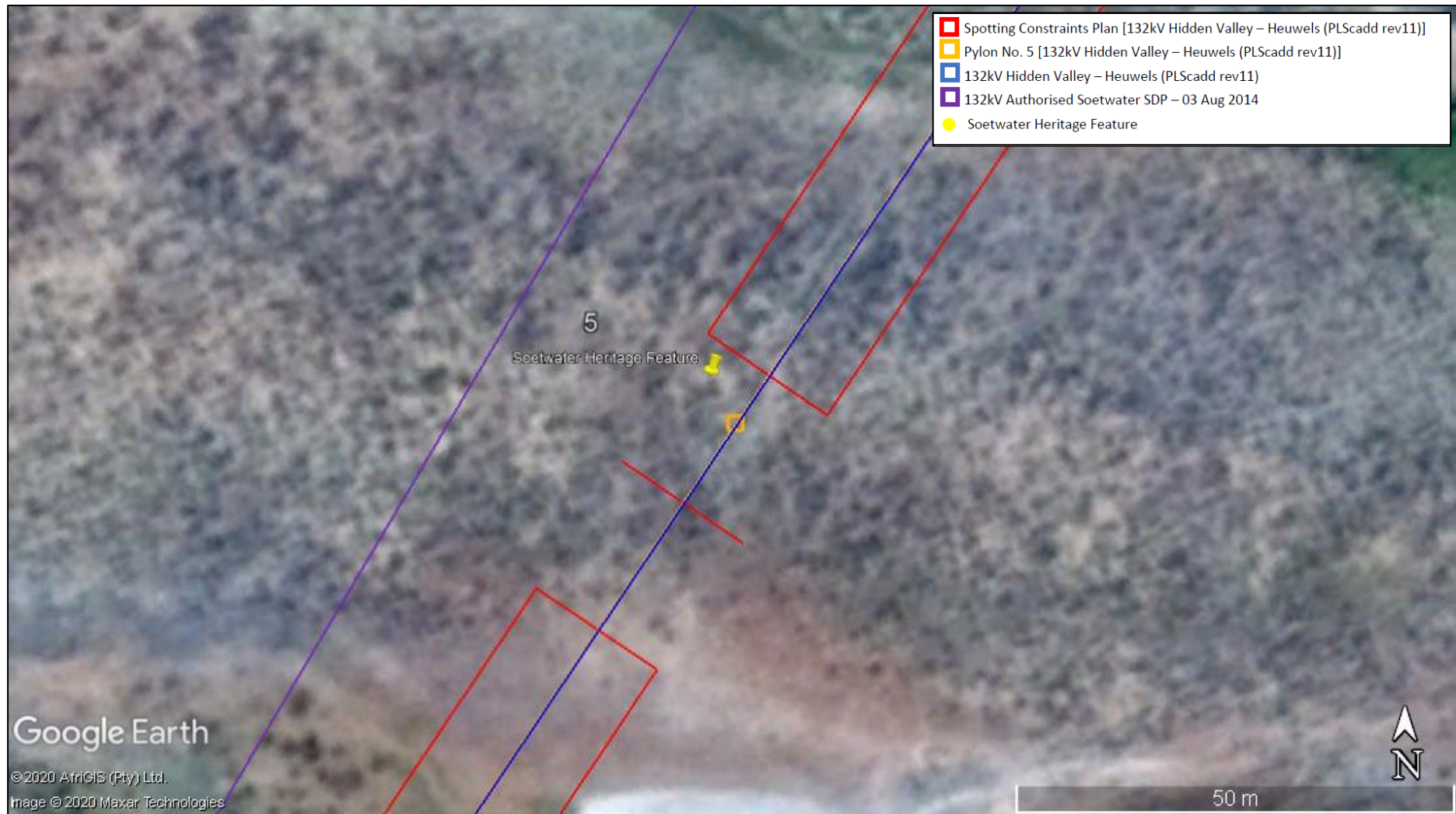


Figure 4. Close-up Google Earth generated map showing the proximity of the feature identified to the position of the electricity pylon.



Figure 5. Close-up Google Earth generated map showing the proximity of the feature identified to the position of the electricity pylon.

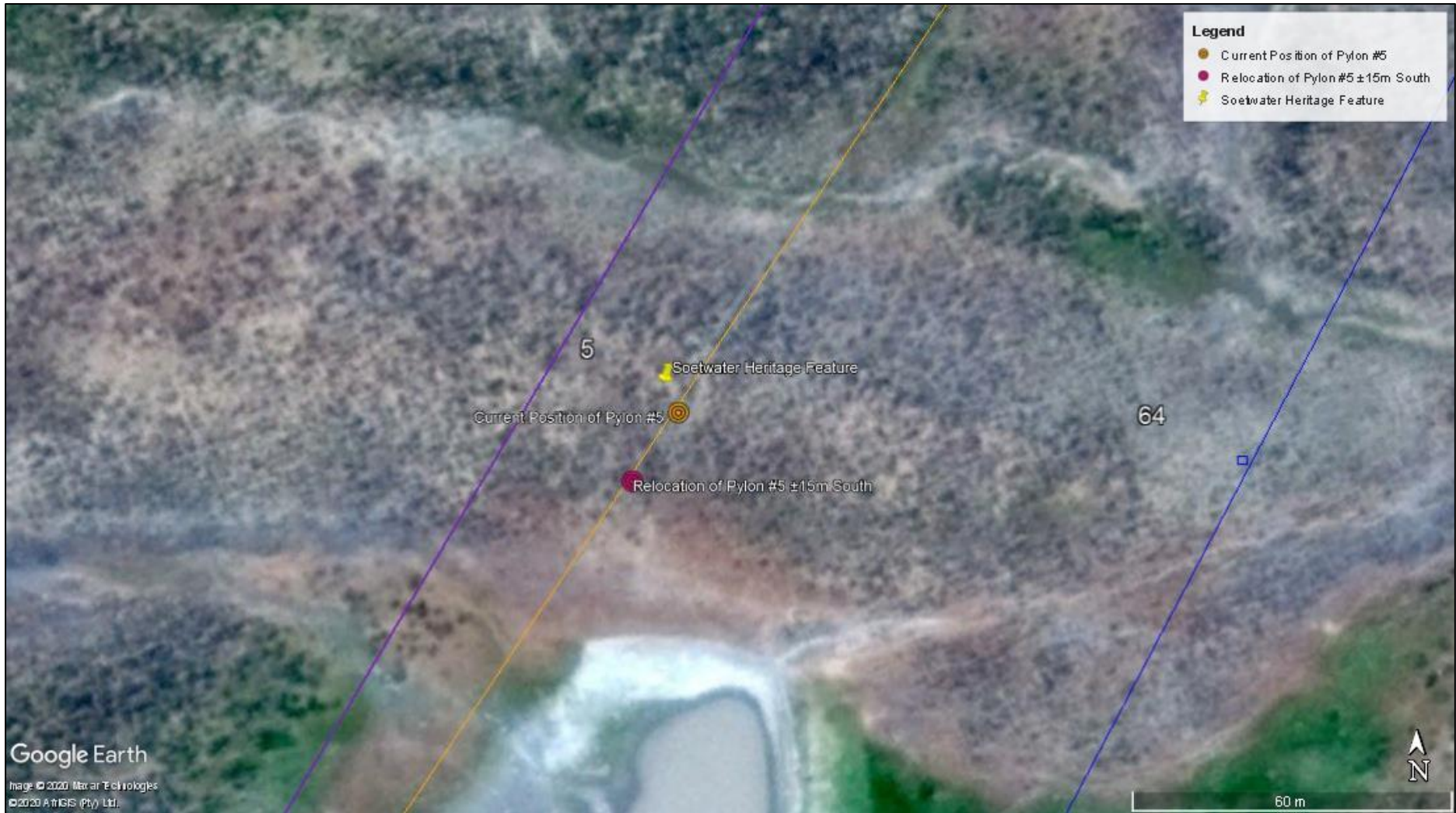


Figure 6. Google Earth generated map showing the proximity of the feature identified to the position of the current location electricity pylon and its proposed area for relocation.



Figure 7. Close up Google Earth generated map showing the proximity of the feature identified to the position of the current location electricity pylon and its proposed area for relocation.

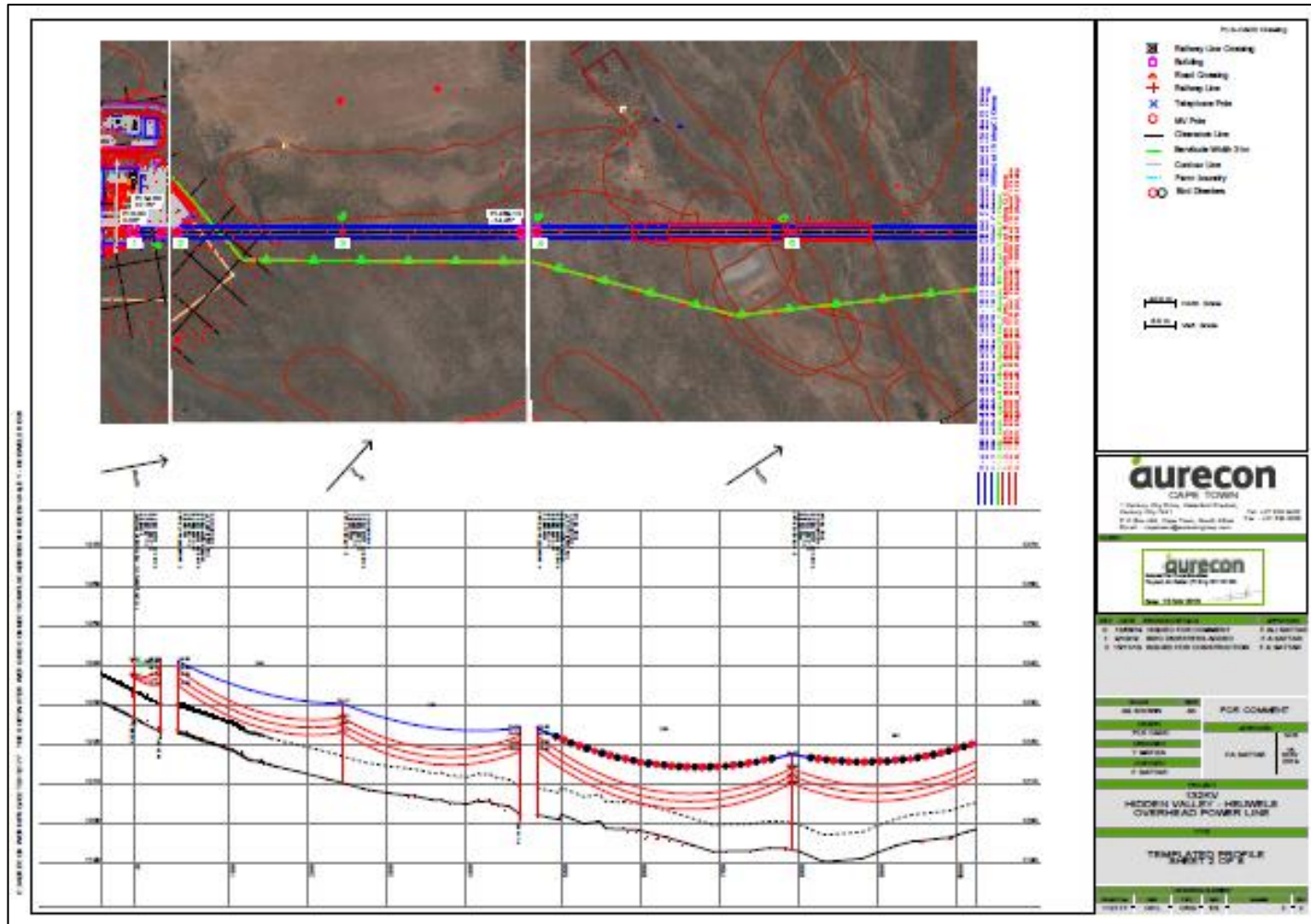


Figure 8. Technical drawing showing the location of pylons 1-5 and structure of the 132 KV powerline from the substation being constructed on the Farm De Hoop 202.

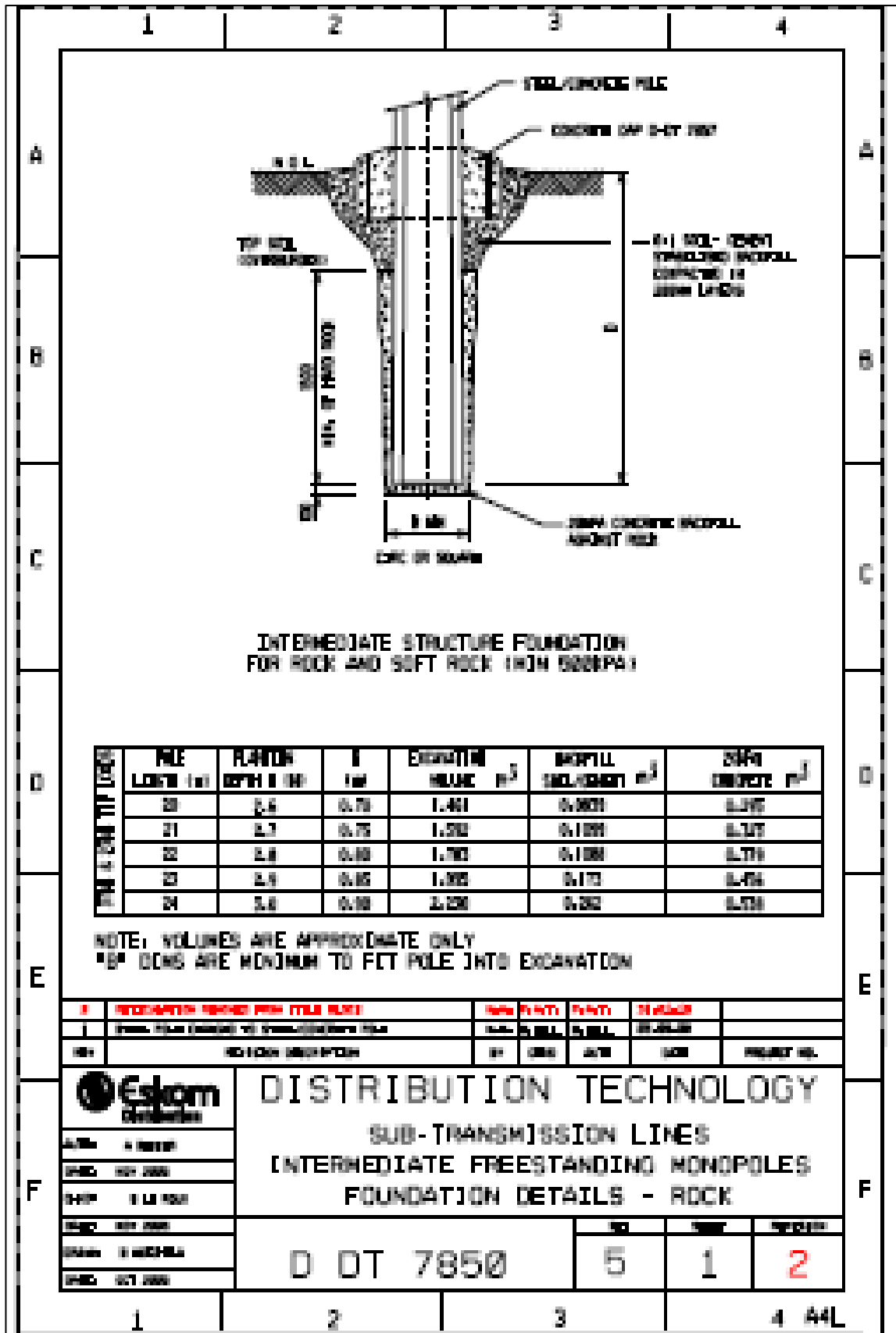


Figure 12. Technical drawing showing the anchoring of the pylon in a rocky soil type.



Figure 13. View of the landscape surrounding the location of the feature identified along the powerline alignment.



Figure 14. View of the landscape surrounding the location of the feature identified along the powerline alignment.



Figure 15. View of the landscape surrounding the location of the feature identified along the powerline alignment.



Figure 16. View of the landscape surrounding the location of the feature identified along the powerline alignment.



Figure 17. View of the stone packed feature identified along the powerline alignment.



Figure 18. View of the stone packed feature identified along the powerline alignment.



Figure 19. View of the stone packed feature identified along the powerline alignment.

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Technical drawings courtesy of CONCO (Consolidated Power Projects International SA (Pty) Ltd)

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 m² 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 m² 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 impact of such development of 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 that 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)

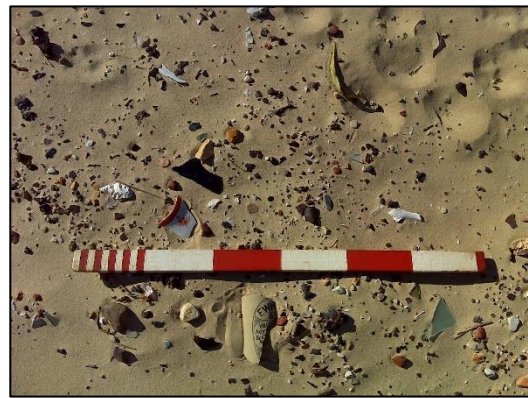
2. Pottery scatters

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 19th century European ceramics

3. Historical artefacts and features

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 m² 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

APPENDIX D: SOETWATER WIND FARM CULTURAL HERITAGE CHANCE FIND PROCEDURE AND PALAEOLOGICAL FOSSIL FIND PROCEDURE

PROJECT BACKGROUND

PROCEDURE OUTLINE

This procedure applies to all permanent employees, its subsidiaries, contractors and subcontractors, and service providers. The aim of this procedure is to establish a protocol to follow in the event of a chance find and reporting procedures to ensure compliance with this policy and its associated procedures. Construction employees shall be properly inducted to ensure they are fully aware of the procedures regarding chance finds as discussed below.

ARCHAEOLOGICAL CHANCE FIND PROTOCOL

The possibility of the occurrence of subsurface finds have to be considered for the Project. Therefore, if during construction any possible finds such as pre-colonial archaeological heritage materials, remnants of stone-made structures, stone tool scatters, stone artefacts, ostrich eggshell fragments, charcoal and ash concentrations, fossils or any other categories of heritage resources are made, construction activities must be stopped and the following immediate steps must be taken:

- Cease work at the site of the find;
- The discovered material should not be moved or touched;
- Find location must be recorded and find reported to the Health, Safety and Environment (HSE) Manager, and through the HSE Manager to the project site manager;
- The discovered material should be barricaded and a notice boarded erected detailing the find;
- The senior on-site manager shall conduct an initial assessment of the extent of the find, and confirm the extent of the work stoppage in that area;
- The senior on-site manager shall inform the Environmental Control Officer (ECO) of the chance find and its immediate impact on operations;
- The ECO shall contact a professional archaeologist for an assessment of the find;
- A qualified archaeologist shall notify the South African Heritage Resources Agency Archaeological, Palaeontology and Meteorites (SAHRA APM) Unit. The relevant contact persons include Natasha Higgitt/Phillip Hine – 021 462 5402;
- The ECO shall ensure all necessary permits have been acquired before removal of finds;

- Proposed mitigation from archaeological assessment shall form part Environmental Management Programme (EMPr) and Environmental and Social Management System (ESMS).
- In the event of exposing unmarked human burials and / or human remains during construction, the SAHRA Burial Grounds and Graves (BGG) Unit must be alerted immediately (Thingahangwi Tshivhase/Mimi Seetelo – 012 320 8490), and will require a professional archaeologist to undertake mitigation, if needed.

PALAEONTOLOGICAL FOSSIL FIND PROTOCOL

The possibility of the occurrence of surface and / or subsurface finds have to be considered for the Project. Therefore, during the construction phase, all deeper (> 1 m) bedrock excavations should be monitored for fossil remains by the responsible ECO and/or Contractor's Environmental Officer (EO). If during construction any possible finds such as trace fossil assemblages (small scale invertebrate burrows, possible plant stem or root casts), fragmentary plant remains (horsetail ferns (arthrophytes), moulds of woody plant material weathering out from base channel sandstones, vertebrate burrow-like structures, vertebrate bones and teeth, plant-rich fossil lenses, fossil wood or dense fossil burrow assemblages or any other categories of palaeontological resources are made, construction activities must be stopped and the following immediate steps must be taken:

- Cease work at the site of the find;
- The discovered material should not be moved or touched;
- The responsible Environmental Control Officer should safeguard these, preferably in situ,
- Find location must be recorded (preferably with photograph, and scale indication) and the find reported to the Health, Safety and Environment (HSE) Manager, and through the HSE Manager to the project site manager;
- The discovered material should be barricaded and a notice boarded erected detailing the find;
- The senior on-site manager shall conduct an initial assessment of the extent of the find, and confirm the extent of the work stoppage in that area;
- The senior on-site manager shall inform the ECO of the chance find and its immediate impact on operations;
- The ECO shall alert SAHRA, i.e. The South African Heritage Resources Authority, as soon as possible (Contact details: Mrs Colette Scheermeyer, 111 Herrington Street, Cape Town, P.O. Box 4637, Cape Town 8000. Tel: 021 462 4502, Fax: +27 (0)21 462 4509, Web: www.sahra.org.za, Email: cscheermeyer@sahra.org.za) so that appropriate action can be taken by a professional palaeontologist;

- All South African fossil heritage is protected by law (South African Heritage Resources Act, 1999) and fossils cannot be collected, damaged or disturbed without a permit from SAHRA or the relevant Provincial Heritage Resources Agency. The ECO shall therefore ensure all necessary permits have been acquired from SAHRA before removal of the finds and any material collected would have to be curated in an approved depository (e.g. museum or university collection).
- All palaeontological specialist work should conform to international best practice for palaeontological fieldwork and the study (e.g. data recording fossil collection and curation, final report) should adhere as far as possible to the minimum standards for Phase 2 palaeontological studies recently developed by SAHRA (2013).
- Any additionally proposed mitigation from the palaeontological assessment shall form part Environmental Management Programme (EMPr) and Environmental and Social Management System (ESMS).

South African Heritage Resource Agency, APM Unit (Natasha Higgitt/Phillip Hine)

Telephone: 021 462 4502

South African Heritage Resource Agency, BGG Unit (Thingahangwi Tshivhase/Mimi Seetelo)

Telephone: 021 462 4502