



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

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DEA Reference: 14/12/16/3/3/2/464

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PER EMAIL / MAIL

Dear Mr Gardiner

REJECTION OF THE ENVIRONMENTAL IMPACT ASSESSMENT REPORT FOR THE PROPOSED INGEROP INYANDA-ROODEPLAAT WIND ENERGY FACILITY AND ITS ASSOCIATED INFRASTRUCTURE NEAR UITENHAGE, EASTERN CAPE PROVINCE

The Environmental Impact Assessment Report (EIAR) received on 18 November 2016 and receipt of the report as acknowledged on 02 December 2016 for the abovementioned activity, submitted in terms of the requirement of the Environmental Impact Assessment (EIA) Regulations, 2010 refer.

Following a review of the amended application form received via email on 13 January 2017 and the EIAR received on 18 November 2016, this Department rejects the EIAR in accordance with Regulation 34(1)(a) of the EIA Regulations, 2010. This Department requests that the EIAR be amended to include the following:

Avifauna

- a) This Department identified that two different avifaunal specialists conducted the avifaunal assessment. These two avifaunal specialists appointed by the Applicant concluded completely different results from the same avifauna pre-construction data analysis; hence resulted in different conclusions and recommendations.
- b) Based on the above, this Department requests that the Applicant appoint an independent avifaunal specialist to externally peer review all work undertaken by the two avifaunal specialists and make final conclusions and recommendations on the avifaunal impacts.
- c) The specialist appointed to externally peer review the work of the two specialists must comply with the requirements of Regulation 17 of the Environmental Impact Assessment Regulations, 2010.
- d) The Environmental Assessment Practitioner (EAP) must liaise with BirdLife SA in the appointment of the independent avifaunal specialist reviewer. BirdLife SA must also be consulted on the Terms of Reference for the study.
- e) The abovementioned independent peer review report must be sent to BirdLife SA and the Department's Biodiversity and Conservation unit for review and comment.
- f) The EAP must ensure that the independent avifaunal specialist reviewer has access to all the monitoring data (i.e. from the start of the project to date).

Status of road

- g) Following a review of the EIAr, the issue concerning whether the road has been constructed illegally or not has been raised by numerous interested and affected parties (I&APs). As such, the applicant, must in consultation with the Eastern Cape Provincial Department of Finance, Economic Development, Environmental Affairs and Tourism, resolve the matter and proceed with any corrective measures if any, and written confirmation from the Eastern Cape must be included in the amended EIAr stating that the matter has been resolved prior to this Department receiving the report for decision-making.
- h) It is noted that SRK states in the EIAr *“that it is difficult to understand how the construction of the road, whether unlawful or not, influences SRK’s objectivity. The road has been assessed as part of the broader road network associated with the project and has allowed the legal process to proceed independently of this assessment.”* As such, based on the assessment conducted, the responsible EAP must confirm whether the road was illegally commenced with or not, based on the assessment done.

EAP and specialists

- i) The application form states that the EAP on the project is SRK Consulting (South Africa) (Pty) Ltd. Based on the definition of the EAP, as defined in Chapter 1 of NEMA, *“when used in Chapter 5, means the individual responsible for the planning, management and coordination of environmental impact assessments, strategic environmental assessments, environmental management plans or any other appropriate environmental instruments introduced through regulations;”*. As such, the application form must be amended and submitted with the amended EIAr to include the correct details of the EAP as per the definition above.
- j) Further to the above, upon review of the EIAr, it states that the EAP is “Project Manager, Environmental Assessment Practitioner: Nicola Rump, MSc, EAPSA, Environmental Assessment Practitioner: Tanya Speyers, BSc Hons, and Project Director and Internal Reviewer: Rob Gardiner, MSc, MBA, Pr Sci Nat.”. Based on the above, it is unclear who the actual EAP is based on the definition as described under point d above. As such, this must be clarified and included in the amended application form and EIAr.
- k) The EAP must ensure that all specialists have the same development brief and must assess the entire development as well as its alternatives.
- l) A proper assessment from all specialists, which fully assesses the entire development and its alternatives, must be provided for in the amended EIAr.
- m) The applicant must in the amended EIAr provide detailed reasons for the change in the EAP as well as the two specialists within the EIA process. The previous EAP and specialists must also provide written responses to the reasons provided by the applicant.
- n) All specialists must ensure that they provide reasons and effectiveness of each mitigation measure they propose and the EAP must provide proof that these recommendations by the specialist is adhered to in the EIAr. Should there be any deviations, then the EAP must justify and give adequate motivations for the deviation.
- o) It is noted that the palaeontological specialist states that he faced difficulty to fully assess the entire proposed powerline route, due to lack of access to the site. It is unacceptable to provide a report, which has not fully assessed the site, as this may lead to gaps in information, inaccurate conclusions and recommendations.
- p) The EAP must confirm with all the other specialists whether they experienced similar problems regarding access due to locked gates. All specialists must assess the entire development site, with all proposed alternatives, and the EAP is to ensure that access to the site is obtained.

Preferred layout

- q) The project description states that the WEF will consist of 52 turbines, but the technical details provided for the WEF states that the WEF would consist of between 46 to 52 turbines. No alternate layout was provided to indicate a 46-turbine project. As such, the amended EIAr must assess in detail the two proposed layouts, and each specialist must provide a detailed assessment as well as mitigation measures for each layout. Furthermore, the EAP as well as the specialists must provide recommendations on their preferred layout.

Ecology

- r) Following a review of the ecological report, the following limitations and recommendations are noted:
- This assessment is an update of the existing ecological work on the site, rather than an exhaustive study;
 - Species of Conservation Concern are present on site, a full list of these species can only be generated through an assessment specifically designed to do so;
 - Impacts are assessed based on the current (52) turbine layout, any changes to this layout will result in a need for an update to this assessment.
 - Powerline impacts are assessed based on desktop information.
 - Whilst a list of possible mitigation measures are provided, the ecological assessment also recommends that a further assessment is required.
- As such, all these limitations must be addressed in the amended EIAr and all additional studies must be conducted prior to any decision on the application can be made. As such, the ecological assessment must assess all layouts and alternatives provided in the EIAr.
- s) The Department requests that the ecological specialist report be peer reviewed by an external ecological specialist.
- t) Based on the recommendations of the current ecological specialist report, the applicant must enter into a Conservation Management Agreement with the relevant authority to allow for assurance of the conservation of the site. This agreement must be finalised and included in the amended EIAr. Should the applicant not be willing to enter into any agreement, then the mitigation hierarchy must be considered.

Heritage and archaeology

- u) The archaeologist states that the possible upgrading, resurfacing, and/or rehabilitation of external gravel access roads and associated borrow pits is outside the scope of this Environmental Impact Assessment process and has not been assessed. This statement cannot be true as the EAP has applied for the construction and upgrading of existing roads. The specialist further stated that if the need to upgrade external roads or open a borrow pit is identified at a later stage, then a Phase 1 Archaeological Impact Assessment may be required in terms of the National Heritages Resources Act. This indicates that a proper assessment has not been conducted. The EAP needs to ensure that a proper assessment is conducted during the EIA process, as well as by all other specialists.
- v) The heritage specialist recommends that an archaeological walk-through must be conducted for the final powerline route chosen out of the three alternatives when the positions of the pylons are known. Based on the above, the Department recommends that the heritage assessment must assess the entire wind farm development, as well as the powerline route alternatives.

Powerline

- w) The EAP states that the specialists prefer alternative powerline route 2 over the preferred as indicated in the EIAr. It is indicated that the preferred alternative is selected due to the cost to build alternative powerline route 2. Due to the limitations posed by the various specialists, the Department does not agree with the recommendation of the EAP, and the EAP and specialists in the amended EIAr must provide a proper assessment and recommendations on all alternatives.

World Heritage Site

- x) The EAP must obtain comments from the Directorate: World Heritage Management; Biodiversity and Conservation, and Protected Areas Management within the DEA as well as Birdlife South Africa. These comments must be included in the amended EIAr.
- y) Further to the above, the EAP must adequately assess, via the relevant specialist studies, the impact of the proposed development on the World Heritage Site as well as on the wilderness areas. The Department also requires comment from UNESCO, and must indicate how does the use of renewable energy in world heritage sites impact the site, and what types of renewable energy developments for what purpose is allowed.

Bats

- z) The bat specialist states that all turbines must be positioned outside high sensitivity areas and their respective buffers. Based on the layout plan provided, this has not been done by the EAP. As such, the layout plan must be amended to include the recommendations made by all specialists.

Socio-economic

- aa) The socio-economic impacts on surrounding property value and land-use, which was raised, must be adequately assessed in the amended EIAr by a suitably qualified specialist.

Water source

- bb) The department must be provided with proof that the boreholes are licensed and that it has sufficient water for the construction phase of the development seeing that it is the major source of water on site.
- cc) The EAP must provide a copy of the approved Water Use License for the project to the Department.

Need and purpose

- dd) Written confirmation from the relevant off taker as well as comments from Eskom must be provided in the amended EIAr.

Activities

- ee) Following a review of the application form and the EIAr, the following must be attended to:
 - Item 2 of GNR 546 and Item 2 of GNR 985: the applicability of these activities are not clear. The amended EIAr must clearly indicate the applicability of these activities and a proper assessment must be conducted;
 - Item 10 of GNR 546 and Item 10 of GNR 985: there are no proper specifications provided in the EIAr, and the amended EIAr must include a proper assessment of all impacts associated with these activities;

- Item 21 of GNR 984: clarification on why the DEA is considered to be the Competent Authority for this activity must be provided.
- ff) The following information must form part of the EIAR as well as a separate document for ease of reference:
- An amended application form with an indication of all the 2010 listed activities that are still listed and this must specify the relevant sub listed activities;
 - An indication of all the similarly listed 2014 activities and this must specify the relevant sub listed activities;
 - An indication if there are any new 2014 activities that are listed;
 - An indication where in the report all the 2014 activities have been assessed and mitigated for; and,
 - A letter/affidavit from the EAP indicating that the above is true and correct.
- gg) Please note that the Department's application form template has been amended and can be downloaded from the following link <https://www.environment.gov.za/documents/forms>.

Public participation process

- hh) The EAP must ensure that all concerns raised in the EIA process have been adequately addressed in the amended report.
- ii) The amended EIAR must include a comments and response report as per the requirements of the Regulations. For ease of reference, please see Annexure 1.
- jj) The EAP must provide the exact comment provided by a specific interested and affected party in the comments and response report and address the respective comment before moving to the next comment. The EAP is not to break down and categorise the comments raised by various individuals.
- kk) The amended EIAR must include all responses made by the EAP to the representations, comments and views raised by registered interested and affected parties (I&APs).

Cumulative impacts

- ll) Should there be any other similar projects within a 30km radius of the proposed development site, the cumulative impact assessment must be refined to indicate the following:
- Assessment of cumulative impacts of all identified impacts.
 - Identified cumulative impacts must be clearly defined, and where possible the size of the identified impact must be quantified and indicated, i.e. hectares of cumulatively transformed land.
 - Detailed process flow and proof must be provided, to indicate how the specialist's recommendations, mitigation measures and conclusions from the various similar developments in the area were taken into consideration in the assessment of cumulative impacts and when the conclusion and mitigation measures were drafted for this project.
 - The cumulative impacts significance rating must also inform the need and desirability of the proposed development.
 - A cumulative impact environmental statement on whether the proposed development must proceed.

General

- mm) The assessment of impacts, the environmental impact assessment process and the requirements of the public participation process (PPP) must be in accordance with Regulations 54 to 57 of GN R. 543 of the EIA Regulations, 2010.
- nn) The EIAR must meet the requirements of the acceptance of the SR letter, this rejection letter and the requirements of Regulation 31 of the EIA Regulations, 2010.

Copies of the amended EIAR must be circulated to all key stakeholders, Organs of State and registered I&APs for a duration of 30 days for comment. The issues raised by I&APs must be addressed in a table format indicating the issue/concern raised and the EAP's response thereto and must include copies of the I&APs' correspondence as well as a copy of this Department's rejection letter.

The EAP must provide proof that all registered I&APs have been notified of the availability of the amended EIAr. On receipt of the abovementioned information, this Department will reconsider the report in accordance with Regulation 30(1) of the EIA Regulations, 2010.

This Department further advises that according to Regulation 67 of the EIA Regulations, 2010, an application in terms of the EIA Regulations lapses if the applicant after having submitted the application fails for a period of six (06) months to comply with a requirement in terms of the EIA Regulations relating to the consideration of the application. As such, the amended EIAr must be submitted to this Department within six (06) months of the date of this correspondence.

Please note that the activities applied for may not commence prior to an Environmental Authorisation being granted by this Department. You are hereby reminded of Section 24F of the National Environmental Management Act, Act No 107 of 1998, as amended, that no activity may commence prior to an Environmental Authorisation being granted by the Department.

Should you have any queries or wish to discuss the points raised above, please do not hesitate to contact the writer.

Yours faithfully



Mr Sabelo Malaza

Chief Director: Integrated Environmental Authorisations

Department of Environmental Affairs

Signed by: Mr Coenrad Agenbach

Designation: Deputy Director: Strategic Infrastructure Developments

Date: 20/02/2017

cc:	Mr Hylton Newcombe	Inyanda Energy projects (Pty) Ltd	Email: hylton@newind.co.za
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Annexure 1

Format for Comments and Response Report:

Date of comment, format of comment name of organisation/I&AP	Comment	Response from EAP/Applicant/Specialist
27/01/2016 Email Department of Environmental Affairs: Strategic Infrastructure Development (John Soap)	Please record C&R trail report in this format Please update the contact details of the provincial environmental authority	EAP: (Noted)The C&R trail report has been updated into the desired format, see Appendix K EAP: Details of provincial authority have been updated, see page 16 of the Application form