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Your ref

Date

**15 August 2016**

Dear Sirs

**RE: RESPONSE TO THE COMMENTS OF THE EASTERN CAPE PARKS AND TOURISM AGENCY PERTAINING TO THE DRAFT ENVIRONMENTAL IMPACT ASSESSMENT REPORT FOR THE PROPOSED INYANDA ROODEPLAAT WIND ENERGY FACILITY (REF: EIA/2015/001)**

We refer to the comments received by the Eastern Cape Parks and Tourism Agency ("ECPTA"). We have been instructed to prepare responses to certain issues raised by them to assist you in responding to their comments. What follows below is a response to the legal issues raised by the ECPTA in their comments dated 20 May 2016 followed by our suggested response in each instance.

In general we comment that the assertions regarding the avifaunal study of Dr Percival have been adequately responded to by him. However they illustrate a common ploy, unfortunately used here by ECPTA which should know better, which is to rely on contentions regarding the incidence of birds unsupported by any evidence, observations or specialist studies, other than

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general comments from articles or texts which do not relate to the site and do not describe the conditions on the site. The author of the comments does not display the scholarly objectivity one would expect and appears determined to grasp at any argument to oppose the wind facility, even if there is no evidence to support it.

1. Paragraph 10

*The Project Site does not form part of a wilderness area.*

*The significance of Groendal is what it offers in terms of internal preservation. It is a wilderness area offering extremely limited access to the public. It is nevertheless already located within sight distance of Uitenhage and its industrial area in particular and also contains a municipal storage dam within its boundaries. Given the extremely limited access allowed, visual impact from within Groendal is not a major factor relative to its conservation value. Please have regard to annexures A and B hereto which indicate firstly, the locality of the industrial area in relation to the Project Site and secondly, the Project Site's locality in relation to Addo Elephant Park. Annexure B highlights the locality of the Project Site with regard to two approved wind farms, being Dassieridge and Grassridge Wind Farms.*

*It is important to have regard to the principles of Renewable Energy Futures for UNESCO Sites ("RENFORUS"). ECPTA is vocal in contending that although Groendal is not an approved UNESCO site, it is run in accordance with its policies. The objective of the RENFORUS initiative is to provide the international community with global climate change field observatory sites involving the sustainable use of environmentally sound renewable energy sources in UNESCO Sites (including biosphere reserves and world heritage sites).*

*While addressing climate change mitigation this initiative will also aim to demonstrate the benefit of harnessing the locally available renewable energy sources and their potential impacts on the environmental and ecological preservation of UNESCO Sites. RENFORUS will promote good practice case studies, namely projects that have demonstrated positive results in the fields of renewable energy and energy efficiency and have the potential to be replicated. The wide use and application of local renewable energy sources will help to reduce the damage caused to the eco system by energy production, while contributing to the sustainable development of local communities through access to energy services.*

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*The initiative aims to promote energy efficiency and the use of renewable energy in a selected number of UNESCO Sites they could serve as global climate change field observatories as well as models of sustainable energy communities.*

*The expected outcomes of RENFORUS are, inter alia, as follows:*

- *Demonstrate a positive contribution to energy efficiency and the use of renewable energy in UNESCO Sites.*
- *Reduction of environmental and ecological degradation produced by the use of conventional energy sources in UNESCO Sites through the use of renewable energy sources.*
- *Identification of suitable good practices for the use of renewable energy solutions in UNESCO Sites.*
- *Establishment of priorities in renewable energy matters for UNESCO Sites.*
- *Involvement of local and regional authorities voluntarily committing to increasing energy efficiency and the use of renewable energy sources on the UNESCO Sites.*
- *Consolidation of a partnership for renewable energy futures in UNESCO Sites.*
- *Improvement of energy efficiency at all levels with a view to doubling the rate of improvement by 2030 and by at least doubling the share of renewable energy in the mix by 2030 in UNESCO Sites by promoting the development and use of renewable energy sources and technologies.*

*It is, furthermore, apparent that the objectives of the Eastern Cape Protected Area Expansion Strategy's ("ECPAES") are not reasonably capable of being achieved within the time periods provided therefore. The ECPAES is not capable of being implemented effectively due to lack of financial assistance. See Chapter 5 of the ECPAES.*

2. Paragraph 12

*The envisaged agreement to be concluded between the land owner and the ECPTA will assist the ECPTA in achieving its objectives as contained in the ECPAES. The land owner has demonstrated its willingness to promote conservation programs.*

3. Paragraph 13

*A dispute has arisen between the person who rehabilitated the road (who is not the developer) and DEDEAT as to whether an authorisation was required. This dispute is ongoing and is being dealt with between those two parties.*

*The history of the matter is that during August 2015 Mr R Watson received a notice of intention to issue a compliance notice in terms of Section 31(I) of NEMA in respect of the alleged unlawful construction of roads on certain of the cadastral properties forming part of the larger package of properties on which in respect of which the EA is sought. At that point, the Minister of Environmental Affairs initially refused to consider the scoping report in respect of the Project and closed its file in the matter.*

*The road in dispute is a proclaimed minor road and not a public road. The road has existed as a minor road in the Uitenhage Division for many years and was approved by the Administrator and proclaimed and promulgated as such on 11 December 1964 in terms of Section 124(4) of the Divisional Council Ordinance, 1952.*

*The land owner utilises the road regularly for the purposes of transporting game on the property and for the transportation of farm workers. The land owner affected certain repairs to the road on the advice of its engineers and with the approval of the Provincial Roads Engineer. In terms of the Cape Province Ordinance, 1956 the statutory width of a minor road was fixed at 20 meters.*

*Although the Ordinance was repealed by the Eastern Cape Roads Act, 2003, the statutory width of minor roads was not altered. The widening of a road within the statutorily declared width it specifically excluded from the activities identified in the listing notices as work which may not be commenced without an authorisation.*

*In summary, the road is a minor provincial road and the land owner has the approval of the Provincial Road Engineers to maintain and make improvements thereto.*

*The work undertaken thus far has all been within the statutory width of a minor road and consequently did not require the approval of the Department or the Minister of Environmental Affairs. The activity did not fall within the scope of the activities identified in the listing notices dealing with roads and was not undertaken by Inyanda*

*Inyanda accordingly launched an application to Court to require the Minister of Environmental Affairs to withdraw the decision to close the file and to proceed to consider the scoping report.*

*The litigation between the parties was settled on the basis that the Department would reopen Inyanda's file in respect of its application for environmental authorisation and continue with the processing of that application in accordance with the provisions of the EIA Regulations of 2010.*

*However as is apparent from the Revegetation and Habitat Rehabilitation Plan commissioned by the EAP, the road in question will be rehabilitated completely by the developer (to the extent that it does not form part of the approved access road system).*

4. Paragraph 14

It became apparent from discussions between the land owners' representatives and those of the erstwhile Environmental Assessment Practitioner (the "EAP") that the EAP put forward opinions that the Project was "*doomed from the start*". Despite holding these negative opinions the EAP continued to provide services and accept payment from the land owners notwithstanding its predetermined and unwavering opinion.

The EAP suggested that the Project advisors were attempting to "*sugar coat*" reports and threatened that if they continued to do so it would "*pull the plug*" on the Project. Not only were those contentions rejected by the landowners but they also at the very least demonstrated a perception of bias on the part of the EAP towards the

landowners and the Project. Such conduct was viewed by the landowners as unprofessional and inconsistent with the impartiality required of an EAP.

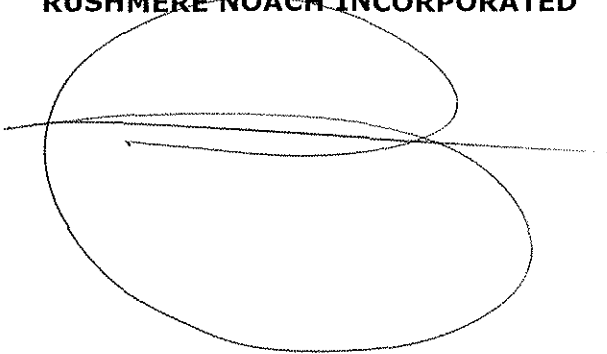
It was nevertheless clear that there was a breakdown in trust between the landowners, the Project company and the EAP and despite an effort by the Project company to resurrect the relationship and request that the lead consultant of the EAP be removed from the Project, that EAP was not prepared to agree to that. It was apparent that the EAP viewed the role played by the Project advisors as being unduly coercive and an attempt by the landowners to influence the EAP's objectivity and independence and to create a bias in favour of the Project. Such contention was denied. The landowners determined that a corporate bias had been formed against the Project and that the EAP had lost its objectivity resulting in its continued appointment being untenable. The EAP was consequently replaced by SRK Consulting.

5. Paragraph 26

Note the comments in paragraph 1 above.

Yours faithfully,

**RUSHMERE NOACH INCORPORATED**

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.



Ms Milicent Solomons  
Department of Environmental Affairs  
Private Bag X447  
Pretoria  
0001  
Republic of South Africa

16 January 2017

Dear Ms Solomons

**RE: FINAL ENVIRONMENTAL IMPACT ASSESSMENT REPORT FOR THE PROPOSED INYANDA-ROODEPLAAT WIND ENERGY FACILITY SITUATED IN THE GROOT WINTERHOEK MOUNTAINS WEST OF THE TOWN OF UITENHAGE, EASTERN CAPE (DEA REF: 14/12/16/3/3/2/464) - ORNITHOLOGY**

The Director General of National Department of Environmental Affairs (DEA) has requested that further clarification be provided on the final comments submitted by Eastern Cape Parks and Tourism Agency (ECPTA) and BirdLife South Africa (BLSA) in their responses to the Final Environmental Impact Assessment Report for the Proposed Inyanda-Roodeplaat Wind Energy Facility. This letter provides my responses to those comments relating to Ornithology.

DEA has also asked for clarification regarding the ornithological assessment. I can confirm that Jon Smallie's raw data were used in the assessment (together with more recent data collecting using improved survey techniques), but that I did not follow his analytical assessment methodology but rather used my own more robust approach utilising my own wider experience of birds and wind farms (including similar raptor issues as at this site).

**ECPTA**

In its response section 1 (a) ECPTA continues to assert that the EIA has understated the importance of the area for birds. Its letter of 9 December 2016 largely re-iterates the points made in its previous comments on the draft EIA. I stand by my baseline assessment and have responded to all of the points raised regarding particular species' statuses. As stated previously it is simply incorrect to claim that the importance of the bird populations in the area has been understated. The status of all the species that were recorded during any of the baseline surveys has been considered and is set out in Table 9 of the Ornithological Impact Assessment (OIA). I refer back also to my response letter of 7 July 2016 to the ECPTA comments on the draft EIA.

ECPTA also states that it considers the ornithological value of the area to be similar to Kouga-Baviaanskloof IBA. It is a simple fact that the wind farm site does not lie within an IBA. The process of identification of IBAs has specifically included the Kouga-Baviaanskloof IBA but excluded the area within and around the wind farm site.

In 1 (b) ECPTA states that it considers that many of the species occurring on the proposed site to be particularly vulnerable to the impact of wind energy facilities. Again this is a restatement of previous comments which I have addressed previously. Verreaux's Eagle has been shown to be at risk of collision, that risk has been assessed and mitigation measures proposed to ensure that it would not be significantly affected. Appropriate mitigation measures have been proposed for all relevant species to avoid any significant impacts.

In 2 ECPTA states that it considers that there is uncertainty around the impacts to avifauna and there is a potential for severe impacts. Whilst my assessment acknowledges the uncertainties, ECPTA has still failed to grasp that those uncertainties have been dealt with through the adoption of precautionary worst case scenarios (such as in the model input data for the collision risk modelling) and through the proposals for mitigation measures (such as the proposed scheme for shutdown on demand if necessary). As a result, it can be confidently concluded that the scheme will not result in any significant adverse impacts on any bird population (and indeed should deliver a net benefit).

In 3 ECPTA has raised again its concerns with regard to the proposed mitigation and enhancement measures. As I detailed in my previous response of 7 July 2016, the habitat management plan that is being proposed for Inyanda-Roodeplaas is not a novel approach but rather one that is now commonplace at wind farm developments. Such schemes have already been delivered successfully at many sites globally, including in proximity to internationally-important protected areas and including with similar key species and similar mountainous topography to the Inyanda-Roodeplaas site. I provided numerous examples that have been successfully implemented in my previous response. ECPTA states in 3 (e) that it considers the proposed off-site measures to be too vague. As I have previously set out, the detail of the implementation would be developed post-consent as they are required (informed by the results of the post-construction monitoring) and through consultation with appropriate stakeholders. They are, however, based on measures that have been successfully developed for other sites.

In 3 (f) ECPTA appears not to have fully understood the main aims of the habitat management. This is not to deliver wide-scale distribution change in the rock hyrax, but rather to ensure two outcomes; (a) that the hyrax populations local to the wind farm site do not increase as a result of the construction of the wind farm, and (b) to enhance hyrax populations off-site. If a population increase on the wind farm site did occur, it could attract more raptors into the survey area and hence increase the collision risk. The proposed measures will ensure that this scenario does not occur. The off-site measures set out to enhance feeding opportunities for raptors away from the wind farm sites (and with regard to the key species of Verreaux's Eagle, closer to their nesting sites). This would include measures to enhance rock hyrax population but also a range of other enhancements to the habitat within the birds' ranges but outside the wind farm.

Supplementary feeding for rock hyraxes was indeed dropped from the preliminary proposals at this site following the consultation. As I detailed previously, further discussions regarding the current application concluded that it may not be the best method here so it has not formed part of the final scheme. It should be noted, though, that it was part of an agreed scheme for another wind farm, in the Western Cape (Witberg).

In 3 (g) ECPTA criticises some of our proposed on-site mitigation measures. The comments regarding carrion removal and the use by raptors of carrion seem ill-informed. I myself have observed Verreaux's Eagle feeding on Klipspringer carrion close to the wind farm site over several days during my own site visits. Removal of carrion from the wind farm site is an appropriate precautionary measure that can reduce raptor collision risk, and again is widely adopted as a measure at many existing wind farms. In 3 (h) the aim is not to remove the rock hyraxes from the site, just ensure that they do not increase as a result of the construction activity.

With regard to the principle of the provision of alternative habitat off-site, Gove et al (2013) states that; "*there is a plethora of options for off-site creation or improvement of existing habitat, to mitigate impacts on individual birds or populations.*" This is a clear and unambiguous endorsement of this approach.

One of ECPTA's key points with regard to the off-site habitat management is that it considers the area to already be in pristine 'wilderness' condition, with the implication that it could not be improved further (see for example, 3(m)). However, this is simply not the case. Much of the eagles' ranges are currently artificially



stocked with game animals, for example, and often at an unnaturally high density (with a resultant impact of high grazing pressure on vegetation communities).

Finally, with regard to ornithology, ECPTA states that it has no confidence that the proposed turbine shutdown on demand would be implemented if required. It is however proposed that this should be a condition of consent and secured through an appropriate legal agreement.

## **BLSA**

BLSA identifies that the initial baseline data collected for the avifaunal assessment did not fully cover the wind farm. I identified this shortcoming myself and further surveys with improved coverage (and survey methodology) were implemented as a result. The first six months' data from those surveys (covering the Aug 2015 - January 2016 period) were included within the FEIR. In addition to that, an update report providing the full year's additional data through to July 2016 (and an assessment update) was produced in December 2016. It has now therefore been demonstrated that the baseline data does provide a representative sample of the bird movements on site. The additional survey data from February-July 2016 have not had any material effect on the overall conclusion reached that, with the implementation of the proposed mitigation measures, the wind farm would not have any significant ornithological impact.

BLSA questions how the conclusion was reached that the scheme will deliver a net benefit to the local bird populations. This is most simply expressed a result of the scale of the proposed measures. The wind farm will affect a potential impact zone of about 800ha of Verreaux's Eagle range and about 2,000 ha. of Martial Eagle range (FEIR Ornithology section, Table 17). The mitigation measures, in comparison, would be implemented over 16,000 ha.

BLSA correctly points out that the main design mitigation was the implementation of buffers around Verreaux's Eagle and Martial Eagle nest sites. It questions whether the extent of those buffers was, though, appropriate and suggests that they should have been larger. BLSA does not appear to have fully appreciated the rationale behind the extent of the buffers proposed. It is not to completely exclude eagles from the wind farm site, but rather to avoid key higher use flight areas in proximity to nest sites. Previous studies of Verreaux's eagle flight activity in proximity to nest sites (Percival 2013) have shown that flight densities are higher in closer proximity to nests but that activity levels stabilise (at a comparatively low level) beyond 1.5km. Locating the turbines more than 1.5km from any eagle nest will therefore avoid areas of higher flight activity and will consequently reduce collision risk in comparison with locations within 1.5km of an eagle nest. It remains the case, supported by the full year's additional data, that the wind farm site is not a particularly important foraging area for either Verreaux's or Martial Eagle.

BLSA notes that no design mitigation has been implemented for black harrier. This species is though, in contrast to the two eagle species, much more variable both in its population numbers and in its distribution and choice of nesting area between years. Population fluctuations in this species are well-documented (Simmons et al. in Hockey et al. 2005), so the breeding as in 2015-16 is not an event that is certain - or even likely - to be repeated in future years. Rather than avoid locating turbines in areas that were used - but may not be again - mitigation measures were proposed in the event that it did breed here in the future.

BLSA raises the issue of the proven effectiveness of the proposed off-site mitigation, suggesting that only a single example has been provided. In my response letter of 7 July 2016, however, I noted that similar habitat management plans have been implemented for many of the wind farms on which I personally have worked, including the following in similar upland habitats to Inyanda Roodeplaas, many of which support internationally/nationally important raptor populations: Beinn Ghlas, Scotland (golden eagle); Salkit Uul, Mongolia (steppe eagle and black vulture); Paul's Hill, N Scotland (hen harrier); Pentland Road, Isle of Lewis, Scotland (golden eagle); Causeymire, N Scotland (hen harrier); Bankend Rig, SW Scotland (hen harrier); Calliachar, C Scotland (hen harrier); Fairfield Farm, NW England (hen harrier), Dunmaglass, N Scotland (golden eagle); and Knockacummer, SW Ireland (hen harrier).

BLSA also makes reference to the initial proposal for supplementary feeding of rock hyraxes, which, as discussed above in the context of the same point raised by ECPTA, does not form part of the final scheme.

I note that BLSA welcomes the stewardship and improved management of the remaining farm, but questions its current ecological condition and present use by raptors, and to what extent this will change with improved management. This area (see Figure 1) overlaps a substantial proportion of three Verreaux's Eagle and the Martial Eagle ranges; approximately 90% of the Perdehoek Verreaux's Eagle range, 58% of the February Verreaux's Eagle range and 45% of the Tiptree Verreaux's Eagle range and 37% of the Martial Eagle range. The central aim of the management will be to enhance these birds' food supply within the core of their range, primarily through the optimization of the grazing regime and stock management.

I welcome that, whilst acknowledging that BLSA would prefer not to rely on turbine shut-down on demand, it does accept the utility of this approach in reducing collision risk. Though it may not actually be needed at this site, shut-down on demand does provide a back-up mechanism to ensure that the number of collisions is kept below the level at which a significant population impact may occur.

Yours faithfully

A handwritten signature in black ink that reads "Steve Percival". The signature is written in a cursive, slightly slanted style.

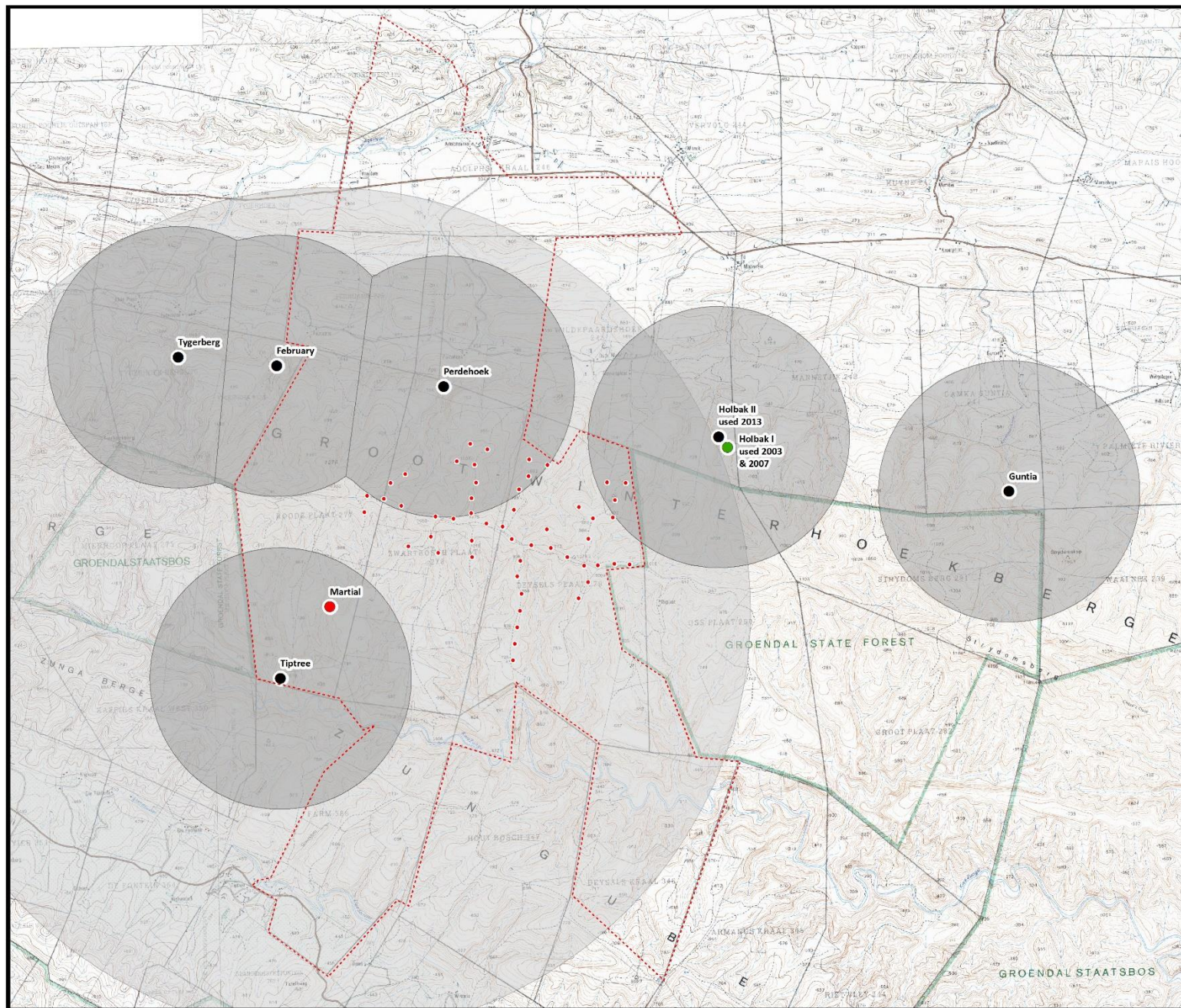
Dr Steve Percival



**Inyanda Roodeplaat  
Wind Farm**

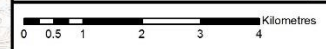
**FIGURE 1**

**Breeding Eagle Ranges  
and Landowner  
Boundary**



**KEY:**

- 52-turbine layout
- Eagle nest sites**
- Martial Eagle
- Verreux's Eagle
- Verreux's old site
- Martial Eagle Range
- Verreux's Eagle Ranges
- Landowner boundary



PROJECT NO: N/A | DRAWING NO: N/A

REVISION NOTES: EC-2016-1

**SCALE - 1:80,000 @ A3**

**ORNITHOLOGICAL SURVEYS  
AUG 2015 - JUL 2016**

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Your ref

Date

**3 August 2017**

Dear Sirs

**RE: RESPONSE TO THE COMMENTS OF THE EASTERN CAPE PARKS AND TOURISM AGENCY PERTAINING TO THE DRAFT ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT ASSESSMENT REPORT FOR THE PROPOSED INYANDA ROODEPLAAT WIND ENERGY FACILITY (REF: EIA/2015/001)**

We refer to the comments received from the Eastern Cape Parks and Tourism Agency ("ECPTA") dated 14 July 2017 (but only received on 27 July 2017).

We have been instructed by the Project Company ("Inyanda") to prepare responses to certain issues raised by ECPTA to assist you in responding to their comments which we do as follows:

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## Introduction

Inyanda rejects the contention that the Final Environmental Impact Assessment report ("FEIAR") and the addendum thereto do not adequately address ECPTA's comments and objections raised in previous communications.

Inyanda is of the view that the Department's decision as well as the various directives as contained in its letter dated 20 February 2017 are unlawful, unreasonable and procedurally unfair and accordingly fall foul of Section 33(1) of the Constitution and its implementing legislation, the Promotion of Administrative Justice Act, 3 of 2000, in substantial respects.

The Department itself is not authorised by the Environmental Impact Assessment Regulations 2014 (the "Regulations") or by the National Environmental Management Act, 1998 ("NEMA") itself, (and cannot be generally authorised by the Minister) to act in terms of Regulation 34(2). A basis for the directives and the grounds upon which it is contended that the FEIAR does not comply with Regulation 31(2)) are either not to be found in that sub-regulation or go well beyond the prescriptions contained therein. Inyanda's rights in that regard remain reserved. Inyanda considers that the Department has strayed from what the Minister may stipulate in considering its FEIAR.

In general, the objective of the FEIAR is to illustrate the potential impacts on the environment of the proposed listed or specified activities which must be considered, investigated, assessed and reported on to the Minister.

This is achieved by including in the report the information in Regulation 31(2) of the Regulations and Section 24(4)(4)(a) and (b) of NEMA. Inyanda is of the view that much of what was sought by the Department in its abovementioned letter, falls outside of the requirements for an FEIAR and the Department's (or for that matter, the Minister's) authority to request it.

Against that background we address below the issues arising from the ECPTA letter. In doing so we do not enter into the merits or seek to usurp the function of the EAP in any way, but rather address matters impacting on Inyanda's right to fair administrative action. Inyanda reserves its rights to refer to any additional issues should it be necessary to do so in any forum in the future.

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Page 7: Avifauna

The Department interpreted the reports of the avifaunal specialists incorrectly. The 2 specialists did not conduct the same pre-construction data analysis. Dr Percival conducted a peer review on Mr Smallie's work. The result and difference in the conclusions and recommendations by Dr Percival is the consequence of his having conducted a further 12 months of monitoring of the project site (he conducted one survey a month (12 in total) averaging 7 sampling days a month and sampled 75 hours at each of the 6 vantage points) and having implemented a substantially more robust methodology as part of that peer review. The reports are plainly very different both as to the portions of the project site which was studied and the length of the periods during which such studies were undertaken, with Dr Percival's efforts being much more extensive.

Section 24(L) of NEMA authorises the Minister, in instances where the technical knowledge required for the review of any aspect of an assessment is not readily available within the resources of the Department, to appoint an external specialist to review the reports. Neither the Act nor the Regulations empower the Minister (nor the Department) to require Inyanda to appoint a further specialist to review the work of either Dr Percival or Mr Smallie. In any event, Inyanda submits that having regard to the content of the reports and what is stated herein above, there is no need to do so.

Birdlife SA is registered as an interested and affected party for this project. It has consistently raised opposition to the project and made it plain that it does not approve of it and does not wish it to proceed. It was for this reason that Inyanda searched for and appointed an independent, international bird specialist (in particular independent of and uninfluenced by Birdlife SA) to review Mr Smallie's work and to continue with future monitoring and reporting. Inyanda believes that Birdlife SA has established a firm position in opposition to the project and in the circumstances it would not be possible for it to adopt an objective role in facilitating the further review of the avifaunal reports in any way (which is in any event not necessary given what we say above, save to the extent that the Minister may seek to augment the Department's internal capacity). The directive that a further review be carried out, and by Birdlife SA in particular, accordingly rides rough shod over Inyanda's right to procedural fairness.

It is therefore specifically denied that Inyanda merely and arbitrarily "dismissed" the Department's request for an external review and that it has shown a disregard for the impacts which the facility will allegedly have on avifauna. The Department's request is unlawful and has

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the effect of unfairly mulcting Inyanda with unnecessary further costs and time delays which would not benefit the project. As recorded above, neither the Act nor the Regulations empowers the Minister (nor the Department) to require Inyanda to appoint a further specialist to review the work of either Dr Percival or Mr Smallie. The Minister may of course appoint an external specialist to review the reports if she requires technical input pertaining to any aspect of the report, if such resources are not available within the Department. It was for that reason that Inyanda advised the EAP of its position on the matter. It is specifically denied that the EIA process was anything less than independent and that Inyanda exercises any level of influence over the process or the EAP.

#### Page 13: Section 2.5: Ecology

Inyanda has throughout adopted a sensible approach with regard to the conduct of the FEIAR process. Also the landowners of the project site (which are not Inyanda) submitted a revegetation and habitat rehabilitation plan to the Department which, if approved, would be implemented during the project period.

The Department does not have the statutory or regulatory authority to direct Inyanda to conclude a conservation management agreement. Inyanda (of its own accord) elected, since the inception of the project, to actively engage with the ECPTA and demonstrated its willingness to conclude an agreement to regulate the maintenance and protection of the project site for the benefit of the environment and remains intent on doing so.

It is noted that the ECPTA would only be prepared to further discuss and conclude such agreement once an environmental authorisation has been issued. Inyanda has no objection to this.

#### Page 14: World Heritage Site

It is noted that the comments of ECPTA are only from the perspective of ECPTA.

#### Appendix D: DEDEAT Correspondence regarding illegal road

The suggestion of alleged impropriety on behalf of Inyanda or its attorneys is denied. Inyanda and the owners of the properties where the project is to be situated received several compliance notices in terms of Section 31L of NEMA, in respect of the alleged unlawful construction of roads on certain portions of farmland (none of which are owned by Inyanda).

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Clarification and further details were sought from the Department, but no response was forthcoming. Some of the notices were so vague and defective that they were simply abandoned by the Department. Rather than expend time and costs in litigation processes, Inyanda again made a sensible commercial proposal to the Department to the effect that it agree to suspend further steps in terms of Section 31L of NEMA against Inyanda pending the outcome of Inyanda's FEIAr application.

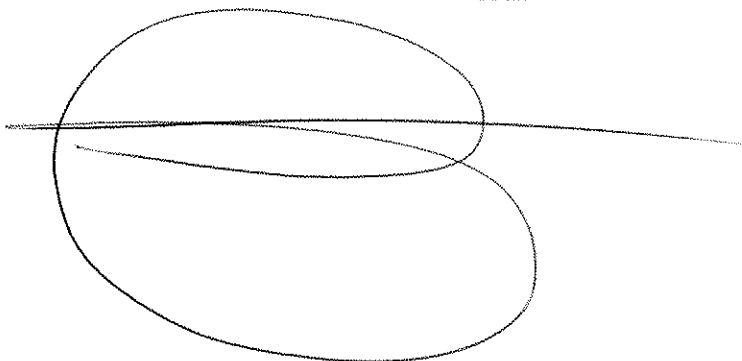
After discussions were held with the DG of the Department and the HOD of DEDEAT, it was agreed that the matter would be dealt with at a provincial level (essentially separating that issue from the EIA process). The Head of the Enforcement Division of DEDEAT was specifically delegated by the HOD of DEDEAT to deal with the matter. The owner of the land traversed by the road has put a proposal to him regarding the rehabilitation of the roads in question and a process to achieve that. In terms thereof, DEDEAT will issue a compliance notice in an agreed form to the owner of the land in question which will comply with it.

Accordingly the road development issues are being dealt with at provincial level and the application for environmental authorisation is being considered at national level.

Any suggestion that Inyanda is attempting to influence DEDEAT's decision making is denied.

Yours faithfully,

**RUSHMERE NOACH INCORPORATED**

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.