

APPENDIX 7: ORIGINAL COMMENTS & RESPONSES ON DRAFT BAR

Anja Albertyn

From: Highlands
Sent: 18 September 2018 09:18
To: Hein Badenhorst; Highlands
Subject: RE: Notification of Availability of Draft Basic Assessment Reports for Highlands Wind Energy Facilities for Public Comment

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr Badenhorst,

An electronic copy of the reports can be downloaded from:

<https://arcusconsulting.co.za/projects/highlands-wind-energy-facilities-basic-assessment-reports-for-public-review/>

Please let me know if you are unable to download it or prefer to receive a CD which we can courier to you.

Kind Regards,

Anja Albertyn
Environmental Practitioner

Tel: +27 (0) 21 412 1529
Email: highlands@arcusconsulting.co.za

Arcus
Office 220 Cube Workspace
Cnr Long Street and Hans Strijdom Road
Cape Town
8001

www.arcusconsulting.co.za



From: Hein Badenhorst [<mailto:sillery@iafrica.com>]
Sent: 18 September 2018 08:59
To: Highlands <Highlands@arcusconsulting.co.za>
Subject: Re: Notification of Availability of Draft Basic Assessment Reports for Highlands Wind Energy Facilities for Public Comment

Sorry Anja, i see the Reports are included. Thanks.

Sent from my iPhone

On 18 Sep 2018, at 08:02, Hein Badenhorst <sillery@iafrica.com> wrote:

Morning Anja. Are the Reports that you refer to available in electronic format? Thanks, Hein Badenhorst.

Sent from my iPhone

On 17 Sep 2018, at 16:24, Highlands <Highlands@arcusconsulting.co.za> wrote:

Dear Interested & Affected Party,

RE: NOTIFICATION OF AVAILABILITY OF DRAFT BASIC ASSESSMENT REPORTS FOR THE PROPOSED HIGHLANDS WIND ENERGY FACILITIES AND ASSOCIATED GRID CONNECTIONS, EASTERN CAPE PROVINCE

You are receiving this notification regarding the availability of the Draft Basic Assessment Reports for the proposed Highlands Wind Energy Facilities and associated grid connections, as you have been identified as an Interested and Affected Party (I&AP). We invite you to review and comment on these reports.

Please find the attached letter for your interest, in English and Afrikaans:

- 1.) **NOTIFICATION OF AVAILABILITY OF THE DRAFT BASIC ASSESSMENT REPORTS FOR THE PROPOSED HIGHLANDS WIND ENERGY FACILITIES AND ASSOCIATED INFRASTRUCTURE IN THE EASTERN CAPE PROVINCE**
- 2.) **KENNISGEWING VAN BESIKKBAARHEID VAN DIE KONSEP BASIESE ASSESSESRINGSVERSLAE VIR DIE VOORGESTELDE HIGHLANDS-WINDKRAAGANLEG EN GEPAARDGAANDE INFRASTRUKTUUR IN DIE OOS-KAAP**

The Basic Assessment reports are available for public review and comment from 18 September 2018 to 18 October 2018 (both days inclusive) at the following locations:

- Langenhoven Library, Somerset East;
- Ernst van Heerden Library, Pearston;
- Website <https://arcusconsulting.co.za/projects/highlands-wind-energy-facilities-basic-assessment-reports-for-public-review/>

Electronic copies on CD-ROM are available on request.

With reference to the proposed development, please send your comments on the **Draft Basic Assessment Reports** in writing **by the 18 October 2018** to:

Anja Albertyn; highlands@arcusconsulting.co.za

Phone: 021 412 1529 or Fax: 086 762 2885;

Postal: Office 220, Cube Workspace, Cnr Long Street and Hans Strijdom Avenue, Cape Town 8001

Please feel free to contact me should you have any further queries, or should you no longer wish to receive notifications regarding the above projects.

Kind Regards,

Anja Albertyn
Environmental Practitioner

Anja Albertyn

From: Highlands
Sent: 28 September 2018 13:26
To: Andre van der Spuy; 'Hein Badenhorst'
Cc: info@sidebysidesafaris.com; 'Nick Smith'; Highlands
Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period
Attachments: Highlands_WEFs_Extension_Comment_period_Notification_AFR_20180928.pdf; Highlands_WEFs_Extension_Comment_period_Notification_ENG_20180928.pdf

Dear Mr van der Spuy,

Your email below refers.

1. The Regulations do not make provisions for prior notification of the comment period dates to I&APs. As surrounding landowners to the proposed development Mr. Hein Badenhorst, Mr. Fleming Jensen, received an initial notification of the proposed development in June 2018. No request for prior notification of the comment period was received from either Mr. Hein Badenhorst, Mr. Fleming Jensen.
2. The Regulations do not make provision for school holidays to be taken into consideration in determining when the 30 day commenting period is held.
3. The six Basic Assessment applications that require review are for one development: the Highlands Wind Energy Facilities of up to 150 MW, which was split in order to comply with REIPPP requirements. The six applications share an identical Volume II: Specialist Studies and Volume III: Comments & Response Report. These volumes therefore only require to be reviewed once. In addition, the six applications are Basic Assessments, and not full EIA reports. Therefore the amount of time required to review the documentation is standard for a wind energy facility of this size, and the legislated period of 30 days constitutes a reasonable opportunity to comment on the application.
4. The Regulations make provisions for comment by registered Interested & Affected Parties, which includes any representatives they choose to engage, for a period of at least 30 days.

As the process followed is that of a Basic Assessment Process, a Final Basic Assessment Report must be submitted to the Department within 90 days of receipt of the applications by the competent authorities. Any extension of the public review period will therefore impact directly and negatively on the time available to suitably address the comments received.

Despite the above reasoning, and as a sign of good faith to ensure a thorough investigation of the contents of the applications is possible, the comment period for the six applications is hereby extended by five (5) working days, or seven (7) calendar days to 25 October 2018. All registered I&APs are receiving a notification of the extended comment period (attached).

Kind Regards

Anja Albertyn
Environmental Practitioner

Tel: +27 (0) 21 412 1529
Email: highlands@arcusconsulting.co.za

Arcus
Office 220 Cube Workspace



From: Andre van der Spuy [mailto:avdspuy@iafrica.com]
Sent: 20 September 2018 17:08
To: 'Hein Badenhorst' <sillery@iafrica.com>; Highlands <Highlands@arcusconsulting.co.za>
Cc: info@sidebysidesafaris.com; 'Nick Smith' <nicks@nsmithlaw.co.za>
Subject: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period
Importance: High

Dear Ms. A. Albertyn

Your below notification, and its associated attachments, in regard to the 30 day comment period on the six environmental applications pertaining to the proposed Highlands Wind Energy Facilities, refer.

AVDS Environmental Consultants, along with Nicholas Smith Attorneys, is representing Mr. Hein Badenhorst, Mr. Fleming Jensen, and their respective interests, in opposing the six applications for the proposed various phases of the Highlands Wind Energy Facility.

It is our clients' wishes to review the applications and to provide comment thereon. However, we will be unable to meet the stipulated deadline (18 October 2018) for submission of comments and therefore it is requested that the current comment period be extended by an additional 30 days minimum in order for our clients' to exercise their rights to be availed of a "reasonable opportunity to comment". Our reasons for the request are listed as follows:

1. The current review period was launched without prior notification and which would have been useful in providing us and our clients' with sufficient time to schedule arrangements and time in order to be sufficiently available to utilize the current review period. We and our clients have thus been taken unawares by the current review period and are unable to immediately schedule the necessary time and resources to attend to it properly.
2. The stipulated comment period falls with a school holiday period and during which time our clients and both of their appointed representatives listed above have prior arrangements. The preparation and submission of comments will entail considerable and time-consuming review, as well as liaise between ourselves and our clients, thus requiring considerable time beyond that stipulated but, critically, we will be unable to utilize the period of the school holidays due to said previous commitments.
3. The suite of 6 applications and complicated and exhaustive documentation being subjected to the limited 30 day comment period is entirely unrealistic and the attendance to 6 applications within a single 30 day comment period can by now stretch of the imagination be considered to constitute the "*reasonable opportunity to comment*" which our clients, and other I&APs, must be availed. There is no way that we will be able to properly review the relevant material within such a short period, and especially given the limitation posed by the school holiday period (as outlined above).
4. It is anticipated that it may be necessary for us to engage the advice and services of other professionals in order to properly inform our comments and objections and which will naturally entail an additional commitment of time and resources over and above the limits already outlines above.

We trust that our request is suitably motivated and will be met with the favourable response it deserves. We look forward to receiving your confirmation of our request.

Sincerely

Andre van der Spuy

AVDS Environmental Consultants

42 Afrikander Road
Simon's Town
7975
South Africa

Tel.: 021 786 2919
Fax.: 021 786 2919
Mobile: 084 480 2464
Email: avdspuy@iafrica.com
Web: www.avdsec.com

From: Hein Badenhorst [<mailto:sillery@iafrica.com>]
Sent: 17 September 2018 04:58 PM
To: avdspuy@iafrica.com
Cc: info@sidebysidesafaris.com
Subject: Fwd: Notification of Availability of Draft Basic Assessment Reports for Highlands Wind Energy Facilities for Public Comment

Afternoon Andre. Please consider the notice and advise. Thanks, Hein.

Sent from my iPhone

Begin forwarded message:

From: Highlands <Highlands@arcusconsulting.co.za>
Date: 17 September 2018 at 16:24:30 SAST
Subject: Notification of Availability of Draft Basic Assessment Reports for Highlands Wind Energy Facilities for Public Comment
Reply-To: Highlands <Highlands@arcusconsulting.co.za>

Dear Interested & Affected Party,

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- 2.) **KENNISGEWING VAN BESIKKBAARHEID VAN DIE KONSEP BASIESE ASSESSESRINGSVERSLAE VIR DIE VOORGESTELDE HIGHLANDS-WINDKRAGAAANLEG EN GEPAARDGAANDE INFRASTRUKTUUR IN DIE OOS-KAAP**

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- Website <https://arcusconsulting.co.za/projects/highlands-wind-energy-facilities-basic-assessment-reports-for-public-review/>

Electronic copies on CD-ROM are available on request.

With reference to the proposed development, please send your comments on the **Draft Basic Assessment Reports** in writing **by the 18 October 2018** to:

Anja Albertyn; highlands@arcusconsulting.co.za

Phone: 021 412 1529 or Fax: 086 762 2885;

Postal: Office 220, Cube Workspace, Cnr Long Street and Hans Strijdom Avenue, Cape Town 8001

Please feel free to contact me should you have any further queries, or should you no longer wish to receive notifications regarding the above projects.

Kind Regards,

Anja Albertyn

Environmental Practitioner



This email has been checked for viruses by Avast antivirus software.
www.avast.com

Anja Albertyn

From: Microsoft Outlook
To: info@sidebysidesafaris.com
Sent: 28 September 2018 13:26
Subject: Relayed: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

info@sidebysidesafaris.com (info@sidebysidesafaris.com)

Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period



RE: Highlands
Wind Energy Fac...

Anja Albertyn

From: Microsoft Outlook
To: Andre van der Spuy; 'Hein Badenhorst'
Sent: 28 September 2018 13:26
Subject: Relayed: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

[Andre van der Spuy \(avdspuy@iafrica.com\)](mailto:avdspuy@iafrica.com)

['Hein Badenhorst' \(sillery@iafrica.com\)](mailto:sillery@iafrica.com)

Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period



RE: Highlands
Wind Energy Fac...

Anja Albertyn

From: Microsoft Outlook
To: 'Nick Smith'
Sent: 28 September 2018 13:27
Subject: Relayed: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

['Nick Smith' \(nicks@nsmithlaw.co.za\)](mailto:nicks@nsmithlaw.co.za)

Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period



RE: Highlands
Wind Energy Fac...

Anja Albertyn

From: Andre van der Spuy <avdspuy@iafrica.com>
Sent: 17 October 2018 15:02
To: Highlands
Cc: Flemming Jensen; Fritz Walter; Grant Abrahamson; Hein Badenhorst; nicks@nsmithlaw.co.za; Poul Petersen
Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period

Dear Ms Albertyn

Your below email refers. We note the contents thereof. As you are aware I, like several of my clients, was away and on leave until last week.

It is recorded that you have refused our reasonable and well motivated request.

You have issued an extension of 5 working days to the 30 comment period.

Please be advised that the extension is regarded as being merely a token gesture designed to appear as a sign of reasonable compromise (we do not regard it as a sign of good faith) but it has no effect in rendering the final comment period as a reasonable one. We will accordingly be significantly limited and inhibited to the extent that it will not be practically possible to provide a comment on the applications to the desired level of detail and scope wished for.

Thank you for describing your own method of review under your point 3 but we regard that as substantially superficial and insufficient and it would necessarily rely on a suitable amount of trust in the documents.

You have advised on some selected, but not all of the, minimum requirement EIA Regulations as they pertain to such comment periods. However, other pertinent and relevant EIA Regulations have been ignored in your decision. For instance , you ignore EIA Regulation 41(6)(b)* which is an overriding one in this matter and which determines that any comment opportunity (and associated Regulations such as you have quoted) be subservient to the requirement that "all potential or registered interested and affected parties are provided with a **reasonable opportunity to comment**". Our original request described at length why such "reasonable" requirement was not met and the insignificant extension now granted does not change the effect.

Sincerely

Andre van der Spuy

* When complying with this regulation, the person conducting the public participation process must ensure that-

...
(b) participation by potential or registered interested and affected parties is facilitated in such a manner that all potential or registered interested and affected parties are provided with a **reasonable opportunity to comment** on the application or proposed application.

From: Highlands [mailto:Highlands@arcusconsulting.co.za]
Sent: 28 September 2018 01:26 PM
To: Andre van der Spuy; 'Hein Badenhorst'
Cc: info@sidebysidesafaris.com; 'Nick Smith'; Highlands
Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period

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Your email below refers.

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Kind Regards

Anja Albertyn

Environmental Practitioner

Tel: +27 (0) 21 412 1529

Email: highlands@arcusconsulting.co.za

Arcus

Office 220 Cube Workspace

Cnr Long Street and Hans Strijdom Road

Cape Town

8001

www.arcusconsulting.co.za



From: Andre van der Spuy [mailto:avdspuy@iafrica.com]

Sent: 20 September 2018 17:08

To: 'Hein Badenhorst' <sillery@iafrica.com>; Highlands <Highlands@arcusconsulting.co.za>

Cc: info@sidebysidesafaris.com; 'Nick Smith' <nicks@nsmithlaw.co.za>

Subject: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period
Importance: High

Dear Ms. A. Albertyn

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It is our clients' wishes to review the applications and to provide comment thereon. However, we will be unable to meet the stipulated deadline (18 October 2018) for submission of comments and therefore it is requested that the current comment period be extended by an additional 30 days minimum in order for our clients' to exercise their rights to be availed of a "reasonable opportunity to comment". Our reasons for the request are listed as follows:

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We trust that our request is suitably motivated and will be met with the favourable response it deserves. We look forward to receiving your confirmation of our request.

Sincerely

Andre van der Spuy

AVDS Environmental Consultants

42 Afrikander Road
Simon's Town
7975
South Africa

Tel.: 021 786 2919
Fax.: 021 786 2919
Mobile: 084 480 2464
Email: avdspuy@iafrica.com
Web: www.avdsec.com

From: Hein Badenhorst [<mailto:sillery@iafrica.com>]
Sent: 17 September 2018 04:58 PM

To: avdspuy@iafrica.com

Cc: info@sidebysidesafaris.com

Subject: Fwd: Notification of Availability of Draft Basic Assessment Reports for Highlands Wind Energy Facilities for Public Comment

Afternoon Andre. Please consider the notice and advise. Thanks, Hein.

Sent from my iPhone

Begin forwarded message:

From: Highlands <Highlands@arcusconsulting.co.za>

Date: 17 September 2018 at 16:24:30 SAST

Subject: Notification of Availability of Draft Basic Assessment Reports for Highlands Wind Energy Facilities for Public Comment

Reply-To: Highlands <Highlands@arcusconsulting.co.za>

Dear Interested & Affected Party,

RE: NOTIFICATION OF AVAILABILITY OF DRAFT BASIC ASSESSMENT REPORTS FOR THE PROPOSED HIGHLANDS WIND ENERGY FACILITIES AND ASSOCIATED GRID CONNECTIONS, EASTERN CAPE PROVINCE

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Anja Albertyn; highlands@arcusconsulting.co.za

Phone: 021 412 1529 or Fax: 086 762 2885;

Postal: Office 220, Cube Workspace, Cnr Long Street and Hans Strijdom Avenue, Cape Town 8001

Please feel free to contact me should you have any further queries, or should you no longer wish to receive notifications regarding the above projects.

Kind Regards,

Anja Albertyn
Environmental Practitioner



This email has been checked for viruses by Avast antivirus software.
www.avast.com

Anja Albertyn

From: Highlands
Sent: 25 September 2018 13:58
To: 'Avdspuy@iafrica.com'
Cc: 'info@sidebysidesafaris.com'; 'Hein Badenhorst'; 'nicks@smithlaw.co.za'; Highlands
Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr van der Spuy,

Please note that no decision has been made regarding your request to an extension of the reviewing period. You will be informed of the result as soon as a decision has been made.

AVDS Environmental Consultants, Mr Smith, Mr Jensen and Mr Badenhorst have been registered as I&APs for the six applications, and they will be copied into all correspondence with you as well as all future notifications.

Regarding your query please be informed that the applications are for the maximum capacity as stated in the project descriptions of the Draft Basic Assessment reports, with no intention to increase these capacities.

Highlands North WEF: up to a maximum of 85 MW
Highlands Central WEF: up to a maximum of 70 MW
Highlands South WEF: up to a maximum of 90 MW

Kind Regards,

Anja Albertyn, MSc, Pr. Sci. Nat
Avifauna Specialist & Environmental Practitioner

Tel: +27 (0) 21 412 1533 / +27 (0) 76 265 8933
Email: anja@arcusconsulting.co.za

Arcus
Office 220 Cube Workspace
Cnr Long Street and Hans Strijdom Road
Cape Town
8001

www.arcusconsulting.co.za



From: Andre van der Spuy [<mailto:avdspuy@iafrica.com>]
Sent: 21 September 2018 12:55
To: Highlands <Highlands@arcusconsulting.co.za>
Cc: info@sidebysidesafaris.com; 'Hein Badenhorst' <sillery@iafrica.com>; nicks@smithlaw.co.za
Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period

Dear Ms. Albertyn

Below refers and is noted. We look forward to receiving your response in due course and will proceed on the basis of it having been granted.

I confirm that you should please register AVDS Environmental Consultants as an I&AP. However, please also separately register our individual clients as I&APs as well and be sure to allocate any inputs made on their behalves to them specifically. I would further ask that you please always copy myself, Mr. Smith, Mr. Jensen and Mr. Badenhorst , together, into all correspondence and future notifications (as you have done now) in order to overcome any missed correspondence through absence.

On another matter, please could you confirm that it is the intention of the 3 Applicants to ultimately increase the name plate capacities of each of the 3 separate wind farms, respectively, according to the maximum permissible generation capacity of 140MW per wind farm.

Regards

Andre van der Spuy

From: Highlands [<mailto:Highlands@arcusconsulting.co.za>]
Sent: 21 September 2018 12:03 PM
To: Avdspuy@iafrica.com
Cc: info@sidebysidesafaris.com; Hein Badenhorst; nicks@nsmithlaw.co.za
Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period
Importance: High

Dear Mr van der Spuy,

Thank you for your comment below. We will take this under consideration and respond to you as soon as possible regarding the requested comment period extension.

Please can you confirm if you would like to be added to the I&AP database as AVDS Environmental Consultants?

Kind Regards,

Anja Albertyn
Environmental Practitioner

Tel: +27 (0) 21 412 1529
Email: highlands@arcusconsulting.co.za

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Office 220 Cube Workspace
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Andre van der Spuy

AVDS Environmental Consultants

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Simon's Town
7975
South Africa

Tel.: 021 786 2919
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Mobile: 084 480 2464
Email: avdspuy@iafrica.com
Web: www.avdsec.com

From: Hein Badenhorst [<mailto:sillery@iafrica.com>]

Sent: 17 September 2018 04:58 PM

To: avdspuy@iafrica.com

Cc: info@sidebysidesafaris.com

Anja Albertyn

From: Microsoft Outlook
To: 'Nick Smith'
Sent: 15 October 2018 11:39
Subject: Relayed: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

['Nick Smith' \(nicks@nsmithlaw.co.za\)](mailto:nicks@nsmithlaw.co.za)

Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period



RE: Highlands
Wind Energy Fac...

Anja Albertyn

From: Microsoft Outlook
To: grant@eastcapesafaris.co.za
Sent: 15 October 2018 11:39
Subject: Relayed: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

grant@eastcapesafaris.co.za (grant@eastcapesafaris.co.za)

Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period



RE: Highlands
Wind Energy Fac...

Anja Albertyn

From: Microsoft Outlook
To: Andre van der Spuy; 'Hein Badenhorst'
Sent: 15 October 2018 11:39
Subject: Relayed: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

[Andre van der Spuy \(avdspuy@iafrica.com\)](mailto:avdspuy@iafrica.com)

['Hein Badenhorst' \(sillery@iafrica.com\)](mailto:sillery@iafrica.com)

Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period



RE: Highlands
Wind Energy Fac...

Anja Albertyn

From: Microsoft Outlook
To: info@sidebysidesafaris.com
Sent: 15 October 2018 11:39
Subject: Relayed: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

info@sidebysidesafaris.com (info@sidebysidesafaris.com)

Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period



RE: Highlands
Wind Energy Fac...

Anja Albertyn

From: Andre van der Spuy <avdspuy@iafrica.com>
Sent: 17 October 2018 14:00
To: Highlands; 'Hein Badenhorst'
Cc: info@sidebysidesafaris.com; 'Nick Smith'; grant@eastcapesafaris.co.za
Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period

Dear Ms. Albertyn

Thank you for your response. All is noted.

Regards

Andre v d Spuy

From: Highlands [mailto:Highlands@arcusconsulting.co.za]
Sent: 15 October 2018 11:39 AM
To: Andre van der Spuy; Highlands; 'Hein Badenhorst'
Cc: info@sidebysidesafaris.com; 'Nick Smith'; grant@eastcapesafaris.co.za
Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period

Dear Mr van der Spuy,

Thank you for your call last week. This email is to confirm that the date of receipt of the applications by the DEA was 18 September 2018, as I stated in our telephone conversation. The extended public commenting period ends 25 October 2018 (inclusive), as you have been previously informed. The final Basic Assessment Reports (BARs) must be submitted to the Department of Environmental Affairs within 90 days of receipt of the applications, excluding public holidays and the period 15 December – 5 January, ie. by 9 January 2019.

I trust this answers your query below. Please do not hesitate to contact me if you have any further questions.

Kind Regards,

Anja Albertyn
Environmental Practitioner

Tel: +27 (0) 21 412 1529
Email: highlands@arcusconsulting.co.za

Arcus
Office 220 Cube Workspace
Cnr Long Street and Hans Strijdom Road
Cape Town
8001

www.arcusconsulting.co.za



From: Andre van der Spuy [mailto:avdspuy@iafrica.com]
Sent: 11 October 2018 10:35
To: Highlands <Highlands@arcusconsulting.co.za>; 'Hein Badenhorst' <sillery@iafrica.com>
Cc: info@sidebysidesafaris.com; 'Nick Smith' <nicks@nsmithlaw.co.za>; grant@eastcapesafaris.co.za
Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period

Dear Ms. Albertyn

I am recently back from leave, as you are aware. The invitation for enquiries in the notice that was attached to the below email refers. Please kindly advise:

1. whether or not the applications have been submitted to the DEA, and , if so, on what date was submission made;
2. on what date the applications will be submitted to the DEA , if they have not already been submitted; and
3. on the specific stages of the EIA process going forward until submission of the Final Basic Assessment Report to the DEA and the dates of each stage , as planned by yourself and/ or the Applicant.

Thank you

Andre van der Spuy

From: Highlands [mailto:Highlands@arcusconsulting.co.za]
Sent: 28 September 2018 01:26 PM
To: Andre van der Spuy; 'Hein Badenhorst'
Cc: info@sidebysidesafaris.com; 'Nick Smith'; Highlands
Subject: RE: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period

Dear Mr van der Spuy,

Your email below refers.

1. The Regulations do not make provisions for prior notification of the comment period dates to I&APs. As surrounding landowners to the proposed development Mr. Hein Badenhorst, Mr. Fleming Jensen, received an initial notification of the proposed development in June 2018. No request for prior notification of the comment period was received from either Mr. Hein Badenhorst, Mr. Fleming Jensen.
2. The Regulations do not make provision for school holidays to be taken into consideration in determining when the 30 day commenting period is held.
3. The six Basic Assessment applications that require review are for one development: the Highlands Wind Energy Facilities of up to 150 MW, which was split in order to comply with REIPPP requirements. The six applications share an identical Volume II: Specialist Studies and Volume III: Comments & Response Report. These volumes therefore only require to be reviewed once. In addition, the six applications are Basic Assessments, and not full EIA reports. Therefore the amount of time required to review the documentation is standard for a wind energy facility of this size, and the legislated period of 30 days constitutes a reasonable opportunity to comment on the application.
4. The Regulations make provisions for comment by registered Interested & Affected Parties, which includes any representatives they choose to engage, for a period of at least 30 days.

As the process followed is that of a Basic Assessment Process, a Final Basic Assessment Report must be submitted to the Department within 90 days of receipt of the applications by the competent authorities. Any extension of the public review period will therefore impact directly and negatively on the time available to suitably address the comments received.

Despite the above reasoning, and as a sign of good faith to ensure a thorough investigation of the contents of the applications is possible, the comment period for the six applications is hereby extended by five (5) working days, or seven (7) calendar days to 25 October 2018. All registered I&APs are receiving a notification of the extended comment period (attached).

Kind Regards

Anja Albertyn

Environmental Practitioner

Tel: +27 (0) 21 412 1529

Email: highlands@arcusconsulting.co.za

Arcus

Office 220 Cube Workspace

Cnr Long Street and Hans Strijdom Road

Cape Town

8001

www.arcusconsulting.co.za



From: Andre van der Spuy [<mailto:avdspuy@iafrica.com>]

Sent: 20 September 2018 17:08

To: 'Hein Badenhorst' <sillery@iafrica.com>; Highlands <Highlands@arcusconsulting.co.za>

Cc: info@sidebysidesafaris.com; 'Nick Smith' <nicks@nsmithlaw.co.za>

Subject: Highlands Wind Energy Facilities for Public Comment: request for extension of comment period

Importance: High

Dear Ms. A. Albertyn

Your below notification, and its associated attachments, in regard to the 30 day comment period on the six environmental applications pertaining to the proposed Highlands Wind Energy Facilities, refer.

AVDS Environmental Consultants, along with Nicholas Smith Attorneys, is representing Mr. Hein Badenhorst, Mr. Fleming Jensen, and their respective interests, in opposing the six applications for the proposed various phases of the Highlands Wind Energy Facility.

It is our clients' wishes to review the applications and to provide comment thereon. However, we will be unable to meet the stipulated deadline (18 October 2018) for submission of comments and therefore it is requested that the current comment period be extended by an additional 30 days minimum in order for our clients' to exercise their rights to be availed of a "reasonable opportunity to comment". Our reasons for the request are listed as follows:

1. The current review period was launched without prior notification and which would have been useful in providing us and our clients' with sufficient time to schedule arrangements and time in order to be sufficiently available to utilize the current review period. We and our clients have thus been taken unawares by the current review period and are unable to immediately schedule the necessary time and resources to attend to it properly.
2. The stipulated comment period falls with a school holiday period and during which time our clients and both of their appointed representatives listed above have prior arrangements. The preparation and submission of comments will entail considerable and time-consuming review, as well as liaise between ourselves and our

clients, thus requiring considerable time beyond that stipulated but, critically, we will be unable to utilize the period of the school holidays due to said previous commitments.

3. The suite of 6 applications and complicated and exhaustive documentation being subjected to the limited 30 day comment period is entirely unrealistic and the attendance to 6 applications within a single 30 day comment period can by now stretch of the imagination be considered to constitute the "*reasonable opportunity to comment*" which our clients, and other I&APs, must be availed. There is no way that we will be able to properly review the relevant material within such a short period, and especially given the limitation posed by the school holiday period (as outlined above).
4. It is anticipated that it may be necessary for us to engage the advice and services of other professionals in order to properly inform our comments and objections and which will naturally entail an additional commitment of time and resources over and above the limits already outlines above.

We trust that our request is suitably motivated and will be met with the favourable response it deserves. We look forward to receiving your confirmation of our request.

Sincerely

Andre van der Spuy

AVDS Environmental Consultants

42 Afrikander Road
Simon's Town
7975
South Africa

Tel.: 021 786 2919
Fax.: 021 786 2919
Mobile: 084 480 2464
Email: avdspuy@iafrica.com
Web: www.avdsec.com

From: Hein Badenhorst [<mailto:sillery@iafrica.com>]
Sent: 17 September 2018 04:58 PM
To: avdspuy@iafrica.com
Cc: info@sidebysidesafaris.com
Subject: Fwd: Notification of Availability of Draft Basic Assessment Reports for Highlands Wind Energy Facilities for Public Comment

Afternoon Andre. Please consider the notice and advise. Thanks, Hein.

Sent from my iPhone

Begin forwarded message:

From: Highlands <Highlands@arcusconsulting.co.za>
Date: 17 September 2018 at 16:24:30 SAST
Subject: Notification of Availability of Draft Basic Assessment Reports for Highlands Wind Energy Facilities for Public Comment
Reply-To: Highlands <Highlands@arcusconsulting.co.za>

Dear Interested & Affected Party,

RE: NOTIFICATION OF AVAILABILITY OF DRAFT BASIC ASSESSMENT REPORTS FOR THE PROPOSED HIGHLANDS WIND ENERGY FACILITIES AND ASSOCIATED GRID CONNECTIONS, EASTERN CAPE PROVINCE

You are receiving this notification regarding the availability of the Draft Basic Assessment Reports for the proposed Highlands Wind Energy Facilities and associated grid connections, as you have been identified as an Interested and Affected Party (I&AP). We invite you to review and comment on these reports.

Please find the attached letter for your interest, in English and Afrikaans:

- 1.) **NOTIFICATION OF AVAILABILITY OF THE DRAFT BASIC ASSESSMENT REPORTS FOR THE PROPOSED HIGHLANDS WIND ENERGY FACILITIES AND ASSOCIATED INFRASTRUCTURE IN THE EASTERN CAPE PROVINCE**
- 2.) **KENNISGEWING VAN BESIKKBAARHEID VAN DIE KONSEP BASIESE ASSESSESRINGSVERSLAE VIR DIE VOORGESTELDE HIGHLANDS-WINDKRAGAAANLEG EN GEPAARDGAANDE INFRASTRUKTUUR IN DIE OOS-KAAP**

The Basic Assessment reports are available for public review and comment from 18 September 2018 to 18 October 2018 (both days inclusive) at the following locations:

- Langenhoven Library, Somerset East;
- Ernst van Heerden Library, Pearston;
- Website <https://arcusconsulting.co.za/projects/highlands-wind-energy-facilities-basic-assessment-reports-for-public-review/>

Electronic copies on CD-ROM are available on request.

With reference to the proposed development, please send your comments on the **Draft Basic Assessment Reports** in writing **by the 18 October 2018** to:

Anja Albertyn; highlands@arcusconsulting.co.za

Phone: 021 412 1529 or Fax: 086 762 2885;

Postal: Office 220, Cube Workspace, Cnr Long Street and Hans Strijdom Avenue, Cape Town 8001

Please feel free to contact me should you have any further queries, or should you no longer wish to receive notifications regarding the above projects.

Kind Regards,

Anja Albertyn

Environmental Practitioner



This email has been checked for viruses by Avast antivirus software.
www.avast.com



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Private Bag X 447· PRETORIA · 0001· Environment House · 473 Steve Biko Road, Arcadia, · PRETORIA
Tel (+ 27 12) 399 9372

Reference: Highlands Central WEF, Highlands North Grid, Highlands North WEF,
Highlands South Grid and Highlands South WEF

Enquiries: Ms Portia Makitla

Telephone: 012-399 9411 **E-mail:** pmakitla@environment.gov.za

Ashlin Bodasing
Arcus Consultancy Services South Africa (Pty) Ltd
Office 220, Cube Work Space, Icon Building,
24 Hans Strijdom Avenue,
Cape Town
8001

Telephone Number: +27 (21) 4121529
Email Address: ashlinb@arcusconsulting.co.za

Dear Sir/Madam

COMMENTS ON THE DRAFT PROPOSED BASIC ASSESSMENT REPORT FOR THE HIGHLANDS CENTRAL WIND ENERGY FACILITY ELECTRICAL GRID CONNECTION AND ASSOCIATED INFRASTRUCTURE, SOMERSET EAST WITHIN EASTERN CAPE PROVINCE

The Directorate: Biodiversity Conservation has reviewed and evaluated the aforementioned report and satisfied with the information provided in the Draft Basic Reports and its specialist's studies. The following recommendation must be considered during the final Basic Assessment Reports (BAR).

- The development footprint, within the high sensitivity areas and near any roosting areas for bats should be minimised;
- The cumulative impacts which may occur as the result of the proposed development must be assessed and included in the final report;
- The area has been identified as a potential target for the protected area expansion (NPAES), please ensure that comments from the Directorate: Protected Area Planning Legislation, Compliance and Monitoring comments are incorporated in the Final BAR,
- Search, rescue and relocation of Red Data, protected and endangered species, medicinal plants must be undertaken and permits must be obtained from the relevant authorities;
- The final walk-through with an ecological specialist must be undertaken to fine tune the final positioning of the turbines in order to avoid impacting on species of conservation concern;
- Vegetation removal must be limited to the footprint of the proposed development;
- The ridges are habitats for red data and endemic species and supports a unique floral and faunal species composition; they are also areas of High Ecological Function and of High Conservation Value therefore development within this areas is not supported;
- The final report must include at least one A3 regional map combining the final layout map superimposed on the environmental sensitivity; and
- The Environmental Management Programme (EMPr) to be submitted as part of the final report must clearly indicate the biodiversity impacts that might occur as a result of the proposed project and the proposed mitigation measures thereof. The EMPr must not contain any ambiguity. Where applicable, statements containing the word "should" are to be amended to "must".

COMMENTS ON THE DRAFT PROPOSED BASIC ASSESSMENT REPORT FOR THE HIGHLANDS CENTRAL WIND ENERGY FACILITY ELECTRICAL GRID CONNECTION AND ASSOCIATED INFRASTRUCTURE, SOMERSET EAST WITHIN EASTERN CAPE PROVINCE

The overall biodiversity objective is to minimise loss to biodiversity as possible. Therefore, in order to achieve this objective the above mentioned recommendations must be adhered to.

Yours faithfully



Mr Stanley Tshitwamulomoni
Acting Director: Biodiversity Conservation
Department of Environmental affairs

Date: 08/10/18

Anja Albertyn

From: Highlands
Sent: 03 October 2018 09:21
To: M de Villiers
Cc: Highlands
Subject: RE: wind energy

Dear Mrs de Villiers,

Thank you for contacting Arcus with regards to the Highlands Wind Energy Facilities. We have registered you on the database of Interested & Affected Parties and you will now receive notifications regarding the progress of the proposed development.

The Basic Assessment reports for the proposed Highlands Wind Energy facilities are available for public review until 25 October 2018 (inclusive) at the following locations:

- Langenhoven Library, Somerset East;
- Ernst van Heerden Library, Pearston;
- Website <https://arcusconsulting.co.za/projects/highlands-wind-energy-facilities-basic-assessment-reports-for-public-review/>

Electronic copies on CD-ROM are available on request.

In response to your query, the above mentioned Basic Assessment Reports give a detailed account in Chapter 6 – Assessment of Alternatives of the site selection process undertaken by the Developer. The final position of the turbines on the selected site takes into account the results of detailed specialist environmental studies which identified the best environmental option that minimises negative impacts and avoids sensitive areas.

Please send your comments on the **Draft Basic Assessment Reports** in writing **by 25 October 2018** to:

Anja Albertyn; highlands@arcusconsulting.co.za

Phone: 021 412 1529 or Fax: 086 762 2885;

Postal: Office 220, Cube Workspace, Cnr Long Street and Hans Strijdom Avenue, Cape Town 8001

Please feel free to contact me should you have any further queries, or should you no longer wish to receive notifications regarding the above projects.

Kind Regards,

Anja Albertyn

Environmental Practitioner

Tel: +27 (0) 21 412 1529

Email: highlands@arcusconsulting.co.za

Arcus

Office 220 Cube Workspace

Cnr Long Street and Hans Strijdom Road

Cape Town

8001

www.arcusconsulting.co.za



From: M de Villiers [mailto:studcor@iexchange.co.za]

Sent: 03 October 2018 08:43

To: Highlands <Highlands@arcusconsulting.co.za>

Subject: wind energy

Goodday, I believe you are going to be working in the area. We also have a farm in the Pearston area and would like to know how you decide where to put the wind turbines on ?

Kind regards

Mrs de Villiers

Westondale farm.

Anja Albertyn

From: Microsoft Outlook
To: Highlands
Sent: 03 October 2018 09:21
Subject: Delivered: RE: wind energy

Your message has been delivered to the following recipients:

[Highlands \(Highlands@arcusconsulting.co.za\)](mailto:Highlands@arcusconsulting.co.za)

Subject: RE: wind energy



RE: wind energy

Anja Albertyn

From: Highlands
Sent: 03 December 2018 15:10
To: 'Samantha Ralston-Paton'; Highlands
Subject: RE: NOTIFICATION OF EXTENSION OF COMMENTING PERIOD FOR THE PROPOSED HIGHLANDS WIND ENERGY FACILITIES AND ASSOCIATED INFRASTRUCTURE IN THE EASTERN CAPE PROVINCE

Dear Sam,

This is to confirm that we received the letter of comments for the above project from Birdlife SA sent by you. The comments will be addressed and responded to in the final Basic Assessment Reports to be submitted to the Department in early January 2019. You will receive a notification in this regard with access to the final reports.

We would like to thank Birdlife SA for their active participation in this process.

Kind Regards,

Anja Albertyn
Environmental Practitioner

Tel: +27 (0) 21 412 1529
Email: highlands@arcusconsulting.co.za

Arcus
Office 220 Cube Workspace
Cnr Long Street and Hans Strijdom Road
Cape Town
8001

www.arcusconsulting.co.za



From: Samantha Ralston-Paton [<mailto:energy@birdlife.org.za>]
Sent: 19 October 2018 15:43
To: Highlands <Highlands@arcusconsulting.co.za>
Subject: Re: NOTIFICATION OF EXTENSION OF COMMENTING PERIOD FOR THE PROPOSED HIGHLANDS WIND ENERGY FACILITIES AND ASSOCIATED INFRASTRUCTURE IN THE EASTERN CAPE PROVINCE

Dear Anja

I hope this finds you well.

Please see our comments attached.

Take care
Sam

19 October 2018

Anja Albertyn
Arcus Consulting
By email: highlands@arcusconsulting.co.za

Dear Anja

Re: Notification of Availability of Draft Basic Assessment Reports for the Proposed Highlands Wind Energy Facilities (North, South and Central) and Associated Grid Connections, Eastern Cape Province

Thank you for the opportunity to comment on the above applications. The site(s) for the proposed wind farm(s) are arguably less sensitive than the more easterly parts of the Renewable Energy Development Zone (where BirdLife South Africa has serious concerns about potential impacts on Cape Vulture and other threatened species), but the area is not without its environmental challenges. Most notably the broader area has been identified as important for ecological connectivity, it is located within the Camdeboo Escarpment National Protected Area Expansion Strategy Focus Area and it is in close proximity to a number of private game reserves.

While this does not necessarily preclude the development of wind energy infrastructure, it does imply that the application should be carefully scrutinized and should development proceed, it must be held to high environmental standards. In this regard, please note that our input relates primarily to impacts on birds and their habitats, not the overall desirability of the proposed developments.

We are pleased to note that our guidelines have been used by the avifaunal specialists with regards to the recommended scope of the data collection and mitigation measures. We also note that the applicant has opted to adopt the recommended nest buffers and to avoid other areas associated with high collision risk, as identified by the avifaunal specialist. However, it is likely that there will still be residual negative impacts on birds, possibly including threatened and migratory species, especially given the moderate to high passage rates and abundance of birds on site.

While we are satisfied that sufficient effort has been / will be made to minimise impact through the layout of the facility, we suggest the following:

- 1) All powerline infrastructure (including any above ground, internal lines) must be checked by a bird specialist and/or the EWT Wildlife Energy Programme, first during the design phase and again once constructed, to confirm the risk of electrocution has been addressed.
- 2) Consideration should be given to increasing the minimum clearance between live components of powerlines and possible bird perches (e.g. cross arms) from 1.8 m to 2.2 m, given that Cape Vultures are likely to be an occasional visitor to the area.
- 3) The possibility of painting one turbine blade as experimental mitigation against turbine collisions be provided for. (The CAA has indicated that they will consider experiments that involve a single blade with signal red obstruction painting, to partly meet the regulations on Obstacles, as per the South African Civil Aviation Technical Standards with regards to Obstruction colours SANS 1091 2004).
- 4) More attention needs to be paid to operational phase mitigation.
 - a. The EMPr should include clear environmental impact management outcomes (see Appendix 4 of the NEMA EIA regulations) relating to operational phase impacts on birds.

BirdLife South Africa is a partner of BirdLife International, a global partnership of nature conservation organisations.
Member of IUCN (International Union for Conservation of Nature).

Reg No: 001 – 298 NPO
PBO Exemption No: 930004518

- b. An operational phase mitigation plan should be drafted and proactively implemented to address anticipated impacts on birds (there is no need to wait for predicted impacts to occur).
- c. This operational phase mitigation plan for birds should be periodically reviewed together with the results of monitoring, and if necessary updated along with the EMPr.
- d. Applicants do not always account for the cost and management implications of operational phase mitigation and monitoring. Unless otherwise indicated, it must be assumed that the applicant has agreed that measures proposed the application(s) are reasonable and feasible. They must therefore ensure that:
 - i. There are adequate funds for monitoring and mitigation throughout the lifespan of the project (preferably set aside for this purpose, based on the worst-case scenario);
 - ii. The infrastructure is compatible, and
 - iii. The necessary contractual agreements (e.g. with the turbine manufacturer and landowners) are put in place.

Thank you for taking the time to consider our input.

Yours sincerely



Samantha Ralston-Paton
Birds and Renewable Energy Project Manager

Isdell House, 17 Hume Road
Dunkeld West, Gauteng 2196
Private Bag X16, Pinegowrie
2123, South Africa
Tel: +27 (0)11 789 1122
Fax: +27 (0)11 789 5188
Email: info@birdlife.org.za
www.birdlife.org.za



Partnership for
nature and people



Honorary Patrons: Mrs Gaynor Rupert, Dr Precious Moloi-Motsepe, Mr Mark Shuttleworth

Anja Albertyn

From: Highlands
Sent: 07 November 2018 10:33
To: 'Andre van der Spuy'; Highlands
Cc: Flemming Jensen; Francois Pieters; Fritz Walter; Grant Abrahamson; Hein Badenhorst; Jannie Geyer; Kevin McCaughey; Michael Puren; nicks@nsmithlaw.co.za; Poul Petersen
Subject: RE: Highlands WEF: objection

Dear Mr van der Spuy,

This is to confirm that your comments on the proposed Highlands Wind Energy Facilities and associated infrastructure applications have been received and are being responded to. Once finalised the responses will be emailed to you, and they will be included in the final Basic Assessment Reports.

Kind Regards

Anja Albertyn
Environmental Practitioner

Tel: +27 (0) 21 412 1529
Email: highlands@arcusconsulting.co.za

Arcus
Office 220 Cube Workspace
Cnr Long Street and Hans Strijdom Road
Cape Town
8001

www.arcusconsulting.co.za



From: Andre van der Spuy [<mailto:avdspuy@iafrica.com>]
Sent: 25 October 2018 20:03
To: Highlands <Highlands@arcusconsulting.co.za>
Cc: Flemming Jensen <info@sidebysidesafaris.com>; Francois Pieters <pietersf@xinergistix.com>; Fritz Walter <fritz@woodline.co.za>; Grant Abrahamson <grant@eastcapesafaris.co.za>; Hein Badenhorst <sillery@iafrica.com>; Jannie Geyer <jwgeyer@eastcape.net>; Kevin McCaughey <kevin@bosberg.co.za>; Michael Puren <julitap@jabama.co.za>; nicks@nsmithlaw.co.za; Poul Petersen <mail@malpepo.com>
Subject: Highlands WEF: objection

To whom it may concern

Please find attached the comments on, and objections to, the proposed Highlands Wind Energy Facility and infrastructure applications, on behalf of our clients.

Sincerely

Andre van der Spuy

AVDS Environmental Consultants

42 Afrikander Road
Simon's Town
7975
South Africa

Tel.: 021 786 2919
Fax.: 021 786 2919
Mobile: 084 480 2464
Email: avdspuy@iafrica.com
Web: www.avdsec.com



Virus-free. www.avast.com



**OBJECTION TO SIX APPLICATIONS FOR ENVIRONMENTAL
AUTHORISATION RESPECTIVELY FOR THE PROPOSED *HIGHLANDS
NORTH, CENTRAL AND SOUTH WIND ENERGY FACILITIES AND THEIR
ASSOCIATED GRID INFRASTRUCTURES, EASTERN CAPE***

Prepared for:

11 Interested & Affected Parties described in Appendix 1 hereto

Prepared by:

AVDS ENVIRONMENTAL CONSULTANTS

42 Afrikander Road,

Simon's Town,

7975

Tel/Fax: 021 786 2919

E-mail: avdspuy@iafrica.com

25 October 2018

OBJECTION TO ENVIRONMENTAL APPLICATIONS FOR THE *HIGHLANDS NORTH, CENTRAL AND SOUTH WIND ENERGY FACILITIES AND THEIR ASSOCIATED GRID INFRASTRUCTURES, EASTERN CAPE.*

Acronyms used in these objections

EIA	Environmental Impact Assessment
BA	Basic Assessment
EIA Regulations	NEMA EIA Regulations (2014) of GN No. R. 982
DBAR	Draft Basic Assessment Report
FBAR	Final Basic Assessment Report
EIR	Environmental Impact Assessment Report
SR	Scoping Report
C&RR	Comments and Responses Report
WEF	Wind Energy Facility
HWEF	Highlands Wind Energy Facility (inclusive of the North, Central and South wind farms)
I&AP	Interested and Affected Party
VIA	Visual Impact Assessment (Specialist Study)
SIA	Social Impact Assessment (Specialist Study)
PPP	Public Participation Process
EAP	Environmental Assessment Practitioner
“EAP”	This refers to the person and/or entity that was responsible for management of the SWWEF application
CA	Competent Authority (in this instance the Department of Environmental Affairs)
EA	Environmental Authorisation
PAJA	Promotion of Administrative Justice Act, 2000 (Act 3 of 2000)
PAIA	Public Access to Information Act
NEMA	The National Environmental Management Act, 1998 (Act 107 of 1998), as amended
DEA	Department of Environmental Affairs (National)
AC	Arcus Consulting
AVDSEC	AVDS Environmental Consultants
REDZ	Renewable Energy Development Zone
SEA	Strategic Environmental Assessment
PPP	Public Participation Process

Introduction and context of these objections

1. These objections are submitted by AVDS Environmental Consultants on behalf of the parties listed in Appendix A to these objections.
2. The 11 parties on behalf of whom or which these objections are submitted are to be listed individually as Registered I&APs and must be recorded as being strongly opposed to the six HWEF applications for the reasons set out in this submission of objections and variously elsewhere (notwithstanding the fact that the reasons tabled herein by no means constitute the full array of reasons for the objections by our clients and which are severely limited herein on account of the unreasonable manner and timeframe in which the current comment opportunity has been extended to the parties referred to herein).
3. The interests and concerns of the objectors in this submission extend beyond their personal interests and they also share a common bond in that they seek to prevent the

environmental and social degradation of the greater area, which would result as a direct consequence of the proposed activities being authorised by the competent authority.

4. This submission of objection concerns the six DBARs and all other products and procedures related to the six discrete environmental applications for the developments that collectively comprise the Highlands WEFs. However, and principally given the unreasonably short comment opportunity (in terms of *inter alia* its overlap with a period of public school holidays during which the author and many of the objecting clients were on leave and away; its unannounced and unexpected launch; and its unreasonably short window period in the context of six subject environmental applications and associated documentation) and the impossibility of the task of reviewing and preparing comment on all six applications, as is the desired wish of our clients, the author has been forced to undertake a very limited review of only the North HWEF DBAR, and a limited number of the specialist studies. The assumption is thus made by the author of these objections that the remaining and unreviewed 5 DBARs are sufficiently similar to the reviewed one to assume that the comments made on the reviewed DBAR apply equally to the remaining 5 DBARs. The situation is forced upon our clients by the EAP, against their will, and is entirely unsatisfactory to them. They accordingly reserve all their rights and reiterate their request to have been availed of a reasonable opportunity to comment upon all 6 DBARs and associated documentation.
5. In the reading of this objection any reference to the HWEF in the singular must be taken to refer to all 6 of the proposed development proposals (and NEMA-listed activities) encompassed under the 6 environmental applications which relate to the 3 proposed wind farms (being the North, Central and South Highlands Wind Energy Facilities) and their 3 respective, associated electrical grid infrastructure proposals. Likewise any reference made to an application in the singular tense must be interpreted to include all of the other 5 environmental applications as well. Such assumptions are made primarily for practical reasons and are reluctantly based upon the advice of the applicants' EAP (to the effect that the applications and associated potential impacts are sufficiently similar to justify such an approach).
6. Any reference made to the "EAP" in this objection is used in a practical sense to refer to the party/ parties involved in the management and assessments related to the BA process and the preparation of the respective DBARs. It must not be construed as amounting to an acknowledgement of the legitimacy of a properly constituted EAP in the management of the applications (the objection later sets out its concerns around the matter of an appointment of a proper EAP).
7. Simultaneous to the appointed mandate of AVDSEC as a representative of its clients, AVDSEC also acts as a professional expert in this objection, where appropriate and according to the specialist expertise and qualifications of AVDSEC member, Andre van der Spuy (the author), which are as follows:

- BSc: Zoology; Environmental & Geographical Science
- BSc (Hons): Environmental & Geographical Science
- MSc: Conservation Biology

Andre van der Spuy has professional experience of 25 years in the field of environmental management and is competent to critically review and comment on all aspects of Environmental Impact Assessments as well as social and biophysical aspects. The author is, in this matter, acting in a capacity as a professional representative and also a professional reviewer.

The submissions made here are made by AVDS Environmental Consultants (according to the employed capabilities of Andre van der Spuy) and it should be registered on the I&AP database as such.

8. It is submitted in this objection that the recommendation by the EAP in the DBAR that the Applicant's Preferred Alternative be approved is unjustified, unsubstantiated and premature, on account of the fundamental flaws revealed in this limited review and objection. The EAP's recommendation is made in the almost total absence of comment from the affected local community (landowners and "occupiers") as is revealed by the **mere 2 brief records of interests from 2 local community members** (both being our clients now), as such are contained within Appendix 5 of the C& RR.
9. All of our clients confirm that they and their considerable and well-established interests will be negatively impacted by the proposed HWEF to a significant degree. Neither the Applicant nor the EAP have made any reasonable effort to offset the inevitable damages that our clients would be subjected to and our clients therefore find the 6 applications for the proposed HWEF to be unacceptable, damaging and unlawful.
10. This objection reminds the Applicant that the latter must ensure that "*that negative impacts on the environment and on (our clients') environmental rights be anticipated and prevented, and where they cannot be altogether prevented, are minimised and remedied*". Proper, correct and acceptable mitigation of the inevitable negative impacts (including those not yet identified or otherwise ignored or undeplayed in the applications) must be effected, with the "no go" option considered as the ultimate mitigation measure. The "no go" option is our clients' preferred option but should the HWEF proposal proceed, then it will be necessary to compensate for and / or offset those residual negative impacts which the approved HWEF development will undeniable have upon our affected landowner clients, and the environment itself.
11. This objection must not be presumed to constitute the full range of our clients' concerns with the HWEF application, and our clients reserve their right to table any further matters that may come to their attention going forward.

Procedural Issues

Inadequate and non-compliant public participation process.

12. The NEMA and associated legislated environmental application processes thereunder, including the Basic Assessment process being followed for the HWEF applications, make substantive provision for the inclusion of public and local community input into such processes so as to give effect to the Constitutional right of citizens to meaningfully contribute to and influence decisions that will affect them. The DEA's ultimate decisions on the subject HWEF applications will constitute such decisions that will have a significant and in all reasonable likelihood adverse impact upon our clients, as well as upon the environment itself. It is therefore our client's rightful expectation that the EAP responsible for managing these applications, and the DEA (which is responsible for administering these applications), will give full effect to the rights of our clients to participate in these applications and associated BA process.
13. Review of the HWEF BA process and DBAR has revealed that they are substantially lacking in the necessary consultation process and are thus fatally flawed as matters stand presently. It is quite apparent that the EAP has instead embarked upon a process whereby first formal notification to I&APs entails a single, very advanced Preferred HWEF development proposal that excludes any other meaningful alternatives, including even the required "no go" alternative. The process and DBAR is in fact so advanced towards favouring the Applicant's Preferred Alternative that the DBAR includes the EAP's stated recommendation that the Applicant's Preferred Alternative be approved. This premature recommended approval is made in the absence of some crucial legislated steps for engagement with all potential I&APs yet to have been undertaken, to the extent that at this date it is known that occupiers of adjacent properties have not yet even been notified

of the applications. It is furthermore clear that the DBAR is already an end product which simply seeks to include I&AP input, including that of our clients, after the fact and to an extent that such input would have no influence at all on the predetermined and already included recommendation of approval of the EAP.

14. Review of the DBAR is also insightful to the extent that it reveals a sustained and embedded approach by the EAP to select and manipulate the information presented, in context of inter alia the EIA Regulations, towards the purposes of the Applicant (i.e. recommended approval of the Applicant's desired Alternative). The Applicant-favoured bias of the EAP is thus also revealed. The DBAR constitutes nothing more than a motivational report designed to serve the Applicant's best interests alone, and as such it is contrary to the rights and interests of our clients to participate in a fair and unprejudiced BA process.
15. Our clients accordingly have no trust in the EAP and are unwilling to place their considerable rights and interests at the risk of such party by way of participating in a fundamentally flawed and Applicant-favoured BA process. They accordingly insist that the flaws be remedied entirely and that further drafts of the respective BARs be provided to all registered I&APs (and occupiers) once the flaws identified herein have been cured.
16. A fundamental requirement of the HWEF applications is that of an adequate public participation process which complies fully and without compromise with EIA Regulations 40 and 41 and NEMA. The requirements are given force and purpose in the first sentence under Point 2 of Appendix 3 of the EIA Regulations in which is stated that the objective of the environmental impact assessment process, per:

*"The objective of the environmental impacts assessment process is to, **through a consultative process** -..."*

(Bold text added)

A through and compliant public participation process is therefore a fundamental requirement in order to meet the legislated objectives of the EIA process. Despite the brevity of the review of the DBAR undertaken so far, and for the reasons explained, it is clear that the consultative process (public participation process) upon which the current BA process and DBAR is based fails to meet the substantial PPP requirements necessary and therefore the objectives of the BA process, which is the substance of the DBAR, have also not been met. Some of the failings amount to "fatal flaws" (thereby rendering the proposed HWEFs as being unsustainable developments).

17. The purpose and procedural requirements for a correct and complaint PPP are set out under, respectively, EIA Regulations 40 and 41.
18. It is incumbent upon the person conducting the PPP, in terms of EIA Regulation 41(2), to "give notice to **all potential interested and affected parties of an application...**" (Bold text added), and it is therefore necessary for the EAP to establish the identity of all such parties who/which constitute "*potential interested and affected parties*" before the serving of the notification specified under EIA Regulation 41(2). To do otherwise is to invite unnecessary risk to the subject BA process and applications, as is the case with the HWEF applications now.

Misrepresentation of the true facts through selective use and manipulation of critical information.

19. The EAP has engaged in selective use and manipulation of critical information so as to further the interests of the Applicant and in order to arrive at the (predetermined) EAP environmental statement which recommends that the Applicant's Preferred Alternative(s) be approved.

20. For instance, Section 6.2 confusingly talks about a “Pre-feasibility” process which the Applicant supposedly undertook in order to consider various potential project sites. Table 6.1 thereafter presents an extremely superficial tabulated comparison of four sites which were supposedly considered for the proposed (i.e. HWEF) wind farm. In table 6.1 the subject 4 sites, or regions, are interchangeably referred to as sites and then regions making matters even more confusing. Not one Site of the 3 sites and 4th Region which are referenced in Table 6.1, are identified by name or location and it is thus objectively impossible for I&APs to verify the credibility of this vital information or and the associated comparison. No external supporting evidence is provided in the applications.
21. It is noted with a reasonably due level of suspicion (given the vagueness of the information provided by the EAP) that the Applicant’s Preferred Alternative is favoured above all other hypothetical Alternatives given under Table 6.1. and 6.2 of the DBAR.
22. Notwithstanding concerns (as raised elsewhere in this objection) regarding non-compliance of the process engaged in the comparison of potential Alternative sites/ regions, the EAP is advised to make the details of the “Pre-feasibility” investigation and comparison available to I&APs in its original form, and in which the 4 Alternatives are clearly indicated on a plan. This is vital information for I&APs to consider, as it is their right to comment on all material which could influence a decision which may affect them. Should the information here advised not be forthcoming in a future I&AP review opportunity then our clients will be forced to consider the means of a PAIA request to obtain such (and which may well result in detrimental delays to the BA process). The advised information should include that which has informed Table 6.2 also.
23. The DBAR consistently employs throughout the DBAR a sustained use of subjective, generalized and Applicant-favoured opinions of the EAP which are presented as facts, but which mere opinions are typically unreferenced, are contrary to scientific fact, and are blatantly wrong. The use of such subjective, non-independent and Applicant-biased approach is seen throughout the DBAR and there are far too many instances to attend to within the confines posed by this unreasonably limited review opportunity. These critical inaccuracies include comments by the EAP pertaining to climate change; renewable energy socio-economic and job benefits; comparative cost-effectiveness of wind farms; and, descriptions of the affected local community (of which our clients form a significant sector), amongst other matters. Some examples will suffice for present purposes:
24. Example 1: In its motivation of the Need and Desirability for the HWEF the EAP erroneously states (DBAR, Section 5.1) that:

“South Africa is one of the world's largest emitters of CO2 in absolute and per capita terms.”

However, the statement is entirely incorrect and contrary to the facts – Dr. J. Ledger, Associate Professor in Management & Energy Studies, University of Johannesburg (pers. com., 23/4/2017) advises as follows:

“The Carbon Dioxide nonsense is frequently used as a justification for installing renewable energy in South Africa, as well as the reason for wanting to introduce a carbon tax. The statement that South Africa is the largest CO₂ ‘emission country’ in Africa is without any basis. All the CO₂ measurements for making that case are based on emissions from industry, and that puts SA being responsible for about 1.2% of global emissions. These figures never include the emissions from the burning of biomass, or the removal of CO₂ through sequestration by plants.

The Japanese Ibuku satellite has been measuring that for a number of years, and in terms of net emissions (after sequestration), South Africa is rated as 35th in the world,

with many African countries higher on the list. The figures below are from one of my PowerPoint presentations. “

CO2 net emissions by country after sequestration in Gt/y. African countries are highlighted

China - 1.467 # 1
United States of America - 0.942 # 2
India - 0.456 # 3
Democratic Republic of the Congo - 0.337 # 4
Russia - 0.28 # 5
Indonesia - 0.257
Japan - 0.231
Bolivia - 0.23
Germany - 0.209
Angola - 0.152 # 10
Iran - 0.136
Zambia - 0.133 # 12
Saudi Arabia - 0.129
Central African Republic - 0.126
South Sudan - 0.115
United Kingdom - 0.109
Mexico - 0.101
France - 0.097
Malaysia - 0.092
Colombia - 0.08
Ethiopia - 0.08
Italy - 0.077
Poland - 0.076
Thailand - 0.076
Turkey - 0.076
Ukraine - 0.075
United Republic of Tanzania - 0.07 # 27
Venezuela - 0.069
Mozambique - 0.065 # 29
Nigeria - 0.061
Cameroon - 0.06
South Korea - 0.059
Myanmar - 0.056
Republic of the Congo - 0.054
South Africa - 0.051 # 35

The statement by the EAP is thus factually incorrect (South Africa is not even the highest emitter of CO2 in Africa!) and the EAP's motivation of the HWEF, on this basis, is equally incorrect. The same incorrect justification based on climate change has been used elsewhere, in other instances, in the DBAR to motivate the benefits of the HWEF. (In fact, the HWEF will contribute to carbon emissions significantly based upon *inter alia* its own energy use, necessary baseload back-up, and its purpose as a means of production).

The EAP is clearly not a climate change expert, or even qualified to make any statements on climate change, given the factual inaccuracy of the above statements by the EAP.

25. Example 2: In her sustained attempts to create an Applicant-favourable, environmental and social context (i.e. a context of limited land use options) against which the alternative land use represented by the proposed HWEF is then favourably presented, the EAP on numerous occasions refers to the participating farms as having limited agricultural land use options. However, she noticeably avoids consideration of any other alternative type

of land use (other than the proposed HWEF). For instance , on page 34 of the DBAR is noted the following response by the EAP:

“The current land use is low-intensity grazing and the land is not suitable for other agricultural uses.” (Underlining supplied)

The EAP, in her Applicant-favoured approach, fails to acknowledge the proven successful local land uses of game farming, game reserve management and associated ecotourism options, as such are well represented in the area, and which would also be a very suitable option for those participant farms located within the HWEF site.

26. Example 3: Under Section 7.3 of the DBAR a description of the “Adjacent Properties”, which include a number of our clients, is given as follows:

“More recently, game farming has become an increasingly important activity in the area and is either combined with livestock farming or has in some cases replaced commercial livestock farming. Based on the findings of the sites visit the existing game farming operations are located within a continuous band within 5-10 km along the eastern boundary of the proposed development site. The game farming includes operations based on Buffelsfontein, Kamala Game Reserve, Kaalplaas (East Cape Safaris), Klipplaas (Side by Side Safaris), and possibly more (e.g. Driefontein). These operations focus primarily on the overseas trophy-hunting market and attract high-end visitors to the area (Nolte, pers. comm). The game farms also provide benefit to other sectors of the local economy in Somerset-East, including local suppliers (groceries, etc.), taxidermists and other operations.

Due to the broken topography and the extensive nature of farming activities, the settlement pattern in the study area is sparse and largely concentrated along major roads. Farms located in close proximity to the R63, Waterford Road or Klipplaas Road tend to be inhabited. Labourer’s housing is typically located in the immediate periphery of farm yards. Large operations (such as Rietfontein) may have up to 10 resident farm worker households. More isolated farms (which make up the majority of farms on the WF site) are typically farmed as stock-posts inhabited by a small number of supervising staff. Most of the relevant owners own farming operations in other parts of the broader region, such as Graaff-Reinet, Cookhouse and Middleton, and deploy staff to the study area farms on an as-needed base. The study area is located sufficiently close to Somerset-East to enable owners to transport permanent and casual labour in and out on a daily basis.

Based on field interviews, permanent direct employment associated with site farms and those in the immediate vicinity, ranges from none or only supervisory staff, to 10 for a large commercial farming operation such as Rietfontein, and 24 for Kaalplaas (East Cape Safaris).”

This is an incorrect description and is clearly designed by the EAP to create the impression, for benefit of the Applicant, that the area is sparsely populated therefore the negative impacts of the proposed HWEF upon local inhabitants will be minimal. The EAP’s version is however best refuted by our client, Kevin McCaughey (email, 24/10/2018) who provides the following comment in response to the above description:

“Looking at the report below, I think the report about ‘stock posts ‘ is false .

I only know of one, Mr Bill Brown , his farm is a so called “stock post “ because he does not live on the property , he has permanent staff on his farm .

Never seen any farmer in our area collecting casual staff from Somerset East on a regular basis . All farms have permanent staff.

Who are the relevant farmers from other areas like Graaff-Reinet , Cookhouse , and Middleton ? Most farmers in our area live on their farms.

PS , Are the rest of us irrelevant farmers .”

The description by the EAP is therefore incorrect on several bases.

27. As can be seen from the above examples and objections the DBAR is fundamentally flawed on account of extensive false opinions of, and misrepresentations by, the EAP, but which are presented by the EAP as being relevant facts, and which she then uses to motivate the Applicant's interests and Preferred Alternative (and which the EAP even goes so far as to prematurely recommend for approval).
28. Added to the false information presented in the DBAR is other critical information which is omitted as well as information which is variously vague, unreferenced and unsubstantiated via evidence (even where such is a requirement of the EIA Regulations, such as pertains to the consultative process required to be engaged in the identification of Alternatives).
29. EIA Regulations 40(2) and 41(6)(a) find particular reference in so far as they require that all pertinent information be made available for review by I&APs. The DBAR and BA process fails to comply in this regard.
30. In summary, the DBAR is factually incorrect on numerous substantive aspects and that information has played a significant role in how the EAP arrived at her recommended approval of the Applicant's Preferred Alternative. Our clients accordingly object in the strongest manner to the poor quality, or total lack, of important and factually correct information, and its sustained use in the motivation of the application(s). The EAP is therefore advised to entirely reproduce the necessary DBARs based upon the true facts of the matter and to adopt an independent approach, as is required in law.

Advanced stage of BA process and DBAR reached in the absence of required and genuine “consultative process” with I&APs.

31. Under EIA Regulations Appendix 1 (2) it is stated that “(t)he objective of the basic assessment process is to, through a consultative process... (a) identify alternatives considered...; (c) describe the need and desirability of the proposed alternatives...” (Underlining supplied), amongst other important tasks in which the input of I&APs, such as our clients, is required to be meaningfully considered by the EAP.
32. However, the DBAR which is presented in the current Review opportunity is so well advanced by the EAP as to have settled already on the Preferred Alternative of the Applicant as the only one which was considered in the associated assessment of environmental impacts and the EAP goes so far as to even recommend the Preferred Alternative for approval at this juncture. The significance of this is weighed against the fact that many potential I&APs have not even been notified at this stage of the BA process, and which includes the occupiers of our clients' various properties. There is no substance in the DBAR to prove that any local community members, who will in all reasonable likelihood be adversely affected by the proposed developments, such as our clients and the staff employed on their respective properties, have been included in any meaningful consultative process towards identification of the alternatives and other required aspects of the proposal. In fact, there is no evidence of any process to arrive at identified Alternatives (worse still, there are no Alternatives at all which have been subjected to the required impact assessment) or the presented need and desirability arguments contained within the DBAR.
33. Consequently, in order to bring the applications into a state of compliance on these grounds, it is advised that the EAP return to the genuine consideration of Alternatives and

engage with I&APs, including our clients and the “occupiers” resident upon their respective properties. Our clients stand ready to present their proposed Alternatives for proper consideration prior to any preferred Alternative of the Applicant being settled upon, and recommended by the EAP.

Occupiers not yet notified despite recommended approval of the Preferred HWEF development by the EAP.

34. Our clients employ a large number of persons in their various operations and who would be termed “occupiers” under the EIA Regulations.
35. Our clients and their employees are involved on a day-to-day basis in their shared work, and their livelihoods and interests are directly linked one to the other. Added to this is the substantial support and socio-economic development directed to the employees of our clients by the clients themselves. The proposed HWEF will therefore have a material and unavoidable negative impact upon both our clients and their employees should it proceed in any form. That said, our clients respect and encourage the independent thought and Constitutional rights of their employees in this and all matters and therefore encourage their employees, as so-called “occupiers”, to insist on their rights to participate in these applications to the full extent of their wishes. Our clients are also respectful of, and indeed wary of infringing on, the rights of their employees to participate in these applications and for this reason (and others) our clients have declined to participate in any tasks which are rightfully and legally allocated to the EAP in regard to the notification and engagement of “occupiers” on their properties. The EAP has been previously advised in this matter and was alerted also to our clients respect for the Protection of Privacy Act in the matter.
36. Having established the above context it is now noted that occupiers of adjacent properties (at least those of our clients) have not yet been notified of the applications and current comment opportunity, as is required under EIA Regulations 41(2)(b)(ii). This is despite the facts that the EAP and Applicant have already settled on the Preferred Alternative as the only considered alternative which has been assessed, and that the EAP has already recommended for approval.
37. Occupiers have thus been excluded from any meaningful participation in the already advanced findings of the DBAR. The EAP would be well advised to return the BA process to the point of proper consideration of *inter alia* other reasonable and feasible alternatives but only once occupiers have been notified formally, as required, of the applications, and their rights to participate fully therein.
38. As matters stand, the findings of the DBAR can be said to very likely exclude the interests occupiers, who will be amongst those most negatively affected should the proposed development proceed.

The terms of reference, and assessments, of the specialist studies devoid of I&AP input.

39. The specialist studies for the applications have already been finalized and their findings used in the preparation and recommendations of the DBAR. Accordingly, the current PPP is an “after the fact” effort of no real meaning and which appears to simply be an attempt create an impression of legitimacy of the DBAR and applications (in terms of local community and public input).
40. It is a recognized fact that local familiarity with the receiving environment is significantly more advanced than that of outsiders, such as specialists. The NEMA takes cognizance of this important fact and requires that any environmental processes thereunder be informed by local knowledge and which is why specific attention is given under EIA

Regulations 40 and 41 for the inclusion of persons (owners and occupiers) associated with affected land.

41. It can therefore safely be said that the suite of specialist studies which have informed the DBAR is lacking in important local input. This is especially concerning as regards, for instance, the social impact assessment, where the specialist is seen to make his own assumptions and associated impact ratings on behalf of the local community who have not even been engaged yet (or even notified of the applications in some instances).
42. The EAP is therefore advised to adjust the specialist terms of reference according to the input obtained from the local community (including our clients) via the legislated PPP and only thereafter the recommencement of proper and locally informed specialist studies should be initiated.

Wholesale failure to provide “a reasonable opportunity to comment”, per EIA Regulation 41(6)(b).

43. EIA Regulation 41(6)(b) states that, “a reasonable opportunity to comment to the comment o the application...”: must be provided by the person conducting the PPP.
44. Regarding the current opportunity to comment the EAP originally provided a 30-day period upon which to comment upon the 6 applications and their associated 9 specialist impact assessments, and 1 “Comments and Responses Report”, and which altogether constitute the literature informing the overall HWEF proposed development. The comment period was initiated so as coincide with a public school holiday period and it was issued without any advanced notice (which would have enabled I&APs to prepare accordingly).
45. The EAP was accordingly advised by AVDS Environmental Consultants that the comment opportunity was exceedingly unreasonable and various legitimate reasons were advanced. Accordingly a request to the EAP was also made for an extension to the comment period by at least 30 additional days.
46. The EAP rejected the request made and instead extended the comment period by a mere 5 working days. The reasons for the EAP’s rejection of the requested extension were refuted by this author and the EAP was advised that she had ignored EIA Regulation 41(6)(b) and to which other regulations pertaining to PPP under a BA process must be subservient. Under the circumstances the EAP was then advised to expect a necessarily and unavoidably limited comment/ objection from AVDS Environmental Consultants on behalf of its clients. This document constitutes the severely limited review and associated comment delivered on behalf of our clients and which is forcibly limited by the management actions of the EAP which are considered unreasonable and non-compliant.
47. Furthermore, it is our considered view that the EAP is limiting and inhibiting the full and proper expression of our clients, and their interests, in these applications in a manner that unfairly promotes the interests of the Applicant (as such is supported by the approach of the EAP in her preparation of the DBAR). The actions of the EAP in this regard are objected to and all rights reserved without limit.
48. The EAP is advised to extend any future comment periods to a minimum length of 60 working days and to also ensure that advanced notice of 3 weeks minimum is provided to all I&APs of any impending comment periods. It is noted that the DBAR fails to advise I&APs of the BA process going forward, or of any details of other scheduled comment periods (opportunity to comment on the Final BAR is noted).

No proper and legally-constituted EAP and Applicant-favoured bias of those involved in the management of the applications.

49. Based on the reviewed evidence there exists no properly and legally defined EAP managing these applications. Furthermore, there are other parties involved in the management of the applications, and associated decisions, who have no legal mandate to do so and who have accordingly contaminated and compromised the applications and BA process.
50. The Applicant should be notified of the situation and the compromised nature of the applications and the DBAR which is currently out for review.
51. Our clients insist on their right to participate in applications which are under the management of a legally constituted EAP who meets with all the necessary requirements and who is uncompromised. As this objection shows elsewhere, the requirements of objectivity and independence of the various parties managing and interfering in these applications is not met and our clients reserve their rights fully in regard to the consequences thereof.
- 52.
53. As evidenced above and elsewhere in this objection, the EAP (or more correctly those parties involved in management of the application) have adopted a sustained and ingrained systematic approach of favouring the Applicant in all its actions, opinions and recommendations. Under the EIA Regulation 13 the EAP is required to be objective and independent and thus the applications are non-complaint and indeed fatally flawed.

Failure properly to assess Alternatives, including the “No go” Option.

54. The DBAR fails substantially and fatally to meet the rigorous criteria set under *inter alia* EIA Regulations, Appendix 1, for the identification and assessment of Alternatives to the proposed development alternative (the “Preferred Alternative”). Instead the DBAR moves directly to the Applicant’s Preferred Alternative, which it, and the associated specialist studies have assessed ALONE. The process taken to arrive at the Preferred Alternative (that is considered alone in the DBAR and recommended for approval by the EAP) is exceptionally vague; unsupported by evidence; and, uninformed by required I&AP “*consultative process*” (EIA Regulations, Appendix 1(2)(b) refers). The vagueness and limited nature of this information is dealt with as identified elsewhere in this objection and examples from the DBAR of the intentional vagueness and limited information are provided.
55. The EAP is advised that the 2014 EIA Regulations define “alternatives” as follows:

“ “alternatives”, in relation to a proposed activity, means different means of meeting the general purpose and requirements of the activity, ... and includes the option of not implementing the activity;”

(Underlining supplied)
56. The HWEF applications fail to assess entirely, or even realistically consider, the “*option of not implementing the activity*” (i.e. the “No go” Alternative) despite such being an explicitly stated requirement in the reading and interpretation of the term “alternatives” under 2014 EIA Regulations. This failure on the part of the applications constitutes a fatal flaw on the part of the applications and DBAR itself.

57. It is noted in fact that the DBAR relegates the function of the “No go” Alternative to being simply a “baseline” scenario against which to measure and assess impacts associated with the Preferred Alternative of the Applicant. Such is a fundamentally flawed interpretation of the EIA Regulations.
58. It is recorded here that our clients favour the “No go” option as it will have the least impact upon themselves as well as the greater local community and the environment in general. It also represents the “best practical environmental option” despite and contrary to the flawed and Applicant-biased nature and motivations of the EAP in the DBAR. Should any other form of so-called renewable energy facility be considered then our clients would consider the development of a solar energy facility subject to strict conditions of theirs which would be designed to protect the environment and all sectors of the local community.
59. The EAP is advised that in order for the applications to be complaint it will be necessary for the Applicant and EAP to abandon the current applications totally and engage properly with I&APs through a legally complaint “consultative process” in which alternatives are identified, and thereafter assessed in a comparative and equal manner (and which must include the “no go” option as a realistic and viable alternative).

Cumulative impacts of the proposed HWEF not properly assessed.

60. The brief review of the DBAR reveals that it bases its cumulative impact assessment upon a substantial misinterpretation of the definition and meaning of “cumulative impact” as such is defined under NEMA (and presumably also the cumulative assessments of the various specialists studies are also similarly at fault). It also severely limits the range (to a radius of 35km from the proposed HWEF) under which cumulative impact factors are considered. Given the AVDS Environmental Consultants familiarity with the general area and specifically the area encompassed by the environmentally sensitive Cookhouse REDZ, combined with the evidenced favouring of the Applicant’s interests by the EAP, it is a very viable proposition to suggest that the limited interpretation and application of the critical aspect of cumulative impact assessment is a calculated one by the EAP and which is designed to avoid the very possible impact findings of High negative potential cumulative environmental impacts which are beyond mitigation (and which would thus constitute fatal flaws under NEMA’s principles for sustainable development).
61. The EAP is advised that our clients will not accept such a flawed cumulative impact assessment as is contained in the DBAR and the EAP will be well advised to conduct a proper cumulative impact assessment which incorporates the Cookhouse REDZ entirely, including those operating wind farms which are known to be destroying Endangered Cape Vulture (such as Cookhouse and Amakhala Wind Farms) and other threatened bird and animal species. It will also need to include all other known wind farm projects (such as the neighbouring Watson/ Siemens wind farm initiative) and any other activities which could contribute to the cumulative impact of the proposed HWEF.

Substantive Issues

Lack of “consultative process” against which to assess proclaimed need and desirability.

62. EIA Regulations, Appendix 1, point 2, states that;

*“The objective of the basic assessment process is to, through a **consultative process**...*

(a) determine the policy and legislative context within which the activity is located and document how the proposed activity complies with and responds to the policy and legislative context;

(b) describe the need and desirability of the proposed activity, including the need and desirability of the activity in the context of the preferred location;”.

(Bold text added)

63. It is therefore a fundamental requirement that aspects of need and desirability regarding the proposed activity and its preferred location be informed by a “*consultative process.*” This objection has however already revealed the substantial failings of the BA process to engage in a credible PPP with local and affected I&APs and it is therefore impossible for the real and complete need and desirability requirements to be properly ascertained by the “EAP”.
64. As a consequence, the DBAR’s approval of the need and desirability of the HWEF are unfounded and lack credibility.
65. Also, given the views of unconditional objection of our clients, the HWEF, and the considerable local community representation encompassed directly and indirectly in their views, it is clear that the proposed HWEF is neither needed nor desirable “*in the context of the preferred location*”.
66. The EAP engages in an extensive approach of motivation of the proposed HWEF based largely and significantly upon factual inaccuracies which are designed to show the proposal in a favourable light. This objection was earlier presented, as examples, of but a very few of the extensive mistruths perpetuated by the EAP in the DBAR, in the interests of the Applicant. The total number of mistruths perpetuated and stated by the EAP in the DBAR are too numerous to record in this very limited record of objection but they are easily detected by a suitably and properly qualified and experienced reader (such as would be expected from within the offices of the Competent Authority who will ultimately administer these applications). Therefore the EAP has acted contrary to the requirements for an appointed EAP as such are set out under EIA Regulation 13, but, more importantly, in so doing, the EAP has also discredited the resultant proclaimed need and desirability of the proposed HWEF.
67. The need and desirability of the proposed HWEF has been used extensively by the EAP to arrive at her prematurely recommended approval of the Applicant’s Preferred Alternative yet the DBAR and BA process are almost entirely uninformed by locals community input (land owners and “occupiers”), including that of our clients.
68. It is recommended that the EAP abandon the current DBAR and BA process and instead revert, from outset, to a legally compliant, factually correct and independent approach in which the real need and desirability of the proposed HWEF can be honestly tested against the facts and the views of the affected local community, through the required “consultative process”.
69. It is observed that the EAP has relied upon the Cookhouse REDZ as a supporting directive for the proposed HWEF but the EAP would instead be well advised to properly consider the now well documented significant negative environmental impacts associated with the wind farms already operating in this Cookhouse REDZ and to which the proposed HWEF will simply add further negative impacts to an already significant negative cumulative impact (such as that upon the Endangered Cape Vulture population).

Social impact assessment inadequate (Economic impacts not properly assessed).

70. The SIA was undertaken by Tony Barbour. AVDS Environmental Consultants is familiar with the work of this consultant on other wind farm environmental applications and the very brief review of his SIA has found the expected approach of this consultant to, on its own, and without regard to I&AP input, identify and select (the same) potential social impacts which are designed to deliver overall impact ratings which are favourable (i.e. positive, or Medium negative to Low negative) to the Applicant.
71. The impact descriptions of Mr. Barbour are also carefully worded to deliver only favourable results to the Applicant. For instance, under SIA Table 2 the "*Creation of employment and business opportunities*" is listed as a potential impact associated with the proposed HWEF. It is therefore almost impossible for any rating other than a positive impact rating to be attributed to the tailored description of the subject impact, irrespective of what development type, is being considered since the description deliberately excludes any option for recording of a negative impact rating around employment dynamics. A proper, unbiased impact description would rather read as follows:
- "Impact on employment and business opportunities."*
- Such proper description would then permit the recording of the very real likelihood of a negative impact finding (i.e. net job losses) associated with the proposed HWEF, on account of its negative impact on potentially affected and already-existing tourism and nature-based operations that are in existence in the area.
72. The EAP is advised that the SIA by Mr. Barbour is biased towards the interests of the Applicant and has also exaggerated the positive potential impacts associated with the proposed HWEF and under-declared the potential negative ones. The findings of the Barbour SIA are significantly uninformed by a large sector of the local community, which includes our clients, and the findings are unrepresentative of the real social impacts that could arise from the proposed HWEF. We, and our clients, do not recognize the SIA nor its author as being credible.
73. The Barbour SIA makes a token effort to assess the potential impacts of the proposed HWEF upon property values and adjacent operations but Mr. Barbour is not sufficiently qualified or experienced to deal with the important matters of an economic (as such are specifically referred to in the EIA Regulations) and property value nature.
74. Accordingly, our clients have commissioned the services of a professional who is well skilled and experienced in the issues which the Barbour SIA has attempted to assess. Our clients' specialist will properly assess the true impacts associated with the proposed HWEF and the results may be delivered to the EAP and Applicant (and/ or Competent Authority) in due course.
75. Since the Barbour SIA has failed to quantify the potential negative impacts of the proposed HWEF upon our clients properties and interests, and associated due mitigation thereof, our clients have appointed another qualified professional whose task it is to ascertain the potential impact of the proposed HWEF upon our clients properties and interests as a basis upon which to proceed with mitigation efforts (such as quantification of damages required to calculate compensation due by the Applicant and those others associated with, and who stand to benefit from, the proposed HWEF).
76. In its motivation of the proposed HWEF the DBAR relies heavily upon a proclaimed creation of employment associated with renewable energy and wind farms generally but it noticeably fails to specify how many permanent jobs would be created by specifically the proposed HWEF and what the associated specific job descriptions would be. The SIA likewise fails to clearly specify this critical information but nonetheless proceeds, on flimsy and unsubstantiated grounds, to make a positive impact assessment of the proposed HWEF in this regard. Should the EAP not totally withdraw such fallacious grounds of

motivation for the proposed HWEF she must then be prepared to specify the following exactly and unambiguously:

- (i) How many jobs, directly and permanently linked to the HWEF, will be created by the proposed HWEF?
- (ii) What is the exact job description of each permanent job?

77. It is pointed out that job creation is a national priority under the National Development Plan yet unbiased evidence shows that wind farms such as the proposed HWEF do not create any meaningful jobs. Instead it is expected that where wind farms are proposed to be established within existing rural areas where ecotourism activities abound, a significant net job loss could be expected due to the wind farm induced failures of ecotourism businesses (the latter being entirely incompatible with wind farms). Impacts on jobs in the coal mining also refer. Thus, the proposed HWEF is fundamentally at odds with the National priorities pertaining to job creation.

Findings of the Visual Impact Assessment are disputed.

78. Our clients strongly dispute the findings of the VIA and which are significantly understated.
79. The VIA is essentially a desktop survey which has not been ground-truthed according to the significant areas and operations (of our clients) which are likely to be the most severely affected by the proposed HWEF. This is viewed as a fundamental flaw in the VIA's credibility yet the EAP has anyway swiftly advanced the DBAR to the point of her recommending that the Preferred Alternative be approved.
80. The EAP is advised that the proposed VIA will have a devastating visual impact (both directly and indirectly) upon all of our clients and their operations, as well as the general area and its "sense of place". A proper verification of the VIA findings would reveal such findings.
81. It is noted that while the VIA (Table 19) has identified a potential Medium-High negative impact (Operational phase; with mitigation) for the "Visual impact significance" of the North HWEF the EAP has allocated instead the lower impact significance of only Medium negative (DBAR, Table in Executive Summary) and which is contrary to the application of the precautionary principle which should have been applied in such instance.
82. The EAP (and/ or Competent Authority) may accordingly be served with the results of a separate visual impact study undertaken by a suitably qualified and independent specialist appointed by our clients. Unlike the VIA for the HWEF, our client's VIA will proceed further so as to significantly verify its results on the ground.

Findings of the Avifaunal Impact Assessment are disputed.

83. Our clients strongly dispute the findings of the avifaunal impact assessment and which appear to be significantly understated in order to favour the Preferred Alternative of the Applicant.
84. The assessment of the cumulative impact of the proposed HWEF is flawed on account of the very limited extent of range considered (35 km although) and the failure to consider the impending Watson/ Siemens wind farm which will be a neighbour to the east of the proposed HWEF.
85. It is of significant concern to note that the possibility of "*unacceptable impacts*" (however such may be defined) is not a discounted scenario by Mr. Pearson in the avifaunal study. Proper sustainable development, as determined in terms of NEMA, would require that

such a situation, even if remotely possible, would render the proposed development as unsustainable and thus fatally flawed (application of the required “*risk averse and cautious approach*” advocated under NEMA finds relevance).

86. The avifaunal study does not pay heed to the precautionary principle. It is non-compliant with NEMA and the EIA regulations on various grounds.
87. Given concerns over the quality and credibility of the findings of the Arcus Avifaunal study our clients have appointed their own specialist to undertake a review of the Arcus (Andrew Pearson) avifaunal study.

Flora and Fauna Impact Assessment inadequate and findings disputed.

88. The author is familiar with the work of Simon Todd who has undertaken the flora and faunal specialist report. Mr. Todd, we have been reliably informed is not a general ecologist but is rather a vegetation specialist.
89. The specialist study was very briefly reviewed and from which it was clearly evident that it fails to meet with the requirements of NEMA and is wholly deficient on various grounds. Furthermore, the impact ratings appear to be manipulated in order to suite the purposes of the Applicant. In some instances proposed mitigation (which has been used to lower particular unmitigated impact findings) is entirely unrelated to the impact in question.
90. The study is little more than a very general desktop survey and it liberally employs grossly unscientific methods and rationale to arrive at its findings (which are essentially the Applicant-favoured opinions of Mr. Todd). An example of this is provided by Figure 10, a photograph, in which 2 springbok are noted to be grazing in the vicinity of a wind turbine and which is then taken by Mr. Todd support his grossly generalised view that “*Most antelope appear to quickly become habituated to turbines...*”. Using then the same rationale as Mr. Todd, a photograph of running springbok in the vicinity of wind turbines would be sufficient evidence to support the alternative view that most antelope do not become habituated to turbines!
91. Mr. Todd is dismissive in his attention to the very important potential impacts of operational phase noise on animals. Turbines are well known to emit infrasound and which can have serious health impacts on particular persons who are prone to such effects. It would therefore be reasonably speculated that particular animal species would likewise be prone to noise and infrasound negative impacts, especially given the naturally very quiet character of the area and in which suitably adapted (noise- and vibration-sensitive) fauna will occur. The impact of sound on fauna and species is rapidly being recognized as a significant and growing threat around the world and it is not acceptable, nor legal under NEMA, to dismiss it in the manner that Mr. Todd has done. The EAP is advised to appoint a suitable noise specialist to undertake a noise and infrasound study specific to the potential impacts of such on fauna.
92. The EAP is furthermore, advised to appoint a qualified and locally knowledgeable expert to undertake a proper and dedicated botanical survey of the site and affected areas.

All potential impacts of the HWEF not assessed, including “off site” impacts.

93. EIA Regulations, Appendix 1, 3(1)(h)(vii), states that:

“A basic assessment report must contain the information that is necessary for the competent authority to consider and come to a decision on the application, and must include...a full description of the process followed to reach the proposed preferred alternative within the site, including,...positive and negative impacts that the proposed activity and alternatives will have on the environment and the community that may be affected...”

Therefore all potential impacts that the proposed HWEF and its alternatives (of which there are none in the case of the proposed HWEF applications) will have on the environment must be assessed and described in the DBAR.

94. The proposed HWEF will definitely have impacts on the environment beyond the preferred site but such environmental impacts have not been fully identified, acknowledged or assessed in the DBAR.
95. Such off-site impacts of the proposed HWEF would include those upon the environment in and around:
 - (i) the borrow-pits that will serve the needs of the HWEF during construction (Under Section 1.6 of the DBAR it is acknowledged that “*This study does not analyse the impact of borrow pits.*”).
 - (ii) the road and traffic changes that will be incurred during the transportation program for the proposed HWEF (as such are briefly alluded to in the DBAR).
96. The EAP is advised to ensure that the off site potential impacts are properly identified and assessed.

Conclusion

97. Our necessarily brief review of the proposed HWEF and DBAR has found them to be fundamentally, and indeed fatally, flawed on several counts. The DBAR has: failed to properly address the critical issue of reasonable and feasible alternatives to the proposed activity; failed to consider the “*no go*” alternative as a legitimate alternative (or anything more than a “baseline” scenario); failed to properly address the cumulative impacts that could result from the proposed activity; failed to properly establish the need and desirability for the proposed activity; failed to assess all of the potential impacts associated with activity proposed; and, it has been prepared and managed in the absence of a single clearly defined and legally-constituted “EAP”.
98. The review also reveals that the DBAR suffers from a critical lack of local community input (landowners and “occupiers”) and it cannot therefore be considered to represent the wishes and desires of the local community who will be the most affected by the proposed activity. It therefore also fails the test of environmental justice. It is known that “occupiers” who are required to be notified of the applications have not yet even been notified.
99. Notwithstanding the above plethora of fundamental flaws the EAP has proceeded to anyway advance the DBAR to a final state in which the EAP prematurely recommends that the Applicant’s Preferred Alternative be approved by the Competent Authority. Under the circumstances the EAP’s recommendation can in no manner be taken to amount to a reasoned and rational one.
100. The review also finds that the significance of the potential impacts presented are understated and suspicious and therefore effectively favour the interests of the Applicant. The overt bias of the EAP is pointed out via various examples where the unsubstantiated opinion of the EAP is presented as being fact in the motivation of the Applicant’s proposed activity.
101. Despite the fundamental failings and omissions of the DBAR there already exists sufficient evidence and reason to establish that the proposed HWEF will amount to harmful and unsustainable development and that it should accordingly be abandoned.

Under the circumstances the “no go” option clearly constitutes the “*best practical environmental option*”.

102. Finally, on the basis of this review the EAP is advised to properly and ethically advise the Applicant of the high risk involved in pursuing these applications any further (given the unsustainable nature of the proposed developments) and to accordingly abandon the current applications. Should a different approach however be held by the Applicant then it will be necessary to redo the associated BA process from the beginning.

This objection and comment is submitted by:

A handwritten signature in black ink, appearing to read 'Andre van der Spuy', written in a cursive style.

Andre van der Spuy
AVDS Environmental Consultants

Date: 25 October 2018

Appendix 1: List of clients

Anja Albertyn

From: Anja Albertyn
Sent: 03 January 2019 09:54
To: Highlands
Subject: FW: Equiry about South Africa's and CO2 emissions

From: Michael Brits
Sent: 05 December 2018 10:11
To: Anja Albertyn <AnjaA@arcusconsulting.co.za>
Subject: Fw: Follow up response about Japanese Satellite from Guy Midgley

From: Midgley, GF, Dr [gfmidgley@sun.ac.za] <gfmidgley@sun.ac.za>
Sent: 05 December 2018 10:05 AM
To: Michael Brits
Subject: RE: Equiry about South Africa's and CO2 emissions

Since this email I have spoken to a few experts in the remote sensing/global change field and they all say the same thing – this is not yet a mature technology, so I think your critic needs to be seriously questioned

From: Michael Brits <MichaelB@arcusconsulting.co.za>
Sent: Wednesday, 05 December 2018 08:21
To: Midgley, GF, Dr [gfmidgley@sun.ac.za] <gfmidgley@sun.ac.za>
Subject: Re: Equiry about South Africa's and CO2 emissions

Thank you for your input, its very much appreciated.

Kind Regards
Michael Brits

From: Midgley, GF, Dr [gfmidgley@sun.ac.za] <gfmidgley@sun.ac.za>
Sent: 01 December 2018 07:28 AM
To: Michael Brits
Subject: Re: Equiry about South Africa's and CO2 emissions

I would use Edgar data or similar that shows we are 19th in the world and a top emerging economy emitter. I cant find Kibuki satellite data after searching around a bit, and would question if this technology is mature enough at this stage to replace national inventories. Does the unfccc accept these data? It seems premature.

From: Midgley, GF, Dr [gfmidgley@sun.ac.za] <gfmidgley@sun.ac.za>
Sent: 01 December 2018 07:10 AM
To: Michael Brits
Subject: Re: Equiry about South Africa's and CO2 emissions

We are the biggest emitter in Africa by far, and definitely in top 20 in the world. Check official UN or global carbon project stats. Also report per capita as eelm ss per country stats. Our emissions are fir example 20x Nigeria. I will check this satellite data but remember satellites may not represent enissions well.. dies it catch the Sasol emissions fron coal to fuel for example?

From: Michael Brits <MichaelB@arcusconsulting.co.za>

Sent: Friday, 30 November 2018 4:21:37 PM

To: Midgley, GF, Dr [gfmidgley@sun.ac.za]

Subject: Equiry about South Africa's and CO2 emissions

Hi Prof,

You were my lecture in climate change at Stellenbosch University back in 2015 and today I'm currently employed as a Junior Ecologist at Arcus Consulting Services in Cape Town, we focus mainly on the renewable energy sector and I would really appreciate your help.

We have made the following statement in an EIA report:

"South Africa is one of the world's largest emitters of CO2 in absolute and per capita term".

During the public participation process a lawyer said that this statement we made is entirely incorrect and contrary to the facts provided to him by Dr. Ledger, an Associate Professor in Management & Energy studies at the University of Johannesburg.

The lawyer basically ended of his response to our statement by saying: "The EAP is clearly not a climate change expert, or even qualified to make any statements on climate change, given the factual inaccuracy of the above statement by the EAP".

He uses data gathered by the Japanese Ibuku Satellite also as one of his argue points for discrediting our statement. According to the Japanese Ibuku data SA's net carbon emissions were 0.051Gt (510 000 Kt) and we ranked 35th in the world.

Data I gathered:

- The World Bank - SA was ranked 12th out of 264 countries in 2014 which places us in the Top 5% emitters. The figure was 489 777 Kt CO2 per year.
- Emissions Database for Glabal Atmospheric Research (EDGE) - SA was ranked as 18th out of 208 countries in 2014 which places us in the Top 10%. The figure provided was 431 469 Kt CO2 per year.

It seems to me the Japanese Ibuku satellite actually shows our emissions are higher but we are just ranked lower.

Would you be willing to assist me in generating a response?

Kind regards

Michael Brits

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Stellenbosch University has launched its Vision 2040 and Strategic Framework 2019-2024. Click here to find out more.

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