

Appendix H5:
Comments Received

DEFF



environment, forestry & fisheries

Department:
Environment, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

Private Bag X 447· PRETORIA · 0001· Environment House ·473 Steve Biko Road, Arcadia, · PRETORIA

DEA Reference: 14/12/16/3/3/1/2019/AM1

Enquiries: Makhosazane Yeni

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Savannah Environmental
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PER MAIL / EMAIL

Dear Ms. Thomas

COMMENTS ON THE DRAFT AMENDMENT REPORT FOR THE APPLICATION FOR AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 25 JULY 2019 FOR THE CONSTRUCTION OF AGGENEYS 1, 100MW PV FACILITY WITHIN KHAI-MA LOCAL MUNICIPALITY IN THE NORTHERN CAPE PROVINCE

The Environmental Authorisation (EA) for the above-mentioned project dated 25 July 2019, the application for amendment of the EA and the draft amendment motivation report received by the Department on 16 October 2020 and the acknowledgement letter dated 22 October 2020, refer.

The Department has the following comments on the abovementioned amendment application:

Amendments applied for

- The EAP must ensure that all the amendments applied for does not trigger any listed or specified activity as outlined in Regulation 31 of the EIA Regulations, 2014 as amended.
- The co-ordinates for the BESS position must be included in the final report.
- The type of technology to be used must be indicated in the final report.

Draft EMPr

- The draft EMPr to be submitted with the final amendment motivation report must be updated to include and incorporate all mitigation measures recommended by the specialists as well as the relevant commenting authorities.

Specialist studies and Impact assessment

- The declarations of independence from all the specialists that have given their expert opinion in this draft amendment motivation report are required to comply with Appendix 6 of EIA Regulations 2014, as amended and this must form part of the final amendment motivation report.
- Ensure that the risks associated with the preferred Battery Energy Storage System technology is assessed and included in the final amendment motivation report.

- On page 22 of the motivation report, it has been indicated that the damaged and used batteries would be removed for recycling or disposal. Please indicate if there is any disposal site identified and attach the agreement for such.
- It has been mentioned that the on-site substation is up to 10m, higher than the proposed battery storage elements which will be 3.5m (same as the PV array). Please make reference or provide such proof from the initial EIA application. Note that if such cannot be submitted, you are advised to undertake visual assessment for the battery storage system.

Public participation

- Please ensure that comments from all relevant stakeholders are submitted to the Department with the final motivation report. This includes but not limited to the Department of Environment, Forestry and Fisheries (DEFF): Biodiversity Planning and Conservation; Northern Cape Department of Environment and Nature Conservation; Department of Water and Sanitation (DWS) Northern Cape; Khai-ma Local Municipality; Eskom Holdings SOC Ltd; Agri Northern Cape; Department of Economic Development and Tourism: Northern Cape; Namakwa District Municipality; South African Heritage Resource Agency (SAHRA); Department of Mineral Resources and Energy: Northern Cape Region.
- Furthermore, ensure that all issues raised and comments received during the circulation of the draft Motivation Report from registered I&APs and organs of state which have jurisdiction in respect of the proposed activity are adequately addressed in the final motivation report.
- Proof of correspondence with the various stakeholders must be included in draft motivation report and must indicate that this draft motivation report has been subjected to 30 days public participation process, stating the start and end date of the PPP.
- Should you be unable to obtain comments, proof should be submitted to the Department of the attempts that were made to obtain comments.
- The Public Participation Process must be conducted in terms of Regulations 39, 40 41, 42, 43 & 44 of the EIA Regulations 2014, as amended.

Layout map

- The map indicating the location of the BESS and the 22kV or 33kV underground cables.
- It has been noted that the on-site substations 1 and 2 are shown on the layout map, please indicate only one substation that has been authorised, linked to the proposed battery storage system.

General

You are further reminded to comply with Regulation 32(1)(a) of the NEMA EIA Regulations, 2014, as amended, which states that: *"The applicant must within 90 days of receipt by the competent authority of the application made in terms of regulation 31, submit to the competent authority -*

- (a) *a report, reflecting—*
- (i) *an assessment of all impacts related to the proposed change;*
 - (ii) *advantages and disadvantages associated with the proposed change; and*
 - (iii) *measures to ensure avoidance, management and mitigation of impacts associated with such proposed change; and*
 - (iv) *any changes to the EMPr;*
- which report-*
- (aa) *had been subjected to a public participation process, which had been agreed to by the competent authority, and which was appropriate to bring the proposed change to the attention of potential and registered interested and affected parties, including organs of state, which have jurisdiction in respect of any aspect of the relevant activity, and the competent authority, and*
 - (bb) *reflects the incorporation of comments received, including any comments of the competent authority."*

Should there be significant changes or new information that has been added to the motivation report or EMPr which changes or information was not contained in the reports or plans consulted on during the initial public

participation process, you are required to comply with Regulation 32(1)(b) of the NEMA EIA Regulations, 2014, as amended, which states: *“the applicant must, within 90 days of receipt of the application by the competent authority, submit to the competent authority – (b) a notification in writing that the report will be submitted within 140 days of receipt of the application by the competent authority, as significant changes have been made or significant new information has been added to the report, which changes or information was not contained in the report consulted on during the initial public participation process contemplated in subregulation (1)(a) and that the revised report will be subjected to another public participation process of at least 30 days”.*

In the event where subregulation (1)(b) applies, the report which reflects the incorporation of comments received, including any comments of the competent authority, must be submitted to the competent authority within 140 days of receipt of the application by the competent authority.

Should you fail to meet any of the timeframes stipulated in Regulation 32 of the NEMA EIA Regulations, 2014, as amended, your application will lapse.

You are hereby reminded of Section 24F of the National Environmental Management Act, Act No 107 of 1998, as amended, that no activity may commence prior to an environmental authorisation being granted by the Department.

Yours faithfully



Mr Sabelo Malaza
Chief Director: Integrated Environmental Authorisations
Department of Environmental Affairs
Signed by: Ms. Millicent Solomons
Designation: Director: Priority Infrastructure Projects
Date: 13/11/2020.

cc:	Robert Wagener	ABO Wind Aggeney's 1 PV (Pty) Ltd	Tel: (021) 276 3620	Email: capetown@abe-wind.com
	Bryan Fischer	NC: Department Agriculture, Environment Affairs, Rural Development and Land Reform	Tel: (053) 807 7431	Email: Bfischer@ncog.gov.za
	Municipal Manager	Khai-Ma Local Municipality	Tel: (054) 933 1000/1021	Email: mmsecretary@khaima.gov.za

SAHRA

Our Ref:



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CaseID: 15639

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Final Comment

In terms of Section 38(4), 38(8) of the National Heritage Resources Act (Act 25 of 1999)

Attention: ABO Wind Aggeneys 1 PV (Pty) Ltd

ABO Wind Aggeneys 1 PV (Pty) Ltd is proposing amendment to the environmental authorisation for the inclusion of the construction and operation of a Battery Energy Storage (BESS) for the authorised Aggeneys 1 PV facility, with a capacity of up to 500MW/500MWh into the project description of the Environmental Authorisation (EA). Each BESS will be developed within the authorised development footprint of Aggeneys 1 PV facility, within the authorised laydown area for Aggeneys 1 and within one of the two authorised laydown areas for Aggeneys 2. Each BESS will have an extent of no more than 5ha. Each BESS will connect to the authorised on-site facility substations of the Aggeneys 1 and 2 PV facilities via underground cables.

Savannah Environmental (Pty) Ltd has been appointed by ABO Wind Aggeneys 1 PV (Pty) Ltd to conduct an Environmental Authorisation (EA) Amendment Application process for the authorised Aggeneys 1 PV Facility, near Aggeneys, Northern Cape Province (DEA Ref.: 14/12/16/3/3/1/2019).

A draft Motivation Report has been submitted in terms of the National Environmental Management Act, no 107 of 1998 (NEMA) and the NEMA Environmental Impact Assessment (EIA) Regulations. The proposed amendment will include the installation of a battery energy storage system (BESS) within the authorised laydown footprint covering less than 5 ha.

A previous SAHRIS Case ID 13728 has reference (<https://sahris.sahra.org.za/cases/aggeneys-pv-1-solar>). In the Final Comment issued on 24/05/2019, SAHRA noted no objections to the original EA application and provided conditions for the development.

ASHA Consulting (Pty) Ltd has been appointed to provide heritage specialist input as part of the EA Amendment application report as required by section 24(4)b(iii) of NEMA and section 38(3) and 38(8) of the National Heritage Resources Act, Act 25 of 1999 (NHRA).

Orton, J. 2020. Aggeneys 1 Part 2 Amendment: Heritage Comments

No heritage resources were previously identified within the development footprint where the BESS is proposed

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to be situated. The existing requirements of the HIA must still be implemented.

Final Comment

The following comments are made as a requirement in terms of section 3(4) of the NEMA Regulations and section 38(8) of the NHRA in the format provided in section 38(4) of the NHRA and must be included in the Final Motivation Report and EMPr:

- 38(4)a – The SAHRA Archaeology, Palaeontology and Meteorites (APM) Unit has no objections to the proposed amendment to the authorised development;
- 38(4)b – The recommendations of the specialists are supported and must be adhered to. The specific conditions provided in the Final Comment (<https://sahris.sahra.org.za/node/523431>) issued on SAHRIS Case ID 13728 are still valid and must be adhered to;
- 38(4)c(i) – If any evidence of archaeological sites or remains (e.g. remnants of stone-made structures, indigenous ceramics, bones, stone artefacts, ostrich eggshell fragments, charcoal and ash concentrations), fossils or other categories of heritage resources are found during the proposed development, SAHRA APM Unit (Natasha Higgitt/Phillip Hine 021 462 5402) must be alerted as per section 35(3) of the NHRA. Non-compliance with section of the NHRA is an offense in terms of section 51(1)e of the NHRA and item 5 of the Schedule;
- 38(4)c(ii) – If unmarked human burials are uncovered, the SAHRA Burial Grounds and Graves (BGG) Unit (Thingahangwi Tshivhase/Mimi Seetelo 012 320 8490), must be alerted immediately as per section 36(6) of the NHRA. Non-compliance with section of the NHRA is an offense in terms of section 51(1)e of the NHRA and item 5 of the Schedule;
- 38(4)d – See section 51(1) of the NHRA;
- 38(4)e – The following conditions apply with regards to the appointment of specialists:
 - i) If heritage resources are uncovered during the course of the development, a professional archaeologist or palaeontologist, depending on the nature of the finds, must be contracted as soon as possible to inspect the heritage resource. If the newly discovered heritage resources prove to be of archaeological or palaeontological significance, a Phase 2 rescue operation may be required subject to permits issued by SAHRA;
 - The Final Motivation Report and EMPr must be submitted to SAHRA for record purposes;
 - The decision regarding the EA Amendment Application must be communicated to SAHRA and uploaded to the SAHRIS Case application.

Should you have any further queries, please contact the designated official using the case number quoted above in the case header.

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Yours faithfully

Natasha Higgitt
Heritage Officer
South African Heritage Resources Agency

Phillip Hine
Manager: Archaeology, Palaeontology and Meteorites Unit
South African Heritage Resources Agency

ADMIN:

Direct URL to case: <http://www.sahra.org.za/node/542124>
(DEA, Ref:)

Terms & Conditions:

1. This approval does not exonerate the applicant from obtaining local authority approval or any other necessary approval for proposed work.
2. If any heritage resources, including graves or human remains, are encountered they must be reported to SAHRA immediately.
3. SAHRA reserves the right to request additional information as required.