



environmental affairs

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Environmental Affairs
REPUBLIC OF SOUTH AFRICA

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APPEAL RESPONSE REPORT

PROJECT NAME/TITLE: The Proposed 140 MW Boulders Wind Energy Facility in Saldanha Bay Municipality in the Western Cape Province

PROJECT LOCATION: West Coast District Municipality

PROJECT REFERENCE NUMBER: 14/12/16/3/3/2/1057

DATE PROJECT/ACTIVITY AUTHORISED: 14/01/2020

DATE NOTIFIED OF DECISION: 20/01/2020

| DETAILS OF THE 1ST APPELLANT | DETAILS OF THE 2ND APPELLANT | DETAILS OF THE 3RD APPELLANT | DETAILS OF THE 4TH APPELLANT | DETAILS OF THE 5TH APPELLANT | DETAILS OF THE 6TH APPELLANT |
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| Name of appellant: AKSIE PATERNOSTER ACTION | Name of appellant: ANDRE KLEYNHANS | Name of appellant: Beverly Pickford | Name of appellant: Cape West Coast Biosphere Reserve | Name of appellant: Christina H Coetzee | Name of appellant: Mr Daniel G. Kotze (Rooiheuvel Trust) (Neighbouring Farmer) |
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| DETAILS OF THE 7TH APPELLANT | DETAILS OF THE 8TH APPELLANT | DETAILS OF THE 9TH APPELLANT | DETAILS OF THE 10TH APPELLANT | DETAILS OF THE 11TH APPELLANT | DETAILS OF THE 12TH APPELLANT |
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| Name of appellant: David J S Westbrook | Name of appellant: Erf 1050 Paternoster (Pty) Ltd | Name of appellant: Deon Van Schalkwyk | Name of appellant: Anne & John Todd | Name of appellant: Louis Engels | Name of appellant: Marion Lubitz |
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| DETAILS OF THE 13TH APPELLANT | DETAILS OF THE 14TH APPELLANT | DETAILS OF THE 15TH APPELLANT | DETAILS OF THE 16TH APPELLANT | DETAILS OF THE APPLICANT |
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| Name of appellant: Aurora Wind Power (RF) (Pty) Ltd | Name of appellants: Matthew Marx and Mary Ralphs | Name of appellant: Michael Anderson | Name of appellant: Cape Columbine Conservancy Groot Paternoster Nature Reserve Shelley Point Home Owners Association | Name of applicant: Vredenburg Wind Farm (Pty)Ltd |
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| GROUNDS OF 1ST APPEAL - AKSIE PATERNOSTER ACTION | RESPONDING STATEMENT BY THE APPLICANT | COMMENTS BY THE DEPARTMENT |
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| Misguided economic comparisons with wind farms WF1 (close to Vredenburg) and WEF (close to St Francis Bay). | It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA. However, these two sites were selected since they would provide meaningful comparisons as West Coast One is immediately adjacent to the proposed Boulders WEF and Cape St Francis is also a coastal community reliant on tourism where 4-5 WEFs have been constructed. | |
| Disregarding heritage values of Kasteelberg due to the size and close vicinity as we illustrated with a photograph. | It is denied that heritage values were disregarded. Heritage Western Cape Heritage Resource Agency (WC HRA) has accepted the proposed (but less preferable) alternative where 7 turbines were relocated in order to mitigate visual impacts, 5 to the east and two to the south of the Vredenburg to Paternoster road. | |
| Ignoring our support for the applicant's own expert opinion about the loss of sense of place. | Registered I&APs comments made during the PPP were not ignored or disregarded by the EAP. These comments were placed before the Department and would have been taken into account when the decision to authorise the project was made. | |

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| The cumulative visual impact of the power lines together with the 2 wind farms has not been illustrated. | This will be dealt with in the powerline EIA process. | |
| Misleading comparisons of impact on property values of wind farms WF1 (Vredenburg) and WEF (St Francis Bay). | <p>It is submitted that this is an unsubstantiated opinion. Property related issues were dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment as summarised in Section 95 page 142 in the EIAR.</p> <p>However, these two sites were selected since they would provide meaningful comparisons as West Coast One is immediately adjacent to the proposed Boulders WEF and Cape St Francis is also a coastal community reliant on tourism where 4-5 WEFs have been constructed.</p> | |
| Misleading job opportunity figures. | <p>As above. The appellant fails to indicate how the figures are misleading, and does not substantiate this bold statement in any way.</p> <p>To benchmark the figures presented in the FEIR of the Boulders Wind Farm with the industry, the South African Wind Energy Association has presented a letter which has been attached to this Appeal response. The letter states that "<i>The additional 1 049 full-time equivalent indirect jobs estimated for Boulders Wind Farm is actually quite conservative</i></p> | |

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| | <p><i>considering that it also includes local jobs supported in the travel, accommodation and retails sectors."</i></p> <p>Furthermore, it states that <i>"The 140MW Boulder Wind Farm plans to create 17 new direct jobs during operation and maintenance, which is quite consistent with the number reported by the IPP Office of 2166 actual O&M jobs created thus far for the 2 GW already operational. "</i></p> <p>In conclusion, the association states that <i>"SAWEA can confirm that the number of jobs estimated to be created during the construction of the proposed Boulder Wind Farm are quite consistent with employment numbers achieved in wind farm developments of similar size and nature "</i></p> | |
| <p>Concealment of an overseas court case ruling with an opposing Enercon statement, relating to health aspects.</p> | <p>The appellant fails to indicate which "overseas court case" it is referring to, rendering this ground of appeal both vague and unsubstantiated. Furthermore, the appellant does not indicate by whom this "overseas court case" was allegedly concealed by, how such a concealment occurred, and the effects thereof.</p> <p>It is therefore submitted that this is an unsubstantiated and/or subjective statement or</p> | |

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| | opinion that does not invalidate DEFFs reasons for issuing the EA. | |
| Whitewashing the impact on recreational flying by stating that the applicant is in consultation with authorities. | <p>It is denied that any “whitewashing” has occurred and the appellant has failed to tender any evidence of such behaviour. Rather, <i>bona fide</i> and constructive consultation with the applicable authorities regarding this issue has been conducted, and will continue in the future.</p> <p>An assessment was conducted by the relevant authority in relation to the terms and provisions as contained in the Civil Aviation Act (Act 13 of 2009) for the controlling and/or restricting of structures which will constitute an obstruction or potential hazard to aircraft moving in the navigable air space. A Civil Aviation Approval was received back in August 2014, which was provided in Appendix O – Additional Information during the Scoping Assessment.</p> | |
| Ignoring the Saldanha/Vredenburg aerodrome while being much closer than the Langebaan aerodrome. | As stated above, an assessment was completed in terms of the Civil Aviation Act (Act 13 of 2009) which resulted in an authorisation being approved by the Civil Aviation Authority in August 2014, which was provided in Appendix O – Additional Information | |

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| | during the Scoping Assessment. In this authorisation, it notes that the South African Air Force requests an 18.5km prohibited zone around Langebaanweg, which the wind farm conforms to. | |
| Not disclosing who would be financially responsible for investigating possible internet interference | <p>There is no evidence that internet connectivity will be affected in any way and no evidence is provided by the appellant that there would be such an impact.</p> <p>The following response was provided in the CRR Section 17 (Other issues) Issue 24 page 135:</p> <p><i>"If there are any complaints received from I&APs regarding internet interference, then an investigation of the interference will be made, and if found that the Wind Farm reduces the internet connectivity of these I&APs, new receivers would be installed to restore the signal back to the original value."</i></p> | |
| GROUNDS OF 2ND APPEAL - ANDRE KLEYNHANS | RESPONDING STATEMENT BY THE APPLICANT | COMMENTS BY THE DEPARTMENT |
| <p>I want to appeal in the strongest terms possible against this unthinkable atrocity, that you want to erect to totally take the last fishing village in South Africa, of the Map.</p> <p>As we go along, I also want you to explain to me why, whilst this was approved further back and Mr Heidenreich would not allow a small</p> | <p>This is clearly advocating the 'Not in my backyard' (NIMBY) approach. In practice the NIMBY approach means that the proposed project per se is not opposed, only the location of the project in close proximity to the objecting party. This however usually leads to competing interests of Interested</p> | |

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| <p>piece off the cable to cross his land, all of a sudden he gets everything! Be very certain that this are being seen as a gross miscarriage of justness.</p> <p>I can with pride say, that most of the previously disadvantaged people of Paternoster, stand behind me and I would want to be with, when you explain all this to them, so the real facts gets explained to them. They have been used and abused for ages, by people just like you.</p> <p>Public participation includes EVERYBODY.</p> <p>Tourism is our Village's only future. With a windfarm on its doorstep, we can forget about the future existence of Paternoster. The argument that it will not effect tourism must surely come from a total....or desperate....Fool.</p> <p>We will not suffer Fools and Liars.</p> | <p>and Affected Parties where the NIMBY approach could result in new or other I&APs being affected if the project location were to be moved.</p> <p>In the <i>Muckleneuk/Lukasrand Property Owners and Residents Association v The MEC: Department of Agriculture, Conservation and Environment, Gauteng Provincial Government and others</i> (28192/04; 12137/06 TPD) [2006] ZAGPHC 86 (30 August 2006) ("MLPORA") case, the court referred to the fact that many affected parties may be aggrieved by a project's location however that is not necessarily a sufficient ground for the successful opposition to the project, or the setting aside of a decision to authorise the project. The public participation process will not always resolve the concerns of affected parties and this is to be anticipated.</p> <p>The PPP is documented in Section 8 page 115 of thr EIAR. This was a very thorough process and has met the Regulatory requirements.</p> <p>The responses to I&AP concerns are documented in the Comments and Response Report (CRR) provided as Volume 5 of the EIAR and Volume 4 of the EIAR provided all the supporting documentation with respect to the PPP.</p> | |
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| | <p>Furthermore, this appellant raises no valid grounds of appeal, and merely ventilates his personal qualms and views.</p> <p>Issues relating to tourism have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment as summarised in Section 9.5 page 142 of the EIAr.</p> <p>Concerning the participation of previously disadvantaged communities, Table 8-15 in the EIAr summarises the various focus group meetings that were held. They included four meetings with local fishing village communities. Meetings were held at St Helena Library, Paternoster Library, Paternoster Hotel and Steenburg Cove community hall. The comments submitted by the communities are reflected in the minutes of the relevant meetings in Volume 4 of the EIA PPP Supporting Documents.</p> <p>The following excerpt from the Chapter 8 page 136 of the EIAr, is relevant:</p> <p><i>"It is also important to recognise that there is also local and regional support for the proposed development. While there were only nine supporters who submitted emails confirming their</i></p> | |
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| | <p><i>support, there were 77 local residents from the fishing villages of Paternoster and St Helena Bay who attended Focus group meetings on the Draft EIR on the 26th June, who were largely supportive of the proposed development. Many of these residents do not speak English well and have limited access to emails and cell phones and did not make written submissions. In these cases, the minutes of these focus group meetings serve as the main vehicle for the recording of their comments, concerns and questions. These have also been included in the CRR."</i></p> | |
| <p> GROUNDS OF 3RD APPEAL - BEVERLY PICKFORD</p> | <p> RESPONDING STATEMENT BY THE APPLICANT</p> | <p> COMMENTS BY THE DEPARTMENT</p> |
| <p>Fatal Flaws are present in the Avifauna, VIA and the Heritage Reports. The mitigation proposed by the EAP does not satisfy the mitigation requirements of the Heritage Report. The VIA offers no mitigation measures and requires public participation towards a Fatal Flaw decision which has not been undertaken. The second VIA <u>produced in-house by the EAP</u> is an unprecedented departure from procedure, is compiled by unqualified non VIA specialists, is not peer reviewed and is an exercise of bias.</p> | <p>It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the EAP. Furthermore, as is set out below, the issue was comprehensively dealt with in the EIAR and therefore this issue and these comments have already been considered by the decision maker when the EA was issued. In addition, certain statements are factually incorrect.</p> <p>Neither the avifaunal, visual nor heritage specialist studies have identified potential fatal flaws. All three specialist studies have identified appropriate mitigation measures (although there are limited</p> | |

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| | <p>options for the visual impacts). The various mitigation measures are included in the EIAr as reflected in Table 10.2 Key Mitigation Measures: Specialist Impacts:</p> <p>All mitigation measures provided in the HIA:</p> <ul style="list-style-type: none"> - Planning and Design – Pg 159 - Construction – Page 173 - Operation – Page 193 <p>All mitigation measures provided in the Visual Impact Assessment:</p> <ul style="list-style-type: none"> - Planning and Design – Pg 160 - Construction – Page 186 - Operation – Page 196 <p>All mitigation measures provided in the Avifaunal Impact Assessment:</p> <ul style="list-style-type: none"> - Planning and Design – None - Construction – Page 163 - Operation – Page 187 <p>Condition 14 of the EA specifically states that the EMPr is not approved and condition 15 requires that the EMPr must be amended to include all recommendations and mitigation measures recorded in the EIAr as well as those listed in the specialist reports. Thus such mitigation measures shall be implemented as required by the EA.</p> | |
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| | <p>Moreover, all I&APS will be provided with a further 30 day opportunity to review and comment on the revised EMPr and which comments will be submitted to the Department for its consideration and its determination of whether to approve the revised EMPr or not.</p> <p>Statements that the EAP favours the developer are denied and are unsubstantiated. Furthermore, this comment is vague and defamatory and therefore it is submitted that this should be disregarded by the Minister.</p> <p>Furthermore, these allegations of bias, both against this EAP and the previous EAP, have been consistently raised and responded to during the EIA process. If the Minister was concerned that the EAPs were biased, she would not have decided the EA in the positive.</p> <p>Concerning the VIA done by CES, we do not know of any regulation that precludes the EAP from providing additional information to support the assessment of a potentially significant issue. It should be further noted that the VIA conducted by CES agreed with the findings of the LoGIS VIA. This has certainly enhanced the EAPs confidence with respect to the impacts associated with particularly important issue.</p> | |
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| | <p>CES did not submit a specialist declaration of independence for the VIA since we relied on the LoGIS VIA for the impact assessment. CES did submit a declaration of independence as the EAP.</p> | |
| <p>Alternative sites has not been addressed by the “all possible means” prerogative.</p> <p>The Alternative sites discussion was purposefully withheld from I&AP comment.</p> <p>A bona fide exploration of Alternative Sites has not been investigated.</p> | <p>Alternatives have been comprehensively addressed in the Alternatives Section 5 of the EIAR (5.3 and 5.4). Details concerning a pre-EIA feasibility study and site selection process, are also provided at section 3.6 of the EIAR.</p> <p>The following excerpt from Section 12.4 in the Conclusions section on page 213 of the EIAR is relevant:</p> <p><i>“In reaching the current proposed layout, the placement of turbines was refined on two occasions to further reduce the visual impact of the wind farm.</i></p> <p>✦ <i>To minimise these visual impacts on some Britannica Heights residents along the top of the ridge, the Paternoster residents and the Kasteelberg Heritage resource, the footprint of the proposed development was reduced in the EIA phase from the original 10 farms, to the five farms closest to the existing WC1 energy facility. A sensitivity analysis was used by the developers to design an initial proposed layout on the remaining 5 farms.</i></p> | |

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| | <p>✦ <i>The layout was further refined to adhere to the recommendations of the Heritage Impact Assessment, where seven turbines were relocated, to produce a final mitigated layout. The EIA specialist studies, therefore, assessed the relative impacts of both these proposed layouts (i.e. pre-relocation of 7 turbines and post-relocation of 7 turbines)."</i></p> <p>Furthermore, it is necessary to understand how the assessment of alternative sites occurs practically for wind energy facilities. The location selection process usually occurs prior to the appointment of an EAP and the commencement of the EIA process based on wind potential. Thereafter, the EAP is mandated to undertake an EIA process, which includes a detailed environmental and social assessment of a preferred site. It follows that, in accordance with the 2014 EIA Regulations, the EAP is merely required to provide such information pertaining to the prior identification and consideration of potential location alternatives, which is usually undertaken by the applicant. Therefore, the EAP is not required to investigate and assess potential location alternatives.</p> | |
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| | <p>In addition, as per condition 12 of the EA, the actual layout of the wind farm has not yet been approved as it is still subject to preconstruction micro siting.</p> | |
| <p>The Avifauna Report is chronically deficient and cannot be used as a reference on which to base “informed decision”.</p> <p>The Avifauna Report was compiled by a discredited specialist know to favour developers.</p> <p>The peer review of the Avifauna Report by Dr Andrew Jenkins, the country’s foremost authority on Avifauna and wind farms was dismissed as “not relevant” by the EAP.</p> <p>The EAP upheld the findings of a discredited specialist, overruling those of the peer review by the leading avifauna authority and multi published ornithologist, Dr Jenkins.</p> <p>A second avifauna specilist, Dr Rob Simmons, has upheld the review of Dr Jenkins and dismissed the validity of the Avifauna Report. Dr Simmons report states that the Boulders Wind Farm report threatens endangered species and must be re-done.</p> <p>The avifauna report needs to be entirely re-done.</p> | <p>It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the EAP. Furthermore, as is set out below, the issue was comprehensively dealt with in the EIAR and therefore this issue and these comments have already been considered by the decision maker when the EA was issued..</p> <p>We deny the allegation that we have dismissed Dr Jenkins avifaunal report. The avifaunal specialists have provided comprehensive reponses to queries relating to avifaunal impacts as reflected in Section 7 Issues numbers 32 – 63 of the Comments and Response Report (CRR) included as Volume 5 of the EIAR.</p> <p>It is factually incorrect that Dr Jenkins’ report was dismissed as not relevant. A comprehensive response to Dr Jeknins’ submissions on Behalf of Peter Pickford, is provided at Section 7 of the CRR</p> <p>A response to Dr. Simmons report has been provided by the Avifaunal Specialist Bio-Insight in response to this Appeal and it states that:</p> | |

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| | <p><i>"Regarding the new contents presented by the author regarding Black Harriers, several assumptions on the negative impacts due to the presence of the species and the existence of suitable breeding habitat near the wind farm can be highlighted as the focal points in Dr. Simmons' report.</i></p> <p><i>The population viability modelling (for the Black Harrier) conducted by Dr. Simmons is relevant in showing the decline of the species' population. This result is in accordance with bibliographic data that specifies that the species has a decreasing population trend (Taylor, 2015). Also relevant to note is that the Black Harrier population currently has a declining trend independent of wind farm impacts, i.e., regardless of whether or not the presence of a wind energy development exists. Nonetheless, as specialists, Bioinsight concurs that wind farms may be an aggravating factor if significant fatalities occur and if significant negative impacts are proven to compromise the viability of the Black Harrier population during the lifetime of a wind farm.</i></p> <p><i>Dr. Simmons is implying that the facility will likely cause Black Harrier fatalities. This assumption is based, among other factors, on the relation of</i></p> | |
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results between the proposed Boulders wind farm and that of its neighbouring West Coast One wind farm (currently in operation). Bioinsight reaffirms that the potential occurrence of mortality of Black Harriers due to the Boulders WEF operation is a potential negative effect that was duly assessed in the final IA report. We also reiterate information considered in the assessment of this species:

- The presence of the species was also confirmed by Bioinsight. The evidence that we possess tells us that it is true that the Black Harrier uses the area. However, in accordance with the results of field data, the species wasn't registered in high abundances and the majority of Black Harrier flights were observed below the rotor swept zone.*

- Although there is always uncertainty surrounding potential fatalities on proposed wind farms, the comparison with nearby wind farms located in similar habitats may serve as reference, as in the example of the West Coast One wind farm. Bioinsight notes that, from the information made available to us, the results from the neighbouring West Coast One wind farm have not yet yielded any indication that the species is being negatively affected in terms of mortality in the area, since no fatality occurrences of Black Harriers have yet been*

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| | <p><i>identified (Jenkins et al., 2017) (Arcus Consulting, 2019).</i></p> <p><i>Regarding the indication in Dr. Simmons report that the area forms suitable breeding habitat for Black Harrier, Bioisight also confirms that this has already been noted in the final specialist IA report. In fact, it is stated that the broader area is known for the breeding of certain species such as Black Harriers. It was also mentioned that natural vegetation was relevant for some endemic bird species, such as the Black Harrier. As such, based on the data gathered, this type of vegetation, together with drainage lines, has already been classified as sensitive areas and subsequently buffered by 200m. These areas have been defined as "No-Go" areas for the placement of wind turbines.</i></p> <p><i>In his report, Dr. Simmons also suggests that the matter of varying turbine heights were also somewhat overlooked. He makes mention to the fact that taller turbines kill disproportionately more birds than shorter ones (Loss et al., 2013), and that as a result – Boulders WEF will be worse than the neighbouring West Coast One project, in terms of the fatalities that it causes. While Bioisight is aware</i></p> | |
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| | <p><i>of this article/research, we also make reference to other studies, whereby they found that no relation exists between bird fatalities and turbine heights. More specifically:</i></p> <ol style="list-style-type: none"><i>1. Everaert (2014) found that the mortality rate and collision risk were not significantly related to turbine size;</i><i>2. Barclay et al. (2007) found that the diameter of rotor blades did not influence bird or bat fatality rates, and that the height of the tower had no effect on bird fatalities per turbine;</i><i>3. Krijgsveld et al. (2009) found that the collision risks for birds, for larger multi-MW turbines, appears to be similar to that being observed for smaller earlier-generation wind turbines;</i><i>4. Smallwood (2013) states that adjusted fatality rates were inversely correlated with wind turbine size for all raptors (as a group) across the United States;</i><i>5. Thaxter CB et al. (2017) found that in order to minimise bird collisions, wind farm electricity generation capacity should be met through</i> | |
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| | <p><i>developing fewer, larger turbines, rather than many smaller ones.</i></p> <p><i>In summary, given all the above, although we acknowledge the relevance of the information provided by Dr. Simmons regarding the Black Harrier, we found no evidence that could justify changes to the conclusions in the final IA report, at this stage."</i></p> | |
| <p>The DEFF fails to adhere to its own conditions.</p> <p>Paragraph 10.7.4 of the DEA conditions of approval for the West Coast 1 wind farm have been ignored in the Boulders Wind Farm application.</p> <p>The DEFF must ascertain if the EAP is guilty of a criminal act in withholding this information.</p> | <p>The appellant has misconstrued upon whom conditions in the EA are imposed. It is nonsensical to state that DEFF, as the decision-maker, has to comply with any conditions that it has imposed upon another entity when granting an EA.</p> <p>Furthermore, the appellant conflates the West Coast 1 development with the project that this appeal is concerned with. They are both separate and distinct, differing in a number of ways. Thus, DEFF is under no obligation whatsoever to impose the same conditions upon the Boulders Wind Farm as those found in West Coast 1's EA. Also, the respondent has no influence over the conditions applicable to West Coast 1.</p> | |

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| | <p>It is vehemently denied that any criminal act has been committed by the EAP. The appellant fails to specify what form of "criminal act" has been allegedly committed, when it was committed and what evidence he has to prove such. In the absence of any substantiation, this statement constitutes both intimidation and defamation. A direction that DEFF must conduct an investigation into an alleged crime is not a ground of appeal, and therefore it is submitted that this should be disregarded by the Minister.</p> | |
| <p>The final EIR is flawed with multiple instances of bias.</p> <p>The instances are too numerous to list here but are broadly defined by 3 categories:</p> <ol style="list-style-type: none"> 1) The EAP, CES, favours the developer in all aspects of the application and understates, dismisses and withholds the scope and voice of any opposition thereto. 2) The EAP, CES, repeatedly makes assumptions in favour of the developer but never to endorse any negative impact. 3) The EAP, CES, makes statements of questionable integrity under oath. <p>Examination of the above is provided in the appeal letter attached herewith.</p> | <p>It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the EAP. Furthermore, as is set out below, the issue was comprehensively dealt with in the EIAR and therefore this issue and these comments have already been considered by the decision maker when the EA was issued. Statements that the EAP favours the developer are denied and are unsubstantiated. Furthermore, this comment is vague and defamatory and therefore it is submitted that this should be disregarded by the Minister.</p> <p>The statement that negative impacts are not endorsed is factually incorrect as many relevant negative impacts have been identified as reflected in the cost benefit analysis in Section 12.6, where</p> | |

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| <p>The public undertook a Motion of <u>No Confidence</u> in the EAP as representative of their concerns and with regard to the EAP's record of impartiality. The motion was upheld by 1361 votes in favour to 10 opposed.</p> | <p>on pg 217, it shows that a total of 146 negative impacts were identified.</p> <p>Furthermore, these allegations of bias, both against this EAP and the previous EAP, have been consistently raised and responded to during the EIA process. If the Minister was concerned that the EAPs were biased, she would not have issued a positive EA.</p> <p>In addition, the allegations relating to the so-called "motion of no confidence" have been raised and responded to during the EIA process. If the Minister was of the view that the "motion of no confidence" had any merit or was indicative of the EAP's ineptitude, she would not have issued a positive EA.</p> | |
| <p> GROUNDS OF 4TH APPEAL - CAPE WEST COAST BIOSPHERE RESERVE</p> | <p> RESPONDING STATEMENT BY THE APPLICANT</p> | <p> COMMENTS BY THE DEPARTMENT</p> |
| <p>We are concerned about the impact on birds and bats, as the windfarm is in the flightpath of birds between the Bergriver Estuary, the coastal areas of the Saldanha Peninsula and the RAMSAR site in the West Coast National Park to the south. Turbines should be visible to avi-fauna when they in flight.? The bats are natural insect and bug controllers and do not need more threat to their habitat. The birds are</p> | <p>The statement by the appellant is not a ground of appeal, but rather a request for information that, as dealt with below, has been addressed in the EIAr and specialist reports. Thus, this statement should</p> | |

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| <p>a tourist drawcard as they come to the special habitat of the bigger West Coast. How will impact on avi-fauna and flying mammals be mitigated?</p> | <p>be rejected as a ground of appeal, as it contains no averments whatsoever.</p> <p>Avifaunal issues are dealt with comprehensively in the specialist avifaunal study and impacts deemed to be within acceptable limits. In this regard, the following mitigation measure were provided:</p> <p>Table 10.2 Page 158 where mitigation measures include:</p> <p>Planning and Design</p> <ul style="list-style-type: none"> - Page 158 – Bats = Roost avoidance <p>Construction</p> <ul style="list-style-type: none"> - Page 163 – Birds = Habitat protection - Page 164 – Bats = Roost avoidance <p>Operation</p> <ul style="list-style-type: none"> - Page 187 – Birds = Collision minimization - Page 189 – Bats = Collision minimization <p>Furthermore, the appellants have failed to acknowledge the safeguards imposed on the applicant by the Department by means of conditions attached to the Environmental Authorisation. Condition 14 of the EA specifically states that the EMPr is not approved and condition 15 requires that the EMPr must be amended to include all recommendations and mitigation measures recorded in the EIAr as well as those listed in the</p> | |
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| | <p>specialist reports. Thus the mitigation measures suggested by the avi-fauna report shall be included in the EMPr and consequently implemented. Moreover, all I&APS will be provided with a further 30 day opportunity to review and comment on the revised EMPr and which comments will be submitted to the Department for its consideration and its determination of whether to approve the revised EMPr or not.</p> | |
| <p>Potential negative effect on the local tourism industry, especially as tourism is a major employer in the West Coast area. Loss of work is a major concern. How will this be mitigated.</p> | <p>Issues relating to tourism have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment as summarised in Section 9.5 page 142 of the EIAr.</p> <p>Furthermore, no evidence is provided to substantiate the allegation that the proliferation of wind farm operations will have a significant negative impact on the local tourism industry. The following statement is quoted from the specialist study as provided in summary specialist section 9.5 on page 142 of the EIAr:</p> <p><i>"While the possibility of negative impacts on property prices and tourism cannot be ruled out completely, research shows that that if any, the impacts on tourism will be marginal while the effect</i></p> | |

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| | <i>on property prices will dissolve once the wind farm is developed".</i> | |
| GROUND OF 5TH APPEAL - CHRISTINA H COETZEE | RESPONDING STATEMENT BY THE APPLICANT | COMMENTS BY THE DEPARTMENT |
| <p>EIA Process</p> <p>CES set up the Coastal Management Plan, where-in the negative influences of Wind Farms on Coastal Areas was not acknowledged adequately. The fact that they then was appointed to do the actual Assessment – in my opinion, could be a serious Conflict of Interest. This fact and their conduct during the Public Process does not give me, as a stakeholder, any confidence in their objectivity in this matter. Another question: Did CES make sure that ALL stakeholders were reached?</p> | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> <p>In any event, there is no conflict of interest since the location of the proposed Boulders WEF does not fall within the coastal zone as defined by the National Environmental Management: Integrated Coastal Management Act 24 of 2008 and the proposed WEF is located over 4 km from St Helena Bay coastal zone and over 6 km from Paternoster coastal zone. In addition, the two projects have very different objectives, processes and purposes. One is an environmental management tool while the other an environmental impact assessment.</p> <p>The statement by the appellant is not a ground of appeal, but rather a request for information that, as dealt with below, has been addressed comprehensively in the public participation section 8 of the EIAR where it is detailed how I&APs were</p> | |

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| | <p>identified and engaged with. Thus, this statement should be rejected as a ground of appeal, as it contains no averments whatsoever.</p> <p>The PPP is documented in Section 8 page 115 of the EIAr. This was a very thorough process and has met the Regulatory requirements.</p> | |
| <p>Inadequate Specialist Studies</p> <p>These studies, the Visual Impact Assessment in particular, concluded that this impact is extremely high – however this fact was seriously down-played in the BAR. An independent review Specialist was appointed – financially assisted by independent stakeholders from Paternoster – but CES dismissed this review as ‘irrelevant’.</p> | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> <p>The visual impact assessment does not conclude that the impacts are “extremely” high. It concludes that impacts remain HIGH but do not represent a fatal flaw as reflected in the summary specialist study section 9.11 where it is concluded that:</p> <p><i>“The wind farm will undoubtedly be imposing and dominate the visual landscape for those in close proximity. However, based on the assessment of significance in the VIA, it is concluded that the potential losses of scenic resources are not sufficiently significant to present a fatal flaw to the proposed project...”</i></p> <p>With respect to the independent review of the VIA, we presume this refers to the comments submitted by Mr Andre VD Spuy on behalf of the appellant.</p> | |

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| | <p>The EAPs responses to the comments are provided in Section 11 "Visual Issues", Issues 17 to 45 of the Comments and Response Report (pages 74-80).</p> | |
| <p>Impact on Tourism</p> <p>Paternoster has been described by many as 'The jewel of the West Coast'. This quaint little Village draw tourists from all over the world. The charm of this Village partly lies in the architectural unity of the houses, as well as the scale of the Village. Tourists, who sometimes flee from their own over-populated cities, would not expect such a development on Paternoster's doorstep. The economic well-being of Paternoster (being seasonally-driven) depend highly on the income from tourists: Fishermen, Restaurants, Laundry-services; Guest-houses, B&B's, Self-catering Units, Hotels, Shops – their owners and employees - make up the core of this Fishermen's Village.</p> | <p>Issues relating to tourism have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment. The following statement is quoted from the specialist study as provided in summary specialist Section 9.5 on page 142 of the EIAr:</p> <p><i>"While the possibility of negative impacts on property prices and tourism cannot be ruled out completely, research shows that that if any, the impacts on tourism will be marginal while the effect on property prices will dissolve once the wind farm is developed".</i></p> <p>This statement contains no averments and therefore raises no valid grounds of appeal.</p> | |
| <p>Impact on Birds</p> <p>This conducted study is considered totally inadequate, as it was obviously done by foreigners who do not have the necessary knowledge of South African birds. The extremely-negative impact of wind Turbines on birds, especially the Black Harrier, which has been classified as a Highly Endangered Species and of which only an estimated 1000 are left world-wide, as well as other raptures that are</p> | <p>Avifaunal issues are dealt with comprehensively in the specialist avifaunal study and impacts deemed to be within acceptable limits.</p> <p>The technical capabilities of the Bio-Insight are detailed in Section 7 (Bird Issues) in the CRR, issue number 6. The EAP is satisfied that the specialist</p> | |

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| <p>highly threatened, was totally under-played/simply ignored. Please see the Report by Dr Rob Simmons – that was submitted under a separate appeal – who specifically concluded that this development should, under no circumstance, be authorised.</p> | <p>has the necessary credentials with local specialist knowledge.</p> <p>The following response to I&AP comments concerning the capabilities of Bio-Insight was provided in the CRR Section 7 Issue No 6.</p> <p><i><u>“Avifaunal Specialist Response:</u> This comment starts with a highly personal opinion about the technical capabilities of the bird specialist team, ignoring the fact that the lead specialist investigator is registered as professional member in compliance with the Natural Scientific Professions Act of 2003 which aims to “Provide for the establishment of the South African Council of Natural Scientific Professions (SACNASP)”. In fact, the presence of an international team, with foreign but also local specialists, in a study conducted in South Africa seems to be a common concern as found in several of the comments received during the public consultation process.</i></p> <p><i>On this matter, the bird specialist team would like to highlight that by combining local and international expertise should be seen as beneficial to the process, adding a substantial know-how, not only with regard to South African Birds - local knowledge</i></p> | |
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through local technicians who conducted the field surveys among other aspects of the work; but also to the technical coverage of overall impact assessment processes and knowledge of potential WEF impacts on biodiversity, monitoring, mitigation, etc. - not only from local South African projects, but international knowledge as a result of a wide range of projects concerning Wind Energy and other renewable energy projects conducted in Europe, Africa and South America."

In response to the same allegations made during the EIA PPP, BioInsight responded with the following:

"The competence of the Bioinsight team it is not clearly denied in the Peer Review report, but it is suggested that the team has no quality and / or competence to perform the impact assessment study. This suggestion ignores the fact that the lead specialist investigator is registered as professional member in compliance with the Natural Scientific Professions Act of 2003 which aims to "Provide for the establishment of the South African Council of Natural Scientific Professions (SACNASP)". Regarding the rest of the Bioinsight team, all technicians are competent and highly qualified to perform the study. Any statement suggesting

otherwise is unfounded and unjustified. Combining local and international expertise should be seen as beneficial to the process, adding a substantial know-how, not only with regard to South African Birds - local knowledge through local technicians who conducted the field surveys among other aspects of the work; but also to the technical coverage of overall impact assessment processes and knowledge of potential WEF impacts on biodiversity, monitoring, mitigation, etc. - not only from local South African projects, but international knowledge as a result of a wide range of projects concerning Wind Energy and other renewable energy projects conducted in Europe, Africa and South America. If Mr. Jenkins wishes to request Bioinsight's technicians curriculum vitae, the team is happy to provide it.

The bird specialist team highlights that, as also acknowledged in the Peer review report, the final specialist IA Report for Boulders WEF proposed project development is "broadly compliant with national best practice (Jenkins et al. 2015)". It should also be noted that the scientific support used to build the Best Practice Guidelines is substantially based in international studies (including several European references). In fact, 82% (69 out of 84) of the scientific references cited on the Best Practice

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| | <p><i>Guidelines are from foreign studies, thus acknowledging the importance of international know-how. Apart from this, two (2) references are made to Bioinsight peer-reviewed work on windfarm-wildlife conflict."</i></p> <p>A response to Mr. Simmons report has been provided by the Avifaunal Specialist Bioinsight in this Appeal and it states that:</p> <p><i>"Regarding the new contents presented by the author regarding Black Harriers, several assumptions on the negative impacts due to the presence of the species and the existence of suitable breeding habitat near the wind farm can be highlighted as the focal points in Dr. Simmons' report.</i></p> <p><i>The population viability modelling (for the Black Harrier) conducted by Dr. Simmons is relevant in showing the decline of the species' population. This result is in accordance with bibliographic data that specifies that the species has a decreasing population trend (Taylor, 2015). Also relevant to note is that the Black Harrier population currently has a declining trend independent of wind farm impacts, i.e., regardless of whether or not the presence of a wind energy development exists.</i></p> | |
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| | <p><i>Nonetheless, as specialists, Bioinsight concurs that wind farms may be an aggravating factor if significant fatalities occur and if significant negative impacts are proven to compromise the viability of the Black Harrier population during the lifetime of a wind farm.</i></p> <p><i>Dr. Simmons is implying that the facility will likely cause Black Harrier fatalities. This assumption is based, among other factors, on the relation of results between the proposed Boulders wind farm and that of its neighbouring West Coast One wind farm (currently in operation). Bioinsight reaffirms that the potential occurrence of mortality of Black Harriers due to the Boulders WEF operation is a potential negative effect that was duly assessed in the final IA report. We also reiterate information considered in the assessment of this species:</i></p> <ul style="list-style-type: none"><i>• The presence of the species was also confirmed by Bioinsight. The evidence that we possess tells us that it is true that the Black Harrier uses the area. However, in accordance with the results of field data, the species wasn't registered in high abundances and the majority of Black Harrier flights were observed below the rotor swept zone.</i> | |
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| | <ul style="list-style-type: none">• <i>Although there is always uncertainty surrounding potential fatalities on proposed wind farms, the comparison with nearby wind farms located in similar habitats may serve as reference, as in the example of the West Coast One wind farm. Bioinsight notes that, from the information made available to us, the results from the neighbouring West Coast One wind farm have not yet yielded any indication that the species is being negatively affected in terms of mortality in the area, since no fatality occurrences of Black Harriers have yet been identified (Jenkins et al., 2017) (Arcus Consulting, 2019).</i> <p><i>Regarding the indication in Dr. Simmons report that the area forms suitable breeding habitat for Black Harrier, Bioinsight also confirms that this has already been noted in the final specialist IA report. In fact, it is stated that the broader area is known for the breeding of certain species such as Black Harriers. It was also mentioned that natural vegetation was relevant for some endemic bird species, such as the Black Harrier. As such, based on the data gathered, this type of vegetation, together with drainage lines, has already been classified as sensitive areas and subsequently buffered by 200m. These areas have</i></p> | |
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| | <p><i>been defined as "No-Go" areas for the placement of wind turbines.</i></p> <p><i>In his report, Dr. Simmons also suggests that the matter of varying turbine heights were also somewhat overlooked. He makes mention to the fact that taller turbines kill disproportionately more birds than shorter ones (Loss et al., 2013), and that as a result – Boulders WEF will be worse than the neighbouring West Coast One project, in terms of the fatalities that it causes. While Bioinsight is aware of this article/research, we also make reference to other studies, whereby they found that no relation exists between bird fatalities and turbine heights. More specifically:</i></p> <ol style="list-style-type: none"><i>1. Everaert (2014) found that the mortality rate and collision risk were not significantly related to turbine size;</i><i>2. Barclay et al. (2007) found that the diameter of rotor blades did not influence bird or bat fatality rates, and that the height of the tower had no effect on bird fatalities per turbine;</i><i>3. Krijgsveld et al. (2009) found that the collision risks for birds, for larger multi-MW turbines,</i> | |
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| | <p><i>appears to be similar to that being observed for smaller earlier-generation wind turbines;</i></p> <p>4. <i>Smallwood (2013) states that adjusted fatality rates were inversely correlated with wind turbine size for all raptors (as a group) across the United States;</i></p> <p>5. <i>Thaxter CB et al. (2017) found that in order to minimise bird collisions, wind farm electricity generation capacity should be met through developing fewer, larger turbines, rather than many smaller ones.</i></p> <p><i>In summary, given all the above, although we acknowledge the relevance of the information provided by Dr. Simmons regarding the Black Harrier, we found no evidence that could justify changes to the conclusions in the final IA report, at this stage."</i></p> | |
| <p>Work Opportunities and Available Electricity</p> <p>Some fishermen and other people, native to Paternoster, are left under the impression that this Wind farm will generate lots of temporary and permanent job-opportunities. Also that they would pay less for electricity, once this farm has been developed and starts operating. In both of these cases, this impression could not be further from the truth: (a) when the adjacent existing West Coast 1 Farm was</p> | <p>It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the EAP. Furthermore, as is set out below, the issue was comprehensively dealt with in the EIAR and therefore this issue and these comments have already been considered by the decision maker when the EA was issued. This statement is based upon the "impressions" of individuals, something</p> | |

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| <p>still in the early stages of development, promises of job-opportunities were also advertised, but as we all very well know, the developers brought in their own skilled labourers for that purpose and during the operational phase. (b) all alternative energy has to be fed into ESCOM's grid – in other words expensive electricity and load-shedding as we are now experiencing, will continue, regardless of this Wind farm</p> | <p>which is subjective and not grounded in fact. It consequently cannot be considered as a ground of appeal, especially as the appellant draws upon a subjective experience of another development (West Coast 1). The respondent is not responsible for such "impressions" and therefore should not be prejudiced in any manner arising from them.</p> <p>Furthermore, labour and employment issues were dealt with comprehensively in the Social Impact Assessment. In this regard, see Table 2.2: Potential contribution capacity of local industries that outlines the potential effect on employment during construction and operations.</p> | |
| <p>Motion of No Confidence</p> <p>A motion of No Confidence in the EAP has been submitted on behalf of a number of Paternoster residents. However, this motion seems to have been ignored by DEA&DP.</p> | <p>These allegations relating to the so-called "motion of no confidence" have been raised and responded to during the EIA process. If the Minister was of the view that the "motion of no confidence" had any merit or was indicative of the EAP's ineptitude, she would not have issued a positive EA.</p> | |
| <p>GROUNDS OF 6TH APPEAL - MR DANIEL G. KOTZE (ROOIHEUWEL TRUST) (NEIGHBOURING FARMER)</p> | <p>RESPONDING STATEMENT BY THE APPLICANT</p> | <p>COMMENTS BY THE DEPARTMENT</p> |
| <p>The Heritage NO Turbine Buffer zone of 3.5 km around Kasteelberg Heritage Resource set by CEO of Heritage Western Cape Mr Andrew</p> | <p>Heritage Western Cape Heritage Resource Agency (WC HRA) has accepted the proposed alternative (albeit less preferable) alternative where 7 turbines were relocated in order to mitigate visual impacts, 5</p> | |

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| <p>Hall was not adhered to. Most of the Boulders Windfarm turbines fall within this buffer zone.</p> <p>During development of adjacent West Coast One WEF the CEO of Heritage Western Cape did everything in his power to prevent the WC1 Windfarm to be approved.</p> <p>He even nominated Kasteelberg as Provincial Heritage Site and Appealed against EA of WC1 for a NO-GO for the WC1 WEF.</p> <p>The developer of the WC1 WEF then removed all turbines within 3.5 km from Kasteelberg and the Appeal was withdrawn and the CEO of HWC set the buffer zone of 3.5 km on 2 November 2011.(see page 104,105 in HIA) Minutes of that meeting is available from HWC.</p> <p>This Boulders Windfarm WEF falls directly within this Heritage Buffer Zone set by CEO Mr Andrew Hall of 3.5km around Kasteelberg Koppie on 2 November 2011.</p> <p>The Buffer Zone of 2 km around Kasteelberg Koppie was not amended in the final EA for the WC1 WEF, because it was not necessary at that time, because my farm was excluded from the WC1 WEF(see Boulders Windfarm HIA page 104-,105).</p> <p>To use this 2 km buffer zone that was not amended in the EA for WC1 as the buffer zone for the Boulders Windfarm WEF is unacceptable, and I informed HWC and the DEA of this many times with no feedback.</p> | <p>to the east and two to the south of the Vredenburg to Paternoster road.</p> <p>The EIAr and visual impact assessment confirm that the visual impacts remain HIGH but does not represent a fatal flaw. The summary of the VIA in the EIAr (Section 9.11 on page 146) quotes the following:</p> <p><i>"The wind farm will undoubtedly be imposing and dominate the visual landscape for those in close proximity. However, based on the assessment of significance in the VIA, it is concluded that the potential losses of scenic resources are not sufficiently significant to present a fatal flaw to the proposed project...."</i></p> <p>Furthermore, the appellant conflates the West Coast 1 development with the project that this appeal is concerned with. They are both separate and distinct, differing in a number of ways. Thus, DEFF is under no obligation whatsoever to impose the same conditions upon the Boulders Wind Farm as those found in West Coast 1's EA particularly considering the wind farms are on separate and distinct properties.</p> <p>This is clearly advocating the 'Not in my backyard' (NIMBY) approach. In practice the NIMBY approach</p> | |
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| <p>My farm with a heritage resource was excluded from the WC1 WEF because of a 3.5 km buffer zone around Kasteelberg Koppie set by CEO (Andrew Hall) of HWC, resulting in huge loss of income for my family and farm workers.</p> <p>I will not allow this Boulders Windfarm to be approved with a buffer zone around Kasteelberg with less than 3.5 km, even if I have to fight this in court of law. The type of development is exactly the same and therefore the same rules should apply, even if a new CEO of HWC was appointed. The Heritage Significance of Kasteelberg remains unchanged and therefore the buffer zone applicable for one WEF project should be applicable for the other.</p> <p>The Failure of Heritage Western Cape to proceed with the declaration of Kasteelberg as Provincial Heritage Site, does not mean the significance and the Heritage value of this Site has changed. The appointment of a new CEO of HWC does not change the fact that the previous CEO of HWC, did everything in his power to set a NO-GO option for the WC1 WEF and did everything in his power to set the 3.5 km buffer zone to protect this Significant Heritage Resource and to protect the Visual Impact and Sense Of Place.</p> <p>The Heritage and Visual Impact and Sense of Place for this proposed project is still HIGH even after Post Mitigation, see page 159,160,161,194,195 of EIAR for Boulders Windfarm. The Visual impact and sense of place on and from Kasteelberg and surrounds is still HIGH as per EIAR of Boulders Windfarm and West Coast 1 WEF EIAR. That was the reason the buffer zone of 3.5 km was implemented</p> | <p>means that the proposed project per se is not opposed, only the location of the project in close proximity to the objecting party. This however usually leads to competing interests of Interested and Affected Parties where the NIMBY approach could result in new or other I&APs being affected if the project location were to be moved.</p> <p>In the <i>MLPORA</i> case, the court referred to the fact that many affected parties may be aggrieved by a project's location however that is not necessarily a sufficient ground for the successful opposition to the project, or the setting aside of a decision to authorise the project. The public participation process will not always resolve the concerns of affected parties and this is to be anticipated.</p> | |
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| <p>around Kasteelberg and 2 km from Vredenburg–Stompneusbay road (P2160). It can not be assumed that the Impact is Lower after moving only certain turbines. To move a few Turbines does not make a difference in the Visual Impact of the complete WEF, the cumulative Heritage and Visual impact stays HIGH.</p> <p>The Vredenburg-Paternoster Road (P2160) is a gravel road and will be Completely Tarred during 2020, making this road a scenic road as in the case of the R399 (R45) between Vredenburg and Paternoster. The R399 road has a no turbine buffer zone of 2 km on either side of the road, so this should be the new buffer set for the P2160 from Vredenburg to Stompneusbay as well, because all the residents of Stompneusbay, Brittaniabay, and St Helena Bay and Tourists and Visitors will be using this road. So I can't see the difference between the R399 and the P2160 after being tarred.</p> <p>The information that the road was definitely being tarred in 2020 was not available and was approved only after the PPP process was completed.</p> <p>.In light of these factors I ask the Minister to NOT APPROVE this Boulders Windfarm EA.</p> <p>See attached letter Rooiheuvel Trust Appeal and other Attachments as proof.</p> | | |
| <p>GROUND OF 7TH APPEAL - DAVID J S WESTBROOK</p> | <p>RESPONDING STATEMENT BY THE APPLICANT</p> | <p>COMMENTS BY THE DEPARTMENT</p> |

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| <p>LOSS OF PROPERTY VALUE:</p> <p>There are clear indications of potential property and revenue (tourism) loss.</p> | <p>Issues relating to property values have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment where the summary of the study in Section 9.5 on page 142 states the following:</p> <p><i>“While the possibility of negative impacts on property prices and tourism cannot be ruled out completely, research shows that that if any, the impacts on tourism will be marginal while the effect on property prices will dissolve once the wind farm is developed. Based on the experience of WC1 and wind farms in the Cape St Francis and Jeffry’s Bay area, and other research, there is no clear correlation between property price dynamics (positive or negative) and the development of wind farms.”</i></p> <p>In this regard, no evidence is provided to substantiate the allegation that the proliferation of wind farm operations will have a significant negative impact on property values.</p> | |
| <p>INFLATED PROMISES OF JOB CREATION AND BENEFITS FOR TOURISM</p> | <p>It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the EAP. Furthermore, as is set out below, the issue was comprehensively dealt with in the EIAR and</p> | |

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| <p>Having worked at the neighbouring windfarm at construction phase I am painfully aware that the job creation and socio economic benefits are a complete myth. Three land owners benefitted enormously and no-one else.</p> | <p>therefore this issue and these comments have already been considered by the decision maker when the EA was issued. Issues relating job creation have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment where the summary of the study in Section 9.5 on page 142 states the following:</p> <p><i>“It is concluded that the proposed development will have a number of positive low to medium economic impacts on the local and regional economy, particularly during the two-year construction phase, leading to the creation of over 900 jobs, and up to 60 jobs in the operational phase. This is considered beneficial for local job seekers and businesses, particularly in the context of high unemployment, considerable poverty and the decline of the historical fishing industry in this area. The developers will also be investing over R9 million per annum in local socio-economic and enterprise development initiatives”.</i></p> <p>To benchmark the figures presented in the FEIR of the Boulders Wind Farm with the industry, the South African Wind Energy Association has presented a letter which has been attached to this Appeal response. The letter states that <i>“The additional 1 049 full-time equivalent indirect jobs estimated for</i></p> | |
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| | <p><i>Boulders Wind Farm is actually quite conservative considering that it also includes local jobs supported in the travel, accommodation and retails sectors."</i></p> <p>Furthermore, it states that <i>"The 140MW Boulder Wind Farm plans to create 17 new direct jobs during operation and maintenance, which is quite consistent with the number reported by the IPP Office of 2166 actual O&M jobs created thus far for the 2 GW already operational."</i></p> <p>In conclusion, the association states that <i>"SAWEA can confirm that the number of jobs estimated to be created during the construction of the proposed Boulder Wind Farm are quite consistent with employment numbers achieved in wind farm developments of similar size and nature"</i></p> | |
| <p>PROPERTY OWNERS IGNORED TO SAVE GERMAN DEVELOPERS' COSTS:</p> <p>Common practice. They only want the supply and maintenance contracts. Mega Euro's per unit per year</p> | <p>It is submitted that this is a unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> <p>The PPP is documented in Section 8 page 115 of thr EIAr. This was a very thorough process and has met the Regulatory requirements.</p> <p>The responses to I&AP concerns are documented in the Comments and Response Report (CRR) provided as Volume 5 of the EIAr and Volume 4 of</p> | |

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| | <p>the EIAr provided all the supporting documentation with respect to the PPP.</p> | |
| <p>SITE ALTERNATIVES –</p> <p>We are surrounded by sites that any layman can see are more efficient (read drag loss appeal by the neighbouring wind farm) turbulence caused by the surrounding hills and valleys make this site non-sensicle to anyone whe has spent any time here</p> | <p>The appellatnt does not substantiate this comment with any evidence, but rather bases it on speculation and conjecture.</p> <p>Alternatives have been comprehensively addressed in the Alternatives Section 5 of the EIAr (5.3 and 5.4). Details concerning a pre-EIA feasibility study and site selection process, are also provided at section 3.6 of the EIAr.</p> <p>The following excerpt from Section 12.4 in the Conclusions section on page 213 of the EIAr is relevant:</p> <p><i>“In reaching the current proposed layout, the placement of turbines was refined on two occasions to further reduce the visual impact of the wind farm.</i></p> <p>✦ <i>To minimise these visual impacts on some Britannica Heights residents along the top of the ridge, the Paternoster residents and the Kasteelberg Heritage resource, the footprint of the proposed development was reduced in the EIA phase from the original 10 farms, to the five farms closest to the existing WC1 energy facility. A sensitivity analysis was used by the</i></p> | |

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| | <p><i>developers to design an initial proposed layout on the remaining 5 farms.</i></p> <p>✦ <i>The layout was further refined to adhere to the recommendations of the Heritage Impact Assessment, where seven turbines were relocated, to produce a final mitigated layout. The EIA specialist studies, therefore, assessed the relative impacts of both these proposed layouts (i.e. pre-relocation of 7 turbines and post-relocation of 7 turbines)."</i></p> <p>Furthermore, it is necessary to understand how the assessment of alternative sites occurs practically for wind energy facilities. The location selection process usually occurs prior to the appointment of an EAP and the commencement of the EIA process based on wind potential. Thereafter, the EAP is mandated to undertake an EIA process, which includes a detailed environmental and social assessment of the preferred site. It follows that, in accordance with the 2014 EIA Regulations, the EAP is merely required to provide such information pertaining to the prior identification and consideration of potential location alternatives, which is usually undertaken by the applicant. Therefore, the EAP is not required to investigate and assess potential location alternatives.</p> | |
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| | In addition, as per condition 12 of the EA, the actual layout of the wind farm has not yet been approved. | |
| GROUND OF 8TH APPEAL - ERF 1050 PATERNOSTER (PTY) LTD | RESPONDING STATEMENT BY THE APPLICANT | COMMENTS BY THE DEPARTMENT |
| The EA is not a final decision and is therefore not valid. It approves the development but does not approve either the EMPr or the final layout. | <p>In the <i>Muckleneuk/Lukasrand Property Owners and Residents Association v The MEC: Department of Agriculture, Conservation and Environment, Gauteng Provincial Government and others</i> (28192/04; 12137/06 TPD) [2006] ZAGPHC 86 (30 August 2006) ("<i>MLPORA</i>") case, a full bench of the Gauteng High Court confirmed that environmental authorisations can be made conditional upon the subsequent approval of an EMPr which is subjected to public participation.</p> <p>The non-approval of the EMPr and final layout does not impact upon the validity of the EA.</p> <p>DEFF has determined that the FINAL EIAr meets with the EIA regulatory requirements and therefore the EA was granted. Any requirement for further submissions is imposed as a condition of the EA, and hence will have to be complied with. It should be noted that regulation 26 (i) of the EIA Regulations (GN 982 in GG 38282 of 4 December 2014, as amended) empowers the decision-maker to impose</p> | |

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| | <p>'any relevant conditions which the competent authority deems appropriate', the scope of which would include the amended EMPr and final site plan.</p> <p>Furthermore, it should be noted that the amendment of an EMPr and the finalisation of the site layout plan as conditions of the EA are common requirements for wind farms. Lastly, EMPrs are working documents that are continuously revised throughout the lifespan of an operation.</p> <p>These appellants still have opportunity to comment on the final EMPr and site layout plan, which is in their favour.</p> | |
| <p>The EA calls for further information for the finalisation of the EMPr and the final layout. This means that there was insufficient information in the final EIAr to decide the application, which amounts to a material failure to comply with NEMA (which includes the EIA regulations).</p> | <p>As above.</p> <p>Furthermore, it must be noted that the Regulator itself, that being DEFF, considered there to be sufficient information to decide the application, which it did so positively.</p> | |
| <p>Integrated environmental management requires that all relevant information is assessed and reported on in the EIA process before a decision on the application is taken. Any efforts to supplement the information after the EA has been granted will fail to integrate the information into the final EIA report ("EIAr") and defeats the purpose</p> | <p>As above</p> | |

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| <p>of the statutory EIA process. This is a material deficiency and in breach of NEMA.</p> | | |
| <p>The final EIAr fails to refer to and respond to several comments from the Department of Environment Affairs and Development Planning of the Western Cape (“DEA&DP”), and is therefore in breach of NEMA. (See DEA&DP letter dated 2 July 2019 Volume 4 Appendix F-1 pp 9 – 15/48, referred to further below; Comments and Responses Report – CRR Volume 5)</p> | <p>This matter was rectified with an addendum response report submitted to DEFF.</p> <p>The report is entitled:</p> <p><u>“Consolidation of Responses to Comments from the Western Cape Department of Environmental Affairs and Development Planning – November 2019.”</u></p> | |
| <p>The final EIAr fails to locate the turbines in accordance with the preferred layout of the heritage specialist in the HIA, thereby failing to comply with the competent authority’s requirement that this information be included. (DEA&DP comment 2.1.1) This is a material deficiency and in breach of NEMA.</p> | <p>The following was the response to the DEADP comment as reflected on page 2 in the Consolidated DEADP Response Report Issue No 2:</p> <p><i>“The HIAs “less preferable alternative” recommendation is that all turbines north of Kasteelberg be relocated, but that the turbines south of the koppie remain. This limits the degradation of the landscape to a smaller area and preserves more of the significant link between Kasteelberg and the coast and was, therefore, considered as an acceptable alternative.</i></p> <p><i>This “less preferred alternative” was considered (to be a preferred alternative by the developer) as the financial viability of the project would have been severely compromised by removing or relocating all the turbines west of the Stompneusbaai road.</i></p> | |

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| | <p><i>The proposed mitigated layout with turbines west of Stompneusbaai Road only on the Southern part, was considered acceptable by the Heritage Specialist, even if not preferred option. In October 2019 the HIA and layout alternative 2 (less preferable alternative mentioned above) was approved by the WC HRA and accepted as having met the requirements of S38 (3) of the NHRA.</i></p> <p><i>The WC HRA had no objection to the development proceeding."</i></p> | |
| <p>The final EIAr fails to report on and assess the cumulative impact of the approved Isivunguvungu wind energy project within 30 km of the project. (DEA&DP comment 2.1.3). This is a material deficiency and in breach of NEMA.</p> | <p>At a distance of 18km, the Isivunguvungu WEF is unlikely to contribute to cumulative impacts.</p> <p>The following is a part of the response to the DEADP comment as reflected on page 4 in the Consolidated DEADP Response Report Issue No 5:</p> <p><i>"The approved but as yet unbuilt Isivunguvungu Wind Farm was not specifically mentioned in combination with West Coast One Wind Farm with respect to cumulative impacts in the final EIR (although the specialist studies did consider both). The proposed Isivunguvungu Wind Farm will be located near Saldanha Bay about 18 km to the south of the proposed Boulders Wind Farm and is</i></p> | |

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| | <p><i>separated by the town of Vredenberg about 8 km south (see map at Appendix A below). It should be noted that the proposed Isivunguvungu Wind Farm includes a limited number (2 or 3) of 2.5 MW turbines."</i></p> | |
| <p>The HIA recommended that the turbines west of the Vredenburg-Stompneus Bay road represent a very high visual impact and should be relocated or removed (turbines 1-3, 5, 6, 15, 19, 21, 27, 31, 33, 36, 43). The applicant indicated that this would render the project fatally flawed in terms of viability and failed to adopt this recommendation. (DEA&DP comment 2.6) No information was disclosed as to why the project would be fatally flawed in terms of viability. This information is required to be disclosed to IAP's and included in the assessment process and the failure to disclose it is in breach of NEMA.</p> | <p>While this information was not provided to I&APs, the removal of wind turbines would result in the reduction of generation capacity as per the application, thus compromising the financial viability of the project and ability to compete in the REIPPP process.</p> | |
| <p>The final EIAr fails to provide adequate information or reasons as to why only 7 of the 13 turbines were moved from west of the Vredenburg – Stompneus Bay road in order to accommodate recommendations of the heritage and visual specialists and IAP concerns. (DEA&DP comment 3.2) This is a material deficiency and in breach of NEMA.</p> | <p>The following is a part of the response to the DEADP comment as reflected on page 4 in the Consolidated DEADP Response Report Issue No 3:</p> <p><i>"The HIA less preferable alternative recommendation is that all turbines north of Kasteelberg be relocated, but that the turbines south of the koppie remain. This limits the degradation of the landscape to a smaller area and preserves more of the significant link between Kasteelberg and the coast and was, therefore, considered as an acceptable alternative.</i></p> | |

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| | <p><i>This "less preferred alternative" (i.e. relocating 7 rather than 13 turbines) was considered (to be a preferred alternative by the developer) as the financial viability of the project would have been severely compromised by removing or relocating all the turbines west of the Stompneusbaai road. was considered as the financial viability of removing or relocating all the turbines west of the Stompneusbaai road would have been severely compromised.</i></p> <p><i>The proposed mitigated layout with turbines west of Stompneusbaai Road only on the Southern part, was considered acceptable by the Heritage Specialist, even if not preferred option. In October 2019 the HIA and layout alternative 2 (less preferable alternative mentioned above) was approved by the WC HRA and accepted as having met the requirements of S38 (3) OF THE NHRA. The WC HRA had no objection to the development proceeding."</i></p> <p>In addition to the above, as outlined in the concluding Section 12.4 of the EIAR relating to ALTERNATIVES, the following is stated:</p> | |
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| | <p><i>"In reaching the current proposed layout, the placement of turbines was refined on two occasions to further reduce the visual impact of the wind farm.</i></p> <ul style="list-style-type: none"> <i>✦ To minimise these visual impacts on some Britannica Heights residents along the top of the ridge, the Paternoster residents and the Kasteelberg Heritage resource, the footprint of the proposed development was reduced in the EIA phase from the original 10 farms, to the five farms closest to the existing WC1 energy facility. A sensitivity analysis was used by the developers to design an initial proposed layout on the remaining 5 farms.</i> <i>✦ The layout was further refined to adhere to the recommendations of the Heritage Impact Assessment, where seven turbines were relocated, to produce a final mitigated layout. The EIA specialist studies, therefore, assessed the relative impacts of both these proposed layouts (i.e. pre-relocation of 7 turbines and post-relocation of 7 turbines)."</i> <p>In October 2019 the HIA and layout alternative 2 (less preferable alternative involving the relocation of seven turbines instead of the recommended 13) was approved by the WC HRA and accepted as having met the requirements of S38 (3) OF THE</p> | |
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| | NHRA. The WC HRA had no objection to the development proceeding. | |
| The methodology for impact assessment (specifically the significance rating) was not consistently applied throughout the specialist studies. (DEA&DP comment 2.7) This affects the reliability of the impact assessments and is in breach of NEMA. (See also comments of A van der Spuy, an independent reviewing EAP, Volume 4 Appendix G – 4 p35/70 par 16.1) | All specialist studies comply with the EIA Regulations. The appellant does not tender any evidence whatsoever to show how, as alleged, the reports are unreliable and in breach of NEMA. Furthermore, the appellant does not state which sections of NEMA have been allegedly breached. | |
| The final EIAR fails to recommend specific conditions of approval, which is in breach of NEMA. (DEA&DP comment 2.10) As a result the EA is materially deficient in regard to conditions of approval. | The EIAR presents many mitigation measures which would form the conditions of approval and the EA specifically imposes the condition that “the EMPr amendment must include...[a]ll recommendatins and mitigation measures recorded in the EIAR” (condition 15 of the EA). Thus the EA recognises that the EIAR contains mitigation measures which would form the conditions of approval. | |
| The conditions of approval fail to limit the period of operation of the project to 20 years. This was a material mitigation used by the EAP in justifying the overall impacts of the project – the fact that the turbines will be removed after 20 years. (See eg CRR Vol 5 p86 par 56; p103 par 35) | The EIAR refers to the operation of the wind farm for 20-25 years. Therefore, by virtue of condition 15 of the EA, this will be a condition of ther EMPr and binding on the developers. | |
| The EA contains no condition of approval relating to the trust that is to be established and funded by the developer for the benefit of communities. Such conditions have to be binding, establishing the | There is no obligation upon the decision maker to impose such a condition under NEMA and the EIA Regulations. Consequently, this non-inclusion does | |

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| <p>minimum amount of money to be donated to the trust, and conditions related to the percentage of those funds that must be disbursed, and details of the beneficiaries. The failure of the EIA reports to present information and to make recommendations in this respect is a material deficiency and in breach of NEMA.</p> | <p>not impact upon the validity of the EA nor is it "in breach of NEMA".</p> | |
| <p>The EIA reports fail to disclose the radar report that informed the avifauna report on the grounds that it is private intellectual property of the applicant paid for in the pre-application process. This failure to provide relevant information is in breach of NEMA.</p> | <p>The avifaunal specialist had access to the data and it informed their assessment. See Table 2 "Data sources consulted for the evaluation of the avifauna present in the study area. The international references and guidelines used to support the methodological approach and result analysis are presented." As well as Chapter 10 References - Millikin, R.L. (2015) <i>Radar-Based Assessment of Airborne Species Risk and Mitigation for the IPD Vredenburg Wind Energy Facility</i>.</p> | |
| <p>The Civil Aviation Authority ("CAA") will require an impact assessment before final approval is given in terms of the CAA regulations. (CRR Vol 5 p139 par 35) This will affect the lighting alternatives and mitigation of light pollution as a visual impact, and may affect the location of the turbines. That impact assessment needs to inform the integrated environmental impact assessment in terms of NEMA. The failure to include this information in the EIA process is in breach of NEMA.</p> | <p>This matter is dealt with in the CAA approval. An internal assessment was conducted by the relevant authority in relation to the terms and provisions as contained in the Civil Aviation Act (Act 13 of 2009) for the controlling and/or restricting of structures which will constitute an obstruction or potential hazard to aircraft moving in the navigable air space. Based on this authority assessment, a Civil Aviation Approval was received in August 2014. The was provided in Appendix O of the Scoping Assessment.</p> | |

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| <p>The final EIAr motivates the need and desirability of the project on the basis that it will contribute to climate change mitigation and reduction. (Final EIAr p43 par 3.2.2, and p49 par 3.5) This allegation is made without any specialist report on the impacts of the project on climate change, and without sufficient supporting information or data related to the project. Such specialist reports are required in order to assess the desirability of the project with regards to climate change mitigation. This is a material deficiency and in breach of NEMA.</p> | <p>The contribution of the project to GHG emission reductions and alignment with Government national development, energy and climate change policy is explained in great detail in the Need and Desirability section of the EIAr.</p> <p>In addition, it is submitted that it is common knowledge that renewable energy projects contribute significantly to the reduction of greenhouse gas emissions. Section 12.6 in the Conclusions section indicates that the WEF will contribute over 8 million tons of CO₂ equivalent over the 20 year life of the project.</p> <p>The Scoping Report that was accepted by DEFF did not deem a specialist climate change study to be necessary.</p> | |
| <p>No assessment on the potential impact of climate change on wind patterns in the project area was conducted. It is widely accepted that global warming is accompanied by accentuated weather patterns. A specialist climate change report is required in order to assess the potential impact of climate change on wind patterns to test the assumption that existing data is reliable regarding the suitability of the site for the project. This is a material deficiency and in breach of NEMA.</p> | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFF's reasons for issuing the EA. There is no evidence that wind farms cause climate change and the appellant does not tender any evidence to support this allegation.</p> <p>In so far as impacts on other wind farms are concerned this is not an environmental issue but a financial viability issue. The developers have determined the financial feasibility of the project on</p> | |

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| | <p>the best available wind data and there is no certainty as to how wind conditions may change over time.</p> | |
| <p>The heritage impact assessment recommendations are based on an untested assumption regarding the social benefits of the project, which were not the subject of a specialist study. I refer to the comments and responses in the CRR, Vol 5 p67 par 4, where the EAP states: "A valuation of the social benefits was not required as part of the EIA and specialist studies, and would also have been onerous and extremely expensive research and modelling exercise to undertake for an EIA." I also refer to CRR Vol 5 p105 par 3. This is a material deficiency and in breach of NEMA.</p> | <p>The social costs and benefits have been comprehensively addressed in the Social Impact Assessment. Trying to attach a financial value to social issues can be difficult (sometimes just estimates).</p> <p>Furthermore, in response to this Appeal, an additional Socio Economic Assessment was conducted (see attached) which found that <i>"Considering the commitments of BWF with respect to Socio Economic Development and Enterprise Development initiatives, it is expected that a total of R182.4 million will be invested in the local community over 20 years starting from 2024."</i></p> | |
| <p>The visual impact of the project will be unacceptably high for the communities in its close proximity (up to at least 6 km away for this size of tower)), including Paternoster. It will have a dominating and intrusive presence and will materially and detrimentally affect the sense of place of these residents. The West Coast District Municipality, among many other, regards the project as visually unacceptable. (Vol 4 Appendix F1 page 25/48). I refer to the comments made on the final EIAR on behalf of this company, among others, by the Strandloper Ocean Boutique Hotel dated 17 October 2019, Annexure C, which I compiled, at paragraph 20.</p> | <p>The visual impacts have been comprehensively assessed in the VIA and although HIGH, with limited mitigation options, they were determined not to be a fatal flaw.</p> <p>The summary of the VIA in the EIAR (Section 9.11 on page 146) quotes the following:</p> <p><i>"The wind farm will undoubtedly be imposing and dominate the visual landscape for those in close proximity. However, based on the assessment of</i></p> | |

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| | <p><i>significance in the VIA, it is concluded that the potential losses of scenic resources are not sufficiently significant to present a fatal flaw to the proposed project...."</i></p> <p>This being said, mitigation will be achieved by relocating seven turbines.</p> <p>It should also be noted that infrastructure such as roads, power lines and substations are common elements in landscapes in South Africa. Whilst wind turbines may not yet be regarded as such, it is submitted that in the future, wind turbines and other forms of renewable energy will become common place and will also be regarded as part of the landscape.</p> | |
| <p>The visual impact of the project is an unreasonable and disproportionate infringement of the property rights of property owners in close proximity (up to 6 km away) and who do not have a financial interest in the project (such as the farmers who will receive income from the developers).</p> | <p>It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the EAP. Furthermore, as is set out below, the issue was comprehensively dealt with in the EIAR and therefore this issue and these comments have already been considered by the decision maker when the EA was issued. Issues relating to property values have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment where the summary of the</p> | |

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| | <p>study in Section 9.5 on page 142 states the following:</p> <p><i>"While the possibility of negative impacts on property prices and tourism cannot be ruled out completely, research shows that that if any, the impacts on tourism will be marginal while the effect on property prices will dissolve once the wind farm is developed. Based on the experience of WC1 and wind farms in the Cape St Francis and Jeffry's Bay area, and other research, there is no clear correlation between property price dynamics (positive or negative) and the development of wind farms."</i></p> | |
| <p>The visual impact of the project on heritage resources will be high and disproportionately infringes the constitutional right to have cultural heritage protected and conserved for the benefits of present and future generations.</p> | <p>The following is a part of the response to the DEADP comment as reflected on page 2 in the Consolidated DEADP Response Report Issue No 3:</p> <p><i>"The HIAs "less preferable alternative" recommendation is that all turbines north of Kasteelberg be relocated, but that the turbines south of the koppie remain. This limits the degradation of the landscape to a smaller area and preserves more of the significant link between Kasteelberg and the coast and was, therefore, considered as an acceptable alternative."</i></p> | |

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| | <p><i>This "less preferred alternative" was considered (to be a preferred alternative by the developer) as the financial viability of the project would have been severely compromised by removing or relocating all the turbines west of the Stompneusbaai road.</i></p> <p><i>The proposed mitigated layout with turbines west of Stompneusbaai Road only on the Southern part, was considered acceptable by the Heritage Specialist, even if not preferred option. In October 2019 the HIA and layout alternative 2 (less preferable alternative mentioned above) was approved by the WC HRA and accepted as having met the requirements of S38 (3) of the NHRA. The WC HRA had no objection to the development proceeding."</i></p> <p>In October 2019 the HIA and layout alternative 2 (less preferable alternative involving the relocation of seven turbines instead of the recommended 13) was approved by the WC HRA and accepted as having met the requirements of S38 (3) of the NHRA. The WC HRA had no objection to the development proceeding.</p> | |
| <p>The location of the wind farm right next to what is essentially the only remaining beachfront development land in Paternoster will severely impact job creation especially in construction and tourism which together with fishing are the main industries in the town. It will lead to an unsustainable development scenario. Given that the fishing</p> | <p>It is submitted that this an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> | |

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| <p>industry is in decline the proposed project will expose the livelihood of Paternoster's residents to an unmitigatable risk.</p> | <p>Issues relating job creatiojn have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment where the summary of the study in Section 9.5 on page 142 states the following:</p> <p><i>"It is concluded that the proposed development will have a number of positive low to medium economic impacts on the local and regional economy, particularly during the two-year construction phase, leading to the creation of over 900 jobs, and up to 60 jobs in the operational phase. This is considered beneficial for local job seekers and businesses, particularly in the context of high unemployment, considerable poverty and the decline of the historical fishing industry in this area. The developers will also be investing over R9 million per annum in local socio-economic and enterprise development initiatives".</i></p> <p>In addition, the WEF is more than 6 km from Paternoster beach and not located on the coastline, and there is also no evidence to link the WEF with loss of fishing livelihoods.</p> | |
| <p>The specialist study on tourism, property values and economic impacts by UE failed to acquire sufficient information relating to Paternoster and is therefore sloppy and totally deficient. I refer to the</p> | <p>Urban-Econ are well respected and capable South African professional economic consultants. As the EAP, we believe that their study is of a high</p> | |

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| <p>comments in paragraphs 16 – 19.7 and 22 of Annexure C. These comments address deficiencies in the data gathering process (Par 18), the impacts on tourism (par 19), and inappropriate use of case studies (par 22). I also refer to the CRR Vol 5 pp 91-92 pars 17 - 18, and p104 par 2.) I also refer to Annexure C paragraphs 16 – 23.3 and my comments in the CRR Vol 5 p105 par 3. This is a material deficiency and in breach of NEMA.</p> | <p>standard and it is denied that there has been a breach of the requirements of NEMA. The study dealt effectively with the main concerns raised by I&APs including impacts on tourism and property prices as well as economic impacts such as job creation. The study used meaningful local comparisons in SA such as West Coast One and WEFs in Cape St Francis. They also investigated international experiences on these issues.</p> <p>It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the EAP. Furthermore, the issue was comprehensively dealt with in the EIAR and therefore this issue and these comments have already been considered by the decision maker when the EA was issued.</p> | |
| <p>The EIA reports failed to take into consideration that the municipality's SDF provides for tourist development on the beachfront land next to the proposed windfarm. The risk is very low that these will not receive approval. It is the last beachfront land available for development in Paternoster and will lead to significant job creation. These projects will be negatively impacted by the wind farm project. The main international tourist target market, which is a niche market for the African wilderness sea-side experience, will be deterred if the wind farm project goes ahead. This negative impact on property values and tourism should least have been given appropriate weighting in the economic impact assessment. (See my comments on page 37-43 of</p> | <p>SDFs are merely planning guidelines. Furthermore, there are a number of existing wind farms within the area.</p> <p>The closest turbine of the Boulders Wind Farm to the beach is 6km, which is quite some distance from the beachfront. In addition, there is little visual impact on most of the beachfront of Paternoster due to the natural vegetated naturally occurring dunes along the beach. (as per Map 5 Viewshed Analysis of the Visual Impact Assessment).</p> | |

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| <p>Appendix F1 in Volume 4 of the final EIAR. See also CRR Vol 5 p81 - 82 pars 48 - 49.)</p> | <p>Issues relating to property values and tourism have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment.</p> <p>In addition, zoning considerations do not form part of EAs as DEFF is not the competent authority in this regard. The municipality is.</p> | |
| <p>The EAP, UE and the competent authority failed to apply the precautionary principle in section 2 of NEMA, which requires that, in the absence of scientific certainty of relating to environmental impacts, a risk-averse and cautious approach must be taken. Please refer to the comments in paragraphs 31 – 32 of Annexure C. This is a material deficiency and in breach of NEMA.</p> | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFF's reasons for issuing the EA.</p> <p>The EIA process provides a level of scientific certainty based on the fact that the main participants in the EIA process, both CES and the specialists, are experienced and trained scientific professionals. Members of CES are both SACNASP and EAPSA registered. A risk averse and cautious approach has been taken specifically in relation to the mitigation measures proposed in the EIAR and in the conditions imposed in the EA.</p> | |
| <p>The EIA reports have not taken into consideration the cumulative impacts of the transmission lines that need to be constructed for the project. This is a material deficiency and in breach of NEMA.</p> | <p>This will be dealt with in the powerline EIA.</p> | |
| <p>The EAP was biased and lacked objectivity. An example of this is where the specialist refused to endorse the project due to concerns</p> | <p>It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the</p> | |

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| <p>about the presence of a fatal flaw. This caused the EAP to do its own visual impact assessment attempting to dispell the presence of a fatal flaw. The EAP used the presence of West Coast 1 wind farm to justify that as it already imposes on the visual landscape, this prevents the new wind farm being visually fatally flawed. However, the West Coast 1 project was approved on the basis that there should be no turbines in certain areas. It is the turbines in these areas which is in fact one of the major concerns for the proposed wind farm. Numerous other examples of bias are contained in the CRR, as also indicated in the report by Mr A van der Spuy (Volume 4 Appendix G). This is a material deficiency and in breach of NEMA. I also refer to the comments in paragraph 21 of Annexure C in this regard.</p> | <p>EAP. Furthermore, as is set out below, the issue was comprehensively dealt with in the EIAR and therefore this issue and these comments have already been considered by the decision maker when the EA was issued.</p> <p>The EIAR and visual impact assessment confirm that the visual impacts remain HIGH but does not represent a fatal flaw. The summary of the VIA in the EIAR (Section 9.11 on page 146) quotes the following:</p> <p><i>"The wind farm will undoubtedly be imposing and dominate the visual landscape for those in close proximity. However, based on the assessment of significance in the VIA, it is concluded that the potential losses of scenic resources are not sufficiently significant to present a fatal flaw to the proposed project..."</i></p> <p>Statements that the EAP favours the developer are denied and are unsubstantiated. Furthermore, this comment is vague and defamatory and therefore it is submitted that this should be disregarded by the Minister.</p> <p>Furthermore, these allegations of bias, both against this EAP and the previous EAP, have been consistently raised and responded to during the EIA</p> | |
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| | <p>process. If the Minister was concerned that the EAPs were bias, she would not have decided the EA in the positive.</p> | |
| <p>The EAP presented its own visual impact assessment (“VIA”) in the form of a specialist report but it failed to comply with the legal requirements relating to specialist reports. In particular, there was no declaration of independence by the author. This is a material deficiency and in breach of NEMA.</p> | <p>Concerning the VIA conducted by CES, we do not know of any regulation that precludes the EAP from providing additional information to support the assessment of a potentially significant issue by an independent expert. It should be further noted that the VIA conducted by CES agreed with and verified the findings of the LoGIS VIA. This has certainly enhanced the EAPs confidence with respect to the impacts associated with particularly important issue.</p> <p>CES did not submit a specialist declaration of independence for the VIA since we relied on the LoGIS VIA for the impact assessment. CES did submit a declaration of independence as the EAP.</p> | |
| <p>The UE tourism report relied upon the CES VIA as an expert report. It therefore relied upon a non-expert report. This is a material deficiency and a further indication of the sloppiness of this report, and in breach of NEMA. This is not disclosed by the EAP, who says “The findings of the LoGIS VIA were used to inform the EIAR which has been submitted to the DEA.” (CRR Vol 5 p76 par28).</p> | <p>It is confirmed that the UE report also relied on the CES VIA report. An explanation for this is provided on page 13 of the Property Values, Tourism and Economic Issues Assessment Report as follows:</p> <p><i>“The study also made use of the Visual Impact Assessment report compiled by Coastal and Environmental Services (CES) in December 2018 and consulted with the Visual Impact Assessment study undertaken by LoGIS in November 2018. The</i></p> | |

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| | <p><i>economic specialist made use of the CES study for the information on the potential visual impact of the project on various sensitive receptors because the LoGIS study did not include visual sensitivity maps and assessment ratings for the revised layout of wind turbines."</i></p> | |
| <p>The visual impacts of the project will be high and cannot be mitigated, as stated by the specialist. Please refer to the comments on the visual impacts in paragraphs 23 – 27 of Annexure C.</p> | <p>The EIAr confirms that the visual impacts are HIGH but do not represent a fatal flaw as explained in the VIA and EIAr.</p> <p>The visual impact assessment concludes that impacts remain HIGH but do not represent a fatal flaw as reflected in the summary specialist study Section 9.11 of the EIAr where it is concluded that:</p> <p><i>"The wind farm will undoubtedly be imposing and dominate the visual landscape for those in close proximity. However, based on the assessment of significance in the VIA, it is concluded that the potential losses of scenic resources are not sufficiently significant to present a fatal flaw to the proposed project...."</i></p> <p>It should also be noted that infrastructure such as roads, power lines and substations are common elements in landscapes in South Africa. Whilst wind turbines may not yet be regarded as such, it is submitted that in the future, wind turbines and other</p> | |

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| | <p>forms of renewable energy will become common place and will also be regarded as part of the landscape.</p> | |
| <p>The EIA process failed to consider location alternatives other than the properties on which the project is to be located. The final EIAr attempts to justify this project on the basis of national and regional benefits of green energy, and the policies that support that. Therefore, the need and desirability of this project must be assessed in the light of alternative locations, both nationally and regionally. This is a material deficiency and in breach of NEMA. This is a material deficiency and in breach of NEMA. I refer to the comments in paragraphs 10 – 15 of Annexure C.</p> | <p>Alternatives have been comprehensively addressed in the Alternatives Section 5 of the EIAr (sub section 5.3 and 5.4). It is denied that there has been any breach of the requirements of NEMA. Details concerning a pre-EIA feasibility study and site selection process, are also provided at section 3.6 of the EIAr.</p> <p>In addition, Section 12.4 in the conclusions section relating to alternatives, it is indicated that in reaching the current proposed layout, the placement of turbines was refined on two occasions to further reduce the visual impact of the wind farm.</p> <p><i>“In reaching the current proposed layout, the placement of turbines was refined on two occasions to further reduce the visual impact of the wind farm.</i></p> <p>✦ <i>To minimise these visual impacts on some Britannica Heights residents along the top of the ridge, the Paternoster residents and the Kasteelberg Heritage resource, the footprint of the proposed development was reduced in the EIA phase from the original 10 farms, to the five farms closest to the existing WC1 energy facility. A sensitivity analysis was used by the</i></p> | |

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| | <p><i>developers to design an initial proposed layout on the remaining 5 farms.</i></p> <p>✦ <i>The layout was further refined to adhere to the recommendations of the Heritage Impact Assessment, where seven turbines were relocated, to produce a final mitigated layout. The EIA specialist studies, therefore, assessed the relative impacts of both these proposed layouts (i.e. pre-relocation of 7 turbines and post-relocation of 7 turbines)."</i></p> <p>Furthermore, it is necessary to understand how the assessment of alternative sites occurs practically for wind energy facilities. The location selection process usually occurs prior to the appointment of an EAP and the commencement of the EIA process based on wind potential. Thereafter, the EAP is mandated to undertake an EIA process, which includes a detailed environmental and social assessment of the preferred site. It follows that, in accordance with the 2014 EIA Regulations, the EAP is merely required to provide such information pertaining to the prior identification and consideration of potential location alternatives, which is usually undertaken by the applicant. Therefore, the EAP is not required to investigate and assess potential location alternatives.</p> | |
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| | <p>In addition, as per condition 12 of the EA, the actual layout of the wind farm has not yet been approved and is still subject to micro-siting prior to the commencement of construction.</p> | |
| <p>No detailed impact assessment of the alternative of not proceeding with the development was conducted. This is a material deficiency and in breach of NEMA.</p> | <p>All alternatives were investigated including the “NO-GO” alternative as required by the EIA Regulations. An analysis of all reasonable and feasible alternatives, including the “NO-GO” alternative, is provided in Table 5-1 on page 71 of the EIAr.</p> | |
| <p>The final EIAr assumes, without any detailed assessment, that the project will have a positive economic impact in terms of lower cost energy. This is not an assumption that can reliably be made. This is a material deficiency and in breach of NEMA.</p> | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> <p>Issues relating to the economic impacts have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment. This is summarised in Section 9.5 or page 142 of the EIAr where it states:</p> <p><i>“It is concluded that the proposed development will have a number of positive low to medium economic impacts on the local and regional economy, particularly during the two-year construction phase, leading to the creation of over 900 jobs, and up to 60 jobs in the operational phase. This is considered beneficial for local job seekers and businesses, particularly in the context of high unemployment,</i></p> | |

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| | <p><i>considerable poverty and the decline of the historical fishing industry in this area. The developers will also be investing over R9 million per annum in local socio-economic and enterprise development initiatives."</i></p> | |
| <p>The need and desirability report considered only the potential benefits of the project, not the costs. This is a material deficiency and in breach of NEMA.</p> | <p>Section 3 - Project needs and desirability is in line with the DEFF Guidelines on Need and Desirability in Terms of EIA Regulations, 2010. GN 891 of 2014.</p> <p>The opportunity costs associated with the project are well documented throughout the EIAR and are summarised in the cost benefit analysis in Section 12.6 (page 215).</p> | |
| <p>The EIA process failed to consider a reduced turbine height to match the West Coast One project, which would reduce visual impact. This is a material deficiency and in breach of NEMA.</p> | <p>The LOGIS VIA has considered this and concludes the following in Section 10 Impact Statement.</p> <p><i>"The cumulative visual impact of the West Coast 1 WEF and the Boulders WF is expected to be of high significance. Mitigation of this impact is possible, and entails the selective removal or relocation of specifically identified wind turbine positions in relation to specified sensitive visual receptors. Additional to this the potential reduction in size of the proposed turbine structures should be considered. The post mitigation cumulative visual impact is expected to be of moderate-low significance. The application of the revised layout,</i></p> | |

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| | <p><i>where the seven wind turbines north- west of the Stompneus Bay road is relocated, is preferred and is expected to partially reduce the potential cumulative visual impact."</i></p> <p>The following response was provided in the CRR Section 11 Visual Issues page 86:</p> <p><i>"CES: It is correct that the BWF turbines will be bigger than WC1 turbines. Reducing the turbine size may marginally reduce the visual intrusion of the turbines, however the overall significance of the visual impact will remain high."</i></p> | |
| <p>The alternative of removing all turbines to the north of Kasteelberg in order to reduce the visual impact was not considered or assessed. This is a material deficiency and in breach of NEMA.</p> | <p>The following is a part of the response to the DEADP comment as reflected on page 4 in the Consolidated DEADP Response Report Issue No 3:</p> <p><i>"The HIA less preferable alternative recommendation is that all turbines north of Kasteelberg be relocated, but that the turbines south of the koppie remain. This limits the degradation of the landscape to a smaller area and preserves more of the significant link between Kasteelberg and the coast and was, therefore, considered as an acceptable alternative."</i></p> | |

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| | <p><i>This “less preferred alternative” was considered (to be a preferred alternative by the developer) as the financial viability of the project would have been severely compromised by removing or relocating all the turbines west of the Stompneusbaai road.</i></p> <p><i>The proposed mitigated layout with turbines west of Stompneusbaai Road only on the Southern part, was considered acceptable by the Heritage Specialist, even if not preferred option. In October 2019 the HIA and layout alternative 2 (less preferable alternative mentioned above) was approved by the WC HRA and accepted as having met the requirements of S38 (3) OF THE NHRA. The WC HRA had no objection to the development proceeding.”</i></p> <p>In addition to the above, as outlined in the concluding Section 12.4 of the EIAr relating to ALTERNATIVES, the following is stated:</p> <p><i>“In reaching the current proposed layout, the placement of turbines was refined on two occasions to further reduce the visual impact of the wind farm.</i></p> <p>✦ <i>To minimise these visual impacts on some Britannica Heights residents along the top of the ridge, the Paternoster residents and the Kasteelberg Heritage resource, the footprint of the proposed development was reduced in the</i></p> | |
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| | <p><i>EIA phase from the original 10 farms, to the five farms closest to the existing WC1 energy facility. A sensitivity analysis was used by the developers to design an initial proposed layout on the remaining 5 farms.</i></p> <p>✦ <i>The layout was further refined to adhere to the recommendations of the Heritage Impact Assessment, where seven turbines were relocated, to produce a final mitigated layout. The EIA specialist studies, therefore, assessed the relative impacts of both these proposed layouts (i.e. pre-relocation of 7 turbines and post-relocation of 7 turbines)."</i></p> <p>In October 2019 the HIA and layout alternative 2 (less preferable alternative involving the relocation of seven turbines instead of the recommended 13) was approved by the WC HRA and accepted as having met the requirements of S38 (3) of the NHRA. The WC HRA had no objection to the development proceeding.</p> | |
| <p>The EIA reports failed to consider and assess the potential impacts of low frequency sound waves. This is a material deficiency and in breach of NEMA.</p> | <p>Issues relating to noise have been comprehensively addressed in the Noise Environmental Impact Assessment with outcome of which is summarised in Section 9.8 of the EIAr (page 144). The response from the noise specialist on low frequency sound is</p> | |

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| | <p>provided in the CRR Section 14 Noise Impacts, (page 119) where it is stated:</p> <p><i>"The peer reviewed scientific literature on the impacts of noise from wind farms was reviewed and could not conclusively prove a link between wind farms and health impacts from noise. "</i></p> | |
| <p>The costs of the project exceed the benefits. The number of negative impacts (159) far exceed the positive impacts (70) when an objective weighting of the severity of the impacts is taken into account.</p> | <p>Section 12.6 in the conclusions section of the EIA provides an overall summary analysis of the positive and negative impacts. The fact that the number of negative impacts exceeds positive impacts does not imply that the proposed WEF should not proceed.</p> | |
| <p>The costs of the project will disproportionately affect the communities in close proximity to the project, including vulnerable and disadvantaged communities in Paternoster. This is fundamentally unjust and discriminates unfairly against those communities, and violates the principle in section 2 of NEMA that environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person. Please refer to the comments on social impacts in paragraphs 28 – 30 and 33 - 35 of Annexure C.</p> | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA. It is denied that any communities are or have been discriminated against.</p> | |

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| <p>The EIA reports failed to give a specific (higher) risk rating to communities within close proximity of the project, such as Paternoster. As a result, the risk assessments in the final EIAR are not reliable. This is a material deficiency and in breach of NEMA.</p> | <p>CES applied an industry accepted and widely used rating system that complies with the requirement of the EIA Regulations.</p> | |
| <p>The EA for this project puts it into the same category as all other wind energy farms for which an EA has been granted, without differentiating between them according to overall costs and benefits. This particular project has high environmental costs, yet will rank equally with all other approved sites if it is approved. The EA fails to give a comparative ranking that can be applied consistently to all wind farm environmental authorisations.</p> | <p>The EA has been approved. There is no requirement for EAs to include comparative rankings of the kind referred to. The conditions in EAs are specific to each project. Therefore, it is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> | |
| <p>The competent authority incorrectly states that the application fully complies with NEMA. I refer to the breaches and deficiencies set out above in this regard.</p> | <p>CES denies that there have been any breaches of the requirements of NEMA.</p> | |
| <p>GROUND OF 9TH APPEAL - DEON VAN SCHALKWYK</p> | <p>RESPONDING STATEMENT BY THE APPLICANT</p> | <p>COMMENTS BY THE DEPARTMENT</p> |
| <p>Herewith I would like to state that in principal I am not against wind energy. However, I am totally against the location of the proposed windfarm</p> | <p>This is clearly advocating the 'Not in my backyard' (NIMBY) approach. In practice the NIMBY approach means that the proposed project per se is not opposed, only the location of the project in close proximity to the objecting party. This however usually leads to competing interests of Interested</p> | |

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| | <p>and Affected Parties where the NIMBY approach could result in new or other I&APs being affected if the project location were to be moved.</p> <p>In the <i>MLPORA</i> case, the court referred to the fact that many affected parties may be aggrieved by a project's location however that is not necessarily a sufficient ground for the successful opposition to the project, or the setting aside of a decision to authorise the project. The public participation process will not always resolve the concerns of affected parties and this is to be anticipated.</p> <p>The appellant merely makes a statement and does not raise a ground of appeal.</p> | |
| <p>I live and have a business in Paternoster, ie Made in Paternoster Pty LTD t/a Farr Out Guesthouse currently employing 5 local people, and have invested plenty of time and money because of the sense of place itself as a sought after tourism destination with lots of history and holistic feel. An over-scaled modern structures will have a detrimental effect on the village and my business.</p> | <p>Issues relating to tourism have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment where the summary of the study is provided in Section 9.5 on page 142 of the EIAR.</p> <p>In this regard, it is important to note that, visual impact does not necessarily result in economic impact, particularly where opinions on the aesthetics of wind turbines differ so fundamentally. No evidence is provided to substantiate the allegation that the proliferation of wind farm operations will have a significant negative impact on</p> | |

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| | <p>the local tourism industry and the impacts on tourism were fully ventilated in the "Property, Tourism and Economic Assessment" specialist report and the public participation process, all of which concluded that:</p> <p><i>"While the possibility of negative impacts on property prices and tourism cannot be ruled out completely, research shows that that if any, the impacts on tourism will be marginal while the effect on property prices will dissolve once the wind farm is developed. Based on the experience of WC1 and wind farms in the Cape St Francis and Jeffrey's Bay area, and other research, there is no clear correlation between property price dynamics (positive or negative) and the development of wind farms."</i></p> | |
| <p>I feel that the environment natural fauna eg birds will be negatively impacted.</p> | <p>It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the EAP. Furthermore, the issue was comprehensively dealt with in the EIAR and therefore this issue and these comments have already been considered by the decision maker when the EA was issued. The appellant does not ground this statement in fact, but rather bases it on a "feeling". This is consequently not a ground of appeal, but rather a concern which has been comprehensively dealt with in the public</p> | |

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| | <p>participation phase as well as in the EIAr and specialist reports.</p> <p>Furthermore, the appellant failed to acknowledge the safeguards imposed on the applicant by the Department by means of conditions attached to the Environmental Authorisation. Condition 14 of the EA specifically states that the EMPr is not approved and condition 15 requires that the EMPr must be amended to include all recommendations and mitigation measures recorded in the EIAr as well as those listed in the specialist reports. Thus such mitigation measures shall be implemented as required by the EA. Moreover, all I&APS will be provided with a further 30 day opportunity to review and comment on the revised EMPr and which comments will be submitted to the Department for its consideration and its determination of whether to approve the revised EMPr or not.</p> | |
| <p>I feel that the historical significance of Paternoster and Kasteelberg [a recommended Provincial Heritage site], which will be almost surrounded by Turbines will be disrespectful to the Khoi-khoi people. The proposed development is partially within the protected area of Kasteelberg (Klein & Cruz-Urbe 1989; Smith et al 1991). There is to be no development / change to this Heritage area within a 2km radius. In addition the WITS School of Archaeology refers to a total height of the turbines not to exceed 80m from sea level to ensure that nothing</p> | <p>It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the EAP. Furthermore, as is set out below, the issue was comprehensively dealt with in the EIAr and therefore this issue and these comments have already been considered by the decision maker when the EA was issued. The following is a part of the response to the DEADP comment as reflected</p> | |

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| <p>is erected above the Kasteelberg heritage site. Compare this to 165m on top of a say 40m ground level - more than twice as high!</p> | <p>on page 4 in the Consolidated DEADP Response Report Issue No 3:</p> <p><i>“The HIA less preferable alternative recommendation is that all turbines north of Kasteelberg be relocated, but that the turbines south of the koppie remain. This limits the degradation of the landscape to a smaller area and preserves more of the significant link between Kasteelberg and the coast and was, therefore, considered as an acceptable alternative.</i></p> <p><i>This “less preferred alternative” was considered (to be a preferred alternative by the developer) as the financial viability of the project would have been severely compromised by removing or relocating all the turbines west of the Stompneusbaai road.</i></p> <p><i>The proposed mitigated layout with turbines west of Stompneusbaai Road only on the Southern part, was considered acceptable by the Heritage Specialist, even if not preferred option. In October 2019 the HIA and layout alternative 2 (less preferable alternative mentioned above) was approved by the WC HRA and accepted as having met the requirements of S38 (3) OF THE NHRA. The WC HRA had no objection to the development proceeding.”</i></p> | |
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| | <p>In addition to the above, in October 2019 the HIA and layout alternative 2 (less preferable alternative involving the relocation of seven turbines instead of the recommended 13) was approved by the WC HRA and accepted as having met the requirements of S38 (3) of the NHRA. The WC HRA had no objection to the development proceeding.</p> | |
| <p>The most disturbing effect is the white flashing lights during the day and red at night, - completely as if you were heading down the main street in Johannesburg instead of walking along a wide open beach</p> | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> <p>The EIAr and visual impact assessment confirm that the visual impacts remain HIGH but do not represent a fatal flaw.</p> <p>The summary of the VIA in the EIAr (Section 9.11 on page 146) quotes the following:</p> <p><i>"The wind farm will undoubtedly be imposing and dominate the visual landscape for those in close proximity. However, based on the assessment of significance in the VIA, it is concluded that the potential losses of scenic resources are not sufficiently significant to present a fatal flaw to the proposed project...."</i></p> <p>It should also be noted that infrastructure such as roads, power lines and substations are common</p> | |

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| | elements in landscapes in South Africa. Whilst wind turbines may not yet be regarded as such, it is submitted that in the future, wind turbines and other forms of renewable energy will become common place and will also be regarded as part of the landscape. | |
| The total proposed number of 45 turbines (in addition to the Vredenburg Wind Farm), create the effect of a forest of moving structures with a height higher than all buildings in Cape Town | It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFF's reasons for issuing the EA. It should also be noted that infrastructure such as roads, power lines and substations are common elements in landscapes in South Africa. Whilst wind turbines may not yet be regarded as such, it is submitted that in the future, wind turbines and other forms of renewable energy will become common place and will also be regarded as part of the landscape. | |
| The R399 road towards Paternoster is regarded a <i>scenic route</i> and as such may not be spoiled by the Boulders project | It is submitted that this is an unsupported and unsubstantiated and/or subjective statement or opinion, especially considering the fact that opinions on the aesthetics of wind turbines differ so fundamentally. | |
| The erection of the turbines over a period of 2 years has a negative impact on the small roads network of the environment. | Issues relating to traffic are adequately addressed in the Traffic Impact Assessment as summarised in | |

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| | Section 9.10 (page 145 of the EIAR) where the overall impacts are determined to be LOW. | |
| The influx of job seekers will be more negative than those who might be given jobs during the 2 year construction phase | It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA. | |
| The 1200 m ² platform at each turbine along with the network of roads to all turbines have a negative impact on the landscape | This was assessed in the EIA and not determined to be a significant issue. Platforms are generally at or below ground level and not very visible. | |
| Comments regarding work opportunities, creation of job opportunities and skills development, are completely unfounded. Exactly the opposite is true the people of Paternoster will be financing jobs in Germany. Similar promises were received from the Vredenburg Wind Farm without anything materializing (except one contractor appointed to erect not much more than a few carports at a site office). Nobody from Paternoster has been employed | <p>The appellant does not substantiate the statement that the “creation of job opportunities and skills development, are completely unfounded”. To the contrary, the Urban-Econ specialist Property, Tourism and Economic Assessment report is based upon specialist opinions and projections. Thus, this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> <p>It is unclear what the Appellant is alleging in this statement as this project is the ‘Vredenburg Wind Farm’. Furthermore, the appellant conflates the West Coast 1 development with the project that this appeal is concerned with. They are both separate and distinct, differing in a number of ways.</p> | |

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| <p>The negative visual effect, without a doubt, will result in a decline in tourism!</p> | <p>It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the EAP. Furthermore, as is set out below, the issue was comprehensively dealt with in the EIAR and therefore this issue and these comments have already been considered by the decision maker when the EA was issued. Issues relating to impacts on tourism have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment where the summary of the study in Section 9.5 on page 142 states the following:</p> <p><i>"While the possibility of negative impacts on property prices and tourism cannot be ruled out completely, research shows that that if any, the impacts on tourism will be marginal while the effect on property prices will dissolve once the wind farm is developed. Based on the experience of WC1 and wind farms in the Cape St Francis and Jeffrey's Bay area, and other research, there is no clear correlation between property price dynamics (positive or negative) and the development of wind farms."</i></p> | |

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| | In this regard, it is important to note that, visual impact does not necessarily result in economic impact, particularly where opinions on the aesthetics of wind turbines differ so fundamentally. No evidence is provided to substantiate the allegation that the proliferation of wind farm operations will have a significant negative impact on the local tourism industry. | |
| Serious concerns exist about the noise and health impact studies referred to in the report. Since turbine positions have not been determined and distances cannot be measured, the effect can also not be commented on. Although reference is made to low negative significance to health, why should we have to accept ANY negative impact | It is important to understand that development will always have certain impacts and the balancing of such impacts and the rights of communities is required rather than a refusal to accept any impacts. | |
| It is essential that the stroboscopic effect of the turbines is demonstrated to people who might be living in close vicinity | It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA. He effects of flicker have been dealt with in Section 6.8.6 of the Visual Impact Assessment and determined to be of LOW significance due mainly to the localised nature of the impact. | |
| People become aware of noise as soon as this is 3– 5 dBA above the ambient noise. The report shows that the minimum effect will be more | The appellant merely raises a concern that was addressed in the relevant study, and therefore does not raise a valid ground of appeal. | |

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| <p>than 7dBA above ambient noise. Although distance plays a major role low frequencies (of the turbines) travel far</p> | <p>Issues relating to noise have been comprehensively addressed in the Noise Environmental Impact Assessment. In terms of the Noise Scoping Study, it was concluded on page 67 that: <i>"with the implementation of correct mitigation measures (especially a sufficient setback or buffer zone, see Figure 10-1) it would be possible to minimize the potential noise risks and reduce the noise impacts to a more acceptable medium or low significance."</i></p> | |
| <p>The report refers to the increase in property values over a 10-year period, but simultaneously accepts that they can only determine this effect from Phase 2 of the EIA process. Whatever the outcome of such study might be, in my opinion the Wind Farm cannot have a positive effect on property values</p> | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> <p>Issues relating to property values have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment where the summary of the study in Section 9.5 on page 142 states the following:</p> <p><i>"While the possibility of negative impacts on property prices and tourism cannot be ruled out completely, research shows that that if any, the impacts on tourism will be marginal while the effect on property prices will dissolve once the wind farm is developed. Based on the experience of WC1 and wind farms in the Cape St Francis and Jeffry's Bay area, and other research, there is no clear</i></p> | |

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| | <p><i>correlation between property price dynamics (positive or negative) and the development of wind farms."</i></p> <p>In this regard, no evidence is provided to substantiate the allegation that the proliferation of wind farm operations will have a significant negative impact on property values.</p> | |
| Diagrams in the report also indicate the majority of property owners being Sectional Schemes with only 30 vacant properties in Paternoster? This should be explained in detail if it is used in any calculations | The diagrams presented in the report, are discussed in the text. In relation to Paternoster (Section 3.2.4.c), Figure 10 presented on p50, has been discussed on p51 under the bulleted paragraphs highlighting Sectional schemes, freehold properties and vacant land prices. | |
| The Developer argues that 50% of the manufacturing will have local content. Does this mean in weight in Kg or intellectual value? It is clear that the blades, hub, nacelle and tower are manufactured in Germany (not local), the machinery will be coming from Germany as well (not local), maintenance will be supported from Germany at enormous costs (not local) – It seems Paternoster residents will be left with local content being concrete, with skills development being pouring concrete | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> <p>The REIPPP Program is considered to be a very successful program where the promotion of local economic benefits are entrenched.</p> | |
| The Developer argues that 50% of Company ownership is local, but even this 50% local (IDP POver) is owned by majority German shareholding | It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA. | |

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| | <p>While the parent shareholders of the shareholders of Vredenburg Windfarm (Pty) Ltd may have German shareholders, the Department of Energy ensures that the shareholding of the eventual operational wind farm has HDI shareholding in the projects of 30%, as well as HDI people in local communities of 5%. IPD Power is no longer a shareholder.</p> | |
| <p>The report refers to a financial impact comparison before and after the completion of the Vredenburg Wind Farm. This is a futile exercise because the Vredenburg Wind Farm is situated largely 'behind' Paternoster.</p> | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> <p>While this comment is vague and unclear, the impact on Paternoster has been assessed thoroughly in the Property Values, Tourism and Economic Issues Assessment Report by Urban Econ, where it concludes that:</p> <p><i>"Numerous international studies attempted to assess the impact of wind farms on tourism, especially in the areas where scenery and aesthetics are among the main attractions. None of the studies were able to confirm with any confidence that there is a consistent negative impact of wind farms on tourism. Having said this, in some isolated cases, between 25% and 35% of tourists may be deterred from visiting the area where scenic</i></p> | |

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| | <p><i>landscape has been altered. Importantly, though, where negative effects were noted, the responses were based on perceived impact of wind farms on landscape rather than on the actual impact (i.e. before the wind farm was actually built). In other words, the negative impacts on tourism are usually raised as concerns during the pre-construction phase and markedly reduce in their intensity during the operations of wind farms. Indeed, research also suggest that the actual number of tourists who are likely to act after the wind farm is comprise a small percentage.</i></p> <p><i>Based on the above, it can be stated that the proposed Boulders Wind Farm will alter the landscape of the area; however, the negative impact on tourist numbers is going to be markedly smaller than what is currently perceived by various stakeholders and would unlikely be detrimental to the tourism industry in the area."</i></p> | |
| <p>The developer refers to two case studies for a comparison before and after the establishment of a wind farm in South Africa? I insist on a study why European countries have stopped erecting turbines</p> | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFF's reasons for issuing the EA.</p> <p>It is also submitted that the claim is factually incorrect since European countries have certainly not stopped erecting turbines. Furthermore, this is</p> | |

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| | <p>not a ground of appeal. The appellant is simply asking for further information- something which should have been raised during the public participation process.</p> | |
| <p>Many problems exist with the quality of the internet due to interference from the turbines. Does the developer have a study available which can be checked?</p> | <p>This is merely a question and not a ground of appeal based on fact.</p> <p>The following response was provide in the CRR Section 17 (Other issues) Issue 24 page 135:</p> <p><i>"If there are any complaints received from I&APs regarding internet interference, then an investigation of the interference will be made, and if found that the Wind Farm reduces the internet connectivity of these I&APs, new receives would be installed to restore the signal back to the original value."</i></p> <p>A study has not been conducted relating to impacts on internet interference, however, we have no experience of this being an issue for any other operational wind farms in SA. In addition, the appellant provides no evicence that this could be an issue.</p> | |

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| <p>When the report refers to decommissioning and rehabilitation after say 20 years, does that include the 300m³ concrete footing of each and every turbine</p> | <p>Yes, all components of the of the WEF would need to be removed during decommissioning, including concrete footings.</p> | |
| <p>Although farmers (on whose land wind turbines will be built) suddenly no longer seem to have a need for crop spraying by planes adjacent farmers still might regard this as essential.</p> | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> <p>In the CRR Section 17 Other Issues, issue number 24 on p135, the following response was provided “No farmers have raised any concerns around the wind farm interfering with their farming activities.” In addition, all I&APs have been given an opportunity to comment on the development and the potential effects thereof during the public participation period.</p> | |
| <p>Light aircraft and microlights use the area frequently for recreation and will negatively be influenced by the turbines</p> | <p>It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the EAP. Furthermore, as is set out below, the issue was comprehensively dealt with in the EIAR and therefore this issue and these comments have already been considered by the decision maker when the EA was issued. All I&APs have been given an opportunity to comment on the development and the potential effects thereof.</p> <p>An assessment was conducted by the relevant authority in relation to the terms and provisions as contained in the Civil Aviation Act (Act 13 of 2009)</p> | |

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| | <p>for the controlling and/or restricting of structures which will constitute an obstruction or potential hazard to aircraft moving in the navigable air space. A Civil Aviation Approval was received back in August 2014, which was provided in Appendix O – Additional Information during the Scoping Assessment.</p> | |
| <p>The developer's bird studies refer to NO-GO areas eg. water ways and beacon points (for hunting, feeding nesting grounds shown in brown below). Will they give directions to birds and bats to remain in the brown demarcated areas?</p> | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> <p>Matters relating to avifauna have been comprehensively address in the specialist Avifaunal Impact Assessment the results of which are summarised in Section 9.2 of the EIAR (page 140) where the following concluding statement is quoted:</p> <p><i>"According to the Avifaunal Impact Assessment, the proposed Boulders Wind Farm is acceptable for development and presents no fatal flaws, provided that all mitigation measures recommended are adhered to. It is recommended that the minimum height of rotor swept area is not lower than 55m. Additionally, as larger rotor swept areas are likely to have a higher impact on bird fatalities than smaller rotor swept areas (assuming the same number of</i></p> | |

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| | <i>turbines), it is recommended that the rotor diameter should preferably be 120m or less."</i> | |
| What is it that the developer offers as a carrot to the Community Trust | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> <p>This comment is also extremely vague and unclear and therefore cannot be responded to with adequate certainty. Furthermore it is a bald question that cannot be considered a ground of appeal.</p> | |
| There is a perception that public participation is used only to meet legislative requirements. Although registered as an Interested and affected Party (IA&P) the Developer neglected to inform many people so registered. Along with the Department of Environmental Affairs the public participation process is only used to demonstrate due diligence without giving enough attention to valid objections/comments | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> <p>A comprehensive PPP process was followed as outlined in Section 8 of the EIAr. It is rejected that "the developer neglected to inform many people".</p> <p>The EAP also met all the requirements in terms of the EIA Regulations. Table 8.1 in the EIAr provides an overall summary of the PPP in the Scoping Phase. Table 8.12 provides a summary of the PPP during the EIA phase.</p> <p>The following additional Volumes to the EIAr has also provide support for the substantial effort that was expended in engaging with I&APs.</p> | |

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| | <ul style="list-style-type: none"> - Volume 4: PPP supporting documents - Volume 5: The Comments and Response Report. | |
| The trust to which the developer from the beginning deposits enough money for the removal of the turbines, should include removal of platforms, roads, 300 to 700 tons concrete foundations, and rehabilitation of the environment | The owners of the wind farm will, when its end of life occurs, have to apply for a further environmental authorisation in order to lawfully decommission the wind farm. The environmental authorisation required for such decommissioning process will include conditions and measures relating to the removal of all infrastructure and the rehabilitation of the environment to its natural state. The owners of the wind farm will have to ensure compliance with the content of the environmental authorisation for decommissioning and rehabilitation and will therefore have to spend the necessary funds to achieve rehabilitation of the environment to the satisfaction of the Department. | |
| How are restrictions enforced? It is important that a method be implemented whereby residents can see how all objections or concerns are addressed? | Restrictions will be enforced through the implementation of the legally binding EMPr which also includes a mechanism to address grievances. This will be overseen by an ECO. | |
| Methods must be established to monitor the destruction of the little endemic vegetation still left, with a heavy fine if the developer would error? | As above. | |

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| | Furthermore, this is a question that should be directed to the relevant environmental department and cannot be considered as a ground of appeal. | |
| The fact that wind conditions are less favourable during winter (when demand is the highest) means that Eskom still must provide for maximum demand. This then must be done by a more reliable source. If this is provided by a reliable source (eg nuclear) then the wind farm becomes obsolete again | This is incorrect and unsubstantiated. In terms of the Integrated Resource Plan, the country's energy make-up is derived from numerous different sources, including wind energy. | |
| There does not seem to be an objective approach to eg the pebble bed reactor which at least can ensure a reliable power supply, is safe and has far less impact on the environment | It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFF's reasons for issuing the EA. | |
| It is incomprehensible why the State does not have a coordinated plan for electricity generation with all available technologies (solar/ wind/ coal/ hydro-logic/ gas etc) demarcating the whole country into preferred applications taking into account all ecological-, social- and economical aspects | Issues relating to the optimal energy mix for the Nation are comprehensively addressed in the most recent Integrated Resource Plan which was adopted in 2019 and advocates an increased share of renewable energy, including wind farms, in the future energy mix | |
| Without doubt individual agricultural landowners will financially benefit from the proposed wind farm, whereas all ratepayers/ village property owners will be seriously harmed financially. There is as yet no study presented of similar cases and what the short and long term effect has been. How many agricultural landowners benefit? Wouldn't there | It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFF's reasons for issuing the EA. Issues relating to the economic impacts have been dealt with comprehensively in the Urban-Econ | |

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| <p>be more beneficial once the location changes to more North of Vredenburg?</p> | <p>specialist Property, Tourism and Economic Assessment.</p> <p>With respect to agricultural land, Section 9.1 of the EIA provides a summary of the Agricultural and Soil Impact Assessment (page 140), where the following concluding statement is made:</p> <p><i>“The Draft Layout and the Final Layout (after the relocation of 7 turbines) of the proposed Boulders Wind Farm have the same agricultural impacts and the change in layout does not change the impacts or rating of the Agriculture Impact Assessment Report. The two negative impacts can be mitigated to a LOW significance. The only potential negative impact of real concern is erosion, but this can be mitigated. It is also noted that the proposed development will have a positive economic impact on the two directly affected farms through improved income security.”</i></p> | |
| <p>One of the most aesthetically negative impact is caused by the erection of power lines. It should be a requirement that no new power distribution from a wind farm may be erected above ground</p> | <p>The visual impacts of the powerline will be dealt with in powerline EIA. Therefore, this does not have any bearing on this appeal.</p> | |
| <p>Sustainable energy generation is definitely part of the solution to our electricity shortages. However, this may not be to the detriment of all those people who have invested in this very successful village. Only German companies, a few farm property owners and a few South</p> | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> | |

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| <p>African individuals (who do not live in Paternoster) will benefit from this venture</p> | <p>This project has the potential to provide benefits to many in South Africa, especially considering the current dire state of our electricity generating facilities.</p> <p>This is advocating the 'Not in my backyard' (NIMBY) approach. In practice the NIMBY approach means that the proposed project per se is not opposed, only the location of the project in close proximity to the objecting party. This however usually leads to competing interests of Interested and Affected Parties where the NIMBY approach could result in new or other I&APs being affected if the project location were to be moved.</p> <p>In the <i>MLPORA</i> case, the court referred to the fact that many affected parties may be aggrieved by a project's location however that is not necessarily a sufficient ground for the successful opposition to the project, or the setting aside of a decision to authorise the project. The public participation process will not always resolve the concerns of affected parties and this is to be anticipated.</p> | |
| <p>Previous guests of Farr Out commented already on existing Windfarm One that this will have a negative impact on tourism as the visual impact visible from our guesthouse led to comments such as "we won't be coming back again due to the windfarms", "the red lights at</p> | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFFs reasons for issuing the EA.</p> | |

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| <p>night time are irritating”, “why this location and not rather further inland where a tourism destination won’t get spoilt”, etc</p> | <p>Visual impacts do not necessarily result in economic impacts, particularly where opinions on the aesthetics of wind turbines differ so fundamentally. Different people have different opinions on what can be considered aesthetically pleasing.</p> | |
| <p>GROUNDINGS OF 10TH APPEAL - ANNE & JOHN TODD</p> | <p>RESPONDING STATEMENT BY THE APPLICANT</p> | <p>COMMENTS BY THE DEPARTMENT</p> |
| <p>If the EIA does not supply sufficient information for final approval, then surely it is not up to the standard as required by the Department of Environmental Affairs and the Minister.</p> | <p>In the <i>Muckleneuk/Lukasrand Property Owners and Residents Association v The MEC: Department of Agriculture, Conservation and Environment, Gauteng Provincial Government and others</i> (28192/04; 12137/06 TPD) [2006] ZAGPHC 86 (30 August 2006) (“<i>MLPORA</i>”) case, a full bench of the Gauteng High Court confirmed that environmental authorisations can be made conditional upon the subsequent approval of an EMPr which is subjected to public participation.</p> <p>DEFF has determined that the FINAL EIAr meets with the EIA Regulatory standards and therefore the EA was granted. Any requirement for further submissions is imposed as a condition of the EA, and hence will have to be complied with. It should be noted that regulation 26 (i) of the EIA Regulations (GN 982 in GG 38282 of 4 December 2014, as amended) empowers the decision-maker to impose</p> | |

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| | <p>'any relevant conditions which the competent authority deems appropriate', the scope of which would include the provision of any further information required.</p> | |
| <p>No consideration is given to the possible increase in crime or heavy traffic with the possibility of increased accidents, especially during the construction phase.</p> | <p>The appellant's ground is vehemently denied as these issues are specifically dealt with and considered in the Traffic Impact Assessment and the Social Impact Assessment.</p> <p>The SIA identified crime during the construction phase as a potential issue but determined the risk to be LOW.</p> | |
| <p>The wind turbine EIA and the transmission line EIA are treated separately to apparently present less impact when considered.</p> | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFF's reasons for issuing the EA.</p> <p>The main reason for splitting the two applications is that the powerlines may fall under different ownership such as Eskom.</p> | |
| <p>The consideration of alternate sites were apparently taken over from the previous EIP and no new sites considered out of the Langebaan airfield exclusion zone.</p> | <p>Alternatives have been comprehensively addressed in the Alternatives Section 5 of the EIAR (sub section 5.3 and 5.4). Details concerning a pre-EIA feasibility study and site selection process, are also provided at section 3.6 of the EIAR.</p> | |

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| | <p>In addition to the above, as outlined in the concluding Section 12.4 of the EIAr relating to ALTERNATIVES, the following is stated:</p> <p><i>"In reaching the current proposed layout, the placement of turbines was refined on two occasions to further reduce the visual impact of the wind farm.</i></p> <p><i>To minimise these visual impacts on some Britannica Heights residents along the top of the ridge, the Paternoster residents and the Kasteelberg Heritage resource, the footprint of the proposed development was reduced in the EIA phase from the original 10 farms, to the five farms closest to the existing WC1 energy facility. A sensitivity analysis was used by the developers to design an initial proposed layout on the remaining 5 farms.</i></p> <p><i>The layout was further refined to adhere to the recommendations of the Heritage Impact Assessment, where seven turbines were relocated, to produce a final mitigated layout. The EIA specialist studies, therefore, assessed the relative impacts of both these proposed layouts (i.e. pre-relocation of 7 turbines and post-relocation of 7 turbines)."</i></p> | |
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| <p>The visual impact was considered high and no mitigation will prevent the massive turbines proposed from destroying the sense of place and beauty of the West Coast Peninsula. The turbines will be highly visible to the residents of Paternoster and Britannica heights, who will have the turbines towering above them and flashing lights day and night especially after the turbines were moved closer to Britannica Heights from the area near Kasteelberg. The photos of WC1 shown by the EIP were taken from sites where the visual impact was least obvious and no photos with the proposed larger turbines superimposed were provided. The attached give a more realistic view of the existing turbines.</p> | <p>The visual impact assessment concludes that impacts remain HIGH but do not represent a fatal flaw as reflected in the summary specialist study section 9.11 (page 145) where it is concluded that:</p> <p><i>"The wind farm will undoubtedly be imposing and dominate the visual landscape for those in close proximity. However, based on the assessment of significance in the VIA, it is concluded that the potential losses of scenic resources are not sufficiently significant to present a fatal flaw to the proposed project...."</i></p> | |
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The EIA states that this project will benefit the production of green energy and benefit the entire nation, but this is surely the case even if the project is sited in a more acceptable locality.

It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFF's reasons for issuing the EA.

The macro economic impacts have been addressed in the Urban-Econ specialist Property, Tourism and Economic Assessment where the summary of the report. The report also outlines the local benefits to the community. Together with this report, and all other specialist reports, the project is considered to be acceptable in its current location.

The assessments of alternatives was provided in Appendix O of the Scoping Assessment, and was disputed in an Appeal of the Scoping Phase. This

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| | was then dismissed by the Minister, and the project allowed to continue. | |
| The EIA appears to only consider the benefits to the grid and green energy, but no negative effects to the area or the local community. | <p>It is submitted that this is an unsubstantiated opinion. The EIA does address both positive and negative impacts. Refer to the overall costs benefit assessment in Section 12.6 of the EIA and especially Table 12.1 (page 216) which summarises all the impacts both negative and positive.</p> <p>Furthermore, this ground contradicts the appellant's previous ground where it was stated "The visual impact was considered high".</p> <p>It is important to understand that development will always have certain impacts and the balancing of such impacts and the rights of communities is required rather than a refusal to accept any impacts.</p> | |
| The EIA states the project will create jobs and benefit the local community, but does not state how this will be achieved to prevent an influx of outsiders who will be given the jobs and then remain mostly unemployed after the conclusion of the project and possibly add to the crime. | <p>It is submitted that this is an unsubstantiated and/or subjective statement or opinion that does not invalidate DEFF's reasons for issuing the EA.</p> <p>This statement makes the unsubstantiated claim that jobs will be given to so-called "outsiders", and further speculates, without tendering any evidence, that such individuals will become unemployed and be involved in crime. This ground has no basis and</p> | |

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| | <p>should be rejected as an irrational and xenophobic statement.</p> <p>Issues relating to the economic impacts have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment. This is summarised in Section 9.5 or page 142 of the EIAR where it states:</p> <p><i>"It is concluded that the proposed development will have a number of positive low to medium economic impacts on the local and regional economy, particularly during the two-year construction phase, leading to the creation of over 900 jobs, and up to 60 jobs in the operational phase. This is considered beneficial for local job seekers and businesses, particularly in the context of high unemployment, considerable poverty and the decline of the historical fishing industry in this area. The developers will also be investing over R9 million per annum in local socio-economic and enterprise development initiatives."</i></p> | |
| <p>The EIA provides no scientific facts that the project will not affect tourism and property prices, but merely supplies other selected case histories – some from other countries. The effect on tourism will impact more local jobs than the project will create – especially after construction is complete.</p> | <p>It is submitted that this issue was raised by many I&APs in the PPP and was responded to by the EAP. Furthermore, as is set out below, the issue was comprehensively dealt with in the EIAR and therefore this issue and these comments have</p> | |

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| | <p>already been considered by the decision maker when the EA was issued. Impacts on tourism and property prices have been comprehensively addressed in the Urban-Econ specialist Property, Tourism and Economic Assessment where the summary of the study in Section 9.5 on page 142 states the following:</p> <p><i>“While the possibility of negative impacts on property prices and tourism cannot be ruled out completely, research shows that that if any, the impacts on tourism will be marginal while the effect on property prices will dissolve once the wind farm is developed. Based on the experience of WC1 and wind farms in the Cape St Francis and Jeffry’s Bay area, and other research, there is no clear correlation between property price dynamics (positive or negative) and the development of wind farms.”</i></p> | |
| <p>The avifaunal (Bioinsight) report was conducted in 2015 and a brief site visit in 2017 and must thus be out of date as climate change also changes bird distribution. The radar study was not made available to I&AP’s suggesting some sort of cover up.</p> | <p>The avifaunal assessment has been conducted by a reputable specialist company.</p> <p>The statement concerning a “cover up” is speculative.</p> | |

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| <p>The avifaunal report conducted by a Portuguese EIP gives no accurate figures for bird & bat fatalities at West Coast One or how often inspections were carried out.</p> | <p>The avifaunal study has been conducted by a reputable specialist company and their findings are deemed to be defensible.</p> <p>The following response to this issue is provided by the avifaunal specialist in Section 7 Comments and Response Report (page 38).</p> <p><u>“Avifaunal Specialist Response:</u> <i>This comment starts with a highly personal opinion about the technical capabilities of the bird specialist team, ignoring the fact that the lead specialist investigator is registered as professional member in compliance with the Natural Scientific Professions Act of 2003 which aims to “Provide for the establishment of the South African Council of Natural Scientific Professions (SACNASP)”. In fact, the presence of an international team, with foreign but also local specialists, in a study conducted in South Africa seems to be a common concern as found in several of the comments received during the public consultation process.</i></p> <p><i>On this matter, the bird specialist team would like to highlight that by combining local and international expertise should be seen as beneficial to the process, adding a substantial know-how, not only with regard to South African Birds - local knowledge</i></p> | |
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| | <p><i>through local technicians who conducted the field surveys among other aspects of the work; but also to the technical coverage of overall impact assessment processes and knowledge of potential WEF impacts on biodiversity, monitoring, mitigation, etc. - not only from local South African projects, but international knowledge as a result of a wide range of projects concerning Wind Energy and other renewable energy projects conducted in Europe, Africa and South America."</i></p> | |
| <p>The avifaunal report gives no weight to the number of threatened and endangered birds present in the area – Black Harrier (Endangered), Blue Crane (threatened) at times 200+ birds flying at turbine height, Verreaux’s Eagle (Vulnerable), Ludwigs Bustard (Endangered), Secretary Bird (Vulnerable), Southern Black Korhaan (Vulnerable), African Hawk Eagle, African Fish Eagle - to name a few of the larger species. All of these have been seen in the proposed WF area and flying at rotor swept height.</p> | <p>Bioinsight clarifies in their response to Mr. Simmon’s report in this Appeal that all groups of birds in the Boulders WEF area have been assessed during the pre-construction monitoring campaign and the final specialist IA report. As such, we point out that the final specialist IA report includes all sensitive species that can be negatively affected by the presence of the wind farm, including the Black Harrier. This considered a broad list of bibliographic sources and, as previously stated, all field data that was collected during the study period (which included all observations and flight patterns of the species).</p> | |
| <p>The avifaunal statement under “3 RESULTS AND DISCUSSION”, paragraph 3: re the Blue Cranes is from our personal observation clearly incorrect. In the brief visits to the site by the Bird Specialists,</p> | <p>It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the EAP. Furthermore, as is set out below, the issue</p> | |

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| <p>for them to be able to conclude the “usual” flying height of the various bird species is highly unlikely.</p> | <p>was comprehensively dealt with in the EIAr and therefore this issue and these comments have already been considered by the decision maker when the EA was issued.</p> <p>The following is extracted from Bio-Insight's response to the Simmons report submitted in response to this Appeal:</p> <p><i>“We (Avifaunal Specialist BioInsight) must start off by acknowledging that the monitoring campaign was conducted in compliance with the best practice guidelines made available at the time (Jenkins, et al., 2012). In fact, the bird monitoring guidelines state that a minimum of four surveys (one for each season) should be sampled each year. During the 12-month monitoring campaign, Bioinsight sampled twice per season – translating into eight field surveys (i.e. double than what was required) during the entire duration of the monitoring programme. In addition to this monitoring, a separate radar study was also conducted by another independent specialist – the results of which have been presented in the relevant assessment report associated with it (Millikin, 2015). All these thorough data capturing techniques allowed for a very extensive data set to be used for the overall assessment and conclusions in the final IA report,</i></p> | |
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| | <i>which was developed in compliance with the guidelines available at the time (Jenkins et al., 2015). In relation to the single 3-day site visit conducted by Dr. Simmons, we consider our information to be fairly robust for the purposes of the assessment."</i> | |
| Many turbines are sited on the edge of "no go" areas which means the rotors will encroach on these no go areas. | Rotors will not encroach into no go areas. This will be assessed further during the micro siting process. | |
| There has been no further investigation done on the accumulative impact for birds and bats after the moving of the turbines west of the Stompneus Bay to Vredenburg gravel road, to the east of the road. | The bird and bat specialists determined that the relocation of the seven turbines will not change their overall conclusions as reflected in Sections 9.2 and Section 9.3 (page 140) of the EIAr. | |
| GROUNDS OF 11TH APPEAL - LOUIS ENGELS | RESPONDING STATEMENT BY THE APPLICANT | COMMENTS BY THE DEPARTMENT |
| <p>LOSS OF PROPERTY VALUE:</p> <p>No guarantees: We have been West Coast residents and tax payers since 1986 and own property in Saldanha, St Helena Bay and Elands Bay. As a neighbouring property owner in Brittanica Heights adjacent to the proposed site, we strongly believe that we will suffer a loss in our property value, as we ourselves would NEVER have considered buying this property in 2015 if we knew a wind farm development was proposed for the valley on the neighbouring farms right in front of our property, and we don't believe ANY future buyer would consider</p> | <p>This is a long discussion on the effect of the wind farm on property values. It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the EAP. Furthermore, as is set out below, the issue was comprehensively dealt with in the EIAr and therefore this issue and these comments have already been considered by the decision maker when the EA was issued.,</p> | |

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| <p>buying a property right next to a wind farm in that specific rural area. We consider CES as blatantly dishonest and biased towards the German developers' benefit. They are openly bullying us with non-convincing "awareness campaigns" about "property prices in general."</p> <p>See their statement: "this project opportunity, so desperately needed for the creation of new job alternatives in the surrounding 43 communities, might suffer because of the visual perception and a certain dislike by a minority of individuals."</p> <p>This is bullying at its best! They also deal the old outdated card of "the Nimby (Not in my backyard) syndrome," while it has already been accepted in other countries that ALL residents (specially those that will be negatively affected,) have a say in such developments.</p> <p>We found no confirming evidence provided by CES that states the names of the property agents who they claim are willing to confirm that Brittanica Heights and Paternoster property owners won't be disadvantaged with a drop in property values.</p> <p>On the contrary, our estate agent Charmaine Swanepoel of Chas Everitt, who's sold the property in Brittanica Heights to us in 2015, has stated that they are very worried about the effect on the property market in St Helena Bay due to the wind farm development. On a meeting with interested and affected parties, it was also mentioned that a property owner in Paternoster told architect Alvin Roon that, if</p> | <p>The issue of property values has been comprehensively addressed in the Urban-Econ specialist Property, Tourism and Economic Assessment. Specifically relating to Paternoster and Britannica Heights, the following statements are made in the UE report based on an analysis of historic property sale prices and interviews with nine (9) Estate Agents:</p> <ul style="list-style-type: none"> - Page 49 – <i>"No apparent change in freehold property prices has been identified for Vredenburg due to the development of West Coast One WEF."</i> - Page 55- <i>"The review of the property transfers in Britannica Heights in the past few years does not given any indication that the demand or property prices have been negatively impacted by the development of the West Coast One wind farm with the closest wind turbines located some 6 km away from the properties on Vasco da Gama Crescent."</i> - Page 57 – <i>"The experience of all (nine -9) real estate agents interviewed asserts that wind farm developments have not had a notable effect on the demand and value of surrounding properties. They state that prospective buyers have mostly been indifferent to the presence of wind farms. One real estate agent from Saint</i> | |
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| <p>the wind farm development is approved, he is NOT bulding a house in Paternoster, but selling his plot.</p> <p>CES also made it very clear that they have NO obligation to compensate land owners if there are losses in property values due to a development such as this!</p> <p>See Developer's Pre-feasibility Assessment of alternative sites: "some property owners may often have "unsubstantiated" perceptions concerning the negative impact of renewable energy projects on property prices in general, which is why it is a common concern raised by the I&APs. However, as indicated above, such perceptions cannot be corroborated with any empirical evidence, therefore, it is important to dispel these as early as possible through awareness campaigns and regular engagements with the local property owners prior to the construction phase."</p> <p>".....the perception that property values might be affected due to similar reasons, mainly the visual impact. These are concerns that we, the developer of the Boulders Wind farm have taken very seriously. Whilst we are convinced that the overall socio-economic benefit under the South African REI4P will generally always be positive in terms of the local and national socio-economic benefits that are quantifiable by hard facts and in the public interest for South Africa as a whole, specific additional studies have been conducted explicitly to assess these specific impacts. Whilst the property evaluation study concludes that no negative impact is to be expected from the Boulders Wind Farm project, the property price study indicates that if</p> | <p><i>Helena Bay stated that one property owner complained that they would not have purchased the property had they known about the development of the West Coast One Wind Farm. This is the only opposing case that was presented."</i></p> <p>Concerning the payment of compensation to landowners, the CRR (page 18 issue no. 66) provided the following response:</p> <p><i>"The need for compensation as a mitigation strategy was not recommended or considered necessary for the BWF for two reasons. Firstly, the expected impact on property values and tourism is rated as low negative and no evidence was found of any discernible impact of the WC1 development or other wind farms on property values and tourism. Secondly, unless the views of any affected properties are protected by a servitude written into their property title deeds, South African law does not recognise any inherent right to an existing view of a property. There is therefore no legal basis or guidelines to support the payment of compensation due to visual impacts."</i></p> <p>In the <i>MLPORA</i> case, the court referred to the fact that many affected parties may be aggrieved by a project's location however that is not necessarily a sufficient ground for the successful opposition to the</p> | |
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| <p>a low negative impact would need to be considered, it would be improbable for this impact to actually occur. Furthermore this impact would be reversible and does not lead to an irreplaceable loss of resource. Also, this would concern a tiny group of the local population and not the broader public within the surrounding communities. On the potential conflict of interest with tourism, the specialist even concludes in the specific assessment that the construction of the wind farm will have a low positive effect on the tourism businesses and even medium positive if adequately enhanced. So, while I&APs might continuously express their perceived concerns on these issues, no negative short or long-term impacts affecting the local community and being unfavourable for the public interest are to be expected. All the socio-economic benefits, job creation, socio-economic development contributions, black ownership & participation, green industrialisation, local content amongst many other benefits (that can be presented as hard facts and numbers) attributed to the Boulders Wind Farm project stand in glaring contrast to these perceptions."</p> <p>We want to repeat - choosing another site, like the Saldanha IDZ area, will realise ALL the benefits as stated by CES, but will not impact on any environmental, tourism or property value concerns.</p> <p>So why their brutal persistence to develop this site? Because it suits them the best?</p> <p>We have given our support for the "motion of NO CONFIDENCE" against CES as being responsible for protecting the environment for ALL our local residents, and we don't agree with their so-called</p> | <p>project, or the setting aside of a decision to authorise the project. The public participation process will not always resolve the concerns of affected parties and this is to be anticipated.</p> <p>Issues relating to no-confidence and bias of the EAP are an unsubstantiated opinion.</p> <p>Statements that the EAP favours the developer are denied and are unsubstantiated. Furthermore, this comment is vague and defamatory and therefore it is submitted that this should be disregarded by the Minister.</p> <p>Furthermore, these allegations of bias, both against this EAP and the previous EAP, have been consistently raised and responded to during the EIA process. If the Minister was concerned that the EAPs were biased, she would not have decided the EA in the positive.</p> <p>It is necessary to understand how the assessment of alternative sites occurs practically for wind energy facilities. The location selection process usually occurs prior to the appointment of an EAP and the commencement of the EIA process based on wind potential. Thereafter, the EAP is mandated to undertake an EIA process, which includes a detailed environmental and social assessment of</p> | |
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| <p>specialist reports as our own specialists claimed the exact opposite of their findings during the objection period (which was totally disregarded by CES as expected, being biased and paid by the German developers.)</p> | <p>the preferred site. It follows that, in accordance with the 2014 EIA Regulations, the EAP is merely required to provide such information pertaining to the prior identification and consideration of potential location alternatives, which is usually undertaken by the applicant. Therefore, the EAP is not required to investigate and assess potential location alternatives.</p> <p>Furthermore, as per condition 12 of the EA, the actual layout of the wind farm has not yet been approved.</p> <p>The allegations regarding so-called “bullying” tactics are denied. It is submitted that the EIA process was conducted in a fair and impartial manner, and that all I & APs did have a “say” in the development as is indicated by the Comments and Responses Report.</p> <p>These allegations relating to the so-called “motion of no confidence” have been raised and responded to during the EIA process. If the Minister was of the view that the “motion of no confidence” had any merit or was indicative of the EAP’s ineptitude, she would not have issued a positive EA.</p> | |
| <p>ENJOYING A PEACEFUL, CRIME FREE RETIREMENT:</p> | <p>The Social Impact Assessment did identify crime associated with the the influx of workers during the</p> | |

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| <p>Crime and industrial development:</p> <p>We as elderly residents planned to retire in St Helena Bay, as we feel safe on this small holding property in Brittanica Heights. It is crime free at the moment with only one access road to the top of the hill. The proposed wind farm development of the site with new access roads right next to us will promote an influx of criminal elements, as we've seen with all developments of this nature.</p> <p>Industrial development goes hand in hand with a rise in crime and a decline in property values. We are not at all reassured by CES's weak promises of social and economic upliftment. We don't agree with them as we have seen and lived with the consequences. We also own property in Saldanha, and we have seen the rise in crime, pollution and a huge drop in property values after the industrial development in the IDZ zone bordering the town of Saldanha. Due to these detrimental effects, we planned to sell our property in Saldanha to retire in Brittanica Heights, although we already know our sea front Saldanha property won't sell unless we let it go for half of it's worth, as is the case with most of the properties in the market at the moment. Proof: A neighbour who recently advertised his upper class sea front property for 3,2 million, had to settle for 2 million, and only when it could be sold on auction due to lack of interest. Any estate agent will testify that property values in Saldanha are much lower in Saldanha compared to Langebaan, Jacobs Bay and Paternoster, due to industrialisation and influx of jobless people and a rise in crime.</p> | <p>construction phase as a potential issue, but determined the risk to be LOW.</p> <p>Fortunately the duration of the construction phase of the project is for a limited period.</p> | |
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| <p>And the benefits of this industrial development to the poor communities vs tax payers and residents' rights as property owners? Saldanha Steel is closing it's doors and there are huge numbers of jobless people, also from other neighbouring countries in our local townships.</p> | | |
| <p>INFLATED PROMISES OF JOB CREATION AND BENEFITS FOR TOURISM</p> <p>We are NOT convinced of CES's promises and arguments of job creation and socio-economic benefits. CES admitted during our interested and affected party meetings that only 17 permanent jobs will be created in this wind farm's lifespan of 20 years. But this promise, as well as all the benefits of wind farm development that they repeatedly promote to convince local communities, are just as feasible on any other site in the Saldanha Bay Municipal area. The same benefit of job creation can be applied by choosing a different site like the IDZ industrial development land close to the Saldanha Steel plant, (as we suggested during the objection process) with Saldanha Steel closing down soon with huge job losses. This area would obviously be a MUCH better site for their wind farm development.</p> <p>See Developer's Pre-feasibility Assessment of alternative sites: "The proposed project will create permanent employment opportunities, which will "improve"the lives of "up to" 60 people in the area."</p> | <p>It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the EAP. Furthermore, as is set out below, the issue was comprehensively dealt with in the EIAR and therefore this issue and these comments have already been considered by the decision maker when the EA was issued..</p> <p>The issue of tourism and economic impacts have been comprehensively addressed in the Urban-Econ specialist Property, Tourism and Economic Assessment. This is summarised in Section 9.5 or page 142 of the EIAR where it states:</p> <p><i>"It is concluded that the proposed development will have a number of positive low to medium economic impacts on the local and regional economy, particularly during the two-year construction phase, leading to the creation of over 900 jobs, and up to 60 jobs in the operational phase. This is considered beneficial for local job seekers and businesses, particularly in the context of high unemployment,</i></p> | |

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| <p>“Communities within 50 km radius of the development will be prioritised in accordance with REI4P requirements to maximise economic development.”</p> <p>It is painful to see how CES tries to downplay our objections about the highly negative visual impact, the impact on tourism, and the environmental impact on the “no-go” areas on the proposed farmland, by repeating their arguments of “social-economic” benefits for our local communities. We have argued time and again that this argument is not relevant, as a wind farm will do EXACTLY the same on ANY site in our municipal area and country, so choose a better site!</p> <p>“the high visual impact considered by residents of Paternoster and Britannica that the elimination of the facility as a no-go alternative would be a loss to the social-economic development of the development in the area.”</p> <p>“ the impact of the development on Tourism, Property Prices and Economic Issues. With regards to Tourism, the report concludes that “Considering that the location of the proposed Boulders Wind Farm is inland and is not expected to obstruct the beach view for tourists visiting the coastal towns (i.e. Paternoster and St Helena Bay), and no potential negative impact on leisure tourists is expected. Moreover, considering the noted effects of the West Coast One Wind Farm, the proposed development of the Boulders Wind Farm is more likely to have a positive impact on tourism in the area than a negative effect.”</p> | <p><i>considerable poverty and the decline of the historical fishing industry in this area. The developers will also be investing over R9 million per annum in local socio-economic and enterprise development initiatives.”</i></p> <p>With respect to tourism, it is stated that:</p> <p><i>“While the possibility of negative impacts on property prices and tourism cannot be ruled out completely, research shows that that if any, the impacts on tourism will be marginal while the effect on property prices will dissolve once the wind farm is developed. Based on the experience of WC1 and wind farms in the Cape St Francis and Jeffrey’s Bay area, and other research, there is no clear correlation between property price dynamics (positive or negative) and the development of wind farms.”</i></p> <p>Statements that the EAP favours the developer are denied and are unsubstantiated. Furthermore, this comment is vague and defamatory and therefore it is submitted that this should be disregarded by the Minister.</p> <p>Furthermore, these allegations of bias, both against this EAP and the previous EAP, have been consistently raised and responded to during the EIA</p> | |
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| <p>Getting our own specialists to report on these considerations, we are NOT convinced by CES's biased reports.</p> | <p>process. If the Minister was concerned that the EAPs were bias, she would not have decided the EA in the positive.</p> <p>To benchmark the figures presented in the FEIR of the Boulders Wind Farm with the industry, the South African Wind Energy Association has presented a letter which has been attached to this Appeal response. The letter states that <i>"The additional 1 049 full-time equivalent indirect jobs estimated for Boulders Wind Farm is actually quite conservative considering that it also includes local jobs supported in the travel, accommodation and retails sectors."</i></p> <p>Furthermore, it states that <i>"The 140MW Boulder Wind Farm plans to create 17 new direct jobs during operation and maintenance, which is quite consistent with the number reported by the IPP Office of 2166 actual O&M jobs created thus far for the 2 GW already operational."</i></p> <p>In conclusion, the association states that <i>"SAWEA can confirm that the number of jobs estimated to be created during the construction of the proposed Boulder Wind Farm are quite consistent with employment numbers achieved in wind farm developments of similar size and nature "</i></p> | |
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| <p>PROPERTY OWNERS IGNORED TO SAVE GERMAN DEVELOPERS' COSTS:</p> <p>Saving costs for their German employers?</p> <p>We believe the German Developers are only interested in saving money for themselves by using the already existing infrastructure of West Coast One, but in this process they are ignoring our pleas and concerns regarding the specific site's detrimental effects on our tourism, environment and property values, and mostly our peace of mind, and the impact of 45 turbines of 165m high enlarging the existing West Coast One wind farm.</p> <p>As we know from other wind farm developments, there are millions of rands of profit for the German developers involved, the monthly lease payments to the farmers involved will also amount to millions in their pockets and not go directly to impoverished communities, so WHY should we allow these developers to save a few bucks by their manipulative tactics to use already existing infrastructure for their own benefit, with this highly unacceptable industrial development in a specific site well known for it's beauty and tourism values?</p> <p>Their motivation why this specific site on these farms must be developed is so feeble, as we as locals KNOW the farmers involved in the lease contracts are in no dire straits, and are just greedy to pocket the millions that will be handed to them over the next 20 years, without any regard for other property owners adjacent to them.</p> | <p>These are unsubstantiated and/or subjective statements or opinions that does not invalidate DEFFs reasons for issuing the EA.</p> <p>While the parent shareholders of the shareholders of Vredenburg Windfarm (Pty) Ltd may have German shareholding, the Department of Energy ensures that the shareholding of the eventual operational wind farm has HDI shareholding in the projects of 30%, as well as HDI people in local communities of 5%. The Department considers Local Economic Development a priority when procuring renewable energy.</p> <p>With regards to the costs of renewable energy, the Department of Energy considers the cost of electricity the major priority in its procurement process. The Department awards the preferred bidder status to the lowest priced kWh offered to the department, with the highest economic development score. Therefore lower costs for grid connection accessibility encourages development due to the competitive nature of the programme.</p> <p>The Tourism and Economic Issues have been assessed by Urban Econ, where is concludes that:</p> <p><i>"Numerous international studies attempted to assess the impact of wind farms on tourism,</i></p> | |
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| <p>See Developer's Pre-feasibility Assessment of alternative sites "The farming activities will remain under financial pressure and the opportunity to generate capital for possible farming developments and enhancements by leasing a portion of land for the proposed wind energy development facility will not be realized."</p> <p>Really? A farmer whose land is accommodating the West Coast One wind turbines is boasting about the millions he is receiving, and has bought himself a farm in Australia recently. Financial pressure?</p> <p>CES and the German developers did not succeed in convincing us that this development will benefit the residents surrounding this specific site, and we believe a different site will have exactly the same benefits of a windfarm they try to promote repeatedly. We believe that we are being bullied to accept their proposal because they are not interested in what's best for us locally, but what's best for THEM.</p> <p>See Developer's Pre-feasibility Assessment of alternative sites: "optimisation of existing resources and infrastructure. The existing infrastructure in the area includes an Eskom Powerline and Substation which was built for the purpose of the neighbouring wind farm. The capacity available for energy generation at this substation is so large that is could in fact accommodate two additional wind farms. The existing infrastructure in the area also includes the already established road network, over the simple terrain, as well as the Saldanha deep sea harbour which has been used to import wind turbine components in the past." "in finding the best possible site, it is</p> | <p><i>especially in the areas where scenery and aesthetics are among the main attractions. None of the studies were able to confirm with any confidence that there is a consistent negative impact of wind farms on tourism. Having said this, in some isolated cases, between 25% and 35% of tourists may be deterred from visiting the area where scenic landscape has been altered. Importantly, though, where negative effects were noted, the responses were based on perceived impact of wind farms on landscape rather than on the actual impact (i.e. before the wind farm was actually built). In other words, the negative impacts on tourism are usually raised as concerns during the pre-construction phase and markedly reduce in their intensity during the operations of wind farms. Indeed, research also suggest that the actual number of tourists who are likely to act after the wind farm is comprise a small percentage.</i></p> <p><i>Based on the above, it can be stated that the proposed Boulders Wind Farm will alter the landscape of the area; however, the negative impact on tourist numbers is going to be markedly smaller than what is currently perceived by various stakeholders and would unlikely be detrimental to the tourism industry in the area."</i></p> | |
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| <p>preferential to place the facility in an area where previous wind energy facilities have been developed.”</p> | | |
| <p>SITE ALTERNATIVES - MOTIVATIONS UNREALISTIC:</p> <p>No other sites suitable?</p> <p>We support wind power developments with all its benefits as promoted by CES, but we strongly believe this proposed site is not acceptable for a development that can just as easily work on another site somewhere else in the Saldanha Bay Municipal area, for instance the Industrial Development Zone in the vicinity of Saldanha Steel, which will close soon and where a lot of people will be jobless.</p> <p>Surely the wind farm can be more beneficial in this area without the detrimental effects it will have in the Paternoster and Britannica Heights area. The developers admit that they will prioritise communities within 50 km radius of their development, so they are capable and CAN choose a different site in this whole municipal area and are NOT honest when they claim they can NOT FIND a more suitable site which won't have so many objections from local residents as in the Paternoster and St Helena Bay area.</p> <p>We find CES's excuses and reasons for dismissing other sites and choosing this specific site unconvincing and self serving! See the ridiculous reasons for not choosing other sites:</p> | <p>Alternatives have been comprehensively addressed in the Alternatives Section 5 of the EIAr (sub section 5.3 and 5.4). Details concerning a pre-EIA feasibility study and site selection process, are also provided at section 3.6 of the EIAr.</p> <p><i>“In addition, in reaching the current proposed layout, the placement of turbines was refined on two occasions to further reduce the visual impact of the wind farm.</i></p> <ul style="list-style-type: none"> ✦ <i>To minimise these visual impacts on some Britannica Heights residents along the top of the ridge, the Paternoster residents and the Kasteelberg Heritage resource, the footprint of the proposed development was reduced in the EIA phase from the original 10 farms, to the five farms closest to the existing WC1 energy facility. A sensitivity analysis was used by the developers to design an initial proposed layout on the remaining 5 farms.</i> ✦ <i>The layout was further refined to adhere to the recommendations of the Heritage Impact Assessment, where seven turbines were relocated, to produce a final mitigated layout. The EIA specialist studies, therefore, assessed the relative impacts of both these proposed</i> | |

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| <p>Site 1: "due to its location along the R399, which due to its large traffic volume and link between Paternoster and Vredenburg, is being considered as a scenic route."</p> <p>So according to them the 'scenic route' here is a fatal flaw, but not the scenic view of property owners of Brittanica Heights? Didn't they claim that the loss of scenic views is not enough reason to stop a wind farm development?</p> <p>Site 2: . "In addition, this site falls in close proximity to the Lower Berg River Wetlands Important Bird Area."</p> <p>So they claim that a bird sanctuary is enough reason not to develop a wind farm in the vicinity? The Lower Berg River Wetlands is in Velddrif, very far removed from this site, but they don't consider the nature reserves in the Paternoster area and birding areas in the Brittanica Heights area as important?</p> <p>See birding areas in the Paternoster and Brittanica heights region as recommended by Western Cape Birding:</p> <p>http://www.westerncapebirding.co.za/westcoast/routes.php?id=1&open=128#route128</p> <p>The Peninsula Drive that takes one from Vredenburg to Velddrif via Paternoster and St Helena Bay comes highly recommended for birders. In late winter Burchell's Courser can be found in sparsely vegetated fields and look out for Greater Painted-snipe at dams. Bokmakierie, Sickle-winged Chat and Capped Wheateater are often</p> | <p><i>layouts (i.e. pre-relocation of 7 turbines and post-relocation of 7 turbines)."</i></p> <p>Furthermore, it is necessary to understand how the assessment of alternative sites occurs practically for wind energy facilities. The location selection process usually occurs prior to the appointment of an EAP and the commencement of the EIA process based on wind potential. Thereafter, the EAP is mandated to undertake an EIA process, which includes a detailed environmental and social assessment of the preferred site. It follows that, in accordance with the 2014 EIA Regulations, the EAP is merely required to provide such information pertaining to the prior identification and consideration of potential location alternatives, which is usually undertaken by the applicant. Therefore, the EAP is not required to investigate, and assess potential location alternatives.</p> <p>Furthermore, as per condition 12 of the EA, the actual layout of the wind farm has not yet been approved.</p> <p>Comments relating to a lack of trust in CES as the EAP are an unsubstantiated opinion.</p> | |
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| <p>found on roadside fences and the area is well known for its birds of prey. Even Pale Chanting Goshawk and Greater Kerstrel, normally associated with Karoo habitats, occasionally occur. Also look for roosting Spotted Eagle-Owl amongst the large granite domes. The Cape Columbine Nature Reserve, just west of Paternoster, is also very good for terns. Large numbers of Antarctic Terns occur in winter. Ruddy Turnstone are also common in summer. Terrestrial species along here can include "White-throated and Yellow Canaries, Grey-backed Cisticola, Karoo Prinia, Wattled Starling and Grey Tit. Breeding Pied Avocets can sometimes be found along the road to the east of Paternoster. Locals at St Helena call Brittanica Heights "Five Larks Country." There is a steep road to the top of the hill near the reservoir; here birders can look for Cape Clapper, Cape Long-billed, Large-billed and Red-capped Larks and Grey-backed Sparrowlark. Also expect to find Acacia Pied Barbet, Blue Crane, Ant-eating Chat and Chestnut-vented Tit-Babbler.</p> <p>See Developer's Pre-feasibility Assessment of alternative sites: "Site Alternatives According to NEMA Regulations 2014, in Appendix 2 (2) (h) (xi), it states that when deciding on a site, the outcomes of a selection matrix should be described to show how the preferred site (Boulders Wind Farm) was selected through a site selection process. Taking the above into account, the outcomes of the fatal flaw analysis can be summarized as: - Site 1: This site is deemed unacceptable due to its location along the R399, which due to its large traffic volume and link between Paternoster and Vredenburg, is being considered as a scenic route. - Site 2: Due to the 18.5km setback created by the Langebaan Airforce base, this site is unacceptable. In addition, this</p> | <p>The following is submitted on issues raised concerning avifauna:</p> <p>The avifaunal specialist studies concluded the following per Section 9.2 page 140 of the EIAr:</p> <p><i>"the proposed Boulders Wind Farm is acceptable for development and presents no fatal flaws, provided that all mitigation measures recommended are adhered to."</i></p> <p>The avifaunal specialist has also provided comprehensive responses to queries relating to avifaunal impacts as reflected in Section 7 Issues numbers 32 – 63 of the Comments and Response Report (CRR) included as Volume 5 of the EIAr.</p> <p>The Bio-Insight avifaunal report submitted as part of this appeal response to the Simmons report, confirms the following:</p> <p><i>"In summary, given all the above, although we acknowledge the relevance of the information provided by Dr. Simmons regarding the Black Harrier, we found no evidence that could justify changes to the conclusions in the final IA report, at this stage."</i></p> | |
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| <p>site falls in close proximity to the Lower Berg River Wetlands Important Bird Area. - Site 3: Due to the 1km proximity to the close town of Hoogland, and the 3km proximity to the SAS Saldanha Nature Reserve, this site is considered unacceptable due to the environment.</p> <p>- Site 4: Due to this site being furthest away from the Important Bird Areas, outside the Airforce 18.5km buffer, and furthest from the Vredenburg Town, it is considered as the preferred alternative.</p> <p>Our main reason for appealing the approval of this Wind Farm development on this specific site, is that we don't agree, and don't trust CES's findings as claimed by their reports. We have paid our own specialists to look into the impacts, and we believe a DIFFERENT SITE in the area will have much less detrimental effects on our local residents, our environment and our tourism.</p> | | |
| <p>GROUND OF 12TH APPEAL - MARION LUBITZ</p> | <p>RESPONDING STATEMENT BY THE APPLICANT</p> | <p>COMMENTS BY THE DEPARTMENT</p> |
| <p>Herewith I would like to state that in principal I am not against wind enery. However, I am totally against the location of the proposed windfarm</p> | <p>IDENTICAL TO SUBMISSION BY 9TH APPELLANT</p> | |
| <p>GROUND OF 14TH APPEAL- MATTHEW MARX AND MARY RALPHS</p> | <p>RESPONDING STATEMENT BY THE APPLICANT</p> | <p>COMMENTS BY THE DEPARTMENT</p> |

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| <p>1. Substantive: Inadequate research leading to unjustifiable findings</p> <p>CES have failed to ensure that the experts they contracted to write specialist reports used relevant literature and conducted appropriately detailed research. These experts also (perhaps in pursuit of some misguided notion of objectivity) failed to gather or show any real respect for local knowledge and expertise.</p> <p>As a result, the data on which CES base their conclusions is inadequate, and the views of outside experts are given credence even when they are clearly ignorant of local realities. For the sake of brevity and with respect for the time required for the appeal process, we provide <i>just a few salient examples</i> that relate to socio-economic and avifaunal impact studies where the errors and oversights are particularly glaring. However, we believe that having got so much so wrong in these two reports, many of the conclusions and recommendations offered by CES in the Final EIA (Vol. 1) are incorrect.</p> <p><i>Example 1: Failure to understand tourism in this region or accurately quantify its economic value</i></p> <p>In the specialist report <i>Property Values, Tourism and Economic Issues: Assessment Report</i> (August 2019), Elena Broughton of Urban Econ begins her discussion of 'Tourism profiles of the Primary Zone of Influence' with a description of Vredenburg. Any resident of the West Coast Peninsula knows that Vredenburg is not a tourist destination. Most visitors would recognize this too on arrival</p> | <p>These are mostly unsubstantiated and/or subjective statements or opinions that do not invalidate DEFFs reasons for issuing the EA.</p> <p>There is particular criticism of the tourism component of the Urban-Econ specialist Property, Tourism and Economic Assessment.</p> <p>In our professional opinion, Urban-Econ are well respected and capable South African professional economic consultants. As the EAP, we believe that their study is of a high standard. The study dealt effectively with the main concerns raised by I&APs including impacts tourism, property prices and economic impacts such as job creation. The study used meaningful local comparisons in SA such as West Coast One and WEFs in Cape St Francis. They also investigated international experiences on these issues.</p> <p>Urban Econ have also provided comprehensive responses to issues raised relating economic, tourism and property value issues. See Section 12 of the CRR Issues 1 to 38 on pages 88-103.</p> <p>Table 1 on page 14 of the <i>Property Values, Tourism and Economic Issues: Assessment Report</i> provides</p> | |
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| <p>in the town. Nevertheless, Broughton's report includes the following nonsensical statement: 'Although Vredenburg is located inland, it is ideally situated as a base for day trips to the surrounding West Coast towns and attractions' (p.16).</p> <p>If applied to the Cape Peninsula, an equivalent statement would be to recommend Paarden Eiland or Kalbaskraal as 'ideally situated' for trips to Robben and Island Cape Point. Any expert report making such a claim would immediately be discredited. Broughton's should be too. The fact that CES not only failed to advise Broughton to edit out this statement, but actually repeat it in their own Final EIA (Vol 1, p.100) indicates that they too are still so unfamiliar with the nature of this region and are unable (or unwilling) to differentiate between the very different roles that Vredenburg, St Helena Bay and Paternoster play in driving, versus supporting, the tourism economy in this region.</p> <p>In terms of data collection, Broughton's report also falls short. Again, by way of illustration, in St Helena Bay, just two 'tourism product owners' were interviewed; one from Goblin's Inn and the other from the St Helena Bay Hotel. Goblin's Inn is located in Stompneusbaai, one of the few areas in the town from which no turbines will be visible.¹ And according to the manager of St Helena Bay Hotel, their primary market is business travellers; they do not attract many tourists at all (personal communication, August 2019).</p> | <p>the list of 9 estate agents and 12 tourism product owners that were consulted for the study.</p> <p>In addition, for comparative property value studies, the two sites were selected since they would provide meaningful comparisons as West Coast One is immediately adjacent to the proposed Boulders WEF and Cape St Francis is also a coastal community reliant on tourism where 4-5 WEFs have been constructed.</p> <p>Issues relating to tourism have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment as summarised in Section 9.5 page 142 of the EIAr.</p> <p>Furthermore, no evidence is provided to substantiate the allegation that the proliferation of wind farm operations will have a significant negative impact on the local tourism industry. The following statement is quoted from the specialist study as provided in summary specialist section 9.5 on page 142 of the EIAr:</p> <p><i>"While the possibility of negative impacts on property prices and tourism cannot be ruled out</i></p> | |
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1 See Figure 6-12: Viewshed of the Proposed Boulders Wind Farm, Final EIA, Vol 1, p. 109.

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| <p>It is therefore not surprising that these respondents had few concerns about the impact of Boulders WEF on their businesses. Had Ms Broughton checked to see where the turbines will be located, and from which vantage points in the town they will have most visual impact, she would have discovered that the owners of guesthouses in Shelly Point and Britannica Heights have a very different assessment of the likely impact of the WEF on their businesses.</p> <p>More importantly, she failed to gather information from shops, restaurants and other businesses that service the tourist sector about how heavily they rely on weekend and holiday visitors to sustain their businesses. She also failed to quantify how many people are employed by such companies or what they earn.</p> <p>While acknowledging that the WEF will impact on the 'value of the scenery' Broughton dismisses the likely effect of this on tourism by citing the fact that the West Coast 1 WEF has not affected the area negatively. Again, you need only know the location of West Coast 1 and the site of the proposed Boulders WEF to understand that this statement makes no sense. That is, in relation to the towns and villages on the West Coast Peninsula, West Coast 1 WEF does indeed have relatively little impact because of the turbine size and the fact that it is reasonably sensitively sited. For residents of Vredenburg, Paternoster and St Helena Bay, it is sufficiently far away not to overwhelm the landscape.</p> | <p><i>completely, research shows that that if any, the impacts on tourism will be marginal while the effect on property prices will dissolve once the wind farm is developed".</i></p> <p>Issues relating economic impacts and job creation have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment where the summary of the study in Section 9.5 on page 142 states the following:</p> <p><i>"It is concluded that the proposed development will have a number of positive low to medium economic impacts on the local and regional economy, particularly during the two-year construction phase, leading to the creation of over 900 jobs, and up to 60 jobs in the operational phase. This is considered beneficial for local job seekers and businesses, particularly in the context of high unemployment, considerable poverty and the decline of the historical fishing industry in this area. The developers will also be investing over R9 million per annum in local socio-economic and enterprise development initiatives".</i></p> <p>To benchmark the figures presented in the FEIR of the Boulders Wind Farm with the industry, the South African Wind Energy Association has presented a</p> | |
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| <p>However, the <i>cumulative impact</i> of Boulders WEF's additional and much taller 45 turbines with West Coast 1 will drastically change this landscape creating the effect of a vast industrial installation so that 92 turbines are visible for tens of kilometres. Visitors to and residents of Paternoster will feel as if they are surrounded by turbines, spending time in an industrial zone. And, the beautiful hidden valley located between Kaalberg, Kasteelberg and Paternoster, from which West Coast 1 is visible but not radically intrusive, will be filled with giant turbines that tower above, and loom over, all of these landmarks.</p> <p><i>Example 2: Citation of incomparable international case studies</i></p> <p>After establishing how little she knows or found out about tourism on the West Coast Peninsula, Broughton examines the international literature on the topic of turbines and tourism. She chooses to 'randomly select' some studies (Broughton, p.23). As a research methodology, random selection might be suited to the selection of survey respondents or participants in drug trials. For a literature review, an 'expert' should be aware of (or at least be able to find!) the most <i>up-to-date and relevant studies</i> and assess these in terms of their <i>comparability to the proposed site</i>. Broughton's method fails on both these counts.</p> <p>For example, the first study she highlights (Polecon Research, 2013 cited in see Broughton, p. 23) is a US-based wind farm with a total of <i>12 turbines with a maximum height of 120m</i>; Boulders WEF plans to install <i>45 turbines with a maximum height of 165m</i>.</p> | <p>letter which has been attached to this Appeal response. The letter states that "<i>The additional 1 049 full-time equivalent indirect jobs estimated for Boulders Wind Farm is actually quite conservative considering that it also includes local jobs supported in the travel, accommodation and retails sectors.</i>"</p> <p>Furthermore, it states that "<i>The 140MW Boulder Wind Farm plans to create 17 new direct jobs during operation and maintenance, which is quite consistent with the number reported by the IPP Office of 2166 actual O&M jobs created thus far for the 2 GW already operational.</i>"</p> <p>In conclusion, the association states that "<i>SAWEA can confirm that the number of jobs estimated to be created during the construction of the proposed Boulder Wind Farm are quite consistent with employment numbers achieved in wind farm developments of similar size and nature</i>"</p> | |
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| <p>Broughton also discusses the 2008 Moffat Report on the relationship between turbine location and tourism in Scotland. While while the far north of Scotland might bear some resemblance to our wild and windy West Coast, it cannot be argued that visitors to the north of Scotland expect anything like the kind of outdoor experience that holidaymakers in South Africa hope for. Even so, the number and turbine height of Scottish wind farms, and their situation in relation to coastal settlements, is far smaller and less intrusive than Boulders WEF will be.²</p> <p>Broughton seems to have missed the following statement which illustrates what the Scottish government learned from the Moffat Report:</p> <p style="padding-left: 40px;">Overall the finding of the research is that if the tourism and renewable industries work together to ensure that suitably sized wind farms are sensitively sited, whilst at the same time affording parts of Scotland protection from development, then the impacts on anticipated growth paths are expected to be so small that there is no reason to believe that Scottish Government targets for both sectors are incompatible.³</p> <p>It is useful to consider that the UK's total population is around 66 million. Its total area is 242 495 km². By contrast, South Africa's total population is approximately 58 million and its area is 1.22 million</p> | | |
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2 See <https://www.highland.gov.uk/info/198/planning - long term and area policies/152/renewable energy/4>

3 Quote from *Research findings summary for the report: Economic impacts of wind farms on Scottish tourism*. available at <https://www.gov.scot/publications/economic-research-findings-economic-impacts-wind-farms-scottish-tourism/pages/1/> (emphasis added)

km². And judging from the wind map of South Africa available at http://www.wasaproject.info/docs/WASA_Resource_Map_Dec_2018_public1.png, South Africa has approximately 60 000km² of high wind speed area available. South Africa does not have the space problems of Europe or the UK. We can and must site these projects wisely so as to minimise the social and environmental risks they pose.

Given the superficiality of Broughton's study, and her lack of understanding of the local context, she concludes that, 'In the context of the local economy, the project ... will diversify the local economic base' (Broughton 2019, p.84).

In our view, the opposite is true. The nature of the tourism sector on the West Coast Peninsula is that it centers on Paternoster, with its famous heritage, world renowned restaurants and guesthouses, as well as its extraordinary natural beauty in which it is located. From here, visitors spread out across the peninsula seeking accommodation and other activities, and in so doing, they support a wide range of committed and creative local entrepreneurs whose success depends on how well they serve local residents and visitors. Tourism is already contributing to the livelihoods of thousands of people and sustaining hundreds of small and medium sized businesses. It also has very significant potential to grow. In an urban context, industrialisation might enhance diversification and increase job opportunities. In this specific rural locality, industrialisation is far more likely to crush the diversity and diminish the resilience of what is here now, contributing to job losses and the

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| <p>failure of businesses that are currently sustainable, many of which are run and staffed by women.</p> <p>Statistics South Africa’s Quarterly Labour Force Survey for the second quarter of 2019 notes that, by the standard definition, over 6.7 million people are unemployed in South Africa. Using the more accurate expanded definition, more than 10 million people, (38.5% of people who could be working) are unemployed. Colour and gender disparities continue to reflect in these figures with 43.5% of women unemployed versus 35% of men. Unemployment in SA is at its highest since 2003, and the rate puts SA at joint fourth-highest out of 182 countries. In addition, most of the job losses over the past year occurred in the unskilled and semi-skilled trades.⁴</p> <p>In this context, South Africans have to do everything we can to sustain the jobs we have. Even if we doubt that people working in the local tourism sector know their customers, and suspect that their concerns are overstated, putting the one sector of this local economy that <i>is</i> growing, that <i>is</i> employing people, and that <i>has</i> potential for significant expansion at risk cannot be justified as long as alternative sites exist.</p> <p>When challenged on this issue, CES and the developers make much of the idea that the WEF will create jobs. Wind power has its virtues, but until South Africa has the capacity to build the turbines locally, job creation is not one of them. From our calculations,</p> | | |
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4 Denis Webster, [Unemployment in South Africa is worse than you think](https://www.newframe.com/unemployment-in-south-africa-is-worse-than-you-think/), *New Frame*, 2 August 2019, <https://www.newframe.com/unemployment-in-south-africa-is-worse-than-you-think/>; Staff writer, [This is South Africa’s ‘real’ unemployment rate](#), *BusinessTech*, 1 November 2019.

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| <p>Boulders WEF offers an upper limit of 17 permanent jobs for 20 years – an investment of about R150 million for each job created.</p> <p>When challenged again, the developers point out that Boulders WEF will make about R9 million available for SED per year for 20 years. This amount will be shared between NGOs serving vulnerable people in Vredenburg, St Helena Bay and Paternoster. A conservative estimate puts this population at about 45 000 people. This means NGOs will have an extra R200 to spend per person per year over the next 20 years – and that's excluding their own overhead costs.</p> <p>What the developers and CES fail (or refuse) to understand is that even if the SED programme were to be ten times more generous than it is, it will never be able to compensate for job lost and local entrepreneurship stifled.</p> <p>It is undeniable that Paternoster will be hardest hit. And it is crucial to understand that <i>Paternoster is the drawcard for tourism in this region</i>. If Paternoster fails, tourism and employment rates across the west coast region will decrease, probably for decades</p> | | |
| <p>2) Substantive: Failure to adequately consider biodiversity loss</p> <p>Around the time that Stats SA's unemployment figures for the second quarter of 2019 caused an uproar in the media, the South African National Botanical Institute published the results of its</p> | <p>The issue relates mainly to the avifaunal study.</p> <p>Avifaunal issues are dealt with comprehensively in the specialist avifaunal study and impacts deemed to be within acceptable limits.</p> | |

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| <p>National Biodiversity Assessment 2018.⁵ The Synthesis Report makes sobering reading and is a timely reminder that fossil fuels are not the only factor propelling climate change on our planet. Biodiversity loss related to our extractive economic system and industrial farming methods is of massive global concern to the sustainability of our planet. The Western Cape is acknowledged as a global biodiversity hotspot, and one which is shrinking fast.</p> <p>From the start of this process, the environmental agencies were remiss about putting all the available information on the table. If the Scoping Report had made the avifaunal monitoring reports from West Coast 1 Wind Farm available to the public, there is a strong chance that the project would have been halted at the outset. Instead, the developers and the environmental agencies kept this information hidden it from the public.</p> <p>In the Draft EIA they provided an avifauna report that was both inadequate and inaccurate but submissions made pointing out these problems were disregarded. As evidence of this please see the report by Dr RE Simmons attached to this appeal. The extent to which CES have got things wrong with regard to avifaunal impact is alarming. Again, this reflects badly on their choice of expert advisors and casts doubt on the validity of all their findings and conclusions.</p> | <p>The avifaunal specialist studies concluded the following per Section 9.2 page 140 of the EIAr:</p> <p><i>"the proposed Boulders Wind Farm is acceptable for development and presents no fatal flaws, provided that all mitigation measures recommended are adhered to."</i></p> <p>The following mitigation measure were provided:</p> <p>Table 10.2 Page 158 where mitigation measures include:</p> <p>Planning and Design</p> <ul style="list-style-type: none"> - Page 158 – Bats = Roost avoidance <p>Construction</p> <ul style="list-style-type: none"> - Page 163 – Birds = Habitat protection - Page 164 – Bats = Roost avoidance <p>Operation</p> <ul style="list-style-type: none"> - Page 187 – Birds = Collision minimization - Page 189 – Bats = Collision minimization <p>A comprehensive response to Dr Jenkins' submissions on Behalf of Peter Pickford, is provided at Section 7 Issues numbers 32 – 63 of the</p> | |
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5 SANBI (South African National Biodiversity Institute) (2018) *National Biodiversity Assessment 2018: The status of South Africa's ecosystems and biodiversity. Synthesis Report*. Pretoria: SANBI / Department of Environment, Forestry and Fisheries

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| | <p>Comments and Response Report (CRR) included as Volume 5 of the EIAr.</p> <p>A response to Dr. Simmons report has been provided by the Avifaunal Specialist Bio-Insight in this Appeal and it states that:</p> <p><i>"In summary, given all the above, although we acknowledge the relevance of the information provided by Dr. Simmons regarding the Black Harrier, we found no evidence that could justify changes to the conclusions in the final IA report, at this stage."</i></p> <p>The following is extracted from Bio-Insight's response to the Simmons report:</p> <p><i>"We (Avifaunal Specialist BioInsight) must start off by acknowledging that the monitoring campaign was conducted in compliance with the best practice guidelines made available at the time (Jenkins, et al., 2012). In fact, the bird monitoring guidelines state that a minimum of four surveys (one for each season) should be sampled each year. During the 12-month monitoring campaign, Bioinsight sampled twice per season – translating into eight field surveys (i.e. double than what was required) during the entire duration of the monitoring programme. In addition to this monitoring, a separate radar study</i></p> | |
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was also conducted by another independent specialist – the results of which have been presented in the relevant assessment report associated with it (Millikin, 2015). All these thorough data capturing techniques allowed for a very extensive data set to be used for the overall assessment and conclusions in the final IA report, which was developed in compliance with the guidelines available at the time (Jenkins et al., 2015). In relation to the single 3-day site visit conducted by Dr. Simmons, we consider our information to be fairly robust for the purposes of the assessment.”

Furthermore, the appellants have failed to acknowledge the safeguards imposed on the applicant by the Department by means of conditions attached to the Environmental Authorisation. Condition 14 of the EA specifically states that the EMPr is not approved and condition 15 requires that the EMPr must be amended to include all recommendations and mitigation measures recorded in the EIAr as well as those listed in the specialist reports. Thus the mitigation measures suggested by the avi-fauna report shall be included in the EMPr and consequently implemented. Moreover, all I&APS will be provided with a further 30 day opportunity to review and comment on the

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| | <p>revised EMPr and which comments will be submitted to the Department for its consideration and its determination of whether to approve the revised EMPr or not.</p> | |
| <p>3) Procedural: A divisive and inadequate public participation process</p> <p>In presenting the project to residents of St Helena Bay, the EAPs involved in Boulders WEF have acted to exploit and deepen existing social and economic divisions in ways that we think are unethical and contrary to the principles of NEMA. When challenged on this, CES argue that It is important to acknowledge that there are divergent and often competing viewpoints and interests (as in this case), and that trying to obtain consensus or agreement between all the I&APs would be a very difficult and beyond the scope of the EIA process (Final EIA, Comments and Responses Report, p. 10).</p> <p>For EAPs to shy away from the inevitable tensions that come with living in a society forged in the shadow of apartheid is simply a cop out. As Sisonke Msimang puts it, Each and every day, South Africans are offered opportunities to work together across race and across class lines, even as many white people in this country, who have the power to work towards unity, choose to turn away from the national project.</p> <p>Rural spaces are very different to urban ones: here even small interventions have the potential to radically change local realities. Boulders WEF is not a small intervention. It will have a direct impact</p> | <p>This is emphatically denied. The appellant is completely disregarding the positive socio-economic contributions that will be associated with the Boulders Wind Farm Project. The public participation process conducted by CES was very thorough, fair and went beyond what is required in terms of the EIA Regulations. The comprehensive PPP is well documented in Section 8 of the EIAR and in the final Comments and Response Report.</p> <p>PPP Process</p> <p>The PPP is documented in Section 8 page 115 of thr EIAR. This was a very thorough process and has met the Regulatory requirements.</p> <p>The responses to I&AP concerns are documented in the Comments and Response Report (CRR) provided as Volume 5 of the EIAR and Volume 4 of the EIAR provided all the supporting documentation with respect to the PPP.</p> <p>Table 8-15 in the EIAR summarises the various focus group meetings that were held. They included four</p> | |

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| <p>on everyone living on the West Coast Peninsula and, in our view, it has important cultural ramifications for South Africa as a whole. This kind of project also creates amazing opportunities for fostering real debate across social divides about where and how our interests might coincide rather than diverge. EAPs enjoy a mandate to access communities across race and class lines in a way that few in any other organisations in our country have at this time. Facilitating such public conversations, in such a way that no one dominates and I&APs are guided as to how to participate effectively, is difficult but it is not rocket science.</p> <p>The notion that different interest groups should not meet, and for CES to <i>deliberately ignore our request</i> to be informed of meetings is unconscionable As Msimang points out: 'when used in service of genuine clarification, rather than point-scoring, disagreement can be useful rather than polarizing'. Rather than bringing local residents together to honestly and critically consider whether this development will be of benefit to the local community and how, CES exploited social divisions, setting different communities up against one another. In so doing, they have contributed to perpetuating the divisions and inequalities that damage everyone in this country every day.</p> <p>We have long been and remain committed to helping to make South Africa a place of opportunity and justice for all. However, we cannot see how this will ever be achieved if EAPs have the leeway to carry out their work in this way. What has become clear from this process is that rather than looking at whether Boulders WEF is a good fit for</p> | <p>meetings with local fishing village communities. Meetings were held at St Helena Library, Paternoster Library, Paternoster Hotel and Steenburg Cove community hall. The comments submitted by the communities are reflected in the minutes of the relevant meetings in Volume 4 of the EIA PPP Supporting Documents.</p> <p>The assertion that "<i>CES deliberately ignore our request to be informed of meetings</i>" is emphatically denied.</p> <p>The PPP is documented in Section 8 page 115 of the EIA. This was a very thorough process and has met the Regulatory requirements.</p> <p>The responses to I&AP concerns are documented in the Comments and Response Report (CRR) provided as Volume 5 of the EIA and Volume 4 of the EIA provided all the supporting documentation with respect to the PPP.</p> <p>Table 8-15 in the EIA summarises the various focus group meetings that were held. They included four meetings with local fishing village communities. Meetings were held at St Helena Library, Paternoster Library, Paternoster Hotel and Steenburg Cove community hall. The comments submitted by the communities are reflected in the</p> | |
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| <p>this area, the focus of the EIA is on how to make it fit, regardless of the social and environmental costs. And if these poorly conceived public processes are condoned by the DEFF, EAPs will have no incentive to change.</p> | <p>minutes of the relevant meetings in Volume 4 of the EIA PPP Supporting Documents.</p> | |
| <p>4. Procedural: Failure to disclose relationship with prospecting company</p> <p>In the Final EIA, Vol 1, p. 106, CES state: 'There is also an existing lawful land use on the farm Schuitjes Klip 1/22, which forms part of the project site which relates to a prospecting right for the proposed Duyker Eiland Phosphate Project that is a planning a phosphate mine and fertilizer operation. This prospecting project is mentioned again in the Final EIA (Volume 5: Comments and Response Report, p. 128, point 6:) where it is clear that CES facilitated communication between the company seeking prospecting rights and the developers of Boulders WEF.</p> <p>What CES don't disclose in the EIA, is that they are working for both developers. See Attachment E. We suspect that there is a wider plan to circumvent or override the spatial development plans drawn up by Saldanha Bay Municipality and the West Coast District Municipality, and to gradually extend the IDZ all the way from Saldanha to Veldrif. The approval of the application of Boulders WEF represents a significant next step in this direction and we are interested to know where the DEFF stands in this regard.</p> | <p>These are unsubstantiated and/or subjective statements or opinions that do not invalidate DEFFs reasons for issuing the EA.</p> <p>SDFs are merely planning guidelines. Furthermore, there are a number of existing wind farms within the area.</p> <p>CES has been engaged in a prospecting right application in the area. The project is currently on hold. The mining right application will possibly be submitted to the Department of Mineral Affairs. CES denies that there is a conflict of interest with this project and it is noted that the appellant does not substantiate with valid reasons why this could constitute a conflict of interest.</p> <p>Issues relating to to the extransion of the IDZ is purely speculative with no evidence tendered.</p> | |

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| <p>5. Procedural: CES documentation rushed and filled with errors</p> <p>CES has experienced some time pressures in relation to this project. As a result, virtually all of its communication with the public has been rushed and riddled with errors (for a very few examples, see the file containing Attachments A-D). Pointing this out might seem excessively pedantic. However, to get the dates wrong on one notice, and then get them wrong again in the Notification of Environmental Authorisation Decision, is indicative of a worrying level of carelessness that we see reflected in all the entire report and which, again, calls into question the accuracy of all the numbers in the Final EIA.</p> | <p>The DEFF accepted the EIAR and it is submitted that the report was of an adequate standard for the Minister to make a decision. It is furthermore confirmed that the EIAR complied with the requirements of the NEMA EIA Regulations.</p> | |
| <p> GROUNDS OF 15TH APPEAL - MICHAEL ANDERSON</p> | <p>RESPONDING STATEMENT BY THE APPLICANT</p> | <p>COMMENTS BY THE DEPARTMENT</p> |
| <p>1. A list of all the appeals regarding this and the previous wind project and their negative impact has been in circulation for more than 10 years. There are directives that have been issued regarding environmental, visual impact, cultural heritage , economic untruths and blatant lies about the negative impact that the project will bring about and here we are again faced with attempts by outside parties to influence the further development of more wind turbines for their own financial benefit.</p> <p>2. If the facts which have been available for the developers to override are to be overridden by them I foresee a lot of legal battles for the future which will in a court of law have to be explained as</p> | <p>It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the EAP. Furthermore, as is set out below, the issue was comprehensively dealt with in the EIAR and therefore this issue and these comments have already been considered by the decision maker when the EA was issued. Issue 1 - Comparative property value studies</p> <p>The two sites were selected since they would provide meaningful comparisons as West Coast One is immediately adjacent to the proposed</p> | |

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| <p>to why previous valid points of contention have been blatantly sidelined and ignored by the developers.</p> <p>Appeal notes from various persons and bodies include :</p> <ol style="list-style-type: none"> 1. Misguided economic comparisons with wind farms WF1 (close to Vredenburg) and WEF (close to St Francis Bay). 2. Disregarding heritage values of Kasteelberg due to the size and close vicinity as illustrated with photographs. 3. Ignoring local support for the applicant's own expert opinion about the loss of sense of place. 4. The cumulative visual impact of the power lines together with the 2 wind farms which has not been illustrated. 5. Misleading comparisons of impact on property values of wind farms WF1 (Vredenburg) and WEF (St Francis Bay). 6. Misleading job opportunity figures. 7. Concealment of an overseas court case ruling with an opposing Enercon statement, relating to health aspects. 8. Whitewashing the impact on recreational flying by stating that the applicant is in consultation with authorities. 9. Ignoring the Saldanha/Vredenburg aerodrome while being much closer than the Langebaan aerodrome. | <p>Boulders WEF and Cape St Francis is also a coastal community reliant on tourism where 4-5 WEFs have been constructed.</p> <p>Issue 2 - Heritage issues</p> <p>The following was the response to the DEADP comment as reflected on page 2 in the Consolidated DEADP Response Report</p> <p>Issue No 3:</p> <p><i>"The HIAs "less preferable alternative" recommendation is that all turbines north of Kasteelberg be relocated, but that the turbines south of the koppie remain. This limits the degradation of the landscape to a smaller area and preserves more of the significant link between Kasteelberg and the coast and was, therefore, considered as an acceptable alternative.</i></p> <p><i>This "less preferred alternative" was considered (to be a preferred alternative by the developer) as the financial viability of the project would have been severely compromised by removing or relocating all the turbines west of the Stompneusbaai road.</i></p> <p><i>The proposed mitigated layout with turbines west of Stompneusbaai Road only on the Southern part, was considered acceptable by the Heritage Specialist, even if not preferred option. In October</i></p> | |
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| <p>10. Not disclosing who would be financially responsible for investigating possible internet interference</p> <p>11. The Heritage NO Turbine Buffer zone of 3.5 km around Kasteelberg Heritage Resource set by CEO of Heritage Western Cape Mr Andrew Hall was not adhered to. Most of the Boulders Windfarm turbines fall within this buffer zone.</p> <p>12. During development of adjacent West Coast One WEF the CEO of Heritage Western Cape did everything in his power to prevent the WC1 Windfarm to be approved.</p> <p>13. He even nominated Kasteelberg as Provincial Heritage Site and Appealed against EA of WC1 for a NO-GO for the WC1 WEF.</p> <p>14. The developer of the WC1 WEF then removed all turbines within 3.5 km from Kasteelberg and the Appeal was withdrawn and the CEO of HWC set the buffer zone of 3.5 km on 2 November 2011.(see page 104,105 in HIA) Minutes of that meeting is available from HWC.</p> <p>15. This Boulders Windfarm WEF falls directly within this Heritage Buffer Zone set by CEO Mr Andrew Hall of 3.5km around Kasteelberg Koppie on 2 November 2011.</p> <p>16. The Buffer Zone of 2 km around Kasteelberg Koppie was not amended in the final EA for the WC1 WEF, because it was not necessary at that time, because a farm was excluded from the WC1 WEF(see Boulders Windfarm HIA page 104-,105).</p> | <p><i>2019 the HIA and layout alternative 2 (less preferable alternative mentioned above) was approved by the WC HRA and accepted as having met the requirements of S38 (3) of the NHRA.</i></p> <p><i>The WC HRA had no objection to the development proceeding."</i></p> <p>Issue 4</p> <p>The visual impacts of the powerline will be dealt with in powerline EIA. Therefore, this does not have any bearing on this appeal.</p> <p>Issue 5</p> <p>Same as issue 1 above.</p> <p>Issue 6 - job creation</p> <p>Issues relating economic impacts and job creation have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment where the summary of the study in Section 9.5 on page 142 states the following:</p> <p><i>"It is concluded that the proposed development will have a number of positive low to medium economic impacts on the local and regional economy, particularly during the two-year construction phase,</i></p> | |
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| <p>17. To use this 2 km buffer zone that was not amended in the EA for WC1 as the buffer zone for the Boulders Windfarm WEF is unacceptable, and informed the HWC and the DEA of this many times with no feedback.</p> <p>A farm with a heritage resource was excluded from the WC1 WEF because of a 3.5 km buffer zone around Kasteelberg Koppie set by CEO (Andrew Hall) of HWC, resulting in huge loss of income for a family and farm workers.</p> <p>18. It will not be allowed that this Boulders Windfarm to be approved with a buffer zone around Kasteelberg with less than 3.5 km, even if it means to fight this in a court of law. The type of development is exactly the same and therefore the same rules should apply, even if a new CEO of HWC was appointed. The Heritage Significance of Kasteelberg remains unchanged and therefore the buffer zone applicable for one WEF project should be applicable for the other.</p> <p>19. The Failure of Heritage Western Cape to proceed with the declaration of Kasteelberg as Provincial Heritage Site, does not mean the significance and the Heritage value of this Site has changed. The appointment of a new CEO of HWC does not change the fact that the previous CEO of HWC, did everything in his power to set a NO-GO option for the WC1 WEF and did everything in his power to set the 3.5 km buffer zone to protect this Significant Heritage Resource and to protect the Visual Impact and Sense Of Place.</p> <p>20. The Heritage and Visual Impact and Sense of Place for this proposed project is still HIGH even after Post Mitigation, see page</p> | <p><i>leading to the creation of over 900 jobs, and up to 60 jobs in the operational phase. This is considered beneficial for local job seekers and businesses, particularly in the context of high unemployment, considerable poverty and the decline of the historical fishing industry in this area. The developers will also be investing over R9 million per annum in local socio-economic and enterprise development initiatives".</i></p> <p>To benchmark the figures presented in the FEIR of the Boulders Wind Farm with the industry, the South African Wind Energy Association has presented a letter which has been attached to this Appeal response. The letter states that "The additional 1 049 full-time equivalent indirect jobs estimated for Boulders Wind Farm is actually quite conservative considering that it also includes local jobs supported in the travel, accommodation and retails sectors."</p> <p>Furthermore, it states that "The 140MW Boulder Wind Farm plans to create 17 new direct jobs during operation and maintenance, which is quite consistent with the number reported by the IPP Office of 2166 actual O&M jobs created thus far for the 2 GW already operational. "</p> | |
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| <p>159,160,161,194,195 of EIAr for Boulders Windfarm. The Visual impact and sense of place on and from Kasteelberg and surrounds is still HIGH as per EIAr of Boulders Windfarm and West Coast 1 WEF EIAr. That was the reason the buffer zone of 3.5 km was implemented around Kasteelberg and 2 km from Vredenburg–Stompneusbay road (P2160). It can not be assumed that the Impact is Lower after moving only certain turbines. To move a few Turbines does not make a difference in the Visual Impact of the complete WEF, the cumulative Heritage and Visual impact stays HIGH.</p> <p>21. The Vredenburg-Paternoster Road(P2160) is a gravel road and will be Completely Tarred during 2020, making this road a scenic road as in the case of the R399(R45) between Vredenburg and Paternoster. The R399 road has a no turbine buffer zone of 2 km on either side of the road, so this should be the new buffer set for the P2160 from Vredenburg to Stompneusbay as well, because all the residents of Stompneusbay, Brittaniabay, and St Helena Bay and Tourists and Visitors will be using this road. There will be no difference between the R399 and the P2160 after being tarred.</p> <p>22. The information that the road was definitely being tarred in 2020 was not available and was approved only after the PPP process was completed.</p> <p>23. In light of these factors it is requested that the Minister to NOT APPROVE this Boulders Windfarm EA.</p> | <p>In conclusion, the association states that “SAWEA can confirm that the number of jobs estimated to be created during the construction of the proposed Boulder Wind Farm are quite consistent with employment numbers achieved in wind farm developments of similar size and nature ”</p> <p>Issue 7 - Overseas court case</p> <p>We are not aware what overseas court case the appellant is referring to.</p> <p>Issue 8 - Aviation</p> <p>An assessment was completed in terms of the Civil Aviation Act (Act 13 of 2009) which resulted in an authorisation being approved by the Civil Aviation Authority in August 2014, which was provided in Appendix O – Additional Information during the Scoping Assessment. In this authorisation, it notes that the South Arican Air Force requests an 18.5km prohibited zone around Langebaanweg, which the wind farm conforms to.</p> <p>Issue 9</p> <p>Same as 8 above.</p> <p>Issue 10 – Internet</p> | |
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| <p>24 . The environment natural fauna eg birds will be negatively impacted.</p> <p>25.The historical significance of Paternoster and Kasteelberg [a recommended Provincial Heritage site],which will be almost surrounded by Turbines will be disrespectful to the Khoi-khoi people. The proposed development is partially within the protected area of Kasteelberg (Klein & Cruz-Uribe 1989; Smith et al 1991). There is to be no development / change to this Heritage area within a 2km radius. In addition the WITS School of Archaeology refers to a total height of the turbines not to exceed 80m from sea level to ensure that nothing is erected above the Kasteelberg heritage site. Compare this to 165m on top of a say 40m ground level - more than twice as high!</p> <p>26. The most disturbing effect is the white flashing lights during the day and red at night, - completely as if you were heading down the main street in Johannesburg instead of walking along a wide open beach</p> <p>27. The total proposed number of 45 turbines (in addition to the Vredenburg Wind Farm), create the effect of a forest of moving structures with a height higher than all buildings in Cape Town</p> <p>28. The R399 road towards Paternoster is regarded a scenic route and as such may not be spoiled by the Boulders project</p> | <p>We are not aware that internet will be affected in any way and no evidence is provided by the appellant that there would be.</p> <p>The following response was provide in the CRR Section 17 (Other issues) Issue 24 page 135:</p> <p><i>"If there are any complaints received from I&APs regarding internet interference, then an investigation of the interference will be made, and if found that the Wind Farm reduces the internet connectivity of these I&APs, new receives would be installed to restore the signal back to the original value."</i></p> <p>Issues 11 – 20 - Heritage issues</p> <p>The following was the response to the DEADP comment as reflected on page 2 in the Consolidated DEADP Response Report Issue No 3:</p> <p><i>"The HIAs "less preferable alternative" recommendation is that all turbines north of Kasteelberg be relocated, but that the turbines south of the koppie remain. This limits the degradation of the landscape to a smaller area and preserves more of the significant link between Kasteelberg and the coast and was, therefore, considered as an acceptable alternative."</i></p> | |
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| <p>29. The erection of the turbines over a period of 2 years has a negative impact on the small roads network of the environment</p> <p>30. The influx of job seekers will be more negative than those who might be given jobs during the 2 year construction phase</p> <p>31. The 1200 m² platform at each turbine along with the network of roads to all turbines have a negative impact on the landscape</p> <p>32. Comments regarding work opportunities, creation of job opportunities and skills development, are completely unfounded. Exactly the opposite is true the people of Paternoster will be financing jobs in Germany. Similar promises were received from the Vredenburg Wind Farm without anything materializing (except one contractor appointed to erect a few carparks at a site office). Nobody from Paternoster has been employed</p> <p>33. The negative visual effect, without a doubt, will result in a decline in tourism!</p> <p>34 . Serious concerns exist about the noise and health impact studies referred to in the report. Since turbine positions have not been determined and distances cannot be measured, the effect can also not be commented on. Although reference is made to low negative significance to health, why should we have to accept ANY negative impact</p> | <p><i>This "less preferred alternative" was considered (to be a preferred alternative by the developer) as the financial viability of the project would have been severely compromised by removing or relocating all the turbines west of the Stompneusbaai road.</i></p> <p><i>The proposed mitigated layout with turbines west of Stompneusbaai Road only on the Southern part, was considered acceptable by the Heritage Specialist, even if not preferred option. In October 2019 the HIA and layout alternative 2 (less preferable alternative mentioned above) was approved by the WC HRA and accepted as having met the requirements of S38 (3) of the NHRA.</i></p> <p><i>The WC HRA had no objection to the development proceeding."</i></p> <p>Issue 21 – There is no proposed turbine buffer zone for the R2160</p> <p>Issue 22 – Statement - no response</p> <p>Issue 23 – Statement - no response</p> <p>Issue 24 - Avifaunal issues</p> <p>Avifaunal issues are dealt with comprehensively in the specialist avifaunal study and impacts deemed to be within acceptable limits.</p> | |
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| <p>35. It is essential that the stroboscopic effect of the turbines is demonstrated to people who might be living in close vicinity</p> <p>36. People become aware of noise as soon as this is 3– 5 dBA above the ambient noise. The report shows that the minimum effect will be more than 7dBA above ambient noise. Although distance plays a major role low frequencies (of the turbines) travel far .</p> <p>37.The report refers to the increase in property values over a 10-year period, but simultaneously accepts that they can only determine this effect from Phase 2 of the EIA process. Whose gamble will this be and who will compensate if the contrary happens .</p> <p>38. Diagrams in the report also indicate the majority of property owners being Sectional Schemes with only 30 vacant properties in Paternoster? This gross misrepresentation should be explained in detail and cannot be used in any calculations</p> <p>39. The Developer argues that 50% of the manufacturing will have local content. Does this mean in weight in Kg or intellectual value? It is clear that the blades, hub, nacelle and tower are manufactured in Germany (not local), the machinery will be coming from Germany as well (not local), maintenance will be supported from Germany at enormous costs (not local) – It seems Paternoster residents will be left with local content being concrete, with skills development being pouring concrete</p> | <p>The avifaunal specialist studies concluded the following per Section 9.2 page 140 of the EIAr:</p> <p><i>“the proposed Boulders Wind Farm is acceptable for development and presents no fatal flaws, provided that all mitigation measures recommended are adhered to.”</i></p> <p>The following mitigation measure were provided:</p> <p>Table 10.2 Page 158 where mitigation measures include:</p> <p>Planning and Design</p> <ul style="list-style-type: none"> - Page 158 – Bats = Roost avoidance <p>Construction</p> <ul style="list-style-type: none"> - Page 163 – Birds = Habitat protection - Page 164 – Bats = Roost avoidance <p>Operation</p> <ul style="list-style-type: none"> - Page 187 – Birds = Collision minimization - Page 189 – Bats = Collision minimization <p>A comprehensive response to Dr Jenkins’ submissions on Behalf of Peter Pickford, is provided at Section 7 Issues numbers 32 – 63 of the Comments and Response Report (CRR) included as Volume 5 of the EIAr.</p> | |
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| <p>40. The Developer argues that 50% of Company ownership is local, but even this 50% local (IDP Power) is owned by majority German shareholding</p> <p>41. The report refers to a financial impact comparison before and after the completion of the Vredenburg Wind Farm. This is a futile exercise because the Vredenburg Wind Farm is situated largely 'behind' Paternoster</p> <p>42. The developer refers to two case studies for a comparison before and after the establishment of a wind farm in South Africa?</p> <p>43. Why European countries have stopped erecting turbines is what should be considered urgently .</p> <p>44. Light aircraft and microlights use the area frequently for recreation and will negatively be influenced by the turbines</p> <p>45. The developer's bird studies refer to NO-GO areas eg. water ways and beacon points (for hunting, feeding nesting grounds shown in brown). Will they be giving directions to the birds and bats to remain in the brown demarcated areas?</p> <p>46. What is it that the developer offers as a carrot to the Community Trust</p> <p>47. There is a perception that public participation is used only to meet legislative requirements. Although registered as an Interested and</p> | <p>A response to Dr. Simmons report has been provided by the Avifaunal Specialist Bio-Insight in this Appeal and it states that:</p> <p><i>"In summary, given all the above, although we acknowledge the relevance of the information provided by Dr. Simmons regarding the Black Harrier, we found no evidence that could justify changes to the conclusions in the final IA report, at this stage."</i></p> <p>The following is extracted from Bio-Insight's response to the Simmons report:</p> <p><i>"We (Avifaunal Specialist BioInsight) must start off by acknowledging that the monitoring campaign was conducted in compliance with the best practice guidelines made available at the time (Jenkins, et al., 2012). In fact, the bird monitoring guidelines state that a minimum of four surveys (one for each season) should be sampled each year. During the 12-month monitoring campaign, Bioinsight sampled twice per season – translating into eight field surveys (i.e. double than what was required) during the entire duration of the monitoring programme. In addition to this monitoring, a separate radar study was also conducted by another independent specialist – the results of which have been presented in the relevant assessment report</i></p> | |
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| <p>affected Party (IA&P) the Developer neglected to inform many people so registered. Along with the Department of Environmental Affairs the public participation process is only used to demonstrate due diligence without giving enough attention to valid objections/comments</p> <p>48. Methods must be established to monitor the destruction of the little endemic vegetation still left, with a heavy fine if the developer would error?</p> <p>49. The fact that wind conditions are less favourable during winter (when demand is the highest) means that Escom still must provide for maximum demand. This then must be done by a more reliable source. If this is provided by a reliable source (eg nuclear) then the wind farm becomes obsolete again</p> <p>50. There does not seem to be an objective approach to , for example - the pebble bed reactor which at least can ensure a reliable power supply, is safe and has far less impact on the environment</p> <p>51. It is incomprehensible why the State does not have a coordinated plan for electricity generation with all available technologies (solar/ wind/ coal/ hydro-logic/ gas etc) demarcating the whole country into preferred applications taking into account all ecological-, social- and economical aspects</p> <p>52. Without doubt individual agricultural landowners will financially benefit from the proposed wind farm, whereas all ratepayers/ village</p> | <p><i>associated with it (Millikin, 2015). All these thorough data capturing techniques allowed for a very extensive data set to be used for the overall assessment and conclusions in the final IA report, which was developed in compliance with the guidelines available at the time (Jenkins et al., 2015). In relation to the single 3-day site visit conducted by Dr. Simmons, we consider our information to be fairly robust for the purposes of the assessment."</i></p> <p>Furthermore, the appellants have failed to acknowledge the safeguards imposed on the applicant by the Department by means of conditions attached to the Environmental Authorisation. Condition 14 of the EA specifically states that the EMPr is not approved and condition 15 requires that the EMPr must be amended to include all recommendations and mitigation measures recorded in the EIAr as well as those listed in the specialist reports. Thus the mitigation measures suggested by the avi-fauna report shall be included in the EMPr and consequently implemented. Moreover, all I&APS will be provided with a further 30 day oppprtunity to review and comment on the revised EMPr and which comments will be submitted to the Department for its consideration</p> | |
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| <p>property owners will be seriously harmed financially. There is as yet no study presented of similar cases and what the short and long term effect has been. How many agricultural landowners benefit? Wouldn't there be more beneficiaries once the location changes to more North of Vredenburg?</p> <p>53. One of the most aesthetically negative impact is caused by the erection of power lines. It should be a requirement that no new power distribution from a wind farm may be erected above ground</p> <p>54. Sustainable energy generation is definitely part of the solution to our electricity shortages. However, this may not be to the detriment of all those people who have invested in this very successful village. Only German companies, a few farm property owners and a few South African individuals (who do not live in Paternoster) will benefit from this venture</p> | <p>and its determination of whether to approve the revised EMP or not.</p> <p>Issue 25 – Heritage issue tied to 11 to 20 above.</p> <p>Issue 26 – Flashing lights</p> <p>This issue of flashing lights is dealt with in the VIA and appropriate mitigation measures proposed such as limiting lights to turbines on the periphery of WEF.</p> <p>Issue 27 - Unsupported opinion or statement - no response</p> <p>Issue 28 – Unsupported opinion or statement - no response</p> <p>Issue 29 – Impact on roads</p> <p>Issues relating to traffic and roads are adequately addressed in the Traffic Impact Assessment as summarised in Section 9.10 (page 145 of the EIA) where the overall impacts are determined to be LOW.</p> <p>Issue 30 – Job seekers</p> <p>The Social Impact Assessment did identify crime associated with the the influx of workers during the construction phase as a potential issue, but</p> | |
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| | <p>determined the risk to be LOW. Fortunately the duration of the construction phase of the project is for a limited period.</p> <p>Issue 31 – Turbine platforms</p> <p>Turbine platforms are at ground surface and not generally visible.</p> <p>Issue 32 – Job creation</p> <p>Issues relating economic impacts and job creation have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment where the summary of the study in Section 9.5 on page 142 states the following:</p> <p><i>“It is concluded that the proposed development will have a number of positive low to medium economic impacts on the local and regional economy, particularly during the two-year construction phase, leading to the creation of over 900 jobs, and up to 60 jobs in the operational phase. This is considered beneficial for local job seekers and businesses, particularly in the context of high unemployment, considerable poverty and the decline of the historical fishing industry in this area. The developers will also be investing over R9 million per</i></p> | |
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| | <p><i>annum in local socio-economic and enterprise development initiatives”.</i></p> <p>Issue 33 – Tourism</p> <p>Issues relating to tourism have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment as summarised in Section 9.5 page 142 of the EIAr.</p> <p>Furthermore, no evidence is provided to substantiate the allegation that the proliferation of wind farm operations will have a significant negative impact on the local tourism industry. The following statement is quoted from the specialist study as provided in summary specialist section 9.5 on page 142 of the EIAr:</p> <p><i>“While the possibility of negative impacts on property prices and tourism cannot be ruled out completely, research shows that that if any, the impacts on tourism will be marginal while the effect on property prices will dissolve once the wind farm is developed”.</i></p> <p>Issue 34 – Noise</p> <p>Issues relating to noise have been comprehensively addressed in the Noise Environmental Impact</p> | |
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| | <p>Assessment with outcome of which is summarised in Section 9.8 of the EIAr (page 144). The response from the noise specialist on low frequency sound is provided in the CRR Section 14 Noise Impacts, (page 119) where it is stated:</p> <p><i>"The peer reviewed scientific literature on the impacts of noise from wind farms was reviewed and could not conclusively prove a link between wind farms and health impacts from noise."</i></p> <p>In addition, in terms of the Noise Scoping Study, it was concluded on page 67 that: <i>"with the implementation of correct mitigation measures (especially a sufficient setback or buffer zone, see Figure 10-1) it would be possible to minimize the potential noise risks and reduce the noise impacts to a more acceptable medium or low significance."</i></p> <p>Issue 35 – Flicker</p> <p>The effects of flicker have been dealt with in Section 6.8.6 of the Visual Impact Assessment and determined to be of LOW significance due mainly to the localised nature of the impact.</p> <p>Issue 36 – Noise</p> <p>Same as Issue 34 above.</p> | |
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| | <p>Issue 37 – Property values</p> <p>Issues relating to tourism and property values have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment where the summary of the study in Section 9.5 on page 142 states the following:</p> <p><i>“While the possibility of negative impacts on property prices and tourism cannot be ruled out completely, research shows that that if any, the impacts on tourism will be marginal while the effect on property prices will dissolve once the wind farm is developed. Based on the experience of WC1 and wind farms in the Cape St Francis and Jeffrey’s Bay area, and other research, there is no clear correlation between property price dynamics (positive or negative) and the development of wind farms.”</i></p> <p>In this regard, no evidence is provided to substantiate the allegation that the proliferation of wind farm operations will have a significant negative impact on property values and tourism.</p> <p>Specifically relating to Paternoster and Britannica Heights, the following statements are made in the UE report based on an analysis of historic property</p> | |
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| | <p>sale prices and interviews with nine (9) Estate Agents:</p> <ul style="list-style-type: none">- Page 49 - No apparent change in freehold property prices has been identified for Vredenburg due to the development of West Coast One WEF.- Page 55- The review of the property transfers in Britannica Heights in the past few years does not given any indication that the demand or property prices have been negatively impacted by the development of the West Coast One wind farm with the closest wind turbines located some 6 km away from the properties on Vasco da Gama Crescent. <p>Page 57 - The experience of all (nine -9) real estate agents interviewed asserts that wind farm developments have not had a notable effect on the demand and value of surrounding properties. They state that prospective buyers have mostly been indifferent to the presence of wind farms. One real estate agent from Saint Helena Bay stated that one property owner complained that they would not have purchased the property had they known about the development of the West Coast One Wind Farm. This is the only opposing case that was presented.</p> | |
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| | <p>Issue 38 - The diagrams presented in the report, are disucced in the text. In relation to Paternoster (Section 3.2.4.c), Figure 10 presented on p50, has been discussed on p51 under the bulleted paragraphs highlighting Sectional schemes, freehold properties and vacant land prices.</p> <p>Issue 39 – Local content</p> <p>Local content, labour and employment issues were dealt with comprehensively in the Social Impact Assessment. In this regard, see Table 2.2: Potential contribution capacity of local industries on page 64, that outlines the potential effect on employment during construction and operations.</p> <p>Issue 40 – Company ownership</p> <p>While the parent shareholders of Vredenburg Windfarm (Pty) Ltd are currently German, the Department of Energy ensures that the shareholding of the built wind farm has black shareholding in the projects of 30%, as well as black people in local communities 5%. IPD Power is no longer a shareholder.</p> <p>Issue 41 – Financial issue – uncertain of issue.</p> | |
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| | <p>Issue 42 – Wind farm case studies</p> <p>Issue 43 – European stopping wind farms</p> <p>It is also submitted that the claim is factually incorrect since European countries have certainly not stopped erecting turbines. Furthermore, this is not a ground of appeal. He is simply asking for further information- something which should have been raised during earlier phases</p> <p>Issue 44 – Aircraft</p> <p>An assessment was completed in terms of the Civil Aviation Act (Act 13 of 2009) which resulted in an authorisation being approved by the Civil Aviation Authority in August 2014, which was provided in Appendix O – Additional Information during the Scoping Assessment. In this authorisation, it notes that the South Arican Air Force requests an 18.5km prohibited zone around Langebaanweg, which the wind farm conforms to.</p> <p>Issue 45 – No-go areas for birds</p> <p>Rotors will not encroach into no go areas. This will be assessed further during the micro siting process.</p> <p>Issue 46 – Community trust</p> | |
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| | <p>Issues relating economic impacts and job creation have been dealt with comprehensively in the Urban-Econ specialist Property, Tourism and Economic Assessment where the summary of the study in Section 9.5 on page 142 states the following:</p> <p><i>"The developers will also be investing over R9 million per annum in local socio-economic and enterprise development initiatives".</i></p> <p>Issue 47 – PPP</p> <p>The PPP is documented in Section 8 page 115 of the EIAr. This was a very thorough process and has met the Regulatory requirements.</p> <p>The responses to I&AP concerns are documented in the Comments and Response Report (CRR) provided as Volume 5 of the EIAr and Volume 4 of the EIAr provided all the supporting documentation with respect to the PPP.</p> <p>Table 8-15 in the EIAr summarises the various focus group meetings that were held. They included four meetings with local fishing village communities. Meetings were held at St Helena Library, Paternoster Library, Paternoster Hotel and Steenburg Cove community hall. The comments submitted by the communities are reflected in the</p> | |
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| | <p>minutes of the relevant meetings in Volume 4 of the EIA PPP Supporting Documents.</p> <p>Issue 48 – Fines for removing endemic vegetation</p> <p>This could be suggested.</p> <p>Issue 49 – 51 Energy planning</p> <p>Unsubstantiated and speculative statement.</p> <p>Issues relating to the optimal energy mix for the Nation are comprehensively addressed in the most recent Integrated Resource Plan which was adopted in 2019 and advocates an increased share of renewable energy, including wind farms, in the future energy mix</p> <p>Issue 52 – Agriculture</p> <p>With respect to agricultural land, Section 9.1 of the EIAR provides a summary of the Agricultural and Soil Impact Assessment (page 140), where the following concluding statement is made:</p> <p><i>“The Draft Layout and the Final Layout (after the relocation of 7 turbines) of the proposed Boulders Wind Farm have the same agricultural impacts and the change in layout does not change the impacts or rating of the Agriculture Impact Assessment</i></p> | |
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| | <p><i>Report. The two negative impacts can be mitigated to a LOW significance. The only potential negative impact of real concern is erosion, but this can be mitigated. It is also noted that the proposed development will have a positive economic impact on the two directly affected farms through improved income security."</i></p> <p>Issue 53 – Powerlines</p> <p>The visual impacts of the powerline will be dealt with in powerline EIA. Therefore, this does not have any bearing on this appeal.</p> <p>Issue 54 – Who benefits</p> <p>Unsubstantiated and speculative statement.</p> | |
| <p> GROUNDS OF 16TH APPEAL –</p> <p> CAPE COLUMBINE CONSERVANCY</p> <p> GROOT PATERNOSTER NATURE RESERVE</p> <p> SHELLEY POINT HOME OWNERS ASSOCIATION</p> | <p> RESPONDING STATEMENT BY THE APPLICANT</p> | <p> COMMENTS BY THE DEPARTMENT</p> |

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| <p>1. Fatal Flaws are present in the Avifauna, VIA and the Heritage Reports.</p> <p>2. The mitigation proposed by the EAP does not satisfy the mitigation requirements of the Heritage Report.</p> <p>3. The VIA offers no mitigation measures and requires public participation towards a Fatal Flaw decision which has not been undertaken.</p> <p>4. The second VIA produced in-house by the EAP is an unprecedented departure from procedure, is compiled by unqualified non VIA specialists, is not peer reviewed and is an exercise of bias.</p> <p>5. Alternative sites has not been addressed by the “all possible means” prerogative.</p> <p>6. The Alternative sites discussion was purposefully withheld from I&AP comment.</p> <p>7. A bona fide exploration of Alternative Sites has not been investigated.</p> <p>8. The Avifauna Report is chronically deficient and cannot be used as a reference on which to base “informed decision”.</p> <p>The Avifauna Report was compiled by a discredited specialist know to favour developers.</p> | <p>It is submitted that this issue was raised by many I & APs in the PPP and was responded to by the EAP. Furthermore, as is set out below, the issue was comprehensively dealt with in the EIAR and therefore this issue and these comments have already been considered by the decision maker when the EA was issued.</p> <p>Statements that the EAP favours the developer are denied and are unsubstantiated. Furthermore, this comment is vague and defamatory and therefore it s submitted that this should be disregarded by the Minister.</p> <p>Furthermore, these allegations of bias, both against this EAP and the previous EAP, have been consistently raised and responded to during the EIA process. If the Minister was concerned that the EAPs were bias, she would not have decided the EA in the positive.</p> <p>Issue 1 – Fatal flaws in the VIA, HIA and Avifaunal</p> <p>Neither the anvifaunal, visual nor heritage specialist studies have identified potential fatal flaws. All three specialist studies have identified appropriate mitigation measures (although there are limited options for the visual impacts). The various mitigation measures are included in the EIAR as</p> | |
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| <p>The peer review of the Avifauna Report by Dr Andrew Jenkins, the country's foremost authority on Avifauna and wind farms was dismissed as "not relevant" by the EAP.</p> <p>The EAP upheld the findings of a discredited specialist, overruling those of the peer review by the leading avifauna authority and multi published ornithologist, Dr Jenkins.</p> <p>A second avifauna specialist, Dr Rob Simmons, has upheld the review of Dr Jenkins and dismissed the validity of the Avifauna Report. Dr Simmons report states that the Boulders Wind Farm report threatens endangered species and must be re-done.</p> <p>The avifauna report needs to be entirely re-done.</p> <p>9. The DEFF fails to adhere to its own conditions.</p> <p>Paragraph 10.7.4 of the DEA conditions of approval for the West Coast 1 wind farm have been ignored in the Boulders Wind Farm application.</p> <p>The DEFF must ascertain if the EAP is guilty of a criminal act in withholding this information.</p> <p>10. The final EIR is flawed with multiple instances of bias.</p> <p>The instances (examined in the appeal document submitted herewith) are too numerous to list here but are broadly defined by 3 categories:</p> | <p>reflected in Table 10.2 Key Mitigation Measures: Specialist Impacts:</p> <p>All mitigation measures provided in the HIA:</p> <ul style="list-style-type: none"> - Planning and Design – Pg 159 - Construction – Page 173 - Operation – Page 193 <p>All mitigation measures provided in the Visual Impact Assessment:</p> <ul style="list-style-type: none"> - Planning and Design – Pg 160 - Construction – Page 186 - Operation – Page 196 <p>All mitigation measures provided in the Avifaunal Impact Assessment:</p> <ul style="list-style-type: none"> - Planning and Design – None - Construction – Page 163 - Operation – Page 187 <p>Issue 2 – Heritage mitigation measures</p> <p>The various mitigation measures are included in the EIAr as reflected in Table 10.2 Key Mitigation Measures: Specialist Impacts:</p> <p>All mitigation measures provided in the HIA:</p> <ul style="list-style-type: none"> - Planning and Design – Pg 159 - Construction – Page 173 - Operation – Page 193 | |
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| <p>1) The EAP, CES, favours the developer in all aspects of the application and understates, dismisses and withholds the scope and voice of any opposition thereto.</p> <p>2) The EAP, CES, repeatedly makes assumptions in favour of the developer but never to endorse any negative impact.</p> <p>3) The EAP, CES, makes statements of questionable integrity under oath.</p> <p>The public undertook a Motion of No Confidence in the EAP as representative of their concerns and with regard to the EAP's record of impartiality. The motion was upheld by 1361 votes in favour to 10 opposed.</p> | <p>Condition 14 of the EA specifically states that the EMPr is not approved and condition 15 requires that the EMPr must be amended to include all recommendations and mitigation measures recorded in the EIAR as well as those listed in the specialist reports. Thus such mitigation measures shall be implemented as required by the EA.</p> <p>Moreover, all I&APS will be provided with a further 30 day opportunity to review and comment on the revised EMPr and which comments will be submitted to the Department for its consideration and its determination of whether to approve the revised EMPr or not.</p> <p>The following was the response to the DEADP comment as reflected on page 2 in the Consolidated DEADP Response Report Issue No 3:</p> <p><i>"The HIAs "less preferable alternative" recommendation is that all turbines north of Kasteelberg be relocated, but that the turbines south of the koppie remain. This limits the degradation of the landscape to a smaller area and preserves more of the significant link between Kasteelberg and the coast and was, therefore, considered as an acceptable alternative.</i></p> <p><i>This "less preferred alternative" was considered (to be a preferred alternative by the developer) as the</i></p> | |
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| | <p><i>financial viability of the project would have been severely compromised by removing or relocating all the turbines west of the Stompneusbaai road.</i></p> <p><i>The proposed mitigated layout with turbines west of Stompneusbaai Road only on the Southern part, was considered acceptable by the Heritage Specialist, even if not preferred option. In October 2019 the HIA and layout alternative 2 (less preferable alternative mentioned above) was approved by the WC HRA and accepted as having met the requirements of S38 (3) of the NHRA.</i></p> <p><i>The WC HRA had no objection to the development proceeding."</i></p> <p>Issue 3 – VIA Fatal flaws</p> <p>The EIAr and visual impact assessment confirm that the visual impacts remain HIGH but does not represent a fatal flaw. The summary of the VIA in the EIAr (Section 9.11 on page 146) quotes the following:</p> <p><i>"The wind farm will undoubtedly be imposing and dominate the visual landscape for those in close proximity. However, based on the assessment of significance in the VIA, it is concluded that the potential losses of scenic resources are not</i></p> | |
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| | <p><i>sufficiently significant to present a fatal flaw to the proposed project...."</i></p> <p>Issue 4 – CES VIA</p> <p>Concerning the VIA done by CES, we do not know of any regulation that precludes the EAP from providing additional information to support the assessment of a potentially significant issue. It should be further noted that the VIA conducted by CES agreed with the findings of the LoGIS VIA. This has certainly enhanced the EAPs confidence with respect to the impacts associated with particularly important issue.</p> <p>CES did not submit a specialist declaration of independence for the VIA since we relied on the LoGIS VIA for the impact assessment. CES did submit a declaration of independence as the EAP.</p> <p>Issue 5, 6 & 7 - Alternatives</p> <p>Alternatives have been comprehensively addressed in the Alternatives Section 5 of the EIAr (5.3 and 5.4). Details concerning a pre-EIA feasibility study and site selection process, are also provided at section 3.6 of the EIAr.</p> | |
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| | <p>The following excerpt from Section 12.4 in the Conclusions section on page 213 of the EIA is relevant:</p> <p><i>"In reaching the current proposed layout, the placement of turbines was refined on two occasions to further reduce the visual impact of the wind farm.</i></p> <ul style="list-style-type: none"> ✦ <i>To minimise these visual impacts on some Britannica Heights residents along the top of the ridge, the Paternoster residents and the Kasteelberg Heritage resource, the footprint of the proposed development was reduced in the EIA phase from the original 10 farms, to the five farms closest to the existing WC1 energy facility. A sensitivity analysis was used by the developers to design an initial proposed layout on the remaining 5 farms.</i> ✦ <i>The layout was further refined to adhere to the recommendations of the Heritage Impact Assessment, where seven turbines were relocated, to produce a final mitigated layout. The EIA specialist studies, therefore, assessed the relative impacts of both these proposed layouts (i.e. pre-relocation of 7 turbines and post-relocation of 7 turbines)."</i> <p>Furthermore, it is necessary to understand how the assessment of alternative sites occurs practically</p> | |
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| | <p>for wind energy facilities. The location selection process usually occurs prior to the appointment of an EAP and the commencement of the EIA process based on wind potential. Thereafter, the EAP is mandated to undertake an EIA process, which includes a detailed environmental and social assessment of a preferred site. It follows that, in accordance with the 2014 EIA Regulations, the EAP is merely required to provide such information pertaining to the prior identification and consideration of potential location alternatives, which is usually undertaken by the applicant. Therefore, the EAP is not required to investigate and assess potential location alternatives.</p> <p>In addition, as per condition 12 of the EA, the actual layout of the wind farm has not yet been approved as it is still subject to preconstruction micro siting.</p> <p>Issue 8 – Avifaunal report deficient</p> <p>Avifaunal issues are dealt with comprehensively in the specialist avifaunal study and impacts deemed to be within acceptable limits.</p> <p>The avifaunal specialist studies concluded the following per Section 9.2 page 140 of the EIAr:</p> | |
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| | <p><i>"the proposed Boulders Wind Farm is acceptable for development and presents no fatal flaws, provided that all mitigation measures recommended are adhered to."</i></p> <p>The following mitigation measure were provided:</p> <p>Table 10.2 Page 158 where mitigation measures include:</p> <p>Planning and Design</p> <ul style="list-style-type: none"> - Page 158 – Bats = Roost avoidance <p>Construction</p> <ul style="list-style-type: none"> - Page 163 – Birds = Habitat protection - Page 164 – Bats = Roost avoidance <p>Operation</p> <ul style="list-style-type: none"> - Page 187 – Birds = Collision minimization - Page 189 – Bats = Collision minimization <p>A comprehensive response to Dr Jenkins' submissions on Behalf of Peter Pickford, is provided at Section 7 Issues numbers 32 – 63 of the Comments and Response Report (CRR) included as Volume 5 of the EIAr.</p> <p>A response to Dr. Simmons report has been provided by the Avifaunal Specialist Bio-Insight in this Appeal and it states that:</p> | |
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| | <p><i>"In summary, given all the above, although we acknowledge the relevance of the information provided by Dr. Simmons regarding the Black Harrier, we found no evidence that could justify changes to the conclusions in the final IA report, at this stage."</i></p> <p>The following is extracted from Bio-Insight's response to the Simmons report:</p> <p><i>"We (Avifaunal Specialist BioInsight) must start off by acknowledging that the monitoring campaign was conducted in compliance with the best practice guidelines made available at the time (Jenkins, et al., 2012). In fact, the bird monitoring guidelines state that a minimum of four surveys (one for each season) should be sampled each year. During the 12-month monitoring campaign, Bioinsight sampled twice per season – translating into eight field surveys (i.e. double than what was required) during the entire duration of the monitoring programme. In addition to this monitoring, a separate radar study was also conducted by another independent specialist – the results of which have been presented in the relevant assessment report associated with it (Millikin, 2015). All these thorough data capturing techniques allowed for a very extensive data set to</i></p> | |
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| | <p><i>be used for the overall assessment and conclusions in the final IA report, which was developed in compliance with the guidelines available at the time (Jenkins et al., 2015). In relation to the single 3-day site visit conducted by Dr. Simmons, we consider our information to be fairly robust for the purposes of the assessment."</i></p> <p>Furthermore, the appellants have failed to acknowledge the safeguards imposed on the applicant by the Department by means of conditions attached to the Environmental Authorisation. Condition 14 of the EA specifically states that the EMPr is not approved and condition 15 requires that the EMPr must be amended to include all recommendations and mitigation measures recorded in the EIAr as well as those listed in the specialist reports. Thus the mitigation measures suggested by the avi-fauna report shall be included in the EMPr and consequently implemented. Moreover, all I&APS will be provided with a further 30 day opportunity to review and comment on the revised EMPr and which comments will be submitted to the Department for its consideration and its determination of whether to approve the revised EMPr or not.</p> | |
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| | <p>Issue 9 – DEFF Conditions</p> <p>The appellant has misconstrued upon whom conditions in the EA are imposed. It is nonsensical to state that DEFF, as the decision-maker, has to comply with any conditions that it has imposed upon another entity when granting an EA.</p> <p>Furthermore, the appellant conflates the West Coast 1 development with the project that this appeal is concerned with. They are both separate and distinct, differing in a number of ways. Thus, DEFF is under no obligation whatsoever to impose the same conditions upon the Boulders Wind Farm as those found in West Coast 1's EA. Also, the respondent has no influence over the conditions applicable to West Coast 1.</p> <p>Issues 10, 11, 12 – EAP bias</p> <p>Statements that the EAP favours the developer are denied and are unsubstantiated. Furthermore, this comment is vague and defamatory and therefore it is submitted that this should be disregarded by the Minister.</p> <p>Allegations of bias, both against this EAP and the previous EAP, have been consistently raised and responded to during the EIA process. If the Minister</p> | |
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| | <p>was concerned that the EAPs were bias, she would not have decided the EA in the positive.</p> <p>Issue 13 – Motion of no confidence in the EAP</p> <p>Allegations relating to the so-called “motion of no confidence” have been raised and responded to during the EIA process. If the Minister was of the view that the “motion of no confidence” had any merit or was indicative of the EAP’s ineptitude, she would not have issued a positive EA.</p> | |
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