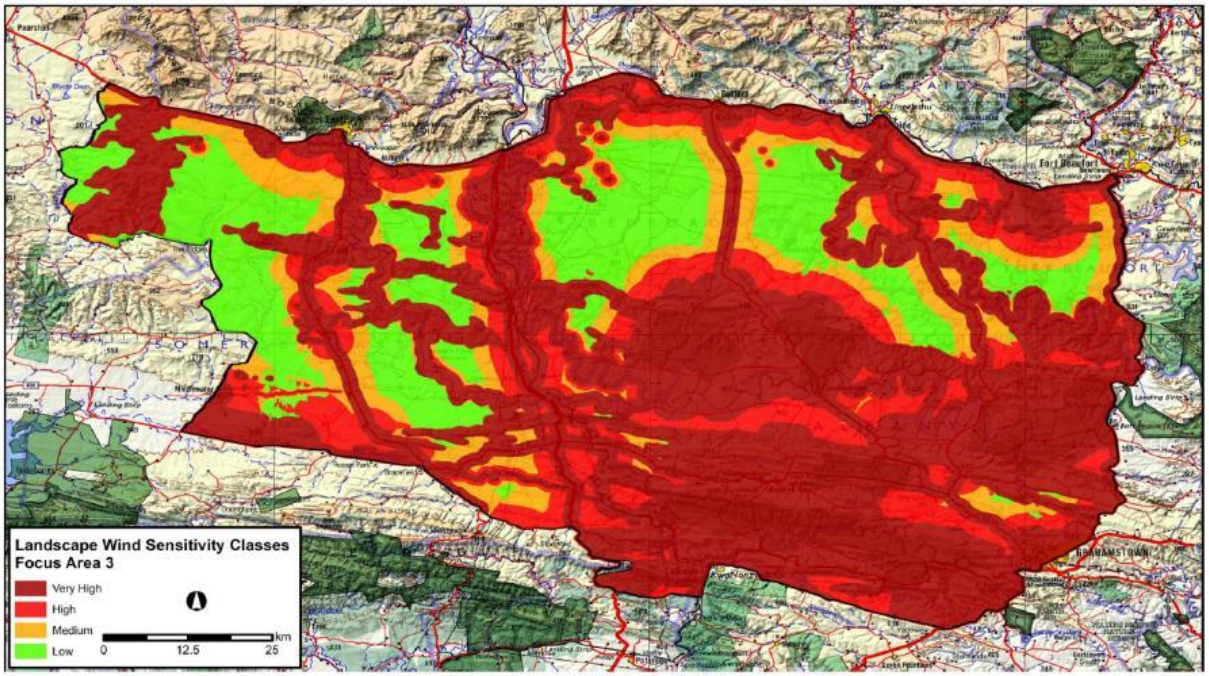
nature tourism (and more so if this is the basis for Protected Area establishment and upkeep by biodiversity stewardship). This is a further example that the EIR is **fatally flawed** due to its failure to scientifically contextualise the WEF development amidst the existing and planned expansion of Protected Areas.

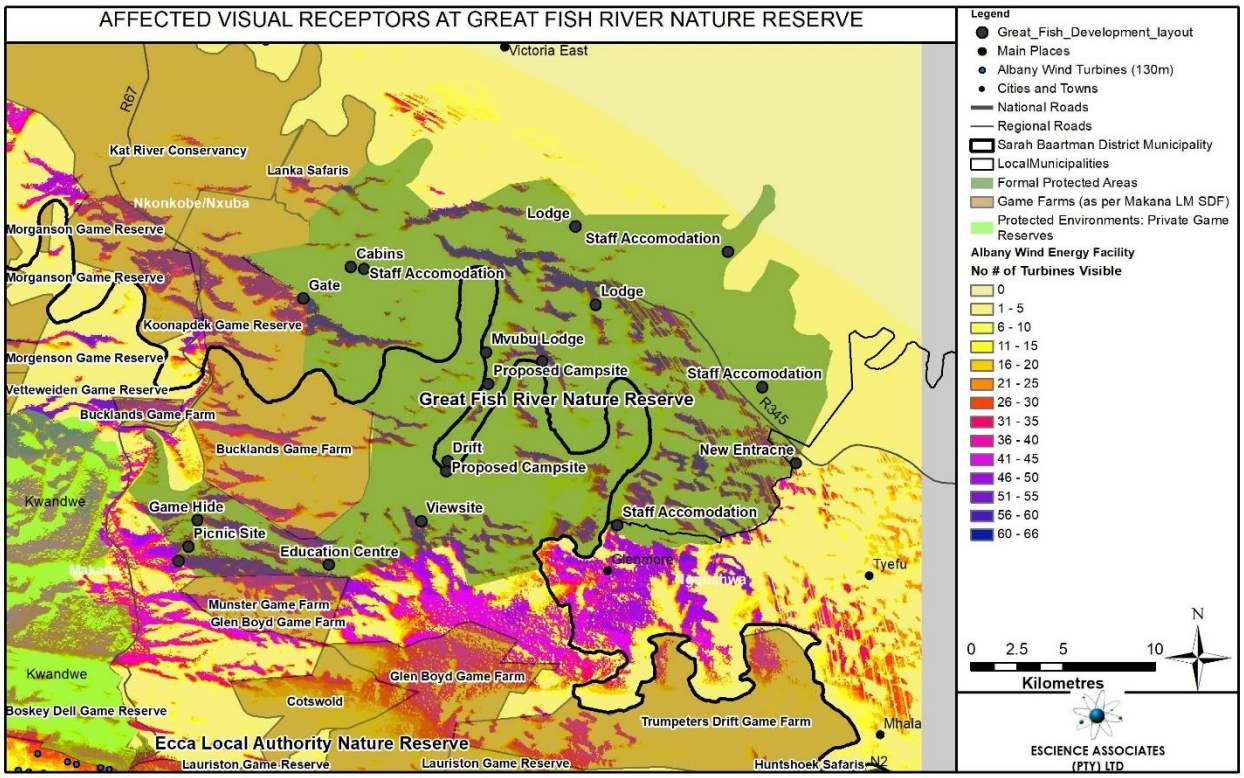


Map 5: Landscape sensitivity map for Wind development in the Cookhouse focus area (FA 3)

3.1.5 **Assessment of Significance of Visual Impact**: Firstly, the EIR omits/ hides the impact to views that generally have both a high scenic and wilderness value that may be appreciated from Great Fish and Kwandwe. Secondly, the EIR specifically hides the impact from a viewing deck constructed in Great Fish for the purposes of **appreciating** the great and largely unspoilt scenery from Adam's Krans. The view from Adam's Krans has been described as "*The most beautiful landscape in South Africa*"[13] and "*The Adam's Krantz viewpoint over the twisting Fish River canyon is one of the most iconic Eastern Cape vistas*".[14]

13 https://www.grocotts.co.za/2015/02/18/the-most-beautiful-landscape-in-south-africa/.

14 https://www.visiteasterncape.co.za/parks/great-fish-river/.



a) The failure of the EIR to identify the significant impact of the WEF on the general views of the Great Fish and Kwandwe and specifically on the Adam's Krans view is a **material and fatal flaw in the EIR**. The proposed WEF is a long linear development spanning 20 km with the Sentech tower having a height of 204 m which creates a significant visual impact on the vistas from surrounding Protected Areas.

b) The viewpoint from Adam's Krans in the Great Fish is particularly severely affected. The independent viewsheds that were prepared by EScience for Indalo clearly demonstrate that the WEF takes up two thirds in the middle of the vista from Adam's Krans and will amount to a blight on a landscape of national importance. These undisturbed landscape views form part of the unique wilderness experience for ecotourism to the Great Fish and Indalo Protected Areas that **would be permanently disturbed** by the WEF. For this reason alone, the application to develop the WEF is not desirable at this location and should be refused by the DEFF.

3.1.6 **Deficiencies** in visual impact consideration: The following additional problems with the veracity of the VIA need to be pointed out:

a) Turbine blade and their dynamics: The dynamic aspect of wind turbine blade motion has not been considered as a contributor to visual impact whereas Sullivan found that contributed significantly to visual prominence of wind turbines at distances of up 24 km;[15] others have identified wind turbine blade as a significant attractor of visual attention and a factor that increases perceived visual contrast from wind facilities.[16] Moreover, the VIA failed to assess the cumulative impact of the proposed enlargement of the Plan 8 (Grahamstown) WEF turbine blades and towers (and thus the environmental footprint) of the approved facility. (The matter is reportedly presently under appeal after the DEFF rejected the amendment application.) Generally, the VIA failed to adequately assess (e.g. through viewshed simulations from critical view points) and consider the cumulative direct and indirect visual impacts of all the different current and planned WEFs in the region (Waaihoek, Plan 8 (Grahamstown) Albany, Dassenridge and Cookhouse) on the wildlife and natural visual and aesthetic character and sense of place of the planned Mega Protected Area (Addo - Great Fish Corridor (Albany Corridor)).

b) Atmospheric perspective: It is well understood that humans judge distance to objects in the landscape in part by assessing the effects of atmospheric perspective, the decrease in contrast between an object and its background as distance increases. As distance increases, the colours of the object become less distinct and shift toward the background colour, usually blue or gray. Atmospheric perspective is an important cue for an observer to determine relative distance of objects in the landscape. The loss of sharpness and lower contrast of photographs relative to in-situ viewing may exaggerate the effects of atmospheric perspective, thus may affect the perception of scale and distance to objects in the landscape, making them appear farther away than they actually are.[17]

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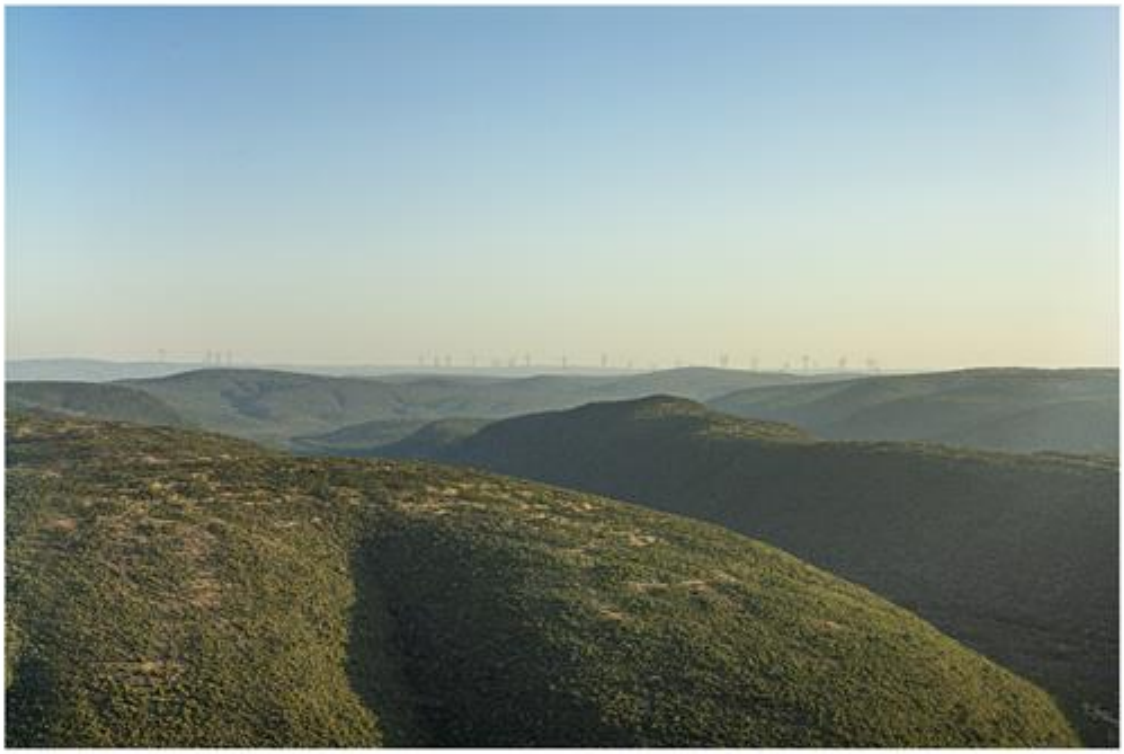
15 Sullivan et al (2012).

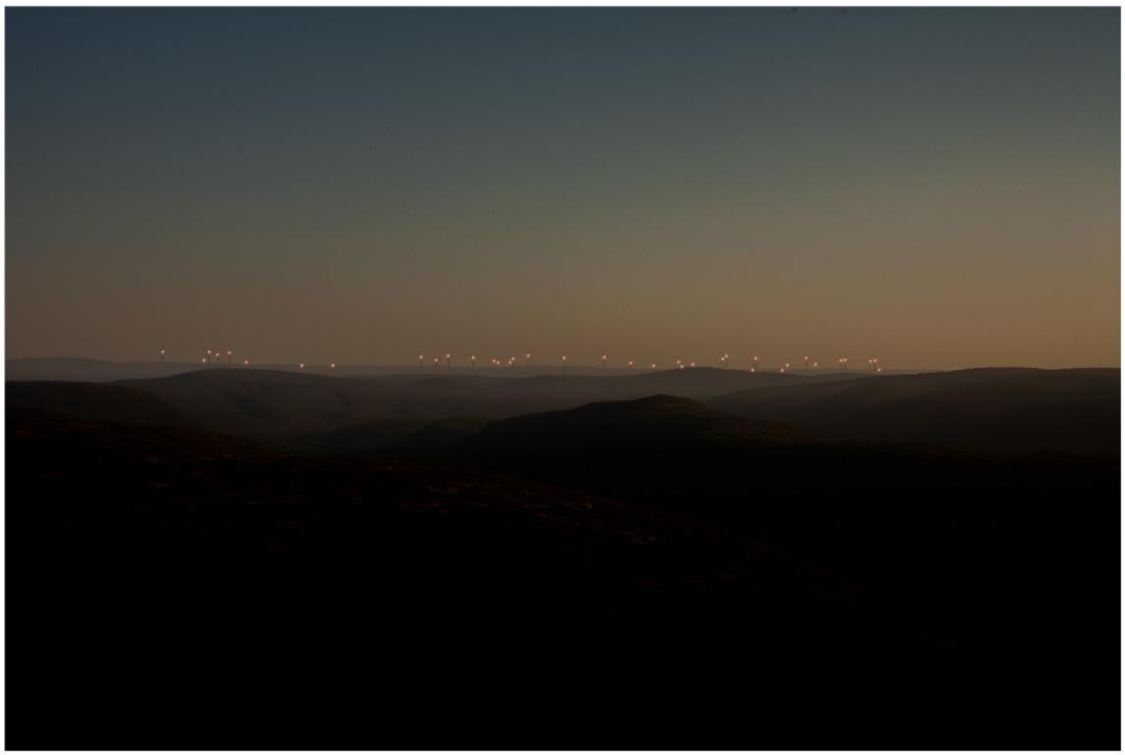
16 Bishop & Miller (2007).

17 Palmer & Sullivan 2020.

AlbanyWEF - Viewpoint - Adam's Krantz



AlbanyWEF - Viewpoint - Adam's Krantz



3.1.7 **Lifespan of wind energy facility**: Consideration of the likely development lifespan and future of the wind farm indicates a project life of 20-25 years which is flawed. The Report does not consider the reality of turbines and wind energy technology development and turbine tower and blade advances which make application of taller and larger bladed turbines more economical. Typically wind farms are redeveloped during their productive lifespans for example by raising and increasing blade diameter. This means that the expected lifespan of the WEF is longer than 25 years and can even be permanent but with increasing visual impacts as the towers are lifted.

3.1.8 **Mitigation**: The VIA indicates that there is limited mitigation potential due to the extreme size of turbines. However, the alternatives evaluation is neglected and specifically omits to consider turbines of lower hub-height and reduced visibility. A reduced hub height operating at a site of good wind resource may still compete with a turbine of higher hub height at a site with poorer wind resource. The omission to investigate a reduced hub-height along with the failure to consider the no-go alternative mean the EIR has not considered the minimum requirements for "alternatives" as prescribed in the EIA Regulations. We submit that proper assessment and consideration of these alternatives will most likely have demonstrated that the proposed location for the WEF is not suitable for the development but was avoided to prevent this conclusion from being reached.

3.1.9 **External reviewer**: It is problematic that the external specialist review notes that the "*peer reviewer received the VIA report at a very late stage in the process and has had very limited time to produce this peer review report*". This statement confirms that the specialist review cannot be upheld as verification of the veracity of the study. In fact, the external specialist himself admits so much. "*The review…may require an additional opportunity and sufficient time to make specific recommendations regarding additions or alterations to the report, or whether the proposed development is acceptable in nature or fatally-flawed*". This statement means the external specialist review report is inadequate, should be rejected and referred back to the specialist to perform a proper independent review that meet independent scientific standards.

3.1.10 **Perpetuation of omissions into SIA and EIR:** The lack of the consideration of impact to formally Protected Areas, most notably impact to the Great Fish Protected Area, is viewed with circumspection. The perpetuation of this material omission throughout the report (and perpetuation downstream into the SIA and EIR) is obfuscating the fact and severity of the matter.

3.1.11 **Consideration of alternatives**: The VIA is deficient in considering alternatives and specifically not considering the no-go option, with the inadequacy being carried over into the SIA and EIR where neither the no-go option or the option (and benefits) of protected area expansion.

3.2 SOCIO-ECONOMIC ASSESSMENT

3.2.1 **Sense of Place**: The study indicates that "*Tourism in the study area is associated with the 'Africa and bush experience' and the tourism landscape thus differs from studies done in Europe, UK and USA. Parallels can however still be drawn, and it is the opinion of the SIA Specialist that research results can safely be used for this study*". This last statement by the SIA Specialist is wrong because she fails to recognise that the Indalo PGRs (and the Addo and Great Fish) are primarily concerned with wildlife and nature tourism. The unique wilderness experience of tourists is largely defined by the "sense of place" of the area that they visit. It is this unique "sense of place" of these Protected Areas that will be significantly impacted by the Albany WEF development and that the EIR fails to adequately consider. The assessment does not consider that much like the Kruger National Park and the Addo National Park, visitor experiences in Indalo and the Great Fish Protected Areas is concerned with activities and encounters in unspoilt natural and wilderness settings.

3.2.2 **International Research**: A substantial volume of research concerning wilderness tourism and renewable energy have been performed in Iceland and are relevant for the Albany Wind Farm development.[18] The finding of the SIA Specialist

[18] See e.g. Anna Dóra Sæþórsdóttir, Rannveig Ólafsdóttir & Diane Smith (2018*) Turbulent times: tourists' attitudes towards wind turbines in the Southern Highlands in Iceland*, International Journal of Sustainable Energy, 37:9, 886-901, DOI: 10.1080/14786451.2017.1388236; and Anna Dóra Sæþórsdóttir, Rannveig

indicates that "[n]*o evidence is presented to support the assertion that any wind farm development overseas has resulted in any adverse impact on tourism*". This finding is not correct for wilderness tourism because evidence about wilderness tourism in Iceland (as opposed to general tourism) shows the following.

a) Visitors have reported satisfaction with "*present settings and preferred to protect the area from development to ensure the provision of currently available recreational opportunities*".

b) Surveys "*indicate that one-third of the travellers would be less likely to visit the Southern Highlands if a proposed wind farm were built, and two-thirds think that wind turbines would decrease the area's attractiveness*".[19]

c) A more recent study reporting on a follow-up survey concludes that "*[t]he results indicate that residents are more positive than tourists towards wind turbines and consider them less intrusive in the landscape*".[20]

d) This Icelandic study also found that –

    i) Wind turbines reduce the naturalness of a landscape and the quality of wilderness.
    ii) Residents and tourists consider landscape without power plant infrastructure more beautiful.
    iii) Tolerance level towards landscape change is higher among residents than tourists.
    iv) Economic reasons are likely to influence residents' opinion on wind energy production.

Ólafsdóttir (2020) *Not in my back yard or not on my playground: Residents and tourists' attitudes towards wind turbines in Icelandic landscapes* February 2020 Energy for Sustainable Development 54:127-138 DOI: 10.1016/j.esd.2019.11.004.

19 Sæþórsdóttir et al 2018.

20 Sæþórsdóttir & Ólafsdóttir 2020.

It is suggested that the SIA Specialist, the EAP and ultimately the DEFF, should rather draw parallels from Iceland which is a popular international wilderness tourism destination.

3.2.3 **Nature Tourism**: The SIA Specialist study of 2020 also consider in the Section titled "*Land uses and socio-economic background of the Project Area*", factors such as Agriculture land use, Private Game Reserves in the broader district, Residential, Towns and villages but is flawed for the following reasons.

a) This Section omits Nature and Conservation Tourism of formally Protected Areas, Provincial as well as Private Protected Areas. Most notably there is no consideration afforded to Conservation Tourism from the Great Fish and Thomas Baines Protected Areas. See the earlier discussion of the criteria set by the Tourism Grading Council of South Africa which emphasise the visual and scenic quality of the natural environment of the PGRs to be graded as five and four star "Game or Nature Lodges".

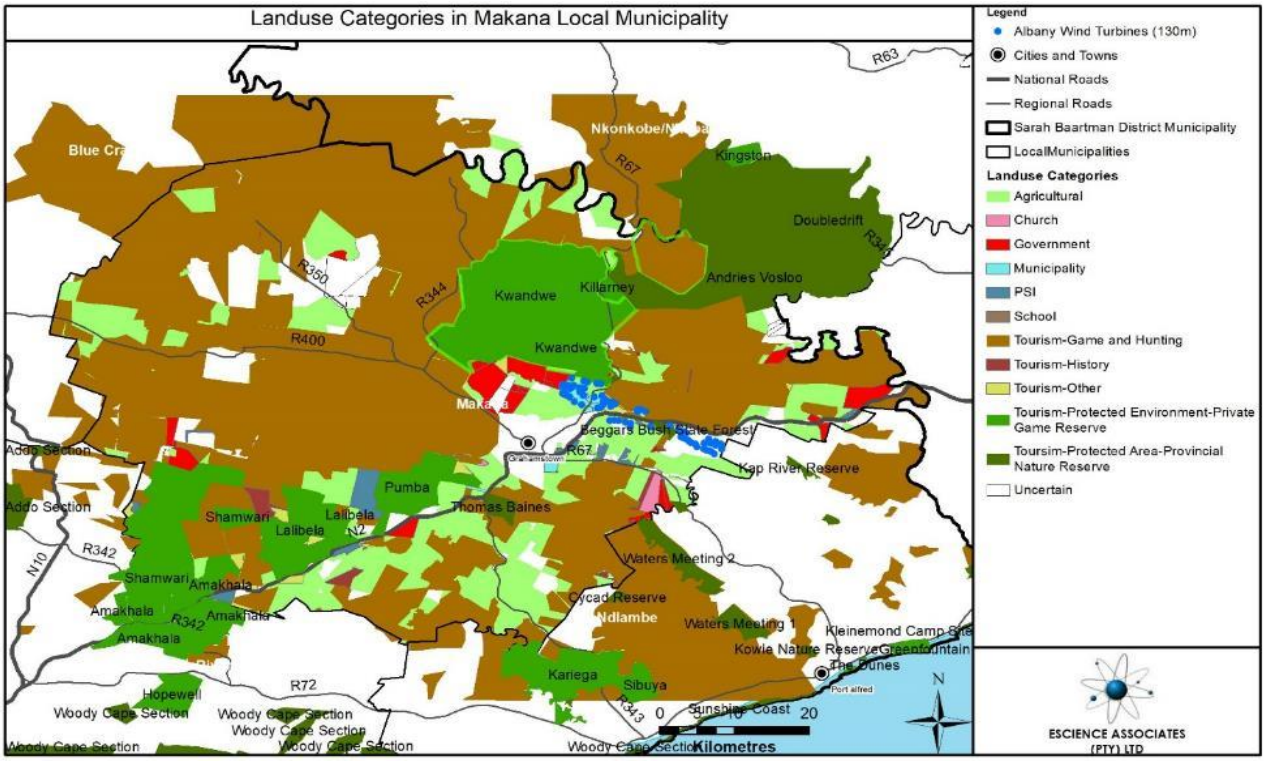
b) A land use map derived from the Makana Local Municipality property valuation roll in the SIA Specialist study of 2020 indicates that most of all parcels of land use in a radius of 5, 10 and 20 km are tourism related.

c) The discussion of the tourism sector Section 7.6.2 Tourism does not consider to any level of detail the nature of the tourism product and services of the area, nor the wilderness character of the area as basis for nature and wildlife tourism.

d) The study omits Nature and Conservation Tourism of formally Protected Areas, Provincial as well as Private Protected Areas from the surrounding land uses. Most notably there is no consideration afforded to Conservation Tourism from the Great Fish and Thomas Baines Protected Areas.

e) The SIA Specialist indicates that landowners were consulted as the primary sphere of impact (page 21) but does not indicate who those owners are – it appears that the Eastern Cape Parks and Tourism Agency (ECPTA), which is the provincial agency that owns and, or manages Great Fish was not consulted. (As

per verbal report by ECPTA to EScience during discussions in May 2020 and confirmed in July 2020.)Had it been done then the EIR would have focussed on the impact on Great Fish Protected Area, and specifically the visual impact such as at Adam's Krans, which is a fatal flaw in this EIR.



3.2.4 **Conflation of conservation with sense of place**: The SIA in Section 11.4.1 Impacts on the "sense of place" at indicates: "*In the study area biodiversity conservation is particularly important, which is exemplified by the Indalo Protected Environment and the supporting land uses of the majority of farms in and around the project area*". It then conflates biodiversity conservation with sense of place and indicates with respect to Impact significance: "*Impacts on the 'sense of place' is possible and rated with an overall MODERATE negative significance*." This is clearly wrong.

3.2.5 **Turbine Height**: The SIA in Section 11.4.2 Intrusion impacts description and significance states that, "*Intrusion impacts relevant to this SIA report are visual and noise impacts and have been investigated and rated by the respective Specialists and summarised in the section below.*" It then continues to state, "*Visual impacts: Visual impacts cannot be mitigated due to the size and height*

of the turbines and the lack in screening opportunities in the landscape. Impacts on the three towns/villages are rated as LOW to MODERATE and on five Private Game Reserves as HIGH. Visual impacts on the residents on surrounding farms are LOW to MODERATE and on motorists that use the R67 and N2 MODERATE (Visual Impact Assessment Report)." This statement is wrong because turbine hub height may be reduced, and the no-go option can be considered both on a per turbine as well as per development basis.

3.2.6 **Waainek Wind Farm Impact**:

a) The SIA Specialist refers (on page 130) to the lack of complaints by tourists to the Amakhala Private Game Reserve in the Indalo Protected Area and other game farms about the Waainek Wind Farm as evidence that there will be no significant tourism impact by the Albany Wind Farm:

> "*Indalo, Amakhala and Pumba Game Reserves unsuccessfully appealed the Environmental Authorisation ('EA') of the Waainek Wind Farm in 2011. Now that the project has been operational for four years, Amakhala reported no effect on eco-tourism and none of the game/hunting farms interviewed for this SIA reported that turbines/wind farms have in any way affected their tourism and businesses negatively.*"

b) This statement is disputed and is wrong. This factual error is confirmed by the letter of comment from Pumba Game Reserve in the Indalo Protected Area that clearly states the negative impact that the Waainek WEF has had on tourism to Pumba. It is questioned why did the EIR and SIA underplay the valid concerns and comments raised by Pumba in the above quoted part of the report. Pumba's experience represents best evidence of the actual impact – which it had foreseen (but was ultimately rejected on appeal).

c) Although Pumba lodges were sited so as to offer a scenic location with vistas devoid of intrusion by human-made structures and other disturbance, however the Waainek WEF has substantially impacted Gameston Wildlife Retreat as the

lodge has a northern aspect (good building design) and whereas it previously had views of an unbroken skyline, it now faces Waainek turbines that mars the landscape across the valley. The impact of the wind turbines of the Waainek WEF on Gameston was deemed excessive and a significant volume of complaints led to a decision to remove the Gameston lodge from the Pumba Reserve offering.

d) In addition, as pointed out earlier, the SIA failed to asses and consider the cumulative direct and indirect effect of the different current and planned WEFs in the region (Waaihoek, Plan 8 (Grahamstown) Albany, Dassenridge and Cookhouse) on wildlife and nature-based tourism of the planned Mega Protected Area (Addo - Great Fish Corridor (Albany Corridor)) due to their significant degradation of the aesthetic character and sense of place.

3.2.7 **Factual Mistake**:

a) The conclusion of the SIA that the Albany WEF will not have a significant impact on tourism is wrong because this statement was based on factual mistakes in the VIA that the Albany WEF will not cause significant visual impacts.

b) It was indicated above that the VIA is fatally flawed because of its failure to assess the intrusion on vistas from e.g. Adam's Krans in the Great Fish.

c) Section 6(2)(e)(iii) read with section (6)(2)(f)(ii)(cc) of PAJA does not allow the environmental authorisation for the Albany Wind Farm to be based on material factual mistakes otherwise it will be set aside on internal appeal or judicial review for irrationality and unlawfulness.

d) Consequently, the SIA Specialist's own warning in her conclusions (on page ix of the SIA) is relevant and must be followed by the EAP and the DEFF instead of her main findings which are flawed.

"*<u>It is however not prudent to claim that there would be no negative impact on tourism as</u> aesthetic and visual impacts (proximity to turbines) are strong*

influences on individuals' attitudes towards wind power projects; and Proximity to turbines and their localities (visual impacts on lodges and strategic viewpoints on the game farms) could be the determining factors for visitor satisfaction and impacts on visitor volumes." [Own emphasis.]

e) This is precisely Indalo's concern that there are significant visual impacts that were missed by the VIA, the SIA and the EIR and which will be a determining factor for conservation and nature tourism to the Extended Protected Areas, including the Indalo PGRs (which are declared Protected Areas).

3.2.8 **Indalo's Economic Impact Assessment:** Indalo performed an independent Economic Impact Assessment of the proposed Albany WEF development. The report by Marias (2020) *Indalo Protected Area Economic Impact Assessment* makes the following salient findings (see Addendum 4):

a) The main economic concern of the Protected Areas and PGRs (as well as potential Protected Area expansion) is the potential devaluation of their tourism offering if wind energy facilities (or any other highly intrusive developments) are allowed to encroach on the Indalo Protected Area nature tourism and other environmental goods and service offerings.

b) Although nature and wildlife tourism services and products don't constitute the entire tourism product of the of Sundays River, Ndlambe and Makana Local Municipalities, it contributes the majority of tourism products and services (and a large part of this is from Protected Area environmental goods and services, principally from Addo, Indalo and Great Fish).

c) Degradation of the environmental goods and services upon which tourism is based would imply a certain "*disinvestment*" in the nature and wildlife sub-sector for the respective regions, the province and even on a national scale. Accordingly, due consideration is to be afforded to the biodiversity stewardship that nature and wildlife tourism affords the national estate.

d) The socio-economic assessment in the EIR indicates that there is in terms of Gross Domestic Product ("GDP") no significant economic difference between WEFs and PGRs – they would contribute equally to the wealth of the region and to the South African economic domain. Investment in either sector would yield an economic improvement if it is to displace extensive agriculture. Marais advises that it is not clear if this statement would also be applicable for the potential case of intensive agriculture displacement as the agriculture multipliers reflect agriculture in general. It is however unlikely that nature and wildlife tourism typical of PGRs will displace intensive agriculture as it requires a natural environment and wilderness setting. This is in contrast with WEFs which could co-exist with intensive agriculture (and an optimal combination would seem to combine WEFs with intensive agriculture and to combine PGRs with a natural environment and wilderness setting).

e) Although the WEF contribution to Gross Value Added is notably higher than that of the PGRs, the difference disappears when production taxes and subsidies are incorporated to derive the comprehensive (GDP) view on the economy.

f) There is no significant difference between the labour compensation contributions of the WEF and PGR sectors.

g) From an employment point of view, it would be distinctly better to promote PGRs than to deploy WEFs. Investment in PGRs would generate about three times as many employment opportunities than WEFs. The "*disinvestment*" argument is equally applicable, i.e. if PGRs should be devalued by the choice to deploy WEFs, it could lead to a significant reduction in net direct, indirect and induced employment in the region.

h) A compromise between PGR and WEF development (investment) could be a desirable solution. It might be opportune to consider the deployment of PV technology rather than wind energy facilities, as this has a lower impact on the wilderness character of the region. Alternatively, if the WEFs could be deployed sufficiently distant from nature and wildlife tourism-based operators, to avoid impacting the wilderness character and its tourism value and sterilising future

protected area expansion. Combined land use, that does not imply a reduction in environmental goods and services (or quality of environmental goods and services), should ideally be pursued.

3.3 AVIFAUNAL IMPACT ASSESSMENT

3.3.1 Minimum requirements for avifaunal assessments

3.3.1.1 In terms of meeting the minimum requirements for avifaunal assessments, the Albany Avifaunal Assessment lacks the following:

a) Recon Study is required to be undertaken. It is a requirement that a 2-4 day recon study is to be undertaken to inform the pre-application monitoring programme and it would appear that there was a lack of such a recon and scoping of monitoring plan which may put the findings of the study in question.

b) Pre-application Avifaunal Monitoring Plan –

   i) Maps showing the water features, drainage lines, quarries, powerlines or other existing wind energy facilities.
   ii) Duration of monitoring and number of observers not included it is mentioned that 9 transects walked and some in car (2 per season).
   iii) Uncertain if pre-application monitoring has been uploaded onto national bird monitoring database.

c) Assessment of fatalities from surrounding WEFs in general and specifically not of the nearby Waainek Wind Energy Facility.

d) Post construction monitoring plan not included.

e) Conditions to which the statement of approval or disapproval are subject is not included.

f) We do not see adequate consideration of potential impact to soaring birds and specifically soaring modes in a raptors.

3.3.2 Best-Practice Guidelines for Assessing and Monitoring the Impact of Wind-Energy Facilities on Birds in Southern Africa (3rd ed, 2015).

3.3.2.1 Unlike smaller raptors, which can readily use flapping flight, large raptors are mainly restricted to soaring flight due to energetic constraints. Whereas thermal soaring occurs in relatively flat areas which are likely to have good thermal uplift availability topography. The technique is called ridge lift or slope soaring. The ridgeline targeted by the Albany WEF will present ideal conditions for raptors and other soaring along area of uplift where turbines will be located.

a) Sufficient data should be gathered on bird movements, to enable the use of the data in collision--- risk modelling to provide an indication of the potential mortality rates of priority species.

b) The ridgeline that is targeted by the Albany WEF is within the fog belt and the presence of fog and conditions that complicate bird observation including topography, inaccessibility and dense vegetation complicates avifaunal assessment. and accordingly, there are concerns with respect to the veracity of raptor observations.

c) Due to the detailed data on bird movements is required, or where movements occur at night or in conditions of poor visibility (e.g. fog) special remote sensing methods should be considered e.g. radar in combination with direct observations (wherever possible).

3.3.3 Assessment of fatalities from surrounding Wind Energy facilities

3.3.3.1 Understanding the cumulative effect of wind energy fatalities is vital when multiple sites are located in one area. The Albany WEF applicant owns the established Waainek WEF nearby and should have bird fatality monitoring in place, however, the details of avifaunal impact monitoring and reports on fatalities at Waainek other is conspicuously absent from the Albany WEF avifaunal assessment.

3.3.3.2 The presence of Waainek WEF nearby can therefore be used as an additional source of data to substantiate the observations of the avifaunal specialists and lack of formal and transparent reporting of Waainek WEF avifaunal mortality monitoring is seen as a glaring omission. There are three components to estimating fatality rates: a) estimation of searcher efficiency and scavenger removal rates, b) carcass searches, and c) estimation of collision rates.

a) All turbines should be searched for fatalities, with a search interval determined by scavenger- removal trials and objectives monitoring. Two complementary search protocols should be applied: 1) intensive and regular searches of a minimum of 30% or 20 turbines at a WEF (whichever is greater), and 2) extensive, less frequent sampling of the remaining turbines to record fatalities of large-bodied birds. The search area must be defined and consistently adhered to throughout monitoring. As a minimum, the radius of the search area be should equal to 75% of the turbine height (ground to blade-tip).

b) Observed mortality rates must be adjusted to account for searcher efficiency, scavenger removal and the probability that some carcasses may be outside the search area.

3.3.3.3 As it stands the cumulative impacts discuss the need for consideration of the overall impact but there is not any investigation as to the current background

cumulative effect in terms of fatalities per existing turbine from the operational facilities.

3.3.4 Post construction monitoring plan

3.3.4.1 Currently the most significant mitigation as per the Avifaunal report is adherence to Appendix 6: sensitivity map. No monitoring requirements are set out within the Avifaunal assessment, however there are monitoring requirements outlined within the EIR, uncertain if these were provided by an avifaunal specialist or by the EAP.

3.3.4.2 Monitoring needs to take into consideration various aspects, such as searcher efficiency and scavenger removal. Therefore, without a post construction monitoring plan and actual directives as to what is required to be implemented, it is likely that monitoring will not meet the requirements of the *Birds and Wind Energy Best Practice Guidelines*.

3.3.4.3 Mitigation measures should be implemented to further prevent collisions, various suggestions outlined below:

a) Collision detectors to prevent mass fatality of bird flocks;

b) Ultrasonic acoustics;

c) Make turbines more visible to birds/bats;

d) GPS monitoring of critical species to prevent collision when these species are nearby the turbines; and

e) Deterrent Strobe Lights.

3.3.4.4 Additional offset measures should also be investigated and implemented to prevent a net loss of bird species as a result of the operations of the Wind Energy Facility.

3.3.5 Conditions to which the statement of approval or disapproval are subject to -

3.3.5.1 In the event of approval, adequate monitoring is required to be implemented as per the Birds and Wind Energy Best Practice Guidelines. The effects of the facility on the surrounding avifauna can only be effectively quantified through appropriate post construction monitoring.

3.3.5.2 The Guidelines set out the minimum requirements for monitoring from a planning to decommissioning phase and with this as a guideline, the impact to Avifauna will be better understood.

4. COMMENTS OF ENVIRONMENTAL IMPACT REPORT (EIR)

4.1 NEED AND DESIRABILITY

4.1.1 The EIR indicates that the "*Albany Wind Power intends to promote local economic growth and development through direct and indirect employment, as well as the identification and implementation of social development schemes during the project's operational phase.*"

4.1.2 This promotion of local economic growth and development through direct and indirect employment could be achieved more effectively through deploying the Albany Wind Farm in a location that would avoid the significant impact to wilderness character and its tourism value as demonstrated in this submission.

4.1.3 Appendix 2 (2) (1) (f) of the EIA Regulations indicates that a scoping report must contain "*a motivation for the need and desirability for the proposed*

development including the need and desirability of the activity in the context of the preferred location." [Our emphasis.]

4.1.4 Appendix 3 (3) (1) (f) of the EIA Regulations indicates that an environmental impact assessment report must contain "*a motivation for the need and desirability for the proposed development, including the need and desirability of the activity in the context of the preferred development footprint within the approved site as contemplated in the accepted scoping report*."

4.1.5 Although both the Scoping Report and EIR provide motivations for the need and desirability of the project, neither of the two reports provide a motivation for the need and desirability in the context of the preferred location. The listed desirable aspects can all be equally achieved through deployment of the Wind Farm in an alternative location than Location 1 with suitable wind resources within the province, or even beyond the province.

4.2 REVIEW OF ALTERNATIVES

4.2.1 EIA Regulations

a) Appendix 2, Items 1(d) and 2(1)(g)(i), (iv), (v), (vi), (vii) and (h)(i) of the EIA Regulations and Appendix 3, Items 2 (c), (d)(i); 3(1)(h)(i), (iv), (vii) of the EIA Regulations require, respectively, that the Scoping Report and the EIR must undertake a detailed site selection process in which it ranks the preferred and alternative sites with reference to the cumulative impacts based on the geographical, physical, biological, social, economic, and cultural aspects of the environment.

b) Regulation 1 of the EIA Regulations also specifies that "*alternatives" refer to the –*

i) "*property on which or location where the activity is proposed to be undertaken;*

ii) type of activity to be undertaken;

iii) design or layout of the activity;

iv) technology to be used in the activity; or

v) operational aspects of the activity,

and includes the option of not implementing the activity." [Own emphasis]

c) Appendix 2, Item 2(1)(x) and Appendix 3, Item (1)(h)(ix) of the EIA Regulations further stipulate that "*if no alternative locations for the activity were investigated*" the Scoping Report and EIR, respectively, must provide "*the motivation for not considering such*."

4.2.2 Site and Location Alternatives

a) The reasons provided in the EIR (page 87) for not considering any alternative site locations for the Wind Farm other than the proposed Location 1, are as the following:

"*None identified as the rights to sufficiently large enough contiguous parcels of private land must be sought from local landowners. Location 1 has been agreed to. Alternative sites in the area that are close to Eskom electrical infrastructure, do not yield the same wind resource potential.*"

b) The EIR then further comment about this decision:

"*Alternative locations for the current project are limited and where not deemed to be either reasonable or feasible due to the following:*

- *The available wind resource is the most critical aspect of a wind energy project since a feasible WEF must generate sufficient energy to be financially feasible in terms of REIPPPP.*

- *A feasible WEF must also be located close to a connection point into the Eskom grid and substation. This is a critical factor to the overall technical and financial feasibility of the WEF project.*

- *Therefore, alternative locations for the proposed Albany WEF, were not assessed.*"

c) The above explanation of the lack of suitable wind conditions as the reason why no alternative site locations were investigated, is not persuasive and must be rejected by the DEFF. The explanation does not provide a coherent, well-reasoned and rational motivation with supporting evidence to proof that no suitable alternative locations elsewhere in the Eastern Cape or in South Africa exist where wind energy may be generated without the same significant environmental impact. No evidence was provided in the EIR of a detailed site selection process in which the EAP ranked the preferred and alternative sites with reference to the cumulative impacts based on the geographical, physical, biological, social, economic, and cultural aspects of the environment as required by the EIA Regulations.

d) The same criticism applies to the Eskom grid connection requirements.

e) The first part of the Applicant's explanation about the absence of available private land is brief, unclear, and not further explained in the comment column of page 87. The statement: "*Location 1 has already been agreed to*" is problematic. So is the reference in the previous line that "*Albany Wind Energy and landowners have formally agreed to the proposed development on the site and are in full support of the use of this area.*" It appears to indicate that the Applicant has already secured preferential rights to the land for Location 1. The legal nature of these agreements with landowners were not disclosed but it matters not as this is not a valid ground for failure to perform a proper investigation to alternative sites.

f) Although it is important that the applicant has secured the support of the landowners for Location 1 (as it must and which is also the case for any other alternative locations), their approval does not place any legal obligation on the DEFF to accept Location 1. The competent authority cannot be expected to rubber stamp Location 1 regardless of the result of the EIA and notwithstanding the significant environmental impact of the development from that location, because the EIR presents it with a *fait accompli*. This would clearly be unlawful and an automatic ground for the rejection of the application. The Applicant knows that it carries the risk during the application and that environmental authorisation is subject to the discretion of the DEFF based on the results of the EIA process.

g) Reasons of convenience for the Applicant (which are subjective) not to have performed the prescribed alternative location assessment should not be confused with objective substantive grounds that would in exceptional cases justify the absence of location alternatives e.g. the location of the ore body for a mining application. The Albany Wind Farm application is not such a case.

h) The lack of a proper investigation about alternative site locations in accordance with the prescribed requirements of the EIA Regulations is a material mistake in the EIR and cannot be lawfully condoned by the DEFF. Also, the Applicant's noncompliance with the peremptory requirements of the EIA Regulations to investigate during the Scoping and EIA processes and report in the prescribed manner in Scoping Report and EIR on alternative site locations for the Albany Wind Farm means the EIR is incomplete and forms further ground for the DEFF to <u>reject the application</u>.

i) A further concern is that, even if Location 1 is followed, which Indalo does not support (as indicated above), the EIR does not provide alternative locations within Location 1 to mitigate environmental impacts. For example, the SIA states (and EIR at page 110) : "*The following operational recommendations from the Socio-Economic Assessment must be implemented: … Wherever possible, <u>turbines must not be erected in direct view of lodges and strategic viewpoints at the Game Reserves</u>.*" [Own emphasis.] The EIR, however, does not assess

alternative locations on Location 1 for the placement of the turbines that are proposed within these views.

4.2.3 Cumulative Impacts

4.2.3.1 Although the EIR refers at various instances to the cumulative impacts (in Chapter 9) e.g. on page 164 it assesses the visual impact from the VIA as follows:

> "*As seen in the cumulative viewshed (please see Figure 18 of the VIA), most of the turbines will be visible from the surrounding areas. Notable features within the viewshed include: 1) Makhanda, 2) Bathurst, 3) KwaNdwanyana, 4) Kudu Ridge PGR, 5) Bucklands PGR, 6) Kwandwe PGR, 7) Buffalo Kloof PGR, 8) Coleridge PGR, 9) Huntshoek PGR, 10) multiple homesteads, 11) the N2 and R67 roads. The most significant cumulative visual impacts will come from the Operational Waainek WEF and the Proposed Plan 8 WEF. Both these facilities are located within 20km of the Albany site. The Waainek Wind Farm consists of eight turbines, each with a hub height of 84m and a rotor diameter of 117m, and the Plan 8 facility will host up to 22 turbines, each with a hub height of up to 91.5m and a rotor diameter of up to 117m. The cumulative visual impacts of these three facilities will be high, with the proposed Albany WEF making the largest contribution to the impact.*" [Own emphasis.]

4.2.3.2 Firstly, Plan 8 has applied for an increase of its size, height and footprint and the DEFF's refusal is under appeal. This is not mentioned by the EAP.

4.2.3.3 Secondly, the EIR, failed to also asses WEFs further away at Dassenridge and Cookhouse and consider the cumulative direct and indirect effect of all five these Facilities on wildlife and nature-based tourism of the planned Mega Protected Area (Addo - Great Fish Corridor (Albany Corridor)) due to the Wind Farms' significant degradation of the aesthetic character and sense of place.

4.2.3.4 Thirdly, based on the specialist VIA these direct cumulative impacts are considered as high significance with no mitigation possible, except the no go option (pages 164 and 165). The EAP confirms this in his/her summary in paragraph 9.4.11 and the conclusion in paragraph 9.4.12:

> *"The Visual Assessment identified a total of 15 impacts. The majority of these impacts related to the visual impact of the proposed WEF on sensitive receptors during the operational of the WEF. These seven (7) HIGH negative significance impacts <u>cannot be mitigated due to the fact that they are perception-based</u> (Table 9-16). …*
>
> *It is concluded that majority of the cumulative impacts are MODERATE in nature and although <u>the most of the cumulative visual impacts of the proposed Albany WEF and existing WEF (e.g. Waainek WEF) and proposed WEF (Grahamstown WEF) in the area will be HIGH, potential losses of scenic resources are not sufficiently significant to represent a fatal flaw to the proposed project</u> given the LOW/MODERATE significance of the remainder of the impacts and given the environmental and social benefits that such renewable energy projects promote.*" [Own emphasis.]

4.2.3.5 The EAPs overring of his/her own assessment as informed by the VIA, is irrational as it is based on wrong information as pointed out above (mistakes in the VIA and SIA, failure to properly consult Pumba about Waainek and Albany WEFs, wrong international comparison, indefinite lifespan of WEFs, etc.).

4.2.3.6 The argument that the WEF is not permanent and the disturbed landscape can be restored is totally irrelevant to the affected Indalo PGR owner that will for 20-25 years suffer damages because of the presence of the WEF.

4.2.3.7 It is irrational and arbitrary for the EAP to simply conclude that "*although there are local losses in terms of visual impacts, there will also be local gains*." Through this statement the EAP simply equate the property rights of the Indalo PGRs with the economic interests of the developer and recommends that the

latter should override the former without factually establishing the impact of such decision on the Indalo PGRs. It should be noted that the rule of law in section 1 of the Constitution as in the common law, respects and protects the established rights of property owners such as of the Indalo PGRs. Their property rights cannot simply be ignored by the competent authority (DEFF) on a whim of possible future economic interests of third parties. The law does not equate established rights (of property owners) with potential interests (of the Proponent). In an irreconcilable conflict such as the present application for the Albany WEF, the vested rights of property owners must trump the potential conflicting interests of the WEF developer. Thus, based on the assessment of cumulative direct and indirect impacts in the EIR, it is submitted that the EAP did not engage in a balanced and fair weighing of opposing rights and interests as is contemplated by constitutional jurisprudence.

4.2.4 Consideration of Guidelines in EIA

4.2.4.1 No formally adopted Guidelines for Environmental Impact Assessment exist in South Africa other than *Best-Practice Guidelines for Assessing and Monitoring the Impact of Wind Energy Facilities on Birds in Southern Africa* (3rd Edition, 2015) and the DEFF *Minimum Requirements for Avifaunal Impact Assessment*.

4.2.4.2 The World Bank Group "*Environmental, Health and Safety Guidelines for Wind Energy*" (August 2015) provide a useful guideline for the application of "Good International Industry Practice" –

a) is required to be applied by any member of the World Bank Group including the International Finance Corporation (IFC); and

b) the IFC further prescribes standards of environmental assessment and management to which many financiers (including numerous South African funds of renewable energy subscribe in the form of the IFC standards) who are involved in such a project.

4.2.5 World Bank Group Environmental, Health and Safety (EHS) Guidelines

a) World Bank Group Environmental , Health and Safety (EHS) Guidelines indicate that where any host country regulations differ from the levels and measures presented in the World Bank Group (WBG) Guidelines then the projects are expected to conform to the whichever are the most stringent.

b) Since apart from Avifaunal Assessment no formally adopted Guidelines for wind farm site selection exist in South Africa and numerous of South African renewable energy project funders (e.g Nedbank and RMB) apply IFC standards it is expected that these World Bank Group Guidelines would be appropriate to apply in the Albany WEF EIA.

c) The WBG Guidelines repeat the need to consider the choice of site carefully from the earliest stage of planning. "*The general approach to the management of EHS issues should consider potential impacts as early as possible in the project cycle, including the incorporation of EHS considerations into the site selection, in order to maximize the range of options available to avoid and minimize potential adverse impacts. Importantly, many EHS impacts associated with wind energy facilities may be avoided by careful site selection.*" (Own Emphasis).

d) WBG Wind Energy Guidelines Section 1.1.1, "*Landscapes, Seascapes and Visual Impacts*", the Guidelines advise that potential impacts –

i) Note 12 "*on Legally Protected and Internationally Recognised Areas of Importance to biodiversity and cultural heritage features are also a consideration.*" Accordingly it would have been expected that the Proponent of the Albany WEF at the hand of the EIA process would have considered the impact of the WEF on Protected Areas and Provincial Nature Reserves Legally Protected and Internationally Recognised Areas of Importance to biodiversity and cultural heritage and failing consideration of which would not be in line with NEMPAA.

ii) Note 13 *it is advocated* that "…*avoidance and minimization measures to address landscape…and visual impacts are largely associated with the siting and layout of wind turbines and associated infrastructure*…". Given that the siting of the turbines on the ridge line overlooking Protected Areas and the Provincial Reserve are intrusive on sensitive landscape that form the basis for wildlife and nature tourism within avoidance of impact through avoidance of turbine placement i.e. the no-go option can be considered both on a per turbine as well as per development basis.

e) WBG Wind Energy Guidelines Section 1.1.3 Biodiversity indicate –

i) Note 25 indicates: "*Site selection is critical to avoiding and minimizing potential adverse impacts on biodiversity. Site selection should include the following:*

- *Consideration of the proximity of the proposed wind energy facility to sites of high biodiversity value in the region. Early screening can improve macro-level project site selection and the scoping of priorities for further assessment, thus reducing unnecessary biodiversity impacts and costs in the future. Sites of local, regional, and international importance may include national and international protected areas (including marine protected areas), Important Bird Areas (IBA), Key Biodiversity Areas (KBAs).*

- *Consultation with relevant national and/or international conservation organizations also helps to inform site selection for both onshore and offshore facilities.*"

ii) It is patently clear that Protected Areas and Provincial Reserves are affected and the relevant local, provincial and national conservation organizations (Indalo, ECPTA and SANParks) have not been consulted to help to inform site selection.

4.2.6 International Finance Group Guidelines

a) The International Finance Group (IFC) is a member of the World Bank Group which has established a set of "*Performance Standards*" (January 2012) under its Sustainability Framework. The Sustainability Framework articulates IFC's strategic commitment to sustainable development (ref: https://www.ifc.org/wps/).

i) Standard 6 Guidance Note GN27: *In practice, natural and modified habitats exist on a continuum that ranges from largely untouched, pristine natural habitats to intensively managed, modified habitats. Project sites will often be located among a mosaic of habitats with varying levels of anthropogenic and/or natural disturbance. Clients are responsible for delineating the project site as best as possible in terms of modified and natural habitat… Is the project site (or parts of it) an isolated area of natural habitat within a heavily disturbed or managed landscape? Is the project site located near areas of high biodiversity value (for example, wildlife refuges, corridors, or protected areas)? Or, is the project site located in a mosaic of modified and natural habitats that contain biodiversity values of varying importance to conservation?*

ii) The Albany WEF project site is located near areas of high biodiversity value and is located within mosaic of modified and natural habitats that contain biodiversity values of varying importance forming corridors between protected areas (Buffalo Kloof Protected Environment/Waters Meeting Nature Reserve, Blaauwkrantz Nature Reserve, Kwandwe Protected Environment and Great Fish Nature Reserve).

iii) An evaluation of the adherence to IFC Performance Standard 6 - Biodiversity Conservation and Sustainable Management of Living Natural Resources is contained in Appendix: A

4.3 OPINION AS TO WHETHER THE ACTIVITY SHOULD OR SHOULD NOT BE AUTHORISED

4.3.1 EIA Regulation 31(2)(n) states that: "*An environmental impact assessment report must contain all information that is necessary for the competent authority to consider the application and to reach a decision contemplated in regulation 35, and must include …a reasoned opinion as to whether the activity should or should not be authorised, and if the opinion is that it should be authorised, any conditions that should be made in respect of that authorization;*"

4.3.2 The EIA Regulation 31(2)(n) is explicit in that it requires that an EIR "*must*" contain a reasoned opinion (of the EAP) as to whether the activity "*should or should not be approved*". In other words, if the Draft EIR fails to provide an opinion as the whether the activity should be approved, or not, then the reasoning of approval cannot be evaluated and Draft EIR does not meet the requirements of EIA Regulation 31(2)(n).

4.3.3 The EAP provides a vague and non-committal discussion around his/her views on the various aspects and impact assessment findings of the EIA study but falls short of providing a reasoned opinion as to whether the activity should or should not be authorised.[21]

5. IMPACTS ON BIODIVERSITY

5.1 The following important questions should be asked when considering a project location for a project of this nature:

5.1.1 Is the scheme likely to have a significant effect on the integrity of a protected area or nature reserve?

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[21] Section 12.6 indicates "*Based on the contents of this report, and all associated documentation, it is the opinion of the EAP that the proposed Albany WEF be authorised on condition that all conditions stipulated in Section 12.7 of this report be contained within the EA*".

Yes - The project site is located near areas of high biodiversity value and is located within mosaic of modified and natural habitats that contain biodiversity values of varying importance forming corridors between protected areas (Buffalo Kloof Protected Environment / Waters Meeting Nature Reserve, Blaauwkrantz Nature Reserve, Kwandwe Protected Environment and Great Fish Nature Reserve).

5.1.2 If so, is the project likely to damage (or destroy) any of the features of interest, or disturb any of the wildlife for which the site is protected?

Yes – Like the Addo National Park and the Great Fish Provincial Nature Reserve, the Indalo PGRs (like many others in South Africa and in Africa in general) is concerned with nature and wildlife tourism as a key protected area goods and service.

a) It is specifically the wildlife and nature tourist's experience that relies on the wilderness character of both the protected areas and their surrounds and in a way the wilderness character of the reserves which finances protection of ecological, geological, landscape and other features of scientific, cultural and/or historical value (nature and wildlife tourism in reality underpins the protected areas operation and ability to meet biodiversity conservation objectives).

b) Like the Addo National Park and the Provincial Nature Reserves (most notably the Great Fish), the Indalo PGRs are managed according to a Protected Area Management Plan, but with the important difference that they do not receive public funds but have to secure funding from internal resources.

c) These resources are derived from nature and wildlife tourism which is dependent on a natural environment largely free from the structures and signs of modern civilisation (often from which the tourists come to get away). Wind energy development characterised by colossal skyline intrusion will impose a divestment

on Indalo members impacted and curtail wildlife and nature tourism enabled protected area expansion.

5.1.3 Is the scheme likely to have a significant adverse effect on the favourable conservation status of any habitat?

Yes- the scheme will hinder the expansion of areas under formal protection –

a) Based on government's Protected Area Expansion Strategy, buffer zones and Biodiversity Stewardship Programme, Indalo is currently actively working with local provincial and national partners including the Wilderness Foundation of South Africa, ECPTA and SAN Parks to expand areas under formal protection. This is done through further amalgamation of the southern, central and northern nodes into large agglomerations (>50 000Ha) of private nature and game reserves in the central node and private/public nature and game reserves through public-private partnerships with Addo National Park and the Great Fish (and various provincial nature reserves) in the south and north respectively.

b) One of the main objectives of the expansion plan is to enable common traversing agreements and unified conservation management through the dropping of fences between reserves.

c) To this effect a formal protected area expansion strategy is under development by various stakeholders including the Wilderness Foundation Africa, ECPTA, SAN Parks and the Indalo Association that will guide protected area expansion, inform land-use planning, stimulate economic development and aide thicket restoration in the broader Albany region.

d) The environmental and economic benefits associated with the agglomerations (>50 000Ha) of private reserves and expansion through private partnerships with Addo in the south and the Great Fish in the north are considerable. Not only will this form a mega reserve as larger consolidated areas will lead to improved marketability of the Eastern Cape as a safari destination, making it comparable

to Kruger, Sabi Sands and Madikwe. As much as wind energy development is necessary in South Africa, we hold wind energy development that impacts on the Addo, Great Fish and Indalo Protected Areas and their further extended areas to be untenable and undesirable that should be avoided at all cost.

5.2 Accordingly it would have been expected that the Proponent of the Albany WEF, at the hand of the EIA process would have considered impact of the Facility on Protected Areas and Provincial Nature Reserves that are legally protected and internationally recognised areas of importance to biodiversity and cultural heritage as required by NEMPAA. The EIR for the Albany WEF failed to do so which is contrary to the requirements of NEMPAA.

6. CONCLUSION

6.1 The Indalo Protected Environment places on record that the EIR and specialist studies are deficient to the extent that these inadequacies are covering up fatal flaws in the application, if these material deficiencies were to be addressed it would become clear that the development would blight views from Great Fish Reserve (most spectacularly from Adam's Krans view point) and would degrade the scenic value of the area and its unique wilderness tourism product in general. Indalo is unconditionally in favour of the outright refusal of the Albany WEF based upon the grounds set out in this comment on EIR.

6.2 In other words, Indalo favours the ultimate, most effective mitigation measure for the Albany WEF and the fatal flaws that it holds in terms of impact to the Protected Areas and their potential for expansion, is by avoiding the WEF through its outright refusal.

7. SOURCES

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APPENDIX A - IFC GUIDELINES

Performance Standard 6 - Biodiversity Conservation and Sustainable Management of Living Natural Resources

PROTECTION AND CONSERVATION OF BIODIVERSITY

Condition	Comment
• Guidance Note 6 - GN27. In practice, natural and modified habitats exist on a continuum that ranges from largely untouched, pristine natural habitats to intensively managed, modified habitats. Project sites will often be located among a mosaic of habitats with varying levels of anthropogenic and/or natural disturbance. Clients are responsible for delineating the project site as best as possible in terms of modified and natural habitat… Is the project site (or parts of it) an isolated area of natural habitat within a heavily disturbed or managed landscape? Is the project site located near areas of high biodiversity value (for example, wildlife refuges, corridors, or protected areas)? Or, is the project site located in a mosaic of modified and natural habitats that contain biodiversity values of varying importance to conservation?	The project site is located near areas of high biodiversity value and is located within mosaic of modified and natural habitats that contain biodiversity values of varying importance forming corridors between protected areas (Buffalo Kloof Protected Environment / Waters Meeting Nature Reserve, Blaauwkrantz Nature Reserve and Kwandwe Protected Environment and Great Fish Nature Reserve).

• Guidance Note 6 - GN32. Where socioeconomic and cultural uses of biodiversity (that is, ecosystem services) are at issue, biodiversity offsets may include the provision of compensation packages for Affected Communities impacted by the project and offset. Note that ecosystem services are covered in paragraphs 24 and 25 of Performance Standard 6, and compensation for ecosystem services is covered in Performance Standards 5, 7, and 8.	The impact on ecosystem services was not adequately considered. Refer to section below on ecosystem services.

LEGALLY PROTECTED AND INTERNATIONALLY RECOGNIZED AREAS

This IFC Performance Standard recognises legally protected areas that meet the IUCN definition: "A clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values." For the purposes of this Performance Standard, this includes areas proposed by governments for such designation.

Condition	Comment

• Performance Standard 6 Paragraph 20. In circumstances where a proposed project is located within a legally protected area or an internationally recognized area, the client will meet the requirements of paragraphs 13 through 19 of this Performance Standard, as applicable. In addition, the client will:
  o Demonstrate that the proposed development in such areas is legally permitted;
  o Act in a manner consistent with any government recognized management plans for such areas;
  o Consult protected area sponsors and managers, Affected Communities, Indigenous Peoples and other stakeholders on the proposed project, as appropriate; and
  o Implement additional programs, as appropriate, to promote and enhance the conservation aims and effective management of the area.
	Paragraph 14 of IFC Performance Standard 6 indicates:
	14. The client will not significantly convert or degrade natural habitats, unless all of the following are demonstrated:
	• No other viable alternatives within the region exist for development of the project on modified habitat;
	
	We are of the opinion that the applicant did come to a defensible conclusion that there are no other viable alternatives within the region.
	
	With respect to consultation with protected area sponsors, managers and stakeholders - Consultation with conservation entities seemingly substantially lacking, for example the Eastern Cape Parks Board and the Great Fish River Nature Reserve were not consulted.
	
	The impacts on the Great Fish River Nature Reserve and its future potential have not been considered.

Condition	Comment
• Guidance Note 6 GN95. With respect to mitigation, clients are expected to comply with requirements for natural or critical habitat, depending on the qualifying biodiversity values present in the legally protected (including areas officially proposed for protection) or internationally recognized area.	
• Guidance Note 6 GN96. When projects are located in legally protected and internationally recognized areas, clients should ensure that project activities are consistent with any national land use, resource use, and management criteria (including Protected Area Management Plans, National Biodiversity Strategy and Action Plans (NBSAPs), or similar documents). This will entail securing the necessary approvals from the responsible government agencies, and consulting with protected area sponsors and Affected Communities, indigenous peoples, and other relevant stakeholders. Note that stakeholder engagement and consultation is required for all projects located in legally protected and internationally recognized areas.	The project site is located near areas of high biodiversity value and is located within mosaic of modified and natural habitats that contain biodiversity values of varying importance forming corridors between protected areas (Buffalo Kloof Protected Environment / Waters Meeting Nature Reserve, Blaauwkrantz Nature Reserve and Kwandwe Protected Environment and Great Fish Nature Reserve). Accordingly, it would have been expected that the Proponent of the Albany WEF at the hand of the EIA process would have considered impact of the facility on these areas as well as the impact that the facility would have and any planned expansions of these areas.