



The Secretary
Lamu County Land Management Board
P.O. Box 27
Mokowe, Lamu

RE: Save Lamu's Objections to National Land Commission's intention to allocate land to Amu Power

We, members of **Save Lamu**, a coalition of over 30 civil society organizations in Lamu County, **object** to the National Land Commission's intention to allocate and title the public land known as Kwasasi in Lamu County to Amu Power, a private entity, for the purposes of constructing and operating a coal-fired electrical plant.

We object and challenge the allocation on the grounds that 1) the said land is environmentally and ecologically sensitive; 2) An ESIA report has not been completed which would provide information as to environmental impacts and mitigation measures, location and alternative sites for the plant, comparative cost analysis of coal and other forms of electricity generation; 3) Amu Power, has not received a licence from NEMA to construct or operate a coal powered electrical plant at Kwasasi area in Lamu County.

The law on allocation states that land cannot be allocated to another person if: (1) the land falls within mangroves; (2) the land falls within wetlands; or (3) if the land falls within environmentally sensitive areas. Additionally, any sections of public land that is deemed ecologically sensitive (endangered species, critical habitats or protected areas) are not to be allocated by the National Land Commission in order to prevent environmental degradation.¹

Environmental Reasons

The said area of land known as Kwasasi is located in an area rich in mangrove and marine life, including fish, rays, sea turtles, crab, prawn and other marine crustaceans. The area sits at the mouth of two inland creeks that are rich in marine resources that are utilized by fishing communities from Lamu, Shela, Matandoni, Mtangawanda and Pate. The area is also used by hunting and gathering groups like the Aweer and the Sanye. Their traditional fishing methods provide sustenance for their families and provide conservation and stewardship of the area to sustain the rich marine resources found in the area.

The importance of mangrove coverage to coastlines is a well-known fact. Mangrove forests provide coastal protection against destructive wave and wind forces, and are among the most carbon-rich habitats on the planet. On average, mangroves have double the living biomass of tropical forests overall.² In the age of climate change, these are important facts. Another benefit of mangrove forests is the rich biomass they create for fish hatching, and other marine life. Their roots provide safety for hatchlings as well as the necessary nutrients for their survival.

The communities of Ndau, Lamu and Mtangawanda cut mangrove using traditional methods that conserve the forests. They seek out old growth and use selective means to ensure that forests remain healthy and secure. Mangrove is used for traditional architecture in constructing houses and in building furniture. Mangrove is also used for making dhows, the traditional sailing craft of the Swahili. As Lamu is a UNESCO World Heritage Site, for its cultural contribution to world heritage, conserving the cultural traditions of fishing and mangrove use for Swahili architecture, is essential to its continuity. Therefore, we object to the area known as Kwasasi being allocated to Amu Power as it is environmentally sensitive being rich in mangrove and marine resources and a critical habitat for endangered sea turtles, fish, rays, and crustaceans.

¹ The Land Act (2012) Section 11 and 12.

² <http://blog.nature.org/science/2013/10/11/new-science-mangrove-forests-carbon-store-map>

The Kwasasi land is located in a region with various near threatened, vulnerable and endangered birds. Some of the birds consist of migratory groups of birds from the Middle East that use Lamu as a preferred habitat in the winter. However the extent and range of birds and other animals in the area is yet to be researched thoroughly. The ESIA should provide information about the types of animals and their state of threat and vulnerability. The NLC must wait until the ESIA is tabled in order to make a decision on allocation.

Lack of Environmental and Social Impact Assessment (ESIA) Report

Amu Power has yet to complete an ESIA of the proposed project and submit it to the environmental licencing agency NEMA. They have completed an Environment Project Report (EPR)³, a scoping document that is intended to address the methodology to be implemented in conducting the ESIA. By its own admission the EPR does not contain any site-specific information about the impacts of the proposed project and thus it is impossible for to make a rationally-informed decision (from the EPR alone) about whether the project has a significant effect on the environment.

Amu Power's ESIA, according to ECMA (1999), must provide adequate consideration of alternate sites for construction of a coal power generating station as well as sufficient consideration of project alternatives. This has yet to be done. Therefore, if the National Land Commission allocates the land at Kwasasi to Amu Power before these legal steps are diligently followed and completed, it would appear to the public that personal interests are at play and the rule of law is weakened.

Whether to build a coal-fired power plant in Lamu County or supply energy from a renewable source of energy (e.g. solar and/or wind) is a decision the consequences of which will affect Kenyan citizens for decades. While this is not the mandate of the NLC, we hope that you will reconsider allocation of public land to Amu Power given that the ESIA has yet to be tabled.

The ESIA will also provide information about the amount of land required and how the land will be utilized. Currently that information is not available. Therefore it would be imprudent of the NLC to engage in posturizing the amount of land needed for a 980 MW coal power plant.

Community members are aggrieved that no alternative sites outside of Lamu County were identified and examined. They demand that alternative sites outside of Lamu County are provided in order for a real comparison to be made. Moreover, NEMA is strongly urged to consult with the Ministry of Energy and Petroleum to fully understand their reasoning for selecting Lamu. In Kwasasi, the channel is too shallow for large coal ships to be delivering coal, thus the economic factor does not make sense. It would be more feasible to have the coal brought to the Mombasa port where it can be offloaded as compared to Lamu where it will be handled twice over water before it reaches its destination.⁴

In Amu Power's EPR, three areas are discussed as possible sites. However it is noted that there is a big disparity in the size of the land needed for the plant. While Option 2 only requires 500 acres, Option 3 needs almost 175% of the previous size at 870 acres. Various researches indicate that similar coal power plants (1000MW) usually require about 350-400 acres at average. Additionally, half of the land is dedicated to ash ponds, which we can loosely estimate at 400 acres. In other coal power plants of the same size, the ash ponds only require 30 acres of the land; hence the reason for a 400-acre ash pond section raises a lot of questions the proponents do not answer in the EPR.⁵ NEMA ought to properly consider this issue given that one of the largest environmental impacts will be from the waste in the ash ponds, hence the larger these ponds are, the more likely risk of impacts will occur, needing urgent addressing. A detailed ESIA study needs to examine whether it is necessary to have such a behemoth sized piece of land for the project's ash pond facilities is required. Therefore, NLC should reconsider allocating the land at Kwasasi as decisions are still to be

³ Environment Management and Coordination Act, 1999

⁴ Community consultation by Save Lamu on 9th November 2015 in Shela Village, Lamu County where representatives from the youth, women leaders, religious leaders, members of Beach Management Units and fishermen. All representatives are from both Lamu East and Lamu West sub-counties. This meeting will collectively be referred to as the "9th November 2015 Community".

⁵ For the Tata Orissa Power Plant in India, of similar output size (1000mw) the ash ponds take a mere 30 acres of the land (see EIA here).

made as to its actual location and size of acreage. Any decision made before the ESIA is tabled will be seen as hasty and in the interest of Amu Power.

Amu Power's EPR acknowledges that the project's footprint area will be cleared of natural vegetation to pave way for the plant, which will lead to the loss of plant communities, breeding and nesting areas. It also mentions how mammals, reptiles and amphibians will be affected through the habitation alteration, the disturbance of their movement and behaviour, the excavation of soil, the risk of spillages and the introduction of new species. A number of these species are endangered, threatened or unique to Kenya's northern coast alone. Therefore, the NLC should act responsibly and wait for the ESIA to be made available.

No Licence has been granted for Amu Power to Construct a Coal Fired Electrical Plant

The National Environment Management Authority has yet to receive an ESIA from Amu Power and they have not granted a licence for construction. Therefore it would behove the NLC to wait until these legal processes are completed before allocating the land at Kwasasi to the proponents.

The land at Kwasasi is environmentally critical and we believe that the ESIA will illustrate its vulnerability. Therefore to process the allocation would be a considerable mistake on the part of the NLC. We pray that the NLC will reject the allocation based on the fact of its environmental importance and to the fact that no licencing can be given before an ESIA has been tabled. This has yet to happen. Therefore, we pray you will reject the allocation to Amu Power.

Yours Sincerely,



Abubakar Ali Mohamed

Chairperson

Save Lamu

CC

1. Chief justice
2. The National Land Commission
3. The Governor of Lamu
4. County Commissioner
5. Ombudsman
6. Nema
7. Amu Power
8. Ministry of Energy