

DEVELOPERS

A Snapshot View of this Chapter

ENVIRONMENTAL ASSESSMENT AND PUBLIC PARTICIPATION IN BUSINESS

Involving stakeholders in environmental assessment processes and other aspects of business operations is beneficial. It can contribute to enhancing the operations, products, reputation, as well as the relationships that help your business. See 5.1 for more information.

ROLES AND RESPONSIBILITIES

Roles: You have a dual role in participation within the environmental assessment process. You have to ensure that there is a good process of participation; and, you need to participate as a stakeholder. But, remember that you are not more important in the process than any other stakeholder. See 5.2.1 for more information.

Other Actors: Be aware of the roles and responsibilities of the other stakeholders in the process. These include practitioners, civil society, decision-makers and funders. See 5.2.2 for more information.

Good Behaviour: Your behaviour in the process will have an important influence. Remember to follow the rules of good behaviour:

- Respect and commit to the process;
- Recognise that the practitioners are independent;
- Respect the views of all stakeholders;
- Be transparent; and,
- Be open.

See 5.2.3 for more information.

PLANNING

Timing: The timing of when you initiate the environmental assessment and the participation process is important. The earlier you get going, the better. See 5.3.1 for more information.

Legal and Planning Requirements: National laws and the policies of funding institutions are important to know and follow. Also, remember to clarify any planning approvals. Determine whether they are adequate, or whether they may lead to conflict in the environmental assessment process. See 5.3.2 for more information.

Project Context: Make sure you understand the social, economic, biophysical and cultural context of the project. This will help you to select the most appropriate practitioner and insist on an appropriate process. See 5.3.3 for more information.

Practitioners: Select your practitioners carefully. If they do not have the appropriate skills it could result in a bad process and jeopardise your development. The practitioner needs to be independent and have no interest in the development. Be aware that the larger the development and more sensitive the environment, the more extensive will be the need for public participation. Your practitioners will advise you on what resources will be required for an effective process. Note that the process may need to change during the course of the process due to unforeseen or new factors. Take the practitioners guidance on these. See **5.3.4** for more information.

INFORMATION AND INFORMING

Disclosure: As the developer you need to inform stakeholders about your proposed development. You need to be honest and transparent about what you plan. But if you have classified, commercially sensitive or proprietary information, you are not obliged to disclose it. See **5.4.1** for more information.

Communication: You will assist in encouraging open and constructive dialogue by effectively communicating information about your development. There are many ways to get your message out. Look at Annexure B which has detail on various methods and approaches to communication. See **5.4.2** for more information.

ENGAGING

There will be a need for you to get involved in the various engagement activities during the public participation process. See Annexure C for information on the range of engagement activities that are possible. You, or a representative who can speak on your behalf, should make every effort to attend events and to participate in an open and non-defensive way. Try to see these as opportunities for dialogue. Make every effort to actively listen to the views of all stakeholders. If possible, encourage the practitioner to conduct the process as an exercise of seeking collaborative solutions with all stakeholders. See **5.5** for more information.

DECISION MAKING

The decision makers will take a decision on the basis of the information provided to them by the practitioners. Often developers have privileged access to decision makers. Don't exploit this contact and respect a process of good, open governance. See **5.6** for more information.

5 DEVELOPERS

This chapter provides advice to developers of projects. Projects can comprise a range of activities from new mines and golf course estates through to public works programmes such as the building of a new sewage treatment works. Developers may be private corporations, parastatals or government departments.

This chapter provides:

- ◆ A discussion of the benefits of public participation and of integrating participation into your project;
- ◆ An overview of your roles and responsibilities in the public participation process;
- ◆ Detailed guidelines on planning for public participation; and,
- ◆ Guidelines and tips on communication, engagement activities and decision making.

The chapter addresses 'developers' as a unit. It should be read by all members of a project team involved in a development who will interface in some manner with the environmental assessment and public participation process.

5.1 Environmental Assessment and Public Participation in Business

Public participation in environmental assessment is one area where a developer may interact with civil society. Stakeholder engagement does not have to be limited to the environmental assessment, however, and can continue throughout the lifespan of a development, from initial conception through to decommissioning.

Recognition of the value of stakeholder engagement is growing in the corporate sector. The value of an organisation and its ability to generate value and deliver services are not just dependent on financial and physical resources. Human and social resources and wealth are also important for managing risks and liability. This is where Public Participation comes into the picture.

Public participation adds value to developments and business as it can enhance:

- Your 'social' license or freedom to operate;
- Your relationships with your external stakeholders, such as customers;
- Your human resources and employee relations;
- Innovation within your organisation;
- Your reputation; and,
- Financial performance;

Stakeholder engagement early in the development cycle, through environmental assessment, can assist in laying the foundations for long term relationships. It can add value to developments and minimise delays due to misunderstandings or opposition from communities or civil society groups.

It is important to appoint competent professionals. A poorly implemented public participation process can have negative consequences for your development. For example:

- Inadequate public participation may result in opposition to a development due to poor information exchange and a lack of dialogue and trust between parties. This can cause a process to take much longer than if the process had been correctly undertaken from the start;
- Your application could be rejected by government decision makers due to inadequate stakeholder engagement;
- You may not be able to build long term meaningful relationships with stakeholders and you may lose your 'social license' to operate; and,
- Critical issues which could impact on the viability of your development may not be identified, as local stakeholder knowledge is not effectively accessed. You may only become aware of flaws late in the development process where they are extremely expensive to rectify.

Set performance goals for your project team that are related to the environmental assessment and public participation process and not just to achieving a successful development.

Case Study

In an Environmental Assessment process around a new container terminal for the Port of Durban, a constructive working relationship was built between the port authorities and the city government through the process. This lasted beyond the process.

5.2 Roles and Responsibilities

5.2.1 Roles

Your proposed development is the primary reason why the environmental assessment and public participation process are being undertaken. You have a dual role in the process:

- You have a responsibility to ensure that an adequate public participation process is undertaken;
- You need to participate in the process as a stakeholder with an interest in the outcome.

It is your responsibility to ensure that other parties can participate in the public process through ensuring that you allocate sufficient resources to the project.

TIP:

Remember that your interests, although extremely important to you, should not dominate the process. Regard the public participation process as an opportunity to interact with and understand the concerns of others. Your development may affect their lives. Listening and being open to solutions may improve the overall sustainability of your development. It can assist you to build relations with your potential neighbours.

As the developer, you are also a participant in the process and are entitled to raise your own issues and concerns. It is important to realise, however, that your interests and

issues should not be regarded as any more important than other stakeholders in the process.

5.2.2 Relationships between Various Roleplayers

There are a number of other stakeholders and parties in the environmental assessment process.

The environmental assessment practitioner and public participation practitioner undertake the environmental assessment process. They should be independent and should not favour one party over another. The public participation practitioners main role is to facilitate the participation of a diverse range of stakeholders in the process.

Civil society is the broader group of people who your may be affected by or interested in your development. Their role is to raise issues and concerns and participate in finding solutions.

Government, as a decision maker has the responsibility of deciding whether or not and under what conditions you may proceed with your development. It is its responsibility to consider all the information associated with the project and to integrate the concerns of civil society in it's decision.

Another group who may be directly or indirectly involved in the environmental assessment process, are the institutions that may be providing funding for the proposed development. This could include organisations such as the World Bank or the International Finance Corporation. Many financial institutions have their own standards and requirements for environmental assessments of the projects they will be funding. Their responsibility is to ensure that the environmental assessment and public participation process you propose, meet their internal requirements.

5.2.3 Principles of Behaviour

Participants can strongly influence the nature and tone of public participation process. Your behaviour in particular, as a major roleplayer, can significantly affect the process and contribute to its success. Remember:

- Respect and commit to the process
- Recognise the independence of the practitioners – avoid interfering in the process
- Respect the opinions and perspectives of other parties in the process
- Be transparent – do not hide unpleasant information away
- Be open - commit to sustainable development and finding solutions

5.3 Planning

The environmental assessment for your planned development should be undertaken by an independent practitioner. You should:

- Clarify the legal requirements pertaining to your development in respect of the environmental assessment;

- Gain an understanding of the context in which your project will be taking place; and,
- Appoint practitioners and, working with them, determine the required process and consequent resource requirements.

5.3.1 The timing of environmental assessment and the public participation process

A typical project life cycle is illustrated below. In very large projects, a preliminary environmental assessment including a public participation process can be undertaken very early in the pre-feasibility stage to identify any potential fatal flaws. A second fuller environmental assessment, also incorporating a public participation process may then be required during the feasibility stage. You need to balance the disadvantages of limited information against the advantages of identifying potential opportunities and problems early in the development process. In general, the earlier in the project life-cycle that environmental assessment process and public participation are initiated, the better.

There is, however, no need to confine public participation to an environmental assessment process. It is valuable to implement an ongoing community engagement strategy with the aim of building relationships with local communities.

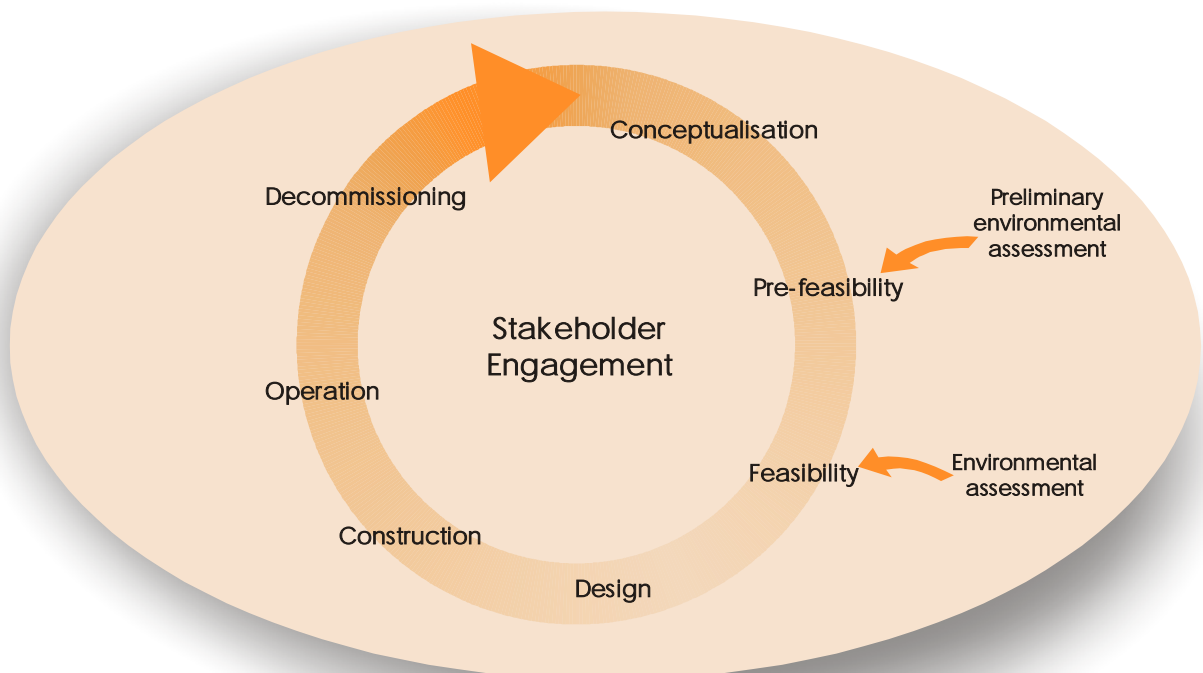


Figure 4: Project Lifecycle

Case Study

In the Sasol Natural Gas Project in Mozambique, Sasol implemented a stakeholder engagement process with all stakeholders. This commenced before the environmental assessment and continued. Subsequent to it, the process has built long term relationships and value for the company.

5.3.2 Legal and Planning requirements

Prior to appointing an environmental and public participation practitioner, gain an understanding of statutory and financial institution requirements. This could influence your choice of practitioner.

In some cases, you may be embarking on a development, which is dependent on previous planning approvals. Check the validity of such approvals and whether they were controversial. You may need to address issues arising from these previous approvals in the environmental assessment. In such cases, it would be wise to appoint a practitioner skilled in conflict management.

5.3.3 Project Context

The social, economic, biophysical and cultural context in which your development will be occurring will influence the nature and course of the public participation process.

Some of the factors to consider include:

- Whether the area is rural or urban;
- The nature of civil society and other stakeholders. Chapter 2 highlights factors to consider;
- Whether societies are highly dependent on resources that may be impacted by your development;
- The nature of social and economic systems in the area;
- The sensitivity of the local ecological systems to disturbance.

Gaining an understanding of the local area and context will enable you to select the appropriate practitioner as well as better understand the response your development may receive from stakeholders.

5.3.4 Practitioners and resources

You will need to appoint a practitioner to do the public participation process. In general, if it is a large development or a development likely to have significant impacts, it may be useful to have separate public participation and environmental assessment practitioners.

Select your practitioner carefully. They will be responsible for designing the public participation process and implementing it. If they do not have the requisite skills, a poorly run public participation process could jeopardise your development or cause time overruns.

The practitioner should be independent of your organisation if possible and have no other interest in the development other than the undertaking of the public participation process. This will assist in meeting legal and financial institution requirements. In addition, an independent practitioner is more likely to be accepted by stakeholders and to have credibility.

Remember:

The proposed development or project is your project and not the practitioners. You need to take ownership of your project. The practitioner is a facilitator. It is not their responsibility to promote your interests. You need to become involved in the process to promote your interests.

In selecting a practitioner consider:

- Your project context – for example, your project may be situated in a rural setting in which case it would be better to select a practitioner with experience of running public participation processes in rural areas as opposed to urban areas. Ask whether the practitioner has experience in the particular type of development you are proposing or in the particular setting.
- The practitioners skills - public participation practitioners need a variety of skills to undertake their work. The practitioner should have the skills to design and manage the process as well as facilitate interactions between different interest groups. More detail on skills is provided in Section 2.2.4 of the practitioners section.
- Location of the practitioner – public participation practitioners should preferably be accessible to the groups they are working with and have a local representative, although this may not be possible in all projects.

TIP:

Check the reputation of the practitioner. A practitioner with a reputation for bias will not be well received by civil society and your process will become more difficult. You may not achieve the result you were hoping for. You could contact local civil society organisations or NGOs and ask their opinion of the practitioner you are proposing to appoint.

Once you have appointed practitioners, they will design a public participation process. They will be able to advise you on the required timeframes and financial resources. As a guide, the larger the development and the more sensitive the environment, the more stakeholders will be involved. This will increase the required resources.

Caution:

It is possible for a relatively small development with low capital investment to have a large impact on the lives of a relatively small number of people. The cost of public participation is not always related directly to the capital invested in a project or to how well informed or mobilised local civil society groups are.

The time required for an environmental assessment and public participation process can vary dramatically. It is important, however, that sufficient time is provided for adequate public input. In many large projects, timing is of critical importance in

accessing finance and realising market value. Anticipate the need to undertake an environmental assessment at the conceptualisation stage and structure this into your project plan.

Be aware that there may be a need to change the initially planned public participation process in response to changing circumstances. Although this may result in additional costs or lengthen the process, it can have significant benefits to the overall process.

Case Study

In a process regarding the rehabilitation of an abandoned coal mine in Witbank, South Africa, it was recognised that a broader public process was required. The client accepted the need and an extremely successful awareness raising programme was introduced mid-way through the project.

5.4 Information and Informing

5.4.1 Information availability – disclosure

As a developer, you need to inform other stakeholders in the process honestly and transparently about what you plan. In order for you to gain the most benefit from the process, you need to build the trust of the other participants. Being open and transparent about what you plan will assist in building trust.

There may be classified or proprietary information associated with a particular aspect of your proposed development. Be honest about what is proprietary and cannot be revealed and provide acceptable reasons for this. Obscuring problems or results that may reflect negatively on your project is counterproductive. In most cases, such information will come to light at some stage in a process. If you have covered it up or not acknowledged problems, this will undermine your credibility and create problems in the process.

Caution

Do not make promises that you will be unable to keep. Be explicit about what can and cannot be implemented and the possibility that certain aspects may not be implemented. This will assist in managing the expectations of stakeholders.

Case Study

In a process for the development of a hotel at Victoria Falls in Zambia, numerous opportunities were provided for substantial debate on key issues. This reinforced the legitimacy of the outcome of the process.

5.4.2 Communication

Effectively communicating information about your development to everyone in an accessible manner will assist in encouraging open and constructive debate.

In informing others of your development proposals and the need for the development, you need to consider:

- What? – the aspects you are wanting to communicate;

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- Who? – the nature of the people you are wanting to inform;
- How? – do you communicate

What

Be very clear about what you want to tell people. As noted above, be transparent in what you are communicating. Choose your words carefully so as not to mislead people.

Who

Consider your audience before communicating. What do they want to know? Different groups may be interested in different aspects of your proposal. In addition the nature of your audience will inform the communication methods you use as well as how you phrase your message and the type of language you use.

How

There are many different means you can use to communicate as outlined in Annexure A. Whatever method you choose to use, however, it is critical that you keep it accessible and simple. Avoid technical jargon where possible and explain processes simply.

If possible use pictures to illustrate your points. Express one idea per point and don't try to fit too many ideas into one message.

Further tips on listening and communicating are also provided in Annexure A.

Tip:

Information can be made more accessible by relating it to concepts that are familiar to people. For example, instead of referring to 2 hectares of land that will be required, translate this into a locally appropriate measure, for example 2 soccer fields.

Caution:

Don't rely too heavily on high technology such as data projectors and computers in presentations. In many areas with rural participants simpler communication methods are more effective. Sometimes the method itself can intimidate people. In addition, in many rural areas and villages, electricity supplies can be unreliable or non-existent. Powerpoint presentations and overhead projectors can be rendered useless.

5.5 Engaging

During the public participation process you will need to engage directly with other stakeholders. Generally, the public participation practitioner will plan a series of formal and less formal engagements. They may use a range of techniques as illustrated in Annexure B. Make sure that you attend events that are organised or are represented at events by someone who has a mandate to speak on your behalf confidently.

Tip:

If possible, particularly in larger and more complex projects, it is useful if a range of your project team members attend the event to answer any questions that may arise.

Tip:

When engaging with local communities, particularly in rural areas, respect the constraints imposed on their participation by their livelihoods. There may be certain times of the year for example, when they may not be readily available for meetings such as during planting or harvest seasons.

At these events, be open and honest in your interactions with others. As discussed above, hiding information or being dishonest in your interactions will engender distrust amongst other roleplayers. This can result in stakeholders opposing your development on the grounds of mistrust. You are more likely to have opposition to your development if stakeholders do not trust you. An open climate of trust in a process is more conducive to the generation of effective solutions. Remember, within the Environmental Assessment process, the events are not yours. They are the public participation practitioner's, who has to treat everyone equally. Do not undermine their role by seeking to dominate. Be sensitive.

See interactions with other stakeholders as a process of dialogue. You wish them to gain an understanding of your project and its potential benefits and opportunities. Equally, you need to gain an understanding of their positions and interests.

Do not be afraid of conflict or dissension from stakeholders. Listen carefully to what they are saying. For example, they may have important information on local conditions that could save you money. Alternatively you may find that they have similar concerns on certain issues and that together you can develop a solution. Conflict, if properly managed, can lead to new and innovative solutions to problems. Chapter 6 has tips on conflict.

Caution

Do not dismiss points raised by stakeholders without consideration. Sometimes stakeholders may raise issues that seem irrelevant, wrong or frivolous. They do not, in many cases, have the same knowledge of your development that you do. They may also have knowledge of their local environment, which you do not. Have respect and acknowledge their inputs first. Then discuss the issues they have raised.

Effective listening is an essential skill if you wish to understand others' positions. Annexure A has tips on listening. Do not be afraid of conflict.

You may wish to work with stakeholders in a collaborative manner. Collaboration with stakeholders can result in the identification of solutions to problems that meet your needs as well as the needs of stakeholders. As indicated above, do not promise things that cannot be implemented or delivered.

TIP:

Set up a policy for your organisation on public participation processes that will guide the conduct and interactions of your employees and sub-contractors. This policy can be extended to policies governing their interactions with communities both during and after the environmental assessment process well. This could, for example, address issues as simple as requesting permission to cross people's land when doing surveys.

5.6 Decision Making

The decision makers will make a decision on the basis of the information provided to them by the practitioners. They could approve or reject your development application. Certain conditions may be attached to an approval.

In taking the decision, they should consider your inputs and views as well as those of civil society.

Often, as a developer, you may have more direct access to a decision maker than most in civil society. This is particularly so after the completion of the public participation process. This is a position of privilege and responsibility. Respect the outcome of the public participation process and do not undermine it. If you are requested to provide the decision maker with additional information, let the other stakeholders receive the information as well.

Warning:

Respect decision making timelines. Do not start your development prior to receiving approval. Determine expected timelines in discussion with government officials at the outset of the process and respect these.