

11 NAMIBIA

11.1 Constitutional Requirement for Environmental Protection in Namibia

Since 1990, the government has adopted a number of policies that promote sustainable development. Most of these have their roots in the following two clauses of the Namibian Constitution:¹ Article 91(c), which defines the functions of the Ombudsman to include:

“... the duty to investigate complaints concerning the over-utilisation of living natural resources, the irrational exploitation of non-renewable resources, the degradation and destruction of ecosystems and failure to protect the beauty and character of Namibia ...”

and Article 95(l), which commits the state to actively promote and maintain the welfare of the people by adopting policies aimed at the:

“... maintenance of ecosystems, essential ecological processes and biological diversity of Namibia and utilisation of living natural resources on a sustainable basis for the benefit of all Namibians, both present and future ...”

11.2 Institutional and Administrative Structure for EIA in Namibia

11.2.1 Ministry of Environment and Tourism

The Ministry of Environment and Tourism (MET) was established in 1990 and is responsible for the safeguarding Namibia's environmental resources. Since then, MET has implemented far-reaching policy and legislation reforms within the environmental sphere in an attempt to alleviate many of the constraints that the environment places upon people and *vice versa*. These reforms were also aimed at encouraging the various innovative collaborative partnerships between key players in the environmental field, such as various Ministries with environmental interests within their areas of jurisdiction, non-governmental organisations, community-based organisations and donor agencies of various countries.

The mission of the Ministry of Environment and Tourism is to maintain and rehabilitate essential ecological processes and life-support systems, to conserve biological diversity and

¹ Government of the Republic of Namibia. 1990. *The Constitution of the Republic of Namibia*. Windhoek: Government of the Republic of Namibia.

to ensure that the utilization of natural resources is sustainable for the benefit of all Namibians, both present and future, as well as the international community, as provided for in the Constitution.²

The Ministry has five Directorates:

- Directorate of Administration and Support Services;
- Directorate of Environmental Affairs;
- Directorate of Parks and Wildlife Management;
- Directorate of Scientific Services;
- Directorate of Tourism.

11.2.2 Directorate of Environmental Affairs

Currently, environmental impact assessments (EIAs) are guided and reviewed by the Directorate of Environmental Affairs (DEA) in the Ministry of Environment and Tourism. The DEA has broad environmental responsibilities, including overseeing Namibia's compliance with various United Nations Conventions and the implementation of a variety of programmes related to these conventions. The DEA is also in charge of pollution and waste management control, and overall coordination of environmental issues within the Namibian government.

The staff complement in the DEA is small, and the EIA unit currently has only three full time government employees. The Environmental Management Act of 2007 envisages the creation of an Office of the Environmental Commissioner, and a broader "committee" to be known as the Sustainable Development Advisory Council. Their respective envisaged roles are summarised below, but neither had been put in place at the time when this report was compiled.

11.2.3 Environmental Commissioner

The Environmental Commissioner (EC) will perform the following functions:

- advise organs of state on the preparation of environmental plans;
- receive and record applications for environmental clearance certificates, and determine whether a listed activity requires an assessment;
- determine the scope, procedure and methods of an assessment and then review the EIA report;
- issue environmental clearance certificates;
- maintain a register of environmental assessments undertaken and the

² www.met.gov.na

- environmental clearance certificates issued, and
- conduct inspections for monitoring compliance.

11.2.4 Sustainable Development Advisory Council

The main task of the Advisory Council is to promote co-operation and co-ordination between organs of state, non-governmental organisations, community based organisations, the private sector and funding agencies, on environmental issues relating to sustainable development. It will also advise the Minister on the following:

- the development of a policy and strategy for the management, protection and use of the environment;
- the conservation of biological diversity, access to genetic resources in Namibia and the use of components of the environment in a way and at a rate that does not lead to the long-term decline of the environment, thereby maintaining its potential to meet the needs and aspirations of present and future generations;
- appropriate methods of monitoring compliance; and
- the need for, and initiation or amendment of legislation, on matters relating to the environment.

11.3 Policy and Legal Framework for EIA

11.3.1 General Environmental Policies

In 1992, *Namibia's Green Plan* was drafted by the newly created Ministry of Environment and Tourism (MET) and presented at the United Nations Conference on Environment and Development in Rio de Janeiro.³ This document identified and analysed the main environmental challenges facing Namibia and specified actions required to address them. Following on from the Green Plan, the MET formulated *Namibia's 12-point plan for integrated and sustainable environmental management*, a strategic document that set out the most important areas that needed to be developed to place Namibia on a sustainable development path.⁴ These included:

- the need for policy formulation and debate;
- legislative reform; and
- the identification of key programmes for gathering critical environmental information, spearheading new approaches for natural resource management and developing local capacity.

³ Government of the Republic of Namibia. 1994a. *Namibia's green plan*. Windhoek: Directorate of Environmental Affairs, Ministry of Environment and Tourism.

⁴ Government of the Republic of Namibia. 1994b. *Namibia's 12-point plan for integrated and sustainable environmental management*. Windhoek: Directorate of Environmental Affairs, Ministry of Environment and Tourism.

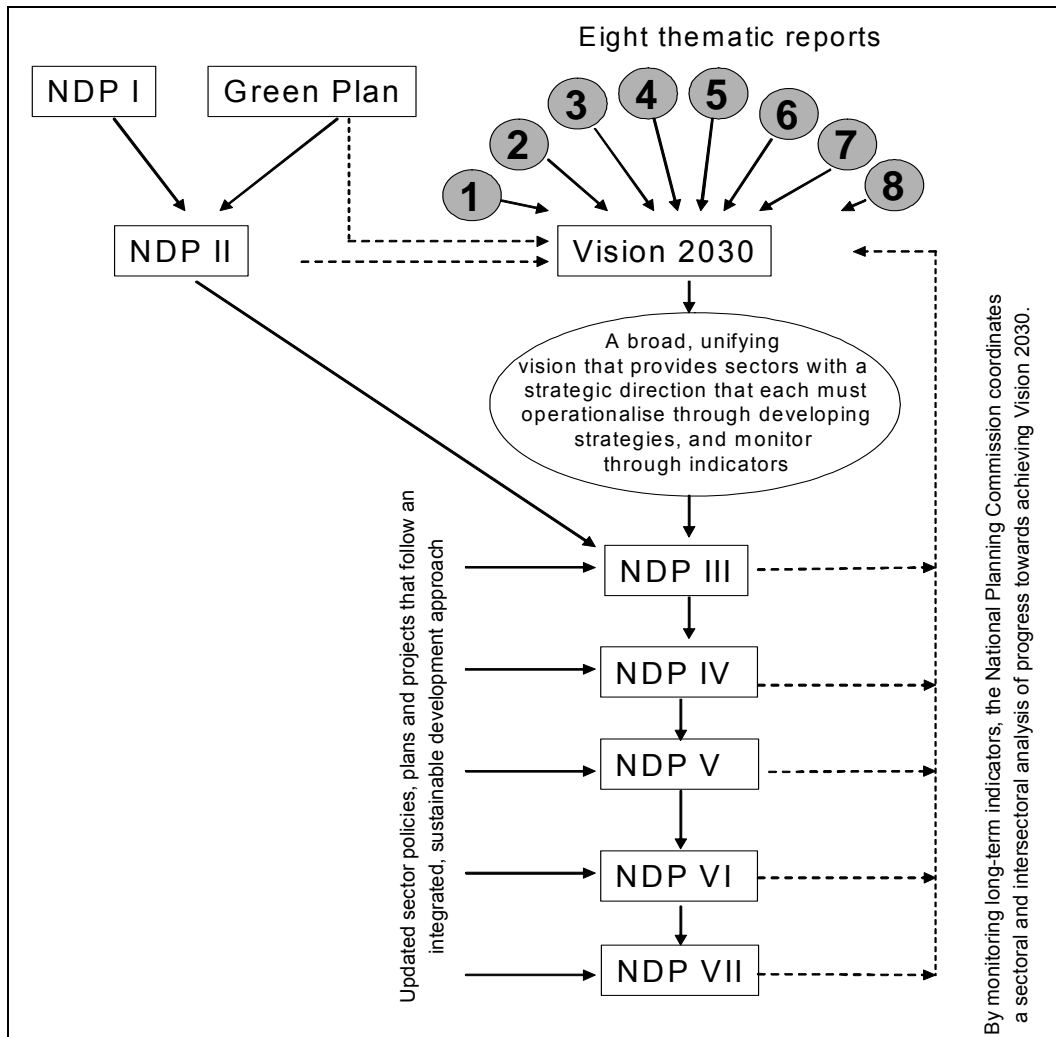


FIGURE 11.1: SCHEMATIC REPRESENTATION OF THE LINKS BETWEEN NATIONAL DEVELOPMENT PLANS, THE GREEN PLAN AND VISION 2030

Based on the foundation laid by the Green Plan an effort was made to incorporate environmental and sustainable development issues and options into Namibia’s second National Development Plan (NDP II), for the years 2001–2006 and subsequent NDPs⁵. In addition, ‘Vision 2030’, which was formulated in 2001/02, aims to help guide the country’s five-year development plans from NDP III through to NDP VII (Figure 1), while providing direction to government ministries, the private sector, NGOs (non-governmental organisations) and local authorities.⁶ ‘Vision 2030’ fully embraces the idea of sustainable development which, for the natural resource sector, states:

⁵ NPC (National Planning Commission). 2001c. Second national development plan (NDP II): 2001/2002 –2005/2006. Macroeconomic, sectoral and cross-sectoral policies. Windhoek: NPC.
⁶ NPC (National Planning Commission). 2001a. ‘Namibia Vision 2030 Project: Technical report on inequalities and social welfare’. Unpublished report prepared for NPC by SIAPAC Namibia, Windhoek.

“The nation shall develop its natural capital for the benefit of its social, economic and ecological well-being by adopting strategies that: promote the sustainable, equitable and efficient use of natural resources; maximize Namibia’s comparative advantages; and reduce all inappropriate resource use practices. However, natural resources alone cannot sustain Namibia’s long-term development, and the nation must diversify its economy and livelihood strategies.”

11.3.2 Environmental Assessment Policy

A lengthy process of stakeholder consultation, begun in 1992, was pursued during the development of Namibia’s policy and legislation on EIA. Cabinet approved the *Environmental Assessment Policy* (EA Policy)⁷ in August 1994 and, in 1996, work began on the drafting of the Environmental Management Bill. The process of drafting the Bill was locally driven and highly consultative, making use of a series of workshops, focus-group discussions and external review. The main difficulty faced in drafting the legislation was accommodating diverse sectoral interests, especially in the fields of land-use planning, pollution control and waste management.⁸ The Act was finalised and passed 15 years later, in 2007,

Namibia’s EA Policy recognises that EAs seek to ensure that the environmental consequences of development projects and policies are considered, understood and incorporated into the planning process, and that the term environment is broadly interpreted to include biophysical, social, economic, cultural, historical and political components.

The policy defines the required steps for an EIA, the required contents of an EIA report, the need for post-implementation monitoring and the system of appeals. All these aspects have since been taken up in the subsequent Environmental Management Act, and the accompanying regulations, which were drafted in response to the EA Policy.

11.3.3 Environmental Management Act, No 7 of 2007

The Environmental Management Act (EMA) defines EIA as a process of identifying, predicting, and evaluating the significant effects of activities on the environment, as well as the risks and consequences of activities and their alternatives and options for mitigation with a view to minimizing negative impacts, maximizing benefits, and promoting compliance with the principles of environmental management.⁹

⁷ MET (Ministry of Environment and Tourism). 1995. *Environmental Assessment Policy*. Windhoek: Directorate of Environmental Affairs.

⁸ Currently at least five ministries have some statutory responsibility for pollution control. In addition, local authorities (municipalities) have their own by-laws and yet another institutional layer for management. Each institution issues permits, carries out inspections, issues fines and sets standards, but since they are not obliged to coordinate or liaise with each other, enforcement is fragmented and often inadequate.

⁹ Part 1, Section 1

Furthermore, the Act stresses the integrated nature of an EIA, and defines *environment* as the complex of natural and anthropogenic factors and elements that are mutually interrelated and affect the ecological equilibrium and the quality of life, including land, water, and air; all organic and inorganic material; and all living organisms; as well as various components of the human environment. These include the landscape and natural, cultural, historical, aesthetic, economic, and social heritage and values. Thus, the Act does not foresee separate assessments for ecological, social, health, or cultural components.

The EMA is in line with modern legislative trends, including:

- Adherence to the polluter pays principle;
- The inherent need to incorporate adequate provisions to achieve 'reduction-at-source' in the areas of pollution control and waste management;
- The need to consider alternatives and to avoid or minimize negative impacts wherever possible;
- The costs of EIAs being borne by the proponent who is also responsible for ensuring that the quality of the EIA and the EIA report are of an acceptable standard;
- The need for a binding agreement between the proponent and government, based on the recommendations contained in the EIA report, that specifies how the environmental issues will be dealt with in project implementation; and
- The need for public participation in the EIA process.

The list of activities requiring an EIA in Part VII of the EMA is a guide, as the Minister may amend this list and the EC may decide that an activity requires an EIA based on the expected environmental impacts even if the activity is not listed (Part VIII Section 32 (1) (b)). The EC will require the proponent to complete a Screening Checklist which s/he will use to help determine whether an EIA is required or not. The activities requiring an EIA are listed in detail in Appendix 11-1, but broadly include:

- Land use and transformation;
- Water use and disposal;
- Resource removal, including natural living resources;
- Resource renewal;
- Agricultural processes;
- Industrial processes;
- Transportation;

- Energy generation and distribution;
- Waste and sewage disposal;
- Chemical treatment;
- Recreation; and
- Any other area which the Minister considers necessary for the purpose of listing.¹⁰

11.3.4 Regulations

MET began the process of compiling EIA Regulations in November 2006 and it appears likely that they will be in force by late 2009. The draft regulations specify the process requirements for undertaking assessments of policies, plans and programmes (Strategic Environmental Assessment), projects (Environmental Impact Assessment), the development of Environmental Management Plans and for undertaking Environmental Monitoring.

In addition, they provide, *inter alia*, detail on the requirements for the contents of the EIA report, the requirements for public participation (stakeholder consultation), and the need for EMPs.

11.3.5 Permits and Licences

Before a developer can commence with an activity listed in Schedule 1 of the regulations to the Environmental Management Act (see Appendix 11-1 for the list), s/he must obtain a **Record of Decision** and a **Letter of Authorisation**.

However, the Letter of Authorisation from MET is not blanket permission to implement the project. The proponent is still required to obtain a sectoral licence/permit, depending on the nature of the envisaged project. For example, a mine will still need a **mining licence** from the Ministry of Mines and Energy, a **water abstraction permit** from the Department of Water Affairs and a **water discharge permit** if it will be releasing wastewater into any aspect of the environment. In most cases, sector ministries first consult the EIA report before considering the proponent's applications for permits.

11.3.6 Penalties

The draft regulations state that any person who:

- Commences an undertaking without an environmental clearance certificate being

¹⁰ Part VII, Section 27 (2).

issued in respect of the undertaking contrary to these Regulations;

- Fails to comply with directives of the competent authority to register an undertaking and obtain an environmental clearance certificate contrary to these Regulations;
- Fails to conduct an environmental impact assessment in respect of an undertaking specified in Schedule 1 to these Regulations before commencement of the undertaking, or as may be directed by the competent authority contrary to these Regulations;
- Submits or provides the competent authority with knowingly false information required under any provision of these Regulations;
- Fails to submit an environmental monitoring report as required under Regulation; or
- Contravenes any provision of these Regulations commits an offence and is liable on summary conviction to a fine not exceeding N\$100 000 or imprisonment for a term not exceeding one year or to both and in the case of a continuing offence to a further fine not exceeding N\$10,000 for each day the offence is continued.

11.3.7 Fees

Government does not charge any fees for guiding and reviewing EIAs, as it is assumed that government costs are already covered by the contribution of taxpayers, and that new industries will broaden the tax base. However, the EMA makes provision for government to insist that an EIA report is sent for external review at the cost of the proponent. Government may invoke this option if it is understaffed or if the nature of the project requires skills and knowledge not available within its own ranks. This has been happening informally for over a decade already, as many EIAs are reviewed externally for the above reasons. Experience over the past six years has shown that proponents are willing to pay for the costs of external review, in the belief that such reviews enhance the quality of their EIAs and thus reduce administrative delays.

11.3.8 Guidelines

A number of guidelines have been compiled to help improve EIA practice in Namibia. These include:

- Irrigation;
- Mining; and
- Water sector projects.

11.3.9 Environmental Standards

The drinking water guidelines are not standards as no publication in the Government Gazette of Namibia exists to that effect. However the Cabinet of the Transitional Government for National Unity adopted the existing South African Guidelines (461/85) and the guidelines took

effect from 1 April 1988 under the signature of the then Secretary for Water Affairs. After independence, the Government of the Republic of Namibia decided that for the interim, the existing guidelines will continue to be valid and to remain in use until a proper study has been conducted and new standards have been formulated (Article 140 of Act 1 of 1990).¹¹ The standards that are in use are shown in Tables 11.1 to 11.4 below.

Table 11.1: Determinants with aesthetic/physical implications for drinking water

Determinant	Units*	Limits for groups#			
		A	B	C	D**
Colour	mg/l Pt***	20			
Conductivity	mS/m at 25°C	150	300	400	400
Total hardness	mg/l CaCO ₃	300	650	1300	1300
Turbidity	NTU****	1	5	10	10
Chloride	mg/l Cl	250	600	1200	1200
Chlorine (free)	mg/l Cl	0.1-5.0	0.1-5.0	0.1-5.0	0.1-5.0
Fluoride	mg/l F	1.5	2.0	3.0	3.0
Sulphate	mg/l SO ₄	200	600	1200	1200
Copper	mg/l Cu	500	1000	2000	2000
Nitrate	mg/l N	10	20	40	40
Hydrogen Sulphide	µg/l H ₂ S	100	300	600	600
Iron	µg/l Fe	100	1000	2000	2000
Manganese	µg/l Mn	50	1000	2000	2000
Zinc	mg/l Zn	1	5	10	10
pH	unit	6.0-9.0	5.5-9.5	4.0-11.0	4.0-11.0

Group A: Water with an excellent quality

Group B: Water with acceptable quality

Group C: Water with low health risk

Group D: Water with a high health risk, or water unsuitable for human consumption.

In this and all following tables "l" (lower case L in ARIAL) is used to denote dm³ or litre

** All values greater than the figure indicated.

*** Pt = Platinum Units

**** Nephelometric Turbidity Units

***** The pH limits of each group exclude the limits of the previous group.

Table 11.2: Inorganic determinants for drinking water

Determinant	Units*	Limits for groups (see Note # on Table 11.1)			
		A	B	C	D**
Aluminium	µg/l Al	150	500	1000	1000
Ammonia	mg/l N	1	2	4	4
Antimony	µg/l Sb	50	100	200	200
Arsenic	µg/l As	100	300	600	600
Barium	µg/l Ba	500	1000	2000	2000
Beryllium	µg/l Be	2	5	10	10
Bismuth	µg/l Bi	250	500	1000	1000
Boron	µg/l B	500	2000	4000	4000
Bromine	µg/l Br	1000	3000	6000	6000
Cadmium	µg/l Cd	10	20	40	40
Calcium	mg/l Ca	150	200	400	400

¹¹ www.mawrd.gov.na

Determinant	Units*	Limits for groups (see Note # on Table 11.1)			
		A	B	C	D**
Calcium	mg/l CaCO ₃	375	500	1000	1000
Cerium	µg/l Ce	1000	2000	4000	4000
Chromium	µg/l Cr	100	200	400	400
Cobalt	µg/l Co	250	500	1000	1000
Cyanide (free)	µg/l CN	200	300	600	600
Gold	µg/l Au	2	5	10	10
Iodine	µg/l I	500	1000	2000	2000
Lead	µg/l Pb	50	100	200	200
Lithium	µg/l Li	2500	5000	10000	10000
Magnesium	mg/l Mg	70	100	200	200
Magnesium	mg/l CaCO ₃	290	420	840	840
Mercury	µg/l Hg	5	10	20	20
Molybdenum	µg/l Mo	50	100	200	200
Nickel	µg/l Ni	250	500	1000	1000
Phosphate	mg/l P	1	See note below		
Potassium	mg/l K	200	400	800	800
Selenium	µg/l Se	20	50	100	100
Silver	µg/l Ag	20	50	100	100
Sodium	mg/l Na	100	400	800	800
Tellurium	µg/l Te	2	5	10	10
Thallium	µg/l Tl	5	10	20	20
Tin	µg/l Sn	100	200	400	400
Titanium	µg/l Ti	100	500	1000	1000
Tungsten	µg/l W	100	500	1000	1000
Uranium	µg/l U	1000	4000	8000	8000
Vanadium	µg/l V	250	500	1000	1000

Note: The general guideline for a concentration level to be aimed at is 1 mg/l as P. But in many cases this may be difficult to achieve technically. For this reason the Department will allow a phosphate concentration level of up to 5 mg/l as P in water intended for human consumption.

Table 11.3: Bacteriological determinants in drinking water

Determinant	Limits for groups*			
	A**	B**	C	D
Standard plate counts per 1ml	100	1000	10000	10000
Total coliform counts per 100 ml	0	10	100	100
Faecal coliform counts per 100 ml	0	5	50	50
<i>E. coli</i> counts per 100 ml	0	0	10	10

* all values greater than the figure indicated

** in 95% of samples

Table 11.4: General standards for waste/effluent water discharge into the environment

Determinants	Units	Maximum allowable levels
Arsenic	mg/l As	0.5
Biological Oxygen Demand (BOD)	-	-
Boron	mg/l B	1.0
Chemical Oxygen Demand (COD)	mg/l O	75
Chlorine (residual)	mg/l Cl ₂	0.1
Chromium, hexavalent	µg/l Cr(VI)	50
Chromium, total	µg/l Cr	500

Determinants	Units	Maximum allowable levels
Copper	mg/l Cu	1.0
Cyanide	µg/l CN	500
Dissolved oxygen	%	At least 75% saturation*
Detergents, surfactants, tensides	mg/l as MBAS**	0.5
Fats, oil and grease	mg/l	2.5 (gravimetric method)
Fluoride	mg/l F	1.0
Free and saline ammonia	mg/l N	10
Lead	mg/l Pb	1.0
Absorbed oxygen	mg/l O	10
pH	units	5.5-9.5
Phenolic compounds	µg/l as phenol	100
Phosphate	mg/l P	1.0***
Sodium	mg/l Na	Not more than 90 mg/l > influent
Sulphide	mg/l S	1.0
Temperature	°C	35
Total Dissolved Solids (TDS)	mg/l	Not more than 500 mg/l > influent
Total Suspended Solids (TSS)	mg/l	25
Typical faecal coliforms	Per 100ml	0
Zinc	mg/l	5.0

* In Windhoek, the saturation level is approx. 9 mg/l O₂

** The MBAS test does not cover all surface active compounds and therefore the limit given is only a guideline.

*** See note on phosphate attached to Table 11.2.

There are no ambient air quality or emission standards for Namibia, nor any specific standards for noise. Readers are referred to the WHO standards.

11.3.10 Certification of Environmental Consultants

Currently there is no requirement for environmental assessment practitioners (EAPs) to be certified or registered to practice in Namibia. However, the government is interested in establishing a certification system for EAPs and has held a workshop with interested parties to discuss the need for such a system. It is expected that the establishment of a certification system will be considered in the near future.

11.4 EIA Procedural Framework in Namibia

11.4.1 Project-level EIA

Schedule 1 of the draft EIA regulations to the Environmental Management Act specifies a list of activities that require an EIA. They are grouped under four headings, namely:

- construction and related activities, which include roads, dams, factories, pipelines and other infrastructure;

- land-use planning and development activities, which include rezoning and land-use changes;
- resource extraction, manipulation, conservation and related activities such as mining and water abstraction; and
- other activities (e.g. pest-control programmes) (see Appendix 11-1).

The Act stipulates that any proposal for an activity stipulated in Schedule 1 be accompanied by a completed environmental questionnaire when it is submitted to the relevant ministry or authority responsible. If this authority intends permitting the activity, it liaises with the Commissioner and together they decide if an EIA is required or not. This decision is based on their collective judgement of the nature and significance of the impacts the activity is likely to cause. In the event that an EIA is not required, the Commissioner issues an environmental clearance (with or without conditions) and the activity may commence once the relevant authority has approved it.

The Act provides opportunities for:

- Public comment and hearings in addition to the requirement that interested and affected parties be consulted during the EIA; and
- The Commissioner to subject the EIA report to external review at the proponent's expense, or convene an *ad hoc* committee of experts to assist with the review.

The EIA process in Namibia is relatively straight forward and conforms to generally accepted international norms (see Figure 11.2).

11.4.2 Strategic Environmental Assessment

Given that government agencies are the main institutions likely to initiate the development of a policy, plan or programme, they are obliged to appoint a qualified environmental assessment practitioner to determine whether or not a policy, plan or programme is likely to have significant environmental effects. As is the case with project-level EIA, public consultation is required and an SEA report must be compiled. This is evaluated by the Office of the Environmental Commissioner (with or without specialist support) and a clearance is issued or denied, as the case may be.

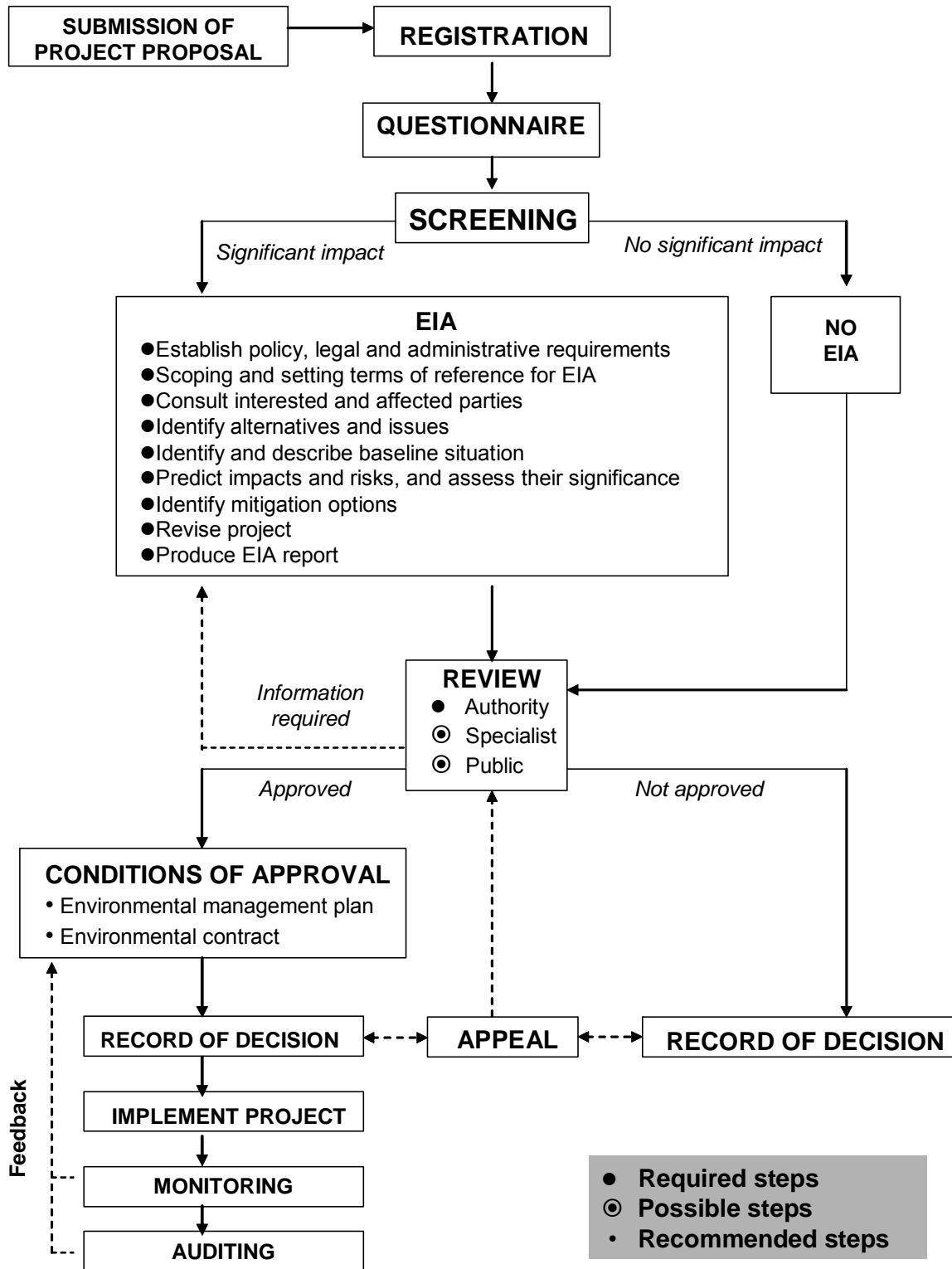


FIGURE 11.2: EIA PROCESS FLOWCHART FOR NAMIBIA

11.4.3 Authority Review of EIA reports

EIA reports are currently reviewed by officials in the DEA, but this task will rest with the office of the Environmental Commissioner (EC) once it is established. An Environmental Clearance Certificate is only issued after the review has been completed and MET is satisfied that the project is environmentally acceptable. Usually, the EC will confer with the line ministry under whose jurisdiction the project is proposed. In some cases, the EIA report is subject to a public hearing and may also be sent to an independent expert or panel for an external review, especially if the project is controversial or if the EIA is very technical. Article 45 of the EMA entitles the government to recover the costs of external review from the proponent.

After reviewing the EIA report, the EC may:

- Grant the application and, on payment of the prescribed fee, issue an environmental clearance certificate to the proponent; or
- Refuse the application and provide the proponent with reasons for the refusal.

Article 38 of the EMA requires that the record of the decision be kept in the prescribed form and be made available for public inspection at the office of the EC.

The EMA does not explicitly require the proponent to develop an EMP, but this is implied by the fact that the EC can prescribe conditions as part of the Environmental Clearance Certificate. Given that the certificate is valid for a maximum of three years, it stands that an EMP would need to be revised at least every three years. It is the norm in Namibia for EIAs to lead to the development of an outcomes-based EMP, which becomes the 'implementation manual' for projects. The draft regulations that accompany the EMA, specify the need for an EMP (Reg 5.3).

11.4.4 Appeals

Provision is made in Sections 50 and 51 of the Act for a simple appeal process. In terms of this process, any person can appeal a decision taken by the EC, to the Minister of MET, and if this does not resolve the issue, a decision by the Minister can be appealed in the High Court.

11.4.5 Environmental Auditing

Environmental auditing is not yet common practice in Namibia, though a few audits have been done in the past. Most audits have been as a result of a property transfer (e.g. a mine) where the new owners require specific information that shows the extent to which they are liable for

environmental impacts that have or are likely to occur in the future. Most audits have been conducted by independent consultants. The Act does not specify the need for Audits.

11.4.6 Inspections and Monitoring

Section 17 of Part V of the EMA empowers the EC to conduct inspections for the purpose of monitoring compliance with the Act and with conditions stipulated in the Environmental Clearance Certificate. The EC may be assisted in the task by Environmental Officers (who could be consultants appointed specifically in this role) and/or the police. This provision provides a way of overcoming current capacity constraints in MET. However, post-implementation monitoring is seldom undertaken in Namibia, although *ad hoc* 'inspections' by authorities occur if there is a controversy over a specific project.

If monitoring and/or inspections reveal that a developer is not abiding by conditions of the Environmental Clearance certificate or has contravened the EMA, the Environmental Commissioner has the power to suspend or cancel the certificate for a period s/he may determine. The certificate can be re-instated once the Environmental Commissioner is satisfied that the person concerned has rectified the failure which led to the suspension.

11.5 Other Relevant Environmental Legislation in Namibia

There are a number of sector laws in Namibia that have relevance to EIA. The following table provides a summary of the relevant sector legislation.

Table 11.5: Other Potentially Applicable Sectoral Requirements

Sector	Primary Agency	Title and Date of Document	Purpose
Water Resources	Ministry of Agriculture, Water and Rural Development	Water Resources Management Act No. 24 of 2004	Provides for the management, development, protection, conservation and use of water resources and established various regulatory and advisory institutions. Section 78 specifies the permission required if a person wishes to block a watercourse.
Air and pollution as well as noise	Ministry of Health and Social Services (MHSS)	Atmospheric Pollution Prevention Ordinance, No. 11 of 1976	Air pollution is controlled primarily by this Ordinance which deals with air pollution as it affects occupational health and safety issues if these are the subject of one of the conditions of a registration certificate issued under the Ordinance. It considers air pollution from point sources but does not address ambient air quality.
Waste management	MET and others	Pollution Control and Waste Management Bill (in prep)	The purpose of this Bill is to regulate and prevent discharge of pollutants to the air, water and enable the country to fulfil its international obligations in this regard. With respect to water pollution, the draft Bill forbids any person

Sector	Primary Agency	Title and Date of Document	Purpose
			<p>from discharging or disposing of pollutants into any water or water course aside from the discharge of domestic waste from a private dwelling or the discharge of pollutants or waste to a sewer or sewage treatment works, without a water pollution license.</p> <p>The Bill requires that the application for a water pollution license must be accompanied by details of the activity to which the application relates, including the nature and location of the activity and its actual and potential effects on the environment. Members of the public must be given the opportunity to comment on all license applications.</p> <p>The Inspectors, who will be appointed for the purposes of this Bill, will have wide ranging powers including the power to enter and search any premises or vehicle without a warrant or court order and to collect evidence as required.</p>
Health	Ministry of Health and Social Services	Public Health Act 36 of 1919 – with subsequent amendments	Only relevant in as much as workers must be protected from harm, especially during construction
Planning and Zoning	National Planning Commission		The NPC is important because it theoretically coordinates all development in the country, especially capital projects. It does not issue authorizations or permits, but needs to be involved in decision making processes.
Mining and Mineral Resources	Ministry of Mines and Energy	Minerals (Prospecting and Mining) Act, 2003	<p>This Act controls all mining activity in Namibia. Mineral rights are vested in the State, and companies or individuals are required to apply to MME for licenses to explore and mine mineral deposits.</p> <p>Following Cabinet approval and Parliament endorsement of the Minerals Policy of 2003 a new Minerals Bill is being prepared which introduces requirements for financial guarantees for reparation of environmental damage and the setting up of trust funds for rehabilitation after mine closure. Specification of these requirements will be contained in yet to be drafted Regulations. Penalties for non-compliance will also be included.</p>
Petroleum exploration and production	Ministry of Mines and Energy	Petroleum (Exploration and Production) Act, No. 2 of 1991 as amended	<p>The Act stipulates that all rights in relation to exploration for, production and disposal of petroleum, vests in the State. The Act states in Article 12 that the Minister in considering a license application may require the applicant to carry out environmental impact studies. It provides for the issuing of licenses for reconnaissance, exploration and production of petroleum, and in Article 71 for the control of environmental pollution caused by such activities.</p> <p>In accordance with the Act a Petroleum Agreement is established between the Government of Namibia (Ministry of Mines and Energy) and the license applicant. Clause 11 of such Petroleum Agreement deals with environmental protection and binds the license holder to all provisions contained in the Act, as well as requiring the license holder to comply with some fairly stringent environmental requirements:</p>

Sector	Primary Agency	Title and Date of Document	Purpose
Marine pollution	Ministry of Works, Transport and Communication	Prevention and Combating of Pollution of the Sea by Oil Act 1981 and the 1991 Amendment Act, No.24 of 1991	This Act provides a framework for the prevention and combating of pollution of the sea by oil and for determining liability in respect of loss or damage caused by the discharge of oil from ships, tankers or offshore installations. It is the enabling legislation for the Marpol 73/78 Convention signed and ratified by Namibia, but is limited to oil pollution.
Marine pollution	Namibia Port Authority	Namibian Ports Authority Act, No. 2 of 1994	In terms of this Act Namport is responsible for "protecting the environment" within its demarcated area of control. Although open-ended, the Act does afford Namport the power to monitor and regulate activities within the ports and adjacent bays. However, there may be uncertainty as to who is responsible for enforcing this as the Ministry of Fisheries and Marine Resources has overall responsibility for all living marine resources and the Ministry of Agriculture, Water and Rural Development responsibility for water quality and marine pollution from land-based sources.
Conservation	MET	Nature Conservation Ordinance, 1975	<p>This outdated Ordinance will be replaced by the Parks and Wildlife Bill which includes provisions to declare protected areas and to protect against alien species</p> <p>The Parks and Wildlife Bill is expected to be tabled in Parliament during 2006. The new legislation will <i>inter alia</i>, enable the proclamation of nature reserves and generally improve the conservation of biodiversity in Namibia.</p>
Agriculture and Forestry	Ministry of Agriculture, Water and Rural Development	Forestry Act 2001 Various policies and laws	<p>Enables the State to declare Forest Reserves, some which may be managed by communities. Also regulates the trade in forest products and has some reference to EIA requirements (mostly regarding de or re-forestation projects)</p> <p>The "various" policies and laws are sector specific (e.g. pest control, livestock diseases, etc.)</p>
Land and Resettlement	Ministry of Lands, Resettlement and Rehabilitation	Agricultural (Commercial) Land Reform Act (ACLRA) 1995 Communal Land Reform Act 2002	<p>This Act enables the redistribution of freehold land to the previously disadvantaged under the willing-seller, willing buyer principle. Problematic issues include the unclear definition and interpretation of 'under-utilized' land and 'economic unit' The Act aims to improve the use of "communal land" and to reduce irregularities and constraints regarding livelihood strategies. Issues addressed are:</p> <ul style="list-style-type: none"> ▪ fencing (which is illegal); ▪ land degradation and impacts from prospecting, mining, roadworks and the use of water resources; ▪ allocation of land; ▪ Institutional arrangements.
Fisheries	Ministry of Fisheries and Marine Resources	Marine Resources Act 2000. Inland Fisheries Resources Act 1 of 2003	<p>Governs the exploitation and conservation of marine resources and specifies governance issues relating to the issuing of licenses etc. Not strong on EIA issues.</p> <p>Governs the exploitation and conservation of freshwater resources and specifies governance issues relating to the issuing of licenses etc. Not strong on EIA issues. Makes</p>

Sector	Primary Agency	Title and Date of Document	Purpose
		Aquaculture Act 18 of 2002	allowance for community based management Promotes aquaculture but ignores the environmental impacts associated with fish farming (e.g. over-enrichment of water due to a build up of fish faeces, and water pollution from harmful algal blooms) nor how these would be prevented.
Roads	Ministry of Works, Transport and Communication		Responsible for establishing and maintaining the national roads network.
Transmission	Ministry of Mines and Energy	See energy	See energy
Archaeological, Historical and Cultural	Ministry of Education and Culture	National Monuments Act No.28 of 1969 National Heritage Act No.27 of 2004	Enables the proclamation of National Monuments and protects archaeological sites Extends the protection of archaeological/ historical sites to private and communal land and defines permit procedures regarding activities at such sites
Local government	Ministry of Regional and Local Government of Housing	Regional Councils Act No.22 of 1992 amended in Act 24 of 2000 Local Authorities Act no 23 of 1992 Traditional Authorities Act of 1995	Reference to these Acts is included because of the fact that traditional and regional authorities have a say in how land is allocated. This has implications for an EIA process in that these structures must be consulted and the correct protocol must be followed.

Appendix 11-1

List of Activities Requiring an Environmental Assessment

The following list shall act as a guide for the Environmental Commissioner. When the scale of activities is not provided or is unknown, it is up to the Commissioner to use his/her discretion as to whether they should be subject to EIA or not.

1. Construction and related activities

- (a) The erection or construction of facilities for the commercial generation of electricity with an output of more than **one** megawatt;
- (b) The erection or construction of facilities for the commercial transmission and supply of electricity with the exception of **power supply lines of less than 2 kilometres in length**;
- (c) The erection, construction or upgrading of nuclear reactors and installations for the production, enrichment, reprocessing and disposal of nuclear fuels and wastes;
- (d) The erection, construction or upgrading of manufacturing, storage, handling or processing facilities for any hazardous substance, including transportation routes, structures and facilities connected therewith, and for the purpose of this clause "hazardous substance" means any substance declared as hazardous substance in terms of section 3(1) of the hazardous substances ordinance, 1974 (ordinance no. 14 of 1974), or in terms of any other law relating to the control of hazardous substances;
- (e) The construction of public roads;
- (f) The construction or upgrading of railways and harbours and associated structures;
- (g) The construction or upgrading of airports, airfields and associated structures;
- (h) The erection or construction of any structure below the high water mark of the sea;
- (i) The erection or construction of any structure associated with aquaculture activities where such structures are not situated within an aquaculture development zone declared in terms of section 33 of the aquaculture act, 2002 (act no. 18 of 2002);
- (j) The erection or construction of cableways and associated structures;
- (k) The erection or construction of communication networks including towers, telecommunication lines and cables as well as structures associated therewith including roads;
- (l) The erection or construction of motor vehicle and motorcycle racing and test tracks;
- (m) The construction of canals and channels including the diversion of the normal flow of water in a riverbed and water transfer schemes between water catchments and impoundments;
- (n) The construction of dams, reservoirs, levees and weirs;
- (o) The erection and construction of tourism facilities and associated structures including all wheel drive trails or activities related to tourism that may have a significant effects on the environment;

- (p) The erection and construction of sewage treatment plants and associated infrastructure;
- (q) The erection and construction of buildings and structures for manufacturing, processing, industrial or military activity;
- (r) The erection and construction of veterinary, protected area or game proof and international boundary fences;
- (s) The erection and construction of waste sites, including any facility for the final disposal or treatment of waste;
- (t) The erection and construction of oil refineries; and
- (u) The construction of oil, water, gas and petrochemical and other bulk supply pipelines.

2. Land use planning and development activities

- (a) The rezoning of land from -
 - (i) residential use to industrial or commercial use;
 - (ii) light industrial use to heavy industrial use;
 - (iii) agricultural use to industrial use;
 - (iv) use for nature conservation or zoned open space to any other landuse;
- (b) Reclamation of land from below or above the high-water mark of the sea or associated inland waters;
- (c) Alteration of natural wetland systems;
- (d) Any activity entailing a scheduled process referred to in the atmospheric pollution prevention ordinance, 1976 (ordinance no. 11 of 1976);
- (e) The establishment of resettlement schemes; and
- (f) The declaration of an area as an aquaculture development zone in terms of section 33 of the aquaculture act, 2002 (act no. 18 of 2002).

3. Resource extraction, manipulation, conservation and related activities

- (a) Prospecting, quarrying, mining, mineral extraction or mineral beneficiation activity;
- (b) The farming or importation or release or contained use of any genetically modified organism or plant or animal species that may have a significant impact on the environment;
- (c) The genetic modification of any organism with the purpose of fundamentally changing the inherent characteristics of that organism;
- (d) The abstraction of ground or surface water for industrial or commercial purposes; and
- (e) Clearance of forest areas, reforestation and afforestation.

4. Other activities

- (a) Pest control programmes;
- (b) The import, processing and transit of genetically modified organisms; and
- (c) The import, processing, transit or export of waste
- (d) Any such other undertaking as the minister may from time to time determine.

ACRONYMS

DEA	Directorate of Environmental Affairs
EA Policy	Environmental Assessment Policy
EAP	Environmental Assessment Practitioner
EC	Environmental Commissioner
EIA	Environmental Impact Assessment
EIS	Environmental Impact Statement or Study
EMA	Environmental Management Act
EMP	Environmental Management Plan
I&APs	Interested and Affected Parties
MARPOL	International Convention for the Prevention of Pollution from Ships
MAWRD	Ministry of Agriculture, Water and Rural Development
MET	Ministry of Environment and Tourism
MME	Ministry of Mines and Energy
Namport	Namibian Ports Authority
NDP	National Development Plan
NEAP	National Environmental Action Plan
NGO	Non-Government Organisation
NPC	National Planning Commission
SADC	Southern African Development Community
SDAC	Sustainable Development Advisory Committee
SEA	Strategic Environmental Assessment
TOR	Terms of Reference
WHO	World Health Organisation

USEFUL CONTACTS

Department	Ministry	Telephone	Fax	Website
Directorate of Environmental Affairs	Ministry of Environment and Tourism	+264-61-284-2185	+264-61-232057	www.met.gov.na