

Provision for SEA in South Africa's Policies, Legislation and Programmes

1. The **National Environmental Management Act** 107 of 1998: The provisions for undertaking environmental assessments are addressed by Sections 23 and 24 of Chapter 5 of the Act, whose general objectives are to “ensure the integrated environmental management of **activities**”. “**Activities**”, as used in Chapter 5, are defined as policies, programmes, plans and projects.

In terms of the Act, the impacts of “activities” that require authorisation by law, and which may “significantly affect” the environment, must be considered, investigated and assessed and reported to the authority responsible for authorising/permitting the activity. Therefore, although not explicitly stated, environmental assessments – either SEAs or EIAs – can be required in terms of S24(1) of the Act. However, no regulations on those activities requiring environmental assessment and authorization prior to commencement have been promulgated in terms of the NEMA. Whilst the definition of “activities” in this Act extends to policies, programmes and plans, the focus of environmental assessment in South Africa remains on project-level EIA. No regulations regarding strategic level assessments have been promulgated. The national environmental department has, however, published a guideline document for undertaking SEA in South Africa¹.

2. There have been a number of significant changes in legislation and policy since 2000 which emphasise the link between EA and land-use planning, namely the White Paper on Spatial Planning and Land-Use Management², and the Municipal Systems Act³. These changes underline a proactive approach to EA at strategic level, rather than a reactive one represented by EIA at project-level.
3. In terms of the White Paper on Spatial Planning and Land Use Management, an SEA constitutes one of the four components of a spatial development framework, to be prepared for each Integrated Development Plan. This SEA has to look at the **natural environmental**, socioeconomic and cultural heritage aspects.
4. The Municipal Systems Act 32 Of 2000 requires each municipality to produce an Integrated Development Plan (IDP) which identifies priority development needs through a consultative process with stakeholders. Following on from its IDP, a municipality must produce a Spatial Development Framework (SDF)⁴ which sets out intended land-use patterns (Department of Environmental Affairs and Tourism 2002). IDPs and SDFs are required to take the need for environmental sustainability into account. An SEA, addressing the **natural environmental**, socioeconomic and cultural heritage aspects and impacts, must be undertaken as part of the preparation of an SDF⁵. IDPs and SDFs have to be drawn up every five years, with annual reviews in between.

¹ Department of Environmental Affairs and Tourism 2000. Strategic Environmental Assessment in South Africa, Guideline Document. Government Printer, Pretoria.

² Ministry of Agriculture 2001.

³ Act 32 of 2000. It is important to note that all land in South Africa falls within municipal areas. That is, municipalities incorporate not only the built environment, but also rural and wilderness areas.

⁴ An SDF is one strategic component of an Integrated Development Plan for local authority areas, required in terms of the Municipal Systems Act (2000); sectoral plans make up the remaining components of the IDP. The IDP/SDF process is based on the principles of sustainable management and use of resources making up the natural and built environment, equality, efficiency, integration, and fair and good governance. The SDF has four specific components: policy for land use and development, guidelines for land use management, a capital expenditure framework, and a strategic environmental assessment

⁵ Local Government: Municipal Planning and Performance Management Regulations, R796, 24 August 2001.

5. The SEA Guideline Document, published by the Department of Environmental Affairs and Tourism in 2000, provides the main guidance on SEA in SA.

DEAT (2000) Guidelines for SEA set out 10 principles for SEA as a theoretical base for the development of local SEA processes:

1. SEA is driven by the concept of sustainability;
2. SEA identifies the opportunities and constraints which the environment places on the development of plans and programmes;
3. SEA sets the criteria of environmental quality or limits of acceptable change;
4. SEA is a flexible tool which is adaptable to the planning and sectoral development cycle;
5. SEA is a strategic process which begins with the conceptualisation of the plan or programme;
6. SEA is part of a tiered approach to environmental assessment and management;
7. The scope of an SEA is defined within the wider context of environmental processes;
8. SEA is a participative process;
9. SEA is set within the context of alternative scenarios;
10. SEA includes the concepts of precaution and continuous improvement.

6. The essential elements of an SEA, spelt out in the DEAT (2000) Guideline are:
 - Identify broad plan and programme alternatives;
 - Screening;
 - Scoping;
 - Situation assessment;
 - Formulate sustainability parameters for the development of the plan or programme;
 - Develop and assess alternative plans and programmes;
 - Decision-making;
 - Develop a plan for implementation, monitoring and auditing; and implementation;
7. **Regional planning and EA** – mainly relates to the preparation of SDFs – there are provincial level IDPs and SDFs, as well as district municipality IDPs/SDFs, and then local municipality ones. The District Municipalities cover a number of local municipal areas.
8. There are now a number of new ‘beasts’ emerging in recent legislation wrt regional planning – eg the new National Environmental Management Biodiversity Act makes provision for bioregional plans; draft EA Regulations into the National Environmental Management Act make provision for Environmental Management Frameworks or EMFs; both of which require a strategic level approach from a biodiversity perspective.
9. The National Spatial Biodiversity Assessment is in effect a strategic assessment of the state of biodiversity in SA.....gives ecosystem status to the different vegetation types identified in the new SA vegetation map, plus also gives ecosystem status to different freshwater, coastal/estuarine systems.
10. There are a number of regional planning initiatives triggered by concern for biodiversity – eg Gouritz, Greater Cederberg

Summary of provisions

(from draft chapter of Barry Dalal-Clayton and Barry Sadler's book on SEA)

- National Environmental Management Act (1998) - requires any activity (policy, plan, programme or project) which has "significant impact" to investigate and assess impacts;
- White Paper on Spatial Planning and Land Use Management (2001) - specifies SEA as a component of the Spatial Development Framework;
- White Paper on National Commercial Ports Policy - recognises SEA as a tool for sustainable port development;
- National Water Act (1996) – introduced integrated catchment management agencies and plans using a catchment-wide approach;
- Mineral and Petroleum Resource Development Act (2002) and draft Regulations – call for "big picture" assessment, including cumulative impacts, a long-term social plan, etc;
- National Forests Act (1998) requires use of EA in deciding forestry permits;
- Provincial planning ordinances – require EA at this level;
- Department of Trade and Industry – calls for strategic spatial planning for strategic development initiatives.

EIA and SEA experience

An SEA primer was published (CSIR 1996) followed by a draft SEA protocol (CSIR 1997a). The emphasis was placed on "assessing the effect of the environment on development needs and opportunities" with a strong focus on assessing cumulative impacts. A comparison of the EIA and the evolving SEA process in South Africa is made in Table 1.

SEA has not been adopted by national policy-making institutions or for policy-making processes, but has been applied at the plan and programme levels of the project cycle - in two distinct but related ways (CSIR 1997):

- *Integrated studies* forming part of the processes of planning and programme design - providing strategic information on the environment, including resource opportunities and constraints, existing activities and processes and the carrying capacity of the environment. The information from these SEAs is intended to inform later stages of the project cycle, forming part of a tiered approach. Examples include SEAs for: Coega Harbour and Industrial Development Zone (IDZ); Durban South Industrial Basin; Middleburg Mining; East London West Bank IDZ (see Part II, case 1); Kwazulu-Natal Trade and Industry Policy (see Part II, case 14), and uMhlatuze municipality (where the aim was to integrate SEA and planning).
- *EIA-based studies*, e.g. the South African Olympic bid SEA.

Table 1: EIA and SEA in South Africa	
EIA	SEA
Is reactive to a development proposal	Is pro-active and informs development proposals
Assesses the effect of a proposed development on the environment	Assesses the effect of the environment on development needs and opportunities
Addresses a specific project	Addresses area, regions or sectors of development
Has a well-defined beginning and end	Is a continuing process aimed at providing information at the right time
Assesses direct impacts and benefits	Assesses cumulative impacts and identifies implications and issues for sustainable development
Focuses on the mitigation of impacts	Focuses on maintaining a chosen level of environmental quality
Has a narrow perspective and a high level of detail	Has a wide perspective and a low level of detail to provide a vision and overall framework
Focuses on project-specific impacts	Creates a framework against which impacts and benefits can be measured
Source: CSIR (1996)	

More recently, CSIR has undertaken an SEA of South Africa's Ports Policy and the followed this with an SEA of the port of Cape Town to provide a framework to facilitate long-term sustainable port development and operation (see case study 26 in Part 2).

Table 2 lists selected examples of SEAs undertaken in South Africa and Table 6.3 evaluates where they fitted in the planning life cycle and the extent to which they influenced strategic planning.

Table 2 Selected examples of South African SEA case studies (Source: Rossouw *et. al.* 2000)
Can this table be updated?

Studies	Type	Scale	Tier
SEA for the KwaZulu-Natal Trade and Industry Policy	Industrial	Regional	Policy
SEA of the Cape Town 2004 Olympic Bi	Sport	Local	Programme
SEA of the proposed Industrial Development Zone at Coega	Industrial	Local	Programme
SEA of the East London Industrial Development Zon	Industrial	Local	Programme
SEA of the Cato Manor Draft Structure Plan	Development plan	Local	Plan
SEA of Forest Sector Development in the Eastern Cape	Forestry	Regional	Programme
Strategic Integrated Port Planning, Port of Saldanha	Port	Local	Programme
South Durban SEA	Industrial	Local	Programme

Table 6.3: Evaluation of selected South African SEA case studies (Source: Rossouw *et. al.* 2000)

Studies	Did the SEA provide information before decision-making?	Did the SEA precede EIAs?	Was the SEA linked to PPP formulation ?	Did the SEA apply the conceptual approach?
SEA for the KwaZulu-Natal Trade and Industry Policy	Yes	No	Yes	Yes
SEA of the Cape Town 2004 Olympic Bid	No	No	No	No
SEA of the proposed Industrial Development Zone at Coega	No	No	No	Yes
SEA of the East London Industrial Development Zone	No	No	No	Yes
SEA of Forest Sector Development in the Eastern Cape	Yes	No	Yes	Yes
SEA of the Cato Manor Draft Structure Plan	Yes	Yes	Yes	Yes
Strategic Integrated Port Planning, Port of Saldanha	Yes	No	No	Yes
South Durban SEA	No	No	Yes	Yes

Thus SEA is promoted as a tool to complement the planning process, by providing the information necessary to ensure that development maintains and enhances environmental resources. The guidelines suggest how elements of SEA and South Africa's integrated planning process can be brought together (Figure 1).

During 2002, the CSIR, in collaboration with SAIEA, presented a well-attended course on SEA in Dar es Salaam, Tanzania. The materials for this course are available from the CSIR and can be ordered online.

SEAs have also been undertaken for Spatial Development Frameworks (SDFs). The primary objective of a SDF is to manage the type, location and quality of future growth and change in a region so that it contributes to sustainable development. "Sustainable development" embraces consideration of both human and ecosystem well-being, taking into account such aspects as equitable access to resources and opportunities, resilience to change, sustainable livelihoods, poverty reduction, economic efficiency and ecological integrity. An SDF is used to inform a land use management policy, and clarify needs and implementation priorities for the local authority. The preparation of an SDF thus requires a strategic approach. Case study 25 in Part 2 provides an example of an SDF for the Lower Breede River sub-region.

There are also examples of private sector organisations coming together to commission SEAs to help them assume environmental responsibility in their operational protocols (eg for marine diamond mining off the west coast of South Africa).

Figure 1 Integrating the IDP process and elements of SEA in South Africa (Source: DEAT 2000)

