Roles and responsibilities of role-players

Environmental assessment involves all role-players who may have an interest in the proposed activity. Each of these role-players has specific responsibilities within the EIA process. In many cases, these responsibilities are strictly defined in the regulations and there are legal implications if the role-players do not operate as required in the law. In order for the EIA process to proceed efficiently, it is vital that all role-players have an understanding of what is required of them. In addition, the applicant should familiarise themselves with the responsibilities of all role-players and ensure that these responsibilities are adequately undertaken. A description of the responsibilities relevant to each role-player are provided in the sub-topics.
**Environmental Assessment Practitioner**

An EAP is an individual responsible for managing, planning, and co-ordinating various environmental management instruments such as EIAs, SEAs and EMPRs. The Regulations require that an applicant appoint an EAP to conduct the BA or S&EIR process on the applicant’s behalf. The EAP is central to the running of an efficient process which delivers the information required by the CA to make an informed decision. A critical role of the EAP is to ensure that all stakeholders participate fairly in the environmental assessment process and contribute equally to the outcome. The EAP is not allowed to promote the interests of the developer even though they are paying the EAP for their services. The only way to do achieve this is for the EAP to remain independent of any interests. Section 17 of the Regulations set out the general requirements of an EAP. These include that the EAP:

- Be independent
- Have expertise in conducting EIAs
- Perform the work in an objective manner
- Have knowledge of, and comply with, all legislation and guidelines relevant to the proposed activity.

In addition, the EAP is required to fulfil the following responsibilities:

- Determine the level of assessment applicable to the proposed activity
- Prepare and submit the application to the relevant CA
- Conduct at least a basic public participation process including:
  - Arranging the necessary public participation activities including notifying all Interested and Affected Parties of the proposed project via notice boards, advertisements and written notice as prescribed in the Regulations.
  - Providing all I&APs with sufficient information to enable them to participate
  - Keeping a register of all I&APs, their associated details and any inputs they have made
  - Preparing the minutes of any meetings held which accurately records the views of the participants, together with any responses to those representations, comments and views.
  - Ensuring that the I&APs are afforded sufficient time to participate and comment
  - Considering all objectives and representations received from I&APs
  - Notifying I&APs of the CAs decision, associated reasons for the decision, and that an appeal may be lodged against the decision.
- Compile the relevant reports
- Submit the required documentation to the CA
- Upon request from the CA, amend the reports or provide additional information.
Contractors

Contractors have a role to play in implementing at least the construction phase component of the EMPR. In order for them to fulfil this role, the applicant needs to adequately transfer and entrench the requirements of the EMPR with the contractor. This can be achieved through contract conditions and related performance clauses. It may also be necessary to provide training. The contractor is obliged to transfer responsibility to and take responsibility for any sub-contractors that they employ during the construction of an SI project.
Interested and Affected Parties

An Interested and Affected Party (I&AP) is defined as any person or organisation interested in or affected by an operation or listed activity, and any organ of state who may have jurisdiction over any aspect of the operation or activity. A registered I&AP is a person who is formally registered in terms of the EIA process. Interested and Affected parties may perform the following roles:

- Identify issues and ensure that local knowledge and values are understood
- Comment on any reports associated with the application within the specified or agreed timeframes
- Send copies of any comment to the applicant or EAP if the comments are submitted directly to the Competent Authority
- Disclose any interest they may have in the application being granted or refused
- Where applicable, appeal a final decision.
Applicant

Section 1 of NEMA defines an applicant as a person who has submitted or intends to submit an application for an environmental authorisation. The applicant in the case of SI is often one of the three spheres of government. Given the local scale at which municipalities operate and their mandate to plan and implement basic services, most of their projects tend to fall within the realms of SI. The applicant is required to fulfil the following responsibilities:

- Appoint an EAP to manage the Basic Assessment or S&EIR process.
- Provide the EAP with a clear and precise proposal, based on existing information, of the purpose and need for the proposed activity, and information that will help the EAP determine the level of assessment required.
- Provide the EAP and Competent Authority with access to all information relevant to the proposed activity and ensure that this information is truthful and accurate.
- Pay any costs or fees applicable to the application.

It is important to note that the applicant is ultimately responsible for ensuring that all laws relevant to the respective activity are complied with. It is therefore important that the applicant monitor the progress of the application and check the respective reports.
The core mandate of local government is service delivery at the local level. Municipalities are consequently responsible for the development of a substantial portion of social infrastructure in South Africa i.e. they are very often the applicant. In addition to their potential role as the applicant, local government have further responsibilities in terms of SI development and the EIA process. These include the following:

- Municipalities should interact closely with provincial and national government who initiate social infrastructure projects in their area of jurisdiction.
- Municipalities are responsible for Local Economic Development which requires that they engage with developers and comment on the acceptability and relevance of almost all development projects.
- Municipalities have the power to influence development activities through planning tools such as SDFs and LUMS, as well as through the drafting of bylaws. In commenting on an application, municipal officials should ensure that these planning tools and laws are considered in the application.
Competent Authority

The Competent Authority is defined in terms of Section 1 of NEMA as “the organ of state charged by the Act with evaluating with the environmental impact of an activity and where appropriate, granting or refusing an environmental authorisation in respect of that activity”. In most cases, the MEC responsible for environmental affairs in a province is the CA where the application is province specific. The Minister of Environmental Affairs is the CA for all applications being processed by the national department. However the Minister or MEC may also delegate certain responsibilities to officials within their departments. The CA is required to fulfil the following responsibilities:

- Make decisions on applications for environmental authorisation in accordance with the EIA Regulations.
- Where inadequate or insufficient information has been provided, request additional information or specialist studies.
- Provide the applicant or EAP with access to any guidelines, departmental policies, decision-making instruments and information that is relevant to the application.
- Advise the applicant or EAP of the nature and extent of any processes that must be following in order to comply with NEMA and the EIA Regulations.
- Prepare any minutes of meetings held between the CA and the EAP or applicant.
- Consult with any State department that administers a law relating to a matter affecting the environment relevant to the application and consider any associated comments.
- Consider the need and desirability of the activity.
- Comply with the specified timeframes.
- Notify the applicant of the CA’s decision, associated reasons for the decision, and that an appeal may be lodged against the decision.
- Keep a register of all applications received and decisions in respect of all environmental authorisations.
- Where applicable, consider and respond to appeals.
- May amend or suspend an environmental authorisation.
- Give reasonable assistance to a person who is unable to comply with the Regulations as a result of illiteracy, disability, or any other disadvantage.
Other Regulatory Authorities

Regulatory authorities refer to authorities who are involved in issuing permits, approvals or authorisations which may be relevant to the project. These authorities have an important role to play and can assist in streamlining the EIA process by:

- Providing timeous access to the EAP to any relevant information collected by their department.
- Providing constructive comment on the application to the EAP and CA within the requested timeframes.
- Drafting comment in a constructive manner that they can be adapted or incorporated as conditions of the environmental authorisation.
- Attending authorities’ site visits and meetings which are designed to achieve co-ordination between the EIA and other relevant regulatory processes.