

The effectiveness of public participation in Environmental Impact Assessment in selected South African case studies

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Abstract

Public participation is an integral part of the environmental impact assessment (EIA) process, as it provides opportunities for interested and affected parties (I&APs) to participate in the decision making process.

The objective of public participation is to accomplish social and environmental justice and to promote informed decision making. Concern however exists that public participation is seen and implemented as a rigid “one size fits all” process and that the inputs by I&APs are limited to the pre-authorisation phases i.e. the I&APs are not involved in the environmental management of the full life cycle of the activity.

The problem appears to stem from the fact that the implementation of the public participation process is associated with a number of shortcomings and may be seen as a paper exercise to satisfy the requirements of the National Environmental Management Act.

The aim of the research is to determine the effectiveness of public participation in EIA processes, using a group of selected South African case studies. A structured, survey-based research study was conducted with I&APs, environmental assessment practitioners (EAPs) and officials from relevant decision making bodies (competent authorities).

The main aim of the research has been achieved and all research objectives answered. The study concludes that public participation in EIA processes is not purely a paper exercise, but does in fact enhance decision making. However, there are widespread concerns regarding the selection of alternatives and the alignment of public participation processes in other environmental assessments.

Keywords: Public participation, effectiveness, environmental impact assessments, interested and affected party, decision making.

DECLARATION

I declare that this dissertation, apart from the contributions mentioned in the acknowledgements, is my own unaided work. It is submitted for the degree of Master of Environmental Management at the North West University, Potchefstroom Campus. I also declare that it has not been submitted before to this institution for another degree or any other institution in this country or abroad.

Signature of the Candidate

Date

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LIST OF ABBREVIATIONS

BA	Basic Assessment
BAR	Basic Assessment Report
CA	Competent Authority
CER	Centre for Environmental Rights
EIA	Environmental Impact Assessment
EAP	Environmental Assessment Practitioner
EMP	Environmental Management Plan
IAIA	International Association for Impact Assessment
IAP2	International Association of Public Participation
I&AP	Interested and Affected Party
NEMA	National Environmental Management Act
PPP	Public Participation Process
SLAPP	Strategic Litigation Against Public Participation
SD	Sustainable Development
S&EIR	Scoping and Environmental Impact Report
UNEP	United Nations Environmental Programme.

1 Chapter One: Introduction

This chapter introduces the study by presenting an introduction to the study, the problem statement, followed by the research aims and objectives and the chapter is concluded by outlining the structure of the research report.

1.1 Introduction and background to the study

Global environmental catastrophes and increasing awareness of the state of the environment have indeed also resulted in an increased awareness of human rights. Currently, these rights are contained in numerous state constitutions and international law instruments. The fundamental rights bear no weight when the rights holders are denied a means of participation in the implantation of those rights. Environmental rights of the people cannot be fulfilled by any state, if the gathering and sharing of environmental information is absent (Du Plessis, 2008:171). This view is reinforced by the international law instruments and jurisprudence on environmental rights (Du Plessis, 2008:183).

International agreements, policy initiatives and plans of action (derived from agreements and policy initiatives) have shaped and reinforced the environmental and sustainability agenda, which provides an opportunity for the public to participate in decision making in projects and activities that can affect their lives. As a result public participation has become one of the vital aspects of environmental governance. Principle 10 of the Rio Declaration on Environment and Development that was signed at the United Nations Earth Summit in 1992 highlighted three fundamental principles that shaped the participation policy. The principles are: access to information, access to participation and access to justice (Bastidas, 2004:3; Morrison-Saunders & Early, 2008:1).

In addition, Principle 22 of the Declaration highlights the importance of “effective participation” of “indigenous” people in order to ensure the achievement of sustainable development (Morrison-Saunders & Early, 2008:1). Agenda 21 emerged at the Rio Declaration as a plan of action, which required every participant nation to identify key sustainability indicators and develop sustainability plans. These plans must be applicable at local and national level. In order to effectively implement the requirements of Agenda 21, the commitment and involvement of social groups is a prerequisite. Furthermore chapter 23 of Agenda 21 highlights the “need of individuals, groups and organizations to participate in environmental impact assessment procedures and to know about and participate in (pertinent) decisions,” (Bastidas, 2004:3; UCT2007:5).

The Aarhus Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters, held in 1998 and also known as the Aarhus Convention emphasises that involving the public in environmental decision-making is fundamental in order to ensure that the rights of the public are taken into consideration (United Nations Economic Commission for Europe, 1998). Although this was a regional agreement (European) many countries have adopted and

implemented the principles of the Aarhus Convention (DEAT, 2005:5; Bastidas, 2004:3). The Aarhus Convention is anchored around three pillars that evolved from the Rio Declaration viz. access to information around the environment, public participation in environmental decision making processes and access to courts of law or tribunals in environmental matters (United Nations Economic Commission for Europe, 1998; DEAT, 2005:5). Article 6 of the public participation pillar sets out the key requirements of effective participation and the requirements can be summarised and follows: timing of the process – early participation is encouraged, access to documentation relevant to the decision making process, interactive engagement of the relevant public and the inclusion of the public participation outcome in the decision making process (Hartley & Wood, 2005: 319).

The introduction of environmental impact assessment (EIA) provides a significant platform for new opportunities for formal public participation in development proposals (Richardson *et al* 1998:202). Article 10 of the Rio Summit states that “environmental issues are best handled with participation of concerned citizens at the relevant level”. It further advocates for access to information held by authorities. It also encourages the disclosure of information regarding any activities that might be detrimental to the environment (such as information about hazardous material) and promotes public participation in decision-making processes. This leads to the integration of public participation in the EIA process and thus forms an essential element of the EIA process (DEAT, 2005:8; Hartley & Wood, 2005: 319), while Doelle and Sinclair (2006:186) agree that in order to guarantee that developments are facilitated in a sustainable manner, public participation has to take place. Murombo (2008:107) affirms by pointing out that the purpose of an EIA is to prevent significant impacts and to ensure that the development is sustainable.

Nadeem and Fischer (2011:3) emphasise that in order for the EIA public participation process to be effective, the objectives of public involvement needs to be satisfied. O’Faircheallaigh (2010:19) maintains that involving the public in the early stages of the EIA process is important, since the objectives of the public are taken into consideration. The public is thus given an opportunity to influence the outcome of decisions; for example in the selection of alternatives. O’Faircheallaigh (2010:19) further outlines that early public involvement envisions an assortment of benefits which may include access to local knowledge, avoiding costly legal proceedings, strengthening the democratic fabric of the society, community empowerment and social learning, and that these benefits enable the transition to sustainability.

Aucamp (2009:50) and Nadeem and Fischer (2011:3) have identified the objectives of public participation. These are to:

- Provide a platform for the public to raise their concerns and as a result have their input influence decision making and thus enhance environmental justice, equity and cooperation.

- Educate and increase awareness by encouraging mutual learning. Indigenous and traditional knowledge that cannot be deduced from scientific reports can be obtained from local people and in return the public can gain knowledge on the project and its potential environmental impacts.
- Assist with conflict resolution. When participants are at liberty to analyse the proposal and have an input into the process, it will be considered a more acceptable and sustainable project and as a result the project will have greater public acceptance.
- Enhance informed decision-making. Information exchange by both the public and the proponent can provide valuable information on the scale and timing of the project and how the project can be altered to mitigate negative impacts.
- Promote transparency and enhance accountability in the decision making process.
- Enhance trust among stakeholders i.e. the proponent, government institution and the public.

However, critics of public participation see it as a paper exercise to fulfil the legislative requirements. They see the goals that are entrenched as being not always accomplishable and as a result this may hinder good decision making. Their arguments include that the public does not have sufficient technical knowledge to make an input into environmental assessment and decision making, and secondly, that the process seldom achieves the desired outcome (National Research Council, 2008:33). The critics of the process further argue that participatory processes tend to experience difficulties such as never-ending discussions to reach only insignificant results when trying to establish a common ground among stakeholders with conflicting values and interests (National Research Council, 2008:34). This statement is supported by Ventriss and Kuentzel (2005:520) remarking that critics are of the opinion that “a consensus in the public sphere is like a transitory mirage, contingent on the constellation of actors who happen to rise to the surface of on-going public conflict and debate”.

Moreover the public participation process is often viewed as formalistic, costly, and time consuming and as a process that is more focused on the method/process and access, rather than its outcomes. The argument is that the process and the legislation governing public participation is deeply rooted in the assumption that if the process is properly facilitated then the public will become actively involved and the process will yield better results. The interested and affected parties are treated as if they have been involved in the planning and design phase of the project, whereas in reality, their involvement is at the end of the project planning cycle. This has led to public participation methods that actually discourage participation, encourage conflict, and foster distrust among participants (Doelle & Sinclair: 2006:186-187).

1.2 Problem Statement

The birth of South African democracy brought about a dramatic transformation process that resulted in new ways of public administration and governance and this has resulted in a revamp within

planning and decision making processes. Democracy has brought about the incorporation of principles of sustainability, integration, involvement, as well as social and environmental justice into the South African political agenda (Sowman & Brown, 2003:695). The advent of democracy resulted in public participation being one of the requisites for decision making and thus forms an important part of environmental governance, which is mandated by the South African Constitution as well by framework and sectoral legislation (Kotze, 2008:1). Kotze (2008:2) emphasises that even though the legal framework gives the I&APs the platform to participate in decision making, it is not necessarily the case in practice. In some instances the interested and affected parties are forced to approach a court of law in the hopes of having the participation entitlement restored.

Murombo and Valentine (2011:83) have also identified strategic litigation against public participation (SLAPP) suits as an emerging threat to public interest environmental litigation.

Although public participation is an essential tool for environmental governance, it is a challenge for most governments to ensure that the rights of the people (democratic participation) are taken into account while maintaining good governance and administrative efficiency (University of Cape Town, 2007:5).

The University of Cape Town's Environmental Evaluation Unit and the Occupational and Environmental Health Research Unit conducted a study that identified the challenges encountered during the design and implementation of public participation (UCT, 2007:5). The challenges can be summarised as follows:

- When do you involve the public in decision making processes? Although many scholars agree that involving the public early in the process is beneficial, the challenge is: the timing of public involvement and the information to be presented to the public – how much technical information must be prepared before the public gets involved?
- The selection of participants: who is the right “public” for the given decision? How do you ensure that all the stakeholders are fully represented, while taking in consideration the interests of underprivileged and previously disadvantaged groups?
- Which selection consultation technique is most suited to the participants? Does the technique prompt the public to give input? For example, should the notice and comment technique be used or will face-to-face discussions work better?
- Is the consultation technique suitable in terms of timing and the proportion of the “right” public group?

- Ensuring that the participation process is efficient, while taking into consideration that the process should remain open and transparent, despite limited resources of government and other participants (stakeholders).
- What procedures should government set out to confirm that the public participation processes are both managed and implemented professionally, which in turn will enhance the public's trust in the process?
- Ensuring that the public participation process is efficient, while adhering to democratic principles such as transparency while taking into consideration government's limited resources.
- The integration of the broad scope of environmental issues (e.g. biodiversity, chemicals, and air quality management etc.).

Literature provides evidence attesting that public participation is an essential tool for environmental governance; however most governments are faced with the challenge of maintaining the balance between democratic participation and administrative efficiency.

1.3 Research aims and objectives

The aim of this study is to establish the effectiveness of the public participation process in the decision making process of Environmental Impact Assessments (EIAs).

In order to achieve this aim, the study has set the following three research objectives:

- (a) To determine the level in which public participation influences the decision making in the EIA process.
- (b) To determine the extent to which significant issues raised during the public participation process are taken into account and are included as environmental authorisation conditions to ensure post decision compliance and long term sustainability of a project.
- (c) To evaluate the type and suitability of information given to interested and affected parties.

1.4 Structure of the research report

Chapter 1: Introduction and background to the study

This chapter introduces the study by presenting the background, the problem statement, followed by the research aims and objectives and this chapter is concluded by outlining the structure of the research report.

Chapter 2: Literature review

This chapter will provide an evaluation of both international and local literature on the subject and provide a summary of the importance, role, benefits, and pitfalls of the public participation process. This chapter also introduces a literature review on the effectiveness of methodology.

Chapter 3: Public Participation Overview

This chapter will deal with the background and overview of public participation in Environmental Impact Assessment (EIA) in the South African context.

Chapter 4: Research methodology

This chapter outlines the research design, sampling methods, data collection and the methodology of research execution.

Chapter 5: Data analysis and findings

This chapter will deal with the interpretation of data analysed, and the effectiveness of the methodology employed.

Chapter 6: Summary of findings, recommendations and conclusion

This chapter provides final conclusions drawn and recommendations made in respect of the main objective of the study.

1.5 Conclusion

The awareness of human rights influenced how environmental matters are governed. It is argued that fundamental rights bear no weight if the rights holders are denied an opportunity to participate. This led to the integration of public participation in the EIA process thus forming a compulsory component of EIAs. The next chapter will outline the role, importance and the rationale of public participation as well as factors that hinder successful public participation.

2 Chapter Two: Literature review

2.1 Introduction

In this chapter literature relating to public participation is reviewed. Public participation and relevant concepts are defined. The context of public participation as an important tool in EIA, and the rationale of public participation and aspects such as the objectives, the benefits and the factors that can hinder public participation are discussed. There have been many arguments on whether the public participation process adds value. The following questions constantly feature in the difference of opinions regarding the process: (i) why is public participation conducted, what is the motive? i.e. motivation/rationale; (ii) what is the goal of the whole process? i.e. objectives; and (iii) what would the process yield? i.e. the benefits.

2.2 Overview: Public participation

Environmental catastrophes that have occurred over the years have increased consciousness of the state of the environment, resulting in augmented awareness of peoples' rights (Du Plessis, 2008:171). The involvement of the public in issues and decisions that affect their lives has been seen as fundamental, right and principled. This has resulted in these rights and principles being incorporated into international agreements, planning and policy tools such as the Rio Declaration, the Aarhus Convention, Agenda 21 and the Johannesburg Implementation Plan (UCT, 2007:5).

Sandham *et al* (2002:51) describe EIAs as an essential tool for planning and managing sustainable development intended to provide decision makers with information on the likely consequences of their actions. Ramli *et al* (2012:4) define an EIA as an efficient tool that can be used to predict the environmental impacts of a project before decisions are taken by the authority on whether or not to accept the project proposal. EIA also ensures that the project will adhere to legal requirements. It is also essential in ensuring that the developments are approved and implemented in line with sustainable development principles.

The importance of public involvement in environmental governance and decision making has been highlighted by international instruments such as the Rio Declaration on Environment and Development, which emphasizes public involvement as a cornerstone of its effort to integrate environmental and economic factors in the effort to become sustainable (Doelle & Sinclair, 2006:186).

Masango (2002:54) states that in order to guarantee that the needs of the public are taken into account, there should be contact between the "governor" and the government during policy-making implementation processes. The involvement of the public in both administrative and legislative decision making is a fundamental aspect of environmental governance in many countries. Environmental public participation offers an economical potential to provide sources of information

to stakeholders. Communities are also empowered on issues that affect their lives and democratic principles are advanced. This in return increases acceptance of government decisions and confidence in government decisions (O'Rourke & Macey, 2003:383; UCT, 2007:5). Wisselink *et al* (2011:2688) describe public participation as a “mantra” of environmental governance.

2.3 Rationale for public participation

The common arguments for participation are centred on its effectiveness or its positive contribution. Many scholars have articulated in literature how public participation can add benefit to governance and democracy; however critics of the process are adamant that public participation can in certain circumstances have negative consequences. O'Faircheallaigh (2010:19) maintains that the disagreement is fuelled by the following reasons: the role, purpose and paybacks of public participation are often not taken seriously and consequently the rationale of public participation is sometimes poorly expressed, making it difficult to implement effectively.

The rationale of public participation can be categorised as follows:

1. **Political-philosophical perspective:** This viewpoint is more focused on public interest and participation in the governing process. This view point is deeply rooted in democratic principles. The consideration of the public's concerns and inputs indicate meeting the basic means of strengthening the principles of democracy (Masango 2002:55, Sinclair & Diduck, 1995:220). The political-philosophical rationale is based on justice and fairness (Sinclair & Diduck, 1995:220).
2. **The “improved planning” perspective:** This view puts an emphasis on public involvement being an effective tool in decision making. This supports the notion that public participation is one of the vital elements for an effective EIA process. This perspective is of opinion that the number of public involved should not be based on “idealistic, humanitarian or egalitarian grounds” but a greater public involvement should be encouraged to increase project efficiency and to harness a large number of people who potentially can benefit from the development (Sinclair & Diduck, 1995:220).

Sinclair and Diduck (1995:220) maintain that the “improving planning” position contributes to the success of administration decisions in the following manner:

- Public involvement prevents the hijacking of administrative process by the industry being regulated and maintains the balance when decisions are made.

- The administrative process is meant to be fair. It is essential to provide a platform to express their concerns, unlike previously where only industry could raise their concerns and as a result traditionally unrepresented interests were not expressed.
- Public confidence in the participation process will be enhanced by participation.
- Public involvement entails process scrutiny of policies and decisions during implementation and as a result the process is more efficient and responsive to their needs.
- The public involvement provides a podium for review or appeal against decisions made and this in return forces the administrators to be accountable.
- Public participation enables the public to challenge any illegal or unacceptable actions or decisions before the process can be implemented.

3. Political market perspective: This is “pluralistic-elitist-equilibrium-democratic” viewpoint. Under this view the public and the politicians are regarded as major players in the political market, the one party supplies and the other demands. Public participation is a product in the political market, where the politician supplies goods and those goods are demanded by the electorate (Sinclair & Diduck, 1995:221).

4. Political conflict resolution perspective: This viewpoint considers public participation as an instrument to assist conflict resolution or as a tool to simplify complex political decisions and as result they become more acceptable. (Sinclair & Diduck, 1995:221, Masango, 2002:59)

5. Instrumental perspective: Effective public involvement makes decisions more legitimate and improves results. This perspective creates ‘public ownership’ and in so doing it restores public credibility, diffuses conflicts and justifies decisions. It also limits future challenges to implementation (Wesselink *et al*, 2011:2690).

6. Substantive perspective: This view encourages the non-experts to identify problems and issues and provide solutions where experts overlooked the issues It aims to gather as much information as possible from all sources hoping that the quality of the decision will be improved. It ignores power issues – information from all stakeholders is considered valuable. “Unlike in the instrumental rationale, policy goals can be changed in a substantive rationale” (Wesselink *et al*, 2011:2690).

7. Normative perspective: This perspective favours democratic ideas, it supports maximum participation. Its objective is to enhance the exchange of incumbent interests and give an

opportunity to those who are affected by the decision to have an input in order to influence the outcome (Wesselink *et al*, 2011:2690).

The instrumental, substantive and the normative perspectives have been widely used by proponents of participation to advocate for inclusion of non-state actors in decision making. The instrumental, substantive and the normative perspectives have been used by proponents to support participation by non- state stake holders in decision making. These rationales are usually regarded as participatory processes and considered to have benefits of three, without taking into account the potential contradictions between the arguments of each rationale. Someone who intends to promote democracy will support all three arguments. The normative rationale targets to involve any stakeholder, this view point does not harmonise with the instrumental rationale where stakeholders are invited merely because there are thought to have some kind of contribution in the decision making process, although both rationales assume that improved participation will contribute to quality decisions (Wisselink *et al*, 2011:2960).

Substantive rationale is flexible, should new information become available, it adapts and reassesses the basic details of the initial problem and adjusts based on the new information whereas the instrumental rationale does not accommodate the inclusion of new information as the goal has been pre-determined. Both the instrumental and substantive rationales are perceived as content-oriented, while the normative is viewed as process- oriented, due to their orientation they are often interpreted as opposites, however the interpretation is subjected to challenge (Wisselink *et al*, 2011:2960). The implications for the choices made in participatory processes are presented in a summary in Table 1 below.

Table 1: Participation rationales and design choices for participation

	Normative rationale	Substantive rationale	Instrumental rationale
Who included	Those who have a stake	Those who have additional knowledge	Those who have blocking power & those who are needed for implementation
What included	Participants' concerns and views	Policy makers' concerns; all knowledge and views	Policy makers' concerns; selected knowledge and views
How included	In all stages and issues	Only when it adds value substantively	Only when it ensures smooth implementation

(Source: Wesselink *et al*: 2011)

2.4 The objectives of public participation

The demand by citizens to participate in decisions that affect their wellbeing has brought the need to involve the public in decision making processes. Governance arrangements are more accepted and viewed as more legitimate and as a result political and societal conflicts are minimised. (Charnley & Engelbert, 2005:165; Wesselink *et al*, 2011:2688) The International Association of Public Participation (IAP2) states that in order for a development to be sustainable, there must be a degree of trade-off between economic growth, social fairness and ecological integrity. The decision makers are able to understand the extent in which stakeholders are willing to accept or live with the trade-offs through the participatory process (DEAT, 2002: 9).

The International Association for Impact Assessment (2006:2) emphasises that public participation is crucial for governance and it empowers local communities. The International Association for Impact Assessment (IAIA) (2006), Aucamp (2009:50) and Nadeem and Fischer (2011:3) maintain that public participation is a multi-purposive process that aims to:

- Provide a platform for the public to raise their concerns as a result their input can influence decision making and thus enhance environmental justice, equity and cooperation.
- Educate and increase awareness: the public participation process encourages mutual learning; and indigenous and traditional knowledge that cannot be deduced from scientific reports can be obtained from local people in return the public can gain knowledge on the project and its potential environmental impacts.
- Operate as a conflict resolution instrument: the participants are at liberty to analyse the proposal and have an input in the process will be considered as a more acceptable and sustainable project and as a result the project will have a greater public acceptance.
- Enhance informed decision-making: information exchange by both the public and the proponent can provide valuable information on the how the scale, timing and how the project can be altered to mitigate negative impacts.
- Enhance transparency and accountability in decision making.
- Build trust among stakeholders i.e. the proponent, government institution and the public.

It gives the stakeholders an opportunity to scrutinise and analyse project proposals, leading to more sustainable input and as a result the process is more supported and accepted by the stakeholders.

The objectives associated with each of the different levels of the public participation spectrum have been laid out in Table 2 below. Each level of the public participation spectrum is characterized by a different set of objectives and inherent promises, explicitly locating any engagement process on the spectrum at the start of the process should help to reduce the problem of mismatched expectations between the participants (DEAT, 2002:8).

Table 2: Objectives and implicit promises associated with each level of the public participation spectrum

Level of public participation	Objective	Promise to public
Inform	To provide balanced and objective information to improve understanding of the issues, alternatives, and/or solution	We will keep you informed
Consult	To obtain public feedback on analysis, alternatives and/or decisions	We will keep you informed, listen to and acknowledge concerns, and provide feedback on how public input influenced the decision
Involve	To work directly with the public throughout the process to ensure that public's issues and concerns are consistently understood and considered	We will work with you to ensure that your concerns and issues are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision
Collaborate	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution	We will look to you for direct advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible
Empower	To place final decision making in the hands of the public	To place final decision making in the hands of the public

Source: Adapted from IAP2:2000

2.5 The benefits of public participation

Comprehensive public participation is the foundation of good governance and one of the main necessities to achieve sustainable development. Public participation expands beyond traditional well-known benefits such as transparency, forums for exchange of idea, mutual learning and informed and representative decision making processes (Bastidas, 2004:2). It also:

1. Strengthens democracy

Democracy necessitates that the public should have access to resources that could empower them, provides them a platform to exercise their right to power by means of participating in decision-making processes that could affect them. Enhancing participation encourages the public to engage in the process and as a result the process becomes more representative (Bastidas, 2004:2 and Masango 2002:54).

2. Increases accountability

Informed public can influence the decision makers to use their discretion/judgment in a reactive and responsible manner; this ensures that governments/decision makers are accountable for their actions (Bastidas, 2004:2 and Masango, 2002:54).

3. Improves process quality

Public participation provides the decision makers with the opportunity to be better informed of different view and concerns which are more refined as they went through a process of review and revision (Bastidas, 2004:3).

4. Manages social conflicts

Public participation can manage social conflicts, different stakeholders and interest groups can assess the impacts of the project and find common ground (Bastidas, 2004:3).

5. Enhances process legitimacy

Involving the public in each stage of the project will legitimise the process; without consultation the citizens might feel left out in the decision making process which in turn might result in citizens feeling manipulated, which undermines an effective dialogue and can create distrust (Bastidas, 2004:3).

6. Participation as input for decision makers: Provision of information

Public involved in EIAs are usually seen as recipients of information from project managers and decision makers; active public participation will encourage the transmission of information to decision makers by the public. Also public participation also raises awareness and empowers the public to identify their needs and aspirations (Masango, 2002:56; O'Faircheallaigh, 2010:20).

7. Facilitating the process of policy implementation

Public participation enhances the smooth running of the policy implementation process; it nurtures a feeling of ownership and obligation towards the outcome of the process (Masango, 2002:58).

8. Promoting responsiveness to public needs

Public participation provides a platform in which governments interact with various stakeholders wanting to get their views on how to best address their needs (Masango, 2002:58).

9. Community empowerment

Public participation offers the public a platform to enhance skills, knowledge and values that are important to take control of their lives, in return the citizens will be able to communicate meaningfully and partake in decision making processes that affect their lives, the sense of powerlessness is then eliminated as the public develop a strong sense of being able to influence policy implementation and decision making (Masango, 2002:59; Ramli *et al*, 2012:5).

10. Safeguards against externalities

The public can detect and provide information on other externalities that might have been undetected (Bastidas, 2004:3).

2.6 Factors that can hinder public participation

Although public participation is a significant tool for sustainability, however if the process is not thoroughly effected it will be subjected to factors that might hamper a successful implementation.

- 1. Education/lack knowledge** – the participants may not be familiar with the process itself and that might result low public turn out. Public participation perceived as a process for the “educated”, argument is that the project documents are often drafted in complex scientific technical language that can only understood by the educated (Doelle & Sinclair, 2006:190; Kakonge, 1996: 311)
- 2. Lack of communication between stakeholders** – confusion often arises when projects are initiated without the information being disseminated to the stakeholders (Kakonge, 1996: 312).
- 3. Inadequate capacity to conduct public participation** – in most cases the facilitators of the public participation process lack the necessary skills and experience to conduct efficient public participation also the lack of legal framework that prescribes how the process that can be conducted (Kakonge, 1996: 312).

4. **Lack of transparency** – Participation may be limited if it lacks adequate provision for informing the public. Openness in the process does not only improve the project standard but also reduces corruption and endorses mutual trust and open governance (Aregbeshola, 2009:24; Kakonge, 1996: 312).
5. **Timing of stakeholders' involvement** – People usually show interest in the project once the project has reached its maturity stage and the plans are somewhat solid. At this stage, it is rather impossible that the input provided will have effect on the plans, as decisions have already been made (Doele & Sinclair, 2006:190; Rottmann, 2013:11).
6. **Lack of preparation and resources** – Often public participation is undertaken because it is prescribed by the law. In some cases insufficient and incompetent personnel are allocated and it is unclear to the personnel what to do with the results of such a process, if the participation process is not well prepared it can lead to high level of frustrations for both the facilitators and participants (Rottmann, 2013:11).
7. **Attitude of the proponents** – proponents might view the process as time consuming and not of benefit, the process is not viewed as a platform to improve project design and as an opportunity to gain public acceptance (Doele and Sinclair, 2006:190).
8. **The consideration of alternatives** – which is the fundamental requirement for EIA implementation. Late public involvement means that the public is only brought in when the preferred alternatives have been selected and benefits and impact of the alternative have been prepared (Doele & Sinclair, 2006:190).
9. **Strategic Litigation Against Public Participation (SLAPP) suits** - these are meritless court cases brought forward to demoralise a party from pursuing their rights, the aim is not winning the case but to waste time until the party who brought the case bows out (Murombo and Valentine 2011:84).

2.7 Environmental impact assessment

There is no set definition of EIA. It has been defined by various scholars based on their perceptions and opinions.

The IAIA and IEAUK defines EIA as: The process of identifying, predicting, evaluating and mitigating the biophysical, social, and other relevant effects of development proposals prior to major decisions being taken and commitments made (IAIA and IEAUK, 1999:2).

Ogola (2007:5) describes EIA as a procedure used to examine the environmental consequences or impacts, both beneficial and adverse, of a proposed development project and to ensure that these effects are taken into account in project design.

Sandham *et al* (2002:51) describe EIAs as essential tools for planning and management of sustainable development intended to provide decision makers with information on the likely consequences of their actions.

Nanda and Pring (2003:136) perceive an EIA as a formal process for reviewing a major project, programme, plan or other action with potentially significant environmental impacts in order to:

- Predict and evaluate environmental effects (and possibly social and economic impacts as well);
- Examine alternative approaches that may be environmentally preferable, and to
- Plan measures to avoid or mitigate impacts.

The definitions above are grounded on the fact that an EIA is a process of information gathering, investigation and predicting the likelihood of environmental impacts of a proposed project in order for the authorities to make a decision when to accept or reject the project.

In order to gather information there must be a consultation with the “public” that possesses knowledge; thus forming the rationale why public participation is essential for the EIA process.

2.8 Objectives of public involvement in the EIA process

The Biodiversity Conservation Centre highlights that one of the objectives of public participation in EIAs is that it promotes transparency and accountability providing the protection against bad or politically motivated decisions. Public participation contributes positively to EIA by reducing public conflict, hostility and delays. The European Commission (1999) as cited by Rhodes University (2014), has identified the goals of involving the public at different stages in the EIA process and they are summarised in Table 3 below.

Table 3: Summary of Objectives of Public Involvement in EIA

Stage of EIA process	Objectives of public involvement
Screening	Identification of significant impacts
Scoping	<ol style="list-style-type: none"> 1) Identification of public's interest and values 2) Identification of priorities for assessment 3) Encouraging public understanding of the proposed project
Assessment	<ul style="list-style-type: none"> • The public can contribute local knowledge and values to the prediction, evaluation and mitigation of impacts • Improvement in quality and acceptability of EIA report
EIA Report Review	Public contributes to evaluation of quality and acceptability of report
Decision	Public comments on acceptability of project impacts
Monitoring	Public evaluates impacts that occur and support project environmental management process

(Source: Rhodes University, 2014)

The EIA is a typical example of an efficient service delivery tool through a combination of ‘top-down’ and ‘bottom-up’ approaches. EIA procedures are set from the top while making provision for interested and affected parties and expect to provide inputs at any stage of the project. In most countries EIA regulations mandate consultation with the interested and affected parties as the minimum conditions for acceptance of EIA reports. A project stands a chance of being accepted by the majority, if it has gone through all the stages of the public participation process and minimised the chances of litigation and court injunctions to stop it (Saidi, 2010:3).

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2.9 The effectiveness of public participation

According to Miskowiak (2004:7) the key information regarding public participation is contained within four cornerstones namely:

1. The purpose (what is the public supposed to do and when?);
2. The people (identifying the 'right' public);
3. The method of public involvement (technique used to sensitise the public); and
4. Evaluation of participation activities (taking into account what the public said and providing feedback).

1. **Purpose Cornerstone** – this forms the rationale behind initiating the process it requires the determination of the objective; the reason of inviting the public, what must they do and when; while taking into consideration the objective and bearing in mind that it is essential to have an understanding of the objective and the how much influence the objective affords the public (Miskowiak, 2004:7). If the objective is known by the participants it elevates awareness and education this enhance public involvement. The main objective of public participation is to provide the public an opportunity to have input thus have an influence on the decision making process (Miskowiak, 2004:9; Nadeem & Fischer: 2011:3).

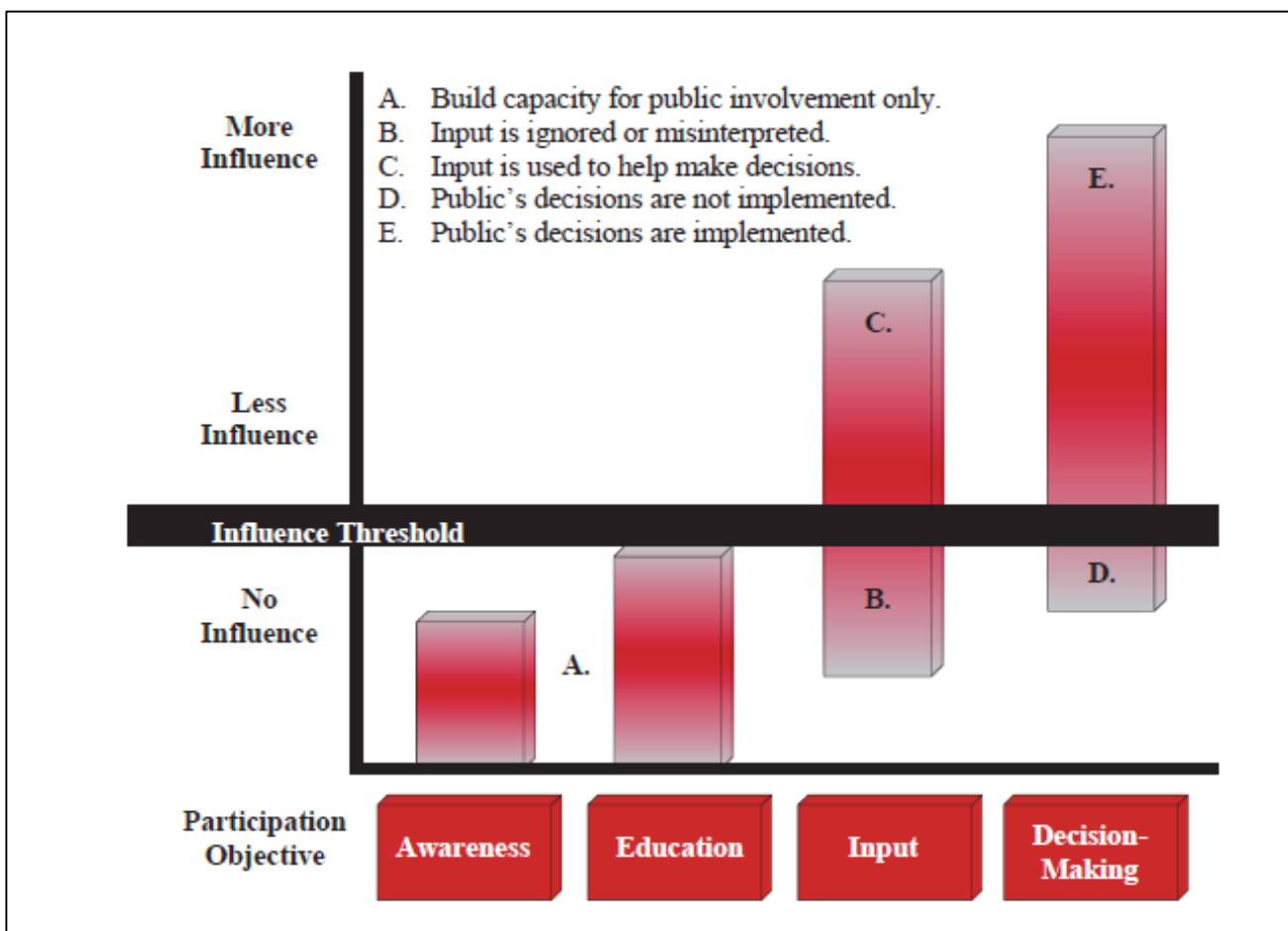


Figure 1: Level of public influence (Source: Miskowiak, 2004:9)

2. **The People Cornerstone** – recognising the intended audience identifies the “right” public to participate for that particular project. This includes: government officials, the people that might

be affected by the activity or the decision and officials to facilitate the participation process (DEAT 2002:14; Miskowiak, 2004:5).

3. **Methods Cornerstone** – it defines how the public will be involved and it encourages the selection of the most method of interaction (Miskowiak, 2004:5). Selecting the suitable technique to engage the participants involves weighing the ability of the technique to effectively and efficiently achieve the mandate of equitably engaging the stakeholders (DEAT 2002:14). Techniques of public engagements vary from open house meetings to online surveys; however it is crucial to select a methodology that will work best with targeted participants. There are many participation techniques not limited to those that are included in Table 4 below.

Table 4: Examples of public participation techniques (Source: IAP2:2000)

Technique	Always Think It Through	What Can Go Right	What Can Go Wrong
PRINTED PUBLIC INFORMATION MATERIALS			
<ul style="list-style-type: none"> •Fact Sheets •Newsletters •Brochures •Issue Papers 	<ul style="list-style-type: none"> •KISS!-Keep It Short and Simple •Make it visually interesting but avoid a slick sales look •Include a postage-paid comment form to encourage two-way communication and to expand mailing list •Be sure to explain public role and how public comments have affected project decisions. Q&A format works well 	<ul style="list-style-type: none"> Can reach large target audience •Allows for technical and legal reviews •Encourages written responses if comment form enclosed •Facilitates documentation of public involvement Process 	<ul style="list-style-type: none"> Only as good as the mailing list/distribution network •Limited capability to communicate complicated concepts •No guarantee materials will be read
TECHNICAL REPORTS			
Technical documents reporting research or policy findings	Reports are often more credible if prepared by independent groups	Provides for thorough explanation of project decisions	Can be more detailed than desired by many participants •May not be written in clear, accessible language
ADVERTISEMENTS			
Paid advertisements in newspapers and magazines	<ul style="list-style-type: none"> •Figure out the best days and best sections of the paper to reach intended audience •Avoid rarely read notice sections 	<ul style="list-style-type: none"> •Potentially reaches broad public 	<ul style="list-style-type: none"> •Expensive, especially in urban areas •Allows for relatively limited amount of information
OPEN HOUSES			
An open house to allow the public to tour at their own pace. The facility should be set up with several stations each addressing a separate issue. Resource people guide participants through the exhibits.	<ul style="list-style-type: none"> •Someone should explain format at the door •Have each participant fill out a comment sheet to document their participation •Be prepared for a crowd all at once - develop a meeting contingency plan •Encourage people to draw on maps to actively participate •Set up stations so that several people (6-10) can view at once 	<ul style="list-style-type: none"> •Foster small group or one-on-one communications •Ability to draw on other team members to answer difficult questions •Less likely to receive media coverage •Builds credibility 	<ul style="list-style-type: none"> •Difficult to document public input •Agitators may stage themselves at each display •Usually more staff intensive than a meeting

4. **The Evaluation Cornerstone** – Document and Evaluate Participation. This is the cornerstone that maintains a meaningful and purposeful public; it gives a framework of procedures for evaluation and documenting the process' activities and outcomes. The public can witness how their contribution has influenced the decision making process through records. Through documentation it is easier to track and evaluate the progress; it also assists with the identification of problematic areas which still has to be addressed.

These four cornerstones echo the basic requirements that ensure effective public participation.

- Identification of the public concerned; these are the people who are either affected by or are interested in the development, and it must be ensured that they must be informed at early stage to ensure early participation (Clarke, 1994:295: O'Faircheallaigh, 2010:19: Hartley and Wood, 2005:324).
- Outreach - the public must be provided with access to information which is accurate relevant and comprehensive and the technique used to disseminate the information must be suitable for the audience and the information must be presented on time (Clarke, 1994:295: Hartley and Wood, 2005:324).
- Dialogue must be encouraged – the facilitators of the participation process must be keen to enter into discussions with the concerned public (Clarke, 1994:295: Hartley & Wood, 2005:324).
- Assimilation – allow the public to voice opinions and take into consideration issues raised (Clarke, 1994:295: Hartley and Wood, 2005:327).
- The feedback must influence decision making – the outcome of the process must be able to influence decision making (Clarke, 1994:295: Hartley and Wood, 2005:327).

It is assumed that if the requirements above are met the participation process would have been effective.

2.10 Evaluation criteria of the effectiveness of the public participation process

Various public participation processes aim to engage and consult the public, these procedures range from public hearings to conferences hoping to reach consensus. It is difficult to determine the quality of the output of any public participation exercise. Rowe and Frewer (2000) used various public participation process requirements and amalgamated evaluation methods by various researchers to produce a set of criteria that can be utilised to evaluate the effectiveness of public participation methods. These comprise two methods: acceptance criteria and the process criteria (Rowe & Frewer, 2000:3).

Rowe and Frewer (2000:3) define the two criteria as follows:

- **“Acceptance criteria** which incorporates components of a method that make it acceptable to the wider public”.
- **Process criteria** which concern features of the process that are liable to ensure that it takes place in an effective manner.

The two evaluation criteria are further subcategorised to address aspects of public acceptance and good process in participation exercises (Rowe & Fewer, 2000:12). The subcategories are as follows:

2.10.1 Acceptance criteria

(a) Criterion of representativeness: The public participants should comprise a broadly representative sample of the population of the affected public.

The general concern is the need for participants to be representative of the broader public or should be representative of the affected subgroup, instead of focusing on a pre-selected subgroup. When selecting the participants, it must be implemented with caution so as not to marginalise the poor or engaging with only the intelligent, motivated, self-interested, and unrepresentative elite, as this might result in disruption of the process (Rowe & Frewer, 2000:12). A selection of a random stratified sample of the affected public will enhance the representatives of the affected subset, also the use of the questionnaires to determine the diversity of attitudes with regard to a certain issue might assist with the selection of the participants (Rowe & Frewer, 2000:13).

(b) Criterion of independence: The participation process should be conducted in an independent, unbiased way.

The facilitators of the public participation process should not only be independent by virtue of appointment, they must be seen independent when facilitating the process, likewise the public “participants” should be independent of the sponsoring body or the developer. Possible objection to this criterion might drastically reduce the influence of the process (Rowe & Frewer, 2000:13).

(c). Criterion of early involvement: The public should be involved as early as possible in the process as soon as value judgments become salient.

Many scholars agree that the public should be involved at the early stages of public participation. However, public involvement should be reasonably practical. It may not be ideal to involve the public in decision making of highly technical issues, but at a stage where value judgements become important (Rowe & Frewer, 2000:13).

(d) Criterion of influence: The output of the procedure should have a genuine impact on policy.

Critics of public participation often view public participation as ineffective. It is seen as platform to legitimate decisions or to “stage” an appearance of consultation without intentions of acting on

recommendations (Rowe & Frewer, 2000:13). Rowe and Frewer (2000:14) state that, “One approach that might lead to fulfilling this criterion is to ensure that there is a clear acceptance beforehand as to how the output will be used and how it might direct policy”.

(e) Criterion of transparency: The process should be transparent so that the public can see what is going on and how decisions are being made.

The general practice is that any participation process should be indisputable, so that the public can be attentive of and how resolutions are made. Transparency also dispels suspicions and as a result trust is built between two parties (Rowe and Frewer, 2000:13).

2.10.2 Process criteria

(a) Criterion of resource accessibility: Public participants should have access to the appropriate resources to enable them to successfully fulfil their brief.

One of the aspects of effective decision making is access to appropriate and relevant information however access to information is one aspect of the resources that public required to enable them to fulfil their participation exercise successfully. Other necessary resources include the following:

- Information resources (summaries of the pertinent facts, Background information documents),
- Human resources (e.g., access to experts to interpret technical data, witnesses, decision analysts, translators),
- Material resources (e.g. Projectors and other visual aids) and
- Time resources (participants should have sufficient time to make decisions). (Rowe & Frewer, 2000:15).

If any of the resources are restricted this will result in an impact on the quality of the process (Rowe & Frewer, 2000:15). Facilitators should take into account the amount of information presented to participants information overload is possible, which is liable to lead to stress and confusion. To avoid this, communication documents should be concise summaries of information, free of jargon (Rowe & Frewer, 2000:15).

(b) Criterion of task definition: The nature and scope of the participation task should be clearly defined

It is essential to ensure that the scope, expected outcomes and procedural mechanism of the participation exercise are clearly laid out, from the onset. The success and credibility of a procedure, is likely to be influenced by any disagreement caused through misinterpretations and confusion. The main shortfall of this criterion is the prescriptive set of rules and definitions that reduces flexibility should new information arises or in face of disputes (Rowe & Frewer, 2000:15).

(c) Criterion of structured decision making: The participation exercise should use/provide appropriate mechanisms for structuring and displaying the decision making process.

Public participation should provide participants for shaping and presenting the decision making. The underlying reasons a decision are examined as well the degree in which the decision was supported and how it would help organise the process. The process of reaching the decision should be well documented to enhance transparency and the credibility of the exercise and also to highlight the efficiency of the process (Rowe & Frewer, 2000:16)

(d) Criterion of cost-effectiveness: The procedure should in some sense be cost-effective.

When organisation a participation exercise cost is a significant aspect and motivation. Potential costs should be taken into account prior to conducting a participation exercise; the facilitator should evaluate the participation technique compare with alternative methods in terms of both money and time and evaluate the extent to which they fulfil the other criteria. For example, a major public hearing might be inappropriate for a relatively minor policy decision (Rowe & Frewer, 2000:17).

2.11 Conclusion

The main intention of this chapter was to outline and describe the role, benefits and rationale of public participation. The chapter also illustrated the requirements of effective public participation and also introduced the public evaluation criteria of effectiveness that will employed later in the study. Many countries, including South Africa have adopted guidelines and principles from international instruments. In order to use these principles locally, the public participation process in EIA in the South African context should be understood. The next chapter will provide an overview of the South African public participation legislative framework.

3 Chapter Three: Public participation framework

“Recognising that, in the field of the environment, improved access to information and public participation in decision-making enhance the quality and the implementation of decisions, contribute to public awareness of environmental issues, give the public the opportunity to express its concerns and enable public authorities to take due account of such concerns.” – Preamble to the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, 1998

3.1 Introduction

This chapter will deal with the framework of public participation in Environmental Impact Assessment (EIA) in general and in the South African context in particular. The Chapter will begin by highlighting how international instruments shaped the South African public participation and EIA framework.

3.2 International public participation instruments

International environmental law is mostly articulated as principles. Conference declarations are usually based on broad consensus rather than consent and no state is obliged to adhere to the principles but they provide a set of guiding principles or standards. These are usually soft law instruments that are legally binding, however their principles are usually expanded in legally binding treaties for example: the African Charter on Human and Peoples' Rights, which declares in article 24 that: "All people shall have the right to a general, satisfactory environment favourable to their development," (DEAT, 2005:19; Du Plessis 2008:179).

Most international agreements aiming at protecting the environment were grounded on utilitarian purposes, however in 1972 the Stockholm Declaration of the United Nations Conference on the Human Environment brought about the desire to curb environmental degradation. The Stockholm Declaration highlighted the necessity of having a common outlook and identified the principles that guided the world in the preservation and the improvement of the rapidly degrading environment. Although the Stockholm Declaration did not address environmental assessment as a tool, the declaration or the term sustainable development, it did pave the way for the consideration of assessment in later international agreements (CER 2012:3; DEAT, 2005:19).

The Brundtland report of the World Commission on Environment and Development (WCED) entitled Our Common Future (WCED 1987) first introduced and defined the term sustainable development. Sustainable development has evolved as an international objective and it has played a role in resolving international environmental disputes in cases heard before the International Court of Justice (ICJ) (DEAT, 2005:19).

For Example: In the dispute between Hungary and the former Czechoslovakia on the construction of a hydroelectric dam on the Danube River, Hungary withdrew in 1989 mentioning their environmental concerns. The case was brought before the ICJ in 1993, and the majority of the judgement was in Czechoslovakia's favour (Fuyane & Madai, 2001:339). However the judge highlighted the following two important aspects that had an implication on environmental assessments:

- That sustainable development is “an integral part of modern law” means it assists in bringing the balance between the opposing desires of developments and the need to protect the environment. The judge highlighted that as much as development is an indisputable human right, he held that the protection of the environment is similarly an important aspect of modern-day human rights (Fuyane & Madai, 2001:339).
- The Judge remarked intensively on what he called the principle of “Continuing Environmental Assessment”. The judge pointed out that “Environmental impact assessment means not merely an assessment prior to the commencement of the project, but a continuing assessment and evaluation as long as the project is in operation”. He highlighted that international projects that have a significant impact on the environment must undergo an environmental assessment and also the environmental impacts must be monitored during the operational phase, irrespective of the fact that it is a requirement of an international agreement (Fuyane & Madai, 2001:339).

This judgment highlighted the inclusion of environmental assessment in sustainable development, which was otherwise hidden.

The Rio Declaration on Environment and Development that was signed at the United Nations Earth Summit in 1992 introduced principles that had both direct and indirect impact on environmental assessment and public participation (DEAT, 2005:7). The Rio Declaration advocates for the integration of environmental assessment in development and it must be utilised as a tool for environmental protection in decision making processes. Public participation principles are contained and endorsed by Agenda 21 of the Rio Declaration, in order for governments to effectively implement the objectives of Agenda 21 the requirement of genuine involvement by the public must be fulfilled (DEAT, 2005:7, Du Plessis, 2008:252).

Ten years after the adoption of the Rio Declaration a follow up summit was held in Johannesburg in 2002 termed the World Summit on Sustainable Development (also referred as Rio+10) resulted in the adoption of a Plan of Implementation. The implementation plan includes encouragement of all spheres of governments to consider sustainable development in decision making processes. On national and local development planning, investment in infrastructure, business development and public procurement, this plan encourages government to use environmental assessment procedures (DEAT, 2005:7).

There are other international instruments/ agreements that include an assortment of topics which require that impact studies must be conducted whenever circumstance arise which may affect the state of conservation of the concerned environmental media such as wetland, heritage sites or areas of sensitive biodiversity. Examples are as follows: The Antarctic Treaty and the Protocol on Environmental Protection to the Antarctic Treaty, The Convention on Wetlands of International Importance especially as Waterfowl Habitat, The World Heritage Convention, The Convention on the Conservation of Migratory Species of Wild Animals and The Convention of Biological Diversity (DEAT, 2005:13-14).

However there are two international agreements that specify scheduled or listed activities that are subjected to environmental assessment before commencement, these activities are considered to have significant impacts on the environment. These lists of activities are contained in the Espoo Convention (Convention on Environmental Impact Assessment in a Transboundary Context, 1991) and the Aarhus Convention (The Aarhus Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters, 1998) (DEAT, 2005:9).

Environmental rights of citizens cannot be achieved without the gathering and exchange of environmental information. The Aarhus Convention highlighted the purpose and the importance of integrating public participation in environmental decision making, outlining the necessity for and the fulfilment of the following rights: gaining access to environmental information; Public participation in decision-making and Access to justice in environmental matters (Du Plessis 2008:253; Hartley and Wood 2005:320). The Aarhus Convention played a major role in shaping the global public participation process (Murombo, 2008:169). The convention's key requirements of effective participation are early involvement of the interested and affected public, communication, access to all documentation pertinent to the decision-making process, the public must be allowed to raise comments/questions and the public authority/body where comments can be directed, time frames must be stipulated and the input of the public must considered in the decision making process (DEAT, 2005:16; Hartley & Wood, 2005:326-237).

3.3 South African Public Participation Framework

In 1995 the government of South Africa initiated the Consultative National Environmental Policy Process (CONNEPP) with the main aim of protecting stakeholders' input in the development of new policy. It led to the emergence of environmental public participation in decision making in South Africa, the contents of this initiative were crucial therefore led to the adoption of National Environmental Management Act (NEMA) in 1998. The advent of democracy in South Africa gave birth to the Constitution in 1996, which resulted in various Acts that have been promulgated and programmes that were implemented to give effect to the requirements for environmental assessment, and they resonate with various international law instruments and agreements (DEAT, 2005:19). The Constitution of the Republic of South Africa (1996) (the Constitution) which is the

overarching legislation in the republic, endorses the country's commitment to public participation (UCT, 2007:74).

3.3.1 The Constitution of the Republic of South Africa (1996)

The Constitution doesn't state explicitly the right to participate, yet it provides the bill of rights which facilitates effective public participation in environmental decision making (Kotze, 2008:1). Murombo (2008:112) points out that the bill of rights contained in The Constitution doesn't only protect the environmental rights of the people of the republic but incorporates other issues such as sustainable development. One of the fundamental rights is the right to an environment that is not harmful to health and well-being. Section 24 (b) obliges that the government of South Africa to put legislative and other measures in place to promote, among other things, ecologically sustainable development (Murombo, 2008:112).

Environment

Section 24

"Everyone has the right -

(a) to an environment that is not harmful to their health or well-being; and

(b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that -

(i) prevent pollution and ecological degradation;

(ii) promote conservation; and

(iii) Secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development." (South Africa, 1996)

The recognition of the constitutional right to a healthy environment relies on the accessibility of information regarding the state of the environment and the impact of human activities, without a doubt this provision indicates the need for public participation (CER 2013:2, Du Plessis, 2008:185).

Section 32 and Section 33 of the Constitution support the notion by expressing other basic rights that will enhance participation: the right of access to information (section 32) and the right to just administrative action (section 33) (Du Plessis, 2008:185).

Access to information

Section 32

(1) Everyone has the right of access to —

(a) any information held by the state; and

(b) any information that is held by another person and that is required for the exercise or protection of any rights.

(2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state (South Africa, 1996).

Just administrative action

Section 33

(1) Everyone has the right to administrative action that is lawful, reasonable and procedurally fair.

(2) Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.

(3) National legislation must be enacted to give effect to these rights, and must —

(a) provide for the review of administrative action by a court or, where appropriate, an independent and impartial tribunal;

(b) impose a duty on the state to give effect to the rights in subsections (1) and (2); and

(c) promote an efficient administration (South Africa, 1996).

3.3.2 Legislative framework

In order to ensure that the rights prescribed by the Constitution are realised, legislation and guidelines have been enacted. The following legislation ensures that the implementation of public participation is carried out effectively:

The Promotion of Access to Information Act 2 of 2000 (PAIA)

This act ensures that section 32 of the Constitution is put into practice effectively. It reinforces the right of any person to access any information held by state and private bodies. This act prescribes

procedures to be used when requesting access to information, provides for the grounds in which information can be refused and measures for assistance and recourse when access of information is refused (CER 2013:2).

Promotion of Administrative Justice Act 3 of 2000 (PAJA)

This act gives effect to section 33 of the Constitution. This act ensures that administrative action will be reasonable, lawful and procedurally fair. It ensures that reasons are given to any person who feels that an administrative action has a negative impact on their rights. This legislation aims to ensure that the administration is effective and accountable to the people (Du Plessis 2008:185).

National Environmental Management Act 107 of 1998 (NEMA)

The National Environmental Management Act (NEMA), which is the overarching legislation that applies to environmental matters, was enacted by the government of South Africa as per its duty prescribed by section 24(b) of the Constitution to put in place legislative and other measures to promote, among other things, ecologically sustainable development (Murombo 2008:112-113). The NEMA contains a number of environmental principles and some principles point to the importance of assessing impacts of activities and public participation prior to decision making (Fourie, 2010:2; Du Plessis, 2008:187). Principles contained in sections 2(4)(f) and (g) of NEMA enable interested and affected parties to participate in environmental decision-making (Kotze 2008:2). Sections 2(4) (f) and (g) of NEMA reads as follows:

(f) The participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured” (South Africa, 1998).

(g) Decisions must take into account the interests, needs and values of all interested and affected parties, and this includes recognizing all forms of knowledge, including traditional and ordinary knowledge (South Africa, 1998).

Murombo (2008:113) highlights that the principles above clearly illustrate the integration of public participation and EIA, which is a strategic tool for environmental management.

The Environmental Impact Regulations and Public Participation

Chapter 5 of NEMA read with Chapter 6 of the 2006 and Chapter 5 of the 2010 EIA regulations prescribes the manner in which the EIA and the public participation process can be carried out (Murombo 2008:116).

Section 24(4)(a) of NEMA sets out the process that must be followed when investigating, assessing and communicating the potential impact on the environment. The process must *inter alia* ensure, with respect to every application for environmental authorisation:

- The coordination and cooperation between organs of state in the consideration of assessments where an activity falls under the jurisdiction of more than one organ of state;
- That the findings and recommendations flowing from an investigation, the general objectives of integrated environmental management laid down in the Act and the principles of environmental management are taken into account in any decision made by an organ of state in relation to any proposed policy, programme, process, plan or project;
- That potential consequences or impacts are considered; and
- That interested and affected parties and all organs of state that have a jurisdiction over any aspect of the activity be provided with information and participation procedures and be afforded an opportunity to participate (DEA&DP 2011:7).

Section 24 D of the NEMA bestows the power on either the Minister or Member of the executive council (MEC – provincial) to identify the activities that are deemed to have a significant impact on the environment. The activities are subjected to a compulsory EIA. These activities are contained in listing notices that are published by the Minister or MEC in terms of Section 24 of the NEMA (DEA&DP 2011:8-9).

The NEMA EIA regulations adopted a two-pronged approach: Basic Assessment (BA) and the Scoping and Environmental Report (S&EIR) (Murombo 2008:118). The BA is applicable to minor projects; the predicted impacts are seen as easily predictable, not likely to have a significant impact on the environment and managed consequently it seen as not mandatory to delay project initiation by requiring rigorous assessment (Murombo 2008:118). BA is applicable to activities which are listed in GN R.544 and GN R.546 (activities that are located in specified geographic areas) of 18 June 2010 regulations (DEA&DP 2011:9).

The S&EIR route is applied to major or more complex projects where the impact on the environment is deemed to be of high risk and have a significant impact on the environment (Murombo 2008:118). This assessment entails three stages: submission of an application to authorities; a scoping phase and the full EIA process. The S&EIR is applicable to activities which are listed in GN R.545 of 18 June 2010 regulations ((DEA&DP 2011:9 -10).

The integration of public participation in the EIA process is legally required by NEMA. According to the EIA regulations, the I&AP must have opportunity to participate in a proposed application (DEA&DP 2011:15). Public participation in the EIA process is summarized in Figure 2 (Basic assessment) and Figure 3 (S&EIR) below. Legislation clearly stipulates the information that must be disseminated to the public and the public participation procedures are specified as a minimum

requirement in terms of Section 24(4) (a) of the NEMA and EIA regulations. In terms of these regulations, an applicant cannot be exempted from having to undertake public participation, but an applicant can apply to be exempted in terms of the extent and level of public participation to be undertaken (DEA&DP, 2011:8).

Figure 2: Basic Assessment process (source: Jikijela, 2013)

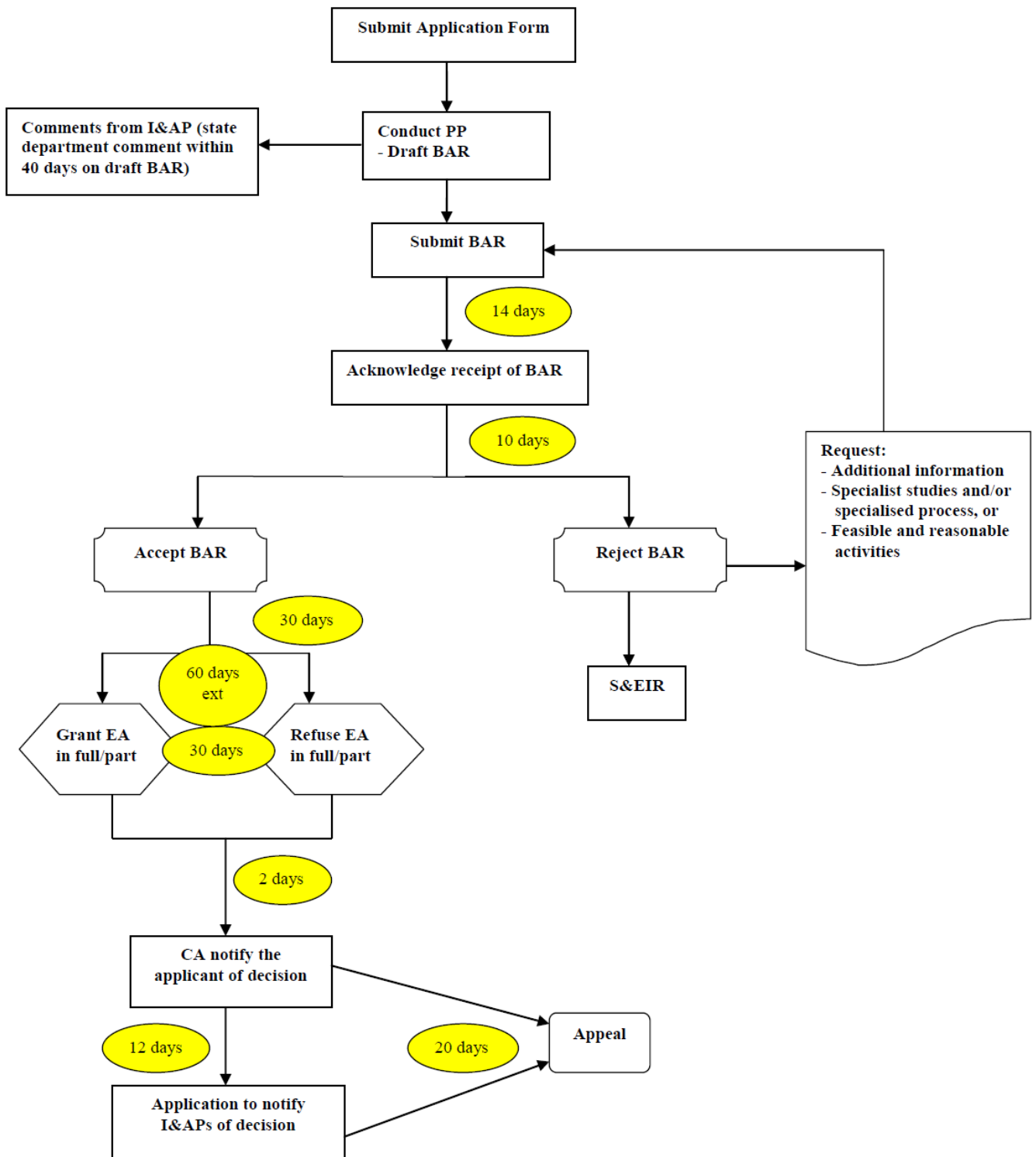
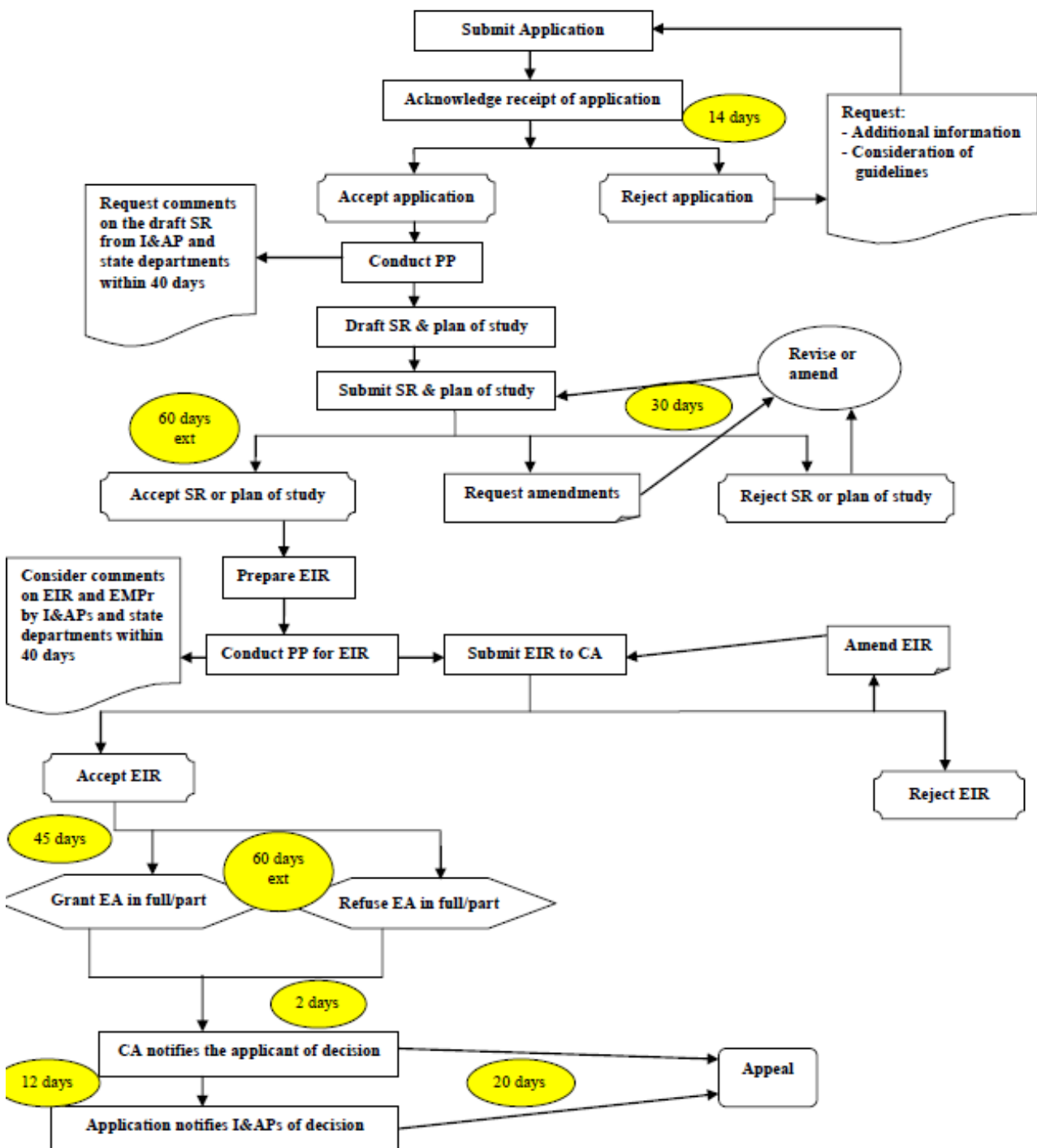


Figure 3: S&EIR process (source: Jikijela, 2013)



3.4 Conclusion

While the EIA regulations explicitly prescribe that the public should be consulted during the EIA study and must be given the opportunity to comment on the EIA reports, there is no clear direction on

whether they are entitled to comment on the final report and not only the draft report. The confusion has led to litigation and as a result the courts of law confirmed that the public are also entitled to comment on the final report and not only the draft report (Murombo, 2008:118). A critical fissure in the public participation process is that the interest I&APs only get involved in the process after the EAP has sent out the application for the EIA process; this negates a number of key stages in the EIA process, such as the need to consider alternatives. Therefore consideration of alternatives after this stage is merely wasting time, as a decision would have already been made to go for a particular project design and location (Murombo, 2008:119). The methodology used to review the effectiveness of public participation will be explained in the next chapter

4 Chapter Four: Research Methodology

“Inquisitiveness is the mother of all inventions. Human being, by its instinct, is curious in nature; everywhere they want to know what is this, what is this for, why this is so, and what’s next. This inquisitiveness has laid the foundations of many inventions,” (Sahu, 2013).

This section outlines the research design, sampling methods, data collection and the methodology of execution.

4.1 Introduction

There are various ways and methods of discovering the unknowns, and ways which answer inquisitiveness (Sahu, 2013:1). Parahoo (2006) defines research design as “a plan that describes how, when and where data are to be collected,” (Aregbeshola, 2009:70). Sahu (2013:3) states that research methodology incorporates steps which researchers follow when studying problems and adopts logical sequences.

This chapter describes the research methodology employed to address the main research objective. The chapter provides the structure of the research design, sampling techniques, data collection, data analysis and the methodology of execution.

4.1.1 Scope of the research

The study is narrowed down to focus on the main aim of the research i.e. the effectiveness of public participation in decision making. The common view is that that public participation is seen and implemented as a rigid one size fits all process, and that the comments/issues raised during the public participation meetings are not always reflected in the conditions of environmental authorisations and that the inputs of interested and affected parties’ are limited to the pre-authorisation phases, which is only a portion of the process i.e. the I&AP’s are not involved in the environmental management of the full life cycle of the activity. A research design and methodology will be applied to provide evidence for the validity of the perception and to find solution to the problems.

4.1.2 Research design

Quantitative, qualitative and descriptive data collection techniques were employed for this study. In order to answer the research question the participant observer technique (registering as an interested and affect party) was employed to gain an insider’s point of view. The participatory method included interviewing various stakeholders and attending public meetings. The methodologies employed are described below.

4.1.3 Sample design

Sampling frame

The public participation process involves three main role players i.e. the authorities (government officials), the consultants (environmental assessment practitioners – EAP) and the public – interested and affected parties. Their involvement can be summarised as follows:

- Competent Authorities (government officials) – responsible for decision making
- Consultants (Environmental Assessment Practitioners – EAP) – facilitators of the EIA public participation process. They act on behalf of the environment, but are appointed by the applicant.
- Interested and affected parties (I&AP) - any person/organisations interested in or affected by an activity.

Sampling size

The researcher targeted 25 government officials (competent authorities) – however only 11 responded; 40 EAPs – only 17 responded; and 40 interested and affected parties – only 29 responded.

Table 5: Number of respondents

Participant Field	Number of questionnaires send out	Responses received	Percentage Participation
Interested and Affected Parties	40	29	72.50%
Environmental Assessment Practitioners	40	17	42.50%
Competent Authorities	25	11	44.00%

The sample size was deemed sufficient due the constraints that were encountered, as outlined in section 4.1.5. Given the exploratory nature of this investigation, this sample size was regarded as sufficient to provide a valid view of participant experiences.

4.1.4 Research design

Quantitative, qualitative and descriptive data collection techniques were employed for this study. In order to answer the research question the participant observer technique (registering as an interested and affect party) was employed to gain an insider’s point of view. The participatory method included interviewing various stakeholders and attending public meetings. The methodologies employed are described below.

4.1.5 Data gathering

After the research question has been identified, literature containing research conducted on the same subject was consulted to identify their short falls, and how previous work could be improvised or thought afresh to solve the present problem. This assisted greatly in the concretisation of the research idea and the methodology developed (Sahu, 2013:412).

Particular attention was given to the selected three case studies illustrating the effectiveness or short falls of public participation in the EIA process. Internet searches were also conducted to source research articles and any other information relevant to the topic at hand.

Participatory Observation Technique

Kawulich (2005:3) highlights that "the goal for design of research using participant observation as a method is to develop a holistic understanding of the phenomena under study that is as objective and accurate as possible given the limitations of the method".

The method provided the research with the ability to check for nonverbal expression of feelings, determine who interacts with whom and how participants communicate with each other (Kawulich, 2005:3). EIA open days/public meetings were attended for Case study 3, informal interviews with all the stakeholders (EAPs, I&AP) were conducted and comments noted.

Questionnaires

Questionnaires are regarded as one of the most effective methods of collecting primary data. A structured questionnaire method was employed i.e. questionnaires were framed befitting the objective of the study and organised in a sequential order and the questions set out that the respondent can have an idea about the logical sequences and chronology of the questions (Sahu, 2013:67). Three questionnaires were developed using the requirements of effective public participation namely:

- **Identification of the public concerned** – these are the people who are either affected by or are interested in the development, and it must be ensured that they must be informed at an early stage to ensure early participation (Clarke, 1994:295, O'Faircheallaigh, 2010:19, Hartley & Wood, 2005:324).
- **Outreach** – the public must be provided with access to information which is accurate, relevant and comprehensive and the technique used to disseminate the information must be suitable for the audience and the information must be presented on time (Clarke, 1994:295, Hartley & Wood, 2005:324).
- **Dialogue must be encouraged** – the facilitators of the participation process must be keen to enter into discussions with the concerned public (Clarke, 1994:295: Hartley & Wood, 2005:324).
- **Assimilation** - allow the public to voice opinions and taking into consideration issues raised (Clarke, 1994:295, Hartley & Wood, 2005:327).

- **The feedback must influence decision making** – the outcome of the process must be able to influence decision making (Clarke, 1994:295, Hartley & Wood, 2005:327).

The questionnaires were developed as follows: EAPs, I&APs and for the authorities (government officials). The questionnaires were distributed via email to IA&Ps, EAPs and officials (competent authorities). The questionnaires were developed and designed with the aim of soliciting opinions from the different stakeholders.

Open-ended questions can generate large amounts of data that can take a long time to process and analyse, hence closed-ended questions were used for this study. Reja *et al* (2004:160) confirm that closed-ended questions produce higher percentages than open-ended questions for answers that are identical in both question forms. Respondents find it easy to respond to the alternatives offered on the closed-ended questionnaires, whereas on the open-ended questions they produced a much more diverse set of answers.

Each questionnaire contained an introductory section related to the personal details of participants, including full name, area of responsibility, designation and duration of public involvement.

Questionnaire 1 (see annexure A): The interested and affected parties questionnaire contained 5 questions, each question broken into 2 to 8 sub questions, responses were grouped under strongly agree, agree, neutral, disagree and strongly disagree to make it easy for interpretation.

The nine questions are summarised as follows:

Question 1 - rationale on public involvement

Question 2 focused on the timing and involvement of interested and affected.

Question 3 focused on the main barriers that could hinder successful I&AP participation.

Question 4 focused on the satisfaction with issues discussed at public meetings.

Question 5 focused on the EIA documentation review by the public.

Questionnaire 2 (see annexure B): The EAP questionnaire contained 4 main questions, each question broken into 4 to 8 sub questions, responses were grouped under strongly agree, agree, neutral, disagree and strongly disagree to make it easy for interpretation.

The five questions are summarised as follows:

Question 1 focused on the rationale behind public involvement.

Question 2 focused on the effectiveness of public participation process.

Question 3 focused on the timing and involvement of interested and affected parties.

Question 4 focused on the main barriers of the public participation process.

Questionnaire 3 (see Annexure C): The competent authority questionnaire contained 10 questions, each question broken into 1 to 8 sub questions, responses were grouped under strongly agree, agree, neutral, disagree and strongly disagree to make it easy for interpretation.

The nine questions are summarised as follows:

Question 1 focused on the importance of public participation

Question 2 focused on the availability of dedicated public participation officers or unit.

Question 3 focused on the officers who review the EIA documentation including the public participation process section.

Question 4 focused on the training received by officers in the area of public participation

Question 5 focused on the public meeting attendance.

Question 6 focused on the usage of checklist methodology to ensure the public participation process has been thoroughly followed.

Question 7 focused on the effectiveness of the checklist method to ensure that the process was successful.

Question 8 focused on the review on the relevance and the effectiveness of the communication method used for specific audience being addressed.

Question 9 focused on whether the methodology used to review EIA reports ensured that the relevant groups were invited to participate.

Question 10 focused on the decision making.

All questions were related to the overall effectiveness of public participation in the EIA process. In order to ensure that the respondents respond with ease, they were given an option to either provide their names or remain anonymous.

Analysis of data was performed using the Statistics Open for All (SOFA) package. The statistical analyses are based on functions available through the Scipy statistic module (www.sofa.com)

Evaluation Criterion: Selected South African case studies

The effectiveness of the public participation process in the selected case studies was evaluated against the Rowe and Frewer (2000) evaluation criteria. This review methodology was an adapted into toolkit developed by the Department of Water Affairs entitled: Evaluation of Public Participation Processes in the Establishment of Water Management Institutions (2009). Since public participation is compulsory for all activities requiring an EIA, the case studies were selected randomly.

The following 3 South African case studies were selected for this study:

Table 6: Details of the selected EIA cases

	Activity	Location	EIA process
Case study 1	Installation of 132kV power lines and substations	Between Vryburg and Stella areas North West Province	S&EIR – Submitted to the National Authority
Case study	Construction of a Nitric acid and Ammonium	Sasolburg , Free State Province	S&EIR – Submitted to provincial authority
Case study	Installation of emulsion and ammonium nitrate storage facilities and change of land use	Carolina, Mpumalanga	BAR - Submitted to provincial authority

The details of the applicants were withheld due to the sensitivity of the information. The EIA files for case studies 2 and 3 were obtained from the applicants and the information for case study 1 was obtained from the EAP website.

4.1.6 Constraints and limitations

Constraints and limitations were encountered during the execution of the data collection exercise and they are as follows:

Lack of interest – the completion of the questionnaire was viewed as a time consuming exercise most of the respondents had to be reminded several times to complete the questionnaires, fewer responses received as compared to what was anticipated.

Most respondents were reluctant to respond, particularly with the competent authority questionnaire.

Only one public meeting was attended due to their location/venue and the time at which they were scheduled.

4.2 Conclusion

This chapter assessed the research method and design. The research constraints faced during the investigation were also discussed. The next chapter examines the 3 EIA case studies and the analysis of the EAP, IA&P and CA’s perspective on various aspects of effective participation.

5 Chapter Five: Data analysis and findings

5.1 Introduction

This chapter will deal with the interpretation of the results, and the effectiveness of the procedure employed.

The overall aim of this study is to investigate the effectiveness of public participation in Environmental Impact Assessment (EIA) in selected South African case studies.

In order to achieve this aim the following three research objectives are set:

- To determine the level in which public participation influences the decision making in the EIA process.
- To determine the extent to which significant issues raised during the public participation process are taken into account and are included as environmental authorisation conditions to ensure post decision compliance and long term sustainability of a project.
- To evaluate the type and suitability of information given to interested and affected parties

Chapter 4 introduced the research methodology for gathering and analysing the data. In this chapter, the results obtained by applying the research methodology are presented, described and interpreted. The Chapter begins with the results of the questionnaires administered, followed by an evaluation of 3 case studies against set criteria.

5.2 Survey results

Three questionnaires were developed with the focus of assessing on how the interested and affected parties (I&APs), the environmental assessment practitioners (EAPs) and the competent authorities (CAs) responded to the presented questions.

5.2.1 Interpretation of Interested and affected perspective

Question 1: Rationale behind public involvement

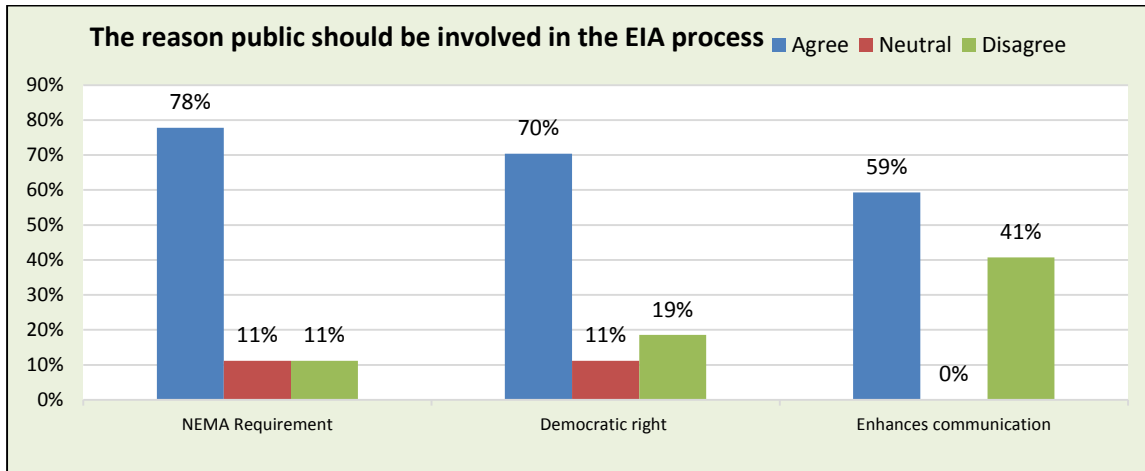


Figure 4: Graphic Illustration of I&APs responses on the rationale of public involvement

70% of I&APs feels that public involvement is a democratic right, while 78% argues that they have the right to participate because it is prescribed by NEMA, and only 59% of the respondents sees the processes as a communication tool.

Question 2: Timing and involvement of interested and affected parties

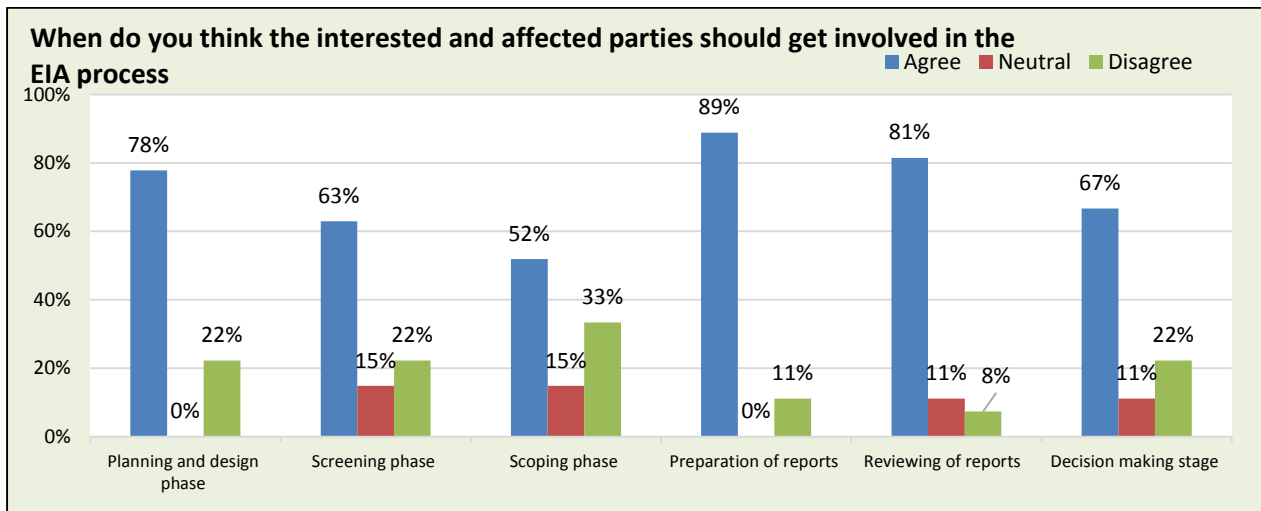


Figure 5: Graphic Illustration of I&APs responses on the timing and involvement of I&AP

It is observed that the majority of the respondents feel that they should get involved in phases of the project, the preparation of reports, reviewing of reports and planning and designed phase tallied 89%, 81% and 78% respectively.

Question 3: Main barriers that could hinder successful I&AP participation

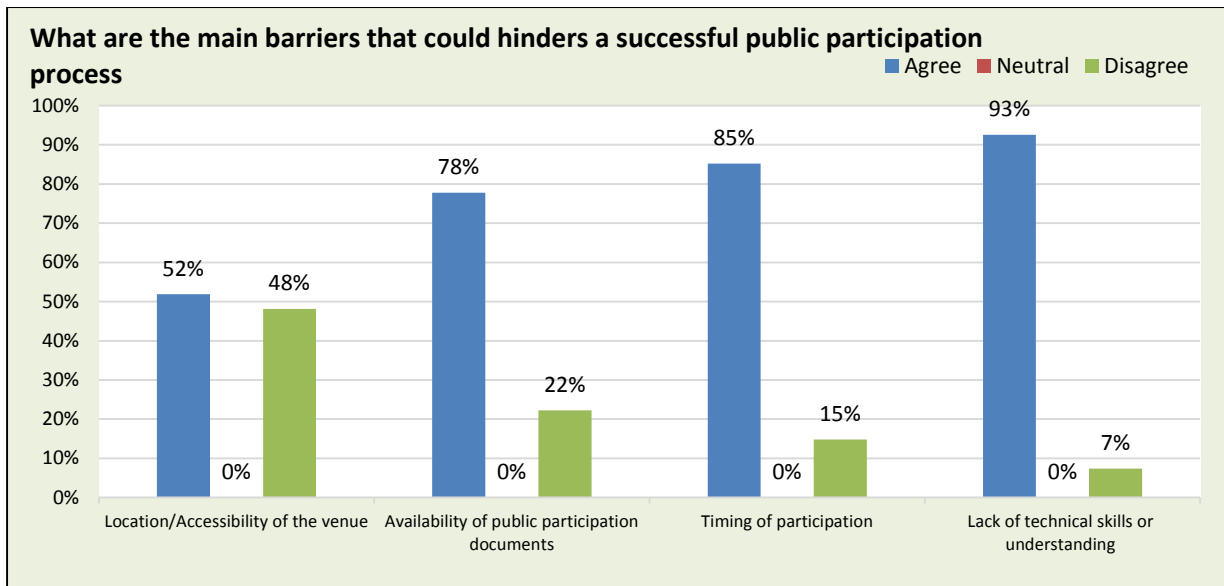


Figure 6: Graphic Illustration of I&APs responses on the barriers that hinders successful public participation

The majority of the respondents are of the opinion that their lack of technical skills, timing of the participation and availability of participation documents are the main barriers to successful participation.

Question 4: Satisfaction with issues discussed at public meetings

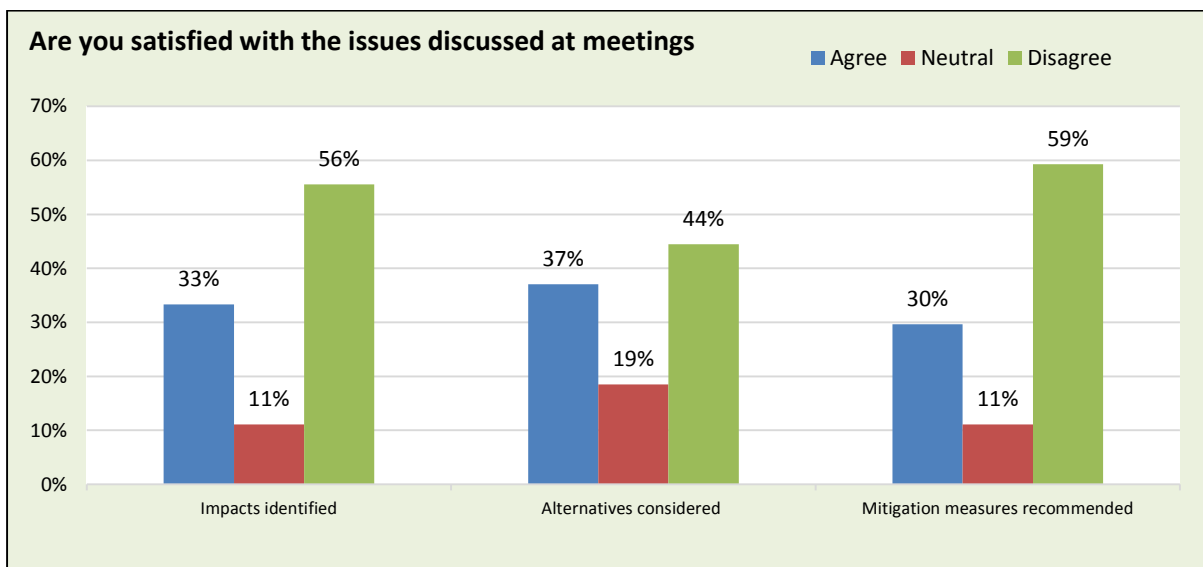


Figure 7: Graphic Illustration of I&APs satisfaction with issues discussed at public meetings

The majority of the I&APs are not satisfied with the information presented at public meetings – the results depicts dissatisfaction with impacts identified (56%), mitigation measures recommended (59%) and alternatives considered (44%).

Question 5: EIA documentation review by the public

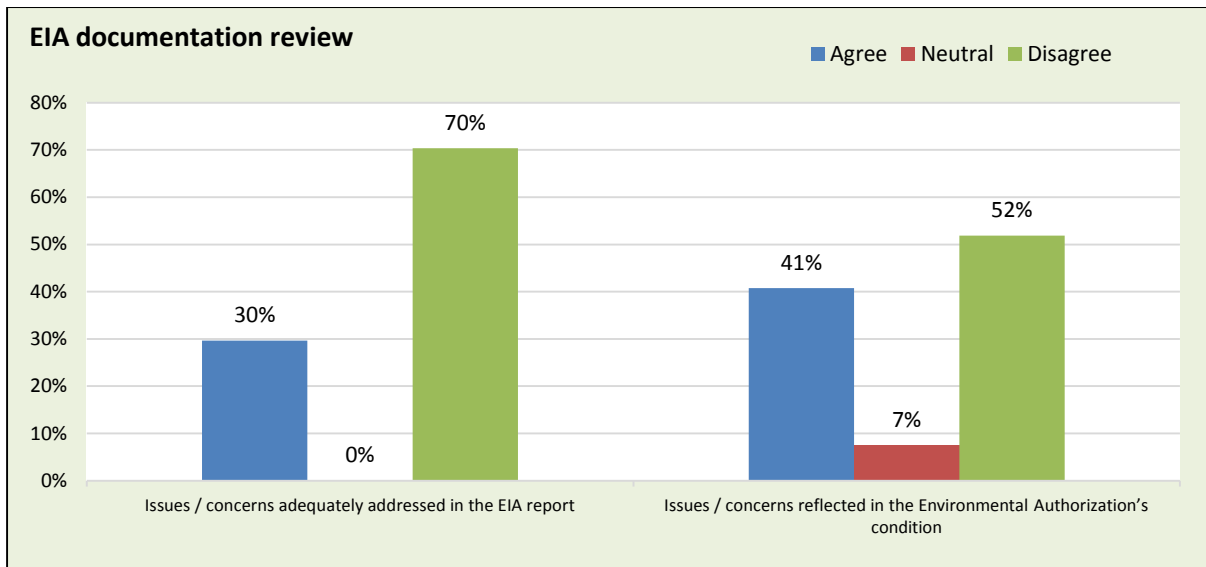


Figure 8: Graphic Illustration of I&APs responses on EIA documentation review

70% of the interested and affected parties feel that the issues that were raised at the public meetings are not adequately addressed in the EIA reports, while 52% is of opinion that issues raised are not reflected in the conditions of environmental authorisation.

5.2.2 Interpretation of EAP perspective

Question 1: Rationale behind public involvement

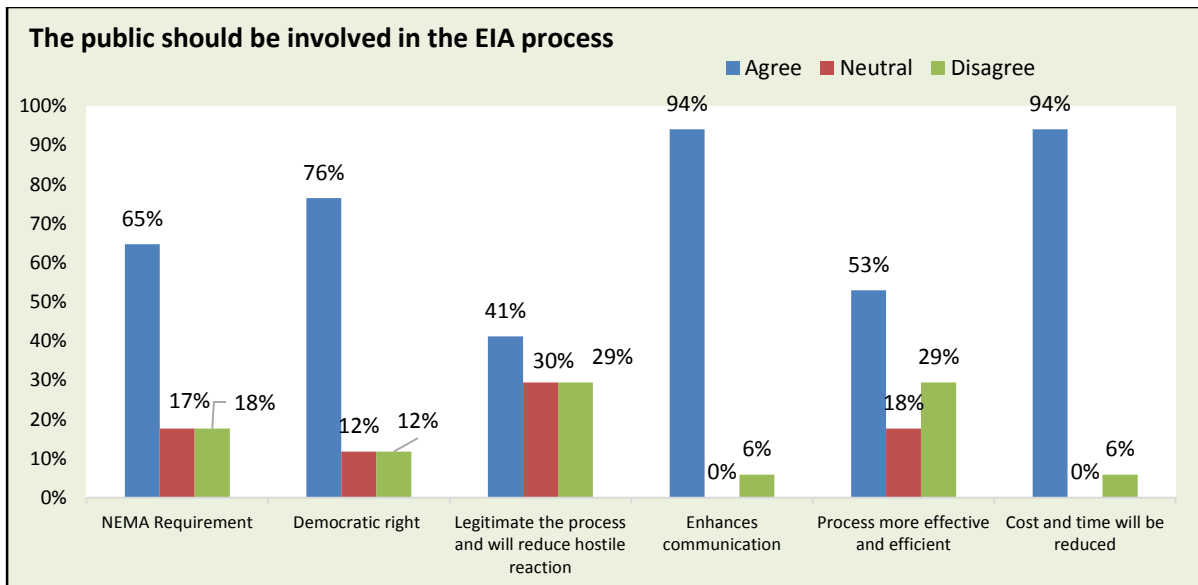


Figure 9: Graphic Illustration of EAPs' responses on public involvement

The majority (94%) of the EAPs views public participation as a tool to save costs and that enhances communication. While 76% of the EAPs views the process as a democratic right and only 65% sees the implementation of the process as a requirement by legislation.

Question 2: Effectiveness of public participation

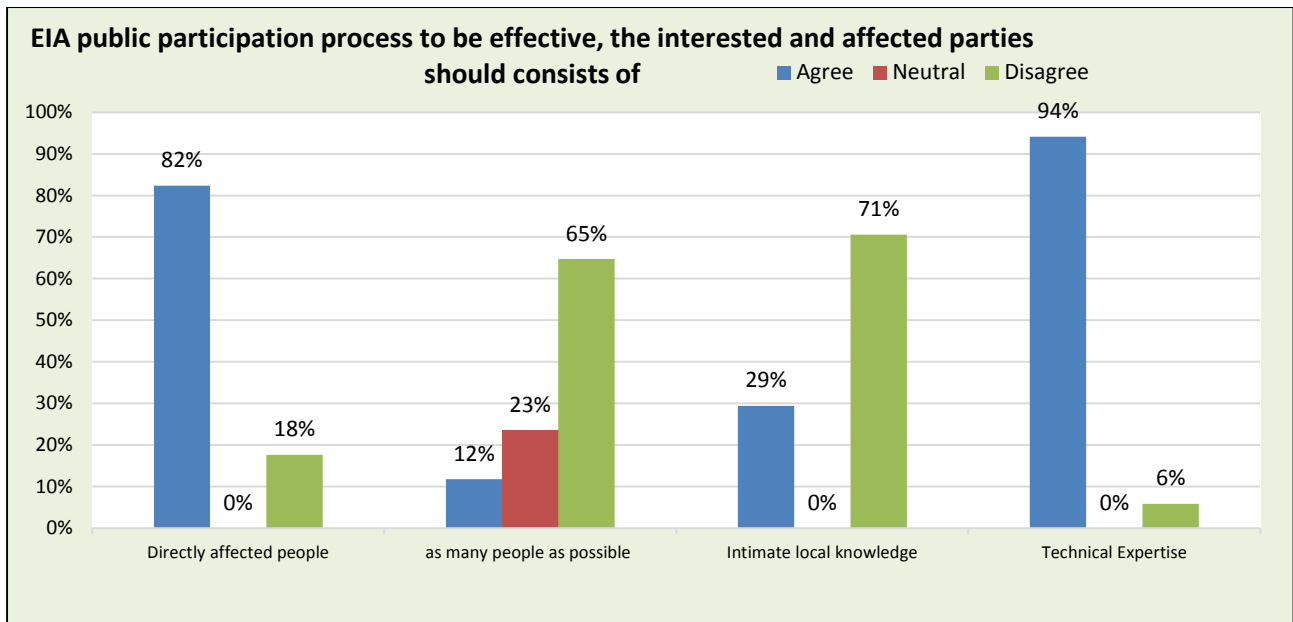


Figure 10: Graphic Illustration of EAPs’ responses on the effectiveness of public participation

The majority of the EAPs are of opinion that people who are affected by the proposed development and stakeholders with technical expertise should participate to make the process efficient.

Question 3: Timing and involvement of interested and affected parties

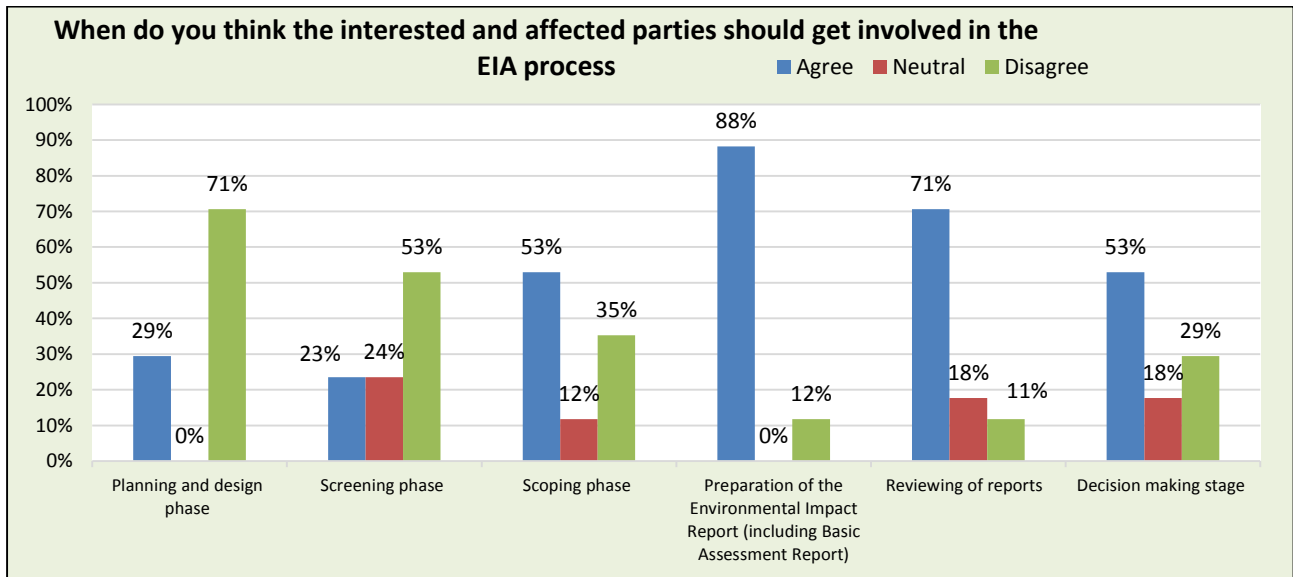


Figure 11: Graphic Illustration of EAPs’ responses on the timing and involvement of interested and affected parties

88% of EAP are of the opinion that I&APs should be involved during the preparation of reports whereas 71% believes the IA&Ps can get involved when the reports are reviewed.

Question 4: Main barriers of the public participation process

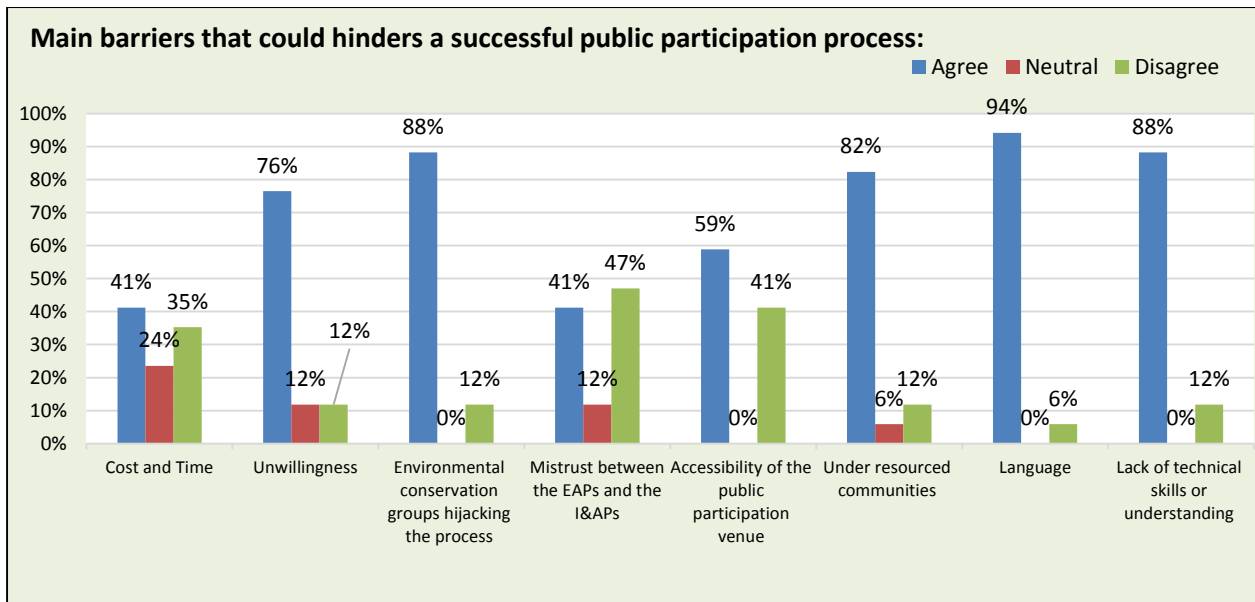


Figure 12: Graphic Illustration of EAPs’ responses on the main barriers of the public participation process

Language, Lack of technical skills, willingness to participate and hijacking of the process by conservation groups are viewed as the main barriers of the process.

5.2.3 Interpretation of CA perspective

Question 1: Importance of public participation

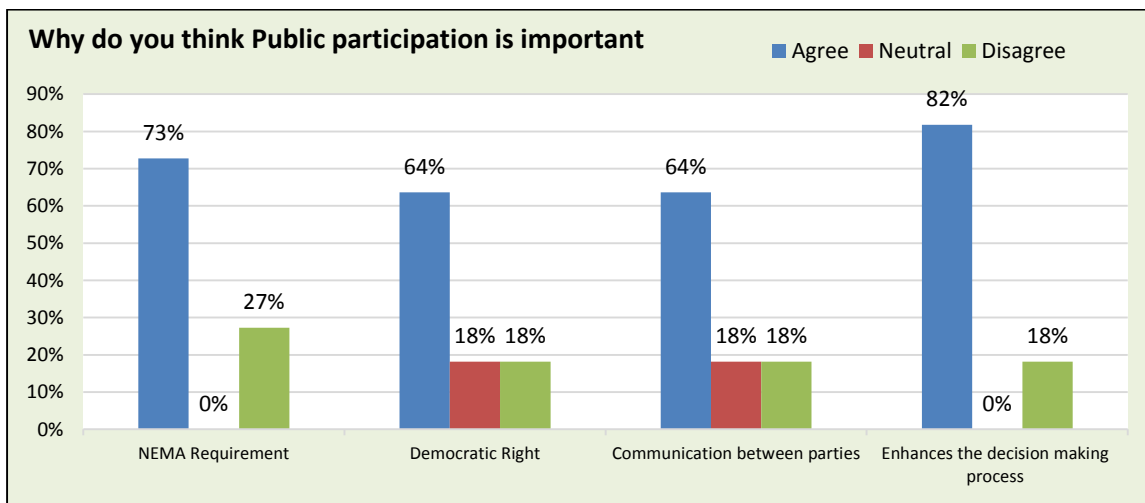


Figure 13: Graphic Illustration of CAs responses on the importance public participation process

The CAs view public participation as a process that enhances democratic rights, communication and decision making. CAs also acknowledge that public participation is also a requirement of the NEMA.

Question 2: Availability of dedicated public participation officers or unit

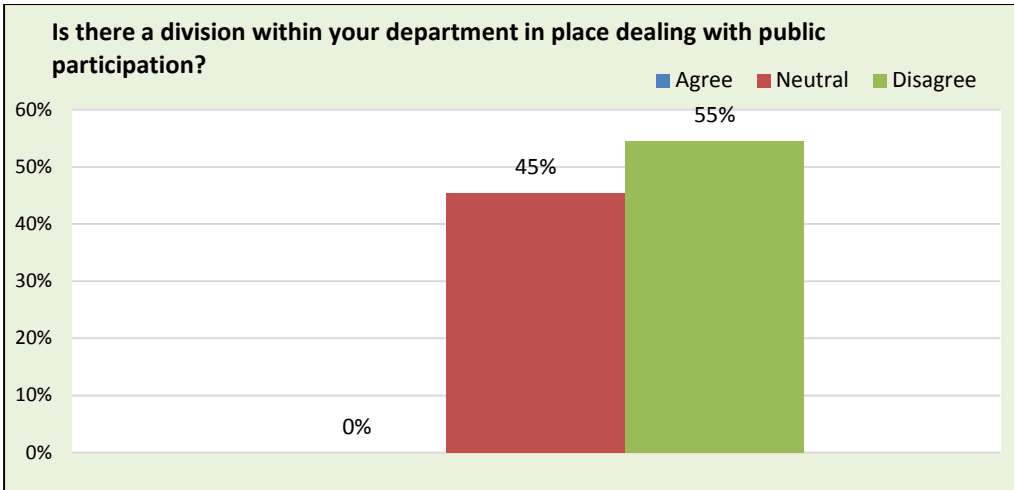


Figure 14: Graphic Illustration of CAs responses on the importance public participation process

None of the CAs agrees that there is a dedicated public participation unit/officers in their department, 55% affirmed that there are no dedicated public participation unit or officers at their department while 45% preferred to be neutral.

Question 3: Officers reviewing the EIA documentation including the public participation process section

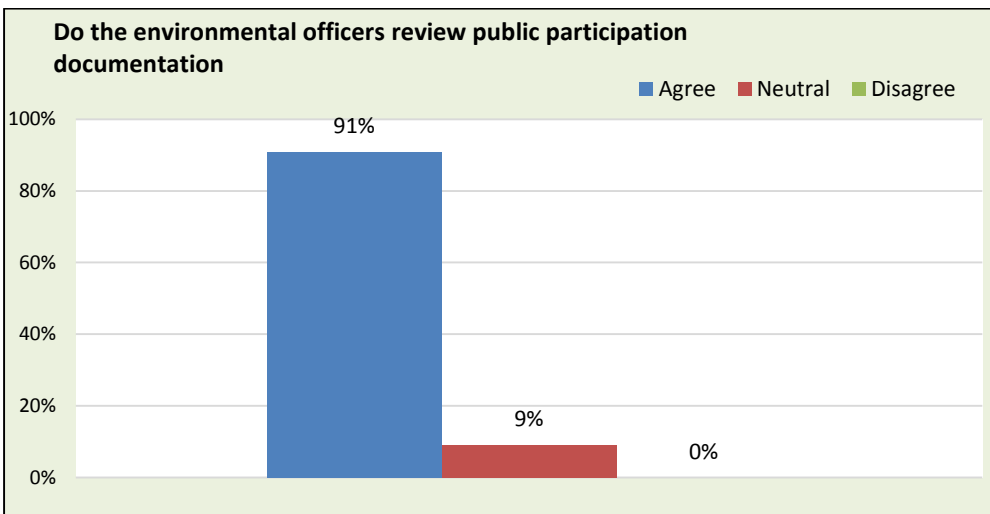


Figure 15: Graphic Illustration of CAs responses on officers reviewing EIA documentation

91% of CAs confirmed that documentation is reviewed by the allocated environmental officers.

Question 4: Training received by officers in the area of public participation

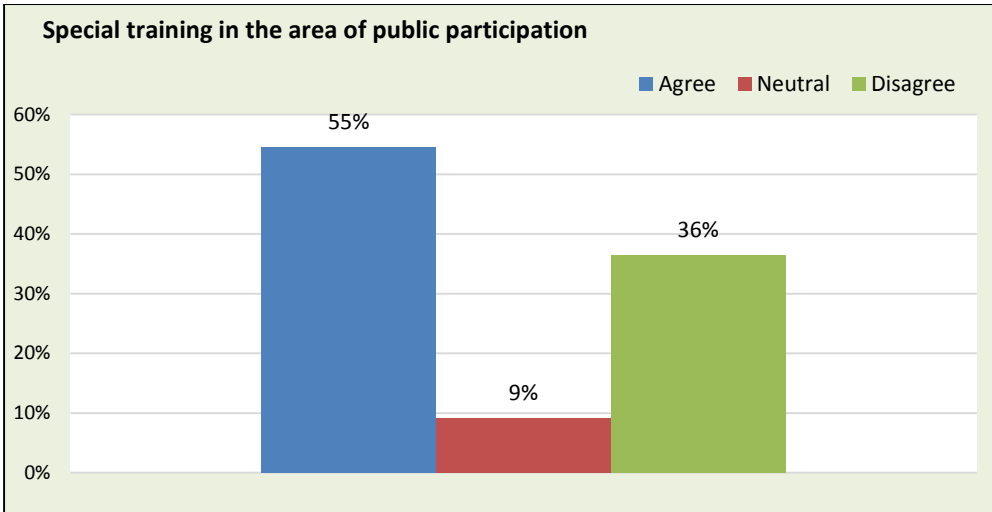


Figure 16: Graphic Illustration of CAs responses training received by officers in the area of public participation

55% confirmed that they were trained, and 35% were not trained even though they handled EIA applications.

Question 5: Public meeting attendance

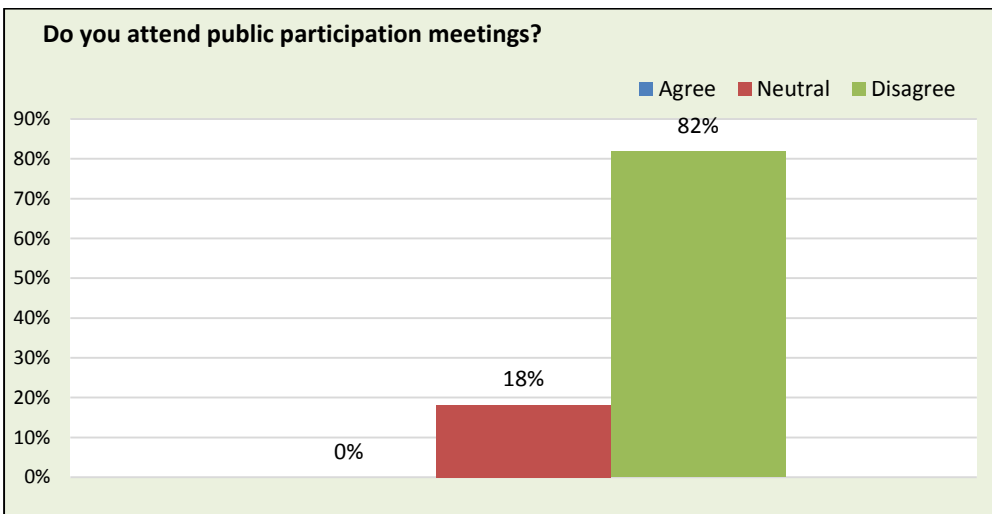


Figure 17: Graphic Illustration of CAs responses on meeting attendance

82% confirmed that they don't attend public meetings and 18 % remained neutral.

Question 6: Usage of checklist methodology to ensure the public participation process has been thoroughly followed.

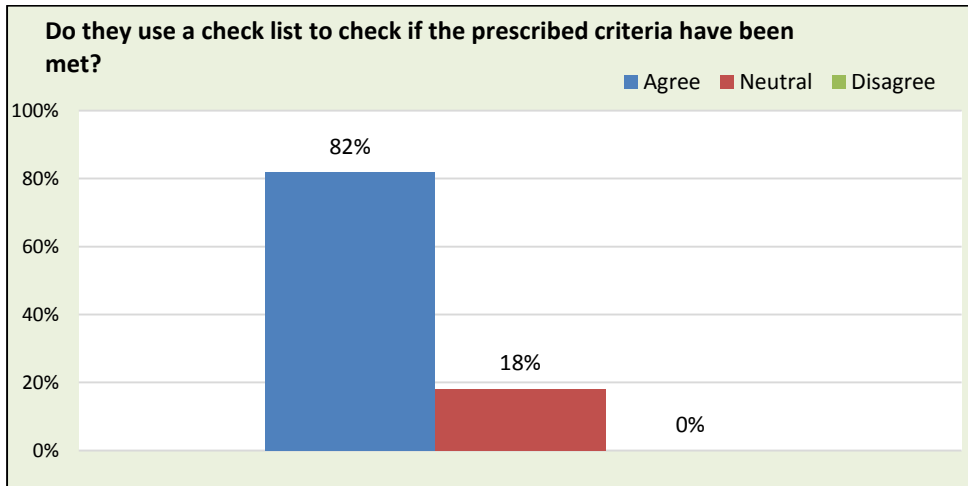


Figure 18: Graphic Illustration of CAs responses on the usage of a checklist

82% of the CAs agreed that a checklist to ensure that the process has been followed through and 18 % preferred to be neutral.

Question 7: The effectiveness of the checklist method to ensure that the process was successful

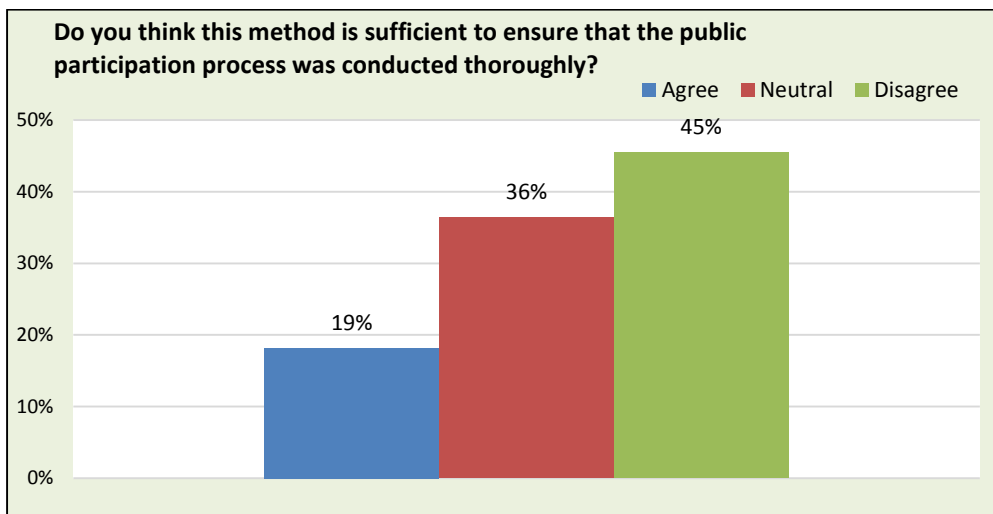


Figure 19: Graphic Illustration of CAs responses on the efficiency of the method to assess the process

Only 19% agreed that the method is efficient and 45% viewed the method as insufficient to assess if the process has been implemented thoroughly and 36% of the participants remain neutral. It is clear that the CAs rely on the information as provided by the EAP.

Question 8: the review on the relevance and the effectiveness of the communication method used for specific audience being addressed

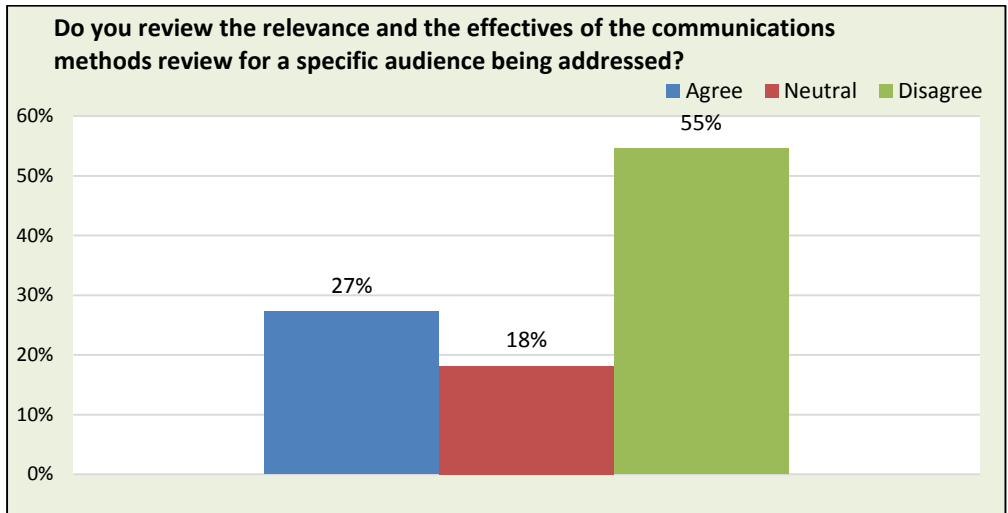


Figure 20: Graphic Illustration of CAs responses on the effectiveness of communication method

56% of the CAs confirmed they don't review the method used to address the specific audience. Only 27% agreed that they reviewed that method while 17 % remain neutral.

Question 9: Insuring that relevant groups were invited to participate

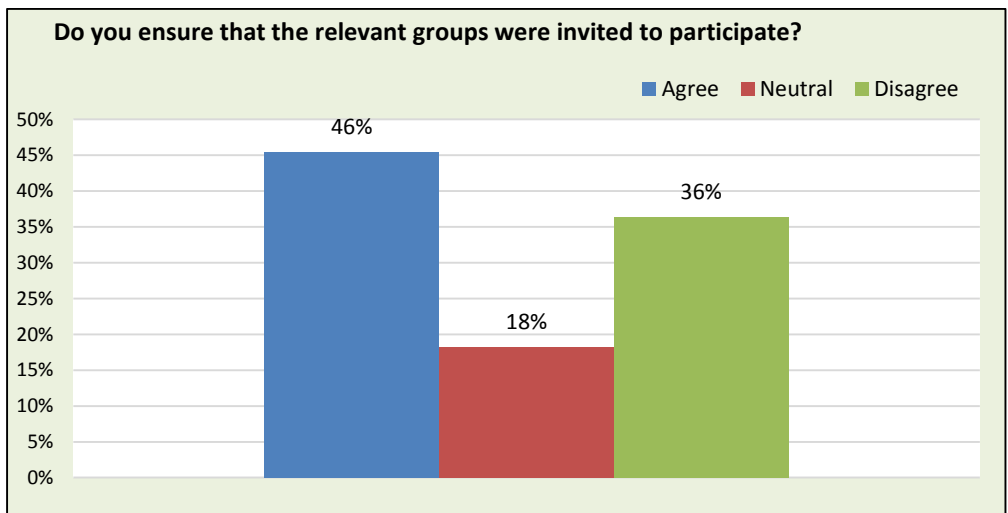


Figure 21: Graphic Illustration of CA responses on the relevance of participation group

46% of the CAs agreed that they verify if the relevant interested and affect parties are invited to the open days, however 36% confirmed that they don't verify.

Question 10 focused on the decision making

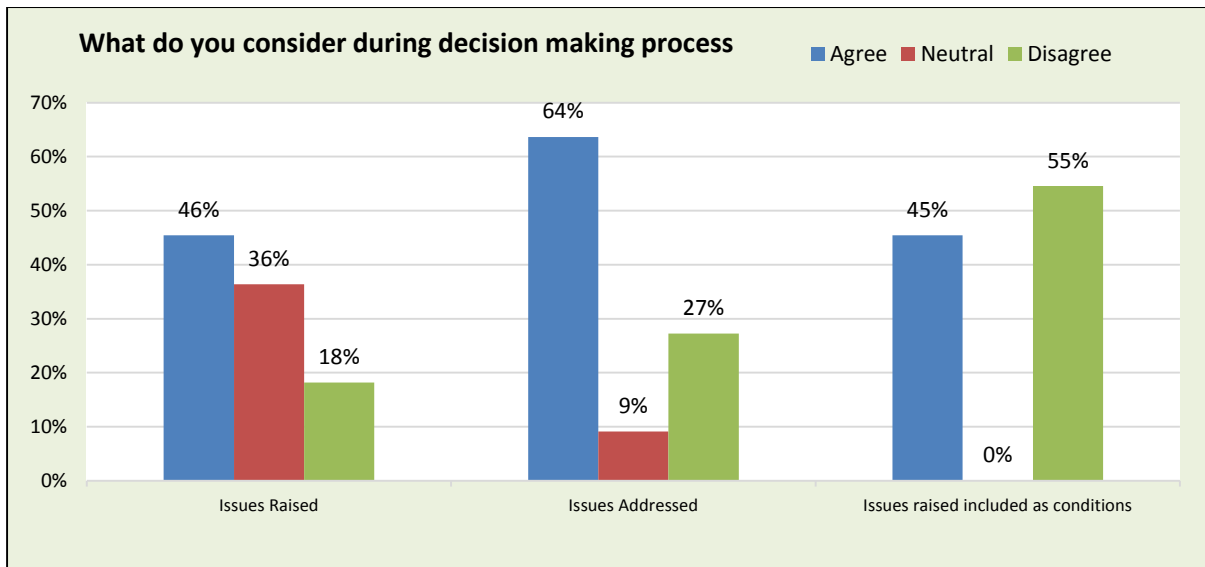


Figure 22: Graphic Illustration of CAs responses on the issues considered during decision making process

There is a general consensus that issues raised (46%), issues addressed (64%) influence the decision making process, however only 45% of CAs agree that the issues raised by the I&APs are reflected as conditions of environmental authorisations.

5.3 Summary of survey results.

Reason for public involvement: The competent authorities view is that public participation enhances decision making, whereas the EAPs view the rationale for the process as a cost and time saving instrument. The IA&Ps felt that they should be involved as it is a requirement from the National Environmental Management Act (NEMA) and do not necessarily see it as part of the communication between the parties or that it facilitate the decision making process. This is more a formalistic view of compliance rather than the intent of the law for facilitating communication. The reason why the public might feel this way could be the frustrations felt during the process and the results of their efforts as they have experienced it.

Effectiveness of the Public Participation Process: Although an extensive public participation process is followed, parties still feel that there are barriers in the process for it to be effective. IA&Ps feel that they lack of technical skills and the understanding of detail given in the reports make the process and this limits their ability to comment and give a valuable input in the process. Also the I&APs feel that the timing of participation doesn't allow them to give input in the selection of alternatives, they argue that the alternatives are selected prior to the meeting and the pros and cons of each alternative are just presented to them and no input is required form them. The practitioners' view this is one of the main stumbling blocks in the process and feel that communities are under resourced. Environmental conservation groups are also these days such an active participant that

the community feels that the commenting should rather be done by more experienced people like these conservation groups, although the practitioners have experienced them hijacking the process to promote their own agenda. Both the I&APs and EAPs feel that the effectiveness could improve if issues such as language barriers, methods of conducting public participation processes and the availability of reports for scrutiny would improve.

Efficiency of the decision making process: Unfortunately most CAs indicated that there is not a specific trained person who deals with the public participation. The environmental officers review the public participation documentation and determine the correctness thereof using mostly a checklist approach, although 36 % of CAs has not had any specific training in the interpretation of the requirements. It is felt by the officers that this process is not effectively handled and more should be done to ensure that the public is consulted. CAs did indicate that issues raised by I&APs and how the issues are addressed does play a role in the decision making process, however only 45% indicated that the issues raised are included as conditions of environmental authorisations. This highlights a concern since the I&APs are not certain if the issues raised will be followed through after the authorisation has been issued.

5.4 Evaluation of selected case studies.

1) Objective

The overall objective of this study is to investigate the effectiveness of the public participation process in the decision-making process of Environmental Impact Assessments in South Africa.

2) Evaluation criteria

The public participation sections of the reports were evaluated against the nine effectiveness criteria as developed by Rowe and Frewer (2000) which has been defined in chapter 2.

Table 7: Symbols were used to annotate the score of each report.

<u>Symbol</u>	<u>Explanation</u>
A	Generally satisfactory and complete, only minor omissions and inadequacies.
B	Can be considered just satisfactory despite omissions and/or inadequacies.
C	Parts are well attempted but must, as a whole, be considered just <u>unsatisfactory because of omissions or inadequacies.</u>
D	Not satisfactory, significant omissions or inadequacies.
NA	Not applicable. The review criterion is not applicable or it is irrelevant in the context of this section/statement

The symbols given in the higher levels are not calculated averages of the symbols in lower layers. For example, if four sub-categories in specific review category were awarded two As and two Cs, the value of the review category does not have to be a B. If vital information has been left out it could still be given a C.

5.4.1 Case study 1:

Construction and operation of the distribution power lines and substations in the Vryburg and Stella area.

Description of the affected environment:

The Study Area is predominantly rural in character and the predominant land use and economic activity which characterises most of area is commercial beef farming. Areas of dry land maize cultivation occur in the northern parts of the study area and heritage sites (graves). The largest urban centre within the study area is the town of Vryburg, around which much of the proposed electrical infrastructure is proposed.

The specialist assessments listed below were conducted during the EIR phase:

- Biodiversity (Flora and Fauna)
- Avi-fauna (Birds)
- Surface Water
- Geotechnical
- Geohydrology
- Heritage
- Visual
- Social

Activity description

This project includes the construction of two (2) substations and four (4) separate 132 KV power lines; with a total length of approximately 130km. Table 7 below gives a list of activities that triggered an Environmental Impact assessment for this study:

Table 8: Case study 1: Listed activities in terms of the NEMA Regulations

Number and date of the relevant notice:	Activity No (s)	Description of listed activity
Government Notice R387 (21 April 2006)	1(l)	The construction of facilities or infrastructure, for the transmission and distribution of above ground electricity with a capacity of 120 kilovolts or more.
Government Notice R387 (21 April 2006)	2	Any development activity, where the total area of the developed area is, or is intended to be, 20 hectares or more.
Government Notice R387 (21 April 2006)	12	The transformation or removal of indigenous vegetation of 3 hectares or more or of any size where the transformation or removal would occur within a critically endangered or an endangered ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).
Government Notice R386 (21 April 2006)	4	The dredging, excavation, infilling, removal or moving of soil, sand or rock exceeding 5 cubic metres from a river, tidal lagoon, tidal river, lake, in-stream dam, floodplain or wetland.
Government Notice R386 (21 April 2006)	7	The above ground storage of a dangerous good, with a combined capacity of more than 30 cubic metres but less than 1 000 cubic metres at any one location or site.
Government Notice R386 (21 April 2006)	14	The construction of masts of any material of type and of any height, including those used for telecommunications broadcasting and radio transmission, but excluding (a) masts of 15m and lower exclusively used by (i) radio amateurs; or (ii) for lightening purposes (b) flagpoles; and (c) lightening conductor poles
Government Notice R386 (21 April 2006)	14	The construction of masts of any material of type and of any height, including those used for telecommunications broadcasting and radio transmission, but excluding (a) masts of 15m and lower exclusively used by (i) radio amateurs; or (ii) for lightening purposes (b) flagpoles; and (c) lightening conductor poles
Government Notice R386 (21 April 2006)	15	The construction of a road that is wider than 4 metres or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres long.

The public participation process:

The application to conduct an EIA for the proposed project was submitted to the National Department of Environmental on the 18th May 2010 (before the enacted of the 18 June 2010 EIA regulations, so the 2006 regulations were still applicable).

The public participation process that was followed during the Impact Phase of the project was:

- The distribution of EIA Newsletter (Background Information Document – BID)in September 2011;
- The distribution of updated BID in August 2012;
- Holding of Meetings:
 - Focus Group Meetings

- Key Stakeholder Workshop\Public Meeting;
- Review of the Draft Environmental Impact Assessment Report (review period from 24th October 2012 to 22nd November 2012); and
- Rejection of application on 13 June 2013.

5.4.2 Case study 2:

This case study focuses on the construction of a nitric acid plant and an ammonium nitrate plant.

Description of the affected environment:

The Study Area is situated on industrial-zoned land. The size of the site is 29.5993 hectares. The general land use in the area is industrial. The entire site has been devegetated due to industrial activities on site.

The specialist assessments listed below were conducted during the EIR phase:

- Geotechnical
- Geohydrology
- Specialist air quality study

Activity description

A new nitric acid production plant and an ammonium nitrate production plant. The existing storage facilities for the raw materials and products (mainly for nitric acid and ammonia) need to be upgraded and expanded. A new pipeline and pipe rack across the railway line are also needed.

Table 9: Listed activities in terms of the NEMA Regulations

Number and date of the relevant notice:	Activity No (s)	Description of listed activity
Government Notice R386 (21 April 2006)	25	The expansion of or changes to existing facilities for any process or activity, which requires an amendment of an existing permit or license or a new permit or license in terms of legislation governing the release of emissions, pollution, effluent.
Government Notice R387 (21 April 2006)	1(c)	The construction of facilities or infrastructure, including associated structures or infrastructure, for the above ground storage of a dangerous good, including petrol, diesel, liquid petroleum gas or paraffin, in containers with a combined capacity of 1 000 cubic metres or more at any one location or site including the storage of one or more dangerous goods, in a tank farm;
Government Notice R387 (21 April 2006)	1(J)	The construction of facilities or infrastructure, including associated structures or infrastructure, for (j) the bulk transportation of dangerous goods using pipelines, funiculars or conveyors with a throughput capacity of 50 tons or 50 cubic metres or more per day;

The public participation process:

An application for authorisation was submitted to the Free State Department of Tourism, Environmental and Economic Affairs (FSDTEEA) who confirmed receipt on 10 March 2009.

An advertisement was placed in the Vaal Weekblad on 4 February 2009.

A site notice was placed at the office and at the entrance gates to the site. Notices were sent to authorities and neighbours.

Written invitations to the open day and a basic information document were sent to all neighbours and the authorities in the local municipality.

A public meeting was held on 12 February 2009 at the proposed location.

A procedural process followed as per regulations. Authorisation was granted in June 2011 and the amendment was requested due to minor technology changes, amended authorisation was granted on 16 May 2012

5.4.3 Case study 3:

The proposed development entails the construction and operation of emulsion and ammonium nitrate prills silo storage facility and change of land use.

Description of the affected environment:

The Study Area is situated on grassland. The zoning of the land is agricultural and it was used for livestock grazing.

The specialist assessments listed below were conducted during the EIR phase

- Geotechnical
- Biodiversity (Flora and Fauna)

Activity description

The proposed development entails the construction and operation of an emulsion and ammonium nitrate prills silo storage facility. It consists of an oxidising component (ammonium nitrate) and emulsion; a reducing component (can be virtually any source of hydrocarbons). The two compounds are mixed *in situ* (at the mine) with a special pump and exploded with a detonator. Neither ammonium nitrate nor the emulsion can explode spontaneously, but are controlled as explosives by both the Explosives Act and the Occupational Health and Safety Act. The second activity entails the change in land use from agricultural to industrial.

Table 10: Case study 3: Listed activities in terms of the NEMA Regulations

Number and date of the relevant notice:	Activity No (s)	Description of listed activity
GNR 544, 18 June 2010 as amended by GNR 1159 of 10 December 2010	13	The construction of facilities or infrastructure for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 but not exceeding 500 cubic metres
GNR 544, 18 June 2010 as amended by GNR 1159 of 10 December 2010	23 (ii)	The transformation of undeveloped, vacant or derelict land to (ii) residential, retail, commercial, recreational, industrial or institutional use, outside an urban area and where the total area to be transformed is bigger than 1 hectare but less than 20 hectares.

The public participation process:

An application for authorisation was submitted to the Department Economic Development, Environment and Tourism in Mpumalanga and acknowledged on 30 April 2012.

An advertisement was placed in the Hoevelder newspaper on 15 June 2012. A site notice was placed at the office and at the entrance gates to the site. Notices were sent to authorities and neighbours.

Written invitations to the open day and a basic information document were sent to all neighbours and the authorities in the local municipality

A public meeting was held on Thursday 12 July 2012 from 14h00-16h00 at the site in Carolina.

Several comments were received mainly from the neighbours (who registered as I&APs). A comments and response report was prepared.

A procedural process followed as per regulations and an Environmental Authorisation was granted on 30 January 2013.

5.4.4 Evaluation of case studies

The three case studies were evaluated against evaluation criteria. Each report was evaluated individually and the different scores presented in a table. The analysis is presented in Table 11 below.

Table 11: Evaluation of Case studies

Evaluation Criteria	Case Study Evaluation		
Representativeness	Case 1	Case 2	Case 3
The key stakeholders (I&AP) were involved in discussions about the proposed project	C	A	A
Independence			
An independent facilitator was used to develop the application / reports	A	A	A
Early involvement			
Stakeholders (I&AP) were consulted early	B	B	C
Influence			
Stakeholders (interested parties) gave inputs into the into the report	C	A	B
Transparency			
All detailed information used in the application development was readily and openly available	A	B	B
Resource accessibility			
Venues and related resources are easily accessible to all stakeholders	A	C	B
Task definition			
The I&AP were clear about their responsibilities in drafting the report	A	B	B
Structured decision making			
Access to the records of decisions (environmental authorisations) and have the platform to question the decisions	B	C	B
Cost Effective			
The method used to consult stakeholders (I&AP) were cost-effective?	A	B	B

5.5 Findings

Case Study 1

Criterion of representativeness

This study scored low on this criterion due to the fact that on the final impact report dated 10 April 2013, the list of the identified I&APs and registered I&APs does not list the affiliation of key

stakeholders. The farm names have also been omitted and this is not in the interest of certain landowners.

Criterion of influence

This study scored low on this criterion mainly because of failure to address issues raised by IA&Ps, for example: an issue was raised at the public meeting requesting a map for proposed temporary access roads, but the request was not honoured. Also the public participation documentation in terms of submission and representation only covers the participation period between August and November 2012, not the entire EIA process.

On the refusal letter (18 June 2013) from the competent authority the following comment was highlighted that

- The issues raised by the I&APs were not addressed by either the Environmental Impact Report (EIR) or the draft Environmental Management Programme (EMPr).
- There is no proof that the landowners affected by the alternatives have been given notice of the proposed activities.

Case Study 2

Criterion of resource accessibility

This study scored low on this criterion because the public participation documents did not indicate where members of the public can review physical documentation.

Criterion of structured decision making

This study scored low on this criterion because one of the main triggers of an EIA process is the fact that this facility will require a Water Use Licence for effluent discharge and Atmospheric Emission Licence, which are two other processes that assess impacts on air and water. These assessments do not guarantee participation by the same I&APs as their requirements of selecting stakeholders differ. The current I&APs may not be involved in other decision making processes which are “assessed” by the current EIA process.

Case Study 3

Criterion of early involvement

This study scored low on this criterion because an issue regarding a stakeholder involvement in the selection of alternatives has been raised. Even though it is not required by law to involve the public in the selection of alternatives, the I&AP alleged that he feels unsafe with the products of that nature being in his backyard (perhaps NIMBY syndrome), he should have been consulted before the purchase of the land.

The following comment was raised at the public participation meeting:

“Daar is alreeds ’n industriële gebied in Carolina. Waarom word die betrokke stoorfasiliteit in die relatief digbevolkte landelike gebied van Carolina opgerig?” This can simply be translated as: *“There is an established industrial area why did you not consider it instead of the agricultural site of Carolina?”*

The alternate location could not be considered as the applicant had already purchased the land with the intention to erect the storage facilities.

5.6 Conclusion

The above assessment clearly shows that the South African public participation statutory requirements for public participation met most of the evaluation criteria. However the assessment indicated that some areas were not satisfactory, this doesn't necessarily reflect that the requirements were not followed, but that the statutory requirements don't address the deficiencies.

Having attained the goals of analysing the view of key role players about public participation and the selected case studies, the next chapter concludes and gives recommendations to improve the process.

6 Chapter Six: Conclusions and recommendations

6.1 Introduction

This chapter provides final conclusions drawn and recommendations made in respect of the main aim of the research introduced in Chapter One, namely:

To investigate the effectiveness of the public participation process in the decision making process of Environmental Impact Assessments in South Africa

The chapter illustrates that the main aim of the research has been achieved and research objectives have been answered. It can be concluded from the findings in chapter 4 that the public participation process is effective; the process was able to highlight deficiencies in the three case studies without the process the deficiencies would have not been picked up .This chapter therefore provides a summary of the results in relation to each of the respective research objectives and presents the overall conclusions and recommendations.

6.2 Summary of results

The following is the summary of the results with regard to the research objectives.

6.2.1 Objective 1: To determine the level in which public participation influences decision making in the EIA process

Section 2(4)(f) of NEMA stipulates the participation of all interested and affected parties in environmental governance must be promoted and that all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation and that participation by vulnerable and disadvantaged persons must be ensured (Du Plessis, 2008:187).

The results of the EAPs and I&APs questionnaires did not view the process as one that can influence decision making, however the CAs (decision makers) saw the ability to influence decision making as a major rationale for public participation and also they also highlighted its importance. The fact that an applicant cannot be exempted from partaking in the public participation clearly shows an application will not be accepted if public participation was not conducted hence the process is recognized as a major deciding factor. The rejection of Case study 1 by the Competent Authority because certain provisions of the public participation procedure were not met, clearly illustrate that even though a checklist approach is used, the attention is focused on vital aspects of the process.

6.2.2 Objective 2: To determine the extent to which significant issues raised during the public participation process are taken into account and are included as environmental authorisation conditions to ensure post decision compliance and long term sustainability of a project

Case study 2 is a usual example where the issues raised during the process are taken into account. The open day was held concurrently with a Major Hazardous installation Risk Assessment (MHIRA) which was aimed at familiarising the I&AP with the risks associated with the proposed project; based on the input and concerns of the I&AP the applicant considered the alternative 2 location as the most ideal location.

The result of the EAP questionnaire indicated that 45% of EAP did acknowledge that the issues raised are at times included as a condition of Environmental Authorisations.

The CAs confirmed that if an issue is raised and the applicant has to respond and that is regarded as a criterion to ensure the requirements of public participation process are fulfilled, it does happen that the issues raised are addressed in the EMP, hence they argued that not every issue raised is bound to be a condition of the authorisation. The main concern is that once the authorisation has been granted the I&AP has no access to the compliance records in regard to the EMP or the conditions of the environmental authorisation.

6.2.3 Objective 3: To evaluate the type and suitability information given to interested and affected parties

The information given to the I&APs through background information documents (BID) was viewed as adequate. However, the timing of public involvement in respect to information provided regarding alternatives does not afford them the opportunity to select the alternatives. The information is provided with the most desired alternative, sugar coated to favour the developers' interests. One of the requirements of effective public participation is that the public should be involved as early as possible in the process, as soon as value judgments become salient (Rowe & Frewer, 2000:14,). Case study 3 is a typical example. The immediate neighbour objected stating that the time the BID was distributed, the opportunity to select an alternative location for this activity was not realistic. His argument was why didn't the applicant involve him when the preferred location and alternatives were selected? He was adamant that the applicant should have considered purchasing a property at the industrial area. One can argue that he suffers from NIMBY (not in my backyard) syndrome, it can be argued that this is a "value judgement" and the Constitution affords him the right to participate, but is it really participation when the main issue that affects him has already been decided?

6.3 Conclusion

The research covered a number of literature sources relating to the benefits and pitfalls of the public participation process. The research was based on the deduction that public participation is effective in EIA decision making processes. However the following gaps were also identified while assessing the effectiveness of the public participation process:

- The EIA regulations provide that once a decision has been reached regarding an application for a permit, the competent authority making that decision must notify the applicant, who in turn must notify the registered interested and affected parties in writing (CER, 2013:3). In a case where the authorised activity required more than one licence e.g. Water Use Licence (WUL), the interested and affected parties might be omitted because they might not be considered as a participant when such a process is initiated, because the participation process might be driven by different legislation – example Case Study 2 – the activity triggered a WUL – but the I&APs of the EIA process might not get a chance to participate in the WUL process as they might not be considered I&AP as per legislation that governs the IWUL process, even though they might be affected as water users.
- The current EIA regulations do not clearly provide the I&APs the platform to ensure post authorisation compliance; access to post compliance documents is so onerous that I&APs had to take the legal route (PAIA applications) in order to obtain compliance documents.
- The input for the reports-based current requirements do not compel the applicant to disclose much information regarding the impacts (activities) that are governed by other legislation e.g. on the effluent or air emissions.

6.4 Recommendations

During the research there were a number of gaps identified during the assessment as well as through the literature review that could be implemented to improve the effectiveness of public participation in EIAs. There were also three case studies reviewed in Chapter 5 and the key learning derived from them can be implemented. The following is a summary of the recommendations:

- Educating and empowering I&APs with the necessary degree of knowledge to enable them to effectively contribute in decision making.
- Development of holistic, integrated and comprehensive public participation approach. Public participation processes for applications that require more than one licence should have one public participation process for all applications or should submit an integrated application to ensure that the I&APs are given an opportunity to participate in all activities that might have an impact in all environmental media of concern.

- Creation of a publicly accessible repository of environmental authorisation and make it an obligation of licence holders to disclose compliance data in order to ensure post decision compliance.
- Early involvement of I&APs so that their inputs can be considered during formative rather than concluding phases (UCT, 2007:74).
- The appointment of officials who are dedicated to communication with I&APs, this will create one channel of communication and eliminate misunderstandings (UCT, 2007:74).
- Suggestion that the “Comments and Response” method of addressing issues must be reviewed. The absence of an “issues trail” is concerning, since there is no well written and consolidated report listing of the comments submitted as part of the process, and feedback concerning the manner in which these comments had been addressed, concerns or suggestions often “noted” as a response (UCT,2007:54).

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8 Appendix A: Interested and Affected Parties Questionnaire

Interested and Affected Party questionnaire						
Introduction						
My name is Julia Mnengwane currently studying at the North West University, Potchefstroom Campus. I am currently carrying out a survey as part of my Masters degree research work.						
Purpose of the study						
The purpose of the questionnaire itself is to determine the effectiveness of public participation in Environmental Impact Assessment. I hereby request your kind support in this regard, as your opinion on the information supplied below is very curial to the quality of this research, and the validity of the outcome.						
The information provided by you will be treated with utmost confidentiality. I thank you for your anticipated cooperation and kind consideration						
Personal details						
Name						
Contact details						
Duration of Public Participation involvement						
Public Participation Process						
1. The public should be involved in the EIA process because:						
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Neutral
(a) It is required by National Environmental Management Act (NEMA)						
(b) Participation is a democratic right						
(c) It enhances communication between the interested and affected parties and the applicants.						
2. When do you think the interested and affected parties should get involved in the EIA process:						
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Neutral
(a) Planning and design phase						
(b) Screening phase						
(c) Scoping phase						
(d) Preparation of the Environmental Impact Report (including Basic Assessment Report)						
(e) Reviewing of reports						
(f) Decision making stage						
3. What are the main barriers that could hinders successful I & AP participation						

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Neutral
(a) Physical Location of the public participation venue / Accessibility of the public participation venue						
(b) The availability of public participation for scrutiny						
(c) The timing of participation (would like to start the process at the planning phase)						
(d) Language						
(e) Lack of technical skills or understanding						
4. Are you satisfied with the issues discussed at meetings						
(a) Impacts identified						
(b) Alternatives considered						
(c) Mitigation measures recommended						
5. EIA documentation review						
(a) Were your issues / concerns adequately addressed in the EIA report						
(b) Were your issues / concerns reflected in the Environmental Authorization's condition						

9 Appendix B: Environmental Assessment Practitioner Questionnaire

Environmental Assessment Practitioner Questionnaire						
Introduction						
My name is Julia Mnengwane currently studying at the North West University, Potchefstroom Campus. I am currently carrying out a survey as part of my Masters degree research work.						
Purpose of the study						
The purpose of the questionnaire itself is to determine the effectiveness of public participation in Environmental Impact Assessment. I hereby request your kind support in this regard, as your opinion on the information supplied below is very curial to the quality of this research, and the validity of the outcome.						
The information provided by you will be treated with utmost confidentiality.						
I thank you for your anticipated cooperation and kind consideration						
Personal details						
Name						
Contact details						
Duration of Public Participation involvement						
Public Participation Process						
1. The public should be involved in the EIA process because:						
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Neutral
(a) It is required by National Environmental Management Act (NEMA)						
(b) Participation is a democratic right						
(c) The project will be legitimate and the process will reduce hostile reaction from the interested and affected parties.						
(d) It enhances communication between the interested and affected parties and the applicants.						
(e) It makes the process more effective and efficient						
(f) The cost and time will be reduced by including indigenous knowledge and information.						

2. For the EIA public participation process to be effective, the interested and affected parties should consists of						
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Neutral
(a) Members of the public who are directly affected by the proposed project						
(b) As many people as possible						
(c) People who have knowledge about the proposed location or area						
(d) Members of the public with the technical expertise that may be included in the EIA						
3. When do you think the interested and affected parties should get involved in the EIA process:						
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Neutral
(a) Planning and design phase						
(b) Screening phase						
(c) Scoping phase						
(d) Preparation of the Environmental Impact Report (including Basic Assessment Report)						
(e) Reviewing of reports						
(f) Decision making stage						
4. What are the main barriers that could hinders a successful public participation process:						
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Neutral
(a) Cost and Time						
(b) Interested and affected parties unwilling to participate						
(c) Environmental conservation groups hijacking the process						

(d) Mistrust between the developers and the interested and affected parties						
(e) Accessibility of the public participation venue						
(f) Under resourced communities						
(g) Language						
(h) Lack of technical skills or understanding						
(i) Other (Please specify)	Unwillingness of the applicant to embrace a PPP					
6. What are the key factors of effective communication with interested and affected parties:						
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Neutral
(a) Accessibility of projects reports for scrutiny						
(b) The current methods of communication are effective						
(c) Language of communication						

10 Appendix C: Competent Authority Questionnaire

Competent Authority Questionnaire					
Introduction					
My name is Julia Mnengwane currently studying at the North West University, Potchefstroom Campus. I am currently carrying out a survey as part of my Masters degree research work.					
Purpose of the study					
<p>The purpose of the questionnaire itself is to determine the effectiveness of public participation in Environmental Impact Assessment. I hereby request your kind support in this regard, as your opinion on the information supplied below is very curial to the quality of this research, and the validity of the outcome.</p> <p>The information provided by you will be treated with utmost confidentiality.</p> <p>I thank you for your anticipated cooperation and kind consideration</p>					
Details					
Province					
Title					
Experience in EIA reports review and decision making					
Public Participation Process					
1. Why is public participation important?					
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
(a) It is required by National Environmental Management Act (NEMA)					
(b) Participation is a democratic right					
(c) It enhances communication between the interested and affected parties and the applicants.					
2. Is there a division within your department in place dealing with public participation?					
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
3. Do the environmental officers review public participation documentation?					
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree

4. Have they had special training in the area of public participation?					
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5. Do you attend public participation meetings?					
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
6. Do they use a check list to check if the prescribed criteria have been met?					
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
7. Do you think this method is sufficient to ensure that the public participation process was conducted thoroughly?					
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
8. Do you review the relevance and the effectiveness of the communications methods review for a specific audience being addressed?					
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
9. Do you ensure that the relevant groups were invited to participate?					
	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
10. Decision making					
(a) Do the issues raised influence the decision making?					
(b) Do you check if the issues raised have been addressed?					
(c) Do you include the issues raised as conditions of the environmental authorization?					