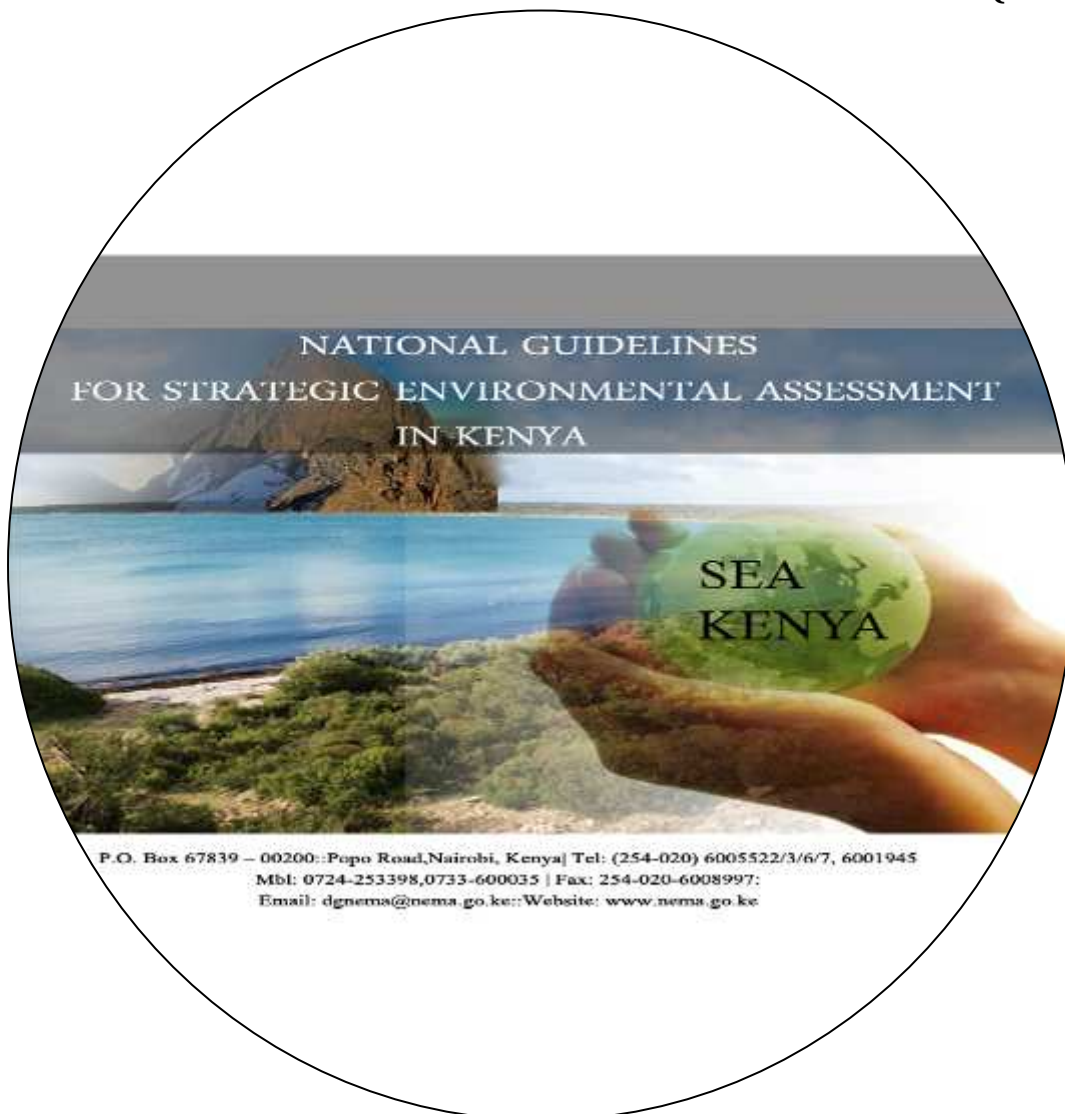




NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY (NEMA)



REVISED FEBRUARY, 2011

FOREWORD

The National Environment Management Authority (NEMA) is mandated under the Environment Management & Coordination Act, 1999, as the principal instrument of the Government on the environmental matters. Key among the objectives of NEMA is identifying projects, Plans, programmes and policies that are to perform environmental assessment and provide adequate remedial measures.

Increasingly, NEMA has faced challenges of inadequacy of the Environmental Impact Assessment (EIA) to deal with cumulative, synergistic, secondary and long term impacts. These impacts can be addressed if policies, plans and programmes (PPP) are subjected to the Strategic Environmental Assessment (SEA) process. This tool analytically and systematically integrates environmental issues into PPP through a rigorous stakeholder engagement process. Consequently, NEMA has formulated the National SEA guideline to give an understanding on the concept, principles, the basic steps and the final outcome of the SEA process

This guideline has been formulated through a consultative process with various stakeholders under the coordination of a NEMA taskforce as a build-up of an earlier version prepared by the Kenya National Cleaner Production Centre (KNCPC). The taskforce borrowed a number of key learning points that have emerged from SEA practice in South Africa and good practice guidance for Development Corporation under the Development Assistance Committee (DAC) of the Organization for Economic Corporation and Development (OECD).

It is my hope that the document will provide a greater understanding of the general principles, basic steps of SEA application, the tools and techniques to be adopted, the final output of the SEA process and enhance the practice of SEA in Kenya.

It is my sincere hope that every Ministry formulating a policy and institutions developing plans and programmes will follow these guidelines.

MINISTER FOR ENVIRONMENT AND MINERAL RESOURCES

PREFACE

This document is one of the series of guideline documents on environmental management in Kenya under the Environmental Management and Coordination Act (EMCA), 1999 and the Environmental (Strategic Assessment, Impact and Audit) regulations, 2003.

The guideline is aimed at a broad readership, which will include government agencies (who are responsible for decision making, formulating policies, reviewing and commenting on environmental reports), environmental experts (who are involved in Strategic Environmental Assessment as part of their professional practice), academicians (who are interested in and active in the environmental assessment field from a research, teaching and training perspective), the civil society and other interested stakeholders.

The document has been designed to apply common approaches for Strategic Environmental Assessment at sector and national levels.

DEFINITIONS

Agenda 21: a Comprehensive Plan of Action to be taken globally, nationally and locally by organizations of the United Nations System governments and major groups that was agreed on by the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro in 1992.

Baseline data: Data that describes issues and conditions at the inception of the SEA. Serves as the starting point for measuring impacts, performance, etc., and is an important reference for evaluation.

Cumulative effects/impacts: Are combined or additive effects on the environment over time or space when added to other past, present or reasonably foreseeable actions. They may seem to be insignificant when seen in isolation, but collectively they have a significant effect.

Environment Impact Assessment: The umbrella term for the process of examining the environmental risks and benefits of project level proposals.

Ex post assessment: An evaluation of the results after implementation of a PPP. This is in comparison to *ex ante* assessment where the results are assessed that a plan, programme or policy is expected or intended to have, i.e. based on prediction and extrapolation; it is a way of assessing whether a proposed project is feasible and leaves the opportunity to consider alternatives and adjust the plan, programme or policy to avoid or enhance the results.

Indicator: a signal that reveals progress (or lack thereof) towards objectives, and provides a means of measuring what actually happens against what has been planned in terms of quantity, quality and timeliness.

Irreversible Negative Impacts: it is an impact that arguably cannot be undone in time using reasonable means.

Limits of Acceptable Change: extremes of environmental quality beyond which society would find further change unacceptable. The LAC thus relate to levels of environmental quality (biophysical)

that are either desired by or would be tolerable to society (largely qualitative values)

Policy: is broad statement of intent that reflects and focus the political agenda of government and initiate a decision cycle; a general course of action or proposed overall direction that a government is or will be pursuing that guides ongoing decision making.

Plan: A purposeful forward-looking strategy or design, often with co-ordinated priorities, options and measures that elaborate and implement policy.

Programme: A coherent, organized agenda or schedule of commitments, proposals, instruments and/or activities that elaborate and implement policy.

Scoping: The process of defining the extent and detail of a SEA, including the identification of strategic issues.

Stakeholder: those who may be interested in, potentially affected by, or influence the implementation of a PPP. In the context of an SEA applied to development co-operation, stakeholders may include the government, donor agencies, local community, NGOs and civil society.

Strategic Environmental Assessment (SEA) - refers to a range of analytical and participatory approaches that aims to integrate environmental consideration into policies, plans and programmes and evaluate the interlinkages with economic and social considerations.

Threshold: levels that should not be exceeded; points at which irreversible or serious damage could occur, either to ecosystems and/or to social systems (health, safety or wellbeing).

Trade-offs: refers to losing one quality or aspect of something in return for getting another quality or aspect. It implies a decision made with the full comprehension of both the upside and down side of a particular choice.

ACRONYMS

| | |
|------------------|---|
| ALARP | As low as reasonably practicable |
| EIA | Environmental Impact Assessment |
| EM&MP | Environmental Management and Monitoring Plan |
| EMCA | Environment Management & Coordination Act of 1999 |
| EPS | Environment Programme Support |
| FORREMS | Forest Range Rehabilitation and Environmental Strengthening Project |
| IAS | Interested and Affected Stakeholders |
| IMCE | Inter Ministerial Committee on Environment |
| KNPC | Kenya National Cleaner Production center |
| LAC | Limits of Acceptable Change |
| MDG | Millenium Development Goal |
| NEC | National Environment Council |
| NEMA | National Environment Management Authority |
| NRM | Natural Resource Management |
| PPP | Policy, Plan and Programme |
| SEA | Strategic Environmental Assessment |
| TAC | Technical Advisory Committee |
| TOR | Terms of Reference |
| UNEP | United Nation Environment Programme |
| USAID | United States Agency for International Development |

ACKNOWLEDGMENT

The guidance is a revision of Environmental (Impact Assessment and Audit) operational Guidelines and Administrative procedures, an earlier version prepared by the Kenya National Cleaner production Center (KNCPC) under the umbrella of the Forest Range Rehabilitation and Environmental Strengthening Project (FORREMS), which was funded by the United States Agency for International Development (USAID).

This guidance has been produced by the collective efforts of the SEA Task Team from NEMA and the Lead Agencies including all Government Ministries and relevant institutions.

The Members of the SEA Task Team were: Benjamin M. Langwen (Director Compliance and Enforcement-NEMA) (Chair); Ties Van Kempen (EPS); Zephaniah Owuor Ouma (Deputy Director Compliance-NEMA); Wilkister Magangi (Chief Compliance Officer-NEMA); Samuel Munene (Principal Compliance and Enforcement Officer-NEMA); Jane Nyandika (Senior Compliance & Enforcement Officer-NEMA); Christine Baari (Senior Legal Officer-NEMA); Naomi Gitau (Senior Compliance and Enforcement Officer - NEMA); Marrian Mutete Kioko (Senior Compliance and Enforcement Officer - NEMA); Maureen Njeri (Compliance and Enforcement Officer – NEMA). Many thanks to Elizabeth Ndungu for her invaluable secretarial services and **Mr. Gabriel Vincent Sanya for his graphic design and editorial input to this guideline.**

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STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA)

1.0 INTRODUCTION

Strategic Environmental Assessment (SEA) refers to a range of analytical and participatory approaches that aims to integrate environmental consideration into policies, plans and programmes and evaluate the interlinkages with economic and social considerations. SEA is a family of approaches, which use a variety of tools, rather than a single, fixed and prescriptive approach. This process extends the aims and principles of EIA upstream in the decision-making process, beyond the project level and when major alternatives are still opens (UNEP, 2002). SEA represents a proactive approach to integrating environmental considerations into the higher levels of decision making, consistent with the principles outlined in Agenda 21.

In the SEA process, likely significant effects of a policy, plan, or program on the environment, which may include secondary, cumulative, synergistic, short, medium and long term, permanent and temporary impacts are identified, described and evaluated in the environmental report.

Regulation 42 of the Environmental (Impact Assessment and Audit) Regulations of 2003 vests the responsibility for carrying out SEA on the Lead Agencies working closely with NEMA. Regulation 42(3) commits the Government and all Lead Agencies to incorporate principles of SEA in the development of sector or national or regional policy

1.1 OBJECTIVES

The objective of Strategic Environmental Assessment is to systematically integrate environmental considerations into policy, planning and decision-making processes, such that environmental information derived from the examination of proposed policies, plans, programs or projects are used to support decision making by:

- (a) To guide policy, programme and plan proposals to ensure they are compatible with sustainable environmental planning and management;

- (b) To ensure the full consideration of alternative policy options including the do nothing option, at an early time when an agency has greater flexibility;
- (c) To enable consistency to be developed across different policy sectors especially where trade-offs need to be made as between the objectives of the policy sectors;
- (d) To evaluate regional environmental impacts of multi-sectoral developments in a region over a specified time;
- (e) To guide investment programmes involving multiple sub-projects or sector policies;
- (f) To ensure that the environmental impacts of policies that do not have an overt environmental dimension are assessed;
- (g) To identify environmental impacts and opportunities of mitigation measures into programme designs during the formulation stage of programmes, and in the process enhance environmental management plans;
- (h) To ensure the cumulative, indirect or secondary impacts of diverse multiple activities are considered, including their unintended consequences;
- (i) To obviate the needless reassessment of issues and impacts at project level where such issues could have been more effectively dealt with at a strategic level, and offer time and cost savings;
- (j) To provide information to decision makers by evaluating alternative options that meet proposal objectives based on the best practicable environmental options;
- (k) To ensure environmental principles such as sustainability, polluter pays and the precautionary principle are integrated into the development, appraisal, and selection of policy options;
- (l) To give proper place to environmental considerations in decision making as concerns economic and social concerns, in view of the fact that in some contexts they may be traded off against each other;
- (m) To provide an early opportunity to check whether or not a proposal complies with national and international environmental policy and consequent legislative obligations;

- (n) To contribute to the establishment of context that is more appropriate to nest future development proposals;
- (o) To provide a publicly available and accountable decision making framework;

1.2 BASIC PRINCIPLES FOR SEA

The principles upon which the provisions for SEA in the Regulations are based include:

- (a) the sustainable use of natural resources
- (b) the enhanced protection and conservation of biodiversity
- (c) interlinkage of human settlement and cultural issues
- (d) integration of socio-economic and environmental factors
- (e) the protection and conservation of natural physical surroundings of scenic beauty as well as protection and conservation of built environment of historic or cultural significance
- (f) Public and stakeholder engagement

1.3 SEA BENEFITS AT A GLANCE

- (a) **Safeguard the environmental assets and opportunities** upon which all people depend, particularly the poor, and so promote sustainable poverty reduction and development.
- (b) **Improve decision making** related to policies, plans and programmes, and thus **improve development outcomes by:**
 - i. Supporting the integration of environment and development
 - ii. Providing environmental-based evidence to support informed decisions.

- iii. Improving the identification of new opportunities
- iv. Helping to identify and address potential areas of conflict or inconsistency between PPPs early on in the formulation of new policies, plans or programmes and therefore preventing costly mistakes.
- v. Building public engagement at strategic level and therefore in decision making for improved governance.
- vi. Facilitating transboundary co-operation

(c) Strengthen and streamline project specific EIA by:

- i) Addressing a wider range of alternatives than is normally possible in project EIA
- ii) Considering cumulative effects and relatively large-scale environmental changes
- iii) Exploring the opportunities for and constraints to development posed by the broader receiving environment, thus narrowing down consideration of projects only to those that could be sustained by that environment.
- iv) Assisting in defining and maintaining a chosen level of environmental quality.

2.0 SEA PROCESS

2.1 THE DESIRED SUCCESS FACTORS IN THE SEA PROCESS

To be influential and help improve policy-making, planning and decision-taking, a SEA should:-

- (a) Establish clear goals, objectives and targets of the PPP
- (b) Be integrated with existing policy and planning structures
- (c) Be flexible, iterative and customized to context
- (d) Analyze the potential effects and risks of the proposed PPP, and its alternatives, against a framework of sustainability objectives, principles and criteria.

- (e) Provide explicit justification for the selection of preferred options and for the acceptance of significant trade-off.
- (f) Identify environmental and other opportunities and constraints
- (g) Address the linkages and trade-offs between environmental, social and economic considerations.
- (h) Involve key stakeholders and encourage public involvement
- (i) Include an effective, preferably independent, quality assurance system.
- (j) Be transparent throughout the process, and communicate the results
- (k) Be cost effective – avoid duplication of efforts and encourage synergies
- (l) Encourage formal reviews of the process after completion, and monitor PPP outputs.
- (m) Provide opportunities to build capacity for both its undertaking and use

(Refer to Annex 1: Example of Policy Reforms and Potential ENVIRONMENTAL LINKAGES The International Association for Impact Assessment (IAIA) performance criteria for a good quality SEA)

2.2 THE SEA PROCESS AT A GLANCE

- The ministry or institution provides a PPP brief to the Authority for guidance.
- The Authority undertakes screening to determine whether or not a SEA is required and communicates within 7 working days.
- If a SEA is required, the Authority advises the institution on selection of the licensed SEA expert(s).
- The ministry/institution/proponent submits three (3) copies of the scoping report prepared by a licensed SEA expert (s).
- The Authority reviews the adequacy of the scoping report and a decision is reached on whether more information is required or approval should be granted. This decision will be communicated within 21days.
- At least ten (10) hard copies and an electronic copy of the draft SEA report and a succinct non-technical summary is prepared and submitted to the Authority with prescribed fees.

- The Authority shall dispatch the draft SEA report to the stakeholders for comments to be received (from the date of dispatch) within forty five (45) days for plans and programmes and three (3) months for policy or such extended period as the Authority may specify.
- The draft report is published for two successive weeks in both the Kenya Gazette and a newspaper with a nationwide circulation for comments to be received (from the date of the first advertisement) within sixty (60) days for plans and programmes and six (6) months for policy.
- The institution will engage the stakeholders in reviewing and validation of the draft SEA report under the coordination of NEMA.
- The Authority may constitute a TAC to review and provide independent technical comments for consideration for plans and programmes and IMCE for policies.
- The final SEA report is prepared (incorporating the comments from all stakeholders and TAC).
- The ministry/institution/proponent shall submit five (5) hard copies and an electronic copy of the final SEA report to the Authority in the SEA submission form 17 r42 set out in the Environmental (Strategic Assessment, Impact and Audit) Regulations 2003 for review.
- The final decision for plans and programmes will be determined by the Authority through issuance of approval with conditions. The proponent shall consent to the conditions prior to implementation of the plan or programme (See annex 4b).
- The final decision for policy will be determined by the National Environment Council (NEC) and NEMA will provide a concise briefing note that ensures that decision makers are fully aware of key environmental issues linked to the PPP with emphasis on the recommended alternatives and their ranking, their likely impacts or effects and what the consequences will be if the NEC fails to reach a decision (See annex 4a).
- The Minister of Environment informs the Minister responsible for the policy on the decision outcome.
- The Minister responsible for the policy tables the cabinet paper to the cabinet for approvals/ endorsement.

3.0 STAGES AND STEPS FOR UNDERTAKING SEA AT THE POLICY, PLAN AND PROGRAMME LEVEL

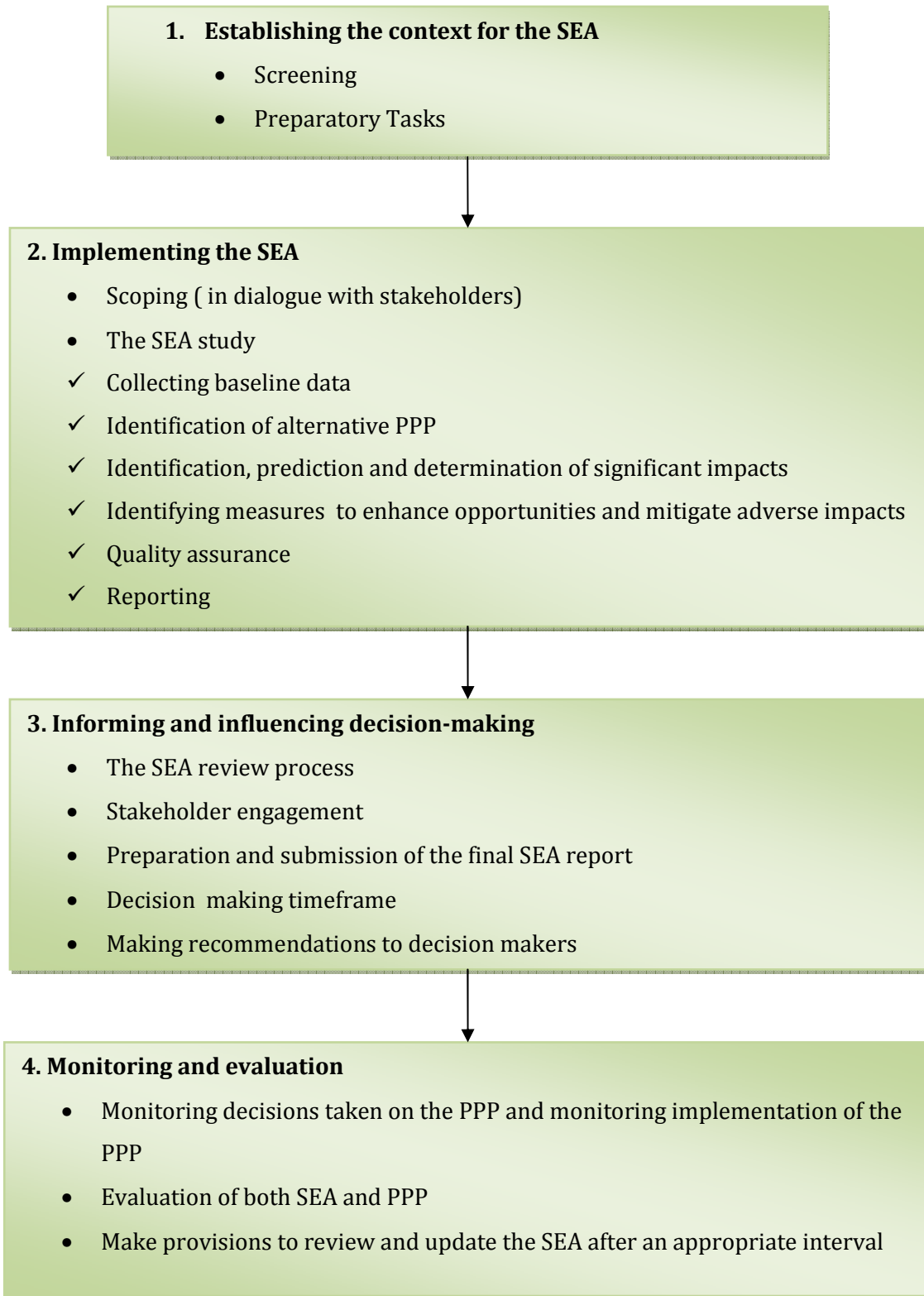
In designing effective SEA approaches, practitioners need to be aware of the following: -

- i. Strategic planning is not linear, but an elaborate process influenced by interest groups with conflicting interests and different agendas; it is therefore important to look for “windows of opportunity” to initiate SEA during cycles of the decision-making process.
- ii. Relationships between alternative options and environmental effects are often indirect; so they need to be framed in terms relevant to all stakeholders (e.g. politicians, government agencies and other stakeholders groups). One way of doing this is by linking environmental effects to their specific policy priorities.
- iii. Strategic issues cannot be tackled by a one-off analysis; they need an adaptive and sustained approach as strategic and policy-making take shape and are implemented.
- iv. The value of SEA in strategic planning depends greatly on capacity within NEMA and the responsible authorities to maintain the process and act on the results.
- v. An ideal SEA practice should be fully integrated into policy and planning development process (see annex 7).

SEA guidelines and procedures are mainly aimed at strengthening policy, plan and programme development. Practical experience with these approaches suggests that good practice SEA should involve four stages (see table 1)

Each stage can be further subdivided into steps/tasks (indicated by the arrows in the text) but these do not need to be carried out in sequence.

TABLE 1: BASIC STAGES IN SEA



Note: Detailed explanations of the stages can be found in the following chapters.

3.0 STAGE 1: ESTABLISH THE CONTEXT FOR THE SEA – REVIEW THE NEED FOR SEA AND INITIATE PREPARATORY TASKS

3.1 SCREENING

Screening is undertaken to determine the potential of a PPP to result in significant effects on the environment. That is, screening is used to decide whether or not an SEA is required. Methods and techniques used to screen strategic proposals vary depending on the nature and the objectives of the PPPs, as well as the decision-makers needs. Screening could be influenced by amongst others, the sphere of decision –making involved (e.g. local, national or regional), whether a PPP is being developed or assessed, and the potential impacts associated with development in different sector/s (e.g. water sector, housing sector, energy sector, etc) to which the PPP relate. Furthermore, application of SEA can become a lengthy and expensive procedure if it is not appropriately focused. The SEA process may thus need to be carefully focused so that it looks only at the key strategic issues, and designed to take into account capacity constraints.

There are various methods available for screening, such as the use of formal “triggers” and checklists (i.e. using a set of criteria or list of questions as prompts), seeking advice from a competent authority or other expertise, amongst others. These methods are used to indicate whether PPP is likely to have a significant environmental effect (both positive and negative) and a SEA should be carried out where significant effects on the environment are likely. In considering whether or not a SEA should be undertaken, it is necessary to take into account;

- (a) The nature of the strategic proposal and;
- (b) The nature of the environment that would be affected.

It would be appropriate to carry out a SEA where, amongst others:

- the PPP is likely to result in significant environmental effects, taking into account the magnitude, duration and spatial extent of effects

- the proposed PPP is likely to be politically or publicly contentious
- the cumulative nature of the effects (i.e. the additive and synergistic effects) are likely to be significant;
- there are likely to be trans-boundary effects (i.e. likely to affect other municipalities, counties, regions and countries).
- The level of confidence in predicting effects of the proposed PPP are low, there are inherent uncertainties and/or important gaps in information in predicting effects, and/or the PPP is unprecedented;
- risks to health, safety and/or the integrity of social or ecological systems are considered to be high;
- social and/or ecological systems have low resilience and high vulnerability to disturbance or impact (e.g. poor communities, sensitive ecosystems);
- existing levels of environmental quality are close to defined limits of acceptable change; i.e. there is a definite risk of these limits of acceptable change being exceeded;
- the PPP is likely to have a negative impact on:
 - unique, special or highly valued natural or cultural elements (e.g. threatened biodiversity, sacred areas); and
 - Recognized local, county, national or international conservation or protection status e.g. nature reserve, heritage sites, Ramsar sites);
- the PPP is likely to result in major changes in actions, behaviours or decisions by individuals, businesses, NGOs or government, that could lead to:
 - the stimulation of development of infrastructure or other changes in urban or rural land use;
 - an increase in the transformation and development of natural habitat or areas of nature conservation importance:
 - major changes in the pattern of settlement, land occupation and/or demographics in an area:
 - major changes in the development or use of technology, that could have negative implications for health and/or safety:
 - the introduction of alien and potentially invasive organisms;
 - changes in society's consumption of energy and in particular fossil fuels, and therefore, in emissions of carbon dioxide and other greenhouse gases; and

- Changes in the rate of society's consumption of, and/or demand on natural resources, including water.

3.2 PREPARATORY TASKS

When a SEA is to be carried out it is important to secure governmental support. The explicit focus throughout the subsequent process should be on integrating environmental considerations (alongside economic and social ones) into key decision-making points when options and proposed activities are being developed and evaluated. A number of preparatory tasks are necessary (as shown in table 2)

TABLE 2: PREPARATORY TASKS IN SEA

Preparatory tasks in SEA

The ministry or institution undertaking the PPP shall:

- Establish the terms of reference based on the basic principles of SEA as outlined in section 1.2.
- Set up a management team/steering committee and appointing an SEA coordinator/manager.
- Clarify and confirm the specific goals and objectives of the SEA in relation to the objectives of the PPP with partners and stakeholders.
- Develop capacity-building and a communication plan for the SEA
- Determine if the objectives of the PPP are in line with existing (environmental or other) objectives of country/region/sector authorities.
- Set appropriate decision criteria from these objectives and the broader development agendas of the parties.
- Set definite and realistic timescales
- Agree on the required documentation
- Confirm sources of funding
- Announce the start of the planning process; bring key stakeholders together to agree on the problem, objectives, alternatives and measures for quality control.

Special tasks in development co-operation

- Ensure full account is taken of the sustainable development priorities of the country.
- Ensure the appointments to the SEA team are made-whether in-house-preferably engaging national expertise, through local consultants supported by technical assistance from international consultants, or as a partnership venture as necessary.
- Determine whether other institutions (including donors) have carried out or intend to carry out, a SEA relevant to the PPP in question and, in such circumstances, seek to engage in a joint process.
- In parallel to seeking such harmonized approach to SEA, it is crucial to integrate the SEA process with existing planning and assessment systems in the country and develop links with other impact assessment approaches in use.

3.3 SETTING OBJECTIVE AND TARGETS

In this stage, the ministry/institution/proponent is expected to determine the objective and targets of the policy, plan or program. This is best done in consultation with the relevant Lead Agencies and stakeholders. The objective and targets will be reviewed against the national, regional or local environmental action plan(s) such as how it intends to improve the planning process.

3.4 IDENTIFY STAKEHOLDERS AND PLAN THEIR INVOLVEMENT

SEA is a participatory process. It allows lead agencies, civil society, including the private sector and relevant stakeholders that will be affected by the proposed PPP, to contribute inputs to strategic decision making. Therefore, the ministry/institution/proponent undertaking the PPP should ensure careful **stakeholder's analysis** is carried out to identify stakeholders and prepare a communication plan to be used throughout the SEA.

If the public is not used to being engaged, particularly at the strategic level, and if there are no precedents, it is critical to include an education component in the public engagement process. Active public engagement should take place from stage 2 (see table 1) onwards to the review of the draft SEA report.

A public engagement and disclosure plan will assist in identifying relevant stakeholder groups and appropriate communication methods. It is important to identify and engage those stakeholders who are the most exposed to environmental degradation. In general, environmental pressures tend to affect the poor and vulnerable sections of the population more seriously. To ensure that all relevant knowledge is drawn on, the youth, women and men should be included in this process.

Stakeholders should include relevant regional and/ or country representatives where trans-boundary impacts are anticipated.

4. STAGE 2: IMPLEMENTING THE SEA

4.1 SCOPING OF THE SEA

4.1.1 DETERMINE THE SCOPE OF SEA

A scoping process should establish the focus and content of the SEA and the relevant criteria for assessment (e.g. the objectives set out in 1.1). These should be set out in a scoping report. A pragmatic view needs to be taken on how much can be achieved given the time-scale, available resources, and existing knowledge about key issues. An open and systematic process should be followed. The SEA should actively engage key stakeholders to identify significant issues associated with the proposal and the main alternatives. Based on these issues, and the objectives of the SEA, decision criteria and suitable indicators of desired outcomes should be identified.

The key issues to be established in the SEA scoping will be:

- a) the objectives of the SEA study including the decision criteria as well as suitable indicators of desired outcomes;
- b) The alternatives to be considered;
- c) the spatial and temporal dimensions of the study;
- d) the criteria for the assessment;
- e) significant issues to be studied such as physical, ecological, social, economic, institutional and political based on the objectives established for the SEA;
- f) relevant stakeholders to be consulted including agencies with the various decision-making mandates covered by the study spatial boundaries;
- g) methods of data analysis in the SEA study and the sources of relevant data as well as amount of information available;
- h) a clear justification of the scoping methodology and why some impacts have been excluded;

- i) Expertise to be engaged in the SEA process which must be headed by a licensed SEA expert. The list of experts shall be accompanied by documents and their qualifications, CV's and their contacts.

Scoping procedures and methods such as matrices overlays and case comparisons can be used to establish cause-effect links between different specific plans or programmes or to identify the environmental implications of more general policies or strategies. A detailed options review may be undertaken as part of the scoping process to clarify the environmental advantages and disadvantages of different potential courses of action. Scoping meetings with stakeholders should result in a revision of the scope or focus of the SEA and improvements (as needed) to the draft engagement plan developed during preparatory task.

4.1.1.1 INDICATORS

The main purpose of indicators is to communicate complex information for decision-making and management in a simplified way. In SEA, indicators are useful for a number of reasons, *inter alia*;

- Describe current levels and trends in environmental quality, predict and assess impacts;
- Evaluate progress towards achieving sustainability objectives;
- Relating to key strategic issues and Limits of Acceptable Change (LAC); and
- Enable adaptive and corrective management during PPP implementation

Scoping may also recommend alternatives to be considered, suitable for analyses of key issues and sources of relevant data.

4.1.1.2 LIMITS OF ACCEPTABLE CHANGE (LAC)

Scoping should also determine Limits of Acceptable Change (LAC) or thresholds to inform the evaluation of potential significance of environmental effects of a PPP, and/or to determine appropriate indicators. It should be noted that a key principle of SEA is that it sets the criteria for levels of environmental quality or limits of acceptable change.

LAC can be derived from various sources such as existing global /International or national standards, legislation, Guidelines, Local Agenda 21 programmes, targets for environmental quality in management plans or programmes and State of Environment reports.

If appropriate LAC does not exist, these can be developed as part of the SEA process through stakeholder engagement and the input of specialists, drawing on the findings of the situation assessment.

It also important to note that LAC and/or thresholds may be identified during scoping and/or during the later assessment stage of SEA.

4.1.1.3 ESTABLISH PARTICIPATORY APPROACHES TO BRING IN RELEVANT STAKEHOLDERS

Effective and sustained public engagement is vital for the SEA process. By their very nature, PPP decisions are embedded in the political domain and involve political dynamics – including the engagement of the stakeholders who are likely to be most affected or who are most vulnerable. Understanding the power relations between different stakeholders, and how they interact with each other and the environment, are essential for good analysis and process management.

One of the challenges is to ensure that public engagement is meaningful and not just a case of providing detailed, rigorous and comprehensive information. The engagement process must provide an opportunity to influence decisions. Stakeholders groups identified as most affected by a given PPP may be politically and/ or socially marginalized and have little or no prior experience in providing input to decision making.

Public consultations processes will have to identify the best means to ensure that they can participate effectively and their viewpoints are given proper consideration. This may involve, in particular, reaching stakeholders who may not have access to the internet, lack access to public libraries, speak a different language, are illiterate, have cultural differences or other characteristics that need to be taken into consideration when planning for their engagement.

Depending on the nature of the political institutions and processes, there will be a need to integrate any SEA process with the public engagement process as a whole or to adopt other approaches where needed. Also, public engagement needs to be sustained, structured and coordinated with the phases of formulating and implementing PPPs – emphasizing equally the positive contributions and harmful effects.

4.1.2 SUBMISSION AND REVIEW OF SCOPING REPORT

The SEA expert(s) shall prepare the scoping report as guided by Section 4.1.1 of this guideline. The ministry/institution/proponent submits three (3) copies of the scoping report prepared by a licensed SEA expert (s). The Authority reviews the adequacy of the scoping report and a decision is reached on whether more information is required or approval should be granted. This decision will be communicated within 21days.

4.2 THE SEA STUDY

4.2.1 COLLECTION OF BASELINE INFORMATION

SEA needs to be based on a thorough understanding of the potentially affected environment and social systems. This must involve more than a mere inventory, e.g. listing flora, fauna, landscape and urban environments. Particular attention should be paid to important ecological systems and services, their resilience and vulnerability, and significance for human well-being. Existing environmental protection measures and /or objectives set out in international, national or regional legislative instruments should also be reviewed.

While the baseline data should reflect the objectives and indicators identified in the scoping report it should cover among others;

- Physical environment - including climate, air quality, water resources and water quality, noise, topography, soils, geology, hydrology including risks of natural disasters.

- Biological conditions - biodiversity, ecology and nature conservation in which issues of endangered species, protected ecosystems, habitat, species of commercial importance, invasive species and their impacts are assessed.
- Social-economic conditions and human health – including but not limited to issues such as archeology and cultural heritage landscape and facial aspects, recreational, social-economic aspects, land use, transportation, infrastructure, agricultural development, tourism, and human health.
- Assess the compliance of the policy, plan and programme to relevant national legislation and guidelines set under International Agreements, Treaties and other global conventions set for various objectives.
- In all cases, the counterfactual (or no-change scenario) should be specified in terms of the chosen indicators.

4.2.2 SITUATION ANALYSIS

Situation analysis involves the collection and interpretation of environmental baseline information, to enable an understanding of the existing environment or status quo. It helps to identify the environmental opportunities and constraints in relation to the proposed PPP. The baseline information also provides a benchmark against which alternative scenarios can be evaluated.

It is important to note that situation analysis is effectively carried out in parallel with scoping and is informed by, and helps to inform the scoping process.

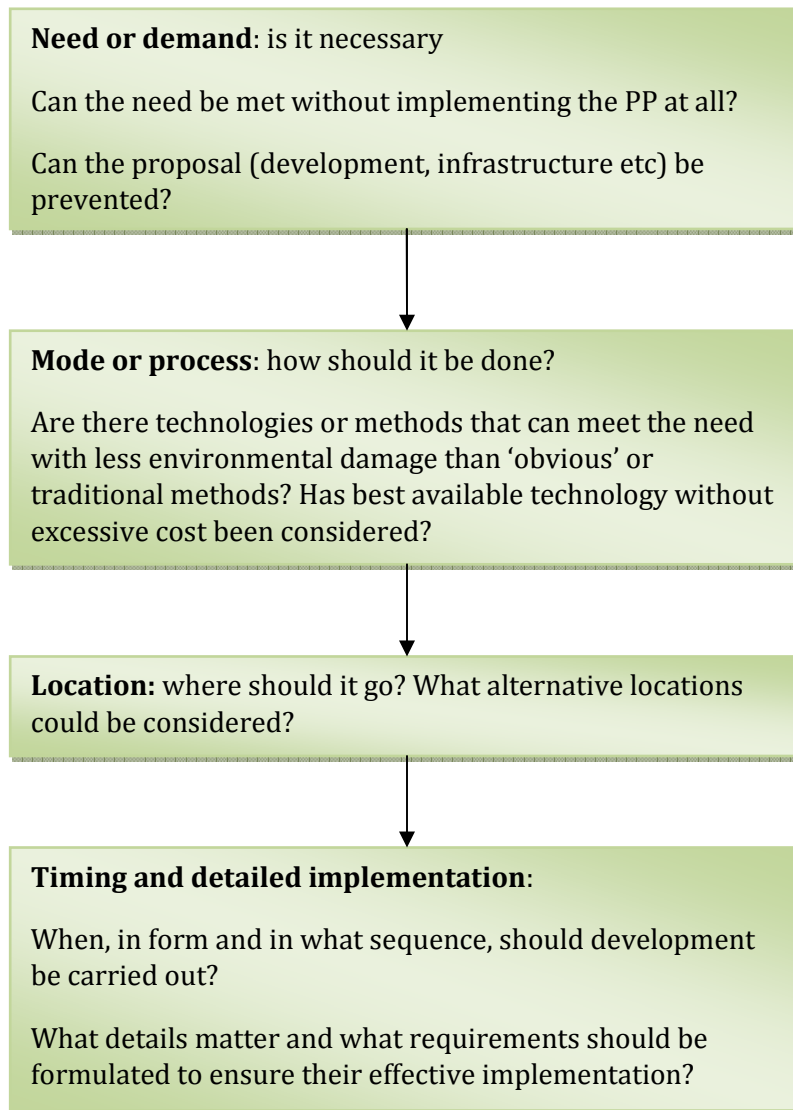
4.2.3 IDENTIFICATION OF ALTERNATIVE POLICIES, PLANS AND PROGRAMMES

The consideration of alternatives from the earliest possible stage of the policy formulation or planning process is the most effective way to “shape” the outcome of the process. For this reason, a SEA has most influence on PPPs when it is conducted at an early stage in the decision-making process. It should thus allow for an early comparative evaluation of the needs and impact of different options, including a broad range of alternatives, well before any irrevocable decision are made. The early consideration of alternatives can reduce the need for remedial measures at later

stages in the development planning process, particularly when alternatives become increasingly constrained as one moves ‘downstream’ in that process, ultimately arriving at project level.

For plan and programme issues, a hierarchy of alternatives may be considered. This hierarchy is illustrated in Table 3: Hierarchy of alternatives;

Table 3: Hierarchy of alternatives



Alternatives can be formulated through a combination of expert judgment, authority requirements and key stakeholder input, preferably drawing on the situation assessment and the analysis of opportunities and constraints. The complexity of the assessment can be greatly reduced if there is

sufficient detail to identify significant environmental effects of each alternative. When assessing the alternatives the full spectrum of potential effects must be taken into account, including, direct or secondary effects; and cumulative effects. In addition, these impacts should be considered over time and spatial scale (e.g. short, medium, long term and permanent effects at local, county, national, regional or international scales). The comparative evaluation of alternatives should highlight potential irreversible effects or irreplaceable loss of natural capital, as well as risks to social and ecological systems.

4.2.3.1 DEVELOPING SCENARIOS TO ASSIST IN THE COMPARISON OF ALTERNATIVES

Scenarios are a technique for presenting alternatives futures and enabling the feasibility and effectiveness of proposed PPP to be evaluated in different future conditions. There are four main steps involved in constructing scenarios. These are:

- Identifying the strategic issues associated with the PPP (i.e. what are the critical success factors and key concerns);
- Analyzing the present conditions and levels of environmental quality;
- Identifying the most important and relatively predictable factors, or 'key drivers of change' that will determine the nature of the future environment in which the proposed PPP will operate and link them together into a framework and
- Deriving two to four realistic scenarios associated with the effects of these most important factors on present conditions, and determining which critical outcomes have most potential to affect the proposed PPP.

In developing and assessing scenarios, the 'worst case' scenario should be identified. The issues and consequences of the 'do-nothing' scenario should also be identified, as these two scenarios can serve as a benchmark for the evaluation.

Options and alternatives that are being considered in the SEA but are clearly not environmentally feasible, unacceptable to society, illegal, or simply ridiculous, should be eliminated. The recommendations of the SEA should focus on the feasible options and alternatives, to work towards making the desired state a reality

4.2.4 IDENTIFICATION, PREDICTION OF IMPACTS AND DETERMINATION OF SIGNIFICANT IMPACTS

The concept of significance is at the core of impact assessment, impact evaluation and decision-making. Deciding whether a PPP is likely to cause significant environmental effects is central to the practice of EIA. Similarly in SEA effects, impacts, trade-offs, and options or alternatives need to be assessed in terms of significance, in order to determine optimum choices and eliminate unacceptable ones.

There is no single best method for impact analysis. Various formal methods, using rating, ranking, weighting and/or scaling, future scenario building and back-casting methodologies can be used to determine significance in particular sectors, and/or to help translate “facts into meaning” Broadly speaking, there are three forms of recognition determination of impact significance. These forms of recognition are described in table 4 below

TABLE 4: FORM OF RECOGNITION

| Form of recognition | Criteria |
|----------------------------|---|
| Institutional recognition | The importance of an environmental attribute or resource is acknowledged in the laws, plans or policy statements of government agencies or private groups |
| Public recognition | Segments of the public recognize the importance of an environmental resource or attribute. Public recognition may take the form of support, conflict or opposition. Public action may be expressed formally (e.g. letters) or informally (e.g. protest action). |
| Technical recognition | The importance of an environmental resource or attribute is based on scientific or technical knowledge or judgment of critical resource characteristics. |

Refer to Annex 5 for further guidance on the criteria for determining the likely significance of effects referred to in article 3(5) of the Directive 2001/42/EC of the European Parliament and the Council of 27/6/2001

For each of these criteria a rating scale should be applied for example high, medium, low or no impacts as illustrated in the Table 5: Rating Significance.

TABLE 5: RATING SIGNIFICANCE

| Significance | Criteria |
|------------------|---|
| Highest | Exceeds or threatens to exceed legal thresholds or standards |
| Very high | Exceed or threatens to exceed functional thresholds or LAC for health and safety; may result in irreversible, irretrievable or irreplaceable loss of ecosystem services |
| High | Norms or LAC established by society |
| medium | Controversial LAC; no societal agreement on these limits |
| Low | Preference thresholds for individuals, groups or organizations; not for broader communities or society |

Establishing the linkages with key economic and social policy goals requires rigorous examination of the key environmental problems and risks within the country or region, including an assessment of the underlying causes of environmental stresses.

4.2.5 IDENTIFY MEASURES TO ENHANCE OPPORTUNITIES AND MITIGATE ADVERSE IMPACTS

It is important to focus on realizing the positive opportunities of the planned activities and minimizing any negative risks. Opportunities will generally enhance achievement of the MDGs and other development challenges. The aim is to develop “win-win” situations where multiple, mutually reinforcing gains can strengthen the economic base, provide equitable conditions for all, and protect and enhance the environment. Where this is impossible, the trade-offs must be clearly documented to guide decision makers.

A mitigation hierarchy should be followed for identified negative impacts; first avoid; second reduce; and third offset adverse impacts- using appropriate measures. Caution should be exercised if the analysis indicates a potential for major, irreversible, negative impacts on the environment. Often this may suggest selecting less risky alternatives. For less-threatening situations, standard mitigation measures can be used to minimize adverse impacts to “as low as reasonably practicable” (ALARP level).

Once mitigation has been taken into account, the significance of residual adverse impacts can be evaluated. This is an important measure of the environmental acceptability of the proposal; it is usually carried out against selected environmental objectives and criteria.

Example of policy reforms with clear environmental implications includes privatization, energy policy, land reform, trade incentives, water supply and pricing. **Annex 1** shows how policy reforms in a variety of sectors can have positive and negative environmental consequences, and gives examples of measures that can be taken to enhance or mitigate them.

4.2.5.1 Trade-Offs

Strategic Environment Assessment address complex problems, have diverse and sometimes conflicting objectives, affect multiple stakeholder groups and are often developed under conditions of uncertainty. Although ‘win-win’ scenarios are the ideal, a more common scenario involve both ‘winners’ and ‘losers’ necessitating “trade-off” . A trade-off usually refers to losing one quality or aspect of something in return for gaining another quality or aspect. It implies a decision to be made with full comprehension of both the upside and downside of a particular choice.

Trade-off decisions are generally of two types: compensation or substitutions, and net gain and loss calculations:

- Compensation and substitutions are fairly straight forward where one option can be substituted for another e.g. to eliminate a natural wetland and replace it with a constructed wetland of comparable ecological value elsewhere in the watershed or an option can be provided to compensate for a particular risk or loss.
- Net gain and loss calculations are not always done explicitly or openly, and the measurement and comparisons are often difficult and sometimes objectionable e.g. the jeopardized interests

of a local community displaced by a new dam balanced against more material water supply security for a larger number of downstream rural communities

While trade-offs may not always be acceptable, it is important that a justification is always provided and that the process is as transparent as possible. Gibson (2005) defined a basic working list of rules to guide trade-off deliberations (see table 6 below). These rules can be used as a checklist when dealing with trade-offs within SEA.

There are a number of tools that have been designed specifically for dealing with trade-offs, for example cost-benefit analysis and consideration of opportunity costs, matrix-based appraisal methodologies, multi-criteria assessment scenario comparisons, life cycle assessment, etc

TABLE 6: GENERAL TRADE-OFFS RULES

| Rule | Description |
|---|--|
| Net gains | An acceptable trade-off or set of trade-offs must deliver net progress towards meeting the requirement for sustainability. Trade-offs must seek mutually re-enforcing, cumulative and lasting contributions and must favour achievement of the positive feasible overall result, while avoiding the significant adverse effects. |
| Burden of argument | Trade-off compromises that involve acceptance of adverse effects in sustainability-related areas are undesirable unless proven (or reasonably established) otherwise; the burden of justification falls on the proponent for the trade-off. |
| Avoidance of significant adverse effects | <p>No trade-off that involves a significant adverse effect on any sustainability requirements areas (for example, any effect that might undermine the integrity of a viable socio-ecological system) can be justified unless the alternative is acceptable of an even more significant adverse effect.</p> <ul style="list-style-type: none"> • Generally then, no compromise or trade-off is acceptable if it entails further decline or risk of decline in a major area of concern, or if it endangers prospects for resolving problems identified as global, national and/or local priorities; • Similarly, no trade-off is acceptable if it deepens problems in an area (integrity, equity etc); and • No enhancement can be permitted as an acceptable trade-off against incomplete mitigation of significant adverse effects if stronger mitigations efforts are feasible. |

| | |
|---------------------------------|--|
| Protection of the future | No displacement of a significant adverse effect from the present to the future can be justified unless the alternative is displacement of an even more significant negative effect from the present to the future. |
| Explicit justification | All trade-offs must be accompanied by an explicit justification based on openly identified , context specific priorities as well as the sustainability decision criteria and the general trade-offs rules <ul style="list-style-type: none"> • Justifications will assisted by the presence of clarifying guides (policies, priority statements, guides to the evaluation of significance. etc) that have been developed in processes as open and participative as those expected for SEAs. |
| Open process | Proposed compromises and trade-offs must be addressed and justified through processes that include open and effective involvement of all stakeholders. |

4.2.6 QUALITY ASSURANCE ON THE SEA

Designing a SEA to include the steps and practices outlined in stages 1-4 will provide a basic level of process quality. However, specific measure of quality control assurance might be warranted, e.g. to ensure the credibility of the assessment in the eyes of a stakeholders. These measures will depend on the nature, context, needs and timeframe of the specific strategic initiative. For further guidance (see annex 3).

The SEA process has incorporated the following quality control checks: -

- An independent review of SEA by TAC for programmes and plans;
- Inter-ministerial Committee on Environment (IMCE) to evaluate the draft SEA report on policy;
- A reality check by the NEC on the SEA report;
- An independent expert commission (applicable for transboundary shared resources)

The role of the Authority will be to constitute the TAC and IMCE. For trans-boundary PPP the nomination of experts to the independent expert commission to represent the country on trans-boundary issues, the respective notification protocols and procedures shall apply *mutatis mutandis*

4.3 DRAFT REPORT ON THE FINDINGS OF THE SEA.

Once the technical analysis is completed, the results and rationale for conclusions need to be reported. While a technical report may be necessary, it must be presented in an understandable format and appropriate language(s). This will often require short summaries and graphic presentations rather than a long report. A succinct, non-technical summary should be included.

The non technical summary should contain the title of the report, the proposed programme/ plan, the objectives of the PPP, alternative options, affected area, environmental analysis, summary of impacts and mitigation and/ or enhancements. This will be of particular use in explaining the findings to local communities, which needs to be well informed in order to submit comments.

4.3.1 SUBMISSION OF THE DRAFT SEA REPORT

The SEA expert(s) shall prepare the draft SEA report as guided by annex 4 of this guideline. The ministry/institution/proponent and / or the appointed agent will submit at least ten (10) hard copies and an electronic copy of the draft SEA report and an electronic copy of a succinct non-technical summary to the Authority in the SEA submission form 17 r42 set out in the Environmental (Strategic Assessment, Impact and Audit) Regulations 2003 (See Annex 8) and accompanied with prescribed fees.

The ministry/institution/proponent shall pay a prescribed fee as directed by the Authority to cover costs for TAC, IMCE, stakeholder's workshops for validation and processing and monitoring fees of KShs. 1 million as prescribed in the Environmental (Strategic Assessment, Impact and Audit) Regulations 2003.

Processing and monitoring activities to be undertaken;

- Dispatch of the draft SEA reports to the relevant stakeholders
- Site verification and surveys
- Internal review
- Coordination of the stakeholder engagement in the review process
- Monitoring of the implementation of the PPP

5.0 STAGE 3: INFORMING AND INFLUENCING DECISION MAKING

5.1 THE SEA REVIEW PROCESS

The key deliverable of a SEA is a process with development outcomes, not a product. Quality control therefore considers how well procedures have been carried out. But in the long term, the achievement of development outcomes, while ensuring the maintenance of environmental sustainability, will be the key measure of success.

When reviewing SEA processes, key questions concern:

- The quality of information,
- level of stakeholder participation,
- defined objectives of the SEA,
- assessment of environmental impacts,
- Planned follow-up activities, and constraints.

Key questions to help evaluators focus on development outcomes of an SEA relate to:

- accuracy of assumption made during the SEA;
- its influence on the PPP process,
- The implementation process,
- The development goals on accountability, and the outcome of capacity-building activities.

5.2 STAKEHOLDERS ENGAGEMENT IN REVIEWING THE DRAFT SEA REPORT

The Authority shall dispatch the draft SEA report to the stakeholders for comments to be received (from the date of dispatch) within forty five (45) days for plans and programmes and three (3) months for policy or such extended period as the Authority may specify.

The draft report is published for two successive weeks in both the Kenya Gazette and a newspaper with a nationwide circulation for comments to be received (from the date of the first advertisement) within sixty (60) days for plans and programmes and six (6) months for policy.

After the expiry of the commenting and public disclosure period, the institution will engage the stakeholders in reviewing and validation of the draft SEA report under the coordination of NEMA.

While public engagement should have been included at all appropriate stages (preparatory task and scoping) the draft SEA report is a key stage and should be publicly available for a period of time agreed during the scoping stage. If meetings are held for public comment, smaller, focused meetings may be preferable to ensure adequate time for comment, rather than larger meetings where few people have the opportunity to speak. There is a variety of ways to gather opinion from the more vulnerable groups and ensure that they can meaningfully participate, e.g. surveys, interviews and meetings. Financial support may need to be provided so that the most marginalized can participate. An understanding of the politics of the decision-making process, and the various responses from the stakeholder analysis, government authorities and lead agencies should suggest how to ensure effective consultation and influence on decision making.

Financing of public engagement will be met by the ministry/institution/proponent in accordance with the regulations.

The Authority may constitute a TAC to review and provide independent technical comments for consideration.

5.3 PREPARATION OF THE FINAL SEA REPORT

The final SEA report is prepared by the SEA expert(s) (incorporating the comments from all stakeholders and TAC) and duly endorsed by the ministry/institution/proponent for submission to the Authority.

(SEE ANNEX 5: CRITERIA FOR DETERMINING THE LIKELY SIGNIFICANCE OF EFFECTS REFERRED TO IN ARTICLE 3(5) OF THE DIRECTIVE 2001/42/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 27/6/2001

1. The characteristics of plans and programmes, having regard, in particular, to

- the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions by allocating resources;
- the degree to which the plan or programme influences other plans and programmes including those in a hierarchy;
- the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;
- environmental problems relevant to the plan or programme;
- the relevance of the plan or programme for the implementation of legislation on the environment (e.g. plans and programmes linked to waste-management or water protection).

2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to

- the probability, duration, frequency and reversibility of the effects;
- the cumulative nature of the effects;
- the transboundary nature of the effects;
- the risks to human health or the environment (e.g. due to accidents);
- the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);
- the value and vulnerability of the area likely to be affected due to:
 - special natural characteristics or cultural heritage;
 - exceeded environmental quality standards or limit values;
 - intensive land-use;
- the effects on areas or landscapes which have a recognized national, Community or international protection status.

5.4 SUBMISSION OF FINAL SEA REPORT

The ministry/institution/proponent shall submit five (5) hard copies and an electronic copy of the final SEA report to the Authority in the SEA submission form 17 r42 set out in the Environmental (Strategic Assessment, Impact and Audit) Regulations 2003(annex 8) for review.

5.5 MAKING RECOMMENDATION TO DECISION MAKERS

Presentation of the draft and final reports are important to influence key decisions. From the outset, through SEA expert(s), the TAC or IMCE and public engagement mechanisms, decision makers and stakeholders have opportunities to shape the outcome of the SEA e.g. identification of issues, choice of indicators, scope of work, and selection and evaluation of proposed development options and alternatives.

The final decision for plans and programmes will be determined by the Authority through issuance of approval with conditions. The ministry/institution shall consent to the conditions prior to implementation of the plan or programme.

The final decision for policy will be determined by the National Environment Council (NEC) and NEMA will provide a concise briefing note that ensures that decision makers are fully aware of key environmental issues linked to the PPP with emphasis on the recommended alternatives and their ranking, their likely impacts or effects and what the consequences will be if the NEC fails to reach a decision.

The Minister of Environment informs the Minister responsible for the policy on the decision outcome. The Minister responsible for the policy tables the cabinet paper to the cabinet for approvals/ endorsement.

For transboundary PPP, the respective notification protocols and procedures shall apply *mutatis mutandis*

5.6 DECISION-MAKING TIME FRAME

The Authority shall communicate its decision on receiving the final SEA report within three (3) months of receiving the same or such extended period as shall have been mutually agreed with the parties involved. A copy of the decision shall be available for inspection at the Authority's offices.

6.0 STAGE 4: MONITORING AND EVALUATION

6.1 MONITORING DECISIONS TAKEN ON THE PPP AND THE RESULTS OF THEIR IMPLEMENTATION

It is important to monitor the extent to which environmental objectives or recommendations made in the SEA report or the PPP are being met. Information tracking systems can be used to monitor and check progress of the PPP. Monitoring of cumulative effects may be appropriate for initiatives that will initiate regional-scale change in critical natural assets. Methods and indicators for this purposes need to be developed on a case-by-case basis.

The ministry/institution/proponent shall monitor the PPP and submit the report to the Authority annually or at intervals that will be prescribed by the Authority.

6.2 EVALUATION OF BOTH SEA AND PPP

At some point a formal evaluation of the monitoring results should take place as part of the revision or renewal of the PPP.

The evaluation can take the form of an **Expost assessment or ex ante assessment**. **(For more detailed guidance, refer to annex 2 of this guideline)**

ANNEX 1: EXAMPLE OF POLICY REFORMS AND POTENTIAL ENVIRONMENTAL LINKAGES

| Policy area | Reform | Potential environmental benefits | Potential environmental risk | Measures to enhance environmental benefits and mitigate risks |
|----------------------------|--|---|---|---|
| Energy | Fuel price reform. Removal of subsidies | Reduced emissions through increased production and consumption efficiency. | Removal of subsidies could lead to increased demand for fuel wood. | Property right might be used to mitigate against deforestation in search for fuel wood. |
| Agriculture | Land reform | Strengthen property rights generally improve management of natural resources | Shrinking common property resources are overused by landless. | Ensure that the interest of the landless are considered. Provide training on fertilizer and pesticides use. |
| Private sector development | Business climate issues, taxation and protection of property rights, privatization | Increased completion and use of price signals generally improve resource use efficiency | Weak legal environmental framework and unclear liabilities can lead to over exploitation of natural resources and high pollution levels | Ensure adequate legal framework, monitoring and enforcement |

| | | | | |
|------------------|---|--|---|---|
| Decentralization | Decentralization of power to regional or local administration. Reforms aim at increasing the efficiency of service delivery, accountability | Accountable and representative local institutions can improve the management of natural resources | Poor capacity to deal with environment and natural resource related issues. Risk that local elites exploit local natural resources if (no state vigilance). | Capacity building to strengthen local and regional administration |
| Trade | Trade reform | Increased competition may lead to improved resource use efficiency. Benchmarking of environmental performance standards by in-migrating industry. | Expansion of monocultures. Increased use of fertilizers and pesticides. Increased pressure to convert forests or wetlands to agriculture. Increased water and air pollution from industry. | Improve environmental legislation to avoid becoming a "pollution haven" |

ANNEX 2: SEA EVALUATION CRITERIA

Evaluation of SEA

Evaluation is important to determine whether the outcomes have been achieved, fully or in part, and also to ensure quality control of the SEA process itself. An evaluation of a SEA can be limited to the relatively easy task of determining whether the SEA led to more sustainable alternatives. It is more ambitious to determine whether the SEA led to sustainable PPP design and implementation. This requires extending the focus to include the effects on institutional and capacity-building issues which highly influence the implementation process.

i. Role of evaluation

Evaluation examines whether an intervention has achieved its intended outputs and outcomes. The challenge is to define clearly how to measure these achievements in an objective and robust manner. This approach needs not be too complicated – these may be elements that can be measured more objectively than others, especially where cause-effect relations are difficult to determine with any level of certainty. Evaluation of an SEA is likely to involve examination of cause-effect “plausibility’s” to some degree- an informed judgment about whether an SEA did or did not finally influence the design, planning or decision about a PPP.

A systematic approach to evaluation (and monitoring) can be supported by a list of questions as set out below. The important point of evaluation is not to seek absolute scientific proof but to engage in reflective processes to evaluate and improve on previous decisions. In this way, the aim is to learn how to continuously improve the integration of sustainability dimensions into decision-making, and how to improve the use and efficiency of a SEA as an approach for sustainable development.

In this context, evaluation of an SEA can also help to:-

- Improve learning on the linkages between PPP formulation/assessment and their practical outcomes.
- Achieve PPP goals by indentifying ex-post adaptation requirements for those implementation mechanisms/actions that have failed to deliver their intended outcomes.

- Support the accountability of decision makers and involved stakeholders by making the results of decisions transparent.

A central element of evaluation is the definition of appropriate indicators that reflect sustainable outcomes as a result of implementing the PPP. Indicators are also essential to quantify the achievement of specific objectives and goals. Appropriate indicators should be defined during the SEA process to enable the necessary data to be collected during the implementation phase.

Some aspects of objective and goal achievement are better evaluated in a qualitative manner. Hence, written description of the envisaged objectives can be compared with what was practically achieved. Refer to Check list 1 and 2 provided at the end of this annex.

Evaluation should not be an academic exercise. Ideally, it should lead to concrete results which might include: -

- Positive recommendations on future actions
- Ex-post adaptation of implementation measures, or even of the PPP decisions-these will be inevitable if serious deviations from previous assumptions endanger the achievement of specific goals.
- Specific measures to develop capacity, tailored to help overcome implementation gaps.

ii. Evaluating the delivery of envisaged outcomes

Perhaps the most important outcome of a good quality SEA is that it has significantly influenced the achievement of positive development results and has helped to enhance the effectiveness of development. But development involves complex processes and it is not easy to isolate those outcomes that are solely due to the application of SEA (attribution gap). Equally, it is impossible to ascertain whether unsustainable outcomes of a PPP would have been avoided by undertaking a SEA.

Check list 1: Key questions for evaluating the delivery of envisaged outcomes of a PPP

- Did the SEA predict future outcomes correctly? Were the assumptions made during the SEA for modeling expected impacts and/or institutional and governance requirements correct?

Influence of the SEA on the PPP process

- Did the SEA provide useful information for those responsible for developing the PPP
- Did the SEA identify the issues most important to sustainable outcomes, rather than all significant environmental issues?
- Did SEA reflect questions and concerns not initially included in the PPP? What was appreciated most/what was irrelevant, etc?
- Could the SEA findings be effectively conveyed to the decision makers?
- Were the decision makers willing to reflect on and include the provided information in decision making?
- Did the SEA succeed in actually changing the PPP/making the PPP more environmentally sound?
- Did the PPP process make sufficient reference to the findings of the SEA?

Influence on the implementation process

- Did the SEA succeed in actually changing the PPP Implementation or budget plans, or other subsequent measures, making the PPP more environmentally sound?
- Did the PPP actually lead to implementation measures and outcomes that better reflect the goals of sustainable development/environment? Were options implemented which were more environmentally sound?
- Did the recommendations of the SEA lead to change in institutional settings (e.g. an advisory group on environment, inter-sectoral co-ordination, subsequent EIA requirements, etc) and

governance (for example access to judiciary or empowerment of weak stakeholders for environmental management) which supported the integration of sustainable development/environment during implementation?

- Did different stakeholders of relevance for the implementation act on recommendations by the SEA during the implementation process?

Influence on direct and indirect goals of relevance to sustainable development

- Are there any indications that the SEA contributed to
 - ❖ The achievement of MDG 7 and /or other goals of relevance in the particular case?
 - ❖ Improved conditions of environment and natural resources in the relevant area?
 - ❖ Transparency and accountability, and improved governance?
- Did the sustainable development benefits of the SEA outweigh the costs associated with carrying it out?

Outcomes on capacity building and influence on accountability

- Did the SEA help build capacity by training decision makers on implementation?
- Did SEA empower weak and vulnerable stakeholders?
- Did the SEA enhance the transparency of decision –making processes and accountability of decision makers on the environmental implications of PPP?
- Did decision makers justify or correct their decisions based on SEA findings and monitoring?
- Did the applications of SEA lead to a better understanding of the potential of this approach and, possibly, encourage SEA applications later on?

iii. Evaluation as quality control check

In a formal sense, a good SEA is one that conforms to the key principles listed in Chapter 1. These are elaborated in checklist 1 to help those engaged in reviewing an SEA process to gauge success.

This task should be carried out throughout the SEA process. Taken cumulatively, the lessons from such process evaluation will influence the evaluation of SEA practice in development co-operation.

Checklist 2: Key questions for evaluation as quality control check presentation and quality of information

- Was the information provided by the SEA process adequate (i.e. comprehensive, rigorous and understandable) from the point of views of those responsible for developing the PPP? What was missing?
- Was the information provided by the SEA process adequate (see above) from the point of view of the key stakeholders? What was missing?

Co-operation and stakeholder participation

- Has there been effective co-operation between the SEA team and those responsible for developing the PPP? Why? How can this be improved
- Was there effective public involvement? Why? How can this be improved?
- Was there an effort to involve less powerful stakeholders in the consultation? If so, how successful was this?

Description of the SEA procedure in the report

- Has the purposed/aim of the SEA been described with a mention of the regulations which underpin the SEA process and document?
- Is the scope of the SEA discussed?

Objective used for the SEA

- Have the substantial objectives used for the SEA been described and defined, quantitatively where appropriate?
- Does the SEA report identify and describe any conflicts that exist between the objectives and the PPP, and between the objectives and other PPP?

Alternatives

- Are the potential alternatives within the PPP described and considered in terms of the SEA objectives? Have these included the “no change” alternative?
- If any alternative has been eliminated, have the reasons been provided?

Assessment of environmental impacts

- Where there are likely to be significant environmental effects, are they clearly described?
- Is an effort made to prioritize those effects that most affect sustainability?
- Are the methodologies for assessing environmental impacts described?
- Is the full range of positive and negative impacts addressed?
- Where there are uncertainties in assessing the impacts and assumptions have been made, have they been justified and the worst-case scenario used?
- Have mitigation measures clearly described and committed to that will prevent, reduce or remedy any significant adverse effects on the environment in implementing the PPP?

Planned follow up activities and implementation

- Are the indicators for monitoring clearly defined? And, are they based upon the original baseline information and on the objectives of the PPP and the SEA
- Are the links to other potential follow-up procedures specified, e.g. project EIA, design guidance, etc?
- Are recommendations for the implementation process clearly formulated?
- Are outcome indicators defined? And is there an evaluation plan (with adequate budget and clearly assigned responsibilities) so that the sustainability focus of the SEA can continue beyond the planning phase?

Overall comments on the SEA process

- What is the view of key stakeholders (particularly the less powerful ones) and those responsible for developing the PPP on the different elements of the SEA?
- How could it be improved in future?

Constraints and Opportunities

- What were the most significant constraints to achieving an effective SEA?
- What were the most significant positive factors ensuring success of SEA?

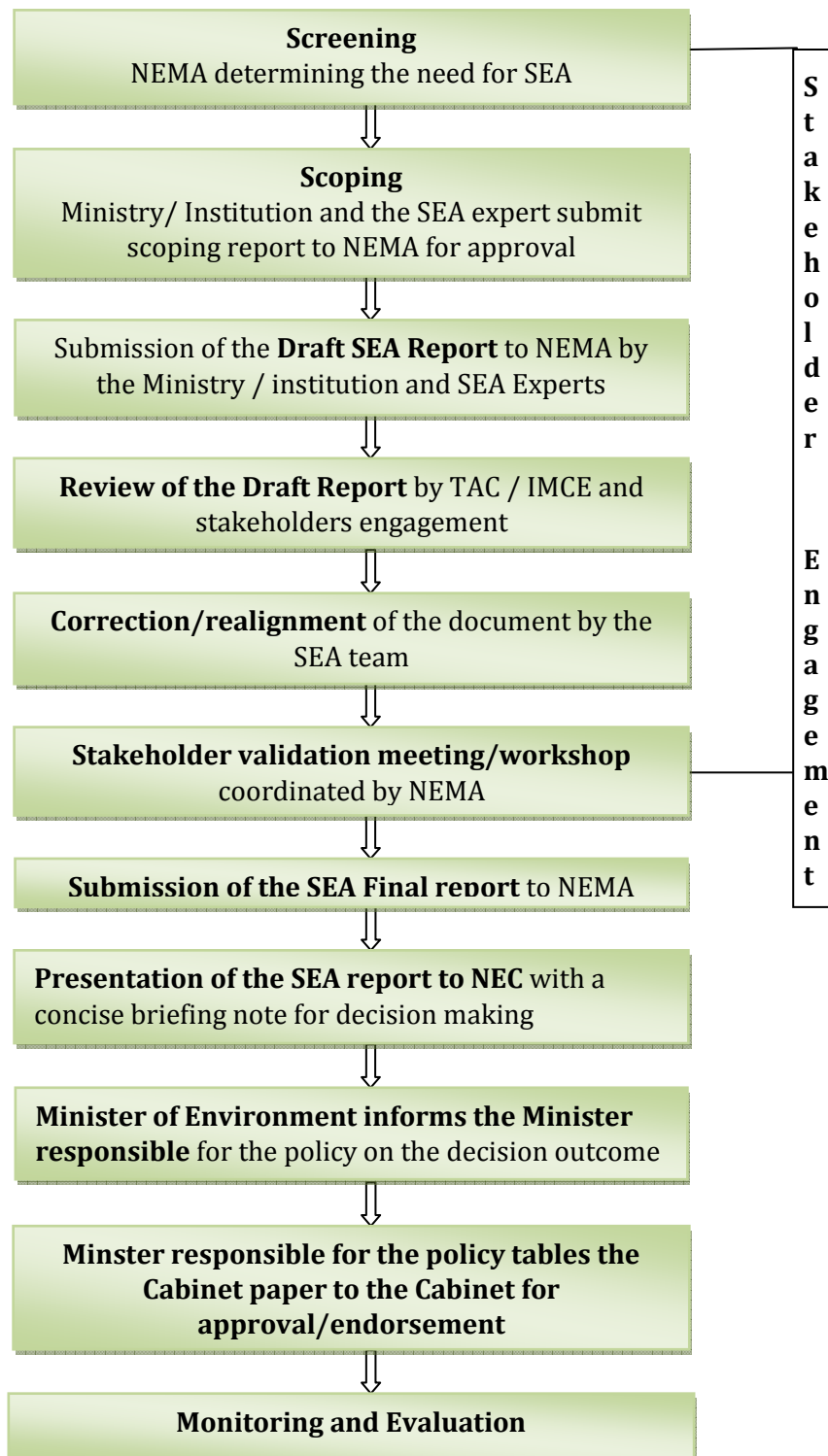
ANNEX 3: CRITERIA BY INTERNATIONAL ASSOCIATION FOR IMPACT ASSESSMENT

The International Association for Impact Assessment (IAIA) has formally adopted a set of performance criteria for SEA, to establish what a 'good quality SEA' process, in view of enhancing the credibility of strategic decisions, means. The performance criteria are described below:

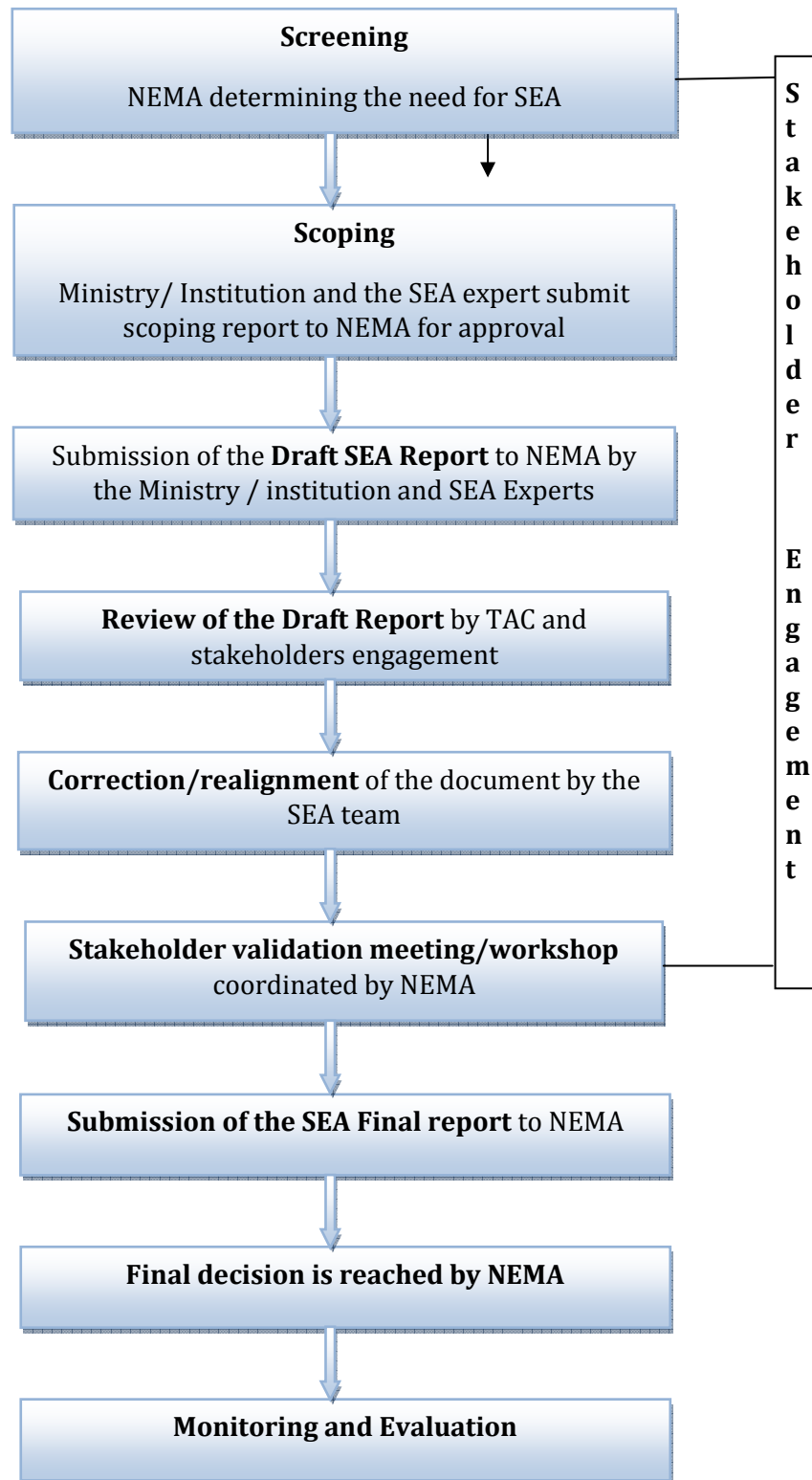
| | |
|--------------------|--|
| Integrated | <ul style="list-style-type: none"> • Ensures an appropriate environmental assessment of all strategic decisions relevant for the achievement of sustainable development. • Addressed the interrelationships of biophysical, social, and economic aspects. • Is tiered to policies in relevant sectors and (trans-boundary) regions and, where appropriate, to project EIA and decision making |
| Sustainability-led | <ul style="list-style-type: none"> • Facilitates identification of development options and alternative proposals are more sustainable (socio-ecological integrity; sufficiency and opportunity; Equity; Efficiency and throughput reduction; Democracy and civility; Risk Averse and Immediate and long term integration) |
| Focused | <ul style="list-style-type: none"> • Provides sufficient, reliable and usable information for development planning and decision –making • Concentrates on key issues of sustainable development • Is customized to the characteristics of the decision making process • Is cost effective and time consuming |
| Accountable | <ul style="list-style-type: none"> • Is the responsibility of the leading agents for the strategic decision to be taken • Is carried out with professionalism, rigor, fairness, impartiality and balance • Is subject to independent checks and verification • Documents and justifies how sustainability issues were taken into |

| | |
|---------------|---|
| | account in decision making |
| Participative | <ul style="list-style-type: none"> • Informs and involves interested and affected publics and government bodies throughout the decision-making process • Explicitly addresses their inputs and concerns in documentation and decision-making • Has clear, easily understood information requirements and ensures sufficient access to all relevant information |
| Iterative | <ul style="list-style-type: none"> • Ensures availability of the assessment results early enough to influence the decision-making process and inspire future planning • Provides sufficient information on the actual impacts of implementing a strategic decision to judge whether this decision should be amended and provide a basis for future decisions |

ANNEX 4(A) THE SEA PROCESST ON POLICY



ANNEX 4 (B) SEA PROCESS FOR PROGRAMMES & PLANS



ANNEX 5: CRITERIA FOR DETERMINING THE LIKELY SIGNIFICANCE
OF EFFECTS REFERRED TO IN ARTICLE 3(5) OF THE DIRECTIVE
2001/42/EC OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL OF 27/6/2001

1. The characteristics of plans and programmes, having regard, in particular, to

- the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions by allocating resources;
- the degree to which the plan or programme influences other plans and programmes including those in a hierarchy;
- the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;
- environmental problems relevant to the plan or programme;
- the relevance of the plan or programme for the implementation of legislation on the environment (e.g. plans and programmes linked to waste-management or water protection).

2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to

- the probability, duration, frequency and reversibility of the effects;
- the cumulative nature of the effects;
- the transboundary nature of the effects;
- the risks to human health or the environment (e.g. due to accidents);
- the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);
- the value and vulnerability of the area likely to be affected due to:
 - special natural characteristics or cultural heritage;
 - exceeded environmental quality standards or limit values;
 - intensive land-use;
- the effects on areas or landscapes which have a recognized national, Community or international protection status.

ANNEX 6: CONTENTS OF THE SEA REPORT

A detailed SEA report will contain the following:

- (a) *Title of the report*
- (b) *A succinct non technical Summary* briefly describing the study and its outcomes
- (c) *Introduction.* This should contain the scope and methodology of work
- (d) *Proposed policy, plans or programmes*
 - Objective, Purpose and rationale
 - Alternative policy, options and strategies
 - Areas and sectors affected
 - Proposed activities for plans and programmes
 - Implementation plan and time scale
- (e) *Environmental analysis*
 - Description of baseline environmental conditions focusing on areas potentially affected.
 - Relevant legislative framework and related PPP documents.
 - Overview of consultation and public/stakeholders engagement activities undertaken
 - Prediction and evaluation of impacts including cumulative effects
 - Alternative PPP options considered and compared against environmental indicators and a justification for the considered alternative.
 - Linkages with ongoing projects and how they fit in the proposed PPP.
- (f) *Recommendations*

- Recommended PPP changes
 - Recommended mitigation measures and
 - Recommended alternative
 - The need for subsequent EIA for plans and programmes
- (g) *Relevant technical appendices such as stakeholders' meetings referred to in the assessment*
- (h) *Environmental Management and Monitoring Plan (EM&MP)*

The EMP should outline the measures to be taken during PPP implementation and operation to control adverse environmental impacts and the actions needed to implement these measures. Components of the EMP include:

(a) *Summary of impacts*

The predicted adverse environmental and social impacts for which mitigation is required should be identified and briefly summarized. Cross referencing to the SEA report or other documentation is recommended – so that additional detail can be readily referenced

(b) *Description of mitigation measures*

- The EMP identifies feasible and cost effective measures to reduce potentially significant adverse environmental and social impacts to acceptable levels
- Each mitigation measure should be briefly described with reference to the impact to which it relates and the conditions under which it is required (e.g. continuously).
- These should be accompanied by, or referenced to, designs, equipment descriptions, and operating procedures which elaborate on the technical aspects of implementing the various measures

- Where the mitigation measures may result in secondary impacts, their significance should be evaluated
- Need for a subsequent EIA

(c) Description of Environmental Performance Monitoring Program

Objective of environmental performance monitoring is to ensure:

- Mitigation measures are implemented
- They have the intended result
- That remedial measures are undertaken if mitigation measures are inadequate or the impacts were underestimated in the SEA study
- Assessment of compliance with national (and international) standards

The monitoring program should clearly indicate:

- The linkages between impacts identified in the SEA study
- Indicators to be measured
- Methods to be used
- Sampling locations
- Frequency of measurements
- Detection limits (where appropriate)
- Definition of thresholds that will signal the need for corrective actions

(d) Institutional arrangements

- Responsibilities for mitigation and monitoring should be clearly defined

- The EMP should also identify arrangements for coordination between various actors responsible for mitigation

(e) Implementation schedule and reporting procedures

The implementation schedule should indicate:

- Timing, frequency, and duration of mitigation measures
- Procedures to provide information on progress and results of mitigation and monitoring measures

(f) Cost estimates

- Initial investment and recurring expenses for implementing all measures contained in the EMP
- Where practicable, decisions regarding appropriate mitigation measures should be justified by an economic evaluation of potential environmental impacts

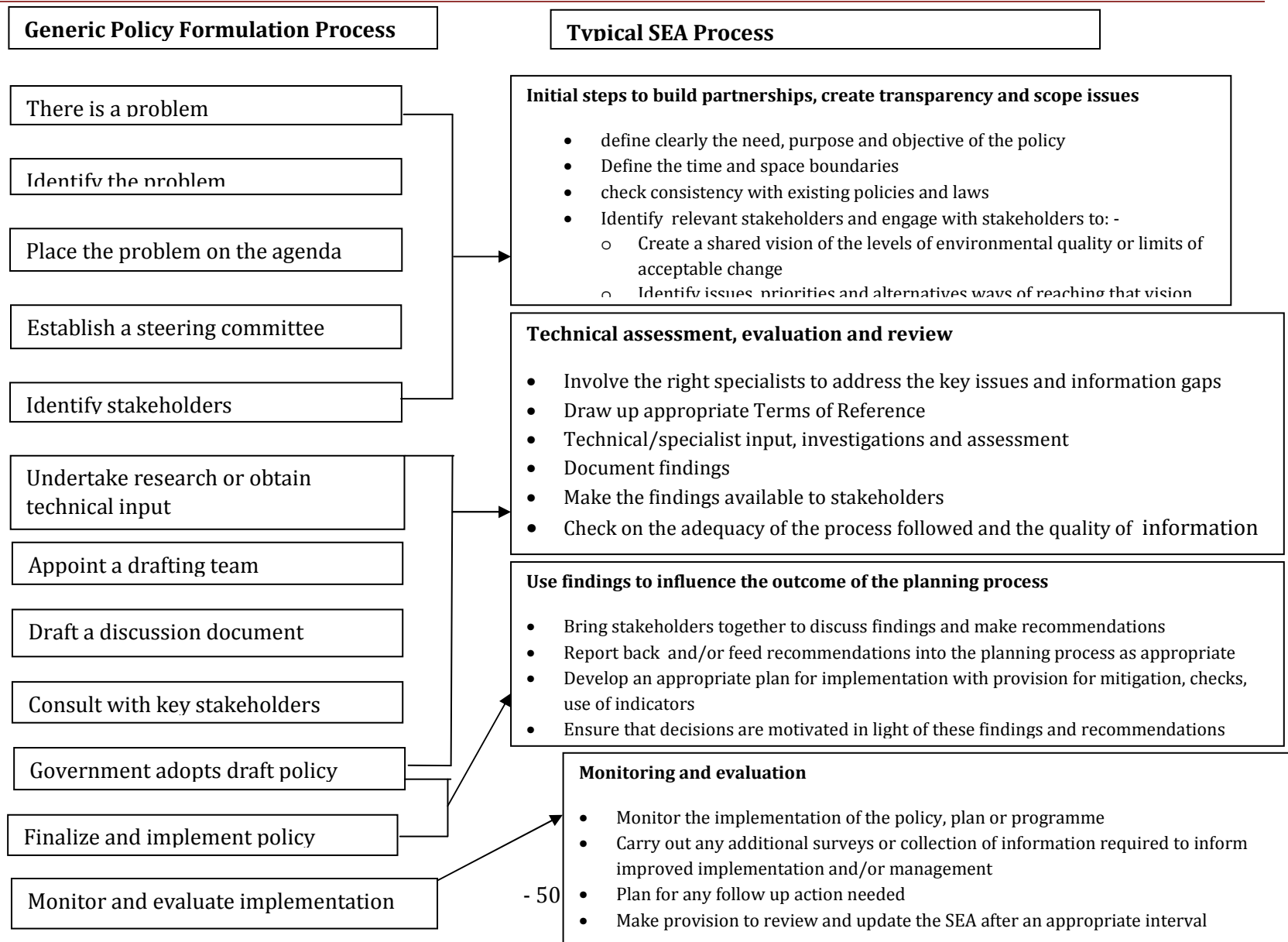
(g) Institutional Strengthening/ Capacity Building

This has two aspects:

(a) Equipment requirements - Indication should be given of type of equipment and number of units and;

(b) Training/study tours - Information should be provided regarding type of training, number to be trained, duration of the training, organization providing the training and cost.

ANNEX 7: IDEAL SEA PRACTICE



**ANNEX 8: STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA)
SUBMISSION FORM**

Form 17

(r42)

Application Reference No.....

For Official use.....

THE ENVIRONMENT MANAGEMENT AND COORDINATION ACT

SUBMISSION OF DRAFT/FINAL STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA)

PART A: DETAILS OF MINISTRY/INSTITUTION

A1 **Name of Ministry/Institution**.....

A2 **Pin No**.....

A3 **Address**.....

A4 **Name of Contact Person**.....

A5 **Telephone**.....

A6 **Fax No**.....

A7 **Email:**.....

PART B: DETAILS OF THE SEA REPORT

| | |
|-----------|--|
| B1 | Proposed Plans/Programmes/Policy |
| B2 | Objectives and Scope of the SEA |
| B3 | Description of the Plans/Programmes/Policy |
| B4 | Location of the proposed Plans/Programmes/Policy |
| B5 | Sectors and areas affected |

PART C: DECLARATION BY THE MINISTRY/INSTITUTION

| | |
|---|------------------|
| I hereby certify that the particulars given above are correct and true to the best of my knowledge. | |
| Name: | Position: |
| | |
| On behalf of | Date |
| (Name of Ministry/Institution) | |

PART D: DETAILS OF STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA) TEAM

| |
|--|
| <p>Name of (individual/firm)</p> <p>Address</p> |
| <p>Part E: FOR OFFICIAL USE</p> |
| <p>Approved/Not Approved.....</p> <p>Comments.....</p> <p>.....</p> <p>Officer.....</p> <p>Sign.....Date.....</p> |

NB: 1 If the SEA does not contain sufficient information required under the Environmental (Strategic Assessment, Impact and Audit) Regulations, 2003 the applicant may be requested to give further information concerning the Policy/Programme/Plan or be notified of any defects in the application and may be required to provide the additional information.

2. Any person who fraudulently makes a false statement in SEA, alters the SEA or fails to give full disclosure of the PPP commits an offence.

Important Notes: Please submit the following:

- (a) Three copies of this form
- (b) Number of copies of the SEA report as prescribed by the Authority
- (c) The prescribed fees, to:

Director General,
The National Environment Management Authority
Popo Road, South C
P.O. Box 67839-00200

NAIROBI

Tel. 254 20 6005522/3/6/7, 6001945 or Fax: 254 20 6008997

Cell Phone : 0724 253 398, 0733 600 035

Email: dgnema@nema.go.ke

Website: www.nema.go.ke

REFERENCES

- DEAT (2007), Strategic Environmental Assessment Guideline, Integrated Environmental Assessment Guideline Series
- NEMA (2006) Environmental (Impact Assessment and Audit) Administrative Guidelines, Nairobi, Kenya
- NEMA (2006) Environmental (Impact Assessment and Audit) Training Manual, Nairobi, Kenya
- OECD (2006), Applying Strategic Environmental Assessment- Good Practice Guidance for Development Co-operation, France
- UNEP (2007), Guidelines for Impact Assessment in Western Indian Ocean Region, Nairobi, Kenya.