

A Guide To The Amended EIA Process.

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“EIA can be defined as: the process of identifying, protecting evaluating and mitigating the biophysical, social and other relevant effects of development proposals, prior to major decisions being taken and commitments made”¹

The World Bank expands this definition and describes EIA as a procedure that; “evaluates a projects potential environmental risks and impacts in its area of influence; examines project alternatives; identifies ways of improving project selection, siting, planning, design, and implementation, by preventing, minimizing, mitigating or compensating for adverse environmental impacts and enhancing positive impacts”² The main aim of the process is to stimulate thinking, and encourage action, and not just the ticking off of boxes just to get another report³

The Institute of Environmental Assessment⁴ identifies two sets of principles, ‘basic’ and ‘operative’. The basic set applies to all stages of EIA as well as to Strategic Environment Assessment (SEA) of policies, plans and programmes. One of these states that the EIA process should be participative; providing appropriate opportunities to inform and involve the interested and affected public, and, that their inputs and concerns should be explicitly addressed in the documentation and decision-making”

In a review of 25 years of National Environmental Policy Act (NEPA) the Council on Environmental Quality (CEQ)⁵ stated “the success of a NEPA process heavily depends on whether an agency has systematically reached out to those who will be most affected by a proposal, gathered information and ideas from them, and responded to the input by modifying the proposal or adding alternatives, through the entire course of the planning process”.

The following diagrams illustrate the amendments to Directive 85/337/EEC and where public participation should take place.

¹ Saddler, B. et al. (1999) Principles of Environmental Impact Assessment Best Practice. Institute of Environmental Assessment U.K. www.greenchannel.com/iea/

² Klees, R. (2002) Environmental Impact Assessment Systems in Europe and Central Asia Countries. World Bank. www.worldbank.org/eca/environment

³ Verheem, R. (2002) Recommendations for sustainability assessment in The Netherlands. Netherlands Commission for EIA.

⁴ Saddler, B. et al. (1999) Principles of Environmental Impact Assessment Best Practice. Institute of Environmental Assessment U.K. www.greenchannel.com/iea/

⁵ C.E.Q. (1997) The National Environmental Policy Act. – A Study of its Effectiveness After Twenty-Five Years. Council on Environmental Quality, <http://ceq.eh.doe.gov>.

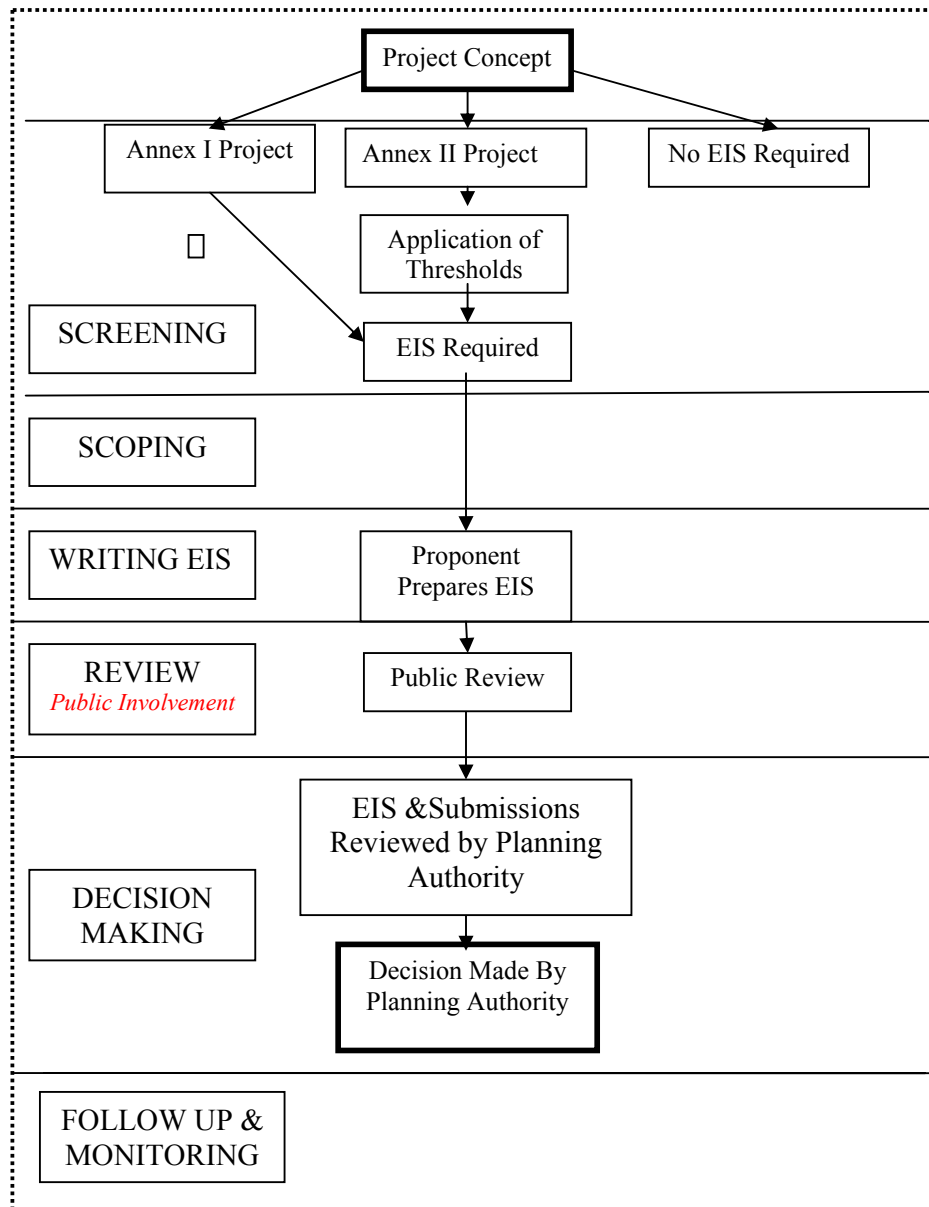


Diagram. Showing the EIA process, following Directive 85/337/EEC.

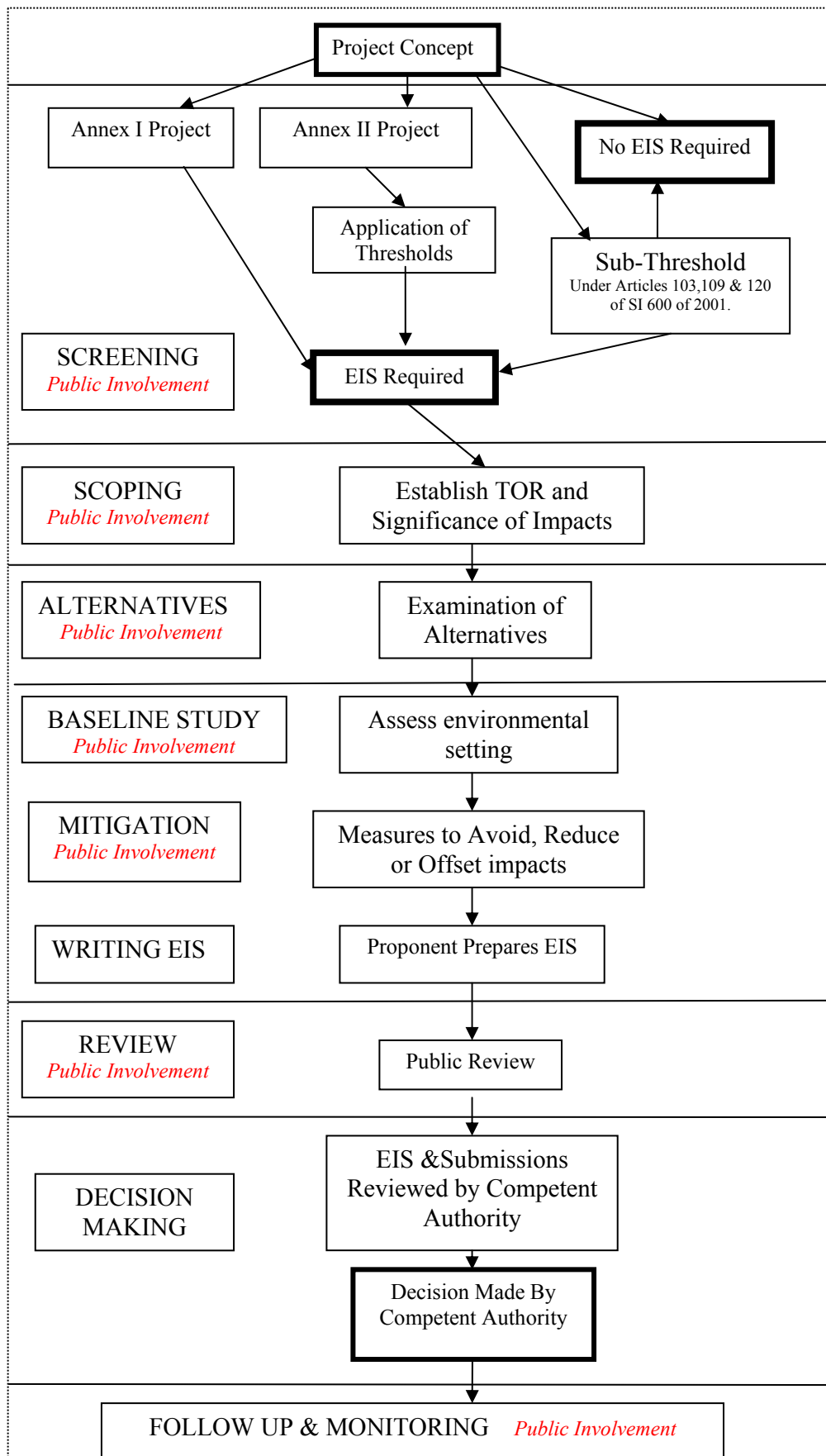


Diagram. The EIA Process, Incorporating Directives 97/11/EC and 2003/35/EC

The EIA Cycle and Public Involvement

The EIA process should be applied as early as possible in decision making for a project, providing for the involvement and input of communities and industries affected, as well as the interested public⁶

The EIA cycle, shown above, as part of the planning system and on the next page as part of the project cycle should provide for the following stages⁷.

Screening.

Screening determines whether or not a proposal should be subject to EIA, and if so, at what level of detail. Consultation with potentially effected parties here will improve understanding of the nature and significance of potential impacts using ‘local’ knowledge, together with that of ‘experts’.

The objectives here should be: to obtain a complete understanding of how the issue is viewed by all the relevant stakeholders; and to identify the future levels of interest in public participation activities on this issue. Techniques that could be used here are available in a participation tools list⁸. Eccleston, C.H.⁹ has a checklist of tasks to consider as part of the pre-scoping phase. Added to this should be the preparation of a public participation plan, which includes a publicly available record of the process. The use of exploratory thinking techniques such as brainstorming and snow-storming at this phase helps stimulate the creativity need to seek alternatives.

Scoping

This is a very early exercise in an EIA in which an attempt is made to identify the attributes of the components of the environment for which there is likely to be significant impacts based on public (and professional) concerns and upon

⁶ Saddler, B. et al. (1999) Principles of Environmental Impact Assessment Best Practice. Institute of Environmental Assessment U.K. www.greenchannel.com/iea/

⁷ European Commission (2000). Public Participation and Consultation. Environmental Integration Manual: Good Practice in EIA/SEA. Gibb Ltd., p.239 (www.gibbltd.com)

⁸ Ewing, M.K. (2003). Public Participation In Environmental Decision- Making. www.gdrc.org/decision/participation-edm.html pp.34-60

⁹ Eccleston, C.H. (2000) Environmental Impact Statements. John Wiley and Sons. p.65

Public involvement in environmental assessment and relationship with the project cycle (Based on World Bank (1993))

Public involvement	Project Cycle Phase	Environmental Assessment
Identify relevant stakeholder groups and determine appropriate ways to disseminate information	Identification ↓	Environmental screening
<p>Early consideration of mode of public consultation and as appropriate participation</p> <p>Release preliminary information on proposal and potential environmental effects</p> <p>Extent and mode of consultation and participation finalised</p> <p>Draft EA report made available to stakeholders, including effected parties and local NGO's</p> <p>Consultation about draft EA</p> <p>Outcomes from consultations recorded in final EA report</p> <p>EA team ensures concerns identified are addressed in project design and mitigation plans</p> <p>Participation plans developed -as appropriate - for implementation and evaluation</p>	Formulation (appraisal) ↓	<p>Determine ToR and scheduling of EA</p> <p>Scoping</p> <p>Draft EA submitted (additional information requested if necessary)</p> <p>EA submitted and reviewed. (Results integrated into project design)</p>
Findings from consultation and participation reflected - as appropriate - in financing agreement	Financing ↓	Environmental requirements, based on EA findings, included in financing proposal
Implementation of participation measures / select suitable short-term and long-term monitoring indicators (i.e. Attitude survey)	Implementation ↓	Implementation and monitoring of agreed mitigation. Adapt project as necessary
Post-hoc evaluation, including consideration of effected peoples views about project impacts	Evaluation	Evaluation of environmental aspects in completion and evaluation reports

European Commission: October 2000: version 1.0
Prepared by GIBB Ltd (www.gibbtd.com)

Public Participation in the EIA process shown as part of the project cycle.
(European Commission, 2000).

which the EIA should be focused¹⁰ Good scoping is the key to a successful EIA process. Public involvement here ensures that all the significant issues are identified, local knowledge about the area is incorporated, and alternatives are identified and considered.

The principal objectives of public scoping are¹¹:

- Identify public concerns and the expertise needed to investigate same.
- Identify alternatives to be examined
- Identify significant issues that need to be analysed, eliminating the unimportant.
- Identify problems and potential solution early in the process.
- Identify problems with the participation process and address same.
- Ensure that both the positive and negative aspects of the proposal are identified and studied.
- Identify potential mitigation measures.

A scoping information package should be put together to promote public involvement and to inform the scoping delegates. It should include:

- An invitation to participate showing how, when and where.
- A brief description of the working of the EIS process and the opportunities for participation.
- A description of the proposal, such that the objectives of the proponent are clearly laid out with maps, diagrams, figures etc.
- A description of the known potential impacts. A public notice should then be issued using any of the methods deemed necessary from

Level 1.¹²

Public meetings, whilst commonly used are not the best method, unless they are based on small group sessions and workshops. Public opinion surveys, citizen advisory committees or any other methods listed in Level 2. Simple methods may suffice for describing, synthesizing and communicating information on the pre-project environment and the potential impacts e.g. using checklists, matrices and networks. Eccleston, C.H. (2000. p.75) and the Australian EIA Network, (1996)¹³ both give a check lists for planning a public scoping meeting, and warn that “outside entities that participate in scoping generally do so because they are opposed to the proposal; the remaining participants who support the proposal often do so because they stand to gain from it. Not surprisingly numerous public scoping efforts have dissolved into sessions of frustration, dissension or outright confrontation. So it is essential to plan well and use professional facilitators or neutral moderators where debates are likely to be heated.

Alongside the general public scoping, it can be of value to conduct focus group/workshop meetings with stakeholders having special interests or expertise, in order to examine

¹⁰ Singleton, R., Castle, P. and Short, D. (1999) Environmental Assessment. Thomas Telford.p.103

¹¹ Eccleston, C.H. (2000) Environmental Impact Statements. John Wiley and Sons.p.72.

¹² Ewing, M.K. (2003). Public Participation In Environmental Decision- Making.
www.gdrc.org/decision/participation-edm.html pp41-52

¹³ Australian EIA Network. (1996) International Study of the Effectiveness of Environmental Assessment. EPA, Canberra, Australia www.ea.gov.au/assessments/eianet

more detailed or complex issues. The results of these meetings should be made public, and so become part of the general ‘responsible authority’ scoping session. This can consider issues including technical ones, using in-house expertise, and in greater depth than might otherwise be possible in a public setting. scoping process. Eccleston, C.H.¹⁴ gives a methodology for handling the potentially voluminous, or complex scoping input, followed by an internal ‘responsible authority’ scoping session. This can consider issues including technical ones, using in-house expertise, and in greater depth than might otherwise be possible in a public setting.

The body conducting the EIA process, together with stakeholder representatives should then produce a post scoping document, summarising the scoping process, its findings and the reasons for decisions taken in reaching the scope for the resultant EIS Implementation Plans.

Impact Assessment/Mitigation

“Public involvement here can serve to ensure that the analysis and mitigation, necessary to avoid, minimize or offset predicted adverse impacts is relevant to local concerns, and accurately reflects local value and preferences”.¹⁵

Both impact mitigation, and the evaluation of significance are complex and time consuming processes, which cannot be dealt with by large groups. It is necessary, therefore, to use stakeholder representatives to work with the experts, reviewing the finding of the experts in workshop sessions or other facilitated small groups.

Regular reporting of progress in the process, to the wider publics will maintain their ‘ownership’ and sense of involvement.

The Evaluation of Significance

This is a difficult issue to resolve even between specialists. It is, however, essential that the public be involved and their perspective included, as the interpretation of significance occupies a fluid boundary between science and politics¹⁶

The Canadian EA system of impact assessment is based solely on scientific, credible technical and other relevant information¹⁷. The resulting determination of significance must be ‘objective’ and reasonable so as to withstand court challenge. By comparison in the US system, under NEPA, public opinion and the controversiality of the proposal help to identify and determine significance. Ultimately, however, the relevant authority will decide, taking all inputs on board.

¹⁴ Eccleston, C.H. (2000) Environmental Impact Statements. John Wiley and Sons.

¹⁵ European Commission (2000). Public Participation and Consultation. Environmental Integration Manual: Good Practice in EIA/SEA. Gibb Ltd., 239 (www.gibbltd.com)

¹⁶ Australian EIA Network. (1996) International Study of the Effectiveness of Environmental Assessment. EPA, Canberra, Australia www.ea.gov.au/assessments/eianet

¹⁷ C.E.A.A. (2001) Environmental Assessments. www.ceaa.acee.ga.ca

Evaluation of significance is subjective, contingent on values and dependent on the environmental and community context. The intrusion of wider public concerns and social values, into the significances evaluated by scientists is inevitable, as discussed elsewhere. The challenging nature of this part of the process is, therefore, one in which the use of facilitated small groups would be essential for the more contentious issues. More information, on the technical aspects of the evaluation of impacts, is given by Lein, K.L. (2003)¹⁸.

Preparation of EIS

It is essential to document clearly and impartially the impacts of the proposal, as well as those of the identified alternatives, the proposed mitigation methods, the significant effects and the concerns expressed by the public and communities affected by the proposal, as well as how those concerns were addressed.

The draft EIS, following internal review by the relevant body, should be made available for public review, and should include a non-technical summary.

Review of the EIS

The review of the EIS should determine whether the report; meets its terms of reference, provides a satisfactory assessment of the proposal(s); and contains the information required for decision making. Involvement of the public can ensure the quality and comprehensiveness of the assessment and help to reduce any bias in the analysis.

Before the public review, the EIS should be complete in every aspect, except this final opportunity for public feedback. Any major changes resulting from this public review would probably trigger a second public review, though good public participation early on should make this unlikely.

Proposals for electronic transmission of the document along with public access through libraries, site offices, public displays, information repositories, and presentations, should give wide availability. Methods of feedback should be widely publicised. One method could be an interactive web-site page for this purpose.

All those who made major contributions to the process should receive a copy (finance permitting) or have access to a copy, along with the statutory bodies and the proponent.

The draft should be available and publicised at least 15 days before any stakeholder meetings to discuss it.

The final EIS should then include the changes based on the relevant feedback in the draft, together with the responsible body's reasons for not including any other issues raised.

Eccleston, C.H. (2000) gives useful guidelines on dealing with this stage of the process.

Decision Making

It is generally the role of the regulatory authority to approve or reject the proposal and, if it is approved, to establish the terms and conditions of its implementation, taking into account the EIS, and its public input.

¹⁸ Lein, K.L. (2003) Integrated Environmental Planning. Blackwell.

Follow-up, Implementation and Monitoring

The participation of local representatives and NGO's in monitoring the operational impacts of a project can lead to the early identification of problems, and can foster a sense of public partnership. The setting up of a community/stakeholder panel to review the operation of the project, in the light of the EIS and the planning permission as well as any IPPC licence, is one way of doing this.

Continual assessment of the EIA process

Continuous assessment of the process itself can ensure the implementation of the public participation plan, provide public transparency and strengthen the effectiveness of future EIAs.