

## Namibia

**Country:** [Namibia](#) [1]

**EIA Law:** Environmental Management Act - No. 7 of 2007

**Law Link:** [Link](#) [2]

**EIA Regulations:** Environmental Impact Assessment Regulations, 2012

**Regulations Link:** [Link](#) [3]

**EIA Guidelines or Other Guidance:** Procedures and Guidelines for Environmental Impact Assessment (EIA) and Environmental Management Plan (EMP) - Draft (2008)

**Guidance Link:** [Link](#) [4]

**Projects Requiring EIA:** Government projects

Private Projects

**Abridged Assessments:** No

**Best Practices in Lieu of EIA:** No

**Who Conducts Screening Detail:** "When an application is made for an environmental clearance certificate, the Environmental Commissioner must...within the prescribed time, decide whether the proposed activity requires an assessment." EM Act, sec. 33(1)(b).

**Criteria for Screening:** List or appendix of project or activity types

Proposed project or activity may cause significant environmental impact

**Criteria for Screening Detail:** "Assessments must be undertaken for activities which may have a significant effects on the environment or the use of natural resources." EM Act, sec. 3(2)(e); "The Minister...may list...activities which may not be undertaken without an environmental clearance certificate." EM Act, sec. 27(1). See Annexure to Government Notice No. 29 of 2012, List of Activities that May Not Be Undertaken Without Environmental Clearance Certificate.

**Who Prepares EIA:** Project Proponent (with or without contractor)

**Who Prepares EIA Detail:** The Environmental Commissioner must "notify the proponent that an assessment of the proposed activity is required to be carried out and prepared by the proponent, at the proponent's own expense. . . ." EM Act, sec. 35(1)(b).

**Who Pays for EIA:** Project Proponent

**Who Pays for EIA Detail:** The Environmental Commissioner must "notify the proponent that an assessment of the proposed activity is required to be carried out and prepared by the proponent, at the proponent's own expense. . . ." EM Act, sec. 35(1)(b).

**EIA Contractor Qualifications:** Yes

**EIA Contractor Qualification Detail:** "An EAP [environmental assessment practitioner] . . . [must] have knowledge of and experience in conducting assessments, including knowledge of the Act, these regulations and guidelines that have relevance to the proposed activity." EIA Regulations, sec. 4.

**Conflict of Interest:** Yes

**Conflict of Interest Detail:** An environmental assessment practitioner (EAP) must "perform the work relating to the application in an objective manner, even if this results in views and findings that are not favourable to the applicant[.]" EIA Regulations, sec. 4(b). An EAP must also "disclose to the proponent, competent authority and the Environmental Commissioner all material information in the possession of the EAP that reasonably has or may have the potential of influencing . . . any decision . . . or the objectivity of any report, plan or document to be prepared by the EAP." Id.

**Terms of Reference:** Yes

**Terms of Reference Detail:** "Where the Environmental Commissioner has. . . decided that the proposed activity requires an assessment the Environmental Commissioner must (a) determine - (i) the scope of the assessment; and (ii) the procedures and methods for conducting the assessment." EM Act, sec. 35(1). "The terms of reference for an assessment must set out the approach that the proponent intends to follow in undertaking an assessment in accordance with the Act. . . ." EIA Regulations, sec. 9

**Days for Decision Maker Review:** Variable (at least 14 days)

**Automatic Approval:** No

**Automatic Approval Detail:** The Act and EIA regulations do not contain provisions allowing a project or activity to be automatically approved.

**Written Decision:** Yes

**Written Decision Detail:** EM Act, sec. 38. All decisions must be lodged in a record. A copy of the record must be made available for public inspection at the office of the Environmental Commissioner during office hours

**Authority to Impose Conditions:** Yes

**Authority to Impose Conditions Details:** Environmental clearance certificate may contain conditions. EIA Regulations, sec. 18

**Expiry of Decision:** 3 years

**Financial Assurances or Bond:** No

**Financial Assurances Detail:** There is no requirement to provide financial assurances or a bond in the Act or EIA Regulations.

**Interdisciplinary Team:** No

**Range of Alternatives:** Yes

**Range of Alternatives Detail:** The environmental assessment must contain "a description and comparative assessment of all alternatives identified during the assessment process." EIA Regulations, sec. 15(2)(d); see also sec. 1 (defining "alternatives")

**No Action Alternative:** No

**No Action Alternative Detail:** The Act and EIA Regulations do not specifically require a no action alternative to be considered; however it is encouraged under the guidelines. "EIAs should consider the impacts of three alternatives: the proposed activity for the proposed project under consideration; the no-action alternative; and other alternatives to the proposed activity that fulfills the general objective or need." EIA Guidelines, sec. 4.2.

**Type(s) of Impact Analysis:** Direct environmental impacts

Cumulative environmental impacts

Social impacts

Cultural impacts

Economic impacts

**Mitigation:** Yes

**Mitigation Detail:** "An assessment report must contain all information that is necessary for the Environmental Commissioner to consider and to make a decision on the application, and must include. . . an assessment of each identified potentially significant effect, including. . . the degree to which the effects can be mitigated." EIA Regulations, sec. 15(2)(h)(gg); see also EIA Regulations, sec. 8(j) (describing required content of draft management plan - which includes "a description of the manner in which the applicant intendsto modify, remedy, control or stop any action, activity or process which causes pollution or environmental degradation remedy the cause of pollution or degradation and migration of pollutants.")

**Monitoring Plans:** Yes

**Monitoring Plans Detail:** The proponent must submit to the relevant competent authority. . . the management plan..." EIA Regulations, sec. 7(2)(b). "Management plan" is defined as "a plan that describes how activities that may have significant environments effects on the environment are to be mitigated, controlled and monitored. . . ." EIA Regulations, sec. 1

**Draft EIA Available:** No

**Public Notice of Final EIA:** Yes

**Public Notice of Final EIA Detail:** Upon receipt of the completed environmental assessment, the Environmental Commissioner must notify the public (or direct the project proponent to notify the public). The notice must include an invitation to submit written comments. EM Act, sec. 35(6); EIA Regulations, sec. 16(b). See EIA Regulations, sec. 21 (discussing notice requirements)

**Final EIA Available:** Yes

**Final EIA Available Detail:** Public notice of the availability of the EIA must "state that the application and assessment report are available for inspection at the office of the Environmental Commissioner[.]" EM Act, sec. 36(7)(b)

**Final EIA Locations:** Agency or ministry office

**Availability of Reference Studies:** No

**Availability of Reference Studies Detail:** The Act and EIA Regulations do not specify whether the public has access to supporting studies or data gathered during the EIA process.

**Public Notice of Final Decision Detail:** Decisions are lodged in a public registry.

**Public Scoping:** Yes

**Public Scoping Detail:** "When determining the scope, procedures and methods of an assessment the Environmental Commissioner must follow the consultative process referred to in section 44." EM Act, sec. 35(3); see also EIA Regulations, sec. 7 (further describing scoping process)

**Public Review of TOR:** No

**Public Review of TOR Detail:** Although the public is consulted during the process of preparing the terms of reference (scoping), there is no opportunity to review the TOR before it is made final.

**Public Participation Opportunities:** Scoping

Public Meetings and/or public hearings

Review of final EIA

**Public Meetings:** Sometimes

**Public Meetings Detail:** Public hearings are not required in every instance. Within a reasonable time after the close of the public comment period on the EIA, "the Environmental Commissioner must review the application and may take any action the Environmental Commissioner considers appropriate for the review of the application, including. . . holding a public hearing." EM Act, sec. 36(1)(c)

**Public Input at Meeting:** Yes

**Public Input at Meeting Detail:** The Act and EIA Regulations do not clearly address public input, but it is presumed from context that public input is permitted at the hearing. **\*\*NOTE:** Only "registered" parties are entitled to submit comments - this provision restricts the opportunity for members of the public to participate in the EIA process. The registry process is described in section 23 of the EIA Regulations.

**Criteria to Hold Public Meeting:** Ministry or agency has discretion to decide whether to hold a meeting and/or hearing

**Days for Public to Review Final EIA:** 21 days

**Public Comments on Final EIA:** Yes

**Public Comments on Final EIA Detail:** EM Act, sec. 35(7)(c); see also EIA Regulations, sec. 23(1) ("A registered interested or affected party is entitled to comment in writing, on all written submissions made to the Environmental Commissioner..."). **\*\*NOTE:** Only "registered" parties are entitled to submit comments - this provision restricts the opportunity for members of the public to participate in the EIA process. The registry process is described in section 23 of the EIA Regulations.

**Response to Public Comments:** No

**Response to Public Comments Detail:** Although public comments are recorded and submitted to the Environmental Commissioner (see EIA Regulations, sec. 24), there is no requirement that the Commissioner or project proponent prepare a response or consider the comments in deciding whether to approve or reject the proposed activity.

**Facilitation of Public Participation:** No

**Facilitation of Public Participation Detail:** The EIA regulations only provide the most general of requirements to facilitate public participation. Any person conducting public participation must ensure that "consultation by potential interested and affected parties is facilitated in such a manner that all potential interested and affected parties are provided with a reasonable opportunity to comment on the application." EIA Regulations, sec. 21(6). Throughout the EIA Regulations there are provisions that limit public participation - e.g. only registered parties may submit comments on final EIA

**Citizen Administrative Review:** Yes

**Citizen Administrative Review Detail:** "Any person aggrieved by a decision of the Environmental Commissioner in the exercise of any power in terms of this Act may appeal to the Minister against that decision." EM Act, sec. 50(1). Additional requirements are described in section 25 of the EIA Regulations (e.g. appeals must be filed within 14 days of decision). **\*\*\*NOTE:** There is a fee to file an appeal - this requirement restricts access to justice. EIA Regulations, sec. 25.

**Citizen Judicial Review:** Yes

**Citizen Judicial Review Detail:** "Any person aggrieved by a decision of the Minister made in terms of section 50(4) or a decision under section 21 may appeal, on points of law only, against that decision to the High Court within the prescribed time and in the prescribed manner." EM Act, sec. 51(1)

**Project Monitoring:** Yes

**Project Monitoring Detail:** The project proponent is responsible for paying implementing environmental monitoring, subject to audits, within a pre-determined monitoring area. EIA Guidelines, Part I, Stage 14. See also EIA Guidelines, sec. 7.2.

**Enforceability of EIA:** No

**Enforceability of Permit:** No

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**Links**

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